TOWN OF WAXHAW

P.O. Box 6
1150 N. Broome St. Waxhaw, N.C 28173
Telephone (704) 843-2195 Fax (704) 843-2196
www.waxhaw.com

Hours: Monday-Friday 8:00 a.m. to 5:00 p.m.

MAYOR
DAUNE GARDNER

TOWN COMMISSIONERS
MICHAEL STEWART (Mayor Pro-Tem)
PAUL FITZGERALD
JOHN HUNT
STEPHEN MAHER
JAMES WARNER

TOWN MANAGER
WARREN WOOD

TOWN CLERK
MELODY SHULER

July 20, 2015
Planning Board Regular Meeting Agenda
Waxhaw Police Department Community Meeting Room, 6:30 pm

Regular Meeting

1. Call to Order

2. Roll Call and Determination of Quorum

3. Election of Officers

4. Work Session

5. Unfinished Business

6. New Business

   A. Petition CU-003443-2015 is a Conditional Use Permit request by Neil Gimon, for a change to the façade of the building located at 115 E. North Main Street (tax parcel 05-113-066). The applicant requests to replace the front door and sidelights, recess the front entrance, replace the windows on the front elevation with new double pane wood trim windows that will be similar in appearance to the existing windows, and replace the garage bay roll-up doors with red aluminum doors with glass windows.

   B. Petition TA-003547-2015 is a request by staff to amend Section 21.7.4.C.2 Parking Area Screening of the Waxhaw Unified Development Ordinance to allow non-vegetative street screens to be placed on the property line instead requiring a five (5') setback.

   C. Review RFP's (Request for Proposal's) submitted by consulting firms for the rewrite of the Waxhaw Unified Development Ordinance and selection of the top three candidates. [Planning staff has included the evaluation criteria listed in the RFP and their recommended consultant in the packet].

7. Other Business - Update on previous case(s) heard by the Planning Board

8. Minutes for correction and approval: June 15, 2015 regular meeting

9. Adjournment

Public comment (up to 3 minutes) is allowed on any item on the agenda and is limited to residents of the Town or persons having a material interest in the Town.

Conditional Use Permit Amendment CU-003443-2015
115 E. North Main Street Façade Change

EXPLANATION OF THE REQUEST

Petition CU-003443-2015 is a Conditional Use Permit request by Neil Gimon, for a change to the façade of the building located at 115 E. North Main Street (tax parcel 05-113-066). The applicant requests to replace the front door and sidelights, recess the front entrance, replace the windows on the front elevation with new double pane wood trim windows that will be similar in appearance to the existing windows, and replace the garage bay roll-up doors with red aluminum doors with glass windows.

LOCATION & CURRENT LAND USE

Currently, the subject property is not in use. The property is located in the historic downtown in the North East quadrant and the property is zoned MS (Main Street).

- Condition and land use of the surrounding properties are:
  - To the West – The Black Chicken restaurant zoned MS (Main Street).
  - To the North– Gravel parking lot and a small abandoned building zoned NMX, (Neighborhood Mixed Use).
  - To the East – The Rodman House is located across North Providence Street zoned MS (Main Street).
  - To the South – East North Main Street right-of-way used for parking for the commercial uses on the block and the CSX railroad line and right-of-way.

PLANNING STAFF ANALYSIS

The property is zoned MS and Section 21.6.4.C.2.a.2 of the UDO (Unified Development Ordinance) requires the issuance of a CUP (Conditional Use Permit) for any façade changes to buildings in the MS zoning district.

The applicant is proposing three changes to the façade of the building: to replace the front door and the sidelight as well as recess the front entry; replace the two large windows on the front façade, and to replace the garage bay roll-up doors.

The current front door and sidelight at the main entrance to the building on the East North Main Street elevation is constructed of wood and glass, and painted white. The proposed front door and sidelight will be constructed of wood and glass and the door will be stained in a natural finish. The design will be appropriate for the character of the historic downtown and the entryway will be recessed five feet behind the current depth in the same location. This will allow the door to swing outwards to conform to NC Building Code standards for increased occupant capacity of the proposed brewery use, while avoiding encroaching on the public sidewalk.

The current front windows on the East North Main Street elevation are approximately 80 inches by 80 inches and are made up of 36 individual panels of single pane glass and constructed of wood and glass, and painted white. The proposed replacement windows will be the same size and similar in appearance to the existing windows but will be double pane construction with wood clad muntins dividing the glass and giving the appearance of 36 individual panels. The windows will be constructed of wood and the trim and muntins will be stained in a natural finish.

There are currently six garage bay roll-up doors on the on the North Providence Street elevation of the building constructed of a mix of wood, aluminum and glass and painted red. The age and construction of the doors vary but are overall in poor condition. Three of the garage doors are constructed of wood and originally had a row of glass windows that have since been replaced with plywood panels. Three of the doors are constructed of aluminum, and two of the aluminum doors were added with an addition to the back of the building and have windows integrated in the construction. The proposed garage bay roll-up doors will be constructed of aluminum and glass and painted red to pay homage to the history of the building as a fire station.

PROPERTY HISTORY AND STATE HISTORIC PRESERVATION OFFICE

The site is included in the 1991 National Register Inventory and the present façade dates from approximately 1963. The following history of the property is a summary from the 1991 National Register Inventory.

> "One-story, brick veneer, gable-front Colonial Revival style building (gable sheathed with clapboards) which house the office and garage of the Waxhaw Volunteer Fire Department. Until it burned in 1931, Plyler's Garage (see #16) was located here."
>
> "2010: Colonial Revival fire house with pedimented entry surround and two multi-pane picture windows. Vinyl in gables. Vacant/storage."

Paul Fomberg, Senior Restoration Specialist with the NC State Historic Preservation Office, stated that the Waxhaw Historic District is listed in the National Register of Historic Places and that the period of significance for the historic district is 1888 to 1941. Since the building was constructed in 1963 in the Colonial Revival style, it does not contribute to the significance of the historic district (see attached email dated June 12, 2015).

He further states that the Colonial Revival design of the building is not compatible with the turn-of-the century historic district but an attempt was made to make it compatible with the historic commercial buildings in the downtown by designing the front elevation to look like a commercial building and placing the garage doors on the side elevation. Also, the scale of the building, the choice of brick as a construction material and the detailing of the brickwork contributes to the structure's compatibility with the historic commercial buildings in the downtown. But the addition of the gable roof on the building made it incongruous with the other commercial buildings. He felt that the proposed façade changes would not damage the character of the building but would do little to make the building more compatible with the historic district. He suggested more extensive changes such as removing the gable roof; however this is not required, would be a significant cost, and the applicant does not wish to make these changes.

In the Waxhaw Historic Landmark Guidelines for commercial buildings, *Recommended Practices for Storefronts*, it states:

2. Replace inappropriate treatments that may have been added and restore the storefront to original configurations.

- Use pictures and physical evidence to document the historic architectural features and details. If you are unable to document the specific building, consider detailing that were found in similar buildings of the period; or, choose a contemporary approach that is compatible with the original configuration and maintains the scale and mass of the contributing features.
- Use materials that are like those found on the original building (masonry, wood, etc.).
- Maintain the location of original openings for doors, and display, transom and upper-story windows.

Although the date of the building's construction is not within the period of historic significance, the applicant is retaining the original location of the windows and doorways as well as using the appropriate materials and architectural design for the front entryway and front windows. The new front door and windows are in keeping with the historic guidelines. The materials will be like those original to the building being wood and glass. The openings for windows and doors will be in the original location. The proposed garage doors would be consistent with the historic guidelines because currently half of the doors are constructed of aluminum and the other half are wood and would provide a contemporary approach for the garage bay doors.

PLANNING RECOMMENDATION

Planning staff recommends approval of the proposed Conditional Use Permit (CU-003443-2015) for the following reasons:

- The request will not contribute to the historic significance of the district, but the replacement of the front elevation entry and front elevation windows will be in keeping with the Waxhaw Historic Landmark Guidelines. The replacement windows and doors will be glass and wood which are historically appropriate materials, and they will be in the same location as the existing windows and doors. The replacement garage bay roll-up doors will create consistency with the current conditions while taking a contemporary approach and will be in the original location and replace existing doors that vary in age, condition, and material construction and are in various stages of disrepair.
- The request is in keeping with Section 20.2.C *Architectural Requirements* of the Unified Development Ordinance which requires windows and entryways to be proportionate to the building and not be tinted, and the proposed windows and doors will meet this requirement.

In approving an application for a conditional use permit, the Board of Commissioners may attach fair and reasonable conditions to the approval. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Board of Commissioners.

The Board of Commissioners shall issue a conditional use permit if it has evaluated an application and determined that:

A. That the use requested is among those listed as an eligible Conditional Use in the District in which the subject property is located or is to be located.

B. That the Conditional Use will not materially endanger the public health or safety if located where proposed and developed according to the plan as proposed.

C. That the Conditional Use meets all required conditions and specifications; and

D. That the location and character of the Conditional Use if developed according to the plan as proposed will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Waxhaw and its environs.

*****Please refer to the 4 Findings of Fact listed above when making a decision*****

Submitted by: Maxx Oliver

Town of Waxhaw
Planning & Community Development
PO Box 617
Waxhaw, NC 28173
704-843-2195 (Phone)
704-243-3276 (Fax)
www.waxhaw.com

Date Received: 6-1-2015
Received By: DL
Fee: 440.00

CONDITIONAL USE PERMIT APPLICATION

Application Number: CU- 003443-2015 Date of Application: 5/19/15

Applicant Information

Applicant Name: Neil Gimon

Applicant Mailing Address: 1201 Beckford Glen Drive, Waxhaw, NC

Applicant Telephone: 704-507-7773

Property Owner Name: Waxhaw Volunteer Fire Department

Property Owner Mailing Address: P O BOX 1258
Waxhaw, NC 28173

Property Owner Telephone: 704-320-8586

Relationship of Applicant to Property Owner: Leasee

Subject Property Information

Property Location: 115 E. North Main Street

Tax Map and Parcel Number(s): 05113066

Existing Zoning: Town Center In Flood Area? No

Is Conditional Use (CU) Rezoning Requested: Yes ☐ No

Proposed Conditional Use: To replace the 6 garage doors and front door of the old firestation
As well as the Door AND 2 LARGE windows. we also
Need TO Add A RAMP TO The Front Door

Comments: See the attachment

A site plan must be submitted for evaluation by the Zoning Administrator and Planning Board and subsequently approved by the Board of Commissioners prior to any development and/or construction and must be accompanied by the following:

1. **Name, address, and phone number of the applicant and property owner(s) (if different from applicant).**
2. **A scaled boundary survey showing the total acreage, present zoning classification(s), date & north arrow.**
3. **The owner's names and addresses, the tax parcel numbers, and the existing land use(s) of all adjoining properties.**
4. **A scaled site plan showing the following information:**

   A: **All existing easements, reservations, rights-of-way and all yard requirements on the property or properties which are subject to the application.**

   B: **Proposed size, layout and setbacks of all proposed structures. For residential uses this shall include the number of units and an outline of the area where the structures will be located. For non-residential uses, this shall include the approximate gross floor area of all structures and an outline of the area where the structures will be located.**

   C: **Traffic, parking and circulation plans, showing the proposed locations and arrangement of parking spaces and access points to adjacent streets.**

   D: **Landscape plans showing proposed screening and landscaping, including walls, fences or planted areas as well as treatment of any existing natural features within the site.**

   E: **Delineation of areas within the regulatory floodplain as shown on the Official Flood Plain Hazard Boundary Maps.**

   F: **Proposed number, type and location of all free-standing identification signs.**

5. **Proposed phasing, if any, and approximate completion time of the project.**

6. **A fee paid in accordance with the fee schedule.**

No application will be considered complete unless it has been properly completed and submitted to the Zoning Administrator by the deadline for the Planning Board Meeting.

To the best of my knowledge, all of the information herein submitted is accurate and complete.

(Signature of Property Owner) 05/20/15 (Date)

(Signature of Applicant) 5/20/15 (Date)

All of the information herein required has been submitted by the applicant and is included or attached with this application.

Lori Oakley 5-25-15

(Signature of Zoning Administrator) (Date)

TO BE FILLED OUT BY ZONING ADMINISTRATOR

Completed application submitted on: _____

Reviewed by Planning Board on: _____

Action of Planning Board: _____

_____

_____

_____

Town Board Public Hearing Held On: _____

Date of Town Board Decision: _____

Action Taken by Town Board: _____

_____

_____

_____

Newspaper Affidavit should be attached

Public Hearing Notice Filed in (Newspaper): _____

Date(s) Notices Published: _____

Notification to adjacent property owners mailed on: _____

Property Posting Date: _____

CU-003443-2015
115 E. North Main St. CUP
Aerial Map

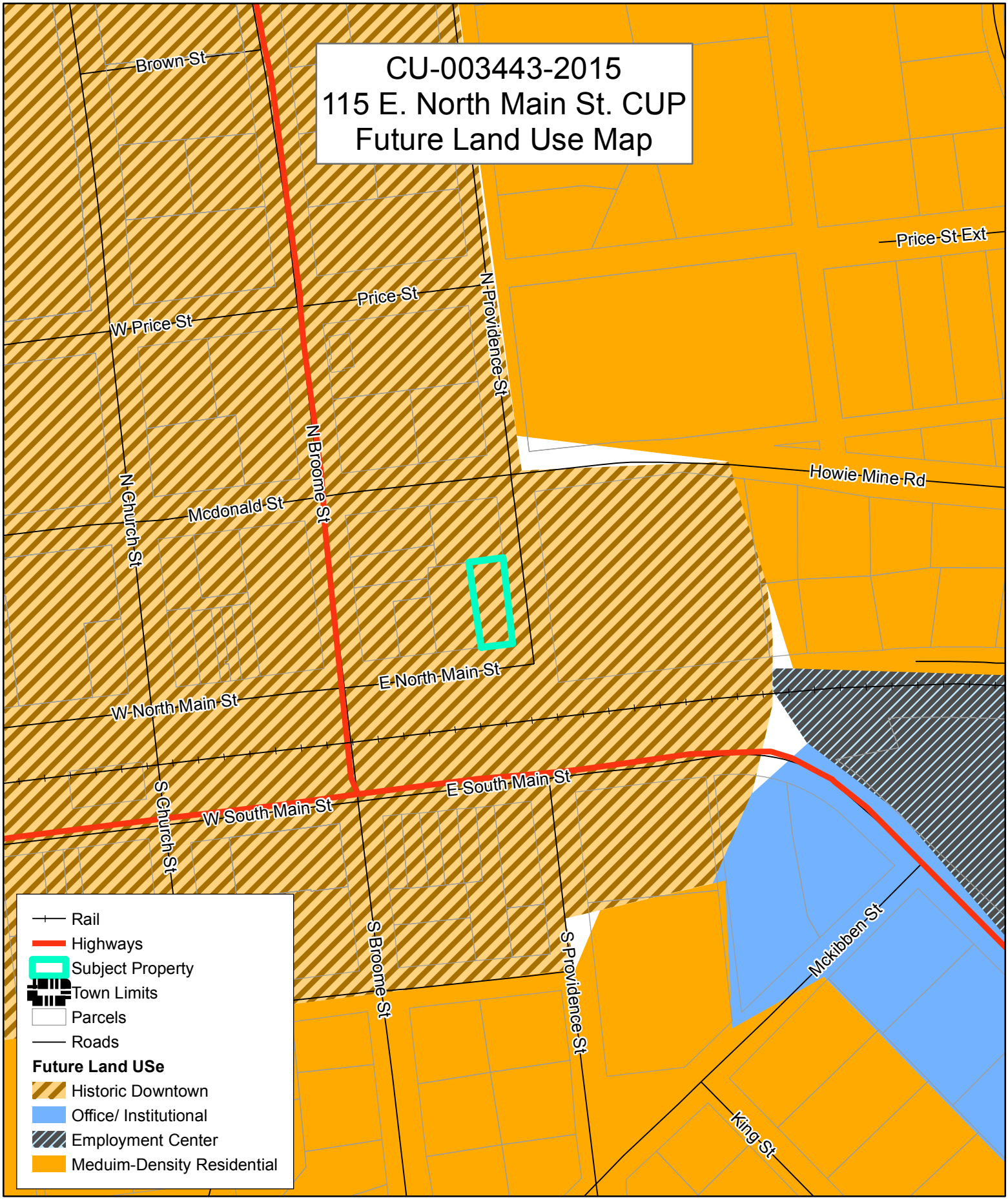
N

0 10 20 40 60 80 Feet

Data Source & Disclaimer

Data provided by Union County GIS and Town of Waxhaw GIS. The Town of Waxhaw does not guarantee the accuracy of the information displayed. Map created July 2015.

CU-003443-2015
115 E. North Main St. CUP
Future Land Use Map



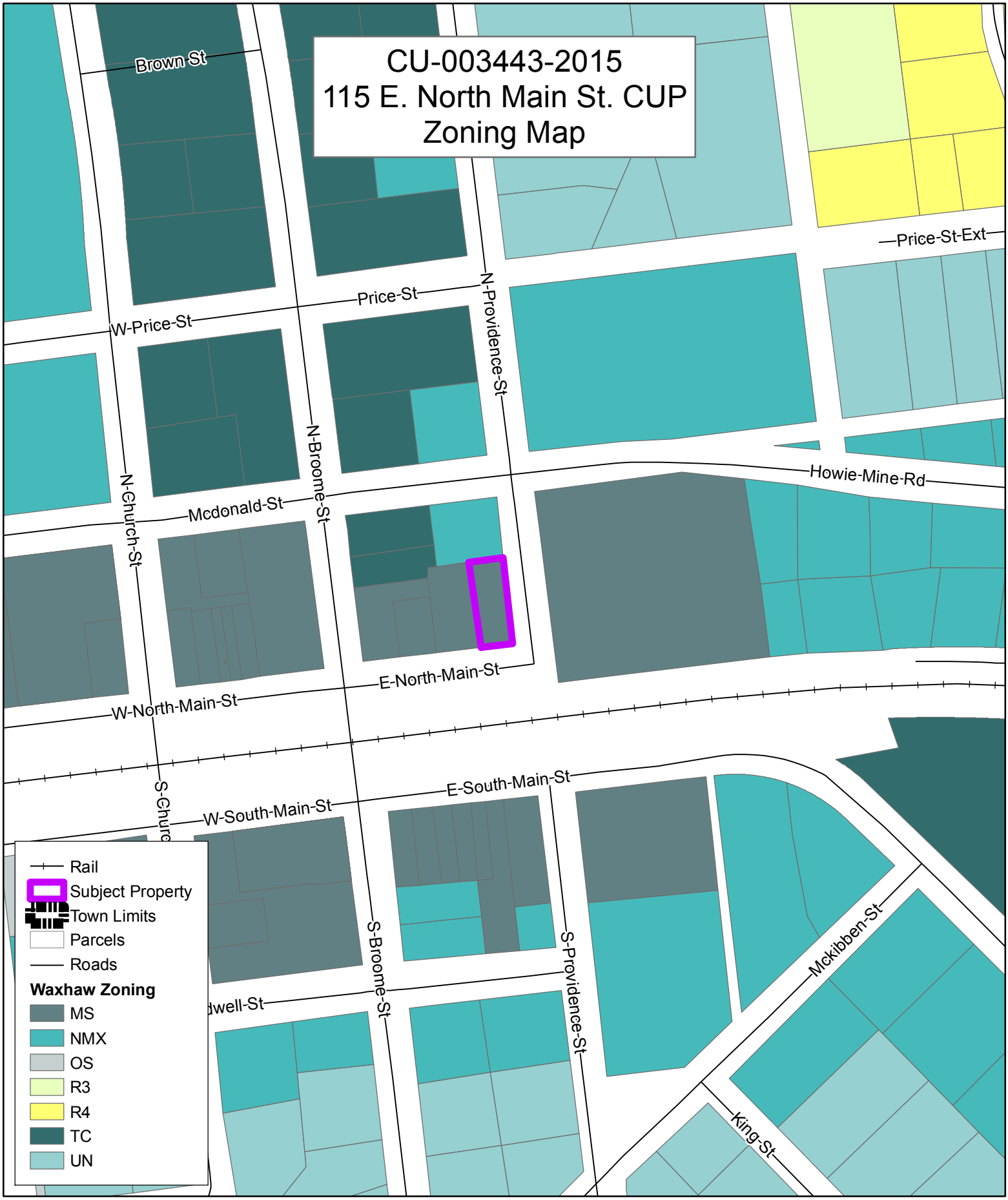
N

0 50 100 200 300 400 Feet

Data Source & Disclaimer

Data provided by Union County GIS and Town of Waxhaw GIS. The Town of Waxhaw does not guarantee the accuracy of the information displayed. Map created July 2015.

CU-003443-2015
115 E. North Main St. CUP
Zoning Map



N

0 50 100 200 300 400 Feet

Data Source & Disclaimer

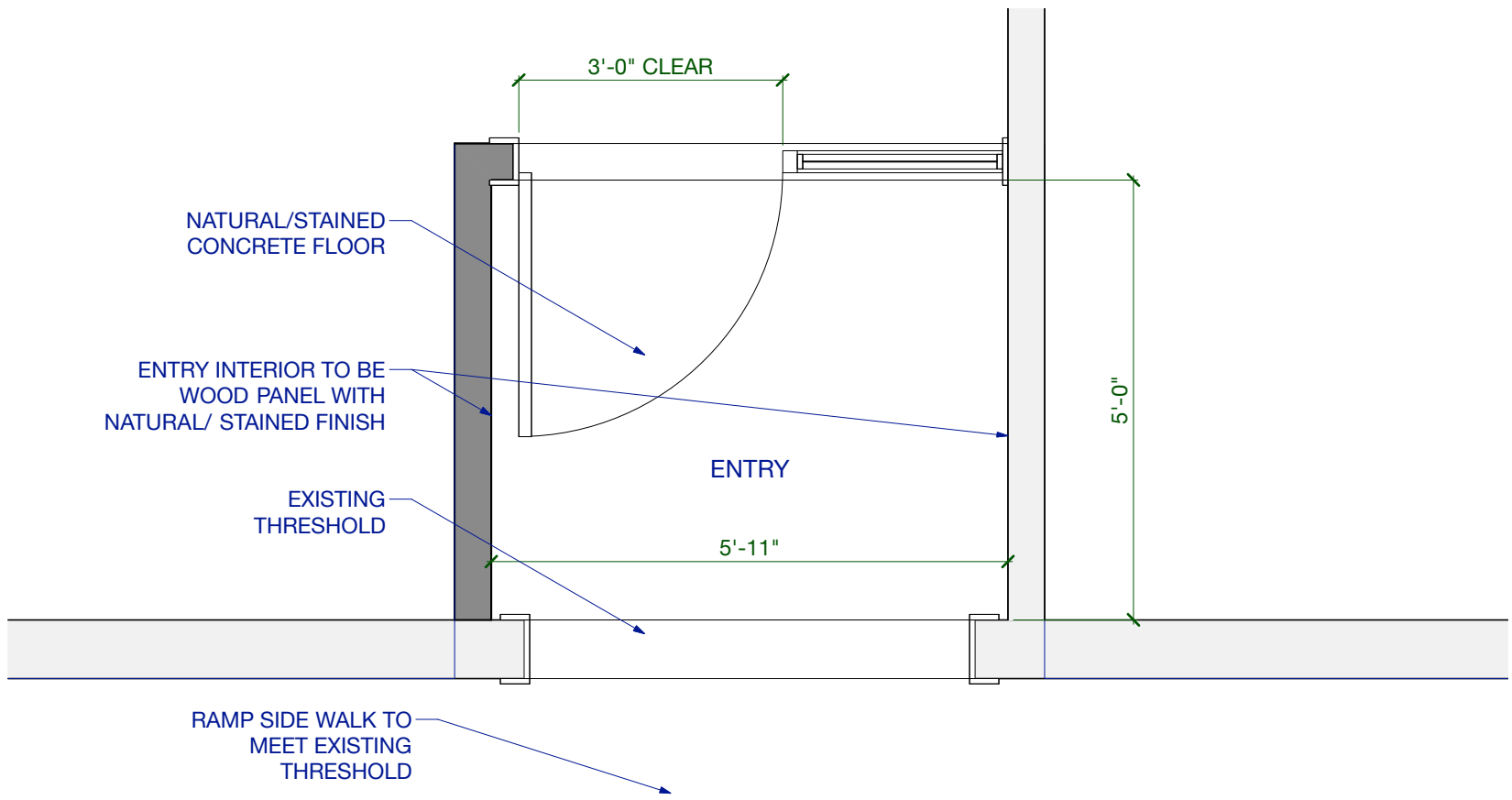
Data provided by Union County GIS and Town of Waxhaw GIS. The Town of Waxhaw does not guarantee the accuracy of the information displayed. Map created July 2015.

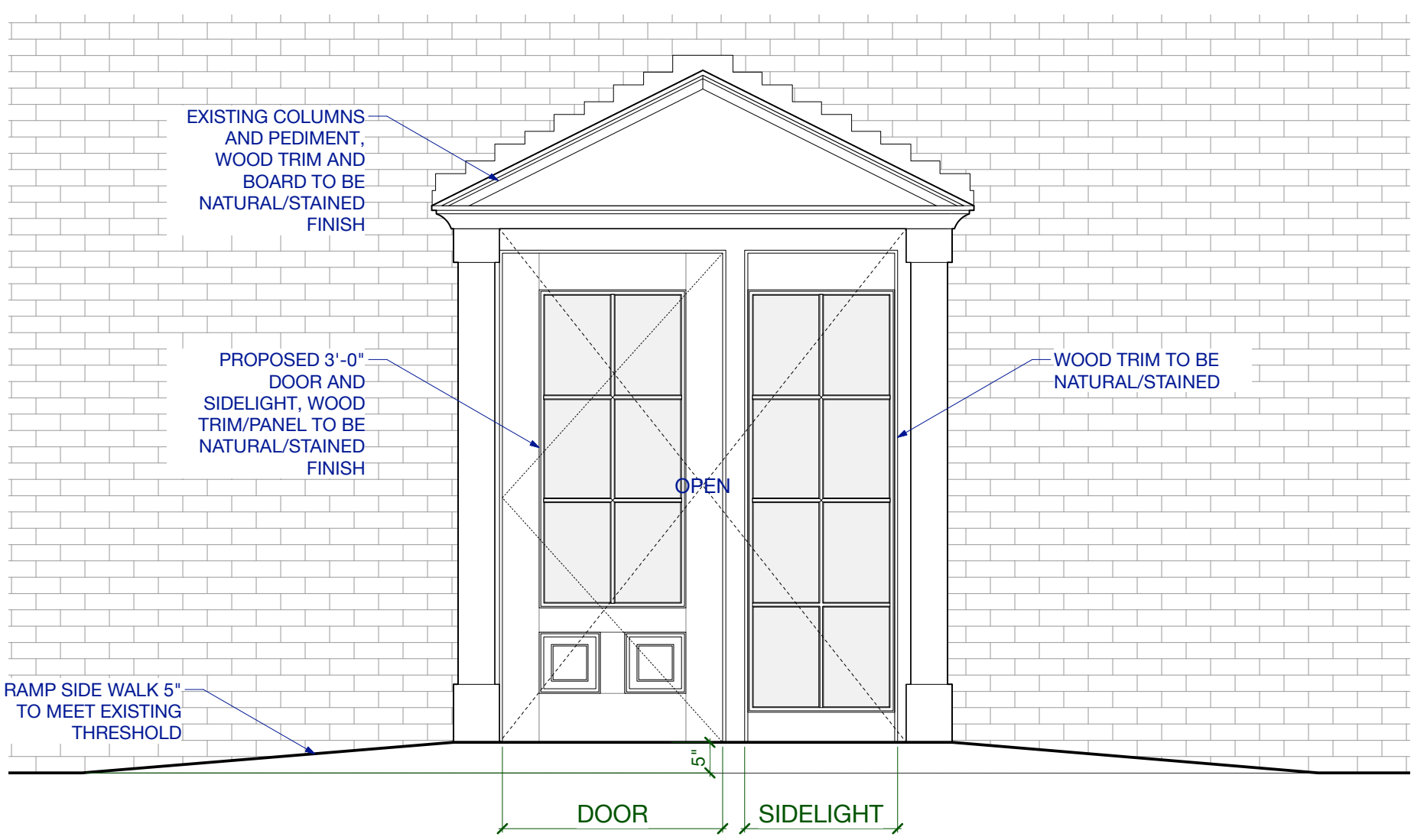
Existing Front Entry – East North Main Street Elevation

Existing Front Entry – East North Main Street Elevation

Proposed Front Entry - E. North Main St. Elevation

DREAMWEAVER'S BREWERY





Proposed Entry Elevation

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115 E North Main St
Waxhaw, NC 28173

Project #: 14_114

Date: 06.22.2015 Proposed Entry
Date: 06.24.2015 Revised Proposed Entry

1523 Elizabeth Ave, Suite 120
Charlotte NC 28204

704 405 5980
www.cluckdesign.com

cluck
DESIGN COLLABORATIVE

Example of Proposed Front Door – East North Main Street Elevation

Existing Front Windows – East North Main Street Elevation

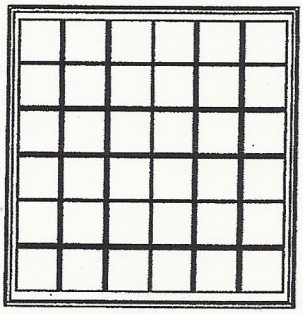
Proposed Front Windows - E. North Main St. Elevation

LocustLumber
1709 Airport Road
Monroe, NC 28111
Phone: (704) 289-8441

JELD-WEN WINDOWS & DOORS

QUOTE BY: Robin Rosario
QUOTE #: JRR100404
SOLD TO: Neil Gimon
SHIP TO:
PROJECT NAME:
PO#:
REFERENCE:
Ship Via: Ground/Next Truck

LINE NO.	LOCATION SIZE INFO	BOOK CODE DESCRIPTION	NET UNIT PRICE	QTY	EXTENDED PRICE
Line-1					
Rough Opening: 78 1/8 X 79 1/4		Frame Size : 77 3/8 X 78 1/2 (Outside Casing Size: 80 X 80 11/16), Siteline EX Double Hung Product, Wood Fixed Auralast Pine, Primed Exterior, Natural Interior, Brickmould, Standard Sill Nosing, DripCap, Brilliant White Drip Cap, 4 9/16 Jamb, US National-WDMA/ASTM, PG 35, Insulated Low-E Tempered Glass, Neat, Preserve Film, Argon Filled, 7/8" Bead SDL w/Perm Wood Trad'l. Bead Int BAR, Primed Wood SDL, Light Bronze Shadow Bar, Colonial 6 Wide 6 High *Custom-Height*, GlassThick=0.968, U-Factor: 0.29, SHGC: 0.24, VLT: 0.45, Energy Rating: 18.00, CPD: JEL-N-719-09846-00001 PEV 2015.2.1.1235/PDV 6.251 (05/27/15) NW	$1,689.94	2	$3,379.88



Viewed from Exterior. Scale: 1/4" = 1'

Total: $3,379.88
Total Units: 2

AuraLast® THE WOOD THAT DOES NOT ROT™

Protect yourself when you choose JELD-WEN® AuraLast® pine products backed by a limited lifetime warranty against wood rot and termite damage.

Molding Around the windows will Be Naturally wood stained To Match The New Door

- The window will Have A Matching Natural wood stain As well

Drawings are for visual reference only and may not be to exact scale. All orders are subject to review by JELD-WEN

Current Garage Bay Roll-Up Doors – North Providence Street elevation

Existing Garage Bay Roll-Up Doors –North Providence Street Elevation

Proposed Garage Bay Roll-Up Doors – North Providence Street Elevation
*The windows will not have reflective material on them

North Carolina State Historic Preservation Office

Historic Property Survey Summary

County: **Union**

SSN: **UN0957** Blockface#

Quad: Waxhaw
PIN: 05113066
X: **Y:**
DOT Project #:
OSA#:

Update Mo: **01** Yr: **2010**
☑ No Alt ☐ Alt ☐ Det ☐ Rehab
☐ **Removed** ☐ Outbldg Loss
☐ No Acc. ☐ Not Fnd ☐ FileMsg
☐ Newly ID'd ☐ Needs Resch.

Property Name: **Waxhaw Volunteer Fire Department**
Street or 911 Address: **E. N Main Street**
Location Description: **NW cor N Main & N. Providence St.**
Town/vicinity: **Waxhaw**
District: **Waxhaw Historic District (NR HD)**
District Dates: NRdate: **12/6/1991** SLdate: **11/16/1983** DOEdate:
Local District: **Waxhaw Local Historic Distrct**

☐ Recommended for SL ☐ StudyList SLDate: ☐ NR NRDate: NR #: **None**
☐ DOE DOEDate:
DOE Type: Local Status: Ownership:

Principal Resource Material Integrity: **High** Condition: **Good** Location Integrity: **Original**

Architectural Data: Date(s): **1963**
Major Style Group(s) **Colonial Revival**
Construction: **Masonry Veneer**
Ext. Material: **Brick** Later Covering:
Height: **1 story** Roof: **Front Gable** Plan: Core Form (Domestic):
Design Source and attribution: **Not specified**

Major Theme: **Architecture** 2nd Theme:
Group Association: Religious Affiliation
Historic Function: **Government - fire station**

Written Summary

One-story, brick veneer, gable-front Colonial Revival style building (gable sheathed with clapboards) which houses the office and garage of the Waxhaw Volunteer Fire Department. Until it burned in 1931, Plyler's Garage (see #16) was located here. (source: 1991 National Register Nomination)

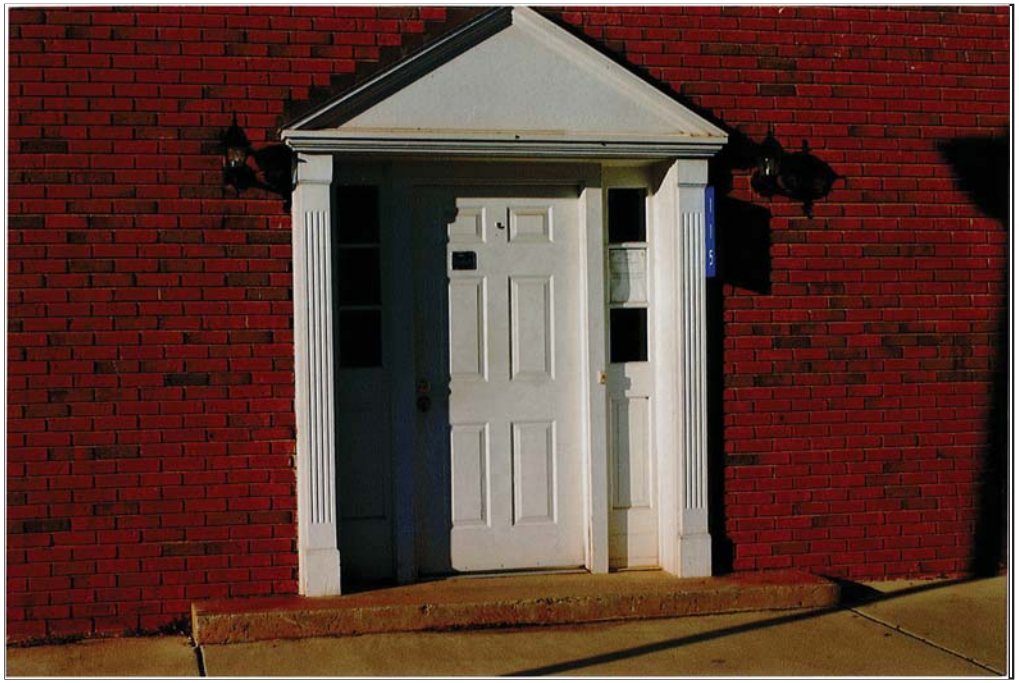
2010: Colonial Revival fire house with pedimented entry surround and two multi-pane picture windows. Vinyl in gables. Vacant/storage.

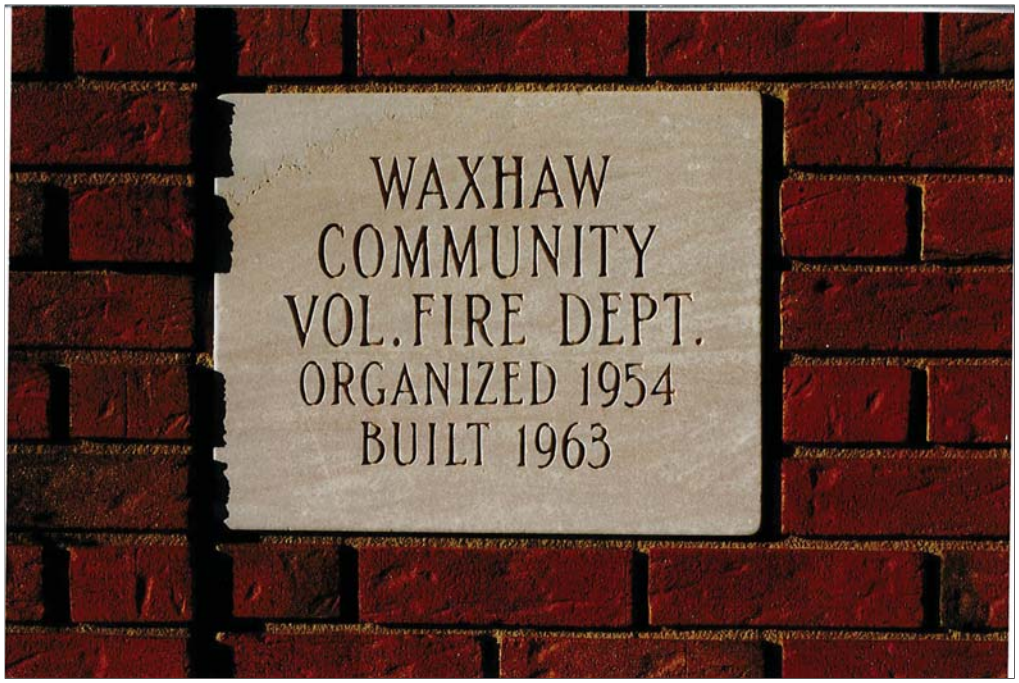
Outbuildings/Features

Actions

Year	Month	Surveyor	Action/Report
1991		Patricia S. Dickinson	Survey for NRHD nomination

Historic Inventory Photos





1960's Photo of East North Main Street (115 E. North Main St. in Far Right of Frame)

Photo of Fire Station Under Construction

Waxhaw's History

Email with Paul Fomberg - Senior Restoration Specialist with NC Historic Preservation Office

Maxx Oliver

From: Fomberg, Paul <paul.fomberg@ncdcr.gov>
Sent: Friday, June 12, 2015 4:18 PM
To: Maxx Oliver
Cc: Mitchell, Sarah L
Subject: RE: Renovation of Old Fire Station Waxhaw, NC

Hi Maxx. The "Period of Significance" for the Waxhaw Historic District, which is listed in the National Register of Historic Places, is from 1888 to 1941. The old Waxhaw Volunteer Fire Department building was constructed in 1963 in the Colonial Revival style, and therefore does not contribute to the significance of the historic district due to its age.

Although the Colonial Revival design of the building is not really compatible with the turn-of-the-century commercial buildings in the district, it is apparent that the design of the building was an attempt to make it compatible with the historic commercial buildings in the downtown district by designing the front elevation to look like a commercial building, and by placing the garage doors on the side elevation. Also, the scale of the building, the choice of brick, and the detailing of brickwork all help to make it somewhat compatible. Unfortunately, the addition of the gable roof on the building has made it incongruous with the other commercial buildings in the district, which typically have flat roofs. The introduction of membrane roofs have made the maintenance of flat roofs much more practical.

The proposed replacement of the existing garage doors on the side elevation with new full-glass garage doors does not seem like a problem to me; however, the doors should have a painted finish rather than a metallic finish. As for the front elevation of the building, it could be made much more compatible with the other buildings in the district by removing the gable roof and by enlarging the openings on the front elevation of the building so that it looks more like a turn-of-the century commercial building—similar to 103-109 W. South Main Street on the other side of the railroad tracks, which was a tax credit project in the mid-1990s.

I hope that helps. Please let me know if you have questions.

Paul E. Fomberg
Senior Restoration Specialist
Restoration Branch
State Historic Preservation Office
NC Department of Cultural Resources
Ph: 919.807.6578 | Fx: 919.807.6599
www.hpo.ncdcr.gov

This message does not necessarily represent the policy of the Department of Cultural Resources.
E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law "NCGS.Ch.132" and may be disclosed to third parties by an authorized state official.

From: Maxx Oliver [mailto:moliver@waxhaw.com]
Sent: Friday, June 12, 2015 11:13 AM
To: Fomberg, Paul
Subject: Renovation of Old Fire Station Waxhaw, NC

Mr. Fomberg,

I was referred to you by Lisa McCarter here in our office.

Email with Paul Fomberg - Senior Restoration Specialist with NC Historic Preservation Office

We have a brewery locating in the old Waxhaw Volunteer Fire Department building and the owner wants to replace the front door, two windows on the front, and the bay doors. I was hoping you could make some suggestions on materials or replacement windows and doors. I have attached some pictures including old picture of the station, current conditions, and some proposed doors for the renovation.

The building, located at 115 East North Main Street Waxhaw, NC, was built in 1963 and has since had an addition made on the back and replaced the original flat roof with a slopped roof. One of the four original, wooden bay doors has been replaced with a metal door and the windows in the three original doors have been removed and replaced with plywood. The two bay doors on back addition are metal and contain windows. The original doors seem to be in disrepair. (See attached photo of bay doors). The applicant wants to replace all bay doors with metal and glass ones. (See attached proposed bay doors).

The applicant also wishes to replace the front door, that is from the best we can tell original, with a store front type door made of wood and glass but he is proposing to keep the current colonial style details around the door. (see attached photos for existing and proposed doors). He also would like to add some sort of ramp to make the front door ADA accessible.

Also, the applicant wishes to replace the front windows with new ones in the same style, citing security reasons having to do with the insurance company and having a lot of expensive brewing equipment only separated from the street by very large single pan windows, we have suggested the idea of secondary glazing rather than replacement but the insurance company does not seem thrilled by the idea. (See attached of the window. I do not have a proposed replacement from him yet).

I have also attached two historic photos of the building, one from when the station was being built and one showing the whole block in what we believe to be the late 60's (it is the building at the very end of the block, on the right side of the photo). I have also attached the photos and description from a historic inventory that the town had done several years ago.

Any information or suggestions you could provide would be very helpful. Please let me know if you need any additional information.

Thank you!

Maxx Oliver – GIS Planner

Town of Waxhaw
1150 North Broome St. Waxhaw, NC 28173
tel 704-843-2195 Ext.239 fax 704-243-3276

moliver@waxhaw.com www.waxhaw.com

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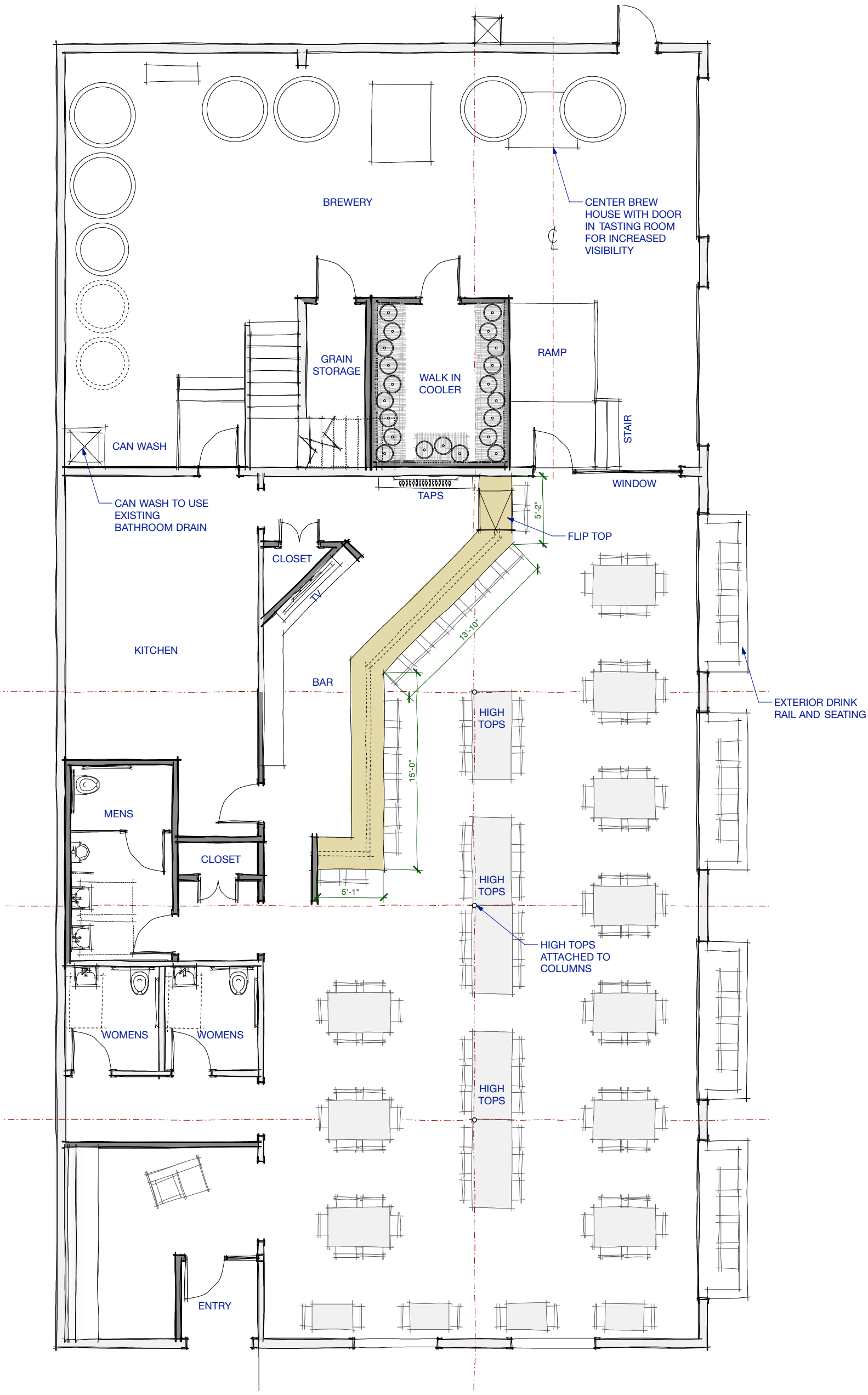
Proposed Interior Layout

DREAMWEAVER'S BREWERY



Proposed Plan

0 4 8 12 16 FT

N

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105 E North Main St
Waxhaw, NC 28173

Project #: 14_114
Date: 06.08.2015 Concept Design

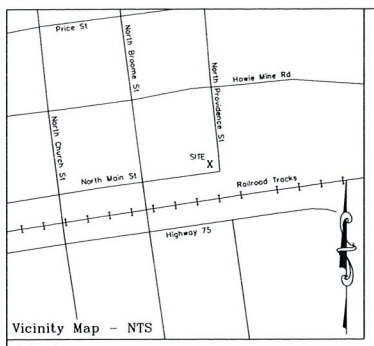
1523 Elizabeth Ave, Suite 120
Charlotte NC 28204

704 405 5980
www.cluckdesign.com

cluck
DESIGN COLLABORATIVE

Site Survey

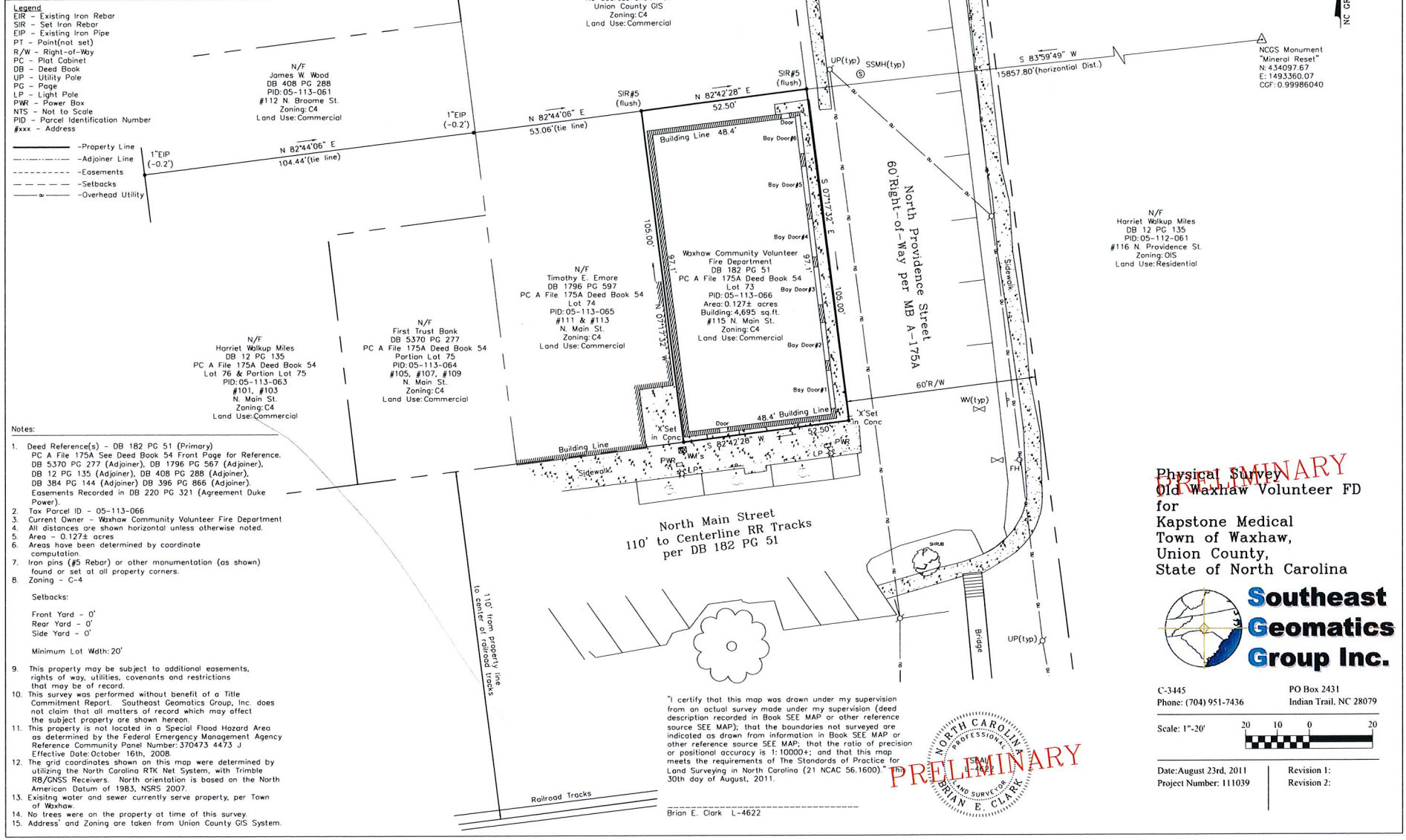
PRELIMINARY



Vicinity Map - NTS

Legend
EIR - Existing Iron Rebar
SIR - Set Iron Rebar
EIP - Existing Iron Pipe
PT - Point(not set)
R/W - Right-of-Way
PC - Plat Cabinet
DB - Deed Book
UP - Utility Pole
PG - Page
LP - Light Pole
PWR - Power Box
NTS - Not to Scale
PID - Parcel Identification Number
#xxx - Address

-Property Line
-Adjoiner Line
-Easements
-Setbacks
-Overhead Utility



Notes:

1. Deed Reference(s) - DB 182 PG 51 (Primary)
   PC A File 175A See Deed Book 54 Front Page for Reference.
   DB 5370 PG 277 (Adjoiner), DB 1796 PG 567 (Adjoiner),
   DB 12 PG 135 (Adjoiner), DB 408 PG 288 (Adjoiner),
   DB 384 PG 144 (Adjoiner) DB 396 PG 866 (Adjoiner).
   Easements Recorded in DB 220 PG 321 (Agreement Duke Power).
2. Tax Parcel ID - 05-113-066
3. Current Owner - Waxhaw Community Volunteer Fire Department
4. All distances are shown horizontal unless otherwise noted.
5. Area - 0.127± acres
6. Areas have been determined by coordinate computation.
7. Iron pins (#5 Rebar) or other monumentation (as shown) found or set at all property corners.
8. Zoning - C-4

   Setbacks:

   Front Yard - 0'
   Rear Yard - 0'
   Side Yard - 0'

   Minimum Lot Width: 20'

9. This property may be subject to additional easements, rights of way, utilities, covenants and restrictions that may be of record.
10. This survey was performed without benefit of a Title Commitment Report. Southeast Geomatics Group, Inc. does not claim that all matters of record which may affect the subject property are shown hereon.
11. This property is not located in a Special Flood Hazard Area as determined by the Federal Emergency Management Agency Reference Community Panel Number: 370473 4473 J Effective Date: October 16th, 2008.
12. The grid coordinates shown on this map were determined by utilizing the North Carolina RTK Net System, with Trimble R8/GNSS Receivers. North orientation is based on the North American Datum of 1983, NSRS 2007.
13. Exisitng water and sewer currently serve property, per Town of Waxhaw.
14. No trees were on the property at time of this survey.
15. Address' and Zoning are taken from Union County GIS System.

"I certify that this map was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book SEE MAP or other reference source SEE MAP); that the boundaries not surveyed are indicated as drawn from information in Book SEE MAP or other reference source SEE MAP; that the ratio of precision or positional accuracy is 1:10000+; and that this map meets the requirements of The Standards of Practice for Land Surveying in North Carolina (21 NCAC 56.1600)." This 30th day of August, 2011.

Brian E. Clark L-4622

NORTH CAROLINA PROFESSIONAL SEAL L-4622 LAND SURVEYOR BRIAN E. CLARK

PRELIMINARY

PRELIMINARY

Physical Survey
Old Waxhaw Volunteer FD
for
Kapstone Medical
Town of Waxhaw,
Union County,
State of North Carolina

Southeast Geomatics Group Inc.

C-3445
Phone: (704) 951-7436

PO Box 2431
Indian Trail, NC 28079

Scale: 1"-20'

20 10 0 20

Date: August 23rd, 2011
Project Number: 111039

Revision 1:
Revision 2:

Town of Waxhaw
Planning & Community Development
PO Box 617
Waxhaw, NC 28173
704-843-2195 (Phone)
704-243-3276 (Fax)
www.waxhaw.com

Date Received
June 25, 2015
Received By
Chris Rice
Fee
N/A

TEXT AMENDMENT APPLICATION

Date of Application: June 25, 2015 Application Number: TA-003547-2015
(completed by staff)

Applicant Information

Applicant Name: Town of Waxhaw, NC

Applicant Address: PO Box 617, Waxhaw, NC 29173

Applicant Email Address: crice@waxhaw.com

Applicant Telephone: 704-843-2195, ext. 236

Type of Change: New Addition _____ or Revision X

Ordinance Section: 21.7.4.C.2 of the Unified Development Ordinance

Current Text: See Attachment

Proposed Text: See Attachment

Reason for requested change (attach additional sheets if necessary): Revising the location where a non-vegetative street screen can be located.

I do herby certify that all information which I have provided for this application is, to the best of my knowledge, correct.

Chris Rice
Signature of Applicant

6/25/15
Date

All of the information herein required has been submitted by the applicant and is included or attached with this application

Lori Oakley 6-25-15

(Signature of Zoning Administrator) (Date)

TO BE FILLED OUT BY ZONING ADMINISTRATOR

Completed application submitted on: June 25, 2015

Reviewed by Planning Board on: July 20, 2015

Action of Planning Board: _____

Town Board Public Hearing Held On: _____

Date of Town Board Decision: _____

Action Taken by Town Board: _____

Newspaper Affidavit should be attached

Public Hearing Notice Filed in: _____
(Name of Newspaper)

Date(s) Notices Published: _____

Text Amendment TA-003547-2015
Parking Area Screening Revision

EXPLANATION OF THE REQUEST

Petition TA-003547-2015 is a request by staff to amend Section 21.7.4.C.2 *Parking Area Screening* of the Waxhaw Unified Development Ordinance to allow non-vegetative street screens to be placed on the property line instead requiring a five (5') setback.

REQUESTED UDO CHANGES

Section 21.7.4.C.2 *Parking Area Screening* (See attached language*)*

PLANNING STAFF ANALYSIS

A non-vegetative street screen functions as a semi-opaque screen from the ground to at least a height of three (3) feet for screening of car lights, glare and other impacts from parking areas. A vegetative screen requires a planting space a minimum of four (4) feet in width and a required five (5') foot setback. Currently a non-vegetative street screen requires a five (5') setback. If a non-vegetative street screen is used, staff feels that there is no need for the current five (5') setback.

Staff researched Belmont, NC, Davidson, NC and Cornelius, NC because they have requirements for street screens around parking lots that have side or rear street frontages. All three municipalities do not require a setback when a non-vegetative street screen is used along a side or rear street frontage to screen required parking areas from view. Davidson, NC actually states, in its ordinance, "At sidewalks with extensive pedestrian use, the masonry wall installed at the back of the sidewalk is preferred."

PLANNING STAFF RECOMMENDATION

Planning Staff recommends approval of TA-003547-2015. The proposed text amendment will result in more flexible design of the interior of the parking lot when non-vegetative street screens are utilized.

Submitted by: Chris Rice

f. Small Maturing trees may be used where power lines exist from the Waxhaw Tree Species List in Section 9.21.15 of the UDO.

21.7.4.C Off-Street Parking Area Landscaping

1. **Required Plantings:** One Shade Tree and 8 shrubs per 10 parking spaces. No parking space shall be further than 60 feet from the trunk of a canopy tree.

2. **Parking Area Screening:** All parking areas visible from the right-of-way should be screened from view. Parking areas must have a minimum 3 foot high Streetscreen along the street side. Shrubs, brick walls (using brick that matches or complements the adjacent building), wrought iron fencing with landscaping, or any combination thereof may be used. If landscaping is used, the minimum planting area width should not be less than 4 feet. Streetscreens shall have openings no larger than are necessary to allow automobile and pedestrian access. Vegetative streetscreens shall ~~and~~ be located at least 5 feet outside of the right of way. In addition, all non-vegetative streetscreens that exceed 4 ~~foot~~ feet in height shall be at least fifty percent void. All non-vegetative streetscreens may be located on the property line.

21.7.4.D Fences

	UN, NMX	MS, TC
A. First Layer	4 ft maximum height (permitted materials: wrought iron, picket style, brick, stucco, stone)	4 ft maximum height (permitted material: wrought iron only)
B. Second & Third Layer	6 ft maximum height (permitted materials: wrought iron, picket style, brick, stucco, stone, coated chain link)	6 ft maximum height (permitted material: wrought iron)

The use of barbed wire, razor wire, uncoated chain link or similar elements is prohibited. Coated chain link shall be in black, dark green, or dark brown vinyl.

21.7.5 Utilities, Trash Containment & Loading Areas

A. **21.7.5.A Underground Utilities:**

1. All projects entailing new construction of any principal structure shall install all on-site utilities underground. Underground utilities (and associate pedestals, cabinets, junction boxes and transformers) must be located in alleys, where possible.

MEMORANDUM

TO: PLANNING BOARD MEMBERS

FROM: LISA MCCARTER, PLANNER II

SUBJECT: CONSULTANTS FOR THE REWRITE OF THE UNIFIED DEVELOPMENT ORDINANCE

DATE: JULY 13, 2015

The Town of Waxhaw Planning & Community Development Department received six proposal packages in response to the RFP for the Unified Development Ordinance rewrite. For your consideration of the proposals and the selection of the top three candidates at the July 20, 2015 Planning Board meeting, a *UDO Rewrite Proposal Comparison* chart with rankings followed by the six different consultant's proposals are included in your printed packet. The proposals also included sample ordinances that were written by the six firms. Due to the length of the sample ordinances, they are not included in your printed copy but have been included in the digital copy of your packet, and can be found on the Waxhaw website www.waxhaw.com. Hard copies of the sample ordinances will be available to for your review at the Town Hall during normal business hours of Monday through Friday 8AM to 5PM. You may also choose to set up an appointment to review the samples and a conference room will be reserved for you.

	Code Wright	**N-focus**	**Studio Cascade**	**PlaceMakers**	**LSL Planning**	**Stewart**
Primary Contact Person	Chad Meadows, AICP	F. Richard Flowe, AICP	William Grimes	Susan Henderson	Paul LeBlanc	Randi Gates
Estimated Cost of Contract	$100,000	$167,000	$168,955	$99,931	$126,412	$105,000-$125,000
Estimated Total Timeframe	16 months	16 months	18 months	9 months	12 months	14 months
Minimum Public Participation /Outreach Required in RFP: 2 full day mtg for initial public input & marketing plan; 2 full day mtg for draft text, map & marketing plan; Joint BOC, PB & BOA mtg; minimum of 3 public hearings.	Initiation: Kick off meeting with staff for project scope & public engagement, assemble advisory committee, presentation to PB & BOC, project; 1 day ideas forum w public; 2 days meetings with staff, PB, BOC code accessment; 2 day long meetings prior to draft; 1/2 day meeting - testing 4 scenarios; 3 meetings - adoption of text; 4 public meetings & 2 board meetings - zoning map (missing 2 day initial public input meeting - only included 1 one day ideas forum)	11 LDC (Land Development Committee)/Advisory Board Meetings, individual LDC member meetings, phone interviews with business owners & developers, community survey, organization newsletters, flyer, update page on website, a facebook page, a twitter feed and content for other social media, give presentations & discussion with clubs & organizations, 2 full day public workshops, 1 full day LDC retreat, joint meeting, 3 board meetings (missing 2nd 2 day workshop & BOC not included in joint meeting	Fieldtrip to town, stakeholder interviews & work session w staff, Stakeholder interviews, educational forums, at least 4 public workshops (2 in the weeklong studio storefront/charrette), 2 day public meeting for draft and joint meeting, show an info booth as a common tool	Analysis:Public engagement campaign - email campaign, flyers, participatory workshops and interactive project icharrette website; meetings with stakeholders, BOC, PB & BOA; draft to social media and icharrette, flyers and emails; 4 full day workshops, want public hearing presentations all at one trip to save fees, staff and developer education in same trip	Organization and kick-off, 2 days public meetings, provide info for towns website, town responsible for advertising and arrangements, meetings with project stakeholders ided by staff & elected officials, 2 day meeting to articulate & determine form based areas, draft then prepared (3 sets of 2 day workshops prior to draft but missing 2 day workshop after draft)	kick off meeting with staff, press releases, utility bill newsletters, flyers, mailings, community collaborate website, social media, email notices, interviews with 5 key stakeholder groups not in steering committee, 4 steering committee meetings, monthly staff meetings conf. call, min 2 full day interviews/workshops, draft ordinance & map, 2 full day open houses/workshops, joint meeting then three board meetings

	Code Wright	N-Focus	Studio Cascade	PlaceMakers	LSL Planning	Stewart
UDO's/Documents Prepared by the Firm FBC=Form Based Code UDO=Unified Development Ordinance LDO=Land Development Ordinance DO=Development Ordinance ZO=Zoning Ordinance GL/SD=Guidelines or Single District/Small Area Regulations (not whole UDO) Samples submitted are underlined	Mooresville, NC- ZO; Rock Hill, SC - LDO; Currituck Co., NC - UDO; Portsmouth, VA - ZO; Fredericksburg, VA - UDO; Greenville, SC - GL/SD; Colleton Co., SC - Comp Plan & Map Updates; Wilson Co, NC - Comp Plan & UDO	Marsheville, - UDO (in process) Creedmore, NC - DO Midland, NC - UDO East Spencer - ZO & Map Kannolopis - ZO & Map China Grove, ZO & Map Laurens, - ZO Columbia, SC - UDO & Map	Hickory, NC - LDC Ellensburg, - LDC Normandy Park, WA - GL/SD Fayetteville, NC - GL/SD Boise, ID - GL/SD Chelan, - GL/SD	Fuquay-Varina, NC - LDO Leland, NC - form based FlexCode Dona Ana, NM - UDO Ranson & Charles Town, WV - FBC; New Castle Co, DE - UDO Taos, NM - form based code Thompson's Station, TN - LDO	Palmetto, GA - ZO La Porte, IN - ZO Midland, MI - FBC Bluffton, SC - UDO Kodiak, AK - ZO Grandville, MI - User-Friendly Ordinance Birmingham, Mi - GL/SD Leesburg, VA -GL/SD Freemont, MI - FBC Midland, MI - GL/SD Overland Park, KA - FBC	Burlington, NC - UDO (in process) Jasper, IN - UDO Pulaski Co., - UDO Sellersburg, IN - GL/SD Fort Wayne, IN - GL/SD Anderson, OH - ZO Louisville, KY - GL/SD Lebanon, IN - UDO Hendricks Co., - ZO Cicero, IN - ZO Carmel, IN - GL/SD
Familiarity with the Town of Waxhaw	Town of Waxhaw Comprehensive Plan Update	Team member Bill Dustin, when formerly with the Centralina Council of Governments, established Waxhaw PB, Planning Dept., Board of Appeals, Land Development Plan, ZO & Map	Good understanding in proposal	Good understanding in proposal	Good understanding in proposal (currently working with Fort Mill on UDO)	David Barnes Park designer
Technical documents	no	Not specified	yes	some printing done by staff	yes	yes
Staff training	yes	Not Specified	yes	yes	Not specified	yes
Code proposed: form based or traditional	hybrid	Not specified, traditional example	form-based	form based	form based or hybrid	form based or hybrid
Project lead experience in code writing	11 years	30 years	20 years	19 years	19 years	none

	Code Wright	N-focus	Studio Cascade	PLaceMakers	LSL Planning	Stewart
Evaluation Criteria (Staff Recommendations based on scale of 0 -5; 5 = best)						
Quality of Proposal	4	4	4	5	5	4
Demonstration of understanding and expertise	4 (separate zoning map process, no FBC example)	4 (no FBC example)	4 (no FBC examples)	5	5	3 (project lead has no ordinance writing experience, no FBC example)
Work plan / technical approach	4 (zoning map process starts after rewrite adoption)	4	5	4 (combine all board meetings into one night for PB, BOC public hearing & adoption)	5	5
Qualifications and experience of individuals performing service	4 (no form based code experience)	4	4 (no form based code examples)	5	5	4 (no ordinance experience for project lead)
References/Evaluation of prior experience on similar projects	4	5	4	5	5	5
Degree to which the scope of project elements were addressed	3 (separate rezonings, left out initial 2 day public meeting)	4 (left out 2 day public meeting for draft)	5	4 (don't provide technical documents)	4 (don't provide technical documents; exceeded required # meetings but none after draft)	5
Other factors deemed appropriate by the town	See below	See below	See below	See below	See below	See below
- Public participation	5 (good # meetings & advisory committee)	5 (advisory committee)	5 "storefront workshops"	5	5 (provided more than required # meetings)	4 (advisory committee)
- Public outreach	2 (only website)	5	4 (example of info booth, stakeholder interviews & educational forum)	5	5 (tailor outreach to town's needs, many methods shown on pg 30 of proposal)	4 (a lot of marketing)

	Code Wright	**N-Focus**	**Studio Cascade**	**PlaceMakers**	**LSL**	**Stewart**
- Rezoning Map	4 (will do, but asked to consider removing from contract)	5	5	5	5	5
- Sample Ordinance	3 (traditional example ordinance)	2 (traditional, lengthy use table)	4 (form based but not an ordinance)	5 (form based example ordinance)	5 (form based example ordinance)	3 (traditional example ordinance)
- Sample Ordinance readabilty	4	3 (similar to Waxhaw's existing UDO)	5	4 (some terms might be confusing to the layperson)	5	4
- Sample Ordinance organization	3 (took a while to find use table)	3 (some regulations may be confusing for the layperson to find)	4	5	5	4
- Sample Ordinance contents	4 (many zoning districts & uses)	3 (processes not easy)	5	5	5	4
- Sample Ordinance graphics	5	2 (not many)	5	4 (lots of charts and graphics, some charts and tables hard to understand)	5	5
Total Score	53	53	**63**	**66**	**69**	59

REQUEST FOR PROPOSALS

Town of Waxhaw, North Carolina
Unified Development Ordinance Rewrite and Zoning Map Update
May 21, 2015
Submission Deadline: June 17, 2015

STATEMENT OF NEED:

The Town of Waxhaw is seeking proposals from qualified, professional Consultants to assist the Town with a comprehensive rewrite of the Unified Development Ordinance (UDO) to a form-based code and update to the zoning map. The Consultant awarded this contract will have the primary responsibility for developing this document and map, and will work in coordination and consultation with the Town of Waxhaw Planning and Community Development Department. The Town has recently begun to update its Comprehensive Plan, the policies from which shall be incorporated into the UDO. The UDO will begin as the draft of the Comprehensive Plan being written, with results from that effort being made available to the firm selected to rewrite the UDO and update the zoning map.

COMMUNITY BRIEF:

Waxhaw is a historic town located in the southern Piedmont region of North Carolina, approximately twenty miles south of Charlotte. Established in 1889, Waxhaw has a rich history that spans several decades. The Town is one of the fastest growing communities in Union County with the current population estimates hovering around 15,000. We strive to strike a healthy balance between growth pressures from the Charlotte metropolitan region and the preservation of our historic small town character.

EXISTING ORDINANCE:

The Town's current Unified Development Ordinance was adopted in 2004 and is in need of an update. The sign ordinance contained within the UDO was rewritten in September 2013 and the Downtown Code (form-based code) was adopted in November 2013 for the downtown area. The Town Council, Planning Board, Board of Adjustment, staff, citizens and the development community continually express concerns with the current UDO. Many of the processes outlined in the current UDO are not clearly defined or have become obstacles and will need to be analyzed and rewritten with the inclusion of smart growth practices. The Town wishes to address issues with the existing UDO including but not limited to:

- Awkward and confusing ordinance format and structure;
- Unclear, contradictory language, including standards or requirements which simply cannot be met;
- Unclear review procedures and required permits;
- Lack of staff-level approval procedures;
- Lack of graphics and illustrations;
- Lack of sufficient and clear definitions.

An electronic copy of the Town's current UDO can be found by visiting: http://www.waxhaw.com/index.aspx?NID=125.

PURPOSE:
The purpose of the project is to rewrite the UDO for the Town of Waxhaw, including an update to the zoning map. The town's goal is to develop a clear and user-friendly form based code UDO that is consistent with town plans and policies. The new UDO shall reflect the policies from the new Comprehensive Plan that is currently being prepared and will address the following objectives:

- Provide a more predictable set of land use regulations for the community, developers and town officials by increasing the reliance on provisions of the ordinance instead of special legislative approvals;
- Improve the efficiency of the land development process by streamlining administrative review, approval, and permitting for routine matters;
- Integrate and improve upon portions of other Town Ordinances (i.e., street requirements);
- Eliminate outdated, unclear or contradictory language and the need for frequent and extensive interpretations;
- Update the format and structure to be more user-friendly and intuitive, including the heavy use of illustrations or other graphics to convey standards;
- Support sound responsible economic development, multimodal transportation, and a sustainable built and natural environment.
- Support the preservation of historic structures in the downtown area.

SCOPE OF PROJECT:

1. **Background Review and Analysis**

   A. Review of Pertinent Background Documents - The Consultant will review and become familiar with the existing Town of Waxhaw UDO, the Comprehensive Plan, and other pertinent plans, policies, and regulatory documents and discuss their content with town staff.

B. Background Maps – The Consultant will work with Town staff to determine what base map information will be required for the project. The Town of Waxhaw will provide base map information determined to be necessary (Maps, map layers, and shapefiles) in an ESRI format.

2. Initial Public Process

Public Workshops – The Consultant will propose a process to engage the community regarding specific concerns of the current UDO. The process should include a minimum of two full-day workshops and the intent of the workshops is to ensure that the Consultant is sufficiently familiar with the community vision to guide the creation of the new form-based code. The Consultant shall work with staff to publicize both workshops and have a clearly defined marketing campaign describing included elements (i.e., flyers, video, social media, etc.).

3. Drafting the Unified Development Ordinance and Zoning Map

A. Design Parameters for the UDO – The intent of the new code is to regulate development to ensure high-quality public spaces defined by a variety of building types and uses including (but not limited to) commercial/retail, entertainment, light industrial, institutional uses, office space and housing.

Sections of this document should include the following, at a minimum:

- Overview including definitions, principles and intent; and an explanation of the regulations and processes in a clear user-friendly language that's understandable to the general public.
- Building Form Standards governing basic building form, placement, height and other fundamental urban elements to ensure that all buildings compliment neighboring structures and the street. These standards should be based upon study of building types appropriate for region and climate, emphasizing neighborhood vitality and community character.
- Public Space/Street Standards defining design attributes and geometrics that balance the needs of motorists, pedestrians and bicyclists while promoting a vital public realm. These standards should include design specifications for sidewalks, parking, curb geometry, trees, planting areas, street furniture and lighting.
- Parking location defining the location and geometries of off-street parking lots in an appropriate context with the surrounding building and streetscape.
- Other sections including subdivision standards, architectural standards, historic preservation standards, the appeal and variance process, standards for developing in a floodplain, a consolidated zoning use table and an appendix of key terms.

The Consultant shall also provide a clear, concise plan for incorporating existing properties with conditional use zoning and conditional district zoning into the new form-based code zoning districts.

B. Integration of the Form-Based Code – The final form-based code document must be integrated into the Town's existing regulatory framework (zoning and subdivision regulations within the Unified Development Ordinance) to insure procedural consistency, mesh with state and local legal requirements, provide clarity as to the applicability of existing regulations, and maximize the effectiveness of the code.

4. Refining the Unified Development Ordinance

A. Review and Public Meetings - The Consultant will present the draft of the UDO and zoning map to staff for review. After making revisions in response to comments on the draft, the Consultant will present the revised draft of the UDO and zoning map at a minimum of two full-day public meetings. The presentation will also include an example of a variety of projects in town going through the review process under the proposed form-based code. The Consultant shall work with staff to publicize both meetings and have a clearly defined marketing campaign describing included elements (i.e., flyers, video, social media, etc.).

B. Meeting with Appointed and Elected Officials – The Consultant will also present a draft to a joint gathering of town boards (to include Town Board, Planning Board and Board of Adjustment).

5. Approval Process

A. Public Hearing Presentations – After the draft documents have been presented and refined by the Consultant based on comments received, the Consultant will present the most current draft of the new form-based code UDO and zoning map to the Waxhaw Planning Board and Town Board for the formal review and approval process. The Consultant should plan on attending at least three meetings (cumulatively) of these bodies during the process.

B. Additional Revisions – The Consultant will be responsible for revisions that may become necessary between presentations.

C. Technical Documents – The Consultant shall create, in consultation with the Town staff, all necessary applications, forms, documents, or other materials that will be required to implement and administer the new form-based code in the course of conducting town business.

6. **Post Adoption**

   Staff training – If the new UDO is adopted, the Consultant will provide training to the town staff on management of the form-based code. The Consultant, in coordination with the town staff, will determine the most appropriate format for this training.

DELIVERABLES:

The Consultant shall provide a digital version for use by the Town (Microsoft Office, ArcGIS 10.1) as well as fifteen (15) bound copies of the UDO along with the results of the community research. The document should be constructed so hard copies can easily be recreated by the Town.

CONTRACTUAL AGREEMENT:

The submitted proposal by the selected firm will become an attachment to the agreement signed by the Town and the firm. Price quotations and other time-dependent information must be valid for a minimum of one-hundred ninety (190) days from the closing date of this RFP. Negotiations may be undertaken with firms that demonstrate adequate qualifications and responsibility, and that can perform the responsibilities stated herein.

The Consultant will be paid on a regular basis upon receipt of proper invoices and progress reports. Payment will be made on a reimbursement basis for services actually performed. An agreed percentage of the total contract amount will be withheld pending satisfactory completion of services.

PROPOSAL SUBMISSION REQUIREMENTS:

1. **Submission Schedule**: Proposals are due to the Planning & Community Development Director by June 17, 2015 at 4:00 PM. Staff will review the proposals and forward them to the Planning Board for review at their July 20, 2105 regular meeting. The Town, on behalf of the Planning Board shall invite one (1) or more selected firms to a make a brief presentation, followed by a question and answer session prior to final selection. It is anticipated that presentations/interviews will take place on July 30, 2015 with a final recommendation then forwarded on to the Town Board. It is anticipated that the Notice to Proceed will be issued on August 22, 2015.

2. **Method of Submission**: One electronic copy in PDF format must be submitted along with five (5) hard copies of the written proposal. All hard copy proposals must be signed in ink by the principal(s) of the firm authorized to negotiate and contract for the work. Proposals are to be submitted in sealed envelope(s)/container(s) and received by the Planning & Community Development Director. Proposals by telephone, e-mail or facsimile shall not be accepted. Proposals shall not be returned and will become property of the Town of Waxhaw.

3. **Contact**: For questions or to submit a proposal, please contact the Planning & Community Development Director as outlined below. Any specific questions regarding the RFP should be sent in writing. Budget parameters will not be discussed with a prospective Consultant.

   Greg Mahar, Planning & Community Development Director
   P.O. Box 617
   1150 N. Broome Street
   Waxhaw, NC 28173
   (704) 843-2195 Ext. 232
   e-mail: gmahar@waxhaw.com

4. **Required Information**: Proposals should be effectively organized and presented and should be limited in the number of pages and file size. All proposals shall address the following information:

   A. Letter of Interest: Cover letter indicating interest in the project and identifying the firm's ability to provide services needed.

   B. Introduction: A brief description of the firm including the number of years the firm has been in existence, range of professional services, office locations and staff size.

   C. Work Program: In the project overview, describe the general project approach and processes to be employed, describe a process approach that was used in the past to successfully complete a similar project; describe the proposed project schedule including timeline of major milestones, deliverables and completion.

   D. Timeframe Flow Chart: Submit a flow chart with the estimated project timeline for meeting important project targets.

   E. Team Expertise: Description of the proposed team members from the staff of the Consultant and any subcontractors who will be responsible for specific work tasks. Provide specific information on the project manager who will be responsible for the project. Provide general information on the others on the team including their qualifications, the multidisciplinary nature of the team assembled for the project, and specific evidence of relevant experience creating form based codes. Include name with contact information (phone and e-mail of three past client references.

   F. Description of Comparable Projects: Include a summary of form-based code projects in progress or completed with the following information for each:

      1. Reference name, with current contact information
      2. Current status of code (draft in progress, draft completed, adopted)
      3. Nature of public involvement in formulation of code
      4. Size and scale of geographic area

5. Website address (if applicable)

G. Fee Proposal: Provide a not-to-exceed price for all services.

H. Sample Code Document: Please include one or more sample code documents selected from the list of comparable projects. If this document is the code as originally proposed by the Consultant, please also include the code as formally adopted by the municipality and a brief explanation of the difference between the two.

CONFIDENTIALITY:
Responses to the RFP will become public record and therefore will be subject to public disclosure. However, if the Consultant designates the proposal as confidential or trade secret, in accordance with NCGS 132-1.2, the Town will withhold the document from public disclosure to the extent that it is entitled or required to do so by law.

EVALUATION AND SELECTION:

1. **Evaluation:** All submitted proposals will be evaluated and considered according to the following criteria:

   A. Quality of proposal;

   B. Demonstration of understanding and expertise;

   C. Work plan / technical approach;

   D. Qualifications and experience of those individuals performing service;

   E. References / Evaluation of prior experience on similar projects;

   F. Degree to which the scope of project elements were addressed;

   G. Other factors deemed appropriate by the Town

2. **Conditions and Limitations**: The Town reserves the right to reject any proposal. The Town may or may not award this contract solely on the basis of the proposal. Any costs incurred by respondents in preparing or submitting a proposal shall be the respondent's sole responsibility.

3. **Equal Employment Opportunity**: The Town does not discriminate in administering any of its programs and activities. The Consultant awarded the contract for work will be required to ensure that no person shall be denied employment, fair treatment or be discriminated against on the basis of race, sex, religion, age, national origin or handicap.

TOWN OF

UDO REWRITE & ZONING MAP UPDATE

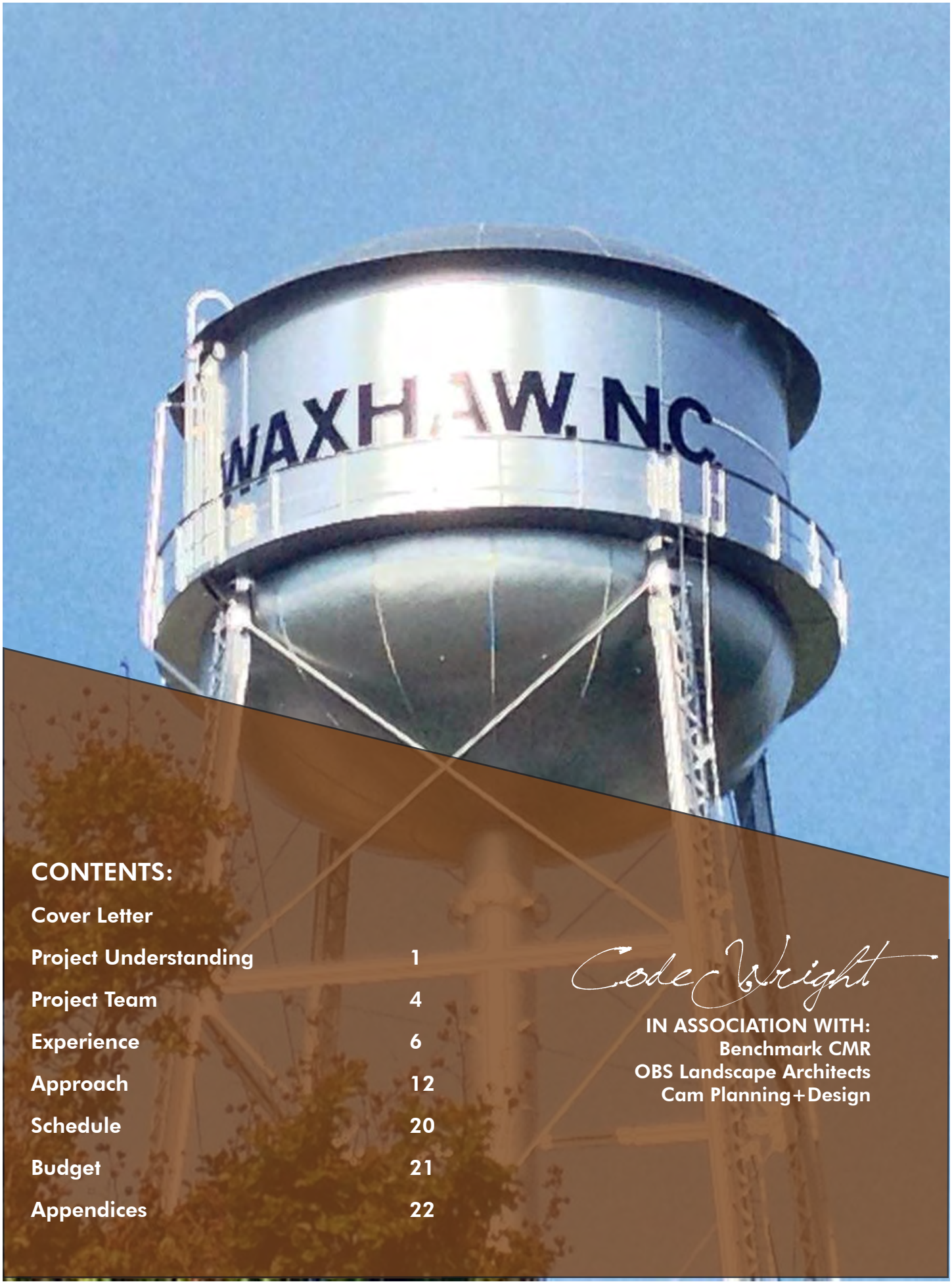
Code Wright
PLANNERS

THE LENS THROUGH WHICH WE SEE THE WORLD INFLUENCES OUR DEVELOPMENT DECISIONS...

A bird's-eye view provides the big picture

Zooming in brings critical details into focus

...WE NEED BOTH VIEWS



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Code Wright

IN ASSOCIATION WITH:
Benchmark CMR
OBS Landscape Architects
Cam Planning+Design

Contact Information:
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CodeWright Planners, LLC
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Durham, NC 27705
www.codewright.info
chad@codewright.info
t 919.593.2868
f 888.255.7920

June 17, 2015

Greg Mahar, Planning & Community Development Director
Town of Waxhaw
P.O. Box 617
1150 North Broome Street
Waxhaw, NC 28173

Dear Mr. Mahar,

Thank you for the opportunity to submit our proposal to assist the Town with rewriting its Unified Development Ordinance and updating its Zoning Map. **CodeWright** is a planning consultancy based in Durham, North Carolina, that is dedicated to the preparation of effective development codes and growth strategies for local governments across the country. CodeWright is joined in this effort by several notable firms, including: **Benchmark CMR**, a comprehensive planning and public engagement firm in Charlotte, NC; **OBS Landscape Architects**, a landscape architecture and design firm in Raleigh, NC; and **Cam Planning + Design**, a GIS mapping firm in Shelby, NC.

We are excited about the possibility of working with Waxhaw to build on the work of the comprehensive plan by preparing a new UDO that is focused on placemaking, integration of form controls, greater flexibility, and incentives for preferred forms of development. We believe we are uniquely suited to assist with this project because:

We know Waxhaw. The firms on the CodeWright team are currently engaged with the Town in the development of its comprehensive plan. We understand the key issues facing the community, such as the need to address traffic congestion, to encourage development in areas south of downtown, to ensure Waxhaw has sufficient nonresidential development to provide jobs and tax base, and the need to integrate modern best practices into the Town's development regulations.

We are pioneers in the development of design-based plans and codes that are user-friendly, predictable, easy to administer, based on town-building principles, and legally sound. The focus on use segregation and rigid dimensional requirements is giving way to more modern approaches that emphasize compact, walkable forms of development that focus on human scale and the mixing of uses. Our team is on the forefront of new hybrid development regulations that emphasize placemaking concepts and form controls that integrate new urbanism with traditional Euclidean thinking.

We make it a practice to tailor development regulations to different contexts. We understand the distinctions between downtown, new commercial development on Highway 16, and the Town's existing residential neighborhoods. We have worked in several former mill towns like Mooresville, NC, or Rock Hill, SC, that have a variety of different development contexts that require calibrated standards to maintain established community character while also fostering new compatible forms of development.

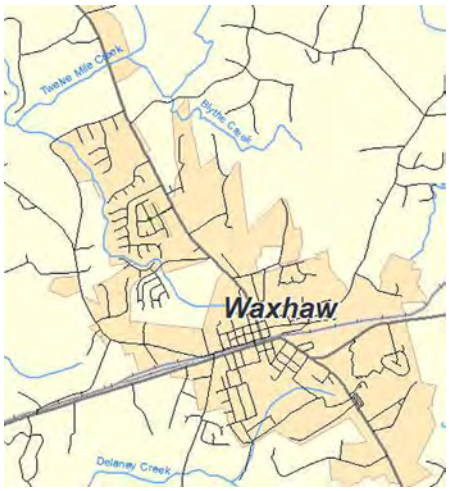
We include a testing component as a core element of our service, not an add-on or optional task in our work programs. We know how to work with the local development community to test and refine proposed regulatory mechanisms. This practice results in improved regulations as well as greater support from those who will be subject to them.

We are very excited at the prospect of continuing our work with Waxhaw. If selected, I would serve as the Project Director, Code Drafter, and primary point of contact for the project, and can be reached at 919.593.2868 or via e-mail at chad@codewright.info. Should you have any questions, or need any additional information I hope you will not hesitate to contact me. Speaking for the team, we look forward to hearing from you and are enthusiastic about this important project.

Warmest Regards,

Chad Meadows, AICP
Principal, CodeWright Planners, LLC

Project Understanding



Development Context

Waxhaw is a historic "small-town" community of 11 square miles in southwestern Union County. Given its proximity to Charlotte, the town has seen skyrocketing growth since the 1970s. By 2010, the community has grown to over 3,500 housing units and a population of over 10,000 people.

The community is situated at the crossroads of NC 16 and NC 75 and is bisected by the Seaboard Coast rail line. Given its early origins as a railroad town in 1889, the community has a segmented development template with a fine-grained series of around 25 blocks in the historic downtown core surrounded by World War II-era urban-scale residential neighborhoods. The post-war era development patterns are more suburban automobile oriented residential subdivisions fronted by commercial strip-style development along primary transportation corridors that are common in this part of the Charlotte metropolitan area.

Waxhaw is surrounded by neighboring communities to the north and east, but is well positioned for further growth and development in the areas south of downtown.

Traffic Congestion

One of the primary challenges facing Waxhaw today is the traffic congestion along NC 16 (Providence Road). This roadway is the community's primary connection to Interstate 485 and the balance of the Charlotte Metro region. It is currently configured as a two- or three-lane section with somewhat unlimited access.

As growth and development have migrated to the south and east of the Metro core, lands along NC 16 have seen rapid development as suburban neighborhoods and shopping centers like those found at Cureton Center. While these developments are quite well designed and desirable, the use segregation, lack of roadway connection, and insufficient density to support meaningful forms of alternative transportation have further contributed to the Town's traffic woes.

Compounding the situation along NC 16 is the railroad crossing downtown that serves a substantial amount of train traffic. Trains result in frequent traffic queues in the downtown area and the tracks inhibit vehicular mobility between the northern and southern portions of the community.

While the Local Area Regional Plan for Transportation (LARTP) ranks improvements to NC 16 and NC 75 (the Waxhaw Bypass) as priorities, the likelihood of state funding for major overhaul of either of these roadways in the near future is remote. As a result, the Town will need to either fund roadway improvements on its own, require new development to contribute, focus on small-scale improvements that help maintain traffic capacity, promote land use patterns that reduce automobile dependence, or pursue a combination of these efforts to help alleviate the traffic congestion problems.

Tools for Growth Management

Municipalities in Union County face two main challenges in terms of their ability to manage growth and development: first, local governments (including Waxhaw) do not have extra-territorial planning jurisdiction; and second, Union County controls the extension of public water and sewer infrastructure. These factors, when coupled with recent changes to annexation statutes, make it very difficult for local governments to exert any form of control on growth at their peripheries. What often results is a very inefficient patchwork quilt of jurisdictional boundaries that further complicate efficient municipal service delivery and make it very difficult to establish meaningful gateways between different communities.

In light of this situation, one potential strategy for Waxhaw is to revise its development regulations in order to create tangible incentives for development to locate within the corporate limits of the Town. These incentives could take the form of fast and predictable development review procedures, higher densities and intensities then are available in neighboring areas, and standards for development quality that will ultimately result in higher rents and sales prices to developers. In addition, the Town must also use a marketing strategy that highlights these features as part of a comprehensive approach to economic development (as was done in Portsmouth, Virginia, following the overhaul of their Zoning Ordinance in 2010).

Creating development regulations that act as economic incentives requires careful codification of the right blend of development standards and flexibility. Complicated and unpredictable legislative review processes like conditional rezonings need to be minimized. Preferred forms and locations for development need to be identified and well-supported through the regulations.

Streamline Development Review

There is an old planning adage that says "make what you want easy, and what you don't want difficult... but not impossible". While this is a somewhat self-evident statement, it is surprising how many communities have comprehensive planning documents that call for compact, mixed-use development and development codes that make this kind of development difficult if not impossible through requirements for rezonings or lengthy sets of development and design standards.

Another planning truism is that infill development and redevelopment is more difficult than greenfield development, and to address this issue, it is necessary to level the playing field between infill and greenfield development.

Create Dynamic, User-Friendly Documents

Perhaps the most prevalent trend in modern planning and development regulation is the creation of documents that are intuitive, easy to read, and insightful. To be effective, development ordinances must use intuitive page layouts, incorporate organizational structures that are easy to navigate, incorporate meaningful graphics and illustrations, direct a reader to the most relevant information first, and make it easy to "jump around" in electronic documents through dynamic links and cross references.

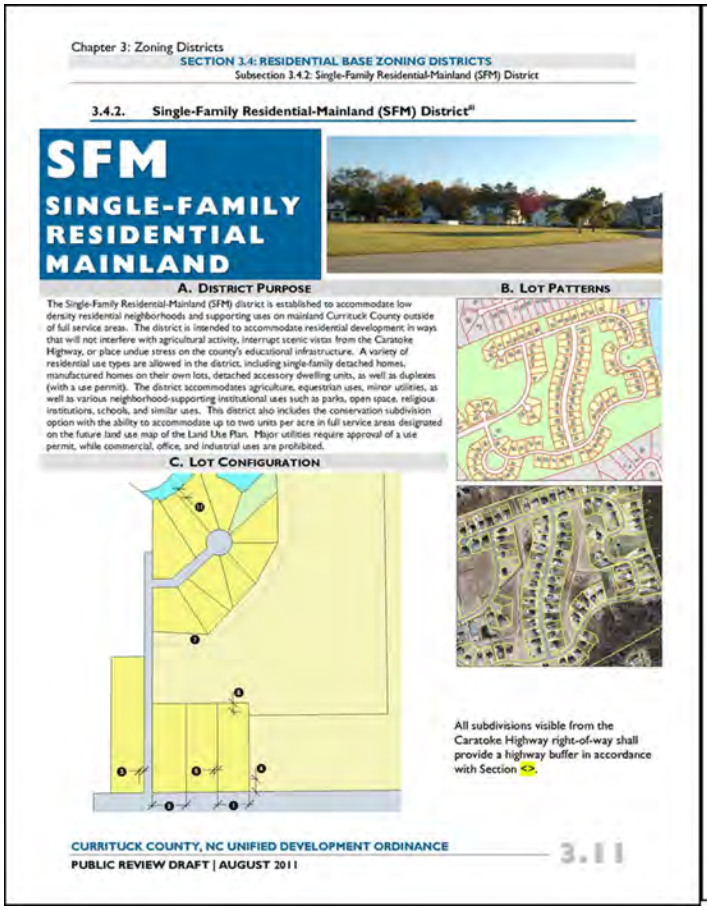
The illustration below show an example of a recent development code prepared for Currituck County, NC that incorporates user-friendly features. This example shows how code requirements and design guidance can be integrated.

Foster Understanding

One vital part of the effort to update Waxhaw's UDO and zoning map is to ensure that the citizens and landowners in the community understand the need and value of undertaking the kinds of regulatory changes described earlier.

Experience has shown that if citizens and developers are given the opportunity to understand the "upside" to regulatory change (such as lower tax rates and higher returns on investment), they are more likely to support the change.

To be successful, the project must help people understand that their input is not being reduced, rather, the timing of their input is being shifted from after filing of an application to before the application is filed. This kind of shift allows for more streamlined development review.



Chapter 3: Zoning Districts
SECTION 3.4: RESIDENTIAL BASE ZONING DISTRICTS
Subsection 3.4.2: Single-Family Residential-Mainland (SFM) District

3.4.2. Single-Family Residential-Mainland (SFM) District

SFM
SINGLE-FAMILY RESIDENTIAL MAINLAND

A. District Purpose

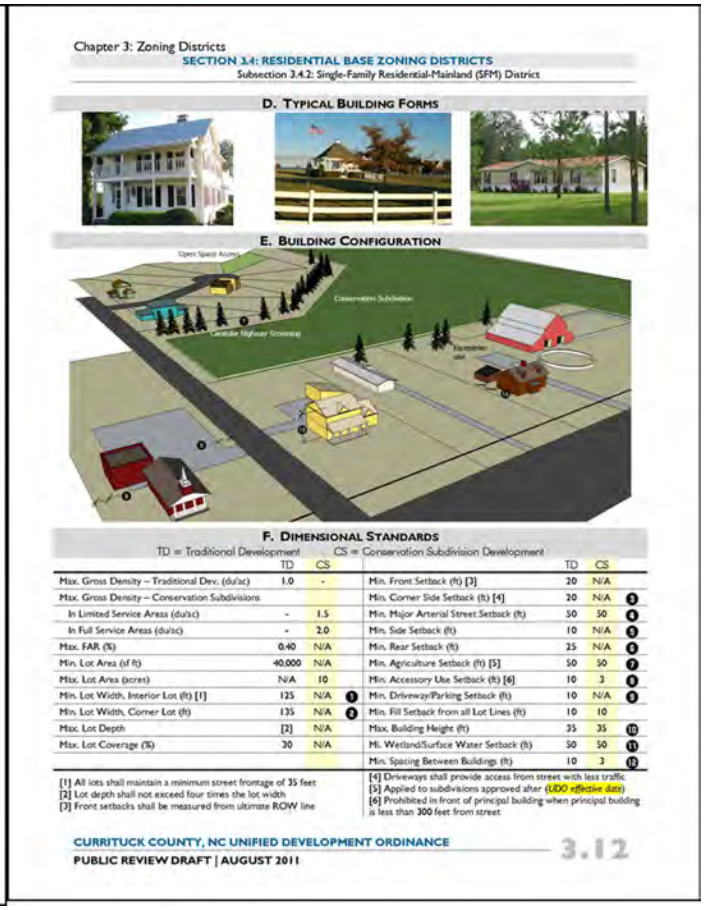
The Single-Family Residential-Mainland (SFM) district is established to accommodate low density residential neighborhoods and supporting uses on mainland Currituck County outside of full service areas. The district is intended to accommodate residential development in ways that will not interfere with agricultural activity, interrupt scenic vistas from the Caratoke Highway, or place undue stress on the county's educational infrastructure. A variety of residential use types are allowed in the district, including single-family detached homes, manufactured homes on their own lots, detached accessory dwelling units, as well as duplexes (with a use permit). The district accommodates agriculture, equestrian uses, minor utilities, as well as various neighborhood-supporting institutional uses such as parks, open space, religious institutions, schools, and similar uses. This district also includes the conservation subdivision option with the ability to accommodate up to two units per acre in full service areas designated on the future land use map of the Land Use Plan. Major utilities require approval of a use permit, while commercial, office, and industrial uses are prohibited.

B. Lot Patterns

C. Lot Configuration

All subdivisions visible from the Caratoke Highway right-of-way shall provide a highway buffer in accordance with Section <>.

CURRITUCK COUNTY, NC UNIFIED DEVELOPMENT ORDINANCE
PUBLIC REVIEW DRAFT | AUGUST 2011
3.11



Chapter 3: Zoning Districts
SECTION 3.4: RESIDENTIAL BASE ZONING DISTRICTS
Subsection 3.4.2: Single-Family Residential-Mainland (SFM) District

D. Typical Building Forms

E. Building Configuration

F. Dimensional Standards

TD = Traditional Development CS = Conservation Subdivision Development

	TD	CS			TD	CS	
Max. Gross Density – Traditional Dev. (du/ac)	1.0	-		Min. Front Setback (ft) [3]	20	N/A	
Max. Gross Density – Conservation Subdivisions				Min. Corner Side Setback (ft) [4]	20	N/A	9
In Limited Service Areas (du/ac)	-	1.5		Min. Major Arterial Street Setback (ft)	50	50	9
In Full Service Areas (du/ac)	-	2.0		Min. Side Setback (ft)	10	N/A	9
Max. FAR (%)	0.40	N/A		Min. Rear Setback (ft)	25	N/A	9
Min. Lot Area (sf ft)	40,000	N/A		Min. Agriculture Setback (ft) [5]	50	50	7
Max. Lot Area (acres)	N/A	10		Min. Accessory Use Setback (ft) [6]	10	3	9
Min. Lot Width, Interior Lot (ft) [1]	125	N/A	1	Min. Driveway/Parking Setback (ft)	10	N/A	9
Min. Lot Width, Corner Lot (ft)	135	N/A	2	Min. Fill Setback from all Lot Lines (ft)	10	10	
Max. Lot Depth	[2]	N/A		Max. Building Height (ft)	35	35	10
Max. Lot Coverage (%)	30	N/A		Mi. Wetland/Surface Water Setback (ft)	50	50	11
				Min. Spacing Between Buildings (ft)	10	3	12

[1] All lots shall maintain a minimum street frontage of 35 feet
[2] Lot depth shall not exceed four times the lot width
[3] Front setbacks shall be measured from ultimate ROW line
[4] Driveways shall provide access from street with less traffic
[5] Applied to subdivisions approved after (UDO effective date)
[6] Prohibited in front of principal building when principal building is less than 300 feet from street

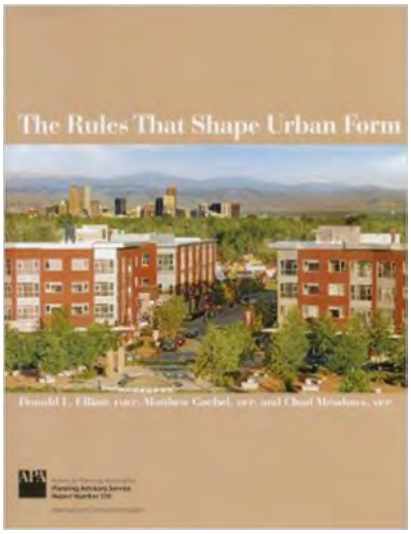
CURRITUCK COUNTY, NC UNIFIED DEVELOPMENT ORDINANCE
PUBLIC REVIEW DRAFT | AUGUST 2011
3.12

Form-Based Codes

In 2004, the Town adopted a form-based code for the downtown portion of the community. The code is a "stand alone" code that resides at the back of the Town's other development regulations. It establishes five different districts for portions of the downtown that correspond generally to their current character or location. The primary purpose for these five districts is to distinguish between how different land uses will or will not be permitted. Each district also includes unique dimensional standards for lots in the district. There are also building and site design features that are applied uniformly across the district that address elements such as open space, landscaping, and street configuration. In many ways, the Town's downtown code is a "code within a code" or it includes almost everything found within a traditional code for an entire community, except that it does not address the subdivision of land, enforcement, nonconformities, or definitions.

Form-based codes and form-based coding has become more and more prevalent across the country as communities seek to re-establish more compact forms of pedestrian-oriented development that emphasizes the public realm over the segregation of different use types. One of the reasons for the expansion of form-based coding principles is the fact that form-based codes are not a monolithic construct with a single means of achieving their objectives. Rather, there is a very wide diversity of form-based coding and form control options. In some communities (like Waxhaw), a form-based code is applied to a specific district or area. In others, a form-based code is established as a voluntary parallel process that is made available, but not mandatory (unlike in downtown Waxhaw). In still other communities, form controls (like building form standards) are applied within a more traditional framework of standard Euclidean zoning districts (like those found outside of Waxhaw's downtown).

One thing that differentiates the CodeWright team is our pragmatic, not dogmatic approach to the use of form controls. Chad Meadows is a co-editor of the recent American Planning Association Planners Advisory Report # 570, The Rules that Shape Urban Form. This report explores the widely varied use of form-based coding principles in six communities across the country. The report also explores the relevance of form-based coding principals to modern planning challenges like changing demographics, housing affordability, and the need for greater sustainability.



One of the important lessons from this research is that form controls can and should be tailored to a community's development template, political will, and market conditions. We understand that development regulations or approaches that work well in one community may not be a good fit in another community, and we strive to modify the regulations to fit the community instead of modifying the community to fit the regulations.

We think a modified approach to form controls is especially relevant in Waxhaw given the community's development template and the influence of outside factors such as the lack of ETJ or control over water and sewer extensions. In Waxhaw, the development regulations must be crafted to produce the community's desired vision while at the same time including the maximum amount of flexibility possible to ensure the Town's competitive advantage relative to its neighbors.

One criticism of many classic form-based coding approaches is their lack of flexibility when it comes to building placement relative to the street, the ability to accommodate some surface parking in front of a building, and the relatively inflexible provisions related to building entry requirements. These are all factors that must be taken into account by Waxhaw as it contemplates new form-based controls.

Another, and perhaps more challenging issue, is the imposition of new mandatory form districts (such as those included in the Downtown Code) to portions of the town that are already built and relatively stable such as Cureton Town Center and the residential neighborhoods abutting it. Implementation of a classic form-based code in these areas will require the Town to proactively re-zone these lands to new form-based districts and could create nonconformities. This is particularly important when one considers that financial institutions are hesitant to lend for the purchase of existing structures that do not comply with local regulations.

In light of these and other issues, we urge the Town to proceed with caution when considering how to proceed. The benefits of form controls are numerous and well-documented, but application of these kinds of controls community-wide requires a very measured approach. The creation of nonconformities or public concern over mandatory rezoning could far outweigh benefits that could accrue from a classic form-based approach. We suggest the Town take the time to engage the public in a discussion about the pros and cons associated with form-based coding and be open to a hybrid approach that joins the benefits of form controls with the best elements that the current euclidean zoning framework has to offer.

The CodeWright team includes this kind of community dialogue in our work program prior to the commencement of drafting to ensure the most positive outcome for the maximum number of people. The following pages detail the CodeWright team, our experience, and our proposed approach.

Project **Team**

Team member resumes are included in the Appendices.

CHAD MEADOWS
Project Director, Coordination, Code Drafting

CodeWright

CodeWright is a planning and zoning consultancy established in 2014 in Durham, North Carolina, by Chad Meadows, AICP, a planner with over 20 years of public and private sector experience, including 11 years of drafting award-winning development codes across the country. CodeWright is dedicated solely to the preparation of effective development codes, design standards, and growth management strategies for local governments.

Hallmarks of our work products include:

- Simple, concise language
- Clear and efficient review procedures
- Reliance on measurable criteria
- Incentives for preferred forms of development
- Pragmatic flexibility mechanisms
- Place-making as a means to attract and retain a talented labor force
- Extensive use of graphics and imagery
- Consistency with national best practices

Our approach to projects relies on establishing a well-defined process that is iterative and inclusive of differing points of view. We strive to make complex regulatory concepts understandable to everyone. We are committed to providing deliverables that are clear, precise, and predictable through graphics and modern page layout techniques. Our projects often include incentives for preferred development forms, menu-based options for complying with development standards, and flexible methods for achieving compliance with requirements. We strive to understand and explain the economic benefits of land use regulations.

CodeWright is committed to long term relationships with our clients that are based on trust, communication, responsiveness, and value.

BENCHMARK

JASON EPLEY
VAGN HANSEN
AMY JO DENTON
Public Engagement
Graphics

For over 30 years, **Benchmark** has been a leader and innovator in providing high quality professional planning services to both public and private sector clients. Benchmark's practice is guided by an approach that is best described as the Art + Science of Planning – a philosophy which blends our creative talent with the practical application of our technical expertise. Our firm's award winning team of veteran planners use this approach to develop solutions to complex urban and regional planning issues, with an emphasis on comprehensive planning, urban design, public participation and military planning. With offices in Charlotte and St. Louis, the Benchmark team serves a national client base spanning a range of local, regional and state governments, as well as private sector development interests.

obs

BRIAN STARKEY
Testing

OBS was founded in 1994 by principal Brian H. Starkey, RLA / ASLA. During the past 20 years, obs successfully has completed a diverse array of projects for public, institutional, corporate, and private clients. We provide a comprehensive scope of services including site evaluation, master planning, concept design, the preparation of construction documents, and administration.

OBS, by design, is a small firm, allowing us to be nimble and responsive to our clients' needs. At obs we don't just work for clients, we cultivate lasting relationships through hard work and personalized attention from all members of the team. OBS utilizes a horizontal hierarchy, enabling the client full access to the staff and ensuring that they can navigate the design process with confidence.

Cam Planning+Design

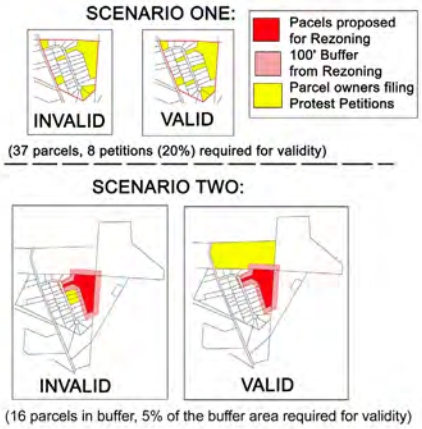
CAMERON GARDNER
Mapping,
Project Assistance

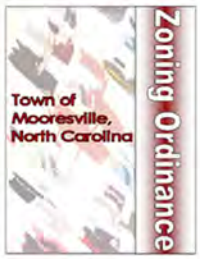
Cameron Gardner is a licensed New Jersey planner with 18 years of experience in public and private sector planner in a variety of different contexts, including local governments in Massachusetts and Virginia, a planner for a Council of Governments in North Carolina, a university-based urban institute in Charlotte, NC, a geographic specialist for the US Census Bureau, and a project Manager with PPK in Atlantic City, NJ. He has employed his geospatial analysis and cartographic skills to projects all along the eastern seaboard.

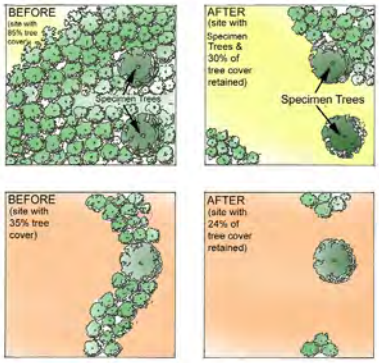
Project Experience

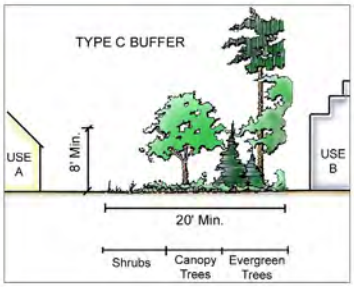
MOORESVILLE, NORTH CAROLINA

Zoning Ordinance









- *Innovative application of building form controls by zoning district*
- *Town is home to over 60 NASCAR teams*
- *New zoning districts established to align with existing character areas*
- *New tree protection standards*
- *New neighborhood conservation overlay district process*

Tim Brown, Planning Director
704.799.8019
tbrown@ci.mooresville.nc.us

Mooresville, a town of 50,000 people located just north of Mecklenburg County in the Charlotte metro area, selected Chad Meadows (while employed with a different firm) to assist the staff in the preparation of a new zoning ordinance. Mooresville is a fast-growing community on the shores of Lake Norman with its own school district and a highly diversified economy, including the global headquarters of Lowe's Home Improvement Warehouse. The zoning ordinance modernized and streamlined the town's existing development standards while integrating an innovative approach that combined new building form standards within a zoning district context. The town's zoning districts were also updated to address mixed uses, village centers, and form-based concepts. The code includes a generous use of user-friendly techniques such as graphics, illustrations, summary tables, and process diagrams. The ordinance was adopted in 2008. The ordinance won an Outstanding Planning Award from the North Carolina Chapter of the American Planning Association in 2008.

ROCK HILL, SOUTH CAROLINA

Land Development Ordinance

Code Wright
PLANNERS

- *Historic textile town seeking to comprehensively raise the bar for development quality*
- *Tailored development regulations for areas inside & outside Old Town*
- *Included design standards addressing residential, commercial, and infill development*
- *Innovative planned educational district that addressed edge areas between an urban university and adjacent neighborhoods*
- *Incorporated subdivision standards*
- *Conducted staff training on new ordinance provisions*

Bill Meyer, Planning and Development Director
803.326.3879
bill.meyer@cityofrockhill.com

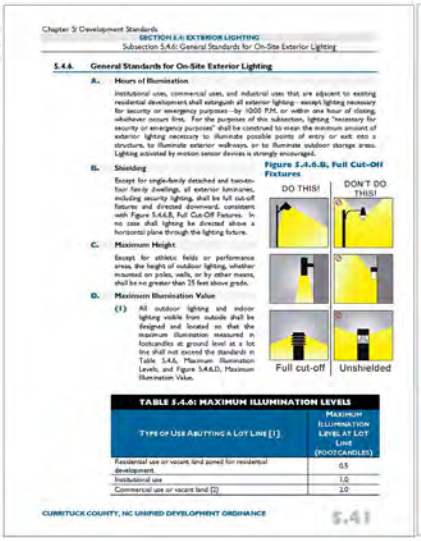
Rock Hill is a historic South Carolina mill town experiencing new growth and development in response to the growth of the Charlotte Metropolitan area. The City adopted a new General Plan in the early 2000s that sought to raise the bar for development quality and promote appropriate infill and redevelopment. Chad Meadows (while working with another firm) served on a team with the Walker Collaborative to draft a new Land Development Ordinance for the City, which was adopted in December of 2005. The focus of the effort was to implement the City's General Plan, which promotes a more livable future by encouraging appropriate infill and re-development of the "old town" area of the community; and protecting and enhancing older neighborhoods while encouraging more compact, dense, and sustainable growth in greenfield areas. Major issues that were addressed included: making the code more usable and "user friendly;" making the development review process more efficient and effective; modernizing the zoning district and planned development regulations; encouraging new infill development that is compatible with its context; and establishing minimum development and design standards.

CURRITUCK COUNTY,
NORTH CAROLINA
Unified Development Ordinance

Code Wright
PLANNERS

- *County with coastal barrier island and mainland agricultural contexts*
- *Comprehensive farmland protection standards*
- *Reduced corridor development potential outside designated nodes*
- *Incentives for sustainable development*
- *Innovative HOA establishment & operating standards*

Ben Woody, Planning and Community Development Director
252.232.6029
bwoody@co.currituck.nc.us


Chapter 5 Development Standards
SECTION 5.4: EXTERIOR LIGHTING
Subsection 5.4.6: General Standards for On-Site Exterior Lighting

5.4.6. General Standards for On-Site Exterior Lighting

A. Hours of Illumination

Institutional uses, commercial uses, and industrial uses that are adjacent to existing residential development shall extinguish all exterior lighting—except lighting necessary for security or emergency purposes—by 10:00 P.M. or within one hour of closing, whichever occurs first. For the purposes of this subsection, 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, to illuminate exterior walkways, or to illuminate outdoor storage areas. Lighting activated by motion sensor devices is strongly encouraged.

B. Shielding

Except for single-family detached and two-to-four family dwellings, all exterior luminaires, including security lighting, shall be full cut-off fixtures and directed downward, consistent with Figure 5.4.6.B, Full Cut-Off Fixtures. In no case shall lighting be directed above a horizontal plane through the lighting fixture.

Figure 5.4.6.B, Full Cut-Off Fixtures
DO THIS! DON'T DO THIS!
Full cut-off Unshielded

C. Maximum Height

Except for athletic fields or performance areas, the height of outdoor lighting, whether mounted on poles, walls, or by other means, shall be no greater than 25 feet above grade.

D. Maximum Illumination Value

(1) All outdoor lighting and indoor lighting visible from outside shall be designed and located so that the maximum illumination measured in footcandles at ground level at a lot line shall not exceed the standards in Table 5.4.6, Maximum Illumination Levels, and Figure 5.4.6.D, Maximum Illumination Value.

TABLE 5.4.6: MAXIMUM ILLUMINATION LEVELS

Type of Use Abutting a Lot Line [1]	Maximum Illumination Level at Lot Line (Footcandles)
Residential use or vacant land zoned for residential development	0.5
Institutional use	1.0
Commercial use or vacant land [2]	2.0

CURRITUCK COUNTY, NC UNIFIED DEVELOPMENT ORDINANCE 5.41

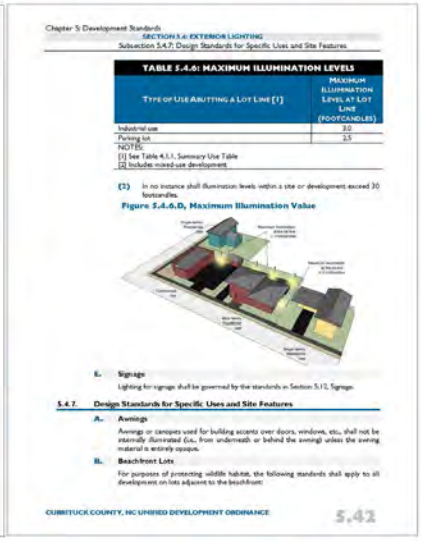

Chapter 5 Development Standards
SECTION 5.4: EXTERIOR LIGHTING
Subsection 5.4.7: Design Standards for Specific Uses and Site Features

TABLE 5.4.6: MAXIMUM ILLUMINATION LEVELS

Type of Use Abutting a Lot Line [1]	Maximum Illumination Level at Lot Line (Footcandles)
Industrial use	3.0
Parking lot	2.5

NOTES:
[1] See Table 4.1.1, Summary Use Table
[2] Includes mixed-use development

(2) In no instance shall illumination levels within a site or development exceed 30 footcandles.

Figure 5.4.6.D, Maximum Illumination Value

E. Signage

Lighting for signage shall be governed by the standards in Section 5.12, Signage.

5.4.7. Design Standards for Specific Uses and Site Features

A. Awnings

Awnings or canopies used for building accents over doors, windows, etc., shall not be internally illuminated (i.e., from underneath or behind the awning) unless the awning material is entirely opaque.

B. Beachfront Lots

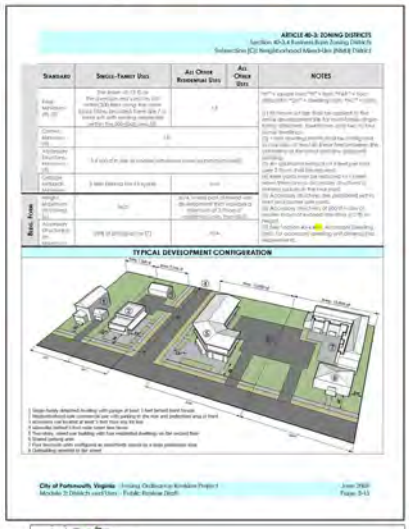
For purposes of protecting wildlife habitat, the following standards shall apply to all development on lots adjacent to the beachfront:

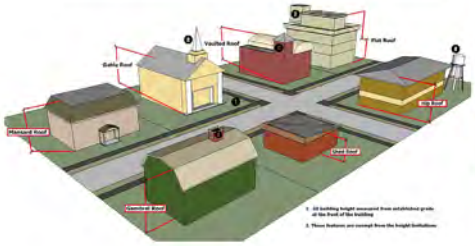
CURRITUCK COUNTY, NC UNIFIED DEVELOPMENT ORDINANCE 5.42

Currituck County, northernmost of the North Carolina coastal counties, has been undergoing intense development pressure. The county has a variety of different development contexts including agriculture on the mainland and remote vacation homes on the Outer Banks. The county hired Chad Meadows (while employed with another firm) to rewrite its unified development ordinance. Goals for the project included implementation of the 2006 Land Use Plan, better responses to recent development pressures, and tailoring development regulations to different contexts. The project included a website, the use of a citizen survey to gain input about development preferences, several public forums, citizen-friendly executive summary pamphlets, and code testing with a developer's focus group. The UDO was adopted in December, 2012. The project received an honorable mention for implementation by the North Carolina Chapter of the American Planning Association in 2013.

PORTSMOUTH, VIRGINIA

Zoning Ordinance





Code Wright
PLANNERS

- *Hybrid code with form-based controls*
- *Provisions foster redevelopment in this mature, built-out city*
- *Reduced the number of nonconforming lots from 40% to 5%*
- *Reduced the number of zoning districts from 32 to 19*
- *Streamlined review process used by the City as an economic development tool*

Paul Holt, James City County Planning Director
(former Deputy City Manager and Planning Director, Portsmouth, VA)
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Paul.Holt@jamescitycountyva.gov

Portsmouth is a mature, built-out city of 105,000 people in the Hampton Roads region of Virginia. Home the Norfolk Naval Shipyards and numerous other federal installations, much of the land in the city is non-taxable and economic development is a challenge. The city contracted with Chad Meadows (while employed with a different firm) to prepare a new zoning ordinance with a strong focus on redevelopment issues and form over use. The new ordinance includes: new regulations for the downtown, primary corridors, and regional activity centers; new infill development regulations; reduction of nonconformities; a move towards mixed-use districts; and integration of new green building incentives. The new zoning ordinance was adopted in February of 2010. It received an Innovation Award from the VAPA in 2010 and a national Smart Growth award from the U.S. EPA in 2012.

FREDERICKSBURG, VIRGINIA

Unified Development Ordinance

- *Historic city in central Virginia*
- *Unified zoning and subdivision regulations*
- *Included a supplemental procedures manual*
- *Raised the bar for development quality*
- *Increased flexibility for historic downtown*

Ray Ocel, Senior Planner, Herndon, VA (former Fredericksburg Planning Director)
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ray.ocel@herndon-va.gov

Fredericksburg is an historic city in central Virginia that retained Chad Meadows (while employed with a different firm) to prepare the city's new unified development ordinance to implement its 2007 Comprehensive Plan. Key features of the project included the consolidation of the zoning and subdivision provisions into a single unified development ordinance, numerous improvements to increase the UDO's user-friendliness and procedural efficiency, new accommodations for mixed-use development, reduced reliance on antiquated special use permit procedures, and raising the bar for development quality in terms of parking, landscaping, exterior lighting, and open space. The project also included development of a new procedures manual companion document to the UDO that includes resources for applicants and provides additional details regarding the various development review procedures. The city adopted the new UDO in October 2013.

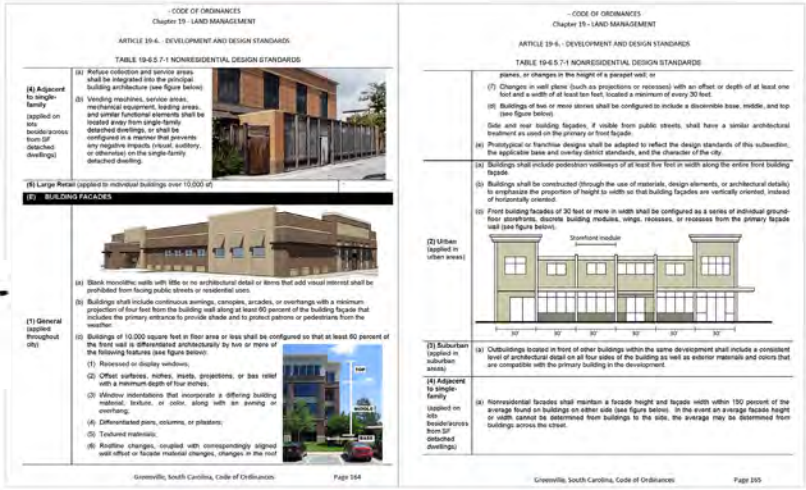
GREENVILLE, SOUTH CAROLINA

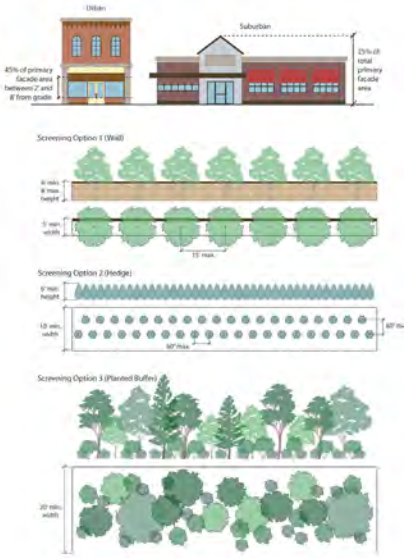
Design and TOD Standards

Code Wright
PLANNERS

- *New nonresidential and multi-family design standards tailored to urban or suburban contexts*
- *New suite of single-family compatibility standards applied when nonresidential or multi-family abuts single-family development*
- *New TOD handbook available for use on sites abutting proposed BRT line*
- *Comprehensive use standards for auto-related uses*

Nathalie Schmidt,
Development Planner
864.467.4476
nschmidt@greenvillesc.gov

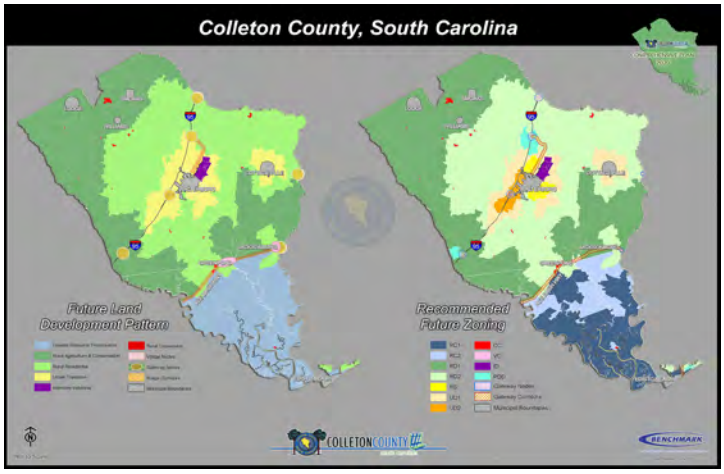




The City of Greenville, South Carolina is desirable community of more than 60,000 people in the Upstate region of South Carolina. In 2010, the City adopted a new comprehensive plan that calls for compact mixed-use, walkable development in response to the City's constrained supply of vacant land and issues with air quality attainment. Chad Meadows (while employed with another firm), in partnership with Ferrell Madden, was retained by the City to: (1) revise the City's neighborhood protection standards to ensure greater compatibility between single-family neighborhoods and adjacent higher-density residential and nonresidential development; (2) draft nonresidential and multifamily design standards to support more compact, walkable, and mixed-use development forms in appropriate locations; and (3) draft transit-oriented development regulations associated with bus transit service. The City expects to adopt the regulations in late 2014.

COLLETON COUNTY, SOUTH CAROLINA
COMPREHENSIVE PLAN, ZONING, SUBDIVISION & ZONING MAP UPDATES

Colleton County, South Carolina is located in the heart of a National Wildlife Refuge and National Estuarine Research Center that encompasses a total of 350,000 acres primarily across Beaufort, Charleston, and Colleton counties. Benchmark began working with Colleton County on their major 10-year Comprehensive Plan revision in January 2008 to develop guidelines for the protection of natural resources and the preservation of rural character, while allowing for growth from fast-growing Beaufort and Charleston in areas capable of being developed for urban purposes.



The Comprehensive Plan was adopted in June of 2009 with the new Zoning and Land Development Ordinance, and Zoning Map adoption in September of 2010. The ordinance updates include diagrams and illustration that demonstrate the intent of the ordinance in a visual manner. During the planning process, meetings were held at four geographic locations across the county and with key stakeholder groups that included: the development and related industry group; municipal and county elected officials; and governmental agencies, such as SC DHEC, DOT and others.

Reference:

Philip Slayter, AICP, Planning Director
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Phone: 843.549.1709
Email: pslayter@colletoncounty.org

BENCHMARK

WILSON COUNTY, NORTH CAROLINA
COMPREHENSIVE PLAN AND UDO

Wilson County has experienced growth, in part due to its increased accessibility to the Raleigh/Durham/Chapel Hill/Research Triangle Park area. To balance growth and the preservation of its rich farming heritage, County leaders determined it was time to update their Comprehensive Plan, followed by a re-write and combination of existing ordinances into one unified development ordinance. The Comprehensive Plan was adopted in July of 2008 with recommendations focused on rural agricultural areas, conservation areas, primary growth areas with 5 to 10 year time frame, and secondary growth areas with a 10 to 20 year time frame. As one of the first major steps of implementation, the new ordinance was prepared by Benchmark was adopted unanimously by the Board of Commissioners on November 2, 2009. Benchmark led community meetings across the county, with key stakeholders and citizens, and worked closely with the Planning Board and planning staff to develop the plan. Extensive existing land use mapping was completed during the course of the project along with specific mapping related to agricultural uses, natural resources, wetlands, flood plain, watersheds, cultural resources, transportation, and infrastructure.

Reference:

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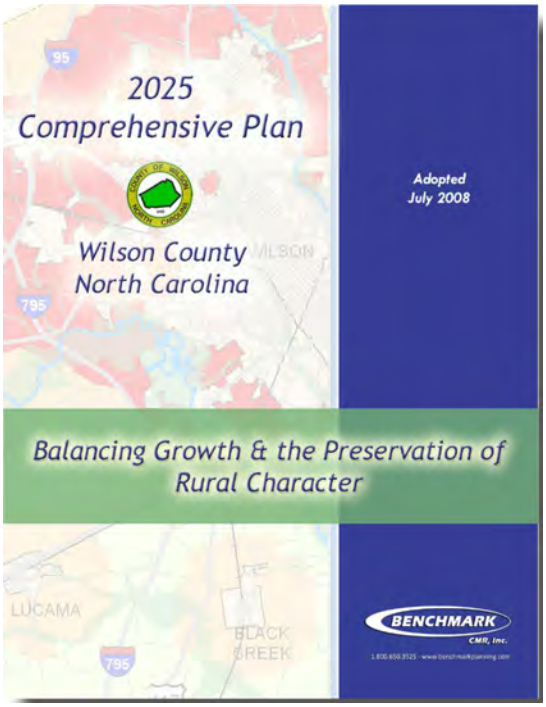
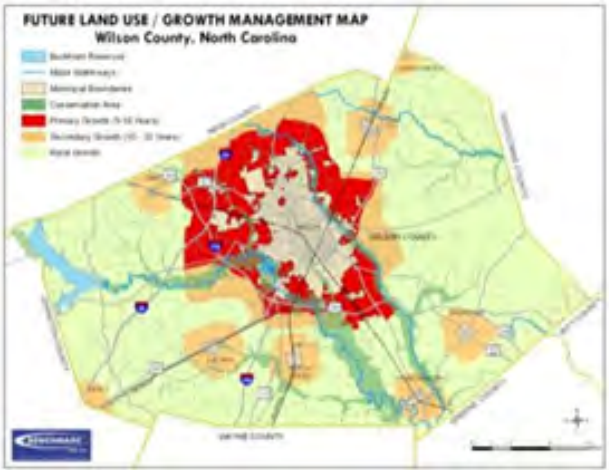
mmjohnson@wilson-co.com

BENCHMARK





COMMERCIAL PROJECTS

North State Bank Headquarters
Raleigh, NC

This headquarters building for North State bank occupies a prominent corner along a busy thoroughfare. The site plan for this project involved a shared parking facility with an adjacent office building, the preservation of several large trees and the redevelopment of the streetscape including a transit stop, signage and landscape treatment. Storm water management is accommodated through a natural bio swale.

obs provided planning and design services from site plan approval through construction.

Harden Road Professional Center
Raleigh, NC

The site plan for this medical office building preserves a natural stream buffer and accommodates a major transmission line that traverses the site. The building is situated along the street and a major retaining wall protects the existing stream corridor. Parking is organized around support structures for the transmission line and an entry courtyard sequence is created from the parking area to the building. The landscape features drought tolerant and native plantings.

obs provided planning and design services from site plan approval through construction.

Lafayette Village
Raleigh, NC

Lafayette Village is a themed retail development including restaurants and shops orchestrated around a central green space and above an underground parking deck. The theme of a French village with pedestrian corridors between buildings provides a human scale and feel unlike a traditional shopping center. The central green space features the preservation of three large oak trees which not only provide character to the space but much needed shade for outdoor dining areas and events.

obs provided planning and design services from master plan through construction.

HOUSING PROJECTS

Mirror Lake
Raleigh, NC

Mirror Lake is a 27-acre housing development in a growing area of the city. Plans call for 68 single family lots and 96 town home units. The plan is orchestrated around an existing pond. Townhome courts and spaces extend to the pond visually and a system of pedestrian trails and sidewalks fully connect the development. Elements of traditional neighborhood design are incorporated, including alleys within the single family portion.

obs provided master planning and site plan approval services.

Brookside Condominiums
Raleigh, NC

Plans for this 40-unit condominium project transformed this wooded hillside into a cohesive grouping of buildings overlooking an adjacent wooded area. Buildings are integrated into the natural topography and organized around auto courtyards. Many large trees on site were protected and preserved and stone walls create a dramatic entry.

obs provided planning and design services, from site plan approval through construction.

Chandler Place
Raleigh, NC

Plans for this 3-building, 60-unit condominium project feature an extensive entry treatment and sequence utilizing brick walls and landscaping. A small pool area with stone seat walls and special paving creates a focus for this community. Much of the required parking is provided beneath each building.

Key objectives for site development include the preservation of existing trees around the perimeter of the site, balancing earthwork, and storm water detention to protect adjacent land owners.

obs provided planning and design services, from site plan approval through construction.

Project **Approach**

This section outlines a preliminary work program for re-writing the Town's current Zoning Ordinance and updating the Zoning Map. It is developed based upon our review of the RFP and our prior experience in projects involving preparation of a code. We consider this a preliminary work program and are flexible and willing to make refinements and adjustments to meet the Town's specific objectives for the project. The work program is organized into eight tasks.

We are firm believers in establishing a **well-defined process** where everyone understands what to expect in terms of process and deliverables. Our work programs establish an interactive process that provides all involved "numerous bites at the apple"—or a number of opportunities to review and provide comments on the project deliverables.

We prefer an approach that is **inclusive of many points of view** and tools that communicate planning and zoning concepts to as many interested parties as possible. Achieving this goal in ordinance-related projects can be difficult since they involve complex and technical issues and specific and detailed language. We address this challenge by incorporating elements in the work program that make the concepts behind the provisions more accessible and understandable to the layperson.

We are committed to providing deliverables that are **clear, precise, and predictable**. To ensure documents meet this objective, we rely heavily on graphics, process flow charts, summary tables, simple page layouts, and intuitive document organization typically found in a design-based code. We establish clear, measurable standards.

We are **pragmatic (not dogmatic)** in our approach to solving problems and finding solutions for our clients. We know and understand the private sector and the issues that motivate development applicants. Team members have spent time on both sides of the planning counter and can examine situations from different points of view. We build in a testing component to ensure the draft standards will perform as intended, and to help ensure acceptance of the proposed provisions by the development community.

We know that **timely communication** with the town is key to project success. As such, we will establish a standing monthly meeting date and time with staff as one of our first project tasks. We suggest building in regular and on-going check in meetings with the Advisory Committee to ensure they are aware of project status and direction.

We understand the distinctions between effective public engagement between comprehensive plans and development codes. Plan projects benefit from wide engagement with non-experts. Engagement on code projects tends to be more technical, focused, and conducted with knowledgable experts. We will finalize a **comprehensive public engagement strategy** with staff as one of the first tasks of the project. For the sake of clarity, we include our recommendations for public engagement within each of the tasks in the following work program.

We recognize that redrafting a development code while also re-writing a comprehensive plan is a huge undertaking that can include complexities and unintended consequences. Because of our commitment to the Town and advancement of the planning field, we will return to the Town to conduct a post-adoption review of the standards and donate 30 to 40 hours of time to work with staff review and refine standards as appropriate on a **pro bono basis**.

Our combination of experience, desire for our client's success, and value makes us the best choice for the project, and we look forward to the opportunity to demonstrate the ways in which we can help the Town complete this important project on time, on budget, and with a final product that exceeds expectations.

Task 1: Project Initiation

The main purpose for the project initiation task is to establish a common background and understanding of the project and the current conditions in the Town. As a first step, team members would review the background materials of relevance to the project (e.g., the current UDO, the Comprehensive Plan, and other documents identified by the staff).

Following completion of the background review, team members will travel to the Town for three days to undertake several subtasks. First, the team will conduct a kick off meeting with key staff members to review and finalize the scope of work and public engagement strategy. Team members will also conduct meetings with other departments to inform them about the project and collect initial input about how the current regulations work and issues to be addressed in the new regulations.

The team will also work with staff to identify and assemble an Advisory Committee and any technical working groups (such as the development community, state agency representatives, landowners in strategic areas of the Town, etc.).

The team will also conduct an initial introductory presentation with the Planning Commission (and Board of Commissioners, as appropriate) to inform them of the process and gather input.

Shortly after completion of the team's trip to the Town, the team will prepare and launch a project web page (or prepare project content for the Town's web page, as appropriate). The web page will provide information on the project, deliverables, and serve as a single source of information for interested individuals. The team will ensure the web page is kept current and informative throughout the process and will provide a conduit for residents and business owners to provide direct feedback about the project.

The team will also establish a date and time for standing monthly teleconference/video conferences with staff to discuss project status.

Key Tasks:
Document review, finalize scope and public engagement strategy (as needed), conduct meetings and presentations, tour, collect resources

Timing:
One month to complete from the date of contract execution

Trips:
One three-day trip to the Town by members of the consulting team

Public Engagement Elements:
Web page development, Advisory Committee identification, presentation to the Planning Commission (and the Board of Commissioners, as appropriate)

Task 2: Ideas Forum

Based on the information collected in Task 1, the team will conduct a day-long "ideas forum" during Task 2. The purpose for the ideas forum is to provide information and stimulate discussion with Town residents and officials about form controls, current national best practices in coding, and how these ideas and trends might be adapted for use in Waxhaw.

The forum is anticipated as a day-long series of presentations (likely offered on a Saturday) on various topics by experts followed by facilitated discussions of topic areas among forum participants.

The forum should follow an open house format so participants are free to attend the presentations or discussions of greatest interest. While the exact content and sequence of the presentations will be decided with Town staff following Task 1, some of the topics that could be covered include:

- Waxhaw comprehensive plan implementation issues;
- The use and alternatives associated with form controls (form-based codes);
- The economic benefits of form and hybrid development codes;
- Land use impacts of changing demographic and economic trends;
- Procedural best practices (including incentives and flexibility);

Each presentation would be conducted by a expert in the field who will describe the issue(s) involved, available alternatives, pros and cons, and case study examples.

Presentation material will be structured for the general public (not planning professionals) and will be followed by facilitated discussions of the topics in the presentation and their applicability in Waxhaw.

Facilitated discussions could take place after each session, or at the end of the forum, and could be organized by topic area, by type of participant (resident or business interest), or by geographic location of interest.

The premise of the ideas forum is to give Waxhaw residents and officials a better understanding of the options available for the UDO and the pros and cons associated with each option. The objective is to identify some of the elements to be further explored in the code assessment to be completed in Task 3.

Town staff will be responsible for advertising the ideas forum, finding and securing a suitable location, and providing the equipment necessary (e.g., chairs, tables, AV equipment, water, and basic refreshments).

Key Tasks:
Preparing forum presentations, forum advertising, venue location and set-up, posting of results

Timing:
One month to complete after Task 1

Trips:
One one-day trip to the Town by members of the consulting team

Public Engagement Elements:
Advertising, conducting the forum, webpage posting

Task 3: Code Assessment

Following completion of the work in Tasks 1 and 2, the team will begin development of the Code Assessment. The report serves as an analysis of the Town's current development regulations and the input received from the public, Advisory Committee, Town officials, and Town staff.

This document serves as the framework for discussion about the new development provisions and should be considered and accepted by staff and the community before drafting commences.

The Code Assessment is expected to include six main sections:

1. A written technical analysis and evaluation of the UDO and other development-related provisions;
2. A review of key community goals for change to the UDO based on the comprehensive plan and input collected during Tasks 1 and 2;
3. A consistency analysis between the Town's long range policy guidance and the existing development regulations;
4. A series of recommendations for change based upon the input collected in Tasks 1 and 2 and the team's analysis for consistency with best practices;
5. An appendix that includes supporting information and examples from other areas; and
6. A a section-by-section discussion of the anticipated regulations, including key changes and their rationale.

To aid in visualization, the Code Assessment will include several simple sections and illustrations drafted as they are anticipated to appear in the new development regulations (these sections are provided for the benefit of demonstrating the new layout and format, and will likely consist of current text proposed for carry forward without substantive modification - good candidates are current sections that have recently been revised and undergone scrutiny by the state or other level of government).

The first draft of the Code Assessment would be for internal staff review only. That review allows staff to provide the team with feedback and identify any issues in the document in need of adjustment prior to public review.

Following receipt of comments, the team will discuss staff comments and make revisions to the Assessment. Following revision, it is posted on the web-page for review by the public.

Approximately three weeks after posting, the team will travel to the Town to conduct two days of meetings with the staff, Planning Board, and the public during a public forum.

Key Tasks:
Initial drafting, review and comment by staff, revision, posting, meetings, and public forum

Timing:
Two months to complete after Task 2

Trips:
One two-day trip to the Town by members of the consulting team

Public Engagement Elements:
Web page version of document, 2nd public forum

Task 4: Drafting

Following presentation of the Code Assessment, the team will begin drafting the new UDO. The new regulations will be consistent with the structure, contents, and layout described in the annotated outline, and will be developed in Microsoft Word (illustrations will be provided as .jpegs). The new regulations will be written in plain English and supplemented with summary tables, illustrations, flow charts, and page layout techniques that make the document easy to navigate. It will include footnotes and other annotations about new standards, items for additional consideration, and chapter-based summary lists of the key changes between the current regulations and the draft provisions.

Because the new regulations will likely include a substantial amount of new information, it will be difficult to digest in a single review or meeting. Therefore, we recommend dividing the drafting process into two modules or groups of related chapters, each to be reviewed separately. For example, the drafting process might be organized as follows:

- Module 1: Introductory provisions, procedures, districts, and uses
- Module 2: Development and design standards, environmental provisions, definitions, and illustrations

This approach has been used successfully in numerous code projects and helps ensure an efficient review.

As with the Code Assessment, the team will prepare a staff draft version of each module for internal review. This work program anticipates a two-month review time for Town staff to provide consolidated written consensus comments on each module. The team will use the staff review time to draft the subsequent module text so the project moves efficiently.

Following receipt of staff comments on a module, the team will conduct a teleconference with staff to discuss the comments and then make the agreed upon revisions. The public review version of the module will then be forwarded to the Town and placed on the project website.

Three weeks after delivery of the public review version of a module, members of the consulting team will travel to the Town for a day of meetings with staff and the Advisory Committee to present the module and answer questions.

Key Tasks:
Preparation of the staff draft standards in two modules, staff review and comment on each module, preparation of a public review draft of each module, legal review of each module

Timing:
Four months to complete following completion of Task 3

Trips:
Two one-day trips to the Town by members of the consulting team

Public Engagement Elements:
Web-page updates of each revised module, meeting with the Advisory Committee

Task 5: Testing

Following the presentation of the second code module to the Advisory Committee, the consulting team will conduct a focused test of the draft standards through a comparison of recently approved development and comparable hypothetical development produced in accordance with the proposed provisions.

The test includes a side-by-side comparison of four examples (case studies) of recently approved development (e.g., single-family residential subdivisions, stand-alone retail or commercial development, multi-family development, and industrial or institutional development, alongside comparable hypothetical development on the same site under the new provisions. The objective of the comparison is to measure the impact of the proposed regulations and their ability to produce the desired forms of development.

The consulting team will collaborate with Town staff and members of the local development community to prepare the hypothetical site plans to be tested. These site plans may include formal drawings of new development or mark ups of drawings of existing development.

Following preparation of the four case studies, the team will travel to the Town for a half-day of meetings with Town staff, the development community, and interested members of the public to review and discuss the hypothetical developments.

The results of the testing exercise will be summarized in a short memorandum to the staff that can be placed on the web site. This information will be used to revise the consolidated adoption draft of the UDO to be prepared in Task 6.

Key Tasks:

Selection of four recently approved developments, preparation of four hypothetical case studies (completed in collaboration with Town staff and members of the local development community), work session with Town staff and development community to examine and compare hypothetical developments

Timing:

One month after completion of Task 4

Trips:

One half-day trip by the consulting team

Public Engagement Elements:

Work session with the development community; memorandum on testing results published to the web site

Task 6: Adoption

Following completion of the testing in Task 5, the consulting team will consolidate the two public review draft modules, and prepare an adoption draft version of the UDO based on the input collected during Tasks 4 and 5, and insert the graphics.

This work program allocates $9,000 to the preparation of graphics. The exact number and type of graphics will be discussed during review of each public review draft. Graphics will likely be a blend of three-dimensional sketch-up drawings, annotated photographs, and line drawings. The exact number of graphics will be determined based on the complexity of the illustrations discussed and agreed to during module review. Typically, a budget of $9,000 results in the inclusion of between 70 and 80 different illustrations, but the exact number can be fewer if complex graphics are desired.

The adoption draft will be prepared in Microsoft Word, will include dynamic headers and footers, hyperlinked cross references, and dynamic tables of contents. It will consolidate the material from Modules 1 and 2, include a consolidated table of contents, illustrations, and an index for ease of use by reviewers. The document will be configured to retain its hyperlinking capabilities, searchability, and page layout characteristics during the process of conversion to a ".pdf" document format for posting on the Town's webpage. Use of Microsoft Word and Adobe Distiller to create a dynamic pdf will allow Town staff to easily update and post fully functional versions of the UDO as the text is subsequently modified over time.

Additional discussion with staff is necessary to determine if the UDO will be located within the body of the Town Code or if it will become a stand-alone appendix. In either instance, the Town's codification contractor can use the Microsoft Word version for codification purposes. Retention of the page layout and hyperlinking capabilities is possible within the officially codified version, but may require further discussion with the Town's codification contractor.

Following completion of the adoption version of the UDO, the document will be posted on the web page and delivered to the Town in advance of the adoption process.

After sufficient time for review of the document, the consulting team will travel to the Town to conduct three public hearings with the Planning Commission and the Board of Commissioners, as appropriate. At each hearing the consulting team will answer questions and collect input for further revision. Attendance at additional meetings is available on a time and materials basis.

Following completion of the adoption process, the consulting team will make all final revisions to the document, prepare an index, and prepare the digital and paper copies.

Depending upon the scope of zoning map revisions necessary, we suggest the Town consider a delayed effective date of at least four months for the new UDO to allow time for completion of the Zoning Map update in Task 7. A delayed effective date is a common approach to allow this sort of work to take place. It is typical for communities to hold zoning map amendment applications in abeyance during the zoning map update, and any development applications received can be reviewed under the new UDO since it has been adopted.

Key Tasks:

Preparation of public hearing draft of the UDO and associated illustrations; public hearings on the document, final revisions, and document publication.

Timing:

Three months after completion of Task 5

Trips:

Three on-half day trips to the Town by members of the consulting team

Public Engagement Elements:

Adoption version of the UDO on project web page, public hearings

Task 7: Zoning Map Update

Throughout the entire process of reviewing existing documents, preparing a draft UDO, and testing the new provisions, the consultant team will concurrently review and prepare recommendations for change to the existing zoning map to correspond with the new regulations that are being developed.

This project approach anticipates that effective date of the new UDO will be delayed by at least months to ensure sufficient time to complete necessary rezonings. In addition, this work program anticipates that the new UDO will be adopted with a set of transitional standards that address how some of the current zoning districts may be carried forward or converted to new zoning districts without requiring additional public notice or public hearings associated with zoning map amendments.

Following adoption of the UDO, this work program anticipates the Town staff will prepare a mass mailing informing landowners about the upcoming zoning map modifications. Prior to the mailing, the consulting team will commence preparations for a series of public meetings to explain the proposed map amendments and collect input from landowners.

Typically, the consulting team will conduct up to four public meetings on different days at different times and in different places to explain the new ordinance and associated proposed zoning map changes. It may also be necessary for a Town staff member to take responsibility for managing a telephone call-in number where interested residents may call or send e-mails with questions about the process. Materials will be prepared for the public meetings that explain the changes, the rationale for change, and options available to landowners who wish to have their recommended classifications reconsidered prior to commencement of the public hearing process.

Generally speaking, we suggest the Town adopt the stance that this process is being undertaken to repair issues with the zoning map, not provide free map amendments at the whim of a landowner.

Following completion of the public meeting series, this work program anticipates participation by the consulting team in up to two public hearings with the Planning Commission and Board of Commissioners, as appropriate, in regards to the new zoning map. Following each hearing, the consulting team will prepare a list of input received, and an overview of the necessary edits to the draft of the new zoning map.

Once the new zoning map has been adopted by the Board of Commissioners, the consulting team will make all final revisions and prepare a final version of the adopted zoning map (in ESRI) and delivery of one paper copy and digital copies of the new zoning map and all related files.

Key Tasks:

Notice mailing (by Town staff); four public meetings; presentation at two public hearings; final revisions following adoption

Timing:

Completion at least four months after adoption of the UDO

Trips:

Two one-day and two half-day trips for public meetings and hearings

Public Engagement Elements:

Mailed notice, public meetings, public hearings

Project Schedule

The table to the right sets out a draft project schedule of 16 months to complete the project (assuming a total of four months needed for the adoption of the Zoning Map. This is a fairly optimistic schedule given the number of tasks. Simplification or removal of the zoning map revisions (Task 7) could reduce the duration by several months. Another variable is the timeliness of the Advisory Committee's response to work products.

TASK	DURATION
Task 1: Project Initiation	1 month from contract execution
Task 2: Ideas Forum	1 month after Task 1 completion
Task 3: Code Assessment	2 months after Task 2 completion
Task 4: Drafting	4 months after Task 3 completion
Task 5: Testing	1 months after Task 4 completion
Task 6: Adoption	3 months after Task 5 completion
Task 7: Zoning Map Update	At least 4 months after Zoning Ordinance Adoption
TOTAL	**16 MONTHS**

Project Budget

The table below sets out a draft project budget of $100,000. This budget is based on the total number of person hours as well as several lump-sum costs, such as document copies. The total cost figures include all expenses and materials. It also includes the total number of person hours required, where appropriate.

TASK	TOTAL COST
Task 1: Project Initiation	$2,000
Task 2: Ideas Forum	$5,000
Task 3: Code Assessment	$14,000
Task 4: Drafting	$50,000
Task 5: Testing	$8,000
Task 6: Adoption	$3,000
Task 7: Zoning Map Update	$4,000
Graphics	$9,000
Copies	$5,000
TOTAL	**$100,000.00**
Post adoption Zoning Ordinance follow up	$0.00

Appendices

The following pages include the individual resumes from the team members. While the RFP requested a sample code document, in the interest of saving paper and providing several examples, the following links to approved code documents are provided.

SAMPLE CODES

Currituck County, NC -
https://www.municode.com/library/nc/currituck_county/codes/code_of_ordinances

Mooresville, NC -
https://www.municode.com/library/nc/mooresville/codes/code_of_ordinances

Franklin, TN -
https://www.municode.com/library/tn/franklin/codes/code_of_ordinances

Portsmouth, VA -
https://www.municode.com/library/va/portsmouth/codes/code_of_ordinances

THANK YOU FOR THE OPPORTUNITY TO RESPOND!

CHAD MEADOWS, AICP

PRINCIPAL

CodeWright Planners, LLC

PROFESSIONAL BACKGROUND

Chad Meadows is founder and principal of CodeWright Planners, LLC. Chad has more than 20 years of experience in land use issues, and works primarily in the areas of planning, zoning, and growth management. He has conducted complex projects as a public sector planner and for public sector clients as a private consultant. Prior to founding CodeWright, Chad was a code drafter and illustrator for a national land use consulting firm. As a public sector planner, he oversaw the Land Development Ordinance Update in Cary, North Carolina, and worked on growth management issues in Monroe County (the Florida Keys). Chad is a frequent speaker at state and national planning conferences on the topics of design, regulatory efficiency, and modern coding techniques. He is a co-author of the recent PAS Report #570, *The Rules that Shape Urban Form*.

EMPLOYMENT

2014 - Founder & Principal, CodeWright Planners, LLC
2003 - Senior Associate, Clarion Associates
2001 - Senior Planner, Town of Cary, NC
1998 - Senior Comprehensive Planner, Monroe County, FL
1995 - Project Manager, Koll Telecommunication Services
1993 - Planner (intern), Portland Bureau of Planning
1992 - Planner, Guilford County, NC

EDUCATION

1995 - Master of Urban + Regional Planning, Portland State University
1992 - Bachelor of Arts, Geography, University of North Carolina

CERTIFICATIONS

- Member, American Institute of Certified Planners
- Legislative Chairman, American Planning Association, NC Chapter
- Former Chairman, Raleigh, NC Appearance Commission

RELEVANT PROJECTS

Chad Meadows is a primary author on the following projects:

Development Code & Code Assessments
Burlington, NC
Spartanburg County, SC
Pulaski County, IN
Currituck County, NC
Fayetteville, NC
Mooresville, NC
Jacksonville, NC
High Point, NC
Portsmouth, VA
Fredericksburg, VA
Falls Church, VA
Franklin, TN
Alachua, FL
Stafford County, VA
Rock Hill, SC
Folly Beach, SC
Henrico County, VA
Henderson, NV
Franklin County, VA

Design Standards
Henrico County, VA
Morrisville, NC
Greenville, SC

Special Districts
Vienna, VA
Southern Pines, NC

Growth Strategies
Miami Beach, FL
Hillsborough, NC
(Award-winning projects in brown)

JASON EPLEY, AICP

PRESIDENT/PARTNER

Benchmark CMR, Inc.

PROFESSIONAL BACKGROUND

Mr. Epley brings 19 years of state and national experience in the planning profession to the consulting team. Currently the President of Benchmark CMR, Inc., his past positions have included working with municipal, county, regional and state government planning programs throughout North Carolina. He specializes in comprehensive planning, military planning (Joint Land Use Studies), urban design, public involvement, and meeting facilitation. Jason brings additional expertise and experience with downtown development and design, and currently serves in the role of Executive Director of the North Carolina Downtown Development Association. He has a wealth of experience helping communities develop meaningful plans and sound implementation strategies through ordinance preparation and adoption, with project experience in well over 100 communities across the country.

EMPLOYMENT

2014 - President, Benchmark CMR, Inc.
2007 - Executive Vice President, Benchmark CMR, Inc.
2005 - Chief Planner, NC Department of Commerce DCA
2003 - Senior Planner, NC Department of Commerce DCA
1998 - Planner, NC Department of Commerce DCA
1996 - Planner II, Cumberland County, NC
1996 - Community Development Coordinator, Lexington, NC
1995 - Planner / Downtown Coordinator, City of Ninety-Six, SC

EDUCATION

1996 - Master of City and Regional Planning, Clemson University
1994 - Bachelor of Arts in Geography, UNC Greensboro

CERTIFICATIONS

- Member, American Institute of Certified Planners
- Executive Director, North Carolina Downtown Development Association

RELEVANT PROJECTS

Jason Epley managed the following projects:

Comprehensive Plan,
Shepherdstown, WV

Fort Leonard Wood Joint Land Use Study, St. Robert/Rolla, MO

Comprehensive Plan,
Blowing Rock, NC

Wasterwater Master Plan,
Sanford, NC

Regional Trail Plan,
Dubuque County, IA

Comprehensive Land Use Plan,
Weaverville, NC

Land Use Plan, City of Lumberton, NC

Small Area/Urban Design Plan,
Winston-Salem, NC

Small Area/Urban Design Plan,
Greensboro, NC

Bicycle & Pedestrian Master Plan,
Clinton, NC

Pedestrian Master Plan, Angier, NC

BRIAN STARKEY, RLA

PRINCIPAL

OBS Landscape Architects

PROFESSIONAL BACKGROUND

Brian has practiced landscape architecture for the past 32 years. Brian founded obs landscape architects in 1994 following three years in Amsterdam, NL, where he spent a year studying at the Amsterdam Academy of Building Arts, and working as a design consultant.

Brian is involved with each project at obs. He is responsible for overseeing the design process and preparation of construction documents to ensure that each project reflects quality design and attention to detail.

Brian's experience in site design and landscape architecture services ranges from master planning to services provided during construction. His project experience is diverse including private development work as well as the planning and design of public projects.

Private development projects have included single family and multi-family housing, commercial and institutional development including banks, retail centers and office buildings.

With each of these projects he has worked within the parameters of various ordinances and guidelines to realize projects which acknowledge surrounding context and address issues of density, walkability, connectivity and environmental sustainability.

Brian also is skilled at defining site development solutions that balance the owner's needs and the jurisdictional requirements placed on the site by permitting agencies, including both local and state agencies.

Public projects include municipal, county and state parks, community urban spaces, public facilities such as libraries and community centers, as well as work at universities and community colleges.

Brian's overarching focus in planning and design is the public's health, safety and welfare while promoting engaging and creative spaces that are meaningful and memorable.

Registration
Registered Landscape Architect, NC #549

Years of Experience
Firm: 20 / Total: 32

Professional Memberships
State Board of Landscape Architects
Gubernatorial Appointee
Member 1994-2004
Chairman 1996-2002

City of Raleigh Appearance Commission
1998-2004

City of Raleigh Arts Commission
Member 2004-2010
Chairman 2007- 2009

City of Raleigh Public Art and Design Board
2009-Present

ASLA
Member 1980 - present
ASLA NC Chapter
President - 2012

Education
West Virginia University, Bachelor of Science in Landscape Architecture, 1982

University of Amsterdam, Academy of Building Arts, Amsterdam, NL 1991-1992

CAMERON W. GARDNER, PP, AICP

Urban Planner / GIS Specialist

Cam Planning+Design

PROFESSIONAL BACKGROUND

Cameron is highly experienced in the use of the latest in cartographic technology. He has prepared maps for the Monroe, NC Comprehensive Housing Evaluation, showing areas of the city with high concentrations of substandard housing. The resulting maps and report were nominated by the NC-APA for an Outstanding Planning Award. He has also prepared maps of existing and future land use, existing and future zoning, community facilities, existing and future infrastructure, demographics, school zones, and topography in support of a number of master plans and redevelopment plans. He has also developed GIS databases and mapping products in support of the Lexington, MA Land Use and Open Space Plan. Cameron also worked with Westmoreland County, VA to convert their tax maps from paper format to digital format to comply with the Virginia Base Mapping Project (VBMP).

EMPLOYMENT

2015 – Lead Planner, Cam Planning+Design, Shelby, NC
2015 – Legal Assistant, Gardner Law Offices, PLLC, Shelby, NC
2006 – Planner, Northern Neck (VA) Planning District Commission, Warsaw, VA
2002 – Project Manager, PPK, Inc., Atlantic City, NJ
2001 – Planner, City of Lexington, MA
1999 - Geographic Specialist, United States Census Bureau, Boston, MA
1997 – Planner, Centralina Council of Governments, Charlotte, NC
1996 – Planner, UNC-Charlotte Urban Institute

EDUCATION

2002 - Master of Urban and Environmental Planning, Tufts University
1997 - Bachelor of Science in Geography, UNC Charlotte

CERTIFICATIONS

- Member, American Institute of Certified Planners
- Licensed New Jersey Professional Planner

RELEVANT PROJECTS

Cameron Gardner has worked on the following projects:

Comprehensive Housing Evaluation
Monroe, NC

I-485 Future Interchange Analysis
Charlotte, NC

City of Charlotte Housing Quality Study, Charlotte, NC

Land Use and Open Space Plan
Lexington, MA

Master Plan
Washington Township, NJ

Redevelopment Plans:
- Egg Harbor City, NJ
- Linwood, NJ
- Gloucester City, NJ
- Winslow Township, NJ

Tax Map Project
Westmoreland County, VA

City of Portsmouth Virginia

ZONING ORDINANCE

EFFECTIVE DATE: MAY 1, 2010

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GENERAL PROVISIONS

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(B) References to Code of Virginia 1-1

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(A) The City Council for the purpose of promoting the health, safety, or general welfare of the public and of further accomplishing the objectives of the Code of Virginia (1950), as amended, states this Ordinance is adopted with the following purposes and intent: ... 1-1

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(B) Application to Governmental Units 1-2
(C) No Development until Compliance with This Ordinance 1-2

40.1-1.5 Conformance with Adopted Plans 1-3

40.1-1.6 Relationship with Other Laws, Covenants, or Deed Restrictions 1-3

(A) Conflicts with Other City Codes or Laws 1-3
(B) Conflicts with Private Agreements 1-3
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(D) Existing Agreements or Vested Rights 1-3

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(A) General 1-4
(B) Incorporated by Reference 1-4
(C) Damaged, Destroyed, or Lost 1-4
(D) Interpretation of Official Zoning Map Boundaries 1-4
(E) Amendments to the Official Zoning Map 1-5
(F) Uses Generally 1-5
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ARTICLE 40.1-1: GENERAL PROVISIONS

40.1-1.1 TITLE

This chapter of the Portsmouth City Code shall be officially known as "The City of Portsmouth, Virginia, Zoning Ordinance" and may be referred to as "the Zoning Ordinance" or "this Ordinance."

40.1-1.2 AUTHORITY

(A) General Authority

This Ordinance establishes the city's zoning regulatory authority as authorized by the Code of Virginia (1950), as amended, and is adopted in accordance with:

(1) The enabling authority contained in Title 15.2, Chapter 22 of the Code of Virginia (1950), as amended, granted to the City of Portsmouth by the General Assembly of the Commonwealth of Virginia;

(2) The Code of the City of Portsmouth, Virginia; and

(3) All other relevant laws of the Commonwealth of Virginia.

(B) References to Code of Virginia

Whenever any provision of this Ordinance refers to or cites a section of the Code of Virginia (1950), as amended, 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.

40.1-1.3 GENERAL PURPOSE AND INTENT

(A) The City Council for the purpose of promoting the health, safety, or general welfare of the public and of further accomplishing the objectives of the Code of Virginia (1950), as amended, states this Ordinance is adopted with the following purposes and intent:

(1) To provide for adequate light, air, convenience of access, and safety from fire, flood, crime, and other dangers;

(2) To reduce or prevent congestion in the public streets;

(3) To facilitate the creation of a convenient, attractive, and harmonious community;

(4) To facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, and other public requirements;

(5) To protect against destruction of or encroachment upon historic areas;

(6) To protect against overcrowding of land, undue density of population in relation to community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, panic, or other dangers;

(7) To encourage economic development activities that provide desirable employment, high wage jobs, and enlarge the tax base;

(8) To provide for the preservation and protection of the natural environment, including surface water and groundwater;

(9) To promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the city;

(10) To implement the comprehensive plan;

(11) To promote a healthy economy through a high quality of life;

(12) To develop a sense of place that reflects the city's history, downtown, and waterfront;

(13) To maintain quality neighborhoods with diverse housing choices and access to services;

(14) To strengthen stable neighborhoods, prevent further decline in transitional neighborhoods, and encourage redevelopment in targeted neighborhoods;

(15) To encourage the development of activity centers;

(16) To encourage redevelopment that is compatible with its context;

(17) To encourage mixed-use, pedestrian-friendly land use patterns, at appropriate locations;

(18) To encourage and target land uses for their highest and best use;

(19) To target obsolescent uses for redevelopment;

(20) To improve the visual character of the gateway corridors;

(21) To improve development quality generally; and

(22) To focus and strengthen the city's urban form.

40.1-1.4 APPLICABILITY AND JURISDICTION

(A) General Applicability

The provisions of this Ordinance shall apply to the development of all land within the corporate limits of the City of Portsmouth except for streets and public rights-of way, and unless it is expressly exempted by a specific section or subsection of this Ordinance.

(B) Application to Governmental Units

Except as stated herein, the provisions of this Ordinance do not apply to:

(1) Development by the city or its agencies or departments during a declared local emergency. The City Council shall ratify such exemption after the fact at its next regularly scheduled meeting, and shall base its ratification on specified findings of fact related to the emergency involved.

(2) Development of lands owned by the Commonwealth of Virginia.

(3) Development owned and held in tenancy by the government of the United States, its agencies, departments, or corporate services, to the extent required by law.

(C) No Development until Compliance with This Ordinance

(1) No land shall be developed without full compliance with the provisions of this Ordinance and all other applicable city, county, state, and federal regulations.

(2) All departments, officials, and public employees of the city who are vested with the duty of authority to issue permits or licenses shall conform to the provisions of this Ordinance. They shall issue permits for uses, buildings, or purposes only when they are in harmony with

the provisions of this Ordinance. Any such permit, if issued in conflict with the provisions of this Ordinance, shall be null and void.

(3) No development or land-disturbing activities subject to the standards of this ordinance may take place until the appropriate approval(s) are granted by the city in accordance with the this Ordinance.

(4) Land or buildings may be used or occupied only after a Certificate of Occupancy is approved by the Zoning Administrator. The Zoning Administrator shall not issue a temporary Certificate of Occupancy until the applicant has guaranteed the completion of public improvements, including, but not limited to, public streets, public water and public sewer facilities, or the completion of required landscape areas and plantings shown on the approved site plan or other approved plan by providing a surety in a form approved by the City Attorney.

40.1-1.5 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 the *Destination 2025 Comprehensive Plan* and any other adopted plans addressing the city's growth and development. To the extent this Ordinance is or becomes inconsistent with these adopted plans, it should be amended to become or remain consistent with the adopted plans. Additionally, all amendments to this Ordinance's text or official zoning map should maintain and enhance consistency between this Ordinance and the adopted plans.

40.1-1.6 RELATIONSHIP WITH OTHER LAWS, COVENANTS, OR DEED RESTRICTIONS

(A) Conflicts with Other City Codes or Laws

If a provision of this Ordinance is inconsistent with a provision found in other adopted codes or ordinances of the city, the more restrictive provision shall govern unless the terms of the more restrictive provision specify otherwise. The more restrictive provision is the one that imposes greater restrictions or burdens, or more stringent controls.

(B) Conflicts with Private Agreements

The city shall not be responsible for monitoring or enforcing private easements, covenants, and restrictions, although the city may inquire as to whether land is subject to easements, covenants, and restrictions during the review of development applications.

(C) Conflicts with State or Federal Law

If a provision of this Ordinance is inconsistent with a provision found in the law or regulations of the state or federal government, the more restrictive provision shall control, to the extent permitted by law.

(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 recognized in accordance with all applicable laws, provided such agreements or rights are lawfully established and remain in effect.

40.1-1.7 OFFICIAL ZONING MAP

(A) General

The official zoning map designates the location and boundaries of the various base zoning and overlay zoning districts established in this Ordinance. The official zoning map shall be kept on file in the Planning Department and is available for public inspection during normal business hours. The original official version of the map shall be certified by the Planning Director. It may be kept in either hardcopy or digital form. It shall be the final authority as to the status of the current zoning district classification of land in the city, and shall only be amended in accordance with this Ordinance.

(B) Incorporated by Reference

The official zoning map and all the notations thereon is incorporated herein by reference and made part of this Ordinance.

(C) Damaged, Destroyed, or Lost

In the event the official zoning map is damaged, destroyed, lost, or becomes difficult to read and interpret due to the number of changes, the City Council may, by resolution, adopt a new official zoning map to replace the damaged, destroyed, or lost map. The new official zoning map shall not make any substantive changes (amendments), but may correct drafting and other clerical errors and omissions on the previous official zoning map.

(D) Interpretation of Official Zoning Map Boundaries

The Zoning Administrator shall be responsible for interpretations of the official zoning map in accordance with the standards in Section 40.1-2.3.L, Interpretation, and the following standards:

(1) Boundaries shown as approximately following a utility line or a street, alley, railroad, or other public access way shall be interpreted as following the centerline of the right-of-way or easement for the utility line or access way.

(2) Boundaries shown as approximately following a property line shall be interpreted as following the property line as it existed when the boundary was established. If a single subsequent minor adjustment (such as from settlement of a boundary dispute or overlap) results in the property line moving 10 feet or less, the zoning boundary shall be interpreted as moving with the property line.

(3) Where areas under water are not shown within the same district as the adjacent land areas, the boundaries of the zoning districts shown for such adjacent land areas shall extend to the mean low-water line along the property lines of the owners of such adjacent land areas.

(4) Boundaries shown as approximately following established municipal corporate limits or other political boundaries shall be interpreted as following the corporate limits or boundaries.

(5) Boundaries shown parallel to or as extensions of features indicated in this subsection shall be interpreted as such.

(6) If the specific location of a depicted boundary cannot be determined from notations on the official zoning map or application of the above standards, it shall be determined by using the map's scale to determine the boundary's distance from other features shown on the map.

(7) Where the actual locations of existing physical or natural features vary from that shown on the official zoning map, or in other circumstances not covered by this subsection, the

Zoning Administrator shall have the authority to interpret the district boundaries (See Section 40.1-2.3.L, Interpretation). Appeals of the Zoning Administrator's decision shall be reviewed by the Board of Zoning Appeals (BZA) in accordance with Section 40.1-2.3.M, Appeal.

(8) In every case where property has not been specifically included within a zoning district, the land shall automatically be designated as Preservation/Government (PG) until such classification is changed by an amendment to this Ordinance in accordance with Section 40.1-2.3.A, Zoning Map Amendment (Rezoning) or Text Amendment.

(E) Amendments to the Official Zoning Map

Changes made in zoning district boundaries or other matters portrayed on the official zoning map shall be made in accordance with the provisions of this Ordinance (Section 40.1-2.3.A, Zoning Map Amendment (Rezoning) or Text Amendment). Changes shall be entered on the official zoning map by the Planning Director promptly after the amendment is approved by the City Council. Where the ordinance enacting a zoning district boundary change contains wording explaining or clarifying the location of the new boundary, the Planning Director may enter on the official zoning map notations reflecting the ordinance wording. The Planning Director shall maintain copies of superseded versions of the official zoning map for historical reference.

(F) Uses Generally

This Ordinance shall be deemed exclusive in nature and only those uses specified shall be permitted in the various zoning districts. If a use is not specified in a zoning district, it shall be prohibited in that district. In the event that a use is not permitted in any zoning district, it may only be permitted after appropriate amendment to the text of this Ordinance.

(G) Bifurcation Discouraged

Applications seeking to amend the official zoning map (rezoning) to establish or maintain two or more different base zoning district designations on a single lot are discouraged.

(H) Transition to New Zoning Districts

On May 1, 2010, land zoned with a zoning district classification from the previous zoning ordinance shall be translated or reclassified to one of the zoning district classifications in this Ordinance as set forth in Article 40.1-3: Zoning Districts. Table 40.1-1.7(H), Transition to New Zoning Districts, summarizes the translation or reclassification of the zoning districts used in the previous zoning ordinance to the zoning districts used in this Ordinance. (For example, Table 40.1-1.7(H) shows that all lands classified Residential RS-300 in the previous zoning ordinance are classified Neighborhood Residential (NR) in this Ordinance.)

TABLE 40.1-1.7(H): TRANSITION TO NEW ZONING DISTRICTS	
FORMER ZONING DISTRICTS	**NEW ZONING DISTRICTS**
RESIDENTIAL DISTRICTS [1]	
Residential RS-400	Neighborhood Residential (NR)
Residential RS-300	
Residential RS-150	General Residential (GR)
Residential RS-125	
Residential RS-100	
Residential RS-85	
Residential RS-75	Urban Residential (UR)
Residential RS-60	
Residential RS-50	
Residential RT-75	High-Density Urban Residential (UR-H)
Residential RM-75	
Office Residential OR-75	
Residential RM-60	
BUSINESS DISTRICTS	
Neighborhood Commercial (C-1)	Neighborhood Mixed-Use (NMU)
General Commercial (C-2)	General Mixed-Use (GMU)
Planned Office Park (POP)	
Business Park (BP)	[DELETED]
	High Intensity Mixed-Use (MU-H) [NEW]
Industrial (M-1)	Light Industrial (IL)
Industrial (M-1-R)	
Commerce Park (CP)	
Industrial (M-2)	Industrial (IN)
ACTIVITY CENTER DISTRICTS [2]	
	Neighborhood Activity Center (NAC) [NEW]
	Community Activity Center (CAC) [NEW]
Mixed-Use/Employment Center (MX/EC)	Regional Activity Center (RAC)
Planned Unit Development (PUD)	[DELETED]
SPECIAL DISTRICTS	
Waterfront (W-1)	Waterfront (WF)
Downtown (D-1)	Downtown (D1)
Downtown (D-2)	Downtown (D2)
Historic Residential (HR)	Historic Residential (HR)
Historic Limited Office (HLO)	Historic Limited Office (HLO)
Historic Limited Business (HLB)	Historic Limited Business (HLB)
Preservation (P1)	Preservation/Government (PG)
United States Government (USG)	

TABLE 40.1-1.7(H): TRANSITION TO NEW ZONING DISTRICTS	
FORMER ZONING DISTRICTS	**NEW ZONING DISTRICTS**
NOTES: [1] The Residential Mobile Home (RMH) district standards are located within Appendix C of this Ordinance. Map amendments to establish or enlarge the RMH district are prohibited. [2] If land is located within a designated activity center (as depicted on the city's future land use map), the lot may be re-designated to the appropriate activity center district designation in accordance with the procedures and standards of Section 40.1-2.3.A, Zoning Map Amendment (Rezoning) or Text Amendment.	

40.1-1.8 TRANSITIONAL RULES

(A) Effective Date

This Ordinance shall become effective on May 1, 2010, and repeals and replaces the current City of Portsmouth Zoning Ordinance, as originally adopted on February 12, 1991, as subsequently amended.

(B) Violations Continue

Any violation of the previous zoning ordinance shall continue to be a violation under this Ordinance and any other applicable ordinances, laws, or statutes. Violations of this Ordinance shall be subject to the penalties set forth in Article 40.1-7: Enforcement, and any other applicable ordinances, laws, or statutes, unless the development complies with the express terms of this Ordinance or the other ordinances, laws, or statutes.

(C) Complete Applications

(1) Any application submitted and accepted as complete before May 1, 2010, but still pending final action as of that date, shall be reviewed and decided in accordance with the regulations in effect when the application was accepted. To the extent such an application is approved and proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of Article 40.1-6: Nonconformities.

(2) Completed applications shall be processed in good faith and shall comply with any time frames for review, approval, and completion as established in the regulations in effect at the time of application acceptance. If the application fails to comply with the required time frames, it shall expire and future development shall be subject to the requirements of this Ordinance.

(3) An applicant with a pending application accepted before May 1, 2010 may opt to have the proposed development reviewed and decided under the standards of this Ordinance by withdrawing the pending application and submitting a new application in accordance with the standards of this Ordinance.

(D) Approved Permits and Development Approvals

Any applications approved before May 1, 2010 shall remain valid until their expiration date. Development with valid permits or development approvals may be carried out in accordance with the terms and conditions of its approval and the development standards in effect at the time of approval, provided the permit or development approval is valid and has not expired. If the prior approval expires or is revoked (i.e., for failure to comply with the terms and conditions of approval), any subsequent development of the site shall be applied for in accordance with the procedures and standards of this Ordinance. To the extent a prior-approved application proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of Article 40.1-6: Nonconformities.

(E) Approved Zoning Subject to Proffers

Lands subject to a zoning classification approved subject to proffers before May 1, 2010 shall continue to be subject to the approved rezoning and proffers until or unless the City Council amends the zoning classification of the lands in accordance with the procedures and standards of this Ordinance and the Code of Virginia (1950), as amended.

(F) Nonconformities

If any use, structure, lot, or sign legally existed on May 1, 2010, but does not fully comply with the standards of this Ordinance, then that use, structure, lot, or sign shall be considered nonconforming under this Ordinance and shall be controlled by the provisions of Article 40.1-6: Nonconformities.

40.1-1.9 SEVERABILITY

It is the legislative intent of the City Council, in adopting this Ordinance, that all provisions shall regulate development in accordance with the existing and future needs of the city as established in this Ordinance and promote the public health, safety, and general welfare of the land owners and residents of the city. If any section, subsection, sentence, boundary, clause, or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and any section, subsection, sentence, boundary, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, boundaries, clauses, or phrases be declared invalid.

ARTICLE 40.1-2:
ADMINISTRATION

ARTICLE 40.1-2 TABLE OF CONTENTS

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ARTICLE 40.1-2: ADMINISTRATION

40.1-2.1 ADMINISTRATIVE AND DECISION MAKING BODIES

(A) Development Review Structure

(1) Table 40.1-2.1(A), Development Review Structure, summarizes the advisory and decision-making bodies that have specific review responsibilities under this Ordinance for permits or development approvals, and their responsibilities. Common procedures for the permits and development approvals are found in Section 40.1-2.2, Common Review Procedures. Provisions specific to each type of development permit or approval are found in Section 40.1-2.3, Standards and Requirements for Applications.

TABLE 40.1-2.1(A): SUMMARY TABLE OF DEVELOPMENT REVIEW STRUCTURE

S = STAFF REVIEW R = REVIEW AND ADVISE D = DECISION A = APPEAL <> = PUBLIC HEARING

PERMIT OR DEVELOPMENT APPROVAL	SEE SECTION	CITY COUNCIL	PLANNING COMMIS-SION	BZA	HPC	PLANNING DIRECTOR	ZONING ADMINI-STRATOR
AMENDMENTS AND USE PERMITS							
Zoning Map or Zoning Text Amendment	40.1-2.3(A)	<D>	<R>		R [1]	S	
Use Permit	40.1-2.3(B)	<D>	<R>			S	
DEVELOPMENT PLANS							
Type I Development Plan	40.1-2.3(C)		A			D	
Type II Development Plan	40.1-2.3(D)		D [2]			S	
SUBDIVISIONS							
See Chapter 33.1 of the City Code of Ordinances							
PERMITS							
Temporary Use Permit	40.1-2.3(E)			<A>		D	
Zoning Compliance Permit [3]	40.1-2.3(F)			<A>		D [4]	D
Certificate of Appropriateness	40.1-2.3(I)				D [5] [6]	S/D [7]	
VARIANCES, ADJUSTMENTS, AND EXCEPTIONS							
Variance Permit	40.1-2.3(G)			<D>			S
Administrative Adjustment	40.1-2.3(H)			<A>		D	
INTERPRETATIONS AND APPEALS							
Interpretations	40.1-2.3(J)			<A>		D [8]	D
Appeals	40.1-2.3(K)			<D> [2]			

NOTES:
BZA = Board of Zoning Appeals
HPC = Historic Preservation Commission
[1] The Historic Preservation Commission (HPC) shall review and advise the Planning Commission and City Council on any applications to amend the boundaries of an historic district or modify the Ordinance text related to the historic district provisions.
[2] Appeals are to the circuit court of the City of Portsmouth.
[3] The zoning compliance permit serves as the certification of compliance for development in the Downtown D2 district, as described in Appendix B of this Ordinance.
[4] The Planning Director shall review and decide zoning compliance permits in the Downtown D2 district.
[5] Appeals are made to the city's Appeals Review Committee.

TABLE 40.1-2.1(A): SUMMARY TABLE OF DEVELOPMENT REVIEW STRUCTURE
S = STAFF REVIEW R = REVIEW AND ADVISE D = DECISION A = APPEAL <> = PUBLIC HEARING

PERMIT OR DEVELOPMENT APPROVAL	SEE SECTION	CITY COUNCIL	PLANNING COMMISSION	BZA	HPC	PLANNING DIRECTOR	ZONING ADMINISTRATOR
[6] The Downtown Design Committee shall review and decide applications for Certificates of Appropriateness in the D1 Downtown district. [7] Administrative decisions are made on minor requests for Certificates of Appropriateness are made by the Planning Director in accordance with Section 40.1-2.3(I), Certificates of Appropriateness. [8] The Zoning Administrator provides interpretations of the zoning ordinance related to the boundaries of the official zoning map, the dimensional standards in Article 40.1-3, the use classifications in Section 40.1-4.2, and the use table in Section 40.1-4.1; The Planning Director provides interpretations of all other aspects of the Ordinance (e.g., intent, design, and appearance issues, etc.).							

(2) All departments, officials, and public employees of the city who are vested with the duty of authority to issue permits or licenses shall conform to the provisions of this Ordinance. They shall issue permits for uses, buildings, or purposes only when they are in harmony with the provisions of this Ordinance. Any such permit, if issued in conflict with the provisions of this Ordinance, shall be null and void.

(B) City Council

In addition to any other authority granted to City Council by the City Code or the Code of Virginia, (1950) as amended, the City Council shall have the following powers and duties under this Ordinance:

(1) To hear and decide applications for amendment of the zoning map or zoning text; and

(2) To hear and decide development applications for use permits.

(C) Planning Commission

(1) Establishment, Membership, and Procedures

The establishment, membership, and procedures for the Planning Commission are established in Chapter 2, Article X of the City Code.

(2) Powers and Duties

In addition to any other authority granted to the Planning Commission by City Council, the City Code, or the Code of Virginia (1950), as amended, the Planning Commission shall have the following powers and duties under this Ordinance:

(a) To hear and make recommendations to City Council on the following:

(i) Amendments to the zoning map or zoning text; and

(ii) Use permits.

(b) To hear and decide type II development plans.

(c) To hear appeals of the Planning Director's decision on type I development plans,

(d) To carry out any other powers and duties delegated to it by the City Council, consistent with the Code of Virginia (1950), as amended.

(D) Board of Zoning Appeals (BZA)

(1) Establishment

The Board of Zoning Appeals (BZA) is hereby established in accordance with the Code of Virginia (1950), as amended.

(2) Membership

(a) Number of Members

(i) The BZA shall consist of five regular members and three alternate members. The regular members and alternate members shall be appointed by the circuit court of the City of Portsmouth, and serve without compensation.

(ii) Each member shall be a resident of the city.

(iii) Alternate members shall be required to attend all regular meetings and training of the BZA, but shall not participate in the voting or decisions of the BZA unless asked by the chairperson to fill a position when a regular member is absent or unavailable to vote on a matter. When seated, alternate members shall have the same powers and duties as the member they replace.

(iv) Each member of the BZA shall attend at least one informational or educational meeting each year pertaining to the work and functions of the BZA or to how this Ordinance functions.

(b) Terms of Office, Appointment, and Qualifications

The terms of office and the qualifications of the members of the BZA, the manner of their appointment and the organization of the board shall be as provided in the Code of Virginia (1950), as amended.

(c) Vacancies

(i) Vacancies occurring for reasons other than expiration of terms shall be filled for the period of the unexpired term only.

(ii) In filling vacancies, the circuit court of the City of Portsmouth shall give first priority to alternate members.

(d) Officers

(i) The BZA may elect from its members one chairperson and one vice-chairperson. The chairperson shall preside at all meetings of the BZA. The vice-chairperson shall preside in the absence of the chairperson.

(ii) The Planning Director shall serve as a non-voting member and Secretary of the BZA.

(3) Meetings

(a) BZA meetings shall be held at the call of the chairperson and at such other times as the BZA may determine.

(b) The chairperson, or the acting chairperson, may administer oaths and compel the attendance of witnesses.

(c) All BZA hearings shall be open to the public.

(d) The BZA shall keep minutes of its proceedings, showing the vote of each member on each question or, if absent or failing to vote, indicating such fact. The BZA shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Planning Department and shall be a public record.

(e) The office of the BZA shall be maintained in the space assigned to it by the City Manager.

(f) The BZA shall submit a report of its activities to City Council at least once each year.

(4) Quorum

(a) Three members of the BZA shall constitute a quorum. No official business of the board shall be conducted without a quorum present.

(b) Alternate members may be seated as necessary to establish a quorum.

(5) Powers and Duties

In addition to any other authority granted to the BZA by City Council, the City Code, or the Code of Virginia (1950), as amended, the BZA shall have the following powers and duties under this Ordinance:

(a) To hear and decide applications for variance permits; and

(b) To hear and decide appeals taken from any interpretation or final decision made by the Planning Director or Zoning Administrator under this Ordinance (except for those heard and decided by the Planning Commission).

(E) Historic Preservation Commission (HPC)

(1) Establishment

For the general purposes of this Ordinance, and specifically to preserve and protect historic places and areas in Portsmouth through the control of demolition and regulation of architectural design and uses of structures in historic districts, a Historic Preservation Commission (HPC) is hereby established in accordance with the Code of Virginia (1950), as amended.

(2) Membership

(a) Number of Members and Qualifications

(i) The HPC shall consist of seven members, appointed by the City Council, who serve without compensation.

(ii) Each member shall be a resident of the city.

(iii) All members must demonstrate an interest, competence, or knowledge in historic preservation with:

a. One member who is an architect or architectural historian; and

b. Two members with professional training or equivalent experience in architecture, history, architectural history, archaeology, or planning.

(iv) City Council shall consider, secondary to the above listed qualifications, adequate representation from residents of each historic district.

(b) Non-Voting Members

In additional to the seven voting members, City Council shall appoint a liaison to the HPC from its own body as well as a liaison from the City Attorney's office.

(c) Terms of Office and Appointment

(i) Members shall be appointed by the City Council for terms of three years from the date of appointment. Members may be reappointed for consecutive terms.

(ii) In order to achieve staggered terms, initial appointments shall be: one member for one year, three members for two years, and three members for three years.

(iii) No individual may serve more than six years total as an HPC member without a three year vacancy from the HPC.

(d) Alternates

(i) The City Council may appoint three qualified alternate members to the HPC. The terms of the alternates shall be for three years.

(ii) Alternate members shall be required to attend all regular meetings and training of the HPC, but shall not participate in the voting or decisions of the HPC unless asked by the chairperson to fill a position to maintain a quorum.

(e) Removal

Any member may be removed from office by City Council for inefficiency, neglect of duty, malfeasance, or continued absence from regular or called meetings of the HPC. Continued absence shall mean absence from three consecutive meetings or a total of four meetings in a 12-month period.

(f) Vacancy

(i) If a member representing a designated organization or profession ceases to be a member of that organization or profession, or if a vacancy occurs for some other reason, a new appointment shall be made by City Council within 60 days, for the remainder of the unexpired term.

(ii) In filling vacancies, City Council shall give first priority to alternate members.

(g) Conflicts of Interest

No member shall participate in the selection, award, or administration of a contract, vote, participate, or otherwise engage in any other conduct or action that would violate the terms of the applicable provisions of the Virginia State and Local Conflict of Interests Act of the Code of Virginia (1950), as amended.

(h) Training

Each member of the HPC shall attend at least one informational or educational meeting each year, as approved by the Virginia Department of Historic Resources, pertaining to the work and functions of the HPC or to historic preservation.

(3) Powers and Duties

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

(a) To hear and decide applications for certificates of appropriateness except for development in the Downtown D1 district.

(b) To advise the Planning Commission on the following:

(i) Creation of historic districts; and

(ii) Amendments to the text of this Ordinance related to historic district provisions.

(c) To periodically conduct, or cause to be conducted, a survey of structures, buildings, sites, and areas in the city having historical, architectural, archaeological, or cultural significance, interest or value for the purpose of compiling appropriate descriptions, facts, lists and an inventory map of historic properties.

(d) To conduct educational programs and disseminate information on historic properties and districts located within the city and general historic preservation issues and concerns and coordinate local preservation efforts with those of local historic and preservation organizations, the Virginia Department of Historic Resources, and other parties, both public and private.

(e) To review all proposed Virginia Landmarks Register and National Register of Historic Places nominations within the city for the purpose of providing local comment to the State Review Board and the Virginia Department of Historic Resources.

(4) Records of Commission Meeting and Annual Report

A public record shall be kept of the HPC's resolutions, proceedings, and actions. The HPC shall make an annual report with recommendations to the Planning Commission and the City Council concerning the operation of the HPC and the status of historic preservation within the city. The Planning Director shall serve as the administrative staff to the HPC and maintain all resolutions, proceedings, and actions of the HPC.

(5) Standards and Guidelines

The HPC shall submit to the City Council standards and guidelines for each historic district that shall govern the decisions for the HPC. Once City Council has approved the initial standards and guidelines, modifications may be proposed by the HPC, Planning Director, Planning Commission, or City Council. Amendments to these standards shall be approved by the City Council's Appeal Review Committee (ARC).

(F) Downtown Development Committee (DDC)

(1) Establishment and Membership

See Appendix A for more information on the DDC.

(2) Powers and Duties

The DDC shall hear and decide applications for certificates of appropriateness in the Downtown D1 district (see Appendix A of this Ordinance).

(G) City Staff

(1) Planning Director

(a) Designation

The Planning Director is designated by the City Manager to administer this Ordinance. The Planning Director may delegate any administrative, review, or decision-making authorities under this Ordinance to any professional-level staff in the Planning Department.

(b) Powers and Duties

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

(i) To review and decide applications for:

a. Administrative adjustments;

b. Type I development plans;

c. Temporary use permits;

d. Zoning compliance permits in the Downtown D2 district (See Appendix B of this Ordinance); and

e. Interpretations of all parts of this Ordinance except those related to the boundaries on the official zoning map, the base zoning district dimensional standards, use classifications in Section 40.1-4.2, or the summary use table (See Table 40.1-4.1(A)).

(ii) Serve on and coordinate the functions of the city's Appeal Review Committee related to review and revision of the city's historic protection provisions.

(iii) Establish application, content requirements, and a submission schedule for review of applications and appeals.

(iv) Compile and maintain a Procedures Manual.

(v) Process, review, advise, and prepare a staff report with a recommendation on applications for zoning map or text amendments, use permits, type II development plans, certificates of appropriateness (including relocation and hardship), and applications for relief from unreasonable and hardships for historic properties.

(vi) Provide public notice in accordance with Table 40.1-2.2(J), Required Public Notice.

(vii) Maintain the zoning map and other such records and official materials as relate to the adoption, amendment, or administration of this Ordinance.

(viii) Provide expertise and technical assistance to the City Council, Planning Commission, BZA, HPC, DDC, and other city officials, departments, and agencies, upon request.

(2) Zoning Administrator

(a) Designation

The Zoning Administrator is designated by the City Manager to enforce and assist the Planning Director in administering this Ordinance in accordance with the City Code and this Ordinance.

(b) Powers and Duties

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

(i) To review and decide on applications for:

a. Zoning compliance permits except within the Downtown D2 district; and

b. Interpretations of the boundaries on the official zoning map, zoning text related to the base zoning district dimensional standards in Article 40.1-

3, Zoning Districts, the use classifications in Section 40.1-4.2, and the summary use table (See Table 40.1-4.1(A));

(ii) Process, review, and advise the BZA on applications for variance permits;

(iii) Enforce the provisions of this Ordinance in accordance with Article 40.1-7: Enforcement;

(iv) Review and make recommendations to the City Council, Planning Commission, BZA, HPC, and other city officials on applications for permits and development approvals, as appropriate;

(v) Provide public notice in accordance with Table 40.1-2.2(J), Required Public Notice;

(vi) Provide expertise and technical assistance to the City Council, Planning Commission, BZA, HPC, and other city officials, departments, and agencies, upon request; and

(vii) To carry out all additional powers and duties authorized by Section 15.2-2286 A.4., Code of Virginia (1950), as amended, not delegated to other city staff.

(3) Summary of Staff Responsibility

The city staff responsible for receiving and processing applications (as well as preparing a staff report, if appropriate) is outlined in Table 40.1-2.1(G), Staff Responsibilities for Application Processing.

TABLE 40.1-2.1(G): STAFF RESPONSIBILITIES FOR APPLICATION PROCESSING

APPLICATION TYPE	RESPONSIBLE CITY STAFF MEMBER
Zoning Map or Zoning Text Amendment	Planning Director
Use Permit	
Type I and II Development Plan	
Temporary Use Permit	
Zoning Compliance Permit	Zoning Administrator [1]
Certificate of Appropriateness	Planning Director
Variance Permit	Zoning Administrator
Administrative Adjustment	Planning Director
Interpretations	[2]
Appeals	Zoning Administrator

NOTES
[1] The Planning Director shall be responsible for zoning compliance permit applications within the Downtown D2 district.
[2] The Zoning Administrator shall be responsible for interpretations of boundaries on the official zoning map, base zoning district standards in Article 40.1-3, uses classifications in Article 40.1-4, and the uses in Table 40.1-4.1(A), Use Table. The Planning Director is responsible for all other interpretations.

40.1-2.2 COMMON REVIEW PROCEDURES

The provisions of this section shall apply to all application requests under this Ordinance, unless otherwise stated in this section or in Section 40.1-2.3, Standards and Requirements for Applications for Permits and Development Approval.

(A) Authority to File Applications

(1) Applications for permits or development approvals for a specific parcel of land shall be submitted by:

(a) The owner of the land on which the development is proposed; or

(b) The contract purchaser of the land, with the owner's written consent; or

(c) A person authorized to submit the application on behalf of the owner or the contract purchaser, with the owner's consent, which consent must be evidenced by a power of attorney signed by such owner.

(2) If there are multiple owners, contract purchasers, or other persons authorized to submit the application, all such persons shall sign the application, or a power of attorney authorizing either the contract purchaser or other agent to sign the application.

(B) Application Contents

The Planning Director is authorized to and shall establish, and amend as appropriate, the requirements for application contents and forms, which shall be located in the Procedures Manual. All applications shall include a document disclosing whether any member of the Planning Commission or City Council has any interest in the property that is subject to the application in accordance with Section 15.2-2287, Code of Virginia (1950), as amended.

(C) Fees

The City Council shall establish application fees, and may amend and update those fees as determined necessary. Fees established by the City Council shall be included in the administrative manual.

(D) Submission Schedule

The Planning Director is authorized and shall establish the submission and review schedule for review of applications under this Ordinance. The Planning Director may amend and update these requirements as determined necessary. The submission schedule established by the Planning Director shall be included in the administrative manual.

(E) Pre-Application Conference

(1) Purpose

The purpose of a pre-application conference is to familiarize the applicant and the city staff with the applicable provisions of this Ordinance relevant to the proposed development, inform the applicant about the preparation of the application, and discuss the application and review process.

(2) Pre-Application Conference Mandatory

Except for development applications initiated by city staff, the Planning Commission, HPC, or the City Council, pre-application conferences between the applicant and the city staff shall be mandatory before submission of the following types of applications:

(a) Zoning map amendments (rezonings), with or without proffers;

(b) Use permits;

(c) Variance permits; and

(d) Type II development plan.

(3) Pre-Application Conference Optional

A pre-application conference is optional before submission of any other application for permit or development approval.

(4) Sketch Plans Required

Applicants seeking approval of a zoning map amendment with proffers (See Section 40.1-2.3(A)), a use permit (See Section 40.1-2.3(B)), or type II development plan (See Section 40.1-2.3(B)) shall submit a sketch plan for review during the pre-application conference.

(5) Effect

The pre-application conference is intended as a means of facilitating the application 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 a formal, complete application is submitted and determined to be complete.

(F) Application Submission

Applications shall be submitted to the Planning Director or Zoning Administrator (as appropriate) in the form established by the Planning Director in Section 40.1-2.2(B), Application Contents, along with a fee established in accordance with Section 40.1-2.2(C), Fees. Applications not meeting the requirements of Section 40.1-2.2(G), Determination of Application Completeness, shall be considered incomplete.

(G) Determination of Application Completeness

(1) Completeness Review

Upon receipt of an application, the Planning Director or Zoning Administrator (as appropriate) shall determine if the application is complete. A complete application is one that:

(a) Contains all information and materials required for submittal of the particular type of application (See Section 40.1-2.2.(B), Application Contents);

(b) Is in the form required for submittal of the particular type of application;

(c) Includes information in sufficient detail to evaluate the application to determine whether it complies with the appropriate standards of this Ordinance; and

(d) Is accompanied by the fee established for the particular type of application.

(2) Application Incomplete

(a) Notwithstanding Section 40.1-2.2(G)(1) above, applications for development approvals or permits on land with unpaid real estate taxes shall be considered incomplete.

(b) If the application is determined incomplete, city staff shall notify the applicant of the deficiencies within ten business days of submittal, and the application shall not be processed. The applicant may correct the deficiencies and resubmit the application for completeness determination.

(c) If the applicant fails to resubmit an application within 30 business days after being first notified of deficiencies, the application shall be considered withdrawn.

(d) Notwithstanding the other provisions of this subsection, after an application is determined to be incomplete three times, the applicant may request in writing, and the city staff shall undertake processing and review of the application even though it is not considered a complete application.

(3) Application Complete

If the application is determined to be complete, or the applicant has requested that the application be processed in accordance with Section 40.1-2.2(G)(2)(d) above, the city shall refer the application to the appropriate staff, review agencies, and review bodies for review in accordance with the procedures and standards of this Ordinance. The time frame and cycle for review of the application shall be based on the date the application is determined to be complete or the date the city receives the written request to process it in accordance with Section 40.1-2.2(G)(2)(d).

(H) Preparation of Staff Report

(1) If the application is subject to staff review and a subsequent hearing or consideration by an advisory or decision-making body (See Table 40.1-2.1(A), Summary Table of Development Review Structure), the Planning Director or Zoning Administrator (as appropriate) shall review the application, relevant support material, and any comments from other staff and review agencies, and prepare a written staff report.

(2) The staff report shall be addressed to the advisory or decision-making body (as appropriate), and shall state whether the application complies with all appropriate standards of this Ordinance. The staff report shall include a recommendation, and may identify ways in which areas of noncompliance might be eliminated, adverse effects of the development proposal might be mitigated, or consistency with the purpose and intent of this Ordinance may be improved.

(3) The staff report shall be transmitted to the applicant and made available to the advisory or decision-making body and to the public a reasonable period of time before the first scheduled review body meeting or public hearing on the application.

(I) Scheduling of Public Hearings

A public hearing shall be conducted by the appropriate advisory or decision-making body in accordance with Table 40.1-2.2(I), Required Public Hearings.

TABLE 40.1-2.2(I): REQUIRED PUBLIC HEARINGS
X= ADVISORY OR DECISION-MAKING BODY REQUIRED TO CONDUCT PUBLIC HEARING

APPLICATION TYPE	SEE SECTION	ADVISORY OR DECISION-MAKING BODY [1]		
		CITY COUNCIL	PLANNING COMMISSION	BZA
Zoning Map or Text Amendment	40.1-2.3(A)	X	X	
Use Permit	40.1-2.3(B)	X	X	
Variance Permit	40.1-2.3(G)			X
Appeal	40.1-2.3(K)			X

NOTES:
[1] An "X" in more than one column means that the application type requires more than one public hearing. Second readings are not considered as public hearings.

(J) Public Notification

All applications requiring a public hearing shall comply with the requirements in the Code of Virginia (1950), as amended, Table 40.1-2.2(J), Required Public Notice, and the other provisions of this section with regard to public notification.

(1) Type of Notice Provided

Unless otherwise expressly provided in the Code of Virginia (1950), as amended, or this Ordinance, notice shall be provided in accordance with Table 40.1-2.2(J), Required Public Notice.

TABLE 40.1-2.2(J): REQUIRED PUBLIC NOTICE
X= TYPE OF NOTICE REQUIRED

APPLICATION TYPE	NOTICE REQUIRED	
	WRITTEN (MAILED) [1]	PUBLISHED
Zoning Map Amendment	When an amendment affects 25 or fewer lots, written notice shall be mailed to owners, their agents, or the occupants of all abutting land (including land immediately across the street or in other jurisdictions). When a proposed application affects more than 25 lots, or the amendment decreases allowable residential density, written notice shall be mailed to owners, their agents, or the occupants of all abutting land that is 11,500 square feet in size or larger (including land immediately across the street and lots in other jurisdictions).	Once a week for 2 successive weeks, with the second notice not less than 6 nor more than 21 days prior to first public hearing.
Text Amendment	None except when a proposed application affects more than 25 lots, or the amendment decreases allowable residential density, then written notice shall be mailed to owners, their agents, or the occupants of all abutting land that is 11,500 square feet in size or larger (including land immediately across the street and lots in other jurisdictions).	
Use Permit Variance Appeal	Written notice shall be mailed to owners, their agents, or the occupants of all abutting land (including land immediately across the street or in other jurisdictions).	Once a week for 2 successive weeks, with the second notice not less than 6 nor more than 21 days prior to first public hearing
Administrative Adjustment	Written notice shall be mailed to owners, their agents, or the occupants of all abutting land (including land immediately across the street or in other jurisdictions) at least 21 days prior to consideration by the Planning Director.	None required

NOTES:
[1] Written (mailed) notice shall be provided at least five days prior to the first public hearing (or consideration by the Planning Director in the case of Administrative Adjustments).

(2) Written Notice

(a) The content and form of the written notice shall be consistent with the requirements of Sections 15.2-2204 and 15.2-2286 of Code of Virginia (1950), as amended, (if applicable).

(b) If any portion of the land subject to an application requiring written notice is within a planned unit development, then written notice shall be provided to all

applicable property owner's associations having members who own land within 2,000 feet of the land subject to the application.

(c) In the case of a condominium or a cooperative, the written notice may be mailed to the unit owners' association or proprietary lessees' association, respectively, in lieu of providing written notice to each individual unit owner.

(d) In cases where an amendment to the official zoning map or use permit would result in an increase in the height or bulk of an existing or previously-approved structure by more than 50 percent, the Chief Administrative Officer of any adjacent jurisdiction within one-half (½) mile of the land subject to an application shall receive written notice.

(e) In cases where an amendment to the official zoning map or use permit is proposed on land within 3,000 feet of a military base, military installation, military airport (excluding armories operated by the Virginia National Guard), or licensed public-use airport, written notice shall be provided to the commander of the military installation or owner of the public-use airport. The notice shall indicate the opportunity to submit comments or recommendations.

(f) In cases where written notice required in accordance with Table 40.1-2.2(J), Required Public Notice, is provided by a public agency or city staff member via first class mail, an affidavit attesting that notice has been provided in accordance with this Ordinance and the Code of Virginia (1950), as amended, shall be signed by the person or agency providing notice and shall be included with the application materials.

(3) Published Notice

(a) The Planning Director or Zoning Administrator (as appropriate) shall be responsible for preparing the content of the published notice and publishing the notice in a newspaper of general circulation in the city.

(b) The content and form of the published notice shall be consistent with the requirements of Sections 15.2-2204 and 15.2-2286 of Code of Virginia (1950), as amended, (if applicable).

(c) For the purposes of this Ordinance, the date of public notification shall be considered as the date the city provides information to be published to the newspaper of general circulation.

(d) Published notice for applications requiring two public hearings (one before the Planning Commission, and one before the City Council) may be published concurrently in a newspaper of general circulation.

(e) For the purposes of this section "two successive weeks" shall be construed to mean notice shall be published at least twice with at least six days elapsing between the first and second publication.

(4) Notice Not Required

If a particular permit type is not listed in Table 40.1-2.2(J), Required Public Notice, then public notification of a meeting or hearing to consider the application is not required under state law. Public notification for these types of applications may be provided by the city as a courtesy only.

(5) Effect of Notice

A person's actual written notice of, or active participation in, a required public hearing shall waive the right of that person to challenge the validity of the proceeding due to failure to receive written notification as required by this Ordinance.

(6) Other Notices

Applicants shall be responsible for compliance with any additional notice requirements in this Ordinance, other city ordinances, or state law.

(7) Registration to Receive Notice by Mail

Any person, neighborhood organization, or other organization in the city may register with the Planning Director biennially to receive written notice of all applications for permits and development approvals in accordance with this subsection. To be eligible for registration, the person or organization shall provide the Planning Director information in a form established by the Planning Director, along with a fee to defray registration and mailing costs. To continue to receive such notice, a person or organization shall re-register every two years.

(K) Hearing Procedures

All hearings for applications held in accordance with this Ordinance shall comply with the following procedures.

(1) Conduct of Hearing

(a) Burden of Proof or Persuasion

The burden of demonstrating that an application complies with the relevant standards of this Ordinance is on the applicant. The burden is not on the city or other parties to show that the standards are met by the applicant.

(b) Rights of All Persons

Any person may appear at a hearing and submit evidence, either individually or as a representative of a person or an organization. Each person who appears at a hearing shall be identified, state his or her address, and if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented.

(c) Continuance of Hearing

(i) General

a. The body conducting the hearing may, on its own motion or at the request of any person, continue the hearing to a fixed date, time, and place only upon good cause shown.

b. A request for deferral of a hearing from the applicant received by the city staff following public notification of the hearing (where appropriate) in accordance with Section 40.1-2.2 (J), Public Notification, shall be considered as a request for a continuance, and may only be granted by the advisory or decision-making body considering the application.

c. In cases where a request for continuance results in the need for additional public notification, the applicant may be responsible for the costs associated with providing the additional public notification.

(ii) When Additional Notice Not Required

A hearing for which proper public notification is given or where public notification is not required, may be continued to the next regularly scheduled meeting without additional public notice, provided:

a. The continuance is set for a date within 45 days of the originally-advertised public hearing;

b. The date and time of the continued hearing is announced at the time of the continuance; and

c. The public hearing is left open.

In the event that additional public notification is required, the applicant may be responsible for the costs associated with providing the additional public notification. In cases where the applicant provides written (mailed) notice, such notice shall be sent via certified mail.

(iii) When Additional Notice Required

If the advisory or decision-making body considering an application for which public notification is provided in accordance with this section has not made a decision on the application by the next regularly scheduled meeting, the application shall be re-noticed consistent with the procedures and standards for its original notification. The applicant shall be responsible for the costs associated with providing the additional public notification.

(2) General Procedures and Findings at Public Hearing

The body conducting the public hearing shall act in accord with any time limits established in this Ordinance and Code of Virginia (1950), as amended. Action shall include a statement of recommendation or decision of approval, approval with conditions, referral to another body, or denial (whichever is appropriate).

(L) Review by City Staff

If an application is subject to review and decision by the Planning Director or Zoning Administrator, it shall be reviewed and decided in accordance with the following procedures:

(1) Review

The Planning Director or Zoning Administrator, as appropriate, shall review the application, relevant support material, and any comments from other staff and review agencies, and approve the application, approve the application with conditions (if appropriate), or deny the application, based on the appropriate review standards for the particular permit or approval.

(2) Staff Report

Preparation of a staff report is optional, at the discretion of the Planning Director or Zoning Administrator, as appropriate. If a staff report is determined to be necessary, it shall be prepared in accordance with Section 40.1-2.2(H), Preparation of Staff Report, except that it shall be addressed and provided to the applicant.

(3) Revisions to Staff Reports

In the event additional information is needed by the Planning Director or Zoning Administrator, as appropriate, to complete a staff report, or revisions to a proposed application to maintain consistency with this Ordinance are required, the Planning Director or Zoning Administrator, as appropriate, shall provide the applicant with all deficiencies or other recommended changes. The applicant shall have 30 days to revise the application and resubmit all required materials.

(M) Conditions of Approval

(1) In General

(a) Where the express terms of this Ordinance authorize a decision-making body to approve an application with conditions, (i.e., use permits and variance permits), the body may impose reasonable and appropriate conditions on the approval. The conditions may, as appropriate, ensure compliance with particular standards of this Ordinance, and prevent or minimize adverse effects from the proposed development on surrounding lands.

(b) The restrictions and conditions imposed must be related in both type and amount to the impact that the proposed development would have on the public and surrounding development. All conditions imposed shall be expressly set forth in the permit or development approval.

(2) Conditions Proposed by the Applicant

When conditions are proposed by the applicant as part of the application for an amendment to the zoning map (rezoning), the application shall include a voluntary proffer statement, which shall include the following:

(a) A list of legally permissible conditions related to the physical development or physical operation of the development;

(b) A signed statement from the current land owner or applicant (with a power of attorney granted by the land owner allowing the applicant to submit proffers) that includes the following language:

"I HEREBY VOLUNTARILY PROFFER THAT THE DEVELOPMENT OF THE SUBJECT PROPERTY OF THE APPLICATION SHALL BE IN STRICT ACCORDANCE WITH THE CONDITIONS SET FORTH IN THIS SUBMISSION, UNLESS AMENDMENT THERETO IS MUTUALLY AGREED UPON BY THE CITY COUNCIL AND THE UNDERSIGNED."

(c) The current land owner may voluntarily proffer conditions that will supplement the specific zoning district regulations only to the extent that:

(i) The amendment to the official zoning map application necessitates the conditions;

(ii) Such conditions have a reasonable relation to the request;

(iii) All proffered conditions are in conformity with the comprehensive plan; and

(iv) If no conditions are proffered by an applicant for an amendment to the official zoning map, then a statement indicating that no conditions are being proffered shall accompany the application.

(N) Notification of Decision

(1) Within a reasonable period of time after the decision, the Planning Director or Zoning Administrator, as appropriate, shall notify the applicant of the decision. If the applicant has a right to appeal the decision to the BZA under this Ordinance, the notice shall also notify the applicant of this right to appeal the decision to the BZA within 30 days of the date of receipt of the notification by the applicant, and that the decision shall be final and unappealable if not appealed within this period of time.

(2) A copy of the notification of decision and the right to appeal shall be public record and shall be available for public inspection at the office of the Planning Director, during normal business hours.

(O) Request for Deferral of Application

(1) An applicant may request that an advisory or decision-making bodies' consideration of an application at a public hearing be deferred by submitting a written request for deferral to the Planning Director or Zoning Administrator, as appropriate, prior to the publication of notice for the public hearing (See Section 40.1-2.2(J), Public Notification). The Planning Director or Zoning Administrator, as appropriate, may grant such requests for good cause. The date of the public hearing at which the deferred application will be heard shall be set at the time the deferral is granted.

(2) Written requests for deferral of an application by an advisory or decision-making body received after publication of notice for the public hearing has occurred shall be forwarded to the advisory or decision-making body and shall be treated as a request for a continuance of the public hearing.

(P) Request for Withdrawal of Application

(1) Method

Any withdrawal of an application shall be either submitted in writing to the appropriate city staff prior to any public hearing, or be made through a verbal request on the record by the applicant or the applicant's agent during a public hearing. If public notification has occurred prior to the request for withdrawal, application fees shall not be returned to the applicant.

(2) Prior to Notice of Public Hearing

The Planning Director or Zoning Administrator, as appropriate, shall forward notice of a withdrawn application to the appropriate advisory or decision-making body prior to the public hearing on the application (See Section 40.1-2.2(J), Public Notification).

(Q) Waiver of Time Limit

(1) General

Whenever any application for a permit or development approval requiring a public hearing is denied, an application for all or a part of the same land shall not be considered for a period of one year after the date of denial unless a waiver of time limit is subsequently approved by the decision-making body in accordance with the requirements of this section. Only one request for waiver of time limit may be submitted by the applicant during the one year period.

(2) Waiver of Time Limit

(a) Owner or Authorized Agent

Only the owner of land or the owner's authorized agent may submit a request for waiver of time limit.

(b) Initiation

A request may be initiated by the owner or the owner's authorized agent by submitting a request for waiver of time limit to the appropriate city staff, along with a fee to defray the cost of processing the request.

(3) Action

At the meeting for which the request for waiver of time limit is scheduled, the decision-making body shall consider the request, other relevant support materials, statements made by the applicant or the applicant's representative, and the public, and approve or deny the request based on the standards in Section 40.1-2.2(Q)(4), Waiver of Time Limit Standards.

(4) Waiver of Time Limits Standards

The waiver of time limit shall be approved only upon a finding by two-thirds (2/3) or more of the membership of the decision-making body that substantial evidence is presented that demonstrates:

(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 decision-making body's application of the relevant review standards to the development proposed in the application; or

(b) New or additional information is available that was not available at the time of the review that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed; or

(c) A new application is proposed to be submitted that is materially different from the prior application; or

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

(R) Lapse of Approval

Lapse of approval shall occur as provided by this Ordinance for the various types of permits and development approvals. Except for general or proffered amendments to the official zoning map (rezoning), if no provision for lapse is given by this Ordinance for a particular type of permit or development approval, and if no lapse period is imposed as part of an approval in the permit or development approval, lapse shall occur if development is not commenced or a subsequent permit is not obtained within two years.

40.1-2.3 STANDARDS AND REQUIREMENTS FOR APPLICATIONS FOR PERMITS AND DEVELOPMENT APPROVALS

This section includes the individual review procedures, standards, and related information for each of the applications for permits and development approvals, as summarized in Table 40.1-2.1(A), Summary Table of Development Review Structure.

(A) Zoning Map Amendment (Rezoning) or Text Amendment

(1) Purpose and Intent

The purpose and intent of this section is to provide procedures and standards for amending the zoning map or text of this Ordinance.

(2) Authority

The City Council may adopt an ordinance amending the zoning map or text of this Ordinance in accordance with the procedures and standards of this section.

(3) Initiation

(a) An application to amend the zoning map (rezoning) may be initiated by the City Council, the Planning Commission, the HPC (for an historic district), the Planning Director, or a person who may submit applications in accordance with Section 40.1-2.2(A), Authority to File Applications.

(b) An application to amend the text of this Ordinance may be initiated by the City Council, the Planning Commission, the Planning Director, or a person who may submit applications in accordance with Section 40.1-2.2(A), Authority to File Applications.

(c) If the City Council, Planning Commission, HPC, Planning Director, or a person who may submit applications in accordance with Section 40.1-2.2(A), Authority to File Applications, initiates an amendment to the zoning map (Rezoning) or the text of this Ordinance, the application shall include the statutory public purpose for the proposed amendment in accordance with Code of Virginia (1950), as amended.

(4) Proffers Distinguished

(a) City Council shall not apply conditions to applications to amend the zoning map (rezonings).

(b) Applications to amend the zoning map (rezonings) either may be general applications, or may be subject to voluntary proffers proposed by the applicant requesting the amendment.

(5) Procedures

(a) Basic Procedures

(i) For Zoning Map Amendments Without Proffers

The procedures and requirements for the submission, completeness determination, review, recommendation, hearing, and decision on applications for the zoning map or text amendments are as established in Section 40.1-2.2, Common Review Procedures, except applications for a zoning map amendment to an historic district, may be made by the City Council, the Planning Commission, the HPC, private preservation organizations, neighborhood associations or civic leagues, groups of property owners, or individual property owners.

(ii) For Zoning Map Amendments with Proffers

If the applicant proposes to offer proffers as part of an application to amend the zoning map (rezoning), the application shall also comply with the following requirements:

a. A voluntary proffer statement may be accepted prior to required public notification of the application for which proffers are offered by an applicant.

b. Once public notification of the first public hearing occurs, a proffer to an application shall not be made that is considered a substantial amendment, unless the application is modified, reconsidered and re-reviewed by city staff (as appropriate), re-noticed in accordance with Section 40.1-2.2(J), Public Notification, and re-reviewed by the Planning Commission and City Council (if appropriate). This shall not apply if:

1. The amended voluntary proffer is not a substantial amendment that materially changes the original voluntary proffer submitted by the applicant; or

2. The substantial amendment is the result of Planning Commission, public, or city staff action or comments made about the application after a public hearing is conducted before the Planning Commission.

c. For the purposes of this section, a "substantial amendment" includes a modification of proffer(s) that materially changes the uses, layout, and character of external impacts of the development proposed as part of the amendment in a way that is less restrictive than the proffer(s) originally proposed and considered.

(b) Public Hearing, Review, and Recommendation by HPC

(i) Creation of Historic Districts and Designation of Historic Properties

a. Initiation

Prior to the HPC's recommendation on an application to amend the zoning map to establish an historic district or amendment to the boundaries of an historic district, the HPC shall prepare a report for nomination consisting of a completed National Register of Historic Places nomination/amendment or:

1. A physical description;

2. A statement of the historical, cultural, architectural and/or aesthetic significance;

3. A map showing historic district boundaries and classification (i.e., contributing, noncontributing) of individual properties therein, or showing boundaries of individual historic properties;
4. A statement justifying district or individual property boundaries; and
5. Representative photographs.

b. Designation of an Historic District

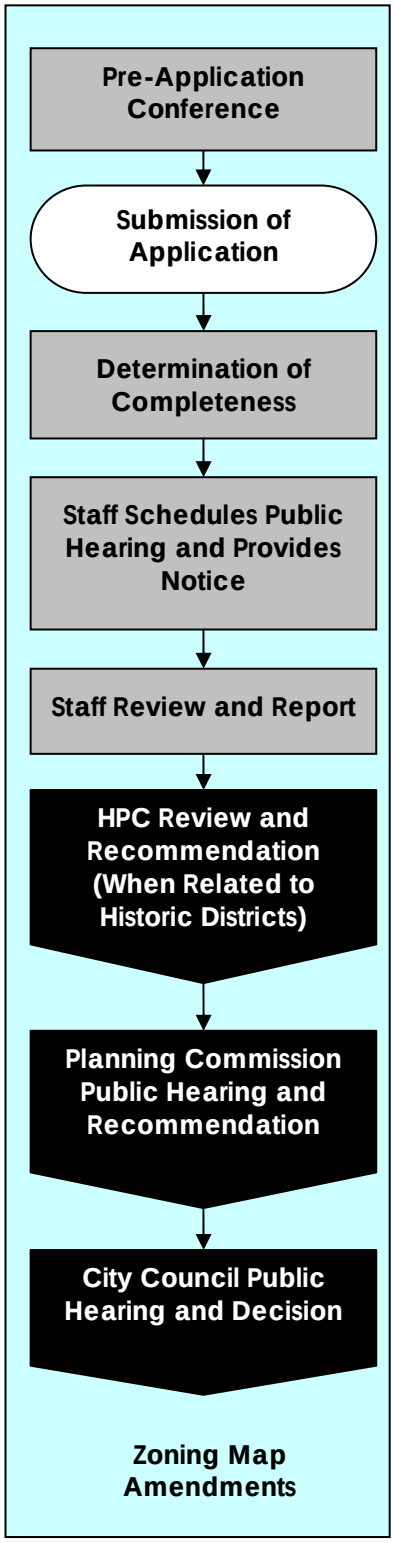
An historic district is a geographically definable area, which contains buildings, structures, sites, objects, and landscape features or a combination thereof, that:

1. Have special character or special historic/architectural value or interest;
2. Represent one or more periods, styles, or types of architecture typical of one or more eras in the history of the city, state, or region; and
3. Cause such area, by reason of such factors, to constitute a visibly perceptible section of the city.

c. Designation of Historic Property

An historic property is an individual building, structure, site, or object, including the adjacent area necessary for the proper appreciation or use thereof, deemed worthy of preservation by reason of value to the city, state, or region, for one of the following reasons:

1. It is an outstanding example of a structure representative of its era;
2. It is one of the few remaining examples of a past architectural style;
3. It is a place or structure associated with an event or persons of historic or cultural significance to the city, state, or the region; or
4. It is a site of natural or aesthetic interest that is continuing to contribute to the cultural or historical development and heritage of the city, state, or region.



d. Boundaries

The boundaries of an historic district or an historic property shall be included in the separate ordinances designating such districts and properties and shall be shown on the official zoning map.

e. Adoption Ordinance Requirements

The following are required for the adoption of an ordinance designating an historic district or property:

1. A designation proposed by the City Council, the Planning Commission, the HPC, private preservation organization, neighborhood association or civic league, group of land owners.

2. An ordinance designating any property or district as historic shall:

A. List each property in a proposed historic district or describe the proposed individual historic property;

B. Set forth the name(s) of the owner(s) of the designated property or properties; and

C. Require that the property or district be shown on the official zoning map, and be kept as a public record to provide notice of such designation.

3. Upon the designation, modification, or designation removal of each historic district or property, the Planning Director shall file with the Clerk of Circuit Court a copy of the resolution containing such action, and a boundary description of such district.

4. Within 30 days following the adoption of the ordinance designating the historic district or property, the owners of each designated historic property, and the owners and occupants of each building, structure, site, or object located within a designated historic district, shall be given written notification of such designation by the city. The notice shall apprise said owners and occupants of the necessity of obtaining a certificate of appropriateness prior to undertaking any material change in appearance of the historic property designated or within the historic district designated.

(c) Public Hearing, Review, and Recommendation by Planning Commission

(i) After HPC review and recommendation on an application for a zoning map amendment to an historic district, and in all other instances, following staff review, there shall be public notification in accordance with Section 40.1-2.2(J), Public Notification, after which the Planning Commission shall conduct a public hearing on the application in accordance with Section 40.1-2.2(K), Hearing Procedures.

(ii) After close of the public hearing, the Planning Commission shall consider the application, relevant support materials, the staff report, and any comments given by the public at the hearing, and by a majority vote of a quorum present, adopt a written recommendation for one of the following actions, based on the standards in Section 40.1-2.3(A)(6), Zoning Map Amendment Standards, Section 40.1-2.3(A)(7), Proffer Standards (Offered as Part of a Zoning Map Amendment (Rezoning)), or Section 40.1-2.3(A)(8), Zoning Text Amendment Standards (as appropriate):

a. Approval of the application as submitted;

b. Approval of the application with proffers proposed by the applicant; or

c. Denial of the application.

(iii) Following its recommendation on a proposed amendment, the Planning Commission shall forward the recommendation to the City Council and submit a report with the recommendations along with an explanation of how the application either complies with or fails to comply with the requirements of this Ordinance.

(d) Public Hearing, Review, and Action by City Council

(i) Upon certification of the Planning Commission's report and recommendation, and public notification on the application in accordance with Section 40.1-2.2(J), Public Notification, the City Council shall conduct a public hearing on the application in accordance with Section 40.1-2.2(K), Hearing Procedures.

(ii) After close of the hearing, the City Council shall consider the application, relevant support materials, the staff report, the Planning Commission's report and recommendation, and any comments given by the public at the hearing, and by a majority vote of a quorum present, take one of the following actions based on the standards in Section 40.1-2.3(A)(6), Zoning Map Amendment Standards, Section 40.1-2.3(A)(7), Proffer Standards (Offered as Part of a Zoning Map Amendment (Rezoning)), or Section 40.1-2.3(A)(8), Zoning Text Amendment Standards (as appropriate):

a. Approval of the application as submitted;

b. Approval of the application with proffers proposed by the applicant;

c. Denial of the application; or

d. Remand of the application back to the Planning Commission for further consideration.

(6) Zoning Map Amendment (Rezoning) Standards

Amending the zoning map is a matter committed to the legislative discretion of the City Council and is not controlled by any one factor. In determining whether to adopt or deny the proposed amendment, or, where appropriate, to accept proffered conditions, the City Council's consideration may include, but not be limited to, the following factors:

(a) Whether and the extent to which the proposed amendment is consistent with the comprehensive plan, or other applicable and adopted long-range planning documents;

(b) Whether and the extent to which there are changed conditions that require an amendment;

(c) Whether and the extent to which the proposed amendment addresses a demonstrated community need;

(d) Whether and the extent to which the proposed amendment will have a positive effect on the city's desired balance between residential and nonresidential uses;

(e) Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the land subject to the amendment, and is the appropriate zoning district for the land and the existing use(s);

(f) Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern, or deviate from logical and orderly development patterns;

(g) Whether and the extent to which the proposed amendment would result in the creation of an isolated zoning district unrelated to adjacent and surrounding zoning districts;

(h) Whether and the extent to which the proposed amendment will result in significant adverse impacts on the property values of surrounding lands;

(i) Whether and the extent to which 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, floodplains, wetlands, and the natural functioning of the environment;

(j) Whether and the extent to which the proposed amendment would result in development that is adequately served by transportation facilities, including whether a substantial deterioration of the level of service on the city's transportation network would occur;

(k) Whether and the extent to which the proposed amendment would result in development that has an adverse impact on the city's economic vitality; and/or

(l) Whether or not delinquent real estate taxes are owed to the city.

(7) Proffer Standards (Offered as Part of Zoning Map Amendment (Rezoning))

Proffers offered by an applicant as part of a zoning map amendment (rezoning) shall be subject to the following requirements:

(a) When Proposed

All proffers shall be proposed in writing as part of the rezoning application prior to the first public notification of the required public hearings, in accordance with Section 40.1-2.2(J), Public Notification. Proffers may be amended only in accordance with Section, 40.1-2.3(A)(5), Basic Procedures.

(b) General

Voluntary proffers made by an applicant may be accepted by the City Council provided they comply with the Code of Virginia (1950), as amended, and the following:

(i) Necessary and Reasonable

a. The proposal to amend the zoning map necessitates the proposed proffers, and they are reasonably related to the amendment request.

b. The proposed proffers are not generally applicable to lands with similar zoning district classifications.

(ii) Conformance with the Comprehensive Plan

The proposed proffers are in conformity with the comprehensive plan.

(iii) Supplement the District Standards

The proposed proffers are in addition to and are no less stringent than the standards and requirements of the proposed zoning district.

(iv) Dedication or Payments

a. In the event proposed proffers include land dedication or cash payments for public facilities to serve the land subject to the zoning map amendment, such land dedication or cash payment shall not be made until the public facilities are included in the city's capital improvement program; provided nothing shall prevent the city from accepting proffers which are not normally included in the capital improvement program.

b. If proffers include land dedication or cash payments, the proffers shall provide for the disposition of such land dedication or cash payment in the event the land or cash payment is not used for the purpose for which it is proffered.

(c) Enforcement and Guarantee of Performance and Conditions

(i) The Planning Director may require an applicant proposing proffers to guarantee performance of the proffers accepted by the City Council. The guarantee(s) shall be in an amount and in a manner satisfactory to the City Engineer. Such guarantee(s) shall be reduced or released by the City Engineer or a designee upon the submission of satisfactory evidence that performance of such proffers are completed as required by approval of the amendment.

(ii) Failure to comply with the proffers accepted by the City Council, including the guarantee(s), shall constitute cause to deny requests to approve any subsequent permits and development approvals required under this Ordinance for the land subject to the amendment with proffers.

(iii) The Zoning Administrator, in an effort to enforce the conditions approved by the City Council, may:

a. Bring necessary legal action to ensure compliance, including injunction, abatement, or other appropriate legal relief; or

b. Order in writing the remedy for any noncompliance of conditions.

(8) Zoning Text Amendment Review Standards

Amending the text of this Ordinance is a matter committed to the legislative discretion of the City Council and is not controlled by any one factor. In determining whether to adopt or deny the proposed text amendment, the City Council's consideration may include, but not be limited to, the following factors:

(a) Whether and the extent to which the proposed amendment is consistent with the comprehensive plan and any other applicable and adopted long range planning documents;

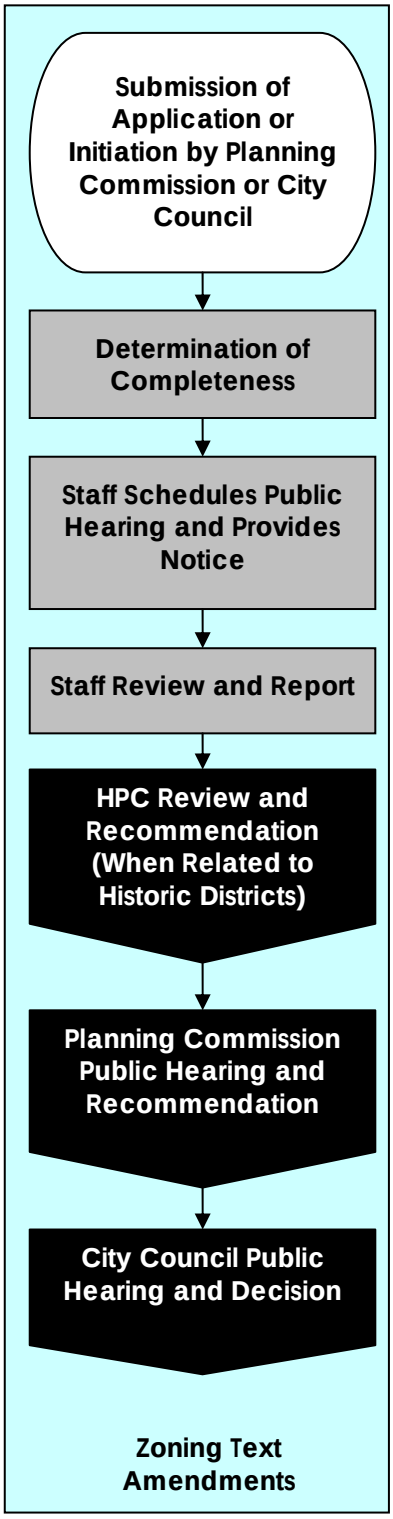
(b) Whether the proposed amendment is in conflict with any provision of this Ordinance and any other regulations contained in the City Code or other applicable regulations;

(c) Whether and the extent to which there are changed conditions that require an amendment;

(d) Whether and the extent to which the proposed amendment addresses a demonstrated community need;

(e) Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern; and

(f) Whether and the extent to which 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, floodplains, wetlands, and the natural functioning of the environment.



(9) Effect of Proffers Accepted as Part of Zoning Map Amendment (Rezoning)

(a) Proffers accepted by the City Council as part of an approved amendment to the zoning map shall continue in effect until a subsequent amendment of the zoning map modifies the zoning district of the land or the content of previously approved proffers.

(b) In cases where proffers are accepted as part of an amendment to the zoning map, the zoning map shall include a notation reflecting the specific proffers that were accepted by the City Council and apply to the land. The accepted proffers shall be indexed and recorded in the office of the Planning Director.

(c) Any subsequent applications for permits or development approvals on land subject to accepted proffers shall only be approved if they are in substantial

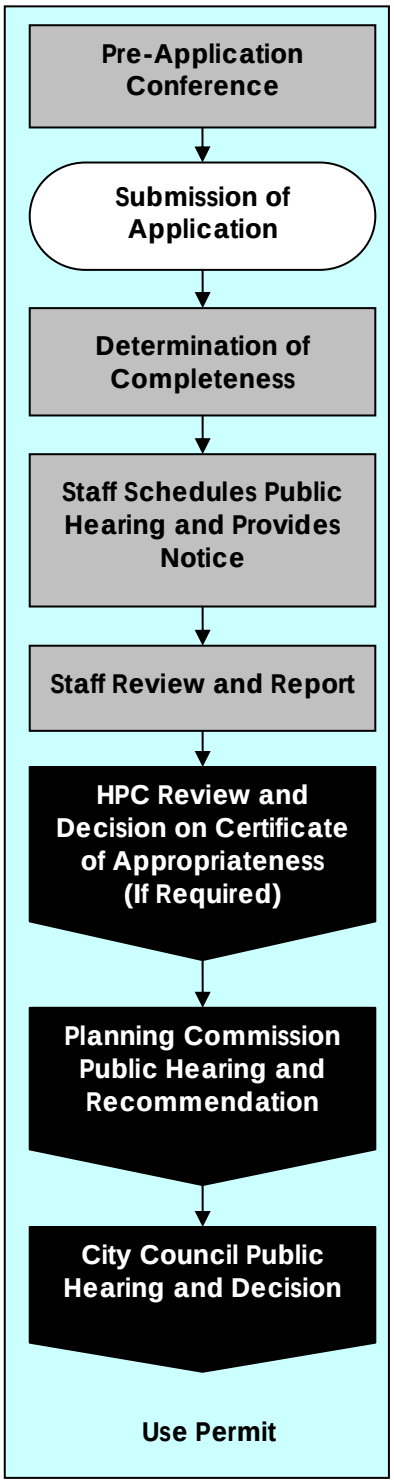
conformity with the accepted proffers. For the purposes of this section, "substantial conformity" shall mean the degree of conformity that leaves a reasonable margin for adjustment due to final engineering data, but conforms with the general nature of the zoning district, the uses approved, and the specific terms and conditions of the proffer(s).

(10) Recording Requirement for Historic Districts or Historic Properties

(a) Following the adoption by ordinance of an historic district, a copy of the ordinance creating the district and a boundary description of such district shall be filed by the Planning Director with the Clerk of Circuit Court for the City of Portsmouth.

(b) Within 30 days following the adoption of the ordinance creating an historic district, the owners and occupants of each building, structure, site, or object located within the designated historic district shall be given written notification of such designation by the HPC which notice shall notify said owners and occupants of the necessity of obtaining a Certificate of Appropriateness in accordance with the requirements of this Ordinance prior to undertaking any material change in appearance of the historic property designated.

(c) Following the adoption by ordinance of an historic district, the HPC shall notify all necessary agencies within the city of the establishment of the new historic district.



(B) Use Permit

(1) Purpose and Intent

A use requiring a use permit is a use that may be appropriate in a 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. The purpose of this section is to establish procedures and standards for review and approval of use permits that provide for such special consideration.

(2) Applicability

A use permit is required for development of any use designated in Table 40.1-4.1(A), Use Table, as a use requiring a use permit in accordance with this section.

(3) Procedure

(a) Basic Procedures

The procedures and requirements for the initiation, submission, completeness determination, review, and decision on an application for a use permit is as established in Section 40.1-2.2, Common Review Procedures.

(b) Public Hearing, Review, and Recommendation by the Planning Commission

(i) Following staff review and public notification in accordance with Section 40.1-2.2(J), Public Notification, the Planning Commission shall conduct a public hearing on the application in accordance with Section 40.1-2.2(K), Hearing Procedures.

(ii) After close of the public hearing, the Planning Commission shall consider the application, relevant support materials, the staff report, and any comments given by the public at the hearing, and by a majority vote of a quorum present prepare a written recommendation for one of the following actions, based on the standards in Section 40.1-2.3(B)(4), Use Permit Standards:

a. Approval of the application as submitted;

b. Approval of the application with conditions (See Section 40.1-2.2(M), Conditions of Approval); or

c. Denial of the application.

(iii) Following its recommendation, the Planning Commission shall forward the recommendation to the City Council for review.

(c) Public Hearing, Review, and Action by the City Council

(i) Upon receipt of the Planning Commission's recommendation and public notification in accordance with Section 40.1-2.2(J), Public Notification, the City Council shall conduct a public hearing on the application in accordance with Section 40.1-2.2(K), Hearing Procedures.

(ii) After close of the hearing, the City Council shall consider the application, the relevant support materials, the staff report, the Planning Commission's recommendation, and any comments given by the public, and by a majority vote of a quorum present, take one of the following actions based on the standards in Section 40.1-2.3 (B) (4), Use Permit Standards:

a. Approval of the application as submitted;

b. Approval of the application with conditions (See Section 40.1-2.2(M), Conditions of Approval); or

c. Denial of the application.

(4) Use Permit Standards

An application for a Use Permit shall be approved only upon a finding the applicant demonstrates all of the following standards are met:

(a) The proposed use complies with the applicable standards of this Ordinance;

(b) The proposed use is consistent with the comprehensive plan;

(c) The proposed use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands;

(d) The proposed use is configured to minimize adverse effects, including the visual impacts of the proposed use on adjacent lands;

(e) The proposed use avoids significant deterioration of water and air resources, and other natural resources;

(f) The proposed use maintains safe and adequate egress and ingress onto the site, and safe road conditions around the site;

(g) The proposed use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning districts; and

(h) The use complies with all other city, state, and federal laws and regulations.

(5) Conditions of Approval

In authorizing a use permit, the City Council may impose such conditions regarding the location, character, and other features of the proposed use permit as may be deemed necessary to ensure compliance with the general intent and purposes of this Ordinance and to prevent or minimize adverse effects from the proposed use approved. Conditions, where imposed, shall be included as part of the approval.

(6) Effect of Decision

(a) A use permit authorizes only the particular use(s) and associated development that is approved. A use permit, including any approved plans and conditions, shall run with the land and shall not be affected by a change in ownership unless specifically conditioned as part of the approval.

(b) No business license shall be issued unless the use meets all conditions of approval.

(7) Expiration

(a) Unless otherwise specified in the use permit, an application for a building permit or business license (whichever is appropriate) shall be applied for and approved within two years of the date of the approval of the use permit; otherwise, the use permit shall become null and void, and automatically expire. Permitted timeframes do not change with successive owners.

(b) Upon written application submitted at least 30 days prior to the expiration of the use permit by the applicant, and upon a showing of good cause, the Planning Commission may grant one extension not to exceed one year. The approval shall be deemed extended until the Planning Commission has acted upon the request for extension. Failure to submit an application for an extension within the time limits established by this section shall render the use permit null and void, and the development approval shall automatically expire.

(c) In addition, a use permit upon which the approved use is developed in accordance with the permit, automatically expires and is immediately null and void when there is a change in use, or when the use approved in the use permit is inactive for a period greater than two years.

(8) Revocation of Use Permits

A use permit may be revoked or modified by the City Council after noticing a public hearing in the same manner as a zoning map amendment pursuant to Section 40.1-2.2(J), Public Notification, [1] and conducting a public hearing in accordance with Section 40.1-2.2(K), Hearing Procedures. The permit shall be revoked only if there is a finding:

(a) The use permit was obtained or extended by fraud or deception;

(b) The applicant has failed to comply with one or more of the conditions of approval;

[1] Public notification is required to comply with the same requirements as an amendment to the zoning map.

(c) There is a change in conditions affecting the public health, safety, and welfare, since adoption of the use permit; or

(d) There are repeated violations of this Ordinance by the holder of the use permit, related to the development approved by the use permit.

In addition, and in the discretion of the Chief of Police, if there is a significant risk to public safety or peace and good order on land subject to a use permit that creates the risk of blight, then proceedings to revoke a use permit may be initiated by the Planning Director by sending a letter to the permittee to correct the situation that creates the risk of blight. If within six months of the date the letter is sent out the Planning Director determines the situation is continuing, the Planning Director may initiate proceedings to revoke the use permit. However, if at any time during the course of this process, the Chief of Police determines there is a significant risk to public safety or peace and good order as to create a risk of blight that must be corrected immediately, the Planning Director may initiate proceedings to revoke the use permit immediately, without waiting six months for the permittee to correct the problem.

(9) Amendments

A use permit may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

(C) Type I Development Plan

(1) Purpose and Intent

The purpose of a type I development plan is to allow for the review of development proposed for a site prior to construction, to ensure its layout and general configuration complies with all applicable standards and requirements of this Ordinance and all other applicable city regulations. The purpose of this section is to establish the procedures and standards for the review of a type I development plan.

(2) Applicability

A type I development plan shall be reviewed in accordance with the procedures and standards of this section prior to issuance of a building permit, unless exempted in accordance with Section 40.1-2.3(C)(3), Exemptions.

(3) Exemptions

The following development shall be exempted from the requirements of this section:

(a) One-family or two-family detached dwellings, unless such review is required by the Chesapeake Bay Preservation Act and any regulations or ordinances adopted under their authority;

(b) A proposed nonresidential development in a mixed-use or activity center base zoning district of less than 2,500 square feet in area; and

(c) Internal construction that does not increase gross floor area or building height, increase the density or intensity of use, and increase off-street parking requirements.

(4) Initiation

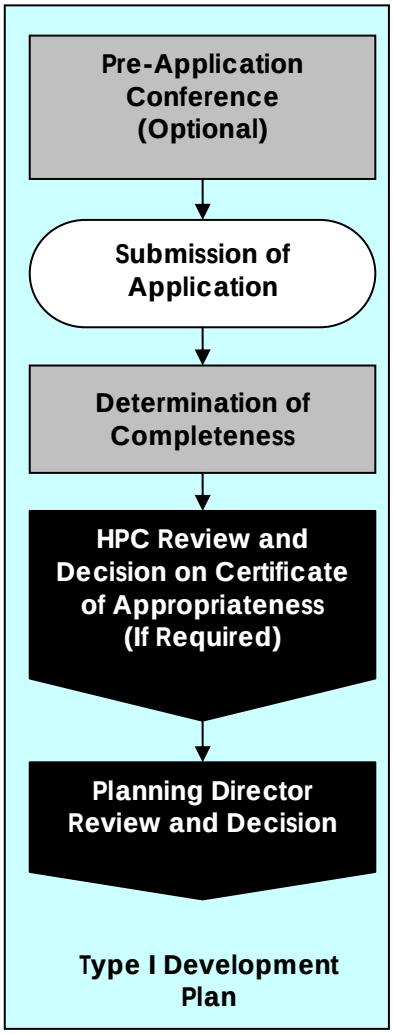
An application for a type I development plan may be initiated by any person who may submit applications in accordance with Section 40.1-2.2 (A), Authority to File Applications.

(5) Procedure

(a) Basic Procedures

(i) Except as modified in this subsection, the procedures and requirements for the initiation, submission, completeness determination, review, and decision on applications for type I development plan are as established in Section 40.1-2.2, Common Review Procedures.

(ii) The application for a type I development plan shall be reviewed within 60 days from the date the application is determined complete. The application review time is extended to 90 days or as authorized by Section 15.2-2222.1 of the Code of Virginia (1950), as amended, if a portion of the application is required to be reviewed and approved by a state department or agency. In all instances, review of the application shall occur within 45 days after receiving notification from all state agencies required to review and approve the plan that it is approved by the respective state agencies. [2]



(b) Review and Action by the Planning Director

Upon receipt of a complete application, the Planning Director shall review the application in accordance with Section 40.1-2.2(L), Review by Planning Director or Zoning Administrator, and take one of the following actions based on the standards in Section 40.1-2.3(C)(6), Type I Development Plan Standards:

(i) Approval of the application; or

(ii) Approval of the application, with conditions (See Section 40.1-2.2(M), Conditions of Approval); or

(iii) Denial of the application.

(6) Type I Development Plan Standards

An application for a type I development plan shall be approved upon a finding that all of the following standards are met:

(a) The development complies with the applicable district and use-specific standards;

(b) The development complies with all other applicable standards of this Ordinance;

(c) The development complies with all requirements or conditions of any applicable permit or development approvals (e.g., zoning map amendments with proffers, variance permits, use permits, etc.);

[2] In the event that the Planning Director fails to take action on the type I development plan within the time provided in this section, the applicant may, after 10 days written notice to the Planning Director, petition the circuit court in accordance with the Code of Virginia, 1950 (as amended), and request the court require the Planning Director to take action on the application.

(d) The development is consistent with the comprehensive plan; and

(e) The development complies with all other applicable city regulations.

(7) Conditions of Approval

In authorizing a type I development plan, the Planning Director may impose such conditions regarding the location, character, and other features of the proposed type I development plan as may be deemed necessary to ensure compliance with the general intent and purposes of this Ordinance and to prevent or minimize adverse effects from the proposed type I development plan. Conditions, where imposed, shall be included as part of the approval.

(8) Expiration

(a) Unless otherwise specified in the type I development plan approval, an application for a building permit or business license (whichever is appropriate) shall be applied for and approved within five years of the date of the approval of the type I development plan; otherwise, the type I development plan shall become null and void, and automatically expire. Permitted timeframes do not change with successive owners.

(b) Upon written application submitted at least 30 days prior to the expiration of the type I development plan by the applicant, and upon a showing of good cause, the Planning Director may grant one extension not to exceed six months. The approval shall be deemed extended until the Planning Director has acted upon the request for extension. Failure to submit an application for an extension within the time limits established by this section shall render the type I development plan null and void, and the development approval shall automatically expire.

(9) Amendments

A type I development plan may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

(10) Appeals

A applicant may appeal a decision of the Planning Director on an application for a type I development plan to the Planning Commission in accordance with Section 15.2-2259 of Code of Virginia (1950), as amended.

(D) Type II Development Plan

(1) Purpose and Intent

The purpose of the type II development plan review is to allow for the review of certain developments, in a public hearing setting, to ensure that the layout and general design of proposed development is compatible with surrounding uses, complies with all other applicable city regulations, and provides compensating public benefits when certain standards in this Ordinance are varied.

(2) Authority

The Planning Commission shall review and make a decision on an application for a type II development plan in accordance with the procedures and standards of this section.

(3) Qualification as a Type II Development Plan

Development plan applications seeking to modify any of the following standards of this Ordinance may request to do so as a type II development plan:

(a) Increases in residential unit density beyond the maximum allowed for a base or overlay zoning district;

(b) Increases in nonresidential intensity beyond the maximum allowed for a base or overlay zoning district;

(c) Decreases in required minimum lot area, setbacks or other bulk standards beyond what would be available through an Administrative Adjustment; or

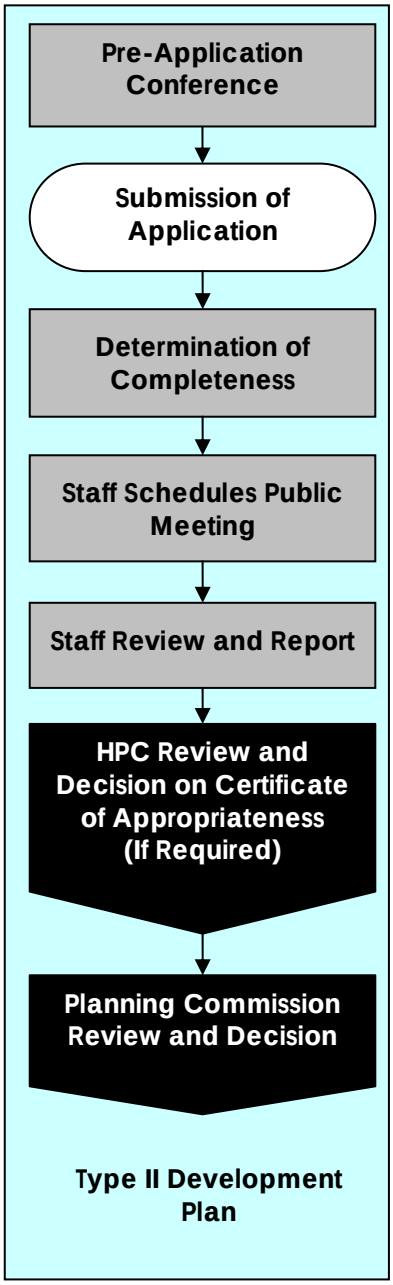
(d) Increases in impervious lot coverage, floor area ratios, building heights or other standards beyond what would be available through an Administrative Adjustment.

(4) Procedure

(a) Basic Procedures

(i) Except as modified in this subsection, the procedures and requirements for the initiation, submission, completeness determination, review, and decision on applications for a type II development plan are as established in Section 40.1-2.2, Common Review Procedures.

(ii) The application for type II development plan shall be reviewed within 60 days from the date the application is determined complete. The application review time is extended to 90 days, or as authorized by Section 15.2-2222.1 of the Code of Virginia (1950), as amended, if a portion of the application is required to be reviewed and approved by a state department or agency. In all instances, review of the application shall occur within 45 days after receiving notification from all state agencies required to review and approve the plan that it is approved by the respective state agencies.



(b) Hearing, Review, and Decision by the Planning Commission

(i) Following staff review, the Planning Commission, at a regularly scheduled meeting, shall conduct a hearing on the application in accordance with Section 40.1-2.2(K), Hearing Procedures.

(ii) At the hearing, the Planning Commission shall consider the application, relevant support materials, the staff report, and any comments given by the public about the application. At the conclusion of the hearing, the Planning Commission, by a majority vote of a quorum present, shall take one of the following actions, based on the standards in Section 40.1-2.3(D)(5), Type II Development Plan Standards:

a. Approval of the application as submitted;

b. Approval of the application with conditions (See Section 40.1-2.2(M), Conditions of Approval); or

c. Denial of the application.

(5) Type II Development Plan Standards

A type II development plan shall be approved only upon a finding that all of the following standards are met:

(a) The applicant has submitted a plan that depicts the proposed development in a manner sufficient to allow the Planning Commission to make a determination regarding its compatibility with surrounding uses;

(b) The proposed development is consistent with the comprehensive plan;

(c) The uses proposed in the type II development plan are allowed in the base and overlay districts where located;

(d) The type II development plan includes an appropriate range of compensating public benefits in accordance with Section 40.1-2.3(D)(6), Compensating Public Benefits;

(e) Any deviations from the standards of this Ordinance are the absolute minimum necessary to accommodate the development proposal; and

(f) The proposed development complies with all applicable proffers and conditions applicable to the land.

(6) Compensating Public Benefits

(a) Purpose

Compensating public benefits are elements of a development application that may be proposed by an applicant as a means of ensuring a proposed type II development plan has the maximum possible consistency with city goals and local conditions. The city shall review type II development plans in accordance with this section in order to encourage the provision of certain community benefits or amenities, such as parks, open space, workforce housing, public active and passive recreational opportunities, and other physical, social, or cultural benefits or amenities that are in compliance with the comprehensive plan.

(b) Menu of Compensating Benefits

One or more of the following benefits may be offered either on or off the site of the subject application:

(i) Architectural design that exceeds any minimum standards established in this Ordinance, or any other city ordinances and the Code of Ordinances;

(ii) Site design incorporating principles of new urbanism and traditional neighborhood development;

(iii) Provision of environmentally-sustainable and energy-efficient building design;

(iv) Provision of one or more green building incentives (See Section 40.1-5.8);

(v) Provision of passive or active open space and related improvements, beyond the open space set-aside standards of this Ordinance (See Section 40.1-5.4);

(vi) Permanent protection of scenic views or access to waterfront areas;

(vii) Public parks and recreational facilities;

(viii) Public trails and trail linkages;

(ix) Cultural or historic facilities deeded to the city or qualified not-for-profit agencies; or

(x) Other public benefits found to be appropriate by the Planning Commission.

(c) Review of Proposed Compensating Public Benefits

To evaluate the adequacy of the proposed benefit(s) to be accepted as part of a proposed type II development plan, the following information shall be provided by the applicant with the subject application:

(i) A description of the proposed amenity or amenities outlining the benefits that will accrue to the community, and a description of the relationship between the proposed amenity or amenities and the proposed type II development plan;

(ii) The economic value of the proposed amenity or amenities to the city as compared with the economic value of the proposed development to the applicant;

(iii) A preliminary demonstration that there is adequate public facilities serving or proximate to the proposed development to handle the additional demands the proposed development and any related amenities may place on such facilities beyond the demand that would otherwise occur with conventional development; and

(iv) An explanation as to the way in which the amenity or amenities will implement physical, social, or cultural policies of the comprehensive plan and this Ordinance.

Applicants for a type II development plan may seek non-binding input from the Planning Director regarding proposed benefits and incentives at a pre-application conference prior to submission of the application or at any stage of the application process prior to the formal decision.

(7) Conditions of Approval

In authorizing a type II development plan, the Planning Commission may impose such conditions regarding the location, character, and other features of the proposed type II development plan as may be deemed necessary to ensure compliance with the general intent and purposes of this Ordinance and to prevent or minimize adverse effects from the proposed type II development plan. Conditions, where imposed, shall be included as part of the approval.

(8) Expiration

(a) Unless otherwise specified in the type II development plan approval, an application for a building permit shall be applied for and approved within five years of the date of the approval of the type II development plan; otherwise, the type II development plan shall become null and void, and automatically expire. Permitted timeframes do not change with successive owners.

(b) Upon written application submitted at least 30 days prior to the expiration of the type II development plan by the applicant, and upon a showing of good cause, the Planning Commission may grant one extension not to exceed six months. The approval shall be deemed extended until the Planning Commission has acted upon the request for extension. Failure to submit an application for an extension within the time limits established by this section shall render the type II development plan null and void, and the development approval shall automatically expire.

(9) Amendments

A type II development plan may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

(10) Appeal

An applicant may appeal a decision of the Planning Commission on an application for a type II development plan to the circuit court of the City of Portsmouth in accordance with Section 15.2-2259 of Code of Virginia (1950), as amended.

(E) Temporary Use Permit

(1) Purpose and Intent

The purpose of this section is to establish a procedure for the review of temporary uses in accordance with Section40.1-4.5, Temporary Use Standards.

(2) Applicability

The provisions of this section shall apply to all proposed temporary uses as set forth in Section 40.1-4.5, Temporary Use Standards.

(3) Procedure

(a) Basic Procedures

The procedures and requirements for the initiation, submission, completeness determination, review, and decision on applications for temporary use permits are as established in Section 40.1-2.2, Common Review Procedures.

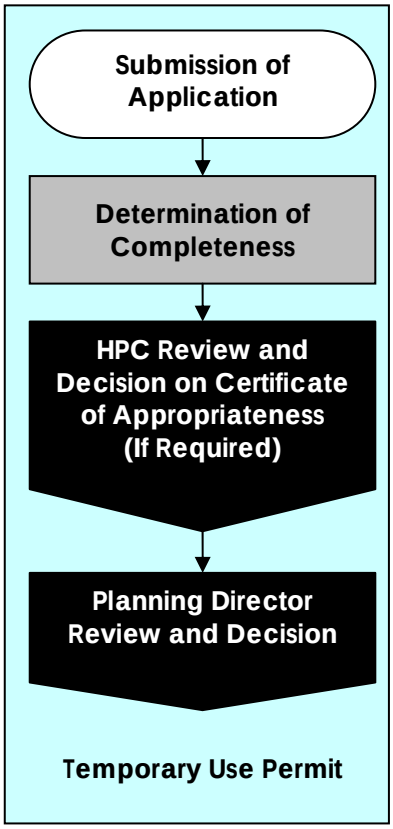
(b) Review and Action by Planning Director

Upon receipt of a complete application, the Planning Director shall review the application in accordance with Section 40.1-2.2(L), Review by City Staff, and take one of the following actions based on the standards in Section 40.1-2.3(E)(4), Temporary Use Permit Standards:

(i) Approval of the application as submitted;

(ii) Approval of the application with conditions (See Section 40.1-2.2(M), Conditions of Approval); or

(iii) Denial of the application.



(4) Temporary Use Permit Standards

An application for a temporary use permit shall be approved upon a finding the applicant demonstrates the proposed temporary use complies with the relevant standards in Section 40.1-4.5, Temporary Use Standards.

(5) Expiration

A temporary use permit shall be effective beginning on the date specified in the permit approval, and shall remain effective for the period indicated on the permit.

(6) Amendment

A temporary use permit may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

(7) Appeal

An appeal from the Planning Director's decision on a temporary use permit application shall be reviewed and decided by the BZA in accordance with Section 40.1-2.3(K), Appeal.

(F) Zoning Compliance Permit

(1) Purpose and Intent

The purpose of this section is to establish a procedure for the review of proposed development to ensure its compliance with the requirements of this Ordinance.

(2) Applicability

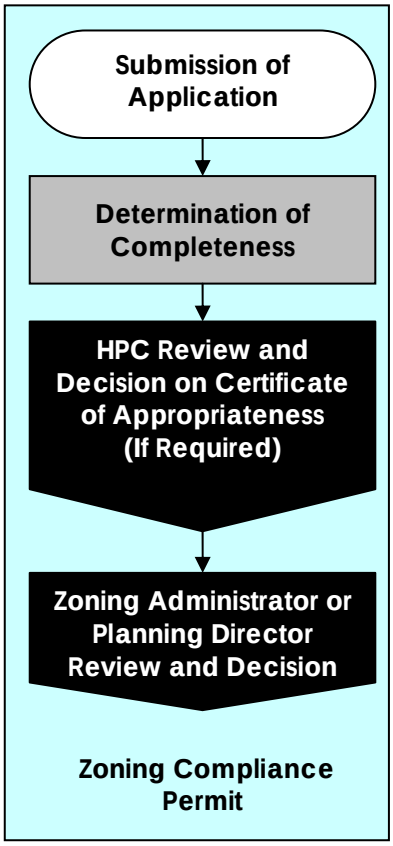
The following development shall receive Zoning Compliance Permit approval prior to submission of an application for a Building Permit or Business License, whichever is appropriate:

(a) A change in use;

(b) Signs subject to the standards in Section 40.1-5.11, Signage;

(c) Development in a historic district that requires a COA; and

(d) The construction or expansion of any new building or structure that requires a building permit but that is not subject to review in accordance with Section 40.1-2.3(C), Type I Development Plan, or Section 40.1-2.3 (D), Type II Development Plan.



(3) Procedure

(a) Basic Procedures

The procedures and requirements for the initiation, submission, completeness determination, review, and decision on applications for a zoning compliance permit are as established in Section 40.1-2.2, Common Review Procedures.

(b) Lots in the Downtown D2 District

Zoning compliance permit applications in the Downtown (D2) district shall be reviewed by the Planning Director in accordance with the standards in Appendix B of this Ordinance.

(c) Review and Action by the Zoning Administrator or Planning Director

Upon receipt of a complete application, the Zoning Administrator, or Planning Director, as appropriate, shall review the application in accordance with Section 40.1-2.2(L), Review by City Staff, and take one of the following actions based on the standards in Section 40.1-2.3(F)(4), Zoning Compliance Permit Standards:

(i) Approval of the application as submitted;

(ii) Approval of the application with conditions (See Section 40.1-2.2(M), Conditions of Approval); or

(iii) Denial of the application.

(4) Zoning Compliance Permit Standards

An application for a zoning compliance permit shall be approved upon a finding the applicant demonstrates the proposed development complies with all relevant standards of this Ordinance.

(5) Effect of Decision

A building permit or business license, whichever is appropriate, shall not be issued until the development subject to this section receives a zoning compliance permit and complies with all its conditions of approval.

(6) Appeal

An appeal from the Zoning Administrator or Planning Director's (as appropriate), decision on a zoning compliance permit application shall be reviewed and decided by the BZA in accordance with Section 40.1-2.3(K), Appeal.

(G) Variance Permit

(1) Purpose

(a) The purpose of a variance permit is to allow certain deviations from the standards of this Ordinance (such as size of area of a lot or parcel of land, or the size, area, bulk, or location of a building or structure), when the land owner demonstrates that, owing to special circumstances or conditions beyond the land owner's control (such as exceptional topographical conditions, narrowness, shallowness, or the shape of a specific parcel of land), the literal application of the standards of this Ordinance would result in unnecessary or unreasonable hardship to the land owner and the need for the variance is not shared generally by other lands, and the deviation is not contrary to the public interest or goals and purposes of this Ordinance.

(b) A variance shall not include a change in use, which shall be accomplished through an amendment to the official zoning map (Section 40.1-2.3(A), Zoning Map Amendment (Rezoning) or Text Amendment).

(2) Authority

The BZA is authorized to review and approve, approve with conditions, or deny an application for a variance permit in accordance with the procedures and standards of this section.

(3) Procedure

(a) Basic Procedures

The procedures and requirements for the initiation, submission, completeness determination, review, and decision on an application for a variance permit are as established in Section 40.1-2.2, Common Review Procedures.

(b) Public Hearing, Review, and Decision by the BZA

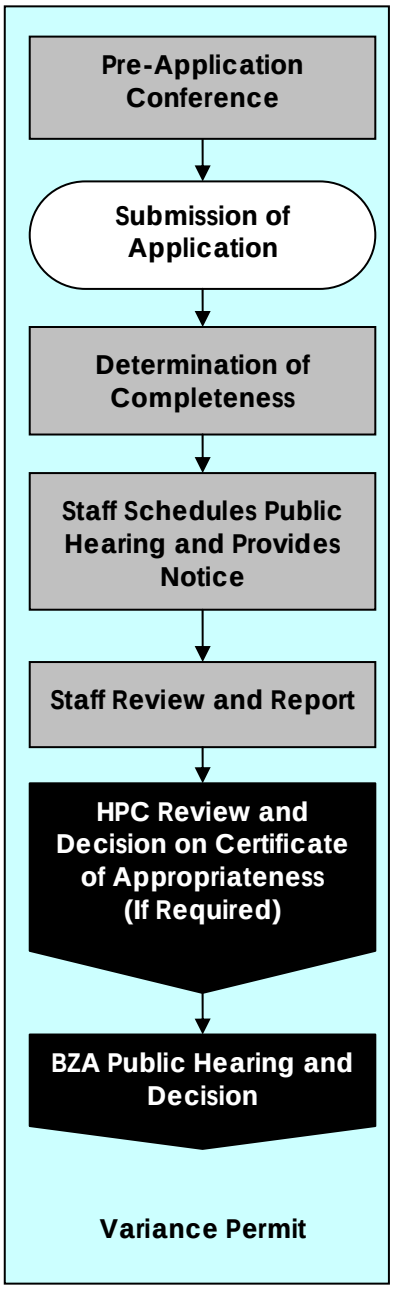
(i) Following staff review of the application and public notification in accordance with Section 40.1-2.2(J), Public Notification, the BZA shall conduct a public hearing on the application in accordance with Section 40.1-2.2(K), Hearing Procedures.

(ii) At the hearing, the BZA shall consider the application, relevant support materials, the staff report, and any comments given by the public, and after close of the hearing, by a majority vote of a quorum present, take one of the following actions, based on the standards in Section 40.1-2.3(G)(4), Variance Standards:

a. Approval of the application as submitted;

b. Approval of the application with conditions (See Section 40.1-2.2(M), Conditions of Approval.); or

c. Denial of the application.



(4) Variance Standards

(a) Findings[3]

An application for a variance permit shall be approved upon a finding that all of the following standards are met:

(i) The land for which the variance is requested is acquired in good faith;

(ii) The land is subject to:

a. Exceptional narrowness, shallowness, size, or shape;

b. Exceptional topographic conditions or other extraordinary situation or condition; or

(iii) The situation is not self-created;

(iv) Because of one or several conditions identified in Section 40.1-2.3(G)(4), Variance Standards, the strict application of this Ordinance would produce

[3] This list of findings is expanded version of the Section 40-195.1 in the current ordinance.

undue hardship, and effectively prohibit or unreasonably restrict the use of the land;

(v) The hardship is not shared generally by other properties in the same zoning district and the same vicinity;

(vi) The authorization of the variance alleviates this clearly demonstrated hardship (as distinguished from a special privilege or convenience sought by the applicant);

(vii) The authorization of the variance will not be of substantial detriment to adjacent properties;

(viii) The character of the zoning district in which the land is located will not be changed by the granting of the variance;

(ix) The condition or situation of the land is not of so general or recurring a nature as to warrant the formulation of a regulation or standard to address the condition or situation;

(x) Any delinquent real estate taxes owed to the city on the lands for which the variance is requested have been paid; and

(xi) The variance authorized by the BZA is the least possible deviation from the standards necessary to afford relief.

(b) Prohibitions

(i) No provision of this Ordinance shall be construed as granting the BZA the power to rezone property.

(ii) No variance shall be granted to allow a use or development condition not permitted by right or proffer.

(iii) No variance shall be granted to any standard or requirement in any other part of the City Code of Ordinances.

(iv) No variance shall be granted that allows a principal or accessory building to exceed any applicable maximum size standards set out in Article 40.1-3: Zoning Districts or Article 40.1-4: Use Standards.

(v) No variance shall be granted to any standard or requirement in Section 40.1-5.1, Off-Street Parking, Loading, and Circulation.

(5) Conditions of Approval

(a) In authorizing a variance, the BZA may impose such conditions regarding the location, character, and other features of the proposed structure granted the variance as it may deem necessary in the public interest to ensure compliance with the requirements of this section and to prevent or minimize adverse effects from the proposed variance. Conditions, where imposed, shall be included as part of the approval.

(b) The BZA may require a guarantee or bond to insure compliance with the conditions imposed.

(6) Effect of Decision

(a) Issuance of a variance permit shall authorize only the particular variance that is approved. A variance permit, including any conditions, shall run with the land and not be affected by a change in ownership.

(b) Development authorized by the variance permit shall not be carried out until the applicant has secured all other permits required by this Ordinance or any other applicable ordinances and regulations of the city. A variance permit, in itself, shall not ensure that the development approved through a variance permit shall receive subsequent approval for any other necessary applications for permit or development approval.

(7) Expiration

(a) The BZA may prescribe, as part of a variance permit, a time within which development activity shall begin, be completed, or both. Failure to begin or complete such development within the time specified shall render the variance permit void, and the permit shall automatically expire.

(b) Upon written application submitted at least 30 days prior to the expiration of the variance permit by the applicant, and upon a showing of good cause, the BZA may grant one extension not to exceed one year. The approval shall be deemed extended until the BZA has acted upon the request for extension. Failure to submit an application for an extension within the time limits established by this section shall render the variance permit void, and the permit shall automatically expire.

(8) Amendment

A variance permit may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

(9) Appeal

Any person jointly or severally aggrieved by any decision of the BZA, or any aggrieved taxpayer or any officer, department, commission, or the city, within 30 days of the date of the decision, may appeal the decision of the BZA on the variance permit to the circuit court of the City of Portsmouth in accordance with Code of Virginia (1950), as amended.

(H) Administrative Adjustment

(1) Purpose and Intent

This purpose and intent of this section is to provide an administrative mechanism for allowing minor variations, or adjustments, to the building setback standards of this Ordinance 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 this Ordinance and is compatible with surrounding lands.

(2) Authority

The Planning Director is authorized to review and approve, approve with conditions, or deny administrative adjustments to the building setback standards of this Ordinance in accordance with the procedures and standards of this section.

(3) Applicability

Administrative adjustments may be requested and granted for reductions in a building setback by up to 15 percent.

(4) Procedure

(a) Basic Procedures

(i) Except as modified below in subsection ii, the procedures and requirements for the initiation, submission, completeness determination, review, and decision on applications for administrative adjustments are as established in Section 40.1-2.2, Common Review Procedures.

(ii) Prior to consideration of an Administrative Adjustment, the Planning Director shall provide public notification in accordance with the standards in Section 40.1-2.2(J), Public Notification.

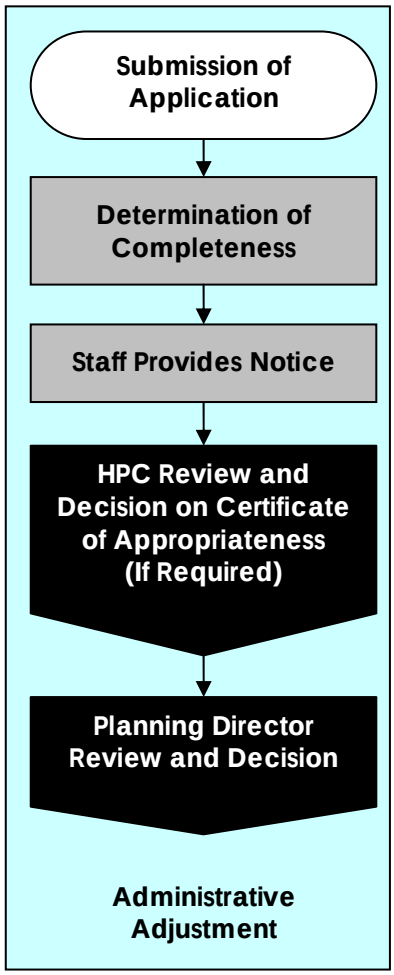
(b) Review and Action by the Planning Director

Upon receipt of a complete application, the Planning Director shall review the application in accordance with Section 40.1-2.2(L), Review by City Staff, and take one of the following actions based on the standards in Section 40.1-2.3(H)(5), Administrative Adjustment Standards:

(i) Approval of the application as submitted; or

(ii) Approval of the application with conditions (See Section 40.1-2.2(M), Conditions of Approval); or

(iii) Denial of the application.



(5) Administrative Adjustment Standards

An application for an administrative adjustment shall be approved upon a finding the applicant demonstrates all of the following standards are met:

(a) The requested administrative adjustment shall not exceed 15 percent of a building setback standard;

(b) The requested administrative adjustment is consistent with the character of development in the surrounding area, and will not result in incompatible uses;

(c) Any adverse impacts from the requested administrative adjustment will be mitigated to the maximum extent practicable;

(d) The requested administrative adjustment is either:

(i) Required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general;

(ii) Supporting an objective or goal from the purpose and intent statements of the zoning district where located; or

(iii) Proposed to save healthy existing trees; and

(e) The requested administrative adjustment will not substantially interfere with the convenient and enjoyable use of adjacent lands, and will not pose a danger to the public health or safety.

(6) Conditions of Approval

In authorizing an administrative adjustment, the Planning Director may impose such conditions regarding the location, character, and other features of the proposed administrative adjustment as may be deemed necessary to ensure compliance with the general intent and purposes of this Ordinance and to prevent or minimize adverse effects from the proposed administrative adjustment. Conditions, where imposed, shall be included as part of the approval.

(7) Subsequent Development

Development authorized by the administrative adjustment shall not be carried out until the applicant secures all other permits or development approvals required by this Ordinance or any other applicable provisions of the city. An administrative adjustment, in itself, shall not ensure that the development approved as an administrative adjustment shall receive subsequent approval for any other necessary applications for permit or development approval.

(8) Effect

Issuance of an administrative adjustment shall authorize only the particular administrative adjustment that is approved in accordance with this section. The administrative adjustment shall run with the land and not be affected by a change in ownership.

(9) Expiration

(a) Unless otherwise specified in the administrative adjustment approval, an application for a building permit shall be applied for and approved within one year of the date of the approval of the administrative adjustment; otherwise, the administrative adjustment shall become null and void, and automatically expire. Permitted timeframes do not change with successive owners.

(b) Upon written application submitted at least 30 days prior to the expiration of the administrative adjustment by the applicant, and upon a showing of good cause, the Planning Director may grant one extension not to exceed six months. The approval shall be deemed extended until the Planning Director has acted upon the request for extension. Failure to submit an application for an extension within the time limits established by this section shall render the administrative adjustment null and void, and the development approval shall automatically expire.

(10) Amendment

An administrative adjustment may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

(11) Appeal

An appeal from the Planning Director's decision on an administrative adjustment application shall be reviewed and decided by the BZA in accordance with Section 40.1-2.3(K), Appeal.

(I) Certificate of Appropriateness (COA)

(1) Purpose and Intent

The purpose and intent of this section is to establish procedures and standards for the review of certificates of appropriateness (COAs) for development in the city's historic districts.

(2) Authority

(a) The Planning Director shall review and decide administrative COA applications, which include certain minor actions as established in the approval matrix in the standards and guideline documents for each historic district, as adopted by City Council.

(b) The Downtown Design Commission shall review and decide applications for COAs within the Downtown D1 district.

(c) The HPC shall review and decide all other COA applications.

(3) Applicability

(a) In General

Unless exempted in accordance with Section 40.1-2.3(I)(4) Exemptions, a COA is required prior to any material change in the appearance of a building, structure, or site located in an historic district (See Section 40.1-3.6(F), Historic Districts). For purposes of this section, a "material change in appearance" shall include construction, reconstruction, exterior alteration, demolition, or relocation that affects the appearance of the building, structure, or site, or that of a contributing or noncontributing building, structure, or site.

(b) Action on Publicly Owned Historic Structures

(i) The Planning Director or other appropriate city official shall file an application for a certificate of appropriateness for the proposed construction, alteration, renovation, or razing of any historic city-owned building or structure, and shall adhere to all other requirements of this Ordinance.

(ii) For buildings and structures owned by other governmental entities or public utilities companies, the City Manager shall request that such owners submit an application for a COA and adhere to all requirements of this section.

(4) Exemptions

The following development shall be exempted from the requirements of this section:

(a) Repairs, maintenance, painting, or alteration of any feature the Building Official certifies is required due to an unsafe or dangerous condition.

(b) The normal repair and maintenance of any exterior architectural feature;

(c) Ordinary yard maintenance in the historic districts to correct deterioration, decay or damage, or to sustain the existing form that does not involve a material change in design, material, color or outer appearance;

(d) Repainting resulting in the same color, except that the original painting of masonry surfaces is not exempted from review.

(e) Replacing broken windowpanes, missing roof shingles, or missing features with matching in-kind materials;

(f) Addition or deletion of television or radio antennas, skylights, or solar collectors in locations not visible from a public street;

(g) Planting of grass, trees and shrubs, but not landscape treatment that substantially alters the contour of a site or involves landscaping or construction of parking areas, fences, walls, walkways, pools, fountains, and the like which materially affect the appearance of a site and that is visible from a public street;

(h) Any changes to a structure that is not visible from a public street.

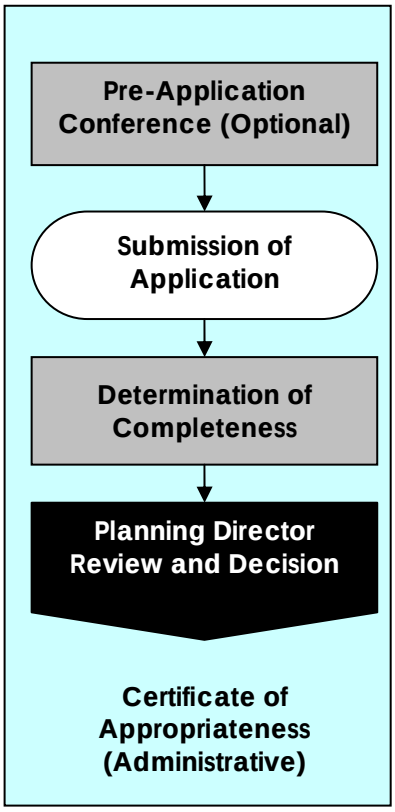
(5) Order of Approvals

A COA shall be approved prior to an applicant receiving approvals for any other permits or development approvals required by this Ordinance.

(6) Procedure for Administrative Review of Certificates of Appropriateness

(a) Basic Procedures

Except as modified in this section, the procedures and requirements for the initiation, submission, completeness determination, review, and decision on applications are as established in Section 40.1-2.2., Common Review Procedures.



(b) Review and Action by the Planning Director

(i) Upon receipt of a complete application, the Planning Director shall review the application and take one of the following actions based on the standards in Section 40.1-2.3(l)(8), Certificate of Appropriateness Review Standards:

a. Approval of the application as submitted; or

b. Denial of the application.

(ii) The Planning Director shall be guided in decisions by the standards and guidelines established for the HPC and shall have the authority to request modifications of the applicant of a specific proposal in order that such proposal may comply with said standards and guidelines.

(iii) In any case where the Planning Director is uncertain of authority to act on a particular application, or in any case where the Planning Director and the applicant cannot agree on changes in the proposal, or if the Planning Director otherwise fails to issue such COA within 30 days, the application shall be referred to the HPC for action in accordance with to Section 40.1-2.3(l)(9), HPC Review of Certificates of Appropriateness. A written report/agenda shall accompany any application forwarded to the HPC.

(iv) The Planning Director shall report, in writing, to the HPC at each regular meeting on all COAs issued through this administrative review process.

(v) Copies of a COA shall be clearly posted in a location visible to the public during the construction or repair process.

(7) Procedure for Review by the Downtown Design Committee

The DDC shall review and decide applications for a COA in accordance with the standards in this subsection and Appendix A of this Ordinance.

(8) Procedure for HPC Review of Certificates of Appropriateness

(a) Applicability

All development that requires a COA that is not subject to administrative review, or review by the DDC, shall be subject to HPC review in accordance with this subsection.

(b) Basic Procedures

Except as modified in this section, the procedures and requirements for the initiation, submission, completeness determination, review, and decision on applications are as established in Section 40.1-2.2, Common Review Procedures.

(c) Public Hearing, Review, and Decision by the HPC

Following staff review and public notification conducted in accordance with Section 40.1-2.2(J), Public Notification, the HPC shall conduct at least one standard public hearing on the application in accordance with Section 40.1-2.2(K), Hearing Procedures.

(i) After close of the hearing, the HPC shall consider the application, relevant support materials, the staff report, and any comments given by the public; and

(ii) The HPC, by a majority vote of a quorum present, shall adopt a written recommendation for one of the following actions, based on the standards in Section 40.1-2.3(I)(9), Certificate of Appropriateness Review Standards, or Section 40.1-2.3(I)(9), Certificate of Appropriateness for Relocation, or Section 40.1-2.3(I)(10), Certificate of Appropriateness for Demolition (as applicable):

a. Approval of the application as submitted;

b. Approval of the application with conditions (See Section 40.1-2.2(M), Conditions of Approval);

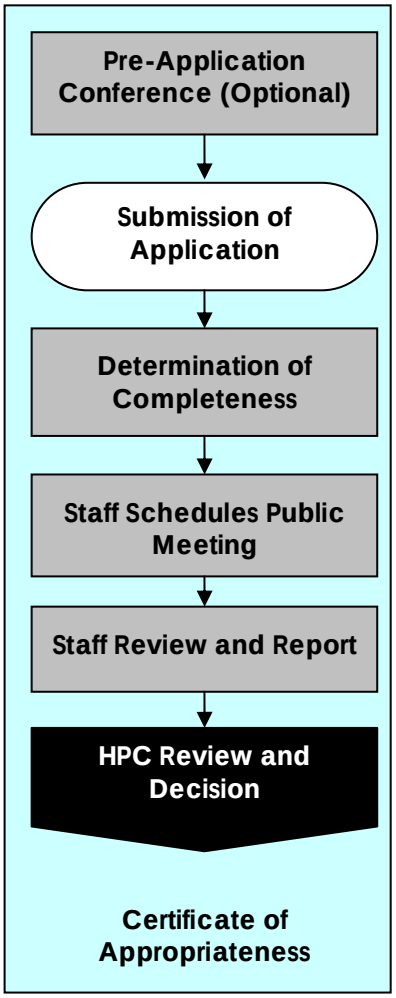
c. Denial of the application.

(iii) Unless the applicant agrees to an extension of time in writing, the failure of the HPC to take action on a COA application within 60 days from the date of application shall be deemed to constitute approval of the plans and specifications as submitted, and the Building Official shall issue any required permit, subject to the separate requirements for such permit.

(9) Certificate of Appropriateness Standards

(a) The standards of this section shall apply to all COA applications except for a COA application for relocation that is subject to Section 40.1-2.3(l)(9), Certificate of Appropriateness for Relocation, or an application for demolition that is subject to Section 40.1-2.3(l)(10), Certificates of Appropriateness for Demolition.

(b) The Planning Director, HPC, or DDC (as appropriate), shall approve the application and issue a COA upon a finding the proposed material change(s) in appearance would not have a substantial adverse effect on the aesthetic, cultural, historic, or architectural significance and value of the historic structure or the historic district in accordance with the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, including the following:



(i) The property is used as it was historically or is given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.

(ii) The historic character of the property is retained and preserved.

(iii) The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize the property is avoided.

(iv) Each property is recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, are not undertaken.

(v) Changes to a property that have acquired historic significance in their own right are retained and preserved.

(vi) Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property are preserved.

(vii) Deteriorated historic features are repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature matches the old in design, color, texture, and, where possible, materials. Replacement of missing features is substantiated by documentary and physical evidence.

(viii) Chemical or physical treatments, if appropriate, are undertaken using the gentlest means possible. Treatments that cause damage to historic materials are not used.

(ix) Archeological resources are protected and preserved in place. If such resources must be disturbed, mitigation measures are undertaken.

(x) New additions, exterior alterations, or related new construction does not destroy historic materials, features, and spatial relationships that characterize the property. The new work is differentiated from the old and is compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

(xi) New additions and adjacent or related new construction is undertaken in a manner that, if removed in the future, the essential form and integrity of the historic property and its environment is unimpaired.

(c) It is not the intent of the city or this Ordinance to discourage contemporary architectural expression, or to require the emulation of existing structures of historic or architectural interest in specific detail. Harmony or incompatibility shall be evaluated in terms of the appropriateness of the architectural features, materials, scale, size, height, and placement of a new structure in relationship to existing structures and to the setting.

(d) In making this determination, the HPC or DDC (as appropriate), shall further consider compatibility with the standards and guidelines as adopted by City Council, with accompanying additions and amendments, in addition to any other pertinent factors.

(10) Certificate of Appropriateness for Relocation

(a) Procedure

All COA applications for relocation shall be reviewed by the HPC or DDC (as appropriate), pursuant to Section 40.1-2.3(l)(7), Procedure for HPC Review of Certificates of Appropriateness.

(b) Relocation Criteria

A decision by the HPC or DDC (as appropriate), approving, approving with conditions, or denying a COA for the relocation of an historic structure, building, site, or object shall be based on:

(i) The historic, scenic, cultural, aesthetic or architectural significance of the building, structure, site, or object;

(ii) The importance of the historic structure, site, or object to the ambiance of a district;

(iii) Whether there are definite plans for the property to be vacated and what the effect of those plans on the character of the surrounding area will be;

(iv) Whether the historic structure, building, site, or object can be moved without significant damage to its physical integrity; and

(v) Whether the proposed relocation area is compatible with the scenic, cultural, aesthetic, historical, and architectural character of the building, structure, site, or object.

(11) Certificate of Appropriateness for Demolition

(a) Procedure

All COA applications for demolition shall be reviewed by the HPC or DDC (as appropriate), pursuant to Section 40.1-2.3(l)(7), Procedure for HPC Review of Certificates of Appropriateness.

(b) Findings and Decision

(i) If preservation of a historic structure is found by the HPC or DDC (as appropriate), to be physically or economically unfeasible according Section 40.1-2.3(l)(10)(c), Demolition Criteria, the HPC or DDC (as appropriate), shall issue the COA.

(ii) If preservation is found to be both physically and economically feasible, the HPC or DDC (as appropriate), shall take or promote the taking of whatever public or private action that seems likely to lead to such preservation, either on the site on which the historic structure is located or on another site to which it might appropriately be moved.

(iii) Where preservation is feasible but the applicant still seeks demolition, the following provisions of Section 40.1-2.3(l)(10)(d), Right to Demolish, from the Code of Virginia may be undertaken while alternatives for preservation are sought.

(c) Demolition Criteria

A decision by the HPC or DDC (as appropriate), approving or denying a COA for the demolition of an historic structures, buildings, site, or objects shall be based on:

(i) The historic, scenic, cultural, aesthetic or architectural significance of the building, structure, site, or object;

(ii) The importance of the historic structure, building, site, or object to the ambiance of a district;

(iii) The difficulty or the impossibility of reproducing such a structure, building, site, or object because of its design, texture, material, detail, or unique location;

(iv) Whether the historic structure, building, site, or object is one of the last remaining examples of its kind in the neighborhood or the city;

(v) Whether there are definite plans for reuse of the property if the proposed demolition is carried out, and what the effect of those plans on the character of the surrounding area would be;

(vi) Whether reasonable measures can be taken to save the historic structure, building, site, or object from collapse; and

(vii) Whether the historic structure, building, site, or object is capable of earning reasonable economic return on its value.

(d) Right to Demolish

The owner of an historic property or the owner of a building, structure, site, or object in any historic district, shall, as a matter of right, be entitled to raze or demolish such structure, building, site, or object provided, that:

(i) The land owner has applied to the HPC for such right. If the demolition request is denied by the HPC, the owner may appeal this decision in accordance with Section 40.1-2.3(K), Appeals;

(ii) The land owner has made a bona fide offer to sell the structure, building, site, or object, and the land pertaining therein for the time period established in Table 40.1-2.3(l), Time Schedule for Selling Property, and at a price reasonably related to its fair market value. Such offer must be made

to the city or to any other person, government, or agency, which gives reasonable assurance that it is willing to preserve and restore the structure, building, site, or object and the land pertaining thereto;

(iii) No bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such building, structure, site, or object and the land pertaining thereto, prior to the expiration of the applicable time period set forth in Table 40.1-2.3(l), Time Schedule for Selling Property. Any appeal which may be taken to the court from the decision of the City Council, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from, shall not affect the right of the owner to make the bona fide offer to sell referred to above;

(iv) No offer to sell shall be made more than one year after a final decision by the City Council, but thereafter the owner may renew his request to the HPC or DDC (as appropriate), to approve the demolition of the historic landmark, building, or structure.

TABLE 40.1-2.3(l): TIME SCHEDULE FOR SELLING PROPERTY

OFFER PRICE	TIME PERIOD PROPERTY HAS BEEN FOR SALE AT OFFER PRICE
Less than $25,000	3 months
$25,000 to $40,000	4 months
$40,000 to $55,000	5 months
$55,000 to $75,000	6 months
$75,000 to $90,000	7 months
$90,000 or more	12 months

(12) Demolition by Neglect

(a) Allowing a historic structure within a historic district to deteriorate due to neglect is a violation of this Ordinance. Deterioration due to neglect shall constitute demolition by neglect when:

(i) Deterioration of the exterior of a building occurs to the extent that it creates, or permits, a hazardous or unsafe condition; or

(ii) Deterioration of exterior walls or other vertical supports, horizontal members, roofs, chimneys, exterior wall elements such as siding, wooden walls, brick, plaster, or mortar occurs to the extent that it adversely affects the character of the district or could reasonably lead to irreversible damage to the structure or lead to a hazardous condition.

(b) The HPC or DDC, as appropriate, shall monitor the condition of historic properties for demolition by neglect. In the event that the HPC or DDC receives a complaint or determines that a structure is being demolished by neglect, it shall notify the Planning Director, and describe the actions needed to address the violation.

(13) Undue Hardship

(a) The HPC or DDC (as appropriate), shall have the power to reduce or suspend any of the requirements of this section, if the historic structure presents special circumstances whereby the strict compliance of this section will produce an undue hardship or if the spirit of the section has been met and deviation has been deemed to be in the best interest of the city.

(b) In granting a hardship the HPC or DDC (as appropriate), shall make the following findings of fact in writing:

(i) Strict compliance with the regulation provides the property owner no reasonable use of the property;

(ii) The hardship results from application of the regulation to the property;

(iii) The hardship is one that affects the property directly;

(iv) The hardship is not the result of the property owner's own actions - that is, special circumstances or conditions causing the hardship exist through no fault of the property owner;

(v) The hardship is peculiar to the property;

(vi) Financial considerations, unless they greatly decrease or destroy the property's value, do not constitute a legal hardship; and

(vii) That the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.

(14) Conditions of Approval

(a) The HPC or DDC (as appropriate), may approve a COA with conditions where it deems the conditions necessary to meet the applicable standards and guidelines as well as the requirements of this Ordinance.

(b) If the application does not meet the city's adopted standards and guidelines or the applicant does not agree to the proposed conditions, the HPC or DDC (as appropriate), shall deny the request. Under no circumstance shall the HPC or DDC (as appropriate), approve a set of conditions without the applicant's approval.

(15) Effect of Decision

Where the exterior appearance of any historic structure is involved:

(a) No building permit shall be issued for erection, alteration or improvement, unless a COA has first been issued;

(b) No certificate of occupancy shall be issued unless the project is constructed in compliance with the COA;

(c) Exterior alterations that do not require a building permit but which can change the exterior appearance of the building or structure such as replacement of doors and windows shall not be constructed or installed unless a COA has first been obtained;

(d) During construction or installation, the COA shall be posted on the property in a location where it is visible from the public right-of-way and a complete set of the

approved plans shall be retained on the premises and shall be made available to designated staff;

(e) In cases of denial where the proposed change would require the issuance of a building permit, the rejection of the application for a COA by the HPC shall be binding upon the designated staff charged with issuing building permits and, in such a case, no building permit shall be issued.

(16) Transfer

A COA shall be transferable to subsequent owners of the property for which the certificate is issued.

(17) Expiration

(a) An approved COA shall be valid for a period of one year from date of issuance. All work approved and initiated under a COA shall be completed within one year of issuance.

(b) Without an approved extension, after one year from issuance of a COA, an owner shall obtain a new certificate in order to commence any previously approved work or to complete any work. Once begun, no project or work shall be left partially-completed.

(c) On written request from the applicant, the HPC or DDC (as appropriate), may grant a single extension of its approval for a period of up to one additional year if, based upon submissions from the applicant, the HPC or DDC (as appropriate), finds that conditions on the site and in the area of the proposed project are essentially the same as when approval was originally granted.

(d) Any COA shall also expire and become null and void if such authorized work is suspended or abandoned for a period of one year after being commenced. Any period or periods of time during which the right to use any such certificate or permit is stayed pursuant to this chapter shall be excluded from the computation of the 12 months.

(18) Amendment

A COA may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

(19) Appeals

(a) General

Appeals from any action or decision of the HPC or DDC (as appropriate), in granting or refusing to grant a COA a permit pursuant to the provisions of this article may be taken to the City Council for review, by setting forth in writing the alleged error of the action or decision of the HPC or DDC (as appropriate),, provided such petition is:

(i) Filed within 30 days after the HPC or DDC (as appropriate), final decision; and

(ii) Further provided that the basis for such appeal shall be limited to an alleged error by the HPC in finding that the proposed erection, alteration, reconstruction, or restoration of a structure would not be architecturally compatible with the historic properties, buildings, or structures within the historic district.

(b) Procedure for Appeals of HPC or DDC Decisions

(i) An Appeal Review Committee (ARC) shall be created consisting of the Planning Director and the City Attorney to determine whether there are legitimate grounds for such an appeal before placing the appeal on the City Council agenda.

(ii) Upon the filing of an appeal, the ARC shall review the request to determine if there are grounds for appeal based on Sections 40.1-2.3(J)(8), (9), and (10).

(iii) If the ARC finds that there are no grounds for appeal, they shall notify the applicant in writing of their decision. An appeal of the ARC's decision may be taken by the applicant to the circuit court of the City of Portsmouth for review by filing a petition at law which sets forth the alleged error of the action or decision provided that such petition is filed within 30 days after the final decision is rendered by the ARC.

(iv) If the ARC finds that there are grounds for appeal, they shall forward the request to the City Clerk so the matter may be placed on the City Council agenda. When a matter is forwarded to the City Council, a written conclusion from the ARC shall accompany the appeal.

(v) City Council shall hear the appeal and either reverse or affirm the decision of the HPC based on an error in findings.

(vi) If City Council fails to reverse the HPC's findings and upholds the HPC decision, an appeal may be taken by the applicant to the circuit court of the City of Portsmouth for review by filing a petition at law which sets forth the alleged error of the action or decision provided that such petition is filed within 30 days after the final decision is rendered by the City Council.

(c) Procedure for Appeals of Planning Director Decisions

An appeal from the Planning Director's decision on a COA application shall be reviewed and decided by the BZA in accordance with Section 40.1-2.3(K), Appeal.

(d) Stay

Filing of an appeal, whether an appeal of the HPC, DDC, ARC, or City Council's decision, shall stay the appealed decision pending outcome of the appeal except that such filing will not stay the decision if such decision denies the right to raze or demolish a building or structure.

(20) Violations

Failure to obtain a COA or performance of work that surpasses or is in conflict with an approved COA is a violation of this Ordinance, and is subject to the applicable remedies in Article 40-1.7: Enforcement.

(J) Interpretation

(1) Purpose and Intent

The purpose of this section is to outline a procedure for the interpretation of this Ordinance.

(2) Authority

(a) Interpretations of the text of this Ordinance and the official zoning map shall be made by either the Planning Director or the Zoning Administrator, in consultation with the City Attorney, in accordance with subsections (b) and (c) below.

(b) The Zoning Administrator shall be responsible for making the following interpretations:

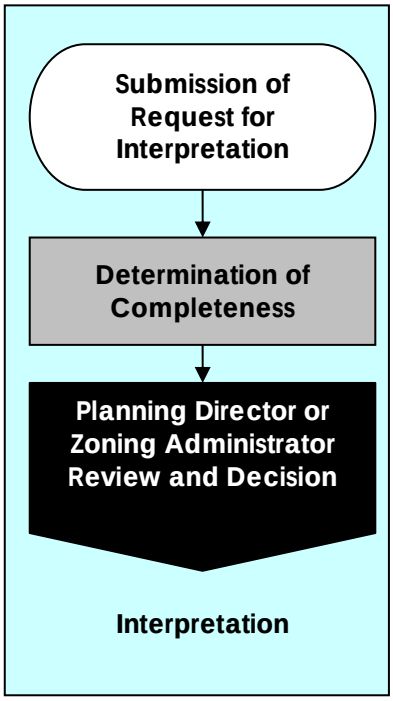
(i) The dimensional standards in Article 40.1-3: Zoning Districts;

(ii) The use table and use classifications in Article 40.1-4: Use Standards; and

(iii) The official zoning map boundaries (Section 40.1-1.7(D), Interpretation of Official Zoning Map Boundaries), and 40.1-3: Zoning Districts.

(c) The Planning Director shall be responsible for interpretations of all other matters related to this Ordinance, including conditions of approval and for all permits and development approvals.

(3) Procedure



(a) Initiation

A written interpretation may be requested by the City Council, Planning Commission, BZA, HPC, any resident or landowner in the city, or any person having a contractual interest in land in the city.

(b) Basic Procedures

The procedures and requirements for the submission, completeness determination, review, and decision on a Request for Interpretation are as established in Section 40.1-2.2, Common Review Procedures.

(c) Review and Action by the Planning Director or Zoning Administrator

Within a reasonable period after the Request for Interpretation is determined complete, the Planning Director or Zoning Administrator, as appropriate, shall review the request and render an interpretation, based on the standards in Section 40.1-2.3(J)(4), Standards for Interpretation.

(4) Standards for Interpretations

(a) Interpretation of Official Zoning Map

When the request is for an Interpretation of zoning district boundaries on the official zoning map, the Zoning Administrator shall apply the standards in Section 40.1-1.7(D), Interpretation of Official Zoning Map Boundaries, and consider the request in light of the comprehensive plan, this Ordinance, the official zoning map, the City Code, Code of Virginia (1950), as amended, and other relevant codes and statutes.

(b) Unspecified Uses

When the request is for an interpretation of whether an unspecified use falls within a use classification, use category, or use type allowed in a zoning district, the Zoning Administrator shall apply the standards of Section 40.1-4.2, Use Classifications, Use Categories, and Use Types, in making the interpretation.

(c) Other Interpretations, Including Proffers and Conditions of Approval

For other written interpretations, the Planning Director shall evaluate the request in light of the comprehensive plan, this Ordinance, the official zoning map, the City Code, the Code of Virginia (1950), as amended, other relevant codes and statutes, and any previously approved permits or development approvals (if applicable).

(d) All Interpretations

When making written interpretations, the Planning Director or Zoning Administrator, as appropriate, shall consult with the City Attorney and other affected city officials before rendering the interpretation.

(5) Form and Notification of Interpretation

The interpretation shall be in writing, approved as to form by the City Attorney, and sent to the applicant by mail within a reasonable period of time after the Request for Interpretation is made.

(6) Official Record

The Planning Director shall maintain a record of written interpretations that shall be available for public inspection in the office of the Planning Director, upon reasonable request, during normal business hours.

(7) Appeal

An appeal from a written interpretation shall be reviewed and decided by the BZA in accordance with Section 40.1-2.3(K), Appeals.

(K) Appeal

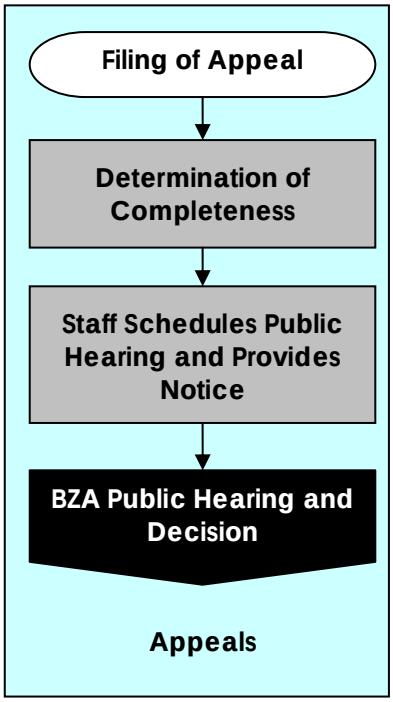
(1) Purpose and Intent

The purpose of this section is to establish a procedure and standards for any person aggrieved by any decision or interpretation related to this Ordinance made by the Zoning Administrator or Planning Director (except for the Planning Director's decisions on type I development plans, minor subdivision plats, and final subdivision plats), to appeal the decision or interpretation to the Board of Zoning Appeals (BZA).

(2) Initiation

An appeal on a decision or interpretation may be initiated by any person aggrieved by any decision or interpretation related to this Ordinance made by the Zoning Administrator or Planning Director (except for the Planning Director's decisions on type I development plans, minor subdivision plats, and final subdivision plats). The appeal shall be initiated by filing a written Notice of Appeal, with the Planning Director, along with the appropriate fee, within 30 days of the date of the decision or interpretation.

(3) Procedure



(a) Contents of Appeal

The written Notice of Appeal shall include a statement of the error or improper decision or interpretation, the date of that decision, the grounds for the appeal, and all related support materials.

(b) Forwarding the Record

Upon receiving the written Notice of Appeal, the Planning Director shall transmit it and all papers, documents and other materials relating to the decision or interpretation that is being appealed, to the BZA. This material shall constitute the record on the appeal.

(c) Public Hearing, Review, and Decision by the BZA

(i) Following staff review and public notification in accordance with Section 40.1-2.2(J), Public Notification, the BZA shall conduct a public hearing on the appeal.

(ii) At the hearing on the appeal, the BZA shall consider the application, relevant support materials, the staff report, and any comments given by the public. The appellant or the appellant's agent shall state the grounds for the appeal and identify any materials or evidence from the record to support the appeal. The Planning Director or Zoning Administrator, as appropriate, shall be given an opportunity to respond, as shall any other city administrative official or person(s) the BZA deems necessary and appropriate.

(iii) After the conclusion of the hearing, the BZA, by majority vote of a quorum present, shall either affirm, partly affirm, modify, reverse, or partly reverse the decision or interpretation, based on the standards in Section 40.1-2.3 (K)(4), Appeal Standards. The decision shall be made on the appeal within 60 days of the date of the filing of the written Notice of Appeal.

(4) Appeal Standards

A decision or interpretation of the Zoning Administrator or Planning Director, whichever is appropriate, shall be presumed correct, and may not be reversed or modified unless there is evidence in the record that the decision is not correct, based on the relevant procedures and review standards of this Ordinance. The BZA shall consider the purpose and intent of any applicable provisions of this Ordinance and other relevant ordinances, laws, and regulations in making its decision.

(5) Stay

An appeal shall stay all administrative proceedings by the city in furtherance of the action appealed from, unless the Zoning Administrator or Planning Director certifies to the BZA that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property, in which case the administrative proceedings shall not be stayed unless a restraining order is granted by the circuit court.

(6) Appeal

Any person jointly or severally aggrieved by any decision of the BZA, or any aggrieved taxpayer or any officer, department, commission, or the city, within 30 days of the date of the decision of the BZA, may appeal the decision of the BZA on the decision to the circuit court of the City of Portsmouth in accordance with Code of Virginia (1950), as amended.

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ARTICLE 40.1-3:
ZONING DISTRICTS

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ARTICLE 40.1-3: ZONING DISTRICTS

40.1-3.1 GENERAL PROVISIONS

(A) Types of Zoning Districts

Land within the city is classified by this Ordinance to be within one of a number of base zoning districts. Land within any base zoning district may also be classified into one or more overlay zoning districts, in which case regulations governing development in the overlay district shall apply in addition to the regulations governing development in the underlying base zoning district, unless expressly stated otherwise.

(B) Compliance with District Standards

No land within the city shall be developed except in accordance with the zoning district regulations of this article and all other regulations of this Ordinance, including but not limited to, Article 40.1-4: Use Standards, and Article 40.1-5: Development Standards.

40.1-3.2 BASE ZONING DISTRICTS ESTABLISHED

Table 40.1-3.2, Base Zoning Districts Established, sets out the base zoning districts and overlay zoning districts established by this Ordinance. Base zoning districts are grouped into Residential, Business, Activity Center, and Special districts.

TABLE 40.1-3.2: BASE ZONING DISTRICTS ESTABLISHED

DISTRICT ABBREVIATION	DISTRICT NAME
RESIDENTIAL DISTRICTS	
NR	Neighborhood Residential
GR	General Residential
UR	Urban Residential
UR-H	High Density Urban Residential
BUSINESS DISTRICTS	
NMU	Neighborhood Mixed-Use
GMU	General Mixed-Use
MU-H	High Intensity Mixed-Use
IL	Light Industrial
IN	Industrial
ACTIVITY CENTER DISTRICTS	
NAC	Neighborhood Activity Center
CAC	Community Activity Center
RAC	Regional Activity Center
SPECIAL DISTRICTS	
WF	Waterfront
D1	Downtown D1
D2	Downtown D2
HR	Historic Residential
HLO	Historic Limited Office

TABLE 40.1-3.2: BASE ZONING DISTRICTS ESTABLISHED	
DISTRICT ABBREVIATION	**DISTRICT NAME**
HLB	Historic Limited Business
PG	Preservation/Government

(A) Classification of Base Zoning Districts

Land shall be classified or reclassified into a base zoning district only in accordance with the procedures and requirements set forth in Section 40.1-2.3(A), Zoning Map Amendment (Rezoning) or Text Amendment.

(B) Relationship to Overlay Zoning Districts

Regulations governing development in an overlay zoning district shall apply in addition to the regulations governing development in the underlying base zoning district, unless expressly stated otherwise in this Ordinance. If the standards governing a base zoning district expressly conflict with those governing an overlay zoning district, the standards governing the overlay zoning district shall control, unless expressly stated otherwise in this Ordinance.

(C) Organization of Base Zoning District Regulations

Sections 40.1-3.3 through 40.1-3.6 set out the general purposes of each group of base zoning districts and contain subsections that set out the purpose and bulk and dimensional standards for each individual base zoning district. These subsections have a common structure consisting of a purpose statement, applicable dimensional standards, photographs showing a hypothetical set of building forms for the district, graphic depictions of hypothetical street layout and lot patterns, and a hypothetical graphic depiction of the district's bulk and dimensional standards as applied to typical lot patterns and building forms. Article 40.1-4: Use Standards, includes Table 40.1-4.1(A), Use Table, a summary use table specifying permitted, special uses, and allowable uses for each of the base zoning districts and references any standards specific to individual uses.

(D) Diagrams for Illustrative Purposes Only

The building form photographs, lot pattern diagrams, and typical building configuration graphics are for illustrative purposes only, and may not be consistent with all the dimensional requirements. In these cases, the text of this Ordinance shall control.

(E) Retention of Original Dimensional Provisions

One copy of each of the base district tables containing dimensional requirements shall be kept on file without alteration in the office of the Planning Director. These copies shall be called the "Original Tables of Dimensional Requirements." When amendments to the text of this Ordinance alter the provisions contained within the Original Tables of Dimensional Requirements, each such alteration shall be identified by ordinance number and shall be filed with the Original Tables of Dimensional Requirements. In case of any dispute as to the contents of the dimensional standards in this Ordinance, the Original Tables of Dimensional Requirements, and any subsequent alterations, shall control.

40.1-3.3 RESIDENTIAL BASE ZONING DISTRICTS

(A) General Purposes

The residential base zoning districts established in this section are intended to provide diverse housing options in a comfortable, healthy, safe, and pleasant environment in which to live, recreate, and shop at a neighborhood level. More specifically, they are intended to:

(1) Provide appropriately located lands for residential development that are consistent with the comprehensive plan;

(2) Ensure adequate light, air, privacy, and recreational and open space areas for each dwelling, and protect residents from the negative effects of noise, excessive population density, traffic congestion, flooding, and other significant adverse environmental impacts;

(3) Protect residential areas from fires, explosions, toxic fumes and substances, and other public safety hazards;

(4) Provide for a diverse range of residential housing choice, affordability, and diversity with varying housing densities, types, and designs, including accessory dwelling units;

(5) Provide for safe and efficient vehicular access and circulation and promote bicycle-, pedestrian-, and transit-friendly neighborhoods;

(6) Provide for public services and facilities needed to serve residential areas and accommodate public and semi-public land uses that complement residential development or require a residential environment while protecting residential areas from incompatible nonresidential development;

(7) Create neighborhoods and preserve existing community character while accommodating new infill development and redevelopment consistent with the city's goals and objectives; and

(8) Preserve the unique character and resources of the traditional neighborhoods and the community.

(B) Residential Mobile Home (RMH) District

The RMH district standards are included in Appendix C of this Ordinance.

(C) Neighborhood Residential (NR) District

PURPOSE AND INTENT

The Neighborhood Residential (NR) district is established to accommodate single-family detached residential dwellings at low densities. District regulations are intended to discourage any use that substantially interferes with the development of single-family detached dwellings or that is detrimental to the quiet residential nature of the district. The district also accommodates accessory dwelling units and complementary uses usually found in residential zoning districts such as parks, open space, community gardens, and minor utilities. Religious institutions, elementary schools, family care homes, small day care facilities, golf courses, country clubs, and major utilities are allowed subject to a use permit (See Section 40.1-2.3(B), Use Permit.).

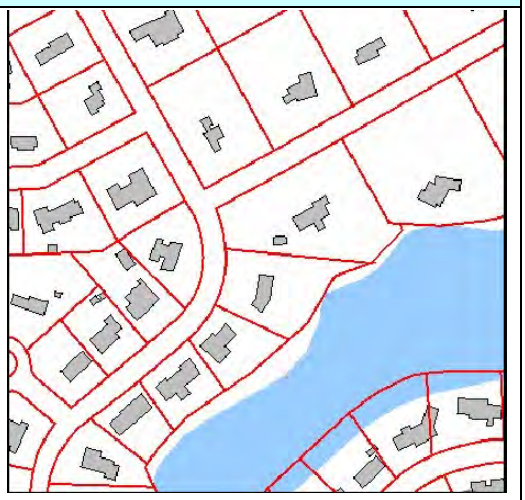
TYPICAL BUILDING TYPES

DIMENSIONAL STANDARDS

Standard		Residential Uses	Institutional Uses
Density	Density, Maximum (DU/AC)	1.5; (not applicable if contextual lot size standards are used)	N/A
Lot Area	Lot Size, Minimum	The lesser of: 30,000 sf, or the average lot size of lots within 300 feet along the same block face, provided there are 3 or more lots within the 300-foot area	30,000 sf
	Lot Width, Minimum	The lesser of: 150 feet, or the average lot width of lots within 300 feet along the same block face, provided there are 3 or more lots within the 300-foot area	150 ft
	Building Coverage, Maximum (%)	45	
Required Yards	Front, Minimum	The lesser of: 40 ft, or the average front yard on lots within 300 feet along the same block face, provided there are 3 or more lots with existing residential structures within the 300-foot area	40 ft
	Side, Minimum	The lesser of: 10 ft, or the average side yard on lots within 300 feet along the same block face, provided there are 3 or more lots with existing residential structures within the 300-foot area - except no side yard shall be less than 5 feet unless part of a zero side lot line development	10 ft
	Rear, Minimum	The lesser of: 40 ft, or the average rear yard on lots within 300 feet along the same block face, provided there are 3 or more lots with existing residential structures within the 300-foot area	40 ft
	Corner, Minimum	15 ft	

	STANDARD	RESIDENTIAL USES	INSTITUTIONAL USES
	Accessory Structure, Minimum (ft)	10 if 600 sf in size or smaller; otherwise same as principal use [1] [2]	
	Garage Setback, Minimum	5 feet behind front façade	
BLDG. FORM	Height, Maximum (ft/stories) [3]	36/4	36/3
BLDG. FORM	Accessory Structure Size, Maximum	800 square feet [4]	

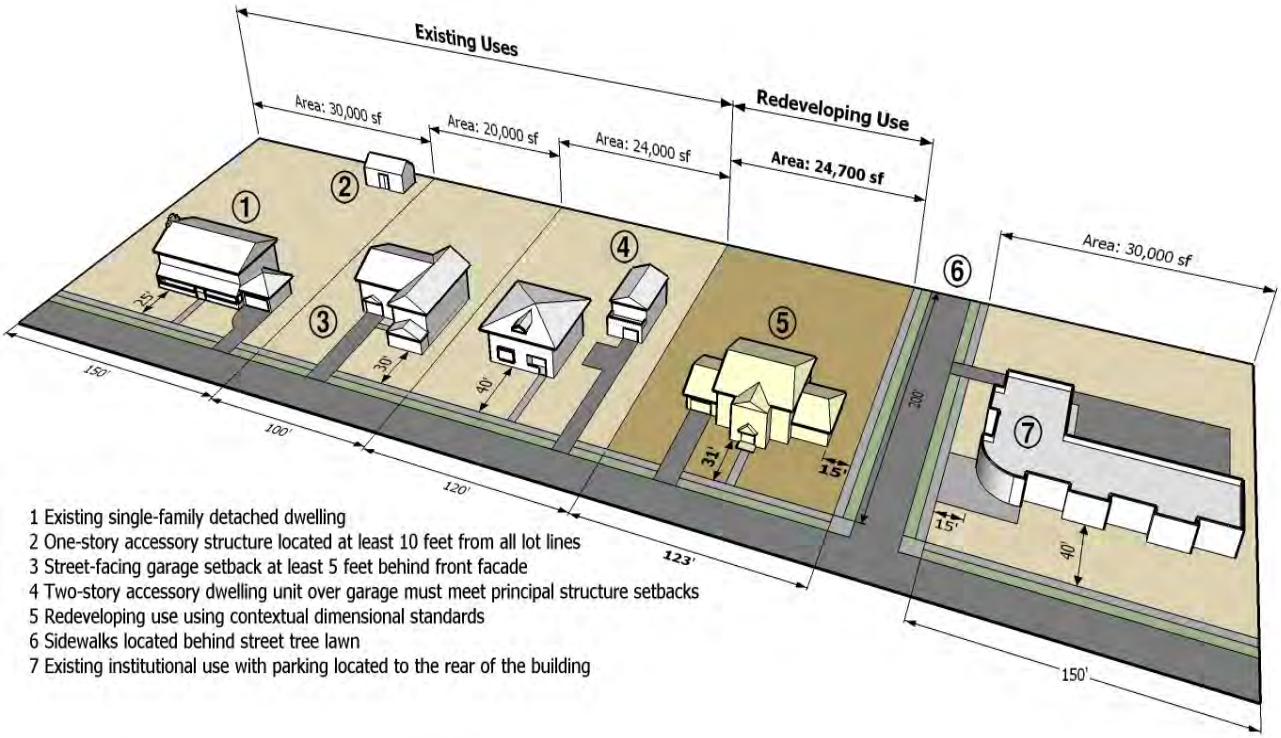
TYPICAL LOT PATTERN



NOTES

"sf" = square feet; "ft" = feet'; "DU" = dwelling units; "AC" = acre
[1] Accessory structures are prohibited within front or corner side yards.
[2] Accessory structures of two or more stories shall meet the minimum yard requirements for principal uses.
[3] Accessory structures of 600 sf in size or smaller may not exceed one story (12 ft) in height.
[4] See Section 40.1-4.4(C)(1), Accessory Dwelling Units, for accessory dwelling unit dimensional requirements.

TYPICAL DEVELOPMENT CONFIGURATION



(D) General Residential (GR) District

PURPOSE AND INTENT

The General Residential (GR) district is established to accommodate primarily single-family detached, attached residential, and two-to four-family dwellings, subject to design standards to ensure their compatibility with the single-family character of the district, at moderate densities. District regulations are intended to discourage any use that substantially interferes with the development of single-family or two-to-four family dwellings, or that is detrimental to the quiet residential nature of the district. The district also accommodates accessory dwelling units and complementary uses usually found in residential zoning districts such as parks, open space, community centers, elementary and middle schools, home child care uses, religious institutions, and minor utilities. High schools, golf courses, country clubs, adult and child care centers, hospitals, and major utilities are allowed subject to a use permit (See Section 40.1-2.3(B), Use Permit).

TYPICAL BUILDING TYPES

DIMENSIONAL STANDARDS

Standard		Residential Uses	All Other Uses
Density	Density, Maximum (DU/AC)	5.0 (not applicable if contextual lot size standards are used)	N/A
	Intensity, Maximum (FAR)	N/A	0.6
Lot Area	Lot Size, Minimum	The lesser of: 7,500 sf, <u>or</u> the average lot size of lots within 300 feet along the same block face, provided there are 5 or more lots within 300-foot area	10,000 sf
	Lot Width, Minimum	The lesser of: 50 feet, <u>or</u> the average lot width of lots within 300 feet along the same block face, provided there are 5 or more lots within the 300-foot area	70 ft
	Building Coverage, Maximum (%)	45	
Required Yards	Front, Minimum	The lesser of: 25 ft, <u>or</u> the average front yard on lots within 300 feet along the same block face, provided there are 3 or more lots with existing residential structures on them within the 300-foot area	25 ft
	Side, Minimum	When abutting a street: 15 ft; Attached & two-to-four family dwelling: 10 ft; For all other residential uses, the lesser of: 7 ft, <u>or</u> the average side yard on lots within 300 feet along the same block face, provided there are 3 or more lots with existing residential structures within the 300-foot area; No side yard shall be less than 5 feet unless part of a zero side lot line development[1]	10 ft
	Rear, Minimum	The lesser of: 25 ft, <u>or</u> the average rear yard on lots within 300 feet along on the same block face, provided there are 3 or more lots with existing residential structures within the 300-foot area [2]	25 ft

"sf" = square feet; "ft" = feet'; "FAR" = floor area ratio; "DU" = dwelling units; "AC" = acre

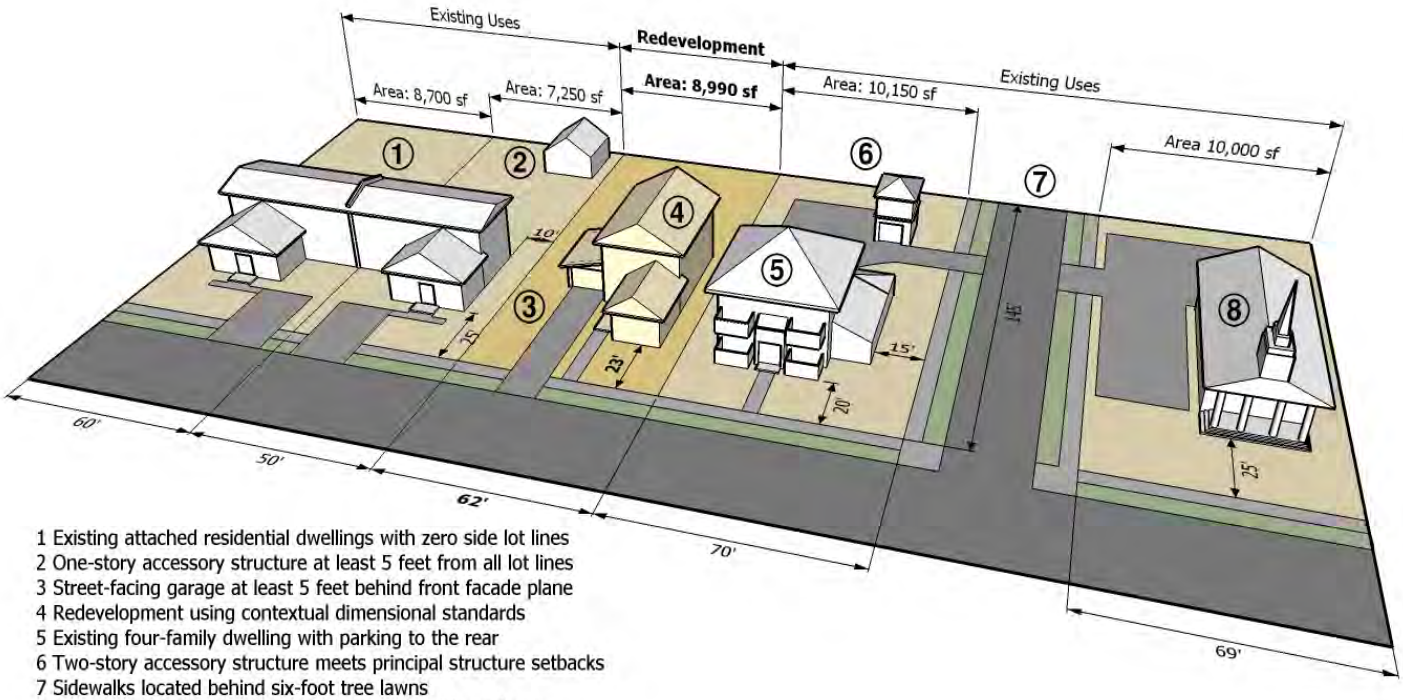
	STANDARD	RESIDENTIAL USES	ALL OTHER USES
	Corner, Minimum	15 ft	
	Accessory Structure, Minimum (ft)	5 if 600 sf in size or smaller; otherwise, same as principal use[4] [5]	
	Garage Setback, Minimum	5 feet behind front façade for residential uses; Even with front façade for all other uses	
BLDG. FORM	Height, Maximum (ft/stories) [6]	36/4	36/3
BLDG. FORM	Accessory Structure Size, Maximum	800 square feet[7]	

NOTES

[1] An additional setback of five feet per floor over two floors shall be required.
[2] Rear yard setback may be reduced to 15 feet when there is a 25-foot corner side yard or there are no accessory structures or parking spaces in the rear yard.
[3] The minimum shall be 15 feet for lots platted before March 22, 1994.
[4] Accessory structures are prohibited within front or corner side yards.
[5] Accessory structures of two or more stories shall meet the minimum yard requirements for principal uses.
[6]Accessory structures of 600 sf in size or smaller may not exceed one story (12 ft) in height.
[7] See Section 40.1-4.4(C)(1), Accessory Dwelling Units, for accessory dwelling unit dimensional requirements.

TYPICAL LOT PATTERNS

TYPICAL DEVELOPMENT CONFIGURATION



1 Existing attached residential dwellings with zero side lot lines
2 One-story accessory structure at least 5 feet from all lot lines
3 Street-facing garage at least 5 feet behind front facade plane
4 Redevelopment using contextual dimensional standards
5 Existing four-family dwelling with parking to the rear
6 Two-story accessory structure meets principal structure setbacks
7 Sidewalks located behind six-foot tree lawns
8 Existing institutional use with parking to the side and rear

(E) Urban Residential (UR) District

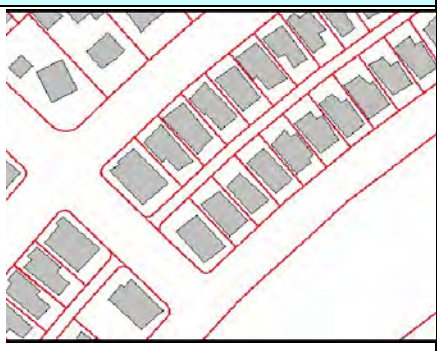
PURPOSE AND INTENT

The Urban Residential (UR) district is established to accommodate a diverse range of residential development as a principal use, along with mixed-use and neighborhood-serving commercial development. The district accommodates all forms of residential development, including single-family detached and attached dwellings, two-to-four family dwellings, townhomes, live/work units, multi-family dwellings, and residential dwellings above the first floor of commercial development. Also allowed are complimentary uses such as parks, open space, libraries, religious institutions, community centers, schools (elementary, middle, and high), child care centers, and minor utilities. Low-intensity, neighborhood-serving commercial and service uses are allowed to encourage diverse, functioning neighborhoods. Police and fire stations, assisted living facilities, nursing homes, marinas, professional services offices, financial institutions, and drug stores without drive-throughs are allowed subject to a use permit (See Section 40.1-2.3 (B), Use Permit.).

TYPICAL BUILDING TYPES

DIMENSIONAL STANDARDS

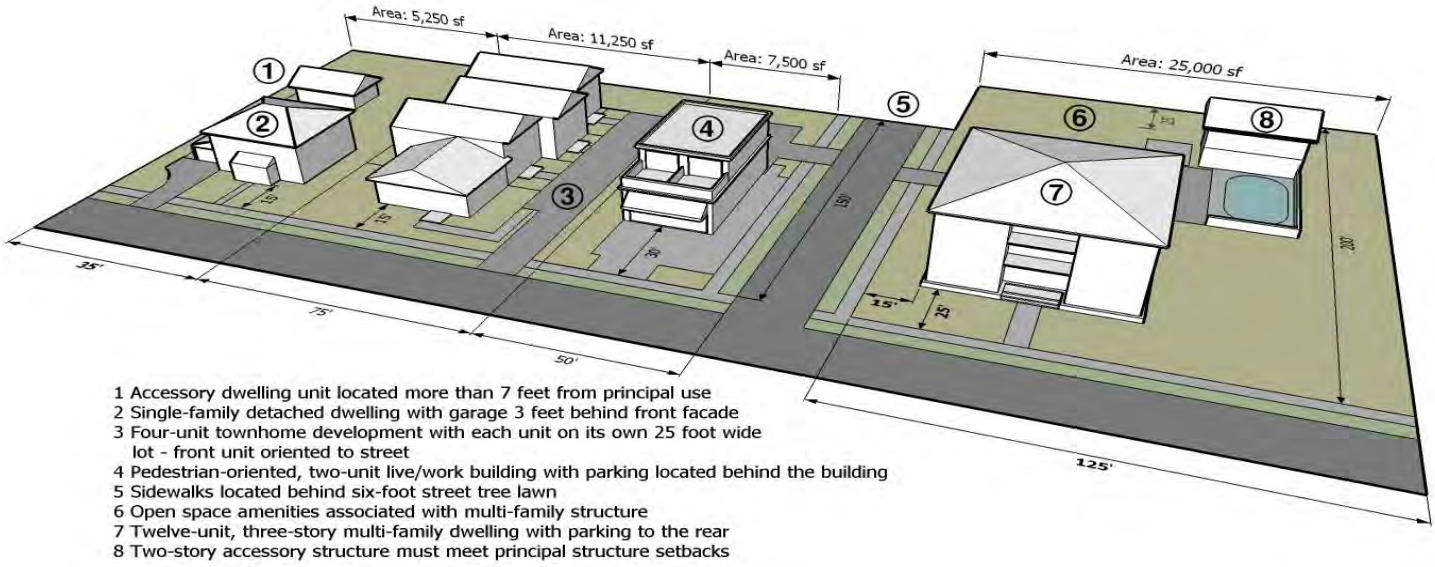
Standard		Residential Uses: Single-Family Detached Uses	Residential Uses: All Other Residential Uses	All Other Uses
Density	Density, Maximum (DU/AC)	8.0	18 (not applicable if contextual lot size standards are used) [1]	N/A
Density	Intensity, Maximum (FAR)	N/A		0.6
Lot Area	Lot Size, Minimum [2]	The lesser of: 5,000 sf, or the average lot size of lots within 300 feet along the same block face, provided there are 7 or more lots within the 300-foot area	7,500 sf [1]	7,500 sf
Lot Area	Lot Width, Minimum	The lesser of: 35 feet, or the average lot width of lots within 300 feet along the same block face, provided there are 7 or more lots within the 300-foot area	30 feet, plus 5 feet for each additional unit beyond 4 units [3]	50 ft
Lot Area	Building Coverage, Maximum (%)	55		
Required Yards	Front, Minimum	The lesser of: 15 ft, or the average front yard on lots within 300 feet along the same block face, provided there are 7 or more lots with existing residential structures within the 300-foot area	15 ft	25 ft
Required Yards	Side, Minimum	When abutting a street: 10 ft; Otherwise, the lesser of: 7 ft, or the average side yard on lots within 300 feet along the same block face, provided there are 7 or more lots with existing residential structures within the 300-foot area; No side yard shall be less than 5 ft unless part of a zero side lot line development	When abutting a street: 15 ft; When abutting the end unit of a building: 10 ft; All others: 10 percent of the lot width, up to 15 ft; No side yard shall be less than 5 ft unless part of a zero side lot line development [4]	10 ft

	STANDARD	SINGLE-FAMILY DETACHED USES	ALL OTHER RESIDENTIAL USES	ALL OTHER USES	TYPICAL LOT PATTERN
	Rear, Minimum	The lesser of: 25 ft, or the average rear yard on lots within 300 feet along the same block face, provided there are 7 or more lots with existing residential within the 300-foot area [5]	25 ft [5]	25 ft	
	Corner Side, Minimum (ft)	15			
	Accessory Structure, Minimum (ft)	5 if 600 sf in size or smaller; otherwise, same as principal use [6] [7]			
	Garage Setback, Minimum	3 feet behind front façade for single-family detached dwellings			
BLDG.FORM	Height, Maximum (ft/stories) [7]	36/4		36/3 [8]	
BLDG.FORM	Accessory Structure Size, Maximum	33% of principal use [9]			sf" = square feet; "ft" = feet; "FAR" = floor area ratio; "DU" = dwelling units; "AC" = acre

NOTES

[1] Single-family attached, townhome, and two-to-four-family dwellings may develop without complying with the minimum lot size standard, provided the development does not exceed 8 units an acre and it complies with all other dimensional standards.
[2] Minimum lot size is applied to the entire development site for multi-family, attached, townhome, and two-to four-family dwellings.
[3] An additional setback of five feet per floor over two floors shall be required.
[4] Rear yards may be reduced to 15 feet when there are no accessory structures or parking spaces in the rear yard.
[5] The minimum shall be 15 feet for lots platted before March 22, 1994.
[6] Accessory structures are prohibited within front and corner side yards.
[7] Accessory structures of two or more stories shall meet the minimum yard requirements for principal uses.
[8] Accessory structures of 600 sf in size or smaller may not exceed one story (12 ft) in height.
[9] Height may be increased to four stories if residential units occupy at least two floors above the first floor.
[10] See Section 40.1-4.4(C)(1), Accessory Dwelling Units, for accessory dwelling unit dimensional requirements.

TYPICAL DEVELOPMENT CONFIGURATION



1 Accessory dwelling unit located more than 7 feet from principal use
2 Single-family detached dwelling with garage 3 feet behind front facade
3 Four-unit townhome development with each unit on its own 25 foot wide lot - front unit oriented to street
4 Pedestrian-oriented, two-unit live/work building with parking located behind the building
5 Sidewalks located behind six-foot street tree lawn
6 Open space amenities associated with multi-family structure
7 Twelve-unit, three-story multi-family dwelling with parking to the rear
8 Two-story accessory structure must meet principal structure setbacks

(F) High Density Urban Residential (UR-H) District

PURPOSE AND INTENT

The High Density Urban Residential (UR-H) district is established to accommodate a diverse range of residential development as a principal use, along with mixed-use and neighborhood-serving commercial development. The district accommodates most forms of residential development, including single-family attached dwellings, two-to-four-family dwellings, townhomes, live/work units, multi-family dwellings, and residential dwellings above the first floor of commercial development. Also allowed are complimentary uses such as parks, open space, libraries, religious institutions, community centers, schools (elementary, middle, and high), child care centers, and minor utilities. Neighborhood-serving commercial and service uses are allowed to encourage diverse, functioning neighborhoods. Police and fire stations, assisted living facilities, nursing homes, marinas, professional services offices, and financial institutions and drug stores with drive-throughs are allowed subject to a use permit (See Section 40.1-2.3(B), Use Permit.).

TYPICAL BUILDING TYPES

DIMENSIONAL STANDARDS

Standard		Residential Uses: Single-Family Detached Uses	Residential Uses: Multi-Family Uses	Residential Uses: All Other Residential Uses	All Other Uses
Density	Density, Maximum (DU/AC)	N/A	25	20 (not applicable if contextual lot size standards are used) [1]	N/A
Density	Intensity, Maximum (FAR)	N/A			0.7
Lot Area	Lot Size, Minimum [2]	The lesser of: 5,000 sf, <u>or</u> the average lot size of lots within 200 feet along the same block face, provided there are 5 or more lots within the 200-foot area	6,000 sf [3]	6,000 sf [1] [3]	6,000 sf
Lot Area	Lot Width, Minimum	25	25 feet, + 4 feet for each addt'l unit beyond 4 [3]	50 feet, + 4 feet for each additional unit beyond 3 [3]	25 ft
Lot Area	Building Coverage, Maximum (%)	65			
Required Yards	Front, Minimum	The lesser of: 10 ft, <u>or</u> the average front yard on lots within 200 feet along the same block face, provided there are 5 or more lots with existing single-family residential structures within the 200-foot area	10 ft	10 ft	10 ft
Required Yards	Side, Minimum	When abutting a street: 10 ft; Otherwise, the lesser of: 7 ft, <u>or</u> the average side yard on lots within 200 feet along the same block face, provided there are 5 or more lots with existing residential structures on them within the 200-foot area; No side yard shall be less than 5 ft unless part of a zero side lot line development	When abutting a street: 15ft; When abutting an end unit of a building: 10 ft; All others: 10 percent of the lot width, up to 15 ft; No side yard shall be less than 5 ft unless part of a zero side lot line development [4]		10 ft

"sf" = square feet; "ft" = feet; "FAR" = floor area ratio; "DU" = dwelling units; "AC" = acre

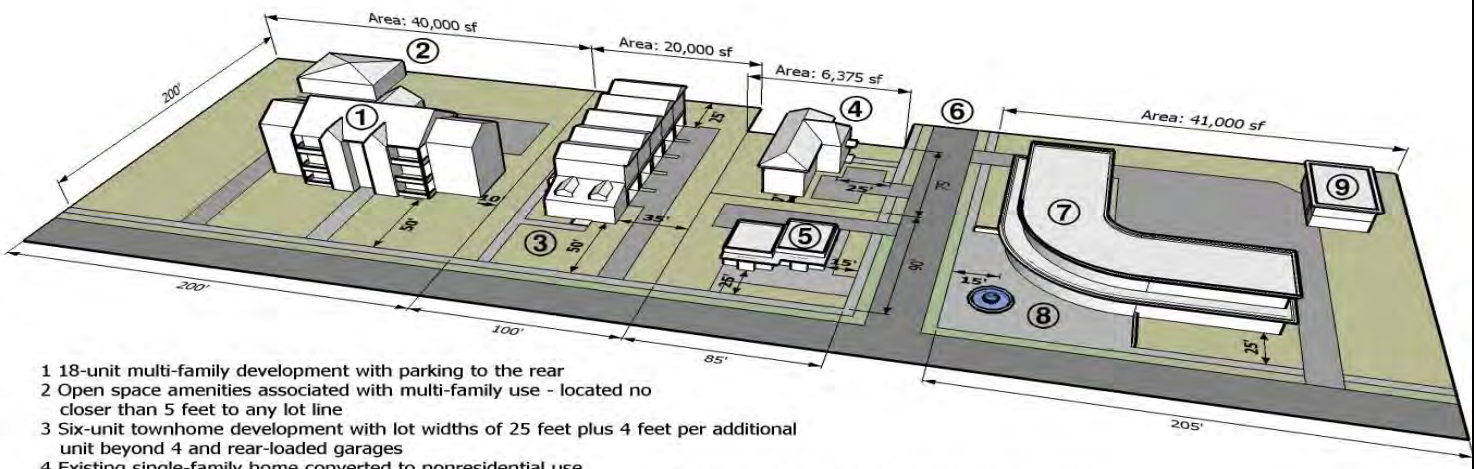
	Standard	Residential Uses: Single-Family Detached Uses	Residential Uses: Multi-Family Uses	Residential Uses: All Other Residential Uses	All Other Uses
	Corner, Minimum	15 ft			
	Rear, Minimum	The lesser of: 25 ft, or the average rear yard on lots within 200 feet along the same block face, provided there are 5 or more lots with existing residential structures within the 200-foot area [4]	25 ft [4]	25 ft [4]	25 ft [5]
	Accessory Structure, Minimum (ft)	5 in 600 sf in size or smaller; otherwise same as principal use [6] [7]			
	Garage Setback, Minimum	3 feet behind front façade for single-family attached dwellings			
Bldg Form	Height, Maximum (ft/stories) [8]	36/3 for single-family detached	45/5 for all other residential uses		45/5
Bldg Form	Accessory Structure Size, Maximum	800 square feet [9]			

TYPICAL LOT PATTERN

Notes

[1] Single-family attached, townhome, and two-to-four-family dwellings may develop without complying with the minimum lot size standard, provided the development does not exceed 16 units an acre and it complies with all other dimensional standards in this Ordinance.
[2] Minimum lot size shall be applied to the entire development site for multi-family, single-family attached, townhome, and two-to-four-family dwellings.
[3] Minimum lot requirements are applied to the entire development, not individual lots
[4] An additional setback of 5 feet per floor over three floors shall be required.
[5]Rear yards may be reduced to 15 feet when there are no accessory structures or parking spaces in the rear yard.
[6] Accessory structures are prohibited within front and corner side yards.
[7] Accessory structures of two or more stories shall meet the minimum yard requirements for principal uses.
[8] Accessory structures of 600 sf in size or smaller may not exceed one story (12 ft) in height.
[9]See Section 40.1-4.4(C)(1), Accessory Dwelling Units, for accessory dwelling unit dimensional requirements.

TYPICAL DEVELOPMENT CONFIGURATION



1 18-unit multi-family development with parking to the rear
2 Open space amenities associated with multi-family use - located no closer than 5 feet to any lot line
3 Six-unit townhome development with lot widths of 25 feet plus 4 feet per additional unit beyond 4 and rear-loaded garages
4 Existing single-family home converted to nonresidential use
5 Neighborhood-serving, low-intensity retail development with parking and service functions to the rear of the building
6 Sidewalk located behind six-foot street tree lawn
7 Two-story, vertically-integrated mixed-use development with parking in the rear
8 Pedestrian-oriented open space features
9 Two-story accessory structure must meet principal building setbacks

40.1-3.4 BUSINESS BASE ZONING DISTRICTS

(A) General Purposes

The business base zoning districts are established for the general purpose of ensuring there are lands in the city that provide a wide range of office, retail, service, mixed, industrial, and related uses to meet household and business needs, and more specifically to:

(1) Provide appropriately located lands for the full range of business uses needed by the city's residents, businesses, and workers, consistent with the comprehensive plan;

(2) Strengthen the city's economic base, and provide employment opportunities close to home for residents of the city;

(3) Provide employment opportunities for residents of surrounding communities;

(4) Create suitable environments for various types of business uses, and protect them from the adverse effects of incompatible uses;

(5) Create suitable environments for various types of mixed use development, where business, office, retail, and residential uses are designed and integrated in compatible ways;

(6) Establish a sense of place along the city's commercial corridors, with attractive shop fronts streetscapes, and multi-modal accessibility; and

(7) Minimize the impact of business development on residential districts and uses.

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(B) Neighborhood Mixed-Use (NMU) District

PURPOSE AND INTENT

The Neighborhood Mixed Use (NMU) district is established to accommodate a mix of residential and small-scale, low-intensity, and "convenience" retail and service uses that provide goods and services serving the residents of the immediately surrounding neighborhood (e.g., personal service uses, restaurants, and limited retail). Development in the district should not include uses of a size that is out of scale with a residential neighborhood, or that attracts traffic from outside the surrounding neighborhood. Individual retail and other commercial uses shall not exceed 5,000 square feet without obtaining a use permit (See Section 40.1-2.3.(B), Use Permit). Residential uses are encouraged on the upper floors of nonresidential establishments. The district is subject to standards intended to ensure development is consistent with the neighborhood scale and compatible with surrounding uses.

TYPICAL BUILDING TYPES

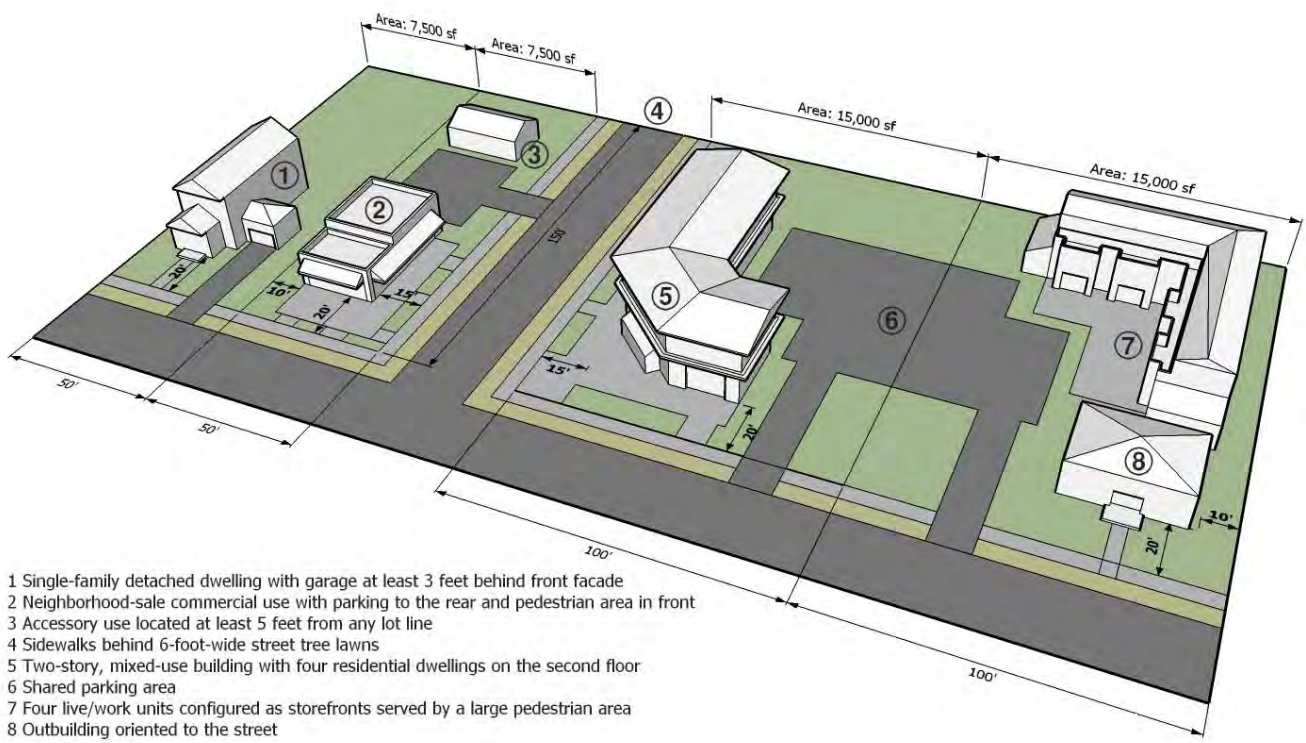
DIMENSIONAL STANDARDS

	Standard	Single-Family Uses	All Other Residential Uses	All Other Uses
Density	Density, Maximum (DU/AC)	N/A	12	N/A
Density	Intensity, Maximum (FAR)	N/A		0.7
Lot Area	Lot Size, Minimum	The lesser of: 7,500 sf, or the average lot size of lots within 300 feet along the same block face, provided there are 7 or more lots within the 300-foot area	7,500 sf [1]	5,000 sf
Lot Area	Lot Width, Minimum	The lesser of: 50 feet, or the average lot width of lots within 300 feet along the same block face, provided there are 7 or more lots within the 300-foot area	75 feet, plus 5 feet for each additional unit beyond 2 units	50 ft
Lot Area	Building Coverage, Maximum (%)	60		70
Required Yards	Front, Minimum (ft) [2]	The lesser of: 20 ft, or the average front yard on lots within 300 feet along the same block face, provided there are 7 or more lots with existing residential structures within the 300-foot area	20	
Required Yards	Side, Minimum [2]	When abutting a street: 10 ft; Otherwise, the lesser of: 7 ft, or the average side yard on lots within 300 feet along the same block face, provided there are 7 or more lots with existing residential structures within the 300-foot area; No side yard shall be less than 5 ft unless it is part of a zero side lot line development	When abutting a street: 20 ft; If parcel is less than 100 ft in width: 10 ft; When abutting the end unit of a building: 10 ft; All others: 20 percent of the lot width, up to 20 ft; No side yard shall be less than 5 ft unless it is part of a zero side lot line development [3]	20, 10 if parcel is less than 100 ft in width

TYPICAL LOT PATTERN

	STANDARD	SINGLE-FAMILY USES	ALL OTHER RESIDENTIAL USES	ALL OTHER USES	NOTES
	Rear, Minimum (ft) [2]	The lesser of: 15 ft, or the average rear yard on lots within 300 feet along the same block face, provided there are 7 or more lots with existing residential within the 300-foot area [4]	15		"sf" = square feet; "ft" = feet; "FAR" = floor area ratio; "DU" = dwelling units; "AC" = acre [1] Minimum lot size shall be applied to the entire development site for multi-family, single-family attached, townhome, and two-to four family dwellings. [2] Yards abutting streets shall be configured to maintain at least 40 linear feet between the centerline of the street and any adjacent building. [3] An additional setback of 5 feet per floor over 2 floors shall be required. [4] Rear yards may be reduced to 15 feet when there are no accessory structures or parking spaces in the rear yard. [5] Accessory structures are prohibited within front and corner side yards. [6] Accessory structures of two or more stories shall meet the minimum yard requirements for principal uses. [7] Accessory structures of 600 sf in size or smaller may not exceed one story (12 ft) in height. [8] See Section 40.1-4.4(C)(1), Accessory Dwelling Units, for accessory dwelling unit dimensional requirements.
	Corner, Minimum (ft)	15			
	Accessory Structure, Minimum (ft)	5 if 600 sf in size or smaller; otherwise same as principal use [5] [6]			
	Garage Setback, Minimum	3 feet behind front façade	N/A		
BLDG. FORM	Height, Maximum (ft/stories) [7]	36/3	36/4, unless part of mixed use development that includes a minimum of 2 floors of residential units, then 50/5		
	Accessory Structure.Size, Maximum	33% of principal use [8]	N/A		

TYPICAL DEVELOPMENT CONFIGURATION



1 Single-family detached dwelling with garage at least 3 feet behind front facade
2 Neighborhood-sale commercial use with parking to the rear and pedestrian area in front
3 Accessory use located at least 5 feet from any lot line
4 Sidewalks behind 6-foot-wide street tree lawns
5 Two-story, mixed-use building with four residential dwellings on the second floor
6 Shared parking area
7 Four live/work units configured as storefronts served by a large pedestrian area
8 Outbuilding oriented to the street

(C) General Mixed-Use (GMU) District

PURPOSE AND INTENT

The General Mixed-Use (GMU) district is established to provide a wide variety of professional offices, institutions, and a broad range of light- and moderate intensity commercial uses proximate to residential and more intense business districts so as to satisfy the city's demand for services. These regulations are designed to encourage the formation and continuance of a quiet, compatible, and uncongested mixed-use environment intermingled with residential and institutional uses. Live/work, multi-family, upper-story residential, attached residential, and numerous institutional use types are allowed. Offices, community facilities, religious institutions, retail uses and personal services intended to serve the workers and residents in the district are also allowed.

TYPICAL BUILDING TYPES

DIMENSIONAL STANDARDS

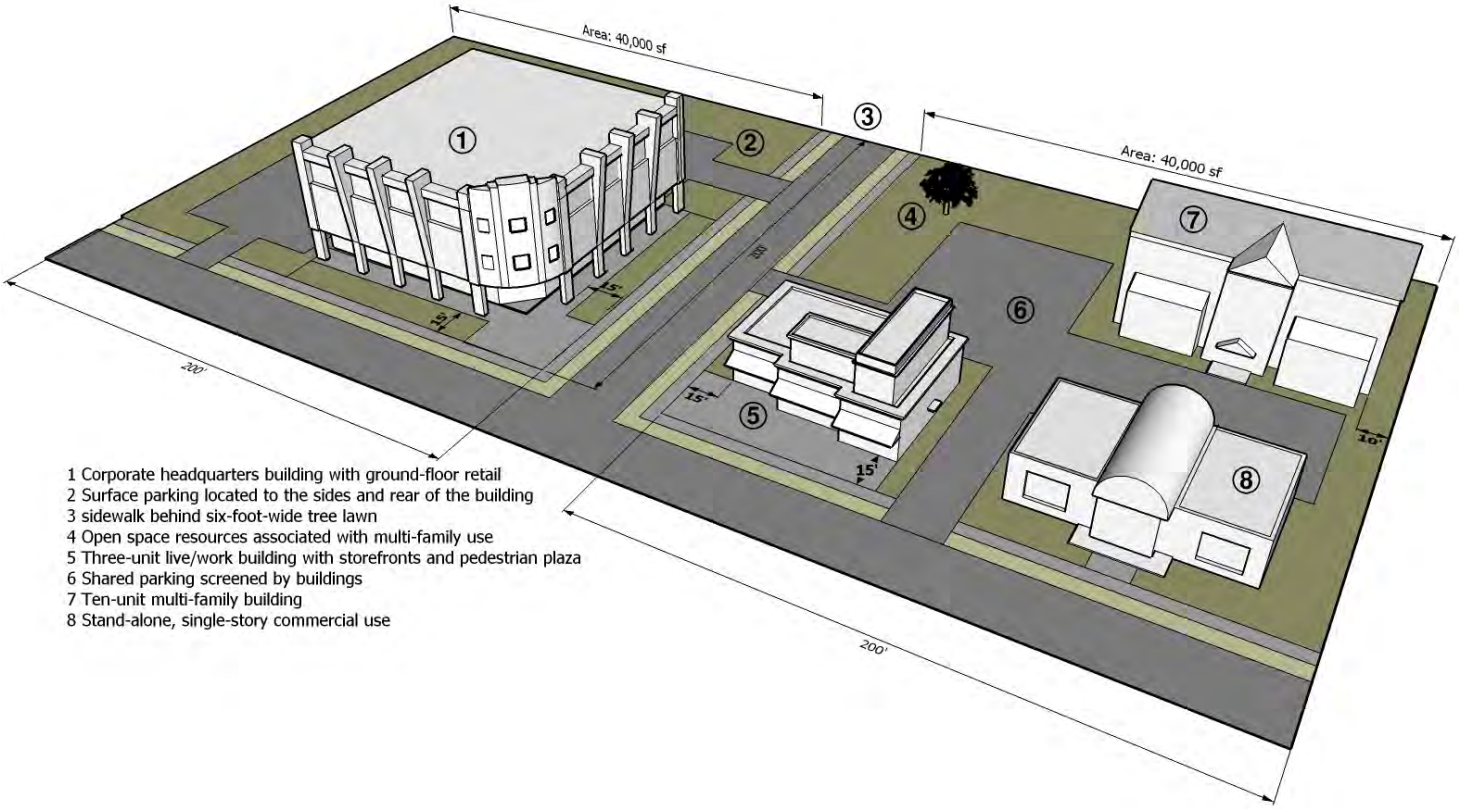
Standard		Attached Residential Uses	All Other Residential Uses	All Other Uses
Density	Density, Maximum (DU/AC)	N/A	16	N/A
	Intensity, Maximum (FAR)	N/A		0.65
Lot Area	Lot Size, Minimum (sf)	6,000	10,000 [1]	
	Lot Width, Minimum (ft)	50	100 [1]	100
	Building Coverage, Maximum (%)	55		
Required Yards	Front, Minimum (ft)[2]	20	15	
	Side, Minimum [2]	10 ft	5 ft + 5 feet for each building story beyond 3	
	Rear, Minimum [2]	30 ft		
	Corner, Minimum (ft) [2]	20	15	
	Accessory Structure, Minimum (ft)	10 if 600 sf in size or smaller; otherwise same as principal use [3] [4]		
	Garage Setback, Minimum (ft)	5 feet behind front façade		N/A
Bldg. Form	Height, Maximum (ft/stories) [5]	36/3	60/6	75/7
	Accessory Structure Size, Maximum	33% of principal use [6]		

NOTES

"sf" = square feet; "ft" = feet; "FAR" = floor area ratio; "DU" = dwelling units; "AC" = acre

[1] Minimum lot size or lot width shall be applied to the entire development site for multi-family, single-family attached, townhome, and two-to four family dwellings.
[2] Yards abutting streets shall be configured to maintain at least 40 linear feet between the centerline of the street and any adjacent building.
[3] Accessory structures are prohibited within front and corner side yards.
[4] Accessory structures of two or more stories shall meet the minimum yard requirements for principal uses.
[5] Accessory structures of 600 sf in size or smaller may not exceed one story (12 ft) in height.
[6] See Section 40.1-4.4(C)(1), Accessory Dwelling Units, for accessory dwelling unit dimensional requirements.

TYPICAL DEVELOPMENT CONFIGURATION



(D) High Intensity Mixed-Use (MU-H) District

PURPOSE AND INTENT

The High-Intensity Mixed Use (MU-H) district is established to accommodate a mix and residential and a diverse range of medium- to high-intensity retail, service, and office uses that provide goods and services serving the residents and businesses in the community at large (e.g., large shopping centers, large convenience stores, large retail sales establishments, and heavier commercial uses). The district is typically located along major arterials, at the intersection of arterials. Higher-density residential uses are encouraged on the upper floors of nonresidential establishments, and may exist as stand-alone uses. The district is subject to standards intended to ensure development is compatible with surrounding uses.

TYPICAL BUILDING TYPES

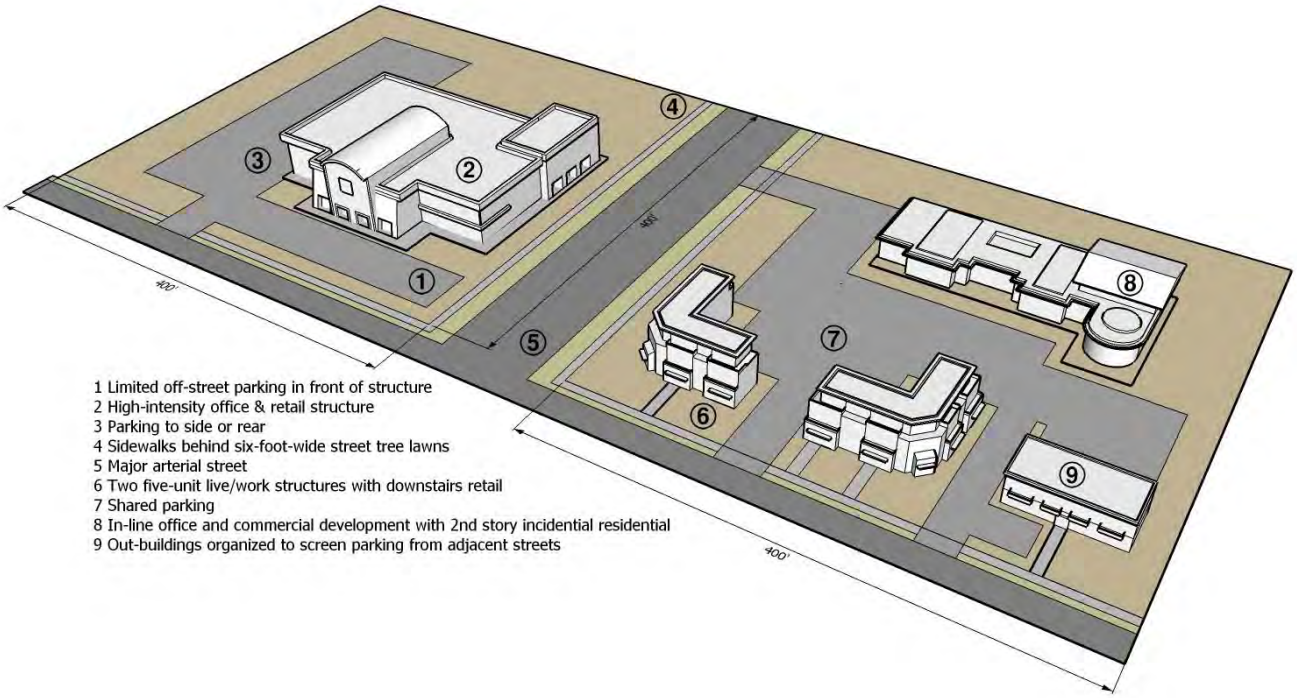
DIMENSIONAL STANDARDS

	Standard	All Residential Uses	All Other Uses
Density	Density, Maximum (DU/AC)	18	N/A
	Intensity, Maximum (FAR)	N/A	0.7
Lot Area	Lot Size, Minimum (sf) [1]	7,500	5,000
	Lot Width, Minimum	80 ft, + 5 feet for each additional unit beyond 2 units	50 ft
	Building Coverage, Maximum (%)	70	
Required Yards	Front, Minimum (ft)	20	20
	Side, Minimum (ft)	When abutting a street: 20, 10 if parcel is less than 100 ft in width; When abutting the end unit of a building: 20 ft; All others: 10 percent of the lot width, up to 20 ft; No side yard shall be less than 5 ft unless part of a zero side lot line development [2]	20, 10 if parcel is less than 100 ft in width
	Rear, Minimum (ft)	20 ft [3]	15
	Corner Side, Minimum (ft)	15	
	Accessory Structure, Minimum (ft)	5 if 600 sf in size or smaller; otherwise same as principal use [4] [5]	
Bldg. Form	Height, Maximum (ft/stories) [6]	75/7	
	Accessory Structure Size, Maximum	33% of principal use [7]	

"sf" = square feet; "ft" = feet; "FAR" = floor area ratio; "DU" = dwelling units; "AC" = acre

NOTES	[1] Minimum lot size shall be construed as the entire development site for multi-family, single-family attached, townhome, and two-to four family dwellings. [2] An additional setback of 5 feet per floor over 2 floors shall be required. [3] Rear yards may be reduced to 15 feet when there are no accessory structures or parking spaces in the rear yard. [4] Accessory structures are prohibited within front and corner side yards. [5] Accessory structures of two or more stories shall meet the minimum yard requirements for principal uses. [6] Accessory structures of 600 sf in size or smaller may not exceed one story (12 ft) in height. [7] See Section 40.1-4.4(C)(1), Accessory Dwelling Units, for accessory dwelling unit dimensional requirements.

TYPICAL DEVELOPMENT CONFIGURATION



(E) Light Industrial (IL) District

PURPOSE AND INTENT

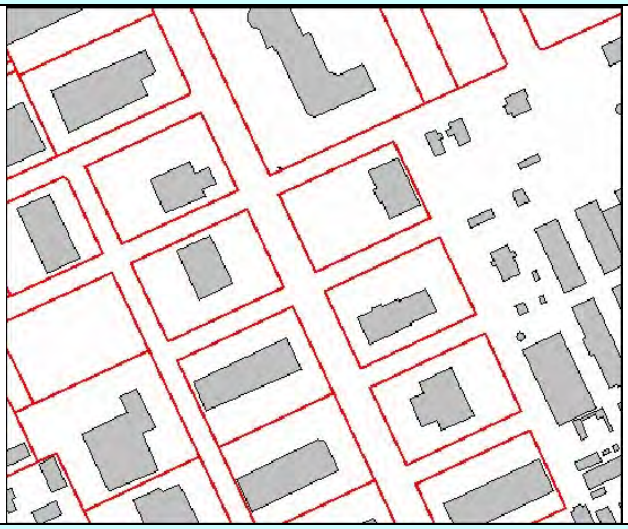
The Light Industrial (IL) district is established and intended to accommodate light manufacturing, assembly, fabrication, processing, distribution, storage, research and development, and other industrial uses that are small-scale or otherwise have minimal exterior movement of vehicles, materials, and goods, as well as few or minimal adverse environmental and visual impacts. The district is subject to standards intended to minimize potential nuisances or damage to the environment and adverse impacts on surrounding uses.

DIMENSIONAL STANDARDS

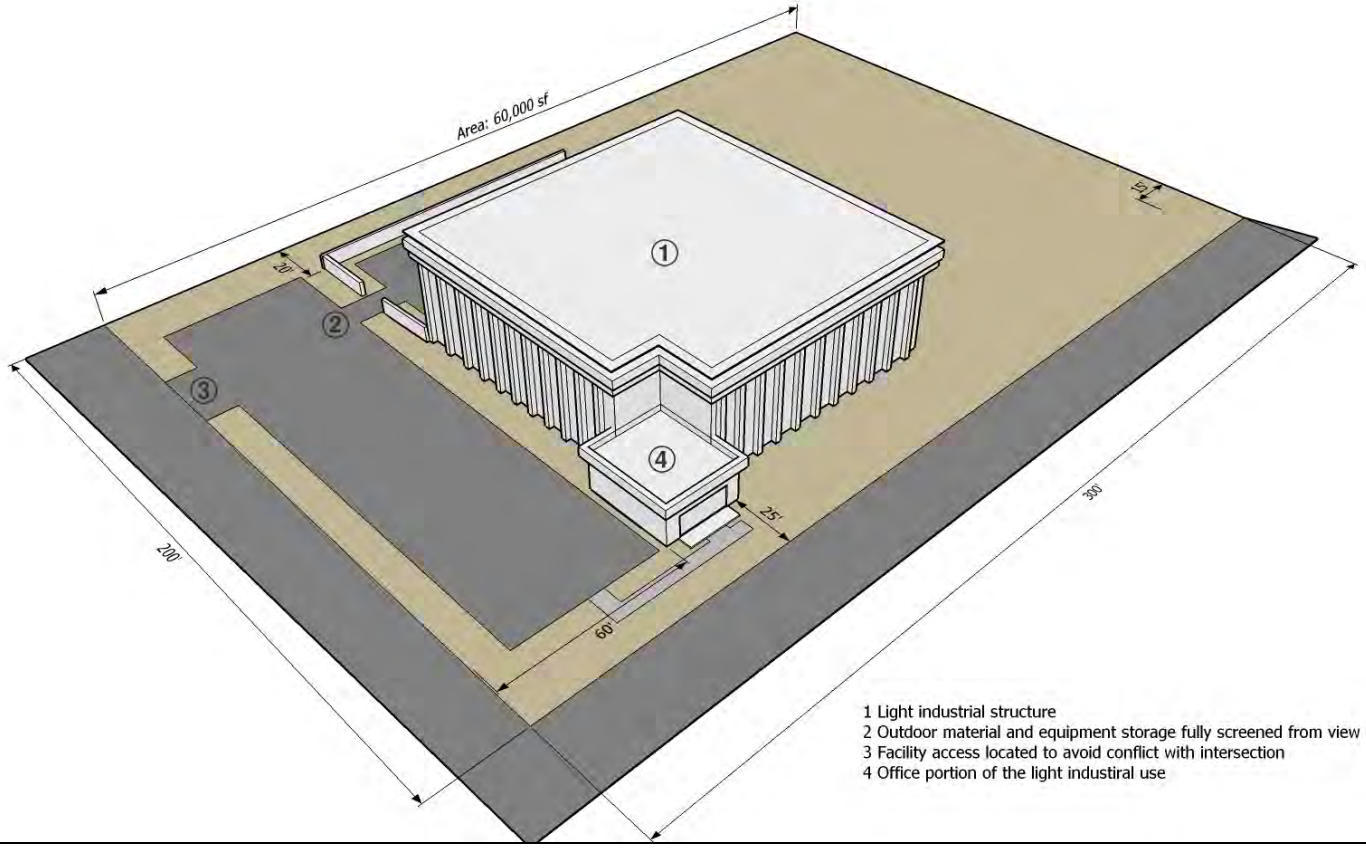
	Standard	All Permitted Uses
Density	Density, Maximum (DU/AC)	N/A
	Intensity, Maximum (FAR)	0.75
Lot Area	Lot Size, Minimum (sf)	7,000 [1]
	Lot Width, Minimum (ft)	50
	Building Coverage, Maximum (%)	70
Required Yards	Front, Minimum (ft) [2]	25
	Side, Minimum [2]	20 ft, 10 ft if parcel is less than 100 feet wide
	Rear, Minimum (ft) [2]	15
	Corner, Minimum (ft) [2]	20
	Accessory Structure, Minimum (ft)	N/A
	Overhead/Vehicular Access Door Setback, Minimum (ft)	To side or behind building
Bldg. Form	Height, Maximum (ft/stories)	N/A
	Accessory Structure Size, Maximum	N/A
Notes	"sf" = square feet; "ft" = feet'; "FAR" = floor area ratio; "DU" = dwelling units; "AC" = acre [1] Outdoor storage prohibited on lots smaller than 10,000 square feet in size. [2] Yards abutting streets shall be configured to maintain at least 40 linear feet between the centerline of the street and any adjacent building.	

TYPICAL BUILDING TYPES

TYPICAL LOT PATTERNS



TYPICAL DEVELOPMENT CONFIGURATION



(F) Industrial (IN) District

PURPOSE AND INTENT

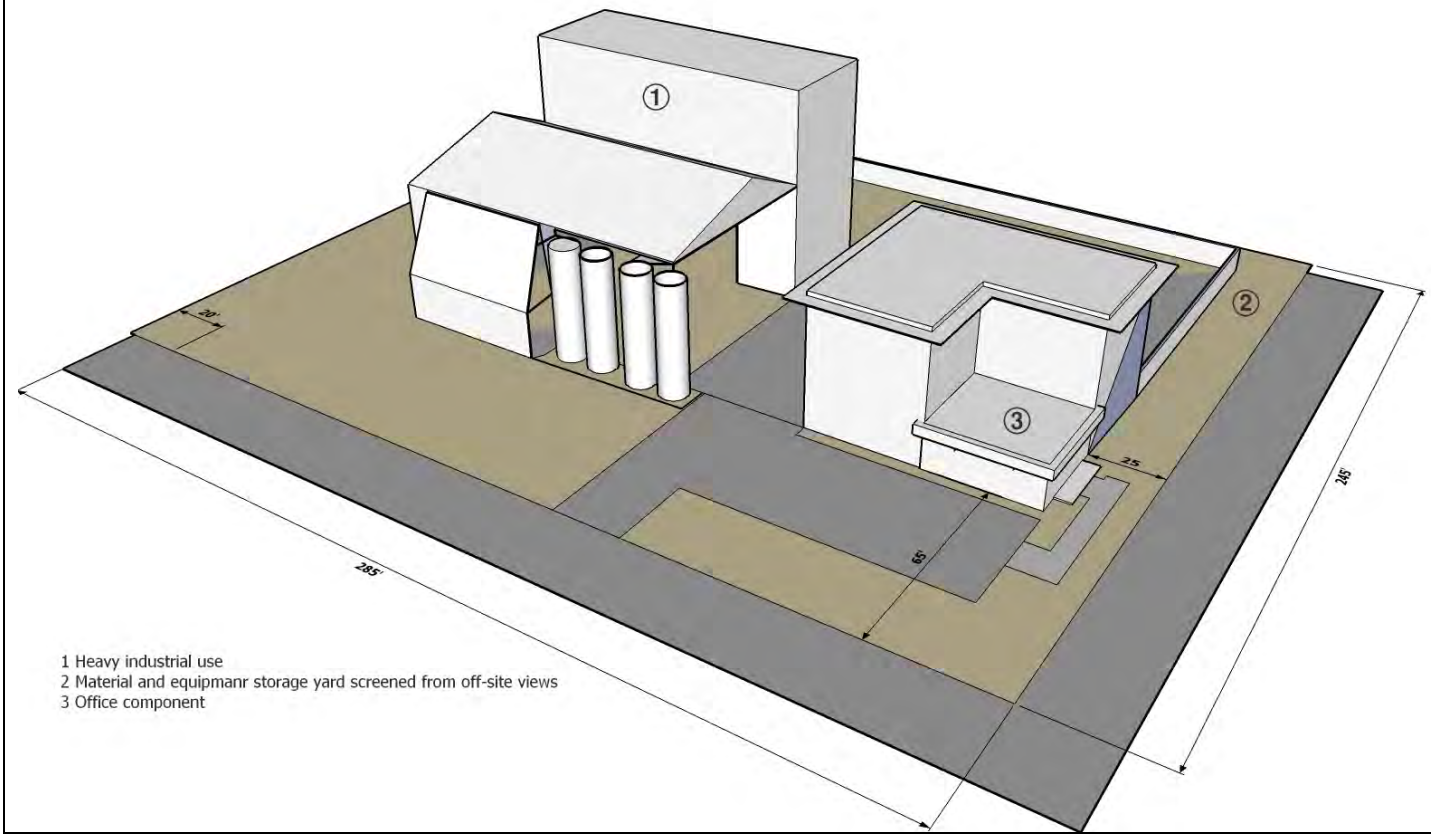
The Industrial (IN) district is established and intended to accommodate heavy manufacturing, assembly, fabrication, processing, distribution, storage, research and development, and other industrial uses that may be large-scale or otherwise have extensive exterior movement of vehicle, materials, and goods, and greater potential for adverse environmental and visual impacts.

DIMENSIONAL STANDARDS

	STANDARD	ALL PERMITTED USES
DENSITY	Density, Maximum (DU/AC)	N/A
	Intensity, Maximum (FAR)	0.75
LOT AREA	Lot Size, Minimum (sf)	7,000 [1]
	Lot Width, Minimum (ft)	50
	Building Coverage, Maximum (%)	70
REQUIRED YARDS	Front, Minimum (ft) [2]	25
	Side, Minimum [2]	20 ft, 10 ft if parcel is less than 100 feet wide
	Rear, Minimum (ft) [2]	15
	Corner, Minimum (ft)[2]	20
	Accessory Structure, Minimum (ft)	N/A
	Overhead/vehicular Access Door Setback, Minimum (ft)	To side or behind building
BLDG. FORM	Height, Maximum (ft/stories)	N/A
	Accessory Structure Size, Maximum	N/A
NOTES	"sf" = square feet; "ft" = feet'; "FAR" = floor area ratio; "DU" = dwelling units; "AC" = acre [1] Outdoor storage prohibited on lots smaller than 10,000 square feet in size. [2] Yards abutting streets shall be configured to maintain at least 40 linear feet between the centerline of the street and any adjacent building.	

TYPICAL BUILDING TYPES

TYPICAL DEVELOPMENT CONFIGURATION



40.1-3.5 ACTIVITY CENTER (AC) ZONING DISTRICTS

(A) General Purposes

The Activity Center (AC) base zoning districts are established and intended to encourage high-quality land planning and site design concepts that:

(1) Implement the comprehensive plan and the future land use map by establishing a series of activity centers in designated locations around the city;

(2) Promote mixed-use, pedestrian-friendly land use patterns within designated activity centers;

(3) Allow greater freedom in providing a well-integrated mix of residential and nonresidential land uses in the same development, including a mix of housing types, lot sizes, and densities;

(4) Establish inter-connected developments that provide greater pedestrian orientation, vehicular connectivity, and support for alternative methods of transportation;

(5) Provide for efficient use of land resulting in smaller networks of utilities and streets and thereby lowering development and housing costs; and

(6) Promote environmentally-sensitive and sustainable development that respects surrounding established land use character and respects and takes advantage of a site's natural and man-made features, such as trees, streams, hillsides, floodplains, and historic features.

(B) Classification of Activity Center Zoning Districts

Land shall be classified into an AC district only in accordance with the comprehensive plan, the procedures and requirements set forth in Section 40.1-2.3(A), Zoning Map Amendment (Rezoning) or Text Amendment, and the standards in this section.

(C) Relationship to MX/EMP Districts

Lands designated as Mixed-Use/Employment Center (MX/EMP) on May 1, 2010 are subject to the standards and conditions included within the previously-adopted master plans and other requirements related to their approval. These developments may proceed subject to their original approvals in accordance with Section 40.1-1.8, Transitional Rules. In the event the development approval associated with an MX/EMP district expires, or a modification to development within these districts is proposed, the provisions of this Ordinance shall apply.

(D) Organization of Activity Center District Regulations

Section 40.1-3.5(E), Procedure for Establishing an AC District, describes the review process and application elements. Section 40.1-3.5(F), General Standards for All Activity Center Districts, sets out general standards applicable to all activity center districts. Sections 40.1-3.5(G) to 40.1-3.5(I) set out the individual district-specific standards for each of the three types of AC districts. These sections have a common structure consisting of a purpose statement, applicable district standards, and example development configurations.

(E) Procedure

Applications for establishment of an AC district shall be reviewed as an amendment to the Official Zoning Map in accordance with Section 40.1-2.3(A), Zoning Map Amendment (Rezoning) or Text Amendment, and the following standards:

(1) Master Plan Required

Applications for AC districts shall include a master plan reviewed by the City Council as part of the amendment to the Official Zoning Map. The master plan shall illustrate the conceptual layout of proposed uses, streets, buildings, lots, and other elements of the proposed development when fully developed. Required elements of the master plan shall include:

(a) Location and mix of proposed land uses;

(b) Number (density and intensity), type, and mix of land uses for the district as a whole as well as for each sub-area within the district;

(c) Proposed block and lot standards, including: block length, lot size, lot width, and lot coverage;

(d) Building dimensional standards, including: building footprints, yard setbacks, proposed heights, and lot coverage;

(e) Pedestrian and vehicular circulation systems;

(f) Parking and loading locations and quantity;

(g) Location of public facilities;

(h) Location, type, amount, and ownership of open space;

(i) Stormwater management areas; and

(j) A conceptual landscaping plan, including: street trees, appropriate buffers and screens, signage and public art.

Development within an AC district shall conform to the requirements of the approved master plan.

(2) Statement of Design Standards Required

In addition to a master plan, applications for an AC district shall also provide a statement of design standards in the form of graphics and explanatory text illustrating how buildings, circulation systems, landscaping, and other elements of the master plan will meet the general and district-specific standards of the AC district and other relevant requirements in this Ordinance. The statement of design standards shall, at a minimum, address all of the following:

(a) Architectural form, materials, and other guidelines for proposed buildings;

(b) Off-street parking design;

(c) Fence and wall standards;

(d) Exterior lighting standards;

(e) Signage descriptions, sizes, and examples;

(f) Street hierarchy (collector streets, local streets, alleys, etc.);

(g) Street tree planting, landscaping, and drainage;

(h) Provision of bicycle lanes, sidewalks, and crosswalks;

(i) A traffic impact analysis prepared in accordance with Section 40.1-5.12, Transportation Analysis;

(j) A scheduling/phasing plan, if applicable; and

(k) Property owners' association documents specifying maintenance, membership, and member responsibilities.

(3) Conversion Schedule

The AC master plan may include a conversion schedule that identifies the extent to which one type of residential use may be converted to another type of residential use and one type of nonresidential use may be converted to another type of nonresidential use (i.e., residential to residential, or nonresidential to nonresidential). These conversions may occur within development areas and between development areas, as long as they occur within the same development phase, as identified by the approved development phasing plan, and are consistent with established extents of conversion set down in the conversion schedule.

(4) Development Phasing Plan

If development in the AC district is proposed to be phased, the master plan shall include a development phasing plan that identifies the general sequence or phases proposed to be developed, including how residential and nonresidential development will be timed, how infrastructure (public and private) and open space will be provided and timed, and how development will be coordinated with the city's capital improvements program.

(5) Amendment to Master Plan or Statement of Design Standards

(a) Amendments

(i) General

If an applicant determines it is necessary to alter the concept or intent of the master plan or statement of design standards, the master plan or statement shall be amended, extended, or modified only in accordance with the procedures and standards for its original approval.

(ii) Amendments Defined

The following items are considered an alteration of the concept or intent of the master plan or statement of design standards and are treated as an amendment:

a. Changes in use designations;

b. Density/intensity increases;

c. Decreases in open space;

d. Substantial changes in the location of streets (particularly if streets are to be deleted or access points to the development moved so traffic flows both inside and outside the development are affected);

e. Change in the location of any public easement;

f. Change in the proportion of housing types by more than 10 percent;

g. Substantial changes to the design or materials of structures; or

h. Violation of any specific condition of the master plan or statement of design standards.

(b) Minor Deviations

Subsequent plans and permits for development within an approved AC district may include minor deviations from the master plan or statement of design standards, provided such deviations are limited to changes addressing technical considerations that could not reasonably be anticipated during the zoning classification process or any other change that has no material effect on the character of the approved activity center district or any of its requirements. The following shall constitute minor deviations:

(i) Driveway locations;

(ii) Structure floor plan revisions;

(iii) Minor shifts in building size or location; and

(iv) Facility design modifications for amenities and the like.

Changes that materially affect the basic concept of the master plan or basic parameters set by the statement of design standards are not considered minor deviations, and shall only be changed as amendments to the AC district.

(F) General Standards for All Activity Center Districts

(1) Consistency with City Plans

The AC zoning district designation, the master plan, and the statement of design standards shall be consistent with the city's comprehensive plan and any other applicable plans adopted by the city.

(2) Compatibility with Surrounding Areas

Development along the perimeter of an AC district shall be compatible with adjacent existing or proposed development. Where there are issues of compatibility, the master plan shall provide for transition areas at the edges of the AC district that provide appropriate buffering or ensure a complementary character of uses and development patterns. Determination of complementary character shall be based on densities/intensities, lot size and dimensions, building height, building mass and scale, hours of operation, exterior lighting, and siting of service areas.

(3) Use Regulations

(a) Article 40.1-4, Use Standards, includes a summary use table specifying the allowable uses for each of the AC districts (See Table 40.1-4.1(A), Use Table) subject to an approved master plan. Uses with an "A" under a particular AC district column are allowed subject to an approved master plan and statement of design standards.

(b) Uses that do not include an "A" under a particular AC district column in Table 40.1-4.1(A) are prohibited within that AC district.

(c) Any applicable use-specific standard shall also apply within an AC district unless the approved master plan and statement of design standards indicate otherwise.

(4) Street Standards

In approving an AC district master plan, the City Council may approve modifications or reductions of city street design standards, but all AC districts shall comply with the following requirements:

(a) The street network shall consist of a hierarchy of streets designed as a modified grid to promote sustainable, multi-modal, pedestrian-friendly, and interconnected development patterns;

(b) Principal vehicular access points shall be designed to provide for smooth traffic flow and to minimize hazards to vehicular, pedestrian, or bicycle traffic;

(c) The street network shall provide safe and convenient access to all areas of the proposed development;

(d) The internal street network shall make logical connections to the public street system outside the AC district; and

(e) Dead end streets shall only be utilized in areas containing environmentally-sensitive features, topographical constraints, or where existing development makes a street connection impossible.

(5) Mobility

(a) AC districts shall include internal pedestrian pathways that provide a logical, safe, and convenient system for pedestrian access to buildings and common areas, with appropriate linkages off-site;

(b) Sidewalks shall be included on both sides of streets;

(c) Bicycle racks shall be provided at a rate of one bike rack (accommodating at least four bicycles) for every 100 off-street parking spaces; and

(d) Bus shelters and other site features supportive of transit service shall be included in the master plan, as appropriate.

(6) On-Street Parking

Except where waived by the Planning Director due to safety considerations, on street parking shall be provided on at least one side of all streets except alleys.

(7) Off-Street Parking

(a) Neighborhood Activity Centers

Buildings within a NAC district may have up to one single loaded bay of required off-street surface parking located between the primary façade and the street, provided the width of the bay does not exceed the building's width.

(b) Community Activity Centers

Up to 25 percent of the total amount of required parking provided in a CAC district may be located between the primary facades of buildings and the adjacent street, provided:

(i) Surface parking shall be limited to one single-loaded bay; and

(ii) Each single-loaded bay shall have a maximum width less than the width of the building it serves.

(c) Regional Activity Centers

No off-street surface parking shall be located between a building's primary façade and the street.

(8) Street Trees

(a) Except where topographic or other conditions make it impractical, street trees shall be located:

(i) Along both sides of all streets;

(ii) Between the curb and the sidewalk;

(iii) Within appropriately-sized tree lawns or tree pits; and

(iv) With a maximum on-center spacing of 40 feet.

(b) Except beneath overhead utilities, street trees shall be canopy trees.

(9) Exterior Lighting

Exterior lighting shall comply with the standards in Section 40.1-5.9, Exterior Lighting, except that it shall not exceed 20 feet in height from the adjacent finished grade to the top of the fixture.

(10) Utilities

Development within an activity center district shall place all utilities underground. Existing overhead utilities shall be placed underground or relocated into easements located behind buildings and away from street rights-of-way to the maximum extent practicable.

(11) Building Design

(a) Buildings shall include a main or primary entrance that is oriented to the street from which the building derives its street address.

(b) In order to maintain human-scaled design, the primary façade of buildings over 40 feet in length shall include at least three of the following features:

(i) At least 60 percent of the ground floor primary façade wall is occupied by windows or doors;

(ii) A prominent exterior horizontal expression line denoting the building's ground floor;

(iii) Awnings, an arcade, or similar overhang spanning at least 75 percent of the façade to provide shelter to pedestrians;

(iv) Changes in wall plane of at least 24 inches relative to the primary façade that indicate storefront bays, entrance features, or other projections or recesses;

(v) Changes in material or texture; or

(vi) Comparable features like pilasters or columns with regular on-center spacing, entryways recessed at least three feet from the façade plane, or alcoves with statuary, plantings, or fountains.

(12) Natural Resources

Natural resources like stands of existing trees, wetlands, riparian areas, or significant animal habitat shall be incorporated into an AC district as amenities, wherever possible.

(13) Stormwater Management Facilities

Stormwater management facilities shall be designed as landscape amenities, including the following requirements:

(a) The design of these facilities shall incorporate a curvilinear shape to resemble a naturally-occurring water feature, including indentations and peninsulas; or be configured in an intentional geometric form with a hardened border so as to resemble a pool or fountain;

(b) Chain-link fencing shall be avoided; and

(c) Rip-rap or other hard armoring techniques are discouraged for facilities designed to appear as naturally-occurring water features.

(14) Waste Disposal

Private trash collection shall be required unless the Planning Director approves an alternative arrangement. Fencing or landscaping shall be used to screen trash dumpsters and containers from public view.

(15) Compliance with District-Specific Standards

In addition to the general standards for all AC districts, new AC districts shall also comply with the district specific standards for the particular type of AC district proposed (See Section 40.1-3.5(G) through 40.1-3.5(I)).

(16) Waiver of Requirements

With the exception of the master plan and the design statement, the Planning Director may waive any of the general standards for all AC districts, when in the opinion of the Planning Director, compliance with such requirements is not applicable or necessary. The waiver shall be in writing, and shall become a part of the AC master plan.

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(G) Neighborhood Activity Center (NAC) District

PURPOSE AND INTENT

The NAC district is established primarily to accommodate mixed, pedestrian-scaled, neighborhood-serving nonresidential and high-density residential uses in the same structure or in close proximity. Nonresidential uses may include small-scale retail, service, and professional offices that provide goods and services to the residents of the surrounding neighborhood. Nonresidential uses should typically be located at the intersection of two collector streets or a collector street and arterial street. Residential uses are encouraged on the upper floors of nonresidential establishments. There are no minimum lot sizes, but residential densities are limited to a maximum of 18 units per gross acre. Establishment of single-tenant nonresidential buildings exceeding 5,000 square feet and multiple-tenant nonresidential buildings exceeding 10,000 square feet shall require a use permit (See Section 40.1-2.3(B), Use Permit.). Mass transit facilities and pedestrian-friendly elements are important components of development in these centers, in order to reduce demand for auto travel as well as increase visual interest. All development in the district is subject to an approved master plan and statement of design standards.

DIMENSIONAL STANDARDS	
District Size, Minimum	2 contiguous acres [1]
Locational Requirements	Must be consistent with future land use map in comprehensive plan
Density, Maximum (DU/AC)	18
Average Block Length (ft)	300
LOT AREA	
Lot Size, Minimum (sf)	None
Lot Area, Minimum (sf)	None
Building Coverage, Maximum (%)	65
REQUIRED YARDS [2]	
Front Yard, Maximum (ft)	5
Side Yard, Minimum (ft)	3
Rear Yard, Minimum (ft)	10; 20 from street ROW
Corner Side, Minimum (ft)	10
Development Perimeter, Minimum (ft)	10 [3]
BUILDING FORM	
Building Height, Minimum (# of stories)	None[4]
Building Height, Maximum (ft/# of stories)	36/3
Building Size, Maximum (sf)	10,000 [5]
Accessory Structure Size, Maximum	33% of the closest principal structure [8]

USE MIX	
Residential Floor Area, Maximum [6]	85% of total floor area
Nonresidential Floor Area, Minimum	15% of total floor area
Open Space, Minimum [7]	15% of district size, subject to standards in Section 40.1-5.4

DEVELOPMENT STANDARDS

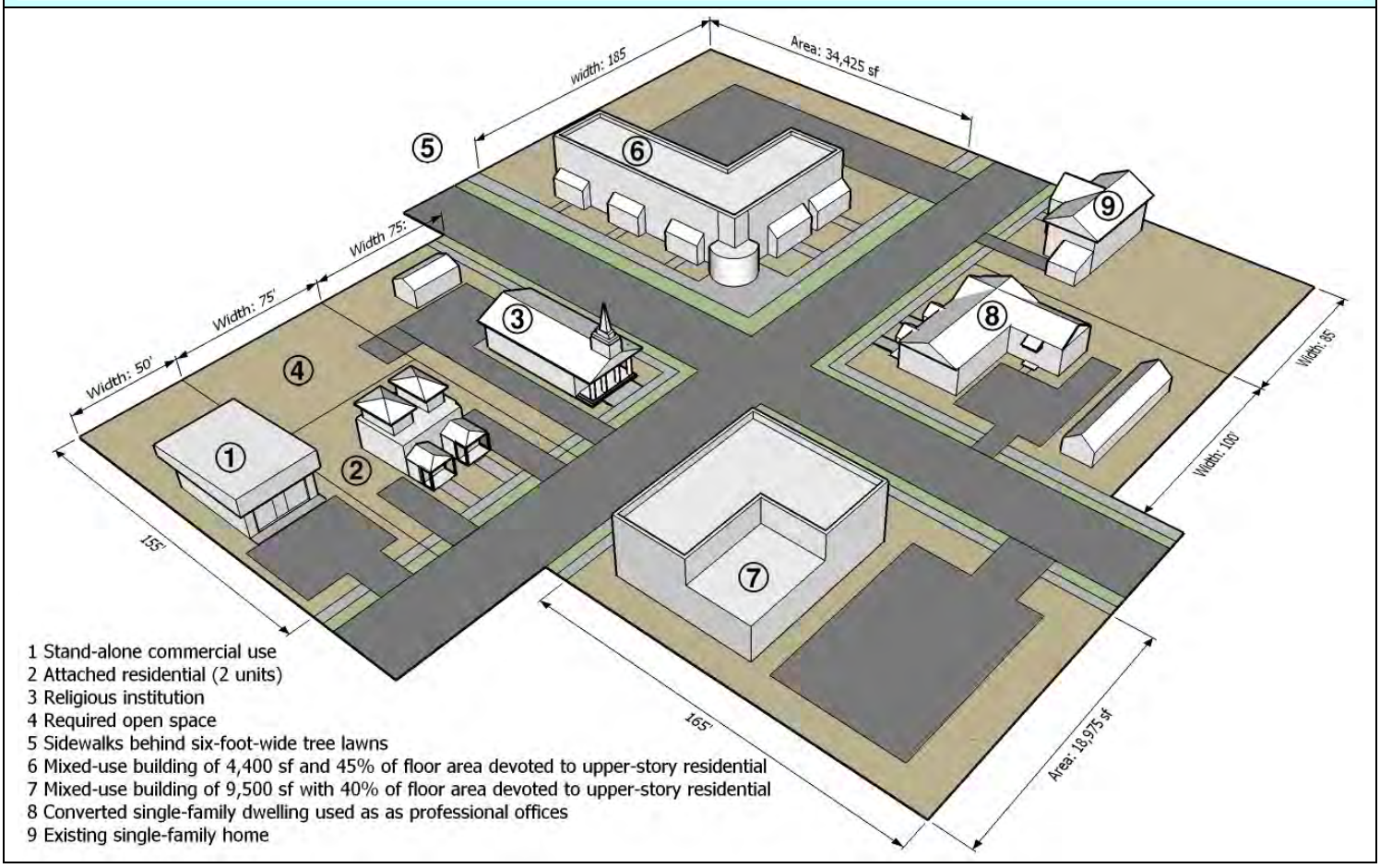
The standards in Article 40.1-5, Development Standards, shall apply to all development in an NAC district, but some of these standards may be modified as part of a master plan if consistent with the general purposes of the district and the procedures noted below:

DEVELOPMENT STANDARD	MEANS OF MODIFYING
Off-Street Parking & Loading	Specify in master plan
Landscaping	Specify in alternative landscaping plan (See Section 40.1-5.2)
Tree Protection	
Open Space Set-Aside	Modifications prohibited
Exterior Lighting	Specify in master plan
Multi-family design standards	Modifications prohibited
Commercial design standards	
Transitional standards	
Signage	Specify in master plan

"sf" = square feet; "ft" = feet; "DU" = dwelling units; "AC" = acres; "ROW" = right-of-way

NOTES:
[1] Contiguous lands smaller than two acres may be added following initial designation of the NAC district.
[2] Accessory structures are prohibited within front, corner side, and development perimeter yards, and shall comply with minimum side and rear yard standards.
[3] Development perimeter yard is not required where NAC borders a ROW or open space.
[4] Buildings on corner lots abutting four-way street intersections shall be at least two stories in height.
[5] Retail uses may exceed 10,000 square feet with a use permit.
[6] The footprint of buildings devoted solely to residential uses shall be limited to a maximum of 25 percent of the collective footprints in the NAC district.
[7] Central open spaces such as greens or squares shall be provided as focal points in the development.
[8] See Section 40.1-4.4(C)(1), Accessory Dwelling Units, for accessory dwelling unit dimensional requirements.

TYPICAL DEVELOPMENT CONFIGURATION



(H) Community Activity Center (CAC) District

PURPOSE AND INTENT

The CAC district is intended to encourage and facilitate the development of a mix of concentrated community-serving land uses in close proximity to each other and residential development that are well-connected. These centers should include economic generators, including shopping, employment, educational facilities, personal service, restaurants, theaters, hotels, and office development. The district should also contain a broad mix of complementary uses, including high-density multi-family housing, major civic and public facilities, parks, and open space. Mass transit facilities and pedestrian-friendly elements are important components of CAC districts, in order to reduce demand for auto travel as well as increase visual interest. All development in the district is subject to an approved master plan and statement of design standards.

DIMENSIONAL STANDARDS

District Size, Minimum	5 contiguous acres [1]
Locational Requirements	Must be consistent with comprehensive plan's future land use map and bounded by at least one 4-way street intersection
Density, Maximum (DU/AC)	30
Average Block Length (ft)	450
LOT AREA	
Lot Size, Minimum (sf)	None
Lot Area, Minimum (sf)	None
Building Coverage, Maximum (%)	75
REQUIRED YARDS [2]	
Front Yard, Maximum (ft)	5
Side Yard, Minimum (ft)	3
Rear Yard, Minimum (ft)	10; 20 from street ROW
Corner Side, Minimum (ft)	10
Development Perimeter, Minimum (ft)	20 [3]
BUILDING FORM	
Building Height, Minimum (# of stories)	None [4]
Building Height, Maximum (ft/# of stories)	50/4
Building Size, Maximum (sf)	30,000 [5]
Accessory Structure Size, Maximum	33% of the closest principal structure [8]

USE MIX

Residential Floor Area, Maximum [6]	60% of total floor area
Residential Floor Area, Minimum	10% of total floor area
Nonresidential Floor Area, Minimum	40% of total floor area
Open Space, Minimum [7]	15% of district size, subject to standards in Section 40.1-5.4

DEVELOPMENT STANDARDS

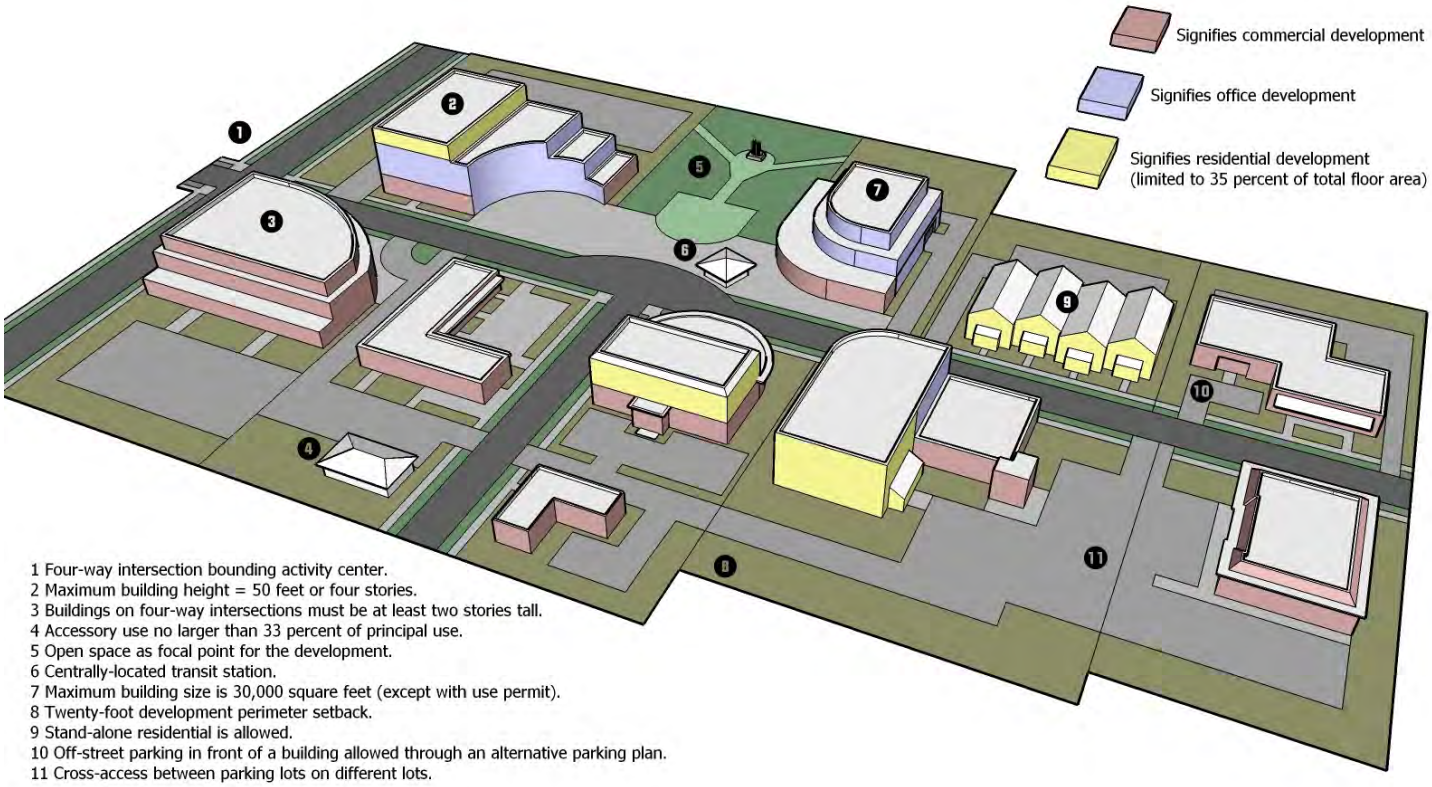
The standards in Article 40.1-5, Development Standards, shall apply to all development in an CAC district, but some of these standards may be modified as part of a master plan if consistent with the general purposes of the district and the procedures noted below:

DEVELOPMENT STANDARD	MEANS OF MODIFYING
Off-Street Parking & Loading	Specify in master plan
Landscaping	Specify in alternative landscaping plan (See Section 40.1-5.2)
Tree Protection	
Open Space Set-Aside	Modifications prohibited
Exterior Lighting	Specify in master plan
Multi-family design standards	Modifications prohibited
Commercial design standards	
Transitional standards	
Signage	Specify in master plan

"sf" = square feet; "ft" = feet; "DU" = dwelling units; "AC" = acres; "ROW" = right-of-way

NOTES:
[1] Contiguous lands smaller than 10 acres may be added following initial designation of the CAC district.
[2] Accessory structures are prohibited within front, corner side, and development perimeter yards, and shall comply with minimum side and rear yard standards.
[3] Development perimeter yard is not required where CAC borders a ROW or open space.
[4] Buildings on corner lots abutting four-way street intersections shall be at least two stories in height.
[5] Retail uses may exceed 30,000 square feet with a use permit.
[6] The footprint of buildings devoted solely to residential uses shall be limited to a maximum of 25 percent of the collective footprints in the CAC district.
[7] Central open spaces such as greens or squares shall be provided as focal points in the development.
[8] See Section 40.1-4.4(C)(1), Accessory Dwelling Units, for accessory dwelling unit dimensional requirements.

TYPICAL DEVELOPMENT CONFIGURATION



(I) Regional Activity Center (RAC) District

PURPOSE AND INTENT

The RAC district is intended to encourage and facilitate the development of distinctive, attractive regional centers containing a mix of concentrated land uses. These high-quality and highly visible regional activity centers are intended to serve as Portsmouth's "image-makers." The centers should include major economic generators, most with a regional market draw, such as regional shopping, major employers, large educational facilities, restaurants, theaters, hotels, and relatively dense office development. The area should contain a broad mix of complementary uses, including high-density multi-family housing, major civic and public facilities, parks, and open space. Mass transit facilities and pedestrian-friendly elements are important components of development in these centers, in order to reduce demand for auto travel as well as increase visual interest. All development in the district is subject to an approved master plan and statement of design standards.

DIMENSIONAL STANDARDS

District Size, Minimum	20 contiguous acres [1]
Locational Requirements	Must be consistent with comprehensive plan's future land use map and bounded by a major arterial street on at least one side
Density, Maximum (DU/AC)	40; over 31 requires a use permit
Average Block Length (ft)	600

LOT AREA

Lot Size, Minimum (sf)	None
Lot Area, Minimum (sf)	None
Building Coverage, Maximum (%)	85

REQUIRED YARDS [2]

Front Yard, Maximum (ft)	5
Side Yard, Minimum (ft)	3
Rear Yard, Minimum (ft)	10; 20 from street ROW
Corner Side, Minimum (ft)	10
Development Perimeter, Minimum (ft)	20 [3]

BUILDING FORM

Building Height, Minimum (# of stories) [4]	2+ – 50% of all buildings; 3+ – 25% of all buildings
Building Height, Maximum (ft/# of stories)	75/6
Building Size, Maximum (sf)	60,000 [5]
Accessory Structure Size, Maximum	33% of the closest principal structure [7]

USE MIX

Residential Floor Area, Maximum	35% of total floor area
Residential Floor Area, Minimum	15% of total floor area
Nonresidential Floor Area, Minimum	65% of total floor area
Open Space, Minimum [6]	20% of district size, subject to standards in Section 40.1-5.4

DEVELOPMENT STANDARDS

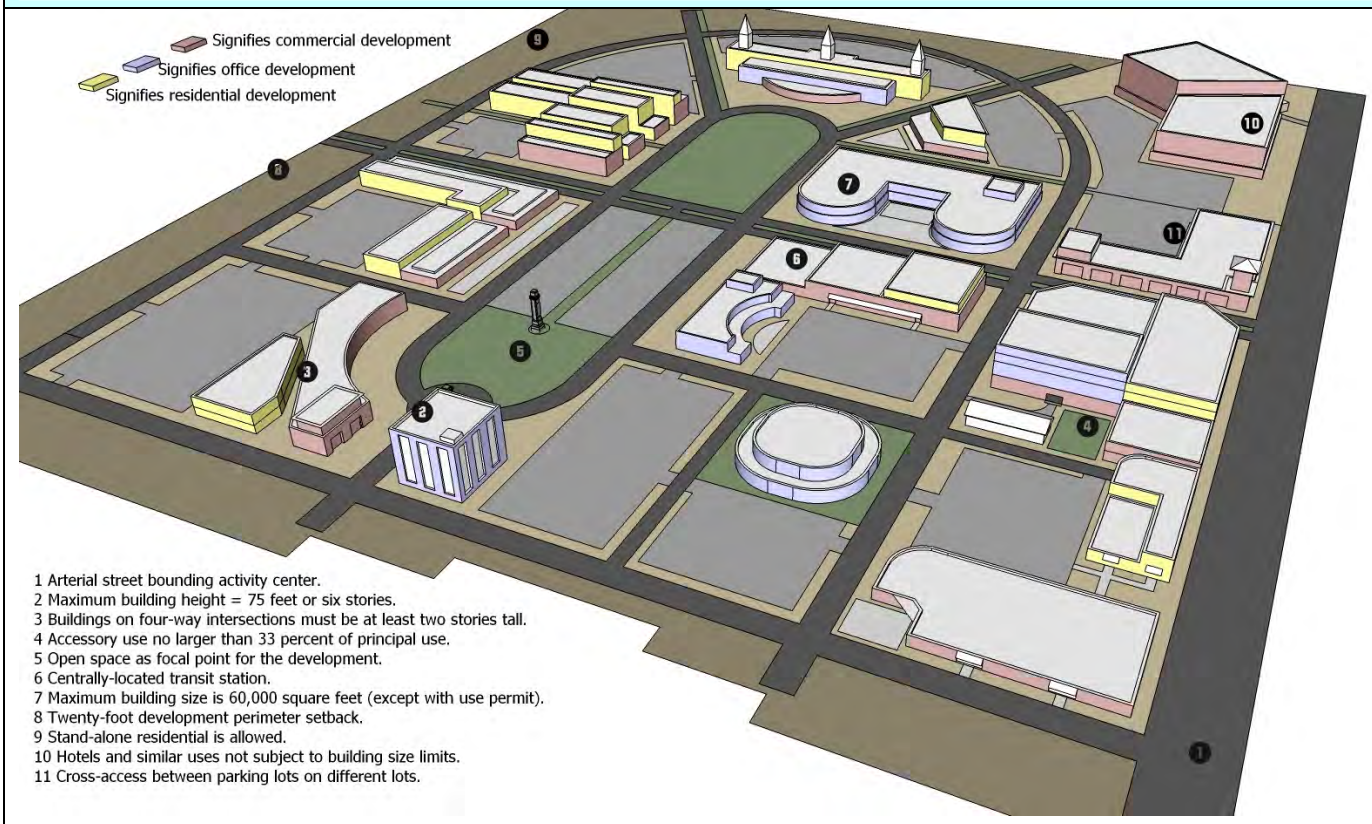
The standards in Article 40.1-5, Development Standards, shall apply to all development in an RAC district, but some of these standards may be modified as part of a master plan if consistent with the general purposes of the district and the procedures noted below:

DEVELOPMENT STANDARD	MEANS OF MODIFYING
Off-Street Parking & Loading	Specify in master plan
Landscaping	Specify in alternative landscaping plan (See Section 40.1-5.2)
Tree Protection	
Open Space Set-Aside	Modifications prohibited
Exterior Lighting	Specify in master plan
Multi-family design standards	Modifications prohibited
Commercial design standards	
Transitional standards	
Signage	Specify in master plan

"sf" = square feet; "ft" = feet; "DU" = dwelling units; "AC" = acres; "ROW" = right-of-way

NOTES:
[1] Contiguous lands smaller than 20 acres may be added following initial designation of the RAC district.
[2] Accessory structures are prohibited within front, corner side, and development perimeter yards, and shall comply with minimum side and rear yard standards.
[3] Development perimeter yard is not required where RAC borders a ROW or open space.
[4] Buildings on corner lots abutting four-way street intersections shall be at least two stories in height.
[5] Office buildings, educational facilities, research and development, structured parking, hotels, grocery stores, or conference/training centers are exempted from the maximum building size standards. Retail uses may exceed 60,000 square feet with a use permit.
[6] Central open spaces such as greens or squares shall be provided as focal points in the development.
[7] See Section 40.1-4.4(C)(1), Accessory Dwelling Units, for accessory dwelling unit dimensional requirements.

TYPICAL DEVELOPMENT CONFIGURATION



40.1-3.6 SPECIAL BASE ZONING DISTRICTS

(A) General Purposes

The special base zoning districts established in this section are intended to address special areas of the city where special area plans and related regulations have been prepared to regulate development.

(B) Waterfront (WF) District

(1) Purpose and Intent

The purpose and intent of the Waterfront (WF) district is to:

(a) Encourage development of high quality, mixed-use residential, retail, office, or hotel development that is enhanced by its close proximity to the Elizabeth River waterfront;

(b) Facilitate economic development in the city through enhanced commercial and residential development and increased tourism generated by riverfront development;

(c) Promote a concentration of uses that result in a high degree of pedestrian attraction and activity along the waterfront, while protecting the area at the shore of the river from building development;

(d) Integrate commercial and residential uses horizontally at the street level and vertically within buildings, while preserving the views of the Elizabeth River;

(e) Ensure new development complies with and promotes the city's vision and plans for intensive downtown waterfront development, encouraging pedestrian-oriented streetscapes, connectivity of existing street and pedestrian systems, multi-modal transportation access, high quality architectural design and building materials, compatibility with adjacent development, and protection of existing views; and

(f) Establish development requirements that are adaptable to changing market conditions, while encouraging creativity in the design of new mixed development centers.

(2) Applicability

(a) Development in the Waterfront (WF) district, as depicted on the official zoning map, is subject to the standards of this section.

(b) In addition to the land designated as WF on the official zoning map, only lands located along the banks of Scotts Creek and Owens Creek north of the southern line of Spratley Street, and its westward prolongation may be designated WF district on the official zoning map.

(c) **Conflict with other Code Provisions**

In case of conflicts between this section and other sections of this Ordinance, this section shall control unless the conflicting section contains specific language to the contrary.

(3) Review Procedures

(a) Modifications to the WF District Location

Applications to amend the official zoning map boundaries to a WF district consistent with the terms of this section shall be reviewed in accordance with the procedure and standards in Section 40.1-2.3(A), Zoning Map Amendment (Rezoning) or Text Amendment, the Comprehensive Plan, and Section 40.1-3.6(B)(3)(c), Application Requirements.

(b) Application Requirements

All applications to establish or modify the WF district shall contain a master plan and a design standards statement, prepared in accordance with the following:

(i) Master Plan

The master plan shall illustrate the conceptual layout of proposed lots, new streets, buildings, uses, and other elements of the proposed development. At a minimum, the master plan shall include the following elements:

a. Location and mix of proposed uses.

b. Number (density and intensity), type, and mix of uses for the development as a whole as well as for each sub-area within the development.

c. Block and lot standards, including: block length, lot size, lot width, and lot coverage.

d. Building dimensional standards, including: building footprints, yard setbacks, proposed heights, and lot coverage.

e. Pedestrian and vehicular circulation systems, both on-site and located on adjacent lands.

f. Parking and loading locations and quantity.

g. Location of public facilities.

h. Location, type, amount, and ownership of open space, as defined below.

i. A stormwater management plan.

j. Views of the Elizabeth River and downtown areas of Norfolk and Portsmouth from the site of proposed development.

k. Conceptual landscaping plans that include street trees, appropriate buffers and screens, signage and public art. Special attention shall be paid to providing space for outdoor dining and other outdoor spaces and the interface of the building exterior and these spaces.

(ii) Design Standards Statement

A design standards statement, in the form of graphics and explanatory text, illustrating how buildings, circulation systems, landscaping, and other elements of the master plan are proposed to be developed in accordance with the requirements of this Ordinance. The design standards statement shall address, at a minimum, the following:

a. Architectural form, materials, and other guidelines for proposed buildings, especially the interface of the proposed building exterior facade and the proposed open spaces.

b. Parking design.

c. Fence and wall standards.

d. Exterior lighting standards.

e. Signage descriptions, sizes, and examples.

f. Street hierarchy (collector streets, local streets, alleys, etc.).

g. A traffic impact analysis prepared in accordance with Section 40.1-5.12, Transportation Analysis.

h. Development scheduling/phasing.

i. Assurance the property and building design will be properly managed (through provision of property owners' association documents that specify maintenance, membership, and member responsibilities of the association, if applicable).

(c) The development of the buildings and sites contained in an approved master plan must conform to the requirements of the development plan process in Sections 40.1-2.3(C) and (D), as appropriate. As each portion of the development is implemented, the applicant shall submit, in phases, development plans that are consistent with the approved master plan and design standards statement.

(4) Modification of an Approved Master Plan or Design Standards Statement

Master plans or design standards statements approved as part of an amendment to the official zoning map may only be modified in accordance with the following requirements.

(a) Major Changes

Any major changes to an approved master plan or design standards statement shall be processed only in the manner of the original approval. Major changes shall include but not be limited to the following:

(i) Changes in uses.

(ii) Decreases in open space.

(iii) Substantial changes in the location of streets.

(iv) Substantial changes to the design and/or materials of structures.

(v) Change in the location of any public easement.

(vi) Change in the proportion of housing types by more than ten percent.

(vii) Changes in the phasing schedule.

(viii) Violation of any condition of approval.

(ix) Significant changes in the appearance of building(s).

(b) Minor Deviations

Minor deviations from an approved master plan or design standards statement are not major changes and may be approved by the Planning Director. Minor deviations shall include, but not be limited to, the following:

(i) Driveway relocations.

(ii) Structure floor plan revisions.

(iii) Minor alterations to the architecture of structures and similar replacement of building materials.

(iv) Facility design modifications for amenities.

(v) Modifications to any dimensional standard by ten percent or less.

(vi) Substitutions of landscaping materials within the same genus or minor modifications to landscape plans determined during the construction process to be necessary.

(5) Development Standards

Development in the WF district shall be subject to the development standards in Article 40.1-5: Development Standards, and the following standards. In the event the standards in this section conflict with the standards in Article 40.1-5: Development Standards, the standards in this section shall control.

(a) Minimum Land Area

The proposed district shall contain at least one contiguous acre, including roadways. Additional land may be designated as WF district in accordance with the procedure and standards in Section 40.1-2.3(A), Zoning Map Amendment (Rezoning) or Text Amendment, provided:

(i) The land designated is contiguous to an existing WF district; and

(ii) The land is adjacent to the southern branch of the Elizabeth River.

(b) Building Orientation

Buildings shall be sited close to streets with their front facades facing the street from which the building derives its street address.

(c) Minimum Building Height

All development shall have a minimum height of five stories, with a first floor height of at least 14 feet.

(d) Building Fenestration

Building facades along street frontages (except alleys) shall be fenestrated in accordance with the following standards:

(i) Street-level Story

a. Nonresidential Uses

At least 60 percent of nonresidential building facades between two and eight feet in height along the street frontage shall be comprised of glass windows or glass doors that allow views into the building. Windows used to satisfy these requirements shall be at least four feet in height.

b. Residential and Mixed Uses

Windows shall comprise a minimum of 30 percent of a residential or mixed-use building facade between two and eight feet in height along the street frontage. Windows shall be double-hung, awning, or casement-style, and shall be configured so that at least one window within each single wall opening is operable.

(ii) Upper Stories

Windows shall comprise a minimum of 30 percent of each story's facade between two and eight feet in height above the story's floor level.

(e) Streetscapes

Buildings along streets shall form a consistent line of building facades, relative to the street edge. Street trees, sidewalks and pedestrian-scaled lighting of no greater than 14 feet in height shall be included in streetscape areas to create a comfortable walking environment. Pedestrian amenities (such as benches) shall be consistent with city standards for outdoor furniture downtown and shall also be provided, as appropriate, throughout the development site.

(f) Street Trees

Street trees shall be located in tree pits or tree lawns established between the curb and the sidewalk along all streets except alleys. The distance between street trees shall be determined by the design of the development, as needed to provide an integrated landscaped theme. Spacing and tree selection shall reflect the district's urban character and enhance views of the waterfront and downtown areas.

(g) Open Space Set-Asides

(i) Each development in the WF district shall provide at least 20 percent of the total lot area in open space set-aside in the form of roof gardens, landscaped grounds, or atriums.

(ii) Each such open space set aside shall contain landscaping, public art elements, or pedestrian elements, and shall be configured to blend with the architecture of the development.

(iii) The City Council may accept developments with no more than 15 percent of the total land area in open space set-aside in cases where lots are small, or where existing open space resources are already provided in sufficient amounts by existing development.

(h) Residential Density

(i) Development with a net residential density of more than 80 units per acre shall require approval of a use permit in accordance with the standards and procedure in Section 40.1-2.3(B), Use Permits.

(ii) In no instance shall development exceed 100 units per acre.

(i) Maximum Floor Area

(i) Except for high-rise multi-family development, office buildings, structured parking, hotels, convention centers, or retail development, no use shall exceed 30,000 square feet of floor area.

(ii) Retail uses exceeding 30,000 square feet shall require approval of a use permit in accordance with the procedure and standards in Section 40.1-2.3(B), Use Permit.

(j) Prohibited Uses and Development Features

Notwithstanding the standards in Table 40.1-4.1(A), Use Table, the following uses or development features are prohibited within the WF district:

(i) Check-cashing establishments;

(ii) Pay day loan establishments;

(iii) Nail salons;

(iv) Tanning establishments; and

(v) Drive-throughs.

(C) Downtown (D1) District

The Downtown D1 district standards are included in Appendix A of this Ordinance.

(D) Downtown (D2) District

The Downtown D2 district standards are included in Appendix B of this Ordinance.

(E) Historic Districts

(1) Purpose

The historic districts are created for the promotion and preservation of Portsmouth's educational, cultural, and economic interests through:

(a) The preservation and protection of historic buildings, structures, places, and areas of historic interest;

(b) The preservation, protection and maintenance of buildings, structures, places and areas that mark the history of the colony, the Commonwealth of Virginia, and the City of Portsmouth;

(c) Appropriate redevelopment and maintenance of historic buildings, structures, places, and areas;

(d) The regulation and control of new development to preserve and protect areas of historical interest and the historical context of the area; and

(e) The promotion, development, and preservation of the economy, commerce and industry of the Commonwealth of Virginia and the City of Portsmouth, specifically with regard to property values and tourist trade, through the preservation and protection of historic buildings, structures, places and areas.

(2) Historic Districts Established

The following historic districts are hereby established as shown on the official map of historic districts, which is hereby incorporated by reference into this Ordinance:

(a) The Truxtun Historic District;

(b) The Cradock Historic District;

(c) The Port Norfolk Historic District;

(d) The Olde Towne Historic District; and

(e) The Park View Historic District.

(3) Certificate of Appropriateness Required

New development or redevelopment within a historic district requires approval of a certificate of appropriateness in (addition to any other required permits) in accordance with the procedures and requirements in Section 40.1-2.3(l), Certificate of Appropriateness.

(4) Dimensional Standards

Uses within the historic districts shall comply with the following dimensional requirements:

(a) General Dimensional Requirements

Table 40.1-3.6(A), Dimensional Requirements within the Historic Districts, sets out the dimensional standards required for each of the five historic districts.

TABLE 40.1-3.6.A: DIMENSIONAL REQUIREMENTS WITHIN THE HISTORIC DISTRICTS

Historic District	Use Type	Minimum Lot Size (sf) [1]	Maximum Building Coverage (%)	Maximum Height for New Construction (# of stories)
Truxtun	Single-family Detached or Two-family Dwelling	2,000	70	2
	Three-Family Dwelling	2,500		
	Four-Family Dwelling	4,500		
	Nonresidential Use	2,500 [2]		
Cradock	Single-family Detached	4,500	70	2
	Two-family Dwelling	7,500		
	Three-Family Dwelling	13,500	35	
	Four-Family Dwelling	16,500		
	Nonresidential Use	2,500 [2]	70	
Port Norfolk	Single-family Detached or Two-family Dwelling	5,600	70	3
	Three-Family Dwelling	8,400		
	Four-Family Dwelling	11,200 [3]		
	Nonresidential Use	2,500 [2]		
Olde Towne and Park View	Single-family Detached or Two-family Dwelling	3,045	70	3
	Three-Family Dwelling	4,570		
	Four-Family Dwelling	6,090 [4]		
	Nonresidential Use	2,500 [2]		

NOTES:
[1] New construction, additions, or other improvements shall not create more than two square feet of floor area per each square foot of lot size.
[2] Establishment of a new building or conversion of a dwelling unit to an office shall require a minimum lot size of at least 4,500 square feet.
[3] One additional unit may be permitted for each additional 5,600 square feet of lot area.
[4] One additional unit may be permitted for each additional 3,045 square feet of lot area.

(b) Front Yard Requirements

(i) Front yards shall be at least three feet in depth, but shall maintain consistency with the front yard depth of adjacent structures to the maximum extent practicable.

(ii) No new construction shall be located within a front yard, unless necessary to maintain consistency with established front yard context on adjacent lots.

(c) Side Yard Requirements

(i) Lots less than 30 feet in width shall maintain at least three-foot-wide side yards.

(ii) Lots 30 feet wide or wider shall maintain side yards of at least five feet.

(iii) No new construction shall be located within a required side yard.

(d) Rear Yard Requirements

Rear yards shall be at least 20 feet deep.

(e) Minimum Distance from Lot Lines

No new construction shall be established within three feet of any lot line.

(f) Landscaped Area

Each lot shall maintain a landscaped area with a minimum size corresponding to 20 percent of the lot size.

(5) Design Guidelines

Each of the city's five historic districts has a unique set of design guidelines applied to new development or redevelopment within the district. The following sets of design guidelines are hereby incorporated into this Ordinance by reference:

(a) Truxtun Historic District Design Guidelines;

(b) Cradock Historic District Design Guidelines;

(c) Port Norfolk Historic District Design Guidelines;

(d) Olde Towne Historic District Design Guidelines; and

(e) Park View Historic District Design Guidelines.

Review for compliance with these guidelines shall take place as part of certificate of appropriateness review.

(6) Permitted Uses

(a) In General

The range of permitted uses on a lot located within a particular historic district is subject to the lot's historic sub-district designation depicted on the official zoning map and Table 40.1-4.1(A), Use Table.

(b) Historic Sub-districts

Each historic district is comprised of one or more sub-districts as depicted on the official zoning map. The range of allowable uses on a lot within a historic district is controlled by its sub-district designation, Table 40.1-4.1(A), Use Table, and the following standards:

(i) Historic Residential (HR) Sub-district

The HR sub-district is intended for residential uses, but also allows some public and institutional uses, all subject to the use-specific standards in Section 40.1-4.3, Use-Specific Standards.

(ii) Historic Limited Office (HLO) Sub-district

a. The HLO sub-district is intended for professional office uses as well as limited residential and institutional uses, subject to the use-specific standards in Section 40.1-4.3, Use-Specific Standards, and the following:

b. Residential and office uses may be mixed within a single structure, provided the residential portion occupies less than 50 percent of the building's total floor area.

(iii) Historic Limited Business (HLB)

The HLB sub-district is generally intended for commercial uses with, along with limited residential, and institutional uses. Residential and nonresidential uses may be combined within a building in this sub-district, provided:

a. Buildings with one bedroom include at least 400 square feet of useable floor area solely for residential purposes;

b. Buildings with two bedrooms include at least 700 square feet of useable floor area solely for residential purposes; and

c. Buildings with three bedrooms include at least 800 square feet of useable floor area solely for residential purposes.

(7) District-Specific Standards

The following district-specific standards shall apply to new uses and redevelopment within the historic district:

(a) Off-Street Parking

(i) Off-street parking spaces shall be provided in accordance with Section 40.1-5.1, Off-Street Parking, Loading, and Circulation.

(ii) Parking requirements for two or more uses may be provided in a common parking area, provided that all uses being served by the common parking area are under the common ownership.

(iii) Parking lots of four or more spaces shall be paved with cobblestone or other approved material which enhances the aesthetic quality of the historic area.

(b) Exterior Lighting

Lighting shall be provided in accordance with the standards in Section 40.1-5.9, Exterior Lighting, and no exterior lighting shall exceed a height of nine feet from the adjacent grade

(c) Signage

(i) New signage and changes to existing signage require approval of a certificate of appropriateness (See Section 40.1-2.3(l), Certificate of Appropriateness).

(ii) Any authorized changes shall be made within six months of approval.

(iii) Signage that fails to comply with the applicable standards in this Ordinance shall be removed, at the owner's expense, within six months of notice provided by the city.

(d) Required Landscaping

All private areas not covered with building or surface treatment shall be landscaped with plantings, grass, pedestrian walks or similar features, in accordance with Section 40.1-5.2, Landscaping and Screening, and shall be maintained in good condition.

(e) Separation Requirements

Any nonresidential use in a historic district adjoining a residential use shall comply with the following requirements along all lot lines adjoining the residential uses:

(i) The width of each required yard adjacent to a residential use shall be increased by one foot for each foot in height of the nonresidential structure exceeding 35 feet;

(ii) Applications to reduce the minimum required yard width shall be prohibited;

(iii) Parking and loading areas serving the nonresidential use shall not be located within the required yard; and

(iv) A landscaped buffer meeting the requirements of Section 40.1-5.2, Landscaping and Screening, shall be established and maintained in the required yard.

(f) Historic Markers

(i) Historic markers shall be made available to the owner of any building designated as a historic structure.

(ii) The markers shall show the date of construction and the historic significance of the structure and shall be placed on the structure or adjacent to it.

(iii) It shall be unlawful for anyone to display an unauthorized marker or to remove an authorized marker without the prior consent of the structure owner and the city.

(8) Conversion of Single-Family Dwellings

The conversion of existing single-family dwellings into two-to-four-family homes or multi-family buildings is permitted within the Olde Towne, Port Norfolk, and Park View historic districts subject to a use permit (See Section 40.1-2.3(B), Use Permit), and compliance with the following standards:

(a) Construction Date

Existing single-family buildings may be converted in accordance with this section provided the original building existed prior to:

(i) October 24, 1967 in the Olde Towne Historic District;

(ii) April 26, 1983 in the Port Norfolk Historic District; and

(iii) April 1, 1984 in the Park View Historic District.

(b) Exterior Alterations Prohibited

Conversions completed in accordance with these provisions shall not result in any exterior additions to the structure. Any new building entrances shall be to the rear or side of the structure.

(c) Minimum Floor Area

After conversion, the floor area of each dwelling unit shall include a minimum of 600 square feet.

(d) Maximum Number of Units

The number of dwelling units permitted within a single structure shall be in accordance with Table 40.1-3.6(B), Maximum Number of Dwelling Units.

TABLE 40.1-3.6.B: MAXIMUM NUMBER OF DWELLING UNITS

MINIMUM LOT SIZE (SQUARE FEET)	MAXIMUM DWELLING UNITS, INCLUDING ALL EXISTING UNITS (#)
PORT NORFOLK	
5,600 – 11,199	2
11,200 or more	4
OLDE TOWNE AND PARK VIEW [1]	
3,480 – 6,959	2
6,960 or more	3
CRADOCK	

NOTES:
[1] In the Olde Towne Historic District, any building larger than 5,000 square feet may be converted into additional dwelling units, provided each dwelling unit contains at least 2,500 square feet.

(e) Provision of Sewer Service

(i) Prior to the issuance of a building permit for conversion in accordance with these standards, approval for sewage disposal shall be obtained from the Department of Environmental Services and the Department of Public Utilities, in accordance with Section 38-37 of the City Code.

(ii) Where feasible, separate utility meters for each dwelling unit shall be required.

(f) Off-Street Parking Standards

(i) Amount

Converted residential buildings shall provide at least one off-street parking space per dwelling unit, but no more than two spaces per dwelling unit may be provided.

(ii) Location

Off-street parking spaces shall be located to the rear or side of a structure, and accessed by an alley, if one exists.

(F) Preservation/Government (PG) District

(1) Purpose and Intent

(a) The Preservation/Government (PG) district is established and intends to preserve and protect identifiable natural resources from urban encroachment—i.e., to preserve watercourses and protect them from erosion and sedimentation; retain open spaces and greenways and protect their environmentally-sensitive character; preserve wildlife and plant life habitats and protect them from the

intrusions of urbanization; provide air and noise buffers to ameliorate the effects of development; and preserve and maintain the aesthetic qualities and appearance of the community.

(b) The district discourages development that creates risks for loss of life or property from normal natural processes and events in natural hazard areas (e.g., floodplains) for preservation: preservation of city's critical and environmental areas, including parklands, open space, archeological sites, cemetery grounds, wetland ecology, and land for recreation use.

(c) The district is also established to identify those lands within the city containing military installations under exclusive federal authority.

(2) Federal Government Exemption

Uses owned or operated by the Federal government shall be exempted from the standards of this district.

(3) Dimensional Standards

Development within the PG district shall comply with the following standards:

(a) Minimum Lot Size

Except for lots containing public utilities, the minimum lot size within in the PG district shall be at least three acres.

(b) Minimum Lot Width

Except for lots containing public utilities, the minimum lot width within the PG district shall be at least 200 feet.

(c) Minimum Required Yards

Except where reduced by the City Council as part of a special exception or use permit, all front, side, and rear yards shall be at least 50 feet.

(d) Maximum Building Coverage

Maximum building coverage shall be five percent of the lot area.

(e) Maximum Building Height

No building shall be more than 36 feet in height.

(f) Sign Regulations

(i) Up to one sign, not exceeding 18 square feet in area, may be permitted.

(ii) No sign shall be:

a. Directly illuminated;

b. Mounted closer than seven feet to a lot line fronting a street; or

c. Higher than six feet above the ground.

40.1-3.7 OVERLAY ZONING DISTRICTS

(A) General

(1) Purpose

Overlay zoning districts are superimposed over portions of one or more underlying base zoning districts with the intent of supplementing generally applicable development regulations with additional development regulations that address special area-specific conditions, features, or plans while maintaining the character and purposes of the underlying base zoning district.

(2) Establishment of Overlay Zoning Districts

Table 40.1-3.8, Overlay Zoning Districts Established, sets out the overlay zoning districts established by this Ordinance. Except where specifically provided in this article, variances from the overlay zoning district standards shall not be granted.

TABLE 40.1-3.8: OVERLAY ZONING DISTRICTS ESTABLISHED

DISTRICT ABBREVIATION	DISTRICT NAME
MPO	Master-Planned Overlay
NCO	Neighborhood Conservation Overlay

(3) Classification of Overlay Zoning Districts

Land shall be classified or reclassified into an overlay zoning district only in accordance with the procedures and requirements set forth in Section 40.1-2.3(A), Zoning Map Amendment (Rezoning) or Text Amendment.

(4) Relationship to Other Zoning Districts

Regulations governing development in an overlay zoning district shall apply in addition to the regulations governing development in the underlying base zoning district, unless expressly stated otherwise in these regulations. If the standards governing an overlay zoning district expressly conflict with those governing a base zoning district, the standards governing the overlay district shall control, unless expressly stated otherwise in these regulations. Where land is classified into multiple overlay zoning districts and the standards governing one overlay zoning district expressly conflict with those governing another overlay district, the more restrictive standard shall apply.

(B) Master-Planned Overlay (MPO) District

(1) Purpose

The Master-Planned Overlay (MPO) district is intended to provide an opportunity for the establishment of new development that departs from the range of dimensional and development standards typically applied to development in the city, subject to a proffered master plan. The minimum quality of development in the MPO district is anticipated to exceed the level that would otherwise result from the strict application of the typical range of dimensional and development standards.

(2) Applicability

The MPO district is available for application to lands of two acres in size or greater located outside of an existing Activity Center district or location where an activity center district designation is anticipated by the comprehensive plan.

(3) Procedure

The MPO district is established in accordance with the procedure and requirements for an amendment to the Official Zoning Map in accordance with Section 40.1-2.3(A), Zoning Map Amendment (Rezoning) or Text Amendment, and the standards in this section.

(4) Standards

Before approving a MPO zoning district classification, the City Council shall find that the application for the MPO zoning district classification, as well as the master plan and the terms and conditions included as part of the application, comply with the following standards:

(a) MPO Master Plan

The MPO Master Plan shall:

(i) Include a statement of planning objectives for the district;

(ii) Identify the general location of individual development areas, identified by land use(s) and/or development density or intensity;

(iii) Identify for the entire MPO district and each development area the 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;

(iv) Identify the general location, amount, and type (whether designated for active or passive recreation) of open space;

(v) Identify the location of environmentally sensitive lands, wildlife habitat, and stream corridors;

(vi) Identify the on-site transportation circulation system, including the general location of all public and private streets, existing or projected transit corridors, and pedestrian and bicycle pathways, and how they will connect with existing and planned city systems;

(vii) Identify the general location of on-site potable water and wastewater facilities, and how they will connect to city systems;

(viii) Identify the general location of on-site stormwater management facilities, and how they will connect to city systems; and

(ix) Identify the general location of all other on-site public facilities serving the development, including but not limited to parks, schools, and facilities for fire protection, police protection, EMS, stormwater management, and solid waste management.

(b) Terms and Conditions Statement

The terms and conditions statement shall incorporate by reference or include, but not be limited to:

(i) Conditions related to approval of the application for the MPO zoning district classification;

(ii) The MPO master plan, including any density/intensity standards, dimensional standards, and development standards established in the MPO master plan;

(iii) Conditions related to the approval of the MPO master plan, including any conditions related to the form and design of development shown in the MPO master plan;

(iv) Provisions addressing how transportation, potable water, wastewater, stormwater management, and other public facilities will be provided to accommodate the proposed development;

(v) Provisions related to environmental protection and monitoring; and

(vi) Any other provisions the City Council determines are relevant and necessary to the development of the MPO in accordance with applicable standards and regulations.

(c) Consistency with City Plans

The MPO zoning district designation, the MPO master plan, and the terms and conditions statement shall be consistent with the comprehensive plan and any applicable small area plans adopted by the city.

(d) Minimum District Size

The MPO Overlay district shall be at least two acres in size.

(e) Compatibility with Surrounding Areas

Development along the perimeter of a MPO district shall be compatible with adjacent existing or proposed development. Where there are issues of compatibility, the MPO master plan shall provide for transition areas at the edges of the MPO district that provide for appropriate buffering and/or ensure a complementary character of uses. Determination of complementary character shall be based on densities/intensities, lot size and dimensions, building height, building mass and scale, hours of operation, exterior lighting, and siting of service areas.

(f) Development Phasing Plan

If development in the MPO district is proposed to be phased, the MPO master 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) and open space will be provided and timed, and how development will be coordinated with the city's capital improvements program.

(g) Conversion Schedule

The MPO master plan may include a conversion schedule that identifies the extent to which one type of residential use may be converted to another type of residential use and one type of nonresidential use may be converted to another type of nonresidential use (i.e., residential to residential, or nonresidential to nonresidential). These conversions may occur within development areas and between development areas, as long as they occur within the same development phase, as identified by the approved development phasing plan, and are consistent with established extents of conversion set down in the conversion schedule.

(h) On-Site Public Facilities

(i) Design and Construction

The MPO master plan shall establish the responsibility of the developer/landowner to design and construct or install required and proposed on-site public facilities in compliance with applicable city, state, and federal regulations.

(ii) Dedication

The MPO master plan shall establish the responsibility of the developer/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.

(iii) Modifications to Street Standards

In approving a MPO master plan, the City Council may approve modifications or reductions of city street design standards—including those for right-of-way widths, pavement widths, required materials, and turning radii—on finding that:

a. The MPO master plan provides for separation of vehicular, pedestrian, and bicycle traffic;

b. Access for emergency service vehicles is not substantially impaired;

c. Adequate off-street parking is provided for the uses proposed; and

d. Adequate space for public utilities is provided within the street right-of-way.

(i) Allowable Uses

The range of allowable uses within a MPO district shall be the same range of uses allowed within the NAC district as identified in Table40.1-4.1(A), Use Table. The MPO master plan shall provide additional detail about how impacts from uses not allowed within the base zoning district will be addressed by the MPO district. All applicable use-specific standards shall continue to apply within the MPO district.

(j) Densities/Intensities

The densities for residential development and the intensities for nonresidential development applicable in each development area of a MPO district shall be as established in the MPO master plan, and shall be consistent with city plans.

(k) Dimensional Standards

The dimensional standards applicable in each development area of a MPO district shall be as established in the MPO master plan. The MPO Master Plan shall include at least the following types of dimensional standards:

(i) Minimum lot area;

(ii) Minimum lot width;

(iii) Minimum and maximum setbacks;

(iv) Maximum lot coverage;

(v) Maximum building height;

(vi) Maximum individual building size;

(vii) Floor area ratio; and

(viii) Minimum setbacks from adjoining residential development or residential zoning districts.

(l) Development Standards

All development in a MPO district shall comply with the development standards of Article 40.1-5: Development Standards, or any modifications of those standards shall be established in the MPO Master Plan, and shall be consistent with the comprehensive plan and the intent of MPO district.

(m) Amendments to an Approved MPO Master Plan

(i) General

If an applicant determines it is necessary to alter the concept or intent of the master plan or terms and conditions, the master plan or terms and conditions shall be amended, extended, or modified only in accordance with the procedures and standards for its original approval.

(ii) Amendments Defined

The following items are considered an alteration of the concept or intent of the master plan and are treated as an amendment:

a. Changes in use designations;

b. Density/intensity increases;

c. Decreases in open space;

d. Substantial changes in the location of streets (particularly if streets are to be deleted or access points to the development moved so traffic flows both inside and outside the development are affected);

e. Change in the location of any public easement;

f. Change in the proportion of housing types by more than10 percent;

g. Substantial changes to the design or materials of structures; or

h. Violation of any specific condition of the master plan or terms and conditions.

(n) Minor Deviations

Subsequent plans and permits for development within an approved MPO district may include minor deviations from the master plan or terms and conditions, provided such deviations are limited to changes addressing technical considerations that could not reasonably be anticipated during the zoning classification process or any other change that has no material effect on the character of the approved activity center district or any of its requirements. The following shall constitute minor deviations:

(i) Driveway locations;

(ii) Structure floor plan revisions;

(iii) Minor shifts in building size or location; and

(iv) Facility design modifications for amenities and the like.

Changes that materially affect the basic concept of the master plan or basic parameters set by the terms and conditions are not considered minor deviations, and shall only be changed as amendments to the MPO district.

(C) Neighborhood Conservation Overlay District

(1) Purpose

The Neighborhood Conservation Overlay (NCO) District is established and intended to protect and preserve the unique design features and character of established neighborhoods throughout the city, and to promote new construction that is compatible with the existing neighborhood character. The NCO district is a flexible tool that may be applied to multiple neighborhoods, each of which will have its own unique architectural, natural, cultural, and historic attributes.

(2) Establishment of Individual Neighborhood Conservation Districts

The City Council may establish individual Neighborhood Conservation Overlay Districts in accordance with this section and Section 40.1-2.3(A), Zoning Map Amendment (Rezoning) or Text Amendment, after approving an area plan for the neighborhood specifying the development context in the district. Each district shall comply with the standards in Section 40.1-3.7(C)(4) General Development Standards for All NCO Districts. In establishing a new NCO District, the City Council may also establish a unique set of development standards applicable to all development in the particular district (see Section 40.1-3.7(C)(5), District-Specific Development Standards).

(3) Minimum Standards for Designation of an NCO District

The City Council may approve an application for designation of a NCO District only if:

(a) At least 65 percent of the land area within the proposed NCO district, not including street and other rights-of-way, is developed;

(b) Development patterns in the district demonstrate an on-going effort to maintain or rehabilitate the character and physical features of existing buildings in the district;

(c) There is existing or potential pressure for new development or redevelopment and new infill development within the district;

(d) The area must possess one or more of the following distinctive features that create a cohesive identifiable setting, character or association:

- **(i)** Scale, size, type of construction, or distinctive building materials;
- **(ii)** Lot layouts, setbacks, street layouts, alleys or sidewalks;
- **(iii)** Special natural or streetscape characteristics, such as creek beds, parks, gardens or street landscaping;
- **(iv)** Land use patterns, including mixed or unique uses or activities; or
- **(v)** Abuts or links designated historic districts and/or landmarks.

(e) The development standards proposed to be applied to the district will encourage the retention of the general character and appearance of existing development in the district.

(4) General Development Standards for All NCO Districts

(a) Compliance with Underlying Zoning District Standards

These standards supplement the applicable development and district-specific standards found in the underlying base zoning district and do not affect the use regulations applicable in the underlying zoning district.

(b) Compliance with Approved Design and Development Standards

No permit for any new construction or expansion of an existing structure resulting in an increase in building footprint area of 25 percent or more may be issued until the Planning Director determines that the proposal complies with all design standards established for the NCO district where the land is located. All new development in a NCO district shall comply with the development standards for the underlying zoning district.

(c) Conflict with Other Standards

In the case of conflict between the NCO district standards and any other standards of this Ordinance, the NCO district development standards shall control.

(5) District-Specific Development Standards

Each area designated as a Neighborhood Conservation Overlay District shall identify, with specificity, the design standards to be applied to all new construction and expansion of existing structures. Aspects of development that these design standards may include, but are not be limited to, the following:

(a) Lot size;

(b) Location of proposed buildings or additions;

(c) Setbacks or required yards;

(d) Building height;

(e) Building size (for principal and accessory structures);

(f) Building orientation;

(g) Exterior building materials and colors;

(h) Building roof line and pitch;

(i) Building foundation treatment;

(j) Landscaping and screening;

(k) Impervious surface coverage;

(l) Paving requirements or limitations;

(m) Exterior lighting;

(n) Required features on a front façade;

(o) Neighborhood character and compatibility;

(p) Views of or from specific locations;

(q) Riparian areas, wetland areas, or drainage patterns; and

(r) Demolition of structures.

The City Council may approve additional design standards addressing aspects of development not listed above. The City Council may also prohibit use types within a NCO district.

(6) Specific Neighborhood Conservation Overlay Districts

[Placeholder]

ARTICLE 40.1-4:

USE STANDARDS

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ARTICLE 40.1-4: USE STANDARDS

40.1-4.1 USE TABLE

(A) Explanation of Use Table Structure

(1) General

Table 40.1-4.1(A), Use Table, lists land uses and indicates whether they are allowed by right or with a use permit in a base zoning district, allowed in an activity center zoning district, or prohibited in a base zoning district and activity center zoning district. The use table also includes references to any additional requirements or regulations applicable to the specific use type.

(2) Organization of Uses

The use table organizes allowable uses by use classifications, use categories, and use types. The use table and Section 40.1-4.2, Use Classifications, Categories, and Use Types, together provide a systematic basis for identifying and consolidating or distinguishing unidentified land uses to determine whether a particular land use is allowable in a particular zoning district and in addressing future land uses.

(a) Use Classifications

The use classifications identify broad general classifications of land use and include residential uses, public and institutional uses, commercial uses, and industrial uses. Use classifications are further broken down into a series of general "use categories" and specific "use types."

(b) Use Categories

The use categories describe the major sub-groups of the respective use classifications, and are based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. For example, the Residential Use Classification is divided into the Household Living and Group Living use categories. Use categories are further broken down into a series of individual use types.

(c) Use Types

The specific use types are included in the respective use category. They identify the specific principal uses that are considered to fall within characteristics identified in the use category. For example, live/work dwellings, single-family detached dwellings, single-family attached dwellings, two- to four-family dwellings, townhouse dwellings, and multi-family dwellings are use types in the Household Living Use Category.

(3) Permitted Uses

A "P" in a cell of the use table indicates that the corresponding use category or use type is allowed by right in the corresponding base zoning district, subject to compliance with any use-specific standards referenced in the final column of the use table. An "A" is used in the columns for the activity center districts, and specifies the allowable use types in a particular activity center district provided the use type is set out in an approved activity center master plan. Permitted uses are subject to all other applicable requirements of this Ordinance, including those set forth in Article 40.1-5: Development Standards.

(4) Uses Allowed Only with a Use Permit

A "U" in a cell of the use table indicates that the corresponding use category or use type is allowed in the corresponding base zoning district only upon approval of a use permit in accordance with Section 40.1-2.3(B), Use Permit, and any use-specific standards referenced in the final column of the use table. Uses subject to a use permit are subject to all other applicable requirements of this Ordinance, including those set forth in Article 40.1-5: Development Standards.

(5) Allowed Uses Subject to a Activity Center District Classification

An "A" in a cell indicates that a use category or use type is allowed by right in an activity center district, subject to compliance with the use-specific regulations set forth in the final column of the table and provided the use is set out as a possible use type in an approved activity center master plan. Allowed uses are subject to other applicable regulations in this Ordinance, including those set forth in Section 40.1-3.5, Activity Center Zoning Districts. Use types that are blank are not allowable in a particular activity center district, and shall not be included in a master plan.

(6) Prohibited Uses

A blank cell in the use table indicates that the use type is prohibited in the corresponding zoning district.

(7) Use-Specific Standards

When a particular use category or use type is permitted in a zoning district, there may be additional regulations that are applicable to a specific use. The existence of these use-specific standards is noted through a section reference in the last column of the use table titled "Additional Requirements." References refer to Section 40.1-4.3, Use-Specific Standards. These standards shall apply to a particular use regardless of the base zoning district where it is proposed unless otherwise specified.

(8) Use Restricted or Prohibited by Overlay Zoning District

Regardless of whether the use table identifies a particular use type as a permitted use, allowed use, or use requiring a use permit in a zoning district, or references additional requirements for the use type, the use type may be restricted or prohibited, or subject to more restrictive additional requirements, in accordance with applicable overlay district provisions in Section 40.1-3.5, Overlay Zoning Districts.

(9) Unlisted Uses

The Planning Director shall determine whether or not an unlisted use is part of an existing use category or use type defined in Section 40.1-4.2, Use Classifications, Categories, and Types, or is substantially similar to an already defined use type, using the standards in Section 40.1-4.2(A)(4), Interpretation of Unlisted Uses.

(10) Uses in the Downtown D1 and D2 Districts

The use standards related to the Downtown D1 and D2 districts are included with the district-specific standards for each district in Appendix A and B, respectively, of this Ordinance.

(11) Uses in the Residential Mobile Home (RMH) District

The RMH district is included as Appendix C of this Ordinance, and the range of allowable uses shall be limited to mobile or manufactured homes and existing supporting accessory uses.

TABLE 40.1-4.1(A): USE TABLE
P = PERMITTED USE U = USE PERMIT REQUIRED A = ALLOWED BLANK CELL = PROHIBITED USE

USE CATEGORY	USE TYPE	ZONING DISTRICTS																	ADDITIONAL REQUIREMENTS
		RESIDENTIAL [1]				BUSINESS					ACTIVITY CENTER			SPECIAL [2]					
		NR	GR	UR	URH	NMU	MUH	GMU	IL	IN	NAC	CAC	RAC	HR	HLO	HLB	PG	WF	
RESIDENTIAL USE CLASSIFICATION																			
Household Living	Dwelling, live/work	/	/	P	P	P	P	P	/	/	A	A	A	/	P	P	/	P	40.1-4.3(A)(1)(b)
	Dwelling, multi-family	/	/	U	P	P	P	P	/	/	A	A	A	U	U	U	/	P/U	40.1-4.3(A)(1)(c)
	Dwelling, single-family attached	/	/	U	P	P	P	P	/	/	A	A	A	U	P	P	/	/	
	Dwelling, single-family detached	P	P	P	P	P	/	/	/	/	A	A	A	P	P	P	/	/	
	Dwelling, townhouse	/	/	U	P	P	P	P	/	/	A	A	A	U	U	P	/	P	
	Dwelling, two- to four-family	/	U	U	P	P	P	P	/	/	A	A	/	U	U	P	/	/	
	Dwelling, upper story	/	/	P	P	P	P	P	/	/	A	A	A	/	P	P	/	P	
Group Living	Dormitory	/	/	U	U	P	P	U	/	/	/	A	A	/	/	/	/	/	40.1-4.3(A)(2)(a)
	Family care home	P	P	P	P	P	P	/	/	/	A	/	/	P	P	P	/	U	40.1-4.3(A)(2)(b)
	Fraternity or sorority house	/	/	/	/	P	P	/	/	/	/	/	/	/	/	/	/	/	
	Group home	/	/	U	U	U	U	/	/	/	/	A	/	/	/	/	/	U	40.1-4.3(A)(2)(c)
	Rooming or boarding house	/	P	P	P	P	P	P	/	/	A	A	/	/	/	P	/	/	40.1-4.3(A)(2)(d)
	Single room occupancy (SRO) facility	/	/	/	U	U	U	/	/	/	/	/	/	/	/	/	/	/	40.1-4.3(A)(2)(e)
PUBLIC AND INSTITUTIONAL USE CLASSIFICATION																			
Community Services	Community center	/	P	P	P	P	P	/	/	/	A	A	A	/	/	P	/	P	
	Cultural facility	/	/	/	/	P	P	P	/	/	/	A	A	/	/	P	/	P	
	Library	/	P	P	P	P	P	P	/	/	A	A	A	/	/	U	/	P	
	Museum	/	/	/	P	P	P	P	/	/	A	A	A	/	/	P	/	P	
	Senior center	/	/	U	P	P	P	P	/	/	A	A	A	/	/	P	/	U	
	Youth club facility	/	/	U	P	P	P	P	/	/	A	A	A	/	/	P	/	U	
Day Care	Adult day care center	/	U	U	P	P	P	P	/	/	A	A	A	U	U	P	/	U	

TABLE 40.1-4.1(A): USE TABLE
P = PERMITTED USE U = USE PERMIT REQUIRED A = ALLOWED BLANK CELL = PROHIBITED USE

USE CATEGORY	USE TYPE	ZONING DISTRICTS																	ADDITIONAL REQUIREMENTS
		RESIDENTIAL [1]				BUSINESS					ACTIVITY CENTER			SPECIAL [2]					
		NR	GR	UR	URH	NMU	MUH	GMU	IL	IN	NAC	CAC	RAC	HR	HLO	HLB	PG	WF	
	Child day care center	/	U	U	P	P	P	P	P	P	A	A	A	U	U	P	/	U	40.1-4.3(B)(1)(a)
	Family child day care home (6 to 12 children)	U	U	U	P	P	P	P	/	/	A	A	A	/	/	P	/	U	40.1-4.3(B)(1)(b)
	Home child day care for 5 or fewer children	P	P	P	P	P	P	P	/	/	A	A	A	/	/	P	/	U	
Educational Facilities	College or university	/	U	U	U	P	P	P	/	/	/	/	A	/	/	/	/	U	40.1-4.3(B)(2)
	School, elementary	U	P	P	P	P	P	P	/	/	A	A	A	U	U	P	/	U	
	School, middle	/	P	P	P	P	P	P	/	/	A	A	A	U	U	P	/	U	
	School, high	/	U	P	P	P	P	P	/	/	A	A	A	U	U	P	/	/	
	Vocational or trade school	/	U	P	P	P	P	P	P	/	A	A	A	/	/	/	/	U	
Government Facilities	Government maintenance, storage, or distribution facility	/	/	/	/	P	P	P	P	P	/	A	A	/	/	/	P	P	
	Government offices	/	/	P	P	P	P	P	P	P	A	A	A	/	/	P	P	P	
	Other Government Facilities	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	P	P	
	Post office	/	/	U	U	P	P	P	P	P	A	A	A	/	/	P	P	P	
Health Care Facilities	Blood/tissue collection facility	/	/	/	/	U	U	U	U	U	/	A	A	/	/	/	/	/	
	Drug or alcohol treatment facility	/	/	/	/	U	P	U	U	U	/	A	A	/	/	/	/	/	
	Hospital	/	U	U	U	U	P	/	U	U	/	A	A	/	/	/	/	/	40.1-4.3(B)(3)(a)
	Medical or dental clinic	/	/	/	U	P	P	P	P	P	A	A	A	/	/	P	/	U	
	Medical or dental lab	/	/	/	/	P	P	P	P	P	A	A	A	/	/	P	/	U	
	Medical treatment facility	/	/	/	/	P	P	P	P	P	A	A	A	/	/	P	/	U	40.1-4.3(B)(3)(b)
	Outpatient facility	/	/	/	P	P	P	P	/	/	A	A	A	/	/	P	/	U	
Institutions	Assisted living facility	/	/	U	U	P	P	U	/	/	A	A	A	/	/	U	/	/	
	Auditorium	/	/	/	/	U	P	/	/	/		A	A	/	/	/	/	U	40.1-4.3(B)(4)(a)
	Convention center	/	/	/	/	U	P	P	/	/		A	A	/	/	/	/	U	
	Halfway house	/	/	U	U	U	U	U	/	/	A	A	A	/	/	U	/	/	40.1-4.3(B)(4)(b)
	Nursing home	/	U	U	P	P	P	U	U	U	A	A	A	/	/	U	/	/	

TABLE 40.1-4.1(A): USE TABLE
P = PERMITTED USE U = USE PERMIT REQUIRED A = ALLOWED BLANK CELL = PROHIBITED USE

USE CATEGORY	USE TYPE	ZONING DISTRICTS																	ADDITIONAL REQUIREMENTS
		RESIDENTIAL [1]				BUSINESS					ACTIVITY CENTER			SPECIAL [2]					
		NR	GR	UR	URH	NMU	MUH	GMU	IL	IN	NAC	CAC	RAC	HR	HLO	HLB	PG	WF	
	Psychiatric treatment facility	/	/	/	/	U	P	U	U	U	/	A	A	/	/	/	/	/	
	Religious institution	/	P	P	P	P	P	P	P	P	A	A	A	U	/	P	/	U	40.1-4.3(B)(4)(c)
	Civic, social or fraternal clubs or lodges	/	U	U	U	P	P	P	P	P	A	A	A	/	/	P	/	U	
	Shelter	/	/	/	/	U	U	U	U	U	A	A	A	/	/	U	/	/	
Parks and Open Areas	Arboretum or botanical garden	P	P	P	P	P	P	P	/	/	A	A	A	/	/	P	P	P	
	Cemetery, columbaria, mausoleum	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	P	/	40.1-4.3(B)(5)(a)
	Community garden	P	P	P	P	P	P	P	/	/	A	A	A	/	/	P	P	P	
	Golf course, public	P	P	P	P	P	P	P	P	P	/	A	A	/	/	P	P	/	
	Park, public	P	P	P	P	P	P	P	P	P	A	A	A	/	/	P	P	P	
	Park, private	P	P	P	P	P	P	P	P	P	A	A	A	/	/	P	/	P	
	Public square or plaza	/	P	P	P	P	P	P	/	/	A	A	A	/	/	P	P	P	
Public Safety	Correctional facility	/	/	/	/	U	U	/	U	U	/	/	A	/	/	U	/	/	40.1-4.3(B)(6)(a)
	Fire or EMS facility	/	/	/	U	P	P	P	P	P	A	A	A	/	/	P	/	/	
	Fire or police substation	/	U	U	U	P	P	P	P	P	A	A	A	/	/	P	/	/	
	Police station	/	/	U	U	P	P	P	P	P	A	A	A	/	/	P	/	/	
Transportation	Airport	/	/	/	/	/	U	U	U	/	/	/	A	/	/	/	/	/	
	Helicopter landing facility	/	/	/	/	U	U	P	U	U	/	A	A	/	/	/	/	U	40.1-4.3(B)(7)(a)
	Passenger terminal, surface transportation	/	/	/	/	P	P	P	/	/	/	A	A	/	/	/	/	U	
Utilities	Telecommunications antenna, collocation on existing tower	/	P	P	P	P	P	P	P	P	A	A	A	/	/	P	/	U	40.1-4.3(B)(8)(a)
	Telecommunications antenna, placement on existing building	/	P	P	P	P	P	P	P	P	A	A	A	/	/	P	/	U	40.1-4.3(B)(8)(a)
	Telecommunications tower, freestanding	/	U	U	U	U	U	U	U	U	A	A	A	/	/	U	/	U	40.1-4.3(B)(8)(b)
	Utility, major	U	U	U	U	U	U	U	P	P	/	A	A	/	/	U	P	U	40.1-4.3(B)(8)(c)
	Utility, minor	P	P	P	P	P	P	P	P	P	A	A	A	/	/	P	P	P	

TABLE 40.1-4.1(A): USE TABLE
P = PERMITTED USE U = USE PERMIT REQUIRED A = ALLOWED BLANK CELL = PROHIBITED USE

USE CATEGORY	USE TYPE	ZONING DISTRICTS																	ADDITIONAL REQUIREMENTS
		RESIDENTIAL [1]				BUSINESS					ACTIVITY CENTER			SPECIAL [2]					
		NR	GR	UR	URH	NMU	MUH	GMU	IL	IN	NAC	CAC	RAC	HR	HLO	HLB	PG	WF	
COMMERCIAL USE CLASSIFICATION																			
Adult Uses	Adult bookstore	/	/	/	/	U	U	/	U	U	/	/	/	/	/	/	/	/	40.1-4.3(C)(2)
	Adult entertainment establishment	/	/	/	/	U	U	/	U	U	/	/	/	/	/	/	/	/	
	Adult motion picture theater	/	/	/	/	U	U	/	U	U	/	/	/	/	/	/	/	/	
Animal Care	Animal grooming	/	/	/	/	P	P	P	P	P	A	A	A	/	/	/	/	/	40.1-4.3(C)(3)
	Animal shelter	/	/	/	/	U	P	/	P	P	/	A	A	/	/	/	/	/	
	Kennel, indoor	/	/	U	U	P	P	/	P	P	A	A	A	/	/	/	/	/	
	Kennel, outdoor	/	/	/	/	U	U	/	P	P	/	A	A	/	/	/	/	/	
	Veterinary clinic	/	/	U	U	P	P	P	P	P	A	A	A	/	/	/	/	/	
Conference and Training Centers	Conference or training center	/	/	/	/	/	P	P	P	/	/	A	A	/	/	P	/	U	40.1-4.3(C)(4)
Eating Establishments	Dinner theater	/	/	/	/	P	P	P	P	P	A	A	A	/	/	P	/	U	
	Restaurant, with indoor or outdoor seating	/	/	U	P	P	P	P	P	P	A	A	A	/	/	P	/	U	40.1-4.3(C)(5)(a)
	Restaurant, with drive-through service	/	/	/	/	U	P	U	P	P	A	A	A	/	/	P	/	/	40.1-4.3(C)(5)(b)
	Restaurant, without drive-through service	/	/	U	P	P	P	P	P	P	A	A	A	/	/	/	/	U	
	Specialty eating establishment	/	/	U	P	P	P	P	P	P	A	A	A	/	/	P	/	U	
Entertainment Establishment	All	/	/	/	/	/	U	U	U	U	/	A	A	/	/	/	/	U	40.1-4.3(C)(6)
Offices	Offices, business services	/	/	/	P	P	P	P	P	P	A	A	A	/	/	P	/	P	
	Offices, financial services	/	/	/	P	P	P	P	P	P	A	A	A	/	/	P	/	P	
	Offices, professional services	/	/	/	P	P	P	P	P	P	A	A	A	/	/	P	/	P	
	Offices, sales (including real estate)	/	/	/	/	P	P	P	P	P	A	A	A	/	/	P	/	P	
	Radio and television broadcasting studio	/	/	/	/	P	P	/	P	P	/	A	A	/	/	P	/	P	
Parking, Commercial	Parking lot	/	/	/	P	P	P	P	P	P	A	A	A	/	/	P	/	U	40.1-4.3(C)(7)(a)
	Parking structure	/	/	/	P	P	P	P	P	P	A	A	A	/	/	P	/	P	40.1-4.3(C)(7)(b)

TABLE 40.1-4.1(A): USE TABLE
P = PERMITTED USE U = USE PERMIT REQUIRED A = ALLOWED BLANK CELL = PROHIBITED USE

USE CATEGORY	USE TYPE	ZONING DISTRICTS																	ADDITIONAL REQUIREMENTS
		RESIDENTIAL [1]				BUSINESS					ACTIVITY CENTER			SPECIAL [2]					
		NR	GR	UR	URH	NMU	MUH	GMU	IL	IN	NAC	CAC	RAC	HR	HLO	HLB	PG	WF	
Recreation/ Entertainment, Indoor	Commercial recreation, indoor	/	/	P	P	P	P	P	P	P	A	A	A	/	/	P	/	P	
	Theater	/	/	P	P	P	P	P	/	P	A	A	A	/	/	P	/	P	
Recreation/ Entertainment, Outdoor	Arena, amphitheater, or stadium	/	/	/	/	P	P	/	U	U	/	A	A	/	/	/	/	U	40.1-4.3(C)(8)(a)
	Commercial recreation, outdoor	/	/	U	U	P	P	P	/	/	A	A	A	/	/	P	/	P	
	Country club	U	P	P	P	P	P	P	/	/	A	A	A	/	/	P	/	P	
	Golf course, public	P	P	P	P	P	P	P	P	P	/	A	A	/	/	P	P	/	
	Golf driving range	/	/	/	/	P	P	U	P	P	/	A	A	/	/	P	/	/	
	Marina	/	/	/	/	U	U	U	P	P	/	/	A	/	/	U	/	P	40.1-4.3(C)(8)(b)
	Marina, pleasure boats only	/	U	P	P	P	P	P	P	P	A	A	A	/	/	P	/	P	
	Membership sports or recreation club (e.g., swimming pools, tennis courts)	U	U	P	P	P	P	P	/	/	A	A	A	/	/	P	/	P	40.1-4.3(C)(7)(c)
Retail Sales & Services	Bar or brewpub	/	/	/	/	U	P	P	P	P	A	A	/	/	/	U	/	P	40.1-4.3(C)(9)(b
	Gasoline sales	/	/	U	U	U	P	P	P	P	A	A	A	/	/	P	/	/	40.1-4.3(C)(9)(c)
	Crematory	/	/	/	/	P	P	/	P	P	/	A	A	/	/	P	/	/	40.1-4.3(C)(9)(d)
	Dry cleaning and laundry drop-off establishment	/	/	P	P	P	P	P	P	P	A	A	A	/	/	P	/	P	
	Financial institution, without drive-through service	/	/	P	P	P	P	P	/	/	A	A	A	/	/	P	/	P	
	Financial institution, with drive-through service	/	/	/	/	U	P	U	P	P	A	A	A	/	/	P	/	/	
	Funeral home	/	/	/	/	P	P	U	/	/		A	A	/	/	P	/	P	
	Laundry, self-service	/	/	P	P	P	P	P	P	P	A	A	A	/	/	P	/	P	
	Massage parlor	/	/	/	/	U	U	/	/	/		A	A	/	/	/	/	/	
	Personal services establishment	/	/	P	P	P	P	/	P	P	A	A	A	/	/	P	/	P	
	Special events house	/	/	/	/	P	P	P	/	/	A	A	A	/	U	/	/	/	
	Tattoo parlor/body piercing establishment	/	/	/	/	U	/	/	P	P	/	/	/	/	/	/	/	U	

TABLE 40.1-4.1(A): USE TABLE
P = PERMITTED USE U = USE PERMIT REQUIRED A = ALLOWED BLANK CELL = PROHIBITED USE

USE CATEGORY	USE TYPE	ZONING DISTRICTS																	ADDITIONAL REQUIREMENTS
		RESIDENTIAL [1]				BUSINESS					ACTIVITY CENTER			SPECIAL [2]					
		NR	GR	UR	URH	NMU	MUH	GMU	IL	IN	NAC	CAC	RAC	HR	HLO	HLB	PG	WF	
	Repair establishment	/	/	/	/	U	P	P	P	P	A	A	A	/	/	P	/	P	
	Convenience store, without gas sales	/	/	P	P	P	P	P	P	P	A	A	A	/	/	P	/	P	
	Convenience store, with gas sales	/	/	U	U	U	P	U	P	P	A	A	A	/	/	/	/	/	40.1-4.3(C)(9)(e)(i)
	Drug store or pharmacy, without drive-through service	/	/	P	P	P	P	P	P	P	A	A	A	/	/	P	/	P	
	Drug store or pharmacy, with drive-through service	/	/	/	/	U	P	U	P	P	A	A	A	/	/	P	/	/	40.1-4.3(C)(9)(e)(ii)
	Flea market	/	/	/	/	U	P	/	P	P		A	A	/	/	P	/	/	
	Grocery store	/	/	P	P	P	P	P	U	U	A	A	A	/	/	P	/	P	
	Liquor store	/	/	/	/	U	P	P	U	U	A	A	A	/	/	P	/	U	
	Retail sales establishment, large	/	/	/	/	U	P	/	P	P	/	A	A	/	/	P	/	U	40.1-4.3(C)(9)(e)(iii)
	Other retail sales establishments	/	/	P	P	P	P	P	/	/	A	A	A	/	/	P	/	P	
Self–Service Storage	Mini-warehouse	/	/	/	/	U	U	U	P	P	/	A	A	/	/	/	/	/	
Vehicle Sales and Services, Heavy	Aircraft parts, sales, and maintenance	/	/	/	/	/	/	/	P	P	/	/	/		/	/	/	/	
	Automotive painting/body shop	/	/	/	/	/	P	/	P	P	/	A	A	/	/	/	/	/	40.1-4.3(C)(10)(a)
	Automotive wrecker service	/	/	/	/	/	P	/	P	P	/	A	A	/	/	/	/	/	
	Transmission shop	/	/	/	/	/	P	/	P	P	/	A	A	/	/	/	/	/	
	Boat and marine rental and sales	/	/	/	/	P	P	/	P	P	/	A	A	/	/	P	/	U	
	Truck stop	/	/	/	/		U	/	P	P	/	A	A	/	/	/	/	/	
Vehicle Sales and Services, Light	Automotive parts and installation	/	/	/	/	U	P	P	P	P	/	A	A	/	/	P	/	/	40.1-4.3(C)(10)(b)
	Automobile repair and servicing (without painting/bodywork)	/	/	/	/	U	P	/	P	P	/	A	A	/	/	/	/	/	40.1-4.3(C)(10)(c)

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USE CATEGORY	USE TYPE	ZONING DISTRICTS																	ADDITIONAL REQUIREMENTS
		RESIDENTIAL [1]				BUSINESS					ACTIVITY CENTER			SPECIAL [2]					
		NR	GR	UR	URH	NMU	MUH	GMU	IL	IN	NAC	CAC	RAC	HR	HLO	HLB	PG	WF	
	Automobile sales or rentals	/	/	/	/	U	P	U	P	P	/	A	A	/	/	P	/	/	40.1-4.3(C)(10)(d)
	Automotive wrecker service	/	/	/	/	U	P	/	P	P	/	/	/	/	/	/	/	/	40.1-4.3(C)(10)(e)
	Car wash or auto detailing	/	/	/	/	U	P	U	P	P	/	A	A	/	/	P	/	/	40.1-4.3(C)(10)(f)
	Motorcycle sales	/	/	/	/	U	P	U	P	P	/	A	A	/	/	P	/	/	40.1-4.3(C)(10)(d)
	Recreational vehicle sales or rentals	/	/	/	/	U	P	U	P	P	/	A	A	/	/	P	/	/	40.1-4.3(C)(10)(d)
	Taxicab service	/	/	/	/	U	P	P	P	P	A	A	A	/	/	P	/	/	
	Tire/muffler sales and mounting	/	/	/	/	U	P	/	P	P	/	A	A	/	/	/	/	/	40.1-4.3(C)(10)(g)
Visitor Accommodations	Bed and breakfast inn	/	/	/	/	/	/	/	/	/	/	/	/	U	/	/	/	/	40.1-4.3(C)(11)(a)
	Campground or recreational vehicle (RV) park	/	/	/	/	U	U	/	U	U	/	A	A	/	/	/	/	/	
	Hotel or motel, extended stay	/	/	/	U		U	U	U	U	A	A	A	/	/	/	/	/	40.1-4.3(C)(11)(b)
	Hotel or motel, full service	/	/	/	P	P	P	P	P	P	A	A	A	/	/	/	/	U	40.1-4.3(C)(11)(c)
	Tourist Home	/	/	/	/	P	P	P	/	/	A	A	A	/	/	/	/	/	40.1-4.3(C)(11)(d)
INDUSTRIAL USE CLASSIFICATION																			
Industrial Services	Building, heating, plumbing, or electrical contractor	/	/	/	/	P	P	/	P	P	/	A	A	/	/	/	/	/	
	Electric motor repair	/	/	/	/	/	U	/	P	P	/	A	A	/	/	U	/	/	40.1-4.3(D)(1)(a)
	Fuel oil/bottled gas distributor	/	/	/	/	/	/	/	P	P	/	/	/	/	/	/	/	/	
	Fuel oil storage	/	/	/	/	U	P	/	P	P	/	A	A	/	/	P	/	/	40.1-4.3(D)(1)(b)

TABLE 40.1-4.1(A): USE TABLE
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USE CATEGORY	USE TYPE	ZONING DISTRICTS																	ADDITIONAL REQUIREMENTS
		RESIDENTIAL [1]				BUSINESS					ACTIVITY CENTER			SPECIAL [2]					
		NR	GR	UR	URH	NMU	MUH	GMU	IL	IN	NAC	CAC	RAC	HR	HLO	HLB	PG	WF	
	General industrial service	/	/	/	/	/	/	/	U	P	/	/	/	/	/	/	/	/	
	Heavy equipment sales, rental, or storage	/	/	/	/	/	U	/	P	P	/	A	A	/	/	/	/	/	40.1-4.3(D)(1)(c)
	Heavy equipment servicing and repair	/	/	/	/	/	/	/	P	P	/	/	/	/	/	/	/	/	
	Laundry, dry cleaning, and carpet cleaning plants	/	/	/	/	/	/	/	U	P	/	/	/	/	/	/	/	/	40.1-4.3(D)(1)(d)
	Machine shop	/	/	/	/	/	/	/	P	P	/	/	/	/	/	/	/	/	40.1-4.3(D)(1)(a)
	Repair of scientific or professional instruments	/	/	/	/	/	U	/	P	P	/	A	A	/	/	/	/	/	
	Research and development	/	/	/	/	P	P	P	P	P	/	A	A	/	/	/	/	/	
	Tool repair	/	/	/	/	/	U	/	P	P	/	A	A	/	/	/	/	/	40.1-4.3(D)(1)(a)
Manufacturing and Production	Manufacturing, heavy	/	/	/	/	/	/	/	/	P	/	/		/	/	/	/	/	40.1-4.3(D)(2)(a)
	Manufacturing, light	/	/	/	/	/	/	U	P	P	/	/	A	/	/	/	/	/	40.1-4.3(D)(2)(b)
Warehouse and Freight Movement	Bulk fuel sales and storage	/	/	/	/	/	/	/	P	P	/	/	A	/	/	/	/	/	40.1-4.3(D)(3)(a)
	Cold storage plant	/	/	/	/	/	U	P	P	P	/	/	A	/	/	/	/	/	
	Outdoor storage (as a principal use)	/	/	/	/	U	U	P	P	P	/	A	A	/	/	/	/	/	40.1-4.3(D)(3)(b)
	Parcel services	/	/	/	/	/	P	P	P	P	A	A	A	/	/	/	/	/	40.1-4.3(D)(3)(Yc)
	Shipping container storage yard	/	/	/	/	/	/	/	U	U	/	/	U	/	/	/	/	/	40.1-4.3(D)(3)(d)
	Truck or freight terminal	/	/	/	/	/	/	/	P	P	/	/	A	/	/	/	/	/	40.1-4.3(D)(3)(c)
	Warehouse (distribution)	/	/	/	/	/	U	/	P	P	/	/	A	/	/	/	/	/	
	Warehouse (storage)	/	/	/	/	/	U	P	P	P	/	A	A	/	/	/	/	/	
Waste-Related Services	Energy recovery plant	/	/	/	/	/	/	/	U	U	/	/	/	/	/	/	/	/	40.1-4.3(D)(4)(a)
	Hazardous waste collection sites	/	/	/	/	/	/	/	/	U	/	/	/	/	/	/	/	/	
	Incinerator	/	/	/	/	/	/	/	U	U	/	/	/	/	/	/	/	/	
	Recycling and salvage center	/	/	/	/	/	/	/	/	P	/	/	/	/	/	/	/	/	40.1-4.3(D)(4)(b)

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USE CATEGORY	USE TYPE	ZONING DISTRICTS																	ADDITIONAL REQUIREMENTS
		RESIDENTIAL [1]				BUSINESS					ACTIVITY CENTER			SPECIAL [2]					
		NR	GR	UR	URH	NMU	MUH	GMU	IL	IN	NAC	CAC	RAC	HR	HLO	HLB	PG	WF	
	Recycling drop-off center	/	/	/	/	P	P	P	P	P	A	A	A	/	/	P	/	/	40.1-4.3(D)(4)(c)
	Salvage and junkyard	/	/	/	/	/	/	/	U	U	/	/	/	/	/	/	/	/	40.1-4.3(D)(4)(d)
	Tire disposal or recycling	/	/	/	/	/	/	/	/	U	/	/	/	/	/	/	/	/	
	Waste composting	/	/	/	/	/	/	/	U	U	/	/	/	/	/	/	/	/	
Wholesale sales	All uses	/	/	/	/	U	U	U	P	P		A	A	/	/	/	/	/	40.1-4.3(D)(5)

NOTES:
[1] The Residential Mobile Home (RMH) Ddstrict is not included in the table. Amendments to the official zoning map establish new RMH districts are prohibited.
[2] The tables of permitted uses for the Downtown (D1) and (D2) districts are included in Appendices A and B of this Ordinance.

40.1-4.2 USE CLASSIFICATIONS, USE CATEGORIES, AND USE TYPES

(A) General

(1) Purpose

This section is intended to provide a systematic framework for identifying, describing, categorizing, and consolidating or distinguishing land uses in a way that makes it easier to determine how a particular land use activity, or combination of activities, is to be considered in applying the use table and other provisions in this Ordinance. This section is also intended to provide support in identifying instances where a new or unanticipated land use not identified in the use table is of such a nature, function, or duration that the impact of allowing it in a particular zoning district is so similar to that of a use type already identified in the use table as allowed in the zoning district that allowing the new or unanticipated land use should be interpreted as being consistent with the intent of the zoning district and the use regulations.

(2) Structure of this Section

(a) General

This section identifies each of the four use classifications in Table 40.1-4.1(A), Use Table, and includes a section under each use classification identifying each use category. There are "characteristics" and "examples" subsections under each use category (individual use types are defined in Article 40.1-8: Definitions).

(b) Principal Use Characteristics and Accessory Uses

The "characteristics" subsection describes common characteristics of each use category. Principal uses are assigned to the use category that most closely describes the nature of the principal use. Also listed are examples of common accessory uses that, unless otherwise stated in this Ordinance, are allowed in conjunction with a principal use.

(c) Examples

The "examples" subsection lists common examples of use types included in the respective use category. The names of these example uses are generic. They are based on common meanings and not on what a specific use may call itself. For example, a use that calls itself "wholesale sales," but sells mostly to consumers, is included in the Retail Sales and Service Use Category rather than the Wholesale Sales Use Category. This is because the activity on the site matches the characteristics of the Retail Sales and Service Use Category.

(3) Developments with Multiple Principal Uses

When all principal uses of a development fall within one use category, the entire development is assigned to that use category. A development that contains a coffee shop, bookstore, and bakery, for example, would be classified in the Retail Sales and Service Use Category because all of the development's principal uses are in that use category. When the principal uses of a development fall within different use categories, each principal use is classified in the applicable use category and each use is subject to applicable regulations for that use category. Developments with multiple principal uses, such as shopping centers, shall incorporate only those use types allowed in the applicable zoning district.

(4) Interpretation of Unlisted Uses

(a) Procedure for Interpreting Unlisted Uses as Permitted

The Zoning Administrator may interpret a particular land use not expressly listed in the use table as allowed in a particular zoning district, in accordance with the procedure in Section 40.1-2.3(J), Interpretation, and based on the standards in Section 40.1-4.2(A)(4)(b), Standards for Approving Unlisted Uses.

(b) Standards for Interpreting Unlisted Uses as Permitted

The Zoning Administrator shall interpret an unlisted land use as permitted in a particular zoning district only after determining 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 allowable in the zoning district that the unlisted land use should be deemed allowable in the same manner as the similar use type or use category. In making such determination, the Zoning Administrator shall consider the purpose and intent statements in this Ordinance concerning the zoning district, the character of use types allowable in the district, and all relevant characteristics of the unlisted use, including but not limited to the following:

(i) The volume and type of sales, retail, wholesale, etc.;

(ii) The size and type of items sold and nature of inventory on the premises;

(iii) Any processing done on the premises, including assembly, manufacturing, warehousing, shipping, distribution;

(iv) Any dangerous, hazardous, toxic, or explosive materials used in the processing;

(v) The nature and location of storage and outdoor display of merchandise, whether enclosed, open, inside or outside the principal building;

(vi) Predominant types of items stored (such as business vehicles, work-in-process, inventory, and merchandise, construction materials, scrap and junk, and raw materials including liquids and powders);

(vii) The type, size, and nature of buildings and structures;

(viii) The number and density of employees and customers per unit area of site in relation to business hours and employment shifts;

(ix) Transportation requirements, including the modal split for people and freight, by volume type and characteristic of traffic generation to and from the site;

(x) Trip purposes and whether trip purposes can be shared by other use types on the site;

(xi) Parking requirements, turnover and generation, ratio of the number of spaces required per unit area or activity;

(xii) The amount and nature of any nuisances generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation, and fumes;

(xiii) Any special public utility requirements for serving the proposed use type, 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

(xiv) The impact on adjacent lands created by the proposed use type, which should not be greater than that of other use types allowed in the zoning district.

(c) Effect of Approval of Unlisted Use

(i) After interpreting an unlisted land use as permitted in a particular zoning district, the Zoning Administrator shall determine whether the unlisted use is likely to be common or to recur frequently, or whether its omission from the use table is likely to lead to public uncertainty and confusion. On determining that the unlisted use is likely to be common or would lead to confusion if unlisted, the Zoning Administrator shall initiate an application for a text amendment to this Ordinance to list the use in the use table. Until final action is taken on the text amendment application, the Zoning Administrator's interpretation shall be binding.

(ii) If after interpreting an unlisted land use as permitted in a particular zoning district, the Zoning Administrator determines that the unlisted use is of an unusual or transitory nature, and unlikely to recur frequently, the interpretation shall be binding in accordance with Section 40.1-4.4.2(A)(4), Interpretation of Unlisted Uses, without further action or amendment of this Ordinance.

(iii) Appeals of the Zoning Administrator's decision shall be submitted in accordance with the standards in Section 40.1-2.3(K), Appeal.

(B) Residential Use Classification

(1) Household Living

(a) Characteristics

The Household Living Use Category includes use types that provide for the residential occupancy of a dwelling unit by a household. Tenancy is arranged on a month-to-month or longer basis. Accessory uses commonly associated with household living are recreational activities, raising of pets, hobbies, and parking of the occupants' vehicles. Home occupations are accessory uses that are subject to additional regulations (See Section 40.1-4.4(C)(6), Home Occupation).

(b) Examples

Example use types include detached single-family dwellings, attached single-family dwellings, two- to four-family dwellings, townhouse dwellings, multi-family dwellings, and live/work dwellings.

(2) Group Living

(a) Characteristics

The Group Living Use Category includes use types that provide for the residential occupancy of a structure by a group of people who do not meet the definition of "household." The size of the group may be larger than the average size of a household. Tenancy is arranged on a monthly or longer basis. Generally, group living structures have a common eating area for residents. The residents may receive care, training, or treatment. Common accessory uses include recreational facilities, dining facilities, and parking of vehicles for occupants and staff.

(b) Examples

Example use types include dormitories, fraternity or sorority houses, family care homes, group homes, and rooming or boarding houses, as well as single room occupancy (SRO) facilities.

(c) Exceptions

Nursing homes, assisted living facilities, halfway houses, and shelters are classified as Institutions.

(C) Public and Institutional Use Classification

(1) Community Services

(a) Characteristics

The Community Services Use Category includes use types of a public, nonprofit, or charitable nature that provide a local service to people of the community. Generally, such uses provide ongoing continued service on-site or have employees at the site on a regular basis. Community centers or facilities that have membership provisions that are open to the general public (for instance, any senior citizen could join a senior center) are included in the Community Services Use Category. The use type may provide special counseling, education, or training of a public, nonprofit, or charitable nature. Accessory uses may include offices, meeting, food preparation, parking, health, and therapy areas; and athletic facilities.

(b) Examples

Example use types include community centers, cultural facilities, libraries, museums, senior centers, and youth club facilities.

(c) Exceptions

Parks are classified as Parks and Open Space.

(2) Day Care

(a) Characteristics

The Day Care Use Category is characterized by use types that provide care, protection, and supervision for children or adults on a regular basis away from their primary residence, and typically for less than 24 hours per day. Care can be provided during daytime or nighttime hours. Accessory uses include offices, food preparation, recreation areas, and parking.

(b) Examples

Example use types include adult day care centers, child day care centers, family child care homes, or home child day care.

(c) Exceptions

The Day Care Use Category does not include drop-in or short-term day care provided in connection with employment or shopping, recreational facility, religious institution, hotel, or other principal use, where children are temporarily cared for while parents or guardians are employed part-time or temporarily occupied on the premises or in the immediate vicinity.

(3) Educational Facilities

(a) Characteristics

The Educational Facilities Use Category includes use types such as public and private schools at the elementary, middle, or high school level that provide state-mandated basic education or a comparable equivalent. This use category also includes colleges, universities, 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. Accessory uses at schools include offices, play areas, cafeterias, recreational and sport facilities, auditoriums, and before- or after-school day care. Accessory uses at colleges or universities include offices, dormitories, food service, laboratories, health and sports facilities, theaters, meeting areas, athletic fields, parking, maintenance facilities, and supporting commercial.

(b) Examples

Example use types include public and private elementary schools (including kindergarten schools), middle or junior high schools, and senior high schools that provide state-mandated basic education, as well as colleges or universities, and vocational or trade schools.

(4) Government Facilities

(a) Characteristics

The Government Facilities Use Category includes use types that provide for the general operations and functions of local, state, or federal governments. Accessory uses include maintenance, storage (indoor and outdoor), fueling facilities, satellite offices, and parking areas.

(b) Examples

Example use types include post offices, government offices, and government maintenance, storage, and distribution facilities.

(c) Exceptions

(i) Fire, police, and EMS facilities are classified as Public Safety.

(ii) Passenger terminals for airports and surface transportation are classified as Transportation.

(iii) City, county, and state parks are classified as Parks and Open Space.

(iv) Water, wastewater, gas, electric, and other infrastructure services, whether public or private, are classified as Utilities.

(5) Health Care Facilities

(a) Characteristics

The Health Care Facilities Use Category includes use types that provide medical or surgical care and treatment to patients as well as laboratory services. Hospitals and medical treatment facilities offer overnight care, as well as outpatient care. Accessory uses include offices, laboratories, teaching facilities, meeting areas, cafeterias, parking, maintenance facilities, housing for staff or trainees, and limited accommodations for family members.

(b) Examples

Example use types include hospitals, medical and dental clinics, outpatient facilities, medical and dental labs, medical treatment facilities, drug and alcohol treatment facilities, and blood/tissue collection facilities.

(c) Exceptions

(i) Uses that involve provision of residential care for the elderly or disabled are classified Institutions.

(ii) Uses that provide exclusive care and planned treatment or training for psychiatric, alcohol, or drug problems, where patients are residents and participants in a program, are considered Institutions.

(6) Institutions

(a) Characteristics

The Institutions Use Category includes use types that provide a variety of facilities, including buildings that provide meeting areas for religious activities, civic or fraternal club activities, convention centers or auditoriums, housing and care for the elderly or disabled, and housing related to treatment programs. Accessory uses include school facilities, limited medical treatment facilities, kitchens/cafeterias, recreation areas, offices, meeting rooms, parking, and staff residences.

(b) Examples

Example use types include auditoriums and convention centers, religious institutions (with cemeteries, columbaria, and mausoleums as accessory uses), private civic, social, or fraternal clubs or lodges, nursing homes, assisted living facilities, halfway houses, psychiatric treatment facilities, and shelters.

(c) Exceptions

Adult care homes where individual units meet the definition of dwelling unit in Article 40.1-8: Definitions, family care homes, and group homes are classified as Group Living.

(7) Parks and Open Areas

(a) Characteristics

The Parks and Open Areas Use Category includes use types that focus on open space areas largely devoted to vegetative landscaping or outdoor recreation, and that tend to have few structures. Accessory uses may include clubhouses, recreational structures, statuary, fountains, maintenance facilities, concessions, parking, and columbaria and mausoleums (as accessory to cemeteries).

(b) Examples

Example use types include arboretums or botanical gardens, parks, public squares or plazas, community gardens, public golf courses, cemeteries, and equestrian facilities.

(c) Exceptions

Privately owned golf courses are classified as Outdoor Recreation/Entertainment.

(8) Public Safety

(a) Characteristics

The Public Safety Use Category is characterized by use types that provide public safety services to the general public.

(b) Examples

Example use types include fire and EMS facilities, police stations, substations for fire and police, and fire training facilities, police firing ranges, and correctional facilities. Accessory uses include offices, teaching facilities, meeting areas, lunch rooms and cafeterias, sleeping quarters, storage, parking, and maintenance facilities.

(9) Transportation

(a) Characteristics

The Transportation Use Category includes use types that provide for the landing and takeoff of airplanes and helicopters, including loading and unloading areas. This use category also includes passenger terminals for surface transportation. Accessory uses include freight handling areas, concessions, offices, parking, maintenance, and fueling facilities.

(b) Examples

Example use types include airports, helicopter landing facilities, and passenger terminals for ground transportation (train, light rail, bus).

(c) Exceptions

Transit route facilities such as bus stops, bus shelters, and park-and-ride facilities are classified as Utilities.

(10) Utilities

(a) Characteristics

The Utilities Use 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 the neighborhood or use type where the service is provided. Wireless telecommunications towers also are a type of utility. Services may be publicly or privately provided. Accessory uses may include parking and control, offices, monitoring, storage areas, or data transmission equipment.

(b) Examples

(i) Examples of major utilities include wastewater treatment plants, potable water treatment plants, and electrical substations.

(ii) Examples of minor utilities include water towers, water and sewage pump stations, stormwater retention and detention facilities, facilities for the drop off or collection, and temporary holding, of household or business recyclables (e.g., recycle drop boxes and reverse vending machines), telephone exchanges, ground-based electrical/telephone/cable vaults, and transit route facilities such as bus stops, bus shelters, and park-and-ride facilities.

(iii) Examples of telecommunications towers (free-standing, collocated, and roof-mounted) include facilities for transmitting wireless phones and pager services, and television and radio broadcasting equipment.

(c) Exceptions

Recycling and salvage centers and waste composing uses are considered Waste-Related Services.

(D) Commercial Use Classification

(1) Adult Uses

(a) Characteristics

The Adult Uses Category includes use types that sell, distribute, or present material or feature performances or other activities that emphasize the depiction or display of specified sexual activities or specified anatomical areas as defined herein.

(b) Examples

Example use types in the Adult Uses category include adult bookstores and adult motion picture theaters (distinguished by being largely devoted to selling, renting, or presenting media emphasizing sexually explicit content), and adult entertainment uses (featuring live performances or services emphasizing the display of specified sexual activities or specified anatomical areas).

(2) Animal Care

(a) Characteristics

The Animal Care Use Category is characterized by use types related to the provision of medical services, general care, and boarding services for domestic animals.

(b) Examples

Example use types include animal shelters, animal grooming, kennels (outdoor and indoor), and veterinary clinics.

(3) Conference and Training Centers

(a) Characteristics

The Conference and Training Center Use Category is characterized by facilities used for business or professional conferences, seminars, and training programs.

(b) Examples

Example use types include conference centers, meeting facilities, and corporate retreat facilities.

(4) Eating Establishments

(a) Characteristics

The Eating Establishments Use Category includes use types that prepare and sell food and beverages for immediate or direct on- or off-premise consumption. Accessory uses may include bars or cocktail lounges associated with the establishment, decks and patios for outdoor seating, drive-through facilities, customer and employee parking areas, and valet parking facilities.

(b) Examples

Examples include restaurants with indoor and outdoor seating, restaurants with drive-through service, specialty eating establishments (ice cream parlors, bakery shops, dessert shops, juice or coffee houses), and dinner theaters.

(c) Exceptions

(i) Bars or brewpubs are classified as Retail Sales and Services.

(ii) Establishments that provide live entertainment, amplified music, or dancing are Entertainment Establishments.

(5) Entertainment Establishments

(a) Characteristics

Uses in the Entertainment Establishment Use Category include uses that offer some form of entertainment (e.g., dancing, comedy performances, amplified music, etc.) while on the premises. Such uses may also serve alcohol or spirits, charge patrons a membership fee or cover charge to enter, and serve food for on-site consumption.

(b) Examples

Nightclubs, discotheques, music halls, comedy clubs, live performance venues, and cabarets are Entertainment Establishments.

(c) Exceptions

(i) Cabarets that feature performances displaying specified anatomical areas are classified as Adult Uses.

(ii) Bars or brew pubs that offer alcohol, spirits, and food to patrons, but do not allow live performances or dancing are Eating Establishments.

(6) Offices

(a) Characteristics

The Office Use Category includes use types that provide for activities that are conducted in an office setting and generally focus on business, professional, or financial services. Accessory uses may include cafeterias, day care facilities, recreational or fitness facilities, parking, supporting commercial, or other amenities primarily for the use of employees in the business or building.

(b) Examples

Example use types include offices for business services, professional services (such as lawyers, accountants, engineers, or architects), financial services (such as lenders, banks, brokerage houses, tax preparers), and sales (including real estate agents).

(c) Exceptions

(i) Offices that are part of and located with a principal use in another use category are considered accessory to the establishment's primary activity. Headquarter offices that are located in conjunction with or adjacent to a principal use in another use category are considered part of the other use category.

(ii) Contractors and others who perform services off-site are included in the Offices Use Category if equipment and materials are not stored outside and no fabrication, services, or similar work is carried on at the site.

(iii) Government offices are classified as Government Facilities.

(iv) Medical and dental clinics, medical or dental labs, and blood collection facilities are classified as Health Care Facilities.

(v) Financial institutions offering drive-through or walk-up service to patrons (branch banks or credit unions) are classified as Retail Sales and Services.

(7) Parking, Commercial

(a) Characteristics

The Commercial Parking Use Category includes use types that provide free-standing parking lots and structures that are not accessory to a specific principal use. A fee may or may not be charged. A parking facility that provides both accessory parking for a specific principal use and regular fee parking for people not connected to the principal use is also classified as Commercial Parking. Accessory uses may include small shelters for parking attendants.

(b) Examples

Example use types include surface parking lots and parking structures (parking decks or garages).

(c) Exceptions

(i) Parking facilities that are accessory to a principal use, but charge the public to park for occasional events nearby, are not considered Commercial Parking.

(ii) Parking facilities that are accessory to a principal use, even if the principal use leases the facility or those parking in the facility are charged a fee, are not considered Commercial Parking.

(iii) Park-and-ride facilities are classified as Utilities.

(8) Recreation/Entertainment, Indoor

(a) Characteristics

The Indoor Recreation/Entertainment Use Category includes use types that are privately-owned and provide recreation or entertainment activities in an enclosed structure or structures. Accessory uses may include offices, concessions, snack bars, parking, and maintenance facilities.

(b) Examples

Example use types include indoor commercial recreation uses (including fitness centers, bowling alleys, game rooms, shooting ranges, pool halls (without alcohol) skating rinks, indoor swimming pools, racquetball and squash courts, indoor tennis club facilities, and theaters (including cinemas, screening rooms, and stages).

(c) Exceptions

(i) Banquet halls that are part of hotels (classified as Visitor Accommodation) or restaurants (classified as Eating Establishments) are accessory to those uses.

(ii) Private civic, social, or fraternal clubs or lodges are classified as Institutions.

(iii) Recreational facilities that are reserved for use by residents of particular residential developments and their guests are accessory to those residential use types.

(9) Recreation/Entertainment, Outdoor

(a) Characteristics

The Outdoor Recreation/Entertainment Use Category includes use types that are large, generally commercial, and provide continuous recreation or entertainment-oriented activities that primarily take place outdoors. They may take place in a number of structures that are arranged together in an outdoor setting. Accessory uses may include concessions, parking, and maintenance facilities.

(b) Examples

Example use types include country clubs, private golf courses, golf driving ranges, privately-owned arenas, amphitheaters, or stadiums, and outdoor commercial recreation uses (including privately-owned miniature golf facilities; go-cart racing, race-track, or dirt-track facilities; drive-in movie theaters; privately-owned outdoor commercial tourist attractions, water parks, and amusement parks; and privately-owned active sports facilities such as ball fields, courts, and archery ranges), as well as outdoor swimming pools, tennis courts, and ball fields serving membership clubs. This category also includes marinas.

(c) Exceptions

Golf courses, tennis courts, swimming pools, basketball courts, ball fields, amphitheaters, and other similar outdoor recreational or entertainment-oriented facilities that are publicly owned are classified as Parks and Open Space.

(10) Retail Sales and Services

(a) Characteristics

The Retail Sales and Services Use Category includes use types involved in the sale, lease, or rent of new or used products to the general public. They may also provide personal services or entertainment, or provide product repair or services for consumer and business goods. Accessory uses may include offices, storage of goods, manufacture or repackaging of goods for on-site sale, concessions, ATM machines, outdoor display/sales areas, and parking. Use types within this use category have been categorized based on their intensity, scale, and function.

(b) Examples

Example use types include uses from the following groups:

(i) Bars and Brewpubs

Establishments primarily devoted to the sale of alcoholic beverages and food for on-site consumption.

(ii) Gasoline Sales

Uses engaged in the retail sale of gasoline and similar vehicular fuels (gas station or service station) that may or may not provide the range of goods or services associated with a convenience store.

(iii) Personal Services Establishments

Establishments meeting frequent or recurrent service needs of a personal nature, including financial institutions like check cashing establishments or payroll lenders, self-service laundries, laundry and dry-cleaning drop-off establishments, photographic studios, mailing or packaging services, photocopy and blueprint services, hair salons and barber/beauty shops, tanning and nail salons, massage therapy and day spas, dance or music instruction, martial arts classes, taxidermists, funeral homes, and psychics or mediums.

(iv) Repair Establishments

Uses primarily engaged in providing repair services for TVs, bicycles, clocks and watches, shoes, guns, canvas products, appliances, and office equipment, and including tailors, locksmiths, and upholsterers.

(v) Retail Sales Establishments

Stores selling, leasing, or renting consumer, home, and business goods, whether new or used, including art and art supply stores, audio/video stores, bicycle sales, book stores, clothing stores, convenience stores, department stores, dry good sales, electronic equipment stores, fabric shops, furniture stores, florists, garden supply centers, gift shops, grocery stores, hardware stores, home improvement centers, household products, jewelry stores, office supply stores, pet and pet supply stores, pharmacies, plant stores, and stationery shops.

(c) Exceptions

(i) Laundry and dry-cleaning plants are considered Industrial Services.

(ii) Building trade contractors with on-site storage that sell primarily to contractors and do not have a retail orientation are classified as Warehouse and Freight Movement.

(iii) Repair and service of automobiles, motorcycles, and light and medium trucks is classified as Vehicle Sales and Service (Heavy or Light).

(iv) Bakeries, dinner theaters, or entertainment establishments primarily engaged in the sale of food for on-site consumption are considered Eating Establishments.

(v) Cinemas, theaters, concert halls, and stages are considered Indoor Recreation/Entertainment.

(vi) Uses providing financial, professional, or business services by appointment or with only limited contact with the general public are classified as Offices.

(vii) Uses that involve the sales, distribution, or presentation of materials or activities emphasizing sexually explicit content are classified as Adult Uses.

(viii) Massage parlors, tattoo parlors, body piercing establishments, or escort services are not personal services establishments.

(ix) Establishments that provide live entertainment, amplified music, or dancing are Entertainment Establishments.

(11) Self-Service Storage (Mini-warehouse)

(a) Characteristics

The Self-Service Storage Use Category includes use types that provide individual, self-contained units or areas leased to individuals, organizations, or businesses for self-service storage of household and personal property. The storage units or areas are designed to allow private access by the tenant for storing or removing personal property. Accessory uses include leasing offices, outdoor storage of boats and campers, and living quarters for a resident manager or security guard. Use of the storage areas for sales, service, repair, or manufacturing operations is not considered accessory to Self–Service Storage. The rental of trucks or equipment is also not considered accessory to the use.

(b) Examples

Example use types include self–service storage establishments, also called "mini-warehouses."

(c) Exceptions

A transfer and storage business, where there are not individual storage areas, or where employees are the primary movers of property being stored or transferred, is classified as Warehouse and Freight Movement.

(12) Vehicle Sales and Services, Heavy

(a) Characteristics

The Vehicle Sales and Services Use, Heavy Category include use types involving the direct sales and servicing of medium trucks, boats, and other consumer motor vehicles intended to transport persons or goods over land or water or through the air, whether for recreation, commerce, or personal transport. Accessory uses include offices, sales of parts, maintenance facilities, parking, outdoor display, and vehicle storage.

(b) Examples

Example use types include vehicle sales or rentals; significant automotive repair and servicing; automotive painting/bodywork; boat and marine sales or rental; aircraft parts, sales, and maintenance; transmission shops; and automotive wrecker services.

(c) Exceptions

(i) Refueling facilities for vehicles belonging to a specific principal use (fleet vehicles) are considered accessory uses if located on the site of the principal use.

(ii) Storage of inoperable vehicles or parts is considered a Waste-Related Service.

(iii) Sales of automobiles, oil change service, tire sales and service, and muffler shops are considered Light Vehicles Sales and services.

(13) Vehicle Sales and Services, Light

(a) Characteristics

The Vehicle Sales and Services Use, Light Category includes use types involving the direct sales and servicing of automobiles, motorcycles, light trucks. Accessory uses include offices, sales of parts, maintenance facilities, parking, outdoor display, and vehicle storage.

(b) Examples

Example use types include automotive sales or rentals (including the sales and rental of automobiles, motorcycles, and light trucks); light automotive repair and servicing such as oil changes, state vehicle inspections, and muffler shops; automotive parts sales and maintenance; car wash and auto detailing; and tire sales and mounting services.

(c) Exceptions

(i) Refueling facilities for vehicles belonging to a specific principal use (fleet vehicles) are considered accessory uses if located on the site of the principal use.

(ii) Storage of inoperable vehicles or parts is considered a Waste-Related Service.

(iii) Sales of major recreational equipment, bodywork, painting, transmission work, or substantial engine repair is classified as Vehicle Sales and Service, Heavy.

(14) Visitor Accommodations

(a) Characteristics

The Visitor Accommodations Use Category includes use types that provide lodging units or space for short-term stays of less than 30 days for rent, lease, or interval occupancy. Accessory uses may include pools and other recreational facilities, limited storage, restaurants, bars, supporting commercial, meeting facilities, offices, and parking.

(b) Examples

Example use types include full service hotels or motels, extended stay hotels or motels, bed and breakfast inns, tourist homes, recreational vehicle (RV) parks, and campgrounds.

(c) Exceptions

Rooming, boarding houses, and single-room-occupancy establishments are classified as Group Living.

(E) Industrial Use Classification

(1) Industrial Services

(a) Characteristics

The Industrial Services Use Category includes use types involving the repair or servicing of industrial, business, or consumer machinery equipment, products, or by-products. Firms that service consumer goods 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 activities may include limited retail or wholesale sales, offices, parking, warehousing, and outdoor storage.

(b) Examples

Example use types include machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; heavy equipment sales, rental, or storage; heavy equipment servicing and repair; building, heating, plumbing, or electrical contractors; fuel oil or bottled gas distributors; research and development facilities; laundry, dry-cleaning, and carpet cleaning plants; and general industrial service uses.

(c) Exceptions

Contractors and others who perform services off-site are included in the Offices Use Category if equipment and materials are not stored outside and no fabrication, services, or similar work is carried on at the site.

(2) Manufacturing and Production

(a) Characteristics

The Manufacturing and Production Use 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, for transfer to other plants, or to order for firms or consumers. The use category also includes custom industries (establishments primarily engaged in the on-site production of goods by use of hand tools and small-scale equipment). Goods are generally not displayed or sold on site, but if so, such sales are a subordinate part of total sales. Relatively few customers come to the manufacturing site. Accessory uses may include retail or wholesale sales, offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, repair facilities, truck fleets, fueling facilities, security and caretaker's quarters.

(i) Heavy Manufacturing

Heavy Manufacturing is the manufacture or compounding process of raw materials. These activities may involve outdoor operations as part of their manufacturing process.

(ii) Light Manufacturing

Light Manufacturing is the mechanical transformation of predominantly previously prepared materials into new products, including assembly of component parts and the creation of products for sale to wholesale or retail markets or directly to consumers. Such uses are wholly confined within an enclosed building, do not include processing of hazardous gases and chemicals, and do not emit noxious noise, smoke, vapors, fumes, dust, glare, odor, or vibration.

(b) Examples

(i) Heavy Manufacturing

Example use types of heavy manufacturing include, but are not limited to: the manufacture or assembly of machinery, equipment, instruments, vehicles, and appliances; rendering; concrete production; asphalt plants; glass and plastic production; cardboard fabrication; and petroleum refining.

(ii) Light Manufacturing

Example use types of light manufacturing include: production or repair of small machines or electronic parts and equipment; sewing or assembly of textiles into consumer products; woodworking and cabinet building; publishing and lithography; computer design and development; communications equipment, precision items and other electrical items; research, development, and testing facilities and laboratories; sign making, assembly of pre-fabricated parts, manufacture of electric, electronic, or optical instruments or devices; manufacture and assembly of artificial limbs, dentures, hearing aids, and surgical instruments; manufacture, processing, and packing of food products, cosmetics, and manufacturing of components, jewelry, clothing, trimming decorations, and any similar item.

(c) Exceptions

(i) Manufacturing of goods to be sold primarily on-site and to the general public is classified as Retail Sales and Services if the manufacturing area is less than 35 percent of the development's gross floor area.

(ii) Manufacturing and production of goods from salvage material is classified as Waste-Related Services.

(iii) Manufacturing and production of goods from composting material is classified as Waste-Related Services.

(3) Warehouse and Freight Movement

(a) Characteristics

The Warehouse and Freight Movement Use Category includes use types involving the storage or movement of goods for themselves or other firms or businesses. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present. Accessory uses include offices, truck fleet parking, outdoor storage, and maintenance areas.

(b) Examples

Example use types include separate storage warehouses (used for storage by retail stores such as furniture and appliance stores); distribution warehouses (used for distribution by trucking companies; cold storage plants, including frozen food lockers; outdoor storage (as a principal use); and parcel services.

(c) Exceptions

(i) Contractor's offices that do not include storage yards are classified as Offices.

(ii) Use types that involve the transfer or storage of solid or liquid wastes are classified as Waste-Related Services.

(4) Waste-Related Services

(a) Characteristics

The Waste-Related Services Use Category includes use types that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the composting of organic material or processing of scrap or waste material. This use category also includes use types that receive hazardous wastes from others. Accessory uses may include offices, outdoor storage, recycling of materials, and repackaging and trans-shipment of by-products.

(b) Examples

Example use types include recycling and salvage centers, land application of wastes, sanitary landfills, land clearing and construction debris landfills, tire disposal or recycling, waste composting, incinerators, energy recovery plants, salvage yards and junkyards, hazardous waste collection sites; and recycling drop-off centers.

(c) Exceptions

Wastewater treatment plants and potable water treatment plants are classified as major utilities, in the Utilities use category. Facilities for the drop off or collection, and temporary holding, of household or business recyclables—such as recycle drop boxes and reverse vending machines—are classified as minor utilities, in the Utilities use category.

(5) Wholesale Sales

(a) Characteristics

The Wholesale Sales Use Category includes use types involving the sale, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or taking of orders and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited. Products may be picked up on-site or delivered to the customer. Accessory uses may include offices, product repair, warehouses, minor fabrication services, outdoor storage, and repackaging of goods.

(b) Examples

Example use types include sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment and store fixtures; mail order houses; and wholesalers of food, clothing, plants and landscaping materials, auto parts, and building hardware.

(c) Exceptions

(i) Firms that engage primarily in sales to the general public or on a membership basis are classified as Retail Sales and Services.

(ii) Firms that are primarily storing goods with little on-site business activity are classified as Warehouse and Freight Movement.

40.1-4.3 USE-SPECIFIC STANDARDS

Use-specific standards are the requirements applied to individual use types regardless of the zoning district in which they are located or the review procedure by which they are approved. This section is intended to identify the use-specific standards for all principal uses identified in Table 40.1-4.1, Use Table, as subject to "additional requirements." These standards may be modified by other applicable requirements in this Ordinance.

(A) Residential Uses

(1) Household Living

(a) General

All household living uses shall comply with the single-family residential design or multi-family residential design standards (as appropriate) in Article 40.1-5, Development Standards.

(b) Dwellings, Live/Work

Live/work dwellings shall comply with the following standards:

(i) The residential portion of the building shall occupy over 50 percent of the gross floor area.

(ii) The nonresidential portion of the building shall be located on the ground floor.

(iii) The nonresidential portion of the building shall comply with all applicable nonresidential building code requirements.

(iv) Employees shall be limited to occupants of the residential portion of the building plus up to three persons not residing in the residential portion.

(v) Drive-through facilities are prohibited.

(vi) The use shall comply with the parking, landscaping, and open space standards for mixed uses in Article 40.1-5: Development Standards.

(vii) Any nonresidential off-street parking shall be located as far as practicable from existing adjacent single-family dwellings.

(c) Dwellings, Two- to Four-Family

Two- to four-family dwellings shall comply with the following standards:

(i) Except for circular driveways, no two- to four-family dwelling lot shall be served by more than one driveway on the same block face.

(ii) Two- to four-family dwellings on lots in a GR district shall be served by a single entrance on any individual building façade.

(iii) Ground based, roof-based, and wall-mounted electrical equipment, HVAC equipment and other utility connection devices shall be ganged and shall be screened or located outside the view from any adjacent public street.

(iv) Two- to four-family dwellings shall comply with Section 40.1-5.5(D), Multi-Family Development Standards.

(2) Group Living

(a) Dormitories

All dormitories shall be accessory to an educational facility located on the same site or campus, and house only persons who are students at the educational facility.

(b) Family Care Homes

Any family care home shall be located at least 2,600 feet (approximately one-half mile) from any other family care home.

(c) Group Homes

Any group home shall be located at least 2,600 feet (approximately one-half mile) from any other group home.

(d) Rooming or Boarding House

A rooming or boarding house shall comply with the following standards:

(i) No more than two rooms shall be rented at any one time;

(ii) No more than two borders at any one time;

(iii) The owner shall maintain the house as a primary residence;

(iv) Sleeping rooms in a rooming house shall:

a. Not include individual kitchen facilities; and

b. Be accessed by a common room or hallway, and shall not have individual access to the outside (except for emergency exits).

(e) Single Room Occupancy (SRO) Facility

(i) Applications for a new SRO or modifications to an existing SRO shall contain:

a. A mission statement;

b. An operational plan approved by the city;

c. A business plan that addresses case management and property management;

d. Detailed applicant screening policies and selection criteria;

e. Detailed description of supporting services and providers of such services;

f. A set of facility regulations, including but not limited to, visitor rules, times doors are locked, unauthorized resident absences, vehicle ownership/usage by residents, and permitted unit furnishings; and

g. A rent schedule for residents.

(ii) Single room occupancy facilities shall comply with the following standards:

a. Be located on a lot of at least one acre in area;

b. Be at least 500 feet from any other SRO facility;

c. Include at least 6,000 square feet of lot area for the first unit and 1,400 square feet of lot area for each additional unit;

d. Front a public street of at least 50 feet in width;

e. Be located within 1,600 feet, as measured on a straight line to any portion of the land utilized for a SRO facility of an active transit stop;

f. Include a minimum of one automatic washer and one automatic dryer for every 20 rooms in convenient locations, and maintain the equipment in good working order; and

g. Require every resident to complete successfully a series of interview assessments regarding their desire for life changes prior to being granted occupancy.

(B) Public and Institutional Uses

(1) Day Care

(a) Child Day Care Centers

Child day care centers, including pre-schools, shall be licensed as a child care center by the state and comply with all state regulations for child care centers and the following standards:

(i) Location

If not located in a stand-alone building, a child day care center shall be located on the first floor of a principal structure, and be segregated (including the restrooms) from the remaining portion of the building in which it is located.

(ii) Separation

Child day care centers shall be located at least 1,000 linear feet from any adult use.

(iii) Outdoor Play Areas

Outdoor play areas shall be provided, and shall:

a. Be completely enclosed by a fence that is at least three-and-one-half feet in height;

b. Be safely segregated from parking, loading, or service areas; and

c. Not be operated for outdoor play activities after 6:00 P.M.

(iv) Parking Area, Vehicular Circulation, and Drop-Off and Pick-Up

The parking areas and vehicular circulation for the child day care center shall be designed to:

a. Enhance the safety of children as they arrive at and leave the facility; and

b. Provide a designated pickup and delivery area that includes at least one parking/stacking space per 10 children configured so that children do not have to cross vehicular travelways to enter or exit the center.

(v) Accessory Uses

If allowed as an accessory use to a Retail Sales and Service or Office use, the heated floor area of a child day care center shall not exceed 20 percent of the heated floor area of the principal use.

(b) Family Child Care Homes and Home Child Day Care

Family child care homes and home child day care shall comply with the following requirements:

(i) Family child care homes and home child day care shall comply with all state regulations for family child care homes and home child day care.

(ii) Family child care homes and home child day care shall be located at least 1,000 linear feet from any adult use.

(2) Educational Facilities

All educational facilities shall be located at least 500 linear feet from any adult use, and shall be subject to the following requirements:

(a) Schools, Elementary/Middle/High

Any temporary structures needed for the expansion of an elementary, middle, or high school located within the residential districts, and on a site or parcel with an area of 20 acres or less, shall:

(i) Not be located between the principal building and any abutting right-of-way, unless there is no other practical alternative due to topography, the presence of utilities or easements, the existence of undisturbed open space and buffers, or other site features beyond the landowner's control; and

(ii) Have the base of the structure screened from view from abutting properties and public streets.

(3) Health Care Facilities

(a) Hospitals

A hospital shall:

(i) Be located on a site or parcel with an area of at least five acres.

(ii) Be located on a parcel that fronts or has direct access to an arterial or collector street.

(iii) Be served by a public water and wastewater system.

(b) Medical Treatment Facilities; Outpatient Facilities

A medical treatment facility or outpatient facility located in the NMU zoning district shall:

(i) Be small-scale (have a gross floor area not exceeding 3,000 square feet); and

(ii) Design visitor and patient facilities associated with the use so as to be compatible with surrounding uses.

(4) Institutions

(a) Auditoriums and Convention Centers

Auditoriums and convention centers shall comply with the following standards:

(i) The parcel or site shall have an area of at least five acres.

(ii) The building shall be located at least 500 feet from any NR or GR zoning district.

(b) Halfway House

Halfway houses shall comply with the use-specific standards for a group home (See Section 40.1-4.3(A)(2)(c), Group Homes).

(c) Religious Institutions

Religious institutions shall comply with the following standards:

(i) Religious institutions shall be located at least 500 linear feet from any adult use.

(ii) Religious institutions in the NR or GR districts, when permitted, that include a school or sanctuary with a capacity of 800 persons or more shall obtain a use permit in accordance with Section 40.1-2.3(B), Use Permit.

(5) Parks and Open Areas

(a) Cemeteries

Except as otherwise noted, new cemeteries and the expansion of existing cemeteries shall comply with the following standards:

(i) New cemeteries shall be located on a site or parcel with an area of at least 2.5 acres.

(ii) New cemeteries shall be located on a site or parcel that fronts an arterial or collector street.

(iii) Cemeteries shall include adequate space for the parking and maneuvering of funeral processions.

(iv) Interments shall take place at least 50 feet from any lot line and comply with all requirements of the Code of Virginia.

(6) Public Safety Facilities

(a) Correctional Facilities

Correctional facilities shall be located at least 1,500 feet from any NR or GR zoning district.

(7) Transportation Facilities

(a) Helicopter Landing Facilities

A helicopter landing facility shall comply with the following standards:

(i) The helicopter landing facility shall provide adequate land area for safe take-offs and landings in accordance with standards of the Federal Aviation Administration (FAA).

(ii) Where located within 500 feet of a NR or GR district, or existing single-family residential development, a helicopter landing facility shall provide an adequate buffer along the property line to ensure the facility does not adversely impact surrounding uses.

(8) Utilities

(a) Telecommunications Antennas, Collocation on Existing Tower or Placement on Existing Building

A telecommunications antenna that is collocated on an existing tower or placed on an existing building shall comply with the following standards:

(i) Antennas and any accessory equipment shall be painted or colored to blend in with the structure or surrounding environment.

(ii) Antennas, supports and utility cabinets shall be mounted or placed in a manner which blends with the surrounding environment. Screening is required where deemed appropriate by the Zoning Administrator.

(iii) The permit application shall include a certified report from a qualified and licensed professional engineer demonstrating that the non-ionizing electromagnetic radiation (NIER) to be emitted from the proposed facility, along with others on the same structure or in the immediate vicinity, will not exceed the exposure standards established by the U.S. Government and that the facility will not cause interference with any equipment operated by other users.

(b) Telecommunications Towers

No use permit is required of any city-owned sites preapproved by the City Council.

(c) Utility, Major

An electrical power facility, substation, or transmission station shall be set back at least 100 feet from all lot lines. Service or storage yards shall be prohibited.[4]

(C) Commercial Uses

(1) General

Unless exempted, all commercial uses shall comply with the commercial development standards in Section 40.1-5.6, Commercial Development Standards.

(2) Adult Uses

(a) Purpose

Within the city, it is acknowledged that there are some uses, often referred to as adult uses, which because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances or located in direct proximity to residential neighborhoods, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods. The primary control or regulation is for the purpose of preventing the concentration or location of these uses in a manner that would create such adverse effects.

(b) Location, Size, and Design

The location, size, design and operating characteristics of a proposed adult use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures or natural resources.

(3) Animal Care Uses

Animal shelters, kennels (indoor and outdoor), and veterinary clinics shall comply with the following standards:

(a) The animal care use shall be sufficiently insulated so no unreasonable noise or odor can be detected off the premises.

(b) Any open runs or pens used to house animals shall be located at least 75 feet from any lot line.

(c) Accessory uses to a kennel or veterinary clinic may include retail sales and grooming services, as long as the accessory uses do not occupy more than 25 percent of the total gross floor area of the principal building.

(d) Any incinerators included as an accessory use to an animal shelter shall be allowed only if a use permit is approved in accordance with Section 40.1-2.3(B), Use Permit.

(4) Conference and Training Centers

Conference centers shall comply with the following standards:

(a) Dining and banquet facilities may be provided for employees, trainees, and conferees, provided the gross floor area devoted to such facilities does not exceed 20 percent of the total floor area of the principal building.

[4] This prohibition is carried forward from the use standards applicable to electric, water supply, and wastewater facilities (see Section 40-43.4(14) of the current Ordinance.

(b) On-site recreational facilities may be provided for use by employees, trainees, or conferees.

(c) No products shall be sold on-site except those that are clearly incidental and integral to training programs and seminars conducted in the center (e.g., shirts, glasses and mugs, pens and pencils, and similar items bearing the logo of conference or seminar sponsors or participants).

(5) Eating Establishments

(a) Restaurants with Indoor or Outdoor Seating

Restaurants having outdoor seating shall comply with the following standards:

(i) In the WF District

Outdoor dining located in a public right-of-way or on a seawall is prohibited.

(ii) In All Other Districts

a. The outdoor seating area shall be located no closer than 100 feet from any NR or GR zoning district.

b. The outdoor portions of the restaurant shall not operate after 11:00 P.M.

c. The outdoor seating area shall not obstruct the movement of pedestrians along sidewalks or through areas intended for public use.

(b) Restaurants, with Drive-Through Service

Restaurants having drive-through facilities shall comply with the following standards:

(i) Drive-through facilities shall be located at least 100 feet from any detached single-family dwelling or single-family residential zoning district (NR or GR).

(ii) 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 restaurant entrance and customer parking spaces.

(6) Entertainment Establishments

All entertainment establishments shall:

(a) Be separated from the lot line of existing Group Living uses, Day Care uses, Educational Facility uses, hospitals, or religious institutions by at least 250 feet.

(7) Parking, Commercial

(a) Parking Lots

A commercial parking lot shall comply with the following standards:

(i) Parking shall be the principal use of the parking lot. Parking spaces may be rented for parking, but no other business of any kind shall be conducted on the lot, including repair service, washing, display, or storage of vehicles or other goods.

(ii) Commercial parking lots shall not be located contiguous to a NR or GR zoning district.

(b) Parking Structures

A commercial parking structure shall comply with the following standards:

(i) Parking shall be the principal use of the parking structure, but retail sales and service and office establishments may be located on the ground floor of the structure.

(ii) Parking spaces may be rented for parking, but no other business of any kind shall be conducted in the structure, including repair service, washing, display, or storage of vehicles or other goods.

(iii) A commercial parking structure shall not be located contiguous to a NR or GR zoning district.

(8) Recreation/Entertainment, Outdoor

(a) Arenas, Amphitheaters, and Stadiums

Arenas, amphitheaters, and stadiums shall comply with the following standards:

(i) Arenas and stadiums shall be located at least 1,000 feet from residential zoning districts.

(ii) Stadiums shall be located on a site or parcel with an area of at least five acres.

(iii) Arenas and stadiums shall be located on a site or parcel that, at the primary point of access, has at least 200 feet of frontage on an arterial street.

(iv) Arenas and stadiums shall locate access points to minimize traffic to and through local streets in residential neighborhoods.

(b) Marinas

Marinas shall comply with the following standards:

(i) No marina shall be established on a lot less than one acre in size.

(ii) Each lot containing a marina shall have a minimum lot frontage of 200 linear feet.

(iii) Exterior lighting shall comply with the standards in Section 40.1-5.9, Exterior Lighting, and shall be directed and shielded so as to avoid glare on adjacent residential uses including residential uses across the body of water serving the marina.

(iv) Dry stacking of boats outside enclosed structures shall be prohibited.

(v) Storage buildings and other accessory structures associated with a marina located on a lot within the GR District shall be of a residential character.

(c) Membership Sports or Recreation Clubs

(i) Swimming Pools

Swimming pools that are a principal use shall comply with the following standards. Swimming pools that are accessory uses shall comply with Section 40.1-4.4(C)(17), Swimming Pools, Spas, and Hot Tubs.

a. Swimming pools for nonprofit organizations shall be located on a site or parcel with an area of at least one acre and a width of at least 200 feet at the building line.

b. A swimming pool shall be set back from any lot line at least a distance equal to three feet plus one foot for each foot of vertical excavation.

c. The area containing the pool shall be completely enclosed by a fence that is at least three feet high and has a gate that can be securely fastened.

d. Pools with a capacity of 2,000 gallons or more shall have filtering and purification, or automatic water exchange equipment that changes the pool water every 24 hours.

e. Any pump and filtering equipment and any appurtenant structures shall be located at least 10 feet from any lot line.

f. There shall be no commercial sales that are not an integral part of the pool use, nor shall any commercial displays be visible from the street or other property.

(ii) Tennis Courts

Tennis courts that are a principal use shall comply with the following standards:

a. All lighted tennis courts open to the public shall be located at least 50 feet from any adjacent residential use on a different lot.

b. Lighted tennis courts open to the public shall be screened from any existing detached single-family dwelling with a Type D buffer, an accordance with Section 40.1-5.2, Landscaping and Screening.

(9) Retail Sales and Services

(a) General

Any retail sales establishment selling food or beverages for off-site consumption shall maintain a litter receptacle outside all public entrances, and shall ensure that all litter receptacles are maintained in a clean and sanitary condition. Public litter receptacles located within 50 feet of a pubic entrance may be used to comply with these requirements.

(b) Bars and Brewpubs

Bars and brewpubs shall be located at least 300 feet from any NR or GR zoning district and at least 500 feet from any child day care center or family child care home.

(c) Gasoline Sales

Uses that include the retail sales of gasoline and other automotive fuels shall comply with the following standards:

(i) Gasoline pumps, canopies, and associated service areas are prohibited in any established front yard in the UR, UR-H, and MU-H districts.

(ii) If the gasoline sales use is located on a corner lot, the lot shall have an area of at least 30,000 square feet and a frontage of at least 125 feet on each street side. In all other cases, the lot shall have an area of at least 15,000 square feet and a lot width of at least 150 feet.

(iii) The gasoline sales use shall have no more than two vehicular access points. Access points shall be located at least 75 feet from each other, at least 50 feet from any intersecting street right-of-ways, and at least 15 feet from any other lot line.

(iv) Vehicular access points shall be no more than 40 wide.

(v) The gasoline sales use shall be designed to ensure safe and adequate vehicle stacking, circulation, and turning movements.

(vi) Drive-through facilities and associated stacking lanes and circulation shall be prohibited in the front of the building or in a side yard abutting a street.

(vii) Trash containers shall be fully screened by a wall that is constructed of the same material as the principal structure. Trash containers shall be located so as to minimize their visibility from adjacent public streets or other public gathering areas.

(d) Personal Services

(i) Personal Services Establishments

Personal service establishments in the UR-H and NMU zoning districts shall comply with the following standards:

a. An individual establishment shall have no more than 2,500 square feet of gross floor area.

b. The business activities of the establishment shall be conducted within an enclosed building, with no more than 20 percent of the gross floor area devoted to storage.

c. The establishment shall only sell products at retail.

(ii) Financial Institutions, with Drive-Through Service

Financial institutions with drive-through service shall locate the drive-through to the side or rear of the primary building, to the maximum extent practicable.

(iii) Funeral Homes

Funeral homes shall comply with the following standards:

a. The funeral home shall have its principal frontage, access, and orientation directly on an arterial street.

b. The funeral home shall have a type D buffer between it and any residentially-zoned property abutting or directly across the street from the funeral home site.

c. On-premise signage shall be oriented toward the arterial street that provides access to the site.

d. All structures shall be located so as not to require access from an interior residential street.

(iv) Hair Salons

Hair salons shall not be visible from a public street in the WF district.

(v) Dry Cleaning

Dry cleaning facilities shall be limited to drop off and pick-up service establishments only in the WF district.

(vi) Massage Parlors

Massage parlors shall comply with the standards in Section 24-170 of the City Code.

(vii) Special Events House

Special events houses shall comply with the following standards:

a. A special events house shall be owner-occupied.

b. The house shall admit guests by invitation only, shall not be open to the general public, and shall not charge admission at the door.

c. Attendance shall be limited to a maximum of 48 guests.

d. Food and beverages served shall be prepared off-site, but on-site warming or chilling of food and beverages is allowed.

e. The serving of alcoholic beverages shall be pursuant to a one-time banquet license secured by a person other than the operator of the special events house.

f. The house shall use background music only from a stereo system or a musician using only one amplified instrument. Any music produced shall not be audible beyond the site's boundaries.

g. The house shall not be used for regular meetings.

h. Signage shall be limited to one non-illuminated wall sign not exceeding four square feet in area.

(viii) Tattoo Parlor/Body Piercing Establishments

Tattoo parlors and body piercing establishments shall be located at least 500 feet from any residential zoning district.

(e) Retail Sales

(i) Convenience Stores, with Gasoline Sales

Convenience stores with gasoline sales shall comply with the standards for gas sales uses in Section 40.1-4.3(C)(7)(c), Gasoline Sales.

(ii) Drug Stores or Pharmacies, with Drive-Through Service

The drive-through facility shall be located to the side or rear of the primary building, where practicable.

(iii) Retail Sales Establishments, Large

Single tenant or two-tenant retail sales establishments located in a structure with a gross floor area of 60,000 square feet or more shall comply with the standards in Section 40.1-5.6(H), Standards for Large Retail Development.

(10) Self-Service Storage

Self-service storage or mini-warehouse uses shall comply with the following standards:

(a) Site Layout

(i) The minimum lot area shall be least two acres.

(ii) If separate buildings are constructed, there shall be a minimum separation of ten feet between buildings.

(b) Operation

(i) The only commercial uses permitted on-site shall be the rental of storage bays and the pickup and deposit of goods or property in dead storage. Storage bays shall not be used to manufacture, fabricate, or process goods, to service or repair vehicles, small engines or electrical equipment, or conduct similar repair activities, to conduct garage sales or retail sales of any kind, or to conduct any other commercial or industrial activity on the site.

(ii) Individual storage bays or private postal boxes within a self-service storage facility use shall not be considered premises for the purpose of assigning a legal address.

(iii) No more than one security or caretaker quarters may be developed on the site, and shall be integrated into the building's design.

(iv) Except as otherwise authorized in this subsection, all property stored on the site shall be enclosed entirely within enclosed buildings.

(v) Hours of public access to a self-storage use abutting a residential zoning district or existing residential use shall be restricted to the hours between 6:00 A.M. and 10:00 P.M.

(c) Parking and Circulation

(i) Interior parking shall be provided in the form of aisleways adjacent to the storage bays. These aisleways shall be used both for circulation and temporary customer parking while using storage bays. The minimum width of these aisleways shall be 21 feet if only one-way traffic is permitted, and 30 feet if two-way traffic is permitted.

(ii) The one- or two-way traffic flow patterns in aisleways shall be clearly marked. Marking shall consist, at a minimum, of standard directional signage and painted lane markings with arrows.

(iii) Appropriate access and circulation by vehicles and emergency equipment shall be ensured through the design of internal turning radii of aisleways.

(iv) All access ways shall be paved with asphalt, concrete, or comparable paving materials.

(d) Building Appearance

(i) Garage doors serving individual storage units shall be perpendicular to a public or private street so as to not be visible from adjacent streets.

(ii) With the exception of a structure used as a security guard or caretaker quarters, or the redevelopment of an existing structure, the maximum height of a self-service storage facility shall be 20 feet.

(iii) Outdoor lighting shall be the minimum necessary to discourage vandalism and theft, and shall be provided in accordance with Section 40.1-5.9, Exterior Lighting.

(iv) The exterior facades of all structures facing a public street shall be masonry (brick or split-faced CMU).

(v) Windows may not exceed 20 percent of any street-facing façade and shall not be reflective.

(vi) A maximum of two colors (excluding roof colors) shall be used on wall facades visible from off-site areas. Colors shall be neutral, and shall not be used to call attention to the use.

(vii) Perimeter or exterior walls visible from a public street or detached residential dwelling shall not include metal as a primary material.

(viii) All mechanical equipment and dumpsters shall be fully screened from off-site views.

(e) Fencing

All areas adjacent to a street frontage not occupied by a building shall include fencing designed in accordance with the following standards:

(i) Fences shall be no shorter than six feet or taller than eight feet.

(ii) Fencing shall be masonry, wrought iron, steel, or aluminum and shall be painted or vinyl coated with colors that compliment the buildings.

(iii) Chain link fencing is prohibited except where the use abuts lots with a business zoning designation, but in no instance shall chain link fencing be visible from a public street.

(iv) Metal fences shall include brick pilasters or supports located with consistent on-center spacing.

(v) Wooden or chain link entry gates into the use are prohibited.

(f) Open Storage

Open storage of recreational vehicles, travel trailers, and dry storage of pleasure boats of the type customarily maintained by persons for their personal use shall be permitted within a self service storage facility use, provided that the following standards are met:

(i) No outdoor storage shall be visible from off-site views.

(ii) The storage shall occur only within a designated area, which shall be clearly delineated;

(iii) The size of the storage area shall not exceed 25 percent of the buildable area of the site;

(iv) Outdoor storage areas shall be located to the rear of the principal structure and be screened with a wooden fence or masonry wall at least eight feet high;

(v) Storage shall not occur within the areas set aside for minimum building setbacks;

(vi) No dry stacking of boats shall be permitted on-site;

(vii) Portable shipping containers are prohibited; and

(viii) Vehicles shall be allowed on the premises for storage only.

(11) Vehicle Sales and Services

(a) Automotive Painting/Body Shop

Automobile painting/body shop uses shall comply with the following standards:

(i) The use shall be located at least 500 feet from any residential zoning district, school, or day care.

(ii) Vehicles shall not be parked or stored as a source of parts or for the purpose of sale or lease/rent.

(iii) Repair and storage of all vehicles shall occur within an enclosed building. Temporary outdoor vehicle storage may be allowed in an outdoor storage area that is no larger than 25 percent of the buildable area of the lot, located behind or to the side of the principal structure, and screened with a wooden fence or masonry wall in accordance with Section 40.1-5.10, Fences and Walls .

(iv) Vehicles that are repaired and are awaiting removal shall not be stored or parked for more than 30 consecutive days. In cases where a vehicle is abandoned by its lawful owner before or during the repair process, the vehicle may remain on site as long as is necessary after the 30 day period, provided the owner or operator of the establishment demonstrates steps have been taken to remove the vehicle from the premises using the appropriate legal means.

(b) Automotive Parts Sales and Installation

Automobile parts sales and installation uses shall comply with the following standards:

(i) Repair of all vehicles shall occur within an enclosed building. Temporary outdoor vehicle storage may be allowed in an outdoor storage area that is no larger than 25 percent of the buildable area of the lot, located behind or to the side of the principal structure, and screened with a wooden fence or masonry wall in accordance with Section 40.1-5.10, Fences and Walls.

(ii) The use shall provide adequate, enclosed trash storage facilities on the site.

(c) Automotive Repair and Service (Without Painting/Bodywork)

Automotive repair and service uses not involving painting or bodywork service shall comply with the following standards:

(i) The use shall be located at least 250 feet from any residential zoning district or existing residential use, school, or day care.

(ii) The use shall be designed to ensure proper functioning of the site as related to vehicle stacking, circulation, and turning movements.

(iii) Repair of all vehicles shall occur within an enclosed building. Temporary outdoor vehicle storage may be allowed in an outdoor storage area that is no larger than 25 percent of the buildable area of the lot, located behind or to the side of the principal structure, and screened with a wooden fence or masonry wall in accordance with Section 40.1-5.10, Fencing Standards.

(iv) The use shall provide adequate, enclosed trash storage facilities on the site.

(v) If gasoline is sold on-site, the use shall also comply with the standards for a gasoline sales use in Section 40.1-4.3(C)(9)(c), Gasoline Sales.

(vi) Vehicles shall be parked or stored as a source of parts.

(vii) Vehicles that are repaired and are awaiting removal shall not be stored or parked for more than 30 consecutive days. In cases where a vehicle is abandoned by its lawful owner before or during the repair process, the vehicle may remain on site as long as is necessary after the 30 day period, provided the owner or operator of the establishment demonstrates steps have been taken to remove the vehicle from the premises using the appropriate legal means.

(d) Automotive and Recreational Vehicle Sales or Rentals

Uses primarily involving the sales or rental of automobiles, trucks, travel trailers, or recreational vehicles shall comply with the following standards:

(i) No vehicle or equipment displays shall be located within a required setback or perimeter buffer.

(ii) The use shall not have more than one vehicle display pad for every 100 feet of street frontage. The vehicle display pad may be elevated up to two feet above adjacent displays or grade level.

(iii) No vehicles or other similar items shall be displayed on the top of a building.

(iv) All lights and lighting shall be designed and arranged so no source of light is directly visible from any residential district or existing residential use;

(v) No other materials for sale shall be displayed between the principal structure and the street.

(e) Automotive Wrecker Service

Automotive wrecker service uses shall comply with the following standards:

(i) The use shall be located at least 500 feet from any residential district, school, or day care center.

(ii) The number of vehicles stored on-site shall be limited to 12 vehicles.

(iii) Vehicles shall not be stored for more than 90 days.

(iv) Vehicles shall be stored to the rear of the principal structure, behind a wooden fence or masonry wall in accordance with Section 40.1-5.10, Fences and Walls.

(f) Car Wash or Auto Detailing

Car wash and auto detailing uses shall be designed to ensure proper functioning of the site as related to vehicle stacking, circulation, and turning movements. If an automatic car wash is an accessory use to a gasoline sales use, it shall be governed by the use and dimensional standards applicable to the gasoline sales use.

(g) Tire/Muffler Sales and Mounting

Tire sales and mounting uses or muffler shop uses shall comply with the following standards:

(i) Repair of all vehicles shall occur within an enclosed building. Temporary outdoor vehicle storage may be allowed in an outdoor storage area that is no larger than 25 percent of the buildable area of the lot, located behind

or to the side of the principal structure, and screened with a wooden fence or masonry wall in accordance with Section 40.1-5.10, Fences and Walls.

(ii) The use shall provide adequate, enclosed trash storage facilities on the site.

(iii) All automobile parts, dismantled vehicles, and similar materials shall be stored within an enclosed building or totally screened from view by an opaque or privacy fence.

(iv) The use shall not include outdoor storage lots or impound yards for towed vehicles.

(12) Visitor Accommodations

(a) Bed and Breakfast Inns

Bed and breakfast inns shall be:

(i) Operated in a primary residential structure and not in any accessory structure. The structure to be used shall be 50 years or more of age or be of historic significance. If the structure does not meet the age requirement, it shall be the applicant's responsibility to establish, by convincing proof, that the residential structure is of historic significance.

(ii) Two off-street parking spaces for the owner/manager and one off-street space per guest room shall be required. In the Port Norfolk Historic District, the City Council may reduce or eliminate the requirement for the two owner/manager spaces; provided, however, that no fewer than two off-street parking spaces are provided for the inn.

(iii) The front yard of an inn shall not be used for parking. If parking cannot be provided on the site, it must be provided within 300 feet of the site. The following shall also apply:

a. There shall be no on-street parking by guests.

b. The municipal parking areas in the Olde Towne Parking District may be used to satisfy the above requirement with the approval of and the issuance of parking passes by the Portsmouth Parking Authority.

c. All parking passes provided to the owner of the facility by the Portsmouth Parking Authority shall be accounted for by the owner's keeping of a record that enumerates the date and time the pass was used and by whom it was used. The record book shall be available for inspection by the city at any time.

(iv) A maximum of ten guest rooms shall be allowed in the Olde Towne Historic District. In the Port Norfolk Historic District, a maximum of five guest rooms shall be allowed.

(v) No exterior additions or alterations shall be made for the express purpose of creating or maintaining a bed and breakfast inn other than those required for health, safety or sanitation requirements. Minimal decorative alterations may be made to the structure if such changes are deemed to be compatible with the nature of the neighborhood. Such alterations and additions that are necessary or desired must meet all zoning, building, environmental and fire code regulations and must be approved by the Historic Preservation Commission.

(vi) The facility shall be occupied and managed by an individual having at least 51 percent ownership interest in the improved real estate upon which the inn is situated.

(vii) The maximum length of stay for a transient paying guest is limited to 14 consecutive days in any 30-day period of time. The proprietor shall keep a current guest register including names, addresses and dates of occupancy of all guests, which register shall be available for city inspection at any time.

(viii) For identification of the bed and breakfast inn, one wall sign of four square feet is permitted. Such sign shall not be directly illuminated, nor shall it contain the words "hotel" or "motel." Such sign shall meet all zoning requirements including approval from the HPC.

(ix) There shall be no retail sale of goods and merchandise on the premises.

(x) Receptions and other such functions, for compensation, shall not be permitted.

(xi) If approved as a condition of a use permit, meals may be served to transient overnight guests and to the public, between 7:00 AM and 2:00 PM. In the Port Norfolk Historic District, only one meal may be served between 7:00 AM. and 11:00 AM. Seating capacity in the dining room shall be limited to no more than four seats per bed and breakfast guest room.

(xii) A minimum of one full bathroom, to include a water closet, lavatory and bathtub or shower, shall be provided on each floor of the structure to be occupied by guests. However, additional bathrooms may be required as a condition of a use permit.

(xiii) A use permit is subject to review at any time and may be revoked after a public hearing by the Planning Commission and the City Council and a finding by the City Council that the use has become detrimental to the surrounding neighborhood or for any other reason allowed by law.

(xiv) A use permit granted to an owner for a bed and breakfast inn shall terminate when the owner transfers ownership of the property. Any such transfer shall require a new use permit from the City Council.

(b) Hotels and Motels, Extended Stay

Extended stay hotel and motel uses shall comply with the following standards:

(i) A hotel or motel shall have its principal frontage, access, and orientation directly on an arterial street or collector street.

(ii) Vehicular access from an interior residential street is prohibited.

(iii) A type D buffer shall be provided between a hotel or motel and any land that is in a single-family residential zoning district (NR or GR) or developed as detached single-family dwellings, and that abuts or is located directly across the street from the hotel or motel site.

(iv) Signage shall be oriented toward the arterial or collector street providing access to the site rather than toward a residential street.

(v) All services associated with the development shall be located so as not to require access from an interior residential street and shall be screened so as not to be visible from any abutting property containing detached single-family residential development.

(vi) Up to 15 percent of the gross floor area of a hotel or motel may be in non-living-quarter incidental uses (accessory uses), including management/employee offices, meeting rooms, banquet halls, retail services (such as news stands and gift shops), and similar uses, provided any incidental business is conducted primarily to service guests, and there is no entrance to such places of business except from the inside of the building.

(vii) In addition to the accessory uses allowed in Section 40.1-4.4, Accessory Use Standards, up to an additional 20 percent of the gross floor area of a hotel or motel may be devoted to eating establishments as an accessory use. The eating establishments(s) may have an entrance from outside the principal building.

(c) Hotel and Motel, Full Service

(i) A hotel or motel that provides four or more of the following services on-site shall not be required to obtain a use permit:

a. Room service;

b. Complimentary breakfast;

c. Pool;

d. Athletic/fitness room with at least multiple machines for cardio and strength training;

e. Eating establishments as an accessory use;

f. Lounge with entertainment by a single unamplified instrument;

g. Meeting or banquet rooms; or

h. Personal services, including but not limited to barber/beauty shops, shoe shine, dry cleaning pick up and delivery, concierge services.

(ii) Restaurants, located in full-service hotels shall not be required to obtain use permits.

(iii) Full service hotels and motels in the WF district shall provide meeting rooms and room service.

(d) Tourist Homes

A tourist home use shall be limited to a maximum of five overnight guests per night.

(D) Industrial Uses

Except as permitted in Section 33.1-2 of the subdivision standards, no building or other permit shall be issued for a proposed industrial use unless such use is located on a lot that abuts a fully-improved street. For the purposes of this section, “fully improved” shall mean the portion of a street abutting the lot and extending to the centerline of the street right-of-way that complies with the all subdivision standards for streets.

(1) Industrial Services

(a) Electrical Motor Repair; Machine Shop; Tool Repair

Repair of all machines shall occur within an enclosed building. Temporary outdoor storage may be allowed in an outdoor storage area that is no larger than 25 percent of the buildable area of the lot, located behind or to the side of the principal structure, and screened with a wooden fence or masonry wall in accordance with Section 40.1-5.10, Fences and Walls. The height of materials and equipment stored shall not exceed the height of the screening fence or wall.

(b) Fuel Oil Storage

Containers used for fuel oil storage shall not exceed an individual capacity of 275 gallons nor an aggregate capacity of 550 gallons.

(c) Heavy Equipment Sales, Rental, or Storage

Uses primarily involving the sales, rental, or storage of heavy equipment shall comply with the following standards:

(i) The use shall be located at least 500 feet from any residential district, school, or day care center.

(ii) No heavy equipment displays shall be located within a required setback or perimeter buffer.

(iii) The use shall not have more than one heavy equipment display pad for every 100 feet of street frontage.

(iv) No heavy equipment shall be displayed on the top of a building.

(v) All lights and lighting shall be designed and arranged so no source of light is directly visible from any residential district or existing residential use;

(d) Laundry, Dry Cleaning, and Carpet Cleaning Plants

Laundry, dry cleaning, and carpet cleaning plants shall be within an enclosed building and shall use nonflammable liquids in the cleaning processes that emit no odor, fumes, or steam detectable to normal senses from off the premises.

(2) Manufacturing and Production

(a) Manufacturing, Heavy

Heavy manufacturing uses shall comply with the following standards:

(i) The use shall be located at least 500 feet from any residential district, school, or day care center.

(ii) The use shall locate outdoor storage areas to the rear of the principal structure and be screened with a wooden fence or masonry wall no less than eight feet in height in accordance with Section 40.1-5.10, Fences and Walls. The height of materials and equipment stored shall not exceed the height of the screening fence or wall.

(iii) The use shall be designed to ensure proper functioning of the on-site transportation circulation system.

(iv) The use shall have direct access onto an arterial or major collector street.

(3) Warehouse and Freight Movement

(a) Bulk Fuel Storage Sales and Storage

(i) Gas storage shall be limited to quantities not exceeding 500,000 cubic feet and not located within 100 feet from any lot line.

(ii) Gas storage with quantities not exceeding 200 cubic feet, if the pressure is greater than 100 pounds per square inch, shall not be located within 50 feet of any lot line.

(b) Outdoor Storage (as a Principal Use)

Lots used for outdoor storage shall be fully enclosed with a fence or masonry wall no less than eight feet high and landscaped (as appropriate), in accordance with Section 40.1-5.10, Fences and Walls. The height of materials and equipment stored shall not exceed the height of the screening fence or wall. Customers and vehicles shall be allowed to circulate through the area used for outdoor storage.

(c) Parcel Services; Truck or Freight Terminal; Warehouse (Distribution or Storage)

Parcel services, truck or freight terminals, or warehouses (distribution or storage) shall comply with the following standards:

(i) The use shall be located at least 500 feet from any residential district, school, or day care center.

(ii) The use shall not locate storage areas within a required yard or perimeter buffer;

(iii) The use shall locate outdoor storage areas to the rear of the principal structure and screen them with a wooden fence or masonry wall no less than eight feet in height in accordance with Section 40.1-5.10, Fences and Walls.

(iv) The use shall be designed to ensure proper functioning of the site as related to vehicle stacking, circulation, and turning movements.

(v) The use shall have direct access onto an arterial or major collector street.

(d) Shipping Container Storage Yard

Shipping container storage yards shall comply with the following standards:

(i) Drive aisles at least 50 feet wide shall be provided between rows of containers to provide sufficient space for forklifts and safe maneuvering.

(ii) Containers shall not be stored in groups that occupy an area measuring greater than 200 feet by 80 feet.

(iii) Containers shall be placed on a level, well-compacted surface of crushed stone or similar material. All entrance drives and off street parking areas shall be paved with asphalt or concrete. The container storage area, as well as the entrance drives and off-street parking areas, shall be maintained free of potholes.

(iv) Shipping containers may be stacked no higher than four containers high provided that no stacking of containers shall be located within 200 feet of any residential, mixed-use (NMU, GMU, MU-H), or light industrial zoning district.

(v) Only shipping containers being used in the active transport of goods, wares, or merchandise shall be placed or stored in a shipping container storage yard.

(vi) All shipping containers shall be placed or stored in a shipping container storage yard in an empty and ready to ship state.

(vii) On-site repairs of shipping containers shall be limited to minor repairs needed to ensure that they remain in a condition ready to ship—including cleaning, repairing, servicing, painting, or fumigation.

(viii) All shipping containers shall be kept within a fenced area. A type D buffer shall be provided around the perimeter of the site, between the fenced area and the property line.

(ix) The owner/operator shall maintain a log showing the dates each container was brought on the site and removed. No shipping container shall be stored on the site longer than 12 months.

(x) No signage shall be placed on the shipping container units.

(xi) Any graffiti on shipping containers that are visible from adjacent properties or public right-of-ways shall be removed immediately.

(xii) All truck chassis shall remain in an operable condition, be roadworthy, and display all valid vehicle license and current tags, as required.

(xiii) The property shall remain locked after hours or when it is unmanned.

(4) Waste-Related Services

(a) Energy Recovery Plant; Hazardous Waste Collection Site; Incinerator; Waste Composting

Energy recovery plants, hazardous waste collection sites, incinerators, and waste composting uses shall comply with the following standards:

(i) The use shall be located at least 1,000 feet from any existing residential use, school, or day care use.

(ii) The use shall be surrounded by a solid fence that is at least eight feet high, located no less than 100 feet from any public right-of-way, and located no less than 50 feet from any adjacent property.

(b) Recycling and Salvage Center

A recycling and salvage center shall comply with the following standards:

(i) The center shall be on a parcel with an area of at least five acres.

(ii) The center shall be located at least 250 feet from any residential district, school, or day care.

(iii) Except for a freestanding office, no part of the center shall be located within 50 feet of any lot line.

(iv) All recycling activities and storage areas shall be effectively screened from view by walls, fences, or buildings. Such screening shall be designed and installed to ensure that no part of recycling activities or a storage area can be seen from rights-of-way or adjacent lots. In no case shall the height of recyclable or recovered materials, or non-recyclable residue stored in outdoor areas exceed 20 feet or the height of the principal building on the lot, whichever is greater.

(v) All outdoor storage areas shall be surrounded by a solid fence or wall that is at least eight feet high, located no less than 100 feet from any public right-of-way, and located no less than 50 feet from any adjacent property.

(vi) Recyclable materials shall be contained within a leak-proof bin or trailer, and not stored on the ground.

(vii) There shall be no collection or storage of hazardous or biodegradable wastes on the site.

(viii) Space shall be provided to park each commercial vehicle operated by the center.

(ix) If the center is located within 500 feet of property in a residential zoning district or developed for residential use, it shall not be in operation between the hours of 7:00 PM and 7:00 AM. The facility shall be administered by on-site persons during the hours the facility is open.

(x) The site shall be maintained free of fluids, odors, litter, rubbish, and any other nonrecyclable materials. The site shall be cleaned of debris on a daily basis and shall be secured from unauthorized entry and removal of materials when attendants are not present.

(xi) Noise levels shall be controlled in accordance with Section 24-255 of the City Code.

(xii) Signage shall include the name and phone number of the facility operator and indicate any materials not accepted by the center.

(xiii) Access to the center shall be from a collector or arterial street.

(xiv) No dust, fumes, smoke, vibration or odor above ambient level shall be detectable on abutting properties.

(c) Recycling Drop-Off Centers

A recycling drop-off center shall comply with the following standards:

(i) The collection bin shall be located in or adjacent to an off-street parking area, and shall not occupy more than five percent of the total on-site parking spaces. The mobility of the collection bin shall be retained.

(ii) The bin and adjacent area shall be maintained in good appearance and free from trash. Containers shall be equipped with a lid to prevent access to stored material by animals or vermin and to preclude stored paper from being scattered by the wind.

(iii) There shall be no collection or storage of hazardous or biodegradable wastes on the site.

(iv) All operations shall be located at least 100 feet from any school, church, hospital, public office building, commercial or residential uses on adjoining lots.

(v) All collection areas shall be provided instructional signage indicating how materials are to be separated and stating any limitations on the types of materials accepted for recycling. The signage shall note the name and telephone number of the operator of the facility and the hours of operation.

(vi) Access to the site shall be from a collector or arterial street.

(vii) Four off-street parking spaces shall be provided adjacent to the collection area.

(viii) The site shall be kept clean and free from litter and debris; weeds and rodents and other pests shall be controlled.

(ix) No burning, melting, or other reclamation shall be permitted.

(x) No materials shall be stored or deposited on the premises in such form or manner that they may be transferred off the premises by natural causes or forces.

(xi) No storage of materials shall be allowed outside of the collection receptacles.

(d) Salvage and Junkyard; Tire Disposal or Recycling

A salvage and junkyard or tire disposal or recycling facility shall comply with the following standards:

(i) The facility shall be located on a parcel with an area of at least three acres.

(ii) The facility shall be located at least 250 feet from any residential district, school, or day care center.

(iii) The facility shall be not located within 50 feet of any property line (except for a freestanding office).

(iv) The facility shall be screened with a wooden fence or masonry wall no less than eight feet in height in accordance with Section 40.1-5.10, Fences and Walls. The height of materials and equipment stored shall not exceed the height of the screening fence or wall.

(5) Wholesale Sales

Any outdoor storage component of a wholesales sales use shall comply with the standards in Section 40.1-4.3.D(3)(b), Outdoor Storage.

40.1-4.4 ACCESSORY USE STANDARDS

(A) Purpose

This section authorizes the establishment of accessory uses that are incidental and customarily subordinate to principal uses. The purpose of this section is to allow a broad range of accessory uses, so long as such uses are located on the same site as the principal use, and so long as they comply with the standards set forth in this section in order to reduce potentially adverse impacts on surrounding lands.

(B) General Standards and Limitations

(1) Compliance with Ordinance Requirements

All accessory uses and accessory structures shall conform to the applicable requirements of this Ordinance, including the district standards in Article 40.1-3: Zoning Districts, and the use regulations in Article 40.1-4: Use Standards, and the development standards in Article 40.1-5: Development Standards. The provisions of this section establish additional standards and restrictions for particular accessory uses and structures.

(2) General Standards

All accessory uses and accessory structures shall meet the following standards:

(a) Directly serve the principal use or structure;

(b) Be customarily accessory and clearly incidental and subordinate to the principal use and structure;

(c) Be subordinate in area, extent, and purpose to the principal use or structure;

(d) Be owned or operated by the same person as the principal use or structure;

(e) Be located on the same lot as the principal use or structure;

(f) Together with the principal use or structure, not violate any standards of this Ordinance;

(g) Not be constructed or established prior to the time the principal use or structure is constructed or established; and

(h) Not constitute a combination use, which is the combination of two principal uses (combination uses will not meet the above standards in terms of being subordinate or providing service to the principal use).

(3) Approval of Accessory Uses and Structures

Unless otherwise specified in this section, any accessory use or accessory structure shall be treated as a permitted use in the zoning district in which it is located. An accessory use or structure may be approved in conjunction with approval of the principal use or structure.

(4) Table of Permitted Accessory Uses

(a) Table as Guide

Table 40.1-4.4(A), Table of Permitted Accessory Uses or Structures, is established as a guide to identify the appropriateness of the more common accessory uses in each zoning district.

(b) Listed Accessory Uses

Table 40.1-4.4(A), Table of Permitted Accessory Uses or Structures, lists what types of accessory uses, structures, and activities are allowed in each of the zoning districts. If a specific accessory use or structure is allowed in a base zoning district, the column underneath the zoning district is marked with a "P." If a specific accessory use or structure is allowed in an activity center district, the column underneath the zoning district is marked with a "A." If the accessory use or structure is not allowed in a zoning district, the column is blank. If there is a reference contained in the column entitled "Additional Requirements," refer to the cited section(s) for additional standards that apply to the specific accessory use or structure.

(c) Interpretation of Unidentified Accessory Uses

The Planning Director shall evaluate potential accessory uses that are not identified in Table 40.1-4.4(A), Table of Permitted Accessory Uses or Structures, on a case-by-case basis, as an Interpretation (See Section 40.1-2.3(J), Interpretation) In making the interpretation, the Planning Director shall apply the following standards.

(i) The definition of "accessory use" (See Article 40.1-8: Definitions.), and the general accessory use standards established in Section 40.1-4.4.B, General Standards and Limitations.

(ii) The additional regulations for specific accessory uses established in Section 40.1-4.4 (C), Specific Standards for Certain Accessory Uses.

(iii) The purpose and intent of the zoning district in which the accessory use or structure is located. (See Article 40.1-3: Zoning Districts)

(iv) Any potential adverse impacts the accessory use may have on other lands in the area, compared with other accessory uses permitted in the zoning district.

(v) 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.

(d) Table of Permitted Accessory Uses and Structures

Table 40.1-4.4(A), Table of Permitted Accessory Uses, specifies types of accessory use and the zoning district where each type may be permitted.

TABLE 40.1-4.4(A): TABLE OF PERMITTED ACCESSORY USES AND STRUCTURES

P = PERMITTED USE A = ALLOWED USE BLANK CELL = PROHIBITED USE YELLOW CELL = PLACEHOLDER

ACCESSORY USE TYPE	RESIDENTIAL DISTRICTS				BUSINESS DISTRICTS					ACTIVITY CENTERS			SPECIAL DISTRICTS					ADDITIONAL REQUIREMENTS
	NR	GR	UR	UR-H	NMU	MUH	GMU	IL	IN	NAC	CAC	RAC	HR	HLO	HLB	PG	WF	
Accessory Dwelling Units (for single-family detached dwellings only)	P	P	P	P	P	P	P	/	/	A	A	A	P	/	/	/	/	40.1-4.4(C)(1)
Amateur Home Radio/TV Antenna	P	P	P	P	P	P	P	/	/	A	A	A	P	/	/	/	/	40.1-4.4(C)(2)
Bike Rack	P	P	P	P	P	P	P	P	P	A	A	A	P	P	P	P	P	
Canopies	/	/	/	/	P	P	P	P	P	A	A	A	/	P	P	P	/	40.1-4.4(C)(3)
Community Garden	P	P	P	P	P	P	P	/	/	A	A	A	P	P	P	P	P	40.1-4.4(C)(4)
Fences or Walls	P	P	P	P	P	P	P	P	P	A	A	A	/	/	/	/	P	
Garages	P	P	P	P	P	P	P	P	P	A	A	A	P	P	P	P	/	
Greenhouse	P	P	P	P	P	P	P	/	/	A	A	A	P	P	P	P	/	40.1-4.4(C)(5)
Home Occupation	P	P	P	P	P	P	P	/	/	A	A	A	P	P	P	P	P	40.1-4.4(C)(6)
Limited Fuel/Oil/ Bottled Gas Distributor	/	/	P	P	P	P	P	P	P	A	A	A	/	/	P	/	/	40.1-4.4(C)(7)
Outdoor Display/Sales	/	/	/	P	P	P	P	P	P	A	A	A	/	P	P	P	/	40.1-4.4(C)(8)
Outdoor Storage	/	/	/	/	P	P	P	P	P	/	A	A	/	/	P	/	/	40.1-4.4(C)(9)
Produce Stand	/	/	P	P	P	P	P	/	/	A	A	A	/	P	P	P	/	40.1-4.4(C)(10)
Rainwater Cisterns	P	P	P	P	P	P	P	P	P	A	A	A	P	P	P	P	/	40.1-4.4(C)(11)
Recycling Drop-Off Stations	/	P	P	P	P	P	P	/	/	A	A	A		P	P	P	P	40.1-4.4(C)(12)
Satellite Dish	P	P	P	P	P	P	P	P	P	A	A	A	P	P	P	P	P	40.1-4.4(C)(13)
Solar Energy Equipment	P	P	P	P	P	P	P	P	P	A	A	A	/	/	/	/	P	40.1-4.4(C)(14)
Storage or Parking of Heavy Trucks, Trailers	/	/	/	/	/	/	/	P	P	/	/	A	/	/	/	/	/	40.1-4.4(C)(15)
Storage or Parking of Major Recreational Equipment or Mobile Home (for single-family detached dwellings only)	P	P	P	/	/	/	/	/	/	/	/	/	/	/	/	/	/	40.1-4.4(C)(15)
Swimming Pool/ Hot Tub	P	P	P	P	P	P	P	/	/	A	A	A	P	P	P	P	P	40.1-4.4(C)(16)

(e) Location of Accessory Uses or Structures

(i) Except for fences and walls, all accessory structures shall comply with the minimum setback and spacing standards applicable to accessory structures in the zoning district where the structure is located. (See Article 40.1-3: Zoning Districts)

(ii) No accessory structure shall be located within any platted or recorded easement or over any known utility.

(f) Maximum Height

All accessory structures shall comply with the maximum height standards applicable to accessory structures in the zoning district where the structure is located. (See Article 40.1-3: Zoning Districts)

(g) Lot Coverage

The total area occupied by all accessory structures shall not exceed the maximum lot coverage standard applicable to accessory structures in the zoning district where the structure is located. (See Article 40.1-3: Zoning Districts)

(h) Maximum Size

Accessory structures serving residential uses within the NR, GR, UR, and UR-H districts shall not exceed more than 800 square feet in area.

(C) Specific Standards for Certain Accessory Uses

(1) Accessory Dwelling Units

Accessory dwelling units shall comply with the following standards:

(a) Accessory dwelling units are permitted only on lots with single-family detached dwellings, and are not permitted on lots with multi-family, attached residential, townhouses, or two-to four-family dwellings.

(b) Not more than one accessory dwelling unit per lot is permitted.

(c) Occupants of accessory dwelling units are limited to the following:

(i) Family members of the person occupying the principal structure. Family members include parents, children, siblings, grandparents, aunts, uncles, and cousins of an occupant of the primary structure.

(ii) Employee of the occupant of the principal structure whose employment is directed to the principal structure and/or the associated land area of the principal structure.

(iii) Employee who provides medical and/or personal care services to an occupant of the primary structure.

(d) Accessory dwelling units shall be located within (e.g., a downstairs apartment), be attached, or detached (behind the principal structure as a freestanding building or above a detached outbuilding).

(e) If attached:

(i) The accessory dwelling unit must be attached to the principal structure and have an operative interconnecting door with the principal structure.

(ii) Access to the unit shall only be from the side or rear yard of the principal structure.

(f) If detached:

(i) A distance of at least six feet shall separate the accessory dwelling unit from the principal structure.

(ii) The accessory dwelling unit must be located in the same base zoning district as the principal structure.

(g) The use of manufactured homes, travel trailers, campers, tractor trailers, or similar vehicles as an accessory dwelling unit shall be prohibited.

(h) An accessory dwelling unit shall have a floor area of at least 300 square feet and shall not exceed 25 percent of the floor area of the principal structure, subject to the standards in Article 40.1-3: Zoning Districts.

(i) At least one, but no more than two, off-street parking spaces shall be provided for an accessory dwelling unit (in addition to the required off-street parking serving the principal use).

(j) Accessory dwelling units shall not be sold apart from the principal structure.

(k) Accessory dwelling units shall not include home occupations.

(2) Amateur Ham Radio & Television Antennas

(a) Towers associated with a ham radio operator or private television antenna shall not exceed 90 feet above grade.

(b) Towers or antennas attached to a principal structure shall be located on a side or rear elevation.

(c) Freestanding towers or antennas shall be located behind the principal structure.

(3) Canopies

(a) Canopies shall be attached to a principal structure and shall not be freestanding or attached to an accessory structure.

(b) Canopies covering a drive-through shall use a similar roof form, pitch, and materials to appear as an extension of the roof covering the principal structure.

(c) Canopies shall have a maximum height of 15 feet measured from the finished grade to the underside of the canopy.

(d) The design of the canopy, including any columns, shall match the design and exterior building materials of the principal building.

(e) Canopies covering fuel pumps may include logos or trademarks, but shall not include any other signage or advertising.

(f) In addition to meeting the standards in Section 40.1-5.9, Exterior Lighting, canopies shall not be internally illuminated, and any exterior lighting associated with a canopy shall be shielded so that the source of illumination is not visible from off-site areas.

(4) Community Garden

A community garden shall be permitted as an accessory to a principal use provided that the following standards are met.

(a) Overhead lighting in community gardens is prohibited, unless otherwise allowed.

(b) Signage is limited to a single, non-illuminated, flat sign of four square feet.

(c) No more than two vehicles shall be parked onsite of a community garden, excluding those parked within an enclosed structure.

(d) Retail sales shall not be permitted, except as an approved temporary use, as specified in Section 40.4-5, Temporary Use Standards.

(e) Plantings in community gardens shall not obstruct roadway visibility or impede the flow of traffic.

(f) Perimeter fencing, including trellises, are allowed in community gardens and are subject to the standards governing fence location, maintenance, and height and design within each respective zoning district.

(5) Greenhouse

A greenhouse shall be permitted as an accessory to a principle use provided that the following standards are met.

(a) Greenhouses must comply with each district's respective area standards, including setbacks, height, and lot coverage.

(b) All incidental equipment and supplies related to greenhouse uses, including fertilizer and empty containers, shall be kept within the greenhouse structure.

(6) Home Occupation

A home occupation shall be permitted as accessory to any principal dwelling unit, provided that:

(a) The use shall be conducted entirely within the principal dwelling.

(b) The business or service is located within the dwelling or an associated accessory building (but not an accessory dwelling unit), and does not exceed 25 percent of the heated floor area of the principal structure.

(c) The principal person or persons providing the business or service resides in the dwelling on the premises.

(d) The use shall be conducted entirely by the occupants thereof and no person who is not a resident of the principal dwelling shall be employed in connection with the home occupation.

(e) The home occupation causes no change in the external appearance of the existing dwelling and structures on the property.

(f) All vehicles used in connection with the home occupation are of a size, and located on the premises in such a manner, so as to not disrupt the quiet nature and visual quality of the neighborhood, and there are no more than two vehicles per home occupation.

(g) There is sufficient off-street parking for patrons of the home occupation, with the number of off-street parking spaces required for the home occupation to be provided and maintained in addition to the space or spaces required for the dwelling itself.

(h) There are no advertising devices on the property, or other signs of the home occupation, which are visible from outside the dwelling or accessory building.

(i) The property contains no outdoor display or storage of goods, equipment, or services that are associated with the home occupation.

(j) Wholesale or retail sales of goods do not occur on the premises.

(k) There shall be no personal physical service performed in the dwelling, except that a beauty/barber shop may be operated as a home occupation, provided that the operation conforms with the standards of this section and the following provisions: that no more than one customer may be provided service at the same time, and that the operator obtain and maintain in effect all required permits and licenses.

(l) The home occupation does not create traffic or parking congestion, noise, vibration, odor, glare, fumes, or electrical or communications interference which can be detected by the normal senses off the premises, including visual or audible interference with radio or television reception.

(7) Limited Fuel/Oil/Bottled Gas Distributor

Limited fuel/oil/bottled gas distribution is intended to provide sales of limited quantities of gas, propane, and similar fuels as set out in Section 40.1-8: Definitions. Limited fuel/oil/bottled gas distribution is an accessory use to the following principal uses:

(a) Convenience stores with gas sales;

(b) Convenience stores without gas sales;

(c) Grocery stores;

(d) Retail sales establishments, large; and

(e) Other retail sales establishments.

(8) Outdoor Display/Sales

Outdoor display or sales may be allowed as an accessory use for all retail sales and service uses and wholesale sales uses. It is the intent of this Ordinance to allow the display of merchandise for sale, but not where the display of such items impedes the flow of pedestrian or vehicular traffic, or creates an unsafe condition. The outdoor display/sales of goods shall comply with the following standards:

(a) Outdoor display/sales areas shall be depicted upon a site plan. (See Section 40.1-2.3(C) & (D), Development Plan.)

(b) All outdoor display of goods shall be located immediately adjacent to the storefront, or building sides, and not in drive aisles, loading zones, fire lanes, or parking lots.

(c) Outdoor display areas shall be limited to no more than one-half of the length of the store front or building side.

(d) In the case of a shopping center, the “storefront” shall include the entire frontage of the shopping center facade, meaning that the total amount of display for all the in-line tenants combined shall not exceed 50 percent of the aggregate store front of the total shopping center.

(e) The area of outdoor display or sales shall not encompass the width of the entrance doors to the establishment as projected straight out from the facility. (For example, if the width of the entrance doors is 10 feet, there shall be at least a 10-foot clearance from the doors as projected straight out and away from the facility.)

(f) No goods shall be attached to a building's wall surface.

(g) The height of the outdoor display shall not exceed eight feet.

(h) The outdoor display area shall take place on an improved surface such as the sidewalk or pavement.

(i) At least five feet along the parking lot side of the display shall be maintained free of obstruction to allow for pedestrian and handicap movement, such that handicapped pedestrians and others do not have to enter the parking lot or drive aisle to walk around the display.

(j) Outdoor sales shall not include hazardous and flammable materials, such as gasoline, oil, antifreeze, kerosene, poisons, pesticides and similar items.

(9) Outdoor Storage

Outdoor storage may be allowed as an accessory use in accordance with the following standards:

(a) Each outdoor storage area shall be incorporated into the overall design of the principal structure on the site and shall be located to the side or rear of the principal structure.

(b) Goods stored in an outdoor storage area intended for sale or resale shall be limited to those sold on the premises as part of an associated, additional principal use.

(c) Each outdoor storage area shall be screened from view from all property lines and adjacent rights-of-way by an opaque fence or wall that is at least six feet high in side yards and eight feet high in rear yards, and incorporates at least one of the predominant materials and one of the predominant colors used in the primary structure. Materials may not be stored higher than the height of the primary structure. A landscaped earth berm may be used instead of or in combination with a fence or wall.

(d) If the outdoor storage area is covered, then the covering shall include at least one of the predominant exposed roofing colors on the primary structure.

(e) Flammable liquids or gases in excess of 1,000 gallons shall be stored underground.

(f) No materials may be stored in areas intended for vehicular or pedestrian circulation.

(10) Produce Stands

A produce stand shall:

(a) Be limited to the retail sale of agriculture and horticulture products;

(b) Be located to minimize the visual impact of the structure from adjacent public streets;

(c) Not remain in the same location for more than six months;

(d) Provide adequate ingress, egress, and off-street parking areas; and

(e) Be subject to the sign standards in Section 40.1-5.11, Signage.

(11) Rainwater Cisterns

Rainwater cisterns shall comply with the following standards.

(a) Rainwater cisterns shall be located directly adjacent to the principle structure on a lot.

(b) Rainwater cisterns shall not be located within front, side, or rear setbacks, unless the cistern is less than five feet in height.

(c) Rainwater cisterns shall be affixed to capture rainwater from the principle structure or accessory structure's gutter system.

(d) Rainwater cisterns shall not serve as signage.

(e) Water collected from rainwater cisterns shall be used in a manner that complies with city policies and regulations on gray water use and rainwater harvesting.

(12) Recycling Drop-Off Stations

Recycling drop-off stations shall comply with the following standards.

(a) General

All drop-off containers and storage bins, with the exception of roll-out carts located in townhouse and multifamily developments and recycling containers located on educational facility sites, shall be screened from view to at least 50 percent of the height of the containers and bins in the station. The screen may be fencing or plantings. If plantings are used, the plants must reach the required height within three years of planting. Roll-out carts shall be a neutral or earth tone color, not be visible from a public street, and be located within the interior of the development.

(b) Litter and Debris

The station shall be kept free of litter, debris, and residue.

(c) Signage

Each station shall be allowed one on-premise freestanding sign no more than 48 inches high and 16 square feet in area (including all sides of the sign combined). The sign shall include the name and telephone number of a party responsible for management and maintenance of the station.

(d) Setbacks

Drop-off containers and storage bins shall be located no closer than 50 feet from an existing residential use.

(e) Size

Excluding screening, drop-off containers and storage bins shall occupy no more than 500 square feet.

(f) Blocking Access

The station shall not occupy or block access to parking spaces or aisles.

(g) Use of Shipping Container Prohibited

The station shall not use portable shipping containers or tractor trailers for storage.

(13) Satellite Dishes

Satellite dishes are subject to the following standards to the maximum extent feasible, but only where there is no impairment of acceptable signal quality. These standards are not intended to impose unreasonable delays or costs on the installation, maintenance, or use of satellite dishes, and shall not be interpreted or enforced in any manner contrary to federal or state law.

(a) Location in Residential District Setbacks

(i) Satellite dishes in residential zoning districts shall not be located within the front setback of a lot's principal structure unless the lot owner can demonstrate that there is no possibility to avoid location in the front setback and still have an obstruction-free reception window to the satellite dish.

(ii) Satellite dishes in residential zoning districts may be located within the rear setback of the principal structure, but not closer than five feet to any lot line.

(b) Location on Roof

Satellite dishes may be located on the roof of a principal structure provided they are no more than 15 feet higher than the applicable maximum building height standard.

(14) Solar Energy Equipment

Solar energy equipment shall comply with the following standards.

(a) To minimize the visual impact, solar energy equipment, except for solar panels, is prohibited from being visible along the front street elevation.

(b) Solar panels may be located on any roof, irrespective of its relationship to the underlying district height limit, up to five feet above the roof surface to adequately access solar energy.

(c) Solar energy equipment, excluding solar panels or collectors, may project into side and rear yards but no closer than two feet to any property line, in order to permit equipment to be installed adjacent to existing, nonconforming electric meters.

(15) Storage or Parking of Heavy Trucks, Trailers, Major Recreational Equipment, or Mobile Home

(a) Intent

It is the intent of this subsection to prohibit the customary or continual parking of certain vehicles and equipment on streets and within yards adjacent to streets in residential neighborhoods since the presence of such vehicles runs contrary to the intended residential character of such neighborhoods. It is not the intent of these standards to prevent the occasional or temporary parking of such vehicles or equipment as necessary for the purposes of loading, unloading, or cleaning; however, the continual or customary overnight parking of such vehicles or equipment for a portion of the day followed by removal the following day is prohibited.

(b) Applicability

The standards in this subsection apply to heavy trucks with more than two axles or that exceed 20,000 pounds of gross vehicle weight, trailers with more than one axle, or major recreational equipment, including, but not limited to, boats, campers, recreational vehicles, motor homes, and travel trailers. These standards shall not apply to school busses used for transport of children to or from school.

(c) Standards

(i) Heavy trucks, trailers, or major recreational equipment shall not be parked or stored on public rights-of-way in a residential zoning district for longer than four days over any calendar year.

(ii) No heavy truck, trailer, other major recreational equipment shall be parked or stored for longer than four days over any calendar year in any front yard or side yard immediately adjacent to a street, unless the width of the side yard is less than 11 feet.

(iii) Boats, campers, and recreational vehicles shall be parked or stored only to the side or rear of the dwelling they are associated with unless the width of the side yard is less than 11 feet.

(iv) It shall be unlawful for any person to park any mobile home or camper-type trailer while used for human habitation on any street, alley, or other public place in the city, or to park any mobile home or camper-type trailer when not so used on the streets of the city for a period longer than 12 hours.

(16) Swimming Pools, Spas, and Hot Tubs

Swimming pools, spas, and hot tubs that are accessory uses shall comply with the following standards:

(a) The area containing a swimming pool, spa, or hot tub shall be completely enclosed by a fence that is at least three feet high and has a gate that can be securely fastened. In lieu of such fencing, a spa or hot tub may have a lockable cover capable of supporting a minimum of 150 pounds, and the cover shall be locked in place when the spa or hot tub is not in use.

40.1-4.5 TEMPORARY USE STANDARDS

(A) Purpose

This section allows for the establishment of certain temporary uses of limited duration and special events, provided that such uses do not negatively affect adjacent land, and provided that such uses or events are discontinued upon the expiration of a set time period. Temporary uses shall not involve the construction or alteration of any permanent building or structure.

(B) Table of Permitted Temporary Uses and Structures

(a) Table 40.1-4.5(A), Permitted Temporary Uses and Structures, summarizes the temporary uses and structures that are allowed within the city and any general or specific standards that apply. Temporary uses or structures not listed in Table 40.1-4.5(A), Permitted Temporary Uses and Structures, are not allowed by this Ordinance.

TABLE 40.1-4.5(A): PERMITTED TEMPORARY USES AND STRUCTURES

Temporary Use or Structure	Allowable Time Frame	Specific Regulations
TEMPORARY STRUCTURES		
Expansion or Replacement of Existing Facilities (including temporary offices for construction and/or security personnel)	(A)	Permit Required; see Section 40.1-4.5(F)(1)
Real Estate Sales Office/Model Sales Home	(A)	Permit Required; see Section 40.1-4.5(F)(2)
Construction-Related Activities for New Construction	(A)	No Permit Required; see Section 40.1-4.5(F)(3)

TABLE 40.1-4.5(A): PERMITTED TEMPORARY USES AND STRUCTURES		
Temporary Storage in an On-Demand Container	(B)	Permit Required; see Section 40.1-4.5(F)(4)
TEMPORARY SALES		
Outdoor Seasonal Sales	(B)	Permit Required; see Section 40.1-4.5(F)(5)
Farmer's Market	(C)	Permit Required; see Section 40.1-4.5.(F)(6)
Time Frames: [A] Such structures may be in place for no more than one to four years, unless expressly stated otherwise in this Ordinance. [B] Such structures or sales may be in place for not more than 30 days per calendar year, and no more than three occurrences per parcel, per year. [C] Such uses may operate on a continuous basis for up to five months per year on a single site.		

(C) Prohibited Temporary Uses

Without limiting the standards of this Ordinance, the following activities are prohibited in all districts:

(1) Retail or Display of Goods, Products, or Services in Public Right-of-Way

Retail sales or display of goods, products, or services within the public right-of-way except as part of an authorized not-for-profit, special, or city-recognized event or within the Downtown D1 or D2 districts.

(2) Retail Sales or Display of Goods From Vehicles

Except as part of a permitted seasonal sale, retail sales or display of goods, products, or services from a motor vehicle, trailer, or shipping container.

(D) Temporary Use Permits

All temporary uses and structures required to obtain a temporary use permit in accordance with Table 40.1-4.5, Permitted Temporary Uses and Structures, shall obtain a Temporary Use Permit in accordance with Section 40.1-2.3(E), Temporary Use Permit. A temporary use permit shall be reviewed, approved, or denied only in accordance with the standards of this section.

(E) General Standards For Temporary Uses And Structures

All temporary uses, structures, or special events shall comply with the following general standards, unless otherwise specified in this Ordinance:

(1) Obtain the appropriate permit from the city (if required);

(2) Not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare;

(3) Be compatible with the principal uses taking place on the site;

(4) Not have substantial adverse effects or noise impacts on any adjoining permanent uses or nearby residential neighborhoods;

(5) Not include permanent alterations to the site;

(6) Meet all the setbacks of the underlying base and overlay zoning districts, unless expressly stated otherwise in this Ordinance.

(7) Comply with the maximum signage size for temporary signs in Section 40.1-5.11, Signage;

(8) Not maintain temporary signs associated with the use or structure after the activity ends;

(9) Not violate the applicable conditions of approval that apply to a site or use on the site;

(10) Not interfere with the normal operations of any permanent use located on the property; and

(11) Contain sufficient land area to allow the temporary use, structure, or special event to occur, as well as adequate land to accommodate the parking and traffic movement associated with the temporary use, without disturbing environmentally sensitive lands.

(F) Specific Regulations For Certain Temporary Uses And Structures

(1) Expansion or Replacement of Existing Facilities

(a) Purpose and Scope

Factory-fabricated, transportable buildings that are designed to arrive at the site ready for occupancy (except for minor unpacking and connection to utilities), and designed for relocation to other sites, may be placed on land to serve as the following:

(i) Temporary Expansion Space for Religious Institutions, Heath Care Facilities, and Government Offices

Expansion space for existing religious institutions, health care facilities, and government offices, provided plans for the permanent expansion of the existing facilities have been submitted to and been approved by the city.

(ii) Temporary Classroom Space

Temporary classroom space to augment an existing public educational facility.

(iii) Temporary Offices

Temporary offices for construction and security personnel during the construction of a development for which the city has issued a building permit.

(iv) Temporary Quarters for Recreational Facilities

Temporary quarters for recreational facilities that are being provided in conjunction with a new residential development, provided the city has approved a development plan (Section 40.1-2.3(C) & (D), Development Plan) for the development.

(v) Temporary Quarters for Other Nonresidential Uses

Temporary quarters for other nonresidential uses when the permanent building has been destroyed by a fire or other physical catastrophe, provided a building permit for the permanent facility is obtained within four months after approval of the temporary quarters. The Planning Director may approve a written request for an extension of an additional six months for good cause shown. Failure to obtain a Building Permit within the time frame allowed will revoke approval for the temporary quarters.

(vi) Temporary Office

One temporary office per site to include but not be limited to, the following uses: hiring, membership solicitation, multifamily development office/leasing, and other general office uses. The number of modular buildings housing such uses shall be limited to one, in addition to those already allowed by this section. Such modular buildings shall not be placed on the property prior to the issuance of a building permit.

(vii) Temporary Residence

A temporary residence used for housing occupants of an on-site existing principal dwelling unit subject to casualty damage.

(b) Standards

In addition to meeting the general standards of Section 40.1-4.5(E), General Standards for All Temporary Uses and Structures, all temporary structures approved in accordance with this section shall meet the following standards:

(i) The structure may be located anywhere on the site except within the following areas:

a. Existing required landscaping or perimeter buffer areas;

b. Areas designated as future required landscaping areas, whether or not vegetation currently exists; and

c. Other areas designated on the site for open space, vehicular use, or ingress/egress.

(ii) The temporary structure shall be factory-fabricated and transportable;

(iii) In addition to any other off-street parking required on the site in accordance with Section 40.1-5.1, Off-Street Parking, Loading and Circulation, adequate off-street parking shall be provided for the temporary use;

(iv) All permits required by applicable building, electrical, plumbing, and mechanical codes shall be obtained prior to installation of the temporary structure; and

(v) The temporary structure shall be compatible with the existing buildings on the site in terms of exterior color.

(c) Duration

(i) General

Temporary structures under this subsection may remain on the site for no more than 12 months. This period may be renewed for two 12-month periods, for good cause shown, upon approval of a written request for such extension, submitted to the Planning Director, 30 days prior to the expiration of the temporary use permit. Except for temporary classrooms, in no event, shall the extension allow the temporary structure to remain on the site for more than three years.

(ii) Temporary classrooms

Temporary classrooms for use as part of an existing public educational facility may be allowed to remain on the site for longer than three years.

(2) Real Estate Sales Office and Model Sales Home

(a) General Standards

One temporary real estate sales office or model sales home may be allowed as incidental to a new residential or nonresidential development, provided that:

(i) The use is located on a lot approved by the city as part of the development.

(ii) Signage complies with the standards of Section 40.1-5.11, Signage.

(iii) The temporary use is aesthetically compatible with the character of surrounding development in terms of exterior color, predominant exterior building materials, and landscaping.

(iv) The temporary use complies with the minimum yard and setback standards of the zoning district in which it is located.

(v) Off-street parking provided for the temporary use complies with the standards of Section 40.1-5.1, Off-Street Parking, Loading and Circulation.

(vi) Upon termination of the temporary real estate sales office or model sales home, the structure shall be converted into, or removed and replaced with, a permanent use.

(vii) In approving or renewing approval of a real estate sales office, the Planning Director may impose other conditions as is deemed necessary to avoid adverse impacts that the use as a sales office may have on adjacent properties or the community as a whole.

(viii) All temporary trailers shall be removed from the site prior to the issuance of the last certificate of occupancy for the site.

(b) Duration

(i) Temporary Real Estate Sales Office

Temporary real estate sales offices may be approved for a period of up to one year. This period may be renewed for three additional 12-month periods, for good cause shown, upon approval of a written request for such an extension, submitted to the Planning Director, 30 days prior to the expiration of the permit. In no event shall the extension allow the temporary structure to remain on the site for more than four years.

(ii) Model Sales Home

Model sales homes may be approved for a period of up to four years. This period may be renewed for additional six-month periods, for good cause shown, upon approval of a written request for such an extension submitted to the Planning Director, 30 days prior to the expiration of the permit. There is no time limit on the use of model sales units.

(3) Construction-Related Activities for New Construction

(a) General

Temporary construction-related activities for new construction, including construction offices, storage buildings, outdoor storage, and employee parking areas, may occur on the same site as the construction activity without obtaining a temporary use permit. Such uses shall be removed within 30 days after issuance of a certificate of occupancy.

(b) Adjacent Site

Because of site constraints, construction-related activities may need to occur on a site that is adjacent to or nearby the construction site. In such cases, a temporary use permit is required. (See Section 40.1-2.3(E), Temporary Use Permit.) Such uses shall be removed within 30 days after issuance of a certificate of occupancy, and the site is restored to its previous condition.

(4) Temporary Storage in an On-Demand Container

Temporary storage in an on-demand container shall be permitted to serve an existing residential use, subject to the following standards:

(a) Containers shall not exceed 20 feet in length;

(b) Containers shall not be located in the front yard;

(c) Containers shall not be located within 10 feet of any lot line;

(d) Containers shall not be located on an individual parcel or site for more than 14 consecutive days per site per calendar year; and

(e) The standards in this sub-section related to container location shall not apply to lots with a frontage of 50 feet or less.

(5) Outdoor Seasonal Sales

(a) Applicability

Merchants may display and/or sell goods in the city on a temporary basis without establishing a permanent place of business, subject to the standards of this section.

(b) Location

(i) The outdoor display and/or sale of goods consistent with the provisions of Section 40.1-4.4(C)(9), Outdoor Display/Sales, is considered an accessory use and does not require a temporary use permit.

(ii) All other sales/displays of goods (other than agricultural products) require a temporary use permit in accordance with Section 40.1-2.3(E), Temporary Use Permit, and this subsection.

(c) Standards

A temporary use for the temporary display and/or sale of products shall comply with the following standards:

(i) The property contains an area not actively used that will support the proposed temporary sale of products without encroaching into or creating a negative impact on existing vegetated areas, open space, landscaping, traffic movements, or parking-space availability.

(ii) The display or sale of goods, products, and/or services shall not occur in the public right-of-way or within 100 feet of an existing residential use.

(iii) The display or sale of products, goods and/or services shall be limited in scope to similar or complementary products, goods, and/or services to those offered by the existing principal use located on the same site. The temporary sale of non-agricultural products, goods, and/or services that differ from the normal range of those offered by an existing principal use shall be prohibited.

(iv) Tents and other temporary structures shall be located so as not to interfere with the normal operations of any permanent use located on the property.

(v) Tents and other temporary structures shall be located on an improved surface such as asphalt, gravel, or other improved surface.

(vi) Off-street parking shall be adequate to accommodate the proposed sale of products.

(vii) The temporary display or sale of products shall not cause interference with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services cannot be provided.

(viii) The hours of operation of the temporary sale of products shall be from no earlier than 7:00 AM to no later than 10:00 PM, or the same as the hours of operation of the principal use.

(d) Duration; Sales per Year

(i) The temporary sale of non-agricultural products shall be allowed on an individual parcel or site for no more than 30 total days per calendar year.

(ii) The number of temporary sales of products per site per calendar year shall not exceed three.

(6) Farmer's Market

Farmer's markets shall:

(a) Renew all applicable temporary use permits once per calendar year;

(b) Be limited to the retail sale of agriculture and horticulture products;

(c) Be located to minimize the visual impact of the structure from adjacent public streets;

(d) Provide adequate ingress, egress, and off-street parking areas; and

(e) Be subject to the sign standards in Section 40.1-5.11, Signage.

ARTICLE 40.1-5:

DEVELOPMENT STANDARDS

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ARTICLE 40.1-5: DEVELOPMENT STANDARDS

40.1-5.1 OFF-STREET PARKING, LOADING, AND CIRCULATION

(A) Purpose and Intent

The purpose of this section is to ensure provision of off-street parking and loading facilities in proportion to the generalized parking, loading, and transportation demand of the different uses allowed by this Ordinance. The standards in this section are intended to provide for adequate off-street parking while allowing the flexibility needed to accommodate alternative solutions. The standards are also intended to achieve city policies of supporting development and redevelopment of the activity centers, commercial corridors, and downtown areas. The standards are proposed to accommodate appropriate infill development and encourage pedestrian-oriented development, while avoiding excessive paved surface areas, promoting low impact development, and safeguarding historic resources.

(B) Applicability

(1) General

Except where exempted by Section 40.1-5.1(C), Exemptions, the off-street parking, loading, and circulation standards of this section shall apply to all new development in the city.

(2) Time of Review

Review of proposed development to ensure compliance with the standards of this section shall occur at time of Development Plan (Section 40.1-2.3 (C) & (D)), Master Plan associated with an Amendment to the Zoning Map to establish an Activity Center district (Section 40.1-3.4(F)), Preliminary Subdivision Plat (Chapter 33.1 of the City Code)or Zoning Compliance Permit (Section 40.1-2.3(F)), whichever occurs first.

(3) Existing Development

(a) Change in Use

(i) Any change in use of an existing development shall provide the additional off-street parking and loading facilities required to comply with this section.

(ii) Applications for a change of use with five or more off-street parking spaces seeking to deviate from the standards of this section may be reviewed, depending upon the amount of the deviation, as:

a. An administrative adjustment, in accordance with the standards and procedures in Section 40.1-2.3(H), Administrative Adjustment; or

b. A type II development plan, in accordance with the procedure and standards in Section 40.1-2.3.D, Type II Development Plan.

(iii) Changes of use shall comply with the standards in Section 40.1-6.6, Nonconforming Site Aspects.

(b) Expansion and Enlargement

The off-street parking, loading, and circulation standards of this section apply when an existing structure or use is expanded or enlarged by 25 percent or more. In the case of such expansion or enlargement, additional off-street parking and loading spaces are required to serve the enlarged or expanded part of the development in accordance with Section 40.1-6.6, Nonconforming Site Aspects.

(c) Nonconforming Parking or Loading Facilities

Expansion or enlargement of an existing development on a site that does not comply with the standards of this section shall comply with the standards of Section 40.1-6.6, Nonconforming Site Aspects.

(C) Exemptions

Development on lots within the D1 and D2 districts shall be exempt from the standards in this section.

(D) General Standards for Off-Street Parking, Stacking, and Loading Areas

(1) Use of Parking Area, Stacking Area, or Loading Space

All vehicular parking areas, stacking areas, methods of vehicular ingress and egress, internal aisles, and loading spaces required by this section may be referred to as "vehicular use area" as well as off-street parking areas.

(a) Business, Activity Center, and Special Districts

A vehicular use area or off-street parking area shall be used solely for the parking of licensed motorized vehicles in operating condition. Required spaces may not be used for the display of goods for sale or lease or storage of vehicles, boats, motor homes, campers, mobile homes, or building materials.

(b) Residential Districts

(i) Required off-street parking areas are to be used solely for the parking of licensed motor vehicles in operating condition.

(ii) In addition to the standard driveway parking spaces provided in conjunction with any single-family residence, up to one additional off-street parking space may be provided for a commercial vehicle on a single-family lot in accordance with the standards in Section 40.1-5.1(G), Off-Street Parking Within Residential Districts, and Section 40.1-4.4(C)(16), Storage or Parking of Heavy Trucks, Trailers, Major Recreational Equipment, or Mobile Homes.

(2) Identified as to Purpose and Location

Off-street parking areas of four or more spaces and off-street loading areas shall include painted lines, wheel stops, or other methods of identifying individual parking spaces and loading areas and distinguishing such spaces from aisles and other circulation features.

(3) Surfacing

(a) All off-street parking and loading areas shall be surfaced with asphalt, concrete, brick, stone pavers, aligned concrete strips, or an equivalent material.

(b) Single-family detached residential development may use an alternative surfacing material in accordance with Section 40.1-5.1(G), Off-Street Parking Within Residential Districts.

(c) Development subject to the standards of this section may include an alternative surfacing material as part of an alternative parking plan in accordance with Section 40.1-5.1(J),Off-Street Parking Alternatives, except industrial development in the IN district is not required to submit an alternative parking plan for use of crushed stone or a comparable surfacing material.

(d) In cases where alternative surfacing materials are allowed, the surfaces shall be maintained in a smooth, well-graded, and dust-free condition.

(4) Alternative Materials

The use of pervious or semi-pervious parking area surfacing materials—including, but not limited to "grasscrete," or recycled materials such as glass, rubber, used asphalt, brick, block and concrete—may be approved for required vehicular surface area on a site, provided such areas are properly maintained. Where possible, such materials should be used in areas proximate to and in combination with on-site stormwater control devices.

Figure 40.1-5.1(D)(4): Alternative Materials
"Grasscrete" is an alternative material that can help limit damage to existing trees and help address stormwater quality issues.

(5) Arrangement

(a) Convenient Access

(i) Off-street parking and loading areas shall be arranged for convenient access and safety of pedestrians and vehicles.

(ii) Off-street parking areas with four or more spaces shall be arranged so no parking or maneuvering incidental to parking shall occur on a public street or sidewalk, and an automobile may be parked or un-parked without moving another automobile (except as provided in Section 40.1-5.1(J)(6), Valet and Tandem Parking).

(b) Backing onto Streets Prohibited

Except for parking areas serving single-family detached, attached, townhouse, and two-to four-family dwellings, all off-street parking and loading areas shall be arranged so that no vehicle is required to back from such areas directly onto a street.

(6) Drainage

All off-street parking and loading areas shall be properly drained so as not to cause any nuisance on adjacent land. Drainage may be directed to shared, community stormwater management devices.

(7) Exterior Lighting

When lighted, off-street parking and loading areas shall be lighted so as to prevent glare or illumination exceeding maximum allowable levels on adjacent land (See Table 40.1-5.9(E)(3), Maximum Illumination Levels), and unless exempted, shall comply with the standards of Section 40.1-5.9, Exterior Lighting.

(8) Landscaping

Except for off-street parking areas serving single-family detached and attached dwellings, as well as two-to four-family dwellings and townhouse development of 5,000 square feet in building size or less, all off-street parking and loading areas shall comply with the standards of Section 40.1-5.2(D), Vehicular Use Area Landscaping.

(9) Curbs and Motor Vehicle Stops

All off-street parking and loading areas shall provide curbs, motor vehicle stops, or similar devices so as to prevent vehicles from overhanging a public right-of-way, sidewalk, walkway, landscape area, or adjacent property (see Figure 40.1-5.1(D)(9), Wheel Stops).

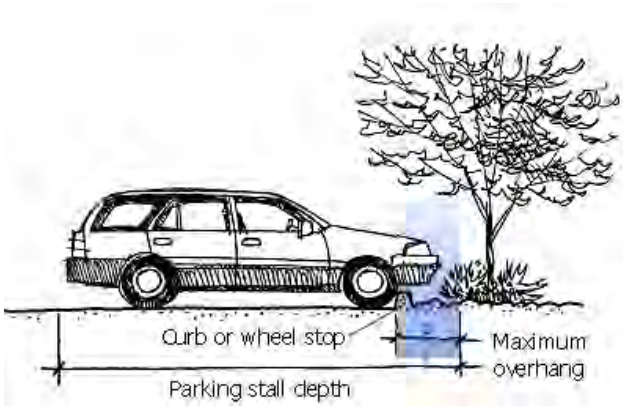


Figure 40.1-5.1(D)(9): Wheel Stops
Vehicular use area landscaping needs to be protected from damage by vehicles.

(10) Maintained in Good Repair

(a) Maintained at All Times

All off-street parking, loading, and circulation areas shall be maintained in a safe condition and good repair at all times so as not to constitute a hazard to public safety or a visual or aesthetic nuisance to surrounding land.

(b) Periodically Restored

All off-street parking, loading, and circulation areas shall be periodically painted or otherwise restored to maintain a clear identification of separate parking stalls or loading areas.

(11) Markings

(a) General

Each required off-street parking space and off-street parking facility must be identified by surface markings and must be maintained in a manner so as to be readily visible and accessible at all times. Such markings must be arranged to provide for orderly and safe loading, unloading, parking, and storage of vehicles. Markings required to be maintained in a highly visible condition includes striping, directional arrows, lettering on signs and in handicapped-designated areas and field color.

(b) Car Accessible

One-way and two-way accesses into required parking facilities must be identified by directional arrows. Any two-way access located at any angle other than 90 degrees to a street must be marked with a traffic separation stripe the length of the access. This requirement does not apply to aisles.

(12) Placement

The location or placement of off-street parking areas on a development site shall be limited in accordance with the standards of this section, Section 40.1-5.5, Multi-Family Development Standards, Section 40.1-5.6, Commercial Development Standards, and Section 40.1-5.7, Transitional Standards, as appropriate.

(13) Minimum Separation

(a) All off-street parking areas shall be separated at least five feet from buildings in order to allow room for sidewalks, landscaping, and other plantings between the building and the parking area.

(b) In the event foundation plantings are required in accordance with Section 40.1-5.2(G), Site Landscaping, additional minimum separation may be needed to maintain a minimum five-foot-wide pedestrian clear zone along with the minimum area needed for landscaping.

(c) This separation may be eliminated to the rear of buildings in areas designed for unloading and loading of materials.

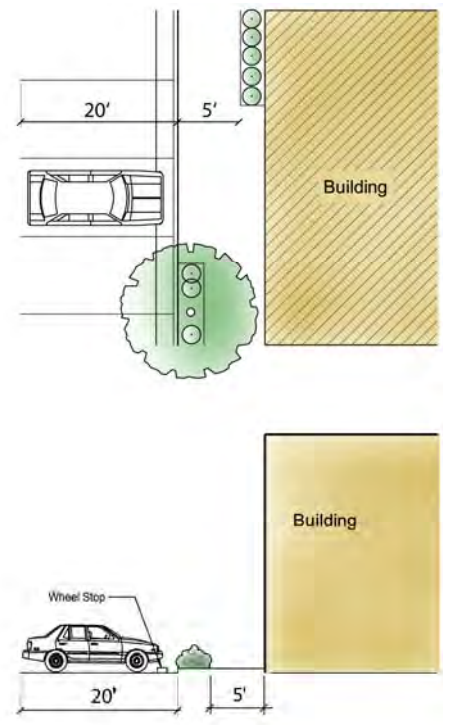


Figure 40.1-5.1(D)(13): Minimum Separation
Separation between parking spaces and building walls allows room for pedestrian movement.

(14) Completion

All off-street parking, loading, and circulation areas shall be completed prior to the issuance of a certificate of occupancy for the development they serve. In the case of phased development, off-street parking, loading, and circulation areas should only be provided for portions of the development with development plan or subdivision approval.

(E) Off-Street Parking Standards

(1) Parking Plan Required

(a) Uses with four or more spaces shall submit a parking plan along with an application for a Development Plan (Section 40.1-2.3(C) & (D)), or a master plan associated with an Zoning Map Amendment to establish an AC District (Section 40.1-3.5(B)), as appropriate.

(b) The parking plan shall accurately designate the required parking spaces, access aisles, and driveways, and the relation of the off-street parking facilities to the development the facilities are designed to serve.

(2) Minimum Number of Spaces Required

Unless otherwise expressly stated in this section, the minimum number of off-street parking spaces shall be provided in accordance with Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards.

TABLE 40.1-5.1(E)(2): MINIMUM OFF-STREET PARKING STANDARDS

USE CATEGORY	USE TYPE	MINIMUM NUMBER OF PARKING SPACES [1]
RESIDENTIAL USE CLASSIFICATION		
Household Living	Dwelling, live/work	1 per DU
	Dwelling, multi-family	1.5 per DU
	Dwelling, single-family attached	2 per DU
	Dwelling, single-family detached	2 per DU
	Dwelling, townhouse	1.5 per DU
	Dwelling, two-to four-family	2 per DU
	Dwelling, upper story	1 per DU
Group Living	Dormitory	1 per every 2 resident beds
	Family care home	3 per home
	Fraternity or sorority house	1 per every 2 resident beds
	Group home	1 per employee + 1 per every 3 adults
	Rooming or boarding house	1 per guest room
	Single room occupancy (SRO) facility	0.75 per guest room
PUBLIC AND INSTITUTIONAL USE CLASSIFICATION		
Community Services	Community center	1 per every 300 sf
	Cultural facility	
	Library	
	Museum	1 per every 500 sf
	Senior center	1 per every 300 sf
	Youth club facility	
Day Care	Adult day care center	1 per every 2 employees
	Child day care center	1 per every 5 persons up to 50, then 1 per every 10 persons
	Family child day care home (6 to 12 children)	3 + 1 per employee
	Home child day care for 5 or fewer children	2 per du
Educational Facilities	College or university	1 per every 2 students + 1 per employee on the largest shift
	School, elementary	1 per every 30 students + 1 per employee
	School, middle	
	School, high	1 per every 300 sf + any requirements for outdoor recreation facilities
	Vocational or trade school	
Government Facilities	Government maintenance, storage, or distribution facility	1 per every 600 sf
	Government offices	1 per every 300 sf
	Other Government Facilities	
	Post office	
Health Care Facilities	Blood/tissue collection facility	1 per every 250 sf
	Drug or alcohol treatment facility	
	Hospital	1 per 2 beds + 1 per employee + 1 per every 3 seats in emergency and waiting areas

TABLE 40.1-5.1(E)(2): MINIMUM OFF-STREET PARKING STANDARDS

USE CATEGORY	USE TYPE	MINIMUM NUMBER OF PARKING SPACES [1]
	Medical or dental clinic	1 per every 300 sf
	Medical or dental lab	
	Medical treatment facility	1 per every 250 sf
	Outpatient facility	1 per every 300 sf
Institutions	Assisted living facility	1 per 2 beds
	Auditorium	1 per 4 seats
	Convention center	1 per 300 sf
	Halfway house	1 per 2 beds
	Nursing home	1 per 2 beds + 1 per employee on the largest shift
	Psychiatric treatment facility	
	Religious institution	1 per every 6 seats in worship area
	Civic, social, or fraternal clubs or lodges	1 per 300 sf
	Shelter	1 per 2 beds
Parks and Open Areas	Arboretum or botanical garden	See Section 40.1-5.1(E)(4)
	Cemetery, columbaria, mausoleum	1 per employee on largest shift
	Community garden	2 + 1 per every 0.5 acre
	Golf course, public	1 per 200 sf + 1 per every 4 persons of maximum outdoor facility capacity
	Park, public	
	Park, private	
Public Safety	Correctional facility	See Section 40.1-5.1(E)(4)
	Fire or EMS facility	
	Fire or police substation	
	Police station	
Transportation	Airport	Greater of: 1 per 1,000 sf or 1 per 2 employees
	Helicopter landing facility	
	Passenger terminal, surface transportation	1 per every 200 sf
Utilities	Telecommunications antenna, collocation on existing tower	None
	Telecommunications antenna, placement on existing building	
	Telecommunications tower, freestanding	1 per tower
	Utility, major	1 per employee on largest shift
	Utility, minor	See Section 40.1-5.1(E)(4)
COMMERCIAL USE CLASSIFICATION Uses in the commercial use classification shall not provide more than 125% of the minimum number of spaces required, unless subject to alternative parking plan (see Section 40.1-5.1(E)(7), Maximum Number of Spaces Permitted).		
Adult Uses	Adult bookstore	1 per every 3 persons of maximum fire rated capacity
	Adult entertainment establishment	
	Adult motion picture theatre	

TABLE 40.1-5.1(E)(2): MINIMUM OFF-STREET PARKING STANDARDS

USE CATEGORY	USE TYPE	MINIMUM NUMBER OF PARKING SPACES [1]
Animal Care	Animal grooming	1 per every 300 sf
	Animal shelter	
	Veterinary clinic	
	Kennel, indoor	1 per every 500 sf
	Kennel, outdoor	
Conference and Training Centers	Conference or training center	See Section 40.1-5.1(E)(4)
Eating Establishments	Dinner theatre	1 per 4 seats
	Restaurant, with indoor and outdoor seating	1 per every 150 sf (including outdoor waiting/seating/dining areas)
	Restaurant, with drive-through service	
	Restaurant, without drive-through service	
	Specialty eating establishment	1 per 4 seats
Offices	Offices, business services	1 per every 300 sf
	Offices, financial services	
	Offices, professional services	
	Offices, sales (including real estate)	
	Radio and television broadcasting studio	1 per every 500 sf
Parking, Commercial	Parking lot	None
	Parking structure	None
Recreation/Entertainment, Indoor	Commercial recreation, indoor	1 per every 300 sf
	Theatre	1 per every 4 seats
	Art galleries and art centers	1 per every 400 sf
	Arena, amphitheatre, or stadium	1 per 4 seats
	Commercial recreation, outdoor	1 per 200 sf + 1 per every 4 persons of maximum outdoor facility capacity
	Country club	
	Golf course, public	1 per every 250 sf + 1 per tee
	Golf driving range	
	Marina	1 per every 2 slips + 1 per every 4 dry storage spaces
	Marina, pleasure boats only	
	Membership sports or recreation club	1 per 200 sf + 1 per every 4 persons of maximum outdoor facility capacity
Retail Sales & Services	Bar, nightclub, or cocktail lounge	1 per every 3 persons of maximum fire-rated capacity
	Entertainment establishment	
	Gasoline sales	1 per employee
	Crematory	1 per 4 seats
	Dry cleaning and laundry drop-off establishment	1 per every 250 sf
	Financial institution, without drive-through service	1 per every 300 sf
	Financial institution, with drive-through service	
	Funeral home	1 per 4 seats in viewing area + 1 per

TABLE 40.1-5.1(E)(2): MINIMUM OFF-STREET PARKING STANDARDS

USE CATEGORY	USE TYPE	MINIMUM NUMBER OF PARKING SPACES [1]
		employee on the largest shift
	Laundry, self-service	1 per every 200 sf
	Massage parlor	1 per every 300 sf
	Personal services establishment	
	Special events house	1 per 200 sf + 1 per every 4 persons of maximum outdoor facility capacity
	Tattoo parlor/body piercing establishment	1 per every 300 sf
	Repair establishment	
	Convenience store, with gas sales	1 per 250 sf
	Convenience store, without gas sales	
	Drug store or pharmacy, without drive-through service	1 per every 250 sf
	Drug store or pharmacy, with drive-through service	
	Flea market	1 per every 200 sf
	Grocery store	1 per every 250 sf of indoor and outdoor sales/display area + 1 per 1,000 sf of storage area
	Liquor store	1 per every 250 sf
	Retail sales establishment, large	1 per every 400 sf
	Other retail sales establishments	1 per 200 sf + 1 per 1,000 sf of storage area
Self-Service Storage	All	1 per 100 units
Vehicle Sales and Services, Heavy	Aircraft parts, sales, and maintenance	1 per 200 sf + 1 per 1,000 sf of storage area
	Automotive paint and body shop	1 per every 500 sf
	Automotive wrecker service	1 per employee on largest shift
	Transmission shop	1 per every 500 sf
	Boat and marine rental and sales	Greater of: 1 per 1,000 sf or 1 per every 2 employees on largest shift
	Truck stop	1 per every 300 sf
Vehicle Sales and Services, Light	Automotive parts and installation	1 per every 300 sf
	Automobile repair and servicing, without painting/body work	
	Automobile sales or rentals	1 per every 300 sf
	Car wash auto detailing	1 per employee on largest shift
	Motorcycle sales	1 per every 300 sf
	Recreational vehicle sales or rental	1 per every 3,000 sf of building area + 1 per every 5,000 sf of outdoor display area
	Taxicab service	1 per employee on largest shift
	Tire/muffler sales and mounting	1 per every 300 sf
Visitor Accommodations	Bed and breakfast	2 spaces + 1 per guest bedroom
	Campground or recreational vehicle park	1 per space + 1 per employee on the largest shift
	Hotel or motel	1 per every 2 guest rooms plus at least 75% of spaces required for on-site accessory uses

TABLE 40.1-5.1(E)(2): MINIMUM OFF-STREET PARKING STANDARDS

USE CATEGORY	USE TYPE	MINIMUM NUMBER OF PARKING SPACES [1]
	Tourist home	2 spaces + 1 per gust room
INDUSTRIAL USE CLASSIFICATION Light industrial uses in the industrial use classification shall not provide more than 125% of the minimum number of spaces required, unless subject to alternative parking plan (see Section 40.1-5.1(E)(7), Maximum Number of Spaces Permitted).		
Industrial Services	Building, heating, plumbing, or electrical contractor	Greater of: 1 per 1,000 sf or 1 per every 2 employees on largest shift
	Electric motor repair	1 per 300 sf
	Fuel oil/bottled gas distributor	1 per 500 sf
	Fuel oil storage	Greater of: 1 per 1,000 sf or 1 per every 2 employees on largest shift
	General industrial service	1 per every 2 employees on largest shift
	Heavy equipment sales, rental, or storage	1 per every 200 sf + 1 per 1,000 sf of storage area
	Heavy equipment servicing and repair	1 per every 500 sf
	Laundry, dry cleaning, and carpet cleaning plants	1 per 250 sf
	Machine shop	1 per every 500 sf
	Repair of scientific or professional instruments	1 per every 2 employees on largest shift
	Research and development	
	Tool repair	1 per every 300 sf
Manufacturing and Production	Manufacturing, heavy	1 per every 2 employees on largest shift
	Manufacturing, light	
Warehouse and Freight Movement	Cold storage	See Table 40.1-5.1(E)(3)
	Outdoor storage, as principal use	One per every 1,000 sf
	Parcel services	1 per employee on largest shift
	Shipping container storage yard	1 per every 2 employees on largest shift
	Truck or freight terminal	1 per employee on largest shift
	Warehouse (distribution)	See Table 40.1-5.1(E)(3)
	Warehouse (storage)	
Waste-Related Services	Energy recovery plant	See Section 40.1-5.1(E)(4)
	Hazardous waste collection site	
	Incinerator	
	Recycling and salvage center	1 per employee on largest shift + 3 spaces
	Recycling drop-off center	1 per every 2 employees on largest shift
	Salvage and junkyard	
	Tire disposal or recycling	
	Waste composting	
Wholesale sales	All uses	1 per every 2 employees on the largest shift

NOTES:
[1] DU = dwelling unit; sf = square feet (or floor area unless otherwise noted)

(3) Off-Street Parking Standards for Selected Industrial Uses

Uses in Table 40.1-5.3(E)(3), Minimum Off-Street Parking Standards, that reference Table 40.1-5.1(E)(2) shall provide the minimum number of spaces established in Table 40.1-5.1(E)(3), Off-Street Parking Standards for Selected Industrial Uses:

TABLE 40.1-5.1(E)(3): OFF-STREET PARKING STANDARDS FOR SELECTED INDUSTRIAL USES

USE OR ACTIVITY	MINIMUM NUMBER OF PARKING SPACES [1] [2]
Office or administrative area	1 per every 300 sf
Indoor sales area	1 per every 250 sf
Indoor storage/warehousing/assembly/vehicular service/manufacturing area 1 – 3,000 sf 3,001 – 5,000 sf 5,001 – 10,000 sf 10,001 sf or more	 1 per every 250 sf 1 per every 500 sf 1 per every 750 sf 1 per every 1,250 sf
Outdoor sales/display/storage area (3,000 sf or less)	1 per every 750 sf
Outdoor sales/display/storage area (more than 3,000 sf)	1 per every 1,000 sf
NOTES: [1] sf = square feet (of floor area unless otherwise noted) [2] The total number of required spaces is cumulative, based on the variety of different functions present in a single use.	

(4) Uses with Variable Parking Demand Characteristics

Uses that reference this subsection in Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards, have widely varying parking and loading demand characteristics, making it difficult to establish a single off-street parking or loading standard. Upon receiving a development application for a use subject to this subsection, the Planning Director shall apply the off-street parking and loading standard specified for the listed use that is deemed most similar to the proposed use or establish minimum off-street parking standards on the basis of a parking and loading demand study prepared by the applicant. Such a study shall include estimates of parking demand based on recommendations of the Institute of Traffic Engineers (ITE) or other acceptable estimates as approved by the Planning Director, and should include other reliable data collected from uses or combinations of uses that are the same as or comparable with the proposed use. Comparability will be determined by density, scale, bulk, area, type of activity, and location. The study shall document the source of data used to develop the recommendations.

(5) Unlisted Uses

Upon receiving a development application for a use not expressly listed in this section, the Planning Director is authorized to apply the off-street parking standard in the listed use that is deemed most similar to the use, or establish the off-street parking requirements by reference to standard parking resources published by the National Parking Association or the American Planning Association. Alternatively, the Planning Director may require the applicant to submit a parking demand study that justifies estimates of parking demand based on the recommendations of the Institute of Traffic Engineers (ITE), and includes 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.

(6) Mixed Uses

Unless otherwise approved, development containing more than one use shall provide parking spaces in an amount equal to the total of the standards for all individual uses. This provision shall not limit the ability to submit an alternative parking plan (see Section 40.1-5.1(J), Off-Street Parking Alternatives) to reduce the minimum number of required off-street parking spaces in recognition of different operating hours or peak business periods.

(7) Maximum Number of Spaces Permitted

(a) Provision up to 175 Percent of Minimum

(i) Light industrial uses and commercial uses listed under the commercial use classification in Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards, shall not exceed 125 percent of the minimum number of parking spaces required in the table.

(ii) Through approval of an alternative parking plan in accordance with Section 40.1-5.1(J)(1), Provision Over the Maximum Allowed, light industrial and commercial uses listed under the commercial use classification in Table 40-5.1(E)(2), Minimum Off-Street Parking Standards, may provide up to a maximum of 175 percent of the minimum number of parking spaces required in the table.

(iii) Provision of more than 175 percent of the minimum number of parking spaces for uses subject to the standards of this section shall require approval of a use permit in accordance with Section 40.1-2.3(B), Use Permit.

(b) Additional Requirements

Any off-street parking spaces provided in excess of the minimum number of off-street parking spaces required shall comply with the standards of Section 40.1-5.1(J)(1), Provision Over the Maximum Allowed.

(F) Calculation of Required Off-Street Parking Spaces

(1) Fractions

When computation of the number of required parking spaces results in a fraction, the result shall be rounded upward to the next highest whole number.

(2) Multiple Uses

Unless otherwise approved, development containing more than one use must provide off-street parking in an amount equal to the total requirements of all individual uses, unless the Planning Director determines that a lower standard would be adequate because of differences in peak operating hours.

(3) Seat Based Standards

Where the minimum number of off-street parking spaces is based on the number of seats, all computations shall be based on the design capacity of the areas used for seating.

(4) Floor-Area Based Standards

Where the minimum number of off-street parking spaces is based on square feet of floor area, all computations shall be based on total floor area, minus any mechanical rooms, bathrooms, stairwells, or elevators.

(5) Occupancy or Capacity-Based Standards

Except as otherwise provided in this section, where the minimum number of off-street parking spaces required is based on the number of employees, students, or residents, all computations shall be based on the largest number of persons working on any single shift (for employees), maximum enrollment (for students), or the maximum fire-rated capacity (for residents), whichever is applicable.

(6) On-Street Parking

Except as allowed in Section 40.1-5.1(J), Off-Street Parking Alternatives, on-street parking on public or private streets, driveways, or drives shall not be used to satisfy the off-street parking standards of this section.

(7) Driveways Used to Satisfy Requirements

For single-family detached, attached, townhouses, and two- to four-family dwellings, driveways may be used to satisfy minimum off-street parking standards, provided sufficient space is available to satisfy the standards of this section and this Ordinance.

(G) Off-Street Parking within Residential Districts

Off-street parking serving single-family detached, duplex, or two- to four-family dwellings and located within front yard and/or corner side yard areas shall comply with the following standards:

(1) Parking in Vehicular Use Area Required

Commercial vehicles, whether parked or stored, shall be located in a vehicular use area. For the purposes of this subsection, "vehicles" shall include but not be limited to, passenger vehicles, all trucks under 20,000 pounds of gross vehicle weight (GVW), vans, golf carts, or other similar vehicles, whether operable or otherwise. Vehicles exceeding 20,000 pounds GVW are subject to the standards in Section 40.1-4.4(C)(16), Storage or Parking of Heavy Trucks, Trailers, Major Recreation Equipment, or Mobile Home.

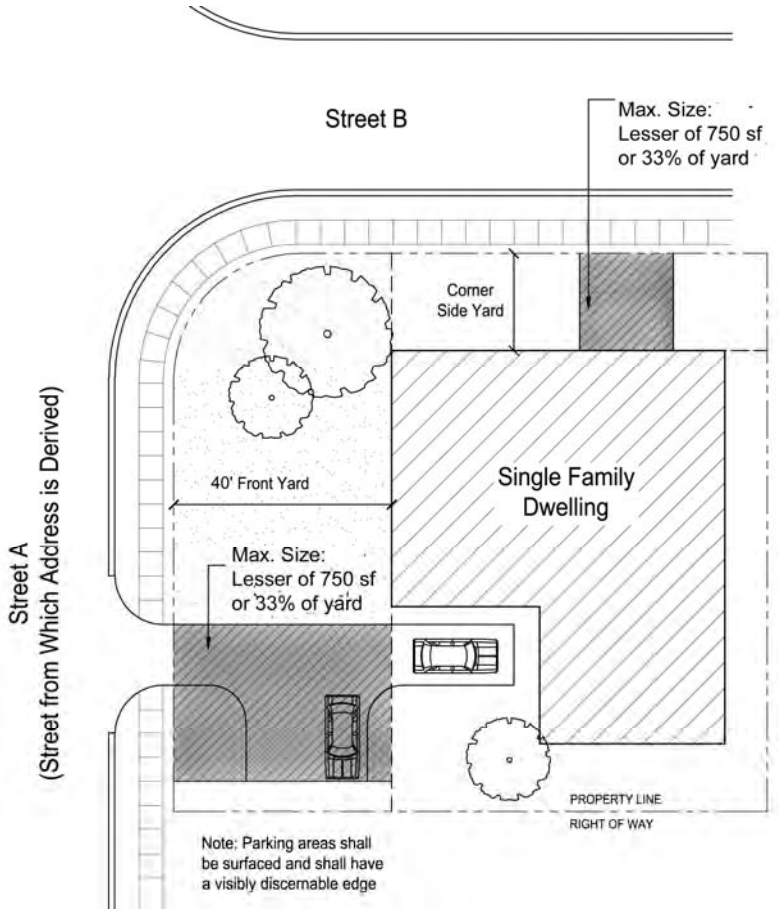


Figure 40.1-5.1(G): Maximum Vehicular Use Area
Limitations on the size of the parking area within front yards helps to minimize automobile dominance.

(2) Maximum Area Available for Vehicular Use

Vehicular use areas located within the first 40 feet of the front or corner side yard (as measured from the edge of the lot line) shall be limited to the lesser of 33 percent of the entire front and/or corner side yard area, or 750 square feet. Nothing in this subsection shall be construed to limit the size of the vehicular use area located beyond the first 40 feet of a front or corner side yard area.

(3) Vehicular Use Area Demarcated

Vehicular use areas serving single-family detached dwellings may be surfaced with gravel, crushed stone, or similar material, but vehicular use areas surfaced with those materials shall maintain a visibly discernible and definable edge composed of landscape timbers, metal edging, vegetation (such as low shrubs or decorative grasses), or a similar technique of distinguishing the vehicular use area from the front or corner side yard area.

(H) Accessible Parking Spaces for Physically Disabled Persons[5]

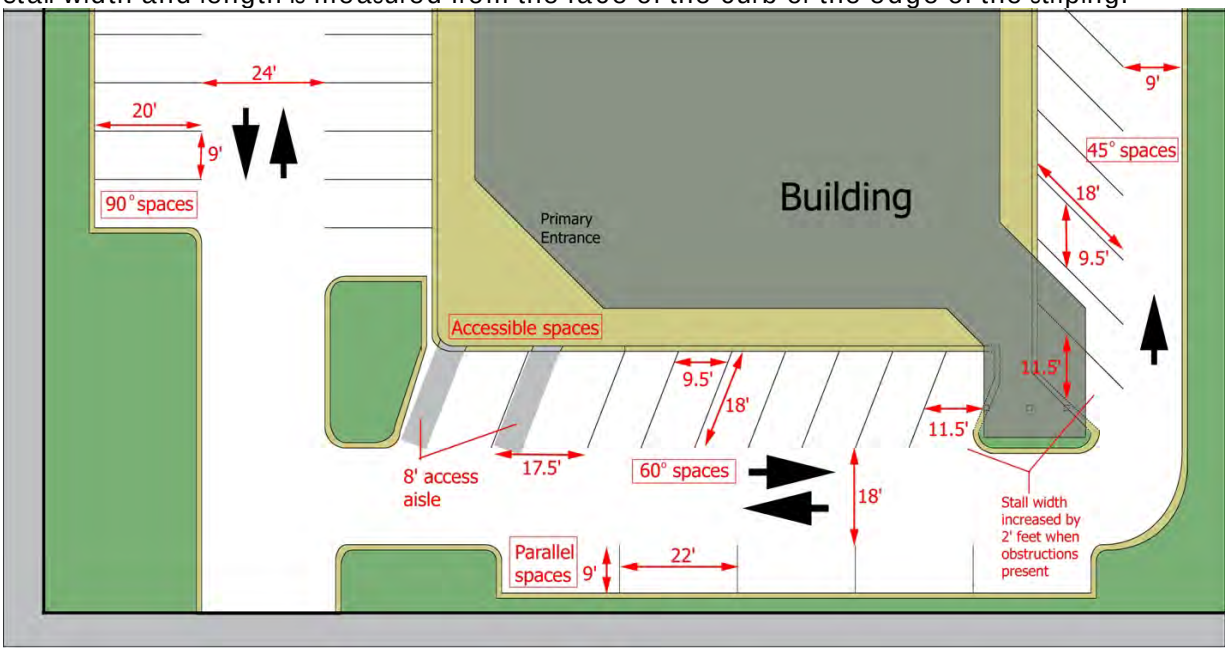
Development required to provide off-street parking spaces shall ensure that a portion of the total number of required off-street parking spaces shall be specifically designated, located, and reserved for use by persons with physical disabilities, in accordance with the standards in the federal American with Disabilities Act.

(I) Dimensional Standards for Parking Spaces and Aisles

(1) General

Standard car parking spaces and parking lot aisles shall comply with the minimum dimensional standards established in Table 40.1-5.1(I)(1), Dimensional Standards for Parking Spaces and Aisles, and the illustrations in Figure 40.1-5.1(I), Parking Stall Measurement:

Figure 40.1-5.1(I), Parking Stall Measurement
Stall width and length is measured from the face of the curb or the edge of the striping.



[5] These standards are proposed to replace the standards in Section 40-71.1(c) of the current ordinance.

TABLE 40.1-5.1(I)(1): DIMENSIONAL STANDARDS FOR PARKING SPACES AND AISLES

PARKING ANGLE	STALL WIDTH (FEET)[1]	STALL DEPTH (FEET)	AISLE WIDTH FOR TWO-WAY TRAFFIC (FEET) [2]
Parallel	9	22	18
45 degrees	9.5	18	18
60 degrees	9.5	18	18
90 degrees	9	20	24

NOTES:
[1] Stall widths and depths shall be measured from the face of the curb or the outer edge of lane striping, and may be reduced by one-half for aisles proposed for one-way traffic.
[2] Limited to a maximum of 30 percent of the minimum required off-street parking.

(2) Dimensional Adjustments

Parking structures may be subject to dimensional adjustments based on utilization, but in no case shall the standard parking space width be less than eight feet. Reduction in design standards shall be subject to approval by the Planning Director.

(3) Vertical Clearance

All off-street parking spaces must have a minimum overhead clearance of seven feet.

(4) Reduction for Planter and Sidewalk Overhangs

When a parking space abuts a landscape island or planter, the front two feet of the required parking space length may overhang the planter, provided that wheel stops or curbing are provided.

(5) Spaces Near Obstructions

(a) When the side of a parking space abuts a wall, column, or other structure that is taller than six inches, the width of the parking space shall be increased by two feet on the obstructed side.

(b) The additional two-foot width may be decreased by three inches for every foot of parking space depth beyond the minimum depth required.

(c) This provision does not apply parking spaces abutting support columns in a parking garage.

(J) Off –Street Parking Alternatives

The Planning Director shall be authorized to approve an alternative parking plan that proposes alternatives to providing the number of required off-street parking spaces required by Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards, in accordance with the standards listed below. The alternative parking plan shall be submitted with an application for a Development Plan (Section 40.1-2.3(C) & (D)), Master Plan associated within an Amendment to the Zoning District Map to establish an AC district (Section 40.1-3.5(B)), or Zoning Compliance Permit (Section 40.1-2.3(F)), as appropriate. Nothing in this subsection shall limit the utilization of one or more of the following off-street parking alternatives by a single use.

(1) Provision over the Maximum Allowed

Requests to provide more than the maximum number of off-street parking spaces required by Section 40.1-5.1(E)(7), Maximum Number of Spaces Permitted, shall comply with the following:

(a) Parking Demand Study

Requests for exceeding the maximum number of required off-street parking spaces shall be accompanied by a parking demand study demonstrating how the maximum number of parking spaces specified by Section 40.1-5.1(E)(7), Maximum Number of Spaces Permitted, is insufficient for the proposed development.

(b) Minimum Amount Required

The maximum number of off-street spaces allowed shall be limited to the minimum number of additional spaces recommended as needed by the required parking demand study.

(2) Shared Parking

Requests for shared parking shall comply with all of the following standards:

(a) Location

(i) Shared parking spaces shall be located within 750 linear feet of the building served.

(ii) Shared parking spaces shall not be separated from the use they serve by an arterial or collector road unless the shared parking area or parking structure is served by an improved pedestrian crossing.

(b) Pedestrian Access

Adequate and safe pedestrian access must be provided from and to the shared parking areas.

(c) Maximum Shared Spaces

The maximum reduction in the number of parking spaces required for all uses sharing the parking area shall be 50 percent.

(d) Directional Signage

Directional signage that complies with the standards of this Ordinance shall be provided to direct the public to the shared parking spaces. It is preferable for the employees of an establishment to utilize these spaces.

(e) Shared Parking Plan

(i) Justification

Those requesting to use shared parking as a means of satisfying the off-street parking standards must submit a shared parking plan as part of an alternative parking plan that justifies the feasibility of shared parking. Justification shall include information on the size and type of the proposed development, the composition of tenants, the anticipated rate of parking turnover, and the anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces.

(ii) Recorded Agreement

A shared parking plan portion of an alternative parking plan shall be enforced through written agreement among all owners of record. An attested copy of the agreement between the owners of record must be recorded. Recordation of the agreement shall take place prior to issuance of a zoning compliance permit (see Section 40.1-2.3(F)) for any use to be served by the shared parking area. A shared parking agreement may be revoked only if all required off-street parking spaces are provided in accordance with the requirements of Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards.

(iii) Duration

A shared parking agreement shall remain in effect until one or more of the uses subject to the agreement changes.

(3) Off-Site Parking

Requests to locate required off-street parking spaces on a separate lot from the lot on which principal uses are located, shall comply with all of the following standards.

(a) Ineligible Uses

The off-site parking shall not be used to satisfy the off-street parking standards for residential uses (except for guest parking), restaurants, convenience stores or other convenience-oriented uses. In addition, required parking spaces reserved for persons with disabilities may not be located off-site.

(b) Location

No off-site parking space shall be located more than 700 feet from the primary entrance of the use served (measured along the shortest legal pedestrian route), unless a remote parking shuttle bus service is provided. Off-site parking spaces may not be separated from the use served by a street right-of-way with a width of more than 80 feet, unless a grade-separated pedestrian walkway is provided or other traffic control or a remote parking shuttle bus service is provided.

(c) Zoning Classification

The zoning district classification of the off-site parking area is the same or a more intensive zoning classification than that required for the use served. In no instance shall an off-site parking area be located within a residential district.

(d) Agreement for Off-Site Parking

(i) In the event that an off-site parking area is not under the same ownership as the principal use served, the off-site parking arrangement shall be established in a written agreement between the record owners.

(ii) An off-site parking plan portion of an alternative parking plan shall be enforced through written agreement among all owners of record. An attested copy of the agreement between the owners of record must be recorded. Recordation of the agreement shall take place prior to issuance of a Zoning Compliance Permit (see Section 40.1-2.3(F)) for any use to be served by the off-site parking area. A off-site parking agreement may be revoked only if all required off-street parking spaces are provided in accordance with the requirements of Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards.

(4) On-Street Parking

The use of on-street parking to meet a portion of the minimum off-street parking requirements shall comply with the following:

(a) Adequate on-street or structured parking exists within 500 linear feet from the primary entrance of the proposed development;

(b) The proposed development includes mixed uses, or is located in an area where residential and nonresidential uses are within 500 feet from one another;

(c) Only the on-street parking spaces directly abutting (not across the street) to the lot containing the development and served by a sidewalk shall be credited; and

(d) There is no negative impact to existing or planned traffic circulation patterns.

(5) Deferred Parking

Requests to defer the construction of up to 30 percent of the number of off-street parking spaces required in Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards, if the request complies with the following standards:

(a) Fewer Spaces Needed

The applicant demonstrates through an off-street parking study that because of the location, nature, or mix of uses, there is a reasonable probability the number of parking spaces actually needed to serve the development is less than the minimum required by Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards.

(b) Reserve Parking Plan

The request is accompanied by a reserve parking plan identifying: (a) the amount of off-street parking being deferred, and (b) the location of the area to be reserved for future parking, if future parking is needed.

(c) Parking Demand Study

Assurance is provided that an off-street parking demand study evaluating the adequacy of the existing parking spaces in meeting the off-street parking demand generated by the development will be submitted to the Planning Director within 16 months after the initial certificate of occupancy is issued for the development. If the study indicates that the existing parking is adequate, then construction of the remaining number of parking spaces shall not be required. If the study indicates a need for additional parking, it shall be provided consistent with the reserve parking plan and the standards of this section.

(d) Limitations on Reserve Areas

Areas reserved for future parking shall be brought to the finished grade and shall not be used for buildings, storage, loading, or other purposes.

(e) Landscaping Required

Areas reserved for future off-street parking shall be landscaped with an appropriate ground cover, and shall comply with all relevant city landscaping standards (see Section 40.1-5.2, Landscaping and Screening).

(6) Valet and Tandem Parking

Requests to use an off-street parking program utilizing limited tandem parking for uses listed under the commercial use classification in Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards, shall comply with the following standards:

(a) The development served provides 75 or more off-street parking spaces;

(b) No more than 30 percent of the total number of spaces is designated as tandem; and

(c) Guarantees are provided that a valet parking attendant will be on duty during hours of operation of the uses served by the valet or tandem parking.

(7) Reduction for Elderly Housing

(a) Multi-family development designated exclusively for use by elderly persons may request a reduction in the minimum amount of required parking in Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards, to an amount as low as one space for every two dwelling units.

(b) Changes in use status as a facility designated for the elderly only shall result in the need for the use to comply with the minimum requirements in Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards.

(K) Parking Reduction Incentives

(1) Transportation Demand Management

The Planning Director may approve a transportation demand management plan (TDM plan) as a means of reducing the minimum number of off-street parking spaces required for large employers (defined for purposes of this section as those with at least 500 employees) within a nonresidential or mixed-use development with a minimum overall area of 10 acres.

(a) Required TDM Plan

Approval of a TDM plan submitted in addition to a development plan or zoning compliance permit shall result in a 15 percent reduction in the minimum number of required parking standards in Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards provided the TDM Plan:

(i) Includes facts or projections (i.e., type of development, proximity to transit and/or other multi-modal systems, anticipated number of employees or patrons, and minimum parking requirements); and

(ii) Indicates the types of transportation demand management activities that will be instituted to reduce single-occupant vehicle use and reduce traffic congestion.

(b) Transportation Demand Management Activities

The TDM plan must provide a minimum of three of the following transportation demand management activities in order to qualify for a reduction in required minimum off-street parking:

(i) Establish a development-specific website that provides multi-modal transportation information such as real-time travel/traffic information, bus routes, bus schedules and maps and alternative commute log (bicycle, pedestrian, carpool, and vanpool).

(ii) Disclose in writing to all employees transportation information and educational materials.

(iii) Coordinate the formation of, but not limited to, carpooling, vanpooling, ridesharing, guaranteed ride home, teleworking, or shuttle service programs.

(iv) Create a preferential parking management plan that specifically marks spaces for each registered carpool and/or vanpool vehicle, located near building entrances or in other preferential locations.

(v) Institute off-peak work schedules, allowing employees to arrive and depart at times other than the peak morning commute period. The peak morning commute period is defined as 7:00 AM and 9:00 AM, and the peak evening commute period is defined as 5:00 PM and 7:00 PM.

(vi) Establish an office location within the development, staffed by the transportation coordinator that makes transportation and ride-sharing information available to employees, residents, and nonresidents.

(vii) Alternative transportation demand management activities may be approved by the Planning Director as a means of complying with the parking reduction incentive provisions of this subsection.

(c) Transportation Program Manager/Coordinator

(i) The applicant must appoint a program coordinator to oversee transportation demand management activities.

(ii) The program coordinator must be a qualified or trained TDM professional.

(iii) The transportation coordinator must be appointed prior to issuance of a certificate of occupancy for the buildings to be served by the transportation demand management program.

(d) TDM Annual Report

The program coordinator shall provide a report annually to the Planning Director that details the implementation strategies for the approved TDM plan. The report may include the following:

(i) A description of the transportation management activities efforts;

(ii) A list of current tenants and number of employees for each tenant;

(iii) A parking-reduction analysis based on employee or resident use of ridership programs or alternative transportation options;

(iv) Changes to the TDM plan to increase ridership; and

(v) Employee transportation survey.

(e) Recordation

(i) A copy of the approved TDM plan shall be recorded with the Clerk of the Circuit Court prior to the issuance of a building permit for the development to be served by the plan.

(ii) The TDM plan shall be recorded against the property, and the applicant and successors of interest shall be responsible for the plan in perpetuity on the property.

(f) Enforcement

In the event that:

(i) The program coordinator fails to submit a report to the Planning Director in a timely fashion not to exceed 60 days after the annual report deadline, or

(ii) The applicant no longer implements the program,

The TDM plan shall be considered terminated and the required off-street parking spaces must be provided in accordance with requirements in Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards.

(g) Amendments

An amendment to an approved TDM plan shall be approved by the Planning Director.

(2) Special Facilities for Bicycle Commuters

The Planning Director may authorize up to a five percent reduction in the number of required off-street parking spaces for development that provides both of the following:

(a) Enclosed (indoor or locker), secure bicycle parking spaces equal to at least five percent of the number of vehicle parking spaces provided; and

(b) Employee shower and dressing areas.

(3) Other Eligible Alternatives

The Planning Director may approve any other parking-reduction incentive that reduces minimum off-street parking requirements in exchange for strategies that will effectively reduce parking demand on the site of the subject development provided the alternative does not result in a modification that is greater than a ten percent modification of the off-street parking standards found in this section. Such alternatives may only be approved if the applicant demonstrates to the satisfaction of the Planning Director that the proposed plan will protect surrounding neighborhoods, maintain traffic-circulation patterns, and promote quality urban design to an extent equal to or greater than the applicable off-street parking standards.

(L) Bicycle Parking

Bicycle parking, provided in accordance with the following standards, shall be provided by development in the UR, URH, NMU, GMU, MU-H, WF, and activity center zoning districts:

(1) Parking Areas Containing Less Than 20 Off-Street Spaces

Off-street parking areas containing less than 20 off-street parking spaces shall provide at least one bicycle rack to accommodate a minimum of four bicycles.

(2) Parking Areas Containing More Than 20 Off-Street Parking Spaces

Off-street parking areas containing 20 or more parking spaces shall provide at least one bicycle rack to accommodate a minimum of four bicycles, plus room to accommodate two additional bicycles for each additional ten spaces in the parking area, up to a maximum requirement of 100 bicycles.

(3) Location

Bicycle racks shall be placed within 50 feet of the primary entrance of the building they are intended to serve.

(M) Vehicular Circulation

(1) Internal Street Connectivity

(a) Development including new streets on lots in business, special, and activity center districts shall provide for multiple connections to the existing city street network, wherever possible.

(b) Whenever cul-de-sac streets (or "knuckles") are created, at least one eight-foot-wide lighted pedestrian access way in common open space shall be provided, to the maximum extent practical, between each cul-de-sac head or street turnaround and the sidewalk system of the closest adjacent street or pedestrian sidewalk or pathway.

(2) External Street Connectivity

Except for lots within the D1 and D2 districts, proposed development shall maintain external street connectivity in accordance with the following standards:

(a) The arrangement of streets in a development shall provide for the alignment and continuation of existing or proposed streets into adjoining lands in those cases in which the adjoining lands are undeveloped and intended for future development or in which the adjoining lands are developed and include opportunities for such connections. Traffic-calming measures, such as but not limited to diverters, street gardens (subject to an executed best management practice agreement and approval by the City Engineer), and curvilinear alignments, shall be integrated into the development to mitigate the impact of potential future cut-through traffic.

(b) Street rights-of-way shall be extended to or along adjoining property boundaries such that a roadway connection or street stub shall be provided for development at least every 800 feet for each direction (north, south, east, and west) in which development abuts vacant lands, to the maximum extent practical. Such street stubs shall not be required to abut adjacent development lacking existing or planned street connections, floodplains, or other unique site conditions preventing a street connection (see Figure 40.1-5.1(M)(2), External Street Connectivity).

Figure 40.1-5.1(M)(2): External Street Connectivity
New streets should connect with existing streets, and new street stubs help establish future connections.

(c) Shared commercial/residential connections with arterials shall be primarily oriented towards commercial centers.

(3) Stacking Spaces for Drive-through and Related Uses

In addition to meeting the off-street parking standards in Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards, uses with drive-through facilities and other auto-oriented uses where vehicles queue up to access a service facility shall provide the minimum number of stacking/standing spaces established in Table 40.1-5.1(M)(3), Required Stacking/Standing Spaces.

TABLE 40.1-5.1(M)(3): REQUIRED STACKING/STANDING SPACES

Use or Activity [1]	Minimum Number of Stacking/Standing Spaces	Measured From [2]
Automated teller machine	3	Teller machine
Automobile repair and service (all types)	2 per bay	Bay entrance
Bank Teller	3	Teller window
Car wash, automatic	2	Bay entrance
Car wash, self-service	1 per bay	Bay entrance
Day care center, child	1/every 10 children	Main building entrance
Drug store or pharmacy, with drive-through service	4 per lane	Agent window
Dry cleaner, with drive-through service	4 per lane	Window
Nursing home	3	Main building entrance
Personal services with drive-through (e.g., laundry/dry-cleaning establishment)	4 per lane	Agent window
Restaurant, with drive-through service	5	Pick-up window
Other	Uses not specifically listed are determined by the Planning Director based on standards for comparable uses, or alternatively based on a parking demand study.	

NOTES:
[1] See Table 40.1-4.1(A): Use Table
[2] Distance measured from window where products are delivered, when more than one window is present.

(4) Stacking Lanes for Parking Lot Entrances

Except in the UR-H, NMU, and NAC districts, nonresidential uses shall provide stacking lanes between the edge of the street right-of-way and entrances into off-street parking areas in accordance with the minimum stacking lane distance established in Table 40.1-5.1(M)(4), Stacking Lanes for Parking Lots:

TABLE 40.1-5.1(M)(4): STACKING LANES FOR PARKING LOTS

Number of Off-Street Parking Spaces [1]	Minimum Stacking Lane Distance (feet) [2]
1-49	25
50-249	40
250 or more	100

TABLE 40.1-5.1(M)(4): STACKING LANES FOR PARKING LOTS	
NUMBER OF OFF-STREET PARKING SPACES [1]	**MINIMUM STACKING LANE DISTANCE (FEET) [2]**
NOTES: [1] Entrances into parking structures may be credited towards the stacking lane distance requirement provided the parking structure entrance is accessed from a development driveway and not a primary drive aisle. [2] Stacking lane distance is measured from the edge of the driveway apron adjacent to the street right-of-way along the centerline of the stacking lane to its intersection with the centerline of the primary drive aisle through the parking area.	

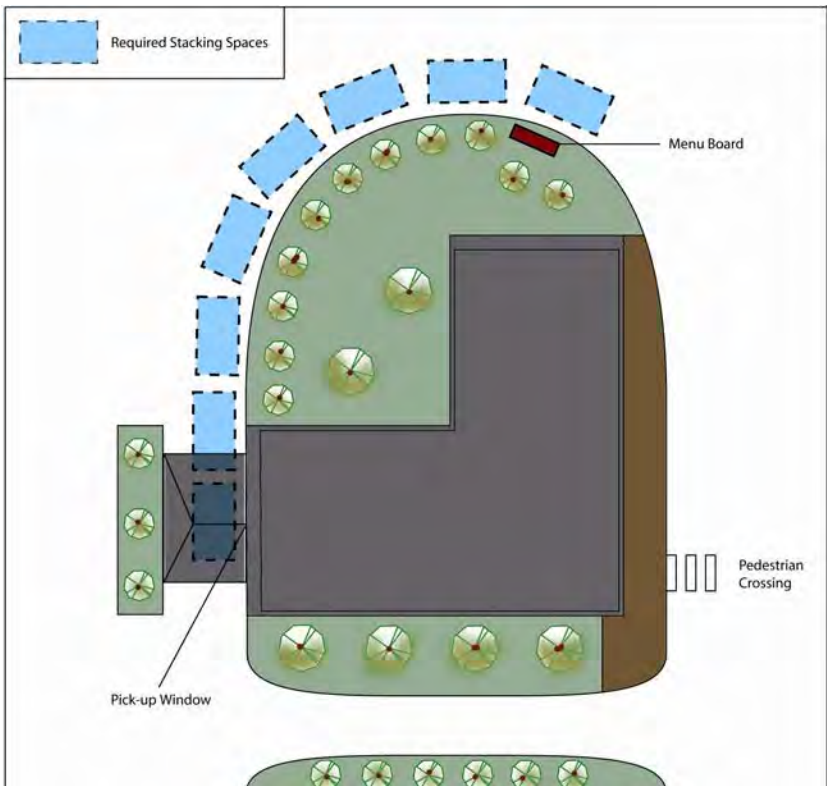


Figure 40.1-5.1(M)(3): Stacking Spaces
Stacking spaces should be configured to maintain safe pedestrian access and be located away from off-site views, where possible.

(5) Design and Layout

Required stacking spaces are subject to the following design and layout standards.

(a) Size

Stacking spaces shall be a minimum of eight feet by 20 feet in size.

(b) Location

Stacking spaces shall not impede onsite or offsite traffic movements or movements into or out of off-street parking spaces.

(c) Design

Stacking spaces shall be separated from other internal driveways by raised medians if deemed necessary by the Planning Director for traffic movement and safety.

(6) Medians in Driveway Entrances

Medians may be provided within driveway entrances provided:

(a) The median is surrounded by valley or "roll" curbing;

(b) No signage is included within sight triangles;

(c) Planted material within the median is limited to understory trees, shrubs, and ground cover; and

(d) The minimum aisle width is maintained for each travel and turning lane.

(7) Primary Drive Aisles

Primary drive aisles within off-street surface parking lots with 400 or more spaces shall 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 facades of structures being served by the drive, and shall meet the following standards:

(a) Primary drive aisles shall have a maximum cross section of 38 feet from face-of-curb to face of-curb to serve two travel lanes and accommodate parallel parking spaces along both sides of the drive aisle in areas not needed for turning movements, unless additional travel/turn lanes are required by a TIS and/or a median is proposed, all as approved by the City Engineer;

(b) Primary drive aisles shall be striped to designate parallel parking spaces, where appropriate;

(c) Sidewalks meeting or exceeding the city's construction standards shall be provided adjacent to the building's front facade; and

(d) Street trees shall be provided along both sides of the primary drive aisle every 50 feet, although understory trees may be used adjacent to the building façade within 40 feet of building entrances.

(N) Pedestrian Circulation

New development shall address pedestrian circulation in accordance with the following pedestrian circulation standards:

(1) Sidewalks Required

Minimum five-foot sidewalks shall be installed along all street frontages of all new development (including loop streets, cul-de-sacs, and private streets, but excluding alleys) unless it is determined by the Planning Director that the Master Transportation Plan (MTP) recommends sidewalks of a greater width (e.g., six to eight feet), and sidewalks of such larger widths are compatible with the on-site development and the development context on adjacent lots. The requirement for sidewalks on both sides of a street shall not apply where it would result in adverse impacts on natural features, or potential soil erosion and drainage problems.

(2) Onsite Pedestrian Connections

(a) All commercial, mixed-use, and multi-family development shall provide a network of onsite pedestrian walkways with a minimum width of five feet to and between the following areas:

(i) Entrances to each building on the site, including outparcel buildings;

(ii) Public sidewalks or walkways on adjacent properties and along public rights-of-way that extend to the boundaries shared with the subject development;

(iii) Adjacent public transit station areas, transit stops, or other transit facilities; and

(iv) Adjacent parks, trails, schools, and recreation centers.

(b) Pedestrian walkways and crosswalks shall be identified to motorists and pedestrians through the use of one or more of the following methods:

(i) Changing paving material, patterns, or paving color;

(ii) Changing paving height;

(iii) Decorative bollards;

(iv) Painted crosswalks;

(v) Raised median walkways with landscaped buffers; or

(vi) Stamped asphalt.

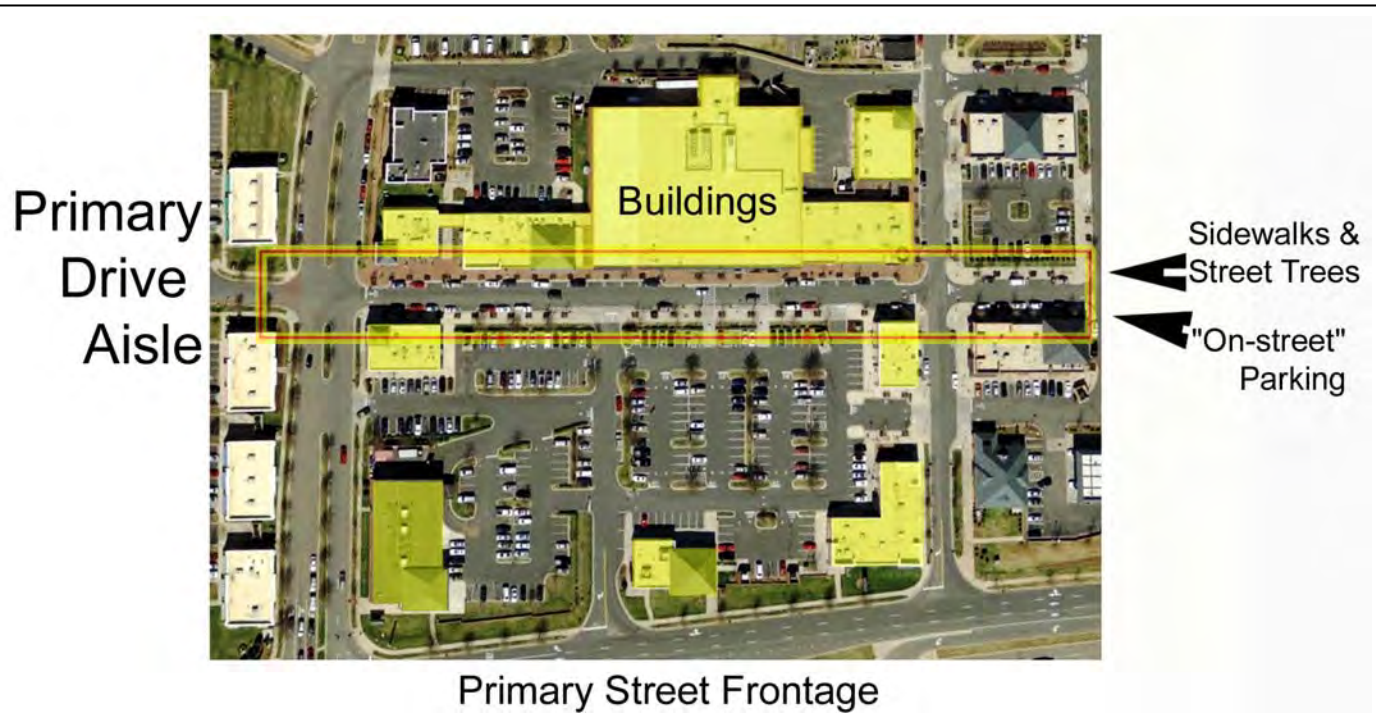


Figure 40.1-5.1(M)(7): Primary Drive Aisle
Primary drive aisles can be configured to appear as extensions of the city street network to promote greater pedestrian orientation and sustainability.

(c) Pedestrian circulation routes shall be emphasized with special design features that establish them as areas where pedestrians are physically separated from the flow of vehicular traffic and/or are protected from the elements. Techniques shall include one or more of the following:

(i) Arcades, porticos, or other shade structures;

(ii) Pedestrian light features;

(iii) Curbs or curbing;

(iv) Bollards;

(v) Seat walls or benches;

(vi) Drinking water fountains; or

(vii) Landscape planters.

(d) Sites larger than two acres shall be divided into smaller units through the use of pedestrian walkways, private drives, and other vehicular circulation routes. Breaking up such sites need not require any subdivision of the site or creation of a separate legal description(s).

(e) To the extent practical, drainage facilities should be similarly designed with pedestrian amenities on the same sites.

(3) Standards for Pedestrian Improvements

(a) General Pedestrian Walkway Standards

Required pedestrian walkways shall:

(i) Be at least five feet in width;

(ii) Be distinguishable from traffic lanes by painted markings, pavement material, texture, or raised in elevation (striped asphalt does not count);

(iii) Have adequate lighting for security and safety;

(iv) Be centrally located on the subject property;

(v) Be ADA accessible; and

(vi) Not include barriers that limit pedestrian access between the subject property and adjacent properties.

(b) Pedestrian Walkways Through Parking Areas and Parking Garage Standards

(i) Pedestrian walkways and separate pedestrian entrances shall be provided through parking garages from the parking area to the abutting public right-of-way or to the primary entrance of the building served by the parking.

(ii) Pedestrian walkways may not use vehicle entrance or exit driveways from the parking area to a public right-of-way.

(iii) Pedestrian walkways shall connect parking spaces to the primary entrance of the building served by the parking or to a sidewalk with direct access to the primary building entrance.

(c) Pedestrian Access through Parking Areas

All parking lots that contain more than 50 parking spaces shall include clearly identified pedestrian routes from the parking stalls to the primary building entrance or to a sidewalk providing direct access to the primary building entrance. At a minimum, walkways must be provided for every three driving aisles or at a distance of not more than 150-foot intervals, whichever is less.

(O) Driveway Standards

(1) Any required parking area shall have direct access to a public or private street via a driveway.

(2) Unless otherwise approved by the City Engineer, no driveway shall exceed 50 feet in width at the curbline or more than 35 feet at the front lot line.

(3) One-way driveways shall have a minimum width of 15 feet, and two-way driveways shall be at least 24 feet wide.

(4) Driveway aprons, constructed of 3,000 psi concrete a minimum of seven inches thick, shall be provided between the curbline and the front lot line.

(5) No driveway shall be located within 15 feet of a corner side lot line, 10 feet of a side lot line, or closer than five feet from the end of a curb radius.

(6) Lots with two or more driveways along the same street frontage shall provide at least 75 feet between driveways.

(7) In no instance shall the number of driveways serving a single lot along a single street frontage exceed a maximum of four.

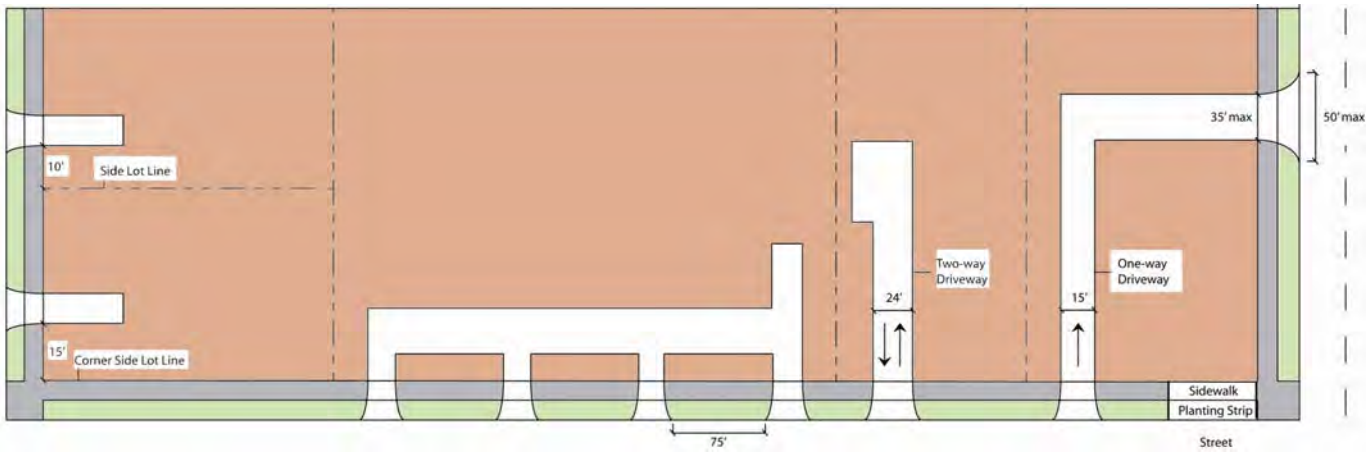


Figure 40.1-5.1(O)(1): Driveway Standards
Driveways should be separated from one another and major intersections to maintain street capacity.

(P) Loading Space Standards

(1) Number of Required Off-street Loading Berths

The following uses shall provide on-site loading areas or berths in accordance with the requirements in Table 40.1-5.1(P)(1), Required Off-Street Loading Berths.

TABLE 40.1-5.1(P)(1): REQUIRED OFF-STREET LOADING BERTHS [1]		
USE OR ACTIVITY [2]	**GROSS FLOOR AREA (GFA)**	**MINIMUM NUMBER OF LOADING BERTHS**
Offices and personal service establishments in multi-story buildings [2]	7,500 sf or more	1
All other commercial or industrial use types [1]	7,500 sf – 47,500 sf	1
	47,501 sf or more	2 + 1 per every additional 20,000 sf of GFA
NOTES: [1] Residential floor area within a mixed–use development is not included within the GFA. [2] Single-story buildings may utilize temporary loading spaces, 25 percent of which may be located within travel aisles.		

(2) Standards

(a) Minimum Dimensions

Each loading space required by this subsection shall be at least 12 feet wide by 30 feet long (or deep), with at least 15 feet of overhead clearance. Each off-street loading space shall have adequate, unobstructed means for the ingress and egress of vehicles.

(b) Location

Where possible, loading areas shall be located to the rear of the use they serve. In addition, the loading area shall be located adjacent to the buildings loading doors, in an area that promotes their practical use.

(c) Delineation of Loading Spaces

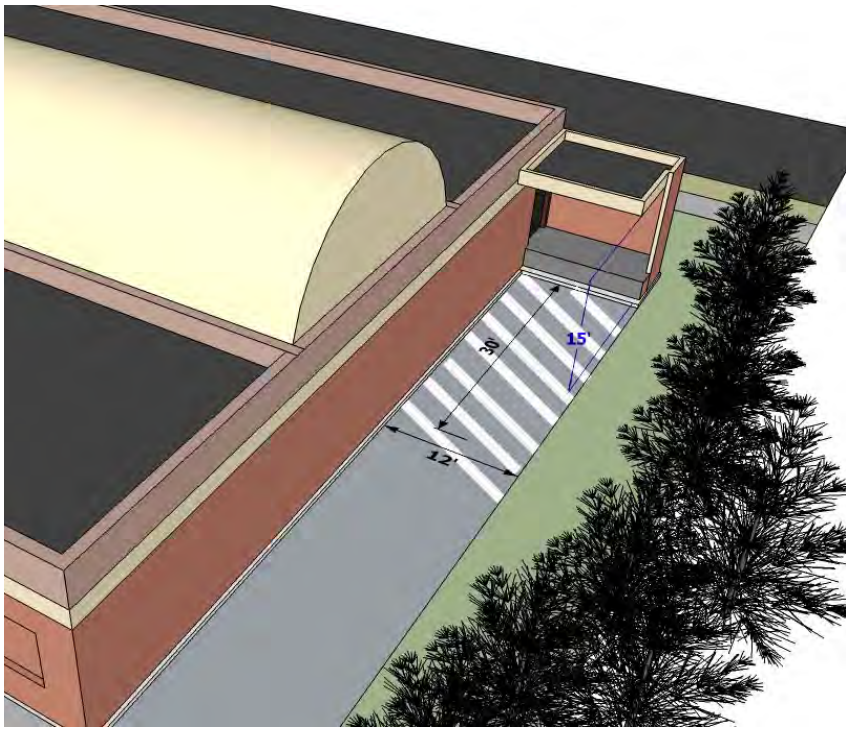


Figure 40.1-5.1(P)(1): Loading Zone
Loading zones shall be striped and located to the side or rear of buildings.

All loading spaces shall be delineated by signage and striping and labeling of the pavement.

(d) Access to a Street

Every loading area shall be provided with safe and convenient access to a street, but in no case shall the loading space extend into the required aisle of the parking lot. Off-street loading spaces shall be configured to avoid the need for vehicles to back up within the street right-of-way, to the maximum extent practicable.

(e) Single-Story Buildings

Single-story office and personal services uses in buildings of 47,500 square feet or less are not required to provide dedicated loading zones, and may be served by temporary loading facilities that may project into vehicle drive aisles by up to 25 percent of the loading zone.

(f) Paving

The ground surface of loading areas shall be paved with a durable, dust free, and hard material, such as surface and seal treatment, bituminous hot mix, Portland cement, concrete, or some comparable material. Such paving shall be maintained for safe and convenient use at all times.

(g) Landscaping

Loading areas shall be landscaped in accordance with Section 40.1-5.2(D), Vehicular Use Area Landscaping.

(h) Exterior Lighting

Exterior lighting for loading areas shall comply with the standards in Section 40.1-5.9, Exterior Lighting.

40.1-5.2 LANDSCAPING AND SCREENING

(A) Section Organization

These landscaping standards are organized into eight main sub-sections:

(1) Section 40.1-5.2(B), Purpose and Intent, sets out the purpose and intent for the standards;

(2) Section 40.1-5.2(C), General Requirements for Landscaping, includes the applicability provisions, requirements for landscaping plans, and standards for new plantings;

(3) Section 40.1-5.2(D), Vehicular Use Area Landscaping, includes the standards for landscaping around the perimeter and within vehicular use areas;

(4) Section 40.1-5.2(E), Perimeter Buffers, includes the landscaping buffer standards applied to the edges of some base zoning districts;

(5) Section 40.1-5.2(F), Screening, includes the screening requirements for site features like refuse, loading, and service areas;

(6) Section 40.1-5.2(G), Site Landscaping, includes the standards for foundation plantings around some buildings;

(7) Section 40.1-5.2(H), Alternative Landscaping Plan, includes the procedures and standards for review of alternative landscaping plans; and

(8) Section 40.1-5.2(I), Other Landscaping Standards, includes the other standards for landscaping installation, timing, maintenance, monitoring for compliance, and incentives.

(B) Purpose and Intent

It is the purpose of this section to promote and protect the public health, safety and general welfare by providing for the planting, maintenance, and preservation of trees, shrubs, and other plants within the city. The intent of this section is to promote this purpose by:

(1) Ensuring and encouraging the planting, maintenance, restoration and survival of trees, shrubs, and groundcover;

(2) Ensuring the protection of community residents and visitors from personal injury and property damage, and the protection of the city from property damage, caused or threatened by the improper planting, maintenance or removal of trees, shrubs, or other plants;

(3) Mitigating against erosion and sedimentation;

(4) Reducing stormwater runoff and the costs associated therewith;

(5) Preserving and protecting the water table and surface waters;

(6) Reducing audible noise from automobiles and land uses;

(7) Restoring soils and land denuded as a result of construction or grading;

(8) Increasing the tree canopy to provide shade and moderate the effect of urban heat islands;

(9) Limiting glare created by exterior lighting;

(10) Reducing visual pollution from the urban environment and increasing privacy between incompatible uses;

(11) Protecting and enhancing property values and aesthetic qualities;

(12) Helping to differentiate streets and other areas of the public realm from private lands;

(13) Providing additional improvements to air quality through the carbon dioxide uptake process provided by trees and landscaping; and

(14) Providing visual screening, where appropriate.

(C) General Requirements for Landscaping

(1) Applicability of Landscaping Standards

(a) General

Except where exempted by Section 40.1-5.2(C)(1)(c), Exemptions, these standards shall apply to all development in the city.

(b) Review for Compliance

Review for compliance with the standards of this section shall occur during review of an Development Plan (Section 40.1-2.3 (C) & (D)), Preliminary Subdivision Plat (Chapter 33.1 of the City Code), Master Plan associated with an Amendment to the Zoning Map to establish a new AC district (Section 40.1-3.5(B)), or Zoning Compliance Permit (Section 40.1-2.3(F)), as appropriate.

(c) Exemptions

Development in the D1 and D2 districts shall be exempt from the standards of this section.

(d) Landscape Plan

(i) To ensure compliance with the standards of this section, a landscape plan demonstrating how landscaping will be planted on a development site shall be included as a part of any application an Development Plan (Section 40.1-2.3(C) & (D)), Preliminary Subdivision Plat (Chapter 33.1 of the City Code), Master Plan associated with an Amendment to the Zoning Map to establish a new AC district (Section 40.1-3.5(B)), or Zoning Compliance Permit (Section 40.1-2.3(F)), as appropriate.

(ii) New developments not required to provide landscaping (e.g., new single-family detached residential development adjacent to existing single-family detached residential development) are exempt from the requirement to provide a landscape plan.

(2) Planting Standards

Plantings provided in accordance with this section shall comply with the following standards:

(a) Deciduous and evergreen canopy or shade trees shall be a minimum of two inches in caliper at the time of planting, as determined in the American Standard for Nursery Stock, ANSI Z60.1-2004, as amended, and shall be a minimum of eight feet in height above ground level at the time of planting.

(b) Understory, small maturing, or ornamental trees shall have a caliper of one-and-one-half inches at time of planting, as determined in the American Standard for

Nursery Stock, ANSI Z60.1-2004, as amended, and shall be a minimum of six feet in height above ground level at the time of planting.

(c) Deciduous or evergreen shrubs shall be upright in nature and be a minimum of 24 inches in height at the time of planting.

(d) In cases where an aggregate caliper inch (ACI) requirement is utilized to derive a required amount of vegetation, and the ACI figure includes a fraction, an applicant may:

(i) Utilize a tree or trees with a caliper inch measurement exceeding the minimum size at time of planting standard of this subsection in order to meet the required ACI; or

(ii) Round the ACI figure upwards until the figure corresponds with a whole number of trees meeting the minimum size at time of planting standard.

When trees exceeding the minimum size at time of planting standard are proposed, the minimum calipers of such trees shall be clearly noted on the Master Plan, Development Plan, or Preliminary Subdivision Plat, as appropriate.

(e) In cases where application of the requirements in this subsection result in a fraction in the number of shrubs to be provided, the minimum number of shrubs or trees to be provided shall be rounded upwards to the next highest whole number.

(f) All landscape plant materials shall conform to the latest version of the American Standard of Nursery Stock (ANSI Z60.1, as amended). Plant material shall be of standard quality or better, true to name and type of species or variety.

(g) The use of native, drought tolerant vegetation is encouraged to reduce dependency upon irrigation.

(h) To curtail the spread of disease or insect infestation in a plant species, new tree plantings shall comply with the following standards:

(i) When fewer than 20 trees are required on a site, at least two different species shall be utilized, in roughly equal proportions.

(ii) When more than 20 but fewer than 40 trees are required to be planted on site, at least three different species shall be utilized, in roughly equal proportions.

(iii) When 40 or more trees are required on a site, at least four different species shall be utilized, in roughly equal proportions.

(iv) Nothing in this subsection shall be construed so as to prevent the utilization of a larger number of different species than specified above.

(i) All planting materials shall correspond to the city's approved plant materials, unless alternative materials are proposed as part of an alternative landscape plan (See Section 40.1-5.2(H), Alternative Landscape Plan).

(3) Existing Vegetation

Existing healthy, well-formed canopy and understory trees as well as healthy shrubs shall be credited toward the requirements of this section, provided the vegetation meets the minimum size standards of this Ordinance, and is protected before and during development of the site in accordance with Section 40.1-5.3(B), Tree Protection During Construction, and maintained thereafter in a healthy growing condition.

(4) Stabilization

All required landscape planting areas shall be stabilized and maintained with lawn, ground covers, mulches, or other approved materials to prevent soil erosion and allow rainwater infiltration.

(5) Berms

All berms shall comply with the following design standards:

(a) The slope of all berms shall not exceed a two-to-one (2:1) ratio (horizontal to vertical), shall have a top width at least one-half the berm height, and a maximum height of four feet above the toe of the berm.

(b) All berms, regardless of size, shall be stabilized with a ground cover or other suitable vegetation.

(c) Berms proposed to be placed along street right-of-way shall be designed and constructed to provide adequate sight distances at intersections and shall not impair safe operation of vehicles.

(d) Berms shall in no case damage the roots or trunks of existing healthy vegetation designated to be preserved.

(6) Easements

Nothing except groundcover shall be planted or installed within any underground or overhead utility, drainage, gas easement, or within five feet of a fire protection system without the consent of the utility provider, easement holder, or the city, as appropriate.

(D) Vehicular Use Area Landscaping

Except where exempted by Section 40.1-5.2(D)(1), Exemptions, all vehicular use areas shall include landscaping both within the interior of the vehicular use area and around its perimeter, as a means of mitigating the parking area's microclimate and visual impacts.

(1) Exemptions

The following uses shall be exempt from the requirements to provide vehicular use area landscaping:

(a) Single-family detached residential development;

(b) Two- to four-family dwellings; and

(c) Off-street surface vehicular use areas with four or fewer spaces.

(2) Interior Landscaping Standards

All vehicular use areas shall provide and maintain landscaped planting areas within the interior of the vehicular use area in accordance with the standards in this subsection. These standards shall not apply to parking structures or vehicle display areas.

(a) Configuration

Interior planting areas shall be designed in accordance with the following standards:

(i) Islands shall be located at the end of parking bays and have a minimum size of 153 square feet for single loaded parking bays, and a minimum size of 306 square feet for double loaded bays.

(ii) Off-street surface parking areas with 100 or more spaces shall be organized into a series of modules of 15,000 square feet or less per module, and be

visually separated by eleven-foot-wide continuous landscaped islands containing pedestrian pathways located at least every six parking bays (see Figure 40.1-5.1(D)(2): Interior Planting Configuration).

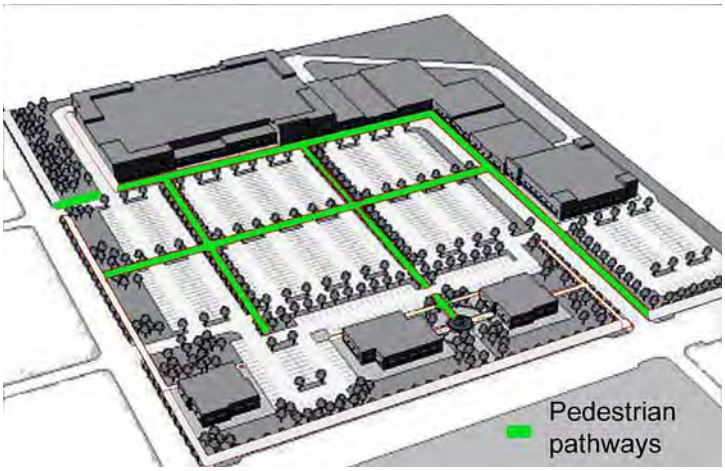


Figure 40.1-5.2(D)(2): Interior Planting Configuration
Parking areas with 100+ spaces should be broken up by pedestrian pathways for safety and livability.

(iii) No single row of parking spaces shall exceed 12 spaces without including an island.

(iv) Landscaped planting areas shall be distributed throughout the parking area for the purpose of heat abatement.

(v) Driveway and primary drive aisle medians shall have a minimum width of four feet for medians with shrubs and six feet for medians with shrubs and understory trees.

(vi) Each interior planting island shall contain at least one canopy or understory tree per every 153 square feet, or portion thereof, of the total landscape island area.

(vii) Shrubs shall be planted within landscaping islands at a minimum rate necessary to ensure that at least 25 percent of the total land area occupied by landscaping islands is planted with shrubs.

(b) Screened Backfill

Soil utilized in vehicular use area islands, driveway medians, and other areas internal to a vehicular use area shall be screened prior to deposition in planting areas.

(c) Protection of Planting Areas

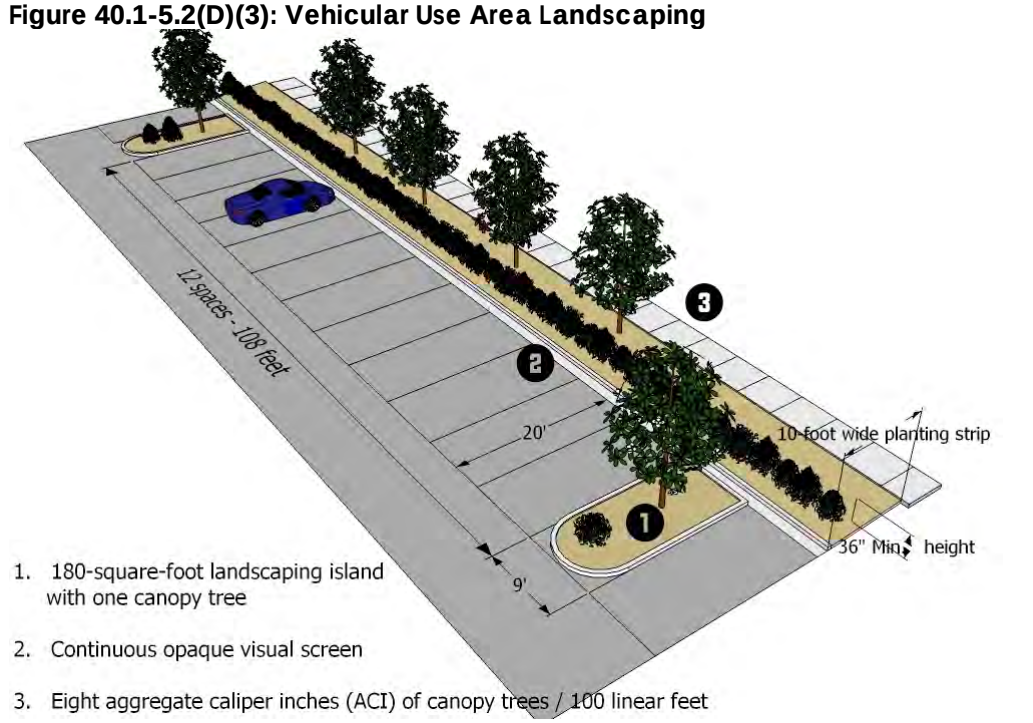
All planting areas shall be protected from vehicle damage by the installation of curbing, wheel stops, or other comparable methods. This standard shall not prohibit the use of planting areas as on-site stormwater management devices.

(3) Perimeter Landscaping Standards

Where a vehicular use area serving a use subject to these standards abuts a street right-of-way, vacant land, or any other development (except another vehicular use area), perimeter landscaping strips shall be provided and maintained between the vehicle use area and the abutting right-of-way or property line in accordance with the following standards.

(a) Location

Figure 40.1-5.2(D)(3): Vehicular Use Area Landscaping



(i) Perimeter landscaping strips shall be located on the same land where the vehicular use area is located, and shall be placed to assure visibility and safety of pedestrians on the public street, as well as those within the vehicular use area.

(ii) Perimeter landscaping strips may not be placed within future street rights-of-way as identified in the Master Transportation Plan.

(b) Minimum Width

When a vehicular use area is located within 50 feet of a street right-of-way, the perimeter landscaping shall be located within a planting strip at least ten feet wide. In all other instances, the strip shall be the minimum width necessary to assure required landscaping is not damaged by vehicles or other on-site activity. In no instance shall the strip be less than three feet wide.

(c) Continuous, Opaque Visual Screen Required

Perimeter landscaping for vehicular use areas shall form a continuous, opaque visual screen, excluding required sight clearances at driveways. The perimeter landscaping strip shall meet all city, state, and federal highway sight distance standards.

(d) Protection of Landscaping Strip

The perimeter landscaping strip shall be protected from vehicular damage by the installation of curbing, wheel stops, extra width in the landscaping strip, or other method approved by the Planning Director. Nothing in this subsection shall prevent the configuration of vehicular use area landscaping as a stormwater management device.

(e) Required Materials

(i) In cases where the visual screen is comprised of vegetation, evergreen shrubs shall be used to form the continuous, opaque visual screen in the perimeter landscaping strip.

(ii) A decorative fence or wall with a minimum transparency of 50 percent or more may be substituted for the evergreen shrubs (see Figure 40.1-5.1(D)(2): Alternative Perimeter Screening). In no instance shall chain link fencing qualify as decorative fencing for the purpose of providing vehicular use area landscaping.

(iii) In addition to the evergreen shrub requirements, each perimeter landscaping strip shall include at least eight aggregate caliper inches (ACI) of canopy trees per 100 linear feet of landscaping strip. Understory trees may be used beneath overhead utilities.

(f) Minimum Height

(i) Shrubs associated with the perimeter landscaping shall be maintained at a minimum height of at least three feet above the surface elevation of the adjacent vehicular use area pavement within four years of planting.

(ii) Fences or walls used in-lieu of shrubs shall maintain a height of 48 inches above the adjacent grade.

(g) Adjacent to Perimeter Buffers

Perimeter landscape strips associated with a vehicle use area may be credited towards perimeter buffer standards (See Section 40.1-5.2(E), Perimeter Buffers), provided the minimum buffer standards of this section are met.

(h) Adjacent to Off-Street Surface Parking on Other Lots

Where two or more off-street surface vehicular use areas are located adjacent to one another, but upon different lots, no perimeter landscaping strip shall be required between the two vehicular use areas.

(4) Incentives

The total aggregate caliper inch requirements for canopy and understory trees in this subsection may be reduced by five percent when:

(a) At least 65 percent of the provided parking is located to the side or rear of the building;

(b) At least 30 percent of the total required parking is subject to a shared parking agreement (See Section 40.1-5.1(J)(2), Shared Parking; and

(c) When pervious parking surfacing is used for 20 percent or more of the total vehicular use area.

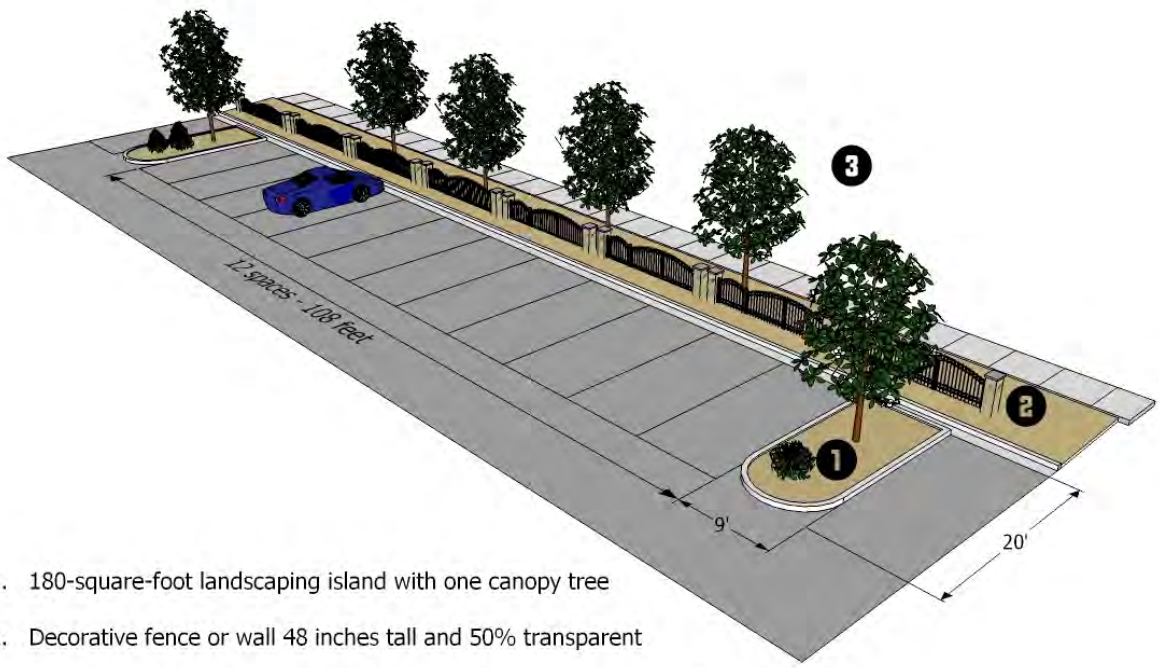
Nothing shall prohibit the combination of these incentives or the resulting cumulative reduction in the amount of required tree ACI.

(E) Perimeter Buffers

(1) Purpose and Intent

Perimeter landscape buffers are intended to mitigate potential negative effects of different contiguous uses.

Figure 40.1-5.2(D)(4): Alternative Perimeter Screening Configuration



1. 180-square-foot landscaping island with one canopy tree
2. Decorative fence or wall 48 inches tall and 50% transparent
3. Eight aggregate caliper inches (ACI) of canopy trees / 100 linear feet

(2) Applicability

Except for single-family detached residential uses and uses in the D1 and D2 districts, all development shall provide a perimeter landscape buffer to separate it from uses in a different use classification in accordance with Table 40.1-5.2(E)(3), Buffer Types, and Table 40.1-5.2(E)(4), Buffer Type Application.

(3) Types of Buffers

Table 40.1-5.2(E)(3), Buffer Types, describes four different buffering types in terms of their function, opacity, width, and planting requirements. Where a particular buffer type is required in Table 40.1-5.2(E)(4), Buffer Type Application, the requirement may be met with the combination of minimum buffer width and minimum screening requirements specified under either Option 1 or Option 2. Where an option utilizing a fence or wall is selected, the fence or wall shall comply with the standards of Section 40.1-5.10, Fences and Walls.

TABLE 40.1-5.2(E)(3): BUFFER TYPES		
BUFFER TYPE AND CONFIGURATION **ACI = AGGREGATE CALIPER INCHES**	**MINIMUM PERIMETER BUFFER [1] [2] [3]**	
	OPTION 1: MINIMUM WIDTH 20 FEET	**OPTION 2: MINIMUM WIDTH 10 FEET [4]**
TYPE A - BASIC		
This perimeter buffer functions as basic edge demarcating individual properties with a slight visual obstruction from the ground to a height of ten feet.		
	2 ACI of canopy trees + 10 ACI of understory trees + 15 shrubs per 100 linear feet	
TYPE B - AESTHETIC		
This perimeter buffer functions as an intermittent visual obstruction from the ground to a height of at least 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 + 35 shrubs per 100 linear feet

TABLE 40.1-5.2(E)(3): BUFFER TYPES

BUFFER TYPE AND CONFIGURATION ACI = AGGREGATE CALIPER INCHES	MINIMUM PERIMETER BUFFER [1] [2] [3]	
	OPTION 1: MINIMUM WIDTH 20 FEET	OPTION 2: MINIMUM WIDTH 10 FEET [4]
TYPE C - SEMI-OPAQUE		
This perimeter buffer functions as a semi-opaque screen from the ground to at least a height of six feet.		
	12 ACI of canopy trees + 14 ACI of understory trees + 25 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		
This perimeter 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 impression of total separation.		
	18 ACI of canopy trees + 20 ACI of understory trees + 55 shrubs per 100 linear feet	One 6-foot-high solid fence + 12 ACI of canopy trees per 100 linear feet
NOTES:		

TABLE 40.1-5.2(E)(3): BUFFER TYPES

BUFFER TYPE AND CONFIGURATION ACI = AGGREGATE CALIPER INCHES	MINIMUM PERIMETER BUFFER [1] [2] [3]	
	OPTION 1: MINIMUM WIDTH 20 FEET	OPTION 2: MINIMUM WIDTH 10 FEET [4]

[1] Any required perimeter buffer width can be reduced to five feet with the provision of a solid masonry wall at least five feet in height, along with ten large shrubs per every 100 linear feet.
[2] Perimeter buffer widths (but not vegetation amounts) may be reduced in accordance with Section 40.1-2.3(H), Administrative Adjustment.
[3] In cases where an adjacent use is designed for solar access, understory trees can be substituted for canopy trees.
[4] Fences and walls shall comply with the standards in Section 40.1-5.10, Fences and Walls.

(4) Buffer Type Application

Table 40.1-5.2(E)(4), Buffer Type Application, specifies the type of perimeter landscape buffer that new development shall provide between it and adjacent property, based on the zoning district of the development site and that of the adjacent property. The buffer type is indicated by a letter corresponding to one of the four buffer types depicted in Table 40.1-5.2(E)(3), Buffer Types.

TABLE 40.1-5.2(E)(4): BUFFER TYPE APPLICATION [1]
A = TYPE A BUFFER B = TYPE B BUFFER C = TYPE C BUFFER D = TYPE D BUFFER
N/A = NOT APPLICABLE (NO BUFFER REQUIRED)

PROPOSED USE TYPE [2] [3]	EXISTING USE TYPE ON ABUTTING LAND				
	SINGLE-FAMILY RESIDENTIAL	ALL OTHER RESIDENTIAL	MIXED-USE & PUBLIC/ INSTITUTIONAL	COMMERCIAL	INDUSTRIAL
Single-Family Residential	N/A	N/A	N/A	N/A	N/A
All other Residential	A	N/A	N/A	N/A	N/A
Mixed-Use and Public/Institutional	B	A	N/A	N/A	N/A
Commercial	C	B	A	N/A	N/A
Industrial	D	D	D	C	N/A

NOTES:
[1] Letters in cells correspond to the buffer types depicted in Table 40.1-5.2(E)(3), Buffer Types.
[2] Development in AC districts is subject to perimeter buffer requirements in the AC district standards. In cases where development is proposed next to an existing PD district having no perimeter buffer, the proposed development shall provide a perimeter buffer that is consistent with the type of buffer required if the adjacent use was in a differing base district appropriate for the type of use.
[3] Multi-family, townhouse, multi-building campus, or shopping center developments shall provide buffers around the perimeter of the development instead of around individual buildings.

(5) Location of Buffers

(a) Perimeter buffers required by this section shall be located only along the outer perimeter of the parcel where it abuts another parcel, and shall extend to the parcel boundary line or right-of-way line.

(b) Perimeter buffers are not required along lot lines abutting streets, except as needed to screen outdoor industrial operations or storage on lots in an industrial district. Industrial uses with outdoor operations or storage components shall include perimeter buffers as necessary to screen outdoor use areas from off-site views.

(c) A perimeter buffer may be located along shared access easements between parcels in nonresidential developments.

(6) Responsibility for Buffer Installation

Where a developing parcel is adjacent to an existing use and a perimeter buffer is required in accordance with this section, the developing parcel shall provide the full perimeter buffer required adjacent to the existing use in accordance with Table 40.1-5.2(E)(3) Buffer Types, and Table 40.1-5.2(E)(4), Buffer Type Application, unless a portion or all of a perimeter buffer that complies with the standards of this section already exists between the lots. Where all or part of a perimeter buffer exists, but the buffer does not fully comply with the standards of this section, the developing parcel shall be responsible for providing all the additional planting material necessary to meet the standards of this section.

(7) Development within Required Buffers

(a) The required buffer shall not contain any development, impervious surfaces, or site features (except fences or walls) that do not function to meet the standards of this section or that require removal of existing vegetation, unless otherwise permitted in this Ordinance.

(b) Sidewalks, trails, and other elements associated with passive recreation may be placed in perimeter buffers if all required landscaping is provided and damage to existing vegetation is minimized to the maximum extent practicable.

(c) Overhead and underground utilities required or allowed by the city are permitted to cross a required buffer in a perpendicular fashion, but shall minimize the impact to vegetation to the maximum extent practicable. Where required landscaping material is damaged or removed due to utility activity within a required buffer, the landowner shall be responsible for replanting all damaged or removed vegetation necessary to ensure the buffer meets the standards in this Ordinance.

(8) Sight Triangles

No fencing, berms, walls, or other landscaping features may exceed 30 inches above grade within required sight triangles for streets, alleys, or driveways.

(9) Credit for Existing Vegetation

Existing vegetation meeting the size standards of Section 40.1-5.2(C)(2), Planting Standards, located within the perimeter buffer area may be preserved and credited toward the perimeter buffer standards.

(F) Screening

(1) General Requirements

In addition to the other forms of required landscaping, screening shall be required to conceal specific areas of high visual or auditory impact or hazardous areas from off-site views. Such areas shall be screened at all times, unless otherwise specified, regardless of adjacent uses, districts, or other proximate landscaping material.

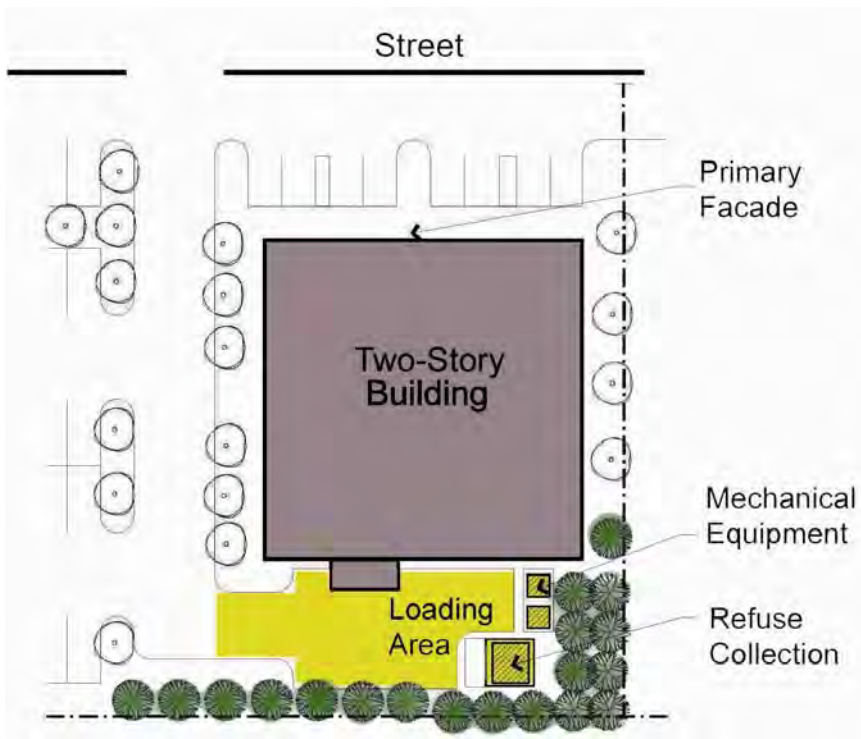


Figure 40.1-5.2(F): Screening Methods
Vegetation can screen service and loading areas effectively.

(2) Items to be Screened

The following areas shall be screened in accordance with this section:

(a) Large waste receptacles (e.g., dumpsters and cardboard recycling containers) and refuse collection areas;

(b) Loading and service areas;

(c) Outdoor storage areas (including, but not limited to: inoperable vehicles, appliances, tires, manufactured homes, building materials, equipment, raw materials, and above-ground storage tanks) located within 600 feet of a public right-of-way;

(d) Ground-level mechanical equipment and utility meters; and

(e) New construction, demolition, or other site conditions that could be unsafe for pedestrian or vehicles.

(3) Screening Methods

The following items are permitted for use as screening materials, and more than one method may be used on a lot or site.

(a) Vegetative materials that provide a fully opaque screen to the minimum height necessary to fully screen the facility from off-site views; or

(b) An opaque fence or wall consistent with the standards in Section 40.1-5.10, Fences and Walls.

Alternative screening materials that are not listed or alternative configurations may be proposed as part of an alternative landscaping plan (see Section 40.1-5.2(H)), if the alternative materials or configuration provide an equivalent or superior screening function.

(4) Configuration of Vegetative Materials

In cases where vegetative materials are used for screening in accordance with this subsection, the vegetative materials shall:

(a) Be planted around the perimeter of the site feature to be screened in a manner that screens the site feature from all off-site views;

(b) Be configured in two staggered rows or other arrangement that provides maximum screening;

(c) Be upright, large evergreen shrubs and capable of reaching at least six feet in height within three years of planting; and

(d) Be spaced no farther than three feet on-center.

(5) Large Waste Receptacles and Refuse Collection Areas

Except for facilities serving individual single-family detached residential, two- to four-family dwellings, and un-manned uses that do not generate any waste, all large waste receptacle and refuse collection areas shall be subject to the following standards.

(a) Depicted on Master Plans or Development Plans

The location and configuration of screening for large waste receptacles and refuse collection areas shall be depicted on all AC master plans and development plans.

(b) Screening Configuration

In cases where access to large waste receptacles and refuse collection areas faces a public right-of-way, the accessway shall be screened with an opaque gate. Chain link shall not be used for such gates.

(c) Setbacks

Large waste receptacles and refuse collection areas and the fences or walls screening them shall maintain setbacks applicable for accessory buildings in the district where located, and shall not be located within front or corner side yards.

(d) Surfacing Requirements

Areas intended for large waste receptacles and refuse collection shall be surfaced with concrete that meets or exceeds minimum city standards.

(e) Drainage

Eating establishments and other uses that produce significant amounts of liquid waste shall configure areas intended for large waste receptacles and refuse collection to drain to the sanitary sewer system through grease traps or similar devices as required by the Planning Director.

(G) Site Landscaping

(1) Purpose and Intent

Site landscaping material is intended to soften the visual impact of building foundations and provide for the even dispersal of trees across a development site.

(2) Distinguished from Other Required Landscaping

Site landscaping, for the purpose of this section, is landscaping that is not:

(a) Required vehicular use area landscaping;

(b) Located within a required perimeter buffer strip; or

(c) Required screening.

(3) Site Landscaping Standards

Except for single-family detached residential and two- to four-family dwellings, site landscaping shall be required for all development, and shall be supplied in the amounts identified in Table 40.1-5.2(G)(3), Required Site Landscaping Plantings. Site landscaping shall meet the minimum size standards for new planting specified in Section 40.1-5.2(C)(2), Planting Standards.

TABLE 40.1-5.2(G)(3): REQUIRED SITE LANDSCAPING PLANTINGS

USE TYPE [1]	REQUIRED PLANTINGS PER SITE [2] [3]
Multi-family dwellings	16 caliper inches of canopy trees (including at least 5 evergreen trees) per acre + at least 2 shrubs per each 10 feet of building perimeter
Public and Institutional uses	14 caliper inches of canopy trees (including at least 2 evergreen trees) per acre + at least 1 shrub per each 10 feet of building perimeter
Commercial and mixed-uses	10 caliper inches of canopy trees (including at least 1 evergreen tree) per acre, + at least 2 shrubs per each 10 feet of outer building perimeter
Industrial uses	4 caliper inches of canopy trees (including at least 1 evergreen) per acre + at least 1 shrub per every ten feet of building wall facing a public right-of-way

NOTES:
[1] See Table 40.1-4.1(A), Use Table.
[2] At least one-half of the required shrubs shall be of an evergreen variety.
[3] Each evergreen tree meeting the minimum size standards of this section shall count as two caliper inches towards the total number of required canopy tree caliper inches.

(4) Shrub Placement

Required shrubs shall be placed around the building perimeter, a minimum of three feet from the building, with emphasis placed on building foundations visible from the public right-of-way. Required shrubs may be planted up to 15 feet from the building provided there is a sidewalk located between the planting area and the building wall.

(5) Tree Placement

Trees serving as site landscaping shall be dispersed across a site in accordance with good planting practice and the following priority listing:

(a) In yards between a building façade and a street right-of-way where no vehicular use area landscaping is required;

(b) Between a building and an adjacent lot with an existing use that provides more than 50 percent of the vegetative material associated with a required perimeter buffer;

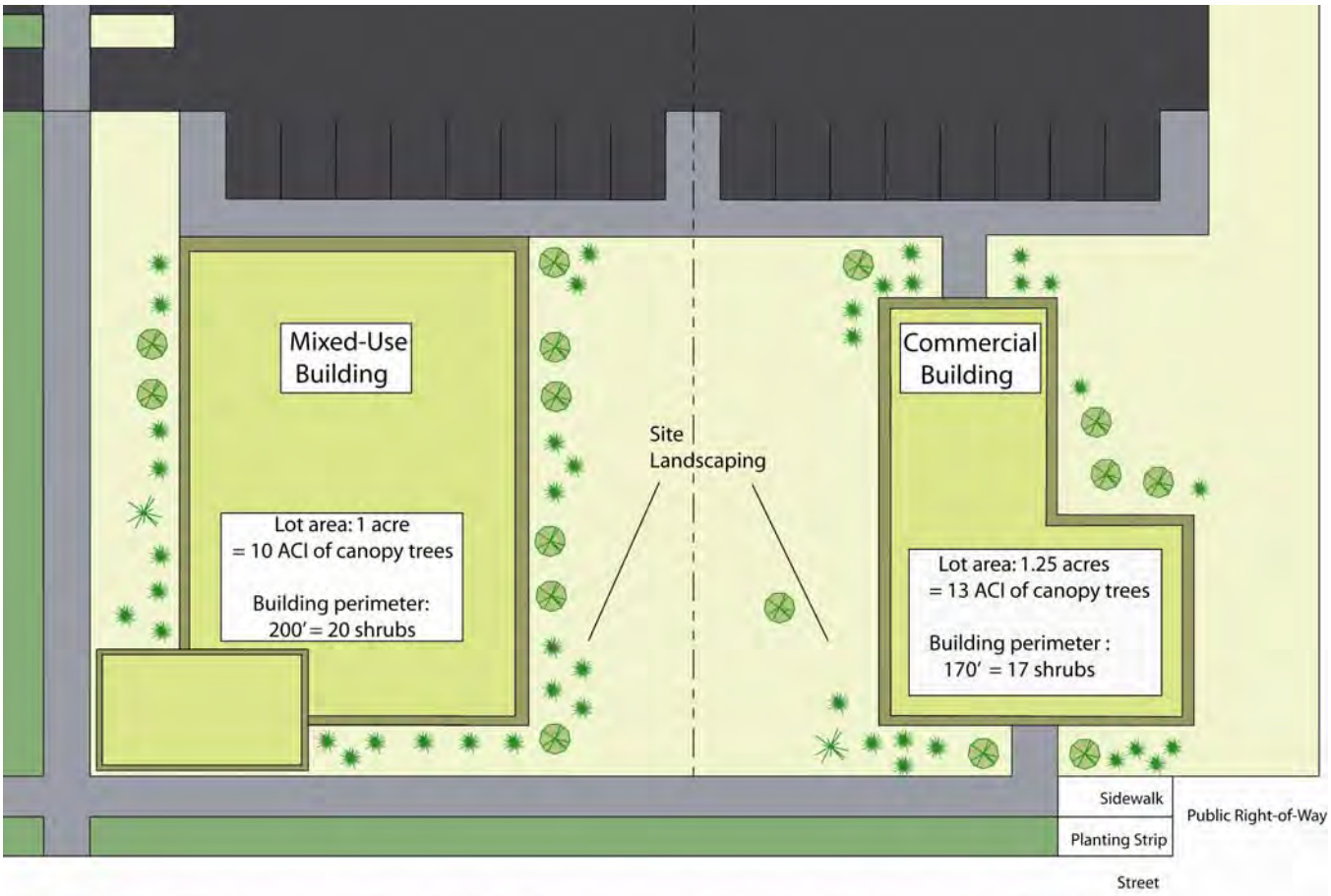
(c) Between a building façade and an abutting lot with the same or a more intense zoning district classification (where no perimeter buffering is required);

(d) Within open-space set-aside areas with no existing or reforested trees;

(e) Adjacent to on-site areas of pedestrian or vehicular circulation where no other vegetative material is required (e.g., drive-throughs or stacking lanes); or

(f) Other areas near accessory structures or accessory uses.

Figure 40.1-5.2(H)(5): Site Landscaping
Site landscaping includes foundation plantings and helps ensure required vegetation is distributed evenly across sites.



(H) Alternative Landscape Plan

(1) Purpose

In cases where development conditions require a deviation from the landscaping standards in this section, or the tree protection standards in Section 40.1-5.3, Tree Protection, an alternative landscaping plan shall be required. An alternative landscaping plan shall indicate how compliance with the standards in this Ordinance is impossible or impractical, and shall illustrate how compliance can be achieved to the maximum extent practicable. Nothing in this subsection shall prohibit a development configuration that meets or exceeds the landscaping and tree protection standards in this Ordinance.

(2) Justification

Alternative plans, materials, or methods may be justified due to:

(a) Natural conditions, such as streams, natural rock formations, or topography;

(b) The likelihood that landscaping material would be ineffective at maturity due to topography, placement, or other existing site conditions;

(c) Lot size or configuration;

(d) The presence of utility or other easements;

(e) The potential for interference with public safety; and

(f) Other situations where strict adherence to the landscaping or tree protection standards in this Ordinance are determined to be impractical by the Director of Planning and Development Services.

(3) Allowable Deviations

With input from other city departments, the Planning Director shall approve an alternative landscape plan if it meets the purpose and intent of the landscaping standards in Section 40.1-5.2, Landscaping and Screening, or Section 40.1-5.3, Tree Protection, as appropriate. Allowable deviations from the standards of this section include, but are not limited to the following:

(a) Reduced Planting Rates due to Public Facilities

An adjustment to planting locations or reduction of up to 20 percent in the type or total number of required caliper inches may be allowed when underground connections to public facilities or public utilities, or public easements or right-of-way, are located upon or in close proximity to the parcel.

(b) Reduction in Standards due to Nature of Parcel

A reduction in the count, spacing, or species diversity standards by up to 20 percent may be allowed where the reduction is desirable in terms of protection of existing natural resources, better consistency with the goals of the comprehensive plan, or a site design that exceeds the quality of what would otherwise result under a strict application of the standards in this Ordinance, in the opinion of the Planning Director.

(c) Redevelopment of Nonconforming Sites

The installation of required landscaping during redevelopment of existing nonconforming sites shall occur in accordance with Section 40.1-6.6, Nonconforming Site Aspects.

(I) Other Landscape Standards

(1) Time for Installation of Required Landscaping

(a) Time Limit

All required landscaping (including mulching and seeding) shall be installed in accordance with the required planting standards set forth in this section prior to issuance of a permanent or non-temporary certificate of occupancy unless the Planning Director grants an extension to this time limit in accordance with Section 40.1-5.2(I)(1)(b), Extensions.

(b) Extensions

(i) The Planning Director may, for good cause shown, grant extensions to the above time limit, allowing a developer/owner to delay the installation of required landscaping. Circumstances that may warrant an extension include, but are not limited to, the following:

a. Unusual environmental conditions, such as drought, ice, hurricanes, or over-saturated soil (deep mud);

b. It is not yet the appropriate planting season for the approved plant species; or

c. Credible evidence that the approved plant species or required plant sizes are not commercially available and cannot be substituted within a reasonable time despite an applicant's diligent effort to secure the required materials.

(ii) Upon receipt of a performance guarantee, the city may issue a temporary certificate of occupancy for a maximum period of up to 180 days.

(2) Maintenance of Landscaping Materials

The owner shall be responsible for the maintenance of all landscape areas not in the public right-of-way. Such areas shall be maintained in accordance with the approved landscape plan or alternative landscape plan and shall present a healthy and orderly appearance free from refuse and debris. All plant life shown on an approved landscape plan or alternative landscape plan shall be replaced if it dies, is seriously damaged, or removed.

(a) Damage Due to Natural Occurrence

In the event that 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 may be required to replant if the landscaping standards are not being met. The owner shall have one growing season to replace or replant. 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.

(b) Protection during Operations

The owner or developer shall take actions to protect trees and landscaping from unnecessary damage during all facility and site maintenance operations. 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.

(c) Maintain Shape

All required trees (whether canopy, understory, or otherwise) shall be maintained in their characteristic natural shape, and shall not be severely pruned, sheared, topped, or shaped as shrubs. Trees (including but not limited to Crape Myrtles) that have been severely pruned, sheared, topped, or shaped as shrubs no longer serve the intended buffering or screening function and shall be considered as damaged vegetation in need of replacement in accordance with Section 40.1-5.2(l)(2)(a), Damage Due to Natural Occurrence, and shall be replaced within one growing season.

(d) 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.

40.1-5.3 TREE PROTECTION

(A) Protection of Specimen Trees

(1) Applicability

(a) General

All development in the city, except that exempted in accordance with Section 40.1-5.3(A)(1)(b), Exemptions, shall be required to protect specimen trees in accordance with this section.

(b) Exemptions

The following development shall be exempt from these standards:

(i) Land within the Downtown D1 and D2 districts; and

(ii) Existing single-family detached residential dwellings on lots of record established prior to May 1, 2010.

(2) Depiction on Landscaping or Development Plan

The location, species, and size of all specimen trees to be retained in accordance with this section shall be depicted on the development plan or landscaping plan associated with the development.

(3) General Requirement

No specimen tree may be removed, except in accordance with Section 40.1-5.3(A)(4), Removal of a Specimen Tree. In addition, all specimen trees shall have the following protections, whether located on public or private land:

(a) Cutting, Removal, or Harm Prohibited

Specimen trees shall not be cut, removed, pushed over, killed, or otherwise harmed.

(b) Paving or Soil Compaction Prohibited

The area within the dripline of any specimen tree shall not be subject to paving or soil compaction.

(4) Removal of a Specimen Tree

Specimen trees may be removed if the landowner demonstrates to the Planning Director one of the following conditions:

(a) Removal of a Healthy Specimen Tree

A specimen tree is in healthy condition, and all of the following standards are met:

(i) The landowner is otherwise in compliance with this section;

(ii) The specimen tree prevents development of a lot platted prior to May 1, 2010 in a way that limits building area to less than otherwise allowed, or hinders compliance with the standards in Article 40.1-3: Zoning Districts, Article 40.1-4: Use Standards, or Article 40.1-5: Development Standards.

(iii) Mitigation is provided in accordance with Section 40.1-5.3(A)(5), Replacement/Mitigation of Specimen Trees.

(b) Removal of a Severely Diseased, High Risk, Damaged, or Dying Specimen Tree

A specimen tree is certified by an arborist or other qualified professional as severely diseased, high risk, damaged by an act of God, or dying. Removal of a severely diseased, high risk, or dying specimen tree shall not require mitigation in accordance with Section 40.1-5.3(A)(5), Replacement/Mitigation of Specimen Trees.

(5) Replacement/Mitigation of Specimen Trees

Those causing the destruction or removal of a healthy specimen tree, unless exempted in accordance with Section 40.1-5.3(A)(4), Removal of a Specimen Tree, shall be responsible for the following mitigation:

(a) Replacement Trees Required

Each healthy specimen tree removed or destroyed shall be replaced with three replacement trees, measuring at least six inches in diameter by American Nurseryman Standard. The replacement trees shall be replanted within 12 months of the removal or destruction of the specimen tree.

(b) Location of Replacement Trees

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 40.1-5.2(H), Alternative Landscape Plan.

(c) Establishment Period

Replacement trees shall be maintained through an establishment period of at least three years. The applicant shall guarantee the survival and health of all replacement trees during the establishment period and guarantee any associated replacement costs. If the replacement trees do not survive the establishment period, the applicant shall purchase and install new replacement trees.

(B) Tree Protection During Construction

(1) 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.

(2) Tree Protection Fencing

(a) Where Required

Specimen trees and other existing trees being used for credit towards landscaping requirements in accordance with Section 40.1-5.4(A)(1)(b), Credit Applied Towards Required Plantings, 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 dripline. The Planning Director shall consider the existing site conditions in determining the exact location of tree protection fencing. Areas located inside of tree protection fencing are considered as "tree save areas".

(b) Inspection

All tree protection measures shall be inspected and approved by the city prior to start of any land disturbing activities. Failure to have tree protection measures prior to the commencement of construction is a violation of this Ordinance.

(c) When Required

No construction, grading, equipment or material storage, or any other activity shall be allowed within the fenced area. Fencing shall be maintained until after the final site inspection.

(3) Encroachments into Tree Save Areas

Encroachments into specimen tree save areas shall occur only when no other alternative exists. If such an encroachment is anticipated, the following preventive measures shall be employed:

(a) Soil Compaction

Where compaction might occur due to construction traffic or materials delivery through a tree save area, 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 save area.

(b) Fill

No fill shall be placed within a specimen tree save area without adequate venting to allow air and water to reach the roots.

(c) Chemical Contamination

Trees located within a specimen tree save area 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.

(d) Paving Limitations

Except for driveway access points, sidewalks, curb, and gutter, no paving shall occur within a tree save area unless authorized through an alternative landscaping plan (See Section 40.1-5.2(H), Alternative Landscaping Plan).

(C) Tree Preservation Incentives

(1) Tree Preservation Credits

In order to encourage the preservation of as many trees as practical on a development site, credit towards the minimum landscaping requirements shall be applied to all existing trees retained on a site that are not specimen trees that comply with the credit standards of this subsection. Credits are offered only for trees that are not required to be retained by other sections of this Ordinance. Credits shall be granted in accordance with the following standards:

(a) Credit Amount

A credit of one-and-one-quarter (1.25) multiplied by the aggregate caliper of trees that are not specimen trees shall be credited and applied towards the landscaping standards in Section 40.1-5.2, Landscaping and Screeening, when the trees that are saved complies with the following minimum size standards:

(i) Canopy Trees

Canopy trees, whether deciduous or evergreen, of seven inches in caliper or greater, measured six inches above ground level.

(ii) Understory/Ornamental Trees

Understory or ornamental trees, whether deciduous or evergreen, of four inches in caliper or greater, measured four inches above ground level.

(b) Credit Applied Towards Required Plantings

The credit shall be applied to the aggregate tree caliper inch standards for landscaping. In no case shall credits substitute for more than 75 percent of the required landscaping material.

(2) Reduction in the Minimum Number of Required Parking Spaces

Up to a five percent reduction in the number of off-street parking spaces required on a development site shall be allowed if the reduction in the amount of required pavement will preserve the root zones of existing healthy specimen trees. The amount of reduction can be determined only after taking into consideration any unique site conditions and the impact of the reduction on parking needs for the use, and must be agreed upon by both the applicant and the Planning Director. Alternative paving materials (See Section 40.1-5.1(D)(4), Alternative Materials) may be required by the Planning Director in cases where required parking areas encroach upon root zones.

40.1-5.4 OPEN SPACE STANDARDS AND SET-ASIDES

(A) Purpose and Intent

Open space set-asides are for the use and enjoyment of a development's residents, employees, and users. Open space set-asides serves numerous purposes, including preservation of natural areas, ensuring resident access to open areas and recreation, reducing the heat island effect, enhancing stormwater quality, and providing other public health benefits.

(B) Applicability

(1) General

Unless exempted, the provisions of this section shall be applied to development of all land in the city at the time of Preliminary Subdivision Plat (Chapter 33.1 of the City Code),Master Plan associated with an Amendment to the Zoning Map to establish an AC district (Section 40.1-5.1(B)), Development Plan (Section 40.1-2.3(C) & (D)), or a Zoning Compliance Permit (Section 40.1-2.3(F)), whichever occurs first.

(2) Exemptions

Development on lots within the D1 and D2 districts, and development on a platted lot in existence on May 1, 2010 shall be exempt from the open space set-aside standards in this section.

(C) Open Space Set-Aside Standards

(1) Amounts of Open Space Set Aside Required

All development not exempted from the requirements of this section shall set-aside the minimum amounts of open space set-aside identified in Table 40.1-5.4(C)(1), Required Open Space Set-Aside, below:

TABLE 40.1-5.4(C)(1): REQUIRED OPEN SPACE SET-ASIDE

USE CLASSIFICATION [1]	MINIMUM OPEN SPACE SET-ASIDE AREA (PERCENTAGE OF TOTAL DEVELOPMENT SITE AREA)
Residential development of 20 or more dwelling units	15%
Mixed-use development with less than 20 dwelling units	10%
Mixed-use development with 21 or more dwelling units	15%
NOTES: [1] See Table 40.1-4.1(A), Use Table	

(2) Types of Open Space Set-Aside Features

Each of the features and areas identified in Table 40.1-5.4(C)(2), Common Open Space Set-Aside Features, meeting the minimum standards in the table shall be credited towards the open space set-aside requirements of this section.

TABLE 40.1-5.4(C)(2): COMMON OPEN SPACE SET ASIDE FEATURES

AREA COUNTED AS COMMON OPEN SPACE SET-ASIDE	DESCRIPTION	MINIMUM STANDARDS
NATURAL FEATURES		
	Includes any of the following: 1. Water features, including wetlands, natural ponds, streams, rivers, drainage channels, and lakes, and other riparian areas; 2. Flood hazard areas; 3. Slopes of 15% or more; and 4. Wildlife habitat areas	Where natural features exist, the developer or owner shall give priority to their preservation as common open space. In reviewing the proposed location of common open space set-asides, the Planning Director shall use all applicable plans, maps, and reports to determine whether significant resources exist on a proposed site that should be protected. Maintenance is limited to a minimum removal and aviodance of hazards, nusiances, or unhealthy conditions.
ACTIVE RECREATIONAL AREAS		
	Land occupied by active recreational uses such as pools, playgrounds, tennis courts, jogging trails, ball fields, and clubhouses used primarily for recreational purposes.	Active recreation areas may occupy up to 100 percent of the common open space set-aside (if no natural features exist on the site), but in no case shall active recreation constitute less than 40% of the total open space set-aside area within a residential or mixed-use development. Land shall be compact and contiguous unless the land is used to link or continue an existing or planned open space resource. The site shall be bounded by at least one street, if reasonably practical.
FORMAL PLANTINGS AND GARDENS		
	Formally planned and regularly maintained open areas that provide passive recreation opportunities including arranged plantings, gardens, gazebos or similar structures.	Formal plantings and gardens shall have at least one direct access road, and be oriented to surrounding development. Roof gardens are also acceptable.
SQUARES, FORECOURTS, PLAZAS, AND PARKS		

TABLE 40.1-5.4(C)(2): COMMON OPEN SPACE SET ASIDE FEATURES

AREA COUNTED AS COMMON OPEN SPACE SET-ASIDE	DESCRIPTION	MINIMUM STANDARDS
	Squares, forecourts, plazas, and parks provide active and passive recreational opportunities and help create special places.	Where provided, such features shall have a Minimum size of 200 square feet, and a maximum size of one acre. They shall have at least one direct access road. Surrounding buildings shall be oriented toward the square, forecourt, or park when possible and a connection shall be made to surrounding development.
REQUIRED LANDSCAPE AREAS		
	Required landscape areas serve as a buffer to surrounding areas. Except for landscaped areas within parking lots and areas occupied by street trees, all areas occupied by required landscaping may count as common open space.	Where landscaping and tree protection areas exist, they shall be counted toward open space set-asides.
STORMWATER MANAGEMENT DEVICES		
	Up to 75 percent of the land area occupied by stormwater management devices, including retention ponds, and other bio-retention devices may be counted towards the common open space set-aside requirement when such features are treated as a site amenity.	To qualify, stormwater management devices shall support passive recreation uses by providing access, gentle slopes less than 3:1, and pedestrian elements such as paths and benches.
PUBLIC ACCESS EASEMENTS		

TABLE 40.1-5.4(C)(2): COMMON OPEN SPACE SET ASIDE FEATURES

AREA COUNTED AS COMMON OPEN SPACE SET-ASIDE	DESCRIPTION	MINIMUM STANDARDS
	Public access easements, which often combine utility easements, with paths or trails, are available for passive recreational activities such as walking, running and biking.	They shall include at least one improved access from a public sidewalk, street, trail, or easement that includes signage designating the access point.

(3) Not Counted as Open Space Set-Asides

(a) Not Counted as Open Space

The following areas shall not be counted as open space set-aside:

(i) Private yards not subject to an open space or conservation easement;

(ii) Public street rights-of-way or private street easements, including sidewalks located within those rights-of-way or easements;

(iii) Open parking areas and driveways for dwellings;

(iv) Land covered by structures not designated for active recreational uses; and

(v) Designated outdoor storage areas.

(4) Design Standards for Open Space Set-Asides

Land used as an open space set-aside shall meet the following design standards:

(a) Location

Open space shall be located so as to be readily accessible and useable by residents and users of the development. Where possible, a portion of the open space set-aside should provide focal points for the development.

(b) Access

For commercial and mixed uses, a reasonable portion of the open space set-aside shall abut at least one direct street access, to the maximum extent practicable.

(c) Configuration

Figure 40.1-5.4(C)(4): Open Space Set-Aside Configuration
Connecting open spaces helps provide better habitat and more sustainable environments.

(i) Lands set aside as open space shall be compact and contiguous unless the land is used as a continuation of an existing trail, or specific natural or topographic features require a different configuration.

(ii) Where open areas, trails, parks, or other open space resources are planned or exist adjacent to development, the open space set-aside shall, to the maximum extent practicable, be located to adjoin, extend, and enlarge the trail, park, or other open area land.

(d) Orientation of Adjacent Buildings

Buildings adjacent to required open space set-asides shall have at least one entrance facing the open space set-aside.

(e) Provision in Multi-Phase Developments

(i) Multi-phase development shall preserve open space set-asides in phases, so that the first phase of development does not contain 100 percent of the open space allotted for the entire development, but does contain, at a minimum, its pro rata share of the total amount of required open space set aside.

(ii) Open space set-asides shall be apportioned among phases such that the total amount of open space set aside in a phase and any previously approved phases meets the open space set-aside standard as applied to the total area of the phase and previously approved phases.

(f) Prioritization of Open Space Set-Aside

To the maximum extent possible, the open space set-aside should be located and organized to include, protect, or enhance as many of the following open areas and features as possible, in the following order:

(i) Natural features;

(ii) Lands that may extend or enhance existing park or open space features;

(iii) Water features such as drainages, canals, ditches, lakes, natural ponds, and retention and detention ponds;

(iv) Landscaped buffers or visual transitions between different types or intensities of uses;

(v) Natural or geologic hazard areas or soil conditions, such as unstable or potentially unstable slopes, faulting, landslides, rockfalls, expansive soils, or floodplains;

(vi) Areas that accommodate multiple compatible open space uses rather than a single use.

(5) Use of Open Space Set-Asides

Open space set-asides required by this section shall not be disturbed, developed, or improved with any structures, except for those identified in Table 40.1-5.4(C)(2), Common Open Space Set-Aside Features, or other comparable uses.

(6) Ownership of Open Space Set-Asides

(a) Method of Ownership

(i) Open space set-aside areas shall be maintained as permanent open space through one of the following options:

a. A property or home owner's association which holds the land in deed-restricted private ownership and in common, and is responsible for managing and maintaining the land in common; or

b. Dedication of the land to a third party beneficiary like a non-profit environmental or civic organization.

(ii) All methods utilizing private ownership shall be in a form approved by the City Attorney, who shall review the documents to ensure perpetual maintenance, preservation, and restricted use, where appropriate.

(iii) If an open space set-aside is deeded to a property or home owners' association, it shall be established in accordance with the following:

a. The landowner shall submit documents for the creation of the home or property owners association to the city for review and approval, including the association's bylaws, all documents governing ownership, maintenance, and use restrictions for the open space set-aside, and a legal description of open space set-aside areas.

b. The landowner shall agree that the association shall be established by the landowner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before approval of the first subdivision or building permit for the development, whichever occurs first.

c. Membership in the association shall be automatic (mandatory) for all purchasers of land, dwelling units, or structures in the development, and their successors in title.

(iv) If the open space set-aside is to be held by a third party beneficiary like a non-profit civic organization, then it shall include deed restrictions that:

a. Govern the use of the open space set-asides, consistent with the standards in this section;

b. Run with the land in perpetuity; and

c. Include any other provisions the City Attorney deems necessary and appropriate to fulfill the requirements of this section.

40.1-5.5 MULTI-FAMILY DEVELOPMENT STANDARDS

(A) Purpose and Intent

These multi-family development standards are intended to:

(1) Promote greater compatibility between two- to four-family residential, townhouse, and multi-family development and other allowable uses in the city; and

(2) Establish a minimum level of quality for multi-family development.

(B) Applicability

(1) General

Except where exempted in accordance with Section 40.1-5.5(B)(2), Exemptions, these standards apply to all new two- to four-family residential, townhouse, and multi-family development in the city.

(2) Exemptions

Development within the Downtown (D1 and (D2) districts is exempt from the standards in this section.

(3) Redevelopment

Redevelopment of an existing two- to four-family residential, townhouse, or multi-family development that exceeds 33 percent of the building's reproducible value (exclusive of foundations) shall require the newly redeveloped portions to comply with the standards of this section, to the maximum extent practicable.

(4) Review for Compliance

Review for compliance with the standards of this section shall occur during review of a Development Plan (Section 40.1-2.3(C) & (D)), Preliminary Subdivision Plat (Chapter 33.1 of the City Code), Master Plan associated with an Amendment to the Zoning Map to establish a new AC district (Section 40.1-3.5(B)), or Zoning Compliance Permit (Section 40.1-2.3(F)), as appropriate.

(C) Plan for Development Required

Development subject to the standards of this section shall provide a development plan, master plan, or other plan for development illustrating how the proposed development complies with these standards.

(D) Multi-Family Development Standards

New two- to four-family residential, townhouse, and multi-family development shall comply with the following standards:

(1) Street Network

(a) On sites including new streets, an interconnected network of streets shall be provided, to the maximum extent practicable.

(b) The internal network of streets shall connect to adjacent existing streets to better integrate the development with its context.

(c) Street design shall conform to the city street design standards, but narrower-width streets are encouraged in the URH and NMU districts to promote pedestrian scale.

(d) Vehicular access driveways shall be at least 100 feet away from any major intersection, to the maximum extent practicable.

(e) Vehicular ingress and egress shall align with access points located across the street, whenever possible.

(f) Driveways shall be consolidated in order to reduce curb cuts, to the maximum extent practicable.

(2) Access and Circulation

(a) Pedestrian Circulation

(i) A clearly defined, visible, and identifiable pedestrian network (combination of walkways, low shrub or ground cover plantings, and trees) shall be provided between parking lots, public street sidewalks, open spaces, recreational facilities, and individual buildings.

(ii) Pedestrian walkways shall be at least five feet in width.

(iii) The owner or an owners association shall maintain pedestrian walkways outside public rights-of-way.

(iv) Where possible, pedestrian walkways shall be connected within parks, open spaces or common areas internal or external to the site.

(v) Both vehicular and pedestrian access must be visible from the street or alley serving the development.

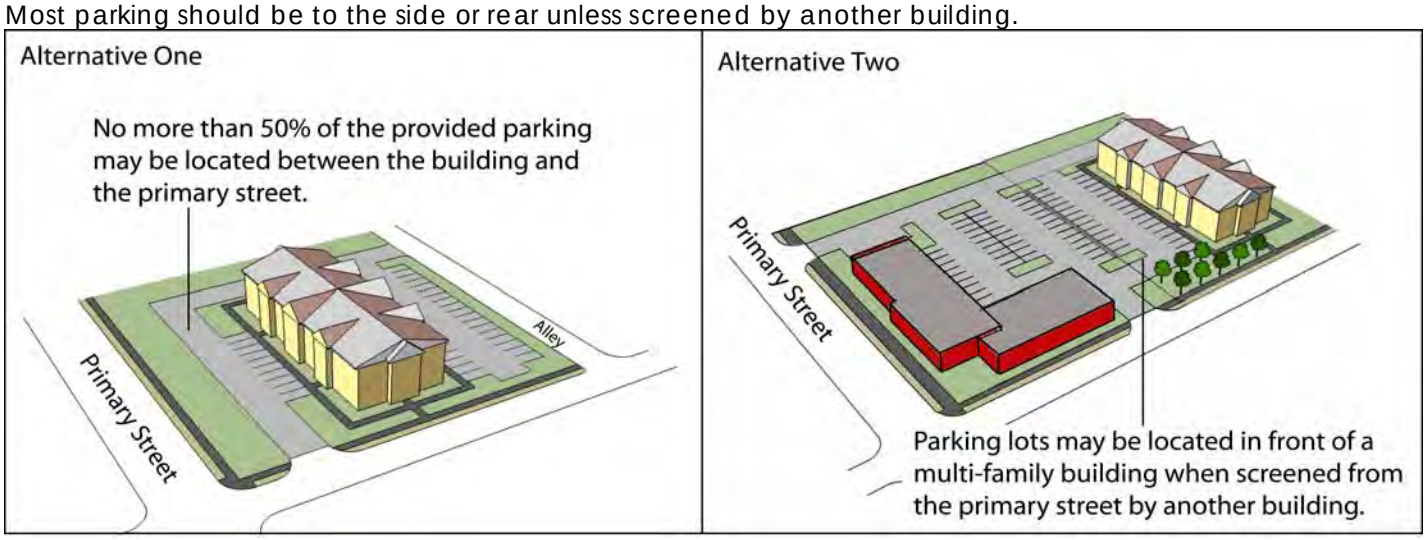
(vi) Pedestrian entrances to the site shall be accentuated through the use of landscaping, special paving, gateways, or smaller features.

(b) Parking Area Design and Location

(i) No more than 50 percent of the required parking shall be provided between the front yard of the principal building and the street it fronts unless the principal building and the parking is screened from view by other development and landscaping.

(ii) Vehicular access to the development shall be provided from a secondary street or an alley, when present.

Figure 40.1-5.5(D)(2)(b): Multi-Family Parking Area Design
Most parking should be to the side or rear unless screened by another building.



(iii) Site design, including entrances and parking lots, shall be coordinated with the location of existing and planned transit facilities.

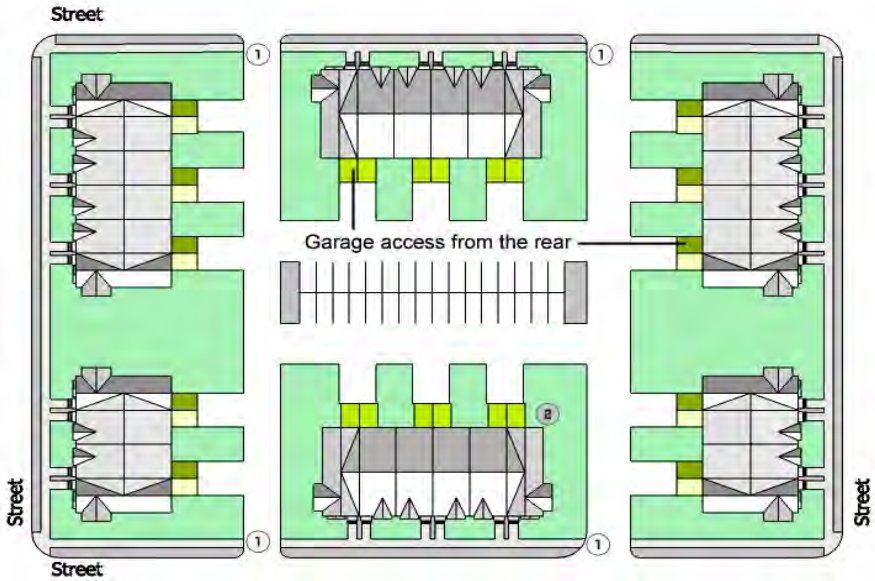
(c) Garage Standards

(i) Street-facing garages on corner lots shall be located to the side or rear of buildings.

(ii) Street-facing garages on interior lots shall be located at least two feet behind the front façade plane of the structure served.

(iii) Attached garages shall be accessed from alleyways or secondary streets, wherever possible.

Figure 40.1-5.5(D)(2)(c): Multi-family Garage Configuration



(iv) The exterior materials, design features, and roof form of garages shall be compatible with the building they serve.

(d) Service Area Placement and Screening

(i) Outdoor storage and trash collection areas shall be integrated with overall design of the building, or be screened in accordance with the standards in Section 40.1-5.2(F), Screening.

(ii) When specified in an approved master plan or other development approval, establishing multi-family development, private trash pick up shall be provided.

(3) Building Design

(a) Building Orientation and Entryways

(i) All building with shared building entrances shall be oriented so that primary entrance(s) faces the street. In case of corner lots, the primary entrance(s) shall face the street from which the building derives its street address.

(ii) Long linear corridors and hidden entrance(s) to buildings shall be avoided.

(iii) Buildings that do not have a direct and visible pedestrian entrance from a public street shall at a minimum have windows or patios facing the street.

(iv) Common open spaces and children's play areas shall be clearly visible from the dwelling units on the site.

(b) Building Size

(i) Individual building floorplates for townhouse and multi-family building shall be in accordance with Table 40.1-5.5(D)(3)(b), Maximum Building Size:

Figure 40.1-5.5(D)(3): Multi-family Building Orientation
Multi-family buildings should be oriented to streets, and well-screened from adjacent detached residential dwellings.

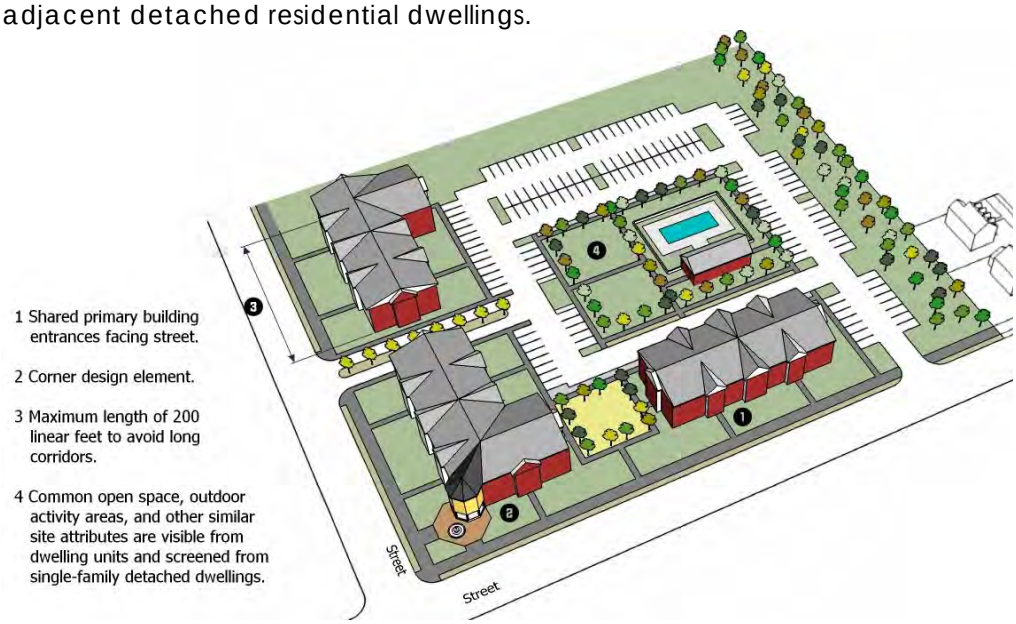


TABLE 40.1-5.5(D)(3)(B): MAXIMUM BUILDING SIZE	
DISTRICT WHERE LOCATED	**MAXIMUM FLOORPLATE SIZE (SQUARE FEET) [1]**
Urban Residential (UR)	15,000 [2]
High Density Urban Residential (UR-H)	20,000
Neighborhood Mixed-Use (NMU)	15,000
General Mixed Use (GMU)	20,000
High-Intensity Mixed-Use (NMH)	25,000
NOTES: [1] Maximum building sizes apply only to portions of a building devoted to residential use. [2] Townhouse buildings only.	

(ii) The maximum length of any townhouse or multi-family structure shall be 200 linear feet, regardless of number of units. In no instance shall provision of a firewall between differing building sections constitute two separate structures.

(c) Maximum Height

Buildings subject to the standards of this section shall have a maximum height of three stories within 100 feet of a lot with an existing single-family detached residential dwelling, without an intervening public street. This standard shall apply regardless of any incentives, administrative adjustments, or master plans.

(d) Building Design and Placement

(i) Developments abutting public street corners shall provide one or more of the following elements:

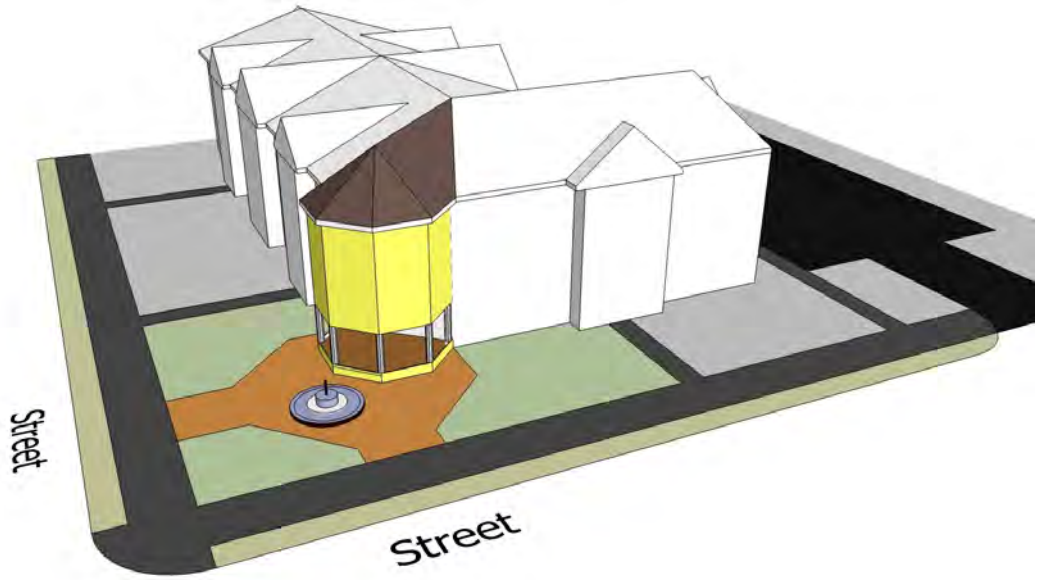
a. Plaza;

b. Placement of primary pedestrian entry;

c. Distinctive roof form; or

d. Other architectural features (e.g. porches, canopies).

Figure 40.1-5.5(D)(3)(d): Buildings Abutting Corners



(ii) Building details, including roof forms, siding materials, windows, doors, and trim shall reflect a similar level of quality and architectural detailing on all sides facing:

a. A street;

b. Abutting existing single-family development; and

c. Vacant land designated as a single-family district on the official zoning map.

(e) Facade Articulation

(i) Street-facing building facades shall be articulated with wall offsets at least two feet deep for every 30 feet of facade frontage.

(ii) In addition to wall offsets, front facades facing streets shall provide a minimum of three of the following articulation elements:

a. A covered porch;

b. One or more dormer windows or cupolas;

c. Pillars, posts or pilasters;

d. One or more bay windows with a minimum twelve-inch projection from the façade plane;

e. Multiple windows with a minimum of four-inch-wide trim;

f. Raised corniced parapets over the door;

g. Eves with a minimum of four-inch-wide trim; or

h. Integral planters that incorporate landscaped areas and/or places for sitting.

(iii) Side facades shall maintain at least ten percent of the facade area as windows.

(f) Roof Form

(i) Development shall incorporate roof pitches between 3:12 and 12:12, or shall incorporate a three-foot parapet with a three-dimensional cornice around a flat roof. Alternative roof forms or pitches may be allowed for small roof sections over porches, entryways, or similar features.

(ii) All roof vents, pipes, antennas, satellite dishes, and other roof penetrations and equipment (except chimneys) shall be located on the rear elevations or otherwise be configured to the degree practicable, to have a minimal visual impact as seen from the street.

(g) Accessory Structures

(i) Access to accessory structures (such as garages, carports, storages, mailboxes, trash receptacles) shall be provided from alleys or secondary streets to the maximum extent practicable.

(ii) Accessory buildings shall be designed to be consistent with the principal structure through the use of materials, massing and color.

(iii) Accessory structures shall not physically obstruct pedestrian entrances.

(iv) Trash receptacles shall be located in an enclosed area.

(v) Fencing of multi-family development recreational amenities such as tennis courts, swimming pool must provide visibility and safety.

40.1-5.6 COMMERCIAL DEVELOPMENT STANDARDS

(A) Purpose and Intent

These commercial development standards are intended to:

(1) Promote a strong sense of place and pedestrian-friendly development;

(2) Encourage a pedestrian-friendly environment though attention to site features and human scale design;

(3) Foster greater compatibility between commercial development and adjacent residential neighborhoods; and

(4) Address the visual impact and compatibility of large-scale retail buildings.

(B) Applicability

(1) General

Except where exempted by Section 40.1-5.6((C), Exemptions, these commercial development standards apply to all uses in the Commercial Use Classification in Table 40.1-4.1(A), Use Table.

(2) Redevelopment

(a) Redevelopment of an existing building established before May 1, 2010 by 25 percent or more of the floor area devoted to commercial activities shall be subject to these standards.

(b) The standards in this section are applied only to the redeveloped portions of buildings.

(c) All redevelopment activities within any five-year period shall be treated as a single redevelopment for the purposes of determining the need for compliance with these standards.

(3) Commercial Development in the UR, UR-H, and NMU Districts

Commercial development in the UR, UR-H, and NMU districts shall comply with the standards in Section 40.1-5.6(F), General Commercial Standards, and Section 40.1-5.6(G), Additional Standards for Lots in the UR, UR-H, and NMU District.

(4) Large Retail Development

Single-tenant buildings of 60,000 gross square feet in size or more, with 60 percent or more of the total floor area occupied by retail sales activities, shall comply with the standards in Section 40.1-5.6(F), General Commercial Standards, and Section 40.1-5.6(G), Standards for Large Retail Buildings.

(5) Master-Planned Development Within an Activity Center District

These standards may be modified on in an activity center district through a master plan associated with an Amendment to Modify the Zoning Map to establish an AC district (Section 40.1-3.5(B)).

(C) Exemptions

Commercial development in the Downtown (D1) and (D2) districts are exempt from these standards.

(D) Review for Compliance

Review for compliance with the standards of this section shall occur during review of a Development Plan (Section 40.1-2.3 (C) & (D)), Preliminary Subdivision Plat (Chapter 33.1 of the City Code),Master Plan associated with an Amendment to the Zoning Map to establish a new AC district (Section 40.1-3.5(B)), or Zoning Compliance Permit (Section 40.1-2.3(F)), as appropriate.

(E) Plan for Development Required

Development subject to the standards of this section shall provide a development plan, master plan, or other plan for development illustrating how the proposed development complies with these standards.

(F) General Commercial Standards

Except otherwise noted, these general commercial standards are intended to apply for all commercial development in the city.

(1) Street Access

Except as permitted in Section 33.1-2 of the City Code, no building or other permit shall be issued for a proposed commercial use unless such use is located on a lot that abuts a fully-improved street. For the purposes of this section, "fully improved" shall mean a street that abuts the lot and extends to the centerline of the street right-of-way that complies with the all subdivision standards for streets.

(2) Street Network

(a) For development including new streets, an interconnected network of streets shall be provided, to the maximum extent practicable.

(b) The internal network of streets shall connect to adjacent existing streets to better integrate the development with its context.

(c) Street design shall conform to the city street design standards, but narrower-width streets are encouraged in the UR-H and NMU zoning districts to promote pedestrian scale.

(d) Vehicular access driveways shall be at least 100 feet away from any major intersection, to the maximum extent practicable.

(e) Vehicular ingress and egress shall align with access points located across the street, whenever possible.

(f) Driveways shall be consolidated in order to reduce curb cuts, to the maximum extent practicable.

(3) Street Trees

(a) Buildings subject to the standards in this section shall provide canopy trees along all street frontages (except alleys) located between the curb and sidewalk, or within five feet of the right-of-way when no sidewalk exists.

(b) Street trees shall be placed a maximum of 40 feet on-center.

(c) Understory trees may be used in cases where overhead utilities will remain after development is complete.

(4) Building Orientation

(a) The building façade containing the primary entrance shall be considered as the primary façade.

(b) The primary facades of all buildings shall face a public street serving the development.

(c) In the case of multi-building development, the perimeter buildings shall be oriented so that the primary facade faces a public street. Buildings interior to the site may be oriented to private streets or accessways.

(5) Multi-Building Development

Development composed of multiple buildings totaling 30,000 gross square feet or more shall be configured in one or more of the following ways:

(a) Break up the site into a series of smaller "blocks" defined by on-site streets, pedestrian walkways, or other circulation routes;

(b) Frame the corner of an adjacent street intersection or entry point to the development;

(c) Frame and enclose parking areas, public spaces, or other site amenities on at least three sides; or

(d) Frame and enclose outdoor dining or gathering spaces for pedestrians between buildings.

Figure 40.1-5(F)(5): Multi-Building Configuration
Development should enclose entryways or parking to create a stronger sense of place.

(6) Outparcel Development

(a) To the extent practicable, outparcels and their buildings shall be configured and located to define street edges, development entry points, and spaces for gathering between buildings.

Figure 40.1-5.6(F)(7): Gathering Places
Spaces between outbuildings can serve as public gathering spaces.

(b) Spaces between buildings shall be enlivened with pedestrian amenities such as plazas, seating areas, parks and gathering places in addition to off-street parking spaces, to the extent practicable.

(c) Outparcel buildings located on lots at street corners shall be located and configured to define the corner through a combination of:

(i) Locating the building as close to the right-of-way as is practicable;

(ii) Limiting surface parking between the building and the streets;

(iii) Providing a public gathering space adjacent to the corner;

(iv) Distinctive roof form or other pedestrian features such as porches, canopies, or arcades.

(d) Outbuildings within the same development shall include a consistent level of facade articulation on facades facing public streets, a gathering space, or parking lots.

(7) Gathering Spaces

(a) A portion of the spaces between buildings on outparcels shall be enlivened with pedestrian amenities such as small plazas, seating areas, and central gathering spaces. These places shall include at least two of the following:

(i) Patio/seating area;

(ii) Pedestrian plaza with benches;

(iii) Window display areas;

(iv) Outdoor play area;

(v) Kiosk;

(vi) Water feature;

(vii) Clock tower; or

(viii) Other features or amenities as approved by the Planning Director.

(b) Gathering places with pedestrian amenities shall be located in prominent, central locations.

(c) Gathering places shall have direct access to the site pedestrian network.

(8) Service and Loading Area Placement and Screening

(a) Outdoor storage, trash collection, and loading areas shall be integrated with the overall design of the building, or be screened in accordance with the standards in Section 40.1-5.2(F), Screening.

(b) Outdoor storage, trash collection, and loading areas shall not be located within 20 feet of the public or private rights-of-way.

(c) Shopping cart containment areas shall not be located adjacent to internal public spaces, plazas, or commercial streets.

(d) Exterior shopping cart storage areas located adjacent to a building shall be screened by an opaque fence or wall of at least four feet in height.

(9) Roof-Mounted Equipment

(a) All rooftop equipment shall be screened from all off-street views.

(b) When flat roofs are used, parapet walls with three dimensional cornice treatments shall be used to conceal roof-mounted equipment.

(10) Glazing

(a) Except for development subject to the standards for large retail, buildings shall provide glazing for at least 40 percent of the ground floor facade area facing a street.

(b) All street-level widows shall be visually permeable between a height of three feet and eight feet above the walkway grade.

(c) Reflective or tinted glass that obstructs views into the building shall not be used.

(11) Accessory Structures

Accessory structures shall comply with the standards in Section 40.1-4.4, Accessory Use Standards, and the following standards:

(a) Access to accessory structures shall be provided from alleys or secondary streets, whenever possible.

(b) Accessory structures shall be compatible with the principal structure in terms of, materials, massing, and color.

(c) Accessory structures shall not physically obstruct pedestrian entrances or travelways.

(d) Trash receptacles and refuse collection areas shall be located in an enclosed area.

(12) Off-Street Parking Location

Development subject to the standards of this section, except for development I the UR, UR-H, and NMU districts, shall limit the amount of off-street parking between the primary or front façade and the street it faces in accordance with Table 40.1-5.6(F)(12), Off-Street Parking Location.

TABLE 40.1-5.5.6(F)(12): OFF-STREET PARKING LOCATION

DEVELOPMENT SIZE (SQ. FT.)	AMOUNT OF PARKING THAT MAY BE LOCATED BETWEEN THE FRONT FAÇADE AND THE STREET [1]
< 10,000	1 single loaded bay
10,000 – 29,999	2 single loaded bays
30,000 – 60,000	4 bays
> 60,000	60% of total provided

NOTES:
[1] Parking bays may extend the full length of the front façade.

(13) On-Site Circulation

(a) Pedestrian Circulation and Walkways

Pedestrian walkways shall:

(i) Connect all buildings within a multi-building development with the larger pedestrian network surrounding the site.

(ii) Have a minimum width of five feet.

(iii) Be provided along the full length of building facades with an entryway or facing off-street parking areas.

(iv) To maximize pedestrian safety, crosswalks shall be provided at all intersections and other street crossings (both external and internal to the site) where a high-level of pedestrian movement is anticipated.

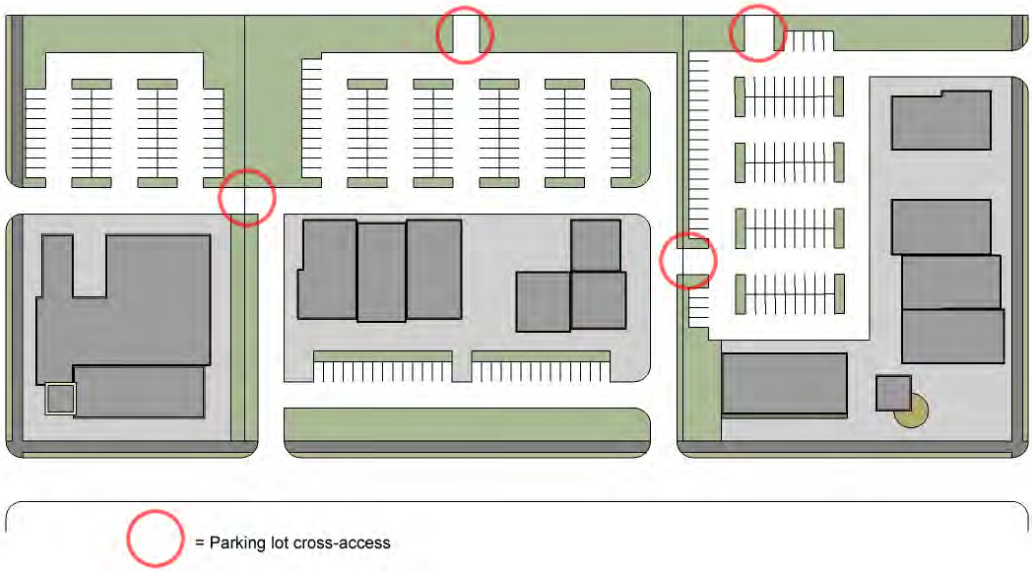
(v) Site design, including entrances and parking lots, shall be coordinated with the location of existing and planned transit facilities.

(b) Parking Lot Cross-Access

Commercial development shall be designed to allow for vehicular cross-access to adjacent, compatible developments in accordance with the following standards:

(i) Cross-access ways shall be designed and located based on the standards of this section, but in no case shall a development be required to provide cross-access to more than two adjacent parcels.

Figure 40.1-5.6(F)(13): Parking Lot Cross-Access
Cross-access between buildings helps maintain safety and street function.



(ii) Cross-access ways shall allow for two-way traffic between parcels through the use of a single drive aisle with a minimum width of 22 feet, or through two one-way aisles, each with a minimum width of 11 feet.

(iii) The cross-access standard may be waived by the Planning Director if the applicant demonstrates it is impractical to provide cross-access due to:

a. Topography, or natural features;

b. The size and configuration of the site;

c. Vehicular safety factors;

d. The presence of incompatible uses; or

e. Existing development patterns on adjacent developed sites.

(iv) When cross-access is waived in accordance with this section, bicycle and pedestrian connections shall be provided between adjacent developments or uses, unless it is unreasonable or impracticable.

(14) Drive-through Configuration

(a) Drive-throughs shall be located to the side or at the rear of the building so as not to compromise the quality of the pedestrian experience at the street edge.

(b) A drive-through may be permitted on the front façade, provided the building is located 150 feet or more from the edge of the right-of-way.

(c) Drive-throughs serving a building located on a corner lot shall be located to the rear or interior side. In no instance shall the drive-through be located on the side of a building facing a street.

(d) If covered, the roof over the drive-through shall be of a complementary architectural design as the design covering the primary portion of the structure.

(15) Stormwater Management

(a) Stormwater retention facilities shall not be located within front or corner side areas.

(b) Stormwater retention ponds not designed as a site amenity shall be fully screened from off-site views.

(c) Landscape plantings may be used to increase infiltration and decrease runoff. Alternative designs, such as landscaping islands configured with a lower grade than adjacent parking, or rain gardens are encouraged.

(G) Additional Standards for Development in the UR, UR-H, and NMU Districts

In addition to the general commercial standards, commercial development in the UR, UR-H, and NMU districts shall comply with the following standards.

(1) Off-Street Parking Areas

Commercial development located within a UR, UR-H, or NMU district shall be exempted from the parking location standards in Section 40.1-5.1, Off-Street Parking Location, and shall comply with the following standards:

(a) All required off-street parking shall be provided on the side or rear of the building.

(b) A single-loaded parking bay shall be permitted between a building and the street it faces when the building contains two or more useable floors.

(2) Front Building Setbacks

Except for outparcel buildings on corner lots, front building setbacks shall vary no more than 125 percent from the average building setback of buildings along the same block face. In cases where the average front setback is not discernable (e.g., the block face is vacant or lacks more than one building), the minimum front setback shall be established by the base zoning district standards.

(3) Building Facades

(a) Front building facades of more than 50 feet in length shall be articulated into a series of evenly-spaced storefronts to increase visual interest and pedestrian orientation. Such buildings shall incorporate two or more of the following design elements on each facade visible from a street:

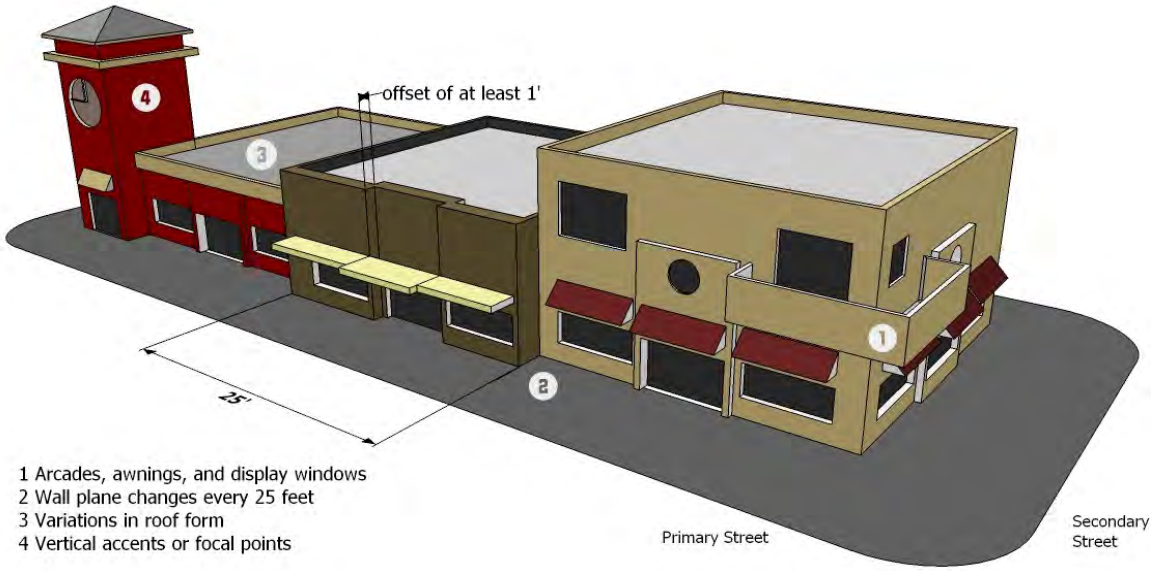
(i) Changes in wall plane (such as projections or recesses) with an offset or depth of at least one foot, a width of at least ten feet, located a minimum of every 25 feet;

(ii) Distinct changes in texture and color of wall surfaces;

(iii) Variations in roof form and parapet heights;

(iv) Vertical accents or focal points; or

Figure 40.1-5.6(G)(3): Commercial Building Facades
Building articulation provides visual interest and greater pedestrian orientation.



(v) Features such as arcades, display windows, entry areas, or awnings.

(b) All facade treatments shall be of similar scale and design.

(4) Roofs

(a) New buildings shall use a pitched roof or a sloped parapet to maintain compatibility with surrounding residential uses.

(b) A flat roof shall be permitted for new buildings located between two existing buildings with flat roofs.

(5) Drive-Throughs Prohibited

Drive-throughs are not permitted for commercial developments within UR, UR-H, and NMU districts.

(6) Cross Access Not Required

Vehicular cross access between a commercial use and an abutting residential or public use is not required.

(H) Standards for Large Retail Development

In addition to the general commercial standards, all new single tenant buildings of 60,000 gross square feet in area or more with 60 percent or more of the total floor area occupied by retail sales activities, shall comply with the following standards.

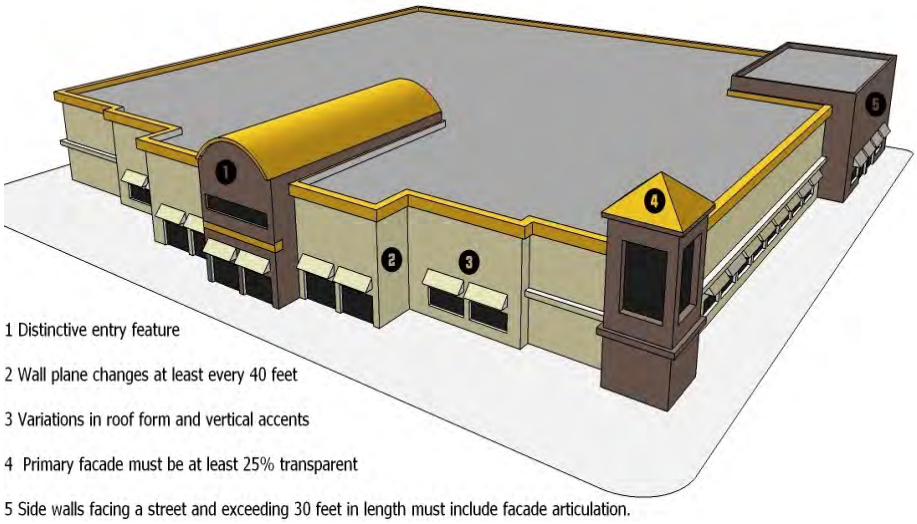
(1) Building Entrances

Large retail buildings shall have clearly defined, highly visible customer entrances featuring no less than three of the following:

(a) Canopies or porticos;

(b) Overhangs;

Figure 40.1-5.6(H)(2): Large Retail Massing
Articulation can reduce the scale and monolithic nature of large retail buildings.



(c) Recesses/projections;

(d) Arcades;

(e) Raised corniced parapets over the door;

(f) Peaked roof forms;

(g) Arches;

(h) Outdoor patios;

(i) Display windows;

(j) Architectural detail such as tile work and moldings integrated into the building structure and design; or

(k) Integral planters that incorporate landscaped areas and places for sitting.

(2) Building Massing

(a) Front facades of large retail buildings shall be articulated to reduce its mass, scale, and uniform appearance. Large retail buildings shall incorporate two or more of the following design elements on each facade visible from a street:

(i) Changes in wall plane, such as projections or recesses, having a wall offset of at least one foot depth, and located a minimum of every 40 feet. Each required offset shall have a minimum width of ten feet;

(ii) Distinct changes in texture and color of wall surfaces;

(iii) Variations in roof form and parapet heights;

(iv) Vertical accents or focal points.

(b) Side walls exceeding 30 feet length shall have facade articulating elements such as columns and/or changes in plane, texture, or masonry pattern.

Figure 40.1-5.6(H)(3): Large Retail Parking Lot
Organizing surface parking lots into different "bays" or "pods" can help reduce their visual dominance.

(3) Off-Street Parking Location Standards

(a) Up to 60 percent of the total parking provided is permitted to be located between the front façade of a building and the street it faces.

(b) Off-street parking lots of 250 or more spaces serving a large retail building shall be organized into a series of parking bays surrounded by buildings, landscaping, or streets.

(4) Glazing

(a) Facades of large retail buildings facing a street shall include glazing in an amount equal to 25 percent of the ground floor facade area.

(b) Glazing on side facades may consist of clear, frosted, or spandrel glass, and shall be organized into a display window configuration.

40.1-5.7 TRANSITIONAL STANDARDS

(A) Purpose and Intent

These transitional standards are intended to:

(1) Provide proper transition and compatibility between single-family detached development and other more intense development.

(2) Establish or maintain vibrant pedestrian-oriented areas where differing uses can operate in close proximity to one another.

(3) Protect the character of single-family development from negative impacts resulting from adjacent more intense forms of development.

(B) Applicability

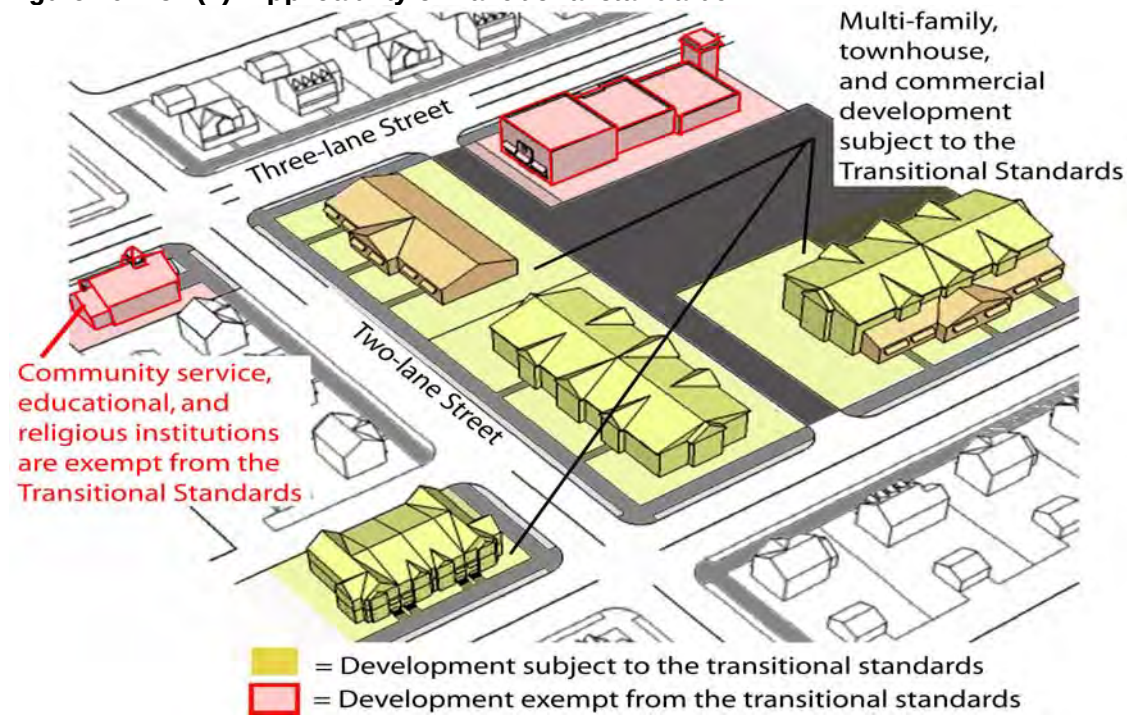
These transitional standards apply to commercial, industrial, mixed-use, attached residential, townhouse, two- to-four-family residential, and multi-family development located on land abutting or across a local street or alley from existing single-family detached residential development.

(C) Exemptions

The following development is exempt from these standards:

(1) Community service, educational facilities, religious institutions, and utilities (See Table 40.1-4.1(A), Use Table);

Figure 40.1-5.7(B): Applicability of Transitional Standards



(2) Commercial, industrial, mixed-use, attached residential, townhouse, two- to four-family residential, or multi-family development located across a street with three-or more lanes from single-family detached residential development; and

(3) Development within the D1 or D2 districts.

(D) Review for Compliance

Review for compliance with the standards of this section shall occur during review of a Development Plan (Section 40.1-2.3(C) & (D)), Preliminary Subdivision Plat (Chapter 33.1 of the City Code) Master Plan associated with an Amendment to the Zoning Map to establish a new AC district (Section 40.1-3.5(B)), or Zoning Compliance Permit (Section 40.1-2.3(F)), as appropriate.

(E) Plan for Development Required

Development subject to the standards of this section shall provide a development plan, master plan, or other plan for development illustrating how the proposed development complies with these standards.

(F) Transitional Development Standards

Development subject to the standards of this section shall comply with the following standards.

(1) Building Placement

Buildings shall be oriented towards the street from which they derive their street address.

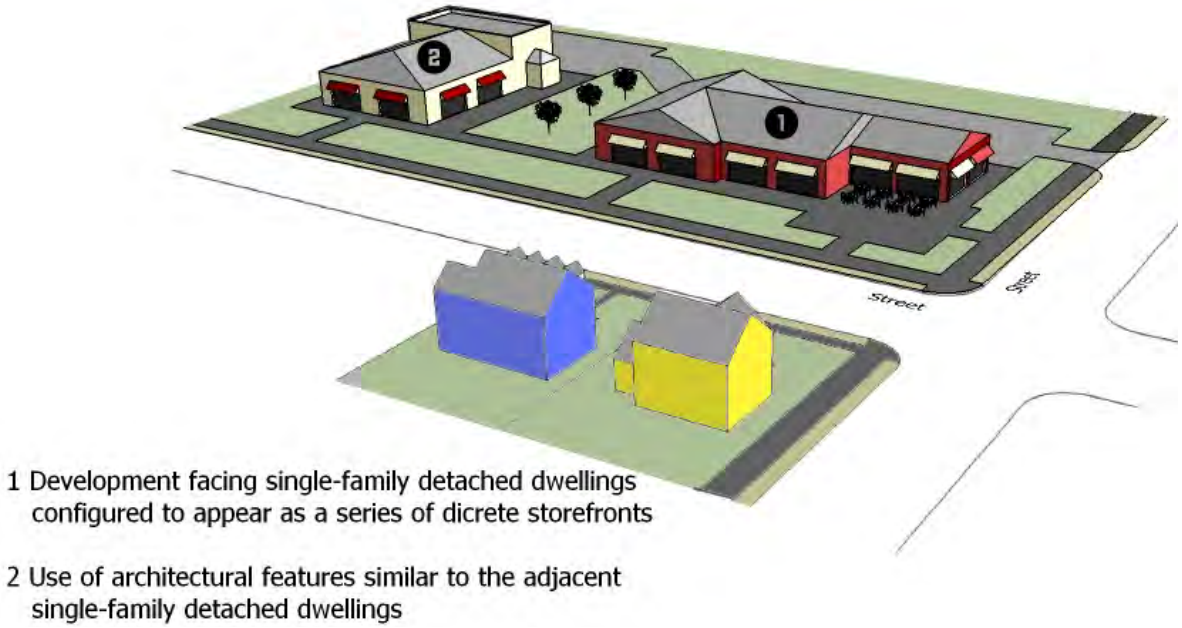
(2) Building Setback

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 ten percent than the adjacent buildings setbacks.

(3) Building Facades

Buildings shall:

Figure 40.1-5.7(F): Building Facades in Transitional Areas



(a) Be configured to appear as a series of discrete storefronts if facades face single-family detached dwellings, with no single storefront occupying more than 50 percent of the total façade width;

(b) Use exterior colors that are compatible with nearby single-family detached dwellings;

(c) Use similarly sized and patterned architectural features such as windows, doors, awnings, arcades, pilasters, cornices, wall offsets, building materials, and other building articulations found on adjacent single-family detached dwellings; and

(d) Orient porches, balconies, outdoor space, and other exterior site features such as vending machines away from adjacent single-family detached dwellings.

(4) Building Height

(a) Buildings on lots adjacent to single-family detached dwellings shall maintain the same height as the dwelling, or be stepped-back from the lot line such that the lowest portion of the building is the portion closest to the single-family detached dwelling.

(b) No building within 150 feet of a single-family detached dwelling shall exceed 35 feet in height.

(c) In instances when buildings or portions of buildings are allowed to exceed 35 feet in height, they shall be broken up into modules or wings with the smaller and shorter portions of the structure located adjacent to single-family detached dwellings.

(5) Similar Roof Forms

Consistency in roof forms with adjacent buildings shall be addressed by using a similar roof form with varying height and proportion.

(6) Service and Loading Area Location and Screening

(a) Separate service related activities associated with commercial uses shall be located behind or to the sides of buildings away from the adjacent residential uses, screened with walls and/or landscaping, and provided with access that is integrated with parking areas and the vehicular circulation network.

(b) Outdoor storage, trash collection, and loading areas shall not be visible from public or private rights-of-way.

(7) Parking and Driveways

When required, off-street parking shall be established in one of the following locations (listed in priority order):

(a) Adjacent to off-street parking lots serving nonresidential uses on abutting lots;

(b) Adjacent to lot lines abutting nonresidential development;

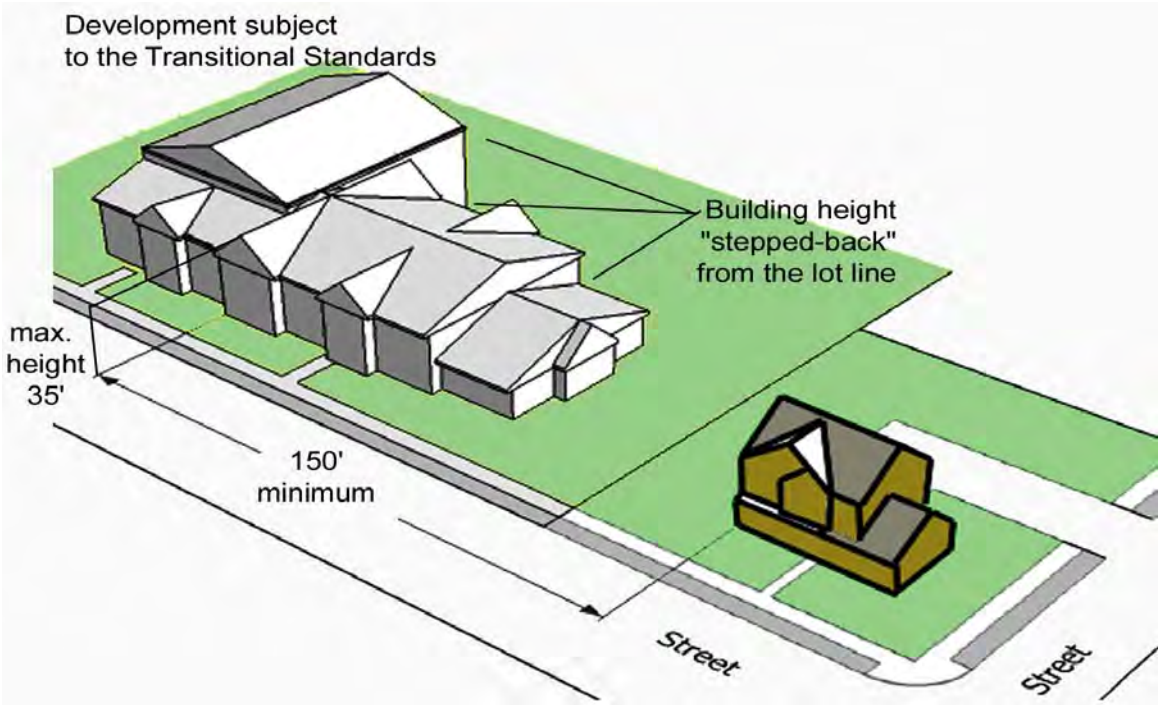


Figure 40.1-5.7(F)(5): Building Heights and Roof Forms in Transitional Areas
Building heights need to be reduced when abutting single-family structures.

(c) Adjacent to lot lines abutting mixed-use development;

(d) On a lot's corner side;

(e) Behind the building;

(f) In front of the building; or

(g) Adjacent to lot lines abutting single-family detached dwellings.

(G) Drive-Throughs

Ordering speakers and menu boards associated with a drive-through use shall be located as far as possible from abutting single-family detached development.

(H) Outdoor Activity Areas

Outdoor dining and other outdoor gathering areas that generate noise shall be located away from abutting detached single-family residential uses so as to minimize acoustic impacts.

(I) Open Space

(1) Location of Open Space

Buildings subject to these standards and the standards in Section 40.1-5,4 Open Space Set Asides, shall locate the open space set-aside adjacent to existing single-family dwellings, if reasonably possible.

Figure 40.1-5.7(H): Outdoor Activity Areas
Locating outdoor areas away from residential development helps ensure compatibility.

(2) Existing Natural Features

Natural features such as existing vegetation, natural differences in topography, 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 land uses shall be provided.

(J) Use Intensities

For multi-building development including varying intensities in the different buildings, a gradual gradation of uses shall be provided with the least intense use next to abutting detached single-family residential uses or zoning.

(K) Operational Standards

Upon approval of development application, the city may impose conditions as described in the Procedures Manual to limit operational activities of the development to ensure it is compatible with adjoining residential uses. These operational activities include but are not limited to placement of trash receptacles, location of delivery and loading zones, placement and illumination of outdoor vending machines, hours of operation, and other such conditions.

40.1-5.8 GREEN BUILDING INCENTIVES

(A) Purpose

In an effort to encourage sustainable development practices within the zoning districts as a means of addressing global climate change, the protection of natural resources, and ensuring a high quality of life for future city residents, the following green building incentives are provided.

(B) Type of Bonuses

(1) Development providing green building features in accordance with the provisions of this section shall be eligible for bonuses including:

(a) A density bonus of up to 20 percent beyond the maximum allowable gross residential density;

(b) An increase in the maximum allowable height by up to two stories beyond the maximum allowed in the base zoning district;

(c) An increase in the maximum allowable building coverage by 15 percent beyond the maximum allowed in the base zoning district;

(d) A reduction in the total amount of required landscaping material for site landscaping and perimeter buffers by up to 35 percent;

(e) A modification to the off-street parking requirements resulting in a reduction from the minimum requirements by 15 percent, or an increase to the maximum allowable number of spaces provided by 15 percent; or

(f) A reduction in the amount of open space set-aside by 10 percent.

(2) Development may include a sufficient number of green building features to take advantage of more than one type of bonus, but in no instance shall the amount of an incentive be increased or decreased (as appropriate) beyond the maximum listed in this sub-section.

(C) Applicability

(1) The incentives included in this section are available to new development in the business, special, and UR-H districts.

(2) Sustainability bonuses shall be limited to those related to building height or gross residential density in the Downtown (D1) and (D2) districts.

(D) Conflict with Transitional Standards

In cases where bonuses in this section conflict with the transitional standards in Section 40.1-5.7, the transitional standards shall control.

(E) Procedure

(1) Development seeking to use green building incentives shall include a written request with the development application.

(2) Review for compliance with this section, and receipt of a bonus in accordance with this section shall occur during review of a Development Plan (Section 40.1-2.3 (C) & (D)), Master Plan associated with an Amendment to the Zoning Map to establish a new AC district (Section 40.1-3.5(B)), or Use Permit (Section 40.1-2.3(B)), as appropriate.

(3) The bonus shall be based on the number of green building features provided, in accordance with Table 40.1-5.8, Green Building Bonuses, and Section 40.1-5.8(F), Menu of Green Building Features.

TABLE 40.1-5.8: GREEN BUILDING BONUSES		
TYPE OF BONUS [1]	MINIMUM NUMBER OF GREEN BUILDING FEATURES PROVIDED	
	FROM SCHEDULE A	FROM SCHEDULE B
Increase in gross residential density by up to 10 percent beyond district maximum	1	3
Increase in building height by 1 story beyond district maximum	1	2
Increase in the maximum building coverage by up to 5 percent	1	2
Modification in the minimum or maximum number of off-street parking spaces by up to 5 percent	1	2
Increase in gross residential density by between 10 and 20 percent beyond district maximum	2	4
Increase in building height by 2 stories beyond district maximum	2	4
Increase in the maximum building coverage by 5 to 15 percent	2	3
Modification to the minimum or maximum number of off-street parking spaces by between 5 and 15 percent	2	2
NOTES: [1] In case of conflict between the type of bonus and the minimum required transitional standards, the standards in Section 40.1-5.7, Transitional Standards, shall control.		

(F) Menu of Green Building Features

One or more of the following green building features may be offered by an applicant for proposed development in accordance with Table 40.1-5.8, Green Building Bonuses.

TABLE 40.1-5.8(F): MENU OF GREEN BUILDING FEATURES	
SCHEDULE	FEATURE
ENERGY	
A	Generation of a minimum of 20 percent of the electricity needed by the development from alternative energy sources (solar, wind, geothermal, or biomass) within five years
A	Proof of purchase of carbon offsets in an amount equivalent to 15 percent of the construction costs within five years
B	Design buildings so that they can accommodate the installation and operation of solar photovoltaic panels or solar thermal heating devices
RECYCLING/WASTE REDUCTION	
A	Utilize recycled materials for 50 percent of streets, off-street parking, sidewalks, curbs, and 25 percent of building materials
B	Provide at least enclosed recycling station per building suitable for storage and collection of recyclable generated on-site
SITE CONFIGURATION	
B	Provision of a community garden with at least 500 square feet per dwelling that is controlled by a property-owners association
B	Use of paving materials in driveways and parking lots that have solar reflectance index (SRI) score of at least 29 (SRI is a measure of a parking lot's ability to reject solar heat; a higher SRI yields a cooler parking lot)
B	Configuration of new buildings with one axis 1.5 times longer than the other, and the long axis oriented in an east-west configuration for solar access
A	Include underground parking or a parking structure
A	Provide for mixed-use structures with active retail or personal service uses on ground floors, and

TABLE 40.1-5.8(F): MENU OF GREEN BUILDING FEATURES	
SCHEDULE	**FEATURE**
	residential uses on upper floors
RESOURCE CONSERVATION	
B	Provision of 150-foot undisturbed buffers adjacent to all perennial stream banks, wetlands, and bodies of water
A	Use only native vegetation for required landscaping
A	Use of Low Impact Development (LID) techniques instead of retention or detention ponds for stormwater management
B	Preservation of 15 percent of the tree canopy on a site comprised of the canopies of trees 10" or greater in DBH
A	Double the minimum open space set-aside amount
A	Remediate site contamination on a documented (by means of a Phase II Environmental Site Assessment) "brownfield" site
TRANSPORTATION	
A	Provision of a network of multi-purpose trails with at least one connection to the public greenway or sidewalk system for every acre of land
B	Inclusion of showering and dressing facilities in nonresidential development for employees using alternative forms of transportation
A	Provide on-site transit facilities (e.g., designated park-and-ride parking spaces, bus shelters, water-taxi stops, or similar features
BUILDING CONFIGURATION	
A	Inclusion of green roofs on at least 30 percent of the roof area within the development
B	Meet minimum Energy Star (or equivalent) criteria for at least 75 percent of the residential floor area
A	Design the building to achieve a minimum LEED certification of platinum [1]
A	Design the building to achieve a minimum LEED certification of gold
B	Design the building to achieve a minimum LEED certification of silver
B	Include shade features (e.g., awnings, louvers, shutters, overhangs, etc.) to shade all windows and doors on the southern building facade
B	Design buildings such that 25 percent of the residential units are consistent with Universal Design practices
A	Design buildings such that 50 percent of the residential units are consistent with Universal Design practices [1]
WATER CONSERVATION	
A	Inclusion of a recycled or grey water system for landscaping irrigation
B	Use xeriscape landscaping techniques with no turf or lawn
NOTES: [1] Credited as provision of two schedule "A" features.	

40.1-5.9 EXTERIOR LIGHTING

(A) Purpose

The purpose of this section is to regulate light spillage and glare to ensure the safety of motorists and pedestrians, and to ensure lighting does not adversely affect land uses on adjacent properties. More specifically, this section is intended to:

(1) Regulate Exterior Lighting to Mitigate Adverse Impacts

Regulate exterior lighting to assure that excessive light spillage and glare are not directed at adjacent properties, neighboring areas, and motorists;

(2) Ensure Proper Insulation

Ensure that all site lighting is designed and installed to maintain adequate lighting levels on site while limiting negative lighting impacts on adjacent lands; and

(3) Provide Security

Provide security for persons and land.

(B) Applicability

(1) General

The provisions of this section shall apply to all development in the city unless exempted in accordance with Section 40.1-5.9(C), Exemptions.

(2) Time of Compliance

An exterior lighting plan shall be submitted and approved along with an application for a Development Plan (Section 40.1-2.3(C) &(D)), Preliminary Subdivision Plat (Chapter 33.1 of the City Code), Zoning Compliance Permit (Section 40.1-2.3(F)), or Temporary Use Permit (Section 40.1-2.3(E)), whichever occurs first.

(C) Exemptions

The following is exempted from the exterior lighting standards of this section.

(1) Single-family detached dwellings;

(2) Existing athletic field lighting;

(3) City-owned, -operated, or -maintained street lights located within a street right-of-way or other easement granted to the city;

(4) Lighting and fixtures approved as part of a Certificate of Appropriateness (Section 40.1-2.3(I); and

(5) Lighting approved as part of a Zoning Compliance Permit (Section 40.1-3.2(H)) in the Downtown (D2) district.

(D) General Standards for Exterior Lighting

(1) Hours of Illumination

Public and institutional uses, commercial uses, and industrial uses (See Table 40.1-4.1(A), Use Table.) that are adjacent to existing residential development or vacant land in residential districts shall turn off all exterior lighting—except lighting necessary for security or emergency purposes—within one hour of closing. For the purposes of this subsection, 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, to illuminate exterior walkways, or to illuminate outdoor storage areas. Such lighting may be activated by motion sensor devices.

(2) Illumination Direction

In all districts, lighting shall be directed downward. In addition, upwardly-directed lighting shall not be used to illuminate structures, except for low-wattage architectural lighting or lighting for the American flag.

(E) Design Standards for Exterior Lighting

All exterior lighting shall meet the following standards:

(1) Maximum Lighting Height

(a) Except for outdoor sports fields or performance areas, the height of outdoor lighting, whether mounted on poles or walls or by other means, shall be no greater than 16 feet in residential districts and no greater than 30 feet in other districts.

(b) Wherever possible, illumination of outdoor seating areas, building entrances, and walkways shall be accomplished by use of ground mounted fixtures not more than four feet in height.

(2) Shielding

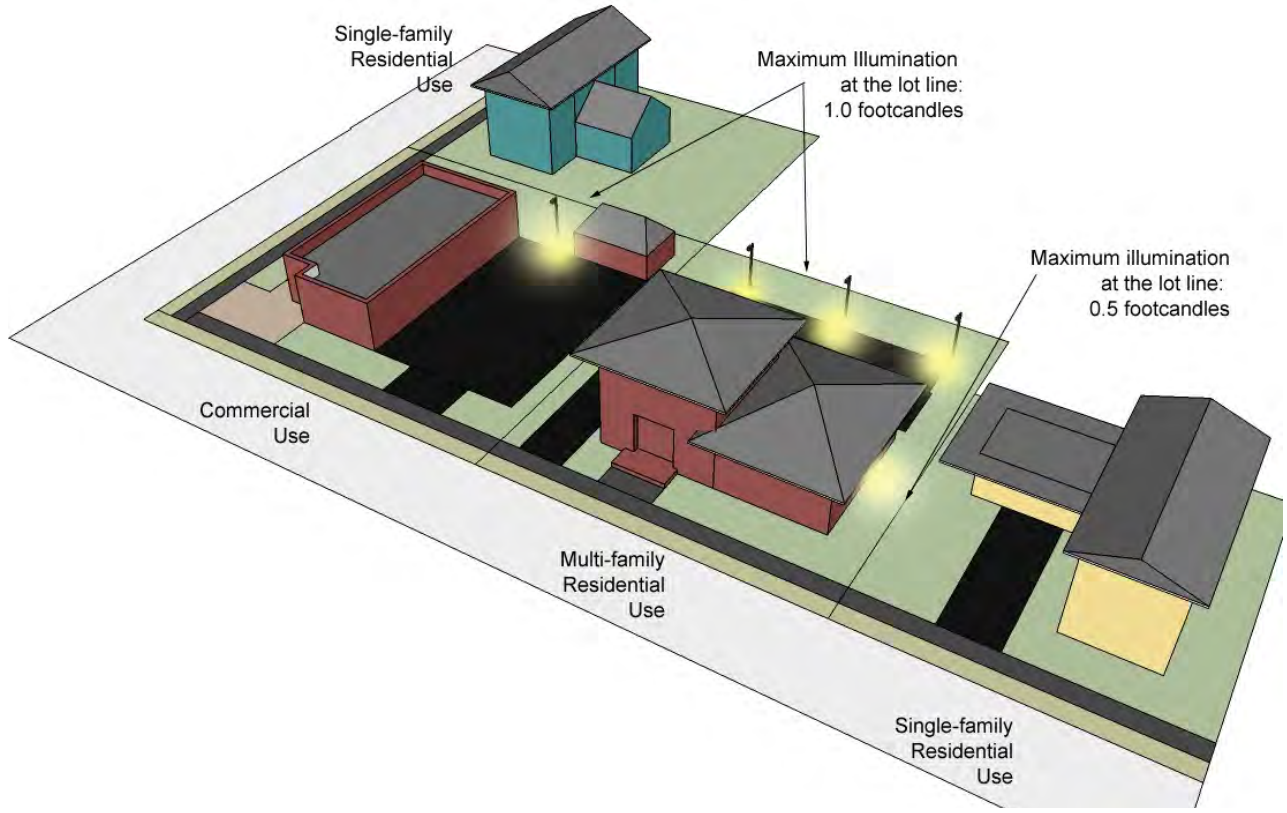
(a) Exterior

Light fixtures in excess of 60 watts or 100 lumens shall use full cut-off lenses or hoods to prevent glare or spillover from the project site onto adjacent lands and streets.

(b) Interior

No interior light source shall be positioned, aimed, or configured so as to result in the light source being visible from land occupied by existing residential development.

Figure 40.1-5.9(E): Maximum Illumination
Exterior lighting shall be configured to avoid casting glare on adjacent lands.



(c) Canopies

No light source in a canopy structure shall extend downward further than the lowest edge of the canopy ceiling.

(d) Awnings

Awnings or canopies used for building accents over doors, windows, etc., shall not be internally illuminated (i.e., from underneath or behind the awning).

(3) Maximum Illumination Levels

All outdoor lighting and indoor lighting visible from outside shall be designed and located so that the maximum illumination measured in footcandles at ground level at a property line shall not exceed the standards in Table 40.1-5.9(E)(3), Maximum Illumination Levels. Cut-off lighting shall be designed to direct light downward (e.g., shoe box style).

TABLE 40.1-5.9(E)(3): MAXIMUM ILLUMINATION LEVELS

TYPE OF USE [1]	MAXIMUM ILLUMINATION AT PROPERTY LINE (FOOTCANDLES)
Residential or Public and Institutional Use	0.5
Commercial Use [2]	1.0
Parking lots	1.0
NOTES: [1] See Table 40.1-4.1(A), Use Table. [2] The minimum illumination level at the property line shall be 0.2 footcandle.	

(F) Wall Pack Lights

Wall packs on buildings may be used at entrances to a building to light unsafe areas. They are not intended to draw attention to the building or provide general building or site lighting. 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 be of low wattage (preferably 100 watts or lower). Wall pack light sources visible from any location off the site are prohibited.

(G) Exemptions for a Security Plan

Government facilities, parks and open areas, public safety, and other uses (see Table 40.1-4.1(A), Use Table) where sensitive or dangerous materials are stored may submit to the Planning Director a site security plan proposing exterior lighting that deviates from the standards in this subsection. The Planning Director shall approve, or approve with conditions, the site security plan and its proposed deviation from the standards of this subsection, upon finding that:

(1) Deviation Necessary to Protect Public or Ensure Security

The proposed deviation from the standards is necessary for the adequate protection of the public;

(2) Significantly Greater Danger of Theft or Damage Without Additional Lighting

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, or members of the public are at greater risk for harm than on surrounding land; and

(3) Deviation is Minimum Required and Will Not Have Adverse Effect

The proposed deviation from the standards is the minimum required, and will not have a significant adverse effect on neighboring lands.

(H) Illumination of Outdoor Sports Fields and Performance Areas

Lighting of outdoor sports fields and performance areas shall comply with the following standards:

(a) Glare Control Package

All lighting fixtures shall be equipped with an existing 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.

(b) Hours of Operation

The lighting system for any game or event shall be extinguished after the end of the game or event.

(I) Sign Lighting

Lighting fixtures illuminating signs shall comply with the standards of this section, and such fixtures shall be aimed and shielded so that direct illumination is focused exclusively on the sign face and is not visible from off-site areas.

40.1-5.10 FENCES AND WALLS

(A) Purpose and Intent

The purpose and intent of this section is to regulate the location, height, and appearance of fences and walls to maintain visual harmony within residential, business, activity center, and special districts; protect adjacent properties from the indiscriminate placement and unsightliness of fences and walls; and ensure the safety, security, and privacy of properties.

(B) Applicability

(1) General

Unless exempted in accordance with Section 40.1-5.10(B)(2), Exemptions, the provisions of this section shall apply to the construction, reconstruction, or replacement of fences or walls in the city. In the event of any conflict between the provisions of this section and any screening standard in Section 40.1-5.2(F), Screening, the latter shall govern.

(2) Exemptions

The following are exempted from the requirements of this section.

(a) Development in the D1 and D2 Districts

Development on lots in the D1 and D2 districts are exempt from the standards of this section.

(b) Required Screening

Fencing provided to meet the standards of Section 40.1-5.2 Landscaping and Screening, but in no case shall the fencing exceed the maximum height limits of Section 40.1-5.2, Landscaping and Screening.

(c) Recreational Fencing

Customary fencing provided as a part of a permitted tennis court, athletic field, or other recreational facility.

(d) Temporary Fencing

Temporary fencing established around construction sites, demolitions, or other site conditions unsafe for pedestrians or vehicles, provided it is consistent with the building code.

(3) Time of Compliance

Compliance with the standards of this section shall occur prior to approval of a building permit or zoning compliance permit, whichever occurs first.

(C) General Requirements for Fences and Walls

(1) Location

Fences are permitted anywhere on a lot outside of sight triangles or public easements, and may be located directly over a property line between two or more parcels of land held in private ownership.

(2) Blocking Natural Drainage Flow

No fence shall be installed so as to block or divert a natural drainage flow on to or off of any other land. Nothing in this section shall be construed to prevent the installation of temporary fencing to protect existing trees, limit sedimentation, or control erosion.

(3) Fences and Walls within Buffers

Fences and walls shall be installed so as not to disturb or damage existing vegetation or installed plant material. The perimeter fencing or wall for a single development shall be of a uniform style that complies with the standards of this section.

(D) Height Requirements for Fences and Walls

All fences and walls shall conform to the following standards. In all cases, heights are measured from finished grade on the highest side of the fence or wall.

(1) Residential Districts

In residential districts (see Table 40.1-3: Base Zoning Districts Established), fences and walls shall not exceed:

(a) Front Yards

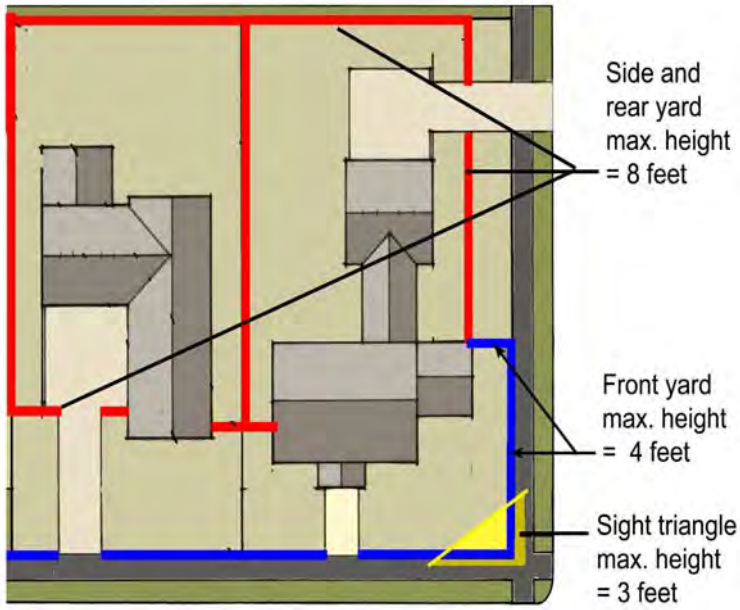
A height of four feet in front yards and that part of side yards from the front lot line to the front façade plane of the structure.

(b) Side or Rear Yards

A height of eight feet in side and rear yards.

(c) Transparency

Figure 40.1-5.10(D): Fence Height Requirements
Maximum fence heights differ depending upon where the fence is located.



Fences or walls located within a front yard or side yard adjacent to a street shall maintain a minimum of 50 percent transparency.

(2) Other Districts

(a) General

(i) Except within industrial districts, fences and walls shall not be permitted in front setback areas, and shall not exceed a height of four feet in the remainder of front yards and eight feet in side or rear yards, unless the fence in the side or rear yard is located within 15 feet of a public right-of-way, in which case it shall not exceed a height of six feet.

(ii) Fences in industrial districts shall not exceed eight feet in height in front and corner side yard areas, or where industrial land abuts a residential district.

(iii) If a fence is constructed on top of a retaining or other wall, the combined height of the fence and wall shall not exceed the maximum height that would apply to a fence or wall alone.

(b) Major Utilities, Wireless Communications, Government Facilities, and Other Public Safety Uses

Fences and walls in front, side, and rear yards of major utilities, wireless communication towers, government facilities, and other public safety uses shall not exceed eight feet.

(3) Vacant Property

(a) Vacant property may be fenced if:

(i) The fence does not exceed four feet in residential districts and eight feet in all other districts;

(ii) The fencing maintains a minimum transparency of 50 percent; and

(iii) The purpose of the fencing is to discourage unauthorized dumping or unauthorized parking on the property.

(b) Fencing of the vacant property shall not be construed to allow use of the property for outdoor storage.

(E) Exemption for Security Plan

A property owner or tenant or a representative of a public agency responsible for a government facility, public safety use, or other use in need of heightened secuirty may submit to the Planning Director a site security plan proposing fences or walls taller than those permitted by this section or proposing the use of barbed or concertina wire atop a fence or wall for security reasons. The Planning Director shall approve or approve with conditions the site security plan and its proposed exemption of fences or walls from the standards of this section, upon finding:

(1) Taller Fence or Wall Needed for Safety or Security Reasons

The condition, location, or use of the property, 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 a taller fence or the use of barbed or concertina wire atop a fence or wall; and

(2) No Adverse Effect

The proposed taller fences or walls or use of barbed or concertina wire will not have a significant adverse effect on the security, functioning, appearance, or value of adjacent properties or the surrounding area as a whole.

(F) Perimeter Fences and Walls Abutting Public Rights-of-Way

Fences or walls located within 15 feet of a street or public right-of-way shall:

(1) Be located outside the public right-of-way;

(2) Include breaks, offsets of at least one foot, access points, or other design details in the wall plane at least every 200 feet as illustrated in Figure 40.1-5.10(F), Required Fencing Offsets;

(3) Comply with the standards in Section 40.1-5.10(K), Appearance; and

(4) Comply with the requirements of Section 40.1-5.10(K)(4), Screening.

(G) Visibility Clearance

Fences and walls shall be placed outside of required sight triangles or areas needed for visibility.

(H) Prohibited Fences

Fences or walls made of debris, junk, rolled plastic, sheet metal, plywood, or waste materials are prohibited in all zoning districts unless such materials have been recycled and reprocessed for marketing to the general public as building materials that resemble new building materials (e.g., picket fencing made from recycled plastic and fiber).

(I) Chain Link Fencing

(1) Chain link fencing shall be allowed, subject to the following standards:

(a) Residential Districts

Chain link fencing is permitted on lots within residential zoning districts provided it does not include opaque slats, and does not exceed the maximum allowable height in Section 40.1-5.10(D), Height Requirements for Fences and Walls.

(b) Industrial Districts

Figure 40.1-5.10(F): Fence Abutting R-O-W
Offsets and other features help ensure an attractive public realm.

Chain link fencing shall be allowed on lots within industrial zoning districts provided it does not include opaque slats, is coated with black or dark green vinyl, and does not exceed eight feet in height within front or corner side areas.

(2) Chain link fencing shall not be allowed on lots within a business or mixed-use zoning district.

(J) Barbed or Razor Wire

Barbed or razor wire is allowed permitted only in accordance with an approved security plan (See Section 40.1-5.10(E)).

(K) Appearance

(1) Customary Materials

Fences and walls shall be constructed of any combination of treated wood posts and vertically-oriented planks, rot-resistant wood, wrought iron, decorative metal materials, brick, stone, masonry materials, or products designed to resemble these materials. Where wood, masonry, or other opaque materials are specified for particular types of screening or buffering fences or walls, all other fence materials are prohibited.

Figure 40.1-5.10(K)(2): Fence Finished Side to Outside

(2) Finished Side to Outside

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 has visible support framing and the other does not), then the more "finished" side of the fence shall face the perimeter of the lot rather than the interior of the lot.

(3) Compatibility of Materials along a Single Lot Side

All fencing or wall segments located along a single lot side shall be composed of a uniform style and colors compatible with other parts of the fence and with the associated buildings.

(4) Landscape Screening

All fences and walls exceeding four feet in height in all districts, if located within 15 feet of a public street right-of-way, shall be supplemented with landscape screening in accordance with the following standards, to soften the visual impact of the fence or wall.

(a) Shrubs Required

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 shall meet the size standards of Section 40.1-5.2(C)(2), Planting Standards, and may be installed in a staggered, clustered, grouped, or linear fashion.

(b) Substitution of Understory Trees

One understory or ornamental tree may be substituted for every three evergreen shrubs provided that the tree meets the size standards of Section 40.1-5.2(C)(2), Planting Standards.

(c) Integration with other Required Landscaping

Required landscape screening for fences or walls may be integrated into the landscaping required for vehicular use area screening or perimeter buffers, provided the standards in Section 40.1-5.2, Landscaping and Screening Standards, are maintained.

40.1-5.11 SIGNAGE

(A) Purpose

The purpose of these sign standards is to encourage the effective use of signs as a means of communication in the city, to maintain and enhance the aesthetic environment and the city's ability to attract sources of economic development and growth; to improve pedestrian and traffic safety, to minimize the possible adverse effect of signs on nearby public and private property, and to enable the fair and consistent enforcement of these sign restrictions.

(B) Applicability

Signs shall be permitted on private property in the city in accordance with this section.

(C) Prohibited Signs

The following signs are expressly prohibited:

(1) Roof signs;

(2) Signs which are of a size, location, movement, content, coloring or manner of illumination which may

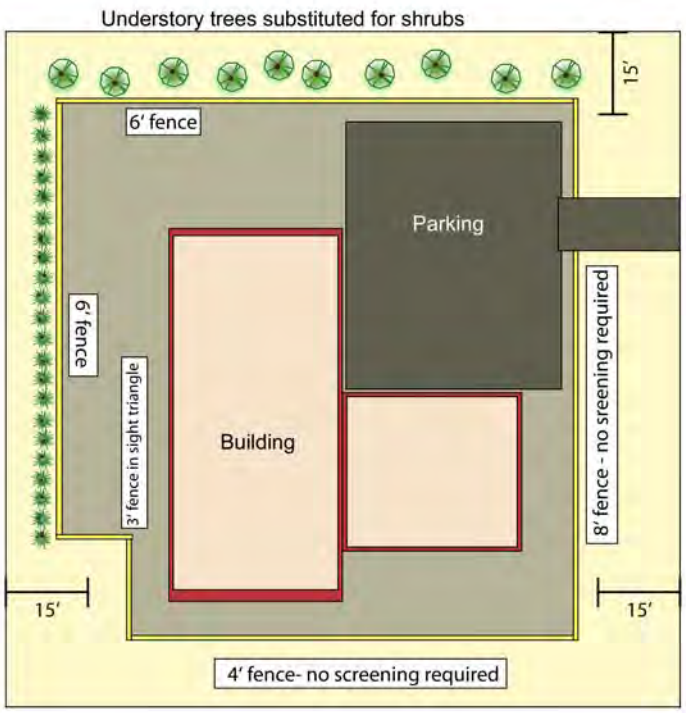


Figure 40.1-5.10(K)(4): Fence Landscaping
Fences taller than four feet and closer than 15 feet to a street must be landscaped.

be construed as traffic-control devices or signs or which hide from view any traffic or street sign or signal or which obstruct the view at a street or road intersection;

(3) Pennants;

(4) Balloons with a commercial message greater than two feet in diameter with a tether more than two feet long extending from the roof or structure by means of a rope, string, or other device shall be prohibited;

(5) Portable or nonstructural signs with no permanently mounted, self-supporting structure, including signs mounted on wheels and otherwise constructed to be used as a temporary sign display;

(6) Obsolete signs containing sign copy, print, or graphics which advertise an activity, business, product, or service no longer produced or conducted. An exception to the immediate removal of obsolete sign copy, print or graphics will occur where the owner or lessor of the premises on which the sign is located is seeking a new tenant, then the sign copy, print or graphics shall be removed by the owner or lessor no more than 90 days from the date of vacancy of the premises on which the obsolete sign is located; and

(7) Animation of signs, except revolving signs and changeable copy signs, where permitted.

(D) Exempted Signs

The following signs are exempted from the requirements of this section:

(1) Signs less than two square feet in size, containing only property numbers, names of occupants or buildings or hours of operation;

(2) Memorial signs, names of buildings or commemorative plaques when cut into masonry or made of a noncombustible material;

(3) Signs erected by public agencies; however a sign permit application shall be completed and submitted for review and approval;

(4) Signs denoting the entrance to residential areas, if not in excess of 18 square feet in area nor six feet in height;

(5) Real estate signs less than four square feet in area in residential zoning districts, less than eight square feet in mixed-use zoning districts, and less than 16 square feet in industrial zoning districts, one per street frontage; provided that such signs shall be permitted for on-premises sale, lease or rentals only and provided that the sign is removed within seven days of consummating the sale, lease or rental. No signs advertising off-premises sale, lease or rentals are permitted;

(6) One construction sign per street frontage indicating the name of the developer, builder, contractor, architect, engineer or lending institution; provided that the advertising display area does not exceed 32 square feet per zone lot in commercial or industrial zoning districts and 24 square feet per zone lot in any other zoning district. Such signs shall be removed no later than 14 days after the city has issued a certificate of occupancy for the final building in the development;

(7) Signs erected in connection with elections or political campaigns; provided that such signs are erected no more than 90 calendar days before and removed within 15 days after the election date. After expiration of said time, such remaining signs may be removed by the city and the cost of such removal shall be charged to the candidate; and

(8) Works of art containing no commercial message.

(E) Signs Permitted by Zoning District

Signs shall be permitted in the various zoning districts as set forth in this section.

(1) Signs Permitted in all Residential (R) Zoning Districts

In addition to the general requirements applicable to all signs set forth in this section, the following signs shall be permitted in all residential (R) zoning districts:

(a) Signs Permitted Without City Approval

(i) Name plate sign;

(ii) Residential freestanding signs;

(iii) Temporary sign, including temporary banner signs;

(b) Signs Permitted With a Zoning Compliance Permit

(i) Historic and memorial marker;

(ii) Institutional canopy sign;

(iii) Institutional freestanding sign; and

(iv) Noncommercial sign.

(2) Signs Permitted in all Residential UR and UR-H zoning districts

In addition to the general requirements applicable to all signs set forth in this section, the following signs shall be permitted in all UR and UR-H zoning districts:

(a) Signs Permitted Without City Approval

(i) Incidental sign;

(ii) Name plate sign;

(iii) Residential freestanding sign;

(iv) Temporary sign, including temporary banner signs;

(b) Signs Permitted With a Zoning Compliance Permit

(i) Canopy sign;

(ii) Freestanding sign up to eight feet in height;

(iii) Historic and memorial marker;

(iv) Institutional canopy sign;

(v) Institutional freestanding sign;

(vi) Noncommercial sign;

(vii) Projecting sign;

(viii) Wall sign; and

(ix) Window sign.

(3) Signs Permitted in the NMU and MU-H Districts

In addition to the general requirements applicable to all signs set forth in this section, the following signs shall be permitted in the Neighborhood Mixed Use (NMU) and High Intensity Mixed-Use (MU-H) zoning districts:

(a) Signs Permitted Without City Approval

(i) Incidental sign;

(ii) Name plate sign;

(iii) Residential freestanding sign;

(iv) Window sign;

(b) Signs Permitted With a Zoning Compliance Permit

(i) Banner sign, permanently mounted;

(ii) Canopy sign;

(iii) Changeable copy sign;

(iv) Freestanding sign, up to 26 feet in height;

(v) Historic and memorial marker;

(vi) Institutional canopy sign;

(vii) Institutional freestanding sign;

(viii) Marquee sign;

(ix) Noncommercial sign;

(x) Projecting sign;

(xi) Temporary sign, including temporary banner signs; and

(xii) Wall sign.

(4) Signs Permitted in the D1 and D2 Districts

(i) Signs in the D1 and D2 district shall be subject to the district specific standards for those districts.

(5) Signs Permitted in the GMU District

In addition to the general requirements applicable to all signs set forth in this section, the following signs shall be permitted in the General Mixed-Use (GMU) zoning district:

(a) Signs Permitted Without City Approval

(i) Incidental sign;

(ii) Name plate sign;

(b) Signs Permitted With a Zoning Compliance Permit

(i) Canopy sign;

(ii) Freestanding sign; up to eight feet in height;

(iii) Historic and memorial marker;

(iv) Institutional canopy sign;

(v) Institutional freestanding sign;

(vi) Noncommercial sign; and

(vii) Wall sign.

(6) Signs Permitted in the IL and IN Zoning Districts

In addition to the general requirements applicable to all signs set forth in this section, the following signs shall be permitted in the Light Industrial (LI) and General Industrial (IN) zoning districts:

(a) Signs Permitted Without City Approval

(i) Incidental sign;

(ii) Name plate sign;

(iii) Residential freestanding sign;

(iv) Window sign;

(b) Signs Permitted With a Zoning Compliance Permit

(i) Banner sign, permanently mounted;

(ii) Canopy sign;

(iii) Changeable copy sign;

(iv) Freestanding sign, up to 26 feet in height;

(v) Historic and memorial marker;

(vi) Institutional canopy sign;

(vii) Institutional freestanding sign;

(viii) Noncommercial sign;

(ix) Off-premises advertising sign;

(x) Projecting sign;

(xi) Temporary sign, including temporary banner signs; and

(xii) Wall sign.

(c) In the IN zoning district, a permanently mounted banner sign, changeable copy sign, freestanding sign, off-premises advertising sign, projecting sign or wall sign may only be granted a zoning compliance permit after a use permit has been approved by the City Council.

(7) Signs Permitted in Downtown Zoning Districts

In addition to the general requirements applicable to all signs set forth in this article, the following signs shall be permitted in the Downtown D-1 and D-2 zoning districts:

(a) Signs Permitted Without City Approval:

(i) Incidental sign: In the Downtown Public, Office, Commercial, Mixed Use, Commercial, and Industrial zoning subdistricts only;

(ii) Name plate sign: In all downtown zoning subdistricts

(iii) Residential freestanding sign: In the Downtown Residential, Commercial, Mixed Use and Central Business zoning subdistricts only;

(iv) Temporary sign: In the Downtown Residential zoning subdistrict only;

(b) Signs Permitted With a Zoning Compliance Permit

(i) Banner sign, permanently mounted: In the Downtown Public, Office, Commercial, Mixed Use, Commercial, and Industrial zoning subdistricts only;

(ii) Canopy sign: In the Downtown Public, Office, Commercial, Mixed Use and Central Business and Industrial zoning subdistricts only;

(iii) Changeable copy sign: In the Downtown Public and Office zoning subdistricts only;

(iv) Freestanding sign; up to eight feet in height: In the Downtown Public, Office, Commercial, Mixed Use, Central Business, and Industrial zoning subdistricts only;

(v) Freestanding sign; up to 26 feet in height: In the Downtown D-2-C and D-2-I zoning subdistricts only;

(vi) Historic and memorial marker in all Downtown zoning subdistricts;

(vii) Institutional canopy sign in the Downtown Residential zoning subdistrict only;

(viii) Marquee in the Commercial, Mixed Use, Central Business and Industrial zoning subdistricts only;

(ix) Noncommercial sign in all Downtown zoning subdistricts;

(x) Projecting signs in the Downtown Public, Office, Mixed Use and Central Business zoning subdistricts;

(xi) Temporary signs, including temporary banner signs in the Downtown Public, Office, Commercial, Mixed Use, Central Business, and Industrial zoning subdistricts only;

(xii) Wall signs in the Downtown Public, Office, Commercial, Mixed Use and Central Business, and Industrial zoning subdistricts only; and

(xiii) Window signs in the Downtown Commercial, Mixed Use, Central Business and Industrial zoning subdistricts only.

(8) Signs Permitted in Historic (H) Zoning Districts

In addition to the general requirements applicable to all signs set forth in this section, the following signs shall be permitted in the Historic (H) zoning districts:

(a) Signs Permitted Without City Approval

(i) Incidental sign;

(ii) Residential freestanding sign;

(b) Signs permitted with a Zoning Compliance Permit

(i) Canopy signs in the Historic Limited Office HLO and Historic Limited Business HLB zoning subdistricts only;

(ii) Historic and memorial markers in all Historic zoning subdistricts;

(iii) Noncommercial signs in all Historic zoning subdistricts;

(iv) Projecting signs in the Historic Limited Office HLO and Historic Limited Business HLB zoning subdistricts only;

(v) Temporary signs, including temporary banner signs in the Historic Residential HR and Historic Limited Business HLB zoning subdistricts only;

(vi) Wall signs in the Historic Limited Office HLO and Historic Limited Business HLB zoning subdistricts only; and

(vii) Window signs in the Historic Limited Office HLO and Historic Limited Business HLB zoning subdistricts only.

(F) Streets Having Special Sign Restrictions

In order to restrict the use of off-premises signs beyond the restrictions imposed by the zoning district, the City Council may, from time-to-time, designate certain streets as having special sign restrictions. Off-premises signs are prohibited from being erected along or oriented towards streets or portions thereof which have been designated by the City Council as streets having special sign restrictions.

(1) In making such designation, the City Council may consider any or all of the following factors:

(a) The promotion of highway safety;

(b) The convenience and enjoyment of public travel;

(c) The protection of pedestrians;

(d) The attraction of tourism; and

(e) Any general purpose of this Ordinance.

(2) The following streets are hereby designated as streets having special sign restrictions:

(a) London Boulevard between its intersection with Effingham Street and its intersection with High Street;

(b) West Norfolk Road;

(c) Western Freeway;

(d) Martin Luther King Expressway.

Any nonconforming off-premises sign on the Martin Luther King Expressway (the "Expressway") between London Boulevard and the Midtown Tunnel that would be required to be removed as a result of a state or federal road project may be physically relocated to a point on the same side of the roadway as the sign's original location. The new location shall be at approximately the same point laterally along the Expressway as the original location of the sign, or of any other sign which is relocated pursuant to this section, and oriented in the same direction as the sign which had been at that location. Each sign which is relocated shall be subject to setback and height requirements applicable to off-premises signs, other than setback requirements applicable to expressways, as set forth in this section plus any other requirements imposed by state or federal authorities of competent jurisdiction.

(G) General Requirements Applicable to All Signs

The following general requirements shall apply to all permitted signs:

(1) Advertising

Notwithstanding any other provision of this section, no sign except a permitted off-premises advertising sign or a permitted real estate sign shall advertise any service or product which if offered on the lot where the sign is located would constitute a violation of this Ordinance or a permit granted hereunder or condition imposed.

(2) Building Code Compliance

The requirements of this section are supplemental to the building, electrical, and other applicable codes. Nothing herein shall exempt any sign from compliance with such codes.

(3) Signs to be Permanent

Except for real estate signs, yard sale signs, window signs, permitted temporary signs, and noncommercial signs utilizing the dimensional requirements applicable to any of those, all signs shall be permanently installed as defined by the Uniform Statewide Building Code. Installation using ropes, cords, and the like is not considered permanent.

(4) Illumination

Illumination, where permitted, shall be designed, installed and maintained in a manner that avoids glare on adjoining property and that avoids glare or reflection which in any way interferes with traffic safety. In the UR, UR-H, and Historic zoning districts, signs other than name plates shall be illuminated only by the reflector method.

(5) Maintenance

All signs, including those exempt from this Ordinance, shall be maintained in good condition at all times. All signs shall be kept free of holes or tears or fraying, and neatly painted, including all metal parts and supports thereof that are not galvanized or of rust-resistant material. The Planning Director shall have the authority to order the painting, repair, alteration or removal of a sign which is defective, damaged or deteriorated and to remove any sign not brought into compliance.

(H) Individual Sign Standards

(1) Freestanding Signs

Freestanding signs, where allowed, shall be subject to the following standards:

(a) Any parts of any freestanding signs shall be setback a minimum seven feet from the front property line.

(b) The minimum sign setback from interstate highways and expressways designated by City Council shall be 100 feet.

(c) Freestanding signs on property adjoining property which is included in any R or Historic zoning district shall be set back from the property line adjoining such residential property by a distance at least equal to the height of the sign.

(d) There shall not be more than one freestanding sign per zone lot or, if the zone lot has frontage on more than one public street, one additional freestanding sign shall be allowed for each such street in excess of one.

(e) One freestanding sign may contain advertising messages for any number of businesses.

(f) National flags, military flags, flags of the commonwealth, city or symbolic flags of any institution or business shall not be considered banners or signs for the purposes of this section.

(2) Incidental Signs

Incidental signs shall:

(a) Not exceed two square feet in area;

(b) Not be illuminated;

(c) If freestanding, not exceed four feet in height; and

(d) If freestanding, be set back from the property line by a distance equal to the height of the sign, however, there shall be no setback for such signs if attached to a building or fence.

(e) Such signs shall not be included in the "maximum advertising area" computation.

(3) Sign, Institutional Canopy

A religious, educational or other public or quasi-public institutions shall be entitled to a certificate of compliance for one canopy sign per street frontage, subject to all other applicable requirements of this section, except that such signs may be up to 12 feet in height.

(4) Sign, Institutional Freestanding

A religious, educational or other public or quasi-public institution in any zoning district shall be entitled to a certificate of compliance for one institutional sign, or bulletin board for each separate street frontage; provided:

(a) Each such sign must be located on the same zone lot with the institution;

(b) The sign shall not have an advertising display area of more than 18 square feet or a height of more than six feet.

(c) Such signs shall be illuminated only by the reflector method.

(d) Such signs shall be set back from each property line by a distance at least equal to the height of the sign.

(e) In zoning districts allowing larger or taller on-premises signs for business, such institutions shall comply with the zoning district requirements.

(5) Sign, Marquee

Marquee signs shall maintain a minimum vertical distance between the bottom of the sign and the grade at the right-of-way line of eight feet.

(6) Sign, Name Plate

Name plates shall not exceed two square feet in area and may be lighted by a single incandescent bulb.

(7) Sign, Off Premises

Off-premise signs shall:

(a) Be only single-faced;

(b) Be set back at least 25 feet from the right-of-way of any public street and 660 feet from any expressway designated by City Council;

(c) Be set back 15 feet from any other property line, or, if the property line adjoins property zoned R, by a distance at least equal to the height of the sign;

(d) The maximum height of any off-premises sign shall be 50 feet in Industrial zoning districts and 26 feet in MU-H districts.

(e) No off-premises sign shall be erected within 500 feet of any other off-premises sign on the same side of the same street.

(f) Off-premises signs within 660 feet of the right-of-way of any highway classified as an interstate highway or as a federal aid primary highway shall also comply with Chapter 7, Code of Virginia, Section 33.1-351 et seq., as amended.

(g) No off-premises sign shall be permitted within the MU-H zoning district on any zone lot upon which improvements have been constructed.

(h) Notwithstanding the zone, no off-premises signs shall be allowed along or oriented towards any street or highway or portion thereof which has or have been designated by the City Council as streets having special sign restrictions.

(8) Sign, Permanently Mounted Banner

There shall be no more than one permanent banner sign per establishment per zone lot.

(9) Sign, Projecting

(a) Projecting signs shall not extend more than six feet from a building to which they are attached.

(b) Such signs shall maintain a minimum vertical distance of eight feet between the bottom of the sign and the grade at the right-of-way line.

(c) Projecting signs in the DT and H zoning districts, shall extend no more than six feet from a building to which they are attached and shall be perpendicular to the building.

(d) Such signs shall maintain a minimum vertical distance of eight feet between the bottom of the sign and the grade directly below the bottom of the sign.

(e) Projecting signs shall not exceed 12 square feet in area per face.;

(f) Such signs shall be nonilluminated.

(g) Projecting signs shall consist primarily of graphics or symbols with a minimum of lettering.

(h) Projecting signs located within the public right-of-way shall comply with the provisions of Section 32-7 pertaining to street encroachments.

(10) Sign, Residential Freestanding

Residential freestanding signs shall not exceed three square feet per side in area.

(11) Sign, Temporary

(a) Such signs shall be subject to the limitations as to size, height, and location requirements of the zoning district in which they are located, as well as the following:

(b) Temporary signs may include A-frame or T-frame signs in the DT zoning district and such signs shall require the issuance of an annual certificate of compliance and depositing with the City Manager and keeping current a policy of liability insurance covering bodily injury and property damage in the amount of $1,000,000.00 which names the city as a co-insured.

(c) Temporary inflatable signs may, if affixed to the roof of a building or structure, project no more than 30 feet above the roof line or top of the building or structure, or if affixed to the ground, have a height not exceeding 30 feet above ground level.

(d) Such signs shall be displayed no more than once per year per zone lot, for a period of time not to exceed seven days.

(e) Temporary signs must be removed on the day after the last day of the advertised event or promotion or upon expiration of the required certificate of compliance or termination of the required insurance coverage.

(f) Temporary real estate signs shall be permitted for on-premises sale, lease or rentals only and provided that such sign is removed within seven days of consummating such sale, lease or rental.

(g) No temporary signs advertising off-premises sale, lease or rentals are permitted.

(h) Banner signs that are mounted with rope or straps or other temporary means shall be considered temporary signs.

(i) In no case shall any establishment display a temporary banner sign for a cumulative period of time longer than 30 days in any calendar year.

(j) National flags, military flags, flags of the commonwealth, city or symbolic flags of any institution or business shall not be considered banners or signs for the purposes of this section.

(12) Sign, Wall

Wall signs shall be subject to the general requirements, except that where groupings of office or commercial businesses share a common zone lot, additional wall signs shall be permitted based upon the actual building frontage as related to the requirements of this section.

(13) Sign, Window

(a) Window signs shall:

(i) Be permitted on the ground floor only; and

(ii) Not cover more than 20 percent of any window area, except that where groupings of office or commercial businesses share a common zone lot.

(b) Window signs in conformance with this section are not counted towards the maximum display area calculations contained within Section 40.1-5.11(l)(1)(c).

(l) Administration

Administration of the provisions of this section shall be as set forth as follows:

(1) Computations Related to Signs; Maximum Sign Area Totals

Computations related to the interpretation and construction of this section shall be made in accordance with the following principles:

(a) Advertising Display Area

The advertising display area shall be computed as the area encompassed by one continuous line connecting the extreme points or edges of a sign. The structural supports for a sign, whether they be columns, pylons or a building or part thereof, shall not be included in the advertisement area unless they are designed as integral parts of the display for the purpose of illustration or attraction. If a sign being constructed for the City of Portsmouth is sponsored by another entity, then sponsorship information on the sign shall not be computed as part of the allowable advertising display area, provided that the sponsorship information constitutes less than 25 percent of the advertising display area. Otherwise such sponsorship information must conform to the requirements of this section.

(b) Height

The height of a sign shall be measured from the top edge of the sign to the ground level measured at the edge of the pavement of the public street on which the sign faces.

(c) Maximum Display Area

(i) Off-Premises Signs

The maximum advertising display area shall be 672 square feet in Industrial zoning districts and 300 square feet in High Intensity Mixed-Use zoning districts.

(ii) On-Premises Signs

a. The maximum advertising display area for on-premises signs located on any property zoned UR, UR-H, RMH, or H shall be 18 square feet per sign face.

b. The maximum advertising display area for on-premise signs located on any property within a business, mixed-use, and special district shall be the larger of the following:

1. One square foot per linear foot of street footage of the zone lot; provided, that no individual on-premises sign may exceed 125 square feet per sign face; or

2. Ten percent of the area (square footage) of the front building facade, not to exceed 40 square feet per sign face, for on-premises signs located on zone lots with street frontages of 40 feet or less.

(J) Localized Sign Overlay Districts

(1) Generally

Certain large scale land uses with common design elements, including but not limited to office parks, corporate centers, and medical centers having a multi-building campus, or land uses that are unique in their design, operating characteristics, and presence in the city, including but not limited to outdoor performing arts centers, may present unique development opportunities of special value to the community. In order to ensure that the economic, social, and cultural benefits of those land uses are optimized, the establishment of one or more localized alternative sign overlay districts is authorized to address the unique signage needs and opportunities associated with the land use.

(2) Application Process and Elements

(a) A property owner, a developer, or the City Manager may apply to the Planning Commission for the establishment of a localized alternative sign overlay district.

Properties located within a localized alternative sign overlay district shall be subject to such signage requirements, as the planning commission shall establish at the time of the application's approval.

(b) The application for creation of a district shall include the following:

(i) A description of the boundaries of the proposed district;

(ii) A statement of the reasons for the request; and

(iii) A comprehensive set of signage standards proposed to be applied within the district.

(c) The Planning Commission shall observe all notice and public hearing requirements set forth in Section 40.1-2.2, Common Review Procedures, prior to approval of an application.

(3) Required Planning Commission Findings

A localized alternative sign overlay district with alternative signage standards may be established by the Planning Commission upon a finding that the following conditions exist:

(a) The proposed land use in the district is consistent with the comprehensive plan;

(b) The value of the proposed use to the community will be optimized by the approval of an alternative set of signage standards; and

(c) The signage standards for the proposed district are consistent with this section.

40.1-5.12 TRANSPORTATION ANALYSIS

(A) Applicability

The provisions of this section shall apply to all new development as follows:

(1) Any residential, commercial, industrial use, or combination thereof, where the anticipated average weekday twenty-four-hour traffic generation, using the *Trip Generation Manual* (Institute of Transportation Engineers, Sixth Edition or as it may from time to time be amended) equals or exceeds 1,000 trip ends or where the traffic volume during a peak hour equals or exceeds 100 trip ends unless the City Engineer shall determine, in writing, that such analysis is unnecessary due to the existence of previous studies and analyses which adequately cover the extent of the proposed development and its traffic impact.

(2) Any development or subdivision of a portion of property where the potential average weekday twenty-four-hour traffic generation, using the *Trip Generation Manual* (Institute of Transportation Engineers, Sixth Edition or as it may from time to time be amended) for the developable portion of the entire property based on permitted uses under existing zoning equals or exceeds 1,000 trip ends or where the traffic volume during a peak hour equals or exceeds 100 trip ends, regardless whether the remainder of the property is currently proposed for development unless the City Engineer shall determine, in writing, that such analysis is unnecessary due to the existence of previous studies and analyses which adequately cover the extent of the proposed development and its traffic impact.

(3) Any Amendment of the Zoning Map or Use Permit applications, other than those requests initiated by the Planning Commission or City Council, where the anticipated average weekday twenty-four-hour traffic generation, using the *Trip Generation Manual* (Institute of Transportation Engineers, Sixth Edition or as it may from time to time be amended) equals

or exceeds 1,000 trip ends or where the traffic volume during a peak hour equals or exceeds 100 trip ends unless the City Engineer shall determine, in writing, that such analysis is unnecessary due to the existence of previous-studies and analyses which adequately cover the extent of the proposed development and its traffic impact.

(4) Any non-residential development which proposes to access a street which is residential in character and classified as a minor collector or lower order street.

(5) Any other development proposal which, as determined by the City Engineer, has a significant potential to cause or aggravate traffic safety or congestion problems and, as such, would benefit from a professional review of proposed access and circulation designs.

(B) Transportation Analysis Standards and Requirements

(1) For any development described in subsection (a) above, a traffic impact analysis, prepared by a licensed professional engineer, shall be submitted for review and consideration by the city.

(2) A minimum of five copies of such traffic impact analysis shall be submitted to the city at the same time as the initial application for approval. Preliminary Subdivision Plats, Development Plans, Amendments to the Zoning Map, Use Permit applications, and other development proposals for which a traffic impact analysis is required shall not be deemed to be received until the traffic impact analysis is submitted. The traffic engineering department will provide available technical information. The applicant must collect traffic data that is not already available or is outdated.

(3) The submitted traffic impact analysis shall, unless otherwise approved by the City Engineer in writing, contain the following information and analysis:

(a) Existing conditions summary including twenty-four-hour volumes, peak periods and peak volumes on adjacent roadways, peak periods and peak volumes of the generator, and peak hour factor(s); roadway geometrics; grades; lateral clearance; heavy vehicles, pedestrian, bicycle, and recreational vehicle percentages; existing lane configurations; traffic control devices and timing plans if signals are present and level of service analysis based on the *2000 Highway Capacity Manual*.

(b) Future conditions summary-including the horizon (analysis) year(s) and the criteria used in its selection, committed future roadway improvements, traffic growth factors combined with forecasts for adjacent sites to determine future background traffic (both twenty-four-hour and peak period), and level of service analysis, compared with existing conditions.

(c) Trip generation and design hour volumes-including traffic forecast for site development to include twenty-four-hour and peak hour volumes both for the traffic generator itself and on adjacent roadways. Trip Generation Manual (Institute of Transportation Engineers, Sixth Edition, or as it may from time to time be amended) rates or equations shall be used unless verifiable local data is available. Any assumptions or adjustments shall be fully documented and, where appropriate, justified with source references provided.

(d) Trip distribution and traffic assignment-including a directional distribution of site traffic to its area of influence based on primary market, analogy, origin-destination, gravity model, or other similar methods. Each step in the process shall be fully and carefully documented.

(e) Design year total volumes developed for both twenty-four-hour and for the peak periods of the generator and on adjacent roadways.

(f) Capacity analysis-including intersection and lane capacity based on the *2000 Highway Capacity Manual* as it may from time to time be amended and revised. Where intersections (both signalized and unsignalized) are spaced in such proximity or the volumes are such that the intersection does not operate independently, appropriate progression and queuing analyses performed using a recognized methodology or analysis or simulation package must accompany the capacity analyses. Capacity analyses shall be prepared for each potential access design scenario. Any assumptions and adjustments to the default values in the *2000 Highway Capacity Manual* shall be fully documented and justified. These include, but are not limited to, peak hour factor, average running speeds, and cycle lengths, especially very short or long cycles. All worksheets shall be submitted.

(g) The distribution and frequency of traffic accidents shall be analyzed and a determination made as to whether any safety deficiencies exist or will be caused or exacerbated. This shall specifically include a safety analysis of all proposed street extensions.

(h) The recommended roadway and traffic network improvements based on the design hour in the design year shall be shown on a scaled plan sheet with appropriate narrative. Such improvements shall be designed to yield a minimum level of service of "C" as defined by the *2000 Highway Capacity Manual* as it may from time to time be amended, supplemented, or revised. Where the existing conditions provide a current level of service of less than "C," the improvements shall be designed to at least maintain the current volume to capacity ratio as determined by the methods contained in the *2000 Highway Capacity Manual* without further degradation through the design year plus two years. A detailed construction cost estimate of the required improvements shall be provided.

(i) Including the number and width of driveway lanes, the appropriate throat lengths (both unobstructed and with cross traffic permitted) for ingress and egress points, stacking and queuing lanes, pedestrian accommodations, bicycle facilities, and any other facilities or accommodations and any other factor which could impact traffic operations along the adjacent roadways or overall traffic safety, both internal and external. The internal circulation system shall be designed to preclude stacking or queuing in the travel lanes of adjacent roadways during the peak hours of the traffic generator.

(j) Including all conclusions of the analyst applicable to the site, particularly with respect to the appropriate timing and phasing of improvements. Timing and phasing must be clearly tied to identifiable stages of development or specific time frames. Conclusions about the relative safety of the post-development situation shall also be included.

(k) An executive summary containing key findings and recommended actions.

(4) All intersections, commercial entrances, median breaks, pavement markings, driveways, or other roadway features potentially affecting traffic flow located within 500 feet of the proposed development as well as all intersections and driveways internal to the development shall be considered and either shown or clearly noted on a scaled plan submitted with the traffic impact analysis.

40.1-5.13 UNDERGROUND UTILITIES

All utilities within or serving new development (e.g., cable television, electrical (excluding transformers), gas, sewer, telephone, and water lines) shall be placed underground in accordance with Section 32-155 of the City Code.

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ARTICLE 40.1-6:
NONCONFORMITIES

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ARTICLE 40.1-6: NONCONFORMITIES

40.1-6.1 GENERAL APPLICABILITY

(A) Purpose and Scope

There exist in the city nonconforming uses of land, structures, lots, and signs that were lawfully established before this Ordinance was adopted or amended, that now do not conform to its requirements. The purpose and intent of this article is to regulate and to limit the continued existence of those nonconforming uses, structures, lots, and signs that do not conform to the requirements of this Ordinance, or any subsequent amendments.

(B) Intent of Provisions

It is the intent of this Ordinance to permit nonconformities to continue until they are removed, but discourage their survival or substantial investment in them except under the limited circumstances established in this article.

(C) Authority to Continue

Nonconformities are allowed to continue, and are encouraged to receive routine maintenance in accordance with the requirements of this article as a means of preserving safety and appearance.

(D) Determination of Nonconformity Status

In all cases, the burden of establishing that a nonconformity lawfully exists shall be the responsibility of the owner of the land on which the alleged nonconformity is located.

(E) Minor Repairs and Maintenance

Minor repairs and normal maintenance that are required to keep nonconforming uses, structures, lots, and signs in a safe condition are allowed, provided the minor repair or maintenance does not extend, expand, or enlarge the nonconformity. For the purposes of this section, "minor repair or normal maintenance" shall mean:

(1) Maintenance of Safe Condition

Repairs that are necessary to maintain a nonconforming use, structure, lot, or sign in a safe condition.

(2) Maintenance of Land for Safety

Maintenance of land areas to protect against health hazards and to promote the safety of surrounding uses.

(3) Maintenance Limitations

An improvement or other action intended to materially extend the useful life of a nonconformity shall not be considered maintenance.

(F) Value of Development or Redevelopment

The cost or cash value of development or redevelopment associated with a nonconformity shall be determined by the Building Official.

(G) Change of Tenancy or Ownership

No change of title or possession or right to possession of land shall be construed to prevent the continuance of a nonconforming use, structure, lot, or sign.

40.1-6.2 NONCONFORMING USES

(A) General

Nonconforming uses are declared generally incompatible with the permitted uses in the zoning district in which they are located and with the provisions of this Ordinance. Nonconforming uses shall be subject to the standards in this subsection.

(B) Change of Use

(1) Residential Uses

(a) Nonconforming residential uses located within a building on a lot in a business district may be changed to another nonconforming residential use.

(b) In the event a building on a lot in a business district containing a nonconforming residential use is redeveloped to an extent exceeding 50 percent of its reproducible value (exclusive of foundations), the nonconforming residential use shall be extinguished, and all uses shall comply with this Ordinance.

(2) All Other Uses

A nonconforming use, other than a residential use shall not be changed to any other nonconforming use.

(C) Expansion and Enlargement in Historic Districts

Nonconforming uses in a historic zoning district (HR, HLO, HLB) may expand, subject to an approved use permit, and the standards in this section.

(1) Date of Establishment

Nonconforming uses in a historic district may only be expanded if lawfully-established prior to the following dates:

(a) Lots in the Olde Towne Historic District: September 23, 1971;

(b) Lots in the Truxtun Historic District: March 25, 1975;

(c) Lots in the Cradock Historic District: February 10, 1976;

(d) Lots in the Park View Historic District: April 1, 1984; and

(e) Lots in the Port Norfolk Historic District: April 26, 1983.

(2) Procedure

(a) Requests for expansion to an existing nonconforming use shall be reviewed in accordance with the requirements in Section 40.1-2.3(B), Use Permits, and Section 40.1-6.2(C)(3), Use Permit Standards.

(b) Expansions to nonconforming uses on lots within a Historic District shall obtain a Certificate of Appropriateness (Section 40.1-2.3(I)) prior to review of the Use Permit application.

(3) Use Permit Standards

In approving a use permit for the expansion of a nonconforming use, the Planning Commission shall find:

(a) The nonconforming use remains compatible with adjacent land uses and the comprehensive plan;

(b) Approval of the use permit is not injurious to the neighborhood;

(c) All access roads and entrance or exit drives to the nonconformity will be adequate with respect to automotive and pedestrian safety and convenience, traffic flow, and control and access in the case of fire or other emergency;

(d) All off-street parking, loading, refuse collection, and other service areas will be adequate with respect to automotive and pedestrian safety and convenience, traffic flow, and economic, noise, glare, odor, and other impacts on adjoining properties;

(e) All landscaping, screening, and fencing will be adequate, with respect to the effectiveness of the type, dimensions, and character, and will be adequate with respect to minimizing the economic, noise, glare, odor, and other impacts of the nonconformity on adjoining properties and other properties in the neighborhood;

(f) That the type, size, and intensity of the proposed use, including such considerations as storage of items and arrangement, the size of the site and the location of the use upon it, and the hours of operation and numbers of people who are likely to utilize the use, will be adequate with respect to minimizing the impact of the nonconformity upon adjoining properties, other properties in the neighborhood, and achieving the purpose and intent of the zoning district in which the property is located;

(g) No part of the nonconforming use being expanded occurs outside a building or structure;

(h) Denial of the request would create a severe and undue hardship to the property owner; and

(i) Denial will result in no appreciable benefit to the neighborhood.

(4) Conditions

The Planning Commission may impose any conditions on approval of the request, including appropriate time limits for meeting those conditions, as it deems necessary to mitigate any potential hazards or problems, or to bring the nonconformity into compliance to the extent necessary to protect the rights and interests of nearby property owners and the general public.

(D) Discontinuance or Abandonment

A nonconforming use shall not be re-established after discontinuance for a period of two years or more. Efforts to renovate or repair the use are not considered a vacancy, abandonment, or discontinuance, provided all appropriate permits or development approvals are obtained, and provided the renovation or repair is completed within one year from commencement of repair or renovation, and the use is re-established within one month from the time the renovation or repairs are completed. Failure to complete the repairs or renovation within two years or re-establish the use within one month following repairs or renovation shall constitute discontinuance, and a nonconforming use shall not be re-established.

(E) Accessory Uses

Once a nonconforming principal use is discontinued, all associated accessory uses shall cease operations within 30 days.

(F) Relocation

In the event a structure housing a nonconforming use is moved any distance, the nonconforming use shall be brought into compliance with the requirements of this Ordinance.

(G) Reconstruction after Casualty Damage

(1) Destruction or Damage by Act of God or Natural Disaster

(a) Any nonconforming use which has been damaged or destroyed by a natural disaster or other act of God, may be repaired, rebuilt, or replaced to eliminate or reduce the nonconforming features.

(b) A nonconforming use may be restored to its original nonconforming condition, regardless of the amount of damage or destruction, provided it complies with the flood protection standards in Chapter 14 of the City Code.

(c) The owner or the owner's contractor shall apply for a building permit and complete all reconstruction within two years of the act of God or natural disaster.

(d) In the event the damage or destruction occurs in a federally-declared disaster area, all reconstruction shall be completed within four years of the declaration date.

(e) If a nonconforming use is not reconstructed within the required timeframe, reconstruction shall occur only in compliance with the standards in this Ordinance.

(2) Destruction or Damage by Other Means

Casualty damage resulting from a means other than an act of God or natural disaster shall be subject to the following standards.

(a) Destruction or Damage of 50 Percent of Value

(i) Except for single-family detached, attached, two-to four-family, and townhouse dwellings, in the event a structure housing a nonconforming use is damaged or destroyed, to an extent that constitutes 50 percent or more of its replacement value (exclusive of foundations) at the time of damage or destruction, the use shall only be restored in a manner that conforms with the provisions of this Ordinance.

(ii) New construction (including the establishment of off-street parking, landscaping, signage, and other site features) shall be in accordance with the requirements of this Ordinance.

(iii) Nonconforming single-family detached, attached, two-to four-family, and townhouse dwellings damaged in excess of 50 percent of replacement value (exclusive of foundations) at the time of damage or destruction may be re-built subject to the standards in Section 40.1-6.2(G)(2)(b), Damage of Less Than 50 Percent of Value.

(b) Damage of Less Than 50 Percent of Value

(i) In the event a structure housing a nonconforming use is damaged or destroyed, to an extent that constitutes less than 50 percent of its replacement value (exclusive of foundations) at the time of damage or destruction, it may be re-built to its previous form if a building permit for such repair or restoration is obtained within one year of the casualty damage, and repair or restoration is actually begun within one year after

the date of such partial damage or destruction and is diligently pursued to completion.

(ii) Wherever practical, redevelopment of a nonconforming use following casualty damage shall demonstrate greater compliance with this Ordinance than existed prior to the casualty.

(iii) In no event shall repair or restoration increase, expand, or enlarge the degree of nonconformity.

40.1-6.3 NONCONFORMING STRUCTURES

(A) Relationship with Nonconforming Uses

A nonconforming principal structure containing a conforming use may only continue in accordance with the provisions of this subsection. Nonconforming structures housing nonconforming uses may only continue in accordance with the standards in Section 40.1-6.2, Nonconforming Uses.

(B) Continuation

Normal repair and maintenance may be performed to allow the continued use of nonconforming structures in accordance with Section 40.1-6.1(E), Minor Repairs and Maintenance.

(C) Enlargement

(1) Except for nonconforming structures in a historic district, nonconforming structures may be redeveloped or enlarged, provided they shall not be enlarged or expanded in any way that increases the nonconformity. Expansion of the structure in a way that complies with applicable dimensional standards or that decreases the degree of nonconformity is permitted.

(2) In the event a nonconforming structure is enlarged to an extent exceeding 33 percent of the structure's replacement value (exclusive of foundations), the entire structure shall be brought into compliance with the applicable dimensional standards for the district where located.

(3) In historic districts, a nonconforming structure may only be enlarged in accordance with the standards and procedure for enlarging a nonconforming use in Section 40-1.6.2 (C), Expansion and Enlargement in Historic Districts.

(D) Relocation

A nonconforming structure shall not be moved, in whole or in part, to another location on or off the parcel of land on which it is located, unless upon relocation it conforms to the requirements of this Ordinance.

(E) Restoration after Casualty Damage

(1) Destruction or Damage by Act of God or Natural Disaster

(a) Any nonconforming structure which has been damaged or destroyed by a natural disaster or other act of God, may be repaired, rebuilt, or replaced to eliminate or reduce the nonconforming features.

(b) A nonconforming structure may be restored it to its original nonconforming condition, regardless of the amount of damage or destruction, provided it complies with the flood protection standards in Chapter 14 of the City Code.

(c) The owner or the owner's contractor shall apply for a building permit and complete all reconstruction within two years of the act of God or natural disaster.

(d) In the event the damage or destruction occurs in a federally-declared disaster area, all reconstruction shall be completed within four years of the declaration date.

(e) If a nonconforming structure is not reconstructed within the required timeframe, reconstruction shall occur only in compliance with the standards in this Ordinance.

(2) Destruction or Damage by Other Means

Casualty damage resulting from a means other than an act of God or natural disaster shall be subject to the following standards.

(a) Residential Development

If a legally-established single-family attached, detached, two- to four-family, or townhouse dwelling is destroyed by casualty on a lot in a residential zoning district that was part of a subdivision or division of land evidenced by plat or deed, or both, recorded prior to April 25, 1961, an identical replacement use may be reconstructed even though the structure is nonconforming.

(b) Nonresidential Development

(i) Destruction or Damage of 50 Percent of Value

a. Except for single-family detached, attached, two-to four-family, and townhouse dwellings, in the event a nonconforming structure is damaged or destroyed, to an extent that constitutes more than 50 percent of its replacement value (exclusive of foundations)at the time of damage or destruction, it shall only be restored in a manner that conforms with the provisions of this Ordinance.

b. New construction (including the establishment of off-street parking, landscaping, signage, and other site features) shall be in accordance with the requirements of this Ordinance.

(ii) Damage of Less Than 50 Percent of Value

a. In the event a nonconforming structure is damaged or destroyed, to an extent that constitutes less than 50 percent of its replacement value (exclusive of foundations)at the time of damage or destruction, it may be re-built to its previous form if a building permit for such repair or restoration is obtained within one year of the casualty damage, and repair or restoration is actually begun within one year after the date of such partial damage or destruction and is diligently pursued to completion.

b. In no event shall repair or restoration increase the nonconformity.

40.1-6.4 NONCONFORMING LOTS

(A) Development Prohibited

No use or structure shall be established on a lot of record that does not conform to the standards established in this Ordinance, except in accordance with this section.

(B) Status of Structures on Nonconforming Lots

(1) Conforming structures legally established on a nonconforming lot prior to May 1, 2010 may be continued, enlarged, extended, reconstructed, or structurally altered in any way that is in conformance with the standards of this Ordinance.

(2) Nonconforming structures legally established on a nonconforming lot prior May 1, 2010 may be continued, enlarged, or redeveloped in accordance with the standards in Section 40.1-6.3, Nonconforming Structures.

(C) Governmental Acquisition of a Portion of Lot

Conforming lots subject to governmental acquisition of a portion of the lot for a public purpose that results in the lot becoming nonconforming because it no longer complies with lot area or width standards of the district shall be deemed conforming upon receipt of a Zoning Compliance Permit (Section 40.1-2.3(F)), and compliance with the following standards:

(1) The development proposed complies with Table 40.1-4.1(A), Use Table.

(2) The development proposed complies with the dimensional standards of this Ordinance to the maximum extent practicable;

(3) The development proposed is designed to comply with the off-street parking and landscaping standards of this Ordinance to the maximum extent practicable;

(4) The development proposed complies with all other standards and requirements of this Ordinance; and

(5) The proposed development is designed and located in a way that is compatible with surrounding development.

(D) Lot Consolidation

(1) If a nonconforming lot of record has continuously been in separate ownership from any contiguous lot on the same existing or proposed public right-of-way since April 25, 1961, the nonconforming lot may be developed in accordance with the applicable standards in this Ordinance.

(2) Except on lots within a historic district, if a nonconforming lot of record has, at any time since April 25, 1961, been in common ownership with any contiguous lot on the same existing or proposed public right-of-way, such lots shall be consolidated. If all of the contiguous lots in common ownership are consolidated and the resulting lot remains nonconforming, it still may be developed in accordance with Section 40.1-6.4(E), Development of Nonconforming Lots.

(E) Development of Nonconforming Lots

(1) In Residential Districts

(a) Nonconforming lots within a residential district may be developed for single-family detached residential use in accordance with the requirements in Section 40.1-2.3(C), Type I Development Plan, if all of the contiguous nonconforming lots in

common ownership are consolidated, or if consolidation cannot be achieved because lots are not under common ownership.

(b) If after consolidation, or if consolidation cannot be achieved, the lot(s) still fail to comply with the standards of this Ordinance, one single-family detached residential unit may be developed on the lot(s). The single-family detached residential unit shall be located on the lot and designed so as to comply with the standards of this Ordinance, to the maximum extent practicable.

(2) In All Other Districts

Nonconforming lots in business and special districts may be developed in accordance with the requirements in Section 40.1-2.3(D), Type II Development Plan, and the following standards:

(a) The use shall be permitted in the district where proposed (See Table 40.1-4.1(A), Use Table);

(b) The use shall be of a design and location on the lot that is compatible with adjacent, existing uses; and

(c) The use shall comply with the applicable district standards to the maximum extent practicable.

(F) Restoration after Casualty Damage

If a legally-established, conforming use is destroyed by casualty on a nonconforming lot that was part of a subdivision or division of land evidenced by plat or deed, or both, recorded prior to April 25, 1961, an identical replacement use may be reconstructed even though the lot is nonconforming.

40.1-6.5 NONCONFORMING SIGNS

The following additional restrictions shall apply to signs which were legally erected prior to May 1, 2010, but which do not conform to provisions of this Ordinance:

(1) Any nonconforming on-premises sign shall be removed or brought into conformance with this section if for any period of 90 days it does not advertise a business or service located on the same lot with the sign;

(2) Any nonconforming off-premises sign shall be removed or brought into conformance with this Ordinance if for any period of 60 days it does not contain copy or messages on the advertising display area; and

(3) If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed or replaced except in conformity with all the provisions of this Ordinance and the remnants of the former sign structure is cleared from the land. For purposes of this section, a nonconforming sign is "destroyed" if damaged to the extent that the cost of repairing the sign to its former stature equals or exceeds the value of the sign so damaged.

40.1-6.6 NONCONFORMING SITE ASPECTS

(A) Purpose

(1) The purpose of this section is to provide a means by which the city may require certain nonconforming site features to come into compliance with the standards of this Ordinance as part of remodeling or expansion of a building or structure.

(2) It is not the intent of this section to allow multiple incremental improvements to a nonconforming site without addressing the nonconformities as required in this section.

(B) Applicability

(1) For purposes of this section, the term "nonconforming site features" includes the following:

(a) Nonconforming off-street parking;

(b) Nonconforming landscaping;

(c) Nonconforming screening of mechanical equipment; and

(d) Nonconforming screening walls or fences.

(2) If an application is filed for a building permit for the remodeling or expansion of a building or site that has one or more nonconforming site features identified in Section 40.1-6.6(B), Applicability, and the value of the proposed improvements over a five-year period exceeds at least 25 percent of the assessed value of the existing site over a five-year period, the applicant shall be required to address the nonconforming site features as provided in this section.

(3) The Planning Director may develop administrative guidelines to assist in the implementation of this subsection, including guidelines for the resolution of conflicts when it may not be possible for one or more types of nonconforming site features to be brought into conformance with the requirements of this Ordinance because of particular site constraints or impacts upon adjacent properties.

(C) Exemptions

These standards shall not apply to the reconstruction of a nonconformity damaged by an act of God or other natural disaster.

(D) Structural Alteration

These standards shall apply to structural alterations, as provided in Section 36-97 of the Uniform Statewide Building Code. For the purposes of these standards, structural alternations only include activities that do not result in the expansion of a building.

(1) Determining Applicability

For purposes of determining when site features must be brought into partial or full compliance with the standards of this Ordinance, the costs that constitute the assessed value of the structural alteration of a building or structure shall be as shown on the building permit application, and shall include the cost of materials and labor.

(2) General

(a) 25 Percent or Less of Structure Value

Structural alteration of a building or structure during a five-year period whose assessed value is 25 percent or less of the current assessed value of the building or structure shall not require any correction to nonconforming site features.

(b) More Than 25 Percent but Less Than 75 Percent of Structure Value

Structural alteration of a building or structure whose assessed value exceeds more than 25 percent but less than 75 percent of the current assessed value of the structure during a five-year period shall require that a corresponding percentage of the site features identified in Section 40.1-6.6(B), Applicability, be brought into compliance, until the site achieves 100 percent compliance.

Example: a nonresidential site with nonconforming off-street parking (site feature) with an assessed value of $100,000 is undergoing remodeling equaling $40,000 (40 percent of the assessed value), the developer must add a corresponding number of additional required parking spaces until the site fully complies. The site at the time of remodel has 10 parking spaces, but the ordinance requires a minimum of 20 for the use that is proposed (10 more spaces are required for the site to be conforming), the applicant would be required to provide 40 percent of the 20 spaces - or 8 more parking spaces, bringing the total number of spaces on the site to 18 spaces.

(c) 75 Percent or More of Structure Value

Structural alteration of a building or structure during a five-year period whose alteration is estimated to cost 75 percent or more of the current assessed value of the building or structure shall require 100 percent compliance with the site features identified in Section 40.1-6.6(B), Applicability.

(d) Two or Fewer Additional Parking Spaces

When two or fewer additional off-street parking spaces are required under this subsection as a result of a redevelopment, such additional off-street parking is not required to be installed.

(3) Physically Constrained Properties- Comply to Maximum Extent Practicable

Lands that are physically constrained (due to limited size, topography, or other environmental considerations) from complying with these provisions shall comply to the maximum extent practicable, as determined by the Planning Director.

(E) Expansions

Expansions to buildings or structures or use areas on sites with nonconforming site features identified in Section 40.1-6.6(B), Applicability, shall require compliance until the site achieves 100 percent compliance for site features in accordance with this section.

(1) General

(a) Expansions of 15 Percent or Less

(i) Additions or expansions that increase a building or structure or use area's size by 15 percent or less over a five-year period shall not require any correction to nonconforming site features.

(ii) This provision shall not be used to allow multiple, incremental, small-scale increases to a structure or use area without addressing nonconforming site features.

(b) Expansion between 15 and 50 Percent of Gross Square Footage Over 5 Years

Expansion in any continuous five-year period, which results in an increase in the gross square footage of the existing building or structure or use area (measured at the beginning of the five-year period) greater than 15 percent, but less than 50 percent, requires a corresponding percentage of the nonconforming site features identified in Section 40.1-6.6(B), Applicability, to be brought into compliance, until the site achieves 100 percent compliance.

> *Example: A 25 percent increase in square footage will necessitate a 25 percent increase in the total number of parking spaces provided (up to the minimum requirement). Existing landscaping on the site shall be retained or replaced but shall not count toward the required percentage of new landscaping.*

(c) Expansion of Greater Than 50 Percent of Gross Square Footage Over 5 Years

Expansions over any continuous five-year period, which results in a greater than 50 percent increase of the gross square footage of the existing building or structure or use area (measured at the beginning of the five-year period) that has a nonconforming site feature identified in Section 40.1-6.6(B), Applicability, shall require the building or site or use area to comply with the standards of this Ordinance for that site feature.

(2) Physically Constrained Properties- Comply to Maximum Extent Practicable

Lands that are physically constrained (due to limited size, topography, or other environmental considerations) from complying with these provisions shall comply to the maximum extent practicable as determined by the Planning Director.

(3) Addition of Outdoor Storage Area Only

When only outdoor storage areas are being added or increased on a site, the percentage increase in outdoor operations area shall require a corresponding percentage increase in perimeter buffers and screening. Perimeter buffer and screening augmentation shall be located so as to achieve the performance objectives in Section 40.1-5.2, Landscaping and Screening, with priority given to screening the impacts of outdoor operations.

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ARTICLE 40.1-7:

ENFORCEMENT

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ARTICLE 40.1-7: ENFORCEMENT

40.1-7.1 PURPOSE

This article establishes procedures through which the city seeks to ensure compliance with the provisions of this Ordinance and obtain corrections for Ordinance violations. It also sets forth the remedies and penalties that apply to violations of this Ordinance. The provisions of this article are intended to encourage the voluntary correction of violations, where possible.

40.1-7.2 COMPLIANCE REQUIRED

(A) General

Compliance with all the procedures, standards, and other provisions of this Ordinance is required by all persons owning, developing, managing, using, or occupying land or structures in the city.

(B) Receipt of Development Approvals Required

All persons shall obtain all permit and development approvals required by this Ordinance prior to development.

40.1-7.3 VIOLATIONS

(A) General Violations

(1) Failure to Comply with Ordinance or Condition of Approval Constitutes Violation

Any failure to comply with a standard, requirement, prohibition, or limitation imposed by this Ordnance, or the terms or conditions of any permit or other development approval or authorization granted in accordance with this Ordinance shall constitute a violation of this Ordinance as provided in this article.

(2) Permits or Permit Approvals Only Authorize Development Approved

Permits or development approvals issued by a review or decision-making body authorize only the use, density or intensity, location, design, or development set forth in such permits or development approvals. Development that differs from that approved by a review or decision-making body in a permit or development approval in accordance with this Ordinance is a violation of this Ordinance and punishable as provided in this article.

(B) Specific Violations

It shall be a violation of this Ordinance to undertake any development contrary to the provisions of this Ordinance, including but not limited to the following, which shall be subject to the enforcement remedies and penalties provided by this article and the Code of Virginia (1950), as amended:

(1) Develop land without first obtaining all appropriate permits or development approvals, and complying with their terms and conditions.

(2) Occupy or use land or a structure without first obtaining all appropriate permits or development approvals, and complying with their terms and conditions.

(3) Engage in any development or other activity of any nature in any way inconsistent with the permit or development approval, or other form of authorization granted for such activity by the city.

(4) Violate, by act or omission, any term, condition, or qualification placed by the city upon a required permit, certificate, or other form of authorization granted by the city to allow the development or other activity upon land.

(5) To alter, maintain, or use any building or structure or to use any land in violation of any provision of this Ordinance.

(6) Install, create, erect, alter, or maintain any sign without first obtaining the appropriate permits or development approvals, and complying with their terms and conditions.

(7) Create, expand, replace, or change any nonconformity, except in accordance with this Ordinance.

(8) Reduce or diminish the requirements of use, development, or dimensional standards below the minimum required by this Ordinance.

(9) Through any act or omission, fail to comply with any other provisions, procedures, or standards, as required by this Ordinance.

(10) To continue any of the above-stated violations.

40.1-7.4 RESPONSIBLE PERSONS

The owner, tenant, or occupant of any land or structure, or an architect, engineer, builder, contractor, agent, or any other person who participates in, assists, directs, creates, or maintains a situation that constitutes a violation of this Ordinance may be held responsible for the violation and subject to the remedies and penalties set forth in this article.

40.1-7.5 ENFORCEMENT GENERALLY

(A) Responsibility for Enforcement

The Zoning Administrator shall be responsible for enforcing the provisions of this Ordinance in accordance with the Code of Virginia (1950), as amended.

(B) Complaints Regarding Violations

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may notify the Zoning Administrator, stating fully the cause and basis of the alleged violation. The Zoning Administrator shall properly record such complaint, investigate, and take appropriate action as provided by this Ordinance.

(C) Inspections

The Zoning Administrator may enter upon land or inspect any structure to ensure compliance with the provisions of this Ordinance, after requesting and receiving approval of the land owner to enter upon land for these purposes. If consent is not given by the land owner, the Zoning Administrator may enter upon land in accordance with 15-2.2286(A)15, Code of Virginia (1950), as amended.

(D) Investigations of Complaint

(1) Learning there is a potential violation of this Ordinance, the Zoning Administrator shall investigate and determine whether a violation of this Ordinance exists.

(2) When the Zoning Administrator has reasonable cause to believe that a violation of this Ordinance that limits occupancy in a residential dwelling unit has or is taking place, and the Zoning Administrator has been unable to obtain necessary information from the owner

concerning the violation, the Zoning Administrator may petition the general district court for a subpoena against anyone refusing to provide data or information. Any person failing to comply with such subpoena shall be subject to punishment for contempt by the court issuing the subpoena.[6]

(3) Following an unsuccessful good faith effort to obtain consent to investigate an alleged violation of this ordinance, the Zoning Administrator may present sworn testimony to a magistrate or court of competent jurisdiction and request an inspection warrant to enable the Zoning Administrator to enter the premises for the purpose of determining whether a violation exists.

(E) Notice of Violations

(1) Procedure

(a) On finding that a violation of this Ordinance exists, the Zoning Administrator shall provide written notification of the violation through a notice of violation, by personal service or certified mail, return receipt requested, to the owner of the property on which the violation exists and the person causing or maintaining the violation. Such notification shall:

(i) Describe the location and nature of the violation;

(ii) State the actions necessary to abate the violation;

(iii) Order that the violation be corrected within a specified reasonable time period not to exceed 30 days after receipt of 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 alleged violator(s) of their right to appeal the notice of violation to the BZA in accordance with Section 40.1-2.3(K), Appeal, within 30 days of receipt of the notice of violation, and that the decision not to appeal shall be final and unappealable if not appealed within 30 days.

(c) A notice of violation involving temporary or seasonal commercial uses, parking of commercial trucks in a residential zoning district, or similar short-term, recurring violations shall have an appeal of ten days, and that the decision not to appeal shall be final and unappealable if not appealed within ten days.

(d) On receiving a written request for extension of the time limit for correction specified in the notice of violation, the Zoning Administrator may, for good cause shown, grant a single extension of the time for up to 30 days.

(e) If the owner of the property cannot be located or determined, the Zoning Administrator shall post a copy of the notice of violation 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.

[6] This provision incorporates changes to the Code of Virginia effective on 7/1/08.

(2) 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 40.1-2.3(K), Appeal, the Zoning Administrator shall take appropriate action, as provided in Section 40.1-7.6, Remedies and Penalties, to correct and abate the violation and to ensure compliance with this Ordinance.

(3) Emergency Enforcement without Notice

On determining that delay in correcting the violation would pose a danger to the public health, safety, or welfare, the Zoning Administrator may seek immediate enforcement without prior written notice by invoking any of the remedies authorized in Section 40.1-7.6, Remedies and Penalties.

40.1-7.6 REMEDIES AND PENALTIES

(A) Enforcement and Remedies

Any violation of this article may be corrected, restrained, or abated by any of the following proceedings and remedies in accordance with the Code of Virginia (1950), as amended.

(1) The city may stop work on any building or structure on any land on which there is or has been an uncorrected violation of a provision of this article or of a permit or other form of authorization issued hereunder in accordance with its powers to stop work under the Virginia Uniform Statewide Building Code.

(2) Failure to comply with the terms and conditions of a Certificate of Appropriateness (COA) may result in the revocation of any subsequently issued permit requiring a COA or may result in a notice of violation.

(3) In accordance with Section 15.2-2209 and 15.2-2286(A)5, Code of Virginia (1950), as amended, the city has adopted a uniform schedule of penalties for violations of this Ordinance, which shall include the maximum penalties allowed by the Code of Virginia (1950), as amended.

(a) This schedule of offenses does not include any zoning violation resulting in injury to any persons, and the existence of these penalties shall not preclude action by the Zoning Administrator in accordance with Section15.2-2286(A)4 of the Code of Virginia (1950), as amended, or action by the City Council under Section15.2-2208 of the Code of Virginia (1950), as amended.

(b) Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any 10-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of $5,000.

(c) Designation of a particular Ordinance violation for a penalty in accordance with this section shall be in-lieu of other sanctions, and except for any violation resulting in injury to persons, such designation shall preclude the prosecution of a violation as a criminal misdemeanor.

(d) The Zoning Administrator may issue a civil summons as provided by law for a scheduled violation. Any person summoned or issued a ticket for a scheduled violation may make an appearance in person or in writing by mail to the

Department of Finance or the Treasurer of the city prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court.

(e) If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law. In any trial for a scheduled violation authorized by this section, it shall be the burden of the locality to show the liability of the violator by a preponderance of the evidence. An admission of liability or finding of liability shall not be a criminal conviction for any purpose.

(4) If the alleged violator fails to correct the violation by the time limit set forth in the notice of violation, or any granted extension, or paid the appropriate penalty, and failed to timely appeal the notice of violation in accordance with Section 40.1-2.3(K), Appeal, the Zoning Administrator shall, after consultation with the City Attorney, take appropriate legal action in the circuit court of the City of Portsmouth, including requirements to correct and abate the violation.

(5) In accordance with Section 15.2-2286(A) 5 of the Code of Virginia (1950), as amended, the court may impose penalties upon the conviction of any violator. A violation shall be a misdemeanor punishable by a fine that does not exceed the maximum allowed by the Code of Virginia (1950), as amended. If the violation is uncorrected at the time of conviction, the court shall order the violator to abate or remedy the violation to comply with the violation, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine that does not exceed the maximum allowed by the Code of Virginia (1950), as amended.

(6) Any conviction resulting from a violation of provisions regulating the number of unrelated persons in singly-family residential dwellings shall be punishable by a fine of up to $2,000. Failure to abate the violation within the specified time period shall be punishable by a fine of up to $5,000, and any such failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable by a fine of up to $7,500. However, no such fine shall accrue against an owner or managing agent of a single-family residential dwelling unit during the pendency of any legal action commenced by such owner or managing agent of such dwelling unit against a tenant to eliminate an overcrowding condition. A conviction resulting from a violation of provisions regulating the number of unrelated persons in single-family residential dwellings shall not be punishable by a jail term.

(7) At any time after the filing of an injunction or other appropriate proceeding to restrain, correct, or abate an alleged violation of this Ordinance where the owner of the real property is a party to such proceeding, the Zoning Administrator may record a memorandum of lis pendens in accordance with Section 8.01-268 of the Code of Virginia (1950), as amended. Any memorandum of lis pendens admitted to record in an action to enforce a violation of this Ordinance shall expire after 180 days. If the city has initiated an enforcement proceeding against the owner of the real property and such owner subsequently transfers the ownership of the real property to an entity in which the owner holds an ownership interest greater than 50 percent, the pending enforcement proceeding shall continue to be enforced against the owner.

(8) The city shall have such other remedies as are and as may from time to time be provided for or allowed by the Code of Virginia (1950), as amended, for the violation of zoning, subdivision, and other provisions of the City Code.

(9) To the extent allowed by law, all such remedies provided herein shall be cumulative. To the extent that the Code of Virginia (1950), as amended, may limit the availability of a particular remedy set forth herein for a certain violation or a part thereof, such remedy shall remain available for other violations or other parts of the same violation.

(B) Remedies for Failure to Obtain or Comply with a Certificate of Appropriateness

In accordance with Code of Virginia, § 15.2-2209, the uniform schedule of civil penalties for failure to obtain or comply with an approved certificate of appropriateness in Table 40.1-7.5(A) Civil Penalties in Historic Districts, is adopted. The table does not include any zoning violation resulting in injury to any persons, and the existence of these civil penalties shall not preclude action by the Zoning Administrator in accordance with Section 15.2-2286(4) of the Code of Virginia (1950), as amended, or action by the city under Section 15.2-2208 of the Code of Virginia (1950), as amended.

TABLE 40.1-7.5(A): CIVIL PENALTIES IN HISTORIC DISTRICTS

FAILURE TO OBTAIN A CERTIFICATE OF APPROPRIATENESS FOR:	INITIAL OFFENSE [1]	CONTINUING OFFENSE [2]	REPEAT OFFENSE [3]
The removal and/or installation of roofing materials	$100	$500	$500
The removal and/or installation of wall siding materials	$100		
The removal and/or installation of windows	$200		
The removal and/or installation of exterior doors	$100		
The removal and/or installation of fences	$100		
The painting of any exterior surfaces	$50		
The removal and/or installation of driveways and/or sidewalks	$100		
The demolition of part or all of any structure	$200		
The construction of any addition	$200		

NOTES:
[1] An initial offense is the first offense committed by this individual at this or any other property in the historic districts.
[2] A Continuing offense is an offense that has not been corrected after receiving notice to correct and being issued an initial civil penalty.
[3] A repeat offense is an offense committed by an owner, agent and/or contractor after receiving a violation notice for failure to obtain a certificate of appropriateness at any other property within any of the historic districts

ARTICLE 40.1-8:
DEFINITIONS

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ARTICLE 40.1-8: DEFINITIONS

40.1-8.1 GENERAL RULES FOR INTERPRETATION

The following rules shall apply for construing or interpreting the terms and provisions of this Ordinance.

(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 40.1-1.3, 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, 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 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) 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 next day that is not a Saturday, Sunday, or holiday observed by the city. References to days are calendar days unless otherwise stated.

(E) References to Other Regulations or Publications

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition of such regulation, resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.

(F) 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.

(G) Technical and Non-technical 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.

(H) Public Officials and Agencies

All public officials, bodies, and agencies to which references are made are those of the City of Portsmouth, unless otherwise indicated.

(I) 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.

(J) 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; and

(2) "Or" indicates that one or more of the connected items, conditions, provisions, or events apply.

(K) 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.

(L) Terms Not Defined

If a term used in this Ordinance is not defined in this article, the Planning Director shall have the authority to provide a definition through the interpretation procedure (See Section 40.1-2.3(J), Interpretation.) based upon the definitions used 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*, published by the American Planning Association.

40.1-8.2 RULES OF MEASUREMENT

(A) Measurements, Generally

(1) Purpose

The purpose of this section is to clarify the rules of measurement and exemptions that apply to all principal and accessory uses allowed in this Ordinance. These standards may be modified by other applicable sections of this Ordinance.

(2) Distance Measurements, Generally

Unless otherwise expressly stated, distances specified in this Ordinance are to be measured as the length of an imaginary straight line joining those points.

(B) Lots

(1) Definitions/Measurement

(a) Average Lot Size

The mean lot size for three or more lots located along the same block face.

(b) Average Lot Width

The mean lot width for three or more lots located along the same block face. Average lot width is measured at the edge of the public right-of-way, not the rear edge of the front yard.

(c) Contextual Lot Size Standards

Dimensional configuration using one or more of the following:

(i) Average lot size;

(ii) Average lot width;

(iii) Average front yard;

(iv) Average Rear yard; or

(v) Average side yard.

(d) Lot Coverage

See "Building Coverage".

(e) Lot Depth

The horizontal distance between the front lot line and the rear lot line.

(f) Lot or Street Frontage

In the case of a building lot abutting upon only one street, the frontage line is the line parallel to and common with the right-of-way. In the case of a corner lot, that part of the building lot having the narrowest frontage on any street shall be considered the frontage line. For the purpose of determining yard requirements on corner lots and double frontage lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as required in this Ordinance.

(g) Lot Line

(i) Corner Side Lot Line

The corner side lot line is a side lot line that abuts a street or other right-of-way.

(ii) Front Lot Line

The front lot line is the line connecting the two side lot lines along the edge of the street that provides a lot's street address or that opposes the primary entrance of a building.

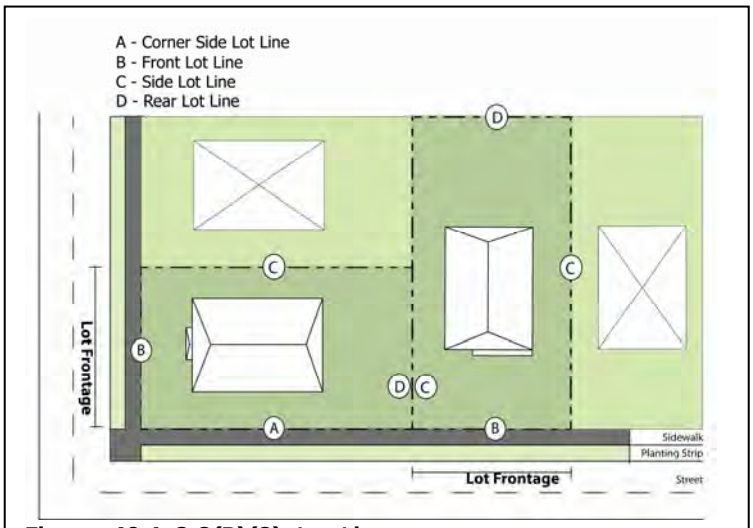


Figure 40.1-8.2(B)(2): Lot Lines

(iii) Rear Lot Line

The rear lot line is the line connecting the two side lot lines along the edge of the lot opposite from the front line.

(iv) Side Lot Line

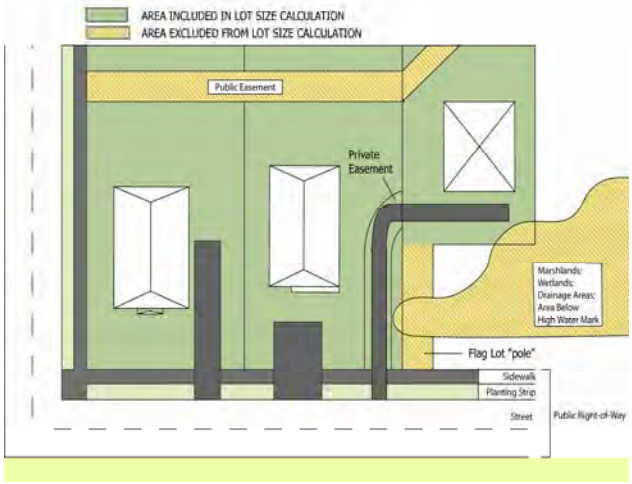
The side lot line is the lot line connecting the front and rear lot lines regardless of whether it abuts a right-of-way or another lot line.

(h) Lot Size

(i) The amount of land area, measured horizontally, included within the lines of a lot. Lands located within any private easements shall be included within the lot size. Public rights-of-way, areas below the mean high-water mark, marshlands, wetlands, or drainage areas located below the normal water level are not be included in calculating lot size, except where specifically allowed by this Ordinance.

(ii) The "pole" or "pan handle" portion of a flag lot shall not be counted towards the lot size.

Figure 40.1-8.2(B)(3): Lot Size Calculation Area



(i) Lot Types

(i) Corner Lot

A lot located at the intersection of two or more streets (other than alleys), regardless of whether or not such streets intersect at right angles.

(ii) Cul-de-Sac Lot

A lot located on the head or turn around of a cul-de-sac with side lot lines on a tangent to the arc of the right-of-way.

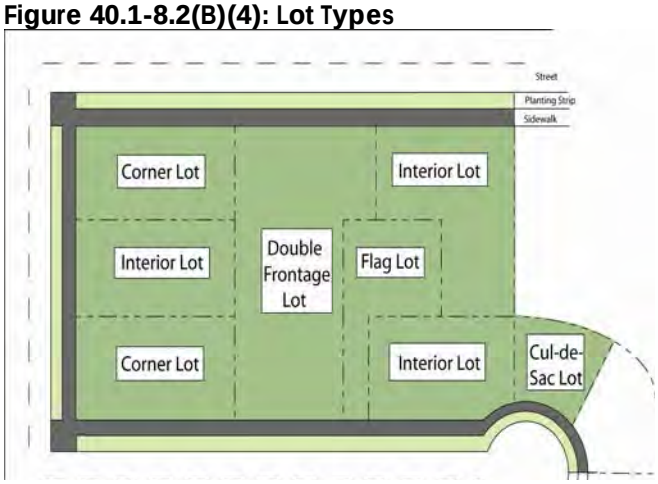
(iii) Double Frontage Lot

A lot other than a corner lot with frontage on more than one street other than an alley.

(iv) Flag Lot

A lot that does not abut or front a street where access is obtained by a narrow private right-of-way.

Figure 40.1-8.2(B)(4): Lot Types



(v) Interior Lot

A lot other than a corner lot with only one frontage on a street other than an alley.

(vi) Zone Lot

A parcel of land under single ownership that has a sufficient size to meet minimum zoning requirements for the base zoning district where it is located.

(j) Lot Width

The distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the back edge of the front yard. On cul-de-sacs, lot width is measured at a point of tangency to the curve of the street.

(2) General Lot Requirements

(a) Erection of More Than One Principal Structure on a Platted Lot

Whenever any land is subdivided, a building permit for the construction of a building or other principal structure (excluding buildings under common ownership or unified control) shall not be issued unless the land is subdivided in accordance with the procedures and standards in Chapter 33.1 of the City Code.

(b) Lots Divided By Zoning District Lines

Whenever a single lot is located within two or more different zoning districts, each portion of that lot shall be subject to all the regulations applicable to the district in which it is located.

(c) Flag Lots

All yards of a flag lot shall meet the minimum dimensional requirements for a front yard in the district where the flag lot is located.

(3) Zero Side Lot Line Development

One side yard required for attached residential and townhouses may be waived by the Planning Commission, provided:

(a) A subdivision plat approved in accordance with Chapter 33.1 of the City Code authorizes the placement of the dwelling on one side of the lot line;

(b) The width of the remaining side yard is equal to or exceeds the sum of both required side yards;

(c) Any wall facing on the zero side lot line is a structural wall capable of providing protection from fire, noise, and visual encroachment;

(d) At least 10 feet of the remaining side yard is open for access to the homeowner and city services;

(e) A five-foot-wide nonexclusive maintenance easement contiguous to the zero lot line wall on the adjoining property is reserved for the homeowner to repair and maintain such wall;

(f) Any eave encroachments over the zero side lot line are one foot or less; and

(g) The zero side lot line development is suitable, uniform, and compatible with the surrounding neighborhood.

(C) Required Yards

(1) Definitions/Measurement

(a) Accessory Structure Yard

The minimum yard requirement between a lot line and an allowable accessory structure. Accessory structures may not be placed within front or corner side yards.

(b) Average Front Yard

The mean depth of front yards of three or more lots along the same block face.

(c) Average Rear Yard

The mean depth of rear yards of three or more of the same type of lot along the same block face.

(d) Average Side Yard

The mean depth of side yards of three or more

(e) Building Setback Line

A line located at the inside edge of a required front, side, or rear yard. Exterior building walls may not encroach into the required yard beyond the building setback line. Portions of a building, (e.g., an overhang, eave, entry stairs, bay windows, foundation planters, etc.) may encroach into a required yard as allowed in Section 40.1-8.3, Allowable Yard Encroachments.

(f) Build-to Line

A line with which the majority of an exterior wall of a building is required to coincide.

(g) Right-of-Way

Land dedicated, deeded, used, or to be used for a street, road, alley, pedestrian way, crosswalk, bikeway, drainage facility, or other public uses, wherein the owner gives up rights to the land so long as it is being or will be used for the dedicated purpose. Right-of-way also is a land measurement term, meaning the distance between lot property lines which generally contain not only the street pavement, but also the sidewalk, grass area, and underground or aboveground utilities.

(h) Yard

A required open area unoccupied and unobstructed by any building or by any structure or portion of a structure except as allowed by this Ordinance. Fences, walls, and incidental structures (e.g., flagpoles, birdhouses or feeders, clothesline posts, etc.) may be permitted within a yard provided the structures do not interfere with corner visibility.

(i) Yard Types

(i) Corner Side Yard

A yard extending between the front and rear lot lines parallel to an abutting street or right-of-way.

(ii) Development Perimeter Yard

An undeveloped yard of a minimum width that surrounds all sides of a development.

(iii) Front Yard

A yard extending between side lot lines across the front of a lot between the frontage line and the front building setback line.

(iv) Rear Yard

A yard extending across the rear of the lot between the rear lot line and the rear building setback line. In the case of double frontage lots, there is no rear yard, and the requirements for the front yard shall apply to the front and rear.

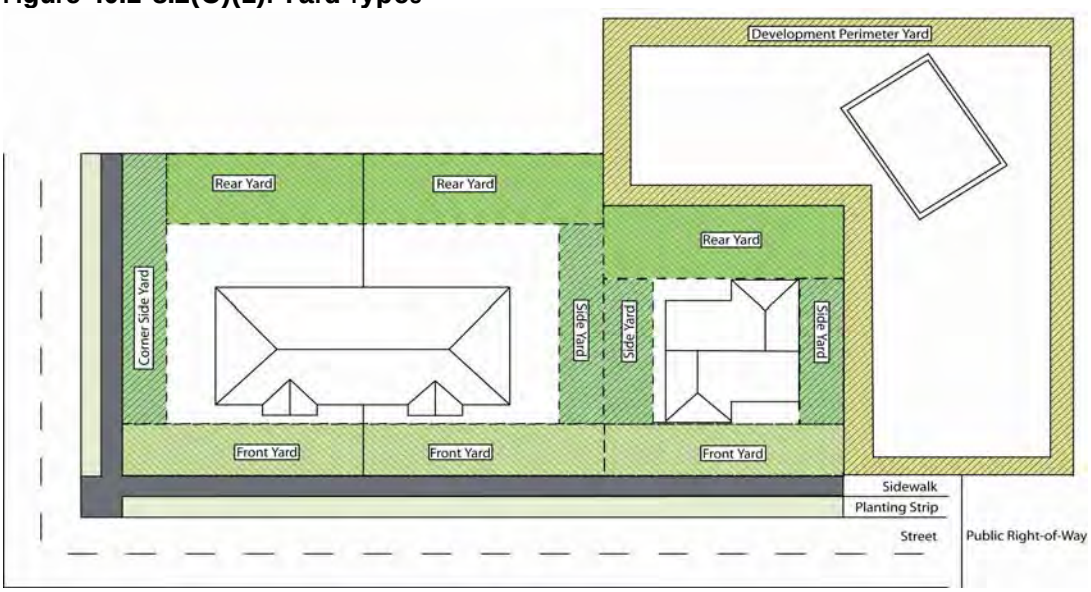
(v) Side Yard

A yard extending from the front building setback line to rear building setback line. In the case of double frontage lots, the side yard extends from the front building setback line to the opposing building setback line associated with the other yard.

(vi) Zero Side Lot Line

A condition where no side yard is provided between two or more distinct dwelling units sharing a party wall (e.g., townhouse, duplex, attached residential, etc.).

Figure 40.1-8.2(C)(1): Yard Types



(2) General Yard Requirements

(a) In General

A yard or other open area required about a building shall not be included as part of a yard or other open space for another building.

(b) Required Yards Increased for Some Uses

(i) Any commercial or industrial use on a lot adjacent to a lot in residential or historic base zoning district that is vacant or occupied by a dwelling unit shall maintain the minimum side or rear yard requirement, as appropriate, required by the adjacent residential or historic zoning base district.

(ii) In addition, the minimum yard requirements for such commercial or industrial buildings shall be increased by one foot for every foot in building height beyond 36 feet.

(3) Allowable Yard Encroachments

The following features may encroach into required yards:

Figure 40.1-8.2(C)(2): Allowable Yard Encroachments

(a) Driveways, walkways, patios, ramps, stairs, paved areas, and other accessory structures less than 36 inches above grade and all landscape plantings are exempted from yard requirements, but are subject to corner visibility requirements.

(b) Fences and walls intended for privacy or demarcation of lot lines that meet the standards in Section 40.1-5.10, Fences and Walls, may encroach into a required yard, but shall be subject to corner visibility requirements. Fences or walls intended for screening of service areas or mechanical equipment may not encroach into required yards.

(c) Stairs, ramps, chimneys, fireplaces, windows, pilasters, balconies, uncovered decks, uncovered porches, air condensers, mechanical equipment, signs, and other accessory structures with a height exceeding 36 inches above grade may encroach into a required yard by up to three feet.

(d) Front porches may encroach into front yards up to six feet.

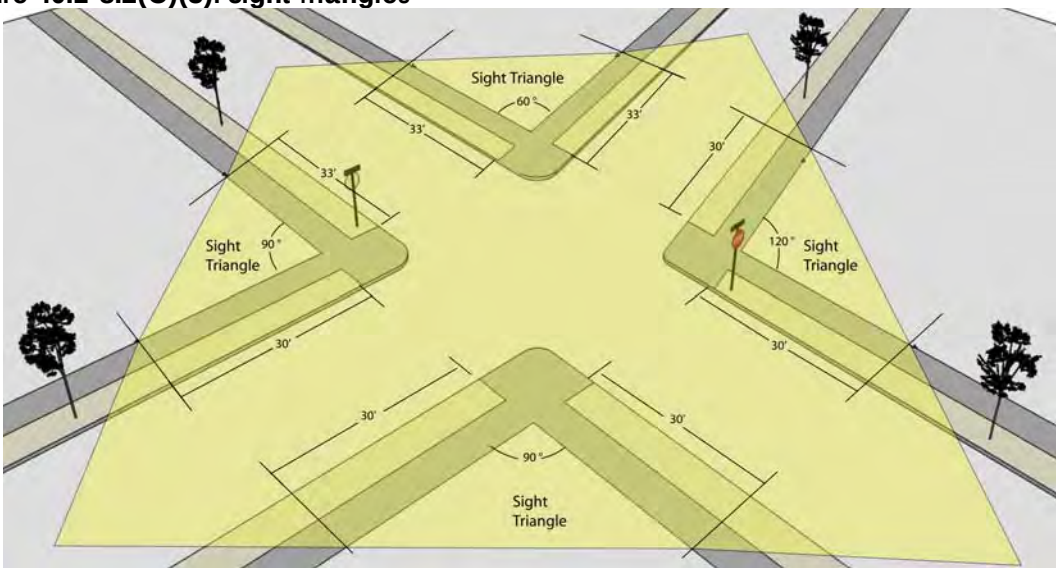
(4) Corner Visibility

(a) Corner lots shall preserve areas necessary for corner visibility by limiting fence or wall height to a maximum of three feet above grade, and all other obstructions between three and ten feet of the established grade in the following areas:

(i) For lots with an interior corner lot angle of 90 degrees or more at the street corner, the corner area is the area within the triangle created by the two corner lot lines and drawing an imaginary line between the corner lot lines at 30 feet from the corner on each property lot line.

(ii) For lots with an interior angle of less than 90 degrees at the street corner, the corner area is the area within the triangle created by the two corner lot lines and drawing an imaginary line between the corner lot lines 30 feet from the corner on each property lot line plus one foot for every ten degrees or major fraction less than 90 degrees.

Figure 40.1-8.2(C)(3): Sight Triangles



(b) These standards do not apply to United States mailboxes, police and fire alarm boxes, public utility poles, street name markers, official traffic signs and control devices, and fire hydrants.

(c) Lots in an historic or downtown zoning district, may waive these standards following approval by the City Traffic Engineer, to fulfill the purposes and objectives declared in Section 40.1-3.6(F), Historic Districts.

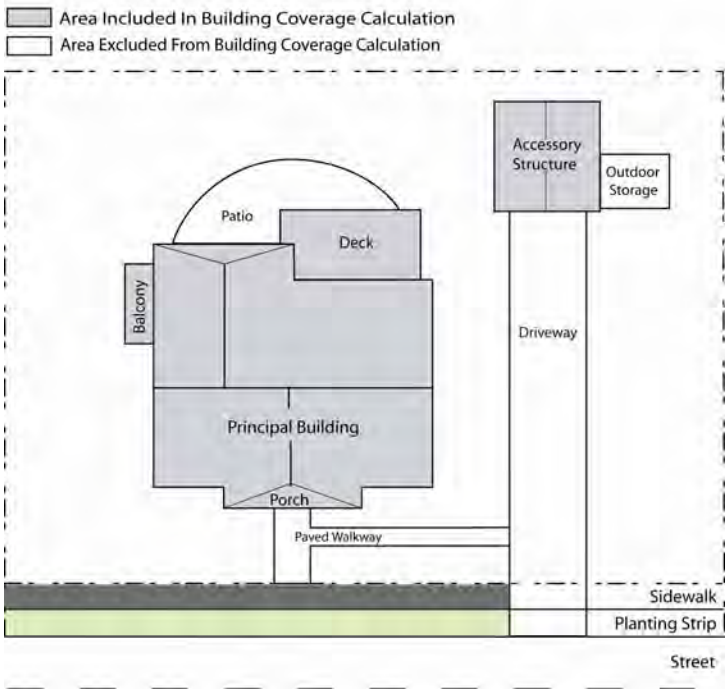
(D) Bulk

(1) Definitions/Measurement

(a) Building Coverage

Building coverage is a measure of intensity of a use of land that represents the portion of a site that is covered by building footprint, as well as attached porches, decks, and balconies. Building coverage does not include driveways, streets, sidewalks, and any other areas covered by an impervious surface material, including areas of outdoor storage.

Figure 40.1-8.2(D)(1): Building Coverage



(b) Building Size

Building size is the total floor area located inside exterior walls and covered by a roof.

(c) Density, Gross Residential

The number of residential dwelling units permitted per gross acre of land that is determined by dividing the number of units by the total area of land within the boundaries of a parcel of land including existing streets, dedicated rights-of-way, tree protection zones, and open space set-asides, except as otherwise provided for in this Ordinance. In the determination of the number of residential units to be permitted on a specific parcel of land, a fractional unit equal to or greater than 0.6 of a unit shall be rounded up to equal a full unit. A fractional unit less than 0.6 of a unit shall be rounded down, and not counted as a unit.

(d) Density, Net Residential

The total number of dwellings existing or proposed on a zone lot, group of zone lots or other parcel, divided by the total land area in the zone lot or parcel, expressed in acres. If the parcel is undeveloped, required street rights-of-way and other lands required to be dedicated for public use are not included in the land area.

(e) District Size

The minimum size, in acres, of a base or overlay zoning district, including streets, rights-of-way, and open space areas, but excluding unbudilable lands.

(f) Floor Area

The sum of the gross horizontal areas of the floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings, and excluding the following:

(i) Attic areas with a headroom of less than seven feet;

(ii) Unenclosed stairs or fire escapes;

(iii) Elevator structures;

(iv) Cooling towers;

(v) Areas devoted to air conditioning, ventilating or heating or other building machinery and equipment;

(vi) Structured parking; and

(vii) Basement space where the ceiling is not more than 48 inches above the general finished and graded level of the adjacent part of the lot.

(g) Floor Area Ratio

The total floor area of all buildings or structures on a lot divided by the lot size.

(E) Height

(1) Definitions/Measurement

(a) Building Height

The vertical distance measured from the established grade at the corner of a front of a building to the highest point of the roof surface of a flat roof, to the deck line of a mansard or Bermuda roof, to the mean height level between eaves and ridge of gable, hip, cone, gambrel and shed roofs, as depicted in Figure 40.1-8(E)(1), Building Height Measurement.

(b) Building Story

The space between the surface of any floor and the surface of the next floor above it; or if there is no floor above it, the space between the floor surface and the top of the ceiling joists or roof rafters above it. Typically, story height in a residential structure is nine feet per story, and story height in a non-residential structure is twelve feet per story.

(c) Established Grade

Established grade is the finished grade following grading, excavation, or other land-disturbing activity.

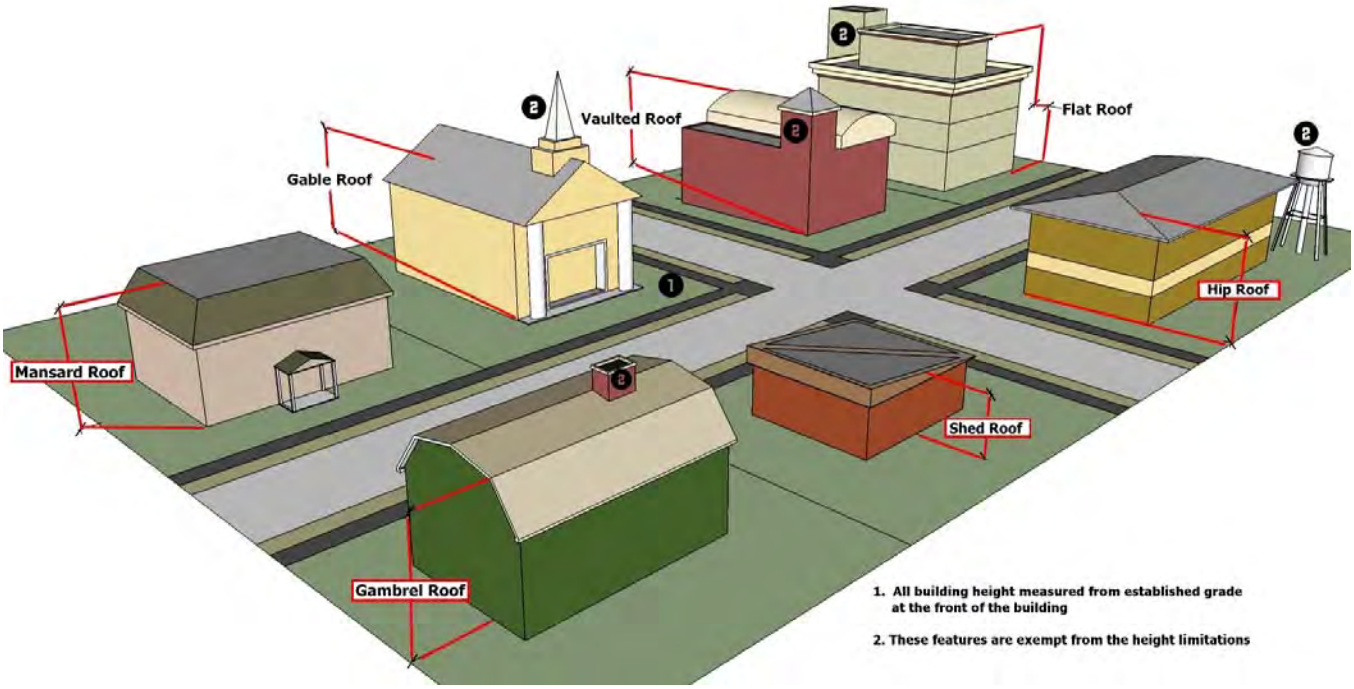
(d) Grade

Grade means the level of the finished ground surface immediately adjacent to the exterior walls of a building.

(2) Height Requirements

Multi-story buildings within a mixed-use district or intended for mixed uses and all parking structures shall maintain a first floor ceiling height of at least 15 feet to accommodate commercial ground-floor uses.

Figure 40.1-8.2(E)(1): Building Height Measurement



(3) Exceptions

Height limits shall not apply to chimneys, church spires, belfries, cupolas, domes, flag poles, monuments, water towers, rooftop dish antennas, skylights, fire escapes or roof access stairways, mechanical equipment required to operate and maintain the building, or similar appurtenances, provided:

(a) The appurtenance does not interfere with Federal Aviation Regulations, Part 77, Objects Affecting Navigable Airspace;

(b) The appurtenance does not extend more than 25 feet above the maximum permitted building height, except as allowed herein;

(c) The appurtenance does not exceed a maximum height of 200 feet above grade;

(d) The appurtenance is not constructed for the purpose of providing additional floor area in the building; and

(e) The appurtenance complies with the screening requirements for mechanical equipment and appurtenances in this Ordinance.

40.1-8.3 DEFINITIONS

ABANDONMENT

For the purposes of Article 40.1-6: Nonconformities, abandonment shall mean the stopping or halting of use or occupancy of a nonconformity for a period of two years or more. .

ABUTTING

The condition of two or more adjoining lots having a common property line or boundary including cases where two or more lots adjoin a corner, but not including cases where adjoining lots are separated by a street or alley.

ACCENT

The use of an alternate material, or color to a detail that is emphasized by contrasting with its surroundings.

ACCESSORY DWELLING UNIT

A secondary dwelling unit established in conjunction with and clearly subordinate to a principal dwelling unit, whether part of the same structure as the principal dwelling unit, or as a detached structure on the same lot.

ACCESSORY STRUCTURE

A structure that is subordinate in use and square footage to a principal structure or permitted use.

ACCESSORY USE

A use that is customarily incidental, appropriate, and subordinate to the principal use of land or buildings and located on the same lot.

ACT OF GOD

Any event in which the damage to a nonconforming use or structure is outside of the control of a single individual. Damage or destruction by fire (except arson) and damage by a vehicle are considered acts of God.

ACTIVE RECREATION USE

Uses or structures intended for specific active recreational uses such as play grounds, ball fields, tennis courts and other similar uses typically located in open space set-aside areas.

ADDITION

Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition that is connected by a fire wall or is separated by an independent perimeter load bearing wall is new construction.

ADJACENT

A lot or parcel of land that shares all or part of a common lot line or boundary with another lot or parcel of land or that is directly across a public street or right-of-way.

ADMINISTRATIVE ADJUSTMENT

A permit reviewed and approved, approved with conditions, or denied by the Planning Director in accordance with Section 40.1-2.3(H), Administrative Adjustments.

ADMINISTRATOR, ZONING

See "Zoning Administrator."

ADULT BOOKSTORE

Any commercial establishment having its stock and trade in books, films, video cassettes, (whether for viewing off premises or on premises), or magazines and other periodicals of which more than 25 percent (either sales, number of titles, or display area) are distinguished or characterized by their emphasis on or having as its dominant theme or purpose, matters depicting, describing or relating to specific sexual activities or specified anatomical areas as defined herein.

ADULT DAY CARE CENTER

A program operated in a structure other than a single-family dwelling that provides group care and supervision on a less than 24-hour basis, and in a place other than their usual place of abode, to four or more adults 18 years or older who may be physically or mentally disabled.

ADULT ENTERTAINMENT ESTABLISHMENT

An establishment offering goods and services of an adult nature which includes the selling and rental of publications and other material of a sexual nature (i.e. adult book stores, adult video rental stores, adult theaters, adult nightclubs).

ADULT MINI-MOTION PICTURE THEATER

An enclosed building or outdoor facility with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

ADULT MOTION PICTURE THEATER

A commercial establishment where, for any form of consideration, films (which term shall also include videotapes and other, comparable technology) containing "specified sexual activities" or "specified anatomical areas" ("sexually oriented films") are predominantly shown; or where a predominant number of films are limited to adults only. For the purposes of this Ordinance, sexually oriented films will be deemed predominantly shown if they are shown more frequently than other, nonsexually oriented films or if there is regularly greater audience attendance at such films than at other, nonsexually oriented films. A finding by the Zoning Administrator that sexually oriented films predominate or that a predominant number of films are restricted to adults shall be presumed to be correct unless the subject owner or operator rebuts the presumption by clear and convincing evidence.

ADULT NOVELTY STORE

A commercial establishment which offers for sale, rental or viewing for any form of consideration any one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or

(2) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

When one of more of the following criteria apply:

(1) In any one month 25 percent or more of the gross income of the establishment is derived from the sale, rental or viewing of such materials;

(2) Twenty-five percent or more of the floor area of the premises is devoted to the display or storage of such materials; or

(3) Twenty-five percent of the stock and trade of the establishment is comprised of such materials.

ADVERTISING DISPLAY AREA

The advertising display surface area of a sign.

AFFECTED PROPERTY OWNER

The owner of any property upon which the proposed development will have a positive or negative impact.

AGGRIEVED PARTY

Any person (including an owner, developer, or applicant for a development order) who will suffer an adverse effect to an interest protected or furthered by the comprehensive plan or this Ordinance, including interests related to health and safety, police and fire protection service systems, densities or intensities of development, transportation facilities, health care facilities, equipment or services, and environmental or natural resources. The party must be able to show an immediate, pecuniary, and substantial interest in any litigation, and not a remote or indirect interest.

AIRCRAFT PARTS, SALES, AND MAINTENANCE

The use of land for the display and sale of, or general repair, rebuilding, or reconditioning of any contrivance now known or hereafter invented for use in or designed for navigation of or flight in air.

AIRPORT

Any area of land or water designed and set aside for the landing and take-off of aircraft, including all necessary facilities for the housing and maintenance of aircraft.

AIRPORT ELEVATION

The highest point on any usable landing surface expressed in feet above mean sea level.

ALLEY

A minor way designed to give vehicular access to the side or rear of properties whose principal frontage is on another street.

ALTERATION

Any change or expansion in the size, configuration, or location of a structure; or any change or expansion in the use of a structure or lot, from a previously approved or legally existing size, configuration, location, or use.

ALTERNATIVE PARKING PLAN

A plan or other proposal to utilize one or more of the alternative parking provisions in Section 40.1-5.1(J), Alternative Parking Plans, as a means of providing more off-street parking spaces than typically allowed or fewer spaces than required.

AMATEUR RADIO TOWER

A structure on which an antenna is installed for the purpose of transmitting and receiving amateur radio signals erected and operated by an amateur radio operator licensed by the FCC.

AMENITIES

Manmade or natural features which enhance or make more attractive a particular site for development.

ANCILLARY MECHANICAL EQUIPMENT

Supplemental equipment, attached or detached, including but not limited to equipment for the provision of services for heat, ventilation, air conditioning, electricity, plumbing, telephone and television.

ANIMAL GROOMING

Any place or establishment, public or private, where animals are bathed, clipped, or combed for the purpose of enhancing their aesthetic value and/or health and for which a fee is charged.

ANIMAL SHELTER

A facility used to house and care for stray, homeless, abandoned, or neglected animals that are owned, operated, or maintained by a public body, an established humane society, or other private or nonprofit organization.

ANTENNA

A device used to transmit and/or receive radio or electromagnetic waves between land based or orbiting uses.

APPEAL

An appeal of a decision or interpretation made by the Planning Director or Zoning Administrator that is reviewed and reversed, modified, or upheld by the BZA in accordance with Section 40.1-2.3(K), Appeal.

APPEAL REVIEW COMMITTEE (ARC)

A committee whose role is to determine if there are legitimate grounds to place an appeal of an HPC decision on the City Council agenda. The ARC consists of the Planning Director and the City Attorney.

APPLICANT

The owner of land, or the authorized representative of the landowner, applying for a permit or development approval.

APPLICATION

The completed form or forms and all accompanying documents, exhibits, and fees required of an applicant by the appropriate City department, board, or commission as part of the review for a permit or development approval.

ARBORETUM OR BOTANICAL GARDEN

A garden or place where trees, shrubs, or other woody plants are grown, exhibited or labeled for scientific, educational, or passive recreational purposes, not including the harvest of plants or their produce.

ARBORIST

A person who is licensed (either a professional certification or International Society of Arboriculture Certified Arborist) to perform arboricultural work in the city.

ARCADE

A series of arches supported by piers or columns.

ARCH

A curved, semicircular opening in a wall.

ARCHITECTURAL LIGHTING

Exterior lighting that is designed to highlight structures, plantings, or significant architectural features in a direct or indirect fashion.

ARENA, AMPHITHEATER, OR STADIUM

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.

ASSESSED VALUE

The monetary price that a parcel of land, portion of land, improvement on land, or other commodity is assigned by the city Tax Assessor's office for the purposes of taxation.

ASSISTED LIVING FACILITY

A building, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, health care assistance, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or proprietor. Accessory uses may include dining rooms and infirmary facilities for intermediate or skilled nursing care solely for the use of the occupants residing in the principal facility.

AUDITORIUM

A building or structure designed or intended for use for spectator sports, entertainment events, expositions, and other public gatherings, all occurring inside a structure typically limited to a capacity of 500 or fewer seats.

AUTHORIZED AGENT

A person with express written consent to act upon another person's behalf.

AUTOMOBILE

Any vehicle propelled by its own motor and operating on roads. As used herein, the term includes passenger cars, trucks, motorcycles, motor scooters, motorized bicycles and the like.

AUTOMOBILE SALES OR RENTALS

Premises on which new or used passenger automobiles, trailers, or light trucks in operating condition are displayed for sale, lease, or rental.

AUTOMOBILE SERVICE STATION

See "Automotive Repair and Servicing".

AUTOMOTIVE PAINTING/BODY SHOP

Repair of automobiles, vehicles, or trailers, including bodywork, framework, welding, and major painting service.

AUTOMOTIVE PARTS AND INSTALLATION

The on-site sale and subsequent installation of various automobile parts and accessories, including but not limited to tires, mufflers, brakes, batteries, audio systems, and lubricants such as engine oil. Such uses do not include the sale of gasoline or other fuels.

AUTOMOTIVE REPAIR AND SERVICING (WITHOUT PAINTING/BODYWORK)

General repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, not including bodywork, framework, welding, and major painting service.

AUTOMOTIVE WRECKER SERVICE

An establishment operated for the purpose of temporary storage on-site of no more than nine wrecked or inoperable vehicles for a period no longer than 90 days. If an establishment has 10 or more inoperable vehicles located on-site, stores inoperable vehicles for more than 90 days, stacks vehicles, or portions of the vehicles are dismantled or removed for sale, it shall be considered a salvage and junkyard.

AWNING

A cover, entirely supported by the building to which it is attached, which has the purpose of shielding a doorway, window, porch, terrace, or platform from the elements.

AXIS

The centerline of a structure that divides the structure into two halves.

BAR OR BREWPUB

An establishment having as its principal or predominant use the serving of beer, wine, or liquor for consumption on the premises, and which sets a minimum age requirement for entrance, consistent with state law. The primary source of revenue for such use is derived from serving of food, and the secondary source from alcohol sales. Uses providing on-site entertainment in the form of live performances, dancing, or other entertainment activities are entertainment establishments. Performances related to the simulation of specified sexual activities or the display of specified anatomical areas are classified as Adult Uses.

BASEMENT

A story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story where more than one-half of its height is above the average level of the adjoining ground.

BED AND BREAKFAST INN

A private residence, generally a single-family residence, engaged in renting one or more dwelling rooms on a daily basis to tourists, vacationers, and business people, where provision of meals is limited to guests only.

BIKE RACK

A stand used for mounting and securing bikes when not in use.

BLOCK

A parcel of land entirely surrounded by streets or by any combination of streets, parks or railroad right-of-way.

BLOCK FACE

The lands abutting on one side of a street and lying between the two nearest intersecting or intercepting streets, railroad right-of-way, watercourse, or un-subdivided land.

BLOOD/TISSUE COLLECTION FACILITY

A facility where blood or related materials are either withdrawn or collected from patients or assembled after being withdrawn or collected elsewhere from patients for subsequent delivery to a clinical laboratory for examination. A collection facility is maintained at a separate physical location not on the grounds or premises of the main licensed laboratory or institution, which performs the testing.

BOARDER

An individual occupying a dwelling unit or part thereof who, for consideration, is furnished sleeping accommodations and may be furnished meals or other services as part of the consideration.

BOARDING HOUSE

See “Rooming House or Boarding House”.

BOAT AND MARINE RENTAL AND SALES

Premises on which new or used boats and other marine vessels are displayed for sale, lease, or rental.

BODY PIERCING ESTABLISHMENT

An establishment in which body piercing takes place. For the purposes of this definition, the term body piercing means the act of penetrating the skin to make a hole, mark, or scar, generally permanent in nature, but does not include the use of a mechanized, presterilized ear piercing system that penetrates the outer perimeter or lobe of the ear, or both.

BUFFER

An area of natural or planted vegetation adjoining or surrounding a use and unoccupied in its entirety by any building, structure, paving or portion of such use, for the purposes of screening and softening the effects of the use, no part of which buffer is used for recreation or parking.

BUFFER, PERIMETER

Vegetative material and structures (i.e., walls, fences) that are used to separate uses from each other as required by this Ordinance, including but not limited to the Type A Basic, Type B Aesthetic, Type C Semi-opaque, and Type D Opaque described in Section 40.1-5.2(E), Perimeter Buffers.

BUILDABLE AREA

The portion of the lot remaining after required yards have been provided and after the limitations of any pertinent environmental regulations are applied. Buildings may be placed in any part of the buildable area, but if there are limitations on percent of the lot which may be covered by buildings, some open land may be required within the buildable area.

BUILDING

A combination of any materials, whether portable or fixed, that forms a structure for use or occupancy by persons or property.

BUILDING CODE

The Virginia Uniform Statewide Building Code adopted by the state legislature and any amendments thereto.

BUILDING OFFICIAL

The person appointed by the City Manager as the individual who issues the permit for the construction, alteration, reconstruction, or demolition of all or part of any building.

BUILDING PERMIT

An approval statement signed by the Building Official authorizing the construction, alteration, reconstruction, or demolition of all or part of any building.

BUILDING, HEATING, PLUMBING, OR ELECTRICAL CONTRACTOR

Offices for building, heating, plumbing, or electrical contractors, and related storage facilities.

BUILDING, PRINCIPAL

A building which contains the principal use of the lot on which it is situated.

BZA

The Board of Zoning Appeals for the City of Portsmouth, Virginia. See Section 40.1-2.1(D).

CALIPER

A horticultural method of measuring the diameter of a tree trunk for the purpose of determining size. The caliper of the trunk is measured six inches above the ground for trees up to and including four inches in diameter, 12 inches above the ground for trees greater than four inches and up to ten inches in diameter, and at breast height (4½ feet) for trees ten inches or greater in diameter.

CAMPGROUND OR RECREATIONAL VEHICLE (RV) PARK

An outdoor facility designed for overnight accommodation of persons in tents, rustic cabins, recreational vehicles, and shelters for recreation, education, naturalist, or vacation purposes. Office, retail, and other commercial uses commonly established in such facilities and related parking structures shall be allowed as accessory appurtenances.

CANOPY

A permanent structure other than an awning made of cloth, metal or other material attached or unattached to a building for the purpose of providing shelter to patrons or automobiles, or as a decorative feature on a building wall. A canopy is not a completely enclosed structure.

CANOPY TREE

A tree that has an expected height at maturity of 30 feet or more.

CAR WASH OR AUTO DETAILING

An establishment providing the exterior washing of vehicles where vehicles are manually driven or pulled by a conveyor through a system of rollers and/or brushes. Interior cleaning and/or drying may be conducted manually by vehicle operator or on-site attendants. Automatic car wash establishments are further defined under the two following categories:

1. Full service: An establishment featuring a conveyor system to move vehicles through the wash cycle. This type of car wash may include sales of gasoline, oil and other vehicle related merchandise. On-site attendants are required. Building size is limited by lot size, parking requirements, building and landscape setbacks or other site characteristics.

2. Self service: An establishment featuring a car wash system where vehicles are manually driven through a wash cycle, or washed manually using a wand or other hose. Incidental interior cleaning and exterior drying are performed by vehicle operator. This type of car wash does not have an on-site attendant and there is no gasoline, oil or other merchandise for sale.

CASUALTY DAMAGE

Damage to a use, lot, or structure from an event that is sudden, unexpected, and unusual, such as a hurricane, earthquake, fire, flood, theft, or similar event.

CEMETERY, COLUMBARIUM, MAUSOLEUM

Uses intended for the burial of the dead and dedicated for cemetery purposes. This use type may include a funeral home or mortuary or a mausoleum or columbarium (a structure or vault lined with recesses for cinerary urns), but does not include a crematory.

CERTIFICATE OF APPROPRIATENESS (COA)

The development approval by the HPC, or DDC, as appropriate, in accordance with Section 20-2.3(l) that certifies the appropriateness of a particular request for the construction, alteration, reconstruction, repair, restoration, or demolition of all or a part of any building within an historic district, subject to the issuance of all other relevant permits or development approvals needed for the matter sought to be accomplished.

CERTIFICATE OF OCCUPANCY

A certificate granted by the city's Building Official which permits the use of a building in accordance with the approved plans and specifications and which certifies compliance with the provisions of law for the use and occupancy of the building in its several parts together with any special stipulations or conditions of the Building Permit. A building may not be occupied without the issuance of a Certificate of Occupancy.

CERTIFICATE OF ZONING COMPLIANCE

See “Zoning Compliance Certificate”.

CHANGE IN USE

A change of one land use to a different land use. For the purposes of this Ordinance, a change of use shall not include change in ownership or a change from one land use to an identical land use (e.g., a change from one restaurant to another restaurant shall not be deemed a change in use.)

CHILD DAY CARE CENTER

An arrangement or program where, at any one time, either:

a. Six or more children under the age of 13 receive child care in a residence, or

b. Two or more children under the age of 13 receive child care in a building other than a residence

On a regular basis from persons other than their guardians, full-time custodians, or persons related to them by blood, marriage, or adoption. Such uses may also involve the provision of educational services in preparation for elementary school. This definition does not include family child care homes, home child day care, cooperative arrangements among parents, or drop-in or short-term child care provided while parents work part-time or participate in other activities on the premises (e.g., churches, shopping malls, hotels, health spas).

CIRCUIT COURT

The Circuit Court of the City of Portsmouth, Virginia

CITY

The City of Portsmouth, Virginia.

CITY CODE

The code of ordinances of the City of Portsmouth.

CITY COUNCIL

The City Council for the City of Portsmouth, Virginia.

CIVIC, SOCIAL, OR FRATERNAL CLUBS OR LODGES

A building and related facilities owned and operated by a corporation, association, or group of individuals established for fraternal, social, educational, recreational, or cultural enrichment of its members and primarily not for profit, and whose members meet certain prescribed qualifications for membership and pay dues.

CLERK OF CIRCUIT COURT

The Clerk of the Circuit Court of the City of Portsmouth, Virginia.

CLOTHES LINE

A rope or wire on which clothes, linens, or other fabrics are hung for drying or airing.

COA

See “Certificate of Appropriateness”.

COLD STORAGE PLANT

A building, structure, machinery, appurtenances, appliances and apparatus occupied and used in the business of freezing food products or storing frozen food products.

COLLEGE OR UNIVERSITY

A public or private, non-profit institution for post-secondary education offering courses in general or technical education which operates within buildings or premises on land owned or leased by the institution for administrative and faculty offices, classrooms, laboratories, chapels, auditoriums, lecture halls, libraries, student and faculty centers, athletic facilities, dormitories, fraternities and sororities, and other facilities which further the educational mission of the institution. In no event shall this definition prohibit a college or university from engaging in an activity historically conducted by such institutions. Trade or vocational schools are a different use type.

COLOCATE

To locate with another user on an existing structure such as a tower, power, phone or light pole or stanchion; water tank or stand pipe, building or steeple, billboard sign or similar structure.

COMMERCIAL RECREATION, INDOOR

A private indoor (entirely within an enclosed structure) use providing for sport and recreation activities that are operated or carried on primarily for financial gain. Examples of indoor commercial recreation uses include, but are not limited to, fitness centers, bowling alleys, dancehalls, skating rinks, and indoor commercial swimming pools and racquet and tennis courts.

COMMERCIAL RECREATION, OUTDOOR

A private outdoor use providing facilities for outdoor sport and recreation activities, which is operated or carried on primarily for financial gain. Examples of outdoor commercial recreation uses include, but are not limited to, privately owned golf driving ranges, miniature golf facilities, outdoor commercial tourist attractions, outdoor commercial swimming pools and tennis courts, and drive-in theatres.

COMMERCIAL VEHICLE

A truck, bus, or other self-propelled vehicle of any type or a container constructed for the transportation of materials used or maintained primarily for business purposes to transport goods, equipment or passengers. This definition is not applicable to a vehicle described as a pickup, van or panel truck that does not exceed one ton in manufacturer's rated capacity and does not exhibit a company name or logo.

COMMON OPEN SPACE

Portion of a proposed development required for reservation as permanent open space by Section 40.1-5.4, Open Space Standards and Set-Asides.

COMMONWEALTH

The Commonwealth of Virginia.

COMMUNITY CENTER

A public building to be used as a place of meeting, recreation, or social activity and not operated for profit.

COMMUNITY GARDEN

A private or public facility for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person.

COMPREHENSIVE PLAN

The City of Portsmouth's adopted Comprehensive Plan.

CONDOMINIUM

A multiple-unit residential or nonresidential development where individual units are owned, but the foundation, roof, and land are owned jointly.

CONFERENCE OR TRAINING CENTER

A facility designed to accommodate less than 500 persons and used for conferences, seminars, product displays, recreation activities, and entertainment functions, along with accessory functions including temporary outdoor displays, and food and beverage preparation and service for on–premise consumption.

CONNECTIVITY

The relative degree of connection between streets, sidewalks, or other means of travel.

CONSTRUCTION

The erection of any building or structure or any preparations (including land disturbing activities) for the same.

CONTIGUOUS

Abutting directly or immediately adjacent to a boundary or separated only by a street, railroad or public right-of-way.

CONTINUING OFFENSE

An offense that has not been corrected after receiving notice to correct and being issued an initial penalty.

CONTINUOUS VISUAL SCREEN

Screening of vehicular use areas by vegetative material, berms, or structures (walls and fences), or a combination of these items designed to completely obstruct off-site views of the vehicular use area typically to a height three feet or 36 inches above the adjacent grade.

CONTRIBUTING PROPERTIES

Those properties which by reason of form, materials, architectural details and relation to surrounding properties contribute favorably to the general character of the part of the historic district in which they are located.

CONVENIENCE STORE WITH GAS SALES

A retail establishment which offers for sale, primarily, the following types of articles: bread, milk, cheese, canned and bottled foods and drinks, tobacco products, beer, wine, candy, papers and magazines, and general hardware articles. Gasoline and/or fast food may also be offered for sale but only as a secondary activity of a convenience store. If vehicular maintenance and service are provided, the establishment is not classified as a convenience store.

CONVENIENCE STORE WITHOUT GAS SALES

A retail establishment and which offers for sale, primarily, the following types of articles: bread, milk, cheese, canned and bottled foods and drinks, tobacco products, beer, wine, candy, papers and magazines, and general hardware articles. Gasoline is not offered for sale. Fast food may be offered, but only as a secondary activity of a convenience store. If vehicular maintenance and service are provided, the establishment is not classified as a convenience store.

CONVENTION CENTER

A facility designed to accommodate 500 or more persons and used for conventions, conferences, seminars, product displays, recreation activities, and entertainment functions, along with accessory functions including temporary outdoor displays, and food and beverage preparation and service for on–premise consumption. Similar structures with a capacity of less than 500 people are auditorium or conference center uses.

CORNICE

Any horizontal member, structural or nonstructural, of any building, projecting outward from the exterior walls at the roof line, including eaves and other roof overhang.

CORRECTIONAL FACILITY

Publicly or privately operated facilities housing persons awaiting trial or persons serving a sentence after being found guilty of a criminal offense. Such uses may include cafeterias, housing for facility staff, outdoor storage and maintenance areas, recreational areas, agricultural facilities, and facilities for the production of goods or materials produced for sale.

COUNTRY CLUB

A nonprofit membership club organized and operated primarily to provide recreational activities such as golf, swimming, tennis, and other outdoor recreation to its members and their guests, as well as incidental facilities such as a club house, locker rooms, and pro shop.

COUNTY

Norfolk County, Virginia.

COURT, INNER

A court other than an outer court. The length of an inner court is the minimum horizontal dimension measured parallel to its longest side. The width of an inner court is the minimum horizontal dimension measured at right angles to its length.

COURT, OUTER

An uncovered open space other than a yard, surrounded on three sides by the exterior walls of a structure. In cases where the fourth, or open side of a court is enclosed by projections exceeding 25 percent of its width, such court shall be considered an inner court.

CREMATORY

A facility containing furnaces for the reduction of dead bodies to ashes by fire.

CROSS-ACCESS

Vehicular access provided between the vehicular use areas of two or more development sites or parcels of land intended to allow travel between the sites without the use of a public or private street.

CROSSWALK

A right-of-way dedicated to public use which cuts across a block to facilitate pedestrian access to adjacent streets and properties.

CUL-DE-SAC

A short street having but one end open to traffic and the other end being permanently terminated by a vehicular turnaround.

CULTURAL FACILITY

An establishment such as a zoological garden, conservatory, planetarium, or other similar use of an historic, educational, or cultural interest, which is not operated for profit.

CUPOLA

A domelike structure on top of a roof or dome, often used as a lookout or to admit light and air.

DECK

A structure, without a roof, directly adjacent to a principal building which has an average elevation of 30 inches or greater from finished grade.

DEMOLITION

The dismantling or tearing down of all or part of any building and all operations incidental thereto.

DEMOLITION BY NEGLECT

The neglect in the maintenance of any building resulting in the deterioration of a building to the extent that it creates or permits a hazardous or unsafe condition as determined by the department of permits and inspections and as further defined in Section 40.1-3.6(E), Historic Districts. It shall also be defined as the removal of and/or the disposal of architectural features from the interior and/or exterior to make the rehabilitation of the structure economically unfeasible.

DEVELOPER

The legal or beneficial owner or owners of a lot or of any land included in a proposed application for permit or development approval, including the holder of an option or contract to purchase or other persons having enforceable proprietary interests in such land.

DEVELOPMENT

The initiation, construction, change, or enlargement of any use or structure or the disturbance of land through the removal of trees or ground cover. "Development" shall include, but not be limited to, the following:

- Construction or enlargement of a building or structure;
- Change in the type of use of a building, structure, or land;
- Material increase in the intensity of use of land, such as an increase in the square feet of businesses, offices, manufacturing establishments, or dwelling units located in a building or structure or on the land;
- Commencement or expansion of resource extraction on a parcel of land;
- Demolition of a structure or the removal of regulated trees from a parcel of land;
- Deposition of refuse, solid or liquid waste, or fill on a parcel of land;
- Alteration, either physically or chemically, of a bank or channel of any stream, lake, or other body of water or alteration of any wetland; or
- Any land disturbing activity that adds to or changes the amount of impervious or partially-impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

DEVELOPMENT PLAN, TYPE I

A permit (site plan) reviewed and approved, approved with conditions, or denied by the Planning Director in accordance with Section 40.1-2.3(C), Type I Development Plan.

DEVELOPMENT PLAN, TYPE II

A permit (site plan) reviewed and approved, approved with conditions, or denied by the Planning Commission in accordance with Section 40.1-2.3(D), Type II Development Plan.

DEVELOPMENTAL DISABILITY

A developmental disability shall be defined in the same manner as defined in the Federal Developmentally Disabled Assistance Act. For the purposes of this Ordinance, developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in Title 54.1 of the Code of Virginia.

DIAMETER AT BREAST HEIGHT (DBH)

The measurement of the diameter of a tree trunk over ten inches in diameter taken at a height of four-and-one-half feet above the ground. Trees with multiple trunks should be treated as multiple trees and the DBH for each trunk added to aggregate diameter measurement.

DINNER THEATER

An eating establishment offering food to patrons while seated at tables or through a buffet line before, during, or after a performance by one or more actors in a theatrical production.

DISTRICT

An area delineated on the official zoning map that sets forth standards and guidelines for all development within the prescribed zoning district.

DISTRICT, OVERLAY

A zoning district that encompasses one or more underlying zoning districts and that imposes additional requirements above that required by the underlying zoning district.

DOCK

A piling-mounted stationary or floating platform extending into the water and used as a landing place for boats or promenade or to protect or form a cove. The term "dock" shall include walkway, catwalk, wharf, piling, bulkhead, boat house and other similar structures.

DORMITORY

A building used principally to provide rooms for sleeping accommodations at an educational, public, or religious institution. Common kitchen, sanitary, and social gathering rooms may also be provided.

DRIPLINE

A vertical line that extends from the outermost branches of a tree's canopy to the ground around the circumference of the tree.

DRIVE-THROUGH

A facility designed to enable a person to transact business while remaining in a motor vehicle.

DRUG AND ALCOHOL TREATMENT FACILITY

Inpatient facility which provides care for persons with drug and/or alcohol dependency problems and which may include outpatient follow-up care to the facility's patients.

DRUG STORE OR PHARMACY, WITH DRIVE-THROUGH SERVICE

A freestanding establishment including one or more drive through lanes for customer service that is engaged in the retail sale of prescription drugs, nonprescription medicines, cosmetics, and related supplies.

DRUG STORE OR PHARMACY, WITHOUT DRIVE THROUGH SERVICE

A freestanding establishment engaged in the retail sale of prescription drugs, nonprescription medicines, cosmetics, and related supplies.

DRY CLEANING AND LAUNDRY DROP-OFF ESTABLISHMENT

A commercial establishment maintained for the drop off and pick up of clothes for off-site laundering or dry cleaning, without the operation of any laundry or dry cleaning equipment on the premises.

DWELLING

A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

DWELLING, LIVE/WORK

A structure or portion of a structure combining a residential living space for one or more persons with an integrated work space principally used by one or more of the residents.

DWELLING, MULTI-FAMILY

A dwelling containing five or more individual dwelling units, with the units often stacked one above the other in a vertical configuration, sharing common vertical walls and/or horizontal floors and ceilings.

DWELLING, SINGLE-FAMILY, ATTACHED

Two or more single-family dwelling units, each with its own outside entrance and individual lot, which are joined together by a common or party wall which is shared by two or more individual dwelling units along the lot line.

DWELLING, SINGLE-FAMILY, DETACHED

A residential building containing not more than one dwelling unit to be occupied by one family, not physically attached to any other principal structure. For regulatory purposes, this term does not include manufactured homes, recreational vehicles, or other forms of temporary or portable housing.

DWELLING, TOWNHOUSE

A type of multi-family dwelling in which five or more individual dwelling units are located on individual lots, but attached by one or more common party walls which are shared by one or more units for more than 50 percent of their total linear distance along the lot line. The habitable spaces of different dwelling units are typically arranged on a side-by-side basis rather than a stacked configuration.

DWELLING, TWO- TO FOUR-FAMILY

A residential building containing two, three, or four individual dwelling units located on a single lot. Such units may be part of a single structure, or may be attached by one or more common walls.

DWELLING, UPPER STORY

A dwelling unit located on the second floor or higher of a building with nonresidential uses located on the ground or street level.

EASEMENT

A grant by a landowner to another landowner or to the public, of a right to occupy or use designated land for specific purposes, such as access, drainage, conservation, the location of public improvements, or other specified purpose. An easement does not constitute fee simple ownership of the land.

EAVE

The projecting lower edges of a roof that overhangs the wall of a building.

EGRESS

An exit from a building or site.

ELECTRIC MOTOR REPAIR

An establishment that repairs electric motors for compensation.

ELEVATION

The front, side, or rear of a structure.

ENCLOSURE

Any roofed-over structure or attachment to a structure is enclosed if sides (other than the side or sides where a structure is attached to a main building) are more than 40 percent enclosed with any material other than customary wire or mesh screening.

ENCROACHMENT

The portion of a structure that intrudes into a required setback, or the point at which a driveway accesses a public street.

ENERGY RECOVERY PLANT

Any public or private recovering facility for electricity, natural gas, petroleum, coal, or other source of energy.

ENGINEER

An engineer registered by the Commonwealth of Virginia.

ENLARGEMENT

An increase in the size of an existing structure.

ENTERTAINMENT ESTABLISHMENT

Uses that offer some form of entertainment (e.g., dancing, comedy performances, amplified music, etc.) for patrons while on the premises. Entertainment establishments may serve alcohol, charge patrons a membership fee, and serve food for on-site consumption.

EXISTING TREE CANOPY

The crowns of all healthy self-supporting canopy trees with a diameter at breast height (DBH) of ten inches or greater and understory trees with a caliper size of four inches or greater at breast height.

EXPANSION

An increase in the size of an existing structure or use, including physical size of the land, building, parking, and other improvements or structures.

EXTERIOR ARCHITECTURAL FEATURES

The architectural style, general design and general arrangement of the exterior of a building, structure or object, including, but not limited to, the kind or texture of the building material and the type and style of all windows, doors, signs, and other appurtenant architectural fixtures, details, features, or elements.

EXTRACTIVE INDUSTRY, ALL USES

A use involving on-site extraction of surface or subsurface mineral products or natural resources. Typical uses are quarries, borrow pits, sand and gravel operations, mining, and soil mining. Specifically excluded from this use is grading and removal of dirt associated with an approved site plan or subdivision or excavations associated with, and for the improvement of, a bona fide agricultural use.

FAÇADE

The entire exterior wall of a building facing a lot line measured from the grade to the eave or highest point of a flat or mansard roof. Facades may be on the front, side, or rear elevation of the building.

FACADE, FRONT

See "Front Façade".

FACADE, REAR

That portion of a building which is, by either service area, secondary entry and egress or the facade directly opposite the front facade of the structure, the reverse frontage of the building.

FAMILY

An individual, or two or more persons related by blood, marriage, or adoption living together as a single housekeeping unit; or a group of not more than five persons not related by blood, marriage, or adoption living together as a single housekeeping unit, as in a family care home.

FAMILY CARE HOME

A home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than eight resident persons with disabilities—i.e., persons with a temporary or permanent physical, emotional, or mental disability, including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances, and orthopedic impairments, but not including mentally ill persons who are dangerous to others.

FAMILY CHILD DAY CARE HOME (6 TO 12 CHILDREN)

A program or arrangement located in a residence where, at any one time, more than six but less than twelve children under the age of 13 receive child care on a regular basis from persons other than their guardians, full-time custodians, or persons related to them by blood, marriage, or adoption. This definition does not include day care centers, home child day care, or cooperative arrangements among parents.

FENCE

A structure used to delineate a boundary or act as a barrier or means of protection, confinement, or screening.

FIRST FLOOR

The floor of a building which is at, or first above, average finished grade.

FINANCIAL INSTITUTION, WITH DRIVE-THROUGH SERVICE

An establishment that provides retail banking services, mortgage lending, or similar financial services to individuals and businesses. Financial institutions include those establishments engaged in the on-site circulation of cash money and check-cashing facilities, but shall not include bail bond brokers. Financial institutions may also provide automated teller machines (ATM) services, located within a fully enclosed space or building, or along an exterior building wall intended to serve walk-up customers only. These uses include drive-through facilities.

FINANCIAL INSTITUTION, WITHOUT DRIVE-THROUGH SERVICE

An establishment that provides retail banking services, mortgage lending, or similar financial services to individuals and businesses. Financial institutions include those establishments engaged in the on-site circulation of cash money and check-cashing facilities, but shall not include bail bond brokers. Financial institutions may also provide automated teller machines (ATM) services, located within a fully enclosed space or building, or along an exterior building wall intended to serve walk-up customers only. These uses do not include drive-through facilities.

FIRE OR EMS FACILITY

A facility for the provision of local rapid response emergency services such as firefighting and mobile medical emergency services, including areas for the storage and maintenance of emergency vehicles, and equipment and facilities for the housing and feeding of emergency personnel while on duty.

FIRE OR POLICE SUBSTATION

Any building or part of a building that is designated by the chief of police or sheriff to be used as a police or sheriff's station or substation and at which duly authorized officers perform law enforcement functions.

FLEA MARKET

A market held in an open area or structure where individual sellers offer goods for sale to the public. Such sellers may set up temporary stalls or tables for the sale of their products. Such sales may involve new and/or used items and may include the sale of fruits, vegetables, and other edible items. A farmer's market, where food items predominate, is different than a flea market. This also differs from a garage sale or yard sale that is conducted on a residentially developed lot by members of a household, or civic groups selling primarily donated items.

FLOOR

The top surface of an enclosed area in a building (including the basement), such as the top of the slab in concrete slab construction or the top of the wood flooring in wood frame construction.

FOOTCANDLE

The amount of light that falls onto a surface as emitted by an exterior lighting device.

FRATERNITY/SORORITY HOUSE

A building used as group living quarters for students of a college, university, or seminary, who are members of a fraternity or sorority that has been officially recognized by the college, university, or seminary. Such use may or may not be located within the campus it is associated with. The fraternity or sorority house may include sleeping areas, cooking facilities, and areas for meeting and socializing.

FRONT FAÇADE

The side or elevation of a structure that contains the structure's architectural front, or the portion of the structure facing the street from which the structure derives its street address.

FREIGHT SHIPPING CONTAINER

A portable, weather-resistant receptacle designed for and used in multi-modal shipment of goods, wares or merchandise, including a receptacle originally designed for the transport of goods but not currently used for such purposes. Truck or tractor trailers are included in this definition.

FRONTAGE

The width in linear feet occupied by each separate business or other use or the width in linear feet of a lot which fronts on a public street. Each building or lot front shall, for purposes of sign copy area allowed, be separately calculated.

FRONTAGE BUILDING

The linear length of only that portion of a building used by an individual tenant on a separate lot or by an individual tenant in a multiple tenant development and which faces a public street or alley.

FUEL OIL STORAGE

The storage of fuel oil or kerosene for heating purposes in aboveground containers.

FUEL OIL/BOTTLED GAS DISTRIBUTOR

An establishment that distributes fuel oil or bottled gases such as propone or liquid petroleum for compensation.

FULL CUT-OFF LENS

An artificial outdoor lighting fixture designed to ensure that no light is directly emitted above a horizontal line parallel to the ground.

FUNERAL HOME

An establishment that provides human funeral services, including embalming and memorial services. Crematories are accessory uses to a funeral home.

GABLE

A triangular area of an exterior wall formed by two sloping roofs.

GARAGE

An outbuilding or accessory structure for the purpose of parking vehicles.

GAS SALES

Buildings and premises where gasoline, oils and greases, batteries, tires and automobile accessories may be supplied and dispensed at retail (or in connection with a private operation where the general public is excluded from use of facilities), and where in addition, the following services may be rendered and sales made, and no other:

- Sale and service of spark plugs, batteries, and distributors and distributor parts;
- Tire servicing and repair, but not recapping or regrooving;
- Replacement of mufflers and tail pipes, water hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and the like;
- Radiator cleaning and flushing;
- Washing and polishing, and sale of automotive washing and polishing materials;
- Greasing and lubrication;
- Providing and repairing fuel pumps, oil pumps, and lines;
- Minor servicing and repair of carburetors;
- Emergency wiring repairs;
- Adjusting and repairing brakes;
- Minor motor adjustments not involving removal of the head or crankcase or racing the motor;
- Sales of drinks, packaged foods, tobacco, and similar convenience goods for filling station customers, as accessory and incidental to principal operation;
- Provision of road maps and other informational material to customers; and
- Provision of restroom facilities.

Uses permissible at a gas sales establishment do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in filling stations.

GENERAL INDUSTRIAL SERVICE

Establishments engaged in the repair or servicing of agriculture, 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 activities may include retail sales, offices, parking, and storage.

GLARE

The reflection or harsh, bright light and the physical effect resulting from high luminances or insufficiently shielded light sources to cause annoyance, discomfort, or loss in visual performance and visibility.

GLAZING

The portion of an exterior building surface occupied by glass or windows

GOLF COURSE, PRIVATE

A tract of land under private ownership that is laid out with at least nine holes for playing the game of golf and improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse (with or without eating facilities), shelters, a driving range, putting green, maintenance facilities, an irrigation system, and outdoor storage of materials and equipment.

GOLF COURSE, PUBLIC

A tract of land owned by the city or other government entity that is laid out with at least nine holes for playing the game of golf and improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse (with or without eating facilities), shelters, a driving range, putting green, maintenance facilities, an irrigation system, and outdoor storage of materials and equipment.

GOLF DRIVING RANGE

A limited area on which golf players do not walk, but onto which they drive golf balls from a common driving tee. Such uses may include a concessions stand, netting, exterior lighting fixtures, putting greens, as well as maintenance and outdoor storage areas. Such uses do not include golf courses.

GOVERNMENT MAINTENANCE, STORAGE, AND DISTRIBUTION FACILITY

A facility housing government shops, maintenance and repair centers, equipment, and outdoor storage yards.

GOVERNMENT OFFICE

An office of a governmental agency that provides administrative and/or direct services to the public, such as, but not limited to, employment offices, public assistance offices, or motor vehicle licensing and registration services.

GREENHOUSE

A structure, primarily of glass, in which temperature and humidity can be controlled for the cultivation or protection of plants.

GREENWAY

A linear greenbelt linking various types of development by such facilities as bicycle paths, footpaths, and bridle paths. Greenways are usually kept in their natural state except for the pathway and area immediately adjacent to the pathway.

GROCERY STORE

An establishment engaged in retail and/or wholesale sale of food, foodstuffs, sundries, or other common household items to members of the public.

GROUND COVER

Any natural vegetative growth or other material that renders the soil surface stable against accelerated erosion.

GROUP HOME

A home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for nine or more adult resident persons with disabilities—i.e., persons with a temporary or permanent physical, emotional, or mental disability, including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances, and orthopedic impairments, but not including mentally ill persons who are dangerous to others. The definition does not include family care homes, hospitals, rest homes, nursing homes, boarding homes, homes for orphans or aged, sub-acute-care detoxification centers, or halfway house/mainstreaming facilities.

HALFWAY HOUSE

A licensed home for juveniles or adult persons on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling is provided to assist residents back into society, enabling them to live independently.

HANDICAPPED

See "Developmentally Disabled".

HAZARDOUS WASTE COLLECTION SITE

An establishment for the collection and/or transfer of hazardous waste.

HEAVY EQUIPMENT SALES, RENTAL, OR STORAGE

An establishment engaged in the display, sale, leasing, or rental of heavy equipment of 12,000 or more pounds gross vehicular weight (GVW).

HEAVY EQUIPMENT SERVICING AND REPAIR

An establishment engaged in the repair of heavy equipment of 12,000 or more pounds gross vehicular weight (GVW).

HEDGE

A group of shrubs planted in line or in groups that forms a compact, dense, living barrier that demarcates an area from on-site or off-site views.

HELICOPTER LANDING FACILITY

An area, either on ground level or elevated on a structure, licensed or approved for the landing and takeoff of helicopters and which may include auxiliary facilities such as parking, waiting room, fueling, and maintenance equipment.

HIGH RISK TREE

Any tree with structural defects sufficient to render the tree or part of the tree likely to fail and cause damage to persons, property, or other significant vegetation, as determined by a qualified arborist or other tree professional.

HISTORIC AND MEMORIAL MARKER

Historic or memorial markers include memorial signs or tablets indicating the names of buildings and/or date of erection, when cut into a masonry surface or made of bronze or other noncombustible material, and any historic marker approved by the city. Such markers shall not be illuminated and shall not exceed four square feet in surface area.

HISTORIC DISTRICT

A geographically definable area consisting of public and/or private property within the city, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history. An historic district shall further mean an area designated by the City Council as an historic district under this Ordinance.

HISTORIC LANDMARK

A building or site of historic importance designated by the City Council as part of a historic district.

HISTORIC PROPERTY

An individual building, structure, site, or object including the adjacent area necessary for the proper appreciation thereof designated by the City Council as an historic property in accordance with the criteria established herein.

HOME CHILD DAY CARE FOR FIVE OR FEWER CHILDREN

A program or arrangement located in a residence where, at any one time, more than two but fewer than six children under the age of 13 receive child care on a regular basis from persons other than their guardians, full-time custodians, or persons related to them by blood, marriage, or adoption. This definition does not include day care centers, family child day care homes, home child day care, or cooperative arrangements among parents.

HOME OCCUPATION

A business, profession, occupation, or trade which is conducted within a residential dwelling unit for the economic gain or support of a resident of the dwelling, and is incidental and secondary to the residential use of the lot and which does not adversely and/or perceptively affect the character of the lot or surrounding area. Home occupation includes but is not limited to: offices; electronic and offsite retail; personal services such as physical therapy by licensed individuals, beauty parlors, pet grooming, and the like. Home occupation does not include such businesses as: automotive repair and the like; dentists or physician's offices and the like; any licensed or unlicensed practitioner who performs invasive procedures (acupuncture, tattooing, body piercing, and the like); restaurants, bars, social clubs and the like; animal kennels or hospitals and the like; or any other business which is clearly inappropriate or out of character for a residential area such that its location constitutes an adverse impact on neighboring residential properties.

HOSPITAL

An institution specializing in giving clinical, temporary, and emergency services of a medical or surgical nature to human patients and injured persons, that is licensed by state law to provide facilities and services in surgery, obstetrics, or general medical practice. Such institutions may include in-patient medical or surgical care for the sick or injured and related facilities such as laboratories, out-patient departments, training facilities, central services facilities, and staff offices that are an integral part of the facilities.

HOTEL OR MOTEL

Hotel and motel are to be considered synonymous uses. A hotel or motel means a building or a group of buildings in which sleeping accommodations are offered to the public and intended primarily for rental for temporary occupancy by persons on an overnight basis, not including bed and breakfast establishments or a rooming house. Such uses may include microwaves and refrigerators for each guest unit.

HOUSEHOLD PET

Animals that are kept for personal use or enjoyment within the home. Household pet shall include but is not limited to dogs, cats, birds, and rodents.

HPC

The Historic Preservation Commission for the City of Portsmouth, Virginia.

HUMAN SCALE

Spatial and architectural relationship among various building elements including height, massing, and frontage relationships that are proportional to the human figure.

IMPERVIOUS SURFACE

Buildings; parking areas; driveways; streets; sidewalks; areas of concrete, asphalt, gravel, or other compacted aggregate; and areas covered by the outdoor storage of goods or materials which do not absorb water.

INCINERATOR

A facility that burns refuse at high temperatures to reduce the volume of waste.

INGRESS

Access or entry to a building or site.

INOPERATIVE VEHICLE

Any motor vehicle, trailer or semi-trailer which is not in operating condition, or which for a period of 90 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle. An inoperative vehicle shall also be considered a vehicle with an observable condition which indicates a state such that it is economically impractical to make such vehicle operative within a reasonable period of time, or which constitutes a health, fire, or safety hazard.

INTERPRETATION

A formal request, submitted in writing to the Planning Director or Zoning Administrator (as appropriate), requesting a written interpretation in accordance with Section 40.1-2.3(J), Interpretation.

KENNEL, INDOOR

A facility where more than four and less than 21 dogs, cats, or other animals over three months of age are kept, raised, sold, boarded, bred, shown, treated, or groomed. The facility shall be entirely indoors.

KENNEL, OUTDOOR

A facility where more than four and less than 21 dogs, cats, or other animals over three months of age are kept, raised, sold, boarded, bred, shown, treated, or groomed. Such a facility may have an indoor and outdoor component.

KITCHEN

A room or portion thereof containing facilities which are designed, intended or used for cooking and preparation of meals.

KIOSK

Small, freestanding structures either open or partially enclosed used to provide information or products.

LAND

The earth, water, and air, above, below, or on the surface, and includes any improvements or structures on land.

LAND-DISTURBING ACTIVITY

Any movement of earth or substrate, manually or mechanically, including but not limited to any modification of existing grade by dredging, demolition, excavation or fill, grading, scraping, vegetation removal, landscaping, coring, well drilling, pile driving, undergrounding utility lines, trenching, bulldozing, sheeting, shoring and excavation for laying or removing foundations, pilings or other purposes, for which any permit or approval is required under the provisions of the city code.

LANDOWNER

Any owner of a legal or equitable interest in land, including the heirs, devisees, successors, assigns, and agent or personal representative of the owner.

LANDSCAPING

The improvement of a lot, parcel or tract of land with grass, shrubs, and trees. Landscaping may include pedestrian walks, flower beds, ornamental objects such as fountains, statuary, and objects designed and arranged to produce an aesthetically pleasing effect.

LANDSCAPE STRIP, PERIMETER

Vegetative material associated with the perimeter landscaping required for a vehicular use area.

LARGE RETAIL BUILDING

A single business establishment engaged in retail sales activities and located in a stand-alone single tenant building of 60,000 square feet in size or larger.

LAUNDRY, DRY CLEANING, AND CARPET CLEANING FACILITY

A facility used for cleaning fabrics, textiles, wearing apparel, or articles of any sort by immersion and agitation, or by immersions only, in water or volatile solvents.

LAUNDRY, SELF-SERVICE

A facility where patrons wash, dry, or dry clean clothing or other fabrics in machines operated by the patron.

LIBRARY

A public facility for the use, but not sale, of literary, historical, scientific, musical, artistic, or other reference materials.

LIQUOR STORE

An establishment licensed by the state exclusively for the retail sale of alcoholic beverages, excluding beer and wine, in original packages for consumption off the premises where sold.

LOADING SPACE, OFF-STREET

Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles, and not considered as part of the minimum required off-street surface parking.

LOT

A parcel of land or any combination of several parcels of land occupied or intended to be occupied by a principal use or structure, together with any accessory structures or uses and such accessways, parking area, yards, and open spaces required in this Ordinance.

LOT OF RECORD

A lot which is part of a subdivision, a plat of which has been recorded in the office of the Clerk of Circuit Court prior to May 1, 2010, or a lot described by metes and bounds, the description of which has been so recorded prior to May 1, 2010

LOT, IRREGULAR

A lot of such a shape or configuration that technically meets the area, frontage and width to depth requirements of this ordinance but meets these requirements by incorporating unusual elongations, angles, curvilinear lines unrelated to topography or other natural land features.

LOT, NONCONFORMING

See "Nonconforming Lot".

LUMEN

A unit of luminous flux. One footcandle is one lumen per square foot. Lumen output values shall be the initial lumen output ratings of a lamp.

MACHINE SHOP

An establishment where metal is cut and shaped by machine tools.

MAJOR RECREATIONAL EQUIPMENT

Major recreational equipment is defined for the purposes of this Ordinance as including recreational vehicles, boats and boat trailers, combinations thereof and other similar equipment, and cases and boxes used for transporting recreational equipment, whether occupied by such equipment or not.

MANSARD ROOF

A sloped roof or roof-like facade architecturally comparable to a building wall.

MANUFACTURED HOME

A factory-built single-family structure that is manufactured under the authority of the National Manufactured Housing Construction and Safety Standards Act, is transportable in one or more sections, is built on a permanent foundation, and is used as a place of human habitation. For the purposes of this ordinance, "manufactured home" also includes mobile homes, transportable, factory-built homes constructed prior to the enactment of the above Act (which became effective June 15, 1976).

MANUFACTURING, HEAVY

Manufacturing uses include, but are not limited to: manufacture or assembly of machinery, equipment, instruments, vehicles, appliances, communications equipment, computer or electronic equipment, precision items and other electrical items; the processing of food and related products; lumber mills, pulp and paper mills, and the manufacture of other wood products; and electric power generation plants. Specifically prohibited are rendering, petroleum refining, asphalt/concrete plants, and manufacture of chemicals, fertilizers, paint, and turpentine.

MANUFACTURING, LIGHT

The mechanical transformation of predominantly previously prepared materials into new products, including assembly of component parts and the creation of products for sale to the wholesale or retail markets or directly to consumers. Such uses are wholly confined within an enclosed building, do not include processing of hazardous gases and chemicals, and do not emit noxious noise, smoke, vapors, fumes, dust, glare, odor, or vibration. Examples include, but are not limited to: production or repair of small machines or electronic parts and equipment; woodworking and cabinet building; publishing and lithography; computer design and development; research, development, testing facilities and laboratories; apparel production; sign making; assembly of pre-fabricated parts, manufacture of electric, electronic, or optical instruments or devices; manufacture and assembly of artificial limbs, dentures, hearing aids, and surgical instruments; manufacture, processing, and packing of food products, cosmetics, and manufacturing of components, jewelry, clothing, trimming decorations, and any similar item.

MARINA

A facility for the docking, mooring, berthing, or storage of watercraft. Such uses may include a wide variety of accessory uses such as boat fuel sales, sales of boating supplies and equipment, boating-related services, laundries, boat repair and rental, and dry storage of boats.

MARINA, PLEASURE BOATS ONLY

A facility for the docking, mooring, berthing, or storage of only watercraft used for personal and family recreation, including recreational fishing. Such uses may include a wide variety of accessory uses such as boat fuel sales, sales of boating supplies and equipment, boating-related services, laundries, boat repair and rental, and dry storage of boats.

MARQUEE

Any hood, canopy, awning or permanent construction which projects from a wall of a building, usually above an entrance.

MASSAGE PARLOR

An establishment other than a regularly licensed hospital or medical clinic engaged in the activity of massage or similar manipulation of the human body with the hands or with the aid of any mechanical or electrical apparatus or appliance. This definition does not include an athletic club, health club, school, spa, or similar establishment where massage or similar manipulation of the body is offered as an incidental or accessory service.

MATERIAL CHANGE IN APPEARANCE

A change that will affect either the exterior architectural or environmental features of an historic property or any contributing or noncontributing building, structure, site, object, or landscape feature within an historic district, such as:

- Reconstruction or alteration of the size, shape, or facade of an historic building, including relocation of any doors or windows or removal or alteration of any architectural features, details, or elements.
- Demolition or relocation of an historic structure.
- Commencement of excavation for construction purposes.
- Change in the location of advertising visible from the public right-of-way.
- The erection, alteration, restoration or removal of any building or other structure within an historic property or district, including walls, fences, steps, and pavements, or other appurtenant features.
- New construction within an historic district.

MAXIMUM EXTENT PRACTICABLE

No feasible or practical alternative exists, as determined by the Planning Director or Zoning Administrator (as appropriate), and all possible efforts to comply with the standards or regulation or minimize potential harmful or adverse impacts have been undertaken by an applicant. Economic considerations may be taken into account but shall not be the overriding factor determining "maximum extent practicable."

MEDICAL OR DENTAL CLINIC

An establishment where patients are admitted for examination and treatment by one or more physicians, dentists or psychologists and where patients are not usually lodged overnight.

MEDICAL OR DENTAL LAB

Facilities and offices for performing diagnostic or therapeutic medical procedures of a nonsurgical nature.

MEDICAL TREATMENT FACILITY

A small-scale facility which may or may not be located in a converted dwelling or residence for the short term care and treatment of up to 20 chronically or terminally ill patients on an overnight basis. Such facilities may include sleeping rooms for care workers and members of patient's families.

MEMBERSHIP SPORTS OR RECREATION CLUB

A private club providing facilities to members for outdoor sports and recreation activities. Examples of membership sports or recreation clubs include swim clubs, tennis clubs, boating or yacht clubs, and soccer clubs. Examples of membership sports or recreation club facilities include swimming pools, tennis courts, ball fields, and basketball courts. This definition does not include country clubs, or golf courses.

MINI-WAREHOUSE

A building divided into sections for use for storage of items, either temporary or long-term, and not to be used for any other purpose (such as small offices, garages, etc.)

MIXED-USE DEVELOPMENT

A tract of land or structure developed for two or more different uses, such as, but not limited to, residential, office, retail, institutional, public, or entertainment. Such uses are functionally integrated and share vehicular use areas, ingress/egress, and pedestrian access.

MODULAR HOME

A dwelling unit constructed on-site in accordance with the Virginia Uniform Statewide Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

MONUMENT

Permanent concrete or stone markers not less than five inches in diameter and not less than 30 inches in length, with an appropriate center mark of nonferrous metal pin or plate.

MOTORCYCLE SALES

Premises on which new or used motorcycles in operating condition are displayed for sale, lease, or rental.

MULLION

The vertical member separating adjacent windows.

MUSEUM

A building serving as a repository for a collection of natural, scientific, historical, or literary curiosities or works of art, and arranged, intended, and designed to be used by members of the public for viewing, with or without an admission charge, and which may include as an accessory use the limited retail sale of goods, services, or products such as prepared food to the public.

NATURAL DISASTER

Any event in which damage to a nonconforming use or structure is caused by flooding, hail, wind event or wind storm, lighting strike, tornado damage, explosion, falling tress, or falling tree limbs.

NEW CONSTRUCTION

Any construction within an historic district that is independent and exclusive of an existing building or structure or part thereof in the historic district.

NONCONFORMING LOT

A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of this Ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

NONCONFORMING SIGNS

Any sign lawfully existing on May 1, 2010 or the effective date of an amendment to this Ordinance, that does not conform to all the standards and regulations of this Ordinance or the amendment.

NONCONFORMING SITE FEATURE

A feature of a use (other than the use or building that was lawfully existing on May 1, 2010 which does not conform with the open space set-aside, parking, loading, landscaping, screening, or signage regulations of this Ordinance.

NONCONFORMING STRUCTURE OR BUILDING

A structure or building, the size, dimensions, or location of which was lawful prior to May 1, 2010 or on the effective date of any amendment to this Ordinance, but that fails by reason of such adoption or amendment to conform to the requirements of this Ordinance.

NONCONFORMING USE

Any use lawfully being made of any land, building, or structure not otherwise abandoned, existing on May 1, 2010 or on the effective date of any amendment of this Ordinance, that does not comply with the use regulations of this Ordinance or the amendment. If land or a structure is vacant or unused on May 1, 2010 or the effective date of any amendment to this Ordinance, it shall be conclusively presumed that the land or structure is subject to the provisions of this Ordinance or any amendments thereto.

NONCONFORMITY

A nonconforming use, structure, lot of record, site feature, or sign.

NONCONTRIBUTING PROPERTIES

Properties so designated on the inventory map of historic districts and properties which is adopted as a part of this Ordinance, being generally those properties which by reason of age, condition, amount of alterations, form, materials, architectural details and relation to surrounding properties do not contribute favorably to the general character of the part of the historic district in which they are located.

NOT-FOR-PROFIT

An organization or activity which has obtained nontaxable status from the United States Internal Revenue Service.

NOTICE OF VIOLATION

An initial notice indicating an alleged violation of this Ordinance.

NURSING HOME

Any facility or any identifiable component of any facility in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two or more non-related individuals, including facilities known by varying nomenclature or designation such as rest homes, convalescent homes, skilled care facilities, intermediate care facilities, extended care facilities and infirmaries. This does not include the home or residence of any individual who cares for or maintains only persons related to him or her by blood or marriage.

OBJECT

A material thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable, yet related to a specific setting or environment.

OFFICES, BUSINESS SERVICES

A room, or group of rooms used for conducting the affairs of a general business establishment, other than financial services and professional services. Examples of business services office uses include offices for retail and wholesale establishments.

OFFICES, FINANCIAL SERVICES

A room or group of rooms used for conducting the affairs of a business offering financial services, such as banking services, investment banking, stock brokerage, investment services, credit card services, and the like.

OFFICES, PROFESSIONAL SERVICES

A room or group of rooms used for conducting the affairs of a business, profession, or service industry. Examples of professional services offices include offices for lawyers, accountants, engineers, architects, doctors, dentists, and similar professions.

OFFICES, SALES (INCLUDING REAL ESTATE)

A room or group of rooms used for conducting the affairs of a business engaged in the buying and/or selling of real or personal property, services, or other products, such as real estate sales, artwork, artifacts, or other specialized services.

OFFICIAL ZONING MAP

The official zoning map of the City of Portsmouth, Virginia. See Section 40.1-1.7.

OPACITY

A measurement indicating the degree of obscuration of light or visibility.

OPEN SPACE

Space suitable for passive recreation, gardens or landscaping which may include areas left in their natural state, trails, ponds, stream banks, recreation areas, areas of excessive slopes, low-lying areas, marshland, environmentally-sensitive areas, and required landscaping areas. Such space must be free of automobile traffic and parking, and be readily accessible to all those for whom it is required.

OPEN SPACE, ACTIVE

Space suitable for active forms of recreation, including athletic fields, playgrounds, swimming pools, courts, tracks, and similar uses that are well served by streets, parking facilities, spectator areas, restroom facilities, and exterior lighting where appropriate.

OPEN SPACE, COMMON

An open space area owned privately or in common for use by all members of the public.

OPEN SPACE, PASSIVE

Required open space areas designated for passive recreation uses including walking trails, pathways, gazebos, picnic areas, fountains and pools, plazas, and similar areas. Such areas may also include undisturbed natural vegetation.

OPEN SPACE, PRIVATE

Space on each building lot that is for the private use of inhabitants.

OPEN SPACE SET-ASIDE

Portion of a proposed development required for reservation as permanent open space by Section 40.1-5.4, Open Space Standards and Set-Asides.

OTHER GOVERNMENT FACILITIES

A facility of an governmental agency—other post offices, government offices, government maintenance, storage, and distribution facilities—that provides services to the public.

OTHER RETAIL SALES ESTABLISHMENTS

Commercial enterprises—other than convenience stores, drug stores, flea markets, grocery stores, liquor stores, manufactured homes sales, and large retail establishments—that provide goods and/or services directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser. Examples include stores selling, leasing, or renting consumer, home, and business goods such as art, art supplies, bicycles, cameras, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, hardware, home improvements, household products, jewelry, pets, pet food, plants, printed material, stationary, and videos.

OUTDOOR DISPLAY AND SALES

The placement of products or materials for sale outside the entrance of a retail or wholesale sales establishment.

OUTDOOR STORAGE

The keeping, in an unroofed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than 24 hours. This shall not include the display of vehicles for sale in a new or used car sales lot. Such activities may be the principal use of the land where located or as an accessory use to another principal use.

OUTDOOR STORAGE (AS A PRINCIPAL USE)

The keeping, in an unroofed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than 24 hours. This shall not include the display of vehicles for sale in a new or used car sales lot. Such activities may be the principal use of the land where located or as an accessory use to another principal use.

OUTPARCEL OR OUTLOT

A portion of land in a subdivision, shopping center, or other development that does not contain the primary building associated with the development, and that is intended for development of one or more smaller, independent buildings usually located adjacent to a development's street frontage. Outparcels are typically smaller than the parent parcel and may not be contiguous to the parcel containing the primary building or buildings.

OUTPATIENT FACILITY

A facility where patients, who are not lodged overnight, are admitted for examination and treatment by one person or a group of persons practicing any form of the healing arts, whether such persons be medical doctors, chiropractors, osteopaths, chiropodists, naturopaths, optometrists, or any such profession, the practice of which is regulated by the state. A public clinic is one operated by any governmental organization for the benefit of the general public.

OWNER, PROPERTY

A person having sufficient proprietary interest to seek development of land.

PARAPET

A building façade that rises above the roof level, typically obscuring a gable or flat roof as well as any roof-mounted equipment.

PARCEL

Any quantity of land and/or water capable of being described in definitive terms with respect to its location and boundaries. It may be established as distinct from other parcels which are designated by its owner or a developer as land to be used or developed as a unit, or which has been used or developed as a unit.

PARCEL SERVICES

Retail sales or business services establishment to facilitate the transmittal and receipt of parcels.

PARK AND RIDE FACILITY

A publicly owned, short-term, parking facility for commuters.

PARK, PUBLIC AND PRIVATE

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.

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 DEMAND STUDY

An analysis of the total number of parking spaces required in order to accommodate the maximum number of vehicles for parking purposes by a particular use or site at any given time, including the parking requirements for all employees, occupants, clients, and visitors.

PARKING LOT

The portion of a site or development dedicated to vehicular ingress and egress, off-street parking, parking aisles, internal travel ways, fire lanes, and other areas dedicated to vehicular use, but not necessarily including vehicular storage areas.

PARKING LOT DRIVE AISLE

A vehicular accessway located within an off-street parking or vehicular use area which serves individual parking stalls and driveways.

PARKING SPACE, ACCESSIBLE

A space designated for the parking or temporary storage of one motor vehicle in addition to the space necessary for the ingress and egress from the vehicle by a disabled person and any equipment needed for that purpose.

PARKING SPACE, OFF-STREET

A space that is designated for the parking or temporary storage of one motor vehicle located outside of a dedicated street right-of-way, vehicular travel way, or parking aisle.

PARKING STRUCTURE

A structure designed to accommodate vehicular parking spaces that are fully or partially enclosed or located on the deck surface of a building. This definition includes parking garages and deck parking.

PARKING, DEFERRED

A portion of the required off-street parking associated with a use that is not installed at the time of construction, but delayed or deferred until a parking demand study can be completed to determine if the additional required parking is needed.

PARKING, OFF-SITE

An off-street parking area provided on a different parcel than the use it is intended to serve.

PARKING, ON STREET

A location or area within the right-of-way of a public or private street that is reserved for the parking of vehicles. Such areas may or may not be formally designated with signage, striping, or parking meters.

PARKING, SHARED

Off-street parking facilities shared by two or more uses that are in close proximity to one another and the parking area, and that have different operational characteristics such that use of the parking facilities by one use will not generally overlap with the use of the parking area by the other use(s).

PARKING, TANDEM

A parking space within a group of two or more parking spaces arranged one behind the other.

PARTY WALL

A wall separating and common to two or more buildings on individual lots that consists of noncombustible material as specified by the Virginia Uniform Statewide Building Code.

PASSENGER TERMINAL, SURFACE TRANSPORTATION

A facility that receives and discharges passengers and at which facilities and equipment required for their operation are provided. Examples include terminals for bus, trolley, taxi, railroad, shuttle van, or other similar vehicular services.

PATHWAYS, PEDESTRIAN

Interconnected paved walkways that provide a pedestrian passage through blocks running from street to street, vehicular use areas, or other locations.

PATIO

An area, usually paved, adjoining a building - used as an area for outdoor lounging, dining, or gathering.

PAVED SURFACE OR ROAD

Brick, concrete or asphalt placed on land as a hard dustless surface.

PEDESTRIAN

A person traveling on foot under their own locomotion.

PEDESTRIAN CONNECTION

A right-of-way intended for pedestrian movement/activity, including but not limited to, sidewalks, internal walkways, external and internal arcades, and plazas.

PENNANT

Any lightweight plastic, fabric, paper or 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.

PERFORMANCE GUARANTEE

Cash or other guarantee provided by an applicant in-lieu of completion of public infrastructure or installation of required private site features prior to issuance of a permit or other development approval.

PERIMETER FENCES AND WALLS

For the purposes of Section 40.1-5.10(F), Perimeter Fences and Walls Abutting Public Rights-of-Way, a fence or wall of four feet or more in height that is located adjacent to the edge of a public street right-of-way, and runs parallel to or alongside the adjacent public right-of-way for at least two linear feet.

PERMITTED USE

Use or activity, which because of it's nature and impact, is allowed to occur within a designated zoning district as a use by-right.

PERSON

Any individual, corporation, government agency, business trust, partnership, two or more persons having a joint interest, or any other legal entity.

PERSONAL SERVICES ESTABLISHMENT

An establishment primarily engaged in the provision of frequent or recurrent needed services of a personal nature. Examples include: photographic studios; mailing or packing service, photocopy and blueprint services; hair, tanning, and personal care services; psychics and mediums; martial arts schools; dance or music classes; taxidermists; and mortuaries.

PERVIOUS SURFACE

A surface that absorbs water.

PLANNING COMMISSION

The Planning Commission for the City of Portsmouth, as established in the City Code.

PLANNING DIRECTOR

The Planning Director of the city. See Section 40.1-2.1(G)(1).

PLANTING SEASON

That period during which a particular species of vegetation may be planted for maximum survivability and healthy growth as established by the local agricultural extension office.

PLANTING STRIP

Areas intended for the placement of vegetation within the interior of vehicular use areas or along street right-of-way edges, typically between the back of the curb and the inside edge of the sidewalk.

PLAYGROUND

Land which is improved with active recreation equipment and areas such as swings, gym bars, and other similar equipment.

PLAZA

An open area which is available to the public for gathering, walking, seating, and eating.

POLICE STATION

A building or part of a building that is designated by a chief of police or sheriff to be used as a police or sheriff's station and at which duly authorized officers perform law enforcement functions.

PORCH

A roofed structure not more than 75 percent enclosed by walls, attached to the main building, and not heated or cooled.

PORTABLE SHIPPING CONTAINER

A large container, typically intended for transport by large truck, train, or ship, that is used for the temporary storage and or transport of personal property.

PORTICO

A large porch usually with a pediment usually associated with an entrance, supported by columns.

POST OFFICE

A facility designated or licensed by the federal government to sell U.S. postage stamps and U.S. postal products and accept mail and packages for delivery.

POULTRY

The category of domesticated birds which some humans keep for the purpose of collecting their eggs, or kill for their meat and/or feathers.

PRIMARY DRIVE AISLE

The main aisle(s) that extends from the street right-of-way, or from the driveway entrance(s) serving a development along the front of the building it serves.

PRIMARY ENTRANCE

The place of ingress and egress to a building, parcel, or development used most frequently by the public.

PREMISES

A lot, parcel, tract, or plot of land together with the buildings and structures thereon.

PRESIDING OFFICER

A person appointed by a commission or board to preside at public meetings or hearings.

PROCEDURES MANUAL

A document maintained by the Planning Director that serves as a user's guide to this Ordinance. The procedure manual contains copies of application forms, fees, schedule and contact information, as well as interpretations of the intent behind standards in this Ordinance.

PRODUCE STAND

A building or structure used for the retail sales of fresh fruits, vegetables, flowers, herbs or plants grown on the same parcel of land where the stand is located. Such use may also involve the accessory sales of other unprocessed foodstuffs, home processed food products such as jams, jellies, pickles, sauces or baked goods, and homemade handicrafts. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold. Such uses also include "pick your own" establishments where customers gather their own produce from the fields for purchase and off-site consumption.

PRODUCTION PLANT NURSERY

The growing, storage, and sale of garden plants, shrubs, trees, vines, groundcovers, and other related landscaping materials for resale, typically occurring as wholesale or retail sales directly to landscaping professionals. Such uses may include limited incidental retail sales to members of the general public. Such uses may include greenhouses; outdoor storage of goods, materials, and equipment; irrigation systems; and caretaker's dwelling.

PROFFER

An offer or proposal by which the property owner, or his agent, commits himself to additional requirements or restrictions on his property (see Section 40.1-2.3(A)(7), Proffer Standards).

PSYCHIATRIC TREATMENT FACILITY

Inpatient facility which provides care for persons with psychiatric problems and which may include outpatient follow-up care to the facility's patients.

PUBLIC SQUARE OR PLAZA

Open space generally open and readily accessible to the public and used by pedestrians for passive recreation and as an outdoor meeting or gathering place. Such uses may be provided with amenities such as shelters, seating, fountains, art, and landscaping.

QUORUM

The minimum number of board members that must be present in order to conduct official business or take official action.

RADIO AND TELEVISION BROADCASTING STUDIO

A facility for the staging and recording of audio or television productions.

RAINWATER CISTERN

A catchment device to capture rain water from a roof or other surface before it reaches the ground.

RECONSTRUCTION

Any or all work needed to remake or rebuild all or a part of any building to a sound condition, but not necessarily of original materials.

RECREATIONAL VEHICLE SALES OR RENTALS

Premises on which new or used recreational vehicles in operating condition are displayed for sale, lease, or rental.

RECYCLING AND SALVAGE CENTER

A facility engaged solely in the storage, processing, resale, or reuse of recyclable and recovered materials.

RECYCLING DROP-OFF STATION OR CENTER

A small collection facility where recyclable materials are purchased or accepted from the public. Typical uses include neighborhood recycling stations and thrift store collection trucks.

REDEVELOPMENT

Any proposed expansion, addition, reduction, or other alteration to an existing building, structure, or other constructed feature on a lot or site. Redevelopment also includes changes in use to existing buildings, as well as modifications to site features such as parking, signage, landscaping, grading, stormwater management devices, or changes to outdoor storage.

REHABILITATION

The process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.

RELIGIOUS INSTITUTION

A structure or place in which worship, ceremonies, rituals, and education are held, together with its accessory buildings and uses (including buildings used for educational and recreational activities), operated, maintained, and controlled under the direction of a religious group. Religious institutions include churches, mosques, synagogues, and temples. Accessory uses may include school facilities, parking, caretaker's housing, pastor's housing, and group living facilities such as convents.

REPAIR ESTABLISHMENT

An establishment primarily engaged in the provision of repair services for TV's, bicycles, clocks, watches, shoes, guns, canvas products, appliances, and office equipment; including tailor; locksmith; and upholsterer.

REPAIR OF SCIENTIFIC OR PROFESSIONAL INSTRUMENTS

An establishment primarily engaged in the provision of repair services for scientific or professional instruments for businesses.

REPAIRS

Any work or all work involving the replacement of existing material with equivalent material for the purpose of maintenance, but not including any addition, change, or modification in construction.

REPLACEMENT COST

The cost of restoring a damaged building or structure to its original condition (exclusive of foundations). Replacement cost shall include reasonable estimates of the cost of materials and labor and shall be compared with the assessed value as determined by the county assessor to determine the percentage of the cost of improvements.

REPRODUCIBLE VALUE

The cost for replacement of a structure, including all materials and labor, based upon the structure's current tax valuation from the Tax Assessor.

RESEARCH AND DEVELOPMENT

A business that engages in research, or research and development, of innovative ideas in technology-intensive fields. Examples include research and development of computer software, information systems, communication systems, transportation, geographic information systems, multi-media and video technology. Development and construction of prototypes may be associated with this use.

RESTAURANT, WITH DRIVE-THROUGH SERVICE

An establishment where provision is made on the premises for the ordering, selling, dispensing, or serving of food, refreshments, or beverages to persons driving by the structure in their motor vehicles.

RESTAURANT, WITH INDOOR AND OUTDOOR SEATING ONLY

An establishment where meals or prepared food, including beverages and confections, are served to customers for consumption on the premises. Such a facility may include indoor and outdoor seating, but no drive-through service.

RESTORATION

Any or all work connected with the returning to or restoring of a building, or part of any building, to its original condition through the use of original or nearly original materials.

RIGHT-OF-WAY(ROW)

An area owned or maintained by the city, county, the state of Virginia, federal government, a public utility, a railroad, or a private concern for the placement of such utilities and/or facilities for the passage of vehicles or pedestrians, including roads, streets, pedestrian walkways, utilities, or railroads.

ROOFLINE

The highest point of a flat roof and mansard roof and the lowest point of a pitched roof excluding any cupolas, chimneys or other minor projection.

ROOMING HOUSE OR BOARDING HOUSE

Any building or portion thereof for providing lodging, either with meals (boarding house) or without meals (rooming house), to not more than two guests, where rent is paid to the owner or proprietor. This definition does not include the incidental provision of lodging within a dwelling by a resident owner, provided no more than 25 percent of the total floor area of the dwelling unit's living space is devoted to such lodging use.

ROOT ZONE

The area inside the dripline of a tree that contains its roots.

SALVAGE AND JUNKYARD

An establishment where junk, waste, discarded, salvaged, or similar materials such as old metals, wood, slush, lumber, glass, paper, rags, cloth, bagging, cordage, barrels, containers, and the like, are brought, sold, exchanged, baled, packed, disassembled, stored, or handled, including used lumber and building material yards, housewrecking yards, heavy equipment wrecking yards, and yards or places where salvaged house wrecking or structural steel materials are stored, handled, and sold. This definition shall not include automobile wrecker services and establishments for the sale, purchase, or storage of second-hand cars, clothing, salvaged machinery, furniture, radios, stoves, refrigerators, or similar household goods and appliances, all of which shall be usable, nor shall it apply to the processing of used, discarded, or salvaged materials incident to manufacturing activity on the same site where such processing occurs.

SATELLITE DISH ANTENNA

A round or parabolic antenna and its supporting structure for the purposes of sending and/or receiving radio or electromagnetic signals. Satellite dishes with a diameter up to 39 inches are considered as "small" satellite antenna dishes, while any such use with a diameter of more than 39 inches is considered as a "large" satellite dish antenna.

SCHOOL, ELEMENTARY

A public or private school offering general, technical, or alternative instruction at the elementary school level that operates in buildings or structures or on premises on land leased or owned by the educational institution for administrative purposes. Such uses include classrooms, laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.

SCHOOL, HIGH

A public or private school offering general, technical, or alternative instruction at the high school level that operates in buildings or structures or on premises on land leased or owned by the educational institution for administrative purposes. Such uses include classrooms, vocational training (including that of an industrial nature for instructional purposes only), laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.

SCHOOL, MIDDLE

A public or private school offering general, technical, or alternative instruction at the middle school level that operates in buildings or structures or on premises on land leased or owned by the educational institution for administrative purposes. Such uses include classrooms, vocational training (including that of an industrial nature for instructional purposes only), laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.

SENIOR CENTER

A facility typically for use by citizens of 62 years of age, or older, dedicated to the provision of services, activities, or facilitation of interaction between older citizens and the community at large. Such centers may be publicly or privately-owned, but are not operated for a profit.

SHARED PARKING FACILITY

A parking lot or garage used for shared parking by two or more businesses or uses.

SHELTER

Any facility to provide emergency group living accommodations as a single housekeeping unit for up to 90 days for the maintenance and care of adults, children, and families in need of emergency housing—including, but not limited to, facilities qualified to be licensed by the city or the commonwealth.

SHIPPING CONTAINER STORAGE YARD

An operation for storage of empty shipping containers conducted as the principal use of a property.

SHOEBOX-STYLE LIGHTING FIXTURE

An exterior lighting device in the shape of a box that is typically mounted on a pole and constructed to direct illumination to a constrained area directly beneath the lighting fixture.

SHOPPING CENTER

Commercial development of more than one retail sales or service establishment on a single parcel of common ownership attached by common walls or if located in separate buildings are interconnected by walkways and/or access ways, providing common parking facilities for all establishments, having multiple tenancy of a single or several large common structures, and otherwise present the appearance of one continuous commercial area.

SHRUB

A woody plant, smaller than a tree, consisting of several small stems emerging from the ground, or small branches near the ground. Shrubs may be deciduous or evergreen.

SIGHT TRIANGLE

The triangular area formed by a diagonal line connecting two points located on intersecting right-of-way lines (or a right-of-way line and the curb or a driveway).

SIGN

Any surface, fabric, display, device, figure, painting, drawing, message, placard, poster, billboard, or other structure which is designed, intended or used to advertise or inform, any part of the advertising or informative contents of which is visible from any public street or from any public or private property other than the zone lot on which it is located.

SIGN INCIDENTAL

Any sign which has no independent purpose but which has a purpose incidental to the use of the zone lot. Not by way of limitation but by way of example, "no parking, entrance, loading only" and other similar signs on private property are incidental signs.

SIGN, CANOPY

Any sign that is part of or is attached to an awning, canopy, or other fabric, plastic or structural protective cover over a door, entrance, window or outdoor service area. A marquee is not a canopy. The advertising display area shall be confined to the vertical surface of any canopy or awning and shall consist only of the name and/or logo of the business or institution sewn, painted, stenciled or otherwise placed on the surface.

SIGN, CHANGEABLE COPY

A sign that is designed so that characters, letters or illustrations can be changed or rearranged, mechanically, manually, electrically or electronically, without altering the face or the surface of the sign. Changeable copy signs shall not be considered to be animated or flashing simply because the copy is changed electrically or electronically. Changing time and temperature or stock market indicator signs shall be considered changeable copy signs.

SIGN, FREESTANDING

Any sign which is supported by a structure or supports in or upon the ground and which is independent of support from any building or other structure.

SIGN, INSTITUTIONAL CANOPY

A religious, educational or other public or quasi-public institutions shall be entitled to a certificate of compliance for one canopy sign per street frontage, subject to all other applicable requirements of this chapter, except that such signs may be up to 12 feet in height.

SIGN, MARQUEE

Any sign attached to and made a part of a marquee. A marquee is defined as a permanent roof-like structure projecting beyond a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against weather.

SIGN, NAME PLATE

Name plates may include the name of the building, the name of the occupants, the address and the hours of operation for any business which is operated on the premises.

SIGN, NONCOMMERCIAL

A sign that is intended to display a religious, charitable, cultural, governmental, informational, political, educational, or artistic message, that is not primarily associated with a good, product, or service offered for sale or trade. Noncommercial signs include signs advertising incidental and temporary commercial activities conducted by churches and nonprofit businesses, clubs, groups, associations or organizations.

SIGN, OFF PREMISES

Any sign that draws attention to or communicates information about a business, service, commodity, product, event or any good or activity that is conducted, sold or offered at a location other than the premises on which the sign is located.

SIGN, ON PREMISES

Any sign which is not an off-premises, incidental or real estate sign or which does not qualify under the standards for name plates and historical markers as defined in this Ordinance.

SIGN, PERMANENTLY MOUNTED BANNER

Any sign or display constructed of cloth, canvas, fabric, paper, or other light materials, hung either with or without frames possessing characters, letters, illustrations, or ornamentations applied to paper, plastic or fabric of any kind, and installed in a permanent fashion. National flags, military flags, flags of the commonwealth, city or symbolic flags of any institution or business shall not be considered banners or signs for the purposes of this chapter. There shall be no more than one permanent banner sign per establishment per zone lot.

SIGN, PORTABLE

Portable signs shall include:

- Any sign not permanently attached to the ground or to a permanent structure;

- Any sign designed to be transported, including, but not limited to, a sign designed to be transported by means of wheels;

- Any sign with chassis or support construction without wheels;

- Any sign converted to or constructed as an A-frame or a T-frame except as permitted as a temporary sign, defined below; or

- Any sign attached to or painted on a motor vehicle parked and visible from the public right-of-way, where said motor vehicle is left in the same area for a length of time in excess of 60 days so that said motor vehicle has ceased to be used as a means of transportation in the normal operation of the business.

SIGN, PROJECTING

Any sign other than a wall sign affixed to any building or wall having a principal function other than support of the sign whose leading edge extends beyond such building or wall.

SIGN, RESIDENTIAL FREESTANDING

Residential freestanding signs shall contain no commercial message except one advertising the premises for sale or lease. Residential freestanding signs shall not exceed three square feet per side in area.

SIGN, ROOF

Any sign erected or constructed wholly upon and over the roof of any building and supported solely on the roof structure.

SIGN, TEMPORARY

A temporary sign or display is a sign constructed of cloth, canvas, fabric, paper, plywood or other light materials.

SIGN, WALL

Any sign painted on or attached to the outside wall of any building and supported by such wall or building and which displays only one advertising surface.

SIGN, WINDOW

Any sign or letters, pictures, symbol or combination thereof to communicate information about a business, service, commodity, event, sale or other activity placed inside a window or upon window panes or glass and which is intended to be seen from the exterior.

SINGLE ROOM OCCUPANCY (SRO) FACILITY

A residential facility in which individual furnished rooms (which may or may not have kitchen or bathroom facilities) are rented on a weekly or monthly basis to one- or two-person households, and that may provide common facilities and services for laundry, cleaning, and meals.

SITE

The location of a significant event, a prehistoric or historical occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing structure.

SITE LANDSCAPING

Required vegetative material consisting of trees and shrubs that are placed on a development site to soften built edges and provide transitions. (See Section 40.1-5.2, Landscaping and Screening.)

SINGLE ROOM OCCUPANCY

A group living residential facility with furnished rooms that are rented on a weekly or monthly basis, and which provides common facilities and services for laundry, cleaning, and meals.

SOLAR ENERGY EQUIPMENT

A system designed to convert solar radiation into usable energy for space, water heating, or other uses.

SPECIAL EVENTS HOUSE

A residence-type structure that is used for one-time social events for invited guests, such as teas, bridal showers, receptions, etc., and which may include both indoor and outdoor activities.

SPECIALTY EATING ESTABLISHMENT

Establishments selling specialty food items that normally do not constitute a full meal, including but not limited to: ice cream parlors, dessert cafes, snack shops, juice and coffee houses, and bakeries.

SPECIFIED ANATOMICAL AREAS

This means: (a) Less than completely or opaquely covered: (i) Human genitals; (ii) Buttocks; (iii) Human breasts below a point immediately above the top of the areola; and (b) Human genitals in a discernibly turgid state, even if completely or opaquely covered.

SPECIFIED SEXUAL ACTIVITIES

This means: (a) Humans genitals in a state of sexual stimulation or arousal; (b) Acts of human masturbation, sexual intercourse or sodomy; (c) Fondling or erotic touching of human genitals, buttock, chest, or human breast.

SPECIMEN TREE

Any canopy tree with a DBH of 42 inches or more and any understory or ornamental tree with a DBH of ten inches or more that is not exempted as a specimen tree by this Ordinance.

STABILIZATION

The installation of vegetative or structural measures to establish a soil cover to reduce soil erosion by stormwater runoff, wind, ice, and gravity.

STACKING/STANDING AREA

A portion of the vehicular use area on a site that is dedicated to the temporary storage or "standing" of vehicles engaged in drive-through use of the site or development. Parking or storage of vehicles is not permitted within the stacking/standing area.

STANDARDS AND GUIDELINES (HISTORIC DISTRICTS)

A set of established standards, requirements, and guidelines adopted by City Council for each established historic district that further guides the development and redevelopment of land within the historic districts.

STATE

The Commonwealth of Virginia.

STOOP

A platform, without a roof, located at the entrance of a building with sufficient area to facilitate the ingress and egress to the building.

STREET

A strip of land or way subject to vehicular traffic which may also serve in part as a way for pedestrian traffic and providing direct or indirect access to property, including, but not limited to, roads, lanes, drives, trails, courts, places, terraces, alleys, avenues, highways, boulevards or any other thoroughfare.

STRUCTURE

Anything constructed, installed, or portable, the use of which requires a location on a parcel of land. This includes a fixed or movable building which can be used for residential, business, commercial, or office purposes, either temporarily or permanently. "Structure" also includes, but is not limited to, swimming pools, tennis courts, signs, cisterns, sewage treatment plants, sheds, docks, mooring areas, and similar accessory construction.

STRUCTURE, HISTORIC

Any individually listed "historic property" as defined above or structure contributing to a historic district as defined above as "contributing properties."

SURVEYOR

A land surveyor or engineer certified under Sections 54.1-400 through 54.1-411, Code of Virginia, (1950), as amended.

TATTOO PARLOR

An establishment whose principle business activity, either in terms of operation or as held out to the public, is the practice of one or more of the following: (1) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin.

TAXICAB SERVICE

A business offering transportation in passenger automobiles and vans for compensation.

TELECOMMUNICATIONS ANTENNA, COLLOCATION ON EXISTING TOWER

Any structure or device used for the purpose of collecting and/or transmitting electromagnetic waves for commercial purposes, where two or more different telecommunication service providers place communication antennas and/or other communications equipment on a common antenna-supporting structure (building, tower, or other stationary device).

TELECOMMUNICATIONS ANTENNA, PLACEMENT ON EXISTING BUILDING

Any structure or device used for the purpose of collecting and/or transmitting electromagnetic waves for commercial purposes, where a communication antenna is placed on an existing business use or multi-family building with eight or more dwelling units. The term does not include private home use of satellite dishes and television antennas.

TELECOMMUNICATIONS TOWER, FREESTANDING

Any tower or antenna structure and its appurtenances erected on the ground and used primarily for the support of communication antennas used by commercial, governmental, or other public or quasi-public users. The term includes microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term does not include private home use of satellite dishes and television antennas, or amateur radio operators as licensed by the FCC.

TEMPORARY USE PERMIT

A permit, approved, approved with condition, or denied by the Planning Director in accordance with Section 40.1-2.3(E), Temporary Use Permit.

THEATER

A building, or part thereof, which contains an assembly hall with or without stage which may be equipped with curtains and permanent stage scenery or mechanical equipment adaptable to the showing of plays, operas, motion pictures, performances, spectacles, and similar forms of entertainment.

TIRE DISPOSAL OR RECYCLING

A facility that disposes of or recycles waste tires or waste tire residuals.

TIRE/MUFFLER SALES AND MOUNTING

This use includes the on-site sale and subsequent installation of automobile parts and accessories limited to tires and mufflers. Such uses do not include the sale of gasoline or other fuels.

TOOL REPAIR

An establishment that repairs tools for compensation.

TOPPING

The severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.

TOURIST HOME

An establishment in a private dwelling that supplies temporary lodging accommodations to not more than five overnight guests for a fee.

TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND)

A compact, fully-integrated, mixed-use development which encourages social interaction by the use of a variety of housing types, commercial and civic spaces, landscaped streets and public areas, and a system of easily accessible neighborhood parks and greens.

TREE SAVE AREA

The area around a specimen tree that extends one linear foot around the tree's dripline.

TRUCK OR FREIGHT TERMINAL

A use where buses, trucks, and cargo are stored, where loading and unloading is carried on regularly, and where minor maintenance of these types of vehicles is performed.

TRUCK STOP

A facility providing services to the trucking industry, including but not limited to the dispensing of fuel, repair shops, automated washes, restaurants, restrooms, scales, and overnight parking facilities.

UNDERSTORY TREE

A tree that has an expected height at maturity of no greater than 30 feet.

UNENCLOSED PORCH

A covered or uncovered porch which is open to the weather or screened on all sides except where attached to the walls of a building.

USE

The purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied or maintained.

USE PERMIT

A permit, approved, approved with condition, or denied by the City Council in accordance with Section 40.1-2.3(B), Use Permit.

UTILITY, MAJOR

Infrastructure services providing regional or community-wide service that normally entail the construction of new buildings or structures such as water towers, waste treatment plants, potable water treatment plants, solid waste facilities, and electrical substations.

UTILITY, MINOR

Infrastructure services that need to be located in or near the neighborhood or Use Type where the service is provided. Examples of Minor Utilities include water and sewage pump stations, storm water retention and detention facilities, telephone exchanges, and surface transportation stops such as bus stops and park-and-ride facilities.

VALET PARKING

The provision of parking for vehicles whereby vehicles are parked and un-parked in a parking area, parking lot or any parking structure by a person other than the owner or operator of the vehicle.

VARIANCE PERMIT

A permit, approved, approved with condition, or denied by the BZA in accordance with Section 40.1-2.3(G), Variance Permit.

VEGETATION, NATIVE

Any indigenous tree, shrub, ground cover or other plant adapted to the soil, climatic, and hydrographic conditions occurring on the site.

VEHICULAR USE AREA LANDSCAPING, INTERIOR

Vegetative material, structures (walls or fences), berms, and associated ground cover located within the interior of a parking lot, or other vehicular use area for the purposes of providing visual relief and heat abatement. (See Section 40.1-5.2(D)(2))

VEHICULAR USE AREA LANDSCAPING, PERIMETER

Vegetative material, structures (walls or fences), berms, and associated ground cover located around the perimeter of a parking lot, or other vehicular use area when such areas are adjacent to a street right-of-way or land in a residential district or residentially developed lands, used property for the purposes of screening the vehicular use area from off-site views. (See Section 40.1-5.2(D)(3))

VENDING MACHINE

A coin-operated machine that sells and dispenses merchandise.

VETERINARY CLINIC

A facility for the care and treatment of animals, including household pets and larger domesticated animals. Such facilities may be entirely indoors or may have both indoor and outdoor components.

VOCATIONAL OR TRADE SCHOOL

A public or private school offering vocational or trade instruction to students and that operates in buildings or structures or on premises on land leased or owned by the educational institution for administrative purposes. Such uses include classrooms, vocational training (including that of an industrial nature for instructional purposes only), laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.

VOLUNTARY PROFFER STATEMENT

A statement submitted by an applicant that includes all the proposed proffers or conditions associated with an amendment to the zoning map Rezoning).

WALL PACKS

An exterior lighting device that is flush-mounted on a vertical wall surface.

WALL, PARAPET

A low protective or decorative wall or railing along the edge of a raised structure such as a roof or balcony.

WAREHOUSE (DISTRIBUTION)

A use engaged in distribution of manufactured products, supplies, and equipment.

WAREHOUSE (STORAGE)

A use engaged in storage 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.

WASTE COMPOSTING

Uses where solid wastes are composted using composting technology. Accessory uses may include offices and repackaging and transshipment of by-products.

WHOLESALE SALES, ALL USES

Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers. Wholesale establishment does not include contractor's materials or office or retail sales of business supplies/office equipment.

YOUTH CLUB FACILITY

A boys' club, a girls' club, or any other non-profit facility that is not a school but which provides entertainment, recreation, crafts, tutorials or other quality of life enhancements for minors.

ZONING ADMINISTRATOR

The city official charged with the enforcement of this Ordinance.

ZONING COMPLIANCE PERMIT

A permit, approved, approved with condition, or denied by the Zoning Administrator in accordance with Section 40.1-2.3(F), Zoning Compliance Permit.

ZONING MAP, OFFICIAL

The official, adopted map or maps which are part of this Ordinance, and delineate the boundaries of each zoning district (See Section 40.1-1.7, Official Zoning Map).

ZONING MAP AMENDMENT (REZONING)

A zoning district change reviewed and approved or denied by the City Council in accordance with Section 40.1-1.7, Zoning Map (Rezoning) or Text Amendment.

ZONING TEXT AMENDMENT

A zoning district change reviewed and approved or denied by the City Council in accordance with Section 40.1-2.3(A), Zoning Map (Rezoning) or Text Amendment.

APPENDIX

ARTICLE 40.1-9: APPENDIX

(A) Downtown D1 Zoning District

(B) Downtown D2 Zoning District

(C) Residential Mobile Home (RMH) District [1]

PURPOSE AND INTENT
The Residential Mobile Home (RMH) district is established to accommodate mobile homes and manufactured homes in parks that are developed with such amenities as recreation, open space, and landscaping, and designed in ways that are compatible with surrounding development and the neighborhood or area in which they are located.

DIMENSIONAL STANDARDS	
STANDARD	**ALL USES**
District Size, Minimum (AC)	20
Number of Individual Dwelling Units, Minimum (#)	50
Density, Maximum (DU/AC)	N/A
Lot Size, Minimum (sf)	3,600
Lot Width, Minimum (ft)	25
Building Coverage, Maximum (%)	35 of the entire site or development
Front Yard, Minimum (ft)	15
Side Yard, Minimum	15 ft from a street; Otherwise, 10% of lot width up to 15 feet
Rear Yard, Minimum (ft)	15
Corner Side Yard, Minimum (ft)	15
Perimeter Setback	25 feet from all mobile home park boundaries
Accessory Structure, Minimum (ft)	5
Height, Maximum (ft)	36
Accessory Structure Size, Maximum (%)	33 for structures accessory to an individual unit [2]
Street Frontage Requirements	Must front on public or private street of at least 50 feet right-of-way width
NOTES: "sf" = square feet; "ft" = feet; "FAR" = floor area ratio; "DU" = dwelling units; "AC" = acre [1] Amendments to the Official Zoning Map to enlarge an existing or establish a new RMH district are prohibited. [2] See Section 40.1-4.4(C)(1), Accessory Dwelling Units, for accessory dwelling unit dimensional requirements.	

(1) Required Improvements for Mobile Home Parks

The developer of every mobile home park shall install the following improvements in locations convenient to the residents and shall maintain such improvements in good working order at all times during the operation of the mobile home park:

(a) Facilities and Recreational Areas

(i) Laundry Facilities

A minimum of one automatic washer and one automatic dryer for each 25 mobile home sites.

(ii) Storage facilities

Storage facilities shall be provided on or conveniently near each home lot:

a. For the active storage of outdoor equipment, furniture and tools;

b. For the inactive storage of such other material as is used only seasonally or infrequently by the typical tenant and cannot be conveniently stored in the typical mobile home.

c. There shall be a minimum of 200 cubic feet of storage for each mobile home. Storage facilities shall be provided on the lot or in compounds located within a reasonable distance. Storage facilities shall be designed in a manner that will enhance the appearance of the park and shall be constructed of suitable weather-resistant materials appropriate under the use and maintenance contemplated.

(iii) Play Areas for Children

Playground areas with suitable facilities and equipment shall be provided.

(iv) Adult Recreational Areas

Recreational areas with suitable facilities and equipment shall be provided for adult residents.

(b) Open Space

Within every mobile home park there shall be permanently set aside an amount of open space to be used exclusively for leisure and recreational purposes. The amount of such space shall be a minimum of 15 percent of the gross development area of the mobile home park. The open space shall be subject to the following additional requirements:

(i) All open space areas shall be reasonably accessible to residents;

(ii) Open space lands shall contain at least 6,000 square feet; and

(iii) Recreational facilities as required in this subsection may be designated as required open space.

(2) Mobile Home Parking Outside of RMH District

It shall be a violation of this Ordinance to place, keep, or maintain for more than three consecutive days any mobile home used for human habitation upon any lot or parcel of land outside a RMH district.

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N·FOCUS

Planning • Public Administration • Urban Design

June 15, 2015

Greg Mahar
Planning & Community Development Director
Town of Waxhaw
P.O. Box 617
1150 N. Broome Street
Waxhaw, NC 28173

Re: Letter of Transmittal for Request for Proposals –
Unified Development Ordinance (UDO) and Official Zoning Map Update

Dear Mr. Mahar:

On behalf of N·Focus Planning, we are pleased to submit this response to your Request for Proposals to rewrite the UDO and update the Official Zoning Map for the Town of Waxhaw.

The practicality of promoting a successful local economy, protecting property rights, respecting historical properties and preserving environmental resources through common-sense ordinance implementation is at the forefront of our approach. Our professionals take pride in evaluating, writing, and implementing development ordinances with popular support from the business community, environmental agencies, NCDOT, land owners, and local leadership. The N·Focus Planning approach is to achieve a win-win scenario.

The N·Focus Planning project team consists of land use professionals who write, implement and administer ordinances on a weekly basis. Their extensive expertise includes:

- Public Administration
- Code & Ordinance Development
- Land Use Planning
- Plan Implementation

N·Focus Planning has local and regional knowledge, qualified & experienced professional staff, and a record of accomplishment in communities throughout North Carolina that can provide Waxhaw a successful outcome – *Durable, Implementable & Cost-Effective Codes* that will help achieve adopted goals.

Thank you for the opportunity to submit this response to your Request for Proposals. We are excited about the prospect of working with Waxhaw and look forward to discussing our recommended project approach with you.

Sincerely,

Patti Rader

Patti Rader, Manager

N•Focus Planning & Design, Inc.
313 S. Main Street, Suite 110 • Kannapolis, NC 28081
Tel: (704) 933-0772 www.nfocusplanning.org

Proposal

IN RESPONSE TO THE May 21, 2015 REQUEST FOR PROPOSAL FOR

Unified Development Ordinance Rewrite and Official Zoning Map Update

June 15, 2015

Town of Waxhaw, North Carolina

PROFESSIONAL TOWN PLANNERS

N·FOCUS

N·FOCUS PLANNING & DESIGN, INC.

704-933-0772

N•Focus Planning & Design, Inc.
313 S. Main Street, Suite 110 · Kannapolis, NC 28081
www.nfocusplanning.org

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INTRODUCTION & FIRM HISTORY

On behalf of N·Focus Planning we humbly submit ourselves for consideration to provide the experience and professional capacity to serve the Town's leadership, citizens, and staff. Our goal is to create planning and policy products that respect your community's local goals and objectives, rather than attempt to force a one-size-fits-all approach upon those jurisdictions.

We understand the rights of property owners, the realities of infrastructure, financial constraints, state and national environmental priorities, trends both our country and our region face, and challenges involved in the growth of physical places. Our company's model for providing public service keeps our staff saturated in the day-to-day consequences of their professional actions, and we consider criticism, feedback, appreciation and thanks so that we can provide a true service to our client jurisdictions, their citizens, businesses and investors.

The N·Focus Planning team consists of sixteen staff employees, highly experienced in the fields of City Planning, Zoning, Code Enforcement, GIS, Public Participation, Urban Design, Implementation, and Public Administration. Our approach to every project and function we full-fill provides the jurisdiction an integrated role within the locality. We call it an '*Elastic City Hall*', and we function as temporary supporting staff to the jurisdictions we serve rather than out-of-town consultants. Our corporate office is on Main Street in nearby Kannapolis, with a regional office just north of Raleigh in Creedmoor serving the Triangle Region and eastern North Carolina. Travel by project team personnel to Waxhaw is a pleasant and familiar 60 minute drive along US 601 in Cabarrus and US 601/NC 75 in Union counties.

N·Focus Planning is a proud team of highly experienced staff serving only local governments in North Carolina; we research nationally, but do not work out-of-state. Our ability to work within many of the City/Town Halls we serve in takes an integrated approach, where our corporate presence is very transparent. Our team understands the purpose, authority, and consequences of decisions made inside a planning office because a majority of our staff serves in an official role in at least one local government jurisdiction on a weekly basis year-round. N·Focus Planning personnel administer the policies and plans we write, and those written by others on a regular basis.

Established in 2002, committing exclusively to Local Governments in 2008 (after our founder full-filled a 7½ year non-compete agreement), and growing to a healthy and productive size, we believe we can provide the most relevant, compliant, and comprehensive planning products in the State. Our staff is both comfortable and confident presenting and facilitating in public meetings, maintaining jurisdictional records (including emails) and office hours, and respecting public accountability and transparency in public offices. N·Focus Planning is simply a vehicle to organize a team of passionate local government professionals to accomplish more for less… many a local government's motto since the Great Recession.

PROJECT APPROACH & DELIVERABLES

OUR APPROACH: 'STRENGTHEN THE CORE, LINK THE COMMUNITY, FOCUS ON PRINCIPLES'

The 'bones' of the Town – its physical infrastructure (adequate capacity of water, sewer, and streets) and form (street patterns, neighborhoods, and open space) – largely determine the future patterns of development, and its optimal land uses that will open opportunities for investment in both new and existing homes and businesses. These existing conditions represent a major investment of both public and private effort by those involved in a community's past, and its future.

While growth often means change to many, it is an opportunity to improve upon decisions of the past. Increasing the 'return on investment' of the existing infrastructure produces increased property values by optimizing that infrastructure. When accomplished, the increased revenues per acre accompany a reduced cost to serve; therefore, reducing the tax burden on homes and businesses.

Adequate physical infrastructure drives economic development, which in turn increases revenues to the Town, providing opportunities to invest in 'quality of life' initiatives – new parks, expanded recreation programs, cultural venues, and new programs that strengthen neighborhoods, the downtown area, large scale commerce, and the community as a whole, which again attracts greater investment and establishes an enduring cycle.

Throughout the Unified Development Ordinance (UDO) re-write process, the N-Focus project team will keep 'carrying capacity' in mind as it drafts development standards and policies to reflect the Town's action strategies toward achieving the Town's adopted goals.

Clearly, Waxhaw's core district can and should be a key driver for economic development in the surrounding and adjoining areas of the town. Successful revitalization of downtown building stock can also positively influence the preservation of open space in both the Town's environmentally sensitive and challenging areas. Establishing standards that make sense by enhancing the potential and protecting the sensitive assets creates unity.

Throughout the UDO development process, the N·Focus Planning team will consider the potential impact of future land uses on *context-sensitive economic development*, and identify potential for deriving new economic opportunities from local land resources, including new and existing building stock.

First, establishing the menu of reuse, repurpose, infill and redevelopment standards to increase development potential and address issues within the core areas, largely seen as "developed", can attract new investment by respecting established development patterns. Next, establishing standards to respect both exiting patterns and new growth in peripheral areas surrounding the core will strengthen the core and increase the return on existing

investment. And finally, establishing standards to address new growth in the outlying areas can provide the balance necessary to find the 'win-win' scenario in the Waxhaw market.

Like many other established communities, the Town of Waxhaw may confront a new and daunting challenge in its goal to preserve historic resources. As of today, the future of the North Carolina Historic Preservation State Tax Credit is unknown; pending approval of the State's FY 2015-2016 budget. Without this incentive, new models for financing rehabilitation and reuse must be found. Collaborative public/partnerships will become even more critical. Fortunately, the local historic landmark and district designation authority remains one of the tools for local governments, and could provide a basis for tailoring new incentives for private investment. The N·Focus Planning team will provide options and possible alternative methods of incentivizing historic rehabilitation and reuse through development standards, should the State rehabilitation tax credit no longer be available.

The project team will take an inclusive approach to considering economic development opportunities through the UDO assisting existing businesses, increasing attractiveness for Waxhaw as a business location, and cultivating startups. The team proposes to work with a Land Development Committee created by the Town and made-up of members appointed by the Town. This could either be the Planning Board or similar existing body or a larger group inclusive, but not limited to, membership from the Planning board and/or any other boards appointed by the Town. The purpose of the Land Development Committee is to provide broad representation on issues identifiable by the primary groups and organizations that are focused specifically on the Town's development, and invite other key individuals from the community to join an economic development strategy team that will serve as a subcommittee to the Land Development Committee.

Understanding the Town of Waxhaw in its regional context is essential for long-range planning for public infrastructure. Many issues related to transportation, water infrastructure, and quality of life (i.e., schools, parks, natural resource protection, etc.) expand beyond the purview and capacity of local government to wholly influence, fund, or control and thus dependent upon both effective regional collaboration, and attracting private investment. The latter, private investment is at the center of new development policies and opportunities that must be addressed as part of the UDO.

N·Focus proposes the following, subject to modification by contractual provision and/or modification in the requisite project orientation process stipulated in the RFP:

Project Orientation

This initial team meeting process will be as stipulated in the RFP.

Task 0 - Project Orientation Deliverable: Meeting notes; project schedule; and work plan.

Work Program, Phase 1: Project Orientation and Initiation

Task 1.1 – Analysis of Background: Applicable Plans. N·Focus Planning will begin with the collection and review of relevant data and background information. The examination of both the new draft and adopted land use plans along with other current draft and adopted documents will define the major adopted goals and policy values of the Town. These will include the land use transportation planning projects currently in progress.

Findings from this Task will be organized into a brief summary that will highlight key issues discovered during the process, including potential inconsistencies between the proposed/adopted land use plan and other plans commissioned by the Town, based on the current status of implementation and other factors.

Task 1.1 Deliverable: Summary of Findings - 'Observations on Growth"

Task 1.2 – Town Tour and Reconnaissance. The N·Focus Planning project team is eager to discover the fabric of the Town, although the lead author is generally familiar with parts of Waxhaw. The perspectives gained during the tour and from our subsequent conversations with the Land Development Committee will further our understanding of the issues, obstacles, and opportunities that underlie successful UDO development. This Task will be completed prior to the first Land Development Committee meeting.

Task 1.2 Deliverable: Summary by Project Team - 'On the Ground'

Task 1.3 – Land Development Committee Meeting #1. This meeting will mark the 'official' kick-off of the Unified Development Ordinance and a new Official Zoning Map project. The team will present the summaries of Tasks 1.1 and 1.2. Among items to be discussed in this meeting are introduction to the project team, orientation to the plan update process, project/task management and coordination, timeframe and scheduling (a suggested schedule of Land Development Committee meetings will be presented), and community participation goals.

Task 1.3 Deliverable: Land Development Committee Meeting #1 Summary by Project Team.

Task 1.4 – Land Development Committee Member Conversations. The N·Focus Planning project team will schedule informal conversations with individual Land Development Committee members to (1) garner their impressions of the current state of development regulations and the issues they consider to be most critical to the success of the UDO re-write; and (2) identify key leaders and collaborative networks in the community that should be engaged in the UDO re-write. These conversations, which will run concurrently with Task 1.5 (below), will take place at the convenience and location of the member. Findings from these conversations will be organized into an initial 'Impressions' report that will be presented at the second Land Development Committee meeting. This report will be a key foundational element for building community involvement in the process. (Note: as an alternative, the Town may desire to coordinate these meetings in a more structured format, in which the project team will participate.)

Task 1.4 Deliverables: Report on the Preliminary Observations of the Land Development Committee.

Task 1.5 - Interviews with Business Owners and Development Professionals/Investors. The project team will conduct interviews with local investors and owners of growing businesses about growth opportunities, trends, and barriers that may be within the Town's purview to address. Most of these interviews will be conducted by phone.

Task 1.5 Deliverables: Report on interviews with local businesses and developers/investors. (Note: Land Development Committee meeting #2 will be held at the end of this process to share and discuss the initial feedback from these interviews.)

Task 1.6 – Public Outreach and Involvement Strategy. The N·Focus Planning project team will develop and roll out several measures to garner a high level of community participation. Although publicity and outreach to the community will be ongoing throughout the project, the most intensive, 'up front' efforts will occur during first half of the project. The Public Involvement Strategy will be comprised of the following sub-tasks:

Sub-Task 1.6.1 – Identify Key Networks and Collaborative Relationships. Utilizing Land Development Committee input, the team will employ a social network analysis to 'map' the relationships between individuals, groups, and institutions of the community. This task will enable the project team, Land Development Committee, and Town staff to (1) visualize key relationships within the community; (2) facilitate identification of groups and individuals playing central roles – thought leaders, key knowledge experts, senior mentors, etc.; (3) identify isolated groups, individuals, and knowledge 'bottlenecks'.

Sub-Task 1.6.2 – Develop and Disseminate Community Survey. The project team will, in consultation with Staff, develop a survey for citizen input at the beginning of the Unified Development Ordinance and a new Official Zoning Map process. The purpose of the survey will be to ascertain citizen attitudes and opinions on the current state of the Town and its development regulation efforts. The results will provide valuable feedback to the Land Development Committee and help identify potential strengths and weaknesses that will influence Plan development. The project team will meet with the Land Development Committee for meeting #3 to: (1) present a draft of the Network Map and garner input and feedback on key community relationships that can influence development of the Plan; (2) present the draft Community Survey for review and input.

Sub-Task 1.6.3 – Target formal and informal channels of communication for optimal outreach. The findings of Task 1.6.1 will accelerate the flow of information across organizational, functional, and demographic boundaries, real and perceived. For example, the newsletter of a particular organization (church, club, etc.) may be a better conduit for information than Web-based platforms or social media sites for some

citizens, businesses and property owners; or, a simple flyer placed in a neighborhood gathering place may reach a key demographic group otherwise underserved by traditional media outlets.

Sub-Task 1.6.4 – Develop content, establish formal information channels. The N·Focus Planning project team will work with Land Development Committee and Town staff to develop consistent branding and format of Plan Update-related announcements and updates. The team will provide content for a Unified Development Ordinance and a new Official Zoning Map Update page on the Town website, develop a Facebook page, a Twitter feed, and content for other social media outlets as desired.

Sub-Task 1.6.5 – Coordinated Outreach. To achieve optimal awareness, interest, and participation in the Unified Development Ordinance and a new Official Zoning Map Update process, it is important for Town staff and their consultants to be 'in the community' throughout the process. The N·Focus Planning project team will contact the key organizations, clubs, civic groups, and other entities identified in Task 1.6.1 to offer a Unified Development Ordinance and a new Official Zoning Map Update presentation & discussion. This Task will be closely coordinated with Town staff in consideration of current workload, other Town events, etc.

Task 1.6 Deliverables: Report on Public Involvement Strategy. The sub-task components of the strategy will be documented in a Public Involvement Strategy Report for Town Staff and referred to throughout the Plan Update process for guidance in organizing and facilitating content development, outreach efforts, and scheduling of targeted presentations.

Work Program, Phase 2: Policy Analysis & Development

Task 2.1 – Implementing Waxhaw's Optimal Form Through Development Standards – Land Use & Development Scenario Planning for Citizens & Decision-makers.

The N·Focus Planning project team will employ two ***full-day workshops*** to invite participation in suggesting alternatives for development policy and specific standards to achieve the adopted plan's goals. This opportunity for citizens and decision-makers will help the consulting team members understand development policy decisions affecting future requirements of the UDO to achieve aesthetic goals for new and existing development. The workshops will also assist with gathering insight for policies affecting infrastructure capacity, housing, parkland/open space, and other indicators for maintaining a high quality-of-life. Public input from the workshop attendees will then be incorporated into an '*Implementation Priority Scenario*' for the Unified Development Ordinance and new Official Zoning Map targeting the adopted Future Land Use Plan as the 'build-out scenario' to achieve the vision, goals, and community values captured during prior overall planning processes. (Note: Land Development Committee meeting #4 will be held prior to the workshop to brief members on the format and logistics of the event.)

Task 2.1 Deliverables: Summary report on outcomes and input received at workshop; 'Implementation Priorities' for an 'Ultimate Build Out' of the Future Land Use Plan.

Task 2.2 – Development Leadership Retreat. The N·Focus Planning project team will facilitate an all-day retreat of the Land Development Committee (meeting no. 5) to present the summary of implementation strategies identified in the two full-day workshops in Task 2.1, as well as the snapshot produced in Task 1.6. Outcomes of the retreat will include: (1) a polling on the economy-related recommendations from adopted plans for Waxhaw as a 'first check' on the level of consensus on the best direction for the Town's development efforts; and (2) public perception of present-day 'likes' and 'dislikes' about Waxhaw, and future 'wishes' and 'fears' the organizations, businesses and economic development community in Waxhaw. These will guide the team to identify specific standards the Town can achieve with updated UDO standards. A goal of the retreat will be to reach agreement on one to three priorities for new development strategies to incorporate in the UDO re-write and new Official Zoning Map. Results of the retreat will inform and influence the outcome of Task 2.3 below.

Note: The workshops should be scheduled following the 2015 holiday season. See draft of proposed timeline on page 20.

2.2.1 - Consideration of Relevant Standards & Procedures.

Based on priorities from the retreat, the project team will prepare a summary of best practices and experiences from other municipality's using a similar approach to grow their local economy. The summary will address key areas where new and innovative development standards, with examples, will achieve the stated goals. Additionally, this summary will address processes and procedures to improve the streamlining of development approvals while maintaining sensitivity to project types of greater concern, such as when special use or conditional use procedures apply.

Task 2.2 Deliverables: Summary on the Land Development Committee retreat; summary of standards to address differently and procedures to modify.

Task 2.3 – Refining the Community Vision, Goals, and Strategies into Specifications.

This will be the major 'game changing' task of the UDO re-write project. The new Land Use/Transportation Plan will contain carefully-crafted Vision Statements that capture the community's desires for the future of the Town, with major planning themes addressing specific goals, policies, and strategies for achieving the vision. However, with various influencing factors affecting the way cities and towns grow during the coming decades the UDO must remain optimistic and opportunistic if Waxhaw is to experience the desired development and investment it seeks. The current trend in North Carolina toward less local authority means standards will no longer be subjective, but more objective – meaning standards will be required to create the win-win scenario for the community, the environment and the development industry. In light of new legislation affecting planning and zoning, shifting demographic trends, new challenges in infrastructure capacity and transportation funding, and changes in the local

and regional economy, it is necessary for the Town to revisit these foundational elements. The N·Focus Planning project team will guide the Land Development Committee and Town Staff to review, align, and integrate the recommendations and implementation strategies of all Town plans into an updated, cohesive, and actionable UDO and Official Zoning Map. This Task will require three Land Development Committee meetings.

2.3.1 - Refinement of Vision & Themes. Using the data and findings compiled during the Project Initiation Phase and the Workshop, the Project Team will facilitate a Land Development Committee discussion during the 6th meeting of the Land Development Committee on potential changes in fundamental land development policy reflected in the Town's new plans. This meeting will begin the detailed discussions and begin to capture the essence of the standards to be drafted.

2.3.2 – Development of Key Goals & Development Strategies for the UDO. The project team will prepare revised goals and recommend new or revised policies and strategies (action items) accordingly. These action items will become key elements of the foundation of the UDO re-write to ensure the UDO is an aid to development rather than an obstacle. This detailed listing will become the subject of the discussion during the 7th meeting of the Land Development Committee.

2.3.3 – Development of Draft District Purpose Statements for the UDO.
The most effective approach to translating the principles of a land use plan is to determine a set of corresponding zoning districts. Each district, or category of district, should correspond to a land use plan category and enable leadership, citizens, businesses, and developers to readily associate the land use plan with a district or grouping of districts. This approach will enable the Town to lead its growth initiatives with the adopted Town Plan, while implementing growth with the UDO. We call this approach simply the "Plans and Specs" of the community. Everyone involved in the community should have a straight forward understanding of the Town's plan and likewise, simple equivalent set of standards for the corresponding district(s). This approach will increase public understanding of the Town's growth. An area may be "planned" for density or commerce; however, until the area has a means for the infrastructure it may be premature to zone for the corresponding district. But when an infrastructure investment is planned, regardless of funding source, then such an area may be ready for a zoning transformation to encourage development, and increase the return on both the public and private investment. These draft purpose statements will be presented and discussed during the 8th meeting of the Land Development Committee.

Task 2.3 Deliverables: Summaries on Land Development Committee meetings #6-8; Draft of district purpose statements for inclusion in the UDO and to serve as the guiding principles for the district standards and specifications.

Task 2.4 – Development of Action Plan.

The project team will develop an Action Plan that will provide the specific and detailed steps required to implement the recommendations of the Land Development Committee into various UDO elements. This is an important step for the Town to confirm the implications of policy to be included in the UDO re-write. Initiatives that may sound good in theory may require additional resources in practice; therefore, the N·Focus Planning project team and Town Staff will identify implementation process and procedure requirements as they may affect current staffing levels. Working closely with Town Staff, the N·Focus Planning team will meet with the department personnel and its director to identify staffing needs. The task will be instrumental in ensuring streamlining of processes and procedures while meeting the goals. Conflicting procedures can be identified for resolution by the Land Development Committee prior to preparation of drafts.

Task 2.4 Deliverable: Action Plan for Implementation.

Task 2.5 – Develop Preliminary Draft Comprehensive UDO Re-write and Official Zoning Map. The N-Focus Planning project team will assemble the components and present a preliminary draft 'Comprehensive UDO' re-write and new 'Official Zoning Map' to the Land Development Committee. The draft will include recommended graphics and a draft ***Technical Standards and Specifications Manual*** for land development. A series of three Land Development Committee meetings may be warranted during this time to present and review each article of the Draft UDO and Draft Official Zoning Map.

Task 2.5 Deliverables: Preliminary Drafts: Comprehensive UDO re-write and new Official Zoning Map presented to the Land Development Committee in meetings 9-11.

Work Program, Phase 3: UDO Presentation, Review, and Adoption

Task 3.1 – Present draft Comprehensive UDO Re-write & New Official Zoning Map. The team will incorporate staff review and Land Development Committee input into a final draft to be presented at a workshop jointly convened by the Town Board of Commissioners, Planning Board, and Land Development Committee. Following the joint meeting and recommendation from the land Development Committee the team will present the recommended draft Comprehensive UDO re-write and new Official Zoning Map to the public during a hearing of the Planning Board and subsequently the Town Board of Commissioners.

3.1.1 – Present first final draft to the Planning Board. The project team will present a first final draft, incorporating the input from the Joint Workshop, and any modifications contained within the Land Development Committee recommendation to the Planning Board. Following the formal action by the Planning Board, the team will incorporate any input and modifications contained within the Planning Board recommendation to the Town Board of Commissioners.

3.1.2 – Present second final draft to the Town Board of Commissioners. The project team will produce a second final document that reflects the modifications required by the Planning Board and Town Board of Commissioners at two meetings, including a presentation and work-shop for the Board of Commissioners, followed at a later date by the requisite public hearing. The final version of the adopted 'Comprehensive UDO' re-write and new 'Official Zoning Map' will be delivered to the Town as stipulated in the RFP as may be modified by the final contract for services..

Task 3.1 Deliverables: Final Unified Development ordinance and Official Zoning Map documents as required by RFP/contract.

CONSULTANT PERSONNEL & QUALIFICATIONS

The following personnel are employees of N·Focus Planning, with only one exception, Mr. Fankhauser.

F. Richard "Rick" Flowe, AICP, Principal – Project Lead Consultant and Author

Mr. Flowe has always been a "hands on" leader in the firm. His dedication in the field by practicing his craft daily drives our team toward effective, results oriented public service. This experience ensures that our team understands the daily intricacies of working with property owners, developers, engineers, businesses, and economic development professionals.

Mr. Flowe has over thirty years of experience in ordinance preparation and implementation. Professionally implementing the policies and plans crafted by N·Focus Planning personnel is the hallmark of N·Focus' contributions to public service.

Current Activities: These activities demonstrate experience in ordinance development and administration:

- Since April 2010 Mr. Flowe has served under contract as the Planning, Zoning & Subdivision Administrator for currently the second fastest growing municipality in Cabarrus County, the ***Town of Midland*** two (2) days per week.
- In addition Mr. Flowe is currently serving:
    - As the Special Project Planner charged with guiding implementation of the new City Plan 2030 development initiative for the ***City of Creedmoor***;
    - In the ***Town of Marshville*** where he is drafting the new UDO to match and implement the Town's new City Plan 2035 Land Use & Comprehensive Master Plan recently approved by the Town's Planning Board; and
    - As the lead consultant, steering committee facilitator, and editor of an in-house land use plan update for ***Gaston County***.

Past Experiences: He has led many groundbreaking planning projects highlighted by the:

- Establishing the planning function of the Community Development Department (plans and ordinances) following the incorporation of the ***City of Kannapolis*** where he served as the Town's first director from 1987-1999; and
- The first Joint City-County Planning Director leading the ***City of Columbia, SC*** and ***Richland County, SC*** planning departments from 1998-2000.

Mr. Flowe's background in infrastructure facilities planning and design lists numerous implementation projects including the following illustrative examples:

- The Project Coordinator for a $10M USDA infrastructure project for the ***City of Creedmoor*** from 2010-2012;
- The planning and coordination of the expansion of key infrastructure in major growth areas in the ***City of Kannapolis*** including the extension of Dale Earnhardt Boulevard and

Rogers Lake Road with the Town's first dedicated bicycle lanes and pedestrian network infrastructure in a public-private venture; and

- Bringing the expansion of utilities to numerous municipalities throughout North Carolina since 1987.

Mr. Flowe has worked within the private sector serving local governments most of his career; however, between 2002 and 2008 Mr. Flowe practiced land development planning and served as the project coordinator in charge of several projects within the region, most notably, ***The Village at Kellswater Bridge*** in Kannapolis where he resides today. This experience offered Mr. Flowe a new perspective when serving as lead representative for about 20 private projects currently either completed or in development in the Charlotte region. Since 2009 Mr. Flowe has rededicated his energy to the public sector, but today his expertise is greatly enhanced by his 7.5 years serving corporations and investor groups large and small. One premiere example of his experience bridging public and private sectors is his current role as the project director for ***The Grove***, a mixed use project under design in China Grove. This project began under Mr. Flowe in 2006 while serving private sector clients and has only recently been authorized to proceed due to NCDOT project scheduling; as a result, Mr. Flowe has agreed to lead the project through completion. The significance of interagency coordination between the development group (owned by a church), and the NCDOT to coordinate transportation enhancements is paramount to the success of the project for both the developer and the Town.

Mr. Flowe's complete resume of employment and public sector clients appears as Attachment 'A' at the end of this document.

Gary R. Fankhauser, ASLA, Senior Urban Designer – Preparation of Form Graphics

Mr. Fankhauser is a seasoned design veteran with over thirty-five years of expertise serving both the private and public sectors. Mr. Fankhauser has been the Senior Urban Designer with N·Focus since 2006 and will full-fill two roles: first as lead Urban Designer for the form based code (FBC) standards, and second, Mr. Fankhauser will prepare all graphic design materials for the UDO. He is a graduate of Ohio State University and is a licensed landscape architect. Since 2012 he practices design under his own firm: *ViZ*, PLLC and serves as the team's only sub-consultant.

Please reference our Graphics Examples in Attachment 'B'

Nadine Bennett, AICP, Senior Planner – Project Lead Public Participation Facilitator

Ms. Bennett has worked as a professional planner for more than 17 years, including 15 years with the Centralina Board of Commissioners of Governments. Ms. Bennett has significant experience with facilitation in the region. As part of the regional CONNECT (www.connectourfuture.org) project, Ms. Bennett facilitated multiple Community Growth Workshops to capture participants' thoughts and ideas about growth and the future in the Charlotte region. Ms. Bennett also has experience leading local government planning retreats, requiring process planning, organization, and internal & external coordination with staff &

elected officials. Ms. Bennett is supported by additional facilitation personnel including Mr. Bill Duston.

William "Bill" Duston, AICP, Senior Planner –Supporting Public Participation Facilitator

Mr. Duston is a seasoned planning veteran in North Carolina. As Planning Director for the Centralina Board of Commissioners of Governments from 1992 to 2012, Mr. Duston oversaw the CCOG Planning Department's technical assistance program. During this period, he updated and wrote numerous land use plans and ordinances for cities and counties in the nine-county Centralina region (Anson, Cabarrus, Gaston, Iredell, Lincoln, Mecklenburg, Rowan Stanly, and Union Counties) and also facilitated numerous retreats and goal-setting sessions for a variety of local governments and organizations. Mr. Duston is frequently called upon to provide training on NC land use law to planners, elected officials, planning boards and boards of adjustment throughout the State.

David C. Flowe, Principle GIS Designer

Mr. David Flowe is a second generation member of N·Focus. His background dates to his school years and has progressed through graduation from UNC-Chapel Hill in 2008 until the present as a principle officer of the firm and lead GIS professional. David will lead the preparation of the new Official Zoning Map and coordinate public records updates directly with Town staff through completion of data files uploaded to the Union County GIS data site.

N•Focus Planning Personnel

N·Focus Planning staff, either before or since joining the team have been very active in the Waxhaw area's local planning and zoning departments for the Union County towns of Waxhaw, Stallings, Indian Trail, Wesley Chapel, Fairview, and Marshville - including the training of newly created planning and appeals boards dating back over four decades.

DIRECT EXPERIENCE & QUALIFICATIONS IN FBC/UDO W/NEW ZONING MAP

Recent Unified Development Ordinances by Mr. Flowe

2014-15 – Town of Marshville, NC- *currently underway* – The Town Board of Commissioners appointed Mr. Flowe as the "Planning, Zoning & Subdivision Administrator" and charged him to prepare a new land development ordinance with form based code (FBC) standards. Mr. Flowe, assisted by other N·Focus Planning personnel, completed a new Town Plan and the companion FBC/UDO is currently under development. He is assisted by Gary Fankhauser for Urban Design standards & illustrations, and David Flowe for GIS zoning map support. Mr. Jason Earliwine and Mr. May of N·Focus Planning implement current codes and ordinances during the re-write of their new UDO. Upon adoption, the new FBC/UDO will implement their newly adopted *Town Plan 2035 – Land Use & Comprehensive Master Plan*. The new FBC/UDO is anticipated to be completed by the end of calendar year 2015. The Town Manager is Fern Shubert and her contact information is 704-624-2515 manager@marshville.org

2011-12 – City of Creedmoor, NC – *adopted June 26, 2012* – Mr. Flowe served as the appointed "Planning, Zoning & Subdivision Administrator" for the City from 2010-2014. Mr. Flowe, assisted by other N·Focus personnel, completed a new City Plan and FBC/UDO. He was assisted by N·Focus Planning personnel Michael Frangos, Jana McMakin, and Randall Cahoon for routine administration, Mr. Gary Fankhauser for Urban Design standards & illustrations, Mr. David Flowe for GIS zoning map support, and Mr. John Ganus and Mr. Danny Eudy for code enforcement. In 2014 Mr. Frangos became the appointed "Planning, Zoning & Subdivision Administrator" for the City where he is now employed full-time and Mr. Flowe now serves as the Special Project Planner charged with guiding implementation of the new City Plan 2030 development initiative for the City. Mr. Cahoon, Mr. Fankhauser, Mr. David Flowe, Mr. Ganus and Mr. Eudy are also members of N·Focus assigned to the City to administer the new FBC/UDO to implement their new *City Plan 2030 – Land Use & Comprehensive Master Plan*. Ms. McMakin departed in 2013. The City Manager is Tom Mercer and his contact information is 919-764-1008 tmercer@cityofcreedmoor.org while Mr. Frangos is the newly appointed planning director and can be reached at his direct line 919-764-1016 mfrangos@cityofcreedmoor.org

2010-2011 – Town of Midland, NC – adopted September 13, 2011, amended May 13, 2014 – Mr. Flowe has served as the appointed "Planning, Zoning & Subdivision Administrator" for the Town since April 2010. During his first year Mr. Flowe, assisted by other N·Focus personnel, completed a new Town Plan and FBC/UDO. Mr. Flowe is assisted by Mr. Jason Earliwine of N·Focus for routine administration, Mr. Gary Fankhauser for Urban Design standards & illustrations, Mr. David Flowe for GIS zoning map support, and Mr. Kevin May and Mr. John Ganus for enforcement. Mr. Earliwine, Mr. David Flowe, Mr. Fankhauser, Mr. Ganus, and Mr. May are also members of N·Focus assigned to the Town to assist Mr. Flowe administering their new FBC/UDO to implement their new *Town Plan 2035 R-2 – Land Use & Comprehensive*

Master Plan. The Town Administrator is Doug Paris and his contact information is 704-888-2232, ext. 11 dparis@midlandnc.us

List of Clients Served by N·Focus Planning

Active Client Jurisdictions

Archer Lodge, NC	Carteret County, NC	Summerfield, NC
Gaston County, NC	Marshville, NC	Tabor City, NC
Brunswick, NC	Midland, NC	Wesley Chapel, NC
Creedmoor, NC	Rockwell, NC	Wilkesboro, NC
Denton, NC	Roxboro, NC	Yanceyville, NC
Granite Quarry, NC	Stallings, NC	Youngsville, NC
Hookerton, NC	Kannapolis, NC	NC Coastal Federation

Past Client Jurisdictions

Belmont, NC	Lake Lure, NC	Wingate, NC
Bessemer City, NC	Lowell, NC	
Biscoe, NC	McAdenville, NC	
Cleveland, NC	Maysville, NC	
Clyde, NC	Mineral Springs, NC	
Conover, NC	New London, NC	
Cornelius, NC	Norwood, NC	
Duplin County, NC	Pleasant Garden, NC	
Fair Bluff, NC	Ronda, NC	
Fairview, NC	Saluda, NC	
Fuquay-Varina, NC	Sharpsburg, NC	
Forest City, NC	Surf City, NC	
Jamestown, NC	Warsaw, NC	

TIMEFRAME FLOW CHART 1

PHASE I – PROJECT INITIATION		SEP15	OCT15	NOV15	DEC15	JAN16	FEB16	MAR16	APR16	MAY16	JUN16	SEP16	DEC16
1.1	Analysis of Background: Applicable Plans												
1.1 Deliverables: Summary of Findings 'Observations on Growth'													
1.2	Town Tour & Reconnaissance												
1.2 Deliverables: Summary by the Project Team - 'On the Ground'													
1.3	Land Development Committee Meeting #1												
1.3 Deliverable: Land Development Committee Meeting #1 Summary													
1.4 & 1.5	Land Development Committee & Investor/Owner Conversations												
1.4-1.5 Deliverable: Report on the Preliminary Observations													
1.6	Public Outreach & Involvement Strategy												
1.6.1	Identify Key Networks & Collaborative Relationships												
1.6.2	Develop & Disseminate Community Survey; assess results; present to Land Development Committee mtg. #3												

1.6.3	Target formal & informal channels of communication for optimal outreach												
1.6.4	*Develop content, establish formal information channels*												
1.6.5	Coordinated Outreach												
1.6 Deliverables: Report on Public Involvement Strategy. The sub-task components of the strategy will be documented in a Public Involvement Strategy Report for Town Staff and referred to throughout the UDO re-write and new Official Zoning Map process for guidance in organizing and facilitating content development, outreach efforts, and scheduling of targeted presentations.													

KEY TO TIMELINES

- Land Development Committee Meeting
- Workshop
- Planning Board Meeting
- Deliverable(s)
- Town Board of Commissioners Meeting

TIMEFRAME FLOW CHART 2

PHASE 2 – PLAN ANALYSIS & DEVELOPMENT	SEP15	OCT15	NOV15	DEC15	JAN16	FEB16	MAR16	APR16	MAY16	JUN16	3rd qtr 16	4th qtr 16
2.1 Implementing Optimal Form (#4); 2 Workshops												
2.1 Deliverables: Summary report on outcomes and input received at workshops; 'Implementation priorities' for 'Ultimate Build Out' of Future Land Use Plan												
2.2 Development Leadership Retreat (mtg. #5)												
2.2.1 Consideration of Standards & Procedures												
2.2.1 Deliverables: Summary on the retreat; summary of standards & procedures.												
2.3 Refining the Community Vision, Goals, & Strategies into Specifications												
2.3.1 Refine Vision & Themes												
2.3.2 Develop Goals & Strategies												
2.3.3 Draft District Purpose Statements for FBC/UDO												
2.3 Deliverables: Summary on Land Development Committee meetings 6-8; draft district purpose statements.												
2.4 Develop Action Plan												
2.4 Deliverable: Action Plan for Implementation												
2.5 Develop Preliminary Draft FBC/UDO & Map												

Deliverable: Preliminary Draft										◆			
PHASE 3 – UDO PRESENTATION, REVIEW, AND ADOPTION													
3.1	Present Drafts of the Comprehensive UDO and Official Zoning Map in Joint Meeting of Land Development Committee, Planning Board & Town Board of Commissioners											■	
Deliverable: First Final Draft for Review												◆	
3.1.1	Present 1st final draft to the Planning Board											▲	
3.1.2	Present 2nd final draft to the Town Board of Commissioners (Public hearing & additional meeting)											■	
Deliverables: Final version of Comprehensive FBC/UDO with new Official Zoning Map, and related documents in all required formats.													◆

KEY TO TIMELINES

- ● Land Development Committee Meeting
- ■ Workshop
- ▲ Planning Board Meeting
- ◆ Deliverable(s)
- ★ Town Board of Commissioners Meeting

FEE PROPOSAL

Compensation for the services proposed herein above shall not exceed One Hundred Sixty-Seven Thousand and no/100's ($167,000.00) dollars. Compensation is inclusive of personnel costs including but not limited to salary, benefits, taxes, professional development & certifications, communications, travel, and management costs. Costs (not consulting fees) associated with community based meetings including, but not limited to, printing/reproduction of documents, advertising, shall be either borne directly by the Town or, if expended by consultant, reimbursed at an agreed upon cost basis plus administrative mark-up.

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Patti Rader, Manager

Estimated Hours for Each Task

Phase 1	R. Flowe	Bennett	Duston	Fankhauser	D. Flowe
Task 1.1	40				8
Task 1.2	24			24	
Task 1.3	8	8	8	8	
Task 1.4	16	16			
Task 1.5	32	32			
Task 1.6	40	96	24	24	

Phase 2	R. Flowe	Bennett	Duston	Fankhauser	D. Flowe
Task 2.1	32	32	32	32	
Task 2.2	16	16	8	16	
Task 2.3	40	32	16	16	
Task 2.4	32	32	16	16	
Task 2.5	160	16	32	32	48

Phase 3	R. Flowe	Bennett	Duston	Fankhauser	D. Flowe
Task 3.1	32	16	8	8	8
TOTALS	472	296	144	176	64

ATTACHMENT 'A' – RESUME OF PRINCIPAL AUTHOR PROPOSED

F. Richard Flowe, AICP, CFM, Principal

Education

Engineering Technology (transferred) – Piedmont Technical College
BS – Lander University
Masters of City and Regional Planning – Clemson University

Credentials, Affiliations & Awards

American Institute of Certified Planners (Certification #5380)
North Carolina Association of Floodplain Managers (Certification #NC-14-0560)
Recipient of the 1985 AICP National Student Project of the year Award – Allendale , SC

Experience and Employment

1974 – 1983: Davis & Floyd – Surveyor, Draftsman, Engineering Technician, Planning Technician
1984 – 1986: Texidyne – Director of Civil Engineering, Infrastructure Planner, Project Manager
1986 – 2001: Benchmark (Founder) – Principal Planner, President
2002 – Today: N·Focus Planning & Design (Founder) – Principal Planner, President

North Carolina Municipalities

Asheville
Annexations
Boiling Springs
CDBG Infrastructure Grant
Brevard
Annexations
China Grove
Planning Board Training
Board of Appeals Training
Annexations
Dir. Town Planning Dept.
Author Zoning Ordinance w/Map
Zoning Ordinance Amend.
Claremont
Annexation
Clemmons
Annexation
Columbus
CDBG Infrastructure Grant
Cooleemee
CDBG Infrastructure Grant
Creedmoor
Director of City Planning
Author Unified Development Ordinance (UDO) w/Map
Land Use Plan Updates
Author Comprehensive Plan
Coordinate $9.4m C.I.P.
Eden
CDBG Infrastructure Grant
East Spencer
Planning Board Training
Board of Appeals Training
Author Zoning Ordinance w/Map
Annexations
Administer Town Planning
Forest City
Downtown Master Plan
Havelock
Annexation
Huntersville
Annexations
Recruit Planning Dir.
Indian Trail
Annexation
Expert Testimony (annex.)
Jonesville
CDBG Infrastructure Grant
Kannapolis
Establish Planning Department
Planning Board Training
Board of Appeals Training
Author Zoning Ordinance w/Map
Annexations
Expert Testimony (annex.)
Dir. City Planning Dept.
Zoning Ordinance Amend.
Commercial Property Maint. Code (1st in NC)
Kings Mountain
Annexations
CDBG Infrastructure Grant
Kinston

Administer City Planning Dept.
FEMA Disaster Relief

Lexington
Annexations
CDBG Infrastructure Grant

Liberty
CDBG Infrastructure Grant

Madison
CDBG Infrastructure Grant

Maggie Valley
Annexation

Marshville
Author Comprehensive Land Use & Master Plan
Author Unified Development Ordinance (UDO) w/Map

Mayodan
CDBG Infrastructure Grant

Mebane
CDBG Infrastructure Grant

Midland
Director of Town Planning
Author Unified Development Ordinance (UDO) w/Map
Land Use Plan Updates
Author Comprehensive Plan
$5.5M CIP Project
TCC Alternate

Milton
CDBG Infrastructure Grant
Annexation

Mocksville
CDBG Infrastructure Grant

Mount Airy
Recruit Planning Dir.

Newton
Annexation

Norwood
Annexation
CDBG Infrastructure Grant

Peachland
CDBG Infrastructure Grant

Polkton
CDBG Infrastructure Grant

Reidsville
CDBG Infrastructure Grant

Spencer
Planning Board Training
Board of Appeals Training
Director - Town Planning
Zoning Ordinance Amend.

Stallings
Administer Town Planning
Annexation
Expert Testimony (annex.)

Thomasville
Annexations
Expert Testimony (annex.)
CDBG Infrastructure Grant

Tryon
Annexation
CDBG Infrastructure Grant

Wadesboro
Annexation
CDBG Infrastructure Grant

Waxhaw
Establish Local Planning Bd.
Establish Planning Depart.
Establish Board of Appeals
Land Development Plan
Author Zoning Ordinance w/Map

North Carolina Counties

Alamance
CDBG Infrastructure Grant

Anson
ED grants to extend sewer to two municipalities

Cabarrus
CDBG Infrastructure Grant

Davie
CDBG Infrastructure Grant

Gaston
Lead Land Use Plan by staff

Rockingham
CDBG Infrastructure Grant

South Carolina Municipalities

Anderson
Comprehensive Storm Drainage Study

Columbia
Director - City Planning
Co-Author UDO (w/Julie. Fields, Esq.) w/Map

Greenville
West End Area Plan
Reedy River Plan
SCN Plaza Plan

Laurens
Author Zoning Ordinance
Expert Testimony (zoning)

Salem
FHA Water System Loan
CDBG Econ. Dev. Water Line

Seneca
CDBG ED Sewer Grant

Walhalla
CDBG ED Sewer Grant
Municipal Parking Plan

South Carolina Counties

Oconee
CDBG ED Sewer Grant

Richland
Dir. - Co. Planning Dept.

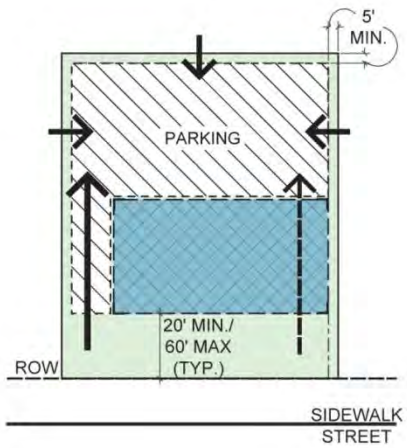
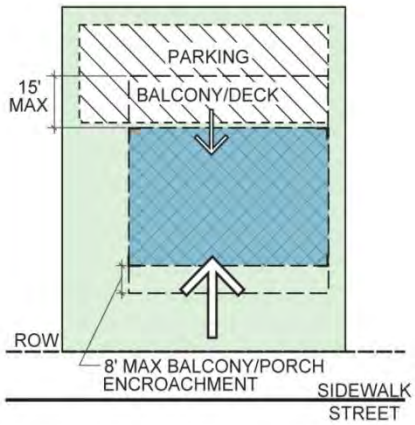
Professional References – F. Richard Flowe, AICP, CFM, Principal

Mike Legg, City Manager	City of Kannapolis, NC	704-920-4309
Brian Hiatt, City Manager	City of Concord, NC	704-920-5215
Thomas Mercer, City Manager	City of Creedmoor, NC	919-764-1008
Douglas Paris, Town Administrator	Town of Midland, NC	704-888-2232
David Pugh, Town Manager	Town of Cramerton, NC	704-824-4337
Fern Shubert, Town Manager	Town of Marshville, NC	704-624-2515
Michael Harvey, Planning Super.	Orange County, NC	919-245-2597
Daryl Moss, Mayor	City of Creedmoor, NC	919-349-5443
Kathy Kitts, Mayor	Town of Midland, NC	704-425-0729

ATTACHMENT 'B' – GRAPHIC ILLUSTRATION EXAMPLES

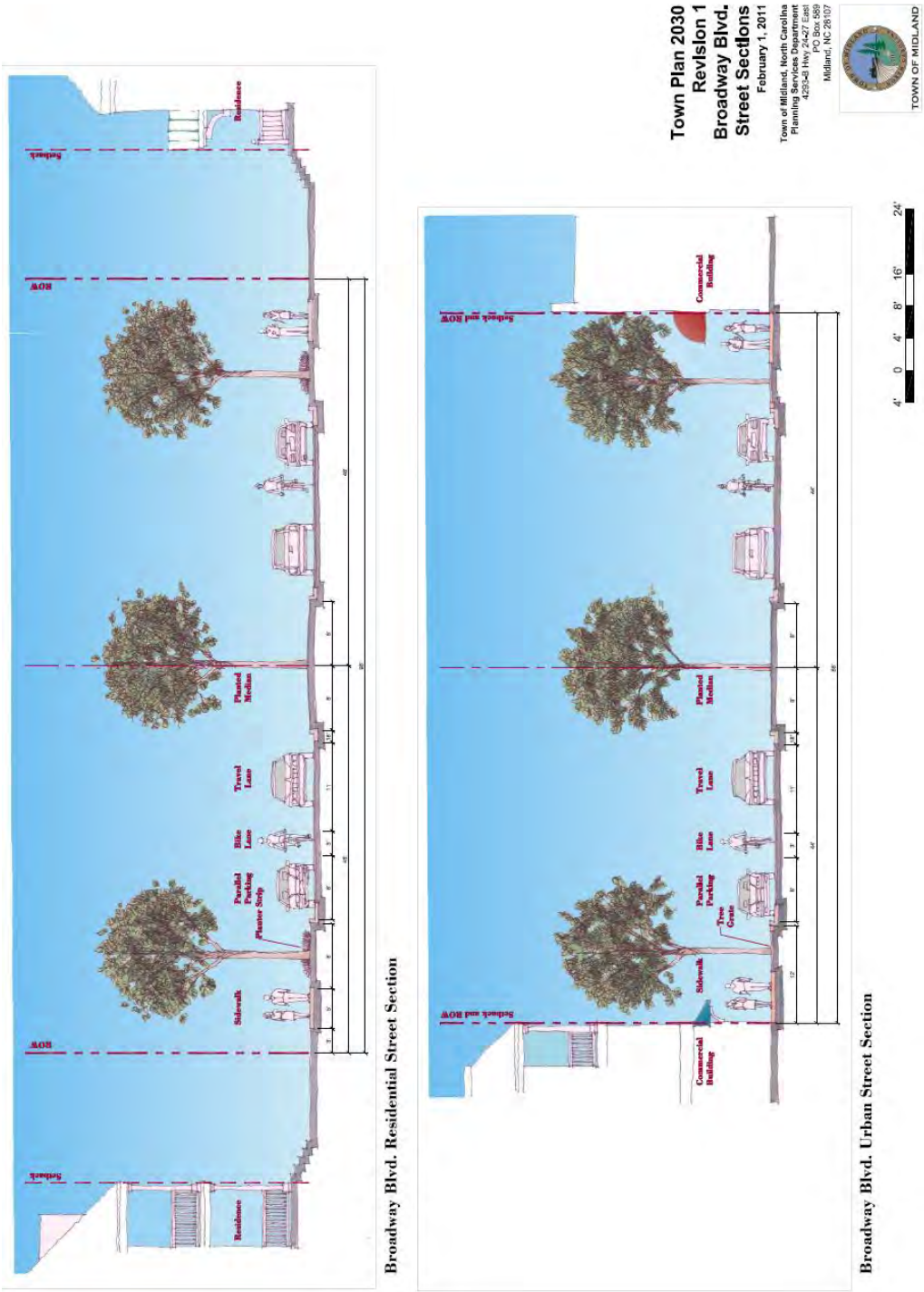
N·Focus Planning uses both graphic sketches and actual photographs to aid people in consistently interpreting UDO standards and to clarify examples of buildings, signs, parking areas and landscapes. The following examples of graphic standards are only a small sample of those appearing in a typical FBC/UDO. Please note these samples are from adopted ordinances within North Carolina and do not reflect any proposed or recommended graphics for the Town of Waxhaw. ***All illustrations assembled for the Waxhaw UDO will be designed to represent locally adopted preferences.***

Example of "Multi-Family Lot Type Standards" appearing in a FBC/UDO "Building & Lot Type" standards section for higher density development.

Building Placement/Parking/Vehicle Access	Encroachment/Pedestrian Access
	

"Big Box" building image with that specific jurisdiction's acceptable massing composition to support FBC/UDO standards.

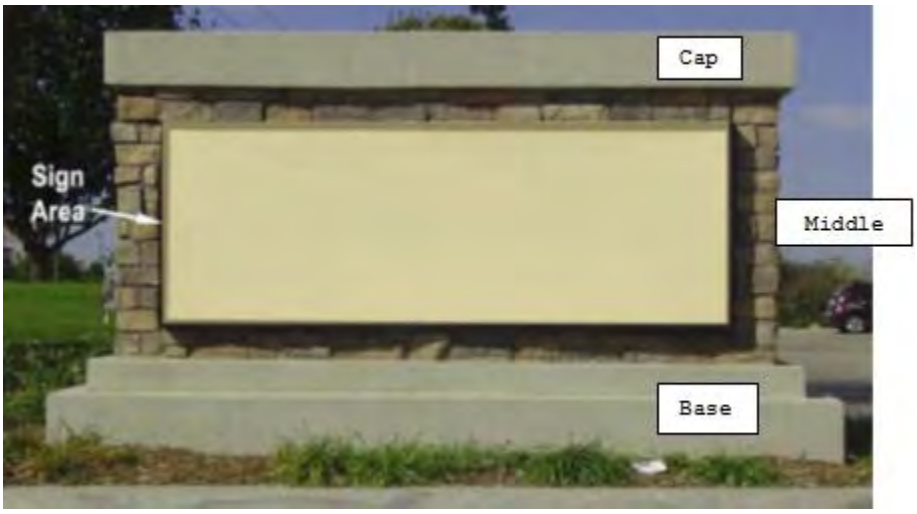
Sample "Streetscape Cross-sections" as used for clearly defining specific UDO Overlay district standards for customized collector streets.



Broadway Blvd. Residential Street Section

Broadway Blvd. Urban Street Section

"Monument Sign Design Elements" as used in a UDO to clearly identify signage components subject to standards and limitations.



"Tree Planting Techniques" as used in a UDO to clearly illustrate standards for street tree and landscape area tree planting.

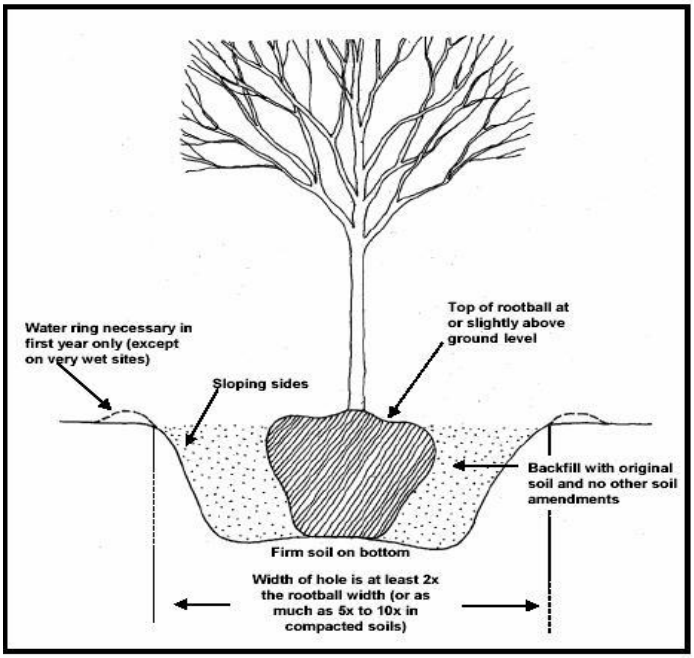
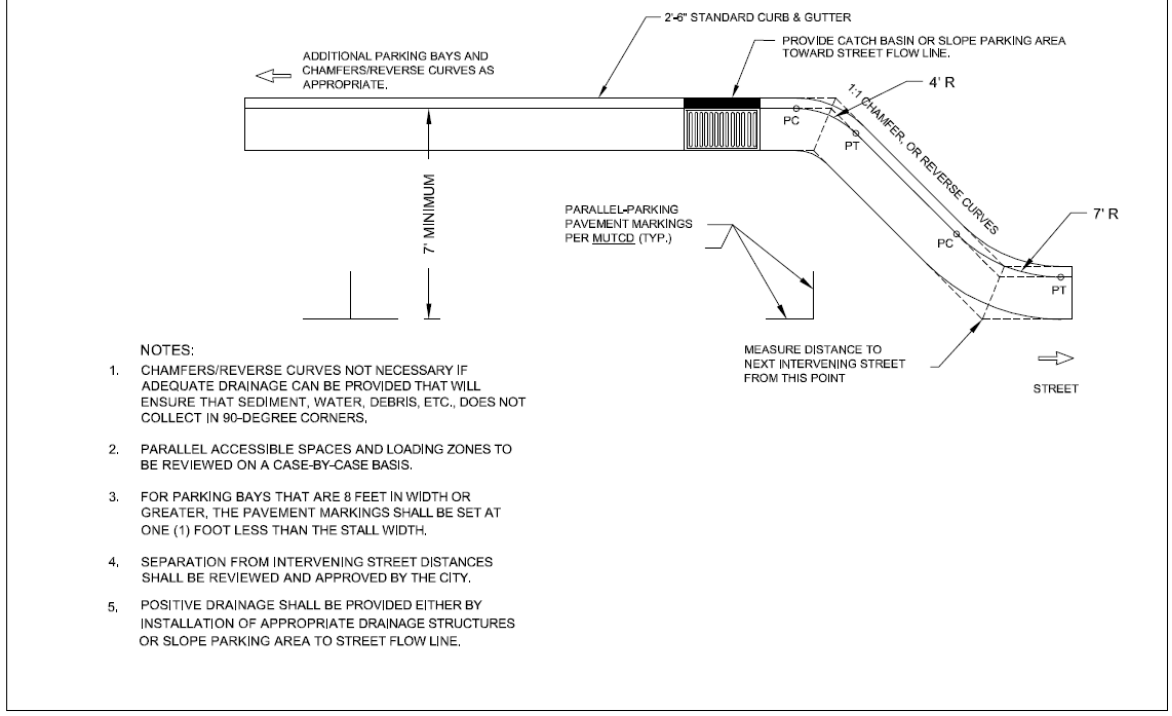


Figure 2. Recommended Tree Planting Method

"Technical Standards and Specifications Manual" excerpt as used in support of a UDO to clearly detail forming curb and guttering in streetscape standards.



NOTES:

1. CHAMFERS/REVERSE CURVES NOT NECESSARY IF ADEQUATE DRAINAGE CAN BE PROVIDED THAT WILL ENSURE THAT SEDIMENT, WATER, DEBRIS, ETC., DOES NOT COLLECT IN 90-DEGREE CORNERS.
2. PARALLEL ACCESSIBLE SPACES AND LOADING ZONES TO BE REVIEWED ON A CASE-BY-CASE BASIS.
3. FOR PARKING BAYS THAT ARE 8 FEET IN WIDTH OR GREATER, THE PAVEMENT MARKINGS SHALL BE SET AT ONE (1) FOOT LESS THAN THE STALL WIDTH.
4. SEPARATION FROM INTERVENING STREET DISTANCES SHALL BE REVIEWED AND APPROVED BY THE CITY.
5. POSITIVE DRAINAGE SHALL BE PROVIDED EITHER BY INSTALLATION OF APPROPRIATE DRAINAGE STRUCTURES OR SLOPE PARKING AREA TO STREET FLOW LINE.

CITY OF CREEDMOOR, NC	PARALLEL PARKING STANDARDS	STD 2.02	REVISIONS			
			NO	DATE	BY	COMMENT

ARTICLE 1

PURPOSE AND AUTHORITY

1.1 Short Title

This Ordinance shall be known and may be cited as the "Creedmoor Development Ordinance."

1.2 Enactment and Repeal

1.2-1 Enactment. This Ordinance is hereby enacted and shall be the Land Development Ordinance for the City of Creedmoor, hereinafter "the City" and the areas within its extraterritorial jurisdiction. This ordinance supersedes "Chapter 154: Zoning", "Chapter 153: Subdivisions", "Chapter 155: Stormwater Management" and "Chapter 152: Flood Damage Prevention", each of which is hereby repealed.

ADOPTED this the 26th day of JUNE, 2012.

Mayor

City Clerk

CITY OF CREEDMOOR, N.C. OFFICIAL SEAL 1905

1.2-2 Effective Date. This Ordinance shall become effective on July 1, 2012.

1.3 Purpose

1.3-1 General Purpose. It is the purpose of this Ordinance to promote the health, safety, and the general welfare of the residents of the City of Creedmoor and its extraterritorial jurisdiction through the stated regulations of this Ordinance which include provisions to regulate zoning, cluster development, planned unit developments, manufactured housing, development of subdivisions, signs, off-street parking and loading, planting yards, watershed protection, and flood damage prevention.

1.3-2 Implementation of Land Use and Comprehensive Master Plans. This Ordinance shall be used to implement the "2021 Plan - Comprehensive Development Plan", adopted October 23, 2001, including subsequent amendments, and the "City Plan 2030 – Land Use and Comprehensive Master Plan", adopted May 14, 2012 including subsequent amendments adopted by the City Board of Commissioners of the City of Creedmoor. See Section 1.5.

1.4 Guiding Principles

The guiding principles reflected in this ordinance are those stated in the "2021 Plan - Comprehensive Development Plan", adopted October 23, 2001, including subsequent

amendments, and the "City Plan 2030 – Land Use and Comprehensive Master Plan", adopted May 14, 2012 including subsequent amendments adopted by the City Board of Commissioners of the City of Creedmoor. These principles are:

(A.) Ensure that Creedmoor's development policies are conducive to the long-term vision for the future and adequately control the location and appearance of future development;

(B.) Improve the effectiveness of City government and achieve greater autonomy through the fostering of greater coordination and consensus among City officials, governing boards, and citizens on development decisions;

(C.) Enhance existing City services and add new services and programs to allow for future development in designated areas and to ensure that all citizens have access to essential services;

(D.) Encourage the establishment of a City tourism program and coordinate with local tourist attractions to create a regional tourism destination center;

(E.) Develop new recreational and cultural facilities, programs, and events that accommodate a variety of uses and appeal to both City residents and visitors; and,

(F.) Preserve and protect areas of historic significance and natural countryside throughout the Creedmoor area.

1.5 Relationship to Land Use and Comprehensive Master Plans

The administration, enforcement, and amendment of the Creedmoor Development Ordinance shall be carried out consistently with plans and documents comprising the "2021 Plan - Comprehensive Development Plan", adopted October 23, 2001, including subsequent amendments, and the "City Plan 2030 – Land Use and Comprehensive Master Plan", adopted May 14, 2012 including subsequent amendments adopted by the City Board of Commissioners of the City of Creedmoor. New planning documents or small area plans adopted by the City Board of Commissioners are automatically incorporated into this Ordinance. See Section 1.3-2.

1.6 Jurisdiction

The provisions of this Ordinance shall apply to all the territory encompassed in the City of Creedmoor, North Carolina, and its extraterritorial jurisdiction as now or hereafter fixed, as depicted on the City's Official Zoning Map on file at the Creedmoor City Hall. This map is hereby incorporated and made a part of this ordinance. This Ordinance shall govern the

development and use of all land and structures within the City and its area of extraterritorial jurisdiction as provided for by Article 19 Planning and Regulation of Development, of GS 160A Cities and Towns.

1.7 Authority

This ordinance is adopted pursuant to portions of one or more of the following authorities in NCGS: Chapter 160A (Cities and Towns), Chapter 113A (Pollution Control and Environment), Chapter 121 (Environmental Controls), Chapter 133 (Public Works), and Chapter 136 (Roads and Highways). This Ordinance may be amended from time to time as required or allowed by subsequent legislative enactments.

1.8 Conflict or Inconsistency with Other Laws, Covenants, Deed Restrictions, or Agreements

1.8-1 Relation of this Ordinance to Other Regulations. This Ordinance is not intended to abrogate any other law, ordinance, or regulation. However, where conditions, standards, or requirements imposed by any provision of this Ordinance are either more restrictive or less restrictive than standards imposed by any other law, ordinance or regulation, the provisions which are more restrictive or which impose higher standards or requirements shall govern. In cases where reference is made to the North Carolina General Statutes, or any provision thereof, said reference shall be to the current language of said statute or provision. Whenever a process is prescribed by this Ordinance, and said process contains requirements in addition to those prescribed by state law, the process prescribed in this Ordinance shall be deemed supplemental; state law shall control.

1.8-2 Conflicting Provisions of this Ordinance. In the event of any conflict between the limitations, requirements, or standards contained in different provisions of this Ordinance in applying them to an individual use or structure, the more restrictive provision shall apply. However, the regulations for overlay districts set forth in Article 8 of this Ordinance shall control in the event of any conflict between those regulations and regulations which are set forth in Article 8 of this Ordinance for the underlying district. In the event of a conflict or inconsistency between the text of this Ordinance and any caption, figure, illustration, or map contained herein, the text shall control.

1.8-3 Conflicts with Covenants, Deed Restrictions, etc. This Ordinance is not intended to abrogate any easement, covenant, or other private agreement. However, where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than such easement, covenant, or other private agreement, then the requirements of this Ordinance shall govern.

1.8-4 Effect on Existing Agreements. This Ordinance is not intended to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, vested rights, or permits previously adopted or issued pursuant to law.

1.9 Severability

If any section or specific provision or standard of this ordinance or any regulating district boundary arising from it is found by a court to be invalid or unenforceable for any reason, the decision of the court shall not affect the validity or enforceability of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

Should any section or provision of this ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect, impair, or invalidate the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

1.10 Interpretation of Ordinance

1.10-1 Minimum Requirements; Greater Restrictions Govern. In the interpretation and application of this Ordinance, all provisions shall be considered to be minimum requirements. If any federal or state law or other ordinance or regulation allows lesser regulation, this Ordinance shall govern so that, in all cases, the more restrictive limitation or requirement shall govern. Whenever regulations imposed by this Ordinance are less restrictive than regulations imposed by any governmental authority, the regulations imposed by that authority shall govern.

1.11 Rules of Construction

1.11-1 Word Interpretation.

(A.) Words not defined in this Ordinance shall be given their ordinary and common meaning.

(B.) Words used in the present tense include the future tense.

(C.) 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.

(D.) Words used in the male gender include the female gender.

(E.) The words "shall," "will," and "must" are mandatory in nature implying an obligation

or duty to comply with the particular provision.

(F.) Any act authorized by this Ordinance to be carried out by a specific official of the City is, by implication, authorized to be carried out by a designee of that official.

1.11-2 Relationship of this Ordinance to Any Pending Action. The adoption of this Ordinance shall not affect any action, suit, notice of violation, citation, or proceeding that may be pending at the date this ordinance becomes effective. All rights and liabilities that have been received or created and any violation that has occurred under any previous provisions of the Code of Ordinances of the City of Creedmoor that have been superseded by this Ordinance are still valid and may be preserved and enforced.

1.12 Compliance

No building, premises, or structure shall be constructed, erected, modified, converted, occupied, placed, maintained or moved, and no land use shall be commenced, maintained, or modified except as authorized by this Ordinance.

No applicable permit shall be issued or granted that does not conform to the requirements of this Ordinance. Developments that have received staff approval, Enforcement Officer approval, or a building permit before the effective date of this Ordinance may proceed in accordance with such approval or permit while such approval or permit remains in effect.

1.13 Establishment of Official Zoning Map

1.13-1 Official Zoning Map. The City, and its extraterritorial jurisdiction as now or hereafter fixed, is hereby divided into zones, or districts, as established in Article 8 (Zoning Districts) and as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map is on file with the City Clerk and the *Planning, Zoning and Subdivision Administrator* at the Creedmoor City Hall.

1.13-2 Map Certification and Changes. The Official Zoning Map shall be attested by the City Clerk and shall bear the seal of the City together with the effective date of the adoption of this Ordinance. If changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map.

1.14 Interpretation of District Boundaries

1.14-1 Boundary Interpretation. Where uncertainty exists as to the boundaries of any district shown on the Official Zoning Map, the following rules shall apply in the interpretation of area boundaries and the location of lines shown on the map:

(A.) Centerline: Where a boundary line lies within and follows a street or *alley* right-of-

way, a railroad right-of-way, or utility easement, the boundary shall be construed to be in the center of such street or *alley* right-of-way, railroad right-of-way, or utility easement. If such a street or *alley* right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is *abandoned* or removed from dedication, the district boundaries shall be construed as following the centerline of the *abandoned* or vacated road bed or utility easement.

(B.) Lot Line: Boundaries indicated as approximately following lot lines shall be construed as following such lot lines. In the event that a district boundary line divides a lot or tract, each part of the lot or tract so divided shall be used in conformity with the regulations established by this Ordinance for the district in which said part is located. Split zoning of lots should be avoided to the extent possible, with zoning boundaries following lot lines where feasible.

(C.) City Limits: Boundaries indicated as approximately following the City limits or extraterritorial boundary lines of the City of Creedmoor shall be construed as following the City limits or extraterritorial boundary lines.

(D.) Watercourses: Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines and shall be construed to reflect the naturally occurring changes to the location of the watercourse which may occur over time.

(E.) Extensions: Boundaries indicated as parallel to or extensions of street or *alley* rights-of-way, channelized waterways, railroad rights-of-way, utility easements, lot lines, City limits, county lines, or extraterritorial boundaries shall be so construed.

(F.) Scaling: In a case where a district boundary does not coincide with any boundary lines as above and no distances are described by specific ordinance; the boundary shall be determined by the use of the scale appearing on the map. In the case of Flood Hazard Area, Corps of Engineering work maps, if available, shall be used for scaling.

(G.) Other: Where the actual location of existing physical or natural features vary with those shown on the Official Zoning Map, or in other circumstances not addressed in this section, the Planning Board shall have the authority to interpret the district boundaries.

1.15 State of Emergency

These rules may be temporarily suspended during federal disaster "state of emergency" declarations by the Executive Office of the President and/or Federal Emergency Management Administration (FEMA) and/or during "Imminent Threat Alert" declared by the U.S. Department of Homeland Security by resolution adopted by the Board of

Commissioners during a regular, continued, special or emergency meeting of the Board of Commissioners. The *Planning, Zoning and Subdivision Administrator* may suspend the application of all or part of these rules during a state of emergency declared either by the Governor of the State of North Carolina, or by the Mayor of the City of Creedmoor.

Upon the conclusion, lifting, and/or resending of the declared "state of emergency" by the authorized federal and/or state official, these rules are reinstated without further action by the City and shall be in full force and effect.

ARTICLE 2

GENERAL PROVISIONS

2.1 General Requirements

Upon the adoption of this Ordinance, no structure shall be erected nor use established in conflict with:

(A.) the district regulations of Article 8;

(B.) the building and lot regulations of Article 9;

(C.) the street regulations of Article 13,

(D.) the off-street parking regulations of Article 12,

(E.) the landscape regulations of Article 11,

(F.) the open space regulations of Article 21,

(G.) the general provisions of Article 2, or

(H.) the sign regulations of Article 17.

2.2 Street Frontage Required

Any lot on which a building (or buildings) is to be erected or use is to be established shall abut a public street with the following exceptions:

(A.) Any lot for which a residential use has been legally established prior to the effective date of this Ordinance provided the lot is served by a private and exclusive recorded easement of at least 15 feet in width connecting said lot to a public street, may be used as if it abutted a street, provided that it is served by a driveway located on said easement. A driveway accessible by emergency equipment must be located on said easement. Lots created under these provisions shall be known as "easement-access lots."

(B.) Any lot for which a non-residential use has been legally established prior to the effective date of this Ordinance, provided the lot is served by a private, exclusive recorded easement of at least 15 feet in width connecting said lot to a public street, may be construed in the same manner as a lot abutting a street provided that it is served with a driveway built to appropriate standards located on the permanent, recorded easement.

(C.) Up to four (4) residential lots may be served by a private street meeting the standards

for private streets set forth in the City of Creedmoor Technical Standards and Specifications Manual.

(D.) A site specific development plan may be considered for approval in the Main Street (MS) District, Main Street Periphery (MSP) District, residential Main Street Transitional (R/MST) District, Traditional Neighborhood Development Overlay (TNDO) District, or Mini-Farm Overlay (MFO) District where residential and/or non-residential lots and/or structures front upon a private courtyard, carriageway, mid-block private alleyway with courtyard, or pedestrian way, or urban open space as defined in Article 3, where adequate access by emergency vehicles is maintained by way of a street or *alley* and where the off-street placement of uses does not diminish the orientation of building fronts to the public street.

(E.) A site-specific development plan may be considered for approval in the Main Street (MS) District, Main Street Periphery (MSP) District, Commercial US Highway 15 (C 15) District, Commercial NC Highway 56 (C 56) District, Civic (CIV) District, or Industrial (IND) District to permit interior lot access by private drives so long as business and emergency access is furnished to all interior building sites and proposed buildings at the perimeter of the development front upon a public street or are buffered in accordance with this Ordinance. Non-residential subdivisions should be primarily served by public streets and use of private drives should be minimal. Private drives may be appropriate where property configuration or environmental constraints make their use a practical alternative. Private drives serving uses in the Main Street (MS) District, Main Street Periphery (MSP) District, Commercial US Highway 15 (C 15) District, Commercial NC Highway 56 (C 56) District, Civic (CIV) District, or Industrial (IND) District shall be constructed in accordance with the standards for commercial streets as found in the City of Creedmoor Standards and Specifications Manual and sidewalks shall be provided on at least one side of the private drive.

(F.) To access a lot or lots in the Main Street (MS) District, Main Street Periphery (MSP) District, Commercial US Highway 15 (C 15) District, Commercial NC Highway 56 (C 56) District, Civic (CIV) District, or Industrial (IND) District, where factors beyond developer control, such as a "limited access" highway along the divided cross-sections, an existing development, or the location of an existing intersection, prohibit completing a street connection, a private drive may be substituted for the interior street which cannot be connected to the public network.

2.3 One Principal Building on a Lot; Exceptions

Only one principal building and its customary *accessory building*(s) may be erected on any lot, except that multiple buildings which, taken together, compose a single principal use may be erected on a single lot as permitted by the district regulations and described

by building and lot type.

2.4 Lot Size

No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in size such that the requirements for building and lot type cannot be met, or the standards for spacing of structures and street frontage cannot be respected. This prohibition shall not be construed to prevent the purchase, dedication, or condemnation of narrow strips of land for public utilities and/or street and/or sidewalk right-of-way purposes.

2.5 Lot Width

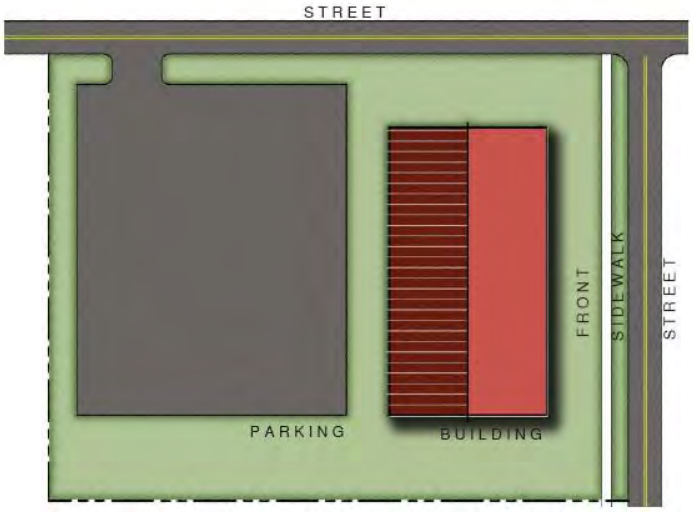
The required width of a lot, as set forth in Article 8 of this Ordinance, shall be measured at the required front setback line.

2.6 Yard Designation

2.6-1 Lots Abutting More Than One Street. On lots that abut more than one street, the building and lot shall generally front upon the more pedestrian oriented street, given the arrangement of existing and proposed streets and drives, and the orientation of buildings on adjoining lots.

LOTS ABUTTING MORE THAN ONE STREET

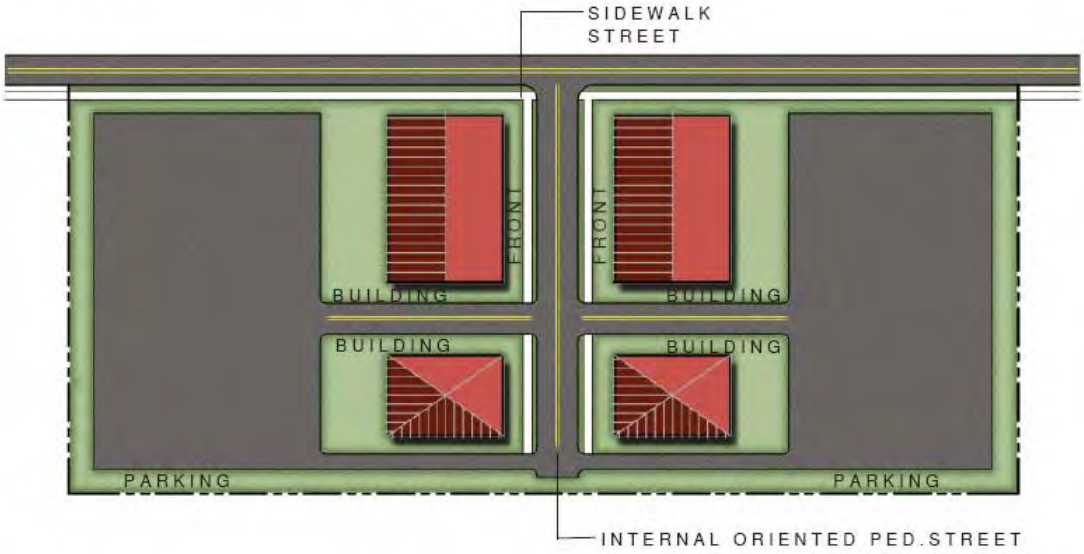
One Building Lot



2.6-2 Multiple Buildings on a Lot. Where multiple buildings are permitted on a single platted lot, each building shall generally front upon a pedestrian oriented street, external or internal to the development; side and rear yard designations shall be

determined on the basis of building orientation.

Multiple Buildings on a Lot



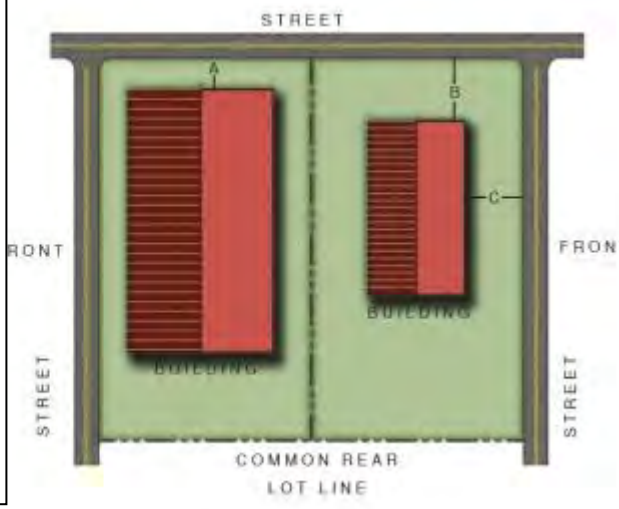
2.6-3 Irregularly Shaped Lots. On irregularly shaped lots, the location of required front, side, and rear yards will be determined by the *Planning, Zoning and Subdivision Administrator*. The determination will be based on the spirit and intent of this Ordinance to achieve an appropriate spacing of buildings and orientation to the street(s).

2.7 Yard Dimensions for Corner Lots

2.7-1 Two Corner Lots Abutting at Rear. If two corner lots are separated by a common rear lot line, the common side yards of the lots on the street must be at least 50 percent of the greater of the two front setbacks, existing or required.

Two corner lots abutting:

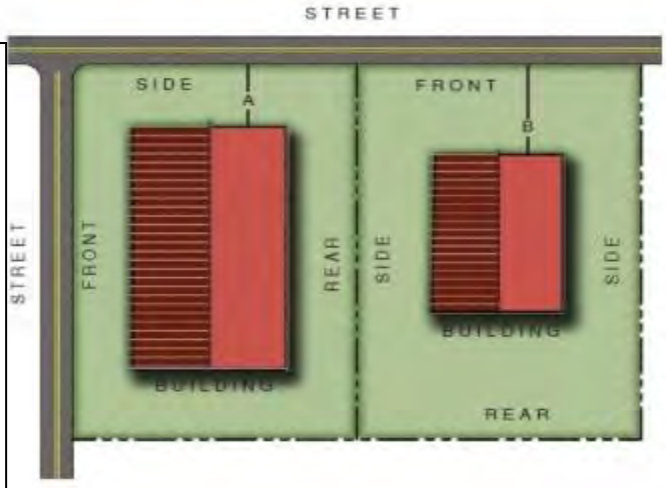
Common side yards on the street (A & B) must be at least 50% of the greater of the two front setbacks (C)



2.7-2 Side Lot Line a Continuation of Adjacent Lot Front Lot Line. In any district, where the side lot line of a corner lot is substantially a continuation of the front lot line of the lot to its rear, the required side yard of the corner lot shall (a) be at least 50 percent of the established front setback of the adjacent lot or (b) establish a transition between existing buildings by stepping toward the street or back from the street a distance equal to the lesser building setback + one-half of the difference between the setbacks of the adjoining buildings.

Side Lot Line a Continuation of Adjacent Front Lot Line:

Side-yard setback of a corner lot (A) shall be at least 50% of established set-back of adjacent lot (B)



2.7-3 Buildings on Corner Lots. Buildings on corner lots shall be positioned on the corner as required by the building and lot type standards for the zoning district in which the lot is located.

2.8 Through Lots

If both the front and rear yards of a lot abut public streets, then the rear building line shall respect the alignment of buildings on the back street while the front building line shall respect the alignment of buildings on the fronting street.

2.9 Height Limitation

2.9-1 Building Type Controls. The height of habitable buildings and components is controlled by building type (see Article 9).

2.9-2 Building Components Exceeding Height Limitation. Structures and structural components not intended for human occupancy (including towers, steeples, flagpoles, chimneys, water tanks or similar structures) may exceed the height limit of buildings. Components of civic buildings which extend above the height limit shall follow the standards for the civic building type (see Article 9). When adjacent to a lot

or lots located in a residential district, any part of a non-civic structure that extends above the height limit must be separated from the residential lot by a distance equal to its height measured from the ground.

2.9-3 Exceptions to Height Limitation. The height limitations of this section shall not apply to public utility poles and lines, skylights, and roof structures for elevators, stairways, tanks, heating, ventilation and air-conditioning equipment, or similar equipment for the operation and maintenance of a building, and any device used to screen such structures and equipment.

2.9-4 Height of Communication Towers. Commercial communication towers, where permitted, may exceed the height limit for structures when the standards for these towers, as set forth in Article 10, are met.

2.10 Structures and Uses Limited in Yards

2.10-1 No Principal Structure in Setback. No principal building or structure shall be located within any required setback or yard, forward of the build-to line for a principle structure, within any setback or yard established by a recorded plat, nor in any required buffer or screen.

2.10-2 No Accessory Structure in Setback. Except as otherwise provided in this article, no accessory structure shall be located within an established setback or required side yard, nor within five (5) feet of a side or rear lot line. Where permitted, accessory dwellings may be located no closer than four (4) feet to the right-of-way or easement of an abutting mid-block *alley*, nor closer than five (5) feet to an abutting rear property line. Fences, walls, security gates, paths, walkways, mailboxes, utility poles, lighting fixtures, patios at grade, and similar features may be located in an established setback or required yard, so long as the sight triangle on corner lots is protected according to the provisions of section 2.11 of this Ordinance. If the accessory structure exceeds the height of the principal structure, it must meet the minimum side yard setback and be at least 15 feet from the rear lot line.

2.10-3 Fences. Fences may be located in any yard, established or required, according to the standards of section 2.13-2 of this Ordinance except that fences extending within the minimum required front yard shall be of decorative material either concealing or in lieu of wire fencing (strand or fabric) when located within any residential, Main Street (MS) District, Main Street Periphery (MSP) District, Traditional Neighborhood Development Overlay (TNDO) District, or Mini-Farm Overlay (MFO) District.

2.10-4 Signs. Signs may be located in an established front setback or a side-yard abutting a public street as permitted by the provisions of Article 17, Sign Regulations.

2.10-5 Transit Shelters. Transit shelters may be located in any setback or yard which abuts a street provided the sight triangle on corner lots is protected according to the

provisions of section 2.11 of this Ordinance.

2.10-6 Off-street Parking. Off-street parking areas, maneuvering areas for parking, and loading areas are prohibited in the established front building setback, which shall be landscaped, in any established side yard abutting a street, which shall be landscaped, and in any required buffer or screen. This restriction shall not apply to:

(A.) a driveway which crosses a front yard to provide access from the street to a parking area;

(B.) an individual driveway, including conventional appurtenances thereto such as basketball goals, designed to also serve as a parking area for a detached or duplex dwelling;

(C.) plazas associated with civic buildings that have been designed and approved for occasional use as secondary parking areas;

(D.) the frontage along a City street for which a specific streetscape plan and section have been adopted by the City Board to include limited parking and access in a series of fronting yards;

(E.) maneuvering areas for loading or delivery activities in the established setbacks and yards of buildings in non-residential zoning districts where the location of buildings that were legally constructed without the provision of these areas preclude them from being located out of established setbacks and yards. Maneuvering areas for parking, loading, or delivery activities are prohibited in the public right-of-way in residential and commercial districts.

2.10-7 Outdoor Storage. Neither outdoor storage of goods and materials or refuse containers shall be located in any established setback or established side yard abutting a street, nor in any required buffer or screen, except for the temporary placement of refuse for scheduled curb side collection.

2.10-8 Architectural Features. Notwithstanding other provisions of this section, architectural features such as cornices, eaves, bays, *awning*s, steps, gutters, and fire escapes may project up to three (3) feet into an established or required yard; additional encroachment is permitted for certain building and lot types established in Article 10.

2.10-9 Subordinate Structures. Subordinate structures attached to single family homes, such as decks, garages, porches, utility rooms, and similar features may extend into the required rear yard up to 25% of the rear yard's depth, and may consume up to 20% of the rear yard's area. Attached rear loading garages accessed from rear *alley*s may extend into the required rear yard to within eighteen (18) feet of the *alley* right-of-way or easement; however, side loading garages accessed from rear *alley*s may extend into the required rear yard to within three (3) feet of the *alley* right-of-way or

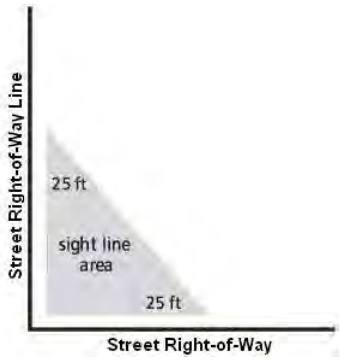
easement, and may consume up to 50% of the rear yard's area. Such extensions may not exceed 50% of the width of the dwelling at the rear building line except in attached residential structures.

2.10-10 Backflow Preventers. Above ground backflow preventers are expressly prohibited in the established front yards of buildings where underground backflow preventers or a location outside of the established front yard is technically feasible according to the standards and requirements of Creedmoor Public Works Department. Where there is no reasonable alternative to locating an above ground backflow preventer in the established front yard, the structure housing the device shall be covered in a non-reflective material and shall be surrounded, on all sides visible from public streets and abutting properties, by a landscaped opaque screen that matches that architectural style of the primary building.

2.11 Clear Sight Triangle at Street Intersection

2.11-1 Sight Triangle Required. Unless provided otherwise, a clear view at each corner of an intersection shall be maintained by establishing an unobstructed "sight triangle". The extent of the required sight triangle varies according to the speed limit of streets forming the intersection. For streets signed for greater than 35 MPH, the area to be clear of view obstructions at un-signalized intersections is the triangular area formed by the point of intersection of street right-of-way lines and a point located along each right-of-way line at a distance of 35 feet from the point of intersection. For intersecting streets signed for 35 MPH or less, the area to be clear of view obstructions at un-signalized intersections is the triangular area formed by the point of intersection of street right-of-way lines and a point located along each right-of-way line at a distance of 25 feet from the point of intersection.

Site Triangle Illustration for Streets Signed for 35 MPH or less:



2.11-2 No Obstruction in Sight Triangle. No planting, structure, sign, fence, wall, manmade berm, or other obstruction to vision shall be installed, constructed, set out, or maintained so as to obstruct cross-visibility in the sight triangle between 30 inches

and 96 inches above the level of the center of the street intersection.

2.11-3 Modifications to Limitations. The limitations of this section may be modified in the instances noted below, so long as adequate visibility is maintained relative to intended speed limit:

(A.) existing natural grades;

(B.) trees trimmed such that no limbs or foliage extend into the area between 30 and 96 inches above the level of the adjacent intersection;

(C.) fire hydrants, public utility poles, street markers, government signs, electrical junction boxes, and traffic control devices;

(D.) buildings located in the Main Street (MS) District, Main Street Periphery (MSP) District, or the mixed-use center of the Traditional Neighborhood Overlay (TNDO) District;

(E.) the approved and intentional use of traffic calming techniques to reduce speed; these include, but are not limited to: a series of hill crests, neck-downs, intersection diverters, and curb bulbs.

2.12 Building Separation

All detached principal structures in all districts shall preserve a minimum building separation of 10 feet, except for Urban Workplace, Shop-front Commercial, and Attached House Lot/Building Types in the Main Street (MS) District, Main Street Periphery (MSP) District, or the mixed-use center of the Traditional Neighborhood Overlay (TNDO) District. All detached accessory structures in all districts shall maintain a minimum building separation of 4 feet, as measured from the overhang.

2.13 Permitted Accessory Uses and Fixtures in All Districts

2.13-1 *Accessory use*s and Structures. *Accessory use*s and structures that are clearly related to and incidental to the permitted principal use or structure on the lot.

2.13-2 Fences and Walls.

(A.) A zoning permit issued by the *Planning, Zoning and Subdivision Administrator* shall be required for all fences and walls. The process for obtaining a zoning permit is set forth in Article 7 of this Ordinance.

(B.) In a residential, mixed use, or commercial district, a fence or wall in the established front yard, side yard, and rear yard of a building abutting a street shall be a maximum of 5 feet in height, unless otherwise regulated by the building or lot type standards (Article 9) of this Ordinance. Fences along interior side property lines in a residential,

mixed use, or commercial district shall not exceed 5 feet in height in front of a line parallel to the front of the principal structure on the lot. Decorative caps or spires that extend above the highest horizontal member of the fence shall not be included in the measurement of height. Chain link, welded wire, or similar fencing materials, if used, shall be placed on the interior side of a masonry wall, solid wood fence, or decorative wood or vinyl fence that is equal to or greater in height than the secure fencing and demonstrates effective screening capability. (For example, a 4' high welded wire fence attached to the interior of a decorative split rail fence or board farm fence of equal height or greater would perform to the standards of this section).

(C.) In a residential or mixed use district, a fence or wall in an established rear yard that abuts an *alley* may not exceed 6 feet in height unless placed 15 or more feet inside property boundary. Within the first 15 feet, fences of chain link or similar material are permitted only if screened on the exterior side by evergreen shrubs planted no farther apart than 6 feet on center, minimum height 3 feet at installation, or if obscured from view by the screening method(s) set out in the paragraph immediately above.

(D.) In a residential or mixed use district, a fence or wall in an established rear or side yard that does not abut a street or *alley* may not exceed 8 feet in height, measured as the average over any 100 linear foot run of said fence or wall.

(E.) In a commercial district, a fence or wall located outside the established front yard, side yard, and rear yard of a building abutting a street may have a height of up to 8 feet, measured as the average over any 100 linear foot run of said fence or wall. Fences of chain link or similar material are permitted in the first 15 feet of an established yard abutting a street or *alley* only if placed on the interior side of a masonry wall or solid wood fence and planted with a semi-opaque vegetative screen between wall or fence and street or *alley*. Beyond the first 15 feet abutting a street or *alley*, such materials may be used if screened on the exterior side by evergreen shrubs planted no farther apart than 6 feet on center, minimum height 2½ feet at installation, or if obscured from view by other screening method(s) which perform at the same or a higher level and are approved by the *Planning, Zoning and Subdivision Administrator*.

(F.) In a commercial or industrial district where the side or rear yard abuts a residential or mixed-use district, chain link, welded wire, or similar fencing materials, if used, shall be placed on the interior side of a masonry wall, solid wood fence, or decorative wood fence that is equal to or greater in height than the secure fencing and demonstrates effective screening capability. Additionally, a semi-opaque vegetative screen shall be required on the exterior side of the fence.

(G.) Fences shall not be erected over easements such as, but not limited to, access easements, utility easements, drainage easements, or any other public easement, without the explicit approval of the Public Works and Planning Departments. If fences or other barriers are allowed to cross such easements, the Public Works Engineer may require the installer or landowner to install gates or other access points per standards and specifications set by the Public Works Engineer to ensure access to such easements in the future as necessary and to minimize damage to private property.

2.13-3 Parking Lots. For parking lots as principal or *accessory use*s, the landscape and buffering standards of Article 11 shall control.

2.13-4 On-site Land clearing and Inert Debris (LCID) Landfill.

(A.) Any on-site LCID landfill must obtain a permit from and comply with the standards of the City of Creedmoor, Granville County and the State of North Carolina.

(B.) Any such landfill must be closed in an approved fashion within six months of completion of construction or within 12 months of cessation of construction, if the development project has not been completed.

(C.) The location of any such landfill must be indicated on the sketch site development plan and the final site development plan. Further, any parcel or lot which contains any part of any such landfill must have notification of the existence and extent of the landfill recorded as part of the deed for the lot or parcel.

(D.) No portion of any such landfill may be located within 35 feet of any property line which constitutes the external boundary of the project. This includes structures, equipment storage, parking areas and fill areas, except that access drives may cross this area.

(E.) A surety bond or irrevocable letter of credit in an amount to be determined by the consulting engineer must be provided to ensure that any active landfill area will be closed in an approved fashion. The amount of the bond will be based upon the maximum acreage expected to be in use at any given time.

2.13-5 Petroleum Storage. Petroleum storage, accessory to a permitted principal use or building, shall comply with the Fire Prevention Code of the National Board of Fire Underwriters.

2.13-6 Temporary Construction-Related Uses. Temporary buildings and storage of materials, provided the use is in conjunction with the construction of a building on the same lot or on an adjacent lot; the temporary uses shall be terminated upon completion of construction.

2.13-7 Swimming Pools. Swimming pools located on any site, including single family residential sites, shall be:

(A.) Located in a side or rear yard only;

(B.) Located a minimum of fifteen feet from any property line;

(C.) Completely enclosed by a fence or wall no less than four feet but no more than eight feet, in accordance with the provisions of sub-section 2.13-2 Fences and Walls herein, in height above grade as measured on the side of the fence or wall which faces away from the swimming pool. This fence or wall shall enclose the pool itself and may include any other additional portions of the lot. All fence or wall openings into the pool area shall be equipped with a gate that opens outward away from the pool and shall be self-closing and have a self-latching device.

2.13-8 Solar Collectors. *(Amended May 27, 2014 per Ord. 2014-O-03)* Solar energy collection systems for solar photovoltaic systems and solar thermal systems may be roof-mounted on any code-compliant structure; ground-mounted systems may occupy an area of up to 50% of the footprint of the primary structure on the parcel, but not more than 1 acre; may cover permanent parking lot and other hardscape areas, or be building integrated solar (i.e., shingle, hanging solar, canopy, etc.).

(A.) New solar energy collection systems shall apply for a zoning compliance permit from the Planning, Zoning & Subdivision Administrator;

(B.) Installation activities must comply with all aspects of North Carolina Building Code, Electric Code and Plumbing Code. Permits shall be applied for through the City of Creedmoor Inspections Department;

(C.) Nothing in this ordinance modifies already established Granville County Health Department requirements. Ground-mounted solar systems shall not be constructed over onsite water or waste water systems (i.e. wells or septic systems);

(D.) Standard erosion and sedimentation control, stormwater phase II, Falls Lake and watershed rules shall apply;

(1.) Ground-mounted solar energy collection systems do not count towards the impervious allowance on any lot. Panels, racks, or arrays must be positioned to allow water to run off their surfaces.

(2.) Land under, between or below any ground-mounted solar energy collection system must be adequate enough to ensure proper vegetative growth, and maintained consistent with all health and sanitation ordinances, and shall not create a nuisance.

(E.) All outdoor system components at ground level must meet setbacks established for the applicable zoning district, and must be located in the rear yard, or attached to the rear of the building;

(F.) Maximum height of ground-mounted systems is twenty (20') feet. The height of systems will be measured from the highest natural grade to the highest point of any component.

2.14 Standards for Construction; Developer Responsibility

Where standards and responsibility for infrastructure construction, including but not limited to streets, sidewalks, and landscaping, are specified in this Ordinance or other Ordinances of the City of Creedmoor, those standards shall control. Where standards are not specified, construction shall be in conformance with the standards set forth in the City of Creedmoor Technical Standards and Specifications Manual.

2.15 Guarantee in Lieu of Construction of Improvements

2.15-1 Provision of Guarantee. In lieu of completion of construction of the required improvements, including but not limited to streets, sidewalks, landscaping, parking, and utilities, prior to issuance of a Certificate of Completion, the property owner or developer may:

(A.) Submit to the City a performance bond from a corporate surety, licensed in North Carolina to execute such bonds and having a "Superior or Excellent" rating by Standard & Poor, Moody's, Fitch, or A.M. Best; or

(B.) Provide an irrevocable letter of credit payable to the City of Creedmoor; or

(C.) Deposit or place in escrow a certified check or cash in an amount determined by the City. Portions of the security deposit may be released as work progresses; or

(D.) Enter into an agreement with the City guaranteeing the completion of the required work, the agreement to be binding on subsequent purchasers of the property and to be recorded at the option of the City. The agreement shall provide that satisfactory security be furnished guaranteeing the completion of the required improvements.

The performance bond, irrevocable letter of credit, certified check, or cash shall be in an amount equal to a minimum of 120% of the project costs and not to exceed 150% of the estimated cost of the installation of the required improvements, as determined by the City. The performance bond, irrevocable letter of credit, certified check, or cash shall secure the completion of construction of the improvements shown on the approved site development plan. The performance bond, irrevocable letter of credit, certified check, or cash shall remain in full force and effect until such time as the construction of

improvements and installation of utilities are completed and accepted by the City of Creedmoor. Failure to maintain the performance bond or irrevocable letter of credit in full face value shall result in the revocation of the approval of the site development plan and any permits issued as a result of the site development plan approval. Only upon completion of an infrastructure phase may a partial release of funds be approved by the Planning, Zoning and Subdivision Administrator. The performance bond or irrevocable letter of credit shall be automatically renewed unless all parties agree not to renew it at least sixty (60) days prior to its scheduled expiration date.

2.15-2 Construction Easement. The City of Creedmoor, in its sole discretion, may require a temporary construction easement permitting the City of Creedmoor or its designee(s) to access the property for the purpose of constructing/installing the guaranteed improvements. Such an instrument shall be provided with the performance bond, irrevocable letter of credit, or other form of guaranty. The temporary construction easement shall be valid until all guaranteed improvements have been constructed/installed and approved or accepted by the City. The temporary construction easement shall pass to all successive owners until the guaranteed improvements have been constructed/installed and approved or accepted by the City and shall be recorded in the office of the Granville County Register of Deeds with recording fees to be paid by the applicant/landowner.

2.15-3 Failure to Perform. Failure to initiate construction of the improvements within one year of the date the performance bond, irrevocable letter of credit, certified check, or cash escrow agreement was accepted by the City of Creedmoor may result in the City constructing the improvements, with the cost to be paid from the performance bond, irrevocable letter of credit, certified check, or cash escrow account. The surety or the financial institution holding the escrow account shall, if requested by the City pay all or any portion of the performance bond, irrevocable letter of credit, certified check, or cash escrow fund to the City up to the amount needed to complete the improvements based on an estimate by the City, including associated costs to administer and implement the completion of the guaranteed improvements. The City at its discretion may spend such portion of said funds as deemed necessary to complete all or any portion of the required improvements. The City shall return to the property owner/developer any funds not spent in completing the improvements. Default on a project does not release the developer from responsibility for the completion of the improvements. The City may release a portion or all of any security posted as the improvements are completed and approved by the City. In the event that the amount of the performance bond, irrevocable letter of credit, certified check, or cash escrow account on hand is insufficient to pay for the completion of the improvements, the property owner shall pay to the City of Creedmoor the total amount of the insufficiency. If the City is not paid, the amount of the insufficiency shall constitute a

lien on the property in favor of the City. The provisions of this section shall not invalidate any and all requirements for the guaranteed improvements to be covered by warranty or other form of security against material and workmanship deficiencies.

2.16 Regulation of Nuisances

2.16-1 Noise. No use shall be operated so as to generate recurring noises that are unreasonably loud, cause injury, or create a nuisance to any person of ordinary sensitivities. No nonresidential use shall be operated so as to generate any noise in an adjacent residential or mixed-use district, as detected in that district without instruments, that is louder than the noise which could be generally expected from uses permitted in that district.

2.16-2 Fumes and Odors. No use shall emit fumes, gasses, or odors in concentrations or amounts that cause injury or create a nuisance to any person of ordinary sensitivities on another property.

2.16-3 Vibration. No use shall be operated so as to generate inherent or recurring ground vibrations detectable at the property line without instruments.

2.17 General Standards for Driveway Permitting

2.17-1 Driveway Permit Required. No driveway or other point of access to a street maintained by either the City of Creedmoor or the North Carolina Department of Transportation shall be constructed, relocated, or altered unless a driveway permit or other approval is obtained from either the City of Creedmoor or the North Carolina Department of Transportation. The applicant shall comply with the standards for driveways established by the North Carolina Department of Transportation. All driveway plans shall be reviewed by the City of Creedmoor prior to construction of the driveway. All driveways shall be paved surfaces within the public right-of-way.

2.17-2 Projects Composed of Multiple Buildings and Lots. For development projects composed of multiple buildings and lots, access to the predevelopment existing public street system shall be determined by the location of proposed intersecting streets. No parcel of land which is a functional part of the overall development, even though it may be removed by the developer from the rest of the project area by subdivision or by metes and bounds description, shall be permitted to have driveway access to the public streets bounding the project area without first having secured the approval in sub-section 2.17-1 Driveway Permit Required above.

2.17-3 Access to Subdivision Lots. In a residential major subdivision, access to individual lots from streets constructed as part of the subdivision shall be reviewed and approved at the time each building permit is issued.

2.17-4 Location and Design of Access. Determination of the location and design of access

to the public street system shall be made by the *Planning, Zoning and Subdivision Administrator, Public Works Engineer* and other regulatory and professional reviewers based on a contextual examination of the site, surrounding development, potential traffic generated on the site, current and future surface transportation system needs, special polices that might exist for the corridor being accessed, and/or state of the practice principles for access management as promulgated by the Institute of Transportation Engineers and the Transportation Research Board.

2.18 Special Requirements for Lots along Thoroughfares

2.18-1 Authorization. Pursuant to North Carolina General Statutes 160A-306 and 153A-326 (which state that cities and counties shall have authority to (1) classify all or a portion of the streets within their jurisdictions according to their size, present and anticipated traffic load, and other characteristics relevant to the achievement of the purposes of this section, and (2) establish by Ordinance minimum distances that buildings and other permanent structures or improvements constructed along each class or type of street shall be set back from the right-of-way line or the center line of an existing or proposed street) the following requirements shall apply.

2.18-2 Minimum Setbacks along Thoroughfares. The build-to or set back line for any lot which abuts a thoroughfare classified on the CAMPO 2035 Long Range Transportation Plan shall be measured from the right-of-way line outlined in the table below (Table 2.18-2) if existing right-of-way is of lesser width. The Proposed Right-Of-Way Line established for each classification of thoroughfare is as follows.

Table 2.18-2

Thoroughfare Classification	Distance from Thoroughfare Centerline to "Proposed Right-of-Way Line"
Freeway or Expressway (Class I)	125 feet
Limited Access Arterial (Class II)	100 feet
Commercial Arterial (Class III-C)	50 feet
Major Arterial (Class III)	37.5 feet
Minor Arterial (Class IV)	30 feet

2.18-3 Transitional Setback for Lots along Thoroughfares. A transitional setback or yard shall be established for each lot which abuts a thoroughfare that has an existing right-of-way which is not as wide as the Proposed Right-of-Way Line established for that thoroughfare. The transitional setback or yard area established for lots abutting thoroughfares can be used for any purpose allowed by the particular zoning district, except for those permanent uses which are prohibited in the established setbacks or yards. At the time that the Proposed Right-of-Way Line is dedicated or otherwise acquired for roadway purposes, the property owner shall be responsible for the removal of any uses from the transitional setback or yard that are not otherwise permitted in the yard by the district regulations. The property owner shall have one (1) year from the date of right-of-way acquisition to remove any such uses.

2.18-4 Exceptions. The standards herein prescribing setback from the proposed right-of-way line will not apply to any development for which a preliminary subdivision plan or a conditional zoning district site plan has been approved prior to the effective date of regulations requiring setback from proposed right-of-way lines along thoroughfares. Nor shall they apply to structures in the Main Street (MS) District, Main Street Periphery (MSP) District, or mixed-use center in a TND Overlay District.

2.18-5 Right To Appeal. An affected property owner shall have the right to appeal transitional yard or setback requirements to the *Board of Adjustment* for variance or modification as they apply to a particular piece of property. The *Board of Adjustment* may vary or modify these requirements upon a showing that:

(A.) The peculiar nature of the property results in practical difficulties or unnecessary hardships that impede carrying out the strict letter of the requirements, and

(B.) The property will not be put to reasonable use unless relief is granted, and

(C.) Balancing the public interest in enforcing the setback requirements and the interest of the owner, the grant of relief is required by considerations of justice and equity.

In granting relief, the *Board of Adjustment* may impose reasonable and appropriate conditions and safeguards to protect the interests of neighboring properties. The *Board of Adjustment*'s decision shall be subject to review by the superior court by proceedings in the nature of certiorari in accordance with N.C.G.S. 160A-388 (e).

2.19 Standards for Residential Garages and Parking in Residential Districts

2.19-1 Front Loading Garages on Narrow Lots. On *Lots of Record* greater than 50 feet in width, but less than 100 feet in width, established on or after January 1, 2008, front loading garages shall be recessed at least 3.5 feet behind the primary plane of the front facade of the structure. Exception to this provision applies to front loading garages with individual doors no greater than twelve feet (12') in width; however, if multiple doors are utilized, the doors shall be off-set a minimum of eight (8") inches for or aft of one another.

2.19-2 Exception for Single Family Detached Dwellings with 1100 Square Feet or Less of Heated Space. Single bay front loading garages may be built flush with, but may not project in front of, the primary plane of the front facade of the structure; double bay front loading garages shall be recessed at least 7.5 feet behind the primary plane of the front facade of the structure.

2.19-3 *Alley* Access for Narrow Lots. On lots 50 feet or less in width, *alley* access is required if on-site parking is provided except as provided below.

2.19-4 Front or Side Entry Garages on Narrow Lots. On lots 50 feet or less in width, attached and detached single-family homes may be permitted to have front or side entry garages if the following conditions are met.

(A.) The arrangement of permanent structural elements of the unit must provide side view screening of a single or double bay front-loading garage. An example of permanent structural screening would be an elevated porch or stoop with steps to ground.

(B.) The finished floor elevation must meet or exceed a height of 36" above grade to qualify under this paragraph. However, this requirement may be waived on projects with an average block cross-slope greater than 5% as measured from the existing ground elevation at the proposed street centerline to the existing ground elevation at the proposed rear lot line.

(C.) For attached single-family homes, the garages may not abut one another.

(D.) Single or double bay side-loading garages shall be permitted for the end unit of an

attached house provided the garage is recessed at least 1.5 feet behind the primary plane of the structure.

(E.) A double bay front-loaded garage will be permitted only if the average block cross slope is greater than 5% as defined in section 2.19-4(B) and the garage is recessed at least 5.5 feet behind the primary plane of the structure, the garage has two single bay width doors, and the garage width is less than the width of the remaining portion of the front façade of the dwelling.

2.19-5 Parking on Residential Streets. Parking shall be allowed along all residential streets except along *alley*s, designated bike lanes, within eight (8) feet of a driveway apron, within 15 linear feet of a fire hydrant, and areas specifically signed for no parking.

2.19-6 No Parking in Right-of-Way. In no case shall on-site residential parking extend into the public right of way, or into an easement for a public sidewalk on private property.

2.19-7 On-Street Parking Meeting Residential Parking Requirement. On-street parking at the lot front may be counted toward all or part of the parking requirement of a dwelling unit provided the standards of sub-section 2.19-5 above are satisfied.

2.19-8 Location of Detached Garages. Detached garages may only be placed in the established rear or side yard. Garages exceeding 24' deep x 36' wide in gross area must be detached and located in the established rear yard or be attached to the dwelling and side or rear loading. Detached garages in the side yard must be set back at least 10 feet behind the front plane of the principal residential use.

2.19-9 Storage of Vehicles on Street. Vehicles shall not be parked on the street for extended periods such that they appear to be stored on the street. The *Planning, Zoning and Subdivision Administrator*, at his/her discretion, may require removal of vehicles that appear to be stored on the street in the interest of protecting the public safety and welfare.

2.19-10 Parking of Commercial Vehicles. Vehicles used primarily for commercial purposes and with more than two axles are prohibited from parking on streets, in driveways, or on private property in residential districts. This shall not be construed as preventing the temporary parking of delivery trucks, moving vans, and similar vehicles which deliver goods or services.

2.19-11 Parking of Unlicensed Vehicles. Provisions for parking unlicensed vehicles in residentially zoned districts shall be as follows.

(A.) No more than two (2) motor vehicles that do not have a current, valid license plate and are not fully enclosed in a permanent structure shall be permitted outside on any premises, provided such vehicles are registered to the occupant of the premises or immediate family member of the occupant as the record title of the vehicle.

(B.) No unlicensed motor vehicle shall be permitted outside of any premises (i.e., on the street).

(C.) Vehicles described in paragraphs (A) and (B) are not permitted to be located within any established setback or any established side yards which abut a street or any required side yards as mandated by these regulations or any street right-of-way. If stored in the rear yard, the vehicle(s) must be a minimum of five (5) feet off the rear property line.

(D.) Vehicles described in paragraphs (A) and (B) are not permitted on vacant or undeveloped parcels.

(E.) Vehicles described in paragraphs (A) and (B) are not permitted on public streets or public right of way.

2.20 Sidewalks For New Development and Expansion/Improvement of Existing Development

2.20-1 Sidewalks Required. Sidewalks shall be required along new and existing streets, in accordance with the provisions of Sub-section 13.2-3, fronting the following new development and expansions of and improvements to existing development.

(A.) All new commercial development.

(B.) Expansions to an existing commercial development or use where the gross floor area of the expansion is equal to or greater than 50% of the gross floor area of the pre-expansion development or use.

(C.) Improvements to an existing commercial development or use when the cost of the improvement is equal to or greater than 50% of the value of the existing development (building) or use as determined by the Granville County Tax Office.

(D.) All residential development with two (2) or more residential units, except in accordance with Sub-section 13.2-3.

(E.) One single family home on a single lot when the lot being developed is adjacent to a lot on which an existing sidewalk is located and the construction of a sidewalk on the lot being developed would be a logical extension of the pedestrian network.

2.20-2 Sidewalks Along New Streets. Sidewalks shall be required along both sides of new streets, except streets in the Agriculture (AG) District, where sidewalks are not required on the new street.

2.20-3 Sidewalks Along *Alleys*. Sidewalks shall not be required along *alleys*.

2.20-4 Standards for Sidewalks. Sidewalks shall comply with the design and construction

standards set forth in the City of Creedmoor Technical Standards and Specifications Manual.

2.21 Anti-Monotony Standards

2.21-1 Applicability.

(A.) No building permit shall be issued for any new home that has been determined to be similar in appearance to any home near the proposed home in accordance with the review criteria in Sub-section 2.21-3 below.

(B.) The following homes or projects shall be exempt from the provisions of this section.

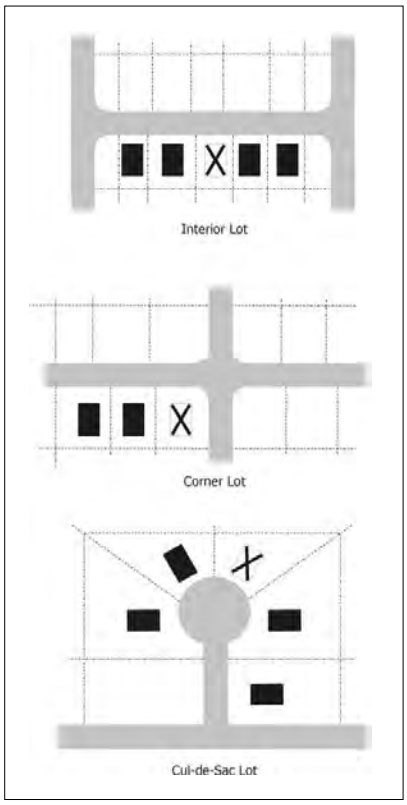
(1.) Any subdivision with lots of one acre or more;

(2.) Any home for which a building permit was approved before January 1, 2008, including a home being remodeled, reconstructed or replaced after damage by fire, windstorm or other casualty; and

(3.) Any multifamily units, including apartments.

2.21-2 Lots to be reviewed.

(A.) Differences shall be reviewed for two lots on either side of the proposed home on the same side of the street.



(B.) Where lots are interrupted by an intervening street, parkland or similar feature of at least 50 feet in width, no review shall be necessary.

(C.) The proposed home shall be considered different from any vacant lot for which no building permit has been issued without requiring further documentation.

2.21-3 Review criteria.

(A.) In determining whether a proposed home is similar in appearance, both of the following requirements shall be met.

(1.) At least one of the following elements of the proposed home must differ from each existing or permitted home (see Figure 5-1):

(a.) Number of stories;

(b.) Garage location;

(c.) Articulation of front façade.

(2.) At least one of the following roof elements must differ from each existing or permitted home (see Figure 5-1):

(a.) Color of roof;

(b.) Pitch of roof;

(c.) Roof material (shingle, metal, terra cotta, etc.).

2.21-4 Review procedure.

(A.) Applicant shall provide a copy of the Covenants, Conditions and Restrictions for the proposed subdivision as part of the preliminary plat review process. The Covenants, Conditions and Restrictions shall incorporate the standards established in this section related to anti-monotony within the documents required by Sub-section 16.1-11.

(B.) A subdivision or phase of a subdivision shall be reviewed as a whole for conformity with this requirement, provided that adequate documentation to ensure conformity is submitted with the plat. Such documentation is not required to be recorded as part of the plat.

(C.) The City shall review the submitted documentation and make a determination. Where the City finds that a home for which a building permit is being requested is similar in appearance based on the standards above, the permit shall be denied.

ARTICLE 3

DEFINITIONS

Words and terms defined for the purpose of use in this Ordinance appear in italics from time to time to assist with identifying such words and terms with special definitions. Italic fonts are for convenience and do not limit the application of the definition. Words and/or terms specifically defined herein and not appearing in italic font shall also have the meaning ascribed herein. The following words and terms shall have the meaning ascribed to them below.

ABANDONED. Not occupied or in use for 60 or more consecutive days.

ACCESSORY BUILDING. A detached subordinate building, the use of which is incidental to that of the principal building and located on the same lot.

ACCESSORY DWELLING UNIT. A dwelling that exists either as part of a principal dwelling or as an *accessory building* that is secondary and incidental to the use of the property as single family residential.

ACCESSORY USE. A use incidental to and customarily associated with a specific principal use, located on the same lot or parcel.

ACTIVE RECREATIONAL ELEMENTS. Parks, playgrounds, *athletic field*s, basketball or tennis courts, swimming pools, clubhouses, covered decks or pavilions, constructed picnic facilities.

ADAPTIVE REUSE. The conversion of an existing building built for one use to another use, typically to address some aspect of physical or functional obsolescence.

ADDITION (TO AN EXISTING BUILDING). An extension or increase in the floor area or height of a building or structure.

ADULT ESTABLISHMENT. The definition of "*adult establishment*" for purposes of this ordinance shall be consistent with Chapter 14, Article 26A of the N.C. General Statutes as currently written or hereafter amended. *Adult establishments* include adult bookstores, adult motion picture and mini motion picture theaters, adult video sales and rentals, adult live entertainment business and massage businesses as those terms are defined by G.S.14.202.10, and adult motels and adult cabarets.

"Adult motel" is defined as a hotel, motel or similar commercial establishment that:

(A.) offers accommodations to the public for any form of consideration; provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions that depict or describe "specified sexual activities," or "specified anatomical areas" as one of its principal business purposes; or

(B.) offers a sleeping room for rent for a period of time that is less than ten hours; or

(C.) allows a tenant or occupant of a sleeping room to subagent the room for a period of time that is less than ten hours.

"Adult Cabaret" is defined as a nightclub, bar, restaurant or other commercial establishment that regularly features, exhibits or displays as one of its principal business purposes:

(A.) persons who appear nude or semi-nude, or

(B.) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities," or

(C.) films, motion pictures, video cassettes, slides or other photographic reproductions which depict or describe "specified anatomical areas."

AGRICULTURAL USE. The use of land for agricultural purposes, including farming, dairying, stock watering, pasturage agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary *accessory use*s for storing the products. The term shall include incidental retail sales by the producer of products raised on the farm. Agriculture does include forest management and timber harvesting activities, provided a management plan for that activity has been prepared by a Professional Forester registered in the State of North Carolina. See definition of Forest Land.

ALLEY. A roadway which affords only a secondary means of access to abutting property.

ALONG DRAINAGE. The area parallel to and within fifty (50) feet of the drainage channel.

ALTERATION. Any change, addition, relocation, replacement, or other physical modification to a sign or sign structure other than routine maintenance or change of copy not requiring the replacement of any part of the sign face.

ANIMAL UNIT. A unit of measurement developed by the U.S. Environmental Protection Agency that is used to compare different types of animal operations.

APPEAL, FLOODPLAIN. A request for a review of the floodplain administrator's interpretation of any provision of this ordinance. (This definition applies to flood hazard regulations.)

APPEAL, ZONING. A request for a review of the *Planning, Zoning and Subdivision Administrator*'s interpretation of any provision of this land development ordinance.

APPRAISED VALUE. The value assigned to a structure by the Granville County Tax Assessor or by an MAI-certified real estate appraiser.

AREA OF SHALLOW FLOODING. A designated Zone AO on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) 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. "Area of Special Flood Hazard" see "Special Flood Hazard Area (SFHA)". (This definition applies to flood hazard regulations.)

ASSEMBLY. A joining together of completely fabricated parts to create a finished product.

ATHLETIC FIELD. Outdoor sites, often requiring equipment, designed for formal athletic competition in field sports (e.g. softball, soccer, football).

AUTO WRECKING. An activity that provides open storage, disassembling, or salvaging for more than two junked motor vehicles.

AUTOMOBILE REPAIR SERVICES, MAJOR. An establishment primarily engaged in one or more of the following activities: 1) general repair or service, 2) engine repair, 3) installation or repair of transmissions, 4) installation or repair of automotive glass, 5) installation or repair or exhaust systems, 6) repair of tops, bodies and interiors, and 7) automotive painting and refinishing.

AUTOMOTIVE REPAIR SERVICES, MINOR. An establishment primarily engaged in one or more of the following activities: 1) diagnostic service and tune-ups, 2) installation or repair of air conditioners, brakes, carburetors, electrical systems, fuel systems, generators and starters, and radiators, 3) lubricating service, and 4) front end and wheel alignment.

AWNING. A cloth, plastic, or other nonstructural covering permanently attached to a building that may be raised or retracted to a position against the building when not in use.

BALLOON, ACCENT. A small balloon (or group of small balloons) displayed at heights of less than eight feet.

BALLOON, TETHERED. A large balloon (or group of balloons of any size) intended for commercial promotion and tethered at a business location.

BAR. An establishment primarily engaged in the retail sale of beer or wine for consumption on the premises. Such establishment must obtain a ABC license for on-premise beer or wine consumption only. The establishment may also be engaged in the retail sale of prepared food for on-premise consumption.

BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides. (This definition applies only with respect to flood hazard regulations.)

BASE FLOOD ELEVATION (BFE). The elevation to which structures and uses regulated by this Ordinance are required to be elevated or flood proofed. The determination of the water surface elevations of the base flood is 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."

BASE FLOOD. The flood having a one percent chance of being equaled or exceeded in any given year (100 year flood).

BED-AND-BREAKFAST INN. A private residence that offers sleeping accommodations to lodgers in 14 or fewer rooms for rent, is the innkeeper's (owner or operator) principal residence while renting rooms to lodgers, and serves breakfasts at no extra cost to its lodgers. For the purpose of this definition, a lodger means a person who rents a room in a bed-and-breakfast inn for fewer than 30 consecutive days.

BERM, EROSION CONTROL. A mound of material and/or ditch the purpose of which is to divert the flow of run-off water.

BEST MANAGEMENT PRACTICES (BMP). Conservation practices or systems of practices and management measures that: (a) control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment; (b) minimize adverse impacts to surface water and groundwater flow, circulation patterns, and to the chemical, physical, and biological characteristics of surface water bodies and wetlands; and (c) properly manage use and storage of fertilizers/pesticides. May use a structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

BLOCK. The land lying within an area bounded on all sides by streets.

BLOCKFACE. That portion of a block or tract of land facing the same side of a single street and lying between the closest intersecting streets.

BOARD OF ADJUSTMENT. A quasi-judicial body, appointed by the City Board of Commissioners, which is given certain powers under this Ordinance.

BOARDING HOUSE. A dwelling or part thereof, in which lodging is provided by the owner or operator to more than three boarders.

BOOKSTORE, ADULT. A bookstore: 1) which receives a majority of its gross income during any calendar year from the sale of publications (including books, magazines and other periodicals) which are distinguished or characterized by their emphasis on matter depicting, describing or relating to sexual activities or anatomical area, or 2) having a preponderance of its publications, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting or relating to sexual activities or anatomical areas.

BORROW. Fill material which is required for on-site construction and is obtained from other

locations.

BREAKAWAY WALL. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

BREWPUB. A restaurant that prepares handcrafted natural beer as an *accessory use* intended for consumption on the premises.

BUFFER. An area of land planted or constructed to separate uses. Also, an area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured from the normal pool elevation of impounded structures and from the top of bank of each side of streams or river.

BUFFER EASEMENT. An easement intended to permanently maintain an area of land, including landscaping, berms, walls, fences, and building setbacks, that is located between land uses of different character and is intended to mitigate negative impacts of the more intense use on a residential or vacant parcel.

BUFFER ZONE. The strip of land adjacent to a lake or natural watercourse, the width of which is measured from the edge of the water to the nearest edge of the disturbed area, with the 25% percent of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.

BUILDABLE OR ZONING LOT. One or more lots of record in one undivided ownership with sufficient total area, sufficient area exclusive of easement, flood hazards, well and septic tank fields, total dimensions, and street access to permit construction thereon of a principal building together with its required parking and planting yards.

BUILDING. Any structure having a roof supported by walls or columns constructed or used for residence, business, industry or other public or private purposes. Also see *STRUCTURE*.

BUILDING LINE. A line perpendicular to the lot depth which establishes the horizontal distance between the structure and the front property line excluding the outermost steps, uncovered porches, gutters, and similar fixtures.

BUILDING SEPARATION. The minimum required horizontal distance between buildings.

BUILD TO LINE. An alignment establishing a specific distance from the curb line to where the principal structure shall be built.

BUILT-UPON AREA. That portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel (for pedestrian or vehicular

use), recreation facilities (e.g., tennis courts), etc. Wooden slatted decks and the water area of a swimming pool are not considered Built-Upon Area.

BYPASS. See definition of Highway.

CALIPER INCHES. Quantity in inches of the diameter of trees measured at the height of six (6) inches above the ground for trees four (4) inches in trunk diameter and twelve (12) inches above the ground for trees over four (4) inches in trunk diameter.

CANOPY. A permanent, unattached roofed structure that shelters a use or activity from the weather.

CERTIFICATE OF COMPLIANCE/OCCUPANCY. A statement, signed by the Enforcement Officer, setting forth either that a building or structure complies with the provisions of this Ordinance, or that building, structure, or parcel of land may lawfully be employed for specified uses, or both.

CHANNEL LETTERING. A sign design technique involving the installation of three-dimensional lettering against a background, typically a sign face or building façade.

Example of Channel Letting

CHANNELIZATION. Any improvements or other construction activity which occurs within or in the vicinity of an existing natural drainage-way or perennial stream which directs or relocates said waterway along some desired course, by increasing its depth or by the use of piping or any other manmade storm drainage structures.

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.

CHICANE. An artificial feature creating extra turns in a roadway, used on City streets to slow the speed of traffic, by creating a horizontal deflection causing vehicles to slow as they would for a curve.

CITY-HOUSE. Single occupancy units attached to one another in which each unit is located on an individually owned parcel, generally within a development containing drives, walks and open

areas owned in common.

CITY-HOUSE LOT. A parcel of land intended as a unit for transfer of ownership and lying underneath, or underneath and around, a city-house, patio home, or unit in nonresidential group development.

CLUSTER DEVELOPMENT. A development design technique that concentrates buildings on a portion of the site to allow the remaining land to be used for recreation, open space, or preservation of environmentally-sensitive land areas. Buildings are grouped together in order to conserve land resources and provide for innovation in the design of the project. This term includes non-residential development as well as single-family subdivisions and multi-family developments that may or may not involve the subdivision of land.

COLLECTOR STREET PLAN. A plan, adopted by the local governing body, for streets not shown on the Thoroughfare Plan and showing collector and, if appropriate, lower classification streets in the planning area.

COMMON AREA(S). All areas, including private streets, conveyed to an owners' association within a development or owned on a proportional undivided basis in a condominium development.

COMMON OPEN SPACE. Open space that is (1) owned in common and maintained by the owners of lots in a subdivision (i. e. a homeowners association), or (2) owned by a private individual or entity but managed and maintained for common use by residents, occupants or customers of the development. Common open space shall be preserved by either a conservation easement or deed of restriction.

COMPLETED. Work has progressed to the point that, in the opinion of the *Planning, Zoning and Subdivision Administrator*, it is sufficiently completed in accordance with the approved plans and specifications that the work can be utilized for its intended purposes. For permanent runoff control structures this generally means that the following have been accomplished:

(1.) The dam has been constructed to the approved lines and grades;

(2.) all slopes have been fine graded, seeded, mulched, fertilized, and tacked to establish permanent ground cover;

(3.) principal and emergency spillways have been installed at the approved elevations and dimensions; and

(4.) permanent velocity controls on the inlet and outlet pipes and channels have been installed.

COMPOSTING FACILITY. A facility in which only stumps, limbs, leaves, grass and untreated wood collected from land clearing or landscaping operations are deposited.

CONDOMINIUM. Real Estate that is developed pursuant to the North Carolina Condominium Act, North Carolina General Statute Chapter 47C.

CONGREGATE CARE FACILITY. A facility providing shelter and services for ambulatory individuals at least fifty-five (55) years of age who by reason of their age, functional impairment, or infirmity may require meals housekeeping and personal care assistance. Congregate care facilities do not include nursing homes or similar institutions devoted primarily to the care of the chronically ill or the incurable.

CONSERVATION EASEMENT. A non-possessory interest of a holder in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic, or open space values of real property, assuring its availability for agricultural, recreational, or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving historical, architectural, archaeological, or cultural aspects of real property.

CONSERVATION SUBDIVISION. A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located, in return for the provision of permanent open space.

COTTAGE DEVELOPMENT. A cluster of small detached single family residences constructed to specific design standards and arranged around common open space, generally at higher density than the underlying zoning would allow for traditional detached single family residential development.

COTTAGE HOME. A small detached single family residence constructed to specific design standards and arranged around common open space as part of a cottage development.

COUNTY. Refers to Granville County, North Carolina.

CRITICAL AREA. The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.

CRITICAL ROOT ZONE. The rooting area of a tree established to limit root disturbance, generally defined as a circle with a radius extending from a tree's trunk to the furthest point of the crown drip-line.

CUL-DE-SAC. A short local street having one end open to traffic and the other end permanently

terminated by a vehicular turnaround.

CURB BULB. An extension of the curb into the street, beyond the standard edge of the curb, which narrows the width of the roadway and is used to slow the speed of traffic on City streets. The curb bulb may be used for landscaping, pedestrian crosswalk, or for a combination of uses. Sometimes referred to as a "bulb out."

DAY CARE CENTER. A facility licensed by the State of North Carolina for the care of children or adults for periods of less than 24 hours per day.

DENSITY CREDIT. An increase in the density allowed under a zoning district. The rules governing the issuance of density bonuses vary by zoning district.

DETENTION POND. A wet or dry stormwater holding area, either natural or manmade, which filters and releases stormwater to nearby or adjoining water bodies in a gradual fashion. Also see definition of Best Management Practices.

DEVELOPER. A person engaging in development.

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.

DEVELOPMENT. (This definition applies to the Watershed Standards in Article 19). Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

DEVELOPMENT AGREEMENT. An agreement between the City of Creedmoor and a developer pursuant to NCGS §160A.400.20 for a large-scale development with a lengthy build-out period and having a public-private partnership component involving mutual financial interests.

DEVELOPMENT, DENSITY OF. The density of development shall be determined using a gross acreage system. The total area of the tract, including areas to be used for new streets, rights-of-way, drives, parking, structures, recreation areas, dedicated areas, and required setbacks shall be used for density calculations.

DISCHARGING LANDFILL. A facility with liners, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

DISPOSAL. As defined in NCGS §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 ground-waters.

DISPOSAL OF HAZARDOUS OR TOXIC SUBSTANCE(S). The destruction, discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste or toxic substance into or on any air, land, or water.

DISPOSAL FACILITY. A facility or part of a facility at which hazardous waste or toxic substance is intentionally placed into or on any land or water, and at which hazardous waste or toxic substance will remain after closure.

DIVERTER. A constructed feature designed to prevent left turns or through movements into a residential area, used as method to calm traffic on City streets.

DOMESTIC WASTEWATER DISCHARGE. The discharge of sewage, nonprocess industrial wastewater, other domestic wastewater, or any combination of these items. It includes liquid waste generated by domestic water-using fixtures and appliances from any residence, place of business, or place of public assembly even if it contains no sewage. Examples of domestic wastewater include once-through noncontact cooling water, seafood packing facility discharges, and wastewater from restaurants.

DRAINAGE, DISPERSED. Drainage spread out, as opposed to collected in channels, so as to effect increased sheet flow and overland flow.

DRAINAGE, ENHANCED. Drainage carried by existing natural drainage-ways which have been enhanced to resist soil erosion and stream bank degradation. An enhanced natural drainage-way is achieved with the installation of an engineered measure (i.e., netting, riprap) which will resist soil erosion and allow infiltration within the natural drainage-way.

DRAINAGEWAY. Any natural or man-made channel that carries surface runoff from precipitation.

DRAINAGEWAY AND OPEN SPACE AREA, DEDICATED. The area designated for floodplain and open space purposes on a recorded subdivision plat and thereby dedicated to the public for such purposes and, where approved by the City, for utilities.

DRAINAGEWAY, IMPROVED. Drainage channeled by impervious surfaces such as curb and gutter or concrete channels.

DRAINAGEWAY, PROTECTED. Drainage channeled by pervious devices such as sod waterways, berms, channels, or swales which have been stabilized with vegetation, rip-rap, or a combination of these, to resist soil erosion.

DRIPLINE. A vertical line extending from the outermost portion of a tree's canopy to the ground.

DRY DETENTION POND. A pond which collects stormwater runoff, holds the water, and releases it slowly over a period of hours or days. It does not have a permanent pool and is

sometimes referred to as a dry pond or wet weather pond.

DUPLEX. A structure having two (2) dwellings units within a single structure.

DWELLING UNIT. One or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided therein. Units in dormitories, hotels, motels, shelters for the homeless or other structures designed for transient residents are not dwelling units.

EASEMENT. A grant of one or more of the property rights, such as right of access, by the property owner to, or for use by the public, a corporation, or other entity. Storage of debris including, but not limited to, yard waste on public easements shall be unlawful and shall be handled in the same manner as nuisance violations.

ELECTRONIC GAMING OPERATION. Any business enterprise, whether as a principal or accessory use, where persons utilize electronic machines, including, but not limited to computers and gaming terminals to conduct games including but not limited to sweepstakes, lotteries, games, and/or games of chance, and where cash or 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, which have a finite pool of winners. The term includes, but is not limited to internet sweepstakes, video sweepstakes, or cybercafés. This definition does not include any lottery endorsed, approved, or sponsored by the State of North Carolina, or arcade games of skill.

ELEVATED BUILDING. A non-basement building which had 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, fills, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain. (This definition applies only with respect to flood hazard regulations.)

ENFORCEMENT, COMPLAINT-BASED. Enforcement action initiated on the basis of information provided by a third-party complainant.

ENFORCEMENT OFFICER. The City *Planning, Zoning and Subdivision Administrator* or his/her designee.

ENFORCEMENT, PROACTIVE. Enforcement action initiated at the discretion of the *Planning, Zoning and Subdivision Administrator* independent of any third-party complaint.

EQUESTRIAN USE. Paddocks, fields, stables, barns, riding ring, and other facilities provided for use by or for horses.

EROSION. The wearing away of land surface by the action of wind, water, gravity or any combination thereof.

EROSION, ACCELERATED. Any increase over the rate of natural (i.e. undisturbed by human intervention) erosion as a result of land-disturbing activities.

EXISTING DEVELOPMENT. Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning based on at least one (1) of the following criteria:

(A.) Substantial expenditure of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project; or

(B.) Having a valid outstanding building permit; or

(C.) Having an approved site specific or phased development plan in compliance with North Carolina General Statutes 153A-344.1 or North Carolina General Statutes 385.1 Regulations. (This definition applies only with respect to watershed protection regulations found in Article 19 of this Ordinance.)

EXISTING LOT (LOT OF RECORD). A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this Ordinance or a lot described by metes and bounds, the description of which has been so recorded prior to December 31, 1999.

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) was completed before the original effective date of this Ordinance.

FAMILY. One or more persons occupying a dwelling unit and living as a single household.

FAMILY CARE HOME. A home meeting the North Carolina Residential Building Code with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for six or fewer resident handicapped persons, pursuant to NCGS §168.21.

FEDERAL LAW REFERENCE. National pollutant discharge elimination system permits (applies to watershed standards only).

FENCE. A physical barrier or enclosure consisting of wood, stone, brick, block, wire, metal or similar material used as a boundary or means of protection or confinement, but not including a hedge or other vegetation.

FIXTURE, FULL CUT-OFF. An outdoor light fixture shielded in such a manner that all light emitted by the fixture, either directly from the lamp or indirectly from the fixture, is projected

below the horizontal plane as determined by photometric test or certified by the manufacturer.

FIXTURE, PARTIAL CUT-OFF. An outdoor light fixture shielded in such a manner that more than zero (0) but less than ten (10) percent of the light emitted directly from the lamp or indirectly from the fixture is projected at angles above the horizontal plane, as determined by photometric test or certified by the manufacturer.

FLOOD AND FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters or the unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD INSURANCE. The insurance coverage provided under the National Flood Insurance Program.

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 ordinance, prior to the commencement of any development activity.

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 ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purposed ordinances, and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

FLOOD INSURANCE RATE MAP (FIRM). An official map of the City of Creedmoor and its ETJ, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the City of Creedmoor and its ETJ.

FLOOD INSURANCE STUDY. The official report provided by the Federal Emergency Management Agency (FEMA). The report contains flood profiles, as well as the Flood Boundary/Floodway Map and the water surface elevation of the base flood.

FLOOD PLAIN. The relatively flat area or low land adjacent to the channel of a river, stream, or watercourse, lake, or other body of standing water, which has been or may be covered by flood water and which is susceptible to being inundated by water from any source.

FLOOD PRONE AREA. See “FLOOD PLAIN.”

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.

FLOODWAY FRINGE. The land area located between the floodway and maximum elevation subject to inundation by the base flood as defined in these Definitions.

FLOODWAY. The channel of a river or other watercourse 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.

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.

FLOOR AREA, GROSS. The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles or any space where the floor-to-ceiling height is less than six feet. Additionally, gross floor area includes areas covered by canopies and like structures under which an active use is occurring such as drive-through service, gasoline pumping, loading and/or storage of materials, and similar activities.

FLOOR. The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

FOREST LAND. Land that is a part of a forest unit that is actively engaged in the commercial growing of trees under a sound management program. Forestland includes wasteland that is a part of the forest unit, but the wasteland included in the unit must be appraised under the use-value schedules as wasteland. A forest unit may consist of more than one tract of forestland, but at least one of the tracts must meet the requirements in G.S. 105-277.3(a)(3), and each tract must be under a sound management program.

FREEBOARD. The height added to the Base Flood Elevation (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, bridge openings, and the hydrological effect of urbanization on the watershed. The Base Flood Elevation plus the freeboard establishes the "Regulatory Flood Protection Elevation."

FULLY SHIELDED LIGHTING FIXTURE. A light fixture that is shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted.

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. This definition applies only to the Flood Damage Prevention standards.

GATED COMMUNITY. A subdivision, neighborhood, or residential development to which entry is restricted to residents and their guests. Often includes barriers such as gates, security personnel, fences and/or walls.

GIFT SHOP. A retail space in which miscellaneous articles that are appropriate as gifts are sold.

GRADE. A reference plane representing the average of finished ground level adjacent to any structure.

GRADING. Any operation or occurrence by which the existing site elevations are changed, or where any ground cover, natural or man-made, is removed, or any buildings or other structures are removed, or any water course or body of water, either natural or man-made, is relocated on any site, thereby creating an unprotected area. The term "grading" is interchangeable with "land-disturbing activity."

GRADING PLAN. The graphic plan, including narrative where appropriate, required by this Ordinance as a prerequisite for a grading permit, the purpose of which is to explain existing conditions and proposed grading of land including any development and to describe the activities and measures to be undertaken to control accelerated soil erosion and sedimentation.

GRANDFATHERED. Not affected by a change in this Ordinance absent physical modification or abandonment. Buildings, land uses, and lots or parcels of property that do not meet the standards of this Ordinance but existed prior to the effective date of this Ordinance, and complied with prior ordinances, regulations, and or standards, shall not be affected by this ordinance absent physical modification or abandonment.

GRAND OPENING. A promotional activity not exceeding 30 calendar days used by newly established businesses, within 60 calendar days after initial occupancy, to inform the public of their location and services available to the community.

GREENWAY. A linear open space along either a natural corridor such as a riverfront, stream valley or ridge line, or along a railroad right-of-way converted to recreational use, a canal, scenic road, or other route managed for public use that has been designated on an officially adopted greenway plan. Greenways typically link parks, nature preserves, cultural features or historic sites with each other and/or with neighborhoods, schools, and commercial districts.

GROUP CARE FACILITY. A facility licensed by the State of North Carolina, (by whatever name it is called, other than "Family Care Home" as defined by this Ordinance), with support

and supervisory personnel that provides room and board, personal care or habilitation services in a family environment.

HAZARDOUS MATERIAL. Any material listed as such in: Superfund Amendments and Reauthorization Act (SARA) section 302 Extremely Hazardous Substances (42 USC 1100 et seq.); Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Hazardous Substances (42 USC 9601 et seq.); or section 311 of the Clean Water Act, as amended (CWA) (33 USC 1251 et seq.; oil and hazardous substances) hereby incorporated by reference including any subsequent amendments and editions.

HAZARDOUS OR TOXIC SUBSTANCE. Any solid waste as defined in NCGS §130A.290 (18), or any substance regulated under the Federal Toxic Substance Control Act of 1976, (PL 94.476), as amended from time to time, which because of its quantity, concentration, or physical chemical or infectious characteristic(s) may: 1) cause or significantly contribute to an increase in serious irreversible or incapacitating illness, or; 2) pose a substantial present or potential threat to the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

HAZARDOUS WASTE GENERATOR. Any person whose act or process produces hazardous waste or toxic substance identified or listed in Part 261 of the North Carolina Hazardous Waste Management Rules or whose act first causes a hazardous waste or toxic substance to become subject to regulation provided that, "generator" does not include a facility which accepts hazardous waste or toxic substances for the purpose of treatment, storage, or disposal, and in that process creates a different hazardous waste or toxic substance.

HAZARDOUS WASTE MANAGEMENT FACILITY. As defined in NCGS §130, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

HAZARDOUS WASTE TREATMENT FACILITY. A facility established and operated for the recovery, recycling, treatment, storage during collection and prior to treatment, short-term storage after treatment, collection, processing, volume reduction, source separation, or transportation used exclusively in connection with the facility, of hazardous waste; and which includes several of the following equipment or processes: incinerators, rotary kilns, drum handling, washing and crushing facilities, raw waste tank storage, reduction, neutralization, detoxification, wastewater treatment facilities including settling systems, aerobic digester, anaerobic digester, clarifiers, neutralization facilities, solidifying facilities, evaporators, reactions to facilitate recycling, analytical capabilities, and other similar technologies, and processes as may now exist or be developed in the future.

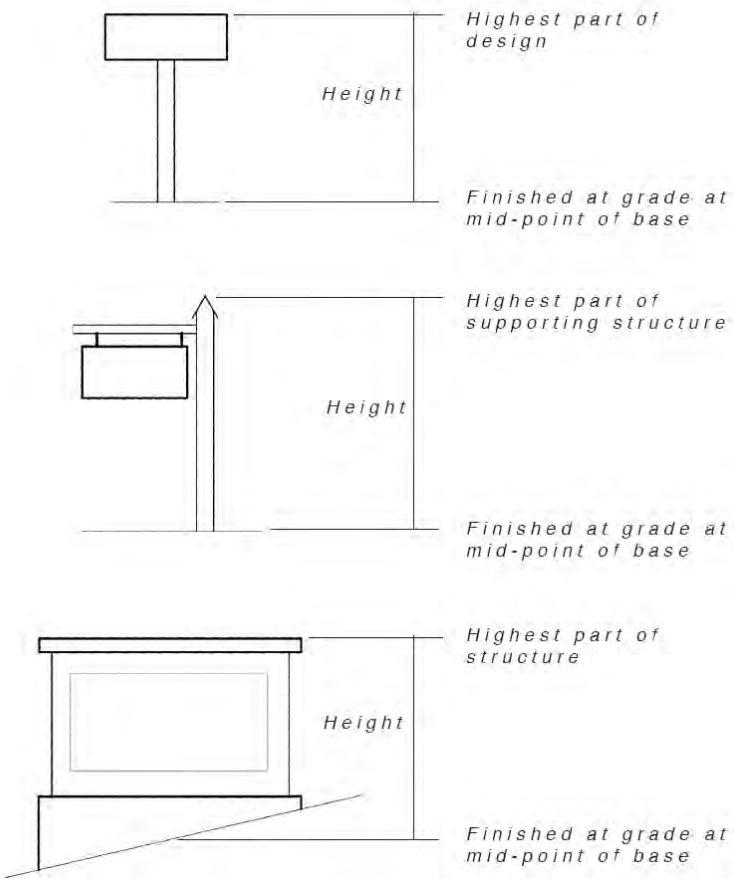
HIGHEST ADJACENT GRADE (HAG). The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

HIGHWAY. U.S. Highway 15 and/or N.C. Highway 50 and/or 56.

HEIGHT, BUILDING. For buildings with flat roofs, the vertical distance from the mean elevation of the finished grade to the highest finished roof surface. For buildings with pitched roofs, the vertical distance from the mean elevation of the finished grade to a point representing the midpoint of the peak and eave heights. (See definition below for freestanding sign height.)

HEIGHT, FREESTANDING SIGN. The vertical distance between the highest part of the sign or its supporting structure, whichever is higher, and finished grade at the midpoint of the base of the sign.

HEIGHT/SIGN



HEIGHT, OTHER STRUCTURE. The vertical distance from the existing grade to the highest point of the structure above such existing grade.

HOME OCCUPATION. Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is incidental and secondary to the use of the dwelling for residential purposes and does not change the character of the dwelling or the neighborhood.

ILLICIT CONNECTION. Any unlawful connection which allows the discharge of non-stormwater to the stormwater conveyance system or waters of the state in violation of this

ordinance.

ILLICIT DISCHARGE. Any unlawful disposal, placement, emptying, dumping, spillage, leakage, pumping, pouring, emission, or other discharge of any substance other than stormwater into a stormwater conveyance, the water of the state, or upon the land in such proximity to the same, such that the substance is likely to reach a stormwater conveyance or the waters of the state.

IMPACT. The effect of one land use upon another as measured by traffic or noise generation, site activity, hours of operation, site lighting, vibration, smoke or odor emissions, or similar factors.

IMPERVIOUS SURFACE. Improvements including street pavement, driveways, gravel areas, buildings, and other structures which cover the soil surface and prevent infiltration of water into the soil.

IMPERVIOUS SURFACE COVERAGE. That portion of a lot covered by buildings, structures, paving or other impervious surface materials.

INDUSTRIAL DEVELOPMENT. Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity.

INDUSTRIAL DISCHARGE. The discharge of industrial process treated wastewater or wastewater other than sewage and including:

(A.) Wastewater resulting from any process of industry or manufacture, or from the development of any natural resource;

(B.) Wastewater resulting from processes of trade or business, including wastewater from laundry-mats and car washes, but not wastewater from restaurants;

(C.) Stormwater contaminated with industrial wastewater; and

(D.) Wastewater discharged from a municipal wastewater treatment plant requiring a pretreatment program.

INDUSTRY, LIGHT. Research and development activities, the manufacturing, compounding, processing, packaging, storage, *assembly*, and /or treatment of finished or semi-finished products from previously prepared materials, which activities are conducted wholly within an enclosed building. Light industry typically involves land uses operated in such a manner as to control external effects of the manufacturing process, such as smoke, noise, soot, dirt, vibration, odor, etc.

INDUSTRY, HEAVY. A use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

INTEGRATED MULTIPLE USE DEVELOPMENT (IMUD). A development containing three or more stores, service establishments, offices, or other permitted uses planned, organized, and managed to function as a unified whole and featuring all of the following: 1) common driveways, 2) common parking, 3) common signage plan, and 4) common landscaping plan. Examples are shopping centers and office parks having the characteristics listed above. Such integrated developments may include outparcels for lease or for sale. Any such integrated development may be organized as a condominium or in a manner analogous to that of a Cityhouse development (with ownership parcels beneath the building units and with parking and driveways being in common elements owned and maintained by an Owners' Association).

JUNK/SALVAGE YARD. Any land or area used, in whole or in part, for the storage, keeping, or accumulation of material, including scrap metals, waste paper, rags, or other scrap materials, or used building materials, for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

JUNKED AUTOMOBILE. See MOTOR VEHICLE, JUNKED

LAND-DISTURBING ACTIVITY. Any use of land in residential, industrial, educational, institutional, or commercial development, highway or road construction or maintenance, that results in a change in natural cover or topography that causes or contributes to sedimentation.

LANDFILL. A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A Article 9 of the N.C. General Statutes. For the purpose of these watershed provisions, this term does not include composting facilities.

LANDFILL, DEMOLITION AND CONSTRUCTION DEBRIS (MAJOR). A disposal site other than minor demolition and construction debris landfill as defined in this ordinance for stumps, limbs, leaves, concrete, brick, wood and uncontaminated earth. Disposal of any other types of wastes must be approved by the State Division of Health Services.

LANDFILL, DEMOLITION AND CONSTRUCTION DEBRIS (MINOR). A disposal site for stumps, limbs, leaves, concrete, brick, wood and uncontaminated earth which is less than three acres in size and is in operation for less than one year.

LANDFILL, SANITARY/SOLID WASTE. A site for solid waste disposal from residential, industrial or commercial activities.

LIGHTING, ACCENT. Lighting intended to accentuate an architectural feature such as a window, roofline, or other vertical or horizontal element and consisting of small, non-flashing

white lights.

LIVESTOCK. Animals, poultry or aquatic life bred and/or raised for the purpose of human and/or animal consumption.

LOT. A portion of a subdivision or any other parcel of land intended as a unit for transfer of ownership or for development or both. The word "lot" includes "plot", "parcel," or "tract."

LOT, CORNER. A lot abutting two or more streets at their intersection.

LOT, DEPTH. The distance measured along the perpendicular bisector of the smallest possible rectangle enclosing the lot.

LOT OF RECORD. A lot, plot, parcel or tract recorded in the Office of the Register of Deeds in conformance with the ordinance(s) in effect at the time of recordation.

LOT, REVERSE FRONTAGE. A through lot which is not accessible from one of the parallel or nonintersecting streets upon which it fronts.

LOT, THROUGH. A lot abutting two streets that do not intersect at the corner of the lot.

LOT WIDTH. The mean width measured at right angles to its depth at the building front setback line.

LOWEST ADJACENT GRADE (LAG). The elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

LOWEST FLOOR. 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.

MAINTENANCE (OF A SIGN). Cleaning, painting, repairing, or replacing defective parts in such a manner that does not alter the basic structure of a sign. This definition includes the changing of the copy or listings on a changeable copy, civic event, sandwich board, or directory sign and the replacement of sign copy with other sign copy of the same or smaller size on other permitted signs.

MAJOR WATERSHED VARIANCE. A variance from the minimum statewide watershed protection rules that results in the relaxation by a factor greater than five (5) percent of any buffer, density or built-upon area requirement under the high density option; any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater management system; or relaxation by a factor greater than ten (10) percent of any management requirement under the low density option.

MANUFACTURED HOME. A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. For manufactured homes built before June 15, 1976, "manufactured home" means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semi-permanent foundation having a measurement of over 32 feet in length and over eight feet in width. "Manufactured home" also means a double-wide manufactured home, which is two or more portable manufactured housing units designed for transportation on their own chassis that connect on site for placement on a temporary or semi-permanent foundation having a measurement of over 32 feet in length and over eight feet in width. The term "manufactured home" does not include a recreational vehicle.

MANUFACTURED HOME PARK OR SUBDIVISION. A site with required improvements and utilities for the long-term placement of manufactured homes which may include services and facilities for the residents.

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.

MEAN SEA LEVEL. For purposes of this ordinance, the National Geodetic Vertical Datum (NGVD) as correct in 1929, the North American Vertical Datum (NAVD) as correct in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

MINOR WATERSHED VARIANCE. A variance from the minimum statewide watershed protection rules that results in the relaxation by a factor of up to five percent of any buffer, density or built-upon area requirements under the high density option; or relaxation by a factor of ten (10) percent of any management requirement under the low density option.

MIXED DEVELOPMENT. A mixture of residential and permitted office and/or commercial uses.

MIXED-USE DEVELOPMENT. The combination of complementary land uses in an integrated fashion through the development of a tract of land, building or structure.

MODULAR HOUSING. A dwelling constructed in accordance with the standards set forth in the N.C. State Residential Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final *assembly* on a permanent

foundation.

MOTOR VEHICLE, JUNKED. A motor vehicle that does not display a current license plate and is one or more of the following: 1) is partially dismantled or wrecked; or 2) cannot be self-propelled or moved in the manner in which it originally was intended to move; or 3) is more than five years old and appears to be worth less than one hundred dollars ($500.00).

MULTI-FAMILY DWELLING. A building or portion thereof used or designed as a residence for three or more families living independently of each other with separate housekeeping and cooking facilities for each, and includes apartment, city-houses and condominiums.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4). A stormwater conveyance or unified stormwater conveyance system (including without limitation: roads with drainage systems, municipal streets, catch basins, stormwater detention facilities, curbs, gutters, ditches, natural or man-made channels, or storm drains), that:

(1.) Is located within the corporate limits of the City of Creedmoor, North Carolina or in the extraterritorial jurisdiction (ETJ) of the City of Creedmoor, North Carolina.

(2.) Is owned or operated by the state, county, the City, or other public body; and

(3.) Discharges to waters of the state, excluding publicly owned treatment works, and lawful connections thereto, which in turn discharge into the waters of the state.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM. A permitting system established pursuant to 402 of the Clean Water Act.

NECKDOWN. Constructed features designed and placed to narrow the width of traffic lanes in order to slow the speed of traffic on City streets. Curb bulbs and chicanes may be used for this purpose.

NEIGHBORHOOD. An area of the City with characteristics which distinguish it from others including distinct economic bases, housing types, schools, development styles or patterns, or boundaries defined by distinct physical barriers such as railroads, arterial streets, rivers, or major water bodies.

NEIGHBORHOOD PLAN. The plan officially adopted by the Creedmoor City Board of Commissioners for a particular neighborhood or district that provides specific design standards and guidelines regulating the development and use of the property.

NEW CONSTRUCTION. Structures for which the "start of construction" commenced on or after the effective date of the original version of the community's Flood Damage Prevention Ordinance and includes any subsequent improvements to such structures. (This definition applies only with respect to flood hazard regulations.)

NEW DEVELOPMENT. Any land-disturbing activity which adds to or changes the amount of built-upon area. (This definition applies only with respect to watershed protection regulations.)

NON-CONFORMING USE. Any nonconformity involving the use of the property. This may include, without limitation, nonconformities associated with a use not permitted in the zoning district in which it is located or a use conditionally allowed in the zoning districts in which it is located but for which no conditional use permit has been obtained.

NONCONFORMITY, DIMENSIONAL. Any nonconformity involving a dimensional or numerical development requirement except those involving signs which are addressed in Article 17. Dimensional nonconformities may include, without limitation, nonconformities associated with density, landscaping, buffering, lot size, lot width, lot depth, setbacks, height, structure size standards, impervious surface standards, open space, number of parking spaces, or separation requirements between particular uses or zoning districts.

NONCONFORMITY, LAWFUL. Any nonconformity involving a dimensional or numerical requirement or use of property that affects a structure erected or a lot created in conformity with the then-applicable development requirements of the City, but subsequently made nonconforming by action of the City through a zoning map or unified development code amendment.

NONENCROACHMENT AREA. The channel of a river or other watercourse 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 (1) foot as designated in the Flood Insurance Study report.

NONPROCESS DISCHARGE. Industrial effluent not directly resulting from the manufacturing process. An example is noncontact cooling water from a compressor.

NURSING HOME. An establishment which provides full-time convalescent or chronic care, or both, who are not related by blood or marriage to the operator or who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

OCCUPANCY. A separately leased or owned area within a building having ground level frontage on a right-of-way or parking facility.

OFF-PREMISES. Not located on the property to which it pertains.

OFFICE-WAREHOUSE. A land use that includes offices that support showroom or warehouse uses.

ON-PREMISES. Located on the property to which it pertains.

OPA. An Otherwise Protected Area.

OPEN SPACE. Any publicly dedicated or privately owned area of land or water that is permanently preserved and maintained. Such an area may be predominately in a natural condition or modified for uses such as recreation, education, aesthetics, cultural or natural resource management or public health and safety.

PASSIVE RECREATION ELEMENT. Trials, open space, uncovered picnic areas, and similar facilities provided for recreational use.

PERENNIAL AND INTERMITTANT STREAMS. Those streams (and rivers), with associated lakes and ponds as indicated on the following:

(A.) On the most recent version of the United States Geological Survey 1:24,000 scale (7.5 minute quadrangle) topographical map;

(B.) On the most recent version of the Soil Survey of Granville County developed by the United States Department of Agriculture (USDA) Natural Resource Conservation Service (formerly the USDA Soil Conservation Service);

(C.) By other site-specific evidence that indicates to the North Carolina Division of Water Quality (DWQ) the presence of such waters not shown on either of these two (2) maps or evidence that no actual stream or water-body exists; or

(D.) Upon determination following field inspection by a qualified professional.

PLAN, SKETCH. A rough sketch map of a proposed subdivision or site showing streets, lots, and any other information required by the City of sufficient accuracy used for discussion of the street system and the proposed development pattern.

PLANNED COMMUNITY. Real estate with respect to which any person, by virtue of that person's ownership of a lot, is expressly obligated by a declaration to pay real property taxes, insurance premiums, or other expenses to maintain, improve, or benefit other lots or other real estate described in the declaration. For purposes of this act, neither a cooperative nor a condominium is a planned community, but real estate comprising a condominium or cooperative may be part of a planned community. "Ownership of a lot" does not include holding a leasehold interest of less than 20 years in a lot, including renewal options.

PLANNED UNIT DEVELOPMENT. An area of land under unified ownership or control to be developed and improved as a single entity under a Unified Development Plan in accordance with and subject to the requirements of this Ordinance.

PLANNING, ZONING AND SUBDIVISION ADMINISTRATOR. The City of Creedmoor official charged with administering, interpreting, and enforcing the Creedmoor Development Ordinance, including the sign regulations, or his/her designee.

PLAT. A surveyed map or plan of a parcel of land which is to be, or has been subdivided.

PLAT, FINAL. The final map of all or a portion of a subdivision or site plan, showing the boundaries and location of lots, streets, easements and other requirements of the City, which is presented for approval by the City Board of Commissioners and subsequent recording in the Granville County Register of Deeds Office.

PLAT, PRELIMINARY. A map indicating the proposed layout of the subdivision or site showing lots, streets, water, sewer, storm drainage and any other requirements of the City, which is presented for preliminary approval.

POLLUTION. Man-made or man induced *alteration* of the chemical, physical, biological, thermal, and/or radiological integrity of water.

PORTABLE STORAGE UNIT (POD). A transportable unit designed and used for the temporary storage of household goods, personal items and other materials which is placed on a site of the use of occupants of a dwelling or building on a limited basis. Such containers are uniquely designed for their ease of loading to and from a transport vehicle.

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 for the area.

PRE-FIRM. Construction or other development for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate map for the area.

PRINCIPALLY ABOVE GROUND. That at least 51% of the actual cash value of the structure is above ground.

PRINCIPAL STRUCTURE. A structure (or structures) in which the principal use of the lot or property is conducted.

PRINCIPAL USE. The primary use of any lot or property.

PROFESSIONAL OFFICE. The office of a member of a recognized profession maintained for the conduct of that profession, including, but not limited to, the offices of doctors, lawyers, dentists, landscape architects, architects, stockbrokers and financial analysts, chiropractors, engineers, surveyors, or city planners.

PROTECTED DRAINAGEWAY (CHANNEL). Where drainage is channeled by pervious devices such as sod waterways, berms, channels or swales which have been constructed to resist soil erosion by either vegetating, netting, rip-rapping, or a combination of those, and which allows infiltration of water into the soil.

PUBLIC OPEN SPACE. Open space that is accessible to the general public and maintained by the City.

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. (This definition applies only to flood hazard regulations.)

RECREATIONAL VEHICLE. A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light duty vehicle, and designed primarily for use not as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

RECREATIONAL VEHICLE PARK. Any site or tract of land, of contiguous ownership, upon which 15 or more recreational vehicles or tent spaces are provided for occupancy according to the requirements set forth in this ordinance.

REFERENCE LEVEL. The top of the lowest floor for structures within Special Flood Hazard Areas designated as Zone A0, AE, or A, .

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 (2) feet of freeboard. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

REGULATING PLAN. A master development plan for a site, parcel, or property, meeting the standards of the City of Creedmoor and identifying building, parking, and landscape locations, open spaces, trails, other amenities, and other features as required by the City. Upon its approval by the Creedmoor City Board of Commissioners, the plan becomes the guide for the development of the property and all development activity on the property must comply with the plan.

REMEDY A VIOLATION. To bring the structure or other development into compliance with State and community floodplains 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 of 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. (This definition applies only with respect to flood hazard regulations.)

RENOVATION. The repairing or remodeling of a structure in which the exterior walls, foundation and roof are maintained structurally intact.

REQUIRED DRAINAGE CHANNEL. The theoretical stream bed section which is required to carry and discharge the runoff from a 100-year storm.

RESEARCH AND TECHNOLOGY PRODUCTION USES. Uses such as medical, optical and

scientific research facilities, software production and development, clinics and laboratories, pharmaceutical compounding and photographic processing facilities, and facilities for the *assembly* of electronic components, optical equipment, and precision instruments.

RESIDENTIAL DEVELOPMENT. Buildings for use as residences such as attached and detached single-family dwellings, apartment complexes, condominiums, city-houses, cottages, etc. and their associated outbuildings such as garages, storage buildings, gazebos, etc. and customary home occupations.

RETENTION POND. A wet or dry stormwater holding area, either natural or manmade, which has a permanent pool and does not release stormwater to nearby or adjoining water bodies. Also see Best Management Practices definition.

RIVERINE. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

ROOF LINE. The top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.

RUNOFF DETENTION EQUAL TO MINIMUM REQUIREMENTS. Velocity control of runoff.

RURAL MARKET. Place of business serving primarily rural areas and trading in primarily rural products, produce, crafts, and commodities. Does not include convenience stores, gasoline and/or fuel sales.

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.

SALVAGE YARD, AUTO PARTS. Any establishment listed in the Standard Industrial Classification manual under Industry Number 5015. Also, any land or area used, in whole or part, for the storage, keeping accumulation, dismantling, demolition, or abandonment of inoperable vehicles or parts thereof.

SALVAGE YARD, SCRAP PROCESSING. Any establishment listed in the Standard Industrial Classification Manual under Industry Number 5093. Also, any land or area used, in whole or part, for the storage, keeping, accumulation of scrap or waste materials, including scrap metals, waste paper, rags, building materials, machinery, or other scrap materials.

SCENIC CORRIDOR. An area providing scenic vistas visible from a highway or roadway that is designated by the City of Creedmoor as having special importance to the character of the City and meriting special protection and preservation measures as a consequence.

SEARCHLIGHT. A device that emits an upwardly-directed beam of light to attract commercial attention.

SEDIMENT. Solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.

SEDIMENTATION. The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.

SETBACK. The minimum required horizontal distance between a structure or activity and the property line, street right-of-way line, or street centerline.

SETBACK, REAR. A setback from an interior property line lying on opposite side of the lot from the front street setback.

SETBACK, SIDE. Any interior property line setback other than a rear setback.

SETBACK, STREET. Any setback from a street, road or lane.

SETBACK, ZERO SIDE. An alternate form of dimensional requirements that allows a dwelling unit to have one side setback of zero feet from a side property line. This definition does not include Cityhouses.

SHOPPING CENTER. A group of retail and other commercial establishments that are planned, developed, owned and managed as a single property. On-site parking is provided. The center's size and orientation are generally determined by the market characteristics of the trade area served by the center.

SHEAR WALL. Walls used for structural support but not structurally joined or enclosed at the end (except by breakaway walls). Shear walls are parallel or nearly parallel to the flow of the water.

SIGN. A communications medium, method, device, structure, or fixture that incorporates motion, lighting, graphics, symbols, or written copy intended to promote the sale of a product, commodity, or service, or to provide direction to or identification of a neighborhood, premises, event or facility.

SIGN ALTERATION. Any change to the size, shape, illumination, position, location, or construction of a sign or the supporting structure of a sign.

SIGN AREA. The size of a sign in square feet as computed by the area of not more than two standard geometric shapes (specifically, circles, squares, rectangles, or triangles) that encompass the shape of the sign exclusive of the supporting structure.

Example Illustrating Measurement of the Area of an Irregularly Shaped Sign

SIGN COPY. Any graphic design, letter, numeral, symbol, figure, device or other media used separately or in combination that is intended to advertise, identify or notify, including the panel or background on which such media is placed.

SIGN FACE. The side or sides of a sign on which a message is placed.

SIGN ILLUMINATION, TYPES OF.

(A.) *AMBIENT.* Illumination of a sign by light from the sign's general surroundings, such as daylight or nearby street lights.

(B.) *EXTERNAL.* Illumination of a sign by a source of light located exterior to the sign, such as a floodlight.

(C.) *INTERNAL.* Illumination of a sign by a source of light contained within the sign itself

SIGN, NONCONFORMING. A sign that does not conform to one or more requirements of Article 17.

SIGN TYPES.

(A.) *SIGN, AWNING.* A sign incorporated into or attached to an *awning*.

(B.) *SIGN, BLADE (OR PROJECTING).* A sign attached to and projecting from the building façade, typically at right angles to the building.

(C.) *SIGN, CANOPY.* A sign incorporated into or attached to a canopy.

(D.) *SIGN, CHANGEABLE COPY.* A sign or portion thereof designed to accommodate frequent copy changes through manual, mechanical or digital means.

(E.) *SIGN, CIVIC EVENT.* A temporary sign posted to advertise a civic event sponsored by a public agency, school, church, civic-fraternal organization, or similar noncommercial organization.

(F.) *SIGN, DIRECTIONAL.* An on-premises sign whose message is exclusively limited to guiding the circulation of motorists or pedestrians entering, exiting, or on a site, including signs marking entrances and exits, parking areas, loading zones, or circulation patterns.

(G.) *SIGN, DIRECTORY.* A sign listing the names, uses, or locations of the discrete uses or activities conducted within a building or group of buildings that is intended to provide on-site directions.

(H.) *SIGN, EXEMPT.* A sign identified in Article 17, section 6 that is exempt from the requirements of this ordinance, either conditionally or unconditionally.

(I.) *SIGN, FLAT (OR WALL).* A sign attached directly to and generally parallel with the façade of a building.

(J.) *SIGN, INCIDENTAL.* A sign, generally informational, whose purpose is secondary to the use of the premises on which it is located, such as the date of building erection, the building address, the hours of operation, the open or closed status of the operation, the credit cards honored, and similar incidental information, and containing no commercial message.

(K.) *SIGN, MACHINE.* A sign attached to a machine such as a gasoline pump, a drive-through menu kiosk, a soft drink dispensing machine, or an ATM.

(L.) *SIGN, MODEL HOME.* An on-premises sign advertising a home model of a type that is available for sale in a subdivision.

(M.) *SIGN, MONUMENT (OR GROUND).* A freestanding sign supported by a structure that is at least as wide as the sign to which it is attached.

(N.) *SIGN, OPEN HOUSE.* A temporary off-premises or on-premises sign displaying information about a real estate sales event happening at a property offered for sale.

(O.) *SIGN, OUTDOOR ADVERTISING (OR BILLBOARD).* A type of off-premises sign that contains a commercial message.

(P.) *SIGN, PERMANENT.* A sign intended or designed for permanent display and permitted as such.

(Q.) *SIGN, POLE.* A freestanding sign supported by a structure consisting of not more than two poles.

(R.) *SIGN, SANDWICH BOARD (OR A-FRAME).* A temporary freestanding sign designed and displayed to provide information to pedestrians.

(S.) *SIGN, SNIPE.* A temporary sign not otherwise defined in this Article that is tacked, nailed posted, glazed, or otherwise affixed to a light fixture, utility pole, public building, fence, railing, public telephone pole, traffic control device, or tree or to the ground.

(T.) *SIGN, TEMPORARY.* A sign not intended or designed for permanent display and permitted as such.

(U.) *SIGN, TIME AND TEMPERATURE.* A sign that displays time and temperature information as its primary message.

(V.) *SIGN, V-TYPE.* An attached sign consisting of two separate faces arranged in a "V" pattern and having an angle of 120 degrees or less as measured from the side attached to the building.

(W.) *SIGN, WINDOW.* A sign attached to a display window or door window that is intended to be viewed from the exterior. This definition shall include signs attached to the interior of a display window or door window.

(X.) *SIGN, YARD SALE.* A temporary off-premises or on-premises sign advertising a sales event in a residential zoning district.

SILTATION. Sediment resulting from accelerated erosion which is separable or removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity, and which has been deposited, or is in suspension in water.

SINGLE FAMILY RESIDENTIAL. Any development where: 1) no building contains more than one dwelling unit, 2) every dwelling unit is on a separate lot, and 3) where no lot contains more than one dwelling unit, except for the permitted accessory dwelling unit.

SITE PLAN. A plan, drawn to scale, showing uses and structures proposed for a parcel of land as required by the regulations, such as lot lines, streets, building sites, reserved open space, buildings, major landscape features both natural and manmade and the locations of proposed utility lines.

SITE SPECIFIC DEVELOPMENT PLAN. A plan that has been submitted to the City by a landowner describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. Such plan may be in the form of, but not limited to, any of the following plans or approvals: A subdivision plat, a preliminary or general development plan, a conditional use permit, a conditional district zoning plan, or any other land-use approval designation as may be utilized by the City. Such a plan shall include the approximate boundaries of the site; significant topographical and other natural features affecting development of the site; the approximate location on the site of the proposed buildings, structures and other improvements;

the approximate dimensions, including height, of the proposed building and other structures; the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways; and any other information required by the City for the type of plan or approval requested by the landowner. A variance shall not constitute a site specific development plan. Neither a sketch plan nor any other document which fails to describe with reasonable certainty the type and intensity of use for a specific parcel or parcels of property may constitute a site specific development plan.

SLUDGE. Any solid or semisolid waste generated from a wastewater treatment plant, water treatment plant, or air pollution control facility permitted under authority of the North Carolina Environmental Management Commission.

SOLAR COLLECTOR. (Amended May 27, 2014 per Ord. 2014-O-03) Any means by which solar energy is received or absorbed and concentrated for use. Solar collectors are usually arranged in panels, which can be combined or linked to form arrays. Collectors may be roof-mounted, ground-mounted or integrated into building components.

SOLAR ENERGY COLLECTION SYSTEM. (Amended May 27, 2014 per Ord. 2014-O-03) A solar photovoltaic or solar thermal system that is accessory to a principal use and converts solar energy into electricity or absorbs solar energy as heat and transfers that heat for common household or commercial purposes.

SOLAR FARM. (Amended May 27, 2014 per Ord. 2014-O-03) A utility-scale principal land use that uses many solar arrays or any freestanding solar energy collection system that generates electricity on a site larger than 5 acres, primarily for off-site use.

SOLID WASTE DISPOSAL FACILITY. Any facility involved in the disposal of solid waste as defined in NCGS §130A.290(a)(35).

SOLID WASTE DISPOSAL SITE. As defined in NCGS §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 (1%) or greater chance of being flooded in any given year, as determined in Section 18.2-4(B) of this ordinance.

STABILIZING VEGETATION. Any vegetation that prevents accelerated soil erosion.

START OF CONSTRUCTION. Includes substantial improvement, and means the date of 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 *accessory building*s, 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. (This definition applies only with respect to flood hazard regulations.)

STORM, 100-YEAR. The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 100 years and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

STORM, 10-YEAR. The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 10 years and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

STORM DRAINAGE FACILITIES. The system of inlets, conduits, channels, ditches, and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

STORMWATER RUNOFF. The direct runoff of water resulting from precipitation in any form.

STREAM. A watercourse that collects surface runoff.

STREAM BUFFER. A natural, vegetated, or vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer width is measured landward from the normal pool elevation of impoundments and from the bank of each side of streams or rivers. (This definition applies only with respect to Watershed Protection Regulations).

STREET, LOCAL. A street whose primary function is to provide access to abutting properties.

STREET, MAJOR THOROUGHFARE. Major thoroughfares consist of interstate, other freeway, expressway, or parkway links, and major streets that provide for the expeditious movement of high volumes of traffic within and through urban areas.

STREET, MINOR THOROUGHFARE. Minor thoroughfares collect traffic from collector, sub-collector, and local streets and carry it to the major thoroughfare system. Minor thoroughfares may be used to supplement the major thoroughfare system by facilitating movement of moderate volumes of traffic within and through urban areas and may also serve abutting property.

STREET, PRIVATE. A vehicular travel-way not dedicated or offered for dedication as a public street but resembling a cul-de-sac or a local street by carrying traffic from a series of driveways to the public street system.

STREET, PUBLIC. A dedicated public right-of-way for vehicular traffic which: (1) has been accepted by NCDOT for maintenance, or (2) is not yet accepted, but in which the roadway design and construction have been approved under public standards for vehicular traffic. *Alley*s are specifically excluded from this definition.

STREET, RIGHT-OF-WAY. A strip of land occupied or intended to be occupied by a travelway for vehicles and also available, with the consent of the appropriate governmental agency, for installation and maintenance of sidewalks, traffic control devices, traffic signs, street name signs, historical marker signs, water lines, sanitary sewer lines, storm sewer lines, gas lines, power lines, and communication lines.

STREET, SUBCOLLECTOR. A street whose principal function is to provide access to abutting properties but which is also designed to be used or is used to connect local streets with collector or higher classification streets.

STORMWATER. Any flow resulting from, and occurring during or following, any form of natural precipitation.

STORMWATER CONVEYANCE OR STORMWATER CONVEYANCE SYSTEM. Any feature, natural or man-made, that collects and transports stormwater, including but not limited to roads with drainage systems, streets, catch basins, curbs, gutters, ditches, man-made or natural channels, pipes, culverts, and storm drains and any other natural or man-made feature or structure designed or used for collecting or conveying stormwater.

STRUCTURE. A walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground. (This definition applies only with respect to flood hazard regulations.)

SUBDIVISION. The division of land into two or more lots by a plat and recorded with the county clerk and register of deeds.

SUBDIVISION, MAJOR. Any non-residential subdivision; or a residential subdivision establishing more than four new lots, or requiring new public street(s) for access to interior property, or requiring extension of public sewage or water line, or requiring a waiver or variance from any requirement of this Ordinance.

SUBDIVISION, MINOR. A residential subdivision involving four or fewer lots fronting on an existing approved public street(s), not requiring any new public or private street(s) for access to interior property, not requiring extension of public sewage or water line and not requiring a waiver, modification, or variance from any requirement of this Ordinance.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its 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 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 the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. (This definition applies only with respect to flood hazard regulations.)

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 community health, sanitary, or safety code specifications which have been identified by the community code enforcement officials 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.

SUBSTANTIALLY SIMILAR. The same or significantly the same as a prior plan or application as determined by the associated land area, the intensity of development proposed, the range of proposed uses, the type, variety and scale of signage, and other relevant factors.

SUBURBAN OPEN SPACE AMENITIES. Land available for active or passive recreation including parks, trails, clubhouses, playgrounds, *athletic field*s and courts, picnic facilities, benches, community gardens, and pools. It can include natural areas including floodplains, water bodies, wetlands, woodlands, land used for stormwater retention, and slopes over 15%.

SURFACE WATER BUFFER. A natural, vegetated, or re-vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer width is measured landward from the normal pool elevation of impoundments and from the bank of each side of streams or rivers. (This definition applies only with respect to Watershed Protection regulations.)

TAILGATE MARKET. The permanent or regularly-periodic offering for sale of fresh agricultural products directly to the consumer at an open air market.

TELECOMMUNICATIONS TOWER. A tower, pole, or similar structure that supports a telecommunications antenna operated for commercial purposes above ground in a fixed location, freestanding, guyed, or on a building or other structure.

THEATER, ADULT. 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 sexual activities or anatomical areas.

THOROUGHFARE PLAN. A plan adopted by the governing body for the development of existing and proposed major streets that will adequately serve the future travel needs of an area in an efficient and cost effective manner.

TOURIST HOME. A private residence in which accommodations are provided for lodging and may include meals for overnight guests for a fee.

TOXIC SUBSTANCE. Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their off spring or other adverse health effects.

TRACT. All contiguous land and bodies of water in one ownership, or contiguous land and bodies of water in diverse ownership being developed as a unit, although not necessarily all at one time.

TREE, CANOPY. A species of tree which normally grows to a mature height of 40 feet or more with a minimum mature crown of 30 feet.

TREE, UNDERSTORY. A species of tree which normally grows to a mature height of 15 to 35 feet in height.

TYPICAL REQUIRED DRAINAGE CHANNEL SECTION. A cross-sectional view of a required drainage channel.

UNDISTURBED AREA. That portion of a lot, tract, or subdivision which has not and will not be occupied and which has not and will not be graded to change land contours or to destroy existing vegetation. Only areas that are wooded or reforested are considered undisturbed for the purposes of watershed protection score sheet evaluation. (This definition applies only with respect to watershed protection regulations.)

URBAN OPEN SPACE AMENITIES. Facilities for active and passive recreational use located in urban areas that include sidewalks widened beyond what is required by code, plazas, street furniture, outdoor eating or gathering areas, fountains, rooftop gardens, areas featuring public art,

or other urban-related amenities.

USE, CONDITIONAL. A use which is generally compatible with other land uses permitted in a zoning district but which, because of its unique characteristics or potential impacts on the surrounding neighborhood and the City of Creedmoor as a whole, requires individual consideration of its location, design, configuration, and/or operation at the particular location proposed.

USE, PERMITTED. A use allowed within the zoning district provided the basic standards and requirements of the zoning district and the required provisions of this Ordinance are met.

USE PERMITTED WITH ADDITIONAL STANDARDS. A use permitted by right, provided that the additional standards intended to ensure that the use fits the intent of the zoning districts within which it is permitted and that the use is compatible with other development permitted within the zoning district, are met.

VARIANCE. Official permission from the *Board of Adjustment* to depart from the requirements of this ordinance.

VEGETATIVE BUFFER. An area meeting regulatory buffer requirements consisting entirely of plant materials that form a screen.

VELOCITY. The average velocity of flow through the cross section of the main channel at the peak flow of the storm of interest. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overland flows are not to be included for the purpose of computing velocity of flow.

VIOLATION. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certificates, or other evidence of compliance required in Article 18 is presumed to be in violation until such time as that documentation is provided. (This definition applies only with respect to flood hazard regulations.)

WATER DEPENDENT STRUCTURES. Structures for which the use requires access or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.

WATER QUALITY CONSERVATION EASEMENT. See Easements.

WATER SURFACE ELEVATION (WSE). The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or 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.

WATERS OF THE STATE. Surface waters within or flowing through the boundaries of the state including the following: any intermittent or perennial stream, river, creek, brook, swamp, lake, sound, tidal estuary, bay, reservoir, wetland, or any other surface water or any portion thereof that is mapped as solid or dashed blue lines on United State Department of the Interior Geological Survey 7.5 minute series topographic maps. Treatment systems, consisting of man-made bodies of water, which were not originally created in waters of the state, which are not the result of impoundment of waters of the state, are not waters of the state.

WATERSHED CRITICAL AREA. That portion of the watershed within the lake basin of the water supply reservoir as delineated in Article 19 (Watershed Standards).

WATERSHED, WATER SUPPLY. The entire area of the City of Creedmoor's jurisdiction including the Extraterritorial Jurisdiction.

WET DETENTION POND. A natural or man-made water body that provides for the storage and gradual release of stormwater runoff by means of a permanent pool of water having an outfall to another water body, and which has a permanent pool that utilizes both settling and biological process to remove both particulate and soluble particulates. See Best Management Practices definition.

WET RETENTION POND. A natural or man-made water body that provides for the storage of stormwater runoff by means of a permanent pool of water. See Best Management Practices definition.

WETLANDS. Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support under normal circumstances a prevalence of vegetation typically adapted for life in saturated soil conditions.

YARD SALE (OR GARAGE SALE). The sale of items outdoors, or from a vehicle, or from a garage or other *accessory building*, belonging to one or more sponsors of the sale.

ZONING DISTRICT. An area defined by this Ordinance and delineated on the Official Zoning Maps in which the requirements for the use of land and building and development standards are prescribed.

ZONING VESTED RIGHT. A right pursuant to NCGS §160A-385.1 to undertake and complete the development and use of property under the terms and conditions of an approved site development plan.

ARTICLE 4

BOARDS AND COMMISSIONS

4.1 Boards and Commissions Established

The following boards and commissions are hereby established to carry out the duties and responsibilities set forth in this ordinance and in fulfillment of the goals and purposes of this ordinance:
(A.) Planning Board

(B.) Board of Adjustment

(C.) Technical Review Committee

These boards and commissions may establish and adopt their own bylaws and rules of procedure, provided they are not inconsistent with the rules of procedure outlined in the Suggested Rules of Procedure for Small Local Government Boards, published by the Institute of Government or the rules adopted by the City Board of Commissioners.

4.2 Planning Board

4.2-1 Authority. There is hereby created a planning agency, pursuant to NCGS 160A-361 to be known as the City of Creedmoor *Planning Board*.

4.2-2 Membership.

– The *Planning Board* shall consist of eight members, five members, who shall reside within the City limits, and three members residing in the City's area of extraterritorial jurisdiction. Members residing inside the City limits shall be appointed by the Creedmoor City Board of Commissioners. Members residing in the City's extraterritorial area shall be appointed by the Granville County Board of Commissioners.

4.2-3 Powers and Duties. The *Planning Board* shall have the following powers and duties:

(A.) To provide recommendations to the City Board of Commissioners with regard to map amendments (rezoning), text amendments, watershed waivers**,** and other matters on which the Council seeks advice;

(B.) To develop and update a Land Use Plan and/or Comprehensive Master Plan for the territory under its Jurisdiction, subject to specific direction from the City Board of Commissioners;

(C.) To render opinions and make recommendations on all issues, requests, and petitions related to the Creedmoor Development Ordinance and City Plan 2030 that may be adopted from time to time and that require approval by the City Board of Commissioners;

(D.) To interpret zoning maps and pass upon disputed questions of district boundary lines and similar questions that may occur in the administration of the Ordinance; and

(E.) To make such other studies and plans and review such other related matters as directed by the City Board of Commissioners.

4.3 Board of Adjustment *(Amended May 27, 2014 per Ord. 2014-O-03)*

4.3-1 Authority. Pursuant to NCGS 160A-388, there is hereby created a *Board of Adjustment.*

4.3-2 Membership.

(A.) Number of Members. The *Board of Adjustment* shall consist of five members, three appointed by the Creedmoor City Board of Commissioners and two, who are residents of Creedmoor's extraterritorial area, appointed by the Granville County Board Commissioners.

(B.) Alternates. The City Board of Commissioners may, in its discretion, appoint alternate members to serve on the *Board of Adjustment* in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. 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 on behalf of any regular member, shall have and may exercise all the powers and duties of a regular member. (G.S. 160A-388(a))

4.3-3 Powers and Duties. The *Board of Adjustment* shall have the following powers and duties:

(A.) To hear and decide appeals from an order, denial of a permit or other decision made by an administrative official charged with enforcing this Ordinance;

(B.) To hear and decide requests for variances from the zoning provisions of this Ordinance in cases where special conditions would make strict and literal interpretation result in a loss of privileges shared by other properties within the same zoning district;

(C.) Upon receiving authority from the Creedmoor City Board of Commissioners, to act as the Watershed Review Board in hearing and deciding appeals from any decision or

determination made by the Enforcement Officer in the enforcement of the Watershed Protection Ordinance as set forth in Article 19 of this Ordinance;

(D.) To hear and decide appeals and requests for variances from the requirements of the flood control provisions of this Ordinance, as set forth in Article 18; and

(E.) To hear and decide all matters referred to it or upon which it is required to pass under this Ordinance.

4.3-4 Voting.

(A.) Four-fifths Vote Required. A four-fifths vote of the members shall be required to grant a variance; otherwise, a simple majority of the Board membership shall be required to affirm, reverse or modify any order, decision, or interpretation of the Enforcement Officer charged with enforcing this Ordinance. Vacant positions on the *Board of Adjustment* and members who are disqualified from voting on a matter before the *Board of Adjustment* shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

(B.) Conflicts. A member of the *Board of Adjustment* or any other body exercising the functions of a *Board of Adjustment* shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are 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. If an objection is raised to a member's participation and that member does not recues himself or herself, the remaining members shall by majority vote rule on the objection. (G. S. 160A-388).

4.3-5 Proceedings.

All meetings of the *Board of Adjustment* shall be open to the public. The Board shall keep minutes showing the vote of each member on each question and the absence or failure of any member to vote.

The final disposition of each matter decided by the *Board of Adjustment* shall be by recorded resolution indicating the reasons for the decision, based on findings of fact obtained by testimony under oath or affirmation and conclusions of law which shall be public record.

On all appeals, applications and other matters brought before the *Board of Adjustment*, the Board shall inform in writing all the parties involved of its decision and the reasons for that decision.

4.4 (Reserved)

4.5 Technical Review Committee

4.5-1 Authority. An agency known as the Technical Review Committee (TRC) is hereby established pursuant to NCGS 160A-361.

4.5-2 Membership.

(A.) Composition. The TRC shall be composed of the following members or their designee/alternate:

(1.) *Planning, Zoning and Subdivision Administrator*
(2.) Public Works Director
(3.) Public Works Engineer
(4.) Stormwater Administrator
(5.) City Manager
(6.) All *Planning Board* Regular Members
(7.) Other agencies/individuals as appropriate

(B.) Officers. The *Planning, Zoning and Subdivision Administrator* shall serve as TRC Chair. The TRC Chair shall appoint a secretary to record minutes of each meeting.

4.5-3 Powers and Duties. The Technical Review Committee shall have the following powers and duties:

(A.) To provide for continuing, coordinated and comprehensive review of certain technical aspects of development proposals and of the Ordinance in general;

(B.) To review technical aspects of development occurring within the City and the areas within its extraterritorial jurisdiction as specified by this Ordinance;

(C.) To review and approve new or revised plans including: subdivisions, clustered or attached developments; planned unit developments; office, commercial and industrial developments; and any other proposals for development by this Ordinance;

(D.) To approve modifications where authorized by this Ordinance;

(E.) To recommend to the *Planning Board* the closing of streets, *alley*s, easements, and others rights-of-way;

(F.) To serve as the Watershed Review Board, exercising the powers and duties as set forth for this Board in Article 19 of this Ordinance.

(G.) To perform any other related duties that the City Board of Commissioners may direct; and

(H.) To exercise other powers and authority provided to it by the City Board of Commissioners, this Ordinance, or state law.

4.6 Meetings, Hearings, and Procedures of all Boards and Commissions

All meetings and hearings shall be open to the public and shall be conducted in accordance with the procedures set forth in these regulations and with the rules of procedure adopted by the *Planning Board*, *Board of Adjustment*, and Technical Review Committee. Such rules of procedure may be amended by the respective board or commission membership. The rules of procedure adopted by any board or commission shall be kept on file at the office of the *Planning, Zoning and Subdivision Administrator* and shall be made available to the public at any meeting or hearing. No rules or procedures shall conflict with this ordinance; if conflicts occur this Ordinance shall take precedence.

4.7 Staff

The *Planning, Zoning and Subdivision Administrator* shall serve as staff to the *Planning Board*, and *Board of Adjustment*, and shall provide technical assistance to the *Planning Board*, and *Board of Adjustment*, as requested.

ARTICLE 5

AMENDMENTS TO DEVELOPMENT ORDINANCE AND ZONING MAP

5.1 General

The Creedmoor City Board of Commissioners may amend, supplement, modify, or repeal any provision of this ordinance or amend the zoning maps according to the procedure established by G.S.160A-384. Such amendments shall be evaluated for compliance with the City's Land Use Plan, Comprehensive Master Plan and other applicable adopted plans, and may require a land use plan and/or comprehensive master plan amendment to ensure compatibility between the plan(s) and the amendment. Amendments and modifications shall be acted upon by the City Board of Commissioners, after recommendation from the *Planning Board.*

5.2 Initiation of Amendments

Proposed changes or amendments to the text of this chapter may be initiated by the Creedmoor City Board of Commissioners, the Creedmoor *Planning Board*, the *Board of Adjustment*, the *Planning, Zoning and Subdivision Administrator*, any owner of a legal or equitable interest in land located in the City or its extraterritorial jurisdiction, or any resident of the City or its extraterritorial jurisdiction. Proposed zoning map amendments may be initiated by the Creedmoor City Board of Commissioners, the Creedmoor *Planning Board*, the *Board of Adjustment*, the *Planning, Zoning and Subdivision Administrator*, or any owner of a legal or equitable interest in the property for which the map amendment is requested. A zoning study of a defined area may be requested upon submittal to the Creedmoor Planning Services Department of a petition signed by 51 percent of the property owners in the defined area for which the zoning study is requested who own at least 51 percent of the property (calculated by both land area and number of parcels) in the defined area for which the zoning study is requested. The area for which the zoning study is requested must be defined by the petitioners requesting the zoning study and may be of any size and include any number of individual contiguous parcels, including a public street. The area defined by the petitioners will be used by City staff to determine if the required 51 percent of property owners owning at least 51 percent of the property have signed the petition requesting the zoning study. Upon confirmation that the petition for a zoning study is valid, it shall be forwarded to the Creedmoor City Board of Commissioners for a determination of whether the zoning study should be initiated for the defined area and any portion thereof. The City Board of Commissioners may initiate the zoning study, elect not to initiate the zoning study, or reduce the size of the area to be included in the zoning study and initiate a zoning study of the reduced area.

5.3 Amendment Process

5.3-1 Initial Application Process.

(A.) Pre-filing meeting. Before filing a petition for an amendment or a request for a zoning study, an applicant shall meet with the *Planning, Zoning and Subdivision Administrator* to discuss the proposed amendment or request and to become more familiar with the applicable requirements and approval procedures.

(B.) Neighborhood meeting. It is highly recommended that the applicant for a zoning map amendment (rezoning) meet with representatives of the neighborhood in which the property for which the map amendment (rezoning) is proposed is located. This meeting, which should be held at the pre-application stage, will allow the applicant to explain the proposed map amendment (rezoning) and to be informed of the concerns of the neighborhood.

(C.) Filing.

(1.) A petition requesting an amendment or a zoning study shall be filed with the Planning Department on a form provided by the *Planning, Zoning and Subdivision Administrator*.

(2.) Applicable fees shall be payable as set forth by the Creedmoor City Board of Commissioners.

(3.) Petitions must be submitted by 12:00 noon on the third Friday of the month in order for the petition to be heard at the meeting of the Creedmoor *Planning Board* scheduled at least 30 days later.

(D.) Content of applications.

(1.) Each application shall contain or be accompanied by all information required on the application form provided by the *Planning, Zoning and Subdivision Administrator.*

(2.) Every amendment proposing to change the district boundary lines shall be accompanied by a metes and bounds description, a survey of the area involved, or reference to existing lots, sufficient in the estimation of the *Planning, Zoning and Subdivision Administrator* to plot or otherwise identify the amendment on the official zoning maps of the City of Creedmoor.

(3.) Any person designated by the owner(s) of the property included in the petition to serve as agent for the owner shall submit such authorization in writing with the application.

5.3-2 Review by the Technical Review Committee.

(A.) General. Upon submission of a request for a zoning map amendment (rezoning) that

requires compliance with design guidelines as set forth in this Ordinance, the request shall be scheduled for review by the Creedmoor Technical Review Committee prior to being submitted to the Creedmoor *Planning Board* for review and recommendation. The Technical Review Committee shall review the request for compliance with the design standards set forth in this Ordinance. Upon receipt of the request, the Technical Review Committee shall hold a meeting to consider the proposal.

(B.) Notification. The meeting of the Technical Review Committee at which the request is reviewed is not a public hearing and therefore no notice is required.

(C.) Review – General. The review meeting shall be conducted in accordance with the rules of procedure of the Creedmoor Technical Review Committee. The Committee shall make recommendations to the Creedmoor *Planning Board* regarding whether the proposal complies with the design standards set forth in this ordinance. When considering a proposal, the Technical Review Committee shall consider only the compliance of the proposal with the design standards set forth in this Ordinance.

(D.) Finding of Compliance by the Creedmoor Technical Review Committee. Following a finding by the Technical Review Committee that the proposal complies with the design standards set forth in this Ordinance, the action shall be reported to the Creedmoor *Planning Board* for a recommendation according to the process set forth is section 5.3-3 of this ordinance.

(E.) Finding of Non-compliance by the Creedmoor Technical Review Committee. If the Technical Review Committee finds that the proposal does not comply with the design standards set forth in this ordinance, the petitioner may request that the consideration of the request by the *Planning Board* be postponed for up to ninety (90) days. The purpose of the postponement is to provide the petitioner time to address issues identified by the Technical Review Committee in their review of the proposal and/or to revise the proposal to address the issues that resulted in the finding of non-compliance. Following the negative recommendation of the Technical Review Committee and the postponement, if requested by the petitioner, the application with the Technical Review Committee's finding, shall be forwarded to the *Planning Board* for their consideration and recommendation. If the petitioner revises the proposal to address issues identified by the Technical Review Committee, the revised proposal shall be forwarded to the *Planning Board* for consideration and recommendation.

5.3-3 Review by the Creedmoor *Planning Board. (revised August 27, 2013 per 2013-O-12)*

(A.) General. Upon submission of a request for a Creedmoor Development Ordinance amendment or an Official Zoning Map amendment, the request shall be scheduled for review by the Creedmoor *Planning Board*. The Creedmoor *Planning Board* shall hold

a meeting to consider the requested amendment(s).

(B.) Review – General. The public meeting shall be conducted in accordance with the rules of procedure of the Creedmoor *Planning Board*. The Board shall make recommendations to the Creedmoor City Board of Commissioners regarding whether to approve or deny each proposed amendment. When considering an amendment, the *Planning Board* shall consider the compliance and compatibility of the amendment with the City's Land Use Plan, Comprehensive Master Plan and other adopted plans for the area affected by the proposed amendment.

(C.) Affirmative recommendation by the Creedmoor *Planning Board*. Following an affirmative recommendation by the Creedmoor *Planning Board* on the proposed amendments, the action shall be reported to the Creedmoor City Board of Commissioners for a public hearing and final action according to the process set forth in section 5.3-4 of this ordinance. The public hearing will be scheduled as provided by City Board of Commissioner's rules of procedure.

(D.) Negative recommendation by the Creedmoor *Planning Board*. If the Creedmoor *Planning Board* has made a negative recommendation on an amendment, the petitioner may request that the consideration of the request by the City Board of Commissioners be postponed for up to ninety (90) days. The purpose of the postponement is to provide the petitioner time to address issues identified by the *Planning Board* in their review of the request and/or to revise the request to address the issues that resulted in the negative recommendation. Following the negative recommendation of the *Planning Board* and the postponement, if requested by the petitioner, the application with the *Planning Board*'s recommendation shall be forwarded to the City Board of Commissioners for their consideration and action. If the petitioner chooses to revise the request to address the issues identified by the *Planning Board*, the petitioner must schedule a meeting with the *Planning, Zoning and Subdivision Administrator* and Chair (or Vice Chair) of the *Planning Board* a minimum of 14 days prior to the City Board of Commissioners meeting at which the request will be considered. The purpose of this meeting will be to review any revisions made to the application as a result of the *Planning Board* meeting. If the revision(s) to the request, at the discretion of the *Planning, Zoning and Subdivision Administrator* and Chair (or Vice Chair) of the *Planning Board*, has not addressed the issues identified by the *Planning Board*, the petitioner may: i) elect to take the request "as is" to the City Board of Commissioners for their consideration, or ii) further postpone action by the City Board of Commissioners to allow for further revisions to the request.

(E.) No action by the Creedmoor *Planning Board.* If the Creedmoor *Planning Board* has

made neither a positive nor a negative recommendation on a proposed amendment within 30 days of first considering it, the proposed amendment shall be forwarded to the City Board of Commissioners for consideration. The proposed amendment shall be accompanied by a record of the Creedmoor *Planning Board*'s comments regarding the amendment and the reasons, if any, for their lack of action.

(F.) Continuance by the Creedmoor *Planning Board*. In those cases where, upon hearing the request, the *Planning Board* feels that more information is needed, questions have arisen, or other circumstances occur in which additional time is needed to enable the Board to make a decision, the Planning Board may continue their meeting provided their recommendation is presented to the City Board of Commissioners within 30 days of the date first heard in accordance with NCGS 160A-387. The *Planning Board* may not continue the consideration of the request until the next regularly scheduled *Planning Board* meeting. The Board shall direct the appropriate person(s) to obtain the needed information, provide answers to questions, and/or conduct other investigations during this time to enable the Board to make a decision at the reconvening of the continued meeting. The *Planning Board* shall take action (affirmative or negative recommendation) on continued items at such meeting.

(G.) Content of recommendation and statement of consistency. Any recommendation made by the Creedmoor *Planning Board* to the Creedmoor City Board of Commissioners pursuant to this section shall be in writing and shall include a statement describing whether the proposed amendment is consistent with the comprehensive plan that has been adopted by the City and any other officially adopted plan that is applicable, and shall address any other matter deemed appropriate by the *Planning Board*. A comment by the *Planning Board* that a proposed amendment is inconsistent with the City's Land Use Plan, Comprehensive Master Plan and other adopted plans for the area affected shall not preclude consideration of approval of the proposed amendment by the City Board of Commissioners. (G.S. 160A-383)

(H.) Conflict of Interest. No member of the *Planning Board* shall vote on a recommendation regarding any zoning map (rezoning) or text amendment where the outcome of the matter being considered is reasonable likely to have a direct, substantial, and readily identifiable financial impact on the member. (G.S. 160A-381(d))

5.3-4 <u>Review by the Creedmoor City Board of Commissioners.</u>

(A.) Review -general. Following receipt of a recommendation on a proposed amendment, or in the case of a negative recommendation, the receipt of the petitioner's request for a public hearing, or in the case of no action by the Creedmoor *Planning Board* as described in section 5.3-3 above, the Creedmoor City Board of

Commissioners shall hold a public hearing on the proposed amendment. The public hearing will be scheduled and conducted as provided by the City Board of Commissioner's rules of procedure.

(B.) Notification. The *City Clerk* shall prepare a public notice as described below that indicates the official receipt of an application for a Creedmoor Development Ordinance amendment or an Official Zoning Map amendment. This notice for publication shall include the following:

(1.) Brief description of the requested amendment;

(2.) The time, date, and place at which the request will be considered; and

(3.) Contact information for staff receiving comments concerning the request.

The notice shall be published in a newspaper of general circulation prior to the date on which the request is to be considered. Publication shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than ten days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. When a change is proposed in a zoning boundary or classification of a parcel, notice of the public hearing shall be sent by first class mail to the owner of that parcel and the owners, as shown on the appropriate county tax listing, of all parcels abutting that parcel of land at least ten days before the date on which the request is to be considered. Should the applicant not hold a neighborhood meeting to discuss the proposed zoning map amendment (rezoning), as described in section 5.3-1.(B) above, this notice also shall be mailed to the owners of any property located within 500 feet of the property in question at least ten days before the date on which the request is to be considered. The person or persons mailing such notices shall certify to the City Board of Commissioners that proper notice has been given.

Publication of legal notice shall also be required for zoning map amendments as provided for text amendments. The first class mail notice shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the City elects to use the expanded published notice provided for in this subsection. In this instance, the City may elect to either make the mailed notice provided for above, or may as an alternative elect to publish notice of the hearing as required by G. S. 160A-364, but provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper that published the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the

most recent property tax listing for the affected property, shall be notified by first-class mail according to the provisions above. (G. S. 160A-384 (b))

When a zoning map amendment (rezoning) is proposed, the City shall, within the same time period before the scheduled public hearing, prominently post a notice of the public hearing on the property proposed for a zoning map amendment (rezoning) or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment (rezoning), a posting on each individual parcel is not required, but the City shall post sufficient notices to provide reasonable notice to interested persons. (G. S. 160A-384 (c))

In addition, the subject property shall be posted in a conspicuous location(s) with the time, date, and notice of public hearing. A sign stating such information shall be posted on the subject property ten (10) days before the date on which the request is to be considered.

(C.) Action.

(1.) Before acting on any proposed amendment, the Creedmoor City Board of Commissioners shall consider any recommendation made by the Creedmoor *Planning Board*, the recommendation submitted by the *Planning, Zoning and Subdivision Administrator* to the *Planning Board*, the comments made at the public hearing, and any other relevant additional information.

(2.) When considering a proposed amendment, the Creedmoor City Board of Commissioners shall not evaluate the petition based on any specific proposal for the use or development of the property. The petitioner shall not use any graphic materials or descriptions of the proposed development except for those that would apply to all uses permitted by the requested classification.

(3.) Upon reviewing all pertinent information, the Creedmoor City Board of Commissioners may:

(a.) Adopt the proposed amendment;

(b.) Reject the proposed amendment;

(c.) Continue the consideration of the request to their next regularly scheduled meeting or other agreed upon time;

(d.) Refer the proposed amendment back to the Creedmoor *Planning Board* for further consideration or hearing; or

(e.) Modify the proposed amendment.

(D.) Statement of Consistency. Prior to adopting or rejecting any amendment, the City Board of Commissioners shall adopt a statement describing whether its action is consistent with the City's Land Use Plan, Comprehensive Master Plan and any other applicable plan adopted by the City, and shall state why the action taken is considered

to be reasonable and in the public interest. (G. S. 160A-383)

(E.) Conflict of Interest. A City Board of Commissioners member shall not vote on any zoning map (rezoning) or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. (G. S. 160A-381 (d); 160A.5)

5.3-5 Protests.

(A.) Protest petitions. In case of a qualified protest against a zoning map amendment (rezoning), that amendment shall not become effective except by favorable vote of three-fourths of all the members of the Creedmoor City Board of Commissioners. For the purposes of this subsection, vacant positions on the City Board of Commissioners and members who are excused from voting shall not be considered members of the Board of Commissioners' for calculation of the requisite supermajority.

(B.) Qualifications.

(1.) Signatories required. To qualify as a protest, under this section, the petition must be signed by the owners of either (i) 20 percent or more of the area included in the proposed change or (ii) five percent of a 100-foot wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right-of-way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the City may rely on the county tax listing to determine the 'owners' of potentially qualifying areas.

(2.) Qualified signatures. Where the owner of property submitting a protest petition is something other than an individual, married couple holding the property as an entirety, or fewer than five joint owners (tenancy in common, joint tenants, etc.), the petition shall be accompanied by copies of appropriate documentation that the petition has been signed by all of the record owners of the protesting property, and in the case of an owner that is not a real person, documentation showing that the petition has been executed in the proper form for that entity. Where the property is titled in the name of someone who is deceased, divorced, or otherwise no longer an owner of the property, the petition shall so state. An opinion from a licensed North Carolina attorney as to the legal sufficiency of the form of execution of a protest petition will be accepted for this requirement.

(C.) Exceptions. The foregoing provisions concerning protests shall not be applicable to any amendment that initially zones property added to the territorial coverage of the Ordinance as a result of annexation, extension of extraterritorial jurisdiction, or

otherwise, or to an amendment to an adopted (i) special use district, (ii) conditional use district, or (iii) conditional district if the amendment does not change the types of uses that are permitted within the district or increase the approved density for residential development, or increase the total approved size of nonresidential development, or reduce the size of any buffers or screening approved for the special use district, conditional use district, or conditional district.

(D.) Form and time for filing. No protest against any change in or amendment to this Ordinance or the Official Zoning Map shall be valid or effective unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers protest the proposed change or amendment, and unless it shall have been received by the City Clerk in sufficient time to allow the City at least two normal work days, excluding Saturdays, Sundays, and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. The City Board of Commissioners may by ordinance require that all protest petitions be on a form prescribed and furnished by the City, and such form may prescribe any reasonable information deemed necessary to permit the City to determine the sufficiency and accuracy of the petition. The City of Creedmoor provides protest petition forms at the office of the *Planning, Zoning and Subdivision Administrator*. A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment. Only those protest petitions that meet the qualifying standards set forth in N.C.G.S., sec. 160A-385 at the time of the vote on the zoning amendment shall trigger the supermajority voting requirement.

5.3-6 <u>Waiting period for subsequent applications.</u>

(A.) Waiting period - general. When an application for a zoning amendment has been approved or denied by the Creedmoor City Board of Commissioners, no rezoning application covering the same property shall be accepted or considered within 12 months after the date of the approval or denial. This restriction shall apply regardless of whether or not the new application is for a zoning classification different from the original application.

(B.) Waiting period - waiver. The waiting period required by this section may be waived by a three-fourths vote of Creedmoor City Board of Commissioners if it determines that there have been substantial changes in conditions or circumstances which may relate to the request. A request for a waiver of the waiting period shall be submitted to the *Planning, Zoning and Subdivision Administrator*, who shall review and prepare a recommendation regarding action on the request. Said recommendation shall be considered by the City Board of Commissioners in their review of the request for a

waiver. If the request for the waiver is approved, the application shall go through the full review process as set forth above.

ARTICLE 6

VARIANCES AND ADMINISTRATIVE APPEALS

(Amended May 27, 2014 per Ord. 2014-O-03)

6.1 Variances

6.1-1 Purpose. The variance process administered by the *Board of Adjustment* is intended to provide limited relief from the requirements of this Ordinance in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise allowed under this Ordinance. It is not intended that variances be granted merely to remove inconveniences or financial burdens that the requirements of this Ordinance may impose on property owners in general or to increase the profitability of a proposed development. Rather, it is intended to provide relief where the requirements of this Ordinance render the land difficult or impossible to use because of some unique physical attribute of the property itself or some other factor unique to the property for which the variance is requested.

6.1-2 Provisions That May Not Be Varied By the *Board of Adjustment*. In no event shall the *Board of Adjustment* grant a variance:

(A.) With respect to any conditional use permit or conditional zoning district ordinance adopted pursuant to this Ordinance.

(B.) Which would modify, alter, change, or suspend the special standards and/or conditions set forth in Article 10 of this Ordinance for a use with additional standards or a conditional use.

(C.) To the flood protection provisions within a designated floodway district that would result in any increase in the flood levels during the regulatory flood discharge.

(D.) Which would permit a use or density not otherwise permitted in the district in which the property is located.

(E.) Which would permit a non-conforming use of land, buildings, or structures.

(F.) Which would permit the creation of a non-conforming lot except that the Board of Adjustment may grant a variance permitting a reduction in the lot area and dimensional standards, for an individual lot located in the Single Family Residential (SFR) and Residential Main Street Transition (R/MST) districts. Provided further applications for such variance for additional lot(s) under common ownership shall not be submitted within three (3) years of submittal of the previous application, regardless of the decision of the Board on the previous application.

(G.) Which would conflict with the North Carolina State Building Code, the North Carolina Fire Prevention Code, or any other codes of the State of North Carolina unless otherwise authorized by laws and/or regulations.

6.1-3 Application. The following process shall be followed in applying for a variance:

(A.) An application for a variance shall be filed only by the owner of the land affected by the variance or an agent specifically authorized in writing by the owner to file such application.

(B.) Before filing the application, the applicant shall meet with the *Planning, Zoning and Subdivision Administrator* to discuss the proposed variance and to become more familiar with the applicable requirements and the variance process.

(C.) An application for a variance shall be filed with the *Planning, Zoning and Subdivision Administrator* on a form provided by the *Planning, Zoning and Subdivision Administrator* and contain the information and plans required on the application form.

(D.) The application shall be accompanied by a fee as required by the City of Creedmoor.

(E.) Once the application is accepted as complete by the *Planning, Zoning and Subdivision Administrator*, the request shall be scheduled for consideration at a public hearing by the *Board of Adjustment.*

6.1-4 Action By The *Board of Adjustment*. The following action shall be taken by the *Board of Adjustment* upon receipt of the completed application:

(A.) A public hearing shall be held on the requested variance within thirty-six (36) days of receipt of a complete application.

(B.) Notice of the hearing shall be given by mail to:

(1) the person or entity whose variance application or request is the subject of the hearing;

(2) the owner of the property that is subject to the hearing if the owner did not initiate the hearing; and,

(3) owners of all parcels of land abutting the parcel of land that is the subject of the hearing and owners of all properties that lie within five-hundred (500) feet of the subject property; and,

(4) to any other person who makes a written request for such notice at least ten (10) days prior to the date of the hearing.

Such notices shall be deposited in the mail at least ten (10) days but not more than twenty-five (25) days prior to the date of the hearing.

(C) A sign shall be prominently posted on the subject property or an adjacent street or highway right-of-way at least ten (10) but not greater than twenty-five (25) days prior to the date of the hearing.

(D) In considering the application, the *Board of Adjustment* shall review the application materials, the staff recommendation, the general purpose and standards set forth in this Article for the granting of variances, and all testimony and evidence received by the Board at the public hearing.

(E) After conducting the public hearing, the *Board of Adjustment* may:

(1.) Deny the request by simple majority vote;
(2.) Conduct an additional public hearing on the request; or
(3) Grant the request.

The concurring vote of four-fifths (4/5) of the members of the *Board of Adjustment* [i.e., four (4) voting members] shall be necessary to grant a variance. Any approval or denial of the request shall be accompanied by, in writing, such findings that the variance meets or does not meet each of the standards set forth in subsection 6.1-6 below or, for flood protection regulation variances, as set forth in Article 18 of this Ordinance. For purposes of this section, vacant positions and members of the Board who are disqualified from voting on the hearing decision shall not be considered "Board members" for calculation of the majority if there are no qualified alternate Board members available to take the place of such members.

6.1-5 Conditions. Appropriate conditions, which must be reasonably related to the condition or circumstance that results in the need for the variance, may be attached to any approval granted by the *Board of Adjustment*.

6.1-6 Standards of Review. The *Board of Adjustment*'s decision shall be based upon competent, material and substantial evidence. All persons providing evidence at the hearing shall be sworn in by either the Chair or the Clerk. The Board of Adjustment shall not grant a variance until it makes each of the following findings:

(A.) Unnecessary hardship would result from the strict application of the ordinance. (**NOTE**: It shall not be necessary to demonstrate, in the absence of a variance, that no reasonable use can be made of the property.);

(B.) The hardship results from conditions that are peculiar to the property such as location, size or topography. (**NOTE**: 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.);

(C.) The hardship did not result from actions taken by the applicant or the property owner. (**NOTE**: 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.); and,

(D.) 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.

6.1-7 Effective Date of Decision. Any decision made by the Board of Adjustment regarding a variance shall be reduced to writing and reflect the Board's decision on contested facts and their application to the applicable standards. The written decision shall be signed by the Chair and shall be filed with the City Clerk. The effective date of the decision shall be upon the date it is filed with the City Clerk. The decision shall be delivered by the Administrator or his designee via personal delivery, electronic mail or by first class mail to the applicant, property owner and to any person who has submitted a written request for a copy prior to the close of the public hearing on the case. The person making such deliveries shall certify that the deliveries have been made.

Following the effective date of decision of the Board of Adjustment, the following actions may be taken:

1. After the Board of Adjustment approves a variance, the applicant shall follow all appropriate procedures set forth in this ordinance for the receipt of permits, certificates, and other approvals necessary in order to proceed with development.
2. After the denial of the variance request, the applicant may make application for a rehearing in accordance with Board of Adjustment's bylaws.

6.1-8 Duration. The variance may be issued for a limited duration only. Unless otherwise specified, construction and/or operation shall be commenced within twenty-four (24) months of the date of issuance of a variance, or the variance shall become void.

6.1-9 Appeals. An appeal from any decision of the Board of Adjustment may be made by an aggrieved party and shall be made to the Superior Court of Granville County in the nature of certiorari, pursuant to NCGS 160A-393 (2013). Any such petition to the Superior Court shall be filed by the later of thirty (30) days after the decision becomes effective or after a written copy of the decision is delivered to the applicant,

property owner, and to any other person who has submitted a written request for a copy of the decision, prior to the date the decision becomes effective. The Clerk shall send a copy of the written decision to the applicant, property owner, and to any other person who has submitted a written request for a copy of the decision, prior to the date the decision becomes effective. Said decision shall be delivered by personal delivery, electronic mail, or by first class mail. When first class mail is used to deliver the notice, three (3) days shall be added to the time to file the petition.

6.2 Appeals of Administrative Decisions

6.2-1 Purpose. Appeals to the *Board of Adjustment* from the decisions of the *Planning, Zoning and Subdivision Administrator* of the City of Creedmoor are permitted as provided for in this section.

6.2-2 Decisions that may be appealed. Any final and binding order, requirement, or determination made in writing by an administrative officer charged with enforcing the provisions of this Ordinance may be appealed to the *Board of Adjustment*. Any such decision shall be given to the owner of the property that is subject to the decision and to the party who sought the decision, if different than the property owner. Said notice shall be delivered by personal delivery, electronic mail or by first-class mail. When first class mail is used to deliver the notice, three (3) days shall be added to the time to file the petition.

6.2-3 Parties who may file an appeal. Any person who has standing under NCGS 160A-393(d) or the City of Creedmoor may bring an appeal to the *Board of Adjustment*.

6.2-4 Period to file an appeal. The property owner or other party shall have thirty (30) days from the date of receipt of the decision within which to file an appeal. Any other person or entity with standing to appeal shall have thirty (30) days from receipt from any source of actual or constructive notice of the decision within which to appeal.

6.2-5 Constructive notice. It is presumed that persons with standing to appeal shall have constructive notice of the decision from the date a sign has been posted, such sign containing the words "Zoning Decision" in letters at least six (6) inches high and identifying the means to contact a Creedmoor City official for information about the decision, with said sign being posted for a minimum of ten (10) days. Posting of the sign shall be the responsibility of the landowner or applicant. Posting of signs is not the only form of constructive notice.

6.2-6 Filing of Appeal.

(A) The appeal shall be filed with the Creedmoor City Clerk on an application form provided by him/her and contain the information as required on the application form.

(B) The appeal application shall be accompanied by a fee as established by the City of Creedmoor.

(C) Upon acceptance of the appeal application by the Creedmoor City Clerk the appeal shall be scheduled for consideration by the Board of Adjustment within thirty-six (36) days of the date of submittal of a complete application. Notwithstanding, the appellant can apply for an expedited hearing to occur within fifteen (15) days of such filing as provided in Subsection D below.

(D) The filing of an appeal shall stay enforcement of the action appealed from unless the Planning, Zoning and Subdivision Administrator certifies to the Board of Adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life and property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In such case, enforcement proceedings shall not be stayed except by a restraining order granted by the Superior Court of Granville County on notice to the administrative official from whom the appeal is taken, with due cause shown. If enforcement proceedings are not stayed, the appellant may file for an expedited hearing of the appeal to occur within fifteen (15) days after such request is filed.

6.2-7 Action by the Board of Adjustment.

(A) Upon receiving the appeal application, the *Board of Adjustment* shall hold a public hearing on the appeal. Notice of the hearing shall be as provided in Section 6.1-4. The person whose decision is being appealed shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the action appealed from is being taken. Said information shall also be provided to the applicant and to the owner of the property that is subject to the appeal, if such person(s) is not the applicant.

(B) The public hearing shall be conducted in accordance with by-laws of the *Board of Adjustment* and in accordance with the North Carolina General Statutes. All persons providing evidence at the hearing shall be sworn in by either the Chair or the Clerk to the Board. The official who made the decision that is being appealed shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the City would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the public hearing.

1. Either at the meeting at which the public hearing has been closed or at a subsequent or continuation meeting to be held within thirty (30) days of the close of the public hearing, the Board of Adjustment shall adopt an order reversing, affirming, wholly or partly, or modifying the contested action. The Board of Adjustment's decision shall be based upon competent, material and substantial evidence.

2. The Board of Adjustment shall not reverse or modify the contested action unless it finds that the administrative officer erred in the application or interpretation of the requirements of this Ordinance.

3. The Board of Adjustment shall not reverse or modify the contested action unless there is a concurring vote of a majority of the Board's members [i.e., three (3) voting members]. For purposes of this section, vacant positions and members of the Board who are disqualified from voting on the hearing decision shall not be considered "Board members" for calculation of the majority if there are no qualified alternate Board members available to take the place of such members.

4. The parties to an appeal may agree to mediation or other forms of alternative dispute resolution.

5. Any decision made by the Board of Adjustment regarding an appeal shall be reduced to writing and reflect the Board's decision of contested facts and their application to the applicable standards. The written decision shall be signed by the Chair and shall be filed with the City Clerk. The effective date of the decision shall be upon the date it is filed with the City Clerk. The decision shall be delivered by the Administrator or his designee via personal delivery, electronic mail or by first class mail to the applicant, property owner and to any person who has submitted a written request for a copy prior to the close of the public hearing on the case. The person making such deliveries shall certify that the deliveries have been made.

6.2-8 Effect of reversal or modification. In the event that the *Board of Adjustment* reverses or modifies the contested action, all subsequent actions taken by administrative officers with regard to the subject matter shall be in accordance with the reversal or modification granted by the *Board of Adjustment* unless an appeal is taken on the Board's decision.

6.2-9 Appeal from *Board of Adjustment*. An appeal from any decision of the *Board of Adjustment* may be made by an aggrieved party and shall be made to the Superior Court of Granville County in the nature of certiorari. Any such petition to the Superior Court shall be filed by the later of thirty (30) days after the decision becomes effective or after a written copy of the decision is delivered to the applicant, property owner, and to any other person who has submitted a written request for a copy of the decision, prior to the date the decision becomes effective. Said decision shall be delivered by personal delivery, electronic mail, or by first class mail. When first class mail is used to deliver the notice, three (3) days shall be added to the time to file the petition.

ARTICLE 7

PERMITS AND PROCEDURES

7.1 Permit and/or Approval Required *(Amended May 2, 2014 per Ord. 2014-O-03)*

7.1-1 Approval Required. No person shall undertake any activity subject to this Ordinance without first obtaining approval from the City. Upon approval of the activity by the City, a permit shall be issued for the approved activity. Certain permits are issued by agencies other than the City of Creedmoor, as noted below; all other permits are issued by the City.

The permits and/or approvals required are:

(A.) ***Zoning permit*** (also known as *Zoning Compliance Permit*)

(1.) Special Event/Temporary Structures

(2.) Signage (size, type, location, etc.)

(3.) Site Development Plan/Preliminary Plat Approval

(a.) Zoning compliance (land use, density, open space, connectivity, tree preservation, parking, flood, watershed, etc.)

(b.) Public works compliance (utilities, street designs, stormwater, etc.)

(c.) Public safety compliance (fire lanes, hydrants, etc.)

(d.) Access compliance (driveway, street intersections, etc.)

(4.) Construction Plans

(a.) Infrastructure Plans (streets, water & sewer)

(b.) Driveway Permit – NCDOT or City (based upon responsible maintenance department)

(c.) Stormwater Plans (BMP)

(d.) Floodplain Development and Certification Permit

(e.) Grading Permit-Major - Issued by the North Carolina Department of Environment and Natural Resources (a.k.a. "NCDENR" or "DENR") following issuance of zoning permit by the City of Creedmoor for disturbed areas greater than one (1) acre or 43,560 square feet.

(f.) Grading Permit-Minor – Issued by the City of Creedmoor Planning and Community Development Department for disturbed areas greater than 12,000 square feet, but less than 43,559 square feet.

(5.) Subdivision ***Final Plat*** Approval

(B.) ***Building Permit*** - Creedmoor Building Inspections Department issues building permits following issuance of *Zoning permit* by the City of Creedmoor.

(C.) ***Certificate of Occupancy*** (a.k.a. "CO") - City of Creedmoor Building Inspections Department issues upon final inspection and approval by the City.

7.1-2 Fees. The City Board of Commissioners shall establish a Schedule of Fees, Charges and Expenses, and a collection procedure, for approvals and permits. No approval, permit, certificate, variance, etc. shall be processed and/or issued unless or until such charges have been paid in full.

7.2 Periodic Inspections

The *Planning, Zoning and Subdivision Administrator*, or his/her designee, shall have the right, upon presentation of proper credentials to enter on any premises within the City's jurisdiction at any reasonable hour for the purposes of inspection, determination of plan compliance or other enforcement action.

7.3 Permit Expiration

7.3-1 Building Permit Expiration. The City of Creedmoor Building Inspections Department may void a building permit for a project within the City jurisdiction if the authorized work has not begun within 180 days after issuance of the permit, or work was commenced but was discontinued for a period of one year.

7.3-2 Grading Permit Expiration. Under terms of the City's agreement with NCDENR, a grading permit issued by the NCDENR is valid for one year unless it is revoked by the Enforcement Officer or the grading project is completed and the appropriate certificates issued by the NCDENR.

7.3-3 Other Permit/Approval Expiration. Permits and approvals other than those identified in sections 7.3-1 and 7.3-2 above shall expire as set forth in the process for each permit and/or approval below.

7.4 Certificates Issued by the City

The City of Creedmoor Building Inspections Department issues certificates of occupancy, temporary certificates of occupancy, and certificates of floor elevation/flood proofing upon completion or partial completion of a project permitted by the City.

7.5 Zoning permits (Zoning Compliance Permit)

7.5-1 Purpose. A *zoning permit* shall be required for the construction or development of any new use within the planning and regulation jurisdiction of the City of Creedmoor. In addition to new uses, a *zoning permit* shall also be required for expansions of existing uses, as well as for changes of use. The procedure set forth below shall be followed to obtain a *zoning permit* for the construction of single-family and duplex

residential development and expansions of uses and changes of use that do not require permits and/or approvals other than:

(1.) Use permit,

(2.) Driveway access permit, and/or

(3.) Soil erosion and sedimentation plan approval, as set forth elsewhere in this Ordinance.

7.5-2 Pre-application procedure. No pre-application conference is required prior to applying for a *zoning permit*. Applicants are encouraged to call or visit the *Planning Services Department* prior to requesting a *zoning permit* to determine what information is required for the application.

7.5-3 Plan submittal.

(A.) Filing of application. An application for a *zoning permit* may be filed by the owner of the property or by an Officer duly authorized to execute on behalf of the owner, specifically authorized by the owner to file such application. Where an agent files the application, the agent shall provide documentation that the owner of the property has authorized the filing of the application. The application for a *zoning permit* shall be filed with the *Planning, Zoning and Subdivision Administrator* on a form provided by the *Planning, Zoning and Subdivision Administrator.*

(B.) Fees. An application fee, as established by the City of Creedmoor, shall be due and payable when the application is submitted.

(C.) Information required. Each application for a *zoning permit* shall contain the information required on the application form, including a *Site Plan* showing the dimensions of the proposed use and its location on the property or site. Other information necessary to show that the use or structure complies with the standards set forth in this Ordinance shall also be provided.

7.5-4 Staff review. The *Planning, Zoning and Subdivision Administrator* shall review the application and determine whether it is complete within ten working days of its submittal. If the application is found to be incomplete, the *Planning, Zoning and Subdivision Administrator* shall notify the applicant of any deficiencies. No further steps shall be taken to process the application until the applicant corrects the deficiencies. The *Planning, Zoning and Subdivision Administrator* shall issue a *zoning permit* only upon finding that the proposed use or structure satisfies the requirements set forth in this Ordinance.

7.5-5 Public notification. No public notification is required for *zoning permit* requests.

7.5-6 Formal review. No formal review of *zoning permit* requests is required. Requests shall be reviewed by appropriate City staff to assure compliance with all applicable

regulations and requirements.

7.5-7 Variances. Requests for variances from the requirements set forth in this Ordinance shall be heard by the *Board of Adjustment* under the procedures established in Article 6.

7.5-8 Appeals. Appeals of the decisions of the *Planning, Zoning and Subdivision Administrator* shall be heard by the *Board of Adjustment* under the procedures established by Article 6.

7.5-9 Permit validity. Upon the approval of a *zoning permit*, the applicant shall have one year to obtain the required building permit(s). Failure to obtain requisite building permit(s) within this time shall render the *zoning permit* void. The *Planning, Zoning and Subdivision Administrator* may grant a single extension of this time period of up to six months upon submittal by the applicant of sufficient justification for the extension. Upon issuance of a building permit(s), the *zoning permit* shall remain valid as long as a valid building permit exists for the project. Any unapproved change, as determined by the *Planning, Zoning and Subdivision Administrator* in the approved plans shall render the *zoning permit* invalid.

7.5-10 Violations. Violations of the requirements and conditions of the *zoning permit* shall be considered a violation of this Ordinance and shall be subject to the enforcement and penalty provisions set forth in Article 23.

7.6 Special Events/Temporary Structures permits

7.6-1 Purpose. To insure that proposed special events and temporary structures comply with the requirements of this Ordinance, no use that is classified as a special event or structure that is classified as a temporary structure and permitted as such in the zoning district in which it is located shall be placed or established on the property without first receiving a special event/temporary structure permit from the *Planning, Zoning and Subdivision Administrator.*

7.6-2 Pre-application procedure. No pre-application conference is required prior to applying for a special event/temporary structure permit. Applicants are hereby encouraged to call or visit the *Planning Services Department* prior to requesting a special event/temporary structure permit to determine what information is required for the application.

7.6-3 Plan submittal.

(A.) Filing of application. An application for a special event/temporary structure permit may be filed by the owner of the property or by an agent specifically authorized by the owner to file such application. Where an agent, files the application, the agent shall provide the *Planning, Zoning and Subdivision Administrator* with

documentation that the owner of the property has authorized the filing of the application. The application for a special event/temporary structure permit shall be filed with the *Planning, Zoning and Subdivision Administrator* on a form provided by the *Planning, Zoning and Subdivision Administrator.*

(B.) Fees. A permit fee, as established by City of Creedmoor, shall be submitted with the application. In addition, a permit shall be obtained from the Fire Department as required by the fire prevention code.

(C.) Information required. Each application for special event/temporary structure permit shall contain the information required on the application form. The application shall be accompanied by a *Sketch Plan* showing the boundaries of the property, the use of adjacent properties, the location of the special event or structure on the property, access and parking provisions, restroom facilities, and other information sufficient to show that the special event or structure complies with the standards set forth in Article 15 of this Ordinance. Persons seeking issuance of a special event/temporary structure permit for an event shall file an application with a minimum of five (5) days prior to the proposed event date, unless this time frame is reduced by the *Planning, Zoning and Subdivision Administrator*.

7.6-4 Staff review. The *Planning, Zoning and Subdivision Administrator* shall review the application and determine whether it provides the information required. The *Planning, Zoning and Subdivision Administrator* shall issue a special event/temporary structure permit only upon finding that the proposed special event or temporary structure satisfies the requirements set forth in Article 15 of this Ordinance.

7.6-5 Public notification. No public notification is required for special event/temporary structure permit requests.

7.6-6 Formal review. Requests shall be reviewed by appropriate City staff to assure compliance with all applicable regulations and requirements.

7.6-7 Variances. Requests for variances from the requirements set forth in this Ordinance shall be heard by the *Board of Adjustment* under the procedures established in Article 6.

7.6-8 Appeals. Appeals of the decisions of the *Planning, Zoning and Subdivision Administrator* shall be heard by the *Board of Adjustment* under the procedures established in Article 6.

7.6-9 Permit validity. The special event/temporary structure permit shall be valid only for the time period stated on the permit.

7.6-10 Violations. Violations of the conditions of the special event/temporary structure permit shall be considered a violation of this Ordinance and shall be subject to the

enforcement and penalty provisions set forth in Article 23.

7.6-11 Public emergencies. In the event of a natural disaster, catastrophic event or public emergency the *Planning, Zoning and Subdivision Administrator* or her/his designee may waive any special event/temporary structure permit procedures and authorize the placement of temporary structures and other facilities that are deemed necessary or desirable in conjunction with the management of the emergency.

7.7 Site Development Plan Review

7.7-1 Large site development plan review process.

(A.) Purpose. The large site development plan review process is required for development projects located within the planning and regulation jurisdiction of the City of Creedmoor and its extraterritorial jurisdiction which, due to their size, could be expected to have a significant impact upon public services and facilities. This review process is established to assure that adequate services and facilities can be provided for these developments and to assure that they do not negatively impact the area in which they are proposed to be located or the City as a whole. Proposed developments involving new construction, additions, renovations, and changes of use which fall into one or more of the following categories are subject to the large site development plan review process.

(1.) New construction and changes of use.

(a.) Commercial buildings, structures, or developments with a gross floor area of more than 1,000 square feet;

(b.) Office or institutional buildings, structures, or developments with a gross floor area of more than 2,400 square feet;

(c.) Any residential development containing more than 4 individual units.

(2.) Additions with a gross floor area of 50 percent or more of the above threshold for new construction for that land use, or additions with a gross floor area of 25 percent of the above threshold for new construction for that land use if the resulting total gross floor area, when combined with the existing floor area, would result in a gross floor area meeting or exceeding the above threshold for new construction for that land use if the structure did not previously meet the above threshold. In the case of residential development: additions of 2 or more dwelling units on one parcel of land.

Properties located within 1,500 feet of each other, under the same ownership and/or developed by the same developer over a period of three years or less shall be considered to be one development and reviewed as such.

(B.) Pre-application procedure.

(1.) All applicants for large site development plan review are required to schedule a predevelopment conference with the *Planning, Zoning and Subdivision Administrator* prior to the preparation of development plans. This conference allows the applicant and *Planning, Zoning and Subdivision Administrator* an opportunity to discuss the review process, the requirements for completing the review schedule, contact persons for services and permits, and information regarding *Site Plan*s, landscaping, and development requirements.

(2.) It is highly recommended that the developer meet with representatives of the *Neighborhood* or area in which the proposed project is to be located. This meeting, which can be held at the pre-application stage, will allow the developer to explain the proposed project and to be informed of the concerns of the *Neighborhood* or area.

(C.) Plan submittal.

(1.) Application required. An application shall be required for all large site development plan review requests. This application shall contain pertinent information regarding the proposed project and shall be accompanied by a conceptual *Site Plan*.

The conceptual *Site Plan* shall contain the following:

(a.) Property boundaries with dimensions

(b.) PIN for property

(c.) Location of adjacent streets and utility easements

(d.) Dimensioned footprint and setbacks of the existing and proposed structures with gross floor area indicated

(e.) Location and number of parking spaces

(f.) Location and size of buffer and landscape areas

(g.) Location of existing and proposed driveways and/or streets

(h.) Location of all flood zones (if applicable to the property)

(i.) Location of adjoining properties and the zoning and use of these properties

(j.) Number of stories and overall height of all structures (existing and proposed)

(k.) Location of proposed stormwater detention facilities

(l.) Location of existing and proposed dumpster and recycling containers

(m.) Generalized depiction or description of natural features on and immediately adjoining the site, including streams and other water bodies, steep slopes, areas covered by tree canopy, etc., and

(n.) Other information determined by the *Planning, Zoning and Subdivision Administrator* as necessary to evaluate the request.

(2.) Preparation by professional. *Site Plan*s for developments requiring large site development plan review shall be prepared by a registered architect, engineer, landscape architect, or land surveyor licensed in the State of North Carolina for the work in which he is trained and licensed to perform.

(3.) Fees. Fees as established by the City of Creedmoor shall be due and payable upon submittal of the application for large site development plan review.

(4.) Submittal of application. Applications for large site development plan review, with the required copies of the conceptual *Site Plan*s, shall be submitted to the *Planning, Zoning and Subdivision Administrator* at least 14 days prior to the *Technical Review Committee* (TRC) meeting at which they will be considered.

(D.) Staff review.

(1.) *Planning Services Department* staff review. Plans for development requiring large site development plan review shall be reviewed by the *Planning, Zoning and Subdivision Administrator* for compliance with the requirements of this chapter.

(2.) Submittal of plans to *Technical Review Committee.* The *Planning, Zoning and Subdivision Administrator* shall present *Site Plan*s for developments requiring large site development plan review to members of the *Technical Review Committee* for review at their next available regular meeting. The *Technical Review Committee* shall review the *Site Plan*s for compliance with the requirements of this Ordinance and other applicable Ordinance s and laws. This review shall be made by the members of the *Technical Review Committee* and by any other agencies or officials as required.

(E.) Action by *Technical Review Committee.* Provided the application and conceptual *Site Plan* are complete, the *Technical Review Committee* shall take action within ten working days of reviewing the conceptual *Site Plan*.

(1.) Approval. If the conceptual *Site Plan* is approved, the *Planning, Zoning and Subdivision Administrator* shall notify the applicant and provide letter of approval and an approved *zoning permit* for the project.

(2.) Conditional Approval. If the conceptual *Site Plan* receives conditional approval, the applicant shall revise the plan based upon the conditions of the approval and resubmit it. The *Planning, Zoning and Subdivision Administrator* shall review the revised plan. If it meets all of the approval conditions, the conceptual *Site Plan* shall be approved and the *Planning, Zoning and Subdivision Administrator* shall notify the applicant and provide a letter of approval and an approved *zoning permit* for the project.

(3.) Denial. If the conceptual *Site Plan* is denied, the reasons for denial shall be provided to the applicant in writing. The *Site Plan* may be revised to address the reasons for denial and resubmitted in accordance with the provisions of this

section.

(4.) Continuance. If the conceptual *Site Plan* is tabled or the review is continued, the reasons for the tabling or continuance shall be provided to the applicant in writing. The applicant shall address the reasons for tabling or continuance and the conceptual *Site Plan* shall be reviewed and action taken at the next *Technical Review Committee* meeting, unless all parties agree to another time.

(F.) Public notification. The *Planning, Zoning and Subdivision Administrator* shall prepare a public notice as described herein below which indicates the official receipt of an application and conceptual plan for large site development approval. This will serve to encourage public involvement in development projects in Creedmoor. This notice for publication shall include the following:

(1.) Brief description of the large site development project proposed;

(2.) The time, date, and place at which the project will be available for public review; and

(3.) Contact information for staff receiving comments concerning the proposed large site development project.

The notice shall be posted in a conspicuous place at City Hall, on the City's website, or a combination of these two, at least five days prior to the date on which the application is to be considered. This notice also shall be mailed to the owners, as shown on the County tax listing, of abutting property at least five days before the date on which the request is to be considered. The applicant is encouraged to conduct a *Neighborhood* meeting to inform nearby property owners of their intentions for development. The neighborhood meeting shall include a presentation of the plan and an opportunity for concerned parties to ask questions and be provided responses to those questions. The time, date, and place of the neighborhood meeting shall be provided to the *Planning, Zoning & Subdivision Administrator* at least five days prior to the neighborhood meeting. The mailing list, attendance record and summary of the presentation and comments shall be submitted to the *Planning, Zoning & Subdivision Administrator* within two business days following the neighborhood meeting. Should the applicant not hold a *Neighborhood* meeting to discuss the proposed project, as described in section 7.7-1(B)2 above, this notice also shall be mailed to the owners of any property located within 500 feet of the property in question at least five days before the date on which the request is to be considered. A sign shall be posted on the subject property five days before the date on which the application is to be considered if the recommended *Neighborhood* meeting is not held.

(G.) Formal review. Applications for large site development plan review are subject to final review by the *Planning, Zoning and Subdivision Administrator*.

(H.) Variances. Variances from the requirements of this Ordinance for developments

requiring large site development plan approval shall be considered by the *Board of Adjustment* in accordance with the procedures set forth in Article 6.

(I.) Appeals. Appeals of decisions of the *Technical Review Committee* regarding developments requiring large site development plan approval shall be heard by the *Board of Adjustment* in accordance with the procedures set forth in Article 6 of this Ordinance.

(J.) Permit validity. Approval of *Site Plan*s and permits for developments requiring large site development plan review shall be valid for one year from the date of approval. Failure to initiate construction, or otherwise begin the permitted use, within this time shall render the site development plan approval void. The *Planning, Zoning and Subdivision Administrator* may grant a single extension of this time period of up to six months upon submittal by the applicant of sufficient justification for the extension.

(K.) Violations. Violations of the approved site development plan shall be considered a violation of this Ordinance and subject to the enforcement and penalty provisions of Article 23 of this Ordinance.

7.7-2 <u>Small site development plan review process.</u>

(A.) Purpose. The small site development plan review process is required for development projects within the planning and regulation jurisdiction of the City of Creedmoor and its extraterritorial jurisdiction involving new construction, additions, renovations, and changes of use which do not meet the minimum size requirements of the large site development plan review processes as set forth in subsection 7.7-1(A)., but do fall into one or more of the following categories.

(1.) All new developments not meeting the threshold for large site development plan review, except residential projects containing not more than one dwelling unit;

(2.) Additions with a gross floor area of 100 square feet or more (excluding single-family and duplex residential units);

(3.) Additions that displace existing parking;

(4.) Additions that generate the need for more parking;

(5.) Renovations which exceed 50 percent of the assessed value of the building, as determined by the Granville County Tax Assessor;

(6.) Changes of use;

(7.) Properties located within 1,500 feet of each other, under the same ownership and/or developed by the same developer over a period of three years or less shall be considered to be a single development and reviewed as such.

(B.) Pre-application procedure. A predevelopment conference with the *Planning, Zoning*

and Subdivision Administrator prior to the preparation of development plans is recommended. This conference introduces the applicant to the review process and the information required on the *Site Plan*s, landscaping, development standards, and to the contact persons for services and permits.

(C.) Plan submittal.

(1.) Application required. An application shall be required for all small site development plan review requests. This application shall contain pertinent information regarding the proposed project and shall be accompanied by a conceptual *Site Plan*. The conceptual *Site Plan* shall contain the following:

(a.) Property boundaries with dimensions

(b.) PIN for property

(c.) Location of adjacent streets and utility easements

(d.) Dimensioned footprint and setbacks of the existing and proposed structures with gross floor area indicated

(e.) Location and number of parking spaces

(f.) Location and size of buffer and landscape areas

(g.) Location of existing and proposed driveways and/or streets

(h.) Location of all flood zones (if applicable to the property)

(i.) Location of adjoining properties and the zoning and use of these properties

(j.) Number of stories and overall height of all structures (existing and proposed)

(k.) Location of proposed stormwater detention facilities

(l.) Location of existing and proposed dumpster and recycling containers

(m.) Generalized depiction or description of natural features on and immediately adjoining the site, including streams and other water bodies, steep slopes, areas covered by tree canopy, etc.

(n.) Other information determined by the *Planning, Zoning and Subdivision Administrator* as necessary to evaluate the request.

(o.) The application and conceptual *Site Plan* shall be submitted to the *Planning, Zoning and Subdivision Administrator*.

(2.) Fees. Fees as established by the City of Creedmoor shall be due and payable upon submittal of the application for small site development plan review.

(3.) Submittal of application. Applications for small site development plan review, with the required copies of the *Site Plan*s, shall be submitted to the *Planning, Zoning and Subdivision Administrator*. Applications may be submitted at any time.

(D.) Staff review.

(1.) Departmental review. Upon receipt of the application for small site development plan review, the *Site Plan*s shall be distributed to and reviewed by the affected City staff for compliance with the requirements of this Ordinance and other applicable Ordinance s and laws.

(2.) Action by reviewing departments. Provided the application and *Site Plan* are complete, all City staff reviewing the small site development plan shall take action within ten working days of receipt by the staff of the application.

(3.) Approval. If the small site development plan is approved by a reviewing City staff person, that staff person(s) shall issue an approval to the *Planning, Zoning and Subdivision Administrator* stating any conditions of the approval. Upon completion of review by all affected City staff, the *Planning, Zoning and Subdivision Administrator* shall notify the applicant that the reviewing City staff has completed its review and issued an approval, with any appropriate conditions, for those elements for which the City is responsible. Notification may be by telephone, facsimile transmission, electronic mail, the Internet, United States mail, or by private mail, wire or messenger service. In all cases, a written copy of the approval along with any conditions shall be attached to the permit released to the applicant by the Planning Services Department. The applicant may then proceed with obtaining zoning, building, construction, and other required permits.

(4.) Denial. If approval of the small development *Site Plan* is denied, the *Planning, Zoning and Subdivision Administrator* shall notify the applicant in writing of the reasons for denial. Upon notification of denial, the applicant may revise the plan to address the reasons for denial and resubmit it for review or appeal the decision in accordance with the provisions of this Ordinance.

(E.) Public notification. Public notice shall not be required for small site development plan review requests.

(F.) Formal review. Applications for small site development plan review are not subject to formal review.

(G.) Variances. Requests for variances from the requirements of this Ordinance for developments requiring small site development plan review shall be considered by the *Board of Adjustment* in accordance with the procedures set forth in Article 6.

(H.) Appeals. Appeals of decisions of the *Planning, Zoning and Subdivision Administrator* regarding the small site development plan review process shall be heard by the *Board of Adjustment* in accordance with the procedures set forth in Article 6.

(I.) Permit validity. Approval of the *Site Plan* for projects requiring small site development plan review shall be valid for one year from the date of approval.

Failure to initiate construction, or otherwise begin the permitted use, within this time shall render the *Site Plan* approval null and void. The *Planning, Zoning and Subdivision Administrator* may grant a single extension of this time period of up to six months upon submittal by the applicant of sufficient justification for the extension.

(J.) Violations. Violations of the approved site development plan for developments requiring small site development plan review shall be considered a violation of this Ordinance and subject to the enforcement and penalty provisions of Article 23.

7.8 Conditional use approvals

7.8-1 Purpose. Conditional uses are established to provide for the location of those uses which are generally compatible with other land uses permitted in a zoning district but which, because of their unique characteristics or potential impacts on the surrounding *Neighborhood* and the City of Creedmoor as a whole, require individual consideration of their location, design, configuration, and/or operation at the particular location proposed. Such individual consideration may also identify cause(s) for the imposition of individualized conditions in order to ensure that the use is appropriate at a particular location and to ensure protection of the public health, safety, and welfare. Any use identified in Section 10.2 of this Ordinance as a conditional use in a zoning district shall not be permitted without the approval of the City Board of Commissioners in accordance with the requirements and procedures set forth in this section 7.8.

7.8-2 Pre-application procedure.

(A.) Conference. Every applicant for a conditional use is required to meet with the *Planning, Zoning and Subdivision Administrator* in a pre-application conference prior to the submittal of a request for approval of a conditional use. The purposes of this conference are to provide additional information regarding the review process and assistance in the preparation of the application.

(B.) *Neighborhood* meeting. It is required that the developer meet with representatives of the *Neighborhood* in which the proposed conditional use will be located. This meeting, which should be held at the pre-application stage, will allow the developer to explain the proposed use and to be informed of the concerns of the *Neighborhood*.

7.8-3 Plan submittal.

(A.) Filing of application. An application for a conditional use permit may be filed by the owner of the property or by an agent specifically authorized by the owner to file such application. Where an agent files the application, the agent shall provide documentation that the owner of the property has authorized the filing of the

application. The application for a conditional use permit shall be filed with the *Planning, Zoning and Subdivision Administrator* on a form provided by the *Planning, Zoning and Subdivision Administrator*.

(B.) Fees. A permit fee, as established by the City of Creedmoor Board of Commissioners shall be submitted with the application.

(C.) Information required. Each application for a conditional use permit shall contain all information identified as required by the *Planning, Zoning and Subdivision Administrator*. The application shall be accompanied by at least 4 copies of a *Site Plan* containing all information required by the *Planning, Zoning and Subdivision Administrator*. The application and *Site Plan*s must be submitted at least 14 days prior to the *Technical Review Committee* meeting at which it will be reviewed.

7.8-4 Staff review.

(A.) *Planning, Zoning and Subdivision Administrator* review. Following submittal of the application and *Site Plan*s for the conditional use, they shall be reviewed by the *Planning, Zoning and Subdivision Administrator* for compliance with the requirements of this section 7.8 of this Ordinance. Provided the application and *Site Plan* are complete, the *Planning, Zoning and Subdivision Administrator* shall schedule the request for review by the *Technical Review Committee*.

(B.) Submittal of plans to *Technical Review Committee* ("TRC"). The *Planning, Zoning and Subdivision Administrator* shall present the *Site Plan*s for the conditional use to the TRC at its next regular meeting. The TRC shall review the *Site Plan* for compliance with existing federal, state, and local regulations. This review shall be made by the members of the TRC and by any other agencies or officials as determined by the *Planning, Zoning and Subdivision Administrator*.

(C.) Action by *Technical Review Committee.* Upon submittal and review of a complete application for a conditional use permit, the TRC may make one of the following recommendations:

(1.) Approval. If the TRC recommends approval, the *Planning, Zoning and Subdivision Administrator* shall forward the recommendation and the conditional use application to the Creedmoor *Planning Board* for review.

(2.) Approval with conditions. If the TRC recommends approval with conditions, the applicant may revise the plan to meet the conditions of the approval and resubmit it. The revised plan shall be reviewed by the *Planning, Zoning and Subdivision Administrator* and, if it meets all of the conditions, the conditional use application shall be scheduled for a public hearing at the next available meeting of the Creedmoor *Planning Board*. If the plan is not revised to meet conditions within

60 days after action by the TRC or the applicant does not request a review by the *Planning Board* by providing written notice to the *Planning, Zoning and Subdivision Administrator*, the request shall be deemed denied.

(3.) Denial. If the TRC recommends denial of the request, the reasons for denial shall be provided in writing to the applicant. The *Site Plan* may be revised to address the reasons for denial and resubmitted in accordance with the provisions of this chapter. A recommendation for denial by the TRC shall be considered final action on the request unless, within 30 days from receiving the written recommendation of the TRC, the applicant requests a public hearing by providing written notice to the *Planning, Zoning and Subdivision Administrator*. The applicant may revise the *Site Plan* to address the reason for denial and resubmit the revised plan or the applicant may appeal the decision of the TRC to the *Planning Board* to be considered as an administrative *Site Plan* review. The applicant may not resubmit the revised *Site Plan* and appeal the TRC decision.

(4.) Timing. The TRC shall make its recommendation within ten working days of reviewing the application and *Site Plan*.

7.8-5 <u>Formal review.</u>

(A.) Public hearing. Upon receipt of a notice from the *Planning, Zoning and Subdivision Administrator* or the applicant requesting a public hearing on the application and *Site Plan* for a conditional use permit, a public hearing shall be scheduled. A public hearing before the Creedmoor City Board of Commissioners shall be held for all conditional use permit applications, following review of the request by the Creedmoor *Planning Board*.

(B.) Action by Creedmoor *Planning Board*

(1.) Review of conditional use permit request. A public meeting on those conditional use applications reviewed by the TRC shall be scheduled by the Creedmoor *Planning Board* following recommendation for approval by the TRC or upon receipt of a request for review from the applicant. The Creedmoor *Planning Board* shall consider the request within 35 days of receiving information regarding the conditional use permit application from the *Planning, Zoning and Subdivision Administrator*.

(2.) Recommendation by Creedmoor *Planning Board*. Upon submittal and review of a complete application for a conditional use permit, the *Planning Board* may make one of the following recommendations.

(a.) Approval. If the *Planning Board* recommends approval, the *Planning, Zoning and Subdivision Administrator* shall forward the recommendation and the conditional use application to the Creedmoor City Board of Commissioners for review.

(b.) Approval with conditions. If the *Planning Board* recommends approval with conditions, the applicant may revise the plan to meet the conditions of the approval and resubmit it. The revised plan shall be reviewed by the *Planning, Zoning and Subdivision Administrator* and, if it meets all of the conditions, the conditional use application shall be scheduled for a public hearing at the next available meeting of the Creedmoor City Board of Commissioners. If the plan is not revised to meet conditions within 60 days after action by the *Planning Board* or the applicant does not request a review by the City Board of Commissioners by providing written notice to the *Planning, Zoning and Subdivision Administrator*, the request shall be deemed denied.

(c.) Denial. If the *Planning Board* recommends denial of the request, the reasons for denial shall be provided in writing to the applicant. The *Site Plan* may be revised to address the reasons for denial and resubmitted in accordance with the provisions of section 7.8. A recommendation for denial by the *Planning Board* shall be considered final action on the request unless, within 30 days from receiving the written recommendation of the *Planning Board*, the applicant requests a public hearing by providing written notice to the *Planning, Zoning and Subdivision Administrator*. The applicant may revise the *Site Plan* to address the reason for denial and resubmit the revised plan or the applicant may appeal the decision of the *Planning Board* to the City Board of Commissioners. The applicant may not resubmit the revised *Site Plan* and appeal the *Planning Board* decision.

(3.) Timing. The *Planning Board* shall make its recommendation within ten working days of reviewing the application and *Site Plan*.

(C.) Action by the Creedmoor City Board of Commissioners.

(1.) Review of conditional use permit request. A public hearing on those conditional use applications reviewed by the Creedmoor *Planning Board* shall be scheduled by the Creedmoor City Board of Commissioners following action by the *Planning Board*. The Creedmoor City Board of Commissioners shall consider the request within 35 days of receiving information regarding the conditional use permit application from the *Planning, Zoning and Subdivision Administrator*.

(2.) Decision by City Board of Commissioners. The Creedmoor City Board of Commissioners, after conducting the public hearing, may: (1) deny approval; (2) table the application pending submittal of additional information; or (3) approve the proposed conditional use permit.

(D.) <u>Findings and Conditions</u>. In granting the permit, the Board of Commissioners shall find:

(1.) That the use or development is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;

(2.) That the use or development complies with all required regulations and standards of this Ordinance and with all other applicable regulations;

(3.) That the use or development is located, designed, and proposed to be operated so as not to substantially injure the value of adjoining or abutting property, or that the use or development is a public necessity; and

(4.) That the use or development will be in harmony with the area in which it is to be located and conforms to the general plans for the land use and development of City of Creedmoor and its environs.

There shall be competent, material, and substantial evidence in the record to support these conclusions and the City Board of Commissioners must find that all of the above exist or the application will be denied.

(E.) Additional Conditions. In granting the conditional use permit, the City Board of Commissioners may designate only those conditions, in addition and in connection therewith, as will, in its opinion, assure that the use in its proposed location will be harmonious with the area in which it is proposed to be located, with the spirit of this Ordinance and clearly in keeping with the public welfare. All such additional conditions shall be entered into the minutes of the meeting, at which the conditional use permit is granted, on the conditional use permit itself, and on the approved plans. All specific conditions shall run with the land and shall be binding on the original applicants, their heirs, successors, and assigns.

The minutes of the Creedmoor City Board of Commissioners shall state if the proposed conditional use meets or does not meet each of the conditions set forth in section 7.8-5.(D), the standards set forth in Article 10 of this Ordinance for the proposed conditional use, and all other requirements set forth by this Ordinance for the proposed conditional use. The decision on the conditional use application shall be by a simple majority vote of those members so the Creedmoor City Board of Commissioners present at the meeting at which the action is taken.

7.8-6 Transfer of approval. A conditional use approval is not transferable from one property to another, but may be transferred to a subsequent owner of the property.

7.8-7 Resubmission of denied applications. No application for approval of a conditional use shall be filed with our accepted by the *Planning, Zoning and Subdivision Administrator* that is identical or substantially similar to an application that has been denied by the Creedmoor City Board of Commissioners within one year of the final action by the City Board of Commissioners denying the request. This waiting period may be waived in an individual case, for good cause shown, by the affirmative vote of three-fourths of the members of City Board of Commissioners.

7.8-8 Public notification. Notice of public hearings or public meetings required under this section for conditional use approvals shall be provided in accordance with the

requirements established by the North Carolina General Statutes for public meeting notification. In addition, the *Planning, Zoning and Subdivision Administrator* shall prepare a public notice as described herein below which indicates the official receipt of an application and *Site Plan* for a conditional use permit approval. This will serve to encourage public involvement in development projects in Creedmoor. This notice for publication shall include the following.

(A.) Brief description of the conditional use project proposed;

(B.) The time, date, and place at which the request will be considered; and

(C.) Contact information for staff receiving comments concerning the proposed conditional use.

The notice shall be posted in a conspicuous place at City Hall, on the City's website, or a combination of these two, at least five days prior to the date on which the application is to be considered. The applicant is encouraged to conduct a *Neighborhood* meeting to inform nearby property owners of their intentions for development. Should the applicant not hold a *Neighborhood* meeting to discuss the proposed project, as described in section 7.8-2(B) above, this notice also shall be mailed to the owners of abutting property and any other property located within 500 feet of the property in question at least ten days before the date on which the request is to be considered. A sign stating the above information shall be posted on the subject property ten days before the date on which the application is to be considered if the recommended *Neighborhood* meeting is not held.

7.8-9 Project phasing. If a project approved as a conditional use is to be developed in phases, a master plan for the entire development site must be approved by the Creedmoor City Board of Commissioners at the same time and in the same manner the conditional use permit application is considered.

(A.) Final plans for phases of the conditional use may be submitted in stages and shall be approved by the *Planning, Zoning and Subdivision Administrator* provided that the following requirements are met:

(1.) All stages shall be shown with precise boundaries on the master plan and shall be numbered in the expected order of development.

(2.) Each phase must be able to exist independently of subsequent phases by meeting all applicable laws and regulations as if the phase were a separate project.

(3.) All the data required for the project as a whole shall be given for each stage shown on the plan.

(4.) A proportionate share of the open space, common facilities, amenities, play areas, etc. shall be included in each stage of the development, except that centralized common facilities shall be guaranteed by bond or other irrevocable financial

instrument valid for the duration of the project implementation period.

(5.) The phasing shall be consistent with the traffic circulation, drainage, and utilities plan for the entire master plan for the conditional use.

(6.) Each phase of the conditional use must comply with any and all conditions attached to the approval of the conditional use permit by the Creedmoor City Board of Commissioners.

7.8-10 Variances. In issuing conditional use permits, the Creedmoor City Board of Commissioners may prescribe dimensional requirements (height, setback, etc.) that are different from the requirements of the corresponding general zoning classification, and may prescribe development and design standards that are different from those set out in Article 9; provided, that any request for a modification to a dimensional requirement or development and design standard that is less restrictive than would be applicable for the underlying general zoning classification must be specifically described in any notices required for the public hearing on the conditional use permit application, and must be set out separately in any Ordinance issuing said conditional use permit, together with an explanation of the reason for the modification. Except as modified pursuant to this paragraph, all standards and requirements applicable to the underlying general zoning district must be met. Variances to the standards established by any conditional use permit shall not be allowed.

7.8-11 Appeals. An appeal from the decision of the Creedmoor City Board of Commissioners regarding a conditional use application and *Site Plan* may be made by an aggrieved party and shall be made to the Superior Court of Granville County in the nature of certiorari. Any such petition to the Superior Court shall be filed with the court no later than 30 days after a written copy of the decision of the City Board of Commissioners is received by the applicant.

7.8-12 Permit validity. Approvals of a conditional use application and *Site Plan* shall be valid for one year from the date of approval by the Creedmoor City Board of Commissioners. Failure to initiate construction, or otherwise begin the permitted use, within this time shall render the conditional use approval null and void. The *Planning, Zoning and Subdivision Administrator* may grant a single extension of this time period of up to six (6) months upon submittal by the application of sufficient justification for the extension. Permits for the phased development of a conditional use project shall remain valid for the time approved by the Creedmoor City Board of Commissioners as part of the conditional use approval of the master plan for the conditional use.

7.8-13 Failure to Comply with Plans or Conditions. In the event of failure to comply with the plans approved by the City Board of Commissioners or with any other conditions imposed upon the conditional use permit, the permit shall thereupon immediately

become void and of no effect. No building permits for further construction or certificates of occupancy under this conditional use permit shall be issued. If a failure to comply with conditions in a conditional use permit occurs after occupancy, the owner, lessee, or other responsible person shall be notified in writing of the violation. No earlier than five days after the receipt of the written notice, the body issuing the conditional use permit may issue a finding of fact that a violation of the requirements of this Ordinance exists. If such finding of fact is made, it shall be unlawful for any person, firm or corporation to continue the conditional use until the responsible party makes the necessary corrections and the City Board of Commissioners conducts a public hearing and finds that the violation no longer exists.

7.8-14 Violations. Violations of the conditional use permit or of any of the conditions attached to the approval shall be considered a violation of this Ordinance and subject to the enforcement and penalty provisions of Article 23 of this Ordinance.

7.9 Uses with Additional Standards

7.9-1 Purpose. Uses with additional standards are uses permitted by right, provided that the additional standards set forth in Section 10.1 of this Ordinance are met. The additional standards are intended to ensure that the uses fit the intent of the zoning districts within which they are permitted, and that the uses are compatible with other development permitted within the zoning districts. Review and approval of these uses are handled by the *Planning, Zoning and Subdivision Administrator*, who has no discretion to modify the additional standards.

7.9-2 Pre-application procedure. A pre-application conference is not required for approval of uses with additional standards. Applicants are encouraged, however, to contact the *Planning, Zoning and Subdivision Administrator* to discuss the additional standards.

7.9-3 Plan submittal.

(A.) Filing of application. An application for a permit for a use with additional standards may be filed by the owner of the property or by an agent specifically authorized by the owner to file such application. Where an agent files the application, the agent shall provide documentation that the owner of the property has authorized the filing of the application. The application for a permit for a use with additional standards shall be filed with the *Planning, Zoning and Subdivision Administrator* on a form provided by the *Planning, Zoning and Subdivision Administrator*.

(B.) Fees. A permit fee, as established by the City of Creedmoor City Board of Commissioners, shall be submitted with the application.

(C.) Information required. Each application for a permit for a use with additional standards shall contain all information required by the *Planning, Zoning and*

Subdivision Administrator. The application shall be accompanied by a *Site Plan* meeting the requirements for *Site Plan*s as established by section 7.7 of this Ordinance.

7.9-4 Staff review. Notwithstanding the procedures applicable in section 7.7 of this Ordinance, the *Planning, Zoning and Subdivision Administrator* shall review the proposed use and determine if the additional standards for that use have been met. If the additional standards have been met, the use shall be approved provided all other applicable standards and procedures have been met. Failure to meet all the additional standards shall result in denial of a permit for the proposed use. The *Planning, Zoning and Subdivision Administrator* shall approve or deny the proposed use with additional standards or request more information, if needed, within ten working days of submittal. If the application is found to be incomplete, the *Planning, Zoning and Subdivision Administrator* shall notify the applicant of any deficiencies. No further steps will be taken to process the application until the applicant corrects the deficiencies. The *Planning, Zoning and Subdivision Administrator* shall approve the use only upon finding that the proposed use satisfies all applicable requirements set forth in this Ordinance.

7.9-5 Public notification. Public notification is not required, unless required by section 7.7 or 7.8 of this Ordinance.

7.9-6 Formal review. Formal review of the application by an elected/appointed board or committee is not required, unless required by section 7.7 or 7.8 of this Ordinance.

7.9-7 Variances. Variances from the additional standards constitute "use variances" and shall not be permitted.

7.9-8 Appeals. Appeals of decisions of the *Planning, Zoning and Subdivision Administrator* regarding applications for a use with additional standards shall be heard by the *Board of Adjustment* under the procedures established in Article 6.

7.9-9 Permit validity. The permit for a use with additional standards shall be valid for one year from the date of its issuance. Failure to initiate construction or otherwise begin the permitted use within this time shall render the permit void. The *Planning, Zoning and Subdivision Administrator* may grant a single extension of this time period of up to six months upon submittal by the applicant of sufficient justification for the extension.

7.9-10 Violations. Failure to establish or maintain the additional standards is considered a violation of this Ordinance and shall subject the offender to the enforcement and penalty provisions of Article 23 of this Ordinance.

7.10 Sign permits

7.10-1 Purpose. In order to regulate the provision of sign standards and sign restrictions within the planning and regulation jurisdiction of the City of Creedmoor, it shall be unlawful to erect or maintain any sign or sign structure without first obtaining a sign permit.

7.10-2 Pre-application procedure. There is no pre-application procedure for sign permits.

7.10-3 Application submittal.

(A.) Filing of application.

(1.) An application for a sign permit may be filed by the owner of the property or sign or by an agent specifically authorized by the owner to file such application. The application for a sign permit shall be filed with the City of Creedmoor *Planning Services Department* on a form provided by the *Planning, Zoning and Subdivision Administrator*.

(2.) Sign contractor's license. No person shall engage in the business of erecting or maintaining signs in the City of Creedmoor unless said person has been issued a sign contractor's license which has not expired at the time said work is done. This requirement shall exclude those persons who construct and erect a principal use identification sign when that sign is used at that person's place of business, provided all construction and installation is properly permitted and inspected for compliance with the applicable building codes of the City of Creedmoor and other sections of this Ordinance.

(B.) Fees. A permit fee as established by the City of Creedmoor shall be submitted with the application. Work performed without a permit shall be subject to a late fee. When any permit has been revoked under the terms of this Ordinance, the permit fees shall not be refunded. If a sign permit is denied, however, the permit fee will be refunded.

(C.) Information required. Each application for a sign permit shall be accompanied by complete information as required by the *Planning, Zoning and Subdivision Administrator* and shall include, without being limited to, a *Site Plan* and elevation drawings of the proposed sign, a drawing of the building facade indicating the proposed location of the sign (if the sign is to be attached to a building), height, dimensions and square footage of the proposed sign and any other data as the *Planning, Zoning and Subdivision Administrator* may determine to be necessary for review of the application.

7.10-4 Staff review. Provided the application is complete, the *Planning, Zoning and Subdivision Administrator* shall review the application and determine whether it is complete within ten working days of its submittal. If the application is incomplete,

the *Planning, Zoning and Subdivision Administrator* shall notify the applicant of any deficiencies. No further steps shall be taken to process the application until the applicant corrects the deficiencies. The *Planning, Zoning and Subdivision Administrator* shall issue a permit only upon finding that the proposed sign or sign structure satisfies the requirements of Article 17.

7.10-5 Public notification. No public notification is required for sign permit requests.

7.10-6 Formal review. No formal review of sign permit requests is required.

7.10-7 Variances. Requests for variances from the requirements for signs set forth in this chapter shall be heard by the *Board of Adjustment* under the procedures established by Article 6.

7.10-8 Appeals. Appeals of the decisions of the *Planning, Zoning and Subdivision Administrator* shall be heard by the *Board of Adjustment* under the procedures established by Article 6.

7.10-9 Permit validity. Upon issuance of a sign permit, the applicant will have six months to commence work on the approved signage, after which the permit shall automatically become null and void. The *Planning, Zoning and Subdivision Administrator* may grant a single 60-day extension of time within which operations must be started or resumed. All requests for such extensions and approval thereof shall be in writing.

7.10-10 Violations. Violations of the conditions of a sign permit shall be considered a violation of this Ordinance and shall be subject to the enforcement and penalty provisions set forth in Article 23 of this Ordinance.

7.11 *Subdivision Plat* Approval

7.11-1 *Major Subdivision*s.

(A.) Purpose. The *Major Subdivision* review process is required for those divisions of land as described below. Review and approval of the *Preliminary Plat* by the *Technical Review Committee* is required under the *Major Subdivision* review process, with review and approval of the *Final Plat* by the *Planning, Zoning and Subdivision Administrator*.

(B.) Pre-application procedure.

(1.) Conference. It is required that every applicant for a *Major Subdivision* meet with the *Planning, Zoning and Subdivision Administrator* in a conference prior to the submittal of a *Subdivision Plat*. The purpose of this conference is to provide clarification and assistance in the preparation and submission of *Plat*s for approval.

(2.) *Sketch Plan*. A *Sketch Plan* shall be submitted to the *Planning, Zoning and*

Subdivision Administrator prior to or at the pre-application conference. Upon submittal of the *Sketch Plan*, the *Planning, Zoning and Subdivision Administrator* shall conduct an initial review to determine whether the proposed *Subdivision* is a *Major Subdivision*.

(3.) *Neighborhood* meeting. It is highly recommended that the developer meet with representatives of the *Neighborhood* in which the proposed *Subdivision* is to be located. This meeting, which should be held at the pre-application stage, will allow the developer to explain the proposed *Subdivision* and to be informed of the concerns of the *Neighborhood*.

(C.) *Preliminary Plat*/*Site Plan* submittal.

(1.) *Preliminary Plat*(s) required. A *Preliminary Plat*(s) for a proposed *Major Subdivision* shall be prepared by a professional land surveyor, licensed landscape architect, or licensed engineer and shall be prepared in accordance with the standards set forth by the *Planning Services Department* and applicable state standards.

(2.) Filing of application. A complete application packet containing all information as required by the City of Creedmoor shall be submitted according to the established schedule prior to the *Technical Review Committee* meeting at which they are to be reviewed.

(3.) Public notification. The *Planning, Zoning and Subdivision Administrator* shall prepare a public notice as described herein below which indicates the official receipt of an application and *Preliminary Plat* for *Major Subdivision* approval. This notice for publication shall include the following.

(a.) Brief description of the *Major Subdivision* proposed;

(b.) The time, date, and place at which the project will be available for public review; and

(c.) Contact information for staff receiving comments concerning the proposed *Subdivision*.

The notice shall be posted in a conspicuous place at City Hall, on the City's website, or a combination of these two, at least five days prior to the date on which the application is to be considered. The applicant is encouraged to conduct a *Neighborhood* meeting to inform nearby property owners of their intentions for development. The neighborhood meeting shall include a presentation of the plan and an opportunity for concerned parties to ask questions and be provided responses to those questions. The time, date, and place of the neighborhood meeting shall be provided to the *Planning, Zoning & Subdivision Administrator* at least five days prior to the neighborhood meeting. The mailing list, attendance record and summary of the presentation and comments shall be submitted to the *Planning, Zoning & Subdivision Administrator* within two

business days following the neighborhood meeting. Should the applicant not hold a *Neighborhood* meeting to discuss the proposed *Subdivision*, as described in section 7.11-1(B)3. above, this notice also shall be mailed to the owners of any other property located within 500 feet of the property in question at least five days before the date on which the request is to be considered. A sign stating the above information shall be posted on the subject property five days before the date on which the application is to be considered if the recommended *Neighborhood* meeting is not held.

Where municipal water and/or sewer are not available, the *Planning, Zoning and Subdivision Administrator* shall send a copy of the *Plat* to the County Health Department for review.

(4.) Review at *Technical Review Committee*. The *Preliminary Plat* of a proposed *Major Subdivision* shall be reviewed by the *Planning, Zoning and Subdivision Administrator* and other City staff for compliance with these *Subdivision* regulations. The *Planning, Zoning and Subdivision Administrator* shall then present the *Preliminary Plat* of *Major Subdivision*s to the *Technical Review Committee* ("TRC") at the next regular meeting of the TRC following receipt of the *Preliminary Plat*. For purposes of this section, the TRC is designated as a planning agency of the City of Creedmoor. The TRC shall review the *Preliminary Plat* for compliance with existing applicable regulations. If the *Preliminary Plat* is approved the applicant may proceed with infrastructure construction and *Final Plat* approval. If the *Preliminary Plat* is not approved, the TRC shall set forth in writing the reasons for denying approval of the *Plat*. The applicant may revise the *Plat* and resubmit it. The revised *Plat* shall be reviewed by the *Planning, Zoning and Subdivision Administrator*, and if it is revised in accordance with the directions provided by the TRC the *Preliminary Plat* shall be presented at the next regular meeting of the TRC. If the *Plat* is not revised within 60 days to comply, it shall be deemed denied; provided, however, the *Planning, Zoning and Subdivision Administrator* may extend the time period for compliance upon a showing by the applicant that additional time is needed to comply. Such notice for a request to extend the time period must come to the *Planning, Zoning and Subdivision Administrator* in writing prior to the 60 day grace period expiring. If 60 days lapses between the time the TRC has returned *Plat*s/plans to the applicant or applicant's agent, it shall be deemed denied and the applicant must reapply. Such reapplication shall require the repayment of fees.

(5.) Appeals. Actions taken by the TRC with respect to *Preliminary Plat*s, or a failure by the TRC to take action within 35 days after it has received a *Preliminary Plat*, may be appealed to the Creedmoor *Planning Board*, which shall conduct a public hearing on the question of approval of the *Preliminary Plat*.

Notice for said public hearing shall be provided in accordance with the procedure for notification set forth in section 7.11-1(C)3. above.

(6.) Permit validity. Approval of the *Preliminary Plat* for *Major Subdivision*s shall be valid for two years from the date of approval by the City of Creedmoor *Technical Review Committee*. The *Final Plat* for the *Major Subdivision* shall be presented for approval prior to the end of this two-year period. Phased *Subdivision*s shall be exempt from this time limit as set forth in section 7.11-1(E)2. below.

(D.) *Final Plat*. *Plat*s for *Major Subdivision*s shall be prepared by a professional land surveyor in accordance with the standards set forth by the *Planning Services Department* and applicable state standards. The *Final Plat* of a *Major Subdivision* shall be reviewed by the *Planning, Zoning and Subdivision Administrator* for compliance with the requirements of this Ordinance and for conformity with the approved *Preliminary Plat*. Substantial changes from the *Preliminary Plat*, as determined by the *Planning, Zoning and Subdivision Administrator*, shall require an additional review by the *Technical Review Committee*, as determined by the *Planning, Zoning and Subdivision Administrator*, to ensure compliance with existing regulations. No *Final Plat* shall be approved by the *Planning, Zoning and Subdivision Administrator* until all improvements are installed or their execution guaranteed as permitted by this Ordinance and all certificates required for final *Plat*s by this Ordinance or approvals by state law have been properly completed and signed. The *Final Plat* shall be prepared in compliance with the requirements set forth in the checklist for *Final Plat*s provided by the *Planning, Zoning and Subdivision Administrator*. Provided the *Final Plat* is complete, and no further review is determined to be required, the *Planning, Zoning and Subdivision Administrator* shall act on the *Final Plat* of *Major Subdivision*s within ten working days of receipt of the *Plat*. The *Planning, Zoning and Subdivision Administrator* is authorized to approve the *Final Plat* and to present the *Final Plat* to the City Board of Commissioners to grant approval for recording and acceptance of dedications by resolution. Following *Final Plat* approval, the applicant shall record the *Plat* for a *Major Subdivision* in accordance with this subsection.

(E.) Signatures and recordation.

(1.) Signatures. Upon approval of a *Final Plat* for *Major Subdivision*s, the *Plat* shall be signed in the appropriate place by the *Planning, Zoning and Subdivision Administrator* and by the owner(s). Additionally, approval shall be shown by a Certificate of Approval for recording.

(2.) Recordation. A *Final Plat* for *Major Subdivision*s shall be recorded by the City of Creedmoor in the office of the register of deeds for Granville County in compliance with North Carolina General Statutes within 60 days following approval by the City of Creedmoor. No *Subdivision Plat* shall be considered

finally approved until the *Plat* has been recorded. If the *Final Plat* of all or part of the area shown on an approved *Preliminary Plat* for a *Major Subdivision* is not recorded in the office of the register of deeds within two years of the approval by the City of the *Preliminary Plat*, the *Preliminary Plat* shall be resubmitted to the *Planning Services Department* for consideration following the process set forth in this chapter. *Final Plat*s for *Subdivision*s developed in phases shall be recorded in accordance with the schedule presented by the applicant during the *Preliminary Plat* approval and approved as part of the *Preliminary Plat* approval process. If the *Final Plat* of all or part of the area shown on an approved *Preliminary Plat* for a *Major Subdivision* to be developed in phases is not recorded in the office of the register of deeds within the schedule approved by the City, the *Preliminary Plat* shall be resubmitted to the *Planning Services Department* for consideration following the process set forth in this chapter.

(F.) Appeals. If *Final Plat* approval for a *Major Subdivision* is denied, the applicant may appeal the decision to the *Planning Board*. Such an appeal must be taken within 30 days after denial.

(G.) Fees. For all categories of *Subdivision*, fees as established by the City of Creedmoor shall be due and payable when the application is submitted.

*7.11-2 Minor Subdivision*s.

(A.) Purpose. The *Minor Subdivision* review process is required for those divisions of land described below. Review and approval of the preliminary and *Final Plat* by the staff permits a speedy review while ensuring that the proposed *Subdivision* meets all requirements established by the City of Creedmoor.

(B.) Pre-application conference. It is recommended that every *Subdivision* applicant meet with the *Planning, Zoning and Subdivision Administrator* in a conference prior to the submittal of a *Subdivision Plat*. The purpose of this conference is to provide clarification and assistance in the preparation and submission of *Plat*s for approval.

(C.) *Plat* submittal.

(1.) *Plat* required. *Plat*s for *Minor Subdivision*s shall be prepared by a professional land surveyor in accordance with the standards set forth by the *Planning Services Department* and applicable state standards.

(2.) Filing of application. *Plat*s and a complete application packet containing all information established by the *Planning Services Department* for *Minor Subdivision*s shall be submitted to the *Planning, Zoning and Subdivision Administrator* and may be presented at any time.

(D.) Staff review. The *Plat* for a proposed *Minor Subdivision* shall be reviewed by the *Planning, Zoning and Subdivision Administrator* for compliance with these

Subdivision regulations. The review shall also include compliance by the *Plat* with other Ordinance s and regulations of the City of Creedmoor. The *Plat* shall be prepared in compliance with the requirements set forth in the checklist for final *Plat*s provided by the *Planning, Zoning and Subdivision Administrator*. Provided the application is complete, the *Planning, Zoning and Subdivision Administrator* shall take action on the *Plat* of the proposed *Minor Subdivision* within ten working days of its submittal. Following approval, the applicant shall record the *Plat* for a *Minor Subdivision* in accordance with this subsection.

(E.) Public notification. No public notification is required for *Minor Subdivision* review.

(F.) *Final Plat*s approval.

(1.) Recordation and signatures.

(a.) Signatures. Upon approval of a *Plat* for *Minor Subdivision*s, said *Plat* shall be signed in the appropriate place by the *Planning, Zoning and Subdivision Administrator* and by the owner(s). Additionally, approval shall be shown by a Certificate of Approval for recording.

(b.) Recordation. A *Plat* for *Minor Subdivision*s shall be recorded by the City of Creedmoor in the office of the register of deeds for *Granville* County within 60 days following approval by the *Planning, Zoning and Subdivision Administrator*. No *Plat* shall be considered finally approved until the *Plat* has been recorded. No lots in a *Subdivision* shall be sold prior to approval by the *Planning, Zoning and Subdivision Administrator* and recording of a *Plat* for the *Subdivision*.

(G.) Permit validity. *Minor Subdivision Plat*s which have been granted approval shall be recorded as set forth in section 7.11-2.(F.) above within 60 days following approval or the approval becomes invalid.

(H.) Appeals. Decisions of the *Planning, Zoning and Subdivision Administrator* with regard to *Minor Subdivision*s may be appealed to the Creedmoor *Planning Board*. Such an appeal must be made within 30 days of the receipt of the decision by the property owner. The appeal shall be in writing and delivered to the Planning Department.

(I.) Fees. For all categories of *Subdivision*, fees as established by the City of Creedmoor shall be due and payable when the application is submitted.

7.12 Floodplain development and certification permit

(Amended May 27, 2014 per Ord. 2014-O-03)

7.12-1 Purpose. No approval shall be granted for construction in an area designated as a

special flood hazard area as shown on the *Flood Insurance Rate Maps (FIRM)* for the City of Creedmoor, as provided by the Federal Emergency Management Agency, and also adjoining lands, which, because of their characteristics, the City determines as being susceptible to flooding or determines as being susceptible to flooding or damage by flooding until the requirements of Article 18 of this Ordinance are met. Procedures for assuring compliance with these requirements are set forth below.

7.12-2 Pre-application procedure. Developers are encouraged to meet with the Floodplain Administrator, prior to submitting an application for development in the designated flood hazard area. This will provide developers with the opportunity to obtain information regarding details of the application process and regulations affecting development within special flood hazard areas.

7.12-3 Plan submittal.

(A.) Application required. Application for a floodplain development permit shall be made to the *Planning Services Department* prior to performing grading, development, or construction on lands designated as special flood hazard areas. Applications shall be made on forms furnished by the *Planning, Zoning and Subdivision Administrator*, shall provide all requested information, and shall be accompanied by a *Site Plan*. The application, with all requested information, and *Site Plan* shall be provided to the *Planning, Zoning and Subdivision Administrator*.

(B.) Plan required. A *Site Plan* drawn to scale shall be provided with the application for a floodplain development permit. The *Site Plan* shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

(1.) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

(2.) The boundary of the special flood hazard area as delineated on the FIRM or other flood map as determined in this section, or a statement that the entire lot is within the special flood hazard area;

(3.) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 18.2-4(B)

(4.) The boundary of the floodway(s) or non-encroachment area(s) as determined in Section 18.2-4(B);

(5.) The base flood elevation (BFE) where provided as set forth in Sections 18.2-4(B) or 18.6

(6.) The old and new location of any watercourse that will be altered or relocated as a result of proposed development;

(7.) Certification of the plot plan by a registered land surveyor or professional engineer.

(8.) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:

(a.) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;

(b.) Elevation in relation to mean sea level to which any non-residential structure in Zone AE or A will be flood-proofed; and

(c.) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or flood-proofed;

(9.) If flood-proofing, a Flood-proofing Certificate (FEMA Form 81-65) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of flood-proofing measures.

(C.) A Foundation Plan, drawn to scale, shall be submitted with the application. The foundation plan shall include details of the proposed foundation system to ensure all provisions of this Ordinance are met. These details include but are not limited to:

(1.) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);

(2.) Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with Section 18.4-2(A)(4)(b), when solid foundation perimeter walls are used in Zones A and AE;

(D.) Usage details of any enclosed areas below the regulatory flood protection elevation.

(E.) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;

(F.) Copies of all other Local, State and Federal permits required prior to floodplain development permit issuance (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.)

(G.) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure Section 18.5-1(B)(6) of this Ordinance are met.

(H.) A description of proposed watercourse *alteration* or relocation, when applicable, including an engineering 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 (if not shown on plot plan) showing the location of the proposed watercourse *alteration* or relocation.

7.12-4 Preparation by Professional. *Plat*s, plans, designs, calculations, working drawings, and specifications for work shall be prepared by an authorized professional properly registered and licensed in North Carolina for the work in which they are engaged.

7.12-5 Fees. Fees, as established by City of Creedmoor, shall be due and payable when the application is submitted.

7.12-6 Submittal of Plans. Applications for floodplain development and certification permits, with all required information, shall be submitted to the *Planning, Zoning and Subdivision Administrator*. All review(s) shall be coordinated by the *Planning, Zoning and Subdivision Administrator*.

7.12-7 Staff Review.

(A.) City staff review. Following submittal of the application and accompanying data, the information shall be reviewed by appropriate City staff for compliance with the requirements of this Ordinance.

(B.) Submittal of applications to *Board of Adjustment*. Applications for projects requiring variances as set forth in Article 6 shall initially be heard by the *Technical Review Committee*, as established under this Ordinance, for review and recommendation. The matter shall then be submitted to the *Board of Adjustment* and scheduled for review by the Board at their next available meeting.

7.12-8 Public Notification. Notice of public hearings or public meetings for review of a request for a variance from the requirements of this section shall be provided in accordance with the provisions of set forth in Article 6 for the hearing of a variance request.

7.12-9 Formal Review - Projects Requiring Variances Only.

(A.) Review by *Board of Adjustment.* The *Board of Adjustment* shall consider requests for variances as provided for by Article 6.

(B.) Timing. Provided the application is complete, the *Board of Adjustment* shall arrive at a written decision on a request for a variance within 30 days after its hearing on the request. In granting variances the *Board of Adjustment* may attach appropriate conditions and safeguards which promote the objectives of this Ordinance.

7.12-10 Variances. Variances from the requirements of this section shall be heard by the *Board of Adjustment* as set forth in Article 6.

7.12-11 Appeals. Appeals from decisions of the *Planning, Zoning and Subdivision Administrator* shall be heard by the *Board of Adjustment* under the procedures established by Article 6.

Decisions of the *Board of Adjustment* may be appealed to the Superior Court of *Granville* County as provided by Article 6.

7.12-12 Permit Requirements. The Floodplain Development and Certification Permit shall include, but not be limited to:

(A.) A description of the development to be permitted under the floodplain development permit.

(B.) The Special Flood Hazard Area determination for the proposed development per available data specified in Section 18.2-4(B).

(C.) The regulatory flood protection elevation required for the reference level and all attendant utilities.

(D.) The regulatory flood protection elevation required for the protection of all public utilities.

(E.) All certification submittal requirements with timelines.

(F.) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.

(G.) The flood openings requirements, if in Zones A and AE.

(H.) Limitations of below BFE enclosure uses (if applicable). (i.e., Parking, Building Access and Limited Storage only).

7.12-13 Certification of Floor Elevation/Flood-proofing. When a property is located in a flood hazard area or when a structure is flood proofed, a certificate shall be provided in accordance with the following standards.

(A.) Elevation Certificates.

(1.) An Elevation Certificate (FEMA Form 81-31) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the *Planning, Zoning and Subdivision Administrator* a certification of the elevation of the reference level, in relation to mean sea level. The *Planning, Zoning and Subdivision 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 81-31) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the *Planning,*

Zoning and Subdivision Administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The *Planning, Zoning and Subdivision Administrator* shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop work order for the project.

(3.) A final as-built Elevation Certificate (FEMA Form 81-31) 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 *Planning, Zoning and Subdivision Administrator* a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The *Planning, Zoning and Subdivision 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 to withhold the issuance of a Certificate of Compliance/Occupancy.

(B.) Flood-proofing Certificate. If non-residential flood-proofing is used to meet the regulatory flood protection elevation requirements, a Flood-proofing Certificate (FEMA Form 81-65), with supporting data and an operational plan, is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the *Planning, Zoning and Subdivision Administrator* a certification of the flood-proofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Flood-proofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The *Planning, Zoning and Subdivision Administrator* shall review the certificate data and plan. Deficiencies detected by such review shall be corrected by the applicant prior to 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.

7.12-14 <u>Permit validity</u>. Permits for construction activity in designated flood hazard areas shall be valid for one year. Failure to initiate construction, or otherwise begin the permitted use, within this time shall render the permit void.

7.12-15 <u>Violations</u>. Violations of the requirements for construction and development activity in designated flood hazard areas shall be considered a violation of this

Ordinance and shall be subject to the enforcement and penalty provisions set forth in Article 23 of this Ordinance.

7.13 Stormwater discharge permits

7.13-1 Purpose. To insure that development undertaken in the City does not result in increased stormwater runoff which adversely impacts adjacent property, no development to which this Ordinance applies, pursuant to the standards set forth in Articles 19 and 20, shall be commenced without the issuance of a stormwater discharge permit by the Stormwater Administrator.

7.13-2 Pre-application Procedure. Although a pre-application conference is not required, applicants are encouraged to contact 1) the City's *Stormwater Administrator* and 2) the City's Public Works Administrator prior to submitting their application to discuss the project.

7.13-3 Plan Submittal.

(A.) Application required. An application for a stormwater discharge permit shall be made by, or on behalf of, the owner(s) or developer(s) of the site for which a permit is sought. The application shall be filed with the *Stormwater Administrator* on a form supplied by the *Stormwater Administrator*, and signed by the owner of the property or by an agent specifically authorized by the owner to file such application. Where an agent files the application, the agent shall provide documentation that the owner of the property has authorized the filing of the application.

(B.) Submittal of plan. A minimum of three (3) copies of a complete and detailed stormwater management plan, including detailed design plans and construction specifications, for stormwater management facilities; the exact location of any stormwater management facility; and the proposed location of any access easement(s) shall be submitted to the *Stormwater Administrator*. The stormwater management plan shall be prepared by a registered professional engineer, architect, or landscape architect registered, licensed, or certified pursuant to the North Carolina General Statutes and authorized by law to prepare the analysis, plans, and specifications, and provide the certifications required by the various provisions of this subsection.

(C.) Fees. The appropriate stormwater discharge permit application fee, as established by the City of Creedmoor, shall be due and payable when the application is submitted.

7.13-4 Staff review by Stormwater Administrator.

(A.) Stormwater Administrator review. Upon receipt of the stormwater discharge permit application and stormwater management plan, the Stormwater Administrator shall conduct a review of the application and plan to insure that they meet the requirements of this Ordinance.

(B.) Review period. The Stormwater Administrator shall have 30 working days after receipt of a stormwater discharge permit application and stormwater management plan to review the application and plan and notify the applicant of the status of the review.

(C.) Issuance of stormwater permit. Stormwater discharge permits shall be issued in the name of the applicant(s) and no permit shall be transferred or assigned without the written consent of the City.

7.13-5 Public Notification. No public notification is required for stormwater discharge permit requests and stormwater management plan review.

7.13-6 Formal Review. Formal review of stormwater discharge permit requests and stormwater management plans before a board or commission is not required.

7.13-7 Variances. No variances shall be granted from the requirements that a stormwater discharge permit be obtained and a stormwater management plan be approved prior to initiating any development activity subject to the stormwater management regulations set forth in Articles 19 and 20 of this Ordinance.

7.13-8 Appeals. Appeals from the decisions of the City staff regarding stormwater discharge permits including, but not limited to, denial, suspension, assessment of civil penalties, revocation and interpretation, shall be made to the Creedmoor City Board of Commissioners. The City Board of Commissioners shall conduct a hearing to review the information regarding an appeal in order to make a determination as to whether the requirements set forth in this Ordinance and other applicable regulations have been met. The applicant must submit a written demand for a hearing to the City Clerk within 30 days following receipt by the applicant of the denial, suspension, revocation, interpretation or other decision of the City staff from which the appeal is taken. The City Board of Commissioners shall schedule the hearing for appeal as soon as the Board of Commissioners deems reasonably practicable. At the hearing, the applicant may be represented by an attorney. The City Board of Commissioners may affirm, modify, or reverse any decision of the City staff. Appeals from the decisions of the City Board of Commissioners shall be to the Superior Court of Granville County, shall be in nature of certiorari, and shall be filed with the court within 30 days of the applicant's receipt of the decision of the City Board of Commissioners.

7.13-9 Permit Validity. When a stormwater discharge permit is issued in association with a project requiring a building permit, the stormwater discharge permit shall expire upon the expiration or revocation of the building permit. When a stormwater discharge permit is issued for a project which does not require a building permit, the stormwater discharge permit shall expire if work is not initiated within 12 months of the date of issuance of the permit or if work stops for a 12-month period.

7.13-10 Violations. Violations of the stormwater management regulations and of any conditions attached to a stormwater discharge permit shall be subject to the enforcement and penalty provisions set forth in Article 23 of this Ordinance.

7.14 Watershed Permit.

7.14-1 Purpose. To ensure that development undertaken in the City does not adversely impact designated watersheds within the City, no development to which this Ordinance applies, pursuant to the standards set forth in Article 19, shall be commenced without the issuance of a watershed permit by the *Stormwater Administrator*.

7.14-2 Pre-application Procedure. Although a pre-application conference is not required, applicants are encouraged to contact the City's *Stormwater Administrator* prior to submitting their application to discuss the project.

7.14-3 Plan Submittal.

(A.) Application required. An application for a watershed permit shall be made by, or on behalf of, the owner(s) or developer(s) of the site for which a permit is sought. The application shall be filed with the *Stormwater Administrator* on a form supplied by the *Stormwater Administrator*, and signed by the owner of the property or by an agent specifically authorized by the owner to file such application. Where an agent files the application, the agent shall provide documentation that the owner of the property has authorized the filing of the application.

(B.) Submittal of plan. Three copies of complete and detailed plans for the proposed development activity proposed for the property, containing all the information as set forth in Article 19 shall be submitted to the *Stormwater Administrator*. The plan shall be prepared by a registered professional engineer, architect, or landscape architect registered, licensed, or certified pursuant to the North Carolina General Statutes and authorized by law to prepare the analysis, plans, and specifications, and provide the certifications required by the various provisions of this Ordinance.

(C.) Fees. The appropriate watershed permit application fee, as established by the City of Creedmoor, shall be due and payable when the application is submitted.

7.14-4 Review.

(A.) *Technical Review Committee* review. Upon receipt of the watershed application and required plan(s), the *Stormwater Administrator* shall review the application and plan(s) to ensure that they are complete and all required information is provided. Provided the application and Plan(s) are complete, the *Stormwater Administrator* shall forward them to the *Technical Review Committee*, who shall conduct a review of the application and plan(s) to ensure that they meet the requirements of the Watershed

Protection standards (Article 19) of this Ordinance. Any other review of the proposed development required by this Ordinance shall be conducted as provided for herein.

(B.) Review period. The *Technical Review Committee* shall schedule the review of the watershed permit application and plan(s) for its first available meeting following the receipt of the application and plans. The review shall be conducted as provided for in Article 19 of this Ordinance.

(C.) Issuance of watershed permit. Upon review and approval of the watershed permit application and plan(s) by the *Technical Review Committee*, a watershed permit shall be issued for the proposed development.

7.14-5 Public notification. No public notification is required for the review of watershed permit applications and plans.

7.14-6 Formal review. Formal review of stormwater discharge permit requests and stormwater management plans before a board or commission is not required.

7.14-7 Variances.

(A.) Minor variances. The *Technical Review Committee* shall review and decide requests for minor variances to the standards and restrictions pertaining to Watershed Protection Overlay Districts in accordance with the procedures set forth in Article 19.

(B.) Major Variances. Requests for major variances to the standards and restrictions pertaining to Article 19 (Watershed Protection) shall be to the N.C. Environmental Management Commission (EMC), following review and favorable recommendation by City Board of Commissioners and after review and recommendation by the *Technical Review Committee* in accordance with the procedure set forth in Article 19. The major variance request shall be forwarded to the EMC with a report containing the findings of fact for City Board of Commissioners' favorable recommendation, conclusions of law, a recommended decision, recommended conditions and a record of the Board of Commissioners' hearing of the request. Requests for major variances that do not receive a favorable recommendation shall be deemed denied and shall not be forwarded to the EMC.

7.14-8 Appeals. Appeals from a decision of the *Technical Review Committee* with regard to decisions relative to watershed development plans shall be to the Creedmoor City Board of Commissioners provided that the appeal is made by the applicant within thirty (30) days of the decision. The City Board of Commissioners shall conduct a hearing to review the information regarding an appeal in order to make a determination as to whether the requirements set forth in this Ordinance and other applicable regulations have been met. The applicant must submit a written demand for a hearing to the City Clerk within 30 days following receipt by the applicant of the

denial, suspension, revocation, interpretation or other decision of the City staff from which the appeal is taken. The City Board of Commissioners shall schedule the hearing for appeal as soon as the Board of Commissioners deems reasonably practicable. At the hearing, the applicant may be represented by an attorney. The City Board of Commissioners may affirm, modify or reverse any decision of the City staff. Appeals from the decisions of the City Board of Commissioners shall be to the Superior Court of Granville County, shall be in nature of certiorari, and shall be filed with the court within 30 days of the applicant's receipt of the decision of the City Board of Commissioners.

7.14-9 Permit Validity. When a watershed permit is issued in association with a project requiring a building permit, the watershed permit shall expire upon the expiration or revocation of the building permit. When a watershed permit is issued for a project which does not require a building permit, the watershed permit shall expire if work is not initiated within 12 months of the date of issuance of the permit or if work stops for a 12-month period.

7.14-10 Violations. Violations of the watershed protection regulations and of any conditions attached to a watershed permit shall be subject to the enforcement and penalty provisions set forth in Article 23 of this Ordinance.

7.15 Zoning Vested Rights Approval

7.15-1 Purpose. The zoning vested right is a right which is established pursuant to N.C. Gen. Stat. sec. 160A-385.1 to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan. Upon issuance of a building permit, the expiration provisions of N.C. Gen. Stat. sec. 160A-422 shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section 7.15 is outstanding. Obtaining *Site Plan* approval or *Preliminary Plat Subdivision* approval through the vested rights procedure gives the applicant the right to start construction of the development as approved within two years of approval. A vested right is obtained.

(A.) automatically when a conditional use permit is granted by virtue of City Board of Commissioners approval of a conditional use rezoning;

(B.) automatically when a conditional use permit is granted by virtue of approval of a conditional use by the appropriate body;

(C.) automatically when a *Subdivision Plat* is approved and the *Plat* recorded in accordance with the procedure set forth in this Ordinance ; and

(D.) when the City Board of Commissioners approves a site specific development plan

submitted by a developer in conjunction with an application for a *zoning permit* with vested rights as described below.

7.15-2 Application procedure.

(A.) Pre-Application Conference. The applicant for *Site Plan* approval with vested rights shall meet with the *Planning, Zoning and Subdivision Administrator* to inquire about specific zoning requirements and obtain the proper application forms. The applicant and the *Planning, Zoning and Subdivision Administrator* shall discuss the *Site Plan* review process and applicable meetings and deadlines. In addition, the *Planning, Zoning and Subdivision Administrator* shall advise the applicant of the specific requirements the project needs to address and discuss other aspects of the vested rights procedure.

(B.) Plan submittal.

(1.) Filing of application. In order to apply for *Site Plan* review under the vested rights procedure, the applicant must indicate his/her intent to obtain vested rights in the form of a letter to the *Planning, Zoning and Subdivision Administrator*. The letter shall include the property address, County Tax Office parcel identification number, name of the property owner, and any other pertinent information.

(2.) *Site Plan* required. *Site Plan*s prepared in accordance with the standards set forth by this Ordinance shall be submitted when applying for vested rights. The standards for the *Site Plan* to be submitted depend upon the particular review process and are specified in the procedure section for the particular review process.

(3.) Fees. An application fee as established by the City of Creedmoor shall be submitted with the application.

7.15-3 Staff review. The *Planning, Zoning and Subdivision Administrator* shall review the application and accompanying *Site Plan*(s) for compliance with the requirements of this Ordinance and other applicable regulations. After review and approval through the appropriate staff level review process, the request for vested rights will be scheduled for a public hearing before the Creedmoor City Board of Commissioners. The public hearing will be scheduled as provided by the City Board of Commissioners' rules of procedure.

7.15-4 Public notification. Notice of public hearings or public meetings required under this section for zoning vested rights approval shall be provided in accordance with the provisions of the North Carolina General Statutes.

7.15-5 Formal review. Requests for vested rights for *Site Plan*s shall be scheduled for review at the next regular meeting of the Creedmoor City Board of Commissioners following approval by staff and/or the applicable advisory boards. At this time, the

City Board of Commissioners shall hold a public hearing to review the *Site Plan* and evaluate its conformance with the requirements of this Ordinance and other applicable requirements of the City of Creedmoor. In considering an application for *Site Plan* approval with vested rights, the City Board of Commissioners shall give due regard to whether issuance of the permit would serve the purpose and intent of this Ordinance, secure public safety and welfare, and do substantial justice. If the Board of Commissioners should find, after public hearing, that the proposed permit should not be granted, the permit should be denied. If the City Board of Commissioners finds that the request meets the requirements stated above, it then shall take one of the following actions.

(A.) Approve the *Site Plan* with vested rights request. The *Planning, Zoning and Subdivision Administrator* is then directed to issue a vested rights *zoning permit*.

(B.) Approve the *Site Plan* with vested rights request subject to conditions which are necessary to protect the public health, safety, and welfare. The *Planning, Zoning and Subdivision Administrator* is then directed to issue the vested rights *zoning permit* subject to the changes in the *Site Plan* to be made by the developer.

(C.) Table the *Site Plan* with vested rights request pending the submittal of additional information.

7.15-6 Findings. In granting a *zoning permit* with vested rights the City Board of Commissioners shall make the following affirmative findings.

(A.) The use requested is among those permitted in the district in which the property is located and complies with all the requirements of this and other applicable Ordinances;

(B.) The requested permit is either essential or desirable for the public convenience or welfare;

(C.) The requested permit will not impair the integrity or character of the surrounding or adjoining districts and will not be detrimental to the health, safety, or welfare of the community; and

(D.) Adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided.

7.15-7 Additional Restrictions and Requirements. In granting a *zoning permit* with vested rights, the City Board of Commissioners may impose such additional restrictions and requirements upon the permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done. Approval of a site specific development plan with the condition that a variance

or modification be obtained shall not confer a vested right unless and until the necessary variance or modification is obtained. If all requirements and conditions are accepted by the applicant, the City Board of Commissioners shall authorize the issuance of the permit; otherwise the permit shall be denied. Any permit so authorized shall remain vested for two years from the date of the action granting the permit. No change or amendment to any *zoning permit* with vested rights shall be made except after public hearing and except as provided for in this Ordinance for the original issuance of such permit. If, at the time of consideration of a proposed change or amendment to an existing permit, the permit or proposed change or amendment could not be lawfully made under Ordinance conditions existing at that time, the proposed change or amendment shall be denied. In addition, in no case shall there be an extension of the two-year time period for which the development right is vested. Nothing herein shall exempt plans related to the permit from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approvals.

7.15-8 Variances. Variances from the procedures and requirements for obtaining vested rights as set forth in section 7.15 of this Ordinance shall not be permitted. Requests for variances from the development standards established by this Ordinance shall be heard by the *Board of Adjustment* under the procedures established by Article 6 of this Ordinance.

7.15-9 Appeals. Aggrieved parties may seek appropriate relief as allowed by law.

7.15-10 Permit validity. A zoning right that has been vested as provided in section 7.15 shall remain vested for a period of two years from the date the permit is issued. This vesting shall not be extended by any amendments or modifications to a site specific development plan unless expressly provided by the approving authority at the time the amendment or modification is approved. A *zoning permit*, conditional use permit, or *Subdivision* approval shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding. A vested right shall terminate under the termination conditions as specified in subsection 7.15-7 of this Ordinance.

7.15-11 Violations. Violations of the terms and/or conditions of the vested rights approval shall be considered a violation of this Ordinance and shall be subject to the enforcement and penalty provisions set forth in Article 23 of this Ordinance. In addition, the City Board of Commissioners may, after public hearing, revoke any such vested rights for failure to abide by any such term or condition.

7.15-12 Status at Expiration of Term. A right which has been vested shall terminate at the end of the two-year vesting period with respect to buildings and uses for which no valid building permit applications have been filed. Upon issuance of a building

permit, the provisions of G.S. 160A-418 and G.S. 160A-422 shall apply except that a building permit shall not expire or be revoked because of the running of time while a vested right under this Article is outstanding. Any development constructed pursuant to a *zoning permit* with vested rights for which the vested term has expired and which is not in conformance with all the terms of the Ordinance because of changes made in the provisions of this Ordinance, including the zoning map, after the issuance of the permit shall be subject to the provisions of this Ordinance relating to non-conformities the same as any other nonconformity.

7.15-13 Annexation Declaration. Any landowner who signs an annexation petition to the City pursuant to G.S. 160A-31 or G.S. 160A-58.1 shall, as part of that petition, file a signed statement declaring whether or not vested rights with respect to the property subject to the petition have been established under G.S. 160A-385.1 or G.S. 153A-344.1. If the statement declares that such rights have been established, the City may require petitioners to provide proof of such rights. A statement which declares that no vested rights have been established by law shall be binding on the landowner and any such vested right shall be terminated.

7.16 Notices and Public Hearings *(Amended May 27, 2014 per Ord. 2014-O-03)*

7.16-1 General notice requirements.

(A.) All notices which this chapter requires for public hearings or public meetings shall identify the date, time and place of the public hearing/public meeting and the nature and character of the proposed action. Where the action being taken concerns a particular property or properties, the notice shall also identify the location of the subject property.

(B.) Where specific notice requirements are set forth in the North Carolina General Statutes for a particular type of public hearing, the requirements set forth in the North Carolina General Statutes shall be followed. Where these requirements conflict with procedures as stipulated in this subsection or elsewhere in this chapter, the requirements contained in the North Carolina General Statutes will control.

7.16-2 Notice procedure. The following guidelines detail the notification procedure to be followed for public hearings required by this chapter unless otherwise set forth in this chapter. Failure to follow procedures set forth in this section, other than those required by the North Carolina General Statutes, shall not affect the validity of any action taken at a public hearing or public meeting.

(A.) Published notice. Notice for public hearings required by this chapter shall be published in a newspaper of general circulation no later than ten days prior to the date on which the application is to be considered.

(B.) Mailed notice. First class mailed notice for public hearings required by this chapter shall be provided to owners of all properties located within 500 feet of the subject property as said owners are shown on the County tax listings. Such notice shall be mailed no later than ten days before the scheduled date of the hearing.

(C.) Posted notice. A sign (or signs) providing information concerning a public hearing or public meeting required by this chapter will be posted on property which is the subject of said hearing/meeting no later than ten days before the date on which the hearing or meeting is to occur. The sign(s) shall be prominently placed on the subject parcel or on an adjacent public street or highway right-of-way. When multiple parcels are involved, a posting on each individual parcel is not required, but the City shall post sufficient notices to provide reasonable notice to interested persons.

7.16-3 Special notice requirements for telecommunications towers/structures. For any public hearing for conditional use applications for telecommunication towers and concealed telecommunication support structures, as required by section 10.2-15 hereinafter, additional notice and public hearing requirements shall be provided as set forth in section 10.2-15 of this chapter.

ARTICLE 8

ZONING DISTRICTS

8.1 Purpose

In order to provide for the orderly development of Creedmoor, preserve existing development patterns that contribute to the character and sense of place of the community, and to allow for creativity in the planning for future development, the City hereby establishes zoning districts and their associated development standards.

8.2 Zoning Districts Created

The following primary general use zoning districts are created; this listing is in order of intensity of development permitted within the district, from least intense to most intense:

(1.) Agriculture (AG)
(2.) Single Family Residential (SFR)
(3.) Residential/Main Street Transitional (R/MST)
(4.) Main Street Periphery (MSP)
(5.) Main Street (MS)
(6.) Civic (CIV)
(7.) NC 56 Commercial (C 56)
(8.) US 15 Commercial (C 15)
(9.) Industrial (IND)

In addition to the primary general use zoning districts, the following overlay districts are created to provide for more creativity in the development of land and/or to protect unique environmental features of the City.

(10.) Traditional Neighborhood Development Overlay (TNDO)
(11.) Mini Farm Overlay (MFO)
(12.) Scenic Corridor Overlay (SCO)
(13.) Hazardous Industry Overlay (HIO)

8.3 Description of Zoning Districts

The zoning districts created by this ordinance are described as follows:

The <u>Agriculture District (AG)</u> is established to protect lands used for agricultural production, agricultural based businesses and related activities. Farm land is a defining

element of Creedmoor's identity and the protection of these lands aids in preserving the character of the City. Permitted uses are limited, with an emphasis on uses that are agricultural in nature. Development density is very low to encourage preservation of agricultural lands while discouraging large lot residential development. The Agriculture District can also be used to protect open spaces.

The Single Family Residential District (SFR) provides for the completion of existing residential neighborhoods and the development of new residential neighborhoods in a pattern that encourages the wise use of land. Allowed building/lot types in the Single Family District are Detached House and Civic Building. Permitted uses are restricted to single family homes and their accessory uses, a limited number of related uses that serve the residential neighborhoods, and civic uses. Neighborhoods in this district are the dominant land use in Creedmoor and are a major element in defining the character of the community. Standards for the Single Family Residential District ensure that new development maintains the character of the community. The Single Family Residential District permits the completion and conformity of conventional residential subdivisions already existing or approved in sketch plan form by the City of Creedmoor prior to the effective date of these regulations.

The Residential /Main Street Transitional District (R/MST) provides for the completion of existing residential neighborhoods in the residential area(s) surrounding the Main Street and Main Street Periphery District through in-fill development. The intent of this district is to recognize that most of the area surrounding the core of the downtown developed prior to the adoption of standards such as zoning and subdivision regulations. The gradual transformation of existing development to high quality mixed density residential development is needed to support the central core of the City. Higher density residential development allows a greater number of households to walk or bike, thus reducing the parking demand and providing environmental and health benefits. Allowed building/lot types in these districts are the Detached House, Attached House, Multi-family Building, and Civic Building. Streets in the Residential/Main Street Transitional District should be interconnected, with streets and sidewalks providing a connection from Creedmoor's downtown to the Single Family Residential districts surrounding these neighborhoods. A range of housing types is encouraged.

The Main Street Periphery District (MSP) provides for the development and maintenance of a range of uses in areas adjacent to Creedmoor's core downtown area. Allowed building/lot types in these districts are Multi-Family, Detached House, Attached House for both residential and/or non-residential permitted uses, and Civic Building. In this district, the development pattern integrates limited service, limited retail, office, civic, educational, religious, and residential uses in an environment that is pedestrian friendly while acknowledging the role of the automobile as a means of transportation. Street and sidewalk networks providing multi-modal transportation options connect the Periphery

District to the downtown and to surrounding neighborhoods. The Periphery District provides an area for the expansion of the Main Street District.

The Main Street District (MS) provides for new development, revitalization, reuse, and infill development in Creedmoor's core downtown. A broad array of uses is permitted to enable the needs of residents and visitors to be met. Allowed building/lot types in this district are Urban Workplace, Shop-front, Detached House, attached House, and Civic Building. The development pattern seeks to integrate shops, restaurants, services, work places, civic, educational, and religious facilities, and higher density housing in a compact, pedestrian-oriented environment. The Main Street District serves as the hub of the surrounding neighborhoods and of the broader community. The Main Street District may be expanded over time to meet the needs of the growing community for downtown facilities and services. Expansion of the Main Street District shall be contiguous and not separated from the primary district area.

The Civic District (CIV) provides a location for large educational, medical, and public uses in a campus like environment. Large developments in the Civic District are encouraged to provide a master plan to the City. Institutional uses in the Civic District are required to provide pedestrian connections on their campuses and, to the extent possible, develop an internal street system with structures fronting on the streets. Parking should not be the dominant visible element of the campuses developed for institutional uses.

The NC 56 Commercial District(C 56) is established to provide opportunities for compatible and sustainable development where the dominant mode of transportation is the automobile. The auto-oriented street, lot, and building designs can create uncomfortable pedestrian environments. Allowed building/lot types are Highway Commercial, and Civic Building. Dominant uses in this district are retail and office. The NC 56 Commercial District is expected to serve Creedmoor residents as well as persons who travel from surrounding communities. The development pattern in this district acknowledges the role of the automobile, with parking and access provided to ensure safety for the motoring public. Development standards in the NC 56 Commercial District ensure the creation of a pleasant auto-oriented environment while enabling a compatible transition to uses in adjacent districts.

The US 15 Commercial District (C 15) is established to provide opportunities for compatible and sustainable development along the US 15 corridor where future Creedmoor neighborhoods will interconnect with this Bypass type roadway corridor without negatively dissecting the community. Development standards in the US 15 Commercial District acknowledge that the automobile is the primary mode of transportation. Development and design standards encourage pedestrian scale development along a secondary street network serving larger projects. Goals of the US

15 Commercial District include providing a pleasant environment for motorists, a safe environment for pedestrians along the secondary network of streets and pedestrian facilities; ensuring the safety of motorists and pedestrians; and preserving the capacity of the Bypass to accommodate high traffic volumes at higher speeds. Uses in this district include services, employment, residential and industrial. Allowed building/lot types include Urban Workplace, Shop-front Commercial, and Civic Building.

The Industrial District (IND) is established to provide locations for industrial uses that, due to the scale of the buildings and/or the nature of the use, cannot be integrated into the community. Uses within the Industrial District are buffered from adjacent uses. The dominant uses in this district are manufacturing and warehouse storage. Small scale manufacturing and storage that is compatible with less intensive uses can and should be located in other non-residential or mixed use districts. The Industrial District is reserved for uses which require very large buildings and/or large parking and loading facilities. Allowed building and lot types are Highway Commercial and Civic Building.

The Traditional Neighborhood Development Overlay District (TNDO) provides for the development of new neighborhoods and the revitalization or extension of existing neighborhoods. These neighborhoods are structured upon a fine network of interconnecting pedestrian oriented streets and other public spaces. Traditional Neighborhood Developments (TND's) provide a mixture of housing types and prices, prominently sited civic or community building(s), stores/offices/workplaces, and churches to provide a balanced mix of activities. A Traditional Neighborhood Development (TND) has a recognizable center and clearly defined edges; optimum size is a quarter mile from center to edge. A TND is urban in form, is typically an extension of the existing developed area of the city, and has an overall residential density of 4 to 12 dwelling units per acre. TND districts should have a significant portion of land dedicated to open spaces.

The Mini Farm Overlay District (MFO) permits buildings to be grouped on a site, parcel, or property in order to optimize the use of land and resources for both residential and agricultural purposes. By clustering development at a density no greater than one unit per developed acre, projects developed in accordance with these standards can obtain density bonuses while preserving unique natural features for agricultural use. The Mini Farm Overlay District mandates the dedication of both agricultural land and open space with density bonuses provided as an incentive for adhering to the standards. It is the intent of this district to be used for new development in undeveloped outlying areas of the City and its extraterritorial jurisdiction. Allowed building/lot type is Detached House.

The Scenic Corridor Overlay District (SCO) is established to protect the pastoral scenes and open spaces that provide a sense of arrival for residents and visitors traveling the major entrance roads and gateways to the City. The pastoral scenes and undeveloped

property along the entrance roads and gateways contribute significantly to Creedmoor's community character and sense of place. The Scenic Corridor Overlay District provides development options for the owners of the property abutting the entrance roads and gateways. The goal of this district is to protect the scenic value of the corridors through a mix of incentives and development standards. These standards will preserve the rural character of the City by maintaining the sense of a rural corridor in an urban environment; provide an aesthetically appealing experience for those traveling the corridor; provide multi-modal transportation options for travel; and ensure a safe transportation corridor for motorists, bicyclists, and pedestrians. The Detached House lot/building type is allowed in this district.

The Hazardous Industry Overlay District (HIO) is established to protect all environments from the negative impacts of certain activities and types of development. It is the intent of this section to provide and permit certain public and private heavy industrial uses and facilities that incorporate hazardous materials and/or scientific technology, including: wholesale, distribution, storage, processing, manufacturing and production. However, it is required that industries in this district take all necessary actions including but not limited to installation of apparatus and technological equipment available to prevent negative impacts on the environment and the community from the emissions of smoke, dust, fumes, noise and vibrations and other activities and/or products resulting from such hazardous industrial activities in accordance with federal, state and local regulations.

8.4 Zoning District Development Standards

The following development standards are established for each of the following primary general use zoning districts to ensure the orderly development of the City of Creedmoor.

8.4-1 Agriculture District (AG)

(A.) Intent. The Agriculture District (AG) is established to protect lands used for agricultural production, agricultural based businesses and related activities. Farm land is a defining element of Creedmoor's identity and the protection of these lands aids in preserving the character of the City. Permitted uses are limited, with an emphasis on uses that are agricultural in nature. Development density is very low to encourage preservation of agricultural lands while discouraging large lot residential development. The Agriculture District can also be used to protect open spaces.

(B.) Permitted Uses

(1.) Uses permitted by right

See Table of Uses (Table 8.1)

(2.) Uses permitted with additional standards

See Table of Uses (Table 8.1)

(3.) Uses permitted with conditions

See Table of Uses (Table 8.1)

(C.) Permitted Building and Lot Types

Detached house

Civic Building

(D.) Permitted Accessory Uses

Accessory Dwelling Units (subject to additional standards, see section 10.1)

Accessory Structures

Fences

Home Occupations (subject to additional standards, see section 10.1)

(E.) Permitted Residential Density

0.20 units/acre

(F.) General Requirements

(1.) Building placement, parking placement, building type, access, and lot arrangement shall be controlled by the lot and building type standards (Article 9) for the lot and building type permitted in the Agriculture District.

(2.) In addition to the requirements established by the lot type standards and building type standards, the following shall apply in the Agriculture District:

Minimum Lot Size	**Minimum Lot Width**	**Minimum Front Yard Setback**	**Minimum Rear Yard Setback**	**Minimum Side Yard Setback**	**Minimum Corner Lot Side Yard Setback**
5 acres	85’	60’	25’	25’	50’

(G.) Open Space. The provision and design of open space shall comply with the requirements set forth in Article 21.

(H.) Parking and Landscaping**.** Parking shall comply with the requirements set forth in Article 12. Landscaping shall comply with the requirements set forth in Article 11.

8.4-2 Single Family Residential District (SFR)

(A.) Intent. The Single Family Residential District (SFR) provides for the completion of existing residential neighborhoods and the development of new residential neighborhoods in a pattern that encourages the wise use of land. Allowed building/lot types in the Single Family District are Detached House and Civic Building. Permitted uses are restricted to single family homes and their accessory uses, a limited number of related uses that serve the residential neighborhoods, and civic uses. Neighborhoods in this district are the dominant land use in Creedmoor and are a major element in defining the character of the community. Standards for the Single Family Residential District ensure that new development maintains the character of the community. The Single Family Residential District permits the completion and conformity of conventional residential subdivisions already existing or approved in sketch plan form by the City of Creedmoor prior to the effective date of these regulations.

(B.) Permitted Uses

(1.) Uses permitted by right
See Table of Uses (Table 8.1)

(2.) Uses permitted with additional standards
See Table of Uses (Table 8.1)

(3.) Uses permitted with conditions
See Table of Uses (Table 8.1)

(C.) Permitted Building and Lot Types

Detached house

Civic Building

(D.) Permitted Accessory Uses

Accessory Dwelling Units (subject to additional standards, see section 10.1)

Accessory Structures

Fences

Home Occupations (subject to additional standards, see section 10.1)

(E.) Permitted Residential Density

3 units/acre

(F.) General Requirements

(1.) Building placement, parking placement, building type, urban form, access, and lot arrangement shall be controlled by the lot and building type standards (Article 9) for the lot and building types permitted in the Single Family Residential District.

(2.) In addition to the requirements established by the lot type standards and building type standards, the following shall apply in the Single Family Residential District:

Minimum Lot Size	**Minimum Lot Width**	**Minimum Front Yard Setback**	**Minimum Rear Yard Setback**	**Minimum Side Yard Setback**	**Minimum Corner Lot Side Yard Setback**
11,600 SF.	72’	26’ to residence 38’ to parking space or garage	10’	10’	18’ or as required by buffering standards and/or building type

(G.) Open Space. The provision and design of open space shall comply with the requirements set forth in Article 21.

(H.) Parking and Landscaping. Parking shall comply with the requirements set forth in Article 12. Landscaping shall comply with the requirements set forth in Article 11.

8.4-3 Residential/Main Street Transitional District (R/MST)

(A.) Intent. The Residential /Main Street Transitional District (R/MST) provides for the completion of existing residential neighborhoods in the residential area(s) surrounding the Main Street and Main Street Periphery District through in-fill development. The intent of this district is to recognize that most of the area surrounding the core of the downtown developed prior to the adoption of standards such as zoning and subdivision regulations. The gradual transformation of existing development to high quality mixed density residential development is needed to support the central core of the City. Higher density residential development allows a greater number of households to walk or bike, thus reducing the parking demand and providing environmental and health benefits. Allowed building/lot types in these districts are the Detached House, Attached House, Multi-family Building,

and Civic Building. Streets in the Residential/Main Street Transitional District should be interconnected, with streets and sidewalks providing a connection from Creedmoor's downtown to the Single Family Residential districts surrounding these neighborhoods. A range of housing types is encouraged.

(B.) Permitted Uses

(1.) Uses permitted by right
See Table of Uses (Table 8.1)

(2.) Uses permitted with additional standards
See Table of Uses (Table 8.1)

(3.) Uses permitted with conditions
See Table of Uses (Table 8.1)

(C.) Permitted Building and Lot Types

Attached House

Multi-family Building

Detached House

Civic Building

(D.) Permitted Accessory Uses

Accessory Dwelling Units (subject to additional standards, see section 10.1)

Accessory Structures

Fences

Home Occupations (subject to additional standards, see section 10.1)

(E.) Permitted Residential Density Single Family detached and attached density: 12 units/acre

Multifamily: See 10.1-24 B.(2) for Multifamily limits

(F.) General Requirements

(1.) Building placement, parking placement, building type, urban form, access, and lot arrangement shall be controlled by the lot and building type standards (Article 9) for the lot and building types permitted in the Residential/Main Street Transitional District.

(2.) In addition to the requirements established by the lot type standards and building

type standards, the following shall apply in the Residential/Main Street Transitional District:

Minimum Lot Size	Minimum Lot Width	Minimum Front Yard Setback	Minimum Rear Yard Setback	Minimum Side Yard Setback	Minimum Corner Lot Side Yard Setback
5000 SF	60’	18’	6’	6’	12’ or as required by buffering standards and/or building type

(G.) Open Space. The provision and design of open space shall comply with the requirements set forth in Article 21.

(H.) Parking and Landscaping. Parking shall comply with the requirements set forth in Article 12. Landscaping shall comply with the requirements set forth in Article 11.

8.4-4 (Reserved)

8.4-5 Main Street Periphery District (MSP)

(A.) Intent. The Main Street Periphery District (MSP) provides for the development and maintenance of a range of uses in areas adjacent to Creedmoor’s core downtown area. Allowed building/lot types in these districts are Multi-Family, Detached House, Attached House for both residential and/or non-residential permitted uses, and Civic Building. In this district, the development pattern integrates limited service, limited retail, office, civic, educational, religious, and residential uses in an environment that is pedestrian friendly while acknowledging the role of the automobile as a means of transportation. Street and sidewalk networks providing multi-modal transportation options connect the Periphery District to the downtown and to surrounding neighborhoods. The Periphery District provides an area for the expansion of the Main Street District.

(B.) Permitted Uses

(1.) Uses permitted by right
See Table of Uses (Table 8.1)

(2.) Uses permitted with additional standards
See Table of Uses (Table 8.1)

(3.) Uses permitted with conditions
See Table of Uses (Table 8.1)

(C.) Permitted Building and Lot Types

Multifamily Building

Attached House

Detached House

Civic Building

(D.) Permitted Accessory Uses

Accessory Dwelling Units (subject to additional standards, see section 10.1)

Accessory Structures

Fences

Home Occupations (subject to additional standards, see section 10.1)

(E.) Permitted Residential Density Single Family detached and attached density: 14 units/acre

Multifamily: See 10.1-24 B.(2) for Multifamily limit

(F.) General Requirements

(1.) Building placement, parking placement, building type, urban form, access, and lot arrangement shall be controlled by the lot and building type standards (Article 9) for the lot and building types permitted in the Main Street Periphery District.

(2.) In addition to the requirements established by the lot type standards and building type standards, the following shall apply in the Main Street Periphery District:

Minimum Lot Size	**Minimum Lot Width**	**Minimum Front Yard Setback**	**Minimum Rear Yard Setback**	**Minimum Side Yard Setback**	**Minimum Corner Lot Side Yard Setback**
4000 SF	50’	12’ off back of curb	6’	6’	12’ off back of curb

(G.) Open Space. The provision and design of open space shall comply with the requirements set forth in Article 21.

(H.) Parking and Landscaping. Parking shall comply with the requirements set forth in Article 12. Landscaping shall comply with the requirements set forth in Article 11.

8.4-6 (Reserved)

8.4-7 Main Street District (MS)

(A.) Intent. The Main Street District (MS) provides for new development, revitalization, reuse, and infill development in Creedmoor's core downtown. A broad array of uses is permitted to enable the needs of residents and visitors to be met. Allowed building/lot types in this district are Urban Workplace, Shop-front, Detached House, Multi-family Building, Attached House, and Civic Building. The development pattern seeks to integrate shops, restaurants, services, work places, civic, educational, and religious facilities, and higher density housing in a compact, pedestrian-oriented environment. The Main Street District serves as the hub of the surrounding neighborhoods and of the broader community. The Main Street District may be expanded over time to meet the needs of the growing community for downtown facilities and services. Expansion of the Main Street District shall be contiguous and not separated from the primary district area.

(B.) Permitted Uses

(1.) Uses permitted by right
See Table of Uses (Table 8.1)

(2.) Uses permitted with additional standards
See Table of Uses (Table 8.1)

(3.) Uses permitted with conditions
See Table of Uses (Table 8.1)

(C.) Permitted Building and Lot Types

Urban Workplace

Shop-front

Multi-family Building

Attached House

Detached House

Civic Building

(D.) Permitted Accessory Uses

Accessory Dwelling Units (subject to additional standards, see section 10.1)

Accessory Structures

Fences

Home Occupations (subject to additional standards, see section 10.1)

(E.) Permitted Residential Density

14 units/acre

(F.) General Requirements

(1.) Building placement, parking placement, building type, urban form, access, and lot arrangement shall be controlled by the lot and building type standards (Article 9) for the lot and building types permitted in the Main Street District.

(2.) In addition to the requirements established by the lot type standards and building type standards, the following shall apply in the Main Street District:

Minimum Lot Size	**Minimum Lot Width**	**Minimum Front Yard Setback**	**Minimum Rear Yard Setback**	**Minimum Side Yard Setback**	**Minimum Corner Lot Side Yard Setback**
0 SF	0’	8’ off back of curb	8’	0’	12’ off back of curb

(G.) Open Space. The provision and design of open space shall comply with the requirements set forth in Article 21.

(H.) Parking and Landscaping. Parking shall comply with the requirements set forth in Article 12. Landscaping shall comply with the requirements set forth in Article 11.

8.4-8 <u>(Reserved)</u>

8.4-9 <u>Civic District (CIV)</u>

(A.) Intent: The <u>Civic District (CIV)</u> provides a location for large educational, medical, and public uses in a campus like environment. Large developments in the Civic District are encouraged to provide a master plan to the City. Institutional

uses in the Civic District are required to provide pedestrian connections on their campuses and, to the extent possible, develop an internal street system with structures fronting on the streets. Parking should not be the dominant visible element of the campuses developed for institutional uses.

(B.) Permitted Uses

(1.) Uses permitted by right
See Table of Uses (Table 8.1)

(2.) Uses permitted with additional standards
See Table of Uses (Table 8.1)

(3.) Uses permitted with conditions
See Table of Uses (Table 8.1)

(C.) Permitted Building and Lot Types

Urban Workplace

Detached House

Civic Building

(D.) Permitted Accessory Uses

Accessory Structures

Fences

(E.) Permitted Residential Density

2 Units/acre (Unlimited as Dormitories permitted as part of approved master plan)

(F.) General Requirements

(1.) Building placement, parking placement, building type, urban form, access, and lot arrangement shall be controlled by the lot and building type standards (Article 9) for the lot and building types permitted in the Civic District.

(2.) In addition to the requirements established by the lot type standards and building type standards, the following shall apply in the Civic District.

Minimum Lot Size	Minimum Lot Width	Minimum Front Yard Setback	Minimum Rear Yard Setback	Minimum Side Yard Setback	Minimum Side Yard Setback, Corner Lot
40,000 SF	100’	15’	15’ or as required by buffering standards and/or building type	5’ or as required by buffering standards and/or building type	10’ or as required by buffering standards and/or building type

(G.) Open Space. The provision and design of open space shall comply with the requirements set forth in Article 21.

(H.) Parking, Landscaping and Buffers. Parking shall comply with the requirements set forth in Article 12. Landscaping, including required buffers, shall comply with the requirements set forth in Article 11.

8.4-10 NC 56 Commercial District (C 56)

(A.) Intent: The NC 56 Commercial District (C 56) is established to provide opportunities for compatible and sustainable development where the dominant mode of transportation is the automobile. The auto-oriented street, lot, and building designs can create uncomfortable pedestrian environments. Allowed building/lot types are Highway Commercial, and Civic Building. Dominant uses in this district are retail and office. The NC 56 Commercial District is expected to serve Creedmoor residents as well as persons who travel from surrounding communities. The development pattern in this district acknowledges the role of the automobile, with parking and access provided to ensure safety for the motoring public. Development standards in the NC 56 Commercial District ensure the creation of a pleasant auto-oriented environment while enabling a compatible transition to uses in adjacent districts.

(B.) Permitted Uses

(1.) Uses permitted by right

See Table of Uses (Table 8.1)

(2.) Uses permitted with additional requirements

See Table of Uses (Table 8.1)

(3.) Uses permitted with conditions

See Table of Uses (Table 8.1)

(C.) Permitted Building and Lot Types

Highway Commercial

Civic Building

(D.) Permitted Accessory Uses

Fences

(E.) Permitted Residential Density

2 Units/acre

(F.) General Requirements

(1.) Building placement, parking placement, building type, urban form, access, and lot arrangement shall be controlled by the lot and building type standards (Article 9) for the lot and building types permitted in the NC 56 Commercial District.

(2.) In addition to the requirements established by the lot type standards and building type standards, the following shall apply in the NC 56 Commercial District:

Minimum Lot Size	**Minimum Lot Width**	**Minimum Setback from Highway**	**Build-to-Line from any street other than the Highway**	**Minimum Rear Yard Setback**	**Minimum Side Yard Setback**	**Minimum Side Yard Setback, Corner Lot**
24,000 SF	360’ on Highway, or 125’ on any street other than the Highway	27’	12’ or as required by buffering standards and/or building type	12’ or as required by buffering standards and/or building type	0’ or as required by buffering standards and/or building type	12’ or as required by buffering standards and/or building type

(G.) Open Space. The provision and design of open space shall comply with the requirements set forth in Article 21.

(H.) Parking, Landscaping and Buffers. Parking shall comply with the requirements set forth in Article 12. Landscaping, including required buffers, shall comply with the requirements set forth in Article 11.

8.4-11 US 15 Commercial District (CD 15)

(A.) Intent: The US 15 Commercial District (C 15) is established to provide opportunities for compatible and sustainable development along the US 15 corridor where future Creedmoor neighborhoods will interconnect with this Bypass type roadway corridor without negatively dissecting the community. Development standards in the US 15 Commercial District acknowledge that the automobile is the primary mode of transportation. Development and design standards encourage pedestrian scale development along a secondary street network serving larger projects. Goals of the US 15 Commercial District include providing a pleasant environment for motorists, a safe environment for pedestrians along the secondary network of streets and pedestrian facilities; ensuring the safety of motorists and pedestrians; and preserving the capacity of the Bypass to accommodate high traffic volumes at higher speeds. Uses in this district include services, employment, residential and industrial. Allowed building/lot types include Urban Workplace, Shop-front Commercial, and Civic Building.

(B.) Permitted Uses

(1.) Uses permitted by right
See Table of Uses (Table 8.1)

(2.) Uses permitted with additional standards
See Table of Uses (Table 8.1)

(3.) Uses permitted with conditions
See Table of Uses (Table 8.1)

(C.) Permitted Building and Lot Types

Urban Workplace

Shop-front Commercial

Civic Building

(D.) Permitted Accessory Uses

Accessory Structures

Fences

(E.) Permitted Residential Density

2 units/acre

(F.) General Requirements

(1.) Building placement, parking placement, building type, urban form, access, and lot arrangement shall be controlled by the lot and building type standards (Article 9) for the lot and building types permitted in the US 15 Commercial District.

(2.) In addition to the requirements established by the lot type standards and building type standards, the following shall apply in the US 15 Commercial District:

Minimum Lot Size	**Minimum Lot Width**	**Minimum Setback from Highway**	**Build-to-Line from any street other than the Highway**	**Minimum Rear Yard Setback**	**Minimum Side Yard Setback**	**Minimum Side Yard Setback, Corner Lot**
10,000 SF	360' on Highway, or 125' on any street other than the Highway	35'	10' or as required by buffering standards and/or building type	5' or as required by buffering standards and/or building type	5' or as required by buffering standards and/or building type	10' or as required by buffering standards and/or building type

(G.) Open Space. The provision and design of open space shall comply with the requirements set forth in Article 2.

(H.) Parking, Landscaping and Buffers. Parking shall comply with the requirements set forth in Article 12. Parking may be placed in between a building and the Highway/Bypass. However, parking shall not be in the required setback between a building and the Highway/Bypass. Landscaping, including required buffers, shall comply with the requirements set forth in Article 11. See Image 8.4-2 below.

(I.) When a building is in between a secondary street and the Highway/Bypass, that building shall front the secondary street.

8.4-12 Industrial District (IND)

(A.) Intent: The Industrial District (IND) is established to provide locations for industrial uses that, due to the scale of the buildings and/or the nature of the use, cannot be integrated into the community. Uses within the Industrial District are buffered from adjacent uses. The dominant uses in this district are manufacturing and warehouse storage. Small scale manufacturing and storage that is compatible with less intensive uses can and should be located in other non-residential or mixed use districts. The Industrial District is reserved for uses which require very large buildings and/or large parking and loading facilities. Allowed building and lot types are Highway Commercial and Civic Building.

(B.) Permitted Uses

(1.) Uses permitted by night
See Table of Uses (Table 8.1)

(2.) Uses permitted with additional standards
See Table of Uses (Table 8.1)

(3.) Uses permitted with conditions
See Table of Uses (Table 8.1)

(C.) Permitted Building and Lot Types

Highway Commercial

Civic Building

(D.) Permitted Accessory Uses

Accessory Structures

Fences

(E.) Permitted Residential Density

None

(F.) General Requirements

(1.) Building placement, parking placement, building type, urban form, access, and lot arrangement shall be controlled by the lot and building type standards (Article 9) for the lot and building types permitted in the Industrial District.

(2.) In addition to the requirements established by the lot type standards and building

type standards, the following shall apply in the Industrial District:

Minimum Lot Size	Minimum Lot Width	Minimum Front Yard Setback	Minimum Rear Yard Setback	Minimum Side Yard Setback	Minimum Corner Lot Side Yard Setback
32,400 SF	180’	80’	16’	16’	80’

(G.) Open Space. The provision and design of open space shall comply with the requirements set forth in Article 21.

(H.) Parking, Landscaping and Buffers. Parking shall comply with the requirements set forth in Article 12. Landscaping, including required buffers, shall comply with the requirements set forth in Article 11.

8.5 Overlay Districts *(Amended May 27, 2014 per Ord. 2014-O-03)*

The following Overlay Districts supersede the underlying primary general use zoning districts where permitted uses and/or requirements and/or standards and/or conditions are established by the Overlay District. All other provisions shall apply where no superseding provisions are established.

8.5-1 Traditional Neighborhood Development Overlay (TNDO)

(A.) Intent: The Traditional Neighborhood Development Overlay District (TNDO) provides for the development of new neighborhoods and the revitalization or extension of existing neighborhoods. These neighborhoods are structured upon a fine network of interconnecting pedestrian oriented streets and other public spaces. Traditional Neighborhood Developments (TND’s) provide a mixture of housing types and prices, prominently sited civic or community building(s), stores/offices/workplaces, and churches to provide a balanced mix of activities. A Traditional Neighborhood Development (TND) has a recognizable center and clearly defined edges; optimum size is a quarter mile from center to edge. A TND is urban in form, is typically an extension of the existing developed area of the town, and has an overall residential density of 4 to 12 dwelling units per acre. TNDO districts should have a significant portion of land dedicated to open spaces.

(B.) Permitted Uses

(1.) Uses permitted by right
See Table of Uses (Table 8.1)

(2.) Uses permitted with additional standards

See Table of Uses (Table 8.1)

(3.) Uses permitted with conditions

See Table of Uses (Table 8.1)

(C.) Permitted Building and Lot Types

Urban Workplace

Shop-front Commercial

Multi-family Building

Detached House

Attached House

Civic Building

(D.) Permitted Accessory Uses

Accessory Dwelling Unit (subject to additional standards, see section 10.1)

Accessory Structures

Fences

Home Occupations (subject to additional standards, see section 10.1)

(E.) Permitted Residential Density

The maximum residential density is established by the underlying general use zoning districts as defined in Section 8.4.

(F.) General Requirements

(1.) Building placement, parking placement, building type, urban form, access, and lot arrangement shall be controlled by the lot and building type standards (Article 9) for the lot and building types permitted in the Traditional Neighborhood Development Overlay District and by the standards set forth in section 8.5-1.(G) below.

(2.) Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.

(a.) New buildings which adhere to the scale, massing, volume, spacing, and setback of existing buildings along fronting streets exhibit demonstrable compatibility.

(b.) New buildings which exceed the scale and volume of existing buildings may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume.

(3.) On new streets, allowable building and lot types will establish the development pattern.

(4.) A master plan in compliance with Traditional Neighborhood Development standards shall be provided with the zoning permit submittal for a general district TNDO. The master plan shall include a topographic survey and shall show the location and hierarchy of streets and public open spaces, location of residential, commercial, and civic building lots, street sections and/or plans, a master sign program, an outline of any additional regulatory intentions, phasing, and any other information, including building elevations, which may be required to evaluate the interior pedestrian environment and conditions at project edges.

(5.) Minimum Development Size: 3 acres

(6.) Maximum Development Size: 320 acres.

Tracts larger than 320 acres shall be developed as multiple Traditional Neighborhood Developments, each individually subject to all provisions.

(7.) Maximum Permitted Densities**:** There shall be no maximum density in the TNDO.

(G.) TND Design Provision

(1.) Neighborhood Form

The descriptions of Traditional Neighborhood Building and Lot types in Article 9 will determine the general arrangement and distribution of elements in a TND.

The area of the TND shall be divided into blocks, streets, lots, and open space.

Similar land uses shall generally front across each street. Dissimilar categories shall generally abut at rear lot lines. Corner lots which front on streets of dissimilar use shall generally observe the setback established on each fronting street.

(2.) Streets, Alleys and Blocks

Public streets shall provide access to all tracts and lots.

Streets and alleys shall, wherever practicable, terminate at other streets within the neighborhood and connect to existing and projected streets outside the development. Cul-de-sacs shall not exceed 250 feet in length, must be accessed from a street providing internal or external connectivity, shall be permanently terminated by a vehicular turnaround, and are permitted only where topography makes a street connection impracticable. In most instances, a “close” or “eyebrow” is preferred to a cul-de-sac. Vehicular turnarounds of various configurations are acceptable so long as emergency access is adequately provided.

Pedestrian connections should be provided as extensions of terminating streets where not precluded by topography or other physical constraints.

The average perimeter of all blocks within the TND should not exceed 1,350 feet. No block face should have a length greater than 500 feet without a dedicated alley or pathway providing through access.

A continuous network of rear alleys is recommended for all lots in a TND; rear alleys shall provide vehicular access to lots 60 feet or less in width.

Utilities may run along alleys provided that a permanent access and utility easement is recorded for the full length of alley being used for utilities or public services such as garbage collection.

TND streets shall be organized according to a hierarchy based on function, size, capacity, and design speed; streets and rights-of-way are therefore expected to differ in dimension. The proposed hierarchy of streets shall be indicated on the submitted site plan. Each street type in a TND shall be separately detailed. Street types as described in the City of Creedmoor Standards and Specifications Manual identify the street types permitted in a TND. An array of elements that are combined to meet the purposes of TND neighborhood streets: building placement line, optional utility allocation, sidewalk, planting strip, curb and gutter, optional parallel parking, and travel lane(s). Alternative methods of assembling the required street elements will be considered to allow neighborhood street designs that are most appropriate to setting and use.

To prevent the buildup of vehicular speed, disperse traffic flow, and create a sense of visual enclosure, long uninterrupted segments of straight streets should be avoided. Methods to achieve this interruption include: (1) a street can be interrupted by intersections designed to calm the speed and disperse the flow of traffic (see City of Creedmoor Standards and Specifications Manual) and terminate vistas with a significant feature (building, park, natural feature); (2) a street can be terminated with a public monument, specifically designed building facade, or a gateway to the ensuing space; (3) perceived street length can be reduced by a noticeable street curve where the outside edge of the curve is bounded by a building or other vertical elements that hug the curve and deflect the view; (4) other traffic calming configurations are acceptable so long as emergency access is adequately provided.

(3.) Buildings and Lots

All lots shall share a frontage line with a street or square; lots fronting a square shall be provided rear alley access.

Consistent build-to lines shall be established along all streets and public space frontages; build-to lines determine the width and ratio of enclosure for each public street or space. A minimum percentage build-out at the build-to line shall be

established on the plan along all streets and public square frontages.

Building and lot types shall comply with the descriptions provided in Article 9.

Large-scale, single use facilities (conference spaces, theaters, athletic facilities, etc) shall generally occur behind or above smaller scale uses of pedestrian orientation. Such facilities may exceed maximum first floor area standards if so sited.

(4.) Open Space**.** The provision and design of open space shall comply with the requirements set forth in Article 21.

(5.) Parking, Landscaping and Buffers**.** Parking shall comply with the requirements set forth in Article 12. Landscaping, including required buffers, shall comply with the requirements set forth in Article 11.

8.5-2 Mini Farm Overlay (MFO)

(A.) Intent. The Mini Farm Overlay District (MFO) permits buildings to be clustered or grouped on a site, parcel, or property in order to optimize the use of land and resources for both residential and agricultural purposes. By clustering development at a density no greater than one unit per developed acre, projects developed in accordance with these standards can obtain density bonuses while preserving unique natural features for agricultural use. The Mini Farm Overlay District mandates the dedication of both agricultural land and open space with density bonuses provided as an incentive for adhering to the standards. It is the intent of this district to be used for new development in undeveloped areas of the City. Allowed building/lot type is Detached House.

(B.) Applicability. The provisions set forth below may be applied, upon designation of the property as a Mini Farm Overlay District, to properties with a minimum size of 66 acres in the Agricultural zoning district. The provisions of this section shall not be applicable in platted and recorded residential subdivisions.

(C.) Permitted Uses

(1.) Uses permitted by right

See Table of Uses (Table 8.1)

(2.) Uses permitted with additional standards

See Table of Uses (Table 8.1)

(3.) Uses permitted with conditions

See Table of Uses (Table 8.1)

(D.) Permitted Building and Lot Types

Detached House

(E.) Permitted Accessory Uses

Accessory Dwelling Units (subject to additional standards, see section 10.1)

Accessory Structures

Agricultural Based Business(s)

Fences

Home Occupations (subject to additional standards, see section 10.1)

(F.) Development standards. The following development standards shall apply to developments approved in accordance with the provisions of this section:

(1.) Maximum density shall be one dwelling per gross acre of the Tract(s) within the MFO district.

(2.) There shall be a minimum separation of 12 feet between all enclosed structures.

(3.) Parking shall comply with the requirements set forth in Article 12.

(G.) (Reserved)

(H.) Agricultural and Open Space**.** Not less than 60% of the site shall be conveyed as Common Agricultural and Open Space. The provision and design of agricultural and open space shall comply with the requirements set forth below.

(1.) Common agricultural and open space provided by a development shall be conveyed as follows:

(a.) To the City of Creedmoor and accepted by it for park, open space, agricultural, or other specified use or uses, provided that the conveyance is approved by the City Council; or

(b.) To a nonprofit organization whose principal purpose is the conservation of open space, to a corporation or trust owned or to be owned by the owners of lots or dwelling units within the development, or to owners of shares within a cooperative development. If such a corporation or trust is used, ownership shall pass with the conveyances of the lots or dwelling units. Such corporation or trust shall maintain the property in use for agricultural purposes and/or as open space.

(2.) Where the common agricultural and open space in a development is conveyed pursuant to subparagraph 1.b above, a deed restriction enforceable by the City of Creedmoor shall be recorded that provides that the common agricultural and open space shall:

(a.) be maintained in the authorized conditions(s); and

(b.) not be developed for principal uses, accessory uses (e.g., parking), or

roadways, with the exception that gazebos, tool sheds, barns, shelters, or similar accessory uses and structures may be constructed within the agricultural and common open space upon approval of the *Planning, Zoning and Subdivision Administrator*.

(I.) General Standards.

(1.) The following shall apply in the Mini Farm Overlay District:

Minimum Lot Size	Minimum Lot Width	Minimum Front Yard Setback	Minimum Rear Yard Setback	Minimum Side Yard Setback	Minimum Corner Lot Side Yard Setback
50,000 S.F.	85’	60’	25’	25’	50’

8.5-3 Scenic Corridor Overlay (SCO)

(A.) Intent. The Scenic Corridor Overlay District (SCO) is established to protect the pastoral scenes and open spaces that provide a sense of arrival for residents and visitors traveling the major entrance roads and gateways to the City. The pastoral scenes and undeveloped property along the entrance roads and gateways contribute significantly to Creedmoor’s community character and sense of place. The Scenic Corridor Overlay District provides development options for the owners of the property abutting the entrance roads and gateways. The goal of this district is to protect the scenic value of the corridors through a mix of incentives and development standards. These standards will preserve the rural character of the City by maintaining the sense of a rural corridor in an urban environment; provide an aesthetically appealing experience for those traveling the corridor; provide multi-modal transportation options for travel; and ensure a safe transportation corridor for motorists, bicyclists, and pedestrians. The Detached House lot/building type is allowed in this district.

(B.) Types. Three (3) types of scenic corridors are hereby created:

(1.) Rural scenic corridor – A corridor along which development is limited, consisting largely of fields, pastures, and scattered residential uses. The rural scenic corridor evokes a sense of traveling through an undeveloped area, with pastoral scenes and a sense of being removed from the urban environment.

(2.) Gateway scenic corridor - A corridor that serves as an entrance way to a place that is unique and different from other communities in the area. The gateway corridor provides a sense of arrival to a place that is special and different from the

typical places. The gateway scenic corridor may be more developed than the rural scenic corridor, but the character of the development is such that those using the corridor are aware they are in a special place.

(3.) Bypass scenic corridor - A corridor providing for buffering of the bypass to protect the traffic carrying capacity of the road and to provide for a pleasant experience for motorists using the bypass. The bypass scenic corridor requires an undeveloped setback from the bypass, ensuring that the bypass through Creedmoor is unique and portrays the character of the community while enhancing the safety of motorists using the road.

(C.) General Requirements

(1.) Development Pattern. Building placement, parking placement, building type, urban form, access, and lot arrangement shall be controlled by the lot and building type standards (Article 9) for the lot and building types permitted in the Scenic Corridor Overlay District.

(2.) Activities Permitted in the Scenic Corridor. In order to preserve the aesthetic quality of the scenic corridors, uses and activities within the designated scenic corridors shall be limited to the following:

(a.) The scenic corridor easement may be used for passive recreation, agricultural uses, and equestrian uses. No other use shall be permitted within the scenic corridor easement.

(b.) No building construction, parking, land disturbing activity, signs, tree removal, lighting (other than street lighting provided by the City of Creedmoor and driveway or private road lighting provided that said lighting is provided by full cutoff fixtures), or other development activity shall occur within the scenic corridor easement except as follows:

(i.) A bikeway, greenway, and/or other pedestrian/bicycle facility may be located within the scenic corridor easement.

(ii.) Underground utilities and easements for underground utilities may be located within the scenic easement, provided that no above ground transmission or other equipment is located within the scenic easement.

(iii.) Buildings used primarily for agricultural and/or equestrian related activities may be built in the scenic corridor easement upon approval by the City Board of Commissioners as a Conditional Use. Parking shall be located behind the building, shall not be located within the scenic easement, and shall be buffered from the scenic corridor. The City Board of Commissioners shall consider the following items in making the decision to allow aforesaid buildings in the scenic easement:

1. The building's visual impact on the scenic corridor;
2. The building's size;

3. The compatibility of the building's architecture with community character and the purposes of the scenic corridor overlay district.

(3.) Scenic Corridor Dimensions. The designated scenic corridors shall meet the following dimensional standards:

(a.) The width of the scenic easement within the rural scenic corridor shall be 10% of the lot depth but no more than 100 feet from the edge of the public right-of-way. The *Planning, Zoning and Subdivision Administrator* may require an additional scenic depth of up to 50 feet in order to preserve structures and/or vegetation deemed to be significant.

(b.) The width of the scenic easement within the gateway scenic corridor shall be 10% of the lot depth but no more than 50 feet from the edge of the highway right-of-way. The *Planning, Zoning and Subdivision Administrator* may require an additional depth of up to 25 feet in order to preserve structures and/or vegetation deemed to be significant.

(c.) The width of the scenic easement within the bypass scenic corridor shall be 10% of the lot depth but no more than 75 feet from the edge of the public right-of-way. The *Planning, Zoning and Subdivision Administrator* may require an additional depth of up to 25 feet in order to preserve structures and/or vegetation deemed to be significant.

(4.) Scenic Corridor Provisions. The following provisions shall govern development within a designated scenic corridor:

(a.) The area within the scenic easement may be dedicated to the City as a conservation easement, provided it meets the standards for such an easement as established by applicable state and federal standards.

(b.) Development density shall be calculated for the entire property, including the area within the scenic easement, with the exception that development density bonuses of up to 50 percent are given for the portion of the property within the scenic easement. In the event that the property owner provides a scenic easement wider than required by this ordinance, the density bonus may be increased up to 75% for the area located within the scenic easement.

For example, the Jones family own a 10 acre property zoned Single Family Residential (SFR). Two (2) acres of the property are within the Scenic Corridor Overlay. The density is calculated as follows:
Base density @ 3 units/acre x 10 acres = 30 units
50% density bonus for 2 acres in scenic corridor easement
50% of (2 acres x 3 units/acre) = 3 unit bonus
Total Density = 33units
If the Jones' provide an easement wider than required, then they would receive a

75% density bonus for the area within the easement:
Base density @ 3units/acre x 10 acres = 30 units
75% density bonus for 2 acres with wider easement
75% of (2 acres x 3 units/acre) = 4.5 unit bonus
Total Density = 35 units

(c.) Development may be clustered on the portion of the property located outside the scenic easement.

(5.) Curb Cuts. There shall be a minimum separation of 500' between curb cuts in the rural scenic corridors. This separation requirement may be waived by the *Planning, Zoning and Subdivision Administrator* if the width of the property frontage would preclude a second curb cut meeting this spacing requirement.

(6.) Lot Requirements. The lot type standards and building type standard permitted in the underlying district, as set forth in section 8.4 and further described in Article 9, shall apply in the Scenic Corridor Overlay District.

(D.) Open Space. The provision and design of open space shall comply with the requirements set forth in Article 21. Land within the scenic easement may count for up to 100% of the open space required by Article 21 of this Ordinance.

(E.) Parking and Landscaping. Parking shall comply with the requirements set forth in Article 12. Landscaping shall comply with the requirements set forth in Article 11.

8.5-4 Hazardous Industry Overlay (HIO)

(A.) Intent. The Hazardous Industry Overlay (HIO) District is established in accordance with *NCGS Reference: 130A-293 Local ordinances prohibiting hazardous waste facilities* to protect all environments from the negative impacts of certain activities and types of development. It is the intent of this section to restrict and regulate certain public and private heavy industrial uses and facilities that incorporate hazardous materials and/or scientific technology, including: wholesale, distribution, storage, processing, manufacturing and production which could impact public health, safety, and welfare. However, it is required that industries in this overlay district take all necessary actions including but not limited to installation of apparatus and technological equipment available to prevent negative impacts on the environment and the community from the emissions of smoke, dust, fumes, noise and vibrations and other activities and/or products resulting from such hazardous industrial activities in accordance with federal, state and local regulations. It is further intended that this section will:

(1.) provide standards that will ensure that such development will be designed, arranged and constructed to protect the Lake Rogers and Falls Lake reservoirs and the lands of the City of Creedmoor and it's extraterritorial jurisdiction;

(2.) provide standards that will ensure that such development will have a minimum

impact on the public schools within the City's jurisdiction and public health safety, and welfare; and

(3.) through the zoning map amendment process provide for careful consideration in the location of such uses that, because of their inherent nature, extent, and external effects, require special care in control of their design and methods of operation in order to ensure protection of the public safety and welfare.

(B.) Property shall be within an Industrial (IND) Zoning District to be eligible for consideration for the Hazardous Industry Overlay (HIO) District.

(C.) Exempt Uses. For the purpose of this section, the following uses are exempt from the provisions of this section:

(1.) Medical Clinics having no-certificate-of need for in-patient care;

(2.) Medical Facilities having no-certificate-of need for in-patient care;

(3.) Doctor's Offices;

(4.) Medical Labs;

(5.) Dental Offices;

(6.) Outpatient Facilities having no certificate-of-need for in-patient care; and

(7.) Healthcare Facilities having no certificate-of-need for in-patient care.

(D.) Conditional Use Permits for All Hazardous Industries Required. The following uses may be established only after issuance of a Conditional Use Permit in accord with the procedures and conditions specified in Section 7.8:

(1.) Hazardous Industry

(2.) Foundries producing iron and steel products

(3.) Industrial equipment machinery repair and servicing

(4.) Meat-packing plants

(5.) Oil, Natural Gas and Fuel distributors

(6.) Textile manufacturing processes including weaving, dyeing and finishing

(7.) Wholesale storage of gasoline or bulk terminal plants for any highly explosive or inflammable gases or liquids, with exception of expansion of facilities already located, which is a permitted use

(8.) Auto wrecking yards, building material salvage yards, general salvage yards, and scrap metal processing yards

(E.) Minimum Lot Dimensions. The minimum lot size shall be of sufficient size to facilitate a hazardous industry facility which meets all requirements of this section, the Creedmoor Technical Standards and Specifications Manual, and all buffer requirements for new development.

(F.) Minimum Building/Parking Lot/Storage Area Setbacks. The minimum

building/parking/storage area setbacks shall be as follows:

(1.) From any arterial or collector street right-of-way – 500 feet

(2.) From any local street right-of-way – 500 feet

(3.) From an interior lot line adjacent to a non-residential zoning district –250 feet

(4.) From an interior lot line adjacent to a school or day care facility –500 feet

(5.) From an interior lot line adjacent to a residential zoning district – 500 feet

(G.) Building Height Requirements.

(1.) The maximum building height for a structure adjacent to a residential or commercial zoning district shall be no greater than 40 feet.

(2.) The maximum building height for a structure adjacent to an industrial zoning district – no height restrictions.

(H.) Use Requirements.

(1.) Any such hazardous industry facility shall be located consistent with the Future Land Use Patterns as set out in the *City Plan 2030 – Land Use & Comprehensive Master Plan* as may be amended from time to time.

(2.) Any such hazardous industry facility shall be located on an arterial highway as defined in the Creedmoor Technical Standards and Specifications Manual.

(3.) Any such hazardous industry facility shall be serviced by a public water and wastewater system.

(4.) Any such hazardous industry facility shall be enclosed with a security fence of adequate height and structure that would reasonable prohibit access to the site by the general public. All security gates and/or gate houses shall be set back a minimum of 50 feet from the public right-of-way line.

(5.) All structures housing the storage of bulk liquid and/or hazardous or toxic materials shall be set back from any property line a minimum of 550 feet.

(6.) There shall be no industry created noise in excess of 50 decibels as measured at the property line and no objectionable noise due to extreme frequency, beat frequency, intermittence or shrillness.

(7.) There shall be no industry created ground vibration measurable at any lot line of an industrial unit.

(8.) There shall be no industry created air pollution including:

(a.) No noxious odors; no noxious, toxic or corrosive gases or fumes.

(b.) No smoke of a density in excess of #1 on the Ringelmann Chart. In cases of smoke other than black in color, and approved density scale equivalent to the Ringelmann Chart shall be used.

(c.) No dust or other particulate matter emitted in excess of 0.85 pounds per 1,000

pounds of gases adjusted to 12% carbon dioxide.

(d.) There shall be no surface or subsurface discharge or disposal of any wastes, either liquid or in any form without prior approval of the Board of Commissioners.

(e.) There shall be no unusual fire or explosion hazards. Based on the National Board of fire insurance rates which classifies industrial units as Class I, Class II, and Class III, the following shall apply:

(i.) No special controls on a manufacturing unit determined to be Class I other than under [3] below.

(ii.) Class II and Class III manufacturing units shall be contained in a building designed and constructed in accordance with its class and according to provisions of the building code published by the Building Officials and Code Administrators, International [BOCA], 1313 East 60th Street, Chicago, Illinois, 60637.

(iii.) Machinery or equipment shall be treated as necessary to eliminate hazards.

(iv.) Uses which are customarily incidental and accessory to the principal use shall be permitted including, but not limited to: dwelling quarters for watchmen and caretakers employed on the premises, recreation areas and facilities for persons employed by industries within the same district's boundaries, restaurants, warehouses and commercial uses that are permitted in the NC 56 and/or US 15 Commercial District.

(f.) Businesses that produce, store or use hazardous materials, as defined by the Environmental Protection Agency's (EPA) Hazardous Substances or Prior Pollutants lists shall be allowed only when the items listed is Section 154.111 are met.

(g.) Miscellaneous Prohibitions:

(i.) Any interference with any other process, equipment, appliance or devices and any mechanical, electrical or other equipment which could create such interference shall have all necessary shielding or other protection.

(ii.) In any industrial unit or accessory all operations and storage, other than for passenger vehicles of visitors and employees, trucks and over the road vehicles, shall be within an entirely enclosed building or structure. Exemption: Outside storage of bulk or large raw materials which are fireproof if enclosed by a security fence with provisions for visual inspection and where screened from public view in its entirety from adjacent properties and public streets/roadways.

(I.) Conformance with *Creedmoor Technical Standards and Specifications Manual*. All development shall comply with the requirements of the *Creedmoor Technical*

Standards and Specifications Manual.

(J.) Operations and Closure Plans Required. An emergency operations plan shall be developed and be on file at the City of Creedmoor and Granville County Emergency Management Offices.

(1.) An operations plan shall be submitted to include:

(a.) The date of commencement of operations and their expected duration;

(b.) Proposed hours and days of operation;

(c.) A complete description of operation, including source of materials, method of compaction, type of sealing proposed to be used, types and number of equipment to be used;

(d.) Any phasing schedule of operations and relationship among phases;

(e.) Operating practices to be followed to ensure compliance with regulations of this ordinance, and;

(f.) Complete assessment by the Creedmoor Fire Department in conjunction with local emergency management agencies that all necessary equipment, training, and personnel are available at the emergency response level to adequately handle all emergency scenarios.

(2.) A closure plan shall be prepared and submitted in accordance with United States Environmental Protection Agency (USEPA) guidelines as part of the application for a zoning map amendment to establish the HIO district.

(K.) Hazardous Chemical Notification and Inventory Reporting. EPCRA Section 311-312 applies to any facility at which a hazardous chemical, as defined by the Occupational Safety and Health Act, is present in an amount exceeding a specified threshold. These facilities must submit -- to the SERC, LEPC, and local fire department -- material safety data sheets (MSDSs) or lists of MSDSs and hazardous chemical inventory forms (also known as Tier I and II forms). This information helps the local government respond in the event of a spill or release of the chemical.

(L.) Emergency Notification and Agriculture. EPCRA requires businesses that store threshold amounts of chemicals that are subject to OSHA's Hazardous Communication Standard to submit information -- including facility point of contact and the Material Safety Data Sheets (or a list of those chemicals) -- to state and local authorities in order to facilitate emergency planning and response. Annual reporting to state and local authorities is required for all covered facilities that have those chemicals in amounts above threshold. Hazardous chemicals used in routine agricultural operations and fertilizers held for resale by retailers is excluded.

(M.) Toxic Chemical Release Inventory Reporting. EPCRA Section 313 requires manufacturing facilities included in SIC codes 20 through 39 to submit an annual toxic chemical release report if they have 10 or more employees and if they manufacture, process, or use specified chemicals in amounts greater than threshold quantities. This report, commonly known as Form R, covers releases and transfers of toxic chemicals to various facilities and environmental media, and allows EPA to compile the national Toxic Release Inventory (TRI) database.

ARTICLE 9

BUILDING AND LOT TYPE STANDARDS

9.1 Purpose

The purpose of this Article is to establish standards for the buildings and lots permitted in each of the zoning districts established in Article 8. The standards set forth below are established to ensure that new development and construction is compatible with the character of the City of Creedmoor, that it accomplishes the purposes of this Ordinance, and that it achieves the goals identified in the City Plan 2030 – Land Use and Comprehensive Master Plan and other adopted and or approved plans.

9.2 Detached House Lot and Building Type

9.2-1 Description. The detached house is the most prevalent building type in Creedmoor. The detached house building type is generally found in residential neighborhoods, although it may coexist with other, similarly scaled buildings in commercial or mixed-use areas. Where possible, structures shall be designed to maintain a harmonious image of the neighborhood when viewed from a distance. Where appropriate and possible, structures shall be designed to terminate vistas. For detached homes on large lots accessed by a private drive in rural areas, building placement and site planning shall be dictated by landscape features and landscape preservation. Within the limits described below and unless the zoning district standards require greater measures, these regulations shall apply to all houses built on public streets.

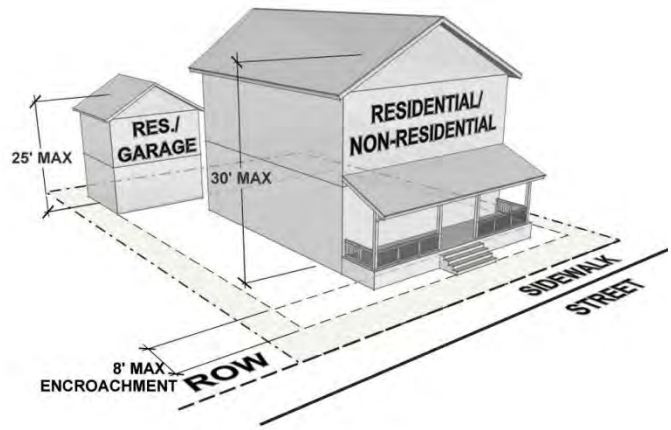
The photographs of detached single-family houses in the Carolinas below are examples for illustration purposes only and not intended to regulate lot/building styles, patterns, or forms.

9.2-2 Detached House Lot Type.

Building Placement/Parking/Vehicle Access	**Encroachment/Pedestrian Access/Commercial Use Standards**
1. Along new streets: A) the front setback shall be measured behind street ROW; B) the rear setback shall be measured from the rear property line; C) the side setbacks on interior lots shall be measured from the side property line; D) the side setback on corner lots for the side of the building that faces the street shall be measured from the street ROW on a corner lot. 2. In the Residential/Main Street Transitional District, where the average setback of existing buildings within 400' exceeds 35', the setback of any new building may be up to 20' closer to street ROW from the setback of an adjacent building, existing or proposed, in order to negotiate a gradual transition to a more urban development pattern. 3. Building placement may be further defined by zoning districts. 4. Accessory structures, including detached garages, shall be located at least 5' behind the primary structure.	1. Primary pedestrian access into the building shall be from the street frontage line. Secondary access may be from parking areas. 2. Balconies, stoops, stairs, open porches, bay windows, and, and awnings are permitted to encroach into the front setback area up to 8'. 3. Mechanical equipment exceeding 16 square feet shall not encroach into any required setback. 4. Commercial Use in a Detached House in the Main Street, Main Street Periphery, and TND Overlay Districts shall comply with the following: a. Parking shall be located in the side or rear yards only. If provided in the side yards, the parking area shall not exceed 25% of the frontage line and shall not be in the yards adjacent to a street. b. Parking areas on adjacent mixed use lots shall be connected whenever practical.

5. Only in the most exceptional circumstances having to do with extreme topography or very special design composition may the rules of residential building placement be varied. 6. The maximum building coverage for the primary structure shall be 30% of the lot area. 7. Garages may be detached (entered from front or rear), or attached to the main dwelling, with or without habitable rooms above. Front loaded garages, if provided, shall meet the standards of Section 2.19. 8. Points of permitted front or rear access to parking indicated by arrows. On corner lots, side yard access is also permitted.	c. Trash containers shall be located in the rear yard. If adjacent to existing single-family residential uses, trash containers shall be limited to residential rollout containers only, dumpsters are prohibited. d. Mechanical equipment at ground level shall be placed on the parking lot side of the building away from buildings on adjacent sites and shall be screened from view by an opaque screen. e. Hedges, garden walls, or knee walls may be built on property lines or as the continuation of building walls. A garden wall, hedge or knee wall, a minimum 2.5' in height, maximum 3.5' in height, shall be installed along any street frontage adjacent to parking areas. Knee walls should be built of brick, stone or other decorative masonry material, or should be built of wrought iron or other decorative metal, and shall generally match the historic architectural style of Creedmoor. f. Building facades shall be generally parallel to frontage property lines. Buildings in all locations should relate the principal façade to the sidewalk and public space of the street. g. Building facades at street frontage lines shall be pedestrian oriented and of pedestrian scale.

9.2-3 Detached House Building Type.

Permitted Height/Uses/Encroachments	Architectural Standards
	1. Principles for maintaining the historic character of the City: A. To perpetuate the unique building character of the City and its environs, and to re-establish its local identity, development shall generally employ building styles that are compatible with the historic architectural vocabulary of the area in their external treatment. Manufactured homes will not be permitted as part of any multi-unit residential development. B. The front elevations facing the street and the overall massing shall communicate an emphasis on the human scale and the pedestrian environment. The intention of buildings in all locations must be to relate the principal facade to the sidewalk and public space of the street to maintain compatibility with historic structures within the City. C. Each building should be designed to form part of a larger composition of the area in which it is situated. Adjacent buildings should thus be of similar scale, height, and configuration to maintain compatibility with historic structures within the City. D. Building silhouettes should be generally consistent. The scale and pitch of roof lines should thus be similar across groups of buildings to maintain compatibility with historic structures within the City. 2. Configurations: A. Main roofs on residential buildings should be symmetrical gables or
1. Building heights shall be measured as the vertical distance from the mean elevation of the finished grade to a point representing the midpoint of the peak and eave heights. 2. Building height to the ridge may vary depending on the roof pitch. 3. Permitted uses are controlled by zoning district standards. 4. Balconies, stoops, stairs, open porches, bay windows, and, and awnings are permitted to encroach into the front setback area up to 8'. 5. Mechanical equipment exceeding 16 square feet shall not encroach into any required setback.	

	hips with a pitch of between 4:12 and 12:12. Mono-pitch (shed) roofs should be attached to the wall of the main building. No mono-pitch roof should be less than 4:12. Grandiose roof pitches with multiple changes of outline are acceptable. It is recommended that accessory buildings have roof pitches that conform to those of the main building to maintain compatibility with historic structures within the City. B. Balconies should generally be simply supported by posts and beams. The support of cantilevered balconies should be assisted by visible brackets to maintain compatibility with historic structures within the City. C. Two wall materials may be combined horizontally on one facade. The "heavier" material should be below to maintain compatibility with historic structures within the City. D. Exterior chimneys should be finished in brick or stone to maintain compatibility with historic structures within the City. 3. Techniques: A. Overhanging eaves may expose rafters to maintain compatibility with historic structures within the City. B. Minimum 8" overhanging gable end-rake and vented eaves shall be finished by profiled molding or gutters to maintain compatibility with historic structures within the City.

9.3 Attached House Lot Type and Building Type Standards

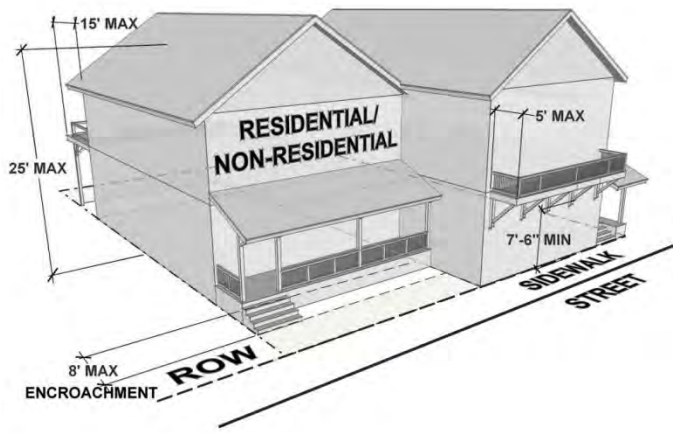
9.3-1 Description. The attached house is a row-house, a Cityhouse, or a duplex. Traditional southern homes in Savannah and Charleston provide a historic model. The Southside neighborhood in Greensboro provides a good contemporary example. Generally, building plans will have narrow frontages with the plan depth being greater than its width. Groups of attached house buildings that are not integrated into a pedestrian oriented mixed-use urban pattern shall not be permitted within Creedmoor. Attached house structures should complement the neighborhood through their design, location on the site, and building materials. Within the limits described below and unless the zoning district standards require greater measures, these regulations shall apply to all attached houses built on public streets.

The photograph of single-family attached houses in Asheville, North Carolina below is an example for illustration purposes only and is not intended to regulate lot/building styles, patterns, or forms.

9.3-2 Attached House Lot Type Standards.

Building Placement/Parking/Vehicle Access	**Encroachment/Pedestrian Access**
1. There shall be at least 12' of separation between units that are not attached. 2. Only in the most exceptional circumstances having to do with extreme topography or very special design composition may these rules of residential building placement be varied. 3. Building facades shall be generally parallel to front and rear property lines. All buildings shall front onto a public street. 4. Front loaded garages, if provided, shall meet the standards of Article 2. 5. Accessory structures shall be located at least 5' behind the primary structure and shall have the same side and rear setbacks as the main structure.	1. For buildings set up to the sidewalk, balconies and bay windows at an upper level and their supports at ground level are permitted and encouraged within the sidewalk as shown by the shaded area. Encroachments affixed to the building and horizontally protruding more than 6" from the face of the building must have a minimum 7'6" clearance from the finished grade. Encroaching awnings should cover the entire sidewalk within the permitted distance shown by the shaded area. 2. For buildings set back from sidewalk, balconies, stoops, stairs, unenclosed porches and bay windows are permitted to encroach into the front setback area up to 8'. 3. Main pedestrian access to the building is from the street. Secondary access may be from parking areas. 4. Decks shall be constructed only in an established rear yard and are not permitted to encroach into the rear setback.

9.3-3 Attached House Building Type.

Permitted Height and Encroachments	Architectural Standards
	1. Principles for maintaining the historic character of the City: A. To perpetuate the unique building character of the City and its environs, and to re-establish its local identity, development shall generally employ building styles that are compatible with the historic architectural vocabulary of the area in their external treatment. Manufactured homes shall not be permitted as part of any attached residential development under this ordinance. B. The front elevations facing the street, and the overall massing shall communicate an emphasis on the human scale and the pedestrian environment. The intention of buildings in all locations must be to relate the principal facade to the sidewalk and public space of the street to maintain compatibility with historic structures within the City. Setbacks should be used in a manner which encourages pedestrian activity. C. Each building should be designed to form part of a larger composition of the area in which it is situated to maintain compatibility with historic structures within the City. D. Building silhouettes should be generally consistent. The scale and pitch of roof lines should thus be similar across groups of buildings to maintain compatibility with historic structures within the City. E. Porches should form a predominant motif of house designs, and
1. Building heights shall be measured as the vertical distance from the mean elevation of the finished grade to a point representing the midpoint of the peak and eave heights. 2. Building height to the ridge may vary depending on the roof pitch. 3. Permitted uses are controlled by zoning district standards. 4. For buildings set back from sidewalk, balconies, stoops, stairs, unenclosed porches and bay windows are permitted to encroach into the front setback area up to 8'.	

	be located on the front or to the side of the dwelling. When attached to the front, they shall extend over at least 15% of the front facade. All porches should be constructed of materials in keeping with those of the main building to maintain compatibility with historic structures within the City. F. Front loaded garages, if provided, shall meet the standards of Article 2 to maintain compatibility with historic structures within the City. 2. Configurations: A. Main roofs on residential buildings shall be symmetrical gables or hips with a pitch of between 4:12 and 12:12 to maintain compatibility with historic structures within the City. Mono-pitch (shed) roofs are allowed only if they are attached to the wall of the main building. No mono-pitch shall be less than 4:12. All accessory buildings shall have roof pitches that conform to those of the main buildings to maintain compatibility with historic structures within the City. B. Balconies should generally be simply supported by posts and beams to maintain compatibility with historic structures within the City. For balconies overhanging the sidewalk, supports should be from visible brackets, as supports cannot be located in the sidewalk. The support of cantilevered balconies should be assisted by visible brackets. C. Two wall materials may be combined horizontally on one facade. The "heavier" material should be below to maintain compatibility with historic structures within the City.

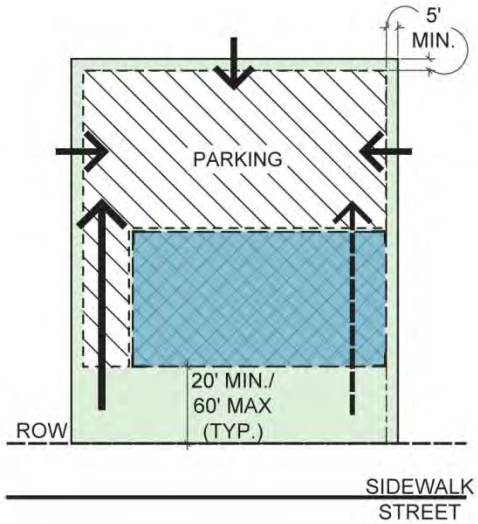
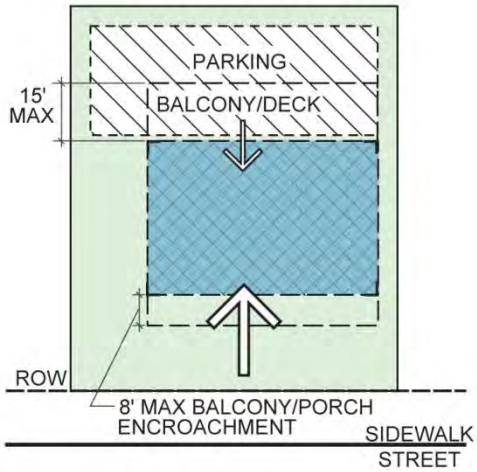
	D. Exterior chimneys should be finished in brick or stucco to maintain compatibility with historic structures within the City. 3. Techniques: A. Overhanging eaves may expose rafters to maintain compatibility with historic structures within the City. B. The gable end-rake and minimum 8” overhanging vented eaves should be finished by profiled molding or gutters to maintain compatibility with historic structures within the City.

9.4 Multi-Family Lot Type and Building Type Standards

9.4-1 Description. The multi-family building is a residential building accommodating several households. In traditional Cities, this building type coexists with a variety of other building types and is located in or near a mixed use district. A successful contemporary design permits its integration with other building types through the coordination of site and building design. The multi-family building type helps to build the residential density necessary for mixed- use areas to function properly by helping to create a base of people who can walk to goods and services. Where possible, structures shall be designed to terminate vistas. Structures should be designed to establish the design template and serve as a key focal point in the neighborhood. Within the limits described below and unless the zoning district standards require greater measures, these regulations shall apply to all multi-family houses built on public streets.

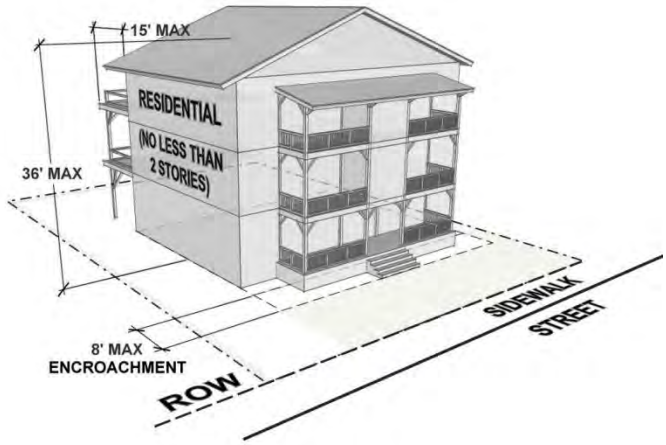
The photograph of a multi-family building in Concord, North Carolina below is an example of Piedmont region architecture for illustration purposes only and is not intended to regulate lot/building styles, patterns, or forms.

9.4-2 Multi-Family Lot Type Standards.

Building Placement/Parking/Vehicle Access	Encroachment/Pedestrian Access
	
1. Buildings shall be placed on the lot within the zone represented within the hatched area. 2. In most cases, the front build-to line will be 20'-35' behind street ROW in residential districts. Special site conditions such as topography, pattern of lot widths, or setbacks of existing buildings permit a larger setback. In districts that allow commercial uses and where this building type is permissible, multi-family buildings may be set up to the sidewalk if the sum of the sidewalk and planting strip width are 12' or greater. 3. Corners: Setback at street corners will generally replicate frontage conditions. However, side setbacks on a minor residential street may be less than the front dimension. 4. Within the limits described, side and rear setbacks will vary depending upon buffering requirements. When no buffer is required, a minimum 5' side and rear setback is required.	1. For buildings set back from sidewalk, balconies, stoops, stairs, open porches, bay windows, and awnings are permitted to encroach into setback area up to 8'. 2. Attached decks are permitted to encroach into the rear setback up to 15 feet. 3. For buildings set up to the sidewalk, balconies and bay windows at an upper level and their supports at ground level are permitted within the sidewalk as shown by the shaded area. Encroachments affixed to the building and horizontally protruding more than 6" from the face of the building must have a minimum 7'6" clearance from the finished grade. 4. Main pedestrian access to the building and to individual units is from the street. Secondary access may be from parking areas.

5. Building facades shall be generally parallel to front property lines. All buildings shall front onto a public street. All ground floor residential units with exterior access shall front a public street. 6. Parking shall be located to the rear of the building, unless there are extenuating circumstances that make it impractical to park in the rear of the building, in which case parking may be permitted to the side. When parking is permitted to the side of the building, the parking area shall comprise no more than 35% of the road frontage and shall be buffered according the buffering standards in Article 11. 7. Points of permitted access to the parking indicated by arrows. 8. Hedges, garden walls, or knee walls may be built on property lines or as the continuation of building walls. A garden wall, hedge or knee wall a minimum 2.5' in height, maximum 3.5' in height, shall be installed along any street frontage adjacent to parking areas. Knee walls should be built of brick, stone or other decorative masonry material, or should be built of wrought iron or other decorative metal, and shall generally match the historic architectural style of Creedmoor. 9. Trash containers shall be located in a rear parking area (see Parking Regulations) and shall be screened from the right-of –way per standards set forth in Article 11. 10. Mechanical equipment at ground level shall be placed on the parking lot side of building away from buildings on adjacent sites and shall be screened from view per standards set forth in Article 11.	

9.4-3 Multi-Family Building Type Standards.

Permitted Height and Encroachments	**Architectural Standards**
	1. Principles A. To perpetuate the unique building character of the City and its environs, and to re-establish its local identity, development shall generally employ building styles that are compatible with the historic architectural vocabulary of the area in their external treatment. B. The front elevations facing the street, and the overall massing shall communicate an emphasis on the human scale and the pedestrian environment. Buildings in all locations shall relate the principal facade to the sidewalk and public space of the street to maintain compatibility with historic structures within the City. C. Each building should be designed to form part of a larger composition of the area in which it is situated. Adjacent buildings should thus be of similar scale, height, and configuration to maintain compatibility with historic structures within the City. D. Building silhouettes should be generally consistent. The scale and pitch of roof lines should thus be similar across groups of buildings to maintain compatibility with historic structures within the City. E. Porches should form a predominant motif of building designs, and be located on the front or to the side of the dwelling. When attached to the front, they should extend over at least 15% of the front facade. All porches should be constructed of
1. For buildings with flat roofs, building height shall be measured as the vertical distance from the mean elevation of the existing grade to the highest finished roof surface. The height of parapet walls is not counted in the building height calculations and may vary depending upon the need to screen mechanical equipment. 2. For buildings with pitched roofs, building heights shall be measured as the vertical distance from the mean elevation of the finished grade to a point representing the midpoint of the peak and eave heights. 3. Building height to the ridge may vary depending on the roof pitch. 4. Permitted uses are indicated above, and are further controlled by zoning district standards. 5. Buildings shall have no less than 2 stories with a maximum of 36'. 6. For buildings set back from sidewalk, balconies, stoops, stairs, open porches, bay windows, and awnings are permitted to encroach into setback area up to 8'. 7. Attached decks are permitted to encroach into	

the rear setback up to 15 feet. 8. For buildings set up to the sidewalk, balconies and bay windows at an upper level and their supports at ground level are permitted within the sidewalk as shown by the shaded area. Encroachments affixed to the building and horizontally protruding more than 6" from the face of the building must have a minimum 7'6" clearance from the finished grade.	materials in keeping with those of the main building to maintain compatibility with historic structures within the City. F. Front loaded garages, if provided, shall meet the standards of Article 2 to maintain compatibility with historic structures within the City. G. At a minimum, the Americans with Disabilities Act standards for accessibility shall be met. 2. Configurations: A. Main roofs on multi-family buildings shall be symmetrical gables, hips with a pitch of between 4:12 and 12:12 or flat roofs with a parapet wall. Mono-pitch (shed) roofs are allowed only if they are attached to the wall of the main building. No mono-pitch shall be less than 4:12. All accessory buildings shall have roof pitches that conform to those of the main building to maintain compatibility with historic structures within the City. B. Balconies should generally be simply supported by posts and beams. The support of cantilevered balconies should be assisted by visible brackets to maintain compatibility with historic structures within the City. C. Two wall materials may be combined horizontally on one facade. The "heavier" material should be below to maintain compatibility with historic structures within the City. D. Exterior chimneys should be finished in brick or stucco to maintain compatibility with historic structures within the City. 3. Techniques: A. Overhanging eaves may expose

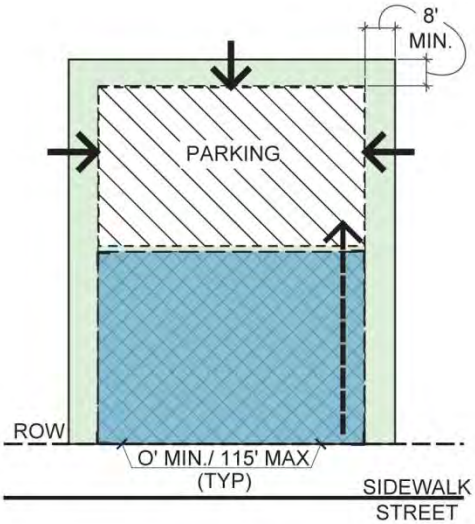
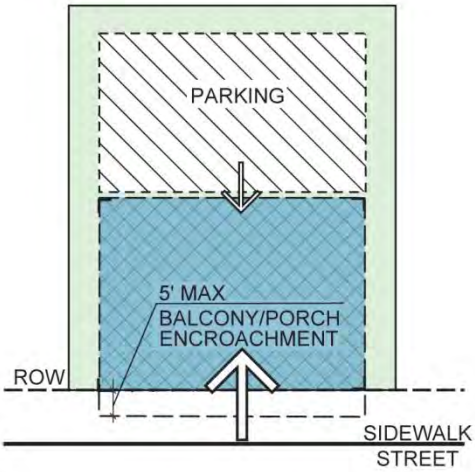
	rafters to maintain compatibility with historic structures within the City. B. The gable end-rake and minimum 8" overhanging vented eaves should be finished by profiled molding or gutters to maintain compatibility with historic structures within the City.

9.5 Civic Building Lot and Building Type

9.5-1 Description. Civic buildings are used for purposes that are public in nature (e.g. schools, libraries, government buildings, and churches). These buildings must be designed to take their appropriate places within neighborhoods as integral parts of the community. It is expected that the scale and architectural sophistication of these buildings will match their civic importance. Civic structures should be designed to serve as key focal points in the neighborhood. When located at intersections or other appropriate locations, Civic Buildings shall be designed to terminate vistas. The intention of buildings in all locations must be to relate the principal facade to the sidewalk and public space of the street. Civic buildings shall not be set back on the lot behind a standard parking lot; however, a plaza may be used for occasional parking and/or passenger drop-off. Large institutions with multiple buildings are encouraged to adopt campus master plans.

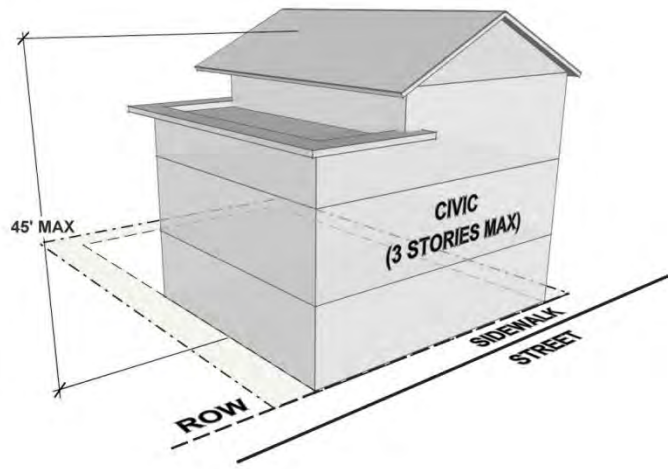
The photograph below is an example for illustration purposes and may be used to regulate lot/building styles, patterns, or forms.

9.5-2 Civic Building Lot Type.

Building Placement/Parking/Vehicle Access	Encroachment/Pedestrian Access
	
1. Buildings shall be placed on the lot within the zone represented by the hatched area. In most cases, the build-to line will range from 0' to 115' behind street ROW. Special site conditions such as topography, lot width, or provision of a green or plaza will permit a larger building setback. 2. Side and rear setbacks will vary according to side and rear buffer requirements as set forth in Article 11, with a minimum 8 foot setback where buffers are required and 15 foot setback when no buffer is required. 3. Parking shall be located to the rear of the building; side-yard parking shall occupy no more than 25% of the primary frontage line and shall not be placed in any side-yard abutting an intersecting street. Where dimensions of existing lots restrict parking behind buildings, the limitations on side-yard parking may be modified. 4. A planting strip, lawn or defined plaza	1. Balconies, bay windows, arcades, awnings and porches at an upper level and their supports at ground level are permitted and encouraged within the sidewalk as shown by the shaded area. Encroachments affixed to the building and horizontally protruding more than 6" from the face of the building must have a minimum 7'6" clearance from the finished grade. Encroaching awnings should cover the entire sidewalk within the permitted distance shown by the shaded area. 2. For buildings set back from the sidewalk, balconies, stoops stairs, open porches, bay windows, and awnings are permitted to encroach into front setback area up to 8'. 3. Main pedestrian access to the building is from the street (indicated by larger arrow). Secondary access may be from parking areas (indicated by smaller arrow).

should be provided to relate the building to the street. 5. Generally, building and street facades must be parallel to frontage property lines. 6. Points of permitted access to the parking indicated by arrows. 7. Hedges, garden walls, or knee walls may be built on property lines or as the continuation of building walls. A garden wall, hedge or knee wall a minimum 2.5' in height, maximum 3.5' in height, shall be installed along any street frontage adjacent to parking areas. Knee walls should be built of brick, stone or other decorative masonry material, or should be built of wrought iron or other decorative metal, and shall generally match the historic architectural style of Creedmoor. 8. Parking areas on adjacent lots shall be connected with vehicular and pedestrian connections wherever practical. 9. Trash containers shall be located in a rear parking area (see Parking Regulations) and shall be screened from the right-of –way per standards set forth in Article 11. 10. Mechanical equipment at ground level shall be placed on the parking lot side of building away from buildings on adjacent sites and shall be screened from view per standards set forth in Article 11.	

9.5-3 Building Type/Civic Building.

Permitted Height and Uses	Architectural Standards
	1. Principles: A. To perpetuate the unique building character of the City and its environs, and to re-establish its local identity, development shall generally employ building styles that are compatible with the historic architectural vocabulary of the area in their external treatment. B. Building elevations fronting or visible from public streets shall be clad with masonry, wood, stucco, or similar material. Vinyl siding shall not comprise a street fronting building face to maintain compatibility with historic structures within the City. C. The front elevations facing the street, and the overall massing shall communicate an emphasis on the human scale and the pedestrian environment to maintain compatibility with historic structures within the City. D. Each building should be designed to form part of a larger composition of the area in which it is situated. Adjacent buildings should thus be of similar scale, height, and configuration to maintain compatibility with historic structures within the City. E. Schools, churches, and government buildings shall be built so that they terminate a street vista whenever possible, and shall be of sufficient design quality to create visual anchors for the community and serve as focal points for the neighborhood to maintain compatibility with historic structures within the City.
1. For buildings with flat roofs, building height shall be measured as the vertical distance from the mean elevation of the existing grade to the highest finished roof surface. The height of parapet walls is not counted in the building height calculations and may vary depending upon the need to screen mechanical equipment. 2. For buildings with pitched roofs, building heights shall be measured as the vertical distance from the mean elevation of the finished grade to a point representing the midpoint of the peak and eave heights. 3. Building height to the ridge may vary depending on the roof pitch. 4. Permitted uses are controlled by zoning district standards. 5. Buildings shall have a maximum height of 45 feet.	

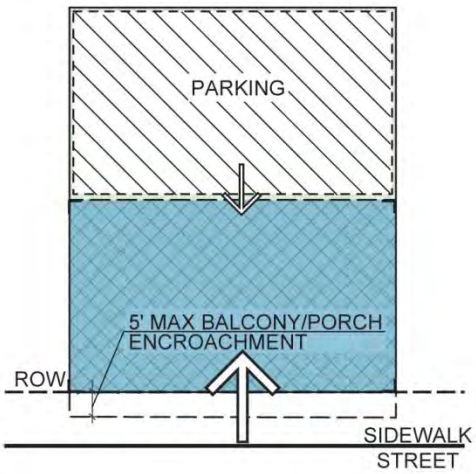
	2. Configurations: A. Two wall materials may be combined horizontally on one facade. The "heavier" material should be below the "lighter" material and the "heavier" material can cover the first floor only (i.e. brick below wood siding) to maintain compatibility with historic structures within the City. B. Street level windows should be un-tinted to maintain compatibility with historic structures within the City. Tinted glass with a minimum visual transmittance factor of 35 is permitted. Mirrored or reflective glass is not permitted in any location. Clear textured glass is allowed in restrooms with windows. Stained glass or decorative art glass is permitted. C. Windows shall be of square or vertical proportion. Special windows may be circular or regular polygons. D. Flat roof lines are permissible. 3. Techniques: A. Windows should be set to the inside of the building face wall to maintain compatibility with historic structures within the City. B. All rooftop equipment shall be screened from view from public Right-of-Ways by a building material that matches the structure or is visually compatible with the structure. The screening apparatus should be incorporated as part of the architectural theme to maintain compatibility with historic structures within the City.

9.6 Shop-front Commercial Lot and Building Type

9.6-1 Description. The shop-front building is a small-scale structure that can accommodate a variety of uses. The structure is typically a maximum of 15,000 square feet. A group of shop-front buildings can be combined to form a mixed-use neighborhood center. Individual shop-front buildings can be used to provide some commercial service, such as a convenience store or restaurant, in close proximity to homes. Traditional commercial buildings in historic southern Citys provide good examples. Hotels, inns, and conference centers may be placed in shop-front or mixed-use buildings. Structures shall be designed to encourage pedestrian activity and interest. When located at the end of a block or other appropriate location, structures shall be designed to terminate vistas.

The photograph below is an example for illustration purposes only and is not intended to regulate lot/building styles, patterns, or forms.

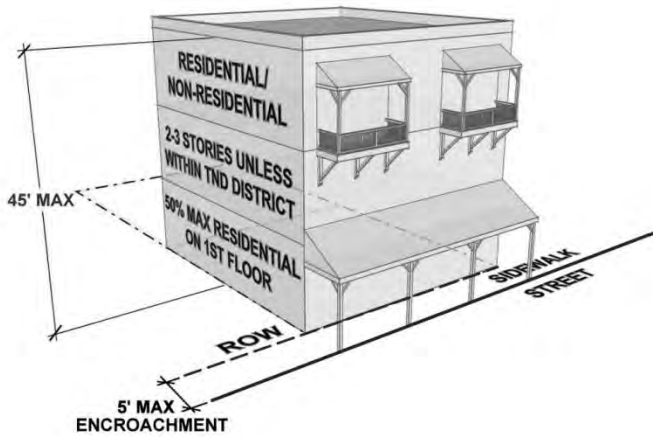
9.6-2 Shop-front Lot Type.

Building Placement/Parking/Vehicle Access	Encroachment/Pedestrian Access to Building
	
1. Buildings will range from 8' to 12' behind the street curb-line. Within the limits described above, front setbacks will vary depending upon site conditions. Special site conditions such as topography, pattern of lot widths, or setbacks of existing buildings on the same block permit a larger setback. Setbacks should be used in a manner that encourages pedestrian activity. For example, squares or spatially defined plazas within building setback areas can act as focal points for pedestrians. Corners: Setback at street corners will generally replicate frontage conditions. Side setbacks on a minor residential street may be less than the front dimension. 2. Side and rear setbacks will vary according to side and rear buffer requirements as set forth in Article 11,	1. Balconies, bay windows, arcades, awnings and porches at an upper level and their supports at ground level are permitted and encouraged within the sidewalk as shown by the shaded area. Encroachments affixed to the building and horizontally protruding more than 6" from the face of the building must have a minimum 7'6" clearance from the finished grade. Encroaching awnings should cover the entire sidewalk within the permitted distance shown by the shaded area. 2. Primary pedestrian access into the building shall be from the street frontage line (indicated by larger arrow). Secondary access may be from parking areas (indicated by smaller arrows).

with a minimum 0 foot setback when no buffer is required. 3. Building facades shall be generally parallel to frontage property lines. Buildings in all locations should relate the principal façade to the sidewalk and public space of the street. 4. Parking shall be located primarily to the rear of the building; side-yard parking shall occupy no more than 25% of the primary frontage line and shall not be placed in any side-yard abutting an intersecting street. Where dimensions of existing lots restrict parking behind buildings, the limitations on side-yard parking may be modified. 5. Hedges, garden walls, or knee walls may be built on property lines or as the continuation of building walls. A garden wall, hedge or knee wall a minimum 2.5' in height, maximum 3.5' in height, shall be installed along any street frontage adjacent to parking areas. Knee walls should be built of brick, stone or other decorative masonry material, or should be built of wrought iron or other decorative metal, and shall generally match the historic architectural style of Creedmoor. 6. Parking areas on adjacent lots shall be connected with vehicular and pedestrian connections wherever practical. 7. Trash containers shall be located in a rear parking area (see Parking Regulations, Article 12) and shall be screened from the right-of -way. 8. Mechanical equipment at ground level shall be placed on the parking lot side of building away from buildings	

on adjacent sites and shall be screened from view by an opaque screen or fence. 9. Building facades at street frontage lines shall be pedestrian oriented and of pedestrian scale. The building's design shall promote pedestrian activity and pedestrian-driven commerce. The sidewalk shall be an extension of the street level businesses' operations. As such, pedestrians should be able to preview businesses' merchandise and/or dine from the sidewalk. Business activities shall not impede on the required pedestrian travel widths and shall not encroach more than 5 feet into the sidewalk.	

9.6-3 <u>Shop-front Building Type.</u>

Permitted Height and Uses	**Architectural Standards**
	1. Principles: A. To perpetuate the unique building character of the City and its environs, and to re-establish its local identity, development shall generally employ building styles that are compatible with the historic architectural vocabulary of the area in their external treatment. B. Building elevations fronting or visible from public streets shall be clad with masonry, wood, stucco, or similar material. Vinyl siding shall not comprise a street fronting building face to maintain compatibility with historic structures within the City. C. The front elevations facing the street, and the overall massing shall communicate an emphasis on the human scale and the pedestrian environment to maintain compatibility with historic structures within the City. D. Each building should be designed to form part of a larger composition of the area in which it is situated. Adjacent buildings should thus be of similar scale, height, and configuration to maintain compatibility with historic structures within the City. E. Drive-through customer services, if permitted in the district, must be located at the rear of the building or on a side which does not abut a street to maintain compatibility with historic structures within the City. F. Trailers (mobile units) may not be used as permanent workplace buildings. 2. Configurations:
1. For buildings with flat roofs, building height shall be measured as the vertical distance from the mean elevation of the existing grade to the highest finished roof surface. The height of parapet walls is not counted in the building height calculations and may vary depending upon the need to screen mechanical equipment. 2. For buildings with pitched roofs, building heights shall be measured as the vertical distance from the mean elevation of the finished grade to a point representing the midpoint of the peak and eave heights. 3. Building height to the ridge may vary depending on the roof pitch. 4. Permitted uses controlled by zoning district standards. 5. Buildings shall have no less than 2 stories. Buildings shall have no more than 3 stories, unless the building is in a TND district, in which case the maximum number of stories and maximum building height is not regulated by this Ordinance.	

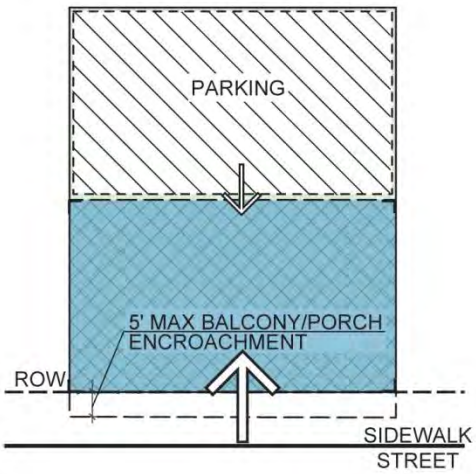
	A. Two wall materials may be combined horizontally on one facade. The “heavier” material should be below the “lighter” material and the “heavier” material can cover the first floor only (i.e. brick below wood siding) to maintain compatibility with historic structures within the City. B. Street level windows shall be un-tinted to maintain compatibility with historic structures within the City. Tinted glass with a minimum visual transmittance factor of 35 is permitted. Mirrored or reflective glass is not permitted in any location. C. Windows shall be of square or vertical proportion. Special windows may be circular or regular polygons. 3. Techniques: A. Windows should be set to the inside of the building face wall to maintain compatibility with historic structures within the City. B. All rooftop equipment shall be screened from view from public Right-of-Ways by a building material that matches the structure or is visually compatible with the structure. The screening apparatus should be incorporated as part of the architectural theme to maintain compatibility with historic structures within the City.

9.7 Urban Workplace Lot and Building Type

9.7-1 Description. The urban workplace building may be a large structure (15,000+ square feet) and can have one or multiple tenants. Office, light industrial, and commercial tenants are typical. Southern mill villages often provide examples of how these buildings can reasonably coexist with other businesses and homes. These buildings serve as employment centers and commercial service locations. The buildings will provide space for industry and large offices, as well as hotels, conference facilities, and large retail uses such as a full service grocery store. Structures shall be designed to serve as key focal points and to establish the design template for the area. When located at the end of a block or other appropriate location, structures shall be designed to terminate vistas.

The photograph below is an example for illustration purposes only and is not intended to regulate lot/building styles, patterns, or forms.

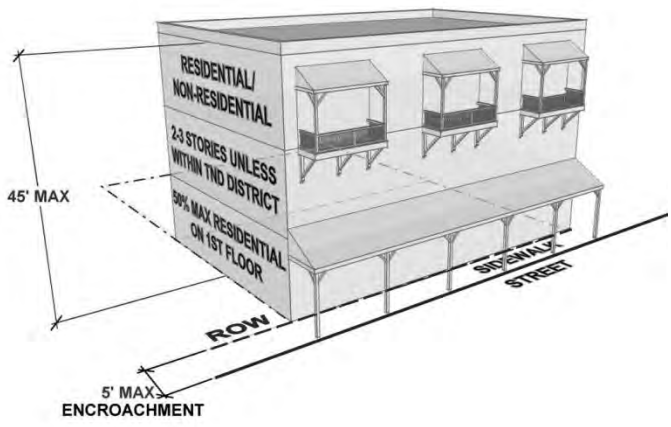
9.7-2 Urban Workplace Lot Type.

Building Placement/Parking/Vehicle Access	Encroachment/Pedestrian Access to Building
	
1. Buildings will range from 8' to 12' behind the street curb-line. Within the limits described above, front setbacks will vary depending upon site conditions. Special site conditions such as topography, pattern of lot widths, or setbacks of existing buildings on the same block permit a larger setback. Setbacks should be used in a manner that encourages pedestrian activity. For example, squares or spatially defined plazas within building setback areas can act as focal points for pedestrians. Corners: Setback at street corners will generally replicate frontage conditions. Side setbacks on a minor residential street may be less than the front dimension. 2. Side and rear setbacks will vary according to side and rear buffer requirements as set forth in Article 11,	1. Balconies, bay windows, arcades, awnings and porches at an upper level and their supports at ground level are permitted and encouraged within the sidewalk as shown by the shaded area. Encroachments affixed to the building and horizontally protruding more than 6" from the face of the building must have a minimum 7'6" clearance from the finished grade. Encroaching awnings should cover the entire sidewalk within the permitted distance shown by the shaded area. 2. Primary pedestrian access into the building shall be from the street frontage line (indicated by larger arrow). Secondary access may be from parking areas (indicated by smaller arrows).

with a minimum 0 foot setback when no buffer is required. 3. Front and rear building facades shall be generally parallel to frontage property lines. The façade shall be determined by the massing of the building. Buildings in all locations should relate the principal façade to the sidewalk and public space of the street. 4. Parking shall be located primarily to the rear of the building; side-yard parking shall occupy no more than 35% of the primary frontage line and shall not be placed in any side-yard abutting an intersecting street. Where dimensions of existing lots restrict parking behind buildings, the limitations on side-yard parking may be modified. 5. Hedges, garden walls, or knee walls may be built on property lines or as the continuation of building walls. A garden wall, hedge or knee wall a minimum 2.5' in height, maximum 3.5' in height, shall be installed along any street frontage adjacent to parking areas. Knee walls should be built of brick, stone or other decorative masonry material, or should be built of wrought iron or other decorative metal, and shall generally match the historic architectural style of Creedmoor. 6. Parking areas on adjacent lots shall be connected with vehicular and pedestrian connections wherever practical. 7. Trash containers shall be located in a rear parking area (see Parking Regulations, Article 12) and shall be screened from the right-of –way per standards set forth in Article 11. 8. Mechanical equipment at ground	

level shall be placed on the parking lot side of building away from buildings on adjacent sites and shall be screened from view per standards set forth in Article 11. 9. Building facades at street frontage lines shall be pedestrian oriented and of pedestrian scale. The building's design shall promote pedestrian activity and pedestrian-driven commerce. The sidewalk shall be an extension of the street level businesses' operations. As such, pedestrians should be able to preview businesses' merchandise and/or dine from the sidewalk. Business activities shall not impede on the required pedestrian travel widths and shall not encroach more than 5 feet into the sidewalk.	

9.7-3 Urban Workplace Building Type.

Permitted Height and Uses	Architectural Standards
	1. Principles: A. To perpetuate the unique building character of the City and its environs, and to re-establish its local identity, development shall generally employ building styles that are compatible with the historic architectural vocabulary of the area in their external treatment. B. Building elevations fronting or visible from public streets shall be clad with masonry, wood, stucco, or similar material. Vinyl siding shall not comprise a street fronting building face to maintain compatibility with historic structures within the City. C. The front elevations facing the street, and the overall massing shall communicate an emphasis on the human scale and the pedestrian environment to maintain compatibility with historic structures within the City. D. Each building should be designed to form part of a larger composition of the area in which it is situated. Adjacent buildings should thus be of similar scale, height, and configuration to maintain compatibility with historic structures within the City. E. Drive-through customer services, if permitted in the district, must be located at the rear of the building or on a side which does not abut a street to maintain compatibility with historic structures within the City. F. Trailers (mobile units) may not be used as permanent workplace buildings. 2. Configurations:
1. For buildings with flat roofs, building height shall be measured as the vertical distance from the mean elevation of the existing grade to the highest finished roof surface. The height of parapet walls is not counted in the building height calculations and may vary depending upon the need to screen mechanical equipment. 2. For buildings with pitched roofs, building heights shall be measured as the vertical distance from the mean elevation of the finished grade to a point representing the midpoint of the peak and eave heights. 3. Building height to the ridge may vary depending on the roof pitch. 4. Permitted uses are indicated in the above graphic, and are further controlled by zoning district standards. 5. Buildings shall have no less than 2 stories. Buildings shall have no more than 3 stories, unless the building is in a TND district, in which case the maximum number of stories and maximum building height is not regulated by this Ordinance.	

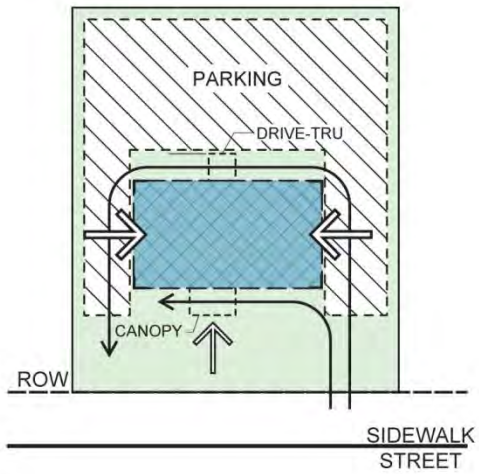
	A. Two wall materials may be combined horizontally on one facade. The “heavier” material should be below the “lighter” material and the “heavier” material can cover the first floor only (i.e. brick below wood siding) to maintain compatibility with historic structures within the City. B. Street level windows shall be un-tinted to maintain compatibility with historic structures within the City. Tinted glass with a minimum visual transmittance factor of 35 is permitted. Mirrored or reflective glass is not permitted in any location. C. Windows shall be of square or vertical proportion. Special windows may be circular or regular polygons. 3. Techniques: A. Windows should be set to the inside of the building face wall to maintain compatibility with historic structures within the City. B. All rooftop equipment shall be screened from view from public Right-of-Ways by a building material that matches the structure or is visually compatible with the structure. The screening apparatus should be incorporated as part of the architectural theme to maintain compatibility with historic structures within the City.

9.8 Highway Lot Type and Building Type Standards

9.8-1 Description. This building type generally comprises fast food retail, drive through banks, motels, industry, and other highway dependent uses. These regulations are designed to bring these building types into a framework of City streets and provide for an aesthetically pleasing suburban environment. Structures should be designed to present an interesting and uniquely Creedmoor design to the passing motorist. Access shall be designed to not impede safe traffic movement.

The photograph below is an example for illustration purposes only and is not intended to regulate lot/building styles, patterns, or forms.

9.8-2 Highway Lot Type Standards.

Building Placement/Parking/Vehicle Access	Vehicular Circulation/Pedestrian Access
	
1. Buildings will be 12' to 115' behind street ROW. Special site conditions such as topography, pattern of lot widths, or setbacks of existing buildings on the same street within 500 feet of the proposed building may permit a larger setback. 2. Side and rear setbacks will vary according to side and rear buffer requirements as set forth in Article 11, with a minimum 12 foot setback when no buffer is required. 3. Building facades shall be generally parallel to frontage property lines. 4. Parking shall be located to the rear and/or side of the building. Side-yard parking may occupy no more than 35% of the principle frontage line and shall be buffered from the street according to the buffer requirements as set forth in Article	1. Main pedestrian access to the building may be from the side (indicated by the larger arrows) and shall not be from the rear. If the primary pedestrian access is from the side of the building, secondary pedestrian access must be from the front (indicated by the smaller arrow). However, primary pedestrian access to the building may be from the front. 2. Drive-through, gasoline and fuel pumps, and auto-oriented service facilities shall be located to the rear of the building. 3. Entrance canopies (for motels, etc.) shall be oriented towards the primary street. 4. Typical vehicular circulation movement is indicated by thin line arrows.

11. Parking shall not be placed in any side-yard abutting an intersecting street. Where dimensions of existing lots restrict parking behind buildings, the limitations on side-yard parking may be modified. 5. Hedges, garden walls, or knee walls may be built on property lines or as the continuation of building walls. A garden wall, hedge or knee wall minimum 2.5' in height, maximum 3.5' in height, shall be installed along any street frontage adjacent to parking areas. Knee walls should be built of brick, stone or other decorative masonry material, or should be built of wrought iron or other decorative metal, and shall generally match the historic architectural style of Creedmoor. 6. Parking areas on adjacent lots shall be connected with vehicular and pedestrian connections wherever practical. 7. Trash containers shall be located in the rear parking area and shall be screened from the right-of-way per standards set forth in Article 11. 8. Mechanical equipment at ground level shall be placed on the parking lot side of building away from buildings on adjacent sites and shall be screened from view per standards set forth in Article 11.	

9.8-3 Highway Building Type Standards.

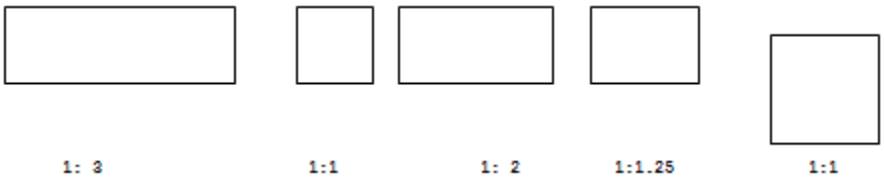
Permitted Height and Uses	Architectural Standards
1. For buildings with flat roofs, building height shall be measured as the vertical distance from the mean elevation of the existing grade to the highest finished roof surface. The height of parapet walls is not counted in the building height calculations and may vary depending upon the need to screen mechanical equipment. 2. For buildings with pitched roofs, building heights shall be measured as the vertical distance from the mean elevation of the finished grade to a point representing the midpoint of the peak and eave heights. 3. Building height to the ridge may vary depending on the roof pitch. 4. Building height is limited to 50 vertical feet. Exemption to this provision applies where the building is located within business or employment centers within the Industrial (IND) district on local streets and the building is a minimum of 300 feet from major thoroughfare(s) appearing on the approved thoroughfare plan. 5. Permitted uses are controlled by zoning district standards.	1. Principles: A. Building elevations fronting or visible from public streets shall be clad with masonry, wood, stucco, or similar material. Metal paneling may not comprise a street fronting building face to maintain compatibility with historic structures within the City, exception to this provision applies where the building frontage is located within business or employment centers within the Industrial (IND) district on local streets not visible from designated thoroughfare(s) upon the approved thoroughfare plan. B. All walls not visible from a public right-of-way may be constructed of cinder block, brick, wood or vinyl siding, or metal paneling. C. Buildings in all locations should relate a principal facade to the sidewalk and public space of the street. D. Corners: Setback at street corners will generally replicate frontage conditions. E. Trailers (mobile units) may not be used as permanent highway buildings. Exception to this provision applies where the building is located within business or employment centers within the Industrial (IND) district on local streets and the building is not visible from designated thoroughfare(s) upon the approved thoroughfare plan. F. The architectural design should be reflective of the City's historic architectural style. In no circumstance shall a building's design ignore Creedmoor's architectural style in favor of a corporate brand design. 2. Configurations: A. Two wall materials may be combined

	horizontally on one façade. The "heavier" material should be below the "lighter" material (i.e. brick below wood siding) to maintain compatibility with historic structures within the City. B. Street level windows should be un-tinted to maintain compatibility with historic structures within the City. Tinted glass with a minimum visual transmittance factor of 35 is permitted. Mirrored or reflective glass is not permitted in any location. 3. Techniques: A. All rooftop equipment shall be screened from view from public Right-of-Ways by a building material that matches the structure or is visually compatible with the structure. The screening apparatus should be incorporated as part of the architectural theme to maintain compatibility with historic structures within the City.

9.8-4 <u>Building Standards and Anti-monotony Standards for Highway Buildings.</u>

(A.) Massing and Rhythm

(1.) To insure a consistent scale and compatible character of each and every building, massing and rhythm shall be considered in the site design. Examples of appropriate height to width ratios are depicted in the diagram below. A single large dominant building mass shall be avoided in new buildings and, to the extent reasonable and feasible, in development projects involving changes to the mass of existing buildings.



Examples of height to weight ratios.

(2.) Horizontal masses shall not exceed a height-width ratio of 1:3 without substantial variation in massing that includes a change in height and projecting or recessed elements. Changes in mass shall be related to entrances, the integral structure, and/or the organization of interior spaces and not merely for cosmetic purposes.

Sample building with acceptable massing composition

(B.) Height

(1.) Building height shall be regulated in accordance with this Article.

(C.) Scale and Roofline

(1.) The goal for scale is to be reiterated in regard to height. The scale of buildings must be such that street edges are defined and relate to the human proportions. This scale can be achieved through the use of architectural detailing on the first floor of buildings so that larger buildings are broken up into smaller units, by maintaining height limits, by using large picture windows along front facades and by using plantings around the buildings.

(2.) A range of roof forms is acceptable as long as they are compatible with the architectural character, scale, and height of surrounding buildings. Mansard roofs are not permitted except in the Agricultural district (AG) for agricultural and/or residential uses.

(D.) Fenestration

(1.) Fenestration includes the structural openings to buildings, including doors and windows, to intuitively guide people toward their destination and improve emergency response.

(2.) All buildings shall have their principle entrance opening to a street, square, plaza, or sidewalk. Access from the public sidewalk, street right-of-way or driveway to the principle structure shall be provided through an improved surface. Buildings shall comply with this standard for all buildings that provide a non-vehicular service to customers. Exempt uses include vehicle fueling stations, vehicle sales and vehicle repair.

(3.) The first floor of all buildings shall be designed to reduce automobile dependency and encourage pedestrian-scale activity by the use of windows and doors. These openings should be arranged so that uses are visible and/or accessible to both the sidewalk and street. A minimum of fifty percent (50%) of the length and twenty-five percent (25%) of the surface of the primary structure(s) shall be in public

entrances or windows. No more than fifty (50) percent of the surface of the building shall be windows.

(E.) Access

(1.) Structures should be sited so that the primary access is from the street front sidewalk leading to the parking area. In the event that a structure is located on a U.S. or State Numbered Highway, the *Planning, Zoning and Subdivision Administrator* may permit the primary access to be located facing the parking area.

(2.) All street level retail uses with sidewalk frontage shall be furnished with an individual entrance and direct access to the sidewalk in addition to any other access which may be provided.

(3.) Doors shall be recessed into the face of the building to prevent doors from operating outward into and/or obstructing the public sidewalk. An entryway shall not be less than fifteen (15) square feet.

(F.) Articulation

(1.) To improve distinction of buildings and various building spaces along long walls viewed from sharp angles and at long distances, the following standards shall apply:

(a.) No wall that faces a street or connecting walkway shall have a blank, uninterrupted length exceeding twenty (20) feet.

(2.) All building walls must include at least two of the following:

(a.) change in plane,

(b.) change in texture or masonry pattern,

(c.) windows, or

(d.) Include an equivalent aspect that subdivides the wall into proportions such as an articulated base with a height no more than ten (10) feet.

(3.) In the event that actual doors and windows are not feasible because of the nature of the use of the building, side or rear walls that face walkways should include false windows and door openings defined by the following:

(a.) Frames,
(b.) Sills,
(c.) lintels, or
(d.) Proportioned modulations of the wall.

(4.) All sides, including the rear, of the building shall include materials and design characteristics consistent with those on the front.

(5.) Use of inferior or lesser quality materials on side or rear walls is prohibited except for areas where public access is prohibited by the proprietor.

(6.) In the event that canopies, awnings or other similar appurtenances are used, the following standards shall apply:

(a.) Such appurtenances shall be constructed of materials designed to full-fill the principles of the standards herein.

(b.) Any appurtenance may extend from the building up to eighty (80%) percent of the width of the sidewalk area or nine feet, whichever is less.

(c.) In no case shall any such facility extend beyond the curb line of the street, nor shall it interfere with maintenance of bio-retention pits with street trees for stormwater management, or maintenance of street lights or street signs.

(d.) A minimum overhead clearance of seven (7) feet from the sidewalk shall be maintained.

(G.) Materials

(1.) All buildings shall be constructed of durable fire retardant and wind resistant materials to prevent hazards to persons and/or property. These materials include brick, either plain or painted, horizontal fiber-cement siding, wood shingle, stone, or concrete-based stucco. All trim materials shall be stone, cast stone, cast concrete, or painted wood.

(2.) It is recommended that the primary structure be neutral in color, i.e. light grays, browns, beiges, whites or earth tones and not of colors that are distractive to motorist or cause concern among proximate proprietors of diminished property value or customer discomfort. The trim may be of various contrasting colors to that of the primary structure.

(3.) Where any sloped roofs are utilized, they shall be covered with high profile asphalt shingles, natural clay tiles, slate, concrete tiles (with natural texture and color), ribbed metal, or shingles.

(4.) Finish materials of buildings, signage, gasoline pump canopies and other accessory structures, shall be compatible with the architectural character of the principle structure(s) through compliance with the following guidelines:

(a.) all buildings, including gasoline pump canopies, shall utilize a consistent architectural style;

(b.) differing buildings, businesses, or activities within the same development may be distinguished by variations;

(c.) Sides and backs of buildings shall be as visually distinguishable as the front through the design of roof lines, architectural detailing, and landscaping features. Non-public and restricted access areas may be exempted from this provision upon review by the Planning, Zoning and Subdivision Administrator.

ARTICLE 10

USES WITH ADDITIONAL STANDARDS AND CONDITIONAL USES

10.1 Uses With Additional Development Standards

10.1-1 Purpose. Certain uses provide services and benefits for residents of and visitors to the City of Creedmoor. The convenient location of these uses is necessary to their success and the function of the community. Due to the potential impacts of theses uses, certain additional standards are necessary to ensure that they do not adversely impact neighboring uses or the community as a whole. This section identifies the uses that require additional standards and establishes the standards they must meet.

10.1-2 Standards Established. The following Uses with Additional Standards and the standards they must meet are hereby established.

10.1-3 *Accessory Dwelling Units.*

(A) Zoning Districts. AG, SFR, R/MST, MSP, MS, CIV and TNDO

(B) Development Standards.

(1.) One (1) *Accessory Dwelling Unit* shall be permitted only on a lot containing a single dwelling unit (the principal dwelling) and conforming accessory structures in any single family zoning district.

(2.) The *Accessory Dwelling Unit* shall not be considered a separate unit for the purpose of determining minimum lot size or maximum density.

(3.) Home occupations shall not be located within the *Accessory Dwelling Unit.*

(4.) The maximum gross floor area for the *Accessory Dwelling Unit* shall be 900 SF or 40% of the gross floor area of the principal structure, whichever is less. Variances shall not allow the gross floor area of the *Accessory Dwelling Unit* to exceed 1200 SF nor shall the size of the *Accessory Dwelling Unit* exceed 50 percent of the gross floor area of the principal dwelling unit.

(5.) The *Accessory Dwelling Unit* may be located within same structure as the principal dwelling unit or it may be a separate structure. If within the same structure as the principal dwelling unit, the *Accessory Dwelling Unit* may have a separate entrance. If the *Accessory Dwelling Unit* is located in a separate structure, the following standards shall apply:

(a.) The accessory structure housing the *Accessory Dwelling Unit* must be located behind the principal dwelling. On corner lots, the accessory structure housing the *Accessory Dwelling Unit* may be located on the corner street side of and behind the principal dwelling, but must be oriented to the front street (same orientation as principal dwelling).

(b.) Vehicular access to the *Accessory Dwelling Unit* shall be via the same drive that provides access to the principal structure unless the *Accessory Dwelling Unit* is located on a corner or through lot. If located on a corner or through lot, a secondary drive may provide access to the *Accessory Dwelling Unit* but the secondary drive shall not be on the same street as the drive providing access to the principal dwelling.

(6.) One (1) parking space shall be provided for the *Accessory Dwelling Unit*. The parking space shall be located in the same area as the parking provided for the principal dwelling unit unless the lot is a corner or through lot and a separate drive provides access to the *Accessory Dwelling Unit.*

(7.) The design and construction of the accessory structure housing the *Accessory Dwelling Unit* shall be compatible with the design and construction of the principal dwelling unit. To ensure compatibility, the following standards shall be met:

(a.) The design of the accessory structure housing the *Accessory Dwelling Unit* shall be of the same architectural style as that of the principal dwelling unit.

(b.) The roof style and pitch of the accessory structure housing the *Accessory Dwelling Unit* shall be the same as that of the principal dwelling unit.

(c.) The exterior building materials used for the accessory structure housing the *Accessory Dwelling Unit* shall be the same as those used for the principal dwelling unit. When the principal dwelling unit is predominantly brick or stone, the use of smooth wood or fibrous cement siding for the accessory structure housing the *Accessory Dwelling Unit* is appropriate to reinforce the ancillary and secondary nature of the *Accessory Dwelling Unit*.

(d.) Windows and doors used for the accessory structure housing the *Accessory Dwelling Unit* shall be the same style and design as those used for the principal dwelling unit. Window and door placement (fenestration) on the accessory structure housing the *Accessory Dwelling Unit* shall mimic that of the principal dwelling unit.

(e.) Exterior paint colors for the accessory structure housing the *Accessory Dwelling Unit* shall be the same as (or complementary to) those for the principal dwelling unit.

(8.) The use of manufactured dwellings, mobile homes, travel trailers, campers, or similar units as an *Accessory Dwelling Unit* is prohibited.

(9.) The *Accessory Dwelling Unit* shall not be deeded and/or conveyed to separate and/or distinct ownership separately from the principal dwelling unit.

10.1-4 <u>Automobile/Boat Repair Service.</u>

(A) Zoning Districts. MS, C 56, C 15 and IND

(B) Development Standards.

(1.) Vehicles awaiting repair shall not be parked in front of the building.

(2.) No outdoor automobile/boat work areas are to be located in front of building.

(3.) All outdoor automobile/boat work areas and/or vehicle storage areas shall be screened from adjacent uses with a six (6) foot tall opaque fence and a type D buffer (see Article 11); plantings shall be on the exterior side of the fence.

10.1-5 Automobile Towing and Storage Service.

(A) Zoning District. IND

(B) Development standards.

(1.) No more than 30 automobiles shall be stored at an automobile towing and storage service at a time.

(2.) The automotive storage area must be screened with a six foot tall opaque fence and a type C buffer (see Article 11); plantings shall be on the exterior side of the fence.

(3.) No outdoor disassembly or salvaging is permitted.

10.1-6 Bank, Savings and Loan, Credit Union.

(A) Zoning Districts. MSP, MS, C 56, C 15 and TNDO

(B) Development standards.

(1.) Drive-through facilities shall be located at the rear of the building

(2.) No more than 2 drive-through lanes shall be permitted

(3.) Drive-through facilities shall be screened from adjacent uses with a type D buffer (see Article 11).

(4.) ATM may be located at side or front of building only if a walk-up facility.

10.1-7 Batting Cages, Outdoor.

(A) Zoning Districts: C 56 and C 15

(B) Development standards:

(1.) Fencing, netting, or other control measures shall be provided around the perimeter of the batting area to prevent balls from leaving the area.

(2.) Hours of operation 7:00 AM – 10:00 PM.

10.1-8 *Bed-and-Breakfast Inn* (*Tourist Home*).

(A) Zoning Districts: AG, MFO, R/MST, MSP, MS, and TNDO

(B) Development Standards

(1.) *Bed-and-Breakfast Inn* establishments (*Tourist Home*s) shall be located a minimum of 500 feet from other *Bed-and-Breakfast Inn* establishments (*Tourist Home*s). In calculating the 500 foot distance between *Bed-and-Breakfast Inn* establishments (*Tourist Home*s), measurements shall be taken from the closest property line of the existing *Bed-and-Breakfast Inn* establishment (*Tourist Home*) lot to the closest property line of the lot of the proposed *Bed-and-Breakfast Inn* establishment (*Tourist Home*). Existing, legally established *Bed-and-Breakfast Inn* establishments (*Tourist Home*s) that do not meet this separation requirement of 500 feet are permitted to expand within the subject property to the maximum limits allowed under this chapter, as long as all applicable development standards are met.

(2.) The owner shall reside on the property a majority of the calendar year.

(3.) The minimum lot area for a *Bed-and-Breakfast Inn* establishment (*Tourist Home*) shall be 20,000 square feet.

(4.) The maximum number of guest rooms provided by the *Bed-and-Breakfast Inn* establishment (*Tourist Home*) shall be eight.

(5.) Accessory structures shall not be utilized for guest accommodation purposes as part of a *Bed-and-Breakfast Inn* establishment (*Tourist Home*).

(6.) Passive recreation-related outdoor activities such as tea-time are permitted outside the principal structure or any accessory structure(s), but all other activities and functions designed to serve and entertain guests shall take place only within the principal structure on properties of one acre or less.

(7.) The length of stay of any guest shall not exceed thirty (30) successive calendar days, with a minimum interval between stays of ninety (90) days.

(8.) No home of less than 3,000 heated square feet shall be used for a *Bed-and-Breakfast Inn* establishment (*Tourist Home*).

(9.) Off-street parking shall be provided as required by Article 12 of this Ordinance. Parking shall be located on the same lot on which the *Bed-and-Breakfast Inn* establishment (*Tourist Home*) is located, at the rear of the lot and screened with a type C buffer (see Article 11) from adjacent properties and from the street.

(10.) Signage shall be limited to a single *Pole Sign*, subject to the regulations of Article 17. The sign shall be located in the front yard and, if lit, shall be indirectly lighted.

(11.) Exterior lighting shall be residential in nature and shall not be directed towards adjacent properties.

(12.) Activities and functions at the *Bed-and-Breakfast Inn* establishment (*Tourist Home*) shall be provided for overnight guests only and shall be limited to breakfast and an afternoon and/or evening refreshment. No commercial activities other than providing lodging for registered guests shall be permitted.

(13.) The construction and operation of the *Bed-and-Breakfast Inn* establishment (*Tourist Home*) shall comply with N.C. State Building Code requirements.

10.1-9 Car Wash.

(A) Zoning Districts: C 56, C 15, and IND

(B) Development Standards:

(1.) Building(s) shall be at least 75 feet from any interior side or rear property line which adjoins property zoned for residential or mixed use. A minimum six foot high opaque fence and a type A buffer shall be provided adjacent to all property zoned for residential uses, with the plantings on the exterior side of the fence.

(2.) All washing operations shall be contained in a building.

(3.) Specific areas shall be provided for the manual drying, waxing, polishing and vacuuming of vehicles where these services are offered on the site. These areas shall not conflict with on-site circulation patterns.

(4.) The outdoor service area of a car wash shall be placed and screened in accordance with the standards for on-site parking.

(5.) Hours of operation shall be between 8:00 a.m. and 8:00 p.m. when directly adjoining developed residentially zoned property.

(6.) Adequate provision shall be made for the safe and efficient disposal and/or recycling of waste products and runoff.

10.1-10 Cemetery or Mausoleum.

(A) Zoning District: AG, MFO, C 56 and C 15

(B) Development Standards:

(1.) A minimum of three (3) contiguous acres shall be required to establish a cemetery or mausoleum not located on the same tract of land as a church.

(2.) Principal access must be from a collector street or higher capacity street.

(3.) Tombstones, crypts, monuments, burial plots and mausoleums must be located at least 25 feet from any street right-of-way or 16 feet from abutting property.

(4.) Buildings for maintenance, management, rent and/or sale of cemetery plots must conform to a building type permitted in the zoning district.

10.1-11 Church, Synagogue, Mosque, or Place of Worship (Religious Institutions).

(A) Zoning District: AG, MFO, SFR, R/MST, MSP, MS, CIV, C 56, C 15 and TNDO

(B) Development Standards:

(1.) Churches, synagogues, and other places of worship shall meet the standards for

civic building and lot types.

(2.) Exterior lighting shall be directed or screened so as to protect the privacy of the private living areas and associated open spaces of adjacent residential properties. All exterior lighting shall be full cut-off fixtures.

(3.) *Accessory Dwelling Unit*s for persons associated with or employed by the church, synagogue, mosque, or place of worship may be provided at a ratio of 1 unit for each 1 acre of site; these limits do not apply to the placement of convents, rectories, parsonages or similar uses on the site.

(4.) Accessory uses such as religious institution offices, religious bookstores serving the immediate congregation, parking lots, family life centers, multi-purpose facilities, outdoor recreational facilities, cemeteries, mausoleum, and day care centers on the same site or sites contiguous to the principal use shall be permitted wherever religious institutions are permitted and shall meet the civic building and lot type, or another building and lot type permitted in the zoning district. Similar uses on non-contiguous sites or on a site separated from the principal use by a public street shall be considered principal uses in their own right and be regulated as such. Tombstones, crypts, monuments, burial plots and mausoleums in accessory cemeteries shall be located at least 25 feet from any street right-of-way or 16 feet from abutting property.

(5.) Religious institution accessory uses which are not permitted as principal uses in a zoning district shall adhere to the following restrictions:

(a.) No merchandise or merchandise display shall be visible from outside the building; and

(b.) Signage shall be limited to a single *Pole Sign*, subject to the regulations of Article 17. The sign shall not be located in the front yard and, if lit, shall be indirectly lighted.

(6.) Except as noted in subsection 10.1-11(B)4., above, accessory uses not permitted as principal uses (including television stations, radio stations, and/or sports complexes) are prohibited. This provision shall in no way restrict accessory use family life centers and multipurpose facilities, a part of whose function may include recreation and sports activities.

(7.) Application for a zoning permit shall include a comprehensive site plan that addresses the required standards for the main site and all abutting holdings unless deemed un-necessary by the *Planning, Zoning and Subdivision Administrator.*

10.1-12 <u>Club or Lodge.</u>

(A) Zoning Districts: MSP, MS, CIV, C 56, C 15 and TNDO

(B) Development Standards

(1.) Building(s) must conform to a building type permitted in the zoning district.

(2.) Activities and events at the club or lodge shall occur between the hours of 8:00 AM and 1:00 AM.

(3.) Access shall be from a collector or higher capacity street.

10.1-13 Country Club with Golf Course

(A) Zoning Districts: AG, SFR, CIV, C 56, C 15 and TNDO

(B) Development Standards:

(1.) Building(s) must conform to a building type permitted in the zoning district.

(2.) Parking shall be screened from residential uses and/or districts with a type C buffer (see Article 11).

(3.) Exterior lighting shall be directed or screened so as to protect the privacy of the private living areas and associated open spaces of adjacent residential properties. All exterior lighting shall be full cut-off fixtures.

(4.) No outdoor activity shall continue past the hour of 10:00 PM.

10.1-14 Day Care Center for Children or Adults (6 or more).

(A) Zoning Districts: AG, MSP, MS, CIV, C 56, C 15, TNDO and as an *Accessory Use* in the IND

(B) Development Standards:

(1.) A *Day Care Center* must meet a permitted building and lot type for the district in which it is to be located.

(2.) *Day Care Centers* for children must provide play space in accordance with the regulations of North Carolina Department of Human Resources. The outdoor play space must be enclosed on all sides by building, and/or permitted types of walls or fences; it may not include driveways, parking areas, or land otherwise unsuited for children's play space; play space may not be in the established front yard.

(3.) There is no limit on the hours of operation of a *Day Care Center*, but it shall not serve any client on a continuous 24-hour basis.

10.1-15 Day Care Center, Home Occupation for less than 6 persons.

(A) Zoning Districts: AG, MFO, SFR, R/MST, MSP, MS, CIV, C 56, C 15, IND and TNDO

(B) Development Standards:

(1.) The *Day Care Center*, *Home Occupation* operation must be located within the residential dwelling unit occupied by the operator of the service. Preschool

instruction and daytime care is limited to 6 persons not related to the operator.

(2.) *Day Care Center*, *Home Occupations* for children shall provide play space in accordance with the regulations of the North Carolina Department of Human Resources.

(3.) Outdoor play space must be fenced or otherwise enclosed on all sides and may not include driveways, parking areas, or land otherwise unsuited for children's play space; it is prohibited in any established building setback from a street.

(4.) No chain link fences shall be permitted in the front yard. Chain link and similar fencing materials located in the side and rear yards shall be planted on the exterior side with evergreen shrubs minimum 3 feet in height and 6 feet on center at installation, or be obscured by a comparable screening treatment.

(5.) A *Day Care Center*, *Home Occupation* must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling; all building and lot standards for residential dwellings shall be maintained.

(6.) There are no specific limitations on the hours of operation of a *Day Care Center, Home Occupation*, but no outdoor play shall be permitted twenty minutes after sun-set.

10.1-16 <u>Dormitories.</u>

(A) Zoning District: CIV

(B) Development Standards:

(1.) Must be located on the campus of secondary or post-secondary school.

(2.) The dormitories must be administered and/or managed by the secondary or post-secondary school on whose campus they are located.

(3.) Buildings shall comply with the building type standards permitted in the Civic District.

10.1-17 <u>Drive Through Window as Accessory Use.</u>

(A) Zoning Districts: MS, CIV, C 56, and C 15

(B) Development Standards:

(1.) Drive-through service window, stacking lane(s), and circulation are prohibited in the established front setback of the principal building, or in an established side yard which abuts a street.

(2.) Drive-through service window, stacking lane(s), and circulation are treated as components of on-site parking for the purposes of buffering.

(3.) The length of on-site stacking lane(s), taken together, shall be a maximum of 200

feet if window access is provided directly from a major or minor arterial; a maximum of 100 feet if window access is provided directly from a street of lesser capacity.

(4.) The drive-through lane(s) must be distinctly marked by special striping, pavement markings, or traffic islands. A separate circulation drive must be provided for passage around and escape from the outermost drive-through service lane.

(5.) Buffering is not required for walk-up service accessories such as depositories and ATM's.

(6.) One drive-through service window and/or automated service device may be permitted.

(7.) Drive-through service windows and/or automated devices shall be mitigated by the provision of eight (8) electric vehicle charging devices per window and/or device to mitigate the air quality impact of a motor vehicle at idle.

10.1-18 Golf Course (see Country Club with Golf Course).

10.1-19 Golf Driving Range.

(A) Zoning Districts: AG, C 56, C 15 and TNDO

(B) Development Standards:

(1.) Fencing, netting, or other control measures shall be provided around the perimeter of the driving range to prevent balls from leaving the area unless on site buffering is provided to prevent balls from entering any adjacent and/or occupied and/or improved property.

(2.) The hours of operation will be no earlier than 8:00 a.m. and no later than 11:00 p.m.

10.1-20 Go-Cart Raceway.

(A) Zoning District: IND

(B) Development Standards.

(1.) A minimum separation of 30 feet, fully vegetated, shall be provided between any use area and any abutting property line. The vegetation shall form a permanent semi-opaque screen between the use area and adjacent property.

(2.) Any use area shall be located a minimum of 200 feet from any residential or mixed use district.

(3.) The site shall be screened from view at street(s) within 200 feet of the use area by a masonry wall or a solid wood fence, planted on the exterior side with a semi-

opaque vegetative screen with expected height of at least 8 feet at maturity; if security fencing of chain link or similar material is provided, it shall be placed on the interior side of the vegetation and wall or fence.

(4.) The hours of operation will be no earlier than 8:00 a.m. and no later than 11:00 p.m.

10.1-21 Home Occupation.

(A) Zoning Districts: AG, MFO, SFR, R/MST, MSP, MS, CIV, C 56, C 15, IND and TNDO

(B) Development Standards:

(1.) No display of goods, products, or services, or other advertising shall be visible from outside the dwelling, except that home occupations shall be allowed one pole sign in accordance with the provisions of Article 17, and such sign shall not be illuminated.

(2.) Home occupations shall be principally conducted by residents of the dwelling. However, a maximum of one full-time equivalent non-resident of the dwelling may be employed as part of the home occupation.

(3.) On premise retail sales shall not be a component of the home occupation.

(4.) A maximum of 25 percent of the gross floor area of the dwelling unit may be used for the home occupation. If the home occupation is housed in an accessory structure, the square footage of the accessory structure shall not exceed 25 percent of the square footage of the principal structure (home).

(5.) Only one vehicle principally used in connection with the home occupation shall be parked or stored on premise. Such a vehicle shall not display any signage designed to be visible beyond the property boundaries. Such a vehicle shall not be parked in a conspicuous place and stored in a conforming on-site parking space meeting the provisions of Article 12.

(6.) No equipment or process shall be used in connection with the home occupation that creates noise, vibrations, glare, fumes, odors, or electrical interference off premises.

(7.) In addition to required parking as stipulated in Article 12, one additional off street parking space shall be provided for use in conjunction with the home occupation.

(8.) Instruction in music, dancing, art, or similar subjects shall be limited to no more than five (5) students at one time.

(9.) The home occupation shall not materially increase the traffic that is found in its vicinity when the use is not in operation. Pursuant to this, a maximum of six individuals per day may visit the home occupation with the exception of the

instruction occupations addressed in 10.1-21.B (8) above.

10.1-22 Junked Motor Vehicle Storage as Accessory Use.

(A) Zoning Districts: AG, MFO, SFR, C 56, C 15, and IND

(B) Development Standards:

(1.) Any vehicle meeting the definition of "motor vehicle, junked" shall be stored or placed in the side or rear yard of the property in such a manner so as to be totally screened from view from any street and/or from any adjacent residential, mixed use, or civic zoned property. Total screening shall be provided by placement of the vehicle behind a building and/or by plant materials, fences, berms, or a combination thereof with a minimum height of six (6) feet.

(2.) Open storage of more than one such vehicle shall require classification as a junkyard, salvage yard, auto parts use and shall meet the conditions for such use as set forth elsewhere in this Article.

(3.) More than one such vehicle may be stored within a completely enclosed building.

10.1-23 Kennels or Pet Grooming with Outdoor Pens or Runs.

(A) Zoning Districts: AG, MFO, C 56, C 15 and IND

(B) Development Standards:

(1.) The pens, runs, and/or other facility for the outdoor containment of animals shall be at least 250 feet from abutting property located in a residential or mixed use district.

(2.) The pens, runs, and/or other facility for the outdoor containment of animals shall be buffered from abutting property in a residential or mixed use district with a type B buffer (see Article 11).

10.1-24 Multi-Family Development in Single Family Area.

(A) Zoning Districts: R/MST, MSP, MS, and TNDO

(B) Development Standards:

(1.) The multi-family development shall not exceed a total of seventy-two (72) dwelling units.

(2.) The maximum permitted density for the multi-family development shall be twenty-four (24) units per acre.

(3.) The permitted building and lot types for the multi-family development in a single family area shall be the detached house and the attached house building and lot types.

(4.) All parking for the multi-family development shall be located behind the

building. The parking area shall be screened from adjacent properties and from the street with a minimum of a type C buffer (see Article 11).

(5.) The buildings in the multi-family development shall be architecturally compatible with single family structures on the street on which the multi-family building is proposed. Elements that shall be incorporated into the design of the multi-family building to ensure architectural compatibility are:

(a.) The multi-family building shall be constructed of building materials similar to those used on single family structures on the street.

(b.) The roof pitch of the multi-family building shall be the same as that of the single family structures on the street.

(c.) The fenestration of the multi-family building by location and size of windows and doors shall be similar to that of the single family homes on the street.

(d.) Color renderings of the proposed building must be submitted with the application to ensure architectural compatibility.

(6.) No multi-family building shall be located closer than 48 feet to an existing multi-family building or development. The distance shall be measured along centerline of streets from the edge of the property proposed for development to the closest edge of the property on which the existing multi-family building or development is located.

(7.) Notification of TRC meetings at which multi-family developments will be considered shall be provided to owners of all properties located within 250 feet of the property for which the development is proposed.

10.1-25 Nursing Home, Assisted Living.

(A) Zoning District: AG, MSP, MS, CIV, C 56, C 15 and TNDO

(B) Development Standards:

(1.) The facility shall provide centrally located shared food preparation, food service, and dining areas.

(2.) Common recreation, social, and service facilities shall be provided at a minimum rate of thirty (30) square feet per dwelling unit or per rooming unit.

(3.) All facilities shall be solely for the use of residents and their guests.

(4.) Facilities for administrative services and limited medical services for the exclusive use of the resident shall be located on the site.

10.1-26 Parks and Recreation Facilities, Public.

(A) Zoning Districts: AG, MFO, SFR, R/MST, MSP, MS, CIV, C 56, C 15 and TNDO

(B) Development Standards:

(1.) Overflow parking (in addition to required parking) must be designed on the site plan and be kept available to handle all traffic from special events such as softball tournaments and outdoor concerts.

(2.) All parks greater than ten (10) acres shall have primary access to a collector or higher capacity street.

(3.) Lighting, with the exception of lighting for ball fields and tennis courts, shall be full cut-off fixtures.

10.1-27 Special Events and Temporary Structures.

(A) Zoning Districts: See Article 15

(B) Development Standards: See Article 15

10.1-28 School, Elementary or Secondary.

(A) Zoning Districts: CIV

(B) Development Standards:

(1.) Minimum lot size:

(a.) Kindergarten (only): One acre.

(b.) K-12: Two acres.

(2.) Minimum setback standards:

(a.) Front: Twice that for permitted uses in the respective zoning district.

(b.) Side: 25 feet.

(c.) Rear: 25 feet.

(3.) Building type shall be civic building.

(4.) Parking and active recreation areas shall not be located within the required building setbacks.

(5.) Primary access shall be provided from arterial streets. Local residential streets shall not be used for primary access.

(6.) Site lighting shall be full cut-off fixtures.

10.1-29 Swim and Tennis Club.

(A) Zoning Districts: AG, SFR, MSP, CIV, C 56, C 15 and TNDO

(B) Development Standards:

(1.) The minimum area shall be two (2) acres. The minimum area shall be one (1) acre if located as part of a common area within a development.

(2.) There shall a minimum fifty (50) foot separation (distance) between clubhouse, swimming pool, lighted tennis court, or athletic field and any adjacent

residentially-zoned property.

(3.) Outdoor swimming pools shall be protected by a fence, or equal enclosure, a minimum four (4) feet in height and equipped with a self-closing and positive self-latching gate provided with hardware for permanent locking.

(4.) Site lighting shall be full cut-off fixtures. If proof is provided that such lighting is inadequate for the tennis courts, the *Planning, Zoning and Subdivision Administrator* may approve other lighting for the tennis courts only.

10.1-30 Temporary Structures.

(A) Zoning Districts: See Article 15

(B) Development Standards: See Article 15

10.1-31 Veterinary Service with Outdoor Kennels.

(A) Zoning Districts: AG, C 56, C 15 and IND

(B) Development Standards:

(1.) The pens, runs, and/or other facility for the outdoor containment of animals shall be at least 250 feet from abutting property located in a residential or mixed use district.

(2.) The pens, runs, and/or other facility for the outdoor containment of animals shall be buffered from abutting property in a residential or mixed use district with a type B buffer (see Article 11).

10.1-32 Wireless telecommunication facilities, microcell. *(Amended August 27, 2013 per NC Session Law 2013-185).*

(A) Zoning districts: All zoning districts

(B) Development Standards

(1.) Microcellular wireless telecommunication facilities are permitted on buildings and other existing structures (other than off-premise signs) which do not require an increase in height to accommodate the facility. Electric distribution poles may be extended in height in residential zoning districts to the lesser of 20 feet above the vegetative canopy in the vicinity of the site as determined by the *Planning, Zoning and Subdivision Administrator*, or 80 feet in height. Such extensions shall qualify as an existing structure for purposes of this section. Such height extensions of electric distribution poles shall only be permitted if no other distribution pole within 1,320 feet of the proposed site has been extended in height above the average pole height on the same distribution line as documented by the utility owning such poles.

(2.) All antennas associated with microcellular wireless telecommunication facilities mounted on a building or other existing structure (other than a utility pole) shall be flush-mounted against the side of the building or structure and camouflaged to match or complement the color and architectural treatment of the surface on which they are mounted.

(3.) Antennas associated with a microcellular wireless telecommunication facility mounted on a utility pole must be mounted atop the pole or flush mounted against the sides of the pole, and shall be colored to match or complement the color of the utility pole and shall be mounted in as unobtrusive a manner as possible.

(4.) Antennas associated with a microcellular wireless telecommunication facility may not be co-located on a tower or other support structure used by an amateur radio operator.

(5.) Equipment enclosures associated with microcellular wireless telecommunication facilities mounted on a building or other existing structure (other than a utility pole) shall be mounted inside the building or structure, attached to an exterior surface, or placed underground or on a concrete pad on the ground outside the building or structure. If mounted on an exterior surface, the enclosures shall be colored or camouflaged to match or complement the color and architectural treatment of the surface on which they are mounted. If placed on a concrete pad on the ground, the enclosures shall be screened so as to make them unobtrusive.

(6.) Equipment enclosures associated with a microcellular wireless telecommunication facility mounted on a utility pole, must be mounted on the utility pole; provided, however, if combiners are used to allow co-location by sharing of an antenna or antenna array and pole-mounting of equipment enclosures cannot be accommodated on the pole, the combiner and additional equipment enclosures may be placed underground or on a concrete pad on the ground. If placed on a concrete pad on the ground, such additional equipment enclosures shall be screened so as to make them unobtrusive.

(7.) All cabling and wiring connecting antennas, equipment enclosures, and other components of a microcellular wireless telecommunication facility shall be colored or concealed in a manner as to render them unobtrusive.

(8.) Microcellular wireless telecommunication facilities located in a local historic district or on a historic landmark shall require a certificate of appropriateness from the historic resources commission.

(9.) Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m.

(10.) A copy of the applicant's FCC license must accompany its application. If the

applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licensees to utilize the wireless telecommunication facility and must submit a copy of each such wireless service provider's FCC license. If FCC licenses have previously been filed with the City in conjunction with other wireless telecommunication facilities, the applicant may certify that such licenses remain in full force and effect.

(11.) As part of its application each applicant for a microcellular wireless telecommunication facility shall be required to execute a standard maintenance/removal agreement binding the applicant and its successors and assigns to maintain properly the exterior appearance of and ultimately remove the facility upon abandonment or cessation of operations. Such agreement shall require the applicant to pay all costs for monitoring compliance with, and enforcement of, the agreement and to reimburse the City for all costs it incurs to perform any work required of the applicant by the agreement that the applicant fails to perform. A $5,000.00 cash bond, or other security acceptable to the City, shall be required in conjunction with the maintenance/removal agreement. The applicant and its successors and assigns shall be required to continue such bond or other security until such time as the facility has been removed and all other requirements of its maintenance/removal agreement have been satisfied. Private business users operating a single wireless telecommunication facility at their principal place of business and governmental users are exempt from the bond requirement.

(12.) Abandoned or unused wireless telecommunication facilities shall be removed within 180 days of abandonment or cessation of operations. If not removed within that period, such facilities may be removed as provided in the permittee's maintenance/removal agreement and the costs of removal recovered from the permittee's bond or other security. Prior to removing a wireless telecommunication facility pursuant to this provision, the City shall give 30 days' written notice of its intention to do so to the permittee at its last known address.

(13.) (Reserved)

10.1-33 Wireless telecommunication facilities, concealed. *(Amended August 27, 2013 per NC Session Law 2013-185).*

(A) Zoning Districts: All zoning districts.

(B) Development Standards:

(1.) Concealed wireless telecommunication facilities are permitted on buildings and alternative structures (other than off-premise signs and telecommunication towers).

(2.) For purposes of this section, antennas mounted on an electric transmission tower shall qualify as a concealed wireless telecommunication facility provided antennas associated with such a facility do not extend more than ten feet above the top of the supporting structure nor more than two feet from the sides of the structure. Equipment enclosures associated with such a facility may be mounted on the structure or placed underground or on the ground. If placed on the ground, equipment enclosures shall be placed on a concrete pad and screened so as to make them unobtrusive.

(3.) For purposes of this section, antennas mounted on an electric distribution tower, street lighting pole or traffic light pole shall qualify as a concealed wireless telecommunication facility provided antennas associated with such a facility do not extend more than ten feet above the top of the supporting structure nor more than two feet from the sides of the structure, and equipment enclosures associated with the facility occupy less than 60 cubic feet. Equipment enclosures associated with such a facility may be mounted on the structure or placed underground or on the ground on a concrete pad. Electric distribution poles may be extended in height in R/MST zoning district to the lesser of 20 feet above the vegetative canopy in the vicinity of the site as determined by the *Planning, Zoning and Subdivision Administrator* or 80 feet in height. Such extensions shall qualify as an existing structure for purposes of this section. Such height extensions of electric distribution poles shall only be permitted if no other distribution pole within 1,320 feet of the proposed site has been extended in height above the average pole height on the same distribution line as documented by the utility owning such poles.

(4.) Panel antennas associated with concealed wireless telecommunication facilities may not exceed eight feet in height. If flush-mounted on the side of a building or alternative structure, antennas shall be camouflaged to match or complement the color and architectural treatment of the surface. Antennas extending above the roof line of a building shall be concealed behind an RF-transparent parapet wall or facade which is camouflaged to match or complement the color and architectural treatment of the building or structure. Such parapet walls or facades shall not extend more than ten feet above the roof line. Where a parapet wall is at least eight feet in height, omnidirectional (whip-type) antennas may extend above the parapet wall by a distance equal to the height of the parapet wall.

(5.) Antennas associated with a concealed wireless telecommunication facility may not be co-located on a tower or other support structure used by an amateur radio operator.

(6.) Electronic equipment associated with concealed wireless telecommunication facilities may be placed inside a building or, if placed on a rooftop, all equipment enclosures shall be mounted behind a parapet wall or facade which is

camouflaged to match or complement the color and architectural treatment of the building. If placed on the ground on a concrete pad, except as provided in subsection 10.1-33.B (4) above, equipment enclosures shall be screened so as to make them unobtrusive.

(7.) All cabling and wiring connecting antennas, equipment enclosures, and other components of concealed wireless telecommunication facilities shall be colored or concealed in a manner as to render them unobtrusive.

(8.) Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m.

(9.) Applicants for concealed wireless telecommunication facilities shall first be encouraged to consider properties owned by the City or Granville County, or instrumentalities thereof, before considering private properties. Public properties shall be subject to the same restrictions and standards of appropriateness as private properties. All such public agencies or instrumentalities shall retain discretion as to whether to make a specific property available for wireless telecommunication facilities and to make determinations with respect to site capacity, aesthetics, or suitability of such facilities.

(10.) A copy of the applicant's FCC license must accompany its application. If the applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licensees to utilize the wireless telecommunication facility and must submit a copy of each such wireless service provider's FCC license. If FCC licenses have previously been filed with the City in conjunction with other wireless telecommunication facilities, the applicant may certify that such licenses remain in full force and effect.

(11.) As part of its application, each applicant for a concealed wireless telecommunication facility shall be required to execute a standard maintenance/removal agreement binding the applicant and its successors and assigns to maintain properly the exterior appearance of and ultimately remove the facility within 180 days of the abandonment or cessation of operations of the facility. Such agreement shall require the applicant to pay all costs for monitoring compliance with, and enforcement of, the agreement and to reimburse the City of Creedmoor for all costs it incurs to perform any work required of the applicant by the agreement that it fails to perform. A $5,000.00 cash bond, or other security acceptable to the City, shall be required in conjunction with the maintenance/removal agreement. The applicant and its successors and assigns shall be required to continue such bond or other security until such time as the facility has been removed and all other requirements of the maintenance/removal agreement have been satisfied. Private business users operating a single wireless

telecommunication facility at their principal place of business and governmental users are exempt from the bond requirement.

(12.) Abandoned or unused wireless telecommunication facilities shall be removed within 180 days of abandonment or cessation of operations. If not removed within that period, such facilities may be removed as provided in the permittee's maintenance/removal agreement and the costs of removal recovered from the permittee's bond or other security. Prior to removing a wireless telecommunication facility pursuant to this provision, the City shall give 30 days' written notice of its intent to do so to the permittee at its last known address.

(13.) (Reserved)

10.1-34 Wireless Telecommunication Facility, Co-located. *(Amended August 27, 2013 per NC Session Law 2013-185).*

(A) Zoning districts: All zoning districts.

(B) Development Standard:

(1.) Application fees for a co-located wireless telecommunication facility shall be as established by the City of Creedmoor.

(2.) Wireless telecommunication facilities may be co-located on any structure which hosts one or more existing permitted and approved wireless telecommunication facilities provided, however, that the proposed co-located wireless facility must meet equipment enclosure and antenna size restrictions for the type of facility and zoning district in which the existing facility was approved (i.e., microcell and concealed wireless telecommunication facilities). The structure on which the wireless telecommunication facilities are to be located may be improved, rehabilitated, or altered structurally to accommodate the proposed co-location, provided that the height of a nonconforming structure is not increased and provided further that the proposed co-location complies with all other requirements of this chapter and other applicable laws and regulations.

(3.) Where co-location is proposed by use of a combiner (allowing two or more commercial wireless service providers to share a common antenna or antenna array), an equipment enclosure which houses only the combiner and amplifiers may exceed the maximum permitted dimensions for other types of equipment enclosures up to a maximum of 70 cubic feet.

(4.) Antennas associated with a co-located wireless telecommunication facility may not be co-located on a tower or other support structure used by an amateur radio operator.

(5.) Co-located wireless telecommunication facilities shall be designed to meet the following standards:

(a.) Use of dual-band/multi-band antennas (to allow sharing of antennas or antenna arrays by wireless providers using different frequency bands) or by using combiners (to allow antenna sharing by users of the same frequency band) is encouraged in order to minimize the height of support structures and the visual impact of multiple co-located antennas or antenna arrays.

(b.) Antennas associated with a co-located wireless telecommunication facility shall be mounted so as to present the smallest possible silhouette, profile, or cross-section. Preferred antenna mounting scenarios are, in order of descending preference:

(i.) Compact dual-polarized antennas in a cylindrical unicell arrangement extending less than two feet from the structure, and mounted atop the tower;

(ii.) Panel antennas flush-mounted against the tower; and

(iii.) Antennas mounted at the end of straight or curved davit arms or brackets extending from the sides of the tower.

(c.) No co-located wireless telecommunication facility located on a telecommunication tower shall have constructed thereon, or attached thereto in any way, any platform, catwalk, crow's nest, triangular framework, or like structures or equipment, except during periods of construction or repair. Curved or straight davit arms or brackets used for antenna mounting shall be connected to the tower at the base of the arms or brackets only and such arms or brackets (and any antennas or hardware mounted thereon) shall not be physically interconnected with any similar arm or bracket.

(d.) All equipment enclosures and other improvements accessory to a co-located wireless telecommunication facility shall be architecturally designed to blend in with the surrounding environment and shall be maintained in good appearance and repair. No equipment enclosure shall exceed 12 feet in height. Ground mounted equipment shall be screened from view with a row of evergreen trees and/or shrubs planted in a landscape strip with a minimum width of five feet, except where a design of nonvegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

(e.) Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m.

(f.) Equipment enclosures and other improvements shall be enclosed within a security fence consisting of chain link fencing at least eight feet in height. The fence may be topped with barbed wire. The *Planning, Zoning and Subdivision*

Administrator may require as a condition of approval that the fencing be screened by appropriate landscaping or other means, or may waive or modify the fencing requirement if he/she determines that doing so will enhance the overall appearance of the facility without any compromise in safety or security.

(g.) Signage at any ground-based portion of a co-located wireless telecommunication facility site shall conform to the following provisions:

(i.) A sign listing the name of the wireless telecommunication service provider operating the site, the site name or number and an emergency telephone number shall be posted at or near the entrance to the site so as to be readily visible to persons outside the site's security fencing.

(ii.) Equipment hazard warning and informational signs are permitted.

(iii.) The posting of any other signs or advertising is prohibited at any wireless telecommunication facility or upon any telecommunication tower.

(6.) A copy of the applicant's FCC license must accompany its application. If the applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licensees to utilize the wireless telecommunication facility and must submit a copy of each such wireless service provider's FCC license. If FCC licenses have previously been filed with the City in conjunction with other wireless telecommunication facilities, the applicant may certify that such licenses remain in full force and effect.

(7.) As part of its application, each applicant for a co-located wireless telecommunication facility shall be required to execute a standard maintenance/removal agreement binding the applicant and its successors and assigns to maintain properly the exterior appearance of and ultimately remove the co-located facility within 180 days of the abandonment or cessation of operations of the co-located facility. Such agreement shall require the applicant to pay all costs for monitoring compliance with, and enforcement of, the agreement and to reimburse the City of Creedmoor for all costs it incurs to perform any work required of the applicant by the agreement that it fails to perform. A $5,000.00 cash bond, or other security acceptable to the City, shall be required in conjunction with the maintenance/removal agreement when a separate equipment shelter is constructed to house the equipment for the co-located wireless telecommunication facility. A $3,000.00 cash bond, or other security acceptable to the City, shall be required in conjunction with the maintenance/removal agreement when the equipment for the co-located telecommunications facility is housed in an existing equipment shelter. The applicant and its successors and assigns shall be required to continue such bond or other security until such time as the co-located facility has been removed and all other requirements of the maintenance/removal agreement have been satisfied. Private business users

operating a single wireless telecommunication facility at their principal place of business and governmental users are exempt from the bond requirement.

(8.) Abandoned or unused wireless telecommunication facilities shall be removed within 180 days of abandonment or cessation of operations. If not removed within that period, such facilities may be removed as provided in the permittee's maintenance/removal agreement and the costs of removal recovered from the permittee's bond or other security. Prior to removing a wireless telecommunication facility pursuant to this provision, the City shall give 30 days' written notice of its intention to do so to the permittee at its last known address.

(9.) Co-located wireless telecommunication facilities shall not be constructed unless the facility owner has general liability coverage of at least $1,000,000.00. The owner of a co-located wireless telecommunication facility shall provide the City with a certificate of insurance showing evidence of its coverage and the certificate shall contain a requirement that the insurance company notify the City 30 days prior to the cancellation, modification or failure to renew the insurance coverage required.

(10.) Modifications shall be permitted upon existing telecommunications tower facilities as of October 1, 2013 provided they do not exceed any of the following criteria:

(a.) Increase in vertical height of the greater of either: 1) ten percent (10%), or 2) the height of one additional antennae array with separation from the nearest existing array of not more than twenty (20) vertical feet; provided the maximum height of 200 vertical feet is not exceeded.

(b.) Addition of an appurtenance protruding the greater of either: 1) more than twenty (20) feet, or 2) more than the width of the wireless support structure at the elevation of the appurtenance, unless:

(i.) necessary to shelter an antenna, and/or

(ii.) necessary to connect the antenna to the tower via cable

(c.) Increasing the square footage of the existing equipment compound by more than 2,500 square feet; provided all applicable minimum yard area, buffering and screening provisions are maintained.

(11.) (Reserved)

10.1-35 Pawnshop or Used Merchandise Store. *(Amended May 28, 2013 per Ordinance 2013-O-08).*

(A) Zoning District: MS

(B) Development Standards:

(1.) The owner shall comply with all applicable portions of NCGS Chapter 66, Article 45, Part 1: Pawnbrokers and Cash Converters.
(2.) Hours of operation: 8:00 A.M. until 8:00 P.M.
(3.) No outdoor storage or display of merchandise or goods.
(4.) No "unsightly window display" of appliances, tools, or housewares.
(5.) No firearm sales or trades on premises.
(6.) No window tinting.
(7.) Five hundred (500) feet of separation between pawnshops, measured in a straight line between front door entrances (inclusive of rights of way).
(8.) No pornographic or sexually explicit material sales on site.

10.2 Conditional Uses

10.2-1 Purpose. Certain uses may wish to locate in the City of Creedmoor and its area of jurisdiction, which, due to their size and/or operation, have impacts that could adversely impact neighboring uses or the community as a whole. Due to the potential impacts of theses uses, they must meet certain conditions to ensure that they do not adversely impact neighboring uses or the community as a whole. This section identifies the uses that require conditions and establishes the conditions they must meet. A Conditional Use Permit must be granted for these uses in accordance with the procedures set forth in Article 7.

10.2-2 Condition Uses Established. The following Conditional Uses and the conditions they must meet are hereby established.

10.2-3 Adult Uses.

(A) Zoning District: IND

(B) Conditions:

(1.) No lot containing an adult use shall be located within a 1,200 foot radius of any lot containing another adult use.
(2.) No lot containing an adult use shall be located within a 1,200 foot radius of any residential or mixed use zoning district.
(3.) No lot containing an adult use shall be located within a 1,200 foot radius of any dwelling unit, church or place of worship, school, library, licensed child care center, public recreation center, or public park or playground.
(4.) The required distance shall be measured from the closest edge of the property occupied by an adult use to the closest edge of the property occupied by a protected use, zone, or by another adult use. Provided, however, that an adult use is located in a multi-tenant facility, the distance shall be measured from the closest edge of the portion of the facility occupied by such use.

(5.) No more than one adult establishment may be located within the same structure or on the same lot.

(6.) In the interest of public health and safety, mini-motion picture booths shall be constructed without doors, and shall orient the customer entrance of each booth toward the principal sales counter.

(7.) Except for permitted business identification signage, no printed material, slide, video, photograph, written text, live show, or other visual presentation shall be visible, nor shall any live or recorded voices, music, or sounds be heard from outside the walls of the adult use.

10.2-4 Agricultural Facility.

(A) Zoning District: AG and MFO

(B) Conditions:

(1.) The facility will not be in conflict with the purpose and objectives of the Mini Farm Overlay District.

(2.) The facility shall be located on a lot of no less than five (5) acres.

(3.) Minimum 300 foot distance between manure storage areas, barns, or stables and any adjacent residentially zoned property.

(4.) The facility may include accessory research, manufacturing or production operations for fruit and vegetable produce for human consumption.

(5.) The facility shall not include feed lots, slaughtering and/or meat packaging operations.

(6.) Buildings shall meet the following design standards:

(a.) Maximum footprint: 45,000 SF

(b.) Maximum height: 42 feet (excluding silos and related attachments)

(c.) Exterior building materials shall consist of wood siding, wood shingles, fiber cement siding, brick, rock, or other high quality masonry material. No vinyl or metal siding shall be permitted.

10.2-5 Amusement/Water Parks, Fairgrounds.

(A) Zoning District: C 56 and C 15

(B) Conditions:

(1.) Outdoor amusement facilities will be separated by a type C buffer (see Article 11) from any abutting property located in a residential or mixed use district

(2.) No amusement facilities, such as miniature golf courses, water slides, or mechanical rides shall be located within 200 feet of any abutting property located in a residential district.

(3.) Hours of operation will be no earlier than 6:00 a.m. and no later than 12:00 midnight.

10.2-6 Asphalt Plant.

(A) Zoning District: RESERVED

(B) Conditions:

(1.) The facility shall be located on a lot of no less than five (5) acres.

(2.) Access shall be from a collector or higher classification street. No trucks traffic shall be permitted on surrounding residential streets.

(3.) A minimum of a type A buffer (see Article 11) shall be located around the perimeter of the property on which the asphalt plant is located.

(4.) All operations other than parking shall be located a minimum of 1,000 feet from any residential or mixed use zoning district.

10.2-7 Equestrian Facility.

(A) Zoning District: AG, MFO, C 56, C 15, and TNDO

(B) Conditions:

(1.) The facility will not be in conflict with the purpose and objectives set forth in this ordinance for the zoning district in which the facility is located.

(2.) The facility shall be located on a lot of no less than five (5) acres.

(3.) Outdoor riding rings may be provided as part of the facility.

(4.) Minimum 300 foot distance between manure storage areas, barns or stables and any adjacent residentially zoned property.

(5.) Maximum number of horses boarded is 2 per acre.

(6.) Buildings shall meet the following design standards:

(a.) Maximum footprint: 15,000 SF

(b.) Maximum height: 42 feet (excluding silos and related attachments)

(c.) Exterior building materials shall consist of wood siding, wood shingles, fiber cement siding, brick, rock, or other high quality masonry material. No vinyl or metal siding shall be permitted.

10.2-8 Group Care Facility.

(A) Zoning District: AG, MFO, SFR, R/MST, MSP, CIV, C 56, C 15 and TNDO

(B) Conditions:

(1.) No such facility shall be located within one-half (1/2) mile of an existing group care facility unless located within the Civic (CIV) district and/or specifically

approved within a Traditional Neighborhood Development Overlay (TNDO) district.

(2.) The facility shall be limited to no more than thirty (30) persons.

(3.) Buildings shall be of a type permitted in the zoning district.

10.2-9 Junkyards and/or Salvage Yards, Auto Parts.

(A) Zoning District: IND with HIO

(B) Conditions:

(1.) The minimum area required to establish a salvage yard shall be five (5) acres.

(2.) A six foot tall opaque fence of uniform construction and a type A buffer shall be placed around the perimeter of the use; plantings shall be on the exterior side of the fence.

(3.) No salvage yard, scrap processor, or auto wrecking shall be located within three hundred (300) feet of any residence existing or under construction at the time of installation of such operation or business.

10.2-10 Manufactured Dwelling Park.

(A) Zoning District: RESERVED

(B) Conditions:

(1.) A site plan for the Manufactured Dwelling Park may only be approved by the *Planning and Zoning Commission*.

(2.) Minimum area: Five (5) acres.

(3.) The minimum number of spaces shall be 15 and the maximum number of spaces shall be 180.

(4.) Minimum setback: 70 feet from all public rights-of-ways and property lines.

(5.) No more than one manufactured dwelling or recreational vehicle, towed or self propelled, shall be parked or set-up on any one space.

(6.) Access standards:

(a.) No space shall have direct vehicular access to a public street;

(b.) All spaces shall directly abut a private street in the park;

(c.) Each space shall have adequate access, with a minimum access width of 20 feet.

(7.) Recreational Areas and Facilities: Recreational areas and facilities to serve the needs of the anticipated population within the park shall be provided and shall consist of at least:

(a.) A play lot for preschool children (2-5) containing a minimum size of 1,200 square feet within 500 feet of every space; and

(b.) One or more playgrounds for school-age children (5-12), teens and adults, containing a minimum of one acre per 40 spaces;

(c.) Recreation areas shall not be in an area used for septic tank fields.

(8.) There shall be no sales of manufactured dwelling and recreational vehicles in the park, other than units established and previously occupied for a minimum of 90 consecutive days on-site.

(9.) Drainage and Grading:

(a.) The spaces shall be located on ground with an elevation that is not susceptible to flooding and which is graded to prevent any water from ponding or accumulating on or around the park. Where storm drainage pipes are located in adjacent streets, underground drainage facilities with connections to the storm drainage system shall be provided for the park.

(b.) Each space shall be graded and grassed to prevent erosion and provide adequate storm drainage away from the manufactured dwelling or recreational vehicle pad.

(c.) The surface slope of the stand or pad shall not exceed 3%.

(d.) No banks, except along drainage ditches, shall have a slope steeper than three feet to one foot (3:1).

(10.) Garbage and Refuse Disposal: All refuse shall be stored in conveniently located, leak-proof containers with tight-fitting lids. Containers shall be provided in sufficient number and capacity for proper storage of all refuse. Racks or concrete platforms shall be provided on which to store containers for refuse. The containers, racks, and/or platforms shall be so designed as to prevent tipping, to minimize spillage and container deterioration, and to facilitate cleaning. Dumpsters shall be required in lieu of individual containers in areas where municipal water or sewer are available. All refuse shall be collected at least weekly, or more often if the need is indicated.

(11.) Registration: It shall be the duty of the operator to keep an accurate register containing a record of all occupants. The register shall contain the following information:

(a.) Name, address and space number of each occupant;

(b.) The date the manufactured dwelling or recreational vehicle entered the park;

(c.) The license number of each recreational vehicle and/or car, truck, etc. with state of issuance, makes, and type of vehicle.

The operator shall keep the register available at all times for inspection by the Code Administrator, public health officials, and other officials whose duties necessitate acquisition of the information contained in the register.

(12.) Park Manager Residence: A single-family detached dwelling may be provided for the manager of the park.

(13.) Pre-existing Dwellings: Pre-existing dwellings on the site may remain provided they occupy approved spaces.

(14.) Design Requirements Applicable to Manufactured Dwelling Parks: The following design requirements apply to Manufactured Dwelling Parks:

(a.) Minimum Manufactured Dwelling Space Size: A manufactured dwelling space shall consist of a minimum of 6,000 square feet and shall have a width of at least 45 feet at the location of the manufactured dwelling stand. Exception: A manufactured dwelling space not served by public sewer shall consist of a minimum of 40,000 square feet and shall have a width of least 120 feet at the location of the manufactured dwelling stand. Every manufactured dwelling space shall be clearly established on the ground by permanent monuments or markers.

(b.) Each Manufactured dwelling space shall contain:

(i.) a manufactured dwelling stand consisting of a properly graded and compacted surface no less than 13 feet by 60 feet;

(ii.) a patio space constructed of concrete, brick, flagstone or other hard surface material a minimum of 240 square feet in area;

(iii.) a hard surface walkway a minimum of two feet wide leading from the patio to the parking space or road;

(c.) Manufactured Dwelling Additions: Prefabricated structures specifically designed by the manufacturer for manufactured dwelling extensions and any other addition meeting the NC Building Code may be added to any manufactured dwelling provided that setback within the space can be met and a building permit is obtained.

(d.) Construction and Design of Private Streets:

(i.) Private entrance, collector, and interior streets with no parking or minor cul-de-sac streets with no parking shall meet the minimum design standards for private streets as set forth in the City of Creedmoor Technical Standards and Specifications Manual;

(ii.) One-way minor streets with no parking (acceptable only if less than 500 feet total length and serving less than 15 manufactured dwelling stands) shall have a 20 foot minimum right-of-way with 12 foot minimum paved surface;

(iii.) all private streets shall have signage in accordance with City standards for safety and identification;

(iv.) Private streets shall be lighted at night with cut-off fixtures meeting the standards of the City for street lights.

(e.) Park Access: If a manufactured dwelling park has more than one (1) direct access to a public street, such access points shall be no less than 200 feet apart

and no closer than 300 feet to a public street intersection.

(f.) Parking:

(i.) Two parking spaces, a minimum of 9 feet by 18 feet, shall be provided within each manufactured dwelling space;

(ii.) All parking spaces shall be paved or covered with four inches (4") of crushed stone;

(iii.) No parking shall be allowed on private entrance and collector streets.

(g.) Landscaping: Landscaping shall be provided throughout the park with ample trees and shrubs to provide shade and break up open areas. All banks and open areas shall be grassed.

(h.) Removal of Rubbish: All cut or fallen trees, stumps, or rubbish shall be or removed from the manufactured dwelling park.

(i.) Utilities Installation: Each manufactured dwelling located within a park shall comply with the current North Carolina Regulations for manufactured dwelling in both manufacture and installation and must be inspected to assure compliance prior to occupancy.

(i.) All utilities shall be installed underground except where extreme conditions of topography make this requirement unreasonable.

(ii.) Placement of utilities serving the manufactured dwelling stand shall comply with the NC Building Code for Plumbing.

(iii.) Minimum electrical service of 200 ampere, 120-240 volt single phase shall be provided to each manufactured dwelling stand. The service panel and location as well as all wiring shall be in accordance with the National Electrical Code.

(iv.) Each manufactured dwelling shall be required to connect to the utilities provided at each manufactured dwelling space.

(v.) Each manufactured dwelling park shall obtain water from a public water supply when available, and when unavailable, from a source approved by the Granville County Health Department. The water supply and pressure shall be adequate for the park requirements. Water for drinking, cooking, laundry, and general sanitary uses for each individual manufactured dwelling shall be obtained only from faucets or other plumbing connections located within each manufactured dwelling.

(vi.) Each manufactured dwelling park shall be provided with an adequate sewage disposal system, either by connection to a public sewer or a septic tank constructed in compliance with the regulations of the Granville County Board of Health. All sewage wastes from toilets, showers, bathtubs, lavatories, wash basins, refrigerator drains, sinks, faucets, and water-using appliances not herein mentioned shall be piped into the

manufactured dwelling park sewage disposal system.

(j.) Fuel Oil Drum: Each manufactured dwelling that requires the use of fuel oil shall be furnished with an oil drum having a minimum capacity of one hundred fifty (150) gallons, set upon a painted, prefabricated metal stand.

(k.) Manufactured Dwelling Design Standards: Each manufactured dwelling shall have a roof pitch of at least 5 feet of rise for each 12 feet of horizontal run and a minimum width of 12 feet.

10.2-11 Petroleum and Petroleum Products (including bio-fuel) Storage and/or Transfer Facilities.

(A) Zoning District: IND with HIO

(B) Conditions:

(1.) Minimum lot area shall be five (5) acres.

(2.) Use shall comply with all federal and state standards. Verification of compliance or ability to comply shall be provided with the application submitted to the City of Creedmoor.

(3.) The use shall be buffered from adjacent properties and public streets with a type B buffer (see Article 11).

10.2-12 Sewer Treatment Plant.

(A) Zoning District: IND

(B) Conditions:

(1.) Minimum site area shall be ten (10) acres.

(2.) All buildings, lagoons, outdoor treatment areas, and other facilities shall be located at least 1,000 feet from residential and mixed use zoned property.

(3.) Use shall comply with all federal and state standards. Verification of compliance or ability to comply shall be provided with the application submitted to the City of Creedmoor.

(4.) Use shall be managed and operated by a municipality, county, or other governmental entity.

10.2-13 Shooting Range, Outdoor and/or Indoor.

(Amended May 27, 2014 per Ord. 2014-O-03)

(A) Zoning District: IND

(B) Conditions:

(1.) Shooting Ranges may only be located in the extra-territorial jurisdiction due to

City Code §130.02 Discharge of Firearms and Other Weapons.

(2.) Minimum separation between an outdoor shooting range and closest exterior property line shall be three hundred (300) feet.

(3.) Access shall be controlled to prevent unregulated entrance to firing and downrange areas.

(4.) Security fencing shall be provided along the rear and sides of outdoor ranges to prevent an individual from crossing the property downrange.

(5.) Dikes or berms shall be provided with an outdoor range and shall be of sufficient height and thickness to stop all rounds fired downrange. Elevation control is required along the shooting stands to prevent rounds from being fired over the dike or berm.

(6.) All ranges shall establish a lead management and recycling program that controls and contains lead projectiles and bullet fragments.

(7.) Outdoor ranges must recover lead projectiles at least annually.

(8.) Indoor shooting ranges shall use all best management practices available to minimize any unreasonable disruptions due to noise.

(9.) Outdoor ranges shall only operate during daylight hours.

10.2-14 Solar Farm *(Amended May 27, 2014 per Ord. 2014-O-03)*

(A) Zoning Districts: IND

(B) Conditions:

(1.) An applicant for a conditional use permit to allow a solar farm use must comply with the large site development plan review process as described in Article 7 Permits and Procedures;

(2.) Solar farms must comply with Article 11 Landscape Requirements and Tree Protection;

(3.) Conditional use permit applications for a solar farms must include a decommissioning plan and financial guarantee, surety or irrevocable letter of credit in favor of the City of Creedmoor for an estimated amount that returns the site to pre-development condition, including reforestation, if applicable;

(4.) All solar collectors must be setback a minimum of eighty (80') feet from any public right of way;

(5.) Any component of a solar farm must be separated at least one hundred (100') feet from any residential structure or use;

(6.) Maximum height of any component of a solar farm is twenty-five (25') feet;

(7.) All components of a solar farm shall be fenced and enclosed for security purposes, but must include a designated access point for emergency services;

(8.) Solar farms are exempt from parking requirements;

(9.) Developers planning a solar farm must provide proof of evaluation of the facility using a glare analysis tool and certified proof of notice of glare analysis to any airports, airstrips, or military posts within a 10 mile radius.

10.2-15 Telecommunications Towers *(Amended May 27, 2014 per Ord. 2014-O-03) (Amended August 27, 2013 per NC Session Law 2013-185).*

(A) Zoning Districts: IND and MS

(B) Conditions:

(1.) The applicant for a conditional use permit for a telecommunication tower shall bear the burden of demonstrating by substantial evidence in a written record that a bona fide need exists for the proposed telecommunication tower and that no reasonable combination of locations, techniques or technologies will obviate the need for, or mitigate the height or visual impact of, the proposed telecommunication tower.

(2.) Telecommunications transmission towers in the Main Street (MS) district must be a monopole design that does not exceed one-hundred and ninety-nine (199) feet in height from average adjacent grade.

(3.) The City may elect to retain outside consultants or professional services to review a conditional use application for a telecommunication tower and to make recommendations on relevant issues including, but not limited to, verification of the applicant's due diligence, analysis of alternatives, conditions of approval, and compliance with state and federal rules and regulations at the applicant's expense.

(4.) In addition to the notice requirements found elsewhere in this Ordinance, the applicant for a conditional use permit for a telecommunication tower shall be required to notify by regular mail all property owners within a one-quarter mile (1,320 feet) radius of the proposed location of any public hearing on the application at least ten days prior to the hearing. The *Planning, Zoning and Subdivision Administrator* may require the applicant to conduct a crane or balloon test to simulate the height of the proposed tower. Notice of the dates and times of such tests shall be mailed by the applicant to all property owners within a one-quarter mile (1,320 feet) radius of the proposed location at least ten days prior to the primary test date. The notice shall state primary and alternate test dates, as well as a range of dates for testing in the event of extended periods of inclement weather. The *Planning, Zoning and Subdivision Administrator* shall review and approve the sufficiency of the notice prior to mailing and, as part of its application, the applicant will be required to submit a certificate of mailing and attach a copy of the notice and a list of the addresses to which it was sent. In the event the applicant shall seek to increase the height of a proposed tower, or move

its location more than 50 feet laterally, from that stated in the original notices, additional notice shall be required to be given in accordance with the above provisions and all time periods shall run from the date of supplemental notification.

(5.) Applicants for telecommunication towers are encouraged to consider properties owned by the City of Creedmoor, or instrumentalities thereof, before considering private properties. Public properties shall be subject to the same restrictions and standards of appropriateness as private properties. All such public agencies or instrumentalities shall retain discretion as to whether to make a specific property available for wireless telecommunication facilities and to make determinations with respect to site capacity, aesthetics, or suitability of such facilities.

(6.) Telecommunication towers proposed on properties under the ownership or control of the North Carolina Department of Transportation shall simulate typical highway lighting towers in height and appearance and shall be clustered amongst or near such towers so as to be unobtrusive. If due to topography, existing vegetative canopy, or other local conditions, the City Board determines that a tower disguised as a coniferous tree is a preferable aesthetic alternative to a simulated lighting tower, it may require such camouflage treatment as a condition of approval. If any portion of a telecommunication tower located on such properties is used to mount cameras, instruments, sensors or antennas for governmental use, and the same structure supports or incorporates commercial wireless telecommunication facilities, the governmental use shall be deemed incidental or accessory to the commercial use and the entire facility shall be treated as a commercial use for purposes of this section.

(7.) It is the policy of the City to encourage co-location and the use of existing structures where appropriate. In furtherance of that policy objective, the following provisions shall apply to an application for a conditional use permit for a telecommunication tower:

(a.) A conditional use for a telecommunication tower shall not be approved unless the tower is designed structurally, electrically, mechanically and in all respects to accommodate at least five users. An application shall not be deemed complete until the applicant submits:

(i.) A letter of intent agreeing to make all of its wireless telecommunication facilities (including existing facilities) within the City available to providers of functionally equivalent services at commercially reasonable fair market value rates; and

(ii.) A copy of an executed lease for the proposed tower site that allows co-location or leasing or subleasing to other providers of functionally equivalent services.

(b.) Applicants are encouraged to meet co-location requirements by using dual-

band/multi-band antennas to allow sharing of antennas or antenna arrays by wireless providers using different frequency bands or by using combiners to allow antenna sharing by users of the same frequency band.

(c.) A conditional use application for a telecommunication tower shall not be approved if an electric transmission tower is located above, or no less than 25 feet below, the ground elevation of and within the search radius and/or ring of a proposed telecommunication tower, unless the applicant can demonstrate one or more of the following:

(i.) That sufficient easements or other interests in real property cannot be obtained to accommodate the wireless telecommunication facility;

(ii.) That the electric utility owning the electric transmission tower is unwilling to allow its use for wireless facilities;

(iii.) That the applicant is unable to gain sufficient ingress and egress to the electric transmission tower;

(iv.) That the existing use of the electric transmission tower would interfere with the operations of the applicant as documented by a qualified and licensed North Carolina engineer and the interference cannot be prevented;

(v.) That the planned equipment would exceed the structural capacity of the electric transmission tower as documented by a qualified and licensed North Carolina professional engineer, and the electric transmission tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

Electric transmission towers may be increased in height to that allowed for telecommunication towers in the district in which the electric transmission tower is located if the City Board determines such height extension is preferable to placement of a new telecommunication tower in that area.

(d.) A conditional use application for a telecommunication tower shall not be approved unless the equipment planned for the proposed tower cannot be accommodated on existing or approved telecommunication towers, buildings or alternative structures more than 30 feet in height (after first considering electric transmission towers) within a one-quarter mile (1,320 foot) radius of the proposed telecommunication tower due to one or more of the following reasons:

(i.) The planned equipment would exceed the structural capacity of the existing or approved tower, building or alternative structures, as documented by a qualified and licensed North Carolina professional engineer, and the existing or approved tower, building or structure cannot be reinforced, modified or replaced to accommodate planned or equivalent

equipment at a reasonable cost.

(ii.) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment on the towers, buildings or alternative structures, as documented by a qualified and licensed North Carolina engineer, and the interference cannot be prevented at a reasonable cost.

(iii.) Existing or approved towers, buildings or other structures within the search radius, or combinations thereof, cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed North Carolina professional engineer.

(iv.) Other unforeseen reasons that make it infeasible to locate the planned telecommunication equipment upon existing or approved towers, buildings or alternative structures.

(e.) Antennas associated with a wireless telecommunication facility may not be co-located on a tower or other support structure used by an amateur radio operator.

(f.) No wireless telecommunication facility shall interfere with usual and customary radio and television reception excepting broadcast facilities as provided for in the regulations of the FCC.

(8.) All telecommunication towers must comply with FCC and FAA regulations.

(9.) A copy of the applicant's FCC license must accompany its application. If the applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licensees to utilize the wireless telecommunication facility and must submit a copy of each such wireless service provider's FCC license. If FCC licenses have previously been filed with the City in conjunction with other wireless telecommunication facilities, the applicant may certify that such licenses remain in full force and effect.

(10.) As part of its application, each applicant for a telecommunication tower shall be required to execute a standard maintenance/removal agreement binding the applicant and its successors and assigns to maintain properly the exterior appearance of and ultimately remove the facility within 180 days of the abandonment or cessation of operations of the facility. Such agreement shall require the applicant to pay all costs for monitoring compliance with, and enforcement of, the agreement and to reimburse the City of Creedmoor for all costs it incurs to perform any work required of the applicant by the agreement that it fails to perform. A $5,000.00 cash bond, or other security acceptable to the City, shall be required in conjunction with the maintenance/removal agreement. The applicant and its successors and assigns shall be required to continue such bond or other security until such time as the facility has been removed and all

other requirements of the maintenance/removal agreement have been satisfied. Private business users operating a single wireless telecommunication facility at their principal place of business and governmental users are exempt from the bond requirement.

(11.) Abandoned or unused wireless telecommunication facilities shall be removed within 180 days of abandonment or cessation of operations. If not removed within that period, such facilities may be removed as provided in the permittee's maintenance/removal agreement and the costs of removal recovered from the permittee's bond or other security. Prior to removing a wireless telecommunication facility pursuant to this provision, the City shall give 30 days written notice of its intention to do so to the permittee at its last known address.

(12.) All telecommunication towers shall comply with FAA lighting requirements. In addition, in a specific instance, the City may impose lighting requirements for a tower that is not required by FAA regulations to be lit.

(13.) . The City Board of Commissioners shall decide the appropriate setbacks required as part of the Conditional Use Permit approval and may reduce the setback requirement upon a showing by the applicant that there are special physical circumstances or conditions affecting the proposed site such that the strict application of the setback requirement would not allow the most effective use of the proposed site to minimize the visual impact of the wireless telecommunication facility.

(14.) Telecommunication towers shall be buffered from adjacent properties with a buffer which, at a minimum, meets the requirements of a Type B buffer as described in Article 11 of this ordinance, regardless of adjacent zoning district classifications or uses.

(15.) No telecommunication tower shall be located:

(a.) On top of buildings; or

(b.) In a locally or nationally designated historic area or property or on a nationally or locally designated historic structure or building. Nor shall a telecommunications tower be located such that it adversely impacts the historic integrity of a locally or nationally designated historic area, property, or structure.

(16.) In cases where an applicant is required to perform an environmental assessment (EA) or an environmental impact statement (EIS) under the National Environmental Policy Act or the National Historic Preservation Act, such EA or EIS shall be submitted as part of its application for a conditional use permit. An application for a conditional use permit will not be deemed complete until any required EA or EIS has been submitted to the City.

(17.) Telecommunication towers shall not be constructed unless the company erecting

the tower has general liability coverage of at least $1,000,000.00. The owner of a telecommunication tower shall provide the City with a certificate of insurance showing evidence of its coverage and the certificate shall contain a requirement that the insurance company notify the City 30 days prior to the cancellation, modification or failure to renew the insurance coverage required.

(18.) Telecommunication towers shall be designed to meet the following standards:

(a.) Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment. The City Board may condition approval on the use of specific concealment techniques where it determines that doing so is necessary or desirable.

(b.) Guyed towers are prohibited. Commercial wireless telecommunication transmission towers shall be of a monopole design unless the City Board of Commissioners determines that an alternative design would better blend in to the surrounding environment.

(c.) Use of dual-polarized antennas which electronically combine the functions of transmit and receive antennas (rather than spatial diversity antenna arrays which rely on antennas being physically separated), dual-band/multi-band antennas (allowing two or more providers of different types of commercial wireless services to share a common antenna), and use of combiners (allowing antenna sharing by providers using the same frequency band) are encouraged.

(d.) Antennas shall be mounted on telecommunication towers so as to present the smallest possible silhouette, profile, or cross-section. Preferred antenna mounting scenarios are, in order of descending preference:

(i.) Compact dual-polarized antennas in a cylindrical uni-cell arrangement extending no more than two feet from the sides of the supporting structure and mounted atop the tower;

(ii.) Panel antennas flush-mounted against the tower;

(iii.) Antennas mounted at the end of straight or curved davit arms or brackets extending from the sides of the tower.

(e.) No telecommunication tower shall have constructed thereon, or attached thereto in any way, any platform, catwalk, crow's nest, triangular framework, or like structures or equipment, except during periods of construction or repair. Curved or straight davit arms or brackets used for antenna mounting shall be connected to the tower at the base of the arms or brackets only and such arms or brackets (and any antennas or hardware mounted thereon) shall not be physically interconnected with any similar arm or bracket.

(f.) All equipment enclosures and other improvements accessory to a tower shall be architecturally designed to blend in with the surrounding environment and

shall be maintained in good appearance and repair. No equipment enclosure may exceed 12 feet in height. Ground mounted equipment shall be screened from view with a minimum "B" buffer (see Article 11), except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

(19.) Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m.

(20.) Telecommunication towers, equipment enclosures and other improvements shall be enclosed within a security fence consisting of chain link fencing at least eight feet in height. The fence shall not be topped with barbed wire. The City Board may require as a condition of approval that the fencing be screened by appropriate landscaping or other means. The City Board may waive or modify the fencing requirement if it determines that doing so will enhance the overall appearance of the facility without any compromise in safety or security.

(21.) Telecommunication towers shall have a flat gray or galvanized finish unless the City Board determines another color scheme would be a preferable aesthetic alternative.

(22.) No two telecommunication towers shall be constructed within 1,320 feet of each other unless documentation is provided to the *Planning, Zoning and Subdivision Administrator* to show that co-location on towers within the 1,320 feet is not technically feasible.

(23.) No telecommunication tower shall be permitted that exceeds 200 feet in height.

(24.) Signage at any telecommunication tower site shall conform to the following provisions:

(a.) A sign listing the name of the wireless telecommunication service provider operating the site, the site name or number and an emergency telephone number shall be posted at or near the entrance to the site so as to be readily visible to persons outside the site's security fencing.

(b.) Equipment hazard warning and informational signs are permitted.

(c.) The posting of any other signs or advertising is prohibited at any wireless telecommunication facility or upon any telecommunication tower.

(25.) The City Board may require any other conditions deemed necessary or desirable to ameliorate the impact of the tower on the adjacent properties and uses. Such conditions shall include, but are not limited to: the height of the tower; the construction or type of tower; lighting; and co-location of the antennas and facilities of different parties on a single tower.

(26.) (Reserved)

(27.) (Reserved)

(28.) A conditional use approval for a telecommunication tower shall become null and void if the facility is not constructed and placed in service within two-years of the date of approval provided, however, that the conditional use approval may be extended one time for six months if substantial construction has commenced before the end of the initial year.

(29.) Modifications shall be permitted upon existing telecommunications tower facilities as of October 1, 2013 provided they do not exceed any of the following criteria:

(a.) Increase in vertical height of the greater of either: 1) ten percent (10%), or 2) the height of one additional antennae array with separation from the nearest existing array of not more than twenty (20) vertical feet; provided the maximum height of 200 vertical feet is not exceeded.

(b.) Addition of an appurtenance protruding the greater of either: 1) more than twenty (20) feet, or 2) more than the width of the wireless support structure at the elevation of the appurtenance, unless:

(i.) necessary to shelter an antenna, and/or

(ii.) necessary to connect the antenna to the tower via cable

(c.) Increasing the square footage of the existing equipment compound by more than 2,500 square feet; provided all applicable minimum yard area, buffering and screening provisions are maintained.

10.2-16 <u>Electronic Gaming Operation</u>

(A) Zoning District: IND

(B) Conditions:

(1.) SEPARATION FROM RESIDENTIAL ZONING - Electronic Gaming Operations (whether principal uses, or accessory to another use) shall be located no closer than 500 feet in any direction from any property zoned for residential use.

(2.) SEPARATION FROM CERTAIN USES - No Electronic Gaming Operation shall be located within 1,500 feet in any direction from any other Electronic Gaming Operation, or from any cemetery, Group Living facility, religious institution, public or private child care center or child care facility, public or private school or non-profit club. This required separation shall apply whether the above uses are principal or accessory uses.

(3.) MAJOR GATEWAY SETBACKS - All Electronic Gaming Operations shall maintain a two hundred (200) foot setback along the gateway corridors listed below. The setback shall be measured perpendicular to the existing road right-of-way and shall extend one mile inward from the City limit line. For the purposes of this standard a major gateway is identified as an entry way into the zoning jurisdiction along any of the following transportation corridors:

(a.) US 15

(b.) NC 50

(c.) NC 56

(4.) MEASUREMENT - All measurements in this Section shall be from the outer building walls of the proposed use to the nearest property line of the above specified uses, and such measurement shall be in a straight line without regard to intervening structures.

(5.) HOURS OF OPERATION, ACCESS AND VISIBILITY - No Electronic Gaming Operations shall engage in business prior to 10:00 a.m. or after 12:00 midnight. During hours of operation, electronic gaming operations shall be open for direct, unobstructed access by police, fire and emergency response personnel. All entrance doors shall remain unlocked while patrons are on the premises. All Electronic Gaming Operations terminals, computers, machines, and/or gaming stations shall be open and visible from the exterior front of the establishment.

(6.) AGE RESTRICTIONS - No person or entity engaged in Electronic Gaming Operations shall allow, permit or condone any person under the age of eighteen (18) to be upon the premises while patrons are engaged in Electronic Gaming Operations.

(7.) SIGNAGE - Signage shall meet all the requirements of Article 17. Sign Regulations and the following requirements. No signs shall be posted on the windows of the property which are visible from the exterior of the development. No neon or other effects which simulate the appearance of neon, nor any flashing, chasing, undulated, or other variable lighting effects shall be used in connection with any use hereunder where such lighting effect would be visible from the exterior of the establishment. All rules of the electronic games shall be displayed prominently within the establishment.

(8.) PARKING - Parking shall be provided at the rate of one (1) space per full time employee and one (1) space per gaming terminal and/or electronic gaming machine in the establishment and in accordance with Article 12 Off-street Parking, Stacking and Loading Areas.

(9.) MAXIMUM NUMBER OF TERMINALS - The maximum number of terminals, computers, machines, and/or gaming stations permitted within an Electronic Gaming Operation is twenty (20).

(10.) COMPLIANCE WITH OTHER REGULATIONS - The Electronic Gaming Operation shall be subject to any City of Creedmoor privilege license fees, and shall be subject to all other standards of the City of Creedmoor and State of North Carolina as applicable

10.2-17 Hazardous Industry

(A) Zoning District: IND with HIO

(B) Conditions:

(1.) Minimum Building/Parking Lot/Storage Area Setbacks:

(a.) The minimum building/parking/storage area setbacks shall be as follows:

(i.) From any arterial or collector street right-of-way – 500 feet

(ii.) From any local street right-of-way – 500 feet

(iii.) From an interior lot line adjacent to a school or day care facility –500 feet

(iv.) From an interior lot line adjacent to a residential zoning district – 500 feet

(v.) From an interior lot line adjacent to a non-residential zoning district – 250 feet.

(2.) Building Height Requirements:

(a.) The maximum building height for a structure adjacent to a residential or commercial zoning district shall be no greater than 40 feet

(b.) The maximum building height for a structure adjacent to an industrial zoning district – no height restrictions.

(3.) Additional Requirements:

(a.) Any such hazardous industry facility shall be serviced by a public water and wastewater system.

(b.) Any such hazardous industry facility shall be enclosed with a security fence of adequate height and structure that would reasonable prohibit access to the site by the general public. All security gates and/or gate houses shall be set back a minimum of 50 feet from the public right-of-way line.

(c.) All structures housing the storage of bulk liquid and/or hazardous or toxic materials shall be set back from any property line a minimum of 550 feet.

(d.) There shall be no industry created noise in excess of 50 decibels as measured at the property line and no objectionable noise due to extreme frequency, beat frequency, intermittence or shrillness.

(e.) There shall be no industry created ground vibration measurable at any lot line of an industrial unit.

(f.) There shall be no industry created air pollution including:

(i.) No noxious odors; no noxious, toxic or corrosive gases or fumes.

(ii.) No smoke of a density in excess of #1 on the Ringelmann Chart. In cases of smoke other than black in color, and approved density scale equivalent to the Ringelmann Chart shall be used.

(iii.) No dust or other particulate matter emitted in excess of 0.85 pounds per 1,000 pounds of gases adjusted to 12% carbon dioxide. There shall be no surface or subsurface discharge or disposal of any wastes, either liquid or in any form without prior approval of the Oversight Board.

(iv.) There shall be no unusual fire or explosion hazards. Based on the National Board of fire insurance rates which classifies industrial units as Class I, Class II, and Class III, the following shall apply:

1. No special controls on a manufacturing unit determined to be Class I other than under [3] below.
2. Class II and Class III manufacturing units shall be contained in a building designed and constructed in accordance with its class and according to provisions of the building code published by the Building Officials and Code Administrators, International [BOCA], 1313 East 60th Street, Chicago, Illinois, 60637.
3. Machinery or equipment shall be treated as necessary to eliminate hazards.
4. Uses which are customarily incidental and accessory to the principal use shall be permitted including, but not limited to: dwelling quarters for watchmen and caretakers employed on the premises, recreation areas and facilities for persons employed by industries within the same district's boundaries, restaurants, warehouses and commercial uses that are permitted in the C-1 Commercial District.

(v.) Businesses that produce, store or use hazardous materials, as defined by the Environmental Protection Agency's (EPA) Hazardous Substances or Prior Pollutants lists shall be allowed only when the items listed is Section 154.111 are met.

(vi.) Miscellaneous Prohibitions:

1. Any interference with any other process, equipment, appliance or devices and any mechanical, electrical or other equipment which could create such interference shall have all necessary shielding or other protection.
2. In any industrial unit or accessory all operations and storage, other than for passenger vehicles of visitors and employees, trucks and over the road vehicles, shall be within an entirely enclosed building or

structure. Exemption: Outside storage of bulk or large raw materials which are fireproof if enclosed by a security fence with provisions for visual inspection and where screened from public view in its entirety from adjacent properties and public streets/roadways.

(g.) Operations and Closure Plans Required:

(i.) An emergency operations plan shall be developed and be on file at the City of Creedmoor and Granville County Emergency Management Offices and reviewed for update annually. An operations plan shall be submitted to include:

1. The date of commencement of operations and their expected duration;
2. Proposed hours and days of operation;
3. A complete description of operation, including source of materials, method of compaction, type of sealing proposed to be used, types and number of equipment to be used and disposal of by-products;
4. Any phasing schedule of operations and relationship among phases,
5. Operating practices to be followed to ensure compliance with regulations of this ordinance, and;
6. Complete assessment by the Creedmoor Fire Department in conjunction with local emergency management agencies that all necessary equipment, training, and personnel are available at the emergency response level to adequately handle all emergency scenarios.

(ii.) A closure plan shall be prepared and submitted in accordance with United States Environmental Protection Agency (USEPA) guidelines as part of the application for a zoning map amendment to establish the HIO district.

(h.) Hazardous Chemical Notification and Inventory Reporting

(i.) EPCRA Section 311-312 applies to any facility at which a hazardous chemical, as defined by the Occupational Safety and Health Act, is present in an amount exceeding a specified threshold. These facilities must submit -- to the SERC, LEPC, and local fire department -- material safety data sheets (MSDSs) or lists of MSDSs and hazardous chemical inventory forms (also known as Tier I and II forms). This information helps the local government respond in the event of a spill or release of the chemical.

(j.) Emergency Notification and Agriculture

(i.) EPCRA requires businesses that store threshold amounts of chemicals that are subject to OSHA's Hazardous Communication Standard to submit information -- including facility point of contact and the Material Safety Data Sheets (or a list of those chemicals) -- to state and local authorities in order to facilitate emergency planning and response. Annual reporting to state and local authorities is required for all covered facilities that have those chemicals in amounts above threshold. Hazardous chemicals used in routine agricultural operations and fertilizers held for resale by retailers is excluded.

(k.) Toxic Chemical Release Inventory Reporting:

(i.) EPCRA Section 313 requires manufacturing facilities included in SIC codes 20 through 39 to submit an annual toxic chemical release report if they have 10 or more employees and if they manufacture, process, or use specified chemicals in amounts greater than threshold quantities. This report, commonly known as Form R, covers releases and transfers of toxic chemicals to various facilities and environmental media, and allows EPA to compile the national Toxic Release Inventory (TRI) database.

ARTICLE 11

LANDSCAPE REQUIREMENTS AND TREE PROTECTION

11.1 Purpose

The regulations set forth in this Article are intended to reduce tree canopy loss and implement urban forest management improvements through requirements for tree protection, tree preservation, the planting of trees and the maintenance of existing and newly planted trees within the City of Creedmoor. Additionally, this Article will establish minimum standards for the design of landscapes so as to improve the community aesthetically, economically, and environmentally. The requirements are intended to enhance the quality of life through sustainable urban forest practices and increase the benefits trees provide, including, but not limited to the following.

(A.) Absorption of carbon dioxide and returning oxygen

(B.) Reduction of soil erosion and increase in rainwater infiltration

(C.) Provision of shade for cooling

(D.) Screening of noise, dust, glare, and visual intrusions

(E.) Reduction of storm-water runoff

(F.) Maintenance and improvement of City appearance and aesthetics

(G.) Provision of habitat for wildlife

(H.) Preservation, protection and enhancement of the natural environment

11.2 Administration

The following personnel have responsibility for administering and enforcing the provisions of this section:

(A.) The *Planning, Zoning and Subdivision Administrator* shall have responsibility for overseeing the administration of this article.

(B.) The *Public Works Administrator* shall have responsibility and control over all trees and shrubbery planted or growing upon City property including public street right-of-way.

(C.) The *Planning, Zoning and Subdivision Administrator* shall have the authority to enforce the standards of this Article in the event of compliance failure. The *Planning, Zoning and Subdivision Administrator* shall also have responsibility and control over

all regulated, unsafe, and diseased trees located on public and private property.

11.3 Applicability

The provisions of this article shall apply to the following:

11.3-1 All new major subdivisions with four (4) or more new lots, all new non-residential developments, and all new multi-family developments with four (4) or more units except for those projects listed under Exemptions below.

11.3-2 Changes in use, expansions, and new buildings for already existing residential, non-residential, or mixed-use developments as per the following:

(A.) Changes in use to a higher intensity, such as a change from residential to commercial. The requirements shall be applicable to the entire lot;

(B.) All non-residential expansions of buildings, except the first three thousand (3,000) square feet of gross leasable area. The requirements of this article shall be applicable only to the expansion area;

(C.) Expansions exceeding 50 percent of the pre-expansion floor area must bring the entire site into compliance, super-ceding 11.3-2(B);

(D.) Renovations with a total cost exceeding 50 percent of the appraised value of the building as established by the Granville County Tax Office. The value of any expansions or reconstruction of such structures over a three-year period shall be considered in calculating the 50 percent threshold.

11.3-3 Vehicular use areas shall be subject to the landscape requirements as outlined under the Parking Lot Landscape Requirements as follows:

(A.) Any new parking lot with six (6) or more spaces;

(B.) Expanded portions of existing parking lots which are less than 50 per cent of the total vehicular use areas shall landscape the area included in and around the expansion;

(C.) Expansions exceeding 50 percent of the paved area must bring the entire vehicular use area into compliance with the Parking Lot Landscape Requirements;

(D.) Existing unpaved parking lots which are paved or existing paved lots which are demolished and repaved must bring the entire vehicular use area into compliance with the Parking Lot Landscape Requirements.

11.3-4 Any land disturbing activities or tree removal shall require a Tree Disturbance Permit as per section 11.10 of this Article.

11.4 Exemptions:

The provisions of this Article shall not apply to the uses and activities listed below. Any applicable requirements of Article 19 (Watershed) relating to the Water Supply Watershed or Soil Erosion and Sedimentation Control still apply:

11.4-1 Properties within and abutting the Main Street (MS) District shall be exempt from the buffer and tree conservation area requirements but are still required to meet the street trees and parking lot landscaping requirements;

11.4-2 Property lines abutting utility easements in excess of sixty (60) feet in width and all railroad rights-of-way;

11.4-3 Property lines abutting dedicated street rights-of-way, which have remained unopened for a period of at least fifteen (15) years;

11.4-4 Tree removal on an area of three thousand (3,000) square feet or less, after the *Planning, Zoning and Subdivision Administrator* has determined that such a removal is not associated with a forthcoming development proposal and will not be inconsistent with any plan previously approved by the City; however, watershed and/or soil erosion requirements may still apply if triggered;

11.4-5 Property covered by an active forestry management plan prepared by a North Carolina Registered Forester, provided that documentation has been furnished to the *Planning, Zoning and Subdivision Administrator*.

11.5 Landscape Plan Procedure

11.5-1 Landscape Plan Approval Required. An applicant must receive approval of a landscape plan from the *Planning, Zoning and Subdivision Administrator* prior to grading or before other site work may begin.

11.5-2 Installation of Plant Materials Required. Installation of plant material shall occur prior to the issuance of a Certificate of Compliance (or Occupancy).

11.5-3 Financial Guarantee in Lieu of Installation of Plant Materials.

(A.) If at the time of a request for a Certificate of Compliance, the required planting areas are not complete the developer may provide a performance bond or an irrevocable letter of credit guaranteeing the installation of the plant materials if the following conditions are met:

(1.) Plant materials are unavailable,

(2.) Completion of the planting areas would jeopardize the health of the plant materials, or

(3.) Weather conditions prohibit completion of the planting areas.

(B.) The performance bond or irrevocable letter of credit shall be in an amount equal to 150 percent of the estimated cost of the installation of the required plant materials, as determined by the City. The *Planning, Zoning and Subdivision Administrator* may require a valid contract for the installation as a form of cost estimation. The performance bond or the irrevocable letter of credit shall secure the installation of the plant materials as shown on the approved landscape plan. The letter of credit or bond shall remain in full force and effect until such time as the installation of plant materials is completed, inspected, and accepted by the City of Creedmoor. Failure to maintain the required bond or irrevocable letter of credit shall result in the revocation of the approval of the site development plan and any permits issued as a result of the plan approval. The bond or irrevocable letter of credit shall be automatically renewed unless all parties agree not to renew it at least sixty (60) days prior to its scheduled expiration date.

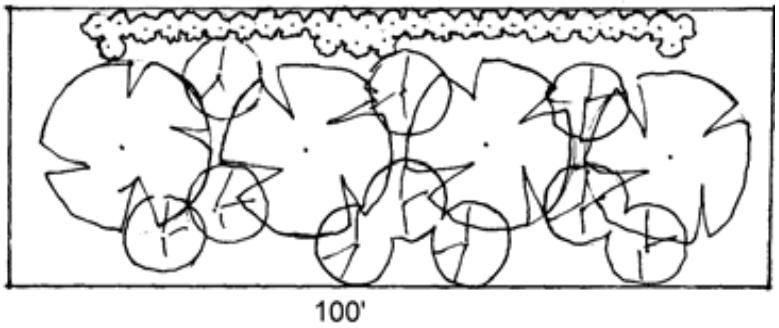
A temporary construction easement permitting the City of Creedmoor or its designee(s) to access the property for the purpose of installing the guaranteed plant materials shall be provided with the performance bond or irrevocable letter of credit. The temporary construction easement shall be valid until all guaranteed plant materials have installed and approved by the City. The temporary construction easement shall pass to all successive owners until the guaranteed plant materials have been installed and approved by the City.

(C.) Failure to initiate installation of the plant materials within one year of the date the bond or letter of credit was accepted by the City of Creedmoor shall result in the City directing and/or installing the plant materials, with the cost to be paid from the letter of credit or bond. The surety shall, if requested by the City, pay all or any portion of the bond or letter of credit to the City up to the amount needed to complete the installation of the plant materials based on an estimate by the City as described in 11.5-3(B) above. The City at its discretion may spend such portion of said funds as deemed necessary to complete all or any portion of the required plant installation. The City shall return to the developer any funds not spent in completing the plant installation, less reasonable administrative, professional and legal services cost resulting from the failure of the developer. Default on a project does not release the developer from responsibility for the completion of the plant installation. The City may release a portion or all of any surety posted as the plant installation is completed and approved by the City. In the event that the amount of the letter of credit or bond on hand is insufficient to pay for the completion of the plant installation, the property owner shall pay to the City of Creedmoor the total amount of the insufficiency. If the City is not re-paid in full, the amount of the insufficiency shall be the basis for a claim against the property and constitute a lien on the property in favor of the City upon filing with the Register of Deeds.

11.6 Landscape Requirements

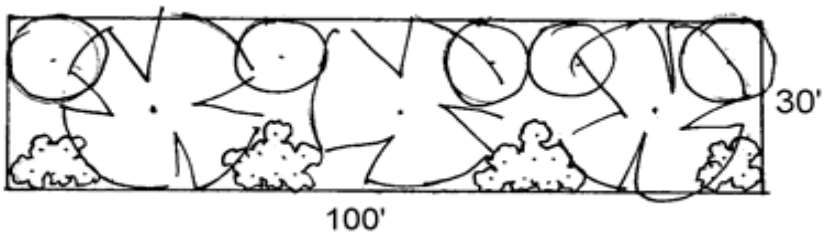
The following buffer yards are hereby established and shall be required where applicable:

Type A Buffer Yard: A high-density screen intended to substantially block visual contact between adjacent uses and create a spatial separation.



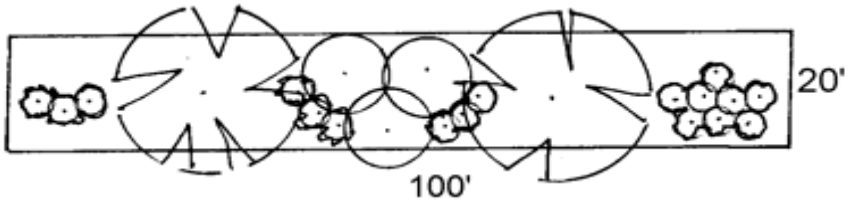
Type A Buffer Yard

Type B Buffer Yard: A medium-density screen intended to partially block visual contact between uses and create spatial separation.



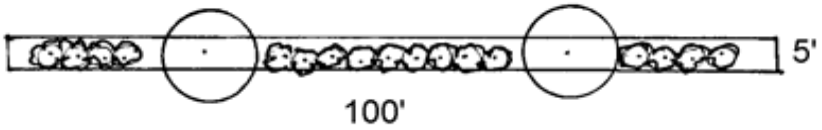
Type B Buffer Yard

Type C Buffer Yard: A low-density screen intended to partially block visual contact between uses and create spatial separation.



Type C Buffer Yard

Type D Buffer Yard: A peripheral planting strip intended to separate uses, provide vegetation in densely developed areas, and to enhance the appearance of individual properties.



Type D Buffer Yard

11.6-1 Use District Buffer. Buffer yards shall be required to separate development in certain zoning districts from adjacent districts. Buffer yards, as identified in Table 11.1 below, are required on the sides and rear of the property abutting the identified adjacent zone. The following buffers shall be provided when development in the identified development zoning districts abuts the identified adjacent zoning districts. Buffering is required in accordance with section 11.3 above. To determine the required buffer for a new development, identify the development zone, the zoning district in which the development is located, on the chart. Then identify the adjacent zone, the zoning district abutting the development, on the chart below.

Table 11.1- BUFFER YARD CHART		
DEVELOPMENT ZONE	ADJACENT ZONE	BUFFER YARD REQUIRED
IND	All	Type A
C 56, C 15	SFR	Type A
CIV	SFR	Type A
C 56, C 15	R/MST	Type B
C 56, C 15	MSP	Type C
MSP	SFR	Type C
CIV	R/MST	Type C
MSP	R/MST	Type D

Plantings shall be provided in the buffer yards as indicated in the following table.

Table 11.2 - PLANTING RATES						
Type	Average Width (ft.)	Minimum/ Maximum Width (ft.)	Evergreen Tree Rate	Canopy Tree Rate	Understory Tree Rate	Shrubs Rate
Type A Yard	40	35/65	8	4/100 lf 25 feet on center	10/100 lf 10 feet on center	33/100 lf 3 feet on center
Type B Yard	30	25/50	6	3/100 lf	5/100 lf	25/100 lf
Type C Yard	20	15 /40	4	2/100 lf	3/100 lf	17/100 lf
Type D Yard	5	5/10	0		2/100 lf	18/100 lf

(A.) Buffer Yard Alternative Standards and Conditions.

(1.) The minimum buffer width for all buffer yards except the Type D yard may be reduced by 50% with the use of an opaque wall or fence constructed of masonry, stone or pressure treated lumber providing such reductions do not disturb the Critical Root Zone (CRZ) of existing trees. The wall or fence should be a minimum of five (5) feet in height. The wall or fence shall be set back from the property line a minimum of five (5) feet and shall be planted with half the required plantings, including all types of shrubs and trees required, on the outside of the wall or fence (facing the adjacent property).

(2.) Understory trees shall be substituted for canopy trees at the rate of two (2) understory trees for every canopy tree to be planted within fifteen (15) feet of an overhead utility line.

(3.) Canopy trees may be substituted for shrubs at the rate of one (1) canopy tree for eight (8) shrubs and understory trees may be substituted for shrubs at the rate of one (1) understory tree for five (5) shrubs if approved by the *Planning, Zoning and Subdivision Administrator*.

(B.) Location of Buffer Yard. Required trees and shrubs shall not be installed in street rights-of-way. Required trees and shrubs may be placed in water quality conservation

easements, electric utility easements below overhead lines, and in drainage maintenance and utility easements upon approval by the Technical Review Committee.

(C.) Setback Less Than Buffer Yard. If the required building setback is less than the required buffer yard width, the building setback shall reduce the required planting yard width only alongside the building. The planting rate of the required planting yard shall still apply.

(D.) Encroachments Permitted in Required Planting Yards. The following are permitted in required planting yards provided the landscaping requirements are met and there is no interference with any sight area:

(E.) Encroachments Permitted in Required Planting Yards. The following are permitted in required planting yards provided the landscaping requirements are met and there is no interference with any sight area.

(F.) Cornices, steps, canopies, overhanging eaves and gutters, windowsills, bay windows or similar architectural features, at-grade patios, chimneys and fireplaces, fire escapes, fire balconies, and fire towers may project not more than two and one-half (2 1/2) feet into any required planting yard, but in no case shall be closer than three (3) feet to any property line or handicap ramps except for porches and landings.

(G.) Obstructions. Landscaping shall not be placed in the sight visibility triangle which would obstruct the view of motorists using any street, driveway, or parking aisle.

11.6-2 Screening of Dumpsters, Outdoor Storage, and Utility Structures. All dumpsters, loading docks, outdoor storage areas over 25 square feet, and utility structures must be screened if they are visible to adjacent public or private streets or any adjacent properties. Screening of a dumpster shall not be required in the Industrial District, unless the dumpster is located within one hundred (100) feet of an existing non-industrial land use. Screening options include:

(A.) A single opaque material wall or fence with a minimum height of 6 feet.

(B.) A combination of opaque materials, berming, and/or evergreen landscaping spaced at 8 feet on center that provides the required screening effect. The combination of opaque materials, berming, and/or evergreen landscaping shall have a minimum height of 6 feet within three (3) years of planting.

(C.) The wall(s) of a principal or accessory structure may also count for screening.

(D.) Chain-link fencing with woven slats of opaque material is ***not*** acceptable.

11.6-3 Street Trees. Street trees are required along all street frontages for all new

developments. Trees are required at the following rate:

(A.) One large maturing tree required for every 40 linear feet of street frontage. If overhead utilities are present, planting of one small maturing tree for every 30 linear feet of property abutting a street is required.

(B.) Where the street abuts a parking lot over 3000 square feet in area and located within 50 feet of the edge of the pavement, shrubs shall be planted at the rate of one deciduous or evergreen shrub for every 5 linear feet of vehicular use area abutting the street in addition to the required street trees. The shrubs must achieve a minimum height of three feet at maturity.

(C.) Street trees may be evenly spaced or spaced to accommodate existing site features. Street trees shall be a minimum of fifteen (15) feet apart and a maximum of sixty five (65) feet apart. No street tree shall be located more than twenty five (25) feet from the edge of pavement.

(D.) Street trees shall be planted in the planting strip within the public right-of-way. In the Main Street (MS) District, the trees may be placed in tree pits with grates that are a minimum of sixteen (16) square feet.

(E.) Existing Trees: See Section 11.9 for information regarding credits for preservation of existing trees.

(F.) No more than fifteen (15) percent of the street-planting yard may be used for walkways serving individual lots, except in the MS, and MSP districts. Parking, merchandise display, and off-street loading are prohibited in the street-planting yard.

11.6-4 <u>Parking Lot Planting Areas.</u>

(A.) Applicability. Parking lot landscaping buffers shall be required to separate parking areas from adjacent uses for new and/or expanding parking lots with six (6) or more

spaces. Required canopy trees and shrubs shall be located within the parking lot and adjacent to parking spaces in planting areas between rows of parking spaces, at the end of parking bays, in tree islands, and/or around the periphery of the parking lot. The following buffer requirements shall apply to parking lots with six (6) or more spaces:

(1.) A minimum of a type D buffer shall be provided for all parking lots with six (6) or more spaces.

(2.) A type C buffer shall be provided along any edge of a parking lot with a minimum of six (6) spaces and occupying less than ½ acre that abuts an AG, SFR, or R/MST zoning district.

(3.) A type C buffer shall be provided along all edges of any parking lot with a minimum of six (6) spaces and occupying less than ½ acre that is located within an AG, SFR, or R/MST zoning district.

(4.) A type D buffer shall be provided along any edge of a parking lot with a minimum of six (6) spaces and occupying ½ acre or more that abuts an AG, SFR, or R/MST zoning district.

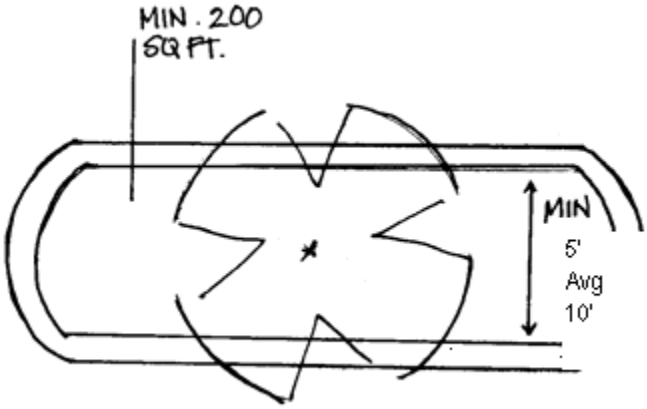
(5.) A type D buffer shall be provided along all edges of any parking lot with a minimum of six (6) spaces and occupying ½ acre or more that is located within an AG, SFR, or R/MST zoning district.

(B.) Planting Rate. For every fifteen hundred (1500) square feet of vehicular use area (VUA), one (1) deciduous tree and four (4) shrubs must be planted. At least seventy five (75) percent of the trees shall be large maturing species. Trees and shrubs must be planted within fifteen (15) feet of the VUA to meet the requirement.

(C.) Existing Trees. See Section 11.9 for information regarding credits for preservation of existing trees in parking lots.

(D.) Reduction in Parking Requirements. To allow an existing development to retrofit parking to conform to the landscaping regulations, or to allow an existing or new development to preserve trees within or adjacent to a parking lot, the number of required off-street parking spaces may be reduced by the *Planning, Zoning and Subdivision Administrator* by up to ten (10) percent.

(E.) Tree Islands and Medians. When more than four trees are required in a lot with interior rows, fifty (50) percent of the trees and shrubs must be planted in islands or medians located within the parking lot. The planting islands or medians shall be a minimum size of 200 square feet with no dimension smaller than five (5) feet and an average width of ten (10) feet.



(F.) Multiple Parking Bays. When there are more than 4 bays of parking, an interior island with an average width of twenty (20) feet and a length equivalent to the parking bay shall be constructed. It should include a pedestrian walkway five (5) feet or more wide and a planted strip on one or both sides. The median should be located in such a way as to enhance pedestrian circulation within the development, leading to the entrance or to an adjacent sidewalk and/or walkway.

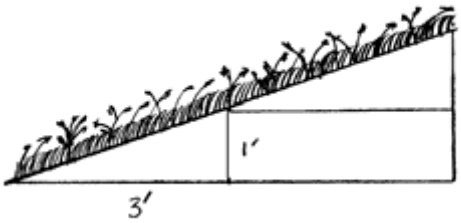
(G.) Perimeter Parking. All continuous runs of fifteen (15) or more parking spaces shall be interrupted by a tree island.

(H.) Grouping. Shrubs and trees may be grouped or clustered in the required planting yards, except for the perimeter landscaping adjacent to parking lots, outside storage, access drives, and loading and unloading areas. The remainder of the materials shall be distributed throughout the planting yard. There shall be at least one (1) row of evergreen shrubs or evergreen understory trees in all Type A planting yards used in parking areas.

(I.) Plant Protection. Whenever planting areas are adjacent to parking lots or drives, such areas shall be protected from damage by vehicles, lubricants, or fuels. Curbing or some other structural barrier is required to be placed around trees within five feet of a car bumper. Allowances may be made if rain gardens are incorporated into the planting area. Trees and shrubs in islands should be set back at least three feet from the curb to allow for the operation of car doors.

11.7 Reforestation of Slopes Steeper than 3:1

11.7-1 Tree Cover Required. Areas having slopes steeper than 3:1 must be reforested to provide tree cover over the entire area.



The following standards apply:

(A.) Reforestation shall include a minimum of one (1) tree per two hundred (200) square feet of surface area and shall be made up of a mixture of deciduous hardwood and evergreen trees that are a minimum of twelve (12) inches high at planting and approved by the *Planning, Zoning and Subdivision Administrator.*

(B.) The trunk of any required tree shall be no closer than ten (10) feet from any other existing tree.

11.8 Tree Conservation and Protection

11.8-1 Purpose of Tree Conservation Area. The purpose of the Tree Conservation Area (TCA) is to encourage the preservation of healthy trees that are four (4) inches or greater in diameter at breast height (DBH).

11.8-2 Tree Conservation Area Determination. The TCA shall be provided in accordance with the chart below. If trees of four (4) inches or greater DBH exist within or partially within these areas, such trees must be saved to the extent possible. The area will be designated a TCA and shall not be disturbed except as allowed herein below in Table 11.3.

Table 11.3 – Tree Conservation Area (TCA)

Size of Parcel	TCA Required to Include
0 – 55,000 sq. ft.	One percent (1%) of lot area and located within the required planting yard
55,000 sq. ft. – 5 acres	One and one-half percent (1.5%) of lot area. All trees four (4) inches or greater DBH that are located within the required planting yards
5.01 – 10 acres	Three percent (3%) of lot area. All trees four (4) inches or greater DBH that are located within the required planting yard or within fifteen (15) feet of the side and rear property lines, whichever is greater
Greater than 10 acres	Six percent (6%) of lot area. All trees four (4) inches or greater DBH that are located within the required planting yard or within twenty-five (25) feet of the side and rear property lines, whichever is greater

11.8-3 Tree Conservation Area Selection.

(A.) In selecting which existing tree stands are to be designated as Tree Conservation Area (TCA), the landowner shall give due consideration to building, parking lot, driveway, street, and utility location as they relate to the practicality of preservation and shall use the following tree preservation priority list:

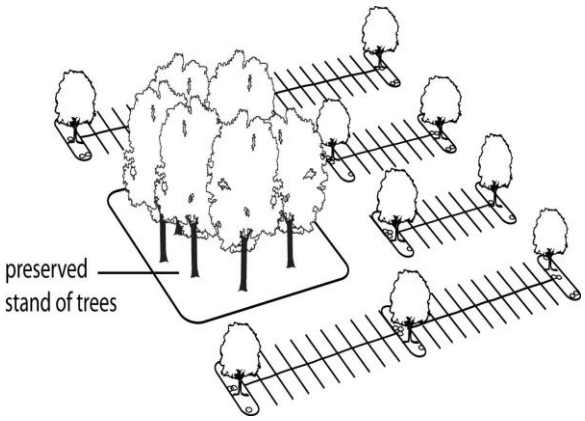
(1.) Existing stands of mature hardwoods as highest priority, then

(2.) Existing stands of younger hardwoods, then

(3.) Existing specimen trees (as determined by the *Planning, Zoning and Subdivision Administrator*), then

(4.) Existing stands of hardwoods and Pine mix, and lastly

(5.) Existing stands of Pine trees. Preservation of a single Pine tree is not typically encouraged.



(B.) If it is necessary to pick among two or more stands of trees within a category listed above, then Tree Conservation Areas adjacent to the following priority list shall be used in order of significance:

(1.) Type A buffer yards, as a first priority, then
(2.) Type B buffer yards, then
(3.) Type C buffer yards, then
(4.) Type D buffer yards, then
(5.) Street tree yards, and lastly
(6.) Vehicular use areas

(C.) Smaller Trees: Trees less than four (4) inches DBH within the TCA may be preserved at the landowner's option and counted toward buffer yard, street tree, or vehicular use area requirements.

11.8-4 Tree Conservation Flexibility Standards. Flexibility can be granted in the following circumstances:

(A.) Trees in Sensitive Areas: If there are trees that meet the TCA requirements on other areas of the site (riparian buffers, stream corridors, floodplains, etc.), the landowner may request that the required TCA be designated around such trees instead of the usual locations.

(B.) Stream Buffer Credits: Properties falling under the Stormwater Management Control Requirements, which are required to maintain an undisturbed stream buffer, may use some of or the entire buffer to satisfy the required TCA, provided that the undisturbed stream buffer contains trees that are a minimum of four (4) inches in DBH.

(C.) Land Dedication: Land dedicated to the City that is contiguous to the property being developed may be used towards the tree preservation requirement, if the dedicated land contains trees that are a minimum of four (4) inches in DBH.

(D.) Reforestation Credits: In situations where TCA requirements cannot be met based on site conditions and when approved by the *Planning, Zoning and Subdivision Administrator*, reforestation efforts on the property can be used to satisfy up to fifty (50) percent of the required TCA.

(E.) Reduction in the Amount of TCA Required for Specimen Tree Preservation Within the Lot: To allow developers the flexibility to manipulate the location of required Tree Conservation Areas, and to encourage the preservation of certain specimen trees or tree stands within developed lots rather than just at the periphery, the *Planning, Zoning and Subdivision Administrator* may, at his or her discretion, allow the developer the right to reduce the total amount of required TCA using the following table:

Table 11.4

DBH of Existing Specimen Tree(s) in Inches	Allowable Reduction in TCA
8 – 12	5 % reduction
13 – 20	10% reduction
21 – 30	25% reduction
31+	40% reduction

(F.) Waivers: The *Planning Board* shall have the authority to allow reduced buffer yards or to waive the buffer yard requirements to allow for a greater TCA in another area or make other exceptions, which meet the cause and intent of this section. Additionally, if the *Planning Board* concludes that due to existing unusual or unique site characteristics, preserving some or all required trees in the TCA(s) would create an undue or unreasonable hardship, the protection of some or all of required trees in the TCA(s) may be waived.

Applicants for such a waiver shall submit their request in writing, along with any necessary site plans to demonstrate the hardship. The application shall be submitted at least twelve (12) days prior to the next regularly scheduled *Planning Board* meeting, in order for the *Planning Board* to hear the request at that meeting. The findings of the *Planning Board* shall be final and binding to all parties. Appeals of the *Planning Board's* decisions may be made to the *Board of Adjustment*, following the procedure outlined in Article 6 of this ordinance.

11.9 Tree Credits

11.9-1 Buffer Yards. All trees of appropriate size and type preserved in the Tree Conservation Area (TCA) that are within the buffer yard shall be credited toward meeting all or part of the buffer yard requirements. The protection of tree stands, rather than individual trees, is strongly encouraged.

11.9-2 Street Trees. Existing preserved trees may count toward up to 100% of the street tree requirement, providing there is no more than 65' between trees.

11.9-3 Parking Lots. For new, expanded, or rebuilt parking lots where trees are being preserved adjacent to the parking lot in order to meet the parking lot planting requirements, trees preserved in a TCA and within fifteen (15) feet of the parking lot may be used to satisfy up to fifty (50) percent of the required number of parking lot trees. Non-TCA trees located within the parking area may count towards up to 100% of the requirement. Trees in the TCA counted toward planting yard requirements may not count for required parking lot trees.

11.9-4 Tree Health. No credit will be allowed for any dead tree, any tree in poor health, or any tree subjected to grade alterations. Trees should have a life expectancy of greater than ten (10) years and have a relatively sound and solid trunk with no extensive decay, major insect, or pathological problems. For the purposes of determining the health or condition of any tree, the *Planning, Zoning and Subdivision Administrator* may defer to a qualified expert with the cost of the expert to be reimbursed by the applicant.

11.9-5 Tree Replacement. Except for storm damage, the death of any tree used for preservation credit within five (5) years of site development shall require the landowner to plant new trees equal to the number of credited trees. After five (5) years any trees that were used for preservation credit that die shall be replaced.

11.9-6 Calculation of Credit. Credits are to be given in accordance with the chart below.

Table 11.5 – Tree Credits

DBH of Existing Tree(s) in Inches	Number of Trees Credited
4" – 6"	1
7"-12"	2
13"-18"	3
19"-24"	4
25"+	5

11.9-7 Protection of Existing Trees. To receive credit, trees must be protected from direct and indirect root damage and trunk and crown disturbance. The following standards shall apply:

(A.) Critical Root Zone. To preserve existing trees within the designated TCA, the Critical Root Zone (CRZ) of the trees shall be preserved. The CRZ includes a radius around the tree equal to, or at least, one foot for every one inch of DBH. It is recommended to preserve the entire CRZ of each preserved tree.

(1.) If the entire CRZ cannot be preserved, tree roots must be cut prior to the grading of the site and no closer than 10 feet from the tree trunk.

(2.) Disturbance within the CRZ will be allowed only on one side of the tree(s) to be saved and only with prior approval by the *Planning, Zoning and Subdivision Administrator*.

(3.) Construction site activities such as parking, material storage, dirt stockpiling, concrete washout, and other similar activities shall not be permitted within the TCA.

(4.) The same land uses can encroach in the TCA as established in the Buffer Yards Section 11.6 provided there is no disturbance to the CRZ of the preserved trees.

(5.) Changes that significantly raise the grade of soil adjacent to the TCA shall be avoided.

(6.) Utility line trenches and similar uses shall avoid the TCA. Due to certain site conditions, where disturbance within the TCA is unavoidable, underground tunneling or directional boring of utilities is preferred and allowed on one side only. Trenching shall be used only as the last alternative and root-pruning equipment specifically designed for that purpose shall be used. The *Planning, Zoning and Subdivision Administrator* shall be notified prior to this type of activity and an on-site meeting shall be performed to ensure compliance. See the City of Creedmoor Technical Standards and Specifications Manual for trenching detail.

(7.) Protective fencing shall be installed around the TCA prior to any tree disturbing activities. Such fences shall be at least four (4) feet high and shall consist of orange polyethylene safety fencing. Fencing shall remain in place until construction is complete and other landscaping has been installed, and the *Planning, Zoning and Subdivision Administrator* has approved its removal. See the City of Creedmoor Technical Standards and Specifications Manual fencing detail.

(8.) The TCA should be designated as such with "Tree Conservation Area" signs (in both English and Spanish) posted visibly on the outside of the fenced-in area. Signs may not be posted on the trees.

(B.) Tree Removal within the TCA. Trees less than four (4) inches DBH not being preserved, undergrowth and plant material in poor condition may be removed from the TCA. No roots shall be removed from the TCA. Stumps may be removed only by grinding. All requests for tree removal within the TCA must have prior approval by the *Planning, Zoning and Subdivision Administrator* pursuant to the provisions of this chapter. Any tree within the TCA, including the CRZ, which the landowner chooses to remove or that must be removed due to poor health or impractical means of preservation shall be removed in a manner that is in accordance with standard arboricultural practice (Per American National Standards Institute (ANSI) Standards) so as to cause as little disturbance or harm to those trees intended to be saved as practical. However, in an emergency situation due to storm damage; to alleviate an immediate hazard to the health, safety, and welfare of the citizens; or to repair property damage, prior approval for tree removal in previously approved designated areas is not required.

(C.) Tree Conservation Plan Procedures. Approval of a Tree Protection Plan is required for all projects, except those listed in Section 11.4 Exemptions, and shall be submitted along with all other necessary drawings to the Technical Review Committee. Tree protection items shall be included on all grading plans, erosion control plans, and tree disturbance permit plans. Upon approval of the plan, a Tree Disturbance Permit will be issued prior to any tree-disturbing activities.

11.10 Activities Requiring a Tree Disturbance Permit

11.10-1 Purpose. Except as otherwise exempted herein, it shall be unlawful to:

(A.) Remove, prune, apply chemicals that are harmful to, or disturb any tree or the soil within the CRZ of any tree; or

(B.) Clear vegetation from a site; or

(C.) Begin any excavation, remove soil, or place fill on a site within Creedmoor and its extraterritorial jurisdiction until the *Planning, Zoning and Subdivision Administrator* has issued a permit certifying that such activity complies with the applicable provisions of this Ordinance.

11.10-2 Applicability and Exceptions. The provisions of this section shall apply to all Land Development except:

(A.) Routine maintenance of existing vegetation outside the public rights-of-way, such as pruning, watering and fertilizing.

(B.) The removal of dead trees and shrubs or trees and shrubs that have been diagnosed and determined to be diseased beyond treatment, with the burden of proof being

placed on the remover.

(C.) Removal of soil or vegetation from undeveloped land to allow for non-commercial open space no greater than one-quarter (1/4) acre, providing this activity does not take place within the CRZ of any rare or specimen tree.

(D.) Land disturbing activity normally associated with the occupancy of an existing single family or two-family dwelling.

(E.) Any new construction or expansion of a single family or two-family dwelling requiring a building permit and involving land disturbance less than five thousand (5000) square feet, unless the cumulative land disturbance is over five thousand (5000) square feet.

11.10-3 Tree Protection Plan Requirements. A Tree Protection Plan for all development projects to which these standards apply, along with all other necessary drawings, shall be submitted to the Technical Review Committee. Tree protection items shall be included on all grading plans, erosion control plans, and tree disturbance permit plans. Drawings shall identify the following items.

(A.) Boundaries of the required Tree Conservation Area (TCA)

(B.) Required planting yard

(C.) Protected trees within the TCA including tree size and species

(D.) CRZ of each proposed protected tree or group of trees

(E.) Limits of clearing

(F.) Grading

(G.) Trenching

(H.) Required tree protection measures including protective fencing and signage

(I.) Overhead and underground utilities, rights-of-way, and easement

(J.) Areas of reforestation, if any

(K.) Stream buffers, if any

(L.) A complete survey of all trees on the ***site*** (outside the labeled TCA) that exceed 18 inches DBH, including tree size and species.

11.10-4 Plan Notes. The following required notes shall be indicated on tree protection plans, erosion control plans, grading plans, and Tree Disturbance Permit plans in

CAPITAL LETTERS:

(A.) Contact the Planning Department to set up a pre-construction meeting.

(B.) All tree protection devices must be installed prior to inspection by the *Planning, Zoning and Subdivision Administrator* and prior to any tree disturbance activities.

(C.) Removal or damage of trees in the conservation area will be subject to the penalties established in the Section 11.18, Enforcement, of this Ordinance.

11.10-5 Plan Review. The aforementioned plans shall be reviewed by the *Planning, Zoning and Subdivision Administrator* for conformance with applicable provisions of this section and for tree and vegetation viability. The plans will either be approved or returned for revisions. Reasons for return shall be noted on the proposed plan.

11.10-6 Installation of Protective Measures. All tree protection measures shall be installed prior to inspection by the *Planning, Zoning and Subdivision Administrator or his/her designee* and prior to tree disturbance.

11.10-7 Site Inspections. The *Planning, Zoning and Subdivision Administrator or his/her designee* will conduct follow-up site inspections for enforcement of the tree protection requirements.

11.10-8 Permit Display. All permits issued hereunder shall be so displayed as to be clearly visible from a public right-of-way.

11.10-9 Emergency Waiver. The provisions of this section are waived if compliance would hamper the rescue of life or property from immediate danger or the repair of utilities in the event of emergencies such as wind storms, ice storms, or other disasters.

11.11 Rare and Specimen Trees

11.11-1 Rare and Specimen Trees on Developing Land.

(A.) Rare and specimen trees shall be shown on all Tree Protection Plans if such trees are within one hundred (100) feet of areas where soil disturbance or construction activity is proposed. In addition, these trees shall be identified and located by survey on the Tree Protection Plan if such trees are located on the development site or adjacent public property. The *Planning, Zoning and Subdivision Administrator* may visit the site to determine the accuracy of identification.

(B.) Proposed development shall be designed to preserve rare and specimen trees. Where rare and specimen trees exist, flexible approaches such as adjustments to lot layout, placement of buildings and paved surfaces, and location of utilities shall be pursued in order to save them.

(C.) No soil disturbance from construction, trenching, grading, paving, or storage of equipment or materials shall take place within the critical root zone of any rare or specimen tree to be preserved unless the *Planning, Zoning and Subdivision Administrator* determines there is no reasonable way the property can be developed without such disturbance or unless the proposed work will be carried out in accordance with the specifications for such work in the Creedmoor Technical Standards and Specifications Manual.

(D.) No rare tree shall be removed from land being developed unless the *Planning, Zoning and Subdivision Administrator* determines there is no reasonable way the property can be otherwise developed, improved or properly maintained and the tree saved.

11.11-2 Voluntary Protection of Rare and Specimen Trees on Private Land.

Rare and specimen trees that are located on individual lots with single and two-family homes shall be protected if voluntarily registered by the property owner.

11.12 Land Being Developed Outside the Tree Conservation Area (TCA)

11.12-1 Protective Fencing.

(A.) Vegetation located outside the TCA that is to be protected on land being developed, as indicated on a Tree Protection Plan, shall be protected by fences or other equally effective measures during construction activity. Such fencing shall be located and erected according to City standards and be located as shown on the Tree Protection Plan and site grading plans. All land disturbing activity, storage of equipment, building material, soil, and other debris shall be kept within the area of development activity and outside of the protective fencing.

(B.) Vegetation that is to be retained during rights-of-way clearing of single family or two-family residential subdivisions, as indicated on a Tree Protection Plan, shall be delineated by high visibility flagging during construction activity. Such flagging shall be located and installed according to City standards and be located as shown on the landscape protection and site grading plans. The use of flagging shall be limited to those specific applications where no rare or specimen trees will be affected by development activity and the *Planning, Zoning and Subdivision Administrator* determines it to be as effective as protective fencing.

(C.) Landscaping activities taking place after the removal of protective fencing shall be accomplished with light machinery or hand labor and in accordance with the City of Creedmoor Technical Standards and Specifications Manual.

11.12-2 Treatment of Trees During Construction.

(A.) No nails, ropes, cables, signs or fencing shall be attached to any part of any tree that is to be preserved.

(B.) Trees that are damaged during construction shall be treated so as to promote their continued health.

11.12-3 Removal of Regulated Trees. No regulated tree shall be removed without first acquiring a permit from the *Planning, Zoning and Subdivision Administrator*. Failure to do so shall constitute a violation of this chapter and shall be subject to the penalty provisions in Section 11.18, Enforcement, of this Ordinance.

(A.) Enforcement. Upon a determination that work does not conform to the provisions of this section, the *Planning, Zoning and Subdivision Administrator* shall cause issue of a *Stop Work Order* which shall remain in effect until all corrections are made in conformance with this Ordinance.

(B.) Pre-construction Conference. Prior to the commencement of any activities requiring a permit, a pre-construction conference with the *Planning, Zoning and Subdivision Administrator* shall take place to review procedures for protection and management of all protected landscape elements identified on the landscape protection plan and to designate one or more persons as landscape protection supervisor(s).

11.13 Public Trees and Trees Interfering with Public Space – Maintenance and Protection

The following standards are hereby established for the maintenance and protection of public trees:

11.13-1 Approved Personnel. No person except an employee of a public utility or other approved public personnel shall cut, prune, or remove any living tree on or in a public highway, right-of-way, public park, sidewalk, or other public property; or cut or disturb or interfere in any way with the roots of any tree on public property.

11.13-2 Owner Responsibility for Private Trees Interfering with Public Space. Every owner of any tree overhanging any street or right-of-way within the City shall prune the branches so that such branches shall not significantly obstruct the view of any street intersection and so that there shall be a clear space of thirteen (13) feet above the street surface or eight (8) feet above the sidewalk surface. Said owners shall remove all dead, diseased or unsafe trees, or broken or decayed limbs that constitute a nuisance to the safety of the public. The City shall have the right to prune any tree or shrub on private or public property when it constitutes a public safety hazard, interferes with pedestrian traffic or the visibility of any traffic control device, sign, or sight triangle.

11.13-3 Placement of Materials Around Plants. No person shall pile building or other material around any tree or shrub in a public right-of-way in any manner that will injure such tree or shrub.

11.13-4 Paving Adjacent to Trees. No person shall pave or place gravel, soil, or other such material within twelve (12) feet of any tree on public property, unless approved by the *Planning, Zoning and Subdivision Administrator*. Plans which fail to identify an impacted tree shall not constitute a transfer of responsibility to the City or its *Planning, Zoning and Subdivision Administrator*.

11.13-5 Dumping of Deleterious Matter. No person shall dump, pour or spill any oil, pesticide, or other deleterious matter upon any tree or tree space in any public rights-of-way, or keep or maintain upon any public rights-of-way, any receptacle from which any oil, pesticide, or other deleterious matter leaks or drips onto any soil, parking area, or concrete gutter so as to injure any tree on any public property.

11.13-6 Disposal of Materials on Public Places. No person shall use parks, sidewalks, utility easements, or other public places to dump grass clippings, tree trimmings, rocks or other organic refuse. This shall not apply to properly placed yard waste that is intended for pickup by City of Creedmoor Public Services or Solid Waste crews.

11.13-7 Decoration, Posting and/or Advertising on Public Trees. No person shall decorate a tree or shrub in any public right-of-way, neutral ground, park, sight triangle or sidewalk, either with or without lights, or place advertising material, posters, political placards, rope, or wire on trees in public properties.

11.13-8 Planting of Street Trees. No part of this section is intended to prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with planting specifications set forth in this section and that any such planting conducted under utility lines shall be limited to planting material taken from the list of recommended small-maturing trees in this Ordinance.

11.14 Hazard Trees

The following standards are hereby established for trees and shrubs determined to be hazardous.

11.14-1 Removal of Trees. The *Planning, Zoning and Subdivision Administrator* may order the removal of any tree, shrub, or part thereof on private or public property, which is unsafe or injurious to sewers or other public improvements, structures, or to the general public.

11.14-2 Right to Enter upon Property. The *Public Works Administrator* or his/her designee may enter upon public or private property in the City to spray or otherwise treat any

tree infected or infested by any parasite, insect, or disease to prevent the breeding or scattering of any parasite or animal pest and to prevent danger to persons or property or to trees planted on City property.

11.14-3 Owner Notification and Opportunity to Correct. Prior to exercising the authority conferred by this section, the *Planning, Zoning and Subdivision Administrator* shall give the owner notice and an opportunity to correct the condition by requesting that corrective action be taken. The request shall be in writing and sent via First Class Mail to the owner of the property in question and shall be acted upon within twelve (12) days (or a lesser period of time if an imminent threat to life or property exists) from the date of the receipt of the request. If, after twelve (12) days, the owner has not corrected the condition or undertaken action that would lead to a timely correction of the condition, the *Planning, Zoning and Subdivision Administrator* may enter upon the property, perform the work necessary to correct the condition, and bill the owner for the actual costs incurred. If the property owner fails to pay the bill for such work within thirty (30) days of such notice, the amount of the bill and any collection costs incurred shall become a lien against the subject property and shall be collected in the same manner provided for the collection of delinquent taxes. In situations involving an immediate threat to public health, safety, or welfare, the City may act without prior notification to the property owner.

11.15 Species Selection and Planting Techniques

In order to ensure that landscaping required by this article is suitable and is planted in the correct manner, the following selection and planting techniques are hereby established.

11.15-1 Plant Species*:* Species used in required planting yards and parking lots shall be of a locally adapted nature. Other species may be approved by the *Planning, Zoning and Subdivision Administrator*. See the City of Creedmoor Technical Standards and Specifications Manual for: "recommended", "not recommended" and/or "prohibited species."

11.15-2 Plant Size*:* Specific plant sizes are listed below:

(A.) Canopy Tree Size*:* When mature, a canopy tree should have a minimum height of forty (40) feet and have a minimum crown width of thirty (30) feet. Canopy trees must be a minimum of two (2) inches in caliper, measured six (6) inches above grade, when planted.

(B.) Understory Tree Size: When mature, an understory tree should have a height of twenty-five (25) to forty (40) feet. Understory trees must be a minimum of one and one half (1.5) inches in caliper measured six (6) inches above grade at the time of installation.

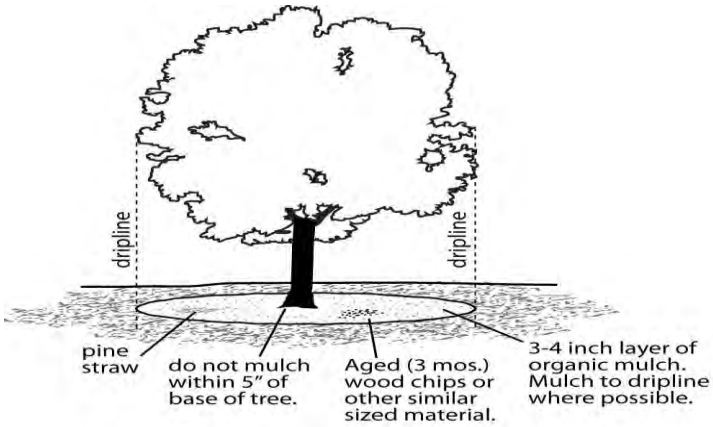
(C.) Shrub Size and Type: All shrubs approved for landscaping of vehicle use areas, loading and unloading areas, and outside storage areas shall be evergreen, with a minimum size of eighteen (18) inches, spread or height, when installed and reach a minimum height of thirty-six (36) inches and a minimum spread of thirty (30) inches. Such shrubs shall be planted using required planting techniques and located parallel to the edge of parking lots, access drives, loading and unloading areas, and outside storage areas. Required shrubs in other locations, outside of the areas listed above, may be evergreen or deciduous and shall be three (3) gallon in size as per American National Standards Institute (ANSI) standards at the time of installation.

11.15-3 Planting Techniques

The following soil preparation techniques shall be used for all required landscape areas:

(A.) Soil preparation for the entire landscape yard includes the addition of organic amendments tilled to a depth of eight (8) to twelve (12) inches.

(B.) All plantings in landscape yards shall be mulched, including interior parking lot islands less than five hundred (500) square feet, to a depth of three to four (4) inches. The mulch shall be free of trash and maintained weed free thereafter. The sketch below and Figure 2 herein, illustrate these principles.



(C.) Earthen basins are to be constructed around the installed plants.

(D.) Plants, as required by this section, are to be grouped together where possible.

(E.) For establishment and survival, plants shall be watered by the landowner or contractor for the first year after planting.

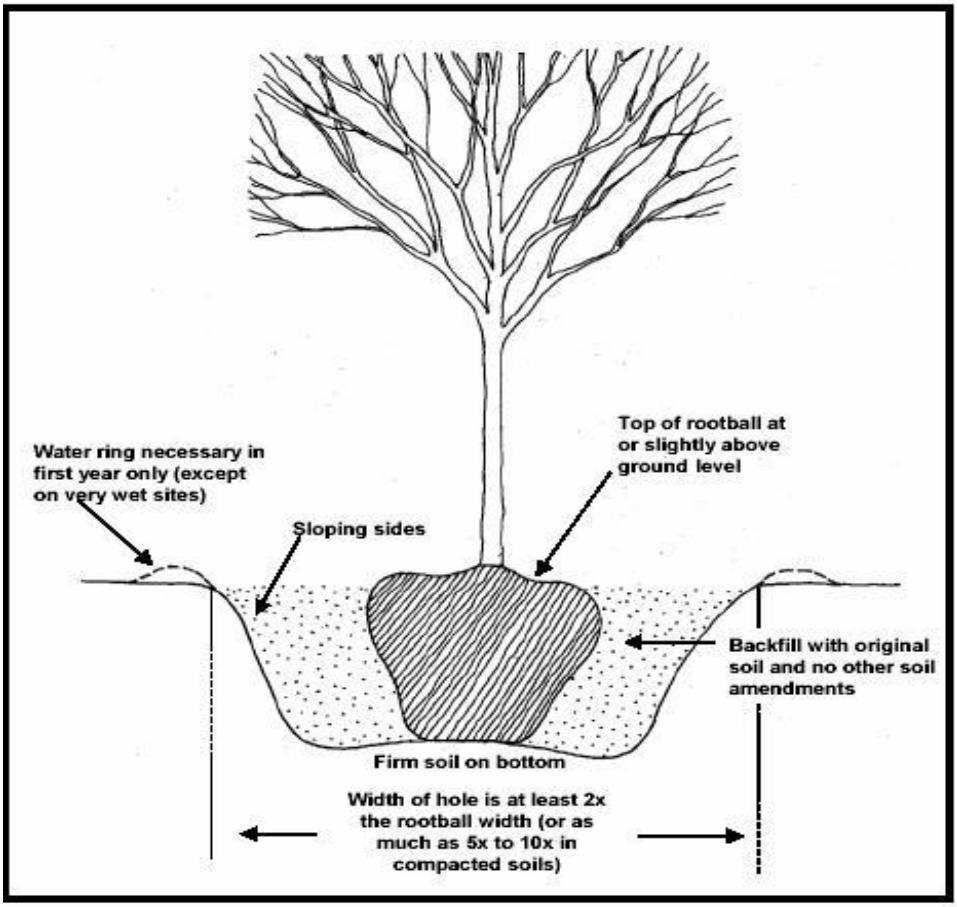


Figure 2. Recommended Tree Planting Method

11.16 Maintenance of Regulated Planting Spaces

11.16-1 Owner Responsibility. The owner or lessee of the property where landscaping is required shall be responsible for the maintenance and protection of all plant and screening material. Landscaped areas shall be maintained in good condition and kept free of debris. Any dead, unhealthy, or missing plants (preserved or planted) shall be replaced with new plant material equal to the number of credited plants planted or preserved, subject to the provisions of this Ordinance. The replacement plant material shall be sized according to the requirements of this section and shall conform to the initial planting rates and standards. The replacement plant material shall be planted within one hundred eighty (180) days of the date that dead, unhealthy, or missing plants are identified. Regulated spaces include those physical areas in which trees and landscape materials are required by this section.

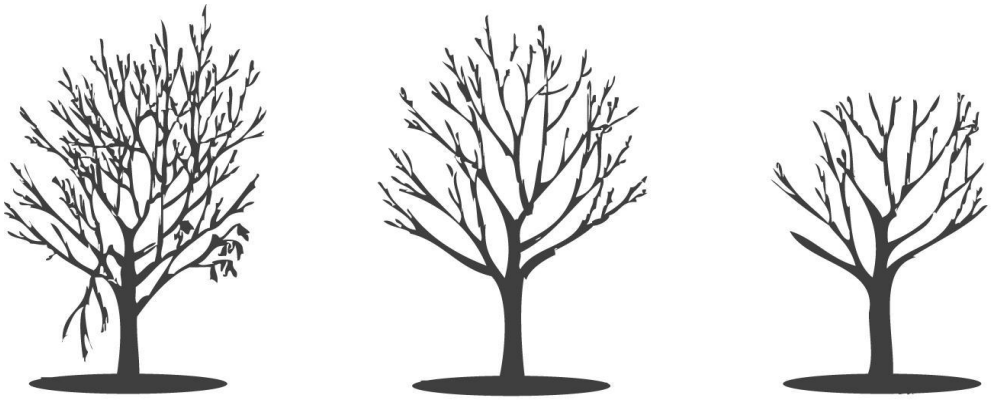
11.16-2 Failure to Maintain. Failure to maintain or replace dead, damaged, or diseased material or to repair a broken fence or wall (where such fence or wall is considered a required portion of the landscape as outlined by this section) shall constitute a violation of this Ordinance and shall be subject to the provisions in Section 11.18,

Enforcement, if not replaced within 30 days of notification.

11.16-3 Destruction by Natural Event. In the occurrence of a natural event which destroys a large quantity of vegetation, the owner or lessee shall have 180 days to replant. Replaced plant material must be in compliance with the minimum size, spacing and quantity standards of this section.

11.16-4 Irrigation. It is suggested that drip irrigation, which includes drip misters, be used for required landscaping planting beds during the required establishment period. After establishment, supplemental watering can be reduced and used on an as needed basis. Traditional spray irrigation is prohibited except for turf areas.

11.16-5 Pruning. All required trees shall be allowed to reach their mature size and shall be maintained at their mature size. Trimming and pruning shall be done in strict accordance with the (ANSI) standards. Topping is not an acceptable pruning practice. Topping is the reduction of a tree's size using heading cuts that shorten limbs or branches back to a predetermined crown limit. The *Planning, Zoning and Subdivision Administrator* may require the removal and replacement of any tree(s) located in required planting yards or TCA's that have been topped or excessively trimmed.



Before Pruning
Mature trees often need pruning due to crowded foliage, broken and dead branches, and asymmetrical shape.

After Proper Pruning
After pruning, trees should retain a symmetrical appearance and tree-like form. A minimum canopy spread of 20 feet must be maintained.

After Excessive Pruning
Pruning in excess of one fourth (25%) of the required canopy spread is prohibited. Tree-topping (hatracking) is prohibited.

11.17 Regulation of Tree Care Professionals

The following standards are established for tree care professionals working within the City of Creedmoor and its jurisdiction.

11.17-1 City-Owned Lands.

(A.) It shall be unlawful for any person or firm to engage in the business or occupation of

pruning, treating, or removing street or park trees or trees within City owned public rights-of-way without first applying for and procuring a Tree Disturbance Permit. Such a permit will only be granted to individuals, businesses, or companies who employ a Certified Arborist to perform or supervise all tree work.

(B.) In order to receive a Tree Disturbance Permit, applicants must first sign an affidavit agreeing to abide by ANSI 300 Standards for tree care. Specifically, the "topping" of trees shall be prohibited except in cases where the top of the tree has been injured beyond repair by a storm or related incident.

(C.) Before any permit shall be issued, each applicant must first file evidence of possession of liability insurance and workman's compensation insurance, in the minimum amounts as required by the City of Creedmoor, indemnifying the City or any person injured or damage resulting from the pursuit of such endeavors as herein described.

(D.) The *Planning, Zoning and Subdivision Administrator* is authorized to suspend or revoke the right of any person or business to perform work for the City of Creedmoor that engages in work practices that do not comply with tree care standards as specified in this section and the related ANSI Standards.

11.17-2 Private Lands.

(A.) The City of Creedmoor shall not directly regulate private companies providing tree care services on private property. However, the *Planning, Zoning and Subdivision Administrator* may direct property owners to the International Society of Arboriculture (ISA) website or other resources to assist in the location of Certified Arborists, who have specific training in tree care.

11.18 Enforcement

Enforcement of the standards and requirements set forth in this article shall be as provided below.

11.18-1 Notice and Appeal.

(A.) Notice of Violation. The *Planning, Zoning and Subdivision Administrator* shall provide notice of the violation and any required remedies. The notice of violation shall be served by any means authorized under G.S. 1A-1, Rule 4, and the notice shall set forth the nature of the violation, the measures required to comply with this section, if compliance is at all practicable, and a reasonable time period (not less than 30 days and not to exceed 180 days) within which compliance must be met.

(B.) Appeal. If any aggrieved party disagrees with a decision of the *Planning, Zoning*

and Subdivision Administrator, such party may request a hearing within twelve (12) working days of receipt of the violation. The request must be in writing and directed to the *Board of Adjustment*. The hearing will be conducted at the next regularly scheduled meeting of the *Board of Adjustment*.

(C.) Decision of *Board of Adjustment*. The *Board of Adjustment* may modify, amend or revise the decision appealed. The decision of the *Board of Adjustment* shall be served upon the appealing party by registered or certified mail, return receipt requested, or by hand delivery.

(D.) Appeal to Superior Court. If any aggrieved party is dissatisfied with the decision of the *Board of Adjustment*, an appeal may be filed with the Granville County Superior Court. Notice of the appeal must be filed within thirty (30) days of receipt of the *Board of Adjustment* decision. Any appeals to the Superior Court shall be in the nature of certiorari.

(E.) Injunction. Any aggrieved party may request an injunction to preserve the status quo during the pending of any appeal in accordance with applicable North Carolina law.

11.18-2 Penalties.

(A.) Tree Disturbance Prior to Permit Approval. The penalty for the removal of or damage to trees, prior to the issuance of a tree disturbance permit or TRC approval shall be a civil penalty of ten thousand dollars ($10,000.00) per acre or fraction thereof. (i.e., the civil penalty for a site of 0.35 acres that is cleared prior to TRC approval or prior to the issuance of a tree disturbance permit is three thousand five hundred dollars ($3,500.00)). Additionally, the City of Creedmoor, under G.S. 160A-458.5, may deny a building permit to any landowner who clears land in anticipation of development in violation of this section for up to three (3) years after completion of the timber harvest. If it is determined that the timber harvest was a "willful violation" of this Ordinance, then the City of Creedmoor reserves the right to deny development approvals for a period of five (5) years following the timber harvest.

(B.) Removal or Damage to Individual Trees after Permit Approval: The penalty for removal of or damage to the CRZ of protected trees after the issuance of a tree disturbance permit, or TRC approval, within an approved TCA without approval by the *Planning, Zoning and Subdivision Administrator* shall result in a civil penalty as determined by the *Planning, Zoning and Subdivision Administrator*, up to the amount shown in the chart below, in addition to the replacement of those trees with quality specimens native to the Piedmont region of North Carolina.

Table 11.6 – Penalties for Unauthorized Tree Removal

DBH of Tree(s) Removed or Damaged	Maximum Civil Penalty	Reforestation (4 inch DBH minimum)
4 – 11.9 inches	$800	1 tree
12 – 20.9 inches	$1,600	2 trees
21 – 28.9 inches	$2,400	3 trees
29 – 35.9 inches	$3,200	4 trees
36+ inches	$4,000	5 trees

(C.) Removal of an Area of Trees after Permit Approval. The penalty for removal of or damage to an area of protected trees that have not been surveyed after the issuance of a tree disturbance permit or TRC approval, within an approved TCA without approval of the *Planning, Zoning and Subdivision Administrator*, shall result in a civil penalty of ten thousand dollars ($10,000.00) per acre or fraction thereof but not less than one thousand dollars ($1,000.00). Such areas shall be reforested at a rate one (1), two-inch caliper canopy tree per two hundred (200) square feet.

(D.) Failure to Install or Maintain Tree Protection Devices. There shall be a civil penalty of five hundred dollars ($500.00) per day for failure to install or maintain approved tree protection measures sufficient to protect the TCA beginning with the date the citation is issued and ending when the site is in compliance. The property owner may be subject to any penalties for damage under Section 11.18-2 above.

(E.) Failure to Comply with the provisions of Section 11.6 Landscape Requirements. There shall be a penalty of five hundred dollars ($500.00) per day for failure to install required landscape material or to replace dead landscape material beginning with the date the citation is issued and ending when the site is in compliance.

(F.) Civil Penalties Considered Restorative. Civil penalties assessed under this section are considered restorative; intended to provide compensation to the City for costs associated with the City's program to monitor, control, prosecute, cure and/or correct the violation. As such, the amount declared herein is presumed to provide sufficient restoration to the City for its costs. The decision of the *Planning, Zoning and Subdivision Administrator* to assess a civil penalty may be delivered by personal service, by registered mail, or certified mail return receipt requested or by any means authorized under G.S. 1A-1, Rule 4. Each day of a continuing violation shall constitute a separate violation.

11.18-3 Appeal to Superior Court. Every decision of the *Planning, Zoning and Subdivision Administrator* or the *Board of Adjustment* to assess a civil penalty shall be subject to review by the Granville County Superior Court by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be filed with the Clerk of Superior Court within 30 days after the decision of the *Planning, Zoning and Subdivision Administrator* or *Board of Adjustment* to assess a civil penalty.

11.18-4 Failure to Appeal and/or Pay: Any civil penalty that is assessed a person who violates the provisions of this Ordinance shall be recovered by the City in a civil action in the nature of a debt (placement of liens against properties, etc.), to be brought in the Granville County Superior Court if the violator fails to give notice of timely appeal and fails to pay the penalty within the prescribed period of time after he or she has been cited for the violation.

11.18-5 Violations Not Criminal: A violation of this Ordinance shall not be considered a misdemeanor under N.C. General Statute 14-4.

ARTICLE 12

OFF-STREET PARKING, STACKING, AND LOADING AREAS

12.1 Off-Street Parking, Stacking, and Loading Space Required

When any building or structure is erected, modified, and/or enlarged the requirements of this Section shall be met. For enlargements, modifications, or increase in capacity, the requirements of this Section shall apply only to such enlargements, modifications or increases in capacity. In cases of mixed occupancy, the minimum number of off-street parking and loading spaces shall be the cumulative total of individual use requirements unless otherwise specified.

12.2 Paving and Maintenance

All parking, stacking, and loading facilities shall be permanently paved and maintained by the owners or occupants as long as the use they serve exists, except as provided in section 12.3 herein.

12.3 Access

All parking, stacking, and loading facilities shall have paved vehicular access to a public street. Exception is made for single family residential dwellings in the AG district beyond the public road right-of-way.

12.4 Use for No Other Purpose

Land used to provide required parking, stacking, and loading shall not be used for any other purposes, except for temporary events. Use of land designated for and providing parking, loading, and/or stacking for other purposes shall be considered a violation of this Ordinance and subject to the penalty provisions of Article 23

12.5 Requirements for Change in Use

If a change in use causes an increase in the required number of off-street parking, stacking, or loading spaces, such additional spaces shall be provided in accordance with the requirements of this Ordinance; except that if the change in use would require an increase of less than five percent (5%) in the required number of parking spaces or fewer than five (5) spaces, no additional off-street parking shall be required.

12.6 Accessible Spaces

Accessible spaces for the physically handicapped shall be provided as required by the

North Carolina Building Code.

12.7 Bicycle Parking

All non-residential uses, except agricultural and agricultural based businesses, and all multi-family residential uses, including condos and townhomes with shared parking, shall include bicycle parking spaces in the amount, at a minimum, equal to 5% of the parking provided for automobiles. This area may be a designated parking space within the parking lot near the building or an area outside the parking lot adjacent to the building. The bike parking area must include a bike rack with provisions for locking bikes.

12.8 Overflow Parking

Off-street areas used for special event parking (to accommodate occasional overflow volumes) may be used with pervious ground cover where such cover can sustain the traffic and use volumes; however, these areas shall be constructed of any dust-free, compacted, pervious ground cover where levels of use exceed the pervious material's capability to maintain a dust free conditions. The owner of the property shall be responsible for the maintenance of such parking in a clean and dust-free condition. Grass and mulch are examples of pervious ground cover; gravel and pavement are examples of impervious surfaces.

12.9 Parking of Over Size Vehicles in Residential Districts

In order to maintain the visual appeal of residential areas, over size vehicles such as RV's (recreational vehicles), water craft and accessories, towing trailers, and commercial vehicles larger than one ton shall not be parked or stored on the street in residential districts.

12.10 Off-Street Parking Lots and Access Areas

Off-street parking is required to meet the needs of the employees, clients, and/or customers of the principal use. Due to the potential for parking areas to use a large percentage of a development site, efforts should be made to accurately estimate the parking needs of the principal use. Strategies such as shared parking and remote parking should be used to maximize the use of existing parking available in the area in which a use is to be located. Parking areas should be designed to minimize breaks in the pedestrian environment along the public street and create safe and comfortable passage for pedestrians. The following standards shall therefore be met.

12.10-1 <u>Location of Parking Lots.</u> Parking lots shall be placed behind buildings where practical; persons who wish to vary from this standard will have to appeal to the Technical Review Committee. Side of the building parking will be permitted only as

indicated by Building Type and shall be measured along the build-to line. Off-street parking is not permitted in front of the primary building facade, except where specified in an adopted street section, detailed as a public plaza, or as approved by the Technical Review Committee as part of site plan review and approval.

12.10-2 Limitation on Uninterrupted Areas of Parking. Uninterrupted areas of parking lot shall be limited in size. Large parking lots shall be broken by buildings and/or landscape features.

Figure 12.10-1: Example of parking lot broken up by landscaping.

12.10-3 Enclosure of Parking Lots. Parking lots shall be enclosed by tree planting and/or building walls(s). For small lots (thirty-six spaces or less), landscaping shall be required at the perimeter; for large lots (more than thirty-six spaces), landscaping shall be at the perimeter and placed to break the lot into parking areas of no more than thirty-six spaces.

12.10-4 Pedestrian Corridors. Parking lots shall be designed to allow pedestrians to safely move from their vehicles to the building. On small lots, this may be achieved by providing a sidewalk at the perimeter of the lot. On larger lots, corridors within the parking area should channel pedestrians from the car to the perimeter of the lot or to

the building(s). These corridors should be delineated by a paving material which differs from that of vehicular areas and planted to provide shade and an edge. Small posts or bollards may be used to define/protect the pedestrian corridors. The minimum width of the sidewalk or pedestrian corridor shall be five (5) feet, with vehicle encroachment calculated as extending two (2) feet beyond curb or wheel stop.

12.10-5 Driveway Width. To maintain pedestrian comfort and calm the speed of entering traffic, driveways to parking areas should be no wider than 24 feet. Driveways connecting to state roads shall meet the requirements of the NC Department of Transportation.

12.10-6 Interconnection of Parking Lots. To the extent practicable, adjoining parking lots serving non-residential buildings shall be interconnected. When vehicular connections are not practical, pedestrian walkways shall be provided to enable pedestrian connections between parking lots.

12.10-7 Paving of Parking Lots. All commercial driveway and parking areas shall be paved with asphalt, concrete, pervious pavement and/or pavers, or brick pavers except for areas used for overflow, special events, and peak parking. Any non-paved surface used for overflow, special events, and peak parking that cannot be maintained with healthy, living turf grass or similar ground cover shall be paved with asphalt, concrete, pervious pavement and/or pavers, or brick pavers. Paving shall not be required for.

(A.) Overflow parking facilities for churches, private clubs, lodges, or other similar nonprofit organizations.

(B.) Parking areas for agricultural uses in the Agricultural (AG) District.

(C.) Parking areas for manufacturing and industrial uses in the Industrial (IND) District provided they are constructed with an all-weather surface.

(D.) Parking areas for tracked heavy construction equipment, skid-mounted equipment and similar equipment, provided they are constructed with an all weather surface.

For paved parking areas, curb and gutter or an equivalent drainage system shall be provided along the periphery of the parking lot, except where it is determined by the *Planning, Zoning and Subdivision Administrator* that such system is not practical for storm drainage and/or water quality purposes. Access drives shall be paved and maintained free from defects from the curb-line to a point at least ten (10) feet beyond the public right-of-way line for all parking and loading facilities, whether paved or unpaved.

12.10-8 Minimize Dust and Erosion. All parking areas shall be graded, properly drained, stabilized, and maintained to minimize dust and erosion.

12.10-9 Marking of Parking Spaces. All parking spaces and stacking lanes shall be clearly identified with paint lines, bumper guards, curbs, or similar treatment.

12.10-10 Wheel Guards or Curbs Required. All parking spaces abutting the perimeter or a landscape island shall be provided with wheel guards or curbs located so that no part of the parking vehicle will extend beyond the property line or encroach into a required planting area.

12.10-11 Reduction in Number of Spaces. Unless there is a change in use requiring a lesser number of spaces, the number of spaces shall not be reduced below the minimum requirements of this Article except as provided for in Section 12.5 (Requirements for Change in Use).

12.10-12 Parking Space Dimension. The minimum size for parking spaces shall be 9 feet by 18 feet as shown in the *Creedmoor Technical Standards and Specifications Manual*.

12.10-13 Plug-in Electric Vehicle (PEV) Charging Stations. PEV charging stations shall be provided for all uses where drive-through service is provided in accordance with either Section 10.1-6 or 10.1-17. Hotels and/or motels shall provide PEV charging stations within designated parking spaces for a minimum of eight percent (8%) of all guest rooms. Restaurants shall provide PEV charging stations within designated parking spaces for a minimum of four percent (4%) of the restaurant seating capacity, in addition to the requirements of Section 10.1-17.

12.10-14 Lighting and Illumination. All light fixtures (freestanding, flood, or any other form of light fixture) shall be provided with full cut-off fixtures, visors, or any other suitable directional control to direct light either downward or directly on the appropriate building. Wall pack lighting is not permitted.

No light fixture shall create any glare or spillover lighting effects on any residential properties or streets.

Freestanding light fixtures along all public street systems and internal street systems shall not exceed nineteen feet in total mounted height and shall consist of a decorative fixture that shields the source of light away from neighboring properties. Residential streets shall utilize the Open Traditional design on a 12’ black finished type “A” pole.

Lighting located within parking lots may not exceed thirty-three feet in total mounted height. Parking lot lighting shall consist of a fixture that shields the source of light away from neighboring properties and direct the illumination to the ground’s surface.

Lighting installations should include timers, dimmers, and /or sensors to reduce overall energy consumption and unnecessary lighting.

Lighting levels for canopies and awnings of commercial facilities shall be adequate

only to facilitate the activities taking place in such locations and shall not be used to attract attention to the businesses. Lighting fixtures mounted on canopies shall be recessed so that the light's lens cover is recessed or flush with the bottom surface (ceiling) of the canopy and/or shielded by the fixture or the edge of the canopy so that light is restrained. Canopies shall be constructed of non-light-emitting material.

12.11 Off-Street Parking Requirements and Bicycle Incentive

While on-street parking can contribute substantially to everyday parking needs, sufficient off-street parking must also be provided to serve the particular needs of the building(s). The following minimum and maximum requirements for off-street parking are set forth to ensure the provision of adequate off-street parking while preventing the development of parking areas that are under used. Minimum required parking spaces can be reduced by twelve percent (12%) where fully enclosed bicycle lockers are provided on a one-for-one exchange ratio, except for single family detached dwellings.

Table 12-1

Type of Land Use	**One Parking Space Required for Each:**	
	Minimum	**Maximum**
Residential		
Accessory dwelling unit	1 bedroom	0.5 bedroom
Dwellings, multi-family with 2 bedrooms or less	1 unit	0.5 unit
Dwellings, multi-family with 3 bedrooms or more	0.5 unit	0.33 unit
Dwellings, multi-family elderly or disabled	2 units	0.5 unit
Dwellings, single-family with 2 bedrooms or less	1 unit	not applicable
Dwellings, single-family with 3	0.5 unit	not applicable

bedrooms or more		
Public Facilities and Institutions		
Ambulance services, fire stations, police stations	2 employees on largest shift	1 employee on largest shift
Assisted living facilities	2 employees, plus 1 space per 2 units	1 employee, plus 1 space per 1 unit
Adult care facilities	2 employees, plus 1 space per 6 adults	1 employee, plus 1 space per 6 adults
Child care facilities	2 employees, plus 1 space per 10 children	1 employee, plus 1 space per 10 children
Churches, Synagogues, and places of worship	1 space for each 4 seats or each 40 sq. ft. of floor area available for movable seats or for each 200 sq. ft. of gross floor area	1 space for each 3 seats or each 30 sq. ft. of floor area available for movable seats or for each 150 sq. ft. of gross floor area
Civic, social service, cultural, and fraternal facilities	350 sq. ft.	250 sq. ft.
Colleges and universities	3 employees, plus one space per 3 full-time students not residing on campus	1 employee, plus one space per each full-time student not residing on campus
Family care homes and group homes, children	2 employees	1 employee
Family care homes and group homes, adults	2 employees, plus 1 space per 5 adults	1 employee, plus 1 space per 5 adults

Hospitals	4 in-patient or out-patient beds plus 1 space per 2 employees on largest shift	3 in-patient or out-patient beds plus 1 space per 1 employee on largest shift
Libraries, museums, and art galleries	450 sq. ft., plus one space per 2 employees on shift of greatest employment	250 sq. ft., plus one space per 2 employees on shift of greatest employment
Medical, dental, or related offices	Examining room plus 1 space per 2 employees, including doctors	0.33 Examining room plus 1 space per employee, including doctors
Nursing and convalescent homes	4 beds plus 1 space per 2 employees on largest shift	3 beds plus 1 space per 1 employee on largest shift
Schools (kindergarten, elementary, middle, and high)	0.5 classrooms, plus 1 space per 5 students for high schools	0.33 classrooms, plus 1 space per 5 students for high schools
Shelters	2 employees/volunteers on largest shift	1 employee/volunteer on largest shift
Office, Business, and Industrial Uses		
Banks & financial institutions	350 Sq. ft. gross floor area plus stacking for 4 vehicles for each drive through facility	250 sq. ft gross floor area plus stacking for 4 vehicles for each drive through facility
Barber shops and salons	0.5 operator stations, plus one space per 2 employees on shift of greatest employment	0.33 operator stations, plus one space per 2 employees on shift of greatest employment

Batting cages, driving ranges, miniature golf, shooting ranges	1.5 cages, tees, or firing points	1 cage, tee, or firing point
Bed and breakfast establishments, tourist home, boarding house	1 room, plus 1 space for the resident manager/ owner and 1 for each employee	0.5 room, plus 2 spaces for the resident manager/ owner and 1 space for each employee
Car wash (full service)	2 spaces in manual drying area plus 1 space per 2 employees on shift of greatest employment plus stacking for 20 vehicles	3 spaces in manual drying area plus 1 space per employee on shift of greatest employment plus stacking for 30 vehicles
Car wash (self service)	0.5 wash bays, plus 2 stacking spaces per wash bay	0.33 wash bays, plus 2 stacking spaces per wash bay
Clubs, lodges	350 sq. ft.	200 sq. ft.
Convenience stores with gas pumps	350 sq. ft. (spaces at gas pumps are not recognized as parking spaces)	200 sq. ft. (spaces at gas pumps are not recognized as parking spaces)
Delivery services	2 employees on largest shift plus 1 per vehicle used in operation	1 employee on largest shift plus 1 per vehicle used in operation
Drive through (not otherwise classified)	2 employees plus stacking for 3 vehicles at each window or machine	1 employee plus stacking for 4 vehicles at each window or machine
Equipment rental and leasing establishments	350 sq. ft.	250 sq. ft.

Flea markets; open air sales	0.5 acre of site area plus 1 per 2 employees on largest shift	0.25 acre of site area plus 1 per employee on largest shift
Funeral establishments	4 seats of largest public room, plus one space per 2 employees on shift of greatest employment	2 seats of largest public room, plus one space per 1 employee on shift of greatest employment
Furniture sales, floor covering sales	1500 sq. ft. gross floor area	1000 sq. ft. gross floor area
Health and fitness facilities, similar indoor recreation	200 sq. ft.	100 sq. ft.
Hotels and motels	2 guest rooms, plus additional spaces as required for other uses within the hotel/motel	1 guest room, plus additional spaces as required for other uses within the hotel/motel
Kennels or pet grooming	500 sq. ft. of sales, grooming, or customer waiting area plus 1 space per 2 employees on largest shift	350 sq. ft. of sales, grooming, or customer waiting area plus 1 space per 1 employee on largest shift
Live-work unit	Residential unit plus each 350 sq. ft. of office/business space	Residential unit plus each 250 sq. ft. of office/business space
Manufacturing, assembly or finishing operations	2 employees on shift of greatest employment plus 1 space per 400 sq. ft. of retail sales or customer service area	1 employee on shift of greatest employment plus 1 space per 200 sq. ft. of retail sales or customer service area

Motor vehicle, motorcycle, or recreational vehicle sales or display rental; manufactured home sales	10,000 sq. ft. of display area plus 1 space per 2 employees on largest shift	5,000 sq. ft. of display area plus 1 space per employee on largest shift
Office	350 sq. ft.	250 sq. ft.
Repair and service businesses providing on-site services	300 sq. ft.	200 sq. ft.
Repair and service businesses providing off-site services	2 employees	1 employee
Restaurants, bars, night clubs (plus 11 spaces for stacking if drive-through service is proposed)	4 seats, plus one space per 2 employees on shift of greatest employment	2 seats, plus one space per 2 employees on shift of greatest employment
Retail sales	350 sq. ft.	200 sq. ft.
Self-service storage facilities	10 storage units, plus one space per 2 employees on shift of greatest employment	5 storage units, plus one space per 2 employees on shift of greatest employment
Servicing, packaging, and storage of commodities	2 employees on shift of greatest employment	1 employee on shift of greatest employment
Theaters, stadiums, arenas, and sports courts	4 seats	3 seats
Vehicle service	1 service bay, plus	0.33 service bays, plus one space

stations and auto repair garages (spaces at gas pumps are not recognized as parking spaces)	one space per 2 employees on shift of greatest employment	per 2 employees on shift of greatest employment
Veterinary services	1 employee (including doctors) plus 2 spaces per doctor	1 employee (including doctors) plus 4 spaces per doctor
Warehouses, wholesale, and distributive businesses	2 employees on shift of greatest employment, plus one space per 350 sq. ft. of area open to the public	1 employee on shift of greatest employment, plus one space per 250 sq. ft. of area open to the public
Other		
Amusement parks, fairgrounds, skating rinks	350 sq. ft. of activity area	250 sq. ft. of activity area
Athletic fields	350 sq. ft. of field	250 sq. ft. of field
Equestrian facility	2 stalls	1 stall
Golf courses	0.5 tee	0.25 tee
Tennis Courts	1 court	0.5 court

For any use not specifically listed in this Section, the parking, stacking and loading requirements shall be those of the most similar use.

12.12 Off-Street Parking Exceptions

The following exceptions to the off-street parking requirements of section 12.11 shall be permitted.

12.12-1 Existing Buildings and Infill Housing in the MS Districts. In the Main Street (MS) District, existing buildings that were legally constructed without the provision of on-site parking, and infill housing on existing lots of record may meet requirements with on-street parking, if available, and will be construed conforming as

to parking. Such buildings are eligible for change of use permits, and for building upfits. Any expansion of the building and/or use shall provide off-street parking as required by this Article.

12.12-2 Parking Reduction in MS District. In the Main Street (MS) District, the off-street parking requirements of this Article shall be reduced 50% for all uses where shared and/or remote parking provisions are made in accordance with Sub-section 12.12-8 below.

12.12-3 Fee in Lieu in MS District. In the Main Street (MS) District, uses may provide a fee in lieu of providing any or all of the off-street parking required by this Article. This fee shall be in the amount determined by the City of Creedmoor and based on the cost of providing parking (including land costs, development costs, and maintenance costs) in the Main Street (MS) District. Such fee(s) shall be used by the City for the provision and maintenance of parking in the Main Street (MS) District. Any fee collected in lieu of providing the required parking for a particular business or use shall be used to provide or maintain parking that can be used by clients, customers, employees, and others frequenting that business or use. Such parking shall be located within a reasonable distance (not more than 1,350 feet as measured along pedestrian ways) of the business or use providing the fee in lieu.

12.12-4 On-Street Parking for Residential Buildings. Residential buildings may meet or contribute to meeting parking requirements with on-street parking, where available and approved by the Technical Review Committee (TRC), if individual driveways are minimized and the fronting street is specifically designed to meet the parking needs of the residential buildings.

12.12-5 Parking on Streets in Residential Districts. Parking shall be allowed along all streets in residential districts except along alleys, designated bike lanes, and areas specifically signed for no parking. Vehicles shall park so as not to block access to properties.

12.12-6 No Parking in Right-of-Way. In no case shall off-street parking extend into the public right of way, or into an easement for a public sidewalk on private property.

12.12-7 Storage of Vehicles on Street. Vehicles shall not be parked on the street for extended periods such that they appear to be stored on the street. The *Planning, Zoning and Subdivision Administrator*, at his/her discretion, may require removal of vehicles that appear to be stored on the street in the interest of protecting the public safety and welfare.

12.12-8 Shared and Remote Parking

(A.) Shared parking. The *Planning, Zoning and Subdivision Administrator* shall approve the joint use of up to 100 percent of the required parking spaces for two or more uses

located on the same parcel or adjacent parcels; provided that the developer can demonstrate that the uses will not overlap in hours of operation or in demand for the shared spaces. Any sharing of required parking spaces by uses located on different parcels shall be guaranteed by a written agreement between the owner of the parking area and the owner of any use located on a different parcel and served by the parking area. Should the uses change such that the new uses overlap in hours of operation or in demand for the shared spaces, the shared parking approval shall become void. Parking meeting the requirements of this Article shall then be provided for each use. Parking agreements shall be for a minimum of five (5) years, shall run with the property, and shall be recorded in the office of the Register of Deeds for Granville County. A sidewalk or other pedestrian way shall connect the shared parking area to the uses for which parking is being provided.

(B.) Remote parking. If the required number of parking spaces for any land use cannot be reasonably provided on the same lot on which the principal use is located, such parking space may be provided, for up to a maximum of 50% of the required parking, on any land within 750 feet walking distance of the property on which the principal use is located, provided that the zoning use regulations for the district in which the remote parking space is located permit the principal use which the parking spaces serve and, provided further, that no crossing of a major thoroughfare is required to travel from the use to the remote parking spaces, unless the pedestrian may access the remote parking by crossing said thoroughfare at a signalized crosswalk. Uses that cannot provide the remaining 50% of the required parking on-site must pay a fee-in-lieu or otherwise comply with the off street parking requirements. Any remote parking spaces located on a different parcel than the use for which the remote parking spaces serve shall be guaranteed by a written agreement between the owner of the remote parking area and the owner of the use located on a different parcel and served by the remote parking area. Change of ownership of either parcel shall require a renewal of the agreement. Parking agreements shall be for a minimum of five (5) years, shall run with the property, and shall be recorded in the office of the Register of Deeds for Granville County.

12.13 Loading Areas

Off-street loading areas shall be provided to allow for delivery, loading, and similar activities to occur in a safe, designated area that will not impede the flow of traffic or block pedestrian or vehicular access.

12.13-1 Location. Off-street loading areas shall be located on the same zone lot as the use they serve.

12.13-2 Minimum Size. The minimum size for an off-street loading area shall be 250

square feet.

12.13-3 Arrangement. All off-street loading areas shall be arranged and marked to provide for orderly and safe unloading and loading, and shall not hinder the free movement of vehicles and pedestrians. All loading and unloading maneuvers shall take place on private property. No backing in from street or maneuvering on right-of-way shall be permitted.

12.13-4 Minimum Number of Loading Areas Required.

(A.) Retail operations, including restaurant and dining facilities within hotels and office buildings:

Gross Floor Area (SQ. FT.)	Number of Areas
1 – 10,000	0
10,001 - 40,000	1
40,001 - 75,000	2
75,001 - 150,000	3
150,001 - 250,000	4
For each additional 250,000 square feet or fraction thereof	1

(B.) Office buildings and hotels:

Gross Floor Area (SQ. FT.)	Number of Areas
0 - 100,000	0
For each additional 100,000 square feet or fraction thereof	1

(C.) Industrial and wholesale operations:

Gross Floor Area (SQ. FT.)	Number of Areas
0 - 10,000	0
10,000 - 40,000	1
40,001 - 100,000	2
100,001 - 160,000	3
160,001 - 240,000	4
240,001 - 320,000	5
320,001 - 400,000	6
For each additional 90,000 square feet or fraction thereof	1

ARTICLE 13

STREETS

13.1 General

Streets should be designed to suit their functions. Many streets, especially local ones, have purposes other than vehicular traffic. As an alternative to current N.C. Department of Transportation road standards, the following street standards are provided for non-state maintained streets within the City of Creedmoor and for streets within the Extraterritorial Zoning Jurisdiction that will be maintained by the City upon annexation. Streets built to the standards identified in this section are eligible for City maintenance.

Streets in Creedmoor should be inviting public space and integral components of community design. A hierarchical street network should accommodate a variety of uses, including bicycle, pedestrian, motor-vehicle and transit routes. All streets should connect to help create a comprehensive network that enables the free movement of automobiles, bicyclists, and pedestrians. In order for this street network to be safe for motorists and pedestrians, design elements must consistently be applied to calm automobile traffic.

Where discrepancies occur between the text of this Ordinance and the City of Creedmoor Technical Standards and Specifications Manual, the Technical Standards and Specifications Manual shall prevail.

13.2 Street Standards

Streets in the City of Creedmoor shall:

13.2-1 Interconnect. Interconnect within a development and with adjoining development. Cul-de-sacs shall be allowed only where topographical and/or lot line configurations offer no practical alternatives for connections or through traffic. The location of streets as shown in the *City Plan* shall govern connectivity designs. Street stubs shall be provided within developments adjacent to open land to provide for future connections except where environmentally sensitive areas such as wetlands, creeks, steep slopes and conservation areas are vulnerable to harmful impacts by the extension of the street.

13.2-2 Pedestrian Scaled. Be designed as the most prevalent public space of the City and, thus, scaled to the pedestrian.

13.2-3 Bordered by Sidewalks. Be bordered by sidewalks with a minimum width of five (5) feet on both sides, with the exception of rural roads, lanes, alleys, and the undeveloped edge of neighborhood parkways. Sidewalks are not permitted in the

Agricultural District (AG) to protect water quality. Sidewalks may be located in the street right-of-way, on private or public property, or in common areas. All sidewalks not located within the public right-of-way shall have a public access easement permitting public use of the sidewalk.

13.2-4 Street Trees. Be lined with street trees located on both sides, with the exception of rural roads, lanes, alleys, and the undeveloped edge of neighborhood parkways. Street trees along streets shall be located in a planting strip as per the standards set forth in Subsection 11.6-3 and the City of Creedmoor Technical Standards and Specifications Manual.

13.2-5 Public Streets. Streets shall be public. Private streets are permitted on a limited basis only in accordance with standards set forth in Subsection 2.2(C) of this Ordinance and when constructed in accordance with the standards set forth in the City of Creedmoor Standards and Specifications Manual. Alleys will be classified as public or private depending on function, according to the street acceptance policy.

13.2-6 Focus for Buildings. All principal buildings should front on public streets as dictated by the lot and building type standards of Article 9

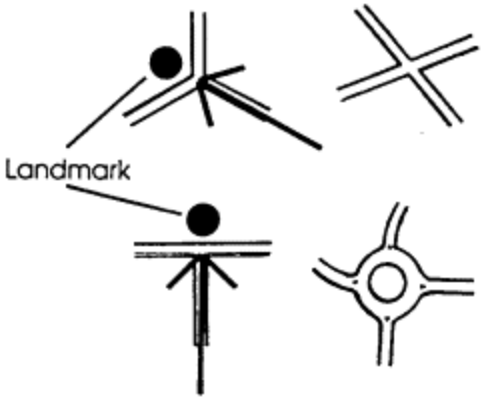
13.2-7 Street Lights. Be illuminated by street lights located on at least one side and at all intersections, with exception of rural roads, lanes, alleys, and the undeveloped edge of neighborhood parkways. Street lights along streets shall be located in a planting strip as per standards set forth in the City of Creedmoor Technical Standards and Specifications Manual. Maximum spacing of street light fixtures shall be 120 linear feet measured along the street centerline. The maximum height of street light fixtures shall be 14 feet in residential areas. Street light fixtures shall not produce direct light into adjacent properties at a height above 6 vertical feet at the building setback line of residential districts. Street lights within mixed use districts shall not produce a direct light into adjacent properties at a height above 16 vertical feet at the building setback line. Street lights within non-residential districts shall not produce a direct light into adjacent residential properties at a height above 6 vertical feet at the property line.

13.3 Intersections

Segments of straight streets should be interrupted by intersections designed to:

13.3-1 Reduce Speed. Disperse traffic flow and reduce speeds, thereby eliminating the creation of de facto collector streets with high speed, high volume traffic; and

13.3-2 Terminate Vistas. Terminate vistas with a landmark such as a significant natural feature, a building, a small park, or other public space.



Other traffic calming measures such as neck-downs, chicanes, mid-block diverters, intersection diverters, curb bulbs, serial hill crests, and related devices will be considered on a case by case basis, based on safety and appropriateness in the proposed location.

13.4 Blocks

Street blocks defined by public streets are the fundamental design elements of traditional neighborhoods. The location of streets as shown in the *City Plan* shall govern block size design. In urban conditions, any dimension of a block may range from 250 to 500 linear feet between cross streets. In major subdivisions the dimension of blocks may not exceed 800 linear feet between cross streets. Within subdivisions with average lots exceeding one acre in size, the blocks may be up to 1500 feet. The block pattern should continue to establish the development pattern at the project edge. Where a longer block will reduce the number of railroad grade crossings, major stream crossings, or where longer blocks will result in an arrangement of street connections, lots and public space more consistent with this Article and Article 11 of this ordinance, the Technical Review Committee may authorize greater block lengths at the time of subdivision preliminary plat review and approval.

13.5 Street Plan

The layout of streets should provide structure to the neighborhoods. The location of streets as shown in the *City Plan* shall govern the location of street design. The formality of the street plan will vary depending upon site conditions and topography. Unique site conditions should be used to create special neighborhood qualities. The street plan for new developments should reflect the character of the City of Creedmoor and comply with the standards set forth in section 13.2 above.

13.6 Street Design

Designs should permit comfortable use of the street by motorists, pedestrians, and

bicyclists. The location of streets as shown in the *City Plan* shall govern the level of service and design of streets. Pavement widths, design speeds, and the number of motor travel lanes should be minimized to enhance safety for motorists and non-motorists alike. The specific design of any given street must consider the building types as shown in Article 9 which have frontage and the relationship of the street to the overall City street network. The following specifications apply to street design:

13.6-1 Street trees and sidewalks are required on both sides of public streets except rural roads, lanes, alleys, and the undeveloped edge of neighborhood parkways except that sidewalks on one side of the road directly abutting residential lots of less than 1.2 acres may be permitted in the Agricultural District (AG) to protect water quality. The street tree planting strip shall be a minimum of 8' in width and sidewalks shall be a minimum of 5'-0" in width unless otherwise provided. On commercial streets, sidewalks should be a minimum of 6'-0" in width. A 8' minimum width sidewalk with tree grates or cut-outs is required on specific street segments designated by the *City Plan* in the Main Street District (MS). Generally, canopy trees shall be planted at a spacing not to exceed 40' on center. Where overhead utility lines preclude the use of canopy trees, small maturing trees may be substituted, planted 30' on center.

13.6-2 On-street parking is recommended where building type and use will generate regular parking use. Occasional on-street parking can be accommodated without additional pavement width. For streets that serve workplace and storefront buildings, on-street parking lane(s) are required and should be marked as such. An on-street parking lane on at least one side of the street is recommended on streets serving attached houses and detached houses with lots 60' or less in width. On-street parking must also be provided on specific street segments as shown in the *City Plan* and on one side of any street adjacent to a square, park or other Urban Open Space. Parallel on-street parking width is 7' - 8' except as shown in street segment cross-sections specific to certain street segments shown within the *City Plan*. On-street parking should be parallel; angled parking is only permitted as an intentional design element along the main street(s) of the retail centers.

13.6-3 Design speeds should not exceed 30 miles per hour on any neighborhood street. Only arterials and City boulevards may exceed this design speed.

13.6-4 Traffic control plans showing signage and pavement markings shall be prepared in accordance with the guidance of the Manual on Uniform Traffic Control Devices. The developer is responsible for the initial installation of the devices or markings and the maintenance thereof until the public accepts the street for maintenance.

Design standards and specifications for City streets are set forth in the City of Creedmoor Technical Standards and Specifications Manual. The street specifications in this manual may only be varied in accordance with the design principles set forth

above and as approved by the Technical Review Committee during the site plan or subdivision plat review process.

13.6-5 Cul-de-sacs shall have a minimum 5' pedestrian access easement, and should have paved pedestrian connections, where practicable to encourage pedestrian access connectivity. See additional cul-de-sac standards in Article 16.2-7, Street Design.

ARTICLE 14

FLEXIBLE DEVELOPMENT STANDARDS

14.1 Purpose

The purpose of this section is to provide the Technical Review Committee with the authority to allow deviations from the minimum development standards for setbacks, lot area, and lot dimension as otherwise set forth in this land development ordinance provided that certain conditions exist. The intent of this section is to promote the orderly and efficient development and redevelopment of property within the City of Creedmoor.

14.2 Approval of Flexible Development Standards

Determination of the applicability of flexible development standards shall be made by the Technical Review Committee (TRC) and, in applying these standards, the TRC may establish conditions to ensure that the circumstances which warranted the application of the flexible development standards are maintained. Decisions by the TRC shall be in writing and may be appealed to the Board of Adjustment by following the procedures for zoning appeals as provided in Article 6.

14.3 Flexible Development Standards Permitted

The cumulative total of any flexible development standard applied to a property by category or location shall not exceed the allowances set forth in this section. The TRC shall maintain appropriate records to ensure compliance with this provision. The following flexible development standards may be approved by the TRC:

14.3-1 Setbacks. The TRC is authorized to approve requests that deviate from required setbacks set forth in Article 8 (Zoning Districts) and Article 9 (Building and Lot Type Standards) of this Ordinance by up to ten percent (10%) of the required setbacks or 30 inches, whichever is greater, upon determination that one or more of the following conditions exists:

(A.) There are site or structural conditions that preclude strict adherence to the setback requirements, such as, but not limited to:

(1.) the lot does not meet the dimensional standards established for the zoning district in which it is located;

(2.) the lot has topographic limitations that require placement of the structure into the required setback area; or

(3.) the structure is physically in line with an existing, legally-established wall or walls of a principal structure already within the minimum setback area.

(B.) The part of the proposed structure that encroaches into the minimum setback area is necessitated by a life-safety code, flood hazard reduction, Americans with Disabilities Act standard, or other public safety code requirement(s).

(C.) The reduction of the front and/or corner side setback allows the structure to meet the average front and/or corner side setback of other existing structures in the applicable block face.

(D.) The placement of the proposed structure will allow for the preservation of significant existing vegetation.

14.3-2 Lot area and lot dimension. The TRC is authorized to approve requests to permit a reduction of up to ten percent (10%) in the minimum lot area or lot dimensional standards set forth in Article 8 (Zoning Districts) and Article 9 (Building and Lot Type standards), upon finding that the reduced lot area and/or lot dimensions will not inhibit the reasonable use of the lot and that the reduced lot area and/or lot dimensions are in keeping with the historic pattern of development in the area.

14.3-3 Building coverage and frontage. The TRC is authorized to approve requests to permit a reduction of up to ten percent (10%) in the building coverage and frontage standards set forth in Article 8 (Zoning Districts) and Article 9 (Building and Lot Type Standards) of this Ordinance, upon finding that the reduced building coverage and/or frontage will not adversely impact the development pattern of the street which is the location of the property for which the adjustment is requested.

14.4 Variances

No variances shall be allowed with regard to deviations from development standards that have been approved pursuant to this Article nor shall any deviations from these development standards make void or otherwise modify any variance decision by the Board of Adjustment.

ARTICLE 15

SPECIAL EVENTS AND TEMPORARY STRUCTURES

15.1 General standards and limitations

It is the purpose of this section to provide specific guidelines and standards for special events and temporary structures. A special event or temporary structure allowed in a particular zoning district shall be treated as a use with additional standards and shall comply with all listed requirements for such event or structure as set forth in sections 15.2 and 15.3 below. These standards do not regulate events sponsored by the City of Creedmoor.

15.2 Requirements for Special Event and Temporary Structure Permits

The *Planning, Zoning and Subdivision Administrator* shall issue a permit only upon finding that the proposed special event and/or temporary structure(s) satisfies the following requirements:

(1.) The special event and/or temporary structure is permitted under subsection 15.3 below.

(2.) The property contains sufficient space to support the special event and/or temporary structure.

(3.) Parking is deemed adequate to accommodate the proposed special event and/or temporary structure in addition to required parking for any permanent use or uses also located at the site.

(4.) The special event and/or temporary structure will not create hazardous vehicular or pedestrian traffic conditions and adequate space is provided for access and maneuvering.

(5.) Adequate sanitary facilities, utility, drainage, refuse management and similar necessary facilities and services will be available to serve employees, patrons and/or participants.

(6.) Security personnel and safety precautions are provided.

(7.) All permits required by applicable construction codes have been made and occupancy approved by the agency charged with enforcing such regulations.

(8.) Special events are allowed to encroach within required building setbacks, but cannot be located within required buffers, street tree planting strips, or other required landscaped areas. Temporary structures must comply with minimum setback requirements of the zoning districts in which they are located.

(9.) The special event and/or temporary structure is in compliance with all other applicable requirements.

15.3 Special Events and Temporary Structures Allowed.

The uses and structures in Table 15.1 may be established as special events and/or temporary structures in the zoning districts listed in accordance with the requirements in section 15.2.

TABLE 15.1

Special Event or Temporary Structure	Maximum Duration	Maximum Frequency	Permitted Districts	Permit Required	Additional Standards
Christmas trees, pumpkins or other seasonal material sales/events by: commercial vendors _____ Christmas trees, pumpkins or other seasonal material sales/events by: institutional and/or registered non-profit organizations 501C(3)	45 days	2 per calendar year	AG, C 15, C 56, IND, MFO _____ All districts	No	Not permitted within public right-of-way
Construction containers	During active building permit	During active building permit	All districts	No	See note 1 below
Events of public interest	3 days	4 per year	AG, MSP, MS, CIV, IND, C 15, C 56	No	See note 2 below

Farmer market	2 days	30 per year	AG, MSP, MS, CIV, IND, C 15, C 56	No	Sidewalks must have a minimum 5'-0" travel-way clear of obstructions at all times All products and advertising shall be limited to the area directly in front of the sponsoring vendor
Model home or real estate sales office	3 years	N/A	AG, SFR, R/MST, MSP	Yes	See note 3 below
Outdoor bazaars and retail sales, with temporary structure(s)	7 days	2 per year	MSP, MS, CIV, IND, C 15, C 56	Yes	Not permitted within public right-of-way
Outdoor sidewalk and retail sales, without temporary structure(s)	3 days	6 per year	MSP, MS, CIV, IND, C 15, C 56	Yes	Sidewalks must have a minimum 5'-0" travel-way clear of obstructions at all times All products and advertising shall be limited to the area directly in front of the sponsoring vendor

Temporary portable office	1 year	N/A	All districts	Yes	See note 4 below
Storage container, portable on demand	90 days	2 per year	AG, SFR, R/MST, MSP	No	See note 1 below
Storage container, portable on demand	90 days	2 per year	MSP, MS, CIV, IND, C 15, C 56	No	See note 1 below
Yard sales	Noon Friday to noon Monday	3 per year	AG, SFR, R/MST, MSP	No	See section 17.8-2 of the City of Creedmoor Sign Regulations

NOTES:

(1.) Construction and storage containers. Construction and storage containers are not intended to be used for long-term on-site storage and any such use in any zoning district is expressly prohibited. Construction containers shall be allowed as a temporary use while a valid building permit is in effect for the construction project. Storage containers shall be allowed as a temporary use when in compliance with the following standard

(a.) Each container shall be in compliance with any applicable sign regulations.

(b.) In residential districts, portable on-demand storage units may be located for a period of time not to exceed ninety (90) consecutive days in duration from the time of delivery to the time of removal, two times per calendar year, provided they are placed in a location where sight visibility is not obstructed. Further, these units shall be located in a manner which does not hinder access to the site or to off-street parking spaces.

(c.) In all non-residential districts, portable on-demand storage units may be located for a period of time not to exceed ninety (90) consecutive days in duration from the time of delivery to the time of removal, up to two times per calendar year, provided they are placed on a paved surface and do not obstruct sight visibility. Further, these units shall be located in a manner which does not hinder access to the site or to off-street parking spaces. Multiple units may be used at one time.

(2.) Event of public interest. An event of public interest is a special event involving the expected congregation of 100 or more persons at any one event. An event of public interest includes, but is not limited to: picnics, dinner dances, fund raisers, haunted houses, outdoor concerts, auctions, carnivals, fairs, tent revival meetings, and supervised public display of fireworks. An event of public interest shall be subject to the following standards:

(a.) All activities and uses shall be limited to the dates and hours of operation specified in the permit.

(b.) Traffic control shall be arranged by the operators of the event in accordance with the requirements of the City of Creedmoor Police Department and/or the Granville County Sheriff's Office, as applicable.

(c.) Public parking for the exclusive use of the facility/event shall be provided and a stabilized drive to the parking area shall be maintained. It is the responsibility of the operators to guide traffic to these areas. No parking shall be permitted on any road or public right-of-way except as allowed by the temporary use permit.

(d.) The site shall be cleared of all debris within twenty-four (24) hours after the closing of the event and cleared of all temporary structures within seven days after closing of the event.

(e.) An approved public safety plan identifying the means by which public safety will be ensured during the conduct of the special event shall be required for an event of public interest. If the public safety plan is violated or if unforeseen circumstances arise that result in the special event becoming a threat to the public health, safety or welfare, authorized personnel from the City of Creedmoor Police Department and/or Granville County Sheriff's Office shall have the right to order the event to be closed.

(3.) Model home or real estate sales office. A model home sales office shall be allowed within a new residential development of more than eight units or lots, subject to approval by the *Planning, Zoning and Subdivision Administrator* as a temporary structure, subject to the following:

(a.) There is no more than one temporary real estate sales office in the development.

(b.) Model home sales office may be approved for a period of up to three years or when all units are sold to resident owners, whichever occurs first. This period may be extended for additional six-month periods, for good cause shown, upon approval of a written request for such an extension by the *Planning, Zoning and Subdivision Administrator*. The request shall be submitted to the *Planning, Zoning and Subdivision Administrator* at least 30 days prior to the expiration of the special event/temporary use permit.

(4.) Temporary portable office. A temporary portable office may be placed on a property to serve as the following:

(a.) Temporary offices for construction and security personnel during the construction of a development for which the City of Creedmoor has issued either/or a zoning permit and/or approved preliminary plat, and/or a building permit.

(b.) Disaster relief and/or emergency management related uses including medical facilities. Temporary portable offices for emergency relief and/or management may be approved for a period of up to one year. This period may be extended for additional six-month periods, for good cause shown, upon approval of a written request for such an extension by the *Planning, Zoning and Subdivision Administrator*.

(5.) Additional information regarding requirements for Special Events may be found in the City of Creedmoor General Ordinances under "Chapter 94: Parades and Demonstrations", adopted separately from this Ordinance by the City Board of Commissioners. Applicants for special events may be held to the standards set forth in both Ordinances concurrently.

ARTICLE 16

SUBDIVISIONS

16.1 Subdivision Regulations

16.1-1 Purpose.

The regulations for the subdivision of land set forth below are established to promote orderly growth and development; provide for suitable residential and nonresidential subdivisions with adequate streets and utilities and appropriate building sites; provide for the coordination of streets within subdivisions with existing or planned streets and with other public facilities; provide for the dedication or reservation of rights-of-way or easements for streets and utility purposes; and provide proper land records for the convenience of the public and for better identification and permanent location of real property boundaries.

16.1-2 Exempt land divisions.

(A.) Divisions of land exempt. In accordance with N.C. Gen. Stat. sec. 160A-376, the following divisions of land are not included within the definition of "subdivision", and are not subject to the City's subdivision regulations:

(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 of the City of Creedmoor as shown in the City's subdivision regulations;

(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 of the City as shown in the City's subdivision regulations;

(5.) The subdivision or recombination of land by public utilities.

In case of a conflict between this description of exempt subdivisions and state law (N.C. Gen. Stat. sec. 160A-376, or any successor statute), state law shall control.

(B.) Planned communities. In accordance with the North Carolina Planned Community Act (Chapter 47F of N.C. Gen. Stat.), Planned communities are not included in the definition of "subdivision" and are not reviewed or recorded as such. Those developments meeting the criteria established by the Act will undergo a site plan

review as described in Article 7 of this ordinance. Planned communities shall be reviewed against and held to those standards established for substantially similar developments and shall comply with the following standards established by the Act.

(1.) Consist of more than 20 dwelling units or provides a declaration that the development is a planned community.

(2.) Be exclusively residential.

(3.) Establish a homeowners association.

(4.) The developer shall demonstrate adequate provision for perpetual maintenance of the private infrastructure and common areas associated with the development by the homeowners' association.

(C.) Determination and certification of exemption. The determination of whether a division of land is exempt from the definition of subdivision shall be made by the *Planning, Zoning and Subdivision Administrator*, upon application of the property owner or agent, with supporting documentation (maps, plats, etc.), as needed. Upon a determination by the *Planning, Zoning and Subdivision Administrator* that the proposed subdivision is exempt, a certificate of exemption shall be issued, and the subdivision shall not be subject to the City's subdivision regulations.

(D.) Effect of certification of exemption. Divisions of land found to be exempt from the definition of subdivision are not required to meet the City's subdivision regulations. However, a building or zoning permit may only be issued with respect to a lot that has been created by an exempt division if said lot meets the standards for development set forth elsewhere in this Ordinance. Where a regulation is contained both in this article and elsewhere in this Ordinance, although the regulation need not be met prior to property division and recordation, the lot in question must comply with said regulation before either a zoning or building permit may be issued for the property.

(E.) Platting Required. A subdivision plat meeting the requirements of NCGS 47-30 shall be prepared for all exempt subdivisions. The plat shall identify the subdivision as being exempt from the requirements of this ordinance and shall be submitted to the *Planning, Zoning and Subdivision Administrator* for review. Following his/her review of the subdivision plat, the *Planning, Zoning and Subdivision Administrator* shall sign it and provide a copy to the applicant. The signed plat shall be recorded by the applicant in the office of the Register of Deeds of Granville County within thirty (30) days of being signed by the *Planning, Zoning and Subdivision Administrator.*

16.1-3 Coordination with Other Requirements.

When applications for other approvals are required for the subdivision, applications for these approvals may be submitted simultaneously with the initiation of the

subdivision approval process to reduce the time required to secure all necessary approvals. Application forms as required for other approvals may be obtained from the *Planning, Zoning and Subdivision Administrator.*

16.1-4 Submittal.

Applications for subdivision approval shall be submitted to the *Planning, Zoning and Subdivision Administrator* and must include plats with all information as required by this Ordinance. Application for subdivision shall be filed in accordance with Article 7 of this Ordinance.

16.1-5 Approval Required.

(A.) Date of compliance. After the effective date of this Ordinance, no plat for the subdivision of land within the planning and regulation jurisdiction of the City of Creedmoor shall be filed, accepted for recording, or recorded, nor shall the clerk of superior court order the recording of a plat until it has been submitted to the *Planning, Zoning and Subdivision Administrator* and approved as set forth herein. The signature of the *Planning, Zoning and Subdivision Administrator* on the plat shall signify conformance with the requirements set forth in this chapter unless documented to be in error.

(B.) No conveyance without approval. No real property lying within the planning and regulation jurisdiction of the City of Creedmoor shall be subdivided until it conforms with all applicable sections of this Article. Violations of this Article shall be subject to the penalties set forth in Article 23. Any sale or transfer of land in a subdivision subject to these regulations by reference to an unapproved plat or the use of a metes and bounds description shall be considered a violation of this chapter.

(C.) Pre-sale contracts. The provisions of this section shall not prohibit any owners or its agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not yet been properly approved under the subdivision ordinance or recorded with the register of deeds, provided the contract does all of the following:

(1.) Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owners to deliver to the buyer a copy of the recorded plat prior to closing and conveyance.

(2.) Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or lease may be

terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat.

(3.) Provides that if the approved and recorded final plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five days after the delivery of a copy of the final recorded plat.

(4.) Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.

The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under the subdivision ordinance or recorded with the register or deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under the subdivision ordinance and recorded with the register of deeds. (G. S. 160A-375(b))

16.1-6 Designation of approval agency.

The City of Creedmoor Planning Department is designated as a planning agency for the purposes of N.C. Gen. Stat. sec. 160A-373. The *Planning, Zoning and Subdivision Administrator* or his/her designee shall be authorized to sign the plat signifying final approval of subdivisions.

16.1-7 Violations.

Violations of the provisions of this section shall be subject to the enforcement and penalty provisions set forth in Article 23 of this Ordinance. In addition to being subject to the provisions for enforcement in Article 23 of the Ordinance, any person who, being the owner or agent of the owner of any land located within the City's jurisdiction, subdivides his land in violation of the ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under such ordinance and recorded in the office of the appropriate register of deeds, shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from these

penalties. The City may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the courts shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision ordinance. Building permits required pursuant to G. S. 160A-417 may be denied for lots that have been illegally subdivided. In addition to other remedies, the City may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act of conduct. (G. S. 160A-375 (a))

16.1-8 Dedication and acceptance of public areas.

(A.) Rights-of-way and easements. The approval of a final plat constitutes dedication but does not constitute acceptance by the City of Creedmoor or the public of the right-of-way of each public street and easement shown on the plat. The approval of a plat does not constitute acceptance for maintenance of other improvements in the right-of-way such as street paving, utility lines, drainage facilities or sidewalks. When located within the corporate limits of the City of Creedmoor, such dedications may be accepted only by resolution of the Creedmoor City Board of Commissioners or by their designee following inspection and approval to ensure compliance with specifications established by the City or by the City exercising control over and maintaining these areas. Until the offer of dedication is accepted by the City in either of these manners, the developer shall be responsible for maintenance of those areas.

(B.) Open space. Land designated as public open space or a park on a plat shall be considered to be offered for dedication, but not accepted until the Creedmoor City Board of Commissioners, or their designee, has by express action done so. Until such dedication has been accepted, such areas may be used for open space purposes by its owner or by an association representing owners of lots within the subdivision. Land so offered for dedication shall not be used for any purpose inconsistent with the proposed public use without the approval of the Creedmoor City Board of Commissioners.

(C.) Sites for public facilities. Where a school or other public site is shown on an approved plat recorded with the Register of Deeds, the site shall either be dedicated for public purpose at the option of the property owner or reserved for acquisition by the Granville County School Board for a period not exceeding 18 months from the date of approval of the preliminary subdivision plan.

16.1-9 Required improvements.

Improvement requirements shall be fulfilled or guaranteed before a final plat shall be approved by the *Planning, Zoning and Subdivision Administrator* for recording.

(A.) Street and utility construction.

(1.) Plans. Construction plans for all street, sidewalk, water, sanitary sewer, and stormwater facilities shall be submitted to the City of Creedmoor either concurrent with or following preliminary plat approval. The street and utility construction plans for each subdivision, or portion thereof, shall include all improvements lying within or adjacent to the subdivision as well as improvements to all streets, sidewalks, stormwater facilities, and water and sanitary sewer lines lying outside the subdivision which provide service to the subdivision. No final plat shall be approved or a Certificate of Occupancy issued until all improvements have been installed and approved or a financial guarantee accepted.

(2.) No construction without plan approval. No improvement to or new construction of street, sidewalk, water, sanitary sewer, and stormwater facilities shall be permitted until the street and utility construction plans for such improvements/construction have been reviewed and approved by the City of Creedmoor and appropriate governmental agencies. These agencies may include, but shall not be limited to, the Division of Water Quality of the North Carolina Department of Environment and Natural Resources, the North Carolina Department of Transportation, and the Division of Environmental Management of the North Carolina Department of Environment and Natural Resources, or their successors.

(3.) Inspection of construction. All construction undertaken pursuant to approved street and utility construction plans shall be inspected and approved by the City of Creedmoor and/or the appropriate governmental agencies.

(B.) Guarantee in lieu of construction of improvements. In lieu of completion of construction of the required improvements and utilities prior to final plat approval, the property owner may.

(1.) Submit a performance bond from a corporate surety, licensed in North Carolina to execute such bonds; or

(2.) Provide an irrevocable letter of credit payable to the City of Creedmoor; or

(3.) Deposit or place in escrow a certified check or cash in an amount determined by the City. Portions of the security deposit may be released as work progresses; or

(4.) Enter into an agreement with the City guaranteeing the completion of the required work, the agreement to be binding on subsequent purchasers of the property and to be recorded at the option of the City. The agreement shall provide that satisfactory security be furnished guaranteeing the completion of the necessary improvements before each section is developed.

The performance bond or irrevocable letter of credit shall be in an amount equal to a minimum of 125% and up to a maximum of 150% of the estimated cost of the installation of the required improvements, as determined by the City. The performance bond, letter of credit or surety shall be from a corporate surety, licensed

in North Carolina to execute such bonds and having a "Superior or Excellent" rating by Standard & Poor, Moody's, Fitch, or A.M. Best. The performance bond or the irrevocable letter of credit shall secure the completion of construction of the improvements shown on the approved preliminary plat and as detailed within the approved construction plans. The letter of credit or bond shall remain in full force and effect until such time as the construction of improvements and installation of utilities are completed and accepted by the City of Creedmoor. Failure to maintain the required bond or irrevocable letter of credit shall result in the revocation of the approval of the preliminary plat and any permits issued as a result of the preliminary plat approval. The bond or irrevocable letter of credit shall be automatically renewed unless all parties agree not to renew it at least sixty (60) days prior to its scheduled expiration date.

A temporary construction easement permitting the City of Creedmoor or its designee(s) to access the property for the purpose of constructing/installing the guaranteed improvements may be required (at the City's discretion) to be provided with the performance bond, irrevocable letter of credit, or other form of guaranty. The temporary construction easement shall be valid until all guaranteed improvements have been constructed/installed and approved or accepted by the City. The temporary construction easement shall pass to all successive owners until the guaranteed improvements have been constructed/installed and approved or accepted by the City. Said temporary construction easement shall be recorded at the office of the Granville County Register of Deeds, with recording fees to be paid by the applicant/landowner.

(C.) Failure to perform. Failure to initiate construction of the improvements within one year of the date the bond, letter of credit, or escrow agreement was accepted by the City of Creedmoor shall result in the City, at its sole discretion, constructing the improvements, with the cost to be paid from the letter of credit, bond, or escrow account. The surety or the financial institution holding the escrow account shall, if requested by the City pay all or any portion of the bond or escrow fund to the City up to the amount needed to complete the improvements based on an estimate by the City. The City at its discretion may spend such portion of said funds as deemed necessary to complete all or any portion of the required improvements. The City shall return to the developer any funds not spent in completing the improvements. Default on a project does not release the developer from responsibility for the completion of the improvements. The City may release a portion or all of any security posted as the improvements are completed and approved by the City. In the event that the amount of the letter of credit, bond, or escrow account on hand is insufficient to pay for the completion of the improvements, the property owner shall pay to the City of Creedmoor the total amount of the insufficiency. If the City is not paid, the amount of

the insufficiency shall constitute a lien on the property in favor of the City.

16.1-10 Maintenance of common areas.

Where subdivisions have common areas or facilities serving more than one dwelling unit, the developer shall be responsible for the maintenance of these common areas and facilities. This responsibility may be transferred to another entity, provided the developer prepares a document for recordation showing the transfer of the property and the maintenance responsibilities to a successor. A copy of the recorded document must be provided to the *Planning, Zoning and Subdivision Administrator*. In such case, the successor shall be responsible for the maintenance of the common access and facilities.

16.1-11 Association Documents.

Prior to the approval of the final plat for a subdivision, all documents related to the creation and operation of the homeowners association, property owners association, and/or any other association created for and/or by the developer, home owners, or property owners of the proposed subdivision shall be submitted to the City of Creedmoor for review and approval. These documents may include but not be limited to the articles of incorporation for the association, the homeowner association documents, the property owner association documents, and design standards. The purpose of the review is to ensure that the documents do not contain standards, requirements, or other provisions that conflict with ordinances, regulations, and/or standards of the City of Creedmoor. The Covenants, Conditions and Restrictions shall incorporate the standards established in Subsection 2.21-4 related to anti-monotony. The City shall not be responsible for enforcement of the homeowner association documents.

16.1-12 Recordation of final plat.

A final plat must be recorded by the City of Creedmoor in the office of the Register of Deeds for Granville County in accordance with the process outlined in Article 7 of this Ordinance.

16.1-13 Phased development.

Subdivisions may be designed to be platted and constructed in phases. A plan for phased development must be approved by the Technical Review Committee. The plan for phased development shall provide for the provision of adequate public facilities to support each and any phase independent of the overall subdivision plan. Access and water supply for fire protection shall be present to the extent required by the North Carolina Fire Prevention Code. In approving the phases, the TRC may require that additional streets, water and sewer facilities, or other required public facilities be constructed as part of the phase or phases to ensure that sufficient public facilities will be in place to support each phase or phases independent of any future subdivision development. Final plats for subdivisions developed in phases shall be recorded in accordance with the schedule presented by the applicant during the preliminary plat approval and approved as part of the preliminary plat approval process. The applicant may request, in writing, adjustments of the approved schedule and the *Planning, Zoning and Subdivision Administrator* may grant extensions of up to 12 months for each phase. If the final plat for any phase of the subdivision is not submitted in accordance with the approved schedule, the preliminary plat shall be resubmitted to the Planning Department for review and approval. Such resubmittal shall be in accordance with the requirements of this ordinance.

16.2 Subdivision Standards.

16.2-1 General.

All proposed subdivisions shall comply with the standards set forth below.

16.2-2 General Requirements and Compliance with Adopted Plans.

Land shall be subdivided in accordance with good land planning practices and in general conformance with the City Plan 2030 – Land Use and Comprehensive Master Plan, adopted May 14, 2012, including subsequent amendments adopted by the City Board of Commissioners of the City of Creedmoor, including adequate consideration of the natural topography and drainage features and the type of development proposed. Land shall also be subdivided in compliance with the zoning standards set forth in Article 8 of this Ordinance and with other adopted plans and ordinances. In addition, where land lies within the area of a public water supply reservoir, a proposed highway project or other public project designated by a governmental authority, subdividers shall give notice on the face of the final subdivision plat that land within the subdivision lies within a designated area for public development and may be the subject of future public purchase.

16.2-3 Lot dimensions and standards. *(Amended May 27, 2014 per Ord. 2014-O-03)*

The size, shape, and orientation of lots shall be appropriate for the location of the proposed subdivision and for the type of development contemplated. Lots shall be designed in shape, size and location with due regard to topographic conditions, features of the surrounding area, contemplated use, and official plans and ordinances and shall conform to the following:

(A.) Conformance to other regulations. Every lot shall have sufficient area, dimensions, and street access to permit a principal building to be erected thereon in compliance with all City ordinances.

(B.) Area and dimensions of lots. All lots shall conform to the minimal dimensional requirements for each zoning district as prescribed in Article 8 and with the lot type standards found in Article 9 of this Ordinance.

(C.) Frontage**.** Every lot shall front or abut on a public street, with the exception that there can be up to four lots created off of a private drive, where such private drive meets or exceeds the City of Creedmoor's Private Drive Standards set forth in the City of Creedmoor's Technical Standards and Specifications Manual. There shall be no reserve strips controlling access to streets except where cause can be shown that such control would best serve the purpose of this Ordinance.

(D.) Lot lines and drainage. Lot boundaries shall be made to coincide with natural and pre-existing manmade drainage ways to the extent practicable to avoid the creation of lots that can be built upon only by altering such drainage ways. Lot boundary lines shall conform to the requirements of Section 19.20-7.

(E.) Double and reverse frontage. Double frontage and reverse frontage lots shall not be approved, except where required in unusual circumstances and specifically approved by the Technical Review Committee.

(F.) Lot boundaries. Lot boundaries must be contiguous with street right-of-way boundaries and shall not extend to the center of public streets. Land to be subdivided which has existing property lines extending into street rights-of-way or into streets shall dedicate a street right-of-way as required by the City of Creedmoor's Technical Standards and Specifications Manual for that section of the street located on or adjacent to the property being subdivided.

(G.) Side lot lines. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.

(H.) Buildable area. Lots or parcels shall not be unreasonably shaped and shall be made to contribute to the buildable area of a lot. Portions of a lot less than 15 feet wide shall be excluded from the minimum lot area. Additionally, portions of a lot that are

less than 26 feet wide and longer than 25 feet will be excluded from the minimum lot area.

(I.) Block dimensions. Blocks shall be laid out taking into consideration traffic circulation patterns and contemplated use. In urban conditions, any dimension of a block may range from 250 to 500 linear feet between cross streets. In major subdivisions the dimension of blocks may not exceed 800 linear feet between cross streets. Within large-lot subdivisions the blocks may be up to 1500 feet.

(1.) Length. Blocks shall be not less than 250 feet nor more than 1,500 feet in length as stipulated above, except as deemed necessary to secure efficient use of land or desired features of street pattern by the Technical Review Committee. Where deemed necessary by the Technical Review Committee, a pedestrian crosswalk of at least eight feet in width shall be provided.

(2.) Widths. Blocks shall be wide enough to allow two tiers of lots of minimum depth, (reference Zoning standards, Article 8, and Lot Type standards, Article 9), except where fronting on major streets is prevented by topographic conditions, in which case a single tier of lots may be approved. Block width standards do not apply to subdivisions proposed as part of a Mini Farm Overlay District (MFO) development.

(J.) Lots on thoroughfares. Residential lots in subdivisions shall not be entered from major thoroughfare streets.

(K.) Access requirements for all lots. Each lot in a subdivision shall meet the access standards set forth in this Ordinance and in the City of Creedmoor Technical Standards and Specifications Manual.

(L.) Lot area calculation. Areas in the public right-of-way shall not be used to calculate compliance with minimum lot size requirements.

(M.) Flag lots. Flag lots shall be permitted subject to the following standards:

(1.) The minimum flagpole width (strip connecting the bulk of the lot to the street) shall be 25 feet or 25% of the minimum required lot width established by the primary general use district, established by Article 8 of this Ordinance, whichever is greater.

(2.) The maximum flagpole length (strip connecting the bulk of the lot to the street) shall be 200 feet.

(3.) The total lot area shall be a minimum of 2.5 acres, unless required to be larger by the primary general use district, established by Article 8 of this Ordinance; furthermore, the area of the flagpole within the first 150 linear feet of the street (strip connecting the bulk of the lot to the street) shall not be used in calculating

minimum lot area, setbacks, or other dimensional requirements for the zoning district in which the lot is located.

(4.) Not more than 4% of the total number of lots in a subdivision or development shall be flag lots, except not more than 26% of the total number of lots in subdivisions proposed as part of a Mini Farm Overlay District (MFO) development.

16.2-4 Landscaping and buffering. Landscaping shall be provided in the proposed subdivision as required by Article 11 of this Ordinance. Preservation of existing trees is required in accordance with Article 11.

16.2-5 Open space. Open space as required by Article 21 of this Ordinance and other applicable ordinances and regulations of the City of Creedmoor shall be provided in the proposed subdivision.

16.2-6 Streets and utilities. All streets and utilities must comply with the requirements of all other applicable plans and manuals adopted by the City of Creedmoor, including, but not limited to, the City of Creedmoor Technical Standards and Specifications Manual.

16.2-7 Street design. The design of all public streets and roads within the City of Creedmoor shall conform to standards set forth in the City of Creedmoor Technical Standards and Specifications Manual. (The City's standards meet or exceed the standards set forth in the most recent edition of "Minimum Construction Standards for Subdivision Roads" published by the N.C. Department of Transportation, Division of Highways.) Where permitted, private streets must also be constructed to the City of Creedmoor design standards. Disclosure and approval by the Division of Highways shall comply with G.S. 136-102.6.

(A.) Cul-de-Sacs. Cul-de-sacs or other dead end streets designed to be permanently closed are strongly discouraged and can only be used when it is not feasible to connect to an existing or future street. Cul-de-sacs shall not exceed 400 feet in length and shall be provided at the closed end with a right-of-way radius and a turn around radius meeting or exceeding the standards set forth in the City of Creedmoor Technical Standards and Specifications Manual. The Technical Review Committee may grant modifications to these requirements on a case by case basis, with the justification stated in writing on the final plat.

(B.) Continuation of Adjoining Street System. The proposed street layout shall be coordinated with the street system of the surrounding area. Where possible, existing principal streets shall be extended.

(C.) Stub Streets. Where the property to be subdivided abuts another property that, in the opinion of the *Planning, Zoning and Subdivision Administrator*, could be subdivided in the future, the proposed street layout shall include a public street and right-of-way,

meeting the City's standards for width and grade, which connects the streets in the subdivision to the abutting property. This street and public right-of-way shall be preserved for the construction of a future street providing access to the abutting property. The subdivider shall be responsible for placing a permanent sign(s) within the right-of-way of the stub street stating that it is the location of a future street. Such sign(s) shall be approved by the *Planning, Zoning and Subdivision Administrator* before being placed in said right-of-way.

16.2-8 Naming of streets and subdivisions. All streets shall be named, and signs conforming to City standards shall be posted at intersections showing the name of every street. New streets which are obviously in alignment with others already existing and named shall bear the names of the existing streets where practical. In no case shall the names of new streets phonetically resemble existing street names. Streets shall be named in accordance with the standards for street naming established by Granville County and must be approved by Granville County's emergency address coordinator. All subdivisions requiring the development of new public roads within the Single Family Residential District (SFR) and Agriculture District (AG) must be named. Subdivision names or identification shall not duplicate or closely approximate phonetically the names of existing streets and subdivisions in the City of Creedmoor or its area of jurisdiction and must be approved by Granville County's emergency address coordinator. The minimum identification requirement is that a sign clearly showing the name of a named subdivision be posted at the primary vehicular entrance to the subdivision from a major and/or minor thoroughfare(s). Residential subdivisions in all other zoning districts may install temporary signage identifying the subdivision until lots are sold. Commercial subdivisions are not required to use identification signage. (See Article 17)

16.2-9 Street construction - property owners' participation. The City of Creedmoor will not accept or adopt any new street, nor will it pave or assist in the construction or pavement of any new street other than streets shown on the map of the streets of the City of Creedmoor known as the Official Powell Bill Map except upon the payment of the full cost and expense of construction or of construction and pavement, as the case may be, and such cost and expense must by actually paid or amply secured (see section 16.1-9(B)) before the City will take any action.

16.2-10 Utility and Pedestrian easements. All subdivision plats shall identify easements for the installation of utilities and pedestrian use as follows:

(A.) Major subdivisions. An appropriate easement, of the width required by the utility company/agency, shall be provided for utilities including, but not limited to, electric service, telephone service, cable television service, sewer lines, and waterlines within the subdivision. The location of the easements and the physical relation of all utilities within the easement shall be approved by the City of Creedmoor, in consultation with

the utility providers, prior to final plat approval. Placement of all utilities in a common easement is encouraged when such placement does not conflict with these requirements or others. All off-street easements shall also be granted for pedestrian use by the public.

(B.) Minor subdivisions. An appropriate easement, of the width required by the utility company/agency, shall be provided for utilities including, but not limited to, electric service, telephone service, cable television service, sewer lines, and waterlines within the subdivision. The location of the easements and the physical relation of all utilities within the easement shall be approved by the City of Creedmoor, in consultation with the utility providers, prior to final plat approval. Placement of all utilities in a common easement is encouraged when such placement does not conflict with these requirements or others. All off-street easements shall also be granted for pedestrian use by the public.

16.2-11 Water supply for fire protection.

(A.) Water supply for fire protection shall be provided as required by the North Carolina Fire Prevention Code.

(B.) Size, type, and installation of hydrants shall conform to the specifications set forth in the North Carolina Fire Prevention Code.

(C.) The maximum distance between fire hydrants shall be 500’ measured by right angles along identified travel way(s).

16.2-12 Stormwater management.

(A.) Design of the stormwater management system shall be consistent with the City of Creedmoor’s stormwater regulations, as contained in the Watershed Regulations (Article 19 of this Ordinance).

(B.) The stormwater management system design shall comply with the specifications set forth in the stormwater section of City of Creedmoor Technical Standards and Specifications Manual.

16.2-13 Flood standards.

(A.) All subdivision proposals within the City of Creedmoor corporate limits and extraterritorial jurisdiction shall be consistent with the requirements of the City's flood protection regulations set forth in Article 18 of this Ordinance and with the need to minimize flood damage.

(B.) All subdivision proposals shall have the public utilities and facilities such as sewerage systems, gas lines, electrical, telecommunications (television, Internet,

telephone, etc.), and water systems located and constructed to minimize flood damage.

(C.) Adequate drainage shall be provided to reduce exposure to flood hazards.

(D.) Base flood elevation data shall be provided for subdivision proposals whenever any portion of the project site is located within a designated flood hazard area.

(E.) Preliminary and final plats shall note the location of floodplain and floodway boundaries and the 100-year flood elevation.

(F.) If there is a water course or dry branch running through or within 150 feet of the proposed subdivision, the prospective sub-divider shall furnish evidence that residential lots within the subdivision will not be flooded. Lots located in flood plains shall comply with the flood prevention standards set forth in Article 18.

16.2-14 Buffer Strips – Streams. Buffer strips shall be provided along streams as required by the Watershed Regulations set forth in Article 19 of this Ordinance.

16.2-15 Electrical, Cabled, Wired and Fiber Optic utilities. Electrical, Cabled, Wired and Fiber Optic utility lines shall be installed underground unless inconsistent with flood protection requirements.

16.2-16 Placement of monuments. The Standards of Practice for Land Surveying in North Carolina, as adopted by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, shall apply when conducting surveys.

ARTICLE 17

SIGN REGULATIONS

17.1 Title

This Article shall be known and may be cited as the "City of Creedmoor Sign Regulations."

17.2 Applicability and Purpose

This Article applies to all *signs* erected in the City of Creedmoor and its extraterritorial jurisdiction. The purpose of this ordinance is to ensure the installation of safe and effective signage that promotes both business activity and the aesthetic character of the City and its extraterritorial jurisdiction, as well as communicating essential information to the public. The following statements elaborate on this purpose.

(A.) To provide opportunities for neighborhoods and commercial endeavors to be identified in an effective and equitable fashion.

(B.) To promote public safety by reducing hazards associated with distracting or excessive signage.

(C.) To establish and promote enhanced community character through signage that is reflective of the historic nature of the City and its scale of development.

(D.) To promote the integration of signage with the architectural characteristics and aesthetic quality of the City's development.

(E.) To provide for flexibility in amount, type and scale of signage depending on the context of the development and the surrounding area.

(F.) To facilitate efficient, thorough, consistent and effective enforcement of the *sign* regulations.

17.3 Definitions

Please see definitions in Article 3 of this Ordinance.

17.4 Applicability

Except as specifically exempted in this ordinance, no *sign* shall be erected, altered or displayed without a *sign* permit issued by the City of Creedmoor confirming compliance with the provisions of this ordinance. *Signs* made nonconforming by this Ordinance shall be grandfathered until altered, abandoned, relocated, or removed with the exception of

prohibited *signs*, which shall be removed within three days as required in Section 17.5 of this Article.

17.5 Prohibited *Signs*

Signs prohibited by the enactment of this Article shall be removed within ten days from the date of notification by the *Planning, Zoning and Subdivision Administrator* or duly authorized code enforcement agent of the City; however, where deemed dangerous or prejudicial the *Planning, Zoning and Subdivision Administrator* may act in accordance with Section 23.11 of this Ordinance. The following *signs* are specifically prohibited by this ordinance.

(A.) *Snipe signs.*

(B.) *Signs* attached to light fixtures, curbs, sidewalks, gutters, streets, utility poles, public buildings, fences, railings, public telephone poles, or trees.

(C.) Windblown *signs* not specifically permitted in this Article such as pennants, streamers, spinners, balloons, inflatable figures, and similar *signs*, except as specifically permitted herein.

(D.) *Signs* which prevent free ingress to or egress from any door, window, or fire escape.

(E.) *Signs* erected or displayed in such a manner as to obstruct free and clear vision at any location, street, intersection, or driveway.

(F.) Any *sign* which interferes with vehicular or pedestrian traffic as a result of its position, size, shape, movement, color, fashion, manner, or intensity of illumination, including *signs* with the potential to be confused with any authorized traffic *sign*, signal, or device.

(G.) *Signs* erected or displayed on or over public rights-of-way or other public property, other than those erected by governmental agencies or for which appropriate encroachment agreements have been executed pursuant to this ordinance. Signs specifically protected by the provisions of NCGS 136-32 are not prohibited, provided the requirements of NCGS 136-32 are met.

(H.) *Portable signs*, except as specifically permitted herein.

(I.) *Signs* that move or flash or have moving or flashing components, except as permitted under Section 17.6 below; *signs* that are intermittently lighted or have changing colors; *signs* that revolve; or any other similarly constructed *signs*.

(J.) *Signs* attached to the roofs of buildings or are otherwise located above the roofs of buildings or are part of roofing finish and/of materials.

(K.) *Signs* carried by or attached to people, including costumes worn for the purpose of attracting commercial attention.

(L.) Off-premises *signs*, including outdoor advertising *signs*, except those placed by governmental agencies for public purposes and yard sale and open house *signs* that are displayed as specifically permitted herein. The exception being that existing off-premises billboard *signs* that are non-conforming may be disassembled and replaced with a newer structure upon approval by the *Planning, Zoning and Subdivision Administrator*. The new signage shall be designed to result in no expansion of or increase in the non-conformity; shall not allow replacement with a digital *sign*; shall not exceed 30' in height; shall be designed to limit lighting to the *sign* face; and shall be designed to enhance the architectural features of adjacent buildings. Color renderings or photographic simulations shall be submitted to the *Planning, Zoning and Subdivision Administrator*, who shall have the authority to deny permits for *signs* that do not meet the intent of this Ordinance.

17.6 Exempt *Signs (Amended May 27, 2014 per Ord. 2014-O-03)*

The following *signs* are exempt from the requirements of this ordinance although, in some instances, building permits may be required, such as an electrical permit for a machine *sign* or a time and temperature *sign.*

(A.) Warning and security *signs*, including *signs* placed by a public utility for the safety, welfare, or convenience of the public, including, but not limited to *signs* identifying fire department connections or high voltage, public telephone, or underground cables and/or gas pipe lines.

(B.) Government *signs* and *signs* for non-profit organizations sponsored by governments including insignia, legal notices, informational, directional, way-finding, and traffic *signs*. This exemption shall not include permanent and temporary *signs* covered in section 17.8 of this Article but may include *signs* or flags erected on public property or private property immediately proximate to public property to commemorate public holidays recognized by the City such as the Fourth of July.

(C.) "No Dumping" and "No Trespassing" *signs* containing less than two square feet in copy area per *sign* face.

(D.) *Signs* placed inside ball fields and outdoor amphitheaters that face toward the interior of the field or amphitheater and are primarily intended for viewing by persons attending events and/or performances.

(E.) Accent lighting, as defined herein, provided that not more than two architectural elements are accented per occupancy (e.g., two windows or a window and a roofline,

etc.).

(F.) *Signs* associated with a fundraising event of short duration (14 days or less, provided they are removed within 7 days thereafter) for a nonprofit or charitable organization such as a student car wash or a service organization broom or bake sale provided such events happen six or less times per calendar year on a particular premises.

(G.) Incidental *signs* containing no more than two square feet in copy area provided that not more than a total of six square feet of incidental signage is displayed per occupancy. Incidental *signs* that display solely the word "open" may flash provided they are located inside a building and no more than one such *sign* is displayed per occupancy.

Example of Incidental *Signs*

(H.) Machine *signs* containing no more than six square feet in copy area, except drive-through menu kiosk machine *signs* may contain up to 12 square feet in copy area provided the portion of the *signs* devoted to a logo or business name contains no more than 25% of the total *sign* copy area.

Example of Machine *Signs*

(I.) Menus displayed at restaurants provided they contain no more than four square feet in copy area.

(J.) Model home *signs* provided not more than one such *sign* is displayed per model home and such *sign* contain no more than six square feet in copy area.

(K.) *Signs* attached to donation bins.

(L.) Any traffic *sign*, public notice or warning required by a valid and applicable federal, state, or local law, regulation, approved development plan, or ordinance, including traffic control *signs* on private property.

(M.) Address *signs* no greater than five square feet in copy area. Address *signs* in excess of three (3) square feet in copy area shall be counted toward the total copy area of signage permitted for attached or freestanding *signs* depending on placement.

(N.) Retail store window displays of merchandise.

(O.) *Signs* attached to vehicles, provided the vehicles are not parked in such a manner as to create the effect of additional signage, whether on-premises or off-premises (see Section 17.5, Prohibited Signs).

(P.) Political *signs* containing no more than six square feet in copy area in residential districts and no more than 24 square feet in copy area in nonresidential or mixed use districts, provided that no more than one *sign* per candidate or issue is displayed per zone lot frontage and such *signs* are erected no more than 30 days prior to the applicable election and removed no more than ten (10) days after the applicable election.

(Q.) *Signs* attached to umbrellas provided no more than 25% of the total surface area of the umbrella is devoted to signage.

(R.) One real estate *sign* per property street frontage containing no more than six square feet in copy area in residential districts and no more than 32 square feet in copy area in nonresidential or mixed use districts.

(S.) One construction/financing *sign* per property street frontage for development projects under active building permits containing no more than six square feet in copy area in residential districts and no more than 32 square feet in copy area in nonresidential or mixed use districts provided they are removed after the applicable permit is no longer active due to completion of permitted work or permit expiration. If combined with a real estate *sign*, the total exempt *sign* copy area is 32 square feet.

Example of a Combined Construction/Financing and Real Estate Sign

(T.) Flags of the United States, the State of North Carolina, Granville County or the City of Creedmoor provided that they do not exceed 50 square feet in area, that they are displayed on flagpoles not exceeding 45 feet in height, that no more than three flags are displayed on a zone lot of less than one acre in size and not more than five flags are displayed on zone lots of one acre or more in size, and that all flagpoles are setback at least the height of the flagpole from all property lines. Flagpoles may be roof or wall-mounted provided size, height and setback requirements are met.

(U.) Holiday lights and decorations with no commercial message provided that such lights are not illuminated and/or decorations are not displayed for longer than a total of 60 days per calendar year in any nonresidential or mixed use zoning district.

(V.) *Signs* for "temporary businesses" such as, but not limited to, produce stands, street vendors, and vendors at special events that shall operate for a specified time period, not to exceed seven consecutive days, are exempted. If the business is a recurring operation, such as produce stands that operate on weekends or on select days during the week, then said "temporary business" shall comply with the regulations set forth in this Ordinance; the exception being that the *Planning, Zoning and Subdivision Administrator* may permit "temporary businesses" to use banners and temporary signage that comply with the standards and intent of this Ordinance to be used as signage, provided that the business puts the *sign* up at the start of the business day and takes it down at the close of each business day.

(W.) *Signs* replicating historical signs which existed prior to the year 1975 may: exceed copy area allowance with documentation in sufficient detail to determine authenticity; may be established in the MS district only.

17.7 Requirements for Permanent *Signs* Requiring a Permit

17.7-1 Requirements for *signs* extending over pedestrian and vehicular travel areas. *Signs* extending over pedestrian and vehicular travel areas shall maintain a minimum clear distance between the finished grade surface material and any portion of the *sign* and its associated support structure of nine and 14 feet respectively.

17.7-2 Permanent *sign* requirements. The following tables and text provide the design and dimensional requirements for permanent *signs* that require a permit. Requirements include copy area, number, type of illumination, and letter height for both attached and freestanding *signs*. Setback and height requirements are established for freestanding *signs* and detailed design requirements are provided for monument and pole *signs*.

Additionally:

(A.) Only one general attached *sign* (blade, V-type, or flat) is allowed per street or

parking frontage.

(B.) Only one monument or pole freestanding *sign* is allowed per street frontage.

(C.) Height of freestanding *signs* shall be measured from the elevation of the ground at the point of contact with the *sign* provided that the grade of the site is not artificially altered to increase the allowable height of the *sign*. For sloping sites, the applicable point of contact shall be the point having the highest elevation.

(D.) One home occupation *sign* per approved home occupation, not to exceed four square feet in area, and which must be attached to the building.

(E.) The following permanent special purpose *signs* are allowed in addition to general attached and freestanding *signs* under the limitations provided in the following tables and elsewhere in this Article.

(1.) Window.
(2.) Directional.
(3.) Directory.
(4.) Awning.
(5.) Canopy.
(6.) Community identification.

(F.) Time and temperature *signs* are allowed as either attached or freestanding *signs* provided they are incorporated into the general or attached signage allowed for a nonresidential property, no more than one such *sign* is allowed per property, the message is limited to time and temperature information and changes no more frequently than once every five seconds, and the illuminated and/or copy area of the time and temperature *sign* does not exceed 16 square feet. The square footage allowance constitutes an area bonus in addition to the maximum allowable area for the applicable *sign* type.

(G.) Changeable copy *signs* are allowed as either attached or freestanding *signs* provided they are incorporated into the general or attached signage allowed for a nonresidential property, not more than one such *sign* is allowed per occupancy, the *sign* message changes no more frequently than once every four hours for manually and mechanically changing *signs* and once every eight seconds for digitally changing *signs*. Digitally changing *signs* are allowed only on properties zoned “C 56” and “C 15”. Unlike time and temperature *signs*, no area bonus is allowed for changeable copy *signs*.

(H.) All subdivisions requiring the development of new public roads within the Single Family Residential District (SFR) and Agriculture District (AG) must be named.

Subdivision names or identification shall not duplicate or closely approximate phonetically the names of existing streets and subdivisions in the City of Creedmoor or its area of jurisdiction and must be approved by Granville County's emergency address coordinator. The minimum identification requirement is that a sign clearly showing the name of a named subdivision be posted at the primary vehicular entrance to the subdivision from a major and/or minor thoroughfare(s). Residential subdivisions in all other zoning districts may install temporary signage identifying the subdivision until lots are sold. Commercial subdivisions are not required to use identification signage. (See Article 16).

Sign Type		Sign Copy Area Allowance (sq ft)	Sign Illumination	Minimum Letter Size	Maximum Number	Other Requirements
Permanent Attached *Signs* – General						
Blade (or Projecting)		32	Ambient External Internal	6”	One per street or parking frontage per occupancy	Only one *sign* (blade, V-type or flat *sign*) allowed per occupancy per street or parking frontage One square foot of signage copy area for each one square foot of occupancy frontage up to the maximum allowed Internally-illuminated *signs –sign* face can be illuminated No attached signage above second story except in monolithic multi-story buildings fronting major thoroughfares.
V-type						
Flat (or Wall)						

Sign Type		Sign Copy Area Allowance (sq ft)	Sign Illumination	Minimum Letter Size	Maximum Number	Other Requirements
Permanent Attached *Signs* – Special Purpose						
Window		8	Ambient	N/A	One per each 100 square feet of display or doorway window area or fraction thereof	A maximum allowance of three *signs* per street or parking frontage per occupancy
Directional	 	4 12*	Ambient External Internal	4”	N/A	Not more than 25% of *sign* face shall contain a logo or commercial message *Only *signs* placed above a common entrance shared by multiple tenants of the same building, limited to one per entrance.
Outdoor Directory		6	Ambient External	N/A	One per street or parking frontage per building	
Awning		6	Ambient	4”	One per street or parking frontage per awning	Not more than two awning *signs* per occupancy per street or parking frontage.

Sign Type		Sign Copy Area Allowance (sq ft)	Sign Illumination	Minimum Letter Size	Maximum Number	Other Requirements
Permanent Attached *Signs* – Special Purpose						
Canopy		16	Ambient Internal	6”	One per street frontage	Properties fronting on more than one street may have one canopy *sign* per street frontage

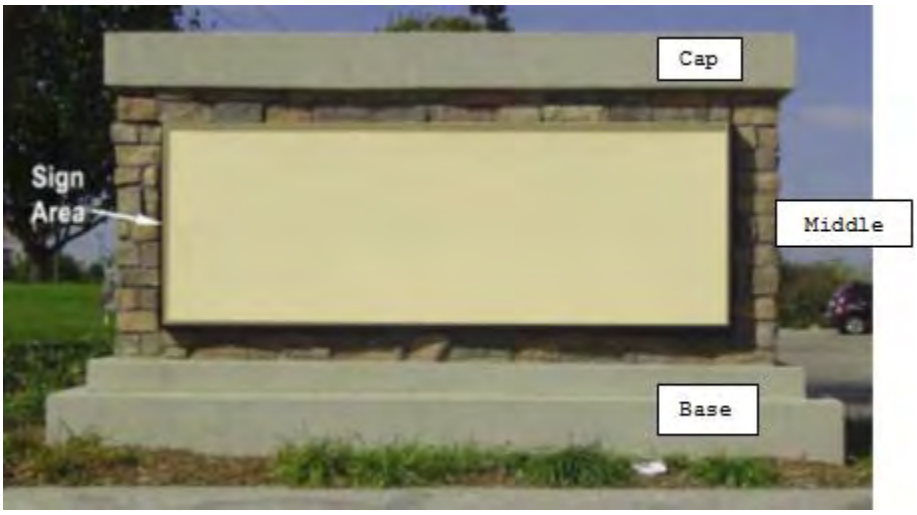
Sign Type		Sign Copy Area (sq ft)	Max. Sign Height feet)	Sign Illumi-nation	Min. Letter Size	Max. Number	Min. Setback from Property Line(s)	Other Require-ments
Permanent Freestanding *Signs* – General and Special Purpose								
Monument		48	8	Ambient External Internal	6”	One per street frontage having access to the site	5 ft	Monument *signs* shall comply with the design requirements of section 17.7-3
Pole		12	10	Ambient External Internal		One per street frontage providing access to the site	4 ft	Pole *signs* shall comply with the design requirements of section 17.7-4
Community Identification		32	6	Ambient		One per each gateway or primary entrance	0 ft*	Shall comply with design requirements for monument *signs*
Directory		24	6	Ambient External Internal	4”	One per street frontage having access to the site	25 ft	Sites with multiple buildings only
Direct-ional		3	2.5	Ambient External Internal	4”	Two per each driveway access to the site	0 ft*	Not more than 25% of *sign* face shall contain a logo w/no commercial text

*May encroach into adjoining street right-of-way pursuant to an encroachment agreement.

17.7-3 Monument *sign* design requirements. Monument *signs* are intended to serve a wider range of aesthetic and architectural purposes than pole *signs*. Consequently, the following design requirements are established for monument *signs*.

(A.) General design requirements and *sign* copy area measurement for monument *signs*. As in traditional building design, monument *signs* shall be designed to include a base, middle, and cap. The following illustration shows a monument *sign* having these architectural characteristics, as well as how *sign* copy area is to be measured on a monument *sign*.

Monument Sign Design Elements



(B.) Sign structure materials. In general, monument *sign* structures should be constructed of materials that are similar to or complementary to the principal building(s) on the premises where they are located. Only the following materials shall be used in monument *sign* structure construction, singly or in combination.

(1.) Brick (painted or unfinished)

(2.) Wood

(3.) Concrete or stucco

(4.) Natural stone or manufactured stone having a natural appearance

(5.) Metal

(6.) Glass

(C.) Sign copy materials. Sign copy materials for monument *signs* shall include the *sign* structure materials listed above. For internally illuminated monument *sign* copy, acrylic may be utilized, provided not more than 50% of the *sign* face is illuminated.

17.7-4 <u>Pole *sign* design requirements.</u> The following design requirements are established for pole *signs*:

(A.) General design requirements. Pole *signs* in Creedmoor have traditionally been supported by two posts or suspended from a single post as shown in the following illustrations. Pole *signs* shall use one of these two forms of design.

Examples of Allowable Types of Pole *Signs*

(B.) Materials. In general, pole *signs* should use materials that complement the principal building(s) on the premises where they are located. The following materials are acceptable for use in pole *signs*, singly or in combination:

(1.) Wood

(2.) Metal

(3.) Brick (painted or unfinished)

(4.) Concrete or stucco

(5.) Natural stone or manufactured stone having a natural appearance

17.8 Temporary *Signs*

The following tables provide the design, dimensional, and time of display requirements for temporary *signs*. Additionally: Nonconforming temporary *signs* shall not be grandfathered (see section 17.12 of this Article).

17.8-1 Requirements for temporary *signs* that require a permit.

The temporary *signs* listed in the following table require a permit and shall comply with the indicated zoning location and other requirements. All such *signs*, with the exception of searchlights, shall be illuminated solely by ambient light sources.

Temporary Sign Type	Allowable Zoning Districts	Requirements
Sandwich board *signs*	MS, MSP, CIV, C15, C56, IND, AG	One *sign* per occupancy having direct access onto any public or private sidewalk where *sign* is placed. "Direct access" shall mean an occupancy having a public entrance immediately from the sidewalk where the *sign* is placed. See additional sandwich board *sign* requirements in section 17.8-3 of this Article.
Banners and flags	MS, MSP, CIV, C15, C56, IND, AG	Up to 60 square feet of banner/sail/feather/flag materials per occupancy may be attached to an occupancy space. Display time limit: 21 days, four times per calendar year with a 60 day separation between permits. Religious institutions and non-profits may display up to 6 times a year, with a minimum separation of one week between permits.
Grand opening or going out of business *signs*		Up to 60 square feet of banner materials may be attached to an occupancy space. Display time limit: 21 days; one time in the same calendar year when the business opens or closes.
Special event, seasonal and agricultural produce *signs*		One tethered balloon or searchlight to be located on-premises and displayed for not more than three consecutive days once per calendar year. Tethered balloons and searchlights shall conform to all applicable FAA regulations. Joint special event signage for three or more commercial or non-profit occupancies may be approved by the *Planning, Zoning and Subdivision Administrator* for theme-based special events. Such events shall not exceed seven days in duration or a cumulative total of 60 days per calendar year per occupancy with a 14 day minimum separation between permits. Event participants shall submit an application which outlines the types of signage desired and where such signage is proposed to be located. Signage shall be consistent with the event theme and shall not exceed 60 sq. ft. per occupancy; however, accent balloons may also be displayed, with a maximum number of 12 balloons per occupancy. Agricultural produce and/or event signs may be off-premise on private property with written permission of the property owner.

17.8-2 Requirements for temporary *signs* that do not require a permit.

The temporary *signs* listed in the following table do not require a permit and shall comply with the indicated zoning location and other requirements. All such *signs* shall be illuminated solely by ambient light sources.

Temporary Sign Type	Allowable Zoning Districts	Requirements			
		Number	Display Frequency	Size (sq. ft.)	Other Requirements
Open house *signs* (Real estate sales only)	All districts	Up to three *signs* per event	May be displayed only between the hours of 12:00 PM (noon) Friday and 12:00 PM the following Monday.	6	May be displayed off-premises on private property with the permission of the property owner. May be freestanding or attached. If freestanding, shall not exceed three feet in height. If attached, shall not be attached to any tree or other vegetation, post, utility pole, wall, or other structure except the building containing the event.
Yard sale *signs*			May be displayed only between the hours of 12:00 PM (noon) Friday and 12:00 PM the following Monday. No more than three events per zone lot per calendar year.		

17.8-3 Additional requirements for sandwich board *signs*.

Sandwich board *signs* offer businesses in pedestrian-oriented zoning districts an effective and creative way to market products or services. However, unless carefully regulated, sandwich board *signs* can create hazards for pedestrians and a cluttered and unattractive appearance. The following design standards are established to permit sandwich board *signs* to be utilized in a fashion which meets community safety and design expectations, as well as the need for businesses to market their products and services.

(A.) Sandwich board *signs* shall not exceed four feet in height and 30 inches in width.

(B.) Sandwich board *signs* shall be located only where parallel to the street oriented sidewalks serve the occupancy with which they are associated.

(C.) Five feet of sidewalk clearance shall be provided along at least one side of the *sign* to allow for unobstructed pedestrian access in accordance with ADA regulations.

(D.) Sandwich board *signs* are intended to inform and orient pedestrians to business locations and available products and services. Consequently, such *signs* shall be placed in close proximity to the public entrance to the occupancy with which they are associated and shall be oriented to communicate information primarily to pedestrian traffic utilizing the sidewalk on which they are located as opposed to vehicular traffic utilizing nearby public or private streets or private drives and parking areas.

(E.) Sandwich board *signs* shall be moved to an indoor location for storage during times when the associated businesses are not open for customers.

(F.) Standard design for sandwich board *signs*. Sandwich board *signs* shall be located in frames constructed of black anodized aluminum, black wrought-iron, or wood which has been painted black, as illustrated in the following photographs. Plastic, PVC, or other similar materials shall not be used as the frame. The display area within the frame shall be constructed of durable metal or wood if containing permanent messages; such permanent messages shall be applied to the display area with paint, metal or durable vinyl or shall consist of carved wood or cut metal lettering or images. Sandwich board *signs* containing changeable message display areas may be constructed of chalk board style materials, durable plastic (such as a "dry erase" board), or similar materials, provided the display area background is either black, dark green or white in color and that the changeable message is applied using erasable chalk or erasable ink in a handwritten application. Unless otherwise specified, a muted color palette shall be used for any background or message, including lettering and images.

Example of Standard Sandwich Board Sign Frame

(G.) Alternative design for sandwich board *signs*. As an alternative to the standard design described above, the Planning, Zoning and Subdivision Administrator may

permit alternative sandwich board *sign* designs which exhibit a distinctive and creative flair which the owner would otherwise be unable to replicate if the standard frame design was used. Such *signs* shall not contain changeable copy and images and lettering shall be permanently attached, painted, cut or carved onto the *sign* using a muted palette of colors. Wooden *signs* are preferred, but all such *signs* shall be made of durable materials. An example of an acceptable alternative design is illustrated in the following photograph.

Example of Alternative Sandwich Board Sign

17.9 *Signs* Located in Local Historic Districts

Regardless of the other dimensional provisions of this Article, *signs* that are located in local historic districts shall be governed by the applicable design guidelines and review processes established for the local historic district.

17.10 Master *Sign* Plan

Regardless of the other provisions of this Article, the City Board of Commissioners may, at its sole discretion, approve a master *sign* plan for specified areas of City or for certain development projects listed in this section. The approved master *sign* plan may include *signs* of different sizes, types, locations, placement and height from those otherwise enumerated in this Article.

17.10-1 Purpose. The purpose behind this section is to permit creativity in *sign* design and placement to address site issues and constraints associated with topography, pedestrian-orientation, way-finding and other conditions unique to the subject development or area of City.

17.10-2 Application. Master *sign* plans may be submitted for the following types of developments:

(A.) Traditional Neighborhood Development projects.

(B.) Commercial, institutional, industrial, or mixed use developments containing three or more acres in area.

(C.) Areas of City that are governed by a corridor plan or area plan that includes *sign* guidelines.

17.10-3 Submittal process. Master *sign* plan applications may be submitted for consideration at the time of original submittal of the proposed development or separately from the original development proposal. The following information or material shall be required for a signage plan application and shall be indicated on an application form provided by the *Planning, Zoning and Subdivision Administrator*.

(A.) Owner and contact name, address, telephone number and signature(s), as applicable.

(B.) A master *sign* plan proposal illustrating the proposed *signs*, their proposed location, and their proposed purpose, along with a statement as to why the existing *sign* code cannot or should not be followed in the subject case.

(C.) An analysis showing how the proposed signage plan differs from what could be provided under the existing *sign* regulations set forth in this Article.

(D.) Other similar information determined by the planning director to be necessary for understanding the purpose and intent of the proposed master *sign* plan application.

17.10-4 Review procedure. The *Planning, Zoning and Subdivision Administrator* shall schedule the master *sign* plan for Planning Board and City Board of Commissioners consideration in accordance with the notice and public hearing procedures set forth in Article 5 for zoning map amendments. The protest petition provisions of Article 5 shall not apply to master *sign* plan hearings. In reviewing the proposed master *sign* plan, the Planning Board and City Board of Commissioners shall take the following matters into consideration.

(A.) The extent to which the proposed master *sign* plan deviates from the *sign* allowances otherwise applicable in this Article.

(B.) The rationale provided by the applicant for the deviations.

(C.) The extent to which the master *sign* plan promotes City goals associated with community character, way-finding, pedestrian-orientation, and business identification.

(D.) The degree to which the master *sign* plan creatively and effectively addresses the issues and constraints unique to the site with regard to signage.

The Planning Board shall provide a recommendation to the City Board of Commissioners whether to deny or approve the proposed master *sign* plan in part or in total and shall further recommend conditions regarding approval where deemed warranted.

The City Board of Commissioners may deny or approve the proposed master *sign* plan in part or in total and may establish conditions regarding approval. In the event that the master *sign* plan is denied, the applicant must wait at least 365 days before reapplying for a new master *sign* plan *substantially similar* (as defined in Article 3) to the proposed master *sign* plan.

17.11 Permitting

Applications for *sign* permits and the associated fee schedule may be obtained from the *Planning, Zoning and Subdivision Administrator*. Completed applications, including payment of fees, shall be reviewed for compliance with the requirements of this ordinance and may be approved, approved with conditions, or denied by the *Planning, Zoning and Subdivision Administrator*.

Signs requiring *sign* permits under the provisions of this ordinance may also require additional permits, including building permits and electrical permits. It shall be the responsibility of the applicant to obtain all applicable permits.

17.12 Nonconforming *Signs*

A permanent *sign* which does not comply with one or more of the requirements of this Article shall be grandfathered until such *sign* is removed, physically altered beyond maintenance (as defined), relocated, damaged or destroyed, after which it shall be brought into compliance with all requirements of this Article. Nonconforming temporary *signs* shall not be grandfathered and shall be brought into compliance with all requirements of this Article within ten days from the date of notification by the *Planning, Zoning and Subdivision Administrator* or duly authorized code enforcement agent of the City.

17.13 Abandoned *Signs*

Signs identifying an abandoned occupancy or use shall be considered abandoned *signs* and shall be removed by the owner of the property on which they are located. Failure to remove an abandoned *sign* shall be considered a violation of this ordinance. In addition, correction of an abandoned *sign* violation may include removal of the abandoned *sign* or *signs* by the City at the owner's expense after proper notice of the violation and failure to act by the owner within the timeframe established in the notice of violation.

17.14 Maintenance

All *signs*, including exempt *signs*, shall be maintained in a satisfactory state of repair. This shall include, without limitation, correction of peeling or faded paint, repair or replacement of damaged panels, trimming of vegetation that obscures the *sign*(s), replacement of defective lighting of illuminated *signs*, secure attachment to the building for attached *signs*, and stable vertical alignment of freestanding *signs*.

17.15 Administration, Enforcement and Interpretation

The *Planning, Zoning and Subdivision Administrator* shall be responsible for the administration, enforcement and interpretation of these *sign* regulations. Decisions and interpretations made by the *Planning, Zoning and Subdivision Administrator* may be appealed to the *Board of Adjustment* in accordance with the appeal provisions of the *Board*. Enforcement action taken by the *Planning, Zoning and Subdivision Administrator* shall not be appealable to the *Board of Adjustment*; appeals of enforcement actions are reviewable in Granville County Superior Court.

Enforcement action taken by the *Planning, Zoning and Subdivision Administrator* shall be proactive and/or complaint-based except for exempt *signs* and window *signs* in which case enforcement shall be complaint-based. In no case shall violations of this ordinance be considered a criminal offense.

17.15-1 General enforcement. Except for snipe *signs*, a violation of the *sign* regulations shall be enforced as provided below.

(A.) Notice of violation. The *Planning, Zoning and Subdivision Administrator* shall provide notice of the violation and any required remedies. The notice of violation shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator to correct the violation within 30 days after receipt of the notice of violation.

(B.) Failure to comply with a notice of violation. Any person who fails to comply with a notice of violation of any of the provisions of this Article shall be subject to a civil penalty of two hundred dollars ($200.00). A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation. The decision of the *Planning, Zoning and Subdivision Administrator* to assess a civil penalty may be delivered by personal service, by registered mail or certified mail returned receipt requested or by any means authorized under G.S. 1A-1, Rule 4.

(C.) Appeal to Superior Court. Every decision of the *Planning, Zoning and Subdivision Administrator* to assess a civil penalty shall be subject to review by the Granville County Superior Court by proceedings in the nature of certiorari. Any petition for

review by the Superior Court shall be filed with the clerk of Superior Court within 30 days after the decision of the *Planning, Zoning and Subdivision Administrator* to assess a civil penalty.

(D.) Failure to Appeal and/or Pay. Any civil penalty assessed a person who violates the provisions of Article 17 shall be recovered by the City in a civil action in the nature of a debt, to be brought in the Granville County Superior Court if the violator fails to give notice of timely appeal and fails to pay the penalty within the prescribed period of time after he or she has been cited for the violation.

17.15-2 Snipe *sign* enforcement. Snipe *signs* constitute a particular hazard to public safety due to their tendency to create distracting visual clutter and litter; consequently, for the purposes of this Article, snipe *signs* are regarded as a nuisance and the illegal placement of snipe *signs* shall be enforced as provided below.

(A.) Confiscation. The *Planning, Zoning and Subdivision Administrator* or any agent of the *Administrator* or City is hereby authorized to remove or confiscate, without notice, any snipe *sign* visible from a public roadway that is located within the required setback of the zone lot on which the *sign* is located or 30 feet from the edge of a road or street, whichever is less, regardless of whether such *sign* is situated within the right-of-way or beyond it. Confiscated *signs* shall be stored in a secure facility for not less than seven days, after which they may be disposed of. Within the seven day period after confiscation, any responsible party, as described herein, shall have the right to request a hearing before the *Planning, Zoning and Subdivision Administrator* to present evidence as to why his/her *sign*(s) may have been erroneously confiscated. The *Planning, Zoning and Subdivision Administrator* shall postpone disposal of the subject confiscated *sign*(s) and shall schedule the requested hearing within 30 days and shall render a decision with regard to erroneous confiscation within 10 days after the hearing.

(B.) Responsible parties. For the purpose of snipe *sign* enforcement, the following parties shall be regarded as having joint and severable responsibility with regard to illegal placement of snipe *signs:*

(1.) The record owner of the property on which the snipe *sign* is located.

(2.) The entity or person identified in the *sign*.

(3.) The person placing or affixing the *sign*.

(C.) Civil penalties. Civil penalties of $200 for each snipe *sign* determined to be in violation of the regulations of this Article may be imposed on any and all responsible parties by the *Planning, Zoning and Subdivision Administrator* in accordance with the following notice and compliance provisions:

(1.) First violation. The *Planning, Zoning and Subdivision Administrator* shall send a

warning/education letter to the responsible party or parties explaining City regulations pertaining to snipe *signs* and providing a list of penalties for violations thereof.

(2.) Second violation or failure to comply with the warning/education letter. The *Planning, Zoning and Subdivision Administrator* shall provide notice of the violation and any required remedies. The notice of violation shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator to correct the violation within 48 hours after receipt of the notice of violation.

(3.) Failure to comply with the notice of violation. Any responsible party or parties who fail to comply with a notice of violation of any of the provisions of this Article shall be subject to a civil penalty of two hundred dollars ($200.00) for each snipe *sign* determined to be in violation of the regulations of this Article. A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation. The decision of the *Planning, Zoning and Subdivision Administrator* to assess a civil penalty may be delivered by personal service, by registered mail or certified mail returned receipt requested or by any means authorized under G.S. 1A-1, Rule 4. Civil penalties so imposed may be appealed to the Granville County Superior Court in accordance with the provisions of section 17.15-1(C) above. Failure to appeal and/or pay the civil penalty shall be treated as a debt in accordance with the provisions of section 17.15-1(D) above.

17.16 Suggested Design Guidelines

In addition to the mandatory standards provided in Sections 17.7 and 17.8 above, the following design guidelines for *signs* are provided in order to promote more attractive and functional design and placement of *signs*.

(A.) Freestanding *signs*. Placement of freestanding *signs* should take into account existing trees and other site landscaping so as to maintain *sign* visibility. Landscaping around the base of freestanding *signs* is strongly encouraged to improve the overall appearance and visibility of these *sign* types as evidenced in the following example.

Landscaping Around the Base of a Monument Sign

(B.) Display windows are intended to offer opportunities to display merchandise or services available on the premises. Careful placement of *signs* in display windows will not obscure the visibility of merchandise or services. Additionally, display windows should not be "papered-over," especially in pedestrian areas.

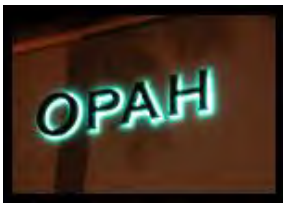
(C.) General design guidelines. The following general guidelines are provided to guide overall *sign* design in the City:

(1.) Use high quality, durable materials.

(2.) Minimize the need for *sign* lighting by placing *signs* where ambient light sources illuminate the *sign*. Where separate lighting is necessary, external illumination sources are preferred over internal illumination. All electrical conduit and junction boxes should be concealed.

Externally Illuminated Sign

(3.) Backlit, individual letter *signs* (aka, halo lighting) are encouraged where illumination is needed as illustrated below.



Backlit Individual Letters

(4.) Avoid elaborate or confusing styles of text as illustrated in the following example.

Overly-Complicated Style of Text

(5.) Attempt to use symbols rather than text; for example, this Norwegian pharmacy *sign* incorporates a symbol as well as text.

Use of Symbols

(6.) Use *sign* styles and designs that complement the architecture of the site where the *signs* are located. Creedmoor is a historic City so using "period" signage is strongly encouraged.

An Example of a "Period" Pole Sign in a New York City Suburb

ARTICLE 18

FLOOD DAMAGE PREVENTION

18.1 Introduction

18.1-1 Purpose. It is the purpose of this Ordinance 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 or prohibit uses which 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 other development which may increase erosion or flood damage; and

(E.) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

18.1-2 Objectives. The objectives of this article are:

(A.) To protect human life and health;

(B.) To minimize expenditure of public money for costly flood control projects;

(C.) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D.) To minimize prolonged business losses and interruptions;

(E.) To minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets and bridges) that are located in flood prone areas;

(F.) To help maintain a stable tax base by providing for the sound use and development of flood prone area; and

(G.) To ensure that potential buyers are aware that property is in a Special Flood Hazard area.

18.1-3 Definitions. Definitions may be found in Article 3 "Definitions"

18.2 Flood Damage Prevention

18.2-1 Statutory Authorization.

(A.) The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter §143; Parts 3, 5 and 8 of Article 19 Chapter §160A; and Article 8 of Chapter §160, of the North Carolina General Statues, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Board of Commissioners of the City of Creedmoor, North Carolina, has adopted this Article 18, Flood Damage Prevention, as part of the City's Development Ordinance.

18.2-2 Legal Status Provisions.

(A.) Effect on Rights and Liabilities under the Existing Flood Damage Prevention Ordinance: This Ordinance in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted on November 10, 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 enforced. The enactment of this Ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the City of Creedmoor enacted on November 10, 2008, as amended, which are not reenacted herein are repealed.

(B.) Effect upon Outstanding Floodplain Development Permits: Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this Ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this Ordinance.

18.2-3 Findings of Fact.

(A.) The flood prone areas within the jurisdiction of City of Creedmoor 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 of uses vulnerable to floods or other hazards.

18.2-4 General Provisions.

(A.) Lands to which this Ordinance Applies: This Ordinance shall apply to all areas of Special Flood Hazard Areas within the City of Creedmoor, including Extra-Territorial Jurisdictions (ETJs). Bona fide farms are not exempt from the provisions of this Ordinance regulating development in Floodways and flood plains as required for participation in the National Flood Insurance Program.

(B.) 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 and its accompanying Flood Insurance Rate Maps (FIRM), for Granville County dated April 16, 2007, and its accompanying Flood Insurance Rate Map panels (0885J, 0886J, 0887J, 0895J, 0896J, 0897J, 1804J, and 1806J), which are adopted by reference and declared to be a part of this Ordinance. The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date: Granville County Unincorporated Area, dated September 28, 1990 (Initial date), and The City of Creedmoor initial FIRM dated June 25, 1976 (initial date, City incorporated in March 1905).

18.2-5 Establishment of Floodplain Development Permit. A Floodplain Development Permit shall be required in conformance with the provisions of this Ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with Section 18-2.4 (B) of this Ordinance.

18.2-6 Compliance. No structure or land shall hereafter be located, extended, converted, altered or developed in any way without full compliance with the terms of this Ordinance and other applicable regulations. This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail. In the interpretation and application of this Ordinance, all provisions shall be:

(A.) considered as minimum requirements;

(B.) liberally construed in favor of the governing body; and

(C.) deemed neither to limit nor repeal any other powers granted under State statutes.

18.3 Warning and Disclaimer of Liability

The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This Article does not imply that land outside the areas of the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the City of Creedmoor or by any officer or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made hereunder.

18.4 Flood Plain Development Application, Permit and Certification Requirement

18.4-1 Application for Permit. On a property containing area of Special Flood Hazard, application for a Flood Plain Development Permit shall be made in accordance with 18.4-2 (Floodplain Development Permit).

18.4-2 Floodplain Development Permit

(A.) Application Requirements: Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a Floodplain Development Permit:

(1.) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

(a.) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

(b.) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 18.2-4(B), or a statement that the entire lot is within the Special Flood Hazard Area;

(c.) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 18.2-4(B)

(d.) The boundary of the Floodway(s) or non-encroachment area(s) as determined in Section 18.2-4(B);

(e.) The base flood elevation (BFE) where provided as set forth in Sections 18.2-4(B) or 18.6;

(f.) The old and new location of any watercourse that will be altered or relocated as a result of proposed development;

(g.) Certification of the plot plan by a registered land surveyor or professional engineer.

(2.) Proposed elevation, and method thereof, of all development within a Special

Flood Hazard Area including but not limited to:

(a.) Elevation in relation to mean sea level of the proposed Reference Level (including basement) of all structures;

(b.) Elevation in relation to mean sea level to which any non-residential structure in Zone AE or A will be flood-proofed; and

(c.) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or Floodproofing;

(3.) If Floodproofing, a Floodproofing Certificate (FEMA Form 81-65) with supporting data, an operational plan, and an inspection and maintenance plan that include, but is not limited to, installation, exercise, and maintenance of Floodproofing measures.

(4.) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this Ordinance are met. These details include but are not limited to:

(a.) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);

(b.) Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with Section 18.5-1(B)(4)(3), when solid foundation perimeter walls are used in Zones A and AE;

(5.) Usage details of any enclosed areas below the Regulatory Flood Protection Elevation.

(6.) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;

(7.) Copies of all other Local, State and Federal permits required prior to floodplain development permit issuance (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.)

(8.) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure Section 18.5-1(B)(6) and (7) of this Ordinance are met.

(9.) A description of proposed watercourse alteration or relocation, when applicable, including an engineering 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 (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(B.) Permit Requirements. 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 determination for the proposed development per available data specified in Section 18-2.4(B).

(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, if in Zones A and AE.

(8.) Limitations of below BFE enclosure uses (if applicable). (i.e., Parking, Building Access and Limited Storage only).

18.4-3 Certification of Floor Elevation/Floodproofing.

(A.) Certificate of Floor Elevation/Flood proofing. When a property is located in a flood hazard area or when a structure is flood proofed, a certificate shall be provided in accordance with Section 18.4-3(B) (Certificate of Floor Elevation/Flood proofing).

(B.) Elevation Certificates

(1.) An Elevation Certificate (FEMA Form 81-31) 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, in relation to mean sea 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 81-31) is required after the Reference Level is established. Within seven (7) 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, in relation to mean sea level. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. 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 further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to

issue a stop work order for the project.

(3.) A final as-built Elevation Certificate (FEMA Form 81-31) 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 to withhold the issuance of a Certificate of Compliance/Occupancy.

(C.) Floodproofing Certificate. If non-residential Floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 81-65), with supporting data, an operational plan, and an inspection and maintenance plan, 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 Floodproofing 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 and plan. Deficiencies detected by such review shall be corrected by the applicant prior to 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.

(D.) If a manufactured home is placed within Zone A and AE and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per Section 18.5-1(B)(3)(2).

(E.) 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.

(F.) Certification Exemptions. The following structures, if located within Zone A and AE, are exempt from the elevation/Floodproofing certification requirements specified in items (A) and (B) of this subsection:

(1.) Recreational Vehicles meeting requirements of Section 18.5-1(B)(6)(a)

(2.) Temporary Structures meeting requirements of Section 18.5-1(B)(7); and

(3.) Accessory Structures less than 150 square feet meeting requirements of Section 18.5-1(B)(8).

18.5 Provisions for Flood Hazard Reduction

18.5-1 Provisions for Flood Hazard Reduction.

(A.) General Standards: In all Special Flood Hazard Areas the following provisions are required:

(1.) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

(2.) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(3.) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

(4.) 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 panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers, etc.), water heaters, and electric outlets/switches.

(5.) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(6.) 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 flood waters.

(7.) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(8.) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this Ordinance, shall meet the requirements of "new construction" as contained in this Ordinance.

(9.) Nothing in this Ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this Ordinance 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 Ordinance.

(10.) 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 18.11-10. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a 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 Floodproofing to at least the Regulatory Flood Protection Elevation and certified according to Section 18.4-3 of this Ordinance.

(11.) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

(12.) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(13.) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(14.) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(15.) Permitted Uses. The following uses shall be permitted below flood protection elevation within the Floodway fringe zone to the extent that they are otherwise permitted by this Ordinance:

(a.) Any use as permitted and regulated in the Floodway zone.

(b.) Fill material graded to drain, provided such is protected against erosion. Any fill material on which a structure is to be located shall be extended at a grade of no greater than five-percent (5%) for a minimum of ten (10) feet beyond the limits of the structure foundation, and shall have a transition slope no steeper than two (2) feet horizontal to one (1) foot vertical.

(B.) Specific Standards: In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 18.2-4(B), or Section 18.6, the following provisions, in addition to Section 18.5, are required:

(1.) Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the Reference Level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 3 of this Ordinance.

(2.) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the

Reference Level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 3 of this Ordinance. Structures located in A and AE Zones may be Floodproofing to the Regulatory Flood Protection 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. 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 Section 18.4-3, along with the operational and maintenance plans.

(3.) Manufactured Homes.

(a.) New or replacement manufactured homes shall be elevated so that the Reference Level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Article 3 (Definitions) of this Ordinance.

(b.) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by engineer certification, 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 NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (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 thirty-six (36) inches in height, an engineering certification is required.

(c.) All enclosures or skirting below the lowest floor shall meet the requirements of 18.5-1(C).

(d.) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management coordinator.

(4.) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

(a.) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed

area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

(b.) Shall be constructed entirely of flood resistant materials at least to the Regulatory flood Protection Elevation; and

(c.) Shall include, in Zones A and AE, 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;

(i.) A minimum of two flood openings on different sides of each enclosed area subject to flooding;

(ii.) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;

(iii.) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

(iv.) The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;

(v.) 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

(vi.) 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.

(5.) 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:

(i.) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more nonconforming than the existing structure.

(ii.) A substantial improvement, 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:

(i.) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.

(ii.) A substantial improvement, the existing structure and the addition and/or improvements must comply with the standards for new construction.

(6.) Recreational Vehicles. Recreational vehicles 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 the requirements for new construction.

(7.) Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant 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. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval;

(a.) A specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;

(b.) The name, address, and phone number of the individual responsible for the removal of the temporary structure;

(c.) 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);

(d.) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

(e.) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

(8.) Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

(a.) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

(b.) Accessory structures shall not be temperature-controlled;

(c.) Accessory structures shall be designed to have low flood damage potential;

(d.) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

(e.) Accessory structures shall be firmly anchored in accordance with Section 18.5-1(A)

(f.) All service facilities such as electrical shall be installed in accordance with Section 18.5-1(A)(4).

(g.) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with Section 18.5-1(B)(4)c.

(h.) An accessory structure with a footprint 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 18.4-3.

18.5-2 Reserved

18.6 Standards for Floodplains Without Base Flood Elevation

18.6-1 Standards for Floodplains without Established Base Flood Elevation.

(A.) Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 18.2-4(B), where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to Section 18.5-1(A), shall apply:

(1.) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (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.

(B.) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on one of the following criteria set in priority order:

(1.) If Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this Ordinance and shall be elevated or Floodproofing in accordance with standards in Section 18.5-1(A) and (B).

(2.) All subdivision, manufactured home park, and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference per Section 18.2-4(B) to be utilized in implementing this Ordinance.

(3.) 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 to or above the Regulatory Flood Protection Elevation, as defined in

Article 3. All other applicable provisions of 18.5-1(B) shall also apply.

18.7 Standards for Riverine Floodplains with BFE but Without Established Floodways or Non-Encroachment Areas.

Along rivers and streams where BFE data is provided 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 outlined in Sections 18.5-1(A) and (B); 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 within the community.

18.8 Floodways and Non-Encroachment Areas

Areas designated as Floodways or Non-Encroachment Areas are located within the Special Flood Hazard Areas established in Section 18.2-4(B). 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 Sections 18.5-1(A) and (B), shall apply to all development within such areas:

18.8-1 No Encroachment. No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated that:

(A.) 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

(B.) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

18.8-2 <u>Compliance with Flood Hazard Reduction Provisions.</u> If Section 18.8-1 is satisfied, all development shall comply with all applicable flood hazard reduction provisions of

this Ordinance.

18.8-3 Requirements for Manufactured Homes. No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met.

(A.) The anchoring and the elevation standards of 18.5-1(B)(3); and

(B.) The no encroachment standard of Section 18.8-1.

18.9 Standards for Areas of Shallow Flooding (Zone AO).

18.9-1 Reserved.

18.10 Corrective Procedures

18.10-1 Violations to be Corrected. When the Floodplain Administrator finds violations of applicable State and local laws; it shall be his or her duty 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.

18.10-2 Actions in Event of Failure to Take Corrective Action. 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:

(A.) That the building or property is in violation of the floodplain management regulations;

(B.) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) 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

(C.) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

18.10-3 Order to Take Corrective Action. If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than 180 calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.

18.10-4 Appeal. Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

18.10-5 Failure to Comply with Order. If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

18.11 Variance Procedures

18.11-1 The Board of Adjustment as established by City of Creedmoor, hereinafter referred to as the "Board of Adjustment", shall hear and decide requests for variances from the requirements of this Ordinance.

18.11-2 Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

18.11-3 Variances may be issued for:

(A.) 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.

(B.) Functionally dependent facilities if determined to meet the definition as stated in Article 3 of this Ordinance, provided provisions of 18.11-9(B), 18.11-9(C), and 18.11-9(E) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(C.) Any other type of development provided it meets the requirements of this Section.

18.11-4 In passing upon variances, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:

(A.) the danger that materials may be swept onto other lands to the injury of others;

(B.) the danger to life and property due to flooding or erosion damage;

(C.) the susceptibility of the proposed facility and its contents to flood damage and the

effect of such damage on the individual owner;

(D.) the importance of the services provided by the proposed facility to the community;

(E.) the necessity to the facility of a waterfront location as defined under Article 3 of this Ordinance as a functionally dependent facility, where applicable;

(F.) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(G.) the compatibility of the proposed use with existing and anticipated development;

(H.) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(I.) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(J.) the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(K.) 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.

18.11-5 A written report addressing each of the above factors shall be submitted with the application for a variance.

18.11-6 Upon consideration of the factors listed above and the purposes of this Ordinance, 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 Ordinance.

18.11-7 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 risks to 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.

18.11-8 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.

18.11-9 <u>Conditions for Variances.</u>

(A.) Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.

(B.) 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.

(C.) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(D.) Variances shall only be issued prior to development permit approval.

(E.) Variances shall only be issued upon:

(1.) a showing of good and sufficient cause;

(2.) a determination that failure to grant the variance would result in exceptional hardship; and

(3.) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

18.11-10 A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.

(A.) The use serves a critical need in the community.

(B.) No feasible location exists for the use outside the Special Flood Hazard Area.

(C.) The Reference Level of any structure is elevated or Floodproofing to at least the Regulatory Flood Protection Elevation.

(D.) The use complies with all other applicable Federal, State and local laws.

(E.) The City of Creedmoor has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

18.12 Flood Control Appeals

18.12-1 Authority. The Board of Adjustment shall hear and decide appeals and requests for variances from the requirements of the flood control provisions of this Ordinance.

18.12-2 Appeal and Variance Considerations. In passing upon such applications, the

Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and;

(A.) the danger that materials may be swept onto other lands to the injury of others;

(B.) the danger to life and property due to flooding or erosion damage;

(C.) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(D.) the importance of the services provided by the proposed facility to the community;

(E.) the necessity to the facility of a waterfront location, where applicable;

(F.) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(G.) the comparability of the proposed use with existing and anticipated development;

(H.) the relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

(I.) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(J.) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

(K.) 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; and

(L.) the effect that granting the appeal or variance would have on the jurisdiction's eligibility for Federal Flood Insurance.

18.13 Designation of Floodplain Administrator

The *Planning, Zoning and Subdivision Administrator*, or his/her designee, hereinafter referred to as the "*Floodplain Administrator*" is hereby appointed to administer and implement the provisions of this Ordinance.

18.14 Enforcement Officer

18.14-1 Establishment of Enforcement Officer. The *Floodplain Administrator* shall appoint an Enforcement Officer to enforce the provisions of this Ordinance.

18.14-2 Enforcement Procedure. When the Enforcement Officer or his agent finds a

violation of this Ordinance, it shall be his duty to notify the owner or occupant of the land, building, structure, sign, or use of the violation. The owner or occupant shall immediately remedy the violation.

18.15 Notice of Violation

If the owner or occupant of the land, building, sign, structure, or use in violation fails to take prompt corrective action, the Enforcement Officer shall give the owner or occupant written notice, by certified or registered mail to his last known address, or by personal service or by posting notice of the violation conspicuously on the property:

(A.) That the land, building, sign, structure, or use is in violation of this Ordinance;
(B.) The nature of the violation, and citation of the section of this Ordinance violated; and
(C.) The measures necessary to remedy the violation.

18.15-1 Appeal. Any owner or occupant who has received a Notice of Violation may appeal in writing the decision of the Enforcement Officer to the Board of Adjustment (unless this Ordinance has specified that another board shall hear the appeal of the violation) within fifteen (15) days following the date of the Notice of Violation. The Board of Adjustment, or other designated board, shall hear an appeal within a reasonable time, and it may affirm, modify, or revoke the Notice of Violation. In the absence of an appeal, the remedies and penalties sought by the Enforcement Officer in the Notice of Violation shall be final.

18.15-2 Order of Corrective Action. If upon a hearing held pursuant to an appeal as prescribed above, the Board of Adjustment shall find that the owner or occupant is in violation of this Ordinance, the Board of Adjustment shall make an order in writing to the owner or occupant affirming the violation and ordering compliance.

18.15-3 Failure to Comply with an Order. If the owner or occupant of a property fails to comply with a Notice of Violation from which no appeal has been taken, or an Order of Corrective Action following an appeal, the owner or occupant shall be subject to such remedies and penalties as may be provided for by state law and Section 8-4 (Remedies). If the owner or occupant fails to comply with the remedies and penalties prescribed, enforcement shall be sought through an order of a court of competent jurisdiction.

18.15-4 Penalties For Violation. Violation of the provisions of this Ordinance 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 constitute a misdemeanor. Any person who violates this Article 18 or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $50.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained

shall prevent the City of Creedmoor from taking such other lawful action as is necessary to prevent or remedy any violation.

18.16 Floodplain Administrator and/or Enforcement Officer Duties

A "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this Ordinance. The Floodplain Administrator shall perform, but not be limited to, the following duties:

18.16-1 Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this Ordinance have been satisfied.

18.16-2 Advise permittee that additional Federal or State permits (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.) may be required, and require that copies of such permits be provided and maintained on file with the floodplain development permit.

18.16-3 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).

18.16-4 Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

18.16-5 Prevent encroachments into Floodways and Non-Encroachment Areas unless the certification and flood hazard reduction provisions of Section 18.8 are met.

18.16-6 Obtain actual elevation (in relation to mean sea level) of the Reference Level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with Section 18.4-3.

18.16-7 Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been Floodproofed, in accordance with Section 18.4-3.

18.16-8 Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with Section 18.4-3.

18.16-9 When Floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Sections 18.4-3 and 18.5-1(B)(2).

18.16-10 Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard 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 as provided in this Article.

18.16-11 When Base Flood Elevation (BFE) data has not been provided in accordance with Section 18.2-4(B), 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 Ordinance.

18.16-12 When Base Flood Elevation (BFE) data is provided but no Floodway nor non-encroachment area data has been provided in accordance with Section 18.2-4(B), 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 Ordinance.

18.16-13 When the lowest ground elevation of a parcel or structure 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.

18.16-14 Permanently maintain all records that pertain to the administration of this Ordinance and make these records available for public inspection.

18.16-15 Make on-site inspections of work in progress. 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 the provisions of the local ordinance 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 community at any reasonable hour for the purposes of inspection or other enforcement action.

18.16-16 Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Ordinance, 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 the work. The stop work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop work order constitutes a misdemeanor.

18.16-17 Revoke floodplain development permits as required. 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, or specifications; for refusal or failure to comply with the requirements of State or local 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 local law may also be revoked.

18.16-18 Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her 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.

18.16-19 Follow through with corrective procedures of Section 18.10.

18.16-20 Review, provide input, and make recommendations for variance requests.

18.16-21 Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with Section 18.2-4(B) of this Ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

18.16-22 Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-F) and Letters of Map Revision (LOMR).

ARTICLE 19

WATERSHED PROTECTION ORDINANCE

SECTION 1: GENERAL PROVISIONS

19.1 Title

This Ordinance shall be officially known as "The Creedmoor Watershed Protection Ordinance", but it may also be referred to as "The Stormwater Ordinance." It may be furthermore referred to herein as "this Ordinance."

19.2 Purpose and Authority

The purpose of this Ordinance is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of issues related to increased *stormwater runoff* and nonpoint and point source pollution, *buffer* protection, and illicit discharges into municipal stormwater systems. It has been determined that proper management of construction-related and post-*Development stormwater runoff*, illicit discharges, and *buffer* protection will minimize damage to public and private property and infrastructure; safeguard the public health, safety, and general welfare; and protect water and aquatic resources. This Ordinance also applies to all properties within the City of Creedmoor and its extraterritorial jurisdiction, regardless of whether the property is currently being "developed" or not.

The City Board of Commissioners of the City of Creedmoor is authorized to adopt this Ordinance pursuant to North Carolina law, including but not limited to Article 14, Section 5 of the Constitution of North Carolina; North Carolina General Statutes §143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Session Law 2004-163; Chapter §160A, §§ 174, 185; as well as Chapter §113A, Article 4 (Sedimentation Pollution Control); Article 21, Part 6 (Floodway Regulation); Chapter §160A, Article 19 (Planning and Regulation of *Development*); Article 19, Part 4, Chapter §160A; G.S. §160A-372 (Open Space).

19.3 Findings

It is hereby determined that:

19.3-1 *Development* and Re-*Development* alter the hydrologic response of local *watershed*s and increase *stormwater runoff* rates and volumes, flooding, soil erosion, *stream* channel erosion, nonpoint and point source pollution, and sediment transport and deposition, as well as reducing groundwater recharge;

19.3-2 These changes in *stormwater runoff* contribute to increased quantities of water-borne pollutants and alterations in hydrology that are harmful to public health and safety as well as to the natural environment; and

19.3-3 These effects can be managed and minimized by applying proper design and well-planned controls to manage *stormwater runoff* from *Development* sites.

19.3-4 Further, 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 (EMC) promulgated in response to federal Phase II requirements, compel certain urbanized areas, including this jurisdiction, to adopt minimum stormwater controls such as those included in this Ordinance. Further, the EMC has identified Falls of Neuse reservoir, a water supply reservoir, as nutrient sensitive waters; has identified all or a portion of the reservoir as impaired waters under the federal Clean Water Act due to exceedances of the chlorophyll a standard; and has promulgated rules (the "Falls Rules") to reduce the average annual loads of nitrogen and phosphorus delivered to Falls Reservoir from all point and nonpoint sources of these nutrients located within its watershed, including stormwater from new development in this jurisdiction;

19.3-5 Therefore, the City of Creedmoor City Board of Commissioners establishes this set of water quality and quantity regulations to meet the requirements of state and federal law regarding control of *stormwater runoff* and discharge.

19.4 Specific

This Ordinance seeks to meet its general purpose through the following specific objectives and means:

19.4-1 Establishing decision-making processes for *Development* that protects the integrity of *watershed*s and preserves the health of water resources.

19.4-2 Requiring that *new Development* and Re-*Development* maintain the pre-*Development* hydrologic response in their post-*Development* state as nearly as practicable for the applicable design storm to reduce flooding, *stream*bank erosion, nonpoint and point source pollution and increases in *stream* temperature, and to maintain the integrity of *stream* channels and aquatic habitats;

19.4-3 Establishing minimum post-*Development* stormwater management standards and design criteria for the regulation and control of *stormwater runoff* quantity and quality;

19.4-4 Establishing design and review criteria for the construction, function, and use of structural stormwater *Best Management Practices (BMPs)* that may be used to meet the minimum post-*Development* stormwater management standards;

19.4-5 Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for stormwater and the preservation of greenspace, riparian *buffer*s and other conservation areas to the maximum extent practicable;

19.4-6 Establishing provisions for the long-term responsibility for and maintenance of structural and nonstructural stormwater *Best Management Practices (BMPs)* to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety;

19.4-7 Establishing administrative procedures for the submission, review, approval and disapproval of stormwater management plans, for the inspection of approved projects, and to assure appropriate long-term maintenance.

19.4-8 Coordinating site design plans that include open space and natural areas with the City of Creedmoor Development Ordinance and the 2030 Comprehensive Land Development Plan, and any other plans as adopted by the City of Creedmoor.

19.4-9 Controlling illicit discharges into the municipal separate stormwater system.

19.4-10 Controlling erosion and sedimentation from construction activities.

19.4-11 Assigning responsibility and processes for approving the creation and maintenance of adequate drainage and flood damage prevention measures.

19.5 Applicability and Jurisdiction

19.5-1 General. Beginning with and subsequent to its effective date, this Ordinance shall be applicable to all properties in the City of Creedmoor and its extraterritorial jurisdiction, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempt pursuant to Subsection 19-5.2 of this Section, Exemptions. Properties need not be "under *development*" to be subject to the standards of this Ordinance.

19.5-2 Exemptions. The following are exempt from the requirements of this Article. The exemption shall not be construed to permit uses prohibited in the primary and/or overlay zoning district, or otherwise prohibited by this Ordinance.

(A.) Single family and duplex residential and recreational development and redevelopment that cumulatively disturbs less than one half acre and is not part of a larger common plan of development or sale is exempt from the provisions of this ordinance.

(B.) Commercial, industrial, institutional, multifamily residential or local government development and redevelopment that cumulatively disturbs less than 12,000 square feet and is not part of a larger common plan of development or sale is exempt from the provisions of this ordinance..

(C.) Development and redevelopment that disturbs less than the above thresholds are not exempt if such activities are part of a larger common plan of development or sale and the larger common plan exceeds the relevant threshold, even though multiple, separate or distinct activities take place at different times on different schedules.

(D.) Development that is 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) are exempt from the provisions of this ordinance.

(E.) No lot or property shall be exempt from the *buffer* protection requirements of this Ordinance.

19.5-3 No *Development* or re-*Development* Until Compliance and Permit. No *Development* or Re-*Development* shall occur except in compliance with the provisions of this Ordinance or unless exempted. No *Development* for which a permit is required pursuant to this Ordinance shall occur except in compliance with the provisions, conditions, and limitations of the permit.

19.5-4 Map. The provisions of this Article shall apply within the areas designated on the map titled "Falls Watershed Stormwater Map of the City of Creedmoor, North Carolina " ("the Stormwater Map"), which is adopted simultaneously herewith. The Stormwater Map and all explanatory matter contained thereon accompanies and is hereby made a part of this Ordinance. The Stormwater Map shall be kept on file by the Stormwater Administrator and shall be updated to take into account changes in the land area covered by this Ordinance and the geographic location of all structural BMPs permitted under this Ordinance. In the event of a dispute, the applicability of this Ordinance to a particular area of land or BMP shall be determined by reference to the North Carolina Statutes, the North Carolina Administrative Code, and local zoning and jurisdictional boundary ordinances.

19.5-5 Definitions. Definitions may be found in Article 3 “Definitions.”

19.6 Interpretation

19.6-1 Meaning and Intent. All provisions, terms, phrases, and expressions contained in this Ordinance shall be construed according to the general and specific purposes set forth in Section 19.2, Purpose and Authority. If a different or more specific meaning is given for a term defined elsewhere in the City of Creedmoor Development Ordinance, the meaning and application of the term in this Ordinance shall control for purposes of application of this Ordinance.

19.6-2 Text Controls in Event of Conflict. 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.

19.6-3 Authority for Interpretation. The Stormwater Administrator has authority to determine the interpretation of this Ordinance. Any person may request an interpretation by submitting a written request to the Stormwater Administrator, who shall respond in writing within 30 days. The Stormwater Administrator shall keep on file a record of all written interpretations of this Ordinance.

19.6-4 References to Statutes, Regulations, and Documents. Whenever reference is made to a resolution, ordinance, statute, regulation, manual (including the *Design Manual*), or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated.

19.6-5 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 of Creedmoor, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the City of Creedmoor. References to days are calendar days unless otherwise stated.

19.7 Delegation of Authority

Any act authorized by this Ordinance to be carried out by the Stormwater Administrator of City of Creedmoor may be carried out by his or her designee.

19.8 Usage

19.8-1 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.

19.8-2 Conjunctions. Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The word “and” indicates that all connected items, conditions, provisions and events apply. The word “or” indicates that one or more of the connected items, conditions, provisions or events apply.

19.8-3 Tense, Plurals, and Gender. 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.

19.9 Measurement and Computation

Lot area refers to the amount of horizontal land area contained inside the lot lines of a lot or site. Lot area does not include those portions of a lot or tract of land lying within a public street and/or roadway right-of-way existing upon the effective date of this Ordinance.

19.10 Design Manual

19.10-1 References to *Design Manual*. The Stormwater Administrator shall use the policy, criteria, and information, including technical specifications and standards, in the most recent edition of the **NC DWQ Stormwater BMP Manual** (hereinafter referred to as the *Design Manual*) as the basis for decisions about stormwater permits and about the design, implementation and performance of structural and non-structural stormwater BMPs.

The *Design Manual* includes a list of acceptable stormwater treatment practices, including specific design criteria for each stormwater practice. Stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards of the Falls Rules.

19.10-2 Relationship of *Design Manual* to Other Laws and Regulations. If the specifications or guidelines of the *Design Manual* are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the *Design Manual*.

19.10-3 Changes to Standards and Specifications. If the standards, specifications, guidelines, policies, criteria, or other information in the *Design Manual* are amended subsequent to the submittal of an application for approval pursuant to this Ordinance but prior to approval, the new information shall control and shall be utilized in reviewing the application and in implementing this Ordinance with regard to the application.

19.11 Relationship to Other Laws, Regulations and Private Agreements

19.11-1 Conflicts of laws. This Ordinance is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this Ordinance are in addition to the requirements of any other ordinance, rule, regulation or other provision of law. Where any provision of this Ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare shall control.

19.11-2 Private Agreements. This Ordinance is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than such an easement, covenant, or other private agreement, the requirements of this Ordinance shall govern. Nothing in this Ordinance shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with this Ordinance. In no case shall the City of Creedmoor be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

19.12 Severability

If the provisions of any section, subsection, paragraph, subdivision or clause of this Article shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this Ordinance.

19.13 Effective Date and Transitional Provisions

19.13-1 Effective Date. This Article shall take effect on the same date as the larger document, known as the Creedmoor Development Ordinance, of which this Article is a part, shall become effective.

19.13-2 Final Approvals. Complete Applications. All *Development* and Re-*Development* projects for which complete and full applications were submitted and approved by the City of Creedmoor prior to the effective date of this Ordinance and which remain valid, unexpired, unrevoked and not otherwise terminated at the time of *Development* or Re-*Development* shall be exempt from complying with all provisions of this Ordinance dealing with the control and/or management of post-construction runoff, but shall be required to comply with all other applicable provisions, including but not limited to illicit discharge provisions.

A phased *development* plan shall be deemed approved prior to the effective date of this Ordinance if it has been approved by all necessary government units, it remains valid, unexpired, unrevoked and not otherwise terminated, and it shows:

(A.) For the initial or first phase of *development*, the type and intensity of use for a specific parcel or parcels, including at a minimum, the boundaries of the project and a subdivision plan that has been approved.

(B.) For any subsequent phase of *development*, sufficient detail so that implementation of the requirements of this Ordinance to that phase of *development* would require a material change in that phase of the plan.

19.13-3 Violations Continue. Any violation of provisions existing on the effective date of this Ordinance shall continue to be a violation under this Ordinance and be subject to penalties and enforcement under this Ordinance unless the use, *Development*, construction, or other activity complies with the provisions of this Ordinance.

SECTION 2: ADMINISTRATION AND PROCEDURES

19.14 Review and Decision-Making Entities

19.14-1 Stormwater Administrator.

Stormwater Administrator shall be designated by the City of Creedmoor Board of Commissioners to administer and enforce this Article. The minimum qualifications of the Stormwater Administrator and/or designated individuals, performing services only in their area of competence, who will be responsible for administering this ordinance and of implementing the City of Creedmoor's Local Stormwater Program, including stormwater plan review and BMP inspection are as follows:

(A) A person certified by the North Carolina Cooperative Extension Service to approve stormwater management plans or to inspect BMPs

(B) Registered North Carolina Professional Engineers with stormwater experience

(C) Registered North Carolina Professional Surveyor, Landscape Architect, Soil Scientist, or Aquatic Biologist.

19.14-2 Powers and Duties. In addition to the powers and duties that may be conferred by other provisions of the City of Creedmoor Development Ordinance and other laws, the Stormwater Administrator shall have the following powers and duties under this Ordinance.

(A.) To review and approve, approve with conditions, or disapprove applications for approval of plans pursuant to this Ordinance.

(B.) To make determinations and render interpretations of this Ordinance.

(C.) To establish application requirements and schedules for submittal and review of applications and appeals, to review and make recommendations to the City Board of Commissioners on applications for *Development* or Re-*Development* approvals.

(D.) To enforce the provisions of this Ordinance in accordance with its enforcement provisions.

(E.) To maintain records, maps, forms and other official materials as relate to the adoption, amendment, enforcement, and administration of this Ordinance.

(F.) To provide expertise and technical assistance to the City Board of Commissioners, upon request.

(G.) To designate appropriate other person(s) who shall carry out the powers and duties of the Stormwater Administrator.

(H.) To take any other action necessary to administer the provisions of this Ordinance.

19.15 Review Procedures

19.15-1 Permit Required; Must Apply for *Watershed* Approval (or Permit). An approved *Watershed* Plan (which may be used interchangeably with the term "stormwater permit" or "permit") is required for all *development* and re-*development* unless exempt pursuant to this Ordinance. Approval may only be issued subsequent to a properly submitted and reviewed permit application, or plan, pursuant to this section.

19.15-2 Effect of Permit. A stormwater permit shall govern the design, installation, and construction of stormwater management and control practices on the site, including structural BMPs and elements of site design for stormwater management other than structural BMPs.

The permit is intended to provide a mechanism for the review, approval, and inspection of the approach to be used for the management and control of stormwater for the *Development* or Re-*Development* site consistent with the requirements of this Ordinance, whether the approach consists of structural BMPs or other techniques such as low-impact or low-density design. The permit does not continue in existence indefinitely after the completion of the project; rather, compliance after project construction is assured by the maintenance provisions of this Ordinance.

19.15-3 Authority to File Applications. All applications required pursuant to this Code shall be submitted to the Stormwater Administrator by the land owner or the land owner's duly authorized agent. An original signature of the property owner shall be required on the cover sheet of the site plan submittal or application.

19.15-4 Application Contents and Form. The Stormwater Administrator shall establish requirements for the content and form of all applications and shall amend and update those requirements from time to time. At a minimum, the stormwater permit application shall describe in detail how post-*development stormwater runoff* will be controlled and managed, the design of all stormwater facilities and practices, and how the proposed project will meet the requirements of this Ordinance.

19.15-5 Submission Schedule. The Stormwater Administrator shall establish a submission schedule for applications. The schedule shall establish deadlines by which complete

applications must be submitted for the purpose of ensuring that there is adequate time to review applications, and that the various stages in the review process are accommodated.

19.15-6 Review Fees. The City Board of Commissioners shall establish review fees as well as policies regarding refund of any fees upon withdrawal of an application, and may amend and update the fees and policies from time to time.

Administrative Manual. For applications required under this Article, the Stormwater Administrator shall compile the application requirements, submission schedule, fee schedule, a copy of this Ordinance, and information on how and where to obtain the Design Manual in an Administrative Manual, which shall be made available to the public.

19.15-7 Submittal of Complete Application. Applications shall be submitted to the Stormwater Administrator pursuant to the application submittal schedule in the form established by the Stormwater Administrator, along with the appropriate fee established pursuant to this section.

An application shall be considered as timely submitted only when it contains all elements of a complete application pursuant to this Ordinance, along with the appropriate fee. If the Stormwater Administrator finds that an application is incomplete, the applicant shall be notified of the deficient elements and shall be provided with an opportunity to submit a complete application. However, the submittal of an incomplete application shall not suffice to meet a deadline contained in the submission schedule established above.

19.15-8 Review. The Stormwater Administrator shall review the application and determine whether the application complies with the standards of this Ordinance.

19.15-9 Approval. If the Stormwater Administrator finds that the application complies with the standards of this Ordinance, the Stormwater Administrator shall approve the application. The Stormwater Administrator may impose conditions of approval as needed to ensure compliance with this Ordinance. The conditions shall be included as part of the approval.

19.15-10 Application Fails to Comply. If the Stormwater Administrator finds that the application fails to comply with the standards of this Ordinance, the Stormwater Administrator shall notify the applicant and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application.

19.15-11 Revision and Subsequent Review. A complete revised application shall be reviewed by the Stormwater Administrator after its re-submittal and shall be approved, approved with conditions, or disapproved.

If a revised application is not re-submitted within sixty (60) calendar days from the date the applicant was notified, the application shall be considered withdrawn, and a

new submittal for the same or substantially the same project shall be required along with the appropriate fee for a new submittal.

Up to two (2) re-submittals of a revised application may be submitted without payment of an additional permit review fee. Any re-submittal after the second re-submittal shall be accompanied by an additional review fee, as established pursuant to this Ordinance.

19.16 Applications for Approval

19.16-1 Concept Plan and Consultation Meeting. Before a stormwater management permit application is deemed complete, the Stormwater Administrator or developer may request a consultation on a concept plan for the post-construction stormwater management system to be utilized in the proposed *Development* project. This consultation meeting should take place at the time of the preliminary plan/plat of subdivision or other early step in the *Development* process. The purpose of this meeting is to discuss the post-construction stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to stormwater management designs before formal site design engineering is commenced. Local *watershed* plans, the City of Creedmoor Development Ordinance, "City Plan 2030 – Comprehensive Land Use Plan" as amended from time to time, and other relevant resource protection plans should be consulted in the discussion of the concept plan. Fees for such a meeting may be required.

To accomplish this goal, the following information should be included in the concept plan, which should be submitted in advance of the meeting.

19.16-2 Conditions / Proposed Site Plans. Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; *perennial and intermittent streams*; mapping of predominant soils from soil surveys (if available); boundaries of existing predominant vegetation; proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other *impervious surface*s.

19.16-3 Natural Resources Inventory. A written or graphic inventory of natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, geologic features, topography, *wetlands*, and native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as lakes, ponds, floodplains, *stream buffer*s and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints

for *Development* and stormwater management.

19.16-4 Stormwater Management System Concept Plan. A written or graphic concept plan of the proposed post-*Development* stormwater management system including: preliminary selection and location of proposed structural stormwater controls; low-impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of any proposed *stream* channel modifications, such as bridge or culvert crossings.

19.16-5 Stormwater Management Permit Application. The stormwater management permit application shall detail how post-*Development stormwater runoff* will be controlled and managed and how the proposed project will meet the requirements of this Ordinance, including "Section 3, Standards". All such plans shall be prepared by a qualified registered North Carolina professional engineer, surveyor, or landscape architect, and the engineer, surveyor, or landscape architect shall perform services only in their area of competence, and shall verify that the design of all stormwater management facilities and practices meets the submittal requirements for complete applications, that the designs and plans are sufficient to comply with applicable standards and policies found in the *Design Manual*, and that the designs and plans ensure compliance with this Ordinance. The submittal shall include all of the information required in the submittal checklist established by the Stormwater Administrator. Incomplete submittals shall be treated pursuant to Section 19.15-10 (Application Fails to Comply).

19.16-6 As-Built Plans and Final Approval. Upon completion of a project, and before a certificate of occupancy shall be granted, the applicant shall certify that the *completed* project is in accordance with the approved stormwater management plans and designs, and shall submit actual "as built" plans for all stormwater management facilities or practices after final construction is *completed*.

The plans shall show the final design specifications for all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. The designer of the stormwater management measures and plans shall certify, under seal, that the as-built stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and designs and with the requirements of this Ordinance. A final inspection and approval by the Stormwater Administrator shall occur before the release of any performance securities.

19.16-7 Other Permits. No certificate of compliance or occupancy shall be issued by the City of Creedmoor or Granville County without final as-built plans and a final

inspection and approval by the Stormwater Administrator, except where multiple units are served by the stormwater practice or facilities, in which case the City of Creedmoor or Granville County 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.

19.16-8 Plans Required for *Buffer* Encroachments. Site plans, prepared by a licensed professional engineer, professional land surveyor, or landscape architect are required to be submitted to the City of Creedmoor prior to any encroachment into a required *buffer*. Fees may apply to such a review by the City of Creedmoor.

19.17 Approvals

19.17-1 Effect of Approval. Approval authorizes the applicant to go forward with only the specific plans and activities authorized in the permit. The approval shall not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities.

19.17-2 Time Limit/Expiration/Extension. An approved plan shall become null and void if the applicant fails to make *substantial progress* (i.e. building permits must be open and active) on the site within one year after the date of approval. The Stormwater Administrator may grant a single, one-year extension of this time limit, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan. In granting an extension, the Stormwater Administrator may require compliance with standards adopted since the original application was submitted unless there has been substantial reliance on the original permit and the change in standards would infringe the applicant's vested rights.

19.18 Appeals

19.18-1 Filing of Appeal and Procedures. Appeals shall be taken within 30 days by filing a notice of appeal and specifying the grounds for appeal on forms provided by the City of Creedmoor. The Stormwater Administrator shall transmit to the Board of Adjustment all documents constituting the record on which the decision appealed from was taken. The hearing conducted by the Board of Adjustment shall be conducted in the nature of a quasi-judicial proceeding with all findings of fact supported by competent, material evidence.

19.18-2 Review by Superior Court. Every decision of the Board of Adjustment shall be subject to Superior Court review by proceedings in the nature of certiorari. Petition for review by the Superior Court shall be filed with the Clerk of Superior Court within thirty (30) days after the latter of the following:

(A.) The decision of the Board of Adjustment is filed; or

(B.) A written copy of the decision is delivered to every aggrieved party who has filed a written request for such copy with the Chair of the Board of Adjustment at the time of its hearing of the case.

SECTION 3: STANDARDS

19.19 General Standards

All development and redevelopment to which this ordinance applies shall comply with the standards of this section. The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as a recorded deed restriction or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.

NITROGEN AND PHOSPHORUS LOADING

(a) Nitrogen and phosphorus loads contributed by the proposed new development shall not exceed the following unit-area mass loading rates: 2.2 and 0.33 pounds per acre per year for nitrogen and phosphorus, respectively.

(b) Notwithstanding 15A NCAC 2B.104(q), redevelopment subject to this ordinance that would replace or expand existing structures or improvements and would result in a net increase in built-upon area shall have the option of either meeting the loading standards identified in subsection (a) or meeting a loading rate that achieves the following nutrient loads compared to the existing development: 40 percent and 77 percent reduction for nitrogen and phosphorus, respectively.

(c) The developer shall determine the need for engineered stormwater controls to meet these loading rate targets by using the approved accounting tool.

NITROGEN AND PHOSPHORUS STANDARD IS SUPPLEMENTAL

The nitrogen and phosphorus loading standards in this ordinance are supplemental to, not replacements for, stormwater standards otherwise required by federal, state or local law, including without limitation any riparian buffer requirements applicable to the location of the development. This includes, without limitation, the riparian buffer protection requirements of 15A NCAC 2B.0233 and .0242.

CONTROL AND TREATMENT OF RUNOFF VOLUME

Stormwater systems shall be designed to control and treat the runoff generated from all surfaces by one inch of rainfall. The treatment volume shall be drawn down pursuant to standards specific to each practice as provided in the Design Manual. To ensure that the integrity and nutrient processing functions of receiving waters and associated riparian buffers are not compromised by erosive flows, stormwater flows from the development shall not contribute to degradation of waters of the State. At a minimum, the development shall not result in a net increase in peak flow leaving the site from pre-development conditions for the one-year, 24-hour storm event.

PARTIAL OFFSET OF NUTRIENT CONTROL REQUIREMENTS

Development subject to this ordinance shall attain nitrogen and phosphorus loading rate reductions on-site that meet the following criteria prior to using an offsite offset measure:

1. 30 percent or more reduction in both nitrogen and phosphorus loading from the untreated conditions for any single-family, detached and duplex residential development disturbing one half acre but less than one acre.
2. 50 percent or more reduction in both nitrogen and phosphorus loading from the untreated conditions for any single-family, detached and duplex residential development disturbing more than one acre.
3. 30 percent or more reduction in both nitrogen and phosphorus loading from the untreated condition for other development, including multi-family residential, commercial and industrial development disturbing 12,000 square feet but less than one acre.
4. 50 percent or more reduction in both nitrogen and phosphorus loading from the untreated condition for other development, including multi-family residential, commercial and industrial development disturbing more than one acre.
5. 30 percent or more reduction in both nitrogen and phosphorus loading from the untreated condition for proposed redevelopment activities in a designated downtown area that would replace or expand structures or improvements that existed as of December 2006.

A developer subject to this Ordinance may either achieve the additional reductions in nitrogen and phosphorus loading required by this Article by making offset payments to the NC Ecosystem Enhancement Program contingent upon acceptance of payments by that Program, or may use an offset option provided by the City of Creedmoor. A

developer may propose other offset measures to the City of Creedmoor, including providing his or her own offsite offset or utilizing a private seller. All offset measures permitted by this ordinance shall meet the requirements of 15A NCAC 02B .0282 and 15A NCAC 02B .0240.

19.20 Standards for Stormwater Control Measures

19.20-1 Evaluation According to Contents of Design Manual. All stormwater control measures and stormwater treatment practices (also referred to as Best Management Practices, or BMPs) required under this Ordinance shall be evaluated by the Stormwater Administrator according to the policies, criteria, and information, including technical specifications and standards and the specific design criteria for each stormwater practice, in the *Design Manual*. The Stormwater Administrator shall determine whether proposed BMPs will be adequate to meet the requirements of this Ordinance.

19.20-2 Determination of Adequacy; Presumptions and Alternatives. Stormwater treatment practices that are designed, 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 Ordinance. Whenever 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 Ordinance. The Stormwater Administrator may require the applicant to provide the documentation, calculations, and examples necessary for the Stormwater Administrator to determine whether such an affirmative showing is made.

19.20-3 Nitrogen and Phosphorus loading

(A) Nitrogen and phosphorus loads contributed by the proposed new development shall not exceed the following unit-area mass loading rates: 2.2 and 0.33 pounds per acre per year for nitrogen and phosphorus, respectively.

(B) Notwithstanding 15A NCAC 2B.104(q), redevelopment subject to this ordinance that would replace or expand existing structures or improvements and would result in a net increase in built-upon area shall have the option of either meeting the loading standards identified in subsection (a) or meeting a loading rate that achieves the following nutrient loads compared to the existing development: 40 percent and 77 percent reduction for nitrogen and phosphorus, respectively.

(C) The developer shall determine the need for engineered stormwater controls to meet these loading rate targets by using the approved Falls Rules accounting tool.

19.20-4 NITROGEN AND PHOSPHORUS STANDARD IS SUPPLEMENTAL

The nitrogen and phosphorus loading standards in this ordinance are supplemental to, not replacements for, stormwater standards otherwise required by federal, state or local law, including without limitation any riparian buffer requirements applicable to the location of the development. This includes, without limitation, the riparian buffer protection requirements of 15A NCAC 2B.0233 and .0242.

19.20-5 CONTROL AND TREATMENT OF RUNOFF VOLUME

Stormwater systems shall be designed to control and treat the runoff generated from all surfaces by one inch of rainfall. The treatment volume shall be drawn down pursuant to standards specific to each practice as provided in the Design Manual. To ensure that the integrity and nutrient processing functions of receiving waters and associated riparian buffers are not compromised by erosive flows, stormwater flows from the development shall not contribute to degradation of waters of the State. At a minimum, the development shall not result in a net increase in peak flow leaving the site from pre-development conditions for the one-year, 24-hour storm event.

19.20-6 PARTIAL OFFSET OF NUTRIENT CONTROL REQUIREMENTS

Development subject to this ordinance shall attain nitrogen and phosphorus loading rate reductions on-site that meet the following criteria prior to using an offsite offset measure:

1. 30 percent or more reduction in both nitrogen and phosphorus loading from the untreated conditions for any single-family, detached and duplex residential development disturbing one half acre but less than one acre.

2. 50 percent or more reduction in both nitrogen and phosphorus loading from the untreated conditions for any single-family, detached and duplex residential development disturbing more than one acre.

3. 30 percent or more reduction in both nitrogen and phosphorus loading from the untreated condition for other development, including multi-family residential, commercial and industrial development disturbing 12,000 square feet but less than one acre.

4. 50 percent or more reduction in both nitrogen and phosphorus loading from the untreated condition for other development, including multi-family residential, commercial and industrial development disturbing more than one acre.

5. 30 percent or more reduction in both nitrogen and phosphorus loading from the untreated condition for proposed redevelopment activities in a designated downtown area that would replace or expand structures or improvements that existed as of December 2006.

A developer subject to this ordinance may achieve the additional reductions in nitrogen and phosphorus loading required by this ordinance by making offset payments to the NC Ecosystem Enhancement Program contingent upon acceptance of payments by that Program. A developer may use the offset option provided by the City of Creedmoor in Section 19.21 of this article. A developer may propose other offset measures to the City of Creedmoor, including providing his or her own offsite offset or utilizing a private seller. All offset measures permitted by this ordinance shall meet the requirements of 15A NCAC 02B .0282 and 15A NCAC 02B .0240.

19.20-7 Surface Water Buffers.

Perennial and Intermittent Surface Water Buffers Required: A surface water buffer shall be maintained with a minimum width as specified in Table 19.20-9 (Surface Water Buffers) below and measured landward from the normal pool elevation of water supply impoundment and from the bank of each side of perennial and intermittent streams, lakes and ponds. These waters are indicated on the most recent version of either the United States Geological Survey 1:24,000 scale (7.5 minute quadrangle) topographic maps or the Soil Survey maps developed by the USDA Natural Resource Conservation Service. In addition, other site specific evidence may indicate to the NC *Division* of Water Quality the presence of waters not shown correctly on either of these two maps. Where these two maps show waters where no actual stream or waterbody exists, or where waters exist that are not shown on these maps, a developer may submit site-specific evidence in support of such claim to the Technical Review Committee. If the Committee determines that a discrepancy exists, the evidence may be submitted to the NC *Division* of Water Quality for a determination in water supply watersheds. For streams in non-water supply watersheds, the Committee will use the maps referenced above or a classification study in accordance with the U.S Army Corps of Engineers or the N.C. *Division* of Water Quality methodology to determine stream classification. All surface water buffers shall be depicted as provided for in the stormwater guidelines for water quality and flood control.

Table 19.20-9

Surface Water Buffers

15A NCAC 02B .0233 NEUSE RIVER BASIN: NUTRIENT SENSITIVE WATERS MANAGEMENT STRATEGY: PROTECTION AND MAINTENANCE OF EXISTING RIPARIAN BUFFERS

Classification	Required Buffer	
Perennial Surface Waters (Streams, Lakes, and Ponds)	50 feet	
	Zone 1 30 Feet	Zone 2 20 Feet
Intermittent Surface Waters (Streams, Lakes and Ponds)	50 Feet	
	Zone 1 30 Feet	Zone 2 20 Feet

Buffer Zones: Under 15A NCAC 02B .0233, required surface water buffers consist of two zones as shown in Table 19.20-9. Zone 1 shall be the first 30 feet landward from the top of the stream bank or mean high water line of other water bodies. Zone 2 shall begin at the outer edge of Zone 1 and extend landward a minimum of 20 feet. Zones 1 shall be undisturbed except as designated in 15A NCAC 02B .0233 of the State's Rules on Riparian Buffers. Zone 2 may be "maintained" but only if the landowner has obtained proper permits from NC DENR.

(A.) Channelization: Channelization of perennial or intermittent streams shall be prohibited, except for access crossings, erosion control devices and runoff control devices.

(B.) New Lots in the Surface Water Buffer: No new single-family or two-family residential lots shall be created which are entirely or partly contained within the surface water buffer.

(C.) Removing vegetation in Buffers: Removal of trees, shrubs, or other vegetation from required undisturbed buffers may result in a Notice of Violation. This violation need not occur in conjunction solely with new development. Encroachment, unless

approved by the City of Creedmoor, the US Army Corp of Engineers, the NCDENR *Division* of Water Quality, or any combination of these entities, shall be deemed a violation of this Ordinance. Violators are required to reestablish trees, shrubs, and vegetation as required by the City of Creedmoor. Trees and shrubs shall be replanted at the rate of 320 stems per acre. If disturbed areas were previously grassed areas, those areas may be reestablished with grass. Guidelines for reestablishment of riparian buffers may be obtained from NCDENR *Division* of Water Quality.

19.21 <u>Regional Stormwater Control</u>

19.21-1 Participation in a Regional Stormwater Control Program

(A.) Public Regional Stormwater Control Program:

(1.) Where a regional stormwater control program has been established by one or more local governments, or by an authority operating on behalf of one or more local governments, a *development* shall participate in said program in lieu of certification of stormwater control required by this Article, provided that:

(a.) The *development* is within an area covered by a public regional stormwater control program;

(b.) Stormwater from the *development* drains to an existing or funded public regional engineered stormwater control structure (BMP) which is proposed to be built and is part of said program;

(c.) Participation is in the form of contribution of funds, contribution of land, contribution of engineered stormwater control structure (BMP) construction work, or a combination of these, the total value of which shall be in accordance with a fee schedule adopted by the City or in accordance with an intergovernmental agreement; and

(d.) The Technical Review Committee finds that the *watershed development* plan is in compliance with all other applicable requirements of this Ordinance.

(2.) *Development*s participating in a public regional stormwater control program are required to maintain pre-*development* hydrology at the project site.

(3.) Use of Contributions: Each contribution from a *development* participating in a public regional engineered stormwater control structure (BMP) program shall be used for acquisition, engineering, construction and/or maintenance of one or more such structures in the same water supply *watershed* in which *development* lies. The use of contributions for these purposes does not preclude the use or imposition of other revenue sources for these purposes.

(B.) Private Regional Stormwater Control Program:

(1.) Where Permitted: Participation in a private regional engineered stormwater

control program is permitted where a private off-site stormwater control program (BMP) has been established by one or more property owners and approved by the Technical Review Committee. A *development* may participate in said program in lieu of any certification of runoff control required by this Article, provided that:

(a.) The *development* is within an area covered by an off-site engineered stormwater control structure;

(b.) Runoff from the *development* drains to an existing engineered stormwater control structure;

(c.) The parties agree to share the cost of any required maintenance and/or construction;

(d.) The agreement runs with the property;

(e.) The agreement is recorded with the county Register of Deeds in accordance with this Article;

(f.) The *Stormwater Administrator* finds that the *watershed development* plan is in compliance with all other applicable requirements of this Ordinance.

(2.) *Development*s participating in a private regional stormwater control program are required to maintain pre-*development* hydrology at the project site.

19.22 <u>Variances and Modifications</u>

19.22-1 *Watershed* Variances

(A.) Any person may petition the City of Creedmoor for a variance granting permission to use the person's land in a manner otherwise prohibited by this Ordinance. To qualify for a variance, the petitioner must show all of the following:

(1.) Unnecessary hardships would result from strict application of this Ordinance.

(2.) The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property.

(3.) The hardships did not result from actions taken by the petitioner.

(4.) The requested variance is consistent with the spirit, purpose, and intent of this Ordinance; will secure public safety and welfare; and will preserve substantial justice.

(B.) The City of Creedmoor may impose reasonable and appropriate conditions and safeguards upon any variance it grants.

(C.) Minor Variances.

The Technical Review Committee (TRC) shall review and decide requests for minor variances to the standards and restrictions pertaining to *Watershed* Protection. In order to approve a requested minor variance, the Technical Review Committee shall

make findings of fact showing that:

(1.) There are practical difficulties or unnecessary hardships that would result from carrying out the strict letter of this Ordinance;

(2.) The variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit; and

(3.) The granting of the variance assures the public safety and welfare and does substantial justice.

The Technical Review Committee may attach conditions to the minor variance approval that support the purpose of this Ordinance. In addition, in the case of *water supply watersheds*, the City shall notify and allow a reasonable comment period for all other local governments having jurisdiction in the applicable designated *watershed* and the entity using the water supply for consumption where the minor variance is being considered.

(D.) Major Variances.

Requests for major variances to the standards and restrictions pertaining to Article 19 (*Watershed* Protection) shall be to the N.C. Environmental Management Commission (EMC), following review and favorable recommendation by City Board of Commissioners and after review and recommendation by the Technical Review Committee in accordance with the procedure set forth above. The major variance request shall be forwarded to the EMC with a report containing the findings of fact for City Board of Commissioners' favorable recommendation, conclusions of law, a recommended decision, recommended conditions and a record of the Board of Commissioners' hearing of the request. Requests for major variances that do not receive a favorable recommendation shall be deemed denied and shall not be forwarded to the EMC.

(E.) Annual Report of *Watershed* Variances. The *Stormwater Administrator* shall keep a record of all *watershed* variances and this record shall be submitted for each calendar year to the North Carolina *Division* of Water Quality in accordance with Section 19.22, *Watershed* Variances and Modifications.

(F.) Conditions. In approving a *watershed* variance, the Technical Review Committee may prescribe such reasonable and appropriate conditions and safeguards as will assure that the use of the property will be compatible with surrounding properties and will not alter the essential character of the neighborhood. Violations of conditions and safeguards that are part of the terms of a variance shall be deemed a violation of this Ordinance.

(G.) Appeals. Appeals may be made pursuant to Section 19.18, Appeals.

(H.) Duration. An approved *watershed* variance is part of an approved plan and shall have the same duration as the plan approval.

SECTION 4: MAINTENANCE

19.23 General Standards for Maintenance

(A.) Function of BMPs As Intended.

The owner of each structural BMP installed pursuant to this Ordinance 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 BMP was designed.

(B.) Annual Maintenance Inspection and Report.

Generally, the City of Creedmoor will make an annual inspection of structural BMP's to ensure compliance with this Ordinance. However, some existing BMP's are not accessible by the City of Creedmoor. In this case, the person responsible for maintenance of any structural BMP installed pursuant to this Ordinance may be required to submit to the Stormwater Administrator an inspection report from one of the following persons performing services only in their area of competence: a qualified registered North Carolina professional engineer, surveyor, landscape architect, soil scientist, aquatic biologist, or person certified by the North Carolina Cooperative Extension Service for stormwater treatment practice inspection and maintenance. The inspection report shall contain all of the following.

(1.) The name and address of the land owner;

(2.) The recorded book and page number of the lot of each structural BMP;

(3.) A statement that an inspection was made of all structural BMPs;

(4.) The date the inspection was made;

(5.) A statement that all inspected structural BMPs are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this Ordinance; and

(6.) The original signature and seal of the engineer, surveyor, or landscape architect.

All inspection reports shall be on forms supplied by the Stormwater Administrator. An original inspection report shall be provided to the Stormwater Administrator beginning one year from the date of as-built certification and each year thereafter on or before the date of the as-built certification.

19.24 Operation and Maintenance Agreement

(A.) In General.

Prior to the conveyance or transfer of any lot or building site to be served by a structural BMP pursuant to this Ordinance, and prior to issuance of any permit for *Development* or Re-*Development* requiring a structural BMP pursuant to this Ordinance, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the structural BMP. Until the transference of all property, sites, or lots served by the structural BMP, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement. Agreements made for the purpose of assigning responsibility for operations and maintenance to anyone other than the original applicant and/or owner shall be three party agreements requiring the approval by the City of Creedmoor prior to assignment. Assignment of responsibilities without prior approval are a violation of this Ordinance and shall be deemed null and void for the purposes of the requirements of this Ordinance, unless authorized and executed by the City of Creedmoor.

The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the structural BMP, and shall state the terms, conditions, and schedule of maintenance for the structural BMP. In addition, it shall grant to the City of Creedmoor a right of entry in the event that the Stormwater Administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the structural BMP; however, in no case shall the right of entry, of itself, confer an obligation on the City of Creedmoor to assume responsibility for the structural BMP.

The operation and maintenance agreement must be approved by the Stormwater Administrator prior to plan approval, and it 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 given to the Stormwater Administrator within fourteen (14) days following its recordation.

(B.) Special Requirement for Homeowners' and Other Associations.

For all structural BMPs required pursuant to this Ordinance and that are to be or are owned and maintained by a homeowners' association (HOA), property owners' association (POA), or similar entity, the required operation and maintenance agreement shall include all of the following provisions.

(1.) Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities.

(2.) Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the structural BMPs. If structural BMPs are not performing adequately or as intended or are not properly maintained, the City of Creedmoor, in its sole discretion, may remedy the situation, and in such instances the City of Creedmoor shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the structural BMPs, provided that the City of Creedmoor shall first consent to the expenditure.

(3.) The City of Creedmoor requires that both developer contribution and annual membership funds fund the escrow account. Prior to plat recordation or issuance of construction permits, whichever shall first occur, the developer shall pay into the escrow account an amount equal to fifteen (15%) per cent of the initial construction cost of the structural BMPs, based on a cost estimate from a professional engineer (signed and sealed by the engineer). Two-thirds (2/3) of the total amount of fund budget shall be deposited into the escrow account within the first five (5) years and the full amount shall be deposited within ten (10) years following initial construction of the structural BMPs. Funds calculated to meet these funding thresholds shall be deposited each year into the escrow account. A portion of the annual membership assessments of the association shall include an allocation into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the fund budget.

(4.) The percent of developer contribution and lengths of time to fund the escrow account may be varied by the engineer's cost estimate, depending on the design and materials of the stormwater control and management facility.

(5.) Granting to the City of Creedmoor a right of entry to inspect, monitor, maintain, repair, and reconstruct structural BMPs.

(6.) Allowing the City of Creedmoor to recover from the association and its members any and all costs the City of Creedmoor expends to maintain or repair the structural BMPs or to correct any operational deficiencies. Failure to pay the City of Creedmoor all of its expended costs, after forty-five days written notice, shall constitute a breach of the agreement. In case of a deficiency, the City of Creedmoor shall thereafter be entitled to bring an action against the association and its members to pay. Failure to pay shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes of North Carolina.

(7.) A statement that this agreement shall not obligate the City of Creedmoor to maintain or repair any structural BMPs, and the City of Creedmoor shall not be liable to any person for the condition or operation of structural BMPs.

(8.) A statement that this agreement shall not in any way diminish, limit, or restrict the right of the City of Creedmoor to enforce any of its ordinances as authorized by law.

(9.) A provision indemnifying and holding harmless the City of Creedmoor for any costs and injuries arising from or related to the structural BMP, unless the City of Creedmoor has agreed in writing to assume the maintenance responsibility for the BMP and has accepted dedication of any and all rights necessary to carry out that maintenance.

(10.) HOA and POA documents shall also address how the required *buffer*s shall be maintained and preserved.

19.24-1 Inspection Program.

Inspections and inspection programs by the City of Creedmoor may be conducted or established 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 BMPs; and evaluating the condition of BMPs.

The City of Creedmoor reserves the right to require owners to hire a registered professional engineer licensed to practice in the state of North Carolina for the purposes of inspecting devices in the event that the City of Creedmoor cannot access the BMP or for the purposes of certified sediment levels, soil medium efficiency, or other requirements to ensure that the BMP is operating as designed.

If the owner or occupant of any property refuses to permit such inspection, the Stormwater Administrator shall proceed to obtain an administrative search warrant pursuant to NCGS 15-27.2 or its successor. No person shall obstruct, hamper or interfere with the Stormwater Administrator while carrying out his or her official duties.

19.24-2 Performance Security for Installation and Maintenance

The City of Creedmoor may, at its discretion, require the submittal of a 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 the structural BMPs 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.

The amount of an installation performance security shall be the total estimated construction cost of the BMPs approved under the permit, plus a contingency amount to be determined by the City of Creedmoor, not to exceed 150% of the total project cost.

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 costs of inspection, operation and maintenance of the BMPs approved under the permit, at a discount rate that reflects the jurisdiction's cost of borrowing minus a reasonable estimate of long-term inflation. This estimate shall be based on a cost estimate prepared (and signed and sealed) by a professional engineer licensed to operate in North Carolina.

The performance security shall contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain any actions which may be required of the applicant or owner in accordance with this Ordinance, approvals issued pursuant to this Ordinance, or an operation and maintenance agreement established pursuant to this Ordinance.

Upon default of the owner to construct, maintain, repair and, if necessary, reconstruct any structural BMP in accordance with the applicable permit or operation and maintenance agreement, the Stormwater Administrator shall obtain and use all or any portion of the security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after requesting the owner to comply with the permit or maintenance agreement. In the event of a default triggering the use of installation performance security, the City of Creedmoor shall not return any of the unused deposited cash funds or other security, which shall be retained for maintenance.

If the City of Creedmoor takes action upon such failure by the applicant or owner, the City of Creedmoor may collect from the applicant or owner the difference between the amount of the reasonable cost of such action and the amount of the security held, in addition to any other penalties or damages due.

Within sixty days of the final approval, the installation performance security shall be refunded to the applicant or terminated, except any amount attributable to the cost (plus % contingency) of ongoing construction associated with the BMPs covered by the security (i.e.- Landscaping). Any such ongoing construction or landscaping shall be inspected within six (6) months after installation for compliance with the approved plans and specifications and, if in compliance, the portion of the financial security attributable to landscaping shall be released.

19.24-3 <u>Notice to Owners</u>

The applicable operations and maintenance agreement, conservation easement, or

dedication and acceptance into public maintenance (whichever is applicable), pertaining to every structural BMP and required *buffer*s shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement, conservation easement, or dedication and acceptance into public maintenance, whichever is applicable, 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.

19.24-4 Records of Installation and Maintenance Activities.

The owner of each structural BMP should 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 Stormwater Administrator.

19.24-5 Nuisance.

The owner of each stormwater BMP, whether structural or non-structural BMP, shall maintain it so as not to create or result in a nuisance condition.

19.24-6 Maintenance Easement

Every structural BMP installed pursuant to this Ordinance shall be made accessible for adequate maintenance and repair by an access easement. The easement shall be recorded on a final plat at the Granville County Register of Deeds.

SECTION 5: ENFORCEMENT AND VIOLATIONS

19.25 General

(A.) Authority to Enforce.

The provisions of this Ordinance shall be enforced by the Stormwater Administrator, his or her designee, or any authorized agent of the City of Creedmoor. Whenever this section refers to the Stormwater Administrator, it includes his or her designee as well as any authorized agent of the City of Creedmoor.

(B.) Violation Unlawful.

Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this Ordinance, or the terms or conditions of any permit or other *Development* or Re-*Development* approval or authorization granted pursuant to this Ordinance, is unlawful and shall constitute a violation of this Ordinance.

(C.) Each Day a Separate Offense.

Each day that a violation continues shall constitute a separate and distinct violation or offense.

(D.) Responsible Persons/Entities.

Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, BMP, practice, or condition in violation of this Ordinance shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. Persons subject to the remedies and penalties set forth herein may include any architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this Ordinance, or fails to take appropriate action, so that a violation of this Ordinance results or persists; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or *Development* of the property on which the violation occurs.

For the purposes of this article, responsible person(s) shall include but not be limited to:

(1.) Person Maintaining Condition Resulting In or Constituting Violation.

An architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this Ordinance, or fails to take appropriate action, so that a violation of this Ordinance results or persists.

(2.) Responsibility for Land or Use of Land.

The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, *Development* or Re-*Development* of the property.

19.25-1 <u>Remedies and Civil Penalties.</u>

The remedies and penalties provided for violations of this Ordinance, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

(A.) Remedies

(1.) Withholding of Certificate of Occupancy.

The Stormwater Administrator or other authorized agent shall withhold a certificate of occupancy (CO) for the building or other improvements constructed

or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

(2.) Disapproval of Subsequent Permits and *Development* Approvals.

As long as a violation of this Ordinance continues and remains uncorrected, the Stormwater Administrator or other authorized agent shall withhold, and the City of Creedmoor Planning Board, City Board of Commissioners, and/or TRC may disapprove, any request for permit or *Development* approval or authorization provided for by this Ordinance or the City of Creedmoor Development Ordinance for the land on which the violation occurs.

(3.) Injunction, Abatements, etc.

The Stormwater Administrator, with the written authorization of the City Board of Commissioners, may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this Ordinance. Any person violating this Ordinance shall be subject to the full range of equitable remedies provided in the General Statutes or at common 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 geographic limits prescribed by North Carolina G.S. § 160A-193, the Stormwater Administrator, with the authorization of the City Board of Commissioners, may cause the violation to be corrected and the costs to be assessed as a lien against the property.

(5.) Stop Work Order.

The Stormwater Administrator may issue a stop work order to the person(s) violating this Ordinance. The stop work or "notice of violation" 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.

(B.) Civil Penalties

Violations of this Ordinance may subject the violator to a civil penalty to be recovered in a civil action in the nature of a debt if the violator does not pay the penalty within 30 days after notice of the violation is issued by the Stormwater Administrator. Civil penalties may be assessed up to the full amount of penalty to which the City of Creedmoor is subject for violations of its Phase II Stormwater permit, or if no Phase II Stormwater permit exists for the jurisdiction, civil penalties may be assessed up to the full amount allowed by law.

19.25-2 Procedures.

(1.) Initiation/Complaint.

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the Stormwater Administrator, who shall record the complaint. The complaint shall be investigated promptly by the Stormwater Administrator, Public Works Engineer, and/or by the Zoning *Enforcement Officer*.

(2.) Inspection.

The Stormwater Administrator shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this Ordinance.

(3.) Notice of Violation and Order to Correct.

When the Stormwater Administrator finds that any building, structure, or land is in violation of this Ordinance, the Stormwater Administrator shall notify, in writing, the property owner and/or other person violating this Ordinance. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. If civil penalties are to be assessed, the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt.

The Stormwater Administrator may deliver the notice of violation and correction order personally; by the Zoning *Enforcement Officer*; by first class mail; by certified or registered mail with return receipt requested, or by any means authorized for the service of documents by Rule 4 of the North Carolina Rules of Civil Procedure.

If a violation is not corrected within a reasonable period of time, as provided in the notification, the Stormwater Administrator, Public Works Engineer, and/or by the Zoning *Enforcement Officer* may take appropriate action under this Ordinance to correct and abate the violation and to ensure compliance with this Ordinance.

(4.) Extension of Time

A person who receives a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the Stormwater Administrator a written request for an extension of time for correction of the violation. On determining that 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 Stormwater Administrator, Public Works Engineer, and/or by the Zoning *Enforcement Officer* may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 180 days. The Stormwater Administrator, Public Works Engineer, and/or by the Zoning *Enforcement Officer* may grant 30-day extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the person violating this Ordinance. The Stormwater Administrator, Public Works Engineer, and/or by the Zoning *Enforcement Officer* may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.

(5.) Enforcement After Time to Correct.

After the time has expired to correct a violation, including any extension(s) if authorized by the Stormwater Administrator, Public Works Engineer, and/or by the Zoning *Enforcement Officer*, the Stormwater Administrator, Public Works Engineer, and/or by the Zoning *Enforcement Officer* shall determine if the violation is corrected. If the violation is not corrected, the Stormwater Administrator, Public Works Engineer, and/or by the Zoning *Enforcement Officer* may act to impose one or more of the remedies and penalties authorized by this Ordinance.

(6.) Emergency Enforcement.

If delay in correcting a violation would seriously threaten the effective enforcement of this Ordinance or pose an immediate danger to the public health, safety, or welfare, then the Stormwater Administrator, Public Works Engineer, and/or by the Zoning *Enforcement Officer* may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The Stormwater Administrator, Public Works Engineer, and/or by the Zoning *Enforcement Officer* may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this article.

SECTION 6: ILLICIT DISCHARGES

Illicit Discharges and Connections, Spills and Nuisance

The federal EPA Phase II rule specifies that local communities shall prohibit any discharge to a municipal separate storm sewer system (MS4) unless it:

-consists of a discharge pursuant to an NPDES permit; or

-consists of a discharge from firefighting activities; or

-consists of a discharge in any of the following categories, and the operator of the small MS4 has not identified that category as a significant contributor of pollutants to its small MS4: Water line flushing; landscape irrigation; diverted *stream* flows; rising ground waters; uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)); uncontaminated pumped ground water; discharges from potable water sources; foundation drains; air conditioning condensation; irrigation water; springs; water from crawl space pumps; footing drains; lawn watering; individual residential car washing; flows from riparian habitats and *wetlands*; dechlorinated and/or salinated swimming pool discharges; and street wash water.

19.25-3 Illicit Discharges.

No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any stormwater conveyance, the waters of the State, or upon the land in manner and amount that the substance is likely to reach a stormwater conveyance or the waters of the State, any liquid, solid, gas, or other substance, other than stormwater; provided that non-stormwater discharges associated with the following activities are allowed and provided that they do not significantly impact water quality.

(1.) Water line flushing;
(2.) Landscape irrigation;
(3.) Diverted *stream* flows;
(4.) Rising ground waters;
(5.) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));
(6.) Uncontaminated pumped ground water;
(7.) Discharges from potable water sources;
(8.) Foundation drains;
(9.) Air conditioning condensation;
(10.) Irrigation water;

(11.) Springs;

(12.) Water from crawl space pumps;

(13.) Footing drains;

(14.) Lawn watering;

(15.) Individual residential car washing;

(16.) Flows from riparian habitats and *wetlands*;

(17.) Dechlorinated swimming pool discharges;

(18.) Street wash water; and

(19.) Other non-stormwater discharges for which a valid NPDES discharge permit has been approved and issued by the State of North Carolina, and provided that any such discharges to the municipal separate storm sewer system shall be authorized by the City of Creedmoor.

Prohibited substances include but are not limited to: oil, anti-freeze, chemicals, animal waste, paints, garbage, and litter.

19.25-4 Illicit Connections

(1.) Connections to a stormwater conveyance or stormwater conveyance system that allow the discharge of non-stormwater, other than the exclusions described in subsection (A) above, are unlawful. Prohibited connections include, but are not limited to: floor drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems.

(2.) Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove the connection within one year following the effective date of this Ordinance. However, the one-year grace period shall not apply to connections which may result in the discharge of *hazardous material*s or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.

(3.) Where it is determined that said connection:

(a.) May result in the discharge of *hazardous material*s or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat, or

(b.) The Stormwater Administrator shall designate the time within which the connection shall be removed. In setting the time limit for compliance, the

Stormwater Administrator shall take into consideration:

(i.) The quantity and complexity of the work,

(ii.) The consequences of delay,

(iii.) The potential harm to the environment, to the public health, and to public and private property, and

(iv.) The cost of remedying the damage.

19.25-5 Spills.

Spills or leaks of polluting substances released, discharged to, or having the potential to released or discharged to the stormwater conveyance system, shall be contained, controlled, collected, and properly disposed. All affected areas shall be restored to their preexisting condition.

Persons in control of the polluting substances immediately prior to their release or discharge, and persons owning the property on which the substances were released or discharged, shall immediately notify the City of Creedmoor Public Works Engineer, City Board of Commissioners, or Fire Department of the release or discharge, as well as making any required notifications under state and federal law.

Notification shall not relieve any person of any expenses related to the restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by State or other law.

19.25-6 Nuisance.

Illicit discharges and illicit connections which exist within the City of Creedmoor and/or its extraterritorial planning jurisdiction are hereby found, deemed, and declared to be dangerous or prejudiced to the public health or public safety and are found, deemed, and declared to be public nuisances. Such public nuisances shall be abated in accordance with the procedures set forth in this Ordinance, the City of Creedmoor Development Ordinance, the General Codes of the City of Creedmoor, or any other applicable laws, rules, or regulations.

19.26 Additional Standards for Special Situations

19.26-1 Pet Waste.

(A.) Pets At Large Prohibited

It shall be unlawful for the owner of any pet to allow the animal to be off the premises of his owner in the City of Creedmoor.

(B.) Restrictions on Pet Waste

(1.) It shall be unlawful for the owner or custodian of any pet to take it off the owner's own property limits without the means to properly remove and dispose of the pet's feces from any public or private property.

(2.) It is the responsibility of a pet's owner or custodian to clean up the pet's feces from any public or private property outside of the pet's owner's own property limits. Such property includes, but is not limited to, parks, rights-of-way, paths, and public access areas.

(3.) "Means to properly remove and dispose of feces" shall consist of having on or near one's person a device such as a plastic bag, or other suitable plastic or paper container, that can be used to clean up and contain pet waste until it can be disposed of in an appropriate container. Such a device must be produced and shown, upon request, to anyone authorized to enforce these ordinances.

(4.) This provision shall not apply to handicapped persons assisted by trained guide or assistance pets.

(5.) "Public nuisance" is defined to include "a pet which deposits feces on public property or on private property without the consent of the owner or person in lawful possession of the private property, and the person owning, possessing, harboring or having the care, charge, control or custody of the pet fails to remove the feces so deposited. Provided, however, this definition shall not apply to any pet assisting a handicapped person.

19.26-2 <u>Onsite Wastewater Septic Systems.</u>

(A.) Standards for Operation and Maintenance

Onsite systems for domestic wastewater 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.

ARTICLE 20

SOIL EROSION AND SEDIMENTATION CONTROL

20.1 General Requirements

20.1-1 Plan Required. No person shall initiate any land-disturbing activity in excess of one-half (1/2) of one acre for residential purposes, or 12,000 square feet for commercial purposes without a Soil Erosion and Sedimentation Control plan approved by the North Carolina Department of Environment and Natural Resources (NCDENR), Division of Land Quality. A copy of the approved Soil Erosion and Sedimentation Control Plan shall be on file in the office of the Planning, Zoning & Subdivision Administrator not less than 10 days prior to the initiation of such land disturbing activity.

20.1-2 Protection of Property. Persons conducting permitted land-disturbing activity shall take all reasonable measures to protect all public and private property from damage or nuisance caused by such activity.

20.2 Basic Control Objectives

Zoning approval shall be withheld until such time as an officially approved Soil Erosion and Sedimentation Control plan is filed with the *Planning, Zoning & Subdivision Administrator*. At a minimum, the state-approved plan shall address the following control objectives:

(1.) Limit Time of Exposure. All land-disturbing activity is to be planned and conducted to limit exposure to the shortest feasible time;

(2.) Limit Exposed Areas. All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time;

(3.) Control Surface Water. Surface water runoff originating upgrade of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure;

(4.) Control Sedimentation. All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage and nuisances to adjacent properties, streets or streams; and

(5.) Manage Storm Water Runoff. When the increase in the velocity of storm water runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, plans are to include measures to control the velocity at the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

20.3 Mandatory Standards for Land Disturbing Activity

No land-disturbing activity subject to the control of this Ordinance shall be undertaken except in accordance with the following mandatory standards:

20.3-1 Buffer Zone. No land-disturbing activity shall be permitted within 50 feet of a water body shown on the most recent published version of the soil survey map prepared by the Natural Resources Conservation Service or the most recent 1:24,000 scale quadrangle topographic maps prepared by the US Geological Survey, including perennial streams, intermittent streams, modified natural streams, lakes or reservoirs, ponds (including beaver ponds), estuaries and rivers (See 15A NCAC 02B .0233 Neuse River Basin Nutrient Sensitive Water Strategies);

20.3-2 Prior Plan Approval. No person shall initiate any land-disturbing activity if more than one contiguous acre is to be uncovered unless, thirty (30) or more days prior to initiating the activity, an erosion and sedimentation control plan for such activity is filed with and approved by NCDENR, Division of Land Quality.

20.4 Responsibility for Maintenance

During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan, by any provision of this Ordinance, or by any ordinance adopted pursuant to this Ordinance. After site development, the land owner or person in possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

20.5 Existing Uncovered Areas

20.5-1 Applicability. All uncovered areas existing on the effective date of this Ordinance which are the result of land-disturbing activity, which exceed one (1) contiguous acre, which are subject to continued accelerated erosion, and which are causing off-site damage from sedimentation, shall be provided with a ground cover or other protective measures, structures, or devices sufficient to restrain accelerated erosion and control off-site sedimentation.

20.5-2 Notice of Violation. The Jurisdiction will serve upon the landowner a written notice of violation by registered or certified mail, return receipt requested. The notice will set forth the measures needed to comply and will state the time within which such measures must be completed. In determining the measures required and the time allowed for compliance, the authority serving notice shall take into consideration the

economic feasibility, technology, and quantity of work required, and shall set reasonably attainable time limits for compliance.

20.5-3 Exemption. This rule shall not require ground cover on cleared land forming the future basin of a permitted reservoir.

ARTICLE 21

OPEN SPACE

21.1 Purpose.

The open space standards contained herein are established to provide for the reservation of open spaces in both residential and non-residential developments located in the City of Creedmoor and its territorial jurisdiction. Preservation of open space in developing areas serves a variety of purposes, including meeting the recreational needs of residents, improving the aesthetic character of the community, reducing stormwater runoff, improving stormwater runoff water quality, and enhancing air quality. The standards set forth below establish regulations for open space in residential and non-residential developments.

21.2 Open Space.

Although open space can be agricultural or natural in character, open space is typically planned and developed as part of a residential and/or non-residential development. The following standards are hereby established for open space, with the exception of the Main Street (MS) District, which shall be exempt from the requirements of this section.

21.2-1 Open space land area requirements. Open space shall be provided in accordance with the following table for:

(A.) initial residential development containing eight or more units,

(B.) redevelopment or additional development that adds eight or more units,

(C.) initial nonresidential or mixed use development greater than 0.6 acres, and

(D.) redevelopment or additional development that adds 25 percent more nonresidential or mixed use floor area on a site that exceeds 0.6 acres within any 36 consecutive month period.

TABLE 21.1

ZONING DISTRICT	REQUIRED OPEN SPACE
All residential districts.	Single-family/and/or duplex subdivisions: 10% of total subdivision project site area. Other residential: 500 square feet of open space per unit or 9% of lot area, whichever is greater. Nonresidential uses (e.g., churches, schools, etc.):

	6% of lot area.
All other districts, *excluding MS which is exempt from these requirements*	7.5% of lot area

21.2-2 Land designated as future open space. Regardless of the requirements and exemptions of this subsection, any portion of the site of the proposed development that is designated as future open space or greenway in the *"City Plan 2030 –Land Use and Comprehensive Master Plan"* adopted by the City of Creedmoor, as amended from time to time, shall be reserved for open space. This area may be counted toward the total amount of open space required for the development.

If the total amount of land required proposed as future open space or greenway is less than the total amount of open space required for the development by the above table, then the developer shall provide additional open space to meet the requirement of the above table. If the amount of land designated as future open space or greenway exceeds the total amount of open space required by the above table, then the developer must still provide the open space designated in the official adopted plan.

As compensation for any open space dedication associated with implementing any official adopted plan above that requirement listed in the above table, the developer is eligible for a density bonus (clustering) of one dwelling unit per each 4,356 square feet of land area in excess of that required in the above table or 500 square feet of nonresidential gross floor area per each 2,178 square feet of land area in excess of that required in the above table, up to a maximum of a 25 percent increase above the maximum density or intensity allowed in the applicable zoning district. All other regulations, such as erosion control and watershed requirements, shall be complied with when using the density bonus provision of this section.

21.2-3 Minimum open space area. Individual areas designated as open space areas shall not contain less than 500 square feet, although smaller areas may be approved by the *Planning, Zoning & Subdivision Administrator* if the intent of this Ordinance is determined to be met.

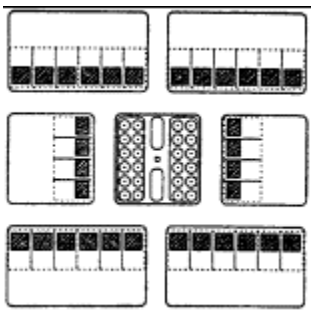
21.2-4 Improvement of open space. With the exception of Natural and Agricultural Open Space, open space shall be planned and improved, accessible and usable by persons living nearby. Improved shall mean cleared of underbrush and debris and shall contain four or more of the following improvements: landscaping, walls/fences, walks, statues, fountains, ball fields, and/or playground equipment. Walls and fences shall be made of brick, stone, wrought iron, or wood and shall not exceed 3.5 ft. in height. (Exceptions: fences used in conjunction with ball fields, tennis courts, and/or play grounds).

21.2-5 Design and location. In major subdivisions and multi-building developments in all zoning districts except Agricultural, open space shall be integrated into the design of the site. In subdivisions where 50% or more of the lots are less than 0.75 acre in size, open space shall be located within ¼ mile of at least 90% of the building lots, as measured along the rights-of-way of streets providing access between the two. In subdivisions where 50% or more of the lots are 0.75 acre or more in size, open space shall be located within ½ mile of at least 90% of the building lots, as measured along the rights-of-way of streets providing access between the two.

21.2-6 Focal point. Open space features should provide focal points for the neighborhood. A central square or green, for example, may comprise a majority of the open space. There should be a hierarchy of open space within new neighborhoods so that open space serves the needs of multiple age groups.

21.2-7 Types of open space. Open space types include Squares, Parks, Forecourts, Plazas, Greenways, and Natural and Agricultural. Standards for these open space types are set forth below.

(A.) Squares



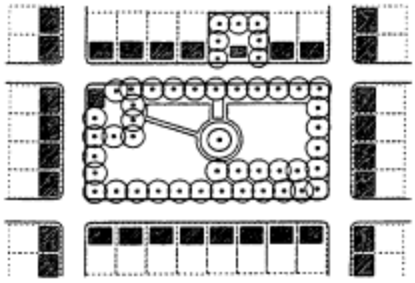
Squares are areas for passive recreational use. Squares shall be bounded by streets on a minimum of three sides or 75% of their perimeter.

Squares should be used in tight urban environments where residents have little yard space. Squares are used to bring a more natural landscape into an urban environment. As such, not more than 25% of a square should be impervious surface coverage. Hardscaping should be decorative (example brick pavers instead of asphalt for walkways).

Min size: 500 sq. feet

Max Size: 2 acres

(B.) Parks



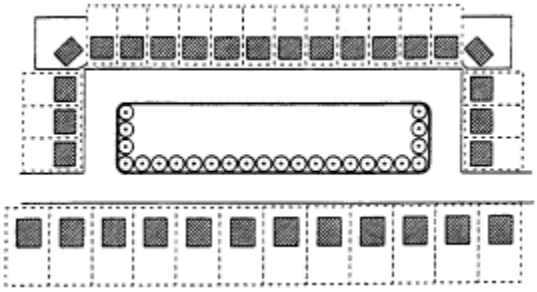
Parks are areas for passive or active recreational use. Parks should be bounded by streets on a minimum of two sides or 50% of their perimeter.

Minimum Size: 6,500 square feet

Maximum Size: 8 Acres. Maximum size may exceed eight acres if the park serves multiple neighborhoods or preserves environmental features.

Parks should be areas where passive and active recreation occur simultaneously (example: park benches for elderly and a tot-lot for young children), encouraging intergenerational interactions among park users.

(C.) Forecourt

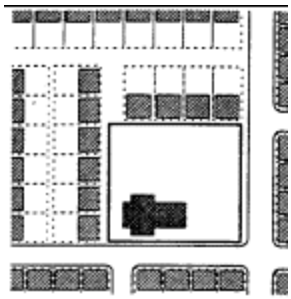


Forecourts are open spaces that act as buffers between residential buildings and streets or non-residential buildings. Forecourts are entirely bounded by buildings or streets. It is recommended that forecourts be planted parallel to all street right-of-ways.

Minimum Size: 500 sq feet

Maximum Size: 1.5 acre

(D.) Plaza



A plaza is an open area adjacent to a civic or commercial building. Plazas should be planted with deciduous trees to provide shade in the summer (example: the NC State Capital Building lawn in Raleigh, NC). Plazas function as gathering places and may incorporate a variety of non-permanent activities such as outdoor farmers markets or craft fairs. Limited parking is permissible on plazas. Plazas should match the architectural style of the buildings that they are adjacent to regarding materials and design. Plazas shall be level or gently sloping.

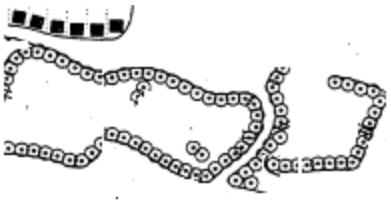
Minimum Size: none

Maximum Size: none

(E.) Greenways

Greenways are spaces designed to incorporate natural settings such as creeks and significant stands of trees within a neighborhood. Greenways shall have streets or pedestrian ROWs parallel to or integrated into at least 75% of their length. Greenways are used for walking, jogging, biking, and they are used as wildlife corridors. Greenways may have infrequent small-scale active recreational facilities such as playgrounds, although the majority of greenways shall be for passive, pedestrian and/or bicycle recreation.

(F.) Natural and Agricultural Open Space



Natural and Agricultural Open Space preserves agricultural lands, environmentally sensitive areas, scenic views, cultural features, and rural character that would likely be lost through conventional development approaches. To accomplish this goal, the City of Creedmoor encourages creativity and allows for greater flexibility in the design of developments through use of the Mini-Farm and Traditional Neighborhood Development Overlay Districts (Article 8).

Natural and Agricultural Open Space shall be placed in preserves, which may adjoin housing areas that have been designed more compactly to create larger areas that may be enjoyed equally by all residents of the neighborhood.

21.2-8 Open Space Ownership and Conservation Easement. Open space may be owned or administered by one or a combination of the following methods: fee simple ownership by a unit of government or private non-profit land conservancy; owned by a homeowners association; or by individual private ownership such as a farmer, developer or other private entity that maintains the open space (i.e. farming, equestrian facility, etc.)

All lands within areas required to be maintained as open space shall be protected by a permanent conservation easement, prohibiting further development, and setting other standards safeguarding the site's special resources from negative changes.

Public use of the open space may be limited to residents of the development, except for land used for public sidewalks and multi-use trails, provided that such open space is held in private or association ownership.

21.2-9 Maintenance. The owner or lessee of the property designated as the open space shall be responsible for the maintenance of the open space area. Landscaped areas shall be maintained in good condition and the entire area shall be kept clear of debris. Failure to maintain the area shall constitute a violation of this ordinance and subject the violator to the penalty provisions of Article 23 if not corrected within 30 days of notification. Alternatively, if acceptable to the City, as applicable, the land may be dedicated to the City for public use and thereafter maintained by the City.

21.2-10 Land Acceptable for Open Space Designation. The classes of land enumerated below may be utilized to meet the requirements of this section.

(A.) Open water, wetlands, utility transmission right-of-ways, and undisturbed

floodplains may account for up to 50 percent of the area requirement.

(B.) Land used for public sidewalks significantly in excess of standard sidewalk requirements, streetscape and hardscape areas accessible to the public including sidewalk cafe areas, areas containing public art, and similar urban open space amenities.

(C.) Land on which locally or nationally designated historic structures are located and determined to be contributing to the designation.

(D.) Land which exceeds a 10 percent slope may be used to provide up to 67 percent of the required open space if existing slopes and vegetation so designated remain undisturbed.

(E.) Land used for stormwater retention, provided such land is natural in appearance and is not separately fenced, may be used for up to 33 percent of the required open space; green roofs are eligible to be counted as open space under this provision on a 2:1 ratio (two square feet of green roof = one square foot of conventional open space). Additionally, land used for stormwater retention, provided such land is natural in appearance and is not separately fenced, that is developed using best management practices (e.g., constructed wetlands, rain gardens, green roofs or similar features), and either exceeds the required amount of retention or treats off-site stormwater may be used for up to 100 percent of the required open space at the discretion of the *Planning, Zoning & Subdivision Administrator* after consultation with the Public Works Engineer.

(F.) Land available to residents or tenants for active or passive recreation, including parks, walking trails not used to meet sidewalk requirements, playgrounds, benches, picnic tables, and similar land uses or facilities. Playgrounds and athletic fields installed shall be counted at a 2:1 ratio (two acres of unimproved land = one acre playground and/or athletic field) for calculation compliance provide all improvements are installed.

(G.) Land that is suitable for agriculture, land that has environmentally sensitive areas (ex. mature trees), or land that has cultural significance (ex. important view such as a rural entrance into City).

21.2-11 <u>Land not Acceptable for Open Space Designation:</u> The classes of land enumerated below shall not be utilized to meet the requirements of this section:

(A.) Land that is contaminated with hazardous or toxic waste or materials as defined by state or federal regulations, with the exception of land covered by an approved mitigation plan and deemed acceptable to the City or land that is designated in an officially adopted Open Space or Greenway master plan.

(B.) Land occupied by streets, drives, parking areas, required landscape buffers, or structures other than recreational structures.

(C.) Land with a minimum width less than 24 feet unless part of a greenway system or specifically approved by the *Planning, Zoning & Subdivision Administrator*. Mixed use developments in the TND district are exempt from the minimum width requirement.

(D.) Playgrounds and athletic fields that have not been maintained to adequate standards for safe and sanitary use.

21.3 Fee-in-Lieu.

For open space requirements of 5,000 or less square feet in area and not involving property designated as a greenway on any official plan adopted by the City of Creedmoor, a property owner may elect to pay a fee-in-lieu of open space instead of providing the open space provided that the *Planning, Zoning & Subdivision Administrator* deems that there is reasonable existing or future open space proximate to the subject parcel. For other required open space areas, a property owner may pay a fee-in-lieu of open space designation for all or a portion of the open space requirement if such fee-in-lieu is acceptable to the City. For developments and subdivisions containing more than 30 residential units, the fee-in-lieu option may only be used for up to 50 percent of the open space requirements in order to ensure that these larger projects provide on-site open space for their residents.

This fee shall be calculated by using the pro rata value of the designated property relative to the value of the entire site to be developed using tax appraisal data; for properties covered by agricultural or other exemptions, the City may utilize a separate appraisal method in its sole discretion. Funds collected in this manner shall be maintained in a separate account and shall be used to purchase or to enhance recreational use of property provided such features are reasonably proximate to the site(s) from which the funds are collected. Where practical, the collected fees for each project shall be designated for specific parks and recreation acquisitions and/or enhancements by the City.

ARTICLE 22

NONCONFORMITIES

22.1 Purpose

It is recognized that, over time, lawful nonconformities may develop as a result of amendments to the zoning map or Creedmoor Development Ordinance which change the application of City of Creedmoor development regulations to particular properties. It is important that such properties, while nonconforming, be adequately maintained and permitted to continue, but not expanded or enlarged in any fashion that increases the extent of nonconformity. Where possible, such nonconformities should be made, wholly or incrementally, conforming.

22.2 Application and Exceptions

The provisions of this section apply only to lawful nonconformities, except as noted below. Nonconformities other than lawful nonconformities shall be considered violations of the Creedmoor Development Ordinance. This article shall not apply, however, to any feature which is the subject of a variance from particular regulations that has been granted by an authorized reviewing board or commission or to applications of flexible development standards to such features. Where a variance or flexible development standards determination has been granted for a feature which does not otherwise conform to the requirements of this chapter, that feature shall be deemed conforming. Nonconformities associated with signs are addressed in Article 17.

22.3 Dimensional Nonconformities

22.3-1 Lawfully Established Nonconforming Lots. Lawfully established nonconforming lots having one or more dimensional nonconformities may be used for any permitted or conditional use allowed in the zoning district in which the lot is located provided that any structure or expansion/addition to an existing structure proposed for the use meets all applicable dimensional and numerical requirements and all applicable procedures are followed. Such lots may be recombined with adjoining lots to increase the extent of their conformity provided new nonconformities are not created.

22.3-2 Structures. Structures having one or more dimensional nonconformities may be used for any permitted or conditional use allowed in the zoning district in which the structure is located, and, upon any change in use, shall comply with the landscaping, buffering, and parking requirements of Articles 11 and 12. Structures may be expanded or enlarged, provided the extent of the applicable nonconformity is not increased or new nonconformities are not created by expansion or enlargement. Expansions, enlargements or reconstruction of such structures to an extent equal to or

greater than fifty percent of appraised value, shall require such structures to meet all applicable dimensional and numerical requirements, except density, which may be retained at the prior nonconforming level but not increased. For the purpose of this section, the value of any expansions, enlargements, or reconstruction of such structures over a three year period shall be cumulated in calculating the fifty percent threshold. A structure undergoing renovation (defined in Article 3) having a renovation cost equal to or greater than fifty percent of the structure's appraised value shall not be subject to the above provisions but shall be required to meet the landscaping, buffering, and parking provisions of Articles 11 and 12.

22.4 Nonconforming Uses

22.4-1 Discontinuation of Nonconforming Uses. A nonconforming use is allowed to continue unless the use is discontinued for a period of 1095 or more consecutive days, and there are no substantial good faith efforts to re-establish the use during this period. Obtaining permits to maintain the existing use or significant continuous efforts to market the property for sale or lease for the existing use (e.g., MLS listing, realtor contract, etc.) shall be regarded as substantial good faith efforts. A nonconforming use shall be deemed discontinued after a period of 1825 consecutive days regardless of any substantial good faith efforts to re-establish the use. Thereafter, the structure or property associated with the use may be used only for conforming use. Where multiple nonconforming uses occupy the same premises, the reallocation of any combination of the nonconforming uses shall be allowable provided there is no net increase in the gross area of the combined nonconforming uses. Conditional uses discontinued for a period of 1095 or more consecutive days shall be regarded as nonconforming uses and shall not be re-established without new conditional use permit approval.

22.5 Nonconformities Associated with Manufactured Homes.

Dimensional or use nonconformities associated with manufactured homes shall be addressed in the following manner.

22.5-1 Replacement of One Manufactured Home with Another Manufactured Home in a Lawfully Established Manufactured Housing Park. Such replacement shall be permitted without regard to dimensional nonconformity provided that the replacement manufactured home is constructed to the United States Department of Housing and Urban Development (HUD) standards, the replacement home is placed in the same location as the original home, and such replacement occurs within 365 days of the removal of the original manufactured home. In all other situations, replacement shall be prohibited.

22.5-2 Replacement of One Manufactured Home with Another Manufactured Home in Areas Other Than a Lawfully Established Manufactured Housing Park or Area Covered by a Manufactured Housing Zoning Overlay. Such replacement shall be permitted provided that new dimensional nonconformities are not created, the replacement manufactured home is constructed to the United States Department of Housing and Urban Development (HUD) standards, the replacement home is placed in the same location as the original home, and such replacement occurs within 365 days of the last day of occupancy of the original manufactured home. In all other situations, replacement shall be prohibited.

22.6 Maintenance and Repair

In the interest of the public safety and health, structural alterations or remodeling of nonconforming structures or conforming structures on nonconforming lots that are required by any public law, and so ordered by a public officer in authority, shall be permitted. Routine maintenance shall also be permitted for nonconforming situations so long as no expansion of the nonconformity occurs as a result of the maintenance.

ARTICLE 23

ADMINISTRATION AND ENFORCEMENT

23.1 Applicability

This Ordinance and the provisions set forth herein shall apply to all property within the City of Creedmoor and its area of jurisdiction. The *Planning, Zoning & Subdivision Administrator* shall have the authority to administer and enforce the provisions of the Ordinance within this area.

23.2 Administrator as Enforcement Officer

23.2-1 Establishment and Authority. Unless specifically set forth otherwise in this ordinance, the City of Creedmoor *Planning, Zoning & Subdivision Administrator* shall be the Enforcement Officer with the duty of administering and enforcing the provisions of this Ordinance. The *Planning, Zoning & Subdivision Administrator* may designate one or more persons to assist in the administration and enforcement this Ordinance. Orders issued by the *Planning, Zoning & Subdivision Administrator*'s designee shall have the effect as if issued by the *Planning, Zoning & Subdivision Administrator*. The *Planning, Zoning & Subdivision Administrator*, or designee, may enter any building, structure, or premises as provided by law, to perform any duty imposed upon him/her by this Ordinance.

23.2-2 General Duties. The *Planning, Zoning & Subdivision Administrator* shall:

(A.) establish and publish application procedures for permits, appeals, and actions pursuant to this Ordinance and forms implementing the same;

(B.) issue permits and certificates pursuant to this Ordinance;

(C.) review and approve all development plans and permits to assure that the permit requirements of this Ordinance have been satisfied;

(D.) interpret the applicability of the provisions of this Ordinance in matters where the text does not clearly provide guidance;

(E.) maintain all records pertaining to the provisions of this Ordinance in his/her office(s) and make said records open for public inspection;

(F.) periodically inspect properties and activities for which permits have been issued to determine whether the use(s) is being conducted in accordance with the provisions of this Ordinance;

(G.) cause to be investigated violations of this Ordinance;

(H.) enforce the provisions of this Ordinance;

(I.) issue notice of corrective action(s) when required;

(J.) use the remedies provided in this Ordinance to gain compliance;

(K.) be authorized to gather evidence in support of said activities;

(L.) receive appeals and forward cases to the appropriate body; and

(M.) perform other duties as may be assigned by the City Board of Commissioners and/or the *Planning & Zoning Commission.*

23.3 Violations

Any of the following shall be a violation of this Ordinance and shall be subject to the enforcement remedies and penalties provided by this Article and by state law.

23.3-1 Development Without Permit. To engage in any development, use, construction, remodeling, or other activity of any nature upon the land or improvements thereon subject to the jurisdiction of this Ordinance without all required permits, certificates, or other forms of authorization as set forth in this Ordinance.

23.3-2 Development Inconsistent With Permit. To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity.

23.3-3 Violation by Act or Omission. To violate, by act or omission, any term, variance or waiver, condition, or qualification placed by the City Board of Commissioners or its agent boards upon any required permit, certificate, or other form of authorization for the use, development, or other activity upon land or improvements thereon.

23.3-4 Use in Violation. To erect, construct, reconstruct, alter, repair, convert, maintain, or use any building or structure or to use any land in violation or contravention of this Ordinance, or any other regulation made under the authority conferred thereby.

23.3-5 Subdivide in Violation. To subdivide land in violation of this Ordinance or transfer or sell land by reference to, exhibition of, or any other use of a plat or map showing a subdivision of the land before the plat or map has been properly approved under this Ordinance and recorded in the Office of the Register of Deeds of Granville County. 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 violation of this Ordinance.

23.3-6 Continuing Violations. Each day's violation of any provision of this Ordinance is a

separate and distinct offense.

23.4 Enforcement Intent *(Amended May 27, 2014 per Ord. 2014-O-03)*

It is the intention of this Ordinance, unless otherwise provided, that all questions arising in connection with the enforcement of this Ordinance shall be presented first to the *Planning, Zoning & Subdivision Administrator* and that such questions shall be presented to the Board of Adjustment only on appeal from a written decision made by Planning, Zoning and Subdivision Administrator. An appeal from the decision of the Board of Adjustment shall be by proceedings in the nature of certiorari to the Superior Court of Granville County as provided by law.

23.5 Enforcement Procedure *(Amended May 27, 2014 per Ord. 2014-O-03)*

When the *Planning, Zoning & Subdivision Administrator* or his/her agent finds a violation of this Ordinance, it shall be his/her duty to notify the owner or occupant of the land, building, structure, sign, or use of the violation. The owner or occupant shall immediately remedy the violation.

23.5-1 Notice of Violation. If the owner or occupant of the land, building, sign, structure, or use in violation fails to take prompt corrective action, the *Planning, Zoning & Subdivision Administrator* shall give the owner or occupant written notice, by first class mail, general delivery mail, certified or registered mail to his last known address, or by personal service, by posting notice of the violation conspicuously on the property, or in accordance with Rule 4 of the North Carolina Rules of Civil Procedure. The notice of violation shall include, but not be limited to:

(A.) that the land, building, sign, structure, or use is in violation of this Ordinance;

(B.) the nature of the violation, and citation of the section of this ordinance violated;

(C.) the measures necessary to remedy the violation;

(D.) the opportunity to cure the violation within a prescribed period of time.

Where the person violating a provision of this article is not the owner of the property, the City shall send a notice of violation to both the occupant and the owner of the property.

23.5-2 Extension of Time to Remedy. Upon receipt of a written request from the alleged violator or the property owner for an extension of time to remedy or correct the violation, the *Planning, Zoning & Subdivision Administrator* or other City official charged with the duty of enforcing the regulations(s) being violated may grant a single extension of time, not to exceed a period of 30 calendar days, in which the alleged violator may cure or correct the violation before the City pursues enforcement

action as provided for in this section.

Appeal. Any owner or occupant who has received a Notice of Violation may appeal in writing the written decision of the *Planning, Zoning & Subdivision Administrator* to the Board of Adjustment within thirty (30) days following the Notice of Violation or receipt of the Administrator's written decision. The Board of Adjustment shall hear an appeal within thirty-six (36) days of the date of submittal of a complete application., and it may affirm, modify, or revoke the Notice of Violation. In the absence of an appeal, the remedies and penalties sought by the *Planning, Zoning & Subdivision Administrator* in the Notice of Violation shall be final. Notice of such hearing shall be provided as required by this Ordinance and state statutes.

23.5-3 Order of Corrective Action. If upon a hearing held pursuant to an appeal as prescribed above, the Board of Adjustment shall find that the owner or occupant is in violation of this Ordinance, the Board of Adjustment shall make an order in writing to the owner or occupant affirming the violation and ordering compliance.

23.5-4 Failure to Comply with an Order. If the owner or occupant of a property fails to comply with a Notice of Violation from which no appeal has been taken, or an Order of Corrective Action following an appeal, the owner or occupant shall be subject to such remedies and penalties as may be provided for by state law and Section 23.6 (Remedies). If the owner or occupant fails to comply with the remedies and penalties prescribed, enforcement shall be sought through an order of a court of competent jurisdiction.

23.6 Remedies

Any one or all of the following procedures may be used to enforce the provisions of this Ordinance.

23.6-1 Injunction. Any violation of this Ordinance or of any condition, order, or requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to state law.

23.6-2 Civil Penalties. Any person who violates any provisions of this Ordinance shall be subject to the assessment of a civil penalty under the procedures provided in Section 23.7 (Civil Penalties - Assessments and Procedures).

23.6-3 Denial of Permit or Certificate. The *Planning, Zoning & Subdivision Administrator* may withhold or deny any permit, certificate, occupancy permit or other form of authorization on any land, building, sign, structure, or use in which there is an uncorrected violation of a provision of this Ordinance or of a condition or qualification of a permit, certificate, or other authorization previously granted.

23.6-4 Conditional Permit or Temporary Certificate. The *Planning, Zoning & Subdivision*

Administrator may condition the authorization of any permit or certificate upon the correction of the deficiency, payment of civil penalties within a specified time, or the posting of a compliance security approved by appropriate governmental authority.

23.6-5 Stop Work Orders. Whenever a building, sign, or structure, or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Ordinance, the *Planning, Zoning & Subdivision Administrator* may order the work to be immediately stopped. The stop work order shall be in writing and directed to the owner, occupant, or person doing the work. The stop work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Such action shall be in accordance with NCGS 160A-421 or 153A-361, as applicable, or the NC Building Code.

23.6-6 Revocation of Permits. The *Planning, Zoning & Subdivision Administrator* may revoke and require the return of a permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; refusal or failure to comply with the requirements of state or local laws, or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.

23.6-7 Criminal Penalties. Any violation of this Ordinance shall be a misdemeanor or infraction as provided by NCGS 14-4.

23.7 Civil Penalties – Assessment and Procedures

23.7-1 Penalties. Any person who violates any provisions of this Ordinance shall be subject to assessment of a civil penalty in the amount prescribed for the first and each successive violation of the same provision. The following penalties are hereby established:

Warning Citation	Correct Violation Within Prescribed Period of Time
First Citation	$100.00
Second Citation for Same Offense	$300.00
Third and Subsequent Citations for Same Offense	$500.00

If the offender fails to pay the civil penalties within fifteen (15) days after having been cited, the City may recover the penalties in a civil action in the nature of debt.

23.7-2 Notice. No civil penalty shall be assessed until the person alleged to be in violation has been notified of the violation in accordance with Section 23.5-1 (Notice of

Violation). If after receiving a notice of violation under Section 23.5-1, the owner or other violator fails to take corrective action within the prescribed period of time, a civil penalty may be imposed under this Section in the form of a citation. The citation shall be served in the manner of a Notice of Violation. The citation shall state the nature of the violation, the civil penalty to be imposed upon the violator, and shall direct the violator to pay the civil penalty within fifteen (15) days of the date of the notice.

23.7-3 Responsible Parties. The owner or occupant of any land, building, structure, sign, or use of land or part thereof and any architect, builder, contractor, agent, or any other person who participates or acts in concert, assists, directs, creates, or maintains any condition that is in violation of the requirements of this Ordinance may be held responsible for the violation and subject to the civil penalties and remedies herein provided.

23.7-4 Continuing Violation. For each day thereafter (ten day notice and 15 days to pay penalty after notice), if the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.

23.7-5 Demand for Payment. The *Planning, Zoning & Subdivision Administrator,* or designee, shall make written demand for payment upon the property owner or the person in violation, and shall set forth in detail a description of the violation for which the civil penalty has been imposed.

23.7-6 Nonpayment. If payment is not received or equitable settlement reached within thirty (30) days after demand for payment is made, the matter shall be referred to legal counsel for institution of a civil action in the appropriate division of the General Courts of Justice for recovery of the civil penalty. Provided, however, if the civil penalty is not paid within the time prescribed, the *Planning, Zoning & Subdivision Administrator* may have a criminal summons or warrant issued against the violator. Upon conviction, the violator shall be subject to any criminal penalty the court may impose pursuant to NCGS 14-4.

23.8 Other Powers and Actions

23.8-1 State and Common Law Remedies. In addition to other enforcement provisions contained in this Article, the City Board of Commissioners may exercise any and all enforcement powers granted to it by state law or common law.

Previous Enforcement. Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions.

23.9 Remedies Cumulative and Continuous

23.9-1 Cumulative Violations. All such remedies provided herein shall be cumulative. To

the extent that North Carolina law may limit the availability of a particular remedy set forth herein for a certain violation or a part thereof, such remedy shall remain available for other violations or other parts of the same violation.

23.9-2 Repeat Violations. If an owner or occupant repeats the same violation, on the same parcel, within a five year period from the date of the initial violation, it shall be considered to be a continuation of the initial violation and shall be subject to additional penalties and remedies.

23.10 RESERVED

23.11 Summary Removal of Signs/Sign Structure; Remove Orders for Signs/Sign Structure

23.11-1 Summary Removal. Pursuant to N.C. Gen. Stat. § 160A-193, the City shall have the authority to summarily remove, abate, or remedy a sign or sign structure which the City determines to be dangerous or prejudicial to the public health or safety. The expense of the action shall be paid by the sign owner, or if the sign owner cannot be ascertained, by the property owner, and if not paid, there shall be a lien placed upon the land or premises where the nuisance arose, and it shall be collected as unpaid taxes.

23.11-2 Prohibited Signs a Public Health Nuisance. Pursuant to N.C. Gen. Stat. §§ 160A-193 and 160A-296, any signs or sign structures prohibited by Article 17 of this Ordinance are hereby declared to be a public health nuisance in that they are dangerous or prejudicial to the public health or public safety and the *Planning, Zoning & Subdivision Administrator* shall have the authority to remove summarily the sign and/or sign structure.

23.11-3 Remove Order. The *Planning, Zoning & Subdivision Administrator* shall have the authority to issue a remove order for any sign not repaired or brought into compliance within the time prescribed by a notice of violation. Remove orders shall be issued to and served upon the sign/sign structure owner, or if the sign/sign structure owner cannot be ascertained, to and upon the property owner by the means set forth in section 23.5-1. The sign or sign structure shall be removed 30 days after the service of the remove order at the expense of the offender. The remove order shall describe with particularity the location of the sign or sign structure to be removed and the reason(s) for issuance of the remove order, including specific reference to the provisions of Article 17 of this ordinance that have been violated.

23.11-4 Failure to Comply. In the event of failure to comply with the requirements of a remove order, the *Planning, Zoning & Subdivision Administrator* may cause such sign or sign structure to be removed. The sign owner and property owner may be jointly and separately liable for the expense of removal. Notice of the cost of removal

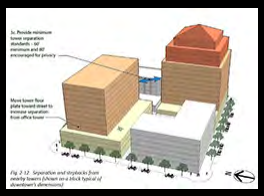
shall be served as set forth in section 23.5-1. If said sum is not paid within 30 days thereafter, said sum may be collected by the City in a civil action in the nature of debt, which shall not subject the offender to the penalty provisions of N.C. Gen. Stat. § 14-4.

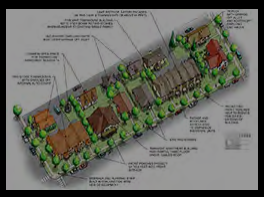
June 17, 2015

Town of Waxhaw

RFP Response:

Unified Development Ordinance / Zoning Map Update





Studio Cascade
Community Planning & Design

Project Scope & Approach

Setting

Waxhaw is set within Charlotte's metropolitan orbit, tied closely to North Carolina's largest city and its economy. Still, residents and businesses in Waxhaw choose to be here and not in Charlotte. It's a great place - small by design, growing rapidly, and active in ways its residents cherish.

This form-based code project will overlap with the Town's efforts to complete its comprehensive plan. The timing is ideal for the zoning update, taking advantage of the comprehensive plan's momentum and creating an immediate testing of comprehensive policy in terms of the zoning construct. We recently worked on a project much like this in Hickory, where we updated the Land Development Code as part of that City's comprehensive plan update process.

Closely connecting the comprehensive plan to the new zoning ordinance will be critical, ensuring the plan's policies - particularly the ones that are most progressive - can be translated effectively into new code language. And participants involved in the comprehensive plan can be brought into this process, too, maintaining a continuity that will be important as the conversations around new zoning rules run their course.

Note: This section includes our introduction, work program, timeframe and fee proposal. Per the RFP, this serves as required information items C, D and G.

Figure 1.01 – *SCI's mastery of common tools – like this booth offering questionnaires, activities and information in Southern Pines, NC – has helped us win multiple awards for community involvement and outreach. We're proud of our work, but our most valued take-away from a project is usually about relationships, tying the people we meet with the communities we serve. (Image: Studio Cascade, Inc.)*

The Town is looking to form-based zoning to identify and retain those community characteristics that create, communicate and sustain its identity. Careful code calibration will ensure that architectural style, scale of development, and the design of the public realm all come together to honor those attributes and characteristics that make Waxhaw unique.

We also understand from the RFP (and from experience) that the process must involve the community and its stakeholders every step of the way. We'll have a solid policy basis from the comprehensive plan, but zoning is far more specific, imposing the rules and processes that folks will have to live by. While comprehensive plan policy can be aspirational, zoning is potentially more threatening, creating a regulatory context that is much more concrete. Keeping the community informed of the tradeoffs, consequences and outcomes of proposed zoning will be essential to the success of this effort, and we'll run a process to ensure Waxhaw's residents and businesses are effectively involved.

Approach

In general, our processes work from the broad to the specific, establishing a solid understanding of current context, conditions and trends, working through various possible approaches, identifying a preferred direction and then creating commitment to develop the UDO and maintaining support through adoption. It's a straightforward approach, but the art – and a central part of our recognized expertise – is in building public capacity to grasp the issues and concepts, elicit meaningful guidance from participants, and encourage local ownership of the process' outcomes.

The RFP indicated that the existing UDO has a number of shortcoming, including:

- Unclear review procedures and permit requirements
- Awkward and confusing structure and format
- Inconsistent and contradictory language
- Standards that act as barriers or are impossible to meet
- A lack of clear, easy-to-understand graphics and illustrations.

According to the RFP, this effort must achieve the following objectives:

- Provide a more predictable set of land use regulations for the community, developers and town officials by increasing the reliance on provisions of the ordinance instead of special legislative approvals
- Improve the efficiency of the land development process by streamlining

administrative review, approval, and permitting for routine matters

- Integrate and improve upon portions of other Town Ordinances (i.e., street requirements)
- Eliminate outdated, unclear or contradictory language and the need for frequent and extensive interpretations
- Update the format and structure to be more user-friendly and intuitive, including the heavy use of illustrations or other graphics to convey standards
- Support sound responsible economic development, multimodal transportation, and a sustainable built and natural environment
- Support the preservation of historic structures in the downtown area.

At the process' conclusion, the Town of Waxhaw will have a rewritten, user-friendly UDO and updated zoning map, using a form-based code to implement the Town's new comprehensive plan's goals and policies.

We've assembled a work scope that we believe will produce the form-based code Waxhaw is looking for. But importantly, we're proposing a process that will ensure its support among the community, producing zoning that rectifies the code's existing shortcomings and implements the comprehensive plan's aspirational goals and policies. We hope to win broad-based community support for the zoning that comes from this work, making it relatively easy to adopt and increasing the Town's effectiveness to guide development and public investment in ways the community appreciates.

Scope

The RFP establishes a six-step process to produce a new UDO and the application forms necessary to implement it through permit processes. Our scope describes our approach through the six steps, and we look forward to discussing them each in more detail with you as the selection process continues.

Figure 1.02 – *For the Port Angeles WA waterfront plan and for Southern Pines, SCI set up a storefront studio in the heart of downtown, providing headquarters for the team, space for a week-long charrette, and place where passers-by could visit, ask questions and take part in the design process. Our approach for Waxhaw could follow a similar pattern. (Image: Studio Cascade, Inc.)*

We have also incorporated into our proposed scope various tactics we believe will help streamline the process – without sacrificing its comprehensiveness or accessibility for the public. On the contrary, we believe the streamlined process we're recommending improves internal consistency and planning breadth, while also increasing the intuitiveness of public engagement. It also has the potential of saving money, integrating our initial baseline research and strategy development into the comprehensive plan process and incorporating public workshops into a week-long planning studio.

Our proposed public engagement approach also takes a slightly different course than the one

Figure 1.03 – *Waxhaw's pride of place and sense of community is strong, and the UDO is seen as an important tool to ensure things stay that way even as the community grows. Engaging Waxhaw's residents, scores of whom are shown enjoying themselves on the City's Facebook™ page, is critical. (Image: City of Waxhaw)*

suggested in the RFP. We're proposing a series of banner events designed around intensive public involvement and collaborative work with the consulting team. This improves cost efficiency, and it keeps the process topically relevant, transparent to participants, on track, and internally consistent from the outset.

We propose to develop and deliver all items specified in the RFP, including code language to address provisions already identified and those that arise through the public process; continued staff review of existing code; and detailed review of the proposed zoning instrument following the basic, six-phase process outlined below:

Phase One: Baseline

This work phase allows the consultant team to develop a comprehensive understanding of the Town's policy and regulatory environment. This phase of work will include a field trip to visit the town, stakeholder interviews, analysis and evaluation of the comprehensive plan, and a work session with staff to identify and review shortcomings of the Town's current regulations and strategies. We will also use this work phase to propose a more refined project schedule, identifying timelines and milestones based on our growing understanding of the community's needs, the complexities faced and the details needing to be addressed.

Phase Two: Public Engagement

We believe that public engagement is fundamental to this project's success. In this phase, we will produce a detailed public engagement program, identifying planned events, task responsibilities, and how the public engagement process relates to the overall project schedule. Our aim is to provide a continuous, transparent, accessible and public participation process, allowing those interested ample opportunity to weigh in and shape the new regulations. We propose an engagement process and strategy that will include at least the following components:

- *Stakeholder interviews: It is important that we speak to those people who have been involved in the comprehensive planning process, those who have a stake in regulatory changes, and others who will be interested in what this process generates. We will ask the Town to help identify people and groups with whom we should speak and to arrange a series of interviews. We'll then run the interviews and produce a report summarizing our findings.*
- *Educational forums: Some of this work will be very technical, and we will conduct educational forums as necessary to address certain topics. We anticipate that one forum will be included within the work phase on alternative approaches. Other forums may also become necessary as the process evolves.*

- *Workshop series: This will be the backbone of the process, allowing the community to hear presentations on where the process is leading and how the regulations may be revised to implement policy. These workshops may be topic based, such as on residential or industrial development, or they may be arranged to be more sequential, providing increased detail on regulatory approach as the document nears completion. In all, we imagine participating in no fewer than four workshops (not including public hearings) during the process.*
- *Storefront Studio: Our "storefront studio" is an excellent tool for focused efforts such as this, consolidating code development during a targeted timeframe, often over the course of a week. We'll use this time to conduct two of the public workshops noted above, playing out the week to generate, review, evaluate and pick from the alternative approaches that emerge during this concentrated engagement. We've found that these studios reinforce working relationships and provide immediate testing of approaches within the community context. They're a buzz of activity, providing community stakeholders direct access to the code's creative process. We expect that this studio will occur at the end of 2015 or the beginning of 2016, depending on when the new comprehensive plan is adopted.*

The Town may seek additional public engagement activities, and we will be happy to propose other ways in which the public's voice can be sought and included in the process. The strategies and tools noted above are our first attempt to define an engagement process that strives to build on the Town's recent policy work and concentrates on translating it into workable and supportable development regulations.

Phase Three: Drafting the Code & Map

Before drafting the entire regulations package, we will produce a framework that outlines the various changes proposed to the existing regulations. The RFP indicates that some of this effort has already been contemplated, but this initial step will take that information further. This will take the form of an annotated table of contents, describing, in understandable terms, how the new regulations may amend and/or replace the old. This will be both a public involvement tool, as well as something more technical. It will provide the general public with an accessible look into what the new rules propose, and it will assist staff as they consider how the proposed changes may impact what they do. This is an essential part of the process, allowing comprehensive review of proposed strategies and accommodating efficient revision.

In the second part of this phase, based on direction received during the initial review, we will prepare an updated set of regulations as identified in the RFP. The package will include a plan for incorporating existing conditional use zoning properties and conditional use zoning districts into the new form-based code. The document will be formatted to the Town's specifications. We will also ensure the product created will be fully integrated into the Town's existing regulatory framework and meet local and state legal requirements.

Phase Four: Refining the Code & Map

Even though we expect to work closely with staff throughout the initial drafting process, once we complete the draft, we will deliver the zoning map and code for staff review and comment. After responding to staff comment, we'll conduct two all-day public meetings. We expect that these meetings will be conducted in an open house walk-in format, with the consultant team guiding visitors through the process and resulting code changes. During the same days, we'll present the draft to a joint gathering of the Town Board, Planning Board, and Board of Adjustment. We expect this meeting to occur between the two open houses.

Figure 1.04 – *For our recent work in Port Angeles WA, Council Bluffs IA, Southern Pines & Fayetteville NC, identical presentations were held evenings and mornings, helping residents with differing schedules to take part. All four projects also featured our "Storefront Studio," providing a visible, centralized location for all plan activities – and a base of operations for our team. (Image: Studio Cascade, Inc.)*

Phase Five – Approval Process

We will produce a final draft regulations package based on the comments received at the public meetings and joint gathering. The draft regulations will be presented to the Town Planning Board and Town Board for review and approval. We anticipate at least three meetings for the formal review and approval process and will make changes to the regulations as necessary. At the conclusion of the approval phase we will provide 15 bound copies of the code, along with a report of the process and its findings.

Phase Six – Post Adoption

The RFP indicates that the production of technical documents such as forms and applications to implement the code would occur during the approval process. We suggest moving that task to post adoption. We'll work with staff to develop these forms and application materials, as well as providing training to town staff on the management and implementation of the new form-based code.

Schedule

We believe this process can be completed within 18 months, with the bulk of the code preparation work being conducted within the first year. The actual code delivery will depend on the status of the comprehensive plan update, but we will be able to move quickly into the code phase once we've completed the calibration exercises and conducted our first wave of stakeholder interviews. The schedule below (Table 1.01) outlines how we'll do it, presented by task and by quarter. We expect to refine the schedule as part of our work to prepare the engagement program.

Table 1.01 – Proposed project schedule (■ = Component time-scale)

	2015		2016			
Tasks	**Q3**	**Q4**	**Q1**	**Q2**	**Q3**	**Q4**
Phase 1: Baseline	■					
Phase 2: Engagement	■	■	■	■	■	■
Phase 3: Drafting the code and map		■	■			
Phase 4: Refining the code and map				■		
Phase 5: Approval process				■	■	
Phase 6: Post adoption						■

Budget

The proposed project budget below (Table 1.02) illustrates how the scope we've described translates to a budget. The final project budget will depend on the final negotiated scope and the extent to which the Town and the consultant team can allocate the work.

It represents our best estimate of the time and resources necessary to compete Waxhaw's new form-based UDO and Zoning Map update. We believe the project can be completed under this proposed budget, but there may be unexpected circumstances that may either expand or contract the budget, such as difficulty in securing a low-cost studio venue, delayed comprehensive plan adoption or the need for an extended public engagement campaign or enhanced, interactive website presence.

Table 1.02 – Proposed project budget

	SCI	MAKERS	Brough	**Total**
Phase 1: Baseline	16,000	7,920	3,720	27,640
Phase 2: Engagement	25,600	6,600	1,240	33,440
Phase 3: Drafting the code and map	18,600	19,800	3,720	42,120
Phase 4: Refining the code and map	12,600	6,600	3,720	22,920
Phase 5: Approval process	10,500	3,960	1,860	16,320
Phase 6: Post adoption	8,800	3,960	1,240	14,000
Fee Total	**92,100**	**48,840**	**15,500**	**156,440**
Reimbursable expenses (8%)				12,515
Project budget				**168,955**

Project Team & Experience

Who We Are

This section of our proposal is designed to introduce us to you and briefly identify our team members and their relevant experience. We believe we're very well-suited to help produce Waxhaw's UDO and zoning map update, and we look forward to meeting you to make our case. We commit to full availability throughout the process for all of the team members introduced in this proposal.

Studio Cascade (SCI), MAKERS Urban Design + Architecture, and the Brough Law Firm have each performed work nation-wide, and in some cases, internationally. Our firms have long-standing relationships, and enjoy working together on projects large and small. We believe our expertise - both outside and inside your region - will add tremendous value to the Town's process and deliverable product.

The pages that follow provide introductions to our firms and the individuals pledged for this project. This section also provides summaries of some of our projects and a set of references including contact information and project type/feature data.

Note: This section includes coverage of our project team and related expertise. Per the RFP, this serves as Required Information items E and F.

Studio Cascade, Inc.

Studio Cascade (SCI) has worked for more than 80 public agencies across the US during the past 20 years, including counties, large cities, and small rural towns. We offer a variety of land-use planning services – comprehensive planning, downtown planning, strategic planning, and amending and writing zoning, environmental and shoreline ordinances. SCI has also worked internationally, consulting with the British Office of the Deputy Prime Minister and with towns in the Scottish countryside.

Studio Cascade will manage the project, leading the public, staff and stakeholder engagement process, working closely with MAKERS Urban Design on development of the UDO; leading the development of the zoning map update; working with Brough Law Firm to ensure full legal compliance; delivering the process' outcomes to the Town and seeing it through adoption and eventual use by staff.

SCI received Washington State APA top honors for its planning work on a number of recent projects – the Mill Creek (WA) Strategic Plan, the Port Angeles (WA) Waterfront & Transportation Improvement Plan, the Sequim (WA) downtown plan in addition to a Governor's Choice Award for planning for a subarea plan, Transfer of Development Rights (TDR) and design guidelines package for the City of Normandy Park (WA). In addition, SCI has worked with and produced plans for North Carolina Communities including the Town of Southern Pines, the City of Hickory, the City of Fayetteville and the Town of Maiden.

Summary bios for SCI's senior staff are provided below. Complete résumés for each of the team members listed are available in the appendix section and at the following URL address:

http://www.studiocascade.com/general/Waxhaw/Resumes/

William Grimes, AICP

Mr. Grimes will be the project director and principal in charge. He is the founding principal of Studio Cascade, bringing more than 28 years of experience to bear on this project. He holds a master's degree in urban and regional planning from Cal Poly, Pomona and a Bachelor of Science degree in business administration from the University of California, Riverside.

Mr. Grimes has managed projects of similar scope and depth for more than 20 years, including complex, multi-disciplinary efforts involving landscape architects, architects, transportation engineers and public engagement specialists. He will participate actively in the process, leading public workshops and representing the consulting team to the Town.

Bill's recent and relevant experience includes leading comprehensive plan updates for the cities of Hot Springs AR, Southern Pines NC, Hickory NC, Sandpoint ID and Ellensburg WA, each founded on community vision and focusing on infill patterns and implementation strategies; developing a strategic plan for the City of Mill Creek WA and a downtown plan for Fayetteville, NC, and developing a subarea plan including an integrated EIS and Transfer of Development Rights (TDR) strategies for the City of Normandy Park WA.

Rick Hastings

Mr. Hastings is a senior planner with Studio Cascade, holding a master's degree in architecture from the University of Texas at Austin. Rick specializes in urban design, public policy development and citizen engagement, leading that component of SCI's work since joining the firm in 2003, and in addition to authoring and graphics development, is prepared to lead those segments of the work for Waxhaw.

Rick's relevant and recent experience includes developing deliverables, outreach methods and materials for the City of Mill Creek WA Strategic Plan and for the downtown plan for the City of Fayetteville, NC; developing deliverables, outreach methods and materials for comprehensive plans for Southern Pines and Hickory, NC, Cheney, WA, Sandpoint, ID, and Ellensburg, WA; and authoring deliverables, outreach methods and materials for a subarea plan including Transfer of Development Rights (TDR) strategies for the City of Normandy Park WA.

Chaz Bates, AICP

Mr. Bates has over nine years of experience in both public and private planning practice. A senior planner at Studio Cascade, Mr. Bates leads the company's provision of GIS mapping and planning services to its public sector clients. Before joining Studio Cascade, he worked at the Washington State Department of Community Trade and Economic Development (CTED) providing technical planning assistance to numerous local governments in Washington. Chaz will lead mapping, and with MAKERS and Brough, aid development of the UDO and zoning map update.

His relevant and recent experience includes developing GIS and integrated EIS components of a subarea plan including Transfer of Development Rights (TDR) strategies for the City of Normandy Park WA; developing an updated comprehensive plan and Land Development Code (LDC) for the City of Hickory NC, including streamlining permit administration provisions, developing the UDO for the Town of Maiden NC, and leading the permitting process for development of a waterfront esplanade and re-creation of a public beach for the City of Port Angeles WA.

MAKERS Urban Design + Architecture

MAKERS Urban Design + Architecture (MAKERS) is an award-winning planning and community design firm located in Seattle, WA. The firm has assisted communities in making and implementing wise decisions about their futures since opening in 1972. With a staff of 17 professionals, MAKERS offers a full range of planning and urban design expertise including community planning, street and public realm design, urban center planning, and zoning code/design guideline development. Because of their broad experience, MAKERS excels at translating policy objectives into visions that can be implemented through development regulations, capital improvements, and public-private partnerships.

MAKERS created groundbreaking comprehensive design guidelines in the early 1990s. Their form-based development regulation and design guidelines (including many award winning projects) have been instrumental in numerous communities achieving their livability, sustainability, economic development, and design objectives. Partner Bob Bengford has helped communities adopt more than 40 sets of

development regulations and design guidelines over the last 15 years alone. These projects cover the whole cross-section of contexts from high-rise downtowns to strip commercial corridors to historic rural communities. The firm's development code and design guideline projects have always emphasized a form-based approach (focus on the desired form of block frontages, façade articulation, and site and building details). Bob and other firm members are also frequent publishers and conference speakers on guidelines and regulatory topics.

Bob Bengford, AICP

Mr. Bengford is a certified planner with over 20 years of planning and urban design experience including work in California, Idaho, and Washington. He will serve as the MAKERS lead in developing Waxahaw's UDO and advising in all other phases of this effort.

Bob holds a Bachelors of Science Degree in City and Regional Planning from Cal Poly, San Luis Obispo, and a Commercial Real Estate Certificate from the University of Washington. Bob manages a variety of complex projects including community design guidelines and development regulations, downtown urban design plans, neighborhood plans, streetscape design plans, and rural-area plans. Completing over 40 regulatory/design guideline projects in his 18 years at MAKERS, Bob has become a regional expert in crafting regulations and design provisions to meet community objectives. His experience runs the full spectrum of community and development types, including dense urban downtowns, historic communities, auto-oriented commercial corridors, established neighborhoods, and rural communities. Bob's background as a planner for several cities/counties (including Bonner County, Idaho) has provided him with a solid foundation and understanding in how development regulations work (and often don't work). This experience has been helpful in collaborating with staff, public officials, the development community and community members in identifying critical issues, brainstorming solutions, illustrating the benefits and drawbacks of various options, and ultimately crafting user-friendly documents that help communities achieve their design and development goals.

Bob has also provided design review assistance and staff training for a number of Washington agencies including the City of Woodinville, the City of Spokane, Normandy Park, and Clark County. He has led multiple conference sessions on hybrid form-based codes and design guidelines and he is a frequent contributor to the Municipal Research Service Center's Planning Advisor Column Bob also chairs Washington State APA's Community Planning Assistance Team program.

Rachel Miller

Ms. Miller is committed to enhancing client communities' understanding of both place and self through context-sensitive and culturally-appropriate plans. She applies strong graphics, mapping, writing, analytical, and community engagement skills to help communities understand their options and visualize ways forward, and for Waxhaw, will support work in each of these activities.

Rachel recently developed plans for Bellevue WA's Eastgate Subarea, where she analyzed land uses and urban design character (via 3D digital modeling and rendering) for an area along a major highway transitioning to a walkable, transit-oriented community; Tumwater WA's Capitol Boulevard - an award-winning plan for community engagement, use of existing assets and focus on increased development density along an outdated state highway; Lake Forest Park

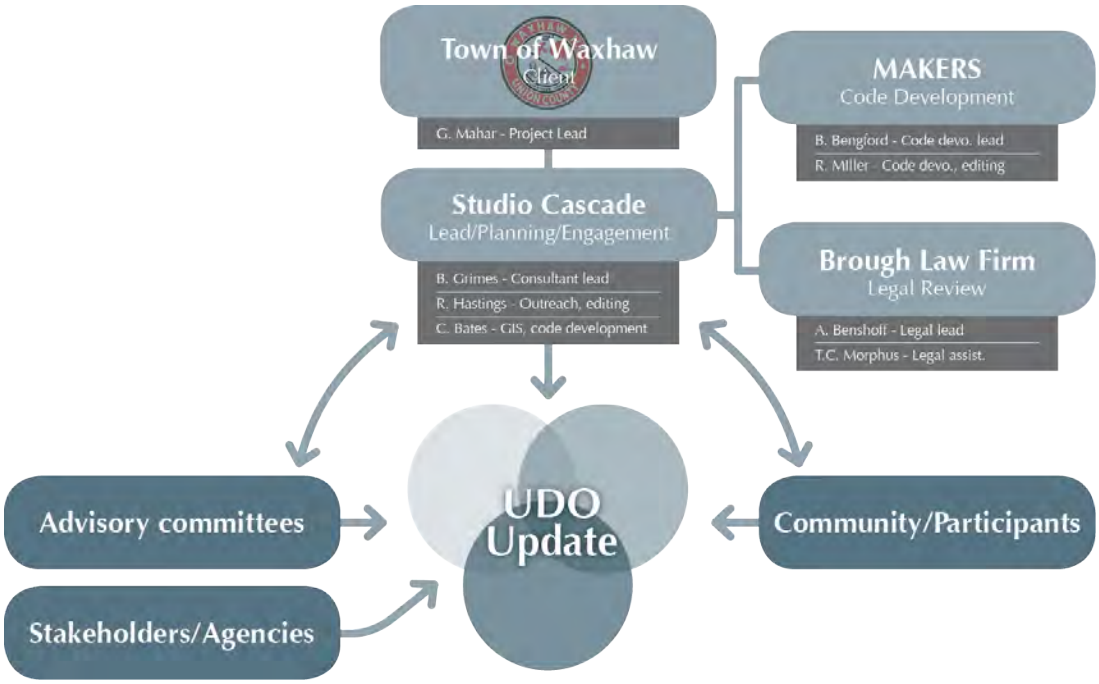


Figure 2.01 – *Our proposed organizational chart, with Waxhaw as contracting agent and project client, and SCI as point source – coordinating community, stakeholder and technical input, and managing critical work by MAKERS and Brough Law Firm in developing the community's new UDO and zoning map.*

WA's "Southern Gateway, " where she illustrated potential site developments, analyzed walkability and aesthetic impacts of proposed code updates, and developed design guidelines for a growing neighborhood along a major corridor; and Everett and Snohomish County's Evergreen Way/Highway 99 Corridor Plan, an award-winning plan for its neighborhood-oriented analysis and associated land use code and design standards for areas along a major state highway. Rachel also supported the Ellensburg Land Development Code Update and created the downtown and citywide block frontage maps that were a critical component for the Boise Design Standards.

Rachel holds a Master of Urban Planning, Master of Landscape Architecture, and Urban Design Certificate from the University of Washington and a B.S. Architecture and Geography minor from the Ohio State University.

Brough Law Firm

The Brough Law Firm, founded in 1988 in Chapel Hill, employs five lawyers and supporting administrative staff. The firm's practice is primarily devoted to representing local governments both as town attorneys and as outside counsel in state and federal court in areas of land use law, civil rights defense, employment law, general representation, and litigation and appeals. In addition, the firm has significant experience drafting municipal ordinances, including zoning, subdivision and minimum housing codes and general codes of ordinances.

The firm serves as general counsel for the Towns of Aberdeen, Cameron, Carrboro, Carthage, Hillsborough, Hoffman, Hope Mills, Pinebluff, Robbins, Stem, and Vass; the Cities of Hamlet, Roxboro and Trinity; and the Villages of Foxfire Village and Whispering Pines. The firm also provides litigation

services for the Town of Cary, City of Concord and others and regularly assists numerous other cities and counties throughout the State in matters ranging from ordinance drafting to litigation.

The firm's private clients include individuals, citizen groups, businesses and corporations, and commercial and residential developers. Brough advises and represents these clients on a broad range of planning, zoning and land use related issues such as rezonings, variances, special and conditional use permits, annexations, condemnations, vested rights, subdivision development, historic district designations, and the NC Coastal Area Management Act, as well as other land use and environmental laws.

Members of the firm have extensive experience in litigation and appellate matters, and have argued over 120 cases in the N.C. Supreme Court, N.C. Court of Appeals, and the United States Court of Appeals for the Fourth Circuit. In addition, various members of the firm have taught on the adjunct faculties at the University of North Carolina School of Law, North Carolina Central University School of Law, Duke University School of Law, Campbell University School of Law, Elon University, National Institute for Trial Advocacy, and at the Institute of Government in Chapel Hill. Collectively, the members of the firm have published 12 books and monographs, and over 80 articles (including Continuing Legal Education papers) on various areas of law in which the firm practices.

Albert Benshoff

Mr. Benshoff graduated from the University of Michigan with a B.S. in Natural Resources in 1976 and a Master's in Regional Planning in 1982. For the next 12 years he worked as a planner, first for the Beaufort County, S.C. Planning Commission, then, beginning in 1985 for Cary, NC. Mr. Benshoff edited and oversaw the adoption of the first Cary UDO, the adoption of several comprehensive plans and the construction of the first five miles of Town greenway. While working in Cary, he attended the evening law program at NC Central University, in Durham, NC. After receiving his license1994, Albert became the City Attorney for Lumberton, NC until 2003 when he became the Concord, NC City Attorney. Mr. Benshoff retired from public service in June 2014, and joined Brough immediately following retirement.

While in Concord, Mr. Benshoff coordinated the defense to a zoning challenge to the new Cabarrus County jail; edited the 2005 edition of the Concord Development Ordinance; helped to obtain and defend the Inter-basin Transfer Permits from the Yadkin and Catawba Rivers to Concord and Kannapolis; provided legal services for the redevelopment of "brownfield" sites, community development and the construction of the joint Albemarle-Concord- Kannapolis water pipeline. Mr. Benshoff retired from the City of Concord in 2014.

He has served other notable clients, including the Lumberton Convention and Visitors Bureau, the Town of Holly Springs, and the Village of Pinehurst. He is the counsel to the Village of Whispering Pines and has done extensive work in the past year for the Towns of Aberdeen, Carthage and Hope Mills and the Cities of Kannapolis and Trinity.

Relevant Experience

The following pages describe some of our team's most relevant, recent projects. Table 2.01 summarizes client contact information for several related projects. The table also identifies how we believe the projects are relevant what Waxhaw is doing, indicating whether the project included work on code development, GIS mapping, comprehensive planning, community design or public outreach.

The paragraphs below provide abbreviated summaries of several planning projects completed by SCI and MAKERS that relate to Waxhaw's effort. Several full-size versions of these and many other project summary sheets from our team are available for download or viewing at:

http://www.studiocascade.com/general/Waxhaw/Cutsheets

City of Hickory: Comp Plan, LDC

Hickory, North Carolina's economy was booming when it adopted its 1998 comprehensive plan. But later declines in key manufacturing sectors took a heavy toll, leading to citywide unemployment rates near 20 percent.

With budgets tight, a triage approach to the City's plan and development code (LDC) was needed. SCI led a series of community meetings and developed questionnaires to reassess the existing vision, goal and policy framework. Staff and a 16-member advisory committee were brought together to identify and address specific needs. Existing documents were studied and referenced, and staff and team members took part in a two-day charrette to refine actionable, viable solutions.

Hickory's updated plan and LDC are now well-suited to the critical needs of today, making the City's efforts more relevant – and more effective – than they've been in years.

City of Normandy Park: Subarea Plan

Transfer of development rights (TDR) is a hot topic, particularly in fast-growing King County. In support of its TDR efforts, the County and the Washington State Department of Commerce awarded the City of Normandy Park funds to plan for an opportunity site known as "Manhattan Village," including a planned action ordinance and TDR interlocal agreement with the County.

SCI, with partners LMN Architects, Leland Consulting Group and Fehr & Peers, was hired to prepare the plan, and to engage and educate a skeptical community on how City objectives and TDR objectives might harmonize. A strong public process to create, refine and winnow options led to a plan providing an intense mixed-use center – supported by form-based policies, transportation improvements and economic analysis. Regulatory updates cured structural and line-item inconsistencies while leaving the door open for the City to incorporate TDR separately, if desired. After completion, a second contract was awarded to SCI to develop complementary design guidelines for the subarea.

Town of Southern Pines: Long-Range Plan

Southern Pines (NC) had last adopted a long-range plan in 1988 – a plan which focused almost exclusively on transportation and land use. In the wake of controversy for which the existing plan provided little guidance, the Town Council voted to commission a major update. Following a national selection process, Southern Pines hired Studio Cascade to rewrite its plan with a much expanded scope, and to involve the public in the process every step of the way.

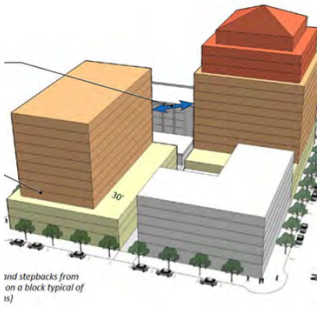
Working with the Town and with a Council-appointed Advisory Committee, SCI led a process including numerous cross-town meetings, a downtown plan headquarters, mailed and on-line questionnaires, a project website, citizen photo surveys and much more. The resulting plan was adopted by unanimous vote of both Planning Commission and Council, and provides direction on a wide range of issues – reflecting the values of many citizens that had never been consulted before.

City of Fayetteville: Downtown Plan

Fayetteville's 2002 Renaissance Plan was a success by almost any measure, guiding more than $30 million of reinvestment in downtown over the decade since its adoption. But the plan needed updating to reflect current conditions - and changing community attitudes about downtown's identity.

Following a national RFQ process, Fayetteville, NC hired Studio Cascade to update the plan with an expanded scope, and mindful of recent controversy, to involve the public in the process every step of the way. SCI worked closely with City staff to lead a process featuring a downtown storefront studio, a web-based survey and several well-attended workshops, generating broad consensus for downtown's strategic future and support for new directions in development.

The final plan calls for increased attention to those neighborhoods immediately adjacent to the commercial core, a departure from the center-focused 2002 plan. The plan was adopted by unanimous and enthusiastic vote of the City Council.

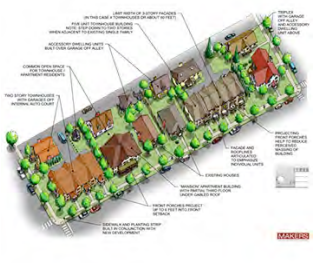


City of Boise: Citywide Design Standards

MAKERS collaborated with city staff, public officials, stakeholders and citizens in crafting ambitious form-based design standards for the City of Boise. The project includes two documents: Downtown Design Standards and Citywide Design Standards, both adopted in 2013. The project follows the recent completion of Blueprint Boise, the city's comprehensive plan, and was coordinated with the citywide land use code update. Key features of the project include:

- *Integration of form-based code elements, including block frontage standards and maps covering downtown and the entire city. The provision includes four different block frontage designations that will help shape the form of the City and provide greater predictability for all participants*

- *Downtown provisions include distinct building character, materials, details, and massing standards and guidelines to enhance the skyline, identity, and downtown livability*
- *Design approach for infill in historic areas*
- *Design review approach emphasizing design objectives, clear minimum standards, a toolbox approach providing for options, and departure provisions that allow for flexibility*
- *Extensive use of photos and graphics to illustrate standards.*



City of Chelan: Downtown Development Code

As a major component of Chelan's Downtown Master Plan, MAKERS crafted a new downtown development code. The award winning code combines elements of traditional zoning, form-based codes, and design guidelines into a format that provides clear direction and is easy to use.

In their historic downtown, the code emphasizes reduced height limits (to help preserve historic buildings and mountain views), storefronts, small scale façade articulation (consistent with established pattern), and façade and streetscape details to add character and pedestrian interest. In core perimeter areas, the code promotes pedestrian friendly commercial and/or residential infill development. Within the older residential neighborhoods, the code promotes compatible infill development (see image below) with a greater emphasis on form and design than specific density limits.

The code employs a strategy using strict requirements with departure opportunities with clear criteria. It frequently uses a toolbox approach whereby applicants can choose from a number of ways of meeting requirements. Graphics illustrating both good and bad examples are emphasized. The approach combines the much needed level of predictability (for both applicants and staff on limited budget) with flexibility (departures allow creative alternatives that meet the intent).

City of Ellensburg: Land Development Code

MAKERS led the effort to transform Ellensburg's land use code consistent with their recent comprehensive plan update. The code update, adopted November 2013, was undertaken simultaneously with the development of an energy efficiency strategy. This award-winning land development code integrates procedures, zoning, subdivision design, project design standards, and environmental provisions into a user friendly and heavily illustrated code. Working closely with staff, planning commission members, and the development community, MAKERS helped to overhaul permit review procedures, refine zoning, permitted uses, and density provisions, and integrate form-based development standards for their historic downtown, commercial corridors, and residential neighborhoods.

The new subdivision code and design standards together with new residential district zoning provisions are perhaps the most ambitious components of the new code. The code offers generous density bonuses in exchange for energy efficient construction, trails, affordable housing, and other

Table 2.01 – *Experience and client references*

Agency	Project	Client Contact	Code Development	GIS Mapping	Suparea planning	Community Design	Public Outreach
For MAKERS							
City of Boise (ID)	Citywide Design Standards 2011 – 2013	Sarah Schafer 208-384-3830 sschafer@cityofboise.org	■	■		■	■
City of Chelan (WA)	Downtown Development Code 2009 – 2010	Craig Gildroy 509-682-8017 cgildroy@cityofchelan.us	■			■	■
City of Ellensburg (WA)	Land Development Code 2010 – 2013	Lance Bailey (now with Port Townsend) 360-390-4048 lbailey@cityofpt.us	■	■		■	■
City of Sammamish (WA)	Town Center Plan 2005 – 2010	Kamuron Gurol 425-295-0520 kgurol@sammamish.us	■		■	■	■
For Studio Cascade, Inc.							
City of Hickory (NC)	Comprehensive plan, LDC 2008 – 2010	Brian Frazier 828-323-7422 bfrazier@ci.hickory.nc.us	■	■	■	■	■
City of Fayetteville (NC)	Downtown Renaissance Plan 2012 - 2013	Jami McLaughlin 910-433-1599 jmclaughlin@ci.fay.nc.us		■	■	■	■
Town of Southern Pines (NC)	Comprehensive Plan 2008 – 2010	Reagan Parsons 910-692-7021 parsons@southernpines.net		■	■	■	■
City of Normandy Park(WA)	Subarea Plan, Design Standards 2010 – 2012	Doug Shultze (Now with Bainbridge Is) 206-842-2545 cityadmin@bainbridgewa.gov	■		■	■	■

amenities. MAKERS also collaborated with Transpo, public works staff, and the Non-Motorized Transportation Committee to create new block size and connectivity standards and pedestrian friendly street design standards that will significantly improve the design of new development.

Now close to two years since adoption, the new code has proven to be easy to use and an effective tool in enhancing the quality of new development in Ellensburg.

Appendix

Contents

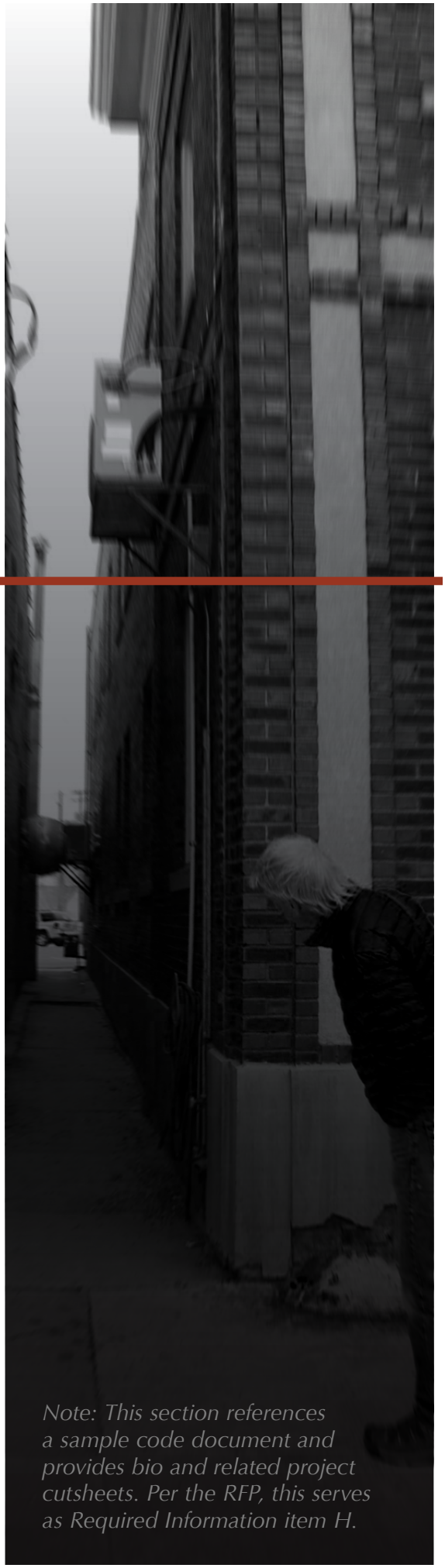
This page references the inclusion of a sample code document as required in the Town's RFP. This sample was printed, bound and included in our transmittal package delivered to the Town's published project address.

The following pages provide abbreviated résumés of team members and select "cutsheet" form descriptions of projects we've completed that relate to Waxhaw's needs.

In addition, an electronic (PDF) copy of the sample code as well as additional cutsheet files are available for review and/or download at the following address:

http://www.studiocascade.com/general/Waxhaw/

Thank you!



Note: This section references a sample code document and provides bio and related project cutsheets. Per the RFP, this serves as Required Information item H.

Boise Citywide and Downtown Design Standards

Client

City of Boise

Contact

Sarah Schafer
Design Review Manager
(208) 384-3830

Project Status

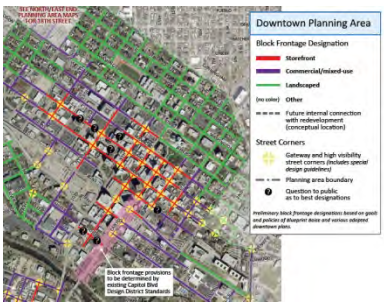
Commenced Fall 2011, Adopted 2013

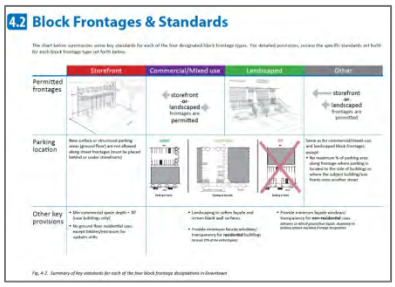
Size/Scale of Area

Citywide: 80 square miles (approx.)
Downtown: 1,013 acres

Public Involvement

- *Stakeholder Interviews*
- *City Council, Planning Commission & Design Review Board Meetings*
- *Public workshop*
- *Neighborhood outreach meetings*





MAKERS collaborated with city staff, public officials, stakeholders and citizens in crafting ambitious form-based design standards for the City of Boise. The project includes two documents: Downtown Design Standards and Citywide Design Standards, both adopted in 2013. The project follows the recent completion of Blueprint Boise, the city's comprehensive plan, and was coordinated with the citywide land use code update. Key features of the project:

- Integration of form-based code elements, including block frontage standards and maps covering downtown and the entire city. The provision includes four different block frontage designations that will help shape the form of the City and provide greater predictability for all participants.
- Downtown provisions include distinct building character, materials, details, and massing standards and guidelines to enhance the skyline, identity, and downtown livability.
- Design approach for infill in historic areas.
- Design review approach emphasizing design objectives, clear minimum standards, a toolbox approach providing for options, and departure provisions that allow for flexibility.
- Extensive use of photos and graphics to illustrate standards.

MAKERS and planning staff recently held training and conference sessions for the City of Spokane and APA-Washington on the design standards and described how the provisions are improving the quality of new development.

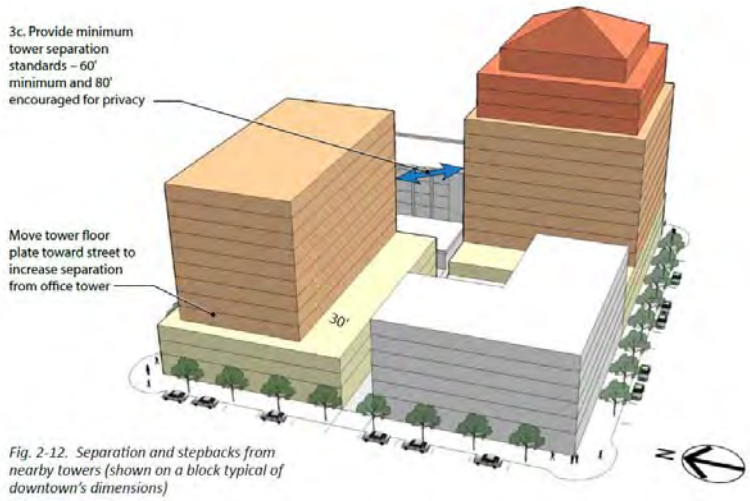


Fig. 2-12. Separation and stepbacks from nearby towers (shown on a block typical of downtown's dimensions)

Chelan Downtown Development Code

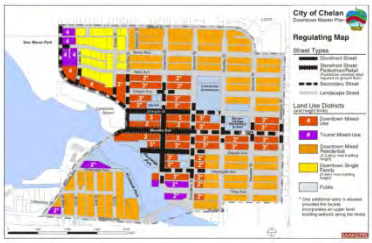
Client
City of Chelan

Contact
Craig Gildroy, Planning Director
(509) 682-8017

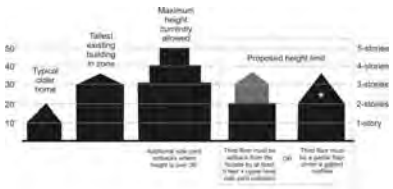
Project Status
Commenced 2009, Adopted 2010

Size/Scale of Area
240 acres

Public Involvement
- *Multiple City Council & Planning Commission Meetings*
- *Multiple public workshops*



The Regulating Map specifies land use districts and street types



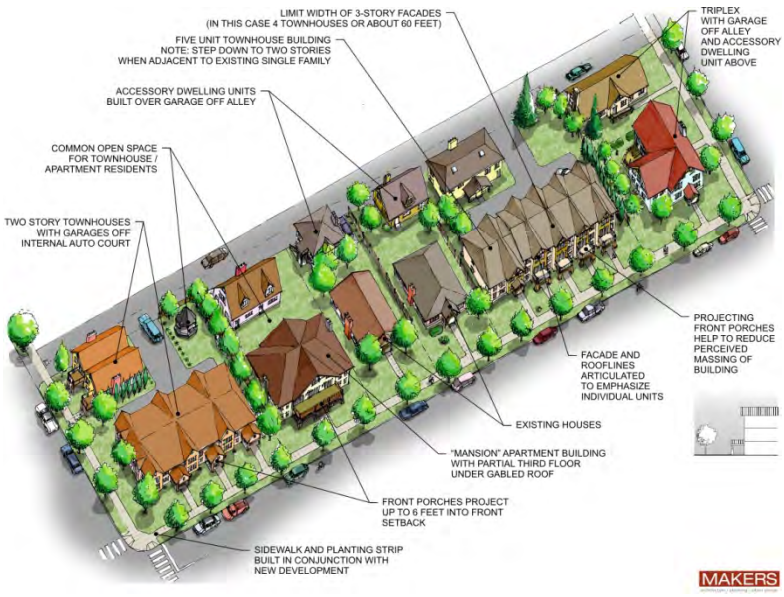
Height limit/bulk approach in residential neighborhoods

Facade improvement guidelines

As a major component of Chelan's Downtown Master Plan, MAKERS crafted a new downtown development code. The award winning code combines elements of traditional zoning, form-based codes, and design guidelines into a format that provides clear direction and is easy to use.

In their historic downtown, the code emphasizes reduced height limits (to help preserve historic buildings and mountain views), storefronts, small scale façade articulation (consistent with established pattern), and façade and streetscape details to add character and pedestrian interest. In core perimeter areas, the code promotes pedestrian friendly commercial and/or residential infill development. Within the older residential neighborhoods, the code promotes compatible infill development (see image below) with a greater emphasis on form and design than specific density limits.

The code employs a strategy using strict requirements with departure opportunities with clear criteria. It frequently uses a toolbox approach whereby applicants can choose from a number of ways of meeting requirements. Graphics illustrating both good and bad examples are emphasized. The approach combines the much needed level of predictability (for both applicants and staff on limited budget) with flexibility (departures allow creative alternatives that meet the intent).



Illustrating acceptable infill residential development on a typical downtown Chelan block

Sammamish Town Center Subarea Plan & Code

Client

City of Sammamish

Contact

Kamuron Gurol
Community Development Director
(now with City of Burien)
(206) 248-5508

Project Status

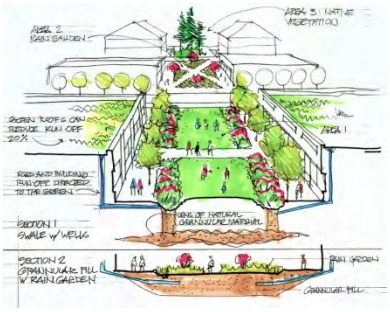
Commenced 2005, Adopted 2010

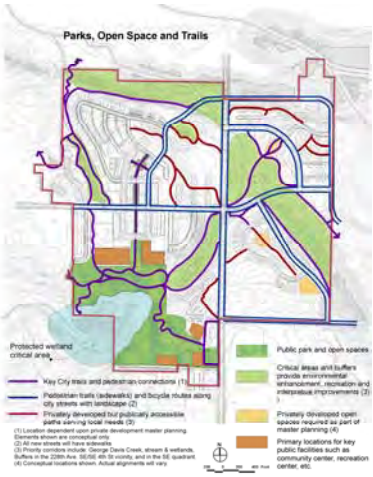
Size/Scale of Area

200 acres

Public Involvement

- *Numerous City Council, Planning Commission & Committee Meetings*
- *Multiple public workshops*



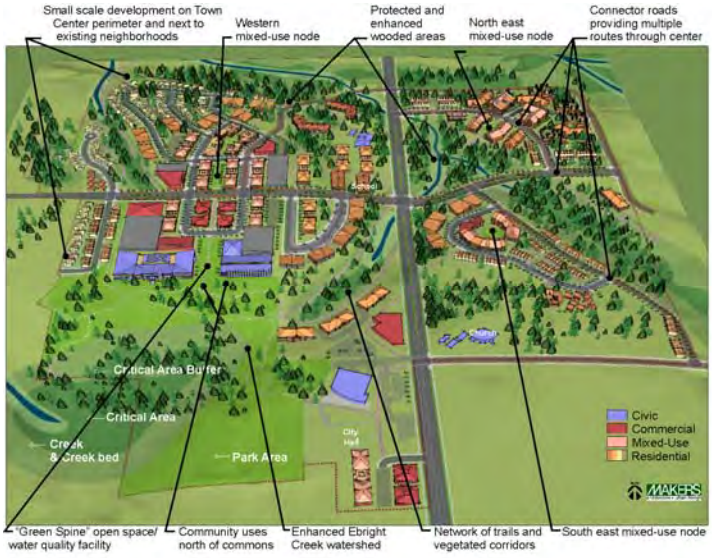


To provide for the civic, commercial, and recreational needs of its rapidly growing population and to create a diverse, mixed-use community, the City of Sammamish initiated an ambitious effort to create a Town Center on 200 acres of undeveloped and lightly developed land that includes several wetland areas.

MAKERS led a team of consultants in the preparation of a plan that set the direction and identifies implementation steps needed to create the Town Center. This plan coordinated with several projects already in development, including a new city hall, police station, recreation center, and 20-acre park. The plan includes:

- A land use and urban design component.
- A transportation component that analyzes circulation issues and recommends improvements to ensure continued efficient access.
- Engineering recommendations regarding utilities and road construction.
- An economics component that identifies market opportunities and recommends implementation strategies, including funding programs.
- An environmental management component that recommends measures to protect the natural environment and encourage low-impact development.

After the plan was adopted (June, 2008), MAKERS helped the City craft a new zoning code and design standards to implement the plan (adopted October, 2010).



Ellensburg Land Development Code Update and Energy Efficiency Strategy

Client

City of Ellensburg

Contact

Lance Bailey, Former Planning Manager
(now with City of Port Townsend)
(360) 390-4048

Project Status

Commenced 2010, Adopted 2013

Size/Scale of Area

7 square miles (approx.)

Public Involvement

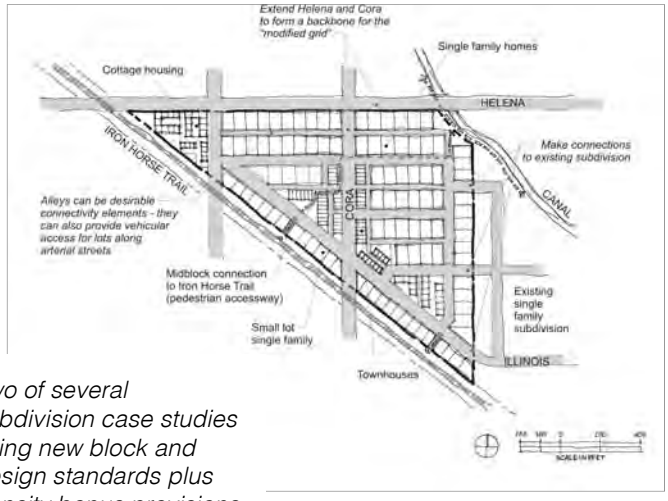
- *Stakeholder interviews*
- *Numerous City Council, Planning Commission & Committee Meetings*
- *Public workshop*

MAKERS conducted an open house to present preliminary code concepts before over 100 participants.

MAKERS led the effort to transform Ellensburg's land use code consistent with their recent comprehensive plan update. The code update, adopted November 2013, was undertaken simultaneously with the development of an energy efficiency strategy. This award winning land development code integrates procedures, zoning, subdivision design, project design standards, and environmental provisions into a user friendly and heavily illustrated code. Working closely with staff, planning commission members, and the development community, MAKERS helped to overhaul permit review procedures, refine zoning, permitted uses, and density provisions, and integrate form-based development standards for their historic downtown, commercial corridors, and residential neighborhoods.

The new subdivision code and design standards together with new residential district zoning provisions are perhaps the most ambitious components of the new code. The code offers generous density bonuses in exchange for energy efficient construction, trails, affordable housing, and other amenities. MAKERS also collaborated with Transpo, public works staff, and the Non-Motorized Transportation Committee to create new block size and connectivity standards and pedestrian friendly street design standards that will significantly improve the design of new development.

Now close to two years since adoption, the new code has proven to be easy to use and an effective tool in enhancing the quality of new development in Ellensburg.



Two of several subdivision case studies using new block and design standards plus density bonus provisions

www.makersarch.com

MAKERS
architecture · planning · urban design

City of Hickory

Comprehensive Plan & Land Development Code

Hickory, North Carolina's economy was booming when it adopted its 1998 comprehensive plan. But later declines in key manufacturing sectors took a heavy toll, leading to citywide unemployment rates nearing 20 percent. Updates to the City's policy and code framework were seen as part of the solution, so in 2008, the process began.

With budgets tight, a "triage" approach to the work was needed. SCI led a series of community meetings and developed questionnaires to reassess Hickory's existing vision, goal and policy framework. Staff and a 16-member advisory committee were brought together to identify and address specific needs. Form-based options were explored, reviewed and incorporated. Existing documents were studied and referenced, and staff and team members took part in a two-day charrette to refine actionable, viable solutions.

Hickory's updated plan and LDC are now well-suited to the critical needs of the present, making the City's efforts more relevant – and more effective – than they've been in years.

Contact

Brian Frazier
City of Hickory
828-323-7422
bfrazier@ci.hickory.nc.us

Dates of service

December 2008 through October 2010

Strengths

Comprehensive planning, inter-local process, public engagement, development regulations, implementation strategies

Center A: Downtown

Hickory's heart is its **traditional downtown**, centered on the railroad station and Union Square. While downtown has been the subject to a number of studies and is host to a variety of civic activities, its role as the community's commercial hub has changed. It's still a major employment center, and it retains the majority of the community's professional office space and financial institutions.

Photo Notes:

The transportation environment downtown provides surprises, with curving streets, one-way pairs, elevation changes and a mix of land uses.

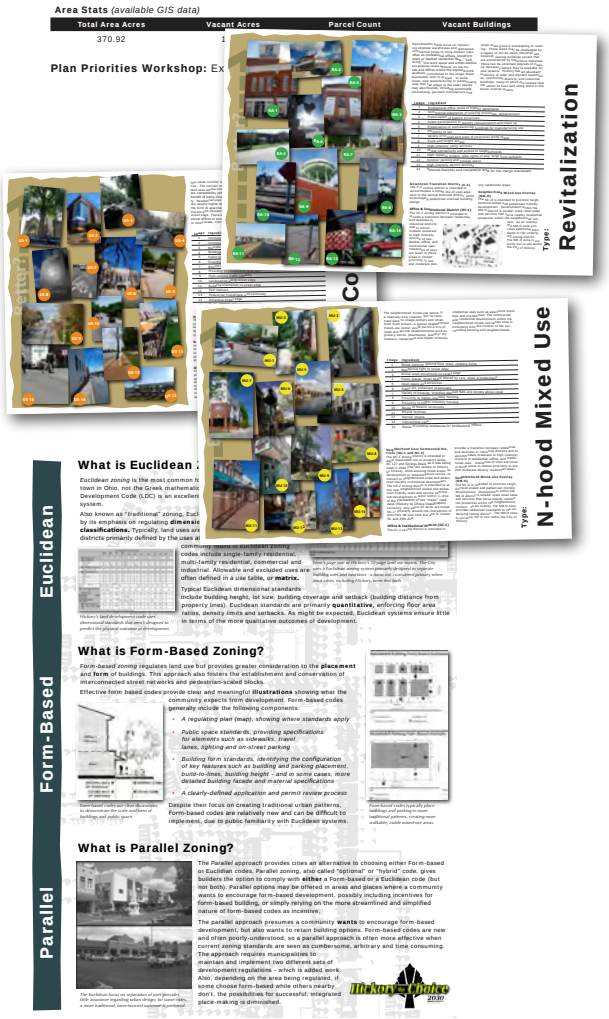
Union Square provides for a continuous retail frontage, as well as space for outdoor activity.

Photo Notes:

Relatively recent work has attempted to make downtown more convenient for pedestrians, but the separation between retail storefronts can discourage walking between businesses.

Photo Notes:

Downtown's position as an employment center and its lack of nearby housing creates high demand for parking lots.



Process materials illustrated plan concepts using numerous local and regional photographs, illustrations and diagrams to help participants understand plan concepts – and how they might eventually appear.

City of Fayetteville
Downtown Plan

Fayetteville's 2002 Renaissance Plan was a success by almost any measure, guiding more than $30 million of reinvestment in downtown over the decade since its adoption. But the plan needed updating to reflect current conditions - and changing community attitudes about downtown's identity

Following a national RFQ process, Fayetteville, NC hired Studio Cascade to update the plan with an expanded scope, and mindful of recent controversy, to involve the public in the process every step of the way.

SCI worked closely with City staff to lead a process featuring a downtown storefront studio, a web-based survey and several well-attended workshops, generating broad consensus for downtown's strategic future and support for new directions in development.

The final plan calls for increased attention to those neighborhoods immediately adjacent to the commercial core, a departure from the center-focused 2002 plan. The plan was adopted by unanimous and enthusiastic vote of the City Council.

Contact

Jami McLaughlin
City of Fayetteville
910-433-1599
Jmclaughlin@ci.fay.nc.us

Dates of service

August 2012 through April 2013

Strengths

Urban design, economic development, public engagement, implementation strategies, historic preservation

Fayetteville, well known for its vocal and sometimes divisive politics, came together for support of its updated downtown plan. The plan proposed a physical urban design strategy that motivated consensus support and collaboration among community stakeholders.

Town of Southern Pines
Comprehensive Plan

Southern Pines had last adopted a long-range plan in 1988 – a plan which focused almost exclusively on transportation and land use. In 2008, and in the wake of controversy for which the existing plan provided little guidance, the Town Council voted to commission a major long-range plan update.

Following a national RFQ process, Southern Pines hired Studio Cascade to rewrite its plan with a much expanded scope, and mindful of recent controversy, to involve the public in the process every step of the way.

Working with the Town and with a Council-appointed Advisory Committee, SCI led a process including numerous cross-town meetings, a downtown plan headquarters, mailed and on-line questionnaires, a project website, citizen photo surveys and much more.

The resulting plan gave clear direction on the plan's initial focus, as well as on the full range of issues found critical to community values. Due in part to SCI's outreach efforts, the plan was adopted by unanimous vote of both Planning Commission and Council.

Contact

Reagan Parsons
Town of Southern Pines
910-692-7021
parsons@southernpines.net

Dates of service

August 2008 through April 2010

Strengths

Urban design, comprehensive planning, inter-local process, public engagement, implementation strategies

For Southern Pines, Studio Cascade led an inclusive, robust outreach process including input from web-based and printed questionnaires, event booths, a downtown plan headquarters, instructional movies, innovative meeting exercises, and much more.

For Normandy Park, consideration of higher densities flowed from harsh fiscal realities. With limited lands and limited growth potential, City survival required more effective, efficient land uses. SCI's plan supports this, helping create a new town center using tools like TDR and simplified form-based code – all while preserving existing single-family neighborhoods.

City of Normandy Park

Manhattan Village Subarea Plan

Transfer of development rights (TDR) is a hot topic, particularly in fast-growing King County. In support of its TDR efforts, the County and the Washington State Department of Commerce awarded the City of Normandy Park funds to plan for an opportunity site known as "Manhattan Village," including a planned action ordinance and TDR interlocal agreement with the County.

SCI, with partners LMN Architects, Leland Consulting Group and Fehr & Peers, was hired to prepare the plan, and to engage and educate a skeptical community on how City objectives and TDR objectives might harmonize. Most agreed the current state of the area fell short of community image and need – offering opportunity for improvement.

A strong public process to create, refine and winnow options led to a plan providing an intense mixed-use center – supported by form-based policies, transportation improvements and economic analysis. Regulatory updates cured structural and line-item inconsistencies while leaving the door open for the City to incorporate TDR separately, if desired.

Contact

Doug Shultze, City Manager
City of Bainbridge Island
206-842-2545
cityadmin@bainbridgewa.gov

Dates of service

November 2010 through February 2012

Strengths

Public participation, urban design, development regulations, TDR

William Grimes, AICP

Principal-in–Charge
Project Manager

Education

B.S. Administrative Studies
University of California, Riverside, 1984

Master of Urban & Regional Planning
Cal Poly, Pomona, 1992

Memberships & Honors

Member
American Institute of Certified Planners

Member
American Planning Association Board of Directors, Inland Empire Section, Washington

APA/PAW/AIA Awards
Various agency projects; 2005, 2006, 2007, 2010, 2012

Selected Publications

"Morphological Impact of Spokane's N/S Freeway"
Sounding Spokane, David Wang, ed., EWU Press, Cheney, 2003

"Evolution of Urban Districts: England's Northwest"
ISUF, Cincinnati 2001

"Community-Based Transportation System Design"
IFHP, Glasgow 1999

Activities Featured

"Getting Acquainted with Studio Cascade"
Ellensburg Daily Record, Ellensburg, Washington, March 9, 2006, Travis Hay, Staff Writer.

"Putting a Cap on Sprawl"
The Bellingham Herald, Bellingham, Washington, December 19, 2004, Aubrey Cohen, Staff Writer.

Résumé

Mr. Grimes has 25 years of community and regional planning experience for public and private-sector clients. He is a member of the American Institute of Certified Planners, and holds a master's degree in urban and regional planning. Mr. Grimes is also an adjunct faculty member of Eastern Washington University, teaching courses in Spokane and Liverpool UK on land development. A hallmark of Bill's efforts on projects locally and across the US is effective agency and community involvement, skills which have helped garner five recent Washington State APA awards and an 2012 award from the American Institute of Architects.

Relevant Experience

Waterfront Plan *(2010-present, City of Port Angeles, WA)*
Managed a diverse consultant team and extensive public outreach process developing a waterfront, transportation and wayfinding plan, activating key resources and helping revive an under-utilized downtown. *(2011 State APA/PAW Award winner, physical plans, small cities category; 2012 AIA Civic Design Award)*

Manhattan Village Plan *(2011-present, Normandy Park, WA)*
Led development of subarea plan, policy and implementation strategies including integrated TDR program, municipal code and design guideline revisions; led extensive public outreach process addressing community distrust and concerns about higher development densities.

Strategic Plan *(2011-2012, City of Mill Creek, WA)*
Led and authored a fiscal and policy-oriented strategic plan, administered outreach including staff and City Council workshop process; oversaw development of a statistically-valid telephone survey to underpin plan development.

North Foothills Redevelopment Plan *(2011, City of Spokane, WA)*
designed a redevelopment concept for the 24-acre, City-owned "brownfield" site, working with the community, staff and environmental consultants to derive a reuse strategy consistent with client, Ecology and EPA needs.

Downtown Plan *(2010, City of Sequim, WA)*
Led community outreach, supported development of policy and implementation strategies envisioning higher development densities, innovative traffic management and mixed-use options for downtown Sequim. *(2011 State APA/PAW Award winner, physical plans, small cities category)*

Comprehensive Plan *(2009-10, City of Cheney, WA)*
Led a major update to the City's comprehensive plan, including a full range of public meetings, an advisory committee and eight 12-member topic-specific workgroups.

"Success is Happening by Design"
The Spokesman-Review, Spokane, Washington, April 30, 2004, Allison Boggs, Staff Writer.

"The Supper Club"
KPBX-FM Public Radio, Spokane, Washington *(periodic guest appearances)*

Comprehensive Plan *(2009-10, City of Hot Springs, AR)*
Developed a comprehensive plan update, concentrating on vision development and connections to specific implementation actions stimulating core reinvestment. Cost-effective extensive community outreach.

Comprehensive Plan, Regulations *(2009, City of Hickory, NC)*
Updated the City's comprehensive plan and land development code, reflecting significant economic changes, and establishing a hybrid form-based regulatory environment.

Comprehensive Plan *(2008-09, Town of Southern Pines, NC)*
Led development of the Town's first full-fledged comprehensive plan, including extensive community outreach and input from a 20-member, Council-appointed advisory committee. Plan included dramatic land conservation and minority neighborhood revitalization strategies.

Comprehensive Plan *(2010-11, City of Sultan, WA)*
Managed a major update to the City's comprehensive plan, including intensive GMA and regional planning agency coordination, data analysis, public and work group interface.

Collaborative Planning Study *(2007-2010, City of Spokane, WA)*
Led review and comparison of all regulatory documents from County municipalities, identifying existing or potential overlap issues. Published results adopted by Commissioners.

Ski Resort Master Plan *(2000-present, 49º North, Chewelah WA)*
Master planned the resort's proposed major East Basin expansion; facilitated permitting, EIS development. Aiding ongoing project funding, strategic review of plan components.

Comprehensive Plan *(2007-08, City of Sandpoint, ID)*
Managed the City's first comp plan re-write in more than 25 years, developing an innovative policy and land-use framework to achieve more compact growth patterns and facilitate implementation of future form-based zoning regulations.

Comprehensive Plan *(2005-06, City of Ellensburg, WA)*
Led and implemented participation strategies for major comprehensive plan rewrite, including interactive website and event outreach efforts capturing a 12% citywide participation as measured by independent scientific polling. *(2007 State APA/ PAW Merit Award winner, public participation category)*

Parks & Recreation Plan *(2008, Benton County, WA)*
Working with stakeholder groups, multiple agencies and County officials, prepared conditions baseline, parks and open space analysis, and policies connecting existing parks, ecologically sensitive areas and river corridors.

Rick Hastings

Senior Planner

Education

Master of Architecture
University of Texas,
Austin, TX, 1993

BA, Journalism
Abilene Christian University,
Abilene, TX, 1983

Memberships & Honors

2011 APA/PAW Merit Award
Waterfront Plan, Port Angeles, WA, physical plans, small cities category

2007 APA/PAW Merit Award
Comprehensive Plan, Ellensburg, WA, public participation category

2006 APA/PAW Merit Award
Planning Suite, Rockford, WA, small-town category

2005 APA/PAW Merit Award
"Community Forum on Growth Management," Bellingham, WA, public participation category

2003 Capital Projects Award, CTED
$250,000 planning grant for Gorge Park Master Plan

Publications

"Spokane's Falls and River Gorge"
Sounding Spokane, David Wang, ed., EWU Press, Cheney 2003

Activities Featured

"Completing a Vision for the Gorge"
River Dialogues series, *Spokesman-Review,* May, 2006

Spokane: A View of the Falls
Bill Stimpson, American Historical Press, 1999

Presenter, Short Course on Local Planning
Planning Association of Washington and CTED

Résumé

Mr. Hastings' ninteeen years of experience includes ten years in planning practice, eight years in architectural practice, and one year in related non-profit advocacy. Recent projects include a redevelopment-oriented subarea plan for the City of Normandy Park (WA), and a major update for the City of Cheney's (WA) comprehensive plan. Mr. Hastings holds a Master's Degree in Architecture from the University of Texas at Austin, and is an active proponent of community issues, including pro-bono work for *Friends of the Falls,* reviving a 1908 Olmsted Brothers plan establishing Spokane's river shoreline as a cultural and economic centerpiece.

Relevant Experience

Waterfront & Transportation Plan *(2010-present, Port Angeles, WA)*
Helped manage an extensive public outreach process and diverse consultant team in developing a waterfront, transportation and wayfinding plan, activating key resources and helping revive an under-utilized downtown. *(2011 State APA/PAW Award winner, physical plans, small cities category)*

Manhattan Village Plan *(2011-2012, Normandy Park, WA)*
Authored subarea plan, policy and implementation strategies including integrated TDR program, municipal code and design guideline revisions; developed and helped lead extensive public outreach process addressing community distrust and concerns about higher development densities.

Strategic Plan *(2011-present, City of Mill Creek, WA)*
Developed and helped administer community-wide outreach strategies and City Council workshop process producing a fiscal and policy-oriented strategic plan; authored statistically-valid telephone survey to underpin plan development.

North Foothills Redevelopment Plan *(2011, City of Spokane, WA)*
Led outreach efforts and aided production of a redevelopment concept for a 24-acre, City-owned "brownfield" site, working with staff and environmental consultants to derive a reuse strategy consistent with client and EPA needs.

Downtown Plan *(2010, City of Sequim, WA)*
Aided community outreach, supported development of policy and implementation strategies envisioning higher development densities, innovative traffic management and mixed-use options for downtown Sequim. *(2011 State APA/PAW Award winner, physical plans, small cities category)*

117 W Pacific, Suite 200 ▪ Spokane, Washington 99201 ▪ v 509 835 3770 ▪ f 509 835 3763

Comprehensive Plan *(2009-2010, City of Cheney, WA)*
Developed and led plan, policy development and outreach for major update to the City's comprehensive plan, including a full range of public meetings, an interactive website, printed questionnaires and on-line polling.

Comprehensive Plan *(2009-10, City of Hot Springs, AR)*
Authored and led development of community charrette for comprehensive plan update, focused on vision development and implementation actions stimulating reinvestment in the city core.

Comprehensive Plan *(2008-09, Town of Southern Pines, NC)*
Managed outreach and participation strategies, plan development for the Town's first full-fledged comprehensive plan. Outreach included development and editing of project-specific website, mailings, web-based polling.

Comprehensive Plan, Regulations *(2009 City of Hickory, NC)*
Developed and implemented outreach strategies revising the City's comprehensive plan and land development code, reflecting significant economic changes, and establishing a hybrid form-based regulatory environment.

Comprehensive Plan *(2010-11, City of Sultan, WA)*
Aided development of a major update to the City's comprehensive plan, including GMA and regional planning agency coordination, public and work group interface.

Comprehensive Plan *(2007-08, City of Sandpoint, ID)*
Managed outreach and participation strategies, plan editing for the City's first comp plan re-write in more than 25 years. Project incorporated transcect-based land-use framework to achieve plan goals and facilitate future form-based regulations.

Comprehensive Plan *(2005-06, City of Ellensburg, WA)*
Managed plan editing, outreach and participation strategies for major comprehensive plan rewrite, including interactive project website and public involvement efforts that captured a 12% citywide participation rate as measured by independent scientific polling. *(2007 State APA/PAW Award winner, public participation category)*

Planning Document Suite *(2004-06, Rockford, WA)*
Led this small-town's development and updates of three primary planning documents: a main-street plan identifying, prioritizing and developing pilot projects plus mid and long-term objectives to help revitalize the town's central business district; a complete revision of the town's development regulations; and a major update to the town's comprehensive plan. *(2006 State APA/PAW Award winner, small-town category)*

Charles Bates, AICP

Senior Planner

Education

Master of Urban & Regional Planning
Eastern Washington University, Cheney, 2001

BA, Philosophy
Eastern Washington University, Cheney, 1998

Memberships & Honors

Member
American Institute of Certified Planners

2011 APA/PAW Merit Award
Waterfront Plan, Port Angeles, WA, physical plans, small cities category

Award of Excellence
Small Town and Rural Planning APA, 2000

DeBore Excellence in Planning Award
APA, Nevada Chapter, 1999

Activities Featured

"Creek Shorelines are Topic"
The Chewelah Independent, Chewelah, Washington, June 3, 2004

Presenter, Short Course on Local Planning
Planning Association of Washington and CTED

Presenter, Shoreline Master Program Workshop
APA, Inland Empire Section; Spokane, Washington, March 25, 2004

Résumé

Mr. Bates has over nine years of experience in both public and private planning practice. A senior planner at Studio Cascade, Mr. Bates leads the company's provision of planning services to its public sector clients. Before joining Studio Cascade, he worked at the Washington State Department of Community Trade and Economic Development (CTED) providing technical planning assistance to numerous local governments in Washington. Recent experience includes leading permitting work for phase one of the City of Port Angeles waterfront plan; the Normandy Park Manhattan Village Subarea Plan, integrated EIS and PAO; a parks and recreation plan update for the City of Spokane Valley; and authoring a major update to the comprehensive plan for the City of Sultan.

Relevant Experience

Waterfront & Transportation Plan *(2011-present, Port Angeles, WA)*
Led permitting process for development of a waterfront esplanade and re-creation of a public beach, working with multiple agencies and supporting the first phase of an SCI-developed plan to help revive the city's downtown and under-utilized waterfront.

Manhattan Village Zoning *(2010-2012, Normandy Park, WA)*
Authored the zoning amendments to implement the Manhattan Village Subarea Plan, including, Planned Action Ordinance and Transfer of Development Rights regulations to encourage the significant redevelopment of the city's commercial center, multi-family and mixed-use land areas.

Manhattan Village Plan *(2010-2012, Normandy Park, WA)*
Authored subarea plan SEPA analysis and integrated EIS component, anticipating significant redevelopment of the city's commercial center, multi-family and mixed-use land areas.

Comprehensive Plan *(2010-11, City of Sultan, WA)*
Authored a major update to the City's comprehensive plan, including intensive GMA and regional planning agency coordination, data analysis, public and work group interface.

Land Development Code *(2009-10, City of Hickory, NC)*
Managed a complete rewrite and update to the City's land development code, including the development of urban center design regulations, streamlining permit provisions, and the development of conditional zoning.

Parks & Recreation Plan *(2011, City of Pasco, WA)*
Worked with department leaders, stakeholders and citizens to update of the parks plan updating policy and strategic framework for future acquisition and subarea planning.

Bob Bengford, AICP

partner

Experience

MAKERS, 18 years

Other, 4 years

Education

Bachelor of Science, City and Regional Planning, Cal Poly San Luis Obispo, 1992

Professional

American Institute of Certified Planners (AICP), 1999

Commercial Real Estate Certificate, University of Washington Extension, 2004

Qualifications

Bob Bengford is a certified planner with over 20 years of planning and urban design experience including work in California, Idaho, and Washington. Bob manages a variety of complex projects including community design guidelines and development regulations, downtown urban design plans, neighborhood plans, streetscape design plans, and rural-area plans. Bob has become an expert in development regulations, having crafted more than 40 sets of form-based development codes and design guidelines at MAKERS. His professional experience also includes several years in the public sector – including current planning in rural Bonner County, Idaho, and amending Orange County's (CA) Master Plan for Regional Riding and Hiking Trails. His strong planning and policy analysis experience, enthusiasm, and communication skills have made him an excellent project manager.

Design Guidelines + Development Regulations

- Ellensburg Citywide Code Update and Energy Efficiency Strategy, Ellensburg, WA
- Bellevue Downtown Livability Study, Bellevue, WA
- Redmond Design Standards Audit, Redmond, WA
- Boise Design Review Guidelines and Review Process Implementation, Boise, ID
- Sammamish Town Center Development Code and Design Guidelines, Sammamish, WA
- Chelan Downtown Development Code and Design Standards, Chelan, WA
- Residential Core Design Standards, Everett, WA
- Lacey Sign Code Update, Lacey, WA
- Residential Development Regulations, Lacey, WA
- Citywide Design Review and Guidelines Update, Tacoma, WA
- Highway 99 Form-Based Codes, Clark County, WA
- On-Call Design Review Services, Woodinville, WA
- Renton Urban Center Design Guidelines and Development Regulations, Renton, WA

Community Planning

- Anacortes Comprehensive Plan, Anacortes, WA
- Woodinville Comprehensive Plan, Woodinville, WA
- Sammamish Town Center Plan, Sammamish, WA
- Shoreline Town Center Plan, Shoreline, WA
- Riverview Gateway Subarea Plan, Vancouver, WA
- First Hill Urban Village Park Plan, Seattle, WA
- North Downtown Park Plan, Seattle, WA
- Lake Forest Park Economic Development Plan, Lake Forest Park, WA
- Duvall Downtown Plan, Duvall, WA
- Wenatchee Waterfront Plan, Wenatchee, WA
- North Kelsey Sub-Area Plan, Monroe, WA
- Tacoma Dome Area Plan, Tacoma, WA
- Eatonville Community Action Plan and Vision Statement, Eatonville, WA
- Downtown Open Space Analysis, Seattle, WA
- Bonney Lake CBD Plan, Bonney Lake, WA
- Newcastle Downtown Plan, Newcastle, WA

Rachel Miller

senior associate, urban design and planning

Experience

MAKERS,5 years

Other, 4 years

Education

Master of Urban Design and Planning, University of Washington, 2011

Master of Landscape Architecture, University of Washington, 2011

Urban Design Certificate, UW, 2011

BS Architecture, Geography minor, Ohio State University, 2003

Awards

AICP Outstanding Student Award, 2011

UW Urban Design and Planning Outstanding Student Award, 2010

Qualifications

Rachel combines an extensive educational background in the built environment with broad experience in community development and design. She applies strong community engagement, graphics, mapping, writing, and analytical skills to help communities understand their options and visualize ways forward. As an urban designer, she is committed to enhancing each community's understanding of its place and itself through context-sensitive and culturally-appropriate designs. Prior to joining the MAKERS team, she provided technical assistance and mapping analysis in the Seattle Community Planning and Development HUD office; interned in the City of Columbus, Ohio Planning Division; coordinated urban design visioning processes in Fairbanks and North Pole, Alaska; and managed community development projects as a Peace Corps volunteer in Mali, West Africa.

Community Planning and Design

- Citywide Design Guidelines, Tumwater
- Brownfields Community Planning, Everett
- Boise Design Review Guidelines and Review Process Implementation, Boise, ID
- Lakewood Neighborhood Master Plan and Design Guidelines, Marysville
- Naval Base Kitsap and Naval Magazine Indian Island Joint Land Use Study, Kitsap County, Jefferson County, and Bremerton
- Development Code Update, Edmonds
- Historic Downtown Residential Design Guidelines, Snoqualmie
- Anacortes Comprehensive Plan, Anacortes
- SeaTac Comprehensive Plan, SeaTac
- STAR Compact And Complete Communities Analysis, Seattle Office of Sustainability
- Bellevue Downtown Livability Initiative and Urban Design Framework Plan, Bellevue
- Eastgate/I-90 Foundation for Implementation, Bellevue
- North Basin Concept Plan, Port of Anacortes
- Tolt Avenue/SR 203 Corridor Plan, Carnation
- Capitol Boulevard Planning Project, Tumwater
- Waterfront Plan, Port of Friday Harbor
- Houghton/Everest Neighborhood Center Upzone Illustrations, Kirkland
- Southern Gateway Subarea Study, Lake Forest Park
- Design Review Guidelines and Review Process Implementation, Boise, ID
- Broadview/Bitter Lake/Haller Lake Neighborhood Plan Update, Seattle
- Central Waterfront Planning, Everett
- Legacy Landing Master Planning, Kalispel Tribe
- Transfer of Development Rights Study, Everett
- US-2 Route Development Plan, Airway Heights
- Eastgate/I-90 Subarea Plan, Bellevue
- Evergreen Way/Highway 99 Swift BRT Station Area Planning and Design Standards, Everett and Snohomish County

ALBERT M. BENSHOFF

Mobile: 980 622 6440 E-mail benshoff@broughlawfirm.com

EXPERIENCE and EMPLOYMENT

Attorney, The Brough Law Firm, 1526 E. Franklin Street, Suite 200, Chapel Hill, NC 27514 and Concord, NC 28025. Dates: June 15, 2014 to the present.

Represent private and local government clients, primarily focusing on land development issues, construction contracts, grants, code enforcement and real estate. Wrote or revised selected land development ordinances for firm clients Aberdeen, Carrboro, Hamlet, Hope Mills, Pinebluff, Robbins and Sedalia, N.C. Represented neighborhood groups regarding development issues in Chapel Hill, Pinehurst and Southern Pines, N.C.

City Attorney, City of Concord, P.O. Box 308, Concord, NC 28025. Phone (704) 920 5114. Dates: August 2003 to May 31, 2014.

Counsel to the City Council, staff (including the Police Department), Planning & Zoning Board, Board of Adjustment and Historic Preservation Commission. First full-time attorney for Concord. Supervise an in-house staff of three para-legals and two lawyers. Counselor to the airport, housing authority, police, electric and stormwater utilities. Responsible for all contracts, real estate acquisitions, litigation and ordinance drafting. Notable accomplishments include all bonds re-financing; negotiating joint private-public partnership creating the Concord Convention Center and 300 room attached hotel, and numerous economic development contracts. Concluded the litigation defending the City's inter-basin water transfer permits. Acquired numerous rights-of-way for 100 KV electric transmission lines, sewer interceptors, a new transit center, a 10 mile water pipeline; all other utilities and highways. Defended challenges to the zoning permit for Cabarrus County's replacement 600-bed jail. Responsibilities also include major revisions to the code of ordinances, including zoning, parade, public assembly, stormwater, utilities, privilege licenses and nuisances.

City Attorney, City of Lumberton, P.O. Box 1388, Lumberton, NC 28358. Phone (910) 671 3810. Dates: May 1997 to July 2003.

Lawyer to the City Council, staff (including the Police Department), Planning & Zoning Board, Board of Adjustment and Personnel Board. Responsibilities include drafting or reviewing all City contracts and ordinances, supervising outside counsel or directly handling all City litigation (including but not limited to personal injury, contract, annexation, voting rights pre-clearance, civil rights and personnel, police, tax, utility collection, zoning, condemnation and code enforcement). Responsible for the acquisition of all City real property. Review and negotiate issues involving the Lumberton ABC Board, Lumberton Housing Authority, Lumberton Airport Commission, Robeson County Library Board of Trustees, Electricities and the Eastern Municipal Power Agency.

Attorney, Lumberton Tourism Development Authority, 3431 Lackey St., Lumberton, NC 28359. Phone: (910) 739-9999. Dates: January 1998 to April 2000.

Wrote the organic ordinances for the Authority, then advised the Board of Directors. Wrote the by-laws and advised the board about the laws controlling public authorities.

Associate Attorney, Lynch, Eatman & Twiddy, L.L.P., P.O. Box 30515, Raleigh, N.C. 27622-0515. Phone: (919) 571-3332. Contact Jerome R. Eatman. Dates: January, 1996 to March, 1997.

Primary practice areas include commercial real property, land use, environmental and administrative law for a large cellular phone company. Wrote a neo-traditional zoning ordinance for Holly Springs, NC and a telecommunication tower zoning ordinance for Jacksonville, NC. Represented clients before city councils, planning commissions and boards of adjustment.

Senior Planner, Town of Cary, Department of Planning, PO Box 8005, Cary, NC 27512-8005. Phone (919) 469-4007. Dates: 1985 to 1996.

Supervised the Comprehensive Planning division of the Planning Department. Team leader of the long range planning process. Author and editor of the zoning ordinances, including watershed and communication towers. Also responsible for long range capital budgeting, fiscal impact analyses, demographics, greenways, facilities planning, impact fees, geographic information systems, drafting water-supply watershed regulations. Coordinated the 1993 Special U.S. Census Prepared two City Council electoral re-districting plans. Prepared departmental operating budgets and municipal and county capital improvement plans.

Planner II, Beaufort County Joint Planning Board, PO Drawer 1228, Beaufort, SC 29901. Phone (843) 470 2675. Dates: 1983 to 1985.

In conjunction with appointed citizen's panels, developed long range plans for large areas of the County. Reviewed site plans for compliance with zoning and development standards. Prepared county capital improvement plans.

Regional Planner, Lowcountry Council of Governments, PO Box 98, Yemassee, SC 29945. Date: 1983.

Wrote and administered Community Development Block Grants, Small Business Administration loan applications, S.C. Highway Department and S.C. Health and Environmental Control Department grants. Provided technical demographic assistance to municipalities. Wrote the first zoning ordinance for the Town of Hampton. Liaison to the U.S. Census Bureau for four counties.

Outdoor Recreation Planner, Bureau of Outdoor Recreation, US Interior Department, Ann Arbor, MI 48104. Date: 1977

Conducted research for and wrote portions of the National Urban Recreation Study: Cincinnati/Hamilton OH, (1977).

EDUCATION and CERTIFICATIONS

Juris Doctor, School of Law, N. C. Central University, Durham, NC 27707. 1993.

Master of Regional Planning, The University of Michigan, Ann Arbor, MI 48109. 1982.

Bachelor of Science, The University of Michigan, Ann Arbor, MI 48109. Majors: Biology, Chemistry. 1976.

Member, North Carolina Bar, State Bar Number 20777, 1994. Admitted to the U.S. District Court for the Eastern, Middle and Western Districts of North Carolina and the U.S. Fourth Circuit Court of Appeals

SELECTED PROFESSIONAL and CIVIC MEMBERSHIPS

N.C. Bar Association, Council and Legislative Co-Chair for the Zoning, Planning and Land Use Section, American Bar Association, N.C. Association of Municipal Attorneys, N.C. Association of Police Attorneys. Formerly served on the Program Planning Committee, International Municipal Lawyers Association and member of the American Institute of Certified Planners.

SELECTED PUBLICATIONS

Holly Springs, NC, Zoning Ordinance, Article H, Neo-Traditional Development (1996)

Pinehurst, NC, Development Ordinance, The Village of Pinehurst Code (1995)

Out of Focus: The Fuzzy Line Between Regulatory Takings and Valid Zoning Related Exactions in North Carolina and Federal Jurisprudence, 16 Campbell Law Review 3 (1994)

Cary: Growing With a Vision The Cary, NC Comprehensive Growth Plan (1991)

Cary, NC Comprehensive Growth Management Plan (1987, Supp. 1989)

Market Area Analysis of the Pigeon Point Area and the Greater Beaufort (SC) Market Area, d/b/a Lowcountry Research Associates (1985)

Beaufort County, SC, The Lady's Island Plan (1984)

Lowcountry COG, SC, A Lowcountry Guide to Runoff Control and Wise Water Use for Homeowners and Builders (1983)

Editor and/or Contributing Author of the following:

Codes of Ordinances of Aberdeen, Carthage, Carrboro, Hamlet, Hope Mills, Pinebluff, Robbins, Roxboro, Trinity and Whispering Pines, N.C.

Concord Code of Ordinances, Concord Technical Standards Manual, Concord Development Ordinance

Lumberton Code of Ordinances

Cary, NC, Appendix A Unified Development Ordinance, Town of Cary Code of Ordinances (1992, Supp. 1996)

Standard Appearance Specifications Manual, Cary, NC (March 23, 1989)

Beaufort County, SC, The Southern Beaufort County Plan (1985)

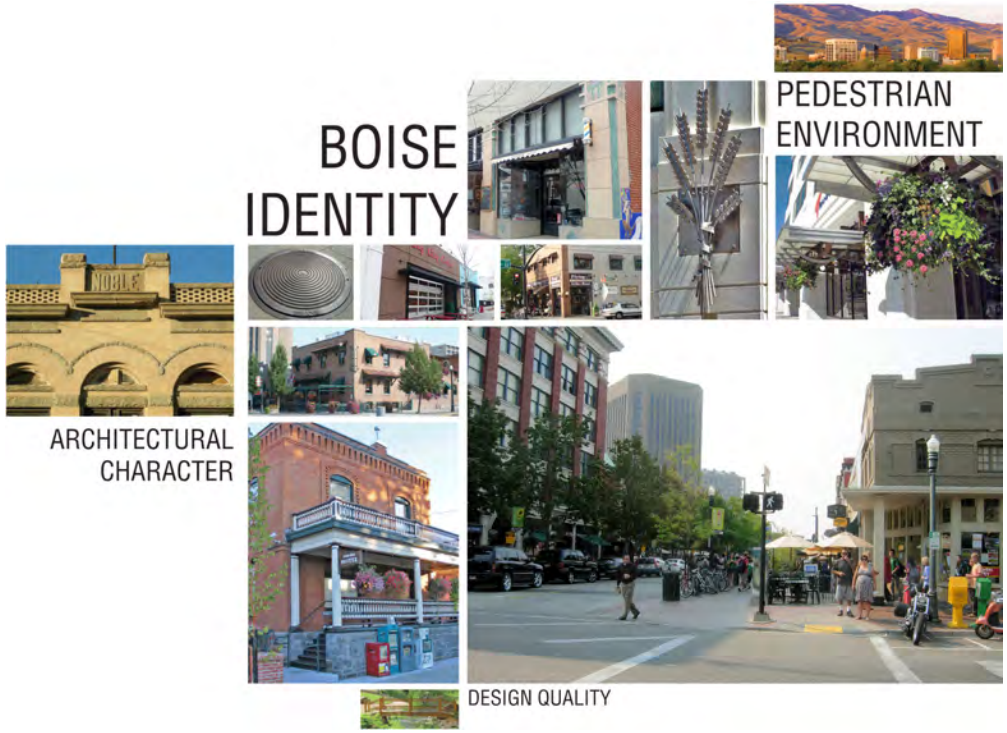
Washtenaw County, MI, An Economic, Demographic and Customer Profile (1982)

Studio Cascade
Community Planning & Design

MAKERS
architecture · planning · urban design

Boise Downtown Design Standards and Guidelines

Adopted September 2013



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3.4 Internal Open Space / Design
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Chapter 5: Definitions

Preface

Overview

Purpose of design standards & guidelines

The purpose is to provide an illustrative document to encourage creativity and high-quality urban design while allowing for flexibility in standards. This document was authorized by the City Council as a major implementation tool of Blueprint Boise and the various neighborhood plans. Overall, this document intends to:

- Provide clear objectives for those embarking on the planning and design of development projects within Downtown Boise;
- Promote compact, walkable development patterns;
- Promote original and high quality design;
- Enhance the character and function of Boise's Downtown streets;
- Promote building and site design that fits into the context of Downtown's established neighborhoods;
- Promote sustainable design principles;
- Promote design that enhances the "sense of place" for Downtown neighborhoods;
- Increase the awareness of design considerations amongst the citizens of Boise; and
- Maintain and enhance property values within Downtown Boise.

Who must comply with the design standards & Guidelines

- New non-residential and *multifamily* development proposals in the Downtown Planning Area (see Fig. 1-1)
- For building additions and remodels, see page vi.

What exactly do the design guidelines address?

While the zoning code addresses the types of land uses that are allowed in particular areas and the intensity of development, the design guidelines will address the following elements for new development:

- Building location and orientation (what does development look like from the street) - (see Chapter 2)
- Internal circulation (walkways, internal drives, etc.) - (see Section 3.1 and 3.2)
- Site design elements (internal open space, service areas, pedestrian amenities, etc.) - (see Section 3.4 and 3.6)
- Building design (character, scale, details, and materials) - (see Chapter 4).

How is the Document Organized?

This document was organized into four primary chapters to address the key elements of site and building development. A fifth chapter includes definitions for key terms (which are *italicized* throughout the document except when used in a title/header).

Chapter 1: Context & Considerations - is intended as early guidance to applicants in designing projects – first taking into account the site's unique context and natural systems

Chapter 2: Block Frontage & Urban Design Framework - includes design standards that guide the look and feel of development when viewed from the street. The chapter includes a map that identifies a hierarchy of block frontage types, special intersections and gateway sites that warrant special design treatment, and future vehicular and/or pedestrian connections that need to be implemented with future development. Also included are the standards for the various block frontage types, which address building and parking location and orientation, building entrances, *façade* transparency, and weather protection.

Chapter 3: Site Design / Elements – addressed the full range of site development issues including internal pedestrian and vehicular circulation, parking area design, internal open space, site edges, and service area location and design. Depending on the nature of the site and proposed use, not all elements of this chapter might be applicable.

Chapter 4: Building Design – includes guidelines focused on architectural character and design standards involving building massing, rooftop design, building elements and details, *façade* materials, external lighting, and *blank wall* treatments.

How do the Standards and Guidelines Apply to My Development?

First – the standards and guidelines herein apply to all non-residential and *multifamily* development within the Downtown Planning Area defined in Fig. 1-1. For additions, remodels, and site improvements associated with them, see "How are Building Additions and Remodels Applied?" on page vi below to determine how the provisions herein apply.

Second, determine the block frontage standards for the property. Find the subject property in the block frontage map in Section 2.1 to determine what type of block frontage standards apply to the development (then go find the applicable standards in Section 2.2), if any future internal connections are required (if so, see Section 3.1 for applicable standards), and whether the site is identified as a gateway or high visibility street corner (if so see Section 3.5 for applicable standards).

Third, review the provisions of Chapters 3 and 4 (site design elements and building design, respectively), which apply to all new development unless otherwise noted. For example, some provisions apply only to buildings with ground floor commercial uses, while others apply only to *multifamily* buildings. For such examples, the applicability is stated up front.

Also, note that some provisions may only apply to particular types of uses or developments. A good example involves the *façade articulation* standards, which include separate provisions for commercial or mixed-use buildings and *multifamily* buildings.

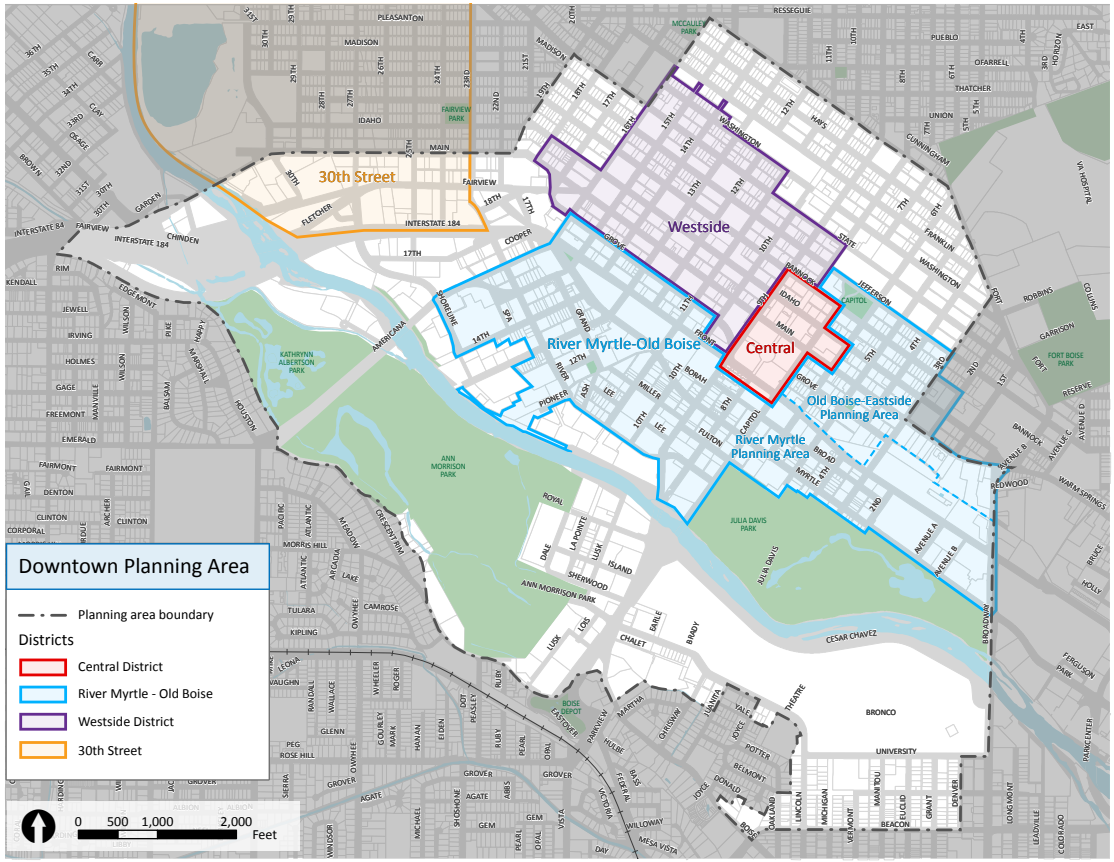


Fig. 1-1. The standards and guidelines herein apply to all non-residential and multifamily development within the Downtown Planning Area.

Standards, Guidelines & Departures – What Do They Mean?

This document was crafted to provide clear minimum design standards, while integrating necessary provisions that allow some flexibility. Below is a description of key components of this document:

Intent statements – are overarching objectives associated with a particular set of standards/ guidelines. For example, the intent statement for the building elements and details section is "To encourage the incorporation of design details and small-scale elements into building *facades* that are attractive at a pedestrian scale".

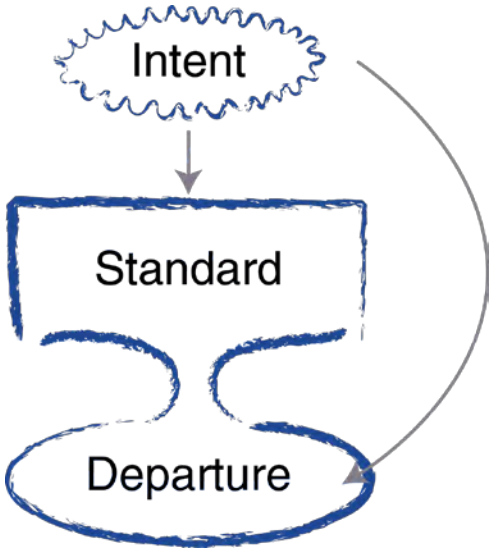
Standards – are required provisions. They feature language such as "shall", "must", is/are required", or is/are prohibited". Some standards feature a number of different ways to meet the code (toolbox approach). Provision 4.2.1, regarding *façade articulation*, is a good example. While most standards are easily quantifiable, there are some standards that provide a level of discretion in how they are complied with. In the latter case, the applicant must demonstrate in writing how the project meets the intent of the standard(s).

Guidelines – are voluntary provisions. They feature language such as "should", "is/are recommended", or "is/are encouraged". Provision 4.1.1 is an example: Encourage architectural diversity.

Provision – is simply the term that refers to the specific standard or guideline number in this document. It may also refer to standards and guidelines in a general sense.

Departures – are provisions that allow an applicant to propose an alternative means of compliance with a specific standard on a voluntary basis, provided they meet the "intent" of the standard (*departures* are not variances). The symbol ➲ indicates standards that include a *departure* opportunity. Specific *departures* often come with additional criteria to aid applicants in designing projects and ultimately helping the reviewing authority make decisions on them.

Also, graphics are utilized heavily throughout the document to help clarify the written standards.



What's the Relationship to Boise Municipal Code & Blueprint Boise?

The design standards and guidelines herein are intended to supplement the Title 11 of the Boise Municipal Code. Whereas the zoning provisions in Title 11 address land use, density, and certain dimensional standards, the provisions herein largely focus on site and building design issues. Where there is a conflict between the provisions herein and Title 11, the zoning ordinance shall apply.

How are Building Additions and Remodels Applied?

For building additions, remodels, and site improvements, three different thresholds have been established to gauge how the standards herein are applied to such projects:

A. Level I Improvements include all exterior remodels, building additions, and/or site improvements commenced within a three year period (based on the date of applicable permit issuance) that affect the exterior appearance of the building/site and/or increase the building's gross floor area by up to 50 percent. The requirement for such improvements is only that the proposed improvements meet the standards and do not lead to further nonconformance with the standards. For example, if a property owner decides to replace a building *façade's* siding, then the siding shall meet the applicable exterior building material standards, but elements such as building *articulation* would not be required.

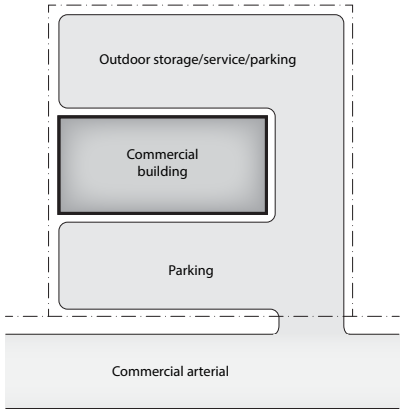
B. Level II Improvements include all improvements commenced within a three year period (based on the date of applicable permit issuance) that increase the building's gross floor area by more than 50 percent, but not greater than 100 percent. All standards that do not involve repositioning the building or reconfiguring site development shall apply to Level II Improvements. For example, if a property owner of an existing home (in a zone allowing a mixture of uses) wants to convert the home to an office and build an addition equaling 75 percent of the current building's gross floor area, the following elements would apply:

1. The location and design of the addition/remodel shall be consistent with the Block Frontage provisions of Chapter 2, except in cases where the existing building is set back too far from the street to physically allow for the addition's conformance. In such cases, the building additions are allowed provided they do not increase any current non-conformity and generally bring the project closer into conformance with the standards;
2. Comply with applicable site design elements in Chapter 3 such as vehicular and pedestrian connections, parking design, private open space, site edges, and service area design. The language "all standards that do not involve repositioning the building or reconfiguring site development" is intended to allow the City some discretion in how these provisions are implemented depending on the unique conditions and constraints on the site combined with the scope of the project; and
3. Comply with all building design provisions of Chapter 4, except architectural scale and materials provisions related to the existing portion of the building where no exterior changes are proposed. The entire building shall comply with building elements/details, materials, and *blank wall* treatment standards of Sections 4.3 and 4.6, respectively.

C. Level III Improvements include all improvements commenced within a three year period (based on the date of applicable permit issuance)that increase the building's gross floor area by more than 100 percent. Such developments shall conform to ALL applicable standards.

Fig. 1-2 on the following page illustrates a development example of each type of improvement threshold on a site.

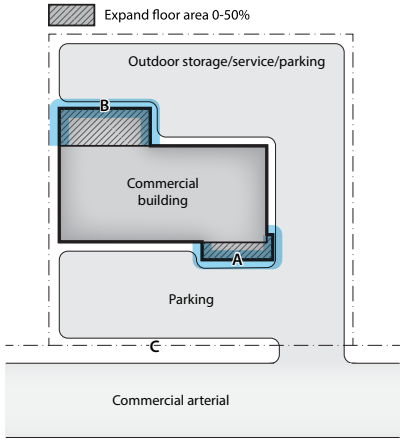
Existing



Pre-existing non-conformities:

- Parking in front of building
- No pedestrian connection to entry
- Doesn't meet streetscape and landscaping standards
- Facade doesn't meet standards

Level I Improvement Example

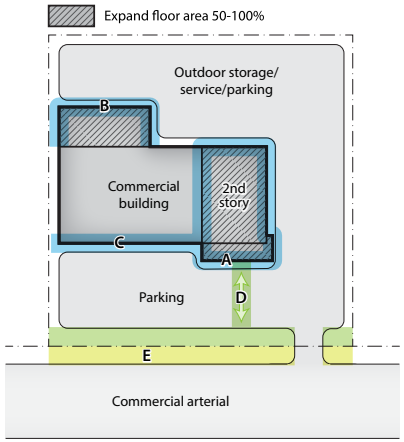


A. Entry addition meets facade and building design/materials standards (Section 2.2 and Chapter 4)

B. Rear addition meets applicable building design/materials standards (Chapter 4)

C. Sidewalk and landscaping improvements are encouraged but not required.

Level II Improvement Example



A. Entry addition meets facade and building design/materials standards (Section 2.2 and Chapter 4)

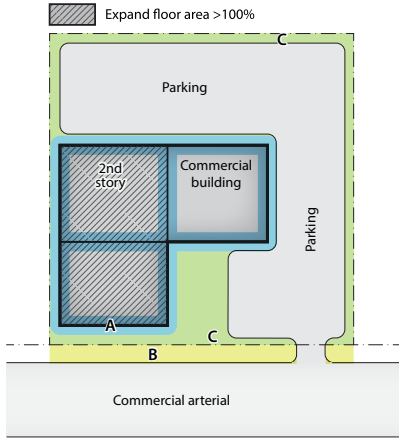
B. Rear addition meets applicable building design/materials standards (Chapter 4)

C. Facade upgraded to meet applicable facade, building design/materials standards (Section 2.2 and Chapter 4)

D. Pedestrian access improvements per Section 3.1

E. Sidewalk improvements per Section 2.2

Level III Improvement Example



A. Entire building meets applicable facade and building design standards (Section 2.2 and Chapter 4)

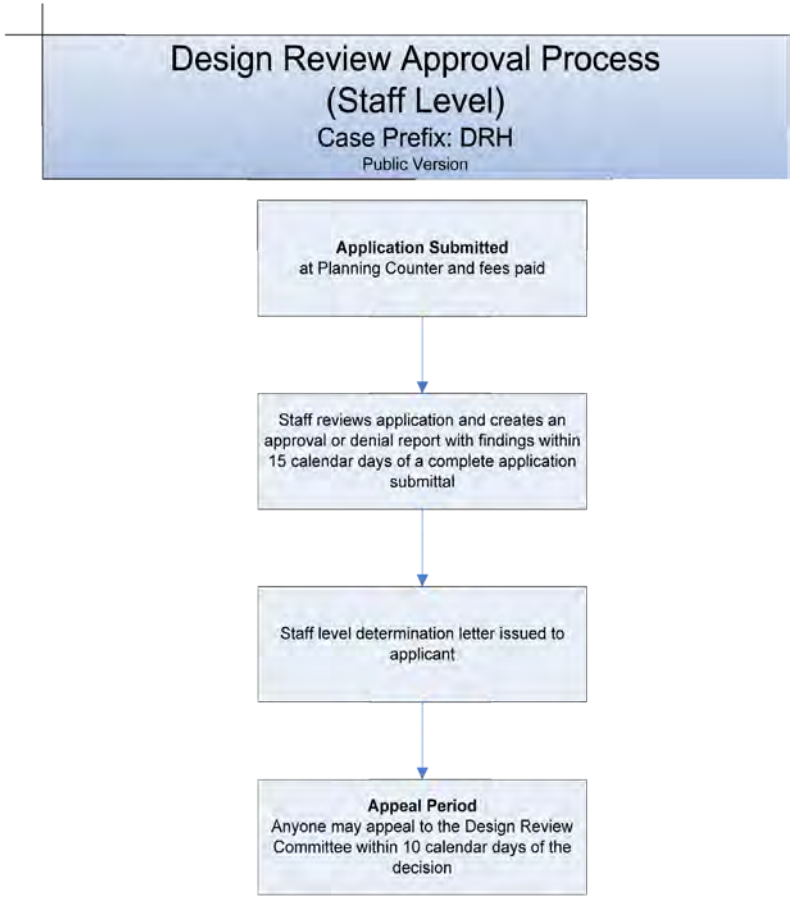
B. Sidewalk improvements per Section 2.2

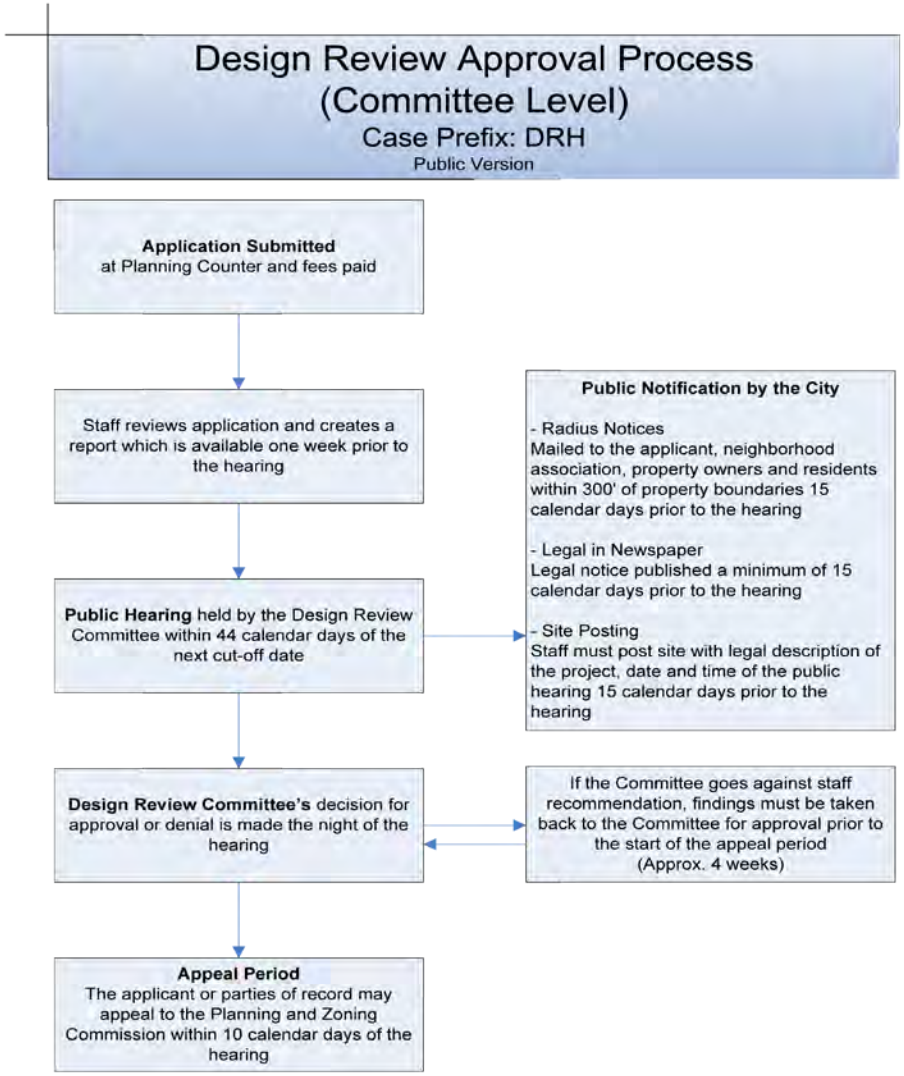
C. Site design conforms with block frontage provisions (Chapter 2).

Fig. 1-2. Illustrating examples of each of the three improvement thresholds on a site.

How Does the Design Review Process Work?

The charts below diagram the design review approval process under BCC 11-03-04.12. The thresholds for level of review are under BCC 11-03-04.12 B.





1 Context & Considerations

Purpose & Content

The purpose of this chapter is provide early guidance to applicants in designing projects – first taking into account the site's unique context and natural systems.

The sections in this chapter include:

1.1 Site Context
1.2 Sustainable Design

1.1 Site Context

Applicant considerations in designing a project

The very first step for prospective project applicants in developing plans is to take stock of the site's unique context, including its planning and regulatory context, surrounding land uses and physical context, and the unique constraints and opportunities of the site itself. Below is a checklist that applicants are encouraged to use to assess the site prior to developing a project. Early conversations with City staff, local community groups, and adjacent property owners, residents, business owners and workers will be useful in helping to answer these questions and determining the best approach in developing a site.

Question/Issue	Answer
1. What is the planning and regulatory context?	
a. Comprehensive Plan Land Use Designation? (see Comprehensive Plan)	
b. Comprehensive Plan – Applicable goals and policies? (see Comprehensive Plan)	
c. Adopted neighborhood plan for area and associated goals/policies? (see Neighborhood section of City's website)	
d. Zoning and key land use/density/dimensional parameters? (see BCC 11-04.)	
e. Block frontage designation? (see Section 2.1)	
f. Other key applicable standards?	
2. What are the surrounding uses and context?	
a. What is the site are area's role within the City in terms of use mix, access, development intensity, geography and environmental conditions? (see Comprehensive Plan and conduct site analysis)	
b. What condition are the surrounding uses in? Were they recently developed? Are they likely to be redeveloped in the near term or longer term? (conduct site analysis)	
c. Assess the transportation context, including vehicular, transit, and non-motorized elements: What are the conditions, challenges, and opportunities? Are there distinct access patterns that should be maintained, and/or are there significant access gaps that can be enhanced? (conduct site analysis)	
d. Are there distinctive attributes of the neighborhood that should be followed? This could include architectural, landscaping, building/street relationship, signage, and/or special design details. (conduct site analysis)	

Question/Issue	Answer
e. How do the current uses and features surrounding the site affect or impact the site? Furthermore, if there are plans for surrounding properties or one or more surrounding sites are prime for redevelopment, how will that affect this site? (conduct site analysis and discuss issue with Planning Department staff)	
f. Are new streets or internal circulation routes needed within the site to handle impacts and/or to improve neighborhood circulation? (conduct site analysis and discuss issue with Planning Department staff)	
g. What is the character, condition, and challenges/opportunities associated with the street or streets fronting/surrounding the site? (conduct site analysis and see the Livable Street Design Guide and Ada County Master Street Map).	
3. What are the constraints and opportunities of the site, itself?	
a. Are there unique geographical/environmental constraints and/or opportunities associated with the site? For example, are there on-site wetlands? Special views? Challenging topography and/or distinctive rock outcroppings? Solar access and wind patterns also need to be considered. (conduct site analysis)	
b. What, if any, existing uses and/or features on-site should be preserved and integrated into a development? (conduct site analysis)	
c. Are there any historical buildings or features or special history associated with the site that might be integrated with the development? (contact Planning Department and review GIS information)	
d. What are the access challenges and opportunities associated with site development? (conduct site analysis and discuss issue with Planning Department and ACHD staff)	

1.2 Sustainable Design

Standards, Guidelines, Approaches, and Considerations

Sustainability needs to be integrated into the project's design from the very beginning. Use the natural systems and features of the site and its surroundings as a starting point in designing a project. Applicable standards, guidelines, approaches, and considerations:

Sustainability Issue/Approach	Standard or Guideline(s)
ENVIRONMENTAL ELEMENTS	
1. **Sunlight:** Take into account solar access and shade when designing buildings, landscaping, and site features.	Applicants shall demonstrate how the configuration of the site/buildings (where applicable) responds to the site's unique solar access conditions.
2. **Wind:** Analyze wind patterns on-site to determine optimal site and building layouts/designs.	Applicants shall demonstrate how wind patterns were factored into the design of the development, if applicable.
3. **Energy:** Examine energy options and consider how energy choices influence building and site layout and design.	Applicants shall describe techniques used to minimize the energy used in the development and maintenance of the project (where applicable).
4. **Water:** Integrate and enhance natural water features, where present, with new development. Explore site and building layout concepts that reduce the demand for water use.	For sites containing natural water features, the applicant shall demonstrate how such features are integrated and enhanced with the development. The applicant shall also demonstrate how the site and building layout reduces the demand for water.
5. **Drainage:** Use site drainage elements as an amenity to the site. Examples include drainage swales, green roofs and walls and fountains of recycled water.	Applicants shall demonstrate how site drainage elements have been designed and integrated as an environmental and visual amenity to the development. BCC 08-15.
6. **Plants & habitat:** Incorporate existing trees and habitat into new development. New materials should be native or water-wise.	Applicants shall describe efforts to integrate existing plants and habitat into the development, where applicable. BCC 11-07-05. See Section 3.8 herein for landscaping design provisions.
DEVELOPMENT/IMPROVEMENTS	
7. **Land use mix:** Considering the site's context and zoning, what permitted uses are most appropriate given market conditions, community needs, neighborhood compatibility, and transportation concerns?	The applicant shall describe how the proposed development/use mix responds to the unique market conditions, community needs, neighborhood compatibility, and transportation conditions.
8. **Connectivity:** Configure the site to enhance access to and through the site to reduce vehicular trips. For example, is there an opportunity for a through block pedestrian connection, which would make it easier for residents to access transit, bicycle trails, schools, and/or commercial services?	The applicant shall demonstrate how the proposal conforms to connectivity goals and requirements. BCC 11-07-04.
9. **Food production:** Where residential uses, food stores, and restaurants are being considered, integrate space for vegetable gardens on the site. It could include rooftop gardens over restaurants and small courtyard garden plots for apartment residents – providing access to fresh foods.	The applicant shall describe techniques and/or features of the development proposal that allow future site users to integrate spaces for food production. BCC 11-06-07.04E.

2

Block Frontages & Urban Design Framework

Purpose & Content

The purpose of this chapter is:

- To design sites and orient buildings with an emphasis on character and creating a comfortable walking environment downtown.
- To provide standards that recognize that there is a hierarchy of streets downtown and reinforcing current and desired development frontage patterns consistent with the goals and policies of the adopted Downtown Plans.

The sections in this chapter include:

2.1 Downtown Urban Design Framework Map
2.2 Block Frontages & Standards

Chapter Overview

This chapter includes design standards that guide the look and feel of development when viewed from the street. The standards recognize that there are a hierarchy of different street types ranging from the pedestrian-oriented *storefront* streets such as 8th Street to arterial streets on the edge of downtown that warrant greater flexibility in the design of frontages. These standards also recognize that the current and desired character of streets may change from block to block. For example, there is a designation that provides the flexibility to accommodate both retail *storefronts* or landscaped setbacks and another designation emphasizing landscaped setbacks that fits appropriately for residential oriented streets. These "form-based" standards will help to reinforce existing and desired development patterns intended to implement the adopted Downtown Plans.

2.1 Downtown Urban Design Framework Map

Below is the Downtown Urban Design Framework Map, which designates the type of block frontage standards that apply to each block within the Downtown planning area. The map also indicates areas where future internal connections are required in conjunction with future redevelopment, and special gateway sites and high visibility street corner sites which are subject to special design standards described in Section 3.5. Section 2.2 includes design standards for the applicable block frontage designation.

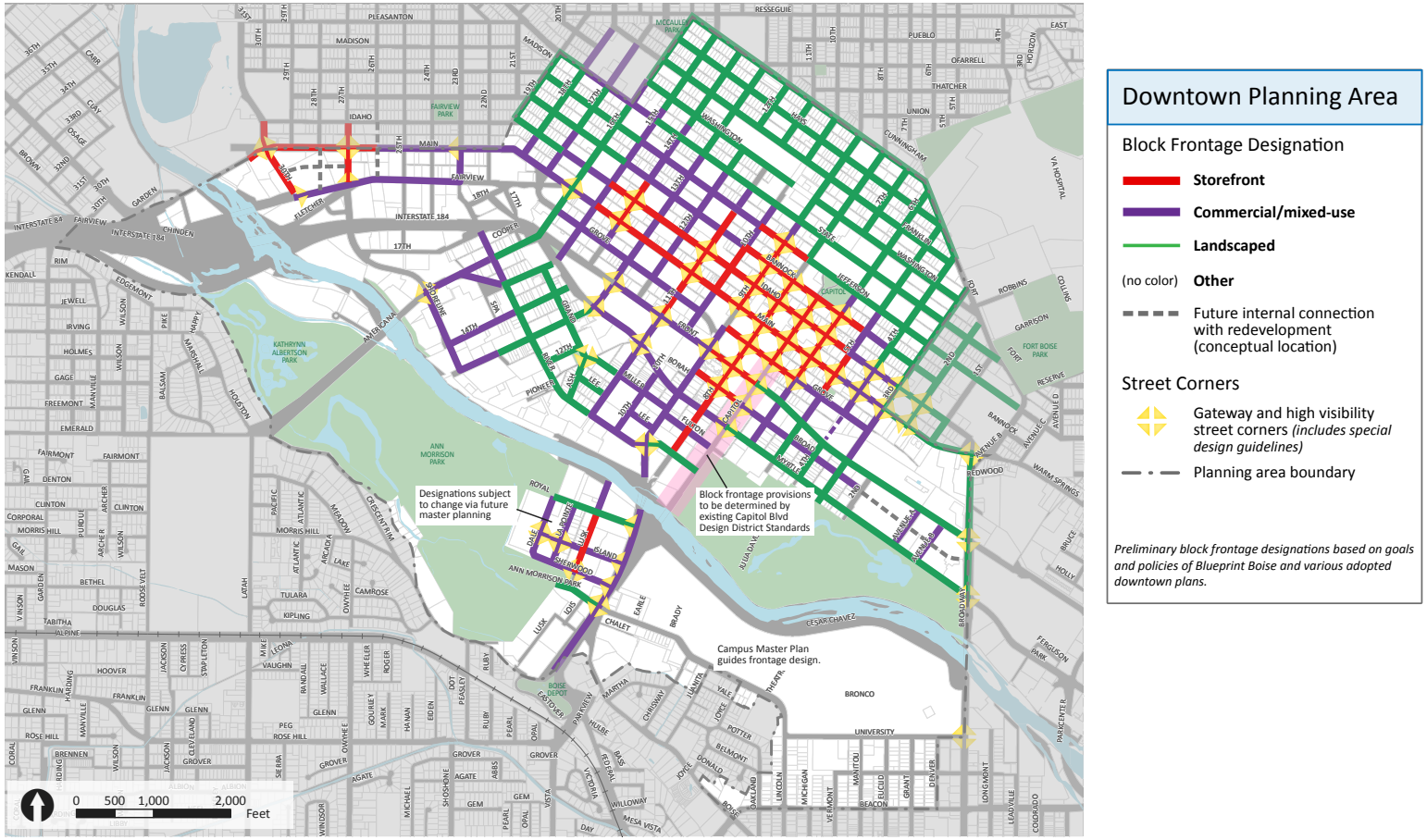


Fig. 2-1. Downtown urban design framework map.

2.2 Block Frontages & Standards

The chart below summarizes some key standards for each of the four designated block frontage types. For detailed provisions, review the specific standards set forth for each block frontage type set forth below.

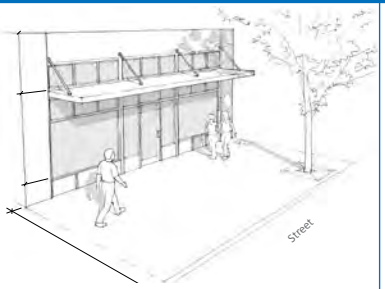
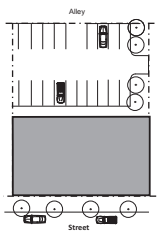
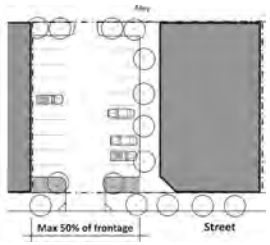
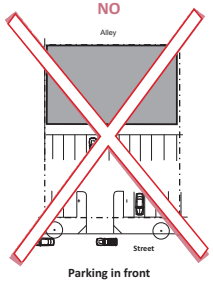
	Storefront	Commercial/Mixed use	Landscaped	Other
Permitted frontages		storefront -**or**- landscaped frontages are permitted		storefront -**or**- landscaped frontages are permitted
Parking location	New surface or structured parking areas (ground floor) are not allowed along street frontages (must be placed behind or under *storefronts*)	GOOD  Parking in back ACCEPTABLE  Parking to the side NO  Parking in front		Same as for commercial/mixed-use and landscaped block frontages, except: • No maximum % of parking area along frontage where parking is located to the side of buildings or where the subject building/use fronts onto another street
Other key provisions	• Min commercial space depth = 30' (new buildings only) • No ground floor residential uses except lobbies/entrances for upstairs units		• Landscaping to soften *façade* and screen *blank wall* surfaces. • Provide minimum facade windows/ transparency for **residential** buildings *(at least 15% of the entire façade)*	• Provide minimum *façade* windows/ transparency for **non-residential** uses *(between 15-40% of ground floor façade, depending on building setback and block frontage designation)*

Fig. 2-2. Summary of key standards for each of the four block frontage designations in Downtown.

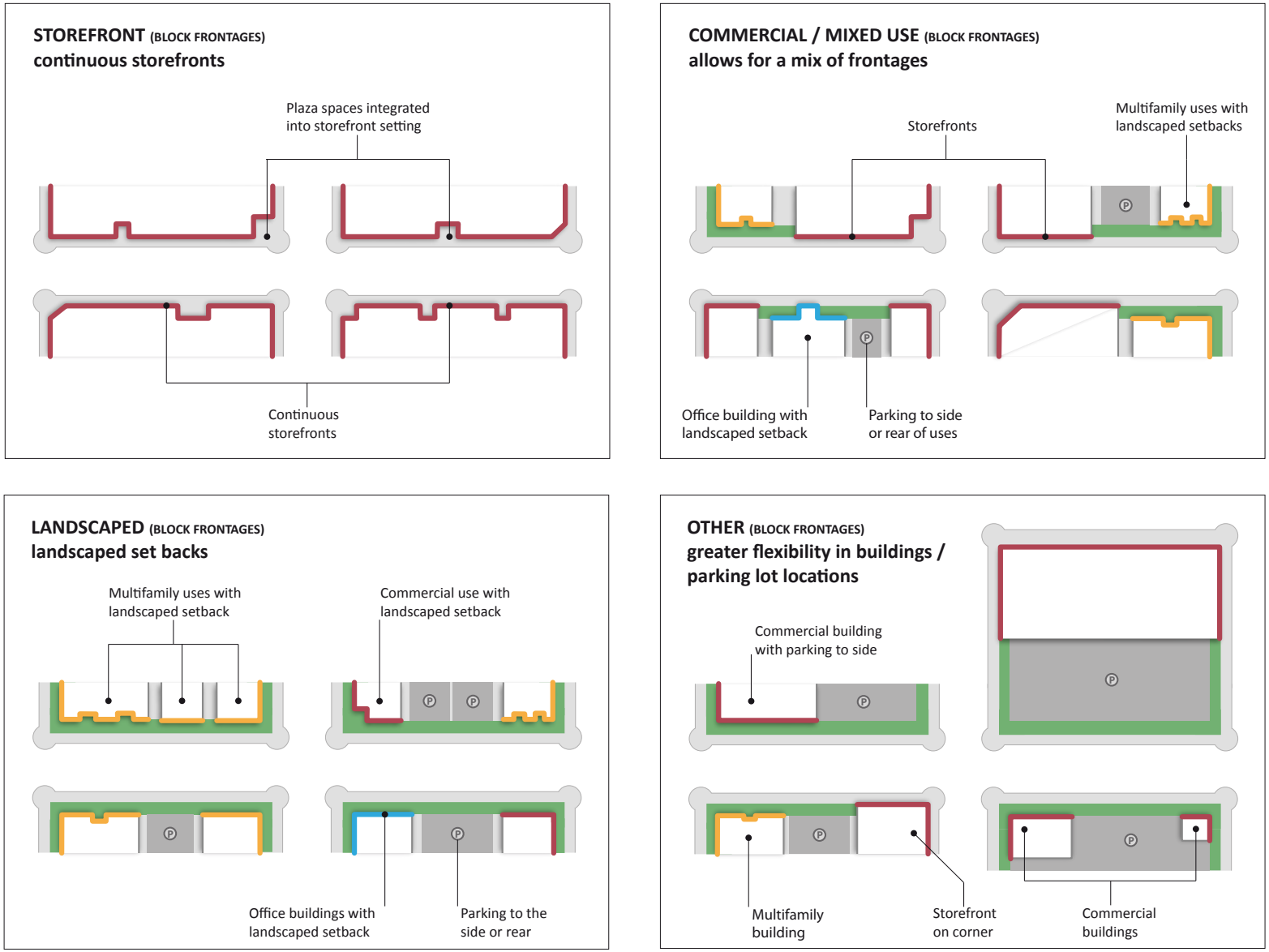


Fig. 2-3. Examples of block frontage development under each of the four block frontage designations.

Application and Flexibility

The standards herein apply to new development and additions/remodels. See page vi for details about how the standards apply for remodels and additions. The following provisions provide flexibility to the standards herein:

Civic and other Landmark Buildings – warrant flexibility in the design of frontage standards – as the state capital and many other large institutional buildings can attest to. Public buildings are exempted from the block frontage standards herein provided design treatments are integrated to meet the following objectives:

- Enliven the pedestrian environment along the adjacent sidewalks;
- Incorporate a prominent and inviting entry visible from the street;
- Building design and materials should evoke a sense of permanence; and
- Site and building design stands out from the surrounding context as a distinct landmark and provides visual interest from all observable scales.

Private buildings that occupy highly visible street corners and/or full block development sites shall be awarded some flexibility to the following standards via *Departures*, provided they meet the intent of the applicable standards and *departure* criteria.

Historic Buildings – also warrant flexibility – as many of the buildings, as originally designed, may not meet all of the specific frontage standards. Therefore, restoration/rehabilitation of recognized historic buildings are exempt from the frontage standards herein, provided the improvements conform to the applicable historic district guidelines.

Departures – The standards herein often provide specific opportunities for *departures*. The purpose is to provide applicants with the option to propose alternative designs provided they meet the intent of the standards and any specific design criteria set forth herein. These opportunities are identified in the charts depicting the standards with the ➲ symbol. Details on specific *departure* design criteria follows each of the charts for each street type designation.

Fig. 2-4. Some flexibility to the block frontage standards may be needed for improvements to historic buildings — to retain the historic integrity of the structure.

Storefront Block Frontage

Description/Intent:

Storefront Block Frontages are intended to be the most vibrant and activated shopping and dining areas within downtown. They include continuous *storefronts* placed along the sidewalk edge with small scale shops and/or frequent business entries.

Vision:

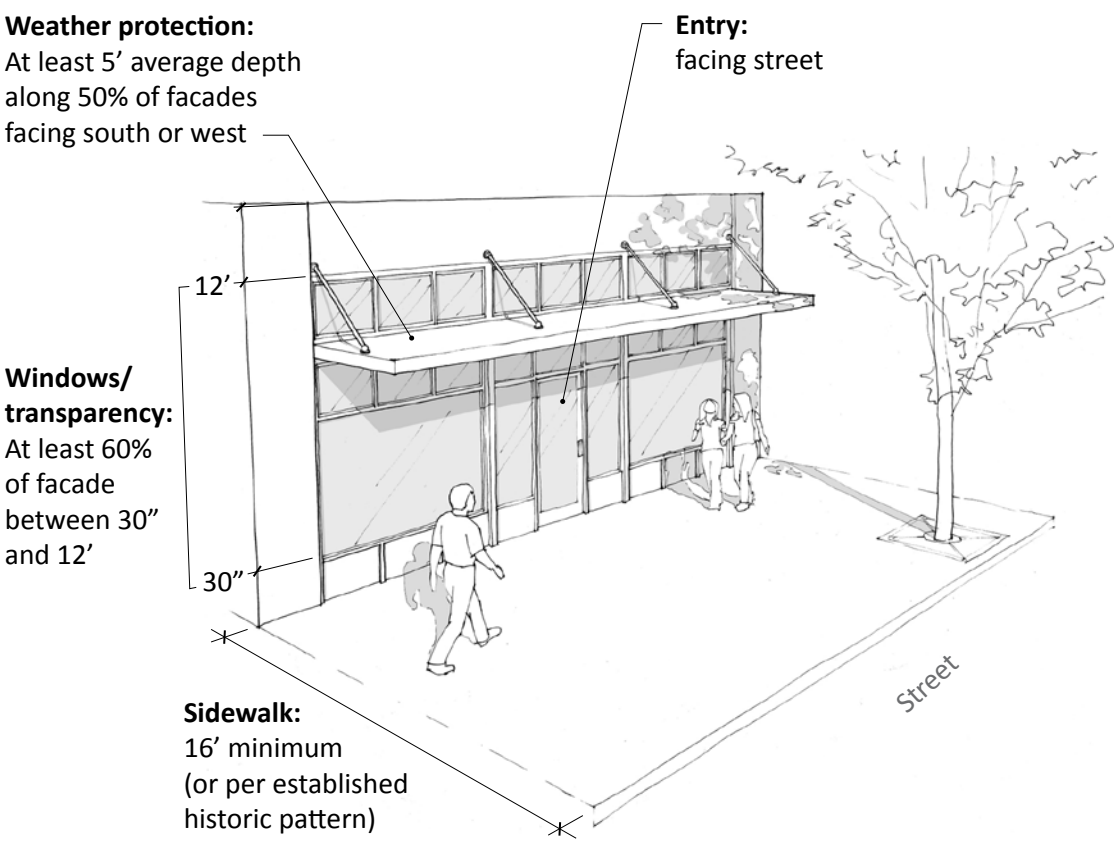


Fig. 2-7. Storefront vision and key standards.

Fig. 2-5. 8th Street in the Downtown core is the prime example.

Fig. 2-6. Another good storefront example.

Storefront Block Frontage Standards:

Element	**Standards** (➲ indicates a *departure* opportunity)	Example and Notes
Ground floor: • Land use	Non-residential, except for lobbies associated with residential or hotel/motel uses on upper floors (see BCC 11-06 for the specific list of permitted non-residential uses).	 Note large storefront windows, front & corner entries, and retractable awnings on both frontages.
• Retail space depth	30' minimum	
Building placement	At front property line/back edge of sidewalk. Additional setbacks are allowed for widened sidewalk or *pedestrian-oriented space* (see Provision 3.4.2).	
Building entrances	Must face the street. For corner buildings, entrances may face the street corner. 60' maximum separation between building entrances is encouraged. 100' maximum separation between building entrances is a requirement.	
Façade transparency	At least 60% of ground floor between 30" and 12' above the sidewalk. ➲	
Weather protection	Weather protection at least 5' in average depth along at least 50% of *façade* ➲; Retractable awnings may be used to meet requirements.	 On north facing *facades*, recessed entries may be used to meet the weather protection requirement.
Parking and driveways	New surface and structured parking areas (ground floor) are not allowed along street frontages (must be placed behind or under buildings). New driveways are prohibited, unless no other access option is available for on-site parking (per the design review authority).	
Sidewalk width	16 feet minimum between curb edge and *storefront* (area includes clear/ buffer zone with street trees in grates) OR established historic pattern (whichever is more); ➲	Also see applicable Downtown Plan for further sidewalk/ streetscape design guidance.

Departure Criteria:

Departures to the above standards will be considered provided they meet the intent of the standards, plus the following special criteria:

Façade transparency: The design treatment of *façade* area between ground level windows provides visual interest to the pedestrian and mitigates impacts of any *blank wall* areas. The City shall consider the current and desired context (per applicable Downtown Plan) of the specific site and determine if reduced transparency would be acceptable even with special *façade* design treatment. No less than 40 percent of the *façade* between 30 inches and ten feet above the sidewalk may be approved with a *departure*.

Weather protection: Other design treatments provide equivalent weather protection benefits.

Parking location: *Departures* shall only be considered for phased developments, where parking occupies up to 120 feet of block frontage in the initial phase of development. Design features are included above and beyond standard parking lot buffers to add visual interest to the pedestrian and help provide spatial definition to the street. The applicant shall illustrate how the subsequent phase(s) meet the standards.

Sidewalk width: Sidewalk/streetscape and/or building design techniques should be employed to increase pedestrian comfort and safety and provide visual interest and character to the specific neighborhood. The City shall consider the current and desired context (per Blueprint Boise or applicable Downtown Plan) of the specific site and determine if reduced sidewalk widths would be acceptable even with special design features referenced above. Minimum widths with *departures:* ten feet where on-street parking is present, 12 feet where there is no on-street parking, but a bicycle lane or wide shoulder is present.

Fig. 2-8. Design treatments between sidewalks and parking lots that add visual interest and help to provide spatial definition to the street.

Commercial/Mixed-Use Block Frontages

Description/Intent:

The Commercial/Mixed-Use designation serves areas that accommodate a mixture of ground floor uses and allows a diversity of development frontages provided they contribute to the visual character of the street and enhance the pedestrian environment.

Vision:

STOREFRONT

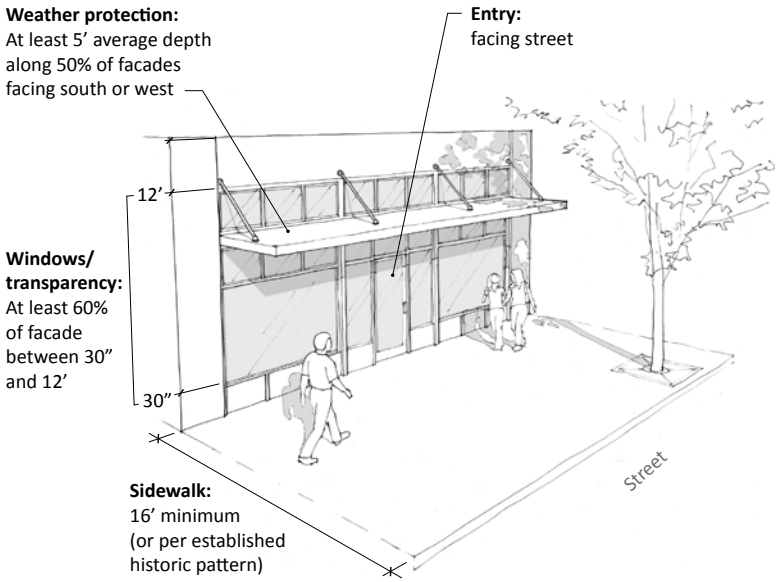


Fig. 2-9. Storefront vision, key standards, and examples.

-or-

LANDSCAPED FRONTAGE

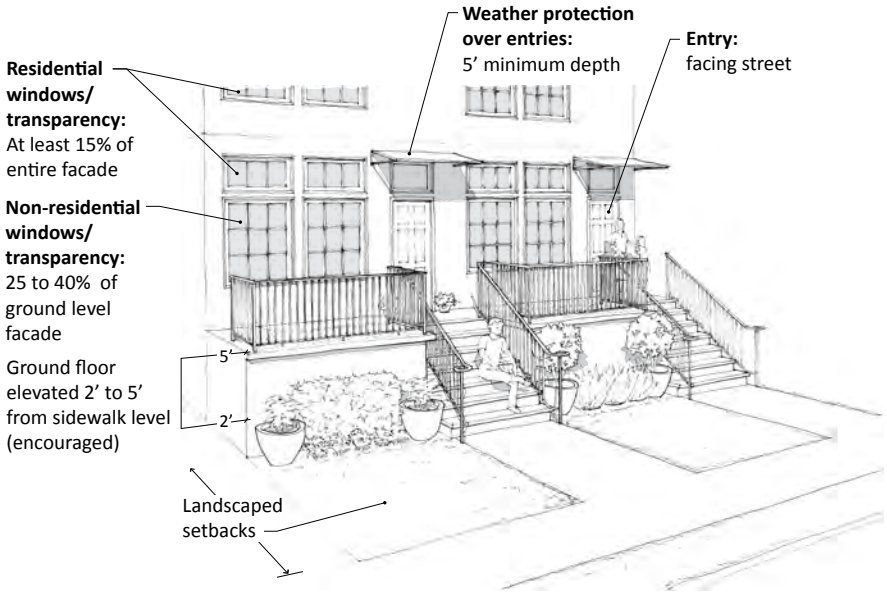
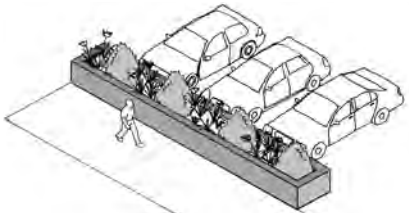
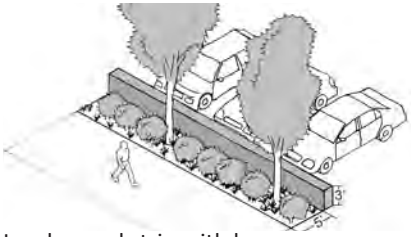
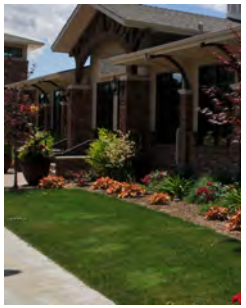


Fig. 2-10. Landscaped frontage vision, key standards and examples.

Commercial/Mixed-Use Block Frontage Standards:

Element	Standards (➲ indicates a *departure* opportunity)	Examples and Notes
Ground floor: • Land use	See (BCC 11-06) for details. Generally, uses could include a combination of commercial and residential uses.	Commercial example with landscaped setback: Residential example with landscaped setback:
• Ground floor height, residential uses	Elevated between 2' to 5' above the sidewalk level is encouraged	
• Retail space depth	30' minimum where ground floor commercial uses are required.	
Building placement	Buildings may be placed up to the sidewalk edge provided they meet *Storefront* standards set forth below. Maximum building setbacks shall be 20'. ➲ The area between the sidewalk and the building shall be landscaped, *pedestrian-oriented space* (see Provision 3.4.2), or private patio space. The minimum setback for buildings with ground floor residential uses is 10'. ➲	
Building entrances	Building entrances facing the street are required. As an alternative, building entrances facing *pedestrian-oriented space*, but visible from the street are permitted. For *multifamily* buildings, individual entrances facing the street for ground level units are encouraged. For uses that front on multiple Commercial/Mixed-Use designated block frontages, an entry along both streets is encouraged, but not required.	
Façade transparency	For *storefronts*, at least 60% of ground floor between 30" and 12' above the sidewalk. ➲ Other buildings with non-residential uses on the ground floor within 10 feet of sidewalk, at least 40% of the ground floor between 4-8 feet above the sidewalk. ➲ Other buildings with non-residential uses on the ground floor within 20 feet of the sidewalk, at least 25% of the ground floor between 4-8 feet above the sidewalk. ➲ Residential buildings, at least 15% of the entire *façade* (all vertical surfaces generally facing the street). ➲	
Weather protection	Weather protection at least 5' in average depth is required along at least 60% of *façade* for *storefronts*. Retractable awnings may be used to meet this requirement. For other buildings, provide weather protection at least 5' deep over primary business and residential entries.	

Commercial/Mixed-Use Block Frontage Standards (cont.)

Element	Standards (➲ indicates a *departure* opportunity)	Examples and Notes
Parking and driveways	Parking shall be placed to the side, rear, below or above uses. New surface and structured parking areas (ground floor) are limited to no more than 50% of the street frontage. ➲ Surface parking lots adjacent to the street shall be screened with a landscaping buffer consisting of trees, shrubs, and ground cover. The landscape buffer shall be 10 feet minimum or equal to or greater than the required front yard setback in the applicable zoning district (see BCC 11-06), whichever is more. ➲ Reduced width landscape buffers will be considered via a *departure* provided the design treatments mitigate the visual impact of the parking area on the pedestrian/ streetscape environment. See graphics to the right for examples. The landscape planters shall be designed and maintained to maximize pedestrian visibility (generally clear between 3' and 7'). New parking structures shall feature landscaped setbacks at least 10' in width. ➲	*Examples of reduced width parking lot landscaping buffers.*  Elevated planter made with masonry, concrete, or other permanent material.  Landscaped strip with low masonry or concrete wall.
Landscaping	For setbacks adjacent to buildings with windows, provide low level landscaping that maintains views between the building and the street. For setbacks adjacent to *façade* areas without windows, provide plant materials that screen *blank walls* and add visual interest at both the pedestrian scale and motorist scale. For extended wall areas, provide for a diversity of plant materials and textures to maintain visual interest from a pedestrian scale.	
Sidewalk width	Per the Livable Street Design Guide.	Also see applicable Downtown Plan for further sidewalk/streetscape design guidance.

Departures

Departures to the above standards (provisions where the ➲ symbol is included) will be considered provided they meet the intent of the standards, plus the following special criteria:

Maximum setback: The City will consider the current and planned context of the site (based on adopted plans) to determine whether greater setbacks would negatively impact the character of the area and the spatial definition of the street.

Minimum setback: For residential uses, provide design treatments that create an effective transition between the public and private realm. This could include a stoop design (see Fig. 2-7) or other similar treatments that utilize a low fence, retaining wall, and/or hedge along the sidewalk (see Fig. 2-8).

Façade transparency: The design treatment of *façade* and/or landscaping elements provide visual interest to the pedestrian and mitigates impacts of any *blank wall* areas. The City shall consider the current and desired context (per Blueprint Boise or applicable neighborhood plan) of the specific site and determine if reduced transparency would be acceptable even with special *façade* design treatment. Up to a 50 percent reduction in the minimum amount of window transparency may be approved with a *departure*.

Parking location: Design features above and beyond the standard parking lot buffers must be provided to add visual interest to the pedestrian and help provide spatial definition to the street. For parking structures within 10 feet of the sidewalk, design treatments must be included to the *façade* and/or landscaping to add continuous visual interest to the pedestrian along the sidewalk and from more distant vantage points.

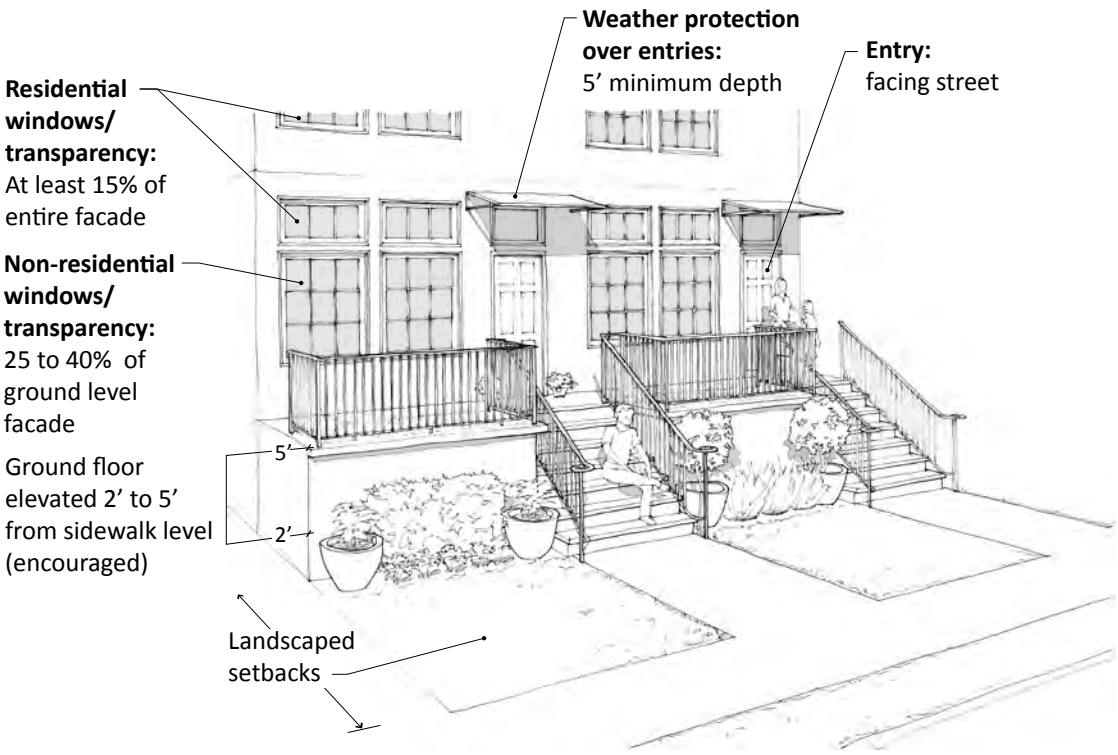
Fig. 2-11. For a proposed building that includes a departure proposed to reduce the facade's percentage of transparency, design treatments like this would help to mitigate impacts that the reduced transparency have on the adjacent sidewalk.

Landscaped Block Frontages

Description/Intent:

The Landscaped Block Frontage designation emphasizes landscaped frontages and clear pedestrian connections between the buildings and the sidewalk. This includes residential based streets and other streets in commercial/ mixed-use areas where special landscaped frontages are desired.

Vision:



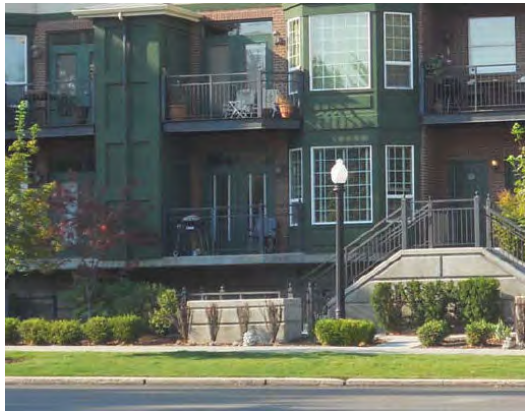
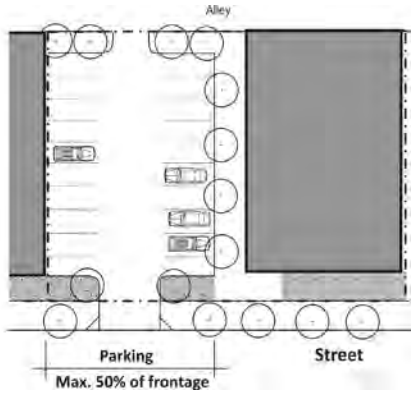


Fig. 2-12. Landscape frontage vision, key standards and examples.

Landscaped Block Frontage Standards:

Element	**Standards** (➲ indicates a *departure* opportunity)	Example/Illustration
Ground floor land use	See BCC 11-06 for details. Generally, uses could include a combination of commercial and residential uses.	 *Landscaped frontage example. Note the elevated ground floor, private entry facing the street, weather protection over entry (balcony), and transparency. The space behind the hedge in this example is a private patio.*
Building placement	10' minimum setback from the sidewalk is required (more where required by applicable zoning district – see BCC 11-04) ➲ The area between the street and building shall be landscaped, *pedestrian-oriented space*, or private patio space.	
Building entrances	Building entrances facing the street are required. As an alternative, building entrances facing *pedestrian-oriented space*, but visible from the street are permitted. For *multifamily* buildings, individual entrances facing the street for ground level units are encouraged. For uses that front on multiple Landscaped designated block frontages, an entry along both streets is encouraged, but not required.	
Façade transparency	For non-residential uses (ground floor), at least 25% of the ground floor between 4-8 feet above the sidewalk. ➲ Residential buildings, at least 15% of the entire *façade* (all vertical surfaces generally facing the street). ➲	
Weather protection	Provide weather protection at least 5' deep over primary business and residential entries.	
Parking and driveways	Parking shall be placed to the side, rear, below or above uses. New surface and structured parking areas (ground floor) are limited to no more than 50% of the street frontage. ➲ Surface parking lots adjacent to the street shall be screened with a landscaping buffer consistency of trees, shrubs, and ground cover. The landscape buffer shall be 10 feet minimum or equal to or greater than the required front yard setback in the applicable zoning district (see BCC chapter 11-06), whichever is more. ➲ The landscape planters shall be designed and maintained to maximize pedestrian visibility (generally clear between 3' and 7'). New parking structures shall feature landscaped setbacks at least 10' in width. ➲	
Landscaping	For setbacks adjacent to buildings with windows, provide low level landscaping that maintains views between the building and the street. For setbacks adjacent to *façade* areas without windows, provide plant materials that screen *blank walls* and add visual interest at both the pedestrian scale and motorist scale.	
Sidewalk width	Per the Livable Street Design Guide.	Also see applicable Downtown Plan for further sidewalk/streetscape design guidance.

Departures

Departures to the above standards will be considered provided they meet the intent of the standards, plus the following special criteria:

Minimum setback: Reduced setbacks will be allowed whereby design treatments are added to provide visual interest to the pedestrian and increase privacy (where ground floor residential uses are proposed). For buildings with non-residential uses on the ground floor treatments may include an increase in window transparency, decorative use of building materials and/or details, and/or landscaping treatments. For residential uses, provide design treatments that create an effective transition between the public and private realm. This could include a stoop design (see Fig. 2-13) or other similar treatments that utilize a low fence, retaining wall, and/or hedge along the sidewalk.

Façade transparency: The design treatment of *façade* and/or landscaping elements provide visual interest to the pedestrian and mitigates impacts of any *blank wall* areas. The City shall consider the current and desired context (per applicable Downtown Plan) of the specific site and determine if reduced transparency would be acceptable even with special *façade* design treatment. Up to a 50 percent reduction in the minimum amount of window transparency may be approved with a *departure*.

Parking location: Design features above and beyond the standard parking lot buffers must be provided to add visual interest to the pedestrian and help provide spatial definition to the street. For parking structures within 10 feet of the sidewalk, design treatments must be included to the *façade* and/or landscaping to add continuous visual interest to the pedestrian along the sidewalk and from more distant vantage points (see Fig. 2-15).

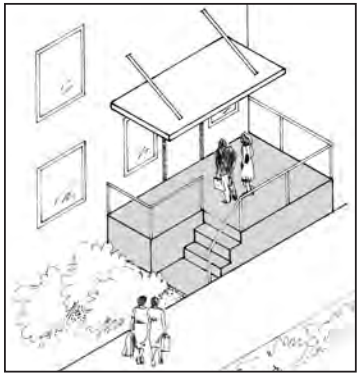


Fig. 2-13. Stoop examples.

Fig. 2-14. The low fence and landscaping provide an effective transition between the sidewalk and ground floor residential uses and help to enhance privacy for ground floor units.

Fig. 2-15. Landscaping, metal trellis structures and building design details help to mitigate impacts of this parking garage on the streetscape environment.

All Other Block Frontages

Description/Intent:

All other block frontages are provided with greater flexibility with regards to the design of development frontages. This includes a combination of side streets (where most uses often front on other adjacent streets), service oriented streets, and heavy arterial streets. While there is greater flexibility in the amount of transparency of *facades* and the location of surface and structured parking, design parameters are included to ensure that development frontages along these streets provide visual interest at all observable scales and meet the design objectives of the city.

Block Frontage Standards for Other Streets

Element	Standards (➲ indicates a *departure* opportunity)	Examples and Notes
Ground floor: • Land use	See BCC 11-06 for details. Generally, uses could include a combination of commercial and residential uses.	For examples of *storefronts* and landscaped frontages, see images on previous pages.
• Retail space depth	30' minimum where ground floor commercial uses are required.	
Building placement	Buildings may be placed up to the sidewalk edge provided *storefront* design standards below are met (see page 12). For buildings setback from the sidewalk, the area between the sidewalk and the building shall be *pedestrian-oriented space* (see Provision 3.4.2) or landscaped. The minimum setback for buildings with ground floor residential uses is 10'. ➲	
Building entrances	For uses fronting only on subject frontages, building entrances must face the street.	
Façade transparency	For *storefronts*, at least 60% of ground floor between 30" and 12' above the sidewalk is required. ➲ Other buildings with non-residential uses on the ground floor within 10 feet of sidewalk, at least 30% of the ground floor between 4-8 feet above the sidewalk. ➲ Other buildings with non-residential uses on the ground floor within 20 feet of the sidewalk, at least 20% of the ground floor between 4-8 feet above the sidewalk. ➲ Residential buildings, at least 15% of the entire *façade* (all vertical surfaces generally facing the street). ➲	
Weather protection	At least 5' deep over primary business and residential entries.	

Element	Standards (➲ indicates a *departure* opportunity)	Examples and Notes
Parking and driveways	Parking shall be placed to the side, rear, below or above uses. New surface and structured parking areas (ground floor) are limited to no more than 50% of the street frontage. ➲ Surface parking lots adjacent to the street shall be screened with a landscaping buffer consistency of trees, shrubs, and ground cover. The landscape buffer shall be 10 feet minimum or equal to or greater than the required front yard setback in the applicable zoning district (see BCC 11-06), whichever is more. ➲ The landscape planters shall be designed and maintained to maximize pedestrian visibility (generally clear between 3' and 7'). New parking structures shall feature landscaped setbacks at least 10' in width. ➲	Drive through lanes placed between the street and a building shall be considered as a parking lot for the purpose of these standards. Gas stations may be exempted from the parking location standards through the *departure* (➲) process, provided landscaping and/or other design treatments are included to define the street edge and add visual interest
Landscaping	For setbacks adjacent to buildings with windows, provide low level landscaping that maintains views between the building and the street. For setbacks adjacent to *façade* areas without windows, provide plant materials that screen *blank wall*s and add visual interest at both the pedestrian scale and motorist scale. For extended wall areas, provide for a diversity of plant materials and textures to maintain visual interest from a pedestrian scale.	See landscaped frontage examples on previous pages.
Sidewalk width	Per the Livable Street Design Guide.	Also see applicable Downtown Plan for further sidewalk/ streetscape design guidance.

Departures

Departures to the above standards will be considered provided they meet the intent of the standards, plus the following special criteria:

Minimum setback: Provide design treatments that create an effective transition between the public and private realm. This could include a stoop design (see Fig. 2-13) or other similar treatments that utilize a low fence, retaining wall, and/or hedge along the sidewalk.

Façade transparency: The design treatment of *façade* and/or landscaping elements provide visual interest to the pedestrian and mitigates impacts of any *blank wall* areas. The City shall consider the current and desired context (per applicable Downtown Plan) of the specific site and determine if reduced transparency would be acceptable even with special *façade* design treatment.

Where a Property Fronts Onto Multiple Streets/Frontage Designations

Where a property fronts onto multiple streets and frontage designations, each frontage shall comply with the applicable standard for the applicable block frontage designation, with the following exceptions/clarifications:

Where there is a conflict between frontage standards, below is the order of preference in terms of which provisions apply:

a. *Storefront*

b. Commercial/Mixed-Use

c. Landscaped

d. Other

Items below clarify how the order of preference works for particular frontage elements.

Building Location: For corner sites with Landscaped block frontage on one street and *Storefront* or Commercial/Mixed-Use on another, a *storefront* building may wrap around the corner (on the Landscaped block frontage side) for up to a half block width or no more than 120 feet (whichever is less). See Fig. 2-16 for an example.

Entrances: For corner sites, entrances on both streets are encouraged, but only one entrance is required. For corner sites with frontage on a Storefront block frontage on one side, an entrance shall be placed on the Storefront block frontage side. For corner sites with a mix of designations that do not include a Storefront block frontage, the applicant can choose where to place the entry, although they are encouraged to place their entry on the order of preference identified above.

Transparency: For corner sites – at least one block frontage shall meet the applicable transparency standards (based on the order of preference above). For the second block frontage, applicants are allowed a reduction in the minimum amount of transparency by 50 percent. For street corners with like designations on both frontages, buildings shall employ the full transparency on the dominant frontage (based on the frontage width or established neighborhood pattern).

Parking: Surface parking (including ground floor parking in a structure) adjacent to a street corner is not allowed, except:

a. Corner lots with non-designated frontages ("other") on both streets;

b. Other combination of block frontages, except those with a *Storefront* designation, via a *departure* and subject to the applicable *departure* criteria.

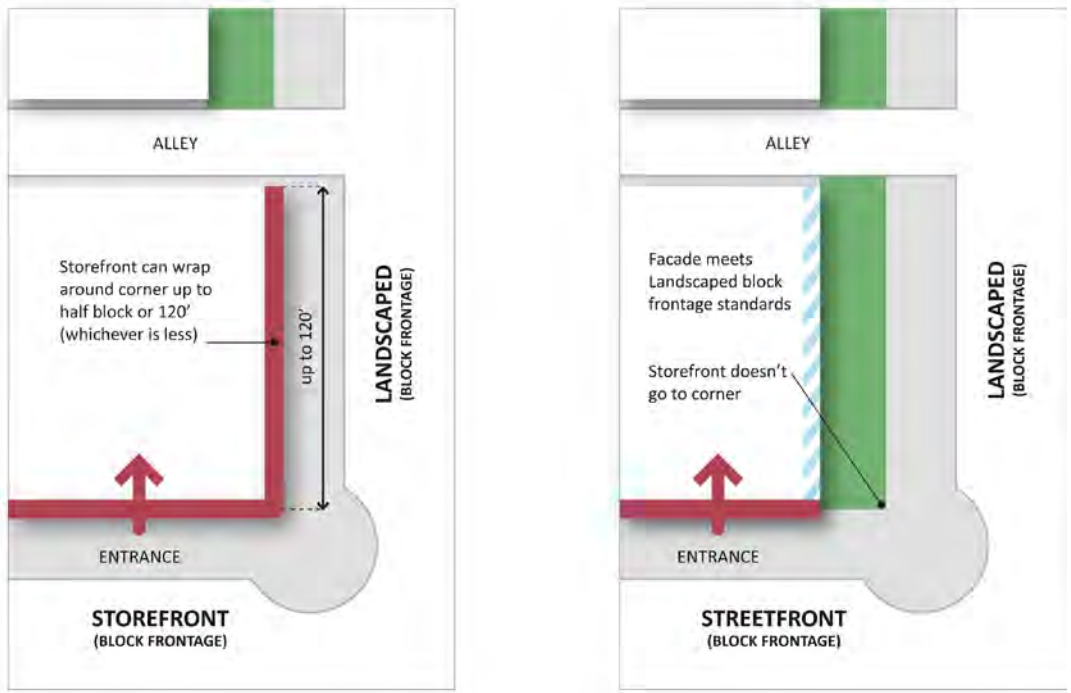


Fig. 2-16. Clarifying block frontage standards and options on corner lots.

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3

Site Design / Elements

Purpose & Content

The purpose of this chapter is to provide guidance and parameters for the layout and design of site development features consistent with the goals and policies of Blueprint Boise.

The sections in this chapter include:

3.1 Non-Motorized Circulation & Connections
3.2 Vehicular Circulation & Connections
3.3 Parking Structures & Drive Through Lanes
3.4 Internal Open Space / Design
3.5 High Visibility Street Corners & Gateway Sites
3.6 Service Area Location & Design

3.1 Non-Motorized Circulation & Connections

Intent:

- To provide safe and direct pedestrian access in commercial and multi-family areas;
- To minimize conflicts between pedestrians and vehicular traffic;
- To provide a network of pathways that can be expanded over time;
- To provide attractive internal pedestrian routes that promote walking and enhance the character of the area; and
- To create a safe, convenient, and efficient network for vehicular circulation and parking.

Cross-References:

ACHD Roadways to Bikeways Plan, 2009

ACHD Pedestrian-Bicycle Transition Plan, 2005

Standards/Guidelines:

3.1.1 Internal circulation.

Half and full block developments within downtown are encouraged to provide mid-block pedestrian connections. These could be range from outdoor publicly accessible 24-hour a day connections to internal building connections open during business hours. Such connections could be particularly attractive for retail, residential or a mixture of these uses. See Fig. 3-1 for good examples.

3.1.2 Pedestrian access to sidewalk.

All buildings shall have clear pedestrian access to a public sidewalk. Where a use fronts onto two streets, access shall be provided from the road closest to the main entrance, but preferably from both streets.

3.1.3 On-site pedestrian connections.

Pedestrian paths or walkways connecting all businesses and the entries of multiple commercial buildings frequented by the public on the same development site shall be provided.

Fig. 3-1. The blocks surrounding Portland's Jamison Square illustrate good examples of internal pedestrian connections.

Fig. 3-2. Denver's Writer Square is another good example of a downtown block with internal pedestrian connections and pedestrian spaces.

3.1.4 Future internal connections.

For properties with a "Future internal connection" line illustrated on an applicable Downtown Urban Design Framework Map in Chapter 2, new developments and Level III Improvements are required to integrate an internal connection with the development. The connection may be a public street (where required by governing authority) or a private internal roadway accommodating both vehicular and pedestrian access (also see Provision 3.3.2 below). The location of the connection on the Downtown Urban Design Framework Map is intended to be conceptual – to provide some flexibility based on the ultimate uses and type of development on-site. Some variation to the alignment will be permitted, provided the connection meets the intent of the standards and fits the context of the site and development.

3.1.5 Internal pathway width and design.

1. All internal pedestrian walkways shall have at least 5-foot-wide unobstructed walking surfaces (which allows two adults to comfortably walk side by side or pass in opposite directions), except where wider walkways are prescribed in this chapter or where the applicable uses and context dictate wider walkways. ➲ *Departures* will be considered where the applicant can successfully demonstrate that a reduced width walkway will accommodate the anticipated demand given the proposed use, location and configuration of the proposed and surrounding development and land use(s). Environmental constraints and/or other design solutions that create a comfortable walking environment appropriate for the context will also be considered.
2. Buildings or walls adjacent to internal pathways shall include design treatments that add visual interest at the pedestrian scale. See Fig. 3-3 for examples.

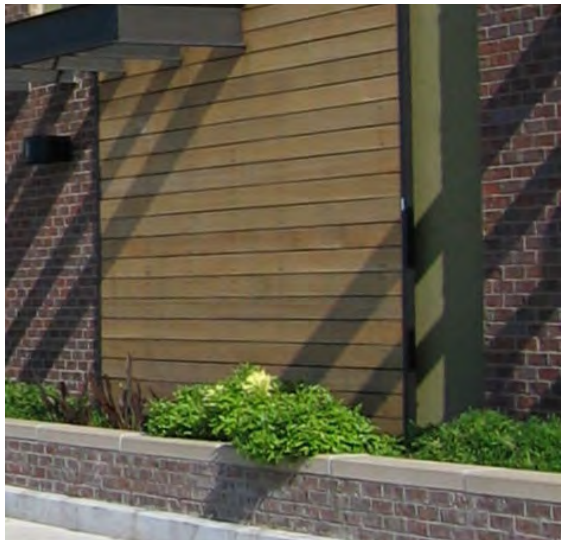

Fig. 3-3. ➲ Examples of design treatments along walkways that add visual interest to the pedestrian. In top left image, the bamboo hedge screens the blank wall and adds visual interest. In the bottom left image, artwork, materials, and design details add interest. In the right example, a narrow elevated planter (less than 3' wide) combined with a distinctive mixture of quality materials provides interest.

3.1.5 Internal pathway width and design (cont.).

3. All internal walkways along pedestrian-oriented building fronts and walkways on the edge of parking areas shall feature at least one street tree (on average) for every 40 feet of walk. Trees may be sited to maintain entry sign visibility.
4. Pathways along the front *facade* of mixed-use and retail buildings 100 feet or more in length (measured along the *facade*) that are not located adjacent to a street must be at least 12 feet wide with 8 feet minimum unobstructed width and include the following:
   a. Street trees shall be placed at an average of 40 feet on-center minimum and placed in grates (except where trees are placed in planting strips). Breaks in the tree coverage will be allowed near major building entries to enhance visibility. However, no less than one tree per 60 lineal feet of building *facade* must be provided;
   b. Planting strips may be used between any vehicular access or parking area and the pathway, provided that the required trees are included and the pathway is at least 8 feet in width and the combined pathway and planting strip is at least 14 feet in width; and
   c. Pedestrian-scaled lighting may be used as a substitute to the required street trees, provided they are used at the same intervals.
5. Pedestrian crossings.
   a. Crosswalks are required when a walkway crosses a paved area accessible to vehicles; and
   b. Applicants must continue the sidewalk pattern and material across driveways.

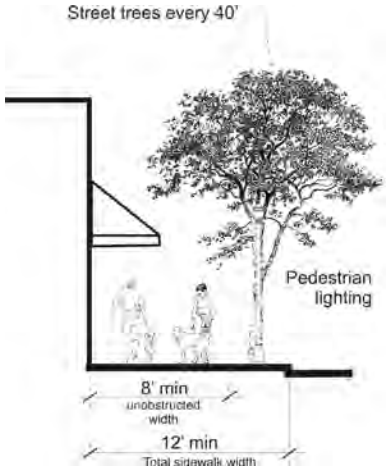

Fig. 3-4. Standards and good/bad examples of walkways along the facades of internal walkways fronting retail or mixed-use buildings 100 feet or more in length.

Fig. 3-5. Example of extending sidewalk paving pattern on crosswalks through parking lots.

3.2 Vehicular Circulation & Connections

Intent:

- To minimize conflicts between pedestrians and vehicular traffic;
- To provide attractive internal pedestrian routes that promote walking and enhance the character of the area; and
- To create a safe, convenient, and efficient network for vehicular circulation and parking.

Standards/Guidelines:

3.2.1 Integrated circulation system.

All developments shall provide a safe and convenient network of vehicular circulation that connects to the surrounding road/access network, integrates non-motorized transportation elements, and integrates opportunities for future internal vehicular connections (see Provision 3.3.2 below).

3.2.2 Future (internal) connections.

Where the Downtown Urban Design Framework Map in Chapter 2 indicates a "future connection" internal or adjacent to a site, new development and Level III Improvements shall be designed to integrate such connections. Connections that run along property boundaries shall be designed and dedicated as public streets per the Livable Street Design Guide. Connections that are internal to sites are typically private internal roadways, except for large sites where public street connections would be required per ACHD. The routes shown on the Downtown Urban Design Framework Map are conceptual in nature as the actual location may vary depending on the proposed use, design proposal, and per negotiation with the City during the applicable design review process. See Fig. 3-6 for a good example of how this can be accomplished on a neighborhood infill site.

3.2.3 Internal access roads.

Interior access roads and driveways in multi-building commercial or multi-family developments shall be designed to look and function more like public streets. This includes planting strips and street trees on both sides, sidewalks on one or both sides, and parallel parking on one or both sides. The Planning Director may approve innovative and special street designs, such as a "woonerf" street, provided pedestrian safety and other street functions are achieved (see Fig. 3-7 below). Woonerf is the Dutch name for a "living street" in which the needs of car drivers are secondary to the needs of users of the street as a whole. It is a "shared space" designed to be used by pedestrians, playing children, bicyclists, and low-speed motor vehicles, becoming a public place for people instead of single-intent conduits for automobiles.

Fig. 3-6. The 36th Street Garden Center features good internal circulation with two ring roads that connect to surrounding streets. The parallel parking combined with walkways, lighting, and design details add character to the development.

Fig. 3-7. Examples of curbless woonerf streets.

3.3 Parking Structures & Drive Through Lanes

Intent:

- To mitigate the impact of parking facilities on the streetscape and pedestrian environment; and
- physically and visually integrate parking facilities into the design of developments.

Related standards:

- See Chapter 2 for applicable block frontage (including parking lot/structure location) standards; and
- See BCC 11-07-03 for minimum parking requirements

Standards/Guidelines:

3.3.1 Parking structure design.

Preferably, parking structures are hidden underneath or behind uses so that their impacts to the street are minimized. For example, providing ground floor retail along the streetfront, with structured parking behind is desirable, where the market conditions for retail are viable.

In areas where parking structures are exposed to the street, the following standards apply:

1. Structured parking facilities shall be designed to meet applicable building design provisions in Chapter 4, including architectural character, massing and *articulation*, building elements and details, building materials, building lighting, and *blank wall* treatments. Some flexibility to the massing and *articulation* standards may be considered via the *departure* process due to the large floor-plates needed for a parking garage, provided the design treatment appropriately fits the context. For example, a parking garage wall facing a freeway will warrant greater flexibility in *façade articulation* than a smaller scale street with a mix of uses. See Fig. 3-8 and Fig. 3-9 below for acceptable parking garage design examples.
2. Parking garage entries should be designed and sited to complement, not subordinate, the pedestrian entry. Locate the parking entry away from the primary street, to either the side or rear of the building.

Fig. 3-8. Preferably, parking structures are located behind uses as in this shopping mall example.

Fig. 3-9. In the first example, design details are included to articulate the facade and add visual interest. In the second example, a trellis structure provides for a green screen of the parking structures.

3.3.2 Drive through uses/lanes.

The provisions herein apply to zoning districts where drive through uses/lanes are allowed outside of structures per BCC Title II.

1. Drive-through lanes between a building and the street. All applicable developments shall comply with the following standards:
   a. For the purpose of the block frontage standards in Chapter 2, drive through lanes between a street and a parking are considered as a parking lot. Also, building *facades* are subject to the applicable transparency requirements in Chapter 2.
   b. Building *facades* are subject to applicable building design standards set forth in Chapter 4.
   c. Drive through lanes shall be separated from the sidewalk by a planting strip at least 5 feet in width to minimize the visual impacts of vehicle lights and signs.
   d. Drive through lanes shall not restrict pedestrian access between the sidewalk and on-site buildings. Where pedestrian routes cross drive through lanes, a crosswalk that is raised or features a change in texture and/or other treatment must be utilized to enhance the safety and visual appearance of the pedestrian crossing.
2. Drive-through lanes visible from internal access roads and customer parking lots shall meet the same standards as (1) above, except:
   a. Visible *facades* are not subject to any of the block frontage standards, including transparency requirements.
   b. Landscaping as set forth in (1) above shall be required between the drive through lane and any sidewalk or other vehicular access route.

Fig. 3-10. While drive-through lanes between the street and building aren't prohibited, they count as a parking lot for the purpose of building/parking lot location standards in Chapter 2 frontage provisions. Also, the facade would need more windows to meet transparency provisions of Chapter 2 and clear pedestrian access is needed between the sidewalk and the main building entry.

Fig. 3-11. A more desirable configuration with the drive-through lane integrated behind the building, allowing for a stronger pedestrian-orientation for the building.

3.4 Internal Open Space / Design

Intent:

- To create a variety of pedestrian areas in retail and mixed-use developments;
- To provide safe, attractive, and usable open spaces that promote pedestrian activity;
- To create usable space that is suitable for leisure and recreational activities for residents; and
- To create open space that enhances the setting and character of development.

Standards/Guidelines:

3.4.1 Open space requirements.

All new development and Level III Improvements covering more than one acre in size, shall provide *pedestrian-oriented space* equal to at least two percent of the project area. The intent is to mitigate the impacts of large scale development and to contribute to the pedestrian-oriented character of Boise's downtown.

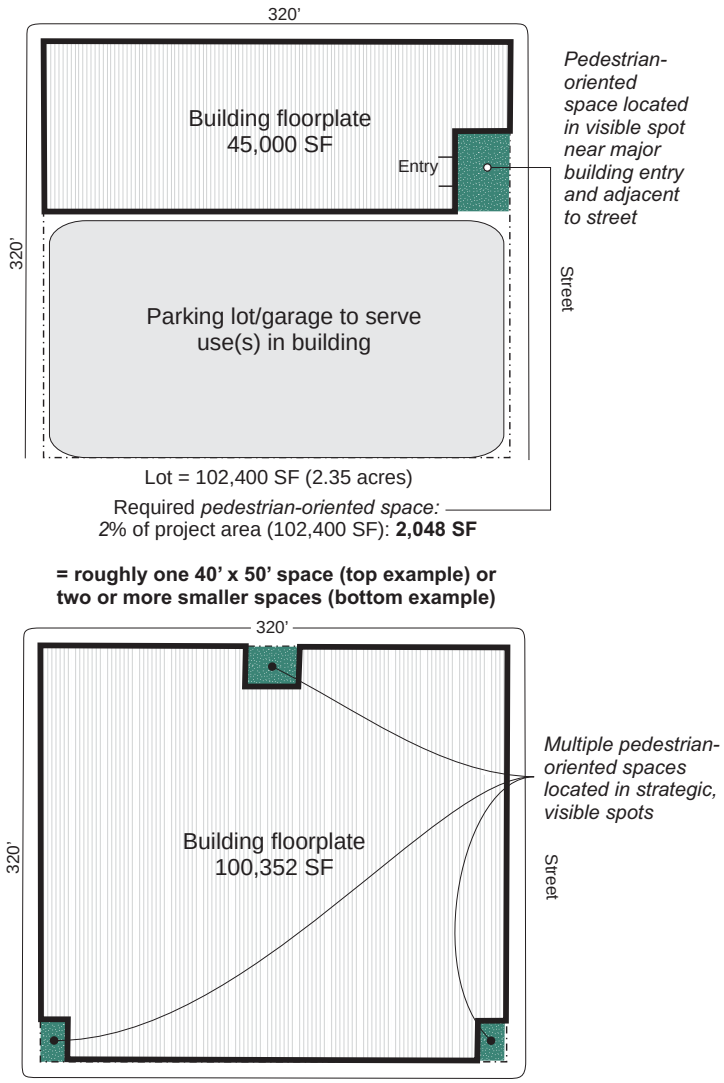

Fig. 3-12. Illustrating the amount of pedestrian-oriented space required for large developments.

3.4.2 Pedestrian-oriented space design criteria.

Pedestrian or rented spaces are intended to be publicly accessible spaces that enliven the pedestrian environment by providing (1) opportunities for outdoor dining, socializing, relaxing and (2) visual amenities that contribute to the character of commercial areas. Design criteria for *pedestrian-oriented space*:

1. Sidewalk area, where widened beyond minimum requirements, may count as pedestrian-oriented open space. The additional sidewalk area may be used for outdoor dining and temporary display of retail goods.
2. The following design elements are <u>required</u> for pedestrian-oriented open space:
   a. Spaces shall be physically and visually accessible from the adjacent street or major internal vehicle or pedestrian route. Spaces shall be in locations that the intended user can easily access and use, rather than simply left-over or undevelopable spaces where very little pedestrian traffic is anticipated;
   b. Paved walking surfaces of either concrete or approved unit paving;
   c. Pedestrian-scaled lighting (no more than 14 feet in height) at a level averaging at least 2-foot candles throughout the space. Lighting may be on-site or building-mounted lighting;
   d. At least three feet of seating area (bench, ledge, etc.) or one individual seat per 60 square feet of plaza area or open space. This provision may be relaxed or waived where there are provisions for movable seating that meet the intent of the standard; and
   e. Spaces shall be positioned in areas with significant pedestrian traffic to provide interest and security – such as adjacent to a building entry.
3. The following features are <u>encouraged</u> in *pedestrian-oriented space*:
   a. Landscaping that adds visual or seasonal interest to the space;
   b. Pedestrian amenities such as a water feature, drinking fountain, and/or distinctive paving or artwork;
   c. Provide pedestrian-oriented *facades* on some or all buildings facing the space;
   d. Consideration of the sun angle at noon and the wind pattern in the design of the space;
   e. Transitional zones along building edges to allow for outdoor eating areas and a planted buffer;
   f. Movable seating;
   g. Incorporation of water treatment features such as rain gardens or the use of an area over a vault as a *pedestrian-oriented space*; and
   h. Weather protection, especially weather protection that can be moved or altered to accommodate conditions.
4. The following features are <u>prohibited</u> within *pedestrian-oriented space*:
   a. Asphalt or gravel pavement, except where continuous gravel or asphalt paths intersect with the space;
   b. Adjacent chain link fences;
   c. Adjacent unscreened *blank walls*; and
   d. Adjacent dumpsters or service areas.

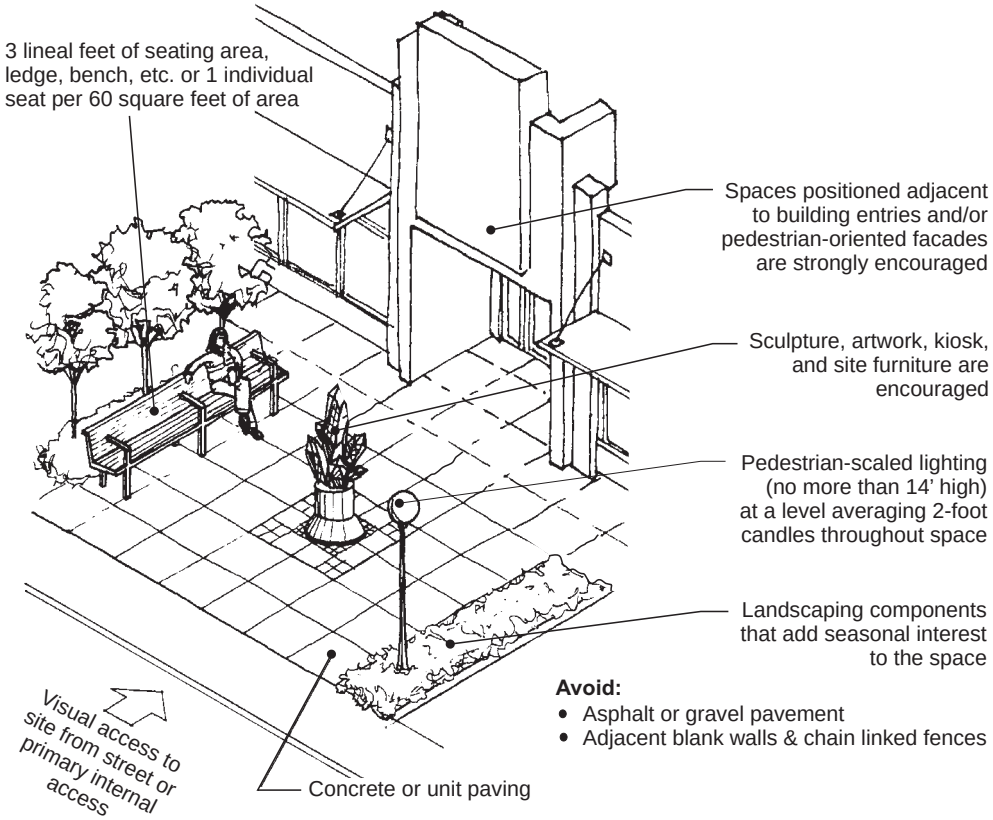

Fig. 3-13. Examples of pedestrian-oriented space.

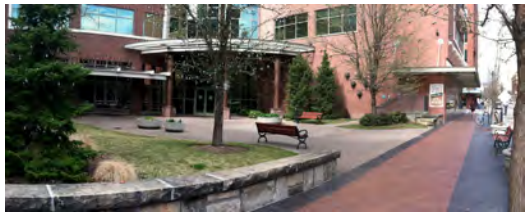

Fig. 3-14. Good examples of usable pedestrian-oriented space in downtown Boise.

3.5 High Visibility Street Corners & Gateway Sites

Intent:

- To enhance the character and identity of Boise neighborhoods; and
- To enhance the pedestrian environment at street corners.

Standards/Guidelines:

3.5.1 Street corner treatments.

All development proposals located at designated *high visibility street corners and gateway sites* shall include at least one of the design treatments described below [in order of preference, (a) being the highest]:

1. Locate a building on the street corner (preferably with a corner entry) and integrating special design features that accentuate the street corner. Examples could include a cropped building corner, turret, distinctive canopy, or other distinctive feature; or
2. Provide *pedestrian-oriented space* (designed per Provision 3.4.2) at the corner leading directly to a building entry or entries.

If the City determines that (1) or (2) above are not feasible, provide for one of the following options:

3. Install substantial landscaping: At least 30 feet by 30 feet or 900 square feet of ground surface area with trees, shrubs, and ground cover in a decorative manner that provides four-season interest. The space shall include a special architectural element, such as a *trellis*, to add identity or demarcation of the area. Such an architectural element may have a sign incorporated into it (as long as such sign does not identify an individual business or businesses); or
4. Other treatments will be considered, provided they meet the intent of the standards and guidelines as determined by the City.

Fig. 3-15. Good Boise corner building examples.

Fig. 3-16. Other corner/ gateway site building examples.

3.6 Service Area Location & Design

Intent:

- To minimize the potential negative impacts of service elements; and;
- To encourage thoughtful siting of service elements that balance functional needs with the desire to screen negative impacts.

Standards/Guidelines:

3.6.1 Service element location and design.

All developments shall provide a designated spot for service elements (refuse and disposal). Such elements shall meet the following requirements:

1. Service elements shall be located to minimize the negative visual, noise, odor, and physical impacts to the street environment, adjacent (on and off-site) residents or other uses, and pedestrian areas;
2. The designated spot for service elements shall be paved with concrete; and
3. Appropriate enclosure of the common trash and recycling elements shall be required. Requirements and considerations:
   a. For multi-story commercial and mixed-use buildings within downtown, trash and recycling elements shall be integrated within the building itself and accessible from the alley, where applicable.
   b. Service areas visible from the street, pathway, *pedestrian-oriented space* or parking area (alleys are exempt) shall be enclosed and screened around their perimeter by a durable wall or fence at least six feet high. Developments shall use materials and detailing consistent with primary structures on-site. Acceptable materials include brick, concrete block or stone;
   c. The sides and rear of the enclosure must be screened with landscaping at least five feet deep in locations visible from the street, dwelling units, customer parking areas, or pathways to soften the views of the screening element and add visual interest;
   d. Collection points shall be located and configured so that the enclosure gate swing does not obstruct pedestrian or vehicle traffic, or does not require that a hauling truck project into any public right-of-way; and
   e. Proximity to adjacent residential units will be a key factor in determining appropriate service element treatment.

Fig. 3-17. Service enclosure examples. In the top image, service elements are hidden behind the gates and wheeled out on trash days.

3.6.2 Utility meters, electrical conduit, and other service utility apparatus.

These elements shall be located and/or designed to minimize their visibility to the public. Project designers are strongly encouraged to coordinate with applicable service providers early in the design process to determine the best approach in meeting these standards. If such elements are mounted in a location visible from the street, pedestrian pathway, common open space, or shared auto courtyards, they shall be screened with vegetation or by architectural features.

Fig. 3-18. The utility meters in the left image are accessible for functional use, but thoughtfully located and screened. Avoid exposed utility meter designs like those in the upper and lower right images, which degrade the character of the development.

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4

Building Design

Purpose & Content

The purpose of this chapter is to provide guidance and parameters for the design of buildings in Downtown Boise that meet the following objectives:

- Design buildings that respond to the unique context of the site;
- Design buildings that address the street and create a pedestrian-friendly environment;
- Promote original and distinctive building design;
- Utilize building materials that convey a sense of quality and permanence;
- Promote building form that adds character to Boise's skyline;
- Incorporate sustainable development practices;
- Demonstrate respect for historic structures; and
- Contribute to the overall sense of identity of Downtown Boise.

The sections in this chapter include:

4.1 Architectural Character
4.2 Building Massing & Articulation
4.3 Building Elements & Details
4.4 Building Materials
4.5 Building Lighting
4.6 Blank Wall Treatments

4.1 Architectural Character

Intent:

- To promote original and distinctive building design;
- To promote building design that responds uniquely to the site's context;
- To allow for a diversity of architectural styles;
- To promote distinctive roofline designs that contribute to Boise's Downtown skyline; and
- To demonstrate respect for surrounding historic structures.

Standards/Guidelines:

4.1.1 Encourage architectural diversity.

Downtown Boise has evolved over the past 100+ years as uses, technology, and design styles have changed. The design standards and guidelines herein seek to allow for architectural diversity, provided the design meets block frontage, massing and *articulation*, materials and detail provisions herein. Below (Provisions 4.1.2 and 4.1.3) are some considerations in determining the appropriate architectural style of individual buildings.

4.1.2 Promote original and distinctive building design.

Applicants for new buildings shall demonstrate how the design accomplishes the following objectives:

1. Creative *façade* composition with a rich layering of design elements that provides visual interest from a variety of vantage points.
2. Integrate design techniques that distinguish a buildings' top, middle, and bottom (see Fig. 4-1 and Fig. 4-2 for examples) on all buildings at least three-stories in height. Considerations in achieving objective:
   a. Bottom - distinctive ground or lower floor design utilizing durable materials, prominent building entry, clear window *fenestration* and/or *storefront articulation* pattern, and design details that lend a pedestrian scale to the building and add visual interest;
   b. Middle – distinctive window *fenestration* and *articulation* patterns; and
   c. Top – distinctive roofline treatment that adds visual interest from all observable angles.

Departures will be considered for buildings that employ distinctive sculptural forms that will contribute to Boise's Downtown skyline. See Fig. 4-5 for examples.

Fig. 4-1. Good examples of original and distinctive design.

4.1.2 Promote original and distinctive building design (cont.).

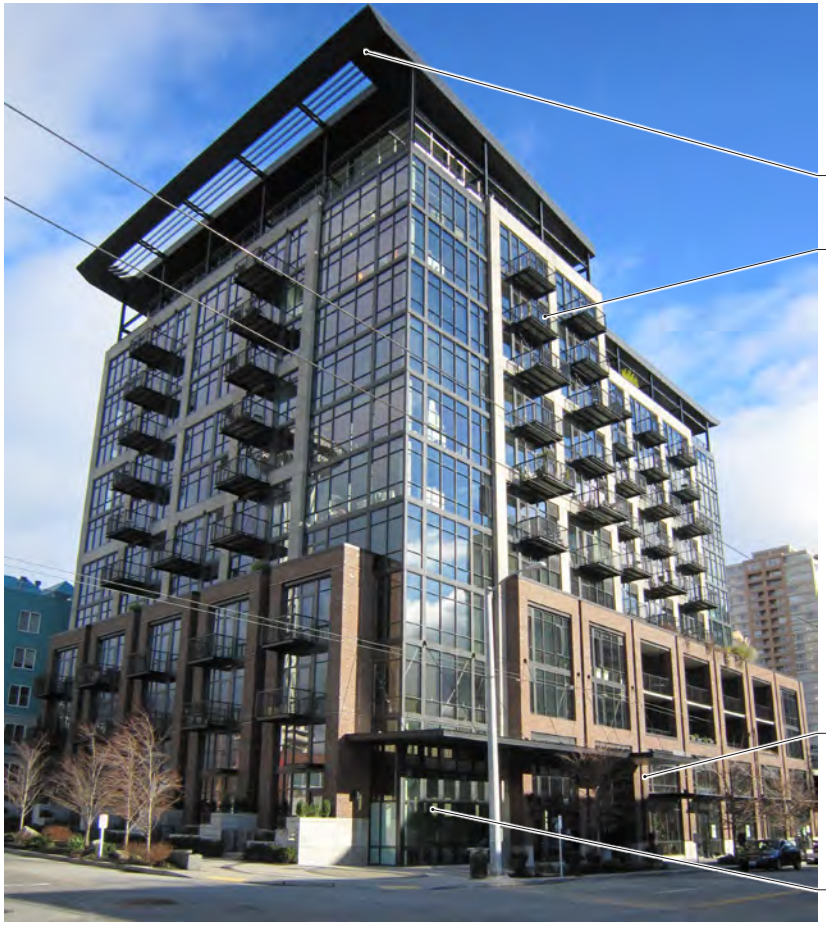


Fig. 4-2. Design features to emphasize top, middle, and bottom of buildings.

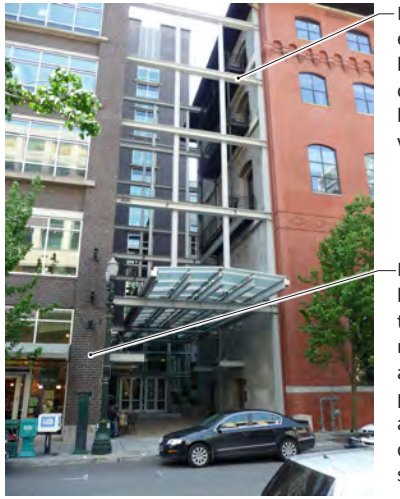
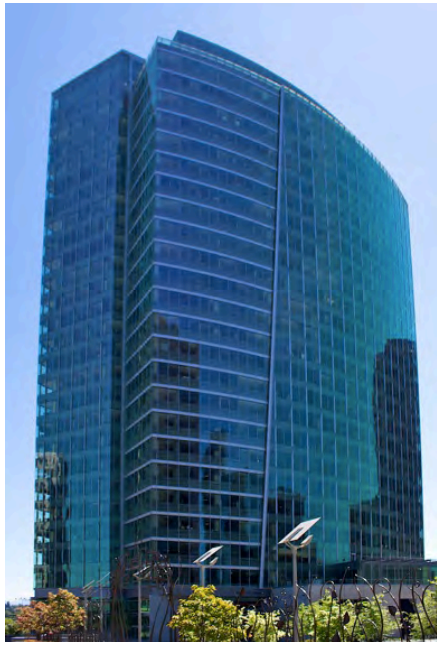


Fig. 4-3. More good examples of original and distinctive design.



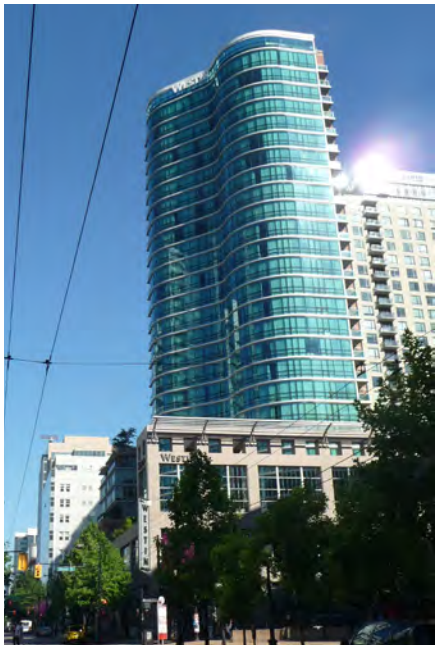


Fig. 4-4. Each of these buildings employ distinctive qualities that contribute to their respective skylines.

4.1.2 Promote original and distinctive building design (cont.).

3. Complement, but don't replicate/nearby historic buildings. Make the new building a building of its own time. Most future private development in Downtown will be infill development which may range in size from small mid-block sites to half-block developments. The desired approach for infill development is to design buildings that respond uniquely to its context – in terms of block frontage (see Chapter 2) and massing/*articulation* (see Section 4.2). For sites adjacent to historical buildings, the building design must demonstrate respect for such resources via building massing, *façade articulation*, ground floor design, building materials, *façade* detailing, and or other design treatments. Fig. 4-5 through Fig. 4-8 exhibit qualities that help them complement buildings in their surrounding context.

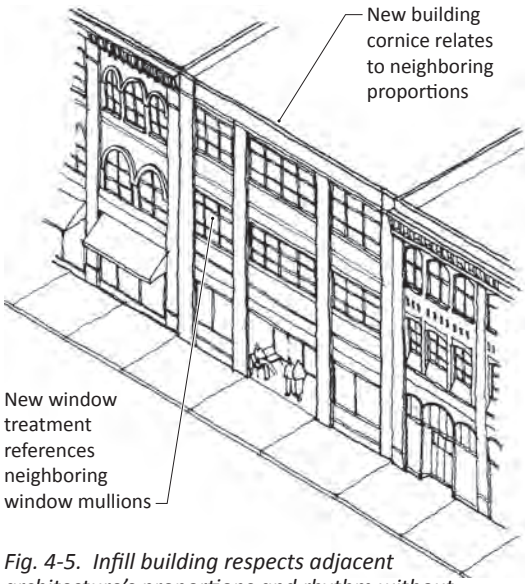


Fig. 4-5. Infill building respects adjacent architecture's proportions and rhythm without mimicking it.

Fig. 4-6. Good example of infill.

Fig. 4-8. Denver's "sugarcube" building fits into context with color and emphasis of piers between windows while announcing self-confident design.

Fig. 4-7. Boise infill example.

4.1.3 Landmark buildings - design considerations.

All great cities include both background or "infill" buildings (see Provision 4.1.2 above) plus landmark or "object" buildings. These are often the most visible and accessible sites and generally reserved for civic or quasi-public buildings, such as theaters, hotels or convention centers. These buildings may be attached or free standing buildings. Specifically,

1. Public buildings may be exempted from block frontage standards (see Chapter 2), building massing (see Section 4.2), rooftop design (see Section 4.3), building elements and details provisions (see Section 4.4), provided design treatments are integrated to meet the following objectives:
   a. Enliven the pedestrian environment along the adjacent sidewalks;
   b. Incorporate a prominent and inviting entry visible from the street;
   c. Building design and materials should evoke a sense of permanence; and
   d. Site and building design stands out from the surrounding context as a distinct landmark and provides visual interest from all observable scales.
2. Private buildings that occupy highly visible street corners and/or full block development sites shall be awarded some flexibility to the following standards via *Departures*, provided they meet the intent of the applicable standards and *departure* criteria:
   a. Block frontage provisions (see Chapter 2); and
   b. Building massing (see Section 4.2).

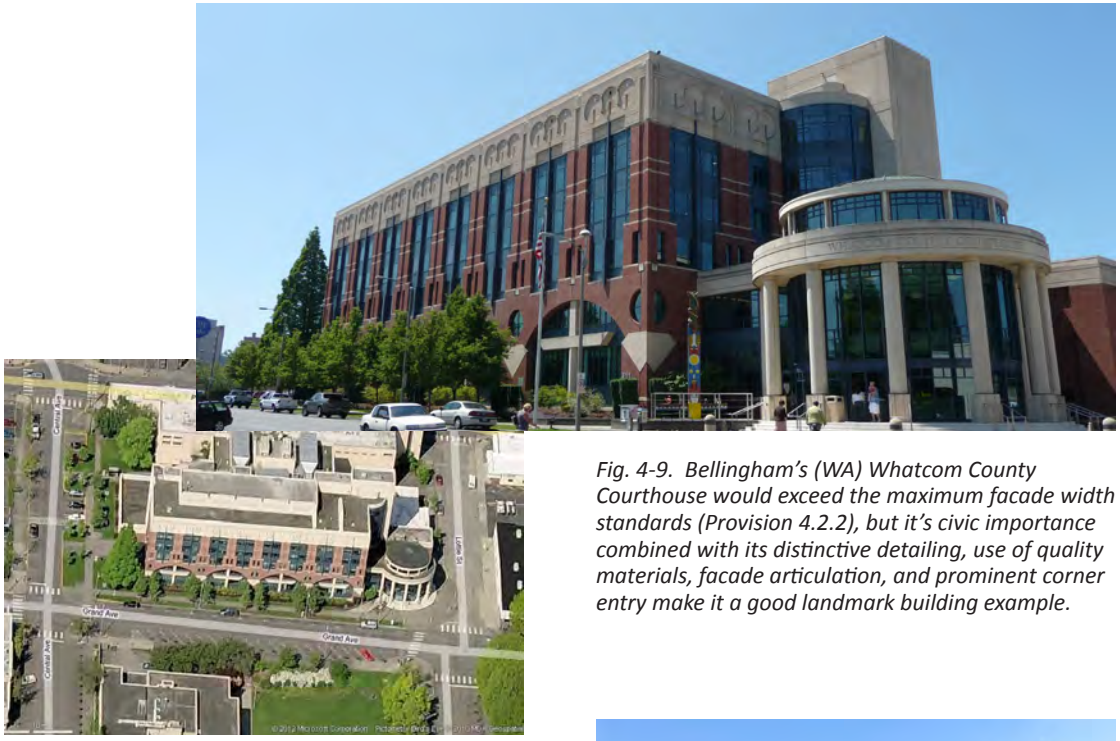


Fig. 4-9. Bellingham's (WA) Whatcom County Courthouse would exceed the maximum facade width standards (Provision 4.2.2), but it's civic importance combined with its distinctive detailing, use of quality materials, facade articulation, and prominent corner entry make it a good landmark building example.

Fig. 4-10. Seattle's Gates Foundation is another landmark example that warrants some design flexibility due to its full block size and visible location, not to mention the foundation's global importance.

4.2 Building Massing & Articulation

Intent:

- To provide for tower spacing for access to light, privacy, and skyviews for people living and working inside the buildings and people on the street below;
- To create a vibrant and distinctive skyline that adds drama to the scenic mountain backdrop; and
- To employ *façade articulation* techniques that reduce the perceived scale of large buildings and add visual interest from all observable scales.

Standards/Guidelines:

4.2.1 Tower massing.

The following standards and guidelines apply only to "towers" which are defined herein as those portions of a building that are greater than six stories in height unless otherwise noted.

1. **Maximum floorplate width** in the general east-west direction above sixth floor to maintain and enhance the Downtown skyline character against the mountain backdrop: 180 feet.

➲ *Departures* will be considered, provided the building integrates distinctive building form and/or roofline elements that contribute to skyline interest while achieving the desired density in Downtown.

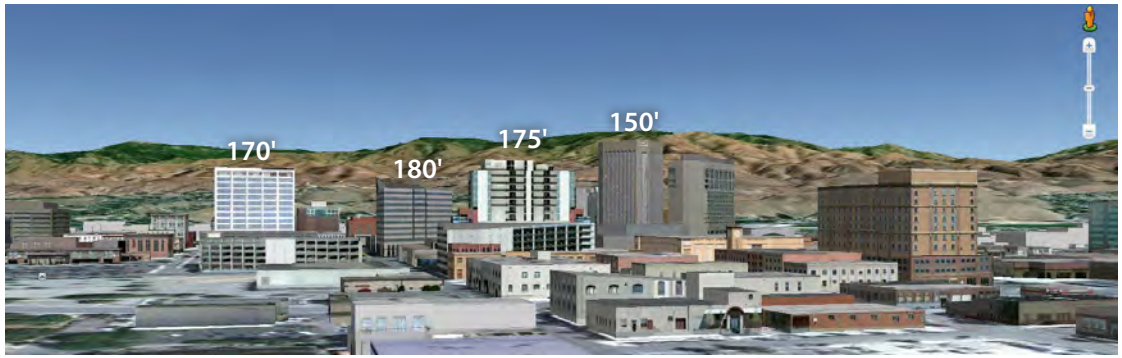


Fig. 4-11. Maximum building width above 6th floor is 180 feet to provide light, privacy, and mountain and sky views. The numbers in the images above indicate the approximate width of existing buildings.

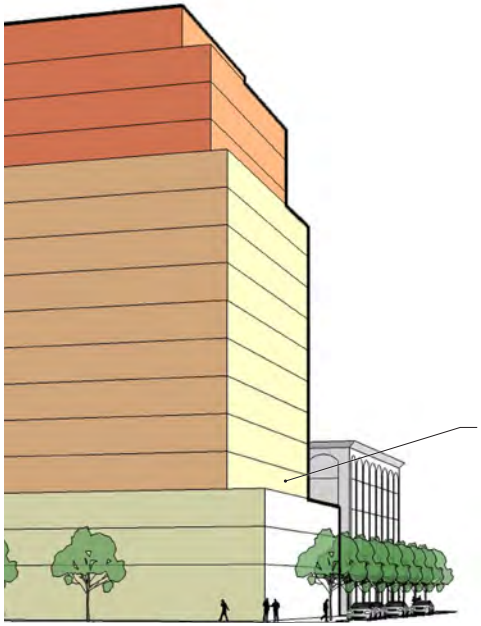
4.2.1 Tower massing (cont.).

2. **Minimum tower street setback.** The tower above the sixth floor shall be setback an additional 10 feet from the front property line along *Storefront* block frontages (encouraged along other block frontages). The required stepback may occur at any floor between the third and sixth floors.

➲ *Departures* will be considered along applicable block frontages except for Capitol Boulevard (see BCC 11-05-03) and South 8th Street provided design techniques are integrated to:

a. Respect the character and scale of surrounding buildings; and

b. Utilize design techniques to clearly identify the buildings' top, middle, and bottom.



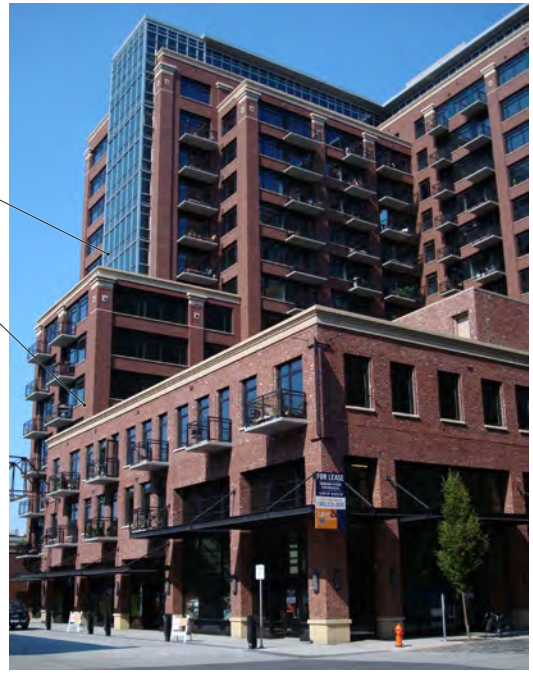


Fig. 4-12. Stepbacks break up the building mass, provide visual interest, allow more light to the street, help to articulate a base, and may reference surrounding buildings.

4.2.1 Tower massing (cont.).

3. **Tower separation standards.** Towers (portion of building above the sixth floor) shall maintain 30 feet of separation from other towers. Along alleys, a minimum 15-foot setback from alley is required for towers. For other side and rear property lines, 15-foot minimum setbacks are required for towers.

   Exceptions:

   a. Alley, side, and/or rear tower setbacks may be reduced or waived if recorded agreements are in place that prohibit tower construction within the minimum required setback area on adjacent site;

   b. For sites adjacent to a tower that do not meet the above setback standards, a reduction of the minimum tower separation standard to no less than 20 feet is permitted provided no other reasonable design options exist for the tower floorplate; and

   c. For sites less than ¼ of the block size, the tower side, rear, and alley setback requirements shall only be applied above the tenth floor.

   ➲ *Departures* will be considered allowing a reduction of the above setbacks/separation standards provided design treatments are included to maximize privacy and minimize skyline, skyview, and access to light impacts. Factors to consider in determining if a proposed *departure* meets the intent include the extent of building area that doesn't meet setback/separation requirement, lot size and configuration, surrounding context, skyline views from a full range of observable views, and subject building uses.

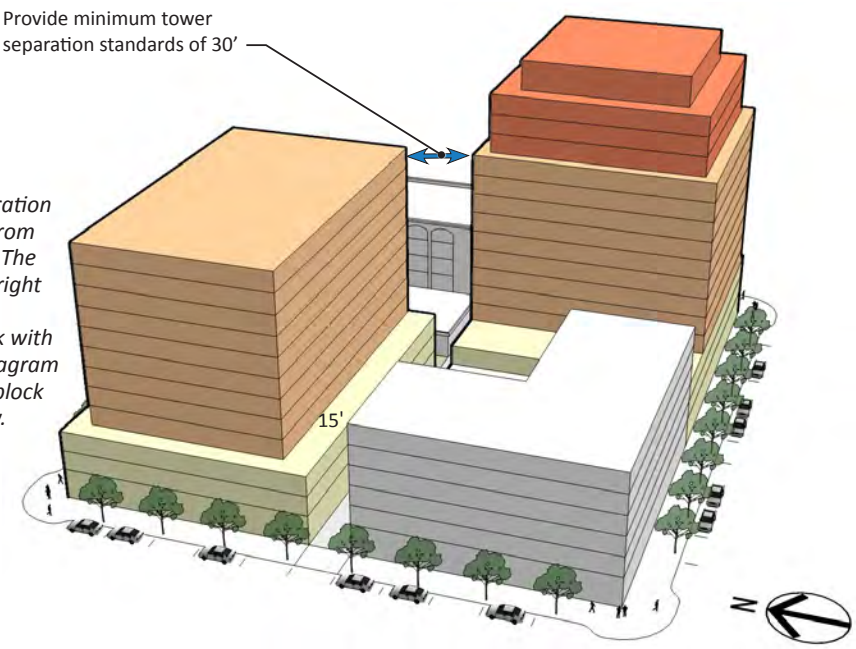


Fig. 4-13. Separation and stepbacks from nearby towers. The diagram to the right shows a typical downtown block with an alley. The diagram below shows a block without an alley.

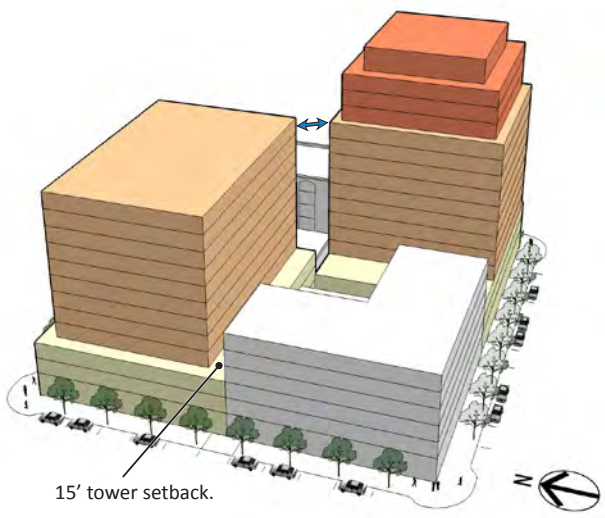


Fig. 4-14. Examples of towers too close to neighboring buildings, resulting in loss of light, privacy, and skyline variation.

4.2.1 Tower massing (cont.).

4. **Simple box design for towers is prohibited.** Towers (over 12 stories) must employ original and distinctive form, including horizontal and vertically articulated components that provide interest to the building from multiple vantage points. Example design treatments:
   a. Round/sculpted forms;
   b. Layered building forms;
   c. Wall plane offsets and/or material changes that create shadows and relief; and/or
   d. *Fenestration* pattern changes.

   Some elements of the towers should integrate with, and extend into the building base *facades* to avoid the appearance of a tower isolated from its base.

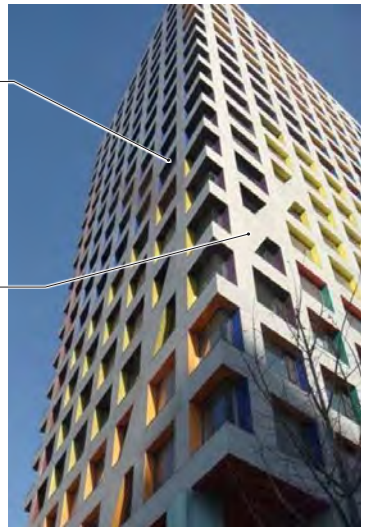
Fig. 4-15. Example of simple box design building with little horizontal or vertical variation.

Fig. 4-16. Sculpted forms.

Fig. 4-17. Layered building forms.

Fig. 4-18. Good examples of wall plane offsets, fenestration changes, and/or material changes.

4.2.1 Tower massing (cont.).



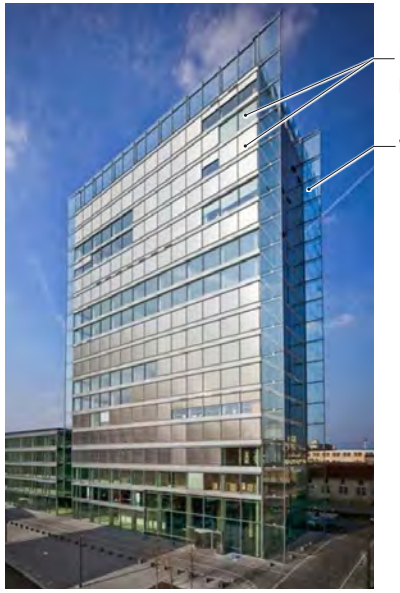


Fig. 4-19. Examples of box buildings that have effectively added articulated components that are distinctive and original.

4.2.2 Maximum façade width.

For most buildings, small scale *articulation* techniques (see Provision 4.2.3 below) are sufficient to reduce the perceived scale of buildings, add visual interest, and contribute to the pedestrian environment. Larger buildings need more substantial articulated/modulated features to break up the massing and add visual interest.

Building *facades* wider than 122 feet shall include at least one of the following features to break up the perceived massing of the building and add visual interest (122 feet is slightly more than the typical width of a half-block between an alley and the street):

1. **Provide** *vertical building modulation* at least 20 feet deep and 30 feet wide (see Fig. 4-20. For multi-story buildings, the modulation must extend through more than one-half of the building floors.
2. **Use of a contrasting vertical modulated design component** featuring all of the following:
   a. Component extends through all floors above the first floor fronting on the street. Exception: upper floors that are set back more than 10 feet horizontally from the *façade* are exempt;
   b. Utilizes a change in building materials that effectively contrast from the rest of the *façade*;
   c. Component is modulated vertically from the rest of the *façade* by an average of six inches; and
   d. Component is designed to provide roofline modulation per Provision 4.2.5. See images in Fig. 4-21 for examples.
3. **Façade employs building walls with contrasting *articulation*** that make it appear like two distinct buildings. To qualify for this option, these contrasting *façades* must employ all of the following:
   a. Different building materials and/or configuration of building materials; and
   b. Contrasting window design (sizes or configurations). See images in Fig. 4-21 for examples.

➲ *Departures* will be considered provide the design meets the intent of the standards. Consideration for approving *departures*:

- Width of the *façade*. The larger the *façade*, the more substantial *articulation*/ modulation features need to be.
- Block frontage designation. *Storefront* designated block frontages warrant the most scrutiny while undesignated streets warrant more flexibility.
- The type of *articulation* treatment and how effective it is in meeting the intent given the building's context.

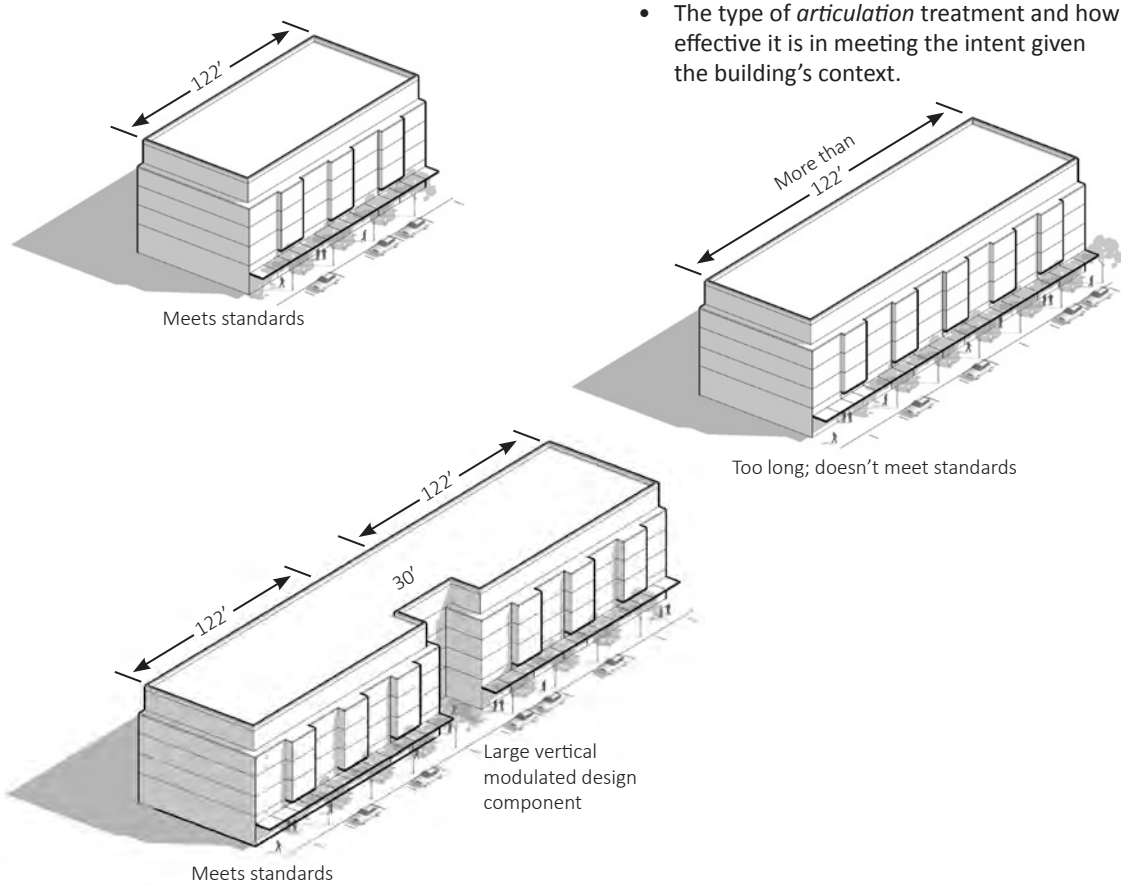


Fig. 4-20. Maximum facade width standards.

4.2.2 Maximum façade width (cont.).

Fig. 4-21. Good design examples of design techniques that break up the massing of large buildings and add visual interest.

Fig. 4-22. Examples where facade widths are greater than 130 feet and do not include acceptable techniques to break up the facade's mass.

4.2.3 Facade articulation.

1. ***Storefronts* and other buildings with non-residential uses on the ground floor** shall include at least three *articulation* features every 50 feet (maximum) to create a pattern of small *storefronts*.
   a. Window *fenestration* patterns and/or entries;
   b. Use of weather protection features;
   c. Use of vertical piers/columns;
   d. Change in building material or siding style;
   e. Vertical elements such as lighting or art element;
   f. Providing *vertical building modulation* of at least 12 inches in depth if tied to a change in roofline modulation per Provision 4.2.5 and/or a change in building material or siding style; and
   g. Other design techniques that effectively reinforce a pattern of small *storefronts*.

➲ *Departures* will be considered provided they meet the intent of the standards and the design criteria set forth in paragraph 3 below.

Fig. 4-24. Spacing of awnings, storefront windows, and piers create a small-scale storefront pattern.

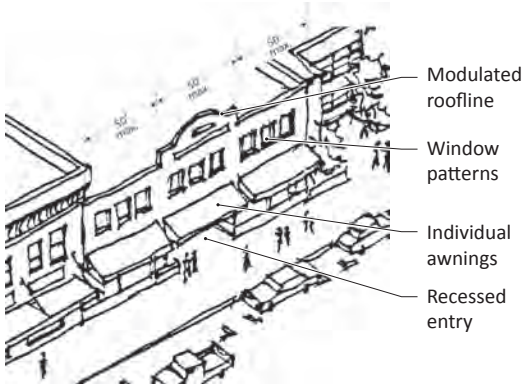


Fig. 4-23. Storefront articulation example.

Fig. 4-26. Example of vertical building modulation combined with a change in materials.

Fig. 4-25. Lacks a pattern of windows, entries, weather protection features, changes in materials, or design features to create a storefront rhythm.

4.2.3 Facade articulation (cont.).

2. **Multifamily buildings** shall include *articulation* features at intervals that relate to the location/ size of individual units within the building (or no more than every 30 feet) to break up the massing of the building and add visual interest and compatibility to the surrounding context. At least three of the following features shall be employed at intervals no greater than the unit interval or 30 feet (whichever is less).
   a. Use of windows and/or entries;
   b. Change in roofline per Provision 4.2.5;
   c. Change in building material, siding style, and/or window *fenestration* pattern;
   d. Providing *vertical building modulation* of at least 12 inches in depth. Balconies may be used to qualify for this option if they are recessed or projected from the *façade* by at least 12 inches. Juliet balconies or other balconies that appear to be tacked on to the *façade* will not qualify for this option unless they employ high quality materials and effectively meet the intent of the standards;
   e. Vertical elements such as lighting or art element; and/or
   f. Other design techniques that effectively break up the massing at no more than 30-foot intervals.

➲ *Departures* will be considered provided they meet the intent of the standards and the design criteria set forth in paragraph 3 below.

Fig. 4-27. Balconies, bay windows, and change in siding color and materials effectively articulate the facade of this Downtown Boise apartment building.

Fig. 4-28. Bay windows help to articulate this facade.

Fig. 4-29. Modulation intervals no greater than 30 feet or width of unit.

Fig. 4-30. Other than decorative black columns at the base, this building lacks vertical articulation elements.

4.2.3 Facade articulation (cont.).

3. ➲ *Departure* criteria associated with *articulation* standards. Proposed *departures* must meet the intent of the standards. The following criteria shall be considered in determining whether the proposed *articulation departures* meet the "intent".
   a. Consider the type and width of the proposed *articulation* treatment and how effective it is in meeting the intent given the building's current and desired context (per adopted Downtown plan(s);
   b. Consider the applicable block frontage designation. Undesignated block frontages warrant more flexibility than block frontages designated as Commercial/ Mixed-Use or Landscaped;
   c. Consider the size and width of the building. Smaller buildings warrant greater flexibility than larger buildings; and
   d. Consider the quality of *façade* materials in concert with doors, windows, and other *façade* features and their ability to add visual interest to the street from a pedestrian scale and more distant observable scales.
   e. Also see Provision 4.1.3 for landmark building design provisions for public buildings and private buildings that occupy highly visible street corners or full block developments.

High quality materials and intricate detailing. This Yaletown, Vancouver, BC building also fits well into the area's historic warehouse context.

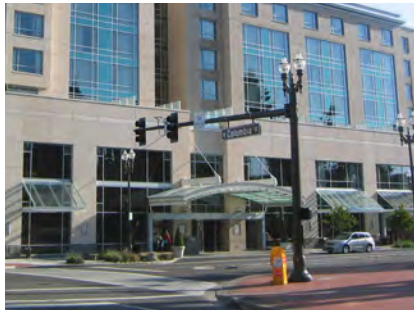
This expansive glass facade with its metal framing, glazing detail, and decorative wood element over the entry would warrant a departure for this highly visible street corner.

This 300' long building would not meet the technical provisions of the maximum facade with standards, but its dramatic roofline, sharp edge, and interesting window detailing and modulation, combined with its location along a heavy arterial and freeway, make it a good departure example.

Fig. 4-31. Examples of good departures.

4.2.4 Articulated building entries.

The primary building entrance shall be designed as a clearly defined and demarcated standout architectural feature of the building. Such entrances should be easily distinguishable from regular *storefront* entrances on the building.



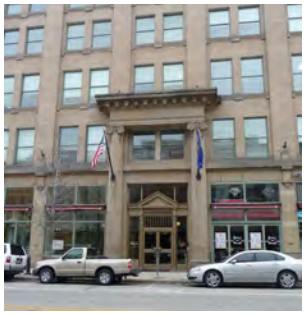


Fig. 4-32. Examples of clearly articulated primary building entrances.

4.2.5 Roofline modulation.

In order to qualify as an *articulation* feature in this subchapter, rooflines must employ one or more of the following:

1. For flat roofs or *façades* with horizontal eave, fascia, or parapet, the minimum vertical dimension of roofline modulation is the greater of two feet or 0.1 multiplied by the wall height (finish grade to top of the wall);
2. A pitched roofline or gabled roofline segment of at least 12 feet in width. Buildings with pitched roofs must include a minimum slope of 5:12 and feature modulated roofline components at the interval required per the applicable standard above;
3. A combination of the above; or
4. Other.

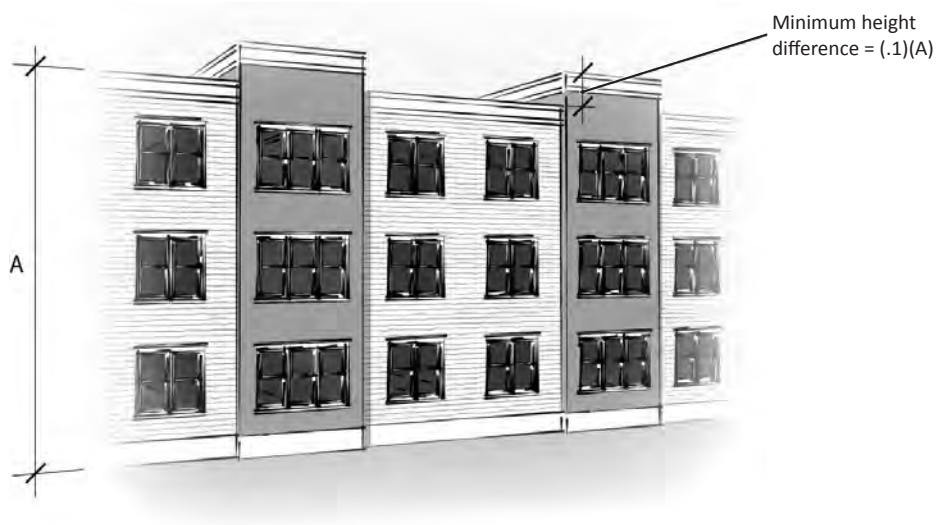


Fig. 4-33. Example proportions for adequate flat roof modulation.

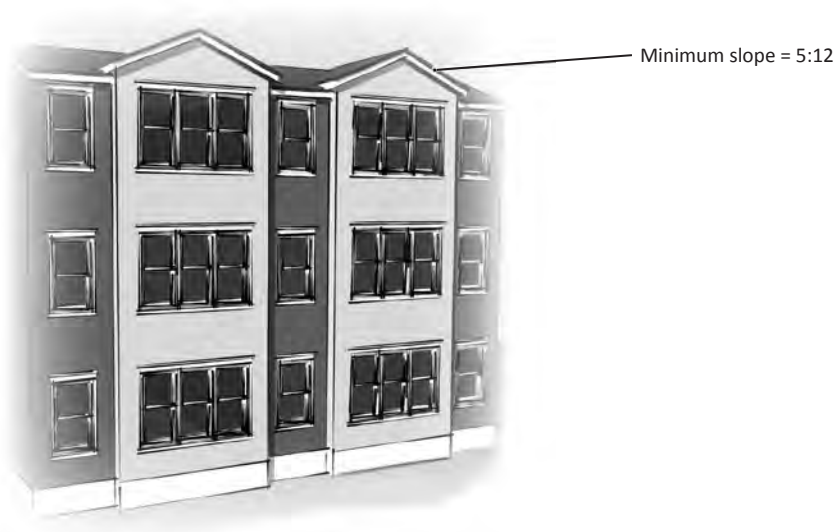


Fig. 4-34. Example proportions for adequate pitched roof modulation.

4.2.6 Cornice/roofline design.

Buildings using a flat roof shall have a distinctive roofline. Fig. 4-35 and Fig. 4-36 below illustrate acceptable and unacceptable examples.

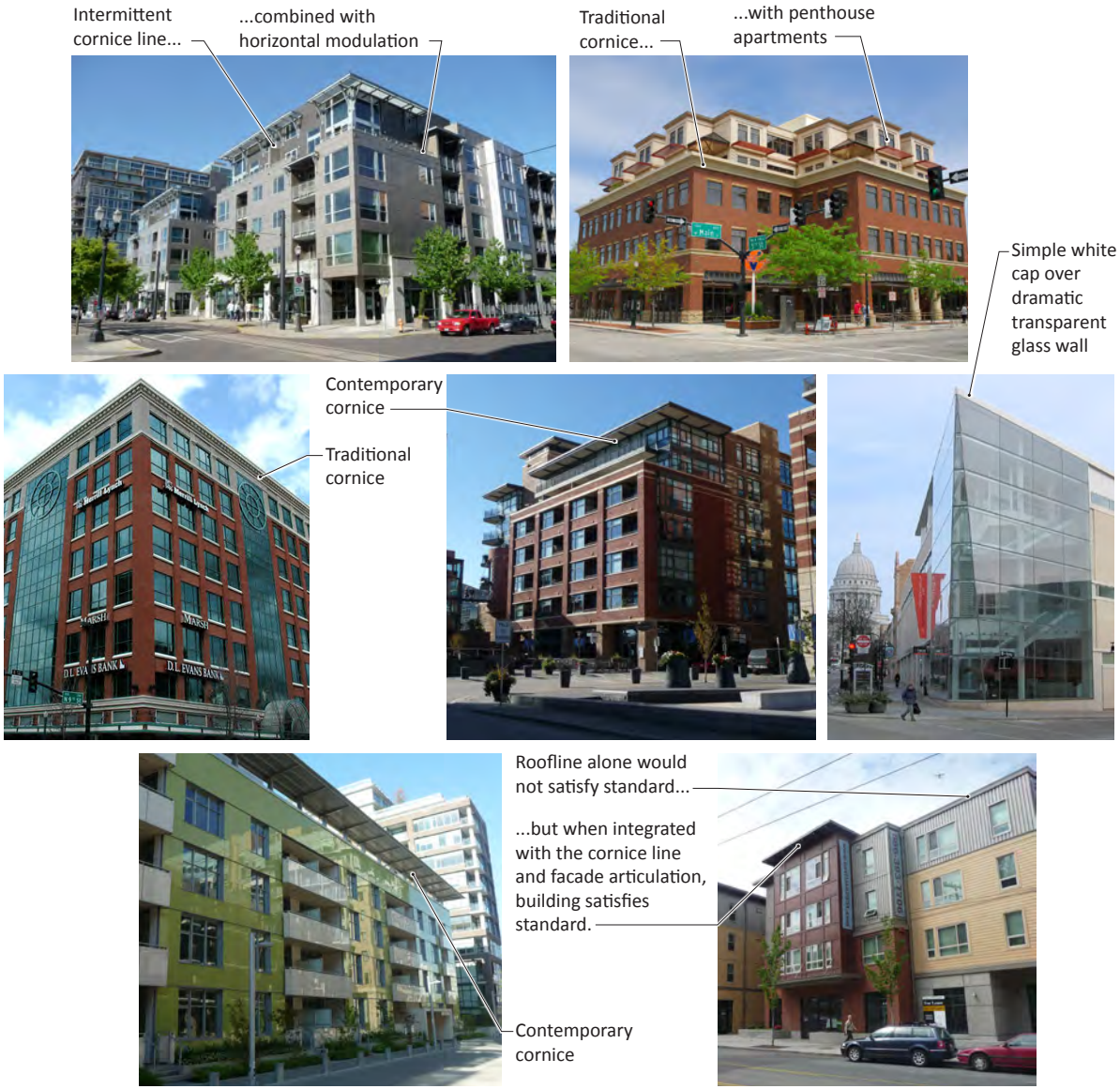


Fig. 4-35. Examples of distinctive rooflines.

Fig. 4-36. Simple cornice trim is not enough to satisfy standard.

4.2.7 Rooftop mechanical areas.

All buildings must design rooftop mechanical and other related technical equipment/materials in an integrated, coherent manner consistent with the composition below them. All vertical screening elements must incorporate high quality cladding materials the same or similar to the type of materials used for the walls below.

Fig. 4-37. Mechanical areas screening integrated in rooftop design.

4.2.8 Rooftop Design.

All roofs should be considered as a fifth elevation. Downtown buildings should exhibit patterns of roofing colors and/or materials to add visual interest from surrounding taller buildings. Green roofs are encouraged.

Fig. 4-39. Example of a rooftop that needs distinctive treatment.

Fig. 4-38. Examples of rooftops considered as a fifth elevation, composed to be visually appealing from surrounding taller buildings.

4.3 Building Elements & Details

Intent:

- To encourage the incorporation of design details and small-scale elements into building *facades* that are attractive at a pedestrian scale.

Standards/Guidelines:

4.3.1 Façade details – non-residential and mixed-use buildings.

All non-residential and mixed-use buildings shall be enhanced with appropriate details. All new buildings and additions and buildings associated with Level II and III Improvements must employ at least one detail element from each of the three categories below for each *façade* facing a street or public space for each *façade articulation interval* (see Provision 4.2.3). For example, a building with 100 feet of street frontage with a *façade* articulated at 25-foot intervals will need to meet the standards for each *façade articulation interval*.

1. Window and/or entry treatment:
   a. Display windows divided into a grid of multiple panes;
   b. *Transom windows*;
   c. Roll-up windows/doors (must meet historic district guidelines, if applicable);
   d. Other distinctive window treatment that meets the purpose of the standards;
   e. Recessed entry;
   f. Decorative door; and/or
   g. Other decorative or specially designed entry treatment that meets the intent of the standards.

Fig. 4-40. Examples of decorative or specially designed windows and entries.

A - Decorative corner balcony and windows
B - Decorative windows
C - Decorative awnings
D - Decorative windows
E - Roll up garage doors
F - Decorative grill work
G - Decorative window wall
H - Decorative door
I - Decorative entry

4.3.1 Façade details – non-residential and mixed-use buildings (cont.).

2. *Façade* attachments and details:
   a. Custom-designed weather protection element such as a steel canopy, cloth awning, or retractable awning;
   b. Decorative, custom hanging sign(s);
   c. Decorative building-mounted light fixtures;
   d. Bay windows, towers, decorative balcony railings, and similar elements;
   e. Landscaped *trellises* or other decorative element built into the *facade* that incorporates landscaping; and/or
   f. Other details or elements that meet the intent of the standards.

Fig. 4-41. Examples of elements attached to facades that enhance the visual intrigue of the building.

A - Decorative entry canopy
B - Decorative wheat motif
C - Decorative brackets
D - Decorative balcony railings
E - Decorative window shades
F - Trellis with vine plant
G - Retractable awning
H - Decorative globe light
I - Distinctive canopy design
J - Decorative railings

4.3.1 Façade details – non-residential and mixed-use buildings (cont.).

3. Decorative *façade* materials:
   a. Use of decorative building materials. Examples include decorative use of brick, tile, or stonework;
   b. Artwork on building (such as a mural) or bas-relief sculpture;
   c. Decorative kick-plate, pier, beltcourse, or other similar feature;
   d. Hand-crafted material, such as special wrought iron or carved wood; or
   e. Other details that meet the purpose of the standards.

"Custom," "decorative," or "hand-crafted" elements referenced above must be distinctive or "one-of-a-kind" elements or unusual designs that require a high level of craftsmanship.

➲ *Departures* to the standards above will be considered provided the number, quality, and mix of details meet the intent of the standards.

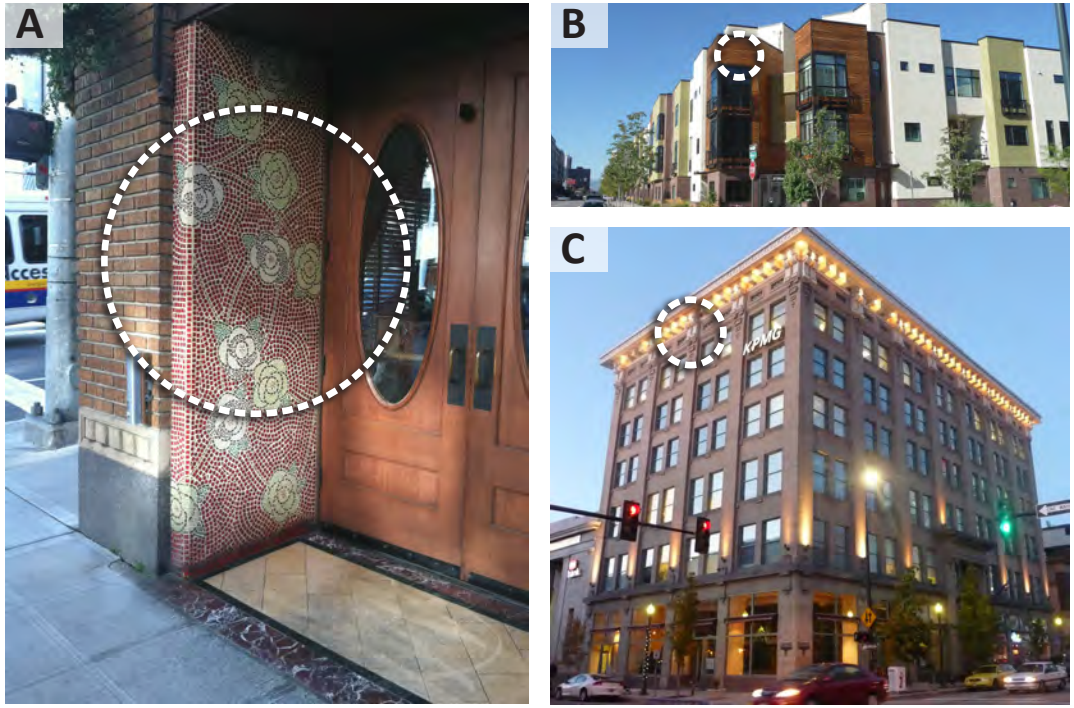


Fig. 4-42. Examples of decorative surface materials.

A - Mosaic tilework
B - Decorative use of wood
C - Decorative *cornice* lighting
D - Custom facade details
E - Sculptural element
F - Decorative wood element
G - Special stonework

4.3.2 Window design.

Buildings shall employ techniques to recess or project individual windows above the ground floor at least 2 inches from the *façade*. For buildings outside the Downtown Core (area between 3rd, 13th, Washington, and Myrtle streets), another option is to incorporate window trim at least 4 inches in width that features color that contrasts with the base building color. Glass curtain walls are exempt from this standard.

➲ *Departures* will be considered where buildings employ other distinctive window or *facade* treatment that adds a sense of depth to the *facade* and/or visual interest to the building.

Fig. 4-44. Examples of recessed windows.

Fig. 4-46. Example of window without sufficient depth or trim.

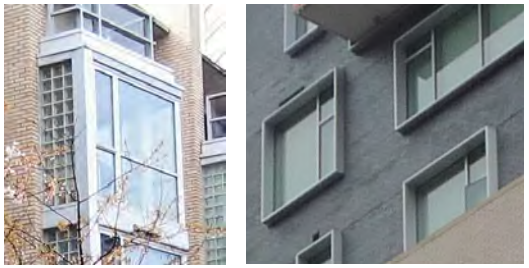


Fig. 4-43. Examples of projecting windows.

Fig. 4-45. Example of 4" contrasting trim (appropriate for buildings outside of the Downtown Core).

Fig. 4-47. These windows alone would not meet the intent of the standards, but the use of wide contrasting framing, a small ledge, bay windows, balconies, and brick add variety, depth, and interest, making this an acceptable departure.

4.4 Building Materials

Intent:

- To encourage the use of high-quality building materials that minimize maintenance cost and provide visual interest to the street; and
- To promote the use of locally sourced and sustainable building materials.

Standards/Guidelines:

4.4.1 Quality building materials.

Utilize building materials that convey a sense of quality and permanence. Specifically, buildings within the Downtown Core (area between 3rd, 16th, Washington, and the river) and all multi-story commercial and mixed-use buildings shall utilize natural stone, brick, decorative concrete, and/or metal together with required window area into the building's base. The base includes the first floor for buildings six stories or less, and at least the first two floors for taller buildings.

➲ *Departures* will be considered provided the base material meets the intent of the standards.

Fig. 4-48. Examples of durable ground floor materials.

4.4.2 Special conditions for the use of concrete block, metal siding, and stucco (EIFS).

1. **Concrete block** - when used for the primary *façade*, buildings are encouraged to incorporate a combination of textures and/or colors to add visual interest. For example, combining split or rock-façade units with smooth blocks can create distinctive patterns. Extensive areas of smooth-faced concrete block on street *facades* are prohibited (see Fig. 4-49 for an example).
   - ➲ *Departures* will be considered provided they meet the intent of the standards.

Fig. 4-49. Good and bad concrete block examples.

2. **Metal siding** may be used if it is incorporated with other permitted materials and it complies with the following:
   a. It features visible corner molding and trim and does not extend lower than two feet above grade. Masonry, concrete, or other durable material must be incorporated between the siding and the ground plane; and
   b. Metal siding shall be factory finished, with a matt, non-reflective surface.
   - ➲ *Departures* will be considered provided they meet the intent of the standards.

Fig. 4-50. Good and bad metal siding examples.

3. **Standards for stucco or other similar troweled finishes.** Specifically:
   a. Stucco is strongly discouraged in commercial projects and on the first floor of *multifamily* residential buildings;
   b. Stucco must be trimmed in wood, masonry, or other material and shall be limited to no more than 50 percent of the street *façade*; and
   c. Stucco shall not extend below two feet above the ground plane. Concrete, masonry, or other durable material must be used for wall surfaces within two feet of grade to provide a durable surface where damage is most likely.
   - ➲ *Departures* to (b) and (c) above will be considered provided design treatments meet the intent of the standards.

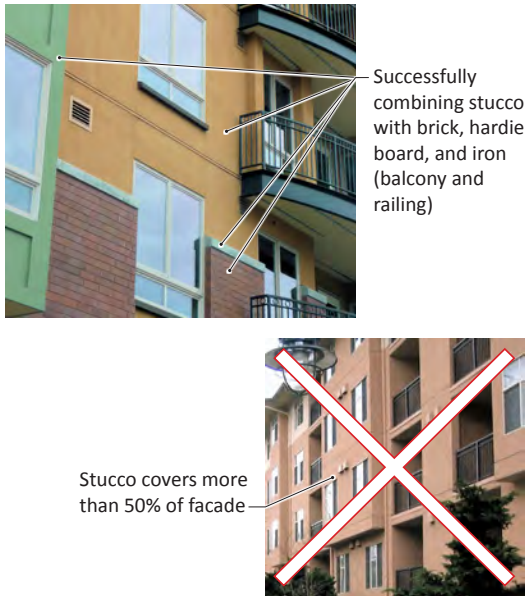


Fig. 4-51. Good and bad stucco examples.

4.5 Building Lighting

Intent:

- Integrate lighting that illuminates distinctive features of the building;
- Provide street level lighting that enhances the pedestrian environment;
- Design lighting to minimize light pollution and unwanted glare;
- Allow for a greater amount of building lighting in commercial areas and less in residential areas; and
- Employ lighting techniques and materials to conserve energy.

Standards/Guidelines:

4.5.1 Street level lighting elements.

1. *Storefronts* are encouraged to install lighting in display windows that spills onto and illuminates the sidewalk;
2. Buildings shall integrate lighting that highlights the *façade* at street level and accents noteworthy architectural features. Examples include building entries, signage, canopies, or other areas of architectural detail and interest; and
3. Buildings are encouraged to illuminate distinctive features inside the building so that it is visible from the outside.

4.5.2 Mid to upper building levels.

1. Buildings shall integrate lighting that highlights the composition, massing, and *articulation* of building elements and other distinctive architectural features that add to the complexity of a design; and
2. Buildings are encouraged to illuminate distinctive features inside the building so that it is visible from the outside.

Fig. 4-52. Example of street illumination from storefront window.

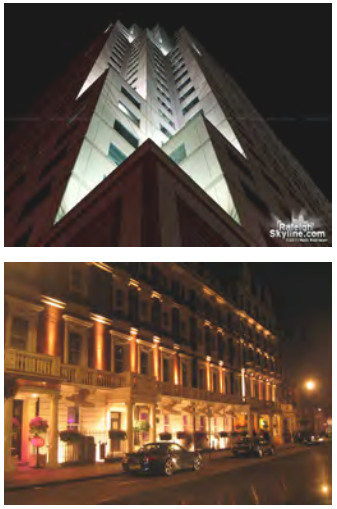


Fig. 4-53. Examples of lighting highlighting building massing and articulation.

4.5.3 General lighting design.

1. Buildings in commercial areas should generally be allowed to have a greater amount of external building lighting than within residential areas;
2. Building lighting shall be designed to minimize upward and downward light pollution and unwanted glare. Baffles or shields on the luminaires should be included to direct light onto the building and minimize direct light into the sky;
3. Light sources are encouraged to be integrated into the architectural *fenestration* and design when possible;
4. Lighting treatments should be emphasized on buildings that are located on street intersections, view corridors, designated main and commercial streets and gateways to assist in downtown way-finding;
5. Up-lighting should be directed toward the building with the minimum amount of energy to do the effect;
6. Seasonal lighting: Lighted attachments with color scenarios are encouraged in commercial and active use areas;
7. Projected light art is encouraged in civic and commercial areas; and
8. A reasonable attempt should be made to hide conduit and electrical sources from public view.

Fig. 4-54. Examples of good lighting design.

4.6 Blank Wall Treatments

Intent:

- To avoid untreated *blank walls*; and
- To retain and enhance the character of Boise's Downtown.

Standards/Guidelines:

4.6.1 Blank wall definition.

A wall (including building *façades* and retaining walls) is considered a *blank wall* if it is over six feet in height has a horizontal length greater than 20 feet within the first two stories of the building and does not include a transparent window or door.

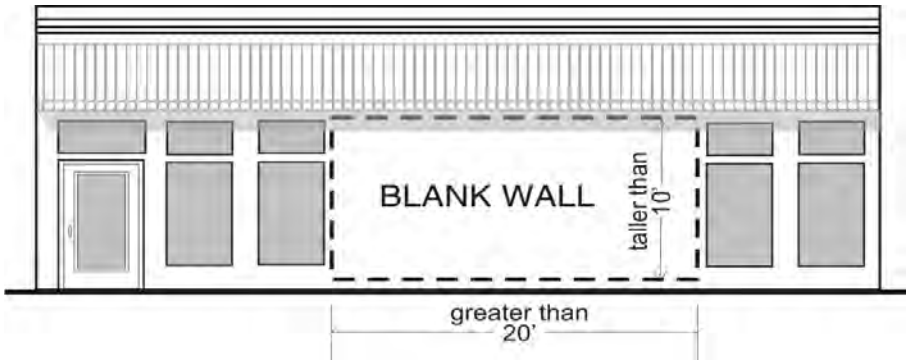


Fig. 4-55. Blank wall definition.

Fig. 4-56. Examples of unacceptable blank walls.

4.6.2 Blank wall treatment standards.

Untreated *blank walls* visible from a public street or pedestrian pathway are prohibited. Methods to treat *blank walls* can include:

1. Display windows at least 16 inches of depth to allow for changeable displays. Tack on display cases shall not qualify as a *blank wall* treatment;
2. Landscape planting bed at least five feet wide or a raised planter bed at least two feet high and three feet wide in front of the wall with planting materials that are sufficient to obscure or screen at least 60 percent of the wall's surface within three years;
3. Installing a vertical *trellis* in front of the wall with climbing vines or plant materials;
4. Installing artwork as approved by the reviewing authority; and/or
5. Special building detailing that adds visual interest at a pedestrian scale. Such detailing must use a variety of surfaces; monotonous designs will not meet the purpose of the standards.

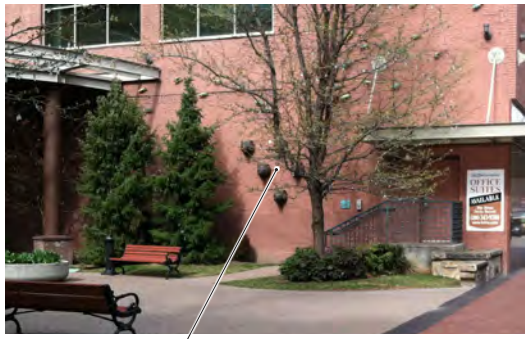
For large visible *blank walls*, a variety of treatments may be required to meet the purpose of the standards.

Fig. 4-58. Tack on display cases such as this are not an acceptable blank wall treatment.

Planters, surface materials, and details

Elevated planters and wall detailing

Decorative raised planters and trellis



Landscaping and wall sculptures

Fig. 4-57. Examples of creatively-addressed blank walls.

4.6.2 Blank wall treatment standards (cont.).

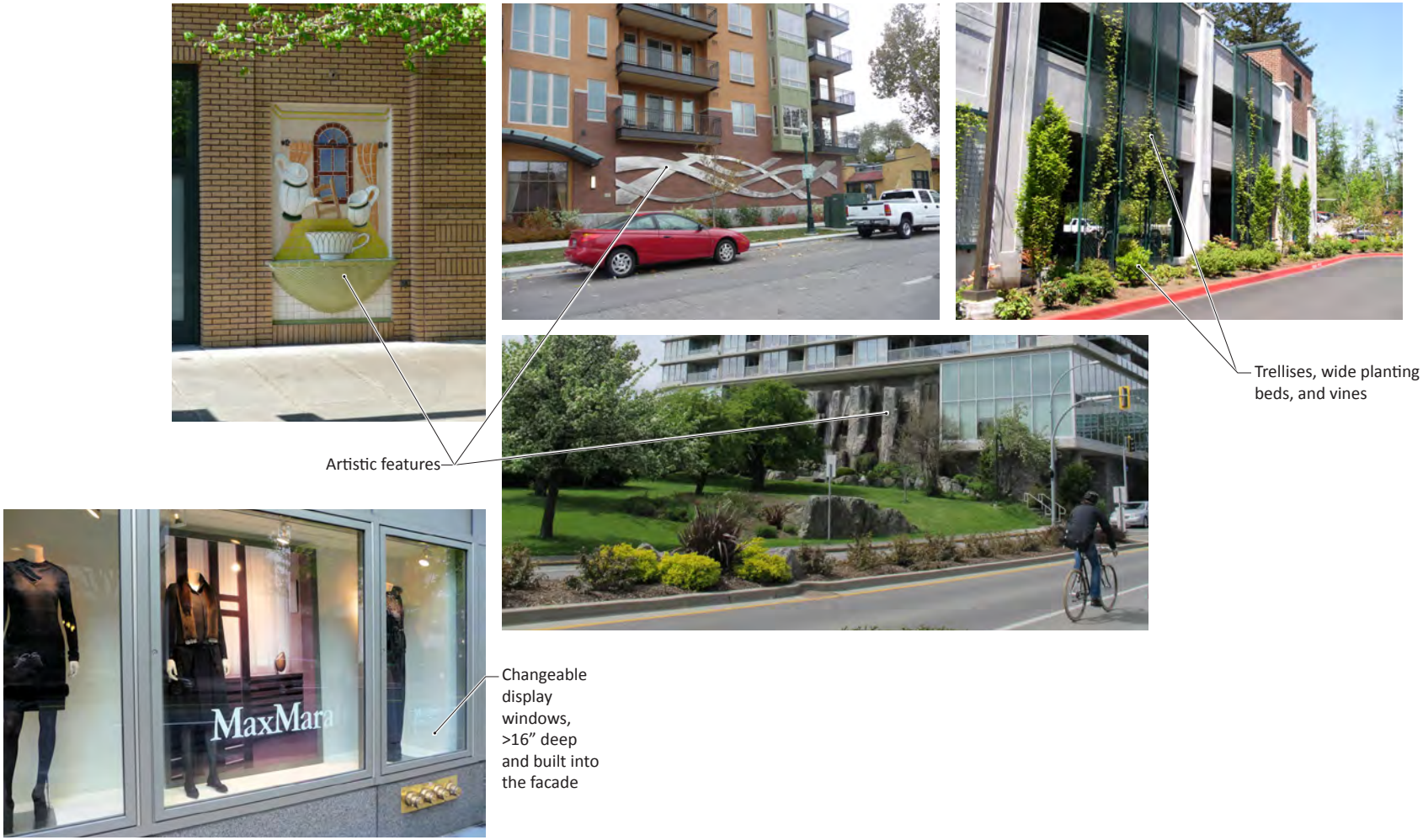


Fig. 4-57 Continued. Examples of creatively-addressed blank walls.

4.6.3 Firewall design.

Firewalls along property lines are exempt from the above standards, but where they are visible to the public, they shall include horizontal and/or vertical banding or other design treatments to add visual interest to the wall.

➲ *Departures* will be considered where such treatments described above would not be consistent with the overall design of the building.

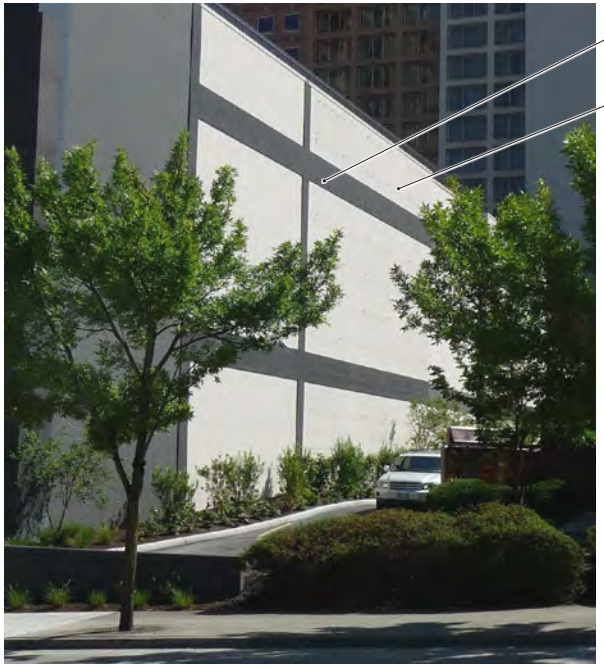


Fig. 4-59. Acceptable firewall treatments.

5
Definitions

Articulation: The giving of emphasis to architectural elements (like windows, *balconies*, entries, etc.) that create a complementary pattern or rhythm, dividing large buildings into smaller identifiable pieces. See Section 4.2 for articulation provisions.

Articulation interval: The measure of articulation, the distance before architectural elements repeat. See Section 4.2 for articulation provisions.

Blank wall: A ground floor wall or portion of a ground floor wall over 10 feet in height has a horizontal length greater than 20 feet and does not include a transparent window or door. See Section 4.6 for blank wall treatment provisions.

Cornice: A horizontal molding projecting along the top of a wall, building, etc. See Provision 4.2.6 provision for related standards.

Departure: A provision allowing for applicants to propose alternative means of compliance with a specific standard on a voluntary basis, provided they meet the "intent" of the standard. See page v for more information on departures.

Façade: The entire building front or street wall face of a building extending from the grade of the building to the top of the parapet or eaves and the entire width of the building elevation.

Fenestration: The design, proportioning, and disposition of windows and other exterior openings of a building.

High visibility street corners and gateway sites: Special sites identified in the Downtown Urban Design Framework Map that warrant special design standards set forth in Section 3.5

Level I, II, and III Improvements: See Page vi for descriptions.

Multifamily: A structure housing three or more dwelling units. This includes stacked flats, apartments, townhouses, and triplexes.

Pedestrian-oriented space: Publicly accessible spaces that enliven the pedestrian environment by providing opportunities for outdoor dining, socializing, relaxing and provide visual amenities that can contribute to the character of the neighborhood. See Section 3.4 for pedestrian-oriented space design criteria.

Storefront: The ground floor façade of a commercial use adjacent to a sidewalk or internal pathway. Storefront also refers to one of the four block frontage designations that are applied to zones. See Downtown zones Section 2.2 for related provisions.

Transom window: A window or series of windows placed above a beam separating a door and/or storefront windows. Transom windows are often placed above a canopy or marquee to emit extra daylight into a commercial space.

Trellis: A frame supporting open latticework used as a screen or a support for growing vines or plants.

Vertical building modulation: A stepping back or projecting forward vertical walls of a building face, within specified intervals of building width and depth, as a means of breaking up the apparent bulk of a structure's continuous exterior walls. Vertical building modulation may be used to meet façade articulation standards set forth in Section 4.2.

Unified Development Ordinance Rewrite and Zoning Map Update

Town of Waxhaw, North Carolina
June 17, 2015, 4:00 PM
Planning Services Proposal

We're PlaceMakers. We **design**, **code** and **nurture** places of enduring value.
And we **connect** those places with the people destined to love them.

PlaceMakers, LLC | 5136 Sevilla Avenue NW | Albuquerque, NM 87120
Hazel Borys | Managing Principal | hazel@placemakers.com | 204.989.0217 | 204.960.0100

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224 Cedar Hill Drive
Franklin, NC 28734

1. Letter of Interest

Greg Mahar
Planning & Community Development Director
Town of Waxhaw
P.O. Box 617
1150 N. Broome Street
Waxhaw, NC 28173

June 17, 2015

Mr. Mahar:

We appreciate the opportunity to respond to Waxhaw's RFP for a rewrite of the Town's Unified Development Ordinance and an update of its zoning map. Your needs seem to align perfectly with our skill sets.

PlaceMakers is among the world's leaders in designing and customizing Form Based Codes according to the unique needs of its clients. We have the advantage of having participated in the development and refinement of FBC models from the very beginning; and, in our regional workshops over more than a decade, we've honed our staff training expertise teaching some 2,200 practitioners how to apply FBC principles to their own regulatory frameworks.

We're unique among planning consultants in the way we're organized to bring multidisciplinary expertise to the tasks a project like yours requires. Our firm's principals, all of whom will be involved in this effort, boast backgrounds in communication and business administration, as well as in community development, design and planning. We're good at listening to – as opposed to just talking at – those you'll need to inform and support your UDO rewrite through all its phases.

We draw our support team members from a deep talent pool of compatible specialists. That allows us to customize approaches to match your ambitions, especially those related to the integration of the broader community development goals reflected in your RFP. Our successes in communities ranging in scale from the neighborhood to the region include projects exactly like the one you propose.

Again, thanks for the opportunity to respond. I'll be the principal contact for questions and clarifications, and I look forward to that conversation.

Best regards,
PlaceMakers, LLC

Hazel Borys
Managing Principal

2. Introduction

In its twelve-year history, PlaceMakers has:

+ Written **49 form-based codes** in 27 U.S. states and 3 Canadian provinces. Implemented Smart Growth by designing 29 master plans under adopted form-based codes, plus many more as PUDs and for illustrative purposes.

+ Launched the **PlaceMaking @ Work Webinar Education Series** of live online distance learning, the more didactic **www.PlaceShakers.com blog**, in addition to the popular SmartCode Workshop program that has trained some 2,200 professionals in 14 seminars since 2003.

+ Pioneered a comprehensive program of charrette-related communications, maximizing the potential for success in the public process through outreach and education methods built on proven marketing, engagement and social-media models. Notable is the creation of iCharrette, the first online charrette mechanism designed as a tool of persuasion rather than simply an information clearinghouse.

+ Co-Founded the Transect Codes Council (TCC), an advisory board to the Center for Applied Transect Studies (CATS).

+ Wrote The Codes Study, which tracks development and adoption of form-based codes that comply with the Form Based Codes Institute (FBCI) criteria.

Hazel Borys
Project Contact
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Albuquerque NM 87120

www.PlaceMakers.com
www.PlaceShakers.com

PROFILES IN PLACEMAKING

Leland, North Carolina I Gateway Plan and FlexCode I An infill master plan and form-based code adds economic resilience.

2. Introduction

Planning, Design and Coding for Meaningful Change

Our mission is implied in the name. At the heart of PlaceMakers' core competencies lies a demonstrated expertise in helping communities make better places – places more likely to nourish healthier, happier and more prosperous lives. We have built our firm around esteemed partners of complementary skills, allowing us to innovate in all aspects of the discipline: urban design, coding and regulations, community outreach and engagement, public relations and long-term implementation. In founding our firm on a wide palette of interdisciplinary perspectives, we have built a team best suited to the complexities of real-world vision and implementation.

We were among the first practitioners to apply holistic approaches to better address the interconnected challenges and opportunities related to transportation, urban design, affordable housing and economic development. Understanding the links between good planning and successful implementation, we are specialists in the tools of collaboration that lead to consensus-driven policy. And aware of the ways in which good policy is dependent upon a well-thought regulatory framework, we've helped pioneer form based coding strategies that overcome segregated-use zoning that has inhibited healthy growth in so many places.

PlaceMakers is based in Delaware with individual partners located throughout North America: Albuquerque, New Mexico; Atlanta, Georgia; Franklin, North Carolina; Winnipeg, Manitoba. The company has been in business since March of 2003. We are a four member LLC and have close, long-term business relationships with the most prominent consultants within the coding and urban design communities.

Hazel Borys and Susan Henderson are founding members of the **Transect Codes Council**, a non-profit advisory panel serving the continued growth of open source, transect-based codes for planning and regulating our built and natural environments.

PROFILES IN PLACEMAKING

Fuquay-Varina, North Carolina
Land Development Ordinance
PlaceMakers led a form-based code for Fuquay-Varina to add the missing pieces of neighborhoods like a string of pearls for suburban retrofit, infill, and redevelopment.

3. Work Program

PHASE 1: ANALYSIS AND BASE MATERIAL REVIEW | 90 Days

The consulting team, working with Town staff, will conduct a review of all available information about the physical and legal context of development in the Town of Waxhaw. This will include maps, existing ordinances, master plans, and the forthcoming comprehensive plan. The review will enable an outline of how Waxhaw's new UDO and zoning map will address community concerns and goals. Together we will develop a citizen participation plan to guide public engagement for the project, which is likely to include an email campaign, project flyers, participatory workshops, and an engaging project website.

Deliverables:

+ Analysis of Waxhaw's development ordinances and comprehensive plan; Charrette Preparation Logistics, Schedule, and Base Mapping
+ Web-Site and Media including Press Release, Project Identity, Communications Strategy; Interactive Project iCharrette Website
+ Trip 1: Key Stakeholder interviews to gain insights of development goals, including meetings with Town Board, Planning Board, and Board of Adjustment

PHASE 2: PUBLIC WORKSHOP | 4 Days

We will organize a multi-day working session in Waxhaw to have a series of meetings with Town staff, landowners, and residents to extract community vision and goals, make recommendations for the proposed structure of the Unified Development Ordinance, engage in local urban design required to determinethe zoning code metrics, produce a draft zoning map in collaboration with landowners, and a

ACKNOWLEDGED LEADERS

PlaceMakers is not just a leader in the creation of comprehensive form-based codes, we've also assumed a leadership role in educating others to do the same. Through our SmartCode Workshops, Placemaking @ Work webinar series, SmartCode Complete web portal and tailored onsite presentations and instruction, we've helped thousands of others — even competing firms — leverage the only available form-based model template to pursue increased economic opportunity and quality of life through meaningful code reform.

The Codes Study

The web's most exhaustive study of Form-Based Codes.

Andrés Duany and the

SmartCode Workshop

PLACE MAKING @ WORK

rough draft of the UDO. For the workshop, the six-person on-site team will include: coding specialist/architect, urban designer/illustrator, facilitator/economic development specialist, transportation planner, and the facilitation/communications team. In a series of public workshops, the team will present components of the Waxhaw planning and development regulation efforts for comment and revision. Items produced during the workshop include the first draft of the UDO table of contents and metrics, illustrative master plan based on landowners that are willing to participate, a draft zoning map, and a draft sector plan that will serve as a comprehensive plan future land use map update.

Deliverables:

+ Trip 2: Multi-day workshop includes public presentations, and meetings with focus groups, town staff, Town Board, Planning Board, and Board of Adjustment. Working sessions will develop form-based code illustrative plan, form-based code metrics draft, illustrations, and transportation module draft. Deliverables may also include, if determined to be pertinent, policies and a future land use map update to modify the comprehensive plan and a zoning map for areas of town with near term development pressures.
+ All work products and reporting on the public process will be reported via daily iCharrette website updates with stories, video clips, and photographs of public process.

PHASE 3: UDO DRAFTING AND ADOPTION I 150 Days

The Waxhaw Unified Development Ordinance first draft will be delivered to the Town within eight weeks after conclusion of the charrette. The UDO is anticipated to include: Articles for legal empowerment and compliance, new neighborhood scale development, and building scale development, as well as necessary graphics and definitions. The form-based code will be in full compliance with FBCI criteria. The specific standards likely will include: Building Configuration, Building Disposition, Private Frontage Standards, Building Function, Parking Standards, Limited Summary Text Architectural Standards, Public Frontage Types, Civic Space Standards, Lighting Standards, Public Landscape Standards, along with the Transportation Module. If conventional zones are also necessary, existing ordinances will be reviewed and updated to avoid conflicts when integrated into the UDO, reflect current zoning best practices, and align to community vision established through the charrette process.

Deliverables:

+ Unified Development Ordinance Rewrite and Zoning Map Update, as determined appropriate through public participation and landowner engagement, Illustrations in web-ready PDF and Microsoft Office 8.5x11 format.
+ Incorporate two rounds of consolidated electronic edits edits from Town Staff. UDO Draft 1 will be presented via videoconference and email.
+ Update the iCharrette website and appropriate social media with first and final drafts of the zoning code update. Provide flyer PDFs and email communications to a database of key stakeholders provided by the Town.
+ Phase 3 Trips include a two-person team of coding specialist and faciltator:
    + Trip 3: Present UDO Draft 2 during two consecutive full day public meetings, including practice administration of local project examples under the proposed UDO, and presentations to appointed and elected officials.
    + Trip 5: Present final UDO to Town Board, Planning Board and Board of Adjustment for recommendation and approval. To control expenses, one trip is priced to present to all three boards.
    + Trip 6: Provide administrative training to the Planning Department and development community. This could be included as a part of the Planning Commission and Town Council trip, to expand onsite time available.

Hazel Borys
Project Contact
Managing Principal
(204) 989-0217 direct
(204) 960-0100 cellular
hazel@placemakers.com

5136 Sevilla Ave., NW
Albuquerque NM 87120

www.PlaceMakers.com
www.PlaceShakers.com

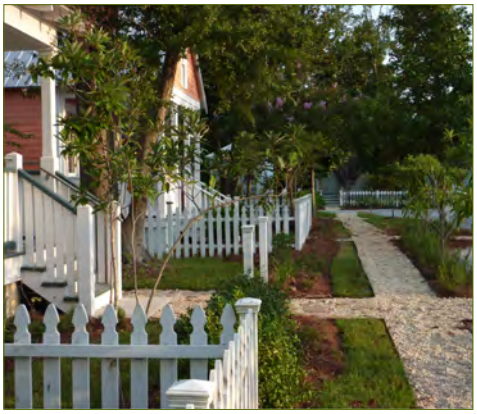
3. Work Program

The Town of Waxhaw will work with the PlaceMakers team to provide:

+ Guidelines and feedback concerning requirements for services, development goals and objectives, meeting schedules, identification of stakeholders. Edit and approve task list and timeline.
+ Governing Documents: Copies of comprehensive plan and any recent updates, current ordinances, subdivision regulations and all ordinances that will govern development within the planning area. Please provide the existing zoning map and all ordinances in digital formats.
+ City mapping in digital format, preferably including the following GIS layers:
    + Parcel lines
    + Existing topography in 5' intervals
    + Building footprints, where available
    + Existing utilities and easements; Proposed utility infrastructure, where applicable
    + Existing drainages, whether permanent or seasonal
    + Wetlands and buffers as applicable
    + Existing public facilities, including all schools, governmental facilities, parks, transit stops, and public parking facilitiesPhotos: Aerial photos of the planning area at the same scale as the survey, digital

PROFILES IN PLACEMAKING

Ocean Springs, Mississippi I Cottage Square I Cottage court adds economic resilience to rural town fabric.

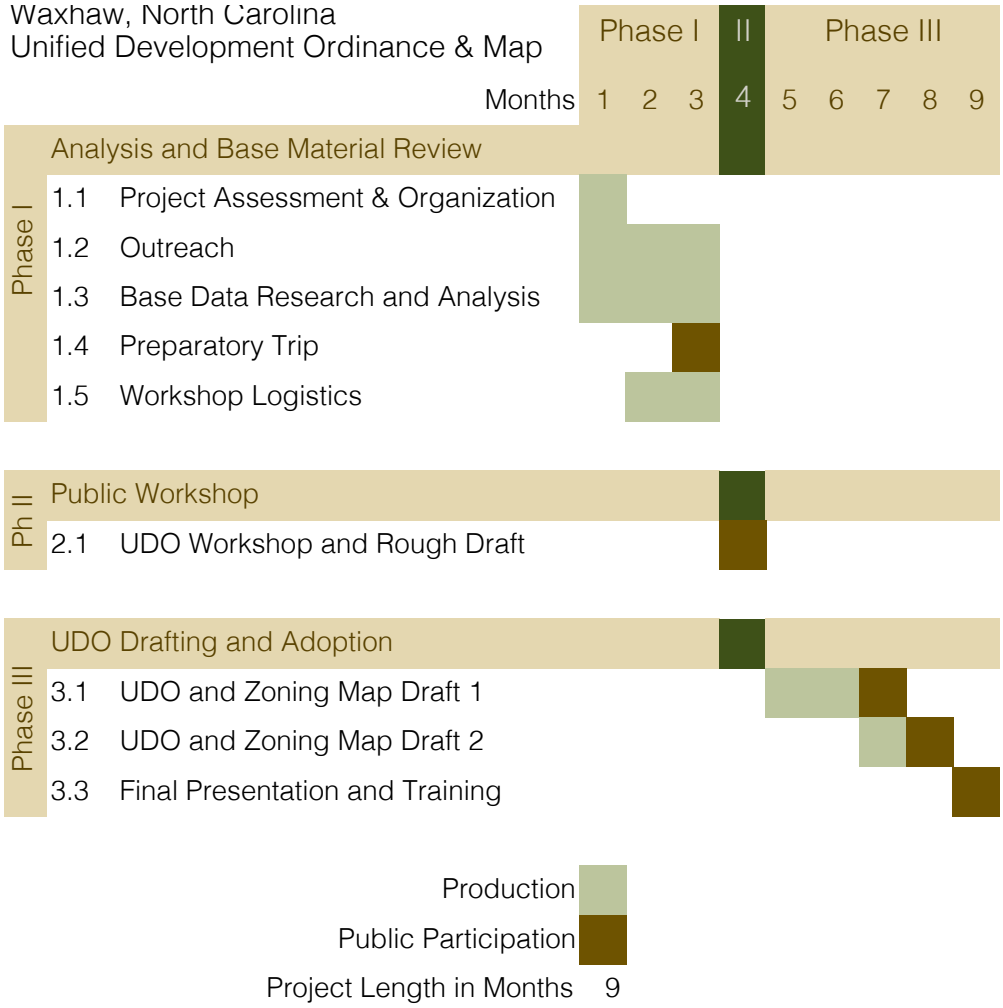


+ Recent Studies: Soil analysis, traffic studies, market studies, if existing. Provision of native or adaptive plant species for the landscape standards.
+ Printing: Governing documents and mapping done by Town (in 24” x 36” or 36” x 48” format). Preliminary mapping coordination will occur with Town staff prior to Phase II.
+ GIS Workstation: Town GIS Specialist to work with the PlaceMakers during Phase II, if available
+ Consultant is obligated to inform the Town as soon as possible if the above information, once received, is adequate for the preparation and successful facilitation of the charrette and, alternatively, if additional information is required
+ Examine all reports, specifications, analyses, proposals, reviews and other documents presented by the PlaceMakers Team
+ Provide Workshop Venues: 1) 1,000 square feet of studio space, 2) stakeholder meeting space to accommodate 30 people, and 3) public meeting space to accommodate 100 people; all with audio/visual equipment and technical support, tables, and chairs
+ Printing services during the workshop
+ Equipment access and use during the charrette, including scanner, copier, post-script compatible printer, access to offsite plotter, IT support, high-speed Internet access. Equipment shall provide color 11 x 17 output.

PROFILES IN PLACEMAKING: The Waters in Pike Road, Alabama: Master plan and form-based code

4. Timeframe Flow Chart

Waxhaw, North Carolina
Unified Development Ordinance & Map



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5136 Sevilla Ave., NW
Albuquerque NM 87120
(505) 975-3258
www.placemakers.com
susan@placemakers.com

Project Principal
Lead Code Writer
173 hours

"Susan has simply been fantastic, is a consummate professional, has a tireless work ethic, is very patient. So, on behalf of the citizens, the tens of thousands of future citizens who will live in your sustainable planned developments over the next 100 years, I just want to say thank you."

~Andy Blake, City Manager, City of Ranson, on the HUD / DOT / EPA Sustainable Communities Initiative

Susan **Henderson**

Susan is an architect and city planner who has served as principal on numerous county and municipal projects as well as development projects. She manages multi-disciplinary teams that provide services for federal grants including HUD, DOT TIGER II, and the EPA. Susan was the architectural team leader for the Mississippi Renewal Forum, leading a team of 30+ architects in the post-Katrina recovery efforts. This resulted in the development of the Katrina Cottage and policy changes with FEMA regarding hardening rather than elevating architecture. Susan's major strengths are cost containment, project management, personnel management, and LEED assessments. She is a contributor to the **SmartCode & Manual** as well as author of the **SmartCode Landscape Module**, and editor of the upcoming **SmartCode v10**. Susan serves as a board member on the **Transect Codes Council**. She is a Founding Principal of PlaceMakers, and **Director of Design**.

CAREER EXPERIENCE

Principal, Director of Coding
PlaceMakers, LLC, 2003 – present

Member
The New Urban Guild, 2003 – present

Associate
Mouzon & Associates Architects, 1996 – 2003

ZONING REFORM AND MASTER PLANNING PROJECT EXPERIENCE

Ranson, West Virginia | Winter Park, Florida | El Paso, Texas | Leland, North Carolina | Bellevue, Kentucky | Fitchburg, Wisconsin | San Marcos, Texas | Revelstoke, British Columbia | Taos, New Mexico | New Orleans, Louisiana | Bay Saint Louis, Mississippi | Lawrence, Kansas | Post Falls, Idaho | New Castle County, Delaware Leander, Texas | Lauderdale Lakes, Florida | County of Hawai'i, Hawai'i | Doña Ana County, New Mexico | Phoenix, Arizona

SELECT DEVELOPMENT PROJECT EXPERIENCE

Aldea de El Paso (TOD) El Paso, Texas | Whitehall (TND), Wilmington, Delaware | Leytham (TND), Omaha, Nebraska | Longleaf, (TND), Tampa, Florida | The Waters (TND), Pike Road, Alabama

ACADEMICS

BS Environmental Design, Bachelor of Architecture, Ball State University
Muncie, Indiana | 1985

AFFILIATIONS

Congress for the New Urbanism | CNU Codes Council | Transect Codes Council
Form-Based Codes Institute Resource Council | American Institute of Architects
U.S. Green Building Council LEED-AP | American Planning Association | Seaside Institute

Hazel Borys
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Winnipeg, MB R3M 0L9
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www.placemakers.com
hazel@placemakers.com

Facilitation / Economics
Code Editor
94 hours

"Hazel is one of those people with the complete professional package: highly organized, fantastic communicator, deep and original thinker. She is a leader that people want to follow. There are few people I would recommend as highly as Hazel and the PlaceMakers team. In fact, I can't think of anyone.

She is a rare find, indeed."

~Charles Marohn
Principal, Strong Towns

Hazel **Borys**

Hazel, Managing Principal of PlaceMakers, is an electrical engineer with an MBA. She is the organizer of the **SmartCode Workshop** and **PlaceMaking@Work** Webinar Education Series, board member of the **Transect Codes Council**, coauthor of the ***Codes Study***, and a **PlaceShakers** blogger. She guides governments through zoning reforms to allow walkable, mixed-use, compact, sustainable places to develop by right. And helps developers build under form-based codes.

CAREER EXPERIENCE

Managing Principal, President
PlaceMakers, LLC, 2004 – present

Mergers & Acquisitions Finance Manager
American Electric Power, 2000 – 2003

Senior Vice President
Smith & Johnson, 1990 – 2000

SELECT MUNICIPAL PROJECT EXPERIENCE

Calgary, Alberta | Woodstock, Georgia | Ranson, West Virginia | Winter Park, Florida | El Paso, Texas | Winnipeg, Manitoba | Bellevue, Kentucky | Fitchburg, Wisconsin | San Marcos, Texas | Revelstoke, British Columbia | Taos, New Mexico Honokohau, Kona, Hawai'i | Fort McClellan, Anniston, Alabama | Hutto, Texas Atlanta, Georgia | Lawrence, Kansas | Post Falls, Idaho | Bay St. Louis, Mississippi Leander, Texas | Lauderdale, Florida | New Castle County, Delaware | County of Hawai'i, Hawai'i | Early County, Georgia | Lauderhill, Florida | Pike Road, Alabama

SELECT DEVELOPMENT PROJECT EXPERIENCE

Whitehall, Wilmington, Delaware | Nine Springs, Fitchburg, Wisconsin | Leytham, Omaha, Nebraska | The Waters, Pike Road, Alabama | Medical Center of the Americas, El Paso, Texas | Rouzan, Baton Rouge, Louisiana | Rose Manor, Salado, Texas | Florence Gardens, Gulfport, Mississippi | Indian Springs and Pelham Square, Orlando, Florida | Lost Rabbit, Jackson, Mississippi | New Town St. Charles, St. Peters, Missouri | Norton Commons, Louisville, Kentucky | Windcrest Village, San Antonio, Texas

ACADEMICS

MBA Marketing & Finance, Fisher College of Business Ohio State University
Columbus, Ohio | 2000

BS Electrical Engineering, Ohio State University
Columbus, Ohio | 1994

AFFILIATIONS

Certified Education Provider for AIA, APA, CNUa | PlaceMaking @ Work | Transect Codes Council Board | Codes Study | SmartCode Workshop

Ben Brown
224 Cedar Hill Drive
Franklin NC 28734
(828) 508-5002

www.placemakers.com
ben@placemakers.com

Communications
Facilitation and Writing
108 hours

Ben **Brown**

A founding member of the **USA TODAY** and **Coastal Living** magazine editorial staffs, Ben brings more than two decades of journalistic experience to community planning advocacy. He was communications director for the precedent-setting 2005 **Mississippi Renewal Forum** after Hurricane Katrina (www.mississippirenewal.com) and for the 2010 **Coastal Recovery Commission of Alabama** (www.crcalabama.org) in the wake of the BP oil spill.

CAREER EXPERIENCE

Principal and Director, Client Public Relations
PlaceMakers, LLC, 2008 – present

Staff Editor
Time, Inc.'s Coastal Living and Southern Living

Reporter/Editor
USA Today, founding staff

Reporter/Columnist
Detroit News

Reporter/Columnist
Tampa Tribune

SELECT MUNICIPAL PROJECT EXPERIENCE

Coastal Recovery Commission of Alabama, Mobile, Alabama | Layton, Utah | Chula Vista, California | Sprinville, Utah | Revelstoke, British Columbia | Decatur, Georgia | Winter Park, Florida | El Paso, Texas | Winnipeg, Manitoba | Bellevue, Kentucky | Fitchburg, Wisconsin | San Marcos, Texas | Mountain Landscapes Initiative, North Carolina | Honokohau, Kona, Hawai'i | Hutto, Texas | Mississippi Renewal Forum, Biloxi, Mississippi

SELECT DEVELOPMENT PROJECT EXPERIENCE

Leytham, Omaha, Nebraska | The Waters, Pike Road, Alabama | Medical Center of the Americas, El Paso, Texas | Rhya, Windcrest, Texas | Florence Gardens, Gulfport, Mississippi | The Reynolds, Atlanta, Georgia | Trussville Springs, Trussville, Alabama | Sanctuary Village, Franklin, North Carolina

ACADEMICS

Certified Charrette Planner; Facilitator, National Charrette Institute
Portland, Oregon | 2005

Master of Arts, English, University of South Florida
Tampa, Florida | 1976

Bachelor of Arts, English, University of South Florida
Tampa, Florida | 1969

Scott **Doyon**

Building on experience from his former career with global advertising powerhouse, J Walter Thompson, Scott is an industry leader in creating insightful **communications strategies** and **distinctive brands** for both municipal and private visioning and development projects. He pioneered the **iCharrette** web platform that's become a PlaceMakers landmark and leads the firm's communications efforts.

PlaceMakers, LLC
516 West College Avenue
Decatur, Georgia 87120
(404) 372-5394

www.placemakers.com
scott@placemakers.com

Communications
Website and Writing
70 hours

CAREER EXPERIENCE

Principal and Director, Client Marketing Services
PlaceMakers, LLC, 2004 – present

Principal
Civitatis Communications and Marketing, 2001 – 2004

Senior Client Director
JWT Specialized Communications, 1990 – 2001

SELECT MUNICIPAL PROJECT EXPERIENCE

Coastal Recovery Commission of Alabama, Mobile, Alabama | Decatur, Georgia Layton, Utah | Chula Vista, California | Springville, Utah | Winter Park, Florida | El Paso, Texas | Winnipeg, Manitoba | Bellevue, Kentucky Fitchburg, Wisconsin | San Marcos, Texas | Revelstoke, British Columbia | Taos, New Mexico | Mountain Landscapes Initiative, North Carolina | Honokohau, Kona, Hawai'i | Hutto, Texas | Lawrence, Kansas | Post Falls, Idaho | Leander, Texas | Early County, Georgia | Mississippi Renewal Forum, Biloxi, Mississippi

SELECT DEVELOPMENT PROJECT EXPERIENCE

Leytham, Omaha, Nebraska | The Waters, Pike Road, Alabama | Medical Center of the Americas, El Paso, Texas | Sipsey Landing, Alabama | Rhya, Windcrest, Texas | Florence Gardens, Gulfport, Mississippi | The Reynolds, Atlanta, Georgia Trussville Springs, Trussville, Alabama

ACADEMICS

Foundations of Leadership, Center for Creative Leadership
Greensboro, North Carolina | 2001

BS Mass Communications / Advertising, Virginia Commonwealth University
Richmond, Virginia | 1988

AFFILIATIONS

Congress for the New Urbanism | Decatur Georgia Planning Commission

Bill Dennis
Architect / Illustrator
Providence, RI

B. DENNIS TOWN DESIGN

Urban Design / Coding
Illustrative Plan
54 hours

Bill **Dennis**

Capturing that sense of place routinely experienced in everyday historic neighborhoods, Bill Dennis is an independent New Urban town planner with multiple decades experience in **mixed-use, master-planned neighborhoods** and the form-based codes that govern them. He's been a trusted PlaceMakers collaborator since the early days of the firm and has brought great value to a wide variety of our projects — from rural visioning in South Georgia, to character preservation in Taos, New Mexico, to traditional neighborhood development outside Omaha, Nebraska.

A principal of his own B. Dennis Town & Building Design, Bill grew up in Dayton and received his Bachelors of Architecture from the University of Cincinnati. He believes that **informed design** of both places and the buildings within them can **enrich** all of the **patterns that encompass our lives**.

SELECT CAREER EXPERIENCE

Principal
B. Dennis Town & Building Design, Providence, RI, 2004-present

Member
New Urban Guild, Miami, FL, 2000-2011

Director of Urban Design
Moule & Polyzoides, Albuquerque, NM, 2000-2004

Senior Design Architect & Planner
Group Mackenzie, 1998-1999

SELECT PROJECT EXPERIENCE

Visalia Southeast Sector Plan: 800 acre city expansion Visalia, California | Early County 2055: 50 Year Plan & SmartCode 327,000 acres Blakely, Georgia | Taylor Crossing: Office park redesign to retail, housing, office Idaho Falls, Idaho | Bay St. Louis Team Leader: Mississippi Renewal, SmartCode Bay St. Louis, Mississippi | Melon Valley: 2,000 acre new town for population of 40,000 St. George, Utah | Pike Road Regulating Plan: SmartCode 75,000 acre municipality Pike Road, Alabama | Damascus/Boring: +4500 acre Portland's urban Growth Boundary Portland, Oregon | Albuquerque Downtown 2010 Plan Albuquerque, New Mexico | Kentlands Gaithersburg, Maryland

ACADEMICS

Guest Critic, Harvard Graduate School of Design | Boston, MA | 1992-3
Instructor, Boston Architecture Center | Boston, Massachusetts | 1987
Professional Degree in Architecture, University of Cincinnati, OH | 1979

AFFILIATIONS

Charter Member of the Congress for New Urbanism, 1993-present

Peter **Swift**

A frequent contributor to PlaceMakers projects, Peter Swift is a **transportation planner, engineer, co-author** of the ITE/CNU's **Designing Walkable Urban Thoroughfares**, and author of the pedestrian-friendly street design portion of the **APA's Planning and Urban Design Standards**. A professional engineer in several states, he's written a number of papers that have been pivotal to **Complete Streets** design, exploring both residential street typology and injury accident frequency. In his work, Peter addresses standards for context-sensitive thoroughfare networks, for both newly designed roadways, and for retrofitting existing ones.

The owner of Swift and Associates, Civil/Traffic Engineers and Town Planners, Peter's been working within civil and traffic engineering and urban design for 40 years, twenty-five in his own business and two years in **Iraq** as the **Director of Town Planning** for a U.S. company.

Peter Swift
Transportation Planner
Bolder, CO

Swift & Associates

Transportation Planning
Street Sections
44 hours

Bruce Donnelly
Code Specialist
Cleveland, OH

Additional Team Member
Working Offsite

Analysis
Base Data Research
22 hours

CAREER EXPERIENCE

President
Swift & Associates

Lecturer
University of Colorado

Director of Town Planning
Mid Atlantic Enterprises, Erbil, Iraq

SELECT EXPERIENCE

Revelstoke SmartCode, British Columbia, Canada | Bawwabat, al Sharq, Saudi Arabia | East Los Angles, TOD, Los Angles, CA | Midlothian, Virginia | Downey, California | Silvertip, Canmore, Alberta, Canada | Sachse, Texas | Baton Rouge, Louisiana | Home Town, North Richland Hills, TX | Abu Dhabi, United Arab Emirates | Palm Jebel Ali, Dubai | Waterfront — Phase III, Dubai | University of Salahadin, Erbil, Iraq | Architectural design prototypes, North Iraq | Analysis and development of a regional medieval urban typology, North Iraq, Ra

ACADEMICS

Civil Engineering, University of Colorado
Denver, Colorado

Egyptian Philology, UWW, Brown University
Providence, RI

Marine Corps Intelligence
Cherry Point, NC

Liberal Arts, Kendall College
Evanston, IL

5. Team Expertise

The following projects are representative of PlaceMakers' experience with master plans of similar scope to Waxhaw. Additional perspectives of PlaceMakers strategies can be found at www.PlaceMakers.com and www.PlaceShakers.com, on the 49 form-based codes we've written across the U.S. and Canada.

FUQUAY-VARINA, NORTH CAROLINA. Form-based Land Development Ordinance available for all areas outside of downtown, which is governed by an existing FBC written before PlaceMakers' involvement. This new LDO covers commercial, mixed-use developments, multi-family parcels, areas of heavier activity, as well as an option in residential areas for suburban retrofit and infill. Charrette process. Public sector client. Vision developed in this Charrette process. In final draft; adoption expected in 2015. Planning/zoning area: 7,083 acres.

Mike Sorensen, Planning Director | msorensen@fuquay-varina.org | 401 Old Honeycutt Rd | Fuquay-Varina, NC 27526
Project: http://fv-ldo.org/

A SUSTAINABLE COMMUNITIES INITIATIVE CLIENT

"You have all been a real pleasure to work with. I knew that writing an entire zoning ordinance and comprehensive plan in eight months could be challenging, but I don't think I really grasped how much work it would entail. Susan has simply been fantastic, is a consummate professional, has a tireless work ethic, is very patient. So, on behalf of the citizens, the tens of thousands of future citizens who will live in your sustainable planned developments over the next 100 years, I just want to say thank you."

—Andy Blake, City Manager, Ranson, West Virginia

DOÑA ANA COUNTY, NEW MEXICO. County-wide Comprehensive Plan and Unified Development Ordinance to enable Smart Growth development patterns as well as provide for a hybrid form-based and use-based zoning code. Public sector client. Vision started separately, and advanced in charrette. Work ongoing in 2013-2015. In final draft; adoption expected in 2015. Planning area: 2.4 million acres.

Daniel J. Hortert, AICP, Community Development Director, Doña Ana County | 845 N. Motel Blvd., Las Cruces, NM 88007, (575) 525-6113 | danielho@donaanacounty.org
Project: http://www.vivadonaanaudc.org/

LELAND, NORTH CAROLINA. The form-based FlexCode was adopted December 2011. Mandatory focus areas coincide with regional master plan, the first of which was adopted in April 2013 as mandatory for the Gateway District. Optional for remainder of Town. Public sector client. Vision started separately, and advanced in this Charrette process. Planning/zoning area: 12,725 acres.

Ashli Barefoot, Senior Planner | 910.371.3390 | abarefoot@townofleland.com | 102 Town Hall Dr. Leland, NC 28451
Code: http://www.townofleland.com/business-planning

6. Description of Comparable Projects

City of Ranson, City of Charles Town, WV **Project Website:** http://ransonrenewed.com/

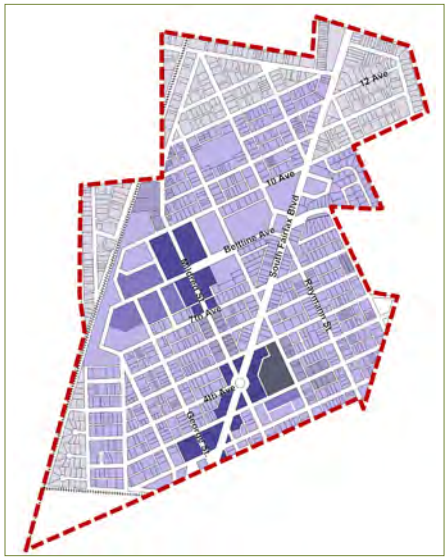
Andy Blake, City Manager, (304) 724-3872, ablake@cityofransonwv.net, 312 S. Mildred St, Ranson, WV 25438

Ranson attracted $6 million in grants and loans from three federal agencies, HUD, EPA and DOT, and contracted with an international team of consultants for Transect-based planning. With the EPA money, the planning partners designed proposals for re-purposing six brownfield sites for new businesses. HUD funding provided resources for a rezoning approach to guide smarter growth and redevelopment. And the DOT grant enabled the redesign of a key corridor into a connective boulevard and plans for the transformation of historic Charles Washington Hall in Charles Town into a TOD commuter center, strengthening links between regional rail and regional residents.

In a series of meetings with community members, the separate planning efforts were interwoven into a comprehensive strategy that includes a **Transect-based comprehensive plan, form-based code, and master plans**. "The whole became greater than the sum of the parts," said Mayor Hamill. PlaceMakers led the HUD portion, as well as providing **facilitation, public engagement, and an interactive website** for all three efforts. Each step in the process was documented on the iCharrette at http://ransonrenewed.com/. Unanimous **adoption** occurred on **April 17, 2012**, and PlaceMakers remains involved in **plan review**.

PlaceMakers completed master plans and Transect zoning maps for five brownfield sites plus almost 1,000 acres of greenfields, along with a mandatory SmartCode for downtown that leverages bus and rail TODs and multiple brownfield redevelopments, like the one pictured below. The firm also updated the comprehensive plan, with a planning and zoning area of 6,700 acres. Form-based code rezoned Old Town plus almost 1,000 acres of greenfield, while keeping the remainder of the city under Euclidean zoning, to make for a hybrid zoning code.

Ranson and Charlestown: Urban Design Standards | Planning Services | Economic and Zoning Tools | Revitalization Action Plans | Enhanced Plan Review



Ranson, West Virginia PlaceMakers-led comprehensive plan, form-based code, and neighborhood plans

6. Description of Comparable Projects

NEW CASTLE COUNTY I New Castle County, Delaware **Code**: http://tinyurl.com/NewCastleDE

Brian DiSabatino, President, EDiS (developer under code), (302) 421-2954, bdisabatino@ediscompany.com

New Castle County, Delaware is exceptional in that as a **2,000 square mile planning area**, the County has the vision of both protecting natural resources and planning for more intense development that will support transit and sustainable community. They elected to implement the SmartCode as a new Hamlets & Villages chapter, Division 40.25.000, within their existing Unified DevelopmentCode to empower the development of denser new towns.

The metrics of the New Castle County SmartCode were based upon the local best-loved places, including Wilmington's Trolley Square, Wawaset Park, Bancroft Parkway and Old New Castle. These areas defined a very clear vision of the character of urbanity in the County from the sub-urban to the most urban. Through collaboration with elected officials, planning staff, neighborhood groups and the development community, the SmartCode was customized to reflect the character of the northern Delaware region.

Working with a private developer, PlaceMakers subsequently designed the 1,555 acre, multi-village Town of Whitehall under the New Castle code. The Town of Whitehall master plan under the New Castle County form-based code is pictured on the next page, and on http://whitehallde.com. This master plan is comprised of eight hamlets and villages ranging from a very rural hamlet to a robust village center. It aggressively protects the natural resources of the streams and wetlands as well as providing local schools, library, police and fire stations, and a regional community college campus. Whitehall was just the sort of place that New Castle County is after — clustering development in new villages in order to preserve rural agricultural heritage.

NEW CASTLE COUNTY'S TOWN OF WHITEHALL, DELAWARE

6. Description of Comparable Projects

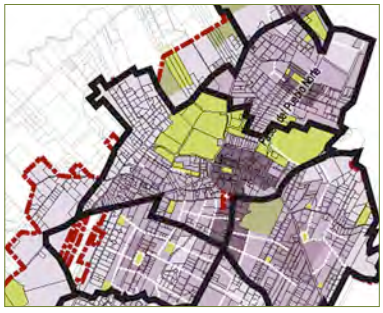
TOWN OF TAOS I Taos, New Mexico **Code:** http://tinyurl.com/taos-smartcode
Contact: Matthew Foster, Former Chief Planner, Town of Taos, progressiveplanning@yahoo.com

With three diverse cultural traditions and over 400 years of built history, the Town of Taos, New Mexico, is home to some of the most distinctive architectural and planning patterns in the United States. The historic district remains a 16th century Spanish village to this day. So, when it became apparent that the blunt force of their conventional zoning ordinance was undermining their historic form, the Town turned to PlaceMakers to customize the form-based SmartCode and accompanying land use master development plan.

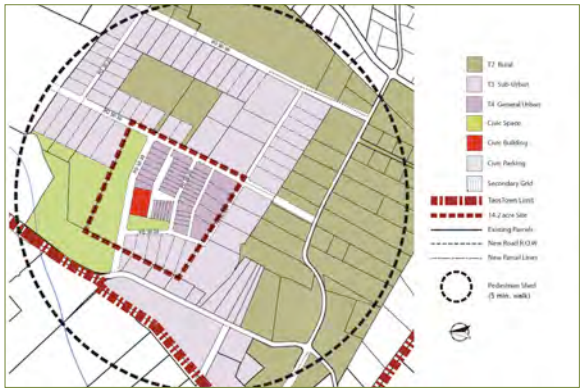
Town Council tasked PlaceMakers with ensuring the multi-cultural community was fully engaged. To assure such citizen involvement, PlaceMakers began the process by providing promotional materials, reaching out to the media, and establishing a project website that addressed education, citizen input, and transparent access to documentation within a single portal.

The process involved consultants in: transportation engineering, to design new streetscapes, bike paths and routes; market analysis, to provide the necesary direction for retail development; architecture, to ensure the preservation of historic character; and illustration, to show the evolutionary effects of a form-based code over time.

This fascinating process of calibrating a national, model form-based code to a place as unique as Taos, is the first example of its kind in the United States. Calibrations included an entire new series of private frontage types, including the first declension of fencing along the rural to urban transect.



Taos, New Mexico: Form-Based Code | Urban Design | Communications



Designed Results under the Town of Taos, New Mexico SmartCode

Following the Taos SmartCode draft, the Chamisa Neighborhood was chosen as the first neighborhood plan. Demonstrating the complexity of neighborhood-scale redevelopment efforts, the site dealt with a historical subdivision, concerned single-family residential, utility rights-of-way, and physical constraints. The final plan (first two images above) was adopted along with the SmartCode in the spring of 2009, and features a central plaza, a variety of unit types, and an overall neighborhood plan that will serve other landowners as redevelopment and new development is undertaken.

6. Description of Comparable Projects

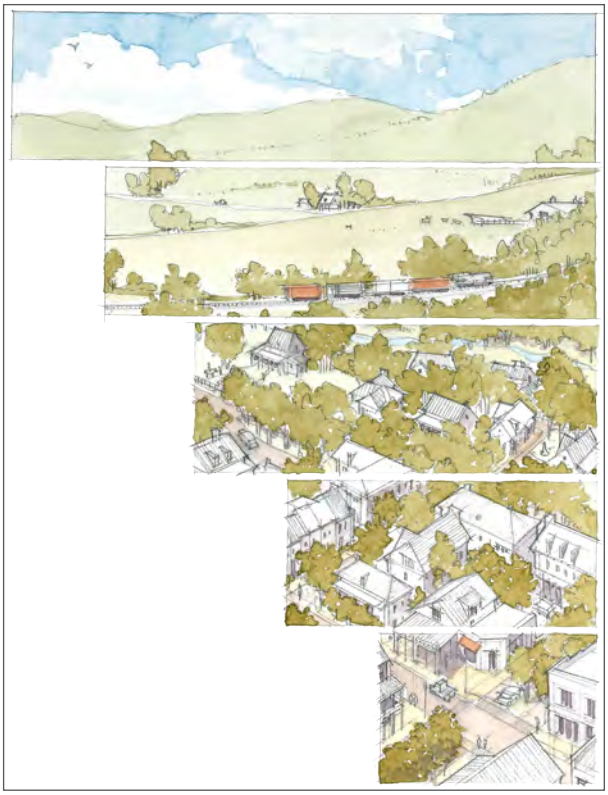
Town of Thompson's Station, Tennessee **Project:** http://www.nextstopts.com/

Joe Cosentini, Town Administrator, (615) 794-4333, jcosentini@thompsons-station.com

The Town of Thompson's Station is looking to seize some opportunities, namely its share of the dramatic growth in population and jobs predicted for the Nashville region. But at the same time, would like to avoid the kinds of sprawling and disconnected development that damages the rural landscape, demands enormous infrastructure investment and requires anybody who wants to get anywhere to endure commuting hassles among the worst in the US.

To do that, the Town is getting its regulatory framework in line with its ambitions. And they're taking that step together as a community in a public charrette process in early 2015, to have a series of meetings with Town staff, landowners and residents to extract community vision and goals, refine the proposed structure of the zoning code and subdivision regulations, engage in urban design required to determine the zoning code metrics, and produce regulating and illustrative master plans in collaboration with interested landowners.

In a series of public workshops, the team presented components of the Thompson's Station planning and development regulation efforts, a first draft of a new zoning map, and recommendations for Comprehensive Plan revisions for comment and public critique. PlaceMakers is providing the existing conditions analysis, zoning framework, communications strategy, community engagement, charrette organization, group facilitation, public presentations, master planning, zoning code writing, and staff training on the final product of the form-based Land Development Ordinance and Zoning Map. Adoption is anticipated in late 2015 for this 9,407 acre planning area.



Thompson's Station: Planning Services I Economic and Zoning Tools I Subdivision Regulations I Comprehensive Plan Update

Thompson's Station, Tennessee PlaceMakers-led charrette, illustrative master plan, form-based code

7. Fee Proposal

Waxhaw Unified Development Ordinance and Zoning Map			PlaceMakers				Subconsultants			Total	Tasks
		Team Member	Susan Henderson	Hazel Borys	Scott Doyon	Ben Brown	Bill Dennis	Peter Swift	Bruce Donnelly		
		Hourly Rate including Overhead	$ 150.00	$ 150.00	$ 150.00	$ 150.00	$ 150.00	$ 150.00	$ 62.50	Sub-total	Sub-total
		Analysis and Base Material Review									
Phase I	1.1	Project Assessment & Organization	3	3						6	$ 900
Phase I	1.2	Outreach		4	16	6				26	$ 3,900
Phase I	1.3	Base Data Research and Analysis							22	22	$ 1,350
Phase I	1.4	Preparatory Trip	12			12				24	$ 3,600
Phase I	1.5	Workshop Logistics		9						9	$ 1,350
		Sub-total Hours	15	16	16	18	-	-	22	87	
		Sub-total Fees	$ 2,250	$ 2,400	$ 2,400	$ 2,700	$ -	$ -	$ 1,350	$ 11,100	$ 11,100
		Days Onsite	1			1					
		Expenses	$ 1,264			$ 819				$ 2,082	
		Total Phase I	$ 3,514	$ 2,400	$ 2,400	$ 3,519	$ -	$ -	$ 1,350	$ 13,182	**13%**
Ph II		Public Workshop									
Ph II	2.1	UDO Workshop and Rough Draft	50	50	50	50	50	40		290	$ 43,500
		Sub-total Hours	50	50	50	50	50	40	-	290	
		Sub-total Fees	$ 7,500	$ 7,500	$ 7,500	$ 7,500	$ 7,500	$ 6,000	$ -	$ 43,500	$ 43,500
		Days Onsite	4	4	4	4	4	4			
		Expenses	$ 1,843	$ 1,843	$ 1,843	$ 1,791	$ 1,843	$ 1,843		$ 11,005	
		Total Phase II	$ 9,343	$ 9,343	$ 9,343	$ 9,291	$ 9,343	$ 7,843	$ -	$ 54,505	**55%**
		UDO Drafting and Adoption									
Ph III	3.1	UDO and Zoning Map Draft 1	40	20	2	2	4	4		72	$ 10,800
Ph III	3.2	UDO and Zoning Map Draft 2	38	8	1	22				69	$ 10,350
Ph III	3.3	Final Presentation and Training	30		1	16				47	$ 7,050
		Sub-total Hours	108	28	4	40	4	4	-	188	
		Sub-total Fees	$ 16,200	$ 4,200	$ 600	$ 6,000	$ 600	$ 600	$ -	$ 28,200	$ 28,200
		Days Onsite	4			4					
		Expenses	$ 2,884			$ 1,160				$ 4,044	
		Total Phase III	$ 19,084	$ 4,200	$ 600	$ 7,160	$ 600	$ 600	$ -	$ 32,244	**32%**
		Total Hours	173	94	70	108	54	44	22	565	
		Sub-total Fees	$ 25,950	$ 14,100	$ 10,500	$ 16,200	$ 8,100	$ 6,600	$ 1,350	$ 82,800	
		Expenses	$ 5,990	$ 1,843	$ 1,843	$ 3,769	$ 1,843	$ 1,843	$ -	$ 17,131	
		TOTAL FEES + EXPENSES	$ 31,940	$ 15,943	$ 12,343	$ 19,969	$ 9,943	$ 8,443	$ 1,350		Total
						PlaceMakers	$ 80,195		Subs	$ 19,736	$ 99,931

Expense Breakdown	Quantity	Each	Total
Mileage	1,510	$ 0.565	$ 853
Airfare	9	$ 616	$ 5,542
Hotel	44	$ 139	$ 6,116
Food	44	$ 65	$ 2,860
Car	8	$ 120	$ 960
Fuel	3	$ 100	$ 300
Supplies	1	$ 500	$ 500
Total Expenses			$ 17,131

Chapter 19A SmartCode

Ranson, West Virginia

ADOPTED: APR17 2012

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ARTICLE 1. GENERAL TO ALL PLANS

1.1 Authority and Applicability

1.1.1 Authority. This chapter is adopted pursuant to authority granted to West Virginia municipalities by W. Va. Code, § 8A-7-1 et seq.

1.1.2 Enactment. For the purposes cited above and for the general purposes of promoting the health, safety, and general welfare of the citizens of the City, the City Council hereby ordains, adopts and enacts this Chapter in its entirety, including text, map, and all regulations, all of which shall be known as the City of Ranson SmartCode. This chapter shall apply to land within the corporate limits of the corporation, as shown on the official zoning map or described by ordinance.

1.1.3 Conflicting ordinances. All ordinances or parts of ordinances in conflict with this chapter or inconsistent with its provisions, including, but not limited to, Chapters 16, 17 and 19 of the City of Ranson Code of Ordinances, are hereby repealed and superseded to the full extent necessary to give this chapter full force and effect.

1.1.4 Severability. Should any provision of this be declared invalid or unconstitutional by a court of competent jurisdiction, such declaration shall not affect this chapter as a whole or any part hereof except that specific provision which was the subject of the declaration.

1.1.5 Construction. The following general rules of construction shall apply to regulations governing the SmartCode Chapter:

a. Numerical metrics shall take precedence over graphic metrics.
b. The diagrams and illustrations within this Chapter, unless specifically noted as advisory, are considered regulatory in nature and are legally binding.
c. The definition of a term in this section shall take precedence over the definition of the same term elsewhere in the City of Ranson Code of Ordinances.

1.1.6 Terms used throughout this Chapter may be defined in Section 1.7 Definitions. Section 1.7 Definitions contains regulatory language that is integral to this Chapter. Those terms not defined in Section 1.7 Definitions shall be accorded their commonly accepted meanings. In the event of conflicts between these definitions and other definitions in the City of Ranson Code of Ordinances, those of this Chapter shall take precedence.

1.1.7 The metrics of the standards and tables are an integral part of this Chapter. However, the diagrams and illustrations that accompany them should be considered guidelines, with the exception of those on Table 11. T2O Standards, Table 12. T3 Standards, Table 13. T4 / T4O Standards, and Table 14. T5L / T5 Standards, which are also legally binding.

1.2 Intent

1.2.1 The intent and purpose of this Chapter is to enable, encourage and qualify the implementation of the region, the community, the block and the building, and the Transect.

1.2.2 The city

a. That the city should retain its natural infrastructure and visual character derived from topography, woodlands, farmlands, and riparian corridors.
b. That growth strategies should encourage Infill and redevelopment in parity with new communities.
c. That development contiguous to urban areas should be structured in the pattern of Town Center (TCT) or Village (VIL) and be integrated with the existing urban pattern.
d. That development non-contiguous to urban areas should be organized in the pattern of Hamlet (HAM) or VIL.

e. That affordable housing should be distributed throughout the region to match job opportunities and to avoid concentrations of poverty.
f. That transportation corridors should be planned and reserved in coordination with land use.
g. That green corridors should be used to define and connect the urbanized areas.
h. That the city should include a framework of transit, pedestrian, and bicycle systems that provide alternatives to the automobile.

1.2.3 The community

a. That neighborhoods and town centers should be compact, pedestrian-oriented and mixed use.
b. That neighborhoods and the town centers should be the preferred pattern of development and that districts specializing in a single use should be the exception.
c. That ordinary activities of daily living should occur within walking distance of most dwellings, allowing independence to those who do not drive.
d. That interconnected networks of thoroughfares should be designed to disperse traffic and reduce the length of automobile trips.
e. That within neighborhoods, a range of housing types and price levels should be provided to accommodate diverse ages and incomes.
f. That appropriate building densities and land uses should be provided within walking distance of transit stops.
g. That civic, institutional, and commercial activity should be embedded in the town center and neighborhoods, not isolated in remote single-use complexes.
h. That schools should be sized and located to enable children to walk or bicycle to them.
i. That a range of open space including parks, squares, and playgrounds should be distributed within neighborhoods and the town center.

1.2.4 The block and the building

a. That buildings and landscaping should contribute to the physical definition of thoroughfares as civic places.
b. That development should adequately accommodate automobiles while respecting the pedestrian and the spatial form of public areas.
c. That architecture and landscape design should grow from local climate, topography, history, and building practice.
d. That buildings should provide their inhabitants with a clear sense of geography and climate through energy efficient methods.
e. That civic buildings and public gathering places should be provided as locations that reinforce community identity.
f. That civic buildings should be distinctive and appropriate to a role more important than the other buildings that constitute the fabric of the city.
g. That the preservation and renewal of historic buildings should be facilitated, to affirm the continuity and evolution of society.

1.2.5 The Transect

a. That communities should provide meaningful choices in living arrangements as manifested by distinct physical environments.
b. That the Transect District descriptions in Section 1.4 Transect Districtscts shall constitute the intent of this Chapter with regard to the general character of each of these environments.

1.3 Rezoning

1.3.1 General Procedures: This section shall be administered in accordance with the procedural requirements of Chapter 16 (Planning and Development) and Chapter 19 (Zoning) of the City of Ranson Code of Ordinances except when those requirements conflict with this section.

1.3.2 Re-zoning Procedures: The procedure for rezoning to SmartCode new community (SC-NC) or Transect Districts (T1, T2, T3, T4, T5) as part of an infill community plan or as standalone Transect Districts (T1, T2, T3, T4, T5) shall be the same as required for any other zoning district change:

1.3.3 Re-zoning Application Requirements

a. Application for rezoning to a SmartCode-New Community District shall include all of the following:
   i. applicant's name, address, interest in affected property. If the applicant is not the owner, a letter from the owner, a signature on the application, or a power of attorney shall be required for the applicant to act as agent with full authority.
   ii. description of property
   iii. map of property to be rezoned including topography at a maximum of 20-foot contour intervals, using USGS topography or other available topographic survey and established or approximated 100-year flood plain limits as shown on the official FEMA flood insurance maps.
   iv. existing property lines with dimensions
   v. adjoining streets and widths
   vi. existing structures
   vii. existing use of land
   viii. current zoning of land and adjoining properties
   ix. proposed points of connection for off-site thoroughfares
   x. proposed maximum density
   xi. proposed community unit type(s)
   xii. proposed designation of transect districts at perimeter (1 lot deep)
   xiii. statement as to how the re-zoning request is consistent with the City of Ranson Comprehensive Plan.

b. Application for rezoning to Transect Districts (T1-5) as part of an infill community plan shall include all of the following:
   i. applicant's name, address, interest in affected property
   ii. description of property
   iii. map of property to be rezoned including topography at a maximum of 20-foot contour intervals, using USGS topography or other available topographic survey and established or approximated 100-year flood plain limits as shown on the official FEMA flood insurance maps.
   iv. existing property lines with dimensions
   v. adjoining streets and widths
   vi. existing structures
   vii. existing use of land
   viii. current zoning of land and adjoining properties
   ix. proposed points of connection for off-site thoroughfares
   x. proposed maximum density
   xi. proposed community unit type(s)

xii. proposed designation of transect districts
xiii. statement as to how the re-zoning request is consistent with the City of Ranson Comprehensive Plan.
xiv. infill land development plan and plat shall be submitted and approved as part of a rezoning application to Transect Districts, pursuant to the requirements of Sec. 4.1.3.

c. Application for rezoning to a Transect District (T1-5) not as part of an infill community plan shall include all of the following:
   i. applicant's name, address, interest in affected property. If applicant is not owner, a letter from the owner, signature on the application, or power of attorney shall be required for applicant to act as agent with full authority.
   ii. description of property
   iii. map of property to be rezoned including topography at a maximum of 20-foot contour intervals, using USGS topography or other available topographic survey and established or approximated 100-year flood plain limits as shown on the official FEMA flood insurance maps.
   iv. existing property lines with dimensions
   v. adjoining streets and widths
   vi. existing structures
   vii. existing use of land
   viii. current zoning of land and adjoining properties
   ix. proposed points of connection for off-site thoroughfares
   x. proposed maximum density
   xi. proposed designation of transect districts
   xii. statement describing how the requested change enhances the surrounding neighborhood structure per Section 1.2 Intent.
   xiii. statement as to how the re-zoning request is consistent with the Comprehensive Plan.

1.3.4 An applicant for a SmartCode-New Community District may elect to combine their rezoning and land development plan processes.

1.3.5 Within the G1, G2 and G3 Sectors, the following acreage requirements are necessary for any rezoning to the SmartCode New Community District (SC-NC):
   a. Hamlet (HAM): 10 – 50 acres per HAM
   b. Village (VIL): No fewer than 40 acres and no more than 200 acres per VIL

1.3.6 Within the G3 Sector, the following acreage requirements are necessary for any rezoning to the SmartCode new community (SC-NC):
   a. Town Center (TCT): No fewer than 40 acres and no more than 200 acres per TCT. Multiple Community Units may be included in one rezoning request, provided each Community Unit meets its acreage requirements.

1.3.7 Once the City Council approves a rezoning under this Chapter, the parcel(s) shall be designated SC-NC (SmartCode –New Community) on the City of Ranson zoning map until approval of the land development plan and plat by the Planning Commission pursuant to 3.1.5 or 4.1.1. Once the Planning Commission approves land development plan and plat, specific transect districts shall replace the SC-NC designation on the official zoning map as part of the Planning Commission's approval of the land development plan and plat, so long as the allocation of zoning districts within the land development plan and plat are consistent with Table 3 of this Chapter and the original rezoning to SC-NC. The parcel(s) shall be

designated T1 (Natural), T2 (Rural), T3 (Sub-Urban), T4 (General Urban), T5 (Urban Center), or SD (Special District) on the City of Ranson zoning map. The replacement of specific transect zones on the official zoning map shall not be considered a zoning amendment pursuant to W. Va. Code 8A-7-8 or 8A-7-9; thus, the placement of transect zones does not require further action of the Planning Commission or City Council. Transect zone placement shall be considered a continuation of the original SC-NC rezoning process that was originally approved by official action of the Planning Commission and City Council pursuant to W. Va. Code 8A-7-8 or 8A-7-9. So long as the applicant complies with Table 3 of this Chapter, the transect districts may be relocated within the parcel(s) administratively and on the official zoning map until final plat approval. Once the final plat is approved pursuant to 5.1.8.g, transect districts may not be relocated and may only be amended through the City's rezoning process. This Chapter shall be the exclusive and mandatory zoning regulation, and its provisions shall be applied in their entirety.

1.4 Transect Districts

1.4.1 Zoning districts under this Chapter are limited to the following Transect District designations:

a. T5 Urban Center (T5): This district consists of higher density mixed-use buildings that accommodate retail, offices, townhouses and apartments. It has a tight network of thoroughfares, with wide sidewalks, regularly spaced street tree planting and buildings set close to the sidewalks
b. T4 General Urban (T4): This district includes a mix of uses but is primarily mixed density residential. It may have a wide range of building types: houses, townhouses, duplexes, small apartment buildings, and live-work units. Setbacks and landscaping are variable. Streets and sidewalks define medium-sized blocks
c. T3 Sub-Urban (T3): This district consists of low density residential areas, with some mix of use, home occupations and outbuildings. Street and yard planting are naturalistic and building setbacks are relatively deep. Blocks may be large and thoroughfare networks irregular.
d. T2 Rural (T2): This district consists of sparsely settled lands in open or cultivated states. These include woodland, agricultural land, and pasture. Typical buildings are farmhouses and agricultural buildings. Roads are rural in character had have no pedestrian facilities. Landscaping is naturally occurring.
e. T1 Natural (T1): This district consists of lands approximating or reverting to a wilderness condition, including lands unsuitable for settlement due to topography, hydrology or vegetation. Public parks may occur, but general development is prohibited.

1.4.2 All or a portion of the property within a designated Transect District may be further subject to the following sub-districts:

a. T-2 Open (T2O): a transition district modifying a T4 frontage on a T2 parcel by permitting agricultural uses at the rear of the lot, and limiting block perimeter requirements.
b. T-4 Open (T4O): a transition district modifying T4 by permitting more commercial uses.
c. T-5 Limited (T5L): a transition district modifying T5 by limiting allowable commercial uses.

1.4.3 The following special districts are designated for uses and configurations that are incompatible with transect districts, but that are consistent with Section 1.2 Intent:

a. Business Special District (SDB): a primarily single-use district for business, manufacturing, warehousing and light industrial uses.

b. Industrial Special District (SDI): a primarily single-use district for heavy industry, manufacturing, and large employment complexes.

1.4.4 All or a portion of the property within a designated transect district may be further subject to the following overlay districts:

a. Transit Overlay District (TOD): an area within a short walking distance of a commuter rail, light rail, or bus rapid-transit station. The TOD modifies transect districts by increasing density and height, and reducing parking requirements.

1.5 Deviations

1.5.1 The City of Ranson hereby creates a Consolidated Review Committee ("CRC") comprised of a member from Planning, Public Works, Police, the City Manager or his/her designee, and a member of the Parks and Recreation Commission, to process administratively applications and plans for proposed projects.

1.5.2 There shall be two types of deviation from the requirements of this Chapter: administrative waivers and variances. Whether a deviation requires an administrative waiver or variance shall be determined by the City Manager or his designee.

1.5.3 Administrative Waivers

a. An administrative waiver is a ruling that would permit a practice that is not consistent with a specific provision of this Chapter but is justified by the provisions of Section 1.2. The City Manager or his designee or his designee shall have the authority to approve or disapprove administratively a request for an administrative waiver.

b. General Standards. No administrative waiver shall be approved unless the City Manager or his designee shall find:

i. The administrative waiver is consistent with Section 1.2 Intent of this Chapter.

ii. The administrative waiver is consistent with the Comprehensive Plan.

iii. The administrative waiver will not materially endanger the public health or safety or constitute a public nuisance if located where proposed and developed according to the plans and information submitted and approved.

iv. The administrative waiver will not substantially injure the value of adjoining property; or that the use is a public necessity.

v. The location and character of the use, if developed according to the plans and information approved, will be in harmony with proximate land uses, and consistent with the purposes of the district.

vi. The administrative waiver will advance the presence of the intended form of the development.

vii. The administrative waiver will advance pedestrian friendly activity.

viii. The administrative waiver will provide for the enhancement, coordination or demarcation between the public and private realm.

c. Specific Standards. Items eligible for administrative waivers have specific standards in the sections of the Chapter related to those items.

d. Any decision regarding a grant or denial of an administrative waiver shall in writing state the reasons for the grant or denial and shall be delivered to the applicant by either first class mail or electronically.

i. Appeals of City Manager or his designee or CRC denials may be made to the Board of Zoning Appeals (BZA).

1.5.4 Variances

a. For variances, the standards and procedures in Chapter 16 Planning and Development

and Chapter 19 Zoning shall apply.

1.5.5 The request for an administrative waiver or variance shall not subject the entire application to public hearing, but only that portion necessary to rule on the specific issue requiring the relief.

1.6 Incentives

1.6.1 To encourage the use of this Chapter, the City Council grants the following incentives, to the extent authorized by state law:

a. Applications under this Chapter shall be processed with priority over those under Chapter 19, including those with earlier filing dates.
b. The City may waive all application fees.
c. The City shall waive the public hearing at site plan approval stage.
d. Land development plan and plat shall not be required to contain as much detailed engineering information as in the sketch plan phases in TND districts.
e. Consolidated rezoning and land development plan and plan hearings may be held simultaneously at option of applicant if required information is provided and compliant the the appropriate article.

1.7 Definitions

This Section provides definitions for terms in this Chapter that are technical in nature or that otherwise may not reflect a common usage of the term.

A-Grid: cumulatively, those thoroughfares that by virtue of their pre-existing pedestrian-supportive qualities, or their future importance to pedestrian connectivity, are held to the highest standards prescribed by this Chapter. See b-grid. (Syn: primary grid / street.)

Access Lane: an outer vehicular lane or lanes of a thoroughfare, designed for slow speeds and separated from inner lanes that carry higher speed traffic by a planted median. (Syn: access lane, service lane)

Accessory Building: a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For example a residential structure may have a detached garage, storage shed, or guest house.

Adjusted Pedestrian Shed: a pedestrian shed that has been adjusted according to Section 3.2, creating the regulatory boundary of a community unit.

Allee: a regularly spaced and aligned row of trees usually planted along a thoroughfare or path.

Arcade: a private frontage conventional for retail use wherein the facade is a colonnade supporting habitable space that abuts the sidewalk, while the facade at sidewalk level is setback, providing a private frontage sidewalk.

Avenue (AV): a thoroughfare of high vehicular capacity and low to moderate speed, acting as a short distance connector between urban centers, and usually equipped with a landscaped median.

B-grid: cumulatively, those thoroughfares that by virtue of their use, location, or absence of pre-existing pedestrian-supportive qualities, may meet a standard lower than that of the a-grid. See a-grid. (Syn: secondary grid / street.)

Bed and breakfast: an owner-occupied lodging type offering 1 to 6 bedrooms, permitted to serve breakfast in the mornings to guests.

Bicycle lane (BL): a dedicated lane for cycling within a moderate-speed vehicular thoroughfare, demarcated by striping.

Bicycle route (BR): a thoroughfare suitable for the shared use of bicycles and automobiles moving at low speeds.

Bicycle trail (BT): a bicycle way running independently of a vehicular thoroughfare.

Block: the aggregate of private lots, passages, rear alleys and rear lanes, circumscribed by thoroughfares.

Block face: the aggregate of all the building facades on one side of a block.

Boulevard (BV): a thoroughfare designed for high vehicular capacity and moderate speed, traversing an urbanized area. Boulevards are usually equipped with access lanes buffering sidewalks and buildings.

Caliper: diameter of a tree trunk. The term "caliper" is used for trees less than twelve (12) inches in diameter. For trees less than four (4) inches in diameter, it its measured six (6) inches from the ground. For trees between four (4) inches and twelve (12) inches in diameter, it is measured twelve (12) inches from the ground.

CRC: Consolidated Review Committee. See Section 1.5.1.

Civic: the term defining not-for-profit organizations dedicated to arts, culture, education, recreation, government, transit, and municipal parking.

Civic building: a building operated by not-for-profit organizations dedicated to arts, culture, education, recreation, government, transit, and municipal parking, or for use approved by the legislative body.

Civic parking reserve: Parking structure or parking lot within a quarter-mile of the site that it serves.
Civic space: an outdoor area permanently dedicated for public use. Civic space types are defined by the combination of certain physical constants including the relationships among their intended use, their size, their landscaping and their enfronting buildings.

Commercial: the term collectively defining workplace, office, retail, and lodging uses.

Common destination: An area of focused community activity, usually defining the approximate center of a pedestrian shed. It may include without limitation one or more of the following: a civic space, a civic building, a commercial center, or a transit station, and may act as the social center of a neighborhood.

Common lawn: a planted private frontage wherein the facade is set back from the frontage line. It is visually continuous with adjacent yards.

Community plan area: an area marked on a land use map activating the use of this Chapter.

Community unit: a regulatory category defining the physical form, density, and extent of a settlement. The three community unit types addressed in this Chapter are HAM, VIL, and TCT. The context for these community units may be infill or greenfield.

Configuration: the form of a building, based on its massing, private frontage, and height.

Consolidated review committee (CRC): Part of the Community Development Department, a CRC is comprised of a representative from each of the various regulatory agencies that have jurisdiction over the permitting of a project. See Section 1.5.1.

Critical Root Zone (CRZ): a circular area centered on the trunk of an existing tree that has a radius of twelve (12) inches to every inch of diameter at breast height (DBH) of the tree.

Developable areas: lands other than those in the O-1 preserved open sector and T1 Natural Transect District.

Diameter at breast height (DBH): a standard method of expressing the diameter or the trunk or bole of a standing (existing) tree measured 4.5 feet [1.3 m] above ground in existing tree surveys.

Drive: a thoroughfare along the boundary between an urbanized and a natural condition, usually along a waterfront, park, or promontory. One side has the urban character of a thoroughfare, with sidewalk

and building, while the other has the qualities of a road or parkway, with naturalistic planting and rural details.

Effective parking: the amount of parking required for mixed use after adjustment by the parking occupancy rate.

Effective turning radius: the measurement of the inside turning radius taking parked cars into account.

Elevation: an exterior wall of a building not along a frontage line. See: facade.

Encroach: to break the plane of a vertical or horizontal regulatory limit with a structural element, so that it extends into a setback, into the public frontage, or above a height limit.

Encroachment: any structural element that breaks the plane of a vertical or horizontal regulatory limit, extending into a setback, into the public frontage, or above a height limit.

Expression line: a line prescribed at a certain level of a building for the major part of the width of a facade, expressed by a variation in material or by a limited projection such as a molding or continuous balcony. (Syn: transition line.)

Facade: the exterior wall of a building that is set along a frontage line. See elevation.

Flag lot: A parcel having the configuration of an extended flag and pole. The pole represents the width of the principal building and side setbacks and the rear of the lot is located to the rear of another lot fronting a main street. Flag lots only providing egress to a parcel behind are prohibited. The lot must be wide enough to accommodate the principal building at the frontage line.

Forecourt: a private frontage wherein a portion of the facade is close to the frontage line and the central portion is set back.

Frontage: the area between a building facade and the vehicular lanes, inclusive of its built and planted components. Frontage is divided into private frontage and public frontage.

Frontage buildout: the percentage of the lot width that is occupied by the building facade at the front setback.

Frontage line: a lot line bordering a public frontage. Facades facing frontage lines define the public realm and are therefore more regulated than the elevations facing other lot lines.

Gallery: a private frontage conventional for retail use wherein the facade is aligned close to the frontage line with an attached cantilevered shed or lightweight colonnade overlapping the sidewalk.

Green: a civic space type for unstructured recreation, spatially defined by landscaping rather than building frontages.

Greenfield: an area that consists of open or wooded land or farmland that has not been previously developed.

Growth sector: one of four sectors where development is permitted by right in this Chapter, three for new communities and one for infill.

Hamlet (HAM): a community unit type structured by a short or standard pedestrian shed oriented toward a common destination such as a general store, meeting hall, schoolhouse, and / or church. A hamlet takes the form of a small settlement standing free in the countryside. (Syn: conservation land development, cluster) (Regional example: Hillsboro, VA)

Highway: a rural and suburban thoroughfare of high vehicular speed and capacity. This type is allocated to the more rural Transect Districts (T-1, T-2, and T-3).

Infill: *noun* - new development on land that had been previously developed, including most greyfield and brownfield sites and cleared land within urbanized areas. *verb*- to develop such areas.

Infill VIL: a community unit type within an urbanized, greyfield, or brownfield area based on a standard

pedestrian shed and consisting of T-3, T-4, and/or T-5 Districts. (Var: neighborhood.)

Inn: a lodging type, offering 7 to 12 bedrooms, permitted to serve breakfast in the mornings to guests.

Land development: the development of one or more lots, tracts or parcels of land by any means and for any purpose, but does not include easements, rights-of-way or construction of private roads for extraction, harvesting or transporting of natural resources.

Land development plan and plat: a zoning map or set of maps that shows the Transect Districts, civic zones, special districts if any, and special requirements if any, of areas subject to, or potentially subject to, regulation by this Chapter.

Landscape area: the area of a lot or parcel exclusive of building footprints, driveway and walkway pavements, and other impervious hardscape areas, and inclusive of ponds, pools and water features.

Layer: a range of depth of a lot within which certain elements are permitted.

Lightwell: A private frontage type that is a below-grade entrance or recess designed to allow light into basements. (Syn: light court.)

Liner building: a building specifically designed to mask a parking lot or a parking structure from a frontage.

Live-work: a mixed use unit consisting of a commercial and residential use.The commercial use may be anywhere in the unit. (Syn.: flexhouse.)

Lodging: premises available for daily and weekly renting of bedrooms.

Lot coverage: the percentage of a lot that is covered by buildings and other roofed structures.

Main civic space: the primary outdoor gathering place for a community.The main civic space is often, but not always, associated with an important civic building.

Manufacturing: premises available for the creation, assemblage and/or repair of artifacts, using table-mounted electrical machinery or artisanal equipment, and including their retail sale.

Meeting hall: a building available for gatherings, including conferences.

Mixed use: multiple uses within the same building through superimposition or adjacency, or in multiple buildings by adjacency, or at a proximity determined by warrant.

Neighborhood Multipurpose Field: a civic space type for structured recreation and stormwater management. It may be spatially defined by landscaping rather than building frontages.

Net site area: all developable land within a site including thoroughfares but excluding land allocated as civic districts and/or T1 and/or T2.

Office: premises available for the transaction of general business but excluding retail, artisanal and manufacturing uses.

Old Town: As delineated on official zoning map.

Open space: land intended to remain undeveloped; it may be for civic space.

Outbuilding: an accessory building, usually located toward the rear of the same lot as a principal building.

Park: a civic space type that is a natural preserve available for unstructured recreation.

Passage (PS): a pedestrian connector, open or roofed, that passes between buildings to provide shortcuts through long blocks and connect rear parking areas to frontages.

Path (PT): a pedestrian way traversing a park or rural area, with landscape matching the contiguous open space, ideally connecting directly with the urban sidewalk network.

Pedestrian shed: An area that is centered on a common destination. Its size is related to average

walking distances for the applicable community unit type. Pedestrian sheds are applied to structure communities. See standard, long, or linear pedestrian shed. (Syn: walkshed, walkable catchment.)

Linear pedestrian shed: A pedestrian shed that is elongated along an important mixed use corridor such as a main street. A linear pedestrian shed extends approximately 1/4 mile from each side of the corridor for the length of its mixed use portion. The resulting area is shaped like a lozenge. It may be used to structure a VIL, TCT, infill VIL, or infill TCT. (Syn: elongated pedestrian shed.)

Long pedestrian shed: a pedestrian shed that is an average 1/2 mile radius or 2640 feet, used when a transit stop (bus or rail) is present or proposed as the common destination. A long pedestrian shed represents approximately a ten-minute walk at a leisurely pace. It is applied to structure a TOD overlay.

Short pedestrian shed: a pedestrian shed that is an average 1/6 mile radius or 792 feet, about the distance of a three-minute walk at a leisurely pace. Short pedestrian sheds are common for hamlets or areas with steep topography.

Standard pedestrian shed: a pedestrian shed that is an average 1/4 mile radius or 1320 feet, about the distance of a five-minute walk at a leisurely pace.

Planter: the element of the public frontage which accommodates street trees, whether continuous or individual.

Plat: a map of the land development.

Playground: an open space designed and equipped for the recreation of children.

Plaza: a civic space type designed for civic purposes and commercial activities in the more urban Transect Districts, generally paved and spatially defined by building frontages.

Principal entrance: the main point of access for pedestrians into a building.

Principal frontage: On corner lots, the private frontage designated to bear the address and principal entrance to the building, and the measure of minimum lot width. Prescriptions for the parking layers pertain only to the principal frontage. Prescriptions for the first layer pertain to both frontages of a corner lot. See frontage.

Private frontage: the privately held layer between the frontage line and the principal building facade.

Public frontage: the area between the curb of the vehicular lanes and the frontage line.

Rear alley (RA): a vehicular way located to the rear of lots providing access to service areas, parking, and outbuildings and containing utility easements. Rear alleys should be paved from building face to building face, with drainage by inverted crown at the center or with roll curbs at the edges.

Rear lane (RL): a vehicular way located to the rear of lots providing access to service areas, parking, and outbuildings and containing utility easements. Rear lanes may be paved lightly to driveway standards. The streetscape consists of gravel or landscaped edges, has no raised curb, and is drained by percolation.

Residential: characterizing premises available for long-term human dwelling.

Retail: characterizing premises available for the sale of merchandise and food service.

Retail frontage: Frontage designated on a land development plan and plat that requires or recommends the provision of a shopfront, encouraging the ground level to be available for retail use. See special requirements.

Road (RD): a local, rural and suburban thoroughfare of low-to-moderate vehicular speed and capacity. This type is allocated to the more rural Transect Districts (T1-T3).

Sector: a neutral term for a geographic area. In this Chapter there are six specific Sectors for regional

planning that establish the legal boundaries for open space and development.

Secondary frontage: on corner lots, the private frontage that is not the principal frontage. As it affects the public realm, its first layer is regulated.

Parking occupancy rate: an accounting for parking spaces that are available to more than one use.

Shopfront: a private frontage conventional for retail use, with substantial glazing, wherein the facade is aligned close to the frontage line with the building entrance at sidewalk grade.

Special district (SD): an area that, by its intrinsic use, placement, or configuration, cannot or should not conform to one or more of the normative community unit types or Transect Districts specified by this Chapter. Special districts may be mapped and regulated at the regional scale and/or the community scale.

Special district 1 (SDB): Business: A special-use area comprised of primarily light industrial, office and warehouse buildings with some corner stores. This area allows large parking lots generally buffered from main streets. Pedestrian walkability and automobile access are balanced on a per-street basis. Open space is generally absent from this area.

Special district 2 (SDI): Industrial: A special-use area comprised of primarily heavy industrial, large federal employment complexes and warehouse buildings. This area allows truck bays, loading docks, large parking lots and rail access. Pedestrian walkability and automobile access are balanced on a per-street basis. Open space is generally absent from this area.

Special requirements: provisions for a-grid, b-grid, required retail frontage, required gallery frontage, required arcade frontage, build-to lines, coordinated frontages, terminated vistas, or cross block passages on a regulating plan or other map for those provisions.

Square: a civic space type designed for unstructured recreation and civic purposes, spatially defined by building frontages and consisting of paths, lawns and trees, formally disposed.

Stoop: a private frontage wherein the facade is aligned close to the frontage line with the first story elevated from the sidewalk for privacy, with an exterior stair and landing at the entrance.

Story: a habitable level within a building, excluding an attic or raised basement. *See Table 19.*

Street (ST): a local urban thoroughfare of low speed and capacity. *See Table 5 and Table 7*.

Streetscreen: a freestanding wall built along the frontage line, or coplanar with the facade. It may mask a parking lot from the thoroughfare, provide privacy to a side yard, and/or strengthen the spatial definition of the public realm. (Syn: streetwall.)

Substantial modification: alteration to a building that is valued at more than 50% of the replacement cost of the entire building, if new.

Swale: a low or slightly depressed natural area for drainage.

Target speed: is the velocity at which a thoroughfare tends to be driven without the constraints of signage or enforcement. There are four ranges of speed: very low: (below 20 MPH); low: (20-25 MPH); moderate: (25-35 MPH); high: (above 35 MPH). Lane width is determined by desired target speed.

Terminated vista: a location at the axial conclusion of a thoroughfare. A building located at a terminated vista designated on a regulating plan is required or recommended to be designed in response to the axis, and is frequently a vertical element.

Terrace: a private frontage type with a shallow setback and front elevated patio, usually with a low wall at the frontage line. This type buffers residential use from urban sidewalks. Terraces are also suitable for outdoor cafes. See Table 6.

Third Place: a term used in the concept of community building to refer to social surroundings sepa-

rate from the two usual social environments of home and work-place. Criteria for a third place include the following: highly accessible, proximate for many within walking distance, involve regulars, and inexpensive food and drink. Coffee shops and cafes are often used as a neighborhood's third place.

Thoroughfare: a way for use by vehicular and pedestrian traffic and to provide access to lots and open spaces, consisting of vehicular lanes and the public frontage.

TOD: transit oriented development. A TOD is created by an overlay on all or part of a VIL or TCT, or by designation on a regional plan, permitting increased density to support MARC or bus rapid transit.

Town Center (TCT): a community unit type structured by a long or linear pedestrian shed that may be adjoined without buffers by one or several standard pedestrian sheds, each with the individual Transect District requirements of a TCT. A TCT takees the forms of a high-density mixed use center connected to other centers by transit. (Syn: downtown, regional center.) (Regional example: historic Charles Town, WV)

Townhouse: a single-family dwelling that shares a party wall with another of the same type and occupies the full frontage line. See rearyard building. (Syn: rowhouse)

Transect: a cross-section of the environment showing a range of different habitats. The rural-urban Transect of the human environment used in this Chapter is divided into six Transect Districts. These districts describe the physical form and character of a place, according to the density and intensity of its land use and urbanism.

Transect District: One of several areas on a zoning map regulated by this Chapter. Transect Districts are administratively similar to the land use districts in Chapter 19, except that in addition to the usual building use, density, height, and setback requirements, other elements of the intended habitat are integrated, including those of the private lot and building and public frontage.

Tree: a woody plant with an expected mature height of thirty feet or more and possessing either a single trunk or multiple trunks. Trees are often described in subcategories by common attributes and the uses they serve, such as:

i. Ornamental Tree: an Understory Tree planted primarily for its aesthetic value and as a landscape focal point, as opposed to its use of shading or screening even though it may perform all three uses.

ii. Shade Tree: typically a deciduous Tree - rarely an evergreen - planted primarily for its overhead canopy and the quality of the shade it provides.

iii. Small/ Medium/ Large (Tree or Shrub): a means of categorizing Trees or Shrubs based upon their canopy or spread at maturity assuming proper maintenance and normal growing conditions and which serves the purpose of allowing for their proper spacing in landscape plans.

iv. Street Tree: a Tree planted that is an element of a Thoroughfare assembly.

v. Specimen Tree: a particularly impressive or unusual example of a species due to its size, shade, age, or any other trait that epitomizes the character of the species.

vi. Understory Tree: a small to medium sized Tree with an expected mature height less than thirty feet and a canopy which may or may not offer a sufficient clearance height for pedestrians beneath.

Turning radius: the curved edge of a thoroughfare at an intersection, measured at the inside edge of the vehicular tracking. The smaller the turning radius, the smaller the pedestrian crossing distance and the more slowly the vehicle is forced to make the turn.

Village (VIL): a community unit type structured by a standard pedestrian shed oriented toward a common destination consisting of a mixed use center or corridor, and in the form of a medium-sized

settlement near a transportation route. (Syn: traditional neighborhood development. neighborhood.) (Regional example: historic Shepherdstown, WV)

Work-Live: a mixed use unit consisting of a commercial and residential use. It typically has a substantial commercial component that may accommodate employees and walk-in trade. The unit is intended to use predominantly as work space with incidental residential accommodations that meet basic habitability requirements. See live-work.

Yield: characterizing a thoroughfare that has two-way traffic but only one effective travel lane because of parked cars, necessitating slow movement and driver negotiation. Also, characterizing parking on such a thoroughfare.

ARTICLE 2. SECTOR PLANS

2.1 Instructions

2.1.1 For lands within the City of Ranson that have been mapped pursuant to the Comprehensive Plan's Sector Plan Map, Figure 2.3, that prescribes the community types permitted in each Growth Sector, Article 3 and Article 4 regulate the standards of those community types.

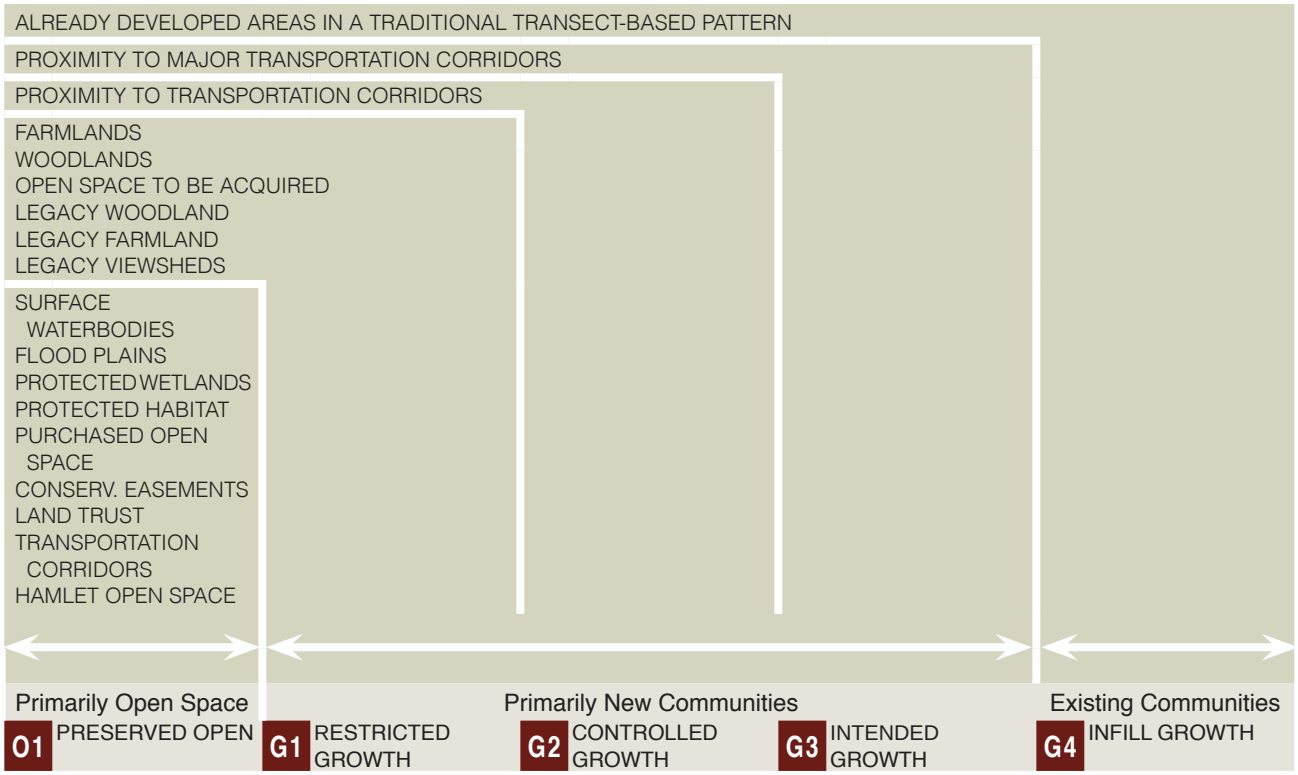
2.1.2 Urban Growth Boundary Sectors are defined in the Comprehensive Plan, Section 2.3.3, and are comprised of open space, growth, and existing suburban areas. Growth areas are intended for the expansion, evolution, and retrofitting of community units, defined in Article 3 and Article 4, which in turn are comprised of Transect Zones, defined by the elements appropriate to them in Article 5. Suburban Sectors are not eligible for application under this chapter.

Article 2

Sector Plans

TABLE 1. SECTOR ALLOCATION

This table defines the geography, including both natural and infrastructure elements, determining areas that are or are not suitable for development. Specific community units of various intensities are allowable in specific Sectors. The existing Suburban Sector is not described here, as it is not eligible for application under this Chapter.



ARTICLE 3. NEW COMMUNITY PLANS

3.1 Instructions

3.1.1 The provisions of this Chapter shall be utilized upon re-zoning to the SmartCode New Community (SC-NC) District.

3.1.2 New community plans may contain more than one community unit and/or more than one community unit type.

3.1.3 Once the City Council approves rezoning to the SC-NC District, the parcel shall be marked as such on the zoning map of the City of Ranson. Within the SC-NC District, this Chapter shall be the exclusive and mandatory zoning regulation, and its provisions shall be applied in their entirety.

3.1.4 After rezoning is complete, the following approvals will be required:

a. Land development plan and plat. New community land development plan and plat that is submitted in accordance with the provisions of this Chapter, for the appropriate Sector of the Ranson, West Virginia Comprehensive Plan Sector Map, Figure 2.3 shall be approved by the Planning Commission in a public hearing in accordance with W. Va. Code 8A-5 et. seq. This process may be combined with the rezoning process (See 1.3 Rezoning.) at the election of the applicant.
   i. Revisions to the new community plan and plat shall not subject the entire land development plan to review, but only that portion under revision.
   ii. Revisions to the new community plan and plat that do not require a variance may be approved administratively by the CRC pursuant to the standards of this Article and Article 5.
b. Construction drawings. See Sec. 5.1.5.
c. Final plat. Final plats submitted in accordance with the provision of this Chapter shall be approved administratively by the Planning Department. See Sec. 5.1.9.
d. Site plan. Site plans shall be approved by the CRC per the standards and procedures in Sec. 5.1.11.
e. As-built site plans/improvement plans. As-built requirements and procedures shall be per Chapter 16 Planning and Development, Sec. 16-63.

3.1.5 SmartCode new community land development plan and plat applications:

The applicant shall submit to the City seven full sized copies of the plan, an 11 X 17 reduced copy and appropriate fees. Once the new community land development plan and plat is approved, one electronic version shall be provided. Such version shall be changeable, such as CAD, and one electronic version shall be non-changeable, such as a PDF version. These versions shall be available to the city for future computer application. The applicant shall submit a land development plan and plat with the following information provided:

a. Title, scale, date, and approximate north arrow.
b. Name and address of the applicant/owner and professional consultant responsible for preparation of the plan. If the applicant is not owner, a letter from the owner, signature on the application, or power of attorney shall be required for applicant to act as agent with full authority.
c. Existing Conditions Plan:
   i. Existing land conditions and existing topography at a maximum of 20-foot contour intervals, using USGS topography or other available topographic survey and established or approximated 100-year flood plain limits as shown on the official flood

insurance maps.
ii. Soil types from USDA data.
iii. Boundary lines of the property (certified boundary not required at this stage).
iv. Location map at a scale of 1" = 2,000 feet with north arrow
v. Natural features to be preserved and or removed (i.e. floodplains, wetlands, items on the National Register of Historic Places or within designated historic districts, known sinkholes, etc.).
vi. The location and width of each existing easement within the new community land development plan and plat boundaries.
vii. The location, width, and name of each existing improved or unimproved street, easement, or alley within 200 feet of the proposed subdivision.
viii. Existing zoning of all abutting properties

d. Statement as to how the new community land development plan and plat is consistent with the City of Ranson Comprehensive Plan.
e. Proposed Community Plan:
i. Designation of community unit type
ii. Boundaries of community units based on adjusted pedestrian sheds
iii. Total site acreage
iv. Transect district locations with acreages and percentages
v. Block sizes
vi. Thoroughfares: location and designation of thoroughfare types and statement as to how thoroughfares, sidewalks, paths, and passages coordinate with bordering land development.
vii. Civic space types, acreages, percentage and location
viii. Special requirements, if applicable (See Section 3.12.)
ix. Special district locations with acreages and percentage of community unit, if applicable (See Article 6. Special Districts.)
x. Overlay district locations with acreages and percentage of community unit, if applicable (See Section 3.10 Overlay District Standards.)
xi. Any requested administrative waivers or variances

f. Stormwater management:
i. narrative description of stormwater control measures
ii. estimate of total impervious surface

g. Utilities
i. Statement demonstrating availability of utilities (guarantee not required)

h. Environmental resources.
i. Contact department of natural resources regarding presence of rare, threatened or endangered species.

3.2 Sequence of Community Design

3.2.1 The new community regulating plan shall be structured using one or several pedestrian sheds applicable to its community unit type as required in Section 3.3. The pedestrian shed(s) should be located according to existing conditions, such as traffic intersections, adjacent developments, transit stations, and natural features. The site or any community unit within it may be smaller or larger than its pedestrian shed. The pedestrian shed is a planning guide, not a regulatory unit.

3.2.2 The pedestrian sheds shall be adjusted to include land falling between or outside them.

Community unit boundaries are determined by the boundaries of these adjusted pedestrian sheds and/or partial pedestrian sheds, herein after known as the community unit.

3.2.3 Areas of Transect District subdistricts (Section 3.4) shall be allocated within the boundaries of each community unit as appropriate to its type. See Section 3.3 and Table 3.

3.2.4 Civic districts shall be assigned according to Section 3.8.

3.2.5 Special districts, if any, shall be assigned according to Section 3.9 and Article 6. Special Districts.

3.2.6 The thoroughfare network shall be laid out according to Section 7.2.

3.2.7 Density shall be calculated according to Section 3.11 and Section 5.8.

3.2.8 Upon submittal, the CRC shall review and may administratively approve only if the submittal is consistent with the provisions of this Chapter. Any amendment(s) or alteration(s) to the approved new community regulating plan shall require a new submittal, but only of the portions altered. Any deviation that is not eligible for an administrative waiver shall only be approved by variance.

3.3 Community Unit Types

3.3.1 Hamlet (HAM)

a. A hamlet (HAM) shall be permitted within the G-1 Restricted Growth Sector and the G-2 Controlled Growth Sector.
b. A HAM shall be structured by one short or one standard pedestrian shed and shall consist of no fewer than 10 acres and no more than 50 acres, as allocated on Table 2.
c. A HAM shall include Transect Districts as allocated on Table 3. A minimum of 50% of the community unit shall be permanently allocated to a T1 Natural District and/or T2 Rural District.
    i. A HAM shall maintain 660 feet of open space between the developed area and another community unit's developed area.

3.3.2 Village (VIL)

a. A village (VIL) shall be permitted within the G-2 Controlled Growth Sector, the G-3 Intended Growth Sector, and the G-4 Infill Growth Sector.
b. A VIL within the G-2 Controlled Growth Sector and the G-3 Intended Growth Sector shall be structured by one short, standard or linear pedestrian shed and shall be no fewer than 40 acres and no more than 200 acres, as allocated on Table 2. See Article 4 for infill VIL acreage requirements in the G-4 Infill Growth Sector.
c. A VIL shall include Transect Districts as allocated on Table 3.
d. Larger sites shall be designed and developed as multiple communities, each subject to the individual Transect District requirements for its type as allocated on Table 3. The simultaneous planning of adjacent parcels is encouraged.

3.3.3 Town Center (TCT)

a. A town center (TCT) shall be permitted within the the G-3 Intended Growth Sector, and the G-4 Infill Growth Sector.
b. A TCT within the G-3 Intended Growth Sector shall be structured by one standard, linear or long pedestrian shed that may be adjoined without buffers by one or several standard pedestrian sheds, and shall be no fewer than 80 acres and no more than 200 acres, as allocated on Table 2. See Article 4 for infill TCT acreage requirements in the G-4 Infill Growth Sector.
c. A TCT shall include Transect Districts as allocated on Table 3.
d. Larger sites shall be designed and developed as multiple communities, each subject

to the individual Transect District requirements for its type as allocated on Table 3. The simultaneous planning of adjacent parcels is encouraged.

3.3.4 Transit Oriented Development (TOD)

a. Any VIL or TCT on an existing or projected MARC or bus rapid transit (BRT) network may be redesignated in whole or in part as TOD and permitted the reduced parking allowance in Section 5.8.3.d.

3.4 Transect Districts

3.4.1 Transect District subdistricts shall be assigned and mapped on each new community regulating plan according to the percentages allocated on Table 3.

3.4.2 A Transect District subdistrict may include any of the elements indicated for its Transect District number throughout this Chapter, in accordance with 1.4 Transect Districts and the metric standards summarized in Table 11, Table 12, Table 13, and Table 14.

3.4.3 Where practical, existing single-family residential dwellings shall be abutted by the T3 or T4 Transect Districts.

3.5 Thoroughfare and Block Standards

3.5.1 The thoroughfare network shall be structured to define blocks with the following maximum block face lengths and / or block perimeters:

a. T2O 660 ft. max / perimeter n/a
b. T3 2640 ft. perimeter
c. T4 2400 ft. perimeter
d. T5 2000 ft. perimeter
e. SDB 2800 ft. perimeter
f. SDI n/a

3.5.2 Block faces exceeding 500 feet shall be subdivided with a pedestrian passage that is a minimum of 8 ft. in width.

3.5.3 Block face length and block perimeter may be adjust by up to 10% by administrative waiver to accommodate specific site conditions. The City Manager or his designee must make the following written findings:

a. The waiver is consistent with the provisions of Section 1.2 Intent.
b. The waiver is consistent with the Comprehensive Plan.
c. The reduced thoroughfare network will not materially endanger the public health or safety.
d. The lack of connectivity will not substantially injure the value of adjoining property; or that the use is a public necessity.
e. The location and character of the block structure, if developed according to the plans and information approved, will be in harmony with proximate land uses, and consistent with the purposes of the district.
f. The block size will not adversely affect the district by impeding walkability.

3.5.4 Blocks adjacent to undeveloped land, areas unsuitable for development, or pre-existing incomplete blocks may be exempt from block face length and block perimeter requirements by administrative waiver. The City Manager or his designee must make the following written findings:

a. The waiver is consistent with the provisions of Section 1.2 Intent.
b. The waiver is consistent with the Comprehensive Plan.
c. The reduced thoroughfare network will not materially endanger the public health or safety.

d. The lack of connectivity will not substantially injure the value of adjoining property; or that the use is a public necessity.
e. The location and character of the block structure, if developed according to the plans and information approved, will be in harmony with proximate land uses, and consistent with the purposes of the district.
f. The block size will not adversely affect the district by impeding walkability.

3.5.5 Rear access for all lots within T4 shall be provided by a rear lane or rear alley.

3.5.6 Rear access for all lots within T5 shall be provided by a rear alley.

3.5.7 Blocks with more than one Transect District designation shall use the highest designation to determine the block face length, block perimeter, and rear alley or rear lane requirements.

3.6 Lot Structure

3.6.1 Within each Transect District, lots shall be platted to have the following minimum and maximum lot widths, measured at the frontage line:

a. T2O 40 ft. min. - 96 ft. max. Flag lots shall be permitted. (See Table 16.)
b. T3 50 ft. min. - 150 ft. max.
c. T4 20 ft. min. - 96 ft. max.
d. T5 20 ft. min. - 150 ft. max.
e. SDB 60 ft. min. - 300 ft. max.
f. SDB n/a
   i. T4 and T5 minimums may be further reduced to 16 feet if required parking is provided on site.

3.6.2 Each lot shall have a primary frontage abutting a vehicular thoroughfare, except that 20% of the lots by number within the SC-NC District may have their primary frontage along a publicly accessible passage, or sidewalk. Rear alleys and rear lanes do not count as thoroughfares. If a lot fronts an alley or lane, such as a mews unit, it counts toward the 20% maximum.

3.6.3 Lots may have multiple frontages as illustrated on Table 17. One frontage line is designated the principal frontage line and all remaining frontage lines are designated as secondary.

3.6.4 Lots shall be divided into regulatory layers to control development as illustrated on Table 15 and Table 16. Prescriptions for the second, third and fourth layers pertain only to the primary frontage. Prescriptions for the first layer pertain to both frontages.

3.7 Thoroughfare Network Standards

3.7.1 Community plans must map a thoroughfare network plan including the following:

a. The major thoroughfare network
b. Modifications to existing thoroughfares, if any

3.7.2 Community plans must include a major thoroughfare network in accordance with Section 7.2.

3.7.3 The thoroughfare network plan must map thoroughfares and intersections according to Section 3.5.1.

a. Thoroughfare assemblies must be included for each mapped thoroughfare in accordance with Article 7.
b. All thoroughfares must connect to other thoroughfares, forming a network.
c. New thoroughfares must connect wherever possible to thoroughfares outside of the community unit.
d. The thoroughfares must be configured as a network creating blocks sized according to Section 3.5.1.

e. The thoroughfares may deviate from the network outside of the pedestrian shed, to accommodate natural conditions, and to intersect major thoroughfares.

3.8 Civic Standards

3.8.1 Civic Space (CS) Specific to T3 - T5 Districts

a. Each pedestrian shed shall assign 5 - 20% of its urbanized area to civic space
b. Civic spaces shall be designed as described and distributed throughout Transect District as permitted in Table 31.
c. Those portions of the T1 Natural District that occur within a development parcel shall be part of the civic space allocation and shall conform to the civic space types specified in Table 31.a and/or e.
d. Each pedestrian shed shall contain at least one main civic space. The main civic space shall be within 800 feet of the geographic center of each pedestrian shed, unless topographic conditions, pre-existing thoroughfare alignments or other circumstances prevent such location. A main civic space shall conform to one of the types specified in Table 31.b, Table 31.c, or Table 31.d.
e. Playgrounds shall be located so that every residential lot is within 1,000 feet of an entry to a playground, as measured along sidewalks that do not cross major thoroughfares. A playground shall conform to Table 31.e.
f. Each civic space of type Table 31.c or Table 31.d shall have a minimum of 50% of its perimeter enfronting a Thoroughfare.
g. Small spaces that do not conform to the specific standards of Table 31 are permitted and encouraged although they shall not contribute to the requirements of Subsection 3.8.1.a.
h. The CRC must make the following written findings for the waiver:
    i. The administrative waiver is consistent with the provisions of Section 1.2 Intent.
    ii. The administrative waiver is consistent with the Comprehensive Plan.
    iii. The use will not materially endanger the public health or safety or constitute a public nuisance if located where proposed and developed according to the plans and information submitted and approved.
    iv. The use will not substantially injure the value of adjoining property; or that the use is a public necessity.
    v. The location and character of the use, if developed according to the plans and information approved, will be in harmony with proximate land uses, and consistent with the purposes of the district.
    vi. The location and character of the park design is such that it will not impede walkability and will provide adequate connections to nearby thoroughfares.

3.8.2 Civic Buildings (CB) Specific to T2O - T5 Districts

a. The owner shall covenant to construct a meeting hall or a third place in proximity to the main civic space of each pedestrian shed. Its corresponding public frontage shall be equipped with a shelter and bench for a transit stop, if on an existing or planned transit route.
b. Civic building sites shall not occupy more than 20% of the area of each pedestrian shed.

3.9 Special Districts

3.9.1 Special district designations shall be assigned to areas that, by their intrinsic size, use, or configuration, cannot conform to the requirements of any Transect District or combination of

districts.

3.9.2 Conditions of development for special districts not included in Article 6 shall be recommended by the Planning Commission and approved by the City Council and recorded in Article 6.

3.9.3 Special districts may be mapped within or outside of community units. If mapped within a community unit, a special district shall not exceed 20% of the net site area.

3.9.4 Special Districts shall conform to the heights, setbacks, and lot requirements of Table 22 and Table 23.

3.9.5 Business Special District (SDB)

a. SDB is available for industrial and manufacturing areas and areas with a high concentration of office and light industrial uses.
b. SDB is limited to a maximum size of 120 acres.
c. SDB may be mapped within or adjacent to village and town center community units.
d. SDB should be mapped within or adjacent to a TOD overlay district.

3.9.6 Industrial Special District (SDI)

a. SDI is available for industrial and manufacturing areas.
b. SDI is limited to a maximum size of 200 acres.
c. SDI may be mapped adjacent to village and town center community units.
d. SDI should be mapped within or adjacent to a TOD overlay district.

3.10 Overlay District Standards

3.10.1 TOD Overlay District

a. A new community regulating plan must designate any land located within a half-mile of an existing or proposed MARC station as a TOD.
b. TODs modify required parking as provided in Article 5.

3.11 Density Calculations

3.11.1 All areas of the community unit that are not part of the T1 District shall be considered cumulatively the net site area. The net site area shall be allocated to the various Transect Districts according to the parameters specified in Table 3.

3.11.2 Density shall be expressed in terms of housing units per acre.

3.11.3 The housing and other uses for each Transect District shall be determined at the building scale as limited by Table 7, Table 9 and Section 5.8.

3.11.4 While parking, lot size, building heights, set backs and lot coverage legally determine buildable density, this Chapter is calibrated to permit the following:

a. T2: .1 DUA
b. T3: 7 DUA
c. T4: 24 DUA
d. T5: 39 DUA

3.12 Special Requirements

3.12.1 A new community regulating plan may designate any of the following special requirements. These restrictions are applied to the plat by the applicant.

a. A differentiation of the thoroughfares as a-grid and b-grid. Frontages located more than 100' from the a-grid can be more readily considered for administrative waivers. The frontages assigned to the b-grid shall not exceed 30% of the total length of frontages within a pedestrian shed. B-grid signage may utilize the Chapter 19, Sec. 19 - 15 Signs. See Subsections 5.6.5 and 5.9.1.

b. Mandatory and/or recommended retail frontage, requiring or advising that a building provide a shopfront at sidewalk level along the entire length of its private frontage. The shopfront shall be no less than 50% glazed in clear glass as generally described in Table 6 and specified in Subsection 5.6.6.
c. Mandatory and/or recommended gallery frontage, requiring or advising that a building provide a permanent cover over the sidewalk, either cantilevered or supported by columns. The gallery frontage designation may be combined with a retail frontage designation.
d. Mandatory and/or recommended porch front, requiring or advising that a porch be included in the private frontage.
e. Build-to line, requiring the placement of the building facade along the line.
f. Coordinated frontage, requiring that the public frontage (Table 27) and private frontage (Table 6) be coordinated as a single, coherent landscape and paving design.
g. Mandatory and/or recommended terminated vista locations, requiring or advising that the building be provided with architectural articulation of a type and character that responds visually to the location.
h. Cross block passages, requiring that a minimum 8-foot-wide pedestrian access be reserved between buildings.

TABLE 2. COMMUNITY UNIT CONFIGURATION

COMMUNITY UNIT	INTENSITY	LOCATION	ACREAGE	PEDESTRIAN SHED (TABLE 4)			
				SHP	SP	LSP	LP
HAMLET	LOW	Hamlets should be situated along or adjacent to regional thoroughfares, and are usually standing free in the landscape.	10 – 30	■			
	MEDIUM		20 – 50	■	■		
VILLAGE	LOW	Villages should be situated adjacent to towns and cities, along or adjacent to existing regional thoroughfares and transit that will support a medium intensity, mixed-use neighborhood.	40 – 100	■	■		
	MEDIUM		80 – 160		■	■	
	HIGH		100 – 200		■	■	
TOWN CENTER	LOW	Town centers should be situated adjacent to existing neighborhoods, along or adjacent to existing regional thoroughfares and transit that will support an urban, mixed-use center.	40 – 100		■		
	MEDIUM		80 – 160		■	■	■
	HIGH		100 – 200			■	■

TABLE 3. SC-NC PLAN REQUIREMENTS

TYPE	INTENSITY	TRANSECT DISTRICT PERCENTAGES								CIVIC SPACE PERCENTAGE	BLOCK SIZE
		T1	T2		T3	T4		T5			
			R	O	R	L	O	L	O		
HAMLET	LOW	30% max.	10 – 30%	10 – 20%	10 – 30%	10 – 20%	10% max.	n/a	n/a	5 – 20%	8 – 10 acres
	MEDIUM	20% max.	10 – 20%	20 – 30%	10 – 20%	10 – 30%	10% max.	n/a	n/a	5 – 20%	8 – 10 acres
VILLAGE	LOW		50% max.	50% max. *	10 – 30%	30 – 60%	10% max.	10% max.	20% max.	5 – 20%	5 – 8 acres
	MEDIUM		40% max.		30% max.	30 – 60%	20% max.	20% max.	5 – 25%	5 – 20%	5 – 8 acres
	HIGH		30% max.		20% max.	40 – 60%	30% max.	30% max.	10 – 30%	5 – 20%	5 – 8 acres
TOWN CENTER	LOW				30% max.	40 – 60%	20% max.	20% max.	10 – 20%	5 – 20%	5 acres max.
	MEDIUM				20% max.	40 – 60%	30% max.	30% max.	20 – 30%	5 – 20%	5 acres max.
	HIGH				10% max.	30 – 40%	20% max.	40% max.	30 – 40%	5 – 20%	5 acres max.

* Note: Village T2-O maximums may contribute to T4 minimums.

TABLE 4. PEDESTRIAN SHEDS

TYPE	DIMENSIONS	REQUIREMENTS	ILLUSTRATION
SHORT PEDESTRIAN SHED (SHP)	Walking Distance: 3 minutes Radius: 792 feet Acreage: 30 - 60 acres		
STANDARD PEDESTRIAN SHED (SP)	Walking Distance: 5 minutes Radius: 1,320 feet Acreage: 120 - 200 acres	The pedestrian shed must be oriented around one or more existing or planned common destinations.	
LINEAR PEDESTRIAN SHED (LSP)	Walking Distance: 5 minutes Radius: 1,320 feet Acreage: 200 acres Avg. distance between centers: .25 miles	The pedestrian shed must be oriented around a transportation hub, mixed-use corridor, or mixed-use center.	
LONG PEDESTRIAN SHED (LP)	Walking Distance: 10 minutes Radius: 2,640 feet Acreage: 200 - 500 acres	The pedestrian shed must be oriented around a trans-portation hub, mixed-use corridor, or mixed-use center	

ARTICLE 4. INFILL COMMUNITY PLANS

4.1 Instructions

4.1.1 For infill community plans in the G-4 Infill Growth Sector, infill land development plans and plats shall be submitted and approved as part of a rezoning application to Transect Districts.

4.1.2 Infill land development plans and plats shall plan, at minimum, an area the size of the pedestrian shed commensurate with its community unit type as listed in Section 4.2, and may regulate an area as small as 5 acres. The Planning Commission shall recommend and City Council shall approve the community unit type based on existing conditions and intended evolution in the plan area.

4.1.3 SmartCode infill community land development plan and plat applications:
The applicant, either the landowner or the Department of Community Development, shall submit to the City seven full sized copies of the plan, an 11 X 17 reduced copy and appropriate fees. Once the land development plan and plat is approved, one electronic version shall be provided. Such version shall be changeable, such as CAD, and one electronic version shall be non-changeable, such as a PDF version. These versions shall be available to the city for future computer application. The applicant shall submit a land development plan and plat with the following information provided:

a. Title, scale, date, and approximate north arrow.
b. Name and address of the applicant/owner and professional consultant responsible for preparation of the plan. If the applicant is not owner, a letter from the owner, signature on the application, or power of attorney shall be required for applicant to act as agent with full authority.
c. Existing conditions plan with:
   i. Existing land conditions and existing topography at a maximum of 20-foot contour intervals, using USGS topography or other available topographic survey and established or approximated 100-year flood plain limits as shown on the official flood insurance maps.
   ii. Soil types from USDA data.
   iii. Boundary lines of the property (certified boundary not required at this stage).
   iv. Location map at a scale of 1" = 2,000 feet with north arrow
   v. Natural features to be preserved and or removed (i.e. floodplains, wetlands, items on the National Register of Historic Places or within designated historic districts, known sinkholes, etc.).
   vi. The location and width of each existing easement within the land development plan and plat boundaries.
   vii. The location, width, and name of each existing improved or unimproved street, easement, or alley within 200 feet of the proposed subdivision.
   viii. Existing zoning of all abutting properties
d. Statement as to how the infill community land development plan and plat is consistent with the City of Ranson Comprehensive Plan.
e. Proposed community plan:
   i. Designation of community unit type
   ii. Boundaries of community units based on adjusted pedestrian sheds
   iii. Total site acreage
   iv. Transect District locations with acreages and percentages

v. Block sizes
vi. Thoroughfares: location and designation of thoroughfare types and statement as to how thoroughfares, sidewalks, paths, and passages coordinate with bordering land development.
vii. Civic space types, acreages, percentage and location
viii. Special requirements, if applicable (See Section 4.6.)
ix. Special district locations with acreages and percentage of community unit, if applicable (See Article 6.)
x. Overlay district locations with acreages and percentage of community unit, if applicable (See Section 4.3 Overlay District Standards.)
xi. Any requested administrative waivers or variances

f. Stormwater management:
   i. narrative description of stormwater control measures
   ii. estimate of total impervious surface
g. Utilities
   i. Statement demonstrating availability of utilities (guarantee not required)
h. Environmental resources.
   i. Contact department of natural resources regarding presence of rare, threatened or endangered species.

4.1.4 After rezoning to Transect Districts is complete, the following approvals will be required when subdivision is necessary:
a. Construction drawings. See Sec. 5.1.5.
b. Final plat. Final plats submitted in accordance with the provision of this Chapter shall be approved administratively by the Planning Department. See Sec. 5.1.9.
c. Site plan. Site plans shall be approved by the Planning Department per the standards and procedures in Sec. 5.1.11.
d. Approvals from all affected state and federal agencies.

4.1.5 After rezoning to Transect Districts is complete, the following approvals will be required when subdivision is not necessary:
a. Site plan. Site plans for development in Transect Districts shall be approved by the Planning Department per the standards and procedures in Sec. 5.1.11.

4.2 Community Unit Types

4.2.1 Infill regulating plans shall encompass one or more of the following community unit types. The allocation percentages of Table 3 shall be only used as guidelines.

4.2.2 Infill VIL (Village)
a. An infill VIL should be assigned to neighborhood areas that are predominantly residential with one or more mixed use corridors or centers. An infill VIL shall be planned as at least one complete standard pedestrian shed, oriented around one or more existing or planned common destinations.
b. The edges of an infill VIL should blend into adjacent neighborhoods and/or Old Town without buffers.

4.2.3 Infill TCT (Town Center)
a. An infill TCT should be assigned to neighborhood areas that are predominantly mixed use centers. An infill TCT shall be planned one complete standard pedestrian shed, oriented around one or more existing or planned mixed use corridors or centers.
b. The edges of an infill TCT should blend into adjacent neighborhoods and/or Old Town

without buffers.

4.3 Overlay District Standards

4.3.1 Infill TOD Overlay District

a. Any infill VIL on an existing or projected MARC line or bus route may be redesignated in whole or in part as TOD and permitted the higher density represented by the effective parking allowance in Section 5.8.3.d.

4.4 Transect Districts

4.4.1 A Transect District shall include elements indicated by Article 1, Article 3, and Article 5.

4.5 Special Districts

4.5.1 Areas that, by their intrinsic size, use, or configuration, cannot conform to the requirements of any Transect District or combination of districts shall be designated as special districts as indicated by Article 6.

4.6 Special Requirements

4.6.1 An infill community regulating plan may designate any of the following special requirements. These may be placed on the plat by the applicant, whether the landowner or the Department of Community Development:

a. A differentiation of the thoroughfares as a-grid and b-grid. Frontages located more than 100' from the a-grid can be more readily considered for administrative waivers. The frontages assigned to the b-grid shall not exceed 30% of the total length of frontages within a pedestrian shed. B-grid signage may utilize the Chapter 19, Sec. 19 - 15 Signs. See Subsections 5.6.5 and 5.9.1.
b. Mandatory and/or recommended retail frontage, requiring or advising that a building provide a shopfront at sidewalk level along the entire length of its private frontage. The shopfront shall be no less than 50% glazed in clear glass as generally described in Table 6 and specified in Article 5.
c. Mandatory and/or recommended gallery frontage, requiring or advising that a building provide a permanent cover over the sidewalk, either cantilevered or supported by columns. The gallery frontage designation may be combined with a retail frontage designation.
d. Mandatory and/or recommended porch front, requiring or advising that a porch be included in the private frontage.
e. Build-to line, requiring the placement of the building facade along the line.
f. Coordinated frontage, requiring that the public frontage (Table 27) and private frontage (Table 6) be coordinated as a single, coherent landscape and paving design.
g. Mandatory and/or recommended terminated vista locations, requiring or advising that the building be provided with architectural articulation of a type and character that responds visually to the location.
h. Cross block passages, requiring that a minimum 8 foot wide pedestrian access be reserved between buildings.

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ARTICLE 5. SUBDIVISION & ZONING

5.1 Instructions

5.1.1 Lot and building plan approval for areas subject to a regulating plan approved under either Article 3 or Article 4 shall be subject to the following requirements of this Chapter.

5.1.2 Site and buildings plans submitted under this Chapter require administrative approval by the CRC.

5.1.3 The following Sections of Chapter 16 shall continue to be applicable to issues not covered by this Chapter except where in conflict with Sec. 1.2 Intent:

a. Article II, Division 7, Sec. 16-97;
b. Article II, Division 7, Sections 16-100 through 16-103;
c. Article II, Division 8;
d. Article II, Division 10;
e. Article II, Division 11;
f. Article II, Division 14, Sections 16-170 through 16-176;
g. Article II, Division 14, Sec. 16-178, except where in conflict with Sec. 5.10 and Sec. 7.5 of this Chapter;
h. Article II, Division 14, Sec. 16-179, except where in conflict with Sec. 5.13 of this Chapter.

5.1.4 Site and building plans submitted under this Chapter shall show the following, in compliance with the standards described in this Chapter:

5.1.5 For construction drawings submittal. Following approval of the land development plan and plat, the applicant shall have prepared, by a professional engineer registered in the state, engineering plans consisting of complete construction drawings and specifications of all easements, streets, traffic control devices, street lights, sanitary sewers, stormwater facilities, water system facilities, sidewalks, parks and recreation facilities and other improvements required by this section. Such drawings shall have a maximum border size of 22 X 34 and shall be printed on 24 X 36 paper maximum.

a. Each sheet shall be certified (sealed) by a professional engineer. Engineering plans shall be submitted to the City Manager or his designee for review and approval as a ministerial permit.
b. All improvements required pursuant to these regulations shall be constructed in accordance with the design standards and plan requirements of this article or as required by the city, and where applicable, the requirements and authorization of the appropriate state agency, utility company, or local franchisee.
c. Any modification of the construction drawings by the applicant or his engineer, either prior to or during construction, shall be transmitted to the city in writing.
d. Once the construction drawings have been approved, the applicant shall also submit an 11 X 17 of the approved set of construction drawings.
e. In addition, an electronic version in formats acceptable to the city shall be submitted. At a minimum, one electronic version shall be changeable, such as CAD, and one electronic version shall be non-changeable, such as PDF. These versions shall be available to the city for future computer application.
f. The construction drawings shall be accompanied by the following information:
    i. Site conditions:
        (1) Vicinity map at a scale of 2,000 feet or more to the inch indicating the location of the property with respect to surrounding property and streets. The map shall

show all streets and property within 1,000 feet of the applicant's property. All property held by the applicant in the area shall be identified.

(2) All existing pertinent features, either natural or man-made, that may influence the design of the subdivision, such as watercourses, tree groves, specimen trees (excluding those within tree groves to remain), swamps, rock outcrops, sink holes, floodplain, wetlands, outstanding natural topographic features, power transmission towers, archeological, scenic or historic areas, cemeteries, graveyards, grave sites, existing buildings, sewers, water mains, culverts, overhead utility lines, fire hydrants, and location of underground utilities within or adjacent to the tract.

(3) Existing topography with two-foot contour intervals. Where the terrain is rugged and hilly and where existing grades are ten percent or more, five-foot contour intervals will be permitted over the area where such grades exist. Contour lines shall be shown 50 feet beyond the subdivision boundary.

(4) Location, widths, and names of all existing improved or unimproved streets or alleys on or within 100 feet of the subdivision. Recorded, but unimproved streets shall be shown with dashed lines.

(5) Location of individual wells and/or septic tanks.

(6) Zoning classification and existing use of the tract and adjoining properties

ii. Proposed Subdivision:

(1) A drawing on a scale no smaller than 1" = 100 feet of proposed layout land use and lots.

(2) Subdivision boundaries with bearings and distances; all existing easements, railroad and utility right-of-way(s) and the purpose for which such easements and right-of-way(s) have been established; parks and other public open spaces.

(3) Copies of proposed deed restrictions.

(4) Tabulation of acreages:

(a) Total site acreage

(b) Civic space acreages, percentage and location

(c) Total number of each lots in each Transect District with acreages and %

(d) Number of units per lot and total units

(5) The layout of all proposed and existing lots with lot widths for each lot and building setback lines.

(6) Estimated Lot coverage

(7) The locations, width, and names of proposed streets and alleys (street names shall not be duplicated, and they shall be reviewed and approved in accordance with Ranson Municipal Code 17-5).

(8) The approximate location, dimensions, and area of all property proposed to be dedicated or temporarily reserved for public use, or to be reserved by a blanket covenant for use of all property owners in the subdivision and conditions for such conveyance or reservation. Also, the location, dimensions, area, and purposes of any proposed easements.

(9) Proposed public improvements, streets, or other major improvements planned by public bodies for future construction on or near the proposed subdivision or any street, park, or public improvement shown on the city comprehensive development plan.

(10) A written offer of dedication of streets and other public property.

iii. Site Improvements
(1) Street tree and Public Landscaping Plan
(2) Public Lighting Plan
(3) Utilities
(a) Proposed provision of water supply, fire protection, disposal of sanitary waste, storm drainage, stormwater management, sidewalks, landscaping, and other improvements.
(b) The location of existing and proposed gas lines, electric and telephone lines/poles, and streetlights.
(4) Grading Plan
(5) Sediment & Erosion Control Plan
(6) Sequence of Construction

iv. Locations of existing survey monuments and proposed new monuments.

v. Map information:
(1) The date and substance of any revisions to the plat are to be indicated in a revision block that is drawn on the plat.
(2) The name and address of the owner(s) of the land to be subdivided, and the name and address of the applicant, if other than the owner.
(3) A letter from the owner, signed application, or power of attorney, if different from the applicant, authorizing the applicant to act as agent with full authority.
(4) The name, address, and seal of the registered engineer/land surveyor licensed in the state and responsible for the preparation of the plat.
(5) The proposed name of the subdivision, which shall not duplicate or closely approximate the name of any other subdivision in the city.
(6) North arrow, scale, and date.
(7) The final plat shall provide a space for an owner's (individual or corporation) certification and dedication, surveyor's certificate, and planning commission approval.

vi. Intergovernmental agency review. As part of construction drawing review, the applicant shall obtain approvals from all affected outside agencies. Copies of approval letters and plans shall be provided to the city as part of this approval.

5.1.6 Site plan review in Old Town shall only be required for any development which:
a. contains more than one use;
b. is located on a parcel or parcels equal to or greater than one acre;
c. contains more than two units; or
d. contains commercial and/or industrial development.

5.1.7 After approval of construction drawings, applicant is eligible to begin site improvements. Site improvements must be constructed prior to final plat approval per Chapter 16 Sec. 16-81 or performance bond shall be provided per Sec. 16-80 through 16-87.

5.1.8 Final plat procedure. Upon approval of the construction drawings, the applicant may submit the following general requirements for official submittal of a final plan:
a. The proposed plat for recordation shall be prepared by a professional land surveyor properly licensed in the state, and shall conform to this article and to the approved land development plan and plat and construction drawings. The final plat shall incorporate all modifications and revisions specified by the planning commission and shall comply with the provisions of this article. Significant deviations from the approved land develop-

ment plan and plat or construction drawings, as determined by the City Manager or his designee, shall require additional review and approval and may include referral to the planning commission and possible public hearing at the planning commission's discretion. Minor modifications may be permitted.

b. The final plat may be submitted in sections/phases with each covering part of the entire proposed subdivision.
c. The final plat and supporting documents shall comply with the provisions of this article. The applicant shall provide copies of all required state and federal approvals including, but not limited to:
    i. State department of health;
    ii. State department of environmental protection for erosion and sediment control and groundwater protection and underground injection control plan;
    iii. Potomac Edison;
    iv. Jefferson County office of emergency services—Addressing office for 911 road naming;
    v. Corps of engineers; and
    vi. Others as required by the City Manager or his designee or the planning commission.
d. For purposes of this section, a final plat shall be deemed to be officially submitted on the date it (1) submitted, satisfies the requirements of this article, and (2) meets all terms and conditions of the planning commission, land development plan and plat, construction drawings; and (3) and is technically approved by all affected departments and agencies.
e. The City Manager or his designee may review but shall not forward to the planning commission any final plat that is not officially submitted.
f. The city shall retain the original and one electronic version of the approved plans and final plat in accordance with this article.
g. Approval of final plat. The applicant shall use the following procedure for submission of the final plat that is eligible for administrative approval:
    i. The application for final plat approval shall be on forms provided by the city and accompanied by the required fee.
    ii. The application shall be accompanied by the appropriate number of copies and supporting documents as needed by the city. No final plat shall be deemed officially submitted until such time all conditions of 5.1.6.d have been met.
    iii. The planning commission shall ministerially approve the final plat if the CRC determines that all conditions of this section have been satisfied. Applications deemed not officially submitted shall not be forwarded to the Planning Commission. Determinations that applications are incomplete may be appealed to the planning commission. If the application is deemed complete by the planning commission, the commission shall approve the plat. If the planning commission deems the application is incomplete, the applicant shall furnish the requested information prior to commission approval. The timeframe in 6.1.6.h. shall not start until the application is deemed complete.
h. Planning commission approval of final plat.
    i. The planning commission shall review the final plat based on the conditions approved under the land development plan and plat and construction drawings and within 45 days of receipt of an officially submitted final plat, the commission shall

approve, the plat if the application is deemed complete. The Commission may modify the plan or deny the plat only if the application is deemed incomplete.

i. The final plat.
   i. The final plat shall contain the action of the planning commission including conditions of approval, and date of approval.
   ii. The owner shall sign the reproducible of the approved final plat stating that the requirements of the planning commission have been understood and shall be followed.
   iii. If approved by the planning commission, the chairman of the planning commission shall affix his signature and date upon the original Mylar plat, and the owner shall file the final plat in the office of the clerk of Jefferson County.
   iv. A signed final plat shall be valid for recordation for one year from the date of signature. Any plat that has not been recorded within such time shall be re-reviewed under any terms and conditions as approved by the planning commission.

5.1.9 Final plat requirements.

a. The final plat shall be legibly drawn in black or blue waterproof ink on permanent material acceptable to the recording authority of the state. The scale shall not be smaller than one inch equals 100 feet or alternate scale approved by the agent, and the size of the sheet shall be 18 X 24 inches, including a one and one-half inch margin for binding along the left edge. When more than one sheet is required, an index sheet of the same size shall be submitted showing the entire subdivision drawn to scale. The applicant shall submit, and the agent shall retain, the number of copies and all supporting documentation as required by the city.
b. In addition, an electronic version of the approved plat, in formats acceptable to the city shall be submitted. At a minimum, one electronic version shall be changeable, such as CAD, and one electronic version shall be nonchangeable, such as PDF.
c. The final plat shall show the following information:
   i. All plat boundaries and property corners shall be tied to state plane coordinates or shall be referenced to magnetic meridian and show declination from true north. If the subdivision is referenced to the state grid, northing and easting coordinates shall be shown for a minimum of three key boundary points. The plat will specify the average grid factor and distances shall be reflected as geodetic.
   ii. The name of the subdivision and plat title for referencing when recording and the tax map and parcel number of all the tracts shown on the plat.
   iii. The district or municipality, county and state where the property is located.
   iv. Names and location of adjoining subdivisions, and location and ownership names of adjoining unsubdivided property. The plat shall also contain the current conveyance reference for the adjoining landowners.
   v. The evidence of possession on or near the property line.
   vi. General location information shall be provided. The name and location of any creeks, rivers or roads near the property and any other identifiable landmarks shall be noted to locate the property. The plat shall include ties to significant objects.
   vii. Grid North or true and magnetic north reference with declination, graphic scale and date of survey;
   viii. The name, address, and signature of the current or past owner of the land and the current conveyance reference for the subject property;
   ix. The name, address, signature, and seal of the registered professional land surveyor

responsible for the preparation of the plat, and certification that the plat represents a survey made by that individual and that all monuments shown thereon actually exist, and that their location, size, and material are correctly shown.

x. The measured length and direction of each boundary line by distance, bearing and quadrant. All boundary lines shall be described with lengths to hundredths of a foot and bearings to the nearest second. The error of closure for the property boundary shall be 1:15,000. The plat shall identify any overlaps and gaps in record lines, former deed or grant lines as needed.

xi. Description of the accurate location and material of all permanent existing and proposed reference monuments including whether the monuments were found or set. All corners shall contain markers.

xii. The exact layout for the subdivision, including:

(1) All plats shall include a metes and bounds description with a description of the point of beginning street and alley lines, their names, bearings, angles of intersections and widths, including widths along the line of any obliquely intersecting street.

(2) A table that indicates the dimensions of all arcs, radii, points of curvature, and tangent bearings.

(3) All easements or right-of-ways, when provided for or owned by public utilities, with the limitation of the easement right definitely stated on the final plat.

(4) All lot lines shall be described with lengths to hundredths of a foot and bearings to the nearest second.

(5) The area, acreage or square footage of the subdivided and residue property.

xiii. The subdivision name, lots, blocks and plat reference. Lots numbered in numerical order, and blocks lettered in alphabetical order throughout the entire subdivision. Numbers will be contained within circles, and block letters will be contained within squares.

xiv. Building setback lines, the minimum as fixed by the zoning ordinance, any other set back lines established by public authority, and those stipulated in any deed restrictions.

xv. Accurate outlines of any areas to be reserved for common use in the subdivision or for general public use with purposes indicated thereon. The outlined area of the property and all significant parts, including streets, alleys and non-lotted areas of a subdivision shall be identified;

xvi. A written offer of dedication of streets and other public property.

xvii. The final plat shall provide a space for an owner's (individual or corporation) certification and dedication, surveyor's certificate, and planning commission approval.

xviii. The final plat shall be accompanied by:

(1) Copies of protective covenants in form for recording, including covenants governing the maintenance of undedicated public spaces or reservations.

(2) Such other certificates, affidavits, endorsements, or agreements as may be required by the planning commission.

(3) Certification that the applicant has installed all improvements in accord with the conditions of the planning commission and this article or a surety bond has been submitted and accepted and public improvement agreement to complete the construction of all improvements required by this article and in

accordance with division 6.

(4) Approvals from all affected state and federal agencies.

5.1.10 After recording the final plat, the applicant is eligible to sell lots.

5.1.11 Final site plan application:

a. The site plan shall be submitted by the applicant on durable paper and shall be clear and legible. The scale shall be no smaller than one inch equals 100 feet and the minimum size of sheets shall be 24 X 36 inches, including a one and one-half inch margin for binding along the left edge. When more than one sheet is required, an index sheet of the same size shall be submitted showing the entire development drawn to scale. The site plan shall be labeled "SITE PLAN".

b. The site plan shall show the following information:

i. Map information:

(1) The date and substance of any revisions to the plat are to be indicated in a revision block that is drawn on the plat.

(2) The name and address of the owner(s) of the land, and the name and address of the applicant, if other than the owner.

(3) A letter from the owner, signed application, or power of attorney, if different from the applicant, authorizing the applicant to act as agent with full authority.

(4) North arrow, scale, and date.

(5) All site plans as described below shall provide a space on the plan for property owner certification to be placed on the plan once approved by the planning department. The note shall read as follows:

(a) The owner of this property hereby affirms that these plans meet the requirements of the Ranson Zoning and Subdivision Ordinances and the above conditions of approval set forth by the Ranson Planning Commission. (Owner's Signature) (Date)

ii. Site Conditions

(1) Vicinity map at a scale of 2,000 feet or more to the inch indicating the location of the property with respect to surrounding property and streets. The map shall show all streets and property within 1,000 feet of the applicant's property. All property held by the applicant in the area shall be identified.

(2) All existing pertinent features, either natural or man-made, that may influence the design of the site, such as watercourses, tree groves, specimen trees of greater than 2’ caliper (excluding those within tree groves to remain), swamps, known sink holes, floodplain, jurisdictional wetlands per Army Corps of Engineers, outstanding natural topographic features, items on the National Register of Historic Places, grave sites, existing buildings, sewers, water mains, culverts, overhead utility lines, fire hydrants, and location of underground utilities within the tract.

(3) Existing topography with two-foot contour intervals. Contour lines (may be extrapolated) shall be shown 50 feet beyond the site boundary.

(4) Location, widths, and names of all existing improved or unimproved streets or alleys on or within 100 feet of the subdivision. Recorded, but unimproved streets shall be shown with dashed lines.

(5) Location of individual wells and/or septic tanks.

(6) Zoning classification and existing use of the tract and adjoining properties.

iii. Proposed Development:

(1) A drawing on a scale no smaller than 1" = 100 feet of proposed layout with lot widths and building setbacks
(2) Lot occupation – lot coverage, building placement
(3) Building form – façade alignment, façade buildout, setback encroachments, encroachment depths, private frontage type
(4) Building configuration – Building height, building elevation, designation of land use with total number of residential units and square footage for commercial uses, fenestration
(5) Outbuilding information – height, accessory unit use, accessory unit size
(6) Architectural standards
(7) The approximate location, dimensions, and area of all property proposed to be dedicated or temporarily reserved for public use, or to be reserved by a blanket covenant for use of all property owners in the community unit and conditions for such conveyance or reservation. Also, the location, dimensions, area, and purposes of any proposed easements.

iv. Site Improvements
(1) Driveways and Parking – number of spaces, location and dimensions of all parking and loading areas, handicapped spaces, driveways, parking aisles, curbing, and islands
(2) Roadway design plans and profiles.
(a) The locations, width, and names of proposed streets and alleys (street names shall not be duplicated, and they shall be reviewed and approved by central dispatch). Proposed elevations at the centerline of the street shall be shown at the beginning and end of each street, at street intersections, and at all points where there is a change in grade or direction. A profile of each street, at a minimum scale of one inch = fifty feet horizontal and one inch = five feet vertical with grades indicated shall be included.
(b) The cross-section of each street, at a scale of one inch = ten feet or less, showing the width and type of pavement, the size and type of curb and gutter, the location and width of sidewalks, utilities, and street trees.
(3) Stormwater management plan - Refer to stormwater management requirements in Sec. 16-97.
(4) Utility plan.
(a) Connections with existing public water supply. Provide both plan and profile view of the proposed water lines including size, depth, slope, invert elevations, materials, and valve locations.
(b) Connections with existing public sanitary sewer system or alternative means of sewage treatment and disposal. Provide both plan and profile view of the proposed sewer lines including size, depth, slope, invert elevations, and materials.
(c) Calculations showing the estimated amount of water consumption and sewage generated by the proposed development.
(d) The locations of proposed fire hydrants (pursuant to Sec. 16-101), gas, electric, cable and telephone service.
(5) Grading plan. Showing existing and proposed topography showing locations of proposed buildings, driveways, parking lots, and utilities.

(6) Landscape, lighting, fencing and signage plan(s), with information sufficient to demonstrate compliance with code.
   (a) Location of all proposed landscaping, fencing, street lighting, and signage may be shown on one plan unless it is necessary to separate the information for clarity.
   (b) Location of trees and vegetation to be retained.
(7) The location and design of any exterior oil/grease separator or trap if applicable.
(8) For commercial development, the location of any dumpster pads for waste disposal with necessary screening enclosure.
(9) Location of existing survey monuments and proposed new monuments.

5.1.12 The City Manager or his designee shall review the application submitted to the planning commission and the planning commission shall approve only if the submittal is consistent with the provisions of this Chapter and past required approvals (Chapter 3 or Chapter 4). Any amendment(s) or alternation(s) to the approved building and site plan shall require a new submittal, but only of the portions altered. The Planning Commission shall not hold a public hearing if submittal is consistent with the provisions of this Chapter and all past required approvals (Article 3 or 4).

5.1.13 After approval of site plan the applicant is eligible to submit a building permit application consistent with Article 5 of Chapter 19A of the Ranson Municipal Code.

5.1.14 As-built site plans/improvement plans - See requirements at Sec. 16-63.

5.2 Pre-existing Conditions

5.2.1 Existing buildings and appurtenances that do not conform to the provisions of this Chapter may continue in use as they are until a substantial modification is requested, pursuant to the standards of Sec. 19-16 of Chapter 19.

5.2.2 The modification of existing buildings is permitted by right if such changes result in greater conformance with the specifications of this Chapter.

5.2.3 The restoration or rehabilitation of an existing building shall not require the provision of (a) parking in addition to that existing nor (b) on-site stormwater retention/detention in addition to that existing, unless otherwise required by County or State Code. Existing parking requirements that exceed those for this Chapter may be reduced as provided by Table 9 and Table 10.

5.2.4 Existing land development plans and plats within the G4 Sector that were approved prior to the adoption of this Chapter may deviate from the following requirements:
   a. Private frontage type (See Table 6.)
   b. Parking location standards (See Sec. 5.9 and Table 11 - Table 14.)
   c. Principal building front setback, up to 20% (See Table 11 - Table 14.)

5.2.5 Any undeveloped area over six acres shall provide connectivity as necessary to comply with 3.5.1.

5.3 Special requirements

5.3.1 To the extent that any land development plan and plat designates any of the following special requirements, standards shall be applied as follows:
   a. A differentiation of the thoroughfares as a-grid and b-grid. Frontages located more than 100' from the a-grid can be more readily considered for administrative waivers. The frontages assigned to the b-grid shall not exceed 30% of the total length of frontages within a pedestrian shed. B-grid signage may utilize the Chapter 19, Sec. 19 - 15 Signs.

See Subsections 5.6.5 and 5.9.1.

b. Mandatory and/or recommended retail frontage, requiring or advising that a building provide a shopfront at sidewalk level along the entire length of its private frontage. The shopfront shall be no less than 50% glazed in clear glass as generally described in Table 6 and specified in Article 5.
c. Mandatory and/or recommended gallery frontage, requiring or advising that a building provide a permanent cover over the sidewalk, either cantilevered or supported by columns. The gallery frontage designation may be combined with a retail frontage designation.
d. Mandatory and/or recommended porch front, requiring or advising that a porch be included in the private frontage.
e. Build-to line, requiring the placement of the building facade along the line.
f. Coordinated frontage, requiring that the public frontage (Table 27) and private frontage (Table 6) be coordinated as a single, coherent landscape and paving design.
g. Mandatory and/or recommended terminated vista locations, requiring or advising that the building be provided with architectural articulation of a type and character that responds visually to the location.
h. Cross block passages, requiring that a minimum 8 foot wide pedestrian access be reserved between buildings.

5.4 Civic Areas

5.4.1 General

a. Civic areas are designated on the land development plan and plat as civic space (CS) or civic building (CB).
b. Parking requirements for civic districts shall be determined by Table 9. For parking location standards, see Section 5.9.

5.4.2 Civic Spaces (CS)

a. Civic spaces shall be generally designed as described in Table 31.

5.5 Building Placement

5.5.1 Specific to district T2

a. Building placement is constrained by Table 11. T2O Standards.

5.5.2 Specific to districts T2O, T3, T4, T5

a. Newly platted lots shall be dimensioned according to Table 11 - Table 14 and / or Table 22 and Table 23.
b. Buildings shall be placed in relation to the boundaries of their lots according to Table 11 - Table 14 and / or Table 22 and Table 23.
c. One principal building at the frontage, and one outbuilding to the rear of the principal building, may be built on each lot as shown in Table 15.
   i. T2O lots with a depther greater than 150 feet shall be permitted 2 outbuildings at the rear of the principal building.
d. Lot coverage by building shall not exceed that recorded in Table 11 - Table 14 and / or Table 22 and Table 23.
e. Facades shall be built parallel to a rectilinear principal frontage line or to the tangent of a curved principal frontage line, and along a minimum percentage of the frontage width at the setback, as specified as frontage buildout on Table 11 - Table 14 and / or Table 22 and Table 23.
f. Setbacks for principal buildings shall be as shown in Table 11 - Table 14 and / or Table

22 and Table 23. Setbacks may be adjusted by up to 10% by administrative waiver to accommodate specific site conditions. The City Manager or his designee must make the following written findings:

i. The waiver is consistent with the provisions of Section 1.2 Intent.
ii. The waiver is consistent with the Comprehensive Plan.
iii. The building placement will not materially endanger the public health or safety.
iv. The building placement will not substantially injure the value of adjoining property; or that the use is a public necessity.
v. The location and character of the building placement, if developed according to the plans and information ap-proved, will be in harmony with proximate land uses, and consistent with the purposes of the district.
vi. The building placement will not adversely affect the district by altering its character.

g. Rear setbacks for outbuildings shall be a minimum of 3 feet measured from the property line. In the absence of rear alley or rear lane, the rear setback shall be as shown in Table 11 - Table 14 and / or Table 22 and Table 23.

5.6 Building Configuration

5.6.1 General to districts T2, T3, T4, T5

a. The private frontage of buildings shall conform to and be allocated in accordance with Table 6.
b. Buildings on corner lots shall have two private frontages as shown in Table 17. Prescriptions for the second, third and fourth layers pertain only to the principal frontage. Prescriptions for the first layer pertain to both frontages.
c. All facades shall be glazed with clear glass no less than 15% of the first Story, except as required by the West Virginia Alcohol Beverage Control Administration.
d. Building heights, stepbacks, and expression lines shall conform to Table 5.
e. Stories may not exceed 14 feet in height from finished floor to finished ceiling, except for a first floor commercial use, which shall be a minimum of 11 feet with a maximum of 25 feet. A single floor level exceeding 14 feet, or 25 feet at ground level, shall be counted as two (2) stories. Mezzanines extending beyond 33% of the floor area shall be counted as an additional story.
   i. Existing structures in Old Town are exempt from Subsection 5.6.1.e.
f. In a parking structure or garage, each above-ground level counts as a single story regardless of its relationship to habitable stories.
g. Height limits do not apply to attics or raised basements, masts, belfries, clock towers, chimney flues, water tanks, or elevator bulkheads.
h. Except for solar panels and geo-thermal wells, all outdoor electrical, plumbing and mechanical equipment shall be located in the second or third layer and concealed from the frontage view. These facilities shall not encroach into the first layer.
i. The habitable area of an accessory unit within a principal building or an outbuilding shall not exceed 500 square feet, excluding the parking area.

5.6.2 Specific to district T2O

a. Buildings within this district shall have a fourth layer. Prescriptions for the fourth layer shall be as shown in Table 16.
b. Balconies, open porches, bay windows and stoops may encroach the first layer 80% of its depth.
c. Awnings may encroach the sidewalk to within 2 feet of the curb but must clear the side-

walk vertically by at least 8 feet.

d. Retail uses shall be restricted to 1500 sq. ft. or less.
e. Each outbuilding shall shall not exceed 50% of the square footage of the principal building floorplate.

5.6.3 Specific to district T3

a. No portion of the private frontage may encroach the sidewalk.
b. Open porches may encroach the first layer 50% of its depth. (Table 15)
c. Balconies and bay windows may encroach the first layer 25% of its depth except that balconies on porch roofs may encroach as does the porch.

5.6.4 Specific to districts T4

a. Balconies, open porches, bay windows and stoops may encroach the first layer 80% of its depth. (Table 15)
b. Awnings may encroach the sidewalk to within 2 feet of the curb but must clear the sidewalk vertically by at least 8 feet.

5.6.5 Specific to district T5

a. Awnings and galleries may encroach the sidewalk to within 2 feet of the curb but must clear the sidewalk vertically by at least 8 feet.
b. Stoops, lightwells, balconies, bay windows, and terraces may encroach the first layer 100% of its depth. (Table 15)

5.6.6 Specific to districts T2O, T4, T4O, T5L, T5

a. The Shopfront Private Frontage shall be no less than 50% glazed in clear glass as generally described in Table 6 and specified in this Chapter.
b. Loading docks and service areas shall be permitted on b-grid frontages and shall not be permitted on or within 100 feet of an a-grid frontage.
c. In the absence of a building facade along any part of a frontage line in T5, a streetscreen shall be built co-planar with the facade.
d. Streetscreens shall be between 3.5 and 8 feet in height. The streetscreen may be replaced by a hedge or fence by administrative waiver. Streetscreens shall have openings no larger than necessary to allow automobile and pedestrian access. The City Manager or his designee must make the following written findings:
    i. The waiver is consistent with the provisions of Section 1.2 Intent.
    ii. The waiver is consistent with the Comprehensive Plan.
    iii. The wall will not materially endanger the public health or safety or constitute a public nuisance if located where proposed and developed according to the plans and information submitted and approved.
    iv. The fence will not substantially injure the value of adjoining property; or that the use is a public necessity.
    v. The location and character of the fence, if developed according to the plans and information approved, will be in harmony with proximate land uses, and consistent with the purposes of the district.
    vi. The location and character of the fence will not adversely affect the district by impeding walkability
e. A first level residential or lodging use shall be raised a minimum of 1.5 feet from average sidewalk grade.
    i. Existing structures in Old Town are exempt from Subsection 5.6.6.e.

5.7 Building and Land Use

5.7.1 Conditional uses shall be administered by the CRC. Adverse rulings shall be appealed to the BZA. Conditional use shall be granted if the following conditions are met::

a. The use will not materially endanger the public health or safety or constitute a public nuisance if located where proposed and developed according to the plans and information submitted and approved.
b. The use will not substantially injure the value of adjoining property; or that the use is a public necessity.
c. The location and character, if developed according to the plans and information approved, will be in harmony with the proximate land uses, and consistent with the purposes of the district.
d. The use complies with any specific requirements as set forth in the municipal ordinances to obtain a special exception.

5.7.2 General to districts T2, T2O, T3, T4, T4O, T5L, T5

a. Buildings in each transect district shall conform to the intensities and uses on Table 7 and Table 8.

5.7.3 Specific to districts T2, T3

a. Accessory uses of restricted lodging or restricted office shall be permitted. See Table 7.

5.7.4 Specific to district T2O

a. Accessory uses of limited lodging or limited office shall be permitted. See Table 7.
b. First story commercial uses shall be permitted.
c. Manufacturing uses for the preparation and packaging of agricultural products grown on the lot may be permitted within the first story.
d. Agricultural uses other than a rear yard garden (see Table 8) shall be located in the 4th lot layer, beginning 150 ft. min behind the principal frontage line of the lot.

5.7.5 Specific to districts T4, T4O, T5

a. Accessory uses of limited lodging or limited office shall be permitted. See Table 7.

5.7.6 Specific to district T5

a. First story commercial uses shall be permitted.

5.8 Parking and Density

5.8.1 Specific to districts T2, T3

a. Buildable density on a lot shall be determined by the actual parking provided within the lot as applied to the uses permitted in Table 9.
b. T2 may not exceed one unit per ten acres.

5.8.2 Specific to district T2O

a. Buildable density on a lot shall be determined by the sum of the actual parking calculated as that provided (1) along the public parking lane or within the swale corresponding to the lot principal frontage line (2) by purchase, lease, or use agreement from a civic parking reserve within the community unit, if available, as applied to the uses permitted on Table 9.
b. Retail spaces under 1,500 square feet are exempt from parking requirements.

5.8.3 Specific to districts T4, T5

a. Buildable density on a lot shall be determined by the sum of the actual parking calculated as that provided (1) within the lot (2) along the public parking lane corresponding to the lot frontage, and (3) by purchase, lease, or use agreement from a civic parking reserve within the community unit, if available.

b. The actual parking may be adjusted upward according to the occupancy rate of Table 10 to determine the effective parking. The occupancy rate is available for any uses within any pair of adjacent blocks.
c. Based on the effective parking available, the density of the projected use may be determined according to Table 9.
d. Within the overlay area of a transit oriented development (TOD) the parking minimum may be further reduced by 30%.
e. Accessory units shall be exempt from parking requirements.
f. Liner buildings less than 30 feet deep and no more than two stories shall be exempt from parking requirements.

5.9 Parking Location Standards

5.9.1 General to districts T2O, T3, T4, T5

a. Parking shall be accessed by rear alleys or rear lanes, when such are available.
b. Open parking areas shall be masked from the frontage by a building or streetscreen pursuant to Subsection 5.6.6.c.
c. For buildings on b-grids, open parking areas may be allowed unmasked on the frontage by administrative waiver, except for corner lots within 100 feet of the a-grid. The City Manager or his designee must make the following written findings:
   i. The waiver is consistent with the provisions of Section 1.2 Intent.
   ii. The waiver is consistent with the Comprehensive Plan.
   iii. The open parking area will not materially endanger the public health or safety or constitute a public nuisance if located where proposed and developed according to the plans and information submitted and approved.
   iv. The open parking area will not substantially injure the value of adjoining property; or that the use is a public necessity.
   v. The location and character of the open parking area, if developed according to the plans and information approved, will be in harmony with proximate land uses, and consistent with the purposes of the district.
   vi. The location and character of the open parking area will not adversely affect the district by impeding walkability.

5.9.2 Specific to districts T2, T2O, T3, T4

a. Open parking areas shall be located at the second and third lot layers, except that driveways, drop-offs and unpaved parking areas may be located at the first lot layer. (Table 15)
b. Garages shall be located at the third layer except that side- or rear-entry types may be allowed in the second layer.

5.9.3 Specific to districts T2O, T3, T4

a. Driveways at frontages shall be no wider than 10 feet in the first layer.

5.9.4 Specific to districts T4O, T5L, T5

a. All parking lots, garages, and parking structures shall be located at the third layer. (Table 15)
b. Vehicular entrances to parking lots, garages, and parking structures shall be no wider than 24 feet at the frontage.
c. Parking structures on the a-grid shall have liner buildings lining the first story.

5.10 Landscape Standards

5.10.1 This section shall not apply to existing buildings in Old Town. It shall only apply to new communities in G1, G2, and G3.

5.10.2 General to districts T2, T3, T4, T5

a. The spacing and placement of plants shall be adequate and appropriate for the typical size, shape and habit of the plant species at maturity.

b. Within the public frontages, the prescribed types of public planting and public lighting shall be as shown in Table 32 and Table 34. The spacing shall be as shown in Table 30. The spacing may be adjusted up to 20% by administrative waiver to accommodate specific site conditions or shopfronts. The City Manager or his designee must make the following written findings:

i. The administrative waiver is consistent with the provisions of Section 1.2 Intent.

ii. The waiver is consistent with the Comprehensive Plan.

iii. The public planting and public lighting will not materially endanger the public health or safety or constitute a public nuisance if located where proposed and developed according to the plans and information submitted and approved.

iv. The public planting and public lighting will not substantially injure the value of adjoining property; or that the use is a public necessity.

v. The location and character of the public planting and public lighting, if developed according to the plans and information approved, will be in harmony with proximate land uses, and consistent with the purposes of the district.

vi. Planned or existing site conditions, such as location of doors and windows, fire hydrants, traffic control signs and signals, street lights, trees, or other street furniture, prevent adherence to the standards in Table 30.

c. Proposed trees and understory trees shall be centered horizontally and minimally:

i. Two (2) feet from walkways, curbing, and other impervious pavements when planted in a tree well or continuous planter;

ii. Three (3) feet from walkways, curbing and other impervious pavements when planted in a continuous swale;

iii. Five (5) feet from street lights, underground utilities, utility meters and service lines, fences, walls and other ground level obstructions;

iv. Six (6) feet from porch eaves, and awnings and similar overhead obstructions associated with the ground level of buildings;

v. Eight (8) feet from balconies, verandas, building eaves and cornices, and similar overhead obstructions associated with the upper stories of buildings.

d. Ground vegetation or shrub plantings with spines, thorns or needles that may present hazards to pedestrians, bicyclists or vehicles are prohibited in the first two (2) feet of the first layer.

e. Artificial plants or artificial turf are prohibited, excluding active recreation sports fields that are typically subject to intense use and soil compaction which prohibits the establishment of turfgrass, and where paving or grass paving systems will not suffice given the area's purpose and level of use.

f. Buffers and screening elements shall be used to screen parking areas from public view, to screen service yards and other places that are unsightly.

5.10.3 Specific to districts T2, T3, T4

a. The first layer may not be paved, with the exception of driveways and sidewalks as specified in section 5.9.2 and Section 5.9.3. (Table 15)

b. Preservation of on-site existing trees and vegetation is encouraged and may be used to fulfill the landscape requirements.
   i. Noxious or invasive plants species identified on the prohibited plant list shall be removed.
   ii. Priority shall be given to preserving and protecting significant trees that provide screening, buffering, wildlife habitat and/or linkages to wildlife habitat.

5.10.4 Specific to district T3
a. Two (2) trees shall be planted within the first layer. (Table 15)
   i. Substitutions:
      1. 1. One (1) tree may be substituted for two (2) understory trees;
      2. 2. One (1) understory tree may be substituted for ten (10) Shrubs.
   ii. Tree Preservation Credit:
      3. 1. Trees may be substituted for an existing tree to be preserved provided that:
      - They are four (4) Inches DBH or greater;
      - Possess a healthy and full canopy;
        + Has an unmolested CRZ;
        + Has incurred no damage that would undermine it's long-term vitality and quality.
b. Trees may be of single or multiple species as shown on Table 33.
c. Trees shall be naturalistically clustered in conjunction with adjacent street trees.

5.10.5 Specific to district T4
a. One (1) understory tree shall be planted within the first layer. (Table 15):
b. Trees, if planted, should match the type of adjacent street trees on the public frontage, or as shown on Table 33.

5.10.6 Specific to districts T2O, T4O, T5L, T5
a. Trees shall not be required in the first layer.
b. The first layer may be paved to match the pavement of the public frontage.
c. Landscape islands in interior parking lots shall only occur at the end of drive aisles. Islands should be the minimum size for healthy growth for the specific species of tree.
d. Porous paving materials should be used in order to increase storm water infiltration on site.

5.10.7 Specific to special district SDB: See Subsection 6.1.5

5.11 Signage Standards

5.11.1 General Intent

The intent of regulating signs that are visible from the public frontage is to ensure proper dimensioning and placement with respect to existing or planned architectural features, to maintain or improve public safety, to maintain or improve the aesthetic character of the context in which they are located, and to provide legible information for pedestrians, not just drivers. No signs of any type shall be permitted within the City right-of-way.

5.11.2 Specific to Address Signs
a. Address sign numerals applied to retail, office, residential, institutional, or industrial buildings shall be between three (3) and six (6) inches tall. Address sign numerals applied to individual dwelling units in apartment buildings shall be at least three (3) inches tall.

b. Address signs shall be easily visible by using colors or materials that contrast with their background.
c. Address signs shall be constructed of durable materials.
d. The address sign shall be attached to the front of the building in proximity to the principal entrance or at a mailbox.

5.11.3 Specific to Awning Signs

a. The following variations of awnings, with or without signbands, are permitted:
   i. Fixed or retractable awnings
   ii. Shed awnings
   iii. Dome awnings
b. No portion of an awning shall be lower than eight (8) feet clearance.
c. Awnings shall be a minimum of 4 feet in depth.
d. Awnings shall not extend beyond the width of the building or tenant space, nor encroach above the roof line or the story above.
e. The height of the valance shall not exceed twelve (12) inches.
f. Awning signs shall contain only the business name, logo, and/or street address.
g. Letters, numbers, and graphics shall cover no more than seventy percent (70%) of the awning panal or valance area.
h. Awning signs shall not be internally illuminated or backlit.

5.11.4 Specific to Band Signs

a. All businesses are permitted one (1) band sign on each first story facade.
b. Band signs shall include only letters, background, lighting, and an optional logo. Information shall consist only of the name and/or logo of the business. Band signs shall not list products, sales, or other promotional messages, or contact information.
c. The following band sign construction types are permitted:
   i. Cut-out letters. Letters shall be individually attached to the wall or on a separate background panel, and shall be externally illuminated.
   ii. Flat panel. Letters shall be printed or etched on same surface as the background, which is then affixed to the wall and externally illuminated.
   iii. Channel letters. Each letter shall have its own internal lighting element, individually attached to the wall or onto a separate background panel. The letter shall be translucent, or solid to create a backlit halo effect.
d. Height and width shall be measured using smallest rectangle that fully encompasses the entire extent of letters, logo and background.
e. Band signs shall not be wider than 90% of the width of the building facade or tenant space.
f. Band signs shall not project vertically above the roof line.
g. Band signs may be illuminated from dusk to dawn. External lights shall be shielded from direct view to reduce glare.
h. Electrical raceways, conduits and wiring shall not be exposed. Internal lighting elements shall be contained completely within the sign assembly or inside the wall.
i. Band signs should be placed where the architectural features suggest the best placement for signage. They should be vertically aligned with the center of an architectural feature such as a storefront window, entry portal, or width of a bay or overall retail space. They shall not interrupt or obscure these features or cause visual disharmony.
j. Where multiple band signs are present on a single building, signage shall be coordinated in terms of scale, placement, colors and materials.

5.11.5 Specific to Blade Signs

a. Blade signs may be double-sided.
b. Blade signs shall be permitted only for businesses that have a principal entrance on the first story.
c. Businesses shall be permitted one (1) blade sign where its principal frontage line is no more than five (5) feet from the facade. Businesses that have a secondary frontage line that is no more than two (2) feet from the facade shall be permitted one (1) additional blade sign on that facade.
d. Blade signs may encroach into the public frontage up to four (4) feet and shall clear the sidewalk by at least eight (8) feet.
e. Blade signs shall not encroach above the roof line nor above the bottom of the second story window.
f. Text and graphics on the blade sign shall be limited to the name and/or logo of the business. Slogans, address labels, operating hours and contact information shall not be permitted.
g. Mounting hardware, such as supports and brackets, may be simple and unobtrusive or highly decorative, but shall complement the design of the sign, the building, or both.
h. For buildings with multiple signs, mounting hardware or sign shapes, sizes and colors shall be coordinated.

5.11.6 Specific to Marquees

a. Marquees shall be located only above the principal entrance of a building.
b. No marquee shall be wider than the entrance it serves, plus two (2) feet on each side thereof.
c. No portion of a marquee shall be lower than ten (10) feet clearance.
d. No marquee shall extend closer to the curb than three (3) feet.
e. All marquees, including anchors, bolts, supporting rods and braces, shall be constructed of non-combustible materials and shall be designed by a structural engineer and approved by the Building Inspector.
f. Marquee components and materials may vary. Anchors, bolts, and supporting rods should be limited to the interior of the marquee.
g. Message boards shall be permitted as part of marquees.
h. A band sign shall be permitted above a marquee.

5.11.7 Specific to Monument Signs

a. Monument signs may be double-sided.
b. Only one monument sign shall be permitted for each mixed-use frontage. Such sign may contain the names of all tenant(s) or occupant(s) of the building.
c. Monument signs shall not exceed six (6) feet in height and four (4) feet in width.
d. Monument signs may encroach 80% of the first layer.
e. Text and graphics on the monument sign shall be limited to the name and/or logo of the business. Slogans, address labels, operating hours and contact information shall not be permitted.

5.11.8 Specific to Nameplates

a. Nameplates shall consist of either a panel or individual letters applied to a building wall within ten (10) feet of an entrance to the building.
b. One nameplate shall be permitted per address.
c. Nameplates shall not exceed three (3) square feet.
d. Nameplates shall be constructed of durable materials.

5.11.9 Specific to Outdoor Display Cases

a. Each outdoor display case shall not exceed six (6) square feet.
b. Outdoor display cases may be externally or internally illuminated.
c. Theaters may be permitted larger outdoor display cases. Percentage of area increase shall be limited to 100%.
d. Outdoor display cases shall not be attached to shopfront windows.

5.11.10 Shingle Signs

a. Shingle signs shall comport with the standards for blade signs except 5.11.5.d and 5.11.5.f.
b. Businesses shall be permitted one (1) shingle sign where its principal frontage line is no more than five (5) feet from the facade. Businesses that have a secondary frontage line that is no more than two (2) feet from the facade shall be permitted one (1) additional shingle sign on that facade.
c. Shingle signs may encroach into the public frontage up to two (2) feet and shall clear the sidewalk by at least seven (7) feet.
d. Text and graphics on the shingle sign shall be limited to the name, logo, and suite number of the business. Slogans, full street address labels, operating hours and contact information are not permitted.

5.11.11 Specific to Sidewalk Signs

a. Sidewalk signs shall consist of freestanding, double-sided temporary signs placed at the entrance to a business in a primarily pedestrian environment.
b. Sidewalk signs shall be removed at the close of business each day.
c. One (1) sidewalk sign shall be permitted for each business.
d. Sidewalk signs shall not exceed 42 inches in height or 26 inches in width.
e. Sidewalk signs shall be moved inside during high winds or other weather conditions that might pose a hazard to public safety.

5.11.12 Specific to Window Signs

a. Only the following window sign types shall be permitted:
   i. Vinyl applique letters applied to the window. Appliques shall consist of individual letters or graphics with no visible background.
   ii. Letters painted directly on the window.
   iii. Hanging signs that hang from the ceiling behind the window.
   iv. Neon signs. Flashing neon is not permitted.
   v. Door signs applied to or hanging inside the glass portion of an entrance doorway.
b. Window signs shall not interfere with the primary use of windows, which is to enable passersby and public safety personnel to see through windows into premises and view product displays.
c. Window signs shall be no larger than 25% of the total area of the window onto which they are applied. Sign area shall be measured using smallest rectangle that fully encompasses the entire extent of letters, logo and background.
d. Window signs may list services and/or products sold on the premises, or provide phone numbers, operating hours or other messages, provided that the total aggregate area of these messages not exceed the limit provided above.
e. Letters on window signs shall be no taller than eight (8) inches.

5.11.13 Specific to Yard Signs

a. One single- or double-post yard sign for each business may be permitted by administrative waiver, provided it is set back at least six (6) feet from the frontage line, does

not exceed six (6) square feet excluding posts, and does not exceed six (6) feet high including posts, measured from the yard at the post location.

5.11.14 Specific to Temporary Signs and Banners

a. Temporary signs of all types may be approved by administrative waiver for a 30-day period only. The City Manager or his designee must make the following written findings:
   i. The administrative waiver is consistent with the provisions of Section 1.2 Intent.
   ii. The waiver is consistent with the Comprehensive Plan.
   iii. The temporary sign will not materially endanger the public health or safety or constitute a public nuisance if located where proposed and developed according to the plans and information submitted and approved.
   iv. The temporary sign will not substantially injure the value of adjoining property; or that the use is a public necessity.

5.11.15 Ranson Municipal Code 19-15(j) "Removal of Certain Signs" shall be applicable in this Chapter.

5.12 Architectural Standards

5.12.1 General to Districts T2O, T4, T4O, T5L and T5 façades

This section does not apply to single-family and two-family edgeyard and sideyard residential units.

a. Glazing above the first story façade shall not exceed 30% of the total building façade wall area, with each façade being calculated independently.
b. The shopfront private frontage shall be no less than 50% glazing.
c. All glass shall be clear and free of color, except as required by the West Virginia Alcohol Beverage Control Administration.
d. Pitched roofs shall be symmetrically sloped no less than 5:12, except that roofs for porches and attached sheds may be no less than 2:12.
e. Low pitch or flat roofs shall be enclosed by a parapet that is as high as necessary to conceal mechanical equipment.
f. Dormers shall be roofed with a symmetrical gable or a shed configuration. They shall be no more than 2 windows wide and placed no less than 2 feet from an end gable or party wall.

5.13 Fencing Standards

5.13.1 General to Districts T2O, T3, T4, T4O, T5L and T5

a. Hedges in frontage line fencing shall be evergreen.
b. Wood frontage fences shall be painted or stained.
c. No single frontage fence horizontal panel shall exceed 42” in height along a frontage lot line. See Table 21. Fence Panels.
d. Private lot line fences shall be between 60” and 72” in height. See Table 20. Fence Locations
e. Frontage fences may occur at the lot line, or up to 18” behind the lot line to permit landscaping.
f. When erected on a lot line, all of the fence and any of its supporting structures shall be contained within the lot.
g. Fences along private lot lines, or alley lot lines may be chain link, but in no case shall exceed 72” in height.
h. The supporting members and posts shall be on the inside, and the smooth or flat faces

on the outside. If two faces are used, each face shall be of the same type and finish. Board on board fences is considered equal treatment.

i. Barbed wire, razor wire and electrically charged fences are not permitted.

5.13.2 Specific to District T3

a. Frontage fences in T3 shall be picket, post and hedge, ranch, or hedgerows. See Table 19. Fence Types.

b. Frontage fences shall be 36” to 42” in height. Secondary frontage fences may be 60” high beginning at the primary setback.

5.13.3 Specific to districts T2O, T4

a. Frontage fences shall be picket, post and hedge, iron, stone, brick, or hedgerows. See Table 19. Fence Types.

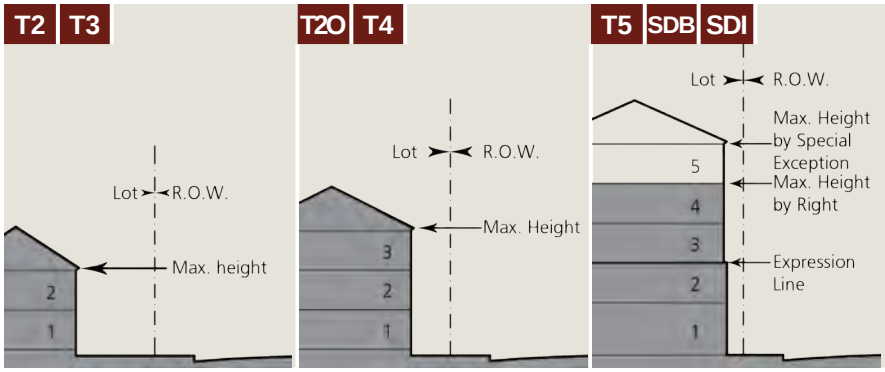
b. Frontage fences shall be 36” to 48” in height. Secondary frontage fences may be 60” high beginning at the primary setback.

5.13.4 Specific to District T5

a. Frontage fences in T5 shall be iron, iron and stone, iron and brick, brick, stucco or stone. See Table 19. Fence Types.

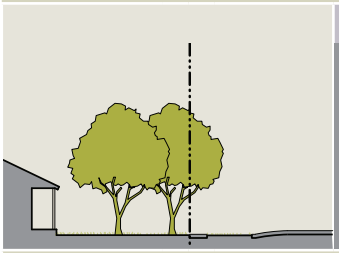
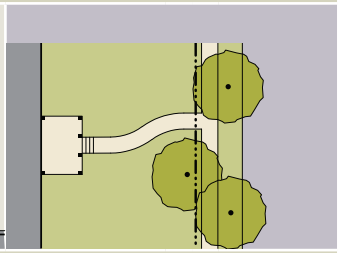
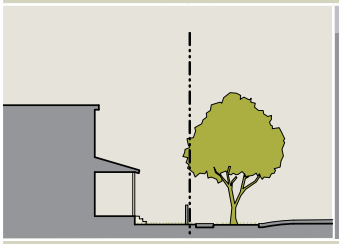
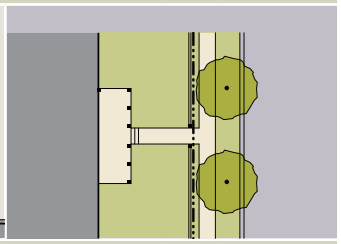
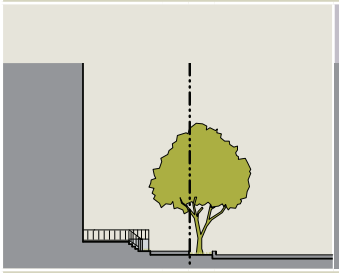
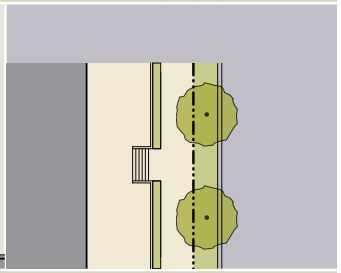
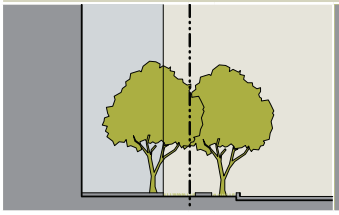
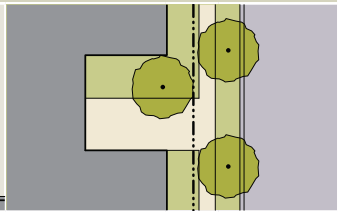
b. Frontage fences shall be 48” to 60” in height

TABLE 5. BUILDING HEIGHT.



Expression lines shall occur on buildings taller than three stories as shown.

TABLE 6. PRIVATE FRONTAGES

FIRST LOT LAYER REGULATIONS		SECTION PRIVATE FRONTAGE ◆◆ PUBLIC FRONTAGE	PLAN PRIVATE FRONTAGE ◆◆ PUBLIC FRONTAGE
COMMON LAWN			
Transect District	T2, T2O, T3, T4, SDB		
Permitted Elements			
Encroachments into setback	Porch no less than 6 feet deep		
Surface Treatment	Grass, groundcover, continuing without interruption, except sidewalks or drive-ways.		
Special Requirements			
FENCED LAWN			
Transect District	T2O, T3, T4		
Permitted Elements	Fences, hedges and walls		
Encroachments into setback	80% of setback		
Surface Treatment	Grass, groundcover		
Special Requirements	Fences, hedges and walls shall be along frontage lines or parallel with the facade of the principal building		
TERRACE			
Transect District	T2O, T4, T4O, T5L, T5, SDB		
Permitted Elements	May be combined with stoop		
Encroachments into setback	Terraces may encroach 100% of setback, no less than 6 ft. Terraces shall be raised a minimum of 12” from average sidewalk grade.		
Surface Treatment	Paved, terraces may be landscaped		
Special Requirements	Ramps for wheelchair access may be located within first layer		
FORECOURT			
Transect District	T4O, T5, SDB		
Permitted Elements	May be combined with terrace, stoop, shopfront, or gallery.		
Encroachments into setback	May recess from the frontage line a maximum of 20 feet for pedestrian entries or a maximum of 30 feet for vehicular access.		
Surface Treatment	Paved in coordination with the public frontage or with pervious materials		
Special Requirements	Shall provide access to the main building entrance. Driveways within forecourts are limited to 20 feet in width. Portions of the driveway in the public frontage shall be limited to 12 feet in width and shall be paved in coordination with the adjacent public frontage		

PRIVATE FRONTAGES CONTINUED

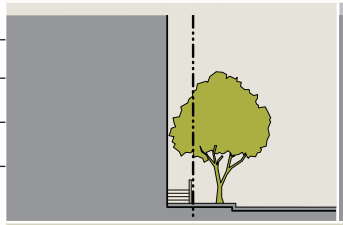
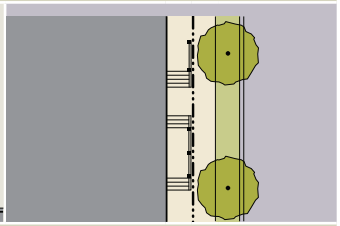
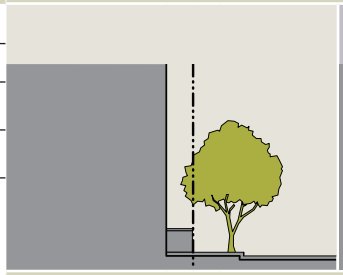
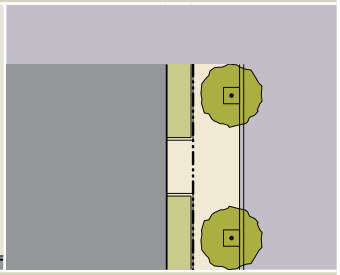
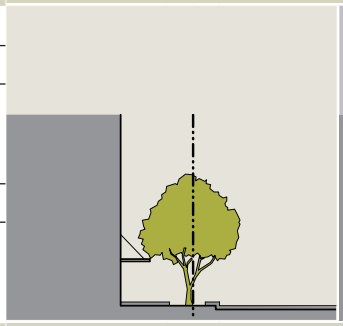
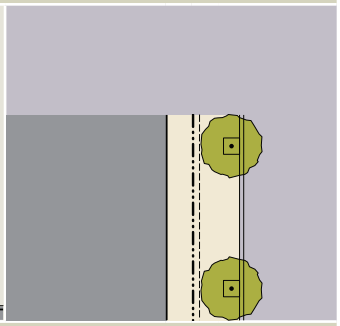
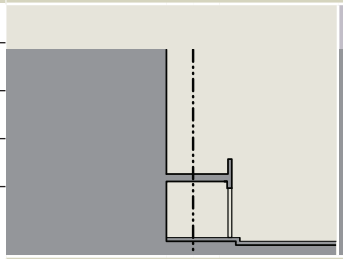
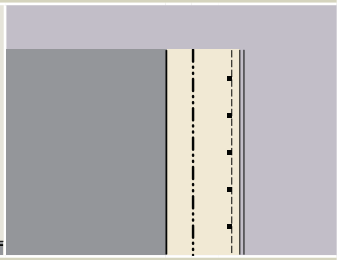
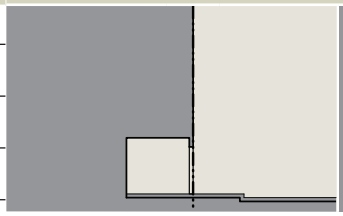
FIRST LOT LAYER REGULATIONS		SECTION PRIVATE FRONTAGE ◆◆ PUBLIC FRONTAGE	PLAN PRIVATE FRONTAGE ◆◆ PUBLIC FRONTAGE
STOOP			
Transect District	T2O, T4, T4O, T5L, T5		
Permitted Elements	Hedges and metal fences.		
Encroachments into setback	100% of the setback.		
Surface Treatment	Paved in coordination with the public frontage.		
Special Requirements	May be recessed into the building facade where a front setback is less than 6 feet		
COMMON ENTRY			
Transect District	T4, T4O, T5L, T5, SDB		
Permitted Elements	Planter may line the facade.		
Encroachments into setback	Planter may encroach up to 100%.		
Surface Treatment	Any setback area not within the planter shall be paved at grade.		
Special Requirements	Planter may extend no more than 3' from the facade at grade. The first story of the facade shall be no less than 15% glazed in clear glass		
SHOPFRONT			
Transect District	T2O, T4, T4O, T5L, T5, SDB		
Permitted Elements	Awnings		
Encroachments into setback	Awnings may encroach to within two feet of the curb and must project horizontally from the facade a minimum of 6 feet. Display windows may encroach up to 2 feet		
Surface Treatment	Paved		
Special Requirements	Shall be glazed with clear glass for no less than 50% of the ground floor at frontages, calculated as a percentage of each facade individually.		
GALLERY			
Transect District	T2O, T4, T4O, T5L, T5, SDB		
Permitted Elements	May be combined with shopfront or common entry		
Encroachments into setback	May encroach to within 2 feet of the curb.		
Surface Treatment	Paved in coordination with the public frontage		
Special Requirements	Shall provide a minimum vertical clearance of 10 feet and project horizontally from the facade a minimum of 10 feet		
PRIVATE ARCADE			
Transect District	T5L, T5, SDB		
Permitted Elements	May be combined with shopfront or common entry		
Encroachments into setback	100% of the setback.		
Surface Treatment	Paved in coordination with the public frontage		
Special Requirements	Shall provide a minimum vertical clearance of 10 feet and project horizontally from the facade a minimum of 10 feet		

TABLE 7. BUILDING INTENSITY

	RESTRICTED		LIMITED		OPEN	
a. RESIDENTIAL	The number of dwellings on each lot is restricted to one within a principal building and one within an accessory building. Both dwellings shall be under single ownership. The habitable area of the accessory unit shall not exceed 500 sf, excluding the parking area. Residential uses may occupy any building story.	T2 T3	Residential uses may occupy any building story.	T2O T4	Residential uses may occupy any building story.	T5L T5
b. LODGING	The number of bedrooms available on each lot for lodging is limited to five. The lodging must be owner occupied. Food service may be provided in the morning. The maximum length of stay shall not exceed ten days. Lodging may occupy any building story.	T2 T2O T3	The number of bedrooms available on each lot for lodging is limited to twelve. The lodging must be owner occupied. Food service may be provided in the morning. The maximum length of stay shall not exceed fourteen days. Lodging may occupy any building story.	T4 T5L	The number of bedrooms available on each Lot for lodging is not limited. Food service may be provided at all times. The area allocated for food service shall be calculated and provided with parking according to retail use. Lodging may occupy any building story.	T5
c. OFFICE	The building area available for office use on each lot is restricted to 600 square feet within the first story of the principal or the accessory building or within basements.	T2 T3	The building area available for office use on each lot is limited to the first story of the principal building and/or to the accessory building.	T2O T4	Office uses may occupy any building story.	T5 SDB SDI
d. RETAIL	The building area available for retail use is restricted to the first story of buildings at corner locations and may not exceed 1,500 square feet. Food service is limited to no more than 600 square feet of seating area.	T2 T3	The building area available for retail use is limited to the first story of buildings at corner locations. Food service is limited to no more than 1,800 square feet of seating area.	T4 T5L	Retail uses may occupy any building story. Retail spaces under 1,500 square feet are exempt from parking requirements.	T2O T4O T5 SDB
e. INSTITUTIONAL			The building area available for institutional use on each lot is limited to the first story of the principal building.	T5L	Institutional uses may occupy any building story	T5 SDB SDI
f. MANUFACTURING			By special exception		Limited to specific uses in Table 8	SDB SDI
g. INDUSTRIAL			By special exception		Limited to specific uses in Table 8	SDB SDI
h. AGRICULTURAL	By right	T2	Limited to specific uses in Table 8	T2O		

The intensities of the base Transect districts are as follows: T2 – Restricted; T3 – Restricted; T4 – Limited; T5 – Open. Modifiers of L or O are used when the sub-district has a different intensity from the base district.

TABLE 8. BUILDING USE

	T2	T2	T3	T4	T4	T5	T5	SD	SD
Intensity	R	O	R	L	O	L	O	B	I
a. RESIDENTAIL									
Mixed use building					■	■	■	■	
Multifamily dwelling				■	■	■	■		
Live-work unit		■	■	■	■	■	■		
Duplex		■	■	■	■	■			
Townhouse		■		■	■	■	■		
Single family residential	■	■	■	■	■	■			
Senior housing	■	■	■	■	■	■	■		
Accessory Unit	■	■	■	■	■	■	■		
b. LODGING									
Hotel (no room limit)					□	■	■	□	□
Inn (up to 12 rooms)	□	□	□	□	■	■	■		
Bed & Breakfast (up to 6 rooms)	■	■	■	■	■	■	■		
School Dormitory					□	□	■	□	
c. OFFICE									
Office building					■	■	■	□	□
Mixed use building					■	■	■		
Live-work unit		■	■	■	■	■	■	□	□
d. RETAIL									
Open-Market Building		■			■	■	■	■	■
Mixed use building					■	■	■	■	
Retail Building		■			■	■	■	■	□
Display Gallery				■	■	■	■	□	□
Restaurant		■	■	■	■	■	■	□	□
Kiosk					■	■	■	□	□
Push Cart		■			■	■	■	□	□
Video Lottery[1]					□		□		
Adult Entertainment[2]									
e. INSTITUTIONAL									
Convention Center							□	■	■
Conference Center					□		■	■	■
Exhibition Center							□	■	■
Live Theater					■	■	■	■	■
Movie Theater					■	■	■	■	■
Museum					■	■	■	■	■
Outdoor Auditorium			□	■	■	■	■	■	■
Sports Stadium							□	■	■
Religious Assembly		■	■	■	■	■	■	■	■
f. AGRICULTURE									
Grain Storage	■	■	■					□	□
Livestock Pen	■		■					□	□
Garden Supply		■			■	■	■	□	□
Greenhouse	■	■	■	□	■			□	□
Stable	■	■	■	□				□	□
Kennel	■	■	■	□	■	□	■	□	□
Family Farm	■	■							
Employment Farm	■	■							
Rear Yard Garden	■	■	■	■					
Honey Bees	■	■							
Livestock	■								
Poultry	■	■	□	□					

	T2	T2	T3	T4	T4	T5	T5	SD	SD
	R	O	R	L	O	L	O	B	I
g. AUTOMOTIVE									
Gasoline		□			■	□	■	■	■
Automobile Service					■	□	□	□	■
Automobile Sales					■	□	□	■	■
Truck Maintenance	■							□	■
Drive-Through Facility					■	□	■	■	■
h. CIVIL SUPPORT									
Cemetery	■	■	■	□		□			■
Funeral Home					■	■	■	■	■
Hospital						□	□	■	■
Medical Clinic					■	■	■	■	■
Animal Hospital		■			■	■	■	□	■
i. EDUCATION									
College		□			□	□	□	■	■
High School		□			□	□	□	■	■
Trade School						□	□	■	■
Elementary School		■	□	■	■	■	■	□	■
Childcare Center		■	■	■	■	■	■	■	■
j. INDUSTRIAL									
Heavy Industrial Facility								□	□
Light Industrial Facility		□			□	□	□	■	■
Truck Depot								□	■
Laboratory Facility		□			□	□	□	■	■
Warehouse		□			□	□	□	■	■
Produce Storage	■	■						□	■
Mini-Storage								■	■
Heavy Manufacturing								□	□
Light Manufacturing		■		□	■	■	■	■	■

Permitted ■

Conditional Use Pursuant to 5.7.1 □

[1] Video lotteries may be permitted by Conditional Use as an accessory use to a restaurant or hotel in T-4O or T5 upon the conditions stated in Chapter 19-8(c)(3).

[2] Adult uses only permitted under certain conditions in HC and RC pursuant to Ranson Municipal Code 14-70 and 19-7

TABLE 9. PARKING CALCULATIONS

The gross minimum number of parking spaces listed below shall be multiplied by the "occupancy rate" as found in Table 10, for each use for the weekday night, daytime and evening periods respectively, and weekend night, daytime and evening periods respectively. The gross minimum numbers of parking spaces for each of the uses referred to for each time period shall be added to produce the aggregate gross minimum numbers of parking spaces for each time period.

	T2	T2O	T3	T4	T5
RESIDENTIAL *	2.0 / dwelling	1.5 / dwelling	2.0 / dwelling	1.5 / dwelling	1.0 / dwelling
LODGING	1.0 / bedroom	1.0 / bedroom	1.0 / bedroom	1.0 / bedroom	1.0 / bedroom
OFFICE	n/a	n/a	2 spaces for 600 square feet	3.0 / 1,000 s.f.	2.0 / 1,500 s.f.
RETAIL	n/a	n/a	4.0 / 1,000 s.f.	3.0 / 1,000 s.f.	2.0 / 1,000 s.f.
CIVIC	n/a	1 / 5 seats assembly use Parking may be provided by ownership or lease offsite within 1,000 feet.	1 / 5 seats assembly use Parking may be provided by ownership or lease offsite within 1,000 feet.	1 / 5 seats assembly use 1 / 1,000 s.f. of exhibition or indoor recreation area. Parking requirement may be reduced according to the Parking Occupancy Rate Table 10. Parking ratio may be reduced within 1/4 mile radius of a Transit Corridor by thirty percent (30%). Parking may be provided by ownership or lease offsite within 1,000 feet.	1 / 5 seats assembly use 1 / 1,000 s.f. of exhibition or indoor recreation area. Parking requirement may be reduced according to the Parking Occupancy Rate Table 10. Parking ratio may be reduced within 1/4 mile radius of a Transit Corridor by thirty percent (30%). Parking may be provided by ownership or lease offsite within 1,000 feet.
AGRICULTURE	1.0 / employee	1.0 / employee			
OTHER	Determined by Chapter 19 Sec. 19-12.				

* Senior housing or co-housing requirements may be reduced by 50%.

TABLE 10. PARKING OCCUPANCY RATE.

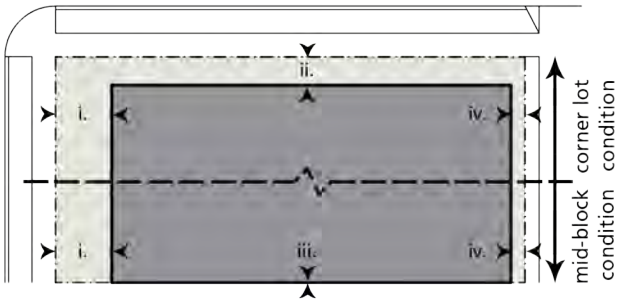
USES	M - F	M - F	M - F	SAT & SUN	SAT & SUN	SAT & SUN
	8 AM - 6 PM	6 PM - 12 AM	12 AM - 8 AM	8 AM - 6 PM	6 PM - 12 AM	12 AM - 8 AM
RESIDENTIAL	60%	100%	100%	80%	100%	100%
LODGING	70%	100%	100%	70%	100%	100%
OFFICE	100%	20%	5%	5%	5%	5%
RETAIL	90%	80%	5%	100%	70%	5%
RESTAURANT	70%	100%	100%	70%	100%	100%
MOVIE THEATER	40%	80%	10%	80%	100%	10%
ENTERTAINMENT	40%	100%	10%	80%	100%	50%
CONVERENCE / CONVENTIONS	100%	100%	5%	100%	100%	5%
CIVIC (NON-CHURCH)	100%	20%	5%	10%	10%	5%
CIVIC (CHURCH)	20%	20%	5%	100%	50%	5%

Planning Staff shall provide a spreadsheet that will perform calculations for specific applications based on the above occupancy rates.

TABLE 11. T2O STANDARDS

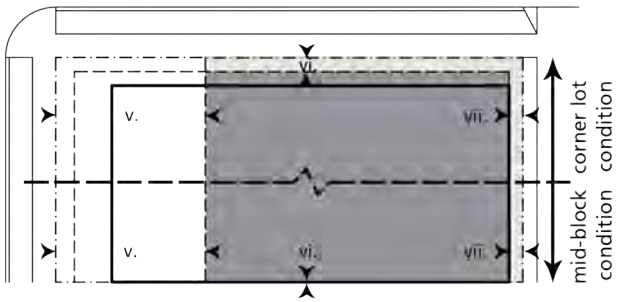
A. BUILDING PLACEMENT

PRINCIPAL BUILDING



i. Front Setback (Principal)	18 ft. max.
ii. Front Setback (Secondary)	10 ft. max.
iii. Side Setback	0 ft. or 6 ft. min. total
iv. Rear Setback	3 ft. min.

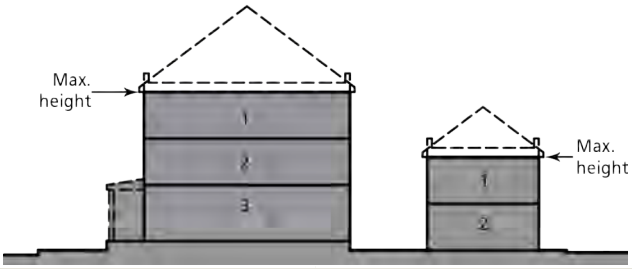
OUTBUILDING(S)



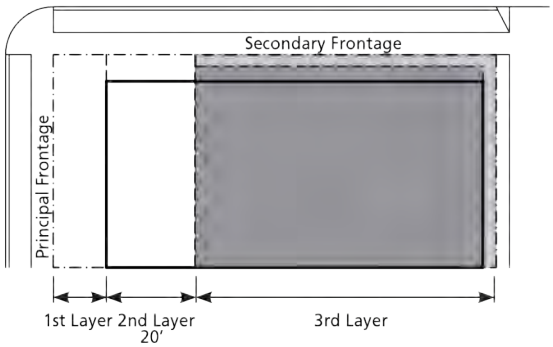
v. Front Setback (Principal)	20 ft. min. + bldg. setback
vi. Side Setback	0 ft. or 3 ft. at corner
vii. Rear Setback	3 ft. min.
ENCROACHMENTS	
i. Setback Encroachments	
Open Porch	80% max.
Balcony and / or Bay Window	80% max.
Stoop, Lightwell or Terrace	80% max.
ii. Sidewalk Encroachments	
Awning or Gallery	80% max.
iii. Encroachment Depths	
Open Porch	10 ft. max.
Balcony and / or Bay Window	6 ft. max.
Stoop, Lightwell or Terrace	6 ft. max
Gallery	n/a
Awning	n/a

B. BUILDING FORM

HEIGHT



PRINCIPAL BUILDING	
Stories	3
To Eave / Parapet	48 ft. max..
OUTBUILDING BUILDING	
Stories	2
To Eave / Parapet	35 ft. max.*
MASS	
Lot Width	40 ft. min., 96 ft. max.
Lot Coverage	50% max.
Facade Buildout at Setback	60% min.
PARKING AND STORAGE LOCATION	



PARKING	
1st layer (see Table 16)	not permitted
2nd layer (see Table 16)	side or rear entry permitted
3rd layer (see Table 16)	permitted
4th layer (see Table 16)	permitted
Trash & Storage ** Location	
1st layer (see Table 16)	not permitted
2nd layer (see Table 16)	not permitted
3rd layer (see Table 16)	permitted
4th layer (see Table 16)	permitted

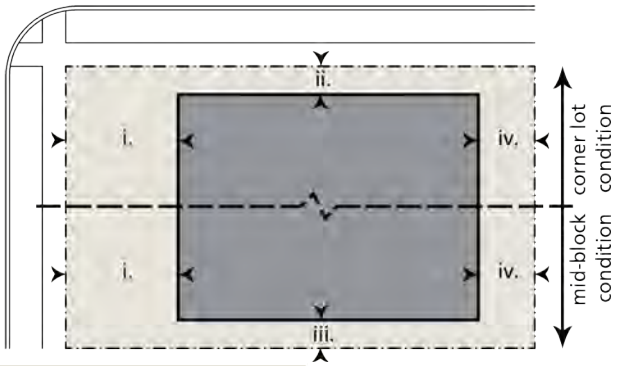
* Agricultural buildings may be 48 ft. max. in heigh.

** Storage includes boats and recreational vehicles.

TABLE 12. T3 STANDARDS

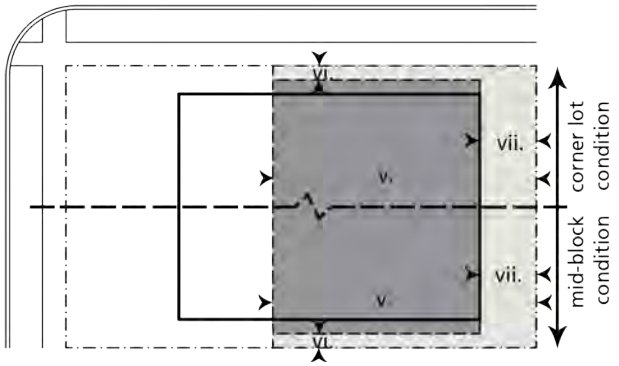
A. BUILDING PLACEMENT

PRINCIPAL BUILDING



i. Front Setback (Principal)	20 ft. min., 30 ft. max.
ii. Front Setback (Secondary)	2 ft. min. 12 ft. max.
iii. Side Setback	0 ft. for duplex or 8 ft. min.
iv. Rear Setback	24 ft. min.

OUTBUILDING



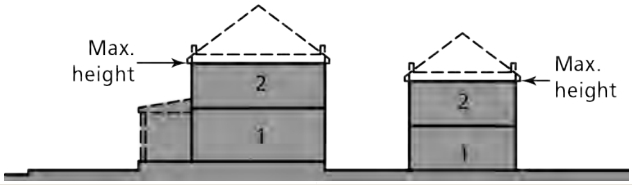
v. Front Setback (Principal)	20 ft. min. + bldg. setback
vi. Side Setback	3 ft. or 6 ft. at corner
vii. Rear Setback	3 ft. min.

ENCROACHMENTS

i. Setback Encroachments	
Open Porch	50% max.
Balcony and / or Bay Window	25% max.
Stoop, Lightwell or Terrace	n/a
ii. Sidewalk Encroachments	
Awning or Gallery	n/a
iii. Encroachment Depths	
Open Porch	10 ft. max.
Balcony and / or Bay Window	6 ft. max.
Stoop, Lightwell or Terrace	n/a

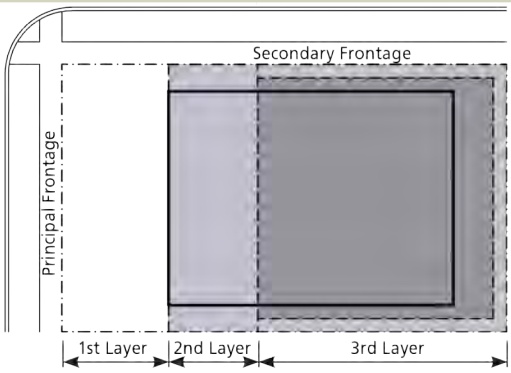
B. BUILDING FORM

HEIGHT



PRINCIPAL BUILDING	
Stories	2
To Eave / Parapet	35 ft. max.
OUTBUILDING BUILDING	
Stories	2
To Eave / Parapet	35 ft. max.
MASS	
Lot Width	50 ft. min., 150 ft. max.
Lot Coverage	50% max.
Facade Buildout at Setback	n/a

PARKING AND STORAGE LOCATION



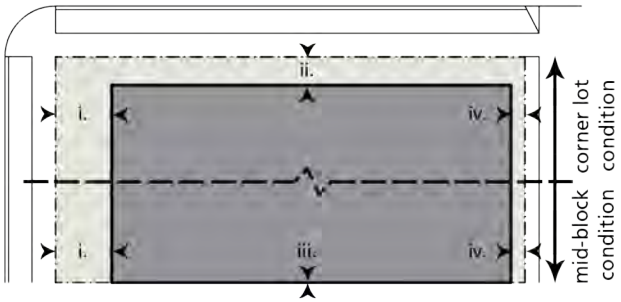
PARKING	
1st layer (see Table 15)	not permitted
2nd layer (see Table 15)	side or rear entry permitted
3rd layer (see Table 15)	permitted
TRASH & STORAGE * LOCATION	
1st layer (see Table 15)	not permitted
2nd layer (see Table 15)	not permitted
3rd layer (see Table 15)	permitted

* Storage includes boats and recreational vehicles.

TABLE 13. T4 / T4O STANDARDS

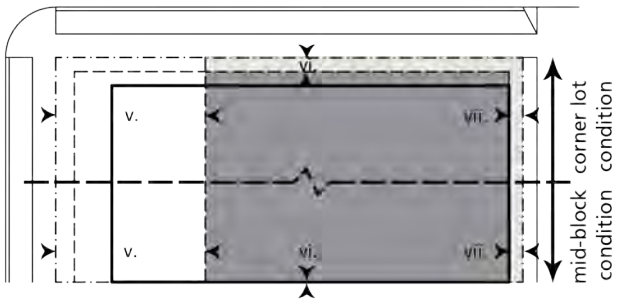
A. BUILDING PLACEMENT

PRINCIPAL BUILDING



i. Front Setback (Principal)	18 ft. max.
ii. Front Setback (Secondary)	10 ft. max.
iii. Side Setback	0 ft. or 6 ft. min. total
iv. Rear Setback	3 ft. min.

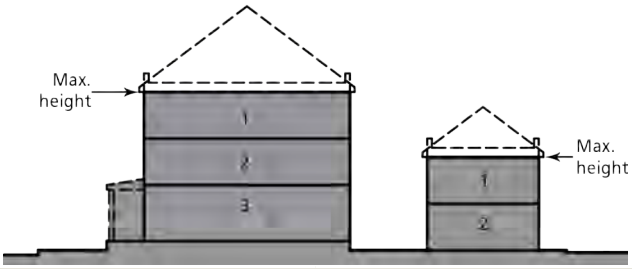
OUTBUILDING



v. Front Setback (Principal)	40 ft. max. from rear property line
vi. Side Setback	0 ft. or 3 ft. at corner
vii. Rear Setback	3 ft. min.
ENCROACHMENTS	
i. Setback Encroachments	
Open Porch	80% max.
Balcony and / or Bay Window	80% max.
Stoop, Lightwell or Terrace	80% max.
ii. Sidewalk Encroachments	
Awning or Gallery	80% max.
iii. Encroachment Depths	
Open Porch	10 ft. max.
Balcony and / or Bay Window	6 ft. max.
Stoop, Lightwell or Terrace	6 ft. max
Gallery	within 2 ft. of curb
Awning	within 2 ft. of curb

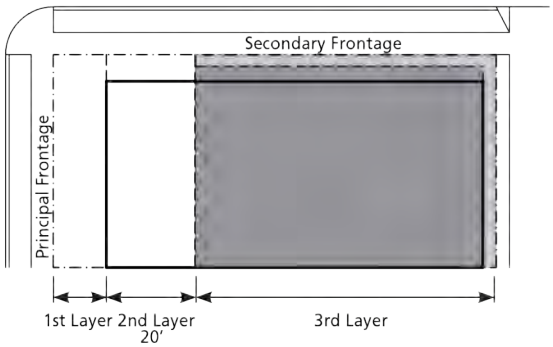
B. BUILDING FORM

HEIGHT



PRINCIPAL BUILDING	
Stories	3
To Eave / Parapet	48 ft. max., 60 ft. max. T4O
OUTBUILDING BUILDING	
Stories	2
To Eave / Parapet	35 ft. max.
MASS	
Lot Width	20* ft. min., 96 ft. max.
Lot Coverage	70% max.
Facade Buildout at Setback	60% min.

PARKING AND STORAGE LOCATION



PARKING	
1st layer (see Table 15)	not permitted
2nd layer (see Table 15)	not permitted
3rd layer (see Table 15)	permitted
TRASH & STORAGE ** LOCATION	
1st layer (see Table 15)	not permitted
2nd layer (see Table 15)	not permitted
3rd layer (see Table 15)	permitted

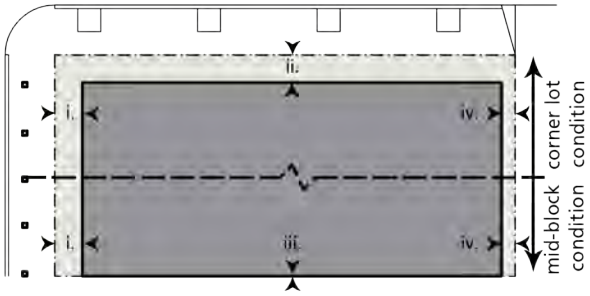
* 16 ft. minimum width is permitted if on site parking is provided.

** Storage includes boats and recreational vehicles.

TABLE 14. T5L / T5 STANDARDS

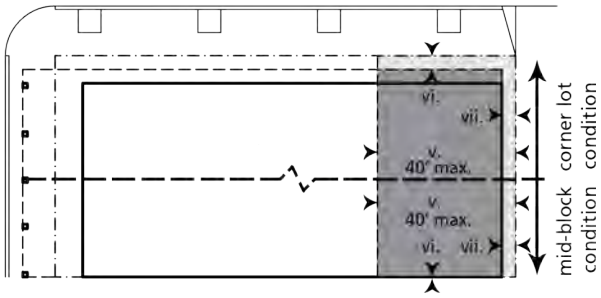
A. BUILDING PLACEMENT

PRINCIPAL BUILDING



i. Front Setback (Principal)	12 ft. max.
ii. Front Setback (Secondary)	12 ft. max.
iii. Side Setback	6 ft. max.
iv. Rear Setback	3 ft. min.

OUTBUILDING



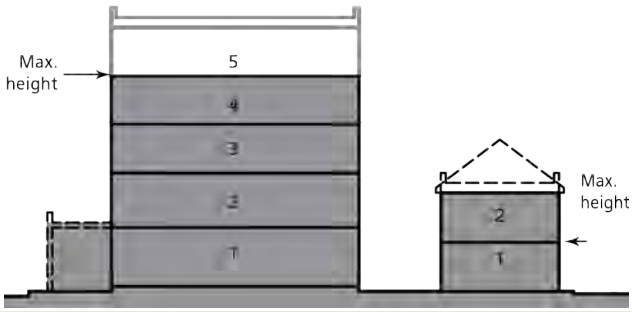
v. Front Setback (Principal)	40 ft. max. from rear property line
vi. Side Setback	0 ft. or 3 ft. at corner
vii. Rear Setback	3 ft. min.

ENCROACHMENTS

i. Setback Encroachments	
Open Porch	100% max.
Balcony and / or Bay Window	100% max.
Stoop, Lightwell or Terrace	100% max.
ii. Sidewalk Encroachments	
Awning or Gallery	100% max.
iii. Encroachment Depths	
Open Porch	10 ft. max.
Balcony and / or Bay Window	6 ft. max.
Stoop, Lightwell or Terrace	6 ft. max.
Gallery	within 2 ft. of curb
Awning	within 2 ft. of curb

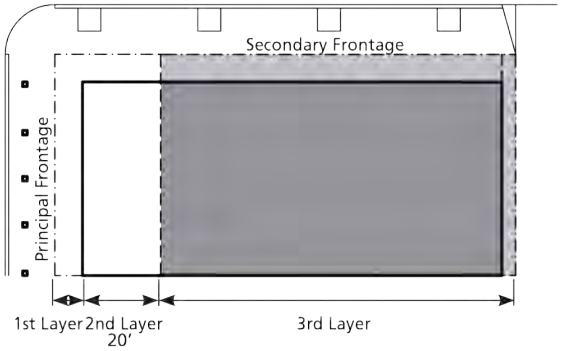
B. BUILDING FORM

HEIGHT



PRINCIPAL BUILDING	
Stories	4 max., 5 by special exception
To Eave / Parapet	80 ft. max., 90 ft. by special excpetion
OUTBUILDING BUILDING	
Stories	2
To Eave / Parapet	35 ft. max.
MASS	
Lot Width	20* ft. min., 150 ft. max.
Lot Coverage	90% max.
Facade Buildout at Setback	60% min. – 100% max.

PARKING AND STORAGE LOCATION

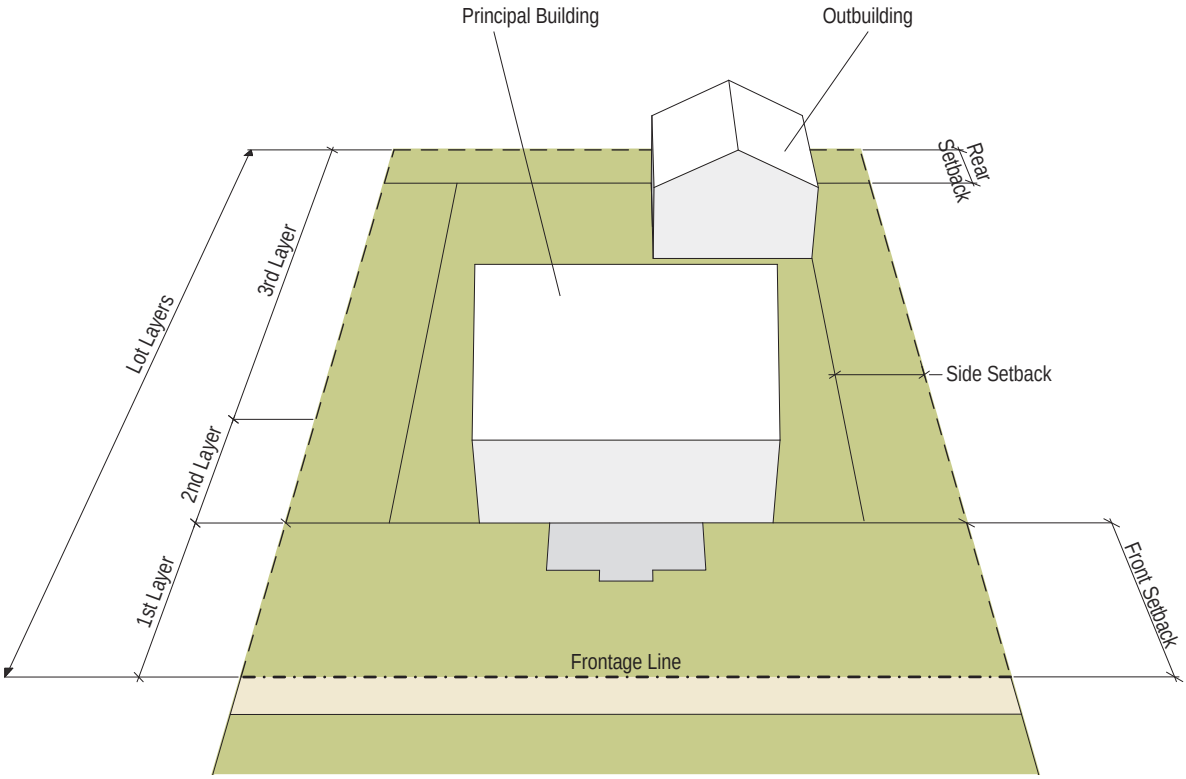


PARKING	
1st layer (see Table 15)	not permitted
2nd layer (see Table 15)	not permitted
3rd layer (see Table 15)	permitted
TRASH & STORAGE ** LOCATION	
1st layer (see Table 15)	not permitted
2nd layer (see Table 15)	not permitted
3rd layer (see Table 15)	permitted

* 16 ft. minimum width is permitted if on site parking is provided.

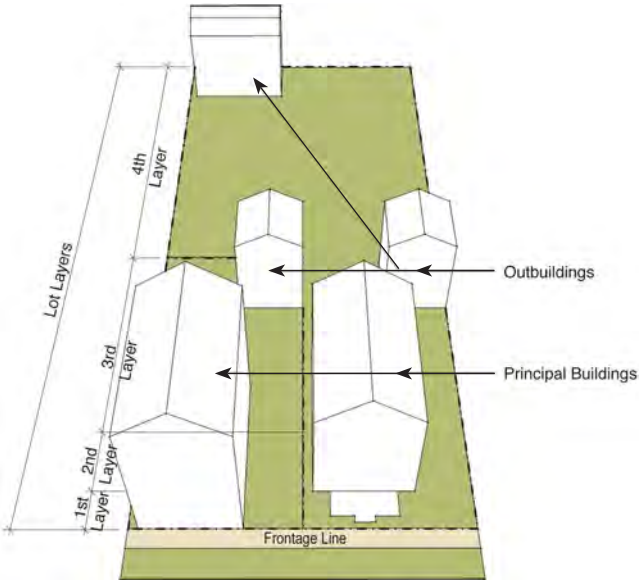
** Storage includes boats and recreational vehicles.

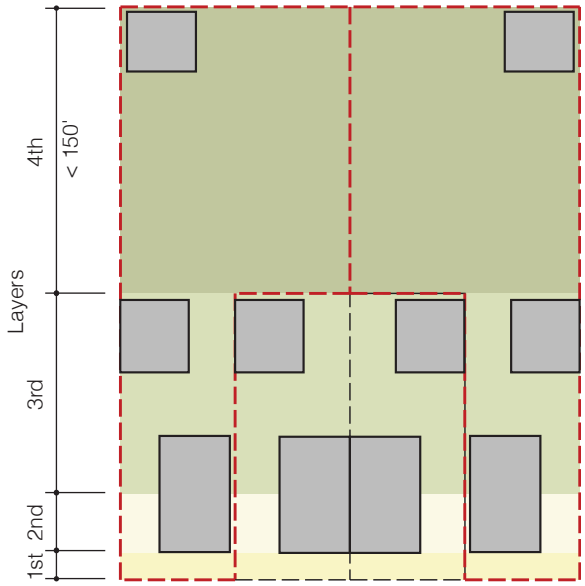
TABLE 15. LOT STRUCTURE



BUILDINGS	
Principal Building	The main building on a Lot.
Outbuilding	A secondary building usually located toward the rear of the same Lot as a Principal Building such as a garage, carport, or workshop and may include an Accessory Unit.
SETBACKS	
Primary Front Setback	The area of a Lot measured from the Primary Frontage Line to the nearest permissible location of a Principal Building, excluding Encroachments.
Secondary Front Setback	Corner Lots have more than one Frontage Line. One Frontage Line is designated the Primary Frontage Line and all remaining Frontage Lines are designated as Secondary Frontage Lines. The Secondary Front Setback is the area of a Lot measured from the Secondary Frontage Line to the nearest permissible location of a Principal Building, excluding Encroachments.
Side Setback	The area of a Lot measured from any side Lot Line to the nearest permissible location of a Principal Building, excluding Encroachments.
Rear Setback	The area of a Lot measured from a rear Lot Line to the nearest permissible location of a Principal Building or Outbuilding, excluding Encroachments.
LOT LAYERS	
First Layer	The area of a Lot from the the Frontage Line to the Facade of the Principal Building.
Second Layer	The area of a Lot set behind the 1st Layer to a depth of 20 feet.
Third Layer	The area of a Lot set behind the 2nd Layer and extending to the rear Lot Line.
LOT SIZE	
Lot Width	The length of the Principal Frontage Line of a Lot.

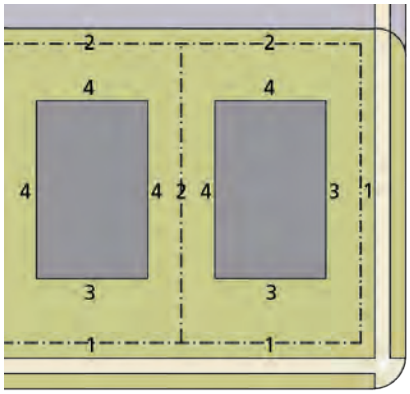
TABLE 16. T2O LOT STRUCTURE





BUILDINGS	
Principal Building	The main building on a Lot.
Outbuildings	A secondary building usually located toward the rear of the same Lot as a Principal Building such as a garage, carport, or workshop and may include an Accessory Unit. Lots exceeding 150' in depth may have a second outbuilding.
LOT LAYERS	
First Layer	The area of a Lot from the the Frontage Line to the Facade of the Principal Building.
Second Layer	The area of a Lot set behind the 1st Layer to a depth of 20 feet.
Third Layer	The area of a Lot set behind the 2nd Layer and extending to the rear Lot Line or to a depth of 150'.
Fourth Layer	Lots in excess of 150' deep have a fourth layer. This area is usually used for agriculture, and agricultural uses may be limited to this layer. See Subsection 5.7.4.
LOT SIZE	
Lot Depth	Flag lots are permitted in T2O. Standard lot depts may be interspersed with lots in excess of 150' that shall be primarily used for agricultural purposes.

TABLE 17. FRONTAGES & ELEVATIONS

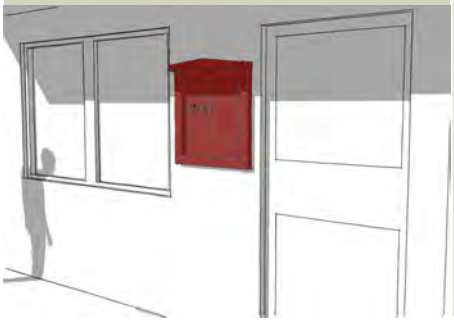


1 - Frontage Line
2 - Lot Line
3 - Facades
4 - Elevations

TABLE 18. SIGN TYPES

	T2O	T3	T4	T4O	T5L	T5	SPECIFICATIONS	
Address Sign	■	■	■	■	■	■	a. Quantity (max)	1 per address
							b. Area	max 2 sf
							c. Width	max 24 in
							d. Height	max 12 in
							e. Depth / Projection	max 3 in
							f. Clearance	min 4.5 ft
							g. Apex	n/a
							h. Letter Height	max 6"
Awning and Sign	■		■	■	■	■	a. Quantity (max)	1 per window
							b. Area	n/a
							c. Width	max equals width of Facade
							d. Height	n/a
							e. Depth / Projection	min 4 ft, see Sec 5.12.7e
							f. Clearance	min 8 ft, 7 ft by Warrant
							g. Apex	n/a
							h. Letter Height	min 5 in, max 10 in
							i. Valance Height	max 12 in
							j. Distance from Curb	min. 2 ft.
							may be used with Shingle Sign	
Band Sign	■		■	■	■	■	a. Quantity (max)	1 (2 for corner buildings)
							b. Area (max)	3 sf per linear ft Facade
							c. Width	max 90% width of Facade
							d. Height	max 3 ft
							e. Depth / Projection	max 7 in
							f. Clearance	min 7 ft
							g. Apex	n/a
							h. Letter Height	max 18 in
Blade Sign	■	■	■	■	■	■	a. Quantity	1 per Facade, 2 max
							b. Area (max)	4 sf T2,T3,T4; 6 sf T4O, T5
							c. Width	max 4 ft
							d. Height	max 4 ft
							f. Depth / Projection	max 4 ft
							g. Clearance	min 8 ft
							h. Apex	n/a
							i. Letter Height	max 8 in

SIGN TYPES CONTINUED

	T2O	T3	T4	T4O	T5L	T5	SPECIFICATIONS	
Marquee				■		■	a. Quantity (max)	1 per business
							b. Area	n/a
							c. Width (max)	entrance plus 2' each side
							d. Height	max 50% Story height
							e. Depth / Projection	min 4 ft, max 10 ft
							f. Clearance	min 10 ft
							g. Apex	n/a
							h. Letter Height	n/a
							i. Distance from Curb	min 3 ft.
Monument				■		■	a. Quantity (max)	1 per parcel
							b. Area	max 24 sf
							c. Width (max)	max 4 ft
							d. Height	max 6 ft
							e. Depth / Projection	max 1 ft.
							f. Clearance	n/a
							g. Apex	max 78 in.
							h. Letter Height	n/a
							i. Distance from Curb	min 10 ft.
Nameplate Sign	■	□	■	■	■	■	a. Quantity (max)	1
							b. Area	max 6 sf
							c. Width (max)	max 3.5 ft
							d. Height	max 3.5 ft
							e. Depth / Projection	max 5 in
							f. Clearance	min 4 ft
							g. Apex	n/a
							h. Letter Height	n/a
Outdoor Display Case 	■		■	■		■	a. Quantity (max)	1
							b. Area	max 6 sf
							c. Width (max)	max 3.5 ft
							d. Height	max 3.5 ft
							e. Depth / Projection	max 5 in
							f. Clearance	min 4 ft
							g. Apex	n/a
							h. Letter Height	n/a

SIGN TYPES CONTINUED.

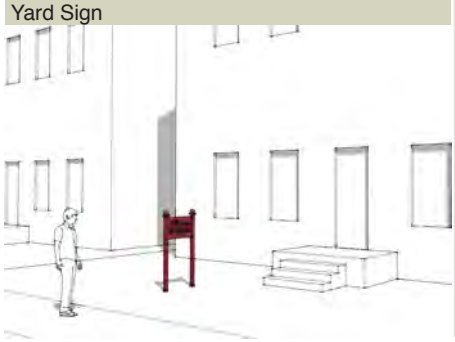
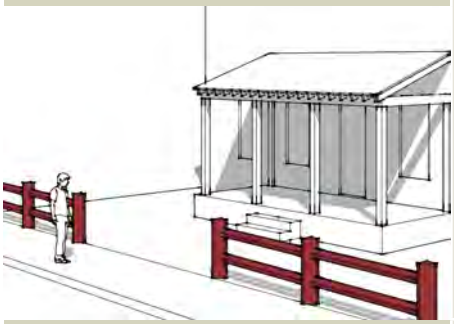
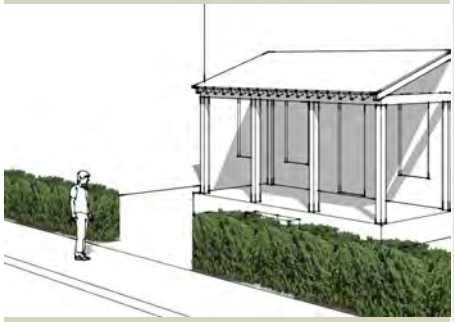
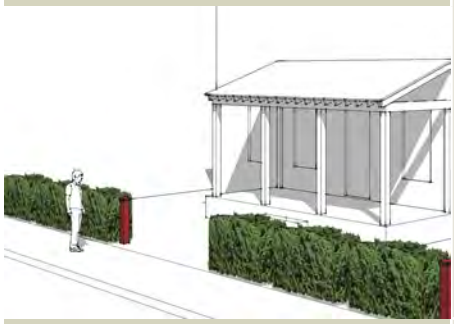
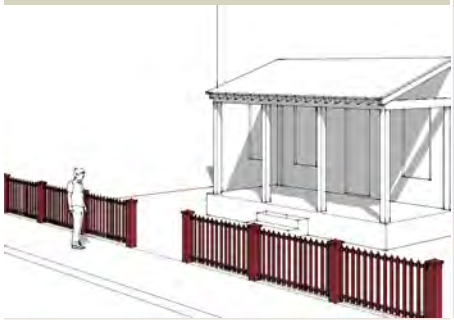
	T2O	T3	T4	T4O	T5L	T5	SPECIFICATIONS	
Shingle Sign	■	■	■	■	■	■	a. Quantity (max)	1 per facade, 2 max
							b. Area	4 sf
							c. Width (max)	max 2 ft
							d. Height	max 3 ft
							e. Depth / Projection	max 2 ft
							f. Clearance	min 7 ft
							g. Apex	n/a
							h. Letter Height	max 8 in
							i. Distance from Curb	
							May be used with Awning	
Sidewalk Sign	■		■	■		■	a. Quantity (max)	1 per business
							b. Area	max 8 sf
							c. Width (max)	max 26 in
							d. Height	max 42 in
							e. Depth / Projection	n/a
							f. Clearance	n/a
							g. Apex	max 42 in
							h. Letter Height	n/a
Window Sign	■		■	■	■	■	a. Quantity (max)	1 per window
							b. Area	max 25% of glass
							c. Width (max)	varies
							d. Height	varies
							e. Depth / Projection	n/a
							f. Clearance	4 ft
							g. Apex	n/a
							h. Letter Height	max 8 in
Yard Sign 	■	■	■	■	■	■	a. Quantity (max)	1 per parcel
							b. Area	max 6 sf
							c. Width (max)	varies
							d. Height	6 ft. max.
							e. Depth / Projection	n/a
							f. Clearance	n/a
							g. Apex	n/a
							h. Letter Height	n/a
							j. Setback from frontage line	6 ft. min.

TABLE 19. FENCE TYPES

	T2O	T3	T4	T4O	T5L	T5	SPECIFICATIONS	
Ranch 	■	■					a. Setback	0" or 18" for landscape
Hedgerow 	■	■	■				a. Plant type b. Setback	evergreen 0" or 18" for landscape
Post and Hedge 	■	■	■	■			a. Plant type b. Setback	evergreen 0" or 18" for landscape
Picket 	■	■	■	■	■		a. Picket spacing b. Setback	≤ 2.5 times width of picket 0" or 18" for landscape

FENCE MATERIAL CONTINUED

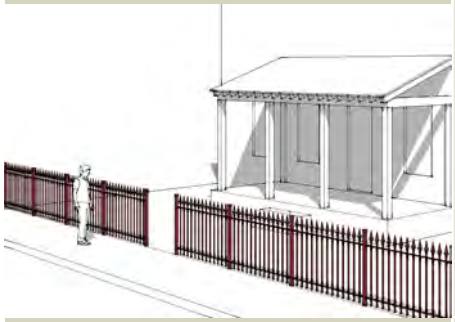
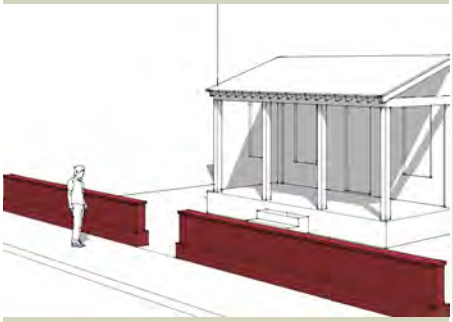
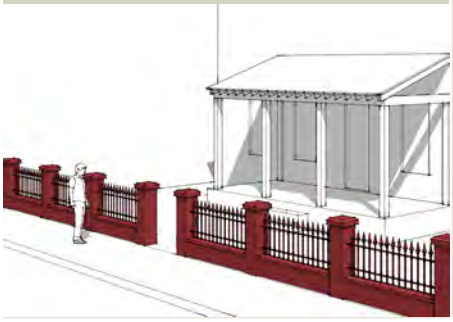
	T2O	T3	T4	T4O	T5L	T5	SPECIFICATIONS	
Metal 	■		■	■	■	■	a. Material b. Finish c. Picket spacing d. Setback	aluminum or wrought iron powder coat or paint ≤ 2.5 times width of picket 0" or 18" for landscape
Stone, Brick, Stucco 	■		■	■	■	■	a. Material b. Setback	Stone, Brick or Stucco 0" or 18" for landscape
Metal and Stone, Brick, Stucco 				■	■	■	a. Material b. Setback	Stone, Brick or Stucco with Metal panels 0" or 18" for landscape

TABLE 20. FENCE LOCATIONS

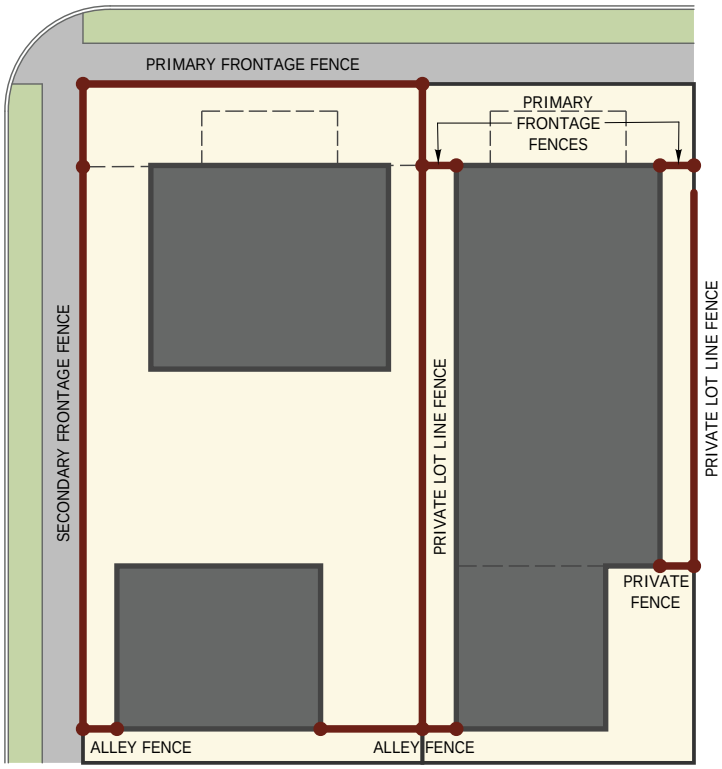
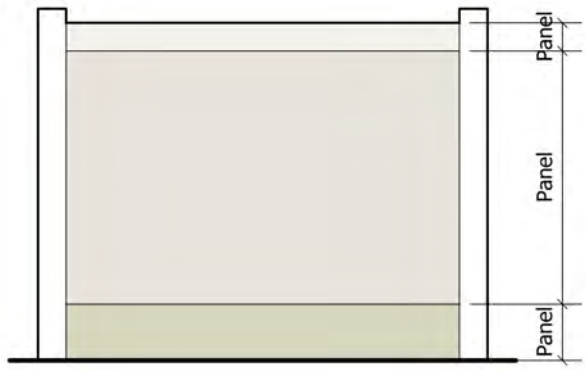


TABLE 21. FENCE PANELS



ARTICLE 6. SPECIAL DISTRICTS

6.1 Special Districts SDB and SDI

6.1.1 Building Placement

a. Newly platted lots shall be dimensioned according to Table 22 and Table 23.
b. Buildings shall be placed in relation to the boundaries of their lots according to Table 22 and Table 23.
c. One principal building at the frontage, and one outbuilding to the rear of the principal building, may be built on each lot as shown in Table 15.
d. Lot coverage by building shall not exceed that recorded in Table 22 and Table 23.
e. Setbacks for buildings shall be as shown in Table 22 and Table 23.

6.1.2 Building Configuration

a. General to SDB, SDI
   i. Buildings on corner lots shall have two private frontages as shown in Table 17. Prescriptions for the second and third layers pertain only to the principal frontage. Prescriptions for the first layer pertain to both frontages.
   ii. Encroachments shall be as follows: At the first layer, cantilevered awnings and entry canopies may encroach up to one hundred percent (100%) of the depth of the setback, except as may be further allowed by Chapter 19 of the City of Ranson Code of Ordinances; cantilevered portions of balconies, bay windows, and roofs shall be a maximum three (3) feet deep and may encroach up to a three (3) feet depth of the setback. Other cantilevered portions of the building shall maintain the required setback. At the second layer no encroachments are permitted except that façade components promoting energy efficiency such as shading and screening devices that are non-accessible may encroach a maximum of three (3) feet.
   iii. Galleries and arcades shall be a minimum twelve (12) feet deep and may encroach up to one hundred percent (100%) of the depth of the setback.
   iv. In a parking structure or garage, each above-ground level counts as a single story regardless of its relationship to habitable stories.
   v. Height limits do not apply to attics or raised basements, masts, belfries, clock towers, chimney flues, water tanks, or elevator bulkheads.
   vi. All storage, utility and infrastructure elements including service areas, loading space, transformers, telephone boxes, garbage cans, dumpsters, condensers, meters, backflow preventers, siamese connections and the like shall be located within the second or third layer and concealed from view from any frontage or sidewalk by streetscreens, and opaque gates. Loading and service entries shall be accessed from alleys when available.
   vii. Building heights shall be measured in stories and shall conform to Table 5 and be allocated as required in Table 22 and Table 23. Industrial uses requiring additional Height in SDI may be permitted by administrative waiver The City Manager or his designee must make the following written findings:
      1. The waiver is consistent with the provisions of Section 1.2 Intent.
      2. The waiver is consistent with the Comprehensive Plan.
      3. The waiver does not require a Special Exception Permit.
      4. The additional height will not materially endanger the public health or safety or constitute a public nuisance if located where proposed and developed according to the plans and information submitted and approved.

5. The additional height will not substantially injure the value of adjoining property; or that the use is a public necessity.
6. The additional height, if developed according to the plans and information approved, will be in harmony with proximate land uses, and consistent with the purposes of the district.
7. The applicant has demonstrated that the use specifically requires the proposed Height.

viii. A first floor commercial use, which shall be a minimum of 11 feet with a maximum of 25 feet. A single floor level exceeding 14 feet, or 25 feet at ground level, shall be counted as two (2) stories. Mezzanines extending beyond 33% of the floor area shall be counted as an additional story.

ix. Flat roofs shall be enclosed by parapets of a minimum height required to conceal mechanical equipment.

x. Streetscreens shall be between three and a half (3.5) and eight (8) feet in Height. The Streetscreen may be replaced by a hedge or fence. Streetscreens shall have openings no larger than necessary to allow automobile and pedestrian access.

b. Specific to SDB
   i. The private frontage of buildings shall conform to Table 6.
   ii. All facades shall be glazed with clear glass no less than 15% of the first story.

c. Specific to SDI
   i. Vehicular entries, loading space and service areas shall be permitted on principal frontages.

6.1.3 Building Use

a. Buildings in Special Districts shall conform to the uses and intensities described in Table 7 and Table 8.

6.1.4 Parking Standards

a. Vehicular parking shall be required as shown in Chapter 19, Sec. 19-12.
b. On-street parking available along the frontage lines that correspond to each lot shall be counted toward the parking requirement of the building on the lot.
c. All parking, including open parking areas, covered parking, garages, loading docks and service areas shall be masked from the frontage by a streetscreen pursuant to Subsection 6.1.2. Underground parking may extend into the second layer only if it is fully underground and does not require raising the first-floor elevation of the second layer above that of the sidewalk.
d. Buildings mixing uses shall provide parking required for each use.

6.1.5 Landscape Standards

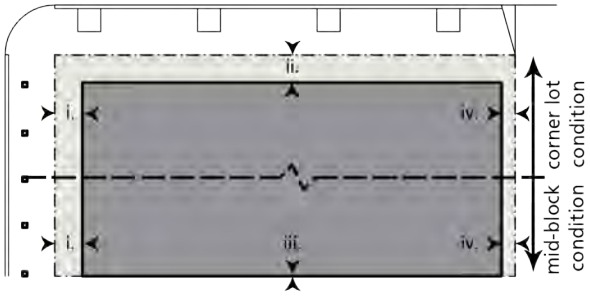
a. Buffers and screening elements shall be used to screen parking areas from public view, to screen service yards and other places that are unsightly, and to buffer between the special district and an adjacent Transect District.
   i. A frontage landscape buffer, which may also include the sidewalk, shall be a minimum of ten (10) feet in depth, measured from the frontage line and running its full width.
      1. A minimum of one (1) tree shall be planted within the first layer for every 700 square feet of frontage landscape buffer.
      2. Fifty (50) percent or more of the frontage landscape buffer must have shrubs and vegetative cover.

ii. An interior landscape buffer located along common property lines shall be required between a SD and an adjacent Transect Districts.
   1. A minimum of one (1) tree shall be planted within the side and rear setbacks for every 700 square feet of interior landscape buffer.
   2. Fifty (50) percent of the interior landscape buffer shall be covered with vegetation.

TABLE 22. SDB STANDARDS

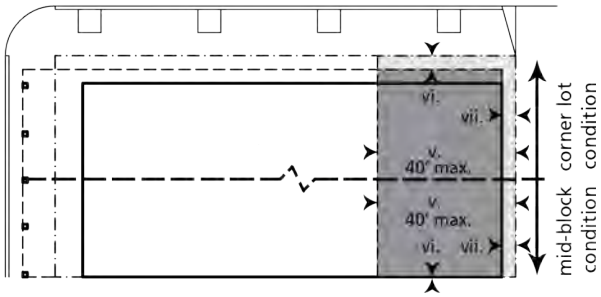
A. BUILDING PLACEMENT

PRINCIPAL BUILDING



i. Front Setback (Principal)	24 ft. max.
ii. Front Setback (Secondary)	24 ft. max.
iii. Side Setback	24 ft. max.
iv. Rear Setback	12 ft. min.

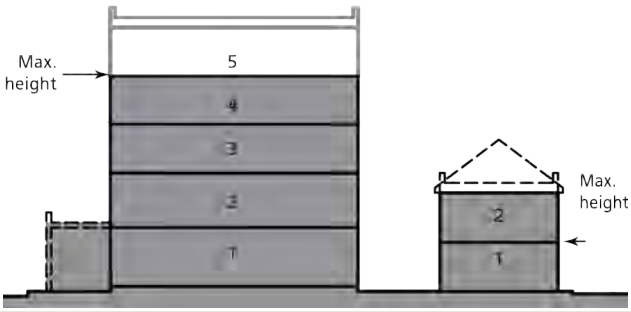
OUTBUILDING



v. Front Setback (Principal)	40 ft. max. from rear property line
vi. Side Setback	3 ft. min.
vii. Rear Setback	3 ft. min.
ENCROACHMENTS	
i. Setback Encroachments	
Stoop, Lightwell or Terrace	100% max.
ii. Sidewalk Encroachments	
Awning or Gallery	80% max.
iii. Encroachment Depths	
Stoop, Lightwell or Terrace	6 ft. max.
Gallery	within 2 ft. of curb
Awning	within 2 ft. of curb

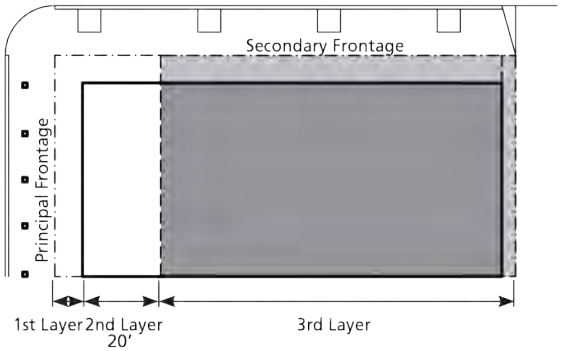
B. BUILDING FORM

HEIGHT



PRINCIPAL BUILDING	
Stories	4 max., 5 by special exception
To Eave / Parapet	70 ft. max., 90 ft. by special excpetion
OUTBUILDING BUILDING	
Stories	2
To Eave / Parapet	30 ft. max.
MASS	
Lot Width	60 ft. min., 300 ft. max.
Lot Coverage	70% max.
Facade Buildout at Setback	60% min. – 100% max.

PARKING AND STORAGE LOCATION



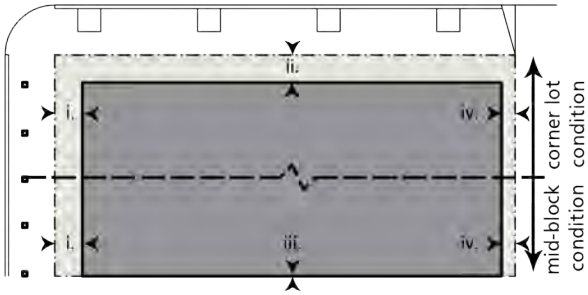
PARKING	
1st layer (see Table 15)	not permitted
2nd layer (see Table 15)	permitted
3rd layer (see Table 15)	permitted
TRASH & STORAGE * LOCATION	
1st layer (see Table 15)	not permitted
2nd layer (see Table 15)	not permitted
3rd layer (see Table 15)	permitted

* Storage includes boats and recreational vehicles.

TABLE 23. SDI STANDARDS

A. BUILDING PLACEMENT

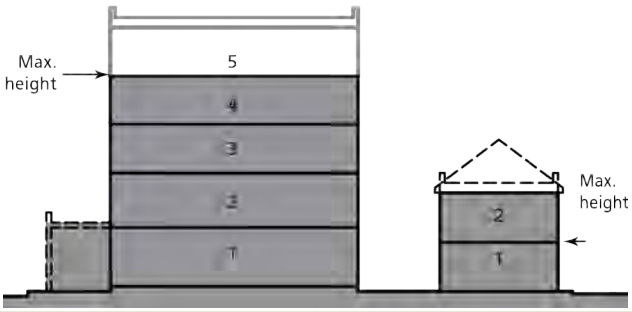
PRINCIPAL BUILDING



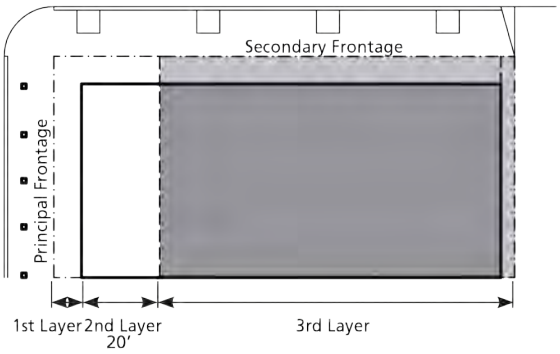
i. Front Setback (Principal)	30 ft. max.
ii. Front Setback (Secondary)	30 ft. max.
iii. Side Setback	24 ft. max.
iv. Rear Setback	24 ft. min.
ENCROACHMENTS	
i. Setback Encroachments	
Stoop, Lightwell or Terrace	100% max.
ii. Sidewalk Encroachments	
Awning or Gallery	80% max.
iii. Encroachment Depths	
Balcony and / or Bay Window	6 ft. max.
Stoop, Lightwell or Terrace	6 ft. max.
Gallery	within 2 ft. of curb
Awning	within 2 ft. of curb

B. BUILDING FORM

HEIGHT



PRINCIPAL BUILDING	
Stories	4 max., 5 by special exception
To Eave / Parapet	70 ft. max., 90 ft. by special excpetion
MASS	
Lot Width	n/a
Lot Coverage	60% max.
Facade Buildout at Setback	n/a
PARKING AND STORAGE LOCATION	



PARKING	
1st layer (see Table 15)	permitted
2nd layer (see Table 15)	permitted
3rd layer (see Table 15)	permitted
TRASH & STORAGE * LOCATION	
1st layer (see Table 15)	not permitted
2nd layer (see Table 15)	not permitted
3rd layer (see Table 15)	permitted

* Storage includes boats and recreational vehicles.

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ARTICLE 7. PUBLIC REALM

7.1 Instructions

7.1.1 This Chapter establishes design standards for public spaces and thoroughfares for land regulated by this Chapter.

7.1.2 The design standards set forth in this Chapter may be used as criteria for the planning approval process and are sanctioned through their respective city departments including Engineering, Planning, Public Works and Parks & Recreation.

7.1.3 Provisions of this Chapter, when in conflict, take precedence over those of other codes, ordinances, regulations and standards for Engineering, Planning, Public Works and Parks & Recreation, except the Local Health and Safety Codes and Local, State, and National Building Codes.

7.1.4 Additional licenses, agreements, and permits may be required as maintained and administered in the office of the respective City department.

7.1.5 Preliminary design drawings and final construction drawings for civic spaces, civic buildings, thoroughfares, and utilities require approval from the CRC.

7.1.6 Thoroughfare and utility plans submitted for approval must demonstrate compliance with:

a. Thoroughfare standards (Section 7.2)
b. Easement standards (Section 7.3)
c. Landscape standards (Section 7.5)

7.1.7 Civic space plans submitted for approval must demonstrate compliance with:

a. Civic space standards (Section 7.4)

7.2 Thoroughfare Standards

7.2.1 The primary use of thoroughfares is to provide access to lots and open spaces. In accordance with the intent of this Chapter, thoroughfares must be designed to support several modes of transportation: public transportation, motor vehicles, and non-motor vehicles such as bicycles, and pedestrians.

7.2.2 All thoroughfares shall terminate at other thoroughfares in intersections, forming a network. Where topographical conditions exist that restrict the ability to form road networks a pedestrian connection shall be made. Right-of-way shall be dedicated that will allow the continuation of road networks to adjacent properties.

a. Intersections are not included in Table 30 and should be appropriately engineered.
    i. Roundabouts are permitted instead of signalization, but require a traffic engineer.

7.2.3 All thoroughfares must be configured as thoroughfare assemblies, as generally illustrated in Table 30. Thoroughfare assemblies must be designed in accordance with Subsection 7.2.4.

7.2.4 Thoroughfare Assemblies

Thoroughfare assemblies shall consist of a transportation way and public frontage assemblies, as generally illustrated in Table 24.

a. Thoroughfare assemblies must be configured by Transect District and thoroughfare assembly type according to Table 25 and must be mapped on a thoroughfare network plan. Table 30 includes pre-approved thoroughfare assemblies for use under this Chapter.
b. Thoroughfare assemblies must include public frontages configured according to Section 7.2.5.
c. The transportation way may include vehicular lanes, parking lanes, medians, access lanes, and transportation provisions.
    i. Elements of the transportation way must be configured and sized according to

Table 26.

ii. Medians may include civic special districts and should be designed to generally meet the level of public planting of adjacent public frontages.

iii. Parking lanes must be 8 feet or less in width for parallel parking or 18 feet or less for angled parking. Tick marks, where required, identifying parking lanes must be within the parking lane width.

d. Alley easements include one vehicular lane, within a total width no more than 30 ft. The entire right-of-way should be paved. Alley assemblies do not include transportation ways or public frontages. Alleys may be located in T5, T4O, and T4 districts.

e. Rear lane easements include one vehicular lane, within a total width no more than 24 ft. Only the vehicular lane and driveways should be paved. Rear lanes do not include transportation ways or public frontages. Rear lanes may be located in T4, T3, and T2O districts.

7.2.5 Public Frontages

Public frontage assemblies consisting of planters, walkways, curbs, verges, public planting and public lighting, as generally illustrated in Table 24. Elements of the public frontage assembly that pass from one transect district to another must be blended to the character of the transect district of adjacent lots.

a. Public frontage assemblies shall be assigned according to Table 26.

b. Public frontage assemblies shall be configured according to Table 27. Assemblies including a walkway or planter shall specify a minimum width.

c. Public frontage assemblies shall assign a verge, providing allowable locations for public infrastructure and public furniture outside of pedestrian and vehicular access ways.

d. Public frontage assemblies shall include public planting and public lighting, configured according to Table 27. The spacing shall be as shown in Table 30. The spacing may be adjusted up to 20% by administrative waiver to accommodate specific site conditions or shopfronts. The City Manager or his designee must make the following written findings:

i. The administrative waiver is consistent with the provisions of Section 1.2 Intent.

ii. The waiver is consistent with the Comprehensive Plan.

iii. The public planting and public lighting will not materially endanger the public health or safety or constitute a public nuisance if located where proposed and developed according to the plans and information submitted and approved.

iv. The public planting and public lighting will not substantially injure the value of adjoining property; or that the use is a public necessity.

v. The location and character of the public planting and public lighting, if developed according to the plans and information approved, will be in harmony with proximate land uses, and consistent with the purposes of the district.

vi. Planned or existing site conditions, such as location of doors and windows, fire hydrants, traffic control signs and signals, street lights, trees, or other street furniture, prevent adherence to the standards in Table 30.

vii. Public lighting must be located within the verge.

viii. Public planting must be designed in accordance with Section 7.5.

ix. Public frontages in T4O, T5L, and T5 within thoroughfare assemblies 44 feet wide and commercial streets 60 feet wide or less may exclude public planting.

x. At retail frontages, the spacing of trees may be irregular to avoid visually obscuring shopfronts.

xi. At gallery frontages and arcade frontages, public planting is not required and public

lighting may be provided within the gallery or arcade.

7.3 Easement Standards

7.3.1 Utility easements must be located as generally illustrated in Table 28.

7.3.2 Wet utilities may only be located on private lots or civic spaces when topographical conditions require placement in these locations.

7.3.3 Wet utility laterals shall be coordinated with the landscaping and street light placement.

7.3.4 For properties with existing overhead utilities

a. Dry utility services shall be placed underground from the pole to any new structure.
b. Where possible transformers and utility pedestals will be set behind the principal building frontage.
c. The reservation of an easement for the future underground placement of these utilities shall be required.
d. Utility poles must be relocated where they prohibit the construction of a unobstructed 5' pedestrian sidewalk.
e. Additional building setbacks within the private frontage for the overhead utilities may be required.

7.3.5 For properties without rear alleys.

a. All dry utilities shall be placed underground.
b. Dry utilities shall be placed under the sidewalk, or within the public frontage and adjacent to the property line where no sidewalk is required.
c. Where possible transformers and utility pedestals will be set behind the principal building frontage.

7.3.6 For properties with rear alleys or lanes.

a. Dry utilities will be located within the transportation way.
b. Transformers and utility pedestals shall be located on private property within utility easements.

7.3.7 Transformers and utility pedestals shall not be located at terminated vistas.

7.3.8 Alley and rear lane easement configurations are specified in Section 7.2. Pre-approved alley and rear lane assemblies are included in Table 30.

7.3.9 Pedestrian access easements in the form of pedestrian trails, paths, and passages must be configured as follows:

a. A minimum 5 foot walkway must be provided.
b. Public planting and public lighting must be configured according to public frontage standards in Section 7.5.
c. Pre-approved pedestrian access easements are included in Table 30.

7.4 Civic Areas

7.4.1 Civic space must be generally designed as described in Table 31.

7.4.2 Planting and landscaping in civic spaces, are regulated by Section 7.5.

7.4.3 Lighting in civic spaces, must meet the type, height, and spacing requirements in Table 34.

7.5 Landscape Standards

7.5.1 All planting in the public frontage and civic spaces must consist of species specified in Table 32.

7.5.2 Trees in public frontages must be a minimum height of ten (10) feet and two (2) inches in caliper when planted.

a. Five (5) foot high trees with one (1) inch caliper shall be permitted if a two-year warranty

is provided.

7.5.3 Street trees planted in areas of conflict with overhead utilities shall be limited to the following pursuant to the requirements of the Municipal Tree Restoration Program and the West Virginia Division of Forestery:

a. Oriental cherry
b. Crabapple
c. Eastern redbud
d. Hawthorn
e. Japanese snowbell
f. Kousa dogwood
g. Amur maple
h. Tatarian maple
i. Serviceberry
j. Silver bell
k. Tree lilac

7.5.4 Distance from corner, curb and fireplug.

a. No street tree shall be planted closer than 35 feet of any street corner, measured from the point of the nearest intersecting curb or curbline. No street trees shall be planted closer than ten feet away from any fireplug.

7.5.5 Distance from utilities.

a. No street trees other than those species listed as ornamental trees on Table 32 may be planted within ten lateral feet of any underground water line, sewer line, transmission line or other utility.

7.5.6 Public tree care.

a. The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, and civic spaces, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such civic spaces.
b. The city tree board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its own nature is damaging to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of such trees are in accordance with the official street tree list and sections 16-240 through 16-246

7.5.7 Tree topping.

a. It shall be unlawful as a normal practice for any person to top any street tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where pruning practices are impractical, may be exempted from this section by determination of the city tree board.

7.5.8 Pruning, corner clearance.

a. Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any street lamps or obstruct the view of any street intersection and so that there shall be a clear

space of eight feet above the surface of the street or sidewalk. Such owners shall remove all dead, decayed or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public.

b. The city shall have the right to prune any tree or shrubbery on private property where it interferes with the proper spread of light along the street from a street lamp or interferes with visibility of any traffic control device or sign.

7.5.9 Dead or diseased tree removal on private property.

a. The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or diseases which constitute a potential threat to other trees within the city. The city tree board will notify in writing the owners of such trees. Removal may be done by such owners at their expense within 60 days after the date of service of notice. In the event of failure of the owner to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal to the owner.

7.5.10 Removal of stumps.

a. All stumps of street and civic space trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

7.5.11 Parking lots shall be landscaped as follows:

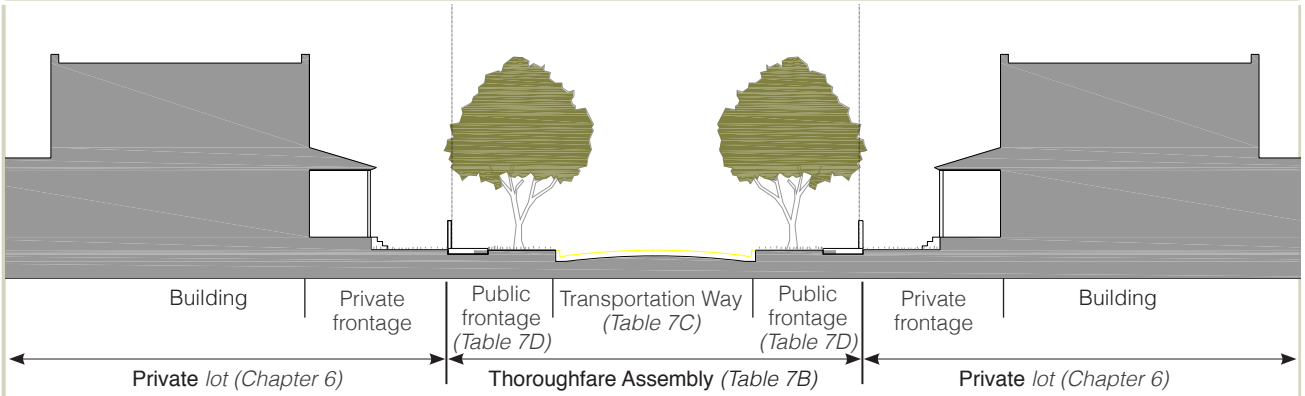
a. Paving should consist of pervious materials where subsurface conditions will support infiltration.

b. Where possible the parking surfaces will drain into landscape areas that have been design to accept and detain water.

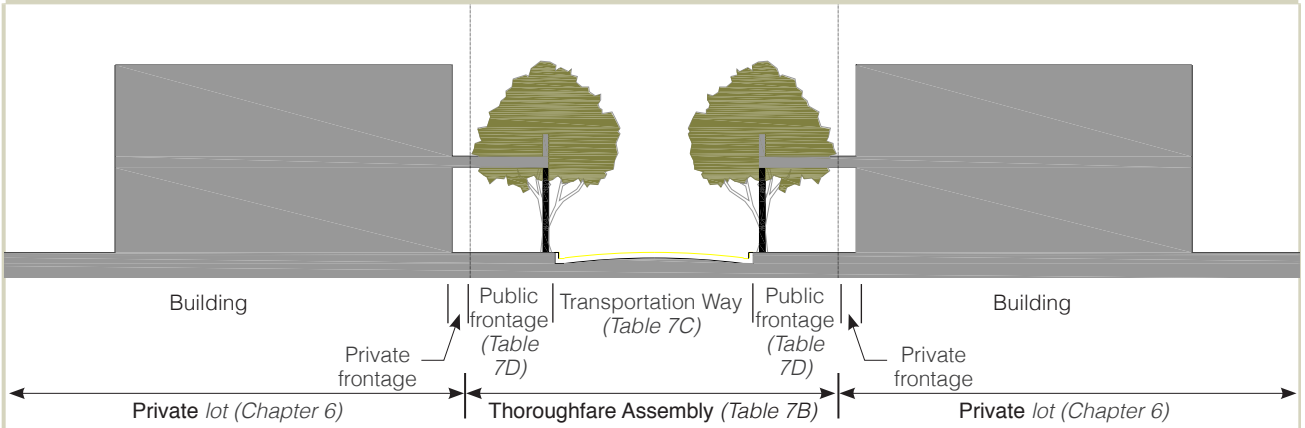
c. Parking lots consisting of less than 25 spaces are exempt from landscaping requirements.

TABLE 24. THOROUGHFARES AND FRONTAGES

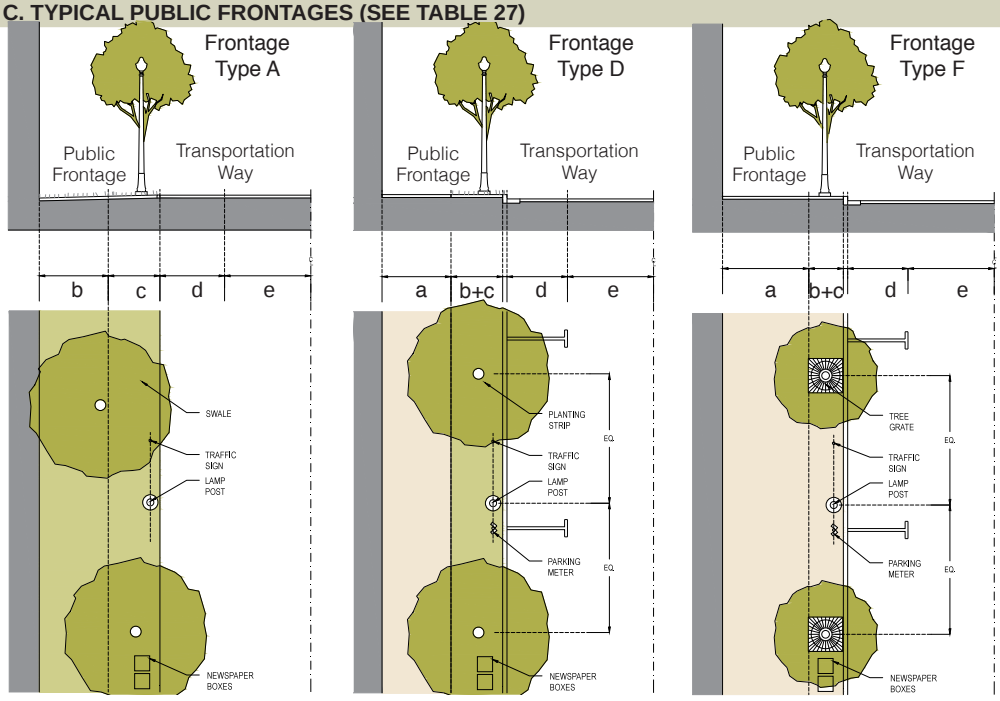
A. TYPICAL SECTION IN T3



B. TYPICAL SECTION IN T5 WITH GALLERY FRONTAGE ENCROACHMENTS



C. TYPICAL PUBLIC FRONTAGES (SEE TABLE 27)



Public Frontage

a. Walkway

b. Planter

c. Verge

Transportation Way

d. Parking Lane

e. Vehicular Lane

note: these drawings are illustrative

TABLE 25. THOROUGHFARE ASSEMBLY TYPES

THOROUGHFARE TYPE	T1	T2	T3	T4	T5	DESCRIPTION	COMPACT URBAN FUNCTIONAL CLASSIFICATION
HIGHWAY (HW)	■	■				A long-distance, high-speed, free-movement thoroughfare traversing open countryside. A highway should be relatively free of intersections, driveways, and adjacent buildings.	Principal Arterial
PARKWAY (PW)	■	■	■	■		A highway designed in conjunction with naturalistic landscaping, including a variable-width median. A parkway should include a wide right-of-way landscaped on both sides of vehicular lanes.	Principal Arterial
ROAD (RD)	■	■	■			A local, slow-movement thoroughfare suitable for low density environments. Roads tend to be rural in character without curbs or striping.	Local
STREET (ST)			■	■	■	A local, slow-movement thoroughfare suitable for general urban areas. Streets are urban in character, and flexible in the types of public frontages they support.	Collector, Local
DRIVE (DR)			■	■	■	A thoroughfare along the boundary between an urbanized and a natural condition, usually along a waterfront, a park, or a promontory. One side of a drive has the urban character of a street or boulevard, while the other has the qualities of a road or parkway.	Collector, Local
AVENUE (AV)			■	■	■	A limited distance, free-movement thoroughfare connecting civic locations within an urbanized area. Unlike a boulevard, its length is finite and its axis is terminated. An avenue may be conceived as an elongated square.	Collector, Local
COMMERCIAL STREET (CS)					■	A local, slow-movement thoroughfare suitable for high-intensity urban areas. Commercial streets are urban in character, supporting parallel or angled parking on both sides and narrow lanes appropriate for a commercial environment.	Collector, Local

THOROUGHFARE ASSEMBLY TYPES CONTINUED

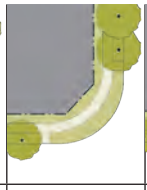
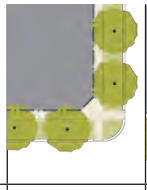
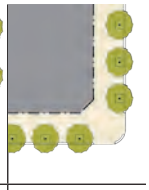
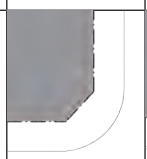
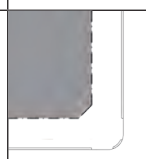
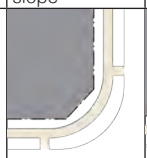
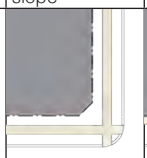
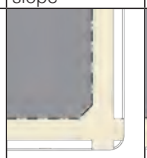
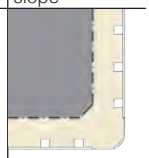
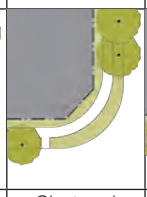
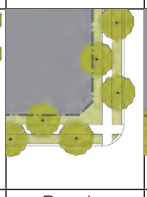
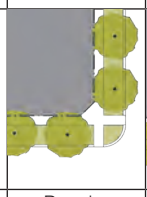
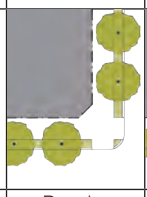
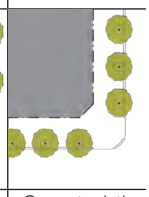
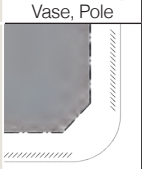
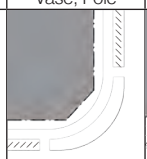
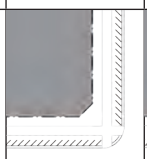
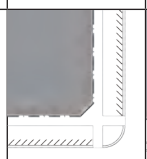
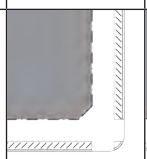
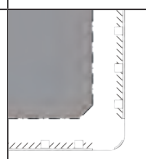
THOROUGHFARE TYPE	T1	T2	T3	T4	T5	DESCRIPTION	COMPACT URBAN FUNCTIONAL CLASSIFICATION
BOULEVARD (BV)				■	■	A long-distance, free-movement thoroughfare traversing an urbanized area. A boulevard often includes a wide median and a wide public frontage and therefor a wide right-of-way. Access lanes are often provided to separate public frontages from the higher speed lanes.	Minor Arterial, Collector
REAR LANE			■	■		A vehicular access way located to the rear of a lot providing access to parking and outbuildings as well as easements for utilities. Rear lanes are paved as lightly as possible to driveway standards or with gravel.	
ALLEY				■	■	A narrow service access to the rear of more urban buildings providing service and parking areas and utility easements. Alleys, as they are used by trucks and must accommodate dumpsters, should be paved from building face to building face, with drainage by inverted crown at the center.	

TABLE 26. TRANSPORTATION WAY

PUBLIC FRONTAGE (SEE TABLE 27)	TARGET SPEED (MPH)	TRAVEL LANE WIDTH		CONTEXT T1	T2 R	T2 O	T3	T4 L	T4 O	T5 L	T5 O
A, B, C	20 or less	8 ft.		■	■	□	■	□	□	□	□
A, B, C, D	20 – 25	9 ft.		■	■	□	■	■	□	■	□
A, B, C, D, E, F	25 – 30	10 ft.		■	■	■	■	■	■	■	■
A, B, C, D, E, F	30 – 35	11 – 12 ft.		■	■	□	■	□	□	□	□
A	above 35	12 ft.		■	■						
PUBLIC FRONTAGE	TARGET SPEED (MPH)	PARKING LANE WIDTH PARALLEL	ANGLED								
C, D	20 – 25	7 ft.					■	■			
D, E, F	20 – 30		18 ft.			■			■		■
C, D, E, F	25 – 35	8 ft.				■	■	■	■	■	■
PUBLIC FRONTAGE	TARGET SPEED (MPH)	EFFECTIVE CURB RADIUS *									
A, B, C	20 or less	5 – 10 ft.					■	■		■	
A, B, C, D	20 – 25	10 – 15 ft.		□	■	■	■	■	■	■	■
A, B, C, D, E, F	25 – 30	15 – 20 ft.		□	■	■	■	■	■	■	■
A, B, C, D, E, F	30 – 35	20 – 30 ft.			■						

* Dimensions with parking on each leg of intersection. Both tangent sections adjacent to the curb return must be parked, or else curb radii must be evaluated using “design vehicle” and AutoTurn or turning templates.

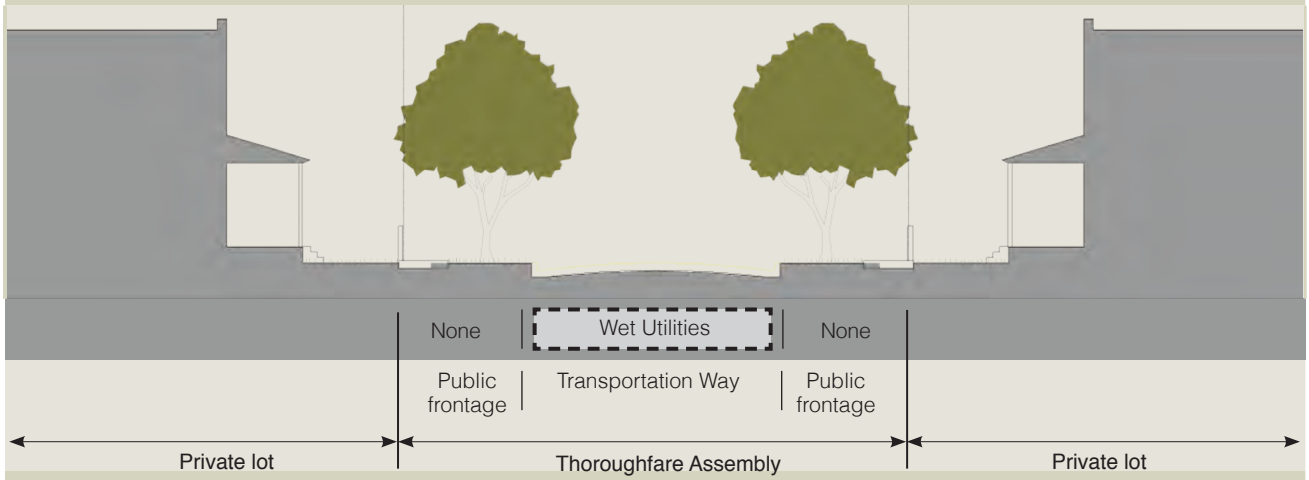
TABLE 27. PUBLIC FRONTAGE TYPES

Public Frontage Type	A	B	C	D	E	F
i. Assembly: The principal variables are the type and dimension of curbs, walkways, planters and landscape.						
Total Width	14-24 feet	12-24 feet	12-18 feet	12-18 feet	14-24 feet	14-24 feet
ii. Curbing: The detailing of the edge of the vehicular way, incorporating drainage.						
Type Cuts	Open Swale Radius @ 10 - 30 feet	Open Swale Ramp at 1:12 slope	Raised Curb Ramp at 1:12 slope	Raised Curb Ramp at 1:12 slope	Raised Curb Ramp at 1:12 slope	Raised Curb Ramp at 1:12 slope
iii. Walkway: The portion of the thoroughfare dedicated exclusively to pedestrian activity						
Type Width	Path Optional n/a	Path 4 - 6 feet	Sidewalk 4 - 6 feet	Sidewalk 4 - 8 feet	Sidewalk 8 - 18 feet	Sidewalk 10 - 20 feet
iv. Planter: The portion of the thoroughfare accommodating street trees and other landscape.						
Arrangement Type Species Spacing Planter Type Planter Width Public Planting Type	Clustered Dissimilar Alternating n/a Continuous Swale 14 - 24 feet Columnar, Oval, Rounded, Conical, Spreading, Vase, Pole	Clustered Dissimilar Alternating n/a Continuous Swale 8 - 20 feet Columnar, Oval, Rounded, Conical, Spreading, Vase, Pole	Regular Dissimilar Alternating n/a Continuous Planter 8 -12 feet Rounded, Conical, Spreading, Vase, Pole	Regular Similar Alternating Regular Continuous Planter 8 - 14 feet Columnar, Rounded, Vase, Pole	Regular Similar Alternating Regular Continuous Planter 6 - 16 feet Columnar, Rounded, Pole	Opportunistic Similar Single Regular / Irregular Tree Well 4 - 6 feet Columnar, Rounded, Pole
v. Verge: Provides allowable locations for public infrastructure and public furniture outside of access ways						
Verge Width Verge Material	3 feet* match planter	3 feet* match planter	4 feet* match planter	4 feet* match planter	5 feet* match planter	5 feet* match sidewalk or pervious pavement
Lighting Type (Table 7P)	Pipe, Cobra-head	Pipe, Cobra-head	Post, Pipe, Column	Pipe, Column	Pipe, Column, Bollard	Column, Double Column

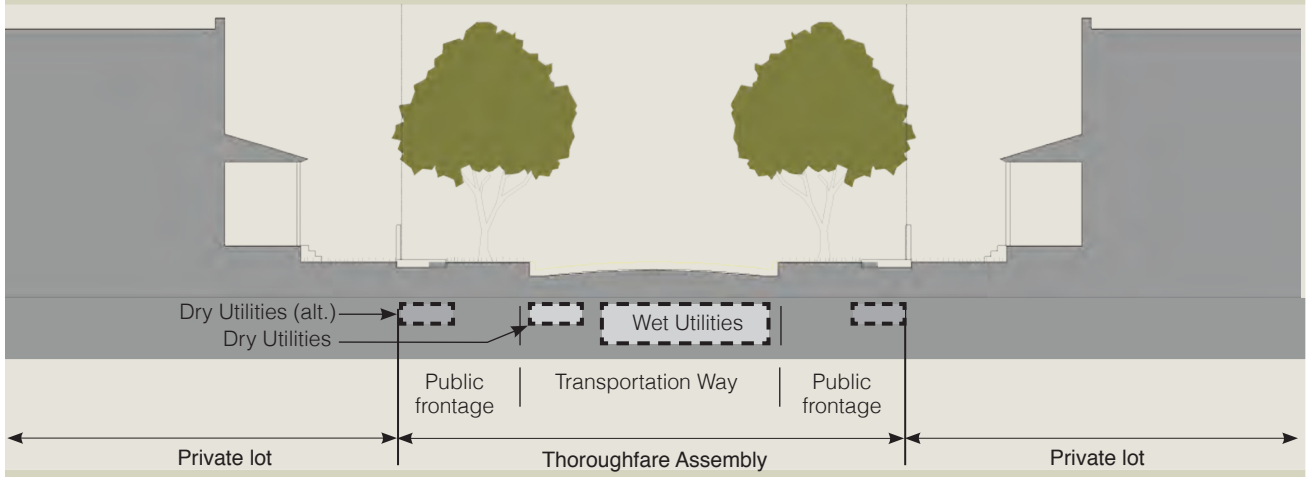
* Verge should begin within 2 feet of the curbe or edge of pavement.

TABLE 28. UTILITY EASEMENTS

A. TYPICAL SECTION WITH ALLEY



B. TYPICAL SECTION WITHOUT ALLEY



B. TYPICAL ALLEY SECTION

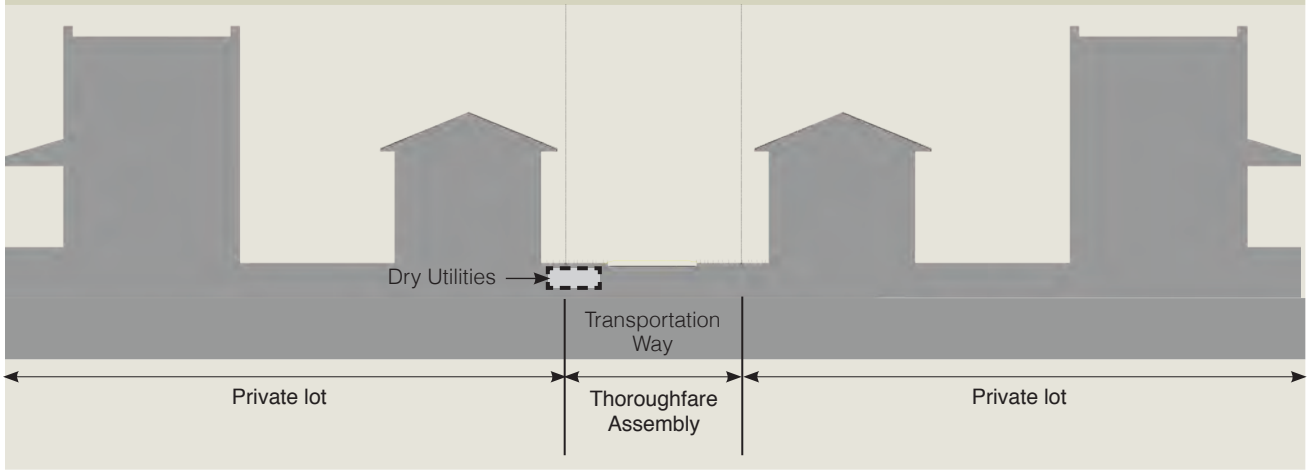
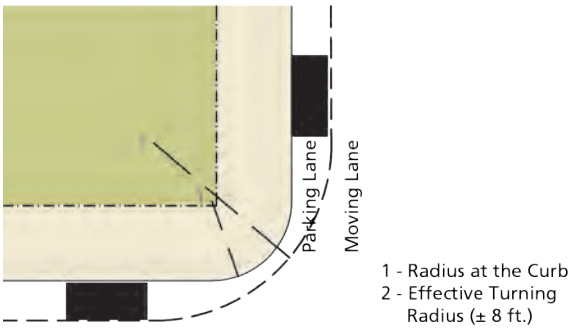


TABLE 29. EFFECTIVE TURNING RADIUS



On-street parking creates wider turning radius, the "effective turning radius", than provided by the curb radius alone.

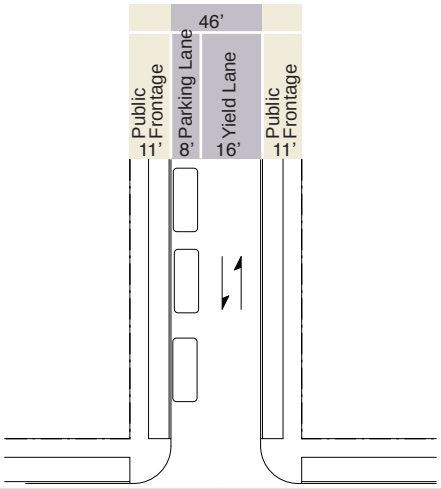
TABLE 30. PRE-APPROVED ASSEMBLIES

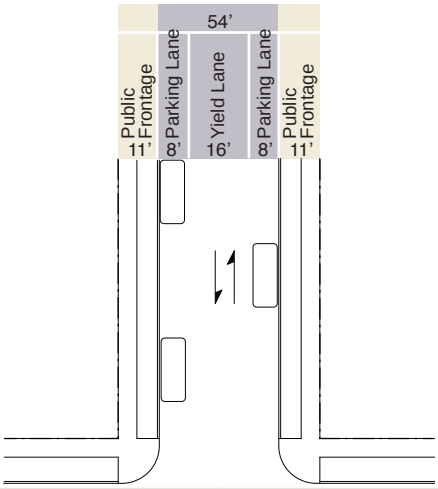
KEY ST-57-20-BL

- Thoroughfare Type
- Right of Way Width
- Pavement Width
- Transportation

THOROUGHFARE TYPES

Avenue:	AV
Commercial Street:	CS
Drive:	DR
Street:	ST
Rear Alley:	RA
Rear Lane:	RL





Assembly Designation	ST-46-24	ST-54-32
Thoroughfare Type	Street	Street
Transect District	T3, T4	T3, T4
Right-of-Way Width	46 ft.	54 ft.
Pavement Width	24 ft.	32 ft.
Transportation Way		
Vehicular Lane(s)	Yield Lane: Two way @ 16 ft.	Yield Lane: Two way @ 16 ft.
Parking Lanes	One lane parallel @ 8 ft.	Two lanes parallel @ 8 ft.
Striping	Optional	Optional
Median Width	n/a	n/a
Median Planting	n/a	n/a
Median Surface	n/a	n/a
Target Speed	20 mph	20 mph
Bicycle Provision	Shared lane	Shared lane
Transit Provision	n/a	n/a
Public Frontage	D	D

	Assembly Width	11 ft.	11 ft.	11 ft.	11 ft.
	Public Frontage Type	D	D	D	D
	Transect District	T3	T4	T3	T4
Curbing	Type	Raised	Raised	Raised	Raised
	Curb Cut	Radius	Radius	Radius	Radius
	Radius	15 ft.	15 ft.	10 ft.	10 ft.
Walkway	Width	5 ft.	5 – 6 ft.	5 ft.	5 – 6 ft.
	Surface	Concrete	Concrete	Concrete	Concrete
Planter	Type | Size	Continuous | 6 ft.	Continuous | 5 – 6 ft.	Continuous | 6 ft.	Continuous | 5 – 6 ft.
	Arrangement	Regular	Regular	Regular	Regular
	Species	Alternating	Alternating	Alternating	Alternating
	Spacing	40 ft. o.c. avg.	30 ft. o.c.	40 ft. o.c. avg.	30 ft. o.c.
	Surface	Ground cover or grass	Ground cover or grass	Ground cover or grass	Ground cover or grass
	Street Tree Size	Medium Shade	Medium Shade	Medium Shade	Medium Shade
Verge	Width	3 ft.	3 ft.	3 ft.	3 ft.
	Lighting Type	Post	Post	Post	Post
	Lighting Spacing	At intersections	At intersections	At intersections	At intersections

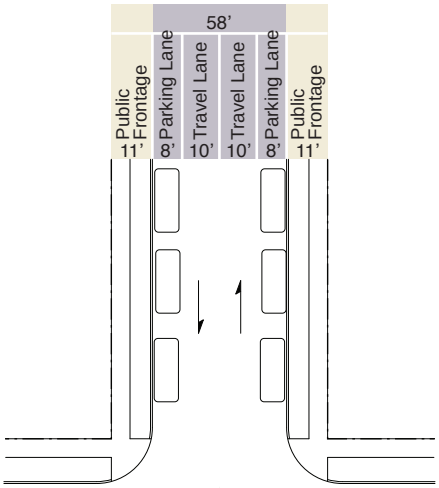
PRE-APPROVED ASSEMBLIES CONT.

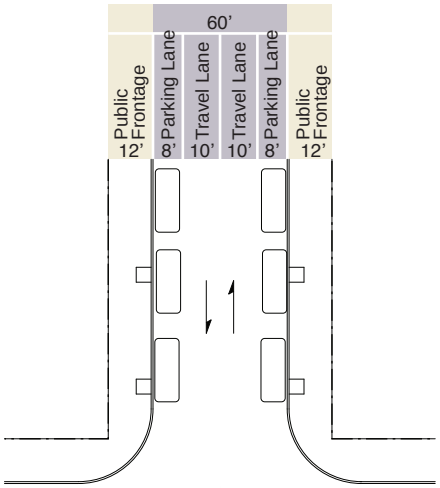
KEY ST-57-20-BL

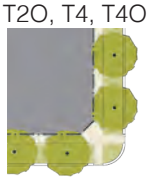
- Thoroughfare Type
- Right of Way Width
- Pavement Width
- Transportation

THOROUGHFARE TYPES

Avenue:	AV
Commercial Street:	CS
Drive:	DR
Street:	ST
Rear Alley:	RA
Rear Lane:	RL





Assembly Designation		**ST-58-36**		**CS-60-36**
Thoroughfare Type		Street		Commercial Street
Transect District		T2O, T4, T4O, T5		T4O, T5
Right-of-Way Width		58 ft.		60 ft.
Pavement Width		36 ft.		36 ft.
Transportation Way				
Vehicular Lane(s)		Two Lanes: Two way, one lane each way @ 10 ft.		Two Lanes: Two way, one lane each way @ 10 ft.
Parking Lanes		Two lanes parallel @ 8 ft.		Two lane parallel @ 8 ft.
Striping		Required		Required
Median Width		n/a		n/a
Median Planting		n/a		n/a
Median Surface		n/a		n/a
Target Speed		25 mph		25 mph
Bicycle Provision		Sharrow		Sharrow
Transit Provision		Bus route		Bus route
Public Frontage		D, F		F
Assembly Width		11 ft.	11 ft.	12 ft.
Public Frontage Type		D	F	F
Transect District		T2O, T4, T4O	T4O, T5	T4O, T5
				
Curbing	Type	Raised Curb	Raised Curb	Raised Curb
	Curb Cut	Radius	Radius	Radius
	Radius	15 ft.	15 ft.	20 ft.
Walkway	Width	5 ft.	5 ft.	12 ft.
	Surface	Concrete	Concrete	Concrete
Planter	Type | Size	Continuous | 6 ft.	Tree well | 6 ft.	Tree well | 6 ft.
	Arrangement	Regular	Regular	Regular
	Species	Alternating	Alternating	Alternating
	Spacing	40 ft. o.c. avg.	30 ft. o.c. avg.	30 ft. o.c. avg.
	Surface	Ground cover or grass	Pervious paving	Pervious paving
	Street Tree Size	Large Shade	Large Shade	Large Shade
Verge	Width	3 ft.	6 ft.	6 ft.
	Lighting Type	Pipe, Column	Column	Column
	Lighting Spacing	50 ft. o.c.	50 ft. o.c.	50 ft. o.c.

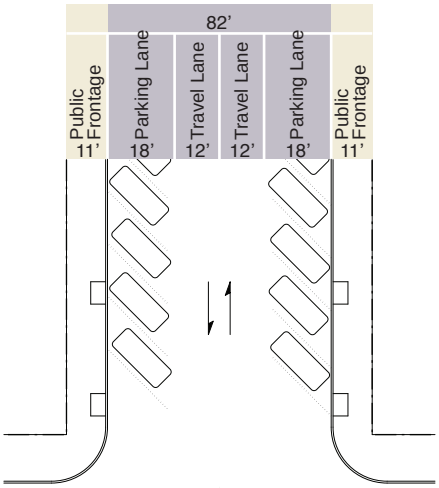
PRE-APPROVED ASSEMBLIES CONT.

KEY ST-57-20-BL

Thoroughfare Type
Right of Way Width
Pavement Width
Transportation

THOROUGHFARE TYPES

Avenue:	AV
Commercial Street:	CS
Drive:	DR
Street:	ST
Rear Alley:	RA
Rear Lane:	RL



Assembly Designation		**CS-82-60**
Thoroughfare Type		Street
Transect District		T4O, T5
Right-of-Way Width		82 ft.
Pavement Width		60 ft.
Transportation Way		
Vehicular Lane(s)		Two Lanes: Two way, one lane each way @ 12 ft.
Parking Lanes		Two reverse angle @ 18 ft.
Striping		Required
Median Width		n/a
Median Planting		n/a
Median Surface		n/a
Target Speed		25 mph
Bicycle Provision		Sharrow
Transit Provision		n/a
Public Frontage		F
Assembly Width		21 ft.
Public Frontage Type		F
Transect District		T5
Curbing	Type	Raised Curb
	Curb Cut	Radius
	Radius	15 ft.
Walkway	Width	11 ft.
	Surface	Concrete
Planter	Type | Size	Tree well | 4 ft. x 9 ft.
	Arrangement	Regular
	Species	Alternating
	Spacing	30 ft. o.c. avg.
	Surface	Pervious paving
	Street Tree Size	Medium Shade
Verge	Width	6 ft.
	Lighting Type	Column
	Lighting Spacing	50 ft. o.c.

CS-82-60 Notes: 1. Use of section south of Lancaster is contingent upon final ROW survey.
2. Reverse angle parking will require new curb.

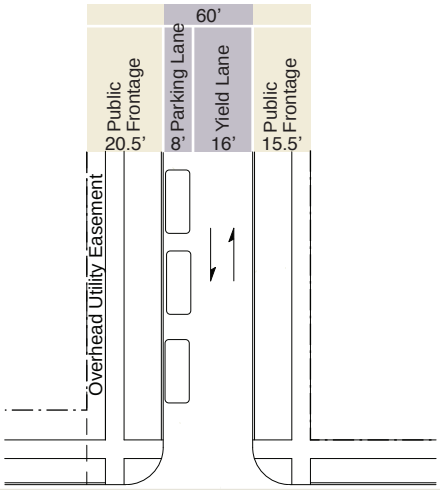
PRE-APPROVED ASSEMBLIES CONT. – OLD TOWN

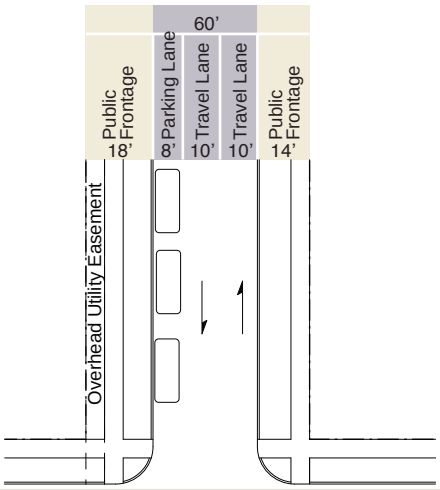
KEY ST-57-20-BL

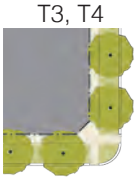
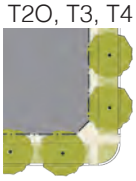
Thoroughfare Type
Right of Way Width
Pavement Width
Transportation

THOROUGHFARE TYPES

Avenue:	AV
Commercial Street:	CS
Drive:	DR
Street:	ST
Rear Alley:	RA
Rear Lane:	RL





Assembly Designation	ST-60-24		ST-60-28	
Thoroughfare Type	Street		Street	
Transect District	T3, T4		T2O, T3, T4	
Right-of-Way Width	60 ft.		60 ft.	
Pavement Width	24 ft.		28 ft.	
Transportation Way				
Vehicular Lane(s)	Yield Lane: Two way @ 16 ft.		Two Lanes: Two way, one lane each way @ 10 ft.	
Parking Lanes	One lane parallel @ 8 ft.		One lane parallel @ 8 ft.	
Striping	Optional		Optional	
Median Width	n/a		n/a	
Median Planting	n/a		n/a	
Median Surface	n/a		n/a	
Target Speed	20 mph		25 mph	
Bicycle Provision	Shared lane		Sharrow	
Transit Provision	n/a		n/a	
Public Frontage	C, D		C, D	
Assembly Width	20.5 ft. | 15.5 ft.	20.5 ft. | 15.5 ft.	18 ft. | 14 ft.	18 ft. | 14 ft.
Public Frontage Type	C	D	C	D
Transect District	T3, T4	T3, T4	T3, T4	T2O, T3, T4
				
Curbing – Type	Raised Curb	Raised Curb	Raised Curb	Raised Curb
Curbing – Curb Cut	Radius	Radius	Radius	Radius
Curbing – Radius	15 ft.	15 ft.	10 ft.	10 ft.
Walkway – Width	5 ft.	5 ft.	5 ft.	5 ft.
Walkway – Surface	Concrete	Concrete	Concrete	Concrete
Planter – Type | Size	Continuous | 10.5 ft.	Continuous | 10.5 ft.	Continuous | 9 ft.	Continuous | 8 ft.
Planter – Arrangement	Regular	Regular	Regular	Regular
Planter – Species	Alternating	Alternating	Alternating	Alternating
Planter – Spacing	30 ft. o.c.	30 ft. o.c.	30 ft. o.c.	30 ft. o.c.
Planter – Surface	Ground cover or grass	Ground cover or grass	Ground cover or grass	Ground cover or grass
Planter – Street Tree Size	Medium Shade	Medium Shade	Medium Shade	Medium Shade
Verge – Width	4 ft.	4 ft.	4 ft.	4 ft.
Verge – Lighting Type	Post	Post	Post	Post
Verge – Lighting Spacing	At intersections	At intersections	At intersections	At intersections

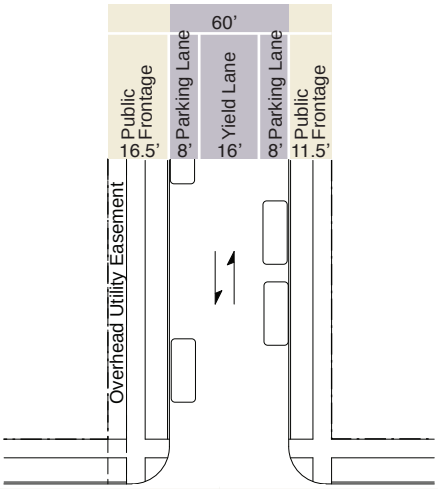
PRE-APPROVED ASSEMBLIES – OLD TOWN CONT.

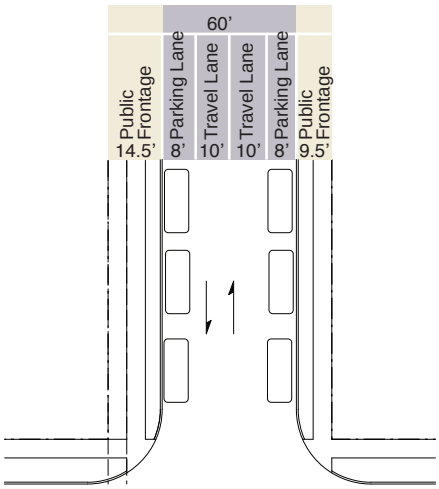
KEY ST-57-20-BL

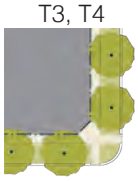
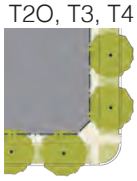
Thoroughfare Type
Right of Way Width
Pavement Width
Transportation

THOROUGHFARE TYPES

Avenue:	AV
Commercial Street:	CS
Drive:	DR
Street:	ST
Rear Alley:	RA
Rear Lane:	RL





Assembly Designation	ST-60-32		ST-60-36	
Thoroughfare Type	Street		Street	
Transect District	T3, T4		T2O, T3, T4	
Right-of-Way Width	60 ft.		60 ft.	
Pavement Width	32 ft.		36 ft.	
Transportation Way				
Vehicular Lane(s)	Yield Lane: Two way @ 16 ft.		Two Lanes: Two way, one lane each way @ 10 ft.	
Parking Lanes	Two lanes parallel @ 8 ft.		Two lanes parallel @ 8 ft.	
Striping	Optional		Optional	
Median Width	n/a		n/a	
Median Planting	n/a		n/a	
Median Surface	n/a		n/a	
Target Speed	20 mph		25 mph	
Bicycle Provision	Shared lane		Sharrow	
Transit Provision	n/a		n/a	
Public Frontage	C, D		C, D	
Assembly Width	16.5 ft. | 11.5 ft.	16.5 ft. | 11.5 ft.	14.5 ft. | 9.5 ft.	14.5 ft. | 9.5 ft.
Public Frontage Type	C	D	C	D
Transect District	T3, T4	T3, T4	T3, T4	T2O, T3, T4
				
Curbing – Type	Raised Curb	Raised Curb	Raised Curb	Raised Curb
Curbing – Curb Cut	Radius	Radius	Radius	Radius
Curbing – Radius	10 ft.	10 ft.	10 ft.	10 ft.
Walkway – Width	5 ft.	5 ft.	5 ft.	5 ft.
Walkway – Surface	Concrete	Concrete	Concrete	Concrete
Planter – Type | Size	Continuous | 6.5 ft.	Continuous | 6.5 ft.	Continuous | 4.5 ft.	Continuous | 4.5 ft.
Planter – Arrangement	Regular	Regular	Regular	Regular
Planter – Species	Alternating	Alternating	Alternating	Alternating
Planter – Spacing	30 ft. o.c.	30 ft. o.c.	30 ft. o.c.	30 ft. o.c.
Planter – Surface	Ground cover or grass	Ground cover or grass	Ground cover or grass	Ground cover or grass
Planter – Street Tree Size	Large Shade	Large Shade	Large Shade	Large Shade
Verge – Width	4 ft.	4 ft.	4 ft.	4 ft.
Verge – Lighting Type	Post	Post	Column	Column
Verge – Lighting Spacing	At intersections	At intersections	50 ft. o.c.	50 ft. o.c.

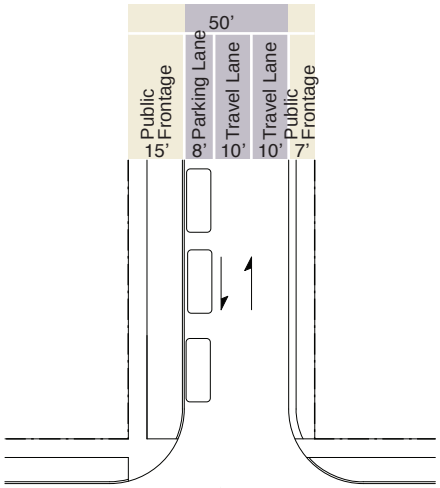
PRE-APPROVED ASSEMBLIES – FAIRFAX BLVD.

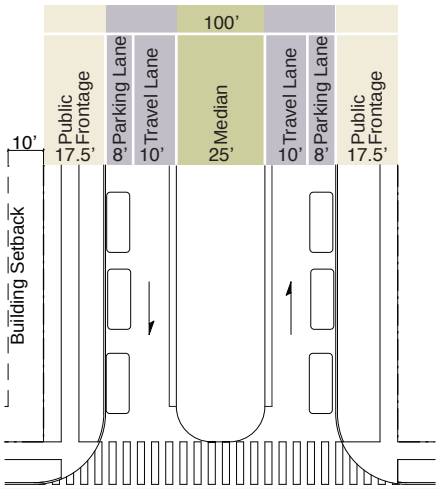
KEY ST-57-20-BL

- Thoroughfare Type
- Right of Way Width
- Pavement Width
- Transportation

THOROUGHFARE TYPES

Avenue:	AV
Commercial Street:	CS
Drive:	DR
Street:	ST
Rear Alley:	RA
Rear Lane:	RL





Assembly Designation	DR-50-28		AV-100-40	
Thoroughfare Type	Drive		Avenue	
Transect District	T2, T2O, T3, T4		T3, T4, T4O	
Right-of-Way Width	50 ft.		100 ft.	
Pavement Width	28 ft.		40 ft.	
Transportation Way				
Vehicular Lane(s)	Two Lanes: Two way, one lane each way @ 10 ft.		Two Lanes: Two way, one lane each way @ 10 ft.	
Parking Lanes	One lane parallel @ 8 ft.		Two lanes parallel @ 8 ft.	
Striping	Optional		Optional	
Median Width	n/a		25 ft.	
Median Planting	n/a		20 ft. o.c. avg.	
Median Surface	n/a		Grass, ground cover and mulch	
Target Speed	25 mph		25 mph	
Bicycle Provision	Sharrow		Sharrow	
Transit Provision	n/a		Bus route	
Public Frontage	C, D		C, D	
Assembly Width	15 ft. | 7 ft.	16.5 ft. | 11.5 ft.	17.5 ft.	17.5 ft.
Public Frontage Type	D	D	C	D
Transect District	T2, T2O, T3, T4	T3, T4	T3, T4, T4O	T3, T4, T4O
Curbing – Type	Raised Curb | Open Swale	Raised Curb | Open Swale	Raised Curb	Raised Curb
Curbing – Curb Cut	Radius	Radius	Radius	Radius
Curbing – Radius	20 ft.	20 ft.	20 ft.	20 ft.
Walkway – Width	5 ft. | none	5 ft. | none	5 ft.	5 ft.
Walkway – Surface	Concrete | n/a	Concrete | n/a	Concrete	Concrete
Planter – Type | Size	Continuous | 10 ft.	Continuous | 10 ft.	Continuous | width varies	Continuous | width varies
Planter – Arrangement	Regular | Clustered park side	Regular | Clustered park side	Regular	Regular
Planter – Species	Alternating | Multiple park side	Alternating | Multiple park side	Alternating	Alternating
Planter – Spacing	30 ft. o.c. | n/a park side	30 ft. o.c. | n/a park side	30 ft. o.c.	30 ft. o.c.
Planter – Surface	Ground cover or grass	Ground cover or grass	Ground cover or grass	Ground cover or grass
Planter – Street Tree Size	Large Shade | varied park side	Large Shade | varied park side	Large Shade, ornamental under overhead utilities	Large Shade, ornamental under overhead utilities
Verge – Width	4 ft.	4 ft.	4 ft.	4 ft.
Verge – Lighting Type	Post	Post	Post	Post
Verge – Lighting Spacing	At intersections	At intersections	At intersections	At intersections

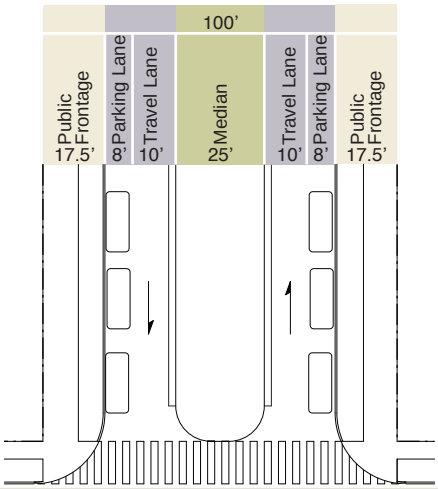
AV-100-40 Notes:
1. ROW width varied, planting strip width will vary based on available ROW. All other dimensions remain constnat.
2. Where possible, overhead utilities to be relocated underground.
3. Building setbacks may vary as req'd to obtain min. separation from overhead utilities.
4. Max. tree height at maturity under overhead utilities shall be 20 feet.
5. All trees to be located a minimum of 10 feet from utility poles.

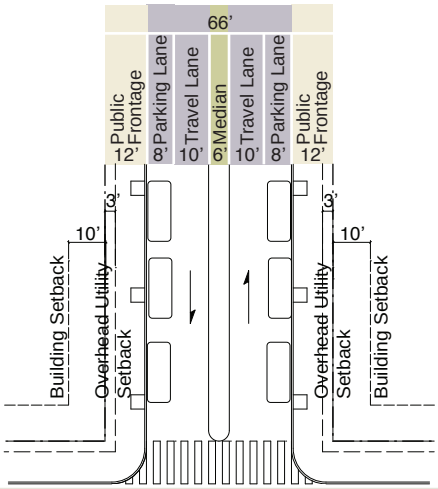
PRE-APPROVED ASSEMBLIES – FAIRFAX BLVD. CONT.

KEY	ST-57-20-BL
Thoroughfare Type	
Right of Way Width	
Pavement Width	
Transportation	

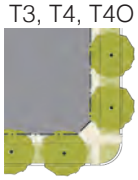
THOROUGHFARE TYPES

Avenue:	AV
Commercial Avenue:	CAV
Commercial Street:	CS
Drive:	DR
Street:	ST
Rear Alley:	RA
Rear Lane:	RL





Assembly Designation	CAV-100-40	CAV-66-36
Thoroughfare Type	Commercial Avenue	Commercial Avenue
Transect District	T4, T4O	T4, T4O, T5
Right-of-Way Width	100 ft.	66 ft.
Pavement Width	40 ft.	36 ft.
Transportation Way		
Vehicular Lane(s)	Two Lanes: Two way, one lane each way @ 10 ft.	Two Lanes: Two way, one lane each way @ 10 ft.
Parking Lanes	Two lanes parallel @ 8 ft.	Two lanes parallel @ 8 ft.
Striping	Optional	Optional
Median Width	25 ft.	6 ft Safety Strip.
Median Planting	20 ft. o.c. avg.	n/a
Median Surface	Grass, ground cover and mulch	Cobble or equivalent
Target Speed	25 mph	25 mph
Bicycle Provision	Sharrow	Sharrow
Transit Provision	Bus route	Bus route
Public Frontage	C, D	E, F

Assembly Width		17.5 ft.	17.5 ft.	17.5 ft.	17.5 ft.
Public Frontage Type		C	D	E	F
Transect District		T3, T4, T4O	T3, T4, T4O	T4, T4O	T4O, T5
					
Curbing	Type	Raised Curb	Raised Curb	Raised Curb	Raised Curb
	Curb Cut	Radius	Radius	Radius	Radius
	Radius	20 ft.	20 ft.	10 ft.	10 ft.
Walkway	Width	5 ft.	5 ft.	8 ft.	12 ft.
	Surface	Concrete	Concrete	Concrete	Concrete
Planter	Type | Size	Continuous | width varies	Continuous | width varies	Continuous | 4 ft.	Tree well | 4 ft. x 6 ft.
	Arrangement	Regular	Regular	Regular	Regular
	Species	Alternating	Alternating	Alternating	Alternating
	Spacing	30 ft. o.c.	30 ft. o.c.	30 ft. o.c.	30 ft. o.c.
	Surface	Ground cover or grass	Ground cover or grass	Ground cover or grass	Pervious paving
	Street Tree Size	Large Shade, ornamental under overhead utilities	Large Shade, ornamental under overhead utilities	Ornamental under overhead utilities	Ornamental under overhead utilities
Verge	Width	4 ft.	4 ft.	4 ft.	4 ft.
	Lighting Type	Post	Post	Column	Column
	Lighting Spacing	At intersections	At intersections	50 ft. o.c.	50 ft. o.c.

CAV-100-40 Notes:
1. Overhead utilities relocated underground with development of commercial uses or medium/high density residential.
2. ROW width varies, planting strip width varies based on available ROW. All other dimensions remain constant.

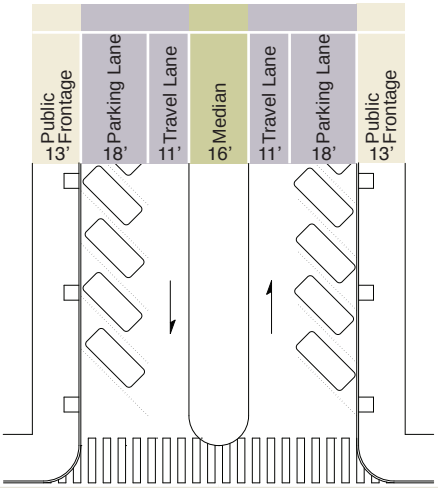
CAV-66-36 Notes:
1. Overhead utilities relocated underground where possible.
3. Building setbacks may vary as req'd to obtain min. separation from overhead utilities.
4. Max. tree height at maturity under overhead utilities shall be 20 feet.
5. All trees to be located a minimum of 10 feet from utility poles.

PRE-APPROVED ASSEMBLIES – FAIRFAX BLVD. CONT.

KEY	ST-57-20-BL
Thoroughfare Type	
Right of Way Width	
Pavement Width	
Transportation	

THOROUGHFARE TYPES

Avenue:	AV
Commercial Avenue:	CAV
Commercial Street:	CS
Drive:	DR
Street:	ST
Rear Alley:	RA
Rear Lane:	RL



Assembly Designation		**CAV-100-58**
Thoroughfare Type		Commercial Avenue
Transect District		T4O, T5
Right-of-Way Width		100 ft.
Pavement Width		58 ft.
Transportation Way		
Vehicular Lane(s)		Two Lanes: Two way, one lane each way @ 11 ft.
Parking Lanes		Two reverse angle @ 18 ft.
Striping		Required
Median Width		16 ft.
Median Planting		20 ft. o.c. avg.
Median Surface		Grass, ground cover
Target Speed		25 mph
Bicycle Provision		Sharrow
Transit Provision		Bus route
Public Frontage		E, F
Assembly Width		17.5 ft.
Public Frontage Type		F
Transect District		T4O, T5
Curbing	Type	Raised Curb
	Curb Cut	Radius
	Radius	10 ft.
Walkway	Width	13 ft.
	Surface	Concrete
Planter	Type | Size	Tree well | 4 ft. x 6 ft.
	Arrangement	Regular
	Species	Alternating
	Spacing	30 ft. o.c.
	Surface	Pervious paving
	Street Tree Size	Large shade
Verge	Width	4 ft.
	Lighting Type	Column
	Lighting Spacing	50 ft. o.c.

CS-82-60 Notes: 1. Use of section south of Lancaster is contingent upon final ROW survey.
2. Reverse angle parking will require new curb.

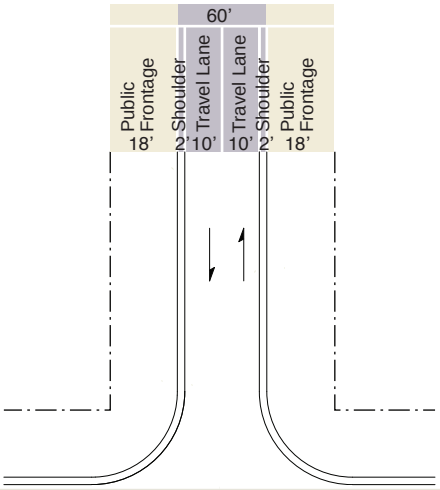
PRE-APPROVED ASSEMBLIES - OPEN SECTIONS

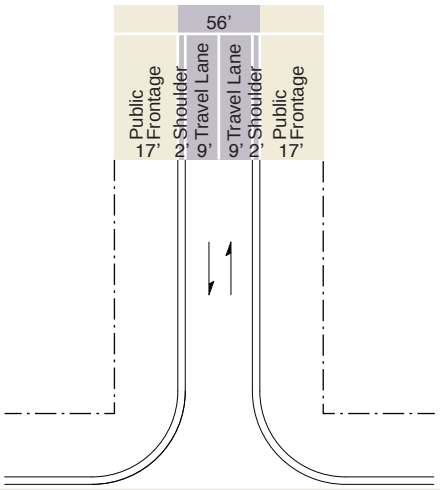
KEY ST-57-20-BL

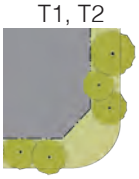
Thoroughfare Type
Right of Way Width
Pavement Width
Transportation

THOROUGHFARE TYPES

Avenue:	AV
Commercial Street:	CS
Drive:	DR
Street:	ST
Rear Alley:	RA
Rear Lane:	RL





Assembly Designation		**RD-60-20**	**ST-56-18**	
Thoroughfare Type		Road	Street	
Transect District		T2	T2. T3	
Right-of-Way Width		60 ft.	56 ft.	
Pavement Width		20 ft.	18 ft.	
Transportation Way				
Vehicular Lane(s)		Two Lanes: Two way, one lane each way @ 10 ft.	Two Lanes: Two way, one lane each way @ 9 ft.	
Parking Lanes		n/a	n/a	
Striping		Optional	Optional	
Median Width		n/a	n/a	
Median Planting		n/a	n/a	
Median Surface		n/a	n/a	
Target Speed		30 mph	25 mph	
Bicycle Provision		none	none	
Transit Provision		none	none	
Public Frontage		A	A, B	
Assembly Width		18 ft.	17 ft.	17 ft.
Public Frontage Type		A	A	B
Transect District		T1, T2	T2	T2O, T3
				
Curbing	Type	Open Swale	Open Swale	Open Swale
	Curb Cut	Radius	Radius	Radius
	Radius	25 ft.	25 ft.	25 ft.
Walkway	Width	Path optional	n/a	Path optional
	Surface	n/a	n/a	crushed stone
Planter	Type | Size	Continuous | 16 ft.	Continuous | 17 ft.	Continuous | 16 ft.
	Arrangement	Clustered	Clustered	Clustered
	Species	Varied	Varied	Varied
	Spacing	Irregular	Irregular	50 ft. o.c.
	Surface	n/a	n/a	Grass
	Street Tree Size	n/a	n/a	Large shade
Verge	Width	3 ft.	3 ft.	3 ft.
	Lighting Type	Cobra Head, Post	None	Post
	Lighting Spacing	At intersections	n/a	At intersections

ST-56-18 Notes:
1. Swale not required if drainage can be provided via sheet flow to adjacent property.
2. Right-of-way may be reduced if drainage and grading easement is provided on private property for the open swale.
3. Assembly only permitted where lot frontages are 80 ft. wide or greater.

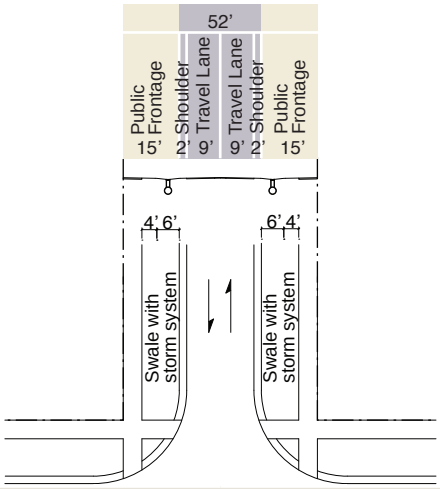
PRE-APPROVED ASSEMBLIES - OPEN SECTIONS CONT.

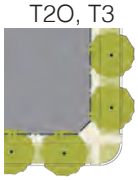
KEY ST-57-20-BL

- Thoroughfare Type
- Right of Way Width
- Pavement Width
- Transportation

THOROUGHFARE TYPES

Avenue:	AV
Commercial Street:	CS
Drive:	DR
Street:	ST
Rear Alley:	RA
Rear Lane:	RL



Assembly Designation		**ST-52-18**
Thoroughfare Type		Street
Transect District		T2O, T3
Right-of-Way Width		52 ft.
Pavement Width		18 ft.
Transportation Way		
Vehicular Lane(s)		Two Lanes: Two way, one lane each way @ 9 ft.
Parking Lanes		n/a
Striping		Optional
Median Width		n/a
Median Planting		n/a
Median Surface		n/a
Target Speed		25 mph
Bicycle Provision		none
Transit Provision		none
Public Frontage		D
Assembly Width		18 ft.
Public Frontage Type		D
Transect District		T2O, T3
		
Curbing	Type	Open Swale
	Curb Cut	Radius
	Radius	25 ft.
Walkway	Width	5 ft.
	Surface	concete
Planter	Type | Size	Continuous | 4 ft.
	Arrangement	Regular
	Species	Alternating
	Spacing	50 ft. o.c. average
	Surface	Grass
	Street Tree Size	Large shade
Verge	Width	4 ft.
	Lighting Type	Post
	Lighting Spacing	At intersections

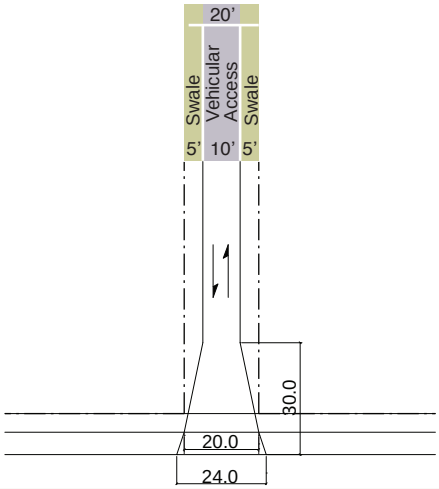
PRE-APPROVED ASSEMBLIES - VEHICULAR ACCESS

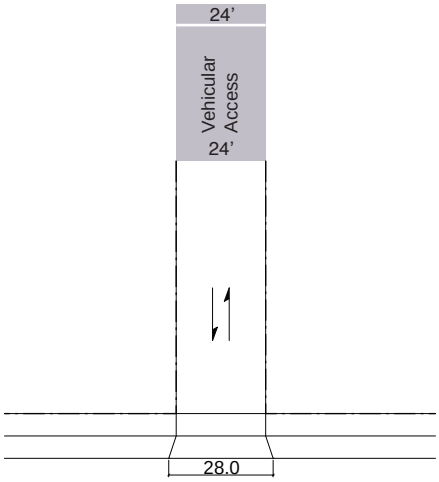
KEY ST-57-20-BL

Thoroughfare Type
Right of Way Width
Pavement Width
Transportation

THOROUGHFARE TYPES

Avenue:	AV
Commercial Street:	CS
Drive:	DR
Street:	ST
Rear Alley:	RA
Rear Lane:	RL





		RL-20-10	RA-24-24
Assembly Designation		**RL-20-10**	**RA-24-24**
Transect District		T2O, T3, T4	T4, T4O, T5L, T5
Thoroughfare Type		Rear Lane	Rear Alley
Right-of-Way Width		20 feet	24 feet
Pavement Width		10 feet	24 feet
Transportation Way			n/a
Vehicular Lane(s)		Access way @ 10 feet	Access way @ 24 feet
Parking Lanes		n/a	n/a
Striping		n/a	n/a
Median Width		n/a	n/a
Median Planting		n/a	n/a
Median Surface		n/a	n/a
Target Speed		n/a	n/a
Bicycle Provision		n/a	n/a
Transit Provision		n/a	n/a
Public Frontage		n/a	n/a
Assembly Width		20 ft.	20 ft.
Transect District		n/a	n/a
Curbing	Type	Open Swale	Raised Curb
	Curb Cut	Taper	Taper
	Radius	n/a	n/a
Walkway	Width	n/a	n/a
	Surface	n/a	n/a
Planter	Type | Size	n/a	n/a
	Arrangement	n/a	n/a
	Mix	n/a	n/a
	Spacing	n/a	n/a
	Surface	n/a	n/a
	Planting	n/a	n/a
Verge	Width	n/a	n/a
	Lighting Type	n/a	n/a
	Lighting Spacing	n/a	n/a

PRE-APPROVED ASSEMBLIES - PEDESTRIAN ACCESS

KEY ST-57-20-BL

Thoroughfare Type

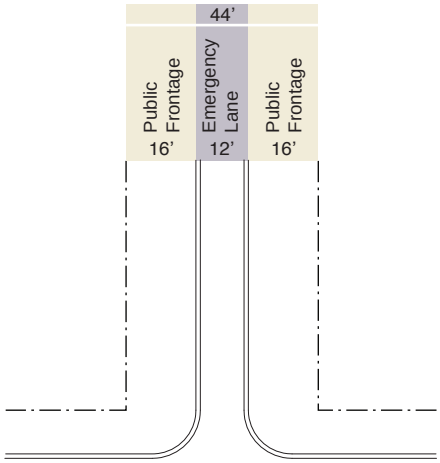
Right of Way Width

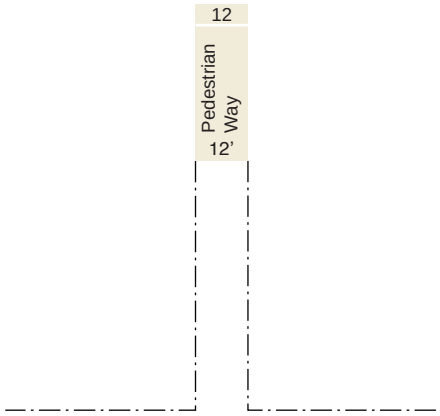
Pavement Width

Transportation

THOROUGHFARE TYPES

Avenue:	AV
Commercial Street:	CS
Drive:	DR
Street:	ST
Rear Alley:	RA
Rear Lane:	RL





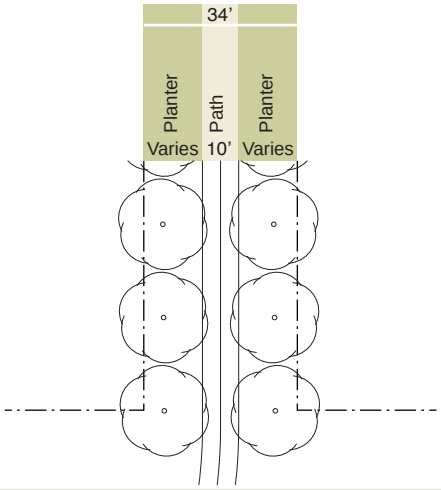
		PP-44-12	PP-11-11
Assembly Designation		**PP-44-12**	**PP-11-11**
Transect District		T4O, T5	T2O, T4O, T5L, T5
Thoroughfare Type		Pedestrian Passage	Pedestrian Passage
Right-of-Way Width		44 feet	11 feet
Pavement Width		12 feet	varies
Transportation Way			n/a
Vehicular Lane(s)		One Lane. One way @ 12', emergency access only	n/a
Parking Lanes		n/a	n/a
Striping		n/a	n/a
Median Width		n/a	n/a
Median Planting		n/a	n/a
Median Surface		n/a	n/a
Target Speed		n/a	n/a
Bicycle Provision		n/a	n/a
Transit Provision		n/a	n/a
Public Frontage		F	n/a
Assembly Width		16 ft.	11 ft.
Transect District		T4O, T5	T2O, T4O, T5L, T5
Curbing	Type	Raised curb	na/
	Curb Cut	Taper	n/a
	Radius	n/a	n/a
Walkway	Width	12 ft.	n/a
	Surface	Concrete, pavers, pervious pavers	Concrete, pavers, pervious pavers
Planter	Type | Size	Tree well | 4 ft. x 6 ft.	n/a
	Arrangement	Regular	n/a
	Mix	Alternating	n/a
	Spacing	30 ft. o.c.	n/a
	Surface	Pervious paving	n/a
	Planting	Ornamental	n/a
Verge	Width	4 ft.	n/a
	Lighting Type	Column	n/a
	Lighting Spacing	25 ft. opportunistic	n/a

PRE-APPROVED ASSEMBLIES - PEDESTRIAN ACCESS CONT.

KEY	ST-57-20-BL
Thoroughfare Type	
Right of Way Width	
Pavement Width	
Transportation	

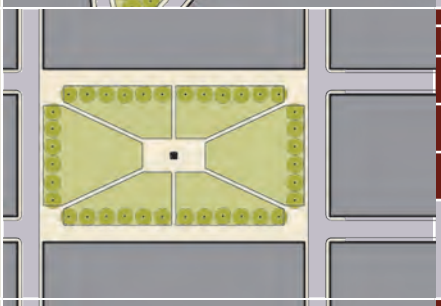
THOROUGHFARE TYPES

Avenue:	AV
Commercial Street:	CS
Drive:	DR
Street:	ST
Rear Alley:	RA
Rear Lane:	RL



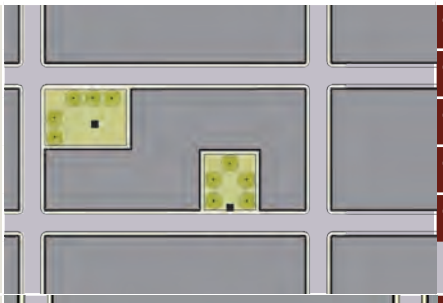
Assembly Designation		**PP-34-10**	
Transect District		T2O, T3, T4, T4O, T5L, T5	
Thoroughfare Type		Pedestrian Path	
Right-of-Way Width		34 feet	
Pavement Width		n/a	
Transportation Way			
Vehicular Lane(s)		na/	
Parking Lanes		n/a	
Striping		n/a	
Median Width		n/a	
Median Planting		n/a	
Median Surface		n/a	
Target Speed		n/a	
Bicycle Provision		n/a	
Transit Provision		n/a	
Public Frontage			
Assembly Width		34 ft.	34 ft.
Transect District		T3, T4	T2O, T4O, T5L, T5
Curbing	Type	n/a	n/a
	Curb Cut	n/a	n/a
	Radius	n/a	n/a
Walkway	Width	5 ft. min.	6 ft. –10 ft.
	Surface	Asphalt, pervious	Asphalt, pervious
Planter	Type | Size	Continuous | Variable	Continuous | Variable
	Arrangement	Clustered	Regular
	Mix	Varied	Alternating
	Spacing	Irregular	50 ft. o.c.
	Surface	Grass, ground cover	Grass, ground cover
	Planting	Various	Medium shade
Verge	Width	n/a	n/a
	Lighting Type	n/a	n/a
	Lighting Spacing	n/a	n/a

TABLE 31. CIVIC SPACE

a. Park: A park may be independent of surrounding building frontages. Its landscape shall consist of paths and trails, meadows, waterbodies, woodland and open shelters, all naturalistically disposed. Parks may be lineal, following the trajectories of natural corridors. The minimum size shall be 8 acres. Larger parks may be approved by exception as special districts in all districts.		T1 T2 T3 T4
b. Green: A green may be spatially defined by landscaping rather than building frontages. Its landscape shall consist of lawn and trees, naturalistically disposed. The minimum size shall be 1/2 acre and the maximum shall be 8 acres.		T2O T3 T4 T5
c. Square: A square is spatially defined by building frontages. Its landscape shall consist of paths, lawns and trees, formally disposed. Squares shall be located at the intersection of important thoroughfares. The minimum size shall be 1/4 acre and the maximum shall be 5 acres.		T2O T3 T4 T5
d. Plaza: A plaza shall be spatially defined by building frontages. Its landscape shall consist primarily of pavement. Trees are optional. Plazas should be located at the intersection of important streets. The minimum size shall be 1/8 acre and the maximum shall be 2 acres.		T4 T5

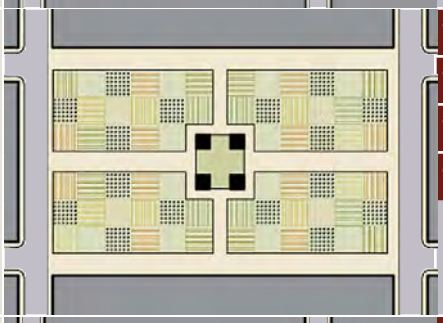
CIVIC SPACE (CONT.)

e. Playground: A playground shall be fenced and may include an open shelter. Playgrounds shall be interspersed within residential areas and may be placed within a block. Playgrounds may be included within parks and greens. There shall be no minimum or maximum size.



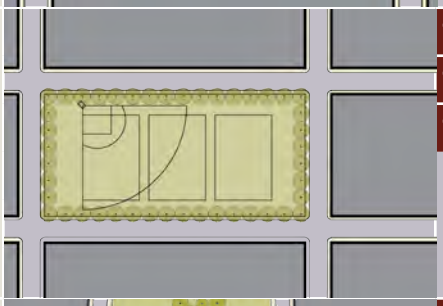
T1 T2 T3 T4 T5

f. Community Garden: A community garden may be fenced and may include a tool shed. Running water is required. Community gardens shall be interspersed within residential areas and may be placed within a block or included within parks and greens. There shall be no minimum or maximum size.



T2 T3 T4 T5

g. Neighborhood Multipurpose Field: A neighborhood multipurpose field may be spatially defined by landscaping rather than building frontages. There shall be a 20 foot clear zone at the perimeter for viewing and shall be landscaped with canopy trees. If this area is adjacent to a thoroughfare, the street trees may provide the necessary shade. This field may serve a secondary purpose of stormwater management. The minimum size shall be 3 acres and the maximum shall be 5 acres.



T3 T4 T5

h. Ramble: A ramble is spatially defined by rear lanes or alleys and the rear yard of the perimeter buildings. The minimum size is 1/4 acre and the maximum size is 5 acres..

T3 T4

TABLE 32. PUBLIC PLANTING

	Tree Canopy Characteristics								
	Specific Name (*Botanical Name*)	Type	Size (height x spread)	Transect District	CS Table 31	Native	Planting Pattern	Produce / Color in Bloom	Special Instructions
LARGE SHADE TREES (> 50 ft at maturity)	Red Maple *(Acer Rubrum)*	Rounded	60' x 40'	T1, T2, T3, T4	a., b., c.	Yes	Allee Regular Clustered	Samara / N/A	Does not tolerate heavily polluted areas.
	Silver Maple *(Acer saccharinum)*	Rounded	60' x 60'	T1, T2	a.	Yes	Regular Clustered	Samara / N/A	Do not use as street tree.
	Shagbark Hickory *(Carya ovata)*	Oval	60' x 40'	T1, T2, T3	a., b.	Yes	Regular, Clustered	Nut / N/A	Do not use as street tree.
	Hackberry *(Celtis occidentalis)*	Rounded	50' x 50'	T1, T2, T3, T4	a., b.	Yes	Regular, Clustered	Drupe / N/A	
	American Beech *(Fagus grandifolia)*	Oval	90' x 40'	T1, T2	a.	Yes	Regular Clustered	Three-winged nut / N/A	
	White Ash *(Fraxinus americana)*	Oval	50' x 80'	T1, T2	a.	Yes	Regular Clustered	Samara / N/A	
	Marshall's seedless green ash (*Fraxinus pennsylvanica lanceolata 'marshall's'*)	Rounded	60' x 50'	T1, T2, T3, T4	a., b., c.	Yes	Allee Regular Clustered	Samara / N/A	
	Honeylocust *(Gleditsia triacanthos)*	Rounded	60' x 60'	T1, T2, T3, T4	a.	Yes	Regular Clustered	Pod / N/A	
	Tulip Poplar *(Liriodendron tulipifera)*	Oval	60' x 40'	T1, T2	a.	Yes	Regular Clustered	Samara / N/A	
	Black Gum *(Nyssa sylvatica)*	Oval	60' x 40'	T1, T2, T3	a., b., c.	Yes	Regular, Clustered	Drupe / N/A	
	Sycamore *(Platanus occidentalis)*	Rounded	60' x 60'	T1, T2	a.	Yes	Regular Clustered	Multiple fruit / N/A	Higher maintenance.

PUBLIC PLANTING (cont.)

	Tree Canopy Characteristics								
	Specific Name (*Botanical Name*)	Type	Size (height x spread)	Transect District	CS	Native	Planting Pattern	Produce / Color in Bloom	Special Instructions
LARGE SHADE TREES (> 50 ft at maturity)	White Oak *(Quercus alba)*	Rounded	60' x 40'	T1	a.	Yes	Regular Clustered	Nut / N/A	
	Pin Oak *(Quercus palustris)*	Rounded	60' x 40'	All	a., b., c.	Yes	Allee Regular Clustered	Nut / N/A	Fast growing.
	Northern Red Oak *(Quercus rubra)*	Rounded	60' x 60'	All	a., b., c.	Yes	Allee Regular Clustered	Nut / N/A	
	Goldspire sugar maple *(Acer saccharum 'Goldspire')*	Rounded	70' x 40'	T1, T2, T3	a.	Yes	Allee Regular Clustered	Samara / N/A	Requires wide lawn area.
	American Linden *(Tilia americana)*	Oval	60' x 40'	T1, T2	a.	Yes	Regular Clustered	Nutlike / Cream	
	American Elm *(Ulmus americana)*	Rounded	70' x 50'	T1, T2	a.	Yes	Regular Clustered	Samara / N/A	Dutch elm resistant species only.
	Japanese Zelkova (*Zelkova serrata)*	Rounded	60' x 60'	T2, T3, T4	a., b.	No	Allee Regular Clustered	Drupe / N/A	
	Littleleaf Linden *(Tilia cordata)*	Pyramidal	60' x 30'	T3, T4, T5	a., b., c.	No	Allee Regular Clustered	Nutlet / Cream	
	Crimean Lindenr *(Tilia euchlora)*	Oval	50' x 25'	T3, T4, T5	a., b., c.	No	Allee Regular Clustered	Nutlet / Cream	Basal suckers.
	Silver Linden *(Tilia tomentosa)*	Oval	50' x 25'	T3, T4, T5	a., b., c.	No	Allee Regular Clustered	Nutlet / Cream	Basal suckers.
	Kentucky Coffeetree *(Gymnocladus dioicus)*	Oval	60' x 40'	T2, T3	a., b.	No	Regular Clustered	Pod / NA	Male only.

PUBLIC PLANTING (cont.)

	Tree Canopy Characteristics (cont.)								
	Specific Name *(Botanical Name)*	Type	Size (height x spread)	Transect District	CS	Native	Planting Pattern	Produce / Color in Bloom	Special Instructions
MEDIUM SHADE TREES (45 ft - 30 ft at maturity)	Hornbeam *(Carpinus caroliniana)*	Oval	30' x 30'	T1, T2, T3, T4	a., b., c.	Yes	Allee Regular Clustered	Nutlet / N/A	Good for naturalized areas.
	Hazelnut *(Corylus americana)*	Rounded	15' x 10'	T1, T2, T3	a., b., c.	Yes	Regular Clustered	Nut / Yellow	Good for naturalized areas.
	Sweetbay Magnolia *(Magnolia virginiana)*	Rounded	15' x 15'	All	a., b., c., e.	Yes	Regular Clustered	Fruit / Cream	
	American Hophornbeam *(Ostrya virginiana)*	Rounded	40' x 30'	All	a., b., c., d., e.	No	Regular Clustered	Nutlet / N/A	
	Pyramidal European Hornbeam *(Carpinus betulus fastigiata)*	Vase	30' x 20'	T2, T3, T4, T5	a., b., c., d., e.	No	Allee Regular Clustered	Nut / N/A	
	Sargent Cherry *(Prunus sargentii)*	Vase	30' x 30'	T2, T3, T4, T5	a., b., c., d., e.	No	Allee Regular Clustered	Drupe / Pink	
	Pagoda Tree *(Sophora japonica)*	Rounded	40' x 40'	T2, T3, T4, T5	a., b., c., d., e.	No	Allee Regular Clustered	Pod / Cream	Higher maintenance.
	Regent Scholartree *(Sophora japonica "regent")*	Oval	40' x 40'	T2, T3, T4, T5	a., b., c., d., e.	No	Allee Regular Clustered	Pod / Cream	Fast growth, some litter.

PUBLIC PLANTING (cont.)

	Tree Canopy Characteristics								
	Specific Name (*Botanical Name*)	Type	Size (height x spread)	Transect District	CS	Native	Planting Pattern	Produce / Color in Bloom	Special Instructions
ORNAMENTAL TREES	Eastern Redbud *(Cercis canadensis)*	Rounded	20' x 25'	All	a., b., c., d., e.	Yes	Allee Regular Clustered	Pod / Pink	Good for naturalized areas.
	Flowering Dogwood *(Cornus florida)*	Rounded	30' x 30'	All	a., b., c., d., e.	Yes	Allee Regular Clustered	Drupe / White-Yellow	
	Witchhazel *(Hamamelis virginiana)*	Rounded	15' x 15'	All	a., b., c., d., e.	Yes	Regular Clustered	Capsule / Yellow	Good for naturalized areas.
	Mountain Laurel *(Kalmia latifolia)*	Rounded	10' x 10'	All	a., b., c., d., e.	Yes	Regular Clustered	Capsule / White-Pink	Good for naturalized areas.
	Crape Myrtle *(Lagerstoemia indica)*	Vase	20' x 20'	T3, T4, T5	b., c., d., e.	No	Regular Clustered	Capsule / Varies	
	Kousa Dogwood *(Cornus kousaa)*	Rounded	25' x 25'	T2, T3, T4, T5	b., c., d., e.	No	Allee Regular Clustered	Drupe / White	
	Cornelian Cherry (*Cornus mas)*	Rounded	20' x 15'	T2, T3, T4, T5	b., c., d., e.	No	Regular Clustered	Drupe / Yellow	
	Siberian Crabapplen *(Malus baccata)*	Spreading	25' x 25'	T3, T4	b., c., d.	No	Allee Regular Clustered	Drupe / Pink	
	Upright Siberian Crabappler *(Malus baccata columnaris)*	Columnar	30' x 10'	T2, T3, T4	b., c., d.	No	Allee Regular Clustered	Drupe / Cream	
	Radiant Crabapple *(Malus 'radiant')*	Rounded	25' x 25'	T3, T4	b., c., d.	No	Allee Regular Clustered	Drupe / Red-Pink	
	Snowdrift Crabapple *(Malus snowdrift)*	Rounded	20' x 20'	T2, T3, T4	b., c., d.	No	Allee Regular Clustered	Drupe / White	

PUBLIC PLANTING (cont.)

	Tree Canopy Characteristics (cont.)								
	Specific Name *(Botanical Name)*	Type	Size (height x spread)	Transect District	CS	Native	Planting Pattern	Produce / Color in Bloom	Special Instructions
CONIFEROUS TREES (Not to be used as street trees.)	American Holly *(Ilex opaca)*	Pyramidal	20' x 15'	All	a., b., c.	yes	Clustered	Drupe/White	Requires both female and male for fruit.
	Eastern Red Cedar *(Juniperus virginiana)*	Pyramidal	35' x 10'	All	a., b., c., d., e.	yes	Clustered	Cone/NA	
	Red Pine *(Pinus resinosa)*	Oval	50'x15'	T1, T2, T3	a., b., c., e.	yes	Clustered	Cone/NA	
	Eastern White Pine *(Pinus strobus)*	Pyramidal	50'x20'	All	a., b., c., e.	yes	Clustered	Cone/NA	Intollerant of air pollutants & salts.
	Northern White Cedar *(Thuja accidentalis)*	Pyramidal	25'x10'	All	a., b., c., e.	yes	Clustered	Cone/NA	
	Eastern Hemlock *(Tsuga canadensis)*	Pyramidal	40'x25'	T1, T2, T3	a., b., c.	yes	Clustered	Cone/NA	

TABLE 33. TREE PLANTING PATTERN

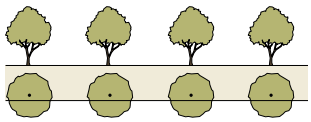
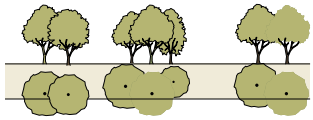
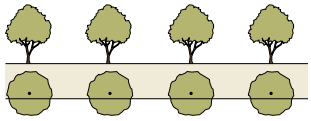
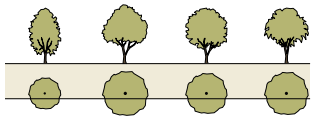
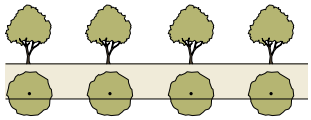
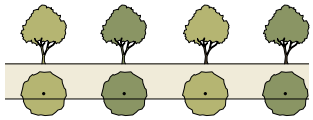
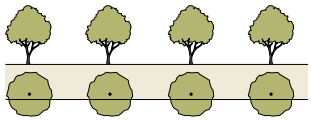
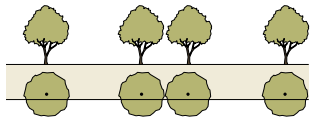
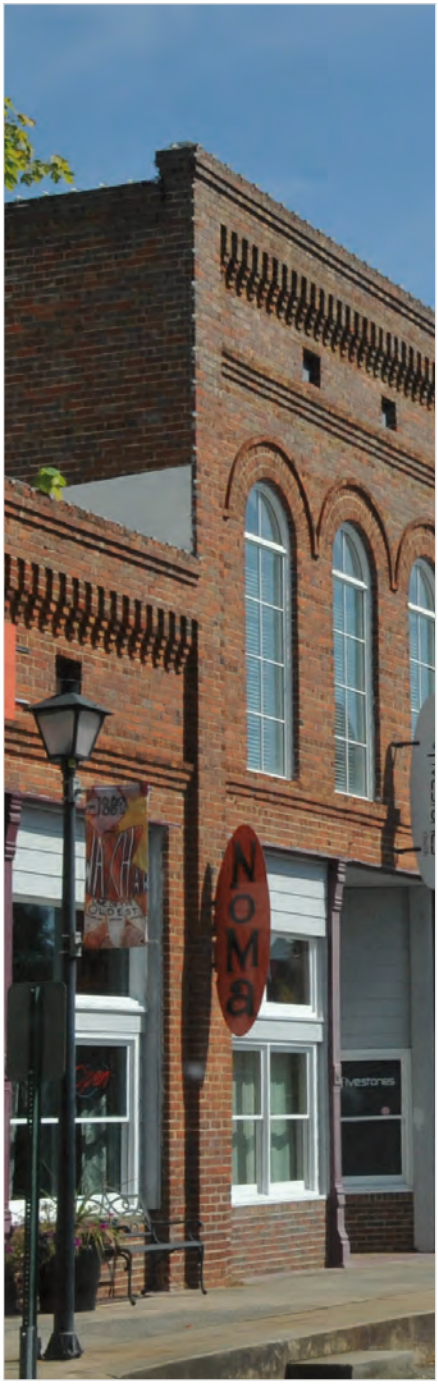
	Regular	Naturalistic / Clustered
a. Arrangement Opportunistic arrangement is not illustrated.		
	Single	Varied
b. Type Mix		
	Single	Alternating
c. Species		
	Regular	Irregular
d. Spacing		

TABLE 34. PUBLIC LIGHTING

TYPE			HEIGHT	SPACING
COBRAHEAD	T2	■		
	T2O			
	T3			
	T4			
	T4O			
	T5			
	T5L			
	SDB	■		
	SDI	■		
DOUBLE COLUMN	T2			
	T2O			
	T3			
	T4			
	T4O			
	T5	■	12 ft. - 16 ft.	50 ft. on center min.
	T5L	■	12 ft. - 16 ft.	50 ft. on center min.
	SDB			
	SDI			
COLUMN	T2			
	T2O	■	10 ft. - 14 ft.	100 ft. on center min.
	T3			
	T4	■	10 ft. - 14 ft.	100 ft. on center min.
	T4O	■	10 ft. - 14 ft.	100 ft. on center min.
	T5	■	12 ft. - 16 ft.	50 ft. on center min.
	T5L	■	10 ft. - 14 ft.	100 ft. on center min.
	SDB	■	10 ft. - 16 ft.	50 ft. on center min.
	SDI	■	12 ft. - 16 ft.	50 ft. on center min.

TYPE			HEIGHT	SPACING
POST	T2			
	T2O	■	10 ft. - 14 ft.	50 ft. on center min.
	T3	■	10 ft. - 12 ft.	at intersections
	T4	■	10 ft. - 14 ft.	120 ft. on center min.
	T4O	■	10 ft. - 14 ft.	50 ft. on center min.
	T5			
	T5L			
	SDB			
	SDI			
PIPE	T2	■	8 ft. - 10 ft.	at intersections
	T2O	■	8 ft. - 10 ft.	50 ft. on center min.
	T3	■	8 ft. - 10 ft.	at intersections
	T4			
	T4O			
	T5			
	T5L			
	SDB			
	SDI			
BOLLARD	T2			
	T2O			
	T3			
	T4	■	3 ft. max.	6 ft. on center min.
	T4O	■	3 ft. max.	6 ft. on center min.
	T5	■	3 ft. max.	6 ft. on center min.
	T5L			
	SDB	■	3 ft. max.	6 ft. on center min.
	SDI	■	3 ft. max.	6 ft. on center min.

■ Permitted
□ Special Exception



Unified Development Ordinance and Zoning Map Update

Town of Waxhaw, NC

June 17, 2015

Paul M. LeBlanc,
Planning Manager
616.336.1869
leblanc@lslplanning.com

LSL Planning
A SAFEbuilt. Company
www.lslplanning.com

FERRELL MADDEN
urban design, town planning, & form-based coding

LSL Planning
A SAFEbuilt. Company

June 17, 2015

Greg Mahar, Planning & Community Development Director
Town of Waxhaw
1150 N. Broome Street
Waxhaw, NC

Dear Mr. Mahar:

On behalf of the LSL Planning team, thank you for this opportunity to submit our proposal to prepare a new Unified Development Ordinance and map for the Town of Waxhaw. To ensure every aspect of your project is addressed, we have teamed with Ferrell Madden, Washington, D.C. based experts in form-based coding and urban design. LSL's long-standing relationship with FM assures Waxhaw of a reservoir of talent in traditional zoning, form-based codes, and unified development ordinances. Together we offer numerous and unique qualifications that are particularly relevant to your needs. Among them are:

- **Expertise.** We are innovators in all aspects of development regulations – urban design, zoning, form-based codes, public involvement, historic preservation, economic development, green/sustainable regulations, complete streets and access management. As a result, our team members are frequent instructors at state, regional, and national seminars on all these topics.
- **Unmatched Perspective.** While our team brings extensive experience writing codes throughout the country, LSL offers other qualifications that offer a unique perspective. Many of our professionals, including members of the designated team, have worked as zoning administrators responsible for enforcement of local regulations. Currently, we provide on-going consultation to over 40 communities. Senior professionals within the firm are frequently retained as experts in zoning litigation on behalf of municipalities. We have represented select corporations and developers seeking zoning approvals for significant projects. And many of our staff have served as members of their local planning board or appeals board.
- **Form-based Experts.** Geoff Ferrell and Mary Madden were among the founders of the Form-Based Code Institute. LSL and Ferrell Madden have assisted communities across the country with planning and zoning challenges and we provide continuing consulting services to implement many of the codes we write. We have prepared community-wide form-based codes, as well as hybrids. Recently, our team was selected to assist the City of Wilmington with a comprehensive audit of its current zoning regulations.
- **Codes that Produce Results.** You will see from the comparable projects included in the following pages that our plans and codes have a track record of producing results. Our experience in translating community visions into implementation plans and strategies is extensive and unique. Just one example is the success of the Columbia Pike corridor in Arlington County, VA. A master plan paired with the implementing form-based code has catalyzed over 1,300 residential units and almost 250,000 square feet of commercial construction in a pedestrian-oriented, infill context over the past decade.

Again, thank you for your consideration of our proposal. We welcome the opportunity to discuss our approach and qualifications with your selection committee and in the meantime, if you have any questions please let me know.

Sincerely,
LSL Planning, A SAFEbuilt LLC Company

Paul M. LeBlanc, AICP
Planning Manager

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I. Introduction

LSL Planning

A SAFEbuilt LLC Company

Great Solutions.
Great Communities.

Community Planning

Zoning and Form-Based Codes

Transportation Planning

Public Involvement and Visioning

Ongoing Planning Support

Since 1996, LSL Planning has become well known and highly respected for innovation in community planning . . . and so much more. LSL takes pride in working side-by-side with community leaders throughout the entire planning and implementation process.

Before diving in we get to know the community— its history, culture, leaders and aspirations. Then we customize an approach, inspired by national best practices, to meet the unique needs of each community. Community engagement is a vital part of the process. We effectively apply a wide range of techniques to build consensus and enthusiasm.

No matter which of our services a community might need, we can also serve as ongoing advisors, a role we provide to over 50 municipalities.

The LSL team has earned a reputation for advancing the science and art of community planning and is frequently asked to speak at regional, state and national conferences, webinars, seminars and workshops. Our team is comprised of community planners, designers, and transportation specialists that guide communities to envision, improve and build their own unique sense of place. What we provide:

- Customized best-practice plans that meet the unique needs and culture of each community.
- Expertise in a wide range of planning including land use, comprehensive plans, subarea and corridor plans, transportation planning, downtown revitalization and planning, review of development proposals and development regulations.
- We craft and administer form-based codes and development regulations along with ongoing consulting and expert litigation assistance when needed.
- Management of project reviews, consultation with planning commissions and officials, leadership of public meetings and engagement programs.

We measure success by the continued satisfaction of our many clients. Nearly 95% of our clients have engaged us for multiple projects, and several have been with us since the year we opened. Professional and personal service are always quoted as highlights when clients are asked why they work with LSL Planning.

Core Values:

LSL Planning, a SAFEbuilt company, believes in a set of core values that provide a foundation for decisions and our professional approach:

Integrity

Improvement

Service

Teamwork

Respect

Principals:
Bradley K. Strader, Planning Director
Paul M. LeBlanc, Planning Manager

Corporate Status:
LSL Planning is a SAFEbuilt company organized as an LLC in the State of Delaware.
Federal ID: 27-131473

LSL became a SAFEbuilt company in 2013.

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306 S. Washington Ave.
Suite 400
Royal Oak, MI 48067
248.586.0505

Grand Rapids
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Suite 450
Grand Rapids, MI 49503
616.336.7750

Atlanta
220 Greencastle Rd
Suite A
Tyrone, GA 30290
616.336.7750

Colorado
3755 Precision Drive
Suite 140
Loveland, CO 80538
866.977.4111

Firm Overview

Ferrell Madden, an urban design and town planning firm located in Washington, DC and State College, PA, creates and codes traditional city, town, and neighborhoods by combining sophisticated urban design with sound planning practices. We work with both public and private sector clients from across the country, creating innovative physical master plans and form-based codes for redevelopment districts, transit- and pedestrian-oriented development areas, new mixed-use neighborhoods, and corridor revitalization—for large green-, brown-, and grey-field parcels under single-ownership and entire districts with multiple parcels and owners. The firm approaches all of its projects with practical idealism, balancing the principles of true neighborhood and town building with market realities. FM has nearly 20 years of experience working in collaboration with multi-disciplinary teams to address complex urban design and master-planning projects in locations as diverse as the San Francisco Bay area; Dallas, Texas; Peoria, Illinois; and Arlington, Virginia—developing master plans rooted in tradition that accommodate contemporary issues and produce results.

Ferrell Madden is at the forefront of the innovative regulatory technique of Form-Based Coding. Our form-based coding work has been featured in a variety of publications, such as: *Urban Land*; *Planning* magazine; *On Common Ground*, the Realtors' magazine on smart growth; APA Zoning Practice; *Codifying New Urbanism: How to Reform Municipal Land Development Regulations*; and the books *Form Based Codes: A Guide for Planners, Urban Designers, Municipalities, and Developers* and *Retrofitting Suburbia*. Geoffrey Ferrell and Mary Madden are founding members of the Form-Based Codes Institute and have spoken on the subject in numerous forums, including national conferences such as the American Planning Association, the Congress for the New Urbanism, New Partners for Smart Growth, and the National Trust for Historic Preservation, as well as locally for the Washington Regional Network, and the EPA Smart Growth Speaker series in Washington, DC.

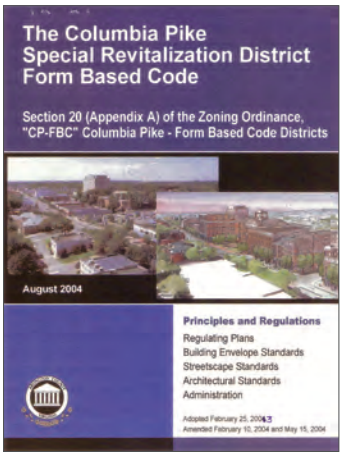
Our form-based coding approach is based on traditional American Town and City form and function—creating places that are inherently pedestrian friendly and mixed-use. We operate under the guiding philosophy that the great neighborhoods, towns, and cities in America did not happen by accident—they were planned with a physical vision. Our codes are not written in the abstract, but rather to produce a specific place—one envisioned by the local citizens and grounded in the reality of the local economic, political, and community context. We are involved throughout planning and development projects: from preliminary analysis, master planning, and urban design to creating new codes and review processes in coordination with implementation strategies. FM incorporates the timeless principles of traditional human settlement with the most valuable aspects of science and technology—Smart Growth, ecology and sustainability, etc.—and contemporary real estate development practices.

In addition, FM regularly uses a public participation charrette process as a multi-faceted tool: to clarify the public vision for future development in a targeted area; and to establish the framework for the new form-based code or other land development regulations.

Firm established in 1999. Formerly known as Geoffrey Ferrell Associates and Ferrell Madden Lewis.

Ferrell Madden

Rendering by Steve Price



urban design,
town planning, &
form-based coding

202.547.7141

19 14th Street SE
Washington DC 20003

II. Work Program

Understanding

A community that, not-so-long-ago, was a county hamlet well outside Charlotte's sphere of influence, Waxhaw is now growing rapidly. The rural charm symbolized by horses grazing in pastures and local shops along downtown's Main Streets pair is in danger of being lost to lavish subdivisions, boasting large, expensive homes, as well as stores, offices, and restaurants lining the Providence Road.

Recognizing the desirability of growth, but not wanting to sacrifice the prized community character, local leaders are undertaking an ambitious and concurrent program of planning and zoning. While a new comprehensive plan is in its early stages, close on its heels will be the revamping of the town's unified development ordinance. The new UDO will be more than an update and reorganization of current rules. The regulatory paradigm will be shifted from conventional Euclidean-type zoning to a Form-Based approach, defining the desired character and creating the framework to achieve that character throughout the community.

Putting such regulations in place requires an ambitious process of education and listening to stakeholders and the community-at-large. It will be important, from the outset, that a program be developed to communicate the concept of form-based zoning and fully engage the development community and citizenry in order to understand their desires. Closely coordinating with the comprehensive planning efforts will be an essential part of understanding what the community wants.

We believe that form-based codes are the best regulatory tool for implementing Smart Growth and creating compact, walkable, mixed-use places. However, it is important to understand that they are just that—a tool—not an end in and of themselves. The goal of the new UDO is the resulting place—a better town.

Waxhaw has already recognized that a new regulatory approach is needed to support the forthcoming comprehensive plan. Developing both documents simultaneously, or in immediate succession, is a good initial step to ensure consistency. Understanding the weaknesses of the current UDO and deciding to move toward a form-based regulatory system is also important. However, in order to develop a good form-based code, several analytical steps are necessary. In which areas of the town might a form-based code make the most sense? Where might conventional zoning (that has been revised and modernized) be more appropriate? On what do you base such determinations?

Physical Context and Community Aspirations

The current context—both the existing character of the built environment and the existing development regulations (standards and processes)—is key. Form-based codes should be place-specific. Developing them in the abstract can result in many of the same issues as conventional use-based zoning. Applying form-based codes to locations that conventional zoning regulates very efficiently can be an unnecessary expenditure of time and resources for little or no additional benefit. In other words, using the appropriate tool for the appropriate conditions is important to successful regulation.

Building on the Comprehensive Plan

Ideally, during the comprehensive planning process, some fairly specific visioning work is completed, identifying general "areas of stability" and "areas of change" within Waxhaw. Which parts of the town are expected to remain substantially as they are, and where is new growth anticipated or redevelopment desired? For those identified "areas of change," what is the desired character and intensity? How strong is the market?

Form-based codes are a great tool for regulating infill development to reinforce and enhance places that are already inherently compact, walkable, and mixed use (such as the downtown and surrounding historic neighborhoods). These areas can be used to evolve or transform those districts that have the potential to become compact and mixed-use through redevelopment and revitalization. They are less suited for districts anticipated to remain substantially as they are, primarily single-use and auto-oriented, such as single-family subdivisions, office and industrial parks, and some large commercial corridors.

If such "place type" identifications have not been made during the comprehensive planning process, our team will need to complete town-wide context analysis, work with staff, and hold a public workshop to determine which places within Waxhaw are most suitable for creating new form-based districts. This helps us identify the community's ultimate desired character for those areas. Based on our experience updating zoning ordinances and drafting form-based codes in similar communities, we anticipate that several portions of the town may remain in their existing base zoning districts, but translated and updated into a more modern regulatory form.

Scope of Work

The following section sets out a proposed scope of work. While based on and respectful of the desired scope described in the Request for Proposal, our extensive experience in the southeast and across the nation has yielded valuable lessons that benefit your project. For example, we understand that care must be taken to maximize public involvement, but not to overwhelm the community and end up with public outreach fatigue. This is especially important considering that the UDO will be running on a, more or less, parallel track with the new comprehensive plan which, no doubt, will rely heavily on public engagement. Citizen input in zoning is more focused, with an emphasis on up-front involvement during the analysis and visioning tasks, and once again after the public draft version of the ordinance is available. Key points for public engagement and methods of participation are indicated throughout this proposed scope.

The scope includes four separate elements that are outlined on the following pages.

Meeting: Tour of Study Area

I. Organize

A. Organization & Kick-Off

To start the project, the consulting team will conduct two days of meetings and reconnaissance in Waxhaw to undertake the following tasks:

- An initial organizational meeting and tour of the study area with town staff
- Finalize the project timeline and communication protocol
- Determine the base map information required for the project
- Collect documents, data, and plans associated with the study area from town staff
- Conduct a public Kick-Off Meeting to describe the project, present the basic concepts of place-making and form-based regulations, and engage the public using interactive exercises such as mapping strengths and weakness, and identifying visual preferences

B. Website

Following the initial visit, the team will provide information for the town's website, including project objectives, schedule, contact information, team credentials, and the team's initial reflections on issues to address and expected outcomes. We will consistently provide work products for the website throughout the course of the project, including updates following each major milestone.

Consultant Team Roles:

- Primary engagement during this task happens through the key team members from LSL, FM, and town staff

Town resources required for Task 1:

- Digital copies of all plans, reports, GIS data, and maps discussed during the project kickoff will be provided by town staff
- Conducting the tour of the study area
    - Coordination with all relevant staff on logistics of initial site visit
    - Advertising and arrangements for the public Kick-off Meeting

II. Understand

Task 2 focuses on detailed analysis, completed both on- and off-site, integral to fully understanding the community and developing the form-based code. It includes another twodays of on-site for meetings, interviews, and detailed site analysis.

A. Review and Evaluation of Existing Background Documents

Prior to the site visit, the team will:

- Review past studies and plans of the area, materials from the current comp plan process, recent and proposed development, maps of existing conditions, and planned infrastructure improvements to gain an understanding of current development dynamics in Waxhaw
- Analyze the existing zoning and applicable development regulations
- Review additional issues identified during Task 1

B. Technical Audit

As part of the above review and input, LSL will prepare a detailed technical audit of the current zoning, subdivision and related land development regulations. This audit will address, section-by-section, issues throughout the documents such as: organization, overlap, inconsistencies, conflicts with North Carolina law and recent court opinions, support for the comprehensive plan and other short-comings. These findings will be presented in a table format (see separate example document), as well as with notations appended to each section within a PDF of the various ordinances.

C. Leadership and Stakeholder Input

While in town, members of the team will meet with key project stakeholders identified by staff. These meetings will likely include, but are not limited to:

- Meetings with the planning director, planning department team, and other key town staff such as engineering, public works, and emergency services
- One-on-one meetings with elected officials
- An initial workshop with stakeholders (including residents, property owners, developers, local land use attorneys, and business owners), focusing on the current zoning and development review process (what works and what needs to be improved) and existing conditions (strengths and weakness) in Waxhaw.

Meeting: Stakeholder Input

D. Site Analysis: Urban Framework and Natural Features

While in town, the team will analyze the urban framework and natural features of the potential form districts. The existing urban form—the network of streets, blocks and lots, building forms, and public areas—will be examined within downtown, historic neighborhoods, and other parts of Waxhaw that lend themselves to key areas for our form-based approach. This will include a review of existing rights-of-way, land use, density, open spaces, and urban design in those areas, including topography and viewsheds. The analysis will be performed with the livability of the districts and surrounding neighborhoods in mind. We will begin evaluating opportunities for infill, redevelopment, revitalization and new public spaces. We will experience the area on foot and by car, at various times of the day and night. This analysis will provide the framework for a refined vision and form-based code.

E. Basic Transportation & Parking Analysis

The team will also investigate circulation, pedestrian, and parking issues within the area. Existing traffic and parking information, provided by the town staff will be used to identify "hot spots" that need attention. The physical layout of corridors and the street network will be studied, as well as mobility options such as pedestrian, bicycle, and amenities that could be connected.

F. Understanding the Local Economy and Market

Using existing data, knowledge of general market trends, and information gathered during stakeholder interviews, the team will develop a deeper understanding of the range of uses and housing types that are logical candidates for new infill development in Waxhaw. This information will help inform the form-

based code on not only the future form of the study area, but also the market demand for uses most likely to thrive there.

The results of Task 2 will be presented to staff and town officials (planning board and/or council), summarized for the website, and used to frame the discussion of issues and opportunities with stakeholders, staff, elected officials, and the larger community during the Public Workshop Process described in Task 3.

Consultant Team Roles:

- All team members will be engaged with this task, with particular emphasis on their areas of expertise.

Town Resources Required for Task 2:

- Create a list of stakeholders and community leaders
- Identify key departments and town staff to participate in discussions
    - Schedule and coordinate meetings
    - Assist with interview/meeting logistics

III. Articulate

In order to develop form-based districts, the community vision concepts must be translated into place-specific plans. During Task 3, the team will assist the town in developing and articulating this vision during a 2-day public workshop process.

A. Public Workshop Process

The focus will be on refining the community vision, using a process that discusses the character of future development within the proposed form-based districts, as well as the overall community if a hybrid option is chosen. While the ultimate project result will be a new form-based code for substantial areas of the town, if not the entire community, the workshop will include discussions of the public realm, street connectivity, and other strategies for creating an economically vital and livable Waxhaw. In order to develop the code, key design concepts must be detailed, place-specific, and consistent with the facts on the ground.

B. Work-in-Progress Presentation

At the end of the public charrette process, a summary report will be prepared highlighting the input and general characteristics/community aspirations for the form-based districts. Depending on the status of the comprehensive plan effort, we may discuss the aspects of the community vision that will directly inform the form-based code, and we will highlight opportunities for redevelopment and potential actions to facilitate implementation of the form-based code.

Public Workshop

C. Project Blueprint

Our proposed process emphasizes an "up front" effort to develop a blueprint framework for the creation of a new UDO. This blueprint is intended to serve as a guide and reminder of where attention is to be focused. It also helps to build consensus on changes so there are no surprises at the end of the process. At a minimum, the Blueprint will address the following:

- Proposed form-based districts
- Potential new format and organization
- Technical audit of the current UDO
- Style guide - to determine document standards such as fonts, capitalization, punctuation, outline format, etc.
- Style options for graphics, tables, and illustrations
- Proposed outline and table of contents for the new UDO
- Outline concepts for new regulations identified through previous staff discussions, review of supportive plan goals and recommendations, such as:
    - Defining the intent and purpose of each district. It may be discovered that some districts are not needed or should be altered to make them more useful.
    - Relating to the comprehensive plan's community-wide recommendations, yet is sensitive to and responds to the character of individual districts. These may range from the form-based approach for specific neighborhoods or subareas to a more traditional approach designed to support new development.
    - Reviewing the ordinance's current review provisions and standards and determining if they should be strengthened to

support comprehensive plan goals and recommendations or streamlined — particularly for form-districts, making it easier/more efficient to build the type of development the community wants and improving predictability for everyone—developers and citizens alike.

- Introducing standards and requirements that support sustainability.
- Reviewing current sign regulations and determining if they are generally compatible with comprehensive plan objectives or court opinions regarding content neutrality.
- Reviewing current landscaping requirements and establishing a consistent baseline for future landscape improvements.
- Reviewing zoning regulations and determining if they effectively manage vehicular access.
- Examining subdivision review and approval procedures for efficiency.
- Identifying town design standards that are outdated, insufficient, lacking or inconsistent with form-based concepts.

D. Draft UDO

The consulting team will draft the proposed Unified Development Ordinance, integrating detailed form-based districts, as appropriate, to supersede the present UDO. The document will incorporate all related land development regulations including zoning, subdivision, signs, parking, storm water, and other relevant ordinances from the current UDO and other related ordinances. A revised zoning map will also be prepared, as necessary.

Among the significant changes to the UDO will be design parameters for the Form-Based Code. Although the final format and content will be developed in conjunction with staff and based on the input received, our general approach will focus on:

- First, the spatial definition of the public space (streets, squares, greens, and parks) for the form-based districts.
- Then, we consider building form controls—in terms of height; siting; and permitted and required functional elements such as doors, windows, awnings, balconies, and shop fronts.
- Next, we review the fundamental elements within the street-space such as travel and parking lanes, street trees and planting areas, streetlights, sidewalks for pedestrians, and areas for use by fronting building occupants (for sidewalk cafes, store displays, dooryards, gardens and fences).
- We look, secondarily, to the treatment at the rear of the lot (private open space or yards), the adjacency of different building forms and use types, and varying service needs for parking, rear delivery access, and alleys.
- Building uses are generally treated as tertiary elements, with broad and permissive parameters. (Specific retail areas are the exception to this rule, as retail has natural synergies and limits.)
- If the Public Workshop Process identifies other desired uses for specific locations, the code will address those as well.

While our form-based codes typically include all of the sections identified in the RFP (Overview, Regulating Plan, Building Form Standards, Public Space/Street Standards, and Parking), we would like to highlight the following distinctions and recommended additional components that we will provide:

- **Regulating Plans:** Translate the community vision into a technical document that will replaces the zoning map for the district. The regulating plan is central to implementing the new development standards, setting site specific parameters for basic urban form with block standards, building form standards, build-to-lines, street tree alignments, community spaces (greens, squares, and parks), and other special controls.
- **Architectural Standards:** Define a coherent and quality building character that is complementary to the best local traditions. They do not regulate architectural "style"—rather, these standards govern building elements (such as awnings, balconies, porches, storefronts, bay windows, etc.) regardless of the applicable building form standard. This is accomplished by setting parameters for allowable materials, configurations, and construction techniques.

- **Administration:** If necessary, new application, review, and approval processes will be developed in conjunction with town staff in order to streamline and improve the development review procedures for the form-based districts—to make it easy for developers to build to the community's vision.

E. Review

Based on experience, we recommend preparing and presenting three (3) drafts of the UDO, with particular emphasis on the form-based elements.

Prior to delivering the draft form-based code in a public planning board meeting, key team members will present an Internal Review Draft (1) of the proposed code to the appropriate audience (planning staff, town attorney, advisory committee, etc.) in a work session format. We will respond to questions and make one round of revisions, based on verbal and written feedback from the client at this point, to produce an Initial Public Review Draft (2). We will present the Initial Public Review Draft to the planning board. Working with town staff, we will establish a process for receiving follow-up comments and questions from the planning board, other town departments, and the general public. Based on delivery of a single set of coordinated written comments/direction from town staff, we will incorporate this round of feedback into the Final Draft (3), to be presented to the town board.

Consultant Team Roles:

- All team members will be engaged with this task, either on- or off-site.
- Consultant will be responsible for preparation of the draft UDO

Town Resources Required for Task 3:

- Provide a location, logistical and staff support, and public meeting supplies for the workshop
- Advertise the public workshop and summary presentation
- Assist with scheduling additional technical meetings, as needed
- Review and provide consolidated feedback on each draft in a timely fashion

IV. Adopt

Following review and refinement of the UDO, three (3) additional presentation or public hearings will be attended before the planning board and/or town council, with the requisite number of minor revisions, prior to the delivery of the Final Draft to the council.)

Consultant Team Roles:

- This work will be primarily completed by members of the consulting team.

Town Resources Required:

- Meet all requirements regarding legal notice of public hearings

III. Timeframe Flow Chart

The following schedule illustrates the project time-line by task. While this is a very reasonable time frame, some adjustments may be necessitated by the corresponding schedule for the comprehensive plan effort.

Month	1	2	3	4	5	6	7	8	9	10	11	12
Organize												
1A. Organize	▲											
1B. Website												
Understand												
2A. Review												
2B. Audit												
2C. Interviews			▲									
2D. Site Analysis			▲									
2E. Transportation & Parking												
2F. Economy & Market												
Articulate												
3A. Public Workshop					▲							
3B. Presentation					▲							
3C. Blueprint												
3D. Draft UDO & Review									▲	▲		
Adoption												
4. Adoption											▲	▲

IV. Team Expertise

Team Expertise

In order to thoroughly address the Town's regulatory needs, we propose a team of specialists in all relevant aspects to the Waxhaw UDO project – comprehensive planning, form-based codes, traditional zoning, subdivision controls, urban design, historic preservation, complete streets, and access management. The project principal will be LSL's planning manager, Paul LeBlanc, an experienced zoning authority who has worked with client communities throughout the country. Day-to-day direction of the project will be the responsibility of David Jirousek. A brief description of the team and their roles is provided below, along with more detailed resumes on the following pages.

Paul LeBlanc, AICP

Paul is currently assisting Fort Mill, SC; Wilmington, NC; Kennedale, TX; and Richmond Hill, GA with the preparation of Unified Development Ordinances and related zoning challenges, Paul has a broad perspective to bring to this assignment. He will oversee the project, attend meetings and presentations and perform quality control reviews as the project progresses.

David Jirousek, AICP, FBCI

A former South Carolina planning director and zoning administrator, David currently provides zoning and on-going consultation to a variety of municipal clients. He recently completed the sign code update for Delta Township, MI; is rewriting the form-based code for Suttons Bay, MI; and is drafting elements of the Fort Mill, SC UDO. As part of the team working with Wilmington, NC, he is responsible for significant parts of the ordinance diagnostics. David will serve as project manager, directing the team, attending meetings and crafting various elements of the new UDO.

Bradley K. Strader, AICP, PTP

A nationally known expert in transportation planning, specifically complete streets and access management. He is currently assisting the Wisconsin DOT with access management training and co-authored ITE's Complete Streets Manual. He will participate in reviewing transportation-related elements of the existing regulations, provide direction on street cross-sections and the public realm and will participate in meetings and presentations, as needed.

Mary Madden, AICP, FBCI

Another nationally recognized authority, Mary is a founding board member of the Form-Based Code Institute and has worked across the country in addition to being a sought-after speaker. She will participate in all aspects of the project including stakeholder interviews, public workshops, drafting code provisions and will lead those aspects related to historic preservation, downtown development and other elements related to urban design.

Geoff Ferrel, FBCI

Co-founder of Ferrell Madden, Geoff enjoys a well-deserved national reputation as one of the leading experts in Form-Based Coding. He, too, was a founding board member of the Form-Based Code Institute and has lectured and undertaken projects across the country. Geoff will be actively involved in the formulating the new regulations for Waxhaw, attending meetings, and making presentations.

Max Dillivan

Max will be responsible for mapping, graphics, and document formatting, in addition to assisting with research, website creation and related tasks.

Paul LeBlanc, AICP

Planning Manager

EXPERIENCE
Since 1971

LSL EXPERIENCE
Since 1996

EDUCATION
B.A., Urban Analysis, University of Wisconsin

M.P.A., Public Administration, Western Michigan University

PROFESSIONAL ASSOCIATIONS
American Institute of Certified Planners

American Planning Association

Georgia APA

Michigan APA

Indiana APA

Member, GPA Legislative Committee

Paul is the planning manager in LSL's Grand Rapids office. His background in all aspects of community planning is extensive, having worked throughout the country with a multitude of public and private-sector clients. During his distinguished career, Paul has performed in a variety of general and specialized areas of planning practice – comprehensive planning, corridor studies, zoning, project reviews, parks & recreation, and public involvement, making him a valuable contributor on many varied assignments.

Prior to co-founding LSL, Paul was a Principal with a prominent design firm and before that was Vice President for a large architectural/ engineering firm, managing its Planning, Landscape Architecture, and Civil Engineering groups. He has also served in a variety of staff positions with county and regional planning agencies.

Most recently, Paul has been actively involved in a wide array of projects for county and municipal clients in Pennsylvania, Indiana, Kentucky, Ohio, Georgia, Tennessee, Alaska, and Michigan. In recognition of this extensive experience, he is frequently called upon to testify as an expert in zoning litigation.

Partial Listing of Experience

Comprehensive and Master Plans

Peters Twp (PA) Comprehensive Plan | Valdosta (GA) Moody AFB Joint Land Use Study | Park Twp (MI) Comprehensive Plan | City of Belding (MI) Comprehensive Plan | Town of Cedar Lake (IN) Comprehensive Plan | Village of Fowlerville (MI) Master Plan | City of Richmond (IN) Comprehensive Plan | City of Portage (MI) Comprehensive Plan | City of Ludington (MI) Waterfront Plan (Planning Award Recipient) | Town of Lapel (IN) Comprehensive Plan | Town of Whiteland (IN) Comprehensive Plan | LaGrange Co. (IN) Subarea Plan | Isabella Co. (MI) Master Plan | Gratiot Co. (MI) Master Plan | Cass County (IN) Comprehensive Plan | Johnson County (IN) Comprehensive Plan

Zoning and Development Regulations

Hilliard (OH) | Yellow Springs (OH) | Porter County (IN) US 6 Overlay District | City of Palmetto (GA) | City of Wyoming (MI) | Town of Cedar Lake (IN) | Lexington/Fayette Co. (KY) Zoning Analysis| Kodiak Island Borough (AK) | Porter County, IN - US 6 Corridor Overlay | Cannon Twp. (MI) | City of Rockford (MI) | City of Kentwood (MI) | La Porte Co. (IN) | City of New Buffalo (MI) | Georgetown Township (MI) | Niles Township (MI) | Spring Lake Township (MI) | Steuben Co. (IN) | Oldham Co. (KY) PUD Analysis | Gratiot Co. (MI) | Ogemaw Co. (MI) | Isabella Co. (MI) | Ionia Co. (MI)

Business District Plans

City of Crown Point (IN) Downtown Parking/Circulation/Traffic Study | City of DePere (WI) Downtown Development Plan | City of East Grand Rapids (MI) Gaslight Village Master Plan | Lexington/Fayette Urban County Government (KY) Non-residential Infill & Redevelopment Study

Corridor Plans

City of Elkhart (IN) | Grand Rapids (MI) 28th Street Corridor Plan | Kentwood/Wyoming (MI) 44th Street Corridor Plan | Rockford (MI) Ten Mile Road Corridor Plan | Georgetown Twp. (MI) Chicago Drive Corridor Plan

David Jirousek, AICP, FBCI

Senior Planner

EXPERIENCE
Since 2001

LSL EXPERIENCE
Since 2013

EDUCATION
Master of Community Planning, University of Cincinnati

Bachelor of Arts in Environmental Studies, Minor in History, Allegheny College

PROFESSIONAL ASSOCIATIONS
American Institute of Certified Planners

American Planning Association

Michigan Chapter of the American Planning Association

David Jirousek has 12 years of town, county and regional planning experience in both private sector consulting and public sector planning. Prior to joining LSL, David served as a planning consultant, County Director of Planning and Building Services, Senior Town Planner and Regional Planner. Current assignments include development review and ongoing zoning administration, master plan updates, zoning ordinance revisions, special projects and plan implementation.

In addition to long range planning and special projects, David has managed capital projects from concept to successful completion, including CDBG water and sewer lines, roads, buildings, parking lots and parks. In the capacity of development reviewer, David ensured development compliance by enforcing codes, inspecting construction sites and providing clear guidance to the construction community. His planning experience covers the spectrum of the field, including development agreements, planned development concept and master plans, development plans, subdivisions, zoning map and text amendments, and all other land development applications.

Partial Listing of Experience

Comprehensive Plans and Long Range Plans

Robinson Township (MI) Subarea Plan | Village of Pentwater (MI) | Bluffton (SC) | City of Otsego (MI) | City of Hart (MI) | Danby Township (MI) | Jasper County (SC) Solid Waste Management Plan | Jasper County (SC) Comprehensive Plan | Point South (SC) Improvement District and Redevelopment Plan | Town of Bluffton (SC) Comprehensive Plan | South Carolina 46 Corridor Management Plan | Lowcountry Region (SC) Natural Hazard Mitigation Plan | Beaufort County (SC) Southern Beaufort County Regional Plan | Lowcountry (SC) Regional Solid Waste Management Plan | Lowcountry (SC) Regional Transportation Plan | Marine Corps Air Station Beaufort (SC) Joint Land Use Plan

Zoning Ordinances and Land Development Regulations

Village of Suttons Bay (MI) Zoning Code | Town of Bargersville (IN) Zoning Code and Subdivision Ordinance | Delta Township (MI) Sign Code | Richmond Hill (GA) Technical Review | Sherman Township (MI) Zoning Code | Grand Haven Township (MI) Zoning Code |City of Hilliard (OH) Zoning Code and Subdivision Regulations | Jasper County (SC) Zoning and Land Development Regulations Updates | Jasper County (SC) Stormwater Ordinance and Design Manual | Town of Bluffton (SC) Unified Development Ordinance | Town of Bluffton (SC) Form-Based Code

Ongoing Zoning Administration and Other Consultation Services

Brooks Township (MI) Consultation Services | Keeler Township Consultation Services | Antwerp Township (MI) Consultation Services | Bertrand Township (MI) Consultation Services | Byron Township (MI) Consultation Services | Cannon Township (MI) Consultation Services | City of Ferrysburg (MI) Consultation Services | City of East Grand Rapids (MI) Consultation Services | City of Hart (MI) Consultation Services | City of Otsego (MI) Consultation Services | Pentwater Village (MI) Consultation Services | Sullivan Township (MI) Consultation Services

Brad Strader, AICP, PTP

Manager, Transportation Planning and Placemaking Studio

EXPERIENCE
Since 1983

LSL EXPERIENCE
Since 1997

EDUCATION
Bachelor of Science Degree, with Honors, in Urban Planning, Michigan State University

PROFESSIONAL ASSOCIATIONS
Fellow, Institute of Transportation Engineers (FITE)

ITE Professional Transportation Planner (PTP)

Transportation Research Board (TRB) Access Management Committee and Travel Demand Management Committee

Chair, ITE Transportation Planning Council Executive Committee

ITE Complete Streets Council

American Institute of Certified Planners

American Planning Association

MDOT M2D2 Advisory Committee and Task Force

AWARDS
MI-APA Project Award 2004
MI-APA Project Award 2003
MI-APA Project Award 2001
MI-ASLA Honor Award 2004
MI-ASLA Merit Award 2003

PUBLICATIONS
Editor, ITE Recommended Practice "Planning Urban Road Systems"

Task Force Member, "The Access Management Guidebook", MDOT

Co-Author, "Evaluating Traffic Impact Studies," MDOT

Since co-founding LSL, Brad has been involved in a wide variety of projects, but specializes in comprehensive planning, downtowns, and multi-modal transportation. His transportation projects include over 60 corridor and access management, thoroughfare plans, and other studies for metropolitan planning organizations (MPO), municipalities and road agencies. Brad has also prepared numerous comprehensive plans and development regulations.

Brad is a frequent lecturer on planning and transportation topics at state, regional and national conferences and training webinars. He has presented several national seminars on innovative approaches for ITE and AICP. He is chair of the ITE planning Council and a member of the TRB Access Management Committee. Brad is a seminar instructor for the MI-DOT access management and the Michigan Complete Streets Institute training programs.

Partial Listing of Experience

Transit Plans and Projects

Regional Transit Authority of Southeast Michigan Gratiot Alternatives Analysis and Michigan Avenue Alternatives Analysis | Woodward Avenue Transit Alternatives Analysis and TOD Study, Metro Detroit (MI) | The Rapid Streetcar Feasibility TOD, Grand Rapids (MI) | Ongoing Advisor, Rapid Silver Line BRT, Grand Rapids (MI) | STARS Transit Master Plan, Saginaw (MI) | The Rapid Transit Master Plan, Grand Rapids (MI) | CATA Michigan/Grand River Avenue Transportation Study, Lansing (MI) | Park and Ride Study, Ann Arbor Transit Authority (MI) | Roseview Transit System Routing Plan, Richmond (IN)

Access Management and Corridor Plans

Grand Rapids (MI) Michigan Street Corridor Plan | Summit County (OH) Access Management Manual | Gratiot Avenue Multi-Modal Corridor Plan (Metro Detroit) | County Road 17/19 Corridor Plans Elkhart (IN) | Huron-Whitaker Corridor Plan, Ypsilanti (MI) | West Oakland Corridor Study, Oakland County (MI) | State Road Corridor Plan, Washtenaw County (MI) | Grand River Ave. Corridor Plan, Genoa Township (MI) | Orchard Lake Road Corridor Design Plan (MI) | Northwestern Highway Connector, Oakland County (MI) | US-12 Access Management Plan, Pittsfield Twp/Saline (MI) | 16 other Access Management Plans for MDOT throughout Michigan

Thoroughfare Plans and Non-Motorized Complete Streets Plans

Downtown Livability Plan, Pontiac (MI) | Cascade Township (MI) DDA Complete Streets Plan | Thoroughfare Plan, Charleston (WV) | Thoroughfare Plan, Elyria (OH) | Complete Streets Plan, Richmond (IN) | Thoroughfare Plan and Non-Motorized Plan, Lansing (MI) | Transportation Plan, Ann Arbor (MI) | Thoroughfare Plan, Bluffton (SC) | Metropolitan Area Transportation Plan, Grand Rapids (MI) | Thoroughfare Plan, Macomb County (MI) | Transportation Plan, Western Wayne County (MI) | Thoroughfare Plan, Ypsilanti Township (MI)

Downtown/Campus Circulation and Parking Plans

Kalamazoo Edison Neighborhood Multi-Modal Transportation Advising, Kalamazoo (MI) | Downtown Parking and Circulation Plan, Crown Point (IN) | Parking Study, Berkley DDA (MI) | Downtown Parking Strategy, Grand Blanc (MI) | Central Circle District Redevelopment Plan, Midland (MI)| Providence Hospital Parking/Circulation Plan, Southfield (MI) | Circulation Studies, Fenton (MI) Public Schools

Max Dillivan

Assistant Planner

EXPERIENCE
Since 2009

LSL EXPERIENCE
Since 2012

EDUCATION
Bachelor of Science, Geography
Grand Valley State University

Master of Urban & Regional Planning
Ball State University

PROFESSIONAL ASSOCIATIONS
American Planning Association - Michigan Chapter

AWARDS
Eric & Sandra Kelly Capstone Writing Award
Ball State University

PUBLICATIONS
Co-author
"Transit Deserts: The Gap between Supply and Demand"
Journal of Public Transportation
September 2013

Recently arriving to LSL with degrees in geography and urban planning, Maxwell brings the latest skills and techniques in the field providing services in planning and design. His background includes geographic information systems (GIS), research and statistical analysis, motorized and non-motorized transportation planning, environmental planning, and urban design.

Maxwell assists on a diverse set of projects at LSL, ranging in size and scope. He has created plan documents for public and private clients including motorized and non-motorized transportation plans, sub-area studies, parks and recreation plans, master (comprehensive) plans, and zoning ordinances. Additionally, he also provides on-going GIS database administration and mapping services for Mountain View, CO; Dacono, CO; Grattan Township, MI; and Byron Township, MI. Maxwell recently developed the 2015 Cannon Township (MI) Master Plan, and is currently assisting on the WestSide Area Specific Plan (Grand Rapids, MI), Fort Mill Unified Development Ordinance, and Village of Pentwater (MI) Master Plan.

Additionally, Max provides planning services in the form of mapping, graphic design, presentation design, project composition, site plan review, and on-going zoning consultation.

Partial Listing of Experience

Area Plans

Pentwater Village (MI) Master Plan | Grand Rapids (MI) WestSide Area Specific Plan | Cannon Township (MI) Master Plan | Plan Jasper County (SC) Comprehensive Plan | Portage (MI) Master Plan | Danby (MI) Master Plan | Otsego (MI) Master Plan | Hart (MI) Master Plan | Park Township (MI) Master Plan | Antwerp Township (MI) Master Plan | Steelcase, Inc. Campus Sub-Area Study (MI) | Madison (IN) Downtown Sustainability Plan | Huntington (IN) Comprehensive Plan | Griffith (IN) Comprehensive Plan

Transit and Transportation Planning

Streetcar Feasibility Study, Grand Rapids (MI) | Michigan Street Multi-Modal Corridor and TOD Plan, Grand Rapids (MI) | City of Muskegon (MI) Downtown Parking Study

Zoning Ordinances

Fort Mill (SC) Unified Development Ordinance | Bargersville (IN) Zoning Ordinance | Yellow Springs (OH) iZone | Byron Township (MI) Zoning Ordinance | Kodiak Island Borough (AK) Development Code

Parks and Recreation Plans

Lapeer (MI) Parks and Recreation Master Plan | Antwerp Township (MI) 2012-2017 Parks and Recreation Plan | Algoma Township (MI) 2013-2018 Parks and Recreation Plan

Mary E. Madden, AICP, FBCI

Ferrell Madden, Principal

EDUCATION

University of Virginia, School of Architecture, Charlottesville, VA
Master of Urban and Environmental Planning, 1989

Princeton University, Princeton, NJ
Bachelor of Arts in Architecture, 1986

PROFESSIONAL ACTIVITIES, PUBLICATIONS, & AWARDS

Jury Member & Jury Chair Driehaus Form-Based Code Awards, 2008 & 2009

National Charette Institute Best Practices Report 2008 – Contributor

"Place Making with Form-Based Codes" – Co-Author, published in Urban Land magazine, September 2006

2005 Texas APA Award & 2007 Driehaus Form-Based Code Award – Farmers Branch DART Station Area

Codifying New Urbanism: How to Reform Municipal Land Development Regulations – Contributor, published jointly by the Congress for the New Urbanism and the American Planning Association (PAS 526), 2004.

Memberships: American Institute of Certified Planners; Form-Based Codes Institute, Founding Board Member; American Planning Association; Congress for the New Urbanism; Washington DC Chapter of CNU, Charter Member

PROFESSIONAL EXPERIENCE

Ferrell Madden (formerly Ferrell Madden Lewis), Principal 2002-present

U.S. Department of Housing and Urban Development 1993-2001

Assistant Deputy Secretary for Field Policy and Management - Washington, DC

Special Assistant to the Southwest Secretary's Representative - Fort Worth, TX

Special Assistant to the Secretary - Washington, DC

Special Assistant to the Assistant Secretary for Congressional Relations - Washington, DC

The Mayors' Institute on City Design, Assistant Coordinator 1989-1991

Arkansas Historic Preservation Program, Preservation Technician 1986-1987

URBAN DESIGN, TOWN PLANNING, & FORM-BASED CODES

- Overland Park Form Districts, Overland Park, KS.
- Portsmouth Uptown D2 District, London Boulevard and High Street Corridors, Portsmouth, VA.
- Pearl District Pilot Form-Based Code, Tulsa, OK.
- Urban Centers Toolkit, Prince Georges County, MD.
- Fairfax Boulevard Charrette & Form-Based Code, Fairfax, VA – with Dover Kohl & Partners.
- Landover Sector Plan and Charrette, Prince George's County, MD – with Rhodeside & Harwell.
- Heart of Peoria Implementation Charrette, District Master Plans and Form-Based Code, Peoria, IL
- Birmingham Triangle Charrette & Form-Based Code, Birmingham, MI – with LSL Planning.
- Marquette Downtown Waterfront District Form-Based Code, Marquette, MI.
- Broad Avenue Revitalization District Charrette & Masterplan, Memphis/Shelby County, TN – with Duncan Associates.
- Mercer Crossing Plan & Form-Based Code: Farmers Branch, TX.
- Fayetteville City Plan 2025, Fayetteville, AR – Dover Kohl & Partners charrette team member
- DART Station Area Master Plan and Form-Based Code, Farmers Branch, TX.
- Project received the 2007 Driehaus Form-Based Code Award and the 2005 Texas APA Current Planning Award.
- Fremont Form-Based Development Code, Fremont, MI – with LSL Planning.
- Downtown Redevelopment Master Plan, Fayetteville, AR – Dover Kohl & Partners charrette team member.
- EPA Smart Growth Assistance Team, College Park, MD.
- EDO Huning Highlands Code Revisions & Architectural Standards, Albuquerque, NM.
- Columbia Pike Master Plan and Form-Based Code, Arlington County, VA – with Dover Kohl & Partners.

Geoff Ferrell, FBCI

Ferrell Madden, Principal

EDUCATION

Master of Architecture, Certificate in American Urbanism, University of Virginia, Charlottesville, VA. 1994

Bachelor of Architecture, Oregon School of Design, Portland, OR. 1988

Bachelor of Science in Public Policy and Political Science, Willamette University, Salem, OR. 1979

PROFESSIONAL ACTIVITIES, PUBLICATIONS, & AWARDS

Memberships: Form-Based Codes Institute – founding Board Member; Congress for the New Urbanism – Charter Member; Washington DC Chapter of CNU – Charter Member

EPA Smart Growth Blue Ribbon + 2010 Virginia APA Award – Portsmouth Uptown D2 District. 2012 & 2010

Driehaus Form-Based Code Awards – Farmers Branch Station Area & Heart of Peoria Form-Districts. 2007 & 2010

Texas APA Planning Award – Farmers Branch DART Station Area. 2005

Form-Based Codes. Contributor (by D. Parolek, K. Parolek, and P. Crawford) Published by Wiley & Sons. 2008.

Washington Post Guest Editorial. Author, "Density is not the Enemy, Dumb Growth is." 2002

TND III / Blueprints for a Better Future: Building Plans and Urban Design Principles for a Better South Florida. Editor, Essay Section. Author, "Urban Design Principles for Building Neighborhoods, Towns, and Cities." 1999

The New Urbanism. Contributor. (by Peter Katz) Published by McGraw Hill. 1992

Progressive Architecture Magazine Urban Design Citation – Riviera Beach Masterplan. 1991

The City is an Investment in Our Future, Proposals for an Alternative Approach to Urban Development on the Example of Chur, Switzerland. Co-author with Thomas Dalbert-Weiss. Book published in Switzerland, 1990

PROFESSIONAL EXPERIENCE

Ferrell Madden (previously Ferrell Madden Lewis & Geoffrey Ferrell Associates) Principal. 1992-97; 99-present

Torti Gallas & Partners. CHK, Silver Spring, MD. 1999

Treasure Coast Regional Planning Council, Director of Urban Design. Stuart, FL. 1997-99

Duany Plater-Zyberk Architects and Town Planners, Project Manager/Designer. Miami, FL. 1989-92

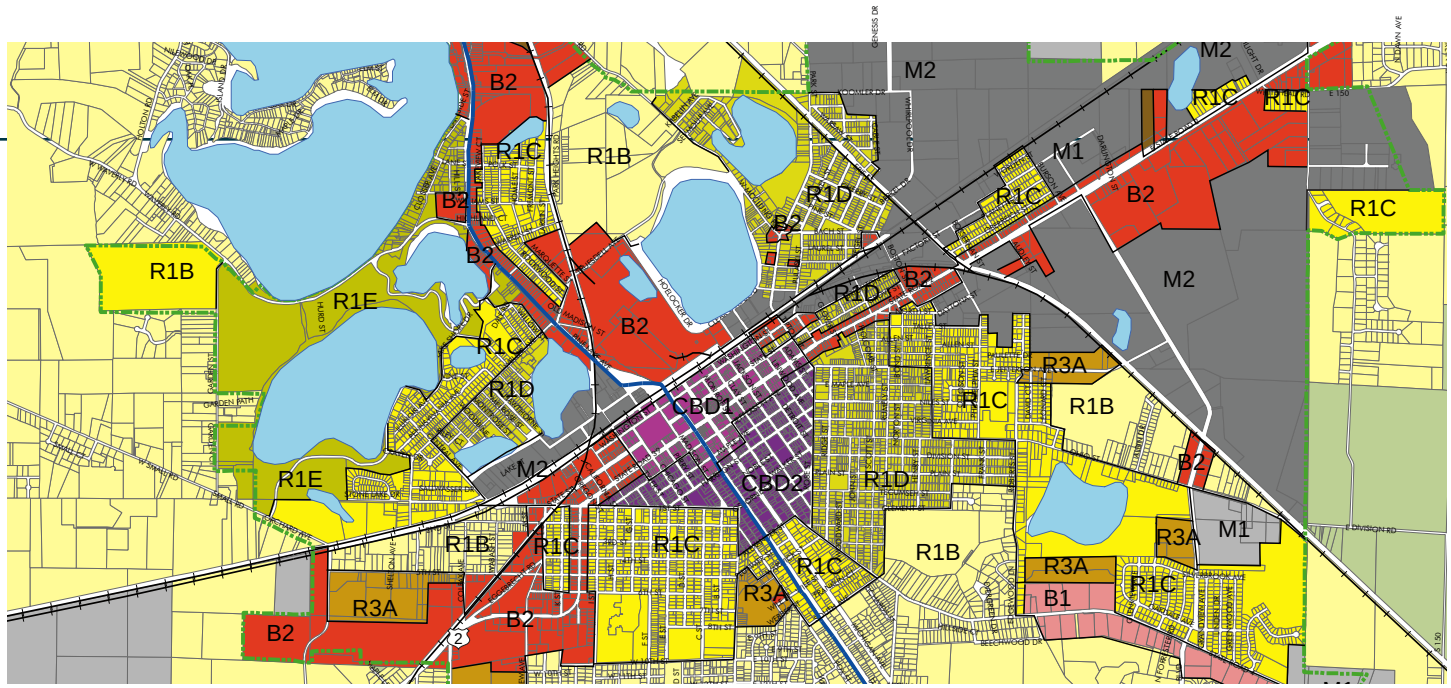
Oregon Department of Energy, Conservation Division, Management Analyst. 1980-83

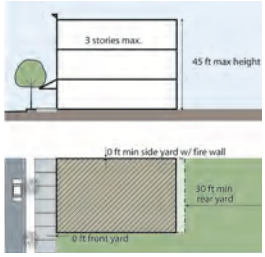
URBAN DESIGN, TOWN PLANNING, & FORM-BASED CODES

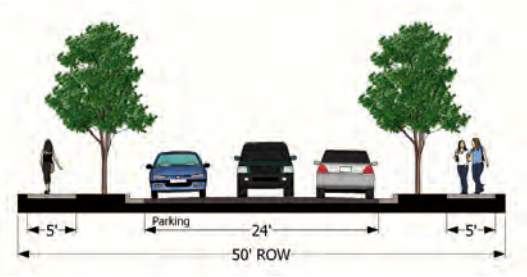
- Transit-Oriented Neighborhood (TON) District Zoning-Toolkit for Bus Rapid Transit stations, Greenville, SC.
- Place Type Character 2034 Comprehensive Plan Guidelines, Suffolk, VA.
- Hull Street Corridor Master Plan, Richmond/Chesterfield County, VA, with Rhodeside & Harwell.
- Columbia Pike Special Neighborhoods Area Plan; Arlington County VA, with Dover Kohl & Partners.
- Overland Park Form Districts, Overland Park, KS.
- Portsmouth Uptown D2 District, London Boulevard and High Street Corridors, Portsmouth VA.
- Urban Centers Toolkit, Prince Georges County MD, with Code Studio, Inc.
- Sub-Region IV Sector Plan updates, Prince Georges County, MD, with Code Studio and Rhodeside & Harwell.
- Heart of Peoria Charrette, Master Plans & Land Development Code, Peoria, IL.
- Broad Avenue Revitalization District, Memphis/Shelby County TN, with Duncan Associates.
- Fremont Form-Based Zoning Ordinance, Fremont MI, with LSL Planning.
- Mercer Crossing Plan & Form-Based Code, Farmers Branch, TX.
- Farmers Branch DART Station Area, Farmers Branch TX.
- Huning Highlands/East Downtown Corridor (EDO), Albuquerque NM.
- Columbia Pike Revitalization District; Arlington County VA, with Dover Kohl & Partners.
- Pleasant Hill BART Station Property Form-Based Code, Contra Costa County CA.
- Midway Commerce District, Midway KY.
- Peninsula Neighborhood Form-Based Code, Iowa City, IA.
- Longleaf, New Port Richey FL, with Armando M. Montero.
- Windsor Village, Vero Beach,FL. Town Planner for Village (Duany Plater-Zyberk master plan).
- Riviera Beach Masterplan & Form-Based Code, Riviera Beach FL, with Mark Schimmenti.

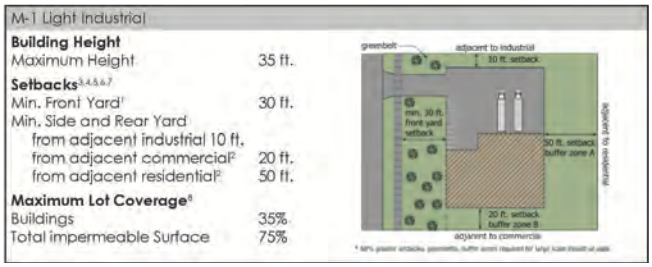
V. Comparable Projects

Every community and project is unique and deserves to be viewed through a fresh lens, without preconceived ideas of what will or will not work. Therefore, this assignment requires more than just preparing a new Unified Development Ordinance for Waxhaw. The ordinance regulations and districts must be placed within the context of the new comprehensive plan, as well as the political realities of Waxhaw's philosophies toward development regulations. Our broad experience has taken us across the country to communities that desire a strong dose of intervention and to others where development regulations play a modest role in shaping future growth. To be effective, any regulatory changes and recommendations in Waxhaw must seek a balance in that spectrum.









M-1 Light Industrial

Building Height	
Maximum Height	35 ft.
Setbacks[3,4,5,6,7]	
Min. Front Yard[1]	30 ft.
Min. Side and Rear Yard	
from adjacent industrial	10 ft.
from adjacent commercial[2]	20 ft.
from adjacent residential[2]	50 ft.
Maximum Lot Coverage[8]	
Buildings	35%
Total impermeable Surface	75%

Zoning and Development Regulations

Representative Projects

Palmetto, GA
Zoning Ordinance and Form-Based Code

La Porte, IN
Joint City-County Zoning Ordinance

Midland, MI
Form-Based Code

Bluffton, SC
Unified Development Ordinance

Kodiak, AK
Zoning and Land Management Ordinances

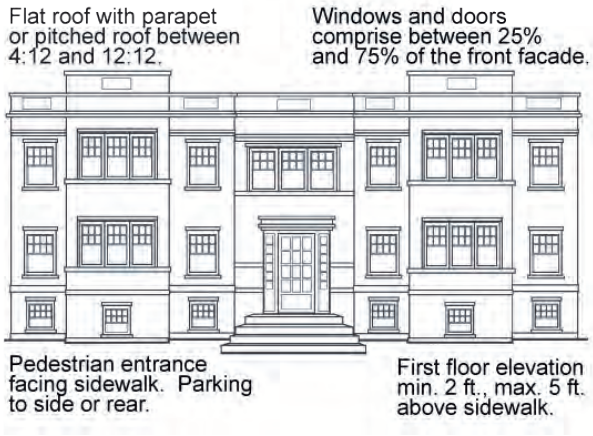
Grandville, MI
User-Friendly Ordinance

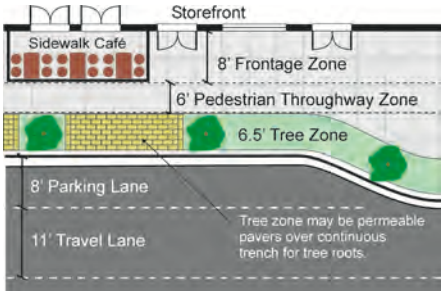
The complexion of land development regulation is changing. Modern zoning ordinances are no longer just about separating uses into discreet districts and imposing one-size-fits-all setback, parking and sign regulations. They are being structured to incentivize quality development, integrate land use regulation with storm water management, create sustainable development, balance the interests of the community with the individual freedoms of the property owners and make the processes of review less onerous.

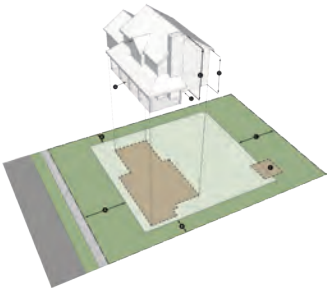
LSL has crafted zoning, subdivision and unified development regulations for nearly 100 communities across the country, ranging from large central cities to rapidly growing suburbs to rural enclaves. In addition to employing a range of advanced techniques to achieve local goals, LSL ordinances are clear, well organized and concise…in other words, user-friendly. We understand the benefits of making development regulations less intimidating and easier to interpret and apply. LSL's iZone™ formatting brings user-friendly to a new level, making the ordinances digitally interactive, with cross-referencing as easy as a mouse click.

CBD: Specific Building Requirements: Apartment Buildings

Floor Area	
Minimum	700 sq. ft. for each residential unit
Façades	
Window Transparency Area	25% to 75% of front façade of each residential unit shall consist of windows and doors
Entrances	At least one usable door facing front lot line
Front stoop	
Each dwelling shall have a front stoop with steps	
Minimum depth	4 ft.
Minimum area	32 sq. ft.
Garages	
Off-street parking lots and carports or garages shall be located in the side or rear yard.	







Form-Based Codes

Representative Projects

Birmingham, MI
Triangle District FBC

Leesburg, VA
Crescent District FBC

Fremont, MI
Citywide Code

Midland, MI
Downtown Transition Area Code

One of the freshest zoning concepts to be introduced in decades, Form-Based Code (FBC) is gaining widespread attention from local officials, interested citizens, and the development community. Form-Based Codes rely on design concepts and patterns intended to preserve the best of a community, creating more sustainable places. FBC emphasizes the physical form of the building and its relationship to the street and adjacent buildings. Compatibility of uses is achieved through design and orientation, instead of strict land use separation. The result is development in harmony with the established or desired character of a district supported by mixed uses, pedestrian-friendly systems and complementary scale.

LSL has helped many communities, large and small, achieve their goals for downtown, corridor and neighborhood improvement by incorporating Form-Based Code as an element of traditional zoning or as a community-wide regulatory approach.

Design Workshops and Charrettes

Representative Projects

Birmingham, MI
Two District Plans

Leesburg, VA
Form-Based Code

Troy, MI
Pavilions of Troy

East Grand Rapids, MI
Gaslight District Plan

Grand Rapids, MI
Michigan Street Corridor Plan

Midland, MI
Downtown

LSL's trained and experienced staff specialize in facilitating exciting venues that engage local citizens when crafting plans for communities, subareas, downtowns, corridors, redevelopment sites and mixed-use centers, which we have conducted in both large and small communities whose characteristics span the entire transect of development.

Our staff are trained through the National Charrette Institute and execute dynamic visioning processes and exercises that not only involve the public, but educate them as well. Our meetings help to stimulate excitement for the future while cultivating champions that will later lead the charge into implementation. We use tools like 3-D modeling, PET (Preserve, Enhance, Transform) Exercises, visualization and scenario planning to help convey important concepts and prioritize ideas.

We approach involvement as a collaborative discussion among stakeholders such as community officials, agencies, developers, and the public. We work with our clients to ensure those who need to be involved are invited to key meetings. As planners, we are apt at education, facilitation, prioritization, visioning and consensus-building. Our vast team of partner companies who specialize in such disciplines as architecture, engineering, market evaluation, development, and more can be called on where needed to address specific issues or needs that may be identified.

Many of our workshop products lead to direct implementation. Many of our form-based codes and zoning ordinances are based on the specific visions that we create. Our thorough consideration of the impacts and realities of recommendations during the visioning process is a key reason why our products are so implementable.

Public Involvement and Visioning

Representative Projects

Kalamazoo, MI
Comprehensive Plan

Peters Twp, PA
Design Charrette

Leesburg, VA
Ordinance Public Workshops

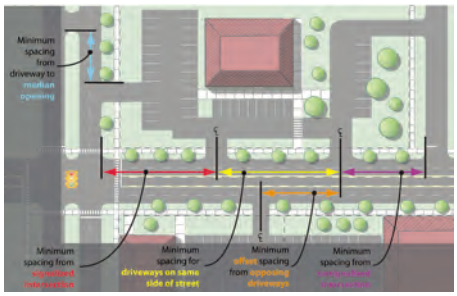
Stone Mountain, GA
Smart Growth Public Workshops

Effective planning cannot occur in a vacuum, nor can solutions be imposed on a community. A truly successful plan must evolve from a collaborative process that engages all stakeholders in open communication. LSL has repeatedly demonstrated its ability to bring the community into the process. Our experienced professionals have proven their skill at consolidating divergent opinions into a single vision or common set of objectives. Whether the focus is land use, transportation or special projects, we have earned a reputation as expert facilitators who listen, document ideas, and provide prompt follow-up.

Recognizing that there is no "one size fits all" formula for eliciting input, LSL draws from a menu of proven techniques, tailoring a program to the specific needs of the client and the project. Examples include:

Open houses | Design workshops/charrettes | MindMixer online engagement program | Agency days | Stakeholder focus groups | Surveys | Targeted events like "Kidspeak" or "College Nite" | Facebook | Media relations | Traditional town meetings and public hearings | LSL's trademarked Public Workshop in a Box™ | Interactive, self-directed "games" and activities

	Rural	Suburban Fringe / Exurban	Suburban	Compact Urban
Land Use	Residential/agriculture, commercial nodes	Residential subdivisions, commercial strips	Residential/commercial, Redevelop with infill TOD	Residential/urban commercial mixed-use
Street	2 lanes, center turn lane select locations	2 or 3 to 5 lanes, center turn lane	5 or 6 to 8 lane blvd, some on-street parking	6 or 8 lane blvd with on-street parking
Access	1-1/2 Mile signals, 455' drive spacing with service drives	455' drive spacing, retrofit to eliminate some access near signals	Infill access, retrofit and new cross-access, esp. signals & poor offsets	Retrofit to reduce number drives, 1-sided signals
Non-Motorized	Pathways	Add sidewalks	Connect gaps, esp. near transit stops	Widen sidewalks, add pedestrian signals
Transit	Demand response	Park and ride	Enhanced transit, TOD redevelopment	Frequent bus, potential BRT/LRT



Corridor Planning and Access Management

Representative Projects

Gratiot Avenue, Metro Detroit MPO and MDOT
Corridor Plan

Michigan Street , Grand Rapids
Corridor Plan

Summit Co., OH
Access Management Program and Code

Lansing, MI
Saginaw-Oakland Corridor Plan

Elyria, OH
Downtown One-way to Two-way Street Evaluation

Porter County, IN
US-6 Corridor Overlay District

LSL Planning continues to advance the art of corridor management. Our principals have been involved in the preparation and implementation of corridor and specifically access management at the local level for over 20 years. We apply lessons from that history and best practices gleaned from our active participation with the international Transportation Research Board (TRB) Access Management Committee to every project. We have earned a reputation as expert facilitators who listen, document ideas, and provide prompt follow-up.

LSL has prepared over 35 corridor and access management plans for communities and agencies. These range from projects to prevent future problems in developing suburban areas to retrofit strategies to help reduce congestion and crash patterns. Several have involved analysis of conversion of one-way streets to two-way or changes to lanes (i.e. "road diets"). Most included multiple jurisdictions and resulted in the preparation of a manual and corresponding overlay zoning districts at the local level.

> ***"I want to thank all of you at LSL Planning for presenting Access Management at the SEMCOG Seminars. This definitely made my job easier because we have many of these issues being caught and resolved at the Township and City level."***
>
> - George Melistas, Plan Review Engineer, Macomb County Department of Roads

Comprehensive Plan and Zoning Ordinance
Bluffton, SC

Key Elements

Comprehensive Plan

Growth Management

Access Management

Waterfront Planning

Zoning Ordinance

iZone | Interactive Ordinance

Plan Audit | Progress Report

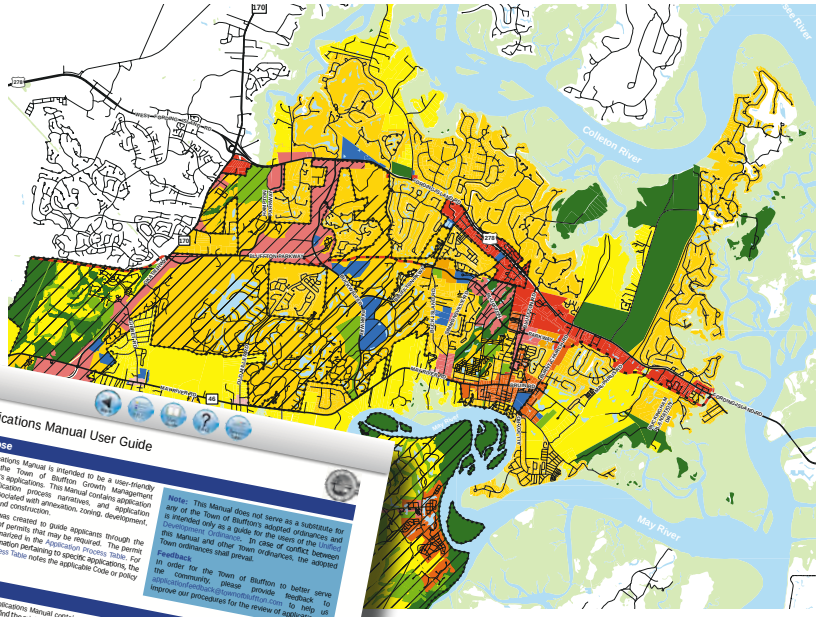
Contact

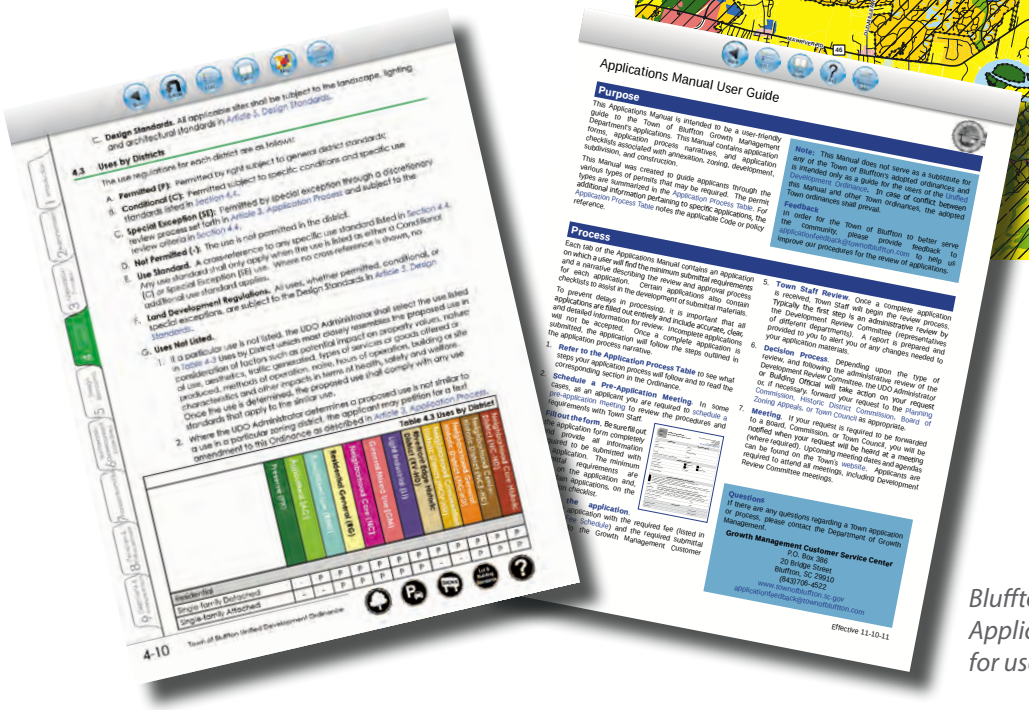
Mark Orlando, Town Manager
Town of Bluffton
PO BOX 386
Bluffton, SC 29910
morlando@townofbluffton.com
843.706.4510

> ***"You have given us just what we needed in our Comp Plan. The shared vision we needed on policies for our officials and the specifics we need for staff reports on rezonings and PUD's"***
>
> - Marc Orlando, Assistant Town Manager, Bluffton SC

Located in the heart of the Lowcountry, in southeastern South Carolina, just outside Hilton Head, this once quaint One Square Mile coastal town has surged to an area of over 53 square miles. LSL assisted Bluffton in preparing a plan that focused on managing growth. The plan is sensitive to the delicate balance between the intensity and location of land uses, while at the same time protecting its fragile environment and ensuring an adequate transportation system and public services.

Once the Plan was updated, LSL Planning led a team to rewrite the zoning and subdivision regulations into a Unified Development Ordinance. This new ordinance integrates many of the "best practices" promoted in the Plan – compact development, mixed use, multi-modal streets, green infrastructure and transfer of development rights. Incentives are provided to entice developers to provide desired elements like LEED design, affordable housing and open space. LSL formatted the ordinance into a user-friendly iZone | Interactive Ordinance with a user guide. In addition, LSL worked with town staff to streamline the application process with a user manual and interactive PDF forms. Five years after the plan was adopted, LSL Planning prepared an "audit" as required by South Carolina State Law. This process examined the high degree of accomplishments since the plan was prepared, along with the framework for some chapters that will be refreshed.





Bluffton's iZone | Interactive Ordinance and Application Manual User Guide make it easy for users to navigate materials

Triangle District Plan and Form-Based Overlay
Birmingham, MI

Key Elements

Urban Design Plan

Market Analysis

Urban Design

Multi-Modal Transportation

Parking Study

Form-Based Code

Overlay Zoning

Finance Plan

Contact

Jana Ecker, Planning Director
Community Development Department
City of Birmingham
jecker@ci.birmingham.mi.us
248.530.1800

Team Members

MKSK

> ***"The creation of the Triangle Plan and the implementation of the form-based code have been instrumental in creating a vision for the area, spurring investment, and transforming an under-utilized part of town into a vital part of the urban fabric of Birmingham."***
>
> -Jana Ecker, Planning Director
> City of Birmingham

LSL, led a multi-disciplinary team to prepare an urban design plan and form-based code for the downtown, known as the Triangle District. The plan envisions a transformation from an underutilized, auto-dominated district into a vibrant, mixed-use urban neighborhood.

A critical feature of the project was a multi-day design workshop (charrette). City staff, officials, property owners, residents, developers, agencies and organizations participated in focus groups and walking tours, aiding the evolution of ideas into concepts and ultimately recommendations. A new form-based code overlay district resulted to guide redevelopment toward creating an urban environment with a mixture of uses within an inviting and walkable neighborhood.

Following completion of the Triangle Plan and Code, LSL helped prepare a tax increment financing plan to help fund improvements. We were recently engaged again to update the parking plan to manage parking demands of all the new uses.

Mixed-use, multi-story development resulting from the Triangle District Plan

Fremont Form-Based Code
Fremont, MI

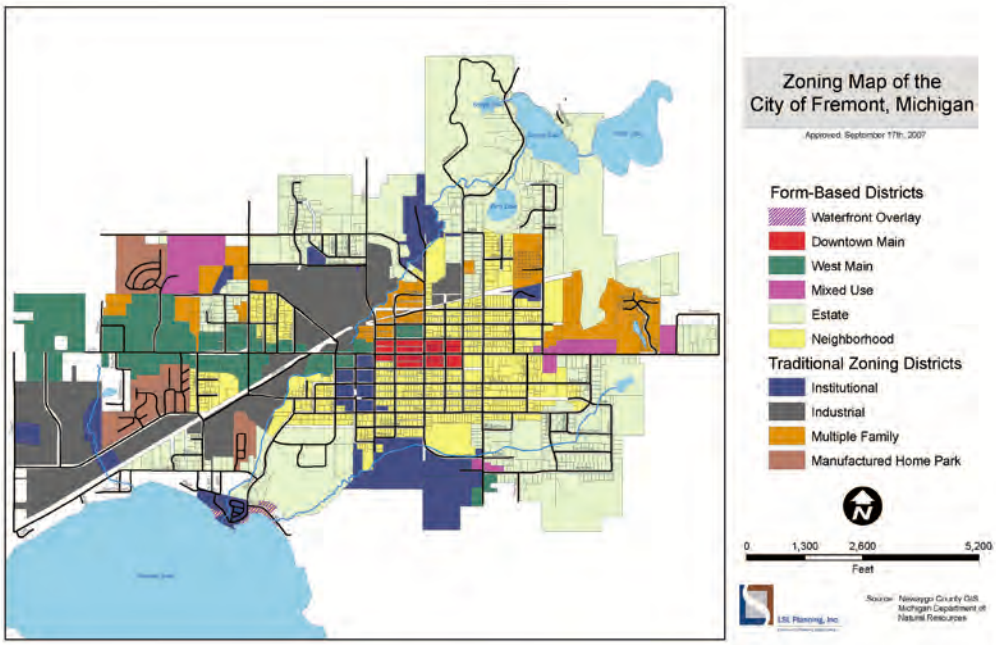
Key Elements

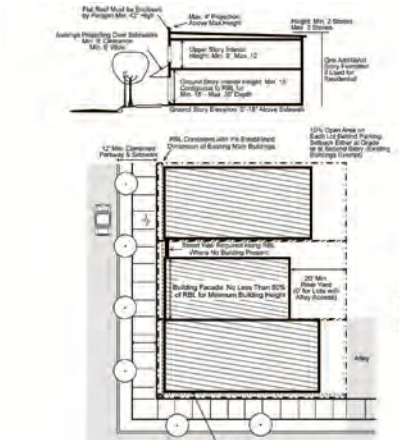
Zoning

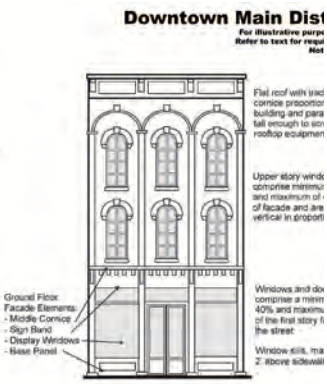
Form-Based Code

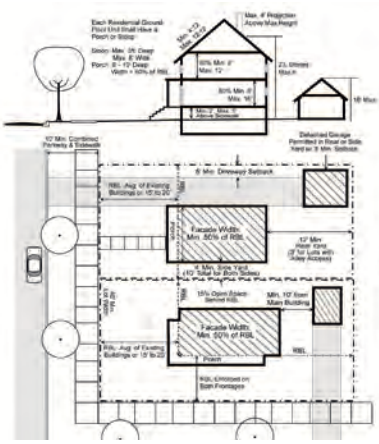
Best known as the corporate home of the Gerber Baby Food Company, Fremont adopted the Tenets of Smart Growth and retained LSL to create a non-traditional zoning ordinance to preserve the character of its attractive neighborhoods, including the historic Downtown Main Street district.

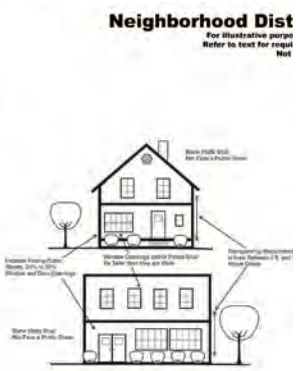
The Form-Based Zoning Ordinance is based on retaining the established and desired character of the various districts and neighborhoods. It is organized into concise, easy to read tables and includes graphic examples of the design requirements. One benefit of the code is that projects meeting all requirements can proceed directly to construction permits and avoid potentially lengthy and costly site plan reviews.











Form-Based Code
Leesburg, VA

Key Elements
Urban Design

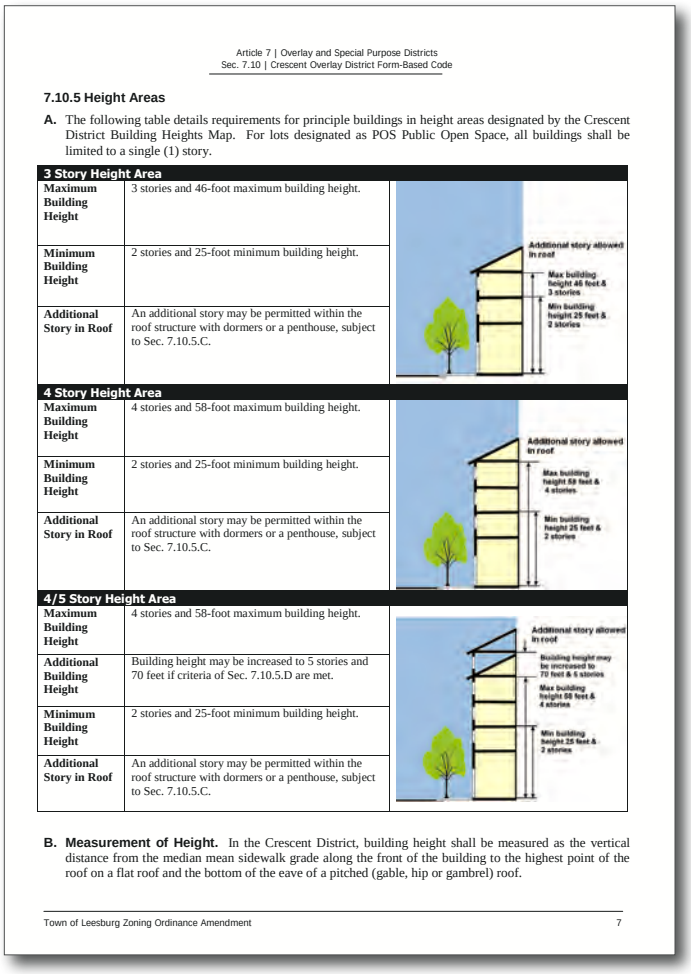
Form Based Code

Public Involvement

Contact
Jason Beske, AICP
Arlington, VA Dept. of Community Planning, Housing, and Development
2100 Clarendon Blvd. Suite 700
Arlington, VA 22201
703.228.3525
jbeske@arlingtonva.us
(former Leesburg planner)

Located in the northwest suburbs of Washington DC, the Town of Leesburg is an historic town striving to protect the character of its mature neighborhoods and business districts. While downtown has the traditional, historic character of a Virginia town, more recent development has been auto-oriented and disjointed from the community's historic charm.

LSL worked with an Advisory Committee to create a form-based code for the "Crescent District", an area just outside the downtown. Utilizing an extensive public involvement process, the goal was to guide redevelopment towards creating a walkable neighborhood, consistent with Leesburg's traditional character, and create more transit-oriented neighborhoods to help support plans for a new bus rapid transit system.



Article 7 | Overlay and Special Purpose Districts
Sec. 7.10 | Crescent Overlay District Form-Based Code

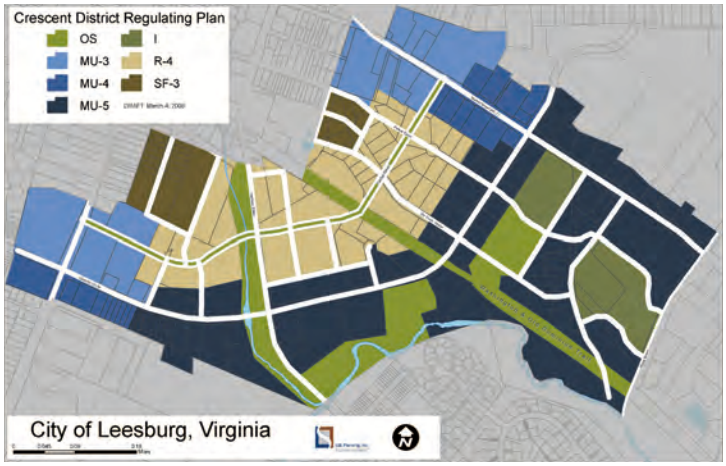
7.10.5 Height Areas

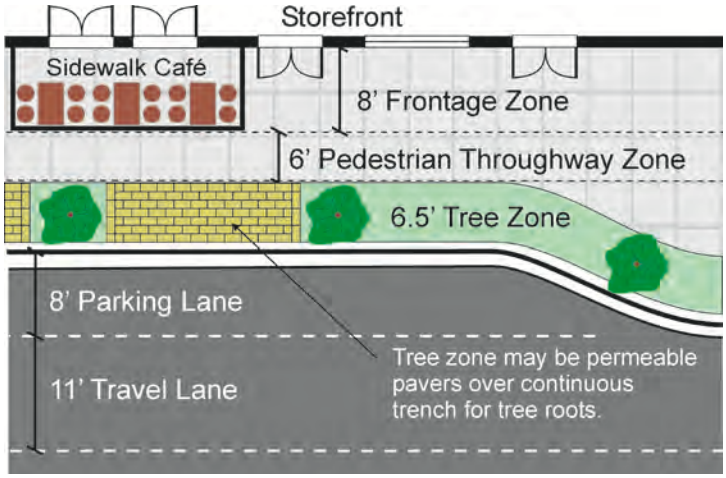
A. The following table details requirements for principle buildings in height areas designated by the Crescent District Building Heights Map. For lots designated as POS Public Open Space, all buildings shall be limited to a single (1) story.

3 Story Height Area	
Maximum Building Height	3 stories and 46-foot maximum building height.
Minimum Building Height	2 stories and 25-foot minimum building height.
Additional Story in Roof	An additional story may be permitted within the roof structure with dormers or a penthouse, subject to Sec. 7.10.5.C.
4 Story Height Area	
Maximum Building Height	4 stories and 58-foot maximum building height.
Minimum Building Height	2 stories and 25-foot minimum building height.
Additional Story in Roof	An additional story may be permitted within the roof structure with dormers or a penthouse, subject to Sec. 7.10.5.C.
4/5 Story Height Area	
Maximum Building Height	4 stories and 58-foot maximum building height.
Additional Building Height	Building height may be increased to 5 stories and 70 feet if criteria of Sec. 7.10.5.D are met.
Minimum Building Height	2 stories and 25-foot minimum building height.
Additional Story in Roof	An additional story may be permitted within the roof structure with dormers or a penthouse, subject to Sec. 7.10.5.C.

B. Measurement of Height. In the Crescent District, building height shall be measured as the vertical distance from the median mean sidewalk grade along the front of the building to the highest point of the roof on a flat roof and the bottom of the eave of a pitched (gable, hip or gambrel) roof.

Town of Leesburg Zoning Ordinance Amendment 7





Zoning Ordinance and Form-Based Code
Palmetto, GA

Key Elements

Zoning Ordinance

Form-Based Code

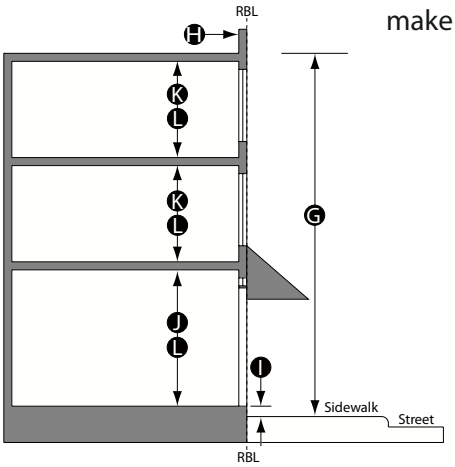
iZone | Interactive Zoning

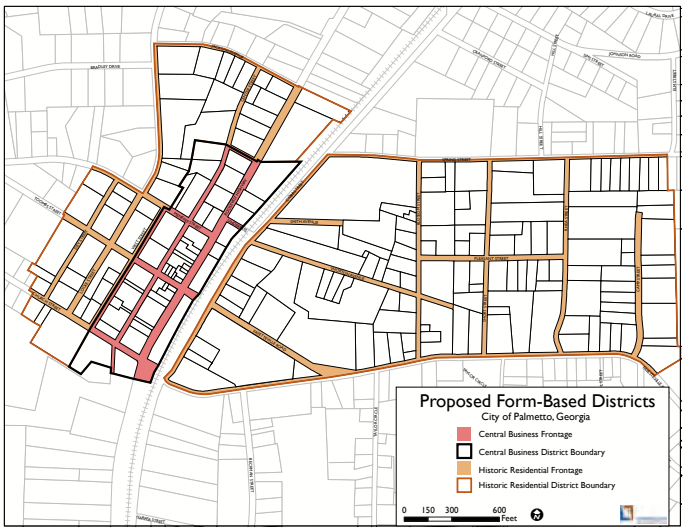
Contact

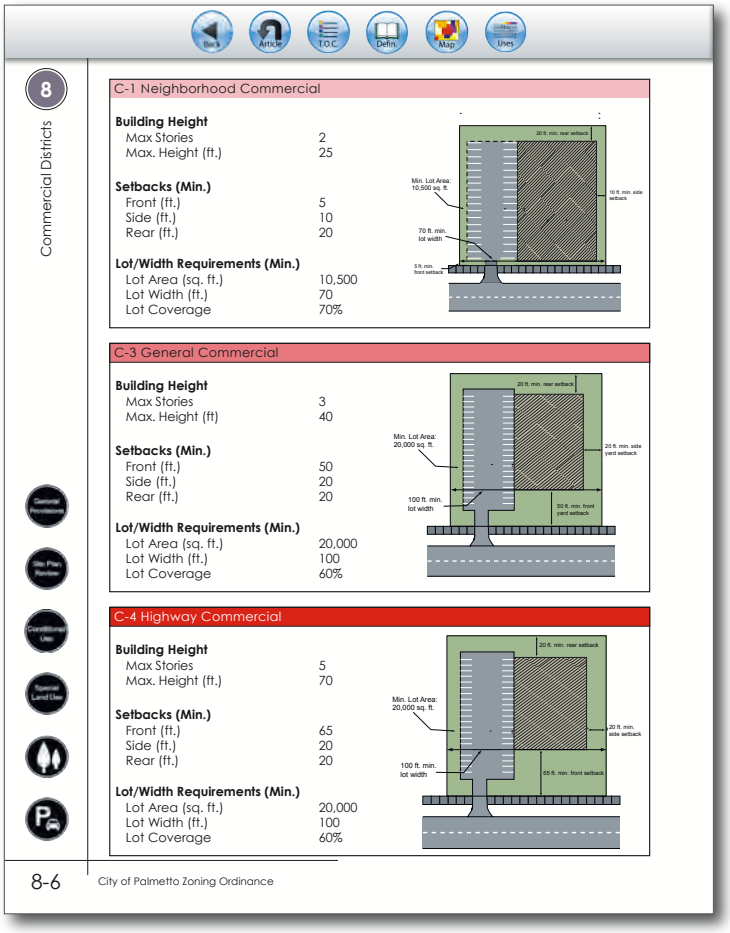
John Miller, Former Mayor
City of Palmetto
770.866.5911

A small Atlanta suburb, Palmetto has big ambitions. Following completion of its new comprehensive plan, the city launched into a rewrite of its zoning regulations with assistance from LSL. Like many communities, Palmetto's regulations were dated and suffered from conflicting provisions, ambiguity and other shortcomings, making further amendment impractical and inhibiting the city's ambitious plans.

Working closely with a team of city officials and citizens, LSL prepared a new ordinance to support the comprehensive plan and provide clarity, readability and predictability. Two innovative features of the ordinance include introducing elements of form-based code for select areas and using LSL's iZone™ format to make the ordinance simple to use and understand.







LSL's iZone format makes navigating the ordinance digitally as easy as a click of the mouse

Zoning Ordinance
Yellow Springs, OH

Key Elements

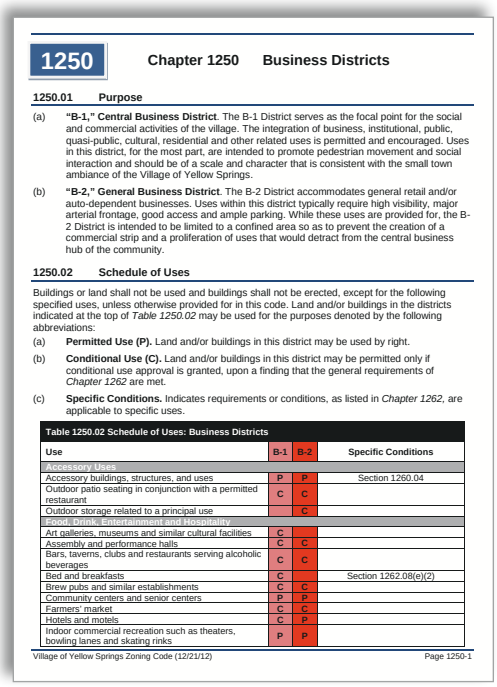
Zoning Ordinance

Public Involvement

Contact

Laura Curliss, Village Manager
100 Dayton St.
Yellow Springs, Ohio 45387
937.767.1279

An eclectic village of about 3,500 people, Yellow Springs lies just outside Dayton and is home to Antioch College. The community prides itself on its spirit of individualism and creativity, yet recognized the need for land use regulation to protect its many prized assets – a thriving downtown business district, great restaurants, compact land use pattern, rich educational traditions and regionally popular bike trail. LSL was retained to craft a new zoning code that would correct the short-comings of the village's decades-old code, reinforce the principles of the recently completed Village Vision, introduce new mixed-use concepts and needed flexibility, and structure the code to be truly user-friendly. Extensive public engagement was a hallmark of the process in this community where individual perspectives and community dialogue are highly valued.



1250 Chapter 1250 Business Districts

1250.01 Purpose

(a) **"B-1," Central Business District**. The B-1 District serves as the focal point for the social and commercial activities of the village. The integration of business, institutional, public, quasi-public, cultural, residential and other related uses is permitted and encouraged. Uses in this district, for the most part, are intended to promote pedestrian movement and social interaction and should be of a scale and character that is consistent with the small town ambiance of the Village of Yellow Springs.

(b) **"B-2," General Business District**. The B-2 District accommodates general retail and/or auto-dependent businesses. Uses within this district typically require high visibility, major arterial frontage, good access and ample parking. While these uses are provided for, the B-2 District is intended to be limited to a confined area so as to prevent the creation of a commercial strip and a proliferation of uses that would detract from the central business hub of the community.

1250.02 Schedule of Uses

Buildings or land shall not be used and buildings shall not be erected, except for the following specified uses, unless otherwise provided for in this code. Land and/or buildings in the districts indicated at the top of *Table 1250.02* may be used for the purposes denoted by the following abbreviations:

(a) **Permitted Use (P).** Land and/or buildings in this district may be used by right.

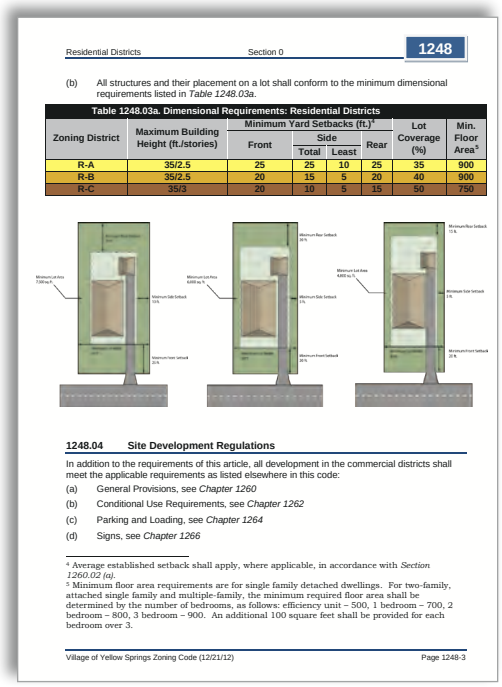
(b) **Conditional Use (C).** Land and/or buildings in this district may be permitted only if conditional use approval is granted, upon a finding that the general requirements of *Chapter 1262* are met.

(c) **Specific Conditions.** Indicates requirements or conditions, as listed in *Chapter 1262*, are applicable to specific uses.

Table 1250.02 Schedule of Uses: Business Districts

Use	B-1	B-2	Specific Conditions
Accessory Uses			
Accessory buildings, structures, and uses	P	P	Section 1260.04
Outdoor patio seating in conjunction with a permitted restaurant	C	C	
Outdoor storage related to a principal use		C	
Food, Drink, Entertainment and Hospitality			
Art galleries, museums and similar cultural facilities	C		
Assembly and performance halls	C	C	
Bars, taverns, clubs and restaurants serving alcoholic beverages	C	C	
Bed and breakfasts	C		Section 1262.08(e)(2)
Brew pubs and similar establishments	C	C	
Community centers and senior centers	P	P	
Farmers' market	C	C	
Hotels and motels	C	P	
Indoor commercial recreation such as theaters, bowling lanes and skating rinks	P	P	

Village of Yellow Springs Zoning Code (12/21/12) Page 1250-1



Residential Districts Section 0 1248

(b) All structures and their placement on a lot shall conform to the minimum dimensional requirements listed in *Table 1248.03a*.

Table 1248.03a. Dimensional Requirements: Residential Districts

Zoning District	Maximum Building Height (ft./stories)	Minimum Yard Setbacks (ft.)[1]				Lot Coverage (%)	Min. Floor Area[5]
		Front	Side		Rear		
			Total	Least			
R-A	35/2.5	25	25	10	25	35	900
R-B	35/2.5	20	15	5	20	40	900
R-C	35/3	20	10	5	15	50	750

1248.04 Site Development Regulations

In addition to the requirements of this article, all development in the commercial districts shall meet the applicable requirements as listed elsewhere in this code:

(a) General Provisions, see *Chapter 1260*

(b) Conditional Use Requirements, see *Chapter 1262*

(c) Parking and Loading, see *Chapter 1264*

(d) Signs, see *Chapter 1266*

[1] Average established setback shall apply, where applicable, in accordance with *Section 1260.02 (a)*.
[5] Minimum floor area requirements are for single family detached dwellings. For two-family, attached single family and multiple-family, the minimum required floor area shall be determined by the number of bedrooms, as follows: efficiency unit – 500, 1 bedroom – 700, 2 bedroom – 800, 3 bedroom – 900. An additional 100 square feet shall be provided for each bedroom over 3.

Village of Yellow Springs Zoning Code (12/21/12) Page 1248-3

sample ordinance pages show clear, color-coded use tables, schedule of regulations, and graphics

Columbia Pike Corridor

Arlington, Virginia

Rendering by Steve Price

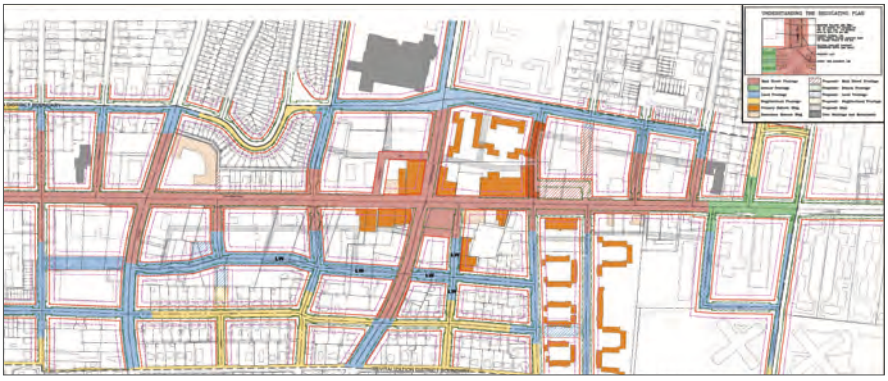
Project: A Masterplan with a Form-Based Code Ordinance for Mixed-Use Centers along the 3.5 mile 'greyfield' Columbia Pike Corridor leading into Washington D.C.

Client: Arlington County, Virginia. Contact: Jennifer Smith, Office of Planning, 703.228.0068

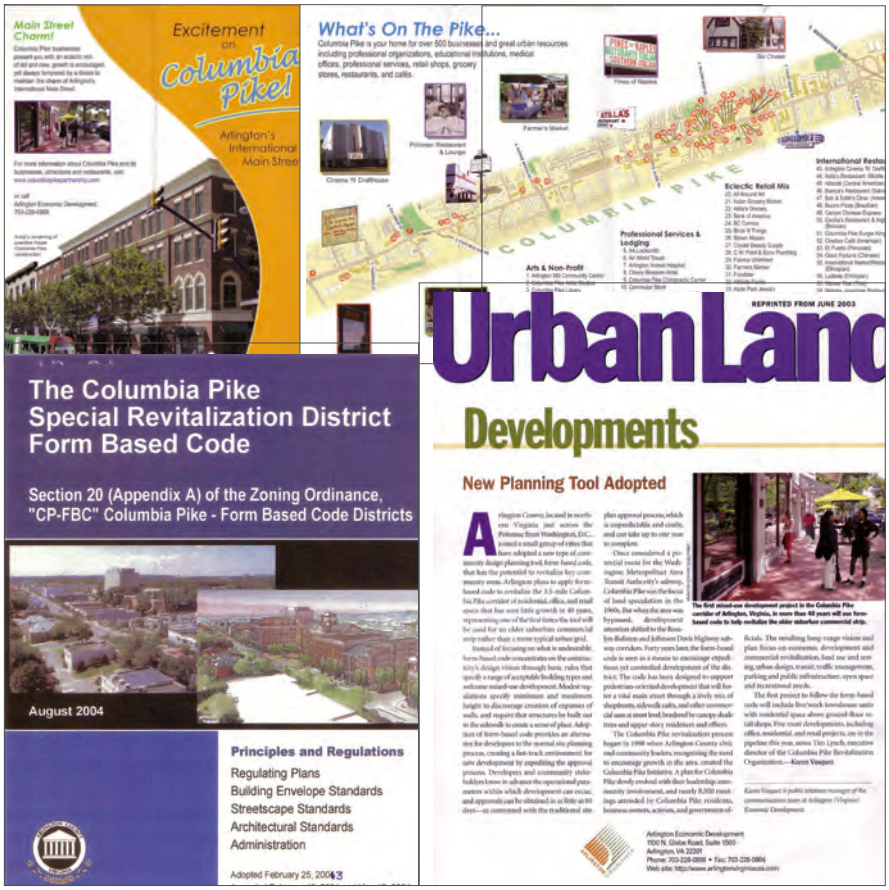
Status: Code adopted by County Board February 2003; currently over $1 billion in new, F-BC, projects in progress.

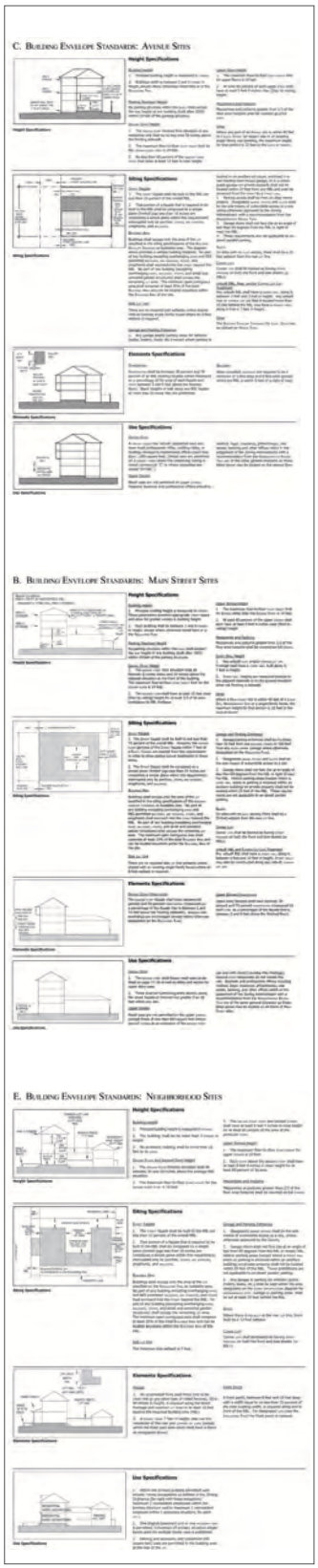
In 2011 the County re-hired the design/coding team to address the residential areas surrounding the Neighborhood Centers and focus on issues of affordability and historic preservation in the face of rising property values. The Neighborhoods Plan is adopted and the related Form-Based Code is in-progress.

The Neighborhoods Plan Received the 2012 APA, National Capital Area Chapter, Benjamin Banneker Award for Outstanding Social Commitment and Community Initiatives.



Ferrell Madden





The Columbia Pike Revitalization effort was initiated by Arlington County to bring new life to this 3.5-mile urban corridor (immediately across the Potomac River from downtown Washington, DC), that had seen little development in the past 30 years. Following numerous public meetings, the County determined that it needed a new approach and hired the team of Ferrell Madden and Dover Kohl & Partners to develop a master plan and form-based code to foster transit- and pedestrian-oriented infill redevelopment.

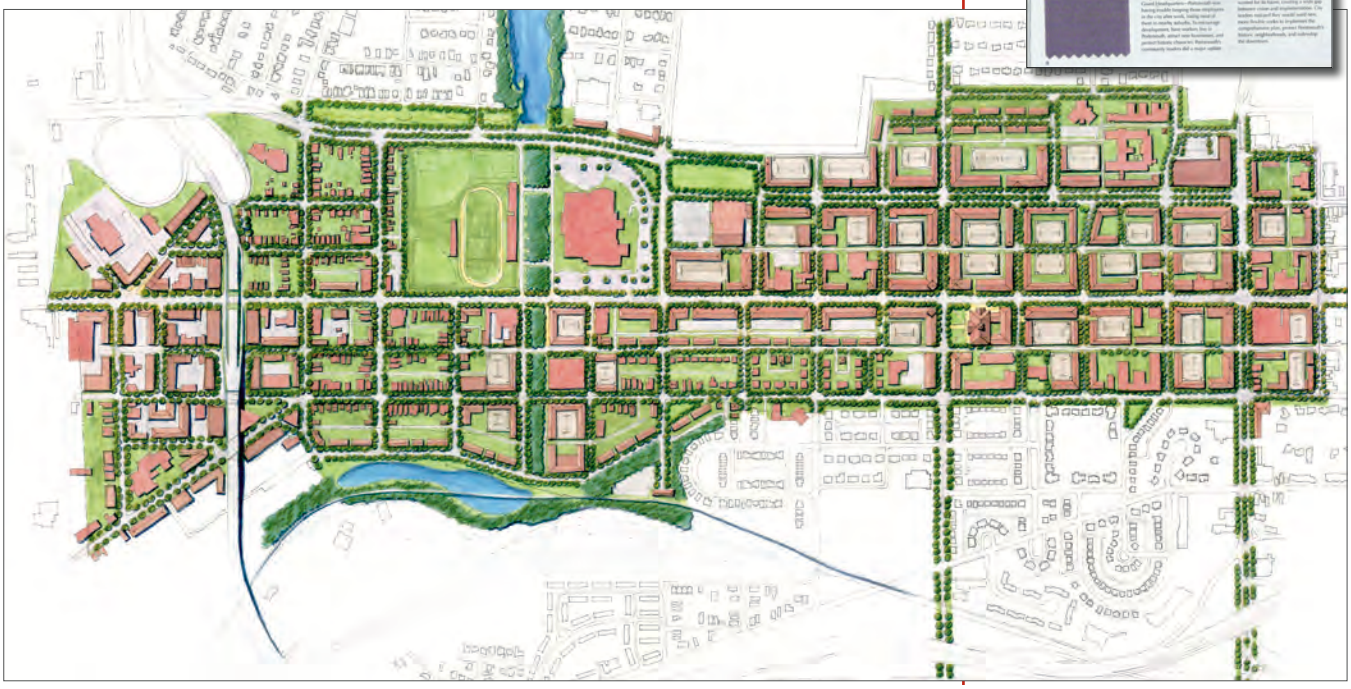
The project began with a public participation charrette, building on the community's vision for Columbia Pike as South Arlington's main street. FM was a partner in the charrette and urban design process and was the lead firm developing the Code, which involved extensive work with Planning, Economic Development, and Public Works staff, multiple large and small property owners, the County Board and various commissions, the Washington Metropolitan Transit Authority and Virginia DOT, neighborhood associations, and the non-profit redevelopment organization.

The Code, which focused on a series of nodes along the Pike, was adopted as part of the county zoning ordinance in February 2003. Projects valued at well over $1 billion, in more than 10 separate developments, are now completed or underway. This project was featured in the 2009 book *Retrofitting Suburbia.*

www.ferrell-madden.com

Uptown D2 District Master Plan and Form-Based Code

Imaging by Urban Advantage



Portsmouth, Virginia

Project: Public charrette for visioning master plan and Form-Based Code

Client: City of Portsmouth, Virginia
Contact: Paul Holt, Former Director Planning Department
757.377.7992
Paul.Holt@jamescitycountyva.gov

Contract: $262,000

Status: Public charrette February 2009; code writing completed August 2009; code adopted January 2010

Awards: VAPA 2010
EPA 2012 National Award for Smart Growth Achievement. Blue Ribbon Winner

Ferrell Madden

High Street

Imaging by Urban Advantage

Portsmouth is a historic community surrounded by water and other municipalities. with no room for expansion. The City began looking for opportunities to grow internally, physically and economically, in the coming decades. They identified the area bound by the High Street and London Boulevard corridors, immediately west of Old Town, as the area of the city with the largest amount of under utilized land. The City engaged an interdisciplinary team, lead by Ferrell Madden, of Washington, DC, to work with the community to define a vision, craft an implementation plan, and draft Form-Based development regulations for the area to encourage it's redevelopment and revitalization.

In the fall of 2008, the team traveled to Portsmouth several times to gather information and gain greater understanding of the D2 district. This review and analysis laid the foundation for the work to follow. In early 2009, the team led a week-long urban design charrette involving residents, business owners, and staff. The group began looking in greater detail at the district—the urban design, the traffic and transportation considerations, and the underlying economic and market conditions.

The design master plan focused on transforming the district and its defining corridors into mixed-use, pedestrian-friendly, urban neighborhoods to complement the adjacent historic downtown, Designs incorporate the addition of light rail in the future.

The Master Plan and the Form-Based Development Regulations have been adopted.

References

Town of Bluffton, SC Marc Orlando, Town Manager 843.706.4510 morlando@townofbluffton.com	The gateway to Hilton Head Island, Bluffton has experienced explosive growth over the past several years. In an effort to rebrand itself from a sleepy little southern town, Bluffton embarked on an ambitious program beginning with a new comprehensive plan and followed by a new complement of land development regulations, including a form-based code. LSL led the team responsible for both the plan and the new UDO. As part of the UDO process, a development manual was prepared and the entire ordnance was prepared in LSL's i-Zone format.
City of Birmingham, MI Jana Ecker, Planning Director 248.530.1841 cityweb@ci.birmingham.mi.us	LSL prepared a form-based code overlay district for a neighborhood on the edge of downtown Birmingham. The code seeks to create a mixed use urban environment that supports an inviting and walkable neighborhood. The form-based code regulates building height and mass to create well-defined public streetscapes and a physical framework to support a mix of uses that can transform the area. ***LSL and Ferrell-Madden partnered on this project.***
Town of Leesburg, VA Susan Berry-Hill, AICP, Director 703.771.2770 sberryhill@leesburgva.gov	Located in the northwest suburbs of Washington DC, the Town of Leesburg is an historic community striving to protect the character of its mature neighborhoods and business districts. While downtown can be characterized as being an important part of a traditional and historic setting, more recent development has been auto-oriented and disjointed. LSL worked with an Advisory Committee to create a new form-based code for the "Crescent District," just outside the downtown. Based on extensive public involvement, the resulting code helps shape more walkable neighborhoods and creates more transit-oriented development in support of plans for a new bus rapid transit system.
Town of Fort Mill, SC Joe Cronin, Planning Director 803.547.2116 x257 jcronin@fortmillsc.gov	A rapidly expanding suburb of Charlotte, Fort Mill is struggling to manage its explosive growth with outdated zoning and land development regulations. LSL is currently assisting the town with the preparation of a Unified Development Ordinance to support its recently adopted Comprehensive Plan and provide a more user-friendly, predictable and sustainable set of regulations.
City of Arlington VA Jennifer Smith, Columbia Pike Initiative Coordinator 703.228.0068 Jsmith3@arlingtonva.us	The City hired the team of Ferrell Madden and Dover Kohl & Partners to develop a masterplan with a form-based code ordinance for mixed-use centers along the 3.5 mile 'greyfield' Columbia Pike Corridor leading into Washington D.C. http://projects.arlingtonva.us/neighborhoods/neighborhoods-form-based-code/
City of Portsmouth, VA Paul Holt, Former Portsmouth Planning Director 767.377.7992 Paul. Holt@jamescitycountyva.gov	The City engaged an interdisciplinary team, lead by Ferrell Madden, of Washington, DC, to work with the community to define a vision, craft an implementation plan, and draft Form-Based development regulations for the area to encourage it's redevelopment and revitalization www.portsmouthva.gov/planning/images/destinationptown/FBCBookFinalDraft.pdf

VI. Fee Proposal

Professional fees to complete the Scope of Services described previously will be $126,412, including reimbursable expenses. Fees will be invoiced monthly based on the proportion of work completed during the billing period.

"The City of Richmond Hill recently contracted with LSL Planning to perform a technical review and provide general recommendations for improvements related to our ordinances and development related standards. The review completed by LSL Planning was exhaustive and thorough. However, Paul and his team prepared and presented the findings in an organized manner with viable solutions to fix the noted deficiencies. A review of this type can seem overwhelming to City Staff and Council, but LSL made the process much easier with their focused approach and subject matter expertise. I would definitely recommend LSL Planning to another City wishing to get a handle on their ordinances and standards."

Scott Allison, RLA, Director of Planning & Zoning, City of Richmond Hill

VII. Sample Code Documents

Examples

Two examples of recent relevant experience are offered for your information. Due to the size of the documents, links are provided to websites where the documents can be viewed.

Town of Bluffton, SC

This is a hybrid UDO which combines form-based districts with conventional zoning techniques.

http://www.townofbluffton.sc.gov/Documents/izone.pdf

Overland Park, KS

This is a downtown form-based code district that is part of a larger conventional UDO.

http://www.opkansas.org/wp-content/uploads/downloads/downtown-form-based-code-manual.pdf

http://www.opkansas.org/wp-content/uploads/downloads/Downtown-Form-District-Regulating-Plan.pdf

Town of Bluffton

Unified Development Ordinance

Effective Date November 10, 2011

Amended May 13, 2014

www.townofbluffton.sc.gov

iZone | Interactive Zoning

Unified Development Ordinance Amendments

No.	Section	Effective Date	Ordinance
1	Adoption	November 10, 2011	2011-15
2	Section 2.2.1	December 11, 2012	2012-19
3	Section 2.2.3	December 11, 2012	2012-19
4	Section 2.2.4	December 11, 2012	2012-19
5	Section 2.2.5	December 11, 2012	2012-19
6	Section 2.2.6	December 11, 2012	2012-19
7	Section 3.2.3	December 11, 2012	2012-19
8	Section 3.9.3	December 11, 2012	2012-19
9	Section 3.10.2	December 11, 2012	2012-19
10	Section 3.10.3	December 11, 2012	2012-19
11	Section 3.10.4	December 11, 2012	2012-19
12	Section 3.11.2	December 11, 2012	2012-19
13	Section 3.11.4	December 11, 2012	2012-19
14	Section 3.18.2	December 11, 2012	2012-19
15	Section 3.18.3	December 11, 2012	2012-19
16	Section 3.18.4	December 11, 2012	2012-18, 2012-19
17	Section 3.18.5	December 11, 2012	2012-18, 2012-19
18	Section 3.18.6	December 11, 2012	2012-18, 2012-19
19	Section 3.25	December 11, 2012	2012-19
20	Section 5.5	December 11, 2012	2012-19
21	Section 5.5.2	December 11, 2012	2012-19
22	Section 5.12.3	December 11, 2012	2012-19
23	Section 5.13.6	December 11, 2012	2012-19
24	Section 5.13.10	December 11, 2012	2012-19
25	Section 5.15.6.Q	December 11, 2012	2012-19
26	Section 9.2	December 11, 2012	2012-19
27	Section 9.4.2	December 11, 2012	2012-19
28	Section 9.4.3	December 11, 2012	2012-19
29	Section 3.22.2	January 14, 2014	2014-02
30	Section 5.3.1.B	January 14, 2014	2014-02
31	Section 5.3.1.G	January 14, 2014	2014-02
32	Section 5.3.3.A	January 14, 2014	2014-02
33	Section 5.3.3.C	January 14, 2014	2014-02
34	Section 5.3.3.D	January 14, 2014	2014-02
35	Section 5.3.3.E	January 14, 2014	2014-02
36	Section 5.3.3.G	January 14, 2014	2014-02
37	Section 5.3.3.H	January 14, 2014	2014-02
38	Section 5.3.3.I	January 14, 2014	2014-02
39	Section 5.3.4.H	January 14, 2014	2014-02

No.	Section	Effective Date	Ordinance
40	Section 2.1	April 8, 2014	2014-07
41	Section 2.2.2	April 8, 2014	2014-07
42	Section 2.2.6.A	April 8, 2014	2014-07
43	Section 2.2.6.B	April 8, 2014	2014-07
44	Section 2.2.6.C	April 8, 2014	2014-07
45	Section 2.2.6.F	April 8, 2014	2014-07
46	Section 3.17.3	April 8, 2014	2014-07
47	Section 3.17.5.B	April 8, 2014	2014-07
48	Section 3.17.5.C	April 8, 2014	2014-07
49	Section 3.18.1.C	April 8, 2014	2014-07
50	Section 3.18.2	April 8, 2014	2014-07
51	Section 3.18.3.D	April 8, 2014	2014-07
52	Section 3.19.2	April 8, 2014	2014-07
53	Section 5.3.6	April 8, 2014	2014-07
54	Section 5.3.7.B	April 8, 2014	2014-07
55	Section 5.3.7.G	April 8, 2014	2014-07
56	Section 5.15.5.F	April 8, 2014	2014-07
57	Section 5.15.7.F	April 8, 2014	2014-07
58	Section 9.2	April 8, 2014	2014-07
59	Section 4.3	May 13, 2014	2014-09
60	Section 5.15.7.C	May 13, 2014	2014-09
61	Section 5.15.7.D	May 13, 2014	2014-09
62	Section 5.15.7.E	May 13, 2014	2014-09
63	Section 9.2	May 13, 2014	2014-09

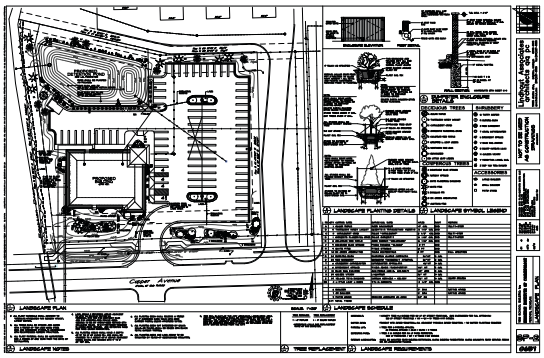
Unified Development Ordinance User Guide

The breadth and details of the Town of Bluffton Unified Development Ordinance can be a bit intimidating for first time users not familiar with municipal regulations; even for veteran code users. This User Guide is intended to help you understand the structure of the Ordinance and hopefully point you in the right direction. For those of you using the Ordinance on the Town's web site, there are links to various related regulations (see "How to use iZone" at the end of this user guide).

THE BASICS: Planning and Zoning 101

What's Regulated? The Unified Development Ordinance combines the Zoning Ordinance, Subdivision Regulations, and other ordinances related to land use development into one set of regulations. These regulations cover aspects of the built environment, including

- what different types of land uses can be constructed (single family, stores, offices etc.),
- size, height and placement of buildings,
- how much parking is needed and standards for its design
- design standards for landscape, lighting and signs, and
- the design of stormwater management and utilities.



Bluffton's Comprehensive Plan is the framework for this Ordinance, think of it as the Town's "blueprint". The Comprehensive Plan describes policies, expectations and recommendations for the future. One key element is a future land use map (shown on the following page) that illustrates the intended arrangement of land uses and their density. Some key features in the Plan are recommendations to preserve the historic and natural resources while accommodating new development. Details are provided for future improvements to the transportation system, with a goal to give people choices to travel by auto, truck, walking, bike or transit.

Some parts of the Comprehensive Plan are published separately, such as the Old Town Master Plan. In addition, there is a Southern Beaufort County Regional Plan. Policies in that Plan are mutually followed by the Town of Bluffton and other communities in the county, particularly along some major roadway corridors where the boundary varies frequently from county to Town jurisdiction. The Plan is occasionally amended, a process typically led by the Planning Commission at the direction of Town Council. The last major overhaul was in 2007. But the Plan can also be amended by Chapter, to change specific policies or to change the future land use designation for a particular area. The process for amending the plan is in Section 3.10 of the UDO.

The Zoning Map is generally based on the Comprehensive Plan's future land use plan and related policies. The zoning map classifies the Town into different zoning districts. The Ordinance describes what uses are allowed and the standards for building and site design in that district (see following page).

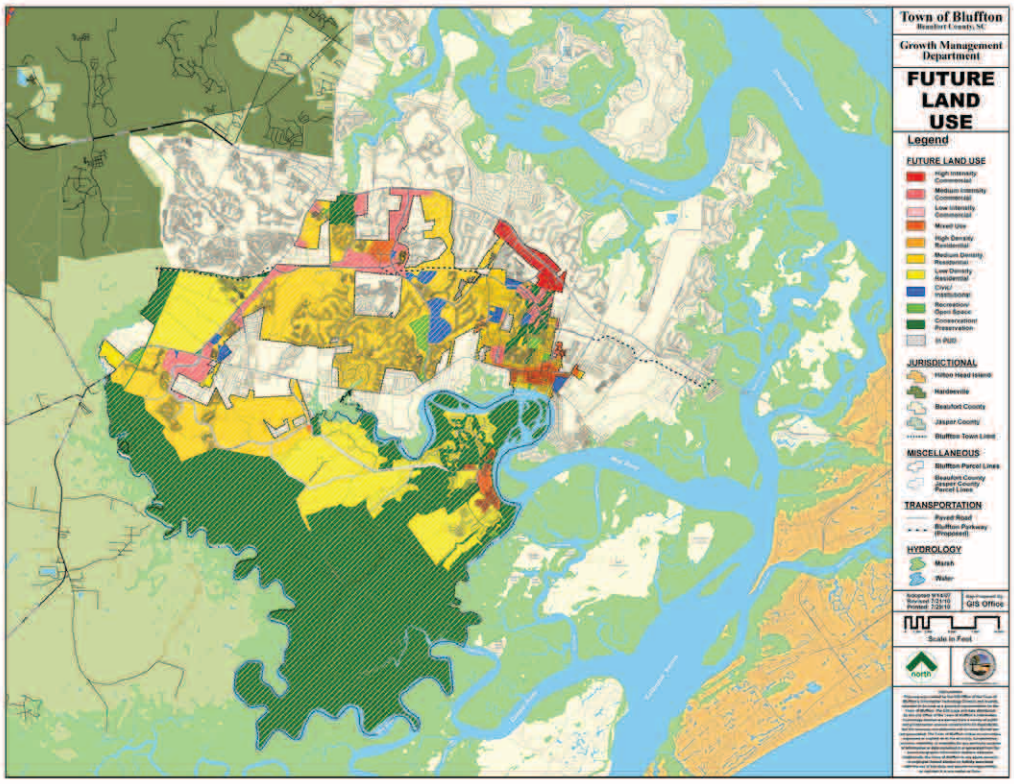
Authority. This Ordinance was adopted pursuant to the authority by the South Carolina Local Government Comprehensive Planning Enabling Act.

Process to Create and Amend the Ordinance. Bluffton's ordinances that regulate development go back several decades. The Ordinances have been amended from time to time to respond to changes in state law, federal law and administrative rule, and case law. In addition, the Town occasionally makes amendments to improve the Ordinance, address new opportunities, and to be consistent with changes to the Town's planning and policies. Any amendment follows that process, a public hearing at both the Planning Commission and Town Council.

This Ordinance was adopted by the Town Council after a public hearing and upon the recommendation of the Planning Commission which also held a public hearing. As part of a major rewrite of the Ordinance in 2011, a series of well attended public charrettes and workshops were held to receive input on potential changes to regulations and procedures.

If you have a hard copy of the ordinance, it is suggested you write the date of receipt on the cover of first page. Thereafter, refer to this date when asking Town Staff about any Ordinance amendments since that date (particularly to the zoning map).

continued



Future Land Use Map: a guide for planned future land use

Zoning Map: regulates use of the property today

* This map is for illustrative purposes. Please refer to the current zoning map for the zoning district for specific properties.

HOW THIS ORDINANCE IS ORGANIZED	
Article 1 Introduction	Describes the state statues that authorize the UDO, defines generally where and how the Ordinance applies, and describes some of the legal framework.
Article 2 Administration	Explains who is responsible for administering various regulations in the code. This includes establishment and roles for the Town Council, and its appointed boards commissions like the **Planning Commmission**, Board of Zoning Appeals and Historic Preservation Commission. The Authority provided to the **Unified Development Ordinance Administrator** is also described.
Article 3 Application Process	Article 3, along with the Application Manual, summarizes the **process for different types of approvals** (zoning map amendments, development plan approval, variances, etc.); as well as requirements for public hearings. The Article and Manual also describe the applicability, approval criteria and other regulations for each application type.
Article 4 Zoning Districts	This chapter relates to the **Zoning Map**. It describes the uses allowed in each zoning district and directs you to any specific standards applicable to that use.
Article 5 Design Standards	Includes building and site standards that may apply, depending upon property location such as • tree conservation and river corridor standards, • lot dimensions and building height/setbacks that vary by zoning district, • standards for new subdivision streets and lot arrangements. • standards for buildings, parking lots, access, landscaping, lighting, and signs. • regulations for stormwater, open space, and other general standards that apply to all properties.
Article 6 Sustainable Development Incentives	Among the goals in the Town of Bluffton Comprehensive Plan are to promote "sustainable" development, provide jobs and ensure there is housing affordable to people that live and work in the Town. The UDO acknowledges that compliance with those objectives are not applicable or practical for every development. So instead of a mandate, this Article provides incentives to a developer or land owner to meet those objectives. **Incentives are offered such as a partial rebate of application fees.**
Article 7 Nonconformities	In some cases, a use or structure was developed in compliance with the standards applicable at the time of construction, but due to amendments made over time, does not comply with current standards. If that construction was approved by the Town (i.e. was legal at one point in time), it is referred to as "nonconforming." New regulations are generally written with the intent of gradually eliminating nonconforming situations; in other cases, some level of improvement or change is allowed. This Article describes the **rights and limitations of various nonconforming situations**, what improvements or changes are allowed, or not allowed, and who has authority to approve them.
Article 8 Penalties and Enforcement	This Chapter outlines the procedures for notification and **action by the Town if there is a violation of this Ordinance**, i.e. someone knowingly or unknowingly does not comply with regulations set forth in the UDO.
Article 9 Definitions and Interpretation	Terms used in Zoning, Subdivision Ordinances and Building Codes do not always match up with what is commonly understood. This article **defines the meaning of a host of terms** used in the UDO. For example, what is an "accessory use" to a home or what is meant by different use terms like "Child Care Center." This Chapter also describes **how standards are interpreted**. An example is building height, in this code it is measured differently depending upon the type of roof, and often is not measured at the peak of the roof. Another example is how setbacks are measured, especially for lots that are not simple squares or rectangles.
Associated Manuals. The UDO is supported by three manuals:	
Stormwater Design	Provides design and engineering construction standards for stormwater facilities.
Annexation Policy and Procedures	Describes the Town's policy for annexation and the different procedures for different types of annexations.
Applications	There are **separate submittal forms and checklists for different types of requests**, such as a rezoning, development plan or variance. An applicant needs to obtain the appropriate application, fill out the forms, and provide the information listed as required for that type of approval. This manual also outlines the review and approval process of each application.

How do I determine the current zoning and planned use of my property?

Check the Zoning District Map: What is permitted in one district may not be permitted in another. To analyze the permitted uses or design requirements for a piece of property, first look at the adopted Zoning District Map to see how it is zoned. This map is on the Town's web site or available for purchase from the Growth Management Customer Service Center, for a nominal fee. The published zoning map is periodically amended, such as when a property owner receives approval for rezoning their land. The Growth Management Customer Service Center maintains the official current map.

Recommendations from the Comprehensive Plan, and other plans and studies may have recommendations related to your property or proposed project. Generally, the Town of Bluffton requires rezonings to be consistent with the future land use map. Proposed developments should also help to achieve the goals of the Comprehensive Plan.

What uses are allowed? What standards apply?

The zoning map classifies land into different zoning districts. Those districts are described in Article 4, Zoning Districts. In that Article you will find . . .

A list of the various zoning districts illustrated by colors on the Zoning Map. Those districts include:

Zoning District
PR – Preserve
AG – Agricultural
RMU – Rural Mixed Use
RG – Residential General
NC – Neighborhood Core
GM – General Mixed Use
LI – Light Industrial
RV – HD – Riverfront Edge Historic District
NCV – HD – Neighborhood Conservation Historic District
NG – HD – Neighborhood General Historic District
NCE – HD – Neighborhood Center Historic District
NC – HD – Neighborhood Core Historic District
PUD – Planned Unit Development
HCO – Highway Corridor Overlay

Text for each district that describes the intent (the Town's objectives), applicability (a narrative description related to the Zoning Map) and references to other Sections of the Ordinance for design standards. Some of those design standards, like minimum lot width, lot side, and building setbacks vary from one zoning district to another. Others, like the size of parking spaces, are consistent throughout the Town.

A list of uses allowed in that district can be found in Table 4-3. That table lists uses in three classifications

1. "Permitted" uses, meaning if you meet the standards, that use is allowed.
2. "Conditional" uses are permitted uses but must meet the specific standards for particular uses in Article 4. For example, see Section 4.4 that outlines standards for the conditional uses.
3. "Special Exception" uses are reviewed by the Board of Zoning Appeals using the standards outlined in Article 3.
4. If a use is not listed, it is not permitted in that zoning district.

The last column of that table alerts you to any specific design standards for buildings and the site related to that use. In the sample below, a Bed and Breakfast Inn must meet the standards in Section 4.4.5A, in addition to the general design standards applicable to all uses in Article 5.

Table 4.3: Uses by District	PR	AG	RMU	RG	NC	GM	LI	RV-HD	NCV-HD	NG-HD	NCE-HD	NC-HD	Conditional Use/Special Exception Standard
Lodging													
Bed and Breakfast - maximum of 6 guest rooms	-	P	P	P	P	P	-	P	P	P	P	P	4.4.5.A
Inns - maximum of 12 guest rooms	-	-	P	P	P	P	-	-	C	P	P	P	4.4.5.A

What are my options if my intended use is not listed as a permitted, conditional, or special exception land use?

If your proposed use is not listed as an allowed use on your property, you have several options, including:

- Find an alternative use for your property which is permitted or find a site in the Town which is properly zoned for your intended use.
- If your use is not listed anywhere in the Zoning Ordinance, you could request that the UDO Administrator consider your intended use based on the "determination of similar uses" as explained in Article 4. In some cases, the UDO Administrator may take the request to the Planning Commission for input. The Board of Zoning Appeals has final authority if you disagree with the UDO Administrator's interpretation.
- Request the Town rezone the property, which requires public hearings before both the Planning Commission and the Town Council. Section 3.5.3 lists the criteria the Planning Commission applies in reviewing your rezoning request.
- Request the Town amend the UDO to add your proposed use, either as a Permitted, Conditional or Special Exception Use in the particular zoning district. Note: The Town of Bluffton does not allow "use variances", a variance to allow a use that is not allowed within a zoning district.

What is the next step when the proper zoning is in place?

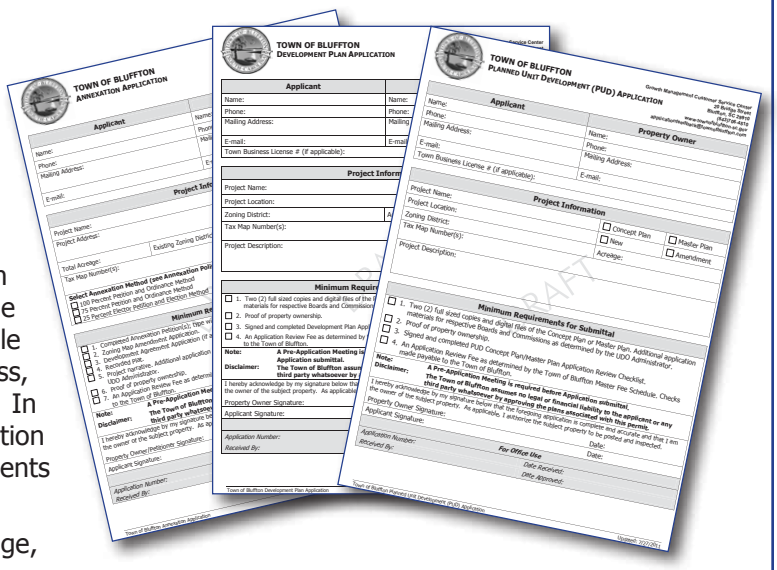
Once proper zoning is in place there are several factors to consider during the early stages of project planning. The list below highlights some of the more distinct options and procedures.

- **Natural Features:** The Town of Bluffton strives to maximize preservation of existing natural features. In particular, the opening sections of Article 5 describe specific natural resource regulations for certain trees and protection of watershed resources. In some cases, a tree inventory is required as described in those Sections. If your site contains wetlands or is along a riparian
- **Transfer of Development Rights:** This is a procedure where the Town may allow a transfer of development or density from one place (called the "sending zone") to another (the "receiving zone"). This allows areas that have sensitive natural features, are more rural or lack utilities to be preserved by redirecting development to places where infrastructure and the planned development supports more density. The Growth Framework Map identifies some potential places where additional density could be concentrated into more compact walkable places.
- **Planned Unit Development:** If there are significant natural features on your site or you want to mix land uses, the UDO has a zoning district called "Planned Unit Development (PUD). PUD's allow a greater degree of flexibility in designing a site, such as mixing certain uses or clustering buildings on the most buildable part of a site. These standards can help preserve valuable natural features which lower development costs, avoid some permits and can increase marketability. In return for the flexibility, the Town looks for special provisions to preserve key features, provide affordable housing or contributions to infrastructure improvements. Provisions are mutually agreed upon between the developer and the Town. Descriptions of PUD's are provided in Article 4.
- **Historic Preservation Commission approval** is required for projects in the Historic District. This approval requires a "Certificate of Appropriateness", as described in Section 3.20
- **Development Plan (for a site) or Subdivisions Plan (for a series of lots):** Most projects, other than construction of a single family home, require a Development Plan. Approval of lots and related infrastructure requires submission and approval of a Subdivision Plan. Most of the design standards are found in Article 5, though other Town regulations, like the Building Code, also apply. Submittal requirements for those procedures are described in Article 3. An application form along with a description of the review fees, timelines and required submittal information is in the Application Manual.

If your project is expected to generate a significant amount of traffic or is located on a congested corridor, you may be required to submit a transportation impact analysis (TIA). A TIA must be prepared by a certified traffic engineer or transportation planner.

What is the approval process for my project?

1. **Check the Zoning Map and related District text to confirm your use is allowed.**
2. **Determine which approvals are needed:** This may include Rezoning, Development or Subdivision Plan, Certificate of Appropriateness, Variance, etc.
3. **Obtain the applicable Application Packet:** Copies of the submittal application forms are on the Town's web site and available at Town Hall. The package includes the application form, a schedule of the steps in the review and approval process, and a checklist of information you must provide. In most cases, Town Staff will schedule a pre-application conference to review the procedures and requirements with you.



Once you feel you have a complete submittal package, you turn in your materials at a scheduled "Application Check-in Conference". Town Staff then begins the review process. Typically the first step is an administrative review by the Development Review Committee (representatives of different departments). In most cases a report is prepared to alert you of any changes needed to your application materials. Depending upon the type of review, when the application is determined to be complete, the UDO Administrator will forward your request to the Planning Commission, Historic District Commission, Board of Zoning Appeals or Town Council as appropriate.

For more assistance - Where can I get more help?

If you have questions on the use or interpretation of the Unified Development Ordinance, procedures, submittal deadlines, or other information contact

Growth Management Customer Service Center
20 Bridge Street
Bluffton, SC 29910
(843)706-4522
www.townofbluffton.sc.gov
applicationfeedback@townofbluffton.com

How to submit a development proposal:

Pick up/pull off the website the Application packet. This will explain what needs to be submitted and when. It includes an application form that requires information on the property owner, the developer and the subject site; a checklist of all required submittal items and a description of the procedures for each particular development process. It is always advised that you contact Town Staff to discuss your project in advance so that proper guidance and feedback can be provided in the formative stages of your project.

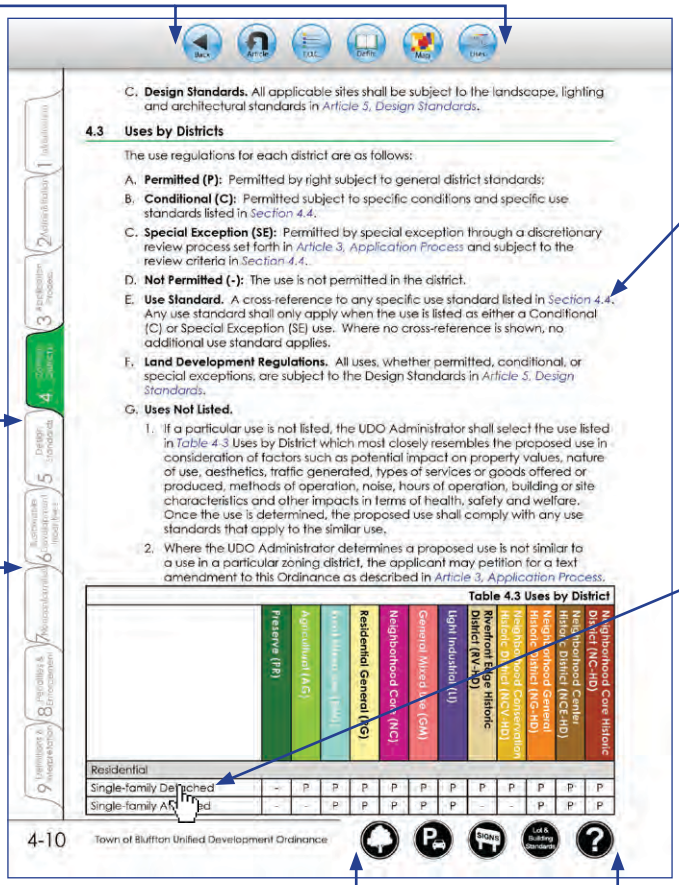
How to use this iZone Interactive Zoning Ordinance

iZone Document Features

The navigation buttons at the top of each page direct you to
-Back to Previous View,
-Start of Article,
-Table of Contents,
-Definitions,
-Zoning Map, and
-Table of Uses.

The tabs on the side of the page take you to the start of each Article, which are colorized when active and greyed out when inactive.

The buttons on the bottom of the page are quick links to Sections: Natural Resources, Parking, Signs, Lot and Building Standards, and this User Guide.



C. **Design Standards.** All applicable sites shall be subject to the landscape, lighting and architectural standards in *Article 5, Design Standards*.

4.3 Uses by Districts

The use regulations for each district are as follows:

A. **Permitted (P):** Permitted by right subject to general district standards:

B. **Conditional (C):** Permitted subject to specific conditions and specific use standards listed in *Section 4.4*.

C. **Special Exception (SE):** Permitted by special exception through a discretionary review process set forth in *Article 3, Application Process* and subject to the review criteria in *Section 4.4*.

D. **Not Permitted (-):** The use is not permitted in the district.

E. **Use Standard.** A cross-reference to any specific use standard listed in *Section 4.4*. Any use standard shall only apply when the use is listed as either a Conditional (C) or Special Exception (SE) use. Where no cross-reference is shown, no additional use standard applies.

F. **Land Development Regulations.** All uses, whether permitted, conditional, or special exceptions, are subject to the Design Standards in *Article 5, Design Standards*.

G. **Uses Not Listed.**

1. If a particular use is not listed, the UDO Administrator shall select the use listed in *Table 4-3* Uses by District which most closely resembles the proposed use in consideration of factors such as potential impact on property values, nature of use, aesthetics, traffic generated, types of services or goods offered or produced, methods of operation, noise, hours of operation, building or site characteristics and other impacts in terms of health, safety and welfare. Once the use is determined, the proposed use shall comply with any use standards that apply to the similar use.

2. Where the UDO Administrator determines a proposed use is not similar to a use in a particular zoning district, the applicant may petition for a text amendment to this Ordinance as described in *Article 3, Application Process*.

Table 4.3 Uses by District

	Preserve (PR)	Agricultural (AG)	Residential General (RG)	Neighborhood Center (NC)	General Mixed Use (GM)	Light Industrial (LI)	Riverfront Edge Historic District (RV-HD)	Neighborhood Conservation Historic District (NCV-HD)	Neighborhood General Historic District (NG-HD)	Neighborhood Center Historic District (NCE-HD)	Neighborhood Core Historic District (NC-HD)
Residential											
Single-family Detached	-	P	P	P	P	P	P	P	P	P	P
Single-family Attached	-	-	P	P	P	P	-	-	P	P	P

4-10 Town of Bluffton Unified Development Ordinance

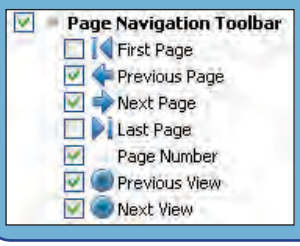
References to Articles, Sections, Tables and Figures are italicized to indicate the hyperlink. After you have read the referenced section, you can click on the Previous View button to return to the page you were reading.

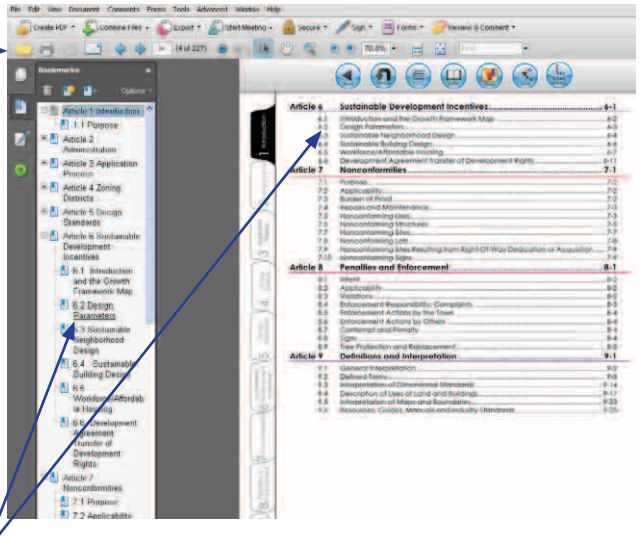
Words that are linked to their definition in Article 9 are not italicized, but when you hover over them with your mouse you will see the cursor changes to a finger, allowing you to click and jump to the definition.

Acrobat Reader Features

Back/Forward *Previous/Next* *Search*

Locate your navigation tools under Tools>Customize Toolbar>Page Navigation Toolbar.





Click on bookmarks or anywhere in the Table of Contents to jump between sections.

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Article 1 Introduction 1-1

1.1 Purpose 1-2

Article 2 Administration 2-1

2.1 Intent & Applicability 2-2
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Article 1
Introduction

1

1.1 Purpose

1.1.1 Title and Citation

This Ordinance shall be known as the Town of Bluffton Unified Development Ordinance, and may be referred to as the Unified Development Ordinance, the UDO, or this Ordinance, and may be cited as Chapter 23 of the Code of Ordinances for the Town of Bluffton, South Carolina.

1.1.2 Authority and Enactment Clause

This Unified Development Ordinance is adopted pursuant to the authority granted by Chapter 7, Planning by Local Governments, Chapter 29, South Carolina Local Government Comprehensive Planning Enabling Act of 1994, of Title 6 of the Code of Laws of South Carolina (1976), as amended, and all other applicable South Carolina state laws. In accordance with the authority conferred on the Town of Bluffton by these statutes and for promoting the purposes, intent, and design objectives expressed in this Ordinance, the Town Council of the Town of Bluffton does ordain and enact into law the following articles and sections. This Unified Development Ordinance includes the zoning ordinance of the Town of Bluffton, enacted pursuant to the authority of Title 6, Chapter 29, Article 5 of the Code of Laws of South Carolina (1976), as amended, and the land development regulations of the Town of Bluffton, enacted pursuant to the authority of Title 6, Chapter 29, Article 7 of the Code of Laws of South Carolina (1976), as amended.

1.1.3 Comprehensive Plan

Prior to the adoption of this Unified Development Ordinance, the Town of Bluffton adopted a *Comprehensive Plan* on September 4, 2007, pursuant to the authority of Title 6, Chapter 29, Article 3 of the Code of Laws of South Carolina (1976), as amended, which includes, among other things, a land use element, a community facilities element, a housing element and a priority investment element. This Unified Development Ordinance is adopted in order to assist in the implementation of the Town's *Comprehensive Plan*.

1.1.4 Purpose

This Unified Development Ordinance has been adopted for the purpose of providing guidance for land use and development and redevelopment within the Town of Bluffton, in accordance with the Town's *Comprehensive Plan*, for its physical, social, and economic growth and development. The zoning and land development regulations contained in this Unified Development Ordinance are enacted to protect and promote the public health, safety, convenience, order, appearance, prosperity, and general welfare, as well as the efficiency and economy of the Town. To those ends, this Unified Development Ordinance has the following specific purposes:

A. Provide for administrative procedures, zoning districts and regulations, and land development regulations and standards.

B. Assist in the implementation of the *Comprehensive Plan* for the Town of Bluffton, the Southern Beaufort County Regional Plan, and other official plans, policies, and programs.

C. Strengthen the conservation, preservation, and protection of natural resources and watersheds as signature elements of the region, including the protection, regeneration, and preservation of sensitive natural resources and the relationship

of development to natural resources as an aesthetic and recreational amenity.

D. Promote long-term and sustainable economic and environmental vitality for the region.

E. Allow for an integrated mixture of compatible land uses to create nodes of activity in the form of town, village, and neighborhood centers.

F. Strengthen and promote development toward town, village, and neighborhood centers.

G. Take advantage of compact building design to improve walkability, connectivity, and preservation of open space.

H. Provide for a range of affordable and workforce housing opportunities and choices.

I. Provide for a variety of transportation choices that are efficient and balanced across all modes, establishing a transportation system that reduces vehicular congestion, vehicle miles traveled, household transportation costs, and emissions.

J. Create walkable communities that support community health and reduce automobile dependency.

K. Foster distinctive, attractive communities with a strong sense of place.

L. Establish standards for zoning districts, and for the kinds and classes of buildings within districts, that promote the unique character of each district and the suitability for particular uses.

M. Make zoning and development decisions predictable, fair, and cost effective, and encourage community and stakeholder collaboration in zoning and development decisions.

1.1.5 Jurisdiction

This Ordinance shall govern all zoning and land development within the municipal boundary of the Town of Bluffton, South Carolina, as now or hereafter established, and any public improvements in the Town of Bluffton as now or hereafter established, together with such adjacent unincorporated areas of Beaufort County which the Town Council and Beaufort County Council may jointly agree to become governed by this Ordinance.

1.1.6 Administration and Enforcement

This Ordinance shall be administered and enforced according to South Carolina state law and the authority and procedures in all articles contained herein.

1.1.7 Applicability to Specific Development Activities

The following development and redevelopment activities, whether publicly or privately conducted, shall be subject to the provisions and standards of this Ordinance.

A. **Use of a Structure or Land.** The establishment or re-establishment of a use, or a change in use of a structure or land, whether temporary or permanent, which the UDO Administrator determines would affect the area's natural environment, parking requirements, transportation patterns, public health, or economic values.

B. **Construction, Demolition, Reconstruction, or Alteration.** A building operation involving the construction, demolition, reconstruction, or alteration of the size

of a structure which the UDO Administrator determines would affect the area's natural environment, parking requirements, transportation patterns, public health, or economic values.

C. **Increase in Land Use Intensity.** An increase in the intensity of land use, such as an increase in the number or size of nonresidential or residential uses in a structure or on land, an increase in traffic trip generation, or an increase in the number of parking spaces or amount of impervious coverage, when the UDO Administrator determines that such increase would affect the area's natural environment, parking requirements, transportation patterns, public health, or economic values.

D. **Filling, Excavating, or Dredging.** The commencement of any filling or excavating operation on a parcel of land, or filling or dredging of intertidal or underwater land.

E. **Change in Effects or Conditions.** In connection with the use of land, the making of any material change in noise levels, vibration levels, lighting intensity, thermal conditions, odors, or emissions of waste material.

F. **Alteration of a Shore, Bank, or Floodplain.** The material alteration of a shore, bank, or floodplain of a seacoast, river, stream, lake, or other water body.

G. **Utility Construction.** The construction, expansion, or modification of any utility line or facility.

H. **Road Construction.** The construction, expansion, or modification of any public or private road, street, or right-of-way.

I. **Silviculture.** The sustained management and harvesting of trees as a commodity.

J. **Subdivision.** The subdivision of land within the Town and the recording of a plat with the Register of Deeds for Beaufort County.

K. **Other.** Any other development, construction, alteration, modification, or change in land use not otherwise excluded by this article that the UDO Administrator determines would affect the area's natural or built environment, parking requirements, transportation patterns, public health, or economic values.

1.1.8 Activities That Do Not Constitute Development

The following operations or uses do not constitute development for the purpose of this Ordinance:

A. **Transfer of Title.** A transfer of title to land not involving the division of land into parcels.

B. **Division of Land into Five Acres or Larger Parcels.** The division of land into parcels of five acres or more where no new street is involved.

C. **Combination or Recombination of Lots.** The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to all standards of this Ordinance; and the combination or recombination of entire lots of record where no new street or change in existing streets is involved.

D. **Legal Exhibits and Documents.** The recording of any documents or plats expressly for the purpose of reference or attachment to a publicly recorded document when such recording does not result in subdivision of land into parcels. Such recording may include, but is not limited to, documents such as

master deeds or covenants, or plats for mortgage or HUD filing purposes only.

E. **Leases and Easements.** The creation or termination of leases, easements, or other rights, except that no easement required by this Ordinance may be terminated without the approval of the UDO Administrator.

1.1.9 Conflicting Provisions

Where there is a conflict between provisions of applicable South Carolina state law and provisions of this Ordinance, the provisions of applicable South Carolina state law shall control. Where there is a conflict or apparent conflict among provisions of this Ordinance, the more restrictive provision shall control; except, when there is a conflict or apparent conflict between an overlay district and the underlying base zoning district, the provisions of the overlay district shall control. Where it is possible to implement, administer, or construe a particular provision of this Ordinance in more than one way, it shall be implemented, administered, or construed in a way that eliminates or minimizes conflicts with other provisions of this Ordinance.

1.1.10 Other Town Requirements

Whenever this Ordinance imposes a more restrictive standard than required by any other Town ordinance or requirement, the provisions of this Ordinance shall control. Whenever any other Town ordinance or requirement imposes a more restrictive standard than required by this Ordinance, the provisions of such other Town ordinance or requirement shall control.

1.1.11 Relationship to Deed Restrictions and Restrictive Covenants

The Town is required by Section 6-29-1145 of the Code of Laws of South Carolina (1976), as amended, to inquire of an applicant for a permit whether the tract or parcel is restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the permitted activity. If the Town has actual notice of a restrictive covenant on a tract or parcel of land that is contrary to, conflicts with, or prohibits the permitted activity, the Town must not issue the permit unless the Town receives confirmation from the applicant that the restrictive covenant has been released for the tract or parcel of land by action of the appropriate authority or property holders or by court order.

1.1.12 Effective Date

This Ordinance shall take effect and be in full force from the date of its adoption by the Town Council, effective November 10, 2011.

1.1.13 Severability

If the provisions of any article, section, subsection, paragraph, subdivision, or clause of this Ordinance shall be adjudged or construed to be invalid by a court of competent jurisdiction for any reason, such judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision, or clause of this Ordinance, all of which shall remain in full force and effect.

1.1.14 Repeal of Existing Ordinances

Existing Town ordinances or parts of ordinances covering the same matters as embraced in this Ordinance, including, without limitation, the Town of Bluffton Zoning Ordinance, are hereby repealed, and all Town ordinances and parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect. The adoption of this

Ordinance is intended by the Town of Bluffton to be the initial adoption of a new zoning ordinance and new land development regulations, and not the amendment of an existing zoning ordinance or existing land development regulations.

1.1.15 Prior Development Approval

Land development plans and subdivision plats submitted to and approved by the Town of Bluffton prior to the adoption of this Ordinance shall have expiration dates governed as follows:

A. **The Permit Extension Joint Resolution of 2010.** The running of the period of development approval and any associated vested right for any development approval, as defined in the Permit Extension Joint Resolution of 2010, that is current and valid at any point during the period beginning January 1, 2008 and ending December 31, 2012 is suspended during the period beginning January 1, 2008 and ending December 31, 2012, as provided for in said Resolution. Prior development approvals subject to such Resolution are controlled thereby.

B. **The Vested Rights Act.** The expiration of a phased development plan or a site specific development plan, as defined in the Vested Rights Act, Title 6, Chapter 29, Article 11 of the Code of Laws of South Carolina (1976), as amended, approved by the Town prior to the adoption of this Ordinance is governed by the Vested Rights Act.

C. **Other Approvals.** Any land development plan or subdivision plat approved by the Town prior to the adoption of this Ordinance that is not subject to one or both of the Permit Extension Joint Resolution of 2010 or the Vested Rights Act shall expire on the later of (i) a definite expiration date contained in the approval or permit itself, or (ii) two years from the issuance date of the approval or permit.

D. **The Development Agreement Act.** Subject to the terms of the South Carolina Development Agreement Act, this Ordinance applies to any Development Agreement previously approved by the Town of Bluffton or any other governmental entity.

Article 2
Administration

2

2.1 Intent & Applicability

The intent of this article is for the Town of Bluffton to establish the responsibility and administrative authority of the UDO Administrator as well as Town Council Appointed Boards and Commissions, including the Planning Commission, the Board of Zoning Appeals, the Historic Preservation Commission, and other bodies or individuals, as described throughout this Ordinance.

2.2 Establishment

2.2.1 UDO Administrator, Boards, & Commissions.

The following shall be subject to the provisions of this Ordinance, Chapter 3 of the Code of Ordinances for the Town of Bluffton, and all applicable South Carolina state laws.

A. **UDO Administrator.** The position of UDO Administrator of the Town of Bluffton is hereby established pursuant to the authority of Title 6, Chapter 29 of the Code of Laws of South Carolina (1976), as amended, the South Carolina Local Government Comprehensive Planning Enabling Act of 1994.

B. **Town Council Appointed Boards and Commissions.**

1. **Planning Commission.** The Planning Commission (PC) of the Town of Bluffton is hereby established pursuant to the authority of Title 6, Chapter 29, Article 1, Section 320 of the Code of Laws of South Carolina (1976), as amended, the South Carolina Local Government Comprehensive Planning Enabling Act of 1994.
2. **Board of Zoning Appeals.** The Board of Zoning Appeals (BZA) of the Town of Bluffton is hereby established pursuant to the authority of Title 6, Chapter 29, Article 5, Section 780 of the Code of Laws of South Carolina (1976), as amended, the South Carolina Local Government Comprehensive Planning Enabling Act of 1994.
3. **Historic Preservation Commission.** The Historic Preservation Commission (HPC) of the Town of Bluffton is hereby established pursuant to the authority of Title 6, Chapter 29, Article 5, Section 870 of the Code of Laws of South Carolina (1976), as amended, the South Carolina Local Government Comprehensive Planning Enabling Act of 1994.

2.2.2 Boards, Commissions and Subcommittees Membership.

In the appointment of members, the Town Council shall consider the professional expertise, knowledge of the community, and concern for the future welfare of the total community and its citizens of potential members. Members shall represent a broad cross section of the interests and concerns within the Town. The membership of the Town Council Appointed Boards and Commissions shall be as follows:

Board and Commission Membership	Planning Commission (PC)	Board of Zoning Appeals (BZA)	Historic Preservation Commission (HPC)
Number of voting members.	7	5	7
All members shall be residents of or be freeholders in the area in which they serve or own a business within the municipal boundary of the Town of Bluffton.	■	■	
A majority of the members shall be residents of, be freeholders in, or own a commercial business within the Old Town Bluffton Historic District.			■
All members shall have a demonstrated interest in, competence in, or knowledge of historic preservation and at least three members shall be licensed professionals or have at a minimum 5 years of experience in the discipline of history, historic preservation, architecture, engineering, law, planning, construction, or related fields.			■
To the extent practicable, at least two of the members shall be licensed professionals in the disciplines of architecture, engineering, law, planning, construction, or related fields.	■	■	

2.2.3 Boards and Commissions Member Terms.

A. **Length of Term.** All members shall be appointed in accordance with Town Code Chapter 3, Section 3-2(b). All members shall continue to serve until their respective successor is appointed and qualified.

B. **Number of Terms.** No member shall serve for more than two consecutive terms; provided, however, that upon a determination by Town Council in its sole discretion of extraordinary circumstances and that the best interests of the community are served by the continuation of the term of a particular member, such member may be re-appointed for one additional term. This limitation shall not prevent any person from being appointed after an absence of one year.

C. **Removal.** Town Council may remove any member for cause, after written notice in accordance with Town Code Chapter 3, Section 3-2(d).

2.2.4 Boards and Commissions Officers, Meetings and Quorums

A. **Officers.** The members shall elect one member as Chair and another as Vice-Chair in accordance with Town Code Chapter 3, Section 3-3. The UDO Administrator shall serve as Secretary.

B. **Meetings.** The members shall meet at the call of the Chair and at such regular times as the members may determine.

C. **Quorums.** A majority of members shall constitute a quorum for the conduct of business in accordance with Town Code Chapter 3, Section 3-2(g).

D. Notice of Meeting. Public notice of meetings shall be given in accordance with the South Carolina Freedom of Information Act requirements.

E. **Rules of Procedure.** The members shall adopt rules of procedure for the conduct of business.

F. **Minutes.** The Secretary shall keep minutes of the proceedings showing the vote of each Member upon each question, or, if absent or failing to vote, indicating that fact in accordance with Town Code Chapter 3, Section 3-7.

2.2.5 Territorial Jurisdiction

The jurisdiction of all Appointed Boards and Commissions shall extend to all areas within the corporate limits of the Town; provided, however, that Town Council may expand the jurisdiction of the Appointed Boards and Commissions by Ordinance or Intergovernmental Agreement in accordance with all applicable South Carolina State Laws.

2.2.6 Powers and Duties

A. **UDO Administrator.**
The person designated by the Town Manager as the Director of Growth Management shall serve as the UDO Administrator. The UDO Administrator shall be the Town's zoning administrator and the Town's chief administrative officer for all zoning and land development matters under this Ordinance. The UDO Administrator may designate one or more members of the Town's Growth Management Department to act on his or her behalf, and may determine the scope of authority of such designees under this Ordinance. The powers and duties of the UDO Administrator include, but are not limited to:

1. Reviewing and taking action on, approving, approving with conditions,

or denying, zoning permits or approvals for the use of land, buildings, and structures, or the construction, conversion, demolition, enlargement, movement, or structural alteration of a building or structure;

2. Reviewing and taking action on, or approving, approving with conditions, or denying applications in accordance with the provisions of *Article 3, Application Process* of this Ordinance;
3. Making administrative interpretations of this Ordinance;
4. Preparing and publishing rules and procedures relating to the administration of this Ordinance;
5. Reviewing and, when required or requested, making recommendations for action to approve, approve with conditions, or deny applications to the Town Council, Planning Commission, Board of Zoning Appeals, Historic Preservation Commission, and other appropriate decision making authorities in accordance with the provisions of this Ordinance;
6. Appointing, organizing, and chairing a Development Review Committee (DRC);
7. Serving as Secretary to all Appointed Boards, Commissions, and Committees listed in this Article; and
8. Such other powers, duties, and responsibilities explicitly granted by this Ordinance or as delegated by Town Council.

B. **Development Review Committee.**

The Development Review Committee, consisting of representatives of Town departments and other applicable agencies involved in the land development review process and the Chair and Vice-Chair of the Planning Commission, an at-large Planning Comissioner, as well as the Chair of the Historic Preservation Commission for projects located within the Old Town Bluffton Historic District, has those functions, duties, and powers of an administrative advisory board concerning land development review matters provided for by this Ordinance including, but not limited to:

1. Preparing and recommending for adoption by the applicable approval authority technical requirements for the design, installation, management, and maintenance of streets, roads, utilities, stormwater management systems, buildings, structures, lighting, landscaping and other systems or items necessary for the orderly development of the Town of Bluffton in conformance with this Ordinance, the *Comprehensive Plan*, and any other adopted or accepted policy or plan of the Town of Bluffton;
2. Reviewing and recommending action on applications as authorized by this Ordinance and the Application Process Table of the Applications Manual; and
3. Such other responsibilities and powers granted explicitly this Ordinance or delegated by the UDO Administrator.

C. **Planning Commission.**

The Planning Commission has those functions, duties, and powers provided for in

South Carolina State Law, including, but not limited to:

1. Undertaking a continuing planning program for the physical, social, and economic growth, development, and redevelopment of the Town;
2. Making, publishing, and distributing maps, plans, and reports and recommendations relating to the plans and programs and the development of the Town to public officials and agencies, public utility companies, civic, educational, professional, and other organizations and citizens;
3. Preparing and periodically reviewing the *Comprehensive Plan*, and making recommendations to Town Council for adoption thereof and revisions thereto;
4. Preparing and recommending for adoption to the Town Council as a means for implementing the plans and programs in the Town:
   a. Zoning ordinances to include zoning district maps and appropriate revisions thereof;
   b. Regulations for the subdivision or development of land and appropriated revisions thereof, and to oversee the administration of the regulations that may be adopted;
   c. An official map and appropriate revision(s) on it showing the exact location of existing or proposed public street, highway, and utility rights-of-way, and public building sites, together with regulations to control the erection of buildings or other structures or changes in land use within the rights-of-way, building sites, or open spaces within the Town or a specified portion of it;
   d. A landscaping ordinance setting forth required planting, tree preservation, and other aesthetic considerations for land and structures;
   e. A capital improvements program setting forth projects required to implement plans which have been prepared and adopted, including an annual listing of priority projects for consideration by the governmental bodies responsible for implementation prior to preparation of their capital budget; and
   f. Policies or procedures to facilitate implementation of planning elements;
5. Reviewing and recommending action on, or approving, approving with conditions, or denying applications in accordance with the provisions of South Carolina state law and the provisions of *Article 3, Application Process* of this Ordinance; and
6. Performing those functions, duties, and powers of a board of architectural review provided for in South Carolina state law and as determined by the applicable zoning protions of this Ordinance regarding properties located within the Town of Bluffton Highway Corridor Overlay District, including reviewing and approving, approving with conditions, or denying, applications within the Town of Bluffton Highway Corridor Overlay District; and
7. Such other responsibilities and powers granted explicitly by South Carolina state law, this Ordinance, or delegated by Town Council.

D. **Board of Zoning Appeals.**

The Board of Zoning Appeals has those functions, duties, and powers provided for in South Carolina state law, including, but not limited to:

1. Hearing and deciding appeals where it is alleged there is error in an order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance portions of this Ordinance;
2. Hearing and approving, approving with conditions, or denying appeals for variance from the requirement of the zoning ordinance portions of this Ordinance when strict application of the provisions of the zoning ordinance portions of this Ordinance would result in unnecessary hardship;
3. Reviewing and approving, approving with conditions, or denying applications for uses by special exception subject to the terms and conditions for the uses set forth for such uses in the applicable zoning portions of this Ordinance; and,
4. Remanding a matter to an administrative official, upon motion by a party or the board's own motion, if the board determines the record is insufficient for review.

E. **Historic Preservation Commission.**

The Historic Preservation Commission has those functions, duties, and powers of a board of architectural review provided for in South Carolina state law and as determined by the applicable zoning portions of this Ordinance, including, but not limited to:

1. Reviewing and providing recommendation to the Planning Commission for properties to be added to the Old Town Bluffton Historic District;
2. Reviewing and recommending action on, or approving, approving with conditions, or denying, applications in accordance with *Article 3, Application Process* of this Ordinance;
3. Establishing and maintaining a system for the survey and inventory of historic properties within the Town of Bluffton;
4. Reviewing and recommending to Town Council structures to be designated or removed from being designated as a Contributing Structure;
5. Reviewing and providing recommendations on all proposed National Register nominations to Town Council for any structure within its jurisdiction; and
6. Such other responsibilities and powers granted explicitly by South Carolina state law, this Ordinance, or delegated by Town Council.

F. **Historic Preservation Subcommittee.**

The Historic Preservation Subcommittee, consisting of representatives of Town departments and other applicable agencies involved in the architectural design and historic review process and the HPC Chair and two (2) at large HPC Commissioners, has those functions, duties, and powers of an administrative advisory board concerning design and architectural review matters provided for by this Ordinance including, but not limited to:

1. Reviewing and recommending action on applications as authorized by this Ordinance and the Application Process Table of the Applications Manual; and

2. Such other responsibilities and powers granted explicitly by this Ordinance or delegated by the UDO Administrator.

Article 3
Application Process

3

3.1 General

This article provides standards and procedures for the Town of Bluffton to review applications for compliance with this Ordinance. The regulations in this Ordinance are intended to ensure consistency with the Town of Bluffton *Comprehensive Plan*, to minimize negative impacts of development on adjacent land uses, to conserve the natural environment, to coordinate with infrastructure capacity, and to protect the public health, safety, and welfare, and Town of Bluffton's character.

3.2 General Application Approval Process

3.2.1 General Application and Permit Items

A. **Single Agent.** All applications submitted pursuant to this Ordinance, shall include a designation of a single agent through whom all communications shall occur. The agent may be either the Applicant or a representative of the Applicant.

B. **Applications Manual.** All applications required under this Ordinance shall be submitted on forms and in such numbers as required by the UDO Administrator. The UDO shall publish and make available to the public an Applications Manual setting forth requirements for the various types of applications, references to applicable section of this Ordinance, Town Council's appointed Boards and Commissions involved in the review and approval for each type of application, the application process, public hearing requirements, and general application and permit information.

C. **Application Requirements.** Complete applications shall include a completed application form, any required fee based upon the Town of Bluffton adopted fee schedule adopted by the Town Council, the minimum submittal requirements for the respective application, and any other information determined necessary by the UDO Administrator to demonstrate compliance with the requirements and standards of this Ordinance and/or State Law.

D. **Certified Plans.** All design, grading, drainage and construction plans for roads, other required infrastructure, and for site-related improvements shall be prepared and signed and sealed by either an Engineer or Landscape Architect, as appropriate and consistent with South Carolina State Law. All design and construction plans for building-related improvements shall be prepared and signed and sealed by an Architect as appropriate and consistent with South Carolina State Law.

E. **Digital Files.** Upon final application approval, digital files of all application documents shall be submitted to the UDO Administrator in a compatible file format as determined by the UDO Administrator. Required final formats may include but are not limited to Microsoft Office, AutoCAD, ArcGIS, Adobe InDesign, and PDF.

F. **Approval Authority.** The approval authority, as identified in the *Applications Manual*, shall approve, approve with conditions, or deny the applications set forth in this article.

G. **Validity of Approvals and Expiration.** Where appropriate and necessary, the validity and expiration of all other approvals shall be explicitly defined in this article and referenced in the Applications Manual with the expiration date being calculated from the date upon which final action was taken authorizing

or approving the application. As determined by the UDO Administrator, if at any time an application pending approval remains inactive through the inaction or lack of response by the Applicant, the UDO Administrator, with written notice to Applicant, may expire the application not less than 120 days since the last date of action by the Applicant or 60 days since the last date of response by the Applicant.

H. **Extensions of Approval.** For applications where this article indicates a time period for approval and provides for an extension to the expiration of the approval, the UDO Administrator may grant one or more extensions, each for a period of one year from the expiration date, upon the request of the Applicant. In determining whether or not to grant the expiration the UDO Administrator shall determine that there shall not be any adverse effect on the public health, safety, and welfare and that no amendments to this Ordinance have been adopted that prohibit the approved activity or permit. The UDO Administrator may require that plans and other information be revised to reflect amendments to this Ordinance since that approval was granted. Applications for extension must be received and accepted by the UDO Administrator prior to the expiration date.

3.2.2 Common Application Review Procedures

Specific applications are subject to the Application Review Procedures as follows:

A. **Pre-Application Meeting.** A pre-application meeting with the UDO Administrator is required prior to submission of specific applications. The purpose of this meeting is to provide and opportunity for the Applicant and UDO Administrator to discuss the basic scope, nature, and intent of the proposed project and to allow the UDO Administrator to provide guidance in the formative stages of the project. Additionally the submittal requirements and the procedures and standards applicable to an anticipated application shall be determined. At this meeting the Applicant may obtain the application, associated Ordinance provisions, and draft meeting schedule.

B. **Application Check-In Meeting.** When an application is submitted to the UDO Administrator, the UDO Administrator may review the application materials being submitted with the Applicant and ensure that the Applicant understood and provided the required application materials as set forth in the Applications Manual or as otherwise required by the UDO Administrator. During this Check-In Meeting, as applicable, the application review process and schedule, public notice requirements, and other information relevant to the application being submitted may be discussed. If requested by the Applicant and the application preliminarily meets the criteria for Sustainable Development Incentives as described in *Article 6, Sustainable Development Incentives*, the Applicant shall be so notified and the application processed accordingly.

C. **Application Log.** The UDO Administrator shall maintain a log of all applications received, which shall be available for public inspection during regular business of the Town.

D. **UDO Administrator Review.** All applications shall be submitted to and reviewed for completeness by the UDO Administrator who will inform the Applicant in writing of any information that is missing from the application as required by the Applications Manual or as otherwise required by the UDO Administrator. Such review shall be completed within 10 business days from the date the application

was received by the UDO Administrator. If any application is not complete, the UDO Administrator shall inform the Applicant in writing, specifying the ways in which the application is incomplete and the actions, materials, documents, and information necessary to complete the application. Following written notification by the UDO Administrator to an applicant that an application is incomplete, the Applicant shall have 60 days to complete the application. Any application which has not been completed within this 60 day period shall be considered by the UDO Administrator as withdrawn by the Applicant, unless the applicant and the UDO Administrator agree to an extension of such 60 day period for good cause, as determined by the UDO Administrator.

E. **Application Review.** Once the application is determined to be complete, it shall be distributed to all appropriate Staff and applicable review bodies. As applicable, the UDO Administrator reserves the right to submit any Application to the applicable Board, Commission, or Committee for comment, input and interpretation at any time throughout the application process. In addition, the UDO Administrator may request at any time additional information necessary to demonstrate compliance with the requirements and standards of this Ordinance.

F. **Planning Commission Workshop.** Planning Commission Workshops are intended to be the first official presentation of a proposed project to provide the public with information and a forum to initially review the application and identify applicable application review criteria. Meetings are encouraged as opportunities for informal, non-binding communication between the Applicant and neighboring property owners who may be affected by the application.

G. **Maximum Review Period.** Once an application for approval of a subdivision or land development plan is considered complete, failure to act on such application within 60 days shall constitute approval of the plat or plan. If the subdivision plat or land development plan is approved, the UDO Administrator shall provide the Applicant with written notice of approval within this 60 day period. If the subdivision plat or land development plan is not approved, the UDO Administrator shall provide the applicant with written notice of denial detailing the reasons for such denial. This 60 day period may be extended by written agreement by the UDO Administrator and the applicant.

3.2.3 Public Hearing Notice

Specific applications are subject to public hearing notice requirements as set forth in this Section. Upon acceptance of an application that requires a public hearing, the UDO Administrator shall fix a reasonable date and time for the public hearing. Notice of public hearing requirements are as follows:

A. **Timing of Public Notice Requirements.** Public notice as set forth in this Section shall be provided not less than the following number of calendar days prior to the public hearing:

Application Type	Newspaper Posting	Property of Posting	Certified Mailing to Surrounding Property Owners
Comprehensive Plan Amendment[1]	30	-	-
Zoning Map Amendment[1]	15	15	15
UDO Text Amendment[1]	30	-	-
Special Exception[2]	15	15	15
Variance[2]	15	15	15
Planned Unit Development (PUD) – Concept Plan[1]	15	-	-
Street Renaming[3]	15	-	15
Certificate of Appropriateness – Historic District Demolition[4]	15	15	-
Designation of Contributing Structure[4]	15	15	-

[1] A Public Hearing shall be held by both Planning Commission and Town Council.

[2] A Public Hearing shall be held by Board of Zoning Appeals.

[3] A Public Hearing shall be held by Planning Commission.

[4] A Public Hearing shall be held by Historic Preservation Commission.

B. **Newspaper Posting.** When required, the UDO Administrator shall cause notice of the public hearing to be published in a newspaper of general circulation in the Town not less than the number of days prior to the public hearing as specified in the preceding table. Notices shall also be electronically published on the Town of Bluffton website, posted at Town Hall, and distributed either in hardcopy or electronically to any person, agency, or organization registered to receive such notifications.

C. **Posting of Property.** When required, the UDO Administrator shall cause a conspicuous notice of public hearing sign to be posted not less than the number of days prior to the public hearing as specified in the preceding table on or adjacent to the subject property, with at least one such notice being visible from each public thoroughfare that abuts the property. If the subject property does not abut a public thoroughfare, such sign shall be posted on the public thoroughfare from which the subject property is accessed. All signs shall be removed by the Town within 30 days of conducting the public hearing.

D. **Certified Mailing to Surrounding Property Owners.** To help assure surrounding property owners are provided adequate public notice of a public hearing on an application, surrounding property owners shall be notified as follows:

1. The Applicant shall send notice of the public hearing by certified US mail not less than the number of days prior to the public hearing as specified in the preceding table to all owners of real property within 250 feet of the subject property. The UDO Administrator shall provide the applicant with the names and addresses of the surrounding property who are to received

mailed notice, and shall provide the applicant with a sample public hearing notification letter. The Applicant shall submit the original Certified Mailing receipts for the mailed notices to the UDO Administrator not less than seven days prior to the public hearing.

E. **Public Notice Compliance.** Failure to comply with the public notice requirements shall result in the removal of an application from the public hearing meeting agenda. Any rescheduled public hearing on an application shall be subject to subsequent compliance with all public notice requirements.

3.3 Comprehensive Plan Amendment

3.3.1 Intent

This Section is intended to provide procedures and standards for the review of Comprehensive Plan Amendment Applications. Review of Comprehensive Plan Amendment Applications shall consider the following objectives:

A. Provide specific, objective and prescriptive guidance for undertaking a continuing planning program for the physical, social and economic growth, development and redevelopment of the area within the jurisdiction of the Town of Bluffton;

B. Ensure that the *Comprehensive Plan* is designed to promote public health, safety, convenience, prosperity or the general welfare, as well as the efficiency and economy of the Town of Bluffton;

C. Ensure that the *Comprehensive Plan* is based upon careful and comprehensive surveys and studies of existing conditions and probable future development and includes recommended means of implementation; and

D. Provide for meaningful public participation.

3.3.2 Applicability

Application for a Comprehensive Plan Amendment may be initiated by a Town of Bluffton property owner, Town Council, Planning Commission, or the UDO Administrator to address a specific topic or geographic area, or to respond to new information, data, other studies, or an opportunity that would benefit the Town of Bluffton that was not foreseen when the *Comprehensive Plan* was prepared.

3.3.3 Application Review Criteria.

The Planning Commission and Town Council shall consider the following criteria in assessing an application for Comprehensive Plan Amendment:

A. Consistency with the intent of the overall policies in the *Comprehensive Plan*;

B. Consistency with demographic changes, prevailing economic trends and/or newly recognized best planning practices that would deem the proposed amendment necessary and proper for the advancement of the Town of Bluffton's goals;

C. If applicable, the ability of public infrastructure and services to sufficiently accommodate the requested amendment to the *Comprehensive Plan*;

D. Appropriate and efficient use of public funds, the future growth, development and redevelopment of its area of jurisdiction, and consideration of the fiscal impact on property owners;

E. Enhancement of the health, safety, and welfare of the Town of Bluffton;

F. Consistency with applicable South Carolina Planning law and consideration of case law;

G. Impact of the proposed amendment on the provision of public services; and

H. The application must comply with applicable requirements in the Applications Manual.

3.3.4 Effect of Approval

Upon Town Council adoption of a Comprehensive Plan Amendment Ordinance, any necessary changes shall be made to the *Comprehensive Plan*. A record of the type and date of such change shall be maintained by the UDO Administrator and available for public review within the amended *Comprehensive Plan*.

3.4 Zoning Map Amendment

3.4.1 Intent

This Section is intended to provide procedures and standards for the review of *Zoning Map Amendment Applications*.

3.4.2 Applicability

Application for Zoning Map Amendment may be initiated by the property owner, Town Council, Planning Commission, or the UDO Administrator to establish and maintain sound, stable, and desirable development within the Town of Bluffton. The *Zoning Map* may be amended to rezone an area or to extend the boundary of an existing zoning district. A rezoning must be based upon the recommended future land use category for the property as shown on the future land use map in the Town of Bluffton *Comprehensive Plan*. If, as determined by the UDO Administrator, the requested zone change is not in accord with the future land use category, then an application for Comprehensive Plan Amendment to change the future land use map is required prior to or concurrent with the submittal of Zoning Map Amendment Application.

3.4.3 Application Review Criteria

The Planning Commission and Town Council shall consider the following criteria in assessing an application for Zoning Map Amendment:

A. Consistency with the *Comprehensive Plan* or, if conditions have changed since the *Comprehensive Plan* was adopted, consistency with the overall intent of the *Comprehensive Plan*, recent development trends and the general character of the area;

B. Capability of the site's physical, geological, hydrological and other environmental features to support the breadth and intensity of uses that could be developed in the proposed zoning district;

C. Compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning districts in terms of suitability of location, impacts on the environment, noise, density, nature of use, traffic impacts, aesthetics, ability to develop adjacent properties under existing zoning, and potential influence on property values;

D. Capacity of public infrastructure and services to sufficiently accommodate all

potential uses allowed in the proposed district without compromising the public health, safety and welfare of the Town of Bluffton;

E. Public need for the potential uses permitted in the requested zoning district; and

F. Compliance with applicable requirements in the Applications Manual.

3.4.4 Effect of Approval or Denial

A. Upon Town Council adoption of a Zoning Map Amendment Ordinance, any necessary changes shall be made to the Town of Bluffton Official Zoning Map. A record of the type and date of such change shall be maintained by the UDO Administrator and available for public review.

B. If a Zoning Map Amendment application is denied by the Town Council, an application for the same proposed change in district classification affecting the same parcels or any part thereof, shall not be reconsidered within twelve (12) months from the date of denial.

3.5 Unified Development Ordinance Text Amendment

3.5.1 Intent

This Section is intended to provide procedures and standards for the review of Unified Development Ordinance Text Amendment Applications.

3.5.2 Applicability

An application for a Unified Development Ordinance (UDO) Text Amendment may be initiated by a Town of Bluffton property owner, Town Council, Planning Commission, or the UDO Administrator when public necessity, convenience, State or Federal law, general welfare, new research, or published recommendations on zoning and land development justifies such action.

3.5.3 Application Review Criteria

The Planning Commission and Town Council shall consider the following criteria in assessing an application for UDO Text Amendment:

A. Consistency with the *Comprehensive Plan* or, if conditions have changed since the *Comprehensive Plan* was adopted, the consistency with the overall intent of the Plan, recent development trends and the general character of the area;

B. Consistency with demographic changes, prevailing economic trends, and/or newly recognized best planning practices;

C. Enhancement of the health, safety, and welfare of the Town of Bluffton;

D. Impact of the proposed amendment on the provision of public services; and

E. The application must comply with applicable requirements in the Applications Manual.

3.5.4 Effect of Approval

Upon Town Council adoption of the Unified Development Ordinance Text Amendment Ordinance, any necessary changes shall be made to the Unified Development Ordinance. A record of the type and date of such change shall be maintained by the UDO Administrator and available for public review within the amended Unified Development Ordinance.

3.6 Special Exception

3.6.1 Intent

This Section is intended to provide procedures and standards to facilitate the review of *Special Exception Applications* and to ensure that the Special Exception uses listed for each zoning district are located and designed to be compatible with other uses in the vicinity. Review of Special Exception Applications shall consider the following objectives:

A. Ensure impacts associated with a specific use can be accommodated or are mitigated;

B. Ensure site design and operational standards minimize negative impacts on adjoining or nearby properties; and

C. Provide a mechanism for public input.

3.6.2 Applicability

Special Exceptions are uses that require a heightened level of scrutiny due to intensity of land use and potential impact on neighboring properties, compared to the range of uses permitted by right in a particular zoning district. The Board of Zoning Appeals shall determine whether Special Exceptions should be allowed and may prescribe appropriate conditions and safeguards to protect surrounding property owners and property values.

3.6.3 Application Review Criteria

The Board of Zoning Appeals shall approve a Special Exception application upon a finding that all of the following standards are met:

A. The use is allowed as a Special Exception in the zoning district;

B. The application meets the standards of *Section 4.5*, if applicable;

C. The application must be in conformance with applicable provisions provided in *Article 5, Design Standards*; and

D. The application complies with applicable requirements in the Applications Manual.

E. The proposed Special Exception use is consistent with the spirit, purpose and intent of the Town of Bluffton *Comprehensive Plan*;

F. The proposed Special Exception use is consistent with the "purpose and intent" statement of the applicable zoning district;

G. The proposed Special Exception use will be constructed, operated and maintained so as to be compatible with the existing or intended character of the applicable district and so as not to change the essential character of the area in which it is proposed;

H. The proposed Special Exception use is compatible with the existing uses adjacent to and near the property;

I. The proposed Special Exception use does not have an adverse effect on any site or feature of historical, cultural, natural, or scenic importance;

J. The proposed Special Exception use is consistent with existing and planned pedestrian and vehicular circulation adjacent to and near the property;

K. The adjacent streets and highways are or will be adequate to carry any additional traffic generated by the proposed Special Exception use;

L. The proposed Special Exception use will be adequately served by public facilities and services, such as traffic operations along streets, police and fire protection, drainage structures, water and sewage facilities and primary and secondary schools;

M. The proposed Special Exception use will not involve uses, activities, processes, materials and equipment or conditions of operation that, in comparison to by right permitted uses in the district, will be hazardous, detrimental or disturbing to the natural environment, or the public health, safety and welfare by reason of excessive production of traffic, noise, smoke, odors or other such nuisance; and

N. The proposed Special Exception use will conform to any specific criteria or conditions specified for that use in the applicable zoning district.

3.6.4 Effect and Expiration of Approval

A. **Approval.** Approval of a Special Exception application by the Board of Zoning Appeals shall authorize an Applicant to apply for any further applicable Town of Bluffton approvals. All such applications shall be considered under the applicable provisions of this Ordinance, subject to the Special Exception and any conditions imposed by the Board of Zoning Appeals.

B. **Expiration.** Approval of a Special Exception shall expire two years from the date of its issue unless construction or development commences and proceeds to completion in a timely and customary manner to establish the use in accordance with the terms and requirements of the Special Exception.

3.6.5 Amendments to Approval

Any expansion of any use or any change in the configuration of the use, building(s), or site allowed by a Special Exception shall require resubmittal and approval in the manner described in this Section.

3.6.6 Action by the Town

A. After review of a Special Exception application and a public hearing on the application, the Board of Zoning Appeals shall make a written finding and approve, approve with modifications or conditions; or deny the application.

B. If approval, or approval with modifications or conditions of a Special Exception application is granted, the decision shall be communicated in writing to the applicant; and the Applicant shall thereby be authorized to submit the applications necessary and consistent with this article to establish the use.

3.7 Variance

3.7.1 Intent

This Section is intended to provide procedures and standards for the review of *Variance Applications* for requests in order to deviate from the design standards prescribed in *Article 5, Design Standards*, when literal enforcement of the provisions of this Ordinance would result in unnecessary hardship to the property owner(s) and the deviation would not be contrary to the public interest. This Section provides provisions for either unnecessary hardship or sign variance requests. Review of Variance Applications shall consider the following objectives:

A. Ensure site design and operational standards minimize negative impacts on adjoining or nearby properties; and

B. Provide a mechanism for public input.

3.7.2 Applicability

The Board of Zoning Appeals, upon request, may vary certain requirements of the design standards of *Article 5, Design Standards* that will not be contrary to the public interest, when strict application of the provisions of this Ordinance would result in unnecessary hardship as defined below.

3.7.3 Application Review Criteria

A. The application must comply with applicable requirements in the Applications Manual.

B. As applicable, the application must comply with the following:

1. Unnecessary Hardship. A Variance from a dimensional or design standard may be granted by the Board of Zoning Appeals in an individual case of unnecessary hardship upon a finding that all of the following standards are met:

   a. There are extraordinary and exceptional conditions pertaining to the particular piece of property;

   b. These conditions do not generally apply to other property in the vicinity, particularly those in the same zoning district;

   c. Because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property in a manner consistent with others in the zoning district;

   d. The need for the Variance is not the result of the Applicant's own actions;

   e. The authorization of a Variance does not substantially conflict with the *Comprehensive Plan* and the purposes of this Ordinance;

   f. The authorization of a Variance will not result in a substantial detriment to adjacent property or the public good, and the character of the District will not be harmed by the granting of the Variance; and

   g. The reason for the Variance is more than simply for convenience or to allow the property to be utilized more profitably.

3.7.4 Effect and Expiration of Approval

A. **Approval.** Approval of a Variance application shall authorize the Applicant to apply for any further applicable Town of Bluffton application approvals. All such applications shall be considered under the applicable provisions of this Ordinance, subject to the Variance and any conditions imposed by the Board of Zoning Appeals.

B. **Expiration.** Approval of a Variance shall expire two years from the date of its issue unless construction or development commences and proceeds to completion in a timely and customary manner in accordance with the terms

and requirements of the Variance.

3.7.5 Action by the Town

A. After review of a Variance application and a public hearing on the application, the Board of Zoning Appeals shall make a written finding and approve, approve with modifications or conditions, or deny the Variance request.

B. If approval, or approval with modifications or conditions of the Variance application is granted, the decision shall be communicated in writing to the Applicant and the Applicant shall thereby be authorized to submit the applications necessary and consistent with this article.

3.8 Planned Unit Development (PUD) Concept Plan

3.8.1 Intent

This Section is intended to provide procedures and standards for the review of *Planned Unit Development Plan (PUD) Concept Plan Applications*.

3.8.2 Applicability

An application for PUD Concept Plan is required for proposed development projects on sites consisting of two hundred (200) acres or more. A PUD Concept Plan application shall be submitted concurrently with a Zoning Map Amendment application requesting approval of a Planned Unit Development (PUD) District zoning for the subject property.

3.8.3 Application Review Criteria

A. The Planning Commission and Town Council shall consider the following criteria in assessing an application for PUD Concept Plan:

B. Promotion of and consistency with the land use goals, environmental objectives and overall intent of the policies within the *Comprehensive Plan*;

C. Consistency with the intent of the Planned Unit Development Zoning District as prescribed in *Article 4, Zoning Districts*;

D. Demonstration of innovative site planning techniques that improve upon the standards in other allowable Town of Bluffton zoning districts with the purpose of enhancing the Town of Bluffton's health, safety and welfare than which could be otherwise achieved through strict application of this Ordinance;

E. Compatibility of proposed land uses, densities, traffic circulation and design with adjacent land uses and environmental features, as well as the character of the surrounding area;

F. Ability to be served by adequate public services, including, but not limited to, water, sanitary sewer, roads, police, fire, and school services. For developments that have the potential for significant impact on infrastructure and services the applicant shall be required to provide an analysis and mitigation of the impact on transportation, utilities, and community services;

G. Conformance with adopted or accepted plans, policies, and practices of the Town of Bluffton; and

H. The application must comply with applicable requirements in the Applications Manual.

3.8.4 Effect of Approval

A. **Approval.** Approval by Town Council of a PUD Concept Plan Ordinance shall allow the Applicant to submit an application for Planned Unit Development (PUD) Master Plan.

B. **Expiration.** Approval of a PUD Concept Plan shall not expire.

3.8.5 Amendments to Approvals

A. Any amendments to a PUD Concept Plan shall require the PUD Concept Plan to be resubmitted for approval as set forth in the Applications Manual.

3.9 PUD Master Plan

3.9.1 Intent

This Section is intended to provide procedures and standards for the review of *Planned Unit Development (PUD) Master Plan Applications*.

3.9.2 Applicability

A. PUD Master Plan approval is required for all or any portion of the PUD property prior to submittal of Development Plan application. If any of the property subject to a PUD Master Plan application is not zoned PUD at the time of submittal, the application shall be submitted concurrently with a Zoning Map Amendment application requesting approval of a PUD Zoning for the subject property.

3.9.3 Application Review Criteria

A. The Planning Commission and Town Council shall consider the following criteria in assessing an application for PUD Master Plan:

B. Promotion of and consistency with the land use goals, environmental objectives and overall intent of the policies within the *Comprehensive Plan*;

C. Consistency with the intent of the Planned Unit Development Zoning District as prescribed in this Ordinance;

D. As applicable, consistency with the provisions of the associated Development Agreement and/or PUD Concept Plan;

E. Compatibility of proposed land uses, densities, traffic circulation and design with adjacent land uses and environmental features, as well as the character of the surrounding area;

F. Ability to be served by adequate public services, including, but not limited to, water, sanitary sewer, roads, police, fire, and school services. For developments that have the potential for significant impact on infrastructure and services the applicant shall be required to provide an analysis and mitigation of the impact on transportation, utilities, and community services;

G. Demonstration of innovative site planning techniques that improve upon the standards in other allowable Town of Bluffton zoning districts with the purpose of enhancing the Town of Bluffton's health, safety and welfare;

H. Ability of the site to sufficiently accommodate the densities and land use intensities of the proposed development;

I. Conformance with adopted or accepted plans, policies, and practices of the Town of Bluffton; and

J. The application must comply with applicable requirements in the Applications Manual.

3.9.4 Effect of Approval

A. **Approval.** Approval by Town Council of a PUD Master Plan Ordinance shall allow the Applicant to submit an application for Development Plan to the Town of Bluffton.

B. **Expiration.** Approval of a PUD Master Plan shall expire five years from the date of its issue unless a Development Plan is submitted and accepted.

3.9.5 Extensions of Approvals

A. Upon request by the Applicant and in conformance with the requirements of this article, the UDO Administrator shall grant not more than five extensions for a period of one year each.

3.9.6 Amendments to Approvals

A. **Minor Amendments.** Minor amendments to a PUD Master Plan shall be reviewed by the UDO Administrator for approval. Minor amendments include modifications that are not considered major amendments.

B. **Major Amendments.** Major amendments to a PUD Master Plan shall be subject to the PUD Master Plan review process set forth in the Applications Manual. The following shall be considered major amendments:

1. Any amendment to the designation of land use or change in allowed uses within the PUD Master Plan;
2. Any amendment to the Design Standards provided in the PUD that is a substantive change altering the design intent and character set forth in the approved Design Standards;
3. Significant modification to the configuration of buildings, site amenities, or location of land uses on the property;
4. Significant modifications to the location, type, or widths of streets and/or right-of-ways;
5. Significant modifications or changes in geometry to the access, on-site circulation, parking, service access, and pedestrian facilities;
6. Significant amendments to the allocation of open space, residential or non-residential density or intensity, particularly when the overall approved density or intensity is altered to the extent that the character and intent of the PUD Master Plan is modified; or
7. Any other change that the UDO Administrator determines is a substantive deviation from the standards and provisions under which the PUD Master Plan was initially approved.

3.10 Development Plan

3.10.1 Intent

This Section is intended to provide procedures and standards for the review of *Development Plan Applications*. A two-tiered approval process is prescribed that includes a Preliminary Development Plan and Final Development Plan Application

review. The purpose of this sequence is to provide the Applicant with initial conceptual design guidance prior to the preparation of detailed construction plans.

3.10.2 Applicability

A. **Development Plan Required.** Development, as defined in *Article 9, Definitions and Interpretation*, requires approval of a Preliminary Development Plan and a Final Development Plan prior to commencing construction.

B. **Development Plan Not Required.** A Development Plan is not required for those operations or uses that do not constitute development as defined in Article 9, Definitions and Interpretation, including the construction of a single-family residential structure and associated accessory uses.

3.10.3 Application Review Criteria

A. **Preliminary Development Plan.** The UDO Administrator and the Planning Commission shall consider the following criteria in assessing an application for a Preliminary Development Plan:

1. The proposed development must be in conformance with applicable provisions provided in *Article 5, Design Standards*;
2. The proposed development shall be in conformance with any approved Development Agreement, PUD Concept Plan, PUD Master Plan, Subdivision Plan, or any other agreements or plans that are applicable;
3. If the proposed development is associated with a previously approved Master Plan, then the traffic and access plans shall adhere to the previously approved traffic impact analysis or assessment, where applicable. If an application is not associated with a previously approved PUD Master Plan, then a traffic impact analysis shall be required at development plan submittal;
4. The proposed development must be able to be served by adequate public services, including, but not limited to, water, sanitary sewer, roads, police, fire, and school services. For developments that have the potential for significant impact on infrastructure and services the applicant shall be required to provide an analysis and mitigation of the impact on transportation, utilities, and community services;
5. The phasing plan, if applicable, is logical and is designed in a manner that allows each phase to fully function independently regarding services, utilities, circulation, facilities, and open space irrespective of the completion of other proposed phases; and
6. The application must comply with applicable requirements in the Applications Manual.

B. **Final Development Plan.** The UDO Administrator shall consider the following criteria in assessing an application for a Final Development Plan:

1. The application must be consistent with the approved Preliminary Development Plan;
2. The application must be in conformance with applicable provisions provided in *Article 5, Design Standards*;
3. The proposed development shall be in conformance with any approved Development Agreement, PUD Concept Plan, PUD Master Plan, Subdivision

Plan, or any other agreements or plans that are applicable;

4. The Applicant has satisfactorily demonstrated the ability and intent to complete the proposed development and to meet all obligations agreed to or incurred as a result of conformance with this Ordinance, within a reasonable time period and in accordance with all conditions;
5. The Applicant has established adequate legal safeguards to ensure compliance with the approved Development Plan and to provide for adequate management of the development regardless of future ownership or control of the land or facilities thereon;
6. The Applicant has provided Development Sureties as defined in this article and legal guarantee, as applicable, of the installation and maintenance of water systems, sewer systems, drainage systems, street systems, open space areas, and any other improvements to be constructed or indicated in lieu of actual construction prior to final approval;
7. Where phasing is proposed, the phase for which the Final Development Plan approval is requested shall be designed in a manner that allows it to fully function independently regarding services, utilities, circulation, facilities, and open space irrespective of the completion of other proposed phases; and
8. The application must comply with applicable requirements in the Applications Manual.

3.10.4 Effect and Expiration of Approvals

A. **Preliminary Development Plan Approval.** Approval of the Preliminary Development Plan by either the UDO Administrator or Planning Commission shall authorize the Applicant to prepare and submit a Final Development Plan for review and approval.

B. **Preliminary Development Plan Expiration.** Approval of a Preliminary Development Plan shall expire two years from the date of its issue unless a Final Development Plan is submitted and accepted.

C. **Final Development Plan Approval.** Approval of the Final Development Plan by the UDO Administrator shall authorize the Applicant to:

1. Commence all improvements to the land and the construction of all support facilities as specified by the approval;
2. Apply for any building or other permits required for the construction of all buildings and facilities shown and specified by the Development Plan; and
3. Receive a Subdivision Plan approval, if applicable.

D. **Final Development Plan Expiration.** Approval of a Final Development Plan shall expire two years from the date of its issue unless an appreciable amount of construction or development commences and proceeds to completion in a timely and customary manner in accordance with the terms and requirements of the Final Development Plan. In the case of phased developments, this shall be understood as improvement or development of the permitted phase of the development.

3.10.5 Extensions of Approvals

Upon request by the Applicant and in conformance with the requirements of this article, the UDO Administrator shall grant not more than five extensions for a period

of one year each.

3.10.6 Amendments to Approved Development Plans

A. **Minor Amendments.** Minor amendments to Preliminary or Final Development Plans shall be reviewed by the UDO Administrator for approval. Minor amendments include modifications that are not considered major amendments.

B. **Major Amendments.** Major amendments to Preliminary or Final Development Plans shall be subject to the applicable review process set forth in the Applications Manual. The following shall be considered major amendments:

1. Any amendment to the Design Standards provided in the Development Plan that is a substantive change altering the design intent and character set forth in the approved Design Standards;
2. Significant modification to the configuration of buildings, site amenities, or location of land uses on the property;
3. Significant modifications to the location, type, widths of streets and/or right-of-ways;
4. Significant modifications or changes in geometry to the access, on-site circulation, parking, service access, and pedestrian facilities; or
5. Any other change that the UDO Administrator believes to deviate from the intent, standards, and provisions under which the PUD Master Plan was initially approved.

3.11 Subdivision Plan

3.11.1 Intent

This Section is intended to provide procedures and standards for the review of Subdivision Plan Applications (*Major*, *Minor*, and *Historic District*). Review of Subdivision Plan Applications shall consider the following objectives:

A. Guide the future growth and development of the Town of Bluffton in accordance with the *Comprehensive Plan*;

B. Establish reasonable standards of design and procedures for subdividing land to facilitate orderly layout and compatibility with street patterns, setbacks, and character of the applicable zoning district and Town of Bluffton;

C. Ensure proper legal descriptions and physical delineation of subdivided land;

D. Secure suitable sites for building purposes;

E. Preserve the natural beauty and topography of subdivision sites through appropriate development that is sensitive to these natural features;

F. Facilitate adequate provision of water, sewerage, and other utilities, as well as other public facilities as applicable for the subdivided land; and

G. To ensure that future plats, subdivisions and dedications will be improved in accordance with established public policy.

3.11.2 Applicability

Any proposed subdivision of land in the Town of Bluffton that meets the definition of a subdivision, as defined in *Article 9, Definitions and Interpretation*, shall comply with the provisions of this Section.

A. **Subdivision Types**

1. **General.** A division of land, located outside of the Old Town Bluffton Historic District.
2. **Historic District.** A division of land, located in the Old Town Bluffton Historic District.

3.11.3 Application Review Criteria

The UDO Administrator and Planning Commission shall consider the following criteria in assessing an application for Subdivision Plan:

A. Compliance with the standards set forth in the approved Concept Plan, Master Plan and/or Development Plan, as applicable;

B. Consistency with applicable provisions provided in *Article 5, Design Standards*;

C. Development Sureties shall be provided in accordance with this article;

D. Ability to be served by adequate public services, including, but not limited to, water, sanitary sewer, roads, police, fire, and school services. For developments that have the potential for significant impact on infrastructure and services the applicant shall be required to provide an analysis and mitigation of the impact on transportation, utilities, and community services; and

E. The application must comply with applicable requirements in the Applications Manual.

3.11.4 Effect and Expiration of Approvals

A. **Approval.** Subdivision Plan approval by either the UDO Administrator or the Planning Commission shall authorize the Applicant to record the approved subdivision plat with the Beaufort County Register of Deeds.

B. **Expiration.** Unless recorded with the Beaufort County Register of Deeds, the approval shall expire two years from the date of approval.

3.11.5 Extensions of Approvals

Upon request by the Applicant and in conformance with the requirements of this article, the UDO Administrator shall grant not more than five extensions for a period of one year each.

3.11.6 Amendments to Subdivision Approvals

A. **Minor Amendments.** Minor amendments to a Subdivision Plan shall be reviewed by the UDO Administrator for approval. Minor amendments include modifications that are not considered major amendments.

B. **Major Amendments.** Major amendments to the Subdivision Plan following approval shall require the Applicant to resubmit the subdivision plan. The following shall be considered major amendments:

1. An increase in the number of lots;
2. Significant modification to the basic layout of the street system or non-motorized transportation system, such as removal of a connection, realignment of the street network, or change in the type or widths of streets or public rights-of-way;
3. Reduction of open space; or

4. Substantive removal or dilution of features or amenities that were essential elements of the approved subdivision plan.

3.12 Exempt Plat Stamp

3.12.1 Intent

This Section is intended to provide procedures and standards for the review of *Exempt Plat Stamp Applications*.

3.12.2 Applicability

Exempt Plat Stamps apply to activities that do not constitute development as defined in *Section 1.18, Activities That Do Not Constitute Development*, of this Ordinance. If any of these activities necessitates the recording of documents or plats, such documents or plats shall be submitted to the UDO Administrator for review and stamping prior to recording.

3.12.3 Application Review Criteria

The UDO Administrator shall ensure the application complies with the applicable requirements in the Applications Manual.

3.12.4 Effect and Expiration of Approvals

A. **Approval.** Exempt Plat approval shall authorize the Applicant to record the Exempt Plat with the Beaufort County Register of Deeds.

B. **Expiration.** Unless recorded with the Beaufort County Register of Deeds, Town of Bluffton approval shall expire two years from the date of approval.

3.13 Development Surety

3.13.1 Intent

This Section is intended to provide procedures and standards to facilitate the review of *Development Surety Applications*. Review of Development Surety Applications will be required to ensure completion of the required improvements within a specified time period.

3.13.2 Applicability

Development sureties as set forth herein shall be accepted where the Applicant desires to record a plat before completion of all required improvements and where a Temporary Certificate of Compliance is being issued pursuant to this article. The Development Surety shall ensure the satisfactory completion of all required improvements shown on the approved Subdivision Plan or Development Plan.

3.13.3 Application Review Criteria

The UDO Administrator shall consider the following criteria in assessing an application for Development Surety:

A. The application must comply with applicable requirements in the Applications Manual;

B. The following types of development sureties may be accepted by the UDO Administrator:

1. Cash;

2. A surety bond that names the Town of Bluffton as beneficiary;
3. A bank certified check payable to "Town of Bluffton"; and
4. An irrevocable letter of credit approved by the UDO Administrator that names the Town of Bluffton as beneficiary.

C. Prior to the UDO Administrator's acceptance of any development surety, the Applicant shall submit to the UDO Administrator a copy of a contract signed by both the developer and a licensed contractor for the completion of required improvements and infrastructure, or an itemized and certified cost estimate for such work prepared by a licensed contractor, registered engineer, registered architect, or registered landscape architect, or any combination thereof, as appropriate, which will cover the costs for completion of all required improvements and infrastructure. The amount of a development surety shall be the amount determined by the UDO Administrator to be necessary to assure completion of required improvements and infrastructure , based on such contract or cost estimate, but not less than 150% of the improvement and infrastructure costs. The surety amount includes a contingency amount to ensure completion of work which may have been underestimated or unanticipated, a maintenance fee to cover the cost of maintenance and stabilization of the site improvements, and an administrative fee to cover any potential cost incurred by the Town of Bluffton in administering completion of any unfinished portion of the work and may include, but shall not be limited to, staff time and expenses, use of Town of Bluffton equipment, and/or possible professional consultant fees.

3.13.4 Effect and Expiration of Approvals

A. Subsequent to on-site inspection by the UDO Administrator verifying that all improvements subject to the development surety have been satisfactorily completed or a percentage has been satisfactorily completed in the opinion of the UDO Administrator, the surety, either in whole, in part, or any remaining balance thereof, shall be released in accordance with the following:

1. A release of an appropriate portion of a development surety, which has been accepted by the UDO Administrator in the form of cash or certified check (hereinafter a "drawdown") or amendment of the face value of any letter of credit or performance bond (hereinafter a "markdown") that has previously been accepted by the UDO Administrator may be permitted provided that:

   a. Prior to a request for a drawdown or markdown, the Applicant shall submit, to the UDO Administrator, the contractor's itemized list of work completed and work remaining as secured by the surety, which has been certified by the project engineer or owner;

   b. The UDO Administrator has inspected the work site and has verified in writing that, to the best of his/her knowledge, all such respective work has been completed;

   c. The requested drawdown or markdown shall be at least twenty percent (20%) of the original face value of the approved surety, but not less than $10,000 dollars; and

   d. No more than one such drawdown or markdown shall be approved during any thirty day period, except for the request for a final drawdown

or markdown.

2. In all cases where a drawdown or markdown is requested, the contingency fee and the administrative fee shall remain intact until the work secured by the development surety is verified by the UDO Administrator to have been completely finished and a final drawdown or markdown has been requested; and
3. A development surety shall be completely released by the UDO Administrator upon the full completion of all required improvements and infrastructure and the issuance by the UDO Administrator of a final Certificate of Construction Compliance.

B. Time limits on development sureties shall be as follows:

1. The maximum length of time for which a development surety may be held by the UDO Administrator shall be one year. Any development surety submitted as a letter of credit or performance bond shall state on its face that, subsequent to the date of expiration, the Town of Bluffton as beneficiary shall have 30 days from the date of expiration to make demand upon the issuing bank or agency for the honoring of such surety, if the respective work has not been fully completed; and
2. Any development surety submitted as a letter of credit or performance bond shall also state that the letter of credit or performance bond shall be automatically renewed until such time that the surety issuer provides the UDO Administrator with a 30 days written notice of the expiration of such surety.

C. If all improvements and infrastructure work secured by a development surety has not been completed as of the stated date for such completion, the UDO Administrator shall contract to complete the remaining work and stabilize and maintain the site following normal Town of Bluffton procurement procedures.

1. In the case of a cash or certified check surety, the Town of Bluffton shall take possession of the full amount or remaining balance of such surety.
2. In the case of a letter of credit or bond, the UDO Administrator shall make demand upon the issuer of such surety for immediate payment to the Town of Bluffton of the full or amended face value of such surety.

D. In addition to any Penalties set forth in this Ordinance, failure by the Applicant to keep current any development surety prior to the issuance of a Certificate of Construction Compliance shall cause the UDO Administrator to immediately order all development work stopped and all necessary Town of Bluffton inspections of the development work suspended until a development surety meeting the requirements of this article has been approved.

3.14 Certificate of Construction Compliance

3.14.1 Intent

This Section is intended to provide procedures and standards for the review of *Certificate of Construction Compliance Applications*. Review of Certificate of Construction Compliance Applications will help ensure that all site improvements

required by the development plan have been made.

3.14.2 Applicability

The regulations set forth in this Section shall apply to any development which is subject to a Development Plan approval pursuant to the provisions of this article.

3.14.3 Application Review Criteria

The UDO Administrator shall consider the following criteria in assessing an application for Certificate of Construction Compliance:

A. Compliance with all applicable provisions of this Ordinance, including Subdivision and/or Development Plan approval requirements, as applicable;

B. Compliance with all requirements of the approved Development Plan; and

C. The approved development must be able to function alone with all required infrastructure including, but not limited to, access drives, parking, drainage facilities, utilities, and required landscaping/tree planting.

3.14.4 Effect and Expiration of Approvals

Following issuance of a Certificate of Construction Compliance, the Applicant may apply for a Building Permit. A Building Permit shall not be issued for any residential structure, nor shall a Certificate of Occupancy be issued for any commercial structure by the Town of Bluffton until a Certificate of Construction Compliance has been issued for the site or phase thereof in which the building is located.

A. A Temporary Certificate of Construction Compliance may be issued and valid for a maximum of one year if the following conditions are met:

1. Development is substantially complete and the site is in a safe, accessible, and useable condition as determined by the UDO Administrator;
2. Upon providing financial guarantees in accordance with this article assuring completion of all requirements of the approved Development Plan; and
3. The application must comply with applicable requirements in the Applications Manual.

3.15 Street Naming

3.15.1 Intent

This Section is intended to provide procedures and standards for the review of *Street Naming Applications*. Review of Street Naming Applications will enhance and coordinate the efficient and effective delivery of services related to the United States Postal Service, Bluffton Township Fire Department, Bluffton Police, and all other applicable emergency management organizations.

3.15.2 Applicability

Every existing, proposed or constructed public road, private road, access easement or driveway that provides, or will provide, access to two or more buildable lots requires a Town of Bluffton approved street name.

3.15.3 Application Review Criteria.

The Planning Commission shall consider the following criteria in assessing an application for Street Naming:

A. Does not already exist within Beaufort County;

B. Are not street types with the same primary name, such as Smith Street and Smith Boulevard;

C. Are not name(s) which sound alike or which might be confused with one another;

D. Does not use frivolous or complicated words, or unconventional spellings;

E. Are not numbers (such as 1st Street) or alphabetical letters (such as A Street);

F. Could not be perceived as offensive;

G. Are simple, logical, easy to pronounce, clear and brief;

H. Are associated with the history of Bluffton or the character of the Lowcountry when possible;

I. May represent a common theme within residential developments; and

J. The application must comply with applicable requirements in the Applications Manual.

3.15.4 Effect of Approval

A. Upon Planning Commission approval the street name(s) shall become the legal name of the street and will supersede all other records illustrating such street name(s).

B. The UDO Administrator will provide the updated street data and notify, either by hand delivery, by post office mail, or by electronic delivery, the Beaufort County Assessor's Office, E911, affected property owner(s), the U.S. Post Office, and all other applicable agencies within five business days of approval.

3.16 Street Renaming

3.16.1 Intent

This Section is intended to provide procedures and standards to facilitate the review of *Street Renaming Applications*. Review of Street Renaming Applications will enhance and coordinate the efficient and effective delivery of services related to the United States Postal Service, Bluffton Township Fire Department, Bluffton Police, and all other applicable emergency management organizations.

3.16.2 Applicability

Every existing, proposed or constructed public road, private road, access easement or driveway that provides, or will provide, access to two or more buildable lots requires a Town of Bluffton approved street name.

3.16.3 Application Review Criteria.

The Planning Commission shall consider the following criteria in assessing an application for Street Renaming:

A. Does not already exist within Beaufort County;

B. Are not street types with the same primary name such as Smith Street and Smith Boulevard;

C. Are not name(s) which sound alike or which might be confused with one another;

D. Does not use frivolous or complicated words, or unconventional spellings;

E. Are not numbers (such as 1st Street) or alphabetical letters (such as A Street);

F. Could not be perceived as offensive;

G. Are simple, logical, easy to pronounce, clear and brief;

H. Are associated with the history of Bluffton or the character of the Lowcountry when possible;

I. May represent a common theme within residential developments;

J. In determining whether a street should be named in honor of a particular person, consideration shall be given to that person's relationship to the Bluffton area, character, public image, and public contribution;

K. A notarized, stamped and sealed Affidavit of Compliance must be received by the UDO Administrator at least fifteen days before the scheduled Public Hearing. The Affidavit must contain a list of all property owners affected by the change, property owners contacted, and the signatures of all property owners in agreement with the proposed street name change. An eighty percent (80%) majority of the existing property owners must be in agreement with the proposed street name change; and

L. The application must comply with applicable requirements in the Applications Manual.

3.16.4 Effect of Approval

A. Upon Planning Commission approval through the issuance of a Certificate of Street Renaming, which is recorded with the Beaufort County Register of Deeds, the street name(s) become the legal name of the street and will supersede all other records illustrating such name(s).

B. The UDO Administrator will provide the updated street data and notify, either by hand delivery, by post office mail or by electronic delivery, the Beaufort County Assessor's Office, E911, the development/property owner(s), the U.S. Post Office, and all other applicable agencies within five business days of approval.

3.17 Certificate of Appropriateness - Highway Corridor Overlay (HCO)

3.17.1 Intent

This Section is intended to provide procedures and standards for the review of *Certificate of Appropriateness HCO Applications* within the Highway Corridor Overlay (HCO) District. The review is intended to provide a method to ensure consistent design along the applicable major roadway corridors as defined in *Article 4, Zoning Districts*.

3.17.2 Applicability

A. Permit Required. A Certificate of Appropriateness HCO is required to install, modify, or remove landscaping, lighting, or architectural elements within the HCO District as defined in *Article 4, Zoning Districts*.

B. Permit Not Required. A Certificate of Appropriateness HCO is not required for the following activities:

1. Individual parcels designated for single-family residential use; and

2. Any development not visible from the highway, as determined by the UDO Administrator.

3.17.3 Application Review Criteria

The Planning Commission shall consider the following criteria in assessing an application for Certificate of Appropriateness HCO:

A. The application must be in conformance with the applicable landscaping, lighting, and architectural provisions provided in *Article 5, Design Standards*;

B. The application must be in conformance with Development Agreement, PUD Concept Plan, PUD Master Plan, Subdivision Plan, or any other agreements or plans that are applicable; and

C. The application must comply with applicable requirements in the Applications Manual.

3.17.4 Effect and Expiration of Approvals

A. **Approval.** Following issuance of a Certificate of Appropriateness HCO the Applicant may apply for any other applicable plan or permit approvals. In the event such additional approvals are not applicable or necessary, the Applicant may commence the activity(ies) as authorized by the approved application.

B. **Expiration.** Approval of a Certificate of Appropriateness HCO shall expire two years from the date of its issue unless an appreciable amount of improvement or development commences and proceeds to completion in a timely and customary manner in accordance with the Certificate of Appropriateness HCO.

3.17.5 Amendments to Approvals

A. An Applicant who has been granted a Certificate of Appropriateness HCO shall notify the UDO Administrator of any proposed amendments to approved plans.

B. Changes may be approved by the UDO Administrator if the proposed revision complies with the standards of this Ordinance, and does not substantially alter the basic design approved by the Planning Commission.

C. If the UDO Administrator determines that the requested modification to the approved plans substantially alters the basic design approved by the Planning Commission in accordance with the Certificate of Appropriateness HCO, a new, separate application shall be submitted and processed in accordance with the requirements of this Section.

3.18 Certificate of Appropriateness - Historic District (HD)

3.18.1 Intent

This Section is intended to provide procedures and standards to facilitate the review of *Certificate of Appropriateness Applications* within the Old Town Bluffton Historic District (HD) designated zoning districts and for all other historic structures throughout the Town of Bluffton. Review of Certificate of Appropriateness Applications HD shall consider the following objectives:

A. Maintenance of the educational, cultural and general welfare of the public through the preservation, protection and enhancement of the old, historic, and/or architecturally significant structures and areas in the Old Town Bluffton Historic District;

B. Maintenance of historic structures as visible reminders of the history and cultural heritage of the Town of Bluffton as well as the Lowcountry region in accordance with the standards set forth in the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings; and

C. Ensure that proposed activities foster the development of quality and innovative designs that respect and complement the eclectic character of the Old Town Bluffton Historic District.

3.18.2 Applicability

No structure located within a HD designated zoning district or constructed 50 or more years ago within the limits of the Town, may be erected, renovated, demolished, relocated or removed, in whole or in part, nor may the exterior architectural character of such structure be altered until a Certificate of Appropriateness HD has been issued for the project. The Historic Preservation Commission shall review applications for a Certificate of Appropriateness HD for any activity which:

A. Increases the area of the structure or building footprint;

B. Results in the cutting away of any exterior wall, partition, or portion thereof;

C. The removal or cutting of any structural beam or load-bearing support or the removal or change of any required means of egress;

D. Changes in fenestration location;

E. Requires a development plan or demolition permit;

F. Results in the alteration of the exterior architectural character; and,

G. Is not otherwise able to be reviewed through a Site Feature Permit-HD.

3.18.3 Application Review Criteria

The Historic Preservation Commission shall consider the following criteria in assessing an application for Certificate of Appropriateness HD:

A. Consistency with the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings;

B. Consistency with the principles set forth in the Old Town Bluffton Master Plan;

C. The application must be in conformance with applicable provisions provided in *Article 5, Design Standards*;

D. The nature and character of the surrounding area and consistency of the structure with the scale, form and building proportions of the surrounding neighborhood;

E. Preservation of the existing building's historic character and architecture;

F. The historic, architectural, and aesthetic features of the structure including the extent to which its alteration or removal would be detrimental to the public interest;

G. For an application to demolish, either in whole or in part, any Contributing Structure, the Historic Preservation Commission shall consider:

1. The existing and historical ownership and use and reason for requesting demolition; and

2. Information that establishes clear and convincing evidence that:
   a. The demolition of the structure is necessary to alleviate a threat to public health or public safety; and
   b. No other reasonable alternatives to demolition exist; and
   c. The denial of the application, as a result of the regulations and standards of this Section, deprive the Applicant of reasonable economic use of or return on the property;

H. The application must comply with applicable requirements in the Applications Manual.

3.18.4 Demolition of a Contributing Structure

A. In addition to the Application Review Criteria set forth in Section 3.18.3, in reviewing and recommending action on, or approving, approving with conditions, or denying, applications that include the demolition of any Contributing Structure, either in whole or in part, the Historic Preservation Commission may find that the preservation and protection of the Contributing Structure and the public interest will best be served by postponing the demolition for a designated period not to exceed 180 days. During the period of postponement, the Historic Preservation Commission shall consider what alternatives to demolition may exist and then, as appropriate, make such recommendations to Town Council and the Applicant. Such consideration by the Historic Preservation Commission shall, at a minimum, include the following:
   1. Alternatives for preservation of the structure, either in whole or in part, including consultation with civic groups, interested private citizens, and other boards or agencies (both public and private); or,
   2. If other alternatives for preservation cannot be identified and the preservation of a given structure is clearly in the interest of the general welfare of the community and of certain historic and architectural significance, investigation of the potential use of the power of eminent domain by the Town to acquire the property.

B. If after the postponement period has expired and an alternative for preservation has not been recommended, action regarding the application shall be taken in accordance with this Section at the next regularly scheduled Historic Preservation Commission meeting.

3.18.5 Effect and Expiration of Approvals

A. **Approval.**
   1. Following approval of an application for a Certificate of Appropriateness HD the Applicant may apply for a building permit or any other plan approval, if applicable. In the event such additional approvals are not applicable or necessary, the Applicant may commence the activity(ies) as authorized by the approved application.
   2. Following approval of an application for a Certificate of Appropriateness HD that includes the demolition, either in whole or in part, of any Contributing Structure and prior to the commencement of any demolition activities, the Applicant shall document the structure according to the documentation

standards of the Historic American Building Survey and the Historic American Engineering Record for archival purposes and submit such recording to the UDO Administrator for review and approval.

B. **Expiration.** Approval of a Certificate of Appropriateness HD shall expire two years from the date of its issue unless an appreciable amount of improvement or development commences and proceeds to completion in a timely and customary manner in accordance with the Certificate of Appropriateness HD.

3.18.6 Amendments to Approvals

A. An Applicant who has been granted a Certificate of Appropriateness HD shall notify the UDO Administrator of any proposed amendments to approved plans.

B. Changes may be approved by the UDO Administrator if the proposed revision complies with the standards of this Ordinance and does not substantially alter the basic design approved by the Historic Preservation Commission.

C. If the UDO Administrator determines that the requested modification to the approved plans substantially deviates from the basic design approved by the Historic Preservation Commission in accordance with the Certificate of Appropriateness HD, a new, separate application shall be submitted.

3.19 Site Feature – Historic District (HD)

3.19.1 Intent

This Section is intended to provide procedures and standards for the review of *Site Feature Applications* within the Old Town Bluffton Historic District (HD) designated zoning districts and for all other historic structures throughout the Town of Bluffton. Review of Site Feature Application shall consider the following objectives:

A. Maintenance of the educational, cultural, and general welfare of the public through the preservation, protection, and enhancement of the old, historic, and/or architecturally significant structures and areas in the Old Town Bluffton Historic District (HD);

B. Maintenance of such structures as visible reminders of the history and cultural heritage of the Town of Bluffton as well as the Lowcountry region in accordance with the standards set forth in the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings; and

C. Ensure that activities described below respect and complement the eclectic character of the HD designated zoning districts.

3.19.2 Applicability

A. **Permit Required.** The following activities require approval of a Site Feature Permit:

1. Minor exterior modifications that do not alter the exterior architectural character;
2. Signs;
3. Modifications or improvements to site elements such as changes to parking lots, sidewalks, landscaping, and lighting;
4. Garden Structures;
5. Ordinary maintenance and repair of any of the existing features of a structure

that does not involve a change in design, or outward appearance. Materials shall be a like for like replacement or equivalent to be reviewed and approved by the UDO Administrator; and

6. Exterior non-structural work of a minor nature that includes modifications or renovations to an existing building or structure. Such work is discouraged on the principle façade, as it is the intent of this section to preserve the outward appearance of the building or structure. Examples of allowable work include, but are not limited to, adding screens or balustrades to an existing porch, new decks without a roof covering, and improvements made for ADA accessibility.

B. **Permit Not Required.** Any activity that is not determined by the UDO Administrator to be a Site Feature or subject to the requirements of the Certificate of Appropriateness Historic District shall not require approval of a permit.

3.19.3 Application Review Criteria

The UDO Administrator shall consider the following criteria in assessing an application for Site Feature:

A. The application must be in conformance with applicable provisions provided in *Article 5, Design Standards*; and

B. The application must comply with applicable requirements in the Applications Manual.

3.19.4 Effect and Expiration of Approvals

A. **Approval.** Issuance of a permit shall authorize the Applicant to install the site feature as specified by the permit.

B. **Expiration.** Approval of a Site Feature HD permit shall expire two years from the date of its issue unless an appreciable amount of improvement or development commences and proceeds to completion in a timely and customary manner in accordance with the Site Feature HD permit.

3.20 Zoning Permit

3.20.1 Intent

This Section is intended to ensure that no construction, reconstruction, alteration, demolition, change in the use of or occupancy of any land, building, or other structure occurs without first obtaining the permit approval and that no permit is issued or approved by the Town of Bluffton unless compliance with the requirements of this Ordinance has been met.

3.20.2 Applicability

This Section applies to an activity involving the construction, reconstruction, alteration, demolition, and change in the use of or occupancy of any land, building, or other structure.

3.20.3 Application Review Criteria

The UDO Administrator shall consider the following criteria in assessing an *application for Zoning Permit*:

A. The application must comply with the applicable requirements of this Ordinance; and,

B. The application must comply with applicable requirements in the Applications Manual.

3.20.4 Effect and Expiration of Approvals

A. **Approval.** Issuance of a permit shall authorize the Applicant to either begin the activity specified by the permit or apply for any additional permits, if applicable.

B. **Expiration.** Approval of a Zoning Permit shall expire one year from the date of its issue unless an appreciable amount of the approved activity commences and proceeds to completion in a timely and customary manner in accordance with the Zoning Permit.

3.21 Sign Permit

3.21.1 Intent

This Section is intended to provide procedures and standards for the review of *Sign Permit Applications*. Review of Sign Permit Applications shall consider the following objectives:

A. Encourage a high degree of design quality in the context of the overall image and visual environment of the Town of Bluffton, as well as encourage designs that are in aesthetic harmony with their location on buildings and surrounding area;

B. Promote the public welfare and property values by preserving the aesthetic qualities of the natural environment and Bluffton vernacular architecture and reducing visual clutter;

C. Protect pedestrians, motorists and property by ensuring that signs do not create hazards due to distractions, collapse, fire, collision, or decay;

D. Promote the efficient transfer of general public and commercial information by improving the legibility and effectiveness of signs through the control of their number, location, size, appearance and illumination; and

E. Stimulate the economic vitality of the Town of Bluffton and encourage a business atmosphere that continues to attract new enterprises to the Town of Bluffton.

3.21.2 Applicability

A. Permit Required. A Sign Permit is required to install signage on any property, replace existing signage, or modify existing signage.

B. Permit Not Required. A Sign Permit is not required for the following:

1. Signage located in the Old Town Bluffton Historic District (HD) designated zoning district. Instead, an application permit for a Site Feature – Historic District is required; and
2. Signs as defined in *Article 5, Design Standards* to be exempt from obtaining a Sign Permit.

3.21.3 Application Review Criteria

The UDO Administrator shall consider the following criteria in assessing an application for Sign Permit:

A. The application must be in conformance with applicable provisions provided in *Article 5, Design Standards*;

B. The signage is compatible with the surrounding natural area and the character of structures and architecture in the vicinity; and

C. The application must comply with applicable requirements in the Applications Manual.

3.21.4 Effect and Expiration of Approvals

A. **Approval.** The issuance of a sign permit shall authorize the Applicant to either install or modify signage as specified by the permit or apply for a building permit, if applicable.

B. **Expiration.** Approval of a Sign permit shall expire two years from the date of its issue unless an appreciable amount of improvement or development commences and proceeds to completion in a timely and customary manner in accordance with the Sign permit.

3.22 Tree Removal Permit

3.22.1 Intent

This Section is intended to provide procedures and standards for the review of *Tree Removal Permit Applications*. Review of Tree Removal Permit Applications shall consider the following objectives:

A. Protect the Town of Bluffton's tree canopy, historic trees, and significant individual trees;

B. Protect woodlands as important natural resources that provide natural beauty, preserve animal habitat, protect the groundwater recharge areas, and maintain plant and tree diversity, as well as protect threatened, endangered, and imperiled species;

C. Minimize disturbance and structural changes to the vegetative community; prevent damage from erosion, siltation, and disease; manage stormwater runoff, limit loss of animal habitat and vegetative cover, all of which, in the aggregate, result in the destruction of the woodland character; and

D. Provide economic support to local property values and preservation of historical character of the Town of Bluffton.

3.22.2 Applicability

A. **Permit Required.** Regardless of the health or condition of the tree(s), a Tree Removal Permit is required to remove any tree, 8 inches in diameter at breast height ("DBH") or greater or any American holly, dogwood, redbud, southern magnolia, or red buckeye 4 inches in DBH or greater.

B. **Permit Not Required.** A Tree Removal Permit is not required for the following activities:

1. Approved tree removals identified in a valid Silviculture Permit;
2. Approved tree removals identified in a valid Final Development Plan or Subdivision Plan; and
3. Removal of trees less than 14 inches in DBH on property used as a single-family detached residential;
4. Removal of dead or diseased trees: If the tree was not included in a

previously approved landscape plan and the UDO Administrator determines that the tree is clearly diseased or dead, the removal shall not require a permit; and

5. Removal of hazardous trees: If the failure to remove the tree would constitute an eminent danger to the environment, property, public health, safety or welfare due to the hazardous condition of the tree, the removal shall not require a permit. Before removing a hazardous tree, the property owner shall submit an International Society of Arboriculture ("ISA") Basic Tree Risk Assessment Form to the UDO Administrator that has been prepared by an ISA Certified Tree Risk Assessor, ISA Certified Arborist, or ISA Board Certified Master Arborist. The assessment shall be independent and not prepared by the same company that would remove the hazardous tree. The UDO Administrator has the authority to order the removal of any tree that is considered hazardous to life or property.

3.22.3 Application Review Criteria

The UDO Administrator shall consider the following criteria in assessing an application for Tree Removal Permit:

A. The application must be in conformance with the applicable provisions provided in *Article 5, Design Standards*; and

B. The application must comply with applicable requirements in the Applications Manual.

3.22.4 Effect and Expiration of Approvals

A. **Approval.** Issuance of a permit shall authorize the Applicant to remove the tree(s) specified by the permit.

B. **Expiration.** Approval of a Tree Removal permit shall expire two years from the date of its issue unless an appreciable amount of tree removal commences and proceeds to completion in a timely and customary manner in accordance with the Tree Removal permit.

3.23 Silviculture Permit

3.23.1 Intent

This Section is intended to provide procedures and standards for the review of *Silviculture Permit Applications*.

3.23.2 Applicability

Undeveloped portions of property may be used for forestry/silviculture for the purpose of producing wood fiber and timber. Generally accepted methods of forest management are permitted including construction and use of forest roads and practices to promote the health and growth of trees.

3.23.3 Application Review Criteria

The UDO Administrator shall consider the following criteria in assessing an application for Silviculture Permit:

A. The property owner shall maintain a Forestry Management Plan prepared by a Registered Forester that provides for replanting, harvesting schedules and other related information as specified by the South Carolina Forestry Commission;

B. Planted pine trees may be removed only for the specific purpose of silviculture harvesting via seedtree/shelterwood harvesting and selective thinning, as defined by the South Carolina Forestry Commission;

C. The application must comply with the current South Carolina Forestry Commission's Best Management Practices Manual;

D. The application must be in conformance with following provisions provided in *Article 5, Design Standards*:

1. Silviculture;
2. Tree Conservation; and
3. Stormwater; and
4. The application must comply with applicable requirements in the Applications Manual.

3.23.4 Effect and Expiration of Approvals

A. **Approval.** Issuance of a permit shall authorize the Applicant to begin silviculture.

B. **Expiration.** Approval of a Silviculture permit shall expire one year from the date of its issue unless 75% of the area subject to the permit has been harvested and proceeds to completion in a timely and customary manner in accordance with the Silviculture permit.

3.24 Public Projects

3.24.1 Intent

The intent of this Section is to provide procedures and standards for the review of *Public Project Applications*. The review of Public Project Applications will help ensure the project is consistent with the spirit and intent of this Ordinance and the Town of Bluffton *Comprehensive Plan*.

3.24.2 Applicability

This Section applies to any new street, structure, utility, square, park, or other public way, grounds, or open space or public buildings for any use, whether publicly or privately owned.

3.24.3 Application Review Criteria

A. The Town of Bluffton shall consider the following criteria in assessing an application for Public Project:

B. The application must be in conformance with the applicable location, character, and extent provisions of the *Comprehensive Plan*; and

C. The application must comply with applicable requirements in the Applications Manual.

3.24.4 Effect and Expiration of Approvals

A. **Approval.** Approval of the Public Project shall authorize the Applicant to:

1. Commence all improvements to the land and the construction of all support facilities as specified by the approval; and
2. Apply for any building or other permits required for the construction of all buildings and facilities shown and specified by approval.

B. **Expiration.** Approval of a Public Project shall expire two years from the date of its issue unless an appreciable amount of construction and development commences and proceeds to completion in a timely and customary manner in accordance with the approval.

3.24.5 Extensions of Approvals

Upon request by the Applicant and in conformance with the requirements of this article, the Town of Bluffton shall grant not more than five extensions for a period of one year each.

3.24.6 Amendments to Approved Public Projects

Modifications or amendments to the plan may be approved by the Town of Bluffton where the proposed revision does not substantially alter the basic design approved by the Town of Bluffton. Should the Town of Bluffton determine that the requested amendment alters the approved plan, a new, separate Public Project application shall be submitted.

3.25 Designation of Contributing Structure

3.25.1 Intent

This Section is intended to provide procedures and standards to facilitate designation of Contributing Structures, including the review and evaluation of all nominations for the National Register of Historic Places.

3.25.2 Applicability

Application for designation of Contributing Structure may be initiated by Town Council, Historic Preservation Commission, the UDO Administrator, or the property owner when public necessity, convenience, State or Federal law, general welfare, new research, or published recommendations on historic preservation justifies such action.

3.25.3 Application Review Criteria

A. The Historic Preservation Commission and Town Council shall consider the following criteria in determining whether or not a structure should be designated as a Contributing Structure:

1. The structure has significant inherent character, interest, or value as part of the development or heritage of the Town, Region, State, or Nation;
2. The structure is the site of an event significant in history;
3. The structure is associated with a person or persons who contributed significantly to the culture and development of the Town, Region, State, or Nation;
4. The structure exemplifies the cultural, political, economic, social, ethnic, or historic heritage of the Town, Region, State, or Nation;
5. The structure individually, or as a collection of resources, embodies distinguishing characteristics of an architectural type, style, period, or specimen in architecture or engineering;
6. The structure is the work of a designer whose work has influenced significantly the development of the Town, Region, State or Nation;

7. The structure contains elements of design, detail, materials, or craftsmanship which represent a significant innovation;
8. The structure is part of or related to a cove or other distinctive element of the community;
9. The structure represents an established and familiar visual feature of the neighborhood or Town; or
10. The structure has yielded, or may be likely to yield, information important in pre-history or history;

B. For structures achieving significance less than 50 years ago, the Historic Preservation Commission and Town Council must find that the structure is of exceptional importance to the Town, Region, State, or Nation in meeting the criteria set forth above.

C. The application must comply with applicable requirements in the Applications Manual.

3.25.4 Effect of Approval

Following approval of a Designation of Contributing Structure application by Town Council, the UDO Administrator shall designate the structure as a Contributing Structure on the inventory of historic properties.

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Article 4
Zoning Districts

4

4.1 Establishment of Zoning Districts

4.1.1 Zoning Districts

The following districts are established to meet the purposes of this Ordinance:

Zoning District	District Character	Maximum Density
Preserve (PR)	Permanently preserved lands	N/A
Agricultural (AG)	Agricultural; rural residential at very low densities	1 dwelling unit per acre, non-residential density based upon the lot standards of *Article 5, Design Standards*
Rural Mixed Use (RMU)	Low-intensity, mixed-use development	Density based upon the lot standards of *Article 5, Design Standards*
Residential General (RG)	Moderate-density residential	4 dwelling units per acre, non-residential density based upon the lot standards of *Article 5, Design Standards*
Neighborhood Core (NC)	Moderate-intensity, mixed-use development	Density based upon the lot standards of *Article 5, Design Standards*
General Mixed Use (GM)	High-intensity, mixed-use development	Density based upon the lot standards of *Article 5, Design Standards*
Light Industrial (LI)	Primarily industrial-based employment centers	Density based upon the lot standards of *Article 5, Design Standards*
Riverfront Edge Historic District (RV-HD)	Low-density residential along the May River within the Historic District	Density based upon the lot standards of *Article 5, Design Standards*
Neighborhood Conservation Historic District (NCV-HD)	Low-density residential within the Historic District	Density based upon the lot standards of *Article 5, Design Standards*
Neighborhood General Historic District (NG-HD)	Moderate-density residential with limited commercial uses within the Historic District	Density based upon the lot standards of *Article 5, Design Standards*
Neighborhood Center Historic District (NCE-HD)	Moderate-intensity, mixed-use development within the Historic District	Density based upon the lot standards of *Article 5, Design Standards*
Neighborhood Core Historic District (NC-HD)	Commercial heart of the Historic District with the greatest potential for mixed-use within multi-story buildings	Density based upon the lot standards of *Article 5, Design Standards*
Planned Unit Development (PUD)	Mixed use master planned communities	Density based upon approved PUD
Highway Corridor Overlay (HCO)	Overlay district for major corridors	Density based upon underlying zoning district.

4.1.2 Official Zoning Map

A. **Official Zoning Map.** An Official *Zoning Map* is adopted as a part of this Ordinance. The Official Zoning Map identifies the boundaries of the zoning districts.

B. **Official Zoning Map Amendment.** The Official *Zoning Map* may be amended in accordance with the procedures outlined in *Article 3, Application Process*.

C. **District Boundaries Interpreted.** Where uncertainty exists with respect to the boundaries of the various districts as shown on the Official *Zoning Map*, the Official *Zoning Map* shall be interpreted and construed in accordance with the provisions established in *Article 9, Definitions and Interpretation*.

4.2 Zoning District Provisions

4.2.1 Preserve (PR)

A. **Purpose and Intent.** The PR district is intended to preserve and protect sensitive environmental areas, restrict development that could compromise these areas, and maintain open spaces that provide an ecological and aesthetic value to the community.

B. **Applicability.** The boundaries of the PR district are illustrated on the Official *Zoning Map*.

C. **Allowed Uses.** Uses permitted in the PR district and conditions and standards for those permitted uses are provided in *Section 4.3*.

D. **Density.** Residential uses shall not be permitted in the PR district.

E. **Lot Standards.** All lots shall be subject to the design standards in *Section 5.8*.

F. **Building Standards.** All buildings shall be subject to the design standards in *Section 5.8*.

G. **Open Space Standards.** All sites shall be subject to the open space standards in *Section 5.6*.

4.2.2 Agricultural (AG)

A. **Purpose and Intent.** The AG district is intended to provide for agricultural, forestry, and low-density rural residential uses. The regulations are designed to conserve cultivated, forested, or pastoral land, and to discourage residential development. This district is also intended to provide for supporting uses associated with agricultural activity.

B. **Applicability.** The boundaries of the AG district are illustrated on the Official *Zoning Map*.

C. **Allowed Uses.** Uses permitted in the AG district and conditions and standards for those permitted uses are provided in *Section 4.3*.

D. **Density.** Density shall be limited to a maximum of one dwelling unit per acre.

E. **Lot Standards.** All lots shall be subject to the design standards in *Section 5.8*.

F. **Building Standards.** All buildings shall be subject to the design standards in *Section 5.8*.

G. **Open Space Standards.** All sites shall be subject to the open space standards in *Section 5.6*.

4.2.3 Rural Mixed Use (RMU)

A. **Purpose and Intent.** The RMU district is intended to be located at the intersections of rural crossroads to provide local commerce in a rural context that includes small scale retail, service and other similar business establishments that compliment agricultural uses and/or the natural environment. The regulations are designed to accommodate a mix of low-intensity uses that support this intent and accommodate businesses that primarily meet the needs of residents within the surrounding area and pass-by traffic.

B. **Applicability.** The boundaries of the RMU district are illustrated on the Official *Zoning Map*.

C. **Allowed Uses.** Uses permitted in the RMU district and conditions and standards for those permitted uses are provided in *Section 4.3*.

D. **Density.** Density shall be based upon the designated lot types in the design standards in *Section 5.8*.

E. **Lot Standards.** All lots shall be subject to the design standards in *Section 5.8*.

F. **Building Standards.** All buildings shall be subject to the design standards in *Section 5.8*.

G. **Open Space Standards.** All sites shall be subject to the open space standards in *Section 5.6*.

4.2.4 Residential General (RG)

A. **Purpose and Intent.** The RG district is intended to provide for moderate-density residential neighborhoods. This district will include a range of dwelling types in an integrated neighborhood setting with other civic and recreational uses. The regulations are designed to promote neighborhood character and accommodate a variety of dwelling types.

B. **Applicability.** The boundaries of the RG district are illustrated on the Official *Zoning Map*.

C. **Allowed Uses.** Uses permitted in the RG district and conditions and standards for those permitted uses are provided in *Section 4.3*.

D. **Density.** Density shall be limited to a maximum of four dwelling units per acre.

E. **Lot Standards.** All lots shall be subject to the design standards in *Section 5.8*.

F. **Building Standards.** All buildings shall be subject to the design standards in *Section 5.8*.

G. **Open Space Standards.** All sites shall be subject to the open space standards in *Section 5.6*.

4.2.5 Neighborhood Core (NC)

A. **Purpose and Intent.** The NC district is intended to provide a compact, commercial environment with a mix of complementary and supporting services. The NC district will provide nearby residential areas with convenient access to stores, essential goods and services, and workplaces in close proximity to each other.

A. **Applicability.** The boundaries of the NC district are illustrated on the Official *Zoning Map*.

B. **Allowed Uses.** Uses permitted in the NC district and conditions and standards for those permitted uses are provided in *Section 4.3*.

C. **Density.** Density shall be based upon the designated lot types in the design standards in *Article 5, Design Standards*.

D. **Lot Standards.** All lots shall be subject to the design standards in *Article 5, Design Standards*.

E. **Building Standards.** All buildings shall be subject to the design standards in *Article 5, Design Standards*.

F. **Open Space Standards.** All sites shall be subject to the open space standards in *Section 5.6*.

4.2.6 General Mixed Use (GM)

A. **Purpose and Intent.** The GM district is intended to provide for regional commerce and accommodate large-scale, high intensity, mixed-use development.

B. **Applicability.** The boundaries of the GM district are illustrated on the Official *Zoning Map*.

C. **Allowed Uses.** Uses permitted in the GM district and conditions and standards for those permitted uses are provided in *Section 4.3*.

D. **Density.** Density shall be based upon the designated lot types in the design standards in *Section 5.8*.

E. **Lot Standards.** All lots shall be subject to the design standards in *Section 5.8*.

F. **Building Standards.** All buildings shall be subject to the design standards in *Section 5.8*.

G. **Open Space Standards.** All sites shall be subject to the open space standards in *Section 5.6*.

4.2.7 Light Industrial (LI)

A. **Purpose and Intent.** The LI district is intended to provide locations for light industrial, research and development, assembly, high technology production, precision manufacturing, and similar primary employment uses. This district can be used to integrate a number of mutually supportive uses within the district to create employment centers. The regulations of this district are designed to accommodate primary employment opportunities and support services that cannot readily fit into other mixed-use centers and/or may require special location considerations and buffering due to the nature or intensity of operations. The regulations are designed to prevent or greatly reduce impacts beyond the property lines.

B. **Applicability.** The boundaries of the LI district are illustrated on the Official *Zoning Map*.

C. **Allowed Uses.** Uses permitted in the LI district and conditions and standards for those permitted uses are provided in *Section 4.3*.

D. **Density.** Density shall be based upon the lot types designated in the design standards in *Section 5.8*.

E. **Lot Standards.** All lots shall be subject to the design standards in *Section 5.8*.

F. **Building Standards.** All buildings shall be subject to the design standards in

Section 5.8.

G. **Open Space Standards.** All sites shall be subject to the open space standards in *Section 5.6*.

4.2.8 Riverfront Edge Historic District (RV-HD)

A. **Purpose and Intent.** The RV-HD district forms the fringe of the Old Town Bluffton Historic District along the May River. While almost exclusively residential, civic and park functions are also important to the character within the RV-HD district.

B. **Applicability.** The boundaries of the RV-HD district are illustrated on the Official *Zoning Map*.

C. **Allowed Uses.** Uses permitted in the RV-HD district and conditions and standards for those permitted uses are provided in *Section 4.3*.

D. **Density.** Density shall be based upon the designated building types in the Land Development Regulations in *Section 5.15.5.E*.

E. **Lot Standards.** All lots shall be subject to the design standards in *Section 5.15.5.E*.

F. **Building Standards.** All buildings shall be subject to the design standards in *Section 5.15.5.E*.

G. **Open Space Standards.** All sites shall be subject to the open space standards in *Section 5.6*.

4.2.9 Neighborhood Conservation Historic District (NCV-HD)

A. **Purpose and Intent.** The NCV-HD district is primarily single-family residential character within the Old Town Bluffton Historic District. Although the NCV-HD district is mainly a residential zone, it provides a limited mix of uses, such as civic buildings. The NCV-HD district serves to promote and protect the neighborhood character of Old Town.

B. **Applicability.** The boundaries of NCV-HD district is illustrated on the Official *Zoning Map*.

C. **Allowed Uses.** Uses permitted in the NCV-HD district and conditions and standards for those permitted uses are provided in *Section 4.3*.

D. **Density.** Density shall be based upon the designated building types designated in the design standards in *Section 5.15.5.D*.

E. **Lot Standards.** All lots shall be subject to the design standards in *Section 5.15.5.D*.

F. **Building Standards.** All buildings shall be subject to the design standards in *Section 5.15.5.D*.

G. **Open Space Standards.** All sites shall be subject to the open space standards in *Section 5.6*.

4.2.10 Neighborhood General Historic District (NG-HD)

A. **Purpose and Intent.** The NG-HD district is residential in scale and includes a mixture of residential, non-residential, and civic uses within the Old Town Bluffton Historic District. Residential units are an assortment of single-family homes including bungalows, cottages, village houses, and sideyard houses.

B. **Applicability.** The boundaries of the NG-HD district are illustrated on the Official *Zoning Map*.

C. **Allowed Uses.** Uses permitted in the NG-HD district and conditions and standards for those permitted uses are provided in *Section 4.3*.

D. **Density.** Density shall be based upon the designated building types in the design standards in *Section 5.15.5.C*.

E. **Lot Standards.** All lots shall be subject to the design standards in *Section 5.15.5.C*.

F. **Building Standards.** All buildings shall be subject to the design standards in *Section 5.15.5.C*.

G. **Open Space Standards.** All sites shall be subject to the open space standards in *Section 5.6*.

4.2.11 Neighborhood Center Historic District (NCE-HD)

A. **Purpose and Intent.** The NCE-HD district is the historic center of shops, residences, and workplaces in the Old Town Bluffton Historic District. The zone has been created to protect the historic and eclectic character of the area.

B. The continued reuse of historic structures will help to create a complete mixed-use environment and careful infill development that will respect the existing buildings with regards to building placement, massing and scale. The NCE-HD district is a place where the greatest range of traditional building types are expected and encouraged.

C. **Applicability.** The boundaries of the NCE-HD district are illustrated on the Official *Zoning Map* and include the center of the Old Town Bluffton Historic District.

D. **Allowed Uses.** Uses permitted in the NCE-HD district and conditions and standards for those permitted uses are provided in *Section 4.3*.

E. **Density.** Density shall be based upon the designated building types in the design standards in *Section 5.15.5.B*.

F. **Lot Standards.** All lots shall be subject to the design standards in *Section 5.15.5.B*.

G. **Building Standards.** All buildings shall be subject to the design standards in *Section 5.15.5.B*.

H. **Open Space Standards.** All sites shall be subject to the open space standards in *Section 5.6*.

4.2.12 Neighborhood Core Historic District (NC-HD)

A. **Purpose and Intent.** The NC-HD district is the commercial heart of the Old Town Bluffton Historic District. It is within walking distance of the surrounding, primarily residential areas. It contains a mix of uses and the potential for higher-density buildings. Multi-story buildings are well-suited to accommodate a mix of uses, such as apartments or offices above shops.

B. **Applicability.** The boundaries of NC-HD district are illustrated on the Official *Zoning Map* and include the commercial heart of the Old Town Bluffton Historic District, centered around Bluffton Road and May River/Bruin Road.

C. **Allowed Uses.** Uses permitted in the NC-HD district and conditions and standards for those permitted uses are provided in *Section 4.3*

D. **Density.** Density shall be based upon the designated building types in the design standards in *Section 5.15.5.A*.

E. **Lot Standards.** All lots shall be subject to the design standards in *Section 5.15.5.A*.

F. **Building Standards.** All buildings shall be subject to the design standards in *Section 5.15.5.A*.

G. **Open Space Standards.** All sites shall be subject to the open space standards in *Section 5.6*.

4.2.13 Planned Unit Development (PUD)

A. **Purpose and Intent.** The PUD district is intended to achieve the objectives of the Town of Bluffton *Comprehensive Plan* and to allow flexibility in development than could otherwise be achieved through strict application of this Ordinance and that will result in improved design, character and quality of walkable mixed-use developments and preserve natural and scenic features of open spaces.

B. **Existing PUDs.** The following PUDs have been established in the Town of Bluffton:

1. Belfair
2. Bluffton Village
3. Buckwalter
4. Hidden Lakes
5. Jones Estate
6. Kent Estates
7. MindStream Academy
8. Old Carolina
9. Palmetto Bluff
10. Schultz Tract
11. Southeastern Property
12. Village at Verdier
13. Wellstone

C. **Applicability.** The PUD District is applicable to tracts of at least five acres of land if creation of a single master development will yield greater benefits to the general public than would otherwise occur through more conventional planning and zoning concepts.

D. **Eligibility Criteria.** A PUD must meet the following criteria:

1. **Demonstrated Benefit.** The Town encourages the PUD to provide the following:

   a. Preservation and/or substantial enhancement of significant natural or historic features;

   b. Preservation and/or substantial enhancement, as applicable, of significant usable open space;

   c. Incorporation of a complementary mixture of uses or a variety of housing types;

   d. Inclusion of creative design that allows redevelopment of a nonconforming site, bringing it into closer compliance with the Ordinance; and/or

   e. Economic development through the creation of primary jobs consistent

with the *Comprehensive Plan*.

2. **Public Services.** All PUDs shall be served and/or be able to be served by adequate public services, including, but not limited to, water, sanitary sewer, roads, police, fire, and school services. For developments that have the potential for significant impact on infrastructure and services the applicant shall be required to provide an analysis of the impact on transportation, utilities, and community services.

E. **Allowed Uses.** Land uses for the PUD shall be designated on the associated PUD Concept Plan and/or PUD Master Plan approved by the Town Council. The PUD will be divided into land use areas with the land uses listed as Permitted, Conditional or Special Exception, based on a land use table similar to *Table 4-3*. These land uses shall be incorporated into the ordinance adopting the PUD zoning for the property. Any use different from those in *Table 4-3* or any uses further defined, specified or limited than provided in *Table 4-3* shall be defined in the PUD Concept Plan, PUD Master Plan, and/or Ordinance adopting the PUD zoning for the property.

F. **Affordable/Workforce Housing.** All PUD's shall include a minimum of 10% affordable/workforce housing. For PUD's that include more than 10% affordable/workforce housing a density bonus of two additional market price units shall be allowed for each additional affordable/workforce housing unit. This may be utilized for a density increase of up to 20%. The Town of Bluffton may accept a fee in lieu of including affordable/workforce housing.

G. **Dimensional Requirements.** A table shall be provided that details any and all deviations from the standards in *Article 4, Zoning Districts*, and *Article 5, Design Standards*.

H. **Approved Plan.** No use of the parcel, nor construction, modification, or alteration of any use or structure within a PUD shall be permitted unless such construction or use complies with the terms and conditions of the approved plan. A PUD plan shall be approved subject to the procedures and criteria in *Article 3, Applications*.

I. **Previously Granted Variances, Null and Void.** PUD approval shall supersede any previously granted variances obtained for the property, which shall become null and void.

4.2.14 Highway Corridor Overlay (HCO)

A. **Purpose and Intent.** The HCO district is intended to enhance the quality of development, protect and enhance the area's unique aesthetic Lowcountry character and natural environment, reduce unnecessary visual distractions and to ultimately provide a consistent regional context for architecture, landscaping, and lighting provisions along regional roadway corridors.

B. **Applicability.** The boundaries of the Highway Corridor Overlay District generally encompass all lands located within 500 feet of the right-of-way line or to the rear of the property line fronting the designated highway, whichever is less. The HCO district shall apply to US Highway 278, South Carolina Highway 170, Bluffton Parkway, South Carolina Highway 46, and Burnt Church Road, except as otherwise provided for in applicable Development Agreements and illustrated on the *HCO District Map*.

C. **Design Standards.** All applicable sites shall be subject to the landscape, lighting and architectural standards in *Article 5, Design Standards*.

4.3 Uses by Districts

The use regulations for each district are as follows:

A. **Permitted (P):** Permitted by right subject to general district standards;

B. **Conditional (C):** Permitted subject to specific conditions and specific use standards listed in *Section 4.4*.

C. **Special Exception (SE):** Permitted by special exception through a discretionary review process set forth in *Article 3, Application Process* and subject to the review criteria in *Section 4.4*.

D. **Not Permitted (-):** The use is not permitted in the district.

E. **Use Standard.** A cross-reference to any specific use standard listed in *Section 4.4*. Any use standard shall only apply when the use is listed as either a Conditional (C) or Special Exception (SE) use. Where no cross-reference is shown, no additional use standard applies.

F. **Land Development Regulations.** All uses, whether permitted, conditional, or special exceptions, are subject to the Design Standards in *Article 5, Design Standards*.

G. **Uses Not Listed.**

1. If a particular use is not listed, the UDO Administrator shall select the use listed in *Table 4-3* Uses by District which most closely resembles the proposed use in consideration of factors such as potential impact on property values, nature of use, aesthetics, traffic generated, types of services or goods offered or produced, methods of operation, noise, hours of operation, building or site characteristics and other impacts in terms of health, safety and welfare. Once the use is determined, the proposed use shall comply with any use standards that apply to the similar use.

2. Where the UDO Administrator determines a proposed use is not similar to a use in a particular zoning district, the applicant may petition for a text amendment to this Ordinance as described in *Article 3, Application Process*.

Table 4.3 Uses by District

	Preserve (PR)	Agricultural (AG)	Rural Mixed Use (RMU)	Residential General (RG)	Neighborhood Core (NC)	General Mixed Use (GM)	Light Industrial (LI)	Riverfront Edge Historic District (RV-HD)	Neighborhood Conservation Historic District (NCV-HD)	Neighborhood General Historic District (NG-HD)	Neighborhood Center Historic District (NCE-HD)	Neighborhood Core Historic District (NC-HD)
Residential												
Single-family Detached	-	P	P	P	P	P	P	P	P	P	P	P
Single-family Attached	-	-	P	P	P	P	P	-	-	P	P	P
Multi-Family	-	-	-	-	P	P	P	-	-	-	P	P
Accessory Dwelling Unit	-	C	C	C	C	C	C	C	C	C	C	C
Agriculture/Conservation												
Agricultural Use and Structures	P	P	P	P	P	P	P	P	P	P	P	P
Animal Hospital, Veterinary Clinic, Kennel	-	-	*SE*	-	*SE*	*SE*	*SE*	-	-	-	-	*SE*
Horse Riding School, Horse Training Facility and/or Commercial Stables	-	P	P	-	-	P	P	-	-	-	-	-
Seafood/Shellfish Packaging/ Processing	-	-	-	-	-	*SE*	P	*SE*	-	-	-	-
Commercial Services												
Outdoor Sales	-	C	C	-	C	C	C	-	C	C	C	C
Retail Businesses	-	-	P	-	P	P	P	-	P	P	P	P
Personal Service Establishments	-	-	P	-	P	P	P	-	P	P	P	P
Restaurant	-	-	P	-	P	P	P	-	-	C	P	P
Motor Vehicle Sales and Service	-	-	-	-	-	P	P	-	-	-	-	-
Fueling/Service Station including fuel pumps/ Convenience Store	-	-	C	-	C	P	P	-	-	C	-	C
Car Wash	-	-	C	-	C	P	P	-	-	C	-	C
Tattoo/Body Art Parlor	-	-	-	-	-	P	P	-	-	-	-	-
Adult Oriented Business	-	-	-	-	-	*SE*	*SE*	-	-	-	-	-

Table 4.3 Uses by District

	Preserve (PR)	Agricultural (AG)	Rural Mixed Use (RMU)	Residential General (RG)	Neighborhood Core (NC)	General Mixed Use (GM)	Light Industrial (LI)	Riverfront Edge Historic District (RV-HD)	Neighborhood Conservation Historic District (NCV-HD)	Neighborhood General Historic District (NG-HD)	Neighborhood Center Historic District (NCE-HD)	Neighborhood Core Historic District (NC-HD)
Lodging												
Bed and Breakfast - maximum of 6 guest rooms	-	P	P	P	P	P	-	P	P	P	P	P
Inns - maximum of 12 guest rooms	-	-	P	-	P	P	-	-	C	P	P	P
Hotel (no room limit)	-	-	-	-	-	P	P	-	-	-	-	P
Office												
Home Occupation	-	P	P	P	P	P	P	P	P	P	P	P
Professional Offices	-	-	P	-	P	P	P	-	P	P	P	P
Health/Human Care												
Family Day Care Home (6 or less children)	-	P	P	P	P	P	P	P	P	P	P	P
Group Day Care Home (7 to 12 children)	-	P	P	P	P	P	P	-	-	P	P	P
Child Care Center (13 or more children)	-	P	P	P	P	P	P	-	-	P	P	P
Hospitals	-	-	-	-	-	P	P	-	-	-	-	-
Medical Offices and Clinics	-	-	P	-	P	P	P	-	-	P	P	P
Nursing Homes and Long-term Care	-	P	P	-	P	P	P	-	-	P	P	P
Recreation/Entertainment												
Campgrounds and Recreational Vehicle Parks	P	P	-	-	-	-	-	-	-	-	-	-
Golf Course	-	P	-	P	-	P	P	-	-	-	-	-
Recreation Facility	C	C	C	-	C	C	C	-	-	-	C	C
Theaters and Auditoriums	-	-	-	-	P	P	-	-	-	-	P	P

Table 4.3 Uses by District

	Preserve (PR)	Agricultural (AG)	Rural Mixed Use (RMU)	Residential General (RG)	Neighborhood Core (NC)	General Mixed Use (GM)	Light Industrial (LI)	Riverfront Edge Historic District (RV-HD)	Neighborhood Conservation Historic District (NCV-HD)	Neighborhood General Historic District (NG-HD)	Neighborhood Center Historic District (NCE-HD)	Neighborhood Core Historic District (NC-HD)
Civic/Institutional												
Cemetery	-	P	P	P	P	P	P	-	-	P	P	P
Club, Lodge, Union Hall, or Social Center	-	-	P	-	P	P	P	-	-	P	P	P
Conference or Exhibition Center	-	-	-	-	P	P	P	-	-	-	-	P
Government Building	P	P	P	P	P	P	P	P	P	P	P	P
Parks	P	P	P	P	P	P	P	P	P	P	P	P
Public Parking	-	-	-	-	-	-	-	-	-	-	P	P
Museum	P	P	P	P	P	P	-	P	P	P	P	P
Religious Assembly	-	P	P	P	P	P	P	P	P	P	P	P
School	-	P	P	P	P	P	P	P	P	P	P	P
Utilities	P	P	P	P	P	P	P	P	P	P	P	P
Industrial												
Artisan Workshop	-	P	P	-	P	P	P	-	P	P	P	P
Concrete and Asphalt Plants	-	-	-	-	-	-	*SE*	-	-	-	-	-
Contractor's Office	-	-	C	-	C	C	C	-	-	C	-	-
Junk and Salvage Operations	-	-	-	-	-	-	C	-	-	-	-	-
Light Assembly/Fabrication	-	-	-	-	-	C	P	-	-	-	-	P
Manufacturing	-	-	-	-	-	-	C	-	-	-	-	-
Mini-warehouses or Self-service Storage Facilities	-	-	-	-	-	C	P	-	-	-	-	-
Research and Laboratory	-	C	C	-	P	P	P	-	-	-	P	P
Solid Waste Transfer Facility/ Recycling Center	-	-	-	-	-	-	C	-	-	-	-	-
Telecommunication Towers	-	C	C	C	C	C	C	-	-	-	-	-

Table 4.3 Uses by District

	Preserve (PR)	Agricultural (AG)	Rural Mixed Use (RMU)	Residential General (RG)	Neighborhood Core (NC)	General Mixed Use (GM)	Light Industrial (LI)	Riverfront Edge Historic District (RV-HD)	Neighborhood Conservation Historic District (NCV-HD)	Neighborhood General Historic District (NG-HD)	Neighborhood Center Historic District (NCE-HD)	Neighborhood Core Historic District (NC-HD)
Warehouse or Distribution Operation	-	-	-	-	-	-	P	-	-	-	-	-

4.4 Conditional Use Standards

The Conditional Uses, as listed in Table 4.3 above, do not constitute development as defined herein and thereby do not require a Development Plan Application; however, the UDO Administrator may require a conceptual site plan to ensure compliance with the following Conditional Use Standards:

4.4.1 Residential

A. **Accessory Dwelling Unit**

1. Maximum size of 1,200 heated square feet;
2. Maximum footprint (not including porches) of 800 square feet;
3. Maximum height of two stories or height of the primary structure, whichever is less;
4. Must be an accessory structure;
5. Only one permitted per lot;
6. Must be of same general character as primary structure; and
7. Must be placed in the side or rear yard, no closer to the primary frontage road than the primary structure.

4.4.2 Commercial Services

A. **Outdoor Sales**

1. The following merchandise can be sold:
   a. Agricultural goods,
   b. Seafood, or
   c. Seasonal sales, such as Christmas trees or pumpkins.
2. Sales displays shall be arranged to leave at least five (5) feet of clear walkway for pedestrian circulation and shall not adversely impact vehicular access or circulation or unreasonably reduce parking.

3. Displays shall only be permitted during daylight hours.
4. Lighting of merchandise, signage, or any other element of the outdoor sales area shall not be permitted.
5. No permanent improvements shall be made for the sole purpose of outdoor sales.
6. Tents shall not be used in the Old Town Bluffton Historic District.
7. All merchandise and sales displays shall be located on private property.

B. **Fueling/Service Station, including Fuel Pumps/Convenience Store.**

1. All pumps and any associated fuel canopy shall be set back at least 25 feet or the required setback of the applicable zoning district, whichever is greater, from the right-of-way line of the street;
2. Parking and/or service areas shall be separated from adjoining residential properties by a planting screen, fence or wall at least six feet in height;
3. No open storage of any type, including the overnight storage of vehicles, shall occur in conjunction with the operation.
4. No more than eight pumps (defined as a fueling area for an individual vehicle) shall be permitted.
5. All service bay doors shall not be oriented toward any public right-of-way.

C. **Vehicle Service and Repair Facilities:**

1. All operations shall be conducted within a fully enclosed building.
2. All parts shall be stored within an enclosed building.
3. Any overhead doors to the facility shall not be oriented toward the public right-of-way unless the fulfillment of the requirements orients the overhead doors towards a property with a residential use located on the first floor.
4. Any vehicles stored on the site shall be located within a fully enclosed building or shall be stored behind the front building line, and shall be completely screened from the street and adjoining properties using natural buffers, fencing, buildings, or a combination thereof. Chain link fencing shall not be permitted as a screening material.
5. The setback of structures and vehicular use/storage areas from the property line shall be a minimum of 50 feet.

D. **Motor Vehicle Carwash**

1. Enclosed Building. All washing facilities shall be within a completely enclosed building.
2. Vacuum & Drying Location. Vacuuming and hand towel drying may be located outside the building, but shall not be in the front yard and shall be set back at least 50 feet and completely screened using natural buffers, fencing, buildings, or a combination thereof from any property with a residential use located on the first floor.
3. Stacking Spaces. All cars required to wait for access to the facilities shall be provided stacking spaces fully off the street right-of-way that does not conflict with vehicle maneuvering areas to access gasoline pumps or vacuums. Adequate queuing space shall be provided at the facility exit to

allow cars to be dried prior to entering the street right-of-way, per *Article 5, Design Standards*.

E. **Restaurants**

1. Property must have frontage on SC Highway 46, Bruin Road, or Burnt Church Road.
2. Outdoor seating areas accessory to a restaurant or tavern are permitted subject to the following requirements:
   a. The seating area shall be delineated with railings, ornamental walls or other suitable feature that are a minimum of three feet tall.
   b. Pedestrian circulation and access along the sidewalk and to the building entrance shall not be impaired.
   c. If the property on which the outdoor seating is proposed is adjacent to a residential use there shall not be any outside sound equipment or entertainment.

4.4.3 Lodging

A. **Inns**

1. The principal building shall be the primary and permanent legal residence of the inn operator. Meals or other services provided on the premises shall only be available to residents, employees, and overnight guests of the establishment.
2. Guests shall be restricted to overnight or weekly stays, not exceeding seven consecutive nights, and may stay no longer than 60 days in any one calendar year.
3. Off-street parking areas shall be provided for guests outside of any required front yard. Stacking of more than two vehicles in a driveway is prohibited.
4. Screening shall be provided between adjacent residences and parking areas or any outdoor eating area.
5. The use of exterior stairways to provide primary access to the upper floor shall be prohibited.

4.4.4 Recreation/Entertainment

A. **Recreation Facility**

1. Accessory uses to the Recreation Facility may include, but shall not be limited to refreshment stands, maintenance buildings, small-scale retail (not exceeding 2,500 square feet), offices for management functions, spectator seating and service areas, including locker rooms and rest rooms. Accessory retail or commercial facilities shall be designed to serve only the patrons of the recreation facility.
2. The location, layout, design or operation of recreation facilities shall not impair the continued enjoyment, use, and future orderly development of adjacent and nearby properties.
3. Hours of operation, maintenance, lighting, and irrigation may be restricted by the UDO Administrator to minimize impacts of the use on surrounding properties.

4. No use, structure, or spectator seating facility shall be located within 50 feet of a lot line abutting a property with a residential use located on the first floor and shall be completely screened using natural buffers, fencing, buildings, or a combination thereof from such use or district.

4.4.5 Industrial

A. **Telecommunication Towers**

1. **Maximum Height.** Maximum height, including any tower attachments, shall be as follows:
   a. 125 feet, if two or three collocations are provided.
   b. 200 feet, if four or more collocations are provided.
   c. 20 feet from the roof peak, if mounted on any building.
2. **Lighting.** Lighting shall be as follows:
   a. No general illumination shall be permitted.
   b. All towers 150 feet or taller shall be lighted in accordance with Federal Aviation Administration (FAA) requirements or as required by Beaufort County to conduct vector control operations.
3. **Setbacks.**
   a. The base of any new tower shall be set back no closer to a residential structure than a distance equal to one foot for each one foot in height of the proposed tower, plus an additional 50 feet.
   b. Guy wire anchors, equipment buildings, and other facilities supporting communication towers shall satisfy the minimum setback requirements in the underlying zoning district.
   c. Towers shall be located no closer than 500 feet, plus one foot for each foot of height of the proposed tower, to the OCRM critical line.
4. **Visual Impact Mitigation.**
   a. A 50 foot forested buffer shall be maintained on all sides of the telecommunications tower. If a forested buffer does not exist, the following landscaping shall be installed and maintained:
      (1) A continuous hedge of evergreen shrubs, at least 36 inches high at planting, shall be planted a maximum of five feet apart around the outside perimeter of the security fence around the tower site, except for access driveways. These shrubs shall have an expected height of at least 10 feet at maturity; and
      (2) At least a double row of large shade trees, at a maximum spacing of 50 feet on center, beginning within a 50 foot radius of the tower, and contains a mixture of at least 50% evergreen tree species.
   b. Communication towers shall have either a galvanized steel or neutral color finish unless otherwise required by the Federal Aviation Administration.
   c. Telecommunication towers shall not have a visual impact on any property, road or waterway which has been officially recognized or designated as scenic.

5. **Collocation.** Procedures for collocation of telecommunication towers are as follows:
   a. All telecommunication towers shall provide for at least two sites for collocation.
   b. All applications for telecommunication towers shall provide a collocation study to demonstrate that there is not a suitable alternative collocation site by providing evidence of the following:
      (1) Existing structures located within the geographic area in which the proposed antenna must be located are of insufficient height to meet the technical design requirements;
      (2) Existing structures do not have sufficient structural strength to support the proposed antenna;
      (3) The proposed antenna would cause electromagnetic interference with antennae on existing structures, or antennae on existing structures would cause interference with the proposed antenna; and/or
      (4) The fees, costs, or other contractual provisions required by the owner of the existing structure for collocation or the engineering costs to adapt an existing structure for collocation are unreasonable given current market rates in the region.
   c. If existing telecommunication towers or tall structures are located within two miles of the proposed site, the Applicant will be expected to prove that there is no technologically and structurally suitable space available on the existing structure.
6. **Additional Standards.**
   a. Only monopole structures will be allowed.
   b. No structure shall adversely affect any historic structure or site.
   c. A collapse zone shall be designed so that tower collapse will occur only within the property owned or controlled by an easement.
   d. A sign identifying the tower owner, address, and emergency notification number and other information required by state or federal regulations shall be placed in a conspicuous location. The sign shall be no more than four square feet in area and mounted no more than five feet above the ground, as measured from the adjacent grade to the top of the sign. No commercial signs or advertising shall be placed on communication towers.
   e. When any tower is abandoned for 60 days, it shall be removed by the landowner and the site restored to the condition that existed prior to the development of the tower within six months.
   f. Speculation towers are prohibited.
   g. New towers are strictly prohibited in the Highway Corridor Overlay and in the Old Town Bluffton Historic District.
   h. Communication towers shall be enclosed by security fencing not less than six feet in height. Razor wire shall not be permitted on fences. Access to communication towers shall be through a lockable gate.

7. **Additional Application Materials Required.** In addition to the materials required for a Development Plan Application, the following materials will also be submitted for proposed telecommunication towers:
   a. A map of the geographic area in which the Applicant's antenna must be located to reasonably serve the Applicant's coverage area, showing all existing and approved tower sites and all other structures equal to or greater than 75% of the height of the proposed tower within this area;
   b. A community impact statement and visual impact analysis;
   c. Written documentation that collocation on existing towers or structures in the vicinity of the proposed tower was attempted by the Applicant but found infeasible with reasons explained. This documentation must include verification by a professional engineer that no alternative to the construction of a new tower exists;
   d. Copies of all applicable submissions made by the Applicant to any state or federal regulatory agency relative to the proposed project, including any approvals received at the time of application to the Town;
   e. Elevation drawings showing the height and design of the tower, materials to be used, color, and lighting;
   f. A sealed report from a professional engineer registered in South Carolina that describes the tower height and design and that demonstrates the tower's compliance with the structural requirements of the Standard Building Code and the collocation requirements of this Ordinance. The engineering report shall further certify that the tower will satisfy minimum wind load standards imposed by the American Society of Civil Engineers and shall certify the tower's fall zone;
   g. A notarized affidavit that states the Applicant's willingness to allow collocation on the proposed tower at a fair market rate and in a timely manner to any other service provider licensed by the Federal Communications Commission for the Town of Bluffton market area and that such collocation agreement is assigned to the successors, heirs, and future owners of the tower;

B. **Junk and Salvage Operations**
   1. Salvage yards shall be screened by a solid screening fence or wall that is a minimum 8 feet tall and setback at least 10 feet from the property line. The fence or wall shall be of similar composition, construction and color throughout, and only contain openings for necessary entrances and exits.
   2. Entrances and exits shall be equipped with solid 8 foot high gates which shall be closed at all times except when in use.
   3. Material stored outside of a completely enclosed building shall be stacked or arranged so that no portion of such material is visible from any adjacent property.
   4. All loading and unloading shall be conducted within the enclosed area.
   5. Maximum lot size for a junk and salvage yard use shall be ten acres.

C. **Light Assembly/Fabrication**
   1. Any light assembly or fabrication use shall be conducted completely within

a building, does not involve outside storage, and does not generate noise in excess of the levels allowed by the Town's noise ordinance or glare to the surrounding properties.

D. **Research and Laboratory**

1. Any research or laboratory use shall be conducted completely within a building and not involve outside storage.
2. No impacts or byproducts of the use, including noise, dust, or odor shall be discernible from the property line.

E. **Solid Waste Transfer Facility/Recycling Center**

1. The solid waste transfer facility/recycling center may accept previously sorted non-food items, such as glass, newspaper, cardboard, metal, construction and demolition debris, or other similar materials. Sewage or hazardous substances in quantities considered to be detrimental to the operation of the transfer facility shall not be permitted.
2. All activities and storage shall be conducted within a completely enclosed building. Doors shall remain closed during operations and there shall be no outdoor storage.
3. The entire site shall be fully landscaped, screened, and/or fenced from adjacent properties and public rights-of-way.
4. All areas adjacent to the transfer point, such as the tipping floor, the turning area, and the area supporting the trailer while it is being packed, shall be paved with concrete.
5. Adequate standing and parking facilities shall be provided on the site so that no packers or other collection vehicles at any time stand on a public right-of-way waiting entrance to the site.
6. Publicly owned and/or operated facilities/centers are allowed to collect and sort any non-hazardous waste on-site and outdoors. All outdoor waste or collection bins must be setback a minimum of 40 feet from the property line, of which 25 feet shall be a landscape buffer.

F. **Contractor's Office**

1. Outdoor storage shall be located in the side or rear yard of the lot and setback a minimum of 40 feet from the property line.
2. Outdoor storage areas shall be screened by a solid screening fence or wall a minimum of 6 feet in height.
3. Any stockpiles of soil, fertilizer or similar loosely packaged materials shall be sufficiently covered or contained to prevent dust, erosion, or blowing of materials.
4. The height of all material and equipment stored within 20 feet of the screening wall or fence shall not exceed the height of the screening wall or fence. To the extent possible, material and equipment shall be stored behind a building in a manner the minimizes its view from the street.
5. All loading and truck maneuvering shall be accommodated on-site.

G. **Manufacturing**

1. All storage and operations shall occur indoors, except that limited daily

outdoor operations behind the front building line and at least 50 feet from any property line may occur.

2. No impacts or byproducts of the use, including noise, dust, or odor shall be discernible from the property line.

H. **Mini-Warehouses or Self-Storage Facilities**

1. The use shall be limited to storage only. The premises shall not be used for operating any other business or repairing of any vehicles, except truck rental may be approved as an accessory use.
2. No storage of combustible or flammable liquids, combustible fibers, or explosive materials as defined in the fire prevention code, or toxic materials, shall be permitted within the self-storage buildings or upon the premises.
3. Outdoor storage shall be limited to vehicles, trailers, boats, campers, recreational vehicles, and other motorized or towable equipment and may only be located behind a building.
4. Outdoor storage areas shall be screened by a solid screening fence or wall a minimum of 6 feet in height.

4.5 Special Exception Use Standards

4.5.1. Animal Hospital, Veterinary Clinic, Kennel

A. All structures being used as an animal hospital, veterinary clinic, or kennel shall be no closer than 200 feet to any residential dwelling or zoning district.

B. All kennel arrangements must be maintained within an enclosed building.

4.5.2. Seafood/Shellfish Packaging/Processing

A. There shall be a setback of 150 feet from the perimeter of any residential structure or zoning district.

B. All packaging and/or processing of seafood or shellfish shall be located within an enclosed structure.

C. No impacts or byproducts of the use, including noise, dust, or odor shall be discernible from the property line.

4.5.3. Adult Oriented Business

A. **Intent.** It is recognized that there are some uses which, because of their nature, are recognized as having serious objectionable, operations characteristics, thereby having deleterious effect upon adjacent areas. It is also recognized when several of these uses are concentrated in close proximity, they begin to dominate the character of an area and create a synergy that compounds their deleterious effect on other uses. Special regulations of these uses are therefore necessary to insure that these adverse effects will not contribute to the blighting, deteriorating, and/or down grading of the area and the adjacent areas. It is the purpose of this Section to regulate adult oriented business to promote and protect the health, safety, morals and general welfare of the citizens of the Town and to establish reasonable and uniform regulations to prevent a concentration of adult oriented business within the Town. These regulations are intended to control the negative secondary impacts such businesses have been documented above to have on the surrounding area and the community. The

provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Likewise, it is not the intent of this ordinance to legitimize activities which are prohibited by Town ordinance or State or Federal law.

B. **Classification.** The following uses are considered adult oriented business under this article:

1. Adult arcades; Adult book, novelty, retail or video stores;
2. Adult cabarets;
3. Adult massage parlors;
4. Adult motion picture theaters;
5. Adult motels;
6. Adult theaters;
7. Adult personal service establishment;
8. Adult physical culture establishment;
9. Escort agencies;
10. Nude model studios;
11. Sexual encounter centers; and
12. Any other similar use or business as determined by the UDO Administrator.

C. **Location Requirements.** The establishment of an adult oriented business (whether the use is primary, secondary, or accessory) is prohibited if the use will be within a 500 foot radius of any of the following:

1. Residential property;
2. Day care, child care facility, nursery or preschool;
3. Place of worship or religious institution;
4. Public or private elementary or secondary school or youth activity center; or
5. Public park or public building.
6. Measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the property site boundary of a adult uses to the nearest lot line of the premises of any use listed above.

D. **Separation Requirements.** The establishment of an adult oriented business is prohibited if the use will be within 1000 feet of another adult oriented business. Measurement shall be made in a straight line, without regard to intervening structures or objects, between the closest exterior walls of each business.

E. **Conditions and Operating Requirements for Adult Oriented Business**

1. The building and site shall be designed, constructed and maintained so products and material such as a display, decoration or sign depicting, describing, or relating to specific sexual activities or specified anatomical areas cannot be observed by pedestrians or motorists on a public right-

of-way or from an adjacent property. No exterior door or window on the premises shall be kept open at any time while the business is in operation. The merchandise or activities of the establishment shall not be visible from any point outside the establishment. The exterior portions of the establishment shall not have any signs, words, lettering, photographs, silhouettes, drawings or pictorial representations of any specified anatomical area or sexually explicit activity.

2. The building shall provide sufficient sound absorbing insulation so noise generated inside said premises shall not be audible anywhere on any adjacent property or public right-of-way.
3. The Town may require a wall, fence or other screening device in conjunction with landscaping to provide an appropriate screen in consideration of views from public streets, distance and surrounding land uses.
4. All off-street parking areas shall be illuminated from at least 90 minutes prior to sunset to at least 60 minutes after closing.
5. The hours of operation shall be approved by the Town. No adult oriented business shall be open for business prior to 10:00 a.m., nor after 10:00 p.m. However, employees or other agents, or contractors of the business may be on the premises at other hours for legitimate business purposes such as maintenance, preparation, record keeping, and similar purposes.
6. Signs must be posted on both the exterior and interior walls of the entrances, in a location which is clearly visible to those entering or exiting the business, and using lettering which is at least two inches in height, that: "Persons under the age of 18 years are not permitted to enter the premises."
7. Any adult oriented business that allows customers to remain on the premises while viewing live, filmed or recorded entertainment or while using or consuming the products or services supplied on the premises, shall provide at least one security guard on duty. The Security guard provided will patrol the property and parking areas at all times while the business is in operation.
8. It shall be unlawful for any person to perform in any commercial establishment serving alcohol, to knowingly permit or allow to be performed therein, any of the following acts or conduct the actual or simulated public displaying of specified anatomical areas or the public performance of acts or simulated acts of specified sexual activities or any sexual acts which are prohibited by law.
9. It shall be unlawful to allow any female to appear in a commercial establishment serving alcohol so costumed or dressed that one or both breasts are wholly or substantially exposed to public view.
10. Topless or bottomless or totally uncovered waiter/waitresses, bartenders or barmaids, entertainers including dancers, impersonators, lingerie shows, or any other form for the attraction or entertainment of customers, are strictly prohibited. The prohibition shall also extend to such events similar to wet t-shirt contests, lingerie shows or bikini shows.

4.5.4. Concrete and Asphalt Plants

A. The entire site shall be fully landscaped, screened, and fenced from adjacent properties and public rights-of-way.

B. Storage of loose materials shall be in specified locations and be located at least 50 feet from the edge of the property line.

C. Machinery used for the operation shall be located at least 50 feet from the edge of the property line.

D. The main office should be located to the front of the property.

E. Exterior storage, and work areas shall be located to the rear and/or side of the main building.

F. Parking of mixing trucks and other work trucks/vehicles shall be within the enclosed yard and not be visible from adjacent properties and public rights-of-way.

G. No impacts or byproducts of the use, including noise, dust, or odor shall be discernible from the property line.

Article 5
Design Standards

5

5.1 General

This article identifies the standards and requirements for development and redevelopment to ensure that development and redevelopment is consistent with the Town of Bluffton's goals for building form, physical character, land use, and quality growth as identified in the Town of Bluffton *Comprehensive Plan*.

5.2 Natural Resources: Silviculture

5.2.1 Intent

This Section establishes standards for silviculture and forestry activities in order to protect the environment and forest resources of Bluffton.

5.2.2 Applicability

Unless otherwise stated, this Section applies to all land in the Town of Bluffton that is being used for bonafide silviculture and forestry activities.

5.2.3 Standards

The following standards and regulations apply to any property being used for silviculture and forestry activities:

A. **Perimeter Buffer.** A perimeter buffer of 50 feet shall be maintained around the entire property. The buffer must remain untouched except to allow access into and out of the property.

B. **Forestry Management Plan.** A forestry management plan shall be prepared by a Registered Forester for the property and approved by the Town of Bluffton. The forestry management plan must be followed during all silviculture and forestry activities and include a replanting plan to be carried out within one year of harvesting.

C. **Stormwater.** Stormwater regulations set forth in this article shall be followed to prevent impacts to waterways and adjacent properties.

D. **Bonding.** A bond, as defined in *Article 3, Application Process*, for 150% of the cost to replant the area that is being harvested shall be required.

E. **Trees to Remain.** A minimum of 15 trees per acre shall remain on the property post harvesting, not including the perimeter buffer. No hardwood trees over 12 inches dbh shall be removed from the property.

F. **Clearcutting**. Clearcutting is explicitly prohibited.

5.3 Natural Resources: Tree Conservation, Planting & Landscaping

5.3.1 Intent

This Section establishes standards for the conservation, removal, and mitigation of removed trees as well as the standards for landscaping, in order to protect the environment, provide critical habitat, and preserve the character of the Town of Bluffton. Specifically, conservation focuses on existing groups, stands, and mature trees, as well as the associated shrub and herbaceous understory layers. Further, the intent of this Section is:

A. To preserve and enhance the local, native vegetation in order to maintain Bluffton's Lowcountry character.

B. To protect the canopies of large, mature hardwood trees.

C. To eradicate or control certain exotic and invasive plant species that have negative impacts to native ecosystems.

D. To provide critical habitat for animals and plants throughout the Town of Bluffton.

E. To encourage efficient usage of water with native landscaping and reduce the usage of potable water for irrigation.

F. To recognize that stormwater management can be assisted by the use of vegetation for natural water and nutrient uptake.

G. To treat all sites equitably for the purpose of protecting and replanting trees and maintaining adequate tree coverage consistent with the character of the area.

5.3.2 Applicability

Unless otherwise stated, this Ordinance applies to all land in the Town of Bluffton.

5.3.3 Tree Conservation

A. **Protected Tree Designations:** No person shall cut, destroy, cause to be destroyed, move or remove a protected tree without first obtaining an approval as required by Article 3, Application Process.

1. Protected Trees: A protected tree is defined as all trees, including significant trees, that are 8 inches in Diameter at Breast Height ("DBH") or greater and all American holly, dogwood, redbud, southern magnolia, and red buckeye trees that are 4 inches in DBH or greater.
2. Significant Trees: A significant tree is defined as all trees that are 24 inches in DBH or greater, any tree listed on America's Historic Tree Register maintained by American Forests, and all trees, regardless of size, that are located within regulated wetland buffers.

B. **Tree Marking:** Prior to any removal or commencement of construction on a site, a red ribbon shall be used to identify trees to be removed.

C. **Tree Conservation During Site Planning:** During the site planning for any property, consideration shall be given to the existing tree canopy and every reasonable effort made to maximize the preservation of the existing canopy. No significant tree will be permitted to be removed until reviewed and approved by the Development Review Committee (the "DRC"). If the DRC determines that an Applicant has not met the intent of the following criteria, the removal shall require approval of the Planning Commission.

Review Criteria

1. It is difficult or impossible to reasonably use the property without the removal of the tree.
2. Roads, parking areas, drive aisles, paths and other site features have been designed around the canopies of the protected trees to the greatest extent possible.
3. The removal allows the preservation of other, healthier hardwood trees on the property.
4. Adjustments to the site plan cannot be made to save the tree without losing

lots or floor area.

5. The tree is not located within a required setback or buffer area.
6. The tree is not listed on America's Historic Tree Register maintained by American Forests.

D. **Tree Conservation During Construction:** The following standards shall apply to all trees, natural areas, and/or buffers that are to be preserved during development in the Town of Bluffton, unless specifically exempted under this Section:

1. Tree Protection Zone (TPZ): Each tree or group of trees to be retained shall have a designated TPZ around the drip line of the tree(s). The UDO Administrator has the authority to modify the TPZ based on site-specific conditions that warrant a modification, which can include increasing the TPZ area.
2. Tree Protection Fencing: Tree protection fencing shall consist of 4 to 6 feet high orange laminated plastic or chain link fence and be mounted on sturdy posts (wooden or metal) spaced no more than 10 feet apart. Tree protection fencing shall be erected before demolition, grading, or construction begins and remain in place until final inspection and approval of the project by the UDO Administrator. Tree protection signage shall be placed no more than 40 feet apart stating "Warning- Tree Protection Zone- No activity is to occur within this area." The UDO Administrator may approve alternative methods for delineating tree protection zones.
3. Any damage to preserved trees during construction shall be mitigated using industry accepted standards for limb pruning, root pruning, wound cleaning, watering, fertilizing, and any other applicable mitigation needed. Any damage that is determined to be lethal to preserved trees shall cause the tree to be removed and replaced in accordance with the requirements in this Section.

E. **Tree Conservation Post Construction:** Any tree required to be preserved or required to be planted as a result of the requirements of this article, shall not be removed or caused to be removed unless the tree(s) are replaced in accordance with the requirements of this Section.

F. **Replacement of Protected Trees:** The following standards shall establish the tree replacement requirements for the removal of certain trees:

1. Silviculture Pines: The Town of Bluffton encourages the replacement of planted pines with desirable hardwood trees. Mitigation for the removal of planted pines will not be required; however, all sites must conform to the minimum landscaping requirements defined in this article.
2. Invasive and Undesirable Species: The Town of Bluffton encourages the replacement of invasive species as defined by United States Forest Service or Clemson University, water oaks, and sweetgums with desirable hardwood trees. Mitigation for the removal of these trees shall be on a 1 tree replacement per 1 tree removal basis provided that the mature canopy of the replacement tree is at least equal to the mature canopy of tree removed.
3. Required Trees: The removal of any tree that was planted to meet the requirements of this Ordinance shall be replaced on a 1 tree replacement

per 1 tree removal basis provided that the mature canopy of the replacement tree is at least equal to the mature canopy of tree removed.

4. All Other Trees: Unless otherwise noted in this Section, the removal of any protected tree shall be replaced. All replacement trees shall be at least 12 feet tall and have a trunk diameter of not less than 2.5 inches when planted. The replacement of all approved significant trees shall have a trunk diameter of not less than 6 inches. The trunk diameter, also known as trunk caliper, shall be measured at 6 inches above ground. The UDO Administrator has the authority to accept smaller mitigation trees if the size, shape or topography of the site or the location of utilities unreasonably restricts access to the property or the ability to plant larger caliper replacement trees.

G. **Maximum Replacement of Removed Trees.** The amount of trees required to be planted on-site in order to meet replacement of removed trees requirements shall be limited to the number of trees necessary to provide 75 percent lot coverage with tree canopy measured as the mature canopy, not including rooftops. If all of the removed trees are not required to be mitigated, based on the remaining canopy coverage, the 6 inch caliper replacement trees shall be installed before satisfying the requirement with 2.5 inch caliper replacement trees.

H. **Exceptions to Tree Replacement Requirements.** The regulations contained in this Section shall apply differently to the following activities:

1. Schools and Public Parks. The removal of trees on property to be used for the purpose of providing active recreation requiring open areas for schools and public parks shall be exempt from this Section. Any other area of a school or public park site not considered active recreation requiring open area shall meet the requirements of this Section.
2. Wetlands Mitigation: The mitigation of wetlands pursuant to a development order or approved plan from, and meeting the requirements of, the South Carolina DHEC-OCRM or the United States Army Corps of Engineers shall be exempt from the provisions of this Ordinance, except for the mitigation requirements listed herein.
3. Commercial Operations: All commercial nursery, botanical garden, and tree farm operations shall be exempt from the provisions of this Section, but only as to those trees which were planted for display or sale in the ordinary course of business.
4. Agricultural Exemption: Any bona fide agricultural use being conducted on land that is eligible for, and actually used for agricultural operations, and written application has been approved by the Beaufort County Assessor for the special assessment for agricultural use for the property in question shall be exempt from this Section, provided that an undisturbed 50 feet wide vegetated perimeter buffer is maintained.
5. Utilities: Utility companies, electric suppliers and governmental agencies constructing or maintaining within easements or rights-of-way for water, sewer, electricity, gas, drainage, telephone, television, or other utilities shall be exempt from the provisions of this Ordinance if the applicable company, supplier, or agency has executed an Agreement with the Town which at a minimum:

a. Recognizes the need to minimize the cutting or trimming of vegetation that does not frustrate or substantially interfere with the intended purpose of construction or maintenance;

b. Establishes, to the extent feasible, design guidelines for construction and maintenance that identifies the saving of protected trees as a factor to be considered in the design process;

c. Requires a consultation process with the Town prior to the commencement of major construction or maintenance or the removal of protected trees; and

d. Provides that a breach of such Agreement constitutes a violation of this Ordinance and a loss of exemption from the requirements of this Ordinance.

5.3.4 General Tree & Landscape Material Standards

A. Native and regionally appropriate plant species are required. Invasive species, as identified by the United States Forest Service or Clemson University are prohibited from being planted in the Town of Bluffton. Further, the Town of Bluffton encourages the replacement of invasive species with desirable hardwood species.

B. All plant and tree material shall meet the American Standard for Nursery Stock standards that are published by and available from the American Association of Nurserymen.

C. Tree and landscape materials selected for planting must be free from injury, pests, disease, nutritional disorders or root defects, and must be of good vigor in order to assure a reasonable expectation of survivability.

D. Large and Medium Canopy Tree species shall be a minimum of 12 feet in height and have a caliper of at least 2.5 inches at time of planting.

E. Small Canopy Tree species shall be a minimum of 5 feet in height and have a caliper of at least 1.5 inches at time of planting.

F. Shrubs shall be a minimum of 18 inches in height and width at time of planting.

G. At least 80% of all tree plantings must be hardwoods.

H. In order to promote diversity, a variety of plant species are encouraged.

5.3.5 General Tree & Landscape Installation Standards

A. Tree and landscape materials shall be installed according to standards established by the American National Standards Institute (ANSI).

B. Root barriers shall be installed within tree lawns less than 7 feet between the back of curb and the sidewalk to prevent root penetration and destruction of infrastructure.

C. Structural soil shall be installed in and around all tree wells to provide adequate underground volume for root growth. The structural soil should tie into adjacent landscaped areas to provide tree roots access to open soil.

D. Large and medium trees shall not be planted underneath or directly adjacent to overhead powerlines.

5.3.6 General Tree & Landscape Maintenance Standards

A. All plant material shall be maintained in good condition at all times in accordance with standards established by ANSI. All plantings that die or are destroyed must be replaced, during the next suitable planting season.

B. Attaching lights, signage, fence rails, and any other items to trees that may result in damage to the tree is strictly prohibited.

C. Consistent with the purposes of this Article, all persons shall make reasonable efforts to preserve and retain any existing, self-supporting plants, whether such plants are trees or flora which are part of the understory, shrub layer.

D. Underbrushing (the removal of understory vegetation) from undeveloped property shall not occur unless approved by the UDO Administrator.

E. Routine and seasonal pruning of protected trees is permitted provided that it is done in accordance with the guidelines of ANSI A300 Pruning. As stated in ANSI A300, topping and lion's tailing shall be considered unacceptable pruning practices. Removing more than 25 percent of the leaf surface within an annual growing season is also unacceptable and shall be considered tree removal, which would require a tree removal permit. The use of climbing spurs on trees that are not being removed is prohibited, with the exception of the seasonal pruning of sabal palmettos.

F. Maintenance in required buffer areas shall be limited to the removal of invasive species, as defined by United States Forest Service or Clemson University, and seasonal pruning. No tree branches larger than 4 inches in diameter shall be removed without approval by the UDO Administrator. Seasonal pruning shall be limited to what is necessary to insure the health of the plants and not compromise the intent of the buffer.

5.3.7 Specific Landscaping Standards

A. **Street Trees**

1. All roadways on which development is proposed shall include large canopy street trees that are planted no greater than 50 feet apart.

B. **Buffers**

1. **Purpose and Function**
   a. The function of buffer areas is to provide attractive visual and spatial separation between adjacent land uses and public streets.
   b. The purpose of buffer areas is to soften potentially incompatible land uses and associated development from adjacent properties and public streets.

2. **Required Buffers**
   a. **Adjacent Use Buffers.** The UDO Administrator may require landscape buffers to mitigate the adverse impacts of incompatible land uses. When required, the landscape buffer width shall not be less than half the maximum side and/or rear setback requirement and no more than 50 feet. The buffer shall consist of multi-layered vertical and horizontal plantings in order to achieve a consistent and dense visual buffer.
   b. **Adjacent Street Buffers.** For those lots fronting US Highway 278, South Carolina Highway 170, Buckwalter Parkway, Bluffton Parkway, South Carolina Highway 46, and Burnt Church Road, except properties located

within the Old Town Bluffton Historic District, a minimum 50 feet wide landscaped buffer shall be established from the road right-of-way. While the buffer is not intended to provide complete screening, sufficient plant material shall be retained and installed to accomplish the intent of this Section.

c. **Wetland Buffers.** For applications of buffers from regulated wetlands, refer to the Natural Resources: Wetlands Section of this Article.

3. **Buffer Design Standards**

a. **Undisturbed.** Other than what is permitted in this Section, buffer areas shall be left undisturbed.

b. **Vegetation Removal.** If understory planting is required, the UDO Administrator may allow existing vegetation to be limbed-up from the ground to a height that will provide adequate sunlight for the new plantings. Such height would typically not exceed five feet from the ground to the lowest branches; however, additional height may be permitted at street intersections for sight triangles. If the existing buffer area contains invasive species, the invasive species shall be removed and replaced with native buffer vegetation. The UDO Administrator may permit the removal of silviculture pines in order to provide adequate spacing for existing and supplemental hardwood trees.

c. **Plant Material.** In order to meet the purpose and function of these standards, the buffer may need to be enhanced in order to soften the visual impact of the structures from public view and from adjacent property (or created where such vegetation is insufficient or nonexistent) with trees and shrubs of a variety or species appropriate to the area. If the buffer already has trees of protected sizes and groupings of native shrubs, their preservation is required

d. **Utilities.** Electrical, telephone, gas, water, sanitary sewer, storm drainage and other utilities may be constructed to pass through or across the required buffer area, provided they are approximately perpendicular to the right-of-way or adjacent property line. If installed approximately parallel, an equal amount of buffer may be required to substitute for the area of vegetation removal.

e. **Multi-layered.** Plant material shall be designed and maintained in a staggered or undulating manner to create a more natural looking area.

f. **Lagoons and Drainage Swales**. Where existing or created lagoons and drainage swales will occupy a substantial portion of the buffer, additional buffer depth may be required to achieve the intent of this Section.

g. **Minimum Height.** The minimum height of new shrubs used to create the buffer shall be at least 36 inches in height at the time of installation.

h. **Structural Elements.** Structural elements, such as fences or privacy walls no taller than six feet in height, berms or other elements approved by the UDO Administrator may be required depending on adjacent land uses. When fences or privacy walls are used as structural elements, adequate distance shall be maintained between the structure and the property line for plant material in order to create a softening effect on the structure.

i. **Other Activities.** The following activities are also permitted within required buffer areas.

(1) Street and driveway accesses, provided they are installed approximately perpendicular to the right-of-way or property line;

(2) Foot and bicycle paths;

(3) Approved signage;

(4) Bus shelters; and

(5) Landscaping sculptures, lighting fixtures, trellises, pedestrian amenities and arbors.

4. **Review of Installed Buffer**

a. One year after a Certificate of Compliance has been issued, the buffer shall be reviewed to determine its adequacy in regard to the softening and screening required above. Where insufficient plant materials were originally installed, plant materials have died, or the buffer is otherwise deemed to be inadequate, the landowner shall remedy the problems within 30 days of written notice of said inadequacy.

C. **Parking and Loading Area Landscaping**

1. All parking and loading areas that are visible from the public right-of-way shall be buffered to minimize the visual impact of parked vehicles by landscaped areas that include a mixture of trees and shrubs.

2. The following landscaping requirements shall apply for parking lots:

a. Shrubs and trees shall be installed in all parking lot medians to provide for semi-continuous plantings.

b. Each landscape island shall contain 1 large canopy tree.

D. **Lot Landscaping**

1. All lots, except active recreation areas requiring open area that are part of a school or public park, shall contain sufficient landscaping, either existing or planted, to have a minimum of 75 percent lot coverage with tree canopy measured as the mature canopy, not including building rooftops.

2. All permeable ground surfaces of lots in environments altered from their natural, predevelopment state and not provided for circulation of vehicles, bicycles or pedestrians shall be planted with vegetation or otherwise landscaped.

E. **Foundation Plantings**

1. Except when a build-to line or minimum setback identified in this Ordinance makes the provision of foundation plantings impractical, a foundation planting area at least 8 feet wide shall be maintained around all structures. The foundation planting shall incorporate a mixture of trees, shrubs, and ground covers in order to soften the building façade. Foundation plantings shall not be required along any building elevation or portion thereof that contains only service and/or delivery area that are not visible from any roadway.

2. Foundation planting(s), as described above, shall only be provided along the

front yard elevation(s) for single-family detached residential uses.

5.3.8 Fee In Lieu of Tree Replacement and/or Specific Landscaping

If it is determined that the required tree conservation and/or specific landscaping standards provisions of this Section will have an adverse impact on the intended use for a particular property, the Town Council may authorize the Applicant to pay a fee in lieu of planting to the Town of Bluffton Tree Fund. The fee per tree is based on the current market rate for the purchase, installation, and 1 year maintenance.

5.4 Natural Resources: Wetlands

No provisions of this Ordinance shall be construed to relieve the Applicant or Property Owner from the requirement to obtain permits from the United States Army Corps of Engineers and/or the State of South Carolina, as applicable, prior to the commencement of any land disturbance activity within the boundaries of a wetland or wetland buffer.

5.5 Natural Resources: River Buffer

5.5.1 Intent

The intent of this Section is to promote sustainable watersheds including nonpoint source pollution reduction measures that protect and restore water quality by:

A. Providing for the removal or reduction of sediments, nutrients, and potentially harmful or toxic substances in runoff entering the natural waterways in and around Bluffton;

B. Minimizing erosion and stabilize stream, cove, and river banks and shorelines;

C. Providing a habitat for flora and fauna along waterways; and

D. Protecting the aesthetic character of the waterways and shorelines in and around Bluffton.

5.5.2 Applicability

This Section shall apply to all building, development, redevelopment, and site alteration on any land within 100 feet from the South Carolina Office of Ocean and Coastal Resource Management (OCRM) Critical Line adjacent to tidal wetlands and waterways in and around the Town of Bluffton. This area shall not exceed 40% of the area of the lot provided that no disturbance is closer than 25 feet to the OCRM Critical line, unless expressly permitted in Section 5.5.3

5.5.3 Standards

A. All vegetation, ground cover, understory trees and shrubs, and overstory trees shall be retained throughout the entire buffer. Removal of the existing vegetation shall only occur to accommodate the following:

1. To accommodate views, one-third of the total buffer zone area can be selectively trimmed and landscaped to provide a view between a height of 2 feet and 10 feet measured from the adjacent grade, provided that no more than a maximum contiguous area measuring 75 feet in a horizontal distance parallel to the Critical Line is selectively trimmed and landscaped at any one location, separated by a matching undisturbed buffer. Selective landscaping shall include native understory and groundcover plantings that do not require chemical treatment for survival or maintenance;

2. In addition to the standards in this Section, Tree Conservation, Landscaping and Buffers, and other applicable portions of this article shall apply.

B. Provided that the minimum land area required to serve the purpose is used, no development is permitted in the buffer with the exception of the following uses.

1. Pedestrian and/or vehicular access ways leading to docks, fishing piers, boat landings, other access way, or other approved water/marsh uses, provided that only permeable (excluding bare ground) or semi-permeable paving materials (such as open lattice block pavers) are used;
2. Docks, fishing piers, boat landings, or other approved water/marsh uses that by design must tie into the high ground adjacent to the marsh/water;
3. Flood control devices (from rising waters or tidal surge), erosion control devices, and other activities related to soil and water conservation;
4. Utility lines, including irrigation, which must cross the buffer shall be buried and any disturbed area shall be replanted with vegetation. In such a case, utility lines must be placed approximately perpendicular to the line of the buffer. If the installation of utility lines have a significant adverse impact to the buffer, additional buffer and plantings may be required to mitigate the impacts; and
5. Roads leading to bridges or causeways that cross the waterway provided the roads are configured to minimize disturbance into and within the buffer, and provided all shoulders are vegetated.

C. Docks, Piers, Boat Landings. In order to limit the impacts to the Town of Bluffton waterways, shared multiple user docks are encouraged over single user docks.

1. Docks (other than public docks) must originate from property that has at least 75 feet of water frontage. Lots with less than this required frontage may be eligible to share a dock with an adjacent property.
2. There may be no habitable structures located on the dock, fishing pier, boat landing, or elsewhere upon waters in the Town of Bluffton limits. Only open shelters and limited storage (e.g., for water skis, anchors, fishing equipment) are permitted.

D. Utility lines which must cross the water/marsh to serve facilities on the opposite side of the water/marsh shall be submerged below the surface or buried underground. In such a case, utility lines must be placed in a configuration that minimizes impact and potential hazards.

5.6 Open Space

5.6.1 Intent

The intent of this Section is to define and require open space types that are appropriate within a range of contexts. A variety of open space types shall be distributed throughout the Town of Bluffton.

5.6.2 Applicability

This Section applies to all development and redevelopment within the Town of Bluffton.

5.6.3 Open Space Requirement – All Development

For any development or redevelopment activities, regardless of the use, a minimum of twenty percent (20%) of the gross acreage shall be specifically identified and developed

or preserved as open space.

5.6.4 Open Space Requirement – Residential Development

In addition to other open space requirements of this Section, for any development or redevelopment activities including a residential use, a minimum of ten percent (10%) of the gross residential use acreage shall be specifically identified and developed to use as common open space and accessible to the residents or general public through deed restrictions, covenants, public dedication, or other method acceptable to the UDO Administrator.

5.6.5 Types of Land Included

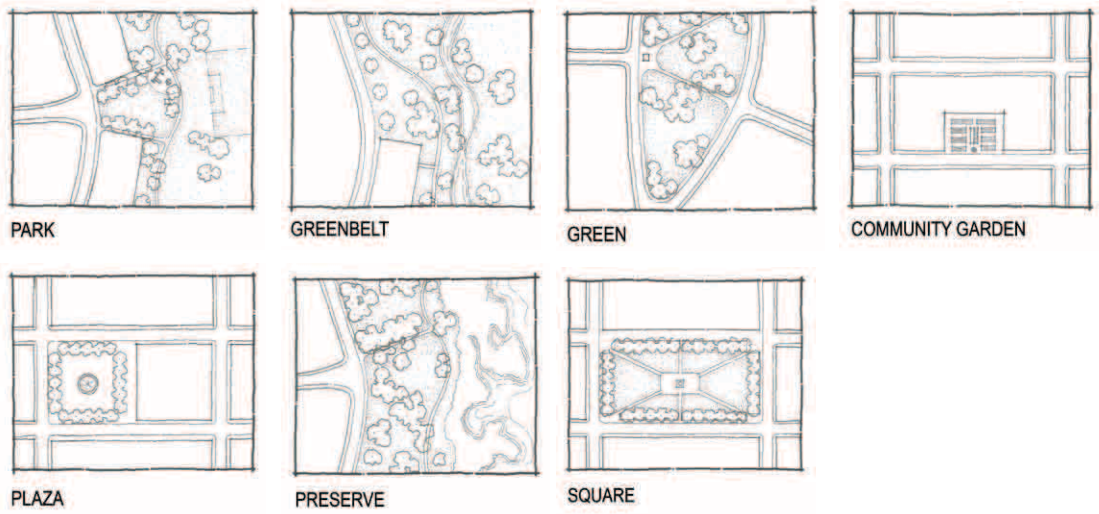
In order to fulfill the intent of this Section, the UDO Administrator may specify the type open space land to be provided. Otherwise, lands included as open space may include the following:

A. The following uses and combination thereof are permitted in the designated greenway / open space areas.
   1. Active recreation areas such as playfields or tennis courts;
   2. Central greens, neighborhood squares, plazas or commons;
   3. Community parks;
   4. Conservation of open land in its natural state;
   5. Greenbelts; and
   6. Stormwater detention areas designed and available for use as an integral part of the greenway trails and footpaths.

B. For development and redevelopment activities incorporate a residential use, the total open space required to be useable to and accessible by the residents and/or the general public shall balance active and passive areas. The type of open space to be provided in order to fulfill the intent of this Section shall include any of the following open space types and shall be designed in accordance with the following:
   1. Green: Green means an open space available for unstructured recreation, its landscaping consisting of grassy areas and trees. A green should be designed for passive and unstructured active recreation. Improvements to the green may consist of paths, benches, landscaping, and other improvements.
   2. Greenbelt: Greenbelt means a series of connected open spaces that follow natural features such as ravines, creeks or streams. A greenbelt is usually a combination of natural vegetation and landscaped or regularly maintained areas. Ideally, a greenbelt will provide pedestrian and bicycle connections to other open spaces in a larger open space system or to destinations such as schools, libraries, and neighborhood commercial areas. If access to a greenbelt is not continuous, then frequent access points should be provided as described in the following sections. Greenbelt width requirements are intended to promote a sense of openness and avoid a sense of enclosure.
   3. Park: Park means an open space, available for recreation, with landscape consisting of paths and trails, open lawn, trees, open shelters, or recreational facilities. Facilities may range from simple picnic tables, benches, or a

playground in a small park, to a recreation center, swimming pool, or sport field in a larger park. Other facilities may include playgrounds, shelters, sport courts, drinking fountains, parking lots, or restrooms. Park grounds are usually grassy and maintained on a regular basis for recreational activity, but may include some natural or formally landscaped areas.

4. Plaza: Plaza means open space usually at the intersection of important streets, set aside for civic purposes and commercial activity, including



parking, its landscape consisting of durable pavement and formal tree plantings. Civic or private buildings usually border a Plaza. Plazas may range from very active places with adjacent complimentary uses such as restaurants and cafes, to quiet areas with only seating, formal landscape plantings, and amenities such as fountains or public art.

5. Preserve: Preserve means open space that preserves or protects endangered species, a critical environmental feature, or other natural feature. Access to a preserve may be controlled to limit impacts on the environment. Development of the preserve is generally limited to trails, educational signs, and similar improvements.

6. Square: Square means open space that may encompass an entire block, is located at the intersection of important streets, and is set aside for civic purposes, with landscape consisting of paved walks, lawns, trees, and civic buildings. Streets border a square and may have major civic uses located on or adjacent to the square. The square is intended as a central place for the community and should accommodate a wide variety of formal and informal gatherings.

7. Community Gardens: Community gardens are groupings of garden plots that are available to nearby residents for small-scale cultivation. Such gardens may be provided as a component of other publicly accessible open spaces and/or civic uses, or may be provided as freestanding open spaces.

C. Required open space shall be reasonably accessible from all parts of the development, especially by pathways. Wherever feasible, the common open space shall connect into existing town parks, recreation, or conservation lands, historic sites, or lands proposed for park, recreation, or conservation in the

Comprehensive Plan, or lands in adjacent developments that are set aside, or proposed to be set aside, for common open space.

5.6.6 Ownership and Maintenance

A. **Maintenance.** Open space areas shall be maintained so that their use and enjoyment as open space is not diminished or destroyed. Common open space areas shall be owned permanently, preserved and maintained by any of the following mechanisms, combinations thereof, or alternative mechanisms approved by the UDO Administrator:

1. Dedication of common open space to an appropriate public agency, if there is a public agency willing to accept the dedication;
2. Common ownership of the open space by a Property Owner's or Home Owner's Association or a similar entity; and/or
3. Deed-restricted private ownership, which shall prevent development and/or subsequent subdivision of the common open space land and provide for the maintenance responsibility.

B. **Organization Responsible**

1. Such organization shall not be dissolved and shall not dispose of any open space, by sale or otherwise, except to an organization conceived and established to own and maintain the common open space for the benefit of such development, and thereafter such organization shall not be dissolved or dispose of any of its common open space.
2. The organization established to own and maintain common open space, or any successor organization, shall maintain the common open space in reasonable order and condition and in accordance with reasonable health, safety, and welfare standards.

5.7 Lot and Block Patterns

5.7.1 Intent

This Section promotes and enables the subdivision of land in a manner that permits more open space to be preserved. The standards also provide and protect more open, undeveloped land than would exist otherwise to absorb and filter rain water, reduce flooding and stormwater drainage needs, and lower the amount of pollution entering the streams and rivers.

5.7.2 Applicability

These standards are applicable to the subdivision and/or development of land within the Town of Bluffton.

5.7.3 Block and Roadway Layout & Design.

The layout, design, and construction of proposed roadways shall comply with the requirements of this article, the *Comprehensive Plan*, and any adopted Town specifications.

A. **Roadway alignment plan.**

1. When applicable, each street shall generally conform in alignment with that shown or indicated on the *Comprehensive Plan* or any standards adopted in compliance with the *Comprehensive Plan*.

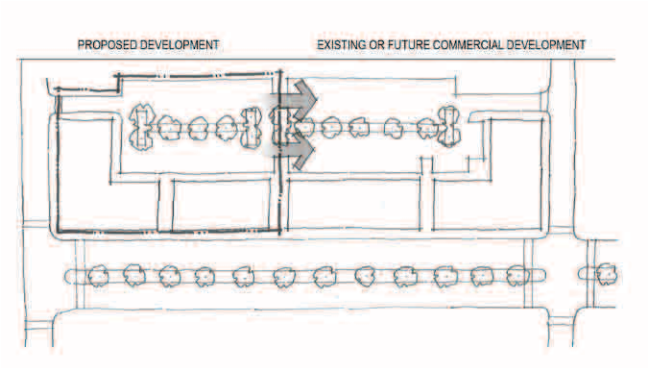
2. All subdivisions shall make dedications of necessary easements and rights-of-way and construct the improvements necessary to support the development of the subdivided land.

B. **Development access.**

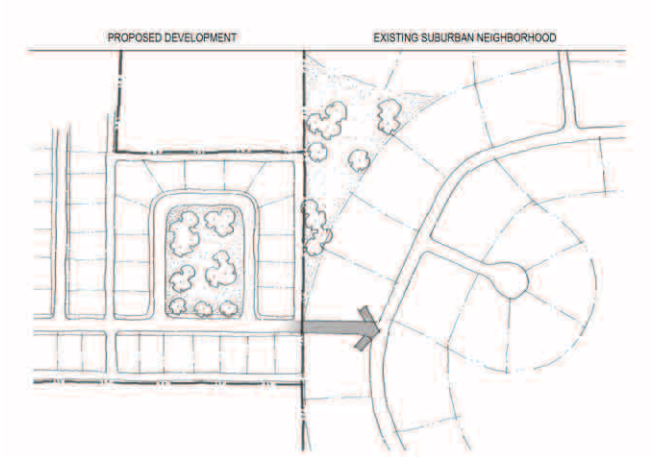
1. Unless it is determined by the UDO Administrator that secondary access is not feasible due to physical limitations, any development and each of its phases, if applicable, shall have a minimum of two points of vehicular ingress and egress from existing and surrounding streets. Temporary stub streets, designed in accordance with this article, connecting to a future phase of the subdivision may be permitted by the UDO Administrator.
2. In developments of land consisting of less than 10 residential lots this requirement may be waived or modified by the UDO Administrator.

C. **Connectivity**

1. Interconnected roadways. Roadways proposed within a new development shall be interconnected and shall connect with adjacent, external streets, to provide multiple routes for pedestrian and vehicle trips from, to, and



COMMERCIAL CONNECTIVITY



RESIDENTIAL CONNECTIVITY

within the development. Where a street connection is not practical, a non-motorized connection should be provided or planned at regular intervals.

2. Roadway extensions and stub roads.
   a. Where the development adjoins undeveloped property, roadways shall be extended to the adjacent property to provide access to the undeveloped property, as follows:
      (1) The stub road shall be constructed to the edge of the property without any restrictions or prohibitions preventing future extension of the stub road onto adjacent property.
      (2) In the case of stub roads extending to the boundary of the property, one stub road shall be required for every 1,500 feet of property perimeter where the property perimeter is not fronting an existing street. The UDO Administrator may waive this standard when connections are infeasible due to adjacent land uses, natural features,

topography, manmade features, or other physical factors.

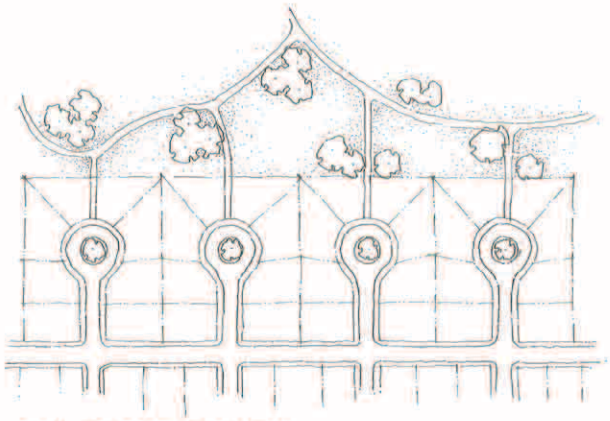
(3) Where required by the UDO Administrator, a temporary connection to another roadway or a temporary turnaround shall be provided.

b. Where the development abuts protected, undeveloped property that will remain undeveloped, a stub road may not be required; however, access for non-motorized transportation may be required by the UDO Administrator.

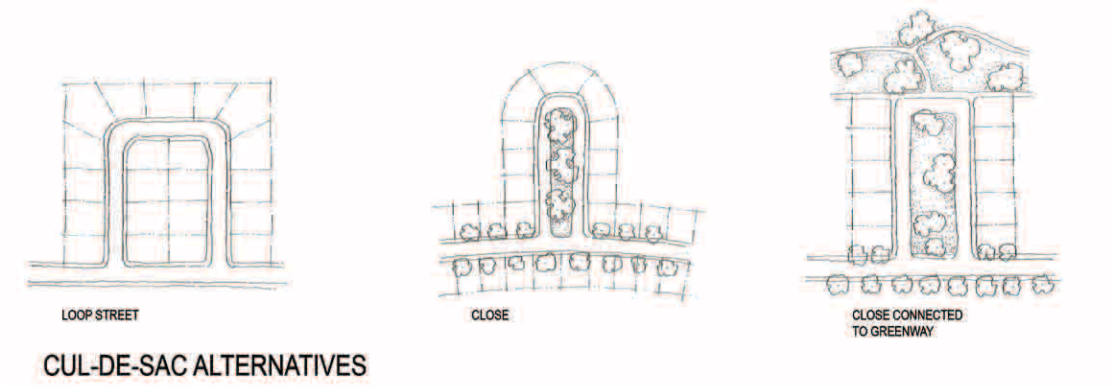
3. Dead-end Roadways.
   a. Subdivision design shall not include dead-end roadways except where through streets cannot be provided because of existing development or an environmental feature requiring protection and/or preservation (e.g., a creek channel).
   b. The length of a dead-end roadway shall not exceed 750 feet, as measured from the center of the closest intersection to the center of the cul-de-sac bulb or other approved turnaround.
   c. Dead-end roadways shall provide a suitable turnaround designed to the satisfaction of the UDO Administrator.
   d. The length of a dead-end roadway shall not exceed 150 feet as measured from the face of curb or edge of pavement when no curb is present without the provision of a turnaround unless otherwise warranted for emergency access.

D. **Cul-De-Sacs.**

1. Cul-de-sacs shall only be permitted where all other street design alternatives, such as loop street or close street designs, are not feasible and one of the following two conditions exists:
   a. Where natural features such as wetlands exist.
   b. Where connection to an existing or planned street is blocked by an existing permanent structure or a protected open space area.
2. Cul-de-sacs shall include pedestrian connections to abutting streets wherever practicable.



CUL-DE-SAC DESIGN



5.7.4 Lot Layout and Design.

The arrangement, shape, and size of proposed parcels shall comply with this Section, and with any other provisions that apply to proposed subdivisions.

A. **Lot design standards.**

1. Buildable lots. Each proposed lot shall be determined by the review authority to be "buildable" because it contains at least one building site that can accommodate a structure in compliance with all applicable provisions of this Ordinance.
2. Islands and Strips of Land. No subdivision shall be approved which leaves unsubdivided islands, strips or parcels, or property unsuitable for subdividing, which is not either accepted by the Town of Bluffton or other appropriate entity for public use, or maintained as dedicated common area within the development.
3. Lot line orientation. Side lot lines shall be generally at right angles to the street on straight streets and shall be radial on curved streets.
4. Lot configuration. The layout of proposed lots and roadways shall be designed to use land efficiently and minimize site disturbance in terms of cuts and fills and the removal of vegetation.
5. Access. Every lot shall have access to a public or private roadway (access may be via a recorded cross or shared access easement). Subdivision design shall provide for safe and ready access for fire and other emergency equipment and for routes of escape to safely and efficiently handle evacuations.
6. Roadway frontage required.
   a. The frontage width shall be at least the minimum lot width required by the applicable Zoning District, except where a flag lot is approved in compliance with this Section.
   b. Through lots with roads along both the front and rear parcel lines shall be discouraged (an alley is not considered a roadway for the purposes of this Section.) Where through lots are created, a rear-yard landscaped buffer with a minimum width of 10 feet is required.
   c. For through lots as described herein, the UDO Administrator shall determine which frontage(s) shall be considered as the front lot line(s) for the purposes of compliance with the minimum applicable yard and setback requirements.

7. Flag lots. Flag lots may be approved only where the UDO Administrator first determines that unusual depth or other characteristic of a lot to be subdivided prevents one or more proposed lots from having a frontage width equal to the minimum lot width required by the applicable Zoning District.

5.7.5 Lot Orientation.

Each proposed development should be designed to provide maximum opportunities for energy conservation, including opportunities for passive or natural heating or cooling opportunities, as follows:

A. The roadways proposed in a development should be planned in a manner that allows the lot and building to take advantage of solar strategies and prevailing winds.

B. These recommendations should not be used in a way that forces irregular placement of building by shifting setbacks or non-perpendicular placement of buildings in relation to the roadway but rather through block and lot layout and building design in compliance with the provisions of this article.

5.7.6 Additional standards.

A. Pedestrian walkways away from roadway frontages.

1. The Town of Bluffton may require dedicated and improved pedestrian walkways in locations away from roadway frontages where necessary to provide safe and convenient pedestrian access.
2. Where walkways are required, the UDO Administrator shall specify the standards for their design and construction.

5.8 Lot and Building Standards

5.8.1 Intent

This Section sets forth regulations for lots and buildings, such as lot dimensions, lot coverage, building placement, and building height. The goal of this Section is the creation of a healthy and vital public realm. The standards also provide and protect more open, undeveloped land than would exist otherwise to absorb and filter rain water, reduce flooding and stormwater drainage needs, and lower the amount of pollution entering our watersheds.

5.8.2 Applicability

These standards are applicable to all development and redevelopment within the Town of Bluffton outside of the *Old Town Bluffton Historic District*.

5.8.3 Standards

The existing or proposed use in combination with the lot width shall determine the lot type and applicable standards. Lot types shall only be permitted in those Districts listed. The maximum allowed density is based on the dimensional characteristics of the lot type in combination with other site characteristics that may limit the amount of land able to accommodate density. These other site characteristics include, but are not limited to, lot configuration, right-of-way, easements, protected natural resources, open space, and topography.

Table 5.8.3.A
Lot Types by District

	Farm House Lot	Country House Lot	Estate House Lot	Large House Lot	Medium House Lot	Small House Lot	Duplex House Lot	Small Townhouse Lot *	Large Townhouse Lot*	Live/Work Lot	Small Multi-Family Lot	Medium Multi-Family Lot	Large Multi-Family Lot	Small Mixed-Use Lot	Medium Mixed-Use Lot	Large Mixed-Use Lot	Workplace Lot	Small Commercial Lot	Large Commercial Lot	Industrial Lot	Civic Lot
PR																					•
AG	•	•	•																		•
RMU	•	•	•	•	•									•				•			•
RG	•	•	•	•	•	•	•	•	•		•	•									•
NC				•	•	•	•	•	•	•	•	•		•	•			•			•
GM						•	•	•	•	•	•	•	•	•	•	•	•	•	•		•
LIT				•					•				•			•	•	•	•	•	•

Table 5.8.3.B
Lot Standards

Lot Type	Permitted in Districts	Lot Width/Building Width (if specified)	Building Setbacks**			Lot Coverage (max)	Height (min/ max in stories)
			Front	Rear***	Side***		
Farm House Lot	AG RMU RG	150 ft. min, no max	50 ft. min.	80 ft. min.	20 ft. min.	30%	1-3
Country House Lot	AG RMU RG	110 ft. min, 150 ft. max	40 ft. min.	50 ft. min.	15 ft. min.	40%	1-3
Estate House Lot	AG RMU RG	90 ft. min, 110 ft. max	30 ft. min.	40 ft. min.	15 ft. min.	50%	1-3
Large House Lot	RMU RG NC LI	70 ft. min., 90 ft. max	12 ft. min. 40 ft. max.	30 ft. min.	10 ft. min.	60%	1-3
Medium House Lot	RMU RG NC	50 ft. min., 70 ft. max.	12 ft. min. 30 ft. max.	30 ft. min.	8 ft. min.	60%	1-3
Small House Lot	RG NC GM	30 ft. min., 50 ft. max.	10 ft. min. 24 ft. max.	25 ft. min.	5 ft. min.	65%	1-3

Table 5.8.3.B
Lot Standards

Lot Type	Permitted in Districts	Lot Width/Building Width (if specified)	Building Setbacks**			Lot Coverage (max)	Height (min/ max in stories)
			Front	Rear***	Side***		
Duplex House Lot	RG NC GM	25 ft. min., 40 ft. max.	10 ft. min. 24 ft. max.	20 ft. min.	0 ft. min. 5 ft. min. total	65%	1-3
Small Townhouse Lot *	RG NC GM	16 ft. min., 24 ft. max.	0 ft. min. 12 ft. max.	10 ft. min.	0 ft. min.	80%	1-3
Large Townhouse Lot*	RG NC GM LI	24 ft. min., 40 ft. max.	0 ft. min. 20 ft. max.	10 ft. min.	0 ft. min.	70%	2-3
Live/Work Lot	NC GM	22 ft. min., 70 ft. max.	0 ft. min. 12 ft. max.	10 ft. min.	0 ft. min. 10 ft. min. total	80%	2-3
Small Multi-Family Lot	NC GM RG	60 ft. min., 80 ft. max.	10 ft. min. 20 ft. max.	10 ft. min.	0 ft. min. 6 ft. min. total	80%	1-2
Medium Multi-Family Lot	NC GM RG	80 ft. min., 120 ft. max.	10 ft. min. 25 ft. max.	20 ft. min.	5 ft. min.	75%	2-3
Large Multi-Family Lot	GM LI	120 ft. minimum, 600 ft. maximum, provided that no building may exceed 200 ft. in width	10 ft. min. 30 ft. max.	30 ft. min.	10 ft. min.	70%	2-4
Small Mixed-Use Lot	RMU NC GM	22 ft. minimum, 80 ft. maximum, provided that no building may exceed 80 ft. in width.	10 ft. min. 24 ft. max.	10 ft. min.	0 ft. min.	80%	1-2
Medium Mixed-Use Lot	NC GM	80 ft. minimum, 120 ft. maximum, provided that no building may exceed 120 ft. in width.	10 ft. min. 24 ft. max.	10 ft. min.	0 ft. min.	75%	2-3
Large Mixed-Use Lot	GM LI	120 ft. minimum, no maximum, provided that no building may exceed 200 ft. in width.	10 ft. min. 24 ft. max.	10 ft. min.	0 ft. min.	70%	2-4
Workplace Lot	GM LI	40 ft. minimum, no maximum, provided that no building may exceed 300 ft. in width.	10 ft. min. 24 ft. max.	10 ft. min.	0 ft. min.	80%	1-5

Table 5.8.3.B
Lot Standards

Lot Type	Permitted in Districts	Lot Width/Building Width (if specified)	Building Setbacks**			Lot Coverage (max)	Height (min/ max in stories)
			Front	Rear***	Side***		
Small Commercial Lot	RMU NC GM LI	16 ft. min., 200 ft. max.	10 ft. min.	20 ft. min.	5 ft. min.	80%	1-2
Large Commercial Lot	GM LI	200 ft. min., no max.	10 ft. min.	30 ft. min.	10 ft. min.	75%	1-5
Industrial Lot	LI	150 ft. min, no max.	30 ft. min	30 ft. min	20 ft. min.	60%	1-3
Civic Lot	All Non-HD Districts	50 ft. min., no max.	10 ft. min	10 ft. min	10 ft. min.	80%	1-5

Notes:

* No more than 6 townhouses are permitted in a grouping. Groupings must be separated by a minimum of 10 feet.

** Where a buffer is required the required setback shall be measured from the buffer line.

*** Detached accessory structures must be setback a minimum of 3 feet from the property line.

5.9 Transportation Network and Design

5.9.1 Intent

The intent of this Section is to provide an array of facilities and amenities recognized as contributing to:

A. Connectivity to reduce the number and length of vehicle trips;

B. Pedestrian and bicycle safety improvements;

C. Access management to reduce conflicts along streets with increased accident potential;

D. Access improvements, including compliance with the Americans with Disabilities Act;

E. Public transit facilities; and

F. Street amenities.

5.9.2 Applicability

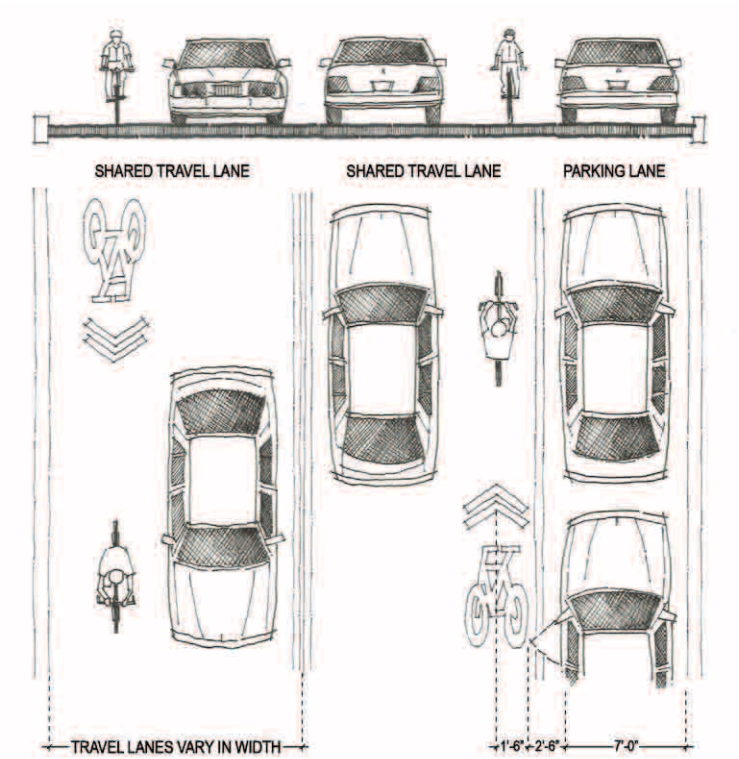
The transportation network standards within this section apply to all development and redevelopment within the Town of Bluffton.

5.9.3 Standards

A. Construction standards shall meet or exceed the South Carolina Department of Transportation (SCDOT) standards. Specifications shall meet the intent of SCDOT specifications. Alternative designs and or specifications may be approved by the UDO Administrator.

B. Transportation Analysis Standards.

1. A traffic assessment will be required for all development, including expansion at an existing site, to determine the impact of the proposed development on the transportation system. When it is determined through a traffic assessment that the proposed development may result in a potential safety hazard or in the need to improve adjacent roadways and/or intersections, the UDO Administrator may require a traffic impact analysis (TIA) to be submitted. A traffic assessment shall include, at a minimum, the following:

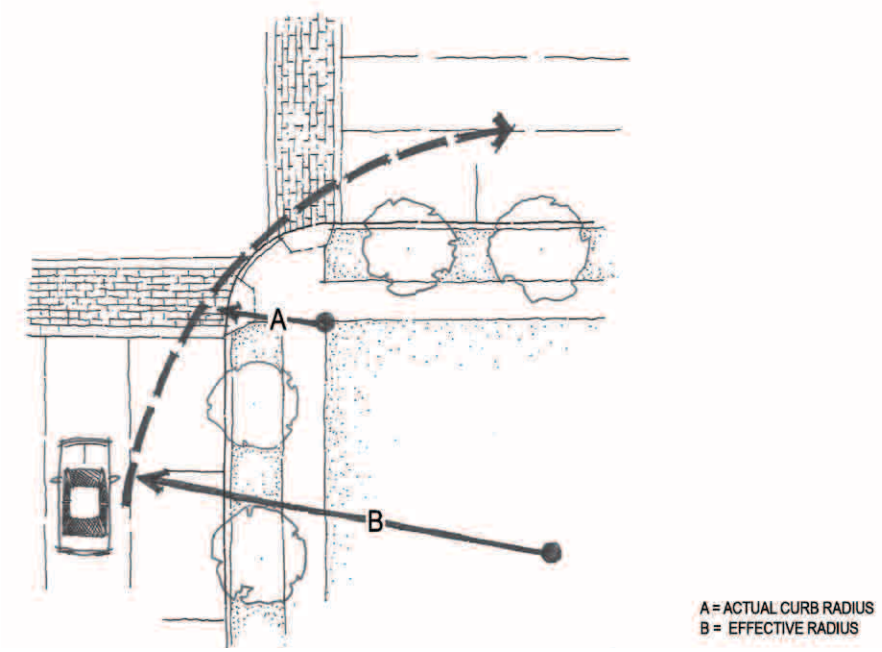


Sharrows

a. General Site Description. Describe the size of the proposed development site, the existing and proposed zoning, the proposed land use, the development proposal, and details of the surrounding existing and future land uses and roadway access.

b. Trip Generation. Calculate the Average Annual Daily Trips, morning peak hour traffic and afternoon peak hour traffic that could potentially be generated by full development of the proposed land use. The maximum density allowed by the zoning and proposed development should be used when calculating the number of potential generated trips. The Institute of Transportation Engineers (ITE) Trip Generation shall be used to determine the trip generation calculations.

c. Roadway Conditions and Access Potential. Classify the roadways surrounding the site as defined by the Beaufort County Functional



Classification Map. Calculate the existing and future roadway segment and intersection LOS using the methods described in the latest edition of the Highway Capacity Manual for two lane or multi-lane highways. Calculate the sight distance based on the approach speed on the adjacent road and procedures described in the American Association of State Highway and Transportation Officials (AASHTO) book *A Policy on Geometric Design of Highways and Streets* for both intersection sight distance and stopping sight distance.

d. Conclusions. Provide an engineering opinion of the ability of the surrounding street network to support the potential traffic generated by the proposed land use.

2. If required, a TIA shall be developed in accordance with SCDOT Access and Roadside Management Standards (ARMS).

3. The UDO Administrator may waive the requirement for providing a traffic assessment for those developments where the Applicant can demonstrate

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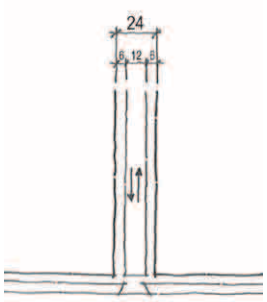
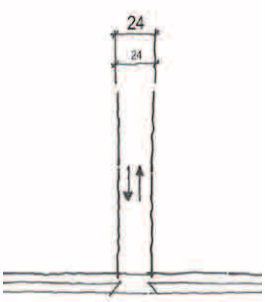
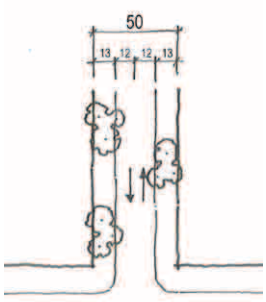
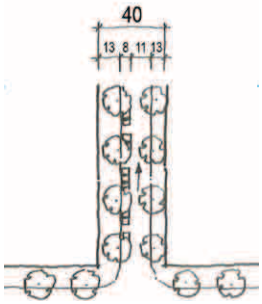
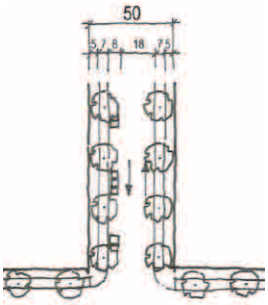
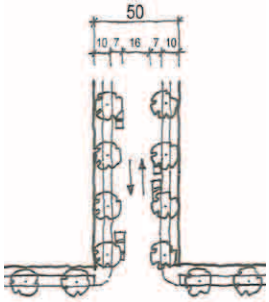
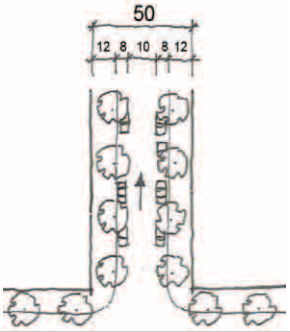
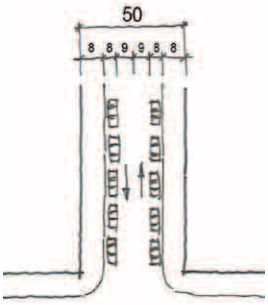
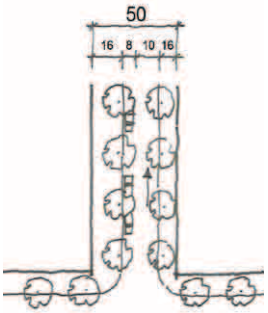
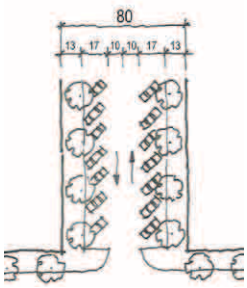
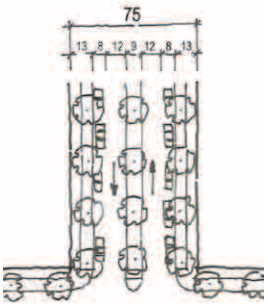
			
Roadway Type	Rear Lane	Rear Alley	Road
Zoning Districts	RG	NC, GM	PR, AG, RMU, RG
Right-of-Way width	24 ft.	24 ft.	50 ft.
Pavement Width	12 ft.	24 ft.	24 ft.
Min. Design Speed	10 MPH	10 MPH	40 MPH
Traffic Lanes	2 lanes	2 lanes	2 lanes
Parking Lanes	None	None	None
Curb Radius	Taper	Taper	30 feet
Walkway Type	None	None	Path optional
Planter Type	None	None	Continuous Swale
Curb Type	Inverted Crown	Inverted Crown	Swale

	ST-40-19	ST-50-26	ST-60-34
			
Roadway Type	Street	Street	Street
Zoning Districts	GM	NC, GM	RG, NC, GM
Right-of-Way width	40 ft.	50 ft.	60 ft.
Pavement Width	19 ft.	26 ft.	34 ft.
Min. Design Speed	25 MPH	25 MPH	25 MPH
Traffic Lanes	1 lane	2 lanes	2 lanes
Parking Lanes	One side @ 7 ft. marked	One side @ 8 ft. marked	Both sides @ 7 ft. marked
Curb Radius	30-35 ft.	30 ft.	30 feet
Walkway Type	13/8 ft. sidewalk	5 ft. sidewalk	6 ft. sidewalk
Planter Type	4x4" tree wall	7 ft. continuous planter	7 ft. continuous planter
Curb Type	Curb	Curb	Curb

	CS-50-26	ST-50-34	CS-50-22
			
Roadway Type	Commercial Street	Street	Commercial Street
Zoning Districts	NC, GM	RG, NC, GM	NC, GM
Right-of-Way width	55 ft.	50 ft.	50 ft.
Pavement Width	29 ft.	32 ft.	22 ft.
Min. Design Speed	25 MPH	25 MPH	425 MPH
Traffic Lanes	1 lane	2 lanes	1 lane
Parking Lanes	Both sides @ 7 ft. marked	Both sides @ 8 ft. marked	One side @ 8 ft. marked
Curb Radius	30 ft.	30 feet	30 feet
Walkway Type	13 ft. sidewalk	9 ft. sidewalk	10 ft. sidewalk
Planter Type	4x4" tree wall	None	8 ft. continuous planter
Curb Type	Curb	Curb	Curb

	CS-80-54	AV-75-40
		
Roadway Type	Commercial Street	Avenue
Zoning Districts	NC, GM	RG, NC, GM
Right-of-Way width	80 ft.	75 ft.
Pavement Width	54 ft.	40 ft. total
Min. Design Speed	25 MPH	35 MPH
Traffic Lanes	2 lanes	2 lanes
Parking Lanes	Both sides angled or reverse angled @ 17 ft. marked	Both sides @ 8 ft. marked
Curb Radius	30 ft.	30 ft.
Walkway Type	13 ft. sidewalk	6 ft. sidewalk
Planter Type	4x4" tree wall	7 ft. continuous planter
Curb Type	Curb	Curb or Swale

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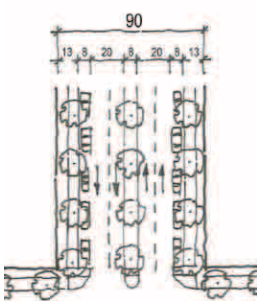
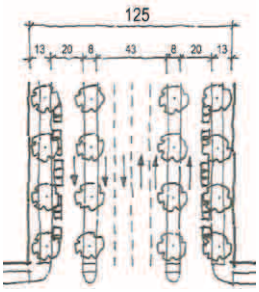
		
Roadway Type	Avenue	Boulevard
Zoning Districts	RG, NC, GM	NC, GM
Right-of-Way width	90 ft.	125 ft.
Pavement Width	56 ft. total	20 ft., 43 ft., 20 ft.
Min. Design Speed	40 MPH	40 MPH
Pedestrian Crossing Time	5.7 seconds 5-7 seconds at corners	5.7 seconds, 12.2 seconds, 5.7 seconds
Traffic Lanes	4 lanes	4 lanes and two one-way slip roads
Parking Lanes	Both sides @ 8 ft. marked	8 ft.
Curb Radius	30 feet	30 ft.
Walkway Type	6 ft. sidewalk	6 ft. sidewalk
Planter Type	7 ft. continuous planter	7 ft. continuous planter
Curb Type	Curb or Swale	Curb

the proposed use(s) will generate fewer than 50 trips during the peak hour of the traffic generator or the peak hour of the adjacent street, provided there are no readily apparent improvements necessary to the adjacent roadways or intersections or potential transportation safety hazards created by the development.

C. Roadways shall be designed in context with the desired form, intended quality of service for expected users (motorists, goods movement, pedestrians, bicyclist, transit users) and target vehicle speed that may change with the zoning districts which the roadway traverses. The Zoning Districts shall be considered when determining the roadway design.

D. Roadways shall be designed to balance safety, mobility, community goals and the environment. Roadways shall provide appropriate pedestrian and vehicle mobility options, shall provide appropriate locations for utilities, and shall be designed with the capacity to support adjacent planned future development.

E. The layout, arrangement, character, width, grade, and location of roadways may be required to conform to the general plan of the entire tract, to adjoining roadway systems, to the major roadway plans of the Town, and to the topography, natural features, and drainage systems to be provided.

F. Roadways shall be designed to accommodate existing, planned and future public transit.

G. Bicycle and Non-Motorized Vehicle Provisions: Roadway and community design shall provide an opportunity for non-motorized transportation via a network of sidewalks, pathways, routes, lanes, and/or trails. Non-motorized transportation networks shall be connected to existing or proposed regional networks wherever possible. Bike routes to be included in the roadway may be provided in dedicated and marked bike lanes or indicated with the use of sharrows (see figure below). Sharrows may be used on roadways with speeds no greater than 35 mph and Average Annual Daily Traffic (AADT) of 10,000 or less.

H. **Curb Radius Modifications & Intersection Sight Triangles**. The dimensions for curb radii standards in this article are provided to accommodate pedestrians as well as emergency and service vehicles. In general, smaller curb radii are promoted to narrow street crossing and reduce vehicle travel speed to improve the crossing condition for pedestrians. See the figure above which illustrates the difference between the curb radius and effective turning radius.

I. **Pedestrian Treatments at Intersections—Crosswalks**: Marked crosswalks shall be provided where sidewalks exist for stop-controlled and signalized intersections.

J. **Roadway Types and Design Assemblies**: Any development or redevelopment may include several roadway types depending on the Zoning District and land use. A choice of roadway types is provided below. An Applicant may also submit an alternate roadway type that may be approved by the UDO Administrator.

The following road designs apply to private roads and roads under the jurisdiction of the Town of Bluffton. These design standards should also be used for roads under the jurisdiction of Beaufort County or the South Carolina DOT to the extent practical, unless there is a conflict with the applicable published standards of the road agency.

5.9.4 Access Management Standards

A. **Intent**

1. The intent of this Section is to improve traffic operations; reduce potential for crashes; improve pedestrian and transit environments; and preserve the vehicular carrying capacity of roads through regulations on the number, spacing, placement and design of access points (driveways and intersections).
2. This Section is also intended to help ensure coordination between the Town of Bluffton and Beaufort County and the South Carolina Department of Transportation (SCDOT) for access to roads under their jurisdiction.

B. **Applicability**

1. Regulations. Regulations adopted by the applicable jurisdictions shall apply for sites along state or county roads. Where conflicts occur, the more restrictive regulations and standards shall apply.
2. Development Regulated. The standards of this section shall apply to development with frontage along arterial and collector roadways as noted below.

C. **Standards**

1. Compliance with Corridor Plan. Access shall generally be consistent with Access Management Plans and Corridor Plans adopted by the Town of Bluffton and the recommendations of any related plan.
2. Number of Driveways. The number of driveways shall be the fewest necessary to provide reasonable access to the site.
3. Intersection and Driveway Spacing. Spacing shall be governed by the SCDOT Access and Roadside Management Standards (ARMS).
4. Consideration of Adjacent Sites. Where the subject site adjoins land that may be developed or redeveloped in the future, the access shall be located to ensure the adjacent site(s) can also meet the access location standards in the future and a connection shall be provided between adjacent sites.
5. Access Design. Where practical given right-of-way constraints, driveways shall be designed with radii, tapers and other geometries as determined by the UDO Administrator in consideration to the disruption of through traffic and to provide a safe crossing environment.
6. Sight Distance. Driveways shall be located so as not to interfere with safe intersection sight distance as determined by American Association of State Highway and Transportation Officials (AASHTO) Green Book as amended.
7. Shared Driveways. Where possible access shall be provided via a shared driveway or service drive.
8. Restricted Turning Movement. Where driveways are proposed along a road segment defined as a high crash rate area, one that experiences significant traffic congestion/ delays, or where left-turn access is available through other means, driveway design may be required to include channelization or signage that prohibits certain turning movements.

5.10 Stormwater

5.10.1 General provisions

A. **Intent**

1. The May River and the surrounding receiving waters have been designated by the State of South Carolina as Outstanding Resource Waters. The use of the river's natural resources has historical and traditional significance to the area in general and to the Town of Bluffton in particular. It is in the public interest that the pristine condition of these areas be maintained and preserved for future generations. Uncontrolled stormwater runoff may have significant, adverse impact on the health, safety and general welfare of the Town and the quality of life of its citizens by transporting pollutants into receiving waters and by causing erosion and/or flooding. Development and redevelopment may alter the hydrologic response of local watersheds and increases stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, non-point pollution, and sediment transport and deposition, as well as reducing groundwater recharge. These changes in stormwater runoff may contribute to increased quantities of water-borne pollutants and alterations in hydrology which are harmful to public health, safety, and welfare, as well as to the natural environment.
2. Point source pollution may have significant, adverse impact on the health, safety and general welfare of the Town and the quality of life of its citizens by transporting pollutants into receiving waters. The allowance of discharge pipes and outfalls for non-stormwater discharges, illegal dumping, and improper handling of accidental spills and intentional disposals increase the quantities of water-borne pollutants which are harmful to public health, safety, and welfare, as well as to the natural environment.
3. The effects of point and non-point source pollution, such as uncontrolled runoff, have shown evidence of degradation of the Town's receiving waters; thereby adversely affecting the unique qualities of the Town's receiving waters, its recreational opportunities and commercial, oystering, boating and fishing, the ecosystem's ability to naturally reproduce and thrive, and the general ability of the area to sustain its natural estuarine resources.
4. These deleterious effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from development and redevelopment sites, manage existing natural features that maintain hydrology and provide water quality control, and eliminate potential sources of pollution to receiving waters. Public education regarding the cause and effect of these types of pollutions and the implementation of the controls and management policies is key to fundamentally changing public behavior.
5. This article is not in conflict with any development agreements to which the Town is a party and does not prevent the development set forth in any development agreement.
6. This article is essential to the public health, safety or welfare and shall apply to any development that is subject to a development agreement.
7. Laws of general application throughout the Town necessary to protect

health, safety and welfare are anticipated and are provided for in development agreements.

8. Substantial changes in developmental impacts have occurred since the time the development agreements were signed, which changes, if not addressed in this article would pose a threat to public health, safety or welfare.

B. **Purpose**

1. It is the purpose of this article to protect, maintain, and enhance the environment of the Town and the short and long-term public health, safety, and general welfare of the citizens of the Town by establishing requirements and procedures to control the potential adverse effects of increased stormwater runoff associated with both future development, re-development, and existing developed land. Proper management of stormwater runoff will minimize damage to public and private property, ensure a functional drainage system, reduce the effects of development on land and stream channel erosion, attain and maintain water quality standards, enhance the local environment associated with the drainage system, reduce local flooding, reduce pollutant loading to the maximum extent practicable and maintain to the extent practicable the pre-developed hydrologic characteristics of the area, and facilitate economic development while minimizing associated pollutant, flooding, and drainage impacts.
2. This article specifically authorizes and enables the Town at a minimum to:
   a. Prohibit Illicit Discharges to the Stormwater System and receiving waters.
   b. Define procedures for site plan review, inspection, and enforcement relative to stormwater management.
   c. Control the discharge of spills, dumping or disposal of materials other than stormwater to the Stormwater System and receiving waters.
   d. Address specific categories of non-stormwater discharges and similar other incidental non-stormwater discharges.
   e. Require temporary erosion and sediment controls to protect water quality to the maximum extent practicable during construction activities, in accordance with current state regulations.
   f. Define procedures for receipt and consideration of information submitted by the public.
   g. Address runoff, particularly volume, rate, and quality through the control and treatment of stormwater with stormwater management facilities and/or Best Management Practices (BMPs).
   h. Develop post-construction stormwater quality performance standards, through enforcement of minimum design standards for BMPs.
   i. Ensure effective long-term operation and maintenance of BMPs.
   j. Carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to determine compliance and noncompliance with this article and stormwater permit (permit) conditions including the prohibition of Illicit Discharges to the Town's Stormwater System and the protection of water quality of the receiving waters.
3. The article requires prudent site planning, including special considerations

for the purposes of preserving natural drainage ways incorporating on-site stormwater detention and infiltration to minimize runoff from individual sites to receiving waters by use of effective runoff management, structural and non-structural BMPs, drainage structures, and stormwater facilities to maintain the pre-development hydrology of a development.

C. **Applicability**
Beginning with and subsequent to its effective date, this article shall be applicable to:

1. All Development and Redevelopment
2. Any illicit discharges.
3. The provisions of this article shall apply throughout the incorporated areas of the Town.

5.10.2 Stormwater Management Program

A. **Development of Program.** Stormwater Management Program (Program) shall be developed by the Town to administer and implement the regulations of this article shall be set out in the *Stormwater Design Manual*. The Program, as amended from time to time by the Town, is hereby adopted for the duration of this article as the official operational Program.

B. **Coordination with Other Agencies.** The UDO Administrator will coordinate the Town's activities with other federal, state, and local agencies, which manage and perform functions relating to the protection of receiving waters.

C. **Cooperation with Other Governments.** The Town may enter into agreements with other governmental and private entities to carry out the purposes of this article. These agreements may include, but are not limited to enforcement, resolution of disputes, cooperative monitoring, and cooperative management of stormwater systems and cooperative implementation of stormwater management programs. Nothing in this article or in this section shall be construed as limitation or repeal of any ordinances of these local governments or of the powers granted to these local governments by the South Carolina Constitution or statues, including, without limitation, the power to require additional or more stringent stormwater management requirements within their jurisdictional boundaries.

D. **Stormwater Design Manual**

1. Reference to a Design Manual. The UDO Administrator shall use the policy, criteria, and information, including technical specifications and standards, in the *Stormwater Design Manual* as the basis for decisions about stormwater plans and about the design, implementation and performance of structural and non-structural stormwater BMPs. At a minimum, the *Stormwater Design Manual* shall describe in detail how post-development stormwater hydrology will be controlled and managed, the design of all stormwater facilities and practices, and how the proposed project will meet the requirements of this article. The *Stormwater Design Manual* includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice.
2. Relationship of Design Manual to Other Laws and Regulations. If the specifications or guidelines of the *Design Manual* are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent

application of the specifications or guidelines in the Design Manual.

5.10.3 Standards

A. **General Requirements**

1. All development, including single family lots not part of a larger common plan of development, in the Town shall meet the following General Requirements to the maximum extent practicable. Developments requiring the stormwater management plans for construction shall meet all Requirements of this article.
2. All development shall disconnect Impervious Surfaces with vegetative surfaces to the maximum extent practicable.
3. Stormwater runoff shall be controlled in a manner that:
   a. Promotes positive drainage from structures resulting from development.
   b. Includes the use of vegetated conveyances, such as swales and existing natural channels to promote infiltration.
   c. Promotes runoff velocities that maintain sheet flow condition to prevent erosion and promote infiltration.
   d. Limits its interaction with potential pollutant sources that may become water-borne and create non-point source pollution.
4. Natural vegetative buffers play an integral part in minimizing the volume of stormwater runoff by promoting infiltration and acting as a first line of treatment of water quality pollution. Development shall observe the buffer requirements of this article; or if applicable the relevant development agreement, concept plan, and/or approved master plan.

B. **Stormwater Design Requirements for Development**

1. Development shall control the post-development runoff discharge rate for the 2-, 10-, and 25-year, 24-hour design storm events to pre-development levels with structural BMPs.
2. All development and redevelopment, including highways, shall use site planning, design, construction, and maintenance strategies for the property to maintain or restore, to the maximum extent technically feasible, the pre-development hydrology of the property with regard to the temperature, rate, volume, and duration of flow.
3. Development that incorporates engineered stormwater collection, conveyance, and storage systems shall design the systems to design criteria established in the *Stormwater Design Manual*.

C. **Water Quality Requirements**

1. In areas of Hydrologic Soil Groups A and B, the development shall control and infiltrate the first one inch of stormwater runoff from the entire development or maintain the pre-development hydrology of the property for the Water Quality Design Storm Event, whichever is greater.
2. In areas of Hydrologic Soil Groups C and D only, the development shall maintain the pre-development hydrology of the property for the Water Quality Design Storm Event.
3. Undisturbed natural areas will not be required to demonstrate that such areas can retain the first one inch of runoff.

D. **BMP Requirements**

1. Effectiveness of infiltration practices is dependent on the site conditions. The *Stormwater Design Manual* outlines guidance for properly siting infiltration practices and shall be reviewed prior to the design phase.
2. The owners of all new developments that receive a permit from the Town shall be required to perform stormwater quality monitoring at their expense to ensure compliance with the provisions of this article and ensure that structural BMPs are operated as intended.
   a. Structural BMPs shall be monitored individually up to 36 months from final as-built inspection for water quality performance. This initial monitoring period shall provide the Town and owner or operator of the structural BMP with information to improve the performance of the structural BMP if failing to operate as intended.
   b. Monitoring test results from a DHEC Certified Laboratory of fecal coliform, turbidity, total phosphorus and total nitrogen will be required to be submitted to the Town each month from May to September and each November, January and March.
   c. At least half of the samples gathered will need to be taken within 24 hours of a rain event one-half inch or greater.
   d. If 20 percent or more of the samples fail to meet the water quality, then within 60 days of reporting of such a sample failure, the operator of the stormwater system shall submit to the Town Engineer a corrective action plan stipulating how compliance with the DHEC water quality standards will be met. Violations of any single test parameter shall constitute a failure for that sampling period.
3. Water quality standards will be initially established as the pre development pollutant loading levels. A determination of the pre development pollutant loading shall be provided to the UDO Administrator and the UDO Administrator shall determine if such information is sufficient to establish the pre development pollutant loading levels. In all cases, post development pollutant loading cannot exceed pre development levels.
4. All construction and implementation of erosion and sediment control BMPs shall comply with the requirements of the South Carolina Stormwater Management and Sediment Reduction Act.
5. Developments submitting monthly inspection reports in accordance with the State Sediment and Erosion Control Act shall submit copies of those reports to the Town for the duration of the construction phase. The Town reserves the right to perform other monitoring as it deems appropriate to determine compliance with the State Sediment and Erosion Control Act.

E. **Irrigation System**

Irrigation systems must first make use of all available surface stormwater runoff or other retained or detained stormwater as the water supply. No groundwater wells or use of potable water for irrigation of any kind will be permitted in developments or redevelopments unless it can be demonstrated that alternative sources of irrigation water will not exceed pre-development conditions. In addition, no irrigation systems shall be placed within fifty feet of a natural creek,

marsh, or estuary where soils and/or grade will allow such irrigation water to flow or migrate to such a natural creek, marsh, or estuary.

F. **Waiver.** Individuals seeking a waiver in connection with a Stormwater Plan may submit to the UDO Administrator a request for a waiver from the requirements of this article if exceptional circumstances applicable to a site exist such that adherence to the provisions of the article will result in unnecessary hardship and will not fulfill the intent of the article.

1. Request of Waiver at Staff Level. A written request for a waiver is required and shall state the specific waiver sought and the reasons, with supporting data, a waiver should be granted. The request shall include all information necessary to evaluate the proposed waiver. The applicant will address the three areas of consideration for waiver approval as follows:
   a. What exceptional circumstances to the site are evident?
   b. What unnecessary hardship is being caused?
   c. How will denial of the waiver be inconsistent with the intent of the article?
2. Review of Waivers. The UDO Administrator will conduct a review of the request and will issue a decision within 15 working days of receiving the request.

5.10.4 Maintenance

A. **General Requirements**

1. Function of BMPs as Intended. The owner of each structural BMP installed pursuant to this article shall maintain and operate it to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the structural BMP was designed.
2. Right of Town to Inspection. Every Structural BMP installed pursuant to this article shall be made accessible for adequate inspection by the Town.
3. Annual Maintenance Inspection and Report. The person responsible for maintenance of any structural BMP installed pursuant to this article shall submit to the UDO Administrator an inspection report from a registered South Carolina Professional Engineer or Landscape Architect. The inspection report, at a minimum, shall contain all of the following:
   a. The name and address of the land owner;
   b. The recorded book and page number of the lot of each structural BMP or a digital representation of the geographic location of each structural BMP;
   c. A statement that an inspection was made of all structural BMPs;
   d. The date the inspection was made;
   e. A statement that all inspected structural BMPs are performing properly and comply with the terms and conditions of the approved maintenance agreement required by this article;
   f. The original signature and seal of the engineer inspecting the structural BMPs; and
   g. Digital photographs of the structural BMPs and pertinent components integral to its operation, including but not limited to inlet/outlet control

structures, downstream receiving channel/area, embankments and spillways, safety features, and vegetation.

h. All inspection reports shall be on forms supplied by the UDO Administrator. An original inspection report shall be provided to the UDO Administrator beginning one year from the date of record drawings certification and each year thereafter on or before the date of the record drawings certification.

B. **Operation and Maintenance Agreement**

1. Prior to the conveyance or transfer of any lot or building site requiring a structural BMP pursuant to this article, the applicant or owner of the site must execute an operation and maintenance agreement. The operations and maintenance agreement must be approved by the UDO Administrator or his designee, and shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the structural BMP. Until the transference of all property, sites, or lots served by the structural BMP, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.
2. The operation and maintenance agreement shall:
   a. Require the owner or owners to maintain, repair and, if necessary, reconstruct the structural BMP,
   b. State the terms, conditions, and schedule of maintenance for the structural BMP.
   c. Grant to the Town a right of entry in the event that the UDO Administrator have reasons to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the structural BMP; however, in no case shall the right of entry, of itself, confer an obligation on the Town to assume responsibility for the structural BMP.
   d. Allow the Town to recover from the property or home owner's association and its members any and all costs the Town expends to maintain or repair the structural BMPs or to correct any operational deficiencies. Failure to pay the Town all of its expended costs, after 45 days written notice, shall constitute a breach of the agreement. The Town shall thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both, in case of a deficiency. Interest, collection costs, and attorney fees shall be added to the recovery.
   e. Provide a statement that this agreement shall not obligate the Town to maintain or repair any structural BMPs, and the Town shall not be liable to any person for the condition or operation of structural BMPs.
   f. Provide a statement that this agreement shall not in any way diminish, limit, or restrict the right of the Town to enforce any of its ordinances as authorized by law.
   g. Contain a provision indemnifying and holding harmless the Town for any costs and injuries arising from or related to the structural BMP, unless the Town has agreed in writing to assume the maintenance responsibility for the structural BMPs accepted dedication of all rights necessary to carry

out that maintenance.

h. Contain an attachment with the locations, dimensions, elevations, and characteristics of all structural BMPs detailed in the Stormwater Management Plan. The attachment shall include a north arrow, scale, boundary lines of the site, lot lines, existing and proposed roads and other information necessary to locate the structural BMPs.

3. Operation and Maintenance Agreement Recordation
Upon approval by the UDO Administrator or his designee, the operations and maintenance agreement shall be recorded with the county Register of Deeds to appear in the chain of title of all subsequent purchasers under generally accepted searching principles. A copy of the recorded operation and maintenance agreement shall be given to the UDO Administrator prior to issuance of the development permit

C. **Records of Installation and Maintenance Activities.** The owner of each structural BMP shall keep records of inspections, maintenance, and repairs for at least five years from the date of the record and shall submit the same upon reasonable request to the UDO Administrator.

D. **Nuisance.** The owner of each stormwater BMP shall maintain it so as not to create or result in a nuisance condition, such as but not limited to flooding, erosion, excessive algal growth, overgrown vegetation, mosquito breeding habitat, existence of unsightly debris, or impairments to public safety and health.

5.10.5 Illicit Discharges and Connections

A. **Illicit Discharges.** No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any stormwater conveyance, receiving water, or upon the land in manner and amount that the substance is likely to reach a stormwater conveyance or the receiving waters, any liquid, solid, gas, or other substance, other than stormwater.

B. **Non-stormwater Discharges.** Non-stormwater discharges associated with the following activities are allowed provided that acceptable BMPs are followed:

1. Water line flushing;
2. Landscape irrigation;
3. Diverted stream flows;
4. Rising ground waters;
5. Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));
6. Uncontaminated pumped ground water;
7. Discharges from potable water sources;
8. Foundation drains;
9. Air conditioning condensation;
10. Reuse water;
11. Springs;
12. Water from crawl space pumps;
13. Footing drains;

14. Individual residential car washing;
15. Flows from riparian habitats and wetlands;
16. Dechlorinated swimming pool discharges;
17. Street wash water; and
18. Other non-stormwater discharges for which a valid NPDES discharge permit has been approved and issued by the State of South Carolina, and provided that any such discharges to the Town's Stormwater System shall be authorized by Town.
19. Prohibited substances include but are not limited to: oil, anti-freeze, chemicals, animal waste, paints, garbage, and litter.

C. **Illicit Connections.** Connections to a receiving water and/or stormwater conveyance system that allow the discharge of non-stormwater, other than the exclusions described in this section are unlawful. Prohibited connections include, but are not limited to floor drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems. Where such connections exist in violation of this section and said connections were made prior to the adoption of this article or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove or correct the connection.

D. **Spills.** Spills or leaks of polluting substances released, discharged to, or having the potential to released or discharged to a receiving water or the stormwater conveyance system, shall be contained, controlled, collected, and properly disposed. All affected areas shall be restored to their preexisting condition. Persons in control of the polluting substances shall immediately report the release or discharge to persons owning the property on which the substances were released or discharged, shall within two hours of such an event shall notify the Bluffton Township Fire Department (who will also notify the UDO Administrator, and all required federal and state agencies of the release or discharge. Notification shall not relieve any person of any expenses related to the restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by State or other law.

E. **Nuisance.** Illicit discharges and illicit connections which exist within the Town limits are hereby found, deemed, and declared to be dangerous and prejudicial to the public health, and welfare, and are found, deemed, and declared to be public nuisances. Such public nuisances shall be abated in accordance with the procedures set forth in *Article 8, Penalties and Enforcement*.

5.10.6 Inspection

A. **Inspections.** The Town will maintain the right to inspect any and all Stormwater Systems within it jurisdiction as outlined below:

1. An Inspector designated by the UDO Administrator, bearing proper credentials and identification, may enter and inspect all properties for regular inspections, periodic investigations, monitoring, observation measurement, enforcement, sampling and testing, to ensure compliance with the provisions

of this article.

2. Upon refusal by any property owner to permit an inspector to enter or continue an inspection, the Inspector may terminate the inspection or confine the inspection to areas concerning which no objection is raised. The Inspector shall immediately report the refusal and the grounds to the UDO Administrator. The UDO Administrator will promptly seek the appropriate compulsory process.
3. In the event that the UDO Administrator or Inspector reasonably believes that discharges from the property into the Town's Stormwater System or receiving waters may cause an imminent and substantial threat to human health or the environment, the inspection may take place at any time after an initial attempt to notify the owner of the property or a representative on site. The Inspector shall present proper credentials upon reasonable request by the owner or representative. Inspection reports will be maintained in a permanent file at the offices of the Town.

5.11 Parking

5.11.1 Intent

The intent of this Section is:

A. To reduce the overall impervious surfaces associated with parking lots by providing compact, efficient parking standards;

B. Provide for adequate parking to encourage business opportunities; and

C. Provide for shared parking standards to reduce the overall impervious surfaces associated with parking lots.

5.11.2 Applicability

These provisions shall apply to all development and redevelopment in the Town of Bluffton.

5.11.3 Parking Space Calculations

A. Parking calculations may include public parking that is within 500 feet of the property.

B. Shared parking may allow for a reduction of up to 40 percent based upon the compatibility of uses that have different parking demands and are able to share parking lots/ spaces throughout the day. The Applicant shall provide a parking study to justify the number of spaces for shared parking. The Applicant shall provide a shared parking easement that must be approved by the UDO Administrator and be recorded with Beaufort County to allow the shared parking arrangement between property owners/ tenants.

C. If an Applicant would like to reduce the number of parking spaces beyond 20 percent or increase the number of parking spaces beyond the maximum in the table below, the Applicant shall provide a parking study for the UDO Administrator's review.

Unless otherwise noted, the following parking space calculations define the maximum amount of parking allowed for specific uses:

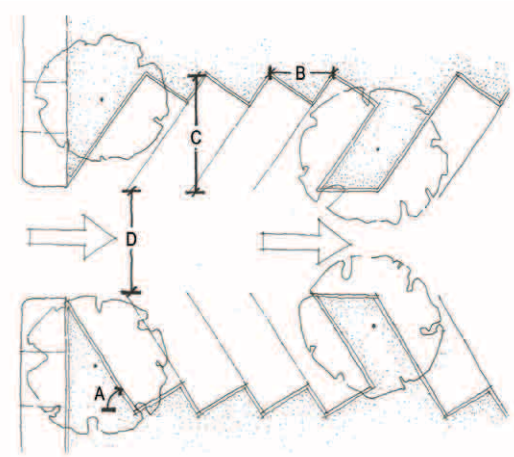
Table 5.11.3.C
Parking Spaces

Use	Maximum Parking
Residential	2 spaces per dwelling unit minimum
Lodging	1 space per bedroom plus 1 space per 3 employees
Office	4 spaces per 1000 sf
Health/ Human Care	3.5 spaces per 1000 sf
Commercial Services	4 spaces per 1000 sf
Civic/ Institutional	1 space per 1000 sf
Education	1 space per 3 students plus 1 space per instructor
Agricultural/ Conservation	1 space per 500 sf of commercial use plus 1 space per employee
Industrial	1 space per each employee at max shift plus 1 space for each company vehicle
Recreation/ Entertainment	Number of spaces shown to be necessary and reasonable by data submitted by the Applicant and as approved by the UDO Administrator
Motor Vehicle Sales and Service	4 space per 1000 sf of the showroom and 2 spaces per service bay

5.11.4 Standards: Design Standards for Parking Areas and Parking Lots

A. The following dimensional requirements for parking spaces shall be applicable to all parking areas and parking lots other than single-family detached residential parking on the lots:

1. Diagonal/angled and perpendicular parking spaces and parking space sizes shall conform to the following table of minimum values. Angled parking may be reverse angle as well.



Parking Dimensional Standards

Table 5.11.4.A.1
Parking Design Standards

A Parking Angle (degrees)	B Curb Length (feet)	C Stall Depth (feet)	D. Aisle Width	
			One-Way	Two-Way
30°	18'	16'	12'	20'
45°	12'	18'	14'	20'
60°	10'	19'	18'	22'
90°	9'	18'	20'	22' min – 24' max

2. Up to 25% of all Parking Areas may be designated for compact cars and/or

golf carts.

3. Parallel parking spaces shall be 8-10 feet in width and 18-26 feet in length.
4. Wheel stops shall be provided in all parking facilities without curbing. The vehicle side of the wheel stop shall be no more than 18 inches from the end of the parking space.
5. Each parking bay shall be separated from other parking bays by a median. All medians shall be at least 12 feet wide.
6. Not more than 8 continuous parking spaces shall be allowed in a row of parking without separation by a landscape island. Each landscape island shall be at least 10 feet in width.
7. A landscape island of at least 12 feet in width shall be provided at the ends of each parking bay.

5.11.5 Off-Street Loading Requirements

A. Any commercial operation outside of the Old Town Bluffton Historic District receiving deliveries shall provide sufficient off-street space for the loading and unloading of vehicles. Loading berths and parking areas for waiting vehicles shall be designed in accordance with the needs of the proposed operations subject to the minimum standards indicated in the following schedule:

Table 5.11.5.A Loading Berths

Square Feet of Gross Floor Areas in Structure	Number of Berths or Parking Spaces
0 – 25,000	1
25,001 – 40,000	2
40,001 – 100,000	3
Each 90,000 over 100,000	1

B. All retail uses and office buildings with a total floor area of 20,000 square feet shall have one loading berth or waiting space for each 20,000 square feet of floor area; and

C. Off-street loading areas shall be designed so that vehicles can maneuver for loading and unloading entirely within the property lines of the premises.

5.11.6 Standards: Bicycle Parking

All retail services, food services, office, entertainment, recreation, civic, educational and public uses shall provide bike racks for bicycle parking at a rate of 1 bicycle for each 15 vehicular parking spaces required. Racks shall be located adjacent to primary access points of the principal use of the building. Shared bicycle parking may be allowed to reduce the number of bicycle parking up to 50 percent for uses within 500 feet of one another.

5.12 Lighting

5.12.1 Intent

It is the intent of this Section to protect the health, safety, and welfare of the public by recognizing that sites may need to be illuminated for safety, security, and visibility for occupants, users, pedestrians, and motorists. To do so, this Section provides standards for various forms of lighting that will:

A. Minimize light pollution;

B. Maintain safe nighttime environment;

C. Preserve the restful quality of nighttime by eliminating intrusive artificial light and lighting that unnecessarily contributes to "sky glow";

D. Reduce light trespass from light sources onto adjacent properties;

E. Conserve electrical energy; and

F. Curtail the degradation of the nighttime visual environment.

5.12.2 Applicability

The standards in this Section shall apply to any proposed exterior light source. The UDO Administrator shall review any building or site to determine compliance with the requirements under this Section. Whenever a person is required to obtain a Development Permit, Certificate of Appropriateness, Building Permit, or Electrical Permit for outdoor lighting from the Town of Bluffton, the Applicant shall submit sufficient information to enable the UDO Administrator to determine whether the proposed lighting will comply with this Section.

5.12.3 Standards

A. **General Standards**

1. Parking lots larger than 10 spaces shall meet the requirements set forth in this Section.
2. Exterior architectural, display and decorative lighting visible from the corridor shall be generated from a concealed light source with low-level fixtures.
3. Any lighting fixture shall be of such design, so as to minimize the amount of ambient lighting perceptible from adjacent properties.
4. In no case shall any lighting impair the vision of motorists.
5. All interior lighting shall be so designed to prevent the light source or high levels of light from being visible from the corridor.
6. Entrances into developments from the highway may be lighted for traffic safety reasons, provided such lighting is approved by the agency maintaining the roadway and does not exceed the applicable footcandle requirements specified in this Section or in conformance with the American Association of State Highway and Transportation Officials (AASHTO) Roadway Lighting Guide.

B. **Light Fixtures**

1. Any light fixture shall be a cutoff luminaire whose source is completely concealed with opaque housing and shall not be visible from any street. This provision includes lights on mounted poles, as well as architectural display

and decorative lighting visible from the corridor.

2. Fixtures shall be mounted in such a manner that the cone of light is not directed at any property line of the site.
3. Only incandescent, fluorescent, metal halide, LED, mercury vapor or color corrected high-pressure sodium light may be used. The same type of lighting must be utilized for all fixtures and light sources on the site.
4. Only white or off-white (light yellow tones) may be used for any light source.
5. Lighting poles may not exceed a height of 20 feet.

C. **Sign Illumination**

1. The brightness of an illuminated sign shall not exceed 30 foot-candles at any one point on the sign face. Illumination shall be by an externally located steady stationary light source, shielded and directed solely at the sign. Light sources to illuminate signs shall neither be visible from any street right-of-way nor cause glare hazardous to pedestrians or vehicle drivers or so as to create a nuisance to adjacent properties.
2. Spotlighting of signs shall be restricted to not more than one shielded light fixture per side for sign faces up to 40 square feet and not more than two shielded light fixtures per side for larger sign faces.
3. Signs shall not have light-reflecting or translucent backgrounds but may use halo glow or reverse channel lettering.
4. Colored lamps are not permitted.
5. Backlighting of signs shall be permitted provided the sign is opaque and the rear surface is not reflective.
6. Exterior lighting shall be designed and arranged so as to minimize glare and reflection. Lighting shall be low-intensity, shielded from adjacent parcels.

D. **Illumination Levels**

1. All site lighting shall be designed so that the level of illumination measured in footcandles (fc) at any one point meets the standards below. The UDO Administrator shall have the discretion to allow limited flexibility as to variations in the illumination levels, if the proposed levels deviate from the following standards.

Table 5.12.3.D.1 Illumination Levels

Location or Type of Lighting	Minimum Level (FC)	Average Level (FC)	Maximum Level (FC)
Landscape and decorative	0.0	0.50	5.0
Commercial parking areas	0.6	2.40	10.0
Multifamily residential parking areas	0.2	1.50	10.0
Canopy Area Lighting	2.0	12.0	20.0
Areas for display of outdoor merchandise	1.0	5.0	15.0
Walkways and streets	0.2	1.0	10.0

5.13 Signs

5.13.1 Intent

The intent of this Section is to:

A. Encourage the effective use of signs as a means of communication in the Town of Bluffton;

B. Maintain and enhance the aesthetic environment and the Town's ability to attract sources of economic development and growth;

C. Improve pedestrian and traffic safety; and

D. Minimize the possible adverse effect of signs on nearby public and private property.

5.13.2 Applicability

A. A sign may be erected, placed, established, painted, or maintained in the Town only in conformance with the requirements of this Section.

B. The effect of this UDO as more specifically set forth herein, is:

1. To allow a variety of types of signs in commercial and industrial zones, and a limited variety of signs in other zones, subject to the standards and the permit procedures of this UDO;
2. To allow certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this UDO, but without a requirement for permits; and
3. To prohibit all signs not expressly permitted in this Ordinance.

5.13.3 Permissible Signs

A. The area and quantity of any freestanding sign for which a permit is required should conform to the following requirements. Planned Unit Developments (PUD), which because of their composition may qualify for more than one category, may apply the appropriate category to the various individual portions of the Planned Unit Development. The total number of signs for any individual development may not exceed the total number allowed as noted below:

Table 5.15.3.A Signs

Type of Development	Quantity of Signs Allowed	Maximum Area per Sign	Maximum Faces per Sign	Maximum Area per Face
Residential 501 or more Units	One per Entrance	240 SF	4 Faces	80 SF
Residential 300 to 500 Units	One per Entrance	80 SF	4 Faces	40 SF
Residential 299 or less Units	One per Entrance	80 SF	4 Faces	40 SF
Non-residential 100,000+ SF	Four Signs Maximum	240 SF	4 Faces	80 SF
Non-residential 40,000 to 100,000 SF	Three Signs Maximum	240 SF	4 Faces	80 SF
Non-residential 2,500 to 40,000 SF	Two Signs Maximum	160 SF	4 Faces	40 SF
Non-residential Up to 2,5000 SF	One Sign Allowed	40 SF	2 Faces	40 SF

B. The maximum height of any freestanding sign above the average grade elevation of the nearest public way or within a 20 foot radius of the sign shall not exceed the following:
   1. Eight feet where the sign face does not exceed 40 square feet;
   2. Ten feet where the sign face does not exceed 60 square feet; and
   3. 12 feet where the sign face exceeds 60 square feet.

C. The bottom edge of the sign shall not exceed three feet in height from the lowest grade elevation at the base of the sign.

D. The maximum width of any freestanding sign shall not exceed the following:
   1. 15 feet where the sign face does not exceed 40 square feet;
   2. 20 feet where the sign face does not exceed 60 square feet; and
   3. 25 feet where the sign face exceeds 60 square feet.

E. The maximum depth of any freestanding sign shall not exceed 25 percent of the width.

F. The area of a sign structure for any freestanding sign is limited to the same number of square feet as the sign face that it supports.

G. Freestanding signs shall be separated by a distance of no less than 200 foot intervals along each street frontage of the premises. In the event that a street frontage of less than 200 feet exists for any premises, only one sign shall be permitted along that frontage, notwithstanding that a greater number of signs may appear to be permitted by this Section.

H. In lieu of a freestanding sign, a development may use signs on entrance structures such as fences or walls. The number of sign faces is limited to two per entrance, on either side of the entrance, and confined to the entrance area.

The distance between sign faces shall not exceed 100 feet. Such signs are subject to the size limitations of this Section.

I. Changeable copy signs are allowed for schools, churches, gas stations, and public agencies, provided that the letters are hand-change only and not electronic. The changeable copy portion of the sign cannot exceed 30% of the sign area.

5.13.4 Wall Signs

A. The total area of wall signs shall not occupy more than ten percent of the area of the wall upon which they are placed with the maximum size of any one sign limited to 40 square feet.

B. No more than two signs may be placed on any one façade of any one building except that shopping centers shall be permitted two signs per tenant space, per tenant façade, provided only one such tenant sign per tenant façade is visible from any street right-of-way. Such tenant signs shall only be permitted in lieu of building signs.

C. Wall signs must be contained within any single wall panel, window, door, or other architectural component upon which they are placed.

D. Tenant façade signs must be located on the façade of the tenant space being identified.

5.13.5 Directory Signs

A. Shall be permitted where a particular site includes more than one tenant;

B. May contain logos or business names with arrows or other directional information but shall not contain any commercial message;

C. May be free-standing or affixed to an exterior wall; and

D. Shall be consistent with the architectural style and colors of the principal structures.

5.13.6 Sign Materials

The finish materials to be used for signage throughout the Town shall include:

A. Wood: painted, stained, or natural;

B. Metal: copper, brass, galvanized steel, or aluminum;

C. Stucco, Tabby, Stone, or Brick; or

D. Any other material that is finished or painted and looks like painted wood.

5.13.7 Prohibited Signs

A. Off-premise signs, except special event signs;

B. A sign which contains any flashing or animated lights, gives the appearance of animation or movement, or contains a message board which utilizes individual bulbs or electronic means to produce the message, excluding time and temperature signs;

C. Any sign that projects above the peak of a roof, or above the top of an awning or canopy on which it is erected;

D. Any sign which exhibits statements, words, or pictures of an obscene or pornographic nature;

E. Any sign which emits a sound, odor, or visible matter;

F. Any sign which obstructs free ingress/egress from a door, window, fire escape, or other exit way;

G. Any sign and or sign structure which obstructs the view of, may be confused with, or purports to be a governmental or traffic direction/safety sign;

H. Signs using the words "stop," "danger," or any other word, phrase, symbol, or character in a manner that might reasonably mislead, confuse, or distract a vehicle driver;

I. Except as otherwise provided, no sign whether temporary or permanent, except by a public agency or with the approval of the Town and upon issuance of an Encroachment Permit, is permitted within any street right-of-way;

J. Signs painted on, or attached to trees, rocks, or other natural features, telephone, or utility poles;

K. No sign of any kind shall be erected or displayed in any salt marsh areas or on any land subject to periodic inundation by tidal salt water;

L. Abandoned, hazardous, or dilapidated signs;

M. Portable signs, except as provided for in this section;

N. Attention-getting devices, including searchlights, spinners, streamers, balloons and similar devices, fluttering signs, pennants, ribbons, balloons, and other aerial devices;

O. Internally illuminated signs, neon signs, or signs which contain a visible light source; and

P. Vehicle signs.

5.13.8 Exempt Signs

The following signs are exempt from the regulations of this Ordinance, provided they are not located within the public right-of-way without an encroachment agreement:

A. Nameplates of four square feet or less;

B. Residence signs or street address numbers, not exceeding 4 square feet in size;

C. Signs located on property within those portions of PUD Districts where vehicular access by the general public is restricted by a security gate staffed 24 hours each day by a security guard and where such signs are not visible from any public street, beach, or navigable waterway;

D. Signs directing and guiding traffic and parking on private property which do not exceed 1.5 square feet in area and bear no advertising matter;

E. Projecting signs displaying the name of the business and having an area of two square feet or less when located under a pedestrian canopy;

F. Buses, taxicabs, and similar common carrier vehicles which are licensed or certified by a public body or agency;

G. Signs used for bona fide navigational aids;

H. Historic Plaques;

I. Traffic, directional, warning, or informational signs authorized by any public agency;

J. Flags and insignia of the United States or the State of South Carolina which are five feet by eight feet or smaller, with a maximum flagpole height of 30 feet when displayed in connection with a commercial use. Government buildings are exempt from the size and height limitations. Official flags limited to three per establishment; and

K. Official notices issued by any court, public agency, or public office, including signs erected on behalf of, or pursuant to, the authorization of a governmental body, including legal notices, identification and informational signs, and traffic, directional, or regulatory signs.

5.13.9 Setbacks from right-of-way

A. All freestanding signs shall be set back at least 10 feet from the public right-of-way.

B. Signs shall not be located within the vision clearance triangle at street intersections.

5.13.10 Temporary Signs

A. Temporary signs announcing a sale, promotion, civic, philanthropic, educational, religious, or other special event shall require the issuance of a Temporary Sign Permit. The permit shall state the length of time any such sign may be displayed and all such signs shall meet the following requirements.

1. Signs shall not exceed 16 square feet in area per sign face, 32 square feet in total sign area, and 6 feet in height if free-standing;
2. Signs shall be affixed at all corners to the structure on which the sign is attached;
3. No more than one temporary sign shall be permitted at any time;
4. No temporary sign shall be illuminated; and
5. Any tenant space or lot, if a single occupant, may display temporary signs, in aggregate, for up to 30 days in any 12 month period.

B. **Sandwich Board Signs**

1. One sandwich board sign may be permitted per tenant space or lot if a single occupant during business hours;
2. Sign must not exceed 6 square feet in area per sign face, 12 square feet in total sign area, and 4 feet in height;
3. In addition to being located on private property, such sign may be located on any common property associated with the private property for which the sign serves;
4. Sign shall not be placed in any highway or roadside buffer.
5. Sign must be located in a manner that maintains a minimum of 36 inches of unobstructed sidewalk clearance and does not impede pedestrian traffic; and
6. Sign must be located in a manner that does not impede vehicular traffic or parking, including safety sight lines at intersections.

C. The following signs shall be allowed without a permit provided the restrictions for the type of sign are met.

1. Political Signs:
   a. Political signs shall not be located on public property or in public rights-of-way., and must be confined wholly to placement on private property, with permission of the property owner;
   b. Signs shall not be erected earlier than 60 days prior to the election or referendum to which they apply;
   c. Signs shall be removed within five days after the election or referendum to which they apply. Signs for candidates in a runoff election may be maintained until the final election to which the signs apply; and
   d. Signs shall not exceed six square feet in area per sign face, 12 square feet in total sign area, and shall not exceed a height of four feet.

2. Real Estate Signs:
   a. Real estate "for sale" or "for lease" signs shall not be located on public property or in public rights-of-way, and must be confined wholly to placement on private property, with permission of the property owner;
   b. For single-family residential lots or units, one real estate sign, not exceeding five square feet in area per sign face and ten square feet in total sign area, and if freestanding, not exceeding four feet in height, shall be permitted. Property with frontage on two or more streets shall be permitted one additional sign per frontage. If a framed metal freestanding sign is not used, then a single post sign may be used, not to exceed six feet in height and five square feet in area per sign face and ten square feet in total sign area;
   c. For single-family subdivisions, multi-family, commercial, and industrial developments, one real estate or project sign not exceeding 48 square feet in area per sign face and 96 square feet in total sign area, and if freestanding, not exceeding eight feet in height, shall be permitted. Property with frontage on two or more streets shall be permitted one additional sign per frontage; and
   d. Such signs shall be removed within 30 days of the rental, sale, or lease of a property.

3. Project Signs:
   a. Project signs shall not be located on public property or in public rights-of-way and must be confined wholly to placement on private property, with permission of the property owner;
   b. Signs shall not exceed 32 square feet in area per sign face, 64 square feet in total sign area, and shall not exceed 8 feetin height; and
   c. Signs shall not be erected prior to issuance of a development plan approval and shall be removed prior to issuance of the final Certificate of Occupancy.

5.13.11 Automotive Service Station/Convenience Market Signs

The following sign standards apply to automotive service station and convenience markets:

A. **Gasoline Pump Signs.** Signs on gasoline pumps must be an integral part of the pump structure.

B. **Product or Service Advertising**

1. No more than four product/service advertisements shall be allowed.
2. Signs must be grouped on one sign structure per street frontage.
3. Individual product/service advertisements shall not exceed four square feet in size.
4. None of the allowable signs on the same structure shall be duplicates.

5.13.12 Planned Unit Development: Off-premise Directional Signs

A. Planned Unit Developments may erect freestanding off-premise directional signs on property within the boundaries of the Planned Unit Development for the purpose of directing vehicular traffic to destinations within the development.

B. Off-premise directional signs which are viewed from any public street shall meet the following requirements:

1. Copy shall be limited to the name of the development and qualified facilities, the direction vehicles must turn, and the distance to the turn. Graphics shall be limited to a logo and directional arrow;
2. Such signs must be located within one mile of the intersection where vehicles must turn to reach the development. No more than two doubled-sided signs shall be placed in any one direction from such intersection with no more than three double-sided signs for any one development; and
3. No single sign face can exceed greater than 40 square feet. Sign height, width, depth, and structure shall meet the requirements of this Section.

C. Off-premise directional signs which are viewed from private streets internal to the development shall meet the following requirements:

1. Such signs shall be limited to 20 square feet of sign face;
2. Such signs must be located within 200 feet of an intersection with no more than one double-sided sign viewed from any one direction; and
3. Copy for such signs shall list only destinations with directional arrows.

5.13.13 Planned Unit Development: Off-premise Identification Signs

A Planned Unit Development (PUD) whose primary entrance (right-of-way or easement) is located on a public street but is not within the boundary of the PUD, shall be allowed one off-premise identification sign. The sign shall be located within the right-of-way or easement for the entrance road and shall be solely for identifying the entrance to the PUD. Such sign shall be subject to the standards of this Section.

5.13.14 Master Sign Plan

A master sign plan design shall be required for all PUDs, commercial or major subdivisions, office complexes and shopping centers. These systems shall be reviewed for materials, shapes, sizes, compatibility with architecture, and establishment of unity of design for the development. New individual signs and changes to existing individual signs shall be reviewed for conformance with such sign systems.

5.14 Highway Corridor Overlay District

5.14.1 Intent

The intent of reviewing projects within the Town of Bluffton's Highway Corridor Overlay (HCO) District is to establish continuity of development within the District. In addition, design review will promote the following:

A. Protection of architectural and historical heritage of the Town of Bluffton;
B. Enhancement of the cultural image;
C. Stabilization or strengthening of property values;
D. Attraction of new residents, businesses, and tourists;
E. Sense of place and character;
F. Community unity;
G. Climate for attracting investment; and
H. Protection of open space.

Corridor review offers protection and guidelines for the unique, special and desired character of development within and along certain highways in the Town of Bluffton. The HCO District shall overlay other Zoning District classifications which shall be referred to as the base zoning.

5.14.2 Applicability

All proposed development lying within the designated Highway Corridor Overlay District as defined in this Ordinance shall be subject to the additional standards and review measures pertaining to this Section. To the extent that this Section is silent where other land development regulations govern, they shall apply.

5.14.3 Architectural Design Guidelines

The design of all applicable structures including habitable structures, walls, fences, light fixtures and accessory and appurtenant structures shall be unobtrusive and of a design, material and color that blend harmoniously with the natural surroundings, and the scale of neighboring architecture, complying with the intent of this Section. Innovative, high quality design and development is strongly encouraged to enhance property values and long-term economic assets.

A. **General Principles**

1. Architectural styles should be reflective of or compatible with architectural styles that exemplify the unique character of the Lowcountry region.
2. Multi-unit developments shall utilize a consistent or stylistically compatible palette of scale, forms, colors, materials, and textures.

B. **Exterior materials and architectural elements.**

1. Roofs. Roof overhangs and pitched roofs shall be incorporated into all building designs. Wood shingles, slate shingles, multilayered asphalt shingles, metal (raised seam, galvanized metal, corrugated metal, metal tile, etc.), or tiles are permitted.
   Not permitted:
   (1) Partial (less than three sides) mansard roofs.

(2) Flat roofs (including a minimum pitch less than 4:12) without a pediment.

(3) Long, unarticulated roofs.

2. Sides of buildings and structures. Wood clapboard, wood board and batten, wood shingle siding, brick, stucco, tabby, natural stone, and artificial siding material which resembles an approved material are permitted.
Not permitted:

   (1) Long, unarticulated, blank facades.

   (2) Plywood, cinder block, unfinished poured concrete, concrete block (except faced block retaining walls), plastic or vinyl not closely resembling an approved material, and metal buildings without exterior skin.

   (3) Highly reflective glass or materials as the predominant material or visible texture.

3. Colors. Predominant color design shall be compatible with Lowcountry or coastal vernacular palette which include traditional historic colors, earth tones (greens, tans, light browns and terracotta), grays, pale primary and secondary colors (with less than 50 percent color value), white and cream tones, and oxblood red. Accent color design (i.e., black, dark blue, grays, and other dark primary colors) may be used on a limited basis as part of an architectural motif, at the discretion of the UDO Administrator.
Not permitted:

   (1) High contrast colors and colors incompatible with the corridor and

   (2) Primary colors.

4. Accessory uses. The design of accessory buildings and structures, if permitted within the applicable Zoning District, shall reflect and coordinate with the general style of architecture inherent in the primary structure for the proposed development. Covered porches, canopies, awnings, trellises, gazebos, street/pedestrian furniture and open wood fences are encouraged.
Not permitted:

   (1) Unscreened chainlink or woven metal fences;

   (2) Internally illuminated and/or neon lighted exterior architectural or structural element(s) visible from the highway;

   (3) Exterior storage unless completely hidden from view; and

   (4) Exterior display of merchandise except for landscape structures, plant materials and agricultural products.

5.14.4 Drive-Thru Facilities

Drive-thru service windows must be located on the façade that is opposite the primary or secondary street and designed in a manner to be integral in massing and design as the principal structure for which it serves.

5.15 Old Town Bluffton Historic District

5.15.1 Intent

A. This Section has been prepared to provide guidance and consistency for standards for all properties located within the Old Town Bluffton Historic District and to identify desirable goals and objectives as identified by the Town of Bluffton in the *Old Town Master Plan*. The *Old Town Master Plan* is intended to provide a blueprint for future infill development in the Old Town Bluffton Historic District that reflects the eclectic character of the area and a sustainable pattern of settlement.

B. The Plan identifies key opportunity parcels for infill development, redevelopment, conservation, and preservation. Through the charrette process, the community and design team arrived at a series of basic urban design and policy principles to guide appropriate infill development in Old Town. Shaped by input from Bluffton citizens during the charrette, the "First Principles" embody the citizenry's vision for the future of Old Town. The principles summarize the results of the public planning process and promote responsible growth, planning, and development.

C. This Section is intended to be user-friendly and informative for the residents of the Town and the members of the HPC. It is not by any means intended to discourage creativity or force the replication of historic models. Rather, it is to set forth a framework in which the diversity that has always characterized Bluffton can continue to grow. This Section recognizes that some building types help to perpetuate the character that makes Bluffton distinctive—these are encouraged.

D. Other building types are damaging to that character and are specifically discouraged. Through history, patterns of building placement, street elevation, compositional principles, materials, and applications have established a broad but clear set of collective responses. This Section identifies a set of relatively simple principles in order to maintain this quality of environment that has made Bluffton so desirable and to encourage infill to follow this desired pattern.

E. This Section defines guidelines for design and materials similar to that used on structures within the Old Town. The purpose of the Old Town Bluffton Historic District is to promote the educational, cultural, and general welfare of the public through the preservation, protection, and enhancement of the old, historic, and/or architecturally-worthy structures and areas of the Town; and to maintain such structures as visible reminders of the history and cultural heritage of the Town.

5.15.2 Applicability

A. This Section applies to all properties zoned with a HD (Historic District) designated Zoning District. The Old Town Bluffton Historic District is the historic core of the Town and the area was granted National Historic Register District designation in 1996. Traditional urban design conventions have been applied to create a palette of Zoning Districts and thoroughfare types that form the framework for the Old Town District.

B. In the case of conflict between the standards set forth in the Old Town District and any other local land development regulation, these standards shall apply. To the extent that this Section is silent where other land development regulations

govern, they shall apply.

C. The images contained in this Section are meant to demonstrate the character intended for the Old Town Bluffton Historic District, but are for illustrative purposes only. The accompanying text and numbers are rules that govern permitted development.

D. With respect to existing buildings within the Old Town Bluffton Historic District, in the event that the building undergoes either structural or cosmetic modifications, repairs after damages, or additions, which effect the exterior appearance of the structure, the property will be subject to the standards set forth by this Section.

5.15.3 Regulating Districts

A. Great neighborhoods have a wide cross section of uses that vary in intensity from center to edge. The center of a neighborhood is usually developed in a mixed-use manner with more intense uses than the general and edge areas. This delicate gradient from center to edge provides visual variety as well as a variety of housing and commercial options. The Old Town Bluffton Historic District is divided into five designated Zoning Districts, as shown below. The Zoning Districts reflect the character of the streets in the various places within the Old Town Bluffton Historic District. The Zoning Districts are as follows:

1. Neighborhood Core Historic District (NC-HD);
2. Neighborhood Center Historic District (NCE-HD);
3. Neighborhood General Historic District (NG-HD);
4. Neighborhood Conservation Historic District (NCV-HD); and
5. Riverfront Edge Historic District (RV-HD).

B. The development regulations for properties within each of the Zoning Districts are described in this Section. When two or more parcels in different Zoning Districts are aggregated into one parcel, the new, consolidated parcel will be designated into one Zoning District. When parcels are combined, the greatest percentage of a designated Zoning District covering the assembled parcels shall apply to the new, consolidated parcel. All properties shall be regulated by one Zoning District; a parcel cannot be regulated by two or more Zoning Districts.

5.15.4 Urban Standards

A. The Urban Standards establish the physical and functional relationships between buildings. The standards set forth rules related to building placement (build-to zones, setbacks, lot width, street frontage), building type, uses, and height. There are permitted building types designated for each of the Zoning Districts. Detailed descriptions of these types are can be found in this Section, but it is ultimately the responsibility of the UDO Administrator to determine building-type appropriateness on a case-by-case basis. All new buildings in the Old Town Bluffton Historic District must meet the criteria of a designated building type outlined in this Section, and therefore must follow the prescribed Urban Standards set forth for that type, within the respective Zoning Districts. The Urban Standards contain regulations for properties in the Old Town Bluffton Historic District, based upon the following Zoning Districts:

1. Neighborhood Core Historic District (NC-HD);
2. Neighborhood Center Historic District (NCE-HD);

3. Neighborhood General Historic District (NG-HD);
4. Neighborhood Conservation Historic District (NCV-HD); and
5. Riverfront Edge Historic District (RV-HD).

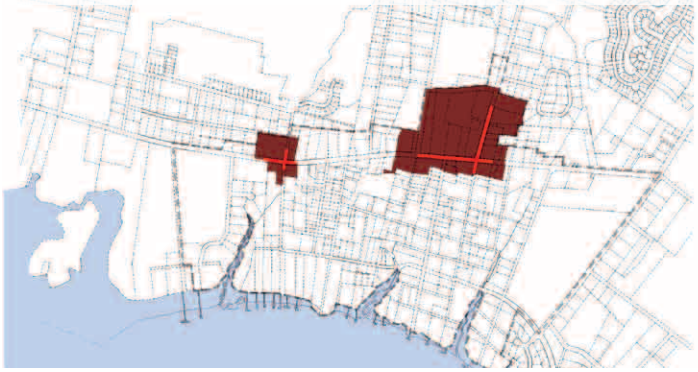
5.15.5 General Standards

The existing or proposed building type shall determine the applicable lot standards. Building types shall only be permitted as listed in the applicable District. The maximum allowed density is based on the dimensional characteristics established for each building type in combination with other site characteristics that may limit the amount of land able to accommodate density. These other site characteristics include, but are not limited to, lot configuration, right-of-way, easements, protected natural resources, open space, and topography.

A. Neighborhood Core Historic District (NC-HD)

NC-HD Precedent Imagery

The red lines indicate the locations of required shopfront buildings (Main Street Building, Commercial Cottage, or Live-Work Sideyard). In addition to shopfront buildings, civic structures are allowed within these areas.



NC-HD Regulating Plan

Neighborhood Core Building Type Requirements:	**Front Build-to Zone**	**Lot Width**	**Frontage Requirement**	**Rear Setback** *(from rear property line)*	**Side Setback** *(from side property lines)*	**Height** *(in stories)*
Main Street Building	0'-10'	30'-100'	70% - 90%	25'	5'	2-3
Commercial Cottage	5'-15'	30'-75'	40% - 70%	25'	8'	1-1.5
Live-Work Sideyard	0'-5'	35'-65'	50% - 75%	25'	5'	2-2.5
Duplex	5'-15'	55'-70'	N/A	25'	5'	2-3
Triplex		70'-100'				
Mansion Apartment House	5'-15'	60'-80'	N/A	25'	5'	2-2.5
Civic Building	5'-25'	N/A	N/A	N/A	5'	2.5
Carriage House	One Carriage House may be built per primary structure and may have a maximum footprint of 800 sq. ft. Carriage Houses must be located behind the primary structure see *5.15.8.F* for a full description of this type.			5'	5'	1-2
Additional Building Types						
As approved by the Town Architect, additional building types may be allowed in the Neighborhood Core Transect Zone. Building types not specifically listed shall be regulated by the following general requirements:	0'-25'	30'-100'	to be determined by UDO Admin.	25'	5'	2 - 3

B. Neighborhood Center Historic District (NCE-HD)

NCE-HD Precedent Imagery

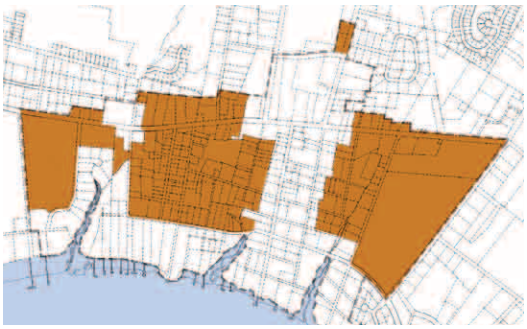
The red lines indicate the locations of required shopfront buildings (Main Street Building, Commercial Cottage, or Live-Work Sideyard). In addition to store-front buildings, civic structures are allowed within these areas.

NCE-HD Regulating Plan

Neighborhood Core Building Type Requirements:	**Front Build-to Zone**	**Lot Width**	**Frontage Requirement**	**Rear Setback** *(from rear property line)*	**Side Setback** *(from side property lines)*	**Height** *(in stories)*
Main Street Building	0'-10'	40'-80'	75% - 90%	25'	8'	2-2.5
Commercial Cottage	5'-20'	30'-60'	50% - 70%	25'	8'	1-1.5
Live-Work Sideyard	0'-5'	40'-60'	40% - 75%	25'	5'	1.5-2.5
Duplex	10'-20'	55'-70'	N/A	25'	8'	1.5-2.5
Triplex		70'-100'				
Mansion Apartment House	10'-20'	60'-80'	N/A	25'	10'	2-2.5
Carriage House	One Carriage House may be built per primary structure and may have a maximum footprint of 800 sq. ft. Carriage Houses must be located behind the primary structure. See *5.15.8.F* for a full description of this type.			5'	5'	1-2
Cottage	5'-15'	30'-60'	N/A	25'	5'	1-1.5
Village House	5'-15'	40'-60'	N/A	25'	5'	2-2.5
Sideyard House	5'-10'	40'-65'	N/A	25'	8'	2-2.5
Vernacular House	10'-20'	60'-80'	N/A	25'	10'	1.5
Civic Building	5'-25'	N/A	N/A	N/A	5'	2
Additional Building Types						
As approved by the Town Architect, additional building types may be allowed in the Neighborhood Center Transect Zone. Building types not specifically listed shall be regulated by the following general requirements:	0'-25'	30'-100'	to be determined by UDO Admin.	25'	5'	1-2.5

C. Neighborhood General Historic District (NG-HD)

1. Mandatory Mixed Use: The Neighborhood General zone shall be primarily residential in nature. All commercial development within this zone must maintain a predominantly residential character, as determined by the UDO Administrator.
2. A waiver of the mandatory residential component may be granted by the UDO Administrator for commercial properties with direct frontage on SC Highway 46 or Bruin Road.



NG-HD Regulating Plan

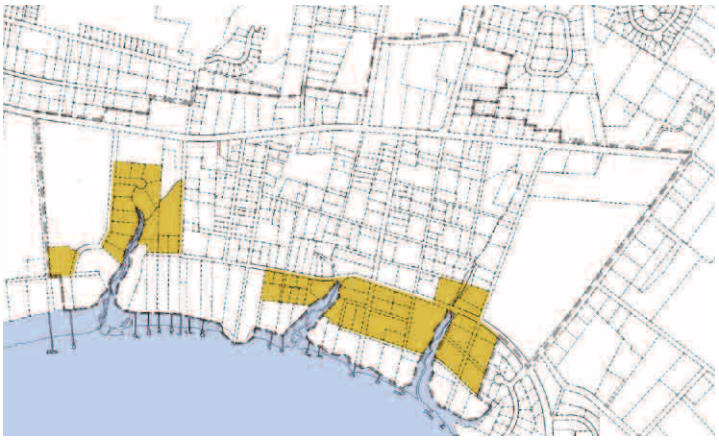
NG-HD Precedent Imagery

Neighborhood General Building Type Requirements:

		Front Build-to Zone	Lot Width	Frontage Requirement	Rear Setback *(from rear property line)*	Side Setback *(from side property lines)*	Height *(in stories)*
Carriage House	One Carriage House may be built per primary structure and may have a maximum footprint of 800 sq. ft. Carriage Houses must be located behind the primary structure. See *5.15.8.F* for a full description of this type.				5'	5'	1-2
Bungalow Court		10'-20' (for foremost bungalow)	60'-100'	N/A	25'	15'	1-1.5
Cottage		10'-20'	40'-60'	N/A	25'	10'	1-1.5
Village House		10'-15'	50'-65'	N/A	30'	15'	2-2.5
Sideyard House		10'-15'	40'-65'	N/A	30'	5'	2
Vernacular House		10'-20'	60'-100'	N/A	30'	15'	1.5
Center Hall House		15'-25'	70'-100'	N/A	30'	15'	2-2.5
Civic Building		10'-35'	N/A	N/A	N/A	10'	2
Additional Building Types							
As approved by the Town Architect, additional building types may be allowed in the Neighborhood General Transect Zone. Building types not specifically listed shall be regulated by the following general requirements:		10'-20'	40'-100'	N/A	25'	10'	1 - 2.5

D. Neighborhood Conservation Historic District (NCV-HD)

NCV-HD Precedent Imagery



NCV-HD Regulating Plan

Neighborhood Conservation Building Type Requirements:		Front Build-to Zone	Lot Width	Frontage Requirement	Rear Setback *(from rear property line)*	Side Setback *(from side property lines)*	Height *(in stories)*
Carriage House	One Carriage House may be built per primary structure and may have a maximum footprint of 800 sq. ft.. Carriage Houses must be located behind the primary structure. See *5.15.8.F* for a full description of this type.				5'	5'	1-2
Cottage		10'-20'	40'-60'	N/A	30'	10'	1-1.5
Village House		10'-20'	50'-70'	N/A	30'	10'	2-2.5
Vernacular House		15'-25'	60'-100'	N/A	30'	10'	1.5
Center Hall House		20'-35'	80'-100'	N/A	30'	15'	2-2.5
Civic Building		15'-40'	N/A	N/A	N/A	10'	1.5
Additional Building Types							
As approved by the Town Architect, additional building types may be allowed in the Neighborhood Conservation Transect Zone. Building types not specifically listed shall be regulated by the following general requirements:		10'-35'	40'-100'	N/A	30'	10'	1 - 2.5

E. Riverfront Edge Historic District (RV-HD)

In the Riverfront Edge Transect Zone, the river shall be the focus of each lot abutting it and therefore acts as the "front" of the lot.

RV-HD Precedent Imagery

RV-HD Regulating Plan

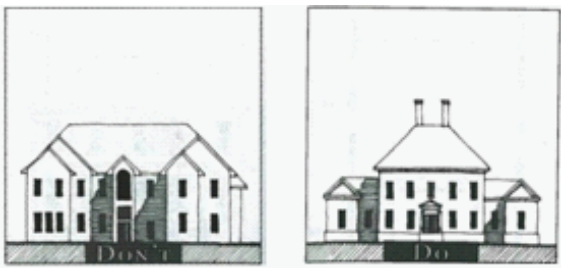
Riverfront Edge Building Type Requirements:	**Riverfront Build-to Zone**	**Lot Width**	**Frontage Requirement**	**Rear Setback** *(from streetside property line)*	**Side Setback** *(from side property lines)*	**Height** *(in stories)*
Carriage House	Two Carriage Houses may be built per primary structure and may have a maximum footprint of 800 sq. ft. each. They must be placed between the primary structure and the street.			5'	10'	1-2
Cottage	≥150' Perpendicular to, and in a horizontal plane from, the OCRM line	≥60'	N/A	20'	10'	1-1.5
Vernacular House		≥75'	N/A	20'	20'	1.5
Center Hall House		≥75'	N/A	20'	20'	2-2.5
River House		≥75'	N/A	20'	20'	1.5
Civic Building	15'-50'	N/A	N/A	N/A	15'	1.5
Additional Building Types						
As approved by the Town Architect, additional building types may be allowed in the Riverfront Edge Transect Zone. Building types not specifically listed shall be regulated by the following general requirements:	≥150' Perpendicular to, and in a horizontal plane from, the OCRM line	≥60'	N/A	20'	20'	1 - 2.5

F. General Standards

1. Building Heights
   a. Building heights and widths shall be visually similar to those in the neighboring vicinity.
   b. Building heights are regulated by the number of stories, based on the designated Zoning Districts.
   c. Residential structures shall have a first finished floor height raised a minimum of three (3) feet above average adjacent sidewalk grade. The first finished floor height can be elevated as much as five (5) feet above average adjacent sidewalk grade without counting the undercroft as a story.
   d. Each story above the first story in commercial and residential buildings shall be a minimum of eight (8) feet and a maximum of twelve (12) feet high from floor to ceiling. Floors more than twelve (12) feet, as measured from floor to ceiling, will count as additional floors.
   e. A half story is a finished living floor which is contained wholly or predominantly within the roof of a structure and is subject to the regulations of the local building code.
   f. Appurtenances may extend above the building height limits, but may not exceed 50' above the adjacent grade level.

2. Building Form, Massing, and Scale
   a. Building mass shall consist of a simple composition of basic building forms that follow a clear hierarchy.

Do not clump everything equally under one enormous roof. Many [building forms] with a confusing assembly of gables show the guest at first glance neither the entry nor the principal rooms of the house. All buildings should pass the First Glance Test.

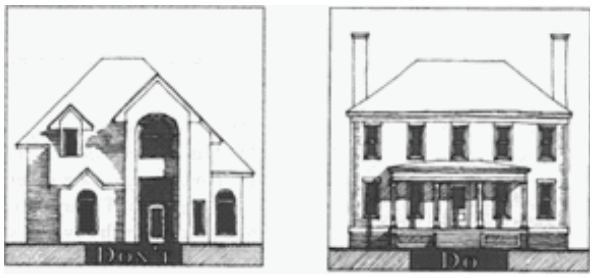


Do mass a house so that it passes the First Glance Test. Massing of a house should clearly show two things at first glance: the location of the main body of the house and the location of the entry for people, which ought to be more important and more noble than the car entry.

Source: Traditional Construction Patterns, p.62-63

   b. Rooflines shall be simple, utilizing gables, hips, and sheds, or combinations of these basic forms. Roofs shall correspond to the major massing of the building; roof forms that overwhelm the mass of the primary building form and complicated rooflines are to be avoided.

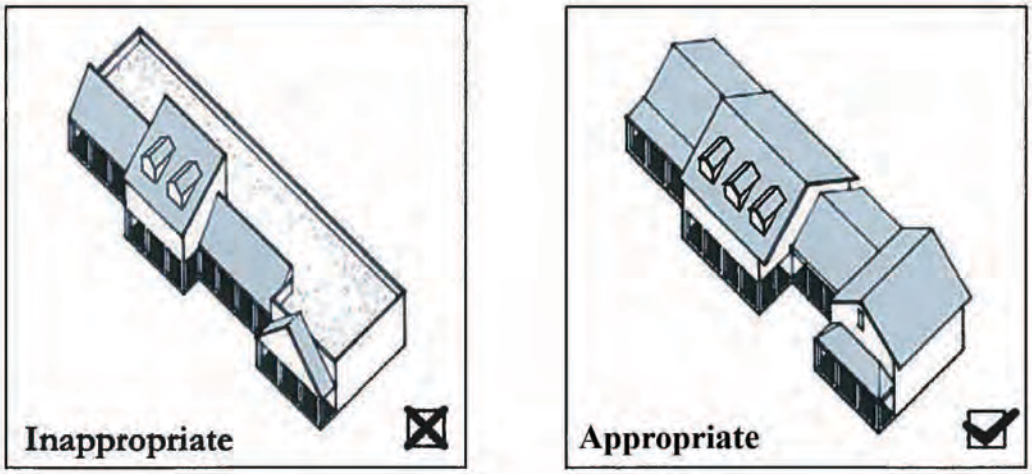
Do not use complicated forms. Too many gables, dormers, and roof breaks are not appropriate and can unnecessarily increase costs.



Do keep massing simple. Composing a house of one or a few simple boxes can save costs for more appropriate architectural elements like proper porch detailing, back porches, garden walls, frontage fences, pergolas, and a number of other items.

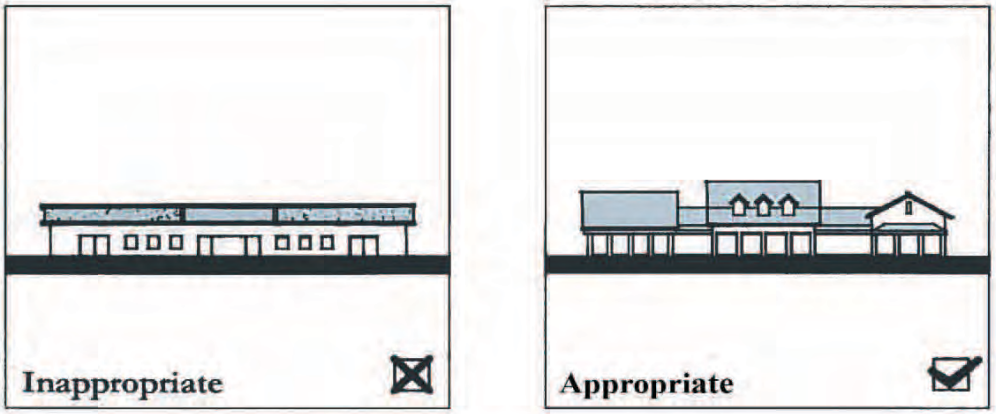
Source: Traditional Construction Patterns, p. 60-61

c. Incorporate elements that give the building perceptible scale. Large buildings in particular shall be designed to reduce their perceived height and mass by dividing the building into smaller scale components.



Roof forms should always respond to building forms.

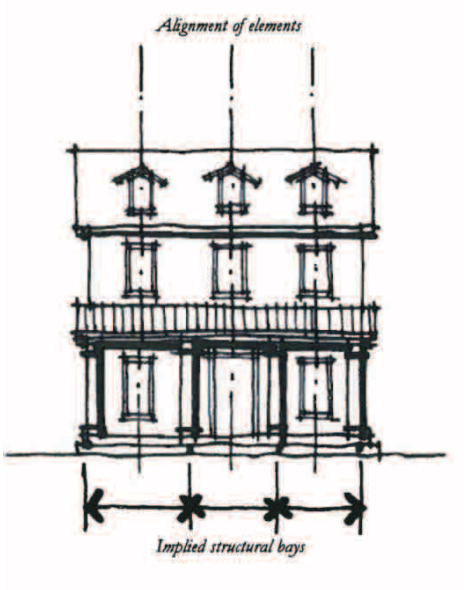
d. Long unarticulated masses shall be avoided. As an example, simple offsets of the primary façade can articulate the overall building massing and help reduce the perception of mass and scale.



Long expanses of unarticulated masses should be avoided. Combinations of massing can help reduce the perception of scale.

3. Architectural Elements and Projections
   a. Buildings shall incorporate interruptions and variety into the wall plane to create interest and variety in the streetscape while still maintaining a consistent architectural style and connection to its surroundings. Examples include but are not limited to offsets, recessed entrances, arcades, awnings and canopies, bay windows, roof overhangs, expression lines, shadow lines, porches and balconies.

4. Building Composition (Proportion, Alignment, Rhythm, and Spacing)
   a. Overall building proportions and Individual building features shall have a proportional relationship with one another. For example, features such as porches, cornices, windows and doors must be proportional to other features of the building as well as the overall building form.
   b. Additions, connective wings, and outbuildings shall be secondary to the primary building form.
   c. Building elements and the spaces between them shall be organized into a logical sequential manner.
   d. Horizontal rhythm should be established by the organization of the building facade into horizontal bands which provides human scale and proportion to the facade.
   e. Vertical rhythms should be established in the façade through alignment of windows, openings, pilasters, and columns.



5. Building Orientation
   a. The front principal façade of all buildings must be built parallel to the street that it faces.
   b. When a shopfront building abuts more than one street (i.e. occurs at a corner), it shall maintain at least 50% street frontage along its secondary street, in addition to the requirement for its primary street frontage.
6. Exceptions from Build-to Lines. Exceptions to Build-to Lines may be granted by the UDO Administrator where existing significant natural features are present, to preserve protected trees and to preserve the integrity of neighboring historic resources. Exceptions may also be granted to accommodate outdoor design features such as dining areas, open-air markets and public art features.
7. Garden Structures. Garden structures are small accessory buildings which may contain storage space, trash receptacles, or other garden uses.

Structures such as sheds, fences, pergolas, and gazebos are considered to be garden structures. Garden structures shall not be greater than 120 square feet in footprint, shall not exceed 1 story in height, and must comply with the architectural standards.

8. Drive-thrus. Drive-thrus shall not be permitted in the Old Town Bluffton Historic District.
9. Franchise Design. The quality of Bluffton's unique environment should not be eroded by inappropriate franchise designs and signage. It has been demonstrated in design conscious communities around the world that franchises can maintain their identity while working in a distinct context. The UDO Administrator and the HPC will evaluate franchise design proposals based on conformance with this Section.
10. Corner Radii and Clear Zones. Corner curb radii shall be between 9 feet and 15 feet. Fairly tight turning radii shorten pedestrian crossings and inhibit reckless drivers from turning corners at high speeds. To allow for emergency vehicles (e.g. fire trucks) to turn corners, a 25 foot radius Clear Zone shall be established free of all vertical obstructions such as telephone poles, sign poles, fire hydrants, electrical boxes, or newspaper boxes, etc.
11. Large Footprint Buildings
    a. Large footprint buildings can only be located in the Neighborhood Core Historic District Zoning District.
    b. Buildings may be one story in height, but shall be at least 24 feet in height. This may be accomplished with Liner Buildings or higher ceiling heights and/ or parapets.
    c. To encourage use by pedestrians and decrease the need for solely auto-oriented patronage, Large Footprint Buildings must reinforce the character of the Old Town Bluffton Historic District and shall therefore front the buildings to the sidewalks, providing windows and doors at frequent intervals. Operable doorways should occur on an average of every 50 feet for the whole length of the street frontage.
    d. Building footprints shall not be larger than a single block. Floor area of buildings shall not cantilever over public rights-of-way.
    e. Loading docks, service areas and trash disposal facilities shall not face streets, parks, squares, waterways, or significant pedestrian spaces.

5.15.6 Architectural Standards

A. A primary goal of this Section is authenticity. The standards encourage Bluffton vernacular architecture and construction which is straightforward and functional, and which draws its ornament and variety from the traditional assembly of genuine materials. The UDO Administrator shall have authority to approve substitute materials for those listed as options under the Architectural Standards. As an additional reference for architectural standards, refer to *Traditional Construction Patterns,* by Stephen Mouzon (McGraw Hill, 2004).

B. The images contained in this Section are meant to demonstrate the character intended for the Old Town Bluffton Historic District, but are for illustrative purposes only. The accompanying text and dimensional requirements are rules that govern permitted development.

C. **Special Building Elements & Appurtenances**:

1. These rules apply if any of the following special elements are included in a building design:
   a. *Awnings/ Marquees*
   b. *Balconies*
   c. *Colonnades/Arcades*
   d. *Cupolas/Small Footprint Towers*
   e. *Porches*
   f. *Stoops*
   g. *Dormers*
   h. *Chimneys*
2. Building fronts for commercial and mixed-use structures shall have at least one of the following:
   a. Arcade
   b. Colonnade
   c. Marquee
   d. Porch
   e. Awning
3. Residential structures shall have a front porch or a stoop.

D. **Architectural Elements:** Contains general requirements, permitted finish materials and configurations for the following:

1. Building Walls
2. Columns, Arches, Piers, Railings & Balustrades
3. Windows & Doors
4. Roofing & Gutters
5. Garden Walls, Fences & Hedges
6. Opacity & Façades
7. Shutters
8. Corners & Water Tables
9. Skirting & Underpinning
10. Cornice, Soffit & Frieze
11. Sign Guidelines

E. **Special Building Elements and Appurtenances**.

1. Awnings/ Marquees

a. Depth = 5 ft. minimum.

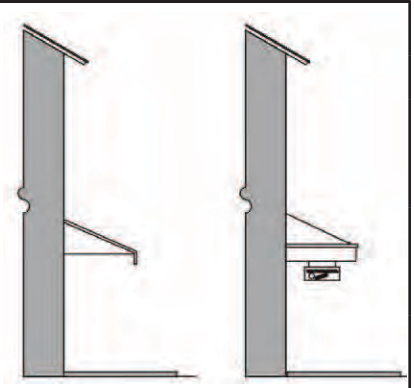
b. Height = 8 ft. minimum clear.

c. Length = 25% to 100% of Building Front (For commercial and mixed-use buildings within the Neighborhood Core and Neighborhood General only).

d. The above requirements apply to first-floor awnings. There are no minimum requirements for awnings above the first floor.

e. Marquees and Awnings shall occur forward of the Build-to Zone.

f. Awnings shall be made of fabric or metal. High-gloss or plasticized fabrics are prohibited.



Awnings/Marquees Precedent Imagery

2. Balconies

a. Depth = 2 ft. minimum for upper floor balconies.

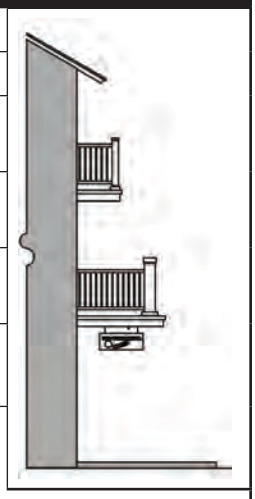
b. Height = 10 ft. minimum clear.

c. Length = 25% to 100% of Building Front. (for all building types in all zones, except single-family residences)

d. Balconies may occur forward of the Build-to Zone, but shall not encroach within the right-of-way.

e. Balconies may have roofs, but are required to be open, un-air-conditioned parts of the buildings.

f. On corners, balconies may wrap around the side of the building facing the side street.



Balconies Precedent Imagery

3. Colonnades/Arcades

a. Depth = 8 ft. min. from the build-to line to the inside column face. 18" from outside column face to curb.

b. Height = 10 ft. minimum clearance on ground floor. 8 ft. minimum fin. floor to ceiling on upper floors

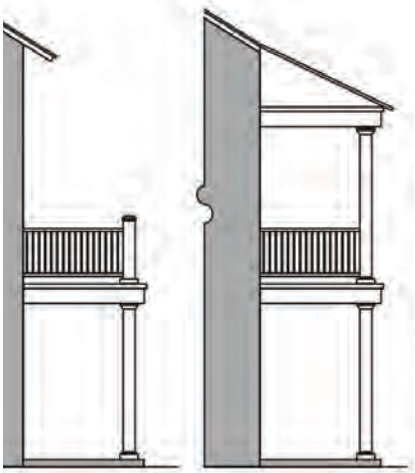
c. Length = 75-100% of Building Front. (for commercial and mixed-use buildings only)

d. Open multi-story verandas, awnings, and balconies shall be permitted above the colonnade.

e. Colonnades shall only be constructed where the minimum depth can be obtained.

f. Colonnades may occur forward of the Build-to Zone, but shall not encroach within the right-of-way.

g. On corners, colonnades may wrap around the side of the building facing the side street.

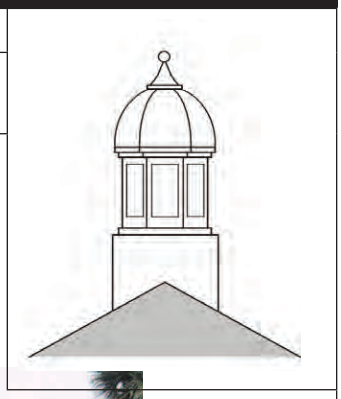


Colonnades/Arcades Precedent Imagery

4. Cupolas/Small Footprint Towers

a. Plan Area= 20' x 20' Maximum Footprint

b. Height= Cupolas and tower may extend a maximum of 15 feet above the Zoning District height limit.



Cupolas/Small Footprint Towers Precedent Imagery

5. Porches

a. Depth = 6 ft. minimum.

b. Length = 25% to 100% of Building Front.
= 25% to 100% of Building Side for wrap-around porches.

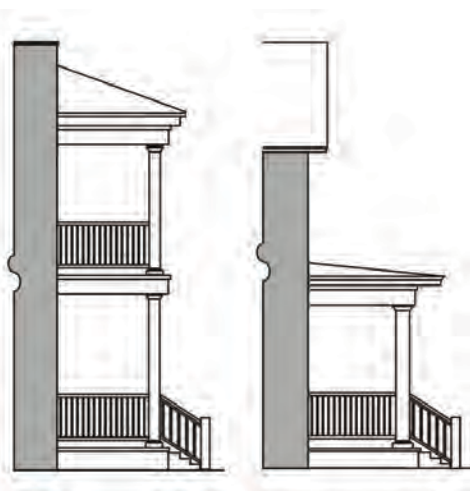
c. Height = 30" min. from grade to top of stairs; 96" maximum

d. Overhang = 2 ft. minimum.

e. Porches may have multi-story verandas and/or balconies above.

f. Front porches may occur forward of the Build-to Zone, but shall not extend into the right-of-way.

g. Porches may be screened; however, if screened, all architectural expression (columns, railings, pickets, etc.) must occur on the outside of the screen (facing the street or public space).



Porches Precedent Imagery

6. Stoops

a. Depth = 4 ft. minimum

b. Length = 10% to 25% of Building Front. (length does not include stairs)

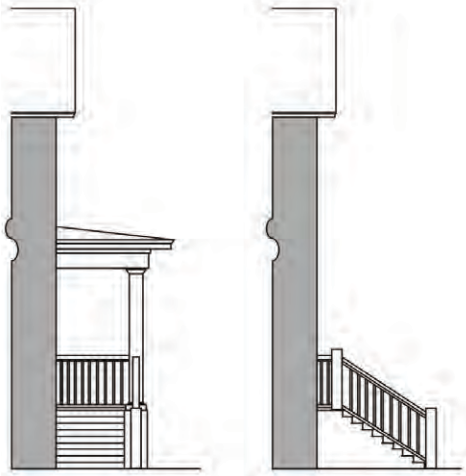
c. Height = 30" minimum from grade to top of stairs.

d. Stoops are permitted and may occur forward of the Build-to Zone, but shall not extend into the right-of-way.

e. Stoop stairs may run to the front or to the side.

f. Sidewalks shall have clear access for pedestrians.

g. Stoops may be covered or uncovered.



Stoops Precedent Imagery

7. Dormers

a. Dormers provide light, egress and ventilation to upper-story spaces within the roofline. The use of dormers is commonly found in Bluffton and is strongly encouraged as both a functional and decorative element.

b. Dormers may take on a variety of forms. Most commonly they will have gabled, hipped, or shed roofs, with either open rafters or closed soffits.

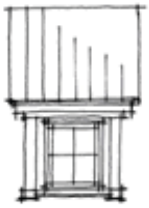
c. It is important to consider the size and proportion of overhang, as well as the width and height of the dormer in relationship to the scale of the structure.

d. Dormers may be used for ventilation of roof volumes with louvers in place of windows.

e. Windows or vents shall occupy the majority of the dormer's surface area.

f. Dormers may be set over the main wall plane, set back within the roof mass, or be partially engaged within an exterior wall.

g. Dormer centerlines shall align with the building elements below (centered between columns or directly above windows).



Dormers Precedent Imagery

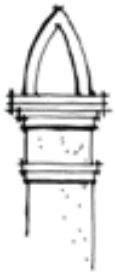
8. Chimneys

a. Chimneys are a central element for a structure, and have long provided opportunities for decorative detailing.

b. Exterior chimneys shall be finished in brick, tabby, or stucco.

c. Chimney caps provide the opportunity for a wide variety of details.

d. In keeping with masonry building technology, metal spark arrestors, exposed metal flues, or pre-fabricated chimney caps are not permitted.



Chimneys Precedent Imagery

F. **Architectural Elements**

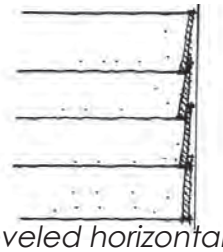
1. The lists of permitted materials and configurations come from the study of traditional buildings found in and around Bluffton and throughout the Lowcountry. They have been selected for their appropriateness to the visual environment and climate.
2. General Requirements: The following shall be located in rear yards or sideyards not facing side streets:
   a. Window and Wall Air Conditioners;
   b. Electrical Utility Meters;
   c. Air Conditioning Compressors;
   d. Irrigation and pool pumps; and
   e. Non-Residential Waste Receptacles.
3. The following shall be located in the rear yards only:
   a. Antennas;
   b. Permanent Barbecues;
   c. Satellite dishes;
   d. Clotheslines.
4. The following are prohibited:
   a. Undersized shutters (the shutter or shutters must be sized so as to equal the width that would be required to cover the window opening.);
   b. Shutters made of plastic, vinyl, aluminum, polystyrene, and metal;
   c. Inoperable shutters;
   d. Reflective and/or bronze-tint glass;
   e. Plastic or PVC roof tiles;
   f. Backlit awnings;
   g. Glossy-finish awnings;
   h. Exposed cell phone towers;
   i. Fences made of chain link, barbed wire, vinyl, plain wire mesh, or coated chain link;
   j. Fake-grained materials; and
   k. Internally lit/neon signs.

G. Building Walls

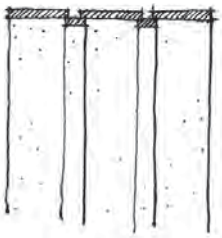
1. General Requirements (required for all buildings)
   a. Exposed foundation walls (below the first floor elevation) shall be; Brick done in bond patterns that match historic patterns in the district; Painted brick; Tabby stucco (mixed shell size only); and Stucco over block or concrete (sand-finished or steel trowel only).
   b. All Chimneys shall be made of brick; stucco, and natural or manufactured stone.

2. Required for all buildings except attached and detached single family houses:
   a. An expression line shall delineate the division between the first story and the second story. A cornice shall delineate the tops of the façades. Expression lines shall either be moldings extending a minimum of 2 inches, or jogs in the surface plane of the building wall greater than 2 inches. Cornices shall extend a minimum of 10 inches from the building wall.

3. Permitted Finish Materials:
   a. Wood (termite resistant, 50-year siding product).
   b. Cement fiber siding (50-year siding product).
   c. Concrete masonry units with stucco (C.B.S.).
   d. Reinforced concrete with stucco.
   e. Shingle.
   f. Vertical board and batten.
   g. E.I.F.S., Fiberglass (as cornice material), and composite materials: must be located out of reach of pedestrians and must visually appear to have a hand-troweled finish.
   h. Wherever possible, green building materials shall be used in the construction of building walls, including recycled-content sheathing, siding composed of reclaimed or recycled material, salvaged masonry brick or block, and locally-produced stone or brick.



Beveled horizontal wood siding



Wood board and batten

H. Columns, Arches, Piers, Railings, Balustrades

1. General Requirements:
   a. Column spacing: Columns and porch posts shall be spaced no farther apart than they are tall. Piers shall be place directly below the columns or posts which they support. Column Proportions shall be consistent with those found in the American Vignola: A Guide to the Making of Classical Architecture, by William Ware.

2. Permitted Finish Materials:
   a. Columns: Wood (termite resistant), painted or natural, Cast Iron, Concrete with smooth finish, Brick, Stone.
   b. Arches, Lintels, and Sills: Concrete Masonry Units with Stucco (C.B.S.), Reinforced Concrete with Stucco, Brick, Stone.
   c. Piers: Concrete Masonry Units with Stucco (C.B.S.), Reinforced Concrete with Stucco, Brick, Stone.
   d. Railings & Balusters: Wood (termite resistant), painted or natural Wrought Iron.

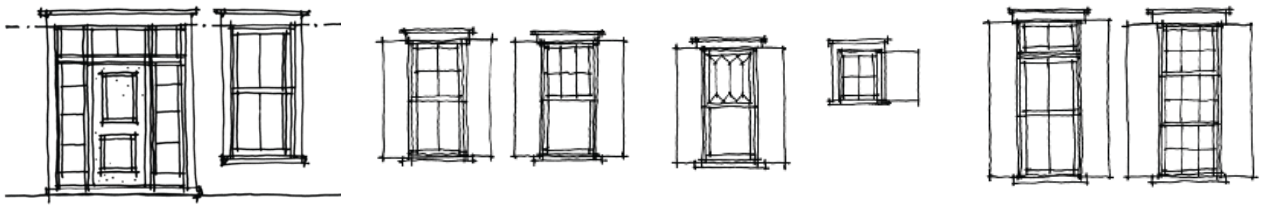
3. Permitted Configurations:
   a. Columns: Square, 6" minimum, with or without capitals and bases; Round, 6" minimum outer diameter, with or without capitals and bases; Classical orders.
   b. Arches: Semi-circular & Segmental.
   c. Piers: 8" minimum dimension.
   d. Porches: Top Rail: 2-3/4". Minimum diameter; Balusters: 4" o.c. spacing minimum, 5" o.c. spacing maximum.

I. Windows and Doors

1. General Requirements:
   a. The primary entrance to all buildings shall be located on the exterior wall facing the frontage street.
   b. Window openings shall be oriented vertically.
   c. Masonry Construction: A header and sill is required for all windows that are not located in a shopfront.
   d. The following accessories are permitted: Shutters, Wooden Window Boxes, Muntins and Mullions, Fabric or Metal Awnings (no backlighting; no glossy-finish fabrics).
   e. Dormer windows are encouraged.

2. Permitted Finish Materials:
   a. Windows & Shopfronts: Wood, Aluminum, Copper, Steel, Vinyl, Clad Wood.
   b. Doors: Wood or Metal.

3. Permitted Configurations:
   a. Windows: Rectangular, Square, Transom, Sidelite.
   b. Window Operations: Single- and Double-Hung, Casement, Industrial, Fixed Frame (36 square feet max.).
   c. Door Operations: Casement, French.



J. Roofs and Gutters

1. General Requirements:
   a. Permitted Roof Types: gabled, hipped, & shed. Flat roofs shall be concealed on all sides with parapets. Applied mansard roofs are not permitted.
   b. Downspouts are to match gutters in material and finish.

2. Permitted Finish Materials:
   a. Metal: Galvanized, Copper, Aluminum, Zinc-Alum.
   b. Shingles: Metal or Asphalt "dimensional" type, Slate, Composite Slate
   c. Gutters: Copper, Galvanized Steel, Aluminum (14-18 gauge)
   d. Use recycled-content, 30- or 40-year roofing material.

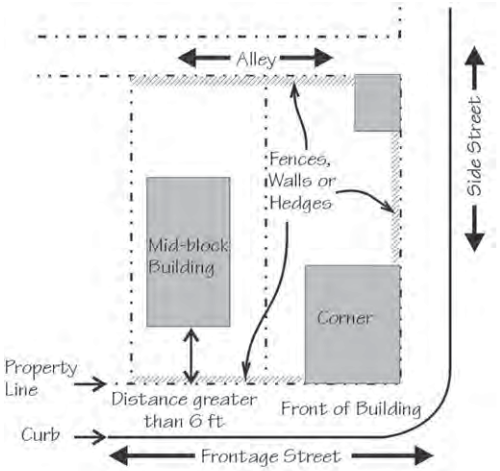
3. Permitted Configurations:
   a. Metal: Standing Seam or 5-V Crimp 24" maximum spacing, panel ends exposed at overhang
   b. Shingles: Square, Rectangular, Fish Scale, Diamond
   c. Gutters: Rectangular section, Square section, Half-round section

exposed rafter tails

downspouts match gutters

K. Garden Walls, Fences, and Hedges

1. General Guidelines: Fences, garden walls, or hedges are recommended along all un-built rights-of-way which abut streets and rear lanes as shown in the diagram below. Fences, garden walls, or hedges are encouraged along Side Yards (behind the front plane of the primary structure), and Rear Yards. Fences, garden walls and hedges shall be minimum 25% opaque. When fences, garden walls, or hedges occur, they must follow the below requirements.



2. Height
   a. Front Yard (in front of the primary structure): minimum height of 24 inches, maximum height of 42 inches. Pillars and posts shall extend farther.
   b. Rear Yards and Side Yards (behind the front plane of the primary structure): minimum height of 36 inches, maximum height 6 feet.

3. Permitted Finish Materials:
   a. Wood (termite resistant).
   b. Wrought Iron.
   c. Brick (A cap protects the tops of all brick elements exposed to the weather such as garden walls and freestanding piers. Caps are generally comprised of brick, but may also be comprised of stone, cast stone, terra cotta, concrete, or slate. The edges of caps shall be rectangular or more ornate. Caps shall project past the edge of the brick element below a minimum of 1/2in.).
   d. Stone.
   e. Concrete Masonry Units with Stucco (C.B.S. – if primary structure is masonry).
   f. Reinforced Concrete with Stucco (if primary structure is masonry).
   g. Wood posts with "Hog wire" infill and a board rail on top.

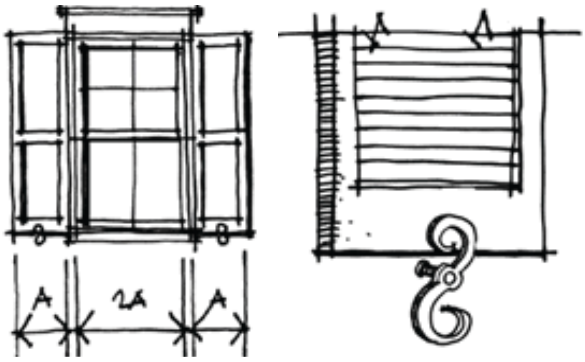
4. Permitted Configurations:
   a. Wood: Picket fences with corner posts and rail fences.
   b. Wrought Iron: Vertical, 5/8" minimum dimension, 4" to 6" spacing.
   c. Brick.
   d. Stone.
   e. Stucco: with texture and color to match building walls.

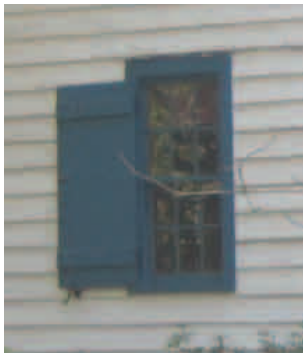
L Opacity and Facades

1. General Guidelines: Each floor of any building façade facing a park, square or street shall contain transparent windows covering from 20% to 70% of the wall area.
2. Retail shopfront areas only: In order to provide clear views of merchandise in stores and to provide natural surveillance of exterior street spaces, the ground-floor along the building frontage shall have untinted transparent shopfront windows and / or doors covering no less than 75% of the wall area. Low emissivity glass with high visual light transmittance shall be permitted. Bottoms of the shopfront windows shall be between 1 and 3 feet above sidewalk grade. Shopfronts shall remain unshuttered at night and shall provide clear views of interior spaces lit from within. Doors or entrances for public access shall be provided at intervals no greater than 50 feet, unless otherwise approved by the UDO Administrator.

M. Shutters

1. Shutters are an important vernacular element. They provide privacy, yet allow breezes to pass through the house. They shade windows from sun, and protect them from rain while at the same time providing a decorative visual element.
   a. Shutters are encouraged, and when used, must be sized to match openings.
   b. Shutters shall be hinged and operable.
   c. Single-hinged, double-hinged, or Bermuda-type shutters are acceptable.
   d. Shutters may be louvered, paneled, board and batten, or plank construction used with shutter dog of typical "S" design.
   e. Shutters shall be constructed of a durable wood.



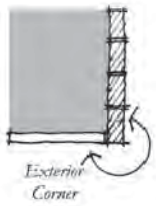


N. Corners and Water Tables Corners

1. Corners and water tables should follow precedent found in the local vernacular. Corner boards shall project beyond siding material;
2. Corner board trim shall be mitered, rabbeted, or butt jointed (butt face to be on side of wall);
3. Corner boards shall be beaded or have ¼ round inset trim mold;
4. Corners may have pilasters with an appropriate cap detail;
5. Corners may have 5/4" back-banding; and
6. Quoins of any type, Aluminum or vinyl corners or skirting and corner trim that is out of proportion to the vertical height of the wall are not permitted.
7. Water Table
   a. Water table should be 2x stock with a bevel (any exposed flashing must be copper or match color of water table);
   b. Water table trim should extend beyond any skirt trim; and
   c. Skirt boards shall be furred out to sit just beyond face of foundation wall (after finish foundation material is applied, i.e. brick, stucco).

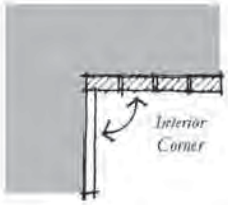
Not Acceptable

Change of material in same plane



Not Acceptable

Change of material at exterior corner

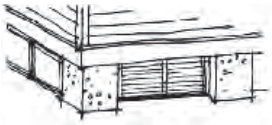


Acceptable

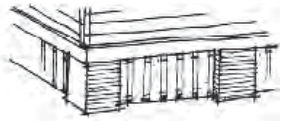
Change of material at interior corner

O. Skirting & Underpinning

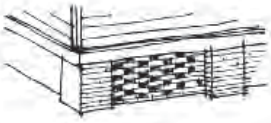
1. The following are permitted materials for skirting and underpinning: Brick lattice, vertical or horizontal pattern wood lattice or fencing referred to as "pig-board" and louvered vents.



Raised tabby foundation with horizontal infill panels



Raised brick foundation with vertical 1x6 louvers

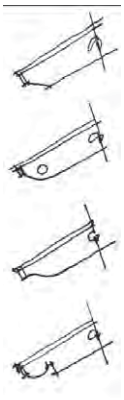


Raised brick foundation with open bond brick infill panels

P. Cornice, Soffit, and Frieze

The cornice, soffit and frieze follow precedent with large overhangs to provide shade and protect building surfaces from weather. The following details shall be considered in design:

1. The size of the overhang, detailing and depth of the cornice, soffit, and frieze should be in proportion with the design of the structure.
2. Open cornices with exposed rafter tails are a common detail to Bluffton and are finished with a simple 5/4" fascia board.
3. Rafter tails may be cut into a variety of decorative profiles.
4. Enclosed cornices should be finished with crown and bed moldings.
5. Soffits should be finished with beaded or v-groove tongue & groove.
6. The soffit, on an enclosed cornice, should be trimmed with a small crown or bed & cove mold at the frieze.
7. Simple brackets that support overhanging eaves can be found within the Bluffton vernacular.
8. Frieze boards should project beyond the siding material.
9. When exposed rafters are used, it is important that vented blocking be provided between the rafters. Continuous venting in enclosed soffits with aluminum vents is permitted on new construction, but it is recommended that it be less than 3" wide and is disguised in the soffit to the extent feasible.
10. Rough sawn wood, plywood and aluminum are not permitted materials for soffit or cornice detailing.



End-cut details for exposed rafters

Exposed rafter tails with 1x4 band board

Boxed soffit with crown molding over 1x8 fascia

Enclosed rafters with 1x4 over 1x8 fascia

Q. Sign Guidelines

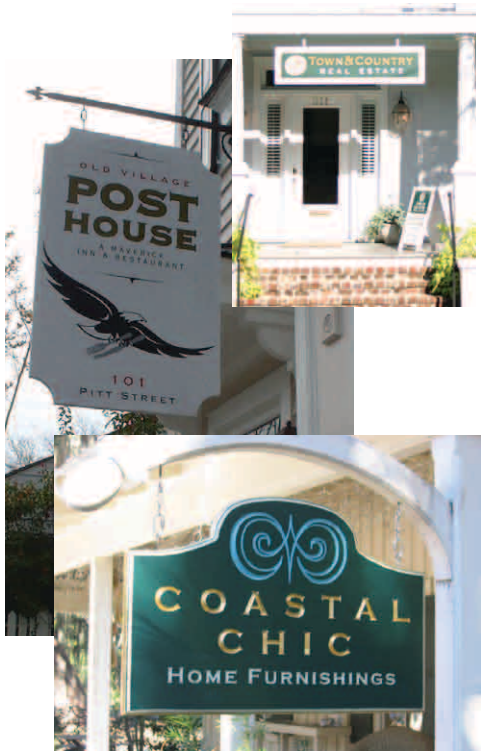
1. General Requirements:
   a. All signs shall be subject to review by the UDO Administrator for consistency and harmony with the character of the Old Town Bluffton Historic District. The UDO Administrator shall use the graphics in this section as non-binding guidelines, to make a determination of appropriateness on a case-by-case basis.
   b. Wall signs shall be flat against the façade, or mounted projecting from the façade.
   c. Free standing monument signs shall be placed at least five feet from the right of way.
   d. Signs shall be externally lit from the front.
   e. All signs shall be permanently mounted.
   f. No off premise signs shall be permitted.
   g. Temporary signs announcing a sale, promotion, civic, philanthropic, educational, religious, or other special event must meet the following requirements:
      (1) Any tenant space or lot, if a single occupant, may display temporary signs, in aggregate, for up to 30 days in any 12 month period;
      (2) Must not exceed 6 square feet in area per sign face, 12 square feet in total sign area, and 4 feet in height if free-standing ;
      (3) Signs shall be affixed at all corners to the structure on which the sign is attached.
      (4) No more than one temporary sign shall be permitted at any time; and
      (5) No temporary sign shall be illuminated.
   h. One sandwich board sign may be permitted per tenant space or lot if a single occupant during business hours and must meet the following requirements:
      (1) Must not exceed 6 square feet in area per sign face, 12 square feet in total sign area, and 4 feet in height;
      (2) In addition to being located on private property, such sign may be located on any common property associated with the private property for which the sign serves;
      (3) Must be located in a manner that maintains a minimum of 36 inches of unobstructed sidewalk clearance; and
      (4) Must be located in a manner that does not impede vehicular traffic or parking, including safety sight lines at intersections.

2. Finish Materials:
   a. Wood: painted or natural
   b. Metal: copper, brass, galvanized steel, or aluminum
   c. Painted Canvas
   d. Paint/engraved directly on façade surface
   e. MDU or other recycled material finished to resemble wood.

3. Configurations:
   a. Maximum gross area of wall signs on a given façade shall not exceed 10% of the façade area, with maximum size of any one sign limited to 25 square feet.
   b. Maximum area of any single freestanding sign shall not exceed 5 square feet per side and 5 feet in height. Freestanding on-premise signs along SC Highway 46 and Bruin Road shall not exceed 25 square feet and 8 feet in height

      *Signs shall maintain a minimum clear height above sidewalks of 8 feet.
   c. All other sign types shall not exceed 5 square feet per side.
   d. No more than 2 signs may be displayed per address.
   e. Freestanding signs shall be mounted either parallel or perpendicular to the right-of-way.

Signs mounted projecting from the façade:



Signs mounted flat against the façade:

5.15.7 Parking

A. **Intent.** The intent of these parking regulations is to encourage a balance between compact pedestrian oriented development and necessary car storage. The goal is to construct neither more nor less parking than is needed. The parking requirements and regulations are subject to review and adjustment by the UDO Administrator.

B. **Parking Requirements**

1. The minimum parking count requirement shall be 1 parking space for every 1000 square feet of leaseable or saleable building area. These parking spaces

may be located either on-site, on-street (directly adjacent to a property), in shared parking scenarios, or in any public parking facility, the closest outside edge of which facility is located no more than 500 feet from the entry to the proposed building.

2. Credit shall be given for on-street parking spaces located within the public right-of-way that are directly in front of or adjacent to a property. When an on-street parking space is shared between two properties, a line perpendicular to the right-of-way at the point separating the properties will be projected to the curb. From this point the distance will be measured along the curb to each parking stripe. The use or parcel having the majority of this distance may count the space towards its required parking.

C. **Off-Street Surface Parking Lot Placement**

1. Wherever possible, parking lots shall be located behind buildings, such that buildings separate parking areas from the street. In no case shall parking be located in front of a building. In the absence of a building or along secondary frontages, off-street surface parking lots shall be set back a minimum of 20 feet from property lines along public rights-of-way, excluding rear lanes. Outbuildings serving as garages facing rear lanes shall be permitted within this setback along the rear lane.
2. In order to provide a horizontal and vertical visual buffer softening the public view, the setback between any public right-of-way and an off-street parking area shall contain a combination of landscaping, including a variety of trees and shrubs capable of providing year round screening, and architectural features such as, but not limited to, garden walls, fences and hedges designed in accordance with the Old Town Bluffton Historic District Architectural Standards. The visual buffer shall be a minimum of 42 inches in height and should have a minimum 50% opacity. Shrubs shall be projected to reach their required height and opacity within one year of installation.
3. The buffer between any public right-of-way and an off-street parking area shall contain pedestrian amenities such as, but not limited to, benches, fountains, are or other features to create visual interest and continuity in the streetscape.
4. The perimeter of off-street parking not adjacent to a public right-of-way shall include a landscape buffer a minimum of 5 feet in width, be a minimum of 42 inches in height, and contain vegetative material to visually screen the parking area from adjacent properties.

D. **Access to Off-Street Parking**

1. Rear lanes, service lanes, or secondary frontages where present, shall be the primary source of access to off-street parking. When rear lanes, service lanes, or secondary frontages are not present, parking shall be accessed by a single width driveway placed at the side of the lot, adjacent to the neighboring property line and a demonstrated effort made to obtain a cross access easement allowing for shared access between adjoining properties.
2. Access between parking lots across property lines is also strongly encouraged.

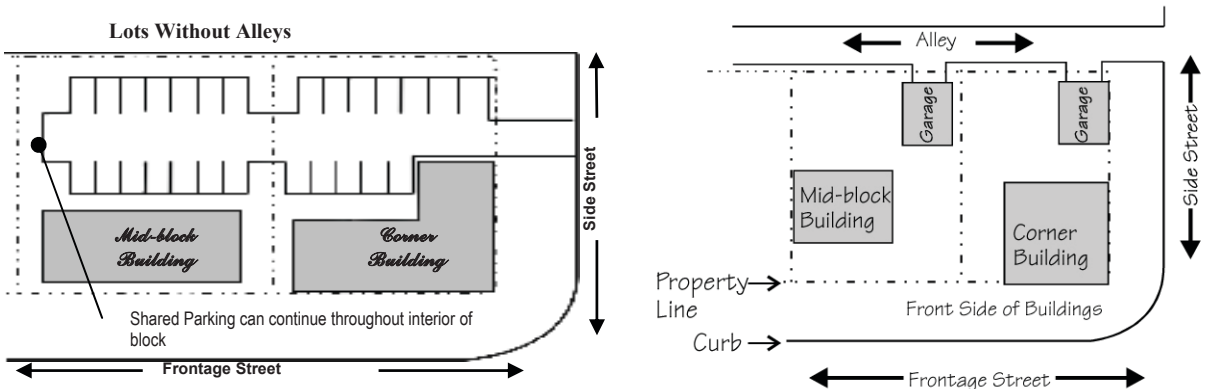
3. Pedestrian connectivity must be provided from the parking lot to the building which the parking serves or in the case of public parking to the nearest public pathway.

E. **Public Parking Structure**

1. Public parking structures shall comply with the applicable setback for Civic Buildings and reserve room for Liner Buildings between parking structures and the lot frontage. The Liner Building shall be no less than 20 feet in depth. Liner Buildings may be detached from or attached to parking structures. A Liner Building is only required along the first story of a public parking structure.

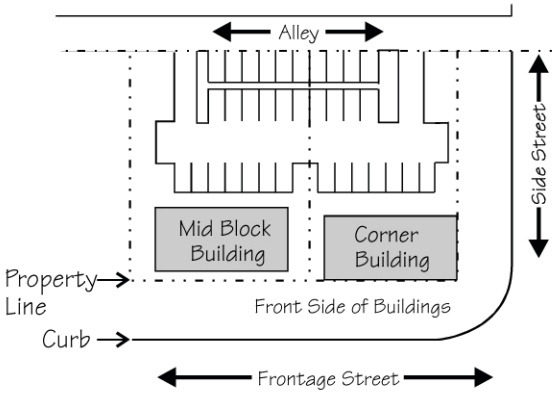
F. **Shared Parking**

1. An efficient method for handling parking in the Old Town Bluffton Historic District is through the coordinated use of shared parking. Businesses and churches may be able to use certain parking spaces during the day while these same spaces are then used by residents at night. Shared parking works in a mixed-use, park-once, pedestrian-friendly environment, all of which are key elements in the *Old Town Master Plan*. Development proposals in the Old Town Bluffton Historic District should include shared parking strategies to minimize surface parking.
2. Shared parking may be applied when land uses have different parking demand patterns and are able to use the same parking spaces/areas throughout the day. Shared parking is most effective when these land uses have significantly different peak parking characteristics that vary by time of day, day of week, and/or season of the year. In these situations, shared parking strategies will result in fewer total parking spaces needed when compared to the total number of spaces needed for each land use or business separately. Land uses often used in specific shared parking arrangements include office, restaurants, retail, colleges, churches, cinemas, and special event situations. Shared parking is often inherent in mixed-use developments, which include one or more businesses that are complementary, ancillary, or support other activities. General parking lots and/or on-street parking that is available for patrons of nearby businesses/ commercial districts is another form of shared parking.
3. The UDO Administrator shall evaluate all shared parking applications to ensure that parking is handled appropriately in Old Town.
4. Factors evaluated to establish shared parking arrangements should include



Access to Off-Street Parking

operating hours, seasonal/ daily peaks in parking demand, the sites orientation, location of access driveways, transit service, accessibility to other nearby parking areas, pedestrian connections, distance to parking area, availability of parking spaces, cooperation of adjacent owners). The minimum number of parking spaces for a mixed use development or where shared parking strategies are proposed shall be determined by a study prepared by the applicant following the procedures of the Urban Land Institute Shared Parking Report.

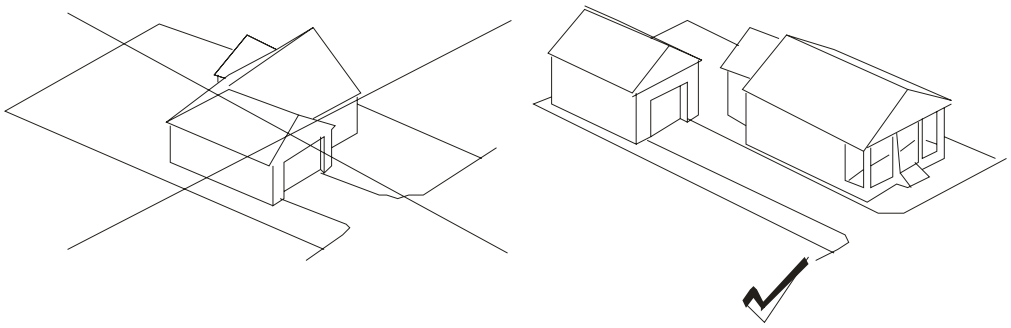


Access to Off-Street Parking

5. The shared parking plan submitted by the applicant shall include one or more of the following:
   a. Site plan of parking spaces intended for shared parking and their proximity to land uses that they will serve.
   b. A signage plan that directs drivers to the most convenient parking areas for each particular use or group of uses (if such distinctions can be made).
   c. A pedestrian circulation plan that shows connections and walkways between parking areas and land uses. These paths should be as direct and short as possible.
   d. A safety and security plan that addresses lighting and maintenance of the parking areas.
   e. Any additional applicable information, as requested by town staff.

G. **Garages**

1. Garage doors shall be positioned no closer to streets, squares or parks than 20 feet behind the principal plane of the building frontage. Garage doors shall not exceed 12 feet in width. Where space permits, garage doors shall face the side or the rear, not the front.
2. Driveways shall be a maximum of 10 feet wide in front of the principal plane of the building.



Garage Location

5.15.8 Building Types

A. Main Street Building

General: Detached Mixed Use Building.

Size Range: 2,000 – 8,000 sq. ft.

Maximum Footprint (not including porches): 3,500 sq. ft.

Height: 2 - 3 stories.

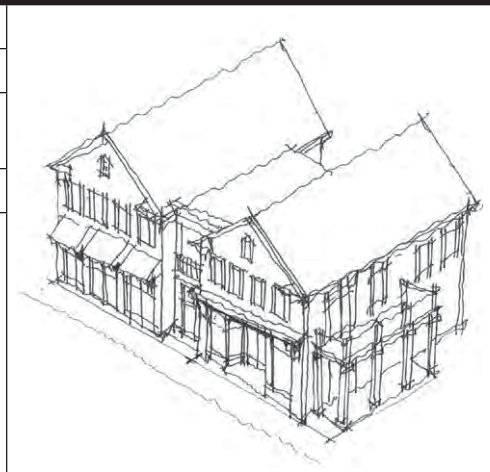
Notes:

A shopfront building.

Retail/office space on ground floor.

Office/living space on upper levels.

Must have an arcade, colonnade, marquee or awning along the front façade (arcades/colonnades are preferred).



CORE	CENTER	GENERAL	CONSERVE	RIVER EDGE
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Main Street Building Precedent Imagery

*Precedent images are for illustrative purposes only, with no regulatory effect. They are provided as examples, and shall not imply that every element in the photograph is permitted.

B. Commercial Cottage

General: Detached Mixed Use Building.

Size Range: 600 – 1,800 sq. ft.

Maximum Footprint (not including porches): 1,500 sq. ft.

Height: 1 – 1.5 stories.

Notes:

A shopfront building.

Similar to the historic Peeples' Store on Calhoun Street.

May contain a living unit in the attic story.

Typically 18' - 30' wide, but may vary.

CORE	CENTER	GENERAL	CONSERVE	RIVER EDGE
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Commercial Cottage Precedent Imagery

*Precedent images are for illustrative purposes only, with no regulatory effect. They are provided as examples, and shall not imply that every element in the photograph is permitted.

C. Live-Work Sideyard

General: Detached Mixed Use Building.

Size Range: 1,800 – 3,200 sq. ft.

Maximum Footprint (not including porches): 1,500 sq. ft.

Height: 1.5 – 2.5 stories.

Notes:

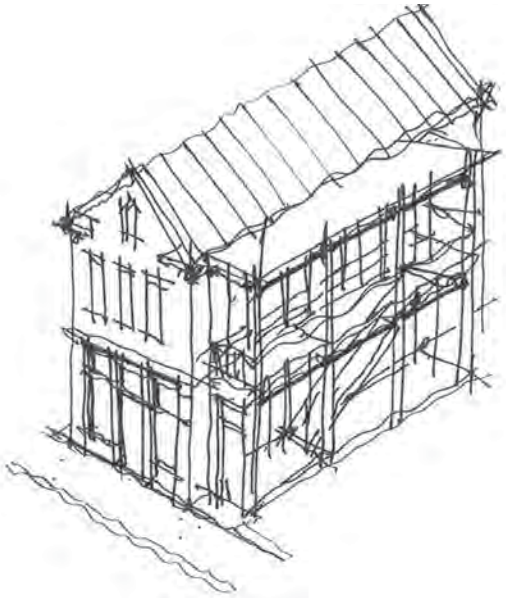
A shopfront building.

A retail or office space on the ground floor, with one dwelling unit above.

Must have a single/double story side porch or arcade.

Building tends to be positioned with the non-porch side close to the adjacent side property line, creating a "side yard" which the porch faces onto.

Typically 24' - 40', including the side porch.



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Live-Work Sideyard Precedent Imagery

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D. Duplex/Triplex

General: Two or Three Attached Single Family Residences.

Size Range: 800 – 2,800 sq. ft. (per unit).

Maximum Footprint (not including porches): 1,000 sq. ft. (per unit).

Height: 1.5 – 2.5 stories.

Notes:

Each unit must have own separate, forward (street).

Facing entrance.

Units shall be arranged with fronts parallel to the street.

Units shall all be constructed simultaneously and be of the same architectural character.

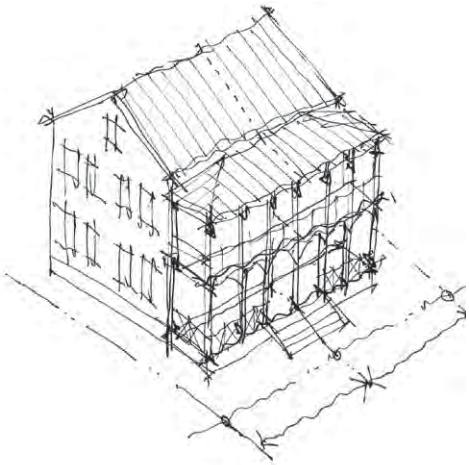
Units may be rentals or condominiums.

Units share one single lot.

One carriage house is allowed per unit.

Triplex may be 3 full stories if raised up on a full height basement.

Each unit is typically 15' - 30' wide.



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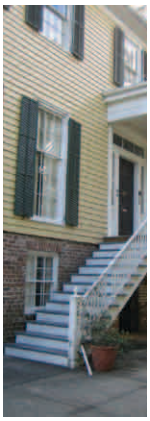
Duplex/Triplex Precedent Imagery



E. Mansion Apartment House

General: Detached Multi-Family Building (4-6 units).

Size Range: 1,800 – 4,500 sq. ft. (per unit).

Maximum Footprint (not including porches): 2,000 sq. ft.

Height: 2 – 2.5 stories.

Notes:

Building may contain 4-6 units.

Has the appearance of a large home.

Must have one primary entrance.

Shall have a shared front porch.

Units may be rentals or condominiums.

Building is typically center hall in format.

One carriage house is allowed on the same lot.

Typically 40' - 60' wide.

CORE	CENTER	GENERAL	CONSERVE	RIVER EDGE
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Mansion Apartment House Precedent Imagery

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F. Carriage House

General: Detached Accessory Structure.

Size Range: 250 – 1,200 sq. ft. (per unit).

Maximum Footprint (not including porches): 800 sq. ft.

Height: 1 – 2 stories.

Notes:

Must be an accessory structure.

Only one permitted per lot, unless otherwise noted.

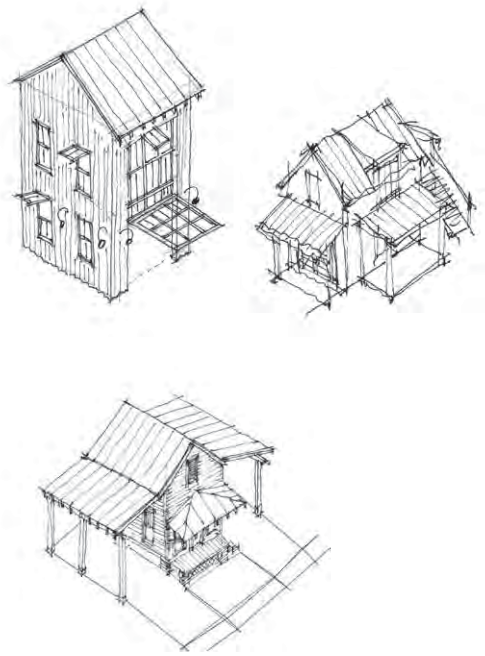
May be used as a garage, living unit or home business (or combination).

May function as a small-scale shop, studio or workshop.

Garages are limited to 2 cars, with maximum garage door widths of 12' each.

Must be of same general character as primary structure.

Must be placed behind the primary structure and towards the back of the lot



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Carriage House Precedent Imagery

*Precedent images are for illustrative purposes only, with no regulatory effect. They are provided as examples, and shall not imply that every element in the photograph is permitted.

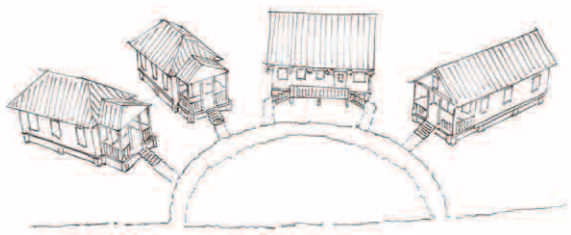
G. Bungalow Court

General: Detached Clustered Single Family Residences.

Size Range: 400 – 900 sq. ft.

Maximum Footprint (not including porches): 700 sq. ft.

Height: 1 – 1.5 stories.



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Notes:

Units must face each other or an adjacent public ROW.

Court must contain a center green or common space.

All units share one lot (condominiums).

Bungalows shall be accessed by pedestrian paths.

Parking and driveways must be located behind units and along adjacent property lines - may be communal parking.

Carriage houses are not allowed.

Schemes for courts in which any of the bungalows face the back of adjacent buildings or turn their back on an adjacent street shall not be permitted.

Bungalow Court Precedent Imagery.

*Precedent images are for illustrative purposes only, with no regulatory effect. They are provided as examples, and shall not imply that every element in the photograph is permitted.

H. Cottage

General: Detached Single Family Residence.

Size Range: 700 – 1,500 sq. ft.

Maximum Footprint (not including porches): 900 sq. ft.

Height: 1 – 1.5 stories.

Notes:

Almost always has a front porch.

Typically 18' - 28' wide.

Typically positioned close to one of the adjacent side property lines.

CORE	CENTER	GENERAL	CONSERVE	RIVER EDGE
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Cottage Precedent Imagery

*Precedent images are for illustrative purposes only, with no regulatory effect. They are provided as examples, and shall not imply that every element in the photograph is permitted.

I. Village House

General: Detached Single Family Residence.

Size Range: 1,200 – 2,400 sq. ft.

Maximum Footprint (not including porches): 1,100 sq. ft.

Height: 2 – 2.5 stories.

Notes:

Almost always has a front porch.

Shall be narrower along the street front than it is deep.

Typically positioned close to one of the adjacent side property lines.

Principal mass of the building typically has a forward facing gable.

Typically 20' - 30' wide.

CORE	CENTER	GENERAL	CONSERVE	RIVER EDGE
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Village House Precedent Imagery

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J. Sideyard House

General: Detached Single Family Residence.

Size Range: 1,200 – 2,800 sq. ft.

Maximum Footprint (not including porches): 1,200 sq. ft.

Height: 2 – 2.5 stories.

Notes:

Positioned with narrow side facing the street and a full-length side porch.

House tends to be positioned with the non-porch side close to the adjacent side property line, creating a "side yard" onto which the porch faces.

Typically 24' - 35' wide, including the side porch.

CORE	CENTER	GENERAL	CONSERVE	RIVER EDGE
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Sideyard House Precedent Imagery

*Precedent images are for illustrative purposes only, with no regulatory effect. They are provided as examples, and shall not imply that every element in the photograph is permitted.

K. Vernacular House

General: Detached Single Family Residence.

Size Range: 1,600 – 2,800 sq. ft.

Maximum Footprint (not including porches): 1,800 sq. ft.

Height: 1.5 stories.

Notes:

Similar to the Heyward House and Seabrook House.

Must have a full-length front porch.

May have dormers.

May have side or rear wings, which are secondary to the main mass of the structure.

Typically 38' - 50' wide.

Gables always occur on the sides of the house, i.e., the roof ridge shall run parallel to the front façade of the house.

CORE	CENTER	GENERAL	CONSERVE	RIVER EDGE
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Vernacular House Precedent Imagery.

*Precedent images are for illustrative purposes only, with no regulatory effect. They are provided as examples, and shall not imply that every element in the photograph is permitted.

L. Center Hall House

General: Detached Single Family Residence.

Size Range: 2,000 – 5,500 sq. ft.

Maximum Footprint (not including porches): 2,000 sq. ft.

Height: 2 - 2.5 stories.

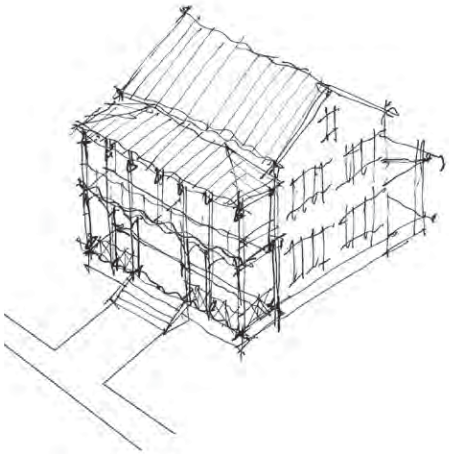
Notes:

Similar to Seven Oaks and Guerrard's Bluff.

May have a single or double height front porch.

May have side or rear wings, which are secondary to the main mass of the building.

Typically 40' - 55' wide.



CORE	CENTER	GENERAL	CONSERVE	RIVER EDGE
	●	●	●	●

Center Hall House Precedent Imagery.

*Precedent images are for illustrative purposes only, with no regulatory effect. They are provided as examples, and shall not imply that every element in the photograph is permitted.

M. River House

General: Detached Single Family Residence.

Size Range: 2,000 – 4,800 sq. ft.

Maximum Footprint (not including porches): 2,000 sq. ft.

Height: 2 - 2.5 stories.

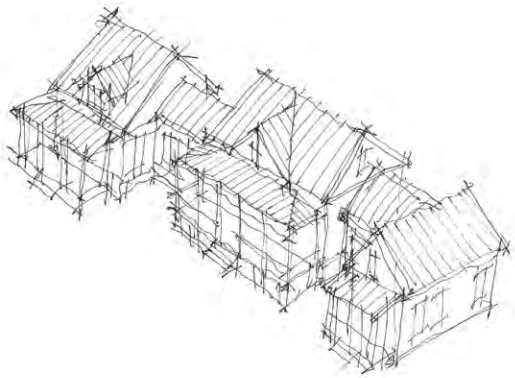
Notes:

Similar to Pritchard House.

Typically has a porch on both the street and river sides.

Large, central mass like the Vernacular House, but with smaller wings extending out from one or both sides.

Typically 60' - 90' wide.



CORE
CENTER
GENERAL
CONSERVE
RIVER EDGE ●

River House Precedent Imagery

*Precedent images are for illustrative purposes only, with no regulatory effect. They are provided as examples, and shall not imply that every element in the photograph is permitted.

N. Civic Building

CORE	CENTER	GENERAL	CONSERVE	RIVER EDGE
●	●	●		

1. Civic buildings contain uses of special public importance. Civic buildings include, but are not limited to, municipal buildings, churches, libraries, schools, recreation facilities, and places of assembly. Civic buildings do not include retail buildings, residential buildings, or privately owned office buildings. Civic buildings should be monumental and should help to enhance the public realm, rather than take away from it. The buildings should evoke a civic character and be carefully designed to reflect the architectural character of Bluffton and the Lowcountry. The design of civic buildings shall be subject to review and approval by the UDO Administrator and the Historic Preservation Commission.
2. Civic buildings are reviewed on a case-by case basis. Although intended uses will be a significant determinant of form, there are several common design principals inherent to civic buildings. These principals affect their relationship to private buildings and to their setting as a whole.
3. Placement
   a. Civic buildings should be oriented toward the public realm (streets, squares and plazas) in a very deliberate way.
   b. Placement of buildings and primary architectural elements at the termination of public vistas can provide an appropriate level of visual importance.
   c. Building entrances should always take access from the most prominent façade(s). Avoid entrances that take access from the rear or are visually concealed.
   d. Placement of civic buildings, depending upon program and site, can often benefit from being set back from the adjacent build-to lines of private development. This allows the scale of the building to have more visual emphasis and can create a public space in the foreground. The amount of this setback should be carefully determined based on the urban design objectives of the particular site.
   e. The primary massing of civic buildings should be symmetrical in form. The appearance of a balanced design increases the level of formality which is appropriate to the public use.
   f. Massing of civic buildings, although often larger as a whole, should be divided into visually distinct sections. Massing divisions should provide visual order to the building and create vertical proportions within individual elements.
4. Scale/Height
   a. The scale of civic buildings should be larger than corresponding buildings

in order to be more prominent and visible across greater distances.

b. Floor-to-ceiling heights and architectural details should be proportionately larger than those of private buildings that exist or are anticipated within adjacent blocks.

c. Prominent roof forms and additive elements such as cupolas can visually extend the height of the building.

5. Materials/Details

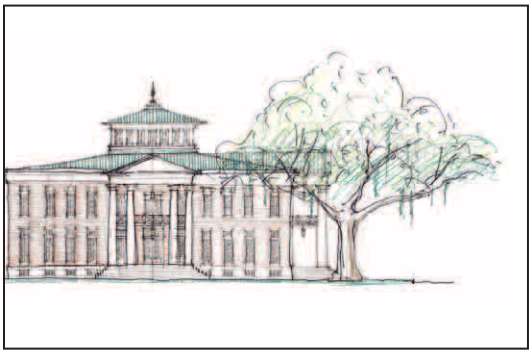
a. It is of great importance that civic buildings be made of durable, high quality materials. The use of long-lasting materials is an expression of confidence in the future of the Town.

b. Civic buildings should be made of masonry, including brick, stone, and cast concrete. In some cases wood construction is appropriate and should be executed with the highest quality framing and cladding materials. Stucco should be avoided as a material that lacks scale and texture. If used, stucco should be traditional, have integral pigment, and be scored to define human-scaled dimensions on the façade.

c. Building details should be designed at two scales. At the larger scale, details should be robust to read from a distance. Closer to the building, the details of the lower levels should have another measure of refinement that can only be seen at the up-close, pedestrian scale.

Civic Building Precedent Imagery.

The following are examples of civic buildings which demonstrate the general architectural and urban character intended by these standards.



*Precedent images are for illustrative purposes only, with no regulatory effect. They are provided as examples, and shall not imply that every element in the photograph is permitted.

O. Church Buildings

CORE	CENTER	GENERAL	CONSERVE	RIVER EDGE
●	●	●	●	●

1. Church buildings contain uses of special public importance. Church buildings include, but are not limited to, churches, synagogues, other facilities used for prayer, contemplation by persons of similar beliefs or conducting formal religious services on a regular basis and places of religious assembly.
2. Church buildings should be significant and should help to enhance the public realm, rather than take away from it. The buildings should be carefully designed to reflect the architectural character of Bluffton and the Lowcountry. The design of church buildings shall be subject to review and approval by the UDO Administrator and Historic Preservation Commission.
3. Church buildings are reviewed on a case by case basis. Although intended uses will be a significant determinant of form, there are several common design principles inherent to church buildings. These principles affect their relationship to private buildings and to their setting as a whole.
4. Placement
   a. Church buildings should be oriented toward the public realm (streets, squares and plazas) in a very deliberate way.
   b. Placement of buildings and primary architectural elements at the termination of public vistas can provide an appropriate level of visual importance.
   c. Building entrances should always take access from the most prominent façade(s). Avoid entrances that take access from the rear or are visually concealed.
   d. Placement of church buildings, depending on program and site, can often benefit from being set back from the adjacent build-to lines of private development. This allows the scale of the building to have more visual emphasis and can create a public space in the fore ground. The amount of this setback should be carefully determined based on the urban design objectives of the particular site.
   e. The primary massing of church buildings should be symmetrical in form. The appearance of a balanced design increases the level of formality which is appropriate to the use.
   f. Massing of church buildings, although often larger as a whole, should be divided into visually distinct sections. Massing divisions should provide visual order to the building and create vertical proportions within individual elements.
5. Scale/Height
   a. The scale of church buildings should be larger than corresponding buildings in order to be more prominent and visible across greater distances.
   b. Floor to ceiling heights and architectural details should be proportionately

larger than those of private buildings that exist or are anticipated within adjacent blocks.

c. Prominent roof forms and additive elements such as cupolas can visually extend the height of the building.

6. Materials/Details
   a. It is of great importance that church buildings be made of durable, high quality materials. The use of long-lasting materials is an expression of confidence in the future of the Town.
   b. Church buildings should be made of masonry, including brick, stone, and cast concrete. In some cases wood construction is appropriate and should be executed with the highest quality framing and cladding materials. Stucco should be avoided as a material that lacks scale and texture. If used, stuccor should be traditional, have integral pigment, and be scored to define human scaled dimensions on the façade.
   c. Building details should be designed at two scales. At the larger scale, details should be robust to read from a distance. Closer to the building, the details of the lower levels should have another measure of refinement that can only be seen at the up-close, pedestrian scale.
   d. Decorative and artistic features or materials of a more formal or religious design, for example stained glass windows, should be permitted.

Church Building Precedent Imagery.

The following are examples of church buildings which demonstrate the general architectural and urban character intended by these standards.

*Precedent images are for illustrative purposes only, with no regulatory effect. They are provided as examples, and shall not imply that every element in the photograph is permitted.

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Article 6

Sustainable Development Incentives

6

6.1 Introduction and the Growth Framework Map

6.1.1 Intent

The Town strives to provide a sustainable, environmentally conscious, and business friendly community. In this regard, the intent of this article is to provide applicants options and incentives to integrate sustainable growth principles for neighborhood development and building construction, as well as promote workforce/affordable housing goals.

A portion of this Section is facilitated through the use of a *Growth Framework Map* which sets forth a land use vision that assumes that growth should be sustainable as stated in the Town of Bluffton *Comprehensive Plan*. The *Growth Framework Map* is structured to suggest patterns of growth into "place types" that are intended to result in a growth pattern that respects the Town's natural resources, historic fabric, diverse housing, access to nature, mixed-use activity centers, street network and neighborhood structure. Place types are made up of centers and edges with varying degrees of residential and non-residential intensity. Centers consist of locations where a range of uses and density establishes context and character. Edges are either natural (such as a wetland, lake, or coastal marsh) or man-made such as a highway, parkway, or utility easements.

The Town of Bluffton recognizes that a growth framework is necessary to prepare for a more compact and sustainable future. The Town further recognizes that certain areas are best suited for a more intense land development scenario while other areas are more suited for a lower intensity of land use. To effectively and efficiently provide public services, attract desired investment, protect property values, and protect key natural resources, this growth framework is vital as the Town of Bluffton increases in population.

6.1.2 Applicability

This article shall apply to all development or redevelopment located within a Place Type as designated on the *Growth Framework Map*, as adopted herein, and/or located within an already existing neighborhood as defined in the Town's *Comprehensive Plan*. Each application shall be judged on its own merit and the request for approval of Sustainable Development Incentives defined herein, shall be made at the time the applicable application is submitted.

The *Growth Framework Map* shall serve as a guiding document to facilitate preferred growth scenarios and is composed of the following Place Types:

A. **Rural Crossroads:** Located at the intersection of two or more rural roads, the Rural Crossroads provide a small amount of locally serving retail in a rural context. Generally, rural crossroads should have a distinct boundary from nearby agricultural uses or the natural environment;

B. **Hamlet:** Located in less urbanized areas, Hamlets typically exist at the edge of rural and developed areas. A Hamlet is made up on a single center with a small retail area and is surrounded by sparsely developed residential areas and rural businesses. The retail area and surrounding residential area of the hamlet transitions into agricultural areas or natural settings;

C. **Village:** Located in highly developed areas or those areas to be developed, a Village consists of a single center surrounded by compact, complete and connected neighborhoods providing support for a mixed-use area with moderate intensity. The mixed-use development occurs at the intersection of larger neighborhoods and along corridor connecting multiple neighborhoods; and

D. **Town Center:** Located in the most intensely developed areas or those areas to be intensely developed, Town Centers consist of compact, complete, and highly connected neighborhoods that support a larger, most intense mixed-use development condition. Buildings within the Town Center are usually larger, attached, and may be up to five stories in height.

6.1.3 Approval Authority

Sustainable Development Incentives, as described herein, shall be determined and approved by Town Council, unless approval authority is delegated to Town Manager through Town Council Resolution.

6.1.4 Calculation of Fee(s), Refund(s), Waiver(s)

Sustainable Development Incentives shall be calculated as described in this article using the Master Fee Schedule and/or applicable Development Agreement in effect at the time the application requesting Sustainable Development Incentives is determined complete by the UDO Administrator. Refund(s), as described in this article, refer to fees paid by the applicant for the application requested prior to approval of incentives. Waiver(s), as described in this article, refer to future fees applicable to the application that the approval authority has determined are no longer due as part of the overall approved incentives.

6.2 Design Parameters

The following land use scenarios and development characteristics shall apply to development and/or redevelopment within the place type designations as illustrated on the *Growth Framework Map*. Further, as applicable per the below Table, *Article 4, Zoning Districts* shall serve as a baseline for implementation.

Table 6.2: Design Parameters

	Rural Crossroads	Hamlet	Village	Town Center
Activity Mix	Retail, Service, Agricultural, Community/Civic Use	Retail, Service, Residential, Agricultural, Community/Civic Use	Retail, Service, Residential, Community/Civic Use	Retail, Service, Residential, Community/Civic Use
Mix of Uses	Horizontal Mixed Use	Horizontal Mixed Use	Horizontal and Vertical Mixed Use	Horizontal and Vertical Mixed Use
Character of Buildings	Detached Residential, Agricultural Buildings, Other Detached Buildings	Detached Residential, Agricultural Buildings, Other Detached Buildings	Attached and Detached Residential Buildings, Attached and Detached Non-Residential Buildings	Mostly Attached Buildings
Place Type Scale	Size: 0.5-5 acres	Size: 6-80 acres	Size: 160+ acres	Size: 200+ acres
Zoning District Allocation	0-10% AG 20-50% RG 30-80% RMU	0-20% RMU 20-50% RG 30-70% NC	10-30% RG, NG-HD 20-60% NC, NCE-HD 10-30% GM	5-10% RG, NG-HD 30-70% NC, NCE-HD 30-70% GM

6.3 Sustainable Neighborhood Design

6.3.1 Intent

The intent of this Section is to incentivize sustainable neighborhood design and development through the implementation of Smart Growth Principles within in the Town of Bluffton.

6.3.2 Applicability

This Section shall apply to applicable applications for development and/or redevelopment within the Place Types identified on the *Growth Framework Map*. The application shall meet the criteria identified herein.

6.3.3 Standards

In order to meet the minimum threshold for qualification for incentives as described in *Section 6.3.4*, a development and/or redevelopment project must score a minimum of 15 out of a total of 20 points from the following criteria:

A. **Redevelopment Site (Total 3 Points)**

1. Redevelopment Site: Reuse of previously developed site results in a reduction of more than 15% of impervious surface coverage (1 points).
2. Historic Buildings: Preservation, renovation and / or adaptive reuse of a structure that meets criteria for Town of Bluffton Historic Sites Inventory (1 point)
3. Infill Development: Small infill development that meets all of the following requirements (1 point):
   a. Project is located within an area of Bluffton with existing infrastructure and utilities;
   b. Project is not part of five or more contiguous vacant lots in a subdivision;
   c. Project's residential density is in accordance with the base zoning specifications, and is at a gross density not less than four units per gross acre; and
   d. Project does not exceed two thousand five hundred (2,750) square feet in any residential unit, excluding space allocated to porches, carports, garages, and other accessory structures.

B. **Compact, Complete, and Connected Development (Total 3 Points)**

1. Diversity of Uses Planned within an Integrated Access System: Diversification of land use that meets all of the following requirements (1 point):
   a. Diversity of non-residential land use types (retail, office, institutional, civic) in addition to residential; and
   b. Diversity of residential building types.
2. Pedestrian System: A connected pedestrian system that meets all of the following requirements (1 point):
   a. Dedicated off-street paths / trail system and/or bikeways are provided in addition to required sidewalks to abutting neighborhoods; and
   b. Provision of pedestrian amenities such as street trees, wider sidewalks, pedestrian-scale lighting, special paving, benches, etc.

3. Lowcountry Architecture Vernacular: All proposed structures meet the Old Town architectural requirements of *Article 5, Design Standards* (1 point).

C. **Environmental Sustainability (Total 6 Points)**

1. Dedicated Stream Restoration or Wetland Creation or Restoration: Restoration or creation of a dedicated stream or wetland (1 point).
2. Native Plants: Utilize at least 80% of native plants (1 point).
3. Tree Mitigation: Provide tree replanting plan that provides 120% of minimum required plantings. If property cannot sustainably support the tree planting a fee in lieu shall be paid into the Town of Bluffton Tree Bank as prescribed in *Article 5, Design Standards* (1 point).
4. Save Trees above 20 inches Minimum Caliper: Protect 50% of all hardwood trees 20 inches minimum caliper DBH (1 point).
5. Exceed Minimum Riparian Buffer Requirements: Provide an additional 25 feet of dedicated buffer in excess of minimum requirements provided in *Article 5, Design Standards*. (1 point).
6. Exceed Minimum Wetland Buffer Requirements: Provide an additional 25 feet of dedicated wetland buffer in excess of minimum standards as defined by the South Carolina Department of Health and Environmental Control – Office of Critical Resource Management (1 point).

D. **Water Conservation / Efficiency / Management (Total 3 Points)**

1. Installation of Greywater System: Provide a greywater system (1 point).
2. Rainwater Harvesting System: Provide a rainwater harvesting system that meet all of the following requirements (1 point):
   a. Collect and make use of water runoff from minimum 50% of roof area; and
   b. Provide storage system and monitoring device and maintenance / management program.
3. Water-Permeable Walkways: Provide water-permeable walkways that meet all of the following requirements (1 point):
   a. Use water-permeable materials in 50% or more of pathways; and
   b. Provide maintenance program.

E. **Energy Efficiency (Total 3 Points)**

1. Light Pollution Reduction: install sensors or timers on all exterior site lighting fixtures including signage (1 point).
2. Solar Orientation: Orient at least 50% of structures in a manner to make available solar strategies (1 point)
3. Reduce Heat-Island Effect of Paving: Use light-colored or high albedo materials and/or porous paving with a minimum Solar Reflective Index of 0.6 or over for at least 50% of the site hardscape (1 point).

F. **Operations and Maintenance Education (Total 2 Points)**

1. Home Owner Association (HOA) Documents: Require sustainability of green site features and long-term maintenance requirements in HOA documents as recorded with the Office of the Register of Deeds of Beaufort County. (1

point).

2. Maintenance Manual for Owner / HOA / Manager: Provide a manual that includes information on how to maintain the green features of the site, including paving materials, landscaping maintenance, stormwater management maintenance, and encourages additional green activities such as recycling, gardening, etc. This Manual shall be recorded with the Office of the Register of Deeds of Beaufort County. (1 point)

6.3.4 Incentives

A. Upon Town of Bluffton approval, any new development and/or redevelopment application is eligible for the incentives described herein. Incentives may be provided for the following application and/or development agreement fee types:

1. Master Plan Application;
2. Development Plan Application;
3. Subdivision Plan Application;
4. Development Agreement Application; and
5. Development Agreement Fees:
   a. Interim Development Agreement Fee; and/or
   b. Boat Ramp Repair Fund Fee.

B. As applicable, the Town of Bluffton may issue an application and/or development agreement fee reduction for the application types identified in Section 6.3.4.A, based upon the following schedule:

1. 15-19 points: Town of Bluffton shall provide a 25% fee reduction; or
2. 20 points: Town of Bluffton may provide a 50% fee reduction.

6.4 Sustainable Building Design

6.4.1 Intent

The intent of this Section is to incentivize sustainable building design and construction through the implementation of Smart Growth principles within the Town of Bluffton.

6.4.2 Applicability

This Section shall apply to applicable applications for building construction that is located within a place type or existing neighborhood as designated on the *Growth Framework Map* or specified in the Town's *Comprehensive Plan*. The application shall meet the criteria identified herein.

6.4.3 Standards

The most recent standards of the United States Green Building Council Leadership in Energy and Environmental Design (LEED) program LEED program or other similar national or state program as approved by the UDO Administrator for buildings shall serve as the standards of this Section.

6.4.4 Incentives

Upon Town of Bluffton approval, any habitable building demonstrating LEED or similarly approved certification may be eligible for a Building Permit/Plan Check rebate based

upon the following schedule, except that any third party plan check review fees shall be exempt from this Section:

A. LEED Certified or similar rating: Town of Bluffton shall provide a 20% fee rebate;

B. LEED Silver Certified or similar rating: Town of Bluffton may provide a 30% fee rebate;

C. LEED Gold Certified or similar rating: Town of Bluffton may provide a 40% fee rebate; or

D. LEED Platinum Certified or similar rating: Town of Bluffton may provide a 50% fee rebate.

6.5 Workforce/Affordable Housing

6.5.1 Intent

The intent of this Section is to implement the Town's Workforce/Affordable Housing Goals as identified in the *Comprehensive Plan* by providing incentives that will result in the provision of housing that is affordable to low and moderate-income families.

6.5.2 Applicability

This Section shall apply to applicable applications for the development of workforce/affordable housing units that are located within a place type and/or existing neighborhood as designated on the *Growth Framework Map* or specified in the Town's *Comprehensive Plan*. The application shall meet the criteria identified herein.

6.5.3 Standards

A. **General Standards.**

1. The development must contain residential uses, of which at least 20% of the total number of dwelling units shall qualify as workforce/affordable housing pursuant to this section. A mixture of housing types as well as uses is encouraged to be integrated throughout the development

B. **Specific Standards.**

1. Prior to the submittal of the applicable application for incentive described in *Section 6.5.4*, a workforce/affordable housing plan must be submitted to the Town of Bluffton for approval. The plan shall contain, at a minimum, the following information:
   a. A general description of the entire development, including whether the development will contain owner-occupied or rental units, or both;
   b. The total number and type of market-rate units and workforce/affordable housing units in the development;
   c. The number of bedrooms in each market-rate unit and each workforce/affordable unit;
   d. The square footage of each market-rate unit and each workforce/affordable housing unit;
   e. The location within any multi-family residential structure and any single-family residential development of each workforce/affordable housing unit;
   f. The proposed ownership of workforce/affordable housing units shall be

described in detail; and

g. Any commitment by local, state, or federal entity shall be identified.

2. The provisions of this Ordinance shall apply to the development and use of the property.
3. All workforce/affordable housing units shall be marketed to the public in the same manner as the market-rate units.
4. Owner-occupied workforce/affordable housing shall meet the following criteria:
   a. **Eligibility.** Sale of owner-occupied workforce/affordable housing units is limited to individuals and families earning no more than 120% of the gross Area Median Income (AMI) for Beaufort County, as published annually by the U.S. Department of Housing and Urban Development and adjusted for household size. The workforce/affordable housing unit shall serve as the owner's primary residence for the duration of ownership or until the deed restrictions required by this Section have expired.
   b. **Eligibility determination process.** Prospective buyers of new workforce/affordable housing units shall be screened and determined eligible by an individual or agency approved by the Town of Bluffton to make such eligibility determinations prior to closing. Prior to closing on a new workforce/affordable housing unit, the approved individual or agency determining eligibility shall submit an affidavit to the Town of Bluffton that sets forth the sale price and verifies the unit will be occupied by persons qualified pursuant to the requirements of this Section, in addition to any other information deemed appropriate and necessary by the UDO Administrator.
   c. **Maximum housing cost.** The monthly mortgage payments shall include principal, interest, property taxes, homeowner insurance, private mortgage insurance, maintenance costs, and condominium or homeowners association fees, and shall total no more than 35% of the buyer's gross monthly household income.
   d. **Closing costs and related fees.** The buyer of a workforce/affordable housing unit shall not pay more in closing costs than is reasonable and customary as approved by the Town of Bluffton. Buyer and seller, in accordance with their contractual obligations, shall pay reasonable and customary real estate commissions. It is reasonable and customary that the seller pays a commission to his/her real estate broker, who then shares the commission with the cooperating real estate broker representing the buyer.
   e. **Term of affordability.** Resale of workforce/affordable housing units shall be limited by deed restriction to the original sales price, adjusted for inflation, and to a purchaser eligible, as described above, for a period of not less than ten years after issuance of the certificate of occupancy. The increase permitted for inflation shall be based upon the increase in the Consumer Price Index (CPI). The deed restrictions shall include but not be limited to the following:

      (1) A copy of such executed deed restrictions shall be submitted to

the Town of Bluffton for approval prior to issuance of a Certificate of Occupancy for any portion of the development.

(2) The deed restrictions shall require notice to the Town of Bluffton of any conveyance of the workforce/affordable housing unit, and verification by an individual or agency approved by the Town of Bluffton to make such eligibility determinations that the purchaser is qualified pursuant to the requirements of this section. Prior to closing on a resale workforce/affordable housing unit, the approved individual or agency determining eligibility shall submit an affidavit to the Town of Bluffton that sets forth the sale price, verifies the purchase price is in accordance with permitted inflationary adjustments, and verifies the unit will be occupied by persons qualified pursuant to the requirements of this Section, in addition to any other information deemed appropriate and necessary by the UDO Administrator.

f. Increase in household income during occupancy. Should a household's income increase to an amount above 120% of the Area Median Income while occupying a workforce/affordable housing unit, the household shall not be required to vacate the unit.

g. Vacation of housing unit. Upon vacating the premises, the unit shall be sold, or made publically available for sale, to a qualifying household pursuant to the requirements of this Section.

5. Renter-occupied workforce/affordable housing shall meet the following criteria:

a. **Eligibility.** Rental of workforce/affordable housing units is limited to individuals and families earning no more than 80% of the Area Median Income for Beaufort County, as published annually by the U.S. Department of Housing and Urban Development and adjusted for household size. The workforce/affordable housing unit shall serve as the renter's primary residence for the duration of the lease.

b. **Eligibility determination process.** Prospective renters of workforce/affordable housing units shall be screened and determined eligible by an individual or agency approved by the Town of Bluffton to make such eligibility determinations prior to closing. Prior to executing a lease on a new workforce/affordable housing unit, the approved individual or agency determining eligibility shall submit an affidavit to the Town of Bluffton that sets forth the lease price and verifies the unit will be occupied by persons qualified pursuant to the requirements of this Section, in addition to any other information deemed appropriate and necessary by the UDO Administrator.

c. **Rent levels.** The maximum rent level for workforce/affordable housing units is based on the schedule of Fair Market Rents for Beaufort County, as published annually by the U.S. Department of Housing and Urban Development.

d. **Lease terms.** A minimum lease term of six months is required for all workforce/affordable housing units so as to avoid short-term rentals.

e. **Term of affordability.** Rental workforce housing units shall be limited by deed restriction to remain affordable, as defined herein, for a period of

not less than ten years after issuance of the certificate of occupancy.

(1) A copy of such executed deed restrictions shall be submitted to the Town of Bluffton for approval prior to issuance of a Certificate of Occupancy for any portion of the development.

(2) The deed restrictions shall require notice to the Town of Bluffton of any lease renewal or new rental contract for the workforce/affordable housing unit, and verification by an individual or agency approved by the Town of Bluffton to make such eligibility determinations that the tenant is qualified pursuant to the requirements of this section. Prior to execution of a new or renewal lease on a workforce/affordable housing unit, the approved individual or agency determining eligibility shall submit an affidavit to the Town of Bluffton that sets forth the lease price, verifies the lease price is in accordance with the applicable Fair Market Rent, and verifies the unit will be occupied by persons qualified pursuant to the requirements of this Section, in addition to any other information deemed appropriate and necessary by the UDO Administrator.

f. **Increase in household income during occupancy.** Should a household's income increase to an amount above 80% of the median family income while occupying a rental workforce/affordable housing unit, the household shall not be required to vacate the unit immediately. The tenant may renew the lease for one additional term, not to exceed one year. Upon vacating the premises, the rental unit shall be rented or made available for rent to a qualifying household pursuant to the requirements of this Section.

6. Deed restrictions are required to achieve the following:
   a. Standard deed restrictions for all workforce/affordable housing units produced pursuant to the requirements of this Section are required and subject to approval by the Town of Bluffton.
   b. Such restrictions shall include, at a minimum, the following elements in conformance with this Section:
      (1) Duration.
      (2) Occupancy requirement and restrictions against leasing/subleasing.
      (3) Restriction on resale.
      (4) Requirement to notify the Town of Bluffton in the case of conveyance, lease renewal, or establishment of a new rental contract.

6.5.4 Incentives

A. Upon Town of Bluffton approval, any workforce/affordable housing development application is eligible for the incentives described herein. Incentives may be provided for the following application and/or development agreement fee types:
   1. Master Plan Application;
   2. Development Plan Application;
   3. Subdivision Plan Application;

4. Building Permit Application;
5. Development Agreement Fees:
   a. Interim Development Agreement Fee; and/or
   b. Boat Ramp Repair Fund Fee.

B. As applicable, the Town of Bluffton may issue an application and/or development agreement fee rebate for the application types identified in Section 6.5.4.A, based upon the following schedule:
   1. 20%-30% of total project dwelling units are determined to be workforce/affordable housing units: Town of Bluffton shall provide a 25% fee reduction for all applicable applications. The Building Permit Application and Development Agreement Fee rebates shall be limited to those dwelling units that qualify as workforce/affordable.

6.6 Development Agreement Transfer of Development Rights

6.6.1 Intent

The intent of this section is to provide incentives for those properties within the Town of Bluffton and under the purview of a Development Agreement to develop or redevelop in a manner that is in accordance with this Unified Development Ordinance, the *Growth Framework Map*, and the Town of Bluffton *Comprehensive Plan*.

6.6.2 Applicability

This Section shall apply to all development or redevelopment of property that is under the purview of a Development Agreement in the Town of Bluffton and within the Place Types identified on the *Growth Framework Map*. The application shall meet the criteria identified herein.

6.6.3 Standards

In order to qualify for the incentives described herein, development or redevelopment of property that is under the purview of a development agreement in the Town of Bluffton shall utilize the Town of Bluffton's Transfer of Development Rights Program and/or transfer of Assignment of Rights and Assumptions within the purview of the respective Development Agreement to facilitate growth within the respective place type as illustrated on the *Growth Framework Map*.

6.6.4 Incentives

A. Upon Town of Bluffton approval, any Development Agreement Transfer of Development Rights proposal is eligible for the incentives described in herein. Incentives may be provided for both the sending zone and receiving zone for the following application and development agreement fee types:
   1. Development Agreement Application;
   2. Concept Plan Application;
   3. Master Plan Application;
   4. Development Plan Application;
   5. Subdivision Plan Application;
   6. Building Permit/Plan Check Application;

7. Transfer of Development Rights Application; and/or
8. Development Agreement Fees:
   a. Interim Development Agreement Fee; and/or
   b. Boat Ramp Repair Fund Fee.

B. The Town of Bluffton may issue application and/or Development Agreement fee reductions for the applications and/or development agreement fees identified in *Section 6.6.4.A* which are determined by the Town of Bluffton to comply with this Unified Development Ordinance, the *Growth Framework Map*, and the Town of Bluffton *Comprehensive Plan*.

Article 7
Nonconformities

7

7.1 Purpose

The zoning regulations and development standards established by this Ordinance are designed to guide the future use and development of land within the Town by, among other things, encouraging controlled site development and appropriate groupings of compatible and related uses, thereby promoting and protecting the public health, safety, and general welfare. The continued existence of nonconformities is frequently inconsistent with the purposes of currently established zoning and land development regulations and can adversely affect orderly development and the value of nearby properties; thus, the gradual elimination or lessening of nonconformities is generally desirable.

Concurrently, however, the Town Council recognizes that a substantial portion of the character and ambiance of the Town which should be preserved is a result of development that occurred prior to the zoning and land development regulations established by this Ordinance.

This article provides for the removal and termination of illegal nonconformities and the regulation of legal nonconforming uses, structures, sites, and signs, and specifies those circumstances and conditions under which legal nonconformities are permitted to continue or expand.

7.2 Applicability

7.2.1 Legal Nonconformities

Legal nonconformities are those nonconformities that were properly permitted and legally established at the time of establishment but no longer comply with applicable zoning and land development regulations.

This article shall apply to uses, structures, sites, and signs that became nonconforming by the initial adoption of this Ordinance, an amendment to this Ordinance, or the revision to the territory subject to the jurisdiction of the Town.

Legal nonconformities are allowed to continue, subject to the regulations of this article.

7.2.2 Illegal Nonconformities

Illegal nonconformities are those nonconformities that were not properly permitted or legally established at the time of establishment and do not comply with applicable zoning and land development regulations.

Illegal nonconformities are hereby declared to be illegal. Illegal nonconformities are subject to removal and termination by the Town upon a determination of such illegality by the UDO Administrator, and a determination by the UDO Administrator that the continuance of an illegal nonconformity will have a material adverse impact on the public health, safety, or welfare.

Illegal nonconforming uses, structures, sites, and signs shall not be changed, enlarged, expanded, or extended, unless such action is in full conformance with the provisions of this Ordinance.

7.3 Burden of Proof

The burden of establishing a legal nonconformity shall, in all cases, be upon

the owner of such nonconformity and not upon the Town or any other person. Upon application to the UDO Administrator, any property owner may seek a determination by the UDO Administrator of the character of any nonconformity.

7.4 Repairs and Maintenance

7.4.1 Repairs and Normal Maintenance

Repairs and normal maintenance required to keep nonconforming structures and site improvements in a safe condition are permitted, provided that no alterations may be made to nonconforming structures and site improvements except those allowed by this article or those required by law or ordinance.

7.4.2 Public Safety

This article shall not be construed as to prevent strengthening or repair of a structure in compliance with the order of a public official whose duties include protecting the public safety.

7.5 Nonconforming Uses

7.5.1 Continuation of Nonconforming Uses

Uses of land and buildings that lawfully existed prior to the adoption or amendment of this Ordinance, but do not comply with the provisions of this Ordinance may be continued as legal nonconforming uses subject to the following:

A. A nonconforming use may not be enlarged, expanded, or extended to occupy a greater area of land or floor area than was occupied on the effective date of this Ordinance, and no additional nonconforming accessory use or structure may be established on the site of a nonconforming use.

B. A nonconforming use may not be moved or relocated, in whole or in part, to any other portion of the parcel on which it is located, or to any other building located thereon, nor to any other lot or parcel, unless such use will be in conformance with the use regulations of the district into which it is moved.

C. A nonconforming use may not be changed to another nonconforming use absent a written determination by the UDO Administrator that the extent of the nonconforming nature of the new use is no greater than the nonconforming nature of the existing use, provided the size of the use, or gross floor area of the building in which it is located, is not expanded.

D. A nonconforming use which has been changed to a conforming use shall not thereafter be changed to a nonconforming use.

E. A nonconforming use located within a building or structure which is damaged or destroyed to the extent of 50% or less of the replacement cost value of the building or structure immediately prior to the damaging occurrence, the associated nonconforming use may be restored or re-established provided that a building permit for such reconstruction or restoration is applied for under applicable building codes within two years from the date of the damaging occurrence, provided that the nonconforming use is not changed and the size of the building or structure is not increased. A nonconforming use located within a building or structure which is damaged or destroyed to the extent of more than 50% of the replacement cost value of the building or structure immediately prior to the damaging

occurrence, the associated nonconforming use may not be restored or re-established. The replacement cost value of the building or structure immediately prior to the damaging occurrence may be determined by an appraisal prepared by an appraiser licensed by the State of South Carolina undertaken and submitted to the Town as the owner's expense, exclusive of the market value of land. Any such appraisal may be challenged by the UDO Administrator on the basis of a similar appraisal obtained by the Town at its expense. The UDO Administrator shall notify the owner of the building or structure of his intent to obtain another appraisal within fifteen days of receipt of the owner's appraisal.

F. A nonconforming use located within a building or structure which is physically removed or relocated from its specific site location shall not be reestablished or replaced on the parcel or tract.

7.5.2 Abandonment of Nonconforming Uses

A. If a legal nonconforming use is abandoned for a period of one year, such use may not be re-established, and any use on the applicable parcel shall thereafter conform to the uses permitted in the district in which it is located.

B. The UDO Administrator shall have the authority to determine if a legal nonconforming use has been abandoned for a period of one year or more. In making such a determination, the UDO Administrator shall consider all of the facts and circumstances regarding the nonconforming use, including, but not limited to the following:

1. If steps have been taken by the property owner to resume the nonconforming use;
2. If utility services such as water, gas, and electricity, to the property have been disconnected;
3. If equipment or fixtures which are necessary for the operation of the nonconforming use have been removed from the property;
4. If structures on the property have fallen into disrepair, as defined by the Town of Bluffton Building Ordinance;
5. If signs advertising the nonconforming use have been removed from the property;
6. If any applicable Town business licenses for the nonconforming use have expired or have not been renewed;
7. If activities generally associated with the nonconforming use are no longer observed on the property; and
8. Other actions which, in the opinion of the UDO Administrator, demonstrate an intention on the part of the owner to abandon the nonconforming use.

7.5.3 Accessory Nonconforming Use

A legal nonconforming use that is accessory to a principal legal nonconforming use shall not be allowed to continue after the abandonment of the principal use unless all new uses conform to all provisions of this Ordinance.

7.5.4 Single Family Dwelling Unit Exception

Any structure containing only a nonconforming single-family attached or detached dwelling unit use which is damaged or destroyed may be rebuilt, restored, or

repaired for single-family or duplex dwelling unit use consistent with the requirements of applicable building codes. If any such dwelling unit is located within a legal nonconforming structure, then such rebuilding, restoration, or repair shall be permitted upon a determination by the UDO Administrator that the applicant has made a reasonable effort to eliminate the nonconformities and to bring the site more into conformance with the provisions of this Ordinance.

7.6 Nonconforming Structures

7.6.1 Nonconforming Structures

Structures that lawfully existed prior to the adoption or amendment of this Ordinance, but do not comply with the provisions of this Ordinance, may be continued as legal nonconforming structures, subject to the following:

A. Repairs, improvements, modernization, alteration, or rehabilitation of nonconforming structures shall be permitted, provided that the extent of any nonconformity is not increased, or the structure is brought into conformance with the regulations of this Ordinance. A nonconforming structure that is altered or modified so as to eliminate, remove, or reduce any or all of its nonconforming characteristics shall not be allowed to re-establish previous nonconformities, or increase the extent of nonconformity unless otherwise permitted by this article.

B. A nonconforming building or structure which is damaged or destroyed to the extent of 50% or less of the replacement cost value of the building or structure immediately prior to the damaging occurrence may be reconstructed or restored within the same footprint as the original building or structure, provided that a building permit for such reconstruction or restoration is applied for under applicable building codes within two (2) years of the damaging occurrence. A nonconforming building or structure which is damaged or destroyed to the extent of more than 50% of the replacement cost value of the building or structure immediately prior to the damaging occurrence shall not be reconstructed or restored except in full conformance with the provisions of this Ordinance. The replacement cost value of the building or structure immediately prior to the damaging occurrence may be determined by an appraisal prepared by an appraiser licensed by the State of South Carolina undertaken and submitted to the Town as the owner's expense, exclusive of the market value of land. Any such appraisal may be challenged by the UDO Administrator on the basis of a similar appraisal obtained by the Town at its expense. The UDO Administrator shall notify the owner of the building or structure of his intent to obtain another appraisal within fifteen days of receipt of the owner's appraisal.

C. Nothing in this section shall be construed or enforced so as to deprive the owner of a condominium unit or apartment in a horizontal property regime from reconstructing or restoring his unit or apartment if the members of the regime vote for and fully fund, through insurance or otherwise, the total restoration of the project. The Town may require a surety to insure full performance of the restoration project when regime insurance is not sufficient to fully cover the costs of reconstruction or restoration.

D. Nothing in this section shall be construed or enforced to prevent strengthening or restoring to a safe condition any building or structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order

of such official.

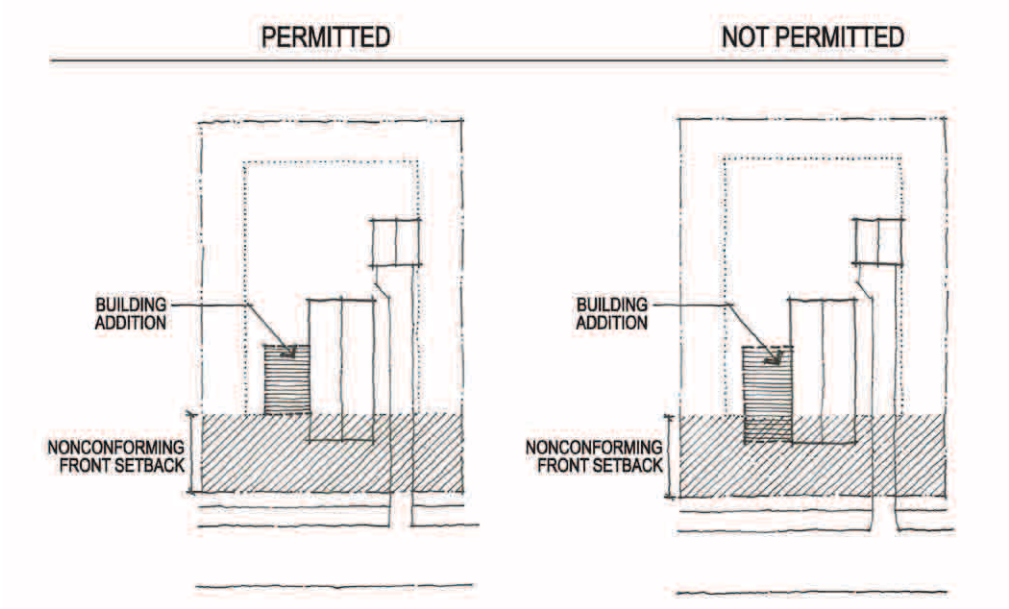
7.6.2 Nonconforming Façade Design

The façade of a building with a façade design that does not conform to the design standards of *Article 5, Design Standards* may be repaired or improved; provided, however, if any other building expansion or renovation is proposed, such expansion or renovation shall result in greater façade design conformance with the design standards of *Article 5, Design Standards*, as determined by the UDO Administrator.

7.6.3 Expansion of Nonconforming Structures

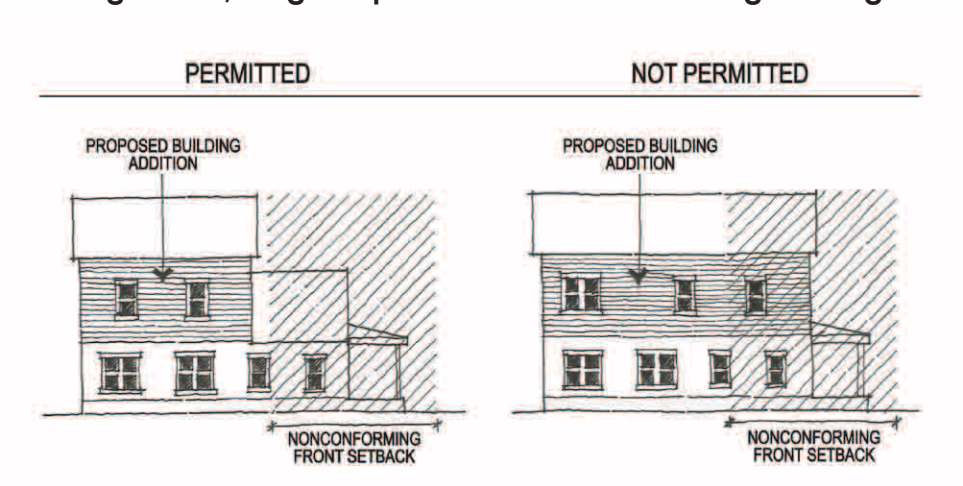
A. A legal nonconforming building may be enlarged or altered, provided the area of expansion is within required setbacks and all other site dimensional requirements (setbacks, height, maximum lot coverage, etc.) are met. (See Example in Figure 7-1: a building with a nonconforming front yard setback may be expanded in the rear if the rear yard setback remains conforming and maximum lot coverage is not exceeded).

Figure 7-1, Area Expansions to Nonconforming Buildings



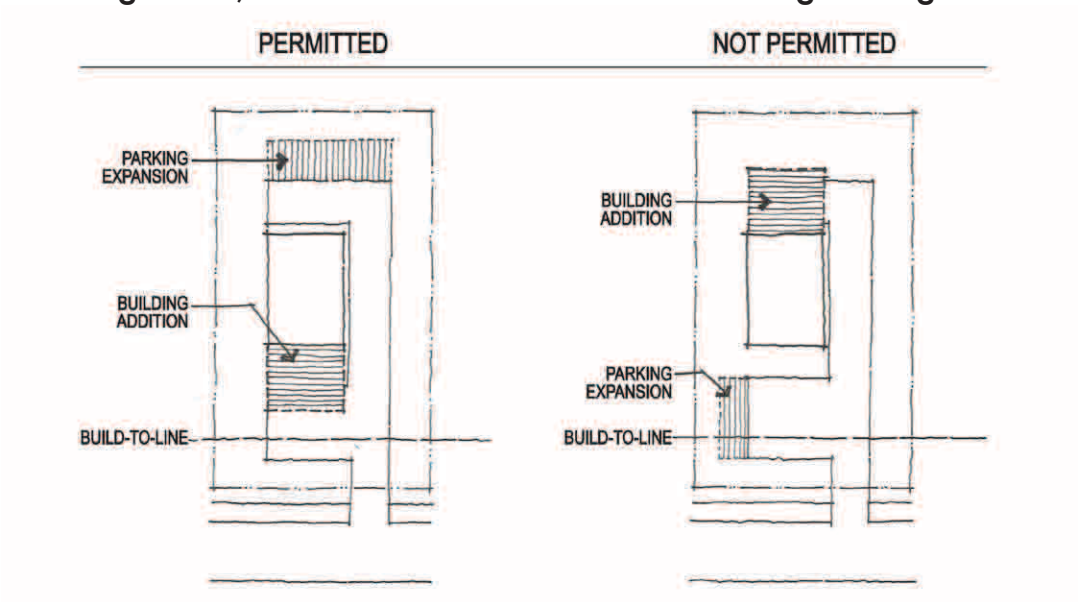
B. Additional height above a nonconforming portion of a nonconforming building shall not be permitted (See Example in Figure 7-2).

Figure 7-2, Height Expansions to Nonconforming Buildings



C. Where a building is nonconforming by virtue of being set back further than the maximum front setback line/ build-to zone requirements of *Article 5, Design Standards*, additions to the building shall be permitted if the addition will bring the building closer to the maximum front setback line/ build-to zone (See Example in Figure 7-3).

Figure 7-3, Front Yard Extensions to Nonconforming Buildings



7.7 Nonconforming Sites

7.7.1 Nonconforming Sites

Sites with improvements that lawfully existed prior to the adoption or amendment of this Ordinance, but do not comply with the provisions of this Ordinance, may be

continued as legal nonconforming sites. The Town may permit further improvements and site modifications to a nonconforming sites containing conforming uses and structures. This section is intended to foster gradual increased conformance and ultimately compliance with the site standards related to landscaping, parking, lighting, and other site improvements for nonconforming sites in proportion to the amount of expansion or improvement proposed. New site improvements or expansions to existing site improvements may be permitted by the UDO Administrator during development application review without a complete upgrade of all nonconforming site elements upon a determination by the UDO Administrator that such site improvements are reasonable. In making such a determination, the UDO Administrator shall consider the all of the facts and circumstances regarding the nonconforming site improvements, including, but not limited to the following:

A. The applicant has proposed reasonable site improvements on the overall site in relation to the scale and construction cost of the building improvements or expansion;

B. The applicant has addressed safety related site issues on the overall site;

C. The site improvements or expansion will not increase noncompliance with site requirements;

D. Driveways that do not conform to the access standards of this Ordinance shall be eliminated, provided that the minimum reasonable access shall be maintained;

E. If re-occupancy of an existing building or structure is proposed, or if any expansion of an existing building, parking lot, or site is proposed, then non-motorized pathways shall be installed along the site frontage where required by this Ordinance or fee in-lieu paid;

F. Parking areas that do not conform to the required number of spaces, location, setback, lighting, or other requirement of this Ordinance shall be brought into compliance proportionate to the amount of expansion proposed on the site;

G. Sites that are do not conform to the landscaping requirements of this Ordinance shall be brought into compliance proportionate to the amount of expansion proposed on the site;

H. Required screening walls for waste receptacles, fencing of outdoor storage, and screening from adjacent residential uses shall be provided; and/or

I. If any expansion to a building or parking lot located on a nonconforming site is proposed, then stormwater management improvements shall be provided as required by this Ordinance, to the maximum extent practical.

7.8 Nonconforming Lots

Lots of record that lawfully existed prior to the adoption or amendment of this Ordinance, but do not comply with the provisions of this Ordinance, may be developed for uses allowed in the applicable zoning district, subject to the following:

A. The lot must be an existing lot-of-record, created prior to the adoption or amendment of this Ordinance that made the lot nonconforming.

B. Location and development of the site shall conform to all other applicable requirements, such as yard setbacks, minimum floor area and maximum height

requirements for the applicable zoning district.

7.9 Nonconforming Sites Resulting from Right-Of-Way Dedication or Acquisition

Buildings, structures, and parking lots and other site improvements which lawfully existed prior to the adoption or amendment of this Ordinance, but do not comply with the provisions of this Ordinance regarding front yard setback, parking lot setback, or greenbelt as a result of required additional road right-of-way dedication to or acquisition by the Town, Beaufort County, or the State of South Carolina may be improved or expanded without obtaining a variance from the Board of Zoning Appeals upon a determination by the UDO Administrator that such improvement or expansion is reasonable. In making such a determination, the UDO Administrator shall consider the all of the facts and circumstances regarding the proposed improvement or expansion, including, but not limited to the following:

A. The building, structure, or parking lot or other site improvement was in conformance with applicable front yard setback requirements prior to the dedication or acquisition of the additional road right-of-way;

B. The building, structure, or parking lot or other site improvement expansion will not reduce the remaining depth of the front yard setback; and

C. All other applicable requirements of this Ordinance are met and all necessary approvals and permits are obtained.

7.10 Nonconforming Signs

7.10.1 Nonconforming Signs

Signs that lawfully existed prior to the adoption or amendment of this Ordinance, but do not comply with the provisions of this Ordinance, may continue to be operated and maintained, subject to the following:

A. A nonconforming sign shall not be changed or replaced with another nonconforming sign; however, this provision shall not prohibit a change in copy or graphics on the sign face of a nonconforming sign;

B. A nonconforming sign shall not be structurally altered so as to extend its useful life, expanded, or relocated, except in compliance with this section; and

C. A nonconforming sign shall not be re-established or reconstructed after damage or destruction of more than 50% of the replacement value of the same type sign at the time of such damage or destruction.

7.10.2 Continuance

Other than as provided for in this section, this section shall not prevent the repair or restoration to a safe condition of any part of a nonconforming sign or sign structure, or normal maintenance operations performed on a nonconforming sign or sign structure.

7.10.3 Signs Made Nonconforming Due to Condemnation

When a sign is located on property which is acquired by eminent domain by the Town, Beaufort County, or the State of South Carolina for road right-of-way, one of the following standards shall apply:

A. A sign which is not located in, and does not overhang the new right-of-way, may

remain in place, subject to the provisions of *Section 7.10.1*;

B. If a sign located within the right-of-way of a state or federal highway must be relocated out of the new right-of-way, it shall, at a minimum, comply with applicable standards for such relocation; and

C. If a sign located within the right-of-way of a Town or County owned road must be relocated out of the new right-of-way, it shall comply with the setbacks for such sign established in this section.

Article 8

Penalties and Enforcement

8

8.1 Intent

This article is intended to provide for enforcement of the provisions of this Ordinance, and remedies, and penalties for violations of this Ordinance.

8.2 Applicability

A. No activity regulated by this Ordinance shall be undertaken by any person or entity, including, without limitation, any public or private agency or authority, unless such activity is in full conformance with the provisions of this Ordinance.

B. No activity requiring any permit or approval issued pursuant to the provisions of this Ordinance shall be undertaken unless such permit or approval is first issued or granted by the Town Council, the UDO Administrator, or other Town board or commission, as applicable, and then only in full conformance with such permit or approval, including any conditions attached thereto. It is unlawful to construct, reconstruct, alter, demolish, change the use of, or occupy any land, building, or other structure within the Town without first obtaining the appropriate permit or permit approval. No permit or approval may be issued or approved unless the requirements of this Ordinance adopted are complied with.

C. Except as otherwise provided for in SC Code Section 6-29-540, no new street, structure, utility, square, park, or other public way, grounds, or open space or public buildings for any use, whether publicly or privately owned, may be constructed or authorized in the Town until the location, character, and extent of it have been submitted to the Planning Commission for review and comment as to the compatibility of the proposal with the Town's *Comprehensive Plan*.

D. No official of the Town or Beaufort County shall issue any permit for the use of any land, building, or structure, or the construction, conversion, demolition, enlargement, movement, or structural alteration of a building or structure, including, without limitation, any building, plumbing, or electrical permit, without the approval of the UDO Administrator.

E. No subdivision plat or other land development plan regulated by this Ordinance may be filed or recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, and no building permit may be issued until the plat or plan bears the stamp of approval and is properly signed by the UDO Administrator.

8.3 Violations

A violation of any provision of this Ordinance is a misdemeanor. As applicable, any of the following shall be a violation of this Ordinance:

A. It is unlawful to commence or continue any activity regulated by this Ordinance which is not in full conformance with the provisions of this Ordinance, or which is not in full conformance with the provisions of any permit or approval, including any conditions attached thereto, issued pursuant to this Ordinance.

B. It is unlawful to construct, reconstruct, alter, demolish, change the use of, or occupy any land, building, or other structure without first obtaining the appropriate permit or permit approval. No permit may be issued or approved unless the requirements of this chapter or any ordinance adopted pursuant to it are complied with.

C. It is unlawful for any officials to issue any permit for the use of any land, building, or structure, or the construction, conversion, demolition, enlargement, movement, or structural alteration of a building or structure without the approval of the UDO Administrator.

D. It is unlawful to submit for filing or to record a subdivision plat or other land development plan without proper approval as required by this Ordinance.

E. It is unlawful for any person or entity to transfer title to any lots in a subdivision or parts of a development unless the subdivision or Development Plan has been approved by the Planning Commission or the UDO Administrator, as applicable, and the approved plan or plat has been duly recorded with the Office of the Register of Deeds for Beaufort County.

F. It is unlawful for any agency, public or private, to modify, install, or provide any streets or public utility services to any development unless a Development Plan approval has been issued.

G. It is unlawful for any agency, public or private, to sell or supply any water, gas, electricity, sewer, telecommunications, or other utility services within any development unless a valid Development Permit for such development has been approved under the provisions of this Ordinance.

H. It is unlawful to use any land or portion thereof other than as specifically designated on an approved land development plan or as otherwise required by this Ordinance.

I. It is unlawful to remove, deface, obscure, or obstruct any notice required to be posted or otherwise given pursuant to this Ordinance.

J. It is unlawful to violate any lawful order issued or given by the UDO Administrator under this Ordinance.

K. It is unlawful to continue any violation of this Ordinance after notice of such violation by the UDO Administrator, with each day of continued violation considered a separate offense.

8.4 Enforcement Responsibility; Complaints

A. The UDO Administrator is responsible for the enforcement of this Ordinance. The UDO Administrator has the authority to enter onto any premises or into any structure subject to this Ordinance for the purpose of enforcing this Ordinance or investigating any complaint of violation of this Ordinance.

B. If the UDO Administrator shall find or determine that any of the provisions of this Ordinance are being or have been violated, he shall notify in writing the property owner and any other person or entity responsible for such violations, setting forth the nature of the violation and order the action necessary to correct such violation.

C. Whenever a violation of this Ordinance occurs or is alleged to have occurred, any person may file a signed written complaint with the UDO Administrator, which shall state fully the causes and basis thereof.

D. The UDO Administrator shall properly record any complaint, immediately investigate to determine the validity of the charge, and take such appropriate and reasonable action as may be necessary to assure compliance with this

Ordinance.

E. No provision of this article shall prevent the Town from taking such lawful action as is necessary to prevent or remedy any violation of this Ordinance.

8.5 Enforcement Actions by the Town

The UDO Administrator, on behalf of the Town, may take any one or more of the following actions as a remedy for any violation of this Ordinance:

A. Withholding of any building permits or any approvals or permits required by this Ordinance.

B. Issuance of stop work orders against any work undertaken by any person or entity not having a proper building permit or other permit or approval required by this Ordinance.

C. Institution of injunction, mandamus, or other appropriate action or proceeding to prevent the unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, or to correct or abate the violation, or to prevent the occupancy, of any building, structure, or land.

D. Prosecution of the violation as a misdemeanor. Any person convicted of a violation of this Ordinance shall pay such penalties as the court may decide, as prescribed by South Carolina law, not to exceed $500.00 or 30 days imprisonment for each violation. Each day during which any violation shall continue shall constitute a separate offense. Upon conviction, in addition to other prescribed enforcement actions and remedies in this section, the Planning Commission shall not consider any application for Development Plan approval and subsequent issuance of a Development Permit for the subject project for a period of 90 days from the date of determination of violation.

E. Any other remedies allowed by law.

8.6 Enforcement Actions by Others

A. An adjacent or neighboring property owner who would be specially damaged by a violation of this Ordinance may in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent the unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, or to correct or abate the violation, or to prevent the occupancy, of any building, structure, or land.

B. Any violation of the provisions of this Ordinance dealing with subdivision of land shall cause any transfer, sale, or agreement for sale of any lot, part, tract, parcel, building site, or structure, subject to rescission at the purchaser's option

8.7 Contempt and Penalty

In case of contempt by a party, witness, or other person before the Board of Zoning Appeals, the Board may certify such fact to the Circuit Court for Beaufort County and the judge of the court, in open court or in chambers, after hearing, may impose a penalty as authorized by law.

8.8 Signs

A. In addition to other available remedies, the UDO Administrator shall have the authority to physically remove and impound any prohibited or illegal sign or sign structure. Any prohibited sign as defined in *Article 5, Design Standards* is subject to removal and impoundment without notice to the owner. Any illegal sign or sign structure is subject to removal and impoundment upon written notice to the owner if required remedial action has not been taken by the owner within the specified timeframe.

B. The owner of an impounded sign or sign structure may recover the sign or sign structure upon the payment to the Town of $50.00 for each sign or sign structure plus the costs of removal. The UDO Administrator shall have authority to dispose of any impounded sign or sign structure without compensation to the owner if such sign or sign structure is not claimed within 10 days from the date of impoundment.

8.9 Tree Protection and Replacement

8.9.1 Tree Replacement

A. In cases of removal or destruction of trees in violation of this Ordinance, in addition to any other remedies available to the Town for such violation, the Town shall require mitigation by one or more of the following options in accordance with Table 8.1 Tree Replacement and Fines for Violations, below, as determined by the UDO Administrator:

1. Planting of replacement trees on site;
2. Planting of replacement trees on Town Mitigation Sites; and
3. Payment of an additional fine to the Town, which shall be allocated to the Tree Fund.

B. No more than 15% of any one species shall be permitted for replacement trees. Replacement tree species must be indigenous or native and comply with the Town Landscape Ordinance.

Table 8-1 Tree Replacement and Fines for Violations

Diameter of Tree Removed (inches DBH)	Number of Replacement	Caliper of Replacement (inches)	Fine
4 through 6	2 for One	2	Current nursery market value for required replacement plus associated costs of installation and maintenance.
7 through 12	3 for One	4	Same as Above
13 through 20	4 for One	6	Same as Above
21 or greater	4 for One	8	Same as Above

8.9.2 Permit Suspension

Any development plan, building permit, or Certificate of Occupancy shall be suspended until required replacement trees are replanted.

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Article 9
Definitions and Interpretation

9

9.1 General Interpretation

9.1.1 Rules of Construction.

Unless the context clearly indicates otherwise, the following rules of construction shall apply to this Ordinance:

A. All words shall have the customary dictionary meaning, unless specifically defined in these regulations;

B. The present tense includes the future tense and the future tense includes the present tense;

C. The singular includes the plural and the plural includes the singular;

D. Lists of examples prefaced by "including the following," "such as," or other similar preface shall not be construed as exclusive and shall not preclude an interpretation of the list including other similar and non-mentioned examples;

E. A reference to an administrative official shall refer to that official and his or her designee;

F. The term "building," "structure," or "premises," or any similar term, shall be interpreted to include any part of the building, structure, premises or other similar term unless otherwise stated; and/or

G. All references to other local, state, or federal government regulations or guiding documents in these regulations refer to the most current version and citation for those regulations or documents, where such versions are consistent with the purposes, intent, and objectives of this Ordinance.

9.1.2 Graphics, Commentary, and Notes.

Graphics and commentary associated with graphics used in this Ordinance are to aid interpretation of the text, unless otherwise specifically stated. In the event of a conflict or ambiguity between a graphic or commentary and the text, the text shall control. Notes to tables shall apply only to the particular provision footnoted, or to the entire table if it is not specifically footnoted to an item in the table, and not as generally applicable rules.

9.1.3 Intent, Applicability, and Standards.

This Ordinance is developed under a hierarchy of guidance all developed in relationship to the *Comprehensive Plan*. The hierarchy is generally organized as follows, ranging from the most general to the most specific:

A. Intent: refers to the general intent of a chapter section or sub-section in this Ordinance;

B. Applicability: refers to the applicability of a chapter, section, or sub-section in this Ordinance to certain anticipated development circumstances or land areas; and

C. Standards: refers to the desired end physical result of standards in a chapter, section or sub-section of this Ordinance.

This hierarchy should be used to guide consistent interpretation of the Ordinance, and to guide all discretionary approvals or relief authorized under this Ordinance. For example, all standards that include Design Objectives should be interpreted consistent with the Design Objectives or outcomes specified in those objectives, provided in furthers the overall intent or applicability of the Section or Article, and

further provided that such an interpretation is consistent with the Purposes of this Ordinance.

9.1.4 Computations 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 Town, the deadline or required date of action shall be the next day that is not a Saturday, Sunday, or holiday observed by the Town. References to days are calendar days unless otherwise stated.

9.1.5 Conflicts.

In case of a conflict between these regulations or any part of these regulations, and any part of any other existing or future adopted ordinance of the Town or applicable regional, state, or federal regulations, the more restrictive provision shall apply. In determining which regulation is "more restrictive" the UDO Administrator shall determine which one most closely follows the policies of the *Comprehensive Plan*, and the Purposes, Intent, and Design Objectives of this Ordinance.

9.2 Defined Terms

All words and phrases shall have their ordinary and customary meanings unless the context of the word or phrase indicates otherwise. The following terms shall have the meaning given below, unless the context of the use of the term clearly indicates otherwise based on the purposes, intent, design objective or other guidance associated with its use in a particular section.

100 Year Flood: The flood or level of floodwater measured from mean sea level that has a one percent chance of being equaled or exceeded in any given year.

Access: The right and/or ability of pedestrians and vehicles to enter and leave property.

Accessory Use: A subordinate use of a building, outbuilding, structure, or lot customarily incidental to a principal use located within the same lot.

Addition (to an existing building): Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition that is connected by a firewall or is separated by an independent perimeter load-bearing wall shall be considered new constructions.

Affordable Housing: Housing affordable to low and moderate-income families (those earning up to 80% of the Beaufort County Area Median Income (AMI), as defined in the schedule published annually by the U.S. Department of Housing and Urban Development).

Alleé: A passage or walkway formed by two rows of trees whose canopies typically grow together.

Appurtenances: Architectural features not used for human occupancy, consisting of spires, belfries, cupolas or dormers; parapet walls, and cornices without windows; chimneys, ventilators, skylights, and antennas.

Arcade: A colonnade composed of counterthrusting arches.

As-built/Record Drawings: A set of drawings prepared by and certified by a South Carolina registered professional engineer, landscape architect, or registered surveyor that accurately represents the actual final configuration of the stormwater and other related infrastructure constructed in a development.

Awning: An architectural projection that provides weather protection or decoration and is wholly supported by the building to which it is attached. An awning is comprised of a lightweight, rigid skeleton structure over which a covering is attached.

Balcony: An exterior floor projecting from and supported by a structure supported by a cantilever or brackets, not by vertical columns or piers.

Baluster: A short vertical member used to support a railing or coping.

Balustrade: A railing together with its supporting balusters or posts, often used at the front of a parapet.

Base flood: The flood having a one percent chance of being equaled or exceeded in any given year.

Basement: That portion of a building having its floor sub grade (below ground level) on all sides.

Best Management Practices: Stormwater management practices, either structural, non-structural or natural that has been demonstrated to effectively control movement of pollutants, prevent degradation of soil and water resources, and that are compatible with the planned land use.

Bicycle Facilities: A general term denoting improvements and provisions made by public agencies to accommodate or encourage bicycling, including parking and storage facilities, and shared roadways not specifically designated for bicycle use.

Bicycle Lane or Bike Lane: A portion of a roadway, which has been designated by striping, signing, and pavement markings for the preferential or exclusive use of bicyclists.

Bicycle Path or Bike Path: See Pathway.

Block: A combination of building lots, the perimeter of which abuts streets/thoroughfares.

Buffers: A piece of land of specific width, permanently set aside by the owner and his assignees, and planted in trees and/or shrubs of density sufficient to provide contiguous properties with a measure of privacy and help filter stormwater runoff. Landscaping may be used in combination with structures (walls, fences, screens, etc.), which serve to minimize or eliminate conflicts between contiguous uses of land.

Build-to Line: The precise horizontal distance from a lot boundary line or a street right-of-way that the building shall be built to, in order to create a uniform line of buildings along the street/thoroughfare. The foremost principal façade of a building or its front porch/arcade must be constructed at this zone. See 9.3.A for interpretation of this standard.

Build-to Zone: A range of allowable distances from a street right-of-way that the building shall be built to, in order to create a moderately uniform line of buildings along the

street. The foremost principal façade of a building or its front porch/arcade must be constructed within this zone.

Building: Any structure used or intended for supporting or sheltering any use or occupancy. Each portion of a building separated from other portions by a firewall shall be considered as a separate building.

Building, Principal: The building in which is conducted the principal use of the zone lot on which it is located. Zone 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.

Building Frontage: The side of a building that faces the frontage street.

Building Height: The vertical distance from grade plane to the average height of the highest roof structure, not including architectural elements such as but not limited to cupolas and weather vanes. See *9.3.B* for interpretation of this standard.

Certificate of Appropriateness: The document issued by the Town of Bluffton Historic Preservation Commission or the Planning Commission, certifying that the proposed actions by the Applicant are found acceptable in terms of design criteria relating to the individual property.

Clean Water Act: The Federal Water Pollution Control Act, as amended, codified at 33 U.S.C §1251 et. seq.

Clear and Convincing Evidence: Credible, relevant evidence that is not ambiguous, doubtful, or contradictory. The standard for clear and convincing evidence is a higher burden of proof than a preponderance of the evidence and a lower burden of proof than beyond a reasonable doubt.

Colonnade: A roofed structure, extending over the sidewalk, open to the street except for supporting columns or piers.

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.

Conditional Uses: Uses permitted within the underlying transect zone subject to the provided conditions as set forth in *Article 4, Zoning Districts*.

Contributing Structure: Any property, structure, or architectural resource which was designated as "contributing" in the Bluffton Historic District's 1996 nomination to the National Register of Historic Places, or in the most recent Bluffton Historic Resource Survey, or any other structure designated as a Contributing Structure as provided for in Section 3.25. The complete demolition of a "Contributing Structure" or removal of a "Contributing Structure" from the Bluffton Historic Resource Survey shall cause the structure to no longer be considered "contributing."

Cornice: Projecting horizontal decorative molding.

Critical Line: Line that is defined by South Carolina Office of Ocean and Coastal Resource Management at the date of application and determines their jurisdiction.

Cupola: A domelike structure surmounting a roof or dome often used as a lookout or to admit light and air.

Curb Radius: The curved edge of street paving at an intersection, measured at the inside travel edge of the travel lane.

DBH or dbh: Diameter at breast height, the standard distance of 54 inches above natural soil grade for measuring tree trunk diameter.

Density: A measurement of intensity defined as the number of dwelling units or rooms per net acre of land or the square feet of gross floor area for nonresidential purposes, as applicable.

Department: The Department of Growth Management or any duly authorized representatives thereof as designated by the Town Manager.

Detention: The collection and storage of surface water for subsequent controlled discharge at a rate that is less than the rate of inflow.

Development: The performance of any building or mining operation; the making of any material; change in the use of any structure or land; or the division of land into two or more parcels. The following specific activities or uses shall be categorized as Development:

A. A material change in type of use of a structure or land which would tangibly affect the area's natural environment, drainage, transportation patterns, public health, or economic values;

B. A building operation involving construction, reconstruction, or alteration of the size of a structure which would result in a tangible effect on the area's natural environment, transportation patterns, public health, or economic values;

C. A material increase in the intensity of land use, such as an increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land; when such increase would tangibly affect the area's natural environment, transportation patterns, public health, or economic values;

D. Subdivision of a parcel or tract of land into two or more lots, parcels, or pieces for the purpose of sale or transfer of title;

E. Commencement of any mining operation on a parcel of land;

F. In connection with the use of land, the making of any material, change in noise levels, thermal conditions, or emissions of waste materials;

G. Alteration of a shore, bank, or flood plain of a seacoast, river, stream, lake, or other natural water body;

H. Reestablishment of a use which has been abandoned for one year; and

I. Construction of major electrical and telephone utility lines over three-fourths of a mile in length and involving tree removal, construction of any utility line substation, or construction of any utility line crossing wetlands.

The following operations or uses do not constitute development for the purpose of this Ordinance:

A. The construction of any public street or other public way, grounds, buildings,

structures, or facilities. Such public project Development Plans are submitted and reviewed for approval under a separate administrative procedure;

B. Work for the maintenance, renewal, improvement, or alteration, of any structure, if the work affects only the interior or the color of the structure, or decoration of the exterior of the structure;

C. The use of any structure or land devoted to dwelling uses for any purposes customarily incidental to enjoyment of the dwelling;

D. The use of any land for the purpose of growing plants, crops, trees, or for other agricultural purposes;

E. A transfer of title to land not involving the division of land into parcels;

F. The division of land into parcels of five acres or more where no improvements are involved;

G. The division of land into parcels for conveyance to other persons through the provisions of a will or similar document and in the settlement of an intestate's estate;

H. The division of land into lots for the purpose of sale or transfer to members of one's own immediate family, where no new street is involved, is exempt from the standard submission and review procedures;

I. The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to the standards of the governing authority;

J. The recordation of a plat of land or property for purposes other than the sale or transfer of title to land including:

1. The creation or termination of mortgages, leases, easements, or liens;
2. Lot line corrections on existing recorded properties;
3. The creation, termination, or amendment of private covenants or restrictions on land;
4. Property trades or swaps between immediately adjacent landowners not resulting in the creation of new parcels of record; and
5. Division of land for the purpose of sale or transfer to an immediately adjacent landowner for the sole purpose of enlarging the adjacent landowner's property and not resulting in the creation of new parcels.

Disconnected Impervious Areas or Disconnected Impervious Surfaces: Those non-contiguous impervious areas or impervious surfaces which produce stormwater runoff that discharges through or across a pervious area or surface (i.e. vegetated cover), of sufficient width to reduce or eliminate pollutants associated with stormwater runoff, prior to discharge to the Stormwater System.

Discharge Rate: The rate at which stormwater leaves a development.

District: The term applied to various geographical areas of the Town of Bluffton for purposes of interpreting the provisions of this Ordinance. The Districts are designated with the use of symbols on the Official *Zoning Map*. Regulations controlling land use in the various Districts within the Town are set forth in *Article 4, Zoning Districts*. The terms "district" and "zoning district" are synonymous and are used interchangeably

throughout this Ordinance.

Easement: An interest in land of another that entitles the holder to a specified limited use.

Existing Grade: The existing or natural elevation of the land prior to any land altering activity.

Expression Line: A horizontal line, the full width of a façade, expressed by a material change or by a continuous projection not less than two inches nor more than one foot deep.

Façade: The elevation of a building parallel to a frontage line.

Family: One to no more than five (5) persons who are related by blood, marriage or adoption and living together as a single household unit in a dwelling unit.

Fence: A structure constructed of posts, rails, wire, and, in some cases, barrier panels, used to define a boundary or as a means of protection, confinement, or visual obstruction.

Flag: Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.

Flood Hazard District: That area assigned by the Federal Flood Insurance Administration of Official Flood Hazard Area Maps, subject to a one percent or greater chance of flooding in any given year.

Flood: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or the unusual and rapid accumulation of runoff of surface waters from any source.

Floodplain: Any land area susceptible to flooding.

Floor-Area Ratio: Ratio of gross floor area of building on a lot by the area of the lot.

Freeholder: Any person eighteen years of age, or older, and any firm or corporation, who or which owns legal title to a present possessory interest in real estate equal to a life estate or greater (expressly excluding leaseholds, easements, equitable interests, inchoate rights, dower rights, and future interests) and who owns, at the date of the petition or of the referendum, at least an undivided one-tenth interest in a single tract and whose name appears on the county tax records as an owner of real estate.

Frontage: The side of a lot that abuts a street; the front lot line. See *9.3.D.1* for interpretation of this standard.

Frontage Line: The property line or lines of a lot that coincide with a right-of-way.

Frontage Street: The public right-of-way that serves as primary access to a property.

Garden Wall: A freestanding wall along the property line dividing private areas from streets, rear lanes, or adjacent lots.

Grade: The slope expressed in terms of vertical drop per horizontal distance of land, streets, embankment, etc.

Gross Acre: All land under title or ownership and recorded with the property deed.

Habitable Space: Building space whose use involves human presence. Habitable space excludes parking garages, self-service storage facilities and display windows separated from retail activity.

Hedge or Hedgerow: A line of closely spaced shrubs or trees that are planted and trained in such a way as to form a barrier or to mark the boundary of an area.

Historic Structure: Any structure that is;(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register: (b) Certified or preliminarily determined by the Secretary of the 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 state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior (see note at end); or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (see note at end) a. By an approved state program as determined by the Secretary of the Interior, or b. Directly by the Secretary of the Interior in states without approved programs.

Home Occupation: Any use of principal or accessory buildings clearly incidental and secondary to their uses for residential purposes and which does not change the character thereof, within a residential area subject to the conditions of this Ordinance.

Household: A household constitutes the number of people, up to five (5), living in the home regardless of marital status.

Illicit Connection: A connection to the Town's Stormwater System or receiving water which results in a discharge that is not composed entirely of stormwater runoff and has a detrimental effect on the Stormwater System or receiving water except those granted coverage by an active NPDES permit.

Illicit Discharge: Any activity, which results in a discharge to the Town's Stormwater System or receiving waters that is not composed entirely of stormwater except (a) discharge pursuant to an NPDES permit and (b) other allowable discharges as defined and exempted in this Ordinance.

Impervious Surface: A surface, which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes, but is not limited to, surfaces such as compacted clay, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots, patios, swimming pool decks, and other similar structures.

Improper Disposal: Any disposal through an Illicit Discharge, including, but not limited to the disposal of used oil and toxic materials resulting from the improper management of such substances.

Improvement: The construction of buildings and the establishment of basic services and amenities associated with the development activity including, but not limited

to, streets and sidewalks, parking areas, landscaping, water and sewer systems, drainage system, property markers and monuments, and recreation facilities.

Land Disturbance or Land Disturbing Activity: The use of land by any person that results in a change in the natural vegetated cover or topography, including clearing that may contribute to or alters the quantity and/or quality of stormwater runoff.

Liner Building: A building built in front of a parking structure or large footprint building to conceal large expanses of blank wall area and to face the street space with a façade that has doors and windows. The building lines the block face while concealing a parking structure or large footprint building behind to create a pedestrian oriented environment and to promote an active streetscape.

Lintel: A horizontal beam that supports the weight of the wall above a window or door.

Local Fire Official: The duly appointed or employed Fire Chief of a County, Municipality, Public Service District, Special Tax District, Fire Protection Service Agency, or department or other designated individual.

Lot: An area designated as a separate and distinct parcel of land on a legally recorded subdivision plat or legally recorded deed as recorded with the Office of the Beaufort County Register of Deeds. The term "Lot of Record," a used throughout this Ordinance is interchangeable. See *9.3.D* for interpretation of this standard.

Lot of Record: A lot that existed and was described and defined as part of the public land record prior to the date of adoption of this Ordinance.

Maintenance: Any action necessary to preserve stormwater management facilities in proper working condition, in order to serve the intended purposes set forth in this article and to prevent structural failure of such facilities.

Marquee: A permanently roofed architectural projection whose sides are vertical; are intended for the display of signs and is supported entirely from an exterior wall of a building.

Material: As contained herein, shall be construed to mean objective, substantive, tangible, and consequential.

Maximum Extent Technically Feasible: The same as defined in the United States Environmental Protection Agency's (EPA) "Technical Guidance on Implementing the Stormwater Runoff Requirements for Federal Projects under Section 438 of the Energy Independence and Security Act" published in December 2009.

MS4: Municipal Separate Storm Sewer System.

Mullions: Strips of wood or metal that separate and hold in place the panes of a window.

Nonconforming Use: A use of land, building, or structure lawfully existing at the time this Ordinance or subsequent amendment hereto became effective, which does not conform to the use requirements of the District in which it is located.

NPDES: National Pollutant Discharge Elimination System (see "Clean Water Act.")

Nuisance: Any activity which is judged by the Town Council or the appropriate agency

thereto to emit noise, vibration, smoke, gas, fumes, odor, dust, fire hazard, dangerous radiation, or other injurious or obnoxious conditions beyond the premises of such activity, or which poses a documented threat to water or wetlands within the Town limits of Bluffton.

Off-Site: Describing a location or an area of land which is not on site; outside the lot or parcel that is the subject of a given land use application.

On-Site: On or within the area contained in the Development Permit Application, or within other areas which, pursuant to this Ordinance, may be included in defining the site's said referenced purpose.

Open Space: Land area not covered by buildings, parking areas, or other accessory structures. Open space does not include utility easements, street rights-of-way, drainage ditches, and other similar areas.

Outfall: The point where a stormwater system discharges.

Owner: An owner of a legal or equitable interest in real property including the heirs, devisees, successors, assigns, and personal representatives of the owner. "Landowner" may include a person holding a valid option to purchase real property pursuant to a contract with the owner to act as his agent or representative for purposes of submittal.

Parapet: A low guarding wall at the edge of a roof, terrace, or balcony.

Pathway: A bikeway physically separated from motorized vehicular traffic by an open space or barrier and either within the highway right-of-way or within an independent right-of-way. Shared use paths may also be used by pedestrians, skaters, wheelchair users, joggers, and other non-motorized users.

Permanent Structure: A structure that is built and designed for long-term use and not including a tent, mobile unit, trailer, recreational vehicle, or other temporary shelter.

Pollutant: Those man-made or naturally occurring constituents that when introduced to a specific environment creates a deleterious effect. Typical pollutants found in stormwater include but are not limited to sediment (suspended and dissolved), nutrients (nitrogen and phosphorus), oxygen demanding organic matter, heavy metals (iron, lead, manganese, etc.), bacteria and other pathogens, oil and grease, household hazardous waste (insecticide, pesticide, solvents, paints, etc.) and Polycyclic Aromatic Hydrocarbons (PAHs).

Primary Entrance: The entrance to a structure that is located along the frontage street.

Principal Façade (For purposes of placing buildings along build-to lines or build-to zones): The front plane of a building not including stoops, porches, or other attached architectural features.

Porch: A roofed area, attached at the ground floor level or first floor level, and to the front of a building, open except for railings and support columns.

Property: See "*Real Property*."

Proportion: The comparative, proper or harmonious relation of one part to another or to

the whole with respect to magnitude, quantity, or degree.

Public Parking: A parking facility available to the general public for parking motor vehicles, including parking lots or structures. Except those designated to meet the Americans with Disabilities Act requirements, no more than 20% of the total parking spaces shall be reserved for private or restricted use at any given time.

Raised Basement: A ground story that has the appearance of a raised foundation and is used primarily as a garage or storage area.

Real Property: All real property that is subject to the land use and development ordinances or regulations of a local governing body, and includes the earth, water, and air, above, below, or on the surface, and includes improvements or structures customarily regarded as a part of real property.

Receiving Waters: All natural water bodies, including oceans, salt and freshwater marsh areas, lakes, rivers, streams, ponds, wetlands, and groundwater which are located within the jurisdictional boundaries of Town. Stormwater management ponds, man-made wetlands, ditches, and swales constructed for the sole purpose of controlling and treating stormwater are not considered Receiving Waters.

Regulation: Any regulation, rule or requirement and promulgated by the Town pursuant to this article.

Retention: The collection and storage of runoff without subsequent discharge to surface waters.

Right-of-Way: A parcel of land to be used as a street, alley, crosswalk, drainage, or for other public purposes.

Roadway/ Street: A strip of land or way subject to vehicular traffic (as well as pedestrian traffic) that provides direct or indirect access to property, including, but not limited to, alleys, avenues, boulevards, courts, drives, highways, lanes, places, roads, terraces, trails, or other thoroughfares.

Roadway/ Street, Private: A right-of-way, which has not been dedicated or publicly accepted by the Town, County, or State.

Roadway/ Street, Public: A dedicated public right-of-way, which affords means of access to abutting property and which has been accepted for maintenance by the Town, County, or State Highway Department. For the purposes of these regulations, the term "street" or "streets" shall also mean avenues, boulevards, roads, lanes, and other public ways.

Setback: An area measured inward from the property line, right-of-way line or a specified line defining the limits within which no structure or other improvements not otherwise authorized in this Ordinance shall be located. See 9.3.D.4 for interpretation of this standard.

Shared Parking: A system of parking, typically applied to buildings of differing uses that each have peak parking demands at different times within a 24 hour period, thereby allowing some parking spaces to be shared.

Sharrows: Lanes that are shared by both cars and bicycle. The lanes have special arrow

markings within to help alert cars to take caution and allow cyclists to safely travel in these lanes when striping is not possible.

Shopfront: Building frontage for the ground floor usually associated with retail uses. Building types which typically have shopfronts are main street, commercial cottage, or live-work sideyard buildings.

Sign: Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public.

Sign, Animated: Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

Sign, Banner: Any sign of lightweight fabric or similar material that is permanently mounted to a pole or a structure by a frame at one or more edges. National flags, State or municipal flags, or the official flag of any institution or business shall not be considered banners.

Sign, Canopy: Any sign that is part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

Sign, Changeable Copy: A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than five times per day shall be considered an animated sign and not a changeable copy sign for the purposes of this Ordinance. A sign on which the only copy that changes is an indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this Ordinance.

Sign, Freestanding/ Monument: Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

Sign, Incidental: A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar detectives. No sign with a commercial message shall be considered incidental.

Sign, Nonconforming: Any sign that does not conform to the requirements of this Ordinance.

Sign, Portable: Any sign not permanently attached to the ground or other permanent structure, or a sign designated to be transported, including, but not limited to, signs designed to be transported by means of wheels; balloons used as signs; and umbrellas used for advertising.

Sign, Projecting: Any sign affixed to a building or wall in such a manner that its leading edge extends more than six (6) inches beyond the surface of such building or wall.

Sign, Residential: Any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods or services legally offered on the premises where the sign is located, if offering such service at such location conforms

with all requirements of this Ordinance.

Sign, Roof, Integral: Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six.

Sign, Roof: Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

Sign, Suspended: A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

Sign, Temporary: Any sign that is used only temporarily and is not permanently mounted.

Sign, Vehicle: Any sign that is attached or affixed to a vehicle for the advertisement of business. This shall not apply to vehicles used in the daily operation of the business.

Sign, Wall: Any sign attached parallel to, but within six inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

Sign, Window: Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service that is placed inside a window or upon the windowpanes or glass and is visible from the exterior of the window.

Silviculture: The cultivation of forested trees, forestry.

Special Exception: An exception issued by the Board of Zoning Appeals authorizing a particular use in a specified location within a Zoning district, upon demonstrating that such use complies with all the conditions and standards specified by the Zoning and Land Development Regulations.

Stoop: A small platform and / or entrance stairway at a house door, commonly covered by a secondary roof or awning.

Stormwater: Stormwater runoff, precipitation runoff, and surface runoff.

Stormwater Management Plan or SWMP: The set of drawings and other documents that comprise all of the information and specifications for the programs, drainage systems, structures, BMPs, concepts, and techniques for the control of stormwater.

Stormwater Management: The collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner to meet the objectives of this article and its terms, including, but not limited to measures that control the increased volume and rate of stormwater runoff and water quality impacts caused by manmade changes to the land.

Stormwater System: The conveyance or system of conveyances (including roads with drainage systems, highways, right-of-way, private streets, catch basins, curbs, gutters, ditches, man-made channels, storm drains, detention ponds, and other

stormwater facilities) which is (a) owned or operated by private entities; (b) designed or used for collecting or conveying stormwater; (c) not a combined sewer system and (d) not part of a Publicly Owned Treatment Works (POTW).

Streetwall: The vertical surface of a building or structure that faces public open space.

Street Frontage: The percentage of lot width over which the principal building plane extends. If a lot occurs at a corner, the street frontage shall be measured along the primary side (i.e.- along the street on which the property maintains its address).

Structural BMP: A device designed and constructed to reduce pollutant loading through measures including reducing the volume of surface stormwater runoff, biological uptake of pollutants, and filtering of pollutants. Structural BMPs include but are not limited to detention basins, retention basin, bioswales, and infiltration basins.

Structure, Alteration: Any change to the supporting members of a structure, including foundations, bearing walls or partitions, columns, beams, girders, or any structural change in the roof or in the exterior walls.

Structure: Anything constructed, erected, or established including, but not limited to the following: A. Buildings; B. Signs; C. Seawalls; D. Mobile homes; E. Fences; F. Screen enclosures; and G. Patio walls.

Subdivision: All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, lease, or building development, and includes all division of land involving a new street or change in existing streets, and includes re-subdivision which would involve the further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law; or, the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, and includes combinations of lots of record.

Total Impervious Surface: All impervious surfaces on a site regardless if it is directly connected to each other, and that is not constructed using permeable pavement technology.

Tree: Any self-supporting, woody perennial plant, which can grow to at least a diameter of eight inches or more, measured three feet up from the base, which normally attains a height of at least ten feet at maturity, and usually has one main stem or trunk and many branches.

Tree, Hardwood: Any tree not classified as a conifer or palm.

Tree, Large: A tree that typically grows to reach a width and/or height of over 50 feet at maturity.

Tree, Medium: A tree that typically grows to reach a width and/or height of between 25 and 50 feet at maturity.

Tree, Small: A tree that typically grows to reach a width and/or height of no more than 25 feet at maturity.

Tree protection zone (TPZ): A more or less cylindrical area surrounding a tree that includes

the critical root zone and extends up to the top of the tallest branch and out from the trunk a minimum radius of 1.5 feet for each inch of trunk dbh or 10 feet, whichever is greater. This area includes the trunk, crown, and that portion of the tree's roots within the critical root zone. For a group of trees, it includes the area within the group and extending out to the critical root zones of the trees located along the entire perimeter of the group.

Turret: A small tower or tower- shaped projection on a building.

Undercroft: The area beneath the first finished floor of a structure and above the ground plane; an unfinished and unclimatized space.

Use: The purpose or activity for which the land or building thereon is designed, arranged, or intended for which it is occupied and maintained.

Variance: A departure from the strict terms or expressed provisions of this Title where such departure will not be contrary to the public interest and where, owing to conditions peculiar to the property and not as a result of any action on the part of the property owner, a literal enforcement of this Title would result in unnecessary and undue hardship; and such variance is consistent with Section 6.29.800 of the Code of Laws of South Carolina, Title 6, Chapter 29.

Vegetation: All plant growth, including trees, shrubs, vines, annuals, perennials, mosses, and grasses.

Vernacular Architecture: A style of architecture exemplifying the most common building techniques based on the forms and materials of a particular historical period, region, or group of people.

Volume: The quantity of water that is generated by rainfall and other sources within a development.

Waiver: The modification of the minimum stormwater management requirements contained in *Article 5, Design Standards* and the *Stormwater Design Manual* for specific circumstances where strict adherence of the requirements would result in unnecessary hardship and not fulfill the intent of this Ordinance.

Water Quality: Those characteristics of stormwater runoff that relate to the physical, chemical, biological, or radiological integrity of water.

Water Quality Design Storm Event: The amount of rainfall that occurs with the 95% storm event utilizing historic rainfall data collected at the Savannah Airport. 1.95 inches of rainfall during a 24-hour duration storm event has been identified as the 95% storm event.

Water Quantity: Those characteristics of stormwater runoff that relate to the rate and volume of the stormwater runoff.

Workforce Housing: Housing affordable to low and moderate-income families (those earning up to 120% of the Beaufort County Area Median Income (AMI), as defined in the schedule published annually by the U.S. Department of Housing and Urban Development).

9.3 Interpretation of Dimensional Standards

Dimensional standards in these regulations shall be interpreted according to the following rules and guidance:

A. **Build-to Line.** The line specified as a distance from the right-of-way line, easement, or other public or private access way if the context so indicates, at which a building shall be located.

When expressed as a single point (i.e. 5 feet) the building shall be located within an accuracy of one foot of that point. When expressed as a range (i.e. 0 to 10 feet) the building shall be located at any point in that range. When setbacks are expressed as a range (i.e. 15 to 25 foot setback) that shall be interpreted as a build-to range

B. **Building Height.** Where building height is expressed in feet, the interpretation of this section shall apply (See "Story" in this section where building height is expressed in stories). The vertical distance measured from the average elevation of the finished lot grade at the front building line to:

1. The highest point of the roof deck in the case of a flat roof;
2. The deck line of a mansard roof;
3. The average height between the plate and ridge of a gable, hip, or gambrel roof.
4. The height limitations generally shall not apply to church spires, belfries, cupolas, domes, chimneys, smokestacks, flagpoles, water towers, or other minor common building accessories not intended for human occupancy, unless specifically indicated in this Ordinance.

Figure 9-1. Building Height.

C. **Fractions**. When calculations result in fractions, the results shall have two significant figures and any fractional result shall be rounded up to the next consecutive whole number.

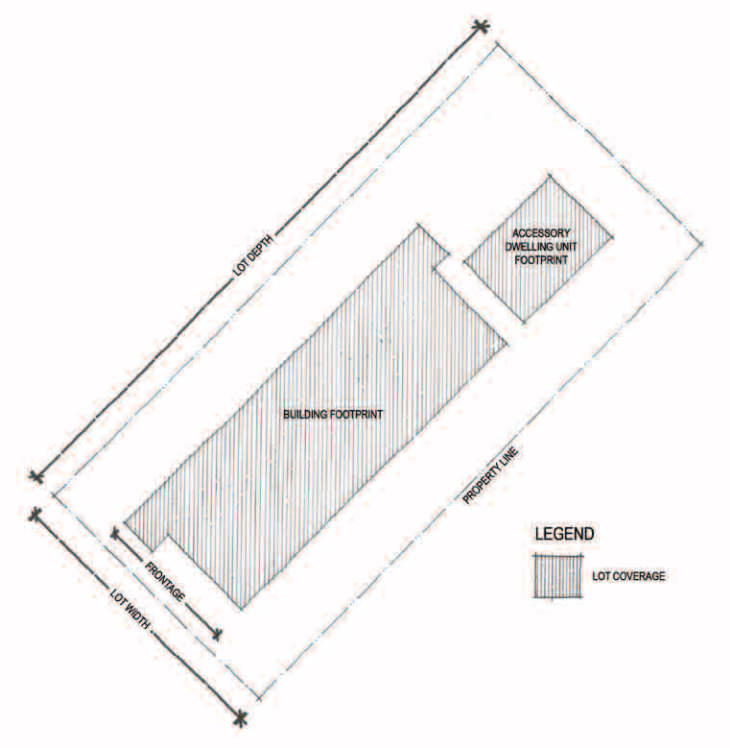
D. **Lot**. The following shall be used in interpreting lot dimensional standards:

1. Frontage. The area between a building façade and the vehicular lanes,

inclusive of its built and planted components.

2. Lot coverage. The portion of the lot covered by any structure or constructed element that impedes infiltration of stormwater into the ground or disrupts vegetated surfaces. For purposes of lot coverage standards, structures or constructed elements that allow some infiltration, such as decks, patios and driveways, porous pavers or concrete, or other elements that disturb ground cover shall be counted towards the total surface coverage unless they demonstrate they are a functional and integral part of a stormwater system and best management practice in *Article 5, Design Standards*.

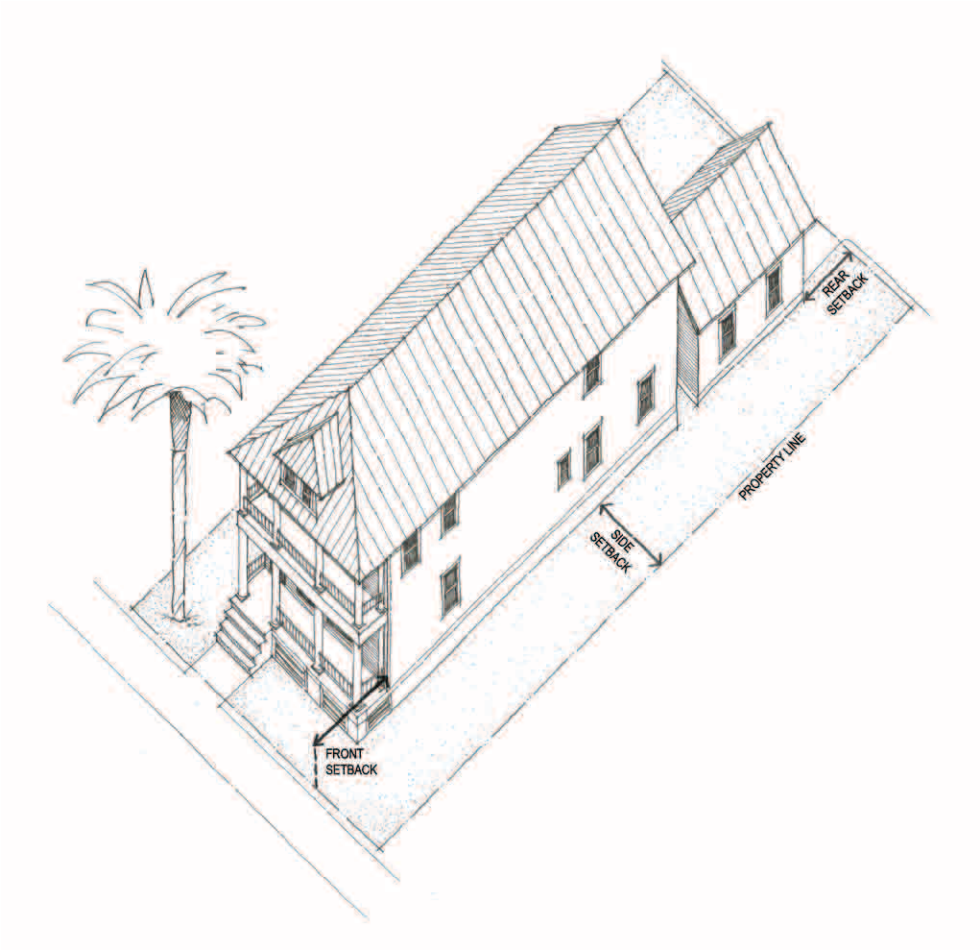
Figure 9-2. Lot Coverage



3. Lot width. The horizontal distance between the side lot lines, measured at right angles to the lot depth and measured parallel to the front lot line. Where a minimum lot width is specified, it shall be applied at all points in the building envelope of a lot.

4. Setback line. The distance from the property line to the nearest part of the applicable building, structure, or sign, measured perpendicularly to the property line. In cases where setback lines are listed as a range indicating a minimum and a maximum setback, the range shall be interpreted as a build-to range at or within such distance a building line must be established. Building appurtenances (steps, porches/stoops, eaves, bays) attached and projecting from the foundation or building are not restricted by the setback requirement, except in no case will these appurtenances extend within 3 feet of adjacent properties, or into easements or rights-of-way unless specifically provided in this Ordinance.

Figure 9-3. Setbacks.



E. **Story.** Where building height is expressed as a "story(ies)," the interpretation in this section shall apply. Please see Figure 9-1, Building Height. "Story" shall be interpreted as follows:

1. A story is the portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.
2. Stories shall begin at the first floor level that is between three feet above finished grade and four feet below grade.
3. The minimum story shall be 8.5 feet and the maximum story shall be 14 feet,

except that the height of the first story may be as high as 20 feet for all non-residential buildings that are 2 stories or more.

4. Exception: Where ground floor manufacturing uses, or warehouse merchandise is allowed in the zoning district, buildings for those uses shall have no limit on the first story and the maximum building height expressed in feet shall control.
5. Half-story. A space under a sloping roof that has the line of intersection of the roof and the exterior wall supporting the roof not more than 3 feet above the floor level, and in which space the possible floor area with head room of 5 feet or more occupies between 30 and 70 percent of the total floor area of the story directly beneath.

9.4 Description of Uses of Land and Buildings

This section contains general descriptions associated with the uses of land and buildings. It is organized according to categories of uses and specific types of uses within each category. These categories and types correspond to the *Use Table* in Article 4, Zoning Districts. Where a use appears to meet two or more descriptions or where a use is not described, the UDO Administrator shall make a determination, as described in *Article 4, Zoning Districts*.

9.4.1 Residential Uses

The residential use category is for buildings or portions of buildings are used for a dwelling unit. Certain types of residential uses within this category may have building types that have more than one dwelling unit per building. Certain types of residential uses may be more refined within specific zoning districts, where lot or building type standards may produce different typologies.

A. **Accessory Dwelling Unit/Dependency Unit:** A second dwelling unit in a separate accessory structure on the same lot as the main dwelling, for use as a complete, independent living facility.

B. **Dwelling, Multi-family:** A building containing multiple dwelling units, including residential condominiums and apartments.

C. **Dwelling, Single-Family Detached:** A one family detached dwelling designed for or occupied by one family.

D. **Dwelling, Single-Family Attached:** Two or more dwelling units attached by a common wall or roof, but wherein each unit is located on a separate lot of record.

E. **Dwelling Unit:** A single unit providing complete independent living facilities for one Family or Household including permanent provisions for living, sleeping, eating, cooking, and sanitation.

F. **Manufactured Home:** A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and all systems, appliances, accessories, and furnishings sold with the home, including, among other things, the plumbing, heating, air conditioning and electrical systems, as

defined in S.C. Code 40-29-20(9).

G. **Residential:** A building or portion of a building arranged or designed to provide permanent living quarters for a household. The terms "residence" and "dwelling" shall be used interchangeably.

9.4.2 Agriculture/Conservation Uses

The Agriculture/Conservation Uses category is for uses commonly associated with a rural or agriculture environment, which demand little or no public infrastructure, and which benefit from vast open spaces and stewardship of natural and environmental assets of the land.

A. **Agricultural Use and Structures:** The use of land and associated structures to raise, harvest, or store crops, feed, breed, or manage livestock, or to produce plants, trees, fowl, or animals, including the preparation of the products raised thereon and disposed of by marketing or other mean, except the slaughtering of poultry, livestock, and other animals is excluded from this use.

B. **Animal Hospital:** An establishment that is used for the practice of veterinary medicine.

C. **Commercial Stables:** Housing for horses owned and used by someone other than the occupant or owner of the residence and including related shows, lessons, clinics and similar activities.

D. **Conservation:** The protection and management of land, vegetation, water bodies, topography, hydrology or other physical element in a natural or undisturbed manner for beneficial aesthetic, ecological or recreation functions. Any accessory buildings are limited to minimal provisions for caretakers or maintenance, or other low-impact facilities to accommodate limited natural recreation purposes. Examples include wildlife refuges or nature preserves.

E. **Farm:** Any tract or real property which is principally used to raise, harvest or store crops, feed, breed or manage livestock, or to produce plants, trees, fowl or other animals, including agriculture operations useful to man, including the preparation of the products raised thereon, for man's use and disposed of by marketing or other means, including agriculture.

F. **Horse Riding School:** An enclosed or unenclosed building or portion of a building used exclusively for the equestrian riding activities by the building owner, guests, or employees.

G. **Horse Training Facility:** An enclosed or unenclosed building or portion of a building used exclusively for the equestrian training activities by the building owner, guests, or employees

H. **Kennel:** A facility that provides boarding for three or more dogs, cats, or other household pets for a fee, and may include grooming, breeding, training, or selling of animals.

I. **Natural Resource Management and Harvesting:** The growth, management and harvesting of natural materials for use as raw materials in a non-invasive, non-extractive manner, where the land and all associated operations allow the natural conditions, including vegetation, water bodies, topography, hydrology or other physical elements to maintain the predominant aesthetic and ecological functions of the land area. Any accessory buildings, structures or facilities are limited to low-impact facilities that reinforce the overall natural condition of the

land area, and only those necessary to accommodate minimal management of the site. Examples include a tree farm, fish hatchery, or similar natural resource management activities.

J. **Private dock or boathouse:** A privately-owned and maintained structure for which valid State and/or Federal permits have been obtained, for the use of boating operations and fishing

K. **Seafood/Shellfish Packaging/Processing:** Activities which include the purchase, monitoring, bottom preparation, planting, sale, possession, harvest, production, breeding, transportation, and processing of shellfish in State waters on or in an area used for shellfish cultivation.

L. **Veterinary Clinic:** An establishment offering veterinary services and hospitals for animals.

9.4.3 Commercial Services

The Commercial Use category is for businesses retail, personal service or professional service industries for general consumers where the nature of the exchange generally requires interactions with the clients, customers or patrons on the premises, and where lots or buildings are primarily designed for exposure to the public-at-large.

A. **Adult Entertainment/Adult-Oriented Business:** A business involving an adult arcade, adult bookstore or adult video store, adult cabaret, adult motion picture theater, sexually-oriented escort agency, nude model studio or sexual encounter center.

B. **Car Wash:** A commercial establishment primarily engaged in the washing of automobiles, motorcycles, and pick-up and panel trucks, as well as boats and other motorized vehicles.

C. **Fueling/Convenience Store:** Retail facility selling gas/convenience items with no repair bays, no towing, no vehicle body or engine repair or exterior overnight storage permitted with this use.

D. **Motor Vehicle Sales and Service:** A commercial business that includes the sale and service of automobiles, trucks, recreational vehicles, boats, campers, tractors, and other motorized vehicles including storage and incidental maintenance and repair.

E. **Motor Vehicle Service Station:** Buildings and premises on any parcel or lot where gasoline, oils and greases, batteries, tires, and automobile accessories may be supplied and dispensed at retail (or in connection with a private operation) where no part of the premises is used for the storage of dismantled or wrecked vehicle parts, and permitting the sale of cold drinks and packaged goods as accessory only to the principle operation.

F. **Office / Service:** A business or institution that primarily provides employment, administrative management, personal service or professional service operations, where products or services are of the nature that require occasional on-premise interactions with the clients, customers or patrons. Examples include doctors' office, accountants or lawyers, architects and engineers, travel agent, personal care data processing centers, research facilities or similar office environments.

G. **Outdoor Sales:** The temporary sale of goods that are not located within an enclosed building. The display of merchandise on a sidewalk or an exterior private area of a site associated with an otherwise permitted Commercial use

that does not meet the limitations of Limited or Seasonal Outdoor Sales, and which may require areas to be designed and dedicated for display when part of the permanent operations of an interior retail business. This also includes uses where the primary business is generated by merchandise displayed permanently outside.

H. **Personal Service Establishment:** Business involving the rendering of personal service or the repair and servicing of small equipment, and include but are not limited to, services rendered by photography studio, tailor, laundry, travel bureau, shoe repair, and barber/ beauty shop.

I. **Restaurant:** Establishment where food and beverage are prepared, served, and consumed primarily within the principal building.

J. **Retail Business:** Business, structure or activity involving the sale of goods or merchandise, from a fixed location, for direct consumption by the purchaser.

K. **Tattoo Facility/Parlor:** Any room, space, location, area, structure, or business, or any part of any of these places where tattooing is practiced or where the business of tattooing is conducted and which is licensed by the Department (SC DHEC) as a tattoo facility.

9.4.4 Lodging

A. **Bed & Breakfast:** A dwelling, where the proprietor resides on site, may be involved in the rental of six (6) rooms or less to overnight guests and offering breakfast meals only to said guests, provided a parking place be provided for each room offered for rent.

B. **Hotel:** A building or portion thereof, or a group of buildings, which provides sleeping accommodations, with or without meal service, for transients on a daily or weekly basis, whether such establishment is designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, tourist cabin, tourist court, or tourist home

C. **Inn:** A structure where the rental of seven (7) to twelve (12) rooms may be offered for overnight occupation provided a parking place be provided on site for each room for rent.

D. **Lodging:** Facility or structure used for the rental of sleeping quarters for overnight guests. Available for daily and weekly renting of bedrooms. The area allocated for food service shall be calculated and provided with parking according to retail use.

9.4.5 Office

A. **Home Occupation:** Any use of principal or accessory buildings clearly incidental and secondary to their uses for residential purposes and which does not change the character of the building and site.

B. **Professional Office:** Building and/or office for government, professional business, or general purposes; B. Offices for general administrative functions including operations management, sales and marketing, clerical service, personnel management, accounting/finance, data processing, and design/engineering; Offices for business use including, but not limited to: insurance, real estate, travel, advertising agencies, and business consulting; Offices for professional use including, but not limited to: accounting, architecture, engineering, surveying, law, medicine, chiropractic, and dentistry; and Offices for governmental or

institutional purposes.

9.4.6 Health/ Human Care

A. **Child Care Center:** A facility which regularly receives 13 or more children for day care more than two days per week.

B. **Family Day Care Home:** An occupied residence where child day care is regularly provided for no more than six children, including children living in the home and children received for day care who are related to the resident care giver. Provided, however, that an occupied residence in which child day care is regularly provided only for a child or children related to the resident care giver, or only for the child or children of one unrelated family, or only for a combination of such children is not a family day care home.

C. **Group Day Care Home:** A facility, generally within a dwelling unit, which regularly provides child day care for at least seven but no more than 12 children, including the children of the caregiver, younger than ten years old living in the home and children who are related to the resident caregiver.

D. **Hospital:** A licensed facility primarily providing in-patient medical, surgical, or psychiatric care for a period exceeding 24 hours. Hospital facilities may also include out-patient services and the following types of accessory activities: out-patient diagnostic and treatment centers, rehabilitation facilities, offices, laboratories, teaching facilities, meeting areas, cafeterias, maintenance, and parking facilities. This definition includes General Hospitals, Specialized Hospitals, Chronic Hospitals, Psychiatric and Substance Abuse Hospitals or Hospices. (See S.C. Department of Health and Environmental Control Regulation 61-16, Standards for Licensing—Hospital and General Infirmaries, and Regulation 61-78, Standards for Licensing—Hospices.)

E. **Medical Office and Clinic:** A health care facility in which a doctor, dentist, psychiatrist, psychologist, counselor, physician's assistant, nurse practitioner, or similar licensed medical provider treats or counsels patients. Also including birthing centers and ambulatory surgical centers.

F. **Nursing Home:** Any institution or facility defined as such for licensing purposes under law or pursuant to regulations for nursing homes promulgated by the South Carolina Department of Health and Environmental Control, whether proprietary or nonprofit, including, but not limited to, nursing homes owned or administered by the State or political subdivision thereof.

9.4.7 Recreation/ Entertainment

A. **Campgrounds and Recreational Vehicle Parks:** Grounds designed for multiple individual sites for temporary overnight lodging where lodgers bring their own facilities, including tents and recreational vehicles. Campgrounds and Recreational Vehicle Parks may include accessory buildings for recreation or accommodations for guest, but generally include few buildings or permanent structures.

B. **Recreation Facility:** A commercial use where facilities for sports, entertainment, or similar recreation opportunities for participants of spectators are offered as a business. Examples of uses include driving ranges, athletic complexes, or other similar businesses.

C. **Recreational Vehicle:** 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; and d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

D. **Theater:** An establishment devoted showing of motion pictures or live performances. Does not include any uses that fall under the definition of adult entertainment.

9.4.8 Civic/ Institutional

The Civic Use category includes uses serving a public interest to enhance the daily community life landowners, businesses and residents. They offer recreation, education, social, and cultural and other quality-of-life services, and are typically run by government, not-for-profit, religious, or similar community-oriented organizations. Civic uses typically are on grounds or in buildings designed to be a focal point or gathering place for surrounding areas.

A. **Cemetery:** Land dedicated for the burial and memorializing of diseased humans, including associated structures such as chapels and or mausoleums, art and statuary, and gardens. A cemetery may be a principle use or accessory to religious assembly uses.

B. **Club, Lodge, Union Hall, or Social Center:** A meeting, recreational, or social facility of a private or nonprofit organization primarily for use by members or guests.

C. **Conference or Exhibition Center:** A building or complex of buildings that is used as a conference center and includes auditorium, meeting rooms, exhibition space, and banquet facilities.

D. **Government Building:** Structure used primarily for public, governmental organizations including offices, library, post office, museum, and other similar uses.

E. **Civic Use:** A government owned or operated building, structure, or land used for public purpose.

F. **Institutional Use:** A non-profit religious or public use such as a church, library, museum, public hospital or the like.

G. **Parks:** A tract of land designated and used by the public for passive or active recreation and equipped for the conduct of sports or leisure time activities.

H. **Religious Assembly:** A church, synagogue, temple, or other facility that is used for prayer, contemplation by persons of similar beliefs or conducting formal religious services on a regular basis. Secondary uses clearly incidental to the primary Church use such as the Church operating day care, elder care, conducting group meetings, and the like shall be considered a permitted use.

I. **School:** An education facility that provides regular daily classroom, lab or other similar learning environments for students, including activities, facilities and grounds accessory to education, including pre-, primary, secondary, vocational, and higher education institutions. Schools are broken into different scales of use based on context and the type of buildings permitted in the specific zoning district.

J. **Utilities:** Centralized facilities and equipment necessary to manage and operate

support infrastructure in surrounding areas. Examples include utility substations, pump stations, fire or police stations, water tower, or similar public infrastructure.

9.4.9 Industrial

A. **Artisan Workshop:** Space used for painting, sculpting, drawing, or other artistic purpose in order to create artwork that will be sold to the public.

B. **Concrete and Asphalt Plant:** A commercial use involving the manufacturing and storage of concrete, cement, brick plaster, gypsum, lime, mortar, asphalt, tar, or other paving or plastering materials.

C. **Contractor's Office:** An office used as a base of operations for construction activities that also can include outdoor storage of equipment and materials.

D. **Junk and Salvage Operations:** A commercial use that involves the collection, storage, sale, and/or stripping of vehicles, boats, and other items, which are typically stored outdoors.

E. **Light Assembly/ Fabrication:** A commercial use that includes processing, packaging, and assembly of parts not produced on site.

F. **Manufacturing:** A commercial use that includes the production of goods from raw materials on site.

G. **Mini-warehouses or Self-service Storage Facilities:** A commercial use offering separate storage units for short- or long-term rental, where personal items of the general public may be stored and accessed independently.

H. **Research and Laboratory:** An office or facility that is used for research, testing, or other scientific purposes which does not have day-to-day interaction with the general public.

I. **Solid Waste Transfer Facility/ Recycling Center:** A facility for the general public to drop-off household goods and waste that will be transferred to a landfill site or recycling plant.

J. **Telecommunication Towers:** A tower, pole, or similar structure designed to support telecommunications antennae which is operated for commercial purposes or by a commercial entity. This does not include private, home-use television reception antennae, satellite dishes, or communication towers for amateur radio operation licensed by the Federal Communications Commission.

K. **Warehouse or Distribution Operation:** A commercial facility used for receipt, temporary storage, and redistribution of goods according to the customer orders as they are received.

9.5 Interpretation of Maps and Boundaries

A. **Zoning Maps.** The boundaries of the Zoning District given in this Ordinance are shown on a map entitled Official *Zoning Map*, Town of Bluffton, which, together with all explanatory matter, is adopted by reference as part of this Ordinance. The Official *Zoning Map* shall be located in the Town of Bluffton Town Hall. Where uncertainty exists with respect to any of the boundaries of a zoning district as shown on the Official *Zoning Map*, the following rules shall apply:

1. Where district boundaries are indicated as approximately following the centerlines of streets or highways or railroad right-of-way lines or the lines extended, they shall be construed to be the boundaries.
2. Where district boundaries are indicated as approximately following the corporate limit line of the Town, the corporate limit line shall be construed to be the boundaries.
3. Where district boundaries are indicated as approximately following property lines or the lines extended, the property lines or the lines extended shall be construed to be the boundaries.
4. Where district boundaries are indicated as approximately following the centerline of streambeds or riverbeds, the centerlines shall be construed to be the boundaries.
5. Where any of the right-of-way, corporate limit, property line or stream and river beds change, the zoning district shall similarly change to reflect such adjustment to the extent is does not reflect a substantial change and the change is not associated with a specific zoning designation.

B. **Old Town Bluffton Historic District.** The area designated as the Old Town Bluffton Historic District is comprised of the following Zoning Districts:

1. Neighborhood Core Historic District (NC-HD);
2. Neighborhood Center Historic District (NCE-HD);
3. Neighborhood General Historic District (NG-HD);
4. Neighborhood Conservation Historic District (NCV-HD);
5. Riverfront Edge Historic District (RV-HD).

C. **Planning Maps.** Where these regulations refer to the *Comprehensive Plan*, land use categories, future land use maps, or *growth framework map*, this shall include maps and data associated with the officially adopted plans and maps of the Town:

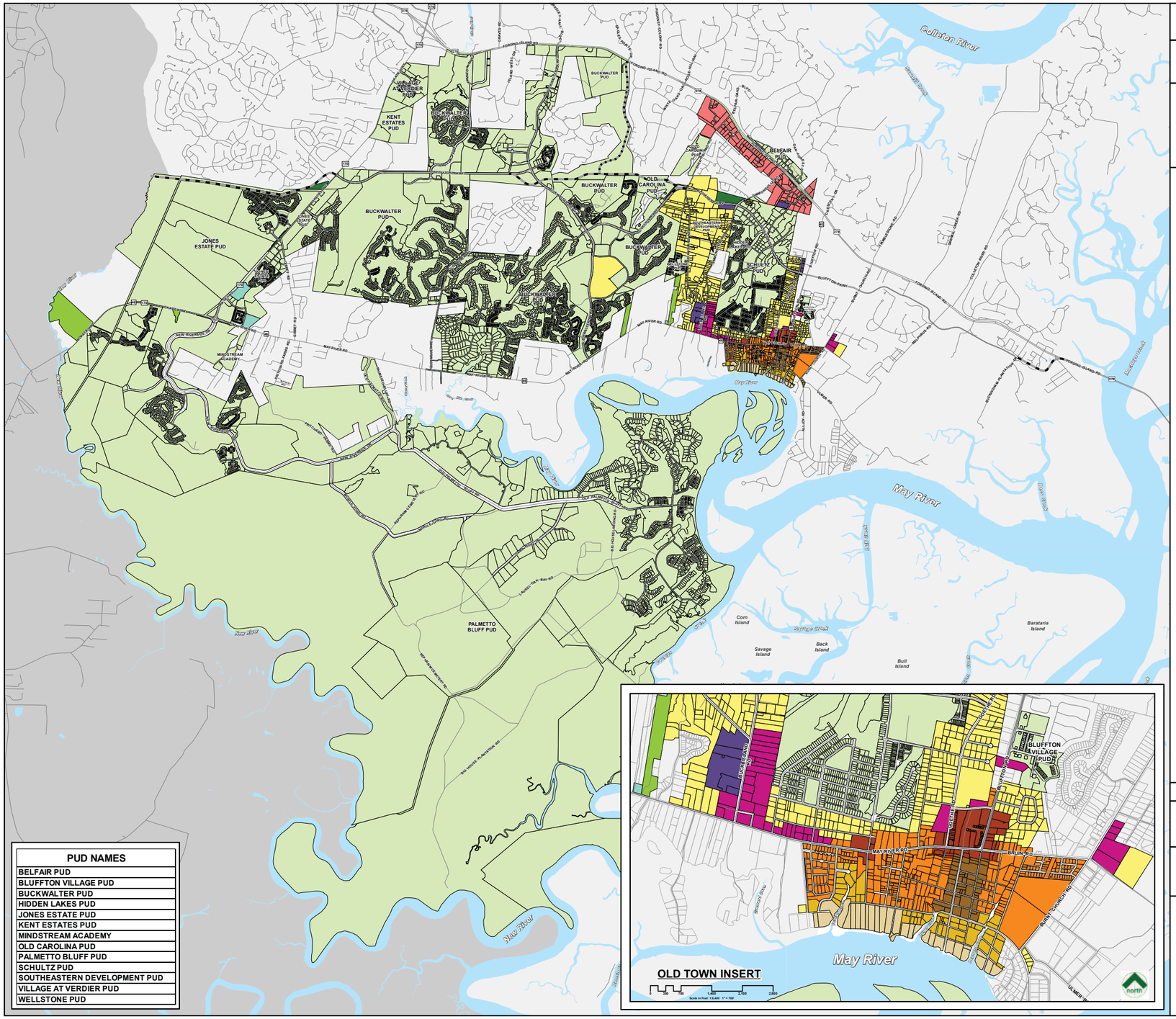
1. The maps are a general framework and guide for decision-making, and do not pre-determine any specific use of land or buildings, or application of any zoning category. Except that regulating plans done to the specificity of district and block scale plans may determine regulations governing building types and land uses as provided in the Districts of this Ordinance.
2. The maps shall be interpreted consistent with the concepts, policies, principles and strategies in the plans, including descriptions, location criteria, checklists and other elements and data supporting the plan.
3. Specific area plans, whether adopted by the Town or proposed by private parties in accordance with these regulations, may be interpreted as an amendment or further refinement of the future land use map provided that plan is determined by the Planning Commission to be consistent with the *Comprehensive Plan* and *growth framework map*.
4. Future zoning decisions shall be in accordance with these plans, when used as general guidance, and shall be consistent with the purposes, intent and design objectives of this Ordinance.

9.6 Resources, Guides, Manuals and Industry Standards

A. Resources, guides and industry standards that are recognized as reputable authority in the planning, urban design, transportation, urban forestry, or other applicable profession, may be used as a supplement to interpreting this Ordinance. Any use of such resources, guides and industry standards shall be subject to the approval of the UDO Administrator upon a determination that the content is consistent with the *Comprehensive Plan* and the purposes, intent, and design objectives of this Ordinance. Best practices published by such professional organizations as the American Planning Association (APA), Congress for the New Urbanism (CNU), Institute of Transportation Engineers (ITE), and the Urban Land Institute (ULI) may also be used.

B. Design guidelines addressing any specific site or building design issues for public or private property may be prepared by Growth Management Department, and may be used as a supplement to interpreting this Ordinance. Any use of design guidelines shall be subject to the approval of the UDO Administrator upon a determination that the content is consistent with the *Comprehensive Plan* and the purposes, intent, and design objectives of this Ordinance. The UDO Administrator may elect to require approval by the Planning Commission, Town Council, or other public review body prior to its use. Any design guidelines approved by the UDO Administrator shall be maintained by the UDO Administrator and at least one copy shall be kept on file with the Growth Management Department.

C. These materials shall only be used to aid in the interpretation and application of these regulations, and shall not be used to modify, contradict, or in any way change the standards and requirements of these regulations.



PUD NAMES
BELFAIR PUD
BLUFFTON VILLAGE PUD
BUCKWALTER PUD
HIDDEN LAKES PUD
JONES ESTATE PUD
KENT ESTATES PUD
MINDSTREAM ACADEMY
OLD CAROLINA PUD
PALMETTO BLUFF PUD
SCHULTZ PUD
SOUTHEASTERN DEVELOPMENT PUD
VILLAGE AT VERDIER PUD
WELLSTONE PUD

Town of Bluffton
Beaufort County, SC

Growth Management Department

OFFICIAL ZONING MAP

Legend

JURISDICTIONAL

- Beaufort County
- Jasper County

ZONING DISTRICT

- Preserve
- Agriculture
- Rural Mixed Use
- Residential General
- Neighborhood Core
- General Mixed Use
- Light Industrial
- Riverfront Edge-HD
- Neighborhood Conservation-HD
- Neighborhood General-HD
- Neighborhood Center-HD
- Neighborhood Core-HD
- Planned Unit Development

MISCELLANEOUS

- Parcel Lines

TRANSPORTATION

- Roads
- Proposed Parkways

HYDROLOGY

- Water

Effective November 10, 2011

Map Prepared By: *GIS Office*

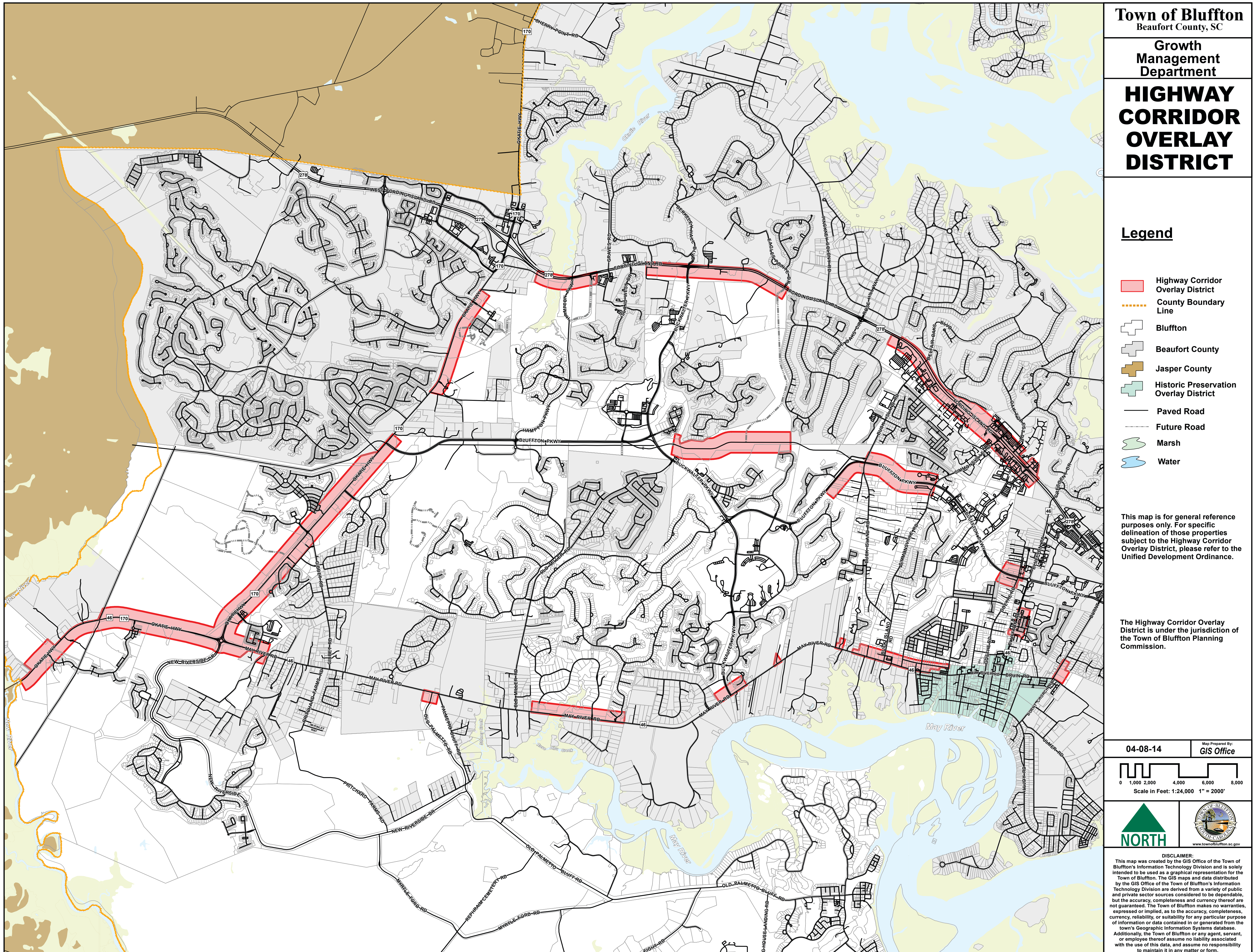
0 1,000 2,000 4,000 6,000 8,000
Scale in Feet: 1:24,000 1" = 2000'

north

www.townofbluffton.sc.gov

DISCLAIMER:
This map was created by the GIS Office of the Town of Bluffton's Information Technology Division and is solely intended to be used as a graphical representation for the Town of Bluffton. The GIS maps and data distributed by the GIS Office of the Town of Bluffton's Information Technology Division are derived from a variety of public and private sector sources considered to be dependable, but the accuracy, completeness and currency thereof are not guaranteed. The Town of Bluffton makes no warranties, expressed or implied, as to the accuracy, completeness, currency, reliability, or suitability for any particular purpose of information or data contained in or generated from the town's Geographic Information Systems database. Additionally, the Town of Bluffton or any agent, servant, or employee thereof assume no liability associated with the use of this data, and assume no responsibility to maintain it in any matter or form.

Click here for larger scale map. It will open in a separate window.



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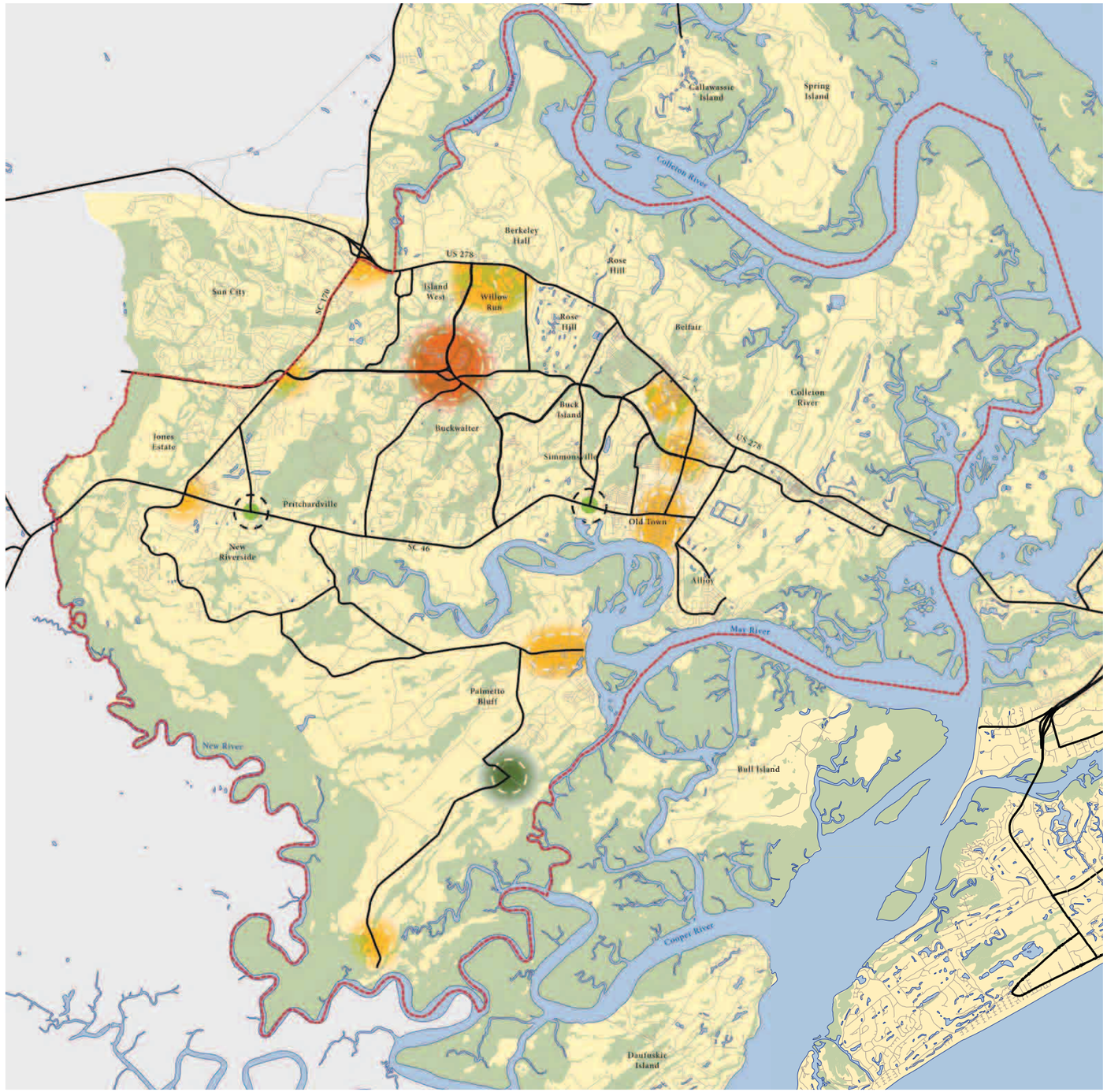

Town of Bluffton

Beaufort County, SC

GROWTH MANAGEMENT DEPARTMENT

GROWTH FRAMEWORK

Map Legend

- Water
- Municipality or Community Plan Boundary
- Marsh/Wetlands
- Town Center Place Type Assembly
- Village Place Type Assembly
- Hamlet Place Type Assembly
- Rural Crossroad Place Type Assembly
- Future Town of Bluffton Annexation
- Land Outside Beaufort County

north

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Click here for larger scale map. It will open in a separate window.

DOWNTOWN FORM-BASED CODE
OVERLAND PARK, KANSAS

SEPTEMBER 2011

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How to Use this Code

I want to modify a building or develop a new building:

1. Determine if property in question is located within the Form District. If not, this Code is not applicable.
2. Determine whether your intended changes would trigger a level of code compliance by looking at the Part 2, Section 209. Non-Conformities.
3. Look at the adopted REGULATING PLAN. Find the property in question. Note the REQUIRED BUILDING LINE and the PARKING SETBACK LINE. Note the color of the fronting STREET-SPACE—this determines the applicable BUILDING ENVELOPE STANDARD (see the key located on the REGULATING PLAN).
4. Find the appropriate BUILDING ENVELOPE STANDARD in Part 4. Building Envelope Standards. (Note the General Standards in Section 403.) The BUILDING ENVELOPE STANDARD will tell you the parameters for development on the site in terms of height, siting, elements, and use.
5. Additional regulations regarding streets and other public spaces surrounding the property are found in:
   a. Part 5. Urban Space Standards - the general parameters and/or specifications for the STREET-SPACE including vehicular traffic lane widths, curb radii, sidewalk and street tree planting area dimensions, and on-street parking configurations.
   b. Part 6. Architectural Standards - materials, configurations and techniques for the architectural elements of the building and lot.
   c. Part 7. Parking and Loading Standards.
6. See Part 2. Administration, Application Process & Appeals for information on the process.

I want to establish a new use in an existing building:

1. Find the property on the District REGULATING PLAN and determine the applicable BUILDING ENVELOPE STANDARD.
2. Determine whether the use is allowed by looking at the permitted Use Table in Part 8. Building Functions. If the use is listed with a cross-reference in the right-hand column, refer to those standards.

I have a use, building or site that is nonconforming:

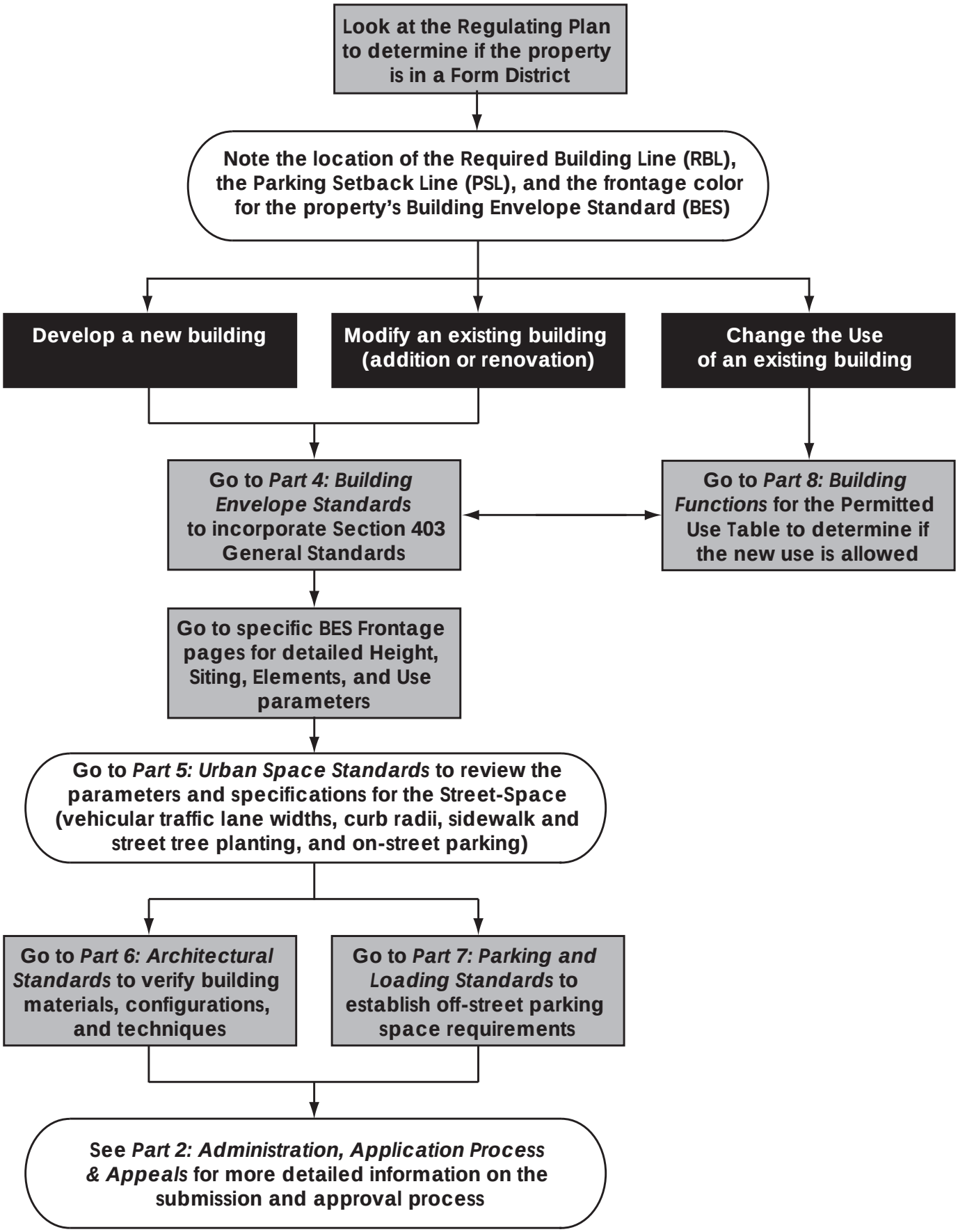
1. Existing uses, buildings and sites that met the rules when they were constructed, but do not comply with this development code are considered nonconforming.
2. See Part 2, Section 209. Non-Conformities for further details.

I want to change the regulating plan regarding my property:

See Part 2, Section 207. Amendments to the Form-Based Code.

I want to subdivide my property:

1. Property can only be subdivided in accordance with the procedures in Title 18 - Unified Development Ordinance of the Overland Park Municipal Code.
2. Any such subdivision shall also meet the standards of this Code.


Look at the Regulating Plan to determine if the property is in a Form District
Note the location of the Required Building Line (RBL), the Parking Setback Line (PSL), and the frontage color for the property's Building Envelope Standard (BES)
Develop a new building
Modify an existing building (addition or renovation)
Change the Use of an existing building
Go to Part 4: Building Envelope Standards to incorporate Section 403 General Standards
Go to Part 8: Building Functions for the Permitted Use Table to determine if the new use is allowed
Go to specific BES Frontage pages for detailed Height, Siting, Elements, and Use parameters
Go to Part 5: Urban Space Standards to review the parameters and specifications for the Street-Space (vehicular traffic lane widths, curb radii, sidewalk and street tree planting, and on-street parking)
Go to Part 6: Architectural Standards to verify building materials, configurations, and techniques
Go to Part 7: Parking and Loading Standards to establish off-street parking space requirements
See Part 2: Administration, Application Process & Appeals for more detailed information on the submission and approval process

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Part 1. General Provisions

101. Title

This Code is known as the Overland Park Form-Based Code.

102. Purposes

A. A *Vision Plan for the Metcalf Corridor,* adopted in 2008, presents recommendations designed to enhance the visual character and economic viability of the Metcalf corridor. This Code is intended to meet the objectives of that Plan by providing strong implementation tools for Downtown Overland Park.

B. The Code is designed to foster a setting for economic growth and development in a sustainable mixed use pattern of diverse urban centers, integrating residential with employment and commercial uses (as well as recreational opportunities).

C. The Code shall be applied to new, infill development, and re-development in the designated locations both in order to achieve the vision set forth for Overland Park and to provide a mechanism for implementing the following specific goals, using both public and private sector investment:

1. Capitalize on public investment in existing infrastructure.
2. Promote compact, mixed use development at moderate to high densities.
3. Ensure transit-supportive and transit-serviceable development.
4. Require pedestrian-oriented and transit-oriented design.
5. Ensure a complementary relationship with surrounding neighborhoods.

D. The creation of transit- and pedestrian-oriented development is dependent on three factors: density, diversity of uses, and design. The Code places emphasis on the third element (design, or physical form) because it is of greatest importance when creating the places that attract jobs and economic vitality. Density and uses can be expected to change over time as the area grows and matures.

103. Other Applicable Regulations

A. All development must comply with relevant Federal, State and City regulations. Whenever any provision of this Code imposes a greater requirement or a higher standard than is required in any State or Federal statute or other City ordinance or regulation, the provisions of this Code shall govern unless preempted by State or Federal law.

B. Where apparent conflicts exist between the provisions of this Code and other existing ordinances, regulations, or permits, or by easements, covenants, or agreements the Director shall determine, based on which best meets the requirements of this Code and Master plan, which provisions shall govern within the Form District.

104. Minimum Requirements

In interpreting and applying the provisions of the Code, they are the minimum requirements for the promotion of the purposes of this Code.

105. Territorial Application

The Code is in effect for that part of the City of Overland Park, Kansas, designated on the Future Development Plan Map as the Downtown Form District (DFD).

106. Severability

Should any provision of this Code be decided by the courts to be unconstitutional or invalid, that decision shall not affect the validity of the Code other than the part decided to be unconstitutional or invalid.

107. Components of the Code

This Code places a primary emphasis on physical form and placemaking, with a secondary focus on land uses. The principal regulatory sections of this Code are described below.

A. Administration

Administration covers applications for development plan approval.

B. The Regulating Plan

1. A REGULATING PLAN is the application key for the Code. It provides a public space master plan with specific information on development parameters for each parcel. The REGULATING PLAN includes the specific details necessary to create the physical form and character of a mixed use, pedestrian-oriented place and allow expedited development approvals.
2. The REGULATING PLAN shows how each lot relates to the STREET-SPACE (streets, SQUARES/CIVIC GREENS, PEDESTRIAN PATHWAYS, etc.) and the surrounding neighborhood. The REGULATING PLAN may identify additional regulations for lots in specific locations.

C. The Building Envelope Standards

The primary intent of the BUILDING ENVELOPE STANDARDS (BES) is to shape the STREET-SPACE—its specific physical and functional character—through placement and form controls on buildings as they frame the STREET-SPACE or public realm. Their secondary intent is to ensure that the buildings cooperate to form a functioning, sustainable, BLOCK structure. These BES aim for the minimum level of control necessary to meet those goals. Regulating by STREET FRONTAGE produces a coherent and integrated STREET-SPACE with less interference in the private activities within the lots.

The BUILDING ENVELOPE STANDARDS establish basic parameters governing building form, including the buildable envelope (in three dimensions) and certain permitted and/or required elements, such as SHOPFRONTS, BALCONIES, and STREET WALLS. The BUILDING ENVELOPE STANDARDS establish both the boundaries within which things may be done and specific things that must be

done. The applicable standard for a building site is determined by the STREET FRONTAGE designated on the REGULATING PLAN.

D. The Urban-Space Standards

The purpose of the Urban-Space Standards is to ensure coherent STREET-SPACE and to assist builders and owners with understanding the relationship between the public space of the street and their own building. These standards set the parameters for the placement of STREET TREES, sidewalks, and other amenities or furnishings (e.g., benches, signs, tree planting areas, STREETLIGHTS, etc.) within the STREET-SPACE. They set the typical configurations of the vehicular part of the street, including travel-lanes, curb radii, and on-street parking.

E. The Architectural Standards

The goal of the Architectural Standards is a coherent and high-quality building character that is complementary to the best traditions of Overland Park. The Architectural Standards govern a building's exterior elements for all BES and set the parameters for allowable materials, configurations, and techniques. Materials and products that are 'EQUIVALENT OR BETTER' than those specified are always encouraged and may be submitted for approval to the Director, who is authorized to approve them when they meet the intent of these standards.

F. Building Function Standards

The Building Function Standards provide for the uses allowed on ground floors and in upper floors, correlated with each BUILDING ENVELOPE STANDARD. Because the Code emphasizes form more than use, it includes fewer, broader categories than those provided in the zoning ordinance. True CIVIC USES, in CIVIC USE BUILDINGS, are narrowly defined (see Part 9. Definitions), and exempt from many of the BES requirements.

G. Parking and Loading Standards

Parking and loading standards provide goals and requirements to promote a "park once" environment through shared parking and encourage a pedestrian-friendly, walkable Form District.

H. Definitions

Certain terms in the Code are used in very specific ways, often excluding some of the meanings of common usage. Wherever a word is in SMALL CAPITALS format, consult the definitions for its specific and limited meaning, as well as, any specific standards. Where there is an apparent contradiction between the definitions in this Code and those in the Zoning Ordinance, this Code definition shall prevail.

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Part 2. Administration, Application Process & Appeals

201. Applicability

Development proposals within the Downtown Form District shall be subject to the provisions of this Part 2 (except as exempted in Section 209. Non-Conformities).

202. Director

A. Authority

The Director of Planning and Development Services ("Director") is authorized to review and approve applications for Certificates of Conformity and Administrative Adjustments.

B. Delegation of Authority

The Director may designate any member of the staff of the City's Planning and Development Services Department to represent the Director in any function assigned by this Code. The Director, however, shall remain responsible for any final action taken under this Section.

203. FBC Plan Review Committee

The Plan Review Committee (PRC) is established to provide a coordinated and centralized technical review process to ensure conformity with the requirements of the Code. The PRC shall be comprised of personnel from the City departments that have an interest in the development review and approval process. The Director shall appoint the members of the PRC and in no case shall the PRC be composed of less than five (5) members. The Director or his/her designee shall create appropriate rules and regulations for the conduct of the Plan Review Committee.

A. Powers and Duties

1. The Plan Review Committee shall be responsible for the review of Concept Plans, Site Plans and any other development related applications that may be required by the Code.
2. The Plan Review Committee shall be responsible for making determinations on the application and interpretation of guidelines, standards, and requirements of the Code.
3. The Plan Review Committee may require the applicant to submit additional information not otherwise specifically required by the Code, which is reasonably necessary to review and determine whether the proposed development complies with the requirements of the Code.
4. The Plan Review Committee shall not be authorized to waive or vary requirements of the Code, the Unified Development Ordinance ("Ordinance") or any other applicable ordinance of the City of Overland Park.

B. Operational Procedures

The Plan Review Committee shall meet as necessary to review development applications. It shall be the responsibility of the Planning Director, or the Director's designee, to collect the comments of the PRC, prepare a written staff analysis of the outstanding issues related to each application, and provide it to the applicant in a timely manner.

204. Certificate of Conformity

An application for approval of a Certificate of Conformity, demonstrating conformity with the provisions contained in this Code and the REGULATING PLAN shall be submitted to the Director.

A. Certificate of Conformity Application Requirements

The application for a Certificate of Conformity shall include:

1. A brief narrative describing the Development Proposal;
2. Five (5) sets of completed plans for the Development Proposal at a scale sufficient to read [Site Plans at 1"= 50', Building Plans and Elevations at 1"= 20', Details as necessary to demonstrate form-based code ("FBC") conformity at 1"=4' to 1"=10'] prepared by a Registered Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect, as appropriate, and including the following information, which shall be submitted on the following sheets:
   - (i) Location and dimensions of all proposed buildings and other construction;
   - (ii) Internal roadways, streets and/or STREET-SPACES, ALLEYS, common access easements, and accessways to adjacent public roadways;
   - (iii) Any built or proposed improvements within 200 feet of the site, including streets, drives, buildings, and drainage structures.

   a. Location and dimensions of all parking areas,
   b. Utility Strategy,
   c. Architectural drawings of all proposed building FACADES.
3. A completed Form-Based District Review Checklist, the form of which shall be developed, maintained, and made available by the Director, demonstrating conformity with the provisions of the FBC; and
4. Any other documents and/or materials required by the Director to determine conformity with the FBC.

B. Certificate of Conformity Review

1. A pre-application conference with a member of the professional planning staff of the Department of Planning and Development Services is required prior to the submission of any application for a Certificate of Conformity as outlined in Ordinance Section 18.140.030. The applicant shall provide a schematic site plan and schematic drawings of all FACADES at a scale of 1"=100' (or 1"= 50') for consideration by the staff. The discussions and any conclusions based thereon at such a pre-application conference are not binding on any party thereto.

2. The Director of Planning and Development Service may administratively provide for submission and review deadlines for materials and studies required in support of any application for a Certificate of Conformity. The need for technical studies shall be at the Director's discretion as outlined in Ordinance Section 18.140.040.

3. Applicant's shall be notified no later than seven (7) business days following the submittal deadline if additional materials and studies will be required in order for review of their application to commence.

4. After the effective date of the Code, no property which has been zoned under the Code may be developed or redeveloped without approval of a Certificate of Conformity from the Director of Planning and Development Services.

205. Administrative Adjustments

A. Purpose and Intent

The purpose and intent of this section is to provide an administrative mechanism for allowing minor adjustments to limited and specific requirements of the Code, with the intent of providing relief where the application of a standard creates practical difficulties in allowing development to proceed. These adjustments are intended to provide relief for minor construction/survey issues; they are not intended for designed deviations from the Code, like those governed by Section 208. Deviations. This optional process occurs only where an applicant requests an Administrative Adjustment to a standard specified below.

B. Administrative Adjustment Application and Review Procedure

1. An application for approval of an Administrative Adjustment shall include:
   a. A brief narrative describing the Administrative Adjustment sought;
   b. A completed Administrative Adjustment Checklist, the form of which shall be developed, maintained, and made available by the Director, demonstrating that the adjustment sought is limited to the standards set forth below; and
   c. Any other documents and/or materials required by the Director to determine that the adjustment sought is limited to the standards set forth below.

2. The Director may seek assistance from the PRC in making a determination under this Section.

3. Within ten (10) business days of receipt of a complete application, the Director shall review the application in accordance with the Administrative Adjustment Standards below, and take one of the following actions:
   a. Approve the application as submitted;
   b. Approve the application with conditions; or
   c. Deny the application.

C. Administrative Adjustment Standards

The Director is authorized to approve Administrative Adjustment applications in strict conformance with the following standards only:

1. Height

a. Minimum and maximum height - up to five percent (5%) for any cumulative increase or decrease in building height.

b. Street wall/fence requirements – up to ten percent (10%).

c. Finished floor elevation – up to five percent (5%).

2. Siting

a. Required building line – move forward up to six (6) inches.

b. Required building line minimum percentage built-to – reduction of up to five percent (5%) of required length.

c. Parking setback line – move forward up to six (6) inches.

d. Mezzanine floor area – up to ten percent (10%) additional area.

e. Street wall requirements – up to ten percent (10%) of the height/fenestration/access gate requirements.

f. Entrances (maximum average spacing) – up to ten percent (10%) increase in spacing.

3. Elements

a. Fenestration (minimum and maximum percent) – up to five percent (5%).

b. Elements (minimum and maximum projections) – up to five percent (5%).

4. Architectural Standards

a. Primary and accent materials – up to ten percent (10%).

b. Window and pane dimensions – up to ten percent (10%).

c. Shopfront entry geometry – up to ten percent (10%).

5. Streets, Blocks and Alleys

a. Street center lines may be moved up to 50 feet in either direction, so long as:

(i) the street connectivity is maintained (no cul-de-sacs);

(ii) no street intersection occurs within 125 feet of another street intersection (centerline to centerline), or within the functional area of an intersection, and 175 feet of another street intersection on Metcalf Avenue and 75th Street (centerline to centerline); and

(iii) the block configuration meets the standards defined in Section 301.D. Streets, Blocks & Alleys.

D. Administrative Adjustment of Unlisted Standards

Any request for relief from a required FBC standard other than those listed above shall be made through the deviation process set forth in Section 208. Deviations.

E. Applicability

Any Administrative Adjustment approved under this Section shall run with the land and not be affected by a change in ownership.

206. Effect of Certificate of Conformity Issuance

Issuance of a Certificate of Conformity by the Director allows an applicant to apply for other necessary permits and approvals which include, but are not limited to, those permits and approvals required under the City Building Code.

A. Certificate of Conformity Modification

After the Director has issued a Certificate of Conformity, any change in the Development Proposal from the plans submitted to the Director, other than those permitted under Section 206 below, shall be considered to be a Material Modification and shall be subject to the following review procedure:

1. Material Modification requests shall be submitted to the Director for review and approval, and shall include sufficient information to determine conformity with the FBC.
2. Within three (3) business days after receipt of a complete application for a Material Modification, the Director shall refer the application to the PRC.
3. The Director may administratively provide for submission and review deadlines for materials and studies required in support of any application for a Certificate of Conformity Modification.
4. The PRC shall determine if the proposal is in compliance.

B. Certificate of Conformity Expiration

1. A Certificate of Conformity shall lapse eighteen (18) months from its issuance if an applicant does not secure a Building Permit.
2. Upon written communication by the applicant submitted at least thirty (30) days prior to the expiration of the Certificate of Conformity, and upon a showing of good cause, the Director may grant one extension not to exceed six (6) months. Upon an application for extension, the Certificate of Conformity shall be deemed extended until the Director has acted upon the request for extension.

C. Appeal

Disapproval of a Certificate of Conformity may be appealed to the Governing Body. Such appeals must be submitted in written form by the applicant within fifteen (15) business days following notice of the determination. The Planning Commission shall review the proposed submittal and provide a recommendation to the Governing Body. Subsequent to receiving a recommendation from the Planning Commission, the appeal shall then be considered by the Governing Body for final determination.

207. Amendments to the Form-Based Code

A. Text Amendments

Any application for an amendment to the form-based code text shall be considered an application for a zoning text amendment subject to Ordinance Section 18.140.120 and any other regulations applicable to zoning text amendments.

B. Regulating Plan Amendments

Any application for an amendment to the FBC REGULATING PLAN shall be considered an application for a zoning map amendment subject to Ordinance Sections 18.140.130 and 18.140.150 and any other regulations applicable to rezoning.

In addition, any amendment to the REGULATING PLAN shall conform to the following requirements:

1. Application, Building Envelope Standards (BES)

In determining the allocation and, thereby, the form and mixed use character of the district, attention must be paid to both the physical context (what goes next to what) and diversity of allowed/required uses. When creating or amending a REGULATING PLAN, the following standards apply (see item C. Chart of Permitted Adjacencies).

a. CIVIC USE BUILDINGS (sites designated on the REGULATING PLAN) are not restricted by these standards.

b. Townhouse/Small Apartment frontages: shifts between RBL and RBL2 alignments shall be limited to 1 per 75 feet per BLOCK face.

c. See C. Chart of Permitted Adjacencies for the BUILDING ENVELOPE STANDARDS.

207.B.1 Illustrative intent

2. Streets, Blocks, Alleys

Any amended REGULATING PLAN shall conform to the standards defined in Section 301. Rules for Regulating Plans.

C. Chart of Permitted Adjacencies for the Building Envelope Standards

BES Types	General Storefront	General Urban	Townhouse/ Small Apt.	Workshop	Detached
General Storefront	d	d	a, b	a	a
General Urban	d	d	d	a, b	a
Townhouse/Small Apt.	a, b	d	d	a	a, b, c
Workshop	a	a, b	a	d	a
Detached	a	a	a, b, c	a	d

BES Types may be placed adjacent as per the below parameters

a. When separated by an ALLEY (or COMMON DRIVE) or rear lot line, or when fronting different streets (i.e. a corner lot and its adjacent lot).

b. When sharing a COMMON LOT LINE. Such changes must be consistent with both sides of the street and must not occur more than once per 100 linear feet of street frontage.

c. When facing across a SQUARE, CIVIC GREEN, or park.

d. When facing and/or in any adjacency

208. Deviations

A. Notification of Surrounding Property Owners

Any request for a deviation from the provisions of the Code shall require notification as outlined in Ordinance Section 18.140.080.

B. Process and Standards

The Governing Body may approve deviations, subsequent to receiving a recommendation from the Planning Commission, from the provisions of the Code pursuant to the standards outlined in Ordinance Section 18.150.070.H.

209. Non-Conformities

Non-conforming structures within the Form District may be altered or repaired according to the following schedule:

A. Single-family and duplex structures:

1. Repairs, remodeling, and additions to a single-family or duplex structure may be made without limitation.
2. Intentional demolition requires conformance to the Code.
3. Single-family and duplex structures destroyed by fire, explosion, act of God, or the public enemy may be replaced with conformance to a like residential zoning district as determined by the Director.
4. Land platted for single-family development, that is otherwise undeveloped and designated with a Townhouse/Small Apartment building frontage, may build single-family homes subject to the Detached Frontage standards.

B. Other Structures:

1. Additions of up to 10% of the square footage of a non-conforming structure (existing as of the adoption of the form-based code on September 1, 2011) may be made subject to conformance with only the Architectural Standards of the form-based code.
2. Additions greater than 10% but equal to or less than 50% of the square footage of a non-conforming structure may be made subject to conformance with the Architectural Standards of the code and the site requirements of the code relative to the new addition only.
3. Additions greater than 50% of the square footage of a non-conforming structure or which exceed 75% of the Johnson County Appraised value of the non-conforming structure shall be made in conformance with the code. Non-conforming site improvements must also be brought into complete conformity with the regulations applicable to the form-based code.

4. Existing structures destroyed by fire, explosion, act of God, or the public enemy may be replaced with a structure of comparable height that otherwise meets the requirements of the code.

5. Properties where improvements of greater than 10% of the structural value of the structure or where a site improvement is proposed may be made subject to all applicable standards in Sections 4.7 – 4.14 (Pedestrian & Vehicle Access and Landscaping) of the Overland Park Site Design Standards (referenced in Ordinance Section 18.100.043).

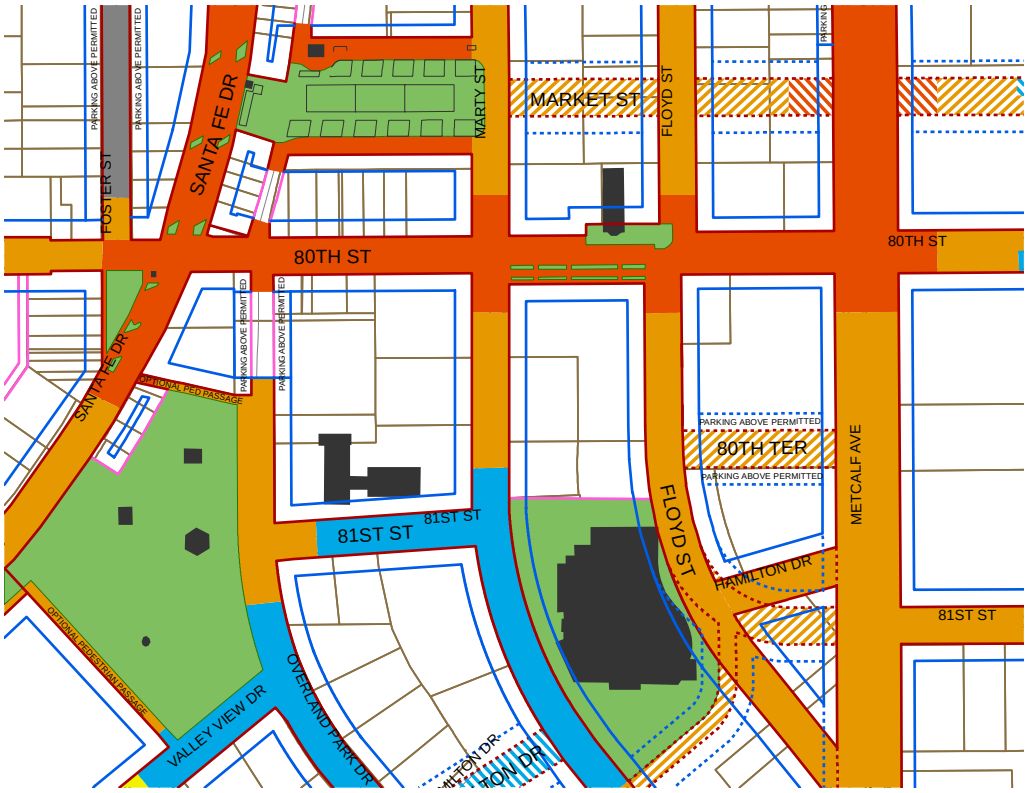
C. Non-conforming Uses:

1. A non-conforming use may be extended throughout any portion of a completed building that, when the use was made non-conforming by this Code, was manifestly designed or arranged to accommodate such use.

2. A non-conforming use may not be extended to additional buildings or to land outside the original building.

D. Historic Structures

Historically-designated structures may be specified as a CIVIC USE BUILDING by the Planning Commission and Governing Body.



The black building envelopes represent CIVIC USE BUILDINGS in downtown Overland Park.

Part 3. Regulating Plans

301. Rules for Regulating Plans

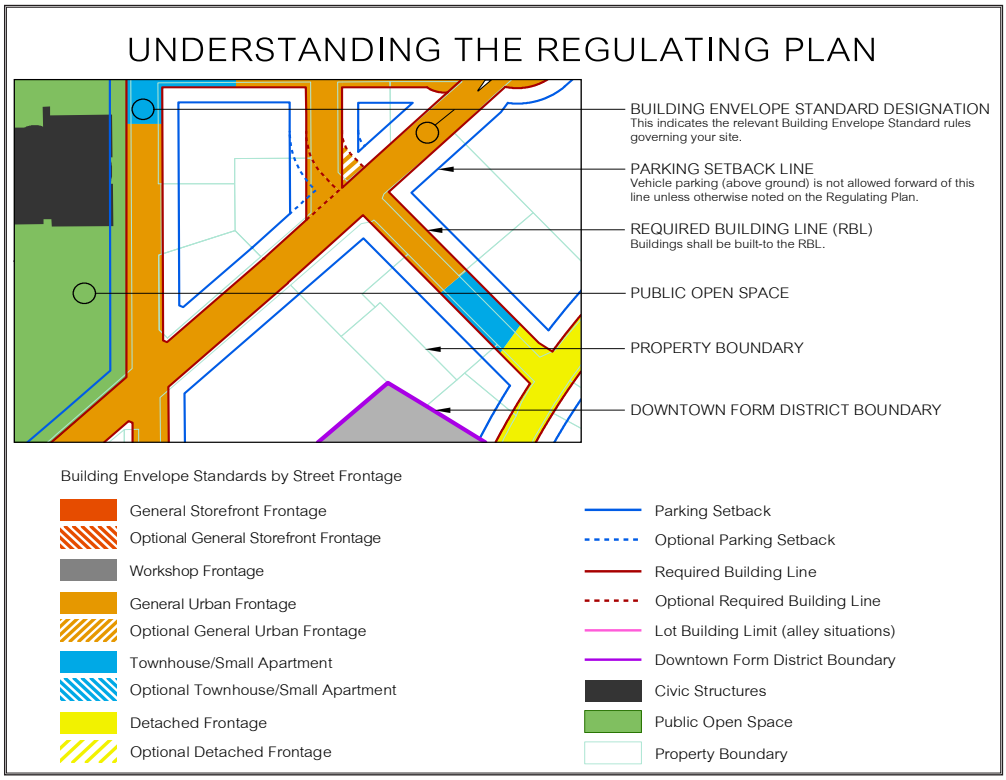
A. Purpose and Intent

1. A REGULATING PLAN is the controlling document and principal tool for implementing this Code.

2. The REGULATING PLAN makes the development standards place-specific, by allocating the BUILDING ENVELOPE STANDARDS (BES) and delineating the public spaces. A REGULATING PLAN identifies: the boundaries for the district; new and existing streets; the REQUIRED BUILDING LINE and PARKING SETBACK LINE; and the Street-Type Specifications throughout the plan area.

3. A REGULATING PLAN may identify specific characteristics assigned to a lot or building site and may identify additional regulations (and opportunities) for lots in specific locations, as well as exceptions to the BES or other standards.

B. Regulating Plan Key



C. Building Envelope Standards (BES)

1. Building envelope standards are designated on the regulating plan by street frontage.

2. In determining the allocation and, thereby, the form and mixed use character of the district, attention has been be paid to both the physical context (what goes next to what) and diversity of allowed/required uses.

D. Streets, Blocks & Alleys

1. Streets

The street specifications may be shown on an additional version/plot of the regulating plan - a Street Specification Plan. Street configurations called out there and in the Urban Space Standards and/or regulating plan may or may not be immediately constructed. They shall be placed into the system such that, when reasonable for the City's street maintenance/ reconstruction plan, they can be rationally constructed.

a. Additional streets may be added to the regulating plan to create a smaller block pattern.

b. Where new streets (not in existence as of 2010) are shown/drawn on the regulating plan as optional, they shall be at the discretion of the property owner(s).

c. Where new streets are designated on the regulating plan without an asterisk, they are critical to the working of the Form District and shall be considered mandatory. While the street infrastructure may not be constructed until some point in the future, the RBL, and other regulations of the regulating plan shall be respected.

d. New streets shall be public.

e. Additional streets may be added to the regulating plan to create a smaller block pattern; however, no streets may be deleted without being replaced.

f. Where a new street or a street stub-out is shown on the regulating plan, no other curb cut/intersecting street is permitted within 125 feet.

g. All lots shall share a frontage line with a street-space.

2. Blocks

a. No block face shall have a length greater than 350 feet without an alley, common drive or access easement, or pedestrian pathway providing through-access to another street-space, alley or common drive, or designated conservation line. Individual lots with less than 100 feet of street frontage are exempt from the requirement to interrupt the block face; those with over 200 feet of street frontage shall meet the requirement within their lot, unless already satisfied within that block face.

b. Unless otherwise specified on the regulating plan, driveways and alleys are not permitted within 125 feet of another street, alley, or driveway (centerline to centerline). This distance shall be

increased to 175 feet on Metcalf Avenue and 75th Street (centerline to centerline). Driveways located on ALLEYS or COMMON DRIVES are exempt from these requirements.

c. In no case shall a driveway or alley be located within the FUNCTIONAL AREA OF AN INTERSECTION. The Director may grant exceptions to these requirements where unique circumstances exist related to ownership and/or development patterns which prevent strict compliance with these requirements.

d. The average perimeter of the BLOCKS shall not exceed 1500 feet. BLOCKS shall be measured at the external/RBL lines (or along public right-of-ways, other public, agricultural, conservation and private lands where an RBL is not present). All lots and/or contiguous lots shall be considered to be part of a BLOCK for this purpose.

3. Alleys

a. ALLEYS or COMMON DRIVES must provide access to the rear of all lots, except where lots are on a perimeter common to non-developable or CONSERVATION LANDS or where a lot has streets on three sides and the absence of an ALLEY or COMMON DRIVE would not deprive an adjacent neighbor of rear lot access.

b. For new ALLEYS (or COMMON DRIVES), public access, public utility, and drainage shall be dedicated via an easement.

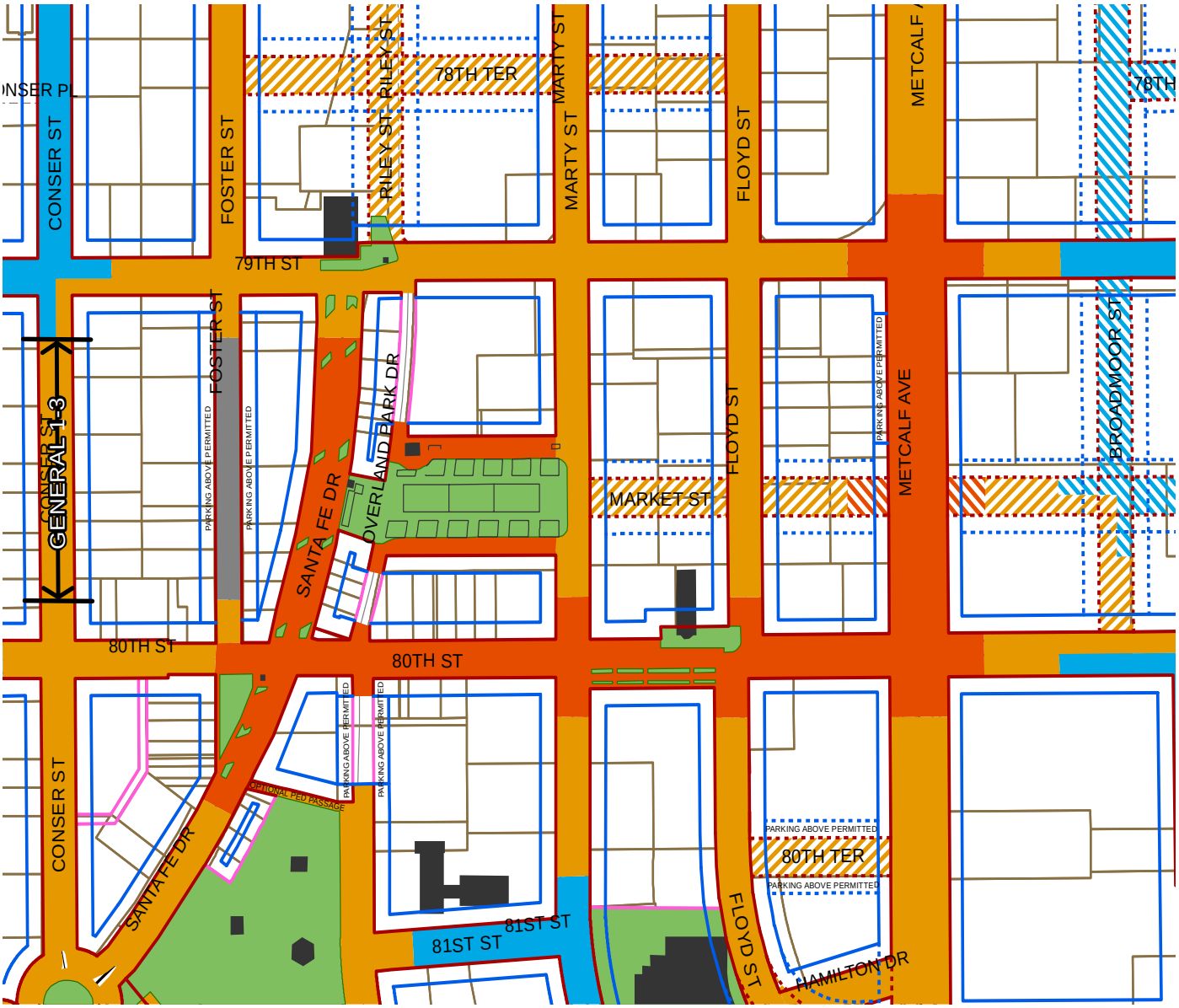
c. ALLEYS may be incorporated into (rear) parking lots as standard drive aisles. Access to all properties adjacent shall be maintained. Access between parking lots across property lines is required.

d. Where an ALLEY does not exist and is not feasible to construct at the time of redevelopment of any property, but is determined by the City to be needed, the applicant shall record an easement (utility and access) for the ALLEY right-of-way within the rear setback. The area within the rear setback shall be maintained at a minimum by:

(i) Providing routine landscape maintenance to the area.

(ii) Keeping the area clear of debris, stored materials, and stored or parked vehicles.

Any amendment or change to the REGULATING PLAN, beyond those specified above, will be a zoning map amendment of this code, see Part 2. Section 207. Amendments to the Form-Based Code.



This portion of the Downtown Form District Regulating Plan is shown for illustrative purposes only, refer to the City for specific Regulating Plan information.

Part 4. Building Envelope Standards

401. Intent

A. The goal of the BUILDING ENVELOPE STANDARDS (BES) is the creation of a vital and coherent public realm through the creation of good STREET-SPACE. The intent of these form standards is to shape the STREET-SPACE—the specific physical and functional character—of the Downtown Form District. The form and function controls on building frontages work together to frame the STREET-SPACE while allowing the buildings greater latitude behind their FACADES. The BUILDING ENVELOPE STANDARDS aim for the minimum level of control necessary to meet this goal.

B. The BES set the basic parameters governing building construction, including the building envelope (in three dimensions) and certain required or permitted functional elements, such as FENESTRATION (windows and doors), stoops, BALCONIES, FRONT PORCHES, and STREET WALLS.

C. The BES establish the rules for development and redevelopment on private lots, unless otherwise indicated on the REGULATING PLAN.

D. The REGULATING PLAN identifies the BUILDING ENVELOPE STANDARD for all private building sites within the Downtown Form District.

402. General Provisions

The following apply to all BES, unless expressly stated otherwise within an individual BES or otherwise designated on the REGULATING PLAN.

A. Transitions

1. When the BES designation shown on the REGULATING PLAN changes along a property's REQUIRED BUILDING LINE (RBL), that property owner has the option, for his property's STREET FRONTAGE only, of applying either BES for a maximum additional distance of 50 feet, in either direction along that RBL.

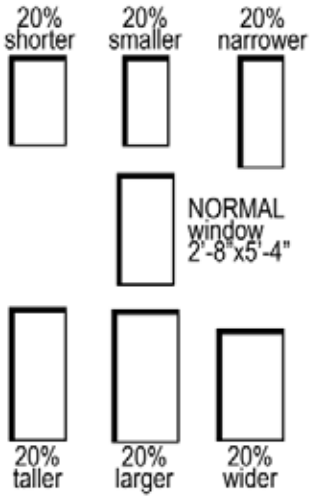
2. Existing structures located on a lot with more than one BUILDING ENVELOPE STANDARD across the REQUIRED BUILDING LINE may use the Building Function for either BUILDING ENVELOPE STANDARD designated on the REGULATING PLAN for the existing structure only.

B. Façade Composition

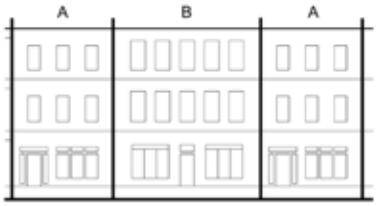
1. For each BLOCK FACE, FAÇADES along the RBL shall present a COMPLETE AND DISCRETE vertical FAÇADE COMPOSITION (i.e. architectural FAÇADE articulation to maintain and protect human-scale for the STREET-SPACE) at an average STREET FRONTAGE length of no greater than 60 feet for General Storefront frontage sites; 75 feet for General Urban and Townhouse/Small Apartment, Workshop, and Detached frontages.

2. Each FAÇADE COMPOSITION shall include a functioning street entry door. Individual infill projects on lots with STREET FRONTAGE of less than 100 feet on a BLOCK FACE are exempted from the overall FAÇADE COMPOSITION requirement for that BLOCK FACE, but shall still include a functioning street entry. This requirement may be satisfied for large footprint uses, such as large groceries and department stores, through the use of liner shops.

3. "FAÇADE COMPOSITION" is the arrangement and proportion of FACADE materials and elements (windows, doors, columns, pilasters, bays). "COMPLETE AND DISCRETE" is much like a new FAÇADE for a new building. To achieve the FACADE COMPOSITION requirements above, within a STREET FRONTAGE requires, at a minimum, item a. below and two additional items:
   a. Clearly different GROUND STORY FAÇADE COMPOSITION (both framing materials and FENESTRATION proportions) from one bay to the next.
   b. FENESTRATION proportions (minimum difference 20% in height or width or height:width ratio).
   c. FAÇADE COMPOSITION (clearly different 'bay' rhythm, e.g. 'ABA' – 'ABBA' – 'BAAB' – 'ABCBA').
   d. Wall Material (wall material change – color changes insufficient).
   e. Change in FENESTRATION percentage (minimum difference 12%; ground floor FAÇADES are not included).



402.B.3.b Illustrative intent



402.B.3.c Illustrative intent

C. Building Size

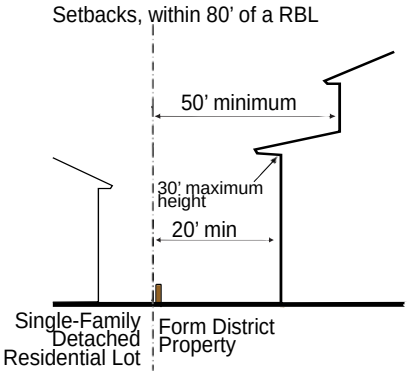
The maximum footprint for a building is 25,000 gross square feet; beyond that limit a deviation is required (see Part 2. Administration, Application Process & Appeals). This shall not limit parking structures built according to this Code.

D. Neighborhood Manners

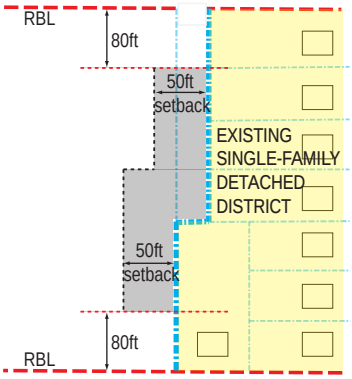
For any BES frontage except Detached and Townhouse, the following rules apply:

1. Where a site is adjacent to a single-family detached residential lot:
   a. within 50 feet of the lot line, and within 80 feet of any RBL, any structures shall have a maximum height of 30 feet and there shall be a 20 foot setback. This requirement supersedes the minimum STORY height requirement.
   b. farther than 80 feet from any RBL, there shall be a 50 foot setback from the lot line for all structures.

2. Where a site abuts a single-family residential property, a GARDEN WALL/ STREET WALL, 4 to 6 feet in height, shall be constructed within 1 foot of the COMMON LOT LINE OR ALLEY.



402.D.1.a Illustrative intent



402.D.1.b Illustrative intent

E. Height

1. The height of all buildings is measured in STORIES, with an ultimate limit in feet, measured from the top of the wall plate to the fronting sidewalk elevation, unless otherwise designated herein.

2. An ATTIC STORY is not included in the height measurement.

3. If an individual STORY exceeds the maximum floor-to-floor height, it shall be counted against another STORY, and no individual building height may exceed the BES prescribed ultimate height. See DORMERS and ENGLISH BASEMENT for additional standards.

4. Any portion of a parking structure within 30 feet of a building constructed per this Code and after approval of the REGULATING PLAN shall not exceed that building's primary ridge or PARAPET HEIGHT.

5. MEZZANINES that have a floor area greater than 1/3rd of the floor area of the STORY in which they are located shall count as an additional full STORY in the STORY height measurement. MEZZANINES shall be set back from the RBL at least 20 feet and may be in the form of a platform, podium, or wide balcony. Its uses shall be limited to a continuation of the GROUND STORY uses.

6. The prescribed minimum STORY clear-height shall be met by at least 80% of the specified STORY area.

7. The GROUND STORY finished floor elevation requirements shall be measured within 30 feet of the/any RBL (see Section 403. Ground Story Height: Commerce Uses.1).

F. Siting

1. The building FAÇADE shall be built-to the RBL within 30 feet of a BLOCK CORNER, unless otherwise specified in the BES.

2. A STREET WALL shall be required along any RBL frontage that is not otherwise occupied by a building. The STREET WALL shall be located not more than 12 inches behind the RBL.

3. The RBL, designated on the REGULATING PLAN as an absolute line, incorporates an offset area (or depth) of 24 inches beyond that line (into the BUILDABLE AREA) allowing for jogs, FAÇADE articulation, etc. unless otherwise designated herein. Therefore, where the FAÇADE is placed within that 24 inch zone, it is considered to be "built-to" the RBL. See SHOPFRONT for additional allowances.

4. Buildings may only occupy that portion of the lot specified as the BUILDABLE AREA—the area behind the RBL as designated by the BES.

5. No part of any building may be located outside of the BUILDABLE AREA except overhanging eaves, awnings, STOREFRONTS, BAY WINDOWS, STOOPS, steps, handicapped ramps approved by the Director, or BALCONIES.

6. No part of any building may be located outside of any designated LOT BUILDING LIMIT except steps, overhanging eaves, or awnings.

7. There is no required setback from ALLEYS (or COMMON DRIVES) except as otherwise indicated on the BES. On lots without ALLEY access, there shall be a minimum 25 foot setback from the rear lot line.

8. There are no side lot setbacks, except as specified in Section 402.D. Neighborhood Manners or in the BES.

9. The PARKING SETBACK LINE is generally 30 feet behind the RBL and extends, vertically from the first floor level, as a plane unless otherwise indicated on the REGULATING PLAN or in the BES. Vehicle parking shall be located behind the PARKING SETBACK LINE, except where parking is provided below grade, on-street, or otherwise indicated on the REGULATING PLAN.

10. CORNER LOTS and through lots shall satisfy the build-to requirements for their full/all STREET FRONTAGES (RBL), unless otherwise specified in this Code.

G. Garage and Parking

Driveways shall be located at least 125 feet away from any BLOCK CORNER or another garage entry on the same BLOCK FACE. This distance shall be increased to 175 feet on Metcalf Avenue and 75th Street. No driveway shall be located within the FUNCTIONAL AREA OF AN INTERSECTION. These requirements are not applicable along ALLEYS or COMMON DRIVES.

H. Elements

1. FENESTRATION is measured as a percentage of the FAÇADE between floor levels. FENESTRATION shall be distributed such that no 30 foot section of a FACADE violates the BES percentage parameters.

2. No window may face or direct views toward a COMMON LOT LINE within 20 feet unless:
   a. That view is contained within the lot (e.g. by a PRIVACY FENCE or GARDEN WALL), or
   b. The sill is at least 6 feet above its finished floor level.

3. BALCONIES and STOOPS shall not project within 5 feet of a COMMON LOT LINE.
   a. Balconies, where specified in the BUILDING ENVELOPE STANDARDS, must be enclosed by balustrades (railings) and shall not be otherwise enclosed, above a height of 42 inches, except with insect screening and/or columns/posts supporting a roof or connecting with another balcony above.

4. No part of any building except overhanging eaves, awnings, BALCONIES, BAY WINDOWS, STOOPS, and SHOPFRONTS as specified by the Code may project beyond the RBL. Additionally, steps are permitted within the DOORYARD area.

5. At least one functioning entry door shall be provided along each GROUND STORY FAÇADE at intervals not greater than 75 feet.
6. PRIVACY FENCES may be constructed along that portion of a COMMON LOT LINE and or ALLEY (or COMMON DRIVE) not otherwise occupied by a building.
7. On the RBL/FACADE side of the roof-pitch ATTIC STORIES may have windows only via DORMERS and windows in gable-ends (block interior elevations are not so restricted).
8. BAY WINDOWS shall have a minimum interior clear width at the main wall of 4 feet. BAY WINDOWS shall not project more than 42 inches beyond the REQUIRED BUILDING LINE; and walls and windows shall be between 90 degrees (perpendicular) and 0 degrees (parallel) relative to the primary building wall from which they project.
9. COVERED SIDEWALKS shall have a minimum clear height of 13 feet (signage or lighting may encroach) and a minimum clear width (from FAÇADE or REQUIRED BUILDING LINE) to inside column face of 10 feet. The area within a COVERED SIDEWALK shall include a CLEAR WALKWAY.

I. Civic Use Buildings

When designated on the REGULATING PLAN, CIVIC USE BUILDINGS are exempt from the BES and Architectural Standards, excepting any provisions that concern adjacent single-family detached districts.

J. General Storefront Frontages

Where designated on the REGULATING PLAN, these frontages shall use the General Urban Frontage BES, excepting that their GROUND STORY configuration shall be for COMMERCE - that of a SHOPFRONT. (See Section 606.D.3. Shopfront Windows for specific architectural requirements.) Some use differences may also apply (See Section 801. Building Functions. General Provisions for specific requirements).

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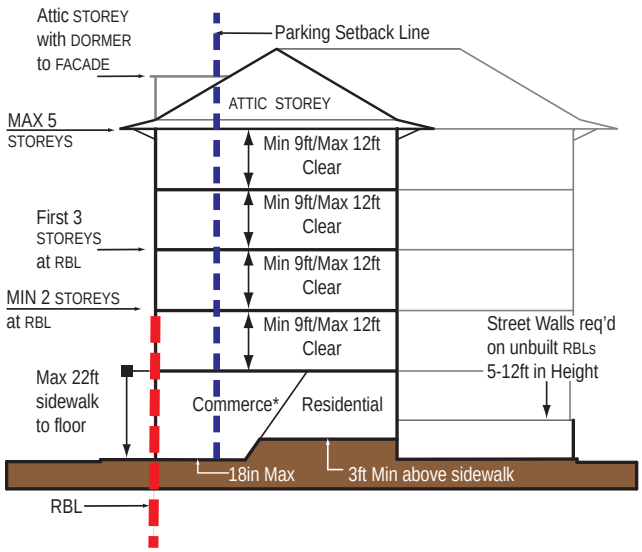
403. General Urban Frontage

ILLUSTRATIONS AND INTENT

Note: These are provided as illustrations of intent. The illustrations and statements on this page are advisory only and do not have the power of law. Refer to the standards on the following pages for the specific prescriptions and restrictions of the Building Envelope Standard.

This is the basic urban STREET FRONTAGE, once common across the United States. The uses range from commercial to residential, retail to municipal— and combinations of all of the above. The primary form is that of a multi-story building placed directly at the sidewalk with windows across the FACADE. There could be several buildings lined up shoulder to shoulder, filling out a BLOCK, or on smaller BLOCKS, a single building might fill the BLOCK face.



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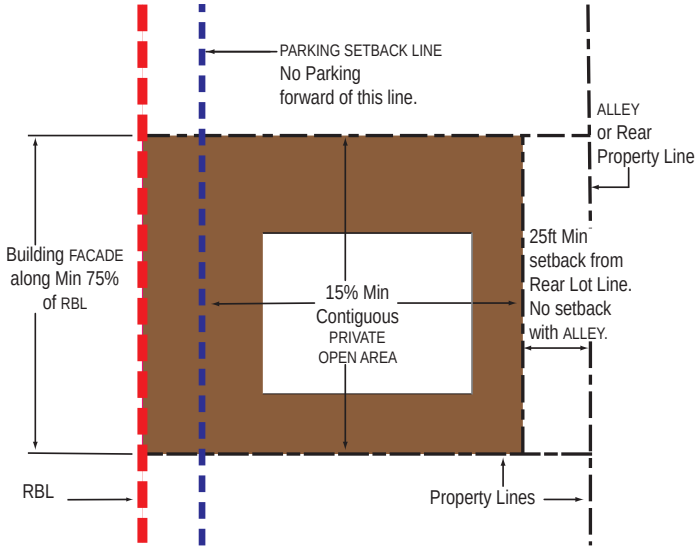


SITING

Building Height
The building shall be at least 2 STORIES in height, but no greater than 5 STORIES and 79 feet in height, unless otherwise designated on the REGULATING PLAN.

Ground Story Height: Commerce Uses
1. The average GROUND STORY finished floor elevation within 30 feet of the RBL shall be:
   a. not lower than the fronting exterior sidewalk elevation.
   b. not higher than an average finished floor elevation of 18 inches above the sidewalk.
2. See Commerce Frontage Special Conditions box below Use.
3. The GROUND STORY shall have at least 15 feet of clear interior height (floor to ceiling) contiguous to the RBL frontage for a minimum depth of 20 feet.
4. The maximum GROUND STORY height is 22 feet, measured from the sidewalk to the second STORY floor.

Ground Story Height: Residential Units
1. The average finished floor elevation shall be no less than 3 feet above the exterior sidewalk elevation at the RBL.
2. The GROUND STORY shall have an interior clear height (floor to ceiling) of at least 9 feet and a maximum sidewalk to second STORY floor height of 22 feet.

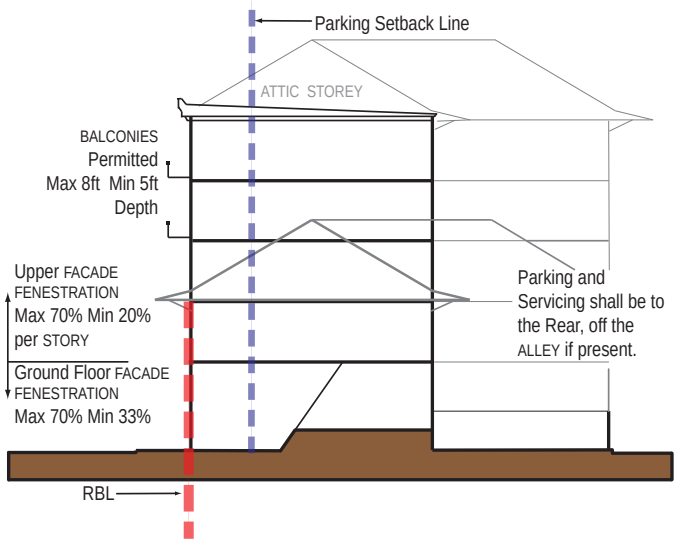
Upper Story Height
1. The maximum clear height (floor to ceiling) for STORIES other than the GROUND STORY is 12 feet.
2. At least 80% of each upper STORY shall have an interior clear height (floor to ceiling) of at least 9 feet.

Street Wall Height
A STREET WALL not less than 5 feet in height or greater than 8 feet in height shall be required along any RBL frontage that is not otherwise occupied by a building on the lot.

Façade
1. On each lot the building FAÇADE shall be built-to the REQUIRED BUILDING LINE for at least 75% of the RBL length.
2. Within 8 feet of the BLOCK CORNER, the GROUND STORY FAÇADE may be pulled away to form a corner entry.

Buildable Area
A contiguous PRIVATE OPEN AREA equal to at least 15% of the total BUILDABLE AREA shall be preserved on every lot. Up to 33% of the required open area may be satisfied through the BALCONIES of individual units. Such contiguous PRIVATE OPEN AREA may be located anywhere behind the PARKING SETBACK LINE and not including any side or rear setbacks, at or above grade.

Garage and Parking
Openings in any RBL for parking garage entries shall have a maximum clear height no greater than 16 feet and a clear width no greater than 22 feet.



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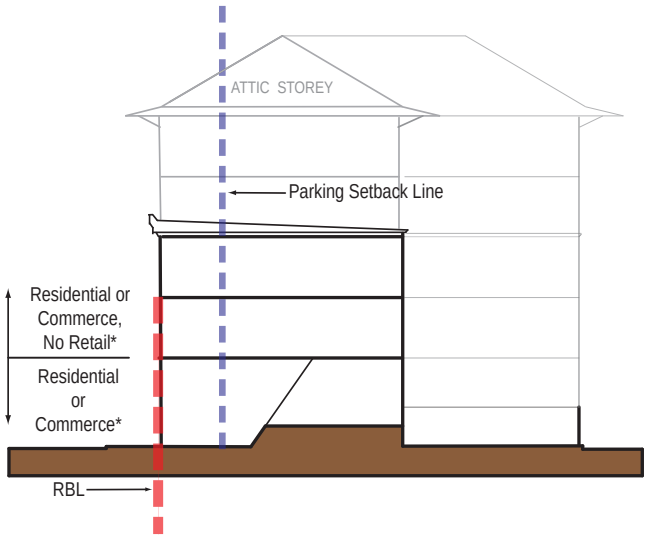

USE

Fenestration

1. Blank lengths of wall exceeding 20 linear feet are prohibited on all REQUIRED BUILDING LINES (RBL).
2. GROUND STORY FENESTRATION shall comprise between 33% and 70% of the FACADE. Where designated as General Storefront the GROUND STORY FENESTRATION shall comprise between 50% and 90% of the FACADE.
3. Upper STORY FENESTRATION shall comprise between 20% and 70% of the FAÇADE area per STORY.
4. Retail uses shall use SHOPFRONT FENESTRATION standards.

Building Projections

1. Awnings shall project:
   a. a minimum of 5 feet from the FAÇADE.
   b. a minimum of 4 feet back from any STREET TREE or streetlight center-line alignment.
2. Awnings that project over the sidewalk portion of a STREET-SPACE shall maintain a clear height of at least 10 feet.
3. Awnings may have supporting posts at their outer edge provided that they:
   a. Have a minimum of 8 feet clear width between the FAÇADE and the support posts or columns of the awnings, and
   b. Have between 18 and 24 inches between the support posts or columns of the awnings and the back of curb, and
   c. Provide a continuous walking path at least 5 feet wide running adjacent and parallel to the awning columns/posts.

Street Walls

One access gate no wider than 22 feet and one pedestrian entry gate no wider than 5 feet shall be permitted within any required STREET WALL.

Ground Story

The GROUND STORY may only house COMMERCE or RESIDENTIAL uses. See height specifications above for specific requirements unique to each use.

Upper Stories

1. The upper STORIES may only house RESIDENTIAL or COMMERCE USES.
2. Refer to Section 804.E. Restaurant/Bar, Retail Sales for specific standards related to restaurant or retail sales uses in upper STORIES.
3. No COMMERCE USE is permitted above a RESIDENTIAL USE.
4. Additional habitable space is permitted within the roof where the roof is configured as an ATTIC STORY.

Commerce Frontage Special Conditions

General Storefront Frontages

Where designated on the REGULATING PLAN as GENERAL STOREFRONT these frontages shall use this General Urban BES standard, excepting that the GROUND STORY configuration shall be for COMMERCE - that of a SHOPFRONT. (See Section 606.D.3. Shopfront Windows for specific requirements.)

Steep Slope Exceptions: Subject to the Director's approval, for approved grocery operations, where the average slope across a STREET FRONTAGE for a given BLOCK FACE is greater than or equal to 5%, the GROUND STORY finished floor elevation requirement may be measured across a frontage width increment of 120 feet to a maximum 27 inches (average) above the fronting sidewalk.

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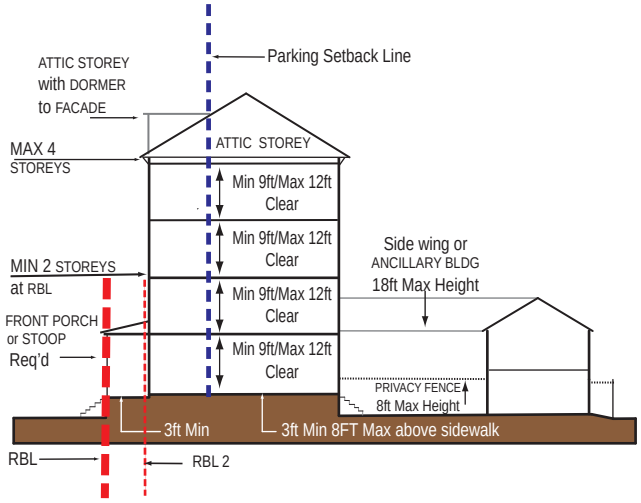
404. Townhouse/Small Apartment Frontage

ILLUSTRATIONS AND INTENT

Note: These are provided as illustrations of intent. The illustrations and statements on this page are advisory only and do not have the power of law. Refer to the standards on the following pages for the specific prescriptions and restrictions of the Building Envelope Standard.

The townhouse/small apartment BUILDING ENVELOPE STANDARD is of moderate intensity, often created by a series of smaller attached structures, single-family residential, stacked flats, service commercial, or LIVE-WORK arrangements. This standard has regular STREET-SPACE entrances, as frequently as 18 feet. The character and intensity of this frontage varies with the siting/location of the REQUIRED BUILDING LINE—the buildings may be placed up to the sidewalk with STOOPS (at the RBL), or further back with FRONT PORCHES and/or small DOORYARD gardens (at the RBL2). Similarly, the TREE LAWNS may be found uncovered and continuous or partially covered in the STREET-SPACE, depending on the street intensity.

Similar to the scale of the townhouse and row house, a small apartment can also be used to transition the urban form and intensity to abutting single-family neighborhoods.



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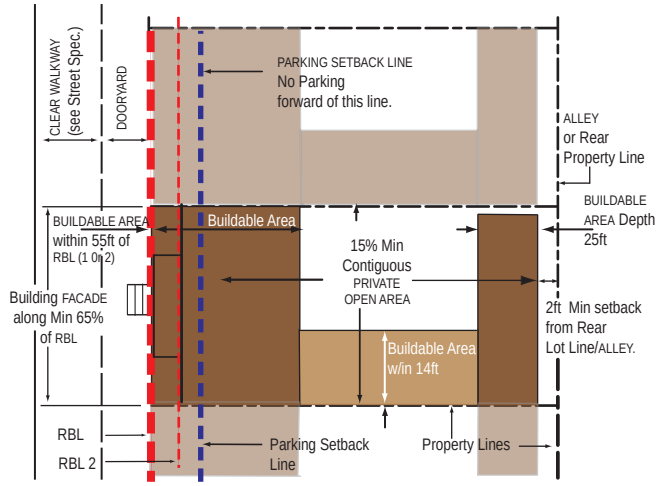


SITING

Building Height

1. Each building shall be at least 2 STORIES in height, but no greater than 4 STORIES and 58 feet in height.
2. A SIDEWING or ancillary structure shall be no higher than 18 feet in height.

Ground Story Height

1. The average finished floor elevation shall be no less than 3 feet and no more than 8 feet above the exterior sidewalk elevation at the REQUIRED BUILDING LINE (RBL).
2. At least 80% of the GROUND STORY shall have an interior clear height (floor to ceiling) of at least 9 feet.
3. The maximum GROUND STORY floor to ceiling height is 12 feet.

Upper Story Height

1. The maximum clear height (floor to ceiling) for STORIES other than the GROUND STORY is 12 feet.
2. At least 80% of each upper STORY shall have an interior clear height (floor to ceiling) of at least 9 feet.

Street Wall Height

A STREET WALL not less than 4 feet in height or greater than 8 feet in height shall be required along any RBL frontage that is not otherwise occupied by a building on the lot.

Façade

1. Townhouse/Small Apartment frontages have both the given RBL and a second "RBL2". This is offset 10 feet from the given RBL into the lot.
2. On each lot the building FAÇADE shall be built-to either the:
   a. RBL for at least 65% of its length.
   b. RBL2 for at least 65% of its length with a FRONT PORCH of at least that same width (65% of the RBL2).
   c. the RBL2 for at least 65% of its length.
3. Option 2.c is not available within 20 feet of a BLOCK CORNER.
4. Shifts between RBL and RBL2 alignments shall be limited to 1 change per 75 feet of BLOCK face.

Buildable Area

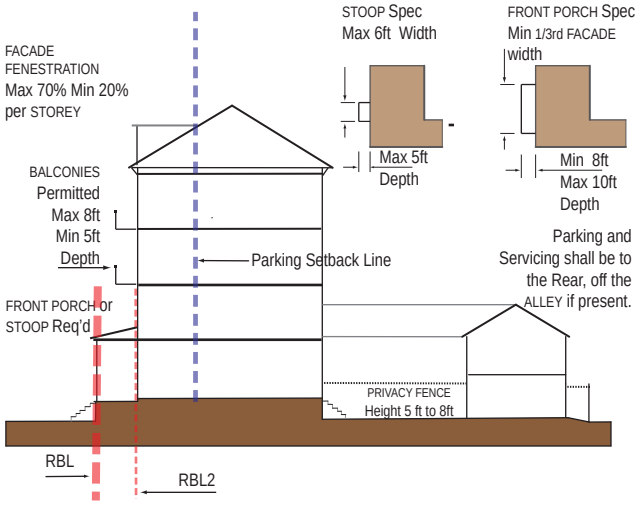
The BUILDABLE AREA is as defined in the diagram above. A contiguous PRIVATE OPEN AREA equal to at least 15% of the total BUILDABLE AREA shall be preserved on every lot. Up to 33% of the required OPEN AREA may be satisfied through the balconies of individual units. This area may be located anywhere behind the PARKING SETBACK LINE and not including any side or rear setback areas, at grade.

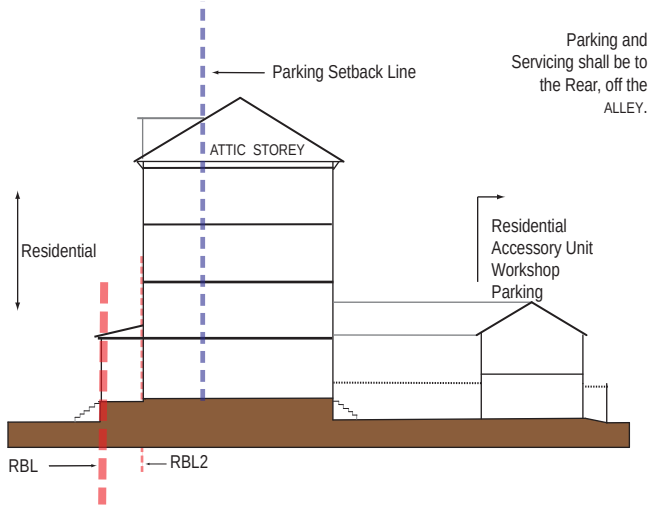
Garage and Parking

1. Garage doors/entries are not permitted on any RBL/FAÇADE.
2. At-grade parking may be forward of the PARKING SETBACK LINE only when it is within a garage on a CORNER LOT and the parking areas frontage width is less than 25 feet.

Frontage Widths

1. The minimum lot width is 18 feet.
2. Although there are no individual side lot setbacks, no building/set of townhouses may exceed 120 feet of continuous attached STREET FRONTAGE. A gap of 10 feet to 20 feet is required between each such attached structure.





ELEMENTS

Fenestration

1. Blank lengths of wall exceeding 15 linear feet are prohibited on all REQUIRED BUILDING LINES (RBL).
2. FENESTRATION shall comprise between 20% and 70% of the FACADE.
3. No window may face or direct views toward a COMMON LOT LINE within 20 feet unless:
   a. that view is contained within the lot (e.g. by a PRIVACY FENCE/GARDEN WALL) or,
   b. the sill is at least 6 feet above the finished floor level.

Building Projections

1. Each lot/GROUND STORY unit shall include:
   a. a STOOP of not more than 5 feet deep and 6 feet wide (not including steps) may be roofed but not enclosed, or
   b. a FRONT PORCH, between 8 feet and 10 feet deep with a width not less than 1/3rd of the FACADE, or as specified in Siting, Facade, 2.
2. No FRONT PORCH may sit forward of the RBL.
3. See FRONT PORCH for additional dimensional requirements.

Doors/Entries

Each RBL/FAÇADE GROUND STORY unit shall provide a funtioning entry door with direct STREET-SPACE access.

Street Walls

One access gate no wider than 18 feet and one pedestrian entry gate no wider than 5 feet shall be permitted within any required STREET WALL.

USE

Ground Story

The GROUND STORY may only house RESIDENTIAL USES.

Upper Stories

1. The upper STORIES may only house RESIDENTIAL USES.
2. Additional habitable space is permitted within the roof where the roof is configured as an ATTIC STORY.

Accessory Unit

1. One ENGLISH BASEMENT unit or one ACCESSORY UNIT is permitted per lot.
2. Parking and ACCESSORY UNIT (maximum 650 square foot footprint) uses are permitted in the BUILDABLE AREA at the rear of the lot.

Live-Work Frontage Special Conditions

Where designated on the regulating plan as LIVE-WORK, these frontages shall use this BES standard, excepting that they have the option of using the GROUND STORY configuration for commerce - that of a SHOPFRONT. (See Section 606.D.3. Shopfront Windows for specific requirements.)

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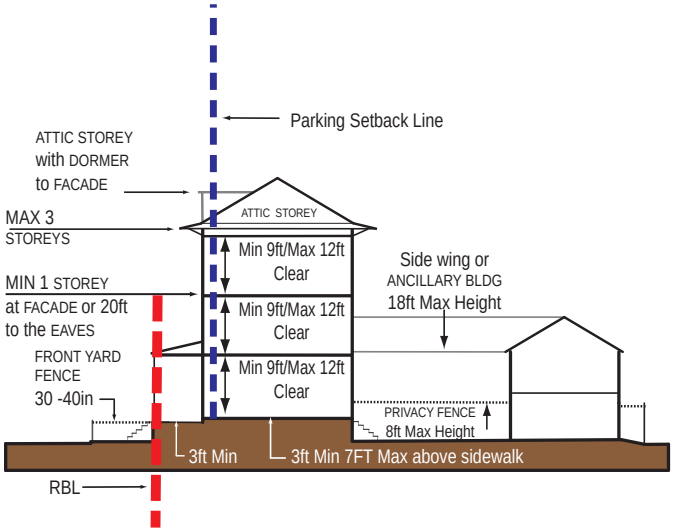
405. Detached Frontage

ILLUSTRATIONS AND INTENT

Note: These are provided as illustrations of intent. The illustrations and statements on this page are advisory only and do not have the power of law. Refer to the standards on the following pages for the specific prescriptions and restrictions of the Building Envelope Standard.

The detached frontage BUILDING ENVELOPE STANDARD is represented by the traditional single-family house with small front, side and rear yards along a tree-lined street. Structures are 1 to 3 STORIES in height with pitched roofs and FRONT PORCHES.



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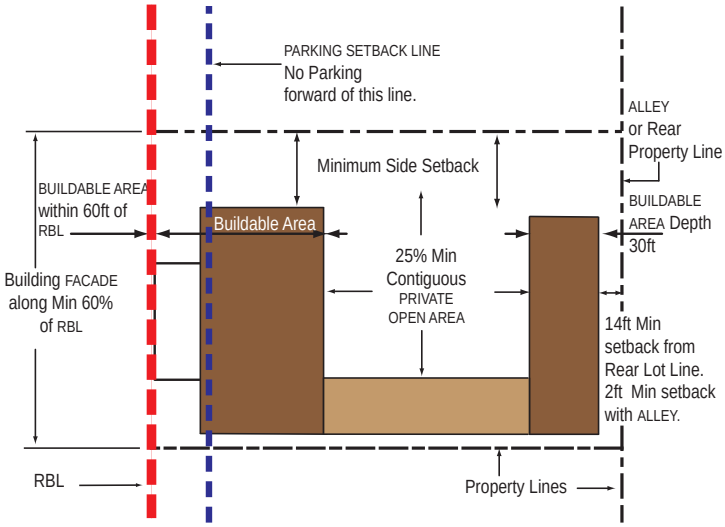


SITING

Building Height

1. Each building shall be at least 1 STORY in height, but no greater than 3 STORIES and 43 feet in height.
2. A SIDEWING or ancillary structure shall be no higher than 18 feet, measured to its eaves.

Ground Story Height

1. The average finished floor elevation shall be no less than 3 feet and no more than 7 feet above the exterior sidewalk elevation at the REQUIRED BUILDING LINE (RBL).
2. At least 80% of the first STORY shall have an interior clear height (floor to ceiling) of at least 9 feet.
3. The maximum GROUND STORY clear height (floor to ceiling) is 12 feet.

Upper Story Height

1. The maximum clear height (floor to ceiling) for STORIES other than the first STORY is 12 feet.
2. At least 80% of each upper STORY shall have an interior clear height (floor to ceiling) of at least 9 feet.

Front Yard Fence

A FRONT YARD FENCE is allowed within 1 foot of the CLEAR WALKWAY/DOORYARD line and any COMMON LOT LINES back to the house FAÇADE alignment, with a minimum height of 30 inches and a maximum height of 40 inches. See FRONT YARD FENCE in Section 901. Defined Terms for additional requirements.

Façade

1. On each lot the FACADE shall be built parallel to the REQUIRED BUILDING LINE (RBL) for at least 60% of the building width. The FRONT PORCH shall be built to the RBL.
2. For CORNER LOTS the minimum 60% build-to shall include the frontage within 20 feet of the BLOCK CORNER.

Buildable Area

A contiguous PRIVATE OPEN AREA equal to at least 25% of the total BUILDABLE AREA shall be preserved on every lot. Such contiguous area may be located anywhere behind the PARKING SETBACK LINE and not including any side or rear setbacks, at grade.

Lot Size

1. Each lot has a minimum width at the RBL of 50 feet and a minimum depth of 85 feet.
2. Each lot has a maximum width of 75 feet.

Front Yard

The FRONT YARD/DOORYARD shall not be paved excepting walkways and driveways. Where double frontage or CORNER LOTS exist, any required front yard shall be provided on both streets.

Side Lot Setbacks

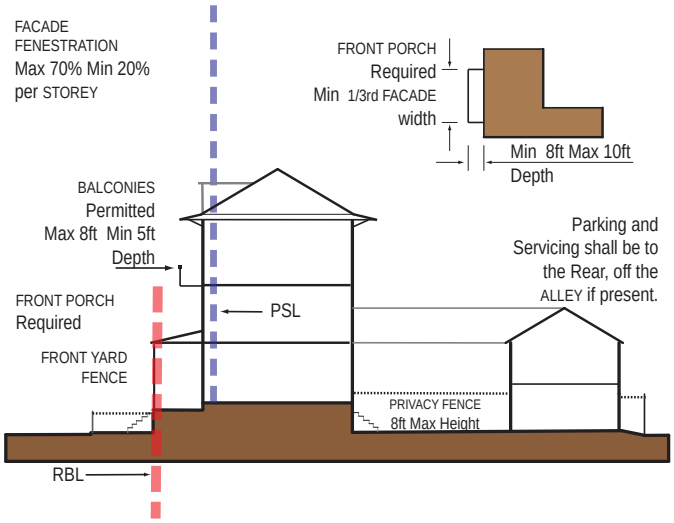
The minimum side lot setback is 5 feet or as otherwise designated on the REGULATING PLAN.

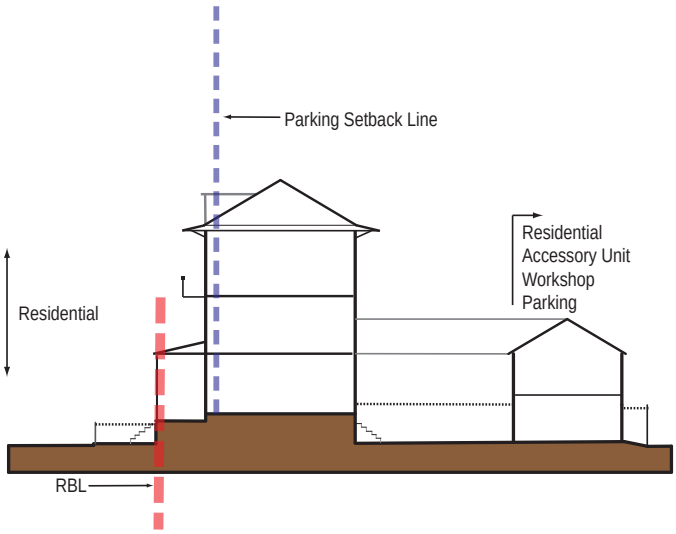
Garage and Parking

Garage doors shall not be located on the RBL/FAÇADE.

Alleys

There is a 2 foot required setback from ALLEYS.





ELEMENTS

Fenestration

1. Blank lengths of wall exceeding 20 linear feet are prohibited on all REQUIRED BUILDING LINES (RBL).
2. FENESTRATION shall comprise at least 25%, but not more than 70%, of all FAÇADES.
3. No window may face or direct views toward a COMMON LOT LINE within 15 feet unless:
   a. that view is contained within the lot (e.g. by a PRIVACY FENCE/GARDEN WALL), or
   b. the sill is at least 6 feet above the finished floor level.

Building Projections

1. Each lot shall include a FRONT PORCH at the RBL, between 8 feet and 10 feet deep with a width not less than 1/3rd of the FACADE width.
2. No part of any building except the FRONT PORCH, roof (overhanging eaves) and steps may encroach beyond the RBL into the DOORYARD.
3. See FRONT PORCH in Section 901. Defined Terms for additional dimensional requirements.

Doors/Entries

At least one functioning entry door shall be provided along the GROUND STORY FAÇADE of each building.

Street Walls and Fences

1. There is no STREET WALL requirement.
2. Any FRONT YARD FENCE shall be within 1 foot of the CLEAR WALKWAY/DOORYARD line parallel to the RBL, and along COMMON LOT LINES to a point at least 10 feet back from the RBL.
3. A PRIVACY FENCE may be constructed along a COMMON LOT LINE behind the PARKING SETBACK LINE and parallel to the RBL when setback 15 feet and behind the PARKING SETBACK LINE.

USE

Ground Story

The GROUND STORY and any ACCESSORY UNIT may only house RESIDENTIAL USES.

Upper Stories

1. The upper STORIES may only house RESIDENTIAL USES.
2. Additional habitable space is permitted within the roof where the roof is configured as an ATTIC STORY.

Accessory Uses

Parking and ACCESSORY UNIT (maximum 650 square feet) uses are permitted in the BUILDABLE AREA at the rear of the lot.

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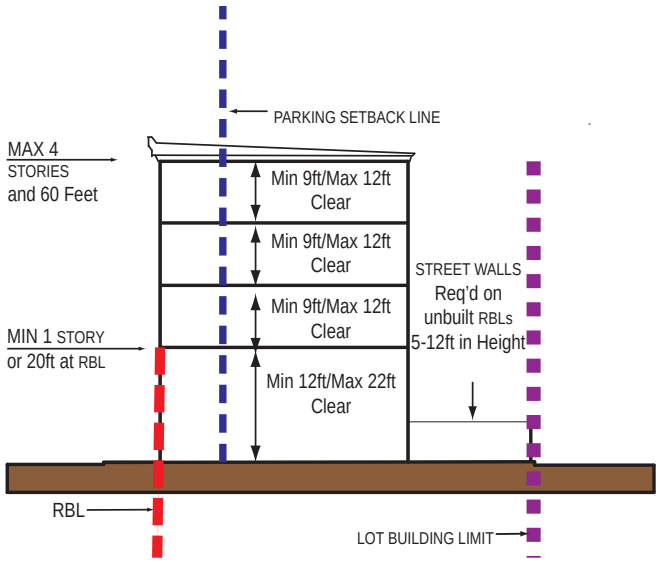
406. Workshop Frontage

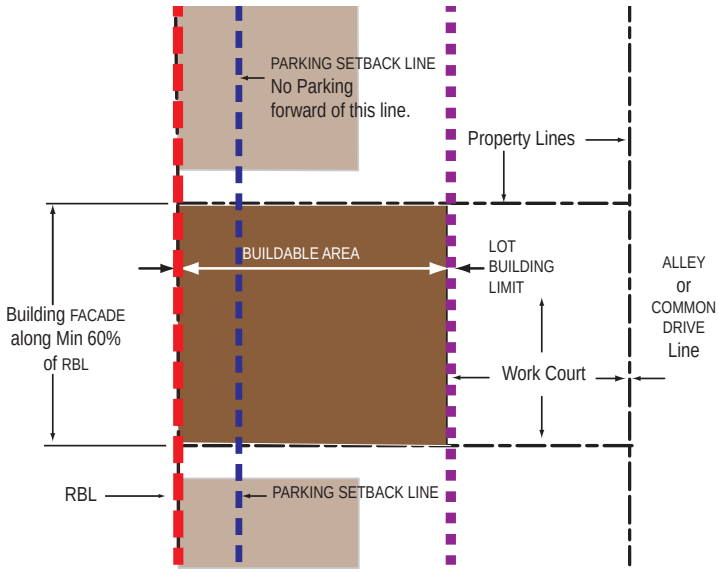
ILLUSTRATIONS AND INTENT

Note: These are provided as illustrations of intent. The illustrations and statements on this page are advisory only and do not have the power of law. Refer to the standards on the following pages for the specific prescriptions and restrictions of the Building Envelope Standard.

The Workshop form standard accommodates small scale manufacturing and repair—including artisans—within the city. These structures are of limited height and are built to the fronting sidewalk. Exterior work areas are confined to work courts and/or at the center of the block.



HEIGHT



SITING

Building Height
The building shall be at least 20 feet to the eaves or parapet in height, but no greater than 4 STORIES and 60 feet in height.

Ground Story Height
1. The average GROUND STORY finished floor elevation shall be between zero (equal) and a maximum 24 inches above the exterior sidewalk elevation in front of the building (excepting as may be required for flood or storm-water requirements).
2. The GROUND STORY shall have at least 12 feet of clear interior height (floor to ceiling) contiguous to the REQUIRED BUILDING LINE (RBL) frontage for a minimum depth of at least 25 feet.
3. The maximum STORY height for the GROUND STORY is 22 feet.

Upper Story Height
1. Upper STORIES shall have an interior clear height (floor to ceiling) maximum height of 12 feet.
2. At least 80% of each upper STORY shall have an interior clear height (floor to ceiling) of at least 9 feet.

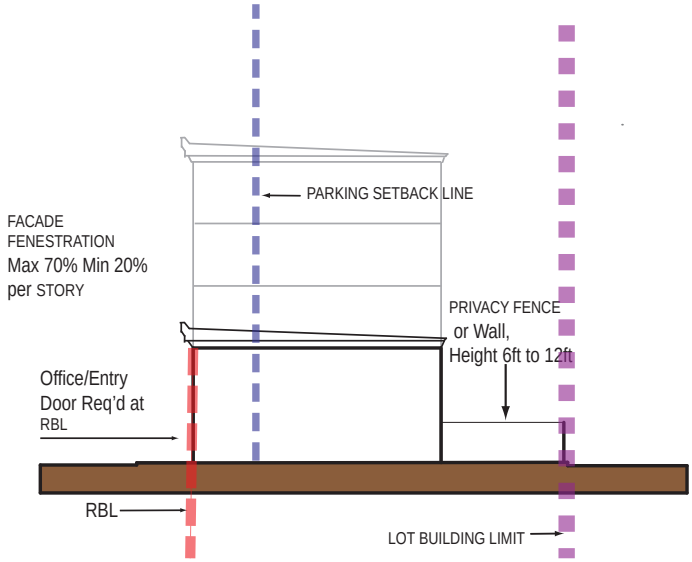
Street Wall Height
A STREET WALL not less than 5 feet in height or greater than 12 feet in height shall be required along any RBL frontage that is not otherwise occupied by a building on the lot.

Façade
1. On each lot the building FAÇADE shall be built to the RBL for at least 60% of the RBL length.
2. The GROUND STORY FAÇADE, within 8 feet of the BLOCK CORNER, may be chamfered.

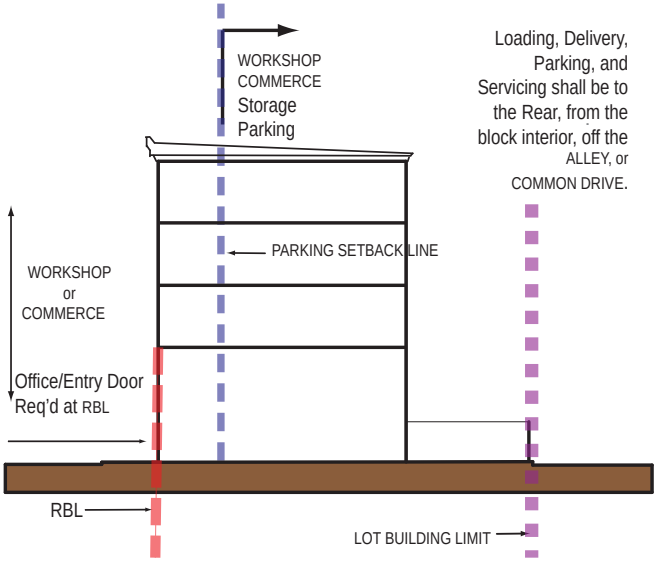
Buildable Area
No part of any building, except overhanging eaves, or awnings shall occupy the area behind the LOT BUILDING LIMIT. The area may be used for loading, circulation and/or as a work yard.

Alleys
There is no required setback from ALLEYS or COMMON DRIVES, except as provided by a LOT BUILDING LIMIT on the REGULATING PLAN.

Garage and Parking
Garage doors shall not be located on the RBL/FAÇADE.



ELEMENTS



USE

Fenestration

1. Blank lengths of wall exceeding 35 linear feet are prohibited on all REQUIRED BUILDING LINES (RBL).
2. FENESTRATION shall comprise between 20% and 70% of the FAÇADE.

Building Projections

1. Awnings shall project a minimum of 5 feet and a maximum of:
   a. Within 1 foot of back of curb where there are no STREET TREES or STREETLIGHTS, or
   b. 1 foot into the TREE LAWN (where there are STREET TREES).
   c. Not less than 4 feet back from any STREET TREE or STREETLIGHT centerline.
2. Awnings that project over the sidewalk portion of a STREET-SPACE shall maintain a clear height of at least 10 feet.

Doors/Entries

At least one functioning pedestrian entry door shall be provided along each GROUND STORY FAÇADE at intervals not greater than 80 linear feet.

Street Walls

One access gate no wider than 25 feet and one pedestrian entry gate no wider than 5 feet shall be permitted within any required STREET WALL.

Ground Story

The GROUND STORY may only house WORKSHOP or COMMERCE USES.

Upper Stories

The upper STORIES may only house WORKSHOP or COMMERCE USES. No restaurant or RETAIL USES shall be allowed in upper STORIES. Residential use is permitted on the top STORY or upper most STORY only and shall not exceed 25% of the gross floor area of the entire building.

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Part 5. Urban Space Standards

501. Applicability

A. The Urban Space Standards apply to new development as well as the reconstruction of existing streets and other public (and publicly accessible) spaces.

B. The Urban Space Standards establish the rules and standards for the STREET-SPACE/public realm (especially streets and sidewalks).

502. Intent

A. Although commonly thought of as just PLAZAS or parks, the urban space (or public realm) is much more; it includes the complete STREET-SPACE—the public domain between the building FAÇADES: the travel lanes between the curbs as well as the sidewalks; the public PLAZAS as well as urban parks and CIVIC GREENS.

B. The Urban Space Standards are directly related to that goal. Specifically:

1. They establish an environment that encourages and facilitates pedestrian activity. "Walkable" streets that are comfortable, efficient, safe, and interesting.

2. They ensure the coherence of the STREET-SPACE, serving to assist residents, building owners, and managers with understanding the relationship between the STREET-SPACE and their own lots.

3. They contribute to ultimate sustainability. Native trees and plants contribute to privacy, the reduction of noise and air pollution, shade, maintenance of the natural habitat, conservation of water, and rainwater management.

C. Property frontages and FAÇADES are part of the public realm, literally forming the walls of the public STREET-SPACE and are therefore subject to more regulation than the other portions of the private property.

D. The private, interior portions of the lots (toward the ALLEY or rear lot lines) are much less controlled to allow commercial operators to utilize these spaces as efficient working environments unseen by the public and allow residents to have private (semi-private for apartment and condominium dwellers) gardens and courtyards.

503. Street Type Specifications

The Street Type Specifications illustrate typical configurations for STREET-SPACES within the Form District. The plans and sections specify vehicular travel lane widths, curb radii, sidewalks, tree planting areas, and on-street parking configurations. They also provide a COMPARATIVE PEDESTRIAN CROSSING time as a gauge of relative pedestrian crossing-comfort between the various street types.

A. Intent and Principles

1. General Intent

a. Streets are a community's first and foremost public spaces and should be just as carefully designed and planned as any park or public building. The character of the STREET-SPACE—both its scale and its details—plays a critical role in determining the pedestrian quality of a given location.

b. Streets must balance the needs of all forms of traffic—auto, transit, bicycle and pedestrian—to maximize mobility and convenience for all residents and users. Their character will vary depending on their location: some streets will carry a large volume of traffic and provide a more active and intense urban pedestrian experience while others will provide a less active and more intimately scaled STREET-SPACE.

c. Streets should be developed to create people-oriented places balancing all transportation modes. The neighborhood streets are designed primarily for walkability and pedestrian comfort, with automobile movement as a secondary focus. The Major Urban street-type provides a higher level of vehicular movement while maintaining fair walkability.

2. Principles

a. The appropriate design of streets is one of the most important design elements for an urban neighborhood and center.

b. To design for continuous free-flowing vehicle traffic creates situations where vehicles will travel at speeds greater than desirable for pedestrians.

c. With appropriate design, drivers will choose slower speeds and less aggressive behavior, a feat typically not achieved through basic speed limit signage/postings.

d. Scale is a threshold design consideration for street design elements (from signage to crossing distances)—in a Neighborhood, Town or City it should be that of the pedestrian.

e. An interconnected street network provides for more balanced traffic volumes.

f. Emergency vehicle access must be maintained, but with an interconnected street network, there will always be at least two routes of access to any lot or parcel.

g. Differences between "requirements" and "preferences" can be significant—increased lane width and the accompanying increased vehicle speed more often than not decrease the overall safety for pedestrians.

h. On-street parking slows passing vehicular traffic and acts as a buffer between moving vehicles and pedestrians.

i. Overall function, comfort, safety and aesthetics of a street are more important than efficiency alone.

j. In a pedestrian-oriented area, non-vehicular traffic should be provided with every practical advantage so long as safety is not adversely affected.

k. Street design should take into consideration what is reasonably foreseeable, not every situation that is conceivably possible.

l. Designing a street to facilitate (rather than accommodate) infrequent users may actually be the wrong design for the frequent users of the space.

m. When the street design creates a conflict between the vehicular and non-vehicular user, it should be resolved in favor of the non-vehicular user unless public safety will be truly jeopardized by the resolution.

B. Street Types

1. These are the permitted types and configurations allowed within the Form District. The numbers refer to dimensions within the STREET-SPACE. The first number is the literal STREET-SPACE (the distance between FAÇADES across the street) and the second is the distance to the back-of-curb - includes travel lanes, any on-street parking, and curb and gutter.

   a. Major Urban MU-114/66

   b. Santa Fe-7900 Block

   c. Street S-70/40

   d. Street S-66/38

   e. Alley A-30

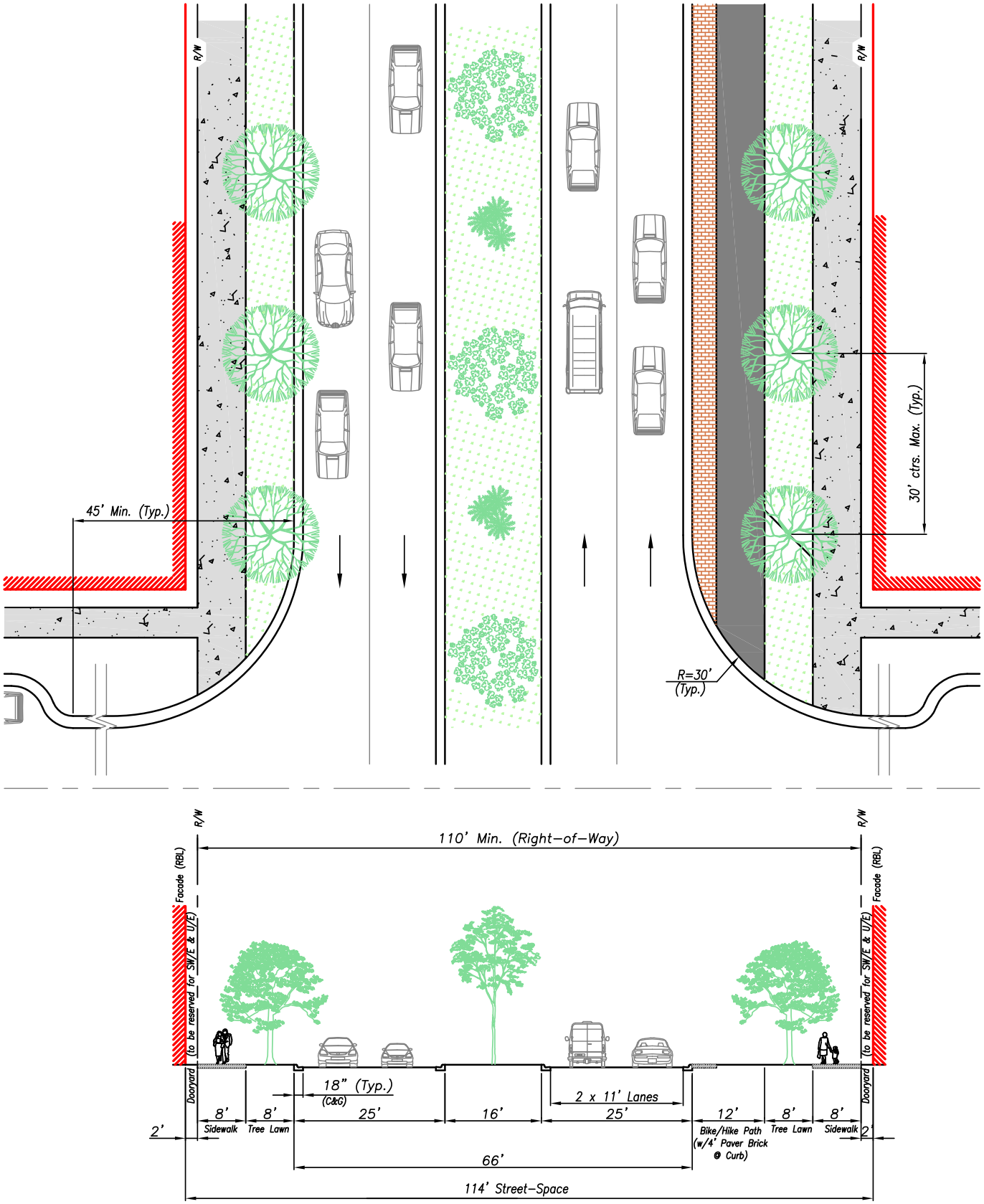
   f. Alley A-24

2. On the Major Urban specification, a designated bike lane is shown. The other street types are configured such that in-lane bicycle travel is encouraged and appropriate.

3. The Major Urban section has the potential for transit-rail as an option. These are shared lane configurations and allow rail lines to be added in the future.

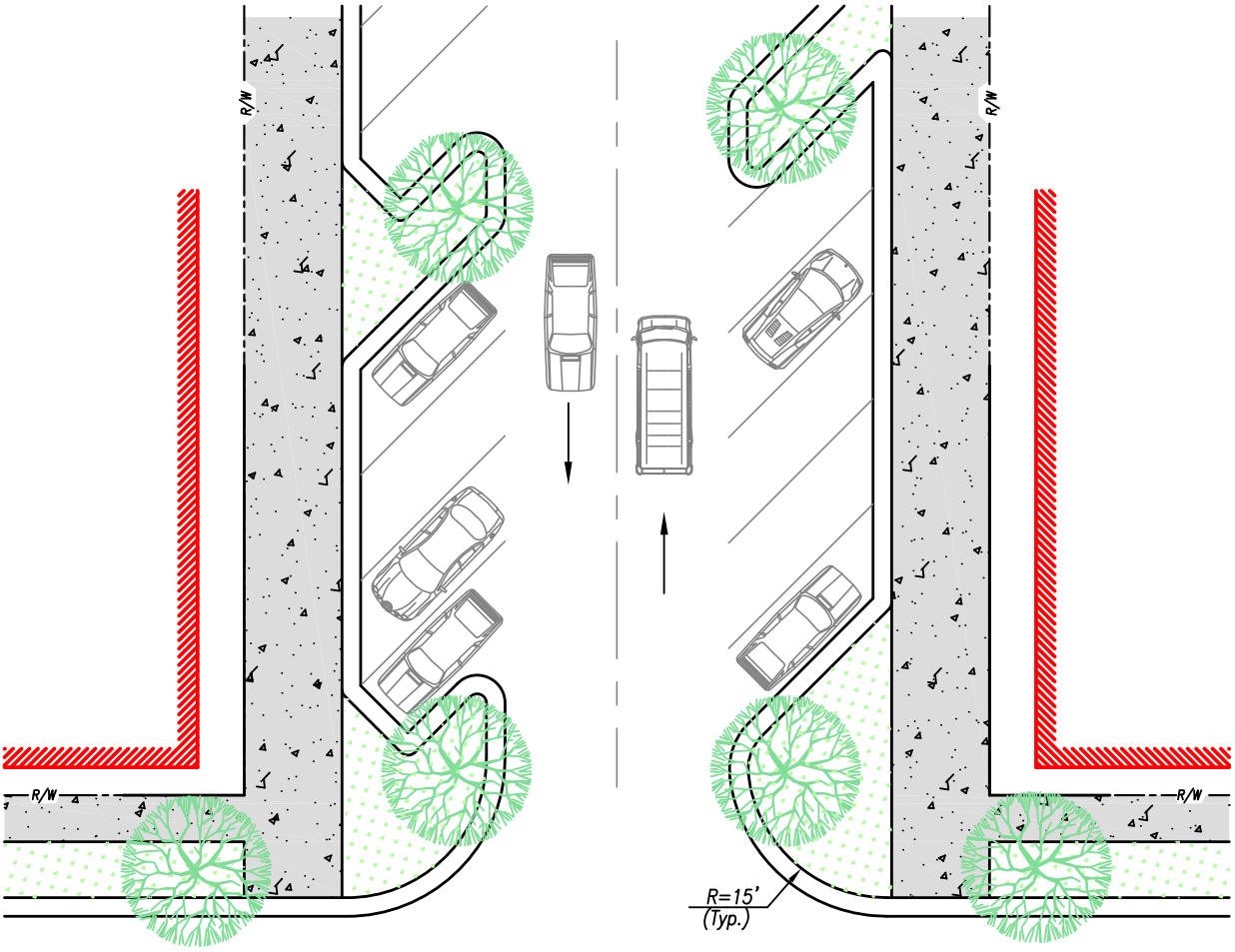
4. DOORYARDS and ALLEYS are generally reserved for utility easements.

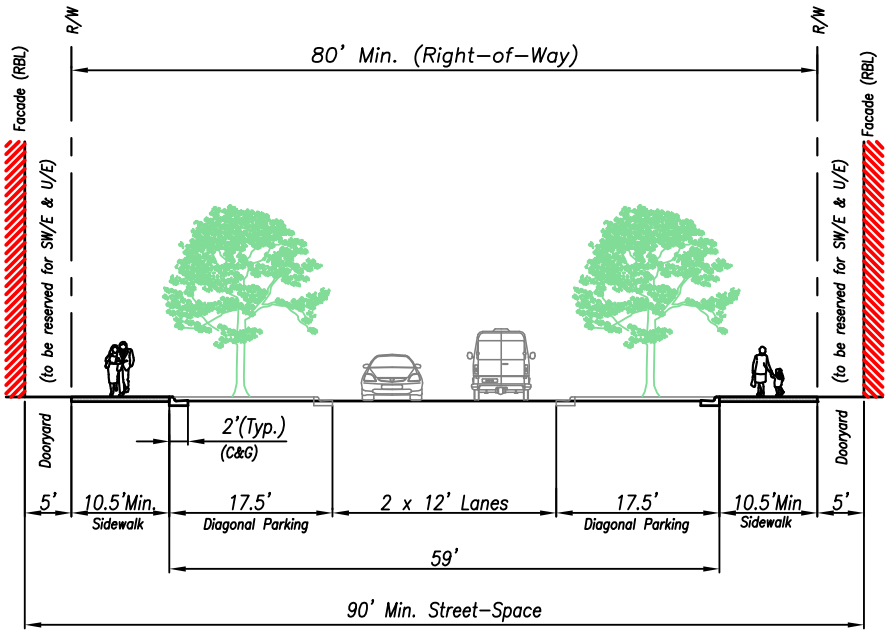
a. Major Urban: MU-114/66



MU-114/66 (Metcalf Avenue) Typical Section

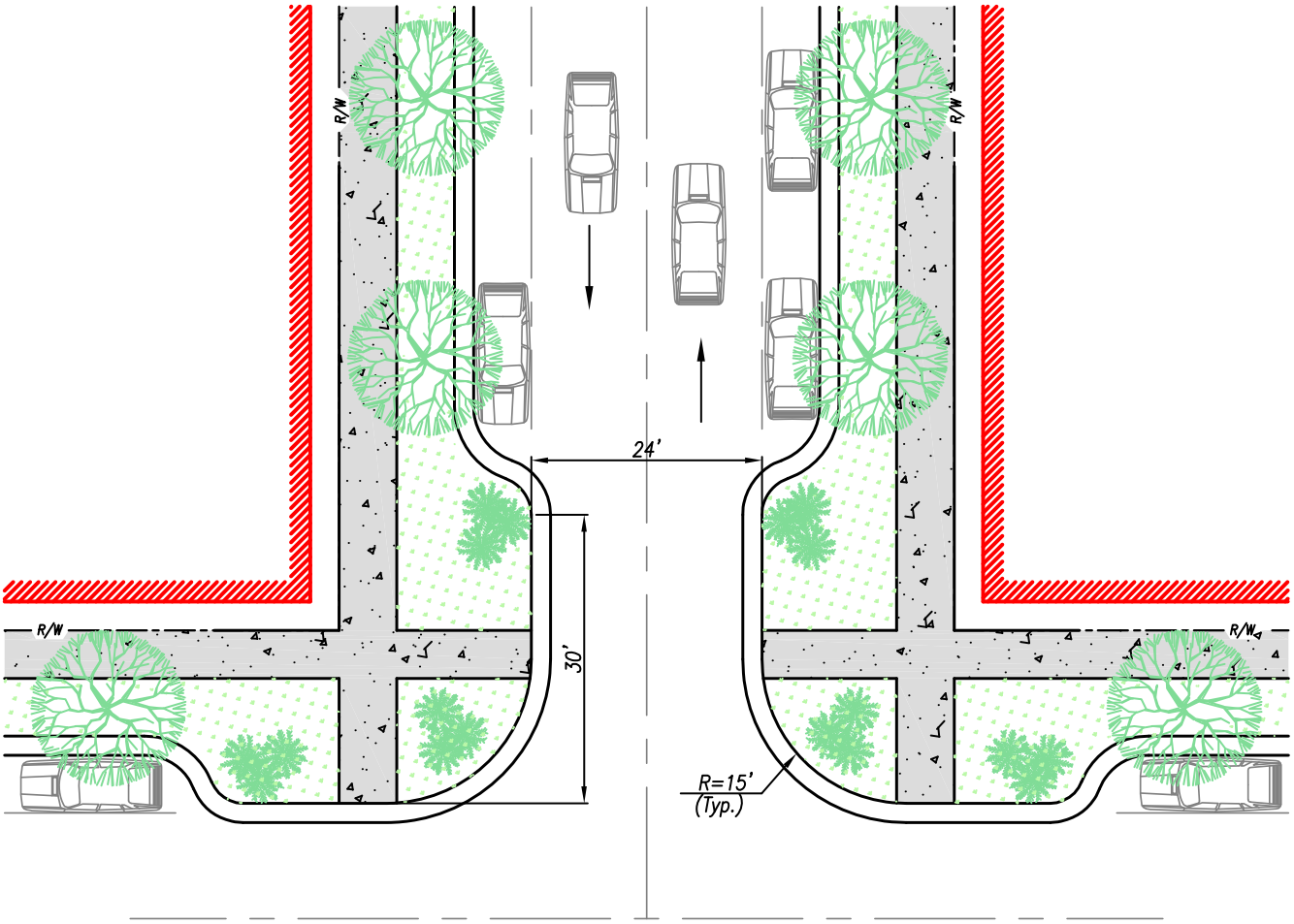
b. Santa Fe -7900 Block

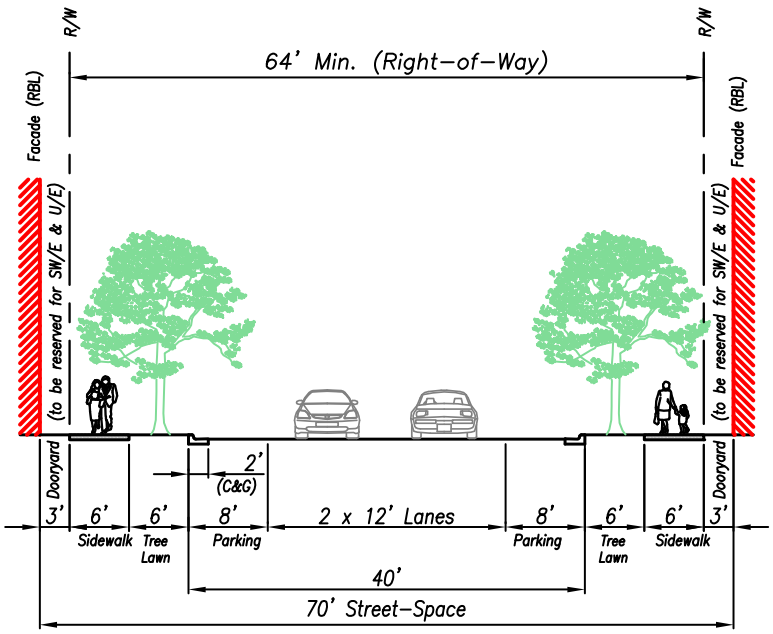




Santa Fe - 7900 Block

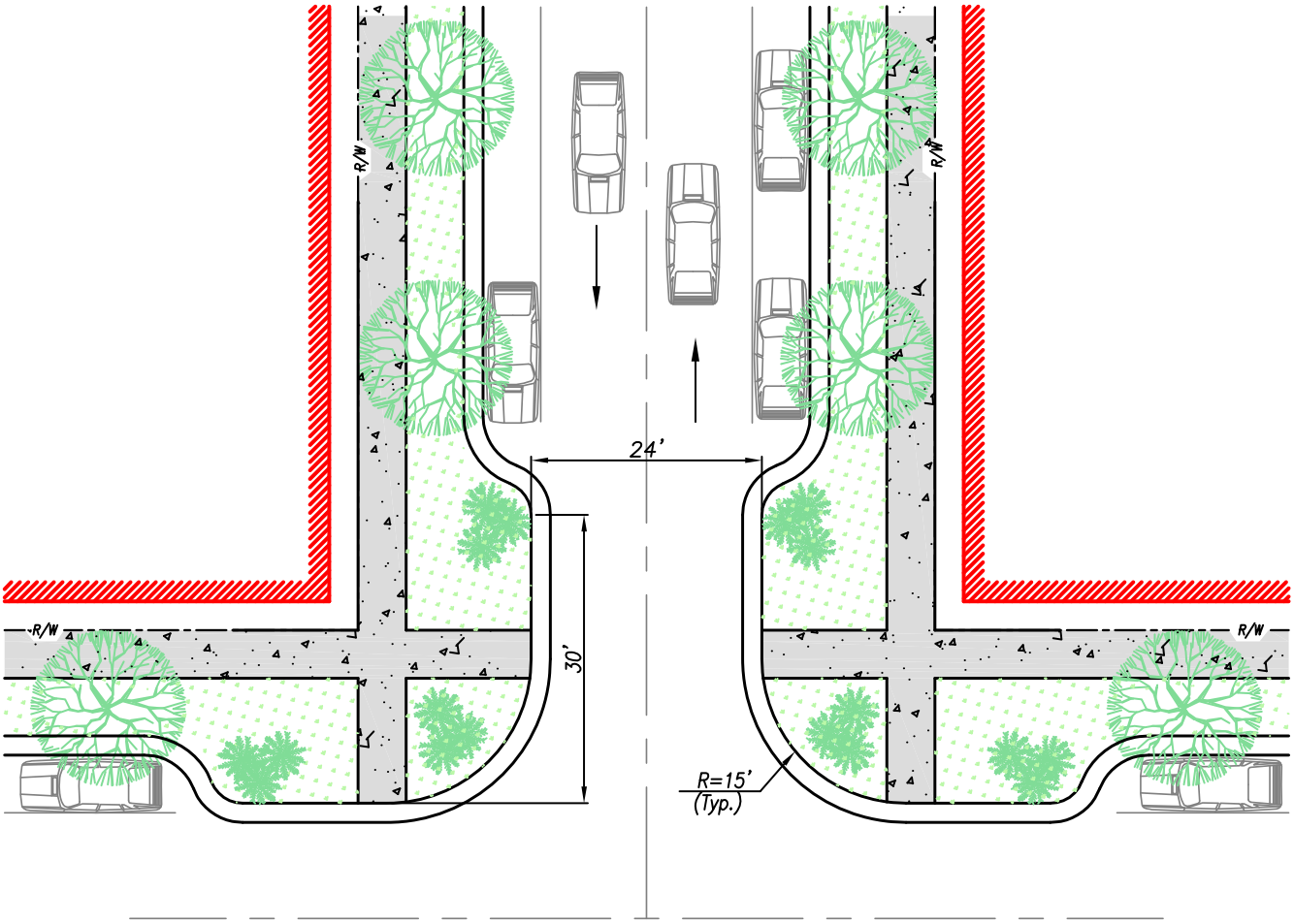
c. Street S-70/40

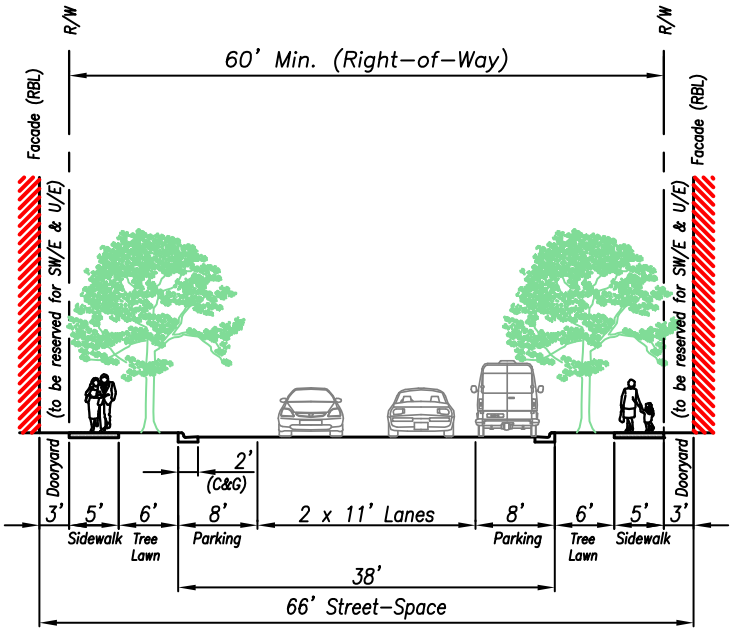




S-70/40

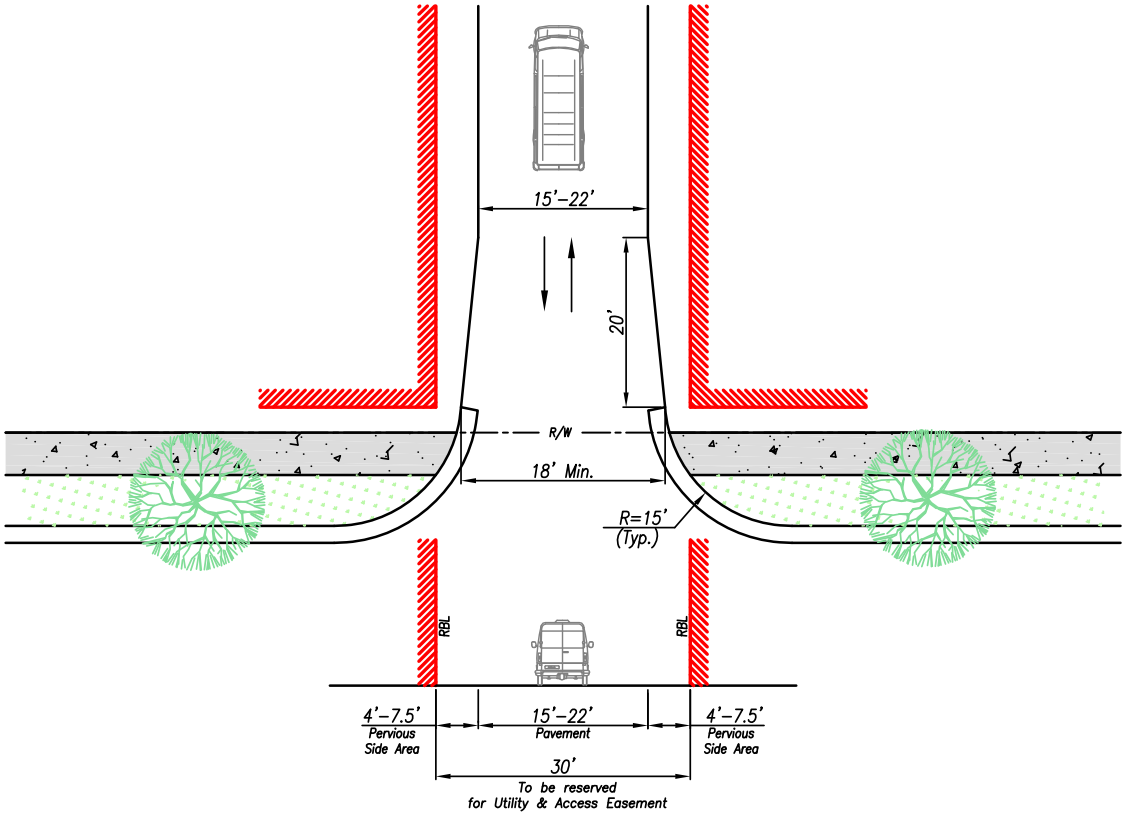
d. Street S-66/38





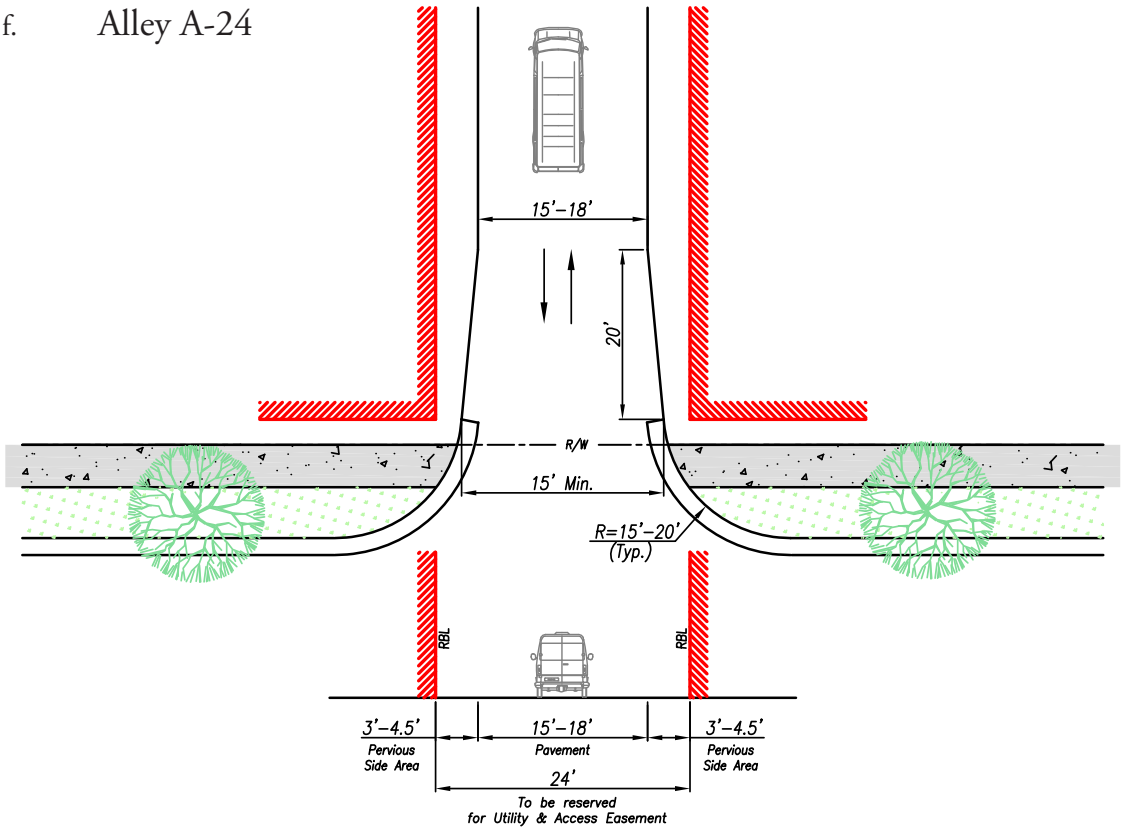
S-66/38

e. Alley A-30



Private Alley A-30

f. Alley A-24



Private Alley A-24

504. Streetscape Standards

A. General Provisions

1. All plant material (including trees) shall pass any inspections required under State regulations.

2. All turf grass shall be solidly sodded at installation—not seeded, sprigged, or plugged. Vegetative groundcovers may be used in place of turf grass as approved by the Plan Review Committee.

3. In addition to the lot, the owner must maintain the following areas:
   a. The portion of the STREET-SPACE between their RBL and the back of the curb.
   b. The portion of the ALLEY between the lot line and the edge of the ALLEY pavement.

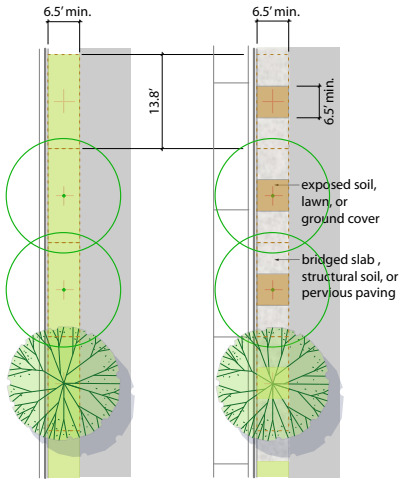
4. Mechanical and electrical equipment including, but not limited to, air compressors, pumps, exterior water heaters, water softeners, private garbage cans (not including public sidewalk waste bins), and storage tanks may not be stored or located within any STREET-SPACE. (Temporary placement of private garbage cans within the STREET-SPACE may be allowed to accommodate scheduled pick-up.)

5. Code provisions are not applicable to median locations.

B. Street Trees

1. Each STREET-SPACE must have STREET TREES planted along the STREET TREE ALIGNMENT LINE (generally 3 to 3½ feet from the back of the curb unless otherwise specified in the REGULATING PLAN or Street Type Specification) at an average spacing not greater than 30 feet on center (calculated per BLOCK face). Where necessary, spacing allowances may be made to accommodate curb cuts, fire hydrants and other infrastructure elements; however, at no location may STREET TREE spacing exceed 45 feet on center except where necessary for transit stops or stations. Required STREET TREE planting area configurations are specified in the Street Type Specifications and below.

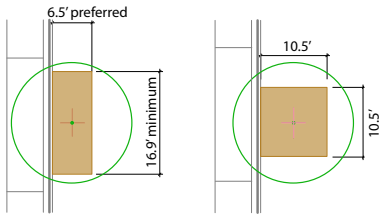
2. Required tree planting area minimum specifications are as follows:
   a. STREET TREE planting areas shall be at grade or not greater than 6 inches in height above or below the sidewalk.
      (i) Soil surface area shall not be less than 110 square feet per isolated tree or 90 square feet per tree for connected (TREE LAWN) situations.
      (ii) No dimension of the soil surface area may be less than 6 feet unless otherwise specified in this Code.
      (iii) The Street Type Specifications above are configured for STREET TREE trenches. The above requirements may be met through the use of bridged slab, structural soil, or other techniques that clearly exceed these standards in the fostering of vital and long-lived STREET TREES.



90 square feet minimum per tree

Continuous Tree Lawn Continuous Soil Area

504.B.2.a(i) Connected Situation



110 square feet minimum per tree

Individual Tree Planting

504.B.2.a(i) Isolated Tree Situation

b. At planting, STREET TREES shall be at least 2.5 inches in diameter at designated breast height (DBH) and at least 10 feet in overall height. Species must be selected from the Street Tree List (see Section 507. Tree Lists). Consult with the City Forester for the designated tree species for a particular STREET-SPACE.

c. Any unpaved ground area shall be planted with groundcover, flowering vegetation, or climbing vines, not to exceed 12 inches in height. STREET TREES must be "limbed up" as they gain appropriate maturity so as to not interfere with pedestrian or truck travel (minimum 7 feet clear over the sidewalk and 14 feet over any travel lanes) and to maintain visibility.

C. Streetscape Elements

1. At the time of development, the developer is required to install STREETLIGHTS and sidewalks on the side of the STREET-SPACE being developed.

2. Streetlighting shall be installed that meets the lighting requirements for illuminance according to the City of Overland Park Streetlighting Resolution. All STREETLIGHT poles and fixtures shall be as provided for in the Overland Park Approved Materials List, on record at City Hall, as indicated for Vision Metcalf.

3. The configuration of streetlighting poles will be based on the street designation.

   a. For streets designated Major Urban, STREETLIGHTS shall generally be installed in the median, where a median exists. Where a median does not exist, the placement of poles shall be on the side of the street and coordinated with the location of both overhead and underground utilities.

   b. For all other street designations, STREETLIGHT poles shall be a pedestrian scale and will generally be installed on either one or both sides of the street depending on street width. The placement of STREET TREES shall be coordinated with the location of STREETLIGHTS such that trees are not placed any closer than 15 feet from any STREETLIGHT.

4. Sidewalks not otherwise designated in the REGULATING PLAN or Street Type Specifications shall be a minimum of 6 feet wide and be constructed to meet all City (and ADA) standards and specifications.

5. Street furniture is an element of the overall STREET-SPACE design – not an afterthought. Street furnishings should be simple, functional, and durable.

D. On-Street Parking

1. On-street parking spaces shall count towards parking requirements. (See Part 7. Parking and Loading Standards.)

2. The parking space/tree planting pattern may be interrupted by existing or new driveways designated in the REGULATING PLAN, streets, and ALLEYS, but spacing shall not exceed 45 feet on center except where necessary for transit stops or stations.

3. Parking spaces must be constructed in a manner that allows proper drainage (generally a "**w**" profile, having a gutter pan between the travel and parking lanes).

4. Bicycle parking shall be provided forward of the DOORYARD area, the racks shall be located in alignment with the STREET TREES. (The "U" rack is recommended as the standard rack.)

505. Squares and Civic Greens

A. Intent

1. These standards apply to those spaces that are either publicly owned or publicly accessible, as designated on the REGULATING PLAN.

2. SQUARES, CIVIC GREENS and PLAZAS should be situated at prominent locations and should be dedicated to important events or citizens. The green plants and trees of SQUARES and CIVIC GREENS provide a landscape and civic architecture that complement the surrounding private building architecture.

3. SQUARES are active pedestrian centers. CIVIC GREENS are spaces intended for less intensive foot traffic. Surface treatment is regulated accordingly.

4. Pervious paving materials (to allow oxygen for tree roots and absorb stormwater run-off) are encouraged in both SQUARES and CIVIC GREENS, and the percentage of impervious paving material is limited (see Section 505.C. Materials and Configurations).

B. Standards

SQUARES and CIVIC GREENS must be designed, planted and maintained according to the following requirements:

1. SQUARES and CIVIC GREENS shall have at least 60% of their perimeter fronting public rights-of-way. Both shall be surrounded by STREET TREES. Their dimensions shall be no narrower than a 1:5 ratio and no SQUARE or CIVIC GREEN width or breadth dimension shall be less than 25 feet.

2. Appropriate to their high (pedestrian) traffic level SQUARES must be designed with a higher percentage of paved surface area (see Section 505.C.2. SQUARES).

3. A clear view through the SQUARE or CIVIC GREEN (from 2 to 7 feet in height) is required, both for safety and urban design purposes.

4. SQUARES and CIVIC GREENS shall not include active recreation structures such as ball fields and courts.

C. Materials and Configurations

1. General

a. STREET TREES shall be planted along the alignment shown in the street type specification, and in accordance with Section 504.B. Street Trees. They may (generally will) be of a different species than the connecting streets.

b. The ground surface level elevation shall be between 0 and 18 inches above the top of the adjacent curb.

c. The maximum slope across any SQUARE or CIVIC GREEN shall not exceed 10%.

d. Except for tree trunks, STREETLIGHTS, CIVIC USE BUILDINGS, public art or monuments, there shall be a clear view between 2 and 7 feet above grade. The foliage of newly planted trees may intrude into this area until the tree has sufficient growth to allow such a clear trunk height.

e. Trees within a SQUARE or CIVIC GREEN may also be selected from the public space tree lists (see Section 507. Tree Lists).

f. Asphalt is prohibited within a SQUARE or CIVIC GREEN tract.

2. Squares

Appropriate to their high (pedestrian) traffic level, SQUARES shall incorporate a higher percentage of paved surface area. Surface treatment and materials (within the back-of-curb to back-of-curb area, excluding any CIVIC USE BUILDING, public art or monument footprint) shall be between 20% and 35% unpaved pervious surface (turf, groundcover, gravel, soil or mulch).

3. Civic Greens

Appropriate to their less intensive character, CIVIC GREENS shall be designed with a lower percentage of paved surface area. Surface treatment and materials (within the area back-of-curb to back-of-curb area excluding any CIVIC USE BUILDING, public art or monument footprint) shall be a minimum 50% unpaved pervious surface area (such as turf, groundcover, gravel, soil or mulch).

4. Pedestrian Pathway

The area within a PEDESTRIAN PATHWAY shall be a public access easement or public right-of-way. The easement width for these pathways must not be less than 20 feet with a paved walkway not less than 10 feet wide providing an unobstructed view straight through its entire length, except where otherwise specified on the REGULATING PLAN.

506. Private Open Area

A. At least one tree per 800 square feet of any at-grade required PRIVATE OPEN AREA shall be planted in the rear lot area and located no closer than 5 feet to any COMMON LOT LINE. Exceptions: General Urban, General Storefront and Workshop frontages, and sites that are reusing existing structures with no ground level open area are exempt from this requirement.

B. Trees must be at least 2 inches in diameter at DBH and 8 feet in overall height (at time of planting). Species must be selected from a list approved by the City Forester (see Section 507. Tree Lists).

507. Tree Lists

A. General

1. The following lists contain all approved tree species for use in the Form District. The lists include native and acceptable adapted species. Other species may be used for planting within a private lot. These lists may be periodically amended by the City Forester.

2. Invasive exotic species may not be used anywhere on private lots or other areas.

B. Street Trees

1. Species in the Street Tree List are for placement as shown in Street Type Specifications, or as specified in the REGULATING PLAN for placement along the STREET TREE ALIGNMENT LINE. The use of alternate species may be permitted, but only if approved by the City Forester.

2. STREET TREES are part of an overall STREET-SPACE plan designed to provide both canopy and shade and to give special character and coherence to each street. The desired aesthetic must be achieved through the use of native and/or proven hardy adapted species. Appropriate STREET TREE species may grow and change over time and these lists may be periodically amended by the City Forester. Inclusion in this list shall be based on the following criteria:

   a. Structural – STREET TREES shape and subdivide the STREET-SPACE, increasing pedestrian comfort and adding (literal) value to the street/community. "Canopy Shade Tree" species grow to heights in excess of 50 feet and have a broad canopy—enabling them to clear auto traffic and pedestrians, form a ceiling-like enclosure, and open a clear view of the STREET-SPACE, FAÇADES, and SHOPFRONTS at eye-level.

   b. Design – Species are planted consistently along a given STREET-SPACE to provide a special form and character. This provides species diversity at the same time it provides a specific street character by planting different STREET-SPACES with different trees.

3. Street Tree List
(Large Canopy Trees – mature height 60 feet and above)

Street Tree List	
Acer saccharum	Sugar Maple
Betula nigra	River Birch
Celtis occidentalis	Common Hackberry
Cercidiphyllum japonicum	Katsura Tree
Ginkgo biloba	Ginkgo (male only)
Gleditsia triacanthos var. inermis	Thornless Honey Locust
Quercus acutissima	Sawtooth Oak
Quercus bicolor	Swamp White Oak
Quercus coccinea	Scarlet Oak
Quercus palustris	Pin Oak
Quercus phellos	Willow Oak
Quercus rubra	Red Oak
Quercus shumardii	Shumard Oak
Quercus velutina	Black Oak
Sophora japonica	Japanese Pagoda Tree
Tilia Americana	Basswood/American Linden
Tilia cordata 'Greenspire'	Greenspire Littleleaf Linden
Tilia euchlora	Crimean Linden
Tilia tomentosa	Silver Linden
Ulmus hollandica 'Groenveldt'	Groenveldt Elm
Ulmus americana "libertas"	Liberty Elm
Ulmus parvifolia	Chinese/Lacebark/Drake Elm

4. Public Space Trees - in addition to the Street Trees, the following trees may be placed within DOORYARDS, SQUARES or CIVIC GREENS.

PUBLIC SPACE TREE LIST	
Acer griseum	Paperbark Maple
Acer palmatum cultivars	Japanese Maple
Acer nigrum	Black Maple
Acer rubrum	Red Maple
Acer tataricum	Tatarian Maple
Acer truncatum	Shantung Maple
Carya illinoinensis	Pecan
Carya laciniosa	Shellbark Hickory
Carya ovata	Shagbark Hickory
Cerus canadisis	Redbud
Cornus florida cultivars	Dogwood
Cornus kousa	Kousa Dogwood
Ilex vomitoria	Yaupon Holly
Juglans nigra	Black Walnut
Liriodendron tulipifera	Tulip Poplar
Magnolia spp.	Magnolia
Malus spp. (improved varieties)	Crabapple
Pistacia chinensis	Chinese Pistache
Platanus acerifolia 'Yarwood'	Yarwood Plane tree
Platanus occidentalis 'Bloodgood'	London Plane tree
Prunus spp.	Flowering Cherry and Plum
Quercus muhlenbergii	Chinquapin Oak
Syringa reticulata	Japanese Lilac
Syringa x chinensis	Chinese Lilac
Taxodium ascendens	Pond Cypress
Taxodium distichum	Bald Cypress
Zelkova serrata	Japanese Zelkova

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Part 6. Architectural Standards

601. Intent

A. These architectural standards establish basic parameters regarding functional building element configuration and palettes for building materials.

B. The architectural standards serve to establish a coherent character and encourage a high caliber, lasting quality of development. Buildings shall be reviewed by the Director to verify that they meet the architectural standards (as well as the balance of this Code). The Director may also work with the developer or designer to show them how to work within these requirements.

C. In order to establish and maintain a sense of place, these standards specify an architectural aesthetic of load-bearing walls and regional materials. Buildings should reflect and complement the traditional materials and techniques of Overland Park. The standards also specify details, such as window proportions, roof or cornice configurations, SHOPFRONTS, and overhangs.

602. General Principles

A. All building materials to be used shall express their fundamental properties. For example, stronger and heavier materials (masonry) support lighter materials (wood).

B. Equivalent or Better.

1. While only materials, techniques, and product types prescribed here are allowed, equivalent or better practices and products are encouraged. They may be submitted to the Director for review. The Director is authorized to approve alternative materials and methods if they maintain the intent of these standards.

2. Additional products may be added to the list through a text amendment (administration) to this Code or may be allowed on a case by case basis through a modification approved in accordance with Part 2. Administration, Application Process & Appeals.

C. Where Clearly Visible from the Street-Space.

1. Many of these standards apply only in conditions WHERE CLEARLY VISIBLE FROM THE STREET-SPACE. Note that the definition of STREET-SPACE includes parks, PLAZAS, SQUARES, and CIVIC GREENS but not ALLEYS.

2. These controls therefore concentrate on the public space/views from the public space and minimize interference in the private realm. For example, an architectural element that is visible only through an opening in a STREET WALL is not clearly visible from the street-space. A building element that is more than 40 feet behind the REQUIRED BUILDING LINE does not meet the definition of WHERE CLEARLY VISIBLE FROM THE STREET-SPACE.

603. Building Walls

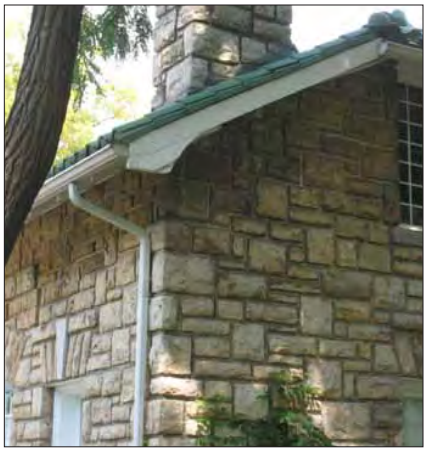
A. Applicability

Where clearly visible from the street-space.

B. Intent

Building walls should define the public realm - the street-space. All walls should express the construction techniques and structural constraints of traditional, long-lasting, building materials. Simple configurations and solid craftsmanship are favored over complexity and ostentation in building form and the articulation of details.

The illustrations and statements of subsection B. Intent, are advisory only. Refer to the Code standards on the following page for the specific prescriptions of this section.



C. Primary Façade Materials, General & Workshop Buildings

Primary building materials shall be used on a minimum of 75% of the FAÇADE surface area (minus FENESTRATION).

1. Brick.
   a. Ground-floor brick shall be clay brick with a nominal 4" depth.
   b. Brick above the ground floor may have variable thickness.
2. Natural Stone (or Integrally-colored synthetic, equivalent or better).

D. Primary Façade Materials, Townhouse/Small Apartment and Detached and Secondary Elevation Materials, General & Workshop

These building materials shall be used on a minimum of 75% of the FAÇADE surface area (minus FENESTRATON) on Townhouse/Small Apartment and Detached buildings. They may also be used on the secondary elevations (not a FAÇADE) of General and Workshop buildings.

1. All materials allowed in Section 603.C above.
2. Stucco (cement plaster).
3. Fiber Cement Siding.
4. Wood.

E. Secondary Materials, Townhouse/Small Apartment and Detached

Secondary materials shall be used on a maximum of 25% of the FAÇADE surface area (minus FENESTRATION).

1. All materials allowed in Sections 603.C and 603.D above.
2. Metal (second STORY and above).
3. Glass block or integrally colored Ground- or Split-faced block.
4. Decorative tile.
5. Pre-cast masonry.
6. EIFS (above second STORY).
7. Synthetic materials as approved by the Director.

F. Configurations and Techniques

1. Walls

a. Wall openings (FENESTRATION): the horizontal dimension of the opening shall not exceed the vertical dimension except where otherwise prescribed in this Code (*no more squat than square*).

b. Wall openings (FENESTRATION) shall not span vertically more than one STORY.

c. Wall openings (FENESTRATION) shall correspond to the interior space and shall not span across building structure such as floor structural and mechanical thickness.

d. Material changes shall be made with appropriate construction details for each abutting material—as where an addition (of a different material) is built onto the original building.

2. Wood Siding and Wood Simulation Materials

a. Siding shall be in a lap (horizontal) configuration.

b. Siding shall be smooth or rough-sawn finish.

3. Brick, Block and Stone

All masonry shall be appropriately detailed and in load-bearing configurations commensurate with Overland Park traditions. See the Overland Park Architectural Design Standards for details.

4. Stucco (cementitious finish)

a. Finish coat may have a smooth, sand, or rough finish.

b. Stucco shall not come in contact with the ground surface.

604. Roofs and Parapets

A. Applicability

Where clearly visible from the street-space.

B. Intent

Roofs and parapets should demonstrate common-sense recognition of the climate by utilizing appropriate pitch, drainage, and materials in order to provide visual coherence to the district. Roof forms are not interchangeable. The roof type is integral to the design of the building and its architectural character.

The slope of a pitched roof is determined by local climatic conditions (such as the ability to shed snow loads) and physical properties of the roofing material. Roof types that have overhanging eaves, such as gabled or hipped roofs, should be of a dimension suitable for sun shade.

Parapets are low guarding walls at the edge of roofs (usually flat) and are formed by extensions of the building facades.

Cornices are crowning (trim) projections on a parapet wall. While the code requires certain horizontal projection parameters, these elements should be designed to be appropriate for the style of the building and proportionate for the dimensions of the façade.

The illustrations and statements of subsection B. Intent, are advisory only. Refer to the Code standards on the following page for the specific prescriptions of this section.

Example: Overhang Requirement

C. Materials

Only the following materials are permitted:

1. Clay or concrete (faux clay).
2. Tile (beavertail or flat roman).
3. Slate (and equivalent synthetic or better).
4. Metal (standing seam, equivalent or better).
5. Dimensional Architectural Grade composition shingles.
6. Cornices and soffits may be a combination of wood, vinyl, and/or metal.
7. Gutters and downspouts may be vinyl, and/or metal in accordance with industry standards.

D. Configurations and Techniques

The following configurations and techniques are permitted:

1. Parapet Roofs

Allowed for General Storefront, General Urban, Workshop, and Townhouse/Small Apartment frontage sites where the roof material is not visible from any adjacent STREET-SPACE.

a. An additional 3 feet in height by 12 feet in width or 15% of the FAÇADE, whichever is greater, is permitted for a section of the parapet to emphasize the building's primary street entry or a BLOCK CORNER.

2. Pitched Roofs

Pitch (exclusive of roofs behind parapet walls):

a. Simple hip and gable roofs shall be pitched between 5:12 and 10:12.

b. Shed roofs, attached to the main structure, shall be pitched between 3:12 and 8:12.

3. Overhang Requirements

a. Eaves shall overhang 18 to 30 inches on the primary structure for the initial four STORIES. For each additional STORY; 4 inches shall be added to the minimum and 12 inches shall be added to the maximum, up to a maximum projection of 6 feet.

b. Eaves and rakes on accessory buildings, DORMERS, and other smaller structures shall overhang at least 8 inches.

c. Timber eaves and balcony brackets shall be a minimum of 4 inches by 4 inches in dimension.

4. Cornices and Other Features

a. Buildings without visible (pitched) roof surfaces and overhanging eaves may satisfy the overhang requirement with a cornice or similar form projecting from the top of the building wall horizontally between 6 and 12 inches beyond the building walls on the primary structure for the initial four STORIES. For each additional STORY, 3 inches shall be added to the minimum and 12 inches shall be added to the maximum, up to a maximum projection of 5 feet.

b. SKYLIGHTS and roof vents are permitted only on the roof plane opposite the STREET-SPACE (or REQUIRED BUILDING LINE) or when shielded from STREET-SPACE view by the building's parapet wall.

605. Street Walls and Garden Walls

A. Applicability

Where clearly visible from the street-space.

B. Intent

Property lines are physically defined by buildings, walls, or fences. Land should be clearly public or private—in public view and under surveillance or private and protected.

Street walls and garden walls establish a clear edge to the street-space where the buildings do not. These requirements include masonry walls that define outdoor spaces and separate the street-space from the private realm (e.g. parking lots, trash cans, gardens, and equipment). All street wall and garden wall faces shall be as carefully designed as the building façade, with the finished side out (i.e. the "better" side facing the street-space).

A street wall is a masonry wall set back not more than 12 inches from the required building line or adjacent building façade and built to the height specified in the building envelope standards.

The illustrations and statements of subsection B. Intent, are advisory only. Refer to the Code standards on the following page for the specific prescriptions of this section.

C. Materials

Only the following materials are permitted:

1. Native/regional stone and equivalent or better imitation stone.
2. Metal (wrought iron, welded steel and/or electro-statically plated black aluminum) - may be used for gates.
3. Brick.
4. Stucco on concrete block or poured concrete (only when a brick or stone coping is provided).
5. A combination of materials (e.g. stone piers with brick infill panels).
6. Wood - may be used only for gates.

D. Configurations and Techniques

The following configurations and techniques are permitted.

1. Street walls along any unbuilt required building line shall be built to the height and length specified in the building envelope standard.
2. Metal work may additionally be treated to imitate a copper patina.
3. Copings shall project between 1 inch and 4 inches from the face of the street wall.
4. Street walls and garden walls taller than 4 feet shall be subject to the fenestration requirements of their BES frontage.

606. Windows and Doors

A. Applicability

Where clearly visible from the street-space.

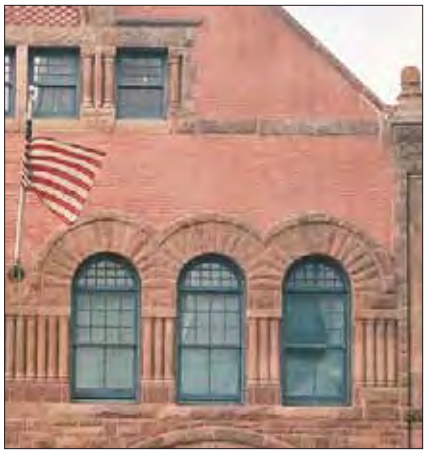
B. Intent

The placement, type, and size of windows and doors on the facade largely establishes the scale and vitality of the street-space. For commercial buildings, they allow interplay between the shop interiors and the street-space. Commercial uses (especially restaurants and retail establishments) benefit from exposure to the passers-by and the street-space benefits from the visual activity.

For residences, they form the "eyes on the street" surveillance which provides for the security and safety for the area.

Windows should be divided by multiple panes of glass. This helps the window hold the surface of the façade, rather than appearing like a "hole" in the wall (an effect produced by a large single sheet of glass).

The illustrations and statements of subsection B. Intent, are advisory only. Refer to the Code standards on the following page for the specific prescriptions of this section.



In commerce frontages, the public space of the STREET-SPACE *and the interior space of the storefront intermingle. For residential frontages the interior space should not intermingle with the* STREET-SPACE *but rather overlook it and provide surveillance.*

C. Materials

Only the following materials are permitted:

1. Window frames shall be of anodized aluminum, wood, clad wood, vinyl, or steel.
2. Window glass shall be clear, with light transmission at the GROUND STORY at least 90% and for the upper STORIES at least 75% (modification as necessary to meet any applicable building and energy code requirements). Specialty windows (one per FAÇADE maximum) may utilize stained or opalescent glass, or glass block.
3. Window screens shall be black or gray.
4. Screen frames shall match the window frame material or be dark anodized.
5. Doors shall be of wood, clad wood, or steel and may include glass panes.
6. Shutter materials may be painted wood or clad wood.

D. Configurations and Techniques

The following configurations and techniques are permitted:

1. All Windows - The following requirements apply to all windows:

a. The horizontal dimension of the opening may not exceed the vertical dimension except where otherwise prescribed in this Code (*no more squat than square*).

b. Windows may be ganged horizontally if each grouping (maximum five per group) is separated by a mullion, column, pier or wall section that is at least 7 inches wide.

c. Windows (not doors) may be no closer than 30 inches to BUILDING CORNERS (excluding BAY WINDOWS and SHOPFRONTS).

d. Exterior shutters, if applied, shall be sized and mounted appropriately for the window (one-half the width), even if inoperable.

e. Window panes shall be recessed behind the wall surface a minimum of 3 inches, except for BAY WINDOWS and SHOPFRONTS.

f. Snap-in mullions and muntins are permitted but not considered in any proportion calculation/measurement.

2. Upper-Story Windows - The following requirements apply to all upper-STORY windows:

a. Windows may be double-hung, single-hung, awning, or casement windows.

b. Fixed windows are permitted as follows:

(i) Residential buildings/floors: panes of glass no larger than 42” vertical by 30” horizontal.

(ii) The maximum pane size for office uses is 60” vertical by 48” horizontal.

(iii) Egress windows may be installed as required by the appropriate building code.

3. Shopfront Windows - The following apply to SHOPFRONT (GROUND STORY) windows and doors:

a. Single panes of glass shall not be permitted larger than 10 feet in height by 5 feet in width.

b. GROUND STORY windows may not be made opaque by window treatments (excepting operable sunscreen devices within the conditioned space). (See Section 607. Signage) A minimum of 80% of the window surface shall allow a view into the building interior for a depth of at least 15 feet.

c. SHOPFRONTS may extend up to 24 inches beyond the FAÇADE or RBL into the DOORYARD.

4. Doors

a. Double-height entryways (those that span more than one story) shall not be permitted.

b. Doors shall not be recessed more than 3 feet behind the FAÇADE or their SHOPFRONTS and, in any case, shall have a clear view and path to a 45-degree angle past the perpendicular from each side of the door into the STREET-SPACE.

607. Signage

A. Applicability

Where clearly visible from the street-space. Applicants must obtain all required sign permits prior to installation.

B. Intent

Signs along commercial frontages should be clear, informative to the public and durable.

Signs should be scaled and detailed for this mixed use, pedestrian-oriented area and not for high speed automobile traffic.

Signage that is glaring or too large creates distraction, intrudes into or lessens the urban experience, and creates visual clutter.

C. Requirements

Refer to Section 18.440 of the Unified Development Ordinance for specific signage requirements.

The illustrations and statements of subsection B. Intent, are advisory only. Refer to the Code standards on the following page for the specific prescriptions of this section.

RESTORATION HARDWARE

BANANA REPUBLIC

PHOENIX BUILDING

BARBER
SHOP

noodles
&company

cingular WIRELESS

608. Lighting & Mechanical Equipment

A. Applicability

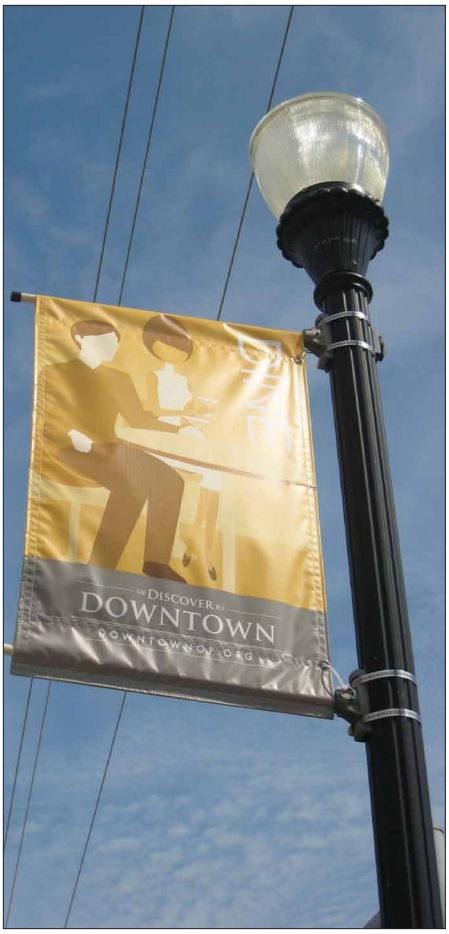
District wide, except: these standards do not apply to Metcalf Avenue and 75th Streets.

B. Intent

Appropriate lighting is desirable for night-time visibility, crime deterrence, and decoration. However, lighting that is too bright or intense creates glare, hinders night vision, and creates light pollution. Every attempt should be made to preserve the ambiance of the night by applying the appropriate fixtures in the correct locations. STREETLIGHTING should occur along all streets providing the appropriate illumination according to the City Streetlighting Resolution. All materials and equipment chosen for lighting fixtures should be durable to age well without demanding maintenance requirements.

Mechanical equipment is generally any heating, ventilation, and air conditioning (HVAC) or electrical machinery but also includes air compressors, hoods, mechanical pumps, exterior water heaters, water softeners, utility and telephone company transformers, meters or boxes, garbage cans, storage tanks, and similar elements. These elements should not be located in any public areas or be visible from the street. Mechanical equipment should not detract or interfere with the pedestrian space or sight triangle.

The illustrations and statements of subsection B. Intent, are advisory only. Refer to the Code standards on the following page for the specific prescriptions of this section.



The illustrations below are examples of mechanical equipment arrangements that are only acceptable away from and/or not visible from a STREET-SPACE (e.g. within an ALLEY or hidden from view).

Not permitted within the STREET-SPACE

Not permitted within the STREET-SPACE

Not permitted within the STREET-SPACE

C. Lighting

1. The configuration of STREETLIGHTING poles will be based on the street designation.
   a. For streets designated Major Urban, STREETLIGHTS shall generally be installed in the median, where a median exists. Where a median does not exist, the placement of poles shall be on the side of the street and coordinated with the location of both overhead and underground utilities.
   b. For all other street designations, STREETLIGHT poles shall be a pedestrian scale and will generally be installed on either one or both sides of the street depending on street width. The placement of STREET TREES shall be coordinated with the location of STREETLIGHTS such that trees are not placed any closer than 15 feet from any STREETLIGHT.
2. At the front of the building, exterior lights shall be mounted between 6 feet and 14 feet above the adjacent grade, or as approved by the Director.
3. All lots with ALLEYS shall have lighting fixtures within 5 feet of the ALLEY. These fixtures shall illuminate the ALLEY and not cause glare in adjacent lots.
4. Lighting elements shall be specified that provide a more natural spectrum of light such as LED, metal halide, halogen. Low pressure sodium lamps are not allowed. Fluorescent lights (except compact fluorescent bulbs that screw into standard sockets) shall not be used on the exterior of buildings. These standards may be updated by the Director as technologies advance and produce additional EQUIVALENT OR BETTER lighting elements.
5. Security lights may be used to illuminate ALLEYS, parking garages and working (maintenance) areas, but shall be shielded in such a way that they do not shine into other lots, the STREET-SPACE, or direct light out of the FBC district.
6. Flood or uplighting may not be used to illuminate private building walls. Accent lighting may be permitted on CIVIC USE BUILDINGS, historic buildings, or monuments to highlight architectural features (such as church steeples or courthouse domes).
7. Site lighting shall be of a design and height and be located as to illuminate only the lot. An exterior lighting plan shall be approved as consistent with these standards by the Director.
8. Flashing, traveling, animated, or intermittent lighting shall not be mounted on the exterior of any building whether such lighting is of temporary or long-term duration.
9. Lighting for parking garages shall consider Crime Prevention Through Environmental Design (CPTED) intent.
10. Holiday Lighting is exempt.

D. Mechanical Equipment

1. The following shall be placed behind and away from any REQUIRED BUILDING LINE, may not be stored or located within any STREET-SPACE, and shall be screened from view from the STREET-SPACE: air compressors, mechanical pumps, exterior water heaters, water softeners, utility and telephone company transformers, meters or boxes, garbage cans, storage tanks, and similar equipment.
2. The following shall be screened from pedestrian-level view (5 feet above paved surface) from the ALLEY or COMMON DRIVE: air compressors, mechanical pumps, exterior water heaters, water softeners, garbage cans, storage tanks, and similar equipment.
3. Roof-mounted equipment shall be placed behind and away from any REQUIRED BUILDING LINE and be screened from view from the STREET-SPACE.

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Part 7. Parking and Loading Standards

701. Intent

A. Promote a "park once" environment that will enable people to conveniently park and access a variety of commercial, residential, and civic enterprises in pedestrian friendly environments by encouraging shared parking.

B. Reduce fragmented, uncoordinated, inefficient, reserved single-purpose parking.

C. Avoid adverse parking impacts on neighborhoods adjacent to redevelopment areas.

D. Maximize on-street parking.

E. Provide flexibility for redevelopment of small sites and for the preservation of historic buildings.

F. Increase visibility and accessibility of public parking.

G. Promote early prototype projects using flexible and creative incentives.

702. Other Applicable Regulations

Pervious surfaces approved by the City Engineer are encouraged for surface parking lots.

703. Minimum Parking Requirements

A. Reserved Parking. Reserved parking includes all parking that is not shared parking.

1. Commerce/workshop/civic - There is no requirement (minimum) for reserved parking.

2. Residential - A minimum of one parking space per residential unit shall be provided.

B. Shared Parking.

1. Commerce/workshop - There are no minimum shared parking requirements where the non-residential Gross Floor Area (GFA) is under 10,000 square feet. Sites over 10,000 square feet in non-residential GFA shall have a minimum of 1 and 1/4 spaces per 1,000 square feet of non-residential GFA provided as shared parking.

2. Residential - A minimum of 1/4 parking space per residential unit shall be provided as shared parking.

3. Shared parking shall be designated by appropriate signage and markings (parking shall be clearly visible and accessible to the public) as determined by the Director.

C. Achieving Parking Requirements.

1. These parking requirements may be met either on-site or within an 800 foot walking distance of the development.

2. Parking shall be located in compliance with the parking setback/ regulations for the site on which it is located, as indicated on the REGULATING PLAN and/or BUILDING ENVELOPMENT STANDARD.

D. Bicycle Parking. Sites and/or projects over 10,000 square feet in land area have the following requirements:

1. For commerce, the developer must provide two bicycle parking racks (2- bike capacity) per 10,000 square feet of commercial floor area.

2. For residential, the developer must provide one bicycle parking rack (2- bike capacity) per 10 units. Projects under 10 units shall have no requirement.

3. Bicycle parking facilities shall be visible to intended users. The bicycle parking facilities shall not encroach on any area in the public right-of-way intended for use by pedestrians, nor shall they encroach on any required fire egress.

4. On-street bicycle parking spaces (typically along the STREET TREE ALIGNMENT LINE) may be counted toward the minimum customer/ visitor bicycle parking requirement.

E. Permissive parking and loading facilities. Nothing in this ordinance shall be deemed to prevent the voluntary establishment of off-street parking or loading facilities to serve any existing use of land or buildings, in accordance with all regulations herein governing the location, design, and operation of such facilities.

F. Areas exempt from off-street parking requirements. No off-street parking shall be required for development which occurs in the Form District and is located contiguous with and fronting Santa Fe Drive between 79th and 80th Streets.

704. Maximum Parking Standards

A. Reserved Parking.
Surface and structured parking spaces may be reserved for a specific tenant or unit, provided that the following standards are not exceeded:

Use	Reserved (non-shared) Spaces (maximum)
Residential	2.0 per single-family dwelling unit 1.0 per one-bedroom multifamily unit 2.0 per two- or more-bedroom multifamily unit
Nonresidential	1.0 per 1,000 non-residential GFA

B. Shared Parking Limits.

1. Any time or hour of the day restrictions on shared parking shall be subject to approval by the Director. The Director may give approval based on a finding that: the parking is visible and accessible to the public, at least 12 hours of public parking are provided in any 24-hour period, and that at least 8 of those hours are provided during either business or nighttime hours depending on whether the Director determines that the primary use will be for COMMERCE or RESIDENTIAL uses.

2. There are no maximum limits on the amount of shared parking.

C. Maximum Surface Parking (refer to DFD Parking Map).

1. Within the Core, the total surface parking, shared and reserved, shall not exceed 2 and 1/4 spaces per 1,000 square feet of gross floor area. Outside the Core, the total surface parking shall not exceed 3 per 1,000.

2. Maximum surface parking standards do not apply to structured or underground parking.

3. Increased Parking - The Planning Commission may increase the required parking after considering documentation and/or study provided by the applicant, staff's recommendation and giving decisive weight to all relevant facts. These include but are not limited to the following factors: existing or potential shared parking arrangements; the characterisitcs of the use, including hours of operation and peak parking demands; design and maintenance of off-street parking that will be provided; and whether the proposed use is new or a small addition to an existing use.

705. Special Parking Standards

A. Joint Parking

Sites abutting one another shall physically connect their surface parking areas at the lot line to create connecting drive aisles. Where such surface parking areas lie within 50 feet of one another, a mutual access easement acceptable to the Director shall be executed. Site configurations existing pre-Code (2010) are exempt from this requirement.

B. On-Street Parking

1. A parking space located on a public street may be included in the calculation of shared parking requirements if it is adjacent to the building site (where more than 50% of the space is fronting).

2. Each on-street parking space may only be counted once.

C. Off-Site Parking

1. Off-site parking must be located within a walking distance of 800 feet from the site it is serving.
2. The off-site parking shall be located within the Form District.
3. The off-site parking must be the subject of a long-term lease approved as to form by the City Attorney, or permanently dedicated for off-site parking use.

D. Tandem Parking

1. Tandem parking is only allowed for:
   a. Single-family residential projects; and
   b. Multifamily projects and the residential component of mixed use projects.
2. Two parking spaces in tandem shall have a combined minimum dimension of 9 feet in width by 34 feet in length.
3. Up to 75% of the total required off-street parking spaces provided may incorporate tandem parking.
4. Tandem spaces shall be assigned to the same dwelling unit. Tandem parking shall not be used to provide guest parking.

706. Surface Parking Lot Plantings for New Development

A. The edge of any surface parking lot adjacent to a STREET-SPACE shall be planted with canopy shade trees from the Tree Lists in Part 5. Urban Space Standards, placed at an average distance not to exceed 30 feet on center and aligned parallel 3 to 7 feet behind the RBL/STREET WALL.

B. The edge of any surface parking lot adjacent to a single-family residential (detached or attached) lot shall be planted with canopy shade trees from the Tree Lists in Part 5. Urban Space Standards, placed at an average distance not to exceed 40 feet on center and aligned parallel 3 to 7 feet behind the COMMON LOT LINE.

C. Edges along a COMMON LOT LINE shall have a STREET WALL, GARDEN WALL or PRIVACY FENCE.

707. Loading Facilities

A. No loading facilities are required.

B. Where loading facilities are provided, they shall be located to the rear and ALLEY or COMMON DRIVE side of buildings.

Part 8. Building Functions

801. General Provisions

A. Permitted Use

Uses are grouped into categories. Permitted uses by BUILDING ENVELOPE STANDARD frontage are shown in Section 802. Use Table. The categories in the use table are listed in Section 804. Development and Performance Standards.

B. Use Determination

1. Administrator Responsibility. The Director is responsible for categorizing all uses. If a proposed use is not listed in a use category, but can be said to be reasonably similar in impact on the Form District to a listed use, the Director shall treat the proposed use as a use under that category. If a proposed use is not listed in a use category, and is fundamentally different from any other listed use, the use shall be prohibited.

2. Uses Not Specifically Listed. When determining whether a proposed use is similar to a use listed in Section 804. Development and Performance Standards, the Director shall consider the following criteria:

   a. The actual or projected characteristics of the proposed activity in relationship to the stated characteristics of each use.

   b. Types of vehicles used and their parking and/or loading requirements.

   c. The likely impact on surrounding properties.

   d. The intent of the Form District.

802. Use Table

The use table identifies the uses allowed in the respective BES (BUILDING ENVELOPE STANDARD) frontages.

		BUILDING ENVELOPE STANDARDS									
		General Urban		General Storefront		Townhouse/ Small Apt		Workshop		Detached	
USE CATEGORY		Ground Story	Upper Story	Ground Story	Upper Story	Ground Story	Upper Story	Ground Story	Upper Story	All Stories	Additional Standards
RESIDENTIAL	Household Living	□	■	□	■	■	■			■	Sec. 804.B.1-2
	Group Living		□		□	□	□			□	See City for Specifications
COMMERCE	Office	■	■	■	■			■	■		
	Overnight Lodging	□	■	□	■	□	□			□	Sec. 804.D
	Recreation/Entertainment	■	□	□	■						Sec. 804.E.1-6
	Vehicle Sales	■	■		■			■	□		Sec. 804.E.6
	Passenger terminal	■						■	■		
	Day Care	■	■		■	■	■			□	See City for Specifications
	Retail Sales & Service	■	□	■	□			□	□		Sec. 804.E.2, 3, 6
	Restaurant/Bar	■	□	■	□			□			Sec. 804.E.1-5
	Gas Station/Auto Repair	□	□								Sec. 804.F
WORKSHOP	Light Industrial & Manufacturing							■	■		
	Research & Development		■		■			■	■		
	Wholesale/Warehouse/Distribution							■	■		
	Self-service storage		□					■	■		See City for Specifications
	Gas Station/Auto Repair	□						□	□		Sec. 804.F
CIVIC	See Part 9. Definitions	■		■		■		■		■	Sec. 804.C

Key: ■= Permitted □= Additional Regulations Apply Blank Cell = Not Permitted

803. Use Categories

A. Residential Use Categories

1. Household Living
   a. One- and two-family dwellings
   b. Multi-family dwellings
   c. Elderly housing
2. Group Living
   a. Assisted Living
   b. Boarding house, rooming house, lodging house
   c. Hospice
   d. Dormitory
   e. Monastery/convent
   f. Nursing home
   g. Transitional home

B. Commerce Use Categories

1. Any use permitted in District CP-2, subject to applicable development and performance standards, except for those differences listed below.
2. Hotels and Lodging
3. Auditoriums and arenas
4. Conference facilities and convention centers
5. Communication antennas mounted on existing structures

C. Workshop Use Categories

Any use permitted in Districts CP-3 and BP, subject to applicable development and performance standards.

D. Civic Use Categories

1. See Part 9. Definitions: Civic Use
2. College, community college, university
3. Museum, library, auditorium, arena
4. Places of worship including church, mosque, synagogue, temple
5. Police, fire, EMS station, substation
6. Public or private (K-12) school
7. Neighborhood arts center, Community Center or similar community facility (public)
8. Farmers Market
9. Designated historic structures

804. Development and Performance Standards

A. General

1. All permitted uses shall meet Section 402. General Provisions and those standards specified in the applicable individual BUILDING ENVELOPE STANDARD pages.

2. No CIVIC, COMMERCE or WORKSHOP USE is permitted above a RESIDENTIAL USE.

3. Businesses providing drive-up services shall not have a drive-through lane or service window that abuts or faces a STREET-SPACE.

4. No smoke, radiation, vibration or concussion, heat or glare shall be produced that is perceptible outside a building, and no dust, fly ash or gas that is toxic, caustic or obviously injurious to humans or property shall be produced.

5. Communication antennas may be installed on any existing structure (such as a building, utility pole, water tower etc., but excluding single-family residences and accessory uses) 3 STORIES in height or greater but no less than 45 feet provided that the additional antennas shall add no more than 20 feet to the height of said existing structure. Communication antennas which are architecturally compatible to the building architecture may locate on non-residential buildings less than 3 STORIES or 45 feet in height, subject to receiving a Certificate of Conformity. Associated equipment may be permitted on the roof so long as it is screened from view in accordance with Ordinance Section 18.450.100. Ground-mounted equipment is subject to the performance standards outlined in Ordinance Section 18.395.070 (H-N).

B. Residential

1. See the General Urban BES for configuration requirements for GROUND STORY RESIDENTIAL USES.

2. A lobby serving an upper STORY RESIDENTIAL USE is permitted on the GROUND STORY of a General Storefront site.

3. For Workshop sites, RESIDENTIAL USE is permitted on the top STORY or upper most STORY only and shall not exceed 25% of the gross floor area of the entire building.

C. Civic

Buildings that house CIVIC USES located on civic sites specifically designated on the REGULATING PLAN are not subject to Part 4. Building Envelope Standards, or Part 6. Architectural Standards.

D. Overnight Lodging

1. A lobby serving an upper STORY overnight lodging use is permitted on the GROUND STORY of any General Storefront site.

2. For DETACHED FRONTAGES, only Bed & Breakfast types are permitted.

E. Restaurant/Bar, Retail Sales

1. Outdoor eating areas for eating/drinking establishments shall be allowed on the public sidewalk in General Urban and/or Storefront frontages, subject to:
   a. the provision of a minimum clear width of 5 feet within the CLEAR WALKWAY area; and
   b. a joint use of R.O.W. agreement.
2. An eating/drinking establishment or RETAIL USE is permitted in the second STORY of a General Storefront or General Urban site provided it is an extension equal to or less than the area of the same GROUND STORY use.
3. An eating/drinking establishment or RETAIL USE is permitted in the second STORIES or rooftop of a General Storefront and General Urban sites. For rooftop locations the use shall be set back from any COMMON LOT LINE by at least 20 feet.
4. The sale and consumption of cereal malt beverages and alcoholic liquor shall be subject to the provisions set out in Ordinance Section 18.260.050, and as required in Chapters 5.12, 5.20, and 5.48 of the Overland Park Municipal Code, as applicable.
5. Clubs and drinking establishments are required to obtain a Special Use Permit if the walls of the facility are within 200 feet of a residential zoned property which is not included in the Form District.
6. No merchandise (including motorcycles, scooters, and automotives) may be left within the STREET-SPACE when the business is not open.
7. Only merchandise or a commodity manufactured on premise may be sold in the GROUND STORY of a Workshop site.

F. Gas Station/Auto Repair

A gas station or auto repair shop may be permitted, subject to the following:

1. The use shall not include the display and rental of cargo trailers, trucks, or similar uses;
2. The storage or junking of wrecked motor vehicles (whether capable of movement or not) is prohibited.

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Part 9. Definitions

901. Defined Terms

The following terms are defined for the purpose of this Code. Terms not defined here may be defined elsewhere in the City of Overland Park Zoning Ordinance. In such case, the definition contained in the Zoning Ordinance shall be used. Certain terms in this Code are used in very specific ways, often excluding some of the meanings of common usage. Where there is an apparent conflict or contradiction, the definition herein shall prevail.

Accessory Unit. A building or addition for living purposes (maximum footprint of 650 square feet—or the footprint of the main structure for ENGLISH BASEMENT type ACCESSORY UNITS) that is not the primary structure or principal dwelling unit on a lot, that can be used as additional residential or home occupation space.

Alley/Alley Access Easement. The public right-of-way or easement for vehicles and pedestrians within a BLOCK that provides access to the rear or side of properties, vehicle parking (e.g., garages), utility meters, recycling containers, and garbage bins.

Attic Story. Habitable space situated within the structure of a pitched roof and above the uppermost STORY. They are permitted for all BES sites and do not count against the maximum STORY height or ultimate height limits of their BES. On the RBL/FACADE side of the roof-pitch ATTIC STORIES may have windows only via DORMERS and windows in gable-ends (BLOCK interior elevations are not so restricted).

Balcony. An exterior platform attached to the upper floors of the building FAÇADE (forward of the REQUIRED BUILDING LINE). BALCONIES, where specified in the BUILDING ENVELOPE STANDARDS, must be enclosed by balustrades (railings) and shall not be otherwise enclosed, above a height of 42 inches, except with insect screening and/or columns/posts supporting a roof or connecting with another BALCONY above. BALCONIES may be a single floor platform or multiple platforms stacked at the upper STORY levels.

Bay Window. Generally, a U-shaped enclosure extending the interior space of the building outward of the FACADE/REQUIRED BUILDING LINE (along its STREET-SPACE side). The minimum interior clear width at the main wall shall be 4 feet. BAY WINDOWS shall not project more than 42 inches beyond the REQUIRED BUILDING LINE; and walls and windows shall be between 90 degrees (perpendicular) and 0 degrees (parallel) relative to the primary building wall from which they project.

Block. An increment of land comprised of lots, ALLEYS and tracts circumscribed and not traversed by streets (pedestrian pathways excepted). BLOCKS shall be measured at the REQUIRED BUILDING LINE (RBL).

Block Corner. The outside corner of a BLOCK at the intersection of any two STREET-SPACES (the RBLs). Inside corners, where the resulting angle formed by the block face is less than 180 degrees (concave) are not considered BLOCK CORNERS for the purposes of this Code.

Buildable Area. The area of the lot that building(s) may occupy, which includes the area of the lot behind the REQUIRED BUILDING LINE as designated by the BUILDING ENVELOPE STANDARD. The BUILDABLE AREA sets the limits of the building footprint now and in the future—any additions shall be within the specified BUILDABLE AREA.

Building Corner. The outside corner of a building where the primary building mass is within an angle less than 180 degrees. Inside corners, where the exterior space of the building mass forms an angle of more than 180 degrees are not considered BUILDING CORNERS for the purposes of this Code.

Building Envelope Standards (BES). The part of this Code that establishes basic parameters regulating building form, including the envelope (in three dimensions), placement and certain permitted/required building elements, such as STOREFRONTS, BALCONIES, and STREET WALLS. The BUILDING ENVELOPE STANDARDS establish both the boundaries within which things may be done and specific things that must be done. The applicable BUILDING ENVELOPE STANDARDS for a site is determined by its STREET FRONTAGE as per the REGULATING PLAN. This produces a coherent STREET-SPACE and allows the building owner greater freedom behind the FAÇADE.

Building Face. See FAÇADE.

Building Lot Limit (Lot Building Limit). A line delineating the outer edge of the BUILDABLE AREA, generally to the rear of a lot away from the REQUIRED BUILDING LINE. Where designated on the REGULATING PLAN, this shall supercede the BUILDING ENVELOPE STANDARDS minimum setbacks.

Civic Green or Square. A public open space designated on the REGULATING PLAN. The term *square* is generally used to describe spaces that have more paved surface area. The term *civic green* is generally used to describe a formally configured small public lawn or park that is primarily unpaved. CIVIC GREENS and SQUARES do not include active recreation structures such as ballfields and courts. See the Urban Space Standards for the specific controls on SQUARES and CIVIC GREENS.

Civic Use. For the purpose of this Code, CIVIC USES include: meeting halls; libraries; schools; police and fire stations; post offices (retail operations only, no primary distribution facilities); places of worship; museums; cultural, visual and performing art centers; transit centers; government functions open for the public; and, other similar community uses. Public ownership alone does not constitute CIVIC USE.

Civic Use Buildings. Those buildings that house strictly CIVIC USES or historically and urbanistically significant structures designated on the REGULATING PLAN. CIVIC USE BUILDINGS and publicly-owned public art are not subject to the BUILDING ENVELOPE STANDARD prescriptions of this Code. See also CIVIC USE.

Clear Walkway. An area within a STREET-SPACE, this portion of the sidewalk shall remain clear of obstructions and allow public passage. The CLEAR WALKWAY width is specified in the Street Type Specifications.

Commerce Use. For the purpose of this Code, COMMERCE USES shall be considered to encompass all of the by-right uses included in the commercial zoning districts of the Unified Development Ordinance, and all of the CIVIC USES defined above, except transit centers. Hotels and lodging shall be considered a COMMERCE USE.

Common Drive. The public right-of-way or easement for vehicles and pedestrians within a BLOCK that provides access to the rear or side of properties, vehicle parking (e.g., garages), utility meters, recycling containers, and garbage bins. The configuration of a COMMON DRIVE designated on the REGULATING PLAN is not exact, and may be negotiated during the approval process, but a through-BLOCK connection must be provided. COMMON DRIVES are generally treated the same as ALLEYS in this Code.

Common Lot Lines. Lot lines shared by adjacent private lots.

Comparative Pedestrian Crossing. The measured distance, shown on the Street Type Specifications, that a pedestrian would be within an automobile travel lane (or turning movement) while crossing a street. A crossing time is calculated based on a pedestrian speed of 3.5 feet per second (a generally accepted urban average). This distance/time is calculated in order to provide a relative gauge of the comfort level for pedestrians crossing the street.

Complete and Discrete Facade Composition. The FACADE articulation that breaks down the apparent scale of a large building into smaller apparent pieces. The goal/intent is 'human scale' for the STREET-SPACE. The objective requirements of the COMPLETE AND DISCRETE FACADE COMPOSITION section of the Code regulate and ensure that scalar break-down. "FAÇADE COMPOSITION" is the arrangement and proportion of FACADE materials and elements (windows, doors, columns, pilasters, materials, bays). "Complete and discrete" is much like the FAÇADE of a new building.

Conservation Line. A line established to guarantee the preservation of designated natural areas. Land beyond the CONSERVATION LINE shall not be built upon paved, driven on, re-graded or otherwise disturbed, except as specified in a REGULATING PLAN.

Corner Lot. A lot in which one side lot line is adjacent to a street or STREET-SPACE. Special building placement, fencing and landscape requirements may apply.

Covered Sidewalk. A roofed or built structure attached to the FAÇADE and extending beyond the REQUIRED BUILDING LINE and over the sidewalk or SQUARE, open to the STREET-SPACE except for supporting columns, piers, or arches. COVERED SIDEWALKS shall have a minimum clear height of 13 feet (signage or lighting may encroach) and a minimum clear width (from FAÇADE or REQUIRED BUILDING LINE) to inside column face of 10 feet. The area within a COVERED SIDEWALK shall include a CLEAR WALKWAY. (See BUILDING ENVELOPE STANDARDS for complete specifications.)

Detached Frontage Building. Building form and functions resulting from/as determined by the detached BUILDING ENVELOPE STANDARD as indicated on the REGULATING PLAN.

Dooryard. The area within the STREET-SPACE between the FAÇADE of the building (generally the REQUIRED BUILDING LINE) and the CLEAR WALKWAY area of the sidewalk. STOOPS, BALCONIES, BAY WINDOWS, and, for appropriate COMMERCE USES, temporary displays or café seating, and other encroachments as specified by the Planning Director may be placed within the DOORYARD area. The DOORYARD area is designated in the Street Type Specifications.

Dormers. Roofed ancillary structures with windows providing light and air to habitable space within the roof. DORMERS are permitted and do not constitute a STORY (for height measurement purposes) so long as: they do not break the primary eave line, are individually less than 15 feet wide, and are collectively not more than 60% of their REQUIRED BUILDING LINE FAÇADE length.

Eave Height. EAVE HEIGHT shall be measured at the bottom of the top layer of roofing material at its outermost point from the building wall.

English Basement. A habitable floor level below the first floor that is partially above and below grade. The ceiling of an ENGLISH BASEMENT is at least 3 feet above sidewalk grade with windows and an entry with direct STREET-SPACE access. ENGLISH BASEMENT units do not count against the STORY height limit but do count against the ultimate height measurement.

Equivalent or Better. A building material or construction technique that has been determined, by the Director, to be at least equal to, in appearance, durability, etc., or surpassing those expressly permitted herein.

Façade (Building Face). The building elevation facing the STREET-SPACE or REQUIRED BUILDING LINE. Building walls facing private interior courts, COMMON LOT LINES, ALLEYS, and COMMON DRIVES are not FAÇADES.

Façade Composition. The arrangement and proportion of materials and building elements (windows, doors, columns, pilasters, bays) on a given FAÇADE.

Fenestration. Openings in the building wall, including windows and doors, allowing light and views between interior (private realm) and exterior (public realm). FENESTRATION is measured as glass area (including mullions and similar window frame elements with a dimension less than 1 inch) and/or as open area.

First Floor. See GROUND STORY.

Front Porch. The ground floor platform attached to the FAÇADE or REQUIRED BUILDING LINE side of the main building. Required FRONT PORCHES, where specified in the BUILDING ENVELOPE STANDARDS, must be roofed and enclosed by balustrades (railings) and posts that extend up to the roof and shall not be otherwise enclosed, above a height of 42 inches, except with insect screening. A FRONT PORCH may have a single ground floor platform or two to three platforms stacked at the ground and upper STORY levels.

Front Yard. An open space required by certain BUILDING ENVELOPE STANDARDS extending across the entire width of the lot between the FAÇADE and the CLEAR WALKWAY area of the sidewalk. Where double frontage or CORNER LOTS exist, any required FRONT YARD shall be provided on both streets. This area is contiguous with the STREET-SPACE, and includes any FRONT PORCH.

Front Yard Fence. The wood (picket), wrought iron fence, or masonry wall, between 30 and 40 inches in height, located along and surrounding the FRONT YARD (generally 1 foot behind and parallel to the DOORYARD/CLEAR WALKWAY line of private lots and also along COMMON LOT LINES to a point not more than 10 feet back from the REQUIRED BUILDING LINE.

Functional Area of an Intersection. The physical area of a public street intersection (defined by the furthest extent of all curb return radii at the intersection), plus the longitudinal limits of any existing or planned auxiliary lanes, including any deceleration tapers. Refer to Figure 1 for an illustration of the FUNCTIONAL AREA OF AN INTERSECTION.

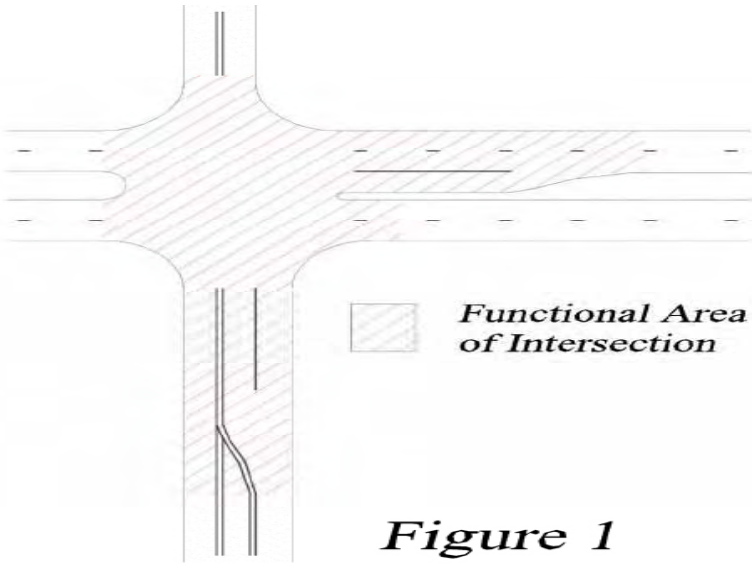

Figure 1

Garden Wall. A masonry wall defining a property line or delineating a private area. Shall be set back (or forward) not more than 8 inches from the specified REQUIRED BUILDING LINE in the REGULATING PLAN or BUILDING FORM STANDARDS. (For height and gate specifications, see the BUILDING FORM STANDARDS.) A GARDEN WALL may serve as a FRONT YARD FENCE.

General Storefront Frontage Building. Building form and functions resulting from/as determined by the Storefront section of the General Urban BUILDING ENVELOPE STANDARD as indicated on the REGULATING PLAN.

General Urban Frontage Building. Building form and functions resulting from/as determined by the General Urban BUILDING ENVELOPE STANDARD as indicated on the REGULATING PLAN.

Ground Story. The first habitable level of a building at/or above grade. For COMMERCE USES, at least two-thirds of the finished floor elevation within 30 feet of the REQUIRED BUILDING LINE shall be within 18 inches of the adjacent fronting sidewalk level. When a residential use occupies the GROUND STORY, the finished floor elevation shall be at least 3 feet above the fronting sidewalk elevation, unless otherwise specified in the BUILDING ENVELOPE STANDARDS. The next STORY above the GROUND STORY is the second floor or STORY.

Light Industrial Use. For the purpose of this Code, LIGHT INDUSTRIAL USES shall be considered to encompass all of the uses allowed by-right and with a special use permit in the industrial zoning districts of the Unified Development Ordinance.

Live-Work. Where designated on the REGULATING PLAN, a TOWNHOUSE is permitted to contain COMMERCE USES where it has its GROUND STORY configured as a SHOPFRONT.

Mezzanine. An intermediate level between the GROUND STORY and the second STORY. It is set back from the RBL at least 20 feet and may be in the form of a platform, podium, or wide balcony. Its uses shall be limited to a continuation of the GROUND STORY uses.

Open Area. See PRIVATE OPEN AREA.

Parapet Height. Where used to limit building height in this Code, PARAPET HEIGHT shall be measured at the top of the parapet, including any coping. An additional 3 feet in height by 12 feet in width or 15% of the FAÇADE, whichever is greater, is permitted for a section of the parapet to emphasize the building's primary street entry or a BLOCK CORNER.

Parking Setback Line. A line or plane indicated on the REGULATING PLAN which extends vertically up from the GROUND STORY floor level (unless otherwise noted on the REGULATING PLAN or BES) and is generally parallel to the REQUIRED BUILDING LINE. The PARKING SETBACK LINE is typically 30 feet behind the REQUIRED BUILDING LINE unless otherwise designated on the REGULATING PLAN. All parking shall be set back behind this line, excepting where it is below grade. The PARKING SETBACK LINE is a permissive minimum distance from the REQUIRED BUILDING LINE and parking may be placed anywhere within the lot behind this line, except where otherwise specified in this Code.

Pedestrian Pathway. An interconnecting paved way providing pedestrian and bicycle passage through BLOCKS running from a STREET-SPACE to another STREET-SPACE, an ALLEY or an interior block parking area. The area within a PEDESTRIAN PATHWAY shall be a public access easement or public right-of-way.

Plaza. See CIVIC GREEN.

Privacy Fence. An opaque fence made of wood or masonry (not chain link or any other type of rolled fence) along ALLEYS, COMMON DRIVES, PEDESTRIAN PATHWAYS, and COMMON LOT LINES (where more than 10 feet behind the REQUIRED BUILDING LINE). See the BUILDING ENVELOPE STANDARDS for height specifications.

Private Open Area. An occupiable area within the BUILDABLE AREA and behind the PARKING SETBACK LINE, accessible only to occupants of the particular building or site, and (primarily) open to the sky. Additional specifications for the PRIVATE OPEN AREA may be included in each BUILDING ENVELOPE STANDARD. Private open area shall not be built-upon, used to satisfy minimum stormwater Best Management Practice area (if thereby excluding tenant occupation), parked or driven upon (except for emergency access). Up to 33% of the required open area may be satisfied through the BALCONIES of individual units. Where it is not specified as "at grade" in the BES, PRIVATE OPEN AREA may be configured as a roof terrace, raised court, or patio/deck.

Regulating Plan. The implementing site plan for the development of the Form District under this Code. Regulating plans allocate the building envelope standards and street types and provide specific information for the disposition of each building site. The regulating plan also shows how each site relates to adjacent street-spaces, the overall district, and the surrounding neighborhoods.

Required Building Line (RBL). A line or plane indicated on the regulating plan, defining the street frontage which extends vertically and generally parallel to the street, at which the building shall be placed. The façade shall occur on the required building line - this is a requirement, not a permissive minimum. The minimum length and height of façade that is required at the RBL is shown on the appropriate building envelope standard.

Residential Use. Residential uses shall be considered to encompass all of the uses allowed by-right and with a special use permit in the residential zoning districts as defined in the Unified Development Ordinance.

Retail Use. Includes the following:

Retail Service. Establishments providing services, as opposed to products, to the general public, including restaurants, hotels and motels, finance, real estate and insurance, travel agencies, health and educational services, and galleries; as well as personal services as defined in the Unified Development Ordinance.

Retail Sales. Establishments wherein the primary use is the sale of merchandise for use or consumption by the immediate purchaser.

Shopfront (Storefront). That portion of the ground story façade fenestration intended for marketing or merchandising of commerce uses and allowing visibility between the sidewalk and the interior space. For regulating plan designated General Urban and General Storefront frontages, the shopfront (including the window glass and supporting structure - frames, sills, muntins, mullions, lintels, etc., whose vertical framing elements are not more that 7 inches in cross section) may encroach up to 2 feet into the dooryard. shopfronts have a minimum 50% fenestration level.

Sidewing. The portion of a building extending along a common lot line toward the alley or rear of the lot.

Small Apartment. See Townhouse/Small Apartment Frontage Building.

Square. See Civic Green.

Stoop. An entry platform on the façade of a building. Stoops may be roofed, but they shall not be enclosed. (See the individual building envelope standards for specifications.)

Story (Story Height). That space within a building and above grade that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above. Story height parameters are as specified by the appropriate building envelope standard.

Street Frontage. That portion of the lot or building that is coincident with the required building line as required by this Code.

Streetlight. A luminaire and pole support installed in the STREET-SPACE, along the STREET TREE ALIGNMENT LINE or median, unless otherwise designated on the REGULATING PLAN. Lighting standards for STREET-SPACES, ALLEYS and COMMON DRIVES should be developed to meet the minimum standards of the Illuminating Engineering Society of North American (IESNA), and the City of Overland Park Streetlighting Resolution.

Street-Space. All space between fronting REQUIRED BUILDING LINES (streets, SQUARES, PLAZAS, PEDESTRIAN PATHWAYS, CIVIC GREENS, sidewalks, quadrangles, parks)—including any transit service operator passenger platform—but not garage entries or ALLEYS.

Street Tree. A tree required per this Code and listed in the Street Tree List located in Urban Space Standards that is of a proven hardy and drought tolerant species and large enough to form a canopy with sufficient clear trunk to allow traffic to pass under unimpeded.

Street Tree Alignment Line. A line along which STREET TREES shall be planted and STREETLIGHTS and other such infrastructure are to be placed. It is generally parallel with the STREET-SPACE and, unless otherwise shown in the Street Type Specifications, is:

- for TREE LAWNS of 7 feet or less, 3 feet from the back-of-curb.

- for TREE LAWNS greater than 7 feet, 4 feet from the back-of-curb or the TREE LAWN centerline, whichever is closer to the STREET-SPACE centerline.

- the STREET TREE ALIGNMENT LINE for center medians less than 20 feet wide is their centerline.

Street Wall. A masonry wall set back not more than 8 inches from the REQUIRED BUILDING LINE which assists in the definition of the STREET-SPACE in the absence of a building. See the BUILDING ENVELOPE STANDARDS for height and gate specifications.

Townhouse/Small Apartment Frontage Building. Building form and functions resulting from/as determined by the Townhouse/Small Apartment BUILDING ENVELOPE STANDARD indicated on the REGULATING PLAN. A Townhouse is the fee-simple configuration of this frontage.

Tree Lawn (Tree Trench). A continuous strip of soil area—typically covered with grass, other vegetation, bridging pavement, or sometimes porous pavers—located between the back of curb and the CLEAR SIDEWALK AREA, and used for planting STREET TREES and configured to foster healthy STREET TREE root systems. TREE LAWN dimensions are specified in the Street Type Specifications.

Where Clearly Visible from the Street-Space. Many requirements of this Code apply only where the subject is "CLEARLY VISIBLE FROM THE STREET-SPACE." (Note that the definition of STREET-SPACE includes SQUARES, CIVIC GREENS, PEDESTRIAN PATHWAYS, parks, and all public space except ALLEYS and COMMON DRIVES.) A building element more than 40 feet from a REQUIRED BUILDING LINE or STREET-SPACE is by definition not CLEARLY VISIBLE FROM THE STREET-SPACE (such as elements facing a COMMON LOT LINE). Also, common or party walls are by definition *not* CLEARLY VISIBLE FROM THE STREET-SPACE. This does not exempt vehicle parking lots or parking structures from any BUILDING ENVELOPE STANDARD requirements.

Workshop Frontage Building. Building form and functions resulting from/as determined by the Workshop BUILDING ENVELOPE STANDARD indicated on the REGULATING PLAN.

Workshop Use. For the purpose of this Code, WORKSHOP USES shall be considered to encompass all of the uses allowed by-right and with a special use permit in the Districts CP-3 and BP zoning districts of the City of Overland Park Zoning Ordinance, subject to applicable development and performance standards.

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STEWART

A. LETTER OF INTEREST

June 17, 2015

Greg Mahar, Planning & Community Development Director
Town of Waxhaw
1150 N. Broome Street
Waxhaw, NC 28173

RE: Town of Waxhaw, Unified Development Ordinance Rewrite & Zoning Map Update

Dear Mr. Mahar,

On behalf of Stewart, I am pleased to provide our RFP response for the Unified Development Ordinance (UDO) Rewrite and Zoning Map Update. Stewart is currently designing David Barnes Park, and I would consider this a great opportunity to continue our work with the Town, its leaders, residents and stakeholders.

Our team understands the Town's need for a comprehensive rewrite of the UDO and the goal to develop a clear and user-friendly form-based code that is consistent with the Town's current plans and policies, as well as what will come from the update to the Town's Comprehensive Plan. Our past experience with the Town has allowed us to develop a clear understanding of its sense of place, its development history and its desire to remain a historic small town while balancing growth pressures from the Charlotte metropolitan region. We understand the Town is interested in shaping, managing, and encouraging this growth in a manner consistent with the needs and wants of the community at large.

Because this project requires an in-depth understanding of our North Carolina planning law and recent updates, as well as your existing UDO, we have teamed with RATIO, a nationally recognized planning and design firm to assist in the development of the UDO with form-based elements, as well as the update to the zoning map. RATIO's design-based planning approach and planner's dual backgrounds with specialties in architecture, landscape architecture and urban design bring added value to our team. RATIO has prepared over two dozen Zoning and Subdivision Codes and UDO's in the last 15 years.

RATIO's expertise is in being able to visualize the desired development goals from the words on the pages of an ordinance and in being able to provide 2D and 3D graphics to illustrate the desired forms and outcomes. Together we will develop a UDO that connects and aligns with local growth and economic development goals by guiding and generating development activity. Our philosophy on this assignment will be that sustainable reinvestment cannot occur without sound master planning and a progressive, envelope-pushing plan that can bridge the gap that typically exists between traditional planning and physical development. Our success will be aided by a thorough understanding of market conditions, land use, transportation, economics and communications. ***Our approach will be fun, transparent and inclusive.***

200 SOUTH COLLEGE ST. SUITE 720 | CHARLOTTE, NC 28202 | **T** 704.334.7925 **F** 704.334.7926

STEWART

A. LETTER OF INTEREST

Our team will be led by me as Principal-in-Charge and Randi Gates, AICP as Project Manager. Our team members from RATIO will include Jackie Turner, AICP, LEED AP, who will be the principal author of the Code, as well as Aaron Kowalski and Paul Lipchak, AICP. We will approach this project based on the following:

- We know the Town of Waxhaw is dedicated to preserving its small-town charm and character.
- We have experience in preparing municipal traditional and form-based codes and in the use of overlay districts or Planned Unit Development Districts to regulate development and redevelopment in other communities.
- We have extensive experience in building community consensus to support innovative regulatory structures.
- We welcome the opportunity to seek input from diverse stakeholders – property and business owners, residents, youth, seniors - to help determine the tolerance for regulation.
- We enjoy utilizing community events as venues if the timing is right.
- We have a clear and graphic communication style.
- Our team has an existing online website, www.CommunityCollaborate.com, that we use to set up portals for all projects to post notices, summaries, surveys, drafts, etc. The Town can provide a link to it on their website.
- We have experience in identifying, evaluating, codifying, and explaining the essential qualities of community design and character, and incorporating sustainability into the codes for ecological, aesthetic and economic benefit.

We feel that the combination of our knowledge of the Town and the resources and experience of the two firms makes our team uniquely qualified for this assignment. We hope that you will find our response to be comprehensive and will see that our team is excited and passionate about working together with the Town of Waxhaw to develop a Unified Development Ordinance that will be a key tool in your success.

I will look forward to hearing from you soon and hope that we will have an opportunity to interview in person to further discuss our approach. Please do not hesitate to contact me with any questions at jwood@stewartinc.com or 704.909.3518.

Respectfully submitted,

STEWART

Jonathan D. Wood

Jon Wood, PLA, ASLA
Associate Vice President / Manager of Landscape Architecture

200 SOUTH COLLEGE ST. SUITE 720 | CHARLOTTE, NC 28202 | **T** 704.334.7925 **F** 704.334.7926

B. INTRODUCTION

FIRM OVERVIEW: STEWART

Stewart is an engineering, design and planning firm located in Charlotte, Raleigh, and Durham, NC and Richmond, Va., serving clients throughout the southeastern US. With a unique collaborative cross-discipline approach that results in stronger and more creative designs, Stewart offers a variety of services to meet the needs of its clients, including:

- **Land Planning and Design**
- **Structural Engineering**
- **Transportation**
- **Geomatics**
- **Construction Services**

Founded in 1994 by Willy E. Stewart, PE, the firm has more than 150 employees. Stewart is owned by a select group of professionals who are personally involved in our clients' projects.

Stewart provides services in a variety of markets within the public and private sectors. Clients include education, healthcare, institutions, municipalities, architects, departments of transportation and the federal government as well as commercial, retail, residential and mixed-use developers.

FIRM OVERVIEW: RATIO

RATIO is a multidisciplinary design practice offering services in architecture, preservation, interior design, landscape architecture, urban design and planning, and graphic design. Since their founding in 1982, the firm has partnered with a diverse list of clients and gained a wealth of experience in the education, community, life sciences, workplace, lifestyle and cultural marketplaces.

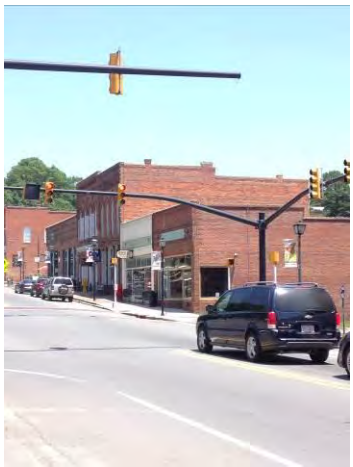
After 30 years, RATIO has evolved to a firm of more than 100 designers and administrative staff. The firm's four studio locations in Indianapolis, IN, Champaign, IL, Raleigh, NC, and Chicago, IL allow their team of design professionals to cross geographic boundaries and provide a high level of architectural design excellence to clients throughout the country.

RATIO values its role in helping people connect with their community. They understand the importance of listening and know it's the critical first step in helping to shape your design vision. They listen to your goals, values and budget and then translate that vision into a distinctive, functional solution unique to your organization.

As urban planning continues to draw interest and renewed commitment from municipalities across the nation, our urban planning and design studio is well positioned to help communities meet these unique challenges. Their team has the experience and skills to artfully produce solutions that realize the maximum value from a community's investment.

Their studio team members take special interest in the process entailed with creating solutions that connect people to the places in which they live, work and play, and to each other. With a deep appreciation for the nuances that make each place unique, our team uses a holistic approach to make sure that future visions of growth and continued prosperity can be realized.

C. WORK PROGRAM



Project Approach

Our team has developed a project approach that is tailored to the Town of Waxhaw and is based upon our understanding of the Town and the region. With team members located in Charlotte, NC and having worked on projects in Waxhaw, we have a personal understanding of the Town's determination to balance growth pressures from the Charlotte metropolitan region while maintaining the historic small town character. We understand the Town's need for a comprehensive rewrite of the Unified Development Ordinance (UDO) and update to the zoning map. Our team will analyze and assess the existing UDO and its deficiencies, some of which have been noted in the Request for Proposals. We will successfully rewrite the UDO, possibly as a hybrid code, incorporating form-based and smart growth principles, as well as update the town's zoning map.

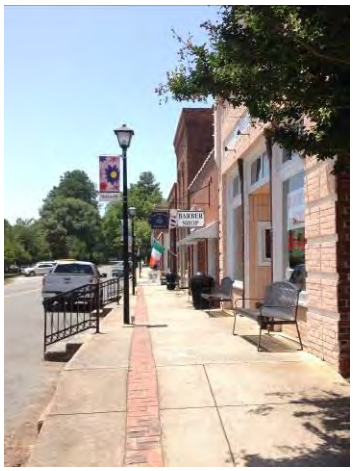
Our team has over 15 years of experience preparing unified development ordinances, zoning, subdivision, and historic preservation ordinances and accompanying zoning maps for communities of all sizes, and especially those facing the impact of rapid growth. Our planners have worked on both sides of the counter, as municipal planners and consultants, which helps us provide ordinances that are appealing, well organized and legally defensible. The Unified Development Ordinance will have at its foundation the goals and policies contained in the Town's 2030 Comprehensive Plan (currently being updated) and other relevant documents, and will include input from community leaders and residents. We will use our expertise to prepare a modern Unified Development Ordinance that reflects the community's desired level of regulation, emerging trends in planning practice, and guidance for procedures including enforcement. The new Unified Development Ordinance will be a graphically-rich and user-friendly document to help communicate regulatory concepts. Our team prides itself on the graphics and user friendliness of our regulatory documents which have been time tested and continue to be user friendly even as some approach 15 years of age. Over the years we have continued to work with our team of in-house graphic designers to update and improve our documents for both print and digital use.

Public Engagement

Our team's planning practice is based upon work with public clients and we have honed our communication skills and methods of public involvement. Our team proposes an ongoing outreach and education program to ensure broad-based understanding of the concepts and support for ordinance development. Our public participation strategy, which is customized for the Town of Waxhaw and will be refined at the initial meeting with staff, ensures the approach reaches interested groups and individuals. The public input will involve town staff, leadership, a steering committee and other stakeholders in a meaningful conversation to identify current ordinance issues, and prioritize ordinance changes to achieve the vision. RATIO brings an interactive web-based public input tool, www.CommunityCollaborate.com which will be used to facilitate informing the public and review and comment on the ordinance drafts.

Town Staff Working Meetings

Our team will conduct monthly staff working meetings during the project to review and discuss the results of the various project tasks. We will provide a summary for each meeting for use as a reference during the project. This relationship continues



through the last phase of the process with staff training on the use of the ordinance and map.

Steering Committee Meetings

Although the inclusion of a steering committee in this project is not mentioned in the RFP, our team feels that a diverse, representative committee would add tremendous value to the project. If it is determined that a steering committee is not necessary, these proposed meetings can be removed from the project schedule and the budget revised accordingly. With the formation of a steering committee, our team will conduct up to four meetings with a steering committee of municipal staff, stakeholders and a representative of the Planning Board throughout the project. We encourage participation from this group throughout the project and we will work closely with the group as ordinance sections are drafted. We will document the results and prepare a summary for each meeting.

Stakeholder Meetings

At times, input is best received from small groups of individuals with similar interests. Our team will interview up to five key stakeholder groups that may not be represented on the steering committee. Our team will help coordinate the 1 to 1 ½ hour interview, typically conducted on one day.

Public Workshops/Open Houses

The Scope of Project outlined in the Request for Proposals reflects a minimum of four opportunities for public engagement during the project. The initial public process will include a minimum of two full-day workshops. The workshops will be informal with an element of fun and inclusion, providing an opportunity for everyone to participate. They will include an educational component and exercises that result in focused input. Our public outreach also includes 24/7 access with the online tool described previously and the use of Community Planning Toolkits for a "do-it-yourself" small group experience.

The second round of public meetings (minimum of two full-day public meetings) will be open house style at which we will reveal the draft Unified Development Ordinance (with form-based code) and Zoning Map. It will be designed to engage and guide the public on specific content of the draft UDO, while providing examples of a variety of projects in the town going through the review process under the proposed form-based code. In addition to the public open house meetings, our team will also make a presentation at a joint meeting with the Town Board, Planning Board, and Board of Adjustment to update on the status of the project, timbre of the public input and gather additional input from them on the draft UDO and zoning map. All public meetings will be heavily publicized through flyers, press releases, CommunityCollaborate, and other social media outlets.

Planning Board and Town Board Approval

Once the draft documents have been refined based on the public input and various reviews, our team will conduct up to three presentations (cumulatively) at noticed public hearings to the Planning Board and Town Board for formal approval and adoption of the final Unified Development Ordinance and zoning map.

C. WORK PROGRAM

Phase 1: Review & Analysis

The first phase of the project will include project start-up and a review of existing conditions. Our team, along with Town staff and local government leaders, will build their working relationship, establish procedures for communication and finalize the project schedule. Phase 1 includes the following components:

Kick-off Meeting
Our team will begin the first phase of the project with a 'kick-off' meeting with Town staff to further refine the scope of services, the project schedule, monthly staff meetings, discussion of public input strategies, and to confirm the study areas of focus. This kick-off meeting will include a general issues discussion on the existing UDO and collection of all relevant documents and maps.

Public Engagement Strategy
Our team will work with the Town during the kick-off meeting above to brainstorm and finalize methods of encouraging public input throughout the project. Together with the Town, we will coordinate community calendars and identify the most successful methods for Waxhaw to invite interested groups and stakeholders via press releases, utility bill newsletters, flyers, mailings, CommunityCollaborate, social media, and email notices to participate in planning related events.

Field Work
Our team will conduct a walking and windshield tour of the town to identify and assess the features that create and support the town's distinct identity. We ask that a staff member serve as a guide to point out specific issues that the current code does not address. The issues and existing land uses will be documented and mapped as a foundation for the zoning map update.

Review & Analysis
The team will review the Town's existing planning documents including but not limited to the current Unified Development Ordinance, Comprehensive Plan (currently being updated), Carolina Thread Trail Master Plan, Comprehensive Pedestrian Plan, Downtown Neighborhoods Small Area Plan, Downtown Small Area Plan, Highway 16 Corridor Plan, Local Area Regional Transportation Plan, Park, Recreation, and Cultural Resources Master Plan, and other adopted policy and maintenance plans. Our team will assess the existing Unified Development Ordinance and zoning map on its effectiveness in achieving the goals, vision and recommendations in the 2030 Comprehensive Plan (currently being updated), as well as any text amendments and variances that may have been requested over the years. This task will allow our team to deepen our existing knowledge of Waxhaw and to have the utmost credibility with the community as we embark on this process. We will also obtain GIS information and existing shapefiles to prepare maps for the process and ultimately for the update of the zoning map.

Stakeholder Meetings
Our team will interview up to five key stakeholder groups that may not be represented on the steering committee. Our team will help coordinate the 1 to 1 ½ hour interview, typically conducted on one day.

C. WORK PROGRAM

Prepare Summary Assessment of Existing Code

Based on the information gathered during this phase, our team will summarize our analysis of the applicable key issues and themes to be addressed throughout the UDO rewrite process. The summary document will identify issues, summarize the effectiveness of the current ordinance with amendments, confirm the direction of newly adopted codes, and make recommendations that implement the Comprehensive Plan's goals and vision, and create an outline as to the approach we will pursue to provide a UDO that will serve a growing and changing town. The summary document will include graphics and where possible outline best practices and precedent examples.

Meet with the Steering Committee (1 of 4 meetings)

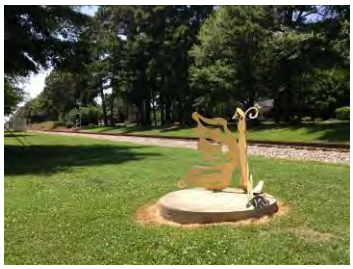
We will conduct a meeting with the project Steering Committee to review the planning process and discuss the Committee's vision for the new Unified Development Ordinance. The intent of the meeting will be to gather committee member's comments regarding any aspects of the ordinance that they feel need to be changed. The agenda will include introductions, a review of the project schedule and a general issues discussion.

Meet with Town Staff

We anticipate monthly meetings with Town Staff. We have found success using conference calling and video conferencing for meetings depending on the content.

Phase 1 Deliverables will include:

- Summary Assessment Document - approximately 20 pages, 8½ x 11 format
- Meeting Minutes - for all meetings, our team will prepare draft meeting minutes for distribution to attendees of the meeting



Phase 2: Initial Public Process

Public Workshops (minimum of 2)

Our team believes strongly in community workshops to get many people talking about making better places, to garner community input, and ultimately to create buy-in. Our team will conduct a minimum of two public workshops to solicit input from the general public regarding regulation for development, application of design standards, and protection for culturally sensitive environments in a revised Unified Development Ordinance with form standards based on mass and scale instead of primary use. These workshops will be full-day and will likely be conducted in a central location, be informal, educational and accessible, providing an opportunity for everyone to express views. Exercises may include visual preference surveys, real-time polling, photo dropbox of issues and small group mapping. We will coordinate with the Town to advertise and distribute meeting notices, flyers, etc. The Town Board and Planning Board will receive invitations. Our team will facilitate the workshops and record the results for use throughout the project.

Steering Committee Meeting (2 of 4 meetings)

Our team will meet with the Steering Committee to discuss the results of stakeholder interviews and the public workshops and how these will inform the preliminary new ordinance recommendations.

C. WORK PROGRAM

Meet with Town Staff

We anticipate monthly meetings with Town Staff. We have found success using conference calling and video conferencing for meetings depending on the content.

Phase 2 Deliverables will include:

- Presentation Materials for Public Workshops
- Public Workshop Summary
- Meeting Minutes

Phase 3: Draft Unified Development Ordinance and Zoning Map

Draft Unified Development Ordinance Update

Once consensus on the issues and preliminary recommendations is reached, our team will begin drafting the new Unified Development Ordinance. We will utilize input gained from the public workshops, meetings with Town staff, and the Summary Assessment. Our team is committed to drafting codes that are easily understood and free of jargon. A look at our codes over the last fifteen years reveals the use of illustrations, photographs, process flow charts, and matrices to convey regulatory information and effectively assist Town staff, the development community and residents in interpretation of regulatory requirements and future enforcement.

With our understanding of the level of regulation desired by the community, we will draft the new UDO. The document will contain design parameters that will facilitate a developer friendly environment and create vibrant spaces while protecting the existing character to enhance citizens' and visitors' quality of life, a priority of the Town. The team will incorporate the sign ordinance (September 2013) and form-based Downtown Code (November 2013) into the new UDO and work with staff to assess if standards applied in the downtown are applicable to and appropriate for other areas and corridors in the Town.

In addition, we will address:

- Building Form / Public Space / Street Standards - incorporate 2D and 3D graphics that illustrate desired form and massing and building types with specific districts and define the character of the public realm (pedestrian, bike and vehicular zones within the right-of-way). Use Tables will supplement the form-based approach.
- Parking / Landscaping / Lighting and Other Standards
- Architectural Standards – incorporate standards for multi-family and non-residential development. The team will track state legislation that impacts provision of design standards for single-family, two-family and townhome development.
- Subdivision Standards - we will update Section 18 of the current UDO to incorporate recent best practices, illustrations, and potentially streamline procedures to facilitate administration and understanding by staff and the public.
- Historic Preservation Standards – RATIO's in-house preservation group will develop ordinance standards that provide the desired balance for maintaining historic character and protect investments.

- Floodplain Development Standards - provide sustainable strategies through increasing densities, mixing uses in zoning districts for more compact development particularly in proximity to multi-modal transportation, promoting low impact development (LID) that help manage stormwater runoff, enhance water quality, encourage parking ratio maximums, landscaping paved areas, and requiring energy efficient and dark sky lighting. Our team is at the forefront in green building and as such our ordinances have included incentives (e.g. streamlined project approvals) for developers employing sustainable building design and construction (i.e.: LEED certification) and other green technologies.

The UDO will also include but is not limited to chapters that address procedures, penalties and enforcement, and definitions. Transitional standards that integrate the form-based UDO into the Town's existing regulatory framework along with an index and cross-references will enhance the usability by staff and the public and maximize the effectiveness of the code.

Draft Zoning Map Update
In addition to the new UDO, our team will update the zoning map for the Town in a GIS format using ESRI ARC MAP GIS Software and existing shapefiles (to be provided by the Town). The Zoning Map will identify new districts or overlays that reflect the future land use map in the Comprehensive Plan and are in conformance with the draft Ordinance.

Steering Committee Meeting (3 of 4 meetings)
We will meet with the Steering Committee to discuss the key recommendations for the new UDO and to obtain feedback on the adequacy of addressing identified issues.

Phase 3 Deliverables will include:

- Draft Unified Development Ordinance - Microsoft Word, 8½ x 11 format
- Draft Zoning Map
- Meeting Minutes

Phase 4: Refining the Unified Development Ordinance

Meet with Town Staff
Our team will utilize the monthly meetings with Town staff to review the draft Unified Development Ordinance which will be grouped into sections for a more manageable review. This will ensure the process proceeds smoothly and on schedule. We will discuss an adequate review period for staff at initial meetings. Staff shall document comments and return to our team for edits to the draft ordinance.

Steering Committee Meeting (4 of 4 meetings)
Following Town staff review, our team will meet with the Steering Committee to review the draft UDO. The draft will be broken into sections and distributed to the Steering Committee prior to the meeting. The draft will be provided to the committee a minimum of one week ahead of time to allow time for adequate review.

C. WORK PROGRAM

Legal Review

The draft Unified Development Ordinance will be prepared consistent with current North Carolina State Statutes, Waxhaw municipal code, and best planning practices. It is also important that the Town Attorney review and comment on the draft sections as they are produced. Our team will incorporate comments from the legal review by the Town's attorney into the draft. If determined necessary, the team has a working relationship with a NC Regulatory Attorney that we can bring into the project on an as needed/hourly basis (outside of the prime agreement).

Public Open Houses (minimum of 2)

Our team will conduct a minimum of two full-day public open houses to present the draft Unified Development Ordinance (with form-based code). The intent of these meetings is to explain how the Unified Development Ordinance is used while providing examples of a variety of projects in the town going through the review process under the proposed form-based code, new concepts found in the new ordinance, solicit public input and gain support. The meetings will be open house style and will be informal with presentation boards and maps available for viewing. Our team will encourage dialogue around the Ordinance and answer any questions that may arise. We will coordinate with the Town to advertise and distribute meeting notices, flyers, etc. The Town Board and Planning Board will receive invitations. Our team will facilitate the workshops and record the results.

Town Board, Planning Board, and Board of Adjustment Review

Our team will make a presentation at a joint meeting with the Town Board, Planning Board, and Board of Adjustment to update on the status of the project, timbre of the public input and gather additional input from the Boards on the draft Unified Development Ordinance (with form-based code) and zoning map. Our team could also prepare a development scenario to test the ordinance as part of the presentation for the boards.

Draft Unified Development Ordinance Revisions

Following the review of the draft Unified Development Ordinance, our team will incorporate all comments into the Final Unified Development Ordinance which will become the draft for the Adoption process. This draft will include final versions of all illustrations, charts and tables.

Draft Zoning Map Revisions

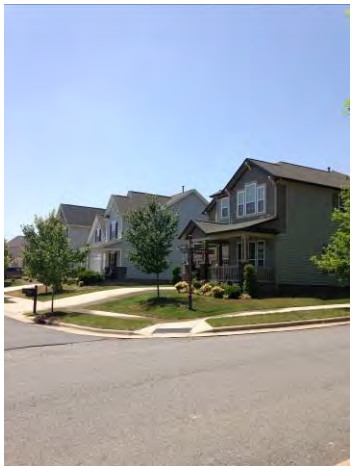
Our team will revise the zoning map based on the input and review. We will discuss with staff the transition from existing to any new zoning districts without requiring individual public notice or hearing. The zoning map will be adopted separately from the revised Unified Development Ordinance.

Town Staff Review

Our team will submit the final Unified Development Ordinance to Town staff for review prior to any public hearing. Review of comments may be in person or video conferencing.

Phase 4 Deliverables will include:

- Presentation Materials for Open Houses
- Public Open House Summary
- Meeting Minutes



Phase 5: Approval Process

Planning Board and Town Board Approval

Our team will coordinate meetings with the Planning Board and Town Board to ensure the document is properly reviewed and adoption proceedings are followed per state statute. This scope assumes that Town staff will be responsible for all required public noticing. Once the draft documents have been refined based on the public input and various reviews, our team will conduct up to three presentations (cumulatively) to the Planning Board and Town Board for formal review, approval, and adoption of the final Unified Development Ordinance.

Technical Documents

Our team will work with Town staff to create all necessary applications, forms, documents, fee schedules, brochures, and other materials that will be required to implement and administer the new form-based code.

Phase 5 Deliverables will include:

- Final Unified Development Ordinance - 15 bound copies of the Final Unified Development Ordinance will be delivered to the Town, along with the results of the community input. The final UDO will also be provided in both Microsoft Word and PDF formats to the Town. All illustrations, maps, GIS information (ArcGIS 10.1) and graphics contained will be provided separately in electronic, editable format.
- Revised Zoning Map - The revised Zoning Map will be delivered to the Town in GIS format, packaged with all shapefiles (ArcGIS 10.1) in an editable format.
- Technical Documents

Phase 6: Post Adoption

Once the new Unified Development Ordinance is adopted by the Town Board, our team will provide training to the town staff on management of the new form-based UDO. Our team will also create all necessary forms and materials required to implement and administer the Code.

Training Session

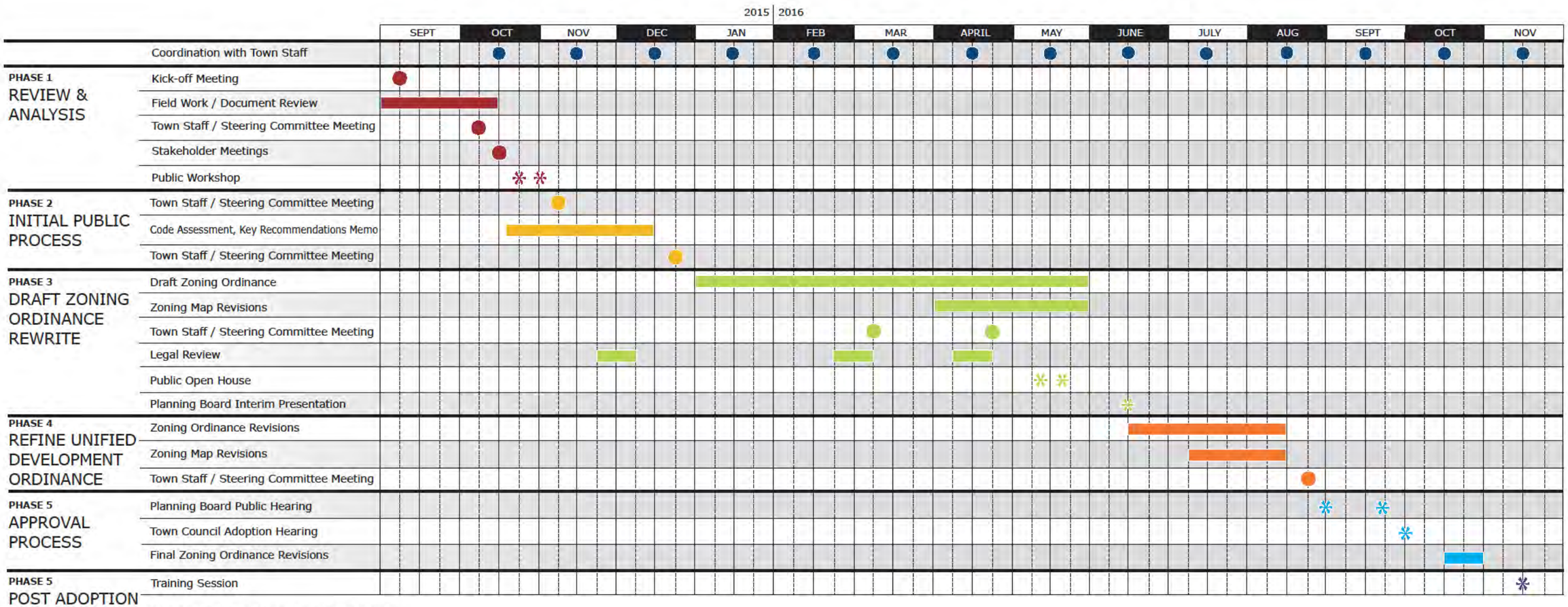
We will develop and facilitate one training session after the adoption of the Unified Development Ordinance (with form-based code content) and Zoning Map to assist Town staff and leadership in the understanding, interpretation and administration of the new planning tool.

Phase 6 Deliverables will include:

- Training Session

D. TIMEFRAME FLOW CHART

The table below illustrates our schedule for this project.



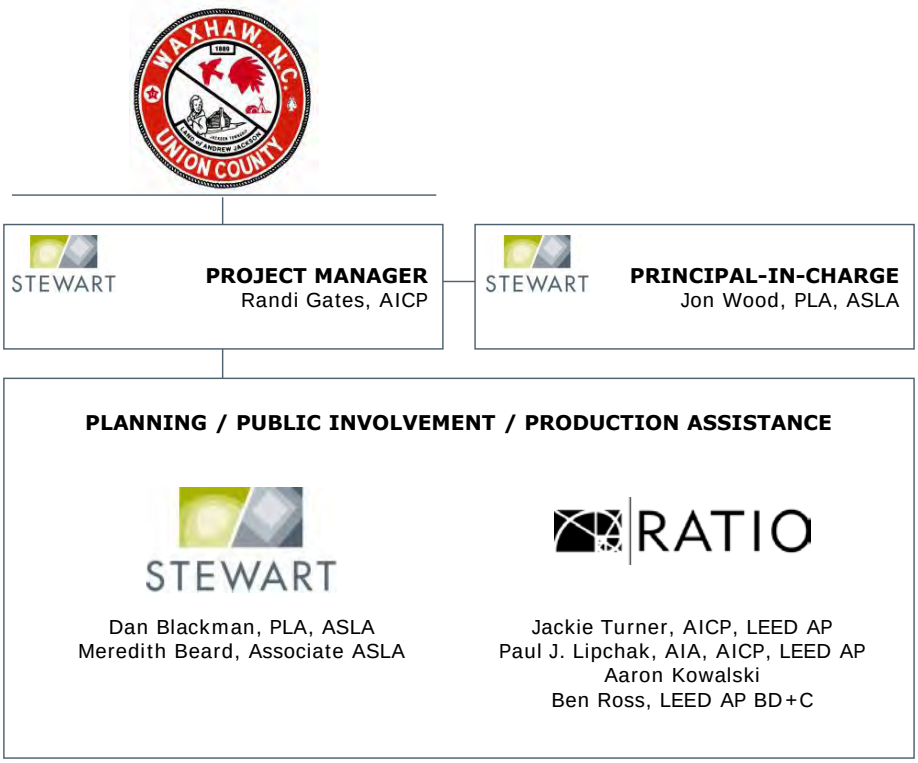
* Timeline subject to change based on staff review.

- PUBLIC MEETINGS
- ENGAGEMENT STAKEHOLDERS (VARIOUS LEVELS)
- TOWN STAFF MEETINGS

E. TEAM EXPERTISE

The chart below illustrates our team for this project, with resumes on the following pages.

With Stewart's knowledge of the Town and RATIO's wealth of experience in the various development codes and ordinances, we have assembled the perfect team for the job.



E. TEAM EXPERTISE

EDUCATION
Bachelor of Science in Geography, Appalachian State University, Boone, NC 2005

REGISTRATION
American Institute of Certified Planners (AICP) #025717

PRESENTER
2013 Planning for Healthy Communities: Implementing Walkable Community Plans

2009 NC Planning Conference - The Carolina Thread Trail - An Example of Regional Partnerships

2009 Carolina Thread Trail Forum - Carolina Thread Trail - Lessons Learned

2008 Carolina Thread Trail Forum - Step 1: Master Planning

Randi P. Gates, AICP
Land Planning & Design Project Manager

Randi is a Certified Planner with over nine years of transportation and connectivity planning experience, the past six with Carolina Thread Trail, and has worked closely with all members of our Stewart team on system-wide greenway master plan projects. Randi managed several projects while at Carolina Thread Trail, most involving review and compilation of multiple bicycle, pedestrian, greenway plans into system-wide connectivity for multiple counties. While with Stewart, Randi has drafted text amendment recommendations for various Unified Development Ordinances (UDOs), either creating new policies or enhancing existing policy language in order to aid communities in successfully implementing bicycle, pedestrian, and greenway projects. Randi has extensive experience in public involvement and is adept at using creative methods that reflect each unique situation to engage the public in each planning process she's involved in.

SELECTED EXPERIENCE

- Harrisburg Comprehensive Bicycle, Pedestrian and Greenway Master Plan, Harrisburg, NC
- Monroe Greenway Master Plan, Monroe, NC
- Rowan County Communities Carolina Thread Trail Greenway Master Plan, Rowan County, NC*
- Cherokee County Carolina Thread Trail Greenway Master Plan, Cherokee County, SC*
- Catawba County Countywide Greenway Master Plan, Catawba County, NC*

**Performed while with Carolina Thread Trail*

REFERENCES

- Town of Harrisburg
  Josh Watkins, Planning Director
  jwatkins@harrisburgnc.org
  704.455.0709
- City of Monroe
  Tonya Edwards, Asst. Parks and Recreation Director
  tedwards@monroenc.org
  704.282.4695
- Carolina Thread Trail
  Travis Morehead, Operations Director
  travis@carolinathreadtrail.org
  704.376.2556 Ext. 216

E. TEAM EXPERTISE

Jon Wood, PLA, ASLA
Associate Vice President / Manager of Landscape Architecture

As Manager of Landscape Architecture, Jon is responsible for overseeing the landscape architects and planners in the Charlotte office. He is a landscape architect with experience in the analysis, planning, site design, construction documentation, and construction administration for projects throughout the Carolinas. Jon's strength in leadership and design make him an excellent manager. He maintains open lines of communication with clients and staff while keeping a watchful eye on project schedules and budgets.

EDUCATION
Bachelor of Science in Landscape Architecture, The Ohio State University, 1982

REGISTRATION
Professional Landscape Architect (PLA)
North Carolina #557,
South Carolina #705

PRESENTER
2013 Carolina Thread Trail Forum – Assessing your Trails, Keeping Them Safe and Enjoyable

2012 Park Pride – On the Path to Health: Benefits of Greenways and Trails

2011 Carolina Thread Trail Forum – ADA Accessibility Requirements for Trails

2011 NC/SC RPA – Find Your New Park From Within Your Old Park

2010 Carolina Thread Trail Forum – You Have a Plan, Now Let's Build It

2009 NC/SC RPA Conference - Frustration Free Facility Construction

2008 NCRPA - Think Outside the Park to Bring Youth Back into the Park

SELECTED EXPERIENCE

- David G. Barnes Park & Horton Property Master Plan, Waxhaw, NC
- Macon County Recreation Master Plan, Macon County, NC
- Monroe Parks, Recreation, Greenways, and Open Space Master Plan, Monroe, NC
- Pedestrian and Bicycle Neighborhood Connectivity Study, Charlotte, NC
- Dorchester County Comprehensive Parks and Recreation Master Plan, Dorchester County, SC
- Wake County Parks and Recreation Master Plan, Wake County, NC

REFERENCES

- Mecklenburg County Asset and Facility Management
  Bert Lynn, PLA, ASLA Project Manager
  Bert.Lynn@mecklenburgcountync.gov
  980.314.2503
- Town of Matthews
  Corey King, Parks, Recreation and Cultural Resources Director
  cking@matthewsnc.gov
  704.708.1263
- City of High Point (formerly with the Town of Matthews)
  Lee Tillery, Director, Parks & Recreation Department
  lee.tillery@highpointnc.gov
  336.883.3468

E. TEAM EXPERTISE

EDUCATION
Bachelor of Science in Landscape Architecture, University of Florida, 1995

REGISTRATION
Professional Landscape Architect (PLA)
North Carolina #1332
Connecticut #1306

CLARB Certified Landscape Architect, #13419

Dan Blackman, PLA, ASLA
Land Planning & Design Project Manager

Dan is a landscape architect with 19 years of professional experience. His attention to detail, thorough design process, and management skills are an asset to any project. His experience includes site analysis, site design and construction documentation for private and municipal clients, along with land planning and entitlement work. Dan has been involved in many of the firm's projects across the Mid-Atlantic region utilizing his experience and skill set to take projects through the design process from conceptual plans to overseeing construction.

SELECTED EXPERIENCE
- David G. Barnes Park & Horton Property Master Plan, Waxhaw, NC
- Main Street/Black Street Corridor Revitalization Study, Rock Hill, SC
- Concord Plans and Related Projects, Concord, NC

REFERENCES
- Town of Waxhaw, Natalie Jackson, Director of Parks and Recreation
  njackson@waxhaw.com, 704.843.2195 Ext. 278
- Town of Matthews, Corey King, Parks, Recreation and Cultural Resources Director
  cking@matthewsnc.gov, 704.708.1263
- City of Asheville, Al Kopf, Superintendent, Park Planning & Development
  akopf@ashevillenc.gov, 828.259.5838

EDUCATION
Master of Urban Design, Savannah College of Art and Design – School of Building Arts, 2013

Bachelor of Landscape Architecture,
University of Georgia, College of Environment and Design, 2011

Meredith Beard, Associate ASLA, LEED Green Associate
Landscape Designer

As a landscape designer with a strong background in urban design, Meredith is currently working towards her PLA license. She has experience in a wide range of projects from streetscape design and urban greenway/stormwater design to recreational/passive park design and community master planning. At Stewart, Meredith is responsible for evolving designs from preliminary conceptual ideas, integrating the design into its surrounding context, specifying material pricing and generating full landscape construction packages.

SELECTED EXPERIENCE
- David G. Barnes Park & Horton Property Master Plan, Waxhaw, NC
- Main Street/Black Street Corridor Revitalization Study, Rock Hill, SC
- Rowan County Communities Carolina Thread Trail Greenway Master Plan, Rowan County, NC
- Monroe Greenway/Bikeway Master Plan, Monroe, NC

REFERENCES
- Arnett Muldrow & Associates, Tripp Muldrow, Principal
  tripp@arnettmuldrow.com, 864.915.7102
- Carolina Thread Trail, Travis Morehead, Operations Director
  travis@carolinathreadtrail.org, 704.376.2556 Ext. 216
- City of Monroe, Tonya Edwards, Asst. Parks and Recreation Director
  tedwards@monroenc.org, 704.282.4695

E. TEAM EXPERTISE

Jackie Turner, AICP, LEED AP
Senior Urban Planner

EDUCATION
Master of Landscape Architecture, University of California, Berkeley

Bachelor of Arts, Environmental Biology, University of Virginia

REGISTRATION / CERTIFICATION
Certified Planner, American Institute of Certified Planners

LEED Accredited Professional

PROFESSIONAL AFFILIATIONS
Member, American Institute of Certified Planners

American Planning Association (APA)

PRESENTER
The Resilient City: Incorporating Pre-Disaster Mitigation Plans into Comprehensive Planning, NC State Urban Design Conference

Revitalization Through Community Branding, Raleigh, NC

The SoBro Planned Development District, APA, Ohio, Kentucky Joint Meeting

Design Based Planning in the New Economy, Purdue Road School

A member of the RATIO team since 2005, Jackie brings more than 25 years of experience in urban planning and design, community planning and landscape architecture in both the public and private sector.

Jackie is passionate about creating healthy context-sensitive environments in which we can live, work and play. She is committed to providing professional expertise in planning and design services that respond to a client's needs while exhibiting a creative flair and environmental sensitivity, reflecting modern design theories.

Throughout her career, Jackie has prepared dozens of documents including zoning ordinances, comprehensive plans, master plans, environmental documents, planting and irrigation plans and developed design guidelines for several communities. As a planner, she is skilled in meeting facilitation and has lead hundreds of public workshops and steering committee and client staff meetings and presented before commissions, boards and councils.

SELECTED EXPERIENCE

- Zoning Ordinance, Hendricks County, IN
- United Development Ordinance, Lebanon, IN
- United Development Ordinance, Burlington, NC
- SoBro Planned Development District, Louisville, KY
- United Development Ordinance, Pulaski County, IN
- RHIC District Neighborhood Master Plan & Ordinance, Terre Haute, IN

REFERENCES

- Hendricks County
  Don Reitz, Director of Planning & Building
  dreitz@co.hendricks.in.us
  317.745.9346
- City of Louisville
  Ken Baker, Planner & Supervisor
  Kendal.baker@louisvilleky.gov
  502.574.6230
- City of Jasper
  Darla Blazey, Director
  dblazey@ci.jasper.us
  812.482.4255

E. TEAM EXPERTISE

EDUCATION
Master of Architecture in Urban Design, Harvard Graduate School of Design

Bachelor of Architecture and Bachelor of Building Science, Rensselaer Polytechnic Institute

REGISTRATION / CERTIFICATION
Registered Architect, State of NC

Certified Planner, American Institute of Certified Planners

LEED Accredited Professional

PROFESSIONAL AFFILIATIONS
Past Young Architects Forum Director, AIA Triangle Board of Directors

Co-chair, AIA Triangle Theory Forum

Mentor, AIA Triangle Young Architects Forum

NCSU Urban Design Conference Committee

ReSpace Design Competition Coordination Committee

Triangle Modernist Homes Advisory Council

Paul J. Lipchak, AIA, AICP, LEED AP
Architect

Paul has 10 years of experience in the allied practices of architecture, urban design and planning. This experience includes project management of a multi-campus framework planning study serving the Massachusetts State & Community College system.

Paul's advanced education in urban design from Harvard's Graduate School of Design stressed the importance of landscape and infrastructure to the quality of the physical environment and strengthened his sensitivity to history and place identity. Paul's experience with design at all scales of practice facilitates both big picture thinking and attention to detail.

SELECTED EXPERIENCE

- Unified Development Ordinance, Burlington, NC
- Comprehensive Plan, Burlington, NC
- Comprehensive Plan, Clayton, NC
- PNC Arena Addition, Raleigh, NC
- Bath Building Renovation, Raleigh, NC
- Parks & Recreation Operations Facility, Durham, NC

REFERENCES

- City of Burlington
  David Beal, Assistant Planning Director
  dbeal@ci.burlington.nc.us
  336.513.5417
- The Centennial Authority
  Jeff Merritt, Executive Director
  jmerritt@centauth.com
  919.829.8132
- State of North Carolina
  Cindy Register, Assistant Director
  Cindy.Register@doa.nc.gov
  919.807.4127

E. TEAM EXPERTISE

EDUCATION
Master of Urban Design, Ball State University, Indianapolis, IN

Bachelor of Landscape Architecture, Ball State University, Muncie, IN

PROFESSIONAL AFFILIATIONS
Member, American Planning Association National Chapter,

Central Region Board Representative, Indiana Planning Association

Member, American Society of Landscape Architects

Member, Indy Ride Guide, Map Development Team, INDYCOG, Technical Team

Member, INDYCOG, Indianapolis Bicycle Advocacy Group

Member, Uptown Steering Committee, Parks Committee, King Park Area Development Corporation

PRESENTATIONS & PUBLICATIONS
Integrating Pre-Disaster Mitigation Planning Into Comprehensive Planning, Presenter, 2014 Ohio, Kentucky, Indiana Regional American Planning Association Conference

Good Planning Sets the Table for Downtown Revitalization, Guest Speaker, 2014 IMCA Downtown Workshop

Aaron Kowalski
Urban Planner/Urban Designer

Aaron joined RATIO's urban design + planning studio after spending several years honing his skills in the public sector. His passion lies in the exploration of environments where people live, work and play. By improving the relationship between people and their physical surroundings, we can cultivate connectivity through cohesiveness; thereby, creating a community which encourages economic and social vitality.

Recently, Aaron spearheaded the creation and management of a municipal planning and building department, parks and trails department, and GIS system. Aaron's experience in both public and private practice provides valuable knowledge of the process needed to undertake a variety of planning projects.

Aaron is an advocate of using a design-based planning approach to identify and ideate redevelopment opportunities with a focus on revitalizing communities through quality design and market driven strategies for implementation.

SELECTED EXPERIENCE
- Unified Development Ordinance, Burlington, NC
- Unified Development Ordinance, Jasper County, IN
- Unified Development Ordinance, Pulaski County, IN
- Zoning Ordinance Update, Cicero, IN
- Mid Town PUD, Carmel, IN
- Zoning Ordinance Update, Anderson Township, OH

REFERENCES
- Pulaski County
  Nathan Origer, Executive Director
  nporiger@pulaskionline.org
  574.946.3869
- Town of Cicero
  Paul Munoz, Director of Planning & Development
  pmunoz@ciceroin.org
  317.984.5845
- City of Jasper
  Darla Blazey, Director
  dblazey@ci.jasper.us
  812.482.4255

E. TEAM EXPERTISE

Ben Ross, LEED AP BD+C
Historic Preservation

As a preservation specialist, Ben recognizes the complex issues that can emerge during preservation projects. Ben enjoys the challenge of using creative design to incorporate contemporary needs into historic structures. Aware of the economic, cultural and environmental benefits of building reuse, Ben works to achieve the client's goals while maintaining the historic character and quality of the building.

EDUCATION
Master of Architecture with a Concentration in Historic Preservation and Sustainable Design, Ball State University, Muncie, IN

Bachelor of Science in Architecture, Ball State University, Muncie, IN

REGISTRATION / CERTIFICATION
LEED Accredited Professional

36 CFR Part 61 Qualified in History / Architectural History and Architecture / Historic Architecture

PROFESSIONAL AFFILIATIONS
Board Member, Association for Preservation Technology International,
Ohio Valley Chapter

Board Member, Tippecanoe County Historical Association

Officer, Southeast Chapter, Society of Architectural Historians (SESAH)

PRESENTATIONS & PUBLICATIONS
Session Panelist, "Your Turn: Ensuring a Sustainable Future at Your Historic Site," 2013 National Preservation Conference

"The Moses Fowler House: Examining Gothic Revival Design in the Wabash Valley," Southeast Chapter of the Society of Architectural Historians (SESAH), 2012

SELECTED EXPERIENCE
- Facade Renovation Plan, Shelbyville, IN
- Town Center Facade Program, Plainfield, IN
- Ohio River Bridges, Various Locations, IN & KY
- Downtown Design Guidelines, Fort Wayne, IN
- Comprehensive Plan, Lawrenceville, IL
- Historic Centennial, Neighborhood Plan, Lafayette, IN
- Downtown Revitalization, Fairmount, IN

REFERENCES
- Blue River Community Foundation (Shelbyville)
  Amy Haacker, Director of Redevelopment
  ahaacker@blueriverfoundation.com
  317.392.7955
- City of Lafayette
  Dennis Carson, Director of Economic Development
  dcarson@lafayette.in.gov
  765.807.1090
- Town of Plainfield
  Joe James, Director of Planning & Zoning
  jjames@town.plainfield.in.us
  317.839.2561

F. DESCRIPTION OF COMPARABLE PROJECTS

PROJECT MATRIX

The table below summarizes the projects shown in this proposal. More details about selected projects are included on the project sheets following this page.

Project	Status	Reference	Public Involvement	Location	Size	Website Address
Burlington Unified Development Ordinance	Draft in Progress	Amy Nelson 336.222.5110	Steering Committee Council/Board Workshop	Burlington, NC	25.4 SqMi	ci.burlington.nc.us
RHIC Medical District Ordinance	In Progress	Pat Martin 812.232.4028	Steering Committee Public Workshops Open House Public Hearing	Terre Haute, IN	44 Blocks District North of Downtown	terrehaute.in.gov
City of Jasper Unified Development Ordinance	April 2015 In Progress	Darla Blazey 812.482.4255	Steering Committee Public Workshops	Jasper, IN	9.3 SqMi	jasperindiana.gov
Pulaski County Unified Development Ordinance	Draft in Progress	Nathan Origer 574.946.3869	Steering Committee Public Workshops Open House Public Hearing	Winamac, IN	434.53 SqMi	pulaskionline.org
Sellersburg Planned Unit District	Adopted	Ken Alexander 812.989.9823	Steering Committee Public Workshops Open House Public Hearing	Sellersburg, IN	4 SqMi	sellersburg.org
Fort Wayne Downtown Districts Ordinance	Adopted	Sherese Fortriede 260.427.1132	Steering Committee Public Workshops Open House Public Hearing	Fort Wayne, IN	110 SqMi	allencounty.us.org
Anderson Township, OH Zoning Ordinance	Adopted	Paul Drury 513.688.8400	Steering Committee / Public Input	Anderson Township, OH	40.2 SqMi	andersontownship.org
SoBro Planned Development District Ordinance	Adopted 2011	Ken Baker 502.574.5822	Steering Committee Public Workshop & Open House	Louisville, KY	32 Blocks District South of Downtown	louisvilleky.gov
Lebanon Unified Development Ordinance	Adopted	Charlie Campbell 765.482.8845	Steering Committee Public Workshops Open House Public Hearing	Lebanon, IN	15.5 SqMi	cityoflebanon.org
Hendricks County Zoning Ordinance	Adopted	Don Reitz 317.745.9346	Steering Committee Public Workshops Open House Public Hearing	Hendricks County, IN	408.78 SqMi	co.hendricks.in.us
Town of Cicero Zoning Ordinance	Adopted 1999	Paul Munoz 317.984.5845	Advisory Committee	Cicero, IN	2.12 SqMi	ciceroin.org
Carmel Midtown Form Based Regulating Plan	Adopted	Michael Hollibaugh 317.571.2417	Developer Driven Redevelopment Commission Meeting Plan Commission Mtg Public Hearing	Carmel, IN	4 Sq. Blocks	carmel.in.gov

Specifications
CLIENT
The City of Burlington

YEAR
2014

SERVICES
Urban Design & Planning

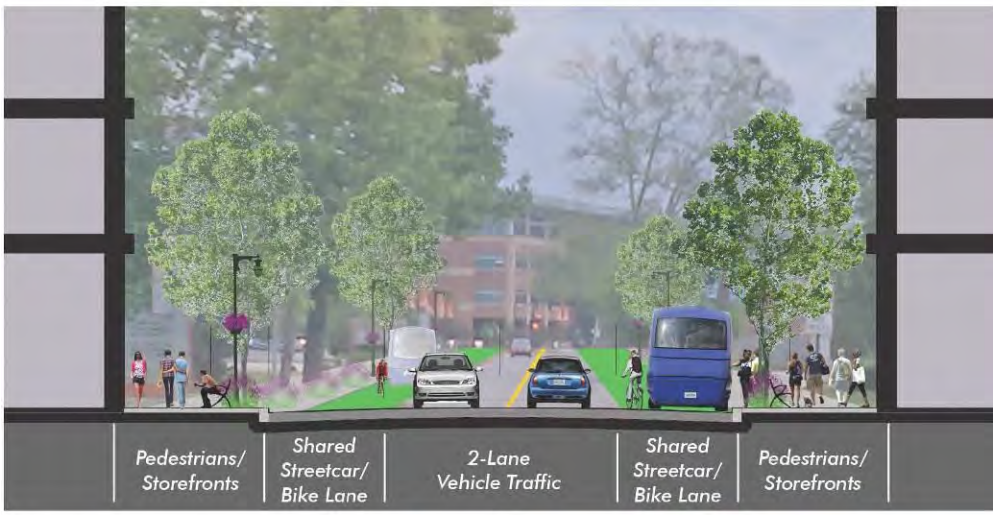
CONTACT
David Beal
336.513.5417

Burlington Unified Development Ordinance

Burlington, NC

During the fall of 2014 RATIO was selected to write a new Unified Development Ordinance (UDO) for the City of Burlington, North Carolina. This UDO is the first implementation step following a new Comprehensive Plan. RATIO is leading the Burlington staff and a local steering committee through a series of exercises and discussions to develop a user-friendly UDO that will help spur economic development throughout the community.

Burlington seeks a UDO that directly implements the goals of the Comprehensive Plan by promoting a revitalized downtown, housing quality and diversity; enhancing the quality of key gateways; and providing clear, legally defensible sign controls.



Specifications
CLIENT
Rural Health
Innovation Collaborative

YEAR
2010

SERVICES
Urban Design & Planning

CONTACT
Pat Martin
812.232.4028

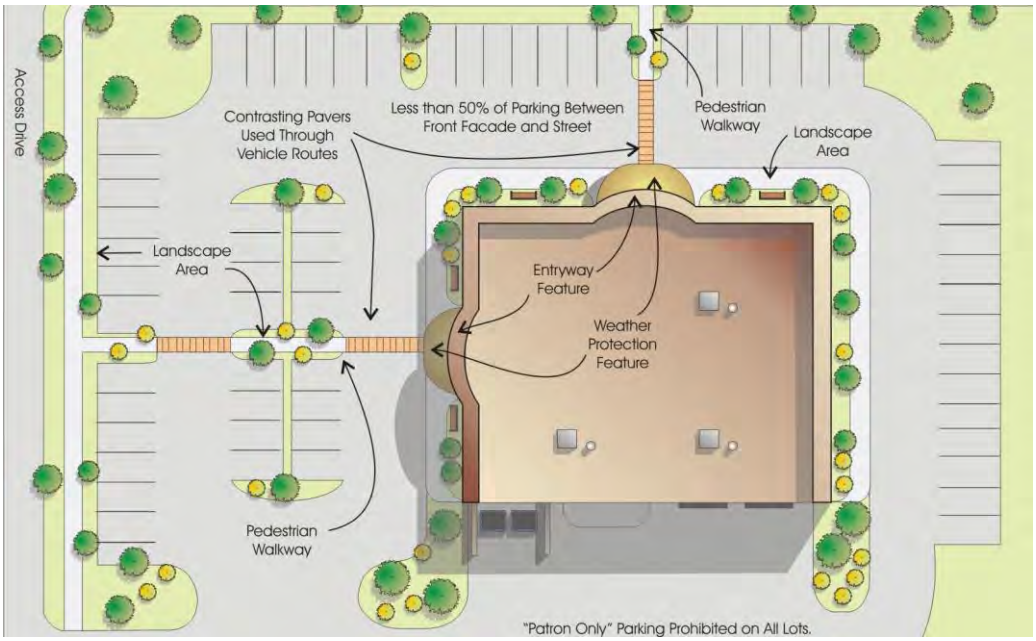
RHIC District Neighborhood Master Plan & Ordinance

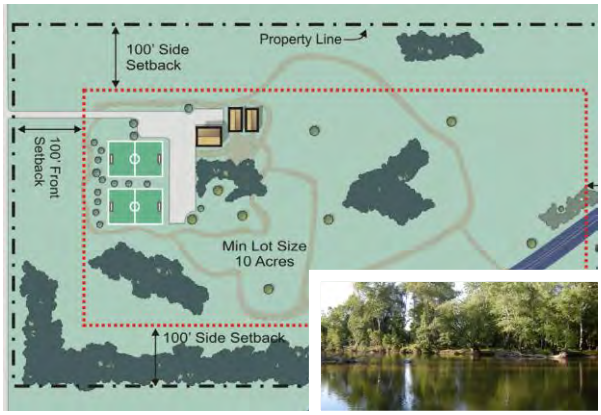
Terre Haute, IN

The RHIC District Neighborhood Master Plan is a two-part companion plan composed of a Redevelopment Concept Plan and an Overlay District Ordinance. Created for the Rural Health Innovation Collaborative (RHIC), the plan applies to a neighborhood in the heart of Terre Haute, IN bounded by Indiana State University and Union Hospital.

Building on the existing fabric and development pattern of the area, the combined plan components provide guidance for revitalization and future investment within the 270-acre neighborhood.

Highlights of the master plan include an emphasis on mixed-use development, including a range of commercial and residential options, reinvestment into established residential areas, innovative stormwater detention that doubles as open space for users and residents, and a dedicated lane for streetcars and bicycles between Downtown Terre Haute and Union Hospital.





Specifications
CLIENT
Pulaski County, Indiana

YEAR
2015

SERVICES
Urban Design & Planning
Graphic Design

CONTACT
Nathan Origer
574.946.3869

Unified Development Ordinance

Winamac, IN

Pulaski County, Indiana, selected RATIO to update their existing County Zoning Ordinance and Subdivision Control Ordinance with goals of combining both into a legally defensible Unified Development Ordinance. RATIO is also reformatting and illustrating the ordinance into a modern, user-friendly product designed to be viewed predominately on the web. Content is also being revised to modernize single and multi-family residential, commercial, parking, and landscaping standards as well as protect the County's natural beauty, rural heritage and agricultural businesses.

The 2015 Unified Development Ordinance is just one piece of a comprehensive marketing and economic development strategy which is poised to make Pulaski County a developer-friendly alternative to Northwest Indiana, and to promote responsible and flexible growth in the future. Our team expects to have updates completed by late May 2015, followed by an early June adoption.

F. DESCRIPTION OF COMPARABLE PROJECTS

Specifications
CLIENT
Town of Sellersburg
Redevelopment Commission

YEAR
2011

SERVICES
Urban Design & Planning

CONTACT
Ken Alexander
812.989.9823

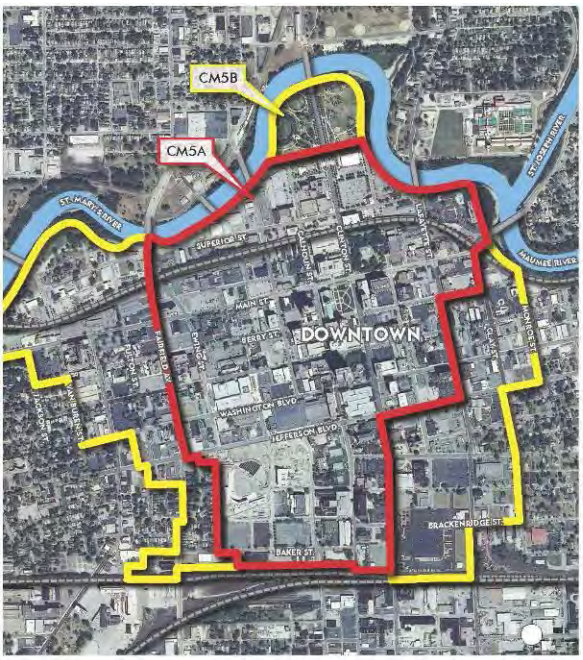
Development Plan

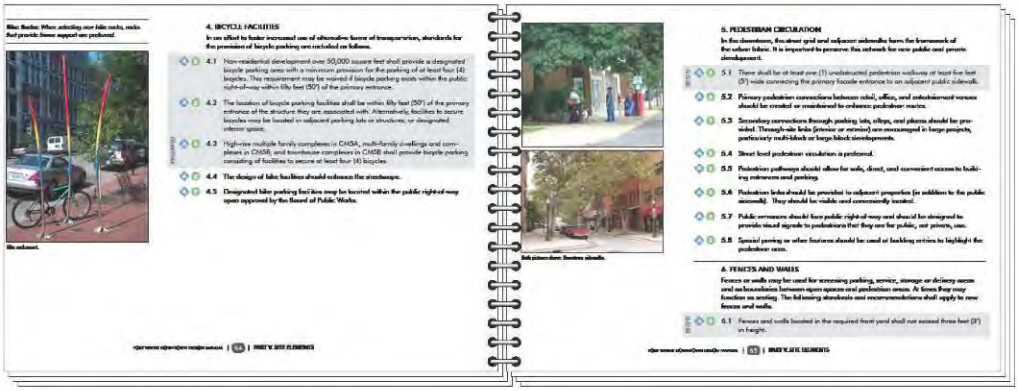
Sellersburg, IN

Sellersburg, Indiana is a small community located along Interstate 65 about ten minutes north of Louisville, Kentucky. The town's Redevelopment Commission selected RATIO to carry out a planned unit development ordinance and market study for a Tax Increment Finance (TIF) district.

Specifically, the Redevelopment Commission's primary focus was to attract additional retail development within the TIF district. Based on market analyses performed for the site, it was apparent the town had a unique opportunity to create a cohesive, master-planned community that encourages mixed-use and compact development in a walkable setting. By focusing on a mixed-use strategy for the 258-acre site divided into four subareas, the effort would not only buffer downward trends in the local economy, but also create a vibrant focal point for the community to enjoy. As of October 2014, Sellersburg is currently working with several developers to create multi-family as well as mixed-use commercial development within the PUD.

F. DESCRIPTION OF COMPARABLE PROJECTS





Specifications
CLIENT
City of Fort Wayne
Planning Department

YEAR
2010

SERVICES
Architecture
Urban Design & Planning

CONTACT
Sherese Fortriede
260.427.1132

AWARDS
2011 - "Outstanding Project" Award from the Indiana Chapter of the American Planning Association

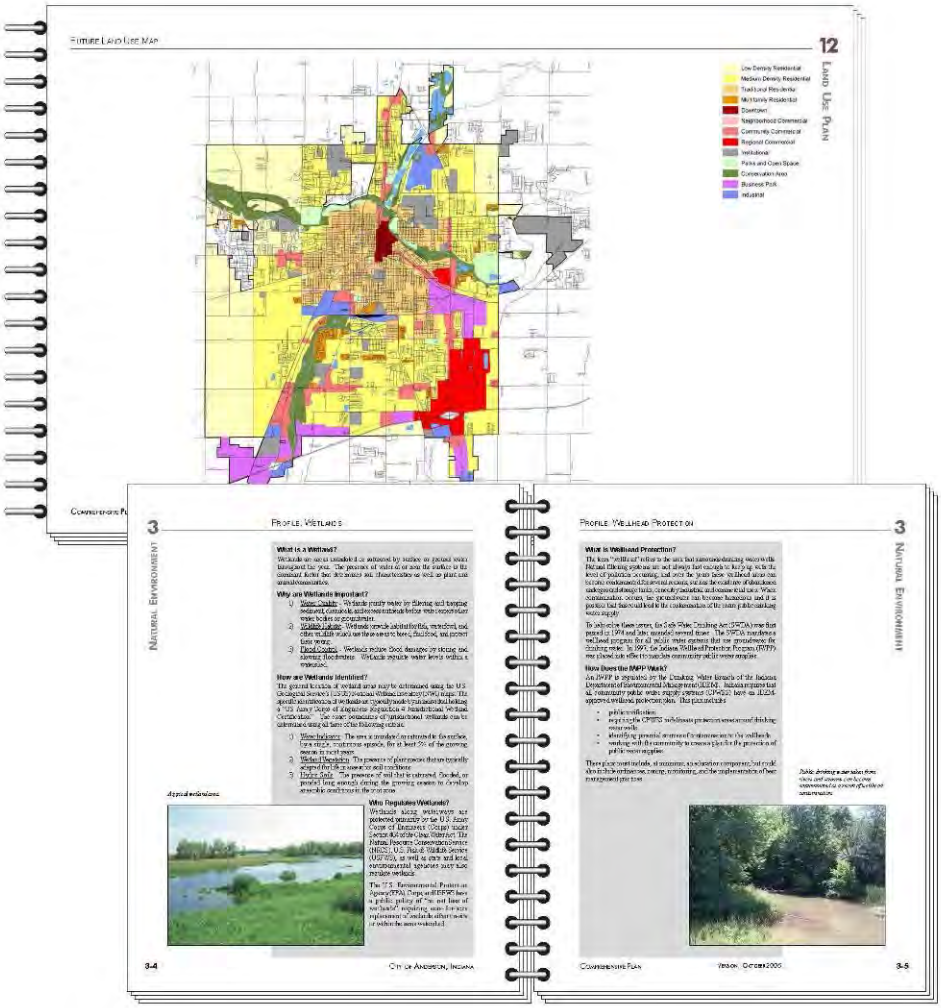
Downtown Design Guidelines & Ordinances

Fort Wayne, IN

Urban places result from the desire to live in close proximity to services, commerce and community. They are a physical manifestation of locally shared values no matter the scale; from a quaint historic village to a large bustling city. Fort Wayne has a history of urban design goals and policies containing recommendations to distinguish the character and pattern of development in its downtown from the development that surrounds it.

In 2009, RATIO was engaged to convert a decade's worth of recommendations into standards to be included in the Fort Wayne Zoning Ordinance. The Downtown Design Manual that resulted contains requirements (shaded text) and recommendations applicable to the two downtown zoning districts. The document which was approved in 2010 is supported by illustrations and photographs to aid in implementation. The requirements contained within were codified into the City's Zoning Ordinance with other text amendments later that year.

F. DESCRIPTION OF COMPARABLE PROJECTS



Specifications
CLIENT
The City of Anderson

YEAR
2005

SERVICES
Urban Design & Planning

CONTACT
Michael Widing
765.648.5914

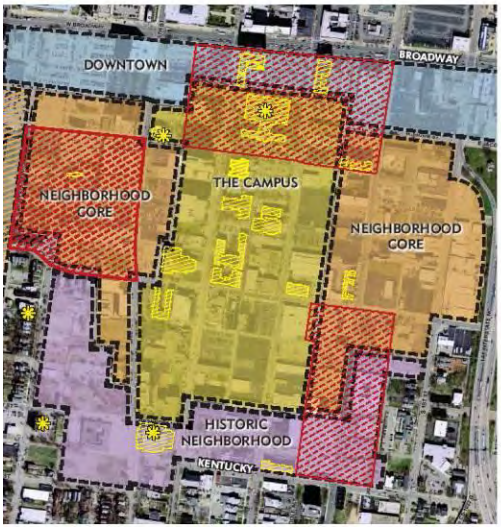
Anderson Comprehensive Plan

Anderson, IN

More than 40 years have passed since the City of Anderson last adopted a comprehensive plan. RATIO was hired to help create a new vision for this post-industrial city whose economy is transitioning from one that was dominated by GM production facilities to a more diverse regional economy, linked to the growth of Central Indiana and emerging global markets. This economic shift has created a need to look at new land use patterns and planning tools.

RATIO collaborated with a steering committee and city planning staff to craft a plan that is unique to Anderson's needs. The plan provides specific recommendations to position the city to be a major participant in the global marketplace by linking new development to Interstate 69, outlines appropriate settings needed for emerging businesses, and offers existing industrial land redevelopment strategies.

The planning team used a variety of innovative public input techniques, including RATIO's custom web-based resource CommunityCollaborate.com. In addition, the Comprehensive Plan is produced in a user-friendly format, enabling the public to easily understand the new vision and action steps.



SoBro Planned Development District

Louisville, KY

At the crossroads of downtown and historic Old Louisville, SoBro combines the strengths of both, through a commingling of business, education, cultural institutions, commerce and manufacturing. The purpose of the PDD is to offer a flexible and creative alternative to typical zoning in hopes of creating a vibrant district that links downtown, residences, institutions, open space, and workplaces. The PDD includes recommendations (guidelines) and requirements (code standards) for future development that would possess the intensity and density needed to economically and socially revitalize the SoBro neighborhood.

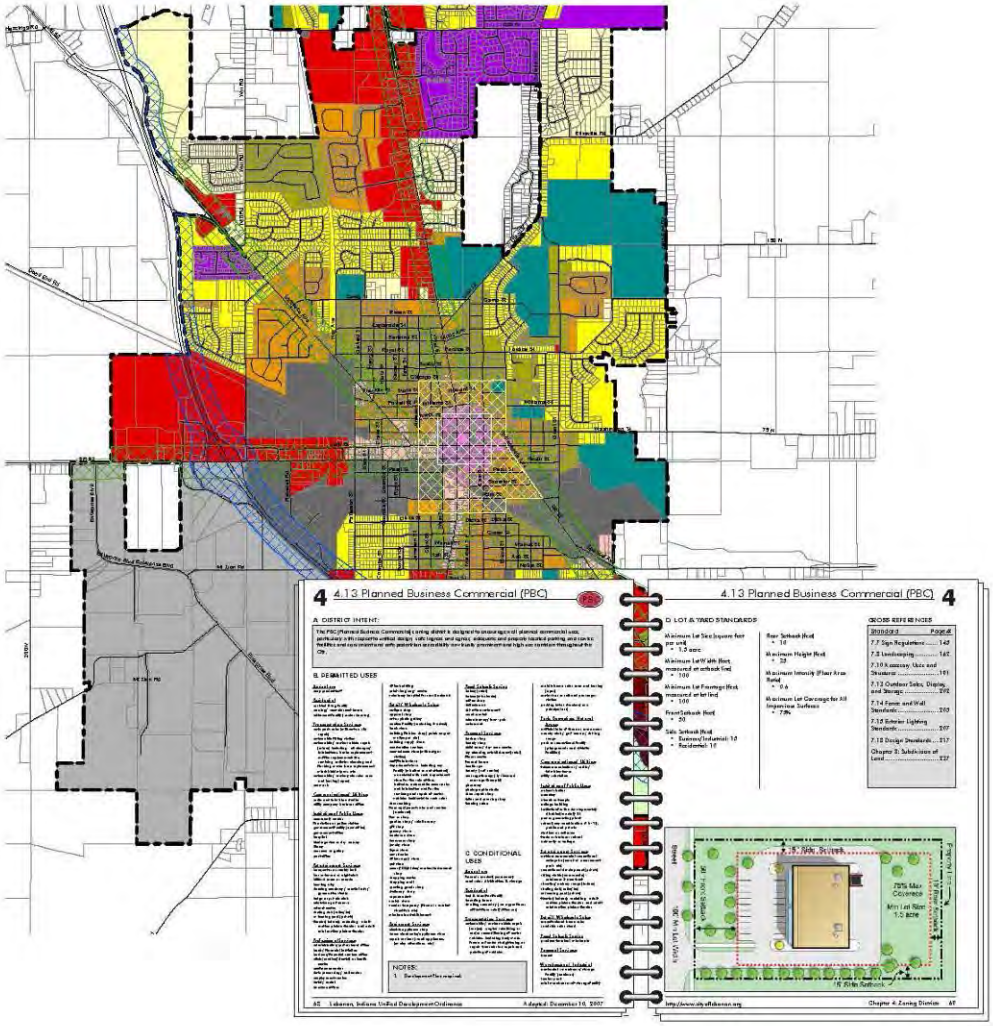
Specifications

CLIENT
Louisville Metro Planning and Design Services

YEAR
2010

SERVICES
Urban Design & Planning
Preservation
Landscape Architecture

CONTACT
Ken Baker
502.574.5822



Specifications
CLIENT
City of Lebanon

YEAR
2007

SERVICES
Urban Design & Planning

CONTACT
Charlie Campbell
765.482.8845

Unified Development Ordinance

Lebanon, IN

RATIO prepared a new comprehensive plan for this city of 14,500 located on the edge of expanding metropolitan Indianapolis. The plan provided a citizen-based vision for increasing the quality of life in Lebanon while planning for sustainable growth in adjacent Center Township. RATIO facilitated numerous public forums throughout the process and assisted communication between city and county officials.

The plan provided clear policies for the concurrent extension of infrastructure along with changes in land use. It also identified areas for the preservation of open space and the creation of community parks. RATIO conducted an economic analysis that identified gaps in serving various market segments that could be met by new commercial development. RATIO also provided a downtown revitalization plan along with an analysis of gateway corridors entering the community. In addition, the ordinance revisions include new residential and commercial design standards.

STEWART

RATIO

Specifications
CLIENT
Hendricks County Commissioners

YEAR
2008

SERVICES
Urban Design & Planning

CONTACT
Don Reitz
317.745.9346

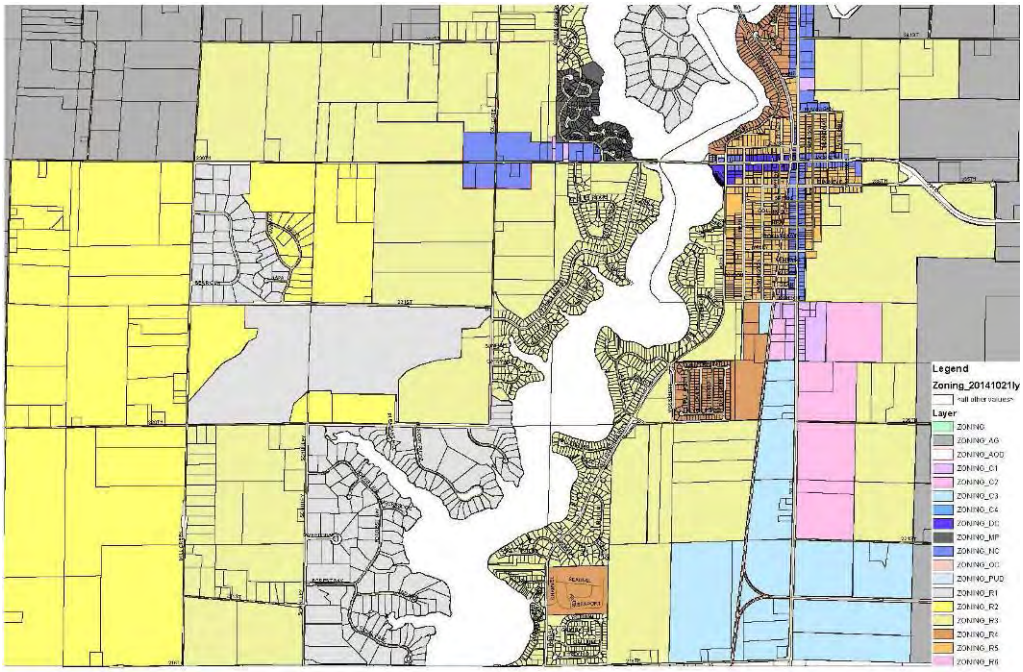
Hendricks County Zoning Ordinance

Hendricks County, IN

Following on the heels of the Hendricks County Comprehensive Plan update, adopted December 2006, RATIO was hired to update the county's Zoning Ordinance. It would be necessary to use the zoning ordinance to put teeth to some of the recommendations and policies provided in the Comprehensive Plan.

The document was created to include cross referencing, online optimization for electronic viewing, and incorporate new trends in development and sustainability to ensure responsible, high-quality development in Hendricks County. In addition, a supplemental document of Residential Subdivision Design Guidelines was created to encourage quality, durable design in the fast-developing suburban neighborhoods.

The ordinance is visually engaging and uses a unique graphic format to enable the public to easily understand the requirements contained within. RATIO conducted a planning workshop, empowering the public and a project steering committee to have direct input into the updated language and layout.



Specifications
CLIENT
Town of Cicero

YEAR
2015

SERVICES
Urban Design & Planning

CONTACT
Paul Munoz
317.984.5845

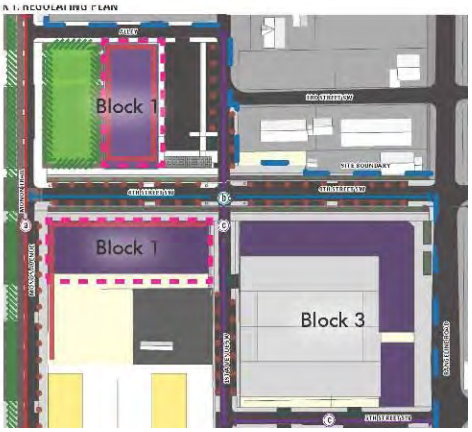
Zoning Ordinace and Map Update

Cicero, IN

The shared jurisdiction of Cicero and Jackson Township, Indiana, is an expanding community located on the northern edge of high-growth Hamilton County and Morse Reservoir. Despite its location on the edge of regional development pressures, Cicero's strengths include its historic, small-town feel, an intact core and an attractive waterfront.

In 1999, RATIO prepared the Cicero and Jackson Township Zoning Ordinance and Zoning Map. RATIO partnered with the Town of Cicero again in 2014 to modernize the Ordinance with targeted updates, including current statute and best management practices (such as alternative energy regulations) and a simplified layout. RATIO also reconstructed the Town/Township Zoning Map in GIS format for online public viewing.

Cicero and Jackson Township desire to provide enhanced opportunity to support business and residential growth in the community, position zoning and regulations to optimize growth potential for three new US 31 interchanges, and catalyze a mixed-use downtown.



Specifications
CLIENT
City of Carmel

YEAR
2014

SERVICES
Urban Design & Planning
Landscape Architecture

CONTACT
Mike Hollibaugh
317.571.2444

Midtown PUD

Carmel, IN

The Midtown Concept Plan and PUD Regulating plan provide an implementable path towards revitalizing 11 acres of prime, but currently blighted property within the core of Carmel, Indiana. Once completed, this project will result in over $150 million worth of investment in the community, including a public-private partnership with the City to utilize TIF revenue to help pay for public improvements, a parking garage, and other infrastructure. The project is a key urban infill connection between Carmel City Center and the Carmel Arts & Design District as the City works to build a mixed-use, active, walkable downtown.

The project will also connect with and provide improvements to the Monon Trail, one of the busiest urban greenways in the nation. Features include a shared-use pedestrian and vehicular street, a public plaza adjacent to the Monon Trail, public art, sustainable storm water management, and complete street treatments. This project includes a 60,000 sq. ft. office building, 200,000 sq. ft. of office space, 85,000 sq. ft. of commercial and retail space, 270 flats and condominiums and a 700-space parking garage.

Construction will occur in phases over five years, beginning with a $15 million dollar plaza and office building as early as 2015. According to the City of Carmel, planned office and commercial space is expected to result in 800 to 1,000 new jobs, in addition to 300-400 construction jobs each year during construction.

F. DESCRIPTION OF COMPARABLE PROJECTS

Specifications

CLIENT
Town of Waxhaw, NC

YEAR
In progress

SERVICES
Master Planning
Public Involvement
Site Inventory and Analysis
Conceptual Planning
Budget Estimation

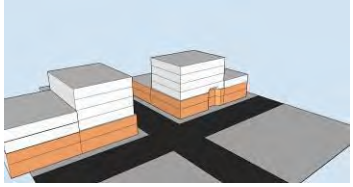
CONTACT
Natalie Jackson
704.843.2195 Ext. 278

David G. Barnes Park & Horton Property Master Plan

Waxhaw, NC

Following the purchase of the seven acre tract from the Horton family, the Town of Waxhaw sought to combine the property with the David G. Barnes Park and redesign the space as an urban green space in character with the town's 'Rustic & Refined' branding. The proposed program for the park includes a street front plaza for gathering along the retail corridor of Main Street. The courtyard includes an exhibit space for installations along an art walk leading to an interactive fountain in the center of the park. Additional program elements include a Community building, outdoor amphitheater, sensory garden, community growers garden, formal gardens and trails. When complete, the park will play a key role in providing space for street vendors and venues for exhibits during the town's festivals.

STEWART



G. FEE PROPOSAL

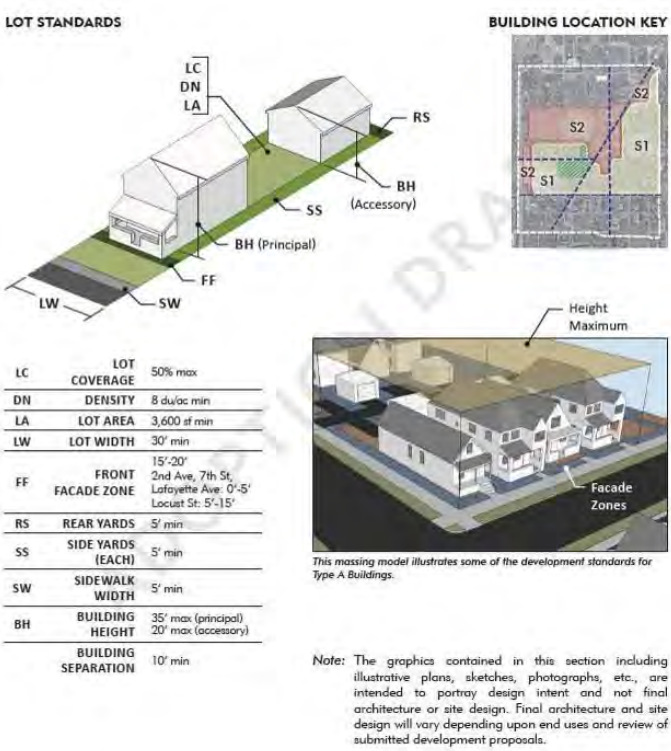
Stewart is a multi-disciplinary firm that includes land planning and design. The firm is licensed to do business through NCBELS (North Carolina Board of Engineers and Land Surveyors) and, therefore providing a not-to-exceed fee is considered to be in direct violation of the Mini-Brooks Act (G.S. 143-64-31).

However, as a reflection of Stewart's project interest and our desire to be responsive to the RFQ, we would like to offer a fee range of $105,000 to $125,000. If selected, a not-to-exceed fee will be negotiated in conjunction with discussions to refine the scope.

H. SAMPLE CODE DOCUMENT

Sample code documents are included on the disk attached to the back cover. All four codes were adopted as originally proposed. Files include:

1. SoBro Planned Development District Ordinance
2. Lebanon Unified Development Ordinance
3. Ft. Wayne Downtown Design Guidelines & Ordinances
4. Carmel Midtown Form Based Regulating Plan



CITY OF LEBANON, INDIANA

UNIFIED DEVELOPMENT ORDINANCE

Adopted: December 10, 2007 Effective: January 1, 2008

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1.1 TITLE

These regulations shall hereafter be referred to as the "City of Lebanon Indiana Unified Development Ordinance," and it may be cited and referred to as the "Zoning Ordinance", "Subdivision Control Ordinance", "Unified Development Ordinance", "UDO" or "Ordinance". Combining the Zoning Ordinance and the Subdivision Control Ordinance into this Unified Development Ordinance reduces redundancy and increases efficiency in the application of laws applied to land development in the City of Lebanon (City).

1.2 INTENT AND PURPOSE

The purpose of this Unified Development Ordinance is to regulate the use and development of land within the jurisdiction of the City of Lebanon. It is intended to promote the public health, safety and general welfare, and more specifically to:

A. Guide future growth and development in accordance with the Lebanon Comprehensive Plan and Center Township Thoroughfare Plan;

B. Divide its jurisdictional area into districts of such kind, character, number, shape, and area as may be considered necessary;

C. Limit the height, area, bulk and use of structures erected;

D. Determine the use and intensity of use of land and lot areas;

E. Determine the area of front, rear and side yards, courts and other open spaces about those buildings;

F. Provide adequate light and air;

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

H. Facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements;

I. Avoid scattered and uncontrolled development of land that would result in excessive expenditure of public funds for the supply of community services;

J. Protect the historic and architectural heritage of the City's central business district (downtown);

K. Provide for performance standards for the emission of pollutants into the air, water, and ground; and

L. Protect the natural resources of the City of Lebanon.

1.3 INTERPRETATION

In their interpretation and application the provisions of this ordinance shall be minimum requirements adopted for the promotion of the public health, safety, morals, convenience, order, prosperity and general welfare.

A. Conflicting Requirements. If two or more provisions within this ordinance are in conflict or are inconsistent with one another, the provision which is most restrictive shall control.

B. Overlapping Regulations. When this ordinance along with private covenants, private contracts, commitments, permits, agreements, state laws, federal laws or other regulations applies to a structure or parcel of land, the greater restriction shall control. In no instance shall this ordinance be interpreted as altering or negating any other applicable regulations.

1.4 APPLICABILITY AND COMPLIANCE

A. All buildings erected hereafter, all uses of land or buildings established hereafter, all structural alterations, remodels, renovations, changes in required exterior material, changes in site or site flow, and relocation of existing buildings occurring hereafter, and all enlargements of or additions to existing conforming uses exceeding thirty percent (30%) of the existing site or structure occurring hereafter as determined by the Administrator shall be subject to all the regulations of this Unified Development Ordinance as they apply to the zoning districts in which such buildings or uses of land shall be located. Interior alterations or remodeling is exempt form this ordinance, but is subject to the standards of the Lebanon Building Code.

B. This ordinance shall not be construed as abating any action now pending under, or by virtue of, the prior existing zoning ordinance; or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue; or as affecting the liability of any person, firm, or corporation; or as waiving any right of the City of Lebanon under any section or provision existing at the time of the effective date of this ordinance; or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the City of Lebanon, except as shall be expressly provided for in this ordinance.

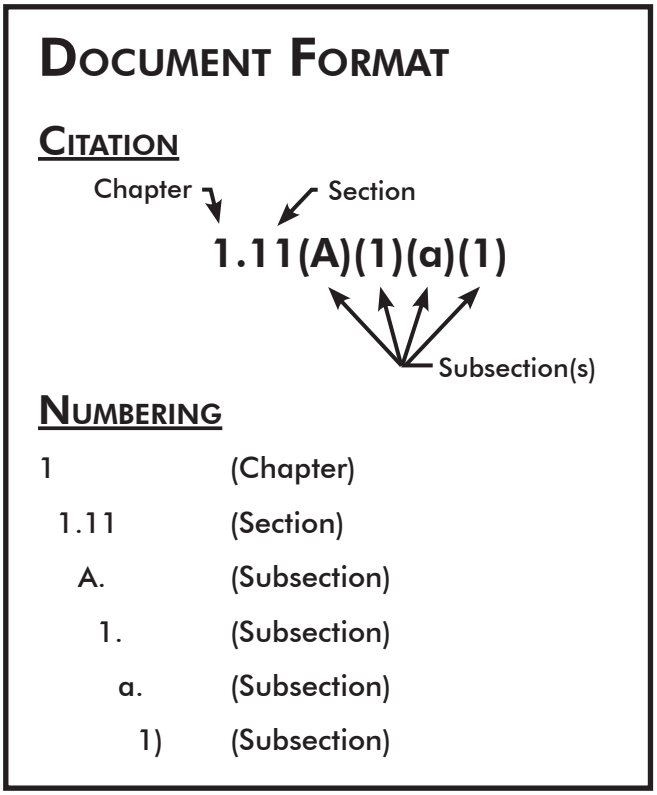
1.5 TRANSITION RULES

A. Any application that has been filed with the Plan Commission or its designees and is full and complete, prior to the effective date of this Unified Development Ordinance, shall be regulated by the terms and conditions of the Zoning Ordinance that was in place at the time of filing. However,

all administrative procedures and fees shall follow those set forth by this Unified Development Ordinance and any Fee Ordinance, as amended.

1.6 HOW TO USE THIS DOCUMENT

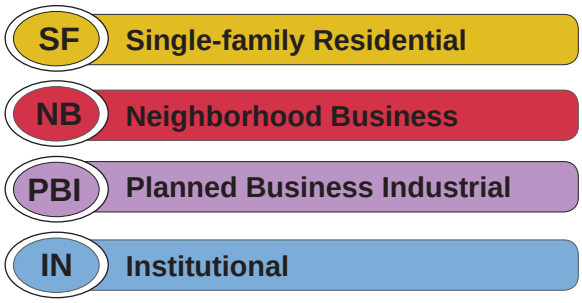
A. STRUCTURE. The structure of the text of this ordinance is as follows: Chapter (indicated by 1, etc.), Section (indicated by 1.1, etc.), and subsequent Subsections (indicated by A, 1, a, etc.). Below is an example of this format:



See Also:

Chapter 4: Zoning Districts

B. APPLICABLE DISTRICTS. Zoning district designations are located in various places throughout the document. If one of these identifiers appears within a section, then that section will apply to the corresponding zoning district. A complete list of the identifiers can be found at the beginning of Chapter 4: Zoning Districts. Examples of district identifiers follow:



C. DEFINED WORDS. Words used in a special sense in this Unified Development Ordinance are defined in Chapter 11: Definitions. All other words shall have the meaning inferred from their context in this ordinance or their ordinarily accepted definitions.

See Also:

Chapter 11: Definitions

D. MEANINGS. The following rules of construction shall apply to the text of this ordinance:

1. The particular and specific provisions of this ordinance shall supersede any general requirements that are established by it.
2. The words "shall" "must" and "will" are always mandatory and not discretionary. The words "may" and "should" are permissive.
3. Words used in the present tense include the future; and words used in the singular number include the plural; and the plural includes the singular; words of the masculine gender will include the feminine and the neuter gender will refer to any gender as required, unless the context plainly indicates the contrary.
4. The phrase "used for" includes "arranged for, designed for, intended for, maintained for, or occupied for."
5. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
6. Unless it is plainly evident from the context that a different meaning is intended, a regulation which involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and", "or", or "either . . . or," the use of the conjunction is defined as follows:
   a. "And" means that all the connected items, conditions, provisions, and events apply together and not separately.
   b. "Or" means that the connected items, conditions, provisions, or events apply separately or in any combination.
   c. "Either . . . or" means that the connected items, conditions, provisions,

or events shall apply separately but not in combination.

7. The word "includes" does not limit a term to the specified examples, but is intended to extend the term's meaning to all other instances or circumstances of like kind or character.

8. The word "city" means Lebanon, Indiana, and the word "state" means the State of Indiana.

1.7 ZONING MAP

A. AS PART OF THE UNIFIED DEVELOPMENT ORDINANCE. The boundaries of the zoning districts are hereby established on a map entitled: "Official Zoning Map: Lebanon, Indiana" adopted December 10, 2007, which accompanies and is hereby incorporated in and made a part of this ordinance. Notations, references, indications and other matters shown on the Zoning Map are as much a part of this ordinance as if they were fully described herein.

The Official Zoning Map shall be maintained in electronic form, and depicted in various formats and scales as appropriate to the need. The Administrator shall be the custodian of the official zoning map.

B. VERIFICATION. The Official Zoning Map shall be identified by the signature of the Mayor attested by the Clerk -Treasurer, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in the Lebanon Unified Development Ordinance".

C. FUTURE MAP ENTRIES. If, in accordance with the provisions of this ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on said map promptly after the amendment has been approved by the Council, with an entry on the Official Zoning Map as follows: "On (date) by official action of the Council, the following changes were made in the Official Zoning Map: (brief description of the nature of the changes)," No amendment to this chapter which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map.

D. CHANGES. No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this ordinance and punishable as provided under Chapter 10: Enforcement and Penalties of this ordinance.

E. LOCATION OF ZONING MAP. Regardless of the existence of purported

copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, which shall be located in the office of the Planning and Building Department, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

F. DAMAGED/ LOST OR DESTROYED MAP. In the event the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Council may direct the Plan Commission to prepare a new Official Zoning Map which shall supersede the prior map upon approval by the Common Council. The new Official Zoning Map may correct drafting or other errors or omissions in the prior map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the Clerk-Treasurer and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces on this day (date) the Official Zoning Map adopted December 10, 2007 as part of Ordinance 07-16 of the City of Lebanon, Indiana".

G. MAP TO BE PRESERVED. Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

H. MAP REVISIONS. The Official Zoning Map shall be updated as required by schedule, found in the Plan Commission Rules of Procedure.

I. INTERPRETATION OF DISTRICT BOUNDARIES. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Streets. Boundaries indicated as approximately following thoroughfares such as highways, streets, or alleys shall be construed as following the centerlines of such thoroughfares.

2. Section Lines. Boundaries indicated as approximately following section line limits, half-section and quarter-section lines, city corporate limit lines, or platted lot lines shall be construed as following such lines.

3. Railroad Lines. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

4. Shore Lines And Water Ways. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, creeks, lakes or other bodies of water shall be

construed to follow such center lines. However, where streams and rivers meander from their beds as they existed on the effective date of this ordinance, the boundary shall be construed as following the original stream or riverbed.

5. Use Of Scale On Zoning Map. Boundaries indicated as parallel to or extensions of features indicated in subsections (H)(1) through (H)(4) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

6. Board May Determine. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by this chapter herein, the Board of Zoning Appeals shall interpret the district boundaries.

7. Vacations And Relocations. The vacation or relocation of rights-of-way and lot lines shall not affect the location of district boundaries, provided, however, whenever any right-of-way is vacated by proper authority, the districts adjoining each side of such vacation shall be extended automatically to the center of such vacation.

8. Lines Splitting Lots/Divided Lots. When a zoning district boundary line divides a lot or parcel, the Administrator shall determine the applicable zoning district. The Administrator may require a rezone or replat of the site if any portion of a construction or development proposal overlaps two or more zoning districts. The petitioner shall be responsible for filing the appropriate forms and for paying the appropriate filing fees to rezone or replat the lot or parcel. If a portion of a lot or parcel is in an overlay district, the entire lot or parcel shall be deemed as being within the overlay district.

1.8 ANNEXATION AND INITIAL ZONING

A. The Plan Commission shall be guided by the principles and directives of the Comprehensive Plan of the City of Lebanon, Indiana, as amended and this Unified Development Ordinance in making zoning district recommendations to the Common Council for newly annexed areas.

B. All territory which may hereafter be annexed to the City of Lebanon, shall be classified into one or more of the districts set forth in Chapter 4: Zoning Districts. Before the Common Council of the City of Lebanon shall consider the Ordinance for annexation, which shall include therein a description of the said district or districts, the Lebanon Plan Commission shall conduct a public hearing in the manner prescribed in the Plan Commission Rules of Procedure, and make a recommendation on the new zoning classification to the Common Council. Newly annexed land submitted without a development

proposal or Concept Plan shall be classified into the Single-family (SF) zoning district, or at the discretion of the Plan Commission, a suitable district that is consistent with the recommendations of the Lebanon Comprehensive Plan. If a different zoning classification is desired by the property owner, the owner shall be required to submit a Concept Plan, Section 9.19 Subdivision Control Procedures - Major Subdivisions, upon application for annexation.

1.9 REPEALER

The following City of Lebanon Zoning and Subdivision Control Ordinances are hereby repealed and are replaced by this Unified Development Ordinance and Official Zoning Map:

A. The Zoning Code, of the City of Lebanon, adopted July 24, 2000, and

B. The Subdivision Control Ordinance of the City of Lebanon, adopted July 24, 2000, and

C. The Zoning Map adopted July 24, 2000, and amended 2004.

1.10 SEVERABILITY CLAUSE

Should any section or provision of this Unified Development Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole, or any portion thereof, other than the portion declared to be invalid.

1.11 EFFECTIVE DATE

This Ordinance shall be in full effect from and after January 1, 2008 as provided by law. Passed by the Common Council of the City of Lebanon, Indiana, this Monday, December 10th, 2007.

_____

Mayor of Lebanon, Indiana

Attest:

_____

Clerk-Treasurer

City of Lebanon, Indiana

Chapter 2: Administration 2

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2.1 DUTIES AND POWERS OF THE COMMON COUNCIL

The powers and duties of the City of Lebanon Common Council, also known as the legislative body, with regard to this ordinance are defined by Indiana Code, and are described in this chapter.

A. DUTIES. Duties should be interpreted as activities that are obligations. Common Council duties include:

1. Plans and Ordinances. Adopt, reject, or amend the Comprehensive Plan, any other plans, and the Unified Development Ordinance, as certified and submitted by the Plan Commission;
2. Plan and Ordinance Amendments. Adopt, reject, or amend proposals to amend or partially repeal the text of the Comprehensive Plan, any other plans, and the Unified Development Ordinance as certified and submitted by the Plan Commission;
3. Zoning Map Amendments. Adopt, reject, or amend proposals to amend the Official Zoning Map certified and submitted by the Plan Commission;
4. Planned Unit Developments. Adopt, reject, or amend proposals for Planned Unit Developments as certified and submitted by the Plan Commission; and
5. Fee Schedule. Adopt, reject, or amend proposals to adopt or amend a Fee Schedule as certified and submitted by the Plan Commission.

See Also:

Chapter 5: Planned Unit Development

B. POWERS. Powers should be interpreted as activities that are optional and may be initiated by the Common Council. Council powers include:

1. Plan and Ordinance Amendments. Initiate amendments to the text of the Comprehensive Plan, any other plans, the Unified Development Ordinance;
2. Zoning Map Amendments. Initiate amendments to the Official Zoning Map.

2.2 DUTIES AND POWERS OF THE PLAN COMMISSION

A. AUTHORITY. The Plan Commission is hereby authorized to perform those duties and functions specified in Indiana Code (IC) 36-7-4-400 et seq. and other applicable sections of Indiana law and such other responsibilities as may be assigned to it from time to time by the Mayor, Common Council, or Board of Zoning Appeals.

Lebanon Plan Commission Rules of Procedure available at www.cityoflebanon.org

B. RULES OF PROCEDURE. The Commission shall adopt written Rules of Procedure for the administration of the affairs of the Commission and its

staff for filing, noticing and conduct of hearings. Refer to city of Lebanon Plan Commission Rules of Procedures, as amended.

C. ESTABLISH ADVISORY AND REVIEW COMMITTEES. The Plan Commission shall establish advisory and review committees as necessary, and shall determine the powers and duties, authority, and membership of additional committees.

1. Technical Assistance Committee.

   a. Establishment. A Technical Assistance Committee (TAC) is hereby established to assist the Plan Commission in the technical review of planned unit developments, development plans, and subdivision plats, and to perform such duties as are outlined for the Committee by the Unified Development Ordinance of Lebanon.

   b. Membership. Committee membership shall be at the request of the Planning and Zoning Administrator. The Administrator may request the assistance of members of public and semi-public local and state departments, agencies, and organizations, including but not limited to: the Lebanon Planning Department, Lebanon Utilities, the Lebanon Fire Department, the Lebanon Parks Department, the Lebanon Street Department, the Lebanon School Board, the Mayor's Office, the Boone County Surveyor, the Boone County Storm Water Board, the Boone County Soil and Water Conservation District, the Indiana Department of Transportation, the Indiana Department of Natural Resources, and the Lebanon Plan Commission.

   c. Duties. The duties of the Technical Assistance Committee shall be to give technical expertise to the Plan Commission regarding plans and proposals; and to perform such duties assigned to it by the Plan Commission. When required by this ordinance, the Technical Assistance Committee shall meet with the subdivider or applicants as per the meeting schedule established by the Administrator.

   d. Informal Meetings. An applicant or subdivider seeking an informal meeting with the staff shall contact the Administrator to schedule a meeting date and time.

   e. Findings. The findings of the Technical Assistance Committee shall be advisory only and neither the applicant or subdivider nor the City shall be bound by any decision reached during a Technical Assistance Committee meeting. Findings of the Technical Assistance Committee shall be in writing and shall be submitted to the Plan Commission prior to the Commission's review of a PUD concept plan, development plan, or subdivision proposal.

See Also:

Section 2.3 Duties of the Planning and Zoning Administrator

2. Plat Committee

   a. Establishment. The Plan Commission may establish a Plat Committee to review and decide petitions for minor plats, secondary plats, and administrative subdivisions.

   b. Membership. Committee membership shall be divided into two classes.

      1. Official Members. Official members shall consist of three members. One of the members shall be a staff member representing the City of Lebanon, and the remaining members shall be members of the Plan Commission who are not otherwise employed by the City, its subdivisions or instrumentalities.

      2. Ex-officio Members. Ex-officio members shall be the Technical Assistance Committee (TAC).

   c. Appointment. Each member shall be appointed by the Plan Commission for one year.

   d. Removal. The Plan Commission may remove a member from the committee upon mailing written reasons for removal to the member.

   e. Decisions. The committee may take action only upon a majority vote. In the event of any uncertainty as to compliance or classification of any subdivision, the Plat Committee shall forward such subdivision to the Plan Commission for consideration.

   f. Voting. Only official members of the Plat Committee shall be entitled to vote on matters requiring official action by the Plat Committee.

   g. Meetings. The Plat Committee shall meet at least as often as once each calendar month but not more than once per calendar week.

2.3 DUTIES OF THE PLANNING AND ZONING ADMINISTRATOR

A. DUTIES. The Administrator, including his/her designee(s), will have the principal responsibility for the administration and enforcement of this Unified Development Ordinance within the Plan Commission's planning jurisdiction. The duties delegated by the Plan Commission to the Administrator, or his/her designee shall include, but not be limited to the following:

1. Interpretation and Assistance. Provide interpretation of the "Unified Development Ordinance of Lebanon" when necessary and provide

such technical and clerical assistance as the Plan Commission and Board of Zoning Appeals may require.

2. Public Information. Provide and maintain a public information service relative to all matters or the Plan Commission and arising out of the "Unified Development Ordinance of Lebanon."

3. Permits. Reviewing, approving, or disapproving all Improvement Location Permits and other permits (Chapter 9: Permits, Certificates, and Procedures) and keeping permanent records of applications made and actions taken.

4. Inspections. Conducting inspections of structures and properties to determine compliance with the requirements of this ordinance and all approvals granted by the Plan Commission, Board of Zoning Appeals, Plat Committee, or other body in the execution of its duties as established by this ordinance and the Indiana State Code.

5. Record Keeping. Maintaining permanent and current records documenting the application of this ordinance including, but not limited to, all maps, amendments, conditional uses, variances, waivers, and appeals. The Official Zoning Map shall be updated per the terms of the Plan Commission Rules of Procedure.

6. Plan Commission Applications. Receiving, processing, docketing, and referring to the Plan Commission all appropriate applications.

7. Board of Zoning Appeals Applications. Receiving, processing, docketing, and referring to the Board of Zoning Appeals all appeals, variances, conditional uses, and other matters upon which it is authorized to act under this ordinance and Indiana State Code.

8. Technical Assistance Committee. Receiving, processing, docketing, and referring to the Technical Assistance Committee all appropriate applications.

9. Clerical & Technical Assistance. Providing all such clerical and technical assistance as may be required by the Board of Zoning Appeals, Plan Commission, Technical Assistance Committee, legislative bodies, or other body in the execution of its duties as established by this ordinance and Indiana State Code.

10. Analysis. Conduct research and collect and analyze, on a continuing basis, all pertinent data on the growth and development of the City and its environs in order to provide a foundation for a planning program.

Note:

Applications and other forms shall be available at the office of the Planning and Building Department and at www.cityoflebanon.org.

B. FEE SCHEDULE. The Administrator shall maintain a schedule of fees, as approved by the Common Council, for all applications, permits, and other processes outlined in this ordinance.

1. Fee Basis. All fees shall be intended to reimburse the Plan Commission for the time and cost of processing the required materials. In no instance shall a fee be used as a means of discouraging or encouraging any particular types of applications.

2. Public Access. The fee schedule shall be made available to the public by the Administrator.

3. Establishment and Revisions. The fee schedule shall be prepared by the Administrator, reviewed by the Plan Commission, and approved by Ordinance by the Common Council.

   a. The fee schedule may be amended by a recommendation submitted to the Common Council by the Plan Commission followed by the Council approval of a revised fee schedule Ordinance.

   b. The Administrator shall review the fee schedule annually and bring any necessary revisions to the attention of the Plan Commission and Common Council.

4. Payment Required. Until all applicable fees have been paid in full, no action shall be taken on any application or petition.

5. Fines for Failing to Obtain a Permit. The Administrator may require any person who initiates construction of a structure or the alteration of land prior to obtaining any required permit to pay fines in accordance with the schedule in Chapter 10: Enforcement and Penalties of this ordinance. In addition to any enforcement cost, attorney's fees for such activity may be included in addition to the established fine/penalty.

C. SCHEDULE OF MEETING AND FILING DATES. The Administrator shall maintain an annual Calendar of Meeting and Filing Dates for the Technical Assistance Committee, Plat Committee, Plan Commission, and Board of Zoning Appeals. The existence of this calendar shall not be interpreted as prohibiting special meetings of the Committees, Commission, or Board.

1. Coordination of Calendars. The calendars of the Technical Assistance Committee, Plat Committee and Plan Commission shall be coordinated to ensure the efficient processing of applications.

2. Conformance with Indiana Code. All meeting and filing dates shall be based on the requirements of this ordinance and the laws of the State of Indiana.

3. Approval of Dates. The Calendar of Meeting and Filing Dates shall be prepared by the Administrator and approved by the Plan Commission and Board of Zoning Appeals (the Plan Commission shall be responsible for approving a coordinated calendar for the Technical Assistance Committee and the Plat Committee). The calendar of

meeting and filing dates shall be reviewed and updated annually by the Administrator.

D. APPEALING A DECISION OF THE ADMINISTRATOR. Recourse from the decision of the Administrator shall be to the Plan Commission on matters pertaining to zoning. Recourse from the decision of the Plan Commission shall be to the Board of Zoning Appeals (BZA), and recourse from the decision of the BZA shall be to the courts as provided by law.

2.4 BOARD OF ZONING APPEALS

A. ESTABLISHMENT. The City of Lebanon Board of Zoning Appeals (referred to herein as the Board of Zoning Appeals, the BZA, or The Board) which shall conduct business consistent with all requirements of the Indiana Code and this Unified Development Ordinance, is hereby established pursuant to the IC 36-7-4-900 series.

B. DUTIES. Duties should be interpreted as activities that are obligations. Board of Zoning Appeals duties include:

1. Rules of Procedure. The Board of Zoning Appeals shall have sole authority to adopt any and all rules under Indiana Code Section 36-7-4-916 and any and all procedures concerning organization, selection of officers, forms for applications, filing requirements, procedures, notices and conduct of meetings, and public hearings.

2. Variances. Review, hear, and approve or deny all applications for variances from development standards, such as height, setback, or area (IC 36-7-4-918.5);

   a. Written Findings of Fact. No variance in the application of the provisions of the ordinance shall be made by the Board relating to buildings, land or premises now existing or to be constructed, unless after a public hearing, the Board shall find, in writing that (IC 36-7-4-918.5):

      1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;

      2) the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and

      3) the strict application of the terms of this ordinance will result in practical difficulties in the use of the property.

   b. Conditions or Commitments for Variances. The Board may impose such reasonable conditions upon or require commitments for its

See Also:

Section 9.23 Development Standards Variance

See Also:

Section 9.14 Written Commitments

approval as it deems necessary to find that the variance will not subvert the general purpose of this or any other city ordinance and will not injure property, uses, or natural, scenic, or historic features in the same zoning district and vicinity. Such conditions may include limitations concerning use, construction, character, location, landscaping, screening, parking, and other matters related to the purpose and intent of this ordinance.

c. Failure To Comply. Where an owner has failed to comply with any condition and/or commitment permitted or required by the grant of the variance, the Board may authorize such action as consistent with Section 10.4 Citation for Written Commitment Violations.

3. Conditional Uses. Review, hear and approve or deny all applications for conditional uses (IC 36-7-4-918.2);

a. Imposition Of Additional Conditions. The Board may impose additional conditions to assure that the Conditional Use will conform to the intent of this ordinance (IC 36-7-4-918.2 and IC 36-7-4-921).

4. Appeals. Review, hear, and decide appeals of decisions made under this ordinance or in the enforcement of this ordinance by the Administrator and/or his designees, committees, administrative boards, or any other bodies (except the Plan Commission) (IC 36-7-4-918.1); and

5. Other Duties. All additional duties as established by Indiana State Code and the Lebanon Board of Zoning Appeals Rules of Procedure.

C. POWERS. Powers should be interpreted as activities that are optional and may be initiated by the Board as per Indiana Code or the BZA Rules of Procedure.

D. APPLICATIONS. All applications for variances, conditional uses, and requests for administrative appeal shall be filed by the applicant with the Administrator in the manner prescribed by the Board.

E. COMMUNICATION WITH BOARD MEMBERS. No person (including applicants, remonstrators, and other interested parties) may communicate with any member of the Board before the hearing with intent to influence the member's action on a matter pending before the Board (IC 36-7-4-920).

F. NOTICE OF PUBLIC HEARING. For all public hearings, notice shall be provided to the public consistent with the requirements of Section 9.15 Notice of Public Hearing.

G. RE-FILING OF DENIED APPLICATIONS. No request for variance, conditional use, or administrative appeal that has been denied may be

re-filed for a period of one (1) year from the date of the denial, unless substantial changes have been made that address the reasons for denial. The Administrator may waive the waiting period at his/her discretion based on adjacent land use changes, or other contributing factors.

H. APPEALS. Every decision of the Board of Zoning Appeals shall be subject to review by a court of jurisdiction (writ of certiorari) as prescribed by the IC 36-7-4-1000 series. All appeals shall be presented to a court of jurisdiction.

I. IMPROVEMENT LOCATION PERMIT REQUIRED. If the Board grants a conditional use or variance, it shall direct the applicant to apply for an Improvement Location Permit. A Development Plan consistent with Section 9.17 Development Plan of this ordinance may apply. If such application complies with all requirements established by the Board and this ordinance, an Improvement Location Permit for the execution of the approved variance or conditional use shall be issued.

2.5 ADOPTION BY REFERENCE OF RULES OF PROCEDURE

A. The Lebanon Plan Commission Rules of Procedure dated October 15, 2007, as amended, is incorporated by reference into this Unified Development Ordinance. In the event the provisions of this ordinance conflict with the Rules of Procedure, then the Unified Development Ordinance shall control.

See Also:

Lebanon Plan Commission Rules of Procedure at www.cityoflebanon.org

Chapter 3: Nonconforming Uses, Lots, and Structures

3

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3.1 NONCONFORMING USES AND STRUCTURES

A. INTENT. Within the districts established by this ordinance or by amendments that may later be adopted, there may exist certain structures or uses of land that were lawful before this ordinance was passed or amended, but which are prohibited, regulated or restricted under the terms of this ordinance or may be by future amendments hereto. All previously existing uses, lots and structures which do not comply with the regulations in this ordinance and its amendments, shall be deemed legal nonconforming ("Grandfathered") uses, lots, and structures.

B. ILLEGAL NONCONFORMING USES. A structure, lot or use that is nonconforming and that was established or constructed without an approved Improvement Location Permit or approval from the Board of Zoning Appeals or Plan Commission is considered illegal nonconforming. An illegal nonconforming property shall be subject to actions and penalties allowed by this ordinance (Chapter 10: Enforcement and Penalties) and all other applicable city ordinances, and shall be altered to conform with all applicable standards and regulations of this ordinance. Illegal uses existing at the time this ordinance is enacted shall not be validated by virtue of its enactment.

C. LEGAL NONCONFORMING STATUS. Legal nonconforming status results from the enactment of a Unified Development Ordinance (UDO) or a change to the UDO, including the Official Zoning Map. The structure, lot or use has not changed but due to the UDO enactment or change, the property no longer conforms to the standards of the zoning district in which it is located. Legal nonconforming lots, structures, uses, etc., may continue in the manner and to the extent that they existed or were used at the time the change in the UDO was enacted provided that it does not, subsequent to the adoption of this ordinance, become more nonconforming.

D. CHANGE IN OWNERSHIP. A change in ownership shall not affect the legal nonconforming status.

E. HONORING PREVIOUS PERMITS. Nothing herein contained shall require any change in the plans for the construction or designated use of a building for which a Building Permit or Improvement Location Permit has been issued, and the actual construction begun within ninety (90) days of the date of such permit, and which entire building shall be completed according to such plans filed or on file before the effective date of this ordinance. Actual construction is hereby defined as work done which is beyond the preparation stage and into that stage where the changes or additions are made permanent.

F. REGULATIONS CONCERNING NONCONFORMING USES

1. Change In Existing Use. A legal nonconforming use may be changed to another legal nonconforming use of the same or greater restrictions, provided the size of the structure is not increased.

2. Conditional Uses And Conforming Uses. An existing use which is listed herein as a conditional use, and which is located in a district in which such conditional use may be permitted, is a conforming use; provided such use meets the minimum lot area requirement set forth in this ordinance. Any expansion of such conditional use involving the enlargement of buildings, structures, and land area devoted to such use, shall be subject to the requirements and procedure described in this ordinance.

G. REQUIREMENTS FOR NONCONFORMING USES AND USES PERMITTED BY CONDITIONAL USE OR VARIANCE. Any use which is nonconforming in the zoning district in which it is located or is permitted by conditional use or variance shall be consistent with the standards for the zoning district in which the use is permitted by this ordinance. The Board of Zoning Appeals may specify the appropriate standards for all uses permitted by conditional use or variance.

H. DISCONTINUANCE OF USE. If a nonconforming use of land or a building discontinues active continuous operations for a period of one (1) year or more, the building or land where such nonconforming use existed shall be occupied and used only for a conforming use.

I. DAMAGE TO NONCONFORMING USE. Any nonconforming use which, by fire, flood, explosion, earthquake, war, riot, or act of God or man, is damaged to an extent of more than fifty percent (50%) of its then fair market replacement value above the foundations at the time of the damage, shall not be reconstructed and used as before such calamity; but if less than fifty percent (50%) is damaged, it may be reconstructed or used, provided that such reconstruction or use be accomplished within twelve months of such calamity.

J. REGULATIONS CONCERNING NONCONFORMING STRUCTURES / LOTS

1. Enforcement Affect Of Other Ordinances. The legal nonconforming status shall not affect the uniform enforcement of all other ordinances designed for the protection of the health, welfare and safety of the citizens of the City including but not limited to the fire, building and housing codes. No permits shall be issued for other work or to expand the floor area or add residential units to said legal nonconforming uses.

2. Structural Alteration Or Enlargement. No nonconforming structure shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.

3. Repairs And Maintenance

   a. Ordinary Repairs And Maintenance. On any nonconforming structure or portion of a structure, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten percent (10%) of the current replacement cost of the nonconforming structure and market value of real estate, or nonconforming portion of the structure, whichever the case may be, provided that the cubic content existing when it became nonconforming shall not be increased.

   b. Buildings May Be Made Safe. Nothing in this ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building, either conforming or nonconforming, declared unsafe by proper authority.

   c. Damage To Nonconforming Structure. Any nonconforming structure which, by fire, flood, explosion, earthquake, war, riot, or act of God or man, is damaged to an extent of more fifty percent (50%) of its replacement value above the foundations, shall not be reconstructed and used as before such calamity; but if less fifty percent (50%) is damaged, it may be reconstructed or used provided that such reconstruction or use be accomplished within twelve months of such calamity.

K. NONCONFORMITY BY PUBLIC ACQUISITION. Any property, lot or structure which is rendered nonconforming by the action of a governmental agency in opening, closing, widening, paving or improvement of any street, shall absent any other reason for nonconformity, be exempt from the nonconformance provisions of this Article.

3.2 NONCONFORMING LOTS

A. AREAS AND WIDTHS FOR SINGLE-FAMILY DWELLINGS. A single-family dwelling may be located on any lot in any district in which single-family dwellings are permitted if the lot was a single parcel in single ownership, or a single parcel included in a subdivision of record at the time of passage of this ordinance even though the lot does not have the minimum lot width or the minimum lot area specified for the district.

3.3 NONCONFORMING SIGNS

See Also:

Section 7.7 Sign Regulations for abandoned sign requirements

A. LEGALLY NONCONFORMING. Any sign lawfully existing on the effective date of the Unified Development Ordinance, or amendment thereto, that does not conform to all the standards and regulations of the Unified Development Ordinance is considered a legal nonconforming sign. The following apply to legal nonconforming signs:

1. Pre-existing Signs. Signs that existed prior to the time the Unified Development Ordinance was adopted and were in conformance with previous ordinances shall be legally nonconforming until such time a major change is made to the sign. Major changes include changing the size, changing the height, adding lights, altering light intensity, and/or relocation.

2. Sign Condition. All legal nonconforming signs shall be kept in good repair, safe, neat, clean and attractive condition. In the event nonconforming signs are not kept in said condition or are demolished by any force whatsoever to the extent of fifty percent (50%) or more of the fair market value of the sign structure, said signs shall then be made to conform to the Unified Development Ordinance.

3. Sign Removal. A nonconforming sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business it advertises is no longer conducted on the premises. If the owner or lessee fails to remove the sign, the Plan Commission or Planning and Zoning Administrator shall give the owner thirty (30) days written notice to remove it. Upon failure to comply with this notice, the Plan Commission or Administrator may remove the sign at cost to the property owner or lessee.

4. Major Changes/Replacement. Legal nonconforming signs that are structurally altered by a major change, or replaced shall comply immediately with all provisions of the Unified Development Ordinance.

5. Right-of-way Acquisition.

   a. Existing Conforming Signs. In the case of a legally established sign that would become a legal nonconformity due to its setback from the new right-of-way line or its position within a redefined sight visibility triangle by virtue of the right-of-way acquisition by any government entity, the sign shall be required to be relocated to a position that would bring it into compliance with the regulations of Section 7.2 Sight Visibility Triangle. The cost of such relocation should be factored into the price paid for the additional right-of-way during the condemnation proceedings, and the property owner or

lessee shall be responsible for accomplishing the relocation within ninety (90) days of receiving payment for the right-of-way.

b. Existing Legal Nonconforming Signs. In the case of a legal nonconforming sign for which the nonconformity is increased due to its setback from the new right-of-way line or its position within a redefined sight visibility triangle by virtue of right-of-way acquisition by any government entity, the sign shall be required to be relocated to a position that would bring it into compliance with the regulations of Section 7.7 Sign Regulations and Section 7.2 Sight Visibility Triangle. The cost of such relocation should be factored into the price paid for the additional right-of-way during the condemnation proceedings, and the property owner or lessee shall be responsible for accomplishing the relocation within ninety (90) days of receiving payment for the right-of-way.

c. Existing Illegal Nonconforming Signs. In the case of illegal nonconforming signs that may be discovered during right-of-way acquisition by any government entity the sign shall be removed at the cost of the property owner or lessee.

6. Annexation. If land is annexed to the City of Lebanon, any sign upon such annexation that does not conform to the sign standards at such time shall have legal nonconforming status if:

a. Under applicable federal, state, county, and local regulations, the sign was legal in all respects immediately prior to annexation; and

b. The annexation was not conditioned upon the removal or modification of the sign. Any sign not meeting such requirements is an illegal nonconforming sign.

Chapter 4: Zoning Districts 4

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4.1 ESTABLISHMENT OF ZONING DISTRICTS

A. ESTABLISHMENT OF ZONING DISTRICTS. For zoning purposes, the territory within the City of Lebanon is hereby divided into the following classes of districts, which either exist or are proposed to exist within the City. Each of the zoning districts stands alone and is not part of a hierarchy-system of zoning. For example, uses permitted in the NB District are not permitted in the PBC District unless expressly listed as such in the PBC District. Only those uses and standards that are expressly indicated and noted for each district apply to that district. These districts, including PUD, are graphically represented on the Official Zoning Map dated December 10, 2007, which is hereby declared to be a part of this chapter.

- **SF** Single-family Residential
- **SF1** Single-family Residential
- **SF2** Single-family Residential
- **SF3** Single-family Residential
- **TR** Traditional Residential
- **MF** Multifamily Residential
- **MH** Manufactured Home Park
- **CB** Central Business
- **NB** Neighborhood Business
- **PBC** Planned Business Commercial
- **PBO** Planned Business Office
- **PBI** Planned Business Industrial
- **ID** General Industrial
- **IN** Institutional

B. PLANNED UNIT DEVELOPMENT (PUD) DISTRICT ESTABLISHED. The PUD District is hereby established. This ordinance allows for any zoning district(s) to be rezoned for the creation of a PUD. All PUDs shall be consistent with the requirements of Chapter 5: Planned Unit Development.

See Also:

Chapter 5: Planned Unit Development

C. OVERLAY DISTRICTS ESTABLISHED. The following overlay districts have been established in order to provide additional enhancements to highly visible corridors and to protect fragile natural environments or unique historic character in the City of Lebanon. The overlay districts are detailed in Chapter 6: Overlay Districts and include:

Chapter 6: Overlay Districts

1. Thoroughfare,
2. Interstate, and
3. Downtown.

D. SUBDIVISION OF LAND. The subdivision of land in every zoning district shall be consistent with the provisions and requirements of Chapter 8: Subdivision of Land of this ordinance.

Chapter 8: Subdivision of Land

4.2 USE MATRIX

A. USE MATRIX.

1. For Table 4.1: Use Matrix, specific uses located in the left column are designated as either permitted uses "P" or conditional uses "C". If there is no designation, that use is not permitted within that district.

2. A Development Plan is required for approval for all uses except for those specifically labeled as such, including crop production, farm (general), grazing and pasture land, and infill development/minor subdivisions for single-family and two-family residential uses.

B. EXPLANATION OF USE CLASSIFICATIONS

1. Permitted Uses. Permitted uses are those uses allowed without special permission of the Board of Zoning Appeals, given that they follow the standards and requirements set forth in this ordinance.

   A Principal Use is defined as the primary use to which a property is devoted and as the main purpose for which the property exists. A principal use may be authorized as either a permitted use or a conditional use.

2. Conditional Uses. Conditional Uses are those uses that, because of potential incompatibility and negative impact on the immediate neighborhood, require additional review in order to determine compliance with city standards and to determine their suitability in a given location. In order to achieve balance between the public benefit and the local impact, conditional uses are only permitted following a public hearing and approval by the Board of Zoning Appeals, as per Chapter 2: Administration of this ordinance.

3. Unlisted or Questionable Land Uses. Any use not listed as a permitted use or conditional use within the Use Matrix, is considered to be not permitted within the applicable zoning district. The Administrator may determine where an unlisted use falls within the Use Matrix if it is not specifically listed but is similar to another use that is. This determination may be appealed to the Board of Zoning Appeals consistent with the provisions of Section 2.4 Board of Zoning Appeals for Administrative Appeal Applications.

Table 4.1: Use Matrix

Principal Land Use

P - Permitted Use
C - Conditional Use
- Does not requires a Development Plan

	SF	SF1	SF2	SF3	TR	MF	MH	CB	NB	PBC	PBO	PBI	ID	IN
Agriculture														
agricultural product sales, distribution, & storage facility	C													
animal boarding/stables (excluding kennels) - minimum 3-acre tract	C													
crop processing & storage (materials produced on-site)	P													
crop production	P	P	P	P						P	P	P	P	P
farm (general)	C													
farm co-op. facility	C													
farm equipment sales and service	C												P	
farmer's market (permanent)	C	C			C			C	C	C				
fertilizer sales, distribution, & storage												P	P	
floriculture	C													
grazing & pasture land	C													
greenhouse (commercial) not exceeding 1,000 square feet in area	C													
nursery, wholesale	C											C	C	
raising and breeding of non-farm fowl and animals, commercially, except kennel	C											C	P	
seed sales, distribution, & storage										C		P	P	
viticulture (vineyard)	C													

4.2 Use Matrix

	SF	SF1	SF2	SF3	TR	MF	MH	CB	NB	PBC	PBO	PBI	ID	IN
Residential														
amenity area, subdivision	P	P	P	P	P	P	P							
bed & breakfast facility	C							C	C	C				
boarding house	C							C	C	C				C
child day care home	C	C	C	C	C	C	C	C	C					
domestic pets	P	P	P	P	P	P	P							
dwelling, accessory apartment ("granny flat")*	C	C	C	C	C			C	C					
dwelling multifamily					P	P			C					
dwelling secondary (on upper floors of first-floor retail/office use)					P	C		P	P	C				
dwelling single-family (including manufactured homes) ***	P	P	P	P	P		P	P	P					
dwelling two-family ***			C	P	P	P		P	P					
group home **	C	C	C	C	C	C		C						
home occupation ****	P	P	P	P	P	P	P	P	P					
mobile home park/ manufactured home park							P							
assisted living facility					C	P		P	C	P				P
nursing / convalescent home						P		P	P	P				
residential facility for the developmentally disabled type I **	C	C	C	C	C	C	C							
residential facility for the developmentally disabled type II **	C	C	C	C	C	C	C	C	C					
residential facility for the mentally ill **	C	C	C	C	C	C	C	C	C					
retirement facility (senior housing)					C	P		P	C	P				P

* See Section 7.10 Accessory Uses and Structures, Subsection B. Permitted Accessory Uses

** A minimum separation of fifteen hundred (1500) feet is required between locations.

*** Development Plan not required for infill residential development or minor residential subdivision only. Major residential subdivisions require a Development Plan.

**** Requires a home occupation permit, Section 9.8 Home Occupation Permit.

	SF	SF1	SF2	SF3	TR	MF	MH	CB	NB	PBC	PBO	PBI	ID	IN
Transportation Services														
airport											C	C	C	C
airstrip (private)	C										C	C	C	C
auto parts sales (without on-site repair)								P	C	P			P	
automobile filling station								C	C	P	C	C	P	
automobile / motor vehicle repair, (major): engine rebuilding or major reconditioning of motor vehicles, including body work, frame or fender straightening or repair, transmission repair and painting of vehicles.									C	C		C	P	
automobile / motor vehicle repair, (minor) including: oil changes/ lubrications, brake replacement, muffler replacement, tire servicing, radiator cleaning and flushing, water hose replacement, windshield wipers, etc.								C	C	P		C	P	
automobile / motorcycle sales area and leasing (open)								P	P	P		C	P	
mobile home sales area and leasing (open)										C		C	P	
car wash								C	C	P	C	C	P	
heliport											C	C	C	C
motor bus or railroad passenger station								C		C	C	C	C	C
parking lot or structure (as a principal use)								C		C	C	C	C	C
recreational vehicle sales and service											C	C	P	
truck freight terminal												C	P	
truck stop / travel center												C	C	
truck sales & service center												C	C	
Park, Recreation, Natural Areas														
artificial lake of three or more acres	C	C	C	C	C	C	C	C	C	C	C	C	C	C
campground / RV park	C												C	P
country club / golf course / driving range	C	C	C	C	C	C	C			C		C		C
nature preserve / center	C													P
park or recreational facility (playgrounds and athletic facilities)	C	C	C	C	C	C	C	C	C	C	C			P

	SF	SF1	SF2	SF3	TR	MF	MH	CB	NB	PBC	PBO	PBI	ID	IN
Communications / Utilities														
composting facility (indoor)													C	C
composting facility (outdoor)													C	C
garbage transfer station													C	C
radio and television studios										P	P	P		P
recycling center												P	P	C
sanitary fill or refuse dump													C	C
sewage treatment plant													C	C
telecommunications / radio / television tower										C	C	C	C	C
utility company business office								P	P	P	P	P	P	P
utility substation								C	C	C	C	C	C	C
water tower												C	C	C
wellfield/water treatment facility													C	C
Institutional/Public Uses														
animal shelter	C									C		C	C	C
cemetery	C									C	C	C	C	C
crematory												C	C	C
church or temple	C	C	C	C	C	C	C	C	C	C	C	C		C
college building								C	C	C	C	C		C
community center	C	C	C	C	C	C	C	P	P	P				P
fairgrounds														P
fire station or police station	C	C	C	C	C	C	C	P	P	P	P	P	P	P
government facility (non-office)								P	P	P	P	P	P	P
government office								P	P	P	P	P	P	P
hospital								C	P	P	P	P		P
institution for the developmentally disabled/mentally ill						C		C	C	C	C			P
kindergarten or day nursery	C	C	C	C	C	C	C	P	P	P	P	C		P
library	C	C	C	C	C	C	C	P	P	P	P			P
museum or gallery						C	C	P	P	P	P			P
penal or correctional institution													C	C
post office								P	P	P	P	P	P	P
power generating plant													C	C
school (any combination of k -12), public and private	C	C	C	C	C	C	C	C	C	C				P
stadium or coliseum										C		C		C
trade or business school								C	C	C	P	C		P
university or college								C	C	C	P	C		P

	SF	SF1	SF2	SF3	TR	MF	MH	CB	NB	PBC	PBO	PBI	ID	IN
Entertainment Services														
adult uses													C	
banquet or assembly hall								P	P	P	P	P		P
bar or tavern or night club								C	C	P	C	C		
billiard room or arcade								C	C	P				
bowling alley								P	P	P				
dancing academy / martial arts / gymnastics studio								P	P	P		P		P
lodge or private club								P	P	P	P			
miniature golf course								P	P	P				
outdoor commercial recreational enterprise (carnival, amusement park, etc.)									C	C		C	C	
recreational development (private)	C	C	C	C	C	C	C	C	C	C		C	C	C
retreat center								P	P	P	P	P		P
riding stable (commercial) - minimum 3-acre tract	P									C		P		P
shooting range (outdoor)													C	C
shooting/archery range (indoor)										C		C	C	C
skating rink (roller/ice)								P	P	P		C		C
swimming pool (private)	P	P	P	P	P	P	P	P	P	P				
swimming pool (public)	C	C	C	C	C	C	C	C	C					C
theater (indoor); excluding, adult motion picture theater; and adult mini-motion picture theater								P	P	P				
theater (outdoor); excluding adult drive-in theater										C		C		P
theater (adult drive-in)													C	
water park										C				C
winery								C	C	C		C		
Professional Services														
administrative/professional office					C			P	P	P	P	P	C	P
bank / financial institution					C			P	P	P	P	P	C	P
business/financial services office					C			P	P	P	P	P	C	
clinic (medical/dental) or health center					C			P	P	P	P			P
conference center								P	P	P	P	P		P
data processing / call center								P	C	P	P	P	P	P
employment service								P	P	P	P	P		
investment firm								P	P	P	P			
office building								P	P	P	P	P		P

	SF	SF1	SF2	SF3	TR	MF	MH	CB	NB	PBC	PBO	PBI	ID	IN
print shop/copy center					C			P	P	P	P	P		
veterinary hospital for small animals									P	P		P		
Retail / Wholesale Sales														
antique shop					C			P	P	P				
apparel shop					C			P	P	P				
art or photo gallery					C			P	P	P				
auction facility (excluding livestock)								P	P	P	P	P		P
book store					C			P	P	P	P			
building finishes shop (paint, carpet, wallpaper, etc.)								P	P	P		P		
building supply store										P		P	P	
construction services									C	P		P	P	
convenience store (without gas station)					C			P	P	P	P	P		
craft/fabric store								P	P	P				
department store, including any facility (whether or not attached) associated with such department store for the sale of tires, batteries, automobile accessories and lubrication and for the servicing and repair of motor vehicles incidental to such sales								C	C	P				
dressmaking					C			P	P	P				
farm equipment sales and service (enclosed)										P		P	P	
fireworks sales (permanent)													C	
flower shop					C			P	P	P				
garden shop / retail nursery								P	P	P		P		
gift shop					C			P	P	P				
greenhouse, commercial												P	P	
grocery store								P	P	P				
hardware store								P	P	P				
ice cream shop					C			P	P	P				
jewelry store					C			P	P	P				
liquor store								P	P	P				
manufactured home sales										C			C	C
newsdealer					C			P	P	P	P	P		
office supply store								P	P	P	P	P		
pet store								P	P	P				
record/CD/video/musical instrument shop								P	P	P				

	SF	SF1	SF2	SF3	TR	MF	MH	CB	NB	PBC	PBO	PBI	ID	IN
roadside sales stand***	C									C			P	
shopping center								C	C	P				
shopping mall										P				
sporting goods shop								P	P	P				
stationery shop					C			P	P	P				
supermarket								P	P	P				
variety store								P	P	P				
vendor, temporary (farmer's market, street fair, etc.)***				P	P			P	P	P	P			
wholesale establishment										P		P		
Equipment Services														
electric appliance shop								P	P	P		P	P	
home electronics/appliance store								P	P	P		P		
repair services (small appliances, jewelry, alterations, etc.)					C			P	P	P		P	P	
Food Sales & Service														
bakery (retail)					C			P	P	P		P		
bakery (wholesale)										P		P	P	
coffee shop					C			P	P	P	P	P		
delicatessen					C			P	P	P	P	P		
drive thru restaurant									C	P				
meat market					C			P	P	P				
microbrewery/brew-pub								P	P	P	C	C		
produce terminal, wholesale										C		P	P	
restaurant								P	P	P	P	P		
Personal Services														
barber shop					C			P	P	P	C			
beauty shop					C			P	P	P	C			
child care / day-care center	C	C	C	C	C	C	C	P	P	P	P	P		P
dry cleaning establishment (retail)					C			P	P	P	P	P		
fitness center								P	P	P	P	P		
funeral home								P	P	P				
health spa					C			P	P	P				
hotel / motel								P		P	P	P		
kennel										C		C	C	C
laundry (self-service)					C			P	P	P				
laundry service (large-scale)												P	P	

*** Requires Temporary Vendor Permit. See Section 9.10 Temporary Vendor Permit

	SF	SF1	SF2	SF3	TR	MF	MH	CB	NB	PBC	PBO	PBI	ID	IN
massage therapy (by licensed massage therapist)					C			P	P	P	P			
pharmacy					C			P	P	P	P	P		
photographic studio					C			P	P	P				
shoe repair shop					C			P	P	P		P		
tailor and pressing shop					C			P	P	P		P		
tanning salon					C			P	P	P				
Warehousing / Industrial														
agricultural products terminal													P	
animal & animal products processing													C	
assembly facility												P	P	
boat/RV storage facility (outdoor)												P	P	
bottle gas storage & distribution													C	
concrete/asphalt production facility													C	
contractor's warehouse/storage facility (unenclosed)												C	P	
contractor's warehouse/storage facility (enclosed)										C		P	P	
explosive manufacturing and storage													C	
fabrication facility												P	P	
food & beverage production												P	P	
inoperable vehicle storage													C	
junk/scrap metal yard													C	
lumber yard										C		C	P	
manufacturing facility													P	
mineral extraction, borrow pit, top soil removal, and their storage areas													C	
mini-warehouse self-storage facility									C	C		P	P	
packaging facility												P	P	
petroleum and chemical processing and storage													C	
power generation facility (commercial)												C	C	
printing/publishing facility												P	P	
research and development facility											C	P	P	
semi-tractor/trailer storage												C	P	
tool and dye shop												P	P	
truck terminal												P	P	
warehouse / distribution facility												P	P	
waste incinerator													C	

4.3 LOT STANDARDS TABLES

A. PURPOSE. Development Standards for each district dictate the maximum permitted density, minimum lot size, minimum lot width and frontage, minimum yard setbacks, maximum height, minimum ground floor area, and maximum lot coverage or intensity. Such regulations for the zone districts of the City of Lebanon are shown on Table 4.2: Residential Districts Lot Standards and Table 4.3: Non-Residential Districts Lot Standards.

B. INTERPRETING THE LOT STANDARDS TABLES. The following explanations of terms should be consulted when interpreting Table 4.2: Residential Districts Lot Standards and Table 4.3: Non-Residential Districts Lot Standards. For more information on the meaning of terms in this ordinance, see Chapter 11: Definitions.

1. Minimum Lot Size. The smallest area established by this ordinance on which a use, structure or building may be located in a particular district.

2. Minimum Lot Width. This refers to the minimum width a lot must have in order to be considered developable by this ordinance. The horizontal distance is measured between side lot lines at the building setback line.

3. Minimum Lot Frontage. The horizontal length of a lot measured between side lot lines at the street right-of-way or private street easement. All sides of a lot that abut a street are considered frontage.

4. Front Setback. The minimum allowable distance between the street right-of-way line and the facade of a principal building or structure projected to the sides of the lot measured perpendicular to the front lot line. The front setback applies to all frontages of a lot facing a street or right-of-way. For residential districts the setback is based on the classification of the road on which the building is located. The three (3) road designations (Arterial, Collector/Local) are based on the Center Township Thoroughfare Plan.

5. Side Setback. The minimum distance between the structure or building and the side lot lines. However, for corner and through lots, any side of a structure that faces a street shall meet front setback requirements.

6. Rear Setback. The minimum distance between the structure or building and the rear lot line. For through lots, the rear of the structure facing a street shall meet front setback requirements.

7. Agricultural Adjacency Setback (Residential Only). This setback line shall exist only on residential property that is adjacent to agricultural uses, and only along the portions of the property line that are directly

adjacent to the agricultural uses. Plantings shall not occur within this setback.

8. Maximum Height. In all instances, the height of a structure shall be measured from adjacent grade level to the highest point of the structure, excluding the necessary appurtenances such as chimneys, church spires, steeples, clock or bell towers, cooling towers, elevator bulkheads, fire towers, penthouses, stacks, tanks, water towers, transmission towers, or essential mechanical equipment not prohibited by other laws or further provisions of this ordinance. No accessory structure located in a residential zoning district may exceed the height of the principal structure on the property. Certain height exceptions are permitted according to the provisions of Section 7.3 Height Standards.

9. Maximum Intensity (Business and Industrial Only). Maximum Intensity is shown as the highest permissible Floor Area Ratio (FAR). This ratio is found by adding up the total floor area for all floors of the building and dividing that number by the total lot area.

10. Maximum Lot Coverage. The maximum ground area of a lot that can be covered by principal and accessory structures or buildings (this includes all impervious surfaces). For the purposes of this ordinance, parking areas shall be included as a structure.

11. Minimum Total Living Area (Residential Only). The sum of all horizontal floor area, including each story, of a residential building, exclusive of garages, porches, unfinished basements, unfinished attics, decks or terraces.

12. Required Open Space for Subdivisions (Residential Only). The required amount of open space, measured as a percentage of net land area. Required open space must be usable.

12. Minimum Ground Floor Area (Residential Only). The sum of the horizontal floor area required on the ground level of a residential building, exclusive of garages, porches, decks or terraces. A raised half story may be included in this total.

B. LIVING AREA. Each single- and multifamily dwelling unit shall have separate and individual kitchen and bathroom facilities unless as specified in Subsection 7.21(B) Bed and Breakfast.

C. LOT STANDARDS TABLE. Lot Standards are listed in the following tables under each district heading. Provisions for parking, signs, and landscaping are set forth in Chapter 7: Development Standards.

Table 4.2: Residential Districts Lot Standards

Regulation		SF	SF1	SF2	SF3	TR	MF	MH
Minimum Lot Size (square feet per unit)		20,000	12,500	9,000	7,500	6,000	4000 (1br) 5000 (2br) 6000 (3br)	5 ac (park) 4000 (site)
Minimum Lot Width (feet, measured at setback line)		125	100	75	65	50	100	100 (park) 30 (site)
Minimum Lot Frontage (feet, measured at lot line)		75	50	40	40	30	50	50
Front Setback (feet)	Arterial	60	60	60	60	60	60	50 (park) 15 (site)
	Collector/Local	25	25	25	25	20	40	
Side Setback (feet)		15	10	7.5*	7.5*	7.5*	50	50 (park) 15 (site)
Rear Setback (feet)		25	20	20	15	15	30	50 (park) 15 (site)
Agricultural Adjacency Setback (feet)		30	30	30	30	30	NA	NA
Maximum Height (feet)		35	35	35	35	35	45	35
Maximum Lot Coverage for All Impervious Surfaces		35%	35%	35%	45%	70%	65%	50%
Minimum Total Living Area per unit (sq. feet)		2,500	2,000	1,500	1,200	750	750	800
Minimum Ground Floor Living Area per unit (sq. feet)		900	900	900	750	750	750	800
Required Open Space for Subdivisions (percent of net land area)		8%	8%	10%	10%	12%	12%	12%

* Minimum of seven and one-half (7.5) feet or at least twenty percent (20%) of the width of the lot.

Table 4.3: Non-Residential Districts Lot Standards

Regulation		CB	NB	PBC	PBO	PBI	ID	IN
Minimum Lot Size (square feet, residential lot sizes are per unit)		6000*	6000*	1.5 Acre	1.5 Acre	5 Acres	5 Acres	1 Acre
Minimum Lot Width (feet, measured at setback line)		50	50	100	100	200	200	100
Minimum Lot Frontage (feet, measured at lot line)	Business	50	30	100	100	150	150	100
	Residential	30						
Front Setback (feet) ***		0	Min 15 Max 50	50	50	50	100	50
Side Setback (feet) **	Business or Industrial	0	0	15	15	25	50	25
	Residential	7.5	7.5	10				
Rear Setback (feet)	Business or Industrial	5	15	10	10	50	50	50
	Single-family / Two-family	15	15					
Maximum Height (feet)		50	35	35	50	50	50	50
Maximum Intensity (Floor Area Ratio)		3	2	0.6	0.6	0.6	0.6	0.45
Maximum Lot Coverage for All Impervious Surfaces		100%	85%	75%	75%	75%	75%	50%

* Allows secondary residential use, 2nd story, minimum six hundred (600) s.f. per unit

** Additional bufferyard standards may apply

*** Refer to Section 7.4 Lot Standards for additional setback standards

4 4.4 Single-family Residential (SF)

SF

A. DISTRICT INTENT:

The SF (Single-family Residential) zoning district is intended to provide areas for low density, single-family residential land uses developed in suburban-style subdivisions and as a transition between rural areas and higher density residential development. These areas should be located adjacent to existing developed areas and should be connected to available infrastructure.

B. PERMITTED USES

Agriculture
crop processing & storage (materials produced on-site)
crop production*

Residential
amenity area, subdivision
domestic pets
dwelling single-family (including manufactured homes)*

Entertainment Services
riding stable (commercial) - minimum 3-acre tract
swimming pool (private)

C. CONDITIONAL USES

Agriculture
agricultural product sales, distribution, & storage facility
animal boarding/stables (excluding kennels) - minimum 3-acre tract
farm (general)*
farm co-op. facility
farm equipment sales and service
farmer's market (permanent)
floriculture
grazing & pasture land*
greenhouse (commercial) not exceeding 1,000 square feet in area
nursery, wholesale
raising and breeding of non-farm fowl and animals, commercially, except kennel
viticulture (vineyard)

Residential
bed & breakfast facility
boarding house
child day care home
dwelling, accessory apartment ("granny flat")
group home
home occupation
residential facility for the developmentally disabled type I
residential facility for the developmentally disabled type II
residential facility for the mentally ill

Transportation Services
airstrip (private)

Park, Recreation, Natural Areas
artificial lake of three or more acres
campground / RV park
country club / golf course / driving range
nature preserve / center
park or recreational facility (playgrounds and athletic facilities)

Institutional/Public Uses
animal shelter
cemetery
church or temple
community center
fire station or police station
kindergarten or day nursery
library
school (any combination of k -12), public and private

Entertainment Services
recreational development (private)
seasonal fishing or hunting lodge
swimming pool (public)

Retail / Wholesale Sales
roadside sales stand

Personal Services
child care / day-care center

NOTES:

1. This district will be the default zoning classification for initial zoning during annexation for applications without a development proposal.
2. Development Plan required.

D. LOT & YARD STANDARDS

Minimum Lot Size (square feet per unit)
- 20,000

Minimum Lot Width (feet, measured at setback line)
- 125

Minimum Lot Frontage (feet, measured at lot line)
- 75

Front Setback (feet)
- Arterial: 60
- Collector/Local: 25

Side Setback (feet)
- 15

Rear Setback (feet)
- 25

Agricultural Adjacency Setback (feet) - refer to graphic in Subsection 4.4(D)
- 30

Maximum Height (feet)
- 35

Maximum Lot Coverage for All Impervious Surfaces
- 35%

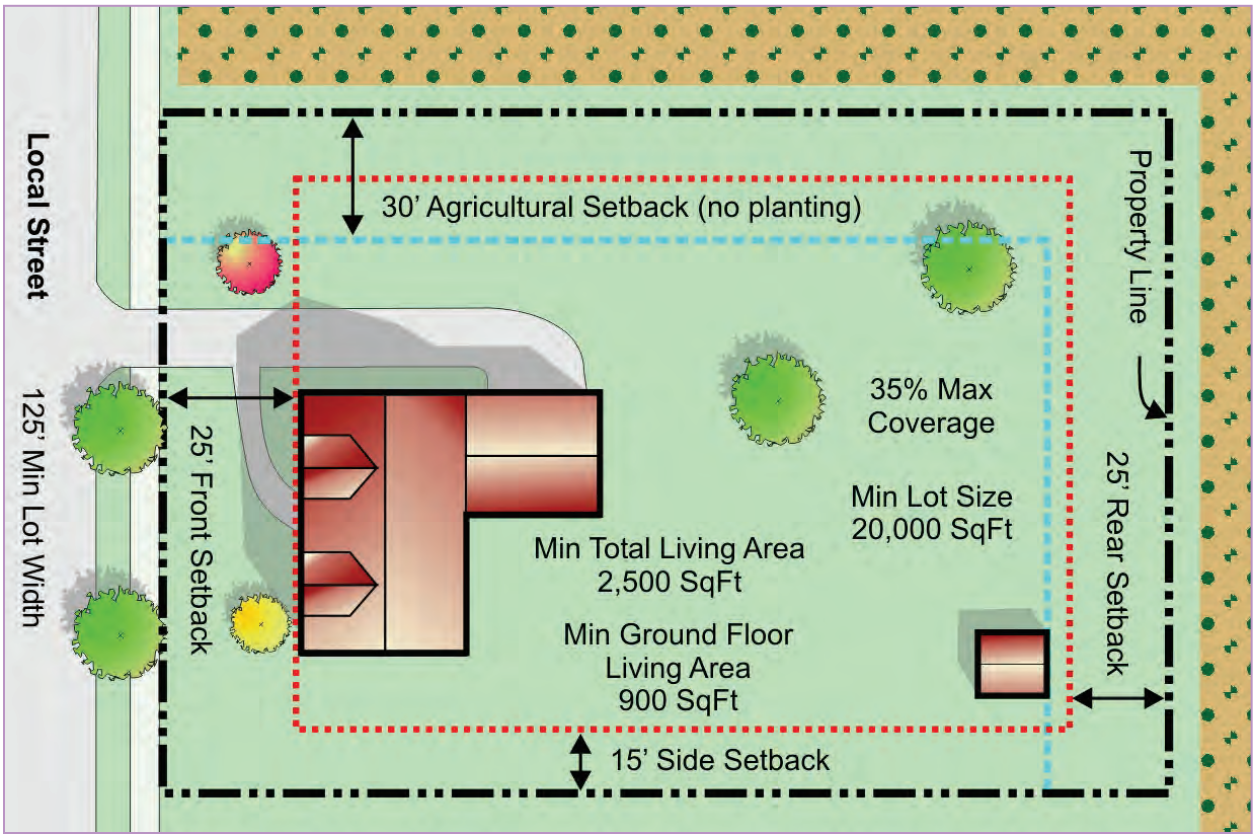
Minimum Total Living Area per unit (sq. feet)
- 2,500

Minimum Ground Floor Living Area per unit (sq. feet)
- 900

Required Open Space for Subdivisions (percent of net land area)
- 8%

CROSS REFERENCES

Standard	Page #
7.4 Lot Standards	118
7.8 Landscaping	162
7.10 Accessory Uses and Structures	191
7.12 Home Occupation Standards	199
7.14 Fence and Wall Standards	205
7.15 Exterior Lighting Standards	207
7.18 Design Standards	217
Chapter 8: Subdivision of Land	237



4.5 Single-family Residential (SF1)

SF1

A. DISTRICT INTENT:

The SF1 (Single-family Residential) zoning district is intended to provide areas for single-family residential land uses developed in suburban-style subdivisions. These areas should be located adjacent to existing developed areas and should be connected to available infrastructure. This district should be used to provide unique, rural housing options.

B. PERMITTED USES

Agriculture
crop production*

Residential
amenity area, subdivision
domestic pets
dwelling single-family (including manufactured homes)*

Entertainment Services
swimming pool (private)

C. CONDITIONAL USES

Agriculture
farmer's market (permanent)

Residential
child day care home
dwelling, accessory apartment ("granny flat")
group home
home occupation
residential facility for the developmentally disabled type I
residential facility for the developmentally disabled type II
residential facility for the mentally ill

Park, Recreation, Natural Areas
artificial lake of three or more acres
country club / golf course / driving range
park or recreational facility (playgrounds and athletic facilities)

Institutional/Public Uses
church or temple
community center
fire station or police station
kindergarten or day nursery
library
school (any combination of k -12), public and private

Entertainment Services
recreational development (private)
swimming pool (public)

Personal Services
child care / day-care center

NOTES:

1. Development Plan required.

D. LOT & YARD STANDARDS

Minimum Lot Size (square feet per unit)
- 12,500

Minimum Lot Width (feet, measured at setback line)
- 100

Minimum Lot Frontage (feet, measured at lot line)
- 50

Front Setback (feet)
- Arterial: 60
- Collector/Local: 25

Side Setback (feet)
- 10

Rear Setback (feet)
- 20

Agricultural Adjacency Setback (feet) - refer to graphic in Subsection 4.4(D)
- 30

Maximum Height (feet)
- 35

Maximum Lot Coverage for All Impervious Surfaces
- 35%

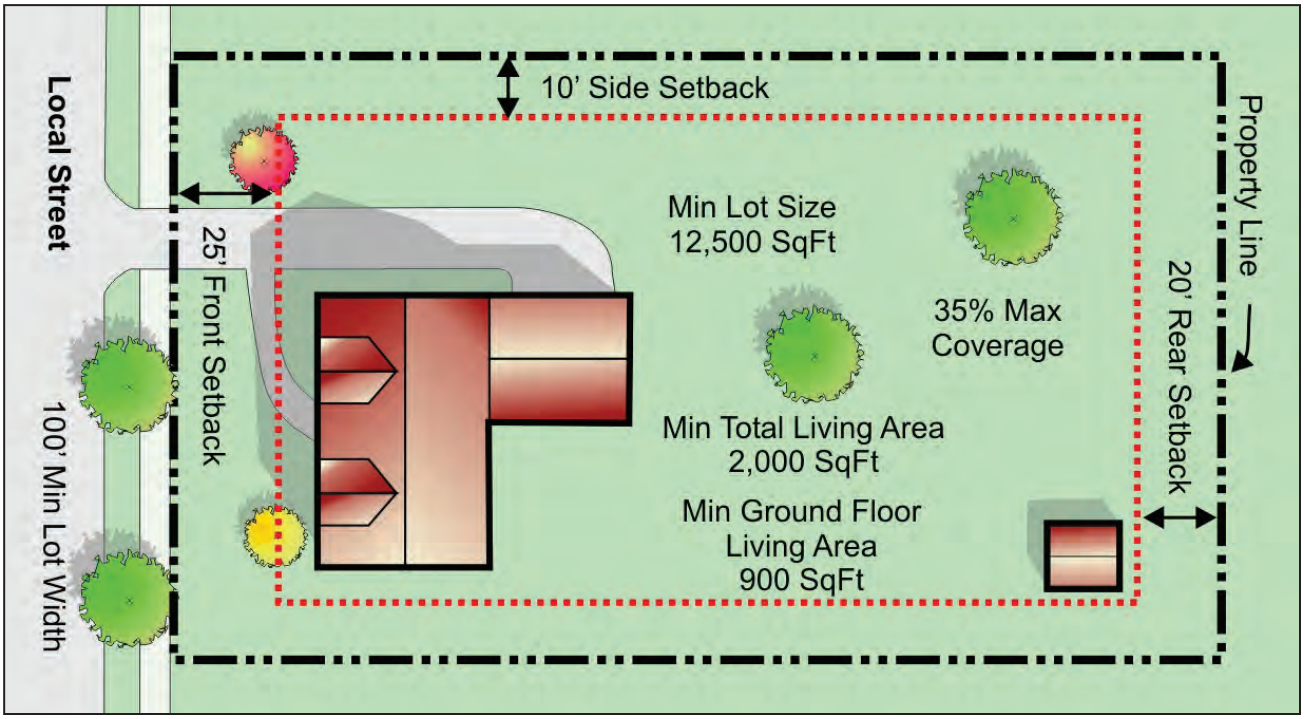
Minimum Total Living Area per unit (sq. feet)
- 2,000

Minimum Ground Floor Living Area per unit (sq. feet)
- 900

Required Open Space for Subdivisions (percent of net land area)
- 8%

CROSS REFERENCES

Standard	Page #
7.4 Lot Standards	118
7.8 Landscaping	162
7.10 Accessory Uses and Structures	191
7.12 Home Occupation Standards	199
7.14 Fence and Wall Standards	205
7.15 Exterior Lighting Standards	207
7.18 Design Standards	217
Chapter 8: Subdivision of Land	237



4 4.6 Single-family Residential (SF2)

SF2

A. DISTRICT INTENT:

The SF2 (Single-family Residential) zoning district is intended to provide areas for single-family residential land uses developed in suburban-style subdivisions. These areas should be located adjacent to existing developed areas and should be connected to available infrastructure (roads and utilities).

B. PERMITTED USES

Agriculture
crop production*

Residential
amenity area, subdivision
domestic pets
dwelling single-family (including manufactured homes)*

Entertainment Services
swimming pool (private)

C. CONDITIONAL USES

Residential
child day care home
dwelling, accessory apartment ("granny flat")
dwelling two-family*
group home
home occupation
residential facility for the developmentally disabled type I
residential facility for the developmentally disabled type II
residential facility for the mentally ill

Park, Recreation, Natural Areas
artificial lake of three or more acres
country club / golf course / driving range
park or recreational facility (playgrounds and athletic facilities)

Institutional/Public Uses
church or temple
community center
fire station or police station
kindergarten or day nursery
library
school (any combination of k -12), public and private

Entertainment Services
recreational development (private)
swimming pool (public)

Personal Services
child care / day-care center

NOTES:

1. Development Plan required.

D. LOT & YARD STANDARDS

Minimum Lot Size (square feet per unit)
- 9,000

Minimum Lot Width (feet, measured at setback line)
- 75

Minimum Lot Frontage (feet, measured at lot line)
- 40

Front Setback (feet)
- Arterial: 60
- Collector/Local: 25

Side Setback (feet)
- 7.5

Rear Setback (feet)
- 20

Agricultural Adjacency Setback (feet) - refer to graphic in Subsection 4.4(D)
- 30

Maximum Height (feet)
- 35

Maximum Lot Coverage for All Impervious Surfaces
- 35%

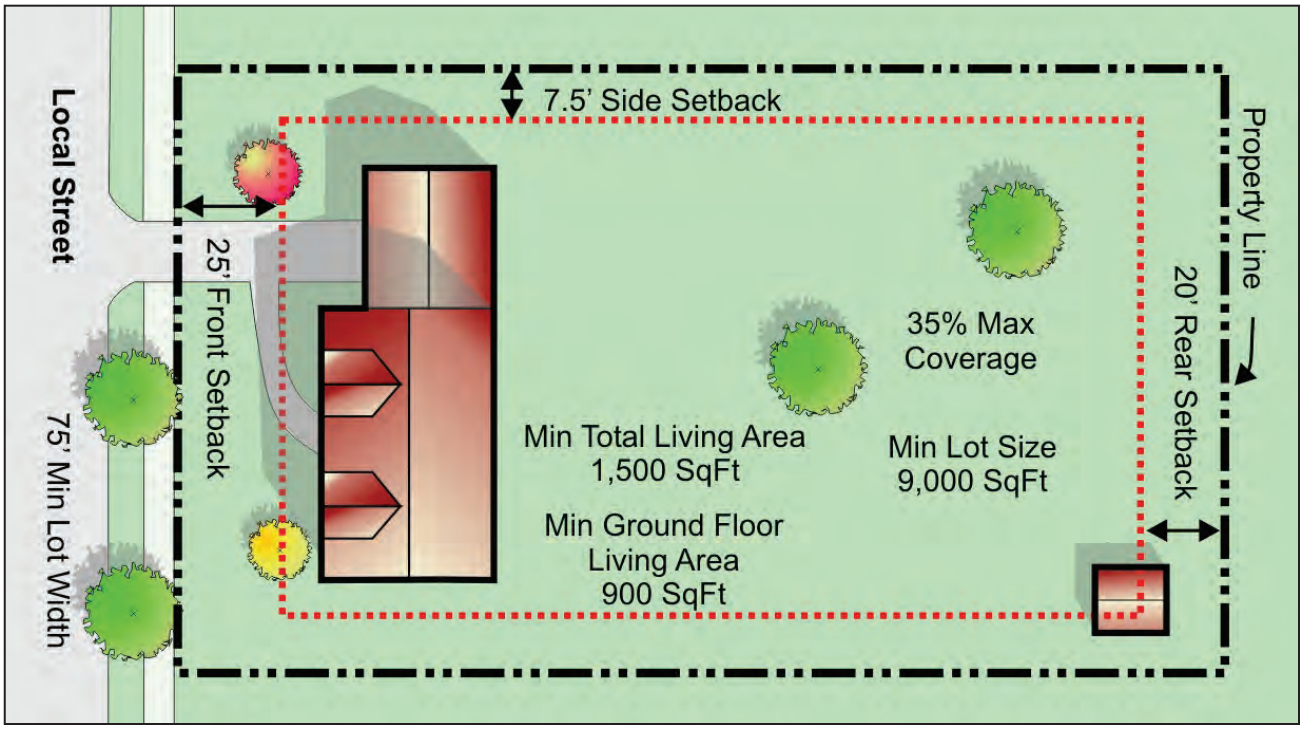
Minimum Total Living Area per unit (sq. feet)
- 1,500

Minimum Ground Floor Living Area per unit (sq. feet)
- 900

Required Open Space for Subdivisions (percent of net land area)
- 10%

CROSS REFERENCES

Standard	Page #
7.4 Lot Standards	118
7.8 Landscaping	162
7.10 Accessory Uses and Structures	191
7.12 Home Occupation Standards	199
7.14 Fence and Wall Standards	205
7.15 Exterior Lighting Standards	207
7.18 Design Standards	217
Chapter 8: Subdivision of Land	237



4 4.7 Single-family Residential (SF3)

SF3

A. DISTRICT INTENT:

The SF3 (Single-family Residential) zoning district is intended to provide for moderate density single-family and two-family residential development on smaller lots than are permitted in the other SF districts. This district is designed for areas close to urban development, and shall be connected to existing infrastructure (streets and utilities).

B. PERMITTED USES

Agriculture
crop production*

Residential
amenity area, subdivision
domestic pets
dwelling single-family (including manufactured homes)*
dwelling two-family*

Entertainment Services
swimming pool (private)

Retail / Wholesale Sales
vendor, temporary (farmer's market, street fair, etc.)

C. CONDITIONAL USES

Residential
child day care home
dwelling, accessory apartment ("granny flat")
group home
home occupation
residential facility for the developmentally disabled type I
residential facility for the developmentally disabled type II
residential facility for the mentally ill

Park, Recreation, Natural Areas
artificial lake of three or more acres
country club / golf course / driving range
park or recreational facility (playgrounds and athletic facilities)

Institutional/Public Uses
church or temple
community center
fire station or police station
kindergarten or day nursery
library
school (any combination of k -12), public and private

Entertainment Services
recreational development (private)
swimming pool (public)

Personal Services
child care / day-care center

NOTES:

1. Development Plan required.

D. LOT & YARD STANDARDS

Minimum Lot Size (square feet per unit)
- 7,500

Minimum Lot Width (feet, measured at setback line)
- 65

Minimum Lot Frontage (feet, measured at lot line)
- 40

Front Setback (feet)
- Arterial: 60
- Collector/Local: 25

Side Setback (feet)*
- 7.5

Rear Setback (feet)
- 15

Agricultural Adjacency Setback (feet) - refer to graphic in Subsection 4.4(D)
- 30

Maximum Height (feet)
- 35

Maximum Lot Coverage for All Impervious Surfaces
- 45%

Minimum Total Living Area per unit (sq. feet)
- 1,200

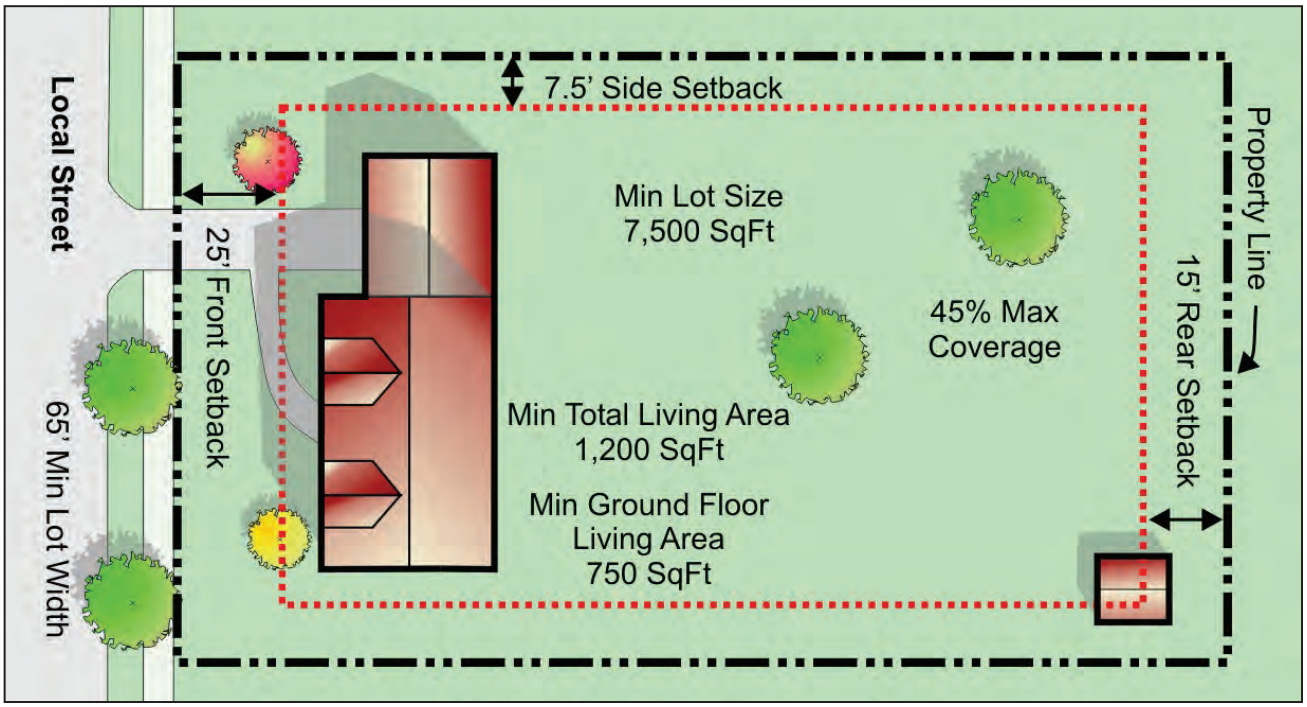
Minimum Ground Floor Living Area per unit (sq. feet)
- 750

Required Open Space for Subdivisions (percent of net land area)
- 10%

CROSS REFERENCES

Standard	Page #
7.4 Lot Standards	118
7.8 Landscaping	162
7.10 Accessory Uses and Structures	191
7.12 Home Occupation Standards	199
7.14 Fence and Wall Standards	205
7.15 Exterior Lighting Standards	207
7.18 Design Standards	217
Chapter 8: Subdivision of Land	237

* The combined total of the side setbacks shall equal at least 20% of the width of the lot.



4.8 Traditional Residential (TR)

TR

A. DISTRICT INTENT:

The TR (Traditional Residential) zoning district is intended to provide for single-family and two-family residential development in a neo-traditional subdivision (Section 8.1 Types of Subdivisions) or in the CB and NB Districts within the Downtown Overlay District. The compact urban form utilizes a grid street pattern, smaller setbacks, on-street parking and alley access to rear yards and rear-loading garages. This district is designed for urban areas. These areas should be located adjacent to existing development and near compatible infrastructure (streets and utilities).

B. PERMITTED USES

Residential
amenity area, subdivision
domestic pets
dwelling multifamily
dwelling secondary (on upper floors of first-floor retail/office use)
dwelling single-family (including manufactured homes)*
dwelling two-family*

Entertainment Services
swimming pool (private)

Retail / Wholesale Sales
vendor, temporary (farmer's market, street fair, etc.)

C. CONDITIONAL USES

Agriculture
farmer's market (permanent)

Residential
child day care home
dwelling, accessory apartment ("granny flat")
group home
home occupation
assisted living facility
residential facility for the developmentally disabled type I
residential facility for the developmentally disabled type II
residential facility for the mentally ill
retirement facility (senior housing)

Park, Recreation, Natural Areas
artificial lake of three or more acres
country club / golf course / driving range
park or recreational facility (playgrounds and athletic facilities)

Institutional/Public Uses
church or temple
community center
fire station or police station
kindergarten or day nursery
library
school (any combination of k -12), public and private

Entertainment Services
recreational development (private)
swimming pool (public)

Professional Services
administrative/professional office
bank / financial institution
business/financial services office
clinic (medical/dental) or health center
print shop/copy center

Retail / Wholesale Sales
antique shop
apparel shop
art or photo gallery
book store
convenience store (without gas station)
dressmaking
flower shop
gift shop
ice cream shop
jewelry store
newsdealer
stationery shop

Equipment Services
repair services (small appliances, jewelry, alterations, etc.)

Food Sales & Service
bakery (retail)
coffee shop
delicatessen
meat market

Personal Services
barber shop
beauty shop
child care / day-care center
dry cleaning establishment (retail)
health spa
laundry (self-service)
massage therapy (by licensed massage therapist)
pharmacy
photographic studio
shoe repair shop
tailor and pressing shop
tanning salon

NOTES:

1. The Building or Fire Code enforcement official of the City of Lebanon shall have the authority to require or increase a Fire-Protection Rating in any structural assembly of an approved multifamily dwelling or mixed-use occupancy that includes a residential occupancy.

2. Development Plan required if TR District is part of a major subdivision.

D. LOT & YARD STANDARDS

Minimum Lot Size (square feet per unit)
- 6,000

Minimum Lot Width (feet, measured at setback line)
- 50

Minimum Lot Frontage (feet, measured at lot line)
- 30

Front Setback (feet)
- Arterial: 60
- Collector/Local: 20

Side Setback (feet)*
- 7.5

Rear Setback (feet)
- 15

Agricultural Adjacency Setback (feet) - refer to graphic in Subsection 4.4(D)
- 30

Maximum Height (feet)
- 35

Maximum Lot Coverage for All Impervious Surfaces
- 70%

Minimum Total Living Area per unit (sq. feet)
- 750

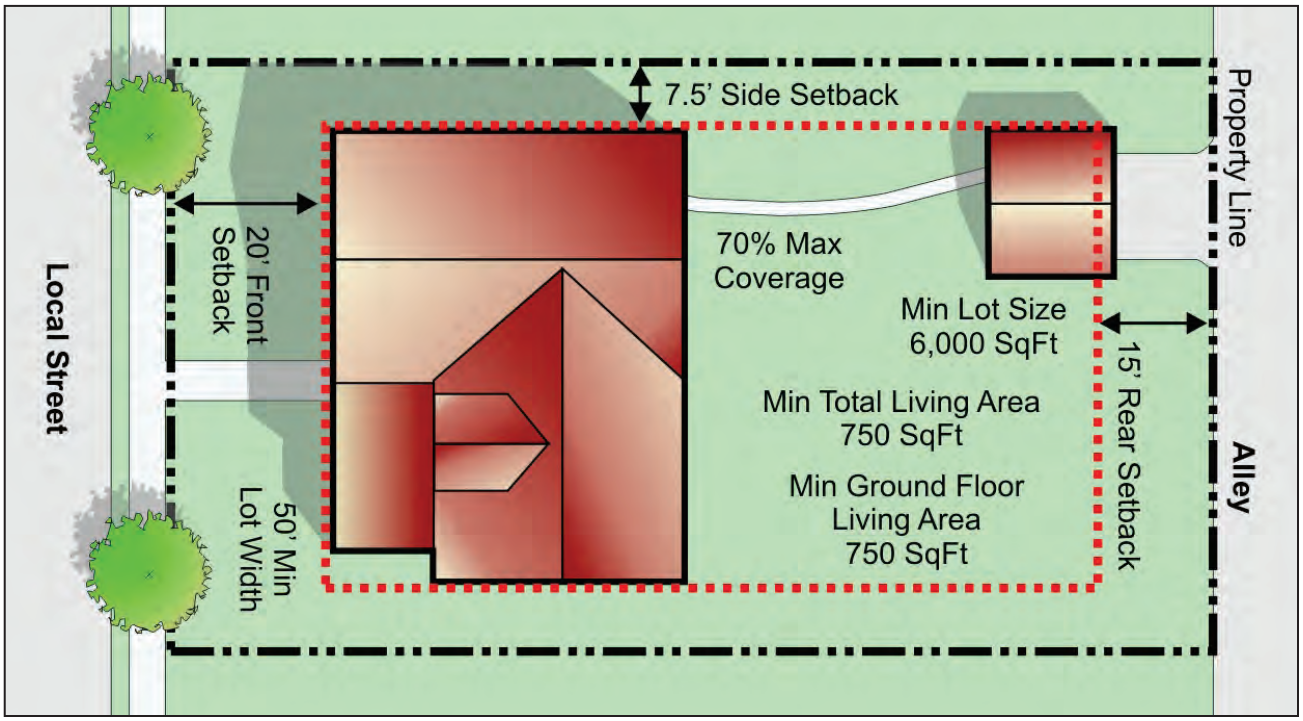
Minimum Ground Floor Living Area per unit (sq. feet)
- 750

Required Open Space for Subdivisions (percent of net land area)
- 12%

CROSS REFERENCES

Standard	Page #
7.4 Lot Standards	118
7.8 Landscaping	162
7.10 Accessory Uses and Structures	191
7.12 Home Occupation Standards	199
7.14 Fence and Wall Standards	205
7.15 Exterior Lighting Standards	207
7.18 Design Standards	217
Chapter 8: Subdivision of Land	237

* The combined total of the side setbacks shall equal at least 20% of the width of the lot.



4.9 Multifamily Residential (MF)

MF

A. DISTRICT INTENT:

The MF (Multifamily Residential) zoning district is intended to provide areas for large or small multifamily developments for a variety of housing and ownership types such as two-family dwellings, townhomes, apartment homes, and condominiums. These higher density communities should be located in areas with access to compatible infrastructure (streets and utilities), commercial, and recreational development.

B. PERMITTED USES

Residential
amenity area, subdivision
domestic pets
dwelling multifamily
dwelling two-family*
assisted living facility
nursing / convalescent home
retirement facility (senior housing)

Entertainment Services
swimming pool (private)

C. CONDITIONAL USES

Residential
child day care home
dwelling secondary (on upper floors of first-floor retail/office use)
group home
home occupation
residential facility for the developmentally disabled type I
residential facility for the developmentally disabled type II
residential facility for the mentally ill

Park, Recreation, Natural Areas
artificial lake of three or more acres
country club / golf course / driving range
park or recreational facility (playgrounds and athletic facilities)

Institutional/Public Uses
church or temple
community center
fire station or police station
institution for the developmentally disabled/mentally ill
kindergarten or day nursery
library
museum or gallery
school (any combination of k -12), public and private

Entertainment Services
recreational development (private)
swimming pool (public)

Personal Services
child care / day-care center

NOTES:

1. The Building or Fire Code enforcement official of the City of Lebanon shall have the authority to require or increase a Fire-Protection Rating in any structural assembly of an approved multifamily dwelling or mixed-use occupancy that includes a residential occupancy.
2. Requires Development Plan.

D. LOT & YARD STANDARDS

Minimum Lot Size (square feet per unit)
- 4,000 (1br)
- 5,000 (2br)
- 6,000 (3br)

Minimum Lot Width (feet, measured at setback line)
- 100

Minimum Lot Frontage (feet, measured at lot line)
- 50

Front Setback (feet)
- Arterial: 60
- Collector/Local: 40

Side Setback (feet)*
- 50

Rear Setback (feet)
- 30

Maximum Height (feet)
- 45

Maximum Lot Coverage for All Impervious Surfaces
- 65%

Minimum Total Living Area per unit (sq. feet)
- 750

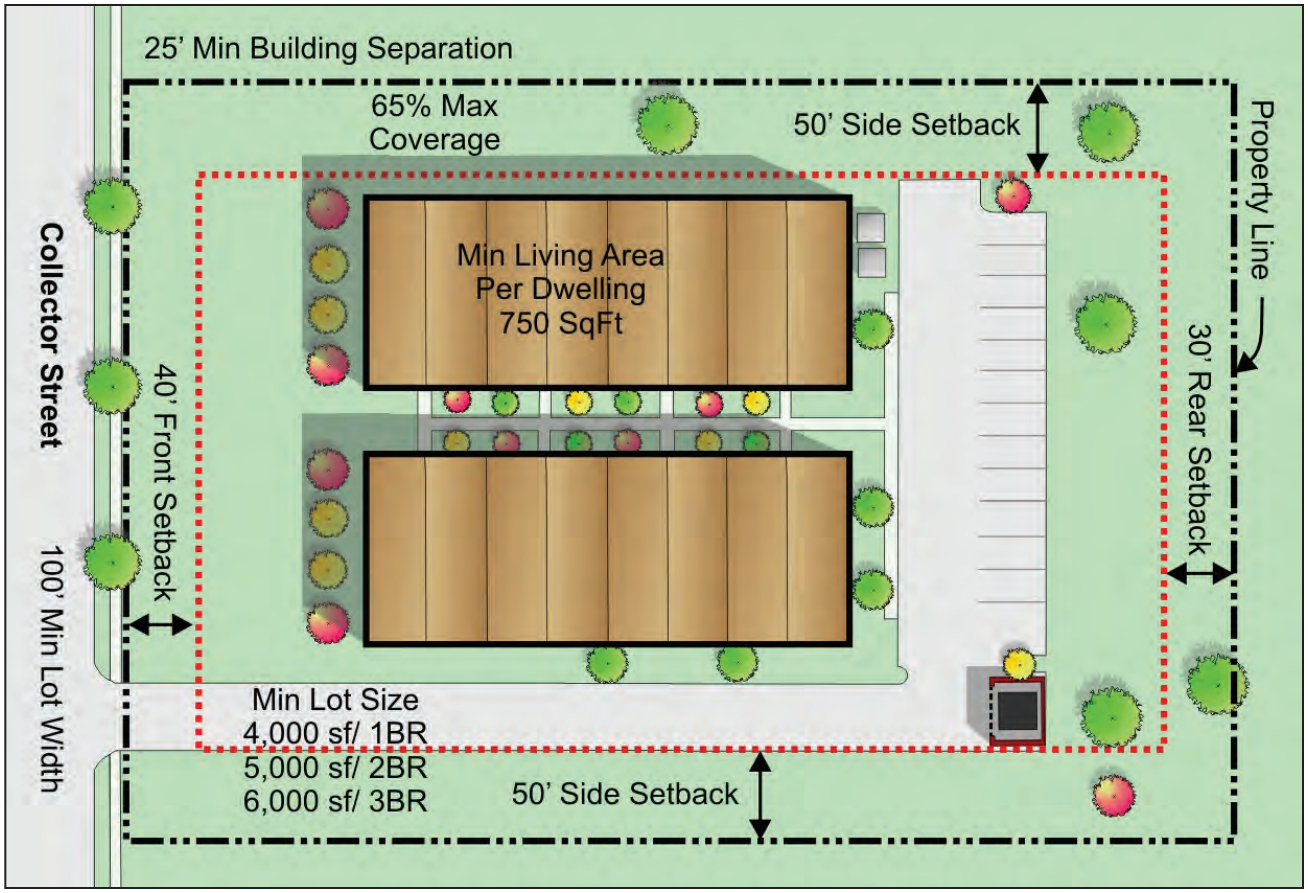
Minimum Ground Floor Living Area per unit (sq. feet)
- 750

Required Open Space for Subdivisions (percent of net land area)
- 12%

CROSS REFERENCES

Standard	Page #
7.3 Height Standards	117
7.8 Landscaping	162
7.10 Accessory Uses and Structures	191
7.14 Fence and Wall Standards	205
7.15 Exterior Lighting Standards	207
7.18 Design Standards	217
7.20 Single-family to Multifamily Conversion Standards	231
Chapter 8: Subdivision of Land	237

* Minimum Building Separation shall be 25'.



4 4.10 Manufactured Home Park (MH)

MH

A. DISTRICT INTENT:

The MH (Manufactured Home Park) zoning district is intended to provide for leased-lot neighborhoods of manufactured homes. This district should be used to establish and maintain locations for these facilities near compatible infrastructure (streets and utilities), commercial services, other high density housing or open space. These developments are similar to multifamily developments with greater setbacks, smaller living spaces, and higher densities.

B. PERMITTED USES

Residential
amenity area, subdivision
domestic pets
dwelling single-family (including manufactured homes)*
mobile home park/ manufactured home park

Entertainment Services
swimming pool (private)

C. CONDITIONAL USES

Residential
child day care home
home occupation
residential facility for the developmentally disabled type I
residential facility for the developmentally disabled type II
residential facility for the mentally ill

Park, Recreation, Natural Areas
artificial lake of three or more acres
country club / golf course / driving range
park or recreational facility (playgrounds and athletic facilities)

Institutional/Public Uses
church or temple
community center
fire station or police station
kindergarten or day nursery
library
museum or gallery
school (any combination of k -12), public and private

Entertainment Services
recreational development (private)
swimming pool (public)

Personal Services
child care / day-care center

NOTES:

1. Development Plan required for new Manufactured Home Park development.

D. LOT & YARD STANDARDS

Minimum Lot Size (square feet per unit)
- 5 ac (park)
- 4,000 (site)

Minimum Lot Width (feet, measured at setback line)
- 100 (park)
- 30 (site)

Minimum Lot Frontage (feet, measured at lot line)
- 50

Front Setback (feet)
- 50 (park)
- 15 (site)

Side Setback (feet)
- 50 (park)
- 15 (site)

Rear Setback (feet)
- 50 (park)
- 15 (site)

Maximum Height (feet)
- 35

Maximum Lot Coverage for All Impervious Surfaces
- 50%

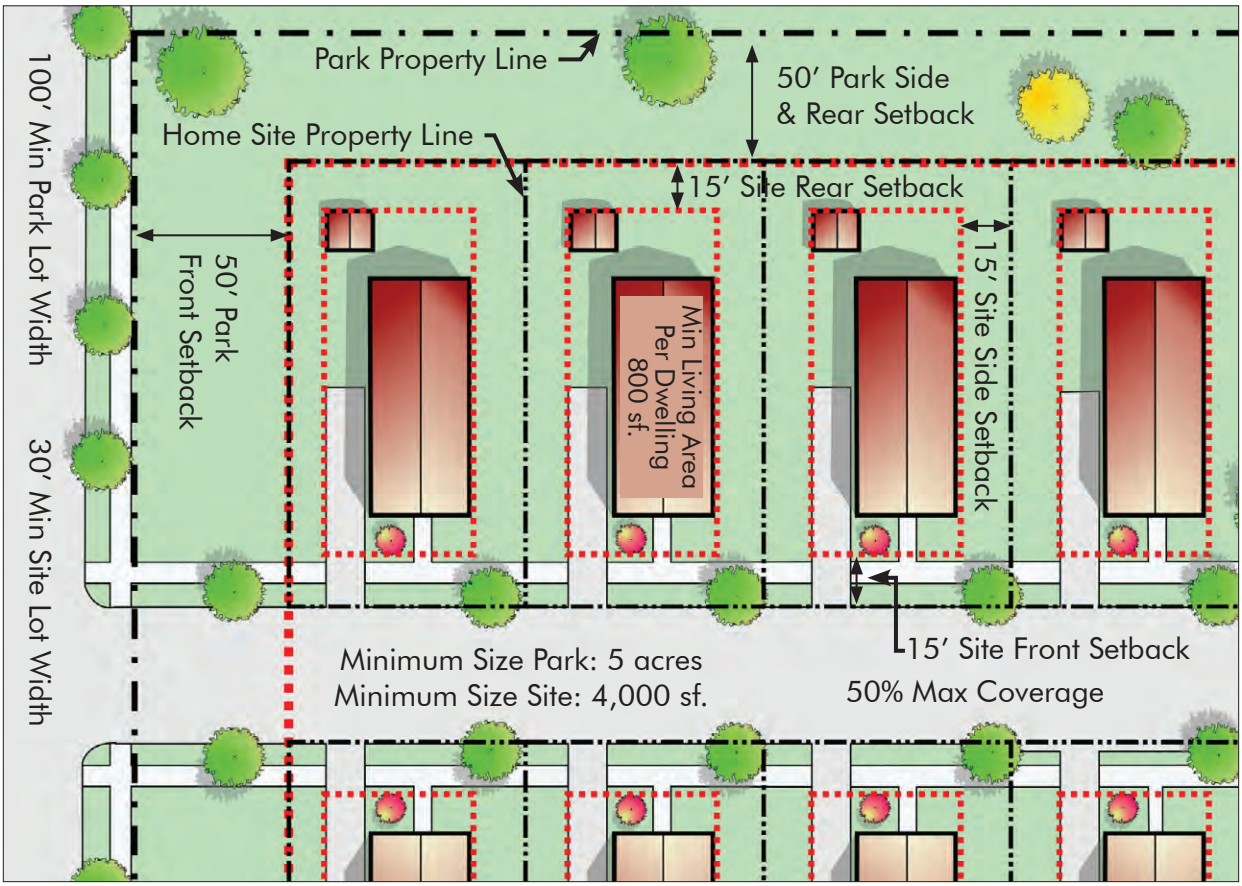
Minimum Total Living Area per unit (sq. feet)
- 800

Minimum Ground Floor Living Area per unit (sq. feet)
- 800

Required Open Space for Subdivisions (percent of net land area)
- 12%

CROSS REFERENCES

Standard	Page #
7.8 Landscaping	162
7.10 Accessory Uses and Structures	191
7.14 Fence and Wall Standards	205
7.15 Exterior Lighting Standards	207
7.18 Design Standards	217
7.19 Manufactured Home Parks Standards	230
Chapter 8: Subdivision of Land	237



4 4.11 Central Business (CB)

CB

A. DISTRICT INTENT:

The CB (Central Business) zoning district covers the central business district of Lebanon. Its intent is to protect the unique historic character of the downtown area while establishing the district as a specialty business, residential, and shopping district. This district is further intended to permit the development of traditional mixed-use which would include second story residential above commercial. This district should be protected from non-neighborhood serving land uses such as "big box" or other more regional retail uses.

B. PERMITTED USES

Residential
dwelling secondary (on upper floors of first-floor retail/office use)
dwelling single-family (including manufactured homes)*
dwelling two-family*
assisted living facility
nursing / convalescent home
retirement facility (senior housing)

Transportation Services
auto parts sales (without on-site repair)
automobile / motorcycle sales area and leasing (open)

Communications / Utilities
utility company business office

Institutional/Public Uses
community center
fire station or police station
government facility (non-office)
government office
kindergarten or day nursery
library
museum or gallery
post office

Entertainment Services
banquet or assembly hall
bowling alley
dancing academy / martial arts / gymnastics studio
lodge or private club
miniature golf course
retreat center
skating rink (roller/ice)
swimming pool (private)
theater (indoor); excluding, adult motion picture theater; and adult mini-motion picture theater

Professional Services
administrative/professional office
bank / financial institution
business/financial services office
clinic (medical/dental) or health center
conference center
data processing / call center
employment service
hotel / motel
investment firm
office building
print shop/copy center

Retail / Wholesale Sales
antique shop
apparel shop
art or photo gallery
auction facility (excluding livestock)
book store
building finishes shop (paint, carpet, wallpaper, etc.)
convenience store (without gas station)
craft/fabric store
dressmaking
flower shop
garden shop / retail nursery
gift shop
grocery store
hardware store
ice cream shop
jewelry store
liquor store
newsdealer
office supply store
pet store
record/CD/video/musical instrument shop
shopping mall
sporting goods shop
stationery shop
supermarket
variety store
vendor, temporary (farmer's market, street fair, etc.)

Equipment Services
electric appliance shop
home electronics/appliance store
repair services (small appliances, jewelry, alterations, etc.)

Food Sales & Service
bakery (retail)
coffee shop
delicatessen
meat market
microbrewery/brew-pub
restaurant

Personal Services
barber shop
beauty shop
child care / day-care center
dry cleaning establishment (retail)
fitness center
funeral home
health spa
laundry (self-service)
massage therapy (by licensed massage therapist)
pharmacy
photographic studio
shoe repair shop
tailor and pressing shop
tanning salon

C. CONDITIONAL USES

Agriculture
farmer's market (permanent)

Residential
bed & breakfast facility
boarding house
child day care home
dwelling, accessory apartment ("granny flat")
group home
home occupation
residential facility for the developmentally disabled type II
residential facility for the mentally ill

Transportation Services
automobile filling station
automobile / motor vehicle repair, (minor) including: oil changes/ lubrications, brake replacement, muffler replacement, tire servicing, radiator cleaning and flushing, water hose replacement, windshield wipers, etc.
car wash
motor bus or railroad passenger station
parking lot or structure (as a principal use)

Park, Recreation, Natural Areas
artificial lake of three or more acres
country club / golf course / driving range
park or recreational facility (playgrounds and athletic facilities)

Communications / Utilities
utility substation

Institutional/Public Uses
church or temple
college building
hospital
institution for the developmentally disabled/mentally ill
school (any combination of k -12), public and private
trade or business school
university or college

Entertainment Services
bar or tavern or night club
billiard room or arcade
recreational development (private)
swimming pool (public)
winery

Retail / Wholesale Sales
department store, including any facility (whether or not attached) associated with such department store for the sale of tires, batteries, automobile accessories and lubrication and for the servicing and repair of motor vehicles incidental to such sales
shopping center

NOTES:

1. A certificate (Section 9.12 Certificate of Compliance with Safety Codes) shall be required for change of tenant or use and conversions of residential to: commercial, multifamily, or dwellings with mixed-use occupancy.
2. The Building or Fire Code enforcement official of the City of Lebanon shall have the authority to require or increase a Fire-Protection Rating in any structural assembly of an approved multifamily dwelling or mixed-use occupancy that includes a residential occupancy.
3. Development Plan Required.

D. LOT & YARD STANDARDS

Minimum Lot Size (square feet per unit)*
- 6000

Minimum Lot Width (feet, measured at setback line)
- 50

Minimum Lot Frontage (feet, measured at lot line)
- Business: 50
- Residential: 30

Front Setback (feet)
- 0

Side Setback (feet)
- Business/Industrial: 0
- Residential: 7.5

Rear Setback (feet)
- Business/Industrial: 5
- Single-family/two-family: 15

Maximum Height (feet)
- 50

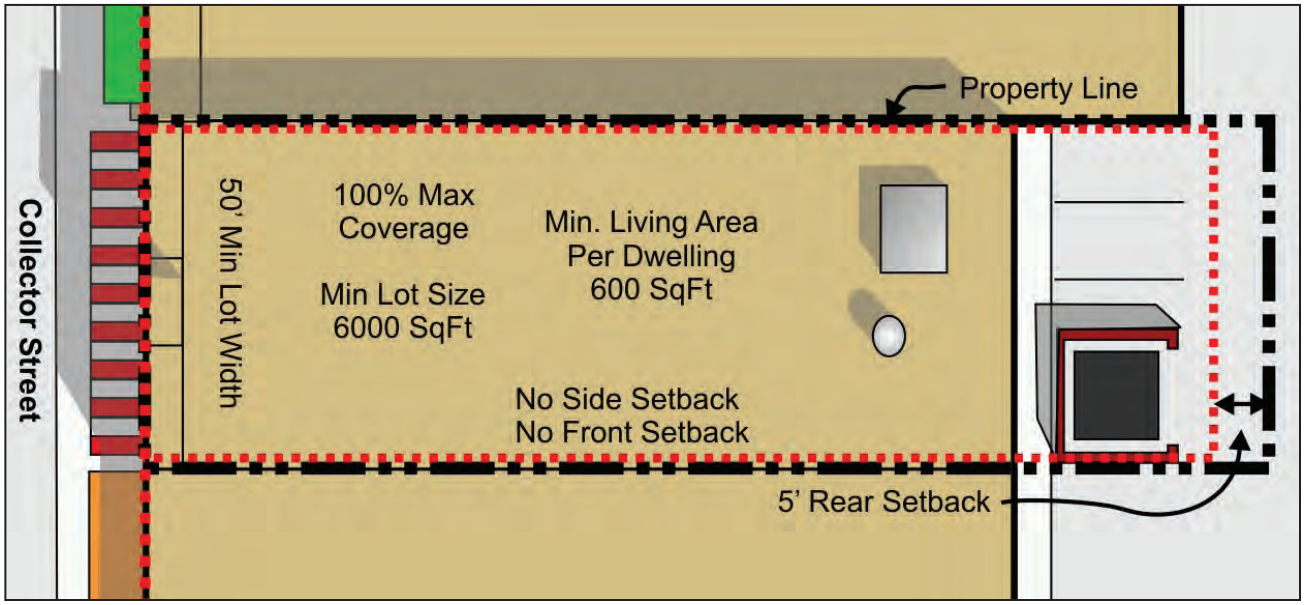
Maximum Intensity (Floor Area Ratio)
- 3.0

Maximum Lot Coverage for All Impervious Surfaces
- 100%

CROSS REFERENCES

Standard	Page #
6.3 Downtown Overlay District	107
7.7 Sign Regulations	145
7.8 Landscaping	162
7.10 Accessory Uses and Structures	191
7.13 Outdoor Sales, Display, and Storage	202
7.14 Fence and Wall Standards	205
7.15 Exterior Lighting Standards	207
7.18 Design Standards	217
Chapter 8: Subdivision of Land	237

* Allows secondary residential use, 2nd story, minimum 600 sf. per unit.



4 4.12 Neighborhood Business (NB)

NB

A. DISTRICT INTENT:

The NB (Neighborhood Business) zoning district is a mixed-use neighborhood district in close proximity to downtown and with close proximity to convenience goods, services, and amenities. Lot sizes are smaller and density higher than other residential districts. This district could permit the development of mixed-use. This district should be protected from non-neighborhood serving land uses such as "big box" retail uses or other non-compatible commercial or industrial uses.

B. PERMITTED USES

Residential
dwelling secondary (on upper floors of first-floor retail/office use)
dwelling single-family (including manufactured homes)*
dwelling two-family*
nursing / convalescent home

Transportation Services
automobile / motorcycle sales area and leasing (open)

Communications / Utilities
utility company business office

Institutional/Public Uses
community center
fire station or police station
government facility (non-office)
government office
hospital
kindergarten or day nursery
library
museum or gallery
post office

Entertainment Services
banquet or assembly hall
bowling alley
dancing academy / martial arts / gymnastics studio
lodge or private club
miniature golf course
retreat center
skating rink (roller/ice)
swimming pool (private)
theater (indoor); excluding, adult motion picture theater; and adult mini-motion picture theater

Professional Services
administrative/professional office
bank / financial institution
business/financial services office
clinic (medical/dental) or health center
conference center
employment service
investment firm
office building
print shop/copy center
veterinary hospital for small animals

Retail / Wholesale Sales
antique shop
apparel shop
art or photo gallery
auction facility (excluding livestock)
book store
building finishes shop (paint, carpet, wallpaper, etc.)
convenience store (without gas station)
craft/fabric store
dressmaking
flower shop
garden shop / retail nursery
gift shop
grocery store
hardware store
ice cream shop
jewelry store
liquor store
newsdealer
office supply store
pet store
record/CD/video/musical instrument shop
sporting goods shop
stationery shop
supermarket
variety store
vendor, temporary (farmer's market, street fair, etc.)

Equipment Services
electric appliance shop
home electronics/appliance store
repair services (small appliances, jewelry, alterations, etc.)

Food Sales & Service
bakery (retail)
coffee shop
delicatessen
meat market
microbrewery/brew-pub
restaurant

Personal Services
barber shop
beauty shop
child care / day-care center
dry cleaning establishment (retail)
fitness center
funeral home
health spa
laundry (self-service)
massage therapy (by licensed massage therapist)
pharmacy
photographic studio
shoe repair shop
tailor and pressing shop
tanning salon

C. CONDITIONAL USES

Agriculture
farmer's market (permanent)

Residential
bed & breakfast facility
boarding house
child day care home
dwelling, accessory apartment ("granny flat")
dwelling multifamily
home occupation
assisted living facility
residential facility for the developmentally disabled type II
residential facility for the mentally ill
retirement facility (senior housing)

Transportation Services
auto parts sales (without on-site repair)
automobile filling station
automobile / motor vehicle repair, (major): engine rebuilding or major reconditioning of motor vehicles, including body work, frame or fender straightening or repair, transmission repair and painting of vehicles.
automobile / motor vehicle repair, (minor) including: oil changes/ lubrications, brake replacement, muffler replacement, tire servicing, radiator cleaning and flushing, water hose replacement, windshield wipers, etc.
car wash

Park, Recreation, Natural Areas
artificial lake of three or more acres
park or recreational facility (playgrounds and athletic facilities)

Communications / Utilities
utility substation

Institutional/Public Uses
church or temple
college building
institution for the developmentally disabled/mentally ill
school (any combination of k -12), public and private
trade or business school
university or college

Entertainment Services
bar or tavern or night club
billiard room or arcade
outdoor commercial recreational enterprise (carnival, amusement park, etc.)
recreational development (private)
swimming pool (public)
winery

Professional Services
data processing / call center

Retail / Wholesale Sales
construction services
department store, including any facility (whether or not attached) associated with such department store for the sale of tires, batteries, automobile accessories and lubrication and for the servicing and repair of motor vehicles incidental to such sales
shopping center

Food Sales & Service
drive thru restaurant

Warehousing / Industrial
mini-warehouse self-storage facility

NOTES:

1. The Building or Fire Code enforcement official of the City of Lebanon shall have the authority to require or increase a Fire-Protection Rating in any structural assembly of an approved multifamily dwelling or mixed-use occupancy that includes a residential occupancy.
2. Development Plan required.

D. LOT & YARD STANDARDS

Minimum Lot Size (square feet per unit)*
- 6000

Minimum Lot Width (feet, measured at setback line)
- 50

Minimum Lot Frontage (feet, measured at lot line)
- 30

Front Setback (feet)
- Min: 15
- Max: 30

Side Setback (feet)
- Business/Industrial: 0
- Residential: 7.5

Rear Setback (feet)
- Business/Industrial: 15
- Single-family/two-family: 15

Maximum Height (feet)
- 35

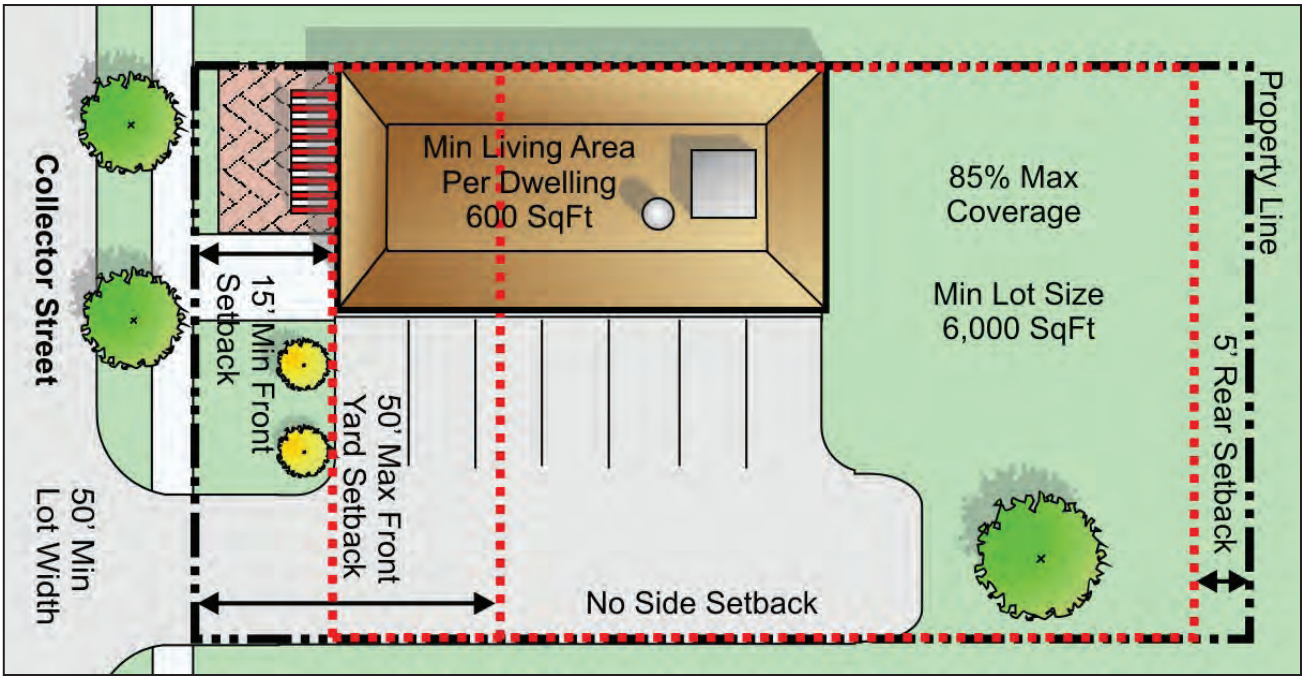
Maximum Intensity (Floor Area Ratio)
- 2.0

Maximum Lot Coverage for All Impervious Surfaces
- 85%

CROSS REFERENCES

Standard	Page #
7.7 Sign Regulations	145
7.8 Landscaping	162
7.10 Accessory Uses and Structures	191
7.13 Outdoor Sales, Display, and Storage	202
7.14 Fence and Wall Standards	205
7.15 Exterior Lighting Standards	207
7.18 Design Standards	217
Chapter 8: Subdivision of Land	237

* Allows secondary residential use, 2nd story, minimum 600 sf. per unit.



4.13 Planned Business Commercial (PBC)

PBC

A. DISTRICT INTENT:

The PBC (Planned Business Commercial) zoning district is designed to encourage well-planned commercial uses, particularly with respect to unified design, safe ingress and egress, adequate and properly located parking and service facilities and convenient and safe pedestrian accessibility on visually prominent and high use corridors throughout the City.

B. PERMITTED USES

Agriculture
crop production*

Residential
assisted living facility
nursing / convalescent home
retirement facility (senior housing)

Transportation Services
auto parts sales (without on-site repair)
automobile filling station
automobile / motor vehicle repair, (minor) including: oil changes/ lubrications, brake replacement, muffler replacement, tire servicing, radiator cleaning and flushing, water hose replacement, windshield wipers, etc.
automobile / motorcycle sales area and leasing (open)
car wash

Communications / Utilities
radio and television studios
utility company business office

Institutional/Public Uses
community center
fire station or police station
government facility (non-office)
government office
hospital
kindergarten or day nursery
library
museum or gallery
post office

Entertainment Services
banquet or assembly hall
bar or tavern or night club
billiard room or arcade
bowling alley
dancing academy / martial arts / gymnastics studio
lodge or private club
miniature golf course
retreat center
skating rink (roller/ice)
swimming pool (private)
theater (indoor); excluding, adult motion picture theater; and adult mini-motion picture theater

Professional Services
administrative/professional office
bank / financial institution
business/financial services office
clinic (medical/dental) or health center
conference center
data processing / call center
employment service
hotel / motel
investment firm
office building
print shop/copy center
veterinary hospital for small animals

Retail / Wholesale Sales
antique shop
apparel shop
art or photo gallery
auction facility (excluding livestock)
book store
building finishes shop (paint, carpet, wallpaper, etc.)
building supply store
construction services
convenience store (without gas station)
craft/fabric store
department store, including any facility (whether or not attached) associated with such department store for the sale of tires, batteries, automobile accessories and lubrication and for the servicing and repair of motor vehicles incidental to such sales
dressmaking
farm equipment sales and service (enclosed)
flower shop
garden shop / retail nursery
gift shop
grocery store
hardware store
ice cream shop
jewelry store
liquor store
newsdealer
office supply store
pet store
record/CD/video/musical instrument shop
shopping center
shopping mall
sporting goods shop
stationery shop
supermarket
variety store
vendor, temporary (farmer's market, street fair, etc.)
wholesale establishment

Equipment Services
electric appliance shop
home electronics/appliance store
repair services (small appliances, jewelry, alterations, etc.)

Food Sales & Service
bakery (retail)
bakery (wholesale)
coffee shop
delicatessen
drive thru restaurant
meat market
microbrewery/brew-pub
restaurant

Personal Services
barber shop
beauty shop
child care / day-care center
dry cleaning establishment (retail)
fitness center
funeral home
health spa
laundry (self-service)
massage therapy (by licensed massage therapist)
pharmacy
photographic studio
shoe repair shop
tailor and pressing shop
tanning salon

C. CONDITIONAL USES

Agriculture
farmer's market (permanent)
seed sales, distribution, & storage

Residential
bed & breakfast facility
boarding house
dwelling secondary (on upper floors of first-floor retail/office use)

Transportation Services
automobile / motor vehicle repair, (major): engine rebuilding or major reconditioning of motor vehicles, including body work, frame or fender straightening or repair, transmission repair and painting of vehicles.
mobile home sales area and leasing (open)
motor bus or railroad passenger station
parking lot or structure (as a principal use)

Park, Recreation, Natural Areas
artificial lake of three or more acres
country club / golf course / driving range
park or recreational facility (playgrounds and athletic facilities)

Communications / Utilities
telecommunications / radio / television tower
utility substation

Institutional/Public Uses
animal shelter
cemetery
church or temple
college building
institution for the developmentally disabled/mentally ill
power generating plant
school (any combination of k -12), public and private
stadium or coliseum
trade or business school
university or college

Entertainment Services
outdoor commercial recreational enterprise (carnival, amusement park, etc.)
recreational development (private)
riding stable (commercial) - minimum 3-acre tract
shooting/archery range (indoor)
skating rink (roller/ice)
swimming pool (private)
theater (indoor); excluding, adult motion picture theater; and adult mini-motion picture theater

Retail / Wholesale Sales
manufactured home sales
roadside sales stand

Food Sales & Service
produce terminal, wholesale

Personal Services
kennel

Warehousing / Industrial
contractor's warehouse/storage facility (enclosed)
lumber yard
mini-warehouse self-storage facility

NOTES:

1. Development Plan required.

D. LOT & YARD STANDARDS

Minimum Lot Size (square feet per unit)
- 1.5 acre

Minimum Lot Width (feet, measured at setback line)
- 100

Minimum Lot Frontage (feet, measured at lot line)
- 100

Front Setback (feet)
- 50

Side Setback (feet)
- Business/Industrial: 15
- Residential: 10

Rear Setback (feet)
- 10

Maximum Height (feet)
- 35

Maximum Intensity (Floor Area Ratio)
- 0.6

Maximum Lot Coverage for All Impervious Surfaces
- 75%

CROSS REFERENCES

Standard	Page #
7.7 Sign Regulations	145
7.8 Landscaping	162
7.10 Accessory Uses and Structures	191
7.13 Outdoor Sales, Display, and Storage	202
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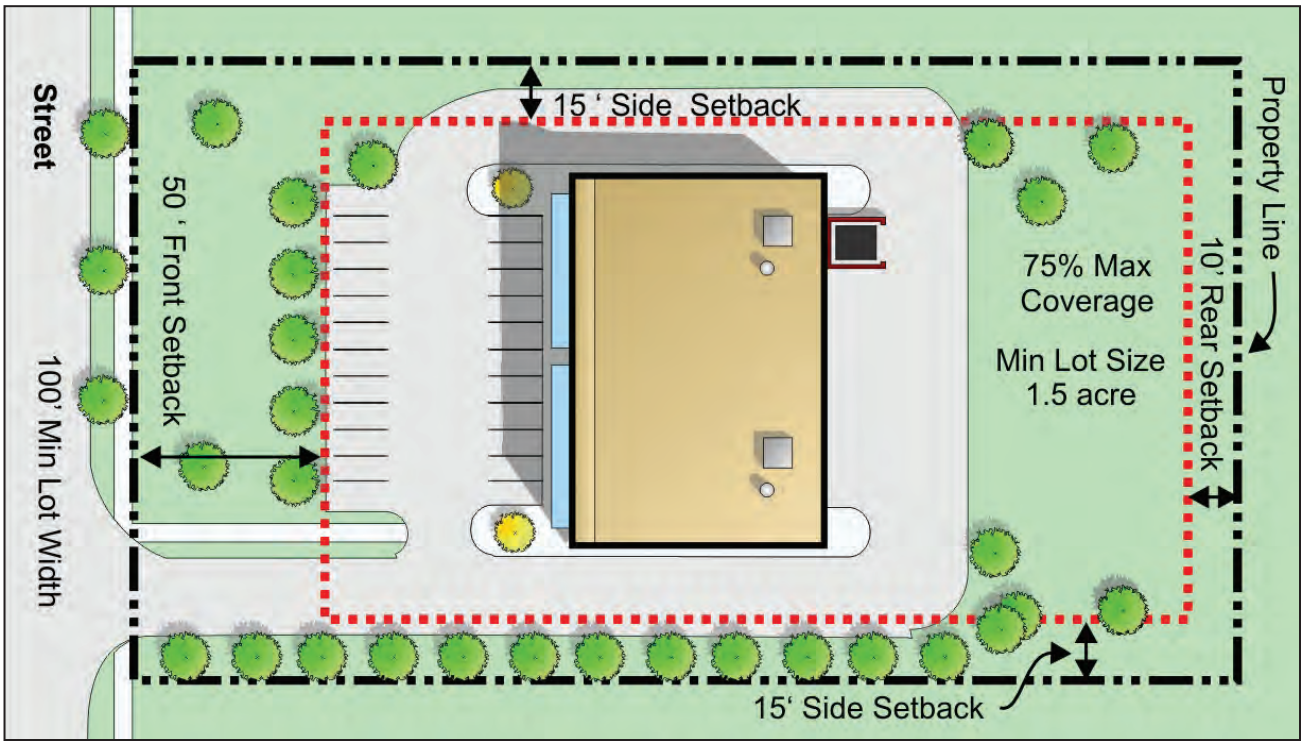

4.14 Planned Business Office (PBO)

PBO

A. DISTRICT INTENT:

The PBO (Planned Business Office) zoning district is intended for professional office development as well as limited service and retail uses to meet the needs of the district's employees.

The PBO district layout should encourage well-planned office communities with cohesive design elements, vehicular and pedestrian access, and parking facilities.

B. PERMITTED USES

Agriculture
crop production*

Communications / Utilities
radio and television studios
utility company business office

Institutional/Public Uses
fairgrounds
fire station or police station
government facility (non-office)
government office
hospital
kindergarten or day nursery
library
museum or gallery
post office
trade or business school
university or college

Entertainment Services
banquet or assembly hall
lodge or private club
retreat center

Professional Services
administrative/professional office
bank / financial institution
business/financial services office
clinic (medical/dental) or health center
conference center
data processing / call center
employment service
hotel / motel
investment firm
office building
print shop/copy center

Retail / Wholesale Sales
auction facility (excluding livestock)
book store
convenience store (without gas station)
newsdealer
office supply store
vendor, temporary (farmer's market, street fair, etc.)

Food Sales & Service
coffee shop
delicatessen
restaurant

Personal Services
child care / day-care center
dry cleaning establishment (retail)
fitness center
massage therapy (by licensed massage therapist)
pharmacy

C. CONDITIONAL USES

Transportation Services
airport
airstrip (private)
automobile filling station
car wash
heliport
motor bus or railroad passenger station
parking lot or structure (as a principal use)
recreational vehicle sales and service

Park, Recreation, Natural Areas
artificial lake of three or more acres
park or recreational facility (playgrounds and athletic facilities)

Communications / Utilities
telecommunications / radio / television tower
utility substation

Institutional/Public Uses
cemetery
church or temple
college building
institution for the developmentally disabled/mentally ill

Entertainment Services
bar or tavern or night club

Food Sales & Service
microbrewery/brew-pub

Personal Services
barber shop
beauty shop

Warehousing / Industrial
research and development facility

NOTES:

1. Development Plan required.

D. LOT & YARD STANDARDS

Minimum Lot Size (square feet per unit)
- 1.5 acre

Minimum Lot Width (feet, measured at setback line)
- 100

Minimum Lot Frontage (feet, measured at lot line)
- 100

Front Setback (feet)
- 50

Side Setback (feet)
- 15

Rear Setback (feet)
- 10

Maximum Height (feet)
- 50

Maximum Intensity (Floor Area Ratio)
- 0.6

Maximum Lot Coverage for All Impervious Surfaces
- 75%

CROSS REFERENCES

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7.7 Sign Regulations	145
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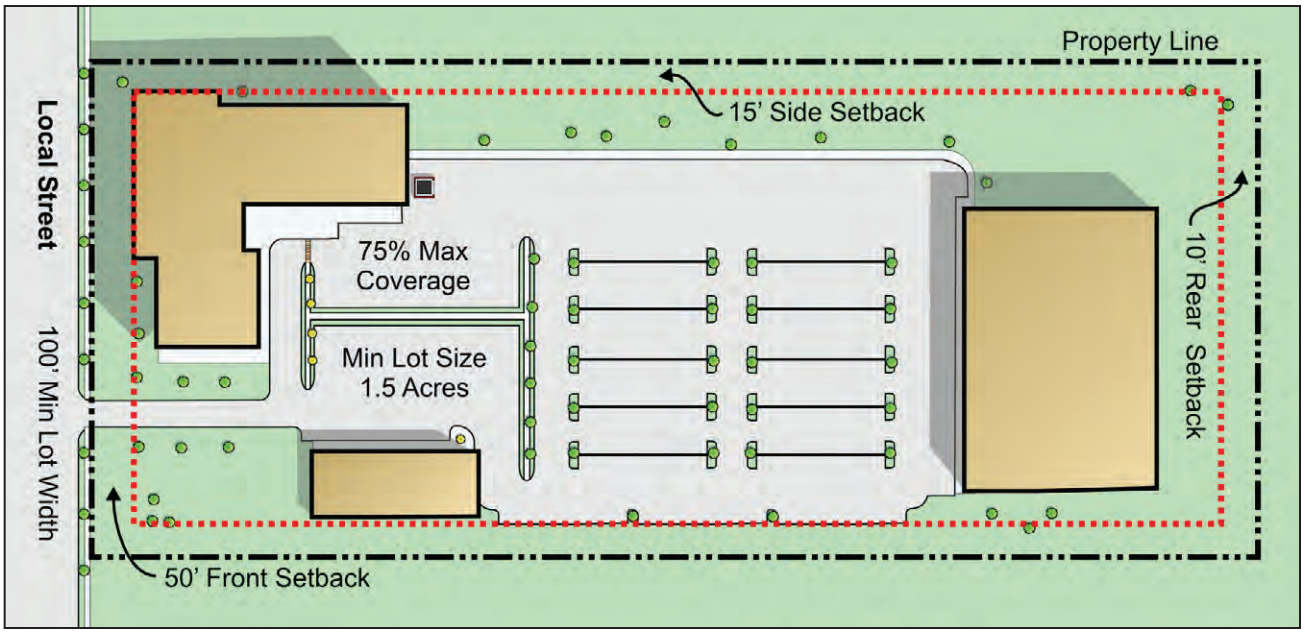

4.15 Planned Business Industrial (PBI)

PBI

A. DISTRICT INTENT:

The PBI (Planned Business Industrial) zoning district is intended to provide locations for production, small-scale manufacturing, assembly, warehousing, research and development facilities, and similar land uses. This district is intended to accommodate only industrial uses that are completely contained within structures and do not involve the outdoor storage of materials or the release of potential environmental pollutants. This district should be used to support industrial retention and expansion in Lebanon.

B. PERMITTED USES

Agriculture
crop production*
fertilizer sales, distribution, & storage
seed sales, distribution, & storage

Park, Recreation, Natural Areas
artificial lake of three or more acres
campground / RV park
country club / golf course / driving range
nature preserve / center
park or recreational facility (playgrounds and athletic facilities)

Communications / Utilities
radio and television studios
recycling center
utility company business office

Institutional/Public Uses
fire station or police station
government facility (non-office)
government office
hospital
post office

Entertainment Services
banquet or assembly hall
dancing academy / martial arts / gymnastics studio
retreat center
riding stable (commercial) - minimum 3-acre tract

Professional Services
administrative/professional office
bank / financial institution
business/financial services office
conference center
data processing / call center
employment service
hotel / motel
office building
print shop/copy center
veterinary hospital for small animals

Retail / Wholesale Sales
auction facility (excluding livestock)
building finishes shop (paint, carpet, wallpaper, etc.)
building supply store
construction services
convenience store (without gas station)
farm equipment sales and service (enclosed)
garden shop / retail nursery
greenhouse, commercial
newsdealer
office supply store
wholesale establishment

Equipment Services
electric appliance shop
home electronics/appliance store
repair services (small appliances, jewelry, alterations, etc.)

Food Sales & Service
bakery (retail)
bakery (wholesale)
coffee shop
delicatessen
produce terminal, wholesale
restaurant

Personal Services
child care / day-care center
dry cleaning establishment (retail)
fitness center
laundry service (large-scale)
pharmacy
shoe repair shop
tailor and pressing shop

Warehousing / Industrial
assembly facility
boat/RV storage facility (outdoor)
contractor's warehouse/storage facility (enclosed)
fabrication facility
food & beverage production
mini-warehouse self-storage facility
packaging facility
printing/publishing facility
research and development facility
tool and dye shop
truck terminal
warehouse / distribution facility

C. CONDITIONAL USES

Agriculture
nursery, wholesale
raising and breeding of non-farm fowl and animals, commercially, except kennel

Transportation Services
airport
airstrip (private)
automobile filling station
automobile / motor vehicle repair, (major): engine rebuilding or major reconditioning of motor vehicles, including body work, frame or fender straightening or repair, transmission repair and painting of vehicles.
automobile / motor vehicle repair, (minor) including: oil changes/ lubrications, brake replacement, muffler replacement, tire servicing, radiator cleaning and flushing, water hose replacement, windshield wipers, etc.
automobile / motorcycle sales area and leasing (open)
mobile home sales area and leasing (open)
car wash
heliport
motor bus or railroad passenger station
parking lot or structure (as a principal use)
recreational vehicle sales and service
truck freight terminal
truck stop / travel center
truck sales & service center

Park, Recreation, Natural Areas
artificial lake of three or more acres
country club / golf course / driving range

Communications / Utilities
telecommunications / radio / television tower
utility substation
water tower

Institutional/Public Uses
animal shelter
cemetery
crematory
church or temple
college building
kindergarten or day nursery
stadium or coliseum
trade or business school
university or college

Entertainment Services
bar or tavern or night club
outdoor commercial recreational enterprise (carnival, amusement park, etc.)
recreational development (private)
shooting/archery range (indoor)
skating rink (roller/ice)
theater (outdoor); excluding adult drive-in theater
winery

Food Sales & Service
microbrewery/brew-pub

Personal Services
kennel

Warehousing / Industrial
contractor's warehouse/storage facility (unenclosed)
lumber yard
power generation facility (commercial)
semi-tractor/trailer storage

NOTES:

1. Development Plan required.

D. LOT & YARD STANDARDS

Minimum Lot Size (square feet per unit)
- 5 acres

Minimum Lot Width (feet, measured at setback line)
- 200

Minimum Lot Frontage (feet, measured at lot line)
- 150

Front Setback (feet)
- 50

Side Setback (feet)
- 25

Rear Setback (feet)
- 50

Maximum Height (feet)
- 50

Maximum Intensity (Floor Area Ratio)
- 0.6

Maximum Lot Coverage for All Impervious Surfaces
- 75%

CROSS REFERENCES

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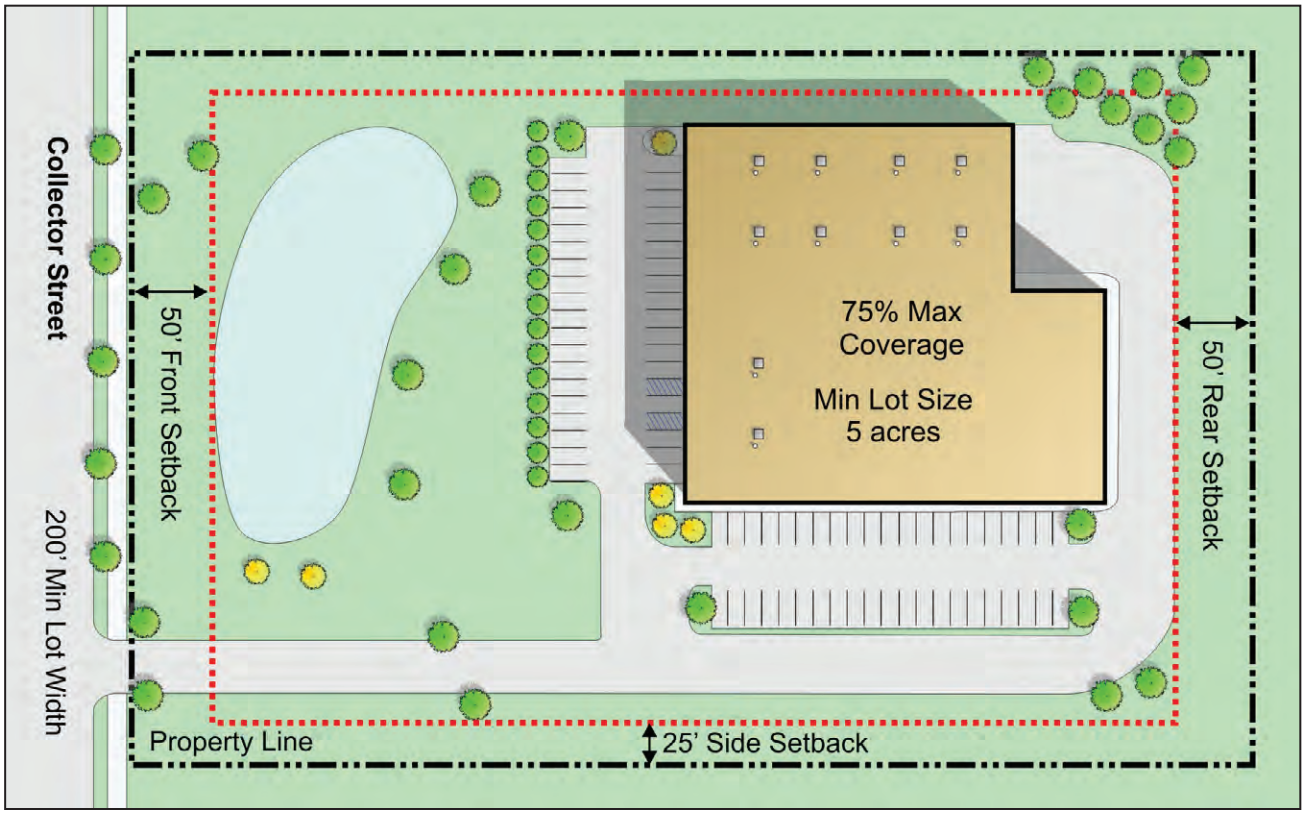

4.16 General Industrial (ID)

ID

A. DISTRICT INTENT:

The ID (General Industrial) zoning district is intended to provide for general industrial manufacturing, production, assembly, warehousing, research and development facilities, and similar land uses. This district is intended to accommodate a variety of industrial uses in locations and under conditions that minimize land use conflicts. The ID district is intended to be located in areas with good access to major thoroughfares and where large shipping truck traffic does not disrupt local streets. This district should be used to support industrial retention and expansion in Lebanon.

Administrative offices, banks, and other commercial services shall be allowed at the discretion of the Plan Commission and shall remain incidental to the industrial uses.

B. PERMITTED USES

Agriculture
crop production*
farm equipment sales and service
fertilizer sales, distribution, & storage
raising and breeding of non-farm fowl and animals, commercially, except kennel
seed sales, distribution, & storage

Transportation Services
auto parts sales (without on-site repair)
automobile filling station
automobile / motor vehicle repair, (major): engine rebuilding or major reconditioning of motor vehicles, including body work, frame or fender straightening or repair, transmission repair and painting of vehicles.
automobile / motor vehicle repair, (minor) including: oil changes/ lubrications, brake replacement, muffler replacement, tire servicing, radiator cleaning and flushing, water hose replacement, windshield wipers, etc.
automobile / motorcycle sales area and leasing (open)
mobile home sales area and leasing (open)
car wash
recreational vehicle sales and service
truck freight terminal

Communications / Utilities
recycling center
utility company business office

Institutional/Public Uses
fire station or police station
government facility (non-office)
government office
post office

Professional Services
data processing / call center

Retail / Wholesale Sales
building supply store
construction services
farm equipment sales and service (enclosed)
greenhouse, commercial
roadside sales stand

Equipment Services
electric appliance shop
repair services (small appliances, jewelry, alterations, etc.)

Food Sales & Service
bakery (wholesale)
produce terminal, wholesale

Personal Services
laundry service (large-scale)

Warehousing / Industrial
agricultural products terminal
assembly facility
boat/RV storage facility (outdoor)
contractor's warehouse/storage facility (unenclosed)
contractor's warehouse/storage facility (enclosed)
fabrication facility
food & beverage production
lumber yard
manufacturing facility
mini-warehouse self-storage facility
packaging facility
printing/publishing facility
research and development facility
semi-tractor/trailer storage
tool and dye shop
truck terminal
warehouse / distribution facility

C. CONDITIONAL USES

Agriculture
nursery, wholesale

Transportation Services
airport
airstrip (private)
heliport
motor bus or railroad passenger station
parking lot or structure (as a principal use)
truck stop / travel center
truck sales & service center

Park, Recreation, Natural Areas
artificial lake of three or more acres
campground / RV park

Communications / Utilities
composting facility (indoor)
composting facility (outdoor)
garbage transfer station
sanitary fill or refuse dump
sewage treatment plant
telecommunications / radio / television tower
utility substation
water tower
wellfield/water treatment facility

Institutional/Public Uses
animal shelter
cemetery
crematory
penal or correctional institution
power generating plant

Entertainment Services
adult uses
outdoor commercial recreational enterprise (carnival, amusement park, etc.)
recreational development (private)
seasonal fishing or hunting lodge
shooting range (outdoor)
shooting/archery range (indoor)
theater (outdoor); excluding adult drive-in theater
theater (adult drive-in)

Professional Services
administrative/professional office
bank / financial institution
business/financial services office

Retail / Wholesale Sales
fireworks sales (permanent)
manufactured home sales

Personal Services
kennel

Warehousing / Industrial
animal & animal products processing
bottle gas storage & distribution
concrete/asphalt production facility
explosive manufacturing and storage
inoperable vehicle storage
junk/scrap metal yard
mineral extraction, borrow pit, top soil removal, and their storage areas
petroleum and chemical processing and storage
power generation facility (commercial)
waste incinerator

NOTES:

1. All permitted uses in the ID district require development plan review to ensure that the health and safety of Lebanon residents is not compromised.

D. LOT & YARD STANDARDS

Minimum Lot Size (square feet per unit)
- 5 acres

Minimum Lot Width (feet, measured at setback line)
- 200

Minimum Lot Frontage (feet, measured at lot line)
- 150

Front Setback (feet)
- 100

Side Setback (feet)
- 50

Rear Setback (feet)
- 50

Maximum Height (feet)
- 50

Maximum Intensity (Floor Area Ratio)
- 0.6

Maximum Lot Coverage for All Impervious Surfaces
- 75%

CROSS REFERENCES

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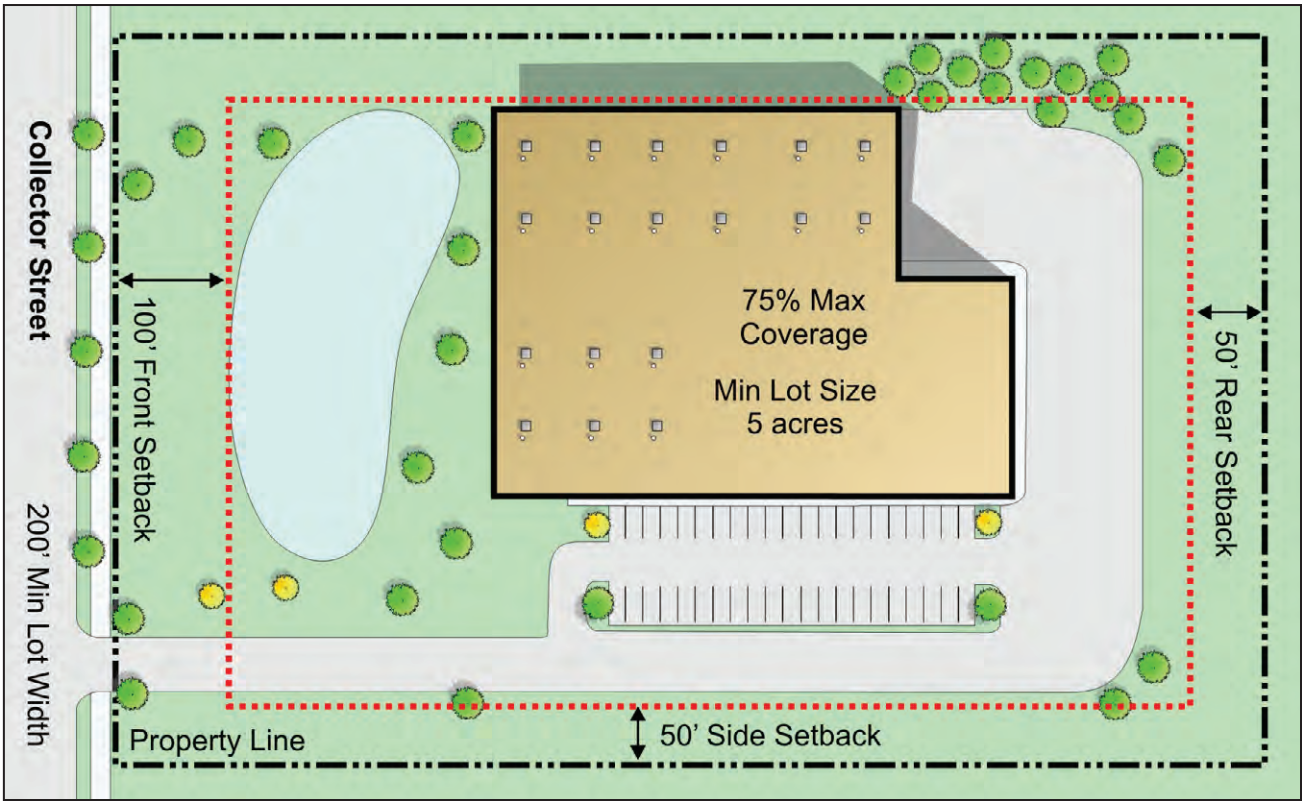

4.17 Institutional (IN)

IN

A. DISTRICT INTENT:

The IN, Institutional zoning district is intended to provide for institutional facilities including park and recreational facilities, schools (public, private, special, parochial, and higher learning), places of worship, and government/ municipal facilities. This district is established to provide institutional uses with a district which meets their unique development needs while providing consideration of the impact of such uses on the use and value of adjacent properties and ensuring that institutions are appropriately integrated into the community and well-served by transportation routes and other necessary infrastructure and utilities.

B. PERMITTED USES

Agriculture
crop production*

Residential
assisted living facility
retirement facility (senior housing)

Park, Recreation, Natural Areas
campground / RV park
nature preserve / center
park or recreational facility (playgrounds and athletic facilities)

Communications / Utilities
radio and television studios
utility company business office

Institutional/Public Uses
community center
fairgrounds
fire station or police station
government facility (non-office)
government office
hospital
institution for the developmentally disabled/mentally ill
kindergarten or day nursery
library
museum or gallery
post office
school (any combination of k -12), public and private
trade or business school
university or college

Entertainment Services
banquet or assembly hall
dancing academy / martial arts / gymnastics studio
retreat center
riding stable (commercial) - minimum 3-acre tract
seasonal fishing or hunting lodge
theater (outdoor); excluding adult drive-in theater

Professional Services
administrative/professional office
bank / financial institution
clinic (medical/dental) or health center
conference center
data processing / call center
office building

Retail / Wholesale Sales
auction facility (excluding livestock)

Personal Services
child care / day-care center

C. CONDITIONAL USES

Residential
boarding house

Transportation Services
airport
airstrip (private)
car wash
heliport
motor bus or railroad passenger station
parking lot or structure (as a principal use)

Park, Recreation, Natural Areas
artificial lake of three or more acres
country club / golf course / driving range

Communications / Utilities
composting facility (indoor)
composting facility (outdoor)
garbage transfer station
recycling center
sanitary fill or refuse dump
sewage treatment plant
telecommunications / radio / television tower
utility substation
water tower
wellfield/water treatment facility

Institutional/Public Uses
animal shelter
cemetery
crematory
church or temple
college building
penal or correctional institution
power generating plant
stadium or coliseum

Entertainment Services
recreational development (private)
shooting range (outdoor)
shooting/archery range (indoor)
skating rink (roller/ice)
swimming pool (public)
water park

Retail / Wholesale Sales
manufactured home sales

Personal Services
kennel

NOTES:

1. This district will be the default zoning classification for initial zoning during annexation for applications without a development proposal.
2. Development Plan required.

D. LOT & YARD STANDARDS

Minimum Lot Size (square feet per unit)
- 1 acres

Minimum Lot Width (feet, measured at setback line)
- 100

Minimum Lot Frontage (feet, measured at lot line)
- 100

Front Setback (feet)
- 50

Side Setback (feet)
- 25

Rear Setback (feet)
- 50

Maximum Height (feet)
- 50

Maximum Intensity (Floor Area Ratio)
- 0.45

Maximum Lot Coverage for All Impervious Surfaces
- 50%

CROSS REFERENCES

Standard	Page #
7.7 Sign Regulations	145
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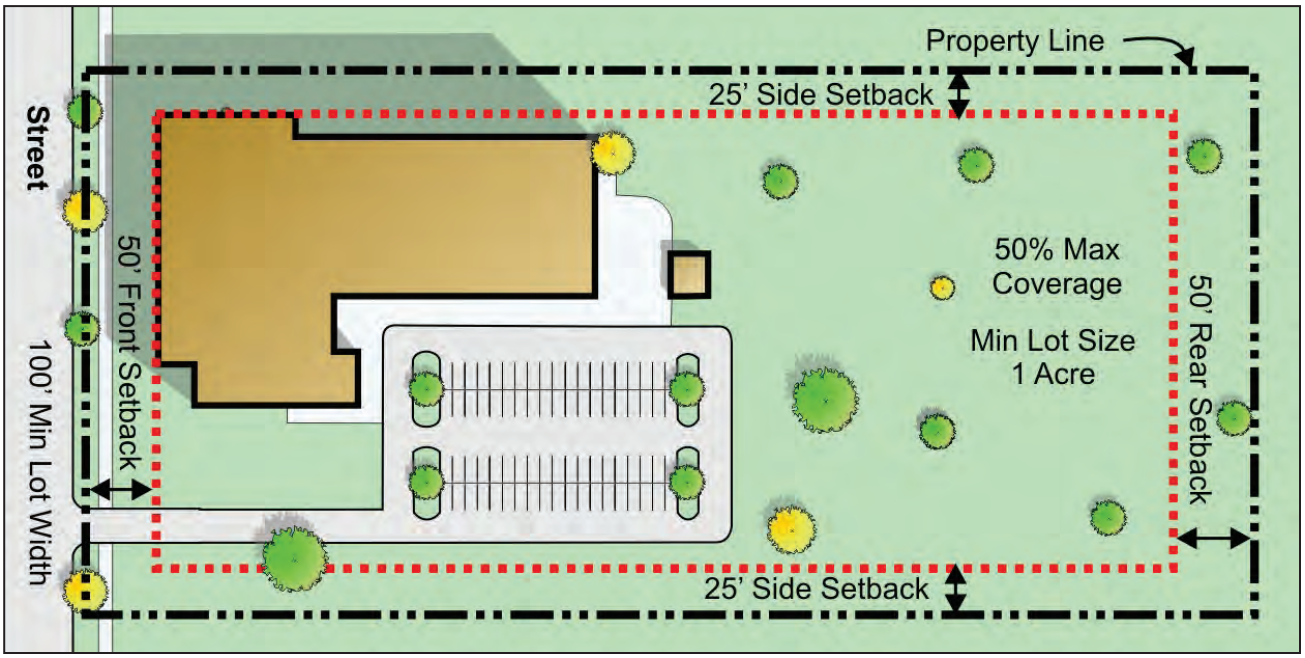

Chapter 5: Planned Unit Development

5

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5.6 Common Areas and Facilities 94
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See Also:

IC 36-7-4-1500 et. seq.

5.1 GENERAL PROVISIONS

A. DESCRIPTION OF DISTRICT. This district is intended to provide more development flexibility and innovative approaches than are possible through the application of customary zoning regulations. The PUD district allows for mixed-uses and mixed densities under one zoning classification to reflect this development trend. This ordinance allows any zoning district to be rezoned for the creation of a PUD district. All PUD Districts shall be consistent with the requirements of this ordinance.

B. DEVELOPMENT STANDARDS. All land use classifications that are allowed in this ordinance may be permitted within a PUD, unless otherwise omitted. All various types of development, i.e., residential, commercial, or industrial shall meet the requirements of this Unified Development Ordinance, as they apply to those classifications.

C. STATEMENT OF PURPOSE

1. A PUD district is one that (IC 36-7-4-1503):
   a. Designates a parcel of real property as a planned unit development district.
   b. Specifies uses or a range of uses permitted in the planned unit development district.
   c. Specifies development requirements in the planned unit development district.
   d. Specifies the plan documentation and supporting information that may be required.
   e. Specifies any limitation applicable to a planned unit development district.

D. APPLICABILITY

1. The provisions of this section shall apply only to a tract of land proposed to be a minimum of five (5) acres.
2. The provisions of this section shall apply only to proposed new developments and shall not apply to any Planned Unit Development which is now fully or partially developed, nor to any such development for which a final authorization has been granted pursuant to a previous ordinance. However, a petitioner may, upon application and approval of the Commission, become subject to all the benefits and requirements of this section, subject to such rights as shall have vested in the owners

of the area affected by development under this ordinance.

E. PUD USES AND STANDARDS

1. Uses. All uses are subject to the discretion and approval of the Plan Commission. Once uses are approved by the Plan Commission, they are granted by right. All land uses proposed in a Planned Unit Development must be compatible with the intent of the Comprehensive Plan and the characteristics of surrounding land uses and zoning districts.

2. Development Requirements. Unless alternate development or design standards are proposed by the petitioner in the PUD District Ordinance and approved by the Plan Commission and the Common Council, the development and design standards established by Chapter 4: Zoning Districts, and Chapter 7: Development Standards shall apply.

3. Rules and Procedures. All proceedings brought under this chapter are subject to the Rules of Procedures of the Plan Commission.

4. Limitation of Ordinance Amendments. Any initiative of the Plan Commission to amend the Unified Development Ordinance that would affect an approved Planned Unit Development before its completion, shall not be enforced on the Planned Unit Development. New amendments to the Ordinance shall only apply to Planned Unit Developments that have been declared abandoned, or for which an approval has expired.

5.2 PROCEDURE TO ESTABLISH / REZONE TO A PUD

A. ORIGINATION OF PROPOSALS. Any applicant may propose a Planned Unit Development district in accordance with the procedures established in this chapter. The applicant shall submit an application and fee for Planned Unit Development in accordance with the procedures below in Subsection 5.2(C).

B. OWNERSHIP. A parcel or site proposed for a Planned Unit Development may or may not be under single ownership. However, if not under single ownership, the multiple owners must have a contractual agreement (1) not to develop the parcels separately, but in accordance with a single, unified plan, and (2) in which the separate owners have given their express intentions to enter into such private agreements and to assure its completion as planned and to the satisfaction of the Plan Commission. The Common Council may grant an extension of such time for such a period as it deems in the public interest.

STEP 1

C. PROCEDURES. The authorization of a Planned Unit Development shall be subject to the procedures expressed herein. There is a four step process. The steps in the process are:

1. Pre-Submittal Conference

   a. Prior to filing a formal application for approval of a Planned Unit Development, the applicant shall meet with and present the general concept to City Planning and Building staff to discuss the development concept in relation to adopted City policies;

   b. The pre-design conference is intended only for the above purposes; neither the developer nor the jurisdiction is bound by any decision made during a pre-application conference.

2. Initial Zoning or Rezone to a PUD. During this phase, the Concept Plan and the unique development requirements for the PUD are prepared and submitted for review by the Technical Assistance Committee prior to submission to the Plan Commission and the Common Council in the form of a PUD Ordinance. Refer to Section 5.3 Initial Zoning or Rezoning to a PUD below.

3. Preliminary Plan. The Preliminary Plan can proceed concurrently with the PUD District Ordinance. The Preliminary Plan addresses the layout of the overall site and serves the same function as a Primary Plat for projects which are to be subdivided. The Preliminary Plan shall be reviewed by the Technical Assistance Committee and shall be approved by the Plan Commission. Refer to Section 5.4 Preliminary Plan below.

4. Final Detailed Plan. The Final Detailed Plan provides specific detail for development of the site and serves as a Secondary Plat for parcels which to be subdivided. The Final Detailed Plan shall be reviewed by the Technical Assistance Committee and approved by the Plan Commission, the Administrator, or Plat Committee in accordance with the Plan Commission Rules of Procedure. Upon approval, staff may issue an Improvement Location Permit. Refer to Section 5.5 PUD Final Detailed Plan below.

5.2 Procedure to Establish/Rezone to a PUD

Pre-Submittal Conference

1. Meet with City Staff to Discuss the Preparation of the Concept Plan

Initial/Rezone to a PUD

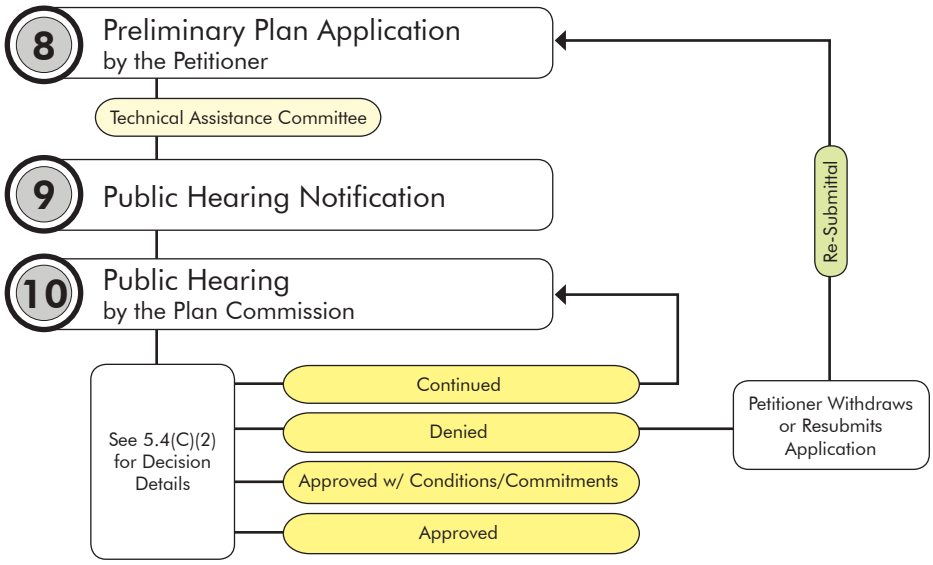
2. Preparation of Concept Plan by the Petitioner
3. Rezone Application by the Petitioner
   - Technical Assistance Committee
4. Public Hearing Notification
5. Public Hearing by the Plan Commission
   - See 5.3(B)(4-5) for Decision Details
     - Continued
     - Unfavorable Recommendation
     - Favorable Recommendation
     - No Recommendation
6. Public Hearing by the Common Council
   - See 5.3(C) for Decision Details
     - Propose Significant Amendments
     - Denied → PUD Ordinance is Defeated
     - Adopted w/ Conditions/Commitments*
     - Adopted
7. Initial Zoning or Rezoning shown on the Official Zoning Map

* Refer to IC 36-7-4-1512 for Common Council powers with regard to the PUD district ordinance.

5.2 Procedure to Establish/Rezone to a PUD

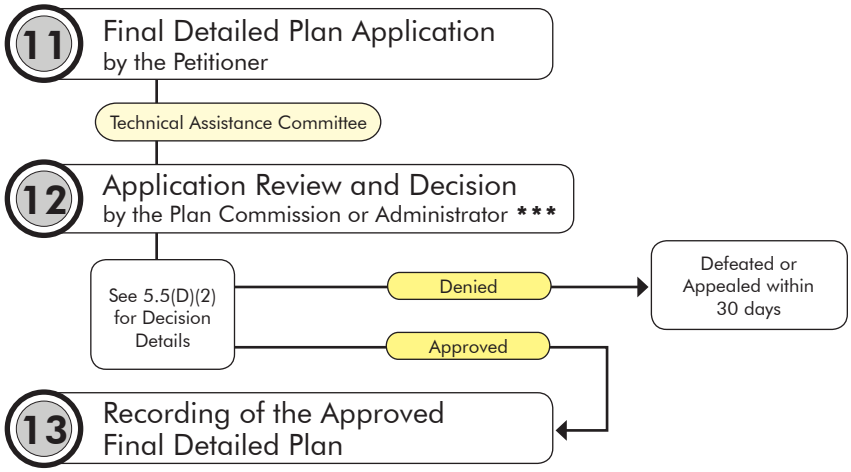
* Similar process to that of an Overall Preliminary Plat.

Preliminary Plan *



** Similar process to that of a Secondary Plat.

Final Detailed Plan **



*** If denied by the Administrator, an appeal can be made to the Plan Commission.

5.3 INITIAL ZONING OR REZONING TO A PUD

STEP 2

STEP 3

A. CONCEPT PLAN AND APPLICATION PREPARATION AND REVIEW. The purpose of the PUD District Ordinance is to designate a parcel of real property as a Planned Unit Development zoning district. The plan shall include:

1. Submittal. The PUD District Ordinance submittal shall include any graphic media which will explain the features to be contained within the development. The PUD District Ordinance and Concept Plan may take the form of a booklet, a set of 11x17 inch sheets, or a combination of these formats.

   a. Show the boundary lines of adjacent subdivided and unsubdivided and the existing zoning of the area proposed to be developed as well as the land adjacent thereto.

   b. Specify uses or a range of uses permitted in the Planned Unit Development zoning district;

   c. Specify development requirements and standards based on the related zoning district or alternatives.

2. Concept Plan. The plan shall include a proposed layout to scale of the general concept for handling vehicular and pedestrian circulation, parking, general infrastructure, drainage, site perimeter treatment and other pertinent development features.

3. Superseding Original Plat. If the Planned Unit Development is to supersede an original plat being vacated, the original plat shall be shown by dotted lines in relationship to the lines of the new plat, the new plan being clearly shown in solid lines.

4. Development Requirements. Detailed text documenting the development standards that apply to the proposed PUD District may be included.

   a. Written Development Standards, including:

      1) Lot area.
      2) Floor area.
      3) Ratios of floor space to land area.
      4) Area in which structures may be built ("Buildable area"), including areas for cluster type Residential Development without lot lines.
      5) Open space.

See Also:

Section 9.14 Written Commitments

6) Setback lines and minimum yards.
7) Building separations.
8) Height of structures.
9) Signs.
10) Parking and loading space.
11) Design standards.
12) Phasing of development.

5. Written Commitments. A description of any written commitments (Section 9.14 Written Commitments) that are being proposed as part of the development.

6. Review By Technical Assistance Committee. The Technical Assistance Committee shall review the Concept Plan and the written findings of the TAC shall be submitted to the Plan Commission prior to Public Hearing.

B. PLAN COMMISSION PUBLIC HEARING. The Plan Commission will, in a public hearing scheduled consistent with the Plan Commission Rules of Procedure, review the application and required supporting information.

STEP 4

1. Notification. Notification for the scheduled public hearing regarding the Preliminary Plan shall be completed consistent with the requirements the Rules of Procedures of the Plan Commission.

2. Representation. Either the applicant or a representative of the applicant must be present at the public hearing to present the application and address any questions the Commission may have.

3. Presentations. The Plan Commission shall consider a staff report from the Planning and Zoning Administrator or his/her designee and testimony from the petitioner, remonstrators, and other interested parties at the hearing. The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the Rules of Procedures of the Plan Commission.

4. Decision Criteria. In reviewing the Planned Unit Development District Ordinance and Concept Plan petition, the Plan Commission shall pay reasonable regard to the following, consistent with IC 36-7-4-603:

   a. The extent to which the proposal fulfills the requirements and intent of the Comprehensive Plan and any other applicable, adopted planning studies or reports;

   b. The current conditions and the character of current structures and

uses in each zoning district;

c. The most desirable use of which the land in each district is adapted;

d. The conservation of collective property values throughout the City of Lebanon as a whole; and

e. Responsible growth and development.

STEP 5

5. Possible Action. The Plan Commission will in concurrence with established rules and procedure review the application and required supporting information. The proposed PUD District Ordinance and Concept Plan shall be certified to the Common Council with one of the following recommendations. Per IC 36-7-4-1512, the Plan Commission may impose conditions or require written commitments from the applicant.

a. Favorable Recommendation. The PUD District Ordinance application shall be forwarded with a favorable recommendation if it is found to be consistent with the decision criteria listed in Subsection 5.3(B)(4).

b. Unfavorable Recommendation. The application shall be forwarded with an unfavorable recommendation if it is found to be inconsistent with the decision criteria listed in Subsection 5.3(B)(4).

c. No Recommendation. The application shall be forwarded with no recommendation.

d. Continued. The application may be continued based on a request by the Administrator, the petitioner, a remonstrator, or an interested party. The application shall be continued in the case of an indecisive vote, a determination by the Plan Commission that additional information is required prior to action being taken on the request, or if an appropriate representative of the application fails to appear at the public hearing.

1) Additional legal notice shall not be required unless specified by the Plan Commission.

2) The continuing of all applications shall be to a specific date and consistent with the adopted Rules of Procedures of the Plan Commission.

STEP 6

C. DECISION BY COMMON COUNCIL. Upon certification of the PUD District Ordinance by the Plan Commission, the Common Council shall

vote on the PUD ordinance within ninety (90) days. The Common Council shall pay reasonable regard to the decision criteria listed under Subsection 5.3(B)(4), consistent with IC 36-7-4-603 and IC 36-7-4-1512, and then may:

1. adopt the Ordinance,
2. adopt the PUD Ordinance with conditions or commitments,
3. return the PUD District Ordinance and Concept Plan to the Plan Commission with proposed amendments, or
4. deny the Ordinance.

D. INACTION. If the Plan Commission has given the proposal a favorable recommendation and the Council fails to act on the proposal within 90 days, the Ordinance takes effect as if it had been adopted as certified 90 days after certification. If the Plan Commission has failed to make a recommendation or has given the proposal an unfavorable recommendation and the council fails to act on the proposal within 90 days, the proposal is defeated.

STEP 7

E. EFFECT OF APPROVAL ON PUD DISTRICT ORDINANCE

1. When a PUD District Ordinance and Concept Plan has been approved by the Council, the PUD zoning shall become effective, and its location shall be shown on the Zoning Map in accordance with the Plan Commission Rules of Procedure.
2. Upon such amendment to the zoning map, the use and development of the site shall be governed by the Planned Unit Development District and Concept Plan, subject to approval of the Preliminary Plan (similar to the Overall Primary Plat) and the Final Detailed Plan (similar to a Secondary Plat).
3. No permit of any kind shall be issued until the Final Detailed Plan has been approved.
4. Upon adoption by the Common Council, the PUD Ordinance District shall be returned to the Plan Commission which shall thereafter exercise or designate the Administrator to exercise continuing jurisdiction.

STEP 8

5.4 PRELIMINARY PLAN

A. PREPARATION. The Preliminary Plan shall be prepared in accordance with the established procedures detailed in the Application available in the City of Lebanon Planning and Building Department offices. The Preliminary Plan

shall serve to divide the PUD District into Lots, Blocks, and Common Area.

See Also:

IC 3-7-4-700 series

B. CONTENT. The following shall be included in the Preliminary Plan submission:

1. Cover Page & Index. The cover sheet shall include the development title, date of submittal, sheet index, applicants involved, land surveyors, engineers, or other professionals responsible for the Preliminary Plan design, and the legal description of the subject property and common address of the site.

2. Common Holdings Map. A map of any property adjacent to the property subject to the Preliminary Plan owned or otherwise controlled by any or all of the petitioners. The Common Holdings Map shall be accompanied by a general description of the future development of that property and its relationship to the area included in the Preliminary Plan. The general description shall be in map form and shall include, at a minimum, general land uses, general street patterns and access points, and general drainage designs.

3. Existing Site Conditions.

   a. Built Features. All existing streets (including travel lanes, sidewalks, street trees, rights-of-way, etc.), established open spaces, structures, wells, utility lines and facilities, fire hydrants, and street lights;

   b. Easements. All existing easements and an indication of their purpose;

   c. Topography. A topographic survey of the area with contour intervals of 2 feet;

   d. Natural Features. The location of natural streams, regulated drains, 100-year floodplains and floodways, water courses, wetlands (as identified by IDNR, IDEM, or an individual with a US Army Corps of Engineers Regulation 4 Jurisdictional Wetland Certification), wooded areas, and isolated preservable trees (with greater than an eight (8) inch DBH);

   e. Historic Features. An identification of any historic features, specifically those listed as Outstanding, Notable, or Contributing on the Indiana Historic Sites and Structures Inventory - Boone County Interim Report or listed in the National Register of Historic Places and/or Indiana Register of Historic Sites & Structures; and

4. Proposed Development. A conceptual plan of the proposed development of the property, including:

a. Circulation Systems. The layout and design of proposed streets, sidewalks, on- and off-street parking, bike lanes, paths and trails;

b. Land Uses: The land use, number of acres or square feet, density of any proposed residential uses);

c. Open Space. The proposed location, improvements to open space (including park facilities, natural areas, trail systems, and other designated common areas);

d. Landscaping. The conceptual design of landscaping, buffering, and/or screening, wooded areas to be preserved;

e. Natural Features. A description of the accommodation of natural streams, regulated drains, 100-year floodplains and floodways, water courses, wetlands (as identified by IDNR, IDEM, or an individual with a US Army Corps of Engineers Regulation 4 Jurisdictional Wetland Certification), wooded areas, and isolated preservable trees (with greater than an 8 inch DBH);

f. Drainage. A Drainage Concept Plan with calculations meeting the requirements of Lebanon Utilities and the Boone County Drainage Board;

g. Infrastructure. The plan shall indicate how infrastructure will be provided to the site.

h. Historic Features. A description of the accommodation of historic features, specifically those listed as Outstanding, Notable, or Contributing on the Indiana Historic Sites and Structures Inventory - Boone County Interim Report or listed in the National Register of Historic Places and/or Indiana Register of Historic Sites & Structures;

i. Covenants. A description of any private covenants and restrictions that will be established for the development. Covenants that set forth in detail provisions for the ownership and maintenance of facilities held in common so as to reasonably insure their continuity and conservation shall be required. Said covenant provisions shall include special remedies in the event facilities held in common are permitted to deteriorate or are not maintained in a condition consistent with the best interests of the City, and in such event the City shall take those remedial steps provided for in such provisions.

j. Project Phasing. A statement of the proposed order of development

of the major elements of the project, including phasing, if applicable, and the order and content of each phase.

5. Supplemental Information. Any other information requested by the Administrator or Plan Commission to aid in the review of the Detailed Plan. This may included traffic studies or fiscal impact analyses.

C. PRELIMINARY PLAN APPROVAL PROCEDURES. Planned Unit Developments shall be required to comply with this section and the provisions of Subsection 9.19(B) Primary Plat (Major Subdivisions). In no instance shall the approval of a PUD be interpreted as waiving or modifying any Ordinance or Development Plan processes. This process may occur concurrently with the PUD District Ordinance and Concept Plan approval.

1. Technical Assistance Committee Review. The Technical Assistance Committee (TAC) shall review the Preliminary Plan for conformance with the standards and set procedures. Following the TAC review, the petitioner shall revise the petition as deemed appropriate.

2. Plan Commission Approval Process.

STEP 9

STEP 10

   a. Public Notice and Hearing. Notice and Hearing requirements are as specified in the Plan Commission Rules of Procedure, as amended.

   b. Decision. The Plan Commission shall:

      1) Approve the petition;

      2) Approve the petition with conditions and/or commitments;

      3) Deny the petition; or

      4) Continue the petition to a definite future meeting date.

   c. Commitments and Covenants Recording. The President of the Plan Commission shall sign the approved Preliminary Plan which shall be dated and stamped "APPROVED". Any commitments shall be recorded on the Plat and filed with the Boone County Recorder's Office within thirty (30) days of the approval of the Preliminary Plan. Covenants shall be filed with the City of Lebanon. The documents must indicate that covenants are private agreements that may be enforced at the discretion of the Plan Commission. The petitioner shall provide one (1) copy of the recorded documents to the Administrator for the records of the Plan Commission prior to proceeding with a Final Detailed Plan.

3. If Approved. Approval of the Preliminary Plan by the Plan Commission

shall act as an overall Primary Plat, show restrictions placed on the land, and act as a zoning control device. No construction, site grading, etc. is authorized by adoption of the Preliminary Plan.

4. If Approved with Conditions and/or Commitments. Following Plan Commission approval, the petitioner shall submit revised copies of the plans that address the comments and concerns of the Plan Commission.

5. If Denied. Following Plan Commission denial, the Plan Commission shall make written findings giving the reasons for denial. The petitioner may prepare a new Preliminary Plan application and resubmit.

5.5 PUD FINAL DETAILED PLAN

A. CONFORMANCE TO PRELIMINARY PLAN. The Final Detailed Plan shall conform to the PUD Preliminary Plan as approved.

STEP 11

B. SUBMISSION. The PUD Final Detailed Plan and supporting data shall be filed with the Planning and Zoning Administrator.

C. CONTENT. The Final Detailed Plan shall be the complete set of construction documents including construction plans, details illustrating materials and connections, and specifications for every element of the proposed project. Other documents shall include, but not be limited to, the following:

1. Such additional information as may have been required by the Preliminary Plan Approval.

2. An accurate map exhibit of the entire phase for which PUD Final Detailed Plan approval is being requested which complies with the requirements for development plans, as set forth in Section 9.17 Development Plan, single-family residential development on individual lots need not show precise locations of buildings on each lot, but plans shall show setback and other bulk constraints.

3. Projected construction schedule.

4. Agreements and covenants which govern the use, maintenance, and continued protection of the PUD and its common spaces, shared facilities, and private roads.

5. Financial assurance for the satisfactory installation of all public facilities in the form of bonds or such other assurances as are required in the normal procedures of platting pursuant to the provisions of the this ordinance.

D. FINAL DETAILED PLAN PROCEDURES. The procedure for the approval of a PUD Final Detailed Plan is similar to that for a Secondary Plat and shall be as follows:

1. Review By Technical Assistance Committee. The Technical Assistance Committee shall review the PUD Final Detailed Plan in accordance with the development plan requirements of Section 9.17 Development Plan of this ordinance.

STEP 12

2. Administrative Decision by Staff. As designated by the Plan Commission, the Administrator or his/her designee may approve or deny the Final Detailed Plan application.

   a. Approve. The application may be approved if it is found to be consistent with all applicable requirements and the intent of this ordinance.

   b. Deny. The application may be denied if it is found to be inconsistent with any applicable requirements and/or the intent of this ordinance.

   c. Appeal. The applicant may appeal the decision of the Administrator to the Plan Commission within thirty (30) days.

E. TIME LIMITATION. Approval of a Final Detailed Plan shall be obtained within two (2) years after adoption of the PUD Ordinance District by the Common Council. The Plan Commission, upon proper application and for good cause, may grant without a public hearing an extension of time for such period as it deems is in the public interest.

F. PHASING. The commission may allow the petitioner to develop the property involved in phases. If such phasing is permitted, the Plan Commission may allow the petitioner to submit a partial Final Detailed Plan which corresponds to the phases involved.

G. MODIFICATIONS. All development within a PUD shall conform to the corresponding approved Final Detailed Plan. In the exercise of its continuing jurisdiction, the Administrator shall be cognizant of any substandard deviations from the approved Preliminary Plan and take appropriate action. The Administrator may allow modifications in the Final Detailed Plan in a manner consistent with the approved Preliminary Plan to allow for changed circumstances and conditions unforeseen at the time of original approval.

H. STREETS. Where a platting, replatting or vacation of streets within all or a portion of the land involved is contemplated, the Plan Commission shall handle such matters in accordance with its regular procedures in accordance

with law.

I. **ABANDONMENT.** Under the abandonment of a development authorized under this section, the Plan Commission shall initiate an amendment to the Unified Development Ordinance so that the land will be zoned into a category or categories which approximates its existing use or such other zoning category or categories which it deems appropriate.

1. Abandonment shall be deemed to have occurred:

   a. when no improvements have been made pursuant to the approved Final Detailed Plan for twenty-four (24) consecutive months;

   b. upon the expiration of five (5) years from the issuance of the approval of a Final Detailed Plan for a development which has not been completed;

   c. upon the expiration of an extension granted by the Commission.

STEP 13

K. **RECORDING.** An approved Final Detailed Plan shall be treated the same as an Approved Plat and modifications thereof shall be recorded in the appropriate plat books in the offices of the Boone County Recorder within six (6) months after approval by the Plan Commission. A copy of the recorded plat shall be submitted to the City.

L. **PERMIT.** No Improvement Location Permit shall be issued for a PUD District by the Plan Commission unless all recording required by Subsection 5.5(K) above has been effected. No Certificate of Occupancy shall be issued for an PUD District unless the approved Final Detailed Plan with modifications, if any, is adhered to, all in compliance with the purposes of this ordinance. No construction or installation work shall be done on any public improvements until satisfactory plans and specifications therefore have been submitted to the Plan Commission in accordance with this ordinance and the petitioner has, at least twenty-four (24) hours in advance, notified the Administrator of his intention to begin such work, in order that inspections may be made as the work progresses.

5.6 COMMON AREAS AND FACILITIES

See Also:

Section 8.17 Common Area Maintenance or Homeowners Association

A. **HOMEOWNERS ASSOCIATION.** Adequate provision shall be made for a private organization (i.e. Homeowners Association) with direct responsibility to, and control by, the property owners involved to provide for the operation and maintenance of all common facilities including private streets jointly shared by such property owners if such facilities are a part of the Planned Unit Development Plan, and, in such instance, legal assurance shall be

provided which show that the private organization is self-perpetuating and adequately funded to accomplish its purposes.

B. MAINTENANCE. Common areas and facilities which are not dedicated to the public shall be maintained to standards assuring continuous and adequate maintenance at a reasonable and non-discriminatory rate of charge to the beneficiaries thereof. Common areas and facilities not dedicated to the public shall be operated and maintained at no expense to any governmental unit. Adequate access shall be provided for fire, police, health, sanitation, and public utilities vehicles to service common areas.

5.7 MODIFICATIONS TO THE APPROVED PUD

A. MAJOR MODIFICATIONS REQUIRING NEW PRELIMINARY PLAN APPROVAL. New Planned Unit Development Preliminary Plan approval by the Plan Commission shall be required for changes which alter the concept or intent of the PUD District including but not limited to:

1. Significant changes in the proportion or allocation of land uses;
2. Changes in the type of approved uses;
3. Changes in the location of uses;
4. Lessening of aesthetic treatments;
5. Changes in functional uses or open space, where such change constitutes an intensification of use of the open space;
6. Changes in the final governing agreements, requirements or commitments where such changes conflict with the Preliminary Plan approval;
7. Density increases;
8. Changes to the internal street system or off-street parking areas which the Administrator considers to be significant;
9. Significant changes in drainage management structures, as determined by the Administrator;
10. Changes in access to the development site, where such change amounts to an intensification in the traffic patterns of roadways; and/or
11. All other changes not expressly addressed under Subsection 5.7(B) below.

B. MINOR MODIFICATIONS

1. The following changes are considered minor modifications to the PUD Final Detailed Plan, and may be approved by the Administrator. The Administrator may choose to send a minor modification request directly to the Plan Commission if the opinion is that it would be in the best interest of the community, or if the request appears to be controversial. The Administrator's decision may be appealed to the Plan Commission by the property owner.

    a. Changes in lot arrangement, but not size, which are not detrimental to the proposed thoroughfare pattern of the development;

    b. Substitutions of plants;

    c. Reduction of parking spaces or setbacks by less than 5%;

    d. Increase in building square footage or height by less than 10%;

    e. Changes to the internal street system or off-street parking areas, which are considered minor by the Administrator;

    f. Minor changes in drainage management structures, as determined by the Administrator; and/or

    g. Changes in access to the development site, where such change amounts to a reduction in intensity in the traffic patterns of roadways, as determined by the Administrator.

Chapter 6: Overlay Districts

6

CONTENTS

6.1 Thoroughfare Overlay District 98
6.2 Interstate Overlay District 106
6.3 Downtown Overlay District 107

See Also:

Center Township Thoroughfare Plan, available at the Lebanon Planning and Building Department

6.1 THOROUGHFARE OVERLAY DISTRICT

A. INTENT OF THE DISTRICT. The purpose of the Thoroughfare Overlay District is:

1. to promote coordinated, quality development for all development sites, buildings, structures abutting designated major thoroughfares within the City of Lebanon
2. to establish basic standards which promote high quality, innovative site design and at the same time encourage efficient land use; and
3. to encourage capital investments for the development of adjacent properties.

B. DISTRICT BOUNDARIES. The boundaries of the Thoroughfare Overlay District are hereby established as shown on the Official Zoning Map for the City of Lebanon. The boundaries extend four hundred (400) feet from the centerline of the designated thoroughfare. Designated thoroughfares include State Road 32, State Road 39, Indianapolis Avenue, and Lafayette Avenue.

C. APPLICABILITY. All new development and any existing lots, structures or buildings proposing an expansion of the lot, structure, or building by thirty (30) percent or more of the existing.

D. INTERPRETATION. The Thoroughfare Overlay District regulations apply in addition to the underlying zoning district regulations. In the case that this overlay district overlaps other overlay districts, or where conflicting regulations occur, the following shall apply.

1. The regulations of the Downtown Overlay District shall supercede the regulations of the Thoroughfare Overlay District. The Thoroughfare Overlay District shall supercede the regulations of the Interstate Overlay District. Where no special regulations are included within a specific overlay district, the regulations of the underlying overlay district shall apply, or in the case of no underlying overlay district, the regulations of the underlying zoning district shall apply.
2. In the case of conflicting regulations between the Thoroughfare Overlay District regulations of this section and other regulations in this ordinance, the hierarchy detailed in Subsection 6.1(D)(1) above shall determine which regulations control.

E. PLAN COMMISSION APPROVAL

1. A Development Plan is required for all proposed development in the

Thoroughfare Overlay District per Section 9.17 Development Plan. Individual single- or two-family lots are not subject to the requirements of the overlay district and only require Development Plan approval by the Plan Commission when they are part of a major subdivision.

2. If any portion of the parcel/tract/lot lies in the Overlay District, the entire parcel/tract/lot is considered to be in the Overlay District.

See Also:

Lebanon Plan Commission Rules of Procedure

F. PERMITTED USES. All uses which are permitted in a given site's underlying zoning district except those expressly excluded in Subsection 6.1(H) below, are permitted in the Thoroughfare Overlay District.

G. PERMITTED CONDITIONAL USES. All conditional uses which are permitted (upon obtaining a conditional use approval from the Board of Zoning Appeals) in the underlying zoning district(s), except the uses expressly excluded in Subsection 6.1(H) below, are permitted in the Thoroughfare Overlay District.

H. PROHIBITED USES

1. Used Motor Vehicle Sales
2. Drive Through Establishments (Drive-through windows may be permitted as accessory uses, subject to the provisions of this section)
3. Farm Equipment Sales & Service (not fully enclosed)
4. Airport
5. Heliport
6. Highway Maintenance Garage
7. Radio or Television Transmission Tower
8. Boat or Marine Equipment Sales & Service
9. Penal or Correctional Institution
10. Sanitary Fill
11. Sewage Treatment or Disposal Plant
12. Wholesale/Warehousing/Industrial Services not contained entirely within buildings
13. Junk Yard, Salvage yard Operation
14. Raising of Non-Farm Fowl and Animals, Commercially (except kennel)
15. Outdoor Storage

16. Mini Warehouses/Self Storage
17. Signs greater than one hundred (100) square feet in sign area, except as noted elsewhere in this ordinance
18. Car Washes (self-service only)
19. Auto Repair
20. Adult Uses

I. VEHICULAR ACCESS. Refer to Section 7.18 Design Standards for vehicular access requirements.

See Also:

Section 7.10 Accessory Uses

J. ACCESSORY BUILDINGS AND USES. All accessory buildings and uses which are permitted in the underlying zoning district(s) shall be permitted, except that any detached accessory building shall be architecturally compatible with the principal building(s) with which it is associated.

K. SITE LAYOUT. Development plans shall address the entire parcel. Ownership patterns may limit the degree to which this can be shown. Plans should indicate phasing and be prepared in accordance with the requirements of Section 9.17 Development Plan. See also standards for nonresidential subdivisions in Subsection 8.1(D) Nonresidential And Multifamily Subdivision (Commercial, Industrial).

1. Site layout shall consider the relationship between all buildings on site. Building entries shall generally be oriented towards the adjacent streets.
2. Pedestrian access on all public and private streets shall be provided at the time of initial development.
3. Pedestrian connectivity between uses shall be included.
4. Internal drive aisles that connect multiple lots shall be used to minimize points of access for safe vehicular circulation.
5. The orientation and access of outlots shall be considered and illustrated on the plan.
6. Where parcels can be accessed via connection to a secondary arterial, collector, or adjoining parking lot, curb cuts shall not be established on primary arterials within the Thoroughfare Overlay District.

L. NONRESIDENTIAL USES

CB NB PBC PBO PBI ID IN

1. Parking. In addition to the standards contained in Section 7.5 Parking Standards the following shall apply:

   a. Off-street parking between the street and the front facade of the structure shall not exceed fifty percent (50%) of the required parking.

      1) Parking which exceeds fifty percent (50%) of the required parking and is located in the front yard and is visible from the public right-of-way shall require an increase in the required parking lot interior landscaping standards by ten percent (10%).

      2) Parking located between the street and the front facade shall not be allowed within the required front yard or within the required corridor buffer.

   b. Pedestrian areas in parking lots shall be demarcated with special paving, color, height or striping for increased safety.

   c. Shared parking may be utilized in accordance with Section 7.5 Parking Standards.

2. Architectural Standards

   a. Building Materials.

      1) Metal building construction and post building construction (also known as pre-engineered building systems) shall not be permitted.

      2) Structures located in the overlay districts shall be constructed using a minimum of fifty percent (50%) masonry as described below.

         a) Masonry construction may consist of brick, granite, sandstone, slate, limestone, marble, or other hard and durable all weather stone. Ashlar, cut stone, and dimension stone construction techniques are acceptable.

         b) Brick material used for masonry construction shall be composed of hard fired all-weather standard size brick or other all-weather facing brick.

See Also:

Section 7.8 Landscaping for Parking Lot Interior Landscaping

3) The use of smooth-faced concrete block, untextured smooth-faced tilt-up panels, and standing seam metal panels shall be prohibited. The Administrator shall approve or deny the use of all composite and alternative materials that replicate the appearance and durability of those listed below. All facade wall exterior building materials shall be high quality, and shall be limited to any combination of the following:

a) brick or face tile;

b) wood;

c) native stone;

d) glass (reflective glass shall be limited to a maximum of fifty percent (50%) of the area of any facade wall on which glass is used);

e) tinted and/or textured concrete masonry units (such as split-face block and burnished block);

f) architectural precast concrete or tilt-up concrete panels that are textured using the following techniques: exposed aggregate, bush-hammered, sand blasted, or other concrete finish as approved by the Plan Commission or designee;

g) architectural metal, limited to a maximum of fifty percent (50%) of the area of any facade wall on which architectural metal is used;

h) Exterior Insulation and Finish Systems (EIFS); and

i) Fiber cement board, nine (9) inch lap.

b. Facade Detail. Facade detail elements such as color, lighting, display windows, and roof design shall meet the requirements of Section 7.18 Design Standards.

c. Minimum Height. Buildings in the Overlay District shall have a minimum height of twenty (20) feet.

d. Building Orientation. All structures shall be sited to front on public ways or give the appearance of a front-like facade on public ways. The main entrance of the structure must face the street and be clearly articulated through the use of architectural detailing. Where there are two street frontages the entrance on the thoroughfare of highest classification shall be the main entrance.

3. Landscaping

   a. Coordination. The landscaping is intended to visually tie an entire development together, define entryways and vehicular and pedestrian circulation, buffer dissimilar uses and to mitigate the effect of heat build up on dark paved surfaces. All landscape requirements of the underlying zoning district shall apply.

   b. Live Material. Areas required to be landscaped shall be covered in live material such as trees, shrubs, ground cover, and sod. Areas not required by this ordinance may be covered by woody mulch, rock mulch, or other natural materials other than exposed gravel and aggregate rock.

   c. Corridor Buffer. A corridor buffer of minimum twenty (20) feet in width shall be established. The incorporation of walkways and bikeways into the design is encouraged. Parking lots, through roads, frontage roads, drive aisles, buildings, and accessory structures, etc. shall not be established within this area.

   d. Lot Plantings. Plantings shall be included on a lot on all sides of a building or structure. Plantings for nonresidential uses shall constitute seventy-five percent (75%) of the building's perimeter excluding entryways and service bays. The minimum average width of the planting area shall be five (5) feet. Landscaping materials used adjacent to buildings shall include shrubs, ground cover, and ornamental grasses in addition to turf. Trees are encourage in larger planting spaces.

   e. Street Trees. Street trees shall be planted parallel to the street either within street right-of-way or within ten (10) feet outside of right-of-way, except as noted in Section 6.3 Downtown Overlay District. The tree species shall be selected from Table 7.11: Trees for Planting on Streets, Highways, and Parking Lots (generally with high canopies, shade producing, hardy) or Table 7.12: Trees for Planting on Streets and Highways that Minimize Conflict With Overhead Utilities. Spacing shall be determined by tree type with a maximum spacing of forty (40) feet on center. Street trees shall be seedless hardwood shade/canopy trees. Species should be selected based upon hardiness, durability, root systems that do not damage sidewalks, and leaf and fruit litter that will not clog storm drains.

   f. Landscape Buffer/Screening. Requirements for buffer/screening can be found in Section 7.8 Landscaping.

g. Sign Landscaping. Requirements for landscaping around the base of signs can be found in Section 7.8 Landscaping.

4. Trash Collection. Trash, garbage, grease and recycling collection areas shall be enclosed and screened on all sides with a minimum six (6) foot tall opaque wall constructed of materials which are architecturally compatible with the design of the principal building(s). Gates shall be used on the unit's side and shall be functional. Trash collection and recycling areas shall be integral to the building or located in the rear of the site.

5. Pedestrian Facilities.

   a. Sidewalks shall be provided along the frontage adjacent to a public or private street. The sidewalk shall be a minimum of six (6) feet wide.

   b. Sidewalks shall be provided along both sides of the major access drive and one side of a secondary access drive.

   c. A continuous, delineated pedestrian pathway network no less than six (6) feet wide, that continues from the perimeter public sidewalk to the principal customer entrance of all principal buildings on the site shall be provided.

   d. Sidewalks, no less than eight (8) feet wide, must be provided along the full length of the building along any facade that features a customer entrance.

   e. All pedestrian walkways shall be distinguished from driving surfaces through the use of special pavers, bricks, or scored concrete.

See Also:

Section 7.15 Exterior Lighting Standards

6. Lighting

   a. Design. All light standards, building-mounted lights, security lights, and other architectural lights shall be of compatible design and materials.

   b. Height. Freestanding and wall-mounted outdoor light fixtures used to illuminate a surface parking or service area shall utilize full cutoff fixtures. The Plan Commission may approve cutoff, semi-cutoff, or other decorative lighting should it be more appropriate to the overall site design.

   c. Gas stations. Refer to Section 7.15 Exterior Lighting Standards.

   d. Intensity / Light Trespass. Lighting levels shall not exceed three-tenths (0.3) foot candles at the property line abutting a residential

use or district. Light levels shall not exceed five-tenths (0.5) foot candles of light at the property line adjacent to a nonresidential district. Light levels shall not exceed six-tenths (0.6) at property lines adjacent to street right-of-way.

7. Signs. Signs for each proposed use shall be in conformance with the requirements of Section 7.7 Sign Regulations of this ordinance and compatible in character as to color and architectural design with the structures located on the site.

8. Drive-through Windows. Drive-through windows:

   a. shall be designed as a related, integrated architectural element and part of the overall design composition of the building;

   b. shall confine stacking to the rear of the tract or parcel with outlet from such lines also being to the rear or side of the building; and

   c. shall not permit spill onto adjoining properties, public rights-of-way, or interior/internal drives.

See Also:

For drive-through stacking requirements, Section 7.5 Parking Standards

9. Loading Berths. Loading berths shall be permitted per the needs of business establishments and shall be identified on the development plan. Loading berths and overhead doors shall face to the rear of all buildings. Should a loading berth be located adjacent to or visible from a public right-of-way, or established on the side of a building through any circumstance, it shall be screened from view with an opaque wall constructed of materials which are architecturally compatible with the design of the principal building(s).

10. Screening

   a. All rooftop equipment shall be enclosed in building material that matches the structure or is visually compatible with the structure.

   b. All building mechanical and electrical equipment located adjacent to the building and visible from a public thoroughfare or residential use shall be screened from view by means of walls, landscaping, camouflage, or other approved method. All screening shall be architecturally compatible with the principal structure.

   c. Sound attenuation to mechanical equipment is also encouraged.

6.2 INTERSTATE OVERLAY DISTRICT

A. INTENTION OF THE DISTRICT. The purpose of the Interstate Overlay District is:

1. to promote coordinated, quality development;
2. to establish basic standards for structures, landscaping, and other improvements on the properties within the interstate overlay district which promote high quality, innovative site design and at the same time encourage efficient land usage; and
3. to establish development standards which will encourage capital investments for the development of those properties along and abutting Interstate 65 (I-65) within the City of Lebanon.

B. DISTRICT BOUNDARIES. The boundaries of the Interstate Overlay District are hereby established as shown on the Official Zoning Map for the City of Lebanon. The boundaries extend four hundred (400) feet outside of and parallel to the outermost right-of-way of I-65.

C. INTERPRETATION. Properties that are situated within the Interstate Overlay District are subject to the same requirements as Section 6.1 Thoroughfare Overlay District of this ordinance, except where noted in this section. In the case that this overlay district overlaps other overlay districts, or where conflicting regulations occur, the following shall apply.

1. The regulations of the Downtown Overlay District shall supercede the regulations of the Thoroughfare Overlay District. The Thoroughfare Overlay District shall supercede the regulations of the Interstate Overlay District. Where no special regulations are included within a specific overlay district, the regulations of the underlying overlay district shall apply, or in the case of no underlying overlay district, the regulations of the underlying zoning district shall apply.
2. In the case of conflicting regulations between the Interstate Overlay District regulations of this section and other regulations in this ordinance, the hierarchy detailed in Subsection 6.2(C)(1) above shall determine which regulations control.

D. PERMITTED USES. All uses which are permitted in the underlying zoning district are permitted, except those expressly prohibited in Section 6.1 Thoroughfare Overlay District. As an exception, pole/ground signs in excess of one hundred (100) square feet in sign area and mini-warehouses/self storage facilities are permitted in the Interstate Overlay District.

E. INTERSTATE CORRIDOR BUFFER. Properties abutting I-65 shall provide a minimum thirty (30) foot width landscape buffer on the lot frontage adjacent to the interstate. The buffer shall contain Type B buffer plantings from Table 7.9: Landscape Buffer Types. This buffer is in addition to other required landscaping and setback yards.

F. BUILDING ORIENTATION. All structures shall give the appearance of a front-like facade along the interstate. However, where the building is sited so that the front faces the interstate, a front-like facade must be maintained along other public right-of-ways within the City.

G. TRASH COLLECTION. Trash collection and recycling areas shall not be visible from the interstate and shall be screened in accordance with Section 7.8 Landscaping.

6.3 DOWNTOWN OVERLAY DISTRICT

A. INTENT. The intent of the Downtown Overlay District is to promote the continuation of higher density mixed-use development in downtown Lebanon and to insure a high degree of compatibility between existing and new development in keeping with traditional downtown development patterns. The district shall:

1. Require a reasonable amount of design standards that assure compatible size, scale and massing of structures for new construction;
2. Preserve existing historic character by encouraging rehabilitation of existing buildings;
3. Protect property values and encourage continued investment;
4. Encourage revitalization with pedestrian-oriented development with a mix of uses including residential, retail, service, office, and entertainment;
5. Be consistent with the goals and policies of the Lebanon Comprehensive Plan.

B. BOUNDARIES. The boundaries of the Downtown overlay district are shown on the Official Zoning Map. More specifically, the Downtown Overlay District is divided into two subareas and includes all land within the following designated boundaries:

1. Commercial Core. From a point that is 125′ north of and 125′ west of the intersection of North St. and West St.; east to a point that is 125′ north of and 200′ east of the intersection of North St. and East St.;

south to a point that is 125′ south of and 200′ east of the intersection of East St. and SR 32; west to a point that is 125′ south of and 125′ west of the intersection of West St. and SR 32 (all measurements taken from the street centerlines).

2. Integrated Residential/Commercial. From the intersection of Chicago St. & Jameson St., east to the intersection of Chicago St. & Park St., south to the intersection of Main St. & Indianapolis Ave., southeast to the intersection of Indianapolis Ave. & Elm St., west to the intersection of Elm St. & Evans St., south 350′, west to Jameson St., north to the intersection of Chicago St. & Jameson St. This area excludes the Commercial Core in Subsection 6.3(B)(1) above (all measurements taken from the street centerlines).

C. GENERAL PROVISIONS / APPLICABILITY. This chapter applies to any:

1. Site or structure being located, erected, constructed, reconstructed, moved, altered, converted, or enlarged that would require a Development Plan. Projects requiring an Improvement Location Permit or a Certificate of Compliance with Safety Codes may need to comply with requirements of these sections at the discretion of the Planning and Zoning Administrator.

2. Lot being used, altered, or excavated.

3. Existing uses being expanded, changed, or new uses added.

4. Streetscape improvements including exterior facades, landscaping, lighting, street furnishings, or other improvements.

D. RELATION TO UNDERLYING ZONING. In the case that this overlay district overlaps other overlay districts, or where conflicting regulations occur, the following shall apply.

1. The regulations of the Downtown Overlay District shall supercede the regulations of the Thoroughfare Overlay District. The Thoroughfare Overlay District shall supercede the regulations of the Interstate Overlay District. Where no special regulations are included within a specific overlay district, the regulations of the underlying overlay district shall apply, or in the case of no underlying overlay district, the regulations of the underlying zoning district shall apply.

2. In the case of conflicting regulations between the Thoroughfare Overlay District regulations of this section and other regulations in this ordinance, the hierarchy detailed in Subsection 6.3(D)(1) above shall determine which regulations control.

E. PROCEDURES

1. A Development Plan is required for proposed new development or expansion of developments constituting more than thirty percent (30%) of the existing in the Downtown Overlay District. The Plan Commission shall review all Development Plan applications in accordance with Section 9.17 Development Plan.

2. Single-family uses on individual lots do not require Plan Commission approval and may be reviewed administratively by the City's Technical Assistance Committee. The Planning and Zoning Administrator or his/her designee may grant approval. Single-family uses on individual lots are subject to development plan approval by the Plan Commission only when they are part of a major subdivision.

3. Structures wholly or partly used as a dwelling/residence/commercial or service business shall be required to obtain a Certificate of Compliance, as per Section 9.12 Certificate of Compliance with Safety Codes when a new lease/agreement is made or when there is a change of use or tenant. The Certificate of Compliance may require an inspection for compliance with the City of Lebanon Building Code. These projects generally will only require staff review but the Planning and Zoning Administrator/Building Inspector may require review by the Technical Assistance Committee.

F. DEVELOPMENT AND DESIGN STANDARDS. The guidelines and standards contained herein provide guidance for quality design and compatible development consistent with the historic character of the area.

1. Streets. The existing city street grid shall be maintained including provisions for alleys where possible. New construction shall observe maximum setbacks and locate close to the right-of-way to engage the pedestrian and encourage street activity.

2. Sidewalks.

   a. Minimum sidewalk width shall be six (6) feet.

   b. Special paving is encouraged for sidewalks in the downtown core.

   c. Special paving shall be used for crosswalks to distinguish the pedestrian areas from vehicular areas.

   d. Supporting columns, landscaping as specified in Section 7.8 Landscaping, street furniture, street trees, and signs as specified in Section 7.7 Sign Regulations, shall be permitted within the sidewalk area within the Downtown Overlay district provided that a minimum

horizontal clearance of forty-two (42) inches is maintained at all times.

e. The minimum vertical clearance between the established grade of the public right-of-way and the underside of the encroaching structure shall be a minimum of nine (9) feet.

See Also:

Section 7.13 Outdoor Sales, Display, and Storage

3. Off-Street Parking.

   a. Minimum off-street parking requirements within the Commercial Core shall be one-half (1/2) of the required spaces specified in Table 7.4: Schedule of Parking Standards of Section 7.5 Parking Standards.

   b. Off-street parking shall not be located in the frontyard of any structure within the Commercial Core.

   c. Shared and off-site parking shall be permitted in accordance with Section 7.5 Parking Standards.

   d. Parking lots within the Downtown Overlay district must be screened in accordance with Section 7.8 Landscaping.

   e. Bicycle Parking shall be required in accordance with Section 7.5 Parking Standards.

4. Loading. Loading dock entrances for nonresidential uses shall be screened so that loading docks and related activity are not visible from the public street right-of-way or adjacent residential uses.

5. Vehicle and Driveway Access

   a. Curb cuts from public streets are not permitted if an alley is present adjacent to the side or rear property line.

   b. Shared driveways are encouraged for lots that do not abut alleys.

6. Landscaping and Screening

   a. Parking lot screening may include brick or masonry walls, instead of plant materials.

   b. A corridor buffer is not required in the Downtown Overlay District.

7. Street Trees

   a. Street trees shall be planted a minimum distance of two (2) feet from the curb. A list of suitable trees for street planting can be found in Table 7.11: Trees for Planting on Streets, Highways, and Parking

Lots (generally with high canopies, shade producing, hardy) or Table 7.12: Trees for Planting on Streets and Highways that Minimize Conflict With Overhead Utilities of Section 7.8 Landscaping.

b. Street trees shall be planted within the sidewalk right-of-way, provided that a horizontal sidewalk clearance of forty-two (42) inches is maintained. Trees shall be in a minimum planting area of twenty-five (25) square feet. Tree grates may be used to maintain the required clearance.

8. Lighting

a. Pedestrian-scaled street lighting (not including site lighting).

1) Ornamental street lights should attempt to maintain the style established by existing lighting on the Court House Square.

2) Maximum light pole height shall be twenty (20) feet.

3) The light fixture shall direct light downward and be full cutoff, cutoff, or semi-cutoff.

9. Fencing and Walls

See Also:

Section 7.14 Fence and Wall Standards

a. Chainlink fencing shall be prohibited in the front yard. Fencing in the frontyard shall be a minimum of fifty percent (50%) open.

b. Retaining walls located adjacent to a sidewalk along a public street shall not exceed a height of two (2) feet. Retaining walls shall be split-face or textured finish concrete block faced with stone, brick, or stucco.

9. Signs

See Also:

Section 7.7 Sign Regulations for sign types and additional regulations

a. Sign area for uses in the Downtown Overlay District shall be one and one-half (1.5) square feet per one (1) linear foot of building frontage for an aggregate maximum of one hundred (100) square feet. The total aggregate sign area may be increased to one hundred fifty (150) square feet if a combination of sign types (awning, projecting, suspended) is used.

b. Signs shall be externally illuminated as per Section 7.7 Sign Regulations.

c. Commercial Core.

1) Ground signs shall not be permitted in the Commercial Core.

2) Electronic Message Board signs are not permitted within the Commercial Core.

d. Integrated Residential/Commercial.

1) The maximum height of post signs shall be five (5) feet within the Integrated Residential/Commercial area.

2) The sign area of post signs shall not exceed twenty (20) square feet.

10. Public Art

a. Public art including sculptures, play equipment, children's fountains, bicycle racks, and street furniture shall be permitted and is encouraged on private property, within public spaces, and within off-street public right-of-way, provided that a horizontal sidewalk clearance of forty-two (42) inches is maintained.

11. Indoor/Outdoor Operations

a. All uses and operations must be indoor except:

1) Off-street parking or loading areas, automated teller machines (ATMs), outdoor seating areas (alone or associated with a restaurant), or similar uses, provided that a horizontal sidewalk clearance of forty-two (42) inches is maintained.

12. Use Location

a. Commercial Uses. Single-family residential uses on individual lots are exempt from this standard.

1) General. Ground floor commercial uses should be oriented to the street.

2) Commercial Core. All commercial and mixed-use structures in the Commercial Core shall have commercial uses located on one hundred percent (100%) of the ground floor.

3) Integrated Residential/Commercial. All commercial and mixed-use structures in the Integrated Residential/Commercial Core shall have commercial uses located on fifty percent (50%) of the ground floor.

b. Residential Uses. For nonresidential, mixed-use, and multifamily residential structures, residential uses shall not be placed in any location within the first floor of a building that faces a collector street, arterial street, or interstate.

13. Architectural Standards. The standards in Section 7.18 shall apply in addition to the following.

    a. Transparency (building facade/windows)

        1) A minimum of fifty percent (50%) of each facade between two (2) feet and ten (10) feet high shall be transparent. First-floor residential buildings and places of worship are excluded from this requirement.

    b. Front Porch. New residential construction in neighborhoods where more than seventy percent (70%) of homes have front porches of thirty-two (32) square feet or more shall be required to have a front porch of at least thirty-two (32) square feet.

    c. Building Mass

        1) Residential.

            a) Single- and Two-Family Residential. New residential construction shall be of similar scale as the adjacent two (2) homes on either side of the lot, and the three (3) homes across the street, equalling a total of six (7) homes for comparison.

        2) Nonresidential and Multifamily

            a) New construction and renovations shall be compatible with existing development patterns and shall be oriented to the street.

            b) Within the Commercial Core the minimum building height shall be two (2) floors.

    d. "Story" Change. There shall be a clear delineation between each "story" of the structure provided by a consistent cornice line.

    e. Residential Garages

        1) Garages shall be accessed from the alley or side street. If front-loading, the garage face shall be set back ten (10) feet from the front living area facade.

    f. Storefronts

        1) Storefronts shall be internally illuminated with spots or other incandescent lighting, so as to display prominently and attractively the business or its products. Exterior lighting may be affixed to the buildings.

G. CONVERSION STANDARDS. Refer to Section 7.20 Single-family to Multifamily Conversion Standards.

H. PROHIBITED USES

1) All uses prohibited by the Thoroughfare Overlay District are prohibited in the Downtown Overlay District.

2) Drive-through facilities (not including pedestrian-only service windows) are prohibited in the Commercial Core.

3) Car Ports are prohibited in the Commercial Core.

I. ACCESSORY USES AND BUILDING MECHANICAL. Accessory uses and building mechanical shall be located to the side or rear of the principal structure and shall be located in the location of least visibility from the public right-of-way. Mechanical equipment shall be screened in accordance with Section 7.8 Landscaping.

Chapter 7: Development Standards

7

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7.1 APPLICATION

A. APPLICABILITY. All structures, land uses, land use changes, structural alterations, structural relocations, structural additions, and structural enlargements that are constructed, created, established, or occur after the effective date of this ordinance (except as may otherwise be provided within this ordinance) shall be subject to all Development Standards and regulations applicable to the zoning district in which they are located. All projects approved prior to the effective date of this ordinance shall adhere to the terms and conditions of approval and/or written commitments made under the zoning ordinance that was in place at the time of filing.

B. EXPANSION OR MODIFICATION OF EXISTING USES AND STRUCTURES. No structure, parking area, or other site feature regulated by this ordinance shall be enlarged, altered, or expanded unless the minimum improvements required by this Article are provided on the property in a manner equal to the extent of its alteration or expansion.

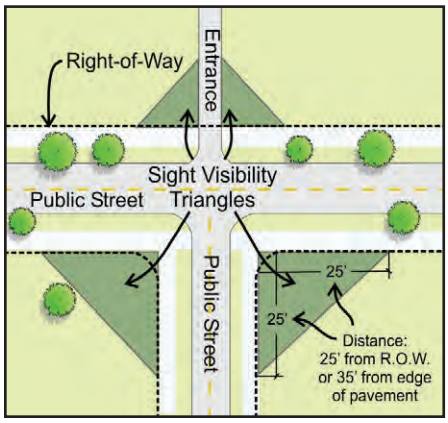
7.2 SIGHT VISIBILITY TRIANGLE

A. SIGHT VISIBILITY TRIANGLE. All properties, with the exception of those in the Commercial Core of the Central Business District (CB), shall maintain a clear area (the "sight visibility triangle") at every intersection of an adjoining street with other streets and entrance drives.

1. Clearance. The sight visibility triangle shall be free of structures, vegetation, signs (other than street signs), and other opaque or partially opaque objects between a height of three (3) feet and eight (8) feet as measured from the nearest top-of-curb (or edge of pavement where curbs are not present).

2. Dimensions. The triangle is determined by a diagonal line connecting two points measured twenty-five (25) feet from the intersection of the projected rights-of-way lines. In cases where the edge of pavement is coincidental with the right-of-way, the points shall be measured thirty-five (35) feet from the intersection of the edges of pavement.

Sight Visibility Triangle



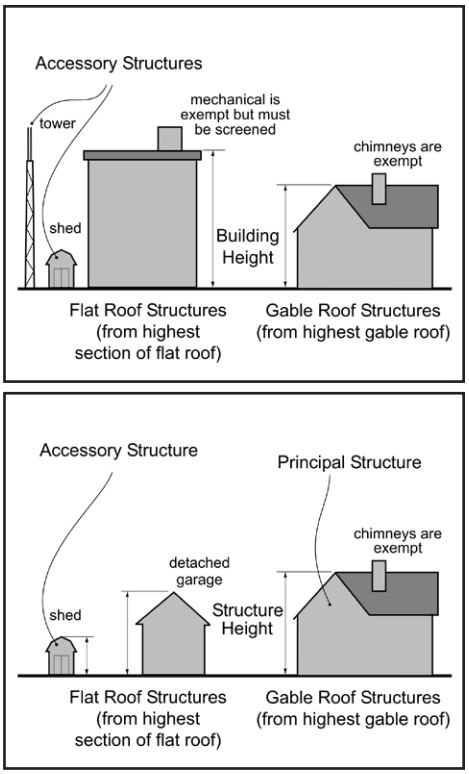
3. Public Signs and Signals. The above provisions shall not apply to official warning signs or signals necessary to the public safety.

7.3 HEIGHT STANDARDS

A. HEIGHT REQUIREMENTS. The maximum height permitted shall be as described in Table 4.2: Residential Districts Lot Standards, subject to the exceptions listed in this section.

1. Measuring Height. In all instances, the height of a structure shall be measured from adjacent grade level to the highest point of the structure, excluding the necessary appurtenances such as chimneys, church spires, steeples, clock or bell towers, cooling towers, elevator bulkheads, fire towers, penthouses, stacks, tanks, water towers, transmission towers, or essential mechanical equipment not prohibited by other laws or further provisions of this ordinance.

2. Additional Residential Limitations. No accessory structure located in a residential zoning district may exceed the height of the principal structure on the property.



Height Illustration

B. HEIGHT EXCEPTIONS. No structure may be erected or changed so as to make its height greater than specified in the applicable zoning district, except as noted below. For the purposes of this section, the height of church steeples, chimneys, and other structures which are attached or otherwise a part of another structure shall be measured from grade level.

1. General Exceptions. The following structures may exceed the permitted height regulations by twofold (x2):

   a. Church steeples;

   b. Spires, belfries, and cupolas; and

   c. Industrial related storage tanks, mechanical equipment, and smokestacks.

2. Height Of Residential Structures. In the districts limiting the height of single-family residential structures to thirty-five (35) feet, a dwelling may be increased in height not to exceed forty (40) feet provided the required side yards are increased two (2) additional feet for each foot such structure exceeds thirty-five (35) feet in height.

3. Telecommunications Towers and Antenna. The height of telecommunication towers and antenna shall meet the requirements of Section 7.16 Telecommunications Facilities.

4. Amateur Radio Towers. Amateur radio towers shall meet the requirements of Section 7.10 Accessory Uses and Structures.

5. Necessary Appurtenances. The following structural elements may exceed the permitted height standards for the zoning district in which they are located by up to ten (10) feet:
   a. Necessary mechanical appurtenances;
   b. Utility substations and related essential facilities;
   c. Water tanks;
   d. Chimneys;
   e. Fire towers;
   f. Stair towers;
   g. Stage bulkheads; and
   h. Elevator bulkheads.
6. Water towers. Water towers may exceed the permitted height standards for the zoning district in which they are located and may be erected to a maximum height of two hundred (200) feet.

C. FAA REQUIREMENTS. Nothing in this ordinance, including the exceptions listed above shall be interpreted as waiving any height regulations related to air travel. All applicable Federal Aviation Administration (FAA) restrictions and regulations shall apply to all structures.

7.4 LOT STANDARDS

A. REQUIRED SETBACKS

1. Minimums. Minimum required setbacks shall be as set forth in each district Table 4.2: Residential Districts Lot Standards and Table 4.3: Non-Residential Districts Lot Standards. The required setback shall be measured from the existing right-of-way or the proposed right-of-way as set forth in the Center Township Thoroughfare Plan, whichever is greater.
2. Through Lots. Any lot having a frontage on two approximately parallel streets or abutting more than one street, shall be considered to have two or more front yards and shall conform to the minimum setbacks as specified for each district in Chapter 4: Zoning Districts.
3. Corner Lots. Any lot having a frontage on two approximately perpendicular streets shall be considered to have two or more front yards.
4. Alley Abutting Rear Or Side Yard. Principal structures shall be setback

as specified in Chapter 4: Zoning Districts. Accessory structures on the rear or side of a lot abutting an alley shall be set back a minimum of five (5) feet from the right-of-way (not the edge of pavement).

5. Obstruction. Minimum required yards or building setback distances shall be unobstructed and open to the sky, except for customary projections and signs, in accordance with Chapter 4: Zoning Districts of this ordinance.

B. PERMITTED ENCROACHMENTS IN REQUIRED YARDS. No structure or part thereof shall encroach upon any required yard. However, the following shall not be considered encroachments when located within such required yards except in areas required for vision clearance at intersections.

1. Permitted Encroachments In Required Front Yards

   a. An eave, cornice, overhang, awning, porch, balcony or bay window not exceeding four (4) feet, provided, however, that in no event shall said encroachment protrude closer than twenty (20) feet to a front lot line However, in the Central Business (CB) District, such encroachments may be permitted subject to the standards of the Downtown Overlay District, provided they do not interfere with intersection visibility as set for in Section 7.2 Sight Visibility Triangle or with the Board of Public Works and Safety requirements for sidewalk clearance.

   b. The ordinary projection of belt courses, sills, lintels, chimneys, and other similar ornamental and architectural features not exceeding two (2) feet.

   c. Unenclosed, uncovered steps, entrance platforms, terraces or landings not over eighteen (18) inches above grade level and not to project a distance in excess of ten (10) feet.

   d. Accessory uses such as public utility installations, walks, driveways, curbs, mail boxes, name plates, lamp posts, bird baths and structures of a like nature in any required front, side or rear yard.

   e. Fences that are at least fifty percent (50%) open, walls, and hedges not to exceed forty-two (42) inches in height.

   f. Plants including trees, shrubs, and perennials.

2. Permitted Encroachments In Required Side And Rear Yards

   a. An eave, cornice overhang, awning, canopy, or balcony not exceeding four (4) feet, provided, however, that said encroachment shall not protrude closer than fifty percent (50%) of the required distance to any side or rear lot line.

b. The ordinary projection of belt courses, sills, lintels, chimneys, and other similar ornamental and architectural features not exceeding two (2) feet, provided, however, that said encroachment shall not protrude closer than fifty percent (50%) of the required distance to the rear lot line.

c. Unenclosed, uncovered steps, entrance platforms, terraces or landings not over eighteen (18) inches above grade level and shall not encroach more than fifty percent (50%) into said yard.

d. Accessory uses such as public utility installations, walks, driveways, curbs, retaining walls, mail boxes, name plates, lamp posts, bird baths and structures of a like nature.

e. Fences, latticework, screens, hedges or walls not more than six (6) feet in height.

f. Plants including trees, shrubs, and perennials.

g. Open, off-street parking spaces, according to the provisions set forth in Section 7.5 Parking Standards.

h. Balconies, breezeways, and open porches and decks provided, however, that said encroachment shall not protrude closer than fifty percent (50%) of the required distance to the side and rear lot line.

3. Agricultural Use. Nothing contained in this subsection shall be deemed to prohibit the erection or maintenance of an open fence in connection with an agricultural use.

4. Setback Distance Exceptions. Any yard or setback line so placed or oriented that none of the specific terms in this ordinance are applicable shall necessitate a determination by the Planning and Zoning Administrator of suitable dimensions generally required for a similar situation in the zoning district.

C. PLACEMENT OF STRUCTURES

1. Lot Access And Frontage. Every building hereafter erected or moved shall be located on a lot with frontage and access on a public street; or with frontage and access to an approved private street, and all buildings shall be so located on lots as to provide for safe and convenient access, fire protection, and required off-street parking.

2. Lot Dimensions. Every building hereafter erected shall be located on a lot which meets the minimum zoning requirements for the district in which it is located unless otherwise specified for planned unit developments or as specified in Chapter 6: Overlay Districts.

3. Relocation Of Structures. No buildings or structures shall be moved from one lot or premises to another unless such building shall thereupon conform to all the regulations of the zoning district to which such building shall be moved.

4. One Principal Building Per Lot. In no case shall there be more than one principal structure and associated accessory structure located on one lot; except that principal structures designated and platted as a single unit under single ownership and control, such as multifamily developments, shopping centers, and combined industrial operations may be permitted on one lot in accordance with the provisions of this ordinance.

See Also:

I.C. 32-25 for Condominium property law

5. Placing Structures Over Utility Easements. No building or structure shall be placed or erected over utility easements, except for lot line fences which shall be subject to the paramount right of the utility or municipality to install, repair, maintain or replace its installation.

D. EXCEPTIONS TO DISTRICT REQUIREMENTS

1. Infill Development; Front Setback. The front setback shall be as required in Table 4.2: Residential Districts Lot Standards and Table 4.3: Non-Residential Districts Lot Standards. Except in areas where fifty percent (50%) or more of the lots in a block are developed, the average of the existing front setbacks of structures for one hundred fifty (150) feet on either side may be used as the minimum front setback.

2. No part of a required setback (yard), open space, off-street parking, loading space or bufferyard shall be included as part of a required yard, open space, or off-street parking or loading space similarly required for any other building, unless specified elsewhere in this ordinance.

7.5 PARKING STANDARDS

A. INTENT. The regulations of this section are designed to alleviate or prevent congestion of the public streets by establishing minimum requirements for off-street parking of motor vehicles, in accordance with the use on the property as specified in Table 7.4: Schedule of Parking Standards.

B. GENERAL PROVISIONS

1. Parking spaces shall be located on the lot with the uses for which they are required. Exceptions are for off-site and shared parking.

2. When the requirement spaces for an unspecified use is unclear, the number of parking spaces shall be determined by the Planning and Zoning Administrator on the basis of similar requirement, the number of

persons served or employed, and the capability of adequately serving the visiting public. Such determination may be appealed to the Plan Commission. A variance request from the requirement can be heard by the BZA, Section 2.4 Board of Zoning Appeals.

3. When the intensity of use of any building, structure or premises shall be expanded through the addition of dwelling units, floor area, beds, seating capacity, or other unit of measurement, parking and loading facilities shall be provided for such increase in intensity of use.

4. Whenever the existing use of a building, structure or premises shall hereafter be changed or converted to a new use permitted by this ordinance, parking and loading facilities shall be provided as required for such new use.

C. LAYOUT AND DESIGN

1. All off-street parking areas shall be constructed using a paved surface of concrete, asphalt, brick pavers, approved pervious concrete or pavers, or the like. Single- and two-family dwellings in the SF, Single-family District, on a minimum two (2) acre parcel, and agricultural uses shall be permitted parking areas of gravel. All parking areas shall be clearly painted to show each parking space.

2. All required parking spaces shall be designed to provide direct access for vehicles. In no case may parking areas which do not have direct access be considered a parking space meeting the requirement of this ordinance. Except in all single-family districts (SF, SF1, SF2, SF3, TR) and the Central Business District (CB), if a parked vehicle prevents direct access to a required parking space (double-stacked), it shall not be considered, nor count toward the required minimum parking.

3. All parking areas for nonresidential uses shall be completely curbed. Complete curbing may not be required if, innovative drainage techniques or stormwater best management practices (BMPs) are employed, and in the written opinion of Lebanon Utilities, the drainage system for the property and surrounding environment shall be best served if curbs were not present.

   a. Curbing must meet the general parking requirements of Subsection 7.8(J)(1).

4. Individual spaces shall be designed so that no part of the parked vehicle will extend beyond the boundary of the established parking area into any minimum required yard or onto adjoining property.

A swale situated between two parking lot edges with curb cuts to allow natural water filtration.

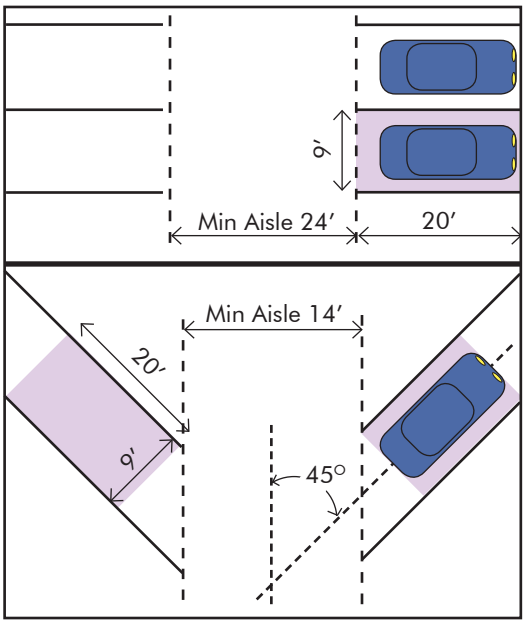
5. Parking spaces are unobstructed and have access to an aisle or driveway so that any automobile may be moved without moving another, and so that no maneuvering directly incidental to entering or leaving a parking space shall be on any public right-of-way or walkway.
6. Off-street parking spaces may be open to the sky or enclosed in a building. In any instance, when a building is constructed or used for parking facilities on the lot, said building shall be treated as any major structure and subject to all requirements thereof.
7. Parking areas may be provided with a one story shelter building or guard building which shall not exceed one hundred (100) square feet of gross floor area and shall conform to all the structural requirements of the district.
8. All parking lots shall be subject to the landscaping and screening requirements for such parking lots as set forth in Section 7.8 Landscaping.
9. Any lighting facilities used to illuminate off-street parking areas shall be so located, shielded and directed upon the parking area in such a manner that they do not reflect or cause glare onto adjacent properties or interfere with street traffic. Refer to Section 7.15 Exterior Lighting Standards for standards.
10. Trash and recycling dumpsters shall not be located in required parking spaces.
11. All parking areas shall provide means of pedestrian circulation to the use and between the use and the street.
12. Parking space size shall be a minimum of one hundred eighty (180) square feet and dimensions shall conform to Table 7.1a: Parking Dimensions and Table 7.1b: Parking Dimensions. In no instance shall the overhang of a vehicle be considered as part of the required parking space area.

Table 7.1a: Parking Dimensions

Angle of Parking	Minimum Parking Space Size		Minimum Aisle Width
	Width	Length	
Parallel	8 feet	22 feet	on-street
90 Degree*	9 feet	20 feet	24 feet
60 Degree	9 feet	20 feet	18 feet (for one way)
45 Degree	9 feet	20 feet	14 feet (for one way)
Disabled	(refer to ADA guidelines)		

* Recommended Size 10′ x 20′

Table 7.1b: Parking Dimensions



Upper Left: Double-Loaded Parking

Bottom Left: Diagonal Parking

13. All parking spaces shall be provided with adequate maneuvering space into which vehicles can back for the purpose of exiting the parking space.

D. ENTRANCE AND DRIVE STANDARDS

1. Driveway entrances or exits at the right-of-way line shall be no closer than twenty-five (25) feet to an adjoining residential property line or ten (10) feet to an adjoining nonresidential property line.

2. No driveway with two way traffic at the right-of-way shall exceed a width of thirty (30) feet with the exception of a boulevard entrance with two one-way drive with a median divider. The minimum width of each drive shall be as specified in the Thoroughfare Plan.

E. PARKING SPACES ACCESSIBLE TO THE DISABLED. In conformance with the Americans with Disabilities Act (ADA) of 1990, accessible parking shall be provided for all development per this ordinance and any further requirements hereafter adopted by federal, state, or local law.

1. Required Spaces. Accessible parking spaces shall be provided at a rate listed in Table 7.2: Parking Spaces Accessible to the Disabled. Accessible spaces shall count towards the required total number of parking spaces.

2. Design And Layout Of Accessible Parking Lots. Access aisles and accessible routes for the mobility impaired shall be provided pursuant to ADA requirements, as amended. Accessible spaces must be a minimum of eight (8) feet wide with a five (5) foot access aisle. One of every eight (8) spaces, however, must have an access aisle of eight (8) feet wide and be designated "van accessible".

3. Passenger Loading Zones. Passenger loading zones shall provide an access aisle of a minimum of twenty (20) feet in length, adjacent and parallel to the vehicle pull up space. If there are curbs between the access aisle and the vehicle pull up space, then a curb ramp shall be provided.

4. Signage And Marking. All accessible spaces shall be designated by the international access symbol. Van accessible spaces will be labeled by both the international access symbol and an additional sign indicating that the space is accessible for vans. Signs shall be a minimum of five and one-half (5.5) feet above ground level so as not to be obscured by parked vehicles. The mobility impaired symbol shall also be painted on the ground to the rear of the parking space.

Symbol of International Access

Table 7.2: Parking Spaces Accessible to the Disabled

Total Number of Parking Spaces in Lot	Minimum Number of Accessible Spaces Required
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
1,001 and over	20, plus 1 for each 100 over 1,000

F. PARKING STANDARDS BY USE

1. Residential Uses. Residential parking standards applicable to the Single-family Residential, Multifamily Residential and Manufactured Home Park zoning districts:

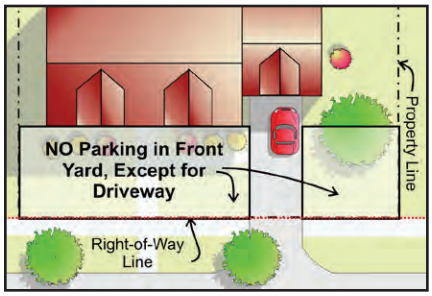
   a. Single-family Dwellings. Parking spaces for Single-family zoning districts shall be provided on the same lot as the dwelling unit for which they are required and shall meet the following standards:

      1) Spaces Requirements. A minimum of two (2) off-street paved spaces, are required for each dwelling unit.

         a) Exception. Parcels two (2) acre or more in area that are not part of a platted subdivision and are being used solely for a single-family dwelling may utilize a gravel driveway for parking, so long as a concrete apron is provided between the street and the right-of-way line.

         b) Unenclosed Vehicles. A maximum of four (4) operable vehicles owned or leased by the residents are permitted outside in an unenclosed area. Inoperable vehicles are not permitted in the front yard.

A residential parking illustration.



   b. Manufactured Home Park Dwellings. Parking spaces for dwellings in the MH zoning district shall be provided on the same site as the dwelling unit for which they are required and shall meet the following standards:

1) Space Requirements. A minimum of two (2) off-street parking spaces are required for each dwelling unit. In addition, parking spaces for management offices, sales facilities, self-service laundries, and other accessory uses shall be equal to one-half (1/2) of the requirements for those uses established in the nonresidential section of this chapter.

a) A maximum of two (2) operable vehicles owned or leased by the residents are permitted outside in an unenclosed area. Inoperable vehicles are not permitted in the front yard.

2) Access/Location Standards. Parking areas must be designed to prevent vehicles from having to back into or maneuver in public streets (excluding all alleys and any streets that are internal to the development).

c. Multifamily Dwellings. Parking spaces for dwellings in the Multifamily (MF) zoning district shall meet the following standards:

1) Space Requirements. Parking shall be required for each dwelling unit (rounded up to the nearest complete space) according to Table 7.4: Schedule of Parking Standards. In addition, parking spaces for management offices, sales facilities, self-service laundries, and other accessory uses shall be equal to 1/2 of the requirements for those uses.

2) Parking of the Disabled. The required spaces shall include parking for the disabled meeting the requirements of Subsection 7.5(E) above. The minimum number of disabled spaces provided shall either be as specified in the Disabled Space Standards table or equal one (1) space for every handicap-accessible dwelling unit, whichever is greater.

2. Nonresidential Uses. Nonresidential parking standards applicable to the Commercial, Industrial, and Institutional zoning districts or uses, except where otherwise noted:

a. General Standards. Parking spaces shall be located on the lot with the use(s) for which they are required. All parking spaces and interior drives shall meet the following requirements.

b. Minimum Required Spaces. The minimum number of parking spaces required per property shall be determined by the sum of spaces required for each applicable use in Table 7.4: Schedule of Parking Standards.

c. Exceeding the Minimum Requirements. A parking lot that exceeds

See Also:

Parking Lot Interior Landscaping, Subsection 7.8(J)(2)

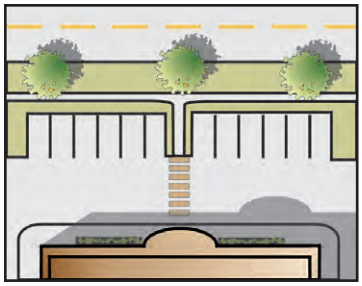
the minimum parking space requirements by more than ten percent (10%) shall also increase the required interior parking lot landscaping for the entire site by ten percent (10%).

1. A fifteen percent (15%) increase in required parking may be permitted without restriction and above the set maximum if the developer constructs all additional parking spaces with pervious pavement or employs the use of Best Management Practices (BMP's) for stormwater filtration as approved by the Administrator.

d. Cross-Access Requirement. Cross access easements shall be established when a parcel abuts another parcel similarly zoned to reduce congestion on public streets. The easements shall:

(1) not be less than twenty (20) feet in width and

(2) not exceed thirty (30) feet in width.



Parking lot with a special pavement pedestrian pathway.

e. Pedestrian Considerations. Safe connections shall be provided within parking lots which connect to the on-site businesses. The use of special pavement materials to distinguish between pedestrian and vehicular areas is encouraged, unless required by the zoning or overlay district.

f. Employee and Customer Parking. Adequate employee and customer off-street parking areas shall be provided, including such areas incidental to display, servicing and repair. No such parking shall be permitted on driveway approaches, landscaped areas, adjacent alleys or streets, on any public right-of-way, or in such a manner as to restrict motorists' visibility.

g. Use of Parking Facilities. Off-street parking facilities shall be utilized solely for the parking of passenger automobiles or light trucks of less than one (1) ton capacity, belonging to patrons, occupants or employees of specified uses. Said parking facilities shall not be used for the storage, display, sale, repair, dismantling or wrecking of any vehicle, equipment or material, unless such facilities are enclosed in a building and otherwise permitted in the district.

h. Advertisements. No business signs or advertisements shall be permitted in parking areas without a permit, except directional and identification signs as permitted in accordance with Section 7.7 Sign Regulations.

i. Parking Facility Location. Off-street parking areas including spaces, drive aisles and other maneuvering shall be permitted within the required setback subject to the following conditions and, except

where noted.

1) No paved portion of the parking area shall be located within ten (10) feet of the right-of-way in any designated front yard or of a required buffer or planting area.

2) No paved portions of the parking area shall be located within five (5) feet of any side or rear yard property line nor within a required buffer or planting area.

j. Buffers and Perimeter Landscaping. All applicable requirements for buffers and perimeter landscaping shall be met per Section 7.8 Landscaping.

k. Cart Corrals. Cart Corrals shall be provided for commercial retail businesses over 35,000 square feet. The cart corrals shall not be located in required parking spaces, nor displace required landscape areas.

Cart Corral

G. CENTRAL BUSINESS DISTRICT (CB) AND DOWNTOWN OVERLAY DISTRICT:

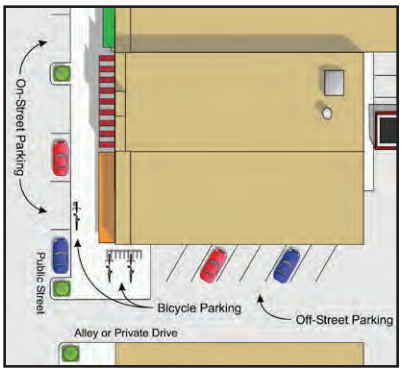
1. In order to accommodate the unique built environment of the downtown, minimum off-street parking standards shall be provided at one-half (1/2) of those required in Table 7.4: Schedule of Parking Standards.

2. On-street parking of one (1) space per twenty-two (22) feet of street frontage may be counted towards required parking. On-street parallel parking shall be allowed.

3. Parking spaces accessible to the disabled (whether off-street or on-street) will still be required at a rate of one (1) space per twenty-five (25) spaces with a minimum of one (1) space.

4. Required off-street loading and unloading spaces shall not be construed as being part of the required off-street parking spaces.

5. No part of any alley shall be used to meet the minimum parking requirements of this ordinance.



On-street, off-street, and bicycle parking in the CB district.

H. DRIVE-THROUGH STACKING. Drive through establishments shall provide stacking space for the queuing of vehicles awaiting service in accordance with the standards in Table 7.4: Schedule of Parking Standards and the following provisions:

1. Each stacking space shall be twenty (20) feet long, and a minimum of nine (9) feet wide.

2. Lane widths should be delineated with pavement markings. However,

individual spaces within the lane need not be marked.

3. Any drive-through use not listed in Table 7.4: Schedule of Parking Standards shall be required to provide at least four (4) stacking spaces per drive-through window.

4. Stacking spaces shall be in addition to the required parking spaces and must not be located within a required driveway, internal circulation system, or parking aisle.

I. OFF-SITE AND SHARED PARKING.

1. Off-Site Parking. Off-site parking may be allowed on another lot that is within five hundred (500) feet of the lot occupied by the use(s) for which it is required.

2. Shared Parking. Two or more uses for which the normal hours of operation do not substantially overlap may share parking either on or off-site (example: a church may share its parking lot with a business, or with apartments located on upper-floors of adjacent businesses). The Planning and Zoning Administrator may grant a maximum 20% reduction in required parking.

   a. Applicability. In order to reduce the total required parking in large mixed-use facilities in which uses operate at different times from one another, the following shared parking schedule may be substituted for required parking ratios in such facilities. However, the total number of parking spaces required per Table 7.4: Schedule of Parking Standards, shall not be reduced by more than twenty percent (20%).

   b. How To Use The Schedule Of Shared Parking. Calculate the number of spaces required for each use if it were free-standing (refer to Table 7.4: Schedule of Parking Standards). Applying the applicable general land use category to each proposed site, use the percentages to calculate the number of spaces required for each time period, [six (6) time periods per use]. Add the number of spaces required for all applicable land uses to obtain a total parking requirement for each time period. Select the time period with the highest total parking requirement and use the total as the mixed-use parking requirement.

Table 7.3: Schedule of Shared Parking Calculations

General Land Use Classifications	Weekdays			Weekends		
	Midnight-7am	7am-6pm	6pm-Midnight	Midnight-7am	7am-6pm	6pm-Midnight
Office & Industrial	5%	100%	5%	0%	60%	10%
Retail	0%	100%	80%	0%	100%	60%
Residential	100%	55%	85%	100%	65%	75%
Restaurant	50%	70%	100%	45%	70%	100%
Hotel	100%	65%	90%	100%	65%	80%
Cinema/Theater	0%	70%	100%	5%	70%	100%

3. Approval Requirements. All off-site and shared parking space arrangements are subject to the approval of the Administrator. Approvals shall be based on the determination that the use of off-site and/or shared parking will not provide hardships for pedestrians, will not result in potentiality hazardous traffic conditions, and will provide an adequate number of parking spaces for the uses involved. The parking needs of possible future uses of the property shall also be considered by the Administrator.

4. Required Documentation. A permanent documentation of any off-site and/or shared parking agreement must be signed by all involved property owners. The permanent written agreement shall include, but is not limited to the following items: maintenance, snow removal, ownership, and liability. The agreement shall be reviewed and approved by the Administrator and the City Attorney. A copy of the agreement shall be retained for the files of the Plan Commission. Cross-access easements shall be provided and recorded by each property owner to enable the sharing of parking facilities. Amendments to the agreement shall be subject to Administrator approval and be duly recorded with the Boone County Recorder.

J. VEHICLE STORAGE REQUIREMENTS

1. General Provisions. No vehicle may be parked or stored on any surface other than a paved driveway or enclosed within a structure.

2. Unregistered and Inoperable Vehicles. Unregistered and inoperable vehicles, including recreational, commercial, or trailers of any type without current license plates and inspection sticker, or in an inoperable condition so as to be deemed dead storage, shall be prohibited in residential districts, unless located completely enclosed buildings. , and shall not be parked or stored in any zoning district unless specifically authorized under the terms of this ordinance.

3. Vehicle Storage. Except on property where a parking lot or or parking garage is the permitted principal use, no vehicle, including recreational and commercial vehicles, shall be parked, stored, or allowed to remain on a lot or parcel of land that does not contain a principal structure.

4. Stored Vehicles to be Salvaged / Repaired. The outdoor storage of such vehicles associated with permitted auto repair or salvage facilities shall be consistent with the following requirements:

   a. All such vehicles, including antique vehicles, shall be stored within the rear or side yard. In no case shall such vehicles be stored in any front yard between the front building facade and the street, or within any buffer yard, required landscape area, or required setback area.

   b. All storage areas for such vehicles shall be completely enclosed with an eight (8) foot tall, opaque wood, stone, or masonry fence. Chain link fences may be permitted if supplemented by plant material that forms a continuous landscape screen composed of evergreens and a minimum of six-feet high. Gates allowing access to the storage areas shall be closed when not in use, and shall be a minimum of eight (8) feet in height and one hundred percent (100%) opaque.

5. Recreational Vehicle Storage. The storage or parking of recreational vehicles (including travel-trailers, boats, snowmobile or motorcycle trailers, etc.) in residential zoning districts and associated with residential uses is subject to the following requirements:

   a. A recreational vehicle may be stored on a residential property provided the vehicle is fully enclosed by an opaque fence a minimum of six (6) feet in height.

   b. A recreational vehicle may be parked in the front yard on a residential lot, outside of an enclosed structure only, for a period not to exceed a total of 48 hours in any one (1) week period.

   c. No more than one (1) recreational vehicles may be parked outdoors on a residential parcel at any one time.

   d. At no time shall a recreational vehicle be occupied or used for living, sleeping, or housekeeping purpose.

   e. The Planning and Zoning Administrator may require a land owner to verify that the vehicle is licensed and operational.

6. Commercial Vehicles In Residential Areas. The storage or parking of a commercial vehicle in residential zoning districts or primarily residential PUD's or commercial districts shall be subject to the following

requirements:

a. The parking of such a vehicle shall be limited to one (1) standard size vehicle including cars, SUV's and pick-up trucks.

b. Such vehicle is parked in, and fully enclosed in a permitted structure such as garage, accessory building or rear yard and is used by an occupant of the premises.

c. Large trucks, vehicular machinery, semi-trailers or tractors, or similar vehicles are prohibited from parking on local streets and in residential areas.

d. The regulation shall not be interpreted to apply to commercial vehicles used for conveying the necessary tools and materials to premises where labor, using such tools and materials, is to be performed during the time of parking such vehicles, or to commercial vehicles in the process of temporarily loading or unloading deliverable goods.

7. Commercial Vehicle Storage. Any commercial vehicle may be stored within an enclosed structure.

a. This regulation shall not be interpreted to apply to commercial vehicles used for conveying the necessary tools and materials to premises where labor, using such tools and materials, is to be performed during the time of parking such vehicles, or to commercial vehicles in the process of temporarily loading or unloading deliverable goods.

K. BICYCLE PARKING. All nonresidential uses shall provide one designated bicycle parking area for every twenty-five (25) vehicle parking spaces required by this ordinance, with a minimum provision for two (2) bicycle spaces. Each bicycle area shall provide adequate facilities for securing the parked bicycles.

See Also:

Subsection 8.1(D)(5)(a) for additional semi-truck parking standards

Table 7.4: Schedule of Parking Standards

TYPE OF USE	MINIMUM NUMBER OF SPACES REQUIRED**	NOTES
AGRICULTURAL USES		
Customary General Farming Uses	2 space per Dwelling unit	
Farm Equipment Sales & Service	1 spaces per 500 square feet of enclosed sales area; plus 1 space per 2500 square feet of open sales area; plus 1 space per employee	
Greenhouse or Plant Nursery	1 space per 300 square feet of interior sales ; plus 1 space per 1000 square feet for outdoor operations; plus 1 space per employee on largest shift	
Horse Stable	1 space per 4 stalls; plus 1 space per employee	
Raising of Non-Farm Fowl and Animals commercially, except a kennel (Animal Breeding)	1 space per employee on largest shift	
Truck Garden or Produce Stand	4 spaces per stand	
RESIDENTIAL USES		
Accessory Apartments	1 space per dwelling unit	
Boarding or Lodging House, including Bed and Breakfast (homeowner must live on-premises)	1 space per guest room; plus 2 for the resident owner or manager	No non-guest dining permitted
Group Home	1 space per 5 residents; plus 1 space per employee on largest shift	
Nursing Home or Congregate Housing	1 per 4 beds; plus 1 per employee on largest shift	
Residential, Multi Family		
Studio or 1 bedroom	1 space per unit	
2 bedroom	1.6 spaces per unit	
3 bedroom	1.8 spaces per unit	
4 bedroom	2 spaces per unit	
each bedroom after 4	add 0.5 spaces per additional bedroom	
Residential, Single-family	2 spaces per dwelling unit	
Residential, Two-family	2 spaces per dwelling unit	
Senior Housing/Assisted Living	0.8 spaces per unit	

TYPE OF USE	MINIMUM NUMBER OF SPACES REQUIRED**	NOTES
INSTITUTIONAL USES		
Active Park	1 space per acre; plus 20 spaces per field or court; plus 1 space per 100 square feet of water surface	
Airport (General Aviation)	1 space for every 5 tie-down or hangar spaces at air port or heliport; plus 1 space per employee;	
Cemetery	1 space per employee plus provision of space for parking along internal drives	
Church or Synagogue	1 space per 4 seats in the largest assembly room	
Community Center	1 space per 3 persons	
Day Care (Adult, Child)	1 space per 4 persons at maximum capacity	
Facility for Development Disabled / Mentally Ill	1 space per employee; plus 1 space per 3 clients	
Heliport	1 space per employee; plus 1 space per passenger	
Hospital	2 spaces per bed	
Jail	1 space per employee on largest shift plus 1 space per 8 cells	
Library (public), Art Gallery, or Museum	1 space per 800 square feet	
Municipal, County or Governmental Building	1 space per 300 square feet	
Penal or Correctional Institution	1 space per employee on largest shift; plus one space per 20 inmates	
Police	1 space per 300 square feet, plus 1 space per company vehicle	
Fire Station	1 space per full-time employee plus 1 space per 3 volunteers on a normal shift plus space to accommodate all vehicles for this use	
Post Office	1 space per employee on largest shift; plus 1 space per 250 square feet of floor area open to the public	
Public Park or Outdoor Recreational Facilities	Spaces equivalent to 1% of the total land area (parking along park roads may be used to fill this requirement); plus additional parking provided for major facilities	
Radio and Television Studios	1 space for each 2 employees	
Sanitary Fill (public or commercial)	1 space per employee on largest shift	

TYPE OF USE	MINIMUM NUMBER OF SPACES REQUIRED**	NOTES
INSTITUTIONAL USES (cont.)		
School: public, private, parochial, or special		
Nursery School, Kindergarten	1 space per employee; plus 1 space per 5 attendees	
K-8	2.5 spaces per classroom	
9-12	1 space per 5 students; plus one space per employee	Additional Parking may be required during the Conditional Use approval process
University/College	1 space per 3 students	
Trade or Business School, College, or University	1 space per 200 square feet of gross floor area; plus 1 space per employee	
Sewage Treatment or Disposal Plant	1 space per employee on largest shift plus 1 space for each company vehicle	
Utility Service Facility (excluding offices)	1 space per employee on largest shift plus spaces for operational vehicles	
Utility Company Business Office	1 space per employee on largest shift; plus one space per company vehicle parked on the premises; plus one space per 1000 square feet of floor area open to the public	
Veterinary Hospital for Small Animals	4 spaces per treatment room	No long-term boarding
PROFESSIONAL SERVICES / OFFICE		
Bank and Other Financial Institutions	1 space per 300 square feet; plus 1 space per employee on the largest shift	
With Drive Through	plus 4 stacking spaces per window	
With Automatic Teller Machine	no additional spaces provided that drive-through machines be provided with 4 stacking spaces each	
Medical Office: Medical, Dental Clinic or Laboratory	3 spaces per examination chair/table/room depending on use	
Office - General, Financial Services, Law, Insurance, Travel, Design	1 space per 300 square feet	

TYPE OF USE	MINIMUM NUMBER OF SPACES REQUIRED**	NOTES
RETAIL AND SERVICES		
Adult Entertainment	1 space per 200 square feet (net floor area)	
Assembly, Reception, or Exhibit Hall	1 space per 4 seats	
Adult Bookstore *	1 space per 250 square feet	
Amphitheater	1 space per 3 seats, plus 1 space for every 25 square feet of open seating area; plus 1 space per employee on the largest shift	
Antique Shop *	1 space per 300 square feet	
Apparel Shop / Boutique	1 space per 300 square feet	
Athletic Fields	20 spaces per field or court	
Automobile, Truck or Trailer Rental	2 space per employee on the largest shift	
Automobile and Truck Repair	1 space per service bay; plus one space per employee on largest shift	
Automotive Parts and Accessories Store	1 space per 300 square feet gross floor area	
Bait Sales	1 space per 500 square feet	
Bakery (Retail)	1 space per 250 square feet	
Banquet Hall	1 space per 150 square feet of seating and display area	
Barber Shop or Beauty Parlor	1.5 spaces per chair; plus 1 space per employees	
Billiard Room	2.5 spaces per table	
Bingo Parlor	1 space per 3 seats based on design capacity	
Boat or Marine Equipment Sales	1 space per 500 square feet of enclosed sales area; plus 1 space per 2500 square feet of open sales area; plus 1 space per employee	
Bookstore *	1 space per 300 square feet	
Bowling Alley	4 spaces per lane	
Car Wash	1 space per employee on largest shift; plus 1 drying and 4 stacking spaces per washing space (washing spaces shall not be counted toward the requirements)	
Check Cashing Facility	1 space per 200 square feet	
Coffee Shop or Refreshment Stand	1 space per 2.5 seats; and 1 space per employee on largest shift	
If no indoor seating	Minimum 10 spaces	

TYPE OF USE	MINIMUM NUMBER OF SPACES REQUIRED**	NOTES
RETAIL AND SERVICES (cont.)		
Convenience Store		
Without pumps	1 space per 300 square feet	
With pumps	See "Gas Filling Station"	
Cellular Phone Store	1 space per 200 square feet	
Country Club	Space to accommodate 50% of the active membership at one space per 3 members	
Crematorium	1 space per employee; plus 1 space per 4 seats in the chapel (if applicable)	
Dance, Gymnastics, Martial Arts Studios or Similar	1 space per 250 square feet of usable floor area; plus 1 space per employee; plus safe and convenient loading and unloading of attendees	
Dancing, Aerobics, or Gymnastics Studio or Martial Arts	1 space per 250 square feet of studio floor area	
Delicatessen	1 space per 250 square feet	
Department Store ***		
<50,000 square feet gross leasable area	1 space per 350 square feet	
between 50,001-100,000 sq ft gross leasable area	1 space per 300 square feet **Maximum**: 1 space per 250 square feet	
between 100,001-250,000 sq ft gross leasable area	1 space per 350 square feet	
>250,000 sq ft gross leasable area	1 space 400 square feet	
Drive-In Movie Theater	1 space per vehicle at maximum capacity plus 3 spaces	
Drug Store *	1 space per 250 square feet	
Dry Cleaning Establishment or Laundry Service	1 space 300 square feet of gross floor area	
Electric Appliance, Radio, Satellite Dish or Television Sales or Repair Shop	1 space per 400 square feet; plus 1 space per employee on the largest shift	Repair is primary operation
Exterminator	1.25 spaces per 1000 square feet of gloss floor area	
Fitness Center	1 space per 300 square feet	
Flea Market	1 space per 300 square feet of vendor area	

TYPE OF USE	MINIMUM NUMBER OF SPACES REQUIRED**	NOTES
RETAIL AND SERVICES (cont.)		
Flower Shop *	1 space per 300 square feet	
Funeral Home or Mortuary	1 space per 2 employees; plus 1 space per 4 seats in the chapel	
Furniture Store *	1.5 spaces per 1000 square feet of gross floor area	
Gas Filling Station	1.5 spaces per fuel nozzle	
With convenience store	1 space per 300 square feet of enclosed area	
With repair	1 space per service bay	
Golf Course	1 space per 2 employees; plus 3 spaces per hole	
Golf, Driving Range	1 space per tee; plus 1 space per employee on largest shift	
Golf, Miniature	1 space per hole	
Guns Store *	1 space per 300 square feet	
Hardware or Paint Store *	1 space per 400 square feet	
Health Spa	1 space per 300 square feet	
Highway Maintenance Garage	1 space per employee; plus one space for each company vehicle parked on the premises	
Hotel or Motel	1 space per room, plus 1 space per employee on largest shift, plus 1 space per 500 square feet of meeting space	
Ice Cream Parlor	1 space per 3 seats of indoor seating; plus 1 space per 5 seats of outdoor seating	
Indoor Theater	1 space per 4 seats, plus 1 per employee on largest shift	
Jewelry Store *	1 space per 300 square feet	
Kennel	1 space per 300 square feet	
Laundry Agency (pick up)	1 space per employee	
Liquor Store *	1 space per 250 square feet	
Machinery Sales	1 space per 400 square feet of enclosed sales area; plus 1 space per 2500 square feet of open sales area; plus 1 space per employee	
Manufactured Housing or Semi-tractor/ trailer sales	1 space per 500 square feet; plus 1 space per 20 units displayed	

TYPE OF USE	MINIMUM NUMBER OF SPACES REQUIRED**	NOTES
RETAIL AND SERVICES (cont.)		
Meat Market	1 space per 300 square feet of	
Motor Bus or Light Railroad Commuter Station	1 space per seat capacity of the largest vehicle	
Motor Vehicle Sales	1 space per 500 square feet of enclosed sales floor area; plus 1 space per 2500 square feet of open sales area; plus one space per employee on largest shift	
With repair	plus 1 space per service bay	
Music Store	1 space per 300 square feet	
Nail Salon	1 space per 300 square feet	
Newsdealer *	1 space per 300 square feet	
Oil Change Station	2 space per service bay; plus one space per employee on largest shift	
Optician or Optical Goods Store	3 spaces per doctor; plus one space per employee; if no doctor on premises	
Pet Shop *	1 space per 300 square feet	
Photography Studio	1 space per 500 square feet	
Plumbing or Heating Supply	1 space per 1000 square feet of gross floor area; plus 1 space per employee	
Private Club or Lodge	1 space per 4 persons at maximum occupancy	
Private Recreational Development (indoor)	1 space per 4 persons at maximum occupancy	
Resale / Used Merchandise (other than antiques or flea market)	1 space per 400 square feet	
Restaurant	1 space per 3 seats; plus 1 space per employee on largest shift	
Restaurant, Fast Food	1 space per 2.5 seats; and 1 space per 2 employees on largest shift	
With Drive-Through	plus 7 stacking spaces per window	
If no indoor seating	10 spaces	
Rifle Range	1 space per firing position	
Self Service Laundry or Self Service Dry Cleaning	1 space per 3 washing machines	
Shoe Repair Shop	1 spaces per 400 square feet	
Shoe Store *	1 space per 300 square feet	

TYPE OF USE	MINIMUM NUMBER OF SPACES REQUIRED**	NOTES
RETAIL AND SERVICES (cont.)		
Shopping Center ***		
< 100,000 square feet of gross leasable area	3 spaces per 1000 square feet of gross floor area **Maximum**: 5 spaces per 1000 square feet of gross floor area	
>100,000 square feet gross leasable area	4 spaces per 1000 square feet of gross floor area **Maximum**: 5 spaces per 1000 square feet of gross floor area	
Skating Rink (Roller/Ice)	4 spaces per 1000 square feet of skating area	
Sporting Goods Store *	1 space per 300 square feet	
Stationary *	1 spaces per 300 square feet	
Supermarket	1 space per 250 square feet up to 5000; then 1 space per 300 square feet up to 50,000 sf	
Swimming Pool (public)	1 space per 75 square feet for recreational activity and area devoted to spectators	
Swimming Pool	1 space per 300 sq. ft. of enclosed space; 1 space per 75 sq. ft. of water surface of competition pools; 1 space per 250 sq. ft. of water surface for non-competition pools	
Tailor and Pressing Shop	1 space per 300 square feet	
Tanning Salon or Massage Therapy Business	2 spaces per tanning bed or massage table;	
Tavern or Night Club or Bar	1 space per 4 seats	
Video Store	1 space per 200 square feet	
All other retail uses not specified herein *	1 space per 300 square feet of gross floor area	
WHOLESALE, WAREHOUSING & INDUSTRIAL USES		
Junk Yard	1 space per employee on largest shift; plus 2 spaces per acre of storage space	
Lumber Yard	1 space per employee on largest shift; plus 1 space per 500 square feet of enclosed sales area open to the public	
Manufacturing	1 space per employee on the largest shift; plus 1 space per 10 employees	
Mineral Extraction, Borrow Pit, Topsoil Removal and Storage Areas	1 space per employee on largest shift; plus one space per vehicle used in the operation of the warehouse	

TYPE OF USE	MINIMUM NUMBER OF SPACES REQUIRED**	NOTES
WHOLESALE, WAREHOUSING & INDUSTRIAL USES (cont.)		
Printing, Lithographing, and Publishing Establishments	1 space per 2 employees; plus 2 spaces per 1000 square feet of floor area used for offices or open to the public	
Recycling Center - Collection (Public)	1 space per employee; plus 1 space per bin	
Recycling (Sorting/Distribution)	1 space per employee on largest shift	
Research and Development Facilities	4 spaces per 1000 square feet of floor area up to 20,000 square feet; plus 2 spaces per 1000 square feet of floor area greater than 20,000 square feet	
Self Storage Facility	3 spaces; plus 1 space for each 75 units	
Slaughter House	1 space per employee on largest shift	
Warehouse / Distribution Center	1 space per employee on largest shift; plus one space per vehicle used in the operation of the warehouse	
Wholesale Establishment	1 space per employee on largest shift; plus 1 spaces per 300 square feet of sales floor open to the public	
All other wholesale, warehousing, and industrial uses not specified herein	1 space per employee on largest shift; plus one space per vehicle used in the operation of the industry	

***** If stand-alone store size exceeds 50,000 square feet, "Department Store (Big Box)" standards apply

****** If use is located in the CB district, the minimum number of required spaces shall be reduced by one-half (1/2).

******* If the amount of parking exceeds the minimum requirement as shown, additional landscaping will be required in accordance with Subsection 7.5(F)(2)(c).

7.6 LOADING STANDARDS

A. LOADING REQUIREMENTS

1. Loading Berths Required. Adequate off-street loading berths and areas shall be provided in accordance with the following table for any building or structure which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles:

Table 7.5: Required Number of Loading Spaces

Use Description	Floor Area in Square Feet	Number of Loading Spaces Required
Manufacturing, distribution, wholesaling, storage, and similar uses	5,000 - 25,000	1
	25,001 - 60,000	2
	60,001 - 100,000	3
	Each 50,000 above 100,000	1
Office buildings, hotels and motels, retail sales, hospitals, institutions, and similar uses	5,000 - 60,000	1
	60,001 - 100,000	2
	Each 50,000 above 100,000	1

2. Location Relative to Structure and Right-of-Way. Off-street loading berths may be provided either within or outside of structures on the property.

   a. There shall be no maneuvering within any street right-of-way. In no case shall a loading berth be located in such a manner as to require loading/unloading vehicles to back into a public right-of-way or overhang adjacent property.

   b. Space provided for use as any off-street loading berth shall not be used to satisfy any off-street parking space requirements of Section 7.5 Parking Standards.

3. Location. All required off-street loading berths shall be located on the same lot as the use to be served, and no portion of the vehicle shall project into a street or alley. Off-street loading berths in all districts except for the CB District:

   a. shall not be located within seventy-five (75) feet of the nearest point of intersection of any two streets.

   b. shall not be located in a required front yard or the area between the front lot line and the front line of the principal building.

c. shall not be located in a minimum required side or rear yard or landscape buffer.

d. shall not be located in the side yard adjoining a residential use or district.

4. Size. Each berth shall be as follows:

a. For local pick-up and delivery trucks: twelve (12) feet in width by thirty (30) feet in length with a forty-five (45) foot maneuvering apron, and a twelve (12) foot height clearance.

b. For over-the-road tractor-trailers: fourteen (14) feet in width by sixty (60) feet in length with a sixty (60) foot maneuvering apron, and a fifteen (15) foot height clearance.

5. Surfacing Requirements. All off-street loading berths shall be paved with concrete or other appropriate material meeting the durability requirements and as approved by the Planning and Zoning Administrator.

6. Screening. All loading berths on any lot abutting a residential zoning district or separated by an alley from a residential zoning district or adjacent to or in view from a public right-of-way shall be enclosed within a building or sufficiently screened and landscaped to conceal the doors of the loading berths and any vehicles that access the loading berths from view from the residential zoning district or right-of-way. Screening may consist of:

a. a wing wall that is incorporated into or is an extension of the architecture; or

b. landscaping in accordance with Type D buffer as per Table 7.9: Landscape Buffer Types in Section 7.8 Landscaping. Landscaping must serve as an effective screen within no more than three (3) years time.

7. Semi-truck Parking. Semi-truck parking and/or semi-truck turn-around areas shall be designated by the use of signs and pavement markings. These areas shall be separated from parking and access areas used by automobiles or pedestrian traffic. Public streets shall not be used for semi-truck parking, standing or backing. The overnight parking of semi-trucks shall not occur between the hours of 10 p.m. and 7 a.m. except in designated areas of semi-truck travel centers (truck stops).

7.7 SIGN REGULATIONS

7.7 Sign Regulation Table of Contents:

A. Intent. (pg 144)
B. General Requirements (pg 145)
C. Exempt Signs. (pg 148)
D. Incidental Signs. (pg 149)
E. Temporary Signs. (pg 150)
F. Prohibited Signs. (pg 152)
G. Residential Sign Standards (pg 153)
H. Nonresidential Sign Standards (pg 154)

A. INTENT. The intent of this section is to encourage signage which is compatible with and complements the architecture and scale of buildings and eliminates potential hazards to motorists and pedestrians.

B. GENERAL REQUIREMENTS

1. Sign Permit

   a. Permit. Except where noted in this ordinance, the erection, construction, enlargement, movement or conversion of all permanent and temporary signs, banners, exterior graphic displays and sign structures shall require a sign permit to be obtained from the Planning and Building Department in accordance with the provisions of this section.

   b. Application. An application for a sign permit shall be filed with the Planning and Zoning Administrator and shall be accompanied by any information the Administrator determines is necessary to assure compliance with this Ordinance, including but not limited to:

      1) Clear and legible drawings with descriptions showing the location of the sign which is the subject of the permit.

      2) An indication of all existing and anticipated signs on the property.

      3) A dimensioned drawing showing the size of the sign area and the height of the sign.

      4) Description of sign materials and colors.

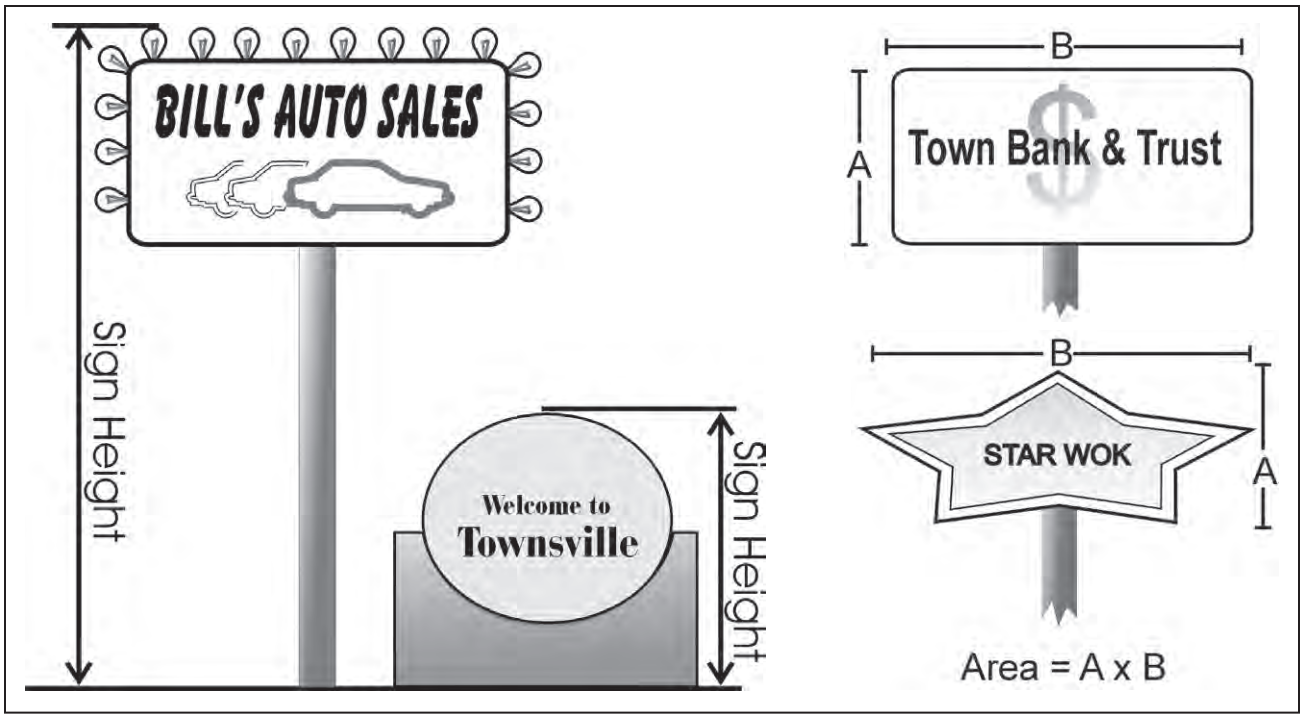
      5) Type of illumination.

      6) Mounting details.

   c. Effect of Sign Permit Issuance. A sign permit issued under the provisions of this section shall not be deemed to constitute permission or authorization to maintain an unlawful sign nor shall it be deemed as a defense in an action to remove an unlawful sign.

   d. Expiration. A sign permit shall become null and void if work has not been started within thirty (30) days of the date the permit is issued or completed within 180 days of the date the permit is issued.

2. Determining Sign Area. The area of a sign shall be determined by multiplying the maximum vertical dimension of the copy by the



Calculating sign height and area.

maximum horizontal dimension of the copy including the extreme limits of characters, lettering, or figures to the smallest circle, triangle, or rectangle that can be used to enclose the extreme limits of characters, lettering or figures. Supporting members that bear no messages shall not be included when determining the sign's area.

3. Determining the Height of a Sign. The sign height shall be measured from the grade at the edge of the adjacent right-of-way to the highest point of the sign, and include any poles or other supports unless otherwise specified in this article. In no case shall sign height be measured from the top of any berm or other artificial grade.

4. Double-Faced Signs. For all signs permitted by this chapter, a double-faced sign may be erected. Only the sign area of one (1) of the two (2) sides shall be considered the sign area. However, the two sides shall be identical and shall be placed back-to-back, and the maximum distance between the two (2) sides shall not exceed two (2) feet at any point.

5. Aggregate Sign Area. The maximum aggregate sign area shall be determined by adding together the sign area of each sign.

6. Inspection. Signs for which a permit is required may be inspected periodically by the Administrator for compliance with this chapter.

7. Removal of Sign. The Administrator may order the removal of any sign erected or maintained in violation of this chapter, at the cost of the property owner, consistent with the provisions of Chapter 10: Enforcement and Penalties.

8. Maintenance. All signs and their components shall be kept in good repair and in safe, neat, clean, attractive, and structurally sound condition. Owners shall patch and paint damaged areas when signs are removed within thirty (30) days.

9. Abandoned Sign Structures. A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer conducted on the premises. If the owner or lessee fails to remove it the Administrator shall give the owner ten (10) days written notice to remove it. Upon failure to comply with this notice, the administrator or his duly authorized representative may remove the sign at the cost of the owner. The Administrator has the authority to attach a lien to the property to recover costs incurred by the City.

See Also:

Chapter 10: Enforcement and Penalties for Abandoned Signs

10. Illumination. Signs may be internally or externally illuminated unless prohibited elsewhere in this ordinance or through other commitments. All illuminated signs must meet the Exterior Lighting Standards of this section.

11. Sign Material. Ground/Monument signs shall be constructed of wood, ornamental metal, stone, masonry or other permanent material.

12. Enforcement. The enforcement of violations of the provisions of this chapter shall be as provided by Chapter 10: Enforcement and Penalties.

13. Landscaping. A minimum of two (2) square feet of landscaping per one (1) square foot of sign area shall be placed around the base of the sign. The landscape area shall consisting of shrubs, groundcover and perennial plant material. Turf shall not be used to satisfy this requirement.

14. Signs And Public Safety

    a. No sign or sign structure shall be placed on private or public property without the written consent of the owner or agent thereof, except for exempt signs.

    b. No sign or sign structure, other than official (INDOT, County or City) highway signs, shall be placed upon, over or in any street or highway right-of-way or any sidewalk, except where specifically allowed within this section.

1) Awning, suspended, and projecting signs permitted in the CB district shall require a permit and shall provide proof of insurance and attachment details prepared by an licensed engineer. These signs shall be no lower than nine feet above the finished grade.

c. No sign or sign structure shall be erected at any location where it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device.

d. No sign or sign structure shall be located in such a manner as to materially impede the view of any street or highway intersection or the intersection of a street or highway with a railroad grade crossing. See also Section 7.2 Sight Visibility Triangle.

15. Removal

a. Any legally established non-conforming sign shall be permitted without alteration in size or location, unless movable or unattached, in accordance with Section 3.3 Nonconforming Signs of this ordinance. If such sign is damaged or dilapidated to an extent of more than fifty per cent (50%) of its replacement cost at time of damage or repair, it shall not be rebuilt, provided, however, that nothing herein shall prevent maintenance, repainting or normal repair of legally established non-conforming signs.

b. Whenever any movable or unattached sign is erected or maintained in violation of this ordinance, said sign may be removed at the cost of the owner of such sign by action of the Planning and Zoning Administrator after due notice is given to the person in interest.

c. Signs illegally located in the right-of-way, may be removed immediately by action of the Planning and Zoning Administrator without notice and may be stored in a location for a period of seven (7) days for retrieval by the owner.

C. EXEMPT SIGNS. The following signs shall not require a sign permit, shall be subject to the conditions specified, and shall not be subject to any other sign standards. These signs may not be illuminated, flashing or animated:

1. Signs not exceeding one square foot in area and bearing only property numbers, address numbers, names of occupants of premises, or other identification of premises not denoting commercial activity.

2. Legal notices, identification, informational, warning, trespassing, or directional signs erected or required by governmental units.

3. Memorial plaques, historical markers, integral decorative or

architectural features of buildings, except trademarks, moving parts or moving lights.

4. Sponsorship signs, such as those located inside little league ball diamonds and at other athletic and community facilities, provided such signs are, in the opinion of the Administrator, oriented to those visiting and using the facility.

5. Window Signs that do not exceed twenty percent (20%) of the window area. Window Signs that exceed this size shall be subject to the additional requirements herein and counted as part of aggregate sign area.

6. Residential temporary signs, or Yard Cards, that do not exceed twelve (12) square feet in area and are erected for less than three (3) days.

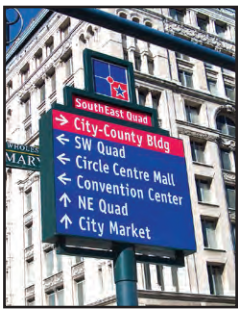
7. Sports spirit pennants that are less than two and one-half (2.5) square feet mounted on the facade of a dwelling indicating support of a middle, high school, or college student participating in organized school activities.

8. Flags, including flags of the United States, the State, the City, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction, provided that such flag shall not exceed twenty-four (24) square feet in area and shall not be flown from a pole the top of which is more than thirty (30) feet in height. These flags must be flown in accordance with the protocol established by the Congress of the United States for the "Stars and Stripes." Any flag not meeting any one or more of these conditions shall be considered a sign and shall be subject to regulation as such.

D. INCIDENTAL SIGNS. The following incidental signs shall be permitted subject to the requirements of this section. Such signs may be internally illuminated but not flashing or animated. Such signs shall conform to all the requirements of the District in which they are located, with the exception of (1) and (2) below which may encroach into the required setback distance, but not be located closer than fifteen (15) feet from any adjoining property line. A sign permit is required.

1. Wayfinding Signs. Signs directing and guiding traffic, pedestrian or other control to specific non-commercial locations such as downtown or historic districts, parks, large public arenas, or similar destinations within the City or Lebanon or Boone County. They shall meet Indiana Department of Transportation standards if located on a State controlled road. Wayfinding signage shall not incorporate corporate branding.

2. Directional Sign. Signs designating entrances or exits to or from a parking or loading area on private property, limited to one (1) such



Wayfinding Sign

Directional Sign

signs for each entrance or exit. Such signs shall not exceed four (4) square feet in sign area each and shall be no higher than three (3) feet above the grade of the adjacent right-of-way.

E. TEMPORARY SIGNS.

1. Construction Signs

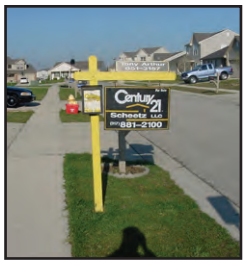
   a. Conforming nonresidential uses and multifamily complexes with at least fifteen (15) dwelling units are permitted to display temporary signage as follows:

      1. The sign shall not be located in the right-of-way.

      2. One sign per street frontage of lot under construction, demolition, remodeling or rebuilding, which sign announces the character of the building enterprise, including names of architects, engineers or contractors or financiers, for a maximum of two (2) signs per lot.

      3. The maximum sign area shall not exceed thirty-two (32) square feet.

   b. All construction signs shall be removed when a Certificate of Occupancy is obtained.



Real Estate Signs

2. Real Estate Signs. Real estate signs do not require a sign permit, and shall be subject to the following standards:

   a. Commercial. Signs advertising the sale or lease of a commercial property or the sale of a multifamily. One real estate sign shall be allowed for each lot frontage, not to exceed six (6) square feet in area and four (4) feet in height, indicating the sale, rental or lease of the premises on which it is displayed. A sold sign may be attached to such real estate sign. Both signs shall be removed within seven (7) days from the time the premises were sold, rented or leased.

   b. Individual Homes. One real estate sign shall be allowed for each lot frontage, not to exceed six (6) square feet in area and three (3) feet in height, indicating the sale, rental or lease of the premises on which it is displayed. A sold sign may be attached to such real estate sign. Both signs shall be removed within seven (7) days from the time the premises were sold, rented or leased.

   c. Subdivision Advertising Signs. One temporary sign per entrance with more than two hundred (200) feet of frontage is permitted to advertise the sale, rental or lease of real property. Such sign shall not exceed thirty-two (32) square feet of surface area, shall not

be erected until the subdivision has been approved and recorded, and shall be removed when fifty percent (50%) of the planned subdivision has been occupied.

d. Open House Signage

1) Individual open house signs shall not exceed five (5) square feet.

2) Signage must be placed with the owner's permission.

3) Signs shall be placed outside of the right-of-way and only at corner locations.

4) All open house signage shall be removed the same day that the event ends.

3. Temporary Advertising / Special Events

a. Banners

1) The banner shall not be displayed without first obtaining a temporary Sign Permit.

2) The banner shall not exceed twenty-four (24) square feet in area.

3) The banner shall be affixed by all four (4) corners to the building (excluding the roof) where the use associated with the banner is located.

4) The banners shall not be permitted in the right-of-way.

5) Signs shall not be placed on a property unless permission is granted by the property owner.

6) One (1) banner shall be permitted per business per year. The banner shall be permitted for a thirty (30) day period and may be renewed one (1) time for an additional thirty (30) day period within three hundred sixty-five (365) consecutive days. In no case, shall banners be erected for more than sixty (60) days per year.

Temporary Banner

b. Pennants and Balloons

1) Retail businesses are permitted additional signage, in the form of flag pennants and balloons, for special events. The additional signage shall require a temporary Sign Permit per Section 9.6 Sign Permit. The signage shall be displayed for no more than ten (10) consecutive days and for no more than two (2) special events during a one (1)-year period.

Political Sign

4. Political Signs. Political Signs do not require a sign permit. Political Signs shall not exceed six (6) square feet in area per side. Political Signs may be erected no more than thirty (30) days prior to the election and are to be removed within one (1) day after the election. They shall not be allowed within the public right-of-way.

5. Garage Sale / Yard Sale Signs. Garage Sale / Yard Sale Signs shall be no more than six (6) square feet in surface area and are no higher than three (3) feet above adjacent grade. Signs may be erected no more than ten (10) days prior to the event and are to be removed within five (5) days after the event. They do not require a sign permit.

F. PROHIBITED SIGNS. It shall be unlawful to erect and maintain in any zoning district:

1. Any sign which is not included under the types of signs permitted in this ordinance or which does not conform to the provisions of this ordinance.

Portable/Movable Sign

2. Any portable or movable sign, or any such sign which was designed to be portable or movable, including any sign with attached or attachable wheels.

3. Any sign or sign structure affixed to a roof top or known as a roof top sign, which superstructure extends above the highest point of the roof.

4. Inflatable signs or inflatable characters.

5. Beacons.

6. Banners that are not allowed under Subsection 7.7(E) of this ordinance.

7. Animated signs that utilize any motion picture, laser, or visual projection of images or copy in conjunction with any business or advertisement.

8. A sign may not have exposed neon tube, bare bulb or flashing illumination.

9. Signs that emit audible sound, odor or visible matter.

10. Signs that imitate emergency vehicles, including signs that may be construed as a light of an emergency or road equipment vehicle.

11. Signs that obstruct any door, fire escape, stairway, or any opening intended to provide entrance or exit for any structure.

12. Signs placed on vehicles or trailers parked on public or private property primarily for the purpose of displaying the sign. Prohibited signs do not include those displayed on vehicles parked for the purpose of lawfully making deliveries or random sales or service. Prohibited signs do not

include vehicles which are customarily used for transporting persons or properties, and vehicles parked at a driver's place of residence during non-business hours or for incidental purposes.

13. Posters, placards and other similar signs attached to light poles, gas station canopy supports, gas station pumps, trees, and elsewhere outdoors that are not included as permitted temporary or permanent signs as described by this Article.

Poster Sign

14. No rotating beam, beacon rotating inanimate objects including automotive vehicles (whether operative or inoperative), or flashing illumination resembling any emergency lights shall be used in connection with any sign display, nor shall any sign make use of the words "Stop", "Slow", "Caution", "Warning", "Look", "Danger", or any other word, phrase, symbol or character in such a manner as to interfere with, mislead, or confuse traffic.

15. No amplification of radio music or other audio-advertising shall be permitted on the premises.

16. Corrugated cardboard yard cards of any size, on the property of any use other than residential. Residential yard cards are exempt in accordance with the conditions of Subsection 7.7(C).

G. RESIDENTIAL SIGN STANDARDS

SF SF1 SF2 SF3 TR MF MH CB NB

1. Provisions. The following provisions shall apply to residential uses located within the SF, SF1, SF2, SF3, TR, MF, and MH Districts and residential uses within the CB and NB Districts. Signs in residential districts shall be allowed only if:

   a. The sum of the area of all signs on the lot conforms with the maximum permitted sign area as determined in this subsection.

   b. The size, location, and number of signs on the lot conform with the requirements of this subsection.

   c. Provisions for maintenance shall be made for permanent residential subdivision identification signs.

   d. Exempt signs in residential districts that do not require a permit include political signs, real estate signs, yard cards, and sports team participants plaques.

Subdivision Entry Sign

2. Subdivision Entry. Subdivision entry signs shall identify the subdivision and enhance the character of the entrance.

a. One double-sided or two single-sided sign structures identifying a residential subdivision or multifamily development shall be permitted per entrance.

b. The maximum size sign area shall not exceed thirty-two (32) square feet in sign area.

c. The sign structure shall not exceed a maximum height of six (6) feet measured from the adjacent ground level. In no case may mounding or other alterations of the natural ground level be used as a point of reference for measuring sign height.

d. Internal illumination shall not be permitted for signs in residential districts.

e. The sign structure shall be set back a minimum of five (5) feet from the right-of-way and shall be located outside of the Sight Visibility Triangle per Section 7.2 Sight Visibility Triangle. Entry signs placed in the right-of-way of a public street, such as in the median of a boulevard, shall be prohibited unless approved by the Lebanon Street Department and the Planning and Zoning Administrator.

f. Signs for multi family developments shall indicate only the name and address of the building, development, or use, and the name and address of the management thereof. Such signs shall not include promotional information.

3. Home Occupation. Displays, signs, and/or advertisements associated with a Home Occupation shall be permitted. Sign area shall not exceed one (1) square feet, and only one (1) sign shall be allowed per residence. Signs shall not be illuminated. Signs shall require a sign permit.

4. Model Home/Temporary Sales Facility Signs. Wall, awning, or ground signs shall be permitted on the lot of the sales facility and limited to an aggregate square footage not exceeding thirty-two (32) square feet of sign area. See also Section 7.11 Temporary Uses. In addition, individual model homes may have one (1) sign not to exceed four (4) square feet. Such signs shall be placed a minimum of ten (10) feet from the right-of-way and ten (10) feet from adjacent property lines, and in a manner consistent with the Sight Visibility Standards of this ordinance.

See Also:

Subsection 6.1(L)(7) Signs for additional sign standards within the Thoroughfare Overlay District.

H. NONRESIDENTIAL SIGN STANDARDS

CB NB PBC PBO PBI ID IN

1. General Provisions. The following provisions shall apply to all signs

located within the CB, NB, PBC, PBO, PBI, ID, and IN Districts of Lebanon.

a. Multiple Frontages. If a commercial use is located on a lot with multiple frontages the primary frontage shall be determined by the highest classification of the adjacent roadway. If adjacent roadways are equal in designation, the primary frontage shall be the longest frontage.

b. Size. No individual sign may exceed the size limits for its sign type as set forth in Subsection 7.7(H)(2) and Table 7.6: Permitted Signs.

c. Aggregate Maximum Area. The sign area maximum represents an aggregate amount of all signs listed below on a lot or per tenant, except for ground signs.

d. Illumination. Signs may be internally or externally illuminated. Externally lit signs, lights or reflectors shall not extend more than two (2) feet from the face of the sign. Where a sign is illuminated by light reflected upon it, direct rays of light shall not beam upon any part of adjoining property.

e. Setback. The minimum setback for all nonresidential signs shall be five (5) feet from the right-of-way. This includes the leading edge of any sign structure.

2. Sign Types. The sign area, number, and overall size of nonresidential signs for uses permitted in nonresidential districts shall be as follows:

a. Monument/Ground Signs

1) Individual. One (1) monument / ground sign shall be permitted per street frontage.

a) The ground sign area shall not exceed thirty-two (32) square feet.

b) The maximum height shall be eight (8) feet.

c) The sign area of an ground sign shall not count toward the maximum sign area allowed per lot.

d) No ground sign may be located within one hundred (100) feet of another ground sign.

2) Multi-tenant Shopping Centers. The sign area for a multi-tenant development may exceed the maximum sign area by fifty percent (50%) for a maximum of forty-eight (48) square feet if three or more tenants are displayed. Occupants / tenants within the shopping center may not display other monument

Multi-tenant Monument/Ground Sign

/ ground signs. The height may be increased to twelve (12) feet.

3) Second Entry. Frontages greater than three hundred (300) feet and with a second entry shall be permitted a secondary ground sign. The maximum area of a secondary ground sign shall be twenty-four (24) square feet and a maximum height of six (6) feet. In no case shall the total number of such signs exceed two (2) signs per frontage

4) Materials. Sign structures shall be constructed of decorative materials such as brick, stone, or other masonry, wood or metal.

5) Landscaping. Landscaping shall be as stated in Section 7.8 Landscaping of this chapter.

6) Location. Monument / ground signs, including any part of the sign structure, shall be located no closer that five (5) feet from the right-of-way.

b. Pole Signs (Freestanding). Pole signs shall be allowed by Conditional Use in the PBC, PBI, and ID districts under the following conditions:

1) Pole signs shall only be located within one thousand (1000) feet of an interstate interchange.

2) Pole mounted signs shall not exceed sixty (60) feet in height.

3) The maximum sign area shall not exceed two hundred (200) square feet per side.

c. Electronic Message Board Sign. A changing display / message composed of a series of lights incorporated with freestanding or wall signage that may be changed through electronic means of no less than twenty (20) seconds. Sign area shall not exceed twenty-five percent (25%) of the aggregate allowable sign area. Sign shall be permitted in association with another allowable sign type for district in question.

Wall Sign

d. Off-Premise Signs. Off-premise shall be permitted only by Conditional Use, and only in the ID District. Off premise signs shall be located within one thousand (1000) feet of an interstate interchange. Off-Premise signs shall not exceed forty (40) feet in height and three hundred (300) square feet in sign area.

e. Wall Signs

1) One (1) wall sign shall be permitted per tenant per frontage.

The sign area shall not exceed two (2) square feet per one (1) linear foot of building with the exception of the CB District.

2) Wall mounted sign or sign structures, excluding projecting signs, shall not extend more than twelve (12) inches horizontally from such wall.

3) The maximum sign area shall not exceed three hundred (300) square feet. Refer to Subsection 7.7(H)(3) for CB District maximum.

4) Secondary frontage sign shall not exceed fifty (50) square feet.

5) Wall signs shall not occupy more than thirty percent (30%) of the wall surface on which it is mounted to be in scale with the facade.

f. Marquee and Canopy Signs. Marquee and signs may project from the structure surface a maximum of four (4) feet and may extend vertically to the roof line or up eighteen (18) feet, whichever is lower.

Marquee Sign

g. Awning Signs. Signs located on awnings shall be:

1) affixed flat to, or painted upon the surface of opaque vinyl or canvas awnings,

2) shall not extend vertically or horizontally beyond the limits of said awning,

3) shall not cover more than fifty percent (50%) of the principal face of the awning, and

4) if internally lit, only the sign area (copy) shall be illuminated.

h. Projecting Signs. One projecting sign attached to the face of a structure shall be permitted for each qualifying street frontage. The sign area shall not exceed sixteen (16) square feet per face. In no case shall the sign structure extend more than four (4) feet from or beyond its supporting building. No projecting sign shall be at its lowest point less than nine (9) feet above grade level. Proof of insurance may be required.

Projecting Sign

i. Off-Site Directional Signs. Off-site directional signage for a permitted business use may be permitted by the Plan Commission in any business district, subject to a documentation of need on the part of the business owner. Such signs shall not exceed sixteen (16) square feet in area and shall display only the name of the use and directional information.

j. Suspended Signs. Suspended signs shall not be greater than four (4) square feet in area and may display only the name and/or property number of the use. Where a suspended sign hangs over a sidewalk or other pedestrian path, there shall remain a vertical clearance of nine (9) feet. Proof of insurance may be required.

k. Window Signs. Window signs displayed on the ground floor shall not exceed twenty percent (20%) of the ground floor window area. Window signs displayed above the first floor shall be limited to one sign per frontage, not to exceed twenty-five percent (25%) of such floor's window area.

Ornamental Banner

l. Flags. Any flag not considered an exempt sign by Subsection 7.7(C)(8) above shall be subject to regulation as the closest applicable sign type as determined by the Administrator.

m. Ornamental Banners. Banners of cloth, canvas, or flexible plastic affixed to light standards shall be permitted along streets within the downtown or thoroughfare overlay districts. The banners shall not exceed twelve (12) square feet in area. The banners should be considered decorative in design utilizing a variety of images or colors of an ornamental nature that displays no on-premise or off-premise commercial advertising copy.

n. Post Signs. Post signs, as defined by this ordinance, are encouraged in the CB and NB zoning districts for businesses located adjacent to residential property, or within a converted residential building. Signs shall be a maximum of six (6) feet in height and shall have a sign area of no more than twenty (20) square feet.

Post Signs

o. Signs for Gas/Service Stations. Due to the differing characteristics of filling /gas station sign requirements, the following sign provisions shall apply for filling stations.

1) The lot shall be permitted the maximum signage for all structures as stated for commercial businesses in non-residential districts. The total signage for the canopy, convenience store, car wash or other accessory or incidental uses including signs on pumps, canopy supports, pump handles and the like, shall not exceed that permitted for the district and shall be based on the linear feet of the building, not canopy.

2) Signs such as "self serve", "full serve", and pump numbers shall be permitted, provided the letters and numbers are no larger than six (6) inches in height.

3) Filling stations shall be permitted one set of gasoline prices (one price per fuel product) with letters and numbers no

greater than eighteen (18) inches in height, visible from each direction of traffic from each street frontage.

3. Central Business District (CB). Due to the unique character of the CB District, the following additional provisions shall apply to signs. Additional sign standards for the CB District may be found in the Section 6.3 Downtown Overlay District of this ordinance. Where these regulations are in conflict with other sign standards, the provisions of this subsection shall apply.

See Also:

Section 6.3 Downtown Overlay District for additional sign standards.

   a. Each sign shall be so designed as to match and/or complement the building style of the use to which it is accessory. Varied sign types are encouraged.

   b. Only the sign types set forth in Subsection 7.7(H)(3) and Table 7.6: Permitted Signs shall be permitted in the CB District. The following development standards shall apply to such signs.

   c. Aggregate sign area maximums (based on building frontage) shall not exceed one hundred fifty (150) square feet. Individual sign maximums are as stated below:

Signage / Ratio	Maximum sign area
Wall sign only / 1 lf. : 1.5 sf.	100 sq. ft.
Projecting sign only	16 sq. ft. per face
Awning / 1 lf. : 1.5 sf.	50 sq. ft.
Combination of signs / 1.5 lf. : 1 sf.	50 sq. ft. (Bonus)
Post sign	20 sq. ft. per face

   d. Sign area calculations for CB District uses.

      1) Wall Signs. Sign area shall be one and one-half (1.5) square feet per one (1) linear foot of the structure.

         a) Maximum permitted wall sign area shall not exceed one hundred (100) square feet.

         b) Wall signs on the secondary frontage shall not exceed fifty feet (50) square feet.

         c) Wall signs shall not cover more than fifty percent (50%) of the wall surface on which they are mounted.

      2) Post Signs. Post signs are encouraged in the CB and NB districts and should be appropriately scaled. The maximum sign area shall be twenty (20) square feet per side.

      2) Window Signs. Window signs shall not cover more than

twenty percent (20%) of any window.

Sandwich / "A" Frame Sign

3) Sandwich / "A" Frame. Each building shall be permitted one sandwich board which will not be counted toward aggregate sign area. In a multi-tenant building all tenants shall share the sign. The sign board, A-frame, or sandwich board shall not exceed three and one-half (3.5) feet in height, two (2) feet in width, or six (6) square feet in area. The sign may be placed on a public sidewalk, provided it meets the following regulations:

   a) The tenant shall be responsible for the placement and maintenance of such signs.

   b) The sign shall not impede pedestrian traffic. A minimum sidewalk clearance of forty-two (42) inches shall be maintained and shall be approved by the Board of Public Works and Safety.

   c) The sign board shall be used only during business hours and must be removed from the public sidewalk and stored indoors when the business is not open for business.

   d) Each sign must be located within ten (10) feet of the main entrance of the business for which it is established.

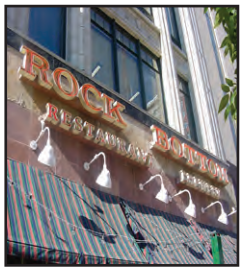
Awning Signs

4) Awning Signs. Awning signs are encouraged and shall be as specified in Subsection 7.7(H)(2).

5) Projecting Signs. Projecting signs shall be permitted in the CB District and shall be as specified in Subsection 7.7(H)(2).

6) Marquee. Refer to Subsection 7.7(H)(2).

7) Secondary Entrances. Signs for secondary entrances from rear parking lots shall be permitted. Maximum sign area shall be six (6) square feet.



Externally illuminated sign using gooseneck lamps

8) Lighting and Animation. Signs in the CB District may not be animated, flashing or internally lit. Externally lit signs are permitted, provided, however, light reflectors shall not extend more than two (2) feet from the face of the sign, and direct rays of light shall not beam upon any part of adjoining property.

9) Painted Signs. Painted signs may be permitted as part of an artistic concept upon review and approval by the Plan Commission.

e. Residential uses located within the CB district shall be subject to the regulations for residential uses within Subsection 7.7(G).

Table 7.6: Permitted Signs

All signs require a permit P = Permitted C = Conditional Use	Zoning District							
	Residential (SF's, TR, MF, MH)	CB/DT-OL	NB/CO-OL	PBC	PBO	IN	PBI	ID
Step 1: Sign Area Calculations by District								
Building Frontage / Wall Sign Size Ratio (the total sign area permitted per use)	Subdivision Entry	1.5 feet per 1 linear foot of building frontage	1.5 feet per 1 linear foot of building frontage	2 feet per 1 linear foot of building frontage	2 feet per 1 linear foot of building frontage	2 feet per 1 linear foot of building frontage	2 feet per 1 linear foot of building frontage	2 feet per 1 linear foot of building frontage
Aggregate Sign Area - Maximum *	32 sf	150 sf	150 sf	300 sf	300 sf	300 sf	300 sf	300 sf
Step 2: Identify Permitted Sign Types								
Awning, Marquee, and Canopy Sign		P				P		
Changeable Copy Sign			C	C		C		
Ground/Monument Sign	P (1 per entry)	P / 20 sf.	P	P	P	P	P	P
Home Occupation	P	P	P	P				
Off-Premise Sign (Billboard)								C
Pole Sign (within 1000' of an interstate interchange)				C			C	C
Projecting or Suspended Sign (limited to 1 per business use)		P	P	P	P	P	P	P
Post		P	P	P	P	P	P	P
Sandwich / "A" Frame Sign		P	P	P				
Multi-Tenant Ground Sign			P	P	P	P	P	P
Temporary Sign	C	C	C	C	C	C	C	C
Electronic Message Board - LED		C	C	P	P	P	P	
Wall Sign **		P	C**	P	P	P	P	P
Window Sign		P	P	P	P	P	P	P
Gas / Service Station - as per 7.7(H)(2)(n)		C	C	P	P		P	P
Step 3: Review the General Sign Standards								
Maximum Wall Sign Size		100 sf	100 sf	300 sf	300 sf	300 sf	300 sf	300 sf
Maximum Projecting Sign Size		16 sf	16 sf	16 sf	16 sf	16 sf	16 sf	16 sf
Maximum Ground / Monument Sign Height	6 feet	5 feet	8 feet	8 feet	8 feet	8 feet	8 feet	8 feet
Maximum Free-Standing / Pole Sign Area							200 sf per side	200 sf per side
Maximum Free-Standing / Pole Sign Height				12 feet			60 feet	60 feet
Maximum Multi-Tenant Sign Area and Height Bonus Increase				+ 50%	+ 50%	+ 50%	+ 50%	+ 50%
Maximum Window Sign Area Coverage		20%	20%	20% Ground Floor 25% Upper Floor	20%	20%	20%	20%

* Aggregate Sign Area - The total area from all sign types on the premises.
** Wall signs in the Neighborhood Business District adjacent to residential uses are subject to additional review.

7.8 LANDSCAPING

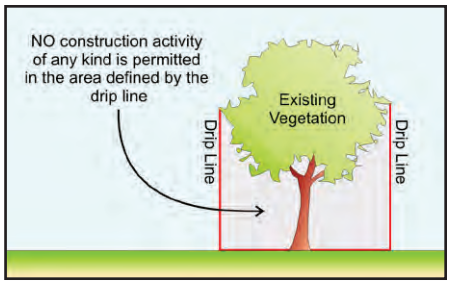
A. INTENT. The intent of this section is to establish minimum standards for the provision, installation, and maintenance of landscaped areas to:

1. Improve the overall aesthetics and enhance the appearance of the City,
2. Increase the compatibility of development with adjacent development and the natural environment,
3. Provide physical and psychological benefits to citizens,
4. Improve environmental quality by reducing noise, glare, stormwater run-off, and heat buildup, and
5. Protect and enhance property values.

B. GENERAL PROVISIONS

1. Applicability. This Section shall apply to all public, private, and institutional development, except that previously approved development need not comply (Section 1.5 Transition Rules) unless new site development approval is being sought.
2. Compliance. All development requiring a Development Plan or Final Detailed Plan shall submit a detailed landscape plan as part of the construction set. A conceptual landscaping plan shall accompany Concept Plans, Preliminary plans and Primary Plats.
3. Visibility. Where the rigid enforcement of these standards creates a conflict with the site visibility triangle (Section 7.2 Sight Visibility Triangle), the site visibility triangle shall take precedence, and the landscape requirements may be relocated or reduced to the extent necessary to alleviate the conflict upon approval of the Planning and Zoning Administrator.
4. Preservation Of Existing Features. Existing trees and shrubs shall be preserved wherever feasible.
   a. When existing healthy trees or significant natural landscape features impede strict compliance with the standards, the submittal of an alternative landscape plan which incorporates such existing features into the overall site design is encouraged.
   b. Existing trees may be used to fulfill tree planting requirements if such trees are in a healthy and growing condition and not included in Table 7.18: Non-Qualifying Trees. The Planning and Zoning Administrator may approve existing trees which are not included on the plant lists.

c. Existing trees which fulfill tree planting requirements shall be protected from construction activities through the use of construction fences, barricades, or other applicable methods during site preparation and construction. Protection measures shall be placed outside of the drip line of the plant material to be retained. These barricades shall remain in place during construction, and no vehicle, machinery, tools, chemicals, construction materials, or temporary soil deposits may be permitted within the barriers, nor may any notice or other object be nailed or stapled to protected trees. This information shall also be shown on the Site Grading and Demolition Plans.



Construction is not permitted within the drip line.

d. A minimum of seventy-five percent (75%) of the protected area shall be maintained as permanent permeable landscape area at grades existing prior to site development.

e. Tree wells, tree walls, or specialized fill and pavement designs shall be required in cut and fill situations and shall be fully detailed on the Landscape Plan.

C. CONTENT OF LANDSCAPE PLAN. When required, a landscape plan shall conform to the following standards:

1. A landscape plan is required for each proposed development. The landscape plan may be prepared by a landscape professional or nurseryman experienced in landscape design and the installation and care of plant materials, but shall be sealed by a licensed landscape architect.

2. All landscape plans submitted for approval as a component of a required development plan shall be prepared to scale on 24" x 36" sheets and shall contain the following information:

   a. The location and dimensions of all existing and proposed structures, parking lots and drives, roadways and right-of-way, sidewalks, refuse disposal areas, utility lines and easements, freestanding structural features, signs, and other landscape improvements, such as earth berms, walls, fences, screens and paved areas;

   b. The name and address of the owner, developer, and who prepared the plan, the date the plan was prepared, scale, and north arrow;

   c. The location, quantity, size, and name - both botanical and common - of all proposed planting materials;

   d. The location, size, and common name of existing trees and individual shrubs, areas of dense trees or shrubs, and other natural

features, indicating which are to be preserved and which are to be removed;

e. The location of barriers to be placed at or beyond the drip line of any trees to be preserved, and the type of material to be used for the barrier;

f. Details indicating specific grading measures or other protective devices where trees are to be preserved in areas of cut and fill; and

g. Planting and installation details as necessary to ensure conformance with all required standards.

D. INSTALLATION

1. Plant materials shall conform to the requirements described in the latest edition of the American Standard for Nursery Stock, which is published by the American Association of Nurserymen. Plants shall be nursery grown.

2. Plants shall conform to the measurements specified below:

   a. Caliper measurements shall be taken six inches above grade for trees under four inches in diameter and twelve (12) inches above grade for trees four inches or larger in diameter.

   b. Minimum branching height for all shade trees shall be four feet.

   c. Minimum size for shade trees shall be two and one-half (2.5) inches in caliper.

   d. Minimum size for ornamental trees shall be one and one half (1.5) inches in caliper.

   e. Minimum size for evergreen trees shall be six (6) feet high.

   f. The Minimum size for required screening shrubs is twenty-four (24) inches. Species selected shall attain the required minimum mature height of thirty-six (36) inches within 2 years.

   g. The Plan Commission may impose a condition at the time of site or development plan approval, that plants be larger at the time of installation.

E. MAINTENANCE

1. Maintenance Requirements. Trees, vegetation, irrigation systems, fences, walls and other landscape elements are considered elements of a project in the same manner as parking and other site details. The owner of the property shall be responsible for the continuous proper

maintenance of all landscaping materials, and shall keep them free from refuse and debris and in good repair at all times.

a. Replacing Landscaping Materials: All plant material which dies shall be replaced with plant material of the required size within thirty (30) days of the plant material's death. This period may be extended if weather conditions inhibit installation of new plant materials.

b. Trimming Plant Material: Landscape materials are intended to grow, spread and mature over time. Landscaping materials used to fulfill requirements of this chapter may not be pruned or otherwise treated so as to reduce overall height or level of opacity. Pruning, limbing-up, topping, and other inhibiting measures including removal may only be practiced to insure the public safety or to preserve the relative health of the material involved (e.g. parking lot screen plantings shall not be lower than thirty-six (36) inches three (3) years past installation). Where a continuous solid screen is required, the frequency of the planting shall accomplish the formation of a solid visual screen within three (3) years of the date of planting.

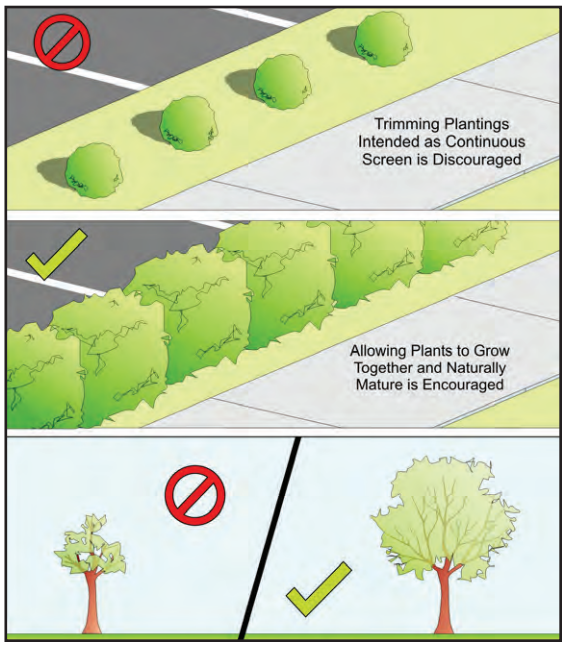
F. APPROVED PLANT MATERIALS

1. Tables 7.11 through 7.17 contains approved trees, shrubs, and ground cover to be used to meet the landscaping and buffering requirements of this ordinance. Species native to Indiana are encouraged. The lists are not inclusive of all available plant material. Unlisted plant material may count toward requirements upon review and approval by the Planning and Zoning Administrator or his/her designee.

2. The tables of plant materials included in this ordinance are classified by type. Trees are grouped into three categories: shade trees, ornamental trees; and evergreens. Shrubs are grouped by height: small shrubs (<3 feet), medium shrubs (3-6 feet), and large shrubs (>6 feet). Plant materials not listed on the tables will be assigned a classification based on height, spread, and/or crown at maturity, using the best available resources to determine mature characteristics.

   a. Trees proposed for streets, parking lots and similar shall be broadleaf, deciduous species as listed in Tables 7.11 through 7.13.

Trimming of plant materials intended for screening or buffering is discouraged.



b. Trees proposed to meet landscaped buffer/screen requirements shall include evergreens and may be from either Table 7.11: Trees for Planting on Streets, Highways, and Parking Lots (generally with high canopies, shade producing, hardy) or Table 7.12: Trees for Planting on Streets and Highways that Minimize Conflict With Overhead Utilities in this section.

c. Shrubs are divided by size to suit their particular function and may come from Tables 7.14 through 7.16 of this section.

d. Grasses used in designated common areas or usable open spaces should be native plantings and cool season grasses to limit the necessity for pesticides, fertilizers, or other chemicals, and to reduce mowing frequency.

3. For design flexibility, plant substitutions may be made on the following basis upon approval by the Planning and Zoning Administrator, unless otherwise noted:

a. one (1) ornamental tree = one (1) evergreen tree

b. one (1) large shrub = two (2) medium shrubs or four (4) small shrubs

c. one (1) medium shrub = two (2) small shrubs

4. Earthen berms and/or opaque fences or walls may be used in combination with the plant materials specified above, provided they meet the following requirements.

a. Earthen berms shall have a maximum slope of 3:1, shall be a minimum of three (3) feet and a maximum of six (6) feet in height, and must be entirely vegetated with lawn or ground cover within two (2) years of the date of planting.

b. Opaque fences or walls shall be constructed of wood, brick, masonry or other material approved by the Administrator.

5. Non-Qualifying Plant Material: In no instance shall any tree listed in Table 7.18: Non-Qualifying Trees be used to meet any landscaping requirements of this ordinance.

G. UTILITY EASEMENT CONFLICTS. Plant material shall be located in areas in areas exclusive of drainage and utility easements and overhead utilities. Plant material shall not be placed in the road/street right-of-way without permission from the Lebanon Streets Department or INDOT.

H. COMPLETION. A final Certificate of Occupancy shall not be issued until all landscaping shown on the landscape plan has been installed. A temporary certificate of occupancy may be issued for the property for a

period of up to six (6) months as weather conditions permit landscape installation, provided that the developer shall submit a financial guarantee in the amount of one hundred twenty-five percent (125%) of the installed cost of landscaping when planting has to be delayed.

I. ENFORCEMENT. Failure to implement the approved landscape plan, including preservation of existing features, or to maintain the landscaping in accordance with the provisions of this section shall be a violation of this ordinance subject to the penalties outlined in Chapter 10: Enforcement and Penalties.

J. PARKING

1. General

a. All landscape areas shall be separated from vehicular use areas by concrete curbing. Roll curbs may not be used for this separation if within fifteen (15) feet of a pedestrian use area.

1) A partial curb separation will be allowed if landscaping is intended to filter stormwater as part of approved innovative stormwater drainage solutions (Best Management Practices).

b. All landscaped areas at the front line of off-street parking spaces shall be protected from encroachment or intrusion of vehicles through the use of concretewheel stops. Wheel stops shall have a minimum height of six inches above the finish surface of the parking area, be properly anchored, and continuously maintained in good condition. Wheel stops shall not be placed in locations of anticipated intense pedestrian traffic. As an alternative, curbing can be extended to serve the same purpose, if approved by the Administrator. Wheel stops constructed of plastic are prohibited.

c. Plant materials required for landscaping and screening may be arranged and clustered throughout the site for uses or for areas along a lot's perimeter where a continuous screen is not required.

2. Parking Lot Interior Landscaping. A minimum of five percent (5%) of the gross area of the interior vehicular use area of a parking lot shall be landscaped. Required perimeter parking lot landscaping and/or buffering shall not be included toward satisfying this requirement.

a. If the amount of parking provided exceeds the required minimum by more than ten (10) percent, an additional ten (10) percent of interior landscaping shall be required. Some of the landscaping requirements for excess parking may be waived if either pervious pavement or landscape islands that function as swales and provide stormwater filtration are used.

b. Landscaped areas should be evenly distributed throughout the parking lot in the form of landscaped islands in order to reduce the visual impact of long rows of parked cars. Shade trees shall be spaced a maximum of one hundred (100) feet apart in the interior vehicular use area, with the intent to equally distribute the trees throughout the area.

c. One hundred percent (100%) of said landscaping area shall be planted with living ground cover.

d. Appropriate ground cover may include shade trees, ornamental trees, shrubbery, hedges, and grasses. However, at least one shade tree shall be provided for every one hundred eighty (180) square feet of required interior landscaped area. See Subsection 7.8(F) above for suitable plant types.

3. Parking Lot Perimeter Landscaping. All on- or off-street parking regulated by this section shall have a perimeter landscaped area at least five (5) feet wide. Such perimeter landscaping shall extend the full perimeter of the parking lot. Development within the Thoroughfare and Interstate Overlay Districts require an additional corridor or interstate buffer as per Chapter 6: Overlay Districts.

a. One hundred percent (100%) of said landscaping area shall be planted with living ground cover.

b. A Type C buffer (Table 7.9: Landscape Buffer Types) shall be planted on the perimeter of a parking area. However, if shade trees already exist in the right-of-way adjacent to the parking area, such trees may be counted to satisfy this requirement. When determining the number of trees required, fractions shall be rounded to the nearest whole number. See Subsection 7.8(F) above for suitable plant types.

c. A minimum three (3) foot high continuous screen consisting of small shrubs planted along the parking lot perimeter where the parking lot is adjacent to any residential district or a public street. Shrubs shall be at least fifty percent (50%) evergreen species.

1) An exception may be made for car or other large vehicle sales where uninterrupted views of merchandise are needed. In this case, the plant material required per one hundred (100) linear feet shall be four (4) shade trees and nine (9) shrubs. All non-merchandise parking areas, including but not limited to customer and employee parking, shall be subject to the regular parking lot perimeter landscaping requirements.

K. STREETS

1. Residential Streets

   a. One (1) canopy tree shall be required per forty-five (45) linear feet. Refer to Tables 7.11 and 7.12 for suitable tree types.

   b. Street trees shall be located in a planting strip between the street and the sidewalk. If this is not possible due to lack of right-of-way, narrow existing planting strip, or other reason as deemed appropriate by the Administrator, street trees shall be planted at the back of sidewalk but no greater than ten (10) feet from the right-of-way.

   c. To minimize conflicts with overhead and underground utilities, street trees where such infrastructure exists shall come from Table 7.12: Trees for Planting on Streets and Highways that Minimize Conflict With Overhead Utilities which includes trees with non-invasive root structures and trees of appropriate height. In addition, root barriers should be utilized to shield infrastructure from tree roots.

2. Nonresidential Streets. This section applies to all commercial, institutional, industrial, or other nonresidential land uses.

   a. Corridor Buffer. The streetscape shall be landscaped with the Type B buffer. The streetscape landscaping shall be in addition to the required parking lot perimeter plantings if it is adjacent to that use.

   b. Tree Locations. All required trees may be located in clusters or dispersed throughout the yard.

   c. Lot Plantings. Additional planting shall be required on lots according to Table 7.7: Lot Planting Requirements. For the purposes of this section, the yard shall mean all areas of the property not covered with structures, parking areas, or other hard surfaces. Other landscape areas required by this chapter and required Buffer Yards shall not be included in the calculation of yard area.

Table 7.7: Lot Planting Requirements

For this land use type…	…1 broadleaf / deciduous tree or evergreen conifer shall be required for every…
Multiple Family Residential and Manufactured Home Park	1,000 square feet of yard area
Commercial	1,000 square feet of yard area
Institutional	1,000 square feet of yard area
Industrial	1,000 square feet of yard area

L. RESIDENTIAL SUBDIVISION LANDSCAPING

1. Landscaping. Landscaping as stated below shall be required for all single-family, multifamily and manufactured home park subdivision development prior to the issuance of a Certificate of Occupancy. Extensions of up to one hundred twenty (120) days may be granted to take advantage of optimal planting conditions. Individually or custom constructed residences shall provide landscaping within one hundred eighty (180) days after the certificate of occupancy is issued.

2. Subdivision Perimeter Landscaping

   a. Perimeter Plant Material. Perimeter plant material shall be provided on the perimeter of subdivision development when adjacent to a public or private street as follows:

      1) A twenty (20) foot wide landscaping area adjacent to the road or right-of-way. The landscaping shall be located in an area designated as "common area". All attempts should be made to avoid conflicts with drainage and utility easements that would prevent the installation of landscape materials in accordance with the ordinance.

      2) Trees shall be provided at a minimum rate of six (6) trees per one hundred (100) linear feet of perimeter planting. Perimeter plantings shall be a roughly equal mix of deciduous canopy trees and evergreen trees.

      3) Shrubs shall be provided at a minimum rate of ten (10) per one hundred (100) linear feet of perimeter planting.

4) The required number of trees and shrubs shall be prorated and rounded up to the nearest whole number for every foot over the initial one hundred (100) feet.

5) It is suggested that the required trees and shrubs be planted in clusters or irregular patterns; and shall be combined with fences, walls, or mounds.

b. Perimeter Fences / Walls / Mounds. One of the following landscaping options shall be required in addition to the plant material.

1) Decorative perimeter fences/walls shall be combined with plant material and shall be constructed of masonry, stone, wood, or decorative metal. Fences/walls constructed of synthetic materials that simulate natural materials will also be considered. Fences/walls shall be at least thirty-six (36) inches in height, but not over seventy-two (72) inches in height. Fencing/walls may only be provided by the developer and only located in the area designated as "common area" or "landscape easement". Landscaping shall be placed on the right-of-way side of the fence/wall.

2) Mounds shall be combined with plant material, as described above, and may include fencing. Mounds shall be located in an area designated as "Common Area" or "landscape easement." Mounds shall be a minimum of six (6) feet in height. Maximum side slope shall not exceed a three to one (3:1) ratio. Engineering design requirements shall determine the setback from the right-of-way line of a public or private street and from the property line of an adjoining property. Continuous mounds (levee look) are not permitted.

3. Individual Residential Lots. The minimum landscape package for front and side yards shall be consistent with the table at right and the following:

a. The minimum number of shrubs required is a total for the side and front yard combined, not for each yard individually.

b. Lots that have existing trees in the front yard that meet the required minimum shall not be required to plant additional trees. In order for the existing trees to qualify as an existing tree it must be a minimum size of two (2) inch caliper measured six (6) inches above the existing ground elevation at the base of the tree and be part of the finish landscape package upon completion of the residence

and the final lot grading.

c. In addition to the above requirements, landscape packages for corner lots shall include a street sideyard (which shall be defined as the yard fronting the street on the side of the house that does not face the street) planting of one evergreen tree and eight (8) shrubs. The street-side yard shall be sodded or covered with other living loam substitute for all developments designated SF1, SF2, SF3, TR, and NB Districts.

d. All trees shall be planted such that upon maturation the branches and limbs shall not interfere with the adjacent property use. Any tree becoming such a nuisance shall be trimmed or cut back to eliminate the nuisance by the property owner.

e. Plant material shall be placed out of the Sight Visibility Triangle (Section 7.2 Sight Visibility Triangle). There should be a clear visibility zone between thirty-six (36) inches and eight (8) feet maintained by the property owner.

Table 7.8: Residential Lot Landscaping Requirements

Zoning District	# of trees	Minimum # of shrubs	Front Yard Sod
SF	3	8	no
SF1, SF2, SF3	2	8	yes
TR, NB	1	8	yes

M. RETENTION POND LANDSCAPING

1. Shrubs and emergent vegetation are encouraged to be planted on pond perimeters. These plants may be exempt from minimum required plant sizes set forth in Subsection 7.8(D). The use of this plant material is more desirable than non-native manicured turf in order to provide color, filter runoff, limit waterfowl, and improve water quality.

   a. Choose plant material that is native to Indiana.

   b. Pond edge seed mixes are available from local suppliers. Pond edge landscaping may also be established from seed.

   c. Maintenance shall be consistent as it may take up to three (3) years to mature.

N. SIGN LANDSCAPING

1. Landscaped area shall be required around the base of a sign at the rate of two (2) square feet per one (1) square foot of sign area.

O. LANDSCAPED BUFFER AND SCREEN REQUIREMENTS

1. Determination Of Landscape Buffer Requirements. Buffering and screening standards are employed to minimize the appearance of service and utilitarian areas of a site and to lessen the potential conflicts between dissimilar uses located in adjacent districts. The potential degree of conflict between the zoning districts determines the extent of the buffer required. The buffer width is in addition to the required setbacks of the district.

2. Buffer Types. Buffer types A through F and their descriptions can be found in Table 7.9: Landscape Buffer Types.

3. Buffer yard Location. All required buffer yard areas shall be provided entirely on the subject property and shall be in addition to setbacks required by this ordinance. The buffer yard standards only apply along the property lines where the two dissimilar zoning districts meet as specified in the Table 7.10: Landscape Buffer Requirements. The required buffer yards shall be installed despite the presence of streets, alleys, and other features. Existing mature vegetation (such as streams and fence rows) may be credited towards required buffering. The required buffer yards shall meet the following minimum standards:

   a. Responsibility. The developer or owner of the property being developed or otherwise changed in use is responsible for installing the buffer yard at the time of that development or change. The adjacent property owner shall not have to participate in installing the buffer yard.

   b. Planting Location. Required bufferyard trees may be placed either at regular intervals or in irregular patterns representing a natural landscape providing the screen is continuous and effective. However, no two (2) buffer yard trees (excluding evergreen trees) shall be placed within ten (10) feet of one another. No buffer yard or required landscape materials shall be placed within any easement, right-of-way, or septic field. Evergreens shall be distributed throughout the bufferyard in such as manner as to ensure that a screen is still visible during the fall, winter, and spring seasons.

   c. Plant Types. All required plant material for screening purposes shall be a minimum of fifty percent (50%) evergreen.

   d. Groundcover. All portions of the buffer yard not planted with trees,

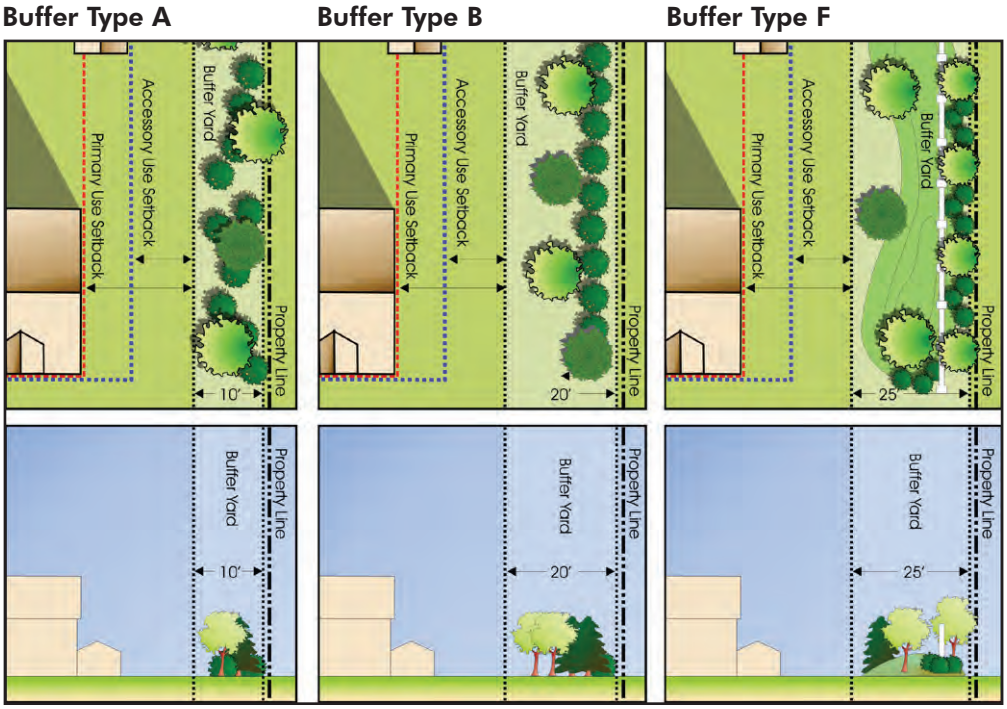
shrubs or other landscaped materials shall be covered with grass or other groundcover vegetation. Landscaping stone or other non-vegetative surfaces may not be substituted for groundcover unless otherwise approved by the Administrator.

4. Loading Area Screening Standards. Vehicle loading areas shall be screened from public and private roads and adjacent residential districts or uses. A Type D buffer shall be used (Table 7.9: Landscape Buffer Types).

5. Dumpster Screening. Nonresidential and multi family refuse, grease and recycling disposal dumpsters shall be screened on three sides by the construction of permanent opaque wooden, brick, or masonry screens. Such screening shall be a minimum of six (6) feet in height and a maximum of eight (8) feet in height. The fourth side which provides access to the dumpster for refuse collectors shall be gated and situated so that the container is not visible at an angle greater than forty-five degrees (45°) from adjacent public streets.

6. Outdoor Storage Screening. All nonresidential manufacturing, assembling, construction, repairing, maintenance, and storage which takes place outdoors within view of a public street or a residential zoning district shall require a landscape buffer of Type D or E as described in Table 7.9: Landscape Buffer Types and as determined by the Administrator or the Plan Commission.

Example of some buffer types.



a. All other storage shall be completely enclosed by a eight (8) foot high screen consisting of a solid fence, masonry wall, dense plant material, or any combination thereof. (See Table 7.9: Landscape Buffer Types Types E and F). In instances where a non-opaque or open fence is used (chainlink), landscaping consisting of evergreen plantings shall be provided around the exterior perimeter of the required fencing planted at a rate to form a screen a minimum of six (6) feet high.

7. Roof-, Ground-, And Building Mounted Equipment. All roof-top and ground-mounted mechanical equipment, such as HVAC units, shall be screened from the view of all public streets by parapets, dormers, or other screens. The material of all such screens shall be consistent with the exterior materials used on the facade of the structure.

Table 7.9: Landscape Buffer Types

TYPE	MINIMUM WIDTH	MINIMUM HEIGHT	LANDSCAPING REQUIRED PER 100 LINEAR FEET OF BUFFER*
A	10 feet	6 feet - trees 3 feet - shrubs	4 trees* and 10 large shrubs
B	20 feet	6 feet - trees 3 feet - shrubs	6 trees and 15 large shrubs
C	5 feet	3 feet; continuous shrub screen	3 shade trees and 10 shrubs, maximum spacing 3-5 feet on center depending on species, provided the treatment creates a continuous visual screen
D	25 feet	6 feet	8 trees and 15 shrubs supplemented by a 3-6 foot earthen berm or 6 foot opaque fence
E	None	8 feet	Fence or wall shall be opaque.
F	25 feet	8 feet	8 foot fence, 6 foot berm with 8 trees and 15 shrubs

* At least fifty percent (50%) of all required screen trees and shrubs, unless otherwise specified shall be evergreen species.

Table 7.10: Landscape Buffer Requirements

Subject Zoning / Use	Adjacent Zoning or Similar Use													
	SF	SF1	SF2	SF3	TR	MF	MH	CB	NB	PBC	PBO	PBI	GI	IN
SF						B	B	D	B	D	D	D	F	B
SF1						B	B	D	B	D	D	D	F	B
SF2						B	B	D	B	D	D	D	F	B
SF3						B	B	D	B	D	D	D	F	B
TR	A	A	A	A		B	B	C	A	B	D	D	F	B
MF	B	B	B	B	A		A	D	A	B	B	D	F	B
MH	B	B	B	B	B	A		D	A	B	B	D	F	B
CB	C	C	C	C	C	C	C		C	C	C	D	C/E	C/E
NB	B	B	B	B	A	A	A	C		B	B	B	D	B
PBC	D	D	D	D	B	B	B	D	A/B		A	B	D	A
PBO	D	D	D	D	B	B	B	C	B	A		B	D	A
PBI	D	D	D	D	D	D	D	D	B	B	B		B	F
GI	F	F	F	F	F	F	F	C/E	D	D	D	B		F
IN	B	B	B	B	B	B	B	C/E	B	A	A	F	F	
Special Uses														
Airport	D													
Artificial Lake Of 3 Acres Or More	A													
Cemetery	A													
Penal Or Correctional Institution	E/F													
Sanitary Fill	E/F													
Junk Yard	E/F													
Wireless Communication Facilities	See Section 7.16 Telecommunications Facilities													

See Table 7.9: Landscape Buffer Types for explanation of Buffer types A, B, C, D, E, and F.

Table 7.11: Trees for Planting on Streets, Highways, and Parking Lots (generally with high canopies, shade producing, hardy)

Botanic Name	Common Name	Type	Height	Tree Category
Acer campestre	Hedge Maple	D	30′-40′	Ornamental
Acer Freemanii	Freeman Maple	D	50-60′	Shade
Acer rubrum	Red Maple	D	40-60′	Shade
Acer saccharum	Sugar Maple	D	50-70′	Shade
Carpinus betulas ‘Fastigiata’	Upright European Hornbeam	D	30-40′	Ornamental
Carpinus caroliniana	American Hornbeam	D	25-30′	Ornamental
Celtis occidentalis	Hackberry	D	50-75′	Shade
Crataegus phaenopyrum	Washington Hawthorn	D	25-30′	Ornamental
Gingko biloba (male only)	Gingko	D	40-60′	Shade
Gleditzia tricanthos inermis	Thornless Honeylocust	D	30-60′	Shade
Gleditzia tricanthos ‘Imperial	Imperial Honeylocust	D	30′60′	Shade
Koelreuteria paniculata	Golden Rain Tree	D	30-40′	Ornamental
Liquidamber styraciflua	American Sweet Gum	D	40-60′	Shade
Liriodendron tulipifera	Tulip Tree	D	70′80′	Shade
Pyrus calleryana ‘Aristocrat’	Aristocrat Pear	D	35′-45′	Shade
Quercus alba	White Oak	D	60-80′	Shade
Quercus bicolor	Swamp White Oak	D	40-50′	Shade
Quercus coccinea	Scarlet Oak	D	60-80′	Shade
Quercus palustris	Pin Oak	D	50-80′	Shade
Quercus phellos	Willow Oak	D	50-70′	Shade
Quercus robur	English Oak	D	50-70′	Shade
Quercus rubra	Red Oak	D	40-60′	Shade
Sorbus alnifolia	Korean Mountain Ash	D	20-30′	Ornamental
Sorbus ‘Aria’	White Beam Mountain Ash	D	25-40′	Ornamental
Tillia americana	Basswood Linden	D	40-60′	Shade
Tillia cordata ‘Green Spine’	Little-Leaf Linden	D	40-50′	Shade
Tillia tomentosa	Silver Linden	D	40-50′	Shade
Zelkova serrata ‘Village Green’	Village Green Zelkova	D	40-60′	Shade

D = Deciduous E = Evergreen

Note: Several varieties of each species may be available and may substituted upon approval by the Administrator.

Table 7.12: Trees for Planting on Streets and Highways that Minimize Conflict With Overhead Utilities

Botanic Name	Common Name	Type	Height	Tree Category
Acer campestre	Hedge Maple	D	30′-40′	Ornamental
Carpinus caroliniana	American Hornbeam	D	25-30′	Ornamental
Cercis canadensis	Eastern Redbud	D	20-25′	Ornamental
Crataegus crus-galli	Cockspur Hawthorn	D	15-25′	Ornamental
Crataegus phaenopyrum	Washington Hawthorn	D	20-25′	Ornamental
Malus hybrids	Flowering Crabapple	D	15-30′	Ornamental
Prunus ‘Newport’	Newport Plum	D	15-20′	Ornamental
Prunus maackii	Amur Chokecherry	D	25-30′	Ornamental
Prunus virginiana	Chokecherry	D	20-25′	Ornamental
Sorbus alnifolia	Korean Mountain Ash	D	20-30′	Ornamental
Sorbus “Aria”	White Beam Mountain Ash	D	25-40′	Ornamental

D = Deciduous E = Evergreen

Table 7.13: Trees for Use within the Interior of a Site

Ornamental Trees

Botanic Name	Common Name	Type	Height	Tree Category
Amelanchier canadansis	Juneberry	D	30-35′	Ornamental
Amelanchier grandifloria	Apple Serviceberry	D	25-30′	Ornamental
Amelanchier laevis	Allegheny Serviceberry	D	25-30′	Ornamental
Betula nigra	River Birch	D	40-60′	Ornamental
Betula papyrifera	Paper Birch	D	40-60′	Ornamental
Cercidyphyllum japonicum	Katsura Tree	D	25-40′	Ornamental
Cercis Canadensis	Eastern Redbud	D	20-30′	Ornamental
Salix matsudana ‘Tortuosa’	Corkscrew Willow	D	25-30′	Ornamental

Ornamental Accent Trees

Botanic Name	Common Name	Type	Height	Tree Category
Acer ginalla	Amur Maple	D	15-20′	Ornamental
Acer palmatum	Japanese Maple	D	15-20′	Ornamental
Cornus kousa	Japanese Dogwood	D	20-25′	Ornamental
Cotinus coggyria	Smoke Tree	D	15-20′	Ornamental
Magnolia loebneri	Magnolia	D	12-15′	Ornamental
Magnolia soulangiana	Saucer Magnolia	D	15-20′	Ornamental
Magnolia stellata	Star Magnolia	D	10-15′	Ornamental

Evergreen Trees

Botanic Name	Common Name	Type	Height	Tree Category
Abies Concolor	White Fir	E	30-50′	Evergreen
Cupressocyparis Leylandii	Leyland Cypress	E	60-70′	Evergreen
Picea abies	Norway Spruce	E	50-60′	Evergreen
Picea glauca densata	Black Hills Spruce	E	50-60′	Evergreen
Picea omorika	Serbian Spruce	E	50-60′	Evergreen
Picea pungens	Colorado Spruce	E	60-75′	Evergreen
Picea pungens ‘Glauca’	Colorada Blue Spruce	E	60-75′	Evergreen
Pinus nigra	Austrian Pine	E	30-60′	Evergreen
Pinus ponderosa	Ponderosa Pine	E	40-50′	Evergreen
Pinus strobus	Eastern White Pine	E	50-100′	Evergreen
Tsuga canadensis	Canada Hemlock	E	60-75′	Evergreen

Table 7.14: Small Shrubs Approved for Screens, Hedges, and Specimen Planting

Botanic Name	Common Name	Type	Height
Aronia melanocarpa	Black Chokeberry	D	4-6′
Berberis thunbergii Hybrids	Japanese Barberry	D	3-5′
Buxus microphylla ‘Koreana’	Korean Boxwood	E	2-3′
Chaenomeles species	Flowering Quince	D	2-6′
Cotoneaster divaricata	Spreading Cotoneaster	D	5-6′
Euonymus fortunei	Euononymous	E	4-6′
Hydrangea macrophylla ‘Nikko Blue’ spp.	Nikko blue Hydrangea	D	3-4′
Ilex crenata	Japanese Holly	E	3-5′
Mahonia aquifolium	Oregon Grape	E	3-6′
Physocarpus opulifolius intermedius	Dwarf Ninebark	D	4-5′
Prunus glandulosa	Dwarf Flowering Almond	D	4-6′
Rhus aromatica	Fragment Sumac	D	4-6′
Symphoricarpos alba	White Snowberry	D	5-6′
Weigela florida	Flowering Weigela	D	4-5′
Weigela vaniceki	Cardinal Shrub	D	4-5′

D = Deciduous E = Evergreen

Table 7.15: Large Shrubs Approved for Screens, Hedges, and Specimen Planting

Botanic Name	Common Name	Type	Height
Caragana arborescens	Siberian Peashrub	D	12-15′
Cornus alba, ‘Elegantissima’	Variegated Dogwood	D	6-10′
Cornus alternifolia	Pagoda Dogwood	D	15-20′
Cornus sericea baileyi	Redtwig Dogwood	D	8-10′
Cotinus coggygria	Smoke Tree	D	8-10′
Cotoneaster acutifolious	Peking Cotoneaster	D	4-8′
Euonymus alatus ‘compactus’	Burning Bush	D	7-10′
Forsythia intermedia Hybrids	Hybrid Forsythia	D	7-10′
Forsythia suspensa	Weeping Forsythia	D	8-10′
Hamamelis virginiana	Common Witch Hazel	D	10-15′
Hibiscus syriacus	Rose of Sharon	D	4-12′
Hydrangea arborescens ‘Annabelle’	Annabelle Hydrangea	D	4-15′
Hydrangea paniculata ‘Grandiflora’	Peegee Hydrangea	D	6-10′
Ilex meserveae	Blue Holly	E	6-8′
Ilex opaca	American Holly	E	8-15′
Juniperus chinensis	Chinese Juniper	E	6-15′
Juniperus scopulorum	Rocky Mountain Juniper	E	6-15′
Ligustrum amurense	Amur Privet	D	4-8′
Ligustrum ‘Vicaryi’	Golden Vicary Privet	D	4-12′
Myrica pennsylvanica	Northern Bayberry	D	5-10′
Philadelphus coronarius	Sweet Mockorange	D	8-10′
Philadelphus virginialis	Minnesota Snowflake	D	6-8′
Picea glauca ‘Conica’	Dwarf Alberta Spruce	E	6-10′
Prunus cistena	Cistena Plum	D	6-8′
Prunus triloba	Flowering Almond	D	8-10′
Rhamnus frangula	Alder Buckthorn	D	12-15′
Rhus glabra	Smooth Sumac	D	8-10′
Rhus typhina	Staghorn Sumac	D	8-12′
Salix caprea	French Pussy Willow	D	15-20′
Sambucus canadensis	American Elderberry	D	6-8′
Shepherdia argentea	Silver Buffaloberry	D	5-8′
Sorbaria sorbifolia	Flase Spiraea	D	6-8′
Syringa chinensis	Chinese Lilac	D	6-8′
Syringa hyacinthiflora Hybrids	Hybrid Canadian Lilac	D	8-12′
Syringa vulgaris	Common Lilac	D	8-12′
Syringa vulgaris Hybrids	Hybrid French Lilac	D	8-12′
Taxus cuspidata ‘Capitata’	Upright Japanese Yew	E	10-25′
Taxus ‘Hicksi’	Hick’s Yew	E	10-12′
Thuja occidentalis Hybrids	American Arbovitae	E	4-15′
Viburnum dentatum	Arrowwood Viburnum	D	10-15′
Viburnum lantana	Wayfaring Tree	D	8-15′

Viburnum lantago	Nannyberry	D	8-15′
Viburnum opulus	European Cranberry Bush	D	10-12′
Viburnum placatum tomentosum	Doublefile Viburnum	D	8-10′
Viburnum prunifolium	Black Haw Viburnum	D	10-12′
Viburnum rhytidophyllum	Leatherleaf Viburnum	D	6-15′
Viburnum trilobum	American Cranberry Bush	D	8-12′

D = Deciduous E = Evergreen

Table 7.16: Low Spreading Shrubs Approved for Borders, Parking Islands, and Groundcover

Botanic Name	Common Name	Type	Height
Berberis mentorensis	Mentor Barberry	E	3-4′
Berberis thunbergii Hybrids	Japanese Barberry	D	2-4′
Berberis verruculosa	Warty Barberry	E	2-3′
Buxus sempervirens	Boxwood	E	2-3′
Cotoneaster apiculata	Cranberry Cotoneaster	D	2-3′
Cotoneaster horizontalis	Rockspray Cotoneaster	D	1-3′
Daphne burkwoodii	Burkwood Daphne	D	3-4′
Duetzia gracilis	Slender Duetzia	D	2-3′
Euonymus fortunei ‘Sarcoxie’	Sarcoxie Euonymus	E	3-4′
Forsythia viridissima ‘Bronxensis’	Dwarf Forsythia	D	1-2′
Hypericon patulum	St. John’s Wort	D	2-3′
Juniperus (spreading varieties)	Juniper	E	1-3′
Mahonia aquifolium ‘Compacta’	Dwarf Oregon Grape	E	2′
Microbiota decussata	Siberian Cypress	E	1′
Philadelphus virginialis	Miniature Snowflake	D	2-3′
Picea abies ‘Nidiformis’	Birdnest Spruce	E	2′
Picea abies ‘Pumila’	Dwarf Norway Spruce	E	2-3′
Picea pungens ‘Globosa’	Blue Globe Spruce	E	3-4′
Pinus mugo	Mugho Pine	D	3-4′
Potentilla fruticosa Hybrids	Bush Cinqufoil	D	2-3′
Rhus aromatica ‘Low Grow’	Low Grow Fragment Sumac	D	1-2′
Ribes alpinum	Alpine Currant	D	3-5′
Spirea bumalda	Spirea	D	2-3′
Spirea japonica	Japanese Spirea	D	2-3′
Spirea nipponica	Nippon Spirea	D	2-3′
Symphoricarpos orbiculatus	Coral Berry	D	3-4′
Syringa patula ‘Miss Kim’	Dwarf Korean Lilac	D	3-5′
Taxus cupidata ‘Nana’	Dwarf Japanese Yew	E	2-3′
Taxus media	Spreading Yew	E	2-4′
Thuja occidentalis ‘Hetzii Midget’	Hetz Midget Arborvitae	E	2-3′
Viburnum opulus ‘Nana’	European Cranberry Bush	D	1-2′

D = Deciduous E = Evergreen

Table 7.17: Vines for Walls and Fences

Botanic Name	Common Name	Type
Aristolochia durior	Dutchmans's Pipe	D
Campsis radicans	Trumpetvine	D
Celastrus scandens	American Bittersweet	D
Clematis jackmanii	Clematis Hybrids	D
Clematis laguninos	Clematis Hybrids	D
Lonicera brownii	Dropmore Scarlet Honeysuckle	D
Lonicera hechrottie	Everblooming Honeysuckle	D
Parthenocissus quinquefolia	Virginia Creeper	D
Parthenocissus triscuspidata	Boston Ivy	D

D = Deciduous E = Evergreen

Table 7.18: Non-Qualifying Trees

Common Name	Botanical Name	Negative Feature(s)
Boxelder	Acer negundo	Aggressive, Shallow roots, Weak wood
Norway Maple	Acer platanoides	Invasive
Silver Maple	Acer saccharinum	Aggressive, Shallow roots, Weak wood
Tree of Heaven	Ailanthus altissima	Seeds, Suckers, Weak wood, Invasive
Mimosa	Albizia julibrissin	Invasive
European White Birch	Betula pendula	Insect prone, Invasive
Hackberry	Celtis occidentalis L.	Disease prone
Camphor Tree	Cinnamomum camphora	Invasive
Russian Olive	Elaeagnus angustifolia	Poor form, Disease prone, Invasive
Ash	Fraxinus spp.	Disease
Ginkgo (Female)	Ginkgo biloba - Female	Fruits
White Lead Tree	Leucaena leucocephala	Invasive
Chinaberry Tree	Melia azedarach	Invasive
Mulberry	Morus species	Fruits, Shallow roots, Invasive
Princess Tree	Paulownia tomentosa	Invasive
Senegal Date Palm	Phoenix reclinata	Invasive
White Poplar	Populus alba	Suckers, Shallow roots, Weak wood, Invasive
Cottonwood	Populus deltoides	Weak wood, Shallow roots, Seeds
Lombardy Poplar	Populus nigra 'Italica'	Insects, Disease, Short-lived
(Wild) Black Cherry	Prunus serotina	Disease prone
Bradford Pear	Pyrus calleryana 'Bradford'	Weak branching, Low branches
Brazilian Pepper Tree	Schinus terebinthifolius	Invasive
Tallow Tree	Triadica sebifera	Invasive
American Elm*	Ulmus americana*	Insects, Disease
Siberian Elm	Ulmus pumila	Weak wood, Seeds

* Note that suitable disease resistant cultivars and hybrids exist as substitutes for this species

7.9 ENVIRONMENTAL STANDARDS

A. THE FOLLOWING GENERAL ENVIRONMENTAL STANDARDS SHALL BE APPLICABLE TO ALL ZONING DISTRICTS.

1. Land Suitability. No land should be used, or structure erected where the land is unsuitable for such use or structure due to slopes, adverse soil or rock formations, erosion susceptibility, or any other feature determined by the Planning and Zoning Administrator, County Surveyor, or Plan Commission as likely to be harmful to the health, safety, and general welfare of the community.

2. Preservation of Natural Features. Existing natural features such as mature trees, streams, lakes, wetlands, streamside riparian areas, floodplains, and similar assets should be preserved through harmonious and careful design. Land to be developed shall be designed and improved as far as practical in conformity to existing topography in order to minimize storm water runoff and conserve the natural cover and soil.

   a. Wetlands. Wetland areas shall be protected and managed consistent with all applicable standards of the U.S. Army Corps of Engineers, the Indiana Department of Environmental Management, U.S. Department of Agriculture, and other appropriate agencies. Wetlands are critical to reducing pollutants.

   b. Streamside Forests (Riparian Areas). All structures shall be set back a minimum of twenty-five (25) feet from the top-of-bank, as determined by the Ordinance. Within this required setback, preservation of native vegetation is encouraged and construction activity should be limited. Banks and uplands shall be stabilized.

   c. Floodplains. Floodplains shall be managed consistent with the City of Lebanon Utilities and Stormwater Board. Refer to the Lebanon Stormwater Ordinance, as amended.

   d. Stormwater Runoff. Other NPDES Phase II Best Management practices (BMPs) including vegetated swales and retention basin, bioretention facilities and rain gardens should be used to channel and contain stormwater runoff.

   e. Trees. When the preservation of existing trees is specified by the requirements of this ordinance and/or by conditions placed on the approval of an application the following standards shall be met:

      1) Construction Activity. No construction activity damaging to the existing trees including the driving of construction vehicles and storage of construction materials shall occur within the drip-line of any tree to be preserved. Signs and construction

fencing shall be used to demarcate the preservation areas and this information shall be shown on Demolition, Grading and Landscaping Plans.

2) Tree Maintenance. All trees to be preserved shall be included in an easement which prohibits the removal of healthy trees. Trees that are removed due to poor health, disease, or act of nature shall be replaced by the property owner prior to the conclusion of the next planting season (spring or fall, whichever is sooner).

f. Waste Stored Outdoors. No waste materials such as, but not limited to, garbage, rubbish, household appliances, inoperable vehicles, furniture designed for interior use, gasoline, oil, flammables, soils, tars, chemicals, greases, dead plant material, noxious weeds, industrial or agricultural waste, or any other material of such nature, quantity, obnoxiousness, toxicity, or temperature so as to contaminate, pollute, or harm water bodies or ground water, provide a habitat for disease carrying animals and insects, or represent a public safety hazard shall be deposited, located, stored, or discharged outside on any lot.

g. Waste Stored in Structures. Waste shall not be allowed to accumulate within structures in a manner that is inconsistent with applicable regulations for the storage of such materials.

h. Open Dumping. Open dumping shall not be permitted in any zoning district.

B. SOIL SURVEY, DRAINAGE, EROSION, AND SEDIMENT CONTROL

1. Basic Requirements. Before granting an Improvement Location Permit or a Land Disturbance / Grading permit, the Planning and Zoning Administrator shall be satisfied that the proposed development meets the applicable criteria set forth herein for the tract of land concerning types of soils involved, and the conditions which are requisite to assure proper execution of erosion and sediment control and proper drainage. The Administrator shall be guided by the information set forth in the findings in the NATIONAL COOPERATIVE SOIL SURVEY prepared by the United States Department of Agriculture (USDA) Soil Conservation Service (now Natural Resources Conservation Service – NRCS) in cooperation with the Purdue Experiment Station and the Indiana Department of Natural Resources, Soil and Water Conservation District as well as the specifications set forth herein. The Administrator may also be guided by advice from the USDA NRCS, Boone County Soil and Water Conservation District, Boone County Drainage Board, Indiana Department of Natural Resources Division

of Water, Indiana Department of Environmental Management, and other agencies or officials offering technical assistance on the subjects of soils, drainage, erosion and sediment control. The applicant shall provide the information, report or plan required for his application; and any expense necessary to ensure adequate information, report or plan shall be met by the applicant.

2. General

   a. Minimizing Erosion and Sedimentation. No changes shall be made in the contour of the land; and no grading, excavating, removal or destruction of the top soil, trees or other vegetative cover of the land shall be commenced until such time that a plan for minimizing erosion and sedimentation has been reviewed by the Administrator, or there has been a determination by the Administrator that such plans are not necessary.

   b. Prerequisites For Issuance Of An Improvement Location Permit. No Improvement Location Permit or Permit to alter land shall be issued unless:

      1) There has been a plan approved by the Administrator that provides for drainage and minimizing erosion and sedimentation consistent with this section, and an improvement bond or other acceptable securities are deposited with the City in the form of an escrow guarantee satisfactory for the planning, which will ensure installation and completion of the required improvements; or

      2) There has been a determination by the Administrator that a plan for drainage and minimizing erosion and sedimentation is not necessary.

3. Excavations And Fills. The type of fill shall be approved by the Administrator.

   a. Cut and fill slopes shall not be steeper than 2:1 unless stabilized by a retaining wall or cribbing or as approved by the Administrator when handled under special conditions.

   b. Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surfaces of fills by installation of temporary or permanent drainage across or above these areas but site hydrology shall not change.

   c. Cut and fills shall not endanger adjoining property.

   d. Fill shall be placed and compacted so as to minimize sliding or erosion of the soil.

e. Fills shall not encroach on natural watercourses or constructed channels.

f. Fills placed adjacent to natural watercourses or constructed channels shall have suitable protection against erosion during periods of flooding.

g. Grading will not be done in such a way so as to divert water onto the property of another land owner without the expressed consent of the Administrator.

h. During grading operations, necessary measures for dust control will be exercised.

i. Grading equipment will not be allowed to cross live streams. Provision will be made for the installation of temporary or permanent culverts or bridges.

4. Erosion Control Plan. Where required by this ordinance, the erosion control plan shall be in conformance with the standards set forth in the Lebanon Stormwater Ordinance, as amended. The submittal standards are available in the Lebanon Planning and Building Department offices.

   a. All land, regardless of slope, from which structures or vegetative cover has been removed or destroyed, shall be appropriately graded and seeded within fifteen (15) days after removal to prevent erosion.

5. Responsibility

   a. Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the applicant, person, corporation or other entity causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his expense as quickly as possible.

   b. Maintenance of all driveways, parking areas, drainage facilities and watercourses within any development area is the responsibility of the applicant, or owner developer.

   c. It is the responsibility of the applicant and any person, corporation, or other entity doing any act on or across a communal stream, watercourse, or swale or upon the floodplain or right-of-way during the pendency of the activity to return it to its original or equal condition after such activity is completed.

   d. The applicant or owner will assume the responsibility for maintaining

an open and free flowing condition in all major and minor streams, watercourses and drainage systems, constructed or improved in accordance with City and County design criteria.

1) No applicant or person, corporation, or other entity shall block, impede the flow of, alter, construct any structure, or deposit any material or thing, or commit any act which will affect normal or flood flow in any communal stream or watercourse without having obtained prior approval from the Boone County Drainage Board or the Indiana Department of Natural Resources, Division of Water, whichever is applicable.

2) Where a development area is traversed by a watercourse, the total development of the watercourse shall be considered. There shall be provided a drainage easement or right-of-way conforming substantially with the line of such watercourse, and of such width as will be adequate to preserve natural drainage to the satisfaction of the Administrator.

6. Compliance With Regulations And Procedures

a. The design, installation, and maintenance of the required drainage facilities and erosion and sediment control measures shall be in accordance with the criteria and standards established by the Indiana Department of Natural Resources and IDEM.

b. The approval of plans and specifications for the control of erosion and sedimentation shall be concurrent with the issuance of the improvement location permit, and become a part thereof.

c. Permission for clearing and grading prior to the issuance of the improvement location permit shall be obtained under temporary easements or other conditions satisfactory to the Administrator.

d. In the event the applicant or developer proceeds to clear and grade prior to the issuance of an Improvement Location Permit or Land Disturbance / Grading Permit, and without satisfying conditions specified, the Planning and Zoning Administrator shall issue a violation in accordance with procedures set forth in Chapter 10: Enforcement and Penalties.

C. ENVIRONMENTAL HAZARDS

1. General Performance Standards. In the interests of protecting the public health, safety and welfare, and to lessen injury to property, all uses established or placed into operation after the effective date of the ordinance comprising the Unified Development Ordinance of Lebanon, Indiana shall comply with the following performance standards. No use

shall exhibit obnoxious characteristics to the extent that it constitutes a public nuisance as further prescribed hereinafter. No use in existence on the effective date of this ordinance shall be so altered or modified to conflict with these standards.

a. Fire Protection. Fire fighting equipment and prevention measures acceptable to the Lebanon Fire Department shall be readily available and apparent when any activity involving the handling or storage of flammable or explosive materials is conducted.

b. Electrical Disturbance. No use shall cause electrical disturbance adversely affecting radio, television, or other equipment in the vicinity.

c. Noise. No use shall produce noise in such a manner as to be objectionable because of volume, frequency, intermittence, beat, shrillness or vibration. Said noise shall be muffled or otherwise controlled so as not to become detrimental, and shall meet the following specifications:

   1) No use shall produce noise in excess of seventy-five (75) decibels, day or night.

   2) No activity or operation producing noise, other than ordinary vehicle noise, shall be conducted so that noise from the activity or operation can be detected at any point off of the lot on which that use is located.

   3) Public safety sirens and related apparatus used solely for public safety purposes shall be exempt from this standard.

d. Vibration. No use shall cause vibrations or concussions detectable beyond the lot lines without the aid of instruments.

e. Odor

   1) No use shall emit across the lot lines malodorous gas or matter in such quantity as to be readily detectable without the aid of instruments at any point along or beyond the lot lines.

   2) Poisonous And Injurious Fumes And Gases

      a) The emission of any gas or fumes across lot lines in such concentrations as to be detrimental to or endanger public health, safety, comfort, and welfare or which shall cause injury or damage to property or business is prohibited.

      b) The emission of toxic or injurious fumes and gases shall be controlled so as to comply with the following: The emission from any source shall not cause at or beyond any lot line,

concentrations of toxic and/or injurious fumes and gases in excess of ten per cent (10%) of the threshold limit as set for the fume or gas in question in the "Threshold Limit Values for Toxic Materials in Industry" issued by the Indiana State Board of Health from the American Conference of Governmental Hygienists, latest issue.

f. Air Pollution

1) Discharge. No use shall discharge across the lot lines fly ash, dust, smoke, vapors, noxious, toxic or corrosive matter, or other air pollutants in such concentration as to be detrimental to health, animals, vegetation or property, or in conflict with public air quality standards.

2) Smoke. The emission of more than seventy (70) smoke units per hour per stack and emissions in excess of Ringelmann No. 2 are prohibited, except that for one (1) hour during any twenty-four (24) hour period, this rate may be increased to eighty (80) smoke units per hour per stack up to and including Ringelmann No. 3 for the purposes of process purging, soot blowing and fire cleaning, but not for more than five (5) minutes.

3) Particulate Matter. The rate of emission of particulate matter from an individual process within the boundaries of any lot shall not exceed a figure of 0. 06 pounds per 1,000 pounds effluent gas. Not more than ten percent (10%) by weight of particles larger than 44 microns (325 mesh) shall be allowed.

g. Heat And Glare. No use on a property shall produce any glare or heat that is detectable without the aid of instruments at the property lines of the lot on which the use is located. All outdoor lighting shall be exempt from these Industrial Standards, but shall comply with Section 7.15 Exterior Lighting Standards.

h. Water Pollution. No use shall produce erosion or other pollutants whether liquid, solid or gas in such quantity as to be detrimental to adjacent properties or in conflict with public water quality standards, or without the necessary required approvals of the Indiana Department of Environmental Management.

See Also:

City of Lebanon Stormwater Ordinance available in the Lebanon Utilities Office.

i. Waste Matter. No use shall accumulate within the lot or discharge beyond the lot lines any waste matter, debris, refuse, trash, construction material, garbage, litter unfinished buildings, scrap metals, inoperable vehicles or rotting wood, whether liquid or

solid, in conflict with applicable public health, safety and welfare standards and regulations.

j. Ground Absorption. Any and all chemicals or liquids that are a potential hazard for contamination must be contained so that there is no opportunity for ground absorption and contamination.

2. Exemptions. The industrial standards provided by this chapter shall be subject to the following exemptions:

a. Farming Operations. Any applicable "Right to Farm" laws may supersede these standards as they pertain to farming and agricultural uses.

b. Exemptions. The following uses, activities, and circumstances shall be exempt from the standards established by this chapter:

1) Motor Vehicles. The operation of motor vehicles for the transportation of personnel, material, or products; and

2) Public Safety Alerts. Public safety sirens and related apparatus used solely for public purposes and/or necessary for the protection of life, limb, or property.

3. Applicability. All uses shall conform with any and all applicable requirements of the state and Federal governments (including the standards of the Occupational Safety and Health Administration - OSHA). No use on a property shall exhibit obnoxious characteristics to the extent that it constitutes a public nuisance defined by and subject to the City of Lebanon Code. In cases where the requirements of this ordinance are in conflict with other applicable requirements, the most restrictive shall apply. The Administrator shall issue violations for non-compliance in accordance with Chapter 10: Enforcement and Penalties of this ordinance.

4. Interpretation. The industrial standards established by this chapter provide general guidelines for discussing expectations with new and expanding industrial operations. They also provide references to applicable State and Federal regulations. Where applicable the determination of conformance of industrial operations with the requirements of this chapter shall be determined by the Plan Commission, BZA, or Administrator when consistent with the petition review procedures established by this ordinance.

7.10 ACCESSORY USES AND STRUCTURES

A. INTENT. Accessory Uses shall be permitted in all zoning districts in accordance with the provisions of this section. Accessory Uses:

1. Shall be incidental and subordinate to, and commonly associated with the operation of the principal use of the lot.
2. Shall be operated and maintained under the same ownership and on the same lot as the principal use.
3. Shall not be permitted prior to the erection and operation of the principal use, unless a temporary Improvement Location Permit is obtained in accordance with Section 9.3 Improvement Location Permit.
4. Shall be clearly subordinate in height, area, bulk, extent and purpose to the principal use served and shall not exceed the following:
   a. Setback
      1) Front setback. Accessory structures shall be located no closer to the front lot line than the building facade line of the principal use.
      2) Side Setback. Accessory structures may encroach upon the side setback, but they may be located no closer than ten (10) feet to the side property line.
      3) Rear Setback. Accessory structures may encroach upon the rear setback, but they may be located no closer than ten (10) feet to the rear property line.
      4) Accessory structures shall not encroach upon any required landscaping or bufferyard.
      5) Refer to Section 6.3 Downtown Overlay District for accessory structures in the CB District.
   b. Area. No accessory structure shall have an area greater than twenty-five percent (25%) of the area of the principal structure or greater than one thousand (1000) square feet, whichever is less.
   c. Height. No accessory structure shall have a height greater than eighteen (18) feet, or as specified in the Section 7.3 Height Standards.

B. PERMITTED ACCESSORY USES

1. Such appurtenant features as walks, driveways, curbs, drainage installations, chimneys, garages, gazebos, hot tub enclosures, carports, canopies, pool houses, porches, patios, greenhouses mailboxes, lamp

posts, bird baths and structures of a like nature, are permitted.

2. Such buildings or structures as canopies, porte-cocheres, patios, outdoor fireplaces, bath houses and cabanas, doghouses, children's play equipment, greenhouses, and similar accessory buildings or structures are permitted.

3. The keeping of no more than three (3) domestic pets, provided it is not for profit and not construed as a kennel, is permitted. More than three pets shall be considered "Raising or Breeding of Non-Farm Foul and Animals" and shall be subject to the regulations of such a use.

4. Fences, walls and structural screens are permitted when they do not impede intersection visibility. See Section 7.2 Sight Visibility Triangle and Section 7.14 Fence and Wall Standards.

5. Off-street motor vehicle parking and loading areas are permitted, as set forth in Section 7.5 Parking Standards.

6. Signs, as set forth in Section 7.7 Sign Regulations.

7. Swimming pools require an Improvement Location Permit, per Section 9.3 Improvement Location Permit and shall meet the following requirements:

   a. Private swimming pools shall be surrounded by a self-latching fence at least six (6) feet in height, located at least three (3) feet from the edge of the water on all sides, and maintained so as to prevent access to children or animals. If the fence is not a six (6) foot privacy fence, an automatic pool cover shall be required.

   b. If any side or sides of a private swimming pool lie within twenty-five (25) feet of abutting residential use:

      1) a solid planting screen shall be provided and maintained which shall grow to a height of eight (8) feet and a depth of six (6) feet; or

      2) a solid screen of suitable construction material to a height of eight (8) feet and a depth of six (6) feet; or

      3) a solid screen of suitable construction material to a height of eight (8) feet, which will act as a sound barrier on said side or sides, shall be provided and maintained.

8. Radio and television antennae and satellite dishes, and amateur radio sending and receiving antennae are permitted, subject to the following:

   a. Ground-mounted satellite dishes and antennae shall be prohibited

in any front or side yard.

b. Ground mounted dishes and antennae shall be placed between the rear of the main structure and the rear property line, set back at least five feet from all property lines. Required yard areas must be met.

c. Ground mounted antennae shall not exceed twelve (12) feet in height in any residential district or seventy-five (75) feet in height in any nonresidential district, and shall be obscured from the public right-of-way by buildings or landscaping

d. Roof or building mounted antennae shall not exceed nine (9) feet in elevation or four (4) feet above the highest building elevation, whichever is less.

e. No satellite dish shall exceed two (2) feet in diameter or seven (7) feet in height, unless such dish is mounted on a building, in which case it shall not extend higher than the roof of the building upon which it is mounted.

9. Management offices in multifamily dwellings and other facilities normally associated with tenants' convenience, such as vending machines and washing machines are permitted, provided there is no exterior display and they are screened in accordance with Section 7.13 Outdoor Sales, Display, and Storage.

10. Dumpsters, recycling containers, and trash compactors shall be fully enclosed by a structure that shall be:

    a. Located no closer to any right-of-way than the principal structure;

    b. A minimum of six (6) feet and maximum of eight (8) feet in height;

    c. Dumpsters and recycling containers shall be screened on three sides by the construction of permanent opaque wooden, brick, or masonry screens. Constructed of masonry materials that are compatible with the principal structure. Landscaping shall be used to soften the wall.

    d. The fourth side which provides access to the dumpster or recycling container for refuse collectors shall be gated and situated so that the container is not visible at an angle greater than forty-five degrees (45°) from adjacent public streets.

11. All vending machines shall be screened around the exterior of any building on the premises. Vending machines on the exterior of any building on the premises shall:

    a. Be located under an awning or contained in a roofed shelter, stall

or other structure so located as not to interfere materially with the use of adjacent properties.

12. Child Care Homes in accordance with IC 12-17-2-5.

13. Storage areas are permitted only as regulated in Section 7.13 Outdoor Sales, Display, and Storage of this ordinance.

14. Private residential garages and carports for the storage of motor vehicles are permitted, provided that such structures are accessory to private, residential uses, are used for the storage of motor vehicles, and are clearly accessory and not for commercial purposes.

15. Storage or parking of recreational vehicles (including travel trailer, boat trailer and the like) in the open is permitted, subject to the standards in Section 7.5 Parking Standards, Section 7.13 Outdoor Sales, Display, and Storage and the following conditions:

    a. In any District the wheels or any similar transporting devices of any recreational vehicle shall not be removed except for repairs, nor shall such vehicle be otherwise permanently fixed to the ground in a manner that would prevent ready removal of said types of mobile structures.

    b. Recreational vehicles may be stored or parked by the owner thereof behind or along side the principal building in such a manner that no part of any such vehicle shall project beyond the front or side setback lines of the lot.

    c. Not more than one (1) recreational vehicle will be permitted to be parked or stored in the open on residential property at any one time in accordance with Subsection 7.5(J)(5).

    d. At no time shall such parked or stored recreational vehicle be occupied or used for living, sleeping or housekeeping purposes, except as provided for visitations in (c) above.

C. ACCESSORY APARTMENTS. These provisions shall apply in all zoning districts whether the use is permitted, conditional, accessory, or temporary. Accessory apartments, also known as "granny flats" or "in-law units", shall require a Certificate of Compliance as per Section 9.12 Certificate of Compliance with Safety Codes obtained from the City Planning and Building Department.

1. In any residential district, a conditional use may be granted for an accessory apartment to be constructed within a single-family detached residence or within the existing accessory structure of such residence, provided such a lot has a minimum area of ten thousand (10,000) square feet.

2. Accessory apartments shall be limited to occupation by related family members or domestic employees only.
3. The owner(s) of the single-family lot upon which the accessory apartment is located shall occupy at least one (1) of the dwelling units on the premises.
4. The minimum floor area for an accessory apartment within a principal dwelling shall be six hundred (600) square feet, but in no case shall it exceed twenty-five percent (25%) of the area of the principal residence in which it is located.
5. The minimum floor area for an accessory apartment located in an existing accessory building shall be six hundred (600) square feet, and shall not exceed the area of the existing accessory structure at the time the conditional use was approved.
6. No more than one accessory apartment shall be permitted per lot.
7. If an accessory apartment is located within the principal building, the only entry to such unit and its design shall be such that, the appearance of the buildings will remain as a single-family residence.
    a. Only one entrance to the principal building shall be visible from the front yard.
    b. No exterior stairway to the second floor shall be permitted at the front or side of the building.
8. Accessory apartments located in existing accessory structures shall be located, designed, constructed, and landscaped in such a manner that, to the maximum extent feasible, the appearance of the property remains as a single-family lot.
9. Conditional Use for accessory apartments shall be obtained from the Board of Zoning Appeals as per Section 9.5 Conditional Use Permit of this ordinance and must be renewed every five (5) years.

D. AGRICULTURAL EXCEPTION. Accessory structures used exclusively for agricultural purposes shall be exempt from maximum floor area and timing requirements of this section.

7.11 TEMPORARY USES

A. INTENT. Temporary Uses shall be permitted in applicable Districts by the grant of a Temporary Improvement Location Permit issued by the Planning and Zoning Administrator in accordance with the requirements of this section, unless otherwise specified.

B. GENERAL PROVISIONS

1. The duration of the temporary period is stated below, however, renewal of such Permit may be requested.
2. Temporary Uses shall be subject to all the regulations of the applicable District in which they are located.
3. All temporary uses shall occur outside of the right-of-way.

C. PERMITTED TEMPORARY USES

1. Temporary Home Sales Facilities. Temporary model homes and temporary sales trailers shall be permitted in each development until either (a) building permits have been obtained for greater than ninety percent (90%) of the lots included in the preliminary plat for the development or (b) two (2) years from the date of approval of the secondary plat or final detailed plan for the most recent section of the development, whichever is less. An Improvement Location Permit shall be required.

   a. Location. Temporary home sales facilities shall be located on a lot in the development in which the homes are for sale. No other structures shall be permitted on any lot occupied by a model home or temporary sales trailer.

   b. Design Requirements. The placement of home sales facilities shall be consistent with the following requirements.

      1) Uses. The use of the facility shall be limited to open house purposes for prospective buyers. Temporary home sales facilities may not be directly used for the purpose of selling homes in other developments or in other communities.

      2) Signs. Signs shall be placed in a manner consistent with Section 7.2 Sight Visibility Triangle and in compliance with Section 7.7 Sign Regulations of this ordinance.

   c. Lighting. All exterior lighting for model homes shall be limited to typical household exterior lighting. The use of all other types of lighting, including floodlighting and search lights shall be as specified in Section 7.15 Exterior Lighting Standards.

   d. Parking. Temporary home sales facilities shall conform with the following parking requirements:

      1) Model homes shall provide a minimum of five (5) off-street parking spaces for the use of salespersons and potential buyers. The parking spaces shall conform to the size requirements of this ordinance. Off-street parking for the facility shall be

located in, and not extend beyond, the driveway. The driveway area shall be consistent in size and paving with those of the homes to be constructed in the development.

2) Temporary sales trailers shall provide two (2) off-street parking spaces. The spaces shall be surfaced with stone meeting the requirements of the Lebanon Streets Department.

e. Landscaping. Temporary home sales facilities shall conform with the following landscaping requirements:

1) Model homes shall provide landscaping consistent with that which will be provided for homes to be constructed in the development.

2) Temporary sales trailers shall provide a landscape area extending from the trailer for five (5) feet in each direction. The landscaping shall include a variety of shrubs and other materials consistent with the landscaping design of the development. The trailer site shall be graded to ensure proper drainage and treated with a combination of grass seed and sod appropriate to prevent erosion and provide a lawn consistent with that of the homes to be built in the development.

f. Model Home Conversion. Prior to the sale of a model home for use as a residence, all signage shall be removed and the garage area restored.

g. Sales Trailer Conversion. Any builder using a temporary home sales trailer and either constructing an approved model home, or removing the trailer, shall restore the trailer site to pre-installation conditions, removing the trailer and any associated signage and lighting. If the trailer is to be replaced by a model home, the trailer and all associated site features shall be removed prior to the issuance of a permanent certificate of occupancy for the model home.

h. Construction. Temporary building or yard for construction trailers, materials and equipment, both incidental and necessary to construction. Maximum time permitted: duration of the construction activity or any extension thereof.

2. Special Event

a. A parking lot may be designated for a special event, but shall be so used for no more than seven (7) days prior to and three (3) days after the event.

b. Temporary signs may be used in connection with a special event,

but shall not be used for more than ten (10) days and shall be used for no more than two (2) special events per year. See Subsection 7.7(E) for limitations on temporary signs.

3. Festivals. Bazaars, carnivals, and similar temporary uses. Maximum time permitted: ten (10) days.

4. Garage/Yard Sales. Garage/yard sales are permitted to occur four (4) times per calendar year, for a maximum of twelve (12) days per calendar year. Garage/yard sales shall be distinguished from flea markets in that garage/yards sales are clearly incidental to residential uses, while flea markets are commercial businesses and principal uses. In no instance shall this provision be interpreted as permitting the operation of a flea market.

   a. All items of personal property sold at a garage and/or yard sale shall be owned by the owner or occupier of the premises or by a participant at the sale. Personal property for sale must not be property that has been acquired by the owner expressly for the purpose of resale.

   b. All personal property exhibited for sale outside any structure during a garage and/or yard sale shall be removed from the outside and placed within a building immediately following the last day of such sale. All signs erected for such garage and/or yard sale shall likewise be immediately removed at the conclusion of the sale.

   c. No permit is required.

5. Seasonal Sales. Sale of Christmas trees, outdoor tent theater, sale of seasonal fruits and vegetables from roadside stands, tent sales. Maximum time permitted: sixty (60) days and no more than four (4) sales per year.

6. Parking of recreational vehicles for visitation. Maximum time permitted: seven (7) days, with a maximum total of fourteen (14) days per year.

7. Temporary Office. Mobile home as a temporary office during the period of construction and development. Maximum time permitted: eighteen (18) months.

8. Other similar uses deemed temporary by the Plan Commission and attached with such time period, conditions and safeguards as the Commission may deem necessary.

D. STANDARDS

1. Adequate access and off-street parking facilities shall be provided which shall not interfere with traffic movement on adjacent streets.

2. No public address systems or other noise producing devices shall be permitted in a residential district.
3. Any flood lights or other lighting shall be directed upon the premises and shall not be detrimental to adjacent properties.
4. No banners, pennants or unnecessary signs shall be permitted unless as otherwise specified. Refer to Section 7.7 Sign Regulations for additional standards.
5. The lot shall be put in clean condition devoid of temporary use remnants upon termination of the temporary period.

7.12 HOME OCCUPATION STANDARDS

A. PERMITTED DISTRICTS AND APPLICABILITY. Home occupations are permitted, and these standards are applicable in, the SF, SF1, SF2, SF3, TR, MF, MH, CB, and NB Districts.

SF SF1 SF2 SF3 TR MF MH CB NB

B. PERMITTED HOME OCCUPATIONS

1. Home occupations shall be permitted as Accessory Uses to residential uses subject to meeting the requirements of this ordinance and receiving a Home Occupation Permit from the Planning and Zoning Administrator.
2. Those occupations shall not adversely affect the residential character of the zoning district or interfere with the reasonable enjoyment of adjoining properties.

C. STANDARDS. Permitted home occupations shall be subject to all the regulations of the applicable district and meet the following requirements.

1. The home occupation shall not involve any activity which is illegal.
2. The operator conducting the home occupation shall be the sole entrepreneur, and shall not employ any other person other than a member of the immediate family residing on the premises.
3. The principal use of the structure or dwelling unit shall remain residential, and the operator of the home occupation shall remain a resident in the dwelling unit.
4. No structural additions, enlargements, or exterior alterations changing the residential appearance to a business appearance shall be permitted.

5. No additional and separate entrance incongruent with the residential structural design shall be constructed for the purpose of conducting the home occupation.
6. No more than twenty-five percent (25%) of the floor area of the dwelling unit shall be devoted to such home occupation.
7. Such home occupations shall be conducted entirely within the principal building or dwelling unit used as a residence. No home occupation shall be conducted in any accessory building.
8. No provision for extra off-street parking or loading facilities, other than the requirements and permitted facilities of the zone district, shall be permitted. No part of a minimum required setback distance shall be used for off-street parking or loading facilities, and no additional driveway to serve such home occupations shall be permitted.
9. Home occupations shall not involve on-site customers, employees, meetings, or other events that necessitate the installation of any off-street parking spaces in addition to those required by this ordinance for the dwelling unit. Home Occupations which present a significant increase in the amount of traffic on neighborhood streets will not be permitted.
10. No display of goods or external evidence of the home occupation shall be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name of the occupation and name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed one (1) square foot in total surface area
11. Such home occupation shall not involve retailing from the residence which, for the purpose of this section, shall mean a display of inventory visible from the street or sidewalk and/or the sale of commodities which requires customers visiting the premises.
12. There shall be no use of equipment or processes that create noise, vibration, glare, fumes, odors, or electrical or electronic interference, including interference with radio or television reception, detectable by neighbors.
13. For the purpose of this ordinance, such uses that, by the nature of their investment or operation, have a pronounced tendency once started to rapidly increase beyond the limits permitted for home occupations and thereby impair the use and value of a residentially zoned area shall not be permitted. Therefore, the uses specified below shall not be permitted as home occupations:

a. Medical, Dental, Law, Insurance and Real Estate Offices

b. Houses of Worship

c. Dance Studios

d. Automobile Repair

e. Private Clubs

f. Welding Shops

g. Barber Shops and Beauty Parlors

h. Boarding House

i. Animal Hospitals and Kennels

j. Trailer Rentals

Those uses listed above or any other such use not meeting the standards of this section, shall not be permitted uses in residential zoning districts unless they are granted a variance by the Board of Zoning Appeals (See Section 9.23 Development Standards Variance).

14. The provisions of this section shall not be deemed to supersede any deed restriction, covenant, agreement, master deed, by-laws or other documents which prohibit a home occupation within a dwelling unit.

D. PERMITTING. No home occupation shall be allowed without the owner first obtaining a permit from the Lebanon Planning and Building Department. Application must be made on a form provided by the Administrator, and the applicant for a home occupation permit shall pay required fees in connection with the submittal of the application in accordance with the fee schedules adopted.

E. DENIAL OF PERMIT. In cases where the Administrator, or his appointed representative, considers the home occupation to be out of the scope of home occupations permitted by this ordinance, the application shall be denied.

F. TIME LIMIT. All home occupation permits shall be valid for a period of two (2) years from the initial date of approval.

G. RENEWAL. Home occupation permits may be renewed, provided there has not been any violation of the provisions of this section. Requests for renewals shall be submitted to the Administrator in writing, accompanied by the renewal fee set by the adopted fee schedule, one (1) month prior to the expiration of the home occupation permit.

H. INSPECTION. Home occupation applicants shall permit a reasonable

inspection of the premises by the Planning and Building Department, in order to determine compliance with these regulations, upon application for a home occupation permit, upon renewal of such permit, and upon receipt of any complaints of a violation of the regulations of this section.

7.13 OUTDOOR SALES, DISPLAY, AND STORAGE

A. GENERAL PROVISIONS. The following shall apply to all districts whether the use is permitted, conditional, accessory, or temporary:

1. Permanent outdoor sales, display, storage of materials, areas for wholesaling, warehousing or distribution operations shall be permitted if they conform to the standards of this section.
2. Approved and documented permanent outdoor display, sales and storage areas shall be permitted uses, tied to the principal use.
3. Outdoor displays shall not be located in any required yards or off-street parking or loading areas.
4. Display areas shall be of concrete, asphaltic pavement, or other permanent paving material and shall be maintained in good condition.
5. Approved permanent outdoor display areas can be used at any time and for any duration to display products, seasonal sales and the like; including vending machines, propane tanks, and ice machines without the need for another permit when new items are displayed.
6. The maximum area for outdoor sales and display shall not exceed ten percent (10%) of the principal structure or primary tenant space.
7. Every approved permanent outdoor display area shall be in close proximity to the facade of the principal structure and shall be screened in accordance with the following standards.
8. Lighting shall comply with Section 7.15 Exterior Lighting Standards.

B. TYPES OF USES.

1. Refuse Containers. Adequate indoor or outdoor trash/recycling containers shall be required, provided, however, that trash containers exceeding six (6) cubic feet shall be screened according to the provisions of Section 7.10 Accessory Uses and Structures for dumpsters, trash compactors, recycling bins and the like, and be located in association with the principal structure, away from the view of the street and out of the front yard.
2. Outdoor Vending. Vending machines, propane displays and the like

shall be located under a covering that is part of the principal structure. The may also be enclosed with a knee wall that extends from the principal structure and is topped with transparent fencing.

3. Automobile Dealership. The outdoor display, storage and parking of vehicles for sale shall be allowed, provided that all preparation, repair and maintenance of the vehicles shall be enclosed. Perimeter and interior landscaping standards for parking lots shall apply though plant material may be clustered to maximize display.

4. Industrial Uses. This subsection applies to all zoning districts:

   a. All industrial use operations, services and processing shall be conducted within completely enclosed buildings.

   b. All storage of raw, processed or finished materials for industrial use shall take place within completely enclosed buildings.

      1) Exemption. The storage of raw, processed or finished materials for industrial use within the ID zoning district may be unenclosed, subject to the screening standards of Subsection 7.8(O)(6).

5. Open Air / Drive-through Businesses. Any establishment where the principal use is a drive-through type of business, or is generally characterized by open-air business operations, shall be subject to the following standards:

   a. Such business uses shall be screened according to the provisions of Section 7.8 Landscaping.

   b. Such business uses shall be limited to the characteristics customarily associated with such use and no other.

   c. Drive through stacking spaces shall be provided in accordance with Section 7.5 Parking Standards and Table 7.4: Schedule of Parking Standards.

   d. All drive-through establishments shall be subject to site plan review and approval by the Administrator prior to the issuance of any building permits. At a minimum this review shall include off-site and on-site circulation related to the use, including turning movement and compatibility with pedestrian circulation.

6. Storage. These provisions shall apply in all zoning districts whether the use is permitted, conditional, accessory, or temporary.

   a. Storage In Required Yards or Right-of-Way

      1) Storage of materials which is incidental to a principal use

in a nonresidential district shall be permitted, provided that such storage is located within an enclosed structure, or the provisions of Section 7.10 Accessory Uses and Structures are met.

2) No portion of any required yard shall be used for the permanent storage of motor vehicles, storage containers (PODS), semi-tractors, trailers, airplanes, boats, or parts thereof, rubbish, garbage, junk, tent or building materials, except during construction and in accordance with the terms of this ordinance.

3) No storage shall occur within any right-of-way.

4) Permanent storage, for the purpose of this subsection, shall be construed as the presence of such storage for a period of forty-eight (48) or more consecutive hours in any one week period.

b. Bulk Storage

1) In any district in which bulk storage is permitted, structures, buildings or above ground tanks used for bulk storage of flammable or explosive liquids, gases or other materials, shall not be located closer than fifty (50) feet to the property line.

2) The entire premises where the bulk storage is located shall be enclosed within an opaque fence, or equivalent, of not less than six (6) feet high, except as otherwise required by Section 7.10 Accessory Uses and Structures of this ordinance.

3) Lots containing bulk storage shall be screened according to the provisions of Section 7.8 Landscaping.

4) Additional information regarding evidence of safety measures may be required in order to determine the public safety therein.

c. Open Storage. In the event that accessory storage is in the open, the following provisions must be met:

1) Such storage shall be accessory to the use of the main building on the lot.

2) Such storage shall be located behind the front or exterior wall of the main building facing any street and shall comply with all yard regulations of this ordinance and with Section 7.2 Sight Visibility Triangle.

3) Such storage shall not cover more than five percent (5%) of the lot area or an area in excess of twice the ground floor area of the main building on the lot, whichever is less.

4) Such storage shall be screened according to the provisions of Section 7.8 Landscaping.

7.14 FENCE AND WALL STANDARDS

A. GENERAL STANDARDS. These standards are applicable to all zoning districts:

1. General Requirements. Fences and walls shall be permitted in all zoning districts upon obtaining a fence permit as per Section 9.7 Fence Permit. Fences and walls shall be subject to conformance with the following requirements:

   a. Structural Face. All fences and walls shall present the non-structural face outward.

   b. Drainage. No fence or wall shall disrupt the flow of water in any drainage easement, or otherwise result in impediments for storm-water runoff. Any fence or wall located in an easement may be removed by the easement holder when accessing the easement.

   c. Setbacks. All fences and walls may be permitted up to a property line except as noted in this ordinance.

      1) No fence or wall may be placed in any right-of-way or required Sight Visibility Triangle (see Section 7.2 Sight Visibility Triangle).

      2) Fences and walls within the easement of a drain, pond, and/or lake shall require the approval of Lebanon Utilities and/or the County Surveyor.

      3) Fences shall be setback a minimum of fifteen (15) feet from the top of bank of a pond in order to provide of emergency access and maintenance.

      4) Fences shall only be placed in common areas as part of an approved Development Plan.

   d. Buffer Yards. No fence or wall may be placed in any required buffer yard that does not specifically provide for the inclusion of fences.

   e. Materials. Fences and walls shall be constructed of wood, decorative metal, textured masonry, stone, or synthetic materials

styled to simulate natural materials.

2. Height Exceptions. Fences specifically required by this ordinance for screening, telecommunications facilities, or other purposes may exceed the maximum heights established by this chapter consistent with the appropriate specific requirements of this ordinance.

3. Height Measurement. The height of a fence shall be determined by measuring from the adjacent grade to the highest point of the fence, excluding fence posts. Fence posts may exceed the maximum height of the fence by up to one (1) foot.

B. RESIDENTIAL FENCE AND WALL STANDARDS. These standards are applicable to the SF, SF1, SF2, SF3, TR, MF, MH, CB, and NB Zoning Districts:

1. Height Requirements. Fences and walls shall not exceed six (6) feet in height in any side or rear yard or 3.5 feet (42 inches) in height in any front yard.

2. Front yard fences shall be at least fifty percent (50%) open. For the purposes of this requirement, the front yard shall be defined as the area located between an adjacent street and the wall of the principal structure that faces it.

3. Where fences are used in combination with required landscaping on the perimeter of residential subdivisions in designated common area or easement, the landscaping shall be placed on the street side of the fence.

4. Prohibited Fences. All electrified, barbed wire, razor wire, and stockade fences are prohibited on all non-farm property. Chainlink fences are prohibited in the frontyard in residential districts. In no instance shall this be interpreted as prohibiting the use of invisible fences.

C. NONRESIDENTIAL FENCE & WALL STANDARDS. These standards are applicable to the CB, NB, PBC, IN, PBO, PBI, and ID zoning districts:

1. Height Requirements. Fences and walls shall not exceed eight (8) feet in height in rear and side yards.

2. Decorative fences constructed of high quality materials such as brick, stone, decorative block, metal or wood not exceeding forty-eight (48) inches in height and may be located in any frontyard, provided that they are a minimum of 50% open.

3. Landscaping shall be used to complement the fence.

4. Breaks should be provided by variation in height, columns, recesses, and projections. Maximum uninterrupted length of fence plane should

be one hundred (100) feet.

5. Fences for athletic facilities such as ball diamonds, tennis courts and driving ranges shall be exempt from the height requirements. Chainlink fences in rear and sideyards shall be vinyl-coated.

6. Where chainlink fencing is used to meet screening requirements, it shall be reinforced with a landscape screen a minimum of six (6) feet high.

7. Prohibited Fences. All electrified, barbed wire, razor wire, and stockade fences are prohibited on all non-farm property. Uses in the General Industrial District and penal and correctional facilities shall be exempt from this standard.

7.15 EXTERIOR LIGHTING STANDARDS

A. GENERAL EXTERIOR LIGHTING STANDARDS. These standards are applicable to all new or replaced lighting in all zoning districts.

1. Lighting Plan. A lighting plan shall be required as part of an application for a Development Plan, Secondary Plat, PUD, or approved Detailed Plan. The lighting plan shall include the following information:

   a. A plan that shows the buildings, landscaping and parking areas with locations of proposed exterior fixtures.

   b. A photometric plan,

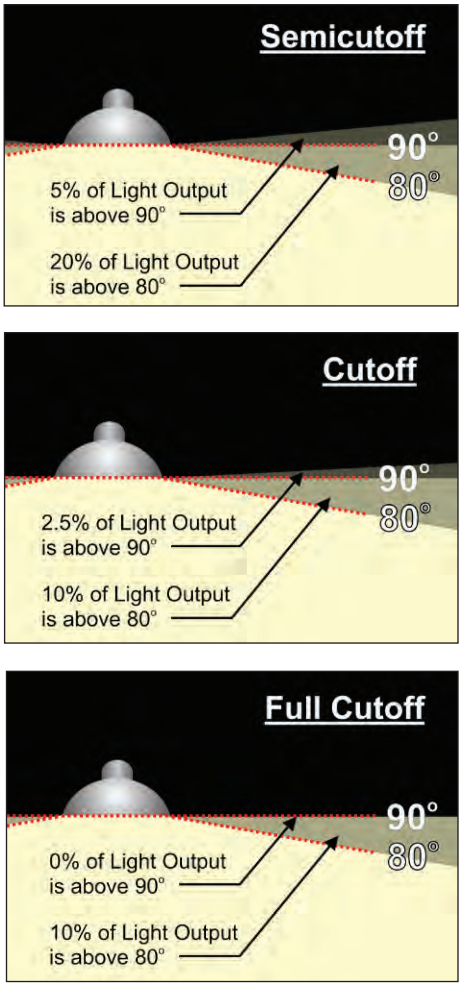
   c. Manufacturer's catalog cuts,

   d. Proposed mounting height of all exterior features.

2. Mounting Height Measurement. For the purposes of this chapter, the mounting height of all light fixtures shall be defined as the vertical distance between the adjacent grade level of the surface being illuminated and the top of the lighting fixture (luminaire).

3. Cutoff. All freestanding lights and lights mounted on walls or facades shall use cutoff, semi-cutoff, or full-cutoff luminaires.

4. Shielding. All lighting shall be fully shielded with opaque material to prevent direct lighting on streets, alleys, and adjacent properties.



Example of lighting trespass by fixture type.

5. Use of Timers/Dimmers. Wherever practicable, exterior lighting shall include timers, dimmers, and/or sensors to reduce overall energy consumption and eliminate unneeded lighting.

6. Light Trespass. Light trespass into the night sky and onto neighboring properties shall be prevented through the use of such techniques as recessed lamps (bulb), horizontally mounted lamps with reflectors, glass, polycarbonate or acrylic refractors, louvered optics, and house-side shields.

7. Electrical Service. The electrical service to all outdoor lighting fixtures shall be underground, unless the fixtures are mounted directly on buildings or utility poles.

8. Holiday Lighting. Holiday lighting shall be exempt from the provisions of this chapter.

9. Architectural Accent Lighting. All ground lighting used to cast light on building facades, building features or signs shall have shields to ensure that light does not project beyond the building or sign, and shall utilize the minimum amount of light necessary to light the facade, building feature or sign. The light fixture and bulb shall be shielded from view of any street, sidewalk, or parking lot.

B. RESIDENTIAL LIGHTING. These following standards shall apply to residential uses or zoning districts.

1. The maximum height of light fixtures including the base shall not exceed fifteen (15) feet.

2. Light fixtures shall be coordinated and used to enhance the overall design and character of the neighborhood.

3. Light levels shall not exceed three-tenths (0.3) footcandles at the property line. Facial identification is possible at five-tenths (0.5) footcandles.

4. In the absence of residential street lighting, yard post or wall-mounted dusk-to-dawn coach lights shall be provided on each residence.

C. COMMERCIAL LIGHTING. Street and parking lot lighting shall be part of the overall design concept and addressed as part of the Development Plan. The requirements are as follows:

1. Uniformity. Lights shall be arranged in order to provide uniform illumination throughout the parking lot.

2. Levels. The average maximum maintained illumination shall be three (3) footcandles. The maximum footcandles at the property line shall not exceed five-tenths (0.5) footcandles. If adjacent to residential district or use, the light level shall not exceed three-tenths (0.3) footcandles at the

property line. If adjacent to an intersection of two public rights-of-way, or at the intersection of a private entrance drive and a public right-of-way, the illumination may be an average maximum of six-tenths (0.6) footcandles at the property line for up to seventy-five (75) feet from the intersection right-of-way.

3. Shielding. Lights shall be placed and employ shields as to avoid glare and direct illumination away from adjacent properties or streets.

4. Placement. Lighting shall be considered for entrances, drive aisles, parking lots, pedestrian areas and to highlight the building.

5. Lighting Fixtures. All lighting fixtures providing illumination shall be full cutoff, cutoff, or semi-cutoff fixtures (most to least restrictive) and directed downward at ground level. All luminaires with these features comply with "dark sky" recommendations for exterior lighting. Refer to Illumination Engineering Society of North America (IESNA) guidelines.

6. Maximum Mounting Height. The maximum mounting height for street and parking lot light fixtures shall be twenty four (24) feet in multifamily residential, institutional, and commercial zoning districts; and thirty (30) feet in all industrial zoning districts.

D. ILLUMINATED CANOPY REQUIREMENTS. Lighting levels under canopies for gas stations, convenience stores, drive-up banking centers, and similar locations shall be adequate to facilitate the activities taking place on the property, and shall not be used for the purpose of illuminating signs. Such lighting shall conform with the following requirements:

1. All light fixtures mounted on the canopies shall be recessed so that the lens cover is recessed or flush with the bottom surface (ceiling) of the canopy, or

2. The lighting of the canopy shall use indirect lighting through which light is beamed upward and then reflected down from the underside of the canopy by light fixtures that are shielded so that illumination is focused exclusively on the underside of the canopy.

3. The minimum illumination under canopies shall not exceed five (5.0) footcandles at grade level, and the average maintained illumination shall not exceed thirty (30) footcandles.

4. Lights shall not be mounted on the top or sides of any canopy and the sides of the canopy shall not be illuminated. In no instances shall this be interpreted as prohibiting the placement of signs on the canopy which are illuminated consistent with the standards for sign illumination in this chapter.

5. Lighting for drive-through bays used for car wash, oil change or similar,

must be fully shielded as if located outside.

E. LIGHTING OF EXTERIOR DISPLAY/SALES AREAS. Lighting levels on exterior display/sales areas shall be adequate to facilitate the activities taking place in such locations. Such lighting shall conform with the following requirements:

1. Lighting Fixtures. All lighting fixtures used to illuminate exterior display/sales areas shall be cutoff, semi-cutoff, or full cutoff fixtures (luminaires) focused directly downward onto the display/sales area. Such light fixtures shall be located, mounted, aimed, and shielded so that direct light is not cast onto adjacent streets or properties.

2. Fixture Location. All lighting fixtures and mounting poles shall be located within the areas being illuminated.

3. Light Levels. The average horizontal illumination at grade level shall not exceed five (5.0) footcandles on average and minimum illumination shall not exceed four to one (4:1).

F. LIGHTING OF OUTDOOR ATHLETIC/PERFORMANCE FACILITIES. Lighting for all outdoor athletic and performance facilities and events shall provide adequate light for the event or facility while minimizing light pollution and the illumination of adjacent streets and properties.

1. Play/Performance Area Lighting. Lighting fixtures for the playing fields and/or performance areas shall be specifically mounted and aimed so that their beams fall directly within the play/performance area and its immediate surroundings and does not spill onto adjacent streets or properties.

2. Dual Lighting System. The use of spotlights and/or floodlights to illuminate the play/performance area shall be permitted. However, each facility shall be designed and constructed with a dual lighting system which permits the main lighting for the event (spotlighting, floodlighting, etc.) to be turned off, with an alternate low level lighting system used for clean-up, night maintenance and other activities.

3. Certified. Limits on light trespass as stated above apply to such outdoor facilities. Every lighting system design and installation of this type shall be certified by a registered engineer as conforming to all applicable restrictions of this ordinance.

4. Maximum Levels. Maximum levels of illumination shall not exceed forty (40) footcandles.

5. Exemptions. Outdoor athletic fields and courts established as accessory uses to single and two-family residences shall be exempt from these requirements.

G. SECURITY LIGHTING. Security lighting shall be coordinated with other lighting on the property to the extent possible and shall otherwise conform with the following requirements:

1. Nonresidential Lighting Fixtures. All security lighting in nonresidential areas shall be shielded and specifically aimed so that illumination is directed only to the intended area. The light source for any security lighting shall include shields that prevent their light source or lens from being visible from adjacent properties and/or streets.

2. Residential Lighting Fixtures. Security lighting fixtures in residential areas shall make use of indirect and reflected lighting techniques to provide soft lighting under canopies, entry porches, or soffits.

H. LIGHTING OF BUILDING FACADES OR OTHER VERTICAL STRUCTURES. Building facades or other structures may be illuminated, subject to the following requirements:

1. Lighting Fixtures. Lighting fixtures shall be located, aimed, and shielded so that light is directed only onto the building facade. Lighting fixtures shall not be directed toward adjacent streets or roads.

2. Lighting Direction. Lighting fixtures shall be designed to wash the facade of the building with light (rather than providing a spot or floodlight affect) and may be directed upward or downward onto the facade. Exterior facade lighting shall be contained on the building facade or in the landscape areas adjacent to the building and shall focus on entries and architectural features.

3. Upward Lighting. If upward lighting is used to illuminate flags, only spotlights shall be used; floodlights directed above the horizontal shall not be used to illuminate a flag.

I. ILLUMINATED SIGNS

1. External Illumination. External lighting fixtures illuminating signs shall be located, aimed, and shielded so that light is directed onto only the sign face, with minimal light spillage. Lighting fixtures shall not be aimed toward adjacent streets, roads, or properties.

2. Internal Illumination. Internally illuminated signs constructed with an opaque background and lighter contrasting text or symbols are preferred. When within six hundred (600) feet of a residential use or district, the average level of illumination on the vertical surface of the sign shall not exceed three (3) luces.

7.16 TELECOMMUNICATIONS FACILITIES

A. WIRELESS COMMUNICATION FACILITIES (CELL TOWERS). These provisions shall apply in all zoning districts whether the use is permitted, conditional, accessory, or temporary.

B. REQUIRED APPROVALS. The placement of telecommunications facilities shall meet the following approval requirements:

1. Installation of New Antenna. The installation of new antenna(s) on existing towers, including legal non-conforming towers, and existing alternative structures (such as water towers, buildings, or church steeples). New antenna that will add any height to an existing tower, or extend over ten (10) feet above the highest point of any alternative structure shall be subject to the provisions of this chapter for the installation of new towers as described.

2. Installation of New Accessory Structures. The installation of new accessory structure(s), such as equipment buildings, to support the installation of antenna on existing towers or alternative structures.

3. Installation of New Tower. The installation of any new tower(s) shall be reviewed consistent with the provisions of this chapter and Chapter 4: Zoning Districts.

C. DETERMINATION OF NEW TOWER NEED. Any proposal for a new telecommunications tower shall only be approved if the applicant submits verification from a professional engineer licensed in the State of Indiana that the antennas planned for the proposed tower cannot be accommodated on any existing or approved towers or other structures within a two (2) mile radius of the proposed tower location due to one or more of the following reasons:

1. Inadequate Structural Capacity. The antennas would exceed the structural capacity of the existing or approved tower or other structure, and the existing or approved tower, building or other structure cannot be reinforced, modified, or replaced to accommodate the antennas at a reasonable cost.

2. Interference. The antennas would cause interference impacting the usability of other existing or planned equipment at the tower site and the interference cannot be prevented at a reasonable cost.

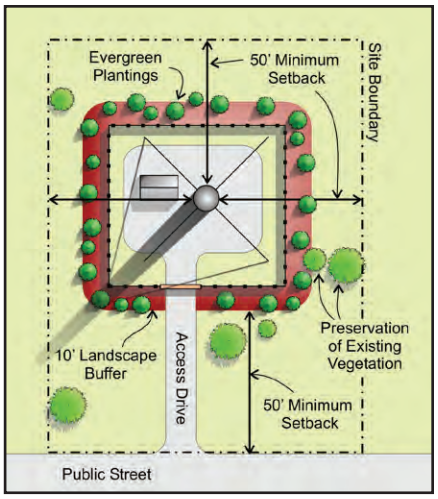
3. Inadequate Height. The existing or approved towers or structures within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably.

4. Unforeseen Circumstances. Other unforeseen reasons that make it unfeasible or impossible to locate the planned telecommunications

equipment upon an existing or approved tower or structure.

5. Commonly Reasonable Lease Agreement. The proposed tower owner is unable to enter a commonly reasonable lease term with the existing tower owner or land owner.

6. Land Availability. Additional land area is not available (when necessary).



Sample telecommunications facility layout.

D. CO-LOCATION CAPABILITY. New freestanding towers classified as a wireless communication facility for purposes other than commercial radio or television broadcast shall be designed and engineered structurally, electrically and in all other respects to accommodate both the applicant's equipment and at least one additional user for every fifty (50) feet in total tower height in excess of seventy-five (75) feet.

1. Each additional user shall be assumed to have an antenna loading equal to that of the initial user.

2. Towers must be designed to allow for rearrangement of antennas and to accept antennas mounted at varying heights.

3. An affidavit shall be submitted with the development plan stating the extent to which the tower owner agrees to allow additional equipment by other service providers to be located on the tower and its premises on a reasonable and non-discriminatory basis.

E. ABANDONED FACILITIES. The owner of the property shall notify the Administrator at such time that a wireless communication facility ceases operation. Any tower or antenna that is not operated for a period of six (6) months shall be considered abandoned, and the owner of such tower or antenna, or the owner of the property, shall remove the same, including any accessory equipment, within sixty (60) days, after which time the City may cause removal of such tower or antenna at the property owner's expense. After written notice to the property owner, the City may place a lien on the property until the City is reimbursed for the cost of removal of the abandoned wireless telecommunication facility. If there are two or more users of a single tower, this provision shall not become effective until all antennas located on the tower cease operation for the period specified above.

F. DESIGN REQUIREMENTS. All telecommunications facilities shall meet the following design requirements:

1. Contextual Design. Towers and antennas should generally be designed to blend into the surrounding environment through the use of color, camouflaging and architectural treatment, except in an instance where

the color is dictated by Federal or state authorities such as the Federal Aviation Administration.

a. Wireless telecommunication towers should generally be of a monopole design and, when located within or adjacent to an environmentally or aesthetically sensitive area, or a residential district, be designed to architecturally camouflage the wireless telecommunication tower as much as reasonably practical to blend into the surroundings.

b. The use of residentially compatible materials such as wood, brick, or stone is required for associated accessory structures, which shall be designed to architecturally match the exterior of any adjacent residential or commercial structures within the neighborhood or area.

2. Lighting. Only when lighting is for safety or security reasons or required by the FAA or other Federal or state authority will it be permitted. All ground level security lighting shall be oriented inward so as not to project onto surrounding properties, and shall have ninety degree (90°) cutoff luminaries (shielded downlighting).

3. Tower Height. All towers and antenna shall conform with all FAA tall structure requirements. Tower height shall be expressed as, and measured from, ground level in all instances.

a. In the NB, CB, PBC, IN zoning districts the maximum height of the tower shall be one hundred fifty (150) feet. The maximum height of any accessory structure shall be fifteen (15) feet.

b. In the PBI and ID zoning districts the maximum height of the tower shall be two hundred (200) feet. The maximum height of any accessory structure shall be fifteen (15) feet.

c. Antennas mounted as an accessory on top of a building, water tower, or other tall structure having another primary function shall not extend more than fifteen (15) feet above the highest point of the structure.

4. Setbacks. The minimum front, side, and rear yard setback for all towers shall be fifty (50) feet from all property lines. No part of a wireless telecommunications facility, including the security fence, any required guide wires or bracing, and required landscape screening shall be permitted in any required front yard setback. Landscape screening in addition to the requirements of this chapter may be provided in the setback area.

a) No tower shall be placed closer than five hundred (500) feet to any

property included in a residential zoning district.

5. Interference with Public Safety Facilities. No new telecommunications facility shall result in any interference with public safety telecommunications.

6. Security Fencing. An six (6) foot high security fence shall completely surround the tower and accessory equipment building site.

   a. An area ten (10) feet in width shall remain outside of the fence for the purpose of providing the landscape screening described below.

   b. In all zoning districts, the required security fence enclosing the facility shall be one hundred percent (100%) opaque and of wood, brick, or stone construction. Opaque six (6) foot tall wooden gates shall be provided to access the facility. Chainlink fencing may be used when landscaping is used to form a continuous screen. Planting shall be evergreens.

7. Landscape Screening. Evergreen buffer plantings shall be located around the outermost perimeter of the security fence of all wireless telecommunications facilities, including any wires and anchors.

   a. If evergreen hedges are used they shall be a minimum of four (4) feet tall at the time of planting (measured from ground level) and shall be planted a maximum of three (3) feet on center.

   b. If evergreen trees are used they shall be a minimum of six (6) feet tall at the time of planting (measured from the top of the rootball), and shall be planted a maximum of ten (10) feet on center.

   c. Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible.

8. Signs. No sign, banner or flag shall be placed on the premises of a wireless communication facility, except one non-illuminated permanent sign not larger than two (2) square feet for the purpose of identification in the case of an emergency.

9. Vehicular Access. Vehicular access to the tower and equipment building shall, whenever feasible, be provided along existing driveways. Vehicle access drives may be gravel in the Residential zoning districts, and shall be paved in all other zoning districts. Any portion of the entrance located in a public right-of-way shall meet the applicable public street design, construction, and pavement requirements.

7.17 ADULT BUSINESSES STANDARDS

A. LOCATION. An adult business establishment shall be a conditional use in the General Industrial district.

1. No regulated use shall be permitted within one thousand (1,000) feet of any other existing regulated use and within one thousand (1,000) feet of any residentially zoned district, planned business district, institutional district, or any of the following residentially related uses:

   a. churches, monasteries, chapels, synagogues, convents, rectories, religious article or religious apparel stores;

   b. schools up to and including the twelfth (12th) grade including their adjunct play areas; and

   c. public playgrounds, public swimming pools, public parks and public libraries.

2. For purposes of this section, distances shall be measured as follows: from all property lines of any regulated use and from the outward line boundary of all residentially zoned districts and from all property lines of any residentially related use.

B. DEFINITION. An adult business establishment is hereby designated as a regulated use and is defined as follows:

1. An establishment having as a substantial or significant portion of its stock in trade those books, magazines, or periodicals that are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas; or

2. An establishment with a segment or section of its floor space or display area devoted to the sale or display of such material; or

3. An enclosed building with an attendance capacity for less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons herein; or

4. An adult club, restaurant, theater, hall or similar place that features topless dancers, exotic dancers, strippers (male or female), male or female impersonators or similar entertainers exhibiting:

   a. specified anatomical areas that are less than completely and opaquely covered (1) human genitals; (2) the pubic region of the human body; (3) buttocks; (4) female breasts below a point immediately above the nipple; and (5) human male genitals in a discernibly turgid state even if completely and opaquely covered; or

b. performing specified sexual activities that include (1) human genitals in a state of sexual stimulation or arousal; (2) acts of human masturbation, sexual intercourse or sodomy; and (3) fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.

C. The regulated use shall be permitted a sign or other visible message based on the allowable sign area of the zoning district in which such use is located provided that such sign message shall be limited to verbal description of material and/or services provided on the premises and shall not include any graphic or pictorial depiction of material and/or services available on the premises.

7.18 DESIGN STANDARDS

See Also:

Chapter 6: Overlay Districts for additional design standards

A. RESIDENTIAL DESIGN. These standards apply to new single-family detached, attached, and two-family housing in the City of Lebanon. In addition to new residential development, these standards shall apply to any existing residential buildings if any expansion or alteration exceeds fifty percent (50%) of the building's assessed value at the time of expansion or alteration. Major subdivisions in residential zoning districts SF, SF1, SF2, SF3, TR, NB, and CB shall include the following minimum building design standards:

SF SF1 SF2 SF3 TR MF MH CB NB

1. Anti-monotony. Homes located in close proximity shall not be of the same front elevation. This does not prohibit the home to the rear from being the same front elevation;

   a. Mirror images of the same configuration/elevation do not meet the requirement.

   b. No house shall be of the same front elevation design as any other house within four (4) lots along the same block face nor directly across the street.

   c. No single front elevation house design may constitute more than twenty-five (25) percent of the front elevation house design within any single phase of a development.

2. Chimneys. Exterior chimneys for fireplaces shall be entirely masonry if the building or structure is more than fifty percent (50%) masonry, unless placed on the rear exterior wall of the residence. Chimneys that do not originate on an exterior wall that protrude through the roof may be of material other than masonry.

3. Corner Lots. Residences built on corner lots shall include a minimum of three windows of minimum size three (3) feet by five (5) feet, on the side of the home facing the street (street side-yard).

4. Driveway Width. The minimum pavement widths for driveways and interior drives shall meet the following requirements, exclusive of any parking spaces:

   a. For single and two-family residential uses the minimum driveway width shall be twelve (12) feet.

   b. The maximum driveway width at the property line shall be twenty (20) feet.

5. Fences. Developments in single-family residential zoning districts SF1, SF2 and SF3 and TR may have fences in the street sideyard (corner lots) provided the fences are at least 50% open. Refer also to Section 7.14 Fence and Wall Standards.

   a. Chainlink is prohibited in the front and street sideyard.

   b. Fences shall be no higher than forty-two (42) inches from the adjacent finished grade.

   c. The fence may be located no closer than five feet from the right-of-way and shall be located no closer than ten feet from the primary facade of the residence.

   d. The fence shall also be located outside of the sight visibility triangle if higher than thirty-six (36) inches.

6. Facades. Exterior materials shall be masonry (brick, stone, textured and colored split-face concrete masonry units), wood, fiber cement board siding, stucco, composite lap siding, aluminum siding, or heavy-gauge vinyl. Vinyl siding shall be approved and endorsed as meeting or exceeding ASTM D3679 by the Vinyl Siding Institute (VSI) through the VSI siding certification program. The minimum thickness of vinyl siding shall be 0.044 inches;

   a. Front elevation. All homes shall have masonry (brick, stone, textured and colored concrete masonry units) on a minimum fifty percent (50%) of the front elevation, excluding doors, windows, and other openings.

   b. Side and rear elevations. Side and rear home elevations abutting a public or private street shall have at least thirty percent (30%) masonry as the exterior building material on that visible elevation and shall contain at least one architectural feature from Subsection 7.18(A)(7) below.

c. Unless adjacent to masonry wrap, all windows, doors and corners shall have a minimum nominal one inch by six inch (1"x6") wood or vinyl surround, shutters, decorative trim or headers.

d. The Planning and Zoning Administrator may consider a request for modification to the masonry requirement when extraordinary or innovative architectural styles (Victorian, Farmhouse, Cape Cod) that provide many other architectural features maintain the spirit rather than the intent of these design standards.

7. Architectural Features. All houses shall have a minimum of four (4) features from the following list. Porches, sideload or court-entry garages, or full first floor masonry wrap, each count as two (2) features towards the required four (4).

a. Front porch - minimum eight (8) feet in width and four (4) feet in depth supported by columns (2 points);

b. Veranda/balcony;

c. Reverse gable;

d. Turrets;

e. Two (2) or more roof planes visible on the front of the house;

f. Decorative garage doors or windows in garage doors;

g. A separate overhead door for each single garage bay;

h. Side-loaded or court-entry garage (2 points);

i. Brick, stone or textured concrete masonry on one hundred percent (100%) of the front elevation (excluding openings);

j. At least four (4) feet of relief at one or more points along the front or rear elevations;

k. Full first floor masonry wrap (2 points);

l. Sunroom, screened porch, or breakfast nook on rear for relief;

m. Transom windows;

n. Bay windows;

o. Two (2) or more dormers; and

p. Decorative geometric front, rear and side gable roof vents or windows.

q. Shutters (all elevations)

r. architecturally accented entry

8. Facade Proportions. A single-family dwelling facade shall comprise at least fifty-five percent (55%) of the total facade width. The garage shall not exceed more than forty-five percent (45%) of the facade width.

9. Entries. Single-family dwelling entries shall have at least one (1) building-mounted or yard post dusk-to-dawn light fixture.

10. Roof

    a. Minimum Pitch: five to twelve (5:12)

    b. Materials. Roof materials such as tile, slate, cedar shake with fire protection, three-dimensional asphalt, fiberglass shingles, standing seam metal, or other approved metal that simulates traditional roofing materials shall be used on all structures.

    c. Roofs shall have a minimum nine-inch overhang on all sides.

11. Garages. Each home shall have at a minimum an attached two-car garage.

    a. Three-car Garages. The third bay shall have a separate door and shall be recessed four (4) feet from the other bays.

    b. Garage-forward Design

        1) Front-loaded garages that protrude between eight (8) and twelve (12) feet forward of the dwelling area shall have at least one (1) window installed in the garage wall that is perpendicular to the facade of the dwelling.

        2) Front-loaded garages that protrude between twelve (12) and sixteen (16) feet forward of the dwelling area shall have at least two (2) windows installed in the garage wall that is perpendicular to the facade of the dwelling.

        3) Garages that protrude more than sixteen (16) feet shall be side-loaded and shall install a window(s) that faces the street.

12. Lighting. For residential areas where street lighting is not present, dusk-to-dawn lighting shall be required for each home. The light fixture shall be either building-mounted or mounted within the front yard on a post with a maximum height of six (6) feet.

13. Landscaping. Refer to Section 7.8 Landscaping.

B. MULTIFAMILY DESIGN. All new multifamily developments (apartments, townhomes) of three (3) units or more shall require development plan

review and are subject to the following standards. Multifamily Development in the CB District may be subject to additional design guidelines in Section 6.3 Downtown Overlay District.

See Also:

Chapter 6: Overlay Districts for additional design standards

1. Certificate of Compliance. When a residential use is converted from a single- or two-family use to a multifamily use, a Certificate of Compliance as per Section 9.12 Certificate of Compliance with Safety Codes shall be obtained (see Section 7.20 Single-family to Multifamily Conversion Standards for conversions).

2. Layout and Site Planning

   a. Topography. Buildings shall be sited in relation to topography of the site, which minimizes cut and fill and limits maximum on-site slope to ten percent (10%).

   b. Attempts shall be made to preserve existing vegetation and natural features.

   c. Building Orientation. Multifamily building(s) shall be oriented to the street, a common open space, or clustered to form neighborhoods. Multifamily buildings shall not be oriented to parking lots. Accessory buildings (including residential garages, storage buildings, etc.) shall be located behind the principal building. No principal or accessory building shall have service doors, garage doors, loading doors, or similar service entrances opening toward or oriented to the street.

   d. Buildings shall be located so that the window to window distance shall not be less than forty (40) feet, with said distance to be measured by a line perpendicular to the plane of the surface of said window. This distance may be reduced to not less than thirty (30) feet for an exposure where a room is a bathroom or laundry/utility room, or is used as a community or group meeting room or for a similar purpose.

   e. Individual buildings shall be located to avoid more than two (2) buildings with parallel orientations to a public street. Vary the orientation to lessen the massing. The maximum length of a multifamily building shall not exceed 200 feet.

   f. Off-street parking, driveway, drive aisles, carport, garage or service facilities may encroach into the side or rear yard as specified in Section 7.10 Accessory Uses and Structures, but shall be no closer than ten (10) feet to any lot line. In no event shall parking be located in the required front yard nor encroach into any required landscaping.

See Also:

Section 8.15 Open Space Standards/ Common Area for Multifamily Development

3. Open Space. All new multifamily developments shall provide a minimum of twelve percent (12%) of the net site acreage as usable common open space for active or passive recreation.
    a. The following areas shall not count toward open space.
        1) private yards, patios
        2) streets, drives or parking areas
        3) land areas between buildings of less than 40 feet
        4) required perimeter setbacks
        5) Detention / Retention facilities unless accessible by all residents of the development and useable recreation areas as determined by the Planning and Zoning Administrator.
4. Vehicular and Pedestrian Circulation. Create a hierarchy of internal drives.
    a. Drives shall be a minimum of twenty-four (24) feet wide. The City may request wider drives if on-street parking is permitted.
    b. A minimum of two (2) means of access shall be provided for:
        1) any residential subdivision with fifty (50) or more single- or two-family residential lots;
        2) any development having one (1) or more commercial, multifamily, or industrial structure, of three (3) stories or greater in height; or
        3) any development having three (3) or more commercial, multi-family, or industrial structures of any height.
    c. The internal "street" system shall connect to surrounding neighborhood and local streets.
    d. All internal sidewalks shall be a minimum of five (5) feet wide.
    e. All internal sidewalks shall connect to adjacent commercial areas, schools, parks, places of worship, and other points of public interest.
5. Facade
    a. Variation. Architectural detailing, horizontal/vertical offsets, window details and other features shall be provided on all sides of the building to avoid featureless building massing, enhance character and style, and reduce the visual scale.

b. Buildings with continuous facades that are ninety (90) feet or greater in width, shall be designed with offsets (projecting or recessed) not less than two (2) feet deep, and at intervals of not greater than sixty (60) feet.

c. Materials shall be durable. Visually heavier materials should be used as the building's foundation.

1) Exposed foundations shall be constructed of one or more of the following:

a) Brick

b) Stone (limestone, granite, fieldstone, etc.); or,

c) Split-face, integrally-colored block or architectural pre-cast concrete that simulates natural material.

2) Facade walls shall be constructed of any combination of the following. A minimum of fifty percent (50%) shall be masonry.

a) Stone;

b) Wood clapboard siding;

c) Brick

d) Stucco with smooth finish, or External Insulation and Finish System (E.I.F.S.); not to exceed twenty percent (20%) of the overall non-window facade area.

e) Cement fiber board (eg: "Hardi-plank")

3) Facade Plane projections such as the following are encouraged:

a) Veranda/balcony

b) Sunroom

c) Screened porch

d) Breakfast nook

e) Turret

4) The facades of townhomes should be detailed to differentiate individual units.

6. Entries. Entries shall be clearly defined and accented with such features as awnings, porticos, overhangs, recesses/projections, arcades, raised corniced parapets over the door, peaked roof forms and arches.

7. Roof

   a. Minimum Pitch for pitched roofs shall be five to twelve (5:12).

   b. Materials: Quality roof materials such as tile, slate, three-dimensional asphalt or fiberglass shingles shall be used on all structures.

   c. Minimum Eave/Overhang Width: All multifamily buildings shall have eaves or overhangs a minimum of twelve (12) inches deep.

   d. Facade and Roof Articulation: Any structure with three (3) or more units shall incorporate significant wall and roof articulation every one hundred (100) feet to reduce apparent scale. Elements such as balconies, porches, arcades, dormers, cross gables, secondary hipped or gabled roofs can be used to achieve this appearance.

   e. Flat roofs shall contain a cornice or moulding, and vary in height or shape every fifty (50) feet.

   f. Rooftop mechanical equipment shall either be camouflaged on all sides or visually integrated into the overall design of the building. In no case shall rooftop mechanical equipment be visible from adjoining streets, residential zones or uses.

8. Automobile Storage

   a. Garage Access: All attached garages shall provide access internally from the garage to individual units.

   b. Minimum Garage Depth: Twenty-two (22) feet.

   c. Minimum Garage Width: Twelve (12) feet.

   d. Carport: Where established, carports shall:

      1) Meet all setback standards around the perimeter of the site applicable to a principal structure.

      2) Be designed in keeping with the principal structure and the materials shall be compatible with those of the principal structure.

9. Windows. Windows are required on all sides of the building that are:

   a. Adjacent to a street; or

   b. Adjacent to a common area; or

   c. Not perpendicular to the street.

10. Mechanical and Utility Equipment Screening. In the zoning district, all

mechanical equipment (gound-, roof- and building-mounted, shall be screened from view. Screening can be achieved by landscaping, fences or walls for ground-placed equipment, and the use of parapet walls or other roof designs for roof-mounted equipment. Screening enclosures shall be architecturally compatible with the principal structure.

11. Fire Safety. The Building or Fire Code Official of the City of Lebanon shall have the authority to require or increase a Fire-Protection Rating in any structural assembly of an approved multifamily dwelling or mixed-use occupancy that includes a residential occupancy.

12. Dumpster and Storage Area Screening. Dumpsters and storage areas shall be enclosed with a solid enclosure that complements the architecture of the principal structure, is a minimum of six (6) feet in height, and contains a solid gate. Shrub plant material shall be provided where possible to further enhance the wall enclosure. Dumpster enclosures attached to the principal structure shall be designed as an architecturally integrated part of the principal structure.

C. NONRESIDENTIAL

See Also:

Chapter 6: Overlay Districts for additional design standards

1. Applicability. All nonresidential developments shall meet or exceed the requirements of this chapter, in addition to all other applicable development standards established by this ordinance. These nonresidential standards shall apply to the following:

   a. improvement location permit applications for new structures submitted on or after the effective date of this ordinance;

   b. expansions greater than fifty percent (50%) of pre-existing site, structure or building; and

   c. expansions to other structures that result in a structure greater than twenty thousand (20,000) square feet in gross floor area.

2. Site Layout

   a. Site planning which encourages compatibility between the site and the buildings and between all buildings on the site is encouraged. Where natural or existing topographic patterns contribute to a development, they shall be preserved and developed. Modification to topography shall be permitted where it contributes to the overall development.

   b. The orientation of buildings shall promote interaction with the street and provide a pedestrian friendly environment. All principal and outlot site buildings shall be arranged so that they complement existing development. The buildings shall frame a corner or enclose a "main street" type corridor. Islands surrounded by parking should

be avoided.

c. Newly installed infrastructure and service revisions necessitated by exterior alterations shall be underground. To the extent possible, all existing overhead utilities shall be relocated underground.

d. All structures shall be evaluated in terms of scale, mass, color, proportion, and compatibility with adjoining developments.

e. Establishments where the principal use is the drive-through type of business are not permitted.

3. Vehicular Access. Major and minor arterials and major collector streets must have reasonable restrictions as to the numbers and location of access points. To provide safe and sufficient traffic movement to and from adjacent lands:

a. Frontage roads, access roads, and other internal drives may have to be constructed to create a hierarchy of roads for safe on-site circulation. These internal drives shall provide pedestrian access and landscaping.

b. Shared access shall be coordinated with contiguous lots and designed to preserve the aesthetic benefits provided by the greenbelt areas. Access at the side or rear of buildings is encouraged.

c. New access points onto the major and minor arterials within the corridor overlay zone shall be coordinated with existing access points whenever possible and approved by the County Highway Engineer.

d. Cross access easements shall be required between adjacent compatible developments.

1) No curb cuts shall be within one hundred fifty (150) feet of any intersection of public roads.

2) Opposing curb cuts shall align squarely or be offset no less than one hundred twenty-five (125) feet.

3) Stub Streets shall be built in all cases where adjacent lots have reasonable potential for development.

e. Entry Drive. The commercial entry drive should be appropriate to the size of the development, incorporate signage, lighting, landscaping and set the tone for the development.

f. No buildings or paved areas (other than access drives) may be located closer than fifty (50) feet to any area used or zoned for residential purposes.

4. Parking Layout. Refer to Section 7.5 Parking Standards for parking standards.

5. Architectural Design. All nonresidential building walls shall have architectural features which increase visual interest, reduce undifferentiated masses and relate to the human scale.

   a. Facades shall have a defined base or foundation, a middle or modulated wall, and a top formed by a pitched roof or articulated cornice, in each instance appropriate to the building style.

   b. Buildings with continuous facades that are ninety (90) feet or greater in width, shall be designed with offsets (projecting or recessed) not less than two (2) feet deep, and over intervals of not greater than sixty (60) feet.

   c. Storefronts. Ground floor retail shall be transparent for seventy-five percent (75%) of the total ground level facade.

   d. Exterior materials. Building facades may be constructed from wood, stone, masonry, E.I.F.S., cement fiber board, split-face, textured concrete, heavy gauge vinyl, metal or glass or other materials which provide the same desired quality. Similar building materials should be used throughout a development with multiple buildings. Products other than those listed below must be approved by the Planning and Zoning Administrator or his/her duly appointed designees.

      1) Buildings constructed of metal shall be permitted in the agriculture and general industrial districts. Facades that exceed fifty percent (50%) metal shall contain other design elements such as concrete or masonry bases, pitched roofs, enhanced entries or color variation.

      2) Concrete finish or precast concrete panels shall be textured using the following techniques: exposed aggregate, bush-hammered, sand blasted, or other concrete finish as approved by the Administrator or its duly appointed designee. Concrete masonry units (CMU or block) shall be textured or splitface, and otherwise not smooth.

      4) Office uses may also use: Architectural metal panels, glass (up to 75% of the facade area), and ornamental metal.

   e. Roof Design. The materials and finishes for roofs shall complement those materials used for the exterior walls. Roofs may be pitched, use stepped parapet walls, three dimensional cornices, dimensioned or integrally-textured materials, include architectural detailing such as

moldings, trims, or variations in brick coursing, or be sloped with overhangs and brackets. Parapets shall not exceed more than one-third (1/3) the height of the supporting wall.

f. Four-sided Architecture. The architectural style, materials, color and design on the front elevation shall be applied to all elevations of the structure adjacent to a public street, primary internal drive or residential zoning district.

g. Color. Compatible materials and colors should be used throughout to unify development. The colors should relect natural tones of the environment and be subtle, harmonious and non-reflective. Accents shall be compatible.

h. Entry Features. Entryway features are only required at the primary entrance to the structure and shall include elements such as: covered entries, integral planters, awnings, raised corniced parapets over the door, peaked roof forms having an average slope greater than or equal to a minimum 5/12 pitch, arches, or architectural details such as tile work and moldings that are integrated into the building structure and design.

6. Maintenance. The exposed walls and roofs of buildings shall be maintained in a clean, orderly, and attractive condition, and be free of cracks, dents, punctures, breakage, and other forms of visible marring. Materials that become excessively faded, chalked, or otherwise deteriorated shall be refinished, repainted, or replaced.

7. Screening. Refuse and waste removal areas, loading berths, service yards, storage yards, and exterior work areas shall be screened from view with fencing, walls or landscaping.

8. Materials. All accessory buildings shall be constructed with materials that are similar and compatible with materials used in the principal structure.

9. Mechanical Equipment Screening

a. Roof-mounted equipment on exposed roofs shall be screened from view. The appearance of roof screens shall be coordinated with the building to maintain a unified appearance.

b. All ground and building mounted mechanical and electrical equipment shall be screened from view. The screens and enclosures shall be treated as an integral element of the building's appearance. Landscaping may be used for this purpose.

c. Ground-mounted, Commercial-grade

1) Design. The unit shall be screened by a masonry wall that complements the architecture of the principal structure. Walls attached to the principal structure shall be designed as an architecturally integrated part of the principal structure. The wall shall be sufficient to dampen any noise generated while the unit is in operation.

2) Height. The wall shall be equal to the height of the unit plus two (2) feet.

3) Access. The enclosure shall be accessed via an opaque gate.

4) Orientation. The gate shall not face a residential property, or a right-of-way within fifty (50) feet.

5) Setback. All mechanical equipment shall be located a minimum of fifty (50) feet from the property line, and shall not be located within an established or required front setback or in a required side setback.

10. Signage Standards. Signage shall be designed to be an integral part of the architectural and landscaping plans. The colors, materials, and style of signage shall be architecturally compatible and accentuate the buildings and landscaping on the site. The colors, materials, and lighting of every sign shall be restrained and harmonious with the building and site to which it principally relates. Signs shall be in conformance with Section 7.7 Sign Regulations of this ordinance unless otherwise specified below.

11. Landscaping Plan. Landscaping shall be in conformance with Section 7.8 Landscaping of this ordinance. Plans shall be prepared and submitted with the development plan.

    a. Landscaping materials selected should be appropriate to local growing and climatic conditions. Wherever appropriate, existing trees should be conserved and integrated into the landscaping plan; credit toward required in-kind landscaping may be given.

12. Site Amenities. Site amenities provide attractive spaces and the possibility of interaction. Site amenities such as patios, plazas, mini-parks, squares, water features and public art should be incorporated in the required open space for the development.

13. Lighting. Refer to Section 7.15 Exterior Lighting Standards.

14. Operational Compatibility. The Plan Commission may impose conditions on the approval of a project including but not limited to:
    a. the placement of trash receptacles
    b. location of delivery and loading zones
    c. hours of refuse removal
    d. hours of sign illumination

7.19 MANUFACTURED HOME PARKS STANDARDS

A. INTENT. The purpose of these manufactured home standards is to identify the minimum requirements for the installation and use of manufactured homes consistent with the requirements of IC 36-7-4-1106 and the intent of this ordinance.

B. GENERAL STANDARDS. Applicable to the Manufactured Home Park District.

1. Design Standards. Manufactured Homes in a single-family residential zoning district shall comply with the minimum development and design standards of the residential zoning district as set forth in Section 7.18 Design Standards.
2. Storage Space. Each home shall have an enclosed, waterproof storage space a minimum of twenty (20) square feet, either as an accessory structure on each home site, behind the skirting, or at a central storage facility.
3. Emergency Shelter. Each development or manufactured home park shall be equipped with a structure of adequate construction to provide shelter for residents from tornados and other severe weather events. The shelter shall be of sufficient size to accommodate a population equal to two and one-half (2.5) persons per home site present in the development.
4. Entrances and Interior Roads. All interior manufactured home park streets shall either be dedicated to the public or be private drives. All interior streets, whether dedicated to the public or private drives shall meet the design and construction standards for public streets, including intersections, sidewalks, street trees, etc., provided by the City of Lebanon Unified Development Ordinance. If private streets are used, street easements shall be substituted for the interior street right-of-way.
5. Compliance Verification. Prior to the release of an Improvement

Location Permit for construction of the manufactured home park, the following shall be provided to the Planning and Zoning Administrator:

a. Access. A letter from the Lebanon Streets Department, verifying the approval of the design of access points to public streets.

b. Sanitary Sewer Service. A letter from Lebanon Utilities verifying that adequate sanitary sewer service shall be available to the homes.

c. Drainage. A letter from Lebanon Drainage Board verifying drainage approval for the site.

6. Subdivision Standards. See Chapter 8: Subdivision of Land for subdivision requirements.

7.20 SINGLE-FAMILY TO MULTIFAMILY CONVERSION STANDARDS

A. CONVERSIONS. These provisions shall apply in all zoning districts whether the use is permitted, conditional, accessory, or temporary. Various conditional and permitted uses may also be subject to fencing and screening regulations. A Certificate of Compliance (Section 9.12 Certificate of Compliance with Safety Codes) shall be required for all conversions from single- or two- family to multifamily. Dwellings converted for use as more than a two-family dwelling shall comply with the standards set forth for multifamily development in this ordinance.

1. It is the purpose of this ordinance to discourage the conversion of existing dwellings originally designed for occupancy by two families or less to occupancy by more than two families when such conversion is likely to lead to overcrowding, lack of privacy, lack of sufficient light and air, unsafe or unsanitary living conditions or inadequate provisions for off-street parking and open space.

2. Dwellings initially erected as single or two-family dwellings may be converted to provide occupancy for three (3) or more units, up to five (5) units, subject to the following conditions:

a. Conversions to three or more units may only take place in a district which permits such a use.

b. Only buildings erected more than thirty (30) years before such a conversion may be converted to provide occupancy for three (3) or more dwellings.

c. Any new dwelling created by conversion shall be completely self-contained (separate and individual kitchen and bathroom facilities) and shall conform to all applicable provision portions of the City

Code, including housing and building codes and fire safety and utility programs.

d. Each dwelling unit shall have a total floor space of at least five hundred (500) square feet, plus an additional one hundred fifty (150) square feet for each bedroom over one (1).

e. No addition shall be made to a dwelling which increases either the lot coverage of the building or the height of the building.

f. Parking for converted dwellings shall be provided as required in 7.5 Parking Standards for multi family units. Such parking may only be located behind the converted dwelling and shall be screened from any public street or adjacent residential use according to the provisions in Section 7.8 Landscaping.

g. In connection with such conversion, there shall be no evidence of change in the building to indicate the extra dwelling units, except as may be required by the aforementioned ordinances and programs; all fire escapes or stairways leading to a second or higher floor shall be completely enclosed within the converted building, and; no dwelling shall be so converted unless in connection therewith it be placed in a reasonable state of repair.

3. In cases of question as to the applicability of these standards, such Proposed conversion shall be deemed a conditional use and placed before the Board of Zoning Appeals in accordance with Section 9.5 Conditional Use Permit.

4. Conversions from multifamily use to single-family may be eligible for a waiver of fees.

7.21 SPECIFIC USE STANDARDS

A. GAS / FUELING STATIONS AND CAR WASHES

1. Fuel sales shall have no more than eight (8) vehicle fueling dispensers.

2. Fuel sales shall be screened in accordance with the parking lot landscaping standards cited in Section 7.8 Landscaping.

3. Fuel sales shall be limited to no more than one (1) per block.

4. Canopies shall have a maximum vertical clearance of fifteen (15) feet and shall be architecturally compatible with the principal structure.

5. Signage allowances shall be based on the linear feet of the associated building / structure, not on the length of the canopy. All advertising signage on the building, canopy, pumps, pump handles and the like

shall count toward the total permitted sign square footage.

6. Illuminance under the canopy shall be no more than an average of thirty-five (35) footcandles. Other lighting standards for gas stations shall be as specified in Section 7.15 Exterior Lighting Standards.

B. BED AND BREAKFAST

1. Bed and breakfast inns shall be permitted in the zoning districts indicated in Chapter 4: Zoning Districts, provided they are compatible with the surrounding uses and adhere to the following standards:

   a. A Bed and Breakfast shall be occupied as a residence by the property owner.

   b. No exterior alteration to the structure shall be made which would change the residential appearance of the building.

   c. The minimum total floor area of the principal residential structure needed to establish a bed and breakfast use shall be one thousand five hundred (1,500) square feet. Each bed and breakfast unit in excess of one (1) shall require an additional five hundred (500) square feet of total floor area.

   d. Dining and other facilities shall not be open to the public but shall be exclusively for the use of the residents and registered bed and breakfast guests.

   e. Where the bed and breakfast is located in a residential zone, parking shall be located behind the bed and breakfast and shall be screened according to the provisions of Section 7.8 Landscaping.

C. PARKS & PLAYGROUNDS

1. Applicability. The following standards apply to active recreational uses whether they stand alone or are accessory to another use.

2. Special Conditions

   a. Special care shall be noted when locating specialty parks (such as dog parks and skate parks) in residential areas.

   b. Neighborhood parks and pocket parks less than two (2) acres in area do not have to provide off-street parking.

3. Accessibility Standards. Park buffering may incorporate pedestrian access points where access in and out of the park would be beneficial to nearby residents.

4. Setback Standards

   a. Active Recreational Use: No active recreational use (e.g. playing

field, playground, swimming pool, etc.) shall be located within twenty-five (25) feet of any residential property line.

b. Athletic Structures: Athletic structures other than buildings (e.g. basketball goals, pools, tennis courts, etc.) shall be no closer than one hundred (100) feet to any property line or right-of-way.

5. Lighting Standards. Lighted playing fields will be held to the standards of Section 7.15 Exterior Lighting Standards.

6. Scoreboards and Public Address Systems. Scoreboards and Public Address (PA) systems are prohibited on lots less than seventy-five (75) acres nor are any scoreboards or PA systems, or part thereof, allowed within five hundred (500) feet of private residentially-owned or -used property.

D. CEMETERY

1. Fence and Wall Standards. All cemeteries shall have a decorative fence or wall around the perimeter which complies with the following standards:

   a. Minimum Height: forty-eight (48) inches

   b. Maximum Height: seventy-two (72) inches

   c. Prohibited Materials: fencing shall not be chain-link

   d. Fences greater than forty-eight (48) inches in height shall be at least fifty percent (50%) open.

2. Setback Standards

   a. Burial Space: Any burial space shall be set back at least one hundred (100) feet from the nearest existing or proposed easement or right-of-way for a:

      1) Railroad;

      2) Street;

      3) Road;

      4) Alley;

      5) Pipeline;

      6) Pole line; or

      7) Other public thoroughfare or utility.

   b. Structure: Any permanent structure erected for the interment, entombment, or inurnment of human remains shall be set back at least one hundred (100) feet from the nearest property line.

Chapter 8: Subdivision of Land

8

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8.1 TYPES OF SUBDIVISIONS

A. STANDARD RESIDENTIAL

1. The standard subdivision is intended to be entirely residential. The subdivision shall:

   a. conform to all development and design standards within Chapter 7: Development Standards and all subdivision standards within this chapter.

   b. be permitted in the SF, SF1, SF2, and SF3, zoning districts;

   c. have a lot and street layout that may be a grid or curvilinear per Section 8.8 Street Standards;

   d. provide minimum required open space per Section 8.15 Open Space Standards/Common Area; and

   e. have perimeter landscaping, mounding/ and or fencing in a designated common area or easement along all arterial and collector streets per Section 7.8 Landscaping.

B. CONSERVATION

1. Intent. Conservation subdivisions are intended to allow greater flexibility in the design and development of subdivisions, in order to produce innovative residential environments, provide for more efficient use of land, protect topographical features, and permit common area and open space to accomplish this purpose. Specifically a conservation subdivision provides for the:

   a. protection of unique topographical features on the site, including, but not limited to: slopes, streams, and natural water features;

   b. protection and preservations of wooded areas, individual trees of significant size, wetlands, or other environmentally sensitive features;

   c. development of common open space and recreational areas easily accessible to residents of the subdivision including provisions for walkways and bikeways;

   d. provide a more efficient use of the land;

   e. produce innovative residential environments; and

   f. minimize the alteration of the natural site features to be preserved through the design and situation of individual lots, streets, and buildings.

2. Exceptions. Exceptions to the development standards relating to the subdivision's lot size, shape and dimensions may be permitted for individual lots within a conservation subdivision, as follows:

   a. Project area (minimum size of subdivision). There shall be a minimum of five acres required for the development of a conservation or cluster subdivision. The tract of land to be developed shall be in one ownership or shall be the subject of an application filed by or on behalf of the owners of the entire tract. The tract shall be developed as a unit and in the manner approved.

   b. Project density. The overall maximum density of the proposed conservation subdivision shall remain the same as that permitted by developing the same site area into developable lots in full compliance with the applicable underlying zoning district regulations.

3. Lot Standards

   a. Individual lots in a conservation subdivision are exempt from the following development standards of the applicable residential zoning classification:

      1) Minimum lot area

      2) Minimum lot width

      3) Minimum lot width at setback

   b. Minimum side and rear yard setback regulations may be modified as follows:

      1) Setback from any subdivision boundary property lines: twenty (20) feet.

      2) The minimum rear yard setback: fifteen (15) feet.

      3) The minimum side yard setback shall have a minimum depth in accordance with the following regulations provided that a minimum distance of fifteen (15) feet is maintained between buildings on adjacent lots.

   c. Any plat of a subdivision submitted for plat approval may reduce the minimum side yard requirement for one side yard of each lot to zero provided that:

      1) a minimum distance of fifteen (15) feet shall be required and maintained between all buildings on adjacent lots;

      2) no windows or doors shall be provided or maintained on that portion of the structure which reduces the required side yard

From top to bottom: An existing farm; Traditional Zoning; Cluster Zoning; and a Conservation Subdivision.

by use of this exception; and

3) an easement, providing for the continual maintenance of that portion of the structure that reduces the required side yard by use of this exception is provided, recorded and maintained.

d. Minimum street frontage may be reduced to fifteen (15) feet provided, however, that each individual lot shall have direct access to a public street.

4. Open Space

a. Individual lots shall have a minimum open space of fifty percent (50%) percent.

b. The amount of permanent open space created by the development of the site as a conservation subdivision shall be equivalent to, or more than, the total reduction in lot sizes. At least seventy-percent (75%) of the total amount of open space shall consist of tracts of land at least fifty (50) feet wide.

c. The permanent open space created by the development of the site as a conservation subdivision shall be provided in such a manner that it is preserved in its naturally occurring state for passive recreational activities. A subordinate amount of this permanent open space may be developed as a common recreational area. The permanent open space created by the development of the site as a conservation subdivision shall further be provided in such a manner that it is accessible to residents of the subdivision and for maintenance. The permanent open space shall perpetually run with the subdivision and shall not be developed or separated from the conservation subdivision at a later date. Provisions shall be made for continuous and adequate maintenance at a reasonable and nondiscriminatory rate of charge.

C. NEO-TRADITIONAL OR TRADITIONAL NEIGHBORHOOD

1. Intent. The Intent of the Traditional Neighborhood Subdivision Type is to establish standards which will promote the principles and objectives of Neo-traditional / New Urbanist development in the Traditional Residential (TR) zoning district and which encourages mixed-use, diverse, pedestrian-oriented communities with a compact form.

2. Street Design Standards. Development subject to the requirements of this section shall comply with the following standards.

a. Accommodation of New Streets. Development shall be designed and located to accommodate existing and proposed streets in accordance with the Center Township Thoroughfare Plan and the

Lebanon Construction Standards, as amended.

b. Grid Network. A street grid network is encouraged. In cases where residential development has been organized around a grid street network, measures to interrupt or terminate long vistas exceeding twelve hundred (1,200) feet in length shall be employed to the maximum extent practicable. Such measures shall include, but shall not be limited to:

1) curvilinear street segments;

2) street jogs or off-sets designed to require vehicles to slow their travel speed;

3) bumpouts;

4) terminated vistas; and

5) stop signs at street intersections.

c. Design Speed. Alleys and local streets shall be designed for a maximum speed not in excess of twenty-five (25) miles an hour. Street widths and curb return radii shall be minimized to the maximum extent practicable.

d. Traffic Calming Measures

1) Minimal street widths, short block lengths, on-street parking, controlled intersections, roundabouts, and other traffic calming measures shall be used on all local streets.

e. Fronting onto Streets. The front facade shall be defined as including the building's primary entrance as determined by the entrance's function, scale and/or design detail.

f. Internal Street Connectivity. All streets shall be connected unless determined to be or impracticable to achieve due to topographic conditions, natural features, or adjacent existing development patterns.

g. Cul-de-sacs

1) Residential Development. Cul-de-sac streets shall be limited to a maximum of fifteen percent (15%) of the total road footage in a neo-traditional residential development.

a) Whenever cul-de-sac streets are created, at least one (1) eight (8) foot wide pedestrian access easement shall be provided, to the extent practicable, between each cul-de-sac head or street turnaround and the sidewalk system of the closest adjacent street or pedestrian pathway.

2) Nonresidential and Mixed-Use Development. Cul-de-sacs streets shall be limited to no more than ten percent (10%) of the total road footage in a nonresidential or mixed-use development.

3) Cul-de-sac Length. Cul-de-sac streets shall not extend for more than five hundred (500) feet as measured from the center of the cul-de-sac turn around to the nearest right-of way boundary of the adjoining street right-of-way intersection.

a) In no case shall a cul-de-sac serve more than twenty (20) lots in a development.

4) Termination

a) Cul-de-sac streets shall terminate in a circular turn around having a right-of-way radius of at least sixty (60) feet, and a paved turning radius of at least fifty (50) feet. General provisions for standard subdivisions can be found in Section 8.2 General Provisions for All Subdivisions of this ordinance.

h. External Street Connectivity

1) Street rights-of-way shall be extended to or along adjoining property boundaries such that a roadway connection or street stub shall be provided for development or to undeveloped lands at least every one thousand-five hundred (1,500) feet for each direction (north, south, east, and west) in which development abuts vacant lands.

2) At all locations where streets terminate with no street connection, but a future connection is planned or accommodated, a sign shall be installed at the location with the words "FUTURE ROAD CONNECTION" to inform property owners.

i. Alley Access to Individual Lots

a) Alleys shall be provided along the rear property lines of lots intended for new single-family detached and attached, townhouse, and two- to four-family dwellings when such lots:

(1) Are part of a block face with an average lot width of fifty-five (55) feet or less at the building setback line (excluding lots on cul-de-sacs); or

(2) Front a collector or arterial street (regardless of the average lot width).

b) Lots served by alleys in accordance with subsection (a) above shall access garages and/or off-street parking areas from the alley as opposed to a street.

c) Lots served by alleys in accordance with subsection (a) above shall not have driveways in front or corner side yard areas.

j. Limited Access to Collector Streets. Unless no alternative means of access exists, such as alleys or parallel access streets, and it is unreasonable or impractical to require an alternative means of access, direct driveway access to collector streets shall be limited to lots containing multiple family dwellings, commercial, and industrial and related uses.

k. Block Design

1) Block Length. The average block length in a development shall not exceed six hundred (600) linear feet between the right-of-way edges of intersecting streets. Except in cases where environmental or topographic constraints exist, or the property has an irregular shape, no individual block shall exceed a maximum length of eight hundred (800) linear feet.

2) Block Width. To the maximum extent practicable, the width of any block shall be sufficient to permit at least two (2) tiers of lots of appropriate depth for the zone district exclusive of any public alleys, watercourses, or other rights-of-way located outside platted lots.

l. Sidewalks

1) Sidewalks shall comply with the construction standards regardless of whether the street they serve is new or existing.

2) In cases where the block length exceeds eight-hundred (800) linear feet, sidewalks shall be provided mid-block if practicable to connect parallel streets on the long side of the block.

3) All required sidewalks shall connect with existing or planned sidewalks at property boundaries.

4) All multifamily, public and institutional, commercial, and industrial and related uses shall provide at least one (1) improved internal pedestrian access to connect all new buildings to existing or planned sidewalks in the adjacent public right-of-way.

5) Sidewalks shall not be required when:

a) A provided pedestrian pathway can serve the same

See Also:

Section 9.18 Subdivision Control Procedures - General

Section 9.19 Subdivision Control Procedures - Major Subdivisions

Section 9.20 Subdivision Control Procedures - Minor Subdivisions

function as a sidewalk;

b) A provided pedestrian pathway internal to a block provides access to each lot in the block; or

c) The Administrator determines it is impractical due to environmental or topographical constraints.

D. MULTIFAMILY AND NONRESIDENTIAL (COMMERCIAL, INDUSTRIAL)

1. Intent. The intent of the commercial subdivision guidelines is to ensure the compatibility of the proposed project with the surrounding community and to ensure an orderly and logical pattern of nonresidential development. Any proposed subdivision containing land that is zoned or otherwise intended to be used for commercial or industrial uses is subject to the development standards contained in this section and in Chapter 4: Zoning Districts of this ordinance, in addition to those standards applying to all subdivisions of land.

See Also:

Section 9.18 Subdivision Control Procedures - General

Section 9.19 Subdivision Control Procedures - Major Subdivisions

2. Subdivision Procedure. The subdivider shall follow the procedure for subdivisions provided in this ordinance.

   a. The subdivider may prepare a Secondary (Final) Plat for only the lots identified, and shall provide subsequent secondary (final) plats as additional lots become necessary.

   b. All commercial and industrial Primary Plats shall expire five (5) years from the date of approval by the Plan Commission.

   c. Procedures for Primary and Secondary Plats for subdivisions can be found in Section 9.18 Subdivision Control Procedures - General and Section 9.19 Subdivision Control Procedures - Major Subdivisions.

3. Subdivision Layout

   a. Where there is a single-tenant commercial building, the building shall be oriented toward the primary abutting street. Buildings setback greater than one hundred (100) feet from the right-of-way behind large expanses of parking shall be avoided.

   b. Where there is more than one (1) building in a commercial development, commercial lots shall have frontage on interior streets or an access road. Only individual developments shall have access on to public streets and only then as permitted by the Common Council, County Highway Department, or State Department of Transportation.

   c. Buildings and structures shall be subject to the nonresidential design standards in Section 7.18 Design Standards.

d. All principal and outlot buildings shall be arranged and grouped so that the primary orientation frames the corner of an adjacent street intersection, frames and encloses a "main or focal" street for pedestrian and/or/vehicular access, and frames and encloses parking areas.

e. The layout of outlots shall relate to the public street as well as the center of the commercial development.

1) Outlots shall reinforce rather than obscure the identity and function of a commercial development.

2) To the extent possible, outlots shall be clustered together to define street edges and entry points.

3) Spaces between outlots shall be improved for pedestrian travel with lighting, special paving, landscaping and other amenities.

4. Nonresidential Access and Circulation Standards

a. Vehicular

1) The number of traffic access points (curb or driveway cuts) for establishments with 100 feet or less of frontage on a street shall not exceed one.

2) For establishments in the PBC, PBO, PBI, ID and IN zoning districts with frontage of more than two hundred (200) feet, a service road shall be provided, of not less than two (2) lanes in width or a combined service/frontage road and parking area, parallel with and adjacent to the street upon which the establishments front. In the event that establishments front on more than one street, such service roads may be required on more than one street frontage.

3) A service/frontage road or roads required by this section shall be effectively separated from the main roadway by a corridor buffer landscaped strip or other suitable delineation no less than twenty (20) feet wide, and shall be designed and arranged so as to provide the principal means of access to abutting business establishments.

4) In general, the use of public improved alleys, interior access roads or any other designated means to minimize the number of traffic access points in commercial areas are encouraged.

5) Interconnectivity / cross-access easements shall be provided between adjacent commercial or industrial lots. The easement

shall be recorded on the plan and is enforceable and binding.

6) Special requirements may be imposed by the Plan Commission with respect to streets, street access, curbs, and sidewalk design and construction.

7) If access will be required for large trucks and/or heavy loads, the Plan Commission may increase the construction and design requirements. Roads serving primarily nonresidential traffic, especially truck traffic, shall not normally be extended to the boundary of adjacent tracts used or zoned for residential purposes.

b. Pedestrian

See Also:

Section 8.9 Pedestrian Network Standards

1) Sidewalks in commercial areas shall be located on both sides of a street and be a minimum six (6) feet in width.

2) Sidewalks in industrial areas shall be located on at least one side of a street and be a minimum of five (5) feet in width.

3) Perimeter paths and sidewalks are required per the Transportation Plan on all arterial, collector and local streets. Perimeter multi-use paths shall be a minimum of eight (8) feet wide.

4) Sidewalks shall be provided along the full length of a commercial retail facade with a pedestrian entrance and direct access to the parking lot. The sidewalk shall be a minimum of eight (8) feet in width.

5) Internal pedestrian walkways in parking areas shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks or scored concrete.

c. Alleys. Alleys may be permitted by permission of the Plan Commission to provide loading and service areas. Such alleys shall have a right-of-way width of at least twenty (20) feet and a pavement width of at least sixteen (16) feet.

5. Additional Standards. The following items shall be addressed, either through the lot design or through notations placed upon the plat:

a. Loading Docks And Semi-truck Parking. Loading docks, semi-truck parking and/or semi-truck turn-around areas shall be designated by the use of signs and pavement markings. These areas shall be separated from parking and access areas used by automobiles

or pedestrian traffic. Public streets shall not be used for semi-truck parking, standing or backing. The overnight parking of semi-trucks shall not occur between the hours of 10 p.m. and 7 a.m. except in designated areas of semi-truck travel centers (truck stops).

b. Fire Lanes. Fire lanes shall be required at all entrances and exits to structures and storage areas and at all locations of hydrants, Siamese connections, sprinkler controls, or other locations deemed appropriate by the Plan Commission. Fire lanes shall be marked by signs and pavement markings in accordance with current standards and specifications. Fire lanes shall be a minimum width of twenty (20) feet.

c. Parking

1) Parking lots shall have a hard, dust-free surface and shall be designed to provide safe, well-defined points of ingress and egress. Alternative and innovative pavement surfaces considered to be "best management practice" in stormwater design also shall be considered by the Plan Commission.

2) The Commission shall require such physical barriers, pavement markings, signs, and landscaping as it deems necessary to properly channel traffic to designated parking entrances and exits.

3) A maximum of fifty percent (50%) of the required off-street parking shall be provided in the front yard. For every ten percent (10%) increase over the maximum allowed parking in the front yard, the interior landscaping requirements shall increase by five (5) feet.

d. Snow Storage. Developments which have parking, loading, and driveway areas in excess of forty thousand (40,000) square feet shall contain snow storage areas. Drainage plans shall include plans for the disposal of melt water.

e. Open Space

1) Open space can enhance any development and be used by customers and employees. Open space can be landscaped or hard surfaced such as plazas and patios. The open space can contain planting, site furnishings, water features, or public art. Open space shall not include retention ponds, required landscaping, sidewalks, or designated parking areas.

2) Open space shall be provided at the following rates according to land use:

Table 8.1: Percentage Open Space Required (Nonresidential)

Subdivision Type	Percentage Usable Open Space Required
commercial retail	5%
commercial office	2%
planned industrial	2%

f. Drainage

1) A drainage plan shall be submitted meeting the specifications of Section 9.17 Development Plan.

2) Such system shall be designed so as to maximize the disposal of storm water into the storm sewer system. Such system may also make maximum use of on-site retention ponds, as needed, to minimize the downstream impact of drainage from the site.

a) Retention/ detention pond sites, where possible, shall be located in a visible location and incorporated as an amenity into the project.

g. Water And Sewer Facilities. The Plan Commission may impose such requirements as it deems necessary on the installation of water and sewer facilities.

8.2 GENERAL PROVISIONS FOR ALL SUBDIVISIONS

A. INTENT. The subdivision of land and the subsequent development of the subdivided plat shall be subject to the control of the City of Lebanon pursuant to the requirements of the Lebanon Comprehensive Plan for the orderly, planned, efficient, and economical development of the city. The Subdivision of land shall be permitted in all zoning districts.

B. SUBDIVISION DEFINED. The division of any lot for the purpose of sale, transfer, gift, or lease that results in the creation of one (1) or more new building sites shall be considered a subdivision and shall be subject to the requirements of Chapter 8: Subdivision of Land and the subdivision control procedures within Chapter 9: Permits, Certificates, and Procedures.

C. DIVISION FROM PARENT TRACT

1. Major Subdivision. No subdivision which results in the creation of more than four (4) lots from a parent tract, whether at the same time or over

the course of time, shall be considered under minor subdivision review, regardless of whether the four lots are created through one subdivision or several subdivisions over time.

a. In any district, no more than one (1) principal structure and its customary accessory uses shall be located on a single lot; except that principal structures designed and platted as a single unit under single ownership and control, such as a multifamily residential project, business shopping center, or combined industrial operations, may be permissible on a single lot under the terms of this ordinance.

2. Minor Subdivisions. A minor subdivision shall be considered any subdivision which results in the creation of four (4) or fewer lots from a parent tract, whether at the same time or over the course of time.

D. **PRIVATE AGREEMENTS.** The following subdivision design standards shall be required prior to the approval of any subdivision plat or Development Plan. Additionally, these standards shall apply to Planned Unit Developments unless through the PUD District Ordinance a design standard is waived or altered.

1. This Ordinance is not intended to supersede any easement, covenant, or any other private agreement or restriction; however, where the provisions of this ordinance are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of this ordinance shall govern.

2. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations that are more restrictive, or higher standards than the requirement of these regulations, and such private provisions are not inconsistent with this ordinance, then such private provisions shall be supplemental to this ordinance. Private covenants may be enforced at the discretion of the City of Lebanon.

3. Where covenants or private agreements exist, the City may require certification and signatures from the Homeowners Association or other property owner prior to issuing a permit.

See Also:

Section 9.19 Subdivision Control Procedures - Major Subdivisions for procedures for primary and secondary plats.

E. ADEQUATE PUBLIC FACILITIES

1. No annexation, initial zoning, rezoning or preliminary platting shall be approved unless the Plan Commission determines that public facilities will be adequate to support and service the area of the proposed subdivision. The applicant for a subdivision of land into fifty (50) lots or greater shall, at the request of the Plan Commission, submit sufficient information and data in the form of a "Fiscal Impact Analysis" on the proposed subdivision to demonstrate the expected impact on and use

of public facilities by possible uses of said subdivision. Public facilities and services to be examined for adequacy will include roads, sanitary sewer service, water service, schools and public safety services.

F. DEVELOPER RESPONSIBILITY

1. The developer has the duty of compliance with reasonable conditions laid down by the Plan Commission for design, dedication, improvement, and restrictive use of the land to conform to the physical and economic development of the City of Lebanon and to the health, safety and general welfare of the future lot owners in the subdivision and of the community at large.

G. LEBANON CONSTRUCTION STANDARDS INCORPORATED BY REFERENCE

1. The Lebanon Construction Standards Manual, Ordinance 99-4 as amended, herein referred to as the "Lebanon Construction Standards", shall be in full force and effect and are hereby incorporated herein by reference. The text shall supersede drawings and images.

2. Where discrepancies occur between the written text of this section and the Lebanon Construction Standards, as amended, the Lebanon Construction Standards with their respective notes shall supersede the written text of this section.

8.3 EXEMPTIONS

A. EXEMPTIONS. The following administrative subdivisions of land are exempt from this chapter of the Unified Development Ordinance subject to the specifications described for each. All exempt divisions shall be recorded through metes-and-bounds legal descriptions in the office of the Boone County Recorder.

1. Legal Description Correction. A division of land for the transfer of a tract or tracts to correct errors in an existing legal description, provided that no additional building sites are created, and no additional public improvements are required or created.

2. Right-of-Way Acquisition. A division of land for the Federal, state, or local government to acquire right-of-way.

3. Transfer Between Adjoining Property Owners. A division of land for the transfer of a tract or tracts between adjoining lots provided that (a) no additional building sites are created (b) no non-conforming lots are created, and (c) no additional public improvements are required or created by the subdivision.

8.4 WAIVERS

A. GENERAL PROVISIONS. Where the Plan Commission finds that (1) extraordinary hardships or practical difficulties may result from strict compliance with these regulations, or (2) the purposes and intent of these regulations may be served to a greater extent by an alternative proposal, it may grant waivers from the subdivision standards as set forth and in accordance to the procedures in Section 9.24 Subdivision Control Waiver of this ordinance.

B. CONFLICT OF AUTHORITY. No waiver of the provisions of this article shall conflict with the powers and duties of the Board of Zoning Appeals. The Board of Zoning Appeals does not have the authority to hear or grant requests for waivers to the regulations of this article of the Unified Development Ordinance.

8.5 LAND DEVELOPMENT PRINCIPLES

A. GENERAL. The standards contained in this section shall apply to all subdivisions. Subdivisions shall be designed with consideration given to the topography of the land and other natural characteristics of the site and surrounding property.

B. LAND SUITABILITY. If the commission finds that the property requested to be subdivided is unsuitable for development because of flooding, topography, inadequate water supply, inadequate sewage disposal, or other conditions which may endanger health, life, or property, the Plan Commission shall not approve the land for subdivision.

C. CRITERIA. As a minimum, the Plan Commission is empowered to approve the subdivision of land only after it finds that the land meets the following criteria.

1. Steep Slopes. Each lot shall contain a contiguous land area so as to provide a building site that is relatively stable. The Soil Survey of Boone County shall be used to determine steep slopes.

2. Water Bodies. Each lot shall contain a contiguous land area providing a suitable building site which is at least seventy-five percent (75%) of the minimum lot size established by the Zoning Ordinance. The remaining twenty-five percent (25%) of the required minimum lot size may contain permanent or seasonal water bodies.

3. Sewage Disposal. Each lot shall be connected to the public sewer system.

4. Water Service. Each lot shall be connected to the public water system.

5. Flood Hazards. Each lot will contain enough land which is not located in a floodway as defined by the zoning ordinance to accommodate the permitted use(s) of the property. The Plan Commission shall review all proposed subdivisions to determine whether the subdivision lies in a flood-prone area, as defined in Chapter 11: Definitions. If the Plan Commission finds the subdivision to be so located, the Plan Commission shall forward pertinent plans and materials to the Indiana Department of Natural Resources (IDNR) for review and comment. The Plan Commission may require appropriate changes and modifications in order to assure the following: it is consistent with the need to minimize flood damages; all public utilities and facilities such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and adequate drainage is provided so as to reduce exposure to flood hazards.

8.6 STANDARDS FOR SURVEYS AND PREPARATION OF PLATS

A. GENERAL.

1. All surveys shall be conducted and plats prepared in accordance with the Indiana Survey Standards adopted by the Indiana Society of Professional Land Surveyors and any amendments thereto. In the event of any difference between the Indiana Survey Standards and this Article, the stricter requirement shall apply.

2. All plats submitted for approval shall be prepared by or under the supervision of a professional land surveyor or professional engineer licensed in compliance with the laws of the State of Indiana. All drawings shall be neat, legible, reproducible, reducible, and drawn on a permanent material. Concept Plans are excluded.

8.7 MONUMENTS AND MARKERS

A. PLACEMENT. Monuments and markers shall be placed so that the center of the pipe or marked point shall coincide exactly with the intersection of lines to be marked, and shall be set so that the top of the monument or marker is level with the finished grade.

1. Monuments shall be set:

   a. At the intersection of lines forming angles in the boundary of the subdivision, provided that not more than eight (8) monuments shall be required.

   b. At the intersection of street property lines. Not more than one (1)

monument shall be required at an intersection.

2. Markers shall be set:

   a. At the beginning and ending of all curves along street property lines.

   b. At all points where lot lines intersect curves, either front or rear.

   c. At all angles in property lines of lots.

   d. At all other lot corners not established by a monument.

3. Monuments shall be of stone, pre-cast concrete, or concrete poured in place with minimum dimensions of four inches (4") by four inches (4") by thirty inches (30"), set vertically in place. They shall be marked on top with an iron or copper dowel set flush with the top of the monument, or deeply scored on top with a cross. Markers shall consist of iron pipes or steel bars at least thirty inches (30") long, and not less than five-eighths inch (5/8") in diameter.

8.8 STREET STANDARDS

A. INTENT. The street and alley layout shall provide adequate vehicular and pedestrian access to all lots and parcels of land within the subdivision. Streets shall conform to the following principles and standards and the Lebanon Construction Standards, as amended.

B. SPECIFICATION STANDARDS INCORPORATED BY REFERENCE

1. The "Standard Specifications for Road and Bridge Construction and Maintenance", latest issue, of the State Highway Commission of Indiana, shall be in full force and effect and are hereby incorporated herein by reference. The text shall supersede drawings and images. References within this section refer to such publication, referred to hereinafter as "Standard Specifications".

C. GENERAL LAYOUT

1. Gradient. Proposed streets shall be sited to conform to the contour of the land as best as possible so as to produce usable lots and streets of reasonable gradient.

2. Interconnectivity. Residential street systems shall be designed to maximize vehicular connections. Wherever possible, proposed streets shall be extended to the boundary line of the tract to be subdivided so as to provide for normal circulation of traffic within the vicinity. Street Interconnectivity: In all developments there shall be a plan for vehicular connections into undeveloped tracts or parcels of land. Streets

designed for future extensions shall have public right-of-way platted to the developer's property line so as not to create future right-of-way takings or purchases upon extension. A barricade shall be constructed on the extension to prevent accidental passage into undeveloped areas. Refer to the Center Township Thoroughfare Plan.

3. Extension Of Adjacent Streets. Wherever there exists a dedicated or platted portion of a street or alley adjacent to the proposed subdivision, the remainder of the street or alley to the prescribed width shall be platted within the proposed subdivision.

4. Access To Primary Circulation System. Residential street patterns shall provide reasonable direct access to the primary circulation system. Residential driveways within subdivisions shall access an internal approved street network. No driveway access to individual lots within major residential subdivisions shall be permitted from arterial streets.

5. Conflict With Efficiency Of Bordering Arterial Routes. Local circulation systems and land development patterns shall not conflict with the efficiency of bordering arterial routes.

6. Right-of-way Widths. Widths of Arterial, Collector and Local Streets shall conform to the widths set forth in the Thoroughfare Plan. In subdivisions that adjoin or include existing streets that do not conform to the minimum right-of-way dimensions as established by the Thoroughfare Plan, the subdivider shall dedicate additional width along either one or both sides of such streets of inadequate width so as to be in conformance, provided the area to be used for widening is owned by the subdivider or under his control.

D. STREET GEOMETRY

1. Intersection Of Centerlines. The center lines of streets should intersect as nearly as possible at right angles. An oblique street should be curved approaching an intersection and should be approximately at right angles for at least one hundred (100) feet prior to the intersection.

2. Property Line Corners At Intersections Of Streets And Alleys. At intersections of streets and alleys, property line corners shall be rounded by arcs of at least a fifteen (15) feet radii or by chords of such arcs.

3. Property Line Corners At Intersections Of Streets. At intersections of local or collector streets, the minimum curb return radius shall be twenty (20) feet. The desirable radius is twenty-five (25) to thirty (30) feet. The minimum curb radius on arterial streets and in the PBI and ID Districts shall be thirty (30) feet, except where traffic conditions warrant a smaller radius.

4. Increase In Radius Of Intersection Arc. If the smaller angle of intersection of two streets is less than sixty (60) degrees, the radius of the arc at the intersection of property lines shall be increased as deemed advisable by the Plan Commission.

5. Intersection Of More Than Two Streets At One Point. Intersections of more than two (2) streets at one point shall be avoided.

6. Minimum Centerline Offsets For Street Jogs. Street centerline offsets of less than one hundred twenty-five (125) feet shall not be permitted.

7. Specific Street Standards

   a. Centerline Minimum Radius. Curvature measure along the center line shall have a minimum radius as follows:

      1) Principal Arterials ..... 500 feet
      2) Minor Arterials ..... 300 feet
      3) Urban Collectors ..... 200 feet
      4) Local Streets ..... 100 feet

   b. Tangent Between Reverse Curves. Between reverse curves on Arterial Streets there shall be a tangent of not less than one hundred (100) feet; and on Feeder and Residential Streets such tangent shall be not less than forty (40) feet.

   c. Maximum Grades Of Streets. Maximum Grades for streets shall be as follows:

      1) Principal and Minor Arterials, not greater than six percent (6%).

      2) Urban Collectors, Local Streets, and Alleys, not greater than eight percent (8%).

E. STREET CONSTRUCTION STANDARDS

1. Construction and Materials.

   a. Streets (and alleys where provided) shall be completed to grades shown on plans, profiles, and cross-sections, provided by the subdivider, prepared by a registered professional engineer, and approved by the Commission.

   b. The street shall be graded, surfaced and improved to the dimensions required by the cross-sections, and the work shall be performed in the manner prescribed in the Standards Specifications.

   c. The street surface shall be of Portland Cement Concrete or a flexible pavement, such as asphalt, and shall be constructed in accordance with design characteristics at least equal to those given

below. Pervious concrete surfaces may also be used upon approval by the Administrator and the TAC.

1) Rigid Type Pavement (Plain Cement Concrete)

a) Minimum design characteristics shall be as follows:

Table 8.2: Pavement Design Characteristics

	Principal & Minor Arterials	Urban Collectors	Local Streets & Alleys
Controlled Wheel Load	11,000 lbs.	8,000 lbs.	6,000 lbs.
Concrete*			
Thickness	8″	7-1/2″	6″
Granular Leveling-Base	3″	3″	3″

* Uniform Design (Plain Cement Concrete: 550 psi or 6 Bag Concrete)

b) Subgrade shall be moist but not muddy at the time the concrete is placed. If required, it shall be saturated with water the previous night or not less than six hours prior to the concrete placement. If it subsequently becomes too dry just prior to placing concrete, it shall be sprinkled, but the method of sprinkling shall be such that mud or pools of water will not be formed. Plain cement concrete pavement shall be in accordance with the Standard Specifications, or any subsequent amendments thereto.

c) Materials shall comply with the Standard Specifications or any subsequent amendments thereto. Size No. 2 (U) coarse aggregate will not be required. Cement content shall be six (6) bags per cubic yard of concrete mixture. Concrete shall be machine finished except on widened portions, intersections or other places where hand finishing will be permitted if authorized.

d) Weakened plane or dummy transverse contraction joints shall be placed, not to exceed twenty (20) foot spacing. Transverse contraction joints may be either formed or sawed dummy groove, ribbon or pre-molded strip type. When transverse joints are to be formed by sawing, care must be taken to saw the grooves soon after placing the concrete to prevent the formation of cracks due to contraction of the slab. All transverse joints shall be sawed eight hours after the placing of the concrete unless

authorization is given for sawing at a later time. One of the above named joints shall be placed at every catch basin and manhole in line of pavement. The location of manholes, etc. in the pavement shall determine the exact location of joints. All joints must extend throughout side strips to full width of pavement. Dowel bars will not be required except where shown on the plans. Transverse expansion joints, with approved dowel bar assembly, shall be placed at intersections and where shown on the plans. Whenever the width between forms of the pavement under construction is greater than thirteen (13) feet, longitudinal joints shall be constructed so as to divide the pavement into strips not to exceed thirteen (13) feet each. This may be accomplished by constructing a slot or groove as herein described for dummy contraction joints, or by a deformed metal key plate installed prior to the depositing of the concrete. Finishing machines or vibrating strike boards of design other than as specified in the Standard Specification will be permitted only if work of equal quality as set out in these specifications is obtained.

e) Curing with approved impervious membrane or sealing compounds will be permitted, if authorized.

2) Flexible Type Pavement (Asphaltic Surface)

a) Minimum design characteristics shall be as follows:

Table 8.3: Flexible Type Pavement Characteristics

	Principal & Minor Arterials	Urban Collectors	Local Streets & Alleys
Controlled Wheel Load	11,000 lbs.	8,000 lbs.	6,000 lbs.
Surface - Course	1″	1″	1″
Binder - Course	3″	2″	2″
Bitunimous - Base	12″	12″	10″
Granular - Leveling Base	6″	1″	1″

b) Subbase material shall meet the requirement for Granular Base below. Construction shall follow the procedure specified in the Standard Specifications, or any subsequent amendments thereto. Special subbase drainage in areas of cuts and swales shall be as set out in the satisfactory

plans and specifications.

c) Granular Base courses shall be of Waterbound Macadam Base materials and methods conforming to the requirements of the Standard Specifications, or any subsequent amendments thereto.

d) Bituminous Base courses shall confirm to the requirements of the Standard Specifications.

e) Surface courses shall consist of a surface and a binder as set out below. Material and method shall conform to cited standards below.

f) Binder Course. Material and methods shall conform to the requirements of the Standard Specifications, or any subsequent amendments thereto.

g) Surface Course. Material and methods shall conform to the requirements of the Standard Specifications, or any subsequent amendments thereto.

d. The subgrade shall be prepared in compliance with the Standard Specifications or any subsequent amendments thereto.

2. Subsurface Drainage. Prior to placing the street and all surfaces, adequate subsurface drainage for the street shall be provided by the subdivider. Subsurface drainage pipe, when required, shall be aluminum or coated corrugated pipe or a similar type not less than twelve (12) inches in diameter approved by the Commission.

a. As-builts. Upon the completion of the street and alley improvement, plans and profiles as built shall be filed with the Commission. (See Section 9.22 As-Built Plans/ Record Drawings)

3. Shoulders, Side Slopes And Ditches

a. All shoulders, side slopes and ditches shall be prepared in accordance with the Standard Specifications or any subsequent amendments thereto, and construction plans required to be submitted by the applicant.

b. All shoulders, side slopes and ditches shall be protected from erosion by various erosion control materials, such as groundcover or native grasses, which slow the velocity of and filter runoff, as set forth in the Standard Specifications, and are shown on the erosion control plan, which plan shall be a part of the required construction plans to be submitted by the applicant as part of the plat or Development Plan. (Section 9.17 Development Plan) The use of sod which

requires mowing and chemical applications should be avoided.

c. Side slopes having a grade in excess of two to one (2:1) shall be protected by accepted erosion control materials in accordance with the Standard Specifications, as amended, or as requested by the TAC or the Administrator, as required on the construction plans to be submitted by the applicant.

d. Ditches having a grade of or in excess of three percent (3%) shall have a gutter consisting of vegetative material. Refer to the Lebanon Construction Standards for further details.

4. Intersection Visibility

a. Horizontal visibility on curved streets and vertical visibility on all streets must be maintained along the center lines as follows:

(1) Principal Arterials ..... 500 feet
(2) Minor Arterials ..... 300 feet
(3) Urban Collectors and Local Streets ..... 150 feet

b. The following paragraphs shall be required as a provision of the restrictive covenants of all secondary plats to which they apply:

1) No sign, fence, wall, hedge, tree or shrub planting which obstructs sight lines and elevations between three (3) and nine (9) feet above the street shall be placed or permitted to remain on any corner lot within the sight visibility triangle as per Section 7.2 Sight Visibility Triangle.

2) The same sight line limitations shall apply to any lot within ten (10) feet of the intersection of a street right-of-way line with the edge of the driveway pavement or alley line.

3) No driveway shall be located within seventy-five (75) feet of the intersection of two (2) street lines.

F. CURB AND GUTTER

1. General Requirements. Poured concrete curbs and gutters shall be provided on all streets designed as an urban cross-section, and on any other street as specifically required by the Plan Commission at the time of Primary Plat review. Street side swales for stormwater drainage may be used in rural road cross-sections and with approved conservation / cluster subdivision development.

2. Curb Locations. Where curbs are required, they shall be installed on each side of the street surface and are to be considered as part of the street.

3. Curb design. The curb and gutter shall be of one of the construction types shown in the Lebanon Construction Standards, and as approved by the Plan Commission, and shall be constructed according to the following specifications:

   a. The base for the curb and gutter shall be well-compacted on the existing base or grade.

   b. The minimum specifications shall be as shown in the Lebanon Construction Standards.

   c. All gutters and curbs shall be constructed in conformance with the Lebanon Construction Standards.

   d. Gutter Grade Requirements: The minimum grade of any street gutter shall not be less than six/tenths of a percent (0.6%).

   e. Additional inlets shall be required when encroachment of storm water into the street will disrupt traffic under the 10-year storm design.

   f. Inlet grates should be depressed slightly below the plane of the gutter to improve removal of runoff water. Inlet grates shall be heavy-duty type and appropriate for bicycle traffic.

4. Not Permitted. Extruded, non-integral asphalt curb shall not be permitted on streets.

G. PRIVATE STREETS. The use of any private street is specifically discouraged.

1. Construction Standards. All private streets shall comply with all City of Lebanon standards for public street construction. This shall include, but not be limited to, sidewalks, street trees, pavement width and construction standards, and drainage.

2. Width. All private streets shall be included in an easement of width equal to the right-of-way that would be required if the street were public. This easement shall not be counted as a part of any lot for the purpose of that lot meeting the minimum size requirements for the district in which it is located.

3. Gates. Gates to private streets shall be permitted only when the following criteria are met:

   a. Public pedestrian and bike access to and through the site must be provided without obstruction.

   b. Minimum of 60 feet of stacking area shall be provided outside the gate. Stacking area cannot be within the right-of-way of a street

designated in the Center Township Thoroughfare Plan.

c. Turnaround area with adequate turning radius must be provided to the design specifications of a passenger vehicle. Turnaround and gate must be located outside of the right-of-way.

d. School bus pick-up area must be provided.

e. Gate and associated structures must be of high quality materials and construction.

f. Emergency response access to the development must be provided and approved by all City public safety departments.

g. Access to other City or County departments must be provided for official business, including but not limited to building inspections, code enforcement inspections and inspections for tax assessment purposes.

h. Power must be supplied to the gates at all times.

H. STREET NAMES

1. The Plan Commission shall approve all road names at the time of primary plat / preliminary plan approval. No street names may be used which will duplicate, or be confused with, the names of existing streets, unless for special reasons to be considered as exceptions by the Commission. The streets which are logical extensions or continuations of, or obviously in alignment with, any existing streets, either constructed or appearing on any validly recorded plat, shall bear the names of such existing streets. Such approved street names shall not be changed unless the same are submitted to the Plan Commission and approved by this Commission in an open public meeting.

I. CUL-DE-SACS

1. All cul-de-sacs shall terminate in a circular right-of-way with a minimum diameter as set forth below and in the Lebanon Construction Standards, or other arrangement for the turning of all vehicles conveniently within the right-of-way.

2. Cul-de-sacs shall not exceed six hundred (600) feet in length measured along the centerline from its intersection with the centerline of another street to the center of the turn-around right-of-way.

3. The minimum pavement and right-of-way radius and other design features of all cul-de-sacs shall be consistent with Table 8.4: Cul-de-sac Design Standards.

4. The minimum radius of a cul-de-sac street shall be as specified in the

table below.

5. Parking shall not be permitted on a cul-de-sac with a pavement radius of fifty (50) feet or less.

Table 8.4: Cul-de-sac Design Standards

Design Standard (all measurements in feet)	Residential Street		Nonresidential Street	
	Urban	Rural	Urban	Rural
Right-of-Way Radius	60	60	60	60
Street Pavement Radius	50	50	50	50
Curb Requirement	Vertical/ Rolled		Vertical/ Rolled	
Street/Sidewalk Separation	5 foot min.		5 foot min.	
Sidewalk Width	1- and 2-family: 5 feet Multifamily: 5 feet		Commercial: 6 feet Industrial: 5 feet	
Maximum Grade	7%	7%	5%	5%
Minimum Grade	0.6%	0.6%	0.6%	0.6%

J. FRONTAGE/ SERVICE ROAD. Where a subdivision borders on, or contains an existing or proposed interstate or other limited access highway or arterial road as shown on the Thoroughfare Plan or a railroad right-of-way, the Plan Commission may require a street approximately parallel to, and on each side of the right-of-way, at a distance suitable for the appropriate use of the intervening land.

1. Such distances shall be determined with due regard for the requirements of approach grades and future grade separations.

2. The Plan Commission may require that the intervening land strips be dedicated to the City or to a lot owners association for the subdivision in which they are located.

K. HALF STREETS. Half streets shall be prohibited. Wherever a half street is adjacent to a tract to be subdivided, the other half of the street shall be planned within such tract.

L. DEAD-END STREETS. The arrangement of streets shall provide for the

continuation of streets between adjacent properties when a street is proposed to be and should logically be extended but is not yet constructed. An adequate easement for turn-around shall be provided for any such temporary dead-end street which extends one hundred fifty (150) feet or more in length. A barricade and signs indicating "Dead End" shall be erected at the terminus of the street. Such easement shall be automatically vacated to abutting property owners when said dead-ended street is legally extended.

M. BICYCLE LANES

1. All street designs shall consider any applicable bike lane requirements. Where bike lanes are required they shall be designed consistent with AASHTO standards and the requirements of the City Street Department.

   a. The minimum width for a two (2)-way off-street path shall be eight (8) feet.

   b. On-street bike facilities shall be one (1)-way paths, moving with the direction of traffic on the street. The minimum width for a one (1)-way path shall be four (4) feet.

N. STREET LIGHTS. Street lights shall be provided in subdivisions at locations determined by the Lebanon Utilities Service Board. The subdivider shall be responsible for the initial purchase and installation of all lights.

1. Placement. Street lighting shall be provided at all intersections of streets within, and adjacent to, the subdivision and elsewhere as deemed appropriate by the Planning and Zoning Administrator and Lebanon Utilities. Street lights shall be located in the right of way, adjacent to the street.

2. Mounting Standards. Street lights in residential subdivisions shall be pole mounted on standards of non-corrosive metal, fiberglass, or wood not to exceed fifteen (15) feet in height. Non-residential subdivision street lights shall not exceed twenty-five (25) feet in height.

3. Foundations. Light standards shall be mounted in appropriate concrete foundations.

4. Decorative Lighting. The use of decorative street lighting shall be encouraged.

O. STREET IDENTIFICATION SIGNS

1. Street regulatory signs shall be per MUTCD standards or as approved by the City of Lebanon Streets Department.

2. The subdivider shall provide street signs at the intersection of all streets. The location and type of sign shall meet the approval of the Lebanon Board of Public Works and Safety.

8.9 PEDESTRIAN NETWORK STANDARDS

A. Sidewalk Layout

1. Location. Sidewalks shall be provided on both sides of all streets. Sidewalks shall completely encircle the turn-around of any cul-de-sac.

   a. Exception. Sidewalks need only be provided on one side of a frontage road adjacent to the developed parcels.

2. Width. Sidewalks in single-family, two-family, or multifamily housing developments shall be a minimum of five (5) feet in width. Sidewalks in commercial areas shall be a minimum six (6) feet in width, and sidewalks in industrial areas shall be a minimum of five (5) feet in width.

3. Street/Sidewalk Separation. Where possible, sidewalks shall be separated from the back of curb of the adjacent road by a minimum width of five (5) feet. All areas between the back-of-curb and sidewalk, that are not used for accessing individual properties from the street, shall be planted and maintained landscaped areas.

4. Pedestrian/Multi-use Paths. Pedestrian paths, when provided, shall be a minimum of eight (8) feet in width. They shall be constructed of four (4) inch thick asphalt on an appropriately compacted base and shall meet any additional requirements in the Lebanon Construction Standards.

5. Transitions. Sidewalk width transitions shall occur only at street intersections. The widest required sidewalk shall be provided for the entire length of the block, regardless of the use of individual lots.

6. Slope. The surface of any sidewalk, when completed, shall have a sufficient slope to drain adequately and as specified in the Lebanon Construction Standards.

B. SIDEWALK CONSTRUCTION. Sidewalks and pedestrian paths shall be constructed consistent with the following requirements:

1. Sidewalks. Sidewalks shall be constructed of Portland cement concrete within subdivisions in accordance with the standards of the Lebanon Construction Standards.

   a. Joints. Contraction joints shall be provided a maximum of every 6 feet, and expansion joints shall be provided for every forty-eight (48) feet of sidewalk length.

   b. Thickness. Sidewalks shall be a minimum of four (4) inches thick in all locations with a four (4) inch base of either compacted stone or sand. In instances where sidewalks are crossed by driveways, the

sidewalks shall have a minimum thickness of 6 inches.

2. Pervious Pavement. Pervious pavement type construction for sidewalks and paths may be allowed upon approval from the City civil engineer.

C. SIDEWALK ADA COMPLIANCE. It is the legal responsibility of the developer to assure compliance with the current American with Disabilities Act (ADA), as amended.

1. The developer and/or his/her engineer shall certify compliance with ADA standards to the City Streets Department at the time the public improvements are accepted by the City.
2. Rolled curbs are not a substitute for wheelchair ramps and shall not be considered to meet ADA requirements.
3. Ramps are to be located at all intersections, driveways, and other transition access points.
4. Ramps shall be constructed using truncated domes or other techniques as specified in the Lebanon Construction Standards.

D. CROSSWALKS. Where a sidewalk or pedestrian path crosses a street within or adjacent to a subdivision, safety devices such as painted crosswalks, alternative cross-walk pavement types, crosswalk signs, traffic calming measures, or traffic control devices shall be installed. All cross-walk treatments shall be subject to the approval of the Lebanon Street Department.

E. USE OF EASEMENTS. Easements of at least ten (10) feet in width shall be provided for sidewalks that, due to topography or other site features, are not completely included in public right-of-way adjacent to a street. Sidewalks and pedestrian paths that link common areas, public sites, or natural features as part of any subdivision's open space design shall be included as subdivision common area or easement on private property.

8.10 BLOCK STANDARDS

A. DIMENSIONS

1. Block length and width or acreage within bounding streets shall be such as to accommodate the size of lot required in the area by the Zoning Code and to provide for convenient access, circulation control, and safety of street traffic. Blocks that are unreasonably large or small will not be approved.
2. The maximum block length shall be one thousand two hundred (1,200) feet or no more than twelve (12) times the lot width permitted in the

applicable zoning district, whichever is shorter. Block length shall be measured as the distance between intersecting streets.

3. Residential blocks shall be of sufficient depth to accommodate two (2) tiers of lots of minimum depth, except where reverse or double frontage lots bordering a freeway, arterial street or flood plain are used.

4. In the design of blocks longer than eight hundred (800) feet, the Commission may specify the provision of pedestrian crosswalks near the center, or wherever most useful to facilitate pedestrians circulation, utilities or drainage.

8.11 LOT STANDARDS

A. GENERAL LOT STANDARDS.

1. Subdivision lots shall be adequate for the type of development and land use proposed, and shall be in conformity with this ordinance.

2. The lot size, width, depth and shape, grade location, and orientation shall be in proper relation to street and block design and to existing and proposed topographical conditions.

3. All lots shall abut on a street.

B. STREET ACCESS. Lots should not, in general, derive access exclusively from an Arterial or Collector street. Where several adjoining lots are designed with access from an Arterial or Collector street, the Plan Commission may require the use of shared driveways or a frontage road for those lots. The use of shared drives is specifically encouraged where nonresidential uses access an Arterial or Collector street. The street access of individual lots shall be restricted as follows:

1. Collector & Arterial Streets. Lots in all developments shall generally be designed so as to prevent vehicles from having to back into any Collector or Arterial Street.

2. Local Streets. All nonresidential lots (including multifamily residential lots) shall generally be designed so as to prevent vehicles from having to back into any public street.

C. SIDE LINES. Side lines of lots shall be at approximately right angles to straight streets and on radial lines on curved streets. Some variation from this rule is permissible, but pointed or very irregular lots shall be avoided.

D. DEPTH TO WIDTH RATIO. The depth to width ratio of any single-family residential lot shall not be greater than three to one (3:1).

E. COMMON AREA. An association of lot owners in the subdivision shall be

responsible for the maintenance and upkeep of any common area including but not limited to, landscaping, ponds, walkways, and play areas.

F. MULTIPLE FRONTAGE LOTS. Corner lots, through lots, and other lots that have frontage on more than one (1) street shall be required to provide front yard setbacks on all frontages, and shall be designed with adequate size and width to accommodate the required setbacks and to provide adequate buildable area.

G. LOT ORIENTATION. The lot line common to the street right-of-way shall be the front line. All lots shall face the front line and a similar line across the street. Wherever feasible, lots shall be arranged so that the rear lot line does not abut the side line of an adjacent lot.

H. LOT NUMBERING. Lots shall be numbered consecutively throughout the entire subdivision and shall be consistent with any phasing that may be planned for the development.

I. LOTS ABUTTING A WATERCOURSE. Lots abutting a watercourse, drainage way, channel, stream, or flood plain shall be setback a minimum of fifteen (15) feet from the top of bank in order to provide adequate access for public safety, personnel and equipment, and for maintenance.

See Also:

Riparian Area Requirements, Subsection 7.9(A)(2)(b)

8.12 ENTRANCE AND DRIVE STANDARDS

A. INTENT. The purpose of these entrance and drive standards is to provide for a safe and efficient vehicular and pedestrian transportation system by establishing minimum standards for site entrances, driveways, and interior drives.

B. GENERAL ENTRANCE/DRIVE STANDARDS. These standards are applicable to all zoning districts. All driveways and interior drives shall conform to the following design requirements:

1. Entrance Widths. No entrance shall exceed the following pavement widths at the point which they intersect the public right-of-way. The distances for these standards shall be determined by measuring from the outside edges of the curb or pavement (whichever is more) of the entrance or drive at the public right-of-way which it accesses, and shall not include any acceleration or deceleration lanes or turning radii.

   a. Fourteen (14) feet per lane (exclusive of any medians) if from a nonresidential or multifamily residential use onto any type of street, and

   b. Twenty-four (24) feet total if from a single-family or two-family use onto any type of street.

c. The maximum driveway width shall not exceed thirty (30) feet.

2. Travel Direction. The direction of travel for vehicles using entrances shall be as follows:

   a. All entrances providing access to a public right-of-way from all lots used for purposes other than single- or two-family residences shall be designed so that vehicles are traveling in a forward direction when entering and leaving.

   b. In no case may any entrance for any use be designed to require a vehicle to back onto any Arterial or Collector street.

3. Shared Entrances and Drives. Shared entrances and drives are encouraged for all uses in all zoning districts, specifically for any multifamily residential or nonresidential uses accessing a Major Collector or Arterial street.

   a. Access Easements. All shared entrances and drives shall be shall be constructed only in appropriate access easements which easements must be recorded before usage commences.

   b. Required Documentation. A permanent documentation of any shared entrance and drive agreement must be signed by all involved property owners. The permanent written agreement shall include, but is not limited to the following items: maintenance, snow removal, ownership, and liability. The agreement, which can be amended and assigned shall be reviewed and approved by the Lebanon Board of Works and duly recorded with the County Recorder. Any changes to the agreements must be accomplished with the consent of the Administrator. A copy of the agreement shall be retained for the files of the Plan Commission. The agreement shall be recorded prior to the issuance of the occupancy permit.

4. Interior Drive Widths. The minimum pavement widths for driveways and interior drives shall meet the following requirements, exclusive of any parking spaces:

   a. For single and two-family residential uses the minimum driveway width shall be twelve (12) feet.

   b. Multifamily drives shall be a minimum of twenty (20) feet.

   c. Driveways in commercial developments shall be a minimum of twenty (20) feet.

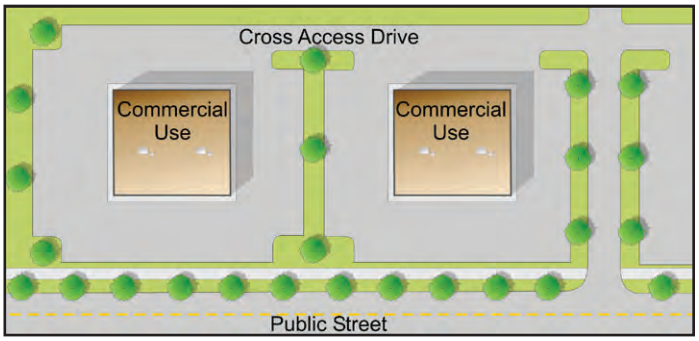
5. Curbs. All entrances and interior drives for property used for purposes other than agriculture, single-family residential, or two-family residential shall generally be completely curbed. Curbing shall not be required

if, in the opinion of the Lebanon Stormwater Board and/or County Surveyor, the drainage system for the property shall be best served if curbs were not present.

6. Commercial Area Internal Linkages. All uses located in a commercial zoning district shall provide interior drives that allow access between existing and proposed commercial uses on adjacent properties.

   a. Cross-Access Required. The drives must be designed as a single two-way drive or a pair of one-way drives that provide access between the parking lots and interior drives of all adjoining commercial uses.

   b. Separation. Interior drives providing cross-access between adjacent parcels shall be separated from the right-of-way of any such street based on the vehicle stacking requirements of the entrance(s) to the property from the public street.



Example of an interior drive with a rear cross-access drive in a commercial subdivision.

C. ENTRANCE SIGNS

1. A minimum of one sign shall be provided at one entrance to a subdivision. Refer to Section 7.7 Sign Regulations.

   a. The sign shall identify the subdivision.

   b. The materials should be compatible with the visual character of the subdivision.

8.13 RETENTION POND STANDARDS

A. RETENTION PONDS. To the extent possible, all subdivision retention requirements shall be accommodated in the least number of ponds or dry areas. One large pond or area shall be preferred to a series of smaller ponds or areas. All retention areas shall be placed in a common area under the responsibility of a lot owners association for the subdivision in which they are located. In no case shall subdivision retention ponds be dedicated to the City of Lebanon, however, the covenants outlining responsibility for the ponds shall provide the City with the authority to both require and complete necessary maintenance.

See Also:

Retention Pond landscaping standards, Subsection 7.8(M)

City of Lebanon Stormwater Ordinance available in the Lebanon Utilities Office.

8.14 EASEMENT STANDARDS

A. UTILITY EASEMENTS. The subdivider shall designate areas of suitable size and location, when necessary for drainage and or utility easements. Where possible, place utility lines underground, following the required standards and specifications established by each utility company. The location of each underground utility system shall be shown by appropriate easement lines on the proposed lot and approved by the utility company prior to final approval of the Plan. Utility easements shall be:

1. enforceable,
2. binding,
3. recorded on the secondary plat, and
4. exclusive of other easements.

B. DRAINAGE EASEMENTS. Easements along legal drains shall be established according to the Boone county Surveyor for the purposes of protecting the stream.

8.15 OPEN SPACE STANDARDS/COMMON AREA

A. DEDICATION OR RESERVATION. Where sites for parks, schools, playgrounds or other public uses are located within the subdivision area as shown in the Comprehensive Plan, the Plan Commission may request their dedication for such purposes, or their reservation for a period of two (2) years following the date of the final approval of the plat. In the event a government agency concerned passes a resolution expressing its intent to acquire the land so reserved, the reservation period shall be extended for an additional six (6) months.

B. OPEN SPACE. Residential subdivisions shall include provisions for common open space which shall be accessible to all residents in the development by means of walking, hiking, biking, or automobile.

1. The minimum amount of common open space as a percentage of net land area shall be in accordance with Table 8.5: Percentage Open Space Required (Residential).

Table 8.5: Percentage Open Space Required (Residential)

Zoning District	Percentage Usable Open Space Required
SF, SF1	8%
SF2, SF3, TR	10%
MF, MH	12%

2. The least dimension of any such required open space shall be one hundred and fifty (150) feet. A public way crosswalk or easement of not less than fifteen (15) feet in width shall be provided for access to the required open space.

3. Retention ponds and land designated as floodplain may count towards up to thirty-five (35) percent of required "open space" if it is designated as common area and visually and physically accessible to all owners of the common area.

4. The required open space stated above is in addition to any required landscaping. Parking areas do not count toward open space.

C. COMMUNITY STRUCTURE. In developments with greater than three hundred (300) dwelling units, the development plan shall include provisions for a civic or community building (clubhouse) which will be available to all property owners within the development. Any civic or community building shall have a ground floor area of no less than two thousand (2,000) square feet and comply with the same architectural guidelines and covenants which are applicable to the residences proposed for the development. At the discretion of the Commission such area may be permanently dedicated to the City, or if suitably protected by covenants, to a private land owners' association. Playgrounds or public school sites within the boundaries of the proposed subdivision shall be deemed to meet such community open space requirements.

D. PUBLIC SAFETY. In developments with greater than three hundred (300) dwelling units, the petitioner/developer shall submit the development plan to the Lebanon Fire Department for review to determine if the plan shall include provisions to preserve land for future fire structures. If the Board of Public Works determines a need exists for land based on the recommendations of the Lebanon Fire Department, the Plan Commission may require, the petitioner to include in the plans of the development, such reserved land areas up to two acres. At such time as that land is platted, the developer shall include the land in the plat and deed the land to the City within sixty (60) days thereafter, or upon taking title to the land.

8.16 UTILITY STANDARDS

A. SANITARY SEWAGE DISPOSAL

1. Interpretation. The phrase "the subdivider shall provide" shall be interpreted to mean that the subdivider shall install the facility referred to.

2. Design and Installation. The subdivider shall design and install a complete sanitary sewer system, which shall connect with a sanitary sewer outlet in conformance with the standards of the Boone County Board of Health and the Lebanon Board of Public Works and Safety.

3. Installation Plans. The plans for the installation of a sanitary sewer system shall be provided by the subdivider and approved by the Health Officer, and the Lebanon Utilities Service Board. Upon the completion of the sanitary sewer installation, the plans for such system as built shall be filed with the Commission. (See Section 9.22 As-Built Plans/ Record Drawings)

4. Design Specifications. The system shall be provided with all necessary supplemental equipment or machinery (including, but not limited to, lift stations) and be in such lengths, sizes, dimensions and specifications as be required by the Lebanon Utilities Department.

5. General Location. Sewer mains and transmission lines and structures, with the exception of any above ground structures such as lift stations or pumps, shall generally be located underground in the right-of-way provided along public streets. In all instances, the required drawings of these transmission lines shall be shown with the locations of any street trees and all other utilities to be provided. The placement of the sewer mains and laterals shall be compatible with the landscape plan and not preclude the implementation of the landscape plan.

6. Sewer System Plans and Specifications. The plans for the installation of a sanitary sewer system shall be prepared by a professional engineer or surveyor licensed in the State of Indiana, shall be provided by the subdivider, and shall be subject to review and approval by the Lebanon Utilities Department.

7. Additional Requirements. All sewer systems shall be in accordance with Indiana State Board of Health and Indiana Department of Environmental Management (IDEM) regulations.

8. "As-Built" Drawings. Upon completion of the sewer installation, the plans "as-built" in paper (hard copy) and electronic format (if possible), shall be filed with the Utilities Department.

B. WATER

1. Interpretation. The phrase "the subdivider shall provide" shall be interpreted to mean that the subdivider shall install the facility referred to.

2. Water Main Supply System. The subdivider shall provide the subdivision with a complete water main supply system, which shall be connected to a municipal or a community water supply approved by the Health Officer, and the Lebanon Utilities Service Board, in accordance with the requirements and procedures of the Public Service Commission's Rule 24, "Extension of Water Mains by Public Utilities".

3. Layout. The general layout of the water supply system shall be provided by the subdivider and the Lebanon Utilities Service Board shall provide the plans for the water supply system in accordance with said Rule 24.

4. Design Specifications. The water system shall include all necessary supplemental equipment and machinery including, but not limited, to all pipes, fire hydrants, and valves.

5. General Location. Water supply mains and transmission lines shall be located either in the right-of-way adjacent to public streets (opposite any sanitary sewer also included in that right-of-way) or in the front yard of lots in easements immediately adjacent to the rights-of-way. The placement of water utilities should be compatible with, and not preclude the landscape plan requirements.

C. STORM DRAINAGE

1. Design and Size. Drainage systems shall generally promote the maintenance of natural drainage ways and the incorporation of natural topography. The design and size of facilities shall be based on the anticipated runoff from a 10-year storm under conditions of total potential development permitted by the Ordinance in the watershed.

2. Plans and Filing. The drainage report and plans for the installation of a storm drainage system shall be provided by the subdivider, reviewed at TAC, and approved by the Lebanon Stormwater Management Board. Upon the completion of the storm sewer installation, the plans for such system as-built shall be filed with the Planning and Zoning Administrator. (See Section 9.22 As-Built Plans/ Record Drawings)

3. Open Drainage Restrictions. Open drainage systems shall not be allowed in the front yards of new development within the jurisdictional areas of the City of Lebanon unless as part of an innovative drainage concept employing "Best Management Practices" (BMP's) and approved by the City. Where approved, shallow swales, sown or sodded in appropriate plant material, shall be provided. The use of deep, open ditches is prohibited. Roadside drainage shall not be disrupted by driveways or other obstructions.

4. Drainage Area. A storm drainage system shall be designed and constructed by the subdivider to provide for the proper drainage of surface water from the subdivision and from the drainage area which drains into the subdivision. All areas included in the drainage area shall be considered based on their present development conditions for the purposes of designing the necessary drainage facilities.

5. Required Outlets. All lots within each subdivision shall be provided with a drainage system connected to a working outlet such as a natural stream, a storm sewer, or an existing open ditch. In no case shall a field tile be considered an acceptable outlet. No connection draining storm water runoff shall be made to a sanitary sewer.

6. Positive Drainage from Structures. All lots, tracts, or parcels shall be graded to provide proper drainage away from all structures, and dispose of such water without ponding in locations other than intended dry or wet detention basins.

7. Discharge Requirements. It shall be illegal for sump pumps, down spouts, or foundation drains to outlet directly to the street or into the right-of-way of the street, or to be connected to the sanitary sewer.

   a. Sump Pumps. Sump pumps shall be connected to the subsurface drainage system described in this ordinance.

   b. Down Spouts. Down spouts may either be connected directly to the subsurface drainage system, or may outlet into the yard of the structure on which they are located.

8. Professional Design Requirements. The plans for the installation of the storm sewer system shall be prepared by a professional engineer or surveyor licensed in the State of Indiana. The subdivider's engineer shall also study the effects of each subdivision on the existing downstream drainage facilities outside the area of the subdivision. These plans and studies shall be provided by the subdivider and shall be subject to

review and approval by the TAC and Lebanon Board of Works. In the review and approval of such plans, the Board of Works may require off-site improvements of drainage outlets to adequately handle the run-off from the subdivision.

a. "As-Built Drawings". Upon completion of the subdivision, the plans "as-built" in paper (hard copy) and electronic format (if possible), shall be filed with the Planning and Zoning Administrator as per Section 9.22 As-Built Plans/ Record Drawings.

b. Hardships. If, in the opinion of the Plan Commission, a hardship would be created by sizing the system to the entire drainage area, the Plan Commission may recommend that the City join with the subdivider in financing the drainage requirements that are beyond the immediate requirements of the subdivision.

9. Street Drainage. All streets shall be provided with an adequate storm drainage system consisting of curbs, gutters, storm sewers, and inlets or side ditches and/or culverts, consistent with the specifications of the City, the appropriate street design standards provided by Section 8.8 Street Standards and the following requirements:

a. Flood Hazard Areas. All streets must be located at elevations that will make them flood free in the event of a one hundred (100) year flood.

1) Where flood conditions exist, the Plan Commission shall require profiles and elevations of streets in order to determine the advisability of permitting the proposed subdivision activity.

2) Fill may be used in areas subject to flooding in order to provide flood-free streets, if the fill does not unduly increase flood heights.

3) Drainage openings shall be designed so as not to restrict the flow of water and thereby unduly increase flood heights.

b. Storm Water Storage. Drainage inlets shall be spaced, and their capacity shall be adequate, to limit the spread of storm water from the gutter into the street. Inlets shall be placed at all low points in the grade of the gutter and at all intersections to prevent stormwater from flowing across traffic lanes and sidewalks.

1) Storm drainage systems shall be designed to prevent the overtopping of curbs by a 10-year storm.

2) Local streets shall have a minimum twelve (12) foot wide section free from water during a 10-year storm.

3) Collector and Arterial streets shall have a minimum twenty-four (24) foot wide section free from water during a 10-year storm.

4) All water shall be contained in the right-of-way for a 50-year storm.

c. Protective Grates. Protective gratings shall be placed over all inlets and outlet piping ten (10) inches or larger.

d. Cross-Gutter Requirements. All streets having curb and gutter on which storm water flows across intersections and/or driveways, shall be provided with concrete cross-gutter at all such intersections and driveways.

e. Underdrains. The subdivider shall provide a subsurface drainage system, below curbs, to be placed along both sides of the subdivision streets and wherever else within the subdivision that it is determined to be necessary by the City.

f. Off-street Drainage System General Requirements. The design of the off-street drainage system shall include all watersheds affected by the subdivision, and shall extend to a water course or ditch adequate to receive the storm drainage as determined by the City.

g. Side and Rear Yard Swales. All side and rear yard swales shall meet the following requirements ad the specifications of the City Engineer:

1) The minimum flow line grade of swales shall generally be one percent (1%).

2) The maximum flow line grade of swales shall generally be seven percent (7%).

3) The front and back slope of swales shall generally not be steeper than a four (horizontal) to one (vertical) slope (4:1).

8.17 COMMON AREA MAINTENANCE OR HOMEOWNERS ASSOCIATION

A. MAINTENANCE OR HOMEOWNERS ASSOCIATION. In developments which include any of the following: (1) the density is equal to or greater than one-half (0.5) units per acre; (2) common or open areas; (3) landscaped entryway which will require annual maintenance; or (4) public sidewalks, the developer shall be required to establish a maintenance or homeowners association in accordance with the laws of the State of Indiana prior to transferring title to any property within the development.

1. The covenants of the subdivision secondary plat shall include the following language:

   a. Association. Each lot owner in the subdivision or addition, by acceptance of a deed conveying title thereto, whether from the Developer or a subsequent owner of such lot, shall accept such deed subject to the provisions of the bylaws of the (insert the name of the association) Maintenance or Homeowners Association, Inc., and thereby becomes a member of the (insert the name of the association) Maintenance or Homeowners Association, Inc., for the purposes outlined herein. The (insert the name of the association) Maintenance or Homeowners Association, Inc. shall be self-perpetuating and will not be disbanded.

   b. Maintenance. The maintenance or homeowners association shall be professionally managed by a licensed property manager which shall be required by the association bylaws. The laws of the association shall further require that revisions to the bylaws, covenants, and/or the management firms' contract may occur only upon the consent of eighty percent (80%) or more of the lien holders of the property in the subdivision (not the property owners).

8.18 DEVELOPMENT BONUSES

A. The provision of incentives acknowledges the value and potential costs of incorporating certain design elements or open space within a residential neighborhood. The successful incorporation of the design incentives or open space could allow up to ten percent (10%) of the residential units to develop at smaller minimum lot sizes and smaller lot frontages, as determined by the next more intense residential zoning district. (For example, an SF1 zoned residential development could be allowed to have the minimum lot area and lot frontage reduced to the minimums of the SF2 District for up to ten percent (10%) of its units.) The incentives shall be reviewed by he TAC and the Planning and Zoning Administrator, which shall recommend to the Plan Commission approval or denial of the requested incentive.

1. A density bonus may be approved if the developer:

   a. provides additional usable open space in excess of the minimum requirements of Section 8.15 Open Space Standards/Common Area; and/or

   b. exceeds the minimum design standards of Section 7.18 Design Standards.

Chapter 9: Permits, Certificates, and Procedures

9

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9.1 PERMIT AND APPLICATION TYPES

A. PERMIT AND CERTIFICATE APPLICATIONS REQUIRED. Lebanon requires that an application and fee be submitted for the following types of permits and certificates:

1. Grading / Land Disturbance Permit
2. Improvement Location Permit
   a. A building permit may also be required in addition to Improvement Location Permits in order to meet the Lebanon Building Code. Building Permits will not be issued until an Improvement Location Permit has been acquired, meeting all requirements outlined in this section. Building Permits are issued by the Lebanon Planning Department.
3. Permit for Industrial Use
4. Conditional Use Permit
5. Sign Permit
6. Fence Permit
7. Home Occupation Permit
8. Demolition Permit
9. Temporary Vendor Permit
10. Certificate of Occupancy
11. Certificate of Compliance with Safety Codes

B. PETITION APPLICATIONS REQUIRED. Lebanon requires that an application and fee be submitted for the following types of petitions:

1. Zoning Map Amendment ("Rezoning")
2. Development Standards Variance,
2. Conditional Use,
3. Administrative Appeal,
4. Subdivision Control Waiver, and
5. Planned Unit Development (subject to the requirements of Chapter 5: Planned Unit Development).

C. APPLICATION MATERIALS. All applications may be obtained from the Planning and Building Department Offices. Fees shall be paid to the City of Lebanon at the time all petition applications are submitted and at the time

all permits are issued.

1. Application Forms. All applications shall be made on forms provided by the Planning and Building Department. All applicants shall submit original applications that are completed in their entirety in ink or typed.

2. Copies of Materials. All applicants shall submit copies of applications and necessary plans and attachments as required by the adopted policies of the Planning and Zoning Administrator and the applicable Rules and Procedures of the Plan Commission and Board of Zoning Appeals.

3. Scheduling. All applications shall be assigned reference and/or docket numbers by the Administrator.

   a. Petition Applications. Petition applications shall be scheduled by the Administrator or his/her designee for the appropriate public hearings based on the completeness of the application consistent with the requirements of this Article and the appropriate adopted Calendars of Filing and Meeting Dates for the Board of Zoning Appeals and/or Plan Commission.

   b. Order of Action Taken. Action shall be taken on all applications in the order in which they were received.

9.2 GRADING/LAND DISTURBANCE PERMIT

A. INTENT. To eliminate any non-allowable discharges to the Lebanon Municipal Utility System that may impact water quality, and to ensure compliance with Technical Assistance Committee Review and Plan Commission approval.

B. REQUIRED. Any development that disturbs more than one (1) acre of land is required to obtain a Grading/Land Disturbance Permit.

C. EXEMPTIONS. No site development permit is required for the following activities:

1. Any emergency activity that is immediately necessary for the protection of life, property or natural resources.

2. Agricultural land management activities (except where the clearing of the land, forest or other agriculture activity results in activities other than further agriculture or forest use).

3. Additions or modifications to existing detached single-family dwellings.

4. Developments that do not disturb more than one acre of land use. This

exemption may not be applied for contiguous properties that may have been subdivided and/or are attributed to multiple separate owners. This exemption does not apply to any discharge of sediment or other form of water pollution that may leave a small site.

9.3 IMPROVEMENT LOCATION PERMIT

See Also:

City of Lebanon Building Code

A. REQUIRED

1. Within the Jurisdiction of the Lebanon City Plan Commission, no structure, improvement, or use of land may be altered, changed, placed, removed, erected, or located on platted or unplatted lands unless the structure, improvement, or use, and its location conform to this ordinance and an Improvement Location Permit for such structure, improvement, or use has been obtained from the Administrator by the owner of the property or his agent.
2. The Administrator shall only issue an improvement location permit when the proposed structure, improvement, or use, and its location have met all the applicable requirements of this ordinance and other relevant City Ordinances.
3. An Improvement Location Permit must be obtained for any of the actions listed below. A single Improvement Location Permit may be issued for a combination of these actions, if they occur together. The Administrator shall determine if the application requires review by the Technical Assistance Committee.
   a. New development, after rezoning or plat approval
   b. Adding or subtracting dwelling units or leased space in multifamily or commercial structures
   c. Any use that exceeds one hundred twenty (120) square feet in area and/or has a permanent foundation (including structures other than buildings such as towers and antennas)
   d. Any temporary use of land or temporary structure
   e. Swimming pools with a depth greater than thirty (30) inches (in-ground pools shall be required to obtain a permit, above ground pools less than fifteen (15) feet in diameter shall not be required to obtain a permit, but shall comply with this ordinance)
   f. Additions to all structures
   g. Changes of use
   h. Conditional uses (See Section 9.5 Conditional Use Permit)

i. Placement or replacement of manufactured or mobile homes

j. Parking lot construction or alteration

k. Removal of required trees and plants within buffer yards and landscaping areas required by this ordinance

l. Mineral extraction

m. Telecommunication towers, buildings, and antenna

n. Any exterior construction that adds to or alters the height of an existing structure

B. EXEMPTIONS. No Improvement Location Permit shall be required for the types of improvements listed below. However, any such improvement shall comply with any applicable requirements of this ordinance and any other adopted standards of the City of Lebanon.

1. Routine maintenance, repair, or interior non-structural remodeling of existing buildings not involving any change of use, additional lot coverage, or increase in structure size.

2. Essential services (public utilities, etc.), as defined in Chapter 11: Definitions.

3. Lot and yard improvements such as fences, drives, sidewalks, patios, decks, retaining walls, play equipment, gazebos less than two hundred (200) square feet in area, above ground pools less than thirty (30) inches in depth and fifteen (15) feet in diameter, and landscaping.

4. Signs as specified in sign exemptions, Subsection 7.7(C).

5. Mini-barns and storage containers that are portable and less than two hundred (200) square feet or less in area.

C. COMPLETION TIME

1. An Improvement Location Permit shall lapse and become null and void if the work or use authorized by said permit is not commenced within six (6) months of the date that the permit was issued. All work authorized by the permit shall be completed within twenty-four (24) months from the date that the permit was issued.

2. At the discretion of the Administrator and with good cause shown, the Administrator may extend the work completion time.

3. Conditional Uses receiving Improvement Location Permits are exempt from these requirements. For limits on Conditional Uses, see Section 9.5 Conditional Use Permit.

D. SEWAGE DISPOSAL. An application for an Improvement Location Permit for any Use shall not be approved until it has been ascertained by the Administrator that the proposed use and minimum lot size and width meets the minimum standards for a sewage disposal system as required by the Boone County Health Department and the Lebanon Board of Works and Safety and as otherwise required by this ordinance.

E. CONSTRUCTION ACCORDING TO PERMITS AND PERMIT APPLICATION. Improvement Location Permits issued on the basis of plans and applications only authorize the use, arrangement, and construction set forth in such approved plans and applications. Current approved plans and the permit shall remain on the construction site. Any other use, arrangement, or construction not authorized shall be deemed a violation of this ordinance and subject to the provisions of Chapter 10: Enforcement and Penalties.

See Also:

City of Lebanon Ordinance on Flood Hazards (97-1)

F. SPECIAL FLOOD HAZARD AREAS (SFHA)

1. Applications for improvement location permits in the SFHA shall meet all the specifications set forth in City Ordinance 97-1 "Ordinance on Flood Hazards", as amended.

   a. Upon submittal of an application for an improvement location permit, the Administrator shall determine if the property is located within a floodway, floodway fringe, or within a floodplain where the limits of the floodway and floodway fringe have not yet been determined (Zone "A").

   b. If the property is found to be located in a floodway, the applicant shall forward the improvement location permit application and pertinent plans and specifications to the Indiana Department of Natural Resources (IDNR) for a permit for construction in a floodway according to I.C. 14-28-1. Upon receipt of such a permit from IDNR, the Administrator may issue an improvement location permit, provided however, that such improvement location permit may not be less restrictive than the permit issued by IDNR.

   c. If the property is found to be in the floodway fringe, the applicant must meet all of the provisions set forth in Sections 7 and 8 of Ordinance 97-1, as amended. Once the Administrator is satisfied that such requirements have been met, he may issue an improvement location permit according to the provisions of City Ordinance 97-1, as amended.

   d. If the property is located in a floodplain where the limits of the floodway and floodway fringe have not yet been determined (Zone "A"), and the drainage area upstream is greater than one square mile, the applicant shall forward the improvement location permit

application and pertinent plans and specifications to the Indiana Department of Natural Resources (IDNR).

Upon either the receipt of a permit for construction in the floodway from IDNR or a letter of recommendation from IDNR citing the 100-year flood elevation and the recommended Flood Protection Grade, the Administrator may issue an improvement location permit, provided however, that such improvement location permit may not be less restrictive than the conditions issued by IDNR, and provided that the provisions of Sections 7 and 8 of City Ordinance 97-1, as amended, have been met.

e. If the property is located in a floodplain where the limits of the floodway and floodway fringe have not yet been determined (Zone "A"), and the drainage area upstream is less than one square mile, the Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodway, floodway fringe and 100-year flood elevation for the site.

Upon receipt, the Administrator may issue the Improvement Location Permit, provided that the provisions of Sections 7 and 8 of City Ordinance 97-1, as amended, have been met.

9.4 PERMIT FOR INDUSTRIAL USE

A. APPLICATION. An application for an Improvement Location Permit for an Industrial Use, subject to the provisions of Section 9.3 Improvement Location Permit shall be required in addition to Development Plan review.

1. The Administrator may take ten (10) days in which to study the application, during which time he may consult with appropriate technical consultants. If after the ten (10) day period, the Administrator has not required any additional information or stated any objection in writing, the Administrator shall issue the Improvement Location Permit.

2. The application may be approved with modifications if the Board of Zoning Appeals determines that the required determination in writing may be made only if certain conditions are applied to the application. The Board may make reasonable conditions related to the required determination in writing, part of its approval and/or accept written commitments from the applicant.

9.5 CONDITIONAL USE PERMIT

A. GENERAL PROVISIONS. In no case shall conditional uses be authorized without the approval of the Board of Zoning Appeals (BZA). Further, no

decisions on previous applications shall serve to set a precedent for any other application before the BZA.

B. PROCEDURES

1. Application. The applicant shall submit a conditional use application, affidavit and consent of property owner (if the owner is someone other than the applicant), a copy of the deed for the property involved, the required filing fee, and required supporting information. Other supporting information shall include, but not be limited to, the following:

   a. Site Plan. A site plan shall be signed and dated, and clearly show the entire layout of the property and all features relevant to the conditional use request.

   b. Statement of Intent. A statement of intent to the Board of Zoning Appeals describing the details of the conditional use request including, but not limited to:

      1) The ways in which the conditional use shall comply with the applicable development standards of this ordinance,

      2) The ways in which the conditional use shall be consistent with the required determination in writing, and

      3) Any written commitments being made by the applicant.

2. Notification. Notification for the scheduled public hearing regarding the conditional use request shall be completed consistent with Section 9.15 Notice of Public Hearing and the Rules and Procedures of the Board of Zoning Appeals.

3. Public Hearing. The BZA will then, in a public hearing scheduled consistent with the adopted Calendar of Filing and Meeting Dates, review the conditional use application and required supporting information.

   a. Representation, testimony, procedures, and decisions shall be as stated in the BZA Rules of Procedure, as amended.

9.6 SIGN PERMIT

A. APPLICABILITY. The following procedure applies to Sign Permits. Refer to Section 7.7 Sign Regulations for standards for permanent and temporary signs.

B. EXEMPTIONS. No sign shall be constructed, replaced, erected, or modified within the City limits of Lebanon without first obtaining a sign permit,

provided, however, that the following shall be exempt from permitting requirements:

1. Ordinary maintenance and repair to existing signs, provided that such work does not affect the structure to a degree greater than fifty percent (50%) of the current replacement cost, exclusive of the structural support of the sign.
2. Change of copy on signs listing current or future programs and events taking place on the premises.
3. Seasonal decorations and displays, provided they conform to the provisions of Section 7.7 Sign Regulations.
4. Real estate signs, provided they conform to the provisions of Section 7.7 Sign Regulations.
5. Street signs erected by a subdivider or by the municipality for the purpose of street identification.
6. Public information signs installed by the City or other governmental agency.
7. Rotation, repainting, and posting of copy.

See Also:

Sign exemptions, Subsection 7.7(C)

C. APPLICATION. Application for sign permits shall be made through the Administrator and shall include a site plan that includes the following information:

1. Clear and legible drawings with descriptions showing the location of the sign that is the subject of the permit, as well as the location of the building, structure or land on which the sign is to be located.
2. An indication of all existing and anticipated signs on the same property and for the same business use.
3. The proposed location of the sign in relation to the face of the building or the lot lines of the property on which it is to be located (including the locations of easements), whichever is applicable.
4. The dimensions of the sign, and where applicable, the dimensions of the wall surface of the building to which it is to be attached.
5. The dimensions of the sign's structural members.
6. Mounting details.
7. Description of sign materials and colors.
8. Type of illumination.
9. The owner shall agree to maintain the sign by repainting peeled surfaces

and replacing inoperative components; and to remove the sign when the use of the property has been terminated. Should he fail to maintain the sign as outlined above, the City shall cause the sign to be removed at the owner's expense after having given the owner of the sign thirty (30) days written notice to do so.

10. Other applicable information as the Administrator may require under the provisions of this section.

11. A sign permit fee shall accompany the application for a permit and shall be paid in accordance with the fee schedule in effect at the time of application.

D. PROCEDURE. The zoning administrator shall review an application for a sign permit for compliance with this chapter and issue such permit or reject such application in writing within ten (10) working days of its receipt. Failure of the Administrator to take such actions shall constitute approval of the sign permit.

E. EFFECT OF SIGN PERMIT ISSUANCE. A sign permit issued under the provisions of this section shall not be deemed to constitute permission or authorization to maintain an unlawful sign nor shall it be deemed as a defense in an action to remove an unlawful sign.

F. EXPIRATION. A sign permit shall become null and void if work has not been started within thirty (30) days of the date the permit is issued or completed within ninety (90) days of the date the permit is issued, provided, however, that when a sign permit is issued in connection with a building permit for the site on which the sign is to be located, the sign permit shall not run concurrent with the building permit. If the sign has not been erected upon expiration of the permit, the holder of a sign permit may apply through the Administrator for a three (3) month extension on the permit within ten (10) working days of the expiration date. A sign permit shall be renewed only once, after which time the permit shall be null and void.

G. INSPECTION

a. The Administrator or his appointed official shall have the right of entry in order to inspect all signs for compliance with the provisions of local codes and ordinances.

b. When any sign becomes insecure, in danger of falling, or otherwise unsafe, the Administrator shall send written notice to the owner of the sign to remove or repair the sign. If said sign is not so removed or repaired within thirty (30) working days, the City shall cause the sign to be removed at the expense of the owner of the sign.

9.7 FENCE PERMIT

See Also:

Section 7.14 Fence and Wall Standards

A. APPLICATION REQUIREMENTS. Application for a Fence Permit shall be made to the Planning and Building Department, and shall contain, or have attached thereto, the following information:

1. The name, address and telephone number of the applicant.
2. The location of the lot(s) or boundaries of the property including easements, on which the fence is proposed to be constructed.
3. The proposed location of the fence.
4. The type of material and height of the proposed fence.
5. Such other information as the Administrator shall require to show full compliance with this ordinance and any other City ordinance.

B. FENCES BUILT ON PROPERTY LINES. The Administrator shall require a "Consent to Fence Location" to be signed by all affected adjoining property owners if the applicant proposes to erect a fence on a property line.

C. APPEAL. Any denial of a Fence Permit by the Administrator may be appealed to the BZA.

D. FEE. The fee for a Fence Permit shall be as prescribed in the Fee Ordinance and is payable upon receipt of permit.

9.8 HOME OCCUPATION PERMIT

A. APPLICATION REQUIREMENTS. Application for a Home Occupation Permit shall be made to the Planning and Building Department. One (1) Home Occupation Permit shall be required for each home occupation within the residence, and shall contain, at a minimum, the following information:

1. The name, address and telephone number of the applicant.
2. The location and address of the lot(s).
3. Such other information as the Administrator shall require to show full compliance with this ordinance and any other City ordinance.

B. COMPLIANCE. Home Occupation Permits are subject to review for compliance with Section 7.12 Home Occupation Standards. Should a violation of this ordinance occur, the permit is subject to revocation.

9.9 DEMOLITION PERMIT

A. REQUIRED. A demolition permit is required for any demolition or partial demolition of any building or structure within the City of Lebanon.

B. APPLICATION. Application for a Demolition Permit shall be made to the Planning and Building Department, and shall contain, at a minimum, the following information:

1. The owner's complete name, present mailing address and phone number.
2. The contractor's complete name, present mailing address, and phone number.
3. A site plan, to scale, indicating all property lines, utility lines, buildings and structures on the site with emphasis on each building or structure to be demolished.
4. A copy of a written release from all utility companies stating that such utilities to the building or structures being demolished have been properly terminated.
5. A copy of inspections made regarding safe demolition.
6. A copy of all written notices to the owner(s) of the properties adjoining the projected demolition site.

C. APPROVAL. Demolition Permit approval must come from the Planning and Building Department and the Lebanon Fire Department.

D. EXPIRATION. The Demolition permit shall expire if work has not commenced within or is suspended for a period of six (6) months from the issue date.

9.10 TEMPORARY VENDOR PERMIT

A. REQUIRED. All temporary vendors shall not conduct business without first obtaining a Temporary Vendor Permit.

1. Exemptions. Children's lemonade stands and roadside farm stands on private residential property are not required to obtain a Temporary Vendor Permit.
   a. Roadside sales stands are limited to fresh or canned produce, jams and other edible products grown by the property owner.

B. APPLICATION. Application for a Temporary Vendor Permit shall be made to the Planning and Building Department, and shall contain, at a minimum, the following information:

1. The name, address, and telephone number of the individual or organization applying for the permit. If not applied for by an organization, a permit will be required for each vending operation.
2. The location and address where the temporary vending operation will be located.
3. The type of merchandise being sold.
4. If applied for by an organization, the approximate number of vendors.
5. The hours of operation and the duration/recurring nature of the vending operation.

C. TEMPORARY SIGNS

1. Each temporary vending operation, whether applied for by an organization or by an individual, may be allowed up to one (1) temporary sign, no more than sixteen (16) square feet in size, to be removed when the vending operation is not conducting business. The allowance for a temporary sign expires with the Temporary Vendor Permit.

9.11 CERTIFICATE OF OCCUPANCY

A. CERTIFICATE REQUIRED

1. No land shall be occupied or used, no change shall be made in the use of land, except as provided in this ordinance, nor shall there be any change in the use of any building in whole or in part, for any purpose whatsoever, until a Certificate of Occupancy is issued by the Administrator. The Certificate of Occupancy shall state that the building and use comply with all of the provisions of this ordinance applicable to the building or premises or the use in the district in which it is to be located.
2. When the improvement covered by the Improvement Location Permit has been completed in substantial conformity with the site plan or development plan submitted in the application pursuant to Section 9.17 Development Plan, a Certificate of Occupancy shall then be issued.

B. INSPECTION. Upon the completion of the work approved through an Improvement Location Permit, the permit holder shall contact the Planning and Building Department and schedule a final inspection to verify the installation of improvements consistent with the requirements of this ordinance.

C. TEMPORARY CERTIFICATES. A temporary Certificate of Occupancy may be issued by the Administrator after application has been made for completed portions of a development which has been approved as a Conditional Use, provided that a Certificate of Occupancy is required upon completion of the total development.

D. APPLIED FOR COINCIDENTALLY. A Certificate of Occupancy shall be issued within ten (10) days after notification by the applicant thereof that the lawful erection, reconstruction or structural alteration of such building or other improvement of the land has been completed.

E. RECORD OF CERTIFICATES. A record of all Certificates of Occupancy shall be kept on file in the office of the Administrator, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land affected.

F. EXCAVATION. No Improvement Location Permit shall be issued for the excavation for, or the erection, reconstruction or structural alteration of any Building before application has been made and Site or Development Plan approved.

G. COMPLETION TIME. The work or use authorized by any Improvement Location Permit must be commenced within six (6) months of the date of issuance of such permit, otherwise the same shall lapse and become null and void. All work so authorized shall be completed within twenty-four (24) months from the issuance of the Improvement Location Permit. At the Administrator's discretion and with good cause shown, the Administrator may extend the work completion time.

See Also:

City of Lebanon Building Code

9.12 CERTIFICATE OF COMPLIANCE WITH SAFETY CODES

A. CERTIFICATE REQUIRED. No change of tenant or use within the NB, CB, or Downtown Overlay Districts shall be allowed without a Certificate of Compliance with Safety Codes ("Certificate of Compliance"). The Certificate of Compliance will enable the City Planning Department to determine compliance with building, fire, plumbing, electric, or other applicable City Codes. This Certificate is required for all existing development, new construction, alterations, expansions, and conversions whether owner- or renter-occupied.

B. PRE-EXISTING USES. The initial Certificate of Compliance for subject properties shall be obtained within twelve (12) months of the adoption of this ordinance.

C. LIVING AREA. Each single- and multifamily dwelling unit shall have separate and individual kitchen and bathroom facilities unless as specified in Section 7.21 Specific Use Standards for Bed and Breakfast establishments.

D. EXEMPTIONS. Single- or two-family residences that are intended to remain only as single- or two-family use are exempt and not required to obtain a Certificate of Compliance.

9.13 TEXT AMENDMENTS, ZONING MAP CHANGES, REZONES

A. PURPOSE. The purpose of this section is to provide standards and procedures for making amendments to the text of this ordinance and the Official Zoning Map that are of general significance or application. This amendment process is not intended to relieve particular hardships nor to confer special privileges or rights upon any person, but only to make adjustments necessary in light of changed conditions or changes in public policy.

B. AUTHORITY. The text of this ordinance and the Official Zoning Map incorporated by reference into this Unified Development Ordinance may be amended as necessary by the passage of a petition duly adopted by Common Council in accordance with IC 36-7-4-602 and with the procedures set forth herein.

C. PLANNED UNIT DEVELOPMENT (PUD) ZONING. Refer to Chapter 5: Planned Unit Development of this ordinance.

D. PARTIES ENTITLED TO INITIATE AMENDMENTS

1. The Common Council or the Plan Commission may, as necessary, initiate a proposal to amend, supplement or change the text of this ordinance and the Official Zoning Map. The Administrator shall serve as the representative of the applicant for such proposals.
2. Petitions, duly signed by the owners of fifty percent (50%) or more of the area involved, may be used to initiate a proposal to amend or change the Official Zoning Map.
3. Any proposed ordinance for the amendment, supplement, change or repeal of the zoning ordinance not originating from petition of the Plan Commission shall be referred to the Plan Commission for consideration and report before any final action is taken by the Common Council.

E. STANDARDS FOR AMENDMENTS. In making their determination of whether to adopt or deny, or to adopt some modification of the Plan Commission's recommendation, the Common Council should consider, among other factors, the following:

1. Whether the proposed amendment is consistent with the goals, objectives, and policies of the Comprehensive Plan, as adopted and

amended as necessary by the Common Council.

2. Whether the proposed amendment is compatible with current conditions and the overall character of existing development in the immediate vicinity of the subject property.

3. Whether the proposed amendment is the most desirable use for which the land in the subject property is adapted.

4. Whether the proposed amendment will have an adverse effect on the value of properties throughout the jurisdiction.

5. Whether the proposed amendment reflects responsible standards for development and growth.

F. PROCEDURE FOR REVIEW AND DECISION. A proposal to amend the text of the Unified Development Ordinance or to amend the Official Zoning Map shall be processed in accordance with the Plan Commission Rules of Procedure and as set forth below:

1. Application, Affidavit, and Consent. The applicant shall submit a rezoning application, affidavit and consent of property owner (if the owner is someone other than the applicant), to the Lebanon Plan Commission and/or Common Council, a copy of the deed for the property involved, the required filing fee, and required supporting information. Supporting information shall include, but not be limited to the following:

   a. Site Plan. A conceptual site plan showing all features relevant to the application Section 9.16 Site Plan.

   b. Vicinity Map. A vicinity map showing the use and zoning of all properties within 500 feet of the property subject to the rezoning request.

   c. Letter of Intent. A letter of intent to the Plan Commission stating the reasons for the rezoning, including a detailed description of any proposed development for which the rezoning is sought. The letter should include any written commitments Section 9.14 Written Commitments being made by the applicant.

   d. Fiscal Impact Analysis. A Fiscal Impact Analysis shall be required for rezones of property proposing fifty (50) or more residential units.

2. Notification. Notification for the scheduled Plan Commission public hearing regarding the rezoning request shall be completed consistent with the requirements of Section 9.15 Notice of Public Hearing and the Rules of Procedures of the Plan Commission.

3. Plan Commission Public Hearing. The Plan Commission will then, in a public hearing review the rezoning application and required supportive information.

   a. Representation. The applicant and/or any representative of the applicant must be present at the public hearing to present the application and address any questions the Plan Commission might have.

4. Testimony. The Plan Commission shall consider a report from the Administrator and testimony from the applicant, remonstrators, the public, and interested parties at the hearing.

5. Procedures. The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the requirements of the Rules of Procedures of the Plan Commission.

6. Possible Plan Commission Action. The Plan Commission shall either forward the application to the Common Council with a favorable recommendation, an unfavorable recommendation, or no recommendation; or continue the request.

   a. Favorable Recommendation. The application shall be forwarded with a favorable recommendation if, by a majority vote of the Plan Commission, it is found to be consistent with the decision criteria of Subsection 9.13(G). The recommendation may include commitments requested by the Plan Commission.

   b. Unfavorable Recommendation. The application shall be forwarded with an unfavorable recommendation if, by a majority vote of the Plan Commission, it is determined by the Plan Commission to be inconsistent with the decision criteria of Subsection 9.13(G).

   c. No Recommendation. The application may be forwarded with no recommendation if, by a majority vote of the Plan Commission, it is determined that the application includes aspects that the Plan Commission is not able to evaluate.

   d. Continued. The application may be continued by the Plan Commission based on a request by the Administrator, applicant, remonstrator, or interested party; an indecisive vote, or a determination by the Plan Commission that additional information is required prior to action being taken on the request.

      1) Additional legal notice shall not be required unless specified by the Plan Commission.

      2) The continuing of all applications shall be consistent with the adopted Rules of Procedures of the Plan Commission.

7. Certification to the Common Council. The Plan Commission shall certify its recommendation by resolution to the Common Council within ten (10) business days of its determination (per IC 36-7-4-608). The Plan Commission staff shall forward to the Common Council appropriate copies of the Plan Commission resolution, the original application and all supporting information, any staff reports regarding the application, and an ordinance for the Council's consideration.

8. Common Council Action. The Council will review the rezoning application and the materials forwarded from the Plan Commission. The Council may then take action on the application.

   a. Notification. The Council shall provide notification of action on the ordinance consistent with Indiana State Code.

   b. Possible Action. The Council may either approve or deny the ordinance. If the Council fails to act within the ninety (90) days of the ordinances' certification to the Council, the ordinance shall become effective or be defeated with the provisions of IC 36-7-4-608. The Common Council may also seek modifications or additions to any written commitments as per Section 9.14 Written Commitments.

G. DECISION CRITERIA. In reviewing the rezoning application, the Plan Commission and Common Council shall consider the following:

1. Comprehensive Plan. The Lebanon Comprehensive Plan and any other applicable, adopted planning studies or reports;

2. Current Conditions. The current conditions and the character of current structures and uses in each district;

3. Desired Use. The most desirable use for which the land in each district is adapted;

4. Property Values. The conservation of property values throughout Lebanon's planning jurisdiction; and

5. Responsible Growth. Responsible growth and development.

9.14 WRITTEN COMMITMENTS

A. GENERAL PROVISIONS. The applicant in any rezoning application may make written commitments regarding the characteristics of the proposed future use of, or the resolution of outstanding issues in existence on, the subject property consistent with IC 36-7-4-615.

B. ORIGIN OF COMMITMENTS. Written commitments may be proposed by the applicant as an element of the initial submittal of application materials, or in response to any modifications requested by the Plan Commission or Common Council.

C. CONSIDERATION OF COMMITMENTS. All commitments shall be considered by the Plan Commission and the Common Council in the review of the application.

1. Commitments shall be included as an element of the rezoning ordinance prepared by the Plan Commission following action taken at the public hearing.
2. Any deletion, addition, or alteration of the written commitments proposed by the Council shall be referred back to the Plan Commission for consideration and included in a revised or affirmed recommendation regarding the application or may amend the written commitments and incorporate said written commitments within the rezoning ordinance.

D. DOCUMENTING OF COMMITMENTS. Following final action being taken on the rezoning application, the rezoning ordinance, with any written commitments included, shall be recorded in the office of the Boone County Recorder by the applicant and shall not be considered effective until so recorded. A copy of any recorded commitments shall be provided to the Administrator at the time of application for any Improvement Location Permit. No Improvement Location Permit shall be issued for a permit application that does not comply with the written commitments.

E. ENFORCEMENT OF COMMITMENTS. The written commitments shall be considered part of the rezoning ordinance binding on the subject property.

1. The written commitments shall be binding on the owner of the subject property, any subsequent owners of the subject property, and any person or entity that acquires an interest in the subject property or portion thereof.
2. The written commitments shall be enforceable by the Plan Commission or Common Council consistent with the adopted provisions for the enforcement of any other aspect of this ordinance, as described in Chapter 10: Enforcement and Penalties.
3. The written commitments may be modified only through the Zoning Map Amendment process described by this chapter.

9.15 NOTICE OF PUBLIC HEARING

A. REQUIRED. For all public hearings, the notice shall be provided to the public consistent with the requirements of this chapter and the Rules of Procedures of the Board of Zoning Appeals and Plan Commission. Required public notice shall include the following:

1. Legal Notice. The applicant shall prepare and pay for a legal notice consistent with the requirements of IC 5-3-1 for publication in the local newspaper. The legal notice shall appear in the newspaper no less than one (1) time at least ten (10) days prior to the public hearing, not including the date of the hearing. Legal notices shall include each of the following:

   a. Property Location. The general location of the subject property, including its common address and a legal description of the included land,

   b. Available Plans. That the project plans are available for examination at the office of the Lebanon Plan Commission,

   c. Hearing Information. That a public hearing will be held, giving the date, place, and hour of the hearing, and

   d. Written Comments. That written comments on the application will be accepted prior to the public hearing and may be submitted to the Administrator.

   e. Docket Number. The applicant shall not place legal notice in any newspaper without first receiving a docket number for the case being heard.

2. Notice to Interested Parties. The applicant shall prepare and distribute written notice of the application to all interested parties. The written notice shall be distributed at least ten (10) days prior to the public hearing, not including the date of the hearing. In no instances shall streets, alleys, streams, or other features be considered boundaries for precluding notification.

   a. Notice Information. The notice shall contain the same information as the legal notice that is published in the newspaper as outlined in Subsection 9.15(A)(1).

   b. Responsibility. The distribution and cost of the notice shall be the responsibility of the applicant.

   c. Notification Requirements. Notification shall be provided to owners of all parcels of land within three hundred (300) feet of the perimeter boundaries of the subject property. The most current list of property

owners can be obtained from the Boone County Recorder's Office. For the purposes of notification, where any adjacent parcels of land are owned by the applicant(s), subject property shall be deemed to include adjacent land owned by the applicants.

d. Notification Certification. A copy of the materials provided to each property owner, the completed Certificate of Mailing and/or delivery forms, and a completed Affidavit of Notice certifying the correctness of the mailing list shall be provided to the Administrator by the applicant a minimum of two (2) business days prior to the date of the public hearing.

9.16 SITE PLAN

A. SITE PLAN. Where required by this ordinance, site plans shall be drawn to scale and shall show the following items:

1. Legal or site description of the real estate involved.
2. Location and size of all buildings and structures.
3. Width and Length of all entrances and exits to and from said real estate.
4. All adjacent and adjoining roads or highways.
5. Lot number, where applicable.
6. Actual shape and dimensions of the Lot to be built upon.
7. Front, side and rear yard line.
8. All easements.
9. Number of families or housekeeping units or square footage of business uses, which ever is applicable, that the Building is designed to accommodate and such other information in regard to the lot and neighboring lots and their use as may be necessary to determine and provide for the enforcement of the provisions of this ordinance.
10. Arrangement of service areas, planting areas, and parking areas, where applicable.

9.17 DEVELOPMENT PLAN

A. AUTHORITY OF THE PLAN COMMISSION TO REVIEW DEVELOPMENT PLANS. The Lebanon Plan Commission is hereby authorized to review and make findings on all development plans that are required by this ordinance.

B. DEVELOPMENT PLANS REQUIRED. Development plan approval shall be required for those projects as listed below and in Chapter 4: Zoning Districts and Table 4.1: Use Matrix. Improvement Location Permits and Building Permits shall not be issued until the conditions and requirements of this ordinance have been met. Single-family development of three (3) lots or fewer are exempt from this requirement. Development Plans shall be provided for:

1. All uses within the MF, MH, CB, NB, PBC, PBO, PBI, ID, and IN Districts
2. Public and Semi-Public Uses
3. All uses within the Thoroughfare Overlay District
4. All Uses within the Interstate Overlay District
5. All uses within the Downtown Overlay District
6. Wireless Communication Facilities

C. APPLICATION PROCEDURE

1. Preliminary Meeting. The applicant shall submit a Development Plan application to the Planning and Zoning Administrator to schedule a preliminary meeting with staff to provide the applicant with guidance as to the development plan process.
2. Information to Include. All sheets shall contain the following information:
   a. The proposed name by which the project shall be legally and commonly known;
   b. Date of survey, scale, and north point;
   c. All lots or outlots intended for sale or lease shall be designated with boundary lines and numbered or labeled for identification purposes;
   d. Private parks, common areas, or excluded parcels shall be designated as such and clearly labeled on the plans;
   e. Such other information as may be deemed necessary for proper

review of the development plan by the Administrator, or Plan Commission; and

f. All necessary reference points tying the subject property to the appropriate section corners.

g. Each sheet shall be sealed and signed by the professional preparing the drawings.

h. All sheets shall be tied to state plane coordinates for horizontal and vertical controls. All sheets shall include utility lines, infrastructure, and site lighting on all sheets.

3. Development Plan Format. All development plans shall be submitted under the seal and signature of a Professional Engineer or Registered Land Surveyor licensed to practice in the State of Indiana. All sheets shall be 24" x 36" size drawn to scale at a minimum 1"=50' and a maximum 1"=10' with the exception of the maps on Sheet One, unless otherwise approved by the Zoning Administrator. All final plans shall be submitted in conformance with the established procedures of the Planning Department. Development plans submitted for review shall observe the following format:

a. Title Sheet. The following information shall be submitted as part of Sheet One:

1) Full legal description with sufficient reference to section corners and boundary map of the subject project, including appropriate benchmark references;

2) Name of the Project;

3) Name and address of the owner, developer, and person who prepared the plans;

4) Total acreage within the project and the number of residential dwelling units or the gross square footage of nonresidential buildings, whichever is applicable;

5) Existing zoning of the subject land and all adjacent lands;

6) Boundary lines of adjacent tracts of land, showing owners of record;

7) A key or vicinity map at a scale of one inch equals four hundred feet or less, showing the boundaries of the proposed project and covering the general area within which it is to be located;

8) A statement of the proposed uses, stating the type and size

of residential and nonresidential buildings, and the type of business, commercial or industry, so as to reveal the effect of the project on traffic, fire hazards, or congestion of population;

9) Proposed covenants, restrictions, by-laws, or articles of incorporation affecting property owners and/or homeowners associations; and

10) Statement of proposed starting and completion dates for the project, including any proposed phasing and sequencing.

b. Existing Site Conditions. The following information shall be submitted as part of Sheet Two:

1) Location, widths, and type of construction of all existing streets, street names, alleys, or other public ways and easements, street classifications as per the Thoroughfare Plan, railroad and utility rights-of-way or easements, parks, wooded areas, cemeteries, watercourses, drainage ditches, designated wetlands, low areas subject to flooding, permanent buildings, bridges, and other data considered pertinent by the commission or the administrator for the subject land, and within three hundred (300) feet of the proposed project;

2) Existing water mains, fire hydrants, storm sewers, sanitary sewers, culverts, bridges, and other utility structures or facilities within, adjacent to, or serving the subject land, including pipe sizes, grades, and exact locations, as can best be obtained from public or private records;

3) Existing contours based in United States Geological Survey (USGS) datum with intervals of not more than five (5) feet where the slope is greater than ten percent (10%) and not more than two (2) feet where the slope is less than ten percent (10%). Elevations shall be based on sea level datum; and

4) The water elevation at the date of the survey of lakes, streams, or designated wetlands within the project or affecting it, as well as the approximate high and low water elevation of such lakes, streams, or designated wetlands. The plan shall also show the contour line of the regulatory flood (100-year flood) elevation and the contour line for the floodway fringe and floodway boundary. All elevations shall be based on sea level datum.

c. Proposed Site Conditions. The following information shall be submitted as part of Sheet Three:

1) Location, widths, and type of construction of all existing and proposed streets, street names, alleys, or other public ways and easements, railroad and utility rights-of-way or easements, parks, wooded areas, cemeteries, watercourses, drainage ditches, designated wetlands, low areas subject to flooding, permanent buildings, bridges, and other data considered pertinent by the commission or the administrator for the subject land, and within three hundred (300) feet of the proposed project;

2) Existing and proposed water mains, fire hydrants, storm sewers, sanitary sewers, culverts, bridges, and other utility structures or facilities within, adjacent to, or serving the subject land, including pipe sizes, grades, and exact locations, as can best be obtained from public or private records;

3) Building setback lines, showing dimensions;

4) Full description and details, including engineering calculations, for provision of storm water drainage plans and facilities, including basin mapping. The standard for drainage detention is that the run-off rate of a 100-year post-development event cannot exceed the rate for a 10-year pre-development event;

5) Internal and perimeter sidewalk system/pedestrian circulation plan; and

6) Proposed contours with intervals of not more than five (5) feet where the slope is greater than ten percent (10%) and not more than two (2) feet where the slope is less than ten percent (10%). The plan shall also show the contour line for the floodway fringe and floodway boundary.

7) Show the location and detail plans for all trash dumpsters.

d. Erosion Control Plan. The following information shall be submitted as part of Sheet Four:

1) Location, widths, and type of construction of all existing and proposed streets, street names, alleys, or other public ways and easements, railroad and utility rights-of-way or easements, parks, wooded areas, cemeteries, watercourses, drainage ditches, designated wetlands, low areas subject to flooding, permanent buildings, bridges, and other data considered pertinent by the commission or the administrator for the subject land, and within three hundred (300) feet of the proposed project;

2) Proposed contours with intervals of not more than five (5) feet where the slope is greater than ten percent (10%) and not more than two (2) feet where the slope is less than ten percent (10%).

3) Details of terrain and area drainage, including the identity and location of watercourses, intermittent and perennial streams, receiving waters, and springs, and the total acreage of land that will be disturbed.

4) The direction of drainage flow and the approximate grade of all existing or proposed streets.

5) Detailed plans and locations of all surface and subsurface drainage devices, walls, dams, sediment basins, storage reservoirs, and other protective devices to be constructed with, or as part of, the proposed project, together with a map showing drainage area, the complete drainage network, including outfall lines and natural drainage ways which may be affected by the proposed development, and the estimated runoff of the area served by the drains.

6) A description of the methods to be employed in disposing of soil and other material that is removed from the grading site, including the location of the disposal site.

7) Measures for soil erosion and sediment control which must meet or exceed the methods and standards adopted by the Indiana Department of Natural Resources and/or set forth in the Indiana Handbook For Erosion Control in Developing Areas and which must comply with the design principles, performance standards, and requirements set forth for the City of Lebanon in the Stormwater Ordinance, adopted November 13, 2006, as amended.

8) A schedule of the sequence of installation of planned erosion and sediment control measures as related to the progress of the project, including the total area of soil surface that is to be disturbed during each stage, the anticipated starting and completion dates, and a schedule for the maintenance of such measures.

9) Include the following notes on the sheet:

   a) "All erosion control practices shall be in accordance with the Indiana Department of Natural Resources (IDNR) "Indiana Handbook For Erosion Control In Developing Areas" dated October 1992 and the NRCS "Field Office

Technical Guide."

b) The Planning and Zoning Administrator or his/her designee has the right to require additional erosion control measures in the field as conditions warrant.

10) Copies of the letter of intent and response from the Indiana Department of Environmental Management (IDEM) office for Rule 5 compliance, when required.

11) Any other information reasonably required by the commission or administrator to properly evaluate the plan.

e. Grading Plan. The following information shall be submitted:

1) Major drainage swales and percents of slope;

2) Pad grades;

3) Street grades;

a) Centerline and curb if street is bituminous pavement with concrete curb. Centerline only if streets are concrete and placed with electronic control. (Maximum 50 foot spacing)

b) All sag and crest points

4) Paved swales if any, at 50 foot intervals;

5) Lake or pond, if applicable; and

6) Locations of sidewalk ramps.

f. Plan And Profiles. The following information shall be submitted:

1) Sanitary Sewers:

a) Invert elevations and percents of slope;

b) Top of casting elevations;

c) Lateral locations based on distances along main from manholes;

d) Locations of each manhole or structure (to make sure they are sufficiently within designated easements to permit future excavation to system if needed); and

e) Designate any material change from design plans. Where plans show any alternatives, indicate alternative actually used.

2) Storm Sewers:

a) Invert elevations and percents of slope;

b) Top of casting elevations;

c) Location of pipe and structures (to make sure they are within designated easements); and

d) Designate any material change from design plans. Where plans show any alternatives, indicate alternate actually used.

3) Streets:

a) Grades;

b) All low and high points;

c) All percents of slope;

d) Any deviation of alignment; and

e) Grades and dimensions on acceleration and deceleration lanes if applicable.

g. Landscape Plan. A landscape plan prepared to the standards specified in Section 7.8 Landscaping.

h. Master Sign Plan. A sign plan prepared to the standards specified in Section 7.7 Sign Regulations.

i. Lighting Plan. A photometric plan prepared to the standards as specified in Section 7.15 Exterior Lighting Standards.

j. Plat-like Dedication Sheet, If Necessary. The following information shall be submitted for easements and rights-of-way if deemed necessary by the Plan Commission or its authorized designee:

1) Parcels of land proposed to be dedicated or reserved for public use, or reserved for common use of all property owners within the project, with the proposed conditions and maintenance requirements, if any, shall be designated as such and clearly labeled on the plans;

2) Radii, internal angles, points of curvature; tangent bearings and lengths of all arcs, chord, and chord bearings; and

3) Accurate location of all survey monuments erected, corners and other points established in the field in their proper places.

k. Other Required Submittals. The Applicant shall be required to submit written documentation of the following, when applicable:

1) Utility encroachment approvals;

2) Lebanon Stormwater Board approval;

3) Boone County Drainage Board approval;

4) Other local, state, and federal approvals, including other City boards, commissions, or departments;

5) Inspection and testing agreements with the Board of Works and Safety;

6) Outside reviews as required by the City; and

7) Easements and rights-of-ways not on a plat-like document shall be submitted in the form prescribed by the Board of Public Works and Safety and include both a full legal description and a drawing exhibit.

D. TECHNICAL ASSISTANCE COMMITTEE (TAC) REVIEW

1. The applicant shall refer to the application packet to determine the procedures regarding Technical Assistance Committee.

2. The applicant shall refer to the Schedule of Meeting Dates to determine the filing deadline for any given meeting of the TAC.

3. Incomplete submittals may result in the application's being held off the TAC agenda to allow the petitioner time to complete the submittal.

4. The petitioner or his/her representative should be present at the TAC meeting to address and discuss comments and concerns posed by the committee members. Failure to appear may result in the application's being continued to the TAC agenda for the following month.

5. Revisions: Following TAC review, the petitioner shall submit the required number of complete sets that respond to the TAC's comments and concerns. Final revised plans shall be submitted at least ten (10) working days prior to moving on to the next phase or the issuance of applicable permits. All final plans shall include digital files in the necessary format to meet the city's computer system requirements.

E. REJECTION STATEMENT. The Administrator may reject any submittal for the following reasons:

1. Incomplete application;

2. The drawing set or supporting documents not complete nor stapled; or

3. Poor legibility.

F. DEVIATION FROM THE APPROVED DEVELOPMENT PLAN

1. If the installation of the elements on the development plan materially deviate from the approved development plan (as determined by the Administrator, the site plan shall be resubmitted to the Plan Commission for a new development plan approval in accordance with the procedures and requirements for Development Plan approval. For the purposes of this section, material deviation is one that:

   a. Adds, removes, or reconfigures an internal street or relocates an access point;

   b. Affects a condition of development plan approval that was established by the Commission during the development plan approval stage;

   c. Reduces the area devoted to open spaces or buffer landscaping;

   d. Would require a waiver of the requirements and standards of these regulations or would negate the basis for a modification that was granted; or

   e. Involves the enlargement of a nonresidential building footprint on the site due to future additions that are more than 10 percent (10%) of the gross floor area or 5,000 square feet, whichever is less.

2. Minor changes that do not constitute material deviation shall be reviewed and approved by the Administrator staff.

G. FINANCIAL ASSURANCES. The City of Lebanon reserves the right to require financial assurances to guarantee construction according to plans of all public improvements proposed in a development plan and for certain private improvements, including but not limited to, site grading, drainage improvements, erosion control, sanitary sewers, private streets, landscaping and buffering, or other improvements which may directly impact adjacent properties or the health, safety, or welfare of the general public. Such assurances of performance shall be in an amount and form as prescribed by the City. Maintenance bonds shall be required for public improvements. Public improvements shall be dedicated within two years of the date of Plan Commission approval unless time extensions are granted by the City. If public improvements are not dedicated within two (2) years, the City may take any action deemed necessary to insure completion to a point of dedication.

H. RECORD DRAWINGS AND CERTIFICATE OF COMPLETION AND COMPLIANCE. The developer or owner shall cause record drawings to be prepared and submitted to the Administrator for all streets, drainage ditches

and facilities, utility pipes and structures, and finished grade elevations for the project. Said record drawings shall be filed with the Administrator prior to the release of any performance assurances. The recorded drawings/plans shall be accompanied by a Certificate of Completion and Compliance properly executed in the form prescribed by the commission by the licensed engineer, or surveyor preparing the development plan and/or record drawings. Record drawings, including the approved final plat shall be submitted on the forms specified by the Plan Commission.

1. General Requirements. Plans are to contain a certification statement that the improvements have been installed in reasonable compliance with the original design plans with respect to horizontal locations and grades and any deviations of locations, grade or material used are shown in these record drawings. Said certification is to be sealed and signed.

I. EXPIRATION DEADLINES

1. Approval of development plans shall expire two years from the date of Plan Commission approval if necessary land improvements have not been completed. The Plan Commission, at its discretion, may grant extensions for a period up to two (2) years.
2. Bonded improvements must be completed within two years of issuance of development plan approval.
3. Request for extension must be submitted in writing stating the justification for the extension.

9.18 SUBDIVISION CONTROL PROCEDURES - GENERAL

A. PURPOSE & INTENT. The purpose of this section is to guide the applicant through the proper procedures in order to subdivide land and obtain Plat approval in accordance with Indiana Code.

B. PLAT APPROVAL AUTHORITY. The Plan Commission shall have exclusive control over the approval of plats and replats of land within the corporate limits of the City of Lebanon. The Plan Commission shall address and approve Administrative Subdivisions, Minor Subdivisions, and Major Subdivisions of land. The Plan Commission may delegate approval of minor plats, secondary plats, and administrative subdivisions to the Plat Committee.

C. ADOPTION AND JURISDICTION. The Plan Commission hereby recommends to the Common Council this ordinance containing provisions for subdivision control, which ordinance shall be adopted, amended, or repealed in the same manner as other sections of the Unified Development Ordinance.

D. CONDOMINIUMS. The Subdivision Control Ordinance does not apply to Condominiums regulated by IC 32-25.

E. PLAT COMMITTEE ESTABLISHED. The Plan Commission may establish a Plat Committee to review and decide petitions for minor plats, secondary plats, and administrative subdivisions.

1. Membership. Committee membership shall be divided into two classes.

   a. Official Members. Official members shall consist of three or five members. One of the members shall be a staff member representing the City of Lebanon, and the remaining members shall be members of the Plan Commission who are not otherwise employed by the City, its subdivisions or instrumentalities.

   b. Ex-officio Members. Ex-officio members shall be the Technical Assistance Committee (TAC).

2. Appointment. Each member shall be appointed by the Plan Commission for one year.

3. Removal. The commission may remove a member from the committee upon mailing written reasons for removal to the member.

4. Decisions. The committee may take action only upon a majority vote. In the event of any uncertainty as to compliance or classification of any subdivision, the Plat Committee shall forward such subdivision to the Plan Commission for consideration.

5. Voting. Only official members of the Plat Committee shall be entitled to vote on matters requiring official action by the Plat Committee.

6. Meetings. The Plat Committee shall meet at least as often as once each calendar month but not more than once per calendar week.

F. IMPROVEMENT CREDIT PROCEDURE FOR IMPROVEMENTS INVOLVING BENEFITS TO OTHERS. Improvements set forth in Article 8 of this ordinance which are required to be installed by the subdivider and are of a public utility nature, may provide benefits to other properties in the vicinity of the land to be subdivided. Upon the installation of such improvements which cross or adjoin other properties and can be used by such properties, the subdivider and the City may by contract agree that upon the connection or use of the installation made by the subdivider by another within a period of ten (10) years following their installation, the new user(s) shall pay a fee to the City in an amount agreed upon by the subdivider and the City, the amount of such fee to be credited to and paid to the subdivider.

G. APPLICATIONS

1. The applicant (Subdivider) shall submit a written application for approval of the Overall Primary Plat to the Administrator. Subsequent to the approval of the Overall Primary Plat, an applicant shall submit an application for a Secondary Plat. Such applications shall be prepared on the forms provided by the Administrator and accompanied by the information, requirements and plans set forth in accordance with the requirements of this ordinance.
2. The applications shall be accompanied by a check or money order made payable to the City of Lebanon in an amount determined by the schedule of fees, available in the office of the City Clerk-Treasurer.
3. No part of any filing fees shall be returnable to the applicant.
4. For applications requiring review by the Technical Assistance Committee, the required application forms and fees shall be submitted prior to scheduling a meeting with the Committee.

9.19 SUBDIVISION CONTROL PROCEDURES - MAJOR SUBDIVISIONS

A. CONCEPT PLAN. Major subdivisions require primary plat approval by the Plan Commission. Before filing a plat for a major subdivision, applicants are required to present a Concept Plan for the subdivision to the Technical Assistance Committee (TAC) for informal discussion.

1. Prior to submitting an application for a Primary Plat, the subdivider shall first meet with City staff to acquaint the subdivider with applicable plans and ordinances.
2. The Concept Plan review is intended only for the above purposes; neither the developer nor the City is bound by any decision made during this review.
3. All materials required by this section shall be submitted to the Planning and Building Department in accordance with established procedures available in the office.
4. The Concept Plan should be drawn to scale and should include the following:
   a. A legal description of the property.
   b. A location map, showing the parent tract and including any lots previously subdivided from it.
   c. The location of all existing property lines, existing easements, and

existing watercourses; location, width and names of existing platted streets within or adjacent to the tract; and names of adjoining property owners within five hundred (500) feet of the boundary of the proposed subdivision.

d. Locations of existing utilities within the tract and immediately adjacent thereto.

e. Existing natural features and topographic or geologic constraints and intent to preserve or incorporate these features into the final plan.

f. Approximate location and widths of proposed streets.

g. Preliminary proposals for connection with existing water and sewer systems; preliminary provisions for collecting and discharging surface water drainage.

h. Approximate location and area of all parcels of land to be set aside for park or playground use or other public use or for the use of the property owners in the proposed subdivision.

5. The Plan Commission may consider the failure to present a Concept Plan to staff prior to the submission and review of the Overall Primary Plat as an improper form or an incomplete application.

B. PRIMARY PLAT

1. Submittal. The subdivider shall provide an Overall Primary Plat of the Subdivision, the design of which shall be in conformance to the Comprehensive Plan, the Thoroughfare Plan, the Unified Development Ordinance, these subdivision regulations, and other City Ordinances not in conflict with these regulations. Further, the intent of the Primary Plat section is to ensure that the statutory requirements established in the Indiana Code for the subdivision of land are met.

2. Preparation. The Overall Primary Plat shall be prepared by a Professional Engineer or Land Surveyor licensed in the State of Indiana and drawn according to the specifications set forth as follows.

3. Plans and Specifications. The Primary Plat shall have the following sheets and information.

a. Title Sheet:

1) Proposed name of the subdivision, followed by the words: "Overall Primary Plat".

2) A site location map showing the location of highways, local/county roads, rural routes, utilities, legal drains, flood plains,

private drain tile, open drains, watershed boundaries, and any other physical features that may have a bearing on proposed development (i.e.: swamp, steep escarpments, woods, etc.)

3) Names and addresses of the owner of the land, the subdivider, planner, architect, engineer, land surveyor or other persons who prepared the plan.

4) Property owners and existing land use of adjacent land.

5) An index of sheets contained in the set.

b. Topographic Conditions:

1) Contours at vertical intervals of two (2) feet or less if the slope of the site is less than ten percent (10%) and at vertical intervals of five (5) feet if the general slope of the site is ten percent (10%) or greater.

2) Tract boundary lines showing dimensions, bearings, angles, and references to section, township and range lines.

3) Plot and profile of existing drainage, drainage channels, underground facilities, wooded areas, power transmission poles and lines, and any other significant items shall be shown.

4) The location and size of all existing utilities.

5) All subdivision plats containing lands identified on the official Flood Emergency Management Agency (FEMA) Maps (as amended), or determined by the Indiana Department of Natural Resources to be flood-prone areas shall have the elevation of the one hundred year flood listed thereon.

c. Plan Layout Sheet:

1) Streets and rights-of-way on and adjoining the site of the proposed subdivision, with street names, sidewalks and other pertinent data.

2) The layout of lots, showing dimensions and numbers and square foot area of each lot. Block number, distances, radii and chords shall also be shown.

3) Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes.

4) Building setback or front yard lines.

5) Easements: Locations, widths and purposes.

6) The "Plan Layout Sheet" may be incorporated into the "Topographic Sheet" provided such incorporation does not result in a drawing which is illegible.

d. Utility Layout Sheet:

1) A drawing showing the locations of the proposed sanitary sewers with connections to the main sewer system, lift stations, if any, and other appurtenances, if any.

2) A drawing showing the location of a public or quasi-public source of water supply.

3) A drawing showing the proposed method of drainage:

a) If storm sewers or similar type of system is used, show connection to main system, or method of disposition into stream, retention reservoir, etc.; distance to stream outlet; lift stations, if any; man holes, if any; inlets; junction boxes; and other necessary appurtenances.

b) If surface drainage is planned, show the following where applicable: location and type of roadside swales, grassed waterways, water courses, and open ditches; roll curb and gutter sections; location and approximate size of road culverts; location and typical cross-section of grades, swales, waterways, roadside ditches, and/or open ditches; approximate depth and grades of above mentioned surface drainage; and necessary profiles, cross-sections, and other information to the adequacy of the outlet drain or detention reservoir.

4) Written statement concerning the location and approximate size or capacity of utilities to be installed.

e. Supplementary Information:

1) Phasing plan for any subdivision that is to occur in stages, along with a proposed schedule for the phasing.

2) Written statement of the proposed use of lots, stating type of residential buildings with number of proposed dwelling units or type of business or industry, so as to reveal the effect of the development on traffic, fire hazards or congestion of population.

3) Proposed covenants and restrictions.

4) Elevations or renderings of typical product to be constructed in the subdivision.

5) A National Cooperative Soil Survey Map from the Subdivision Administrator or the local Soil and Water Conservation District showing the soil limitations based upon the intended usage of the subdivision.

6) Included in the application shall be a conservation plan detailing the management of the soil, the water management plan for both surface and subsurface drainage, and the method or methods used in controlling erosion and sedimentation before, during, and following construction, i.e.: temporary seeding, siltation basins, mechanical erosion devices, and other similar means that meet the Boone County Soil and Water Conservation guidelines for urban development. (See Section 4 for more information.)

7) A written statement or letter from INDOT, the County Highway Department, or City Street Department concerning rights-of-way, road improvements, roadside improvements, roadside drainage, entrances, culvert pipes, and other infrastructure improvements that impact this proposal.

8) If legal drain is involved, a letter or written statement of approval from the Lebanon Stormwater Board concerning easements, rights-of-way, permits, etc.

9) If floodway is involved, a letter or written statement from the Indiana Department of Natural Resources, Division of Water concerning construction in floodway, including flood plain high water marks, etc.

10) A drawing or written statement which shows or explains other features or conditions which would impact the subdivision.

11) A Fiscal Impact Analysis shall be prepared for all residential subdivisions with fifty (50) or more lots.

4. <u>Primary Plat Review And Approval</u>

a. The Subdivider shall submit the required items listed above in accordance with the procedures and time frame set forth in the Primary Plat Application and the Plan Commission Rules of Procedure. The submittal shall be complete prior to being placed on any agenda. The Primary Plat shall be reviewed with regard to the standards for the current zoning of the property and not any anticipated zoning. The process should not run concurrently with

the rezoning for the subject parcel

b. Staff will then put the project on the agenda for a regularly scheduled meeting with the Technical Assistance Committee (TAC) for the review of the Overall Primary Plat. The purpose of the TAC review is to ensure technical conformity with the Lebanon Unified Development Ordinance.

c. After the Primary Plat has been reviewed and the applicant has responded satisfactorily to the comments made by the TAC, the Subdivision Administrator shall place the Application for Primary Plat Approval on the agenda for the next regularly scheduled meeting of the Plan Commission.

d. The applicant shall publish a notice of the time and place of the hearing and the location of the proposed plat, in accordance with Section 9.15 Notice of Public Hearing, and the Plan Commission Rules of Procedure. The cost of the publication of the notice of public hearing shall be met by the applicant.

e. The hearing shall be conducted in accordance with the Rules of Procedure. The Plan Commission shall review the application and shall study the "Overall Primary Plat" to determine if it conforms to the minimum standards and requirements as outlined in this ordinance. The Plan Commission shall also consider

1) The written statement and supportive material submitted by the petitioner;

2) The testimony of the petitioner;

3) Relevant evidence presented by other persons;

4) The Comprehensive Plan;

5) The Lebanon Construction Standards Manual

6) All information presented by the members of the Technical Advisory Committee;

7) The Planning and Zoning Administrator's report; and

8) Such other additional information as may be required by the Plan Commission to evaluate the petition.

f. The Plan Commission shall prepare findings of fact and:

a. Approve the petition;

b. Approve the petition with conditions and/or commitments;

c. Deny the petition.

d. Continue the petition to a definite future meeting date.

g. Commitments. In conjunction with the approval of a Primary Plat, the Plan Commission may permit or require the applicant to make written commitments concerning the use or development of the parcel.

See Also:

Section 9.14 Written Commitments

h. Conditions of Approval. In conjunction with the approval of a Primary Plat, the Plan Commission may impose conditions of approval concerning the use or development of the parcel that will, in its judgment, substantially secure the objectives of these ordinances.

i. Upon denying an application, the Commission will not review the Overall Primary Plat until it is re-submitted, which cannot be done for a minimum of six (6) months.

j. The approval of the "Overall Primary Plat" by the Commission does not constitute approval of any or all of the subdivision, but is merely an authorization to proceed with preparation of a secondary plat.

j. Revisions. Following Plan Commission approval, the petitioner shall submit revised copies of the plans that address the comments and concerns of the Plan Commission and that are in conformance with the established procedures of the Planning and Building Department.

k. An approval of the Overall Primary Plat shall be effective for a period of twelve (12) months unless, upon request of the applicant, the Commission grants an extension of time. The application for a Secondary Plat shall be submitted to the Commission, and if it is not received within the specified period, all previous actions by the Commission with respect to the plat shall be deemed to be null and void.

C. SECONDARY PLAT

1. Purpose. The following section provides guidelines for the submittal of a Secondary Plat of a Subdivision to ensure that the statutory requirements established in the Indiana Code for the subdivision of land are met. The applicant shall submit an application for approval of the Secondary Plat, engineering plans and specifications, and other required information to the Planning and Zoning Administrator.

2. Phases. The Secondary Plat may include all or any phase of an approved Overall Primary Plat. The applicant shall provide a description of the phase of the approved Overall Primary Plat intended to be filed for

record, including a phasing plan for the progressive development of the remaining area contained in the approved Overall Primary Plat.

3. Review. Upon receipt of a complete application, the Administrator shall review the application for technical conformity with the standards in this ordinance and then:

   a. Assign the Secondary Plat or Replat to the Plat Committee for approval; or

   b. Assign the Secondary Plat or Replat to the Plan Commission for approval.

4. Preparation and Contents. The Secondary Plat submittal shall contain the information as set forth in Section 9.17 Development Plan of this chapter. In addition, the submittal shall include:

   a. A statement of the estimated amount of money sufficient to complete the improvements and installations by the subdivider and attested to by a Registered Land Surveyor or a Registered Professional Engineer.

   b. Lot numbers and dimensions, and lot area in square feet.

   c. Plans and specifications for the improvements required in this ordinance.

   d. Restrictions of all types which will run with the land and become covenants in the deeds for lots.

   e. Deed of dedication of streets and other public property.

   f. Certificate of Primary Plat approval by the Commission, as provided by the Planning and Building Department.

   g. Certificate of approval by the Lebanon Board of Public Works and Safety for improvements in subdivisions (when applicable).

   h. Certificate of approval by the Lebanon Utilities Service Board for improvements in Subdivision (when applicable).

5. Secondary Plat Approval

   a. Required Changes. The Secondary Plat will have incorporated all changes or modifications required by the Commission, General Manager of the Lebanon Utilities, Health Officer, Boone County Soil and Water Conservation District, and County Surveyor; otherwise it shall conform to the Overall Primary Plat as approved by the Commission, and it may constitute only that portion of the Primary Plat which the subdivider proposed to record and develop at the time, provided that such portion conforms with all requirements of

this ordinance and meets the approval of the Commission.

b. Time For Filing. The Secondary Plat shall be filed not later than twelve (12) months after the date of approval of the Overall Primary Plat, otherwise it will be considered void unless an extension is requested by the developer and granted by the Commission in writing.

c. Application. Fifteen (15) days before the Commission's next regularly scheduled meeting, the subdivider shall submit to the Subdivision Administrator an application for approval of the "Secondary Plat" of the subdivision, together with four (4) copies of all material outlined above, as requested by the Commission. Also, the original drawing, with signatures, and eight (8) page-size (8 ½ x 11) prints of the "Secondary Plat" shall accompany this material.

d. Examination, Approval By The Subdivision Administrator. The Secondary Plat shall be considered officially filed after it is examined by the Subdivision Administrator and is found to be in full compliance with the formal provisions of this ordinance. To register his approval of said plat, the Subdivision Administrator shall sign and date an approval statement on the Plat.

e. Financial Guarantees

1) Guarantees that all required improvements will be constructed according to approved plans shall be a prerequisite to the filing of a Secondary Plat for recording in the Office of the Recorder of Boone County. Approval of a Secondary Plat shall be subject to the improvements being constructed and accepted for dedication or the appropriate financial guarantee being posted with the board of Public Works and Safety before recording. Copies of these agreements shall be on file at the City Clerk-Treasurer's office.

2) Required Notice From Board Of Public Works And Safety. When the Secondary Plat is submitted to the Subdivision Administrator, it shall be accompanied by a notice from the Lebanon Board of Works and Safety, stating that there has been filed with and approved by that body, one of the following:

a) A certificate signed by an inspector from the Planning Department, stating that he has inspected the improvements and installations for the subdivision required for its approval, during and after their construction and installation; and stating that they have been made or installed in accordance with the approved specification;

and that a three (3) year maintenance bond has been provided for any improvements and installations required by this ordinance, as is executed to the City of Lebanon. The said maintenance bond shall:

(1) Run to and be in favor of the City of Lebanon, Indiana.

(2) Be in a penal sum of not less than $25,000 per mile of streets in the subdivision to assure and guarantee the maintenance of all improvements and installations during such three (3) year period, including, but not limited to the following: streets to minimum City of Lebanon specifications, sanitary sewers, storm sewers and water lines, lift stations, pumps, motors, connections and main lines installed in the subdivision, sidewalks, shoulders, side slopes and ditches, street signs, street lights, and fire hydrants; provided that the Lebanon Board of Works and Safety may reduce the penal sum set forth herein for good cause if the intent of the Maintenance Bond provision is preserved, and

(3) Include an amount for maintenance other than for streets set forth above which shall be set by the Commission, but in no event shall the penal sum of such maintenance bond covering additional installations be less than twenty-five percent (25%) of the total cost of all of the improvements and installations in the subdivision proposed for Secondary Plat approval, and

(4) Commence upon approval of the Secondary Plat.

b) A financial guarantee which shall:

(1) Run to the City of Lebanon.

(2) Be in an amount equal to one hundred twenty-five percent (125%) of the cost of the improvements as specified in the subdivision improvement agreement.

(3) Be with surety satisfactory to the Commission.

(4) Specify the time for the completion of the improvements and installations, which shall be within two (2) years from the date of such bond.

c) Specify that upon completion, but prior to acceptance by the Lebanon Board of Public Works and Safety of any streets, a three (3) year maintenance bond or other suitable agreement acceptable to the Lebanon Board of Public Works and Safety covering such street improvements, and for all other improvements and installations in the subdivision which shall run to the Lebanon Board of Public Works and Safety, will be provided by the subdivider or contractor of such street improvements to be effective as of the date of acceptance by the Lebanon Board of Public Works and Safety. This maintenance bond or other suitable agreement or financial guarantee shall satisfy the requirements set forth for a three (3) year maintenance bond.

(1) The developer may furnish in lieu of the above and the foregoing maintenance bond, bonds with his subcontractors which comply with all of the requirements of the above and foregoing section.

(2) Release Of Financial Guarantees. The financial guarantee referred to above shall not be released until the following has been received: a certificate stating that said engineer or surveyor has inspected the improvements and installations guaranteed by the bond during and after their construction and that they have been made and installed in accordance with the approved specifications. Such certificate shall have been filed with the Subdivision Administrator and the Lebanon Board of Public Works and Safety; and shall have been signed by a registered professional engineer or registered land surveyor, who has been approved by the Lebanon Board of Public Works and Safety.

3) Upon the acceptance of all streets in the subdivision by the Lebanon Board of Public Works and Safety, and upon the subsequent authorization of the Lebanon Board of Public Works and Safety for the acceptance of the other improvements and installations covered by the maintenance bond, the three (3) year maintenance bond or other suitable agreement or financial guarantee may be released and the surety discharged of further obligation for all time.

4) Bond Funds. Any funds received from the bond required by these regulations shall be used only for the purpose of making

the improvements, installations or repair for which said guarantees were provided, in accordance with the standards, specifications and requirements of these regulations.

f. Completion Affidavit. Upon the acceptance of said improvements and installations by the Lebanon Board of Works and Safety, the applicant shall obtain a completion affidavit stating that the required improvements and installations have been installed in compliance with the specifications of this ordinance, and have been accepted for public maintenance; said completion affidavit shall be filed with the Commission. (See Appendix)

g. Approval. Within a reasonable time, not to exceeding sixty-five (65) days after application for approval of the Secondary Plat, the Administrator or his/her designee shall approve or disapprove the Secondary Plat. The Administrator may choose to refer the Secondary Plat approval request to the Plan Commission. If approved the plat shall be stamped and signed by the Administrator. The plat may then be filed for recording in the Office of the Recorder of Boone County, as required by law within six (6) months. If the plat is disapproved the Administrator shall set forth in writing the reason for such disapproval in its own records and provide the applicant with a copy. The applicant may refile after a period of one year, but he must show a substantial change to the disapproved subdivision, as determined by the Plan Commission.

9.20 SUBDIVISION CONTROL PROCEDURES - MINOR SUBDIVISIONS

A. GENERAL. Subdivisions meeting the following conditions of eligibility may be considered as "Minor Subdivision", and with replats, shall be considered under the provisions of this subsection. Minor subdivisions may receive primary and secondary approval by the Plat Committee. The Subdivision Administrator's decision may be appealed to the Plan Commission.

B. CONDITIONS OF ELIGIBILITY. Before determining that a subdivision is eligible to be considered under this section, the Subdivision Administrator shall find that all of the following criteria are satisfied:

1. Division From Parent Tract. The subdivision will not result in the creation of more than three (3) lots from a parent tract, whether at the same time or over the course of time. , shall be considered under minor subdivision review. Any subdivision which would result in a cumulative total of three (3) or more lots in addition to the original parent tract shall be considered a major subdivision, regardless of whether the

three lots are created through one subdivision or several subdivisions over time.

2. Orderly Development. The subdivision will not impede orderly development of land or the provision of public services and improvements.

   a. The subdivision will not interfere with the implementation of the Comprehensive Plan.

   b. The subdivision will not interfere with the provision of streets to provide access to adjoining or nearby property in the event that such property is developed in the future.

3. Utilities And Drainage. All parcels in the subdivision will have adequate utilities and drainage.

   a. All lots shall be served by a sanitary sewer. Any subdivision of land which requires the extension of existing sewers shall be considered as a major subdivision.

   b. All lots shall be served by a public or quasi-public water system. Any subdivision of land which requires the extension of existing water shall be considered as a major subdivision.

   c. All lots shall be provided with drainage improvements in compliance with the Lebanon Stormwater Control Ordinance, as amended.

4. Access. All parcels in the subdivision and adjacent land will have adequate ingress and egress without the construction of any new streets or substantial improvement to existing streets.

   a. All lots will have legal access to a platted private street or to a public street which has been accepted for maintenance, or has been continuously maintained for a period of ten (10) years immediately preceding the filing of the subdivision, by a public agency regularly having responsibility for such maintenance. Such public street shall also have a hard surface suitable for vehicular traffic which complies with the Thoroughfare Plan.

   b. Frontage on limited access streets on which driveways cannot open shall not constitute legal access.

   c. If by reason of topography, natural or man-made features, or other conditions relating to the property requested for subdivision, better access can be provided through construction of a new street, the petition shall be considered as a major subdivision.

   d. All lots will have driveway locations which will provide for adequate sight distance and will be properly spaced according to City

standards.

e. Land adjacent to the property involved in the subdivision shall also have adequate access according to the criteria contained in this subsection.

5. Suitability. All lots in the subdivision will provide suitable building sites for the purpose for which the land is to be used. Land suitability shall be determined by the criteria contained in Section 8.2 General Provisions for All Subdivisions of this ordinance.

6. Endangerment. The subdivision will not be detrimental to nor endanger the public, health, safety, or general welfare.

7. WAIVERS. The Subdivision shall not require any waivers.

C. CONCEPT PLAN. Submittal of a Concept Plan for a minor subdivision is optional. The Concept Plan review process serves as an introduction to the subdivision process and subdivision regulations for the applicant. Refer to Section 9.19 Subdivision Control Procedures - Major Subdivisions for the Concept Plan procedure.

D. PRIMARY PLAT APPROVAL

1. Application. Application shall be made to the Subdivision Administrator on the appropriate forms, accompanied by the required filing fee. The subdivision administrator will then determine whether or not the subdivision qualifies for minor subdivision approval or whether it must be filed as a major subdivision.

2. Minor Subdivision. All subdivisions of land meeting the definition of "Subdivision, Minor," in Chapter 11: Definitions of this ordinance and verified by the Administrator may be submitted to the Plat Committee or the Plan Commission for primary approval as specified in this section.

3. Required Submission Materials. All requests for primary plat approval of a minor subdivision shall be accompanied by the materials required as set forth in Subsection 9.19(B) of this ordinance.

4. Supporting Material. The following supporting material, in accordance with Subsection 9.19(B), shall be submitted with the primary plat:

a. The names and addresses of all adjacent land owners, keyed to a map.

b. A map showing all significant topographical and other features, including water bodies, existing buildings, alleys, streets, or other information which will aid in the location of the property for site visits.

c. Evidence that a sewerage permit can be obtained from the City Utilities Department and evidence that water service is available to all building lots in the subdivision.

d. Documentation sufficient to show that all applicable design standards of this ordinance are met by the proposed subdivision.

e. Erosion control plan, if necessary.

f. Drainage report, if necessary.

g. Any covenants or other restrictions which will run with the land included in the subdivision.

h. If any lot in a minor subdivision is to receive its access from a State highway, evidence that a driveway permit can be issued by the Indiana Department of Transportation shall be submitted.

5. Findings and Decision. Upon review of all the materials by the Plat Committee, the Plat Committee shall make written findings of whether the Primary Plat meets the standards of this ordinance and shall approve the petition; approve the petition with conditions and / or commitments; deny the petition; or continue the petition to a definite future meeting.

6. Revisions. Following Plat Committee approval, the applicant shall submit revisions in conformance with the established procedures of the Planning and Building Department.

7. Length Of Approval. Primary approval of a minor subdivision shall be valid for three hundred sixty-five (365) days, unless an extension is granted by the Plat Committee or Commission. If secondary approval is not granted before the expiration of three hundred sixty-five (365) days, the primary approval shall be null and void.

E. SECONDARY PLAT APPROVAL

1. General. After all conditions of primary approval have been met, the applicant may request secondary approval from the Administrator or Plat Committee. The Administrator may choose to refer the plat approval request to the Plan Commission.

2. Required Submission Materials. All requests for secondary approval shall be accompanied by the materials listed in this section.

a. Secondary Plat. An original drawing prepared in accordance with the standards set forth in Subsection 9.19(C) and all information required above, as approved by the Plan Commission or Plat Committee.

b. Supporting Material. Documentation sufficient to show that

all conditions of primary approval by the Commission or Plat Committee have been met.

3. Length Of Approval. Secondary approval of a minor subdivision shall be valid for a period of one year from the date of such approval. If the subdivision is not recorded before the expiration of one year, it shall become null and void.

9.21 ADMINISTRATIVE SUBDIVISIONS

A. GENERAL. Administrative subdivisions are subject only to the agreement of the Plat Committee that such subdivision is within one of the categories included in the definition of "Subdivision, Administrative," in Chapter 11: Definitions of this chapter. Replats which meet the conditions of administrative subdivisions also may be considered under the terms of this Article.

B. FILING FEES. A request for review of a subdivision shall be accompanied by the filing fee established by the Plan Commission.

C. SUBMISSION MATERIALS. The following materials shall be submitted by an applicant for approval of an administrative subdivision:

1. Application signed by the owner(s) of record of all property involved in the subdivision.
2. A drawing drawn to a scale of fifty (50) feet to one (1) inch, or one hundred (100) feet to one (1) inch and on sheets not to exceed twenty-four (24) inches by thirty-six (36) inches; however, if the resulting drawing would be over thirty-six (36) inches in the shortest dimension, then a scale as recommended by the Subdivision Administrator may be used. Such drawing shall show the property involved in this subdivision, indicating the area of each lot or parcel in acres (for parcels larger than 20,000 sq.ft.) or square feet and indicating the configuration of the property and any easements thereon before and after the proposed administrative subdivision.
3. Required approval certificates.
4. For removal of interior lot lines, a legal description of the property and the new lot number(s).
5. For removal of platted easements, signed and notarized letters of approval of the proposed action by all utilities having an interest in such easements, and in the case of drainage easements, any neighboring property owners affected by such easements. A notation shall be placed on the plat indicating that the easement has been vacated.
6. For changes in the notations on a previously approved plat, an

explanation of the reason(s) for the changes. If the Plat Committee finds that such changes have a significant effect on the subdivision as previously approved, the Plat Committee shall require such changes to be decided by the Plan Commission.

7. For division of land into cemetery plots, a plat of the cemetery showing the layout of the cemetery, including private drives, parking areas, and the sizes of burial lots. Such plat shall comply with the requirements of Indiana Code, 23-14-8 and any amendments thereto.

8. For divisions by court decree, a copy of the decree showing by legal description how the land is to be divided.

9. Sale or exchange of tracts between adjoining land owners:

    a. For sale or exchange of adjoining land where one or more of the affected parcels is platted, a legal description and indication on the drawing of the tract to be divided and the tract to be added and certification by a registered land surveyor that monuments have been or will be set to indicate the relocated property lines. If the land involved in the subdivision has not been monumented, no monumentation is required.

    b. For sale or exchange of adjoining unplatted land, a legal description and indication on the drawing of the tract to be divided and the tract to be added.

    c. For subdivision where the purpose is to resolve a boundary dispute or to establish a mutually agreed upon boundary line, an affidavit signed by all affected property owners stating the purpose of the subdivision.

    d. At the time that an administrative subdivision as defined in Chapter 11: Definitions is submitted for secondary approval, the submission shall include quitclaim or warranty deed(s) containing the legal description for each parcel of property for which ownership is transferred within and by said Administrative Subdivision.

10. For corrections of legal descriptions, an affidavit signed by the affected owners stating that the description was in error, and a corrected legal description. Such correction shall be recorded, and an appropriate notation shall be placed upon the previously recorded plat.

11. For dedication or granting of easements for purposes other than access, a legal description. Such easements shall be recorded, and an appropriate notation shall be placed on the recorded plat.

12. For dedication of right-of-way or access easements, a legal description and a plat showing the parcels and the location of the right-of-way

or easement. In addition, for right-of-way dedication, certification by a registered land surveyor that monuments will be set indicating the relocated property lines.

13. For division of a building site containing an existing dwelling from an agricultural tract, evidence that the dwelling has been on the site for at least ten (10) years, and a survey by a registered land surveyor meeting the minimum standards for surveys and preparation of plats, contained in Section 8.6 Standards for Surveys and Preparation of Plats.

D. REVIEW PROCEDURE FOR ADMINISTRATIVE SUBDIVISIONS

1. Discussions With Staff. Prior to submitting any of the materials required by this section, the applicant or his/her representative is encouraged to discuss with the Subdivision Administrator the nature of the land division being proposed. Based upon the information provided at this conference, the Subdivision Administrator will provide the applicant with a preliminary opinion as to whether the proposed subdivision qualifies as an administrative subdivision, and if not, which application and review procedure applies to that type of subdivision. Failure to hold this conference and/or to provide complete and accurate information to City Staff at this stage may cause delays in formal consideration of the subdivision.

2. Application And Fees. An application for approval of an administrative subdivision shall be filed with the Planning and Building Department together with all required materials. The fee, as set by the Plan Commission, shall be paid at the time of filing.

3. Plat Committee. The Plat Committee has been assigned by the Plan Commission to review and decide administrative subdivision petitions. In the event of any uncertainty as to compliance or classification of any subdivision, the Plat Committee shall forward such subdivision to the Plan Commission for consideration.

4. Review. The Plat Committee shall review the plat for compliance with the Subdivision Control Ordinance for the City of Lebanon. The Subdivision Administrator may review the application for compliance with this section, and provide a recommendation to the Plat Committee.

5. Site Visit. Plat Committee members, city officials, staff or their representatives, at their discretion, may visit the site at any time during the review process.

6. Consultation. Plat Committee members, city officials, staff, or their representatives shall consult with any other persons and agencies necessary to make an accurate determination of the compliance of the application with the terms of this section.

7. Action. Action by the Plat Committee on an administrative subdivision shall be by a majority vote.

8. Public Notification. Approval may be granted to an administrative subdivision by the Plat Committee without public notice and hearing. Within ten (10) days after approval by the Plat Committee, the Subdivision Administrator shall provide due notice by mail to adjacent property owners and the petitioner(s). Such notice shall include a notification of the right to appeal the Plat Committee's decision.

9. Comment Period. Adjacent property owners and the petitioner(s) shall have a ten (10) day comment period from the date the notice is mailed, within which any notice of appeal must be filed with the Subdivision Administrator.

10. Appeal. Appeal shall be governed in accordance with the following section:

    a. Plat Committee Decision. Any final decision of the Plat Committee may be appealed to the Plan Commission. The notice of final decision shall contain the date of mailing thereon. Appeal may be initiated by the applicant, or any property owner affected by such final decision. The appeal shall be directed to the Plan Commission, and shall be filed with the Subdivision Administrator. If the expiration of the ten (10) day comment period occurs on a Saturday, Sunday or recognized City of Lebanon holiday, then such expiration date shall be extended to include the next business day thereafter following.

    b. Public Hearing. Appeal of the Plat Committee final decision shall be heard by the Plan Commission at a regularly scheduled public hearing, or in accordance with commission rules at a special meeting of the Plan Commission. Said hearing shall take place within forty-five (45) days after the filing of an Appeal with the Subdivision Administrator, and the Plan Commission shall render its written final decision within fifteen (15) days after such hearing. With the consent of the applicant and the Plan Commission, said hearing day may be extended.

    c. Plan Commission Decision. A final decision of the Plan Commission may be appealed to the Circuit Court or Superior Court of Boone County, Indiana. Said appeal shall be through a Petition for Writ of Certiorari filed with the clerk of the appropriate court within thirty (30) days after the date of such final decision. Said petition shall in all respects conform to Indiana Law.

11. Approval Certificate. The Chairman and Secretary of the Plat Committee

are authorized to sign the approved administrative plat.

12. Length Of Approval For Administrative Subdivisions

    a. The approved administrative subdivision shall be recorded in the Boone County Recorder's Office within 120 days of certification by the Plat Committee. Any such subdivision and certification not recorded within that period shall become null and void.

    b. The approved administrative subdivision and any deed as required by this Article shall be recorded concurrently in the Boone County Recorder's Office within 120 days of certification by the Plat Committee. Any such subdivision, deed(s) and certification not recorded within that period shall become null and void.

9.22 AS-BUILT PLANS/ RECORD DRAWINGS

A. SUBMISSION OF PLANS. After completion of all public improvements such as streets, drainage ditches, structures and facilities, utility pipes and the like, but prior to their acceptance by the City of Lebanon Board of Works and Safety, the applicant shall provide the Administrator with a set of record drawings including one digital copy of the drawings, in a format as specified by the City. The record shall show the actual locations and specifications of all improvements installed in the subdivision. These As-Built plans shall be accompanied by a certificate of Compliance and Completion, sealed and signed, prescribed and certified as correct by a land surveyor or engineer licensed in Indiana.

B. ACCEPTANCE OF PUBLIC IMPROVEMENTS. Upon completion of construction, the applicant may file a written request to the City of Lebanon Board of Works and Safety for acceptance of all public improvements. Absolutely no public improvements shall be accepted by the City of Lebanon without prior submission of As-Built Plans.

C. PENALTIES AND FINES. Failure to provide correct As-Built Plans to the City shall result in penalties and fines as described in Chapter 10: Enforcement and Penalties.

D. APPROVAL FORMS. All agreements, bonds, and certificates of approval required by this ordinance shall be submitted on the forms found at the City of Lebanon Planning and Building Department offices or on the City's website.

9.23 DEVELOPMENT STANDARDS VARIANCE

A. PROCEDURE. In no case shall any variance to the terms of this ordinance be authorized without the approval of the Board of Zoning Appeals (BZA). Further, no decisions on previous applications shall serve to set a precedent for any other application before the BZA. The following procedure shall apply to all variance applications:

See Also:

Section 2.4 Board of Zoning Appeals

1. Application. The applicant shall submit a variance application, affidavit and consent of property owner (if the owner is someone other than the applicant), a copy of the deed for the property involved, the required filing fee, and required supporting information. Supporting information shall include, but not be limited to, the following:

   a. Site Plan. A site plan shall be signed and dated. The site plan shall be drawn to scale and/or fully dimensioned to the satisfaction of the Planning Director and clearly show the entire layout of the property with all features relevant to the variance request.

   b. Statement of Intent. A statement of intent to the Board of Zoning Appeals describing the details of the variance being requested and stating how the request is consistent with the required findings of fact. The statement should include any written commitments being made by the applicant.

2. Notification. Notification for the scheduled public hearing regarding the variance request shall be completed consistent with Section 9.15 Notice of Public Hearing and the Rules of Procedure of the Board of Zoning Appeals.

3. Public Hearing. The BZA will then, in a public hearing, review the variance application and required supporting information.

   a. Representation. The applicant and any representative of the applicant must be present at the public hearing to present the petition and address the required findings of fact.

   b. Testimony. The Board shall consider a report from the Planning and Zoning Administrator and testimony from the applicant, remonstrators, the public, and interested parties at the hearing.

   c. Procedures. The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the Rules of Procedure of the Board.

   d. Possible Action. The BZA may approve, approve with conditions, deny, or continue the application in accordance with IC 36-7-4-918.4.

1) Approval. The application shall be approved if a determination in writing is made consistent with the decision criteria listed in Subsection 9.23(A)(4).

2) Approval with Modifications. The application shall be approved with modifications if the Board of Zoning Appeals determines that the requirements of Subsection 9.23(A)(4) may be met if certain conditions are applied to the application. The Board may make reasonable conditions related to the required decision criteria in Subsection 9.23(A)(4) below, part of its approval and/or accept written commitments from the applicant.

3) Denial. The application shall be denied if a determination in writing consistent with the decision criteria listed in Subsection 9.23(A)(4) is not met. Applications that are denied shall not be eligible for consideration again by the Board for a period of 12 months from the date of denial.

4) Continued. The application may be continued by the Board based on a request by the Administrator, applicant, remonstrator, or interested party; an indecisive vote; or a determination by the Board that additional information is required prior to action being taken on the request.

a) Additional legal notice shall not be required unless specified by the Board of Zoning Appeals.

b) The continuing of all applications shall be consistent with the adopted Rules of Procedure of the Board of Zoning Appeals.

4. Decision Criteria. In taking action on all variance requests, the Board shall use the following decision criteria, consistent with the requirements of the Indiana Code.

a. Development Standards Variance. The Board may grant a variance from the development standards of this ordinance (such as height, bulk, area) if, after a public hearing, it makes a determination in writing (consistent with IC 36-7-4-918.5), that the following requirements will be met:

1) General Welfare. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.

2) Adjacent Property. The use and value of the area adjacent to the property included in the variance will not be affected in a

substantially adverse manner.

3) Practical Difficulty. The strict application of the terms of this ordinance will result in a practical difficulty in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.

5. Conditions. The Board may impose such reasonable conditions upon its approval as it deems necessary to find that the decision criteria for approval have been met.

6. Commitments. The Board may require the owner of the property to make written commitments concerning the use or development of the property as specified under IC 36-7-4-921. Such commitments shall be recorded in the Boone County Recorder's Office. A copy of the recorded commitments shall be provided to the Planning and Zoning Administrator for inclusion in the petition file at the time of application for an Improvement Location Permit. No Improvement Location Permit shall be issued for a permit application which does not comply with the recorded commitments.

7. Limitations. The following limitations shall apply to the execution of a variance approval:

   a. Development Standards Variance. A development standards variance granted by the Board and executed in a timely manner as described in this Article shall run with the parcel until the property conforms with Ordinance as written.

9.24 SUBDIVISION CONTROL WAIVER

A. AUTHORITY. The Plan Commission may, in its discretion, authorize and approve Subdivision and Overlay District Waivers from the requirements and standards as specified in Chapter 6: Overlay Districts and Chapter 8: Subdivision of Land of the Unified Development Ordinance.

B. APPLICATION

1. At the time of filing a subdivision application, consistent with this ordinance, the applicant must submit a detailed written statement documenting all waivers requested as part of the application and reasons for the waiver request(s) consistent with the decision criteria outlined in Subsection 9.23(A)(4). The waiver requests may be modified and added to by the applicant at any time prior to public notice of the subdivision request being provided.

2. The Applicant shall describe the requested waivers and shall submit proposed findings of fact in support of each requested modification. The Applicant shall bear the burden of establishing a sufficient factual basis for each requested modification.

3. The applicant ay be asked to submit additional information as required to evaluate the application.

4. The Planning and Building Department and the Technical Assistance Committee shall review the application and supporting documents for conformity with the Unified Development Ordinance.

C. PLAN COMMISSION. Upon completing the review, the requested waiver (s) shall be heard at the Plan Commission in conjunction with the Primary Plat.

1. Responsibility. The petitioner shall be responsible for publishing and mailing public notice, and returning proof of mailed published notice pursuant to the Plan Commission Rules of Procedure and Section 9.15 Notice of Public Hearing of this ordinance.

2. Limitations. Only those waivers specifically described in the public notice may be considered by the Plan Commission.

3. Conditions. Waivers may only be granted in a public hearing, and shall be considered at the time of the Primary Plat review by the Commission. The Commission may make reasonable conditions an element of any waiver approval.

4. Granting Of Waivers. The commission may grant such waivers to the requirements and standards of this ordinance as will not be contrary to the public interest, where owing to extraordinary conditions, fully demonstrated by the applicant on the basis of facts presented, strict compliance with the provisions of this ordinance would result in unnecessary hardship or misuse of property.

5. Criteria For Waivers. In the exercise of its authority under this section, the Plan Commission shall grant waivers only upon finding all of the following:

   a. The waiver will not be detrimental to the public health, safety, or general welfare.

   b. The waiver will not adversely affect adjacent property.

   c. The waiver is justified because of exceptional topographic or other physical conditions unique to the property involved and is not to correct mere inconvenience or financial disadvantage.

   d. The waiver is consistent with the intent of this and other applicable

ordinances and the Comprehensive Plan.

e. The condition necessitating the waiver was not created by the owner or applicant.

f. The waiver will not conflict with the powers and duties of the Board of Zoning Appeals as defined by this ordinance.

g. The practical difficulties cannot be overcome through reasonable design alternatives.

D. DECISION

1. The Plan Commission shall:

   a. Approve the petition;

   b. Approve the petition with conditions and/or commitments;

   c. Deny the petition; or

   d. Continue the petition to a definite future meeting date.

2. In approving waivers, the Commission may impose such conditions as will, in its judgment, substantially secure the objectives of these regulations.

3. With respect to each requested waiver and each imposed condition, the Commission shall prepare and approve written findings of fact. Such findings shall address each of the conclusory findings set forth in Subsection (A) above and shall cite the specific facts that support each of the conclusory findings and that support each of the imposed conditions.

4. The Commission's decision to grant or deny a modification or to impose a condition is discretionary.

E. COMMITMENTS

1. Acceptance. In conjunction with the approval of a Subdivision Waiver, the Plan Commission may permit or require the petitioner to make written commitments concerning the use or development of the parcel.

2. Signing. The petitioner and the President of the Plan Commission shall sign the commitment instrument.

3. Recording. The petitioner shall record the commitment instrument in the Boone County Recorder's office within thirty (30) days of the approval of the Subdivision Waiver. The petitioner shall deliver a copy of the recorded commitment instrument to the Planning and Building

Department before submitting a Secondary Plat application. Any conditions imposed by the Commission as part of the waiver approval shall be included in writing on the recorded plat of the subdivision.

4. Enforcement. Commitments are enforceable by the City of Lebanon.

F. MODIFICATION OR TERMINATION. A commitment made under this section may be modified or terminated only by a decision of the Plan Commission made at a public hearing.

See Also:

Section 10.4 Citation for Written Commitment Violations

Chapter 10: Enforcement and Penalties

10

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10.1 VIOLATIONS

A. COMPLAINTS. Whenever a violation occurs, or is alleged to have occurred, any person may cite a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Planning and Zoning Administrator or his/her designee.

B. INVESTIGATION. The Administrator shall properly record such complaint and immediately investigate. The Administrator may inspect the property in question from the right-of-way, from an adjacent property with permission of that property owner, and from the property suspected of violation once the Administrator has presented sufficient evidence. If acts elicited by such investigation are sufficient to establish a reasonable belief that a violation has occurred on the part of the party investigated, the Administrator shall proceed with the remedies for civil zoning violations as set forth in this chapter.

C. AUTHORITY OF ADMINISTRATOR TO INSTITUTE ACTION. In case any building or structure is, or is intended to be erected, constructed, reconstructed, altered or converted, or any building structure or premises is, or is intended to be used in violation of, or contrary to the provisions of this ordinance, the Administrator is hereby authorized, in addition to other remedies set forth in the Statutes of the State of Indiana and in this ordinance, to institute an action to enjoin or to take any other appropriate action or proceeding in order to prevent such erection, construction, alteration, conversion or use.

D. COURT ORDERED ENTRY. In the event that the owner or occupant of the premises refuses to permit entry to the Administrator or inspectors when entry is sought pursuant to this section, the Administrator may petition any judge of the Lebanon City Court, or any other court of jurisdiction, for the issuance of an administrative search warrant. The petition shall identify the premises upon which entry is sought and the purpose for which entry is desired. The petition shall state the facts giving rise to the belief that a condition which is in violation of this ordinance on the premises, or that a violation in fact exists and must be abated, and that the condition or violation is not a lawful nonconforming use to the best of the affiant's belief. Any warrant issued pursuant to the petition shall order the owner or occupant to permit entry to the Administrator or inspectors for the purposes stated therein.

E. COMMON NUISANCES. Any building erected, raised or converted, or land or premises used in violation of any provision of this ordinance, or regulation thereof, is hereby declared to be a common nuisance, and the owner thereof shall be liable for maintaining a common nuisance, which may be restrained or enjoined or abated in any appropriate action or proceeding under existing law.

10.2 CITATION FOR CIVIL ZONING VIOLATIONS

A. ISSUING AND SERVING. The Administrator or his duly authorized designees may issue a civil zoning violation to a person who commits a civil zoning violation to the legal owner, the contract vendee, or any person or entity with a possessory interest in the real estate upon which the violation occurs. The citation may be served by personal service, by certified mail, or by placement in a conspicuous place on the property where the violation occurs and shall serve as notice to a person that he or she has committed a civil zoning violation.

B. FIRST OFFENSE. No citation shall be issued for the first offense unless the person who commits a civil zoning violation, or the legal owner, the contract vendee, or any person or entity with a possessory interest in the real estate upon which the violation occurs has been issued a warning ticket not less than fourteen (14) days before the issuance of the citation to allow said person to correct the violation to come into compliance with the prescribed unified development ordinance or regulations.

C. PETITION FOR VARIANCE, REZONING, OR OTHER MEANS. A person who receives a warning ticket or a citation may file a petition for a variance, conditional use permit, rezoning, or other means provided by this ordinance to correct the violation. A person who elects to file such a petition shall indicate this intent on the warning ticket or citation and return it to the issuing agency. A person shall have ten (10) days after issuance of the warning ticket to file the petition, and additional monetary fines as prescribed in Section 10.7 Monetary Fine and Penalties of this chapter shall be stayed upon the filing of such petition. A person who files the petition within said time period shall pursue the petition in an expeditious fashion. If the petition is denied, withdrawn, or dismissed for want of prosecution, and the civil zoning violation continues at the real estate, then a lawsuit will be commenced by the designated enforcement entity (BZA) in a court of competent jurisdiction in Boone County, Indiana.

D. WARNING TICKET CONTENTS. The warning ticket shall include:

1. Date
2. Name and address
3. Section number in violation and name of code
4. Nature of violation
5. Specific time allowed to bring the violative activity into compliance
6. Name, business address, and phone number of person issuing warning ticket

7. Statement to violator of option to appear before the City of Lebanon Board of Zoning Appeals to file a petition.

E. CITATION CONTENTS. The Citation shall appear on serialized, designated form and include:

1. Date
2. Name and address
3. Section number in violation and name of code
4. Nature of violation
5. Place and date the violation was observed
6. Amount of fine assessed
7. Time, manner and location to pay fine
8. Notice that each day is a new violation
9. Name, business address, and phone number of person issuing citation
10. Statement to violator of right to elect trial.

10.3 TRIAL FOR CIVIL ZONING VIOLATIONS

A. PROCEDURE. A person who receives a citation may elect to stand trial for the offence by indicating on the citation his intent to stand trial and returning a copy of the citation to the issuing agency. The returned copy of the citation shall serve as notice of the person's intent to stand trial, and additional monetary fines prescribed in Section 10.7 Monetary Fine and Penalties shall be stayed upon receipt of the notice. The notice shall be given at least seven (7) days before the date of payment set forth on the citation. On receipt of the notice of intention to stand trial, a lawsuit will be commenced by the city attorney in a court of competent jurisdiction in Boone County, Indiana. The matter shall be scheduled for trial, and a Summons and Order to Appear shall be served upon the Defendant.

B. FAILURE TO PAY FINES. If a person who receives a citation fails to pay the assessed fine by the date of payment set forth in the citation and fails to give notice of his intention to stand trial as prescribed in this section, the city attorney may file a civil lawsuit as proscribed by applicable laws and seek penalties as prescribed in Section 10.7 Monetary Fine and Penalties.

C. COURT COST AND FEES. A person adjudged to have committed a civil zoning violation is liable for the court costs and fees. No cost shall be assessed against the enforcement agency in any such action.

D. BURDEN. In proceedings before the court for a civil zoning violation, the Indiana Rules of Trial Procedure shall govern. The designated enforcement entity (BZA) has the burden of proving the civil zoning violation by a preponderance of the evidence.

E. RELIEF OR REMEDY. Seeking a civil penalty as authorized by this section does not preclude the city from seeking alternative relief from the court in the same action, or from seeking injunctive relief or other remedy in a separate action for the enforcement of this ordinance.

F. CHANGE OF VENUE. A change of venue from Boone County shall not be granted in such a case, as provided in IC 36-7-4-1014.

10.4 CITATION FOR WRITTEN COMMITMENT VIOLATIONS

A. PROCEDURE. At the discretion of the Plan Commission, the Administrator or his duly authorized designees may issue a citation to a person who commits a violation of written commitments, and to the legal owner, the contract vendee, or any person or entity with a possessory interest in the real estate upon which the violation occurs.

1. The citation may be served by personal service, by certified mail, or by placement in a conspicuous place on the property where the violation occurs and shall serve as notice to a person that he or she has committed a violation of written commitments.
2. The City shall enforce commitments made as part of plan/plat approval.
3. The City may elect, but is not obligated, to enforce covenants when the violation has a severe negative impact on property values, health, safety, or the general welfare of adjacent property owners.

10.5 IMMEDIATE PUBLIC RISK VIOLATIONS

A. GENERAL REQUIREMENTS. Any violation of this ordinance that presents an immediate risk to the health, safety, or welfare of the public or to property within the City of Lebanon may be corrected by the Administrator, or a person, firm, or organization selected by the Administrator without prior notice to the property owner or other person responsible for the violation.

B. IMMEDIATE PUBLIC RISK VIOLATION DEFINED. Immediate Public Risk violations shall include but not limited to:

1. Obstructions. Signs, structures, landscaping or other materials placed in an easement, sight visibility triangle, or other non-public right-of-way in violation of this ordinance;

2. Distractions. Any sign, structure, landscaping, or other material located on private property that serves to distract or inhibit operators of motor vehicles on adjacent public streets, pedestrians, or other members of the general public; and

3. Other Threats. Any other immediate threat to public welfare as determined by any representative of the City of Lebanon, or by the Board of Zoning Appeals based upon the advice and recommendation of the Administrator.

C. SEIZURE OF MATERIALS. Any sign, structure, landscaping or other material that constitutes an immediate public risk violation may be seized by the Administrator in a manner that results in the least amount of damage to the material or the property on which it is located under the circumstances.

D. NOTICE OF VIOLATION. The Administrator shall provide notice to the owner of the property, as listed in the records of the Clerk Treasurer's Office, upon which the violation was located, or any discernible appropriate owner of materials placed within the right-of-way in violation of this ordinance, by placing a notice in a conspicuous place on the property and by mailing a letter to that property owner.

1. Notice Time Requirements. All notice letters shall be sent to the property owner via certified mail within twenty-four (24) hours of the seizure. Any notice that is to be posted on the property shall be posted at the time the material is seized.

2. Notice Contents. The letter and posted notice shall include the following:

   a. a description of the materials seized,

   b. a citation of the section(s) of the Ordinance that were violated and the characteristic(s) of the violation that posed an immediate threat to public welfare,

   c. the address and phone number of the Administrator and the name of the person to be contacted by the property owner to discuss the violation and request the return of the seized item(s); and

   d. instructions describing how, where, and when the seized items may be claimed.

E. STORAGE AND RETRIEVAL OF SEIZED MATERIALS. The Administrator shall store any sign, structure, landscape materials or other items seized in a secure location for a period of no less than thirty (30) days from the date notice was mailed to the property owner. The property owner may claim the seized property at any time following its seizure upon the payment of the fine specified on the Fee Schedule and the establishment of a Memorandum

of Agreement between the property owner and Administrator regarding the future use of the item in a manner consistent with this ordinance.

F. LIABILITY. Neither the Administrator, City of Lebanon, nor any other official or entity involved in the seizure shall be liable for any damage to the seized materials or the property from which they were taken.

10.6 CONSTRUCTION PROCESS VIOLATIONS

A. STOP-WORK ORDERS. The Planning and Zoning Administrator may place a Stop-Work-Order on any land/property improvement process.

1. Procedure. Stop-Work Orders shall be issued by written letter that shall state the nature of the violation and that the work and/or any other illegal activity must stop immediately until the matter is resolved. If someone other than the property owner occupies the property, a copy of said Stop Work Order shall be provided to said occupant(s). This letter shall be posted in a conspicuous place and be delivered/mailed to the property owner.

2. Reasons. Reasons for a Stop-Work Order include, but are not limited to:

   a. not complying with any element of the development standards and/or any regulation of the Unified Development Ordinance.

   b. not obtaining an Improvement Location Permit or any other required permit or approval prior to the construction or installation of any improvement for which an approval or permit is required by this Ordinance.

   c. not completing structures or other improvements consistent with any approved Improvement Location Permit, variance, conditional use, or other approval.

   d. not meeting the conditions or commitments of a conditional use, variance, rezoning, or other approval whether recorded or not.

   e. not meeting the conditions of a Site Development Plan, Planned Unit Development Detailed Plan, or any written commitment associated therewith.

   f. illegal use or expansion of use of structures, or structures and land in combination.

B. APPEALS. Any Stop-Work Order issued as a result of the enforcement of this Ordinance, may be appealed to the Board of Zoning Appeals. This appeal shall follow the provisions established for Administrative Appeals.

C. **RESUMPTION OF CONSTRUCTION ACTIVITY.** The Stop-Work Order shall be lifted and construction activity may resume upon the resolution of the violation(s) to the satisfaction of the Administrator.

10.7 MONETARY FINE AND PENALTIES

A. **APPLICABILITY.** Any person who uses property in violation of the Unified Development Ordinance of Lebanon shall be deemed to have committed a civil zoning violation and may be issued a citation by Lebanon Code Enforcement.

B. **CITATION AND FINE.** Each day a violation remains uncorrected is a distinct and separate civil zoning violation subject to an additional citation and fine in the amount prescribed below, provided a warning ticket has first been issued pursuant to Section 10.2 Citation for Civil Zoning Violations.

1. Any person held liable by a court of competent jurisdiction for a violation of the Unified Development Ordinance of Lebanon shall be fined not less than $100.00 and not more than $2,500.00 for each violation.

2. The monetary fine for each civil zoning violation shall range from $100.00 to $2,500 per day from the Date of Compliance requested by the Administrator in the Notice of Violation.

C. **PAYMENT OF FINES.** All fines prescribed by this section for civil zoning violations shall be paid to the Administrator, who shall render to the person making the payment a receipt stating the amount and purpose for which the fine has been paid, and duplicate of which shall be made a part of the records of the Plan Commission. All fines thus received shall be forwarded to the City of Lebanon Clerk Treasurer for deposit in the General Fund.

D. **ACCOUNTABILITY.** The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, realtor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

E. **COST OF ATTORNEY, INVESTIGATION, AND OTHER FEES.** If the Board of Zoning Appeals or the City of Lebanon is required to utilize the services or the City Attorney or any other attorney in investigating a possible violation of this ordinance or in enforcing the provisions of this ordinance pursuant to this section or any other Section; and such investigation results in a determination that a violation has occurred, or if the Board of Zoning Appeals or City is successful in its enforcement of the Ordinance by way of suit, appeal or other appropriate proceeding; the respondent, defendant or party investigated for a violation shall pay the City's reasonable attorney fees and all costs related to the investigation of the violation and/or the

enforcement of this ordinance, unless such attorney fees or the costs are specifically waived by the Common Council of the City of Lebanon.

F. WAIVING FINES. The Administrator may, at his/her discretion, waive the assessed fine for timely correction of the violation.

10.8 SUBDIVISION VIOLATIONS AND PENALTIES

A. VIOLATION AND FINE. Any person or corporation who shall violate any of the provisions of this ordinance or fail to comply therewith or with any of the requirements thereof, or who shall build, reconstruct or structurally alter any building in violation of any detailed statement or plan submitted and approved thereunder shall, for each and every violation or noncompliance, be guilty of a misdemeanor and, upon conviction, shall be fined not less than one hundred dollars ($100.00), and not more than three hundred dollars ($300.00). Each day that such violation or non-compliance shall be permitted to exist shall constitute a separate offense.

B. CONSTRUCTION WITHOUT PERMIT. Any person who shall initiate construction prior to obtaining any permit required by Chapter 9: Permits, Certificates, and Procedures of this ordinance, shall pay twice (2x) the amount of the filing fee set forth herein.

C. FAILURE TO PROVIDE AS-BUILT PLANS. Failure to provide correct As-Built Plans to the City of Lebanon within two (2) months of the completion of public improvements shall be considered a violation of this ordinance. Applicants who fail to provide these plans within the specified time period shall be guilty of an infraction, and upon conviction, shall be fined in the sum of not less than one hundred dollars ($100.00), and not more than three hundred dollars ($300.00) per day for each violation. Each day of violation shall constitute a separate offense.

D. ACCOUNTABILITY. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, realtor, subdivider, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

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A

Abandonment: To intentionally stop the use or development of a property for a continuous period of time.

Abutting: Having a common border, including being separated from such a common border by a right-of-way, street, alley, easement, body of water, or other feature. In some cases, where specified by this ordinance, abutting also includes lots or other features within a specific vicinity.

Access Point: A driveway or other means of physical connection for the movement of vehicles or persons between a property and an adjacent property or street.

Accessory Structure: See "Structure, Accessory".

Accessory Use: See "Use, Accessory".

Acre: A land area equal to 43,560 square feet.

Acreage, Gross: The total area within a parcel of land.

Addition: Any construction that increases the size of a structure in terms of site coverage, floor area, volume, and/or height.

Address: The number or other designation assigned to a housing unit, business establishment, other structure, or lot for the purposes of mail delivery, emergency services, and general identification.

Adjacent: see Abutting

Adjoining: see Abutting

Administrative/Professional Office: An office establishment primarily engaged in overall management and general supervisory functions, such as executive, personnel, finance, legal, and sales activities.

Administrator, Planning and Zoning: The appointed and/or delegated individual or group responsible for the implementation and enforcement of this ordinance.

Adult Drive-In or Movie Theater: An establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

Adult Uses: The exhibition, sale, distribution, or performance of material that is devoted to material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

Advertising Structure (Off Premise Sign): See "Sign, Off-Premise".

Advisory Plan Commission: A plan commission serving a single local government jurisdiction established as defined under the Indiana Code, 36-7-1-2 (1983) as amended. The Lebanon Plan Commission is the "advisory plan commission" or "plan commission" referred to by this ordinance.

Agricultural Products Sales, Distribution, and Storage: A principal use engaged in the sale or rental of farm tools and equipment, grain, tack, animal care products, and farm supplies. This excludes the sale of large farm implements, such as tractor and combines, but does include food sales and farm machinery repair services that are incidental to the principal use.

Agricultural Products Terminal: A commercial facility for the transfer, pickup, storage, or discharge of agricultural goods.

Agriculture: The art or science of cultivating the ground, and raising and harvesting crops, also often including feeding, breeding and management of livestock; tillage, animal or

poultry husbandry; farming; and the necessary accessory uses for packing, treating and storing the produce, all of which are directly related to the production of food. The operation of any accessory uses shall be secondary to that of the normal agricultural activities. "Agriculture" shall not include feed lots, stock yards, or the common feeding of garbage or offal to swine or other animals. See also "Farm (General)".

Agriculture Structure: A structure located on a farm and designed and constructed to house farm implements, livestock, hay, grain, fruit, and/or other agricultural products, supplies, and equipment used by the operators of the farm. An agriculture structure shall not include dwellings or structures used for the processing, treating, or packaging of agricultural products, or by the public.

Air Pollution: Presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of characteristics and duration that are injurious to human, plant, or animal life, to property, or which unreasonably interfere with the comfortable enjoyment of life and property.

Airport: Any area of land designed and used for the landing and take-off of aircraft, including all necessary facilities for the housing and maintenance of aircraft.

Alley: A public right-of-way, other than a street, road, crosswalk, or easement, that provides secondary access for the abutting property.

Alley Line: A lot line bordering on an Alley.

Alteration: Any change, addition, or modification in construction or use of an existing structure or property. See also "Addition".

Amateur Radio Tower: A freestanding or building-mounted structure, including any base, tower or pole, antenna and appurtenances, intended for airway communication purposes by a person holding a valid amateur radio license from the Federal Communications Commission.

Amend or Amendment: Any repeal, modification, or addition to a regulation, or any new regulation.

Animal and Animal Products Processing: The processing or treatment of animals and animal material as a raw resource for refinement as food and non-edible products.

Animal: Any live vertebrate creature, domestic or wild, excluding human beings.

Animal Boarding: The use of any structure and/or land for the lodging, breeding, or care of dogs, cats, pets, fowl, horses, or other domestic animals for profit, excluding animals used for agricultural purposes.

Animal, Domestic: Any animal that has been adopted by human beings to live and breed in a tame condition, and are commonly used as household pets, protection, companions, and for the assistance of disabled persons. Domestic animals shall include animals that are cared for and treated in a manner acceptable for pet dogs, cats, and birds. Domestic animals shall include, but not be limited to, dogs, cats, parakeets, parrots, finches, spiders, guinea pigs, hamsters, gerbils, rats, mice, rabbits, aquarium fish, pot belly pigs, ferrets, and snakes if cared for in the manner described above.

Animal, Farm: See "Farm Animal".

Animal Shelter: A facility used to care for and house lost, stray, homeless, abandoned, or unwanted animals; including those found running at-large or otherwise subject to impoundment consistent with applicable laws. Animal shelter includes facilities for adoption, medical treatment, and cremation.

Animal Stables: The use of any structure with stalls or compartments and/or land where animals, excluding dogs and cats, are sheltered and fed.

Antenna: Any system of wires, poles, rods, reflecting discs, or similar devices used for the purpose of receiving and/or transmitting signals, images, sounds, or information of any nature by radio, visual, or electromagnetic waves, including but not limited to directional or omni-directional antennas, panels, and microwave or satellite dishes external to, or attached to, the exterior of any building.

Antique Shop: Any premises used for the sale or trading of articles of which eighty percent (80%) or more are over 30 years old or have collectible value. Antique shop does not include a secondhand store.

Apartment: A dwelling unit in a structure arranged, intended, designed, or occupied on a rental basis for the housing of a single-family, an individual, group of individuals, or other single housekeeping unit.

Apparel Shop: Retail stores where clothing is sold or accepted for sale at retail prices.

Applicant: The owner, owners, or legal representative of real estate who make application for action affecting the property. See also "Petitioner".

Application: The completed form or forms, together with any other required materials, exhibits, and fees required of an applicant consistent with the procedures established by this ordinance.

Appurtenance: A minor element of a larger structure, such as a bay window, stairs, light post, etc.

Arborist: An individual trained in arboriculture, forestry, landscape architecture, horticulture, or related fields and experienced in the conservation and preservation of trees.

Arcade (recreational): A building or part of a building containing four or more video, pinball, or similar player-operated amusement devices, in any combination, for commercial use.

Arcade (architectural): An area contiguous to a street or plaza that is open and unobstructed to a height of not less than 12 feet and that is accessible to the public at all times. Any portion of an arcade occupied by building columns, landscaping, statuary, pools, or fountains shall be considered part of the arcade. The term "arcade" shall not include off-street loading areas, driveways, off-street parking areas, or open pedestrian walkways. The floor of any arcade shall be level with the adjoining street or plaza.

Archery Range: A facility designed and/or used for target practice with bows and arrows.

Area Plan Commission: A plan commission serving a County and 1 or more City or town government jurisdictions, established as defined under the Indiana Code, 36-7-1-2 (1983) as amended. The Boone County Area Plan Commission is the "area plan commission" referred to by this ordinance.

Art or Photo Gallery: A room or structure in which original works of art or limited editions of original art are bought, sold, loaned, appraised, or exhibited to the general public. This does not include libraries or museums.

Arterial: See "Street, Arterial".

Assembly Facility: A building or portion of a building in which facilities are provided for group civic, educational, political, professional, religious, cultural, or social functions.

Assisted Living Facility: A residential facility providing services that assist residents with daily activities, such as dressing, grooming, bathing, etc.

Athletic Field: A wide stretch of open land used for outdoor games such as baseball, basketball, football, or soccer.

Auction Facility: A building or property used for the storage of goods and materials that are to be sold on the premises by public auction,

and for the sale of the said goods and materials by public action on an occasional basis only.

Automobile Filling Station: Buildings and premises where gasoline and other petroleum are supplied and dispensed at retail, and where light automobile maintenance activities may be conducted. Uses permissible at a service station do not include major mechanical and body work, straightening of frames or body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in service stations. A service station shall not be construed as a repair garage or a body shop.

Automobile/Motorcycle/Mobile Home Sales Area and Leasing: An open area, other than a street, used for the display, sale or rental of new or used automobiles, motorcycles, or mobile homes to be displayed, sold or rented on the premises.

Automobile Parts Sales: The use of any structure and/or property for the display and sale or new or used parts for motor vehicles. This does not including any salvage yard or the storage of inoperable vehicles.

Automobile Sales and Service: See "Vehicle Sales, New" and "Vehicle Sales, Used".

Awning: A roof-like cover, often of fabric, metal, or glass designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure over a window, walk, or door. Awnings include those that may be retracted or folded against the face of a supporting building.

B

Bakery (retail): An establishment primarily engaged in the retail sale of baked products for consumption off-site. The products may either be prepared on or off-site.

Bakery (wholesale): A place for preparing, cooking, baking, and wholesale selling of products intended for off-site distribution and retail sales.

Balcony: A platform that projects from the wall of a building and is surrounded by a railing or parapet.

Bank: A facility for the custody, loan, or exchange of products, typically money. Also included is the extension of credit and facilitating the transmission of funds.

Banquet Hall: see Assembly Hall

Bar: A facility or area used primarily for the serving of alcoholic beverages, and in which the serving of food is only incidental to the consumption of alcohol.

Barber Shop: Any establishment or place of business within which the practice of cutting hair is engaged in or carried on by one or more employees.

Base Flood Elevation: The elevation, expressed in feet above mean sea level, to which flooding can be expected to occur on a frequency of once every one hundred (100) years, or which is subject to a one percent (1%) or greater chance of flooding in any given year. See also "Regulatory Flood".

Basement: The portion of a building with more than half of its interior height below the average finished grade of the building perimeter. For the purposes of this ordinance, a basement shall not be considered a story unless it has been subdivided into rooms and used for tenant purpose.

Beacon: Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

Beauty Salon: Any commercial establishment where cosmetology is offered or practiced on a regular basis for compensation.

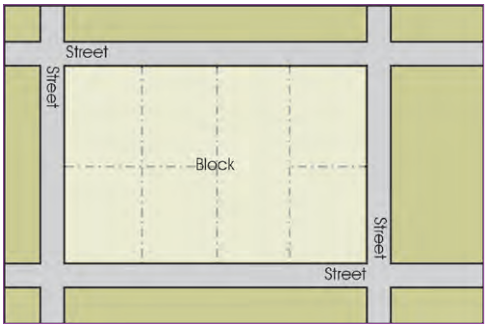
Bed and Breakfast: A private, owner occupied dwelling unit containing up to five (5) guest rooms for rent for periods of less than two (2) weeks. Guest rooms are not intended to be used for cooking or eating, however, meals may or may not be provided.

Berm: A man-made mound of earth of definite height and width used for landscaping and obscuring purposes.

Best Management Practices: The utilization of the natural environment, artificial structures, scheduling, and/or prohibition to ensure the long-term operation and maintenance of features that control stormwater filtration, erosion and/or the discharge of polluting elements.

Billiard Room (Pool Hall): A business establishment containing more than two pool or billiard tables for the use by patrons where pool or billiard activities are the principal use.

Block: Property abutting 1 side of a street and lying between the 2 nearest intersecting streets (either crossing or terminating), railroad right-of-way, lake, river, stream, or other physical boundary.



Block Face: The edge of one side of a street between intersections that faces the street.

Board: The Lebanon Board of Zoning Appeals (BZA).

Board of Zoning Appeals (BZA): A board established consistent with the Indiana Code 36-7-4-900 series. The Lebanon Board of Zoning Appeals is the Board of Zoning Appeals referred to by this ordinance.

Boarding House: An establishment offering rooms for rent, where meals are regularly served from a single kitchen (not open to the general public) for compensation for three (3) or more persons, but not exceeding twelve (12) persons. Boarding houses do not include bed and breakfasts, multifamily dwellings, hotels, or motels.

Boat Storage Facility: A structure or area designed for the storage of watercraft and marine equipment.

Bookstore: A retail establishment that, as its primary business, engages in the sale, rental, or other charge-for-use of books, magazines, newspapers, greeting cards, postcards, videotapes, computer software and/or any other printed or electronically conveyed media.

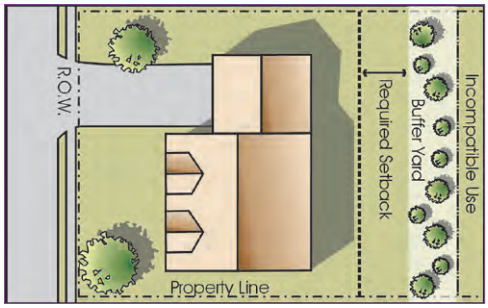
Bond: see “Surety”.

Bottle Gas Storage and Distribution: The storage and distribution of bottle gasses including propane, carbon dioxide, helium, and other commercially used gases.

Bowling Alley: An establishment that devotes a majority of its gross floor area to bowling lanes, equipment, and playing areas. A bowling alley may include other incidental uses, such as other recreation activities, a restaurant, or a bar.

Buffer: Any trees, shrubs, walls, fences, berms, other related landscaping features, or buffer yard required under this ordinance to be placed either on private property and privately maintained, or in public rights-of-way for the purpose of buffering lots from adjacent properties, for aesthetic purposes and for creating sound, noise, light, odor, chemical, or visual privacy barriers. See also “Buffer Yards”.

Buffer Yards: An area adjacent to front, side and/or rear property lines, measured perpendicularly from adjacent property lines and/or right-of-way lines, intended to screen incompatible uses from each other. Buffer yards are also used to help maintain existing trees or natural vegetation; to block or reduce noise, glare or other emissions; and to maintain privacy. Buffer yards are in addition to (separate from) front, rear, or side yard setbacks.



Building Supply Store: A large warehouse-style establishment that offers retail and wholesale site development, building, and hardware supplies, including various basic hardware lines, such as tools, builder's hardware, plumbing and electrical supplies, paint and glass, housewares and household appliances, and garden supplies and cutlery. A lumberyard may be included as an incidental use to the building supply retail sales.

Build-to Line: A line parallel to the front property line indicating the distance from the front property line at which principal structures must be built. A built-to line is neither a minimum or a maximum, but rather a specific requirement.

Buildable Area: See "Building Envelope".

Building: A structure having a roof supported by columns or walls, for the shelter, support, or enclosure of persons, property, or animals. When separated by division walls from the ground up and without openings, each portion of such building may be deemed as a separate building.

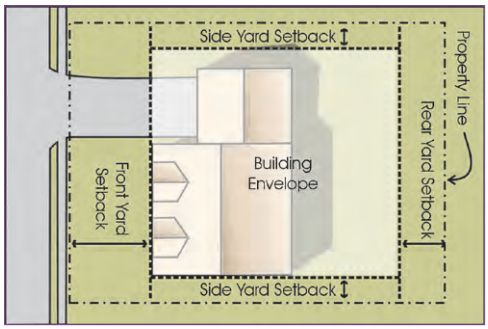
Building Area: The maximum horizontal projected area of the principal and accessory building, excluding required setbacks, buffers, and other non-buildable areas.

Building Code: The locally adopted Indiana Building Code establishing and controlling the standards for constructing mechanical equipment, all forms of permanent structures, and related matters within Lebanon. Also referred to in this ordinance as the Lebanon Building Code.

Building, Attached: A building that is structurally connected to another building by a foundation, wall, or roof line.

Building, Detached: A building having no structural connection with another building.

Building Envelope: The three dimensional portion of a lot or site, exclusive of all required setbacks, buffer yards, maximum height standards, landscaping, or open space, within which a structure may be built.



Building Finishes Store: A store devoted to the sale of wall treatments, window treatments, floor coverings, cabinets, and other building finishes.

Building, Front Line of: The line of the face of the building nearest the front lot line.

Building Height: See "Height".

Building Setback Line: See "Setback".

Building, Principal: A building in which the

main or principal use, of the lot on which said building is situated, is conducted. Where a substantial part of an accessory building is attached to the principal building in a substantial manner, as by a roof, such accessory building shall be counted as a part of the principal building. Standards recognized by the Indiana Department of Fire and Building Services shall be used to determine whether a given structure constitutes one or more buildings in cases where ambiguities exist.

Burning, Free: A rate of combustion described by a material which burns actively and easily supports combustion.

Burning, Intense: A rate of combustion described by a material that burns with a high degree of activity and is consumed rapidly.

Burning, Moderate: A rate of combustion described by a material which supports combustion and is consumed slowly as it burns.

Burning, Slow: Materials which do not in themselves constitute an active fuel for the spread of combustion. A material which will not ignite, nor actively support combustion during an exposure for five (5) minutes to a temperature of 1200° F.

Business: A commercial endeavor to engage in the purchase, sale, lease, barter, or exchange of goods, wares, merchandise, and/or the provision of services. Also includes the maintenance or operation of offices or the maintenance or operation of recreational and amusement enterprises for profit.

Business District: A geographic area wherein the majority of uses are related to commerce and the operation of businesses.

Business/Financial Services Office: Any office where the primary occupation is concerned with such federal or state-regulated businesses as banking, savings and loans, loan companies, and investment companies.

BZA: See "Board of Zoning Appeals".

C

Campground: Any site, lot, field, or tract of land designed with facilities for short term and/or seasonal occupancy by campers through the use of recreational vehicles, travel trailers, tents, cabins, or other temporary accommodations, but not including mobile homes.

Campus: An area of land constituting and making up the grounds of an institution, such as a college or university, a business complex, or a manufacturing park.

Car Wash: The use of a property for the washing, cleaning, polishing, and/or waxing of passenger vehicles, recreational vehicles, or other light duty equipment. The method of washing, cleaning, polishing, and/or waxing is done either through automated machinery, or through self-service open bays.

Car Wash, Self-Service: The use of a property for the washing, cleaning, polishing, and/or waxing of passenger vehicles, recreational vehicles, or other light duty equipment. The method of washing, cleaning, polishing, and/or waxing is done through self-service open bays.

Carport: A permanent structure, which includes a roof and roof-supports but not enclosed by walls, which is used as an accessory to a dwelling unit for the purpose of providing shelter to one or more vehicles.

Cemetery: Land used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

Child Care Institution: As defined by IC 12-7-2-29 and for the purposes of this ordinance: 1) a residential facility that provides child care on a twenty-four (24) hour basis for more than

ten (10) children; or 2) a residential facility with a capacity of not more than ten (10) children that does not meet the residential structure requirements of a group home; or 3) operates under a license issued under IC 12-17.4; provides for delivery of mental health services that are appropriate to the needs of the individual; and complies with the rules adopted under IC 4-22-2 by the Indiana Division of Family and Children.

Child Day Care Center: As defined by IC 12-7-2-28.4 and for the purposes of this Zoning Ordinance, a nonresidential building where at least one (1) child receives child care from a provider: 1) while unattended by a parent, legal guardian, or custodian; 2) for regular compensation; and 3) for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

Child Day Care Home: As defined by IC 12-7-2-28.6 and for the purposes of the Zoning Ordinance, an establishment providing non-overnight care, supervision, and protection of children in private residences which is incidental to the principal residential use. A Child Day Care Home includes at least six (6) and no more than sixteen (16) children (not including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative; or those which are at least age seven (7) who, at any time, receive child care from a provider: 1) while unattended by a parent, legal guardian or custodian; 2) for regular compensation; and 3) for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays. The term includes Class I child care homes and Class II child care homes as defined in IC 12-7-2-33.7 and IC 12-7-2-33.8

Church: The use of a building and/or property by a non-profit group for the purpose of religious worship together with all incidental uses commonly associated with such a facility, such as a day-care center or school. Church includes synagogue, temple, mosque or any other like facility use d for worship and religious activities.

Circus or Carnival: A temporary outdoor amusement center, bazaar, or fair, either involving use of special purpose equipment or conducted by professional operators, or both, and where activities include such things as rides, exhibitions, food service, sales, or small-scale games.

City: The City of Lebanon, Indiana.

Clinic: See “Medical or Health Clinic”.

Club: Building and facilities owned or operated by a person or organization for a social, educational, or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

Cluster Development: A development in which a number of dwelling units, or other structures, are placed in closer proximity than usual, or are attached, for the purpose of providing open space.

Cluster Subdivision: see Cluster Development

Coffee Shop: An informal restaurant that primarily serves non-alcoholic beverages, including coffee and tea, as well as desserts and limited food items.

College: See “University”.

Collector: see “Street, Collector”.

Commission: The Lebanon Plan Commission.

Commercial District: See “Business District”.

Common Area: Land within a development which is not individually owned or dedicated to the public, but which is designed and intended for the use, enjoyment, and maintenance of the property owners within that development or other specific area. The common area may

include complimentary structures and/or other improvements.

Common Council: The Common Council of the City of Lebanon, Indiana.

Common Ownership: Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association, including ownership by different corporations, firms, partnerships, entities, or unincorporated associations with at least one (1) common stockholder, partner, or associate.

Communications Service Exchange: A telecommunications facility that houses one or more computer systems and related equipment dedicated to building, maintaining, and/or processing data. Such a facility would likely include a telephone service exchange, a data center, and a server farm.

Community Center: A meeting place where people living in the same community and their guests may carry on cultural, recreational, or social activities.

Compatible: Having harmony and consistency in design, function, and/or appearance.

Composting Facility: An offsite facility where the organic component of municipal solid waste is decomposed under controlled conditions. Organic components could include leaves, yard trimmings, wood debris, manure, or other elements.

Comprehensive Plan: The official policy document which establishes development goals and objectives to guide growth within and around Lebanon in a coordinated manner, prepared by the Lebanon Plan Commission and adopted in accordance with the Indiana Planning Statutes.

Concept Plan: An illustration of the layout of a proposed planned unit development, required prior to a PUD rezoning consideration, and prior to the filing of a Preliminary Plan for a PUD or a Primary Plat for a subdivision.

Concrete/Asphalt Production Facility: A facility where raw materials are processed into concrete or asphalt for sale and/or immediate use. Facilities typically include all necessary equipment for both transport and application of the finished product.

Condition of Approval: Stipulations or provisions set forth as a prerequisite for approval of an application.

Conditional Use: Uses that, because of potential incompatibility and negative impact on the immediate neighborhood, require a greater degree of scrutiny and review of site characteristics and impacts to determine their suitability in a given location. Conditional uses are permitted only following approval by the Board of Zoning Appeals.

Condominium: Real estate lawfully subject to IC 32-25: Condominiums by the recording of condominium instruments, in which undivided interests in the common areas and facilities are vested in the condominium unit owners.

Conference Center: A facility used for service organizations, business and professional conferences, and seminars limited to accommodations for conference attendees. The accommodations can include sleeping, eating, and recreation. A conference center is not designed to be utilized only by the general public for overnight purposes.

Confined Feeding: The raising of animals for food, fur or recreation in lots, pens, ponds, sheds or buildings, where they are confined, fed and maintained for at least forty-five (45) days during any year, and where there is no ground cover or vegetation present over at least half of the animals' confinement area. Livestock markets and sale barns are excluded from this term. See also "Farm (Confined Feeding)".

Conservation District: The Boone County Soil

and Water Conservation District.

Construction, Actual: Work done which is beyond the preparation stage and into that stage where the changes or additions are made permanent.

Construction Services: Any of the activities commonly referred to as construction and shall include without limiting thereby, plumbing, heating, roofing, interior remodeling, excavating.

Construction Trailer: A manufactured mobile unit without cooking or bathroom facilities, not designed for dwelling purposes, and used as a temporary office during construction.

Construction Plans: Subdivision drawings that detail the specific location and design of utilities, streets, and other improvements.

Contiguous: see Abutting

Contractor's Warehouse/Storage Yard: An unenclosed portion of a lot or parcel upon which a construction contractor maintains a facility for the storage of construction equipment and other materials customarily used in the trade carried on by the contractor.

Convenience Store: A small retail establishment that offers for sale a limited line of groceries, convenience goods, tobacco products, periodicals, and other household products. A convenience store may also sell gasoline.

Country Club: An establishment operated for social or recreational purposes that is open only to members and not to the general public.

County: Boone County, Indiana

Covenants: Private and legal restrictions of various kinds on the usage of lots, typically within a subdivision and applied by the subdivider, that are recorded with the plat and deed. Covenants are enforceable in civil court by interested or affected parties.

Craft/Fabric Store: Any business that produces on the premises articles for sale of artistic quality or handmade workmanship, or businesses that primarily sell items and materials used in the creation of crafts and other such handiwork.

Crematory: An establishment containing a furnace (called a retort) used for the cremation of human remains. A crematory may be owned by or deal directly only with funeral homes, or may have open access to the public. Also called a crematorium.

Crop Processing and Storage: The processing of harvested crops, as well as the storage of both the raw and processed crops. Processing includes any or all of the following or similar activities as they relate to crop produce: cleaning, shelling, drying, cooking, and packaging.

Crop Production: The production and management of agricultural crops, including planting, cultivation, and harvesting.

Crosswalk: A strip of land dedicated to public use, which is reserved across a block to provide pedestrian access to adjacent areas.

Cul-De-Sac: See "Street, Cul-de-sac".

Curb: A concrete boundary marking the edge of a street or other paved area and providing for a change in grade between the street surface and the adjacent unpaved portions of the street right-of-way.

Curb Cut: The providing of vehicular ingress and/or egress between property and an abutting public street.

Curb Radius: The curved edge of a street, driveway, or other paved area at an intersection with another street, driveway, or other paved area.

Cut: An excavation. The difference between a point on the original ground and a designated point of lower elevation on the final grade. Also, the material removed in excavation.

D

Dance/Martial Arts/Gymnastics Studio: An establishment where patrons learn and/or practice dance, martial arts, or gymnastics.

Data Processing/Call Center: Facilities where electronic data is processed by employees, including data entry storage, conversion, or analysis; subscription and credit card transaction processing; telephone sales and order collection; mail order and catalogue sales; and mailing list processing.

Day Care Center: See "Child Day Care Center".

Day Care Home: See "Child Day Care Home".

Deck: A platform, either freestanding or attached to building that is supported by pillars or posts.

Decibel: A unit of measurement of the intensity of loudness of sound . Sound level meters are used to measure such intensities and are calibrated in decibels.

Deciduous Tree: See "Tree, Deciduous".

Dedication: The intentional setting apart of land or interests in land for use by the City of Lebanon.

Defective Landscaping: See "Landscaping, Defective".

Delicatessen (Deli): An establishment where food is sold for consumption either on or off premises, excluding groceries and supermarkets.

Density: The number of dwelling units per acre.

Density, Gross: The numerical value obtained by dividing the total number of dwelling units in a development or area by the gross size of the area (in acres), including all nonresidential land uses, rights-of-way, streets, and other features included in the area.

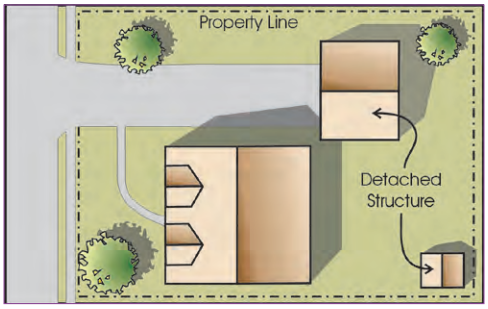
Density, Net: The numerical value obtained by dividing the total number of dwelling units in a development or area of the actual tract of land (in acres) upon which the dwelling units are located, or proposed to be located, including common open space and excluding nonresidential uses, rights-of-way, and streets.

Department Store: A business conducted under a single name that directly exhibits and sells a variety of unrelated merchandise and services to customers (includes discount stores).

Design: A planned arrangement of forms, shapes, massing, colors, and materials intended to serve a useful purpose or be decorative or artistic. The essence of a design resides not in the elements individually, nor in their method of arrangement, but in the total ensemble that awakens some sensation in the observer's mind.

Designated Enforcement Entity: The Lebanon Board of Zoning Appeals.

Detached Structure: A building that has no structural connection with the principal structure.



Detention Basin: An area that is designed to temporarily hold specific quantities of stormwater and to gradually release the stormwater into an identified body of water or waterway at a sufficiently slow rate to avert flooding.

Developer: An individual, partnership, corporation (or agent thereof), or other entity that undertakes the responsibility for land development, particularly the designing of a subdivi-

sion plat or site development plan showing the layout of the land and the public improvements involved therein. In as much as the subdivision plat is merely a necessary means to the end of assuring a satisfactory development, the term "developer" is intended to include the term "subdivider", even though the personnel involved in successive stages of the project may differ. See also "Subdivider".

Development: Any man-made change to improved or unimproved real estate including but not limited to: 1) construction, reconstruction, or placement of a structure or any addition to a structure; 2) installing a manufactured home on a site, preparing a site for a manufactured home or installing recreational vehicle on a site for more than one hundred eighty (180) days; 3) installing utilities, erection of walls and fences, construction of roads, or similar projects; 4) construction of flood control structures such as levees, dikes, dams, channel improvements, etc.; 5) mining, dredging, filling, grading, excavation, or drilling operations; 6) construction and/or reconstruction of bridges or culverts; 7) storage of materials; or 8) any other activity that might change the direction, height, or velocity of flood or surface waters.

Development Plan: Dimensioned plans showing the entire on-site distribution of all elements for a proposed construction project, which would normally include architectural, engineering, landscape architectural, lighting and signage plans.

Development Standards: Regulations provided by this ordinance that provide specific conditions for the development and use of buildings/structures and property.

Distribution Facility: A use where goods are received and/or stored for delivery to the final consumer at remote locations.

District: An area with common social, physical, economic, or land use characteristics.

Domestic Pets: See "Animal, Domestic".

Dormitory: A structure specifically designed to provide sleeping and living quarters for long-term stay by students of a college, university, or other institution. A common kitchen and common gathering rooms may also be provided.

Double Frontage Lot: See "Lot, Through".

Drainage: The outflow of water or other fluids from a site through either natural or artificial means.

Drainage, Subsurface: A system of pipes, tile, conduit or tubing installed beneath the ground surface and used to collect ground water from individual parcels, lots or building footings.

Drainage, Surface: A system by which storm water runoff is conducted to an outlet. This includes the proper grading of parking lots, streets, driveways, yards, etc. so that storm water runoff is removed without ponding and flows to a drainage swale, open ditch or a storm sewer.

Drainage Swale: A natural or constructed waterway, usually broad and shallow, covered with erosion-resistant grasses, and used to conduct surface water from a field, diversion, or other site feature.

Drainage System: All facilities, channels, and areas which serve to convey, filter, store, and/or receive stormwater, either on a temporary or permanent basis.

Dressmaking: A retail store where custom clothing is made and sold, or where alterations of clothing are done.

Drip Line: An imaginary vertical line that extends from the outermost branches of a tree's canopy to the ground.

Drive, Private: See "Street, Private".

Drive-thru/Drive-in/Drive-up facility: A small scale establishment developed so that its retail or service character is dependant on providing a driveway approach or parking spaces for

motor vehicles so as to serve patrons while in the motor vehicle, rather than within a building or structure. See also "Restaurant, Drive-In".

Drive-thru Service: An opening or openings in the wall of a building or structure designed and intended to be used to provide for sales and/or service to patrons, who remain in their vehicles, products that are used or consumed off-site.

Driveway: A private roadway providing access for vehicles to a parking space, garage, dwelling, or other structure.

Driveway, Common: An access shared by adjacent property owners.

Driving Range: An area equipped with distance markers, clubs, balls, and tees for practicing golf drives and putting, which may or may not include a snack-bar and pro-shop, but does exclude golf courses and miniature golf courses.

Dry Cleaners: An establishment that cleans fabrics, textiles, wearing apparel, or articles of any sort by immersion and agitation in volatile solvents, and all related processes. Retail cleaners serve individuals on a walk-in basis, generally with patrons dropping off, and picking up their clothing.

Dumpster: A receptacle container that has a hooking mechanism that allows it to be raised and dumped into a sanitation truck, including dumpsters for trash, compacted materials, and recycling.

Duplex: See "Dwelling, Two-Family".

Dwelling: A Building or portion thereof, used primarily as a place of abode for one or more human beings, but not including Hotels or Motels, Lodging or Boarding Houses.

Dwelling, Accessory: A second dwelling unit either in or added to an existing single-family detached dwelling, or in a separate accessory structure on the same lot as the main dwelling, for use as a complete, independent living facility with provision in the accessory apartment for cooking, eating, sanitation, and sleeping. Accessory apartments shall be clearly subordinate to the principal use in both size and location.

Dwelling, Farm: A single-family dwelling that is located on, and used in connection with farm operations.

Dwelling, Manufactured Home: Single-family detached dwelling units that are factory built to the National Manufactured Construction and Safety Standards Act in a transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. A manufactured home is a single-family dwelling for the purposed of this ordinance.

Dwelling, Modular Home: A factory-fabricated transportable building (manufactured home) designed to be used alone or to be incorporated with similar units at a building site and designed and constructed with a perimeter frame to become a permanent structure on a site, with all outside walls supported by a permanent foundation. A modular home is a single-family dwelling for the purposes of this ordinance.

Dwelling, Multifamily: A structure designed for and occupied by three (3) or more families or other single units of housekeeping, with each family or housekeeping unit occupying only one unit. The number of families and housekeeping units in residence not exceeding the number of dwelling units provided.

Dwelling, Secondary: A structure designed for and occupied by one (1) family or single unit of housekeeping, and secondary to a nonresi-

dential principal use for the property. Secondary dwellings are generally found in mixed-use settings, where residential structures may exist on the floors of a building above a first-floor commercial use. There may be more than one (1) secondary dwelling in a structure, but the number of families and housekeeping units in residence shall not exceed the number of dwelling units provided.

Dwelling, Single-family: A detached residential dwelling unit designed for and occupied by one (1) family or other single unit of housekeeping and therefore including no more than one (1) dwelling unit.

Dwelling Site: A site within a manufactured home park and/or mobile home park with required improvements and utilities that is leased for the long term placement of manufactured homes and/or mobile homes.

Dwelling, Two-Family: A detached residential building containing two (2) dwelling units designed for occupancy by not more than two (2) families or other single units of housekeeping.

Dwelling Unit: Any structure or portion thereof designed for or used for residential purposes as a self-sufficient, individual unit by one (1) family or other similar social association of persons as a single housekeeping unit, and having permanently installed sleeping, cooking, and sanitary facilities.

E

E.I.F.S.: Acronym for Exterior Insulation Finishing System, a construction siding material.

Easement: A grant by a property owner to specific persons, the general public, corporations, utilities, or others, for the purpose of providing services or access to the property.

Educational Institution: See "School".

Egress: An exit.

Electric Appliance Shop: A retail store that sells electric appliances used for domestic functions including, but not limited to, washers, dryers, refrigerators, freezers, ovens/ranges, dishwashers, vacuum cleaners, televisions, toasters, hairdryers, mixers, fans, radios, and food processors.

Elevation: A flat scale drawing of the front, rear, or side of a building.

Employment Service: An establishment that seeks and identifies available jobs for patrons seeking employment.

Equine Services: Operations involved in the shelter and care of horses, as well as breeding, training, and for giving lessons, including stables, stud farms, and other related uses.

Equipment, Mechanical: See "Mechanical Equipment".

Erosion: The removal of natural surface materials (soil and rock fragments) by by flowing surface or subsurface water or by wind.

Essential Services: The erection, construction, alteration, or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, telephone, sewer, or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate services by public utilities or municipal or other governmental agencies or for the public health, safety, or general welfare, but not including buildings.

Evergreen Tree: See "Tree, Evergreen".

Excavation: Any act by which earth, sand, gravel, rock or any other similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed. Shall also

include the conditions resulting therefrom.

Existing Manufactured Home Park or 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 this ordinance.

Expansion of an Existing Manufactured Home Park or Subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Explosive Manufacturing and Storage: The manufacture and storage of any chemical compound, mixture, or device of which the primary and common purpose is to function by explosion with substantially simultaneous release of gas and heat, the resulting pressure being capable of producing destructive effects.

External Illumination: See "Illumination, External".

F

FBFM (Flood Boundary and Floodway Map): An official map delineating the floodway, floodway fringe, 100-year floodplain, and 500-year floodplain which is prepared in conjunction with a flood insurance study.

FEMA: Federal Emergency Management Agency.

FHBM: Flood Hazard Boundary Map.

FIRM (Flood Insurance Rate Map): The official map on which FEMA has delineated both the areas of special flood hazard and risk premium zones.

FPG (Flood Protection Grade): The elevation of the regulatory flood plus two feet at any given location in the Special Flood Hazard Area (SFHA).

Fabrication Facility: An establishment where employees and machinery are used to assemble product components created offsite.

Facade: The portion of any exterior elevation on a building, extending from grade level to the top of the parapet, wall, or eaves for the entire width of the building.

Fairgrounds: An area of land used for agricultural related office buildings, animal shows and judging, carnivals, circuses, community meeting and recreational facilities, concerts, food booths and stands, games, rides, rodeos, sales and auctions, storage, and theaters.

Family: A group of one (1) or more persons occupying a building and living as a single housekeeping unit and therefore using common facilities for cooking, sanitation, and gathering. No group living as a single housekeeping unit but not related by blood, marriage, adoption, or foster care shall consist of more than three (3) persons, as distinguished from a group occupying a lodging house, hotel or nursing home. A family does not include any society, club, fraternity, sorority, group living in a boarding house, hotel, motel, bed and breakfast facility, lodging house, rooming house, assisted living facility, nursing home, or club.

Farm Animals: Animals commonly used for transportation, food, skins, and other by-products and has the potential of causing a nuisance outside of rural areas or if not properly maintained. Farm animals include, but are not limited to, horses, cattle, pigs, sheep, goats, mules, donkeys, miniature horses, miniature donkeys, camels, emu, ostrich, llamas, alpacas, rabbits, mink, fox, buffalo, chickens, turkeys, quail, pheasants, and other animals or fowl of similar characteristics.

Farm (confined feeding): Any livestock operation that meets one or more of the following characteristics: 1) Any confined feeding of at least three hundred (300) cattle, or six hundred (600) swine or sheep, or 30,000 fowl, such as chickens, ducks and other poultry; 2) Any animal feeding operation utilizing a waste lagoon or holding pits; 3) Any animal feeding operation where the operator elects to come under the provisions of IC 13-18-10; or 4) Any animal feeding operation that is causing a violation of IC 13-18-10 as determined by the Stream Pollution Control Board. See also "Confined Feeding".

Farm Co-op. Facility: A cooperative business owned by farmers to produce and/or store and market agricultural products.

Farm (dwelling): See "Dwelling, Farm".

Farm (general): An property or area exceeding twenty (20) acres in size that is devoted to agricultural operations such as forestry; the growing of crops; pasturage; the production of livestock and poultry; the growing of trees, shrubs and plants; and other recognized agricultural pursuits. A farm shall include all related structures and the storage of equipment and materials used on-site for the farm operation. A farm shall not include the commercial raising of animals, confined feeding, or the commercial feeding of garbage or offal to swine or other animals. See also "Agriculture".

Farm Equipment Sales and Service: A use primarily engaged in the sale/rental and/or service of farm tools and implements, and/or the sale of feeds, grain, tack, animal care products, and farm supplies. Does not include the sale or distribution of agricultural chemicals, including fertilizer.

Farmer's Market: The seasonal selling at retail of home-grown vegetables or produce, occurring in a pre-designated area, where the vendors are the same individuals who have raised the products for sale.

Fast Food Restaurant: See "Restaurant, Fast Food".

Fence: Any structure, solid or otherwise, which is a barrier and is used as a boundary or means of protection, confinement, or concealment.

Fence, Barbed-Wire/Razor-Wire: One or more strands of wire or other material having intermittent sharp points of wire or metal that may puncture, cut, tear, or snag persons, clothing, or animals.

Fence, Stockade (100% opaque): A fence constructed of vertical wood strips, with no intervening spaces, providing a complete visual barrier.

Fertilizer Sales, Distribution, and Storage: An establishment that stores, distributes, and sells fertilizers primarily for agricultural crop production use.

FHBM: Flood Hazard Boundary Map.

Fill: Any act by which earth, sand, gravel, rock or any other material is placed, pushed, dumped, pulled, transported or moved to a new location above the natural surface of the ground or on top of the stripped surface. Shall also include the conditions resulting therefrom. Also the difference in elevation between a point on the original ground and a designated point of higher elevation on the final grade, or the material used to make a fill.

Filling Station: See "Automobile Filling Station".

Financial Guarantee: Any guarantee which may be accepted in lieu of a requirement that certain improvements be made before the Commission approves the secondary plat, including but not limited to, performance bonds, escrow agreements, letters of credit, deposit agreements, and other similar collateral or surety arrangements approved as valid and enforceable by the Commission.

Financial Institution: Any establishment

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wherein the principal use is concerned with such Federal or state-regulated business as banking, savings and loans, loan companies, and investment companies.

Finished Floor Area: see "Floor Area, Finished".

Fire Station: See "Police, Fire, or Rescue Station".

Fireworks Sales: The primary business is the retail sale of devices defined as fireworks by the State of Indiana.

FIRM: Flood Insurance Rate Map.

Fitness Center: A place or building where passive or active exercises and related activities are performed for the purpose of physical fitness, improved circulation or flexibility, and/or weight control.

Flag: Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.

Flag Lot: See "Lot, Flag".

Flash Point: The lowest temperature at which a combustible liquid under prescribed conditions will give off a flammable vapor which will burn momentarily using the closed cup method.

Flat Roof: The silhouette formed by a roof line. While the name infers a roof with no pitch, the actual roof structure is required to have a slope for drainage purposes. The roof line can be stepped or flat in appearance by using architectural elements such as cornices, mansards, and parapets.

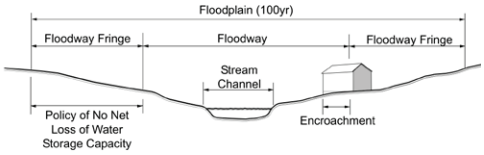
Flea Market: An occasional or periodic market held in an open area or structure where goods are offered for sale to the general public by individual sellers from open or semi-open facilities or temporary structures. Flea market shall not include informal garage or yard sales.

Flood: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

Flood Hazard Area: Any area located within the floodplain, including the flood fringe and floodway.

Floodlight: Reflector type light fixture that produces unshielded and undirected illumination.

Floodplain: The relatively flat area or low land adjoining the channel of a river, stream, lake, or wetland which has been or may be covered by the regulatory flood. The flood plain includes the channel, floodway, and floodway fringe. Floodplain boundaries are to be determined by using the Floodway-Flood Boundary Maps of the Federal Insurance Administration/ Federal Emergency Management Administration (FEMA).



Floodway: The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulation flood of any river or stream.

Floodway Fringe: Those portions of the floodplain lying outside the floodway. The floodway fringe is not necessary for carrying and discharging peak flood flow, but is subject to flooding.

Floor Area: The sum of all horizontal surface areas of all floors of all roofed portions of a building enclosed by and within the surrounding exterior walls or roofs, or to the centerline(s) of party walls separating such

buildings or portions thereof. Floor area of a building shall exclude exterior open balconies and open porches.

Floor Area, Finished: That portion of floor area constructed, completed, and usable for living purposes with normal living facilities which includes sleeping, dining, cooking, working, entertainment, common space linking rooms, areas for personal hygiene, or combination thereof. Floor area or portion thereof used only for storage purposes and not equipped for the facilities mentioned above shall not be considered Finished Floor Area. The Finished Floor Area of a principal structure does not include a garage, carport, deck, unfinished storage, patio, or open porch.

Floor Area, Gross: The total horizontal areas of the one or several floors of a building or portion thereof devoted to a particular use, including accessory storage areas located within selling or working space such as counters, racks, or closets and any basement floor area devoted to retailing activities, to the production or processing of goods or to offices; provided, however, gross floor area shall not include that area devoted entirely and permanently to storage purposes, parking and loading facilities, or space used for restrooms, utilities, stairwells or elevator shafts.

Floor Area, Ground: The area of a building in square feet, as measured in a horizontal plane at the ground level within its largest outside dimensions, exclusive of open porches, breezeways, terraces, garages, and exterior stairways.

Floor Area, Net: The total area, computed on a horizontal plane, used for a particular business category; exclusive of entrances, hallways, stairs and other accessory areas used for ingress or egress.

Floor Area Ration (FAR): The combined floor area of all stories of all buildings within a lot, divided by the land area.

Floriculture: The cultivation of flowers or flowering plants, especially for ornamental purposes.

Flower Shop: An indoor or outdoor facility that primarily sells flowers, bulbs, and seeds for planting by patrons. Flower shops can include small greenhouse operations, and incidental sales of small gardening equipment and accessories.

Food and Beverage Production: The large scale processing of raw ingredients and materials to create finished or unfinished foods and beverages.

Foundation: The supporting member of a wall or structure. See also “Permanent Foundation”.

Free Burning: See “Burning, Free”.

Fraternity, Educational: A club or social activity officially associated with and recognized and supervised by an institution for higher education whose membership is limited exclusively to students of the institution.

Fraternity, Social: A private club of individuals organized around a civic, social, or intellectual goal or pursuit. See also “Private Club”.

Front Line: With respect to a building, the foundation line that is nearest the front lot line.

Front Lot Line: See “Lot Line, Front”.

Front Setback: See “Setback, Front”.

Frontage, Street: All the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.

Frontage, Lot: See “Lot Frontage”.

Frontage Road: A road which parallels a major arterial or collector street, providing access from abutting property and separated from the

thoroughfare by a common dividing strip.

Funeral Home: A facility used for the preparation of the deceased for display and burial and the conducting of rituals and religious programs associated with burial.

G

Garage: An attached or detached structure whose principal use is to house motor vehicles or personal property for the accommodation of related dwelling units or related business establishments. (Not a repair facility)

Garage/Yard Sale: The sale or offering for sale to the general public six (6) or more items of personal property on any portion of a lot in a residential zoning district, either within or outside or a structure.

Garbage Transfer Station: A facility that compacts trash from curbside collection trucks. The compacted trash can then be reloaded onto larger trucks for long-distance transfer to landfill facilities.

Garden Shop: A retail establishment that primarily sells garden implements, plants, landscaping materials, and related accessories.

Gas Station: See "Automobile Filling Station".

Gift Shop: An establishment that primarily sells keepsakes, trinkets, jewelry, cards, stationary, and other small gift related items.

Glare: The reflection of harsh, bright light producing an effect that causes annoyance, discomfort, or loss of visual performance and visibility.

Golf Course: A tract of land laid out with at least nine (9) holes improved with tees, greens, fairways, and hazards for playing a game of golf, including any associated clubhouse or shelters and excluding miniature golf courses, and other similar commercial enterprises.

Golf Course, Miniature: A theme-oriented recreational facility composed of a series of putting greens where patrons pay a fee to move in consecutive order from one green to the next.

Government Facility: A building, group of buildings, and/or piece of property operated or occupied by a governmental agency to provide a governmental service to the public. Government facilities also include the storage and service of government vehicles, equipment, and supplies.

Government Office: An office occupied by a governmental agency that provides a governmental service to the public.

Grade: The surface of the ground adjacent to the exterior walls of a building.

Grade, Adjacent: The average of grade immediately adjacent to the structure in question.

Grade, Existing: The vertical elevation of the ground prior to any excavation, filling, or other construction activity.

Grade, Finished: The final elevation of the ground surface after man-made alterations have been completed.

Grading: Any stripping, cutting, filling, stockpiling or any combination thereof; also the land in its cut or filled condition.

Grading Plan: The drawing and supporting documents that describe the process and result of the excavating, filling, or leveling of a property by mechanical or other artificial methods.

Grandfathered: A description of the a status of certain properties, uses, activities, and conditions that were legally existing prior to the effective date of this ordinance.

Granny Flat: See "Dwelling, Accessory".

Grazing and Pasture Land: A fenced area used for the feeding and upkeep of livestock.

Greenhouse: A building or structure constructed primarily of translucent materials which is devoted to the protection or cultivation of flowers and other tender plants.

Greenhouse, Commercial: A building used for the growing of plants, all or some of which are sold at retail or wholesale either on or off-site.

Grocery Store: Small-scale retailers of food and grocery supplies.

Ground Cover: Landscaping elements that include living plant material.

Ground Cover, Non-Living: Landscaping elements including mulch and landscaping stones such as colored pebbles and gravel.

Ground Floor Area: See "Floor Area, Ground".

Group Home: A residential facility, licensed by the Developmental Disabilities Residential Facilities Council, which provides residential services for not more than eight (8) developmentally disabled or mentally ill persons, none of whom has a history of violent or anti-social behavior. Group homes are permitted such staff as are necessary to adequately manage the home, but not to exceed two (2) staff members residing in the home at any one time.

H

Hardship: A difficulty with regard to one's ability to improve land stemming from the application of the requirements of this ordinance, which may or may not be subject to relief by means of variance. In and of themselves, self-imposed situations and claims based on a perceived reduction of, or restriction on, economic gain shall not be considered hardships. Nor shall the purchase of land with actual or constructive knowledge that, for reasons other than physical characteristics of the property, the development standards herein will inhibit the desired improvement, be considered a hardship. Nor shall any improvement initiated in violation of the standards of this ordinance be considered a hardship.

Hard Surface: See "Paved Surface".

Hardware Store: A small or medium-scale facility primarily engaged in the retail sale of various basic hardware lines, such as tools, builder's hardware, plumbing and electrical supplies, paint and glass, housewares and household appliances, and garden supplies and cutlery. A lumberyard may be included as an incidental use to the hardware retail sales.

Hazardous Material: Any substances or materials that by reason of their toxic, caustic, corrosive, abrasive, or otherwise injurious properties, may be detrimental to the health of any person handling or otherwise coming into contact with such material or substance.

Health Spa: A place or building where active exercise and related activities are performed utilizing weight control or muscle building equipment or apparatus for the purpose of physical fitness. Also a place or building that provides massage, exercise, and related activities with or without such equipment or apparatus.

Hedge: A row of closely planted shrubs, bushes, or any other kind of plant used as a compact, dense, living barrier that protects, shields, separates, or demarcates an area.

Height: In all instances, the height of a structure shall be measured from adjacent grade level to the highest point of the structure, excluding the necessary appurtenances such as chimneys, church spires, steeples, clock or bell towers, cooling towers, elevator bulkheads, fire towers, penthouses, stacks, tanks, water towers, transmission towers, or essential mechanical equipment not prohibited by other laws or further provisions of this ordinance.

Heliport: An area used for the landing and take-off of helicopters, including any structures,

buildings, and equipment associated with that use.

Historic Site: All structures and other features identified as contributing, noteable, or outstanding by the Indiana Historic Sites and Structures Inventory - Boone County Interim Report, or listed in the National Register of Historic Places or the Indiana Register of Historic Sites & Structures, as well as any subsequent amendments and/or additions to any of these publications.

Home Electronics/Appliance Store: An establishment that primarily sells home appliances, electronics, and related accessories.

Home Occupation: An occupation carried on in a dwelling unit by a resident thereof which is limited in extent, and incidental and secondary to the use of the dwelling unit for residential purposes, and therefore does not change its residential character.

Home Owner's Association: See "Lot Owner's Association".

Hospital: An institution licensed by the State Department of Health to provide health services for the sick or injured, and where, during the course of treatment, patients are housed overnight, fed, and provided nursing and related services. Related services may include, but are not limited to, laboratories, out-patient departments, training facilities, central service facilities, and staff offices which are an integral part of the facility. Such institution must be operated by, or treatment given under direct supervision of a licensed physician. Types of hospitals include general, mental, chronic disease and allied special hospitals such as cardiac, contagious disease, maternity, orthopedic, cancer, and the like. Hospital does not include nursing homes, retirement facilities, shelters, or boarding houses.

Hotel. A building offering transient lodging to the public for compensation in which egress and ingress from all rooms is made through an inside lobby or office., and which may provide additional services, such as restaurants, meeting rooms, and recreation facilities.

Housekeeping Unit: A group of individuals functioning as a single household, making common use of a single kitchen and other social quarters. See also "Family".

I

Ice Cream Shop: Any establishment that primarily offers ice cream and frozen desserts to be eaten on or off premises.

Illumination, External: Illumination of a sign that is affected by an artificial source of light not contained within the sign itself.

Impervious Surface: Any hard-surfaced, man-made area that prevents absorption of stormwater into the ground.

Improvement: Any building, structure, bridge, work of art, area, parking facility, public facility, fence, gate, wall, landscaping, or other object constituting a physical addition to real property. See also "Public Improvement".

Improvement Location Permit: A permit allowing a person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any structure; alter the condition of the land; change the use or occupancy of a property; or otherwise cause any change to occur that is subject to the requirements of this ordinance.

Improvement, Off-Site: See "Off-Site Improvement".

Incidental: A minor occurrence or condition that is customarily associated with a permitted use and is likely to ensue from normal operations.

Incidental Sales: See "Sales, Incidental".

Incinerator: A facility that uses thermal com-

bustion processes to destroy or alter the character or composition of medical waste, sludge, soil, or municipal solid waste (not including animal or human remains).

Indecisive Vote: A vote which fails to receive a majority, either in favor or opposed.

Industrial District: The use of a property or area for the manufacture, fabrication, processing, reduction, or destruction of any article, substance, or commodity, including related storage facilities and warehouses. Refers to the PBI and ID zoning districts.

Infrastructure: Facilities and services needed to sustain industry, residential, commercial, and all other land use activities, including utilities and streets.

Ingress: An entrance.

Inoperable Motor Vehicle: A motor vehicle which meets one (1) or more of the following conditions: 1) Any motor vehicle from which the engine, transmission, or differential has been removed, or that is otherwise partially dismantled or mechanically inoperable; or 2) Any motor vehicle which cannot be driven on a public street without being subject to issuance of a traffic citation by reason of its operating condition or not displaying a valid and current license plate.

Inoperable Vehicle Storage: The outdoor storage of inoperable motor vehicles and their parts.

Inspectors: Employees of the Plan Commission authorized by the Administrator to enter, examine, and survey all lands within the City to accomplish the enforcement of this ordinance and any other land use regulations of the City.

Institutional Facility for the Developmentally Disabled: An institutional facility that provides care, supervision, and protection for persons with developmental disabilities consistent with the provisions of Indiana Code. See also "Residential Facility for the Developmentally Disabled".

Institutional Facility for the Mentally Ill: An institutional facility that provides care, supervision, and protection for mentally ill persons consistent with the provisions of Indiana Code. See also "Residential Facility for the Mentally Ill".

Intense Burning: See "Burning, Intense".

Interested Party: Those persons, groups, property owners, or other entities that are considered or consider themselves to be affected by a change in land use or the results of an application to change land use. (For the purposes of public notification, "interested party" is defined by the Plan Commission Rules & Procedures.)

Interior Lot: See "Lot, Interior".

Investment Firm: Any office where the primary occupation is concerned with businesses that buy and sell stocks, bonds, and other notes of purchase.

J

Jewelry Store: Store that primarily sells new jewelry, with some sales of used merchandise.

Junk: Scrap or waste material of any kind.

Junk Yard/Salvage Yard: Any place at which personal property is or may be salvaged for reuse, resale or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled, or assorted. Including but not limited to, used or salvaged base metal or metals, their compounds or combinations, used or salvaged rope, bogs, paper, rags, glass, rubber, lumber, millwork, brick and similar property except animal matter; and used motor vehicles, machinery or equipment which is used, owned or possessed for the purpose of wrecking or salvaging parts therefrom.

Jurisdiction: Any area over which a unit of government exercises power and authority.

K

Kennel: An establishment which houses four (4) or more dogs, cats, or other small animals, and where boarding, grooming, breeding, training or selling of animals is conducted either for commercial or non-commercial purposes.

Kindergarten or Day Nursery: A preschool for children who are ages 4-6 years. This type of educational facility can be part of a public school system and taught during the year preceding first grade.

L

Land Use: The occupation or use of land for any human activity or purpose.

Land Use Petition: A rezoning petition, variance petition, conditional use petition, or any other petition permitted by rules of procedure adopted by the Plan Commission.

Landscape Buffer: See "Buffer".

Landscaping: The improvement of a lot with grass, shrubs, trees, and other vegetation and/or ornamental objects. Landscaping may include pedestrian walks, flower beds, berms, fountains and other similar natural and man-made objects.

Landscaping, Defective: Dead or dying plant material, damaged berms, walls, fences, and/or other landscaping elements.

Laundry (Self Service): A business with vending machine type washing, drying, dry-cleaning, and ironing equipment for use by customers on site.

Laundry Service (large-scale): A large scale establishment that cleans fabrics, textiles, wearing apparel, or articles of any sort by immersion and agitation in volatile solvents, and all related processes. Laundry services serve businesses and individuals, generally with the cleaners picking up and delivering the clothing or uniforms to its clients.

Lease: To rent, to permit the possession of, or to grant the right of possession or use of a lot, parcel, tract, land or group of lots, parcels, tracts, or lands for compensation.

Legal Drain: Any drainage system consisting of an open drain, a tiled drain, or any combination of the two, and is under the jurisdiction of the County drainage board as provided by I.C. 36-9-27.

Legal Nonconforming Lot: Any lot which has been legally established and recorded prior to the effective date of this ordinance, or its subsequent amendments, or has been granted a variance from this ordinance, that does not meet the lot-specific development standards.

Legal Nonconforming Use: Any continuous, lawful use of structures, land, or structures and land in combination established prior to the effective date of this ordinance, or its subsequent amendments, that does not meet the requirements of this ordinance for a permitted use in the zoning district in which it is located.

Letter of Map Amendment (LOMA): An amendment to the currently effective FEMA map that establishes that a property, area, and/or structure is not located in a Special Flood Hazard Area (SFHA). A LOMA is only issued by FEMA.

Letter of Map Revision (LOMR): An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

Library: A public facility for the use, but not sale, of literary, musical, artistic, or reference materials.

Light Industrial Processing and Distribution: Processing and distribution of materials and products from processed or previously manufactured materials. Light industry is capable of operation in such a manner as to control the external effects of processing such as smoke, noise, odor, etc.

Linear Park: A park or other green, open space that forms a corridor, or is a part of a corridor along a body of water, street, or pedestrian/bicycle trail.

Liquor Store: A store that offers retail and/or wholesale liquor, including wine and beer.

Livestock: See "Farm Animal".

Livestock Auction/Sales Facility: A commercial establishment where livestock is collected and auctioned and/or sold. Livestock at the facility are there on a temporary basis, for immediate sale only, and not housed long term.

Livestock Raising and Breeding: The production and upkeep of livestock for the purposes of sale, including the feeding, sheltering, grazing, and shipping of livestock, including the storage of all necessary materials and equipment.

Loading Spaces/Loading and Unloading Berths: The off-street area required for the receipt or distribution by vehicles of material or merchandise.

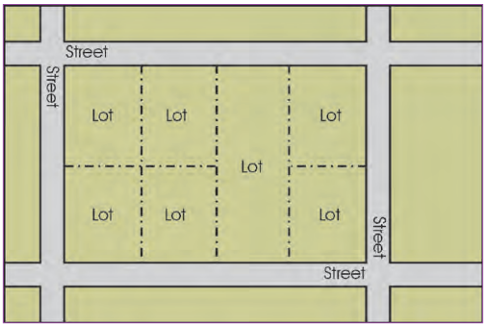
Local Street: See "Street, Local".

Location Map: A map showing the location of the property proposed to be subdivided. Such map shall show the closest cross streets in all directions.

Lodging House: A building where long term rental lodging is provided for compensation to three (3) or more, but not exceeding twelve (12) persons.

Lodge or Private Club: A membership organization that holds regular meetings and that may, subject to other regulations controlling such uses, maintain dining facilities, serve alcohol, or engage professional entertainment for the enjoyment of dues paying members and their guests. There are no sleeping facilities.

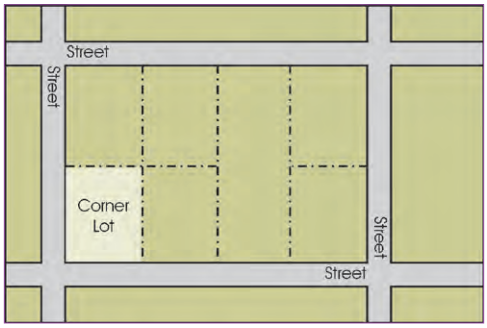
Lot: A parcel of land of at least sufficient size to meet the minimum zoning requirements of the zone in which it is located, and that has frontage and access on an improved public street, or on an approved private street. A lot may be a single parcel separately described in a deed which is recorded in the Office of the County Recorder; or a lot may be a single parcel separately described in a survey which is recorded in the Office of the County Recorder; or a lot may include a parcel contained in a plat or subdivision of land which is recorded in the Office of the County Recorder; or a lot may include parts of, or a combination of, such parcels which are adjacent to one another and used as one.



Lot Area: The horizontal area within the exterior lines of a lot, including any easements, but excluding any rights-of-way or other similar dedications to the public.

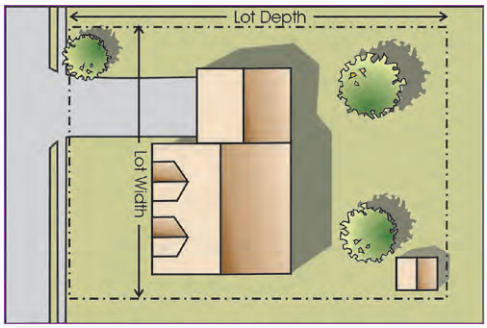
Lot, Buildable: Any lot upon which improvements are permitted to be constructed, or which is otherwise allowed to be occupied and used consistent with all applicable requirements of this ordinance.

Lot, Corner: A lot located at the junction of and abutting two or more intersecting streets.



Lot Coverage: The total ground area of a lot usually expressed as a percentage of the lot area that is covered, occupied or enclosed by buildings structures, parking areas, driveways, walkways, and other paved or impervious surface.

Lot Depth: The mean horizontal distance between the Front Lot Line and the Rear Lot Line of a lot, measured in the general direction of the Side Lot Line.



Lot, Developed: A lot upon which improvements have been made or is otherwise being used for human purposes.

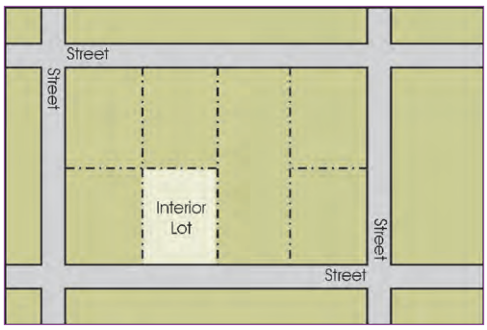
Lot, Double Frontage: See "Lot, Through".

Lot, Flag: A lot with access provided to the bulk of the lot by means of a narrow corridor.

Lot Frontage: The linear distance of a lot measured at the front lot line where said lot abuts a street right-of-way, measured between side lot lines.

Lot, Improved: See "Lot, Developed".

Lot, Interior: Any lot which is not a corner lot or through lot.



Lot, Irregular: A lot that is characterized by elongations, angles, shapes, and/or configuration that is inconsistent with the topography, street systems, other lots, and other features of the area in which it is located.

Lot Line, Front: For an interior or through lot, the line marking the boundary between the lot and the abutting street right-of-way. For a corner lot, the line marking the boundary between the lot and each of the abutting street rights-of-way.

Lot Line, Rear: A Lot Line which is opposite and most distant from the Front Lot Line and, in the case of an irregular or triangular-shaped lot, a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the Front Lot Line.

Lot Line, Side: Any lot boundary line not a Front Lot Line or a Rear Lot Line.

Lot Line: The property lines which define the lot.

Lot, Legal Nonconforming: See "Legal Nonconforming Lot".

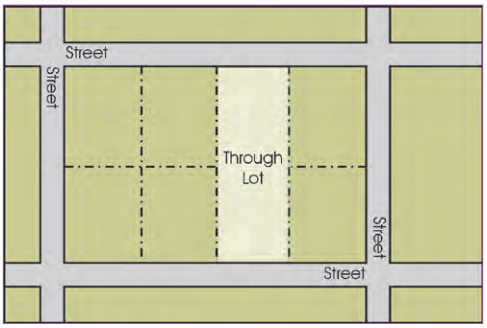
Lot Owners Association: An incorporated nonprofit organization operating under recorded

land agreements through which each lot owner is automatically a member and each lot is automatically subject to a proportionate share of the expenses for the organization's activities, such as maintaining common property.

Lot of Record: A lot which is part of a subdivision, the map of which has been recorded in the Office of the County Recorder of Boone County, Indiana; or a parcel of land, the deed to which has been recorded in the Office of the County Recorder of Boone County, Indiana, prior to the date of passage of this ordinance.

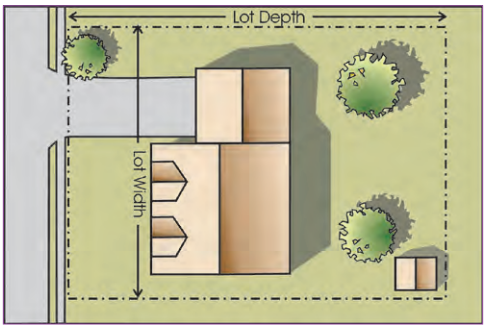
Lot, Recorded: See "Lot of Record".

Lot, Though: A lot having frontage on two (2) or more non-intersecting streets.



Lot, Undeveloped: A lot of record upon which no improvements exist.

Lot Width: The horizontal distance between side lot lines measured at the required minimum front setback line or built-line line affecting the property.



Lot, Zoning: A single tract of land that, at the time of application for an improvement location permit, is designated by the applicant for the purpose of complying with this ordinance as the tract to be used, developed, or built upon. A zoning lot or lots may coincide with one or more lots of record.

Lowest Floor: The lowest of the following: 1) the top of the basement floor; 2) the top of the garage floor, if the garage is the lowest level of the building; 3) the top of the first floor of buildings elevated on pilings or constructed on a crawl space with permanent openings; or 4) the top of the floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless: the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two openings (in addition to doorways and windows) having a total area of one (1) square inch for every one (1) square foot of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above grade; such enclosed space shall be usable for the parking of vehicles and building access.

Lumber Yard: An area used primarily for the storage, distribution, and sale of finished or rough-cut lumber and lumber products.

Luminaire: A complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts.

Luminaire, Cut-off Type: A luminaire with elements such as shields, reflectors, or refractor angles that direct and cut-off light.

Luminaire, Full Cut-off Type: A luminaire with no light emitted above the horizontal plane.

Luminaire, Semi Cut-off Type: A luminaire with less than 5% of the lamp lumens emitted above the horizontal plane.

M

Maneuvering Aisle: A maneuvering space which serves two or more parking spaces, such as the area between two rows of parking spaces and/or the driveway leading to those spaces.

Maneuvering Space: An open space in a parking area which is immediately adjacent to a parking space; is used for and/or is necessary for turning, backing or driving forward a motor vehicle into said parking space; but is not used for the parking or storage of motor vehicles.

Manufactured Home: See "Dwelling, Manufactured Home".

Manufactured Home Park: A parcel of land containing two (2) or more dwelling sites, with required improvements and utilities, that are leased for long term placement of Manufactured Home Dwellings. A Manufactured Home Park does not involve sales of Manufactured Home Dwellings in which unoccupied units are parked for inspection or sale.

Manufactured Home Sales: The sale and incidental storage of single-family detached housing that includes manufactured homes.

Manufactured Home Site: The area of land in a manufactured home park for the placement of one manufactured home.

Manufacturing Facility: A facility for the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the manufacturing of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.

Marginal Access Street: See "Frontage Road".

Marker (survey): A stake or any other object which is intended to mark a survey point on a lot or within a subdivision.

Marquee: Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Masonry: Construction material that consists of brick, stone, tile, rock, granite, marble, or other built-up panels of these materials, or molded concrete that is held together with mortar, as long as the molded concrete does not make up a continuous wall section.

Massage Parlor: See "Health Spa".

Massing: The shape and form a building takes on through architectural design. There are ten (10) architectural design elements that create urban space; 1) building silhouette (similar pitch and scale to a roof line), 2) spacing between building facades (setbacks or notches between primary facades that frame the structure), 3) setback from property line (building setback and/or primary facade setback from the property line), 4) proportion of windows, bays, and doorways (vertical or horizontal elements tied together in bands across facade lengths), 5) proportion of primary facade (size of facades similar in area and height to width ratios), 6) location and treatment of entryway (important visual commonality between structures), 7) exterior materials used (similar materials and treatment add to detail and monumentality of a building), 8) building scale (similarity of building height and configuration), 9) landscaping (ties together buildings and defines space), and 10) shadow patterns form decorative features (the light and dark surfaces from materials used and projections from windows, bays, and setbacks create visual breaks). A specific project may not need to incorporate all ten (10) elements.

Meat Market (Butcher): A market that primarily offers retail and/or wholesale meats, but may also sell related incidental products.

Mechanical Equipment: Equipment installed for a use appurtenant to the principal use. Such equipment may include heating and air con-

ditioning equipment, solar collectors, parabolic antennas, and power generating devices.

Medical or Health Clinic: A facility in which human patients are admitted for medical or dental study or treatment on an out-patient only basis, and in which the services of at least two (2) physicians or dentists are provided.

Medical Office: A building, other than a hospital, used by one or more licensed physicians for the purpose of receiving and treating patients.

Metes and Bounds: A description of land prepared by a state-registered land surveyor providing measured distances and courses from known or established points on the surface of the earth.

Microbrewery (Brew-Pub): A facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail, or wholesale, on or off premise, with a capacity of not more than 15,000 barrels per year. The development may include other uses such as a standard restaurant, bar or live entertainment.

Mineral Extraction: The extraction of metallic and nonmetallic minerals or materials from the earth for use off-site, including incidental uses and facilities such as rock crushing, screening, and the necessary storage and use of explosives.

Mini-Storage Facility: A storage structure containing separate storage spaces of varying sizes, each for individual purchase or rental for the storage of household goods.

Minor Subdivison: A subdivision which results in the creation of four (4) or fewer lots from a parent tract, whether at the same time or over the course of time.

Mixed-Use Development: An area, parcel of land, or structure developed for two (2) or more different land uses.

Mobile Home: See "Dwelling, Mobile Home".

Mobile Home Park: See "Manufactured Home Park".

Moderate Burning: See "Burning, Moderate".

Monument: See "Marker (survey)".

Motel: A building or a group of detached or connected buildings devoted to the provision of sleeping accommodations for automobile transients, and containing bedroom, bathroom, closet space, and convenient access to a parking space. Motels may include other accessory uses such as restaurants, swimming pools, meeting rooms, and the like. A motel furnishes customary services such as maid service and laundering of linen, telephone, secretarial, or desk service, and the use and upkeep of furniture. See also "Hotel".

Motorbus or Railroad Passenger Station: A centralized and/or primary community facility for the transient housing or parking of motor driven buses, trains, or similar mass transit modes of transportation, and the loading and unloading of passengers.

Motor Home: See "Recreational Vehicle".

Motor Vehicle: Any passenger vehicle, truck, tractor, tractor-trailer, truck-trailer, trailer, or semi-trailer propelled or drawn by mechanical power.

Motor Vehicle, Inoperable: See "Vehicle, Inoperable".

Multifamily Dwelling: See "Dwelling, Multifamily".

Multi-Tenant Building: A grouping of two or more business establishments that either share common parking on the lot where they are located, or that occupy a single structure or separate structures that are physically or functionally related or attached.

Multi-Use Pathway: See "Pathway".

Museum: A building having public significance

by reason of its architecture or former use or occupancy, or a building housing a specific collection of natural, scientific, or literary materials, objects of interest, or works of art, and designed to be used by the public with or without an admission charge. It may include as an accessory use the sale of goods to the public.

N

Natural Condition: The condition that arises from, or is found in nature unmodified by human intervention.

Natural Drainage: Drainage channels, routes, and ways formed over time in the surface topography of the earth prior to any modifications or improvements made by unnatural causes and/or human intervention.

Natural Features: The physical characteristics of a property or area that are not man-made, such as soil types, geology, slopes, vegetation, and drainage patterns.

Nature Preserve/Center: An area in which plants, animals, and topographic features are protected in their current, natural condition.

Neighborhood Recreational Area: A private recreation area which is owned by a neighborhood association or a developer, and is only for the use of the residents of that subdivision.

News Dealer: An establishment that primarily sells newspapers, magazines, and other periodicals.

Night Club: A commercial establishment operated as a place of entertainment featuring live, recorded, or televised musical, comedy, or magic performances; dancing; and/or the serving of alcoholic beverages.

No Access Easement: Public easement along a public right-of-way across which the access to the property is not permitted.

No-Access Reservation: A restriction placed on a lot, typically shown as a line labeled as such on preliminary and final subdivision plats, that prohibits vehicular access from the affected lot(s) to an adjacent street.

Nonconforming Lot, Use, or Structure (Legally): See "Legal Nonconforming Lot" or Legal Nonconforming Use".

Nonconforming Lot: A lot that does not conform to the regulations of the zoning district in which it is located.

Nonconforming Structure: A building or other structure that does not conform to the regulations of the zoning district in which it is located.

Nonconforming Use: A use of land that does not conform with the regulations of the district in which it is located.

Nuisance: An interference with the enjoyment and use of property as defined by the Nuisance Ordinances of the City of Lebanon.

Nursery: An enterprise that conducts the retail and/or wholesale of plants grown on the premises, as well as accessory items (but not power equipment, such as gas or electric lawn mowers and farm implements) directly related to their care and maintenance.

Nursing Home: Any institution, whether operated for profit or not, including a place operated by a county or municipality, which undertakes through its ownership or management to provide for a period exceeding twenty-four (24) hours, nursing care, personal care, or custodial care for three (3) or more persons not related to the owner or manager by blood or marriage, who by reason of illness, physical infirmity, or advanced age require such services, but, in contradistinction to a hospital, does not include any place providing care or treatment primarily for the acutely ill.

O

Objectionable Odor: Odors that are nau-

seating, noxious, or generally recognized as unpleasant.

Occupancy: The use of any land or structure.

Occupied Space: The total area of earth horizontally covered by the structure, excluding garages, patios and porches and other accessory structures.

Octive Band: A narrow range of sound frequencies which classify sounds according to pitch. In the octave band analyzer the audible sound spectrum is divided into eight octave bonds.

Octive Band Analyzer: An electrical device used with the sound level meter that sorts a complex noise or sound into the various octave bonds.

Off-Site Improvement: An improvement related to new development that occurs, or is constructed on property that is outside of the parcel or tract that is being developed. Off-site improvements typically include, but are not limited to drainage, public water systems, public sewer systems, and streets.

Office, Professional: See "Professional Office".

Office Supply Store: A large establishment that offers retail and wholesale office supplies including items such as paper, writing utensils, computer equipment, and office furniture.

Office Use/Building: Administrative, executive, professional, research, or similar organizations, and laboratories having only limited contact with the public, with no merchandise or merchandising services sold on the premises.

Official Zoning Map: A map of the City of Lebanon, Indiana and its vicinity, that legally denotes the boundaries of zoning districts as they apply to the properties within the Plan Commission's jurisdiction.

Oil Change Shop: A facility that provides lubrication, checking, changing, and the addition of those fluids and filters needed for automobile maintenance. Generally such services are provided while the customer waits.

Open Space: The total horizontal area of a lot excluding buildings, parking areas, drives, and sidewalks/pathways (unless related to recreation) but including recreational area, landscaped area, wetlands, streams, meadows or open fields containing baseball, football, and soccer fields, golf courses, swimming pools, and wooded areas. In residential districts, said open space may include the usable roof area within the project which has been improved for outdoor use of occupants.

Ornamental Shrub: See "Shrub, Ornamental".

Ornamental Tree: See "Tree, Ornamental".

Outdoor Commercial Recreational Enterprise: An establishment whose main purpose is to provide the general public with an amusing or entertaining activity and where tickets are sold or fees are collected for the activity. These activities include, but are not limited to, skating rinks, water slides, go-cart tracks, carnivals, and amusement parks.

Outdoor Storage: The keeping of items for sale, the products of manufacturing, materials used in production, vehicles, and other similar materials and/or equipment in an area outside of any building.

Outdoor Storage, Seasonal: The outdoor storage of items for retail sale that are, by their nature, sold during a peak season, such as fruits and vegetables, Christmas trees, lawn accessories, and bedding plants.

Outlot: A lot platted as part of a larger development that is intended for the development of uses and structures which are complementary to but of a smaller scale than the principal use or structure in the development.

Overlay Zoning District: A zoning district that extends across one or more other zoning

districts which is intended to provide additional or alternate regulations for a specific critical feature or resource.

Owner: Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to, or sufficient proprietary interest in the land, or their legal representative.

Owners Association: See "Lot Owners Association".

P

Packaging Facility: A facility that packages supplies and products that are manufactured off site.

Parapet: The portion of a wall which extends above the roof line.

Parcel: see "Lot".

Parent Tract: The land from which the new lot or tract of land is being taken from, as recorded in the Recorder's Office at the time of adoption of this ordinance or any subsequent amendments thereto.

Park: Any public or private land and related structures, including athletic facilities, shelter houses, and maintenance facilities that are designed to provide recreational, educational, cultural, or aesthetic use to the community.

Parking Lot: An open off-street area to be used for the storage of motor vehicles, whether free or for compensation, for limited periods of time. A parking lot includes all parking spaces, interior drives, and maneuvering areas.

Parking, Off-Street: A storage space for an automobile located outside of a street right-of-way.

Parking, On-Street: A storage space for an automobile that is located within the right-of-way of a street.

Parking, Shared: A parking space or lot used jointly by two (2) or more uses or structures.

Parking Space: A space within a public or private parking area for the storage of one (1) motor vehicle.

Parking Structure: A structure of two or more stories, whether privately or publicly owned, used for parking.

Particulate Matter: Finely divided liquid or solid material which is discharged and carried along in the air. This shall not include water droplets, commonly called steam.

Pathway: A designated route for travel by pedestrians, bicycles, and other non-motorized methods of personal transportation and recreation which is surfaced with crushed rock, concrete, or asphalt and separated from streets by distance or striping. See also "Trail".

Paved Surface: A durable surface for parking, driving, riding or similar activities that utilizes asphalt, Portland cement, concrete, brick, paving blocks or similar material. Crushed gravel, street grindings, stone, rock, or dirt, sand or grass are not a paved surface.

Penal (Correctional) Institution: Publicly or privately operated facilities housing persons awaiting trial or persons serving a sentence after being found guilty of a criminal offense.

Performance Bond or Surety Bond: A personal or corporate surety agreement between a subdivider and such surety in favor of a governmental body guaranteeing the completion of physical improvements according to plan and specifications within the time prescribed by the subdivider's agreement. See also "Surety".

Permanent Foundation: A structural system for transposing loads from a structure to the earth at a depth below the established frost line without exceeding the safe bearing capacity of the supporting soil. See also "Foundation".

Person: A natural person, corporation, firm,

partnership, association, trust, organization, unit of government, or any other entity that acts as a unit, including all members of any group.

Personal Services: An establishment or place of business primarily engaged in the provision of frequent and recurrent services of a personal nature, such as a beauty or barber shop, shoe repair shop, or tanning salon.

Pervious Pavement: A hard surface that presents an opportunity for precipitation to infiltrate into the ground.

Pervious Surface: A surface that presents an opportunity for precipitation to infiltrate into the ground.

Pet Store: A retail sales facility primarily involved in the sale of domestic animals, such as cats, dogs, fish, birds, and reptiles as well as domestic pet accessories. A pet shop does not include the retail sale of exotic or farm animals.

Petitioner: Any person who formally makes a request before the Plan Commission or Board of Zoning Appeals consistent with the processes and requirements of this ordinance. See also "Applicant".

Petroleum Processing and Storage: An establishment that processes and stores petroleum and its raw ingredients.

Pharmacy: A place where drugs and medicines are prepared and dispensed. Pharmacy also includes the incidental retail sale of medical accessories and convenience goods and services.

Photographic Studio: A facility engaged in onsite photography, processing, and development, including limited retail sale, lease and service of photography equipment and supplies.

Place of Worship: See "Church".

Plan: See "Comprehensive Plan".

Plan Commission: The Lebanon Plan Commission.

Planned Unit Development: A large-scale unified development meeting the requirements of this ordinance. Generally a planned unit development consists of a parcel or parcels of land, controlled by a single person, to be developed as a single entity which does not correspond in size of lots, bulk or type of buildings, density, lot coverage, and required open space to the regulations established in any zoning district of this ordinance.

Planning and Zoning Administrator: See "Administrator, Planning and Zoning".

Planting Season: The spring and fall time periods during which new plant material which is installed is most likely to survive the planting process. Generally these periods are from April 15 to June 15 in the spring and from October 15 to November 15 in the fall.

Plat: A map or chart indicating the subdivision or re-subdivision of land, intended to be filed for record.

Plat Committee: A committee established by the Plan Commission to review and make decisions on minor subdivision and administrative subdivision petitions.

Plat, Primary: The map and supporting information indicating the proposed layout of the subdivision and presented to the Commission for consideration and primary approval in accordance with these regulations.

Plat, Secondary: A drawing, in final form, showing the subdivider's plan of subdivision, containing all information or detail required by law and by these regulations, and which is to be presented to the Plan Commission for approval; if approved and signed by the designated officials, such plat may be duly filed or recorded by the applicant in the Office of the Boone County Recorder.

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Plat, Minor: See "Minor Subdivision".

Playground: A recreational area for use primarily by children.

Police, Fire, or Rescue Station: An outpost station that serves as an office of operation for police, fire, and/or rescue services. Such stations include personnel, equipment, vehicles, and training facilities.

Porch: A covered, but otherwise unenclosed structure projecting out from the wall or walls of a main structure.

Porous Pavement: See "Pervious Pavement".

Post Office: A facility operated by the United States Postal Service that houses service windows for mailing packages and letters, post office boxes, offices, vehicle storage areas, and sorting and distribution facilities for mail.

Power Generation Facility: A facility that produces usable electricity by harnessing any array of resources including fossil fuels, water, wind, and solar sources.

Practical Difficulty: A difficulty with regard to one's ability to improve land stemming from regulations of this ordinance. A practical difficulty is not a "hardship," rather it is a situation where the owner could comply with the regulations within the Zoning Ordinance, but would like a variance from the Development Standards to improve his/her site in a practical manner. For instance, a person may request a variance from a side yard setback due to a large tree which is blocking the only location that would meet the Development Standards for a new garage location.

Premises: A Lot or Plot of land, including any buildings thereon.

Primary Approval: An approval (or approval with conditions) granted to a subdivision by the Plan Commission, indicating that it has determined after a public hearing that the subdivision complies with the standards prescribed in this ordinance.

Principal Structure: See "Structure, Principal".

Primary Plat: See "Plat, Primary".

Principal Use: See "Use, Principal".

Print Shop (Copy Center): A facility for the custom reproduction of written or graphic materials on a custom order basis for individuals or businesses. Typical processes include, but are not limited to, photocopying, blueprint, and facsimile sending and receiving, and including offset printing.

Printing Facility: Any facility that prints publications including books, magazines, and newspapers for the purposes of sale and/or distribution.

Private Club: A facility or property owned or operated by a corporation, association, person or persons for a social, educational, or recreational purpose and for which membership is required for participation.

Private Recreational Facility: A recreational facility for use by residents and guests of a particular residential development, church, private primary or secondary educational facility, or limited residential neighborhood, including both indoor and outdoor facilities and privately-owned golf courses open to the public.

Private Street/Drive: See "Street, Private".

Processing Plant: A building or an enclosed space used for the collection and processing of material. "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.

Produce Terminal: A large warehouse facility that sells produce at wholesale to retailers, hotels, catering services, and other businesses.

Professional Office: Office of a member or members of a recognized profession, including but not limited to: architects, artists, dentists, engineers, lawyers, musicians, physicians, surgeons or pharmacists, and realtors or insurance agents and brokers.

Prohibited Tree: See "Tree, Prohibited".

Property Owner: See "Owner".

Public Art: Any visual work of art that is accessible to public view and located on public or private property.

Public Hearing: A formal meeting, announced and advertised in advance consistent with the requirements of this ordinance, which is open to the public, and at which members of the public have an opportunity to participate.

Public Improvement: Any drainage ditch, street, highway, parkway, sidewalk, pedestrian-way, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

Public Street: See "Street, Public".

Public Utility Installations: The erection, construction, alteration, or maintenance by public utilities, municipal departments, commissions or common carriers of underground, surface or overhead gas, oil, electrical, steam, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers and other similar equipment and accessories in connection therewith, by public utility or municipal departments, commissions, or common carriers, for the public health or safety or general welfare.

Public Utility Structure: Electric and telephone substations and distribution centers, filtration plants, pumping stations and water reservoirs; public or package sewer treatment plants, telephone exchanges; radio and television transmitting or relay stations; antenna towers and other similar public utility service structures.

Publishing Facility: Any facility that prints and/or assembles publications including books, magazines, and newspapers for the purposes of sale and/or distribution.

Q

Quarry: A lot or any part of a lot used for the extracting of stone, sand, gravel, or any other material to be processed for commercial purposes.

R

Racetrack: Any measured venue for the sport of racing where animals or machines are entered in competition against one another or against time. A racetrack may or may not have areas for spectators. Racetrack includes, but is not limited to, oval track racing, drag racing, motorcross, tractor pulling, go-cart racing, remote control airplane flying, and similar uses.

Radio Station: An establishment that broadcasts radio signal programming.

Rear Setback: See "Setback, Rear ".

Record: The written documentation of the actions and expressions of a public body, such as the Plan Commission or Board of Zoning Appeals.

Record Shop (CD Shop): An establishment that primarily deals with new and used audio recordings in an array of media formats. Some shops also include the sales of new and used video recordings as well.

Recreational Development, Private: A recreational establishment held in private ownership and either open only to members or open to the general public in exchange for an admission fee.

Recreational Vehicle: Any building, structure, or vehicle designed and/or used for seasonal living or sleeping and/or recreational purposes and equipped with wheels to facilitate movement from place to place (either under its own power or towed by another vehicle). Recreational vehicles are built on a single chassis and measure four hundred (400) square feet or less, including the largest horizontal projections, and are of a size that is street legal. Recreational vehicles include pick-up truck coaches, motorized homes, boats, travel trailers, snow mobiles, and camping trailers not meeting the definition of a manufactured or mobile home.

Recreational Vehicle Park: Any site, lot, field, or tract designed with facilities for the temporary use of recreational vehicles.

Recreational Vehicle Sales: The sale and incidental storage of recreational vehicles.

Recycling Center: A facility for the collection, sorting, storing and processing of paper products, glass, plastics, aluminum or tin cans prior to shipment for remanufacture into new materials.

Refuse Dump: A facility designated to receive and hold municipal solid waste and other waste matters. Waste at a refuse dump is not compacted or covered as it is in a sanitary landfill. See also "Sanitary Landfill".

Registered Architect: An architect properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

Registered Land Surveyor: A land surveyor properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

Registered Landscape Architect: A landscape architect properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

Registered Professional Engineer: An engineer properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

Regulatory Flood: The flood having a one percent (1%) probability of being equaled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission and the Federal Emergency Management Agency. The "Regulatory Flood" is also known by the term "Base Flood." See also "Base Flood Elevation".

Regulatory Floodway: The channel of a river or stream and those portions of the flood plains adjoining the channel which are reasonably required to efficiently carry and discharge peak flow of the regulatory flood of any river or stream and, is that area covered by floodwaters in significant downstream motion or covered by significant volumes of stored water during the occurrence of the regulatory flood.

Repair Services: Establishments that provide repair services to individuals and households, rather than businesses, not including automotive and equipment repair. Typically such services include the repair of appliances, watches, jewelry, and musical instruments.

Replat (or Resubdivision): Any change in a recorded plat which does not result in the creation of additional lots. It may include all or any part of a previous subdivision or plat. A replat shall be considered an Administrative Subdivision, provided no new streets or utility expansions are required.

Rescue Station: See "Police, Fire, or Rescue Station".

Research Laboratory: A structure or group of structures used primarily for applied and developmental research where product testing is an integral part of the operation and goods or products used in the testing may be manufactured and stored.

Residence: See "Dwelling".

Residential District: An area used primarily for dwellings.

Residential Facility for the Developmentally Disabled Type I: A residential facility which provides residential services for not more than eight (8) developmentally disabled individuals, as defined by IC 12-28-4-8.

Residential Facility for the Developmentally Disabled Type II: A residential facility which provides residential services for more than eight (8) developmentally disabled individuals, as defined by IC 12-28-4-8.

Residential Facility for the Mentally Ill: A residential facility which provides residential services for mentally ill individuals, as defined by IC 12-28-4-7.

Residential Treatment Center: Any facility licensed by the Indiana Department of Health, public or private, which regularly provides one or more people with twenty-four (24) hour a day substitute care, food, lodging, training, education, supervision, habilitation, rehabilitation and treatment they need, but which for any reason can not be furnished in the person's own home.

Restaurant: A structure in which the principal use is the preparation and sale of food and beverages.

Restaurant, Drive-in: A facility, including a building and adjoining parking area, the primary function of which is selling food to the public by order from and service to passengers in vehicles parked outside of the structure. Drive-in restaurants may also provide seating inside of the building.

Restaurant, Fast Food: An establishment that offers quick food service, which is accomplished through a limited menu of items already prepared and held for service, or prepared quickly. Orders are generally not taken at the customer's table, and food is generally served in disposable wrapping or containers. Establishment may include a drive-thru service facility.

Retail Uses: Commercial enterprises that provide goods and/or services directly to the consumer, where such goods are available for immediate purchase and removal from the business.

Retention Pond: An area that is designed to permanently hold specific quantities of stormwater. Captured water only dissipates via percolation into the ground water or by evaporation.

Retirement Facility: A residential complex containing multifamily dwellings designed for and occupied by senior citizens (persons sixty (60) years of age or older, or couples where either the husband or wife is sixty (60) years of age or older). Such facilities may include a common gathering and dining facilities, but exclude nursing care.

Retreat Center: A facility used for professional, educational, or religious meetings, conferences, or seminars which provides meals, housing, and recreation for participants during the period of the retreat or program.

Rezoning: An amendment to the Official Zoning Map which has the affecting of removing property from one zoning district and placing it in a different zoning district.

Riding Stable: An establishment that shelters and offers upkeep to horses for use by patrons and private owners. Stables generally include grazing pastures and land designated for horseback riding.

Right-of-Way: A specific and particularly described strip of land, property, or interest therein devoted to and subject to the lawful public use, typically as a thoroughfare of passage for pedestrians, vehicles, or utilities, as officially recorded in the office of the Boone

County Recorder.

Right-of-Way Line: The limit of publicly owned land encompassing a public facility, such as a street or an alley.

Ringelmann Number: The number of the area on the Ringelmann Chart that most nearly matches the light-obscuring capacity of smoke. The Ringelmann Chart is published by the U. S. Bureau of Mines, and it illustrates graduated shades of gray for use in estimating smoke density. Smoke below the density of Ringelmann No. I shall be considered no smoke, or Ringelmann "0".

Road: See "Street".

Roadside Sales Stand: A temporary structure, not permanently affixed to the ground, which is used solely for the display or sale of farm products produced on the premises upon which such roadside stand is located. No roadside stand shall be more than three hundred (300) square feet in ground area and there shall not be more than one roadside stand on any one premise.

ROW: See "Right-of Way".

Runoff: The surface water discharge or rate of discharge of a given watershed after a fall of rain or snow that does not enter the soil but runs off the surface of the land.

S

Sales, Incidental: Sales that are related and subordinate to the primary service or retail activities of a commercial use.

Sales, Temporary/Seasonal: Facilities that are indoor or outdoor and operate on a temporary basis for the sale of seasonal fruits and vegetables, fireworks, Christmas trees, and/or other holiday, event, or season related products.

Sanitary Landfill: The designated area where nonhazardous and non-medical farm, residential, institutional, commercial, or industrial waste is buried. See also "Refuse Dump".

Satellite Dish/Antenna: An apparatus capable of receiving communications from a transmitter relay located in a planetary orbit or broadcasted signals from transmitting towers.

School: A public or private institution which offers instruction in any of the branches of learning and study comparable to that taught in the public schools under the Indiana School Laws, including pre-kindergarten, kindergarten, elementary school, and junior and senior high schools, whether public or founded or conducted by or under the sponsorship of a religious or charitable organization, but excluding trade, business, or commercial schools. See also "Trade or Business School".

School, Commercial: See "Trade or Business School".

School, Private: Non-state supported or sponsored primary, grade, high or preparatory school or academy.

School, Special: Any school which has as its primary purpose the instruction, care and rehabilitation of atypical or exceptional children or adults such that the usual statutory educational requirements expressly or implicitly do not apply.

School (University or College): See "University".

Scrap Metal Yard: A general industrial use established independent or ancillary to and connected with another general industrial use, which is concerned exclusively in new and salvaged metal pipes, wire, beams, angles, rods, machinery, parts, filings, clippings, and all other metal items of every type, and which acquires such items incidental to its connection with the other general industrial use or by purchase, consignment or bailment which stores, grades, processes, melts, cuts, dismantles, compresses, cleans, or in any way prepares said items for reuse by the connected other

general industrial use or for storage, sale or shipment and use in other industries or businesses including open hearth, electric furnaces and foundry operations; such an establishment shall not include junk yards, dumps, or automobile graveyards.

Secondary Approval: An approval by the official designated by the Plan Commission indicating that all conditions of Primary Approval have been met.

Secondary Plat: See "Plat, Secondary".

Section: A unit of a manufactured home.

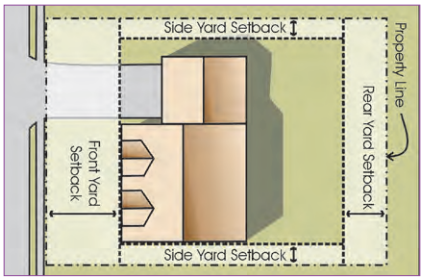
Sedimentation: The process by which mineral or organic matter is accumulated or deposited by moving wind, water, or gravity. Once this matter is deposited (or remains suspended in water), it is usually referred to as "sediment".

Seed Sales, Distribution, and Storage: An establishment that sells, stores, and distributes agricultural seed for farm planting. Such establishments primarily sell in bulk for commercial farm purposes.

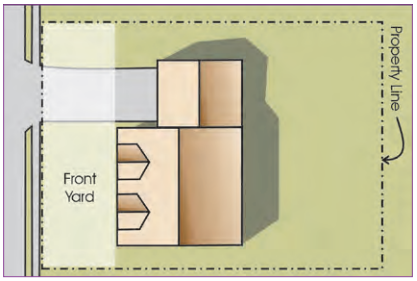
Semi-Tractor/Trailer Storage: The storage of any vehicle without motive power designed to be coupled with or drawn by a motor vehicle and constructed so that some part of its weight and that of its load rests upon or is carried by another vehicle.

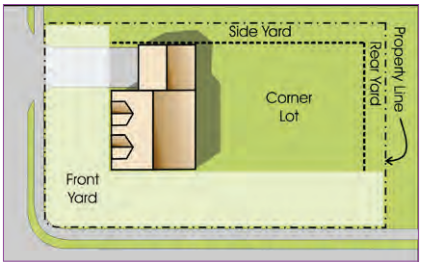
Senior Housing: See "Retirement Facility".

Setback: The horizontal distance between a structure and a lot line or right-of-way line measured at a distance that is perpendicular to the lot line or right-of-way line.

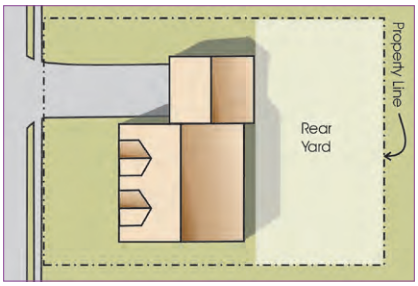


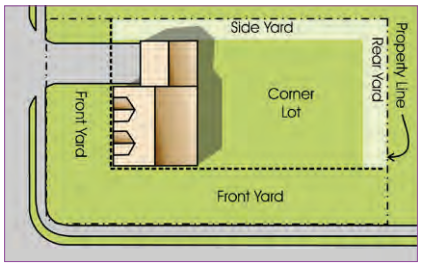
Setback, Front: The horizontal space between the nearest foundation of a building to the front lot line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the front lot line.



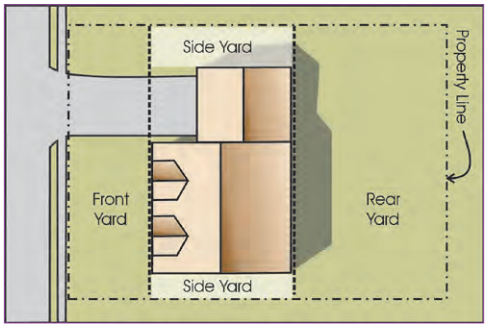


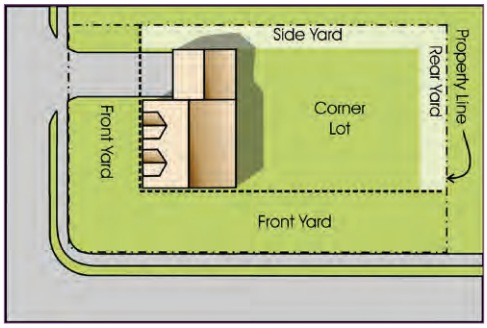
Setback, Rear: The horizontal space between the nearest foundation of a building to a rear lot line and that rear lot line, extending to the side lines of the lot, and measured as the shortest distance from the foundation to the rear lot line. Corner lots shall have no rear yards, only front yards and side yards.





Setback, Side: The horizontal space between the nearest foundation of a building to the side lot line, measured as the shortest distance between that foundation and the side lot line at a ninety degree (90°) angle to the side lot line.





Sewage Treatment Plant: Any facility designed for the treatment of sewage that serves an entire community, region, or specific geographic area.

Shoe Repair Shop: An establishment that primarily repairs shoes, with incidental sales of shoe related items.

Shooting Range (Indoor): Any establishment at which firearms are discharged for the purpose of recreation and entertainment, and at which all shooting areas and targets are completely enclosed in a structure.

Shooting Range (Outdoor): Any establishment at which firearms are discharged for the purpose of recreation and entertainment, and at which any portion of the shooting areas or targets are located outside of a completely enclosed structure.

Shopping Center: An architectural and functional grouping of retail stores and appropriate associated and accessory uses, generally oriented around a super market or department store, and designed to serve residential neighborhoods or communities. For the purpose of this ordinance, any development consisting of two or more professional office uses, personal service uses, retail service uses, or any combination thereof, shall be considered a shopping center.

Shopping Mall: A shopping center where numerous stores front on a pedestrian way that may be enclosed or open.

Shrub, Ornamental: A shrub planted primarily for its ornamental and screening value, not to be confused with a perennial.

Side Lot Line: See "Lot Line, Side".

Side Setback: See "Setback, Side".

Sight Distance: The measurement from a driver's eyes, which are assumed to be three and three-quarters (3.75) feet above the pavement surface, to an object six (6) inches high on the pavement.

Sight Visibility Triangle: Triangular shaped areas on each corner of an intersection that are looked through by drivers approaching or departing an intersection to view oncoming traffic on crossing streets and roadways.

Sign: Any name, identification, description, device, display, or illustration which is affixed to, painted, or represented directly or indirectly upon a building, structure, or piece of land which directs attention to an object, product, place, activity, person, institution, organization, or business. A sign includes the face area which conveys a message, any equipment or sign device, and any related mechanical, electrical, and structural supports and features, such as poles and lighting. In no instance shall this ordinance be interpreted as considering any flag as a sign.

Sign, Abandoned: A sign that is no longer located on or conducted on the property where the sign is displayed.

Sign, Animated: A sign with action, motion, or changing colors or lights, any of which is imitates movement. A flashing sign shall be considered to be an animated sign.

Sign, Area: The entire face of a sign including the message surface and any framing or trim, but excluding any poles or other supports. Sign area is measured as the maximum vertical dimension of the face area multiplied by the maximum horizontal dimension of the face area, each at its largest point.

Sign, Awning: A sign incorporated into, or attached to an awning.

Sign, Banner: A sign with or without characters, letters, illustrations, or ornamentations applied to cloth, paper, flexible plastic, or fabric of any kind with only such material for backing and secured or mounted to allow motion caused by the atmosphere.

Sign, Banner (Fixed): A banner that is supported along one or more sides or at two or more corners by staples, tape, wires, ropes, strings, or other materials that are not fixed or rigid.

Sign, Billboard: See "Sign, Off-Premise".

Sign, Canopy: Any sign that is a part of or attached to an awning, canopy or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

Sign, Changeable Copy: A sign designed and used to display temporary letters, numbers, symbols, and other items which may be changed by hand, electronically, or by other means. The height, face area, and other structural and lighting characteristics of changeable copy signs remain constant, providing a background for temporary messages. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for the purposes of this ordinance.

Sign, Directional: Any on-premises sign that includes information assisting in the flow of pedestrian or vehicular traffic, such as "enter", "exit", and "one-way".

Sign, Double-Faced: A sign designed and/or used to display a message on the outer surface of two (2) identical and opposite parallel planes.

Sign, Entry Feature: A permanent on-premise sign identifying an entrance to a residential subdivision, apartment complex, or manufactured home park.

Sign, Face: The area or display surface used for the message.

Sign, Free-Standing: A sign supported completely by a frame, pole, or foundation and which is independent from all other structures on the property.

Sign, Ground: See "Sign, Monument".

Sign, Height: The highest point measured from grade level at the base of the sign to the highest point of the sign, including any structure, frame, light fixture, or other element of the sign.

Sign, Illuminated: A sign lighted by or exposed to artificial lighting either by lights on or within the sign or directed toward the sign.

Sign, Incidental: A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking", "entrance", "loading only", "telephone", and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.

Sign, Monument: A sign that is permanently affixed to the ground at its base, supported

entirely by a base structure, and not mounted on a pole. This sign could be displayed on a decorative feature of brick, wood or other material, which is intended to serve as an entry feature or focal point.

Sign, Mural: A sign painted onto the side of a building, wall, ground, or structure.

Sign, Off-Premise: A sign which directs attention to a business, commodity, service, organization, or entertainment conducted, sold, or offered elsewhere than upon the premises where such sign is located or to which it is affixed. This includes billboard and other outdoor advertising and directional signs located on private property.

Sign, 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.

Sign, Political: See "Sign, Yard Card".

Sign, Portable: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to: signs designed to be transported by means of wheels, signs converted to A or T-frames, menu or sandwich board signs, balloons used as signs, umbrellas used for advertising, and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-today operations of the business.

Sign, Post: A sign supported by one or two posts, often made of wood or similar material. The sign display may be attached between two posts or suspended from an above support.

Sign, Poster: Any sign made of cardboard, metal, plastic or other semi-rigid material which is attached to outdoor products, structures, or other features, or anchored into the ground with the use of stakes.

Sign, Projecting: A sign attached to and projecting out from a building face or wall, generally at right angles to the building.

Sign, Pylon: A freestanding sign, other than a pole or ground mounted sign, which is secured permanently to the ground, and has a height that is greater than its width.

Sign, Real Estate: A temporary sign that relates to the sale, lease or rental of property or structures, or to construction activity on a site. See also "Sign, Yard Card".

Sign, Searchlight: A searchlight used to attract attention to a property, use, or structure consistent with the definition of a sign.

Sign, Sandwich Board: A temporary sign located at grade level, not permanently attached to a building, structure, or the ground, and constructed in such a manner as to form an "A" by separating to opposite and parallel sign faces by supporting structural members.

Sign Structure: The supports, uprights, bracing and frame work for the sign. In the case of a sign structure consisting of two or more sides, where the angle formed between any of the sides (or the projection thereof) exceeds fifteen (15) degrees, each side shall be considered a separate sign structure.

Sign Surface: See "Sign Face".

Sign, Suspended: A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

Sign, Temporary: An on-premise sign not fixed to a permanent foundation and displayed for a fixed period of time, for the purpose of conveying information, knowledge, or ideas to the public about a subject related to the activities on the premises upon which it is located.

Sign, Vehicle: A sign that is attached to or painted on a parked vehicle for the purpose of drawing attention to the product, business, or property which is indicated on the sign. See

also "Sign, Portable".

Sign, Wall: Any sign attached parallel to, but within twelve (12) inches of, a wall, painted on the wall surface, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

Sign, Wayfinding: Any sign erected by a governmental entity to aid visitors in navigating within the City. These signs may include directional indicators to guide visitors to special areas (including downtown and the industrial park), specific locations (including libraries, governmental centers, and entertainment venues), or to major thoroughfares (including SR 32, SR 39, and I-65). These signs may be free standing, but are recommended to follow a uniform style of design and have varying scales dependent on district or environment density.

Sign, Window: Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, and is affixed to a window or placed immediately behind a window pane so as to attract the attention of persons outside of the structure.

Sign, Yard Card: A temporary sign displayed on private property and usually displaying a message associated with political support, local sports team or club support, or garage/yard sales.

Signable Area: A two-dimensional area that describes the largest square, rectangle, or parallelogram on the facade of a building which is free of architectural details.

Site Development Plan: The plan indicating the location of existing and proposed buildings, structures, paved areas, walkways, vegetative cover, landscaping and screening within a site proposed for development which is to be submitted for approval prior to the release of Improvement Location Permits on the site consistent with the requirements of the IC 36-7-4-1400 series.

Site Improvement: See "Improvement".

Skating Rink: An establishment that provides facilities for patron skating.

Slope: The face of an embankment or cut section. Any ground whose surface makes an angle with the plane of the horizon. Slopes are usually expressed in a percentage based upon vertical difference in feet per one hundred (100) feet of horizontal distance.

Slow Burning or Incombustible: See "Burning, Slow".

Smoke: A suspension of fine particles, excluding water droplets, in a gaseous plume, which more or less obscures the transmission of light.

Smoke Unit: The number obtained when the smoke density in Ringelmann number is multiplied by the time of emission in minutes. For the purpose of this calculation, a Ringelmann density reading shall be made at least once a minute during the period of observation; each reading is then multiplied by the time in minutes during which it is observed. The various products are then added together to give the total number of smoke units observed during the entire observation period.

Soil Stabilization: Chemical or structural treatment of a mass of soil to increase or maintain its stability or otherwise improve its engineering properties.

Sorority, Educational: A club or social activity officially associated with and recognized and supervised by an institution for higher education whose membership is limited exclusively to students of the institution.

Sorority, Social: A private club of individuals organized around a civic, social, or intellectual goal or pursuit. See also "Private Club".

Special Flood Hazard Area (SFHA): Those

lands within the jurisdiction of the City of Lebanon that are subject to inundation by the regulatory flood. The SFHAs of the City are identified on the Flood Insurance Rate Map (FIRM) of Boone County prepared by the Federal Emergency Management Agency (FEMA).

Sporting Goods Shop: An establishment that primarily sells sporting equipment, sporting apparel, and related items.

Spot Zoning: The zoning of a typically small area of land controlled by a single or limited number of property owners that results in the property involved being granted permitted uses and/or development standards that are inconsistent with those provided to, or planned for, similar surrounding properties.

Spotlight: A fixture designed to direct a narrow intense beam of light on a desired area.

Stadium or Coliseum: A large open or enclosed space that is used for games or major events, especially sporting events, and is partly or completely surrounded by tiers of seats for spectators.

State: The State of Indiana.

Stationary Shop: An establishment that primarily sells stationary, paper, cards, writing utensils, and various related items.

Stop-Work Order: A written document issued by an enforcement official which requires the cessation of an activity.

Storage, Outdoor: See "Outdoor Storage".

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling above it. For the purpose of this ordinance, a basement shall not be considered a story unless it has been subdivided into rooms and used for tenant purpose.

Story, Half: That portion of a building under a sloping, gable, hip, or gambrel roof, the wall plates on at least two opposite exterior walls of which are not more than three (3) feet above the floor level of such half-story.

Stream Bank: The usual boundaries, not the flood boundaries, of a stream channel.

Street: A right-of-way or thoroughfare, other than an alley, dedicated or otherwise legally established to the public use, usually affording the principal means of access to abutting properties.

Street, Arterial: A street which serves the major traffic movements within a community, such as between the central business district and the outlying commercial and residential areas, as well as a majority of the vehicular traffic entering and leaving the City to travel to and from adjacent communities. Lebanon arterial streets are identified in the Thoroughfare Plan.

Street, Collector: A street designed and used to carry moderate volumes of traffic from local streets to arterial streets. Lebanon collector streets are identified in the Thoroughfare Plan.

Street, Cul-de-sac (Court or Dead End Street): A street with a single common ingress and egress and with a turn-around at the end.

Street Frontage: See "Frontage, Street".

Street, Half: A street for which only half of the required right-of-way and/or pavement width has been provided.

Street (or Alley) Improvement: Shall mean the construction of a street or alley to its full thickness, commencing at the subgrade according to the specifications contained in this ordinance. The placing of a new surface over an existing paved or closed surface street or alley shall not be considered as an improvement but as maintenance.

Street Intersecting: Any street that joins another street at an angle, whether or not it crosses the other street.

Street Intersection: The point of crossing or meeting of two (2) or more streets.

Street, Local: A Street designated primarily to provide access to other streets from individual properties. Lebanon local streets are identified on the Thoroughfare Plan.

Street, Nonresidential: Any street where the principal land use of the lots which the street provides access to, as well as the lots on either side of the street is not residential.

Street Orientation: The direction of the architectural front facade of a building in relation to the street.

Street, Private: Vehicular streets and driveways, paved or unpaved, which are wholly within private property except where they intersect with public streets within public rights-of-way, and is privately owned and maintained and used to provide vehicular access to more than one (1) property or dwelling unit.

Street, Public: A street constructed and maintained by a unit of government within an officially deeded and accepted public right-of-way.

Street, Residential: Any street where the principal land use of the lots which the street provides access to, as well as the lots on either side of the street is residential.

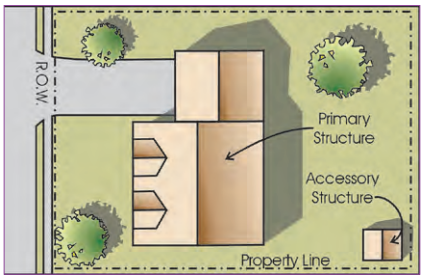
Street Vista: A view framed by buildings at the termination of the axis of a thoroughfare.

Street Width: The width of the paved surface of a street, measured from back-of-curb to back-of-curb or from edge-of-pavement to edge-of-pavement where curbs are not present.

Structural Alterations: Any change in the supporting members of a building or structure such as bearing walls, partitions, columns, beams or girders, or any substantial change in the exterior walls, roof, or footprint or increasing size of living space. Also, substantial roofing and siding work when repairs are made to the structure beneath.

Structure: Any building or other object that is constructed or erected that requires location on or under the ground or is attached to something on the ground.

Structure, Accessory: A structure that is subordinate to a principal structure in area, intent, and/or purpose; contributes to the comfort, convenience, or necessity of occupants of the principal structure; does not alter or change the character of the property; and is located on the same lot as the principal structure.



Structure Height: The vertical distance measured from ground level to the highest point of the roof.

Structure, Principal: The building or structure in which the principal use of the lot or premises is located or conducted. With respect to residential uses, the principal building or structure shall be the main dwelling. For agricultural uses, the principal structure may be a barn or other agricultural structure.

Subdivider: Any person or persons, firm or corporation engaged in developing or improving a tract of land which complies with the definition of a subdivision as defined in this ordinance. See also "Developer".

Subdivision: The division of any lot, tract or parcel of land, separately described in a deed on record in the Office of the County Recorder, into two (2) or more contiguous parcels, sites, or lots fronting on public street, for the purpose of immediate or future offer, sale, lease, or development.

Subdivisions, Administrative: Administrative

subdivisions include one (1) or more of the following:

A) A resubdivision which involves only the removal of interior lot lines, with the outside perimeter of the property remaining unchanged, resulting in fewer parcels than were contained in the original parcel;

B) A resubdivision which involves only the removal or relocation of easements on the property;

C) A resubdivision which involves only the changing of notations written on the plat or correction of errors thereon;

D) A division of land pursuant to an allocation of land by court decree;

E) The division of land into cemetery plots;

F) A resubdivision to correct errors in an existing legal description, provided that no additional building lots are created;

G) A division of land involving no more than two (2) parcels for the sale or exchange of tracts between adjoining land owners, provided that no additional building sites are created;

H) A division of a building site containing an existing dwelling which has been located on an agriculturally used site for at least ten (10) years;

I) A division or resubdivision of land for the acquisition by the public or by a utility for street right-of-way or easement.

Subdivision, Cluster: See "Cluster Development".

Subdivision Improvement Agreement: A document which establishes the contractual relationship between the developer of a subdivision and the City of Lebanon for the installation of improvements in accordance with the standards and specifications set forth in this ordinance.

Subdivision, Major: All subdivisions not classified as minor subdivisions and resulting in the creation of more than four (4) lots, including but not limited to subdivisions requiring any new street or extension of Lebanon facilities or the creation of any public improvements.

Subdivision, Minor: A subdivision of land which results in the creation of four (4) or fewer new lots or the reconfiguration of existing lots and which does not involve the construction or extension of public or private streets or utilities.

Sub-lots: Portions of a lot of record created in connection with the transfer of ownership of individual dwelling units in a two-family or multifamily dwelling.

Substantial Improvement: See "Improvement, Substantial".

Supermarket: Large-scale retailers of food and grocery supplies, typically also including flower shops, pharmacies, bakeries, branch banks, and other complementary and incidental uses.

Supply Yards: A commercial establishment storing or offering for sale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods. Supply Yards do not include the wrecking, salvaging, dismantiling or storage of automobiles and similar vehicles.

Surety: An amount of money or other negotiable instrument provided by a developer to the City which guarantees that they will perform all actions required by the City regarding an approved site development plan, plat, or other improvement, which provides that if the developer fails to comply with the requirements of approval, funds will be provided for the City to complete those requirements.

Surface Drainage: See "Drainage, Surface".

Swale: See "Drainage Swale".

Swimming Pool: Any structure located either at, above, or below grade which is designed and/or used to hold water which exceeds two (2) feet in depth at any point for the purpose of recreation and entertainment of adults and children.

Swimming Pool, Private: A swimming pool used only by the owner of the pool and the owner's invited guests, and which is an accessory use at a private residence or private commercial operation.

T

Tailor Shop: An establishment that alters and repairs clothing for patrons.

Tanning Salon: Any business which provides a service using artificial lighting systems to produce a tan on a person's body, including the incidental sale of tanning products.

Tavern: See "Bar".

Technical Assistance Committee (TAC): A committee established by the Planning and Zoning Administrator to assist with the technical evaluation of subdivisions by reviewing sketch plats, and to make appropriate technical recommendations to the subdivider, Plan Commission, Plat Committee or City departments.

Telecommunications: The transmission of information between or among geographic points without change in the form or content of the information as sent or received. See also "Communications Service Exchange".

Telecommunications Antenna: Any structure or device, including all appurtenances, used for the purpose of collecting or radiating electromagnetic waves, including those used to transmit cellular telephone service, data, radio and television signals, and any other information.

Telecommunications Tower: A mast, pole, monopole, guyed, or freestanding framework, or other vertical structure that acts as an antenna or to which an antenna is affixed or attached.

Temporary Seasonal Sales: See "Sales, Temporary/Seasonal".

Temporary Use: See "Use, Temporary".

Theater: A facility for audio and visual productions and performing arts, excluding adult motion picture theaters and adult entertainment businesses.

Through Lot: See "Lot, Through".

Thoroughfare Plan: The official plan, now and hereafter adopted, which sets forth the location, identification, alignment, dimensions, and classification of existing and proposed streets and other thoroughfares.

Tool and Dye Shop: An establishment that processes, cuts, and molds metal into tools, molds, machine components, and similar products.

Top Soil: Surface soils and subsurface soils which presumably are fertile soils and soil material, ordinarily rich in organic matter or humus debris. Top soil is usually found in the uppermost soil layer called the "A Horizon".

Top-of-Bank: The ordinary high water level for a water basin or wetland, and the break in slope for a watercourse.

Topography: The configuration of the earth's surface, including the relative relief, elevations, and position of land features.

Tower: A ground pole, spire, structure, or combination thereof including supporting lines, cables, wires, braces, and masts intended primarily for the purpose of mounting an antenna, a meteorological device, or other similar apparatus above ground.

Townhouse: A single-family dwelling with a private entrance that is attached horizontally to other dwelling units in a linear arrangement, with a front and a rear wall that are totally exposed for light, access, and ventilation.

Trade or Business School: A school conducted as a commercial enterprise that provides on-site training for business or secretarial skills, instrumental music, dancing, barbering or hair dressing, drafting, and the like; or for industrial or technical arts. Includes vocational schools

and career centers.

Traffic Calming: Methods of reducing the negative impact of vehicles on surrounding land uses and other methods of personal transportation through street design that decreases the speed of vehicles and provides increased space and comfort for pedestrians.

Trail: A public way, separate from a street, alley, or other vehicle roadway, designed for and used by pedestrians, cyclists, and others using non-motorized transportation and recreation equipment. See also "Pathway".

Tree, Broadleaf: Trees having non-needle like leaves.

Tree, Deciduous: Trees and shrubs that shed their leaves annually.

Tree, Evergreen: Trees and shrubs that do not shed their leaves annually.

Tree, Ornamental: A deciduous tree possessing qualities such as flowers or fruit, attractive foliage, bark or shape, with a mature height generally under forty (40) feet.

Tree, Prohibited: A tree, as listed in this ordinance that does not meet site-landscaping or performance standard requirements.

Tree, Shade: A deciduous tree planted primarily for its high crown of foliage or overhead canopy.

Truck Freight Terminal: An area and building where trucks and cargo are stored, where loading and unloading is carried on regularly, and where minor truck maintenance is performed.

Truck Stop: A facility designed and used to provide services to the trucking industry including, but not limited to, fuel stations, repair shops, truck washes, restaurants, convenience stores, weight scales, and shower facilities, all as part of a unified facility.

Truck Sales and Service: Any establishment that sales and services semis, grain trucks, and other vehicles similar in size. Inoperable trucks may be stored on a temporary basis, and only if they are to be serviced.

U

Undeveloped Land: Land in its natural state.

University (or college): An institution for post-secondary education, public or private, offering courses in general, technical, or religious education and operated not-for-profit. It operates in buildings owned or leased by the institution for administrative and faculty offices, student and faculty housing, classrooms, laboratories, chapels, auditoriums, lecture halls, libraries, student and faculty centers, community rooms and facilities, athletic facilities, fraternities, and sororities. A university may include for-profit businesses and facilities that are incidental to the educational, cultural, and athletic functions and which lease space from the institution. A university shall not include trade schools operated for profit.

Use: The purpose of which land, building, or structure thereon is designed, arranged, or intended, or for which it is occupied, maintained, let, or leased.

Use, Accessory: A use which is secondary to a principal use in area, intent, and/or purpose; contributes to the comfort, convenience, or necessity of occupants of the principal use; does not alter or change the character of the property; and is located on the same lot as the principal use.

Use Category: A group of similar use types that are associated with each other to such an extent that they are grouped together for the purpose of identifying land uses by this ordinance, such as retail uses, office uses, personal service uses, and general industrial production.

Use, Change of: The discontinuation of the

specific principal use of a lot or structure and the replacement of that use with a different specific use.

Use, Conditional: See "Conditional Use".

Use, Existing: The use of a lot or structure present at the effective date of this ordinance.

Use, Illegal: Any use that is neither legal nonconforming or permitted by right or conditional use in the zoning district in which it is located as defined by this ordinance.

Use, Nonconforming: See "Nonconforming Use".

Use, Permitted: Any use listed as a permitted use in this ordinance or which is an accessory or temporary use associated with a permitted use for the zoning district in which it is located.

Use, Principal: The main use of land or structures, as distinguished from an accessory use. A principal use may be either a permitted use or a conditional use.

Use, Temporary: A land use or structure established for a limited and fixed period of time with the intent to discontinue such use upon the expiration of the time period.

Use Variance: The approval of a use by the Board of Zoning Appeals which is not listed as a permitted or conditional use by this ordinance and is not an accessory or temporary use associated with any principal use permitted by this ordinance.

Utility Substation: A building or structure used for the distribution or transmission of utilities such as water, gas, electricity, or sewer.

V

Vacation: The termination of interest in a plat, an easement, or a right-of-way or other public dedication.

Variance, Development Standards: A specific approval granted by a Board of Zoning Appeals in the manner prescribed by this ordinance, to deviate from the development standards (such as height, bulk, area) that the Ordinance otherwise prescribes for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same vicinity and district.

Variance, Use: See "Use, Variance".

Variety Store: A retail establishment that sells a multitude of consumer goods.

Vehicle: A device used as a mode of transportation of persons and/or goods including but not limited to automobiles, semi-tractors, semi-tractor trailers, all types of trailers, snowmobiles, recreational vehicles, motorcycles, and similar devices.

Vehicle Detailing/Accessory Shop: An establishment that provides auto-detailing services and/or sells associated merchandise. Services offered are cosmetic in nature, and do not include mechanical upgrades or repairs.

Vehicle, Inoperable: See "Inoperable Motor Vehicle".

Vehicle Sales, New: The storage and display for sale of motor vehicles where repair work, body work, and parts sales is incidental to the operation of the new or used vehicle sales. At least eighty percent (80%) of the vehicle inventory must be new.

Vehicle Sales, Used: The storage and display for sale of more than two (2) motor vehicles where repair work, body work, and parts sales is incidental to the operation of the new or used vehicle sales.

Vending Machines: Machines that, for a fee, distribute drinks, newspapers, and other items. The machines are owned by a person other than the property or business owner.

Vested Right: A right that has become fixed and cannot be revoked by subsequent changes of applicable regulations.

Veterinary Office (Animal Clinic): An establishment for the care, observation, or treatment of domestic animals.

Vibration: Oscillatory motion transmitted through the ground.

Video Store: An establishment primarily engaged in the retail rental of DVD, videotapes, films, CD-ROMS, laser discs, video games, or other electronic media.

Viticulture (Vinyard): The cultivation of grapevines and the growing of grapes.

W

Waiver: A specific modification or lessening of the regulations established by this ordinance that may be granted by the Plan Commission for a specific development in response to unique site characteristics or development patterns that justify relief from the otherwise generally applicable regulations.

Warehouse: A facility for the storage, wholesale, and distribution of manufactured products, supplies, and equipment.

Waste Disposal Facility: Any facility that functions to store or dispose of waste including incinerators, junk metal yard, sanitary landfills, refuse dumps, and inoperable vehicle storage.

Waste Incinerator: See "Incinerator".

Water Tower: A tower or standpipe that functions as a reservoir providing water to the community.

Watercourse: Any natural or man-made channel through which water flows on a continual or temporary basis.

Wellfield (Public Pumphouse): An area of land that contains one (1) or more existing or proposed wells for supplying water to a water utility.

Wetland: Areas that are inundated and saturated by surface or groundwater at a frequency and duration sufficient to support vegetation typically adapted for life in saturated soil conditions as identified by the National Wetlands Institute and certified by an individual with a US Army Corps of Engineers Regulation 4 Jurisdictional Wetland Certification.

Wholesale Facility: An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers, to industrial, commercial, institutional, or professional business users, or to other wholesalers.

Winery: A facility in which wine products are grown and processed for commercial sales. The development may include other uses such as a retail shop, standard restaurant, bar or live entertainment.

Wireless Communication Facility: A land use facility supporting antennas and microwave dishes that sends and/or receives telecommunication and radio frequencies signals. Communications facilities include structures or towers, and accessory buildings.

X, Y

Yard: A space on a lot that is open, unoccupied and unobstructed other than by steps, walks, terraces, driveways, lamp posts and similar structures.

Yard Sale: See "Garage/Yard Sale".

Yard, Side (Separation): The sum of the distance of the horizontal space between a foundation and side lot line, plus the horizontal space between the foundation and shared side lot line of the structure on the immediately adjacent lot.

Z

Zoning District: A section of the territory within the Jurisdiction of the Lebanon City Plan Commission for which uniform regulations governing the Use, Height, Area, Size, and Intensity of Use of Buildings and Land, and open spaces about buildings, are herein established.

Zoning Map: See "Official Zoning Map".

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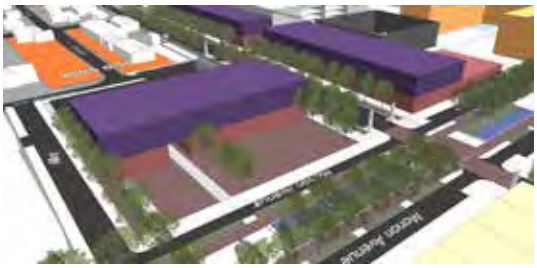


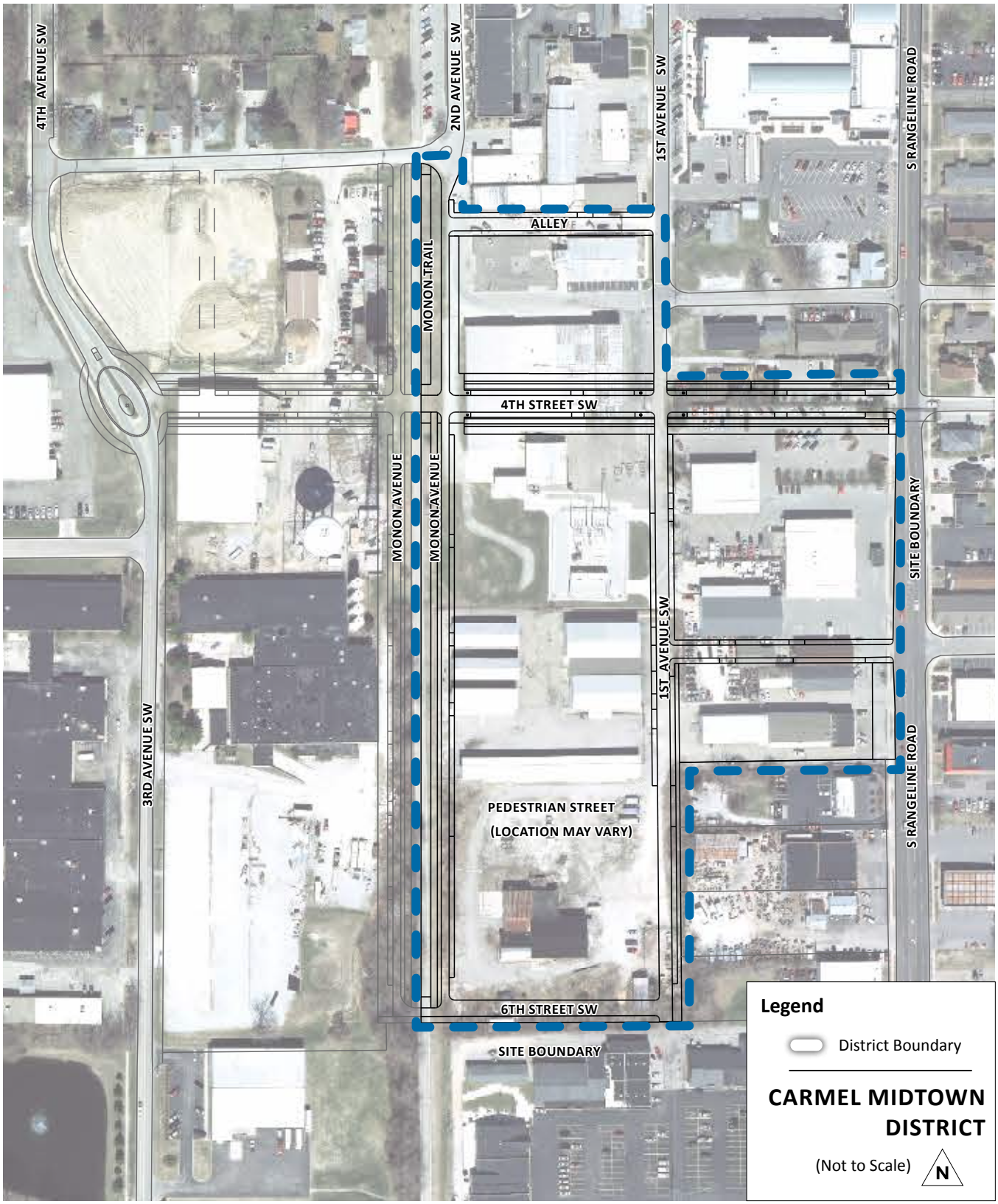
OLD TOWN DEVELOPMENT

MIDTOWN | CARMEL, IN | Regulating Plan

Adopted: 12.2.2014

RATIO

SITE BOUNDARY MAP | REGULATING PLAN



REGULATING PLAN | SUB-DISTRICTS

The five Sub-Districts defined within the Carmel Midtown District describe the intensity and type of uses (in general) as well as inform the design intent of the PUD.

The four Sub-Districts within Midtown are defined as follows:

S1: Sub-District is a mixed-use commercial and office Sub-District with street and surface parking. This includes a total of 89,300 s.f. retail space and 189,800 s.f. office space. This Sub-District also includes features such as a 180' x200' neighborhood park/plaza, connections to the Monon Trail/Monon Avenue and enhanced streetscape on 4th Street SW.

S2: Sub-District is a residential district with a focus on multi-unit flat type units. This Sub-District is designed to accommodate 220 market-rate rental units and includes as parking structure which will provide 330 spaces for residents.

S3: Sub-District is mixed-use retail and office wrapping a parking garage on Rangeline Road. This includes 25,500 s.f. of retail and 76,500 s.f. of office.

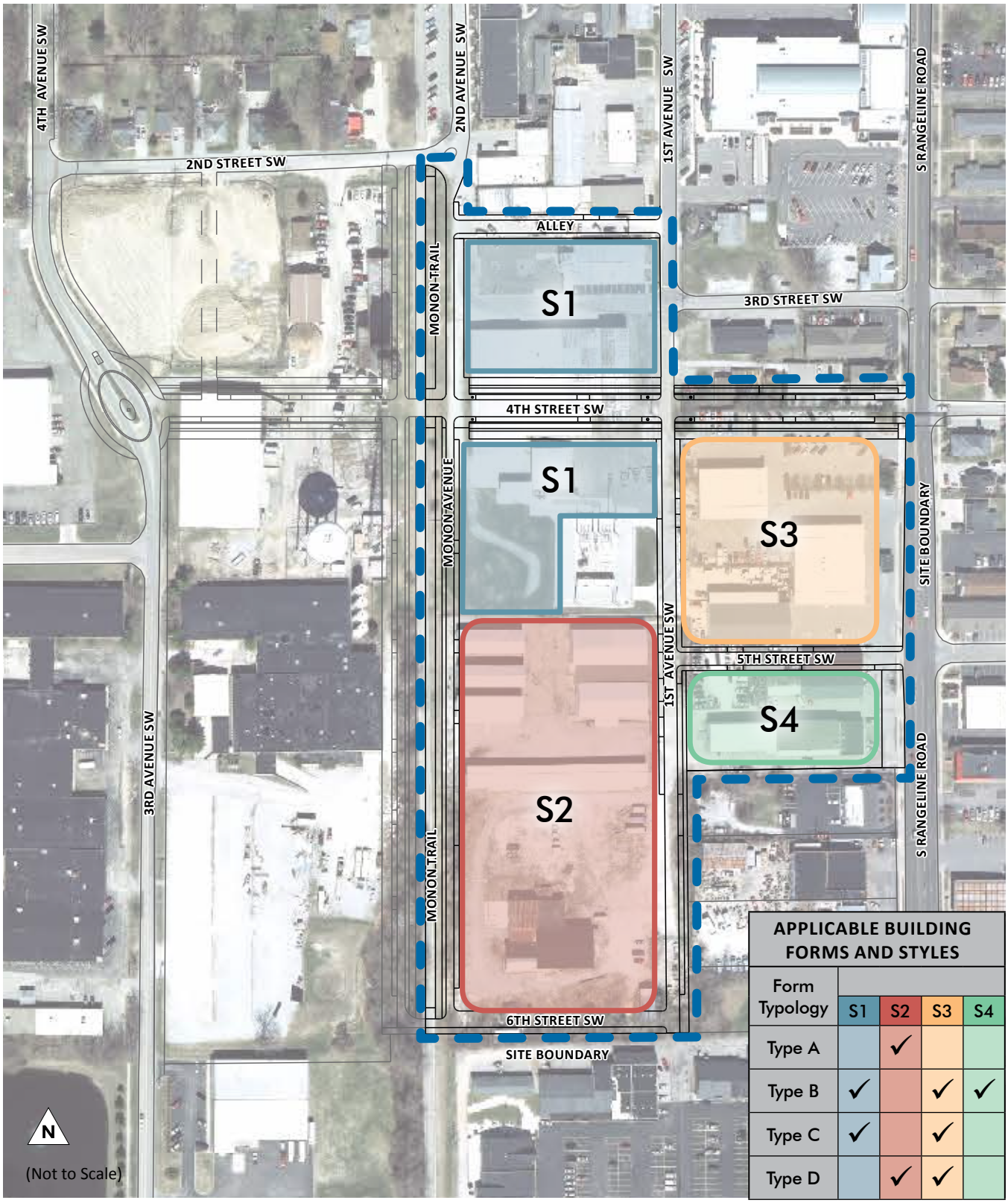
S4: Sub-District is a 1 story retail and office development with 6,500 s.f. of retail and 6,500 s.f. of office space.

The four Sub-Districts within the Carmel Midtown District each exhibit a mix of form typologies described and illustrated on the following pages. These are broadly characterized as:

- Type A: Multi-Unit Flat
- Type B: Ground Floor Retail
- Type C: Upper Level Office
- Type D Parking Structure

Sub-District specific build to lines, number of allowed building levels, curb cuts, and residential driveways are governed by both the subdistrict and associated road typology. As such, these are described in greater detail within the forthcoming pages.

Recommended Green Space / Stormwater Facility: Based on the topography of the neighborhood, these areas provide opportunities to consider innovative stormwater solutions for existing and new development. These areas could also provide amenities for the neighborhood. The hatched area does not affect the permitted uses and structures in the underlying subdistrict.



APPLICABLE BUILDING FORMS AND STYLES

Form Typology	S1	S2	S3	S4
Type A		✓		
Type B	✓		✓	✓
Type C	✓		✓	
Type D		✓	✓	

S1: REGULATING PLAN

Legend

- Property Line
- Street Type
  - a. Type a.
  - b. Type b.
  - c. Type c.
- 1st Floor Commercial Permitted
- On Street Parking
- Driveway Location
- Open Space

N (Not to Scale)

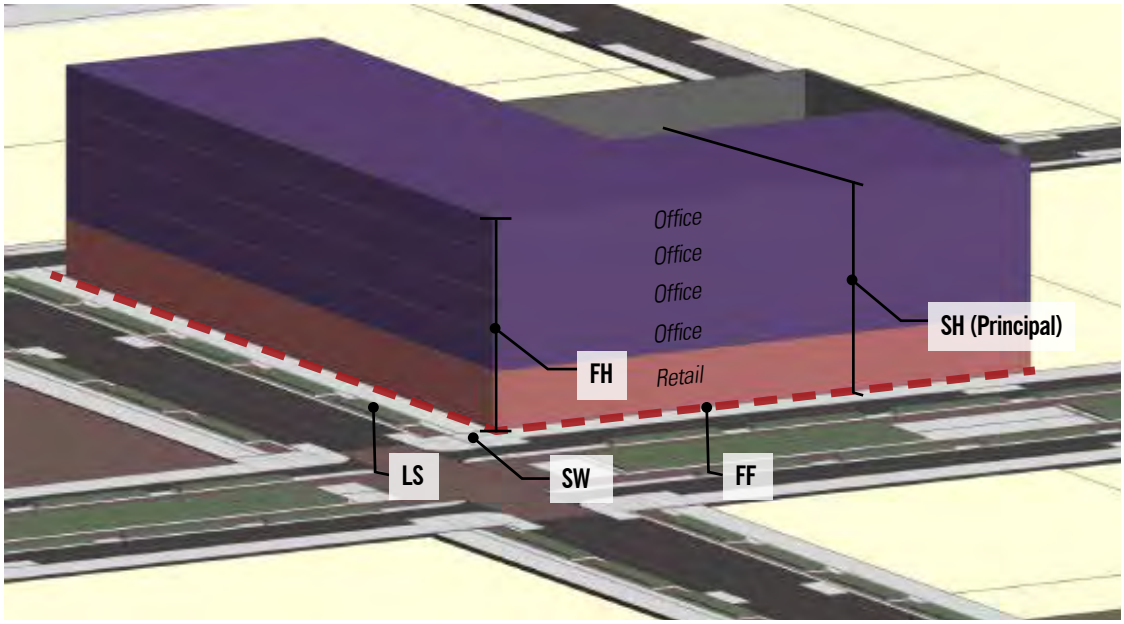
Street Type:

a. Monon Avenue (see exhibit xx on page xx)

b. 4th Street SW (see exhibit xx on page xx)

c. Standard (see exhibit xx on page xx)

S1: BUILDING LEVEL REGULATIONS



This massing model illustrates some of the development standards in the table below.

LC	LOT COVERAGE	*Min: 0%* *Max: 90%*
LA	LOT AREA	*Min: None*
LW	LOT WIDTH	*Min: None*
FF	FRONT FACADE ZONE	*Min: 0' from ROW* *Max: 20' from ROW* *(Steps, porch's and other appurtenances excluded from measurement)*
LS	LANDSCAPE YARD	*Min 6' from ROW* *(Specified by street typologies on page xx)*
SW	SIDEWALK WIDTH	*Min: 6'* *Max: 12'* *((Specified by street typologies starting on page 15)*
SH	STREETWALL HEIGHT	*Min: 4 story (principal)* *Max: 5 story (principal)*
BH	BUILDING HEIGHT	*Min: N/A* *Max: 60' (City of Carmel Zoning Ordinance: 20F.04)*
FH	FLOOR CEILING HEIGHT	*Min: 10' 1st floor, 8' all other floor's* *Max: N/A*

Note: The graphics contained in this section including illustrative plans, sketches, photographs, etc., are intended to portray design intent and not final architecture or site design. Final architecture and site design will vary depending upon end uses and review of submitted development proposals.

S2: REGULATING PLAN

Legend

- Property Line
- Street Type
  - Type a.
  - Type b.
  - Type c.
- On Street Parking
- Driveway Location
- Open Space

N (Not to Scale)

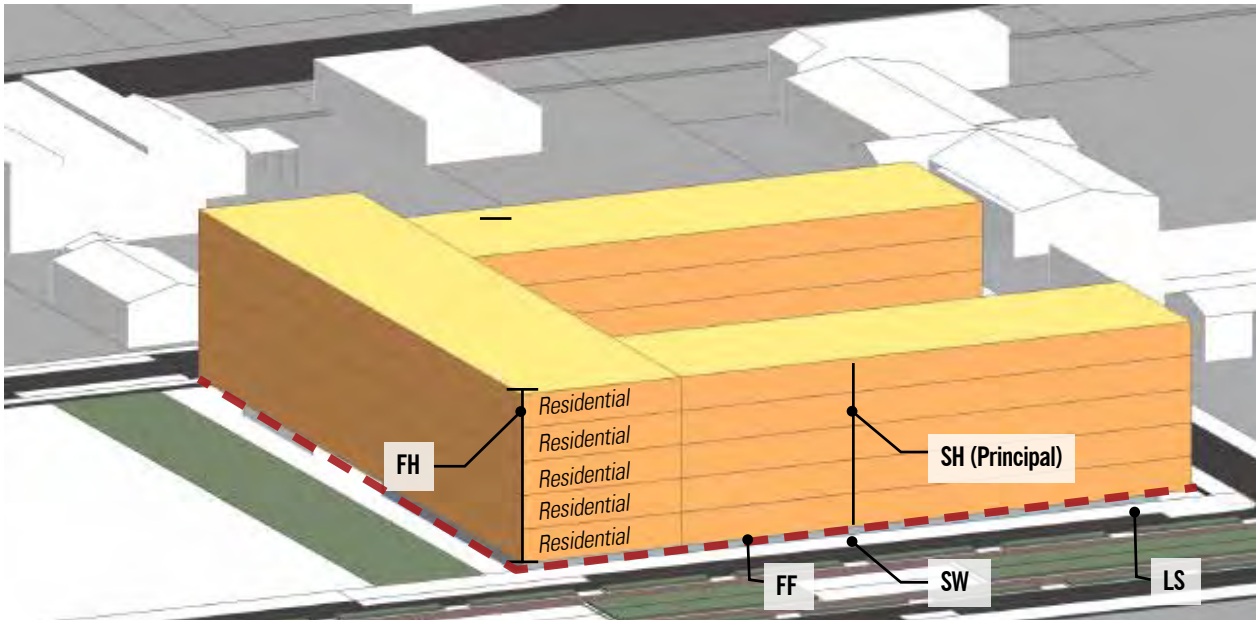
Street Type:

a. Monon Avenue (see exhibit xx on page xx)

b. 4th Street SW (see exhibit xx on page xx)

c. Standard (see exhibit xx on page xx)

S2: BUILDING LEVEL REGULATIONS



This massing model illustrates some of the development standards in the table below.

LC	LOT COVERAGE	*Min: 0%* *Max: 90%*
LA	LOT AREA	*Min: None*
LW	LOT WIDTH	*Min: None*
FF	FRONT FACADE ZONE	*Min: 0' from ROW* *Max: 20' from ROW* *(Steps, porch's and other appurtenances excluded from measurement)*
LS	LANDSCAPE YARD	*Min 6' from ROW* *(Specified by street typologies starting on page 15)*
SW	SIDEWALK WIDTH	*Min: 6'* *Max: 12'* *(Specified by street typologies starting on page 15)*
SH	STREETWALL HEIGHT	*Min: 5 story (principal)* *Max: 5 story (principal)*
BH	BUILDING HEIGHT	*Min: N/A* *Max: 60' (City of Carmel Zoning Ordinance: 20F.04)*

Note: The graphics contained in this section including illustrative plans, sketches, photographs, etc., are intended to portray design intent and not final architecture or site design. Final architecture and site design will vary depending upon end uses and review of submitted development proposals.

S3: REGULATING PLAN

Legend

- Property Line
- Street Type
  - Type a.
  - Type b.
  - Type c.
- 1st Floor Commercial Permitted
- On Street Parking
- Driveway Location
- Open Space

N (Not to Scale)

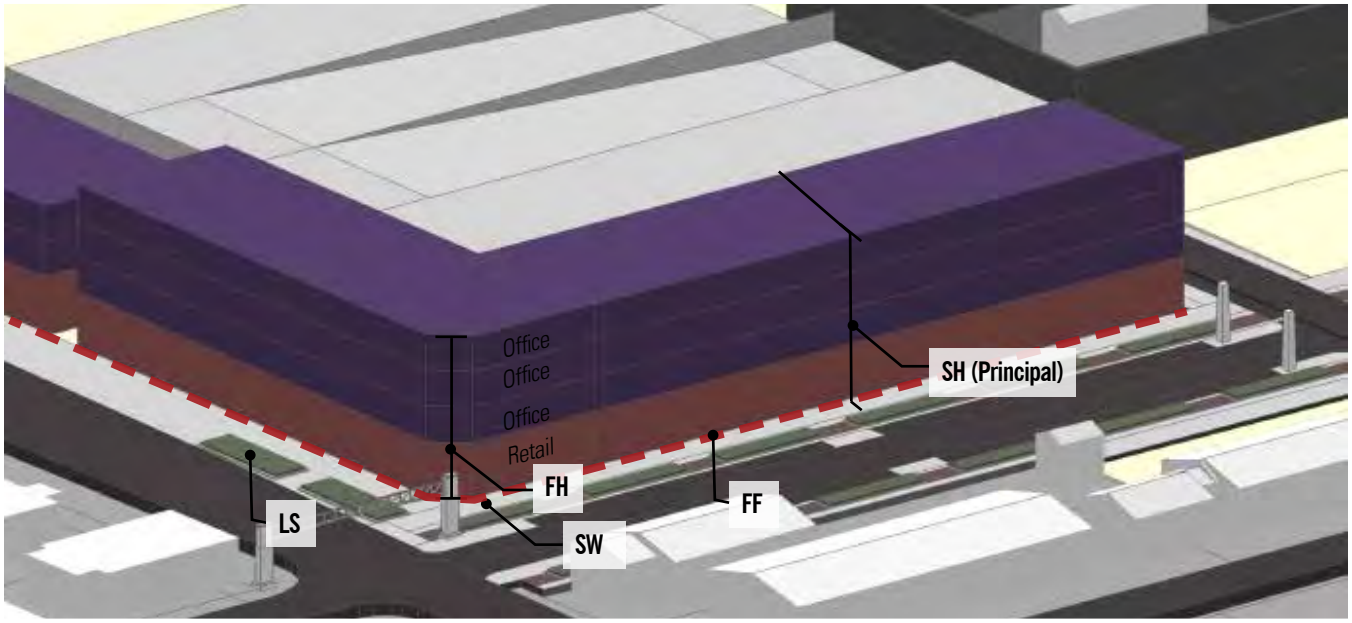
Street Type:

a. Monon Avenue (see exhibit xx on page xx)

b. 4th Street SW (see exhibit xx on page xx)

c. Standard (see exhibit xx on page xx)

S3: BUILDING LEVEL REGULATIONS



This massing model illustrates some of the development standards in the table below.

LC	LOT COVERAGE	*Min: 0%* *Max: 90%*
LA	LOT AREA	*Min: None*
LW	LOT WIDTH	*Min: None*
FF	FRONT FACADE ZONE	*Min: 0' from ROW* *Max: 20' from ROW* *(Steps, porch's and other appurtenances excluded from measurement)*
LS	LANDSCAPE YARD	*Min 6' from ROW* *(Specified by street typologies starting on page 15)*
SW	SIDEWALK WIDTH	*Min: 12'* *Max: N/A* *((Specified by street typologies starting on page 15)*
SH	STREETWALL HEIGHT	*Min: 2 story (principal)* *Max: 5 story (principal)*
BH	BUILDING HEIGHT	*Min: 26;* *Max: 55' (City of Carmel Zoning Ordinance: 20F.04)*

Note: The graphics contained in this section including illustrative plans, sketches, photographs, etc., are intended to portray design intent and not final architecture or site design. Final architecture and site design will vary depending upon end uses and review of submitted development proposals.

S4: REGULATING PLAN

Legend

- Property Line
- Street Type
  - a. Type a.
  - b. Type b.
  - c. Type c.
- 1st Floor Commercial Permitted
- On Street Parking
- Driveway Location
- Open Space

N (Not to Scale)

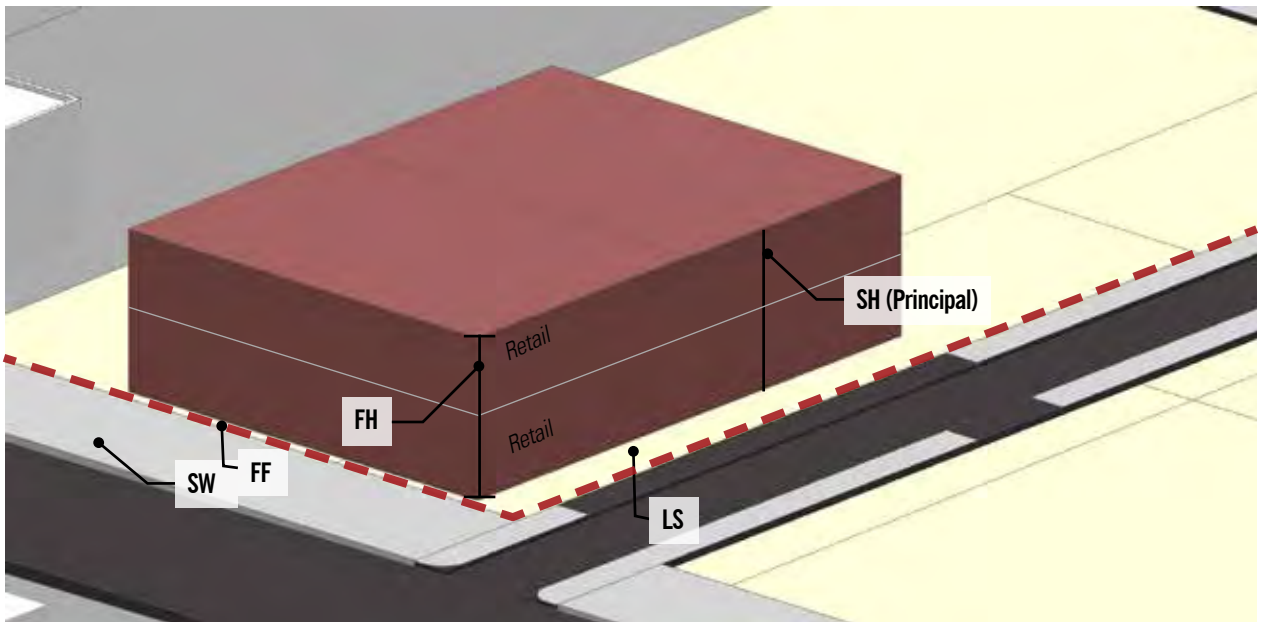
Street Type:

a. Monon Avenue (see exhibit xx on page xx)

b. 4th Street SW (see exhibit xx on page xx)

c. Standard (see exhibit xx on page xx)

S4: BUILDING LEVEL REGULATIONS



This massing model illustrates some of the development standards in the table below.

LC	LOT COVERAGE	*Min: 0%* *Max: 90%*
LA	LOT AREA	*Min: None*
LW	LOT WIDTH	*Min: None*
FF	FRONT FACADE ZONE	*Min: 0' from ROW* *Max: 20' from ROW* *(Steps, porch's and other appurtenances excluded from measurement)*
LS	LANDSCAPE YARD	*Min 6' from ROW* *(Specified by street typologies starting on page 15)*
SW	SIDEWALK WIDTH	*Min: 12'* *Max: N/A* *(Specified by street typologies starting on page 15)*
SH	STREETWALL HEIGHT	*Min: 2 story (principal)* *Max: 5 story (principal)*
BH	BUILDING HEIGHT	*Min: 26;* *Max: 55' (City of Carmel Zoning Ordinance: 20F.04)*

Note: The graphics contained in this section including illustrative plans, sketches, photographs, etc., are intended to portray design intent and not final architecture or site design. Final architecture and site design will vary depending upon end uses and review of submitted development proposals.

The three Street Typlogies defined within the Carmel Midtown District inform the design intent of the street and are illustrated in the following pages.

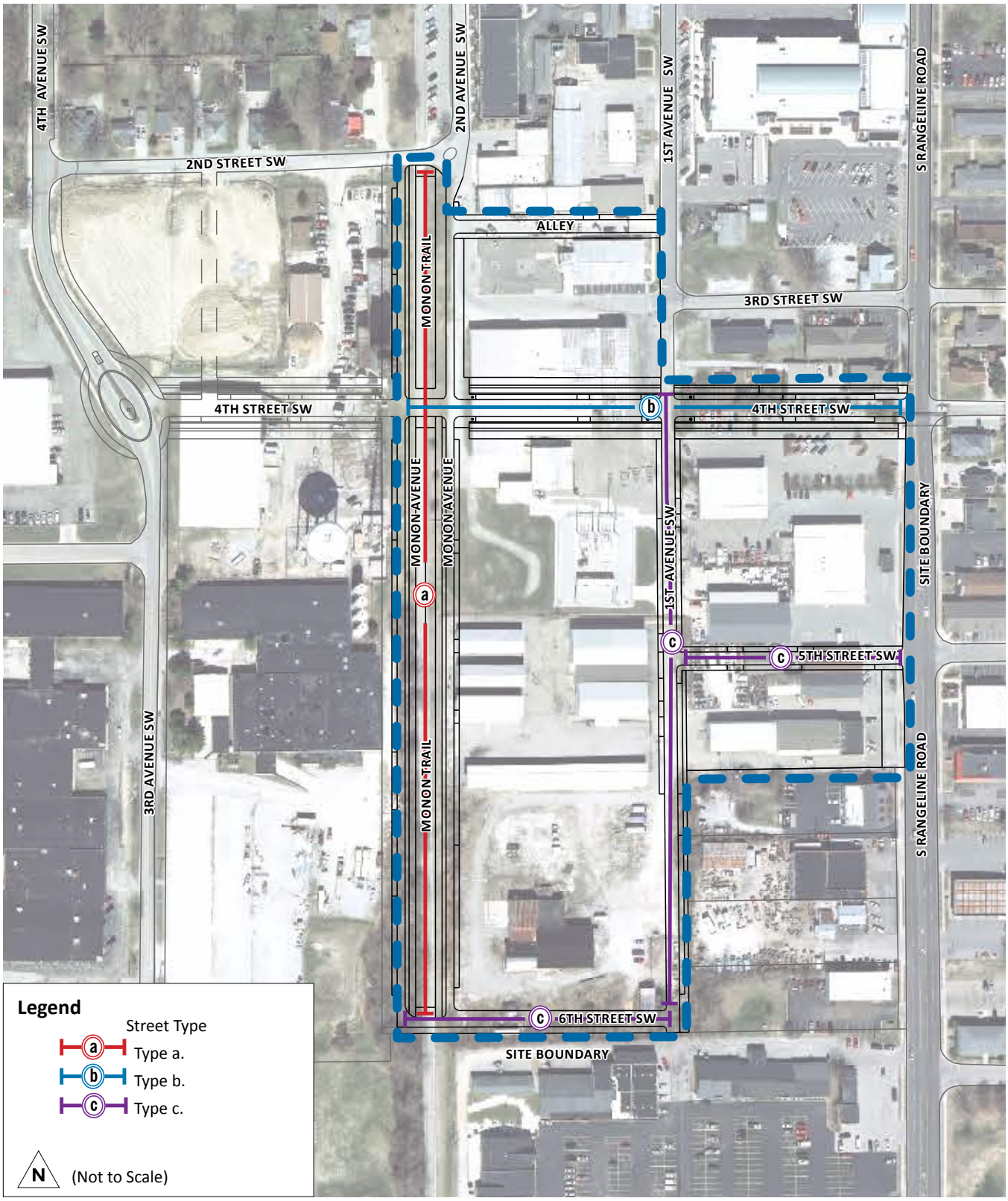
The three Street Typologies within Midtown are defined as follows:

Type A: Monon Avenue. This street typology is designed to be constructed in phases and utilizes a 130' Right-Of-Way. This street will accommodate both vehicular and pedestrian uses with the Monon Trail routed to the center. This typology also accommodates on street, parallel parking.

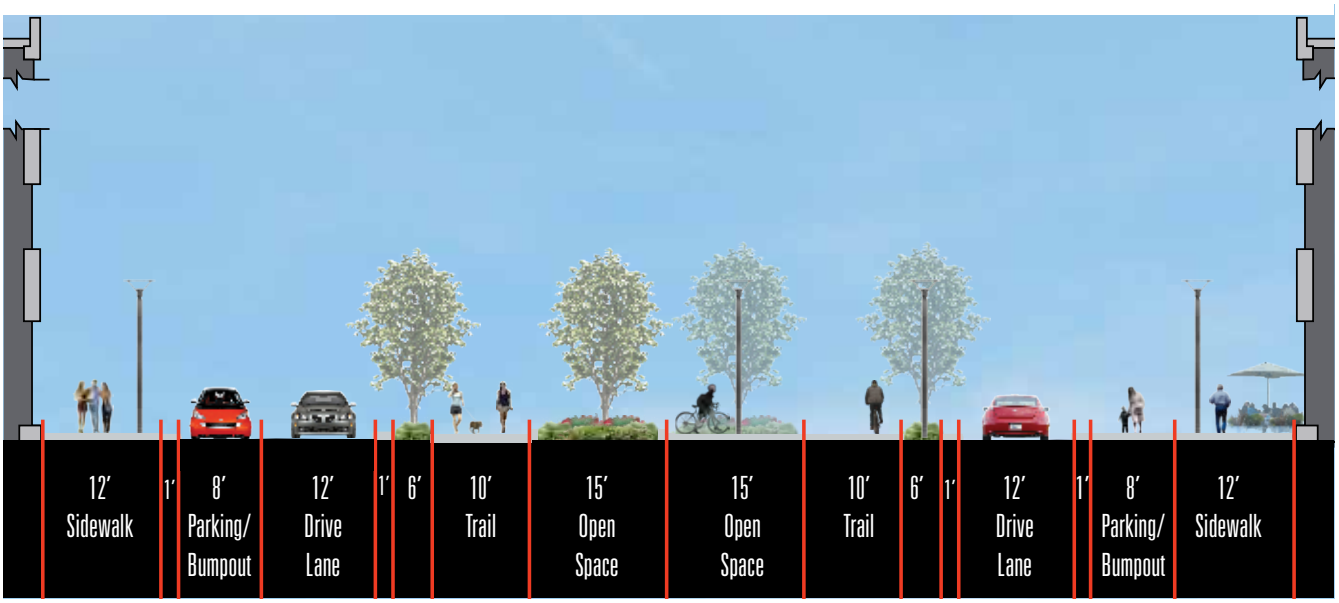
Type B: 4th Street. This typology is designed with 4th street as collector, thru street that will be the "Gateway to Midtown". This typology utilizes a 100' Right-Of-Way, accommodates on street parking, wide sidewalks and landscaped medians designed to instill a sense of place with active street life and neighborhood commercial core.

Type C: Side Street. This typology is designed with flexibility in mind and to utilize a 70' Right-Of-Way. As depicted this street typology features a flexible design to accommodate on street parallel and perpendicular parking while still providing ample pedestrian space.

STREET TYPOLOGY OVERVIEW



STREET TYPOLOGY A: MONON AVENUE



PHASE 2 **PHASE 1**

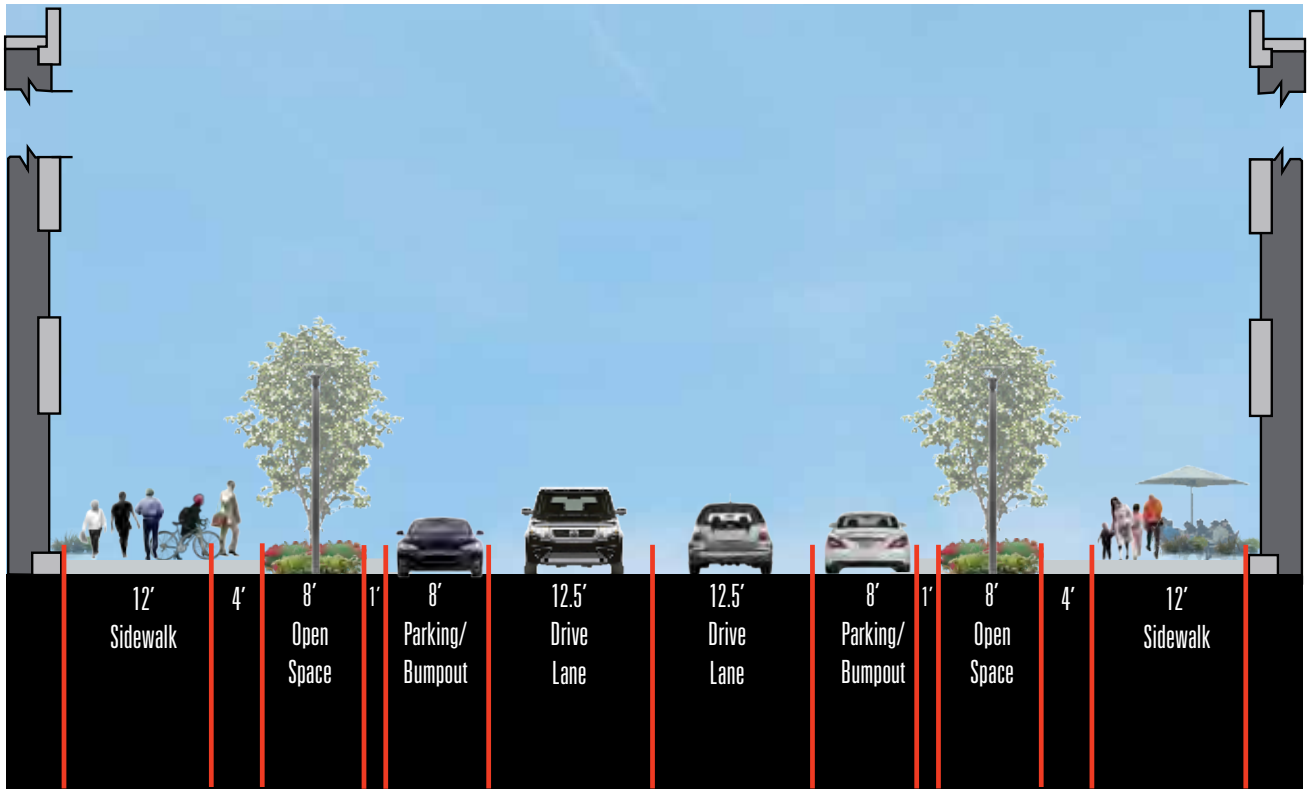
ROAD TYPOLOGY a

MONON AVENUE

As Depicted 130′ R.O.W.

(Not to Scale)

STREET TYPOLOGY B: FOURTH STREET



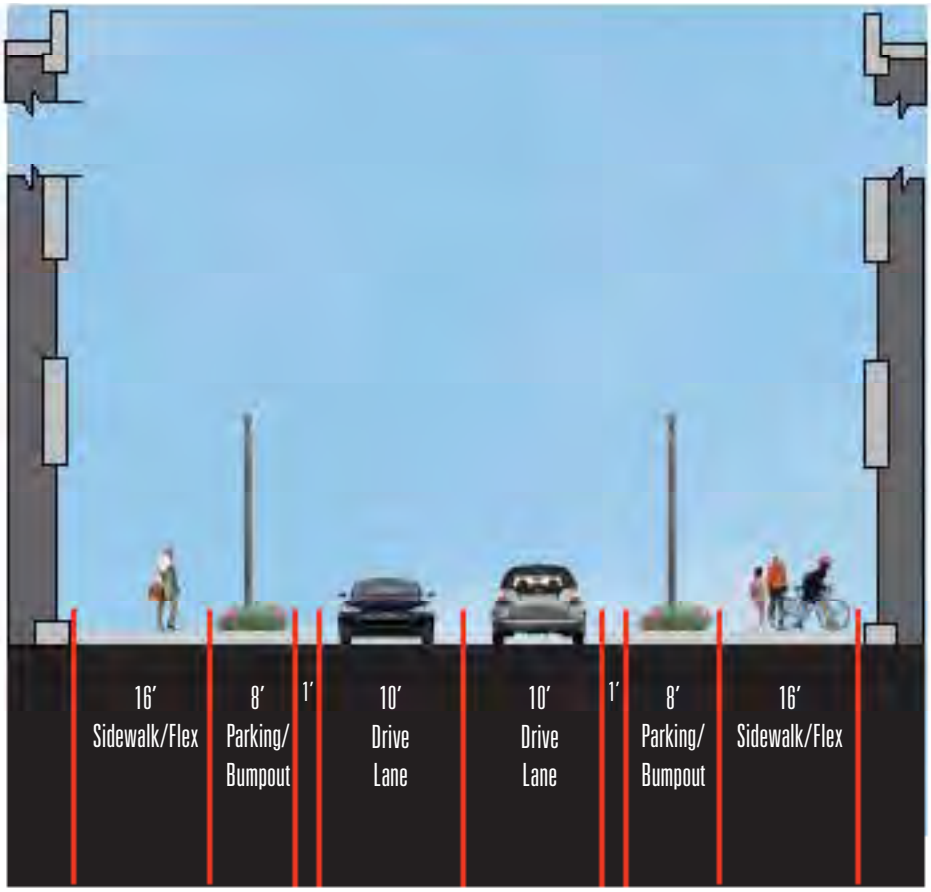
ROAD TYPOLOGY b

FOURTH STREET

As Depicted 100′ R.O.W.

(Not to Scale)

STREET TYPOLOGY C: SIDE STREET (OPTION 1)



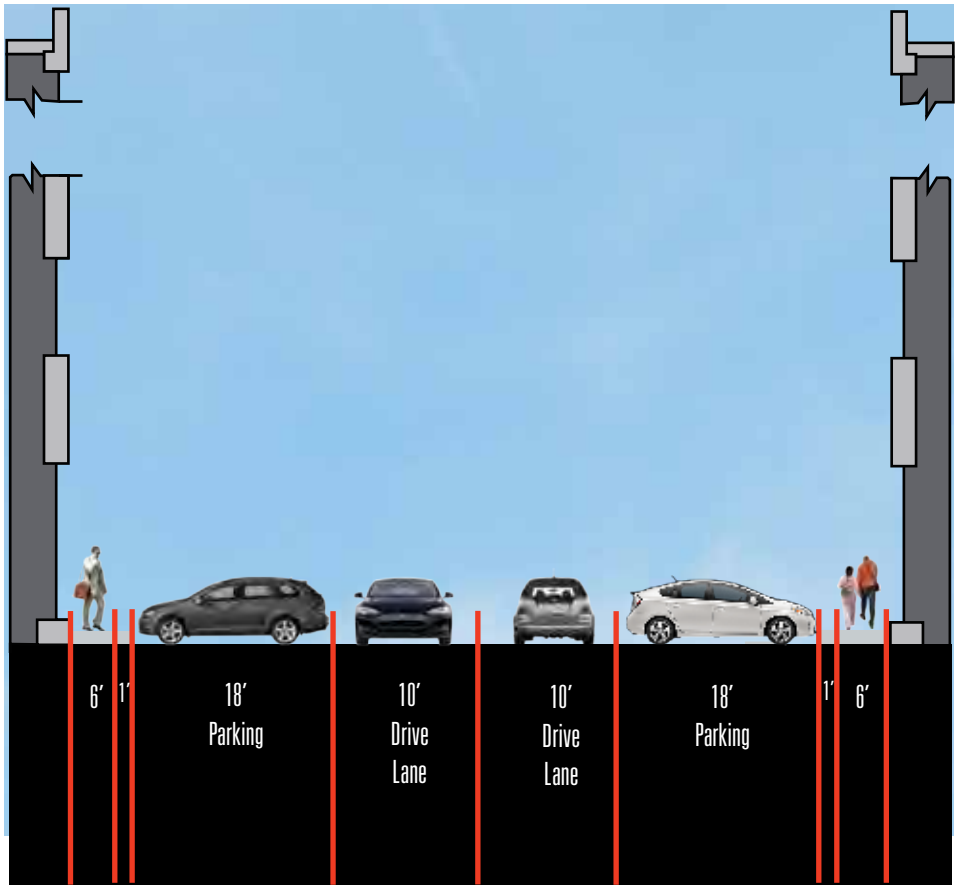
ROAD TYPOLOGY C

SIDE STREET

As Depicted 70’ R.O.W.

(Not to Scale)

STREET TYPOLOGY C: SIDE STREET (OPTION 2)



ROAD TYPOLOGY C

SIDE STREET

As Depicted 70′ R.O.W.

(Not to Scale)

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SOBRO PLANNED DEVELOPMENT DISTRICT

CITY OF LOUISVILLE, KY

September 2011

SOBRO PDD PROCESS

The SoBro PDD received input from an Advisory Team, Metro staff and during a 1-1/2 day charrette that was advertised and open to the public.

The charrette consisted of three separate discussion groups of neighborhood stake-holders, a public open house, a survey, and a public presentation.

The Advisory Team consisted of a group of individuals who represented various interests within or adjacent to the SoBro District.

REZONING TO PDD

Date: September 29, 2011

Ordinance #206-2011

PREPARED BY:

RATIO Architects (Indianapolis, IN)

Louisville Metro Department of Planning and Design

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Note: The graphics contained within this document, including illustrative plans, sketches, photographs, etc., are intended to portray design intent and not final architecture or design. Final architecture and site design will vary depending upon development proposals by final end users.

ACKNOWLEDGEMENTS

The following individuals, agencies, and plans were all influential in the creation of the SoBro Planned Development District document. It is important to respect the ideas of the past, while responsibly moving forward using new ideas and responding to changing needs. Special thanks are given to all included in the following list:

LOUISVILLE METRO PLANNING AND DESIGN SERVICES

Kendal Baker, AICP, Neighborhood & Long Range Planning Supervisor
Chris French, AICP, Planning & Design Coordinator
Steve Sizemore, AICP , Planner II
Richard Jett, Historic Preservation Officer
Patrick Johnson, Transportation Planner

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Herb Fink
Lisa Hite
Hunter Louis
Cash Moter
Dale Royer
Marty Snyder

INFLUENTIAL DOCUMENTS

The standards and recommendations included in this PDD are a product of, and influenced by, the neighborhood's vision and goals, as well as several relevant studies developed within the last decade. Previous plans and studies that formed the basis for this PDD include:

SoBro District Plans:

- SoBro Issues & Opportunities, Louisville Community Design Center, October 2000
- Old Louisville/Limerick Neighborhood Plan, City of Louisville, September 2001
- Market Analysis of Residential Market Potential for the SoBro Study Area, Zimmerman/Volk Associates, Inc., May 2005
- SoBro Neighborhood Revitalization Plan, JMA, September 2005
- SoBro Neighborhood Plan, Louisville Metro Government Center for Neighborhoods, October 2007
- SoBro Neighborhood Redevelopment Studies, Urban Design Studio, 2008
- Spalding University Campus Master Plan, May 2007

Area or City-Wide Plans:

- Cornerstone 2020 Comprehensive Plan, Louisville and Jefferson County Planning Commission, June 2000
- Louisville Downtown Development Plan, City of Louisville Downtown Development Corporation, September 2002

INTRODUCTION

I

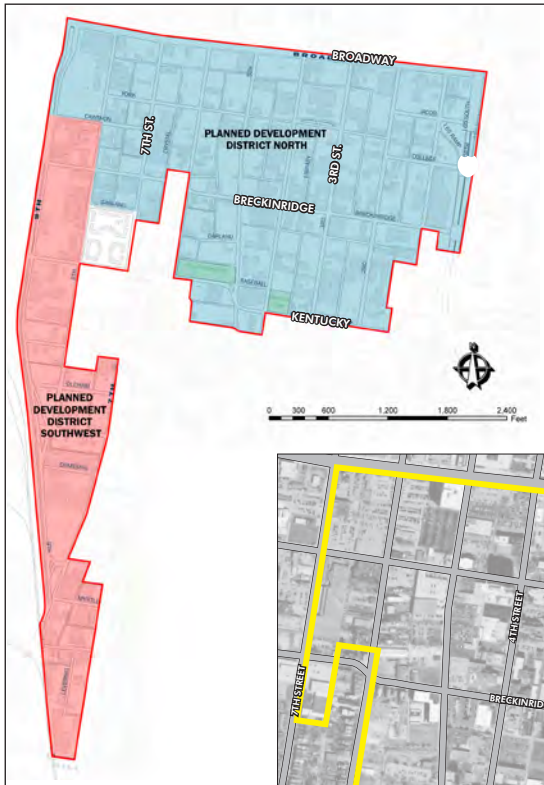
A. INTRODUCTION TO THE PLANNED DEVELOPMENT DISTRICT

PDD PURPOSE

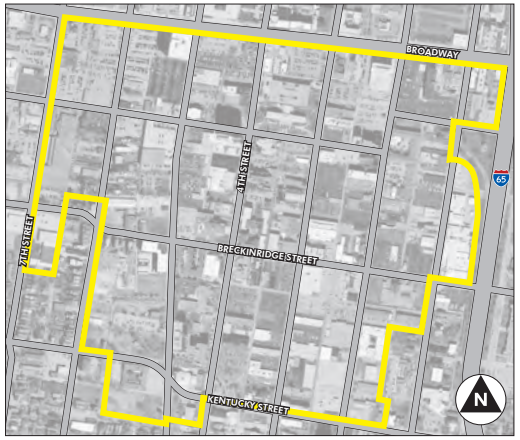
The intent of the SoBro Planned Development District (PDD) is to address the unique conditions of the SoBro Neighborhood. The "SoBro Neighborhood"is adjacent to three distinct areas including Louisville's Central Business District and the Limerick and Old Louisville historic neighborhoods. The designated PDD area (map lower right) lies just south of the core of Downtown Louisville and has the potential to provide a compatible transition between Downtown and the primarily residential Old Louisville to the south. The purpose of the PDD is to offer a flexible and creative alternative to typical zoning in hopes of creating a vibrant district that links downtown, residences, institutions, open space, and workplaces. To that end, the Louisville Metro Planning Commission proposes an area-wide rezoning to Planned Development District. This PDD includes recommendations (guidelines) and requirements (code standards) for future development to economically and socially revitalize the SoBro neighborhood.

PDD BOUNDARY

The SoBro Neighborhood Plan adopted in 2007 identified two areas for the creation of specific planned development districts: PDD North and PDD Southwest as illustrated in the images to the right. As a result of public input during the early stages of this PDD process, the district boundary was revised to reflect the disparity of land uses on the western edge. The SoBro PDD, as illustrated on the accompanying aerial map, is roughly bounded by I-65 to the east, Broadway along the north, Sixth and Seventh Streets to the west, and Kentucky/ Zane Street to the south.



The original SoBro PDD boundaries per the 2007 Neighborhood Plan.



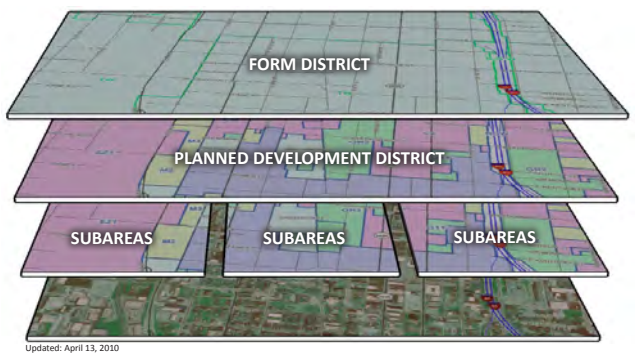
The Revised SoBro PDD Boundary

RELATIONSHIP TO THE COMPREHENSIVE PLAN

The SoBro PDD implements specific strategies of the Comprehensive Plan including Community Form Strategy, Section J: Special Districts by guiding "the pattern and character of development within special districts in context with the cultural, architectural, historic, natural or visual resources present." In October 2007, the SoBro Neighborhood Plan was adopted into the City's Comprehensive Plan.

ZONING LAYERS AND APPLICABILITY

The requirements within this PDD shall be applicable to all new development within the SoBro PDD. They, along with the requirements of the Downtown and Traditional Neighborhood Form Districts, and remaining general sections of the Land Development Code (LDC) apply. Where there is a conflict between the PDD standards and the LDC, the PDD standards shall take precedent. Where the PDD standards are silent, the LDC shall apply.



Form Districts
- Downtown
- Traditional Neighborhood
- Traditional Workplace

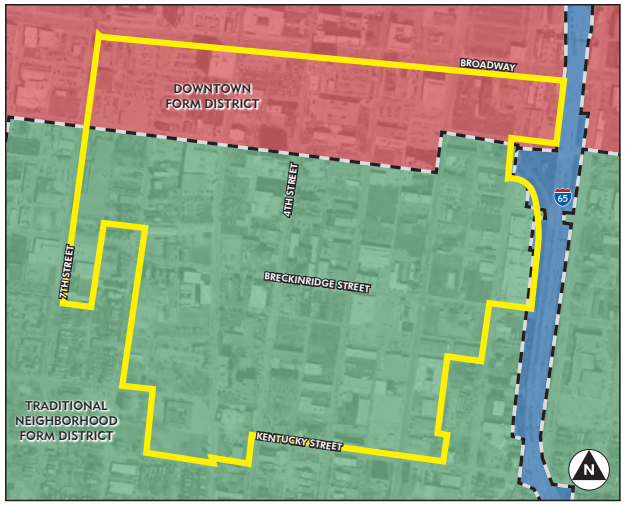
SoBro PDD
- Architectural Design

SoBro PDD Subareas
- Uses (P, P/M, P/CU, X)
- Density

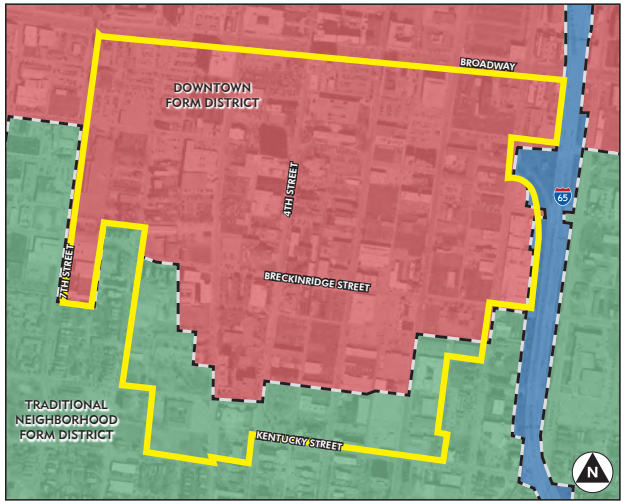
FORM DISTRICT BOUNDARY CHANGE

The SoBro neighborhood lies within the Downtown and Traditional Neighborhood Form Districts. Form district regulations supplement and extend use and density regulations associated with individual zoning districts. The intent of a form district is to govern the design of permitted uses and land activities, and ensure compatibility with adjacent uses and activities, adequate transportation access, and preservation of the public health, safety and welfare. Form Districts do not address the permitted or conditional uses for specific sites, or the permitted density or intensity of development.

The development principles of the Downtown Form District closely align with desired development within the SoBro PDD. Therefore, the Downtown Form District boundary was extended southward to the northern boundary of the "*Historic Neighborhood Subarea*", reducing the size of the Traditional Neighborhood Form District as shown in the map on page 7. The extension of the Downtown Form District is consistent with the intent of the PDD and the Neighborhood Plan.



Existing Form District Boundaries



Proposed Form District Boundaries

HOW TO USE THIS DOCUMENT

To maximize the use of this PDD, both ordinance requirements and recommendations for development are incorporated. Requirements are shaded as illustrated in the example below and typically include the word "shall." Recommendations are not shaded, and are recognized with wording such as "should," "may," "encouraged," and "preferred."

Except where ranges are given, the information in the Lot Standards and Land Use tables in ***Chapter III: Use & Lot Standards*** are requirements.

1.9 Balconies

Requirement → Balconies shall be a minimum of eight feet (8′) above sidewalk grade.

Recommendation → Balconies should be designed so that they do not encroach into a public right-of-way more than four feet (4′) and do not require support systems.

Green leaves (🍃) have been placed next to policies and standards that are considered to be environmentally sustainable. Recommendations within the PDD that are marked with leaf symbols may include:

- Encouragement for mixed-use and compact development
- Polices that encourage resource conservation
- Support for alternative transportation methods

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Source: SoBro UDS Study

Broadway east of Third Street -1897

Fourth Street Downtown Louisville

Old Louisville neighborhood

THE TRADITIONAL URBAN NEIGHBORHOOD

Streets that traverse a neighborhood are another significant influence on the types of land uses and site design that occur in the urban environment. Streets not only carry vehicular traffic, but a healthy and complete street creates a public realm that accommodates bicycles, pedestrians, strollers and skateboarders. In some instances, this public space also provides areas to play, eat, and to incorporate alternative stormwater control measures. Ultimately, the street becomes part of the public realm and can contribute to the charm of an urban neighborhood such as SoBro.

A review of maps and photos shows that some of Spalding's oldest structures, along with other historic architecture within SoBro such as the Library and Memorial Auditorium, have minimal setbacks of at least ten feet to provide a small amount of green space.

Other commercial and multi-family residential buildings created within the last 70-110 years have been built to the front and side setback which is a development form that the community would like new structures to emulate. Typical of dense urban areas, this characteristic provides a consistent building wall along the street and serves to clearly identify the commercial center. Lower density urban residential structures within the Old Louisville and Limerick neighborhoods typically have a small front side and rear yards for private space.

In addition to individual buildings, there are also a number of areas within SoBro that help to define its unique character. These include:

- Downtown: Louisville's Central Business District (CBD) is situated north of SoBro between the Ohio River and Broadway. The high-density urban development patterns characteristic of the CBD are present on both the north and south side of Broadway.
- Spalding University: Spalding's Louisville campus, located in the heart of the SoBro Neighborhood, occupies approximately six large blocks south of the Central Business District on Third and Fourth Streets.
- Old Louisville: This well-known neighborhood south of SoBro is a designated historic district that includes a park designed by Frederick Law Olmsted's design firm.
- Fourth Street: This section of Fourth Street between Broadway and Breckinridge has remained the home of Louisville landmarks and

institutions original to SoBro. Some of these significant resources include the Heyburn Building, Brown Brothers Cadillac, the original Main Branch of the Louisville Free Public Library, The 800 Apartment tower, First Unitarian Church, Calvary Episcopal Church, Spalding University, Presentation Academy, and Lampton Baptist Church (originally First Christian Church). As noted in the ***SoBro Neighborhood Plan*** these structures together constitute a strongly-defined urban corridor which remains SoBro's urban spine.

Historic Architecture

Although there are no designated historic districts (local or national) within SoBro, there are individual historically significant structures. Existing structures that are identified locally or nationally as having significant historic character should be retained and incorporated into new development rather than torn down to accommodate new development. The rehabilitation of primary facades of historic structures, as identified by the Downtown Development Plan or listed on the National Register of Historic Places, shall conform to the current edition of the Secretary of the Interior's Standards for Rehabilitation. Demolition of such designated structures, shall not be permitted for the creation of surface parking lots or open space.

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I INTRODUCTION

THE SUBAREAS II

DEFINING SUBAREAS

The SoBro Planned Development District (PDD) provides a framework to enhance and re-establish the traditional urban neighborhood with a mix of uses that once existed. This PDD includes sections on the existing form area character and proposed subarea form. Chapters III and IV contain the land use, lot and design standards that define the character of the PDD. These standards address building placement, general location, site amenities, signage, landscaping (including open space), parking and pedestrian considerations.

There is a desire for contextual redevelopment based on desired subarea character and/or remnant development (structures/parks). Attention to land use, density and adjacent development patterns is important in order to support recent investment and established, older development in this area.

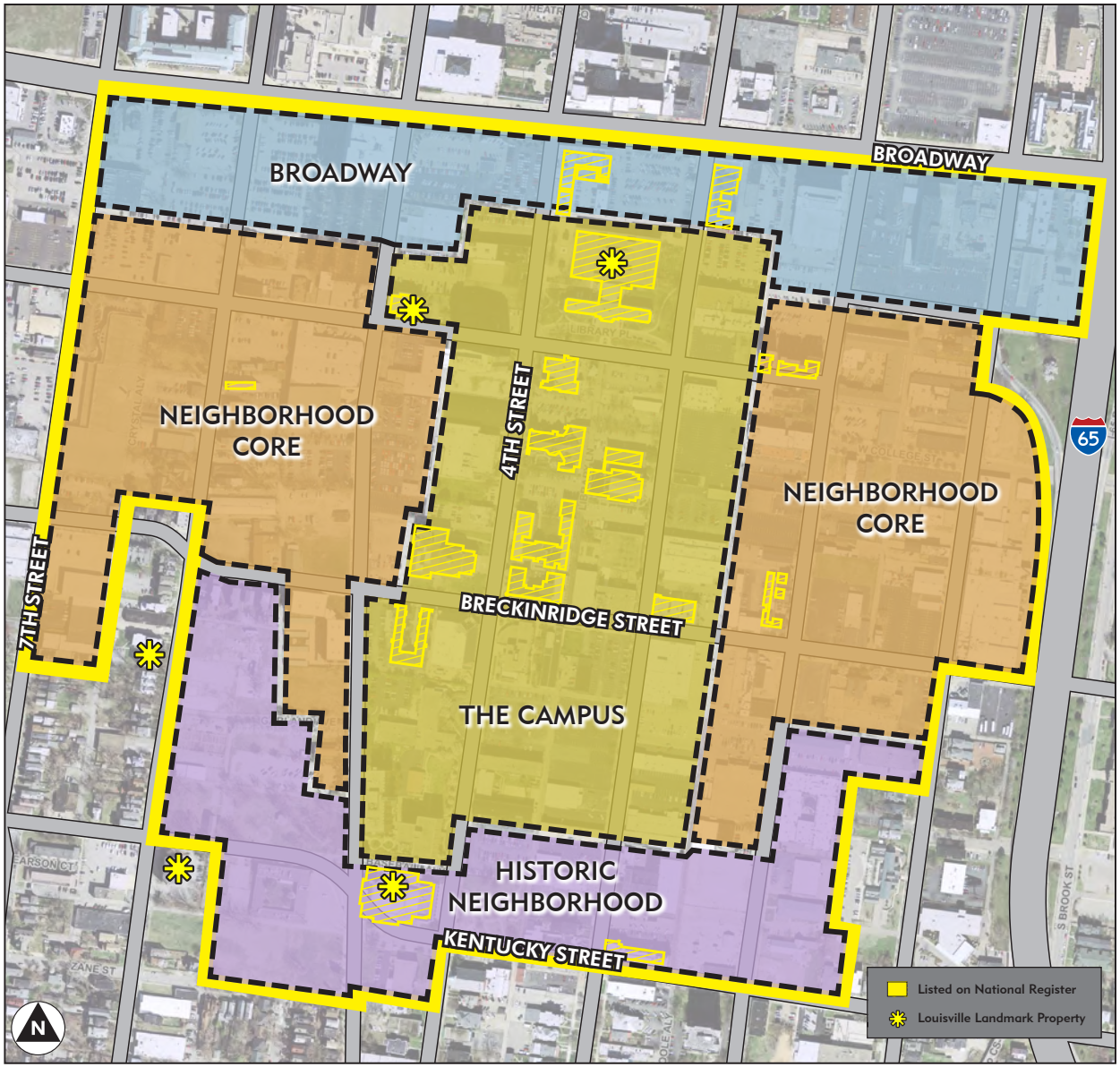
The SoBro Neighborhood Redevelopment Study's (Urban Design Studio 2008) outlined a number of objectives:

- To not only rebuild the neighborhood's urban fabric, but to recreate a sense of place;
- To develop SoBro's unique character;
- To take steps toward revitalization such as enhancing gateways, strengthening corners, and ensuring continuation and connectivity of streets and pedestrian sidewalks; and
- To encourage "Green" and/or "modern" signature developments to create a specific character and location unique to the region.

Historically significant structures (The Olympic Building) on Breckinridge.

A. EXISTING SUBAREA CHARACTER

Within a vital neighborhood there exists a conglomeration of uses, but frequently there is a predominant land use, such as a place to work or a place to live. To this end, the SoBro PDD is divided into four subareas based on predominant land use or similar characteristics. Descriptions of the four subareas follow.



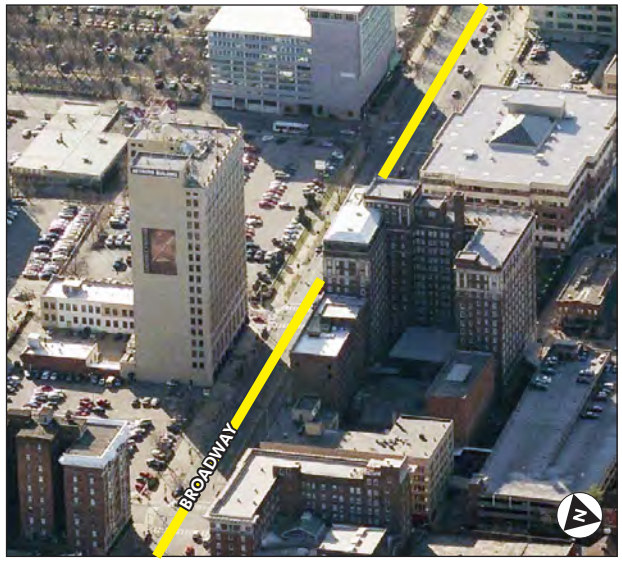
BROADWAY SUBAREA

Development on the north side of Broadway contrasts with the vacant lots and surface parking, on the south side. Broadway is 80-100 feet wide and to maintain a classic street wall proportion (2:1), the height of adjacent structures should be approximately 40-50 feet.

Urban Design Considerations

The Broadway Subarea standards include requirements that will result in large-scale structures and greater density than other subareas in order to reflect the district form on the north side of Broadway. The Broadway subarea created for the northern edge of the SoBro neighborhood will begin to illustrate a gradual transition between Downtown Louisville and the historic Old Louisville Neighborhood.

Development principles for the Broadway Subarea center on re-establishing the south side streetwall with infill development that strengthens the economic and social activity of this important commercial corridor. Development standards assure compatibility of character and scale for new community-wide uses and structures such as retail, restaurants, entertainment and residential to balance the existing institutional and office uses.



The scale, height, and setback of existing structures on Broadway will influence recommendations for future development.

The Heyburn Building.

The Montserrat at Fifth and York Streets.

THE CAMPUS SUBAREA

The Campus Subarea is central to SoBro along the well-traveled north/south Third and Fourth Street corridors. With the major east-west corridor of Breckinridge Street bisecting these streets, this subarea is currently the most active and vibrant part of SoBro. The subarea contains some of the tallest buildings in SoBro that along with the presence of Spalding University, Presentation Academy, and the Public Library gives it a distinct identity.

Urban Design Considerations

Campus Subarea objectives are to encourage new mixed-use housing and commercial development that will support and complement core uses and the current urban fabric. The proposed character of the subarea will be a mixture of collegiate classroom buildings, residence halls with supportive retail services, parking for commuter students and employees, as well as recreational and passive green spaces.

Source: Louisville Metro

Presentation Academy

NEIGHBORHOOD CORE SUBAREAS

The Neighborhood Core Subareas serve as the primary transition zones within the neighborhood. The transitions they provide are between the Broadway Subarea to the north and the Historic Neighborhood Subarea to the south, but they also provide buffers between the Campus Subarea in the center and the industrial area to the west, and between the Campus Subarea and I-65 to the east.

Urban Design Considerations

It is important to ensure that proposed development character of the Neighborhood Core responds to these patterns while retaining the overall objective of smaller footprints, relative to the industrial area, higher density, and encouragement of mixed uses rather than dedicated industrial or light industrial use. Heights should be moderate and there should be very few exposed parking areas.

The principles for development in the Neighborhood Core Subarea are to encourage an eclectic mix of modern development within the historic fabric. This could result in lively street activity, provide multi-family housing opportunities, allow for businesses that will support both the neighborhood and Spalding's students. The character of the neighborhood Core Subarea is intended to serve as a transition between the adjacent form districts of Traditional Workplace and Traditional Neighborhood as well as the adjacent Broadway and Campus Subareas.

The Cosmopolitan Building at the corner of 3rd and Kentucky

Residence near the corner of 2nd and Breckinridge

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HISTORIC NEIGHBORHOOD SUBAREA

This subarea is intended to provide a transition between the Neighborhood Core and Campus subareas to the north and the historic Old Louisville neighborhood to the south. This is the southern-most subarea, located on the Kentucky / Zane Street corridor roughly between First and Seventh Streets.

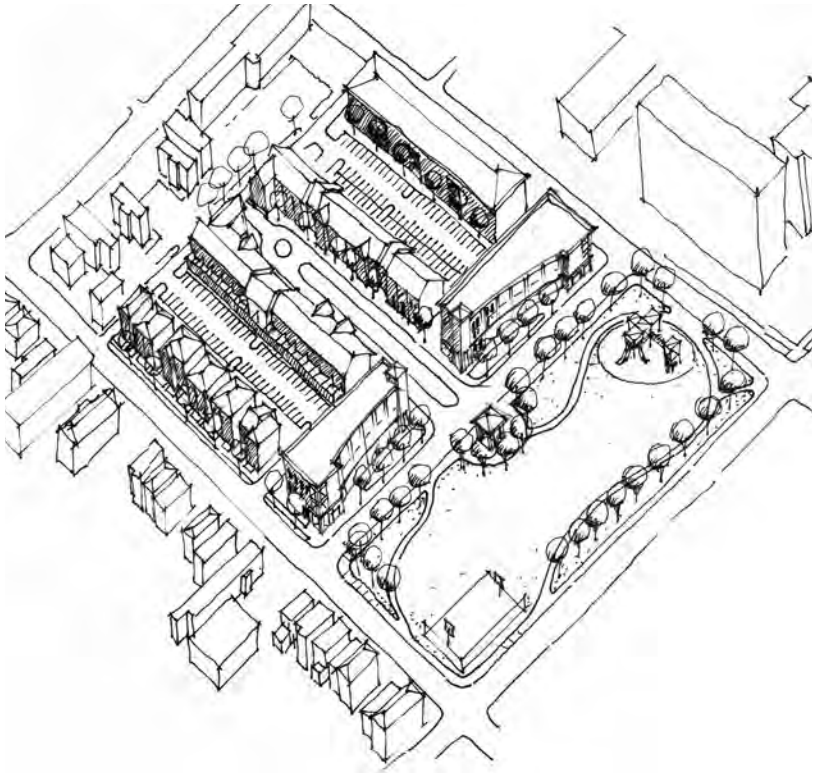
This subarea is adjacent to predominately residential neighborhoods that generally contain smaller lot sizes ranging from 1,500 square feet to 6,000 square feet. The goal is to encourage continued neighborhood residential development along with neighborhood-scale commercial retail and office that is compatible in scale and character with the established neighborhood.

Urban Design Considerations

Historic Neighborhood Subarea development principles center on a proactive approach to future development in the neighborhood. Issues important to SoBro residents range from the desire to utilize parkland to enhance the residential character (see sketch facing page) and future development in the area, to preserving the historic features, strengthening the vitality of the community, and enhancing the quality-of-life of its residents. Guidelines for this subarea establish strategies to retain the cultural and historic character of SoBro's residences, while simultaneously encouraging continued residential growth in the neighborhood.

Historically influenced single-family housing in Old Louisville are a desired development type for the Historic Neighborhood Subarea.

Residential multi-family development, such as the Thierman Apartments on Breckinridge Street have historic characteristics that could be referenced for new residential development.



Parkland is integral and used to enhance the residential character.

B. PROPOSED SUBAREA FORM

This chapter contains illustrations, standards and recommendations that function as a pattern book for future development envisioned for each subarea. The letters associated with the Unique Requirements section such as **B.1**, refer to "Broadway subarea, first requirement." Additional development and design standards are contained in Chapters III and IV of the PDD. These standards replace the Form District Standards. In some instances, this PDD refers back to the Louisville Metro Land Development Code. Where this PDD is silent on a standard, the LDC standard shall apply. If there is a conflict between the LDC and SoBro PDD, then the PDD standards shall supersede.

Future neighborhood development is influenced also by the historic development patterns, distinctive architectural styles and building materials. To that end, neighborhood-defining examples are included as a reference for each subarea. Compatibility between new and existing development is addressed in the descriptive Existing Subarea Character in the previous section of this chapter.

The development form illustrated on the following pages, may rely on changes of standards and policies in other departments that deal with the public realm such as the streetscape, parks and open space, or the urban forest. The PDD is a planning tool which addresses land use and development standards primarily on private properties. Refer to the Appendix for a discussion on policy changes that should be considered as part of the adoption of this document to give the SoBro neighborhood its best chance at successful redevelopment.

NOTE:

The graphics contained within this section of the SoBro PDD, including illustrative plans, sketches, photographs, etc., are intended to portray design intent and not final architecture or site design. Final architecture and site design will vary depending upon end uses and review of submitted development proposals. This document should be used as a reference in the preparation of such development plans.

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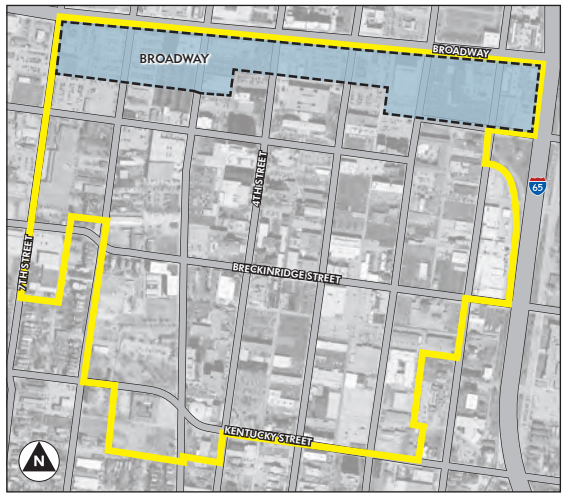
BROADWAY



GOAL

Create a suitable anchor for the southern edge of Downtown Louisville. Development within this subarea should be similar in scale, mass, density and height to that within Downtown. It should appropriately reflect the character of the corridor established by the existing structures on the north side of Broadway.

Additional goals for this subarea are to:

- Encourage the re-establishment of the streetwall on the southern edge of Broadway.
- Serve as an entry corridor to both the established Downtown and a revitalized SoBro neighborhood.

NOTE:

The graphics in the SoBro PDD, including illustrative plans, cross-sections, sketches, & photographs, are not intended to portray design intent, final architecture or site design. The primary intent of such graphics is to represent massing, scale, setback, and similar standards unique to each subarea.

SUBAREA CONCEPT INFLUENCES

Source: Louisville Metro

Source: Louisville Metro

Historically significant buildings on Broadway that are of a scale and design character to serve as inspiration for future Broadway Subarea development.

Source: UDS 2009

A conceptual drawing by an Urban Design Studio student of potential infill development on Broadway.

FEATURES

1. Recessed facade provides architectural relief on building that is more than the minimum four stories.
2. Ground-level facade is within the maximum setback zone and built to the sidewalk to maintain the street wall.
3. Parking, if not enclosed in a structure, is located to the rear of buildings.

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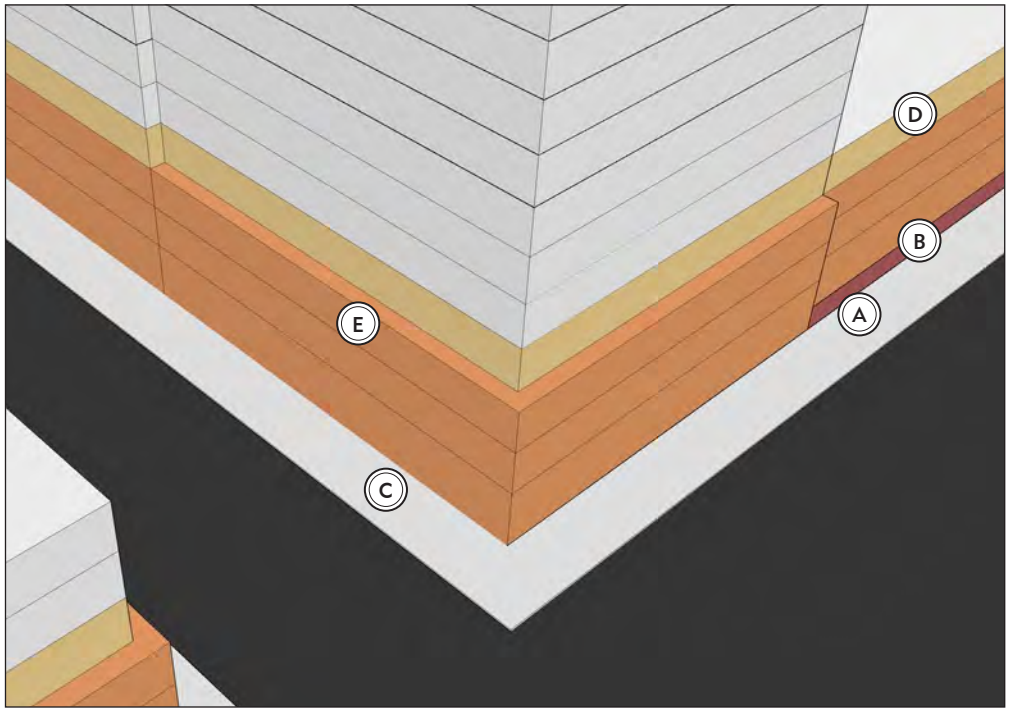
BROADWAY

LOT STANDARDS

	Density	Min: N/A Max: 145 DU/AC
	Form District	Downtown Form District
	Lot Area	Min: None
	Lot Width	Min: None
A	**Front and Street Side Yard Setback (corner)**	Min: None Max: Up to 15 ft from right-of-way if at least 80% of the structure is within the Front Facade Zone [2] For corners: maintain street wall for at least 50 ft from the intersection
	Rear Yard Setback	Min: 5 ft if on alley
	Side Yards (Each)	Min: None Max: 10% of lot frontage
B	**Front Facade Zone** [4]	5 ft.
	Stepback Minimum [3]	≤ 14 stories = 0 15-18 stories = 15 ft 19-22 stories = 25 ft > 22 stories = 10 ft per 4 floors (N/A if GFA < 9,000 sf)
C	**Sidewalk Width** [6]	Min: 15 ft along Broadway Min: 7 ft all other streets
D	**Building Height**	Min: 4 story Max: None
E	**Minimum Streetwall Height**	Min: 3 story with permitted 18 in. recesses for architectural elements (columns, etc.) [1]

FOOTNOTES:

[1] Ground floor recesses not counted if upper streetwall is maintained
[2] A full block redevelopment may be set back up to 10 feet from the ROW to accommodate a widened sidewalk
[3] See LDC 5.2.1.D for an illustrative sketch and calculation.
[4] See Chapter III, Section C of this PDD for a description.
[6] Public Works may vary the required minimum widths of sidewalks and verges based on site conditions.



This massing model illustrates some of the development standards in the table to the left.

UNIQUE REQUIREMENTS

REQUIRED

B.1 First story height shall be a minimum of fourteen feet (14′) as measured from the adjacent sidewalk grade.

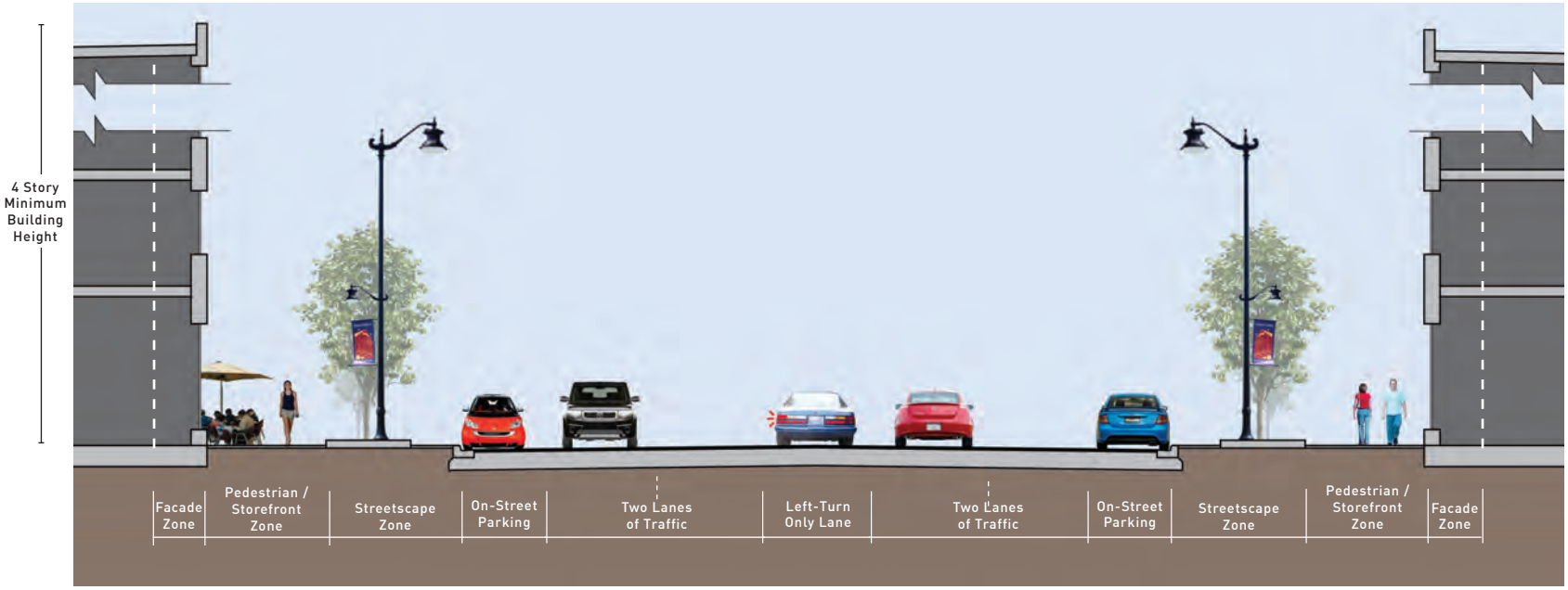
B.2 Sidewalks along Broadway shall be a minimum fifteen feet (15′) wide up to a maximum of twenty feet (20′) wide.

B.3 A building facade shall be located within the five foot (5′) front facade zone. For a description of the front facade zone refer to page 44.

STREET CHARACTER

- Broadway, at nearly seventy feet (70') wide, is a very wide street with several lanes of traffic, broad sidewalks, and street trees.
- It is important to consider the proportions of the street to the buildings. The wider the street, the taller the buildings should be to maintain a proportion for a comfortable pedestrian scale and inviting public setting.
- Because of Broadway's generous sidewalk area, the corridor is ideal for outdoor public spaces such as dining, seating, transit uses, and other elements.
- Unique signage, lighting, and other identifiable elements should be incorporated into new development and redevelopment to help identify the significance of this historically important corridor and strengthen Broadway as a "place" rather than simply passing through.

The cross-section below illustrates Broadway's current lane configuration but also includes recommended elements such as architecturally-styled lighting and street trees. The facades in the cross-section are shown built to the right-of-way but the vertical dashed line illustrates the potential for additional facade setback to provide more space for planting and other streetscape amenities.



BROADWAY CROSS-SECTION

* This cross section is conceptual. Refer to Louisville Metro thoroughfare standards.

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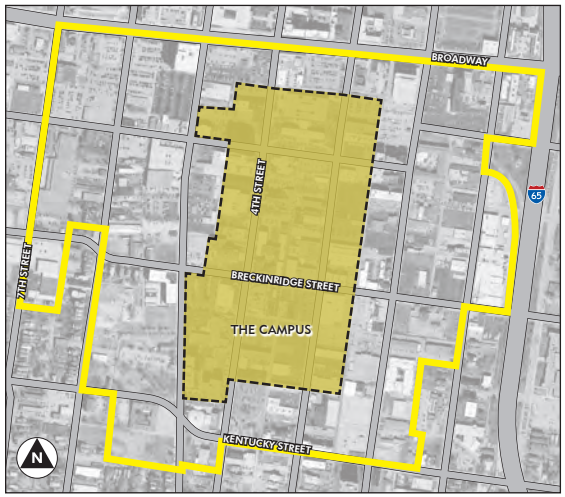
CAMPUS



GOAL

Expand and capitalize on this central activity core for the neighborhood to support a mix of educational, civic, commercial, and residential uses.

Additional goals for this subarea are to:

- Encourage Spalding University to continue campus development in the character of its urban context.
- Ensure infill is compatible with historically significant university and civic structures existing in this subarea in terms of material selection, scale, and orientation to the street.
- Enhance the existing streetscape character of 4th Street and apply these standards to other streets within the subarea.
- Include multi-use open spaces.

NOTE:

The graphics in the SoBro PDD, including illustrative plans, cross-sections, sketches, & photographs, are not intended to portray design intent, final architecture or site design. The primary intent of such graphics is to represent massing, scale, setback, and similar standards unique to each subarea.

SUBAREA CONCEPT INFLUENCES

Source: Louisville Metro

Spalding University campus architecture.

A UDS student sketch of existing and proposed corner infill development for a site in the Campus subarea.

Source: UDS 2009

FEATURES

1. Corner infill with prominent corner architectural feature, first-level commercial and upper level parking.
2. Multi-use athletic field to serve the University, Academy and the community on Breckinridge Street.
3. Library Alley axis with connection to campus. Porous, decorative paving and pedestrian-scaled lighting makes this service space both sustainable and comfortable for pedestrians.
4. Campus green space for student use.
5. Raised lawns similar to those that currently exist throughout campus.

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CAMPUS

LOT STANDARDS

	Density	Min: N/A Max: 58 DU/AC
	Form District	Downtown Form District
	Lot Area	Min: None
	Lot Width	Min: None
A	**Front and Street Side Yard Setback (corner)**	Min: None Max: Up to 15 ft if at least 60% of the structure is within the Front Facade Zone[1] For corners: maintain street wall for at least 50 ft from the intersection
	Rear Yard Setback	Min: 5 ft if on alley
	Side Yards (Each)	Min: None Max: 10% of lot frontage
	Front Facade Zone [3]	5 ft
	Stepback Minimum [2]	N/A
B	**Sidewalk Width** [6]	Min: 7 ft
C	**Building Height**	Min: 2 story Max: 6 story or same as tallest adjacent
	Minimum Streetwall Height	N/A

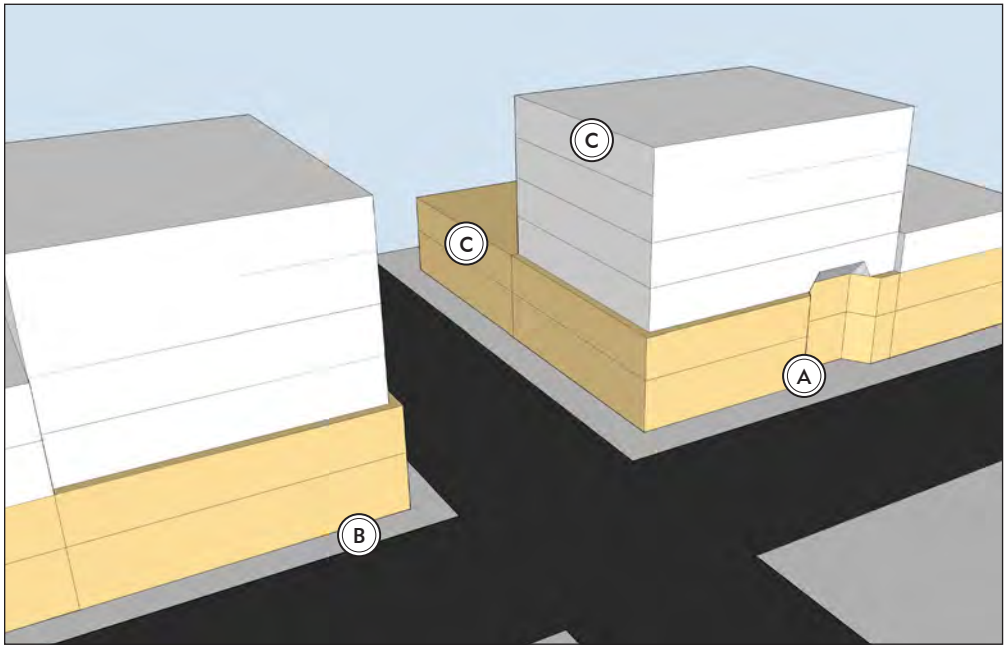
FOOTNOTES:

[1] A full block redevelopment may be set back up to 10' from the ROW to accommodate a widened sidewalk

[2] See LDC 5.2.1.D for an illustrative description and a calculation example.

[3] See Chapter III, Section C of this PDD for a description.

[6] Public Works may vary the required minimum widths of sidewalks and verges based on site conditions.



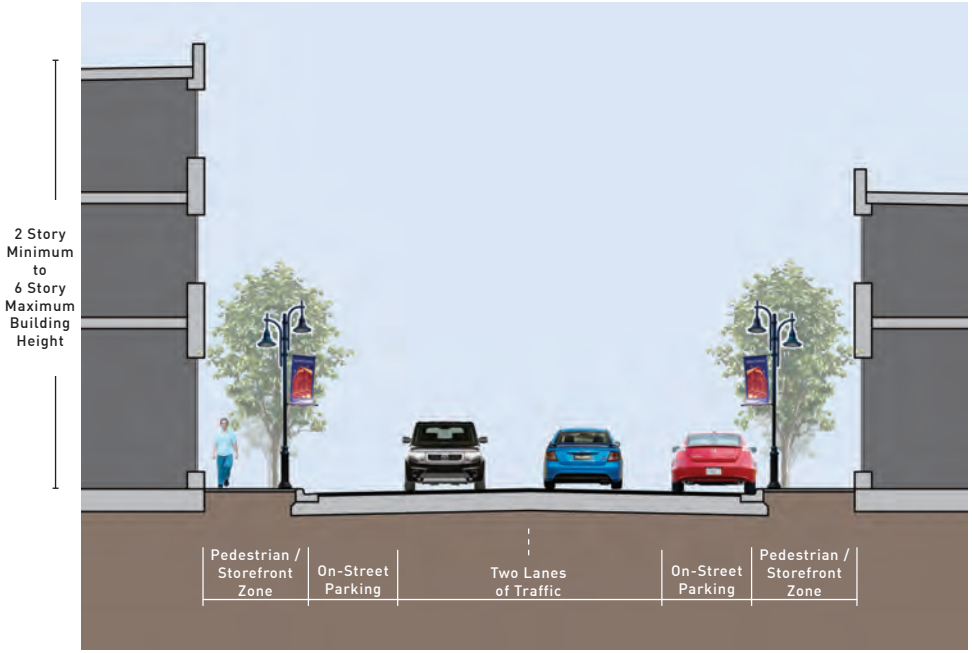
This massing model illustrates some of the development standards in the table to the left.

STREET CHARACTER

- Fourth Street is one of the most historic and active corridors in Louisville with a remnant streetscape treatment that is still better than many other corridors in SoBro. The slightly narrower right-of-way and two-way traffic creates a more pedestrian-friendly streetscape desired throughout the community. The raised lawns give the corridor a unique, elegant feel.
- Second and Third Streets are one-way couplets with direct access to downtown. The many gaps in the streetwall make the right-of-way appear wider and traffic travels at relatively higher speeds than their two-way counterparts.

Source: Louisville Metro

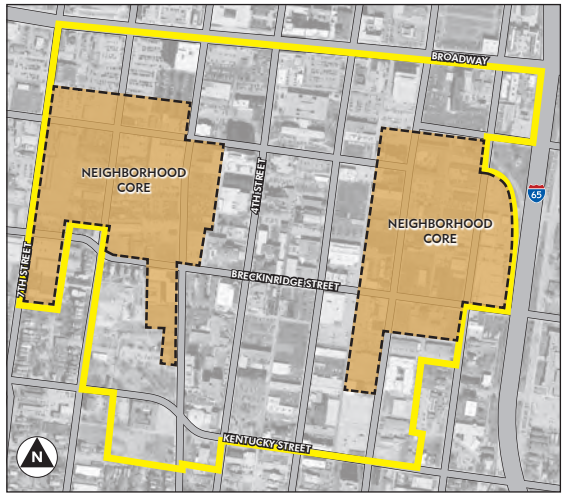
Urban athletic field with fenced edge.



TYPICAL CAMPUS SUBAREA CROSS-SECTION

* This cross section is conceptual. Refer to Louisville Metro thoroughfare standards.

NEIGHBORHOOD CORE



GOAL

To provide a transition the intensity of uses, scale, and mass from the more intense Broadway and Campus subareas and the Traditional Workplace Form District to the west, to the Historic Neighborhood subarea created by this PDD, and the existing Transitional Neighborhood Form Districts of the Old Louisville and Limerick neighborhoods.

Because of the variability in development that exists, the Neighborhood Core subarea permits a multiplicity of uses, but should carefully consider context to ensure compatibility especially for existing residents.

NOTE:

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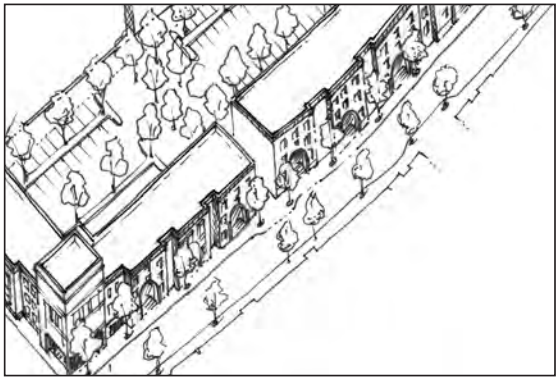
SUBAREA CONCEPT INFLUENCES

Source: Louisville Metro

Source: Louisville Metro

Above: Historically Significant Structures.



Source: Louisville Metro

Conceptual sketch for mixed-use development at Fifth and York Streets.

Source: Louisville Metro

Above: Contemporary examples of infill development (residential and mixed-use) that incorporate historic influences and create a unique identity desired for this subarea.

FEATURES

1. Infill commercial adjacent to recently constructed residential as originally proposed by developer.
2. An example of residential and commercial mixed-use infill appropriate for infill in this subarea.
3. Residential townhomes compatible with adjacent residential character.
4. Street trees to enhance the streetscape.
5. Parking is located either behind or within structures.

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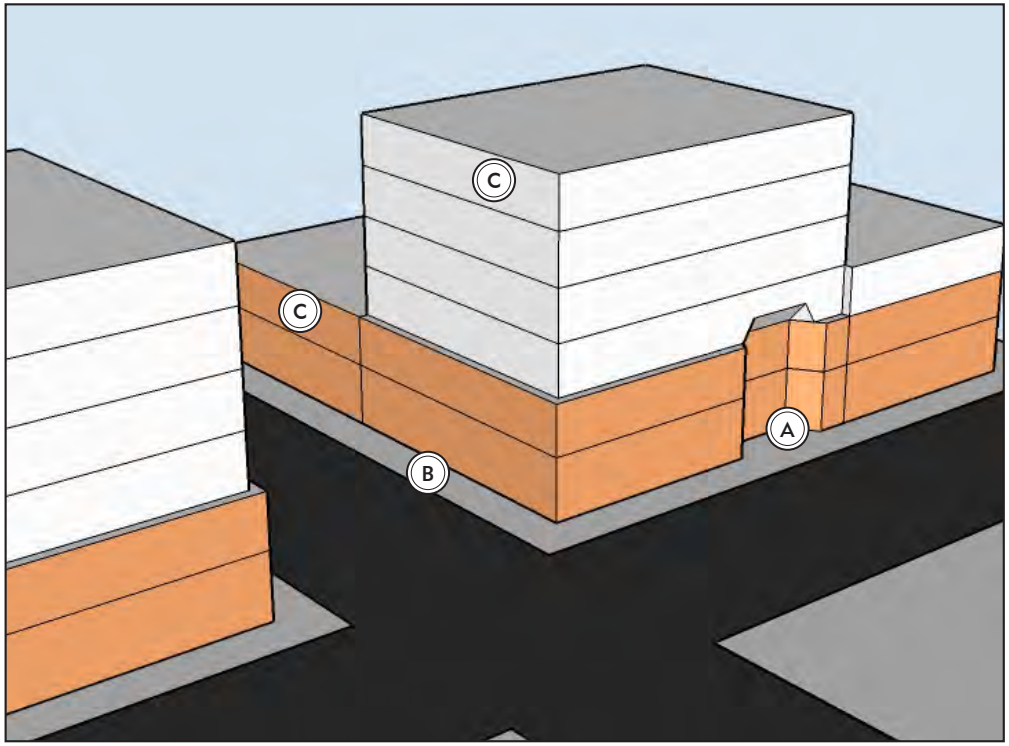
NEIGHBORHOOD CORE

LOT STANDARDS

	Density	Min: N/A Max: 58 DU/AC
	Form District	Downtown Form District
	Lot Area	Min: None
	Lot Width	Min: None
A	**Front and Street Side Yard Setback (corner)**	Min: None Max: 15 ft For corners: maintain street wall for at least 50 ft from the intersection
	Rear Yard Setback	Min: 5 ft if on alley
	Side Yards (Each)	Min: None Max: 10% of lot frontage
	Front Facade Zone [2]	N/A
	Stepback Minimum [1]	N/A
B	**Sidewalk Width** [6]	Min: 7 ft
C	**Building Height**	Min: 2 story Max: 6 story or same as tallest adjacent
	Minimum Streetwall Height	N/A



This massing model illustrates some of the development standards in the table to the left.

FOOTNOTES:

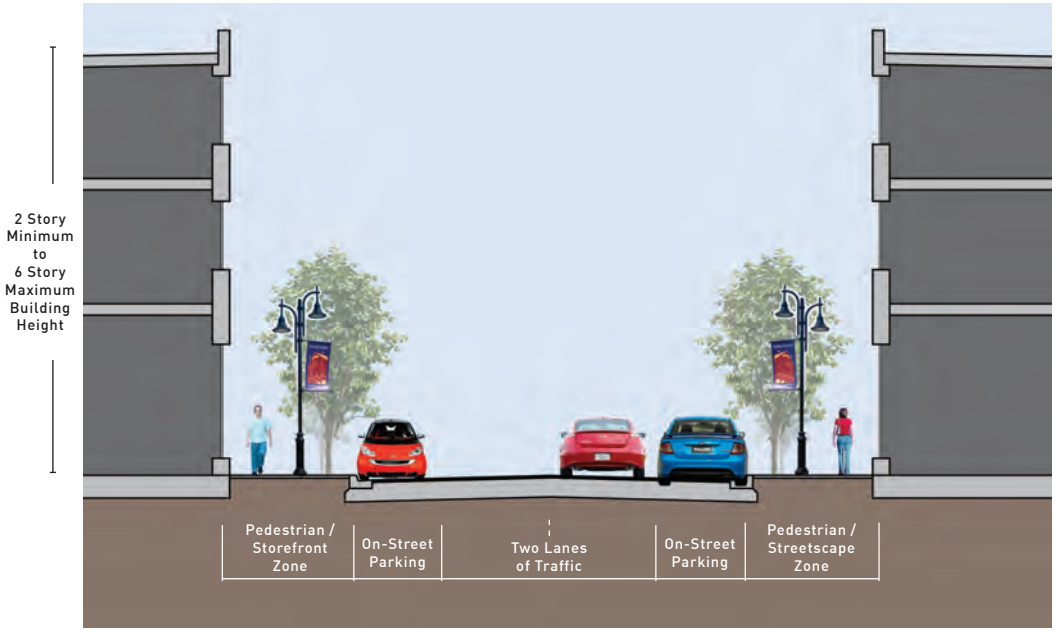
[1] See LDC 5.2.1.D for an illustrative description and a calculation example.

[2] See Chapter III, Section C of this PDD for a description.

[6] Public Works may vary the required minimum widths of sidewalks and verges based on site conditions.

STREET CHARACTER

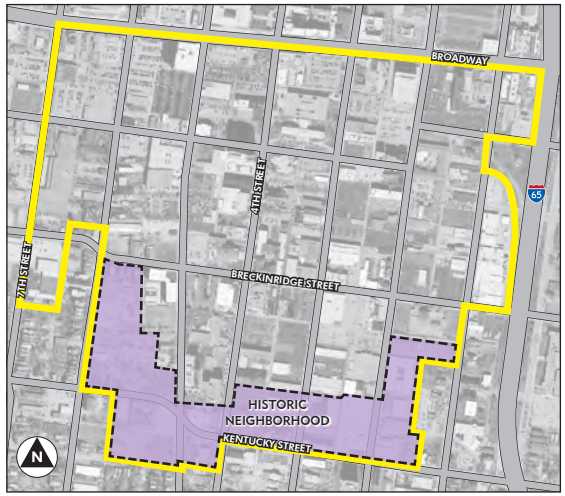
- The Neighborhood Core subarea is ripe for reinvention. The diversity of uses can result in innovative adaptive reuse of existing structures or the development of new ones.
- Most important will be to acknowledge the structures in the neighborhood that contribute to the desired character and provide smooth transitions to those.
- Encourage the renovation of fortress-like facades to open some existing structures to the street. Both existing and new development should highlight building entries and provide a more interactive street level pedestrian experience.



TYPICAL NEIGHBORHOOD SUBAREA CROSS-SECTION

* This cross section is conceptual. Refer to Louisville Metro thoroughfare standards.

HISTORIC NEIGHBORHOOD



GOAL

To provide a gradual transition between the southern extension (previous subareas) of downtown Louisville to the urban residential historic neighborhood of Old Louisville. This subarea is most suited to low-rise multi and single family residential but with an urban form, and small-scale commercial development including office/retail, professional or personal services.

NOTE:

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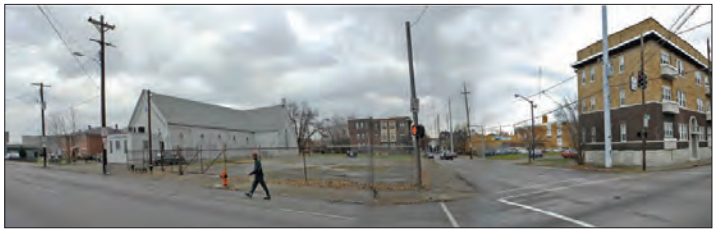
SUBAREA CONCEPT INFLUENCES

Source: Urban Design Studio



Left: UDS student sketch (above) of potential infill that reflects a more historic development pattern.

Below: Existing historically significant structures in the Historic Neighborhood subarea.

Source: Louisville Metro

FEATURES

1. Low-rise residential multi-family infill development is possible on large parcels and adds much needed residents .
2. Residential open space convenient to nearby residents.
3. The form reflects the scale and historic development pattern of Old Louisville. Roof and facade recesses and projections reduce mass and provide visual relief.
4. Parking is accessed from the alley only.
5. Units have a minimal setback and ground floors are elevated giving the units a more urban presences and the potential for partial subgrade parking.

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HISTORIC NEIGHBORHOOD

LOT STANDARDS

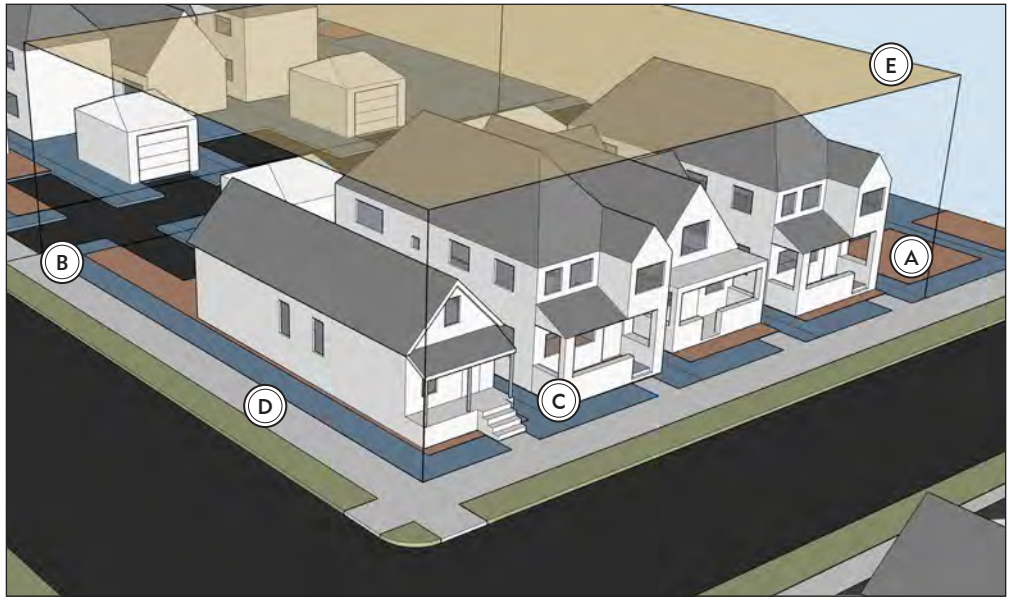
		Residential	Non-Residential and Mixed-Use
	Density	Min: 10 DU/AC Max: 34 DU/AC	Min: N/A Max: 34 DU/AC
	Form District	TNFD	TNFD
	Lot Area	Min attached: 1,500 sf Min detached: 2,500 sf	Min: None
	Lot Width	Min: 25 ft	Min: None
A	**Front and Street Side Yard Setback (corner)**	Min: 5 ft Max: 18 ft Or match established street pattern	Min: None Max: 15 ft For corners refer to Traditional Neighborhood standard 5.5.1.A.2
B	**Rear Yard Setback**	Min: 5 ft	Min: 5 ft
C	**Side Yards (Each)**	Min detached: 3 ft	Min: None if adjacent to Non-Res or MU Min: 5 ft if adj. to SF Res
	Front Facade Zone [2]	N/A	N/A
	Stepback Minimum [2]	N/A	N/A
D	**Sidewalk Width** [6]	Min: 7 ft	Min: 7 ft
E	**Building Height**	Max for SF: 35 ft Max for MF: 45 ft or same as tallest adjacent	Max: 45 ft or 3 story or same as tallest adjacent
	Minimum Streetwall Height	N/A	N/A

FOOTNOTES:

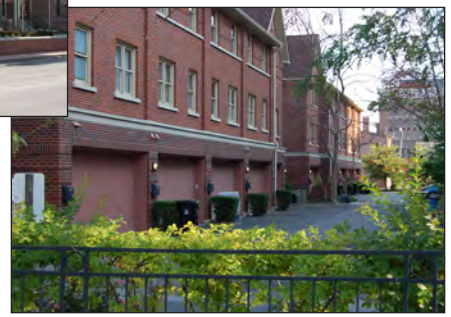
[1] See LDC 5.2.1.D for an illustrative description and a calculation example.

[2] See Chapter III, Section C of this PDD for a description.

[6] Public Works may vary the required minimum widths of sidewalks and verges based on site conditions.



This massing model illustrates some of the development standards in the table to the left.



Front and rear views of downtown housing types.

UNIQUE REQUIREMENTS

REQUIRED

H.1 Wall signs shall not be permitted unless integral to the architecture. Internally illuminated signs shall be prohibited.

H.2 The maximum mounting height of street and site lighting shall be fifteen feet (15′).

H.3 A planted verge that is a minimum of four feet (4′) wide shall be established for all new development or redevelopment.

H.4 Cedar shake, wood siding, cement fiberboard shall be permitted as primary siding.

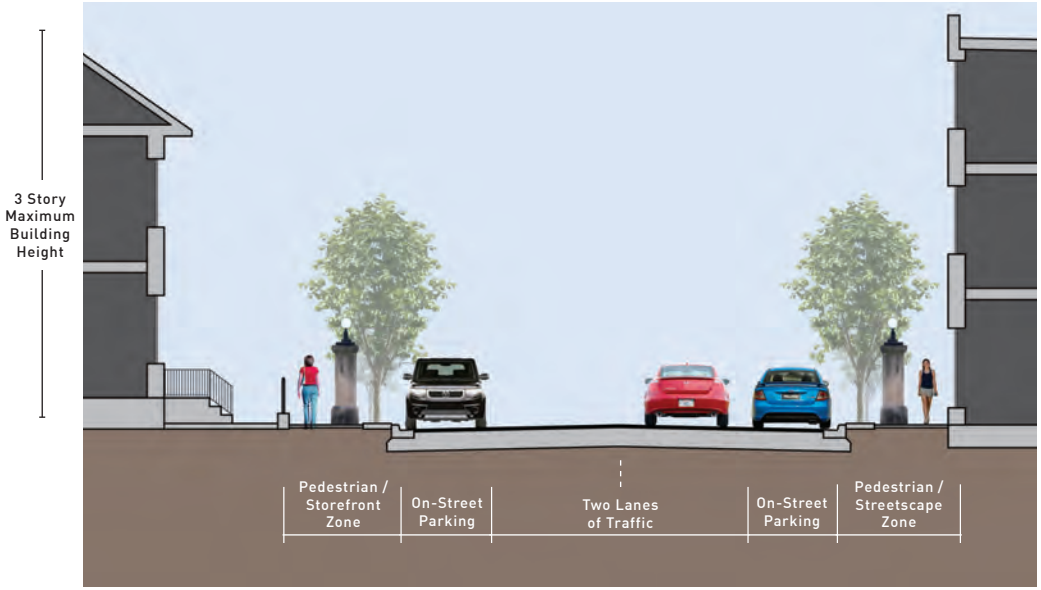
H.5 For non-residential uses locating adjacent to existing single-family housing:

a. a minimum five foot (5′) setback shall be maintained

b. a screen shall be provided consisting of evergreen trees

STREET CHARACTER

- The neighborhood street character should be decidedly more intimate and reflect the primarily residential character.
- Signs, banners, or entry monuments should signal the gateway to the residential area (see cross-section).
- Trees should be planted in a continuous planting area (verge) that separates the pedestrian sidewalk from the parking or travelway.
- A "frontyard", small green space that is fenced, or a raised porch entry is encouraged.
- Use redevelopment as an opportunity to create midblock streets or alleys resulting in smaller blocks for better and more human scale connectivity



TYPICAL HISTORIC NEIGHBORHOOD SUBAREA CROSS-SECTION

* This cross section is conceptual. Refer to Louisville Metro thoroughfare standards.

USE & LOT STANDARDS III

A. LAND USE

The following tables address land uses by Subarea.

1. LAND USE CATEGORIES

Land uses have been grouped into the five categories below. Table 1: Permitted, Limited, and Conditional Uses on page 41 lists the categories permitted by subarea. For uses not listed below, a table listing specific land uses and the land use categories they fall within is available in the Appendix on page 63.

1.1 Commercial Use Category 1 (CU1)

Consists primarily of retail stores and personal service establishments which:

a. Provide for a wide variety of neighborhood serving uses; and

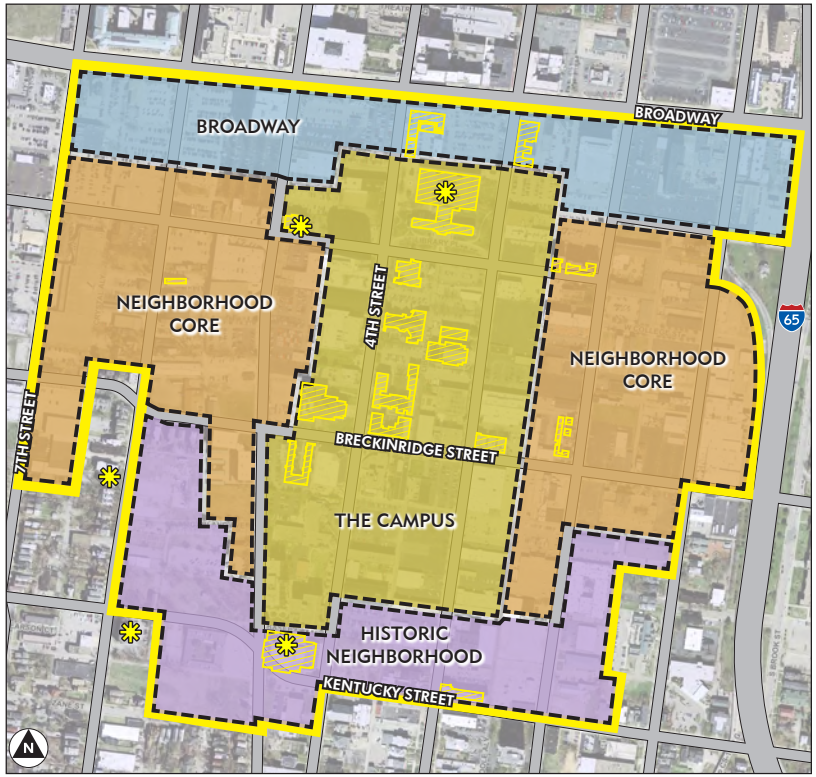
b. Have a small service area and are, therefore, distributed widely throughout the city.

1.2 Commercial Use Category 2 (CU2)

Consists of more intense entertainment and long- or short-term stay related uses that are typically not considered as neighborhood serving uses. May include bowling alleys, theaters, large dance/club establishments, hotels, and similar uses.

1.3 Institutional Use Category (IU)

Consists primarily of institutional uses of a religious or educational nature. This category also permits community related uses such as community centers.



SoBro PDD Subareas.

1.4 Office Use Category (OU)

Consists primarily of business, professional, medical or governmental offices, and community service facilities.

1.5 Residential Use Category (RU1)

Consists primarily of multi-family residential uses either in stand alone structures or as part of a mixed use building. This category also permits residential care facilities in accordance with KRS Chapter 100. New single-family detached uses are permitted only within the Historic Neighborhood subarea.

1.6 Residential Use Category (RU2)

Consists of institutional related residential housing such as dorms, fraternities, and sororities.

2. LIMITED USE CATEGORIES

Limited Uses are comprised of either specific land uses or specific land use categories that may be permitted as long as specific criteria are met. These locational and design criteria are prerequisites and therefore are not eligible for waivers and variances. Below is the list of limited uses and limited use categories.

2.1 Limited Use Category 1 (LU1)

Consists of Advanced Commercial Uses including uses incidental to the principle commercial activities (sales or office), including, but not limited to scientific research / lab space, assembly, manufacturing, packing, and other activities. These uses generally receive/ship deliveries by box truck, not tractor/trailer, and do not generally create hazardous waste or other by-products with special disposal needs. These uses may occupy very large footprints, larger than a standard retail or office facility.

a. Limited to property fronting Seventh Street or adjacent to the I-65 corridor.

2.2 Limited Use Category 2 (LU2)

Contains all uses within CU1 with the addition of uses indirectly related to the automobile (uses with drive-through and drive-in related facilities including drug stores, coffee and sandwich shops, banks, dry cleaners and similar). LU2 is subject to the following standards:

a. Limited to property within the SoBro PDD, north of Breckenridge Street.

b. The structure shall be located at the minimum front setback or build-to line unless otherwise specified within the Subarea.

c. There shall be direct pedestrian access between the primary entrance of the structure and the adjacent public sidewalk.

d. The drive-through facility shall not have more than two (2) service lanes.

e. New access to right-of-way is prohibited unless required by Metro Public Works. Drive through service windows and ordering stations shall not be located between the building and the public street.

f. Alley access to the development site shall be required, where alleys are available.

g. Canopies for the drive-through windows shall be attached to the structure.

h. The drive-through facility, including any canopy, shall be compatible in both material and architecture with the primary structure.

i. Canopies shall have recessed lighting.

j. Menu boards shall be limited to one and have low level illumination.

2.3 Limited Use Category 3 (LU3)

Consists of parking garages. Within the limited use category, the following standards shall apply:

a. This use shall not be located adjacent to or directly across the street from existing single-family residential uses.

b. Ramped floors shall not be visible from the street.

c. At least fifty percent (50%) of the first floor facade shall be developed for retail or office uses. Areas designed to accommodate

these uses may be developed at the time of the construction, or may be designed for later conversion to such uses.

d. Garage entries and exits for both pedestrians and vehicles shall be clearly marked by materials, lighting, signage, etc., to ensure pedestrian safety.

e. Parking structures shall adhere to all building location and design standards set forth in Sections 5.2.9 and 5.2.11 of the LDC.

f. Loading and service areas shall be accessed from alleys, secondary or side streets, interior parking garages, or from the rear of buildings, and not from the public street frontage of buildings.

2.4 Limited Use Category 4 (LU4)

Consists of structures intended for accessory residential use (carriage houses).

a. This use shall be permitted only as accessory to a single-family structure within the Neighborhood Core and Historic Neighborhood.

2.5 Limited Use Category 5 (LU5)

Consists of Transitional Housing as defined by the Land Development Code. The inclusion of this standard is the result of recent litigation regarding fair housing standards in Louisville. Applies to all zoning districts.

a. Density – Transitional housing facilities constructed as dwelling units shall have a maximum density based on the density of the applicable zoning district (dwelling units per acre). The maximum density for transitional housing facilities (not constructed as dwelling units) shall be based on the density of the applicable zoning district multiplied by the average family size obtained from the most recent decennial census for Jefferson County, Kentucky rounded to the nearest whole number. The resulting number would be the maximum number of beds for a facility. (Example: The Neighborhood Core subarea has a maximum density of 58 dwelling units per acre, multiply the 58 by 3 (average family size established by the 2000 census was 2.97) and that will give you the maximum beds per acre as 174).

b. Parking spaces shall be determined by the planning director based on the number of employees, the number of residents with a motor vehicle and the potential number of visitors to the site as described by the applicant in a parking study of similar uses.

c. Signage for transitional housing within a single family residential or multifamily residential zoning district shall be limited to a 12 square foot freestanding sign not to exceed six (6) feet in height unless within the Downtown form district in which case a 12 square foot attached sign shall be allowed. If located within any other zoning district all signs shall be in accordance with the requirements of chapter 8 of the Land Development Code.

d. Shall be certified as compliant with any licensing provisions adopted in the Louisville Metro Code of Ordinances. New facilities must obtain certification within one year of land use approval. All facilities must remain in compliant status with the licensing provisions while in operation.

e. All applicable land development code requirements including but not limited to floor area ratio, building setback, landscape buffers and building heights shall be maintained.

2.6 Limited Use Category 6 (LU6)

Consists of Homeless Shelters as defined by the Land Development Code. The inclusion of this standard is the result of recent litigation regarding fair housing standards in Louisville. Applies to all zoning districts.

a. Density – The maximum density (number of beds) for homeless shelters shall be based on the density of the applicable zoning district multiplied by the average family size obtained from the most recent decennial census for Jefferson County, Kentucky rounded to the nearest whole number. (Example: The Neighborhood Core subarea has a maximum density of 58 dwelling units per acre, multiply the 58 by 3 (average family size established by the 2000 census was 2.97) and that will give you the maximum beds per acre as 174).

b. Parking spaces shall be determined by the planning director based on the number of employees, the number of residents with

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a motor vehicle and the potential number of visitors to the site as described by the applicant in a parking study of similar uses.

c. Signage for homeless shelters within a multifamily residential zoning district shall be limited to a 12 square foot freestanding sign not to exceed six (6) feet in height unless within the Downtown form district in which case a 12 square foot attached sign shall be allowed. If located within any other zoning district all signs shall be in accordance with the requirements of chapter 8 of the Land Development Code for non-residential signage.

d. Shall be certified as compliant with any licensing provisions adopted in the Louisville Metro Code of Ordinances. New facilities must obtain certification within one year of land use approval. All facilities must remain in compliant status with the licensing provisions while in operation.

e. All applicable land development code requirements including but not limited to floor area ratio, building setback, landscape buffers and building heights shall be maintained.

f. Emergencies/White Flag Days – During white flag days and other emergency situations additional occupants beyond the bed capacity established by the maximum density shall be permitted for the duration of the emergency or white flag event as long as all safety standards (e.g. Fire Code) are maintained.

2.7 Limited Use Category 7 (LU7)

Consists of all uses permitted within the M-1 zoning district of the Louisville Metro Land Development Code. The following standards shall apply to this limited use:

a. These uses are limited to property within the Neighborhood Core Subareas and to properties with frontage on either 7th Street on the west side of the neighborhood and properties between Interstate 65 and 1st Street on the east side of neighborhood.

b. Outdoor storage is not permitted (M-1 zoning does not permit outdoor storage of materials).

c. New structures shall be located at the minimum front setback or build-to line unless otherwise specified within the Subarea.

d. These uses are not subject to the minimum height requirement of the applicable subarea.

2.8 Limited Use Category 8 (LU8)

Consists of auto oriented uses related to off-street parking lots (as a primary use) and auto display and sales establishments. The following standards shall apply to this limited use:

a. These uses are limited to property within the Broadway, Campus and Neighborhood Core Subareas.

b. These uses are also limited to cumulative tract sizes of two (2) acres or more (minimum tract sizes includes adjoining and abutting properties).

c. These uses are not subject to the minimum height requirement of the applicable subarea.

d. New structures shall be located at the minimum front setback or build-to-line unless otherwise specified within the Subarea.

e. New auto display areas shall be screened in accordance with Chapter 10 of the Land Development Code.

2.9 Limited Use Category 9 (LU9)

Consists of auto oriented uses related to automobile service and repair and automobile part sales. The following standards shall apply to this limited use:

a. These uses are limited to the Broadway, Neighborhood Core, Campus and Historic Neighborhood. Within the Historic Neighborhood Subarea, these uses are further restricted to lots with frontage on Kentucky Street or 3rd Street.

b. New structures shall be designed and oriented so that automotive bays shall not be visible to public streets (excluding alleys).

c. No more than five (5) automotive bays are permitted on any individual property.

d. These uses are not subject to the minimum height requirement of the applicable Subarea.

e. New structures shall be located at the minimum front setback or build-to-line unless otherwise specified within the Subarea.

2.10 Limited Use Category 10 (LU10)

(1) Consists of auto oriented uses related to automotive operational uses, such as gas stations and car washes. The following standards shall apply to this limited use:

a. These uses are limited to property within the Broadway Subarea with street frontage on Broadway.

b. New car wash structures shall be designed, so that car wash bays are screened from or not visible to public streets (excluding alleys).

c. These uses are not subject to the minimum height requirement of the applicable Subarea.

d. Principal building facades shall include masonry materials consistent with the masonry wall described in standard III.A.2.10(1)(e) below.

e. All street frontages not held by a building or vehicular or pedestrian access shall include a five foot (5′) wide amenity area with a three foot (3′) tall masonry wall. This amenity area shall also include a combination of the following: large trees (Type A trees from LDC with a forty-foot (40′) spacing) (unless provided within the right-of-way) and evergreen shrubs (planted so that 1/3 of the street frontage is planted), public art, or outdoor seating areas; the amenity area may include the use of up to two feet (2′) of a public sidewalk or right-of-way pursuant to a license agreement approved by Metro Public Works. Off-street parking and vehicle use areas may be located on the side or in front of structures as long as these standards of this limited use are met.

f. New structures shall be located at the minimum front setback or build-to-line unless otherwise specified within the Subarea, except for the following design alternative for corner lots:

1. New structures do not have to hold the street corner as long as the following standards are met:

i. All new principal buildings shall be constructed with at least one (1) building façade within five feet (5′) of a property line with street frontage, unless a greater setback is needed to accommodate an access, driveway, or off-street parking and vehicular use areas as provided for in III.A.2.10(1)(e) above, and as approved by Metro Public Works.

ii. On lots where new buildings are positioned more than twenty feet (20′) from the street corner property lines, a minimum twenty-foot by twenty-foot (20′x20′) amenity area shall be provided at the street corner. This area shall include the three foot (3′) masonry wall (from standard III.A.2.10(1)(e)), plus a combination of landscaping, public art, or outdoor seating.

2. On corner sites where two entrances cannot be provided based on the internal configuration of the new principal building, a single entrance may be provided as long as a direct and unobstructed (in this case, unobstructed means that the walkway does not cross through a vehicle use area) walkway of six feet (6′) is provided from the public sidewalk to the building entrance. This single entrance may be oriented away from the public street as long as sufficient directional signage is provided identifying the location of the building entrance to the pedestrian.

g. All street facing sides of a new building shall have a consistent architectural style.

h. New principal building facades facing public streets shall be designed with a combination of transparent windows and doors, and/or animating features along at least sixty percent (60%) of building facade.

i. New gas canopies shall be designed to complement the materials and design of the principal structure on the site.

(2) Sections IV.B.4.3 (Parking Area Setback) and 4.5 (Off-Street Parking Location) of the Guidelines shall not apply to Section III.A.2.10 (LU10).

(3) Where in conflict with Section III.A.2.10 (LU10), Section IV.B.3.1 (Parking Area Landscaping) shall not apply.

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3. CONDITIONAL USE CATEGORIES

Conditional uses require a conditional use permit from the Board of Zoning Adjustment. The following uses shall be conditional:

3.1 Conditional Use Category 1 (CO1)

Consists of uses that are appropriate only within the M-2 Industrial Districts as listed within Section 2.5.1 and 2.5.2 of the Land Development Code (LDC). Applications for this conditional use permit shall be limited to property fronting Seventh Street and the Interstate 65 corridor. Uses are subject to the following:

a. Areas proposed for outdoor storage, loading areas, or similar activity shall be subject to the screening standards of Section IV.1.10.a of this PDD.

3.2 Conditional Use Category 2 (CO2)

Consists of recreational uses (such as athletic fields, gyms, etc.) owned and operated by an institutional use (e.g. school, college, university, or church). These uses are subject to the following:

a. If recreational uses are located within 500 feet of residential use and/or mixed use development with a residential component, the applicant shall submit a lighting plan documenting compliance with Section 4.1.3 (Lighting ordinance) of the LDC; and

b. If adjacent to a residential use and/or mixed use development with a residential component, the applicant shall submit landscaping plan review and approval of the board with guidance from staff landscape architect. Such plan shall provide the best possible screening of recreational facilities, while preserving the urban design development.

c. Recreational facilities shall provide screening adjacent to public streets that includes a minimum three foot masonry wall as well as a combination of wrought iron fencing and/or plantings to enhance the urban design of the development. Such screening shall be reviewed and approved by the board with guidance from staff landscape architect.

d. The board shall determine based on the adjacent uses and the use of the proposed facility; the hours of operation that promote compatibility with adjacent land uses.

4. ADMINISTRATION OF USE CATEGORIES

At time of development plan review the Director of Planning and Design Services or designee shall make a determination if the proposed use can reasonably be interpreted to fit one of the land use categories listed within the Planned Development District. Prior interpretations made for uses in the Planned Development District may be used to make this determination. Decisions of the Director or designee may be appealed to the Board of Zoning Adjustments in accordance with Chapter 11 of the LDC and applicable provisions of the Kentucky Revised Statutes.

5. EXISTING LAND USES

Land uses in effect prior to the adoption of these regulations and operating in a legal fashion according to the prior zoning classification of the property, including legal non-conforming uses, may continue to operate under the prior zoning classification of the property. Legal non-conforming uses may not be expanded and are subject to Section 1.3 of the LDC.

TABLE 1: PERMITTED, LIMITED, AND CONDITIONAL USES

List of Uses	Broadway	Campus	Neighborhood Core	Historic Neighborhood
Commercial Use Category 1 (CU1)	✓	✓	✓	✓
Commercial Use Category 2 (CU2)	✓	✓	✓	
Institutional Use Category (IU)	✓	✓	✓	✓
Office Use Category (OU)	✓	✓	✓	✓
Residential Use Category (RU1)	✓	✓	✓	✓
Residential Use Category (RU2)		✓		
Limited Use Category 1 (LU1) [1, 5]			✓	
Limited Use Category 2 (LU2) [2, 5]	✓		✓	
Limited Use Category 3 (LU3) [3]	✓	✓	✓	
Limited Use Category 4 (LU4) [4]			✓	✓
Limited Use Category 5 (LU5)	✓	✓	✓	✓
Limited Use Category 6 (LU6)	✓	✓	✓	✓
Limited Use Category 7 (LU7) [5]			✓	
Limited Use Category 8 (LU8)	✓	✓	✓	
Limited Use Category 9 (LU9) [5]	✓	✓	✓	✓
Limited Use Category 10 (LU10) [5]	✓			
Conditional Use Category 1 (CO1) [5]			✓	
Conditional Use Category 2 (CO2)		✓		

[1] Limited to property fronting Seventh Street or adjacent to the I-65 corridor.
[2] Limited to property within the SoBro PDD, north of Breckenridge Street.
[3] This use shall not be located adjacent to or directly across the street from existing single-family residential uses.
[4] This use shall be permitted only as accessory to an existing single-family structure within the Neighborhood Core.
[5] These limited and conditional uses have additional location restrictions.

Note: **Land uses in effect prior to the adoption of these regulations and operating in a legal fashion according to the prior zoning classification of the property, including legal non-conforming uses, may continue to operate under the prior zoning classification of the property. Legal non-conforming uses may not be expanded and are subject to Section 1.3 of the LDC.**

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TABLE 2: PROHIBITED LAND USES

List of Uses	Broadway	Campus	Neighborhood Core	Historic Neighborhood
Single-Family Detached/ Two-Family Residential Use	x	x	x	
Surface Parking Lot as Primary Use	x	x	x	x

B. LOT STANDARDS

1. LOT STANDARDS

The lot standards contained here in are prescriptive enough to elicit structures of a certain form, mass, and scale. These standards replace the Form District Standards. In some instances, this PDD refers back to the Louisville Metro Land Development Code. Where this PDD is silent on a standard, the LDC standard shall apply. If there is a conflict between the LDC and SoBro PDD, then the PDD standards shall supercede. These standards are illustrated in sketches in the previous chapter.

TABLE 3: LOT STANDARDS

Subarea	Density	Form District	Lot Area	Lot Width	Front Setback and Street Side Yard Setback (corner)	Rear Yard Setback	Side Yards (Each)	Front Facade Zone [5]	Stepback Minimum [4]	Sidewalk Width [6]	Building Height	Minimum Streetwall Height
Broadway[1]	Min: N/A Max: 145 DU/AC	DFD	Min: None	Min: None	Min: None Max: Up to 15 ft if at least 80% of the structure is within the Front Facade Zone [3] For corners: maintain street wall for at least 50 ft from the intersection	Min: 5 ft if on alley	Min: None Max.: 10% of lot frontage	5 ft	≤ 14 stories = 0 15-18 stories = 15 ft 19-22 stories = 25 ft > 22 stories = 10 ft per 4 floors (N/A if GFA < 9,000 sf)	Min: 15 ft along Broadway Min: 7 ft all other streets	Min: 4 story Max: None	Min: 3 story with permitted 18 in. recesses for architectural elements (columns, etc.) [2]
Campus[1]	Min: N/A Max: 58 DU/AC				Min: None Max: Up to 15 ft if at least 60% of the structure is within the Front Facade Zone [3] For corners: maintain street wall for at least 50 ft from the intersection				N/A	Min: 7 ft	Min: 2 story Max: 6 story or same as tallest adjacent	N/A
Neighborhood Core[1]	Min: N/A Max: 58 DU/AC				Min: None Max: 15 ft For corners: maintain street wall for at least 50 ft from the intersection			N/A				
Historic Neighborhood – Residential	Min: 10 DU/AC Max: 34 DU/AC	TNFD	Min attached: 1,500 sf Min detached: 2,500 sf	Min: 25 ft	Min: 5 ft Max: 18 ft Or match established street pattern	Min: 5 ft	Min: 3 ft for detached structures		N/A		Max for SF: 35 ft Max for MF: 45 ft or same as tallest adjacent	
Historic Neighborhood – Non-Residential and Mixed-Use	Min: N/A Max: 34 DU/AC		Min: None	Min: None	Min: None Max: 15 ft For corners: Refer to the Traditional Neighborhood standard in 5.5.1.A.2.	Min: 5 ft	Min: None if adjacent to Non-Res or MU Min: 5 ft if adj. to SF Res				Max: 45 ft or 3 story or same as tallest adjacent	

[1] SF Detached Prohibited

[2] Ground floor recesses not counted if upper streetwall is maintained

[3] A full block redevelopment may be set back up to ten feet (10') from ROW to accommodate a widened sidewalk.

[4] See LDC 5.2.1.D for an illustrative description and a calculation example.

[5] See Chapter III, Section C of this PDD for a description.

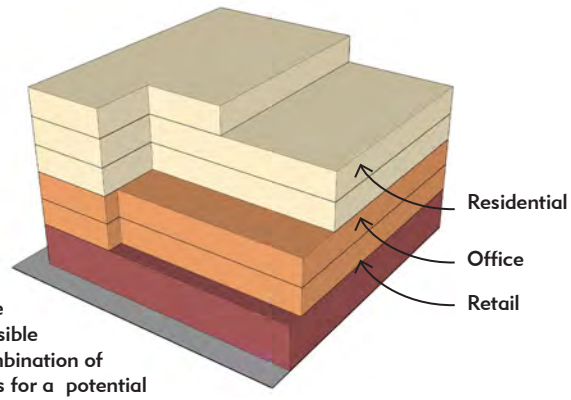
[6] Public Works may vary the required minimum widths of sidewalks and verges based on site conditions.

C. USE AND LOT STANDARD TERMS

MIXED-USE DEVELOPMENT

Mixed-use development is not only permitted in all subareas, it is encouraged. This type of development can not only provide activity at many times throughout the day, but can provide a level of security for a building's continued use as economies change.

A mixed-use structure/development contains two (2) or more separate principal, compatible uses such as office, retail, service, civic, entertainment, or residential, that are unified, complementary, and functionally integrated with shared vehicular and pedestrian access and parking as illustrated below.

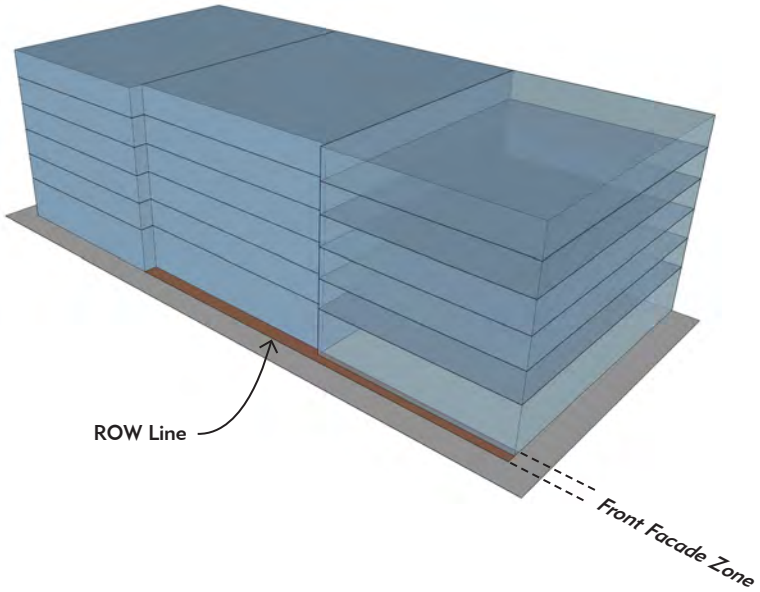


One possible combination of uses for a potential mixed-use structure.

The building at right has been designed to accommodate many combinations of uses. Retail, residential, and office uses would all be appropriate for this structure.

FRONT FACADE ZONE

The Front Facade Zone is a designated area of a lot that is adjacent to the right-of-way along the front lot line. The intention of this zone is to allow a new structure to break from the streetwall in order to provide up to five (5) additional feet of sidewalk within the lot. This space could be used as a plaza, for outdoor dining, as part of the pedestrian walkway, or as an additional landscape planting area. The images below illustrates the Front Facade Zone possibilities.



DESIGN STANDARDS & GUIDELINES IV

A. INTENT

As noted in the ***2007 SoBro Neighborhood Plan***, the reuse of existing structures, buildings, or redevelopment on vacant lots and existing surface parking areas is desired throughout the SoBro neighborhood. The following development and design standards are intended to ensure future infill development is compatible with the remaining urban fabric of SoBro. Some of the overarching principles for these standards include:

- The scale, proportion, and massing of adjacent structures should inform the design of infill development.
- Historic buildings should not be faithfully copied, but should instead be used as inspiration for compatible contemporary architecture that reflects the unique character of SoBro.
- Character-defining features on existing historic buildings should be emulated or adapted as part of new construction. Such features could include cornice lines, materials, entrance treatments, facade divisions, or fenestration. Such features can also provide a pedestrian scale to new building facades.
- Building facades and entrances should be oriented to adjacent streets or at the intersection of two streets (building corners).
- Off-street parking spaces should be located at the rear of new structures in order to maintain a consistent "street wall".

A clearly defined first floor cornice, material change, and streetscape elements provide an inviting pedestrian setting.

B. STANDARDS

The following standards shall be applicable to the SoBro PDD.

See Also Chapter 5, Part 6 of the LDC for additional building design standards for Non-Residential and Mixed Use Structures.

1. NON-RESIDENTIAL, MIXED-USE, AND MULTIFAMILY RESIDENTIAL ARCHITECTURE

The following building design standards are intended to allow for architectural diversity while encouraging design of buildings that relate to and reinforce the overall character of their immediate surroundings. The standards aim to create a strong building-to-pedestrian relationship through the use of building details that establish a human scale. Building design should reinforce exterior spaces, respond to the natural and existing built environment, use contextual building materials, and contribute positively to the social environment.

1.1 Facade Design

a. Facades that are adjacent to potential infill development sites may employ materials and design methods that would be compatible with adjacent future infill.

REQUIRED

b. New structures shall have a cohesive, unified design on all facades. This section shall apply to all primary facades, including corner structures that may include two primary facades, and for at least fifty percent (50%) of all other building walls that are visible to public gathering areas, connecting walkways, or that face adjacent development separated by parking areas, private gathering areas, or other non-structured area.

c. Blank, unarticulated walls shall not extend for distances greater than twenty-five feet (25′).

d. Multi-family structures shall not have attached front facing garages. Garages shall be accessed from alleys or, in the case of a development consisting of multiple units, from an internal drive accessible from the rear.

1.2 Facade Spacing/Rhythm

REQUIRED

The primary facade of a new building shall be designed to reflect the rhythm characterized by the surrounding buildings on the same block face.

a. Vertical rhythm

1. Non-Residential and Mixed-Use: Building facades shall use columns, piers, and window design/placement or similar architectural features spaced no less then every twenty-five feet (25′) to create vertical breaks at regular intervals.
2. Multi-Family: Façades facing a public street or including the principal entrance shall include animating features such as offsets or setbacks with a differential in horizontal plane of three feet, porches, bay windows, balconies, variation in building materials, or other design features, a minimum of each thirty (30) linear feet.

b. Horizontal rhythm: A clear visual division between the ground floor and upper level floors shall be established using cornice lines, windows, permanent awnings, or similar architectural elements. The horizontal line established through the use of such architectural elements shall vary in elevation by no more than thirty-six inches (36″) from one building to the next.

Examples of vertical and horizontal rhythm.

1.3 Facade Fenestration

REQUIRED

Windows shall provide visual definition and help to reduce the visual mass of buildings.

a. A minimum of fifty percent (50%) of the street level facade shall be transparent.

REQUIRED

b. The size and proportion of window openings shall be similar to those on surrounding primary facades.

c. Opaque or reflective glass shall not be used on street level facades. The use of low emissivity (low-E) glass is encouraged to maintain transparency.

1.4 Building Materials

REQUIRED

a. New structures shall incorporate the following materials or similar with regard to lifespan, durability, and aesthetic context. Care shall be taken as to the application and use of the material.

- Cast Stone
- Cement Fiberboard (such as Hardie Plank or similar)
- Clay brick
- Glass with reflectance of thirty percent (30%) or less
- Granite
- Limestone
- Marble
- Precast Concrete
- Sandstone
- Steel
- Stucco
- Terracotta

b. High quality materials should be compatible with surrounding development, durable, and convey a sense of permanence.

c. The use of a single building material visible from public streets - especially concrete, stucco or stone - without definition or accent is discouraged.

d. Reflectance

REQUIRED

1. Glass (reflectance greater than forty percent (40%) shall be prohibited.
2. Ground-level nonresidential facades shall have high light transmission values at the pedestrian level.
3. Surfaces, excluding roofs, shall not have a reflectance greater than fifty-five percent (55%).

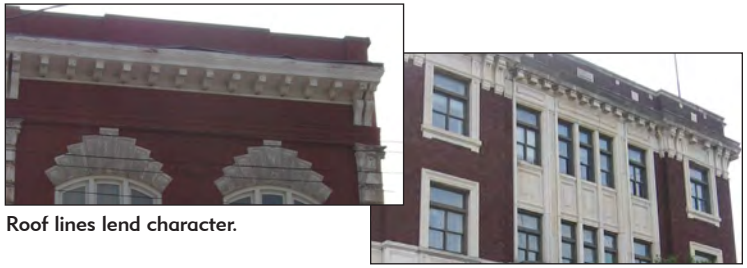
1.5 Roof Lines

REQUIRED

a. The uppermost portion of the facade (building massing, roof form, eave, cornice, upper floor level(s), roof top design and/or parapet) of all buildings shall be articulated with a treatment in scale with the building.

b. Roof-mounted mechanical or utility equipment shall be screened or fully integrated into the overall design through the use of like or complementary materials, color, and scale.

c. Rooftop zones should be designed integral with the building with consideration given for the view from the grade level and from other buildings.



Roof lines lend character.

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1.6 Building Corner Treatment

REQUIRED

a. Buildings located at street corners shall serve as distinguishable gateways, engaging the interest of drivers, pedestrians and bicyclists at the intersection.

b. Corner buildings shall provide additional building mass or distinctive architectural elements to emphasize the corner location.

c. Buildings on corner lots should use windows, doors or architectural detail to address facade design on both street frontages.

d. The height may exceed established limits by ten percent (10%) for emphasis up to a distance of fifty feet (50′) extending along each property line from the corner of the property.

Building corner highlighted with columns, recessed entry, and change of material.

1.7 Entrances

REQUIRED

a. There shall be a minimum of one (1) functional pedestrian entrance accessed directly from the primary street frontage of a building. If an entrance is at the corner, it shall satisfy the intent of a primary entrance for the building.

b. Principal entry doors shall be oriented toward the street and recessed, covered or otherwise clearly identifiable through the use of architectural design elements. Entry areas shall be well lighted.

REQ'D

1.8 Awnings/Canopies

REQUIRED

a. Awnings, when used, shall be installed so that the valance is at least seven feet six inches (7′-6″) above the sidewalk.

b. The width of a single awning shall extend the full width of the window and shall not exceed forty feet (40′).

c. Canopies shall be at least eighteen inches (18″) from the face of curb or recessed at least one foot (1′) from an established or proposed tree line. Awnings shall not extend into the Streetscape Zone.

d. Awnings shall not be internally lit.

e. The following materials shall not be used for awnings: Fiberglass; Plastic.

Awning with sign highlights storefront and reinforces pedestrian area.

1.9 Balconies

REQ'D

a. Balconies shall be a minimum of eight feet (8′) above sidewalk grade.

b. Balconies should be designed so that they do not encroach into a public right-of-way more than four feet (4′) and do not require support systems.

Balconies on urban buildings.

1.10 Service Areas

REQUIRED

a. Except at points of vehicular access, loading berths, service areas, trash storage, exterior work areas, storage yards, and truck parking shall be adequately screened from public streets, public open spaces and residential properties using building mass or freestanding walls and gates. Landscaping may also be incorporated to enhance the structural screen. The screening shall be a minimum of six feet (6′) in height.

b. Except for dumpsters recessed into a building, the minimum height service area or dumpster enclosure screening shall be six feet (6′). Gates shall be provided.

c. Roof-mounted mechanical or utility equipment shall be screened or fully integrated into the overall design through the use of like or complementary materials, color, and scale.

d. Whenever feasible, loading and service areas should be accessed from alleys, interior parking garages, or from the rear of buildings, rather than from the front of buildings.

2. STREETSCAPE

Streets and sidewalks form the greatest amount of public space in a downtown. The scale and proportion of the street in relation to the surroundings, and the streetscape amenities can contribute to or detract from the ultimate goal to bring vibrancy to an urban neighborhood. The relationship between a street and adjacent buildings is an important part of the urban experience. The width of the street can influence the desired height of the building streetwall, which in turn can help to create a comfortable, well-proportioned environment. The ideal streetwall proportion is 2:1. Generally, the streetscape lies within the public realm and is controlled and maintained by the local jurisdiction. However there is a zone of varying width that is adjacent to the street and privately owned that can be a great determinant of character.

2.1 Sidewalks

Public Works may vary the required minimum widths of sidewalks and verges based on site conditions.

REQ'D

a. For minimum width, refer to Table 3: Lot Standards on page 43 of this PDD. Proposed sidewalks on private property may require a sidewalk easement from Metro Public Works.

b. Non-residential and multi-family structures should provide a minimum width of nine feet (9′), where possible, for amenities including seating, window boxes, urns and planters, bike racks, and similar elements that enrich the streetscape. Nine feet (9′) can accommodate a five foot (5′) wide streetscape zone for street trees while maintaining a minimum four foot (4′) pedestrian clearance zone.

c. Decorative paving materials should be incorporated into the pedestrian areas to highlight different functions, semi-public space or building entries.

2.2 Street Layout

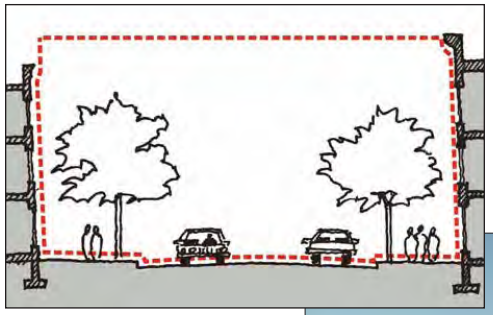
REQUIRED

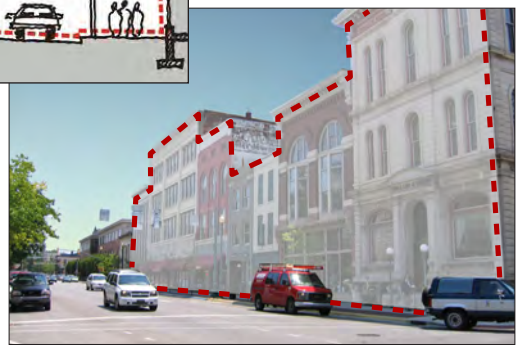
For large-scale redevelopment, blocks within the SoBro PDD shall have an uninterrupted block face of no more than four hundred fifty feet (450′); intersecting streets should be placed at intervals of five hundred to six hundred feet (500-600′) apart, and no greater than eight hundred feet (800′) apart along any single stretch. Alley closures are discouraged.

2.3 Streetwall

REQ'D

A streetwall shall be maintained in all subareas, subject to the height requirements in Table 3: Lot Standards, Chapter III of this PDD.





The street wall represents a vertical plane at the right-of-way line created by structure façades.

2.4 Street Trees

REQUIRED

Deciduous street trees shall be provided within the right-of-way along the frontage of any new construction or renovation unless street trees already exist. Refer to LDC Chapter 10 - Part 1 to determine proper planting of street trees and coordinate with the Louisville Metro Public Works (LMPW). Existing street trees that are in decline as determined by LMPW shall be replaced.

a. Type C street trees shall be spaced between fifteen and twenty feet (15-20′) on center, depending on mature crown width and utility conflicts. Types A and B street trees shall be spaced between thirty and forty feet (30-40′) on center.

b. Street trees shall be a minimum of three and one-half inch (3-1/2″) caliper at the time of planting.

Street trees in sidewalk.

REQUIRED

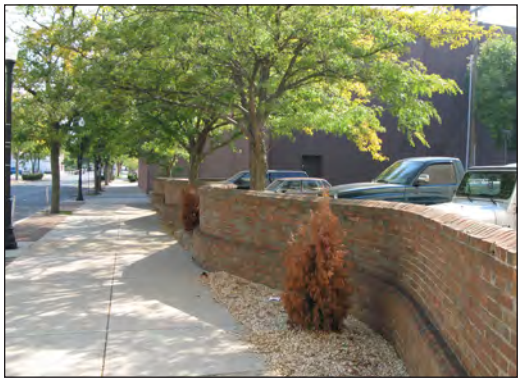
c. Plant material shall not be placed in the sight triangle between two feet and six feet (2-6′) high, in such a way as to impair drivers' views per LDC Chapter 10.4.

d. Trees shall be spaced a minimum of ten feet (10′) from light and utility poles. Refer to Appendix 10A of the LDC to determine which large, medium or small canopy trees are most appropriate to be planted in the vicinity of overhead lines.

e. Street trees shall be planted in a verge or sidewalk planting area that is a minimum width of four feet (4′) and an overall minimum square footage of thirty-two feet (32′). A linear tree well is preferred and more conducive to sidewalk planting. Where necessary, a tree grate shall be placed to maintain a flush grade.

2.5 Right-of-Way Encroachment

All non-city initiated development within the right-of-way including but not limited to pervious pavement, green infrastructure, and street furniture may be required to obtain an encroachment permit, license agreement, and/or maintenance agreement from Metro Public Works.



Parking edge landscape treatments.

3. LANDSCAPE DESIGN

A well-landscaped site is not only more visually appealing, it also serves to screen and buffer structures and uses, delineate separations, conserve energy, and moderate the effects of sun and wind. Landscaping can improve the appearance of individual developments, and collectively enhance a neighborhood and mitigate the urban heat island effect generated by impervious surfaces.

3.1 Parking Area Landscaping

REQUIRED

The following requirements shall be applicable to new or expanded parking areas. Parking area standards must follow those outlined in Section 10.2 of the LDC in addition to the standards noted below.

a. Surface parking lots shall be screened from public streets and residential areas by a continuous screen a minimum of three feet (3′) in height. The screen may be achieved through the use of:
   1. masonry walls, metal, or wrought iron decorative fencing
   2. or a combination of living plant material and masonry walls

b. The minimum width of a parking perimeter planting screen shall be five feet (5′)

c. The minimum width of a parking perimeter fence or wall screen with no plant material shall be two feet (2′), however perimeter trees in tree wells a minimum of five feet (5′) in width shall be provided.

d. Parking perimeter landscape screens shall contain a minimum of one (1) deciduous shade tree per forty feet (40′) of the perimeter (if shade trees already exist in the right-of-way adjacent to the parking area, such trees may be counted to satisfy this requirement).

e. See also LDC Chapter 10 for additional landscaping standards, review and approval procedures, and approved plant lists.

REQUIRED

3.2 Other landscaping (park, plaza building foundation): To reduce the heat island effect, stormwater runoff, and to soften the edges of the urban environment a minimum of twenty-five percent (25%), and minimum of twelve and one-half percent (12.5%) in a 2.10 Limited Land Use Category 10 (LU10), of the area not covered by a structure (setbacks, building foundations, plazas) shall be covered with living plant material.

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3.3 Native plants that are suitable to SoBro's environmental conditions (soil, temperature, rain, snow-melt substances, etc.) are recommended for required and voluntary landscaping projects. Native plants are often hardier, and require less irrigation than non-native plants. It is acknowledged that there are few native evergreen shrubs suitable for the local environs.

4. PARKING AND VEHICULAR ACCESS

The asphalt remnants of relocated automobile sales lots are evident throughout SoBro. Due to a lack of alternative land uses, many became parking lots or hard-surfaced vacant lots. The following standards attempt to minimize these parking fields and bring them in line with current needs by creating a walkable, pedestrian-friendly, urban community. For additional parking standards, refer to LDC Chapter 9.1.

REQUIRED

4.1 There shall be no minimum off-street parking requirement for new buildings or for new uses in existing buildings.

4.2 Within the SoBro PDD, the maximum allowable number of parking spaces for a use shall not exceed one-half (1/2) of the maximum allowable spaces in LDC Table 9.1.2: Minimum and Maximum Motor Vehicle Parking Based on Use.

a. If the number of proposed parking spaces exceeds the maximum set forth in 4.2 above, then one of the following shall apply:

1. The additional spaces shall be placed entirely within a parking structure.
2. Vegetated swales and permeable paving shall be used to detain stormwater runoff and to filter toxins.
3. Canopy trees and other plant material shall be provided for a minimum of fifteen percent (15%) of the total paved area in such a manner as to achieve shade over fifty percent (50%) of the area. The trees provided shall be Type A trees (as defined by the LDC Chapter 10) that maximize the amount of shade that is provided within the parking area.

4.3 Parking areas shall be set back a minimum of five feet (5') from all property lines.

4.4 Parking areas shall be hard surfaced and internally drained. Stone or gravel shall not be permitted as a parking surface. Pervious pavement (shown in the adjacent photo) and individual pavers shall be permitted with approval from Metro Public Works.

4.5 Off-street parking shall not be located between the façade of a building and a public street.

4.6 Additional curb cuts from public streets shall not be permitted unless approved by Metro Public Works. Existing curb cut locations may be relocated and/or modified if approved by Metro Public Works based on their review of the site configuration, land use of the site, proximity to an intersection and current traffic patterns.

4.7 Vehicular entrances and exits shall be located on the street with the lowest functional classification unless otherwise approved by Metro Public Works. Where an alley is available, access shall be provided. Cross access easements may be required by Metro Public Works as part of their review.

4.8 Bicycle Facilities

The SoBro Neighborhood plan encourages all modes of transportation including bicycle transportation. For complete bicycle facility standards, refer to LDC Chapter 9.

REQUIRED

a. Bicycle parking requirements vary by land use. The number of short-term bicycle parking spaces specified in Chapter 9 of the LDC shall be provided.

b. Bicycle parking facilities shall be located within seventy-five feet (75') of the primary entrance of the structure they are associated with. Alternatively, facilities to secure bicycles may be located in adjacent parking lots or structures, or designated interior space.

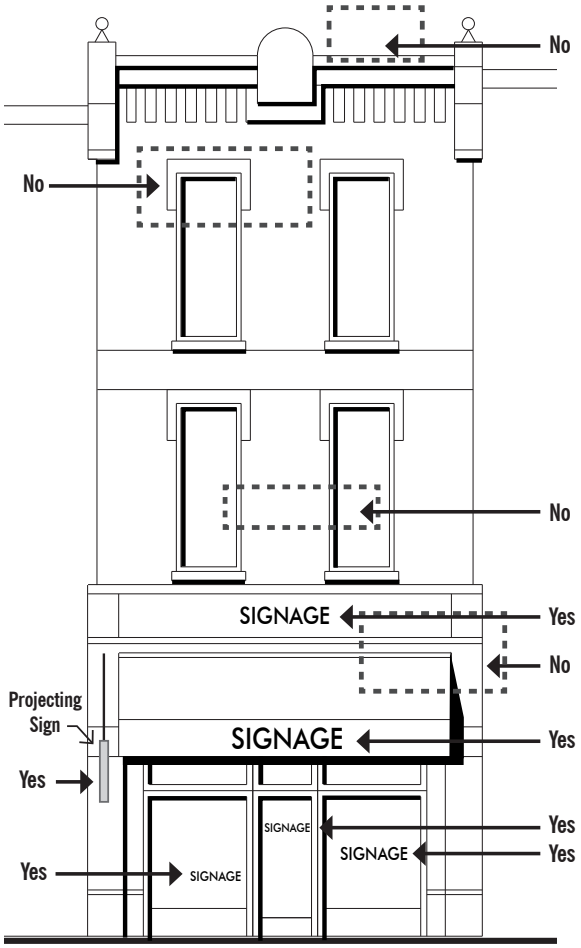
c. Shared facilities shall be permitted if the facilities are not more than seventy-five feet (75') from a publicly accessible entrance of the structure(s)/park(s)/development(s) they are intended to serve.

d. Include clear directional and instructional signage for all bicycle facilities.

e. Designated bike parking facilities may be located within the public right-of-way upon approval by Louisville Metro Public Works.

4.9 Joint Use Parking

Shared parking shall be as specified in Chapter 9.1.17 of the LDC.



Sign size and placement on a building should be influenced by existing architectural elements. The arrangement and size of the windows, the division of the facade, and the form of the base of the building all suggest logical places for signs. Appropriate and inappropriate sign locations are shown.

See Also LDC Chapter 8 for additional sign regulations.

5. SIGNAGE

The standards included in this chapter are intended to encourage signage that functions to identify a business and attract customers. The combination of slower moving traffic, density of the built environment and the movement of pedestrians has a significant influence on the size and placement of signs. Also important are the vertical elements such as lighting, landscaping, and architecture when determining placement (see sketch).

5.1 All signs should be architecturally compatible with the overall design of the development with which they are associated in terms of materials, size, shape, color, and lighting.

5.2 Projecting Signs: A sign affixed to a wall that projects more than twelve inches (12") from the building face, generally at right angles to the building. This sign type is typically oriented towards pedestrian traffic.

REQ'D

a. Projecting and suspended sign area shall not exceed twelve (12) square feet.

b. Internally illuminated projecting signs should have opaque face panels so that only the letters, number, symbols, or logos appear illuminated.

5.3 Lighting & Animation: The individual letters may be externally illuminated or internally illuminated individual letters or reverse channel lit letters. Illuminated signs should be dimmed or turned off during the period from one hour after to one hour before business trade hours.

REQUIRED

5.4 Prohibited Signs: The following types of signs shall be prohibited within the subareas:

a. Off premise billboard signs

b. Freestanding pole signs except directional signs

c. Internally illuminated signs shall have opaque backgrounds with translucent letters, symbols, and logos.

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From top: projecting, awning, wall, and directional signs.

6. SITE LIGHTING

Lighting serves many functions in a downtown environment. It extends the energy of the daytime street life into the evening, contributes to the perception of safety and enhances the appearance of the downtown. Existing light fixtures being repaired or replaced by the City or those already approved or existing in private developments are exempt from the requirements of this section.

REQUIRED

6.1 Site lighting shall be required to illuminate pedestrian areas outside of the public right-of-way including parking areas, building entries, service areas, sidewalks, pathways, parks, and plazas.

6.2 Luminaires with a lamp or lamps rated at a total of more than one thousand eight hundred (1,800) lumens, and all flood or spot luminaires with a lamp or lamps rated at a total of more than nine hundred (900) lumens shall be mounted at a height equal to or less than twenty feet (20') unless otherwise approved by the Planning Commission.

6.3 Luminaires used only to illuminate pedestrian facilities shall not be mounted higher than fifteen feet (15') from the finished grade of the walking surface.

6.4 Site lighting shall be designed to provide a light level of between one and five (1-5) footcandles. Lighting shall not exceed one-half (0.5) footcandles at the property line.

6.5 Lighting may be higher than five (5) footcandles beneath a drive-through bank or service station canopy, but shall not exceed fifty (50) footcandles.

6.6 Additional lighting should be provided from buildings using either indirect illumination from within, down-lighting of the facades, and/or direct illumination under canopies or awnings.

See Also LDC Chapter 4, Part 1, Section 3 for lighting standards including mounting height, maximum foot-candles, recreational facility lighting, pedestrian lighting, foot-candle maximums, mounting height, temporary and prohibited lights (flashing/strobe), and light trespass.

6.7 Building-mounted light fixtures should be an architectural accent to the building.

6.8 Whenever practicable, exterior lighting should include timers, dimmers, and/or sensors to reduce overall energy consumption and eliminate unneeded lighting.

6.9 The electrical service to all outdoor lighting should be underground.

7. OPEN / PUBLIC SPACE

Open space comes in the form of plazas, parks, athletic fields, and places to rest on the street. Refer also to LDC 5.11.1 - Form District Open Space Standards.

REQUIRED

7.1 Non-residential and mixed-use development shall provide semi-public open space at a rate of two percent (2%) of the lot area and twenty percent (20%) of the space shall be planted / pervious surface.

7.2 Residential development or mixed-use development with greater than fifty percent (50%) residential use shall provide either a plaza, patio, or landscaped green area equal to or greater in size than one percent (1%) of the building footprint including seating provided at a rate of one (1) seat per two hundred (200) square feet of outdoor area.

7.3 Development sites located within five hundred feet (500') of a public park shall not be required to provide common open space.

7.4 Open space should be located in highly visible places that are easily accessible from public areas such as streets, building entrances, and sidewalks. They should allow for multiple points of entry.

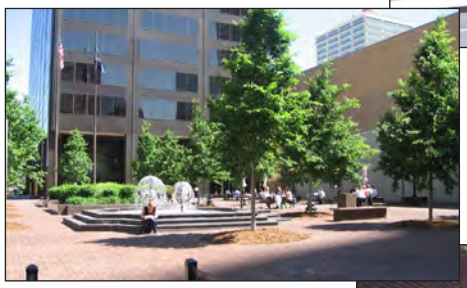
7.5 The streetwall may be chamfered on corners to accommodate open space. Corner buildings may exceed the setback by up to fifteen feet (15') as measured from the edge of the right of-way. A line drawn between these two points shall form the open space.

7.6 Required parks and open space should attempt to incorporate approved public art / water features.

a. Parks and open space areas may do dual duty and also serve as drainage infrastructure. Swales incorporated into the design provide shallow storage and infiltration areas which function as visual amenities.

7.7 If balconies are provided for every dwelling, or roof terraces are provided as common space, they may be counted for up to fifty percent (50%) of the required open space.

7.8 Rooftop gardens may count for up to thirty percent (30%) of required open space.



Open Space takes many forms. From top: athletic field, urban plaza, sidewalk cafe.

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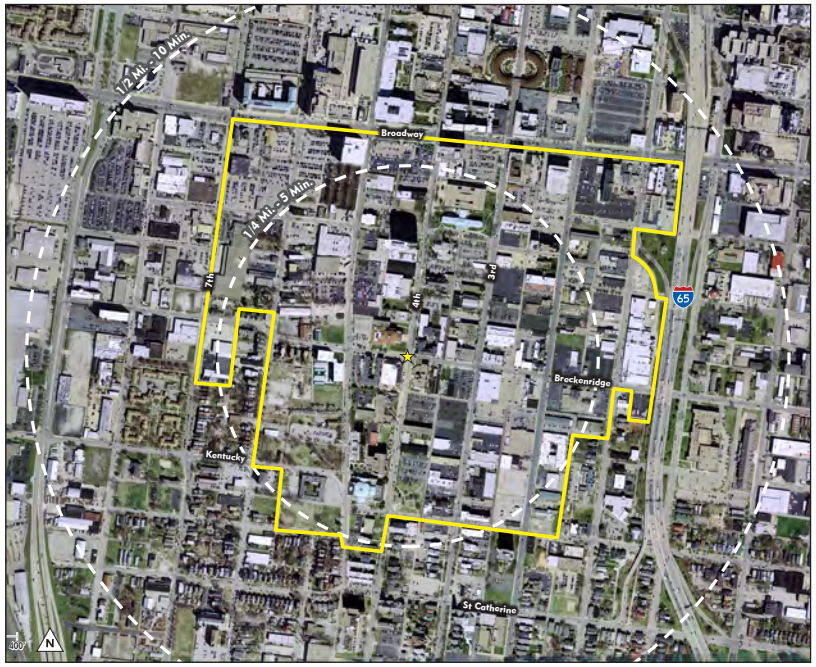
8. THE SUSTAINABLE NEIGHBORHOOD

The SoBro Neighborhood has the potential to be a model for sustainability in Louisville. It is important to promote an ecologically healthy environment which can, in turn, contribute to economic health by reducing long-term energy costs and demands on utilities and infrastructure. The rehabilitation, renovation, and reuse of existing structures and redeveloping on vacant and underutilized lots is a significant step towards "greening" a community. This PDD does not mandate many of the principles but increases awareness of their existence and encourages their incorporation into development proposals.

Louisville Metro government can choose from a variety of incentives and bonuses used by some jurisdictions to support the inclusion of sustainable measures or practices in development proposals. These include:

- expedited review and permitting process



SoBro walkability map: Fourth Street and Breckinridge is the center. The study area lies within a half-mile radius, or ten-minute walk time.

- assigned staff person to shepherd a project through the entire process
- waiver of selected fees
- development density bonuses

8.1 Sustainable Sites

a. Redevelopment on existing built or vacant sites is referred to as infill, as it fills a gap. It can be an economical choice for a developer due the presence of roads and utilities. It can be an economical choice for residents due to the proximity of transit, public facilities, and downtown places to work. The integration of historic buildings and structures give the new neighborhood development a unique sense of place.

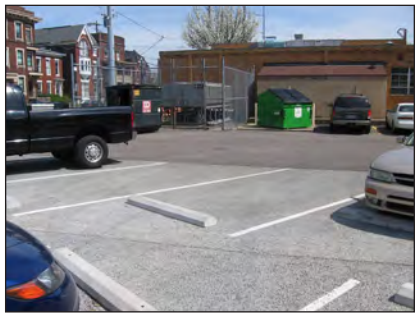
b. The ideal walkable neighborhood is typically no larger than 320 acres. Most people will walk approximately 1/4 mile (1,320 feet) to run daily errands; beyond that, many will take a bicycle or car (LEED 2009 for Neighborhood Development Rating System at www.USGBC.org). There need to be at least 10 places to visit (cafe, personal services, school, post office, neighborhood retail outlet, newstand, church, etc) within these 1/4 mile zones to create a livable, sustainable community. 100% of the SoBro PDD is within 1/4 mile of the TARC bus system, including multiple bus routes. The map on page 56 illustrates SoBro's walkable distances.

c. Redeveloping vacant or underutilized sites is encouraged. This allows for a higher density of development downtown and efficient use of land. By redeveloping downtown sites, land located at the fringe of communities can continue as natural or agricultural land.

d. To reduce demand on the city's stormwater system, pervious surfaces should be incorporated into new development in the form of permeable paving surfaces, landscaped streets, parking lots, roofs, and open spaces.

e. Raingardens can be integrated into streetscape improvements. Verges may be designed to function as raingardens.

f. Using native plants is encouraged to decrease the amount



Permeable paving.

of care and watering needed. Plants used in the downtown landscape should be hardy and drought-resistant.

g. Recycling containers should be provided in addition to trash containers.

h. Green roofs are encouraged for buildings downtown. Green roofs can provide building insulation, combat the Urban Heat Island Effect, reduce the load on the stormwater infrastructure system, and help to filter air pollution.

A green roof.

8.2 Sustainable Buildings

All development projects including renovation and new construction are encouraged to meet or obtain LEED (Leadership in Energy and Environmental Design) certification standards as an expression of commitment to sustainable construction, energy efficiency, and a healthy environment.

a. Rainwater harvesting is encouraged (in appropriate quantities) to be used for watering landscapes rather than using chlorinated, potable water.

b. Solar access, both for energy generation and access to natural lighting, is encouraged as a form of alternative energy. Buildings that utilize solar generation equipment have lower energy costs. Buildings with a high amount of natural "daylighting" have lower lighting costs and may have lower heating costs during colder seasons.

Left: Though the site is used for parking, the facade was stabilized and preserved to ensure a continuous streetwall. Below: Similarly reserved facades in Downtown Louisville.

c. Where possible, natural ventilation is encouraged as an alternative or supplement to fan-forced ventilation. Natural ventilation uses the natural forces of wind and buoyancy to deliver fresh air into buildings that can alleviate odors, provide oxygen for respiration, and cool a warm environment. The use of natural ventilation can have an effect on building design.

d. New construction and existing buildings are encouraged to incorporate awnings into building design. Aside from the aesthetic benefits, awnings can provide shade for interior spaces contributing to lower cooling costs. Awnings can be designed to be adjustable to respond to sun angles during different times of day or year.

e. The use of roofing materials with a high amount of reflectivity is encouraged. This can contribute to lower cooling costs during months of extreme sun exposure. It can also help to combat the Urban Heat Island effect.

9. MAINTENANCE

A well-maintained and clean streetscape indicates pride in the community. Attention to the maintenance of sidewalks, landscaping, lighting, parking, fences and walls prevents decline, protects investment, and increases the perception of safety. The City, in partnership with the Downtown Development Corporation (DDC) and SoBro property owners, should share responsibility for maintenance and upkeep of the streetscape. The DDC currently has a model program for the area north of York Street.

10. DEMOLITION

At times, it becomes necessary to demolish structures for safety reasons. Whether the structures are historic or not, this action should not be taken lightly as each of these buildings possesses a certain amount of embodied energy that is lost forever. For historic buildings, it is important to consider the building owner's property rights, the structural condition of the building, and the integrity of the surrounding context. There are programs available to work with and assist property owners, designers, and developers. If buildings must be demolished (without proposing infill or redevelopment of the site), landscaping and other site elements should be encouraged to establish a street wall boundary.

Fencing defines edge of a vacant urban lot and prevents illegal dumping while waiting for redevelopment.

APPENDIX V

Introduction

The standards contained on the previous pages within this PDD are a combination of ordinance regulations (shaded) and strongly encouraged recommendations. The regulations are generally related to land use and development and are part of the Land Development Code (LDC). There are many other steps that must be addressed as part of the effort to bring the concepts developed for the SoBro neighborhood to fruition. The first section of the Appendix proposes concepts as well as policies (supplemental to the previous regulations) to enhance the urban setting of SoBro. This section also identifies steps and agencies that must be participants, if not partners, with the Department of Codes and Regulations in carrying out the following principles. The following is a list of specific permitted, limited, and conditional uses associated with applicable categories identified in Table 1: Permitted, Limited, and Conditional Uses on page 41.

STREETSCAPE ISSUES

The street is an important element in a city. It connects the buildings and spaces in which we reside, work, shop and play. From an urban design perspective, the network of streets, alleys, and sidewalks should be viewed as a collection of "public places". The majority of streets are within the public realm and are maintained by the Louisville Metro Department of Public Works and Assets. Streetscape improvements can enhance the quality and safety of SoBro and can be a significant factor in enhancing its identity and success. Pedestrian amenities that typically occur within the right-of-way include:

Combination of streetscape elements that create an attractive pedestrian setting

- Benches and seating
- Street trees and planters
- Street lights
- Public art
- Trash receptacles

The following streetscape issues deserve thoughtful consideration and coordination by the department and board.

One-Way vs. Two Way

Several streets in SoBro were converted to one-way streets to facilitate the movement of traffic to and from other downtown areas. The reconfiguration of some streets to two-way may be warranted to attain other more important goals for the neighborhood and to encourage pedestrian use and retail activity. It is critical to balance the functional aspects of streets with their role as part of the public realm. The goal is to create a street that addresses all modes of transportation and serves the community all day and on weekends.

Communities throughout the nation are returning one-way streets back to two-way to allow better local access to businesses and homes, and to create a safer circulation network for both motorists and pedestrians. Two-way streets tend to result in slower traffic due to "friction," especially on residential streets without a marked center line. They can also eliminate the potential for multiple-threat crashes that exists on multi-lane, one-way streets. Two-way streets are safer for pedestrians, provide more eyes on the street, and inherently "calm" traffic which is desirable in traditional communities.

(Source: Pedestrian and Bicycle Information Center. Funded by the FHWA.)

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Sidewalks

The sidewalk connects the street to the buildings. Within SoBro the minimum width is seven feet, but in active pedestrian areas wider is better to accommodate pedestrian amenities. Typically, the predominant sidewalk material is concrete, but the addition of special paving highlighting intersections or prominent entries to public places should be encouraged.

Street Trees

Trees are significant elements of the streetscape which reinforce the linear axis and enclose the pedestrian space. Street tree species should be chosen to serve a particular function. Trees within one block should be of the same species for visual continuity and a unified aesthetic appearance, but may vary from block to block. Because the sizes of the canopies vary by species, the spacing of the tree planting should be considered on an individual basis so as to achieve the desired canopy affect. Tree species that are tolerant of urban conditions, including road salt, are encouraged. Refer to Appendix 10A in the LDC for a list of preferred tree species. Street tree locations, species, and planting specifications require approval from the Board of Public Works and Assets.

Street Lighting

Street lighting within the neighborhood is provided by cobra-head style fixtures that are independent or mounted on telephone poles. Like other streetscape features, the Louisville Metro needs to understand the importance of upgrading the streetlighting with a fixture that communicates the revitalized identity of SoBro.

Public art that provides visual interest and is functional

Other Amenities

It is important to incorporate public art, bicycle facilities and street furnishings into the public realm as well as private gathering spaces. They introduce human scale, aesthetic enjoyment and added comfort into the environment. Well maintained features also indicate or emphasize that an area is properly cared for by residents and/or businesses. Amenities located within the right-of-way also require approval from Louisville Metro Public Works.

CAMPUS SUBAREA

Spalding University and Presentation Academy will remain key participants in the revitalization of the SoBro neighborhood. They are well established with a century long history, and recent facility investments have not only increased their enrollments, but also may serve as catalysts for other private investment in the area. The Spalding University Campus Master Plan 2008-2012 prepared in 2007 stated that the campus lacked definition, without a clear entrance or connection to the neighborhood. Other goals of the plan were to develop a more complete residential campus with strong pedestrian corridors and green space. The desire for athletic fields was noted during the SoBro PDD process. The illustrations on pages 22-23 note some of these goals, and with the fulfillment of the following recommendations, the campus subarea can be a showpiece in the heart of SoBro.

- Due to its location adjacent to Downtown Louisville, Spalding University should strive to create a campus setting more urban than suburban in character. As the university looks to grow in the future design decisions should be made with this principle in mind.
- The area bounded by Third, Fourth, and Breckinridge Streets is an ideal location for a campus open space / athletic field (soccer, softball). Such a facility could also serve the larger SoBro community as a recreational amenity during off hours / off seasons. The edges of the site should be treated with appropriate fencing and landscaping to ensure it fits seamlessly into the surrounding urban setting.
- Spalding University should explore partnerships with agencies and not-for-profits that can facilitate development such as the Louisville Metro Economic Development or Housing and Community Development departments, the Downtown Development Corporation or local community development corporations that may sprout as part of a redevelopment effort.
- Spalding University should also encourage private development in the vicinity of its campus buildings. Within the urban setting, private development such as print shops, bookstores, cafes, coffee shops, laundromats, or other uses could serve both the student population and the larger neighborhood. This could establish the campus as a dense, lively central core. Private development could also include apartment buildings to serve the student population, reducing the University's need to expend resources to build student housing.

Ideally, reducing the surface parking by constructing a parking garage with the above-mentioned revenue generating businesses on the ground floor would benefit the campus community.

- Developing a campus entrance on Breckinridge is a symbolic priority noted in the Campus Master Plan. Initial efforts do not go far enough to make a significant entry statement for visitors and students. Library Alley could serve as a significant visual and pedestrian connection to that campus entrance, while remaining open for service uses. The alley terminates just north of Breckinridge Street, essentially cutting off the dorms and other academic areas further south. Special paving, lighting specific to the neighborhood or campus, artwork on adjacent structures could all contribute to redefining the alley as a multi-use corridor.
- Consider creating campus gateway elements on Fourth Street, Third Street and Breckinridge Street.

"GREENING THE NEIGHBORHOOD"

With its vast amount of underutilized surface parking and current lack of neighborhood character, SoBro represents a strong opportunity to create a new, substantially green neighborhood within the urban core. The city should strongly consider official designation of the area for green development. With the implementation of the United States Green Building Council's LEED (Leadership in Energy and Environmental Design) standards, the city could offer incentives for developers to build to these standards within the neighborhood. A Metro interdepartmental team working with the Kentucky chapter of the USGBC could be convened to address opportunities for developing a green building incentive program. Examples for possible incentives could include water, stormwater, and energy rebates, fee reductions, preferential/accelerated building permit review, and technical assistance for any development that uses United States Green Building Council's LEED certification.

Raingarden incorporated at intersection bump-out to collect and filter stormwater.

- Develop a policy that requires any newly constructed Metro-related facilities, Metro funded projects, and infrastructure projects be constructed, renovated, operated, maintained, and deconstructed using green building, low impact development (LID), waste management, and conservation landscaping principles and practices to fullest extent possible.
- Another idea to creatively kick-start the green development initiative would be to offer a housing and/or workplace design competition following LEED standards. Recommendations contained in the Housing Chapter of this PDD, combined with the visions of leading-edge architectural and environment designers, would generate regional and national attention.
- Explore the feasibility of establishing a green building fund and a policy of having site plan developers who do not commit to achieving a LEED rating contribute to the fund. The fund would be used to provide education and outreach to developers and the community on green building issues.
- The City should strive to reduce the amount of impervious surfaces in the public right-of-way. This can include implementing "green alley" strategies, rain gardens along the edge of street pavement, street trees, and pervious pavement for sidewalks and roadways where structurally possible.

(Source: SoBro Neighborhood Plan, Center for Neighborhoods, 2007)

PARKS AND OPEN SPACE

Memorial Park and Ben Washer Park, located within two blocks of each other, are the only parks within the neighborhood and are currently underutilized. Throughout the United States, this is a common problem in urban areas with shifting demographics and reduced resources.

Memorial Park was created to honor WWI veterans, but in its current underutlized state it does not achieve the necessary goal of being a multi-functional open space and well-used facility. Ben Washer Park, home of the Ben Washer House, could be improved to serve a variety of recreational activities.

Consider working with the community to prepare a master plan to prioritize and reorganize open space to better serve the existing population. Resources could be focused on a single park that responds to the current and potential needs of neighborhood residents. Master planning or redevelopment efforts could create a green gem in the community that would serve the residents and also honor the WWI veterans. A master plan for the Ben Washer and Memorial Park

sites, which would jointly reflect the City's and Spalding University's goals, could resolve parking issues and encourage land uses that bring people to the area.

The existing Ben Washer Park site is the most likely candidate for a concentrated green space as it is in the proximity of where people live and it well used by the neighborhood. The house in Ben Washer Park is, however, a significant maintenance issue and deed restrictions hamper its usability. A master planning effort should involve Louisville Metro Parks as well as adjacent large property owners, such as the senior center, and surrounding existing residents.

An expanded park could include an active play area, an enhanced community garden with additional garden plots, a walking trail, or passive areas. The historic Ben Washer House could be revitalized as a museum or facility (possibly containing public restrooms) for community events. Prior to creating additional community garden space, the soil should be tested for safety or the garden designed to safely grow food.

LAND USE CONSIDERATIONS

Many uses may not be specifically mentioned in Chapter III, Table 1: Permitted, Limited, and Conditional Uses on page 41 or in the detailed list of uses within Chapter V: Appendix. The appropriateness of those uses shall be determined based upon the decision of Metro Planning Staff. Such a decision will be based on compatibility with permitted uses relative to hours of operation, users (number of users/customers/employees/general traffic generated), and size. Some basic guiding principals for land use within the overall PDD are included below.

Residential Uses

It is important to attract residents back to the SoBro neighborhood so there is a critical population threshold to support neighborhood-serving commercial uses. Single-family, duplex and townhome units are only permitted in the Historic Neighborhood Subarea. However, the SoBro PDD permits and encourages residential development combined with other uses throughout the neighborhood.

Institutional

Institutional uses - including schools, places of worship, daycare, fraternal organizations, social services, and government - are encouraged in the SoBro PDD but should not be clustered as they tend to have limited foot-traffic and sidewalk/outdoor activity is needed throughout the day and week to create a vibrant community. They should be interspersed throughout the PDD and mixed with commercial and residential activities.

- Much of the SoBro neighborhood is comprised of surface parking which weakens the urban fabric and takes Spalding University further from its goal of creating a cohesive campus setting. The University has an opportunity to solve several issues by providing a mixed-use structure that contains retail, office, or classroom uses at street level, structured parking on floors above, and possibly residential units for students above the parking. Structured parking is mentioned as a 2010 Task in the Spalding University Campus Master Plan.

Commercial Uses

Neighborhood- and community-serving commercial uses are encouraged to locate throughout the neighborhood and integrated with residential and institutional uses. The uses include office, retail, personal services, entertainment, studios / galleries, research and development, and possibly light assembly and manufacturing if compatible with the subarea goals. None of these uses should produce a level of noise, vibration, odor, dust, heavy truck traffic, light pollution or other byproduct that could interfere with residential or institutional use. Heavy manufacturing shall not be permitted.

Encourage street-level commercial uses to promote an active pedestrian setting.

The currently vacant Cissell building on 1st Street represents an opportunity for the neighborhood, though it has residential use restrictions due to contamination in the soil. However the complex could be repurposed as a center for art, entertainment, or other community activities.

Surface parking as a primary use is permitted as a conditional use in the Historic Neighborhood Subarea subject to Conditional Use Category 3, page 40. Surface parking that is an accessory to a primary use may be permitted in accordance with standards contained in Section IV.4, page 52 of this PDD. Parking garages with integrated street-level business uses, such as retail, restaurant, and service uses, are permitted.

LAND USE CATEGORIES

The following is a list of examples of permitted, limited, and conditional uses associated with the applicable categories in Table 1: Permitted, Limited, and Conditional Uses on page 41. See Chapter III: Use and Lot Standards for detail descriptions of land use and limited use categories and standards.

COMMERCIAL USE CATEGORY 1 (CU1)

- Antique stores
- Art galleries
- Athletic facilities
- Athletic goods stores
- Audio/video recording studios. Provided the building is sound proof
- Bakeries
- Banks without drive-through facilities
- Barber shops
- Bicycle sales and service
- Book stores
- Beauty parlor
- Candy stores
- Catering Kitchen/baking preparing food and meals for sale and consumption elsewhere
- Cigar and cigarette stores
- Clothing and apparel stores
- Clubs, private, non-profit or proprietary
- Coffee shops
- Computers, hardware and software sales
- Costume rental establishments
- Craft and hobby stores
- Dance studios
- Department stores
- Drug stores without drive through facilities
- Dry cleaners without drive through facilities
- Electronic and appliance stores
- Equipment rental, where all activities are within a building
- Farmer's markets, fruit and vegetable stands, garden supply stores and pond stores
- Florist shops
- Funeral Homes
- Furniture stores
- Gift, stationary and greeting card stores
- Grocery stores
- Health spas
- Home Improvement, Home Supplies and Hardware stores
- Ice cream stores
- Interior decorating shops
- Jewelry stores
- Laundry, self service
- Liquor stores
- Locksmith shops
- Luggage stores
- Mattress stores
- Music stores
- Personal service establishments (e.g. Barber shops, beauty parlors, and similar)
- Pet stores
- Photocopying, word processing and similar office-support activities
- Picture framing
- Restaurants, delicatessens, tea rooms and diners; no drive through facilities - with outdoor alcohol sales and service permitted and with indoor entertainment permitted
- Saddle and harness shops
- Shoe sales and repair stores
- Sporting goods store
- Tailors and dressmakers
- Tanning salons
- Tattoo, body art, and piercing parlors
- Tax preparation service
- Toy stores
- Upholstery and furniture repair shops
- Veterinary clinics
- Watch making and repair shops

COMMERCIAL USE CATEGORY 2 (CU2)

- Bowling Alley
- Dance / Night Clubs
- Hotel
- Skating Rinks
- Theaters, enclosed within a building

INSTITUTIONAL USE CATEGORY (IU)

- Community centers
- Day care centers
- Government facilities including police and fire stations
- Religious institutions such as churches, synagogues, or other religious assembly centers
- Schools, public or private

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OFFICE USE CATEGORY (OU)

- Artist studios
- Business schools
- Computer programming services
- Government offices
- General office (design, financial, advertising, sales office, corporate and similar uses)
- Immediate and urgent care centers
- Loan offices
- Medical laboratories
- Medical Office (including dentist, chiropractor, psychiatrist, psychologist, etc.)
- Photographic studios

RESIDENTIAL USE CATEGORY (RU1)

- Assisted living / Residential care facilities
- Bed & Breakfast
- Single and Multifamily Residential

RESIDENTIAL USE CATEGORY (RU2)

- Institutional-related residential housing

INDUSTRIAL USE CATEGORY (ID)

- Heavy manufacturing
- Large-scale warehousing

LIMITED USE CATEGORY 1 (LU1)

- Scientific research / lab space
- Assembly
- Light manufacturing
- Packing

LIMITED USE CATEGORY 2 (LU2)

- Banks with drive-through facilities
- Drug stores with drive through facilities
- Dry cleaners with drive through facilities
- Restaurants as permitted in CU1 with the addition of drive through facilities

LIMITED USE CATEGORY 3 (LU3)

- Parking garages

LIMITED USE CATEGORY 4 (LU4)

- Carriage houses

LIMITED USE CATEGORY 5 (LU5)

- Transitional Housing

LIMITED USE CATEGORY 6 (LU6)

- Homeless Shelters

LIMITED USE CATEGORY 7 (LU7)

- Refer to Section 2.5.1 of the LDC for a list of uses that are appropriate only within the M-1 Industrial Districts.

LIMITED USE CATEGORY 8 (LU8)

- Auto oriented uses related to off-street parking lots (as a primary site use)
- Auto display and sales establishments

LIMITED USE CATEGORY 9 (LU9)

- Auto oriented uses related to automobile service and repair
- Automobile part sales

LIMITED USE CATEGORY 10 (LU10)

- Gas stations
- Car washes
- Other auto oriented uses related to automotive operational uses

CONDITIONAL USE CATEGORY 1 (CO1)

- Refer to Section 2.5.2 of the LDC for a list of uses that are appropriate only within the M-2 Industrial Districts.

CONDITIONAL USE CATEGORY 2 (CO2)

- Institutional Recreation

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Minutes of the Waxhaw Planning Board
Town of Waxhaw, NC
June 15, 2015

The Waxhaw Planning Board met in a regular session Monday, June 15, 2015 at 6:30 p.m. at the Waxhaw Police Department Community Room.

Regular Called Meeting

1. **Call to Order**

   Chairman Godfrey called the meeting to order at 6:30 pm.

2. **Roll Call and Determination of Quorum**

   A roll call and determination of quorum was made.

   Present: Chairman Godfrey, Vice-Chairman Underwood, Michael Kreimer, Fred Burrell, Bob Morgan, Staff Oakley, Staff McCarter, and Staff Rice, and Recording Secretary Oliver.

   Absent: Dan Gingrich, Thomas Dwyer, and James Mathieson.

3. **Work Session**

   NONE

4. **Unfinished Business**

   NONE

5. **New Business**

   Chairman Godfrey read a statement that outlined the powers and responsibilities of the Waxhaw Planning Board. He stated that the Board of Commissioners will hold a public hearing on the cases on July 14, 2015 and will make the final decision on whether or not to approve the cases at the following meeting.

   A. CU-003337-2015 is a request by the applicant, Aston Properties, Inc. on behalf of Cuthbertson Rd I, LLC, for an amendment to the CUP (Conditional Use Permit) for the Shoppes at Howard's Mill to allow an Automobile Repair Shop and Automobile Service Station use. The property owner is requesting to add the uses to their approved table of uses in order to develop the property located at 2524 Cuthbertson Road (tax parcel 06-162-022).

      Staff McCarter gave a presentation on CU-003337-2015 (see attached).

Draft

Karen Partee, with Aston Properties, spoke on behalf of the applicant. She stated that when the project was brought to of the Board of Commissioners initially that it was a last minute request by the Commissioners to strike out some of the uses to be allowed in the development. She stated that at the time they did not foresee constructing these uses but an opportunity has come up.

Mike Henn, owner of Henn Automotive, asked exactly where the property is located, how large it is, and how much parking is available. Staff McCarter stated that is located directly to the east of the McDonald's and that up to 8,000 square feet of retail space is allowed to develop on the site and the parcel is just less than one acre. She stated that the developer must meet the parking requirements of the 2004 UDO. Mike Henn stated that he is concerned with traffic and parking.

Fred Burrell stated that he understands competition and that new automotive uses pose competition to existing ones but he took a windshield survey of shopping centers in the area and none have more than one gas station. He stated that he would not recommend having another automotive use at the Shoppes at Howard's Mill.

Staff Oakley explained that a gas station would be allowed to develop as a by-right use under the current development standards for the site. She stated that the site plan for a gas station would not come before the Planning Board or Board of Commissioners.

Fred Burrell motioned to send an unfavorable recommendation to the Board of Commissioners on CU-003337-2015. Bob Morgan seconded. The motion passed four to one (4-1).

There were two votes in favor of the motion, one vote against the motion, and two board members abstained from voting.

Fred Burrell stated that he did not support the two uses being added to the CUP because they were specifically removed from the allowed uses for the Shoppes at Howard's Mill development at the time of the original CUP approval in 2004.

B. CD-002516-2014 is a request by James Diehl, for a conditional rezoning / map amendment from CU-OIS (Conditional Use-Office, Institutional and Specialty) to CD-C2 (Conditional District-Highway Commercial) on approximately 12 acres of a 33 acre parcel (Tax Parcel ID number 06-165-003) located on the east side of Highway 16, south of Twelve Mile Creek. The petitioner is proposing to develop three buildings. Building one will contain an event hall. Building two will contain a full-service restaurant, catering hall and art gallery. Building three will contain a management/sales office, storage, restrooms and a bridal staging/multipurpose room.

Staff Rice gave a presentation on CD-002516-2014 (see attached).

Draft

The applicant, James Diehl, stated that he is trying to prove that you can under develop a property, conserve the natural features of the property, and make a little money. He stated that he will be active in the management of the events center and that he has over 40 years' experience in the hospitality industry and has owned two restaurants. James Diehl stated that he will also dedicate an easement across his property for the Carolina Thread Trail.

Fred Burrell stated that he thinks the design is beautiful and that it is the kind of project Waxhaw has been trying to attract.

Vice-Chairman Underwood stated that he is concerned with traffic and would like to make sure that the development would not regularly affect traffic.

James Diehl stated that the buildings are small and even at the peak business hours on a Saturday night there should be no more than 100 cars accessing the site.

Chairman Godfrey asked if a stop light will be provided for the site. Staff Rice stated that there would be a stop light installed at Prescot Glen Parkway and Highway 16.

Chip Cannon stated that he was the site designer for the development. He stated that a majority of the traffic would be off hours.

Michael Kreimer asked if the development may help to speed up the schedule for widening Highway 16. Vice-Chairman Underwood asked if anyone has talked to the NCDOT. Staff Rice stated that the NCDOT has reviewed the project and is requiring the road improvements as shown on the plan.

Fred Burrell motioned to send a favorable recommendation to the Board of Commissioners on CD-002516-2014. Michael Kreimer seconded. The motion passed unanimously (5-0).

C. CD-002959-2014 is a request by Micheaux Resource Management, LLC, on behalf of Frances H. Pressley, Clyde D. Pressley, Shirley Jean Davis and Jerry G. Davis, for a conditional rezoning / map amendment from R-1 (Single-Family) to CD-C3 (General Commercial) on approximately 5.1 acres (Tax Parcel ID number 06-162-002 located on the west side of Highway 16, just north of the intersection of Highway 16 and Kensington Road. The petitioner is proposing a commercial development for the site, which will include a convenience store with associated car wash, an automotive repair facility and a retail building. The applicant is also requesting a major variation for the vacuum canopy per the Town of Waxhaw Unified Development Ordinance Section 20.6.3 to permit both steel columns and a red roof for the vacuum canopy.

Staff Rice gave a presentation on CD-002959-2014 (see attached).

Draft

Pat Quinn, with Eagle Engineering, stated that he is the engineer for the site. He stated that he wanted to thank staff for helping out and giving him the opportunity to speak and present the project to the Planning Board.

Pat Quinn brought up the overall site plan and explained that they have worked with the town to come up with the right materials to use. He explained that the major variation is needed to allow for the metal columns and the red roof on the vacuum canopy. He explained the use for each site including that no tenant has been found for the automotive use. Pat Quinn stated that they have gone through a neighborhood meeting, Technical Review Committee meeting, and have met with NCDOT multiple times and due to the size of the site a Traffic Impact Analysis is not needed.

Pat Quinn gave an explanation of the required road improvements including installing a left over in front of the site on Highway 16. He gave an explanation of how a left over works and that it requires that some of the existing left turn lane must be removed but a second left turn lane will be added. He also stated a right turn lane will be added into the site.

Mike Henn, owner of Henn Automotive, asked about infrastructure and cars in and out of the site. He stated that the Fill Good gas station and several other buildings were not allowed to face Highway 16 but this one will.

Staff Rice showed what you would actually see from Highway 16 and that it would be like the buildings across the street, such as the Fill Good gas station. Mike Henn asked about the fuel pump awning. Staff Oakley stated that the current code requires all buildings to be brought up to the road unlike the previous code that the surrounding properties were developed under. Staff Rice explained that you would only see the red canopy when traveling south on Highway 16.

Bob Morgan asked if there will be enough room to widen Highway 16 after the building is built. Staff Rice stated that the right-of-way will be set and there will be room for widening the road.

Michael Kreimer asked about the buffer and Staff Rice explained the buffers on each side. Michael Kreimer asked about the color of the columns and the major variation. Staff Rice explained that Section 20 of the UDO would not allow for the red canopy and the metal columns so a major variation is needed.

Fred Burrell stated that the site plan was well put together and thinks it will serve the community well for years to come. He stated that he thought that the red was too much and he does not think it is what Waxhaw needs. He stated that the contrast of the red is too striking.

Vice-Chairman Underwood asked if the red was a trademark of the business. Staff Rice stated that the red is a signature of Sam's Mart.

Staff Rice explained that the fuel pump canopy will be red but the columns supporting it will be brick.

Bob Morgan asked what is currently on the site. Staff Rice stated that it is vacant except for one yellow brick house and a storage shed.

Fred Burrell motioned to send a favorable recommendation on the conditional rezoning for CD-002959-2014 to the Board of Commissioners. Michael Kreimer seconded. The motion passed unanimously, (5-0).

Fred Burrell motioned to send an unfavorable recommendation on the requested Major Variation to the Board of Commissioners. Michael Kreimer seconded. The motion passed three to two, (3-2).

Vice-Chairman Underwood and Bob Morgan voted against the motion.

Fred Burrell stated that he feels like the red metal columns are out of character for the area. Michael Kreimer stated that he is concerned about setting a precedent and opening the door to many future requests for major variations.

6. <u>Other Business - Update on previous case(s) heard by the Planning Board</u>

Staff Oakley stated that the Board of Commissioners approved the clean-up text amendment heard at the May Planning Board meeting including the suggested Planning Board amendments.

7. <u>Minutes for correction and approval: May 18, 2015 regular meeting</u>

Vice-Chairman Underwood motioned to approve the minutes from the May 18, 2015 regular meeting. Michael Kreimer Seconded. The motion passed unanimously, (5-0).

8. <u>Adjournment</u>

Bob Morgan motioned to adjourn the meeting at 7:28 p.m. Michael Kreimer seconded. The motion passed unanimously, (5-0).

The meeting adjourned at 7:28 p.m.

Draft

Respectfully Submitted,

_____

Chairman, David Godfrey

_____

Recording Secretary, Maxx Oliver

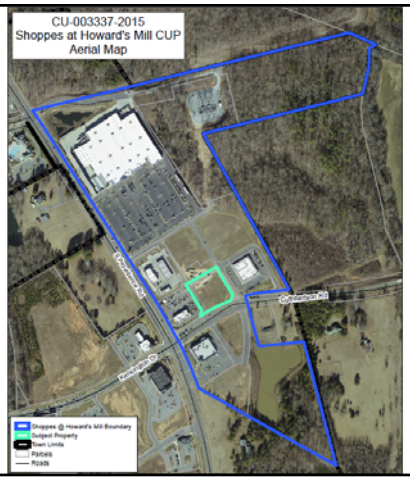
Draft

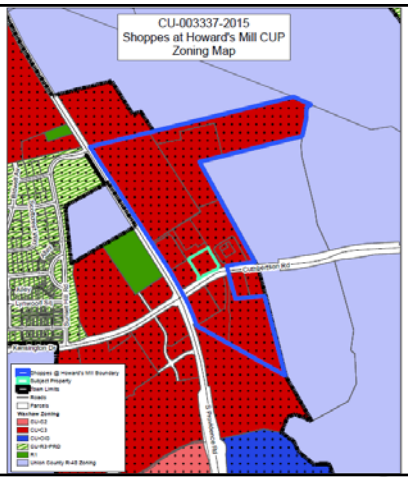
Town of Waxhaw Planning Board

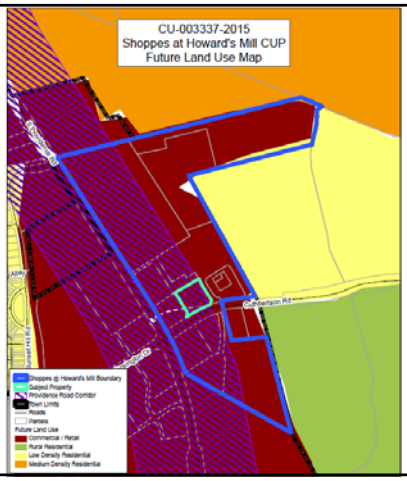
Waxhaw Police Department Community Meeting Room
Monday June 15, 2015

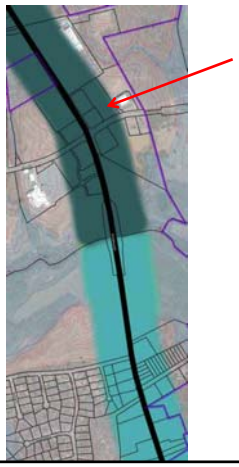
CU-003337-2015

CU-003337-2015 is a request by the applicant, Aston Properties, Inc. on behalf of Cuthbertson Rd I, LLC, for an amendment to the CUP (Conditional Use Permit) for the Shoppes at Howard's Mill to allow an Automobile Repair Shop and Automobile Service Station use. The property owner is requesting to add the uses to their approved table of uses in order to develop the property located at 2524 Cuthbertson Road (tax parcel 06-162-022).



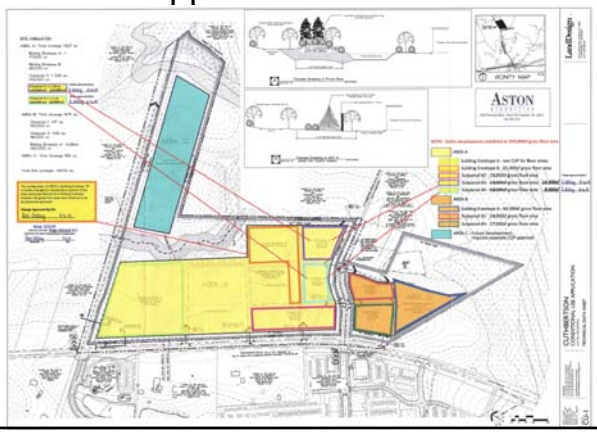






Highway 16 Corridor Plan
Regulating Plan
Town Center

Approved CUP Plan



Approved Uses

Uses to be Allowed

1. ABC Store
2. Accessory Structure (accessory to principal use)
3. Animal Grooming Establishment
4. Animal Hospital (no outdoor runs)
5. Animal Supply Store
6. Antique Store
7. Appliance Sales and Repair (Indoor Storage)
8. Art Gallery
9. Art Supply Store
10. ~~Automobile Detailing Shops~~
11. Automobile Parts and Supply Store
12. ~~Automobile Repair Shop~~ (add back in) Automobile Repair Shop
13. ~~Automobile Service Station~~ (add back in) Automobile Service Station
14. ~~Automobile Wash (Self-Serve)~~
15. Automobile Wash (Automatic) *only as an accessory to Use #39 (Convenience Store with retail fuel sales)*
16. ~~Bait & Tackle Shop~~

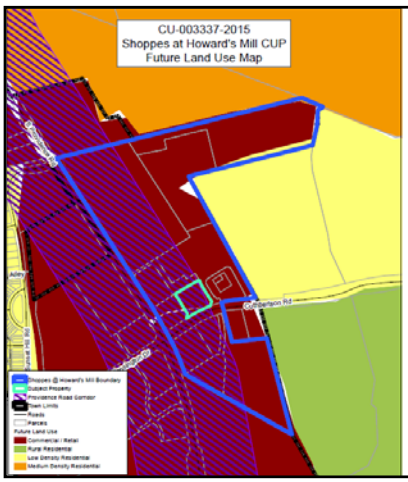
Staff Analysis

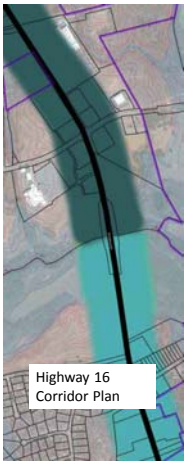
11.3.6 Automobile Body Shop, Automobile Repair Shop, Automotive Parts and Repair Store

1. The lot containing such use shall be located at least one hundred (100) linear feet from any lot located in a Residential (R) zone.
2. Hours of operation shall be limited to 7:00 A.M. to 10:00 P.M. only when adjoining a Residential (R) zone, if repair and maintenance facilities are provided or if pumped automotive fuels are sold.

11.3.8 Automobile Service Stations

1. Gasoline pump islands shall be located no closer than fifteen (15) feet from any lot line.





Planning Staff Recommendation

Planning staff recommends approval of CU-003337-2015, a request for modification of the "Uses to be Allowed" list that was attached to the Development Standards for the Shoppes at Howard's Mill approved CUP plan to allow Automobile Repair Shop and Automobile Service Station uses.

Findings of Fact

In approving an application for a conditional use permit, the Board of Commissioners may attach fair and reasonable conditions to the approval. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Board of Commissioners.

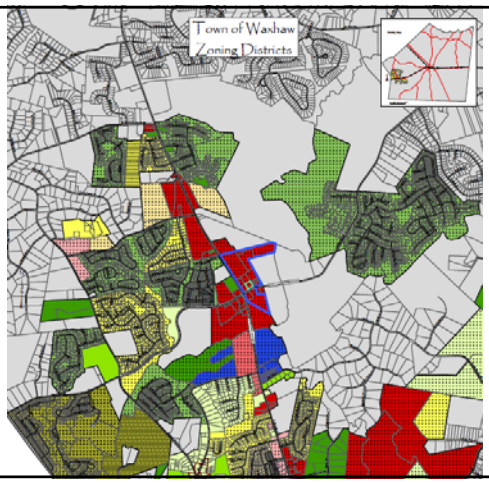
The Board of Commissioners shall issue a conditional use permit if it has evaluated an application and determined that:

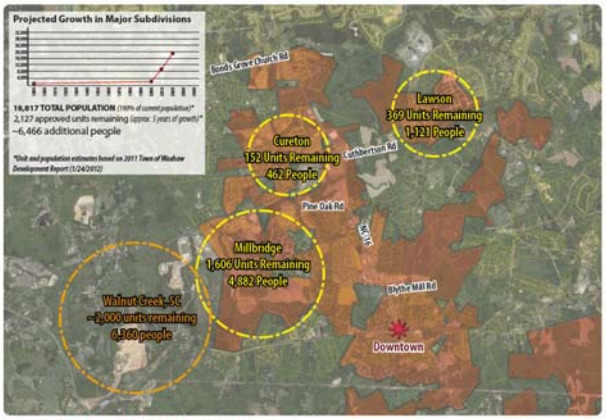
A. That the use requested is among those listed as an eligible Conditional Use in the District in which the subject property is located or is to be located.

B. That the Conditional Use will not materially endanger the public health or safety if located where proposed and developed according to the plan as proposed.

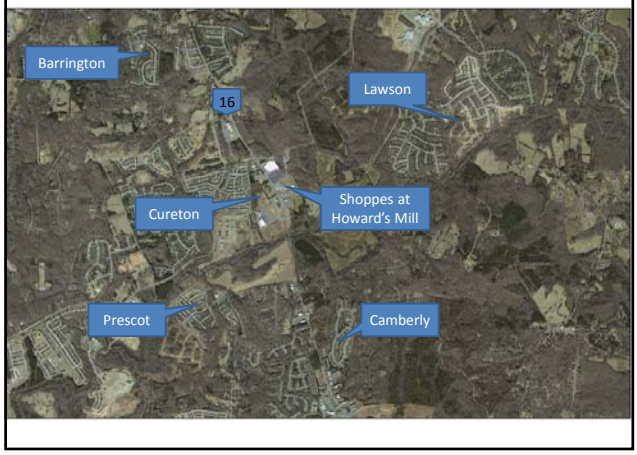
C. That the Conditional Use meets all required conditions and specifications; and

D. That the location and character of the Conditional Use if developed according to the plan as proposed will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Waxhaw and its environs.





▲ REGIONAL POPULATION GROWTH DIAGRAM



Uses to be Allowed

1 ABC Store
2 Accessory Structure (accessory to principal use)
3 Animal Grooming Establishment
4 Animal Hospital (no outdoor runs)
5 Animal Supply Store
6 Antique Store
7 Appliance Sales and Repair (Indoor Storage)
8 Art Gallery
9 Art Supply Store
~~10 Automobile Detailing Shops~~
11 Automobile Parts and Supply Store
~~12 Automobile Repair Shop~~ (add back in) Automobile Repair Shop
~~13 Automobile Service Station~~ (add back in) Automobile Service Station
~~14 Automobile Wash (Self-Serve)~~
15 Automobile Wash (Automatic) *only as an accessory to Use #39 (Convenience Store with retail fuel sales)*
~~16 Bait & Tackle Shop~~
17 Bakery (Retail)
18 Bank Teller Machines, Outdoor (Principal or Accessory Use)
19 Barber/Beauty Shop
20 Beauty Supply and Cosmetics Store
21 Bicycle Sales/Service
22 Blueprint and Drafting Service
23 Book Store
24 Bowling Lanes
25 Building and Home Materials Center
26 Camera and Photography Supply Store
27 Candy and Nut Store
28 Catalogue Sales Store
29 Catering Establishment (Not a permitted use in C-4 at street elevation)
30 China and Tableware Shop
31 Clock and Watch Sales and Repair Shop
32 Clothing, Footwear, and Apparel Store
~~33 Clubs, Entertainment~~
34 Coin and Stamp Shop
35 College/University
36 Community Center
37 Computer and Data Processing Sales and Service
38 Continuing Care Facility

Uses to be Allowed

39 Convenience Store (With Retail Fuel Sales)
40 Convenience Store (Without Retail Fuel Sales)
41 Craft Studio
42 Dairy, Ice Cream & Coffee Shops
43 Day Care Center, Principal Use or Separate Use
44 Department Store
45 Detective Agency (Not a permitted use in C-4 at street elevation)
46 Doctors' and Dentists' Office (Not a permitted use in C-4 at street elevation)
47 Drapery and Linen Shop
48 Dry Cleaning Service Outlet
49 Employment Agency (Not a permitted use in C-4 at street elevation)
50 Engineering, Architect or Surveying Service (Not a permitted use in C-4 at street elevation)
51 Farm Supply Store
52 Farmers' Market (Outdoors)
53 Finance Company (Not a permitted use in C-4 at street elevation)
54 Financial Institution (Not a permitted use in C-4 at street elevation)
55 Floor Covering Store
56 Floral and Christmas Items Store
57 Florist, Retail
58 Florist, Wholesale
59 Food Store
60 Formal Wear and Costume Rental Store
61 Fraternal and Service Organization Meeting Facilities (Non-Profit and Not-for-Profit)
62 Furniture Store (Retail)
63 Furrier
64 Garden Supply and Seed Store
65 Gift, Novelty and Souvenir Store
66 Glass and Mirror Shop
~~67 Grain Elevator~~
68 Gun and Ammunition Sales Shop
69 Gunsmith
70 Hobby, Toy, and Craft Shop
71 Home Center
72 Home Decorating Center
73 Home Electronics and Appliance Sales and Repair
74 Hospitals
75 Home for Aged
76 Independent Living Center

Uses to be Allowed

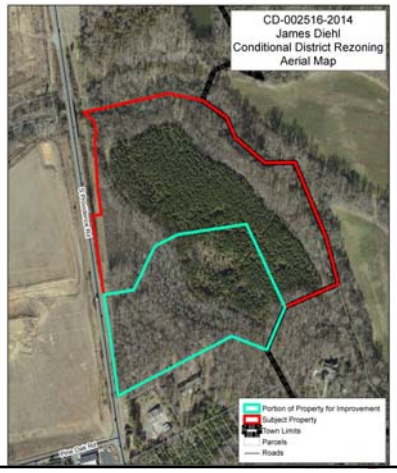
77 Insurance Agency (Principal Use) (Not a permitted use in C-4 at street elevation)
78 Interior Decorator (not a permitted use in C-4 at street elevation)
79 Jewelry Sales (Principal Use) and Repair
80 Key Shop and Locksmith
81 Laboratories - Dental, Medical, Optical, and Research
82 Lawn and Garden Service
83 Library, Public
84 Linen Shop
85 Luggage and Leather Goods Shop
86 Martial Arts School
87 Medical Center
88 Medical Supply Shop
89 Membership Warehouse Club
90 Message and Errand Service (Not a permitted use in C-4 at street elevation)
91 Mini-Mart (no gas sales)
~~92 Motel (See Hotel/Motel)~~
93 Multi-Tenant Development, Class I
94 Multi-Tenant Development, Class II
95 Museum
96 Music School
97 Music Store Sales and Service
98 News Stand (Principal Use)
99 Nursery (Horticultural), Greenhouses
100 Nursing Home
101 Office Equipment and Computer Store
102 Offices (Not a permitted use in C-4 at street elevation)
103 Optician and Optical Supply Store
104 Pet Stores
105 Pharmacy
106 Photocopy Service
107 Photofinish Laboratory
108 Photographic Studio
109 Picture Frame Shop
110 Post Office
111 Postal Store and Contract Station
112 Produce Stand (Principal Use)
113 Public Safety Station
114 Public Utility Facility

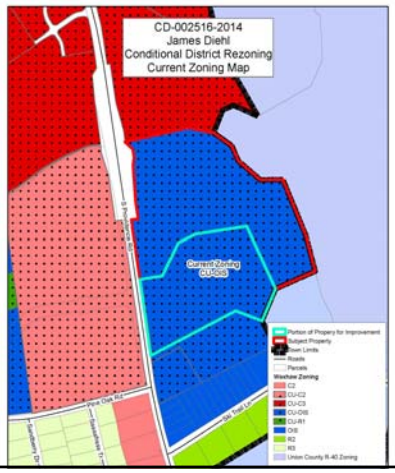
Uses to be Allowed

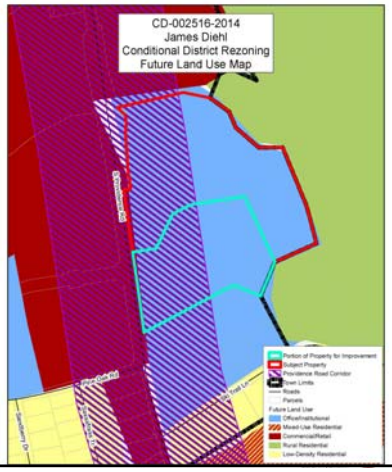
115 Public Utility Transmission Lines
~~116 Racetrack, Indoor~~
117 Real Estate Agency (Not a permitted use in C-4 at street elevation)
118 Recreation Facility, Indoor (Public, Private and Non-Profit)
119 Recreation Facility, Outdoor (Public and Private)
120 Recreational Uses, Accessory
121 Rental Center, (no outdoor storage)
122 Restaurant (Principal Use, Eating & Drinking Establishment)
123 Restaurant, Drive-in
124 Restaurant, Drive-Through
125 Restaurant, Fast Food
126 Restaurants, Within Other Facilities
127 School, Kindergarten, Elementary and Junior High
128 School, Vocational
129 School for the Arts
130 Second-Hand and Consignment Shops (no outside storage)
131 Sewing, Cloth, and Notions Store
132 Shoe Repair Shop
133 Shopping Center
134 Sign and Banner Shop
135 Sporting Goods and Apparel Shop
136 Stationery Shop
137 Stock or Security Brokerage Firm (Not a permitted use in C-4 at street elevation)
138 Swimming Pool Sales, Service and Supplies
139 Tailor and Alteration Shop
140 Tanning and Nail Salon (Principal Use)
141 Tax Preparation Service (Not a permitted use in C-4 at street elevation)
~~142 Telecommunications Towers~~
143 Theater, Indoor Movie
144 Tobacco Shop
145 Trading Stamp Redemption Store
146 Trading and Conference Center
147 Travel Agency (Not a permitted use in C-4 at street elevation)
148 Trophy and Plaque Shop
149 Upholstery Shop
150 Variety Store
151 Video Rental Shop (Principal Use)
152 Wholesale Sales Operation

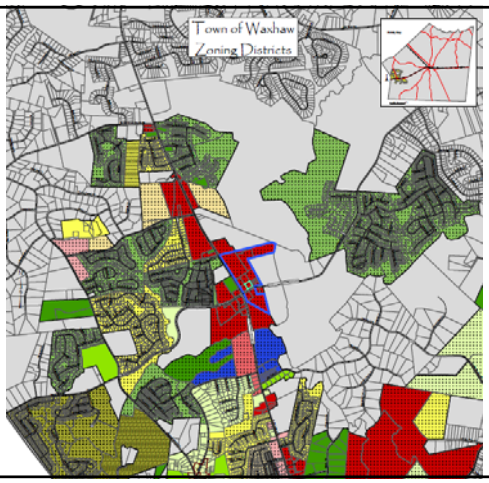
CD-002516-2014

Petition CD-002516-2014 is a request by James Diehl, for a conditional rezoning / map amendment from CU-OIS (Conditional Use-Office, Institutional and Specialty) to CD-C2 (Conditional District-Highway Commercial) on approximately 12 acres of a 33 acre parcel (Tax Parcel ID number 06-165-003) located on the east side of Highway 16, south of Twelve Mile Creek. The petitioner is proposing to develop three buildings. Building one will contain an event hall. Building two will contain a full-service restaurant, catering hall and art gallery. Building three will contain a management/sales office, storage, restrooms and a bridal staging/multipurpose room.



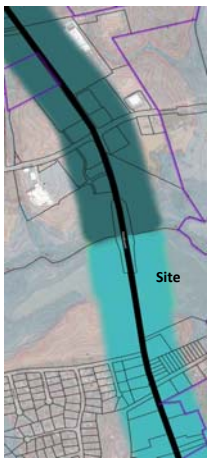


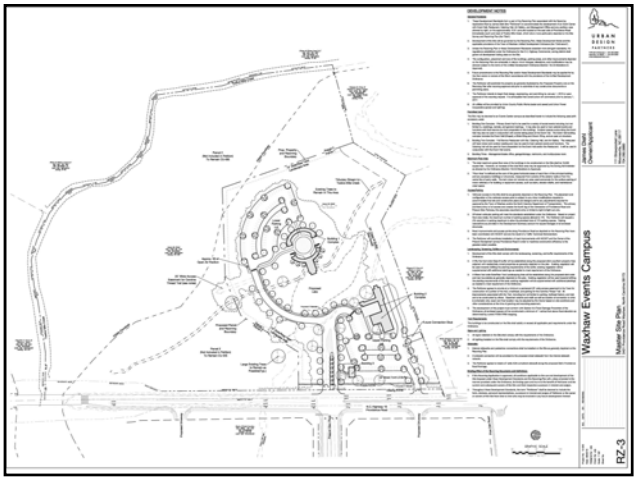


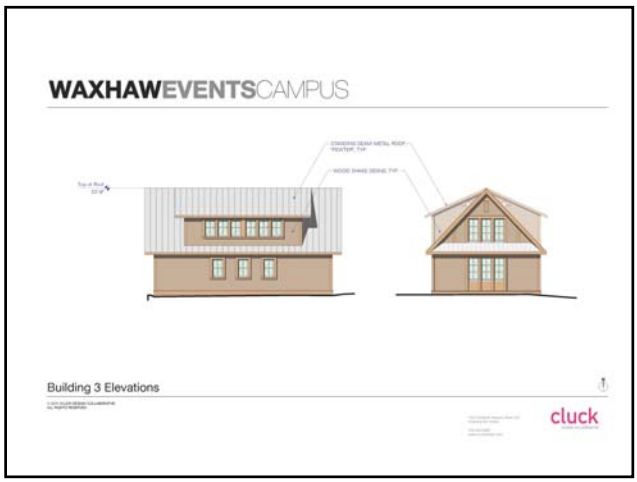


Highway 16 Corridor Plan
Land Use Recommendation

Neighborhood Mixed Use



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Building 3 Elevations
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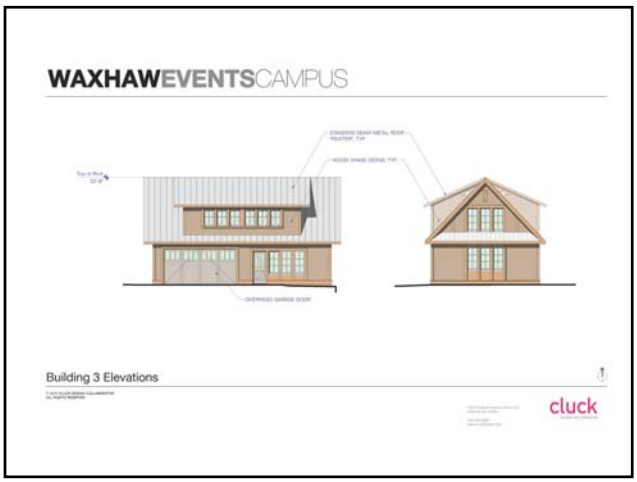
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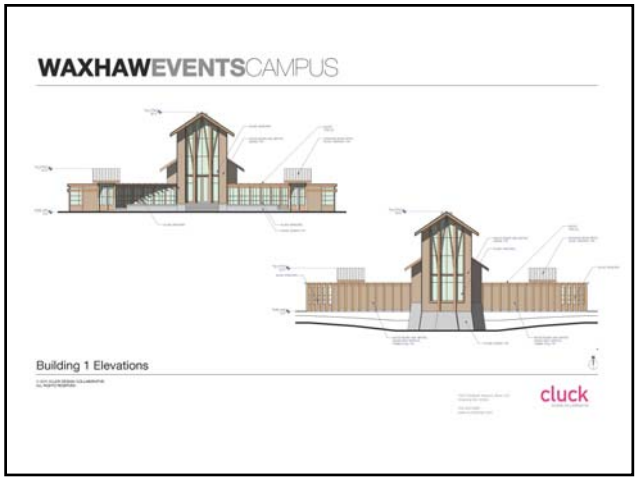
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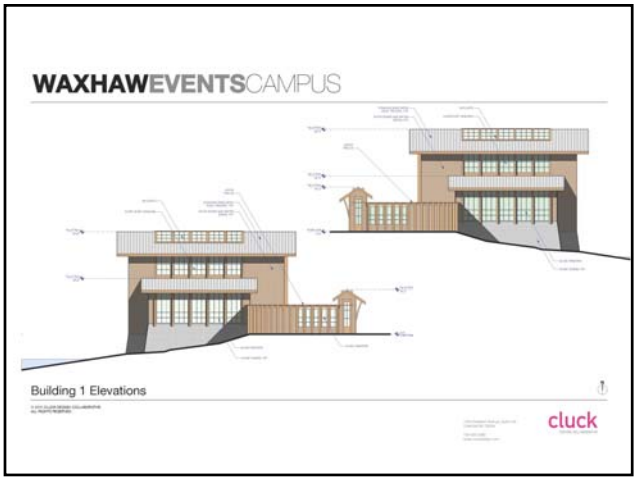
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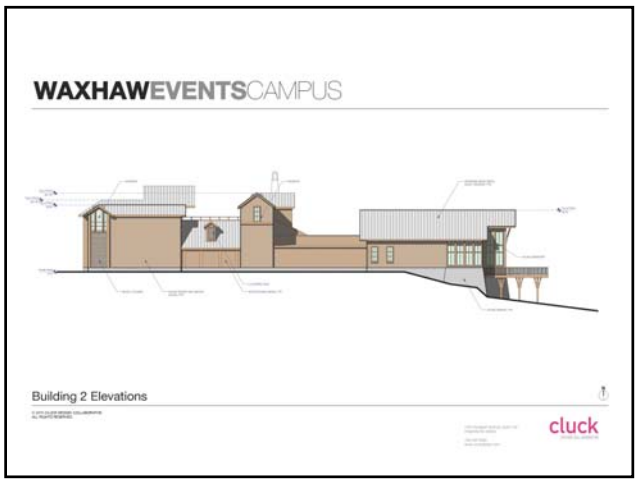
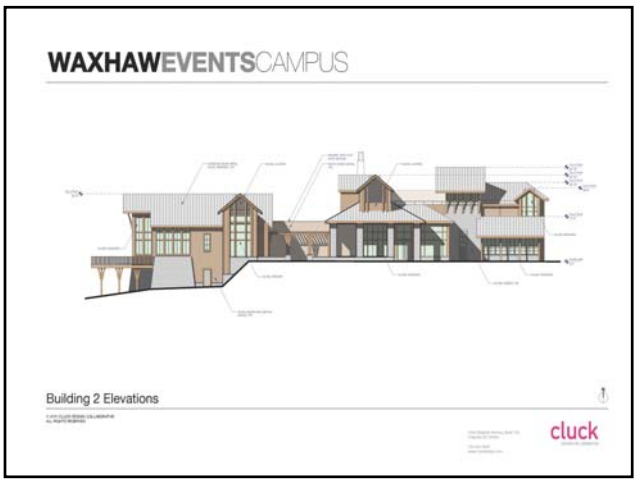
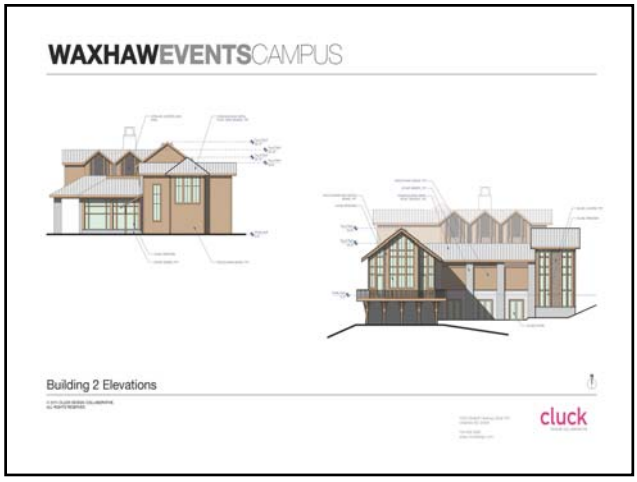






Neighborhood Meeting

The applicant held a neighborhood meeting as required by the Unified Development Ordinance on April 28, 2015. Property owners within 300 feet of the site were notified of this meeting and given the opportunity to voice their concerns with the proposal.

Technical Review Committee Meeting

A Technical Review Committee meeting was held on April 7, 2015 as required by the Unified Development Ordinance.

Land Use/Site Plan Issues

- The site shall be developed as an events center campus as described herein to include the following uses (with accessory uses):
- Building One Complex - Primary Event Hall to be used for a variety of social events including, but not limited to, weddings, recitals, and general meetings. It may also be used to host catered events and functions with food service (no food preparation in the building). Outdoor spaces surrounding the Event Hall may also be used in conjunction with events taking place at the Event Hall. The Event Hall building complex includes the Event Hall (Chapel), a Bride Wing and Groom Wing, and an open air structure.
- Building Two Complex - Full Service Restaurant with Bar, Catering Hall, and Art Gallery. The restaurant will have indoor and outdoor seating and may be used to host catered events and functions. The Catering Hall will be used for food preparation for the Event Hall and/or the Restaurant. It will be used in conjunction with the Event Hall events.
- Building Three - Management/sales office, garage/storage, restrooms, and bridal staging/multipurpose room.

2030 Comprehensive Plan & Land Use Map and Highway 16 Corridor Plan

The Future Land Use Plan recommends this property be developed with office and institutional uses which is described as follows: "These areas include locations for new and existing office developments and institutional uses, such as government facilities, schools, and semi-public uses such as churches, hospitals, etc." In addition, the Future Land Use Plan includes this property as part of the Providence Road Corridor. This classification designates a corridor along Providence Road (NC-16) - the primary road corridor through Waxhaw - that has been identified for additional planning."

The Highway 16 Corridor Plan recommends this property to be developed with "Neighborhood Mixed Use" type development. The Highway 16 Corridor Plan characterizes Neighborhood Mixed Use as a "mix of houses, townhouses & small apartment buildings, with scattered commercial activity; balance between landscape and buildings; presence of pedestrians".

Tree Preservation / Landscaping

The plan meets all requirements of Section 9 of the Unified Development Ordinance with regard to buffering, landscaping and screening. The applicant has made a conscious effort to locate the proposed buildings in such a way as to minimize the amount of clearing and grading required to the greatest extent possible.

Architectural Guidelines

The proposed plan meets the architectural guidelines in Section 20 of the Unified Development Ordinance.

Connectivity / Parking

The applicant will be providing a vehicular connection to the property to the south of the site.
The applicant is providing the required amount of parking per Section 12 of the Unified Development Ordinance. The applicant is providing a total of 173 parking spaces.
The applicant is providing an easement to allow for the Town to construct a trail head for the Carolina Thread Trail.

Transportation

NCDOT requirements for the development are as follows:

- Westbound left-turn lane and shared through-right lane (with median designed to meet sight distance standards).
- Southbound left-turn lane into the site from NC 16 with 150' of storage.
- Right-Of-Way dedication along site frontage for future widening of NC 16.
- Modification/participation in traffic signal to be located at intersection of Prescott Glen Parkway/Waxhaw Events Campus entrance.
- The development shall install all NCDOT requirements at time of site development and in conjunction with NCDOT requirements.

Planning Staff Analysis

Staff feels that this project is an appropriate use for the site. The proposed development meets the guidelines outlined in both the 2030 Comprehensive Plan and the Highway 16 Corridor Plan. Also, the applicant's design and intended uses for the property take into account the sensitivity of the site by the way the site has been designed.

Planning Staff Recommendation

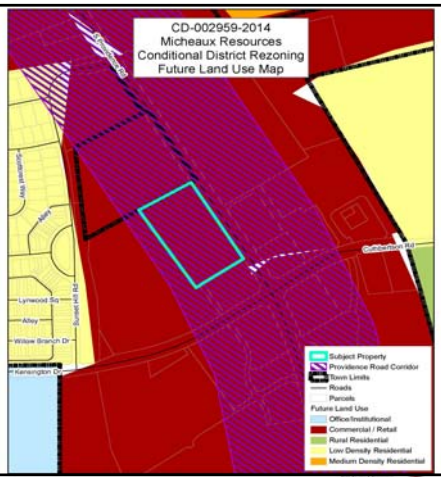
Planning staff recommends approval of the Conditional Rezoning Request CD-002516-2014 as currently submitted, along with the following recommendations:

- The project shall conform to all requirements of the Town of Waxhaw Unified Development Ordinance and all notes on the rezoning plan.
- The applicant shall install the improvements required by NCDOT as listed in the Transportation section of this report in coordination with the improvements required for Prescot Village.

Please note that all staff recommendations must be agreed upon by the applicant as part of the conditional rezoning process.

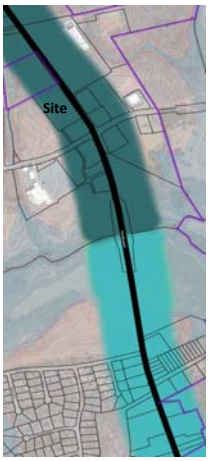
CD-002959-2014

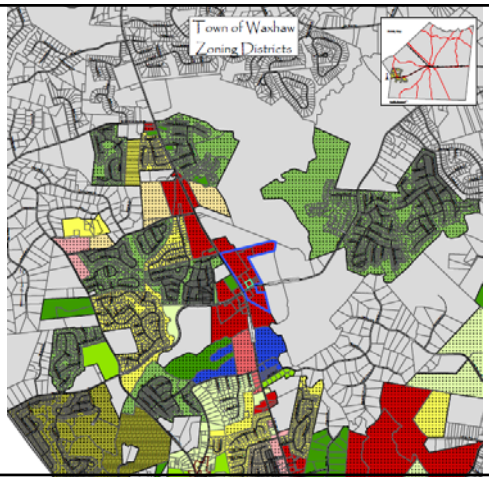
Petition CD-002959-2014 is a request by Micheaux Resource Management, LLC, on behalf of Frances H. Pressley, Clyde D. Pressley, Shirley Jean Davis and Jerry G. Davis, for a conditional rezoning / map amendment from R-1 (Single-Family) to CD-C3 (General Commercial) on approximately 5.1 acres (Tax Parcel ID number 06-162-002 located on the west side of Highway 16, just north of the intersection of Highway 16 and Kensington Road. The petitioner is proposing a commercial development for the site, which will include a convenience store with associated car wash, an automotive repair facility and a retail building. The applicant is also requesting a major variation for the vacuum canopy per the Town of Waxhaw Unified Development Ordinance Section 20.6.3 to permit both steel columns and a red roof for the vacuum canopy.

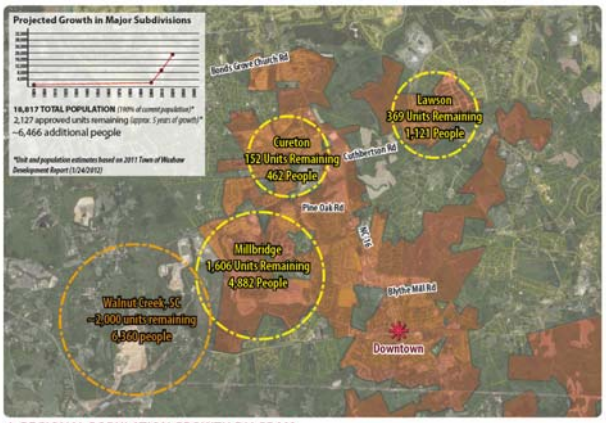


Highway 16 Corridor Plan
Land Use Recommendation

Town Center



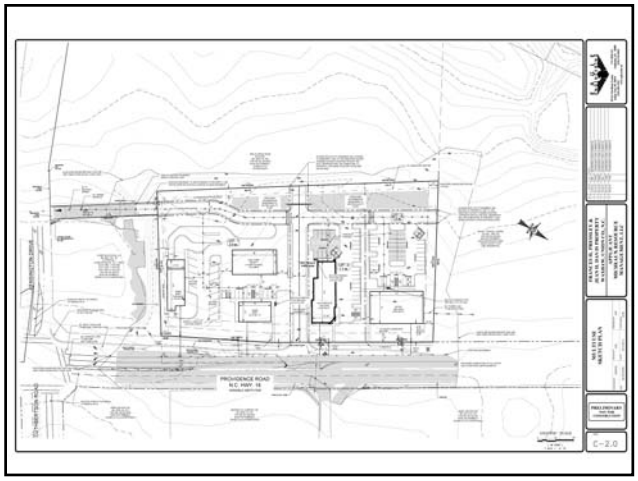


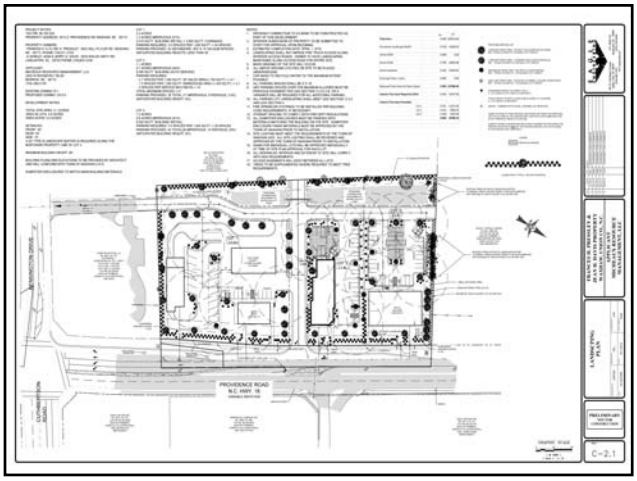


▲ REGIONAL POPULATION GROWTH DIAGRAM

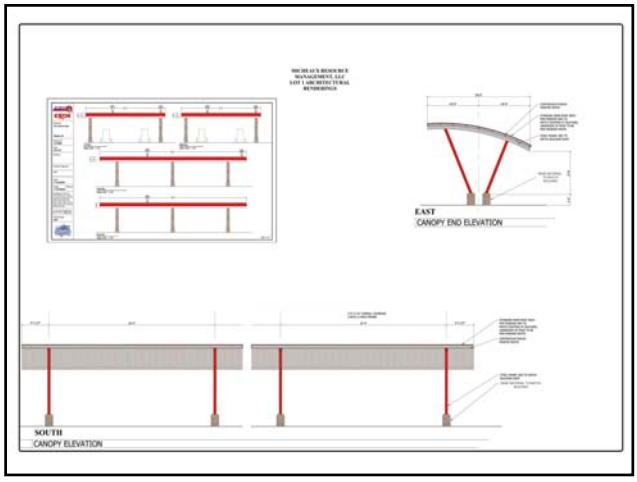
Barrington
16
Lawson
Cureton
Shoppes at
Howard's Mill
Prescot
Camberly

Intersection Map





South Elevation
North Elevation
West Elevation
East Elevation
Sam's Mart Convenience Store


EAST
CANOPY END ELEVATION
SOUTH
CANOPY ELEVATION

LOT 1 Applicant: Micheaux Resource Management, LLC
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Neighborhood Meeting

The applicant held a neighborhood meeting as required by the Unified Development Ordinance on April 8, 2015. Property owners within 300 feet of the site were notified and given the opportunity to voice their concerns with the proposal.

Technical Review Committee Meeting

A Technical Review Committee meeting was held on March 3, 2015 as required by the Unified Development Ordinance.

2030 Comprehensive Plan & Land Use Map and Highway 16 Corridor Plan

The Comprehensive Plan has identified this property to be developed as follows:

Commercial/Retail: These areas focus on retail and commercial uses. They should be located along main transportation corridors and near residential and employment areas to provide access to goods and services.
Providence Road Corridor: This classification designates a corridor along Providence Road (NC-16) – the primary road corridor through Waxhaw - that has been identified for additional planning.

The Highway 16 Corridor Plan identifies this property as Town Center which is described as follows:

General Character: Shops mixed with townhouses, larger apartment houses, offices, workplace, and civic buildings; predominantly attached buildings; trees within the public right-of-way; substantial pedestrian activity
Building Placement: Shallow setbacks or none; buildings oriented to street defining a street wall.

Land Use/Site Plan Issues

- The petitioner is proposing a commercial development for the site, which will include a convenience store with associated car wash, an automotive repair facility and a retail building. The applicant plans on submitting a plat to subdivide the site into Lots 1, 2, and 3 upon approval of the rezoning.
- Water and sewer for this site will be provided by Union County Public Works.
- Exterior lighting shall comply with Section 12.12 of the Unified Development Ordinance.
- The required 20' Type B buffer will be installed along the northern property line of lot 3 along with all other required site landscaping and buffering in accordance with Section 9 of the Unified Development Ordinance.
- Maximum building height allowed will be 30'.

Architectural Guidelines

The proposed plan meets the architectural guidelines in Section 20 of the Unified Development Ordinance.

Connectivity / Parking

- The applicant is providing connectivity to the parcels to the west and south of the site.
- A sidewalk will be constructed along the frontage of Hwy 16 with a connection from each of the buildings provided. All sidewalks will be ADA compliant and 5' in width.
- The applicant will provide shared access and parking agreements between all three lots in the development.
- The applicant is proposing to exceed the maximum parking requirements on Lots 2 and 3. Per Section 20 of the Unified Development Ordinance the maximum parking requirement can be exceeded if the additional parking spaces are constructed with pervious material. The applicant is proposing to construct the additional parking spaces out of pervious concrete.

Transportation

NCDOT requirements for the development are as follows:

- Extend the existing right turn lane in front of the property along NC 16.
- Dual left turn lanes onto Cuthbertson from NC 16 must be installed due to the loss of storage from the installation of leftovers on NC 16.
- The outside receiving lane on Cuthbertson must be extended to 500 feet in length along with appropriate downstream taper.
- Right turn lanes are to be constructed on Cuthbertson for the two access points that currently using the right turn only lane.
- In addition to the dual left turn lanes on NC 16, a thru lane and right turn lane must be kept when the dual lanes are built along with some pavement widening on the south side end of the intersection to accommodate the new thru lane alignment.
- The development shall install all NCDOT requirements at time of site development and in conjunction with NCDOT requirements.

Planning Staff Analysis

Staff feels that this project is an appropriate use for the site. The proposed development conforms to the recommendations of the both the 2030 Comprehensive Plan and the Highway 16 Corridor Plan for the type of development recommended for the area. The applicant will need approval of the major variation request per Section 20.6.3 of the Unified Development Ordinance to permit both steel columns as shown on the rendering and the red roof of the vacuum canopy.

Planning Staff Recommendation

Planning staff recommends approval of the Major Variation and Conditional Rezoning Request CD-002959-2014 as currently submitted, along with the following recommendations:

- The project shall conform to all requirements of the Town of Waxhaw and to the Development Standards listed in the Land Use/Site Plan section of this report and on the rezoning plan.
- The development shall install all NCDOT requirements at time of site development and in conjunction with NCDOT requirements.

Please note that all staff recommendations must be agreed upon by the applicant as part of the conditional rezoning process.