UNIFIED DEVELOPMENT ORDINANCE

CODIFY CLAYTON

Adopted: 11.20.23
Effective 1.2.24

ACKNOWLEDGEMENTS

Town Council

Jody McLeod, Mayor
Jason Thompson, Mayor Pro Tem
Avery Everett, Councilmember
Andria Archer, Councilmember
Porter Casey, Councilmember
Michael Sims, Councilmember

Planning Board

James Moore, Chair
Steven Powers, Vice-Chair
Jeffrey Spence
Lisa Begley
Ronald Williams
Kevin Lee
Ethan Bennett
James Lipscomb
Jodie Dupree

Codify Clayton Steering Committee

Town of Clayton Planning Board
Marty Bizzell, Chair, Board of Adjustment
Thomas Antoine, Vice-Chair, Board of Adjustment
Rebecca Berry, Member, Board of Adjustment
Jim Perricone, Member, Board of Adjustment

Town Staff

Rich Cappola, Town Manager
Lee Barbee, Interim Deputy Town Manager/Fire Chief
Robert Yarborough, Senior Building Codes Official
Anthony Atkinson, Deputy Fire Chief/Fire Marshal
Joshua Baird, Engineering Director
Patrick Pierce, Economic Development Director
Byron Poelman, Water Resources Director
Allen Turnage, Electric Director
Ethan Poppe, Energy Services Technician
Conrad Olmedo, Planning Director
Dede Bumgarner, Development Services Manager & Zoning Administrator
Steven Mott, Planner II
Bruce Venable, Planner I

Consultant

CodeWright Planners, LLC
Angela S. Manning, Inc
Timmons Group

UDO AMENDMENTS

UDO AMENDMENTS		
Ordinance Number	Ordinance Date	Description

ABOUT THIS UDO

This document is the Town of Clayton's Unified Development Ordinance (or "UDO"). It contains the rules that govern:

- How land can be used in the Town and the Town's extraterritorial jurisdiction;
- What kinds of land uses may be located in particular locations (based on the zoning map); and
- How new development must be configured.

The following paragraphs explain some of the attributes of this document.

Clayton's zoning map is the graphical depiction of the location of the zoning districts and is adopted by reference into this UDO.

This UDO includes a text formatting system comprised of numbered section and sub-section headings that are designed to help code users understand how the text is organized. Section headings include different color backgrounds and sub-section headings use underlining to help them be more visible.

This UDO has 9 chapters, which are ordered alphabetically, including an appendix. Most sections within each chapter are also ordered alphabetically. Some chapters also include an introductory section that explains how the regulations in the chapter are structured and how to use them effectively.

The top of almost every page in the UDO includes the chapter's number and name, as well as the number and name of the section addressed on that page. This is done so users may use the tops of pages to quickly navigate the document (since articles and main sections are ordered alphabetically). Page numbers are included at the bottom of each page.

To ensure that a user is reviewing the most recent version of the document, the bottom of the page also includes the date the UDO was last updated. The most recent version of the document is maintained on the Town's webpage and is also available in the Town's Planning Department office.

Highlighted text in this UDO is a dynamic cross reference that, when selected with a mouse, will automatically advance to the location of the cross-referenced text in this UDO. Individual table of contents entries and index entries are also dynamic cross references that when selected, will automatically advance to the selected location.

There is an index of key terms and concepts at the end of the document. Code users may use this index to quickly locate a particular section or set of regulations.

Questions about this UDO, or any part of the Codify Clayton project may be posted on the project website (www.codifyclayton.com), or applicants may contact the Planning Department at 919-553-5002.

FREQUENTLY ASKED QUESTIONS

The following is a list of frequently asked questions about the UDO and the development review process. UDO users who are not sure what they are looking for should consult these questions and answers before reviewing the UDO or contacting Town staff. In the event of conflict between an answer listed in this frequently asked questions section and the adopted UDO text, the UDO text will control.

FREQUENTLY ASKED QUESTIONS AND ANSWERS	
QUESTION	**ANSWER**
WHAT IS THE UNIFIED DEVELOPMENT ORDINANCE	The Unified Development Ordinance (or "UDO") is the set of laws used by the Town to ensure land is subdivided and used in ways that promote the health, safety, and welfare of all Town residents, visitors, and landowners. It sets rules for how land can be used in the Town and how to change the application of these rules to allow different uses. The UDO also includes development rules for things like parking, landscaping, signage, fencing, and building architecture. The text of the UDO is available in the offices of the Town of Clayton Planning Department at 111 E Second Street. It is also available online from the Town's website at https://www.townofclaytonnc.org/217/Planning
WHAT IS THE OFFICIAL ZONING MAP?	The Official Zoning Map shows the zoning districts for each property as adopted by the Town of Clayton. Zoning districts control how land is used, as well as the size, width, and required setbacks for each lot. A property's zoning district designation may be changed by following the steps required in the UDO. Copies of the Official Zoning Map are available in the offices of the Town of Clayton Planning Department at 111 E Second Street. It is also available online from the Town's website at https://www.townofclaytonnc.org/217/Planning
WHAT IS THE COMPREHENSIVE PLAN?	The Think Clayton: 2045 Comprehensive Growth Plan is the Town's plan for future growth. The Plan expresses a vision for how the Town can accommodate opportunities for new residents and businesses while retaining what the community loves about Clayton. Within the plan are recommendations for economic development, land use, parks, public services, infrastructure, and arts and culture, among others. This plan was adopted by the Town Council and is the guiding direction that informs the regulations within the UDO. For more details on what is included in the Comprehensive Plan, please visit www.townofclaytonnc.org/234/2045-Comprehensive-Growth-Plan
WHAT CAN I DO OR PLACE ON MY LAND?	Land may be developed in the Town of Clayton based on the zoning district designation for the land. Zoning districts include allowable uses as specified in Chapter 4 of the UDO. Bona fide farm and forestry uses are allowed everywhere in the Town. Anyone with questions about what is allowed on their land should contact the Town of Clayton Planning Department at (919) 553-5002 for more information.

FREQUENTLY ASKED QUESTIONS

FREQUENTLY ASKED QUESTIONS AND ANSWERS	
QUESTION	**ANSWER**
WHAT PERMITS DO I NEED TO BUILD A HOUSE?	All single-family detached dwellings require prior approval of a Zoning Compliance Permit and a Building Permit issued from the Town of Clayton. In cases where the home is on its own well or septic system, the dwelling also requires prior approval from Johnston County Environmental Health to ensure the lot has a potable water supply and a method for dealing with sewage. Dwellings located in a floodplain or flood prone area also require issuance of a Floodplain Permit. If significant amounts of grading or soil deposition is required before the house can be built, it may be necessary to obtain a Land Disturbance Permit before construction starts. During construction, the building must be inspected by Town Building Inspectors as required by State law, and a Certificate of Occupancy must be issued before the home may be occupied. Applicants seeking to place a manufactured home may be required to obtain a Special Use Permit, and should contact the Town's Planning Department at (919) 553-5002 for more information.
DO I NEED A PERMIT TO BUILD A DECK?	Building a porch or a deck on or near a single-family detached dwelling requires approval of a Building Permit and may also require a Zoning Compliance Permit. In cases where the home is on a small lot of less than an acre in area or the porch or deck is closer than ten feet to a lot line, it may be necessary to also obtain a Variance. Decks should never be built within a public utility easement.
DO I NEED A PERMIT TO BUILD A FENCE?	A Zoning Compliance Permit is required to build a fence. Fences over six feet in height also need a Building Permit to show compliance with wind loading requirements required under State law. Section 6.3 of the UDO contains the rules for fences and walls. Questions about how to permit a fence should be directed to the Town's Planning Department at (919) 553-5002.
DO I NEED A PERMIT FOR A SIGN?	Most forms of signage require approval of a Sign Permit by the Town. Flags and political (election) signs do not require a sign permit, but are subject to the rules for signage in the UDO in Section 6.13.
DO I NEED A PERMIT TO HAVE OPERATE A BUSINESS IN MY HOME?	Operating a home-based business (also called a "home occupation") requires approval of a Zoning Compliance Permit issued by the Town. Home occupation is an allowed secondary use in the zoning districts designated in Section 4.5 of the UDO. Owners should note that there are several uses that are prohibited as home occupations as listed in Section 4.4.3.

FREQUENTLY ASKED QUESTIONS

FREQUENTLY ASKED QUESTIONS AND ANSWERS	
QUESTION	**ANSWER**
HOW DO I CREATE AN ADDITIONAL LOT FOR A FAMILY MEMBER?	Lots may be created for family members on a limited basis using the process for a "family subdivision" in the UDO. A subdivision of land creating lots for family members must be signed by Town personnel and recorded with the Johnston County Register of Deeds at 207 E. Johnston Street, Suite 209, Smithfield, NC, 27577. Failure to record a plat for a family subdivision will interfere with the ability to obtain a Building Permit to build a structure on the lot.
WHAT IS THE PROCESS FOR REZONING MY LAND?	Rezoning land is a change to the Town's Official Zoning Map and must be approved by a Zoning Map Amendment decision by the Town Council. This process also requires a public hearing before the Town Council, and the decision will take into consideration the recommendation of the Planning Board. Landowners considering a request to change their zoning should talk with the Town of Clayton Planning Department staff at (919) 553-5002 before filing an application.
WHO MAKES DECISIONS ON APPLICATIONS?	Development applications are decided by the Planning Director, the Engineering Director, the Building Inspector, the Town Council, or the Board of Adjustment based on the type of application. The UDO includes a summary table in Chapter 2.2.1 that identifies who decides which kinds of applications.
HOW CAN I APPEAL A DECISION?	Any decision by a Town staff member (like the Planning Director) may be appealed to the Town's Board of Adjustment. Decisions from decision-making bodies like the Board of Adjustment may be appealed to the Superior Court for Johnston County. There are specific deadlines from the date a decision is made within which an appeal may be filed.
WHO SHOULD I CALL ABOUT FLOODING OR OTHER NUISANCES?	Persons with questions about flooding, nuisances, or potential code violations should contact the Town of Clayton Planning Department at (919) 553-5002.
HOW CAN I LEARN MORE?	To learn more about the Town of Clayton's planning and development process and rules, visit the Planning Department's website here: https://www.townofclaytonnc.org/217/Planning Or stay up to date and learn more about the Town of Clayton's UDO at the project website here: https://www.codifyclayton.com/

TABLE OF CONTENTS

CHAPTER 1 ADMINISTRATION 21

1.1 Applicability 23
1.1.1 Generally 23
1.1.2 Application to Governmental Units 23
1.1.3 Jurisdiction 23
1.1.4 Minimum Requirements 24
1.1.5 No Development Until Compliance with All Applicable Laws 24

1.2 Authority 25

1.3 Conflict 25
1.3.1 Conflict Between Standards in this Ordinance 25
1.3.2 Conflict with a Condition of Approval 26
1.3.3 Conflict with Private Agreements & Covenants 26
1.3.4 Conflict with State or Federal Law 26
1.3.5 Conflict with Town Code or Policy 27
1.3.6 Determination of Most Restrictive Standard 27

1.4 Consistency with Adopted Policy Guidance 27
1.4.1 Advisory in Nature 27
1.4.2 Conformance 27
1.4.3 Consistency 27
1.4.4 Policy Documents Identified 27

1.5 Document Title 27
1.5.1 Ordinance Text 27
1.5.2 Zoning Map 28

1.6 Effective Date 28

1.7 Purpose and Intent of Ordinance 28

1.8 Review Authorities 29
1.8.1 Authorities Established 29
1.8.2 General Requirements for All Authorities 29
1.8.3 Town Council 31
1.8.4 Planning Board (PB) 31
1.8.5 Board of Adjustment (BOA) 32
1.8.6 Technical Review Committee (TRC) 33
1.8.7 Town Staff 34

1.9 Severability 37
1.9.1 Invalidation 37
1.9.2 Prejudicial Application 37
1.9.3 Lawful Presumption 37

1.10 Transitional Provisions 37
1.10.1 Prior and Pending Applications 37
1.10.2 Existing Nonconformities 38
1.10.3 Pre-Existing Permits 38
1.10.4 Pre-Existing Uses 38
1.10.5 Violations 38

1.11 Vested Rights 39

1.11.1 Purpose and Intent 39
1.11.2 Vested Rights Defined 39
1.11.3 Effect of a Vested Right 39
1.11.4 Establishment of a Vested Right 39
1.11.5 Termination of a Vested Right 42

CHAPTER 2 APPLICATIONS 45

2.1 Chapter Introduction 47
2.1.1 Chapter Organization 47

2.2 Application Summary Tables 47
2.2.1 Development Applications 47
2.2.2 Subdivision Types 50
2.2.3 Process Diagrams 52

2.3 Application Types 54
2.3.1 Administrative Adjustment 54
2.3.2 Appeal 56
2.3.3 Annexation 60
2.3.4 Building Permit 63
2.3.5 Certificate of Occupancy 65
2.3.6 Conditional Rezoning 67
2.3.7 Conservation Subdivision 73
2.3.8 Conventional Rezoning 76
2.3.9 Determination 79
2.3.10 Development Agreement 82
2.3.11 Driveway Permit 84
2.3.12 Exempt Subdivision 86
2.3.13 Fee-in-Lieu 88
2.3.14 Floodplain Permit 93
2.3.15 Land Disturbance Permit 99
2.3.16 Limited Subdivision 101
2.3.17 Major Subdivision 103
2.3.18 Minor Subdivision 110
2.3.19 Performance Guarantee 113
2.3.20 Sign Permit 118
2.3.21 Site Plan 122
2.3.22 Special Use Permit 127
2.3.23 Stormwater Permit 131
2.3.24 Street Renaming/ Closure 135
2.3.25 Temporary Permit 137
2.3.26 Text Amendment 139
2.3.27 Transportation Impact Analysis 141
2.3.28 Tree Clearing Certificate 144
2.3.29 Variance 148
2.3.30 Vested Rights Certificate 155
2.3.31 Zoning Compliance Permit 157

2.4 Review Procedures 159
2.4.1 Overview 159
2.4.2 Purpose and Intent 159
2.4.3 Pre-Application Conference 159
2.4.4 Neighborhood Meeting 160
2.4.5 Application Filing 162
2.4.6 Permit Choice 164

2.4.7 Staff Review and Action 164
2.4.8 Public Notice 165
2.4.9 Public Hearings and Meetings 168
2.4.10 Conditions of Approval 171
2.4.11 Written Notice of Decision 172
2.4.12 Simultaneous Processing 172
2.4.13 Phased Development 172
2.4.14 Continuance, Withdrawal, and Abandonment 173
2.4.15 Reconsideration of Denied Applications 174
2.4.16 Amendment of Approved Application 174
2.4.17 Expiration 175

CHAPTER 3 DISTRICTS 177

3.1 Chapter Introduction 179
3.1.1 Chapter Organization 179
3.1.2 Districts Distinguished 179
3.1.3 Districts Established 180

3.2 Conventional Zoning Districts 182
3.2.1 (CRM) Corridor Commercial District 182
3.2.2 (CON) Conservation 184
3.2.3 (DTNC) Downtown Core 186
3.2.4 (DTNN) Downtown Neighborhood 190
3.2.5 (DTNT) Downtown Transitional 193
3.2.6 (HID) Heavy Industrial 196
3.2.7 (LID) Light Industrial 198
3.2.8 (MXD) Mixed-Use 200
3.2.9 (NCM) Neighborhood Commercial 202
3.2.10 (OFI) Office Institutional 204
3.2.11 (PUB) Public Facilities 206
3.2.12 (RHD) Residential High Density 208
3.2.13 (RLL) Residential Large Lot 212
3.2.14 (RLD) Residential Low Density 215
3.2.15 (RMD) Residential Medium Density 218
3.2.16 (RMF) Residential Multi-Family 222
3.2.17 (RUR) Rural 226

3.3 Conditional Zoning Districts 229
3.3.1 General Provisions 229
3.3.2 (CZC) Conditional Commercial 232
3.3.3 (CZD) Conditional Downtown 232
3.3.4 (CZI) Conditional Industrial 233
3.3.5 (CZM) Conditional Mixed-Use 234
3.3.6 (CZR) Conditional Residential 235

3.4 General Dimensional Standards 236
3.4.1 Maximum Residential Density May be Increased 236
3.4.2 Multiple Buildings or Structures on a Lot 236
3.4.3 Required Lot Configuration 236
3.4.4 Required Yards 238
3.4.5 Special Purpose Lots 238
3.4.6 Split Zoning 238
3.4.7 Unified Development 238

3.5 Incentives and Alternatives 239
3.5.1 Density 239

3.5.2 Dimensional Standards 239
3.5.3 Alternative Means of Compliance 239

3.6 Measurements and Exceptions 240
3.6.1 Purpose and Intent 240
3.6.2 Generally 240
3.6.3 Density & Yield Calculations 242
3.6.4 Height 244
3.6.5 Floor Area 245
3.6.6 Lot Coverage 245
3.6.7 Lots 246
3.6.8 Setbacks 249
3.6.9 Setback Encroachments 250
3.6.10 Slope and Elevation 254

3.7 Overlay Zoning Districts 255
3.7.1 Generally 255
3.7.2 FPOD Flood Protection Overlay District 255
3.7.3 GTOD Gateway Overlay District 265
3.7.4 LHOD Local Historic Overlay District 267
3.7.5 WPOD Watershed Protection Overlay District 268

3.8 Zoning Map 275
3.8.1 Generally 275
3.8.2 Incorporated by Reference 275
3.8.3 Interpretation of Map Boundaries 275
3.8.4 Revision 276

CHAPTER 4 LAND USES 277

4.1 Chapter Introduction 281
4.1.1 Chapter Organization 281
4.1.2 Land Uses Distinguished 281

4.2 Principal Uses 282
4.2.1 Applicability 282
4.2.2 Establishment of a Principal Use 282
4.2.3 Change of a Principal Use 282
4.2.4 Combination Principal Uses 283
4.2.5 Listing of Common Principal Uses 283

4.3 Standards for Specific Principal Uses 291
4.3.1 Section Structure Explained 291
4.3.2 General Requirement 291
4.3.3 Adult Day Care 291
4.3.4 Agricultural Packaging & Processing 291
4.3.5 Agricultural Storage & Distribution 291
4.3.6 Animal Husbandry 291
4.3.7 Animal Boarding, Indoor Only 292
4.3.8 Animal Boarding, Indoor and Outdoor 292
4.3.9 Animal Shelter 292
4.3.10 Antenna Collocation, Major 292
4.3.11 Antenna Collocation, Minor 292
4.3.12 Asphalt or Concrete Plant 292
4.3.13 Athletic Field or Court 293
4.3.14 Auditorium, Coliseum, Convention Center 293
4.3.15 Bank, Credit Union, or Similar Use 293

4.3.16 Bar, Cocktail Lounge, Private Club 294
4.3.17 Barber or Beauty Salon 294
4.3.18 Bed & Breakfast 294
4.3.19 Boarding House 294
4.3.20 Bottle Shop (on-premise consumption) 295
4.3.21 Broadcasting Studio 295
4.3.22 Bulky Item Sales 295
4.3.23 Bungalow Court 295
4.3.24 Business Incubator 296
4.3.25 Campground 297
4.3.26 Catering Establishment 297
4.3.27 Cemetery or Mausoleum 297
4.3.28 Check Cashing /Pay Day Lending 298
4.3.29 Child Day Care 298
4.3.30 Coffee Shop or Bakery 298
4.3.31 Community Center 298
4.3.32 Community Recreation Facility (private) 299
4.3.33 Computer Related Services 299
4.3.34 Congregate Care 299
4.3.35 Conservation Subdivision 299
4.3.36 Continuing Care Retirement Community (CCRC) 299
4.3.37 Contractor Services Office/Yard 300
4.3.38 Convenience Store (with gasoline sales) 300
4.3.39 Co-Working Space 300
4.3.40 Cryptomining and Data Processing 300
4.3.41 Duplex Dwelling 301
4.3.42 Electrical, HVAC, or Plumbing Fabrication 301
4.3.43 Equestrian Facility 301
4.3.44 Event Venue, Indoor & Outdoor 301
4.3.45 Extractive Industry 302
4.3.46 Family Care Home 302
4.3.47 Farm Equipment Sales and Service 303
4.3.48 Farm Supply Sales (retail or wholesale) 303
4.3.49 Financial Services 303
4.3.50 Fire/EMS/Police Station 303
4.3.51 Fitness Center 303
4.3.52 Flea Market 303
4.3.53 Fraternal Club or Lodge 304
4.3.54 Freight Terminal 304
4.3.55 Fuel Oil/Bottled Gas Distribution 304
4.3.56 Funeral Related Services 304
4.3.57 Gasoline Sales 304
4.3.58 Golf Course (public or private) 305
4.3.59 Government Office 305
4.3.60 Grocery Store 305
4.3.61 Grooming (Animal) 305
4.3.62 Group Home 305
4.3.63 Hair, Nail, and Skin Related Services 306
4.3.64 Halfway House 306
4.3.65 Heavy Equipment Sales, Rental, & Repair 306
4.3.66 Horticulture 306
4.3.67 Hospital 306
4.3.68 Homeless Shelter 307
4.3.69 Hotel or Motel 307
4.3.70 Indoor Commercial Recreation 307
4.3.71 Indoor Recreation, Public 307

4.3.72 Instructional Services 307
4.3.73 Laboratory 307
4.3.74 Laundry and Fabric Cleaning 307
4.3.75 Libraries 308
4.3.76 Light Equipment Sales, Rental, & Repair 308
4.3.77 Live/Work Dwelling 308
4.3.78 Maker Space 308
4.3.79 Manufactured Home, Class A 308
4.3.80 Manufactured Home, Class B 309
4.3.81 Manufactured Home Park 309
4.3.82 Manufacturing, Heavy 313
4.3.83 Manufacturing, Light 313
4.3.84 Metal Fabrication 313
4.3.85 Micro Brewery, Micro Distillery, or Micro Winery 313
4.3.86 Multi-Family Dwelling 313
4.3.87 Museums 315
4.3.88 Nightclub or Dance Hall 315
4.3.89 Nursery (retail or wholesale) 315
4.3.90 Office, High Intensity 315
4.3.91 Office, Low or High Intensity 315
4.3.92 Outdoor Commercial Recreation 316
4.3.93 Outdoor Recreation, Public 316
4.3.94 Outpatient Facility 317
4.3.95 Packaging and Shipping 317
4.3.96 Park or Playground (public or private) 317
4.3.97 Parking Lot 317
4.3.98 Parking Structure 317
4.3.99 Pawn Shop 318
4.3.100 Pharmacy 318
4.3.101 Pocket Neighborhood 318
4.3.102 Psychiatric Services 320
4.3.103 Rail Related Use 321
4.3.104 Recreational Vehicle Park 321
4.3.105 Recycling Center 321
4.3.106 Religious Institution 322
4.3.107 Repair Shop 322
4.3.108 Research and Development 323
4.3.109 Residential Treatment Facility 323
4.3.110 Restaurants 323
4.3.111 Retail, General 324
4.3.112 Retail, Large Format 324
4.3.113 Retail, Micro 324
4.3.114 Salvage and Junkyard 324
4.3.115 School, Elementary or Middle 325
4.3.116 School, High 325
4.3.117 School, Vocational 325
4.3.118 Sexually-Oriented Business 325
4.3.119 Single-Family Attached Dwelling 326
4.3.120 Single-Family Detached Dwelling 327
4.3.121 Small Wireless Facility 327
4.3.122 Solar Energy Conversion, Level 2 or 3 327
4.3.123 Storage, Indoor 327
4.3.124 Storage, Outdoor (as a Principal Use) 328
4.3.125 Tanning Salon 328
4.3.126 Tattoo & Piercing Establishment 328
4.3.127 Telecommunications Facilities 329

4.3.128 Theatre, Indoors 342
4.3.129 Theatre, Outdoors 342
4.3.130 Tobacco, CBD, and Vapor Shop 342
4.3.131 Transfer Station 343
4.3.132 Triplex or Quadplex 344
4.3.133 Upper-Story Dwelling 344
4.3.134 Urgent Care 345
4.3.135 Utility, Major 345
4.3.136 Vehicle Painting/ Bodywork 345
4.3.137 Vehicle Parts and Accessory Sales 345
4.3.138 Vehicle Repair and Service (no painting/ bodywork) 345
4.3.139 Vehicle Sales and Rental 346
4.3.140 Vehicle Towing and Storage 346
4.3.141 Vehicle Washing or Detailing 346
4.3.142 Veterinary Services, Large Animal 346
4.3.143 Veterinary Services, Small Animal 346
4.3.144 Warehouse, Distribution and Storage 347
4.3.145 Wholesale Sales, Indoor and Outdoor 347
4.3.146 Wind Energy Conversion 348

4.4 Prohibited Uses 350
4.4.1 Prohibited Everywhere 350
4.4.2 Prohibited by Overlay District Standards 351
4.4.3 Prohibited as Secondary Uses 351

4.5 Secondary Uses 352
4.5.1 Establishment of a Secondary Use 352
4.5.2 Intent of These Standards 352
4.5.3 General Standards for All Secondary Uses 352
4.5.4 Listing of Common Secondary Uses 355
4.5.5 Standards for Specific Secondary Uses 356

4.6 Temporary Uses 372
4.6.1 Establishment of a Temporary Use or Structure 372
4.6.2 Intent of these Standards 372
4.6.3 General Standards for All Temporary Uses 372
4.6.4 Duration of Common Temporary Uses 373
4.6.5 Standards for Specific Temporary Uses 374

4.7 Unlisted Uses 380
4.7.1 Procedure for Determination 380
4.7.2 Use Category Descriptions 380

CHAPTER 5 NONCONFORMITIES 393

5.1 Chapter Introduction 394
5.1.1 Purpose and Intent 394
5.1.2 Determination of Nonconforming Status 394
5.1.3 Maintenance, Minor Repairs, and Continuation Allowed 394
5.1.4 Tenancy and Ownership Changes 395
5.1.5 Overlay Zoning Districts 395

5.2 Nonconforming Lots of Record 396
5.2.1 Applicability 396
5.2.2 Nonconforming Lot Width or Area 396
5.2.3 Nonconformity Affects Setbacks 396
5.2.4 Further Subdivision Limited 397

5.2.5 Governmental Acquisition of Land 397
5.2.6 Nonconforming Special Purpose Lot 397

5.3 Nonconforming Signs 398
5.3.1 Applicability 398
5.3.2 Maintenance of Nonconforming Signage Allowed 398
5.3.3 Replacement of Nonconforming Signage 398
5.3.4 Amortization of Nonconforming Outdoor Advertising 399

5.4 Nonconforming Site Features 400
5.4.1 Applicability 400
5.4.2 Determination of Cost and Assessed Value 400
5.4.3 Change of Use 400
5.4.4 Reconstruction of Principal Structure 401
5.4.5 Expansion of Existing Principal Structure 401
5.4.6 Expansion of Outdoor Use Area 401
5.4.7 Two or Fewer Additional Parking Spaces 401
5.4.8 Physically-Constrained Properties 401

5.5 Nonconforming Structures 402
5.5.1 Applicability 402
5.5.2 Continuation and Replacement 402
5.5.3 Alteration and Expansion 402
5.5.4 Compliance with Design Standards 402
5.5.5 Reconstruction Following Damage 402

5.6 Nonconforming Uses 403
5.6.1 Declared Incompatible 403
5.6.2 Continuation Allowed 403
5.6.3 Increasing Elevation 403
5.6.4 Separation Requirements 403
5.6.5 Extension or Expansion 403
5.6.6 Conversion 404
5.6.7 Restoration Following Casualty Damage 404
5.6.8 Cessation 405
5.6.9 Rezoning 405

CHAPTER 6 STANDARDS 407

6.1 Access and Circulation 411
6.1.1 Purpose and Intent 411
6.1.2 Applicability 411
6.1.3 Access to Lots 411
6.1.4 Driveways 413
6.1.5 On-Site Pedestrian Circulation 421
6.1.6 Parking Lot Connections 422
6.1.7 Sight Distance Triangles 424

6.2 Design Standards and Guidelines 426
6.2.1 Section Contents 426
6.2.2 Farmland Protection Standards 426
6.2.3 Mixed-Use Design Standards 428
6.2.4 Multi-Family Design Standards 437
6.2.5 Non-Residential Design Standards 446
6.2.6 Single-Family Residential Design Guidelines 460

6.3 Fences and Walls 466

6.3.1 Purpose and Intent 466
6.3.2 Applicability 466
6.3.3 Locational Standards 466
6.3.4 Materials 467
6.3.5 Maintenance 469
6.3.6 Maximum Height 469
6.3.7 Finished Side 471
6.3.8 Measurement 471

6.4 Exterior Lighting 473

6.4.1 Purpose and Intent 473
6.4.2 Applicability 473
6.4.3 Exemptions 473
6.4.4 Prohibited Lighting 473
6.4.5 Lighting Plan 474
6.4.6 Exterior Lighting Standards 475
6.4.7 Standards for Specific Site Features and Uses 477
6.4.8 Street Lights 479
6.4.9 Measurement 479

6.5 Infrastructure 481

6.5.1 Purpose and Intent 481
6.5.2 Applicability 481
6.5.3 Generally 481
6.5.4 Bridges and Dams 483
6.5.5 Cluster Mailboxes 483
6.5.6 Drainage Facilities 485
6.5.7 Easements 486
6.5.8 Electricity 489
6.5.9 Fire Protection 490
6.5.10 Potable Water 490
6.5.11 Refuse Collection 493
6.5.12 Streets 494
6.5.13 Wastewater 506

6.6 Landscaping and Screening 510

6.6.1 Purpose and Intent 510
6.6.2 Applicability 510
6.6.3 Exemptions 511
6.6.4 Landscaping Plan Required 511
6.6.5 Landscaping Timing 512
6.6.6 Maintenance and Inspection Required 512
6.6.7 Plant Material Specifications 514
6.6.8 Plant Measurement 516
6.6.9 Plant Placement 518
6.6.10 Planting Flexibility 519
6.6.11 Off-Street Parking Lot Landscaping 522
6.6.12 Perimeter Buffers 525
6.6.13 Screening 532
6.6.14 Site Landscaping 540
6.6.15 Street Trees 541
6.6.16 Streetscape Buffers 543
6.6.17 Violation and Replacement 546

6.7 Open Space Set-Aside and Parkland 547

6.7.1 Open Space Set-Aside 547
6.7.2 Parkland Dedication 553

6.8 Owners' Associations 556
6.8.1 Purpose 556
6.8.2 Applicability 556
6.8.3 Creation Required 556
6.8.4 Membership Requirements 556
6.8.5 Procedure for Establishment 556
6.8.6 Responsibilities 557
6.8.7 Required Documentation 557
6.8.8 Transfer of Maintenance Responsibility 558
6.8.9 Failure to Maintain is a Violation 558

6.9 Parking and Loading 559
6.9.1 Purpose and Intent 559
6.9.2 Applicability 559
6.9.3 Exemptions 560
6.9.4 Off-Street Parking Requirements 560
6.9.5 Bicycle Spaces 569
6.9.6 Stacking Spaces 571
6.9.7 Parking Lot Configuration 573
6.9.8 Parking Flexibility 576
6.9.9 Off-Street Loading 578
6.9.10 Measurement 580

6.10 Pedestrian Facilities 582
6.10.1 Greenways and Trails 582
6.10.2 Sidewalks and Multi-Use Paths 584

6.11 Resource Conservation Areas 589
6.11.1 Determination of Resource Conservation Areas 589
6.11.2 General Requirements 589
6.11.3 Permitted Uses of Resource Conservation Areas 589
6.11.4 Prohibited Uses of Resource Conservation Areas 589
6.11.5 Ownership and Maintenance 590

6.12 Riparian Buffers 591
6.12.1 Authority 591
6.12.2 Purpose and Intent 591
6.12.3 Applicability 591
6.12.4 Exemptions 592
6.12.5 Zones of The Riparian Buffer 593
6.12.6 Stormwater Runoff Through the Riparian Buffer 594
6.12.7 Platting within a Riparian Buffer 595
6.12.8 Uses 595
6.12.9 Table of Uses 596
6.12.10 Mitigation 607

6.13 Signage 608
6.13.1 Purpose and Intent 608
6.13.2 Applicability 608
6.13.3 Exemptions 608
6.13.4 Nonconforming Signage 609
6.13.5 Prohibited Signs 609
6.13.6 Prohibited Sign Locations 610
6.13.7 Provisions Applicable to All Signs 610
6.13.8 Sign Measurement 614
6.13.9 Sign Standards by Sign Type 617

6.14 Soil Erosion & Sedimentation Control 634
6.14.1 Purpose and Intent 634
6.14.2 Scope and Exclusions 634
6.14.3 Mandatory Standards for Land-Disturbing Activity 635
6.14.4 Effective Date 636
6.14.5 Violations 636
6.14.6 Erosion and Sedimentation Control Plans 637
6.14.7 Inspections 641
6.14.8 Basic Control Objectives 642
6.14.9 Design and Performance Standards 643
6.14.10 Stormwater Outlet Protection 643
6.14.11 Other Disturbed Areas 645
6.14.12 Natural Features 645
6.14.13 Maintenance 645

6.15 Stormwater 647
6.15.1 Authority 647
6.15.2 Findings 647
6.15.3 Purpose 647
6.15.4 Applicability and Jurisdiction 648
6.15.5 Design Manual 650
6.15.6 Effective Date 650
6.15.7 Review Procedures 650
6.15.8 Standards 650
6.15.9 Maintenance 653
6.15.10 Enforcement 657

6.16 Subdivision Design 658
6.16.1 Purpose and Intent 658
6.16.2 Applicability 658
6.16.3 Exemptions 658
6.16.4 Approval and Recordation of Plats Required 658
6.16.5 Easements 659
6.16.6 Landscaping 659
6.16.7 Lot Configuration 659
6.16.8 Monuments 659
6.16.9 Reasonable Relationship 659
6.16.10 School Site Reservations 659
6.16.11 Subdivision Name 660

6.17 Sustainable Development Incentives 661
6.17.1 How to Use These Incentives 661
6.17.2 Purpose and Intent 661
6.17.3 Applicability 661
6.17.4 Type of Incentives 661
6.17.5 Procedure 662
6.17.6 Menu of Sustainable Development Practices 663
6.17.7 Failure to Install or Maintain Sustainable Development Practices 667

6.18 Tree Protection 668
6.18.1 Purpose and Intent 668
6.18.2 Applicability 668
6.18.3 Exemptions 668
6.18.4 Limitation on Development Proposals Following Clear Cutting 668
6.18.5 Retention or Re-Establishment of Tree Canopy Required 669
6.18.6 Tree Canopy Cover Determination 671

6.18.7 Tree Protection During Construction 672
6.18.8 Credit Towards Landscaping and Open Space Standards 673
6.18.9 Remedies For Removal 673
6.18.10 Tree Removal and Topping on Public Property 675

CHAPTER 7 VIOLATIONS 677

7.1 Purpose and Intent 679

7.2 Compliance Required 679

7.3 Description of Violations 679

7.3.1 Development Without Authorization 679
7.3.2 Development Inconsistent with Authorization 679
7.3.3 Violation by Act or Omission 679
7.3.4 Use in Violation 679
7.3.5 Subdivide Land in Violation 679
7.3.6 Violation of Environmental Regulations 679
7.3.7 Removal of Existing Trees Subject to Protection 680
7.3.8 Continuing or Repeating a Prior Violation 680

7.4 Entity Responsible for Violation 680

7.4.1 Generally 680
7.4.2 Failure by Town does not Relieve Individual 680

7.5 Enforcement Procedure 681

7.5.1 Complaints 681
7.5.2 Inspections and investigations 681
7.5.3 Written Notice of Violation 681
7.5.4 Remedy Upon Notice 682
7.5.5 Failure to Comply with Order 682
7.5.6 Each Day a Separate Violation 682

7.6 Remedies 683

7.6.1 Civil Penalties 683
7.6.2 Conditioned Permit or Authorization 684
7.6.3 Criminal Penalties 684
7.6.4 Denial of Permit or Authorization 684
7.6.5 Equitable Remedy 684
7.6.6 Injunctive Relief 684
7.6.7 Order of Abatement 685
7.6.8 Revocation of Permits 685
7.6.9 Stop Work Orders 685

7.7 Statute of Limitations 687

7.8 Violation of Flood Protection Controls 687

7.8.1 Violations to be Corrected 687
7.8.2 Actions in Event of Failure to take Corrective Action 687
7.8.3 Order to Take Corrective Action 687
7.8.4 Appeal 687
7.8.5 Failure to Comply with Order 687
7.8.6 Penalties 688

7.9 Violation of Soil Erosion and Sedimentation Controls 689

7.10 Violation of Stormwater Controls 691

7.10.1 Generally 691

7.10.2 Enforcement Procedures 692
7.10.3 Remedies and Penalties 693

7.11 Violation of Stream Buffer Controls 695
7.11.1 Willful Violation May Result in Criminal Penalty 695
7.11.2 Accidental Violation May Result in Civil Penalty 695

7.12 Violation of Water Supply Watershed Controls 695
7.12.1 Willful Violation May Result in Criminal Penalty 695
7.12.2 Accidental Violation May Result in Civil Penalty 695

CHAPTER 8 WORD USAGE 697

8.1 Abbreviations 698

8.2 Language Construction 702
8.2.1 Meanings and Intent 702
8.2.2 Lists and Examples 702
8.2.3 Computation of Time 702
8.2.4 Time-Related Language 702
8.2.5 References to this Ordinance 702
8.2.6 References to Other Ordinances or Publications 702
8.2.7 References to North Carolina General Statutes 703
8.2.8 Delegation of Authority 703
8.2.9 Joint Authority 703
8.2.10 Technical and Non-Technical Terms 703
8.2.11 Public Officials and Agencies 703
8.2.12 Mandatory and Discretionary Terms 703
8.2.13 Conjunctions 703
8.2.14 Tenses, Plural, and Gender 703
8.2.15 Oath 703
8.2.16 Term Not Defined 703

8.3 Terms Defined 704
A 704
B 710
C 716
D 724
E 730
F 734
G 740
H 743
I 746
J 747
K 747
L 747
M 751
N 757

O 760
P 763
Q 773
R 773
S 779
T 794
U 799
V 801
W 803
X 805
Y 805
Z 805

CHAPTER 9 APPENDICES 807

9.1 Subdivision Plat Certifications and Declarations 808
9.1.1 Certificate of Ownership 808
9.1.2 Certificate of Ownership and Dedication 809
9.1.3 Certificates of Approval 809
9.1.4 Certificate of Exemption 810
9.1.5 Review Officer's Certificate 810
9.1.6 Surveyor Certificates 811
9.1.7 Certificate of Floodway Information 812
9.1.8 Certificates and NOtes Regarding New Streets 813

9.2 Information Required with Applications 815
9.2.1 Application Materials 815
9.2.2 Required Information for Plans and/or Plats 816
9.2.3 Plan or plat size 817

9.3 Unified Development Ordinance Index 823

CHAPTER 1
ADMINISTRATION

1.1 Applicability 23
- 1.1.1 Generally 23
- 1.1.2 Application to Governmental Units 23
- 1.1.3 Jurisdiction 23
- 1.1.4 Minimum Requirements 24
- 1.1.5 No Development Until Compliance with All Applicable Laws 24

1.2 Authority 25

1.3 Conflict 25
- 1.3.1 Conflict Between Standards in this Ordinance 25
- 1.3.2 Conflict with a Condition of Approval 26
- 1.3.3 Conflict with Private Agreements & Covenants 26
- 1.3.4 Conflict with State or Federal Law 26
- 1.3.5 Conflict with Town Code or Policy 27
- 1.3.6 Determination of Most Restrictive Standard 27

1.4 Consistency with Adopted Policy Guidance 27
- 1.4.1 Advisory in Nature 27
- 1.4.2 Conformance 27
- 1.4.3 Consistency 27
- 1.4.4 Policy Documents Identified 27

1.5 Document Title 27
- 1.5.1 Ordinance Text 27
- 1.5.2 Zoning Map 28

1.6 Effective Date 28

1.7 Purpose and Intent of Ordinance 28

1.8 Review Authorities 29
- 1.8.1 Authorities Established 29
- 1.8.2 General Requirements for All Authorities 29
- 1.8.3 Town Council 31
- 1.8.4 Planning Board (PB) 31
- 1.8.5 Board of Adjustment (BOA) 32
- 1.8.6 Technical Review Committee (TRC) 33
- 1.8.7 Town Staff 34

1.9 Severability 37
- 1.9.1 Invalidation 37
- 1.9.2 Prejudicial Application 37
- 1.9.3 Lawful Presumption 37

1.10 Transitional Provisions 37
- 1.10.1 Prior and Pending Applications 37
- 1.10.2 Existing Nonconformities 38
- 1.10.3 Pre-Existing Permits 38
- 1.10.4 Pre-Existing Uses 38

1.10.5 Violations 38

1.11 Vested Rights 39

1.11.1 Purpose and Intent 39
1.11.2 Vested Rights Defined 39
1.11.3 Effect of a Vested Right 39
1.11.4 Establishment of a Vested Right 39
1.11.5 Termination of a Vested Right 42

1.1 APPLICABILITY

1.1.1 GENERALLY

The provisions of this Ordinance shall apply to the development of all land within the corporate limits and the Extraterritorial Jurisdiction (ETJ) of the Town of Clayton, as shown on the adopted Official Zoning Map, unless the development is located outside the corporate limits or ETJ and subject to a development agreement where these standards are applied.

1.1.2 APPLICATION TO GOVERNMENTAL UNITS

Except when stated elsewhere in applicable law, this Ordinance applies to the following units of government:

A. THE TOWN OF CLAYTON

Development by the Town or its agencies or departments.

B. COUNTY AND STATE GOVERNMENT

Development of buildings by State or County agencies or departments, public colleges or universities, or other political subdivisions of the State, in accordance with the standards in NCGS§160D-913.

C. THE FEDERAL GOVERNMENT

Development owned or held in tenancy by the government of the United States, its agencies, departments, or corporate services, to the full extent permitted by federal law. For those activities of the federal government exempted from these regulations, compliance is strongly encouraged.

1.1.3 JURISDICTION

A. GENERALLY

The standards in this Ordinance shall apply to all development where these standards are applicable unless the development is expressly exempted by a specific section of this Ordinance, other Town requirement, or by State law.

B. EXEMPTIONS FROM ZONING REQUIREMENTS

1. The following forms of development and activities are exempted from the zoning-related requirements of this Ordinance:
   a. Agricultural and agri-tourism related activities taking place on a bona fide farm in accordance with NCGS§160D-903;
   b. Agricultural and agri-tourism related activities taking place on land taxed under the present use value standard;
   c. Forestry activities taking place on a bona fide farm or on land taxed under the present use value standard; or
   d. Forestry activities subject to a forestry management plan approved in accordance with NCGS§160D-921.
2. In no instance shall the forms of development and activities listed under sub-section (1) above be exempted from the following standards in this Ordinance:
   a. Standards associated with the subdivision of land;
   b. The flood damage prevention standards in Section 3.7.2 FPOD Flood Protection Overlay District;

c. The water supply watershed protection standards in Section 3.7.5, WPOD Watershed Protection Overlay District;
d. The standards in Section 6.15, Stormwater; and
e. The standards in Section 6.14, Soil Erosion & Sedimentation Control.

C. ANNEXATION

Land annexed to the Town of Clayton in accordance with NCGS§§ 160A-31 or 160A-58 shall become subject to the standards of this Ordinance upon the effective date of the annexation approval by the Town.

D. EXTRATERRITORIAL JURISDICTION

In cases where the Town is seeking approval of ETJ extension from a county government, the Town may review development applications from the area and provide a recommendation to the county government considering the ETJ request in accordance with NCGS§160D-204.

1.1.4 MINIMUM REQUIREMENTS

In the application of this Ordinance, all provisions shall be considered as minimum requirements and shall not be deemed to limit or repeal any other powers or authority granted under the North Carolina General Statutes.

1.1.5 NO DEVELOPMENT UNTIL COMPLIANCE WITH ALL APPLICABLE LAWS

No structure, land, or use thereof, shall hereafter be established, located, subdivided, extended, converted, altered, developed, or disturbed in any way without full compliance with the terms of this Ordinance and other applicable law.

A. NO LAND DEVELOPED

Unless exempted, no land shall be developed without compliance with this Ordinance and all other applicable Town, State, and federal regulations.

B. NO GRADING OR EXCAVATION

Unless exempted, no land shall be subjected to clearing, grading, filling, or excavated without compliance with this Ordinance and all other applicable Town, State, and federal regulations.

C. NO REMOVAL OF TREES

Unless exempted, no existing trees of four inches or greater in caliper or in a location regulated by this Ordinance shall be removed without compliance with this Ordinance and all other applicable Town, State, and federal regulations.

D. NO USE OR OCCUPANCY

No person shall use, occupy, or divide any land or a building or authorize or permit the use, occupancy, or division of land or a building under their control, except in accordance with this Ordinance and all other applicable Town, State, and federal regulations.

E. NO BUILDING CONSTRUCTED

No building or structure, or portion thereof, shall be erected, used, occupied, maintained, moved, or altered except in conformity with the applicable regulations in this Ordinance and all other applicable Town, State, and federal regulations.

F. NO SALE OR TRANSFER

No lots in a subdivision may be sold or titles to land transferred until all the requirements of this Ordinance have been met, except as authorized by NCGS§160D-807.

G. NO DOUBLE COUNTING OF REQUIRED AREAS

No land area or other required space counted as part of a required yard, setback, lot area, parking area, or similar feature of one lot may be counted towards the requirements of another lot.

H. NO EXEMPTION FROM SUBDIVISION REQUIREMENTS

Unless exempted in accordance with NCGS§§ 152.105 or 160D-802, the standards and requirements in this Ordinance applicable to subdivisions of land shall apply to the subdivision or re-subdivision of land within a bona fide farm or on land occupied by agricultural activities.

1.2 AUTHORITY

This Ordinance consolidates the Town's zoning and subdivision regulations, as authorized by the North Carolina General Statutes. It is adopted in accordance with:

A. The North Carolina General Statutes, including, but not limited to:
1. Chapter 160A, Article 8 (Police Powers);
2. Chapter 160A, Article 15 (Streets, Traffic, and Parking);
3. Chapter 160D (Local Planning and Development Regulation);
4. Chapter 143, Article 21 (Water and Air Resources);

B. The Charter of the Town of Clayton, North Carolina; and

C. Other relevant laws, including but not limited to:
1. All other relevant laws of the State of North Carolina; and
2. Any special legislation enacted for the Town of Clayton and its planning jurisdiction by the General Assembly.

1.3 CONFLICT

1.3.1 CONFLICT BETWEEN STANDARDS IN THIS ORDINANCE

A. GENERALLY

Unless subject to the standards in Section 1.3.1B, Alternatives, or where otherwise stated in writing in this Ordinance, in cases where two or more standards in this Ordinance conflict with one another, the more restrictive standard shall control.

B. ALTERNATIVES

1. AUTHORIZED DEVIATIONS

Deviations from Ordinance requirements, such as an approved Administrative Adjustment, Conditional Rezoning, Variance, or alternative form of compliance that are authorized by and established in accordance with this Ordinance shall control and shall not be considered to conflict with other more restrictive standards in this Ordinance.

2. INCENTIVES

Incentives, like density incentives for voluntary compliance with single-family residential design guidelines, incentives provided in response to other forms of preferred development like a Conservation Subdivisions, or incentives like those associated with voluntary use of sustainable development features, shall control, and are not considered to conflict with other more restrictive standards in this Ordinance.

3. DEVELOPMENT STANDARDS AND DISTRICT STANDARDS

In cases where a development standard from Chapter 6, Standards, conflicts with a zoning district standard in Chapter 3, Districts, the zoning district standard in Chapter 3 shall control.

4. DEVELOPMENT STANDARDS AND USE STANDARDS

In cases where a development standard from Chapter 6, Standards, or a zoning district standard from Chapter 3, Districts, conflicts with a standard in in Chapter 4, Land Uses, the standards in Chapter 4, Land Uses, shall control.

5. OVERLAY DISTRICT STANDARDS

a. In the event of a conflict between an overlay zoning district standard in Section 3.7, Overlay Zoning Districts, and another standard in this Ordinance, the overlay zoning district standard shall control even in cases where the overlay zoning district standard is less restrictive.

b. In cases where land is located in two or more different overlay zoning districts and the standards between the overlay districts conflict, the more restrictive requirements shall control.

6. TEXT AND ILLUSTRATIONS

a. 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.

b. 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.

7. TEXT AND MAPS

a. In the event of a conflict or inconsistency between the text of this Ordinance and the Official Zoning Map, the text shall control.

b. In cases where requirements are based upon a map provided by the State or the federal government, and there is a conflict between the map and the text of this Ordinance, the State or federal map shall control.

1.3.2 CONFLICT WITH A CONDITION OF APPROVAL

In cases where the standards in this Ordinance conflict with an authorized and legally established condition of approval that has not expired, the condition of approval shall control.

1.3.3 CONFLICT WITH PRIVATE AGREEMENTS & COVENANTS

A. In cases where a standard in this Ordinance conflicts with a private agreement, covenant, or deed restriction established after January 2, 2024, and the standards in this Ordinance are more restrictive, the standards in this Ordinance shall control.

B. In cases where a private agreement, covenant, or deed restriction conflicts with State or federal law, the private agreement, covenant, or deed restriction shall be void.

1.3.4 CONFLICT WITH STATE OR FEDERAL LAW

If a provision of this Ordinance is inconsistent with State or federal law, the more restrictive provision controls, to the extent permitted by law.

1.3.5 CONFLICT WITH TOWN CODE OR POLICY

If a provision of this Ordinance is inconsistent with another provision found in other adopted ordinances of the Town, the more restrictive provision shall govern, unless the terms of the more restrictive provision specify otherwise. Town policy is advisory only.

1.3.6 DETERMINATION OF MOST RESTRICTIVE STANDARD

The more restrictive provision is the one that imposes greater restrictions, burdens, or more stringent controls.

1.4 CONSISTENCY WITH ADOPTED POLICY GUIDANCE

1.4.1 ADVISORY IN NATURE

Adopted policy guidance is advisory in nature and does not carry the effect of law. Consistency with adopted policy guidance is not a requirement for the continuing validity of any provision of this Ordinance, except as provided in NCGS§§ 160D-604 and 160D-605.

1.4.2 CONFORMANCE

This Ordinance is intended to ensure that all development within the Town is in conformance with the goals, objectives, policies, strategies, and actions expressed in the Town's adopted policy guidance. While conformance with adopted policy guidance is desired, it is not legally required.

1.4.3 CONSISTENCY

A. To the extent this Ordinance or the Official Zoning Map is or becomes inconsistent with the Town's adopted policy guidance, it should be amended to remain consistent.

B. Consistency with adopted policy guidance is not a prerequisite for approval of a rezoning or planned development application, and the future land use map portion of the Comprehensive Plan shall be deemed amended when the Town Council approves a rezoning or planned development application that is inconsistent with the future land use map in accordance with NCGS§160D-605.

1.4.4 POLICY DOCUMENTS IDENTIFIED

The Town's adopted policy guidance shall include, but is not limited to the following:

A. The Comprehensive Growth Plan;
B. The Town of Clayton Comprehensive Transportation Plan, as amended;
C. The Downtown Master Plan;
D. The Parks and Recreation Comprehensive Plan, as amended;
E. The Clayton Pedestrian Plan;
F. The Comprehensive Bicycle Plan; and
G. Any other policy document adopted by the Town of Clayton in accordance with State law.

1.5 DOCUMENT TITLE

1.5.1 ORDINANCE TEXT

This Ordinance shall be officially known as the "Unified Development Ordinance of the Town of Clayton, North Carolina" and may be referred to "this Ordinance" and several abbreviated references, including "the UDO" or "this UDO."

1.5.2 ZONING MAP

The zoning map referenced in this Ordinance is officially titled as the "Zoning Map, Town of Clayton, North Carolina" and may be referred to as "the Official Zoning Map" or the "Zoning Map."

1.6 EFFECTIVE DATE

A. This Ordinance shall be adopted on November 20, 2023.

B. This Ordinance shall be in full force and effect on January 2, 2024, and repeals and replaces the Unified Development Code of the Town of Clayton, North Carolina, as originally adopted on February 15, 2021.

C. Development applications filed between November 20, 2023, and January 2, 2024, shall be processed in accordance with Section 2.4.6, Permit Choice, and NCGS§160D-108.

D. Nothing shall limit an applicant from voluntary compliance with this Ordinance prior to its effective date.

1.7 PURPOSE AND INTENT OF ORDINANCE

Town residents, business owners, and government officials recognize that unfettered growth or growth that is inconsistent with Clayton's small-town character would forever alter the identity of the Town. It is now and has been the policy of the Town Council to promote the health, safety, and general welfare of the residents of and visitors to the Town, and to provide for the continued orderly development of the Town of Clayton. This Ordinance has been made with reasonable consideration for the unique setting and small-town character of the community and the long-range goal of enhancing the value of existing property and encouraging the most appropriate use of the land throughout the Town, thereby promoting the general welfare of all citizens. In support of these purposes, this Ordinance contains regulations designed to:

A. Maintain Clayton's small-town appeal and attractive appearance while continuing to encourage managed growth;

B. Foster a more diverse tax base and range of employment to ensure the Town's fiscal solvency and avoid undue burdens on residential property owners;

C. Create conditions for continued growth in employment in the Town;

D. Ensure responsible development and redevelopment that is sustainable in terms environmental protection, resident and visitor health, and economic quality;

E. Promote economic health and well-being;

F. Support mixed-use development within the downtown, along key commercial corridors and in designated activity centers throughout the Town's planning jurisdiction;

G. Preserve and maintain the Town's historic structures and areas with historic character, such as the neighborhoods around downtown Clayton;

H. Ensure Town residents have a wide range of housing options that allow for varying income levels and diverse housing preferences;

I. Motivate growth that pays for itself in support of sustainable fiscal management of municipal services;

J. Ensure that growth and the natural environment exist in harmony;

K. Preserve valuable open space throughout the Town and stimulate the expansion of the community's parks and greenways;

L. Advance further development of walking trails and bicycle paths throughout the community with connections to other multi-use trails in the area;

M. Facilitate a well-planned infrastructure with sufficient provision for transportation, water and wastewater services, and other public requirements in an environmentally responsible and timely manner;
N. Increase community involvement by providing a means of meaningful cooperation between the community and Town government thus facilitating community pride;
O. Help secure safety from fire, crime, and other dangers;
P. Protect Clayton's tree canopy which provides clean air, minimizes increases in temperature levels, helps to maintain moisture levels, and provides physical and visual buffers;
Q. Help prevent the overcrowding of land and undue concentration of population;
R. Regulate the size of yards, courts, and other spaces;
S. Regulate the density and distribution of boundaries thereof;
T. Provide penalties for violations; and
U. For other purposes described herein.

1.8 REVIEW AUTHORITIES

1.8.1 AUTHORITIES ESTABLISHED

The following review authorities have powers and responsibilities for administering this Ordinance, especially regarding procedures related to development application review and decision:

A. The Town Council;
B. The Planning Board;
C. The Board of Adjustment;
D. The Technical Review Committee;
E. The Planning Director;
F. The Engineering Director;
G. The Building Inspector;
H. The Floodplain Administrator; and
I. The Stormwater Administrator.

1.8.2 GENERAL REQUIREMENTS FOR ALL AUTHORITIES

A. OATH OF OFFICE

All review authority members (including Town staff) who review and decide applications under this Ordinance shall be administered the oath of office prior to commencing their duties in accordance with Article 6, Section 7 of the North Carolina Constitution by a person authorized to administer the oath. The Town Clerk shall maintain a record of the oath's administration.

B. CONFLICT OF INTEREST

1. LEGISLATIVE DECISIONS

a. A review authority member shall not vote on an application where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member in accordance with NCGS§160D-109.
b. A review authority member shall not vote on an application where the landowner or applicant is a person with whom the member has a close familial, business, or other associational relationship.

2. QUASI-JUDICIAL DECISIONS

a. A review authority member shall not participate in or vote on any quasi-judicial matter in a manner that would violate an affected persons' constitutional rights to an impartial decision maker in accordance with NCGS§160D-109.

b. Impermissible violations of due process include but are not limited to:

i. A member having a fixed opinion prior to hearing the matter that is not susceptible to change;

ii. An undisclosed ex parte communication;

iii. A close familial, business, or other associational relationship with an affected person; or

iv. A direct, substantial, and readily identifiable financial impact on the member.

3. RECUSAL

a. If a conflict of interest exists, then a review authority member shall recuse themselves from participating in and voting on an application.

b. If an objection is raised to a member's participation and that member does not recuse himself or herself, then the remaining members shall, by majority vote, rule on the objection.

c. In the event a Town staff member deciding an application has a conflict of interest, the decision shall instead be assigned to a supervisor or to the Town Manager.

4. ADMINISTRATIVE DECISIONS

In cases where an administrative decision or action to be performed by Town staff has an outcome reasonably likely to have a direct, substantial, and readily identifiable financial impact as identified in NCGS§160D-109, or the designated Town staff member has a close familial, business, or other associational relationship with the applicant or a responsible entity, the Town Manager shall make the decision, take the specified action, or delegate the responsibility for the decision or action to a different member of Town staff.

C. MEETINGS

The provisions of this section apply to the Town Council, Planning Board, and Board of Adjustment.

1. ADVERTISED

Notice of all meetings of the elected or appointed bodies under this Ordinance shall be provided to the public in accordance with NCGS§143-318 (Meetings of Public Bodies), and shall be conducted in accordance with the procedures set forth in these regulations, the Town Code of Ordinances, Adopted Policy Guidance, and rules of procedure adopted by the respective review authorities.

2. MINUTES AND RECORDS

a. Accurate minutes of each meeting shall be maintained by each review authority showing the vote of each member on each question, or if absent or failing to vote, indicating such fact.

b. Each review authority shall keep records of its examinations and official actions.

c. All minutes and records shall be filed and maintained in the offices of the Planning Department, and shall be made available for inspection by members of the general public during normal business hours.

3. OPEN TO PUBLIC

All meetings of elected or appointed bodies under this Ordinance shall be open to the public in accordance with NCGS§143-318 (Meetings of Public Bodies), and shall be conducted in accordance with the procedures set forth in these regulations, the Town Code of Ordinances, Adopted Policy Guidance, and rules of procedure adopted by the respective review authorities.

D. RULES OF PROCEDURE

All review authorities shall adopt formal rules of procedure consistent with the level of decision-making delegated to that authority. Adopted rules of procedure shall be kept on file, made available on the Town's webpage, are available for public inspection, and shall be maintained by the designated staff to the review authority.

1.8.3 TOWN COUNCIL

A. The Town Council is the elected body of the Town of Clayton, North Carolina, and shall have the power to initiate, review, and decide applications in accordance with Section 2.2, Application Summary Tables.

B. The Town Council shall also have all the powers and duties ascribed to it by State law, the Town's Charter, Chapter 30 of the Town Code of Ordinances, and any special legislation.

C. Meetings of the Town Council shall be conducted in accordance with Chapter 30 of the Town Code of Ordinances.

1.8.4 PLANNING BOARD (PB)

The Planning Board is hereby established in accordance with NCGS§160D-301, Chapter 32 of the Town Code of Ordinances, and the following.

A. COMPOSITION

1. The Planning Board shall consist of nine members.
2. The Planning Board shall be comprised of residents from both the corporate limits and the extraterritorial jurisdiction (ETJ) at a ratio proportional to the population found in either area, but in no instance shall there be less than at least one member of the Planning Board who resides within the ETJ.
3. The Town Council shall appoint the members from within the Clayton corporate limits from a list of qualified applicants who have submitted a Planning Board application.
4. The Johnston County Board of Commissioners shall appoint the members from within the ETJ following receipt of a recommendation from the Town Council.
5. Each member from the ETJ shall have equal rights, privileges, and duties as the members from within the corporate limits.

B. POWERS AND DUTIES

1. UNIFIED DEVELOPMENT ORDINANCE

The Planning Board shall have the power to review and provide a recommendation on applications in accordance with Section 2.2, Application Summary Tables.

2. OTHER POWERS AND DUTIES

The Planning Board shall have the following powers and duties, to be carried out in accordance with the terms of this Ordinance.

a. At the direction of Town Council, perform studies and surveys of the present conditions and probable future development of the Town and its environs, including but not limited to, studies and surveys of land uses, population, economic conditions, housing,

traffic, parking, annexation, urban renewal, and expansions of the extraterritorial jurisdiction.

b. To formulate and recommend to the Town Council the adoption and amendment of the Town of Clayton Comprehensive Plan and other plans as necessary.

c. To initiate proposals for text amendments to the Unified Development Ordinance based upon the findings and recommendations delivered in such studies and adopted plans.

d. To determine whether specific proposed developments conform to the principles and requirements of the adopted comprehensive plan for growth and improvement of the Town.

e. To execute other related duties as assigned by the Town Council, in accordance with State law.

C. RULES OF PROCEDURE

The Planning Board shall adopt rules of procedure, which shall be available for inspection by members of the general public on the Town's website and in the offices of the Planning Department. The rules of procedure shall describe the Planning Board's operating procedures, terms, leadership provisions, and other relevant information not already included in this Ordinance.

D. QUORUM AND RECOMMENDATIONS

1. A quorum of five members shall be necessary to transact official business of the Planning Board.
2. A simple majority of the members present and voting shall be required to adopt a recommendation on an application reviewed under this Ordinance.
3. The Planning Board shall not make a recommendation to the Town Council unless the applicant, or a designated agent, is present at the meeting and answers the Board's and Town staff's questions about the application. This requirement may be waived by a unanimous vote of the Planning Board members present and voting.

1.8.5 BOARD OF ADJUSTMENT (BOA)

The Board of Adjustment is hereby established in accordance with NCGS§160D-302, Chapter 32 of the Town Code of Ordinances, and the following:

A. COMPOSITION

1. The Board of Adjustment shall consist of five regular members and two alternate members.
2. Four members shall reside within the corporate limits of Clayton and three members shall reside in the extraterritorial planning jurisdiction (ETJ).
3. The Town Council shall appoint the members from within the Clayton corporate limits from a list of qualified applicants who have submitted a Board of Adjustment application.
4. The Johnston County Board of Commissioners shall appoint the members from within the ETJ following receipt of a recommendation from the Town Council.
5. Each member from the ETJ shall have equal rights, privileges, and duties as the members from within the corporate limits.

B. POWERS AND DUTIES

The Board of Adjustment shall have the power to review and decide applications in accordance with Section 2.2, Application Summary Tables.

C. RULES OF PROCEDURE

The Board of Adjustment shall adopt rules of procedure, which shall be available for inspection by members of the general public on the Town's website and in the offices of the Planning Department. The rules of procedure shall describe the Board of Adjustment's operating procedures, terms, leadership provisions, and other relevant information not already included in this Ordinance.

D. QUORUM AND VOTING

1. A quorum of three members shall be necessary to transact official business.
2. The concurring vote of four-fifths of the members voting on a case shall be necessary to grant a variance.
3. A simple majority of the members present and voting on a case shall be required to decide an appeal of a Town staff decision or determination.
4. A simple majority of the members present and voting on a case shall be required to decide on the issuance of a special use permit.
5. Vacant positions on the Board and members who are disqualified from voting due to a conflict of interest shall be filled by qualified alternate members. Vacant positions on the Board and members who are disqualified from voting due to a conflict of interest and who are not replaced by a qualified alternate member shall not be considered members of the Board for calculation of the required majority.
6. In accordance with NCGS§160D-406(i), simple majority calculations shall be based on the total number of board member positions, regardless of whether a member is absent. Positions may only be excluded from the simple majority calculation when the position is vacant and there is no qualified alternate or when a board member has been recused from voting based upon a conflict of interest and there is no qualified alternate.

E. ORDERS

Each decision of the Board of Adjustment on an application or petition filed under this Ordinance shall be reduced to writing, indicate the findings of fact and conclusions of law associated with the Board's decision, be signed by the Chair or presiding officer, and shall include the applicant's written consent to any conditions of approval.

1.8.6 TECHNICAL REVIEW COMMITTEE (TRC)

The Technical Review Committee (TRC) is hereby established in accordance with NCGS§160D-306 and the following:

A. COMPOSITION

1. The Technical Review Committee is a group of Town staff members, such as the Planning Director, Engineering Director, and other technical staff, along with representatives from external State and County agencies like NCDOT. A full description of the Committee's member composition shall be established in its rules of procedure.
2. The Planning Director shall serve as the Chair of the Technical Review Committee.
3. Attendance at meetings by some or all of the TRC members shall be at the discretion of the TRC Chair.

B. POWERS AND DUTIES

The Technical Review Committee shall have the power to review and provide a recommendation or comments on applications in accordance with Section 2.2, Application Summary Tables.

C. RULES OF PROCEDURE

The Technical Review Committee shall adopt rules of procedure, which shall be available for inspection by members of the general public on the Town's website and in the offices of the Planning Department. The rules of procedure shall describe the Committee's operating procedures, composition, leadership provisions, and other relevant information not already included in this Ordinance.

1.8.7 TOWN STAFF

A. PLANNING DIRECTOR

The Planning Director shall have the responsibilities for decision making, recommendations, and comments on applications in accordance with Section 2.2, Application Summary Tables, as well as the following other powers and duties:

1. To preside over the Technical Review Committee;
2. To conduct pre-application conferences;
3. To enforce the provisions of this Ordinance, including entering any building, structure, or premises, as provided by law, to perform any duty imposed by this Ordinance;
4. To apply remedies for violations of this Ordinance;
5. To maintain the Official Zoning Map and related materials;
6. To process development applications and prepare staff reports as indicated in this Ordinance;
7. To maintain public records pertaining to this Ordinance and to make those records available to members of the public upon request;
8. To maintain rules of procedures for each review authority in this Ordinance;
9. To provide technical assistance to review authorities, upon request; and
10. To carry out any other powers and duties delegated by the Town Council that are consistent with this Ordinance and State law.

B. BUILDING INSPECTOR

The Building Inspector shall have the responsibilities for decision making, in accordance with Section 2.2, Application Summary Tables.

C. ENGINEERING DIRECTOR

The Engineering Director shall have the responsibilities for decision making, recommendations, and comments, on applications in accordance with Section 2.2, Application Summary Tables, as well as the following:

1. The Engineering Director shall provide comments on Development Agreements; and
2. The Engineering Director shall perform the duties of the Floodplain Administrator and Stormwater Administrator.

D. FLOODPLAIN ADMINISTRATOR

The Floodplain Administrator shall have the following powers and duties, to be carried out in accordance with the terms of this Ordinance:

1. POWERS AND DUTIES

The Floodplain Administrator shall have the following powers and duties:

a. Review all floodplain development applications and issue permits for all proposed development within the special flood hazard areas to assure that the requirements of this Ordinance have been satisfied;

b. Advise an applicant when additional federal or State permits (wetlands, endangered species, erosion and sedimentation control, riparian buffer, mining, etc.) may be required, and require that copies of such permits be provided and maintained on file with the floodplain development permit;

c. Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA;

d. Assure that maintenance is provided within the altered or relocated portion of a watercourse so that the flood-carrying capacity is not diminished;

e. Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of this Ordinance are met;

f. Obtain the 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;

g. Obtain the actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed;

h. Obtain the actual elevation (in relation to mean sea level) of all public utilities;

i. When floodproofing is utilized for a particular structure, obtain certifications from a professional engineer or architect licensed by the State of North Carolina;

j. Interpret the exact location of boundaries of the special flood hazard areas or some component of the special flood hazard area;

k. 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;

l. Obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, State, or other source when no floodway or non-encroachment area data has been provided;

m. Advise property owners of the option to apply for a Letter of Map Amendment (LOMA) from FEMA when the lowest ground elevation of a parcel or structure in a special flood hazard area is above the base flood elevation;

n. Maintain copies of Letters of Map Amendment (LOMA) issued by FEMA;

o. Permanently maintain all records that pertain to the FPOD, floodplain development permits, and elevation certificates, and make these records available for public inspection;

p. Make on-site inspections of work in progress. The Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the Town's jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action;

q. 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;

r. 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:

i. Any substantial departure from the approved application, plans, or specifications;
ii. Refusal or failure to comply with the requirements of State or local laws;
iii. Making false statements or misrepresentations in securing the permit; or
iv. Mistaken issuance in violation of an applicable State or local law;

s. Make periodic inspections throughout all lands within the special flood hazard areas;
t. Follow through with corrective procedures in Chapter 7, Violations;
u. Review, provide input, and make recommendations for water-related variance requests;
v. Maintain a repository to include, but not limited to, the FIS Reports, FIRM and other official flood maps and studies adopted in accordance with the standards in Section 3.7.2, FPOD Flood Protection Overlay District, including any revisions thereto including letters of map change, issued by FEMA;
w. Notify the State and FEMA of any mapping needs; and
x. Coordinate revisions to FIS reports and FIRMs, including letters of map revision based on fill (LOMR-F) and letters of map revision (LOMR).

E. STORMWATER ADMINISTRATOR

The Stormwater Administrator shall have the following powers and duties, to be carried out in accordance with the terms of this Ordinance:

1. POWERS AND DUTIES

a. The Stormwater Administrator shall render final decisions regarding applications for stormwater permits.
b. The Stormwater Administrator shall have the following powers and duties under this UDO:
i. To review and approve, approve with conditions, or disapprove applications for approval of plans pursuant to stormwater management;
ii. To make determinations about the stormwater management-related provisions of this Ordinance;
iii. To establish application requirements and schedules for submittal and review of applications and appeals, to review and make recommendations to the Town Council on applications for development or redevelopment approvals;
iv. To enforce the stormwater management provisions of this Ordinance in accordance with its enforcement provisions;
v. To maintain records, maps, and official materials as related to the adoption, amendment, enforcement, or administration of the stormwater management-related aspects of this Ordinance;
vi. To provide expertise and technical assistance to the Town Council and the Planning Board, upon request;
vii. To designate appropriate other person(s) who shall carry out the powers and duties of the Stormwater Administrator; and
viii. To take any other action necessary to administer the stormwater management provisions of this Ordinance.

F. DELEGATION OF AUTHORITY

1. Whenever a provision of this Ordinance requires or authorizes a Town staff or designated official to take some action or perform some duty, the Town staff or designated official may designate, delegate, or authorize professional-level subordinates to perform the act or duty unless the terms of the provision specifically provide otherwise.
2. For the purposes of this section, "professional-level subordinate" shall mean another person employed by the Town who meets the Town's minimum qualifications for the position, and has the minimum amount of experience or professional authority reasonably

necessary to execute or undertake the designated action, in the sole opinion of the delegating Town staff member of official.

G. APPEAL OF TOWN STAFF DECISIONS TO THE BOARD OF ADJUSTMENT

1. Except for the Building Inspector, appeals of decisions or actions by a Town staff member shall be to the Board of Adjustment in accordance with Section 2.3.2, Appeal.
2. Appeals of decisions or actions of the Building Inspector shall be to the North Carolina Commissioner of Insurance in accordance with applicable State law.

1.9 SEVERABILITY

1.9.1 INVALIDATION

Should any section, sentence, clause, phrase, or word of this Ordinance be held invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect, impair, or invalidate the validity of the remaining parts of this Ordinance which can be given effect without the invalid provision.

1.9.2 PREJUDICIAL APPLICATION

Should any section, sentence, clause, phrase, or word of this Ordinance be held invalid or unconstitutional in its application to a particular case, such decision shall not affect or prejudice its application to other cases.

1.9.3 LAWFUL PRESUMPTION

There shall be a conclusive presumption when a review authority authorizes regulatory action, that the review authority would not have authorized the action except in the belief that such action was lawful.

1.10 TRANSITIONAL PROVISIONS

The standards in this subsection address existing violations, nonconformities, and applications in process at the time this Ordinance is made effective.

1.10.1 PRIOR AND PENDING APPLICATIONS

A. PRIOR APPROVAL

1. Any development approvals granted before January 2, 2024, shall remain valid until their expiration date.
2. Developments with valid approvals or permits may be carried out in accordance with the terms and conditions of their approval and the development standards in effect at the time of approval, provided the permit or approval is valid and has not expired.
3. If an approval expires or is revoked (e.g., 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.
4. An applicant shall be deemed to have initiated an approved development upon the subsequent application for and diligent pursuit of other required Town, State, or federal permits or approvals.
5. Timelines for the commencement or expiration of development in accordance with an approved application shall be suspended in the event of legal challenge.
6. 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 in Chapter 5, Nonconformities.

B. PENDING APPROVAL

1. COMPLETE APPLICATIONS

Applications accepted as complete prior to January 2, 2024, may be decided in accordance with either the regulations in affect at the time the application was determined complete or the regulations in this Ordinance, as requested by the applicant in accordance with Section 2.4.6, Permit Choice.

2. IF APPROVED

To the extent such a complete application is approved and proposes development that does not comply with this Ordinance, the development, although permitted, shall be nonconforming and subject to the provisions in Chapter 5, Nonconformities.

3. FILED, BUT NOT COMPLETE APPLICATIONS

Applications that have been filed prior to January 2, 2024, but not determined to be complete by the Planning Director as of that date shall be reviewed and decided in accordance with this Ordinance.

1.10.2 EXISTING NONCONFORMITIES

If any use, structure, lot, or sign, legally existed on January 2, 2024, but does not fully comply with the standards of this Ordinance, the use, structure, lot, or sign, is considered nonconforming under this Ordinance and shall comply with the requirements in Chapter 5, Nonconformities.

1.10.3 PRE-EXISTING PERMITS

A. PRE-EXISTING CONDITIONAL USE PERMITS

Existing conditional use permits approved prior to January 2, 2024, are hereby converted to special use permits and shall continue to apply as approved. In the event an applicant seeks to revise development subject to a conditional use permit, all changes shall be considered in accordance with Section 2.3.22, Special Use Permit.

B. PRE-EXISTING SPECIAL USE ZONING DISTRICTS

Special use zoning districts existing as of January 2, 2024, is automatically converted to the closest corresponding conventional zoning district upon adoption of this Ordinance.

C. PRE-EXISTING PLANNED DEVELOPMENT DISTRICTS

Land designated as a planned development prior to January 2, 2024, is automatically converted to the closest corresponding conditional zoning district upon adoption of this Ordinance. Revisions to a prior planned development zoning district shall only be permitted subject to compliance with Section 2.3.6, Conditional Rezoning.

1.10.4 PRE-EXISTING USES

A. If a use was a lawfully established permitted use before January 2, 2024, and is subsequently made a special use in Table 4.2.5, Listing of Common Principal Uses, the use shall be considered by the Town as a lawfully established nonconforming use.

B. Any modifications to the use or the site after January 2, 2024, shall require approval of a special use permit in accordance with Section 2.3.22, Special Use Permit.

1.10.5 VIOLATIONS

A. Violations of the previous ordinance shall continue to be violations under this Ordinance, unless the development complies with this Ordinance and is no longer considered to be in violation, or the ability to address the violation has lapsed in accordance with Section 7.7, Statute of Limitations.

B. Violations of this Ordinance shall be subject to the penalties and enforcement provisions in Chapter 7, Violations.

1.11 VESTED RIGHTS

1.11.1 PURPOSE AND INTENT

This section is intended to implement NCGS§160D-108 with respect to the establishment of zoning vested rights for landowners or applicants who have received a development approval from the Town.

1.11.2 VESTED RIGHTS DEFINED

As used in this Ordinance, a zoning vested right is defined as the right to undertake and complete the development and use of land under the terms and conditions of a development approval issued by the Town.

1.11.3 EFFECT OF A VESTED RIGHT

A. Development approvals that have an established vested right in accordance with NCGS§160D-108 and this section shall preclude any action by the Town that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property authorized by the development approval, except where a change in State or federal law occurs and has a retroactive effect on the development or use.

B. Except when subject to sub-section (C) below, amendments to this Ordinance shall not be applicable to any of the following development approvals after they are vested:

1. Building or uses of land for which a development permit application has been submitted and approved in accordance with this Ordinance and NCGS§143-755;
2. Subdivisions of land for which a subdivision application has been submitted and approved in accordance with this Ordinance and NCGS§143-755;
3. A site-specific vesting plan approved in accordance with this Ordinance and NCGS§160D-108.1;
4. A multi-phase development approved in accordance with this Ordinance and NCGS§160D-108; and
5. A vested right established by the terms of an approved development agreement in accordance with this Ordinance and Article 10 of Chapter 160D of the North Carolina General Statutes.

C. Amendments to this Ordinance shall apply to vested development approvals if:

1. A change to State or federal law occurs and has a retroactive effect on the development or use;
2. There is written consent to be subject to the amendment by the landowner;
3. The development approval expires; or
4. The development is not undertaken or completed in accordance with the approval.

1.11.4 ESTABLISHMENT OF A VESTED RIGHT

A vested right may only be established following an approval of a development application in accordance with this section and the applicable requirements in the North Carolina General Statutes. The following sub-sections detail the ways in which a vested right may be established.

A. COMMON LAW VESTED RIGHTS

1. DEFINED

A common law vested right establishes the right to undertake and complete the development and use of property on substantial expenditures in good faith reliance on a valid governmental approval. Such approvals include, but are not limited to:

a. Zoning Compliance Permits;
b. Sign Permits;
c. Building Permits;
d. Special Use Permits; and
e. Subdivision Preliminary Plats.

2. ESTABLISHMENT

A request for a determination of a common law vested right will be reviewed and acted upon by the Planning Director in accordance with Section 2.3.9, Determination.

3. APPLICATION

The applicant shall provide satisfactory proof that each of the following standards are met in order to establish a common law vested right:

a. The applicant has, prior to the adoption or amendment of an ordinance, made substantial expenditures of time, effort, or money on a proposed development; and
b. The obligations and/or expenditures were incurred in good faith; and
c. The obligations and/or expenditures were made in reasonable reliance on and after the issuance of a valid governmental permit, if such permit is required provided however, a mistakenly-issued governmental permit shall not give rise to a common law vested right; and
d. The amended or newly adopted ordinance is a substantial detriment to the applicant.

B. ISSUANCE OF A BUILDING PERMIT

Issuance of a building permit by the Town in accordance with the applicable standards in this Ordinance and applicable State law shall entitle the building permit holder to vested rights to develop the proposal as identified in the approved building permit, subject to the following standards:

1. The applicant shall not be required to file for a determination to establish common law vested rights or maintain vested status during the time period for which the building permit remains valid.
2. The owner has a vested right only as long as the building permit remains valid and only for the work approved by the building permit.
3. The building permit shall expire six months after issuance if work has not substantially commenced.
4. The building permit shall expire after work commences if there is a 12-month discontinuance of work.
5. The building permit may be revoked for any substantial departure from the approved plans, failure to comply with any applicable local or State law (not just the building code and UDO), and any misrepresentations made in securing the permit.
6. Building permits mistakenly issued may be revoked.
7. If the building permit expires or is revoked, the vested right based on it is also lost.

C. STATUTORY VESTED RIGHTS

Development permits for a building, use of a building, use of land, or subdivision of land establishes statutory vested rights, which shall entitle the permit holder to vested rights to develop the proposal as identified in the approved permit, subject to the following standards:

1. Issuance of a building permit is not considered a development permit, and the vesting term shall only continue in accordance with Section 1.11.4B, Issuance of a Building Permit.
2. A development permit is valid for one year after issuance, unless otherwise specified by statute, and the applicant is vested in that permit for the term of validity.
3. If the applicant fails to substantially commence authorized work within one year, then the development permit and vesting expire.
4. Vesting shall continue provided there is a substantial commencement of authorized work under a valid development permit.
5. The development permit and vesting shall expire after substantial work commences if there is a two-year period of intentional and voluntary discontinuance of work unless otherwise specified by statute.

D. SITE-SPECIFIC VESTING PLAN

1. DEFINED

a. For the purposes of this section, a site-specific vesting plan is defined as a plan submitted to the Town in which the applicant requests vesting, describing with reasonable certainty on the plan, the type and intensity of use for a specific parcel or parcels of property.

b. A site-specific vesting plan must provide, with reasonable certainty, all of the following:
   i. The boundaries of the development;
   ii. Topographic and natural features affecting the site;
   iii. The approximate location of proposed buildings, structures, and other improvements;
   iv. The approximate dimensions, including height, of proposed buildings and other structures;
   v. The approximate location of all existing and proposed infrastructure on the site, including water, sewer, streets, and pedestrian ways;
   vi. The type or types of proposed land uses; and
   vii. The density or intensity of development.

c. A Sketch Plan, Concept Plan, or any other document that fails to describe with reasonable certainty the type and intensity of use for a specific lot or lots of property shall not constitute a Site-Specific Vesting Plan.

d. The following development approvals constitute a Site-Specific Vesting Plan:
   i. A Concept Plan associated with a Conditional Rezoning application;
   ii. A Preliminary Plat for a Major Subdivision;
   iii. Site Plans; and
   iv. A Concept Plan associated with a Special Use Permit.

2. ESTABLISHMENT

a. Development approvals identified by this Ordinance as Site-Specific Vesting Plans shall be granted a vested right to develop for a maximum period of two years from the date of the approval, provided the applicant has requested, in writing, that a vested right is sought, and provided the development subject to the approval complies with all applicable terms and conditions.

b. In cases where a Concept Plan is associated with an approved conditional rezoning, the conditional zoning designation shall run with the land but the vesting status of the

associated Concept Plan shall be in accordance with the standards for any other Site-Specific Vesting Plan.

3. EXTENSION

a. The two-year vesting duration of a Site-Specific Vesting Plan may be extended up to five years from the date of the approval only in accordance with Section 2.3.30, Vested Rights Certificate.

b. Site-Specific Vesting Plans meeting the definition of a Multi-Phase Development shall be vested in accordance with Section 1.11.4E, Multi-Phase Development Plan.

E. MULTI-PHASE DEVELOPMENT PLAN

1. A Multi-Phase Development Plan that occupies at least 25 acres of land area, is subject to a master plan that depicts the types and intensities of all uses as part of the approval and includes more than one phase shall be considered as a Multi-Phase Development Plan that is granted a vested right to develop for a period of seven years from the date of approval of the first site plan associated with the development.
2. Vesting shall commence upon approval of the Site Plan for the first phase of the development.
3. The vested right shall remain in effect provided the development does not expire and provided it complies with all the applicable terms and conditions of the approval.

F. DEVELOPMENT AGREEMENT

A Development Agreement shall be vested in accordance with the vesting term identified in the Development Agreement.

G. VOLUNTARY ANNEXATION

1. Any petition for Annexation filed with the Town in accordance with Section 2.3.3, Annexation, shall contain a signed statement from the applicant indicating if vested rights on the properties subject to the petition have been established in accordance with NCGS§160D-108.
2. A statement that declares that no zoning vested right has been established or the failure to provide a statement declaring whether vested rights have been established, shall result in a termination of any vested rights established prior to Annexation.

1.11.5 TERMINATION OF A VESTED RIGHT

A. GENERALLY

1. Vested rights established in accordance with this Ordinance shall run with the land.
2. In no instance shall vesting status extend beyond the maximum duration for the type of development application approval.
3. In no instance shall the vesting status of a development approval continue after the development approval expires or if the development approval is revoked for failure to comply with the terms of the approval or of this Ordinance.
4. In no instance shall the vesting status of a development approval continue after it is determined that the development approval was based upon intentional inaccurate information or material misrepresentations.
5. In no instance shall vested rights continue if the Town Council finds, after a duly noticed public hearing, that natural or man-made hazards resulting from the development would result in a serious threat to public health, safety, or welfare if the development were to be continued or completed.

6. In the event of commenced but uncompleted work associated with a development approval, vested rights shall expire within 24 months of the discontinuance of work. This 24-month period shall not include the time associated with work stoppage resulting from an appeal or litigation.

B. LIMITATIONS

1. The establishment of a vested right does not preclude the Town's application of overlay zoning district requirements or other development regulations that do not affect the type of land use, its density, or intensity.
2. A vested right shall not preclude the application of changes to building, fire, plumbing, electrical, or mechanical codes made after the development approval where a vested right was established.

CHAPTER 2
APPLICATIONS

2.1 Chapter Introduction **47**
2.1.1 Chapter Organization 47

2.2 Application Summary Tables **47**
2.2.1 Development Applications 47
2.2.2 Subdivision Types 50
2.2.3 Process Diagrams 52

2.3 Application Types **54**
2.3.1 Administrative Adjustment 54
2.3.2 Appeal 56
2.3.3 Annexation 60
2.3.4 Building Permit 63
2.3.5 Certificate of Occupancy 65
2.3.6 Conditional Rezoning 67
2.3.7 Conservation Subdivision 73
2.3.8 Conventional Rezoning 76
2.3.9 Determination 79
2.3.10 Development Agreement 82
2.3.11 Driveway Permit 84
2.3.12 Exempt Subdivision 86
2.3.13 Fee-in-Lieu 88
2.3.14 Floodplain Permit 93
2.3.15 Land Disturbance Permit 99
2.3.16 Limited Subdivision 101
2.3.17 Major Subdivision 103
2.3.18 Minor Subdivision 110
2.3.19 Performance Guarantee 113
2.3.20 Sign Permit 118
2.3.21 Site Plan 122
2.3.22 Special Use Permit 127
2.3.23 Stormwater Permit 131
2.3.24 Street Renaming/ Closure 135
2.3.25 Temporary Permit 137
2.3.26 Text Amendment 139
2.3.27 Transportation Impact Analysis 141
2.3.28 Tree Clearing Certificate 144
2.3.29 Variance 148
2.3.30 Vested Rights Certificate 155
2.3.31 Zoning Compliance Permit 157

2.4 Review Procedures **159**
2.4.1 Overview 159
2.4.2 Purpose and Intent 159
2.4.3 Pre-Application Conference 159
2.4.4 Neighborhood Meeting 160
2.4.5 Application Filing 162
2.4.6 Permit Choice 164

2.4.7 Staff Review and Action 164
2.4.8 Public Notice 165
2.4.9 Public Hearings and Meetings 168
2.4.10 Conditions of Approval 171
2.4.11 Written Notice of Decision 172
2.4.12 Simultaneous Processing 172
2.4.13 Phased Development 172
2.4.14 Continuance, Withdrawal, and Abandonment 173
2.4.15 Reconsideration of Denied Applications 174
2.4.16 Amendment of Approved Application 174

2.1 CHAPTER INTRODUCTION

2.1.1 CHAPTER ORGANIZATION

A. This chapter includes all the development application review provisions, and is comprised of the following three sections:

1. A section setting out the summary tables of application types (Section 2.2, Application Summary Tables);
2. A section with the application procedures (Section 2.3, Application Types); and
3. A section containing a set of common or standard review procedures used by the Town regardless of the type of application being reviewed (Section 2.4, Review Procedures).

B. The summary tables in Section 2.2, Application Summary Tables, identifies all the development application types in this Ordinance and the review authorities who decide them as well as a summary of the different kinds of subdivision procedures in this Ordinance.

C. Section 2.3, Application Types, describes each application type in detail, including:

1. Applicability and the types of development exempted from the procedure;
2. The review standards;
3. How the approved application may be amended (if applicable);
4. If and how the approval may expire; and
5. How decisions on a particular application are appealed.

D. Section 2.4, Review Procedures, describes the steps in the application review process that are identical for each type application, including pre-application conferences, application filing, staff review, notification of decision, and others. In cases where a particular application type follows a procedure that differs from that in Section 2.4, Review Procedures, those distinctions are noted in Section 2.3, Application Types.

2.2 APPLICATION SUMMARY TABLES

2.2.1 DEVELOPMENT APPLICATIONS

A. The Application Types Table below lists each of the specific application types in this Ordinance and the review authority (ies) involved in the decision-making process. Review authorities are listed in columns across the top of the table and procedures are listed in alphabetical order in rows down the table's side. Cells in the middle of the table show actions taken by a particular review authority as part of the review process.

B. Generally speaking, comments ("C") are provided prior to recommendations ("R"). Both comments and recommendations are provided prior to decisions ("D"). Appeals ("A") take place after decisions are made.

C. Blank cells ("·") in the table indicate that a particular review authority has no role in the particular procedure.

D. The "UDO Section" Column identifies the section in this Ordinance where the procedural language is located.

E. The "Pre-App Conference" Column includes an "M", "O", or "N/A", to indicate if a pre-application conference is mandatory, optional, or not applicable to a particular kind of application.

F. Some decision and appeal actions in the table include lines or brackets around them. These lines signify if that particular stage of the review process includes a legislative public hearing, or an evidentiary public hearing.

G. Numbers in brackets signify table notes, which are found at the bottom of the table (the table bottom may be on a subsequent page).

TABLE 2.2.1: APPLICATION TYPES TABLE

Process Type: see Section 2.2.3, Process Diagrams
Pre-Application Conference: M = Mandatory; O = Optional; N/A = Not Applicable
Type of Action: C = Comment; R = Recommendation; D = Decision; A = Appeal
Type of Public Hearing: ( ) = Legislative; | | = Evidentiary
[#] = Table Note (see end of table)

Application Type	UDO Section	Process Type	Pre-App. Conf.	Tech. Review Committee	Town Staff [1]			Planning Board	Town Council	Board of Adjustment	Superior Court
					Building Inspector	Engineering Director	Planning Director				
Administrative Adjustment	2.3.1	II	O	C	•	•	D	•	•	|A|	•
Appeal	2.3.2	III	O	•	•	•	•	•	•	|D|	A
Annexation	2.3.3	IV	O	C	•	•	R	•	(D)	•	A
Building Permit [2]	2.3.4	I	N/A	•	D	•	•	•	•	•	•
Certificate of Occupancy [2]	2.3.5	I	N/A	•	D	•	•	•	•	•	•
Conditional Rezoning [3]	2.3.6	IV	M	•	•	•	•	R	(D)	•	A
Conservation Subdivision [4]	2.3.7	II	M	C	•	•	D	•	•	|A|	•
Conventional Rezoning	2.3.8	IV	M	C	•	•	•	R	(D)	•	A
Determination [5]	2.3.9	I	O	•	•	D	D	•	•	|A|	•
Development Agreement	2.3.10	IV	O	C	•	C	C	•	(D)	•	A
Driveway Permit	2.3.11	I	O	•	•	D	•	•	•	|A|	•
Exempt Subdivision	2.3.12	I	N/A	•	•	•	D	•	•	|A|	•
Fee-in-Lieu [6]	2.3.13	II	O	C	•	D	D	•	•	A	•
Floodplain Permit	2.3.14	I	O	•	•	D	•	•	•	|A|	•
Land Disturbance Permit	2.3.15	I	M	•	•	D	•	•	•	|A|	•

TABLE 2.2.1: APPLICATION TYPES TABLE

Process Type: see Section 2.2.3, Process Diagrams
Pre-Application Conference: M = Mandatory; O = Optional; N/A = Not Applicable
Type of Action: C = Comment; R = Recommendation; D = Decision; A = Appeal
Type of Public Hearing: ( ) = Legislative; | | = Evidentiary
[#] = Table Note (see end of table)

Application Type	UDO Section	Process Type	Pre-App. Conf.	Tech. Review Committee	Town Staff [1]			Planning Board	Town Council	Board of Adjustment	Superior Court
					Building Inspector	Engineering Director	Planning Director				
Limited Subdivision	2.3.16	I	O	•	•	•	D	•	•	|A|	•
Major Subdivision	2.3.17	II	M	C	•	•	D	•	•	|A|	•
Minor Subdivision	2.3.18	II	O	C	•	•	D	•	•	|A|	•
Performance Guarantee [7]	2.3.19	II	O	C	•	D	D	•	D	D	A
Sign Permit [8]	2.3.20	I	O	•	•	•	D	•	•	|A|	•
Site Plan [9]	2.3.21	II	M	C	•	•	D	•	•	|A|	•
Special Use Permit [10]	2.3.22	III	M	•	•	•	•	•	•	|D|	A
Stormwater Permit	2.3.23	I	O	•	•	D	•	•	•	|A|	•
Street Renaming/ Closure	2.3.24	IV	M	C	•	•	•	R	(D)	•	A
Temporary Permit	2.3.25	II	O	C	•	C	D	•	•	|A|	•
Text Amendment	2.3.26	IV	O	C	•	•	C	R	(D)	•	A
Transportation Impact Analysis	2.3.27	I	M	•	•	D	C	•	•	|A|	•
Tree Clearing Certificate	2.3.28	II	O	C	•	•	D	•	•	|A|	•
Variance [11]	2.3.29	III	M	•	•	•	•	•	•	|D|	A
Vested Rights Certificate	2.3.30	III	O	•	•	•	R	•	•	|D|	A
Zoning Compliance Permit	2.3.31	I	O	•	•	•	D	•	•	|A|	•

TABLE 2.2.1: APPLICATION TYPES TABLE

Process Type: see Section 2.2.3, Process Diagrams
Pre-Application Conference: M = Mandatory; O = Optional; N/A = Not Applicable
Type of Action: C = Comment; R = Recommendation; D = Decision; A = Appeal
Type of Public Hearing: ( ) = Legislative; || = Evidentiary
[#] = Table Note (see end of table)

Application Type	UDO Section	Process Type	Pre-App. Conf.	Tech. Review Committee	Town Staff [1]			Planning Board	Town Council	Board of Adjustment	Superior Court
					Building Inspector	Engineering Director	Planning Director				

NOTES:
[1] Decision-making authority may be delegated in accordance with Section 8.2.8, Delegation of Authority.
[2] Appeals are filed with the North Carolina Commissioner of Insurance.
[3] In cases where a Conditional Rezoning application includes a Concept Plan, the TRC shall review the plan prior to consideration by the Planning Board.
[4] Approval of a Conservation Subdivision also requires approval of a Major Preliminary Plat.
[5] The Engineering Director shall make determinations on matters pertaining to stormwater, erosion control, and infrastructure requirements.
[6] The review authority responsible for making the decision on the associated development application shall also be responsible for making the decision on a Town-mandated Fee-In-Lieu request.
[7] The review authority responsible for making the decision on the associated development application shall also be responsible for making the decision on a Performance Guarantee request. Requests for Performance Guarantees filed after an associated application approval shall be decided by the Planning Director.
[8] Alternative Sign Plan requests shall be reviewed and decided by the Planning Director.
[9] Site Plans that include changes to or extension of public infrastructure shall include construction drawings, which shall be decided by the Engineering Director.
[10] The TRC shall review the Concept Plan prior to consideration by the Board of Adjustment.
[11] The Environmental Management Commission shall decide Major Water Supply Watershed and Riparian Buffer Variance applications.

2.2.2 SUBDIVISION TYPES

The Subdivision Types Table below identifies the range of subdivision types addressed by this Ordinance, including details on the maximum number of lots that may be created, minimum tract size before division, whether or not the subdivision involves the extension of public infrastructure, and whether or not the lots in the subdivision must comply with the zoning district dimensional standards. Each subdivision process is described in more detail in Section 2.3, Application Types.

TABLE 2.2.2: SUBDIVISION TYPES TABLE

Common Subdivision or Development Type	Number of Lots Involved (#)	Initial Tract Size (Acres)	Involves Extension of Public Infra. (Yes/No)	Compliance With District Dimensional Standards	Application Type [1]	UDO Sec.
Combination/ Recombination [2]	N/A	N/A	No	No	Exempt Subdivision	2.3.12
Court-ordered Subdivision [3]	N/A	N/A	No	No	Exempt Subdivision	2.3.12
10+-Acre Estate Lot Subdivision	[4]	N/A	No	Yes	Exempt Subdivision	2.3.12
Family Subdivision [5] [6]	Up to 2	N/A	No	Yes	Minor Subdivision	2.3.18
Governmental Acquisition	N/A	N/A	No	No	N/A	5.2.5
Limited Subdivision	Max. of 3	5 or more	No	Yes	Limited Subdivision	2.3.16
Major Subdivision [7]	2 or more	N/A	Yes	Yes	Major Subdivision	2.3.17
Minor Subdivision [8]	Up to 5	N/A	No	Yes	Minor Subdivision	2.3.18
Special Purpose Lot / Easement Plat [9]	N/A	N/A	No	No	N/A	3.4.5
Two Acres into Three Lots	Max. of 3	2 or less	No	Yes	Exempt Subdivision	2.3.12

NOTES:
[1] Regardless of the subdivision process type noted in this table, subdivisions that include the extension of public infrastructure shall be reviewed as a Major Subdivision.
[2] Combinations / recombinations that result in lots that do not meet the minimum dimensional standards for the zoning district where located shall be reviewed as a Minor Subdivision.
[3] Lots within a Court-ordered Subdivision are not required to comply with the dimensional requirements for the zoning district where located.
[4] All lots created shall be at least 10 acres in area or larger, otherwise the subdivision shall be reviewed as a Minor or Major Subdivision, based on the number of lots created.
[5] Family subdivisions are subdivisions created for conveyance between husbands, wives, mothers, fathers, brothers, sisters, children (biological, adopted, or step), grandmothers, grandfathers, grandchildren (biological, adopted, or step), aunts, uncles, nieces, and nephews and shall be reviewed as an exempt subdivision, a limited subdivision, or a minor subdivision, as appropriate.
[6] May be reviewed as an Exempt Subdivision or a Limited Subdivision, based on the number of lots created.
[7] Minor subdivisions of 6 or more shall be reviewed as a Major Subdivision even if the subdivision does not include the extension of public infrastructure.
[8} Lots must comply with district dimensional standards except for combinations or recombinations of existing lots.
[9] May be accomplished as part of a subdivision establishing new development or as its own Exempt Subdivision.

2.2.3 PROCESS DIAGRAMS

A. Development applications in this Ordinance shall be reviewed and decided in accordance with the process type indicated in Table 2.2.1, Application Types Table, Section 2.4, Review Procedures, and this sub-section.

B. The process types used in this Ordinance are illustrated in process flowcharts below (see Figure 2.2.3, Process Diagrams). The process flowcharts depict the general procedural steps for each application type. In cases where the actual application review process differs from the corresponding flowchart, details on differences are identified in Section 2.3, Application Types.

C. The procedural flowcharts use a text box to denote each step in the process. Details on each individual step are located in Section 2.4, Review Procedures.

D. The procedural flowchart is color coded to depict differing responsibilities. White boxes indicate actions or responsibilities of the applicant. Light grey boxes indicate actions of Town staff. Dark grey boxes show the stage of the process where a decision is made (as appropriate).

FIGURE 2.2.3: PROCESS DIAGRAMS

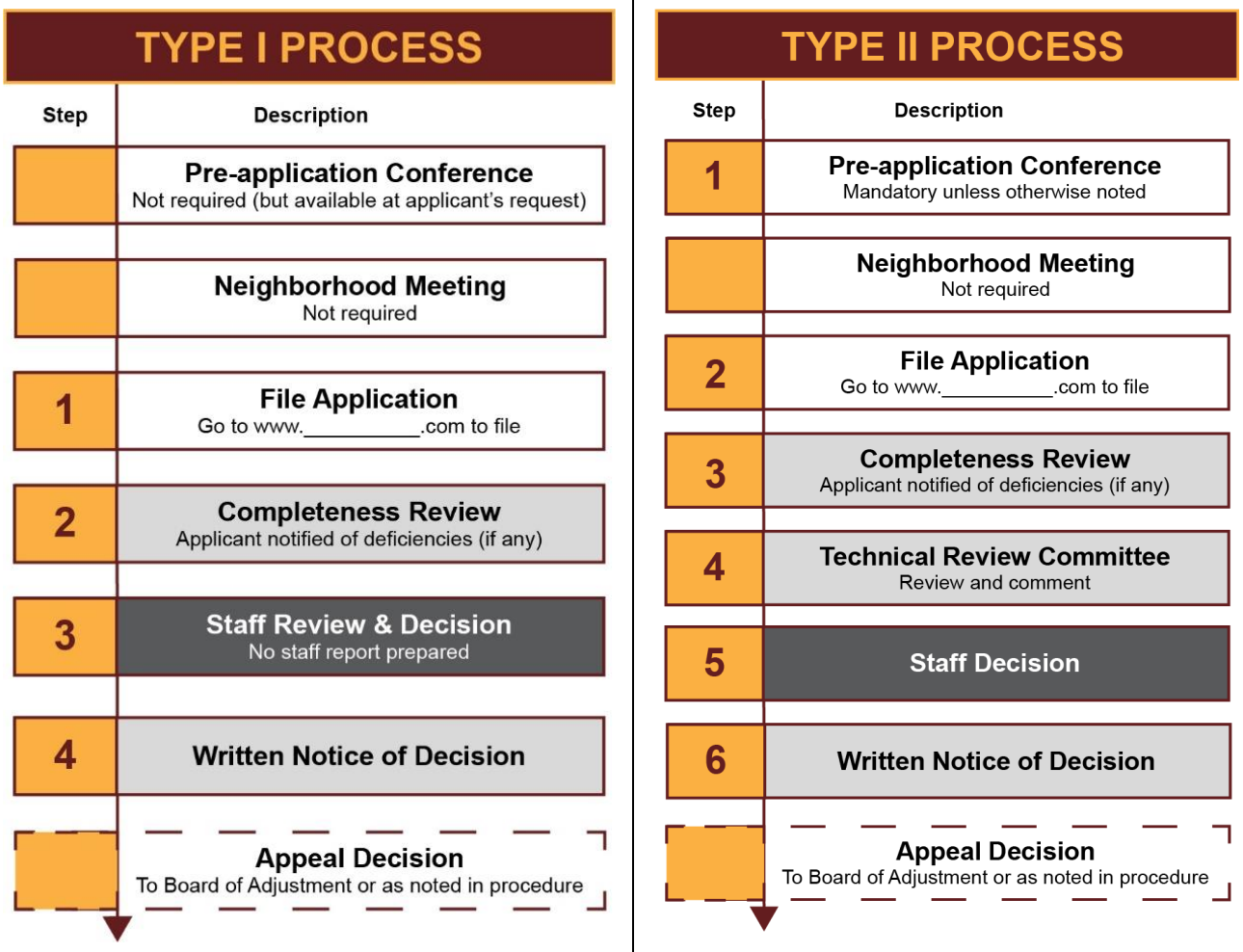


FIGURE 2.2.3: PROCESS DIAGRAMS

TYPE III PROCESS

Step	Description
1	**Pre-application Conference** Mandatory unless otherwise noted
2	**Neighborhood Meeting** Required for Special Use Permits & Variances
3	**File Application** Go to www._____.com to file
4	**Completeness Review** Applicant notified of deficiencies (if any)
5	**Staff Review** Completed for Vested Rights and Special Uses
6	**Public Hearing Scheduled**
7	**Public Notice Provided** May be mailed, published, or posted
8	**Board of Adjustment Decision** Following an evidentiary public hearing
9	**Written Notice of Decision**
	Appeal Decision To Johnston County Superior Court

TYPE IV PROCESS

Step	Description
1	**Pre-application Conference** Mandatory unless otherwise noted
2	**Neighborhood Meeting** Mandatory unless otherwise noted
3	**File Application** Go to www._____.com to file
4	**Completeness Review** Applicant notified of deficiencies (if any)
5	**Staff Review & Comment** Including concept plans for conditional rezoning
6	**Planning Board Recommendation** Unless otherwise noted
7	**Public Hearing Scheduled**
8	**Public Notice Provided** May be mailed, published, or posted
9	**Town Council Decision** Following a legislative public hearing
10	**Written Notice of Decision**
	Appeal Decision To Johnston County Superior Court

2.3 APPLICATION TYPES

2.3.1 ADMINISTRATIVE ADJUSTMENT

A. APPLICABILITY

1. Except where otherwise prohibited, an Administrative Adjustment may be requested for a modification or deviation to any of the following:
   a. A zoning district dimensional standard in Chapter 3, Districts.
   b. A numeric use-specific standard in Chapter 4, Land Uses.
   c. A numeric requirement in Chapter 5, Standards.
2. In no instance shall an Administrative Adjustment application seek to reduce any of the following:
   a. The required minimum lot area in a zoning district;
   b. Increases in the maximum allowable residential density on a lot;
   c. Reduce the minimum required separation distance between two use types;
   d. The requirements specified in a transportation impact analysis;
   e. Reductions to the standards pertaining to flood damage prevention, water supply watershed protection, or riparian buffer protection; or
   f. Reductions to required infrastructure standards, including streets, potable water, or wastewater system requirements.
3. Development subject to a Variance shall not also be subject to an Administrative Adjustment.

B. AMOUNT OF ADJUSTMENT

An Administrative Adjustment may allow a deviation from a numeric standard in this Ordinance in accordance with the amount specified in Table 2.3.1, Maximum Adjustment Amount.

TABLE 2.3.1: MAXIMUM ADJUSTMENT AMOUNT

Location or Type of Development	Maximum Permitted Amount of Adjustment
Establishment of a new principal building on a non-conforming lot of record	50% (setbacks only)
New development or redevelopment within the Downtown zoning district	15%
Redevelopment within all zoning districts except Downtown	10%
New development within all zoning districts except Downtown	5%

C. PROCESS TYPE

Type II (see Section 2.2.3, Process Diagrams), including comment by the Technical Review Committee.

D. REVIEW CRITERIA

An application for an Administrative Adjustment shall be approved by the Planning Director in accordance with Section 2.4.7, Staff Review and Action, only upon a finding that the applicant has demonstrated that all of the following criteria are met:

1. The Administrative Adjustment is consistent with the type and maximum thresholds for an Administrative Adjustment established in this section; and
2. The Administrative Adjustment:
   a. Is required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general, including size or shape of the lot; or
   b. Is necessary to allow for proper functioning of public or private infrastructure; or
   c. Saves healthy existing trees; or
   d. Helps limit the need for site grading or revision to existing drainage patterns; and
3. Approval of the Administrative Adjustment is not expected to pose a danger to the public health or safety; and
4. The Administrative Adjustment will not negatively impact the function or performance of on-site wastewater or stormwater management devices; and
5. Adverse impacts resulting from the Administrative Adjustment will be fully mitigated; and
6. The development requirement being adjusted is not the subject of a previously approved Administrative Adjustment, condition of approval, or Variance on the same site.

E. SEQUENCE

1. An Administrative Adjustment may be requested either as a stand-alone application, or in combination with another application for development review.
2. In cases when submitted with another application, the Administrative Adjustment application shall be decided prior to the other associated applications.
3. Applications for Conditional and Conventional Rezonings or Variances shall not include requests for Administrative Adjustments.

F. AMENDMENT

Amendment of an Administrative Adjustment approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

G. EXPIRATION

1. If an Administrative Adjustment is submitted with another development application, the expiration of the Administrative Adjustment shall be the same as the associated development application.
2. See Section 2.4.17, Expiration, in cases where an Administrative Adjustment is submitted as a stand-alone application.

H. VESTING

1. If an Administrative Adjustment is submitted with another development application, the vesting term of the Administrative Adjustment shall be the same as the associated development application.
2. In cases where an Administrative Adjustment is submitted as a stand-alone application, see Section 1.11.4C, Statutory Vested Rights.

I. APPEAL

In accordance with NCGS§160D-405, and Section 2.3.2, Appeal.

2.3.2 APPEAL

A. APPLICABILITY

Appeals of decisions or determinations by the Technical Review Committee, Planning Director, or Engineering Director made pursuant to this Ordinance shall be reviewed and decided in accordance with NCGS§§160D-405 and 160D-1403 and this procedure, as appropriate.

B. APPEALS NOT REGULATED BY THIS ORDINANCE

The following appeals and challenges shall be governed by the following:

1. DECISIONS BY BOARD OF ADJUSTMENT

a. Persons with standing as defined in NCGS§160D-1402(c) may appeal a decision by the Board of Adjustment to the Superior Court for the county where located in accordance with NCGS§160D-1402.

b. Appeal of a quasi-judicial decision shall be in the nature of certiorari and in accordance with NCGS §§160D-406, 160D-1402, and 160D-1405, as appropriate.

c. A landowner or applicant with standing shall file a petition for review with the Clerk of Court within 30 days of the date the decision is filed in the office of the Board of Adjustment and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

d. Any other person with standing to appeal shall file a petition for review with the Clerk of Court within 30 days from receipt, by any source, actual or constructive notice of the decision being appealed.

e. Receipt of written notice provided via first class mail in accordance with NCGS§160D-403(b) shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

2. DECISIONS BY TOWN COUNCIL

Persons with standing as defined in NCGS§160D-1403(b) may challenge legislative decisions by the Town Council, whose challenge shall be heard by the Superior Court for the county where located in accordance with NCGS§§160D-1401 and 160D-1405.

a. CHALLENGES TO OFFICIAL ZONING MAP ADOPTION OR AMENDMENT; DEVELOPMENT AGREEMENT

i. Legislative decisions made by the Town Council pursuant to the adoption of the Official Zoning Map, amendment to the Official Zoning Map, or with respect to a Development Agreement shall be subject to review at the request of any aggrieved party by the Superior Court for the county where located as detailed in NCGS§§160D-1401 and 160D-1405.

ii. The challenge to the legislative decision must be filed with the Clerk of Court for the Superior Court of the county where located within 60 days from the receipt of written notice or receipt from any source of constructive notice of the determination.

b. CHALLENGES TO UNIFIED DEVELOPMENT ORDINANCE TEXT ADOPTION OR AMENDMENT

Legislative decisions made by the Town Council pursuant to the adoption of this Ordinance or other development regulation shall be subject to review at the request of any aggrieved party by the Superior Court for the county where located as detailed in NCGS§§160D-1401 and 160D-1405. The challenge to the Superior Court must be filed within the following timeframes:

i. VALIDITY OF ACTION

Challenges to the validity of ordinance language shall be filed within one year of the date that the ordinance or amendment becomes effective or when the party bringing the challenge has standing to file the challenge, whichever is later.

ii. PROCEDURAL FLAW
Challenges to an ordinance or amendment based upon the process of adoption shall be filed within three years of the adoption date of the ordinance or amendment.

3. ORIGINAL CIVIL ACTIONS

Persons with standing, as defined in NCGS§160D-1403.1 may bring an original civil action in Superior Court in the county where located without first being heard by the Board of Adjustment for some administrative decisions, determinations of vested rights, and notices of violation in cases where the applicant claims the decision or a provision in this Ordinance is:

i. Unconstitutional;
ii. Beyond statutory authority;
iii. Pre-empted by State law; or
iv. A taking of all property value.

C. STANDING TO APPEAL A DECISION BY A TOWN STAFF MEMBER

Only those parties possessing any of the following criteria shall have standing to appeal a decision, Determination, or a notice of violation by a Town staff member to the Board of Adjustment:

1. An ownership interest, a leasehold interest, or an interest created by easement, restriction, or covenant in the property that is the subject of the decision or Determination being appealed; or
2. An option or contract to purchase the property that is the subject of the decision or Determination being appealed; or
3. An applicant before the review authority whose decision is being appealed; or
4. Any other person who will suffer special damages as the result of the decision or Determination being appealed; or
5. An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision or determination being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal; or
6. The appellant is the Town Council of Clayton.

D. INITIATION

1. An applicant, property owner, or other person with standing shall initiate an Appeal by filing a notice of appeal with the Planning Director within 30 days of the date they receive the written notice of decision being appealed.
2. Receipt of written notice of decision provided via first class mail in accordance with NCGS§160D-403(b) shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

E. APPLICATION

1. Petitions for Appeal shall specify the grounds for the Appeal.
2. The Planning Director shall transmit to the Board of Adjustment all the papers constituting the record upon which the action being appealed was taken.

F. PROCESS TYPE

Type III (see Section 2.2.3, Process Diagrams).

G. DECISION

1. The decision shall be based on the competent, material, and substantial evidence in the record of the Appeal, as supplemented by arguments presented at the evidentiary hearing, and the standards in Section 2.4, Review Procedures.
2. The decision shall be one of the following:
   a. Affirmation of the decision or determination (in whole or in part);
   b. Modification of the decision or determination (in whole or in part); or
   c. Reversal of the decision or determination (in whole or in part).
3. Voting shall be in accordance with Section 2.4.9C.5, Voting.
4. If a motion to reverse or modify is not made, or a motion fails to receive a majority vote from Board of Adjustment members eligible to vote, then the Appeal shall be denied.
5. Each decision shall be made in writing and reflect the Board of Adjustment's determination of contested facts and their application to the standards in this Ordinance.
6. The written decision shall be signed by the Chair or other duly authorized member of the Board of Adjustment.
7. The decision of the Board of Adjustment shall be effective upon the filing of the written decision in the offices of the Planning Department.

H. REVIEW CRITERIA

1. The Board of Adjustment is limited to the following decisions in considering the appeal:
   a. Whether the review authority erred in the determination of this Ordinance; or
   b. Whether the review authority erred in determining whether a standard of this Ordinance was met.
2. The Board of Adjustment shall not hear any evidence or make any decision based on hardships or special conditions, except as part of an application for a Variance.

I. EFFECT

1. The filling of an appeal shall stay all of the following:
   a. Any further proceedings or actions conducted by the applicant except in such cases where such stoppage would cause imminent peril to life or property as determined by the Planning Director;
   b. The application of any further remedies for violation of this Ordinance by the Town; and
   c. The accumulation of any further fees or fines associated with violation of this Ordinance.
2. In cases where the Town official from whose decision an appeal is taken certifies to the Board of Adjustment that a stay would cause imminent peril to life or property or would seriously interfere with enforcement of this Ordinance; administrative proceedings shall not be stayed except through issuance of a restraining order by a court of competent jurisdiction.
3. In the event enforcement proceedings are not stayed by an Appeal, the appellant may file a request for an expedited hearing of the appeal in accordance with NCGS§160D-405(f), and the Board of Adjustment shall conduct a meeting to hear the Appeal within 15 days of the date the request for an expedited hearing is filed.
4. Nothing shall prevent the Board of Adjustment from staying the issuance of any final approval of development applications, including Building Permits, affected by the issue being appealed in accordance with NCGS§160D-405(f).

J. AMENDMENT

Not applicable.

K. EXPIRATION

Not applicable.

L. VESTING

Not applicable.

M. APPEAL

In accordance with Section 2.3.2B.1, Decisions by Board of Adjustment.

2.3.3 ANNEXATION

A. APPLICABILITY

1. The Town may review and decide voluntary Annexation petitions from:
   a. The owners of land that is contiguous with the Town's primary corporate limits; and
   b. The owners of land that is not contiguous to the primary corporate limits when the proposed satellite annexation complies with the following standards:
      i. The area must be so situated that the Town will be able to provide the same services as it provides within its primary corporate limits; and
      ii. The nearest point on the proposed satellite annexation is not more than three miles from the primary corporate limits of the Town; and
      iii. No portion of the land proposed for annexation is closer to the contiguous corporate limits of another municipality unless the land is subject to an approved annexation agreement; and
      iv. If the land proposed for annexation is part of a recorded subdivision as defined in NCGS§160D-802, all lots in the recorded subdivision are part of the annexation petition; and
      v. The area within the proposed satellite annexation, when added to the area within all other satellite annexations by the Town of Clayton, may not exceed ten percent of the area within the primary corporate limits of the Town.
2. The Town may accept voluntary Annexation petitions from landowners that do not meet the criteria in sub-section (1) above, but may not decide them until the application is consistent with sub-section (1) above.

B. APPLICATION

1. The Annexation petition shall be signed by all the owners of land proposed for annexation.
2. An Annexation petition shall include a signed statement declaring whether or not any vested right with respect to the land subject to the petition has been established under NCGS§160D-108.
3. The application shall identify the volunteer fire district where the land subject to the petition is located.

C. PROCESS TYPE

Type IV (see Section 2.2.3, Process Diagrams), except for the following:

1. Following receipt of an Annexation petition the Town Council shall direct the Town Clerk to investigate the sufficiency of the petition.
2. The Town Clerk shall investigate and certify whether the petition is legally sufficient. Only legally sufficient petitions shall be considered by the Town.
3. The Planning Director shall review the petition and comment on the Town's ability to provide municipal services prior to consideration of the petition's legal sufficiency by the Town Council.
4. The Town shall notify the applicable fire district where the land is located.
5. Following investigation by the Town Clerk and the Planning Director, the Town Council shall determine if the petition is legally sufficient. If the petition is determined to be legally sufficient, the Town Council shall schedule a public hearing to consider the petition.
6. The Planning Board shall not review the application.
7. If the annexation petition is approved, the applicant shall be responsible for preparation of a plat suitable for recording with the Register of Deeds to document the annexation.

D. DECISION

1. After the conclusion of a legislative public hearing, the Town Council shall decide the application in accordance with the standards in Section 2.4, Review Procedures.
2. The decision shall be one of the following:
   a. Approval of the Annexation petition;
   b. Denial of the Annexation petition; or
   c. Remand of the Annexation petition to Town staff for further consideration.

E. REVIEW CRITERIA

Approval of an Annexation is a matter committed to the legislative discretion of the Town Council. The voluntary Annexation petition may be approved upon a finding the petition complies with all the standards in NCGS§§160A-31 or 160A-58.1, as appropriate, and:

1. The Annexation petition bears the signatures of all landowners within the area to be annexed;
2. The area to be annexed can be adequately served by the same municipal services provided within the Town's primary corporate limits;
3. The debt obligations from serving the subject lands do not exceed the anticipated revenues to the Town;
4. If any of the land that is the subject of an annexation petition is also proposed for a subdivision, the entire land area occupied by the subdivision is included in the annexation petition; and
5. The public health, safety, and welfare of Town residents and the residents of the lands proposed for annexation will be best served by the Annexation.

F. EFFECTIVE DATE

1. CONTIGUOUS ANNEXATIONS

In accordance with NCGS§160A-31(d), the Town Council shall make the Annexation ordinance effective:

a. Immediately; or
b. Within 24 months of the date the Annexation ordinance was adopted.

2. NONCONTIGUOUS OR SATELLITE ANNEXATIONS

The Town Council shall make the Annexation ordinance effective date immediately or on any specified date within six months from the date the annexation ordinance was passed.

G. RECORDATION

1. An ordinance approving a voluntary Annexation adopted by the Town, together with a plat of the annexed area, shall be promptly recorded in the office of the Register of Deeds for the county where located following adoption of the Annexation.
2. The applicant shall be responsible for preparing a plat meeting the State's minimum requirements.
3. The ordinance approving a voluntary Annexation adopted by the Town, together with a plat of the annexed area, shall be filed in the office of the Secretary of State within 30 days following the effective date of the annexation ordinance.

H. SEQUENCE

1. In cases where land proposed for Annexation is subject to any additional development applications, the Annexation application shall be reviewed and decided prior to the decision on any other applications.
2. The Town Council may consider the initial zoning of newly annexed land immediately or at any other time following approval of an Annexation application.
3. Nothing shall limit the Town Council from adopting a Development Agreement that involves land that is not annexed to the Town.

I. EFFECT

1. Upon the effective date of Annexation, the land shall be subject to the debts, laws, ordinances, and regulations of the Town, and shall be entitled to the same privileges and benefits as other parts of the Town.
2. In cases where land to be annexed is located outside the Claytex Volunteer Fire District, the applicant for annexation shall submit payment to the Town corresponding to the land's proportional share of all debt obligations owed by the Town. The Town shall notify the applicant of the applicable amount of the payment.
3. In cases where the applicant does not make payment upon annexation, the Town may require execution of a development agreement, the imposition of conditions of approval on the annexation petition, or other Town-accepted process for securing the land's pro rata share of applicable debt obligation from the applicant as part of annexation.

J. AMENDMENT

Not applicable.

K. EXPIRATION

Not applicable. Land may be de-annexed only by an act of the North Carolina General Assembly.

L. VESTING

Not applicable.

M. APPEAL

In accordance with Section 2.3.2B.2, Decisions by Town Council.

2.3.4 BUILDING PERMIT

A. APPLICABILITY

Unless exempted in accordance with the North Carolina General Statutes or the State Building Code(s), no construction, reconstruction, addition, alteration, repair, movement to another site, removal, demolition of any building or structure, or changes in use of an existing development triggering the need for application of a different set of building code requirements shall occur until a Building Permit is approved in accordance with the procedures and standards of this section and Chapter 150 of the Clayton Town Code of Ordinances.

B. EXEMPTIONS

The following forms of development are exempted from the requirement to obtain a Building Permit, but shall be subject to the standards in Section 2.3.31, Zoning Compliance Permit:

1. Storage and secondary buildings that serve a residential principal use, of 12 linear feet or less in length on any dimension, and do not include electrical service or running water;
2. Patios and at-grade walkways;
3. Playground equipment and play structures provided as secondary uses to an individual residential dwelling;
4. Ornamental or other pools with depths of less than 24 inches (any pools with water depths exceeding 24 inches are required to obtain a Building Permit);
5. Fences or privacy walls of six feet in height or less, except that all retaining walls shall require a Building Permit; or
6. Other development exempted from building permit requirements by the Town or by State law.

C. PROCESS TYPE

Type I (see Section 2.2.3, Process Diagrams).

D. REVIEW CRITERIA

An application for a Building Permit shall be decided by the Building Inspector in accordance with Section 2.4.7, Staff Review and Action, and all of the following:

1. The applicable sections of the State Building Code(s);
2. The standards in NCGS§160D-1110;
3. Any applicable requirements of the Johnston County Health Department;
4. The Site Plan, if applicable;
5. The Zoning Compliance Permit;
6. All other standards or conditions of any prior, applicable permits, and development approvals; and
7. All other applicable requirements of this Ordinance, Town policy, State law, and federal law.
8. In cases where commencement or completion of development proposed in a Building Permit application requires infrastructure to be in place and such infrastructure is not in place when required, then a life/safety plan for protecting life/safety shall be filed with an application for a Building Permit.

E. SEQUENCE

A Building Permit application may be submitted simultaneously with another application but shall be processed in accordance with Section 2.4.12, Simultaneous Processing.

F. EFFECT

Approval of a Building Permit authorizes the commencement of on-site or off-site construction activities.

G. AMENDMENT

A Building Permit application may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

H. EXPIRATION

1. A building permit shall expire and become null and void if the development it authorizes is not substantially commenced within six months of the permit issuance.
2. A building permit shall expire if work is discontinued for a period of 12 months after work has commenced.

I. VESTING

1. See Section 1.11.4B, Issuance of a Building Permit.
2. In cases when a Building Permit is associated with a site-specific vesting plan, the vesting period of the Building Permit shall be the same as the development in the associated site-specific vesting plan.

J. APPEAL

An appeal of a decision on a Building Permit shall be filed with the North Carolina Commissioner of Insurance, in accordance with NCGS§160D-1127.

2.3.5 CERTIFICATE OF OCCUPANCY

A. APPLICABILITY

Except where exempted by Section 2.3.4B, Exemptions, no land, newly erected building or structure, or existing building or structure that has been moved or enlarged or changed in use shall be occupied or used until a Certificate of Occupancy certifying that the land, building, or structure, and its use complies with this Ordinance and the applicable standards of the State Building Code(s) is issued in accordance with this section and Chapter 150 of the Clayton Town Code of Ordinances.

B. EXEMPTIONS

Development exempted from a Building Permit in accordance with Section 2.3.4B, Exemptions, shall also be exempted from this section.

C. PROCESS TYPE

Type I (see Section 2.2.3, Process Diagrams).

D. REVIEW CRITERIA

An application for a Certificate of Occupancy shall be decided by the Building Inspector in accordance with Section 2.4.7, Staff Review and Action, and the degree to which the land, building, structure, or proposed use complies with:

1. All relevant standards of this Ordinance;
2. Any other applicable Town requirements;
3. All applicable conditions of approval;
4. The Building Permit;
5. The applicable State Building Code(s) requirements; and
6. All applicable State and federal requirements.

E. TEMPORARY CERTIFICATE OF OCCUPANCY

1. A Temporary Certificate of Occupancy may be issued permitting occupancy for a stated period of time of either the entire building or property or of specified portions of the building if the Inspections Director finds that the building or property may safely be occupied prior to the completion of development activity.
2. A temporary Certificate of Occupancy may be issued in cases where the Town has mandated, or the applicant has requested and the Town has approved, payment of a fee-in-lieu. In no instance shall a final Certificate of Occupancy be issued by the Town in cases where payment of fee-in-lieu is required, but has not taken place.
3. The Planning Director may require the applicant to submit a Performance Guarantee (see Section 2.3.19, Performance Guarantee), in an amount necessary to ensure that any work not completed as specified in the development approval will be completed within the specified timeframe for a Certificate of Occupancy. A Performance Guarantee, submitted in accordance with Section 2.3.19, Performance Guarantee, shall be required for any incomplete infrastructure or other required site features.

F. SEQUENCE

1. Applications for a Certificate of Occupancy may not be filed until work authorized by other approvals has been completed, or an application for a Performance Guarantee has been approved.

2. An application for a Performance Guarantee may be filed with an application for a Temporary Certificate of Occupancy, but in these cases, the Performance Guarantee application shall be decided first.

G. EFFECT

Approval of a Certificate of Occupancy authorizes the occupancy of a building or the commencement of activity.

H. AMENDMENT

A Certificate of Occupancy application may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

I. EXPIRATION

A Certificate of Occupancy shall not expire. A Temporary Certificate of Occupancy shall expire in accordance with its designated timeframe. In no instance shall a Temporary Certificate of Occupancy remain valid for a period of longer than six months.

J. VESTING

Not applicable.

K. APPEAL

An appeal of a decision on a Certificate of Occupancy may be filed with the North Carolina Commissioner of Insurance, in accordance with NCGS§160D-1127.

2.3.6 CONDITIONAL REZONING

A. PURPOSE AND INTENT

The purpose of this section is to provide a uniform means for amending the Official Zoning Map to establish a conditional zoning district in cases where the standards of a conventional zoning district are inadequate to appropriately address the anticipated impacts generated by development. The conditional zoning district, if approved, establishes a unique zoning district that is tailored to the specific proposal and subject to unique conditions of approval. It is the intent of these standards to provide a process where an applicant may voluntarily place additional limitations on the development potential of their land. It is also intended to allow an applicant to request greater flexibility in the application of some development requirements in pursuit of a higher quality of development.

B. APPLICABILITY

1. This procedure is solely for the establishment of a conditional zoning district designation on land within the Town's planning jurisdiction.
2. In no instance shall a Conventional Rezoning application be converted to a Conditional Rezoning application, nor shall a Conditional Rezoning application be converted to a Conventional Rezoning application.
3. In no instance shall any lot or tract that is the subject of a Conditional Rezoning application also be the subject of any other rezoning application at the same time.
4. Special use zoning districts established prior to January 2, 2024, shall be subject to the standards in Section 1.10.3B, Pre-Existing Special Use Zoning Districts.
5. Planned development zoning districts established prior to January 2, 2024, shall be subject to the standards in Section 1.10.3B, Pre-Existing Special Use Zoning Districts.

C. CONDITIONAL REZONING DISTRICTS DISTINGUISHED

All Conditional Rezoning applications shall seek to establish one of the following three forms of conditional zoning district:

1. A Type I Conditional Rezoning application to establish a "limited use" conditional zoning district, which include an applicant-sponsored reduction in the range of allowable use types but no other deviations from required standards; or
2. A Type 2 Conditional Rezoning application to establish a "limited standard" conditional zoning district, which include applicant-sponsored modifications that exceed minimum requirements applied to other forms of development (e.g., deeper setbacks, larger lot areas, more restrictive use-standards, or limits on the range of allowable use types); or
3. A Type 3 Conditional Rezoning application to establish an "unlimited" conditional zoning district, which is subject to a Concept Plan and applicant-sponsored conditions that may be more or less restrictive that other applicable Ordinance standards, subject to Section 3.3.1E.8, Limitations on Reductions, and Section 2.4.10, Conditions of Approval. Unlimited applications may include deviations or reductions from otherwise applicable standards.

D. APPLICATION

1. All Conditional Rezoning applications shall:
   a. Be initiated and signed by all the landowner(s) of the land subject to the application;
   b. Include all applicant-proposed conditions of approval;
   c. Include a detailed written description of the range of potential principal and secondary use types, which shall be treated as a condition;

d. Not include a Concept Plan in cases where the application is a Type 1 or Type 2 Conditional Rezoning application (see Section 2.3.6C, Conditional Rezoning Districts Distinguished);
e. Include a Concept Plan prepared in accordance with Section 3.3.1E, Concept Plans Associated with a Type 3 Conditional Rezoning, if a Type 3 Conditional Rezoning application, seeking to enhance, reduce, or otherwise deviate from an applicable dimensional, development, or use-specific standard in this Ordinance;
f. Include a Transportation Impact Analysis or Traffic Assessment, as appropriate, when required by Section 2.3.27, Transportation Impact Analysis;
g. Include a wastewater allocation request prepared in accordance with all Town requirements if proposing a Type 3 Conditional Rezoning that seeks to utilize public sewer;
h. Identify requests for reductions from applicable standards in this Ordinance when requested and why such requests are necessary; and
i. Provide evidence indicating the ways in which a Conditional Rezoning seeking a reduction from standards in this Ordinance will result in development that is in closer alignment with Section 1.7, Purpose and Intent of Ordinance, and the Town's adopted policy guidance.

2. Applications complying with a Town-mandated Fee-in-Lieu or anticipated to include an applicant-requested Fee-in-Lieu shall include information mandated in Section 2.3.13, Fee-in-Lieu.
3. Applications subject to a required neighborhood meeting shall include required information in accordance with Section 2.4.4, Neighborhood Meeting.

E. PROCESS TYPE

Type IV (see Section 2.2.3, Process Diagrams), except that the Technical Review Committee shall review and comment on all Concept Plans filed with a Conditional Rezoning application prior to consideration of the application by the Planning Board.

F. RECOMMENDATION

1. After conclusion of a public meeting, the Planning Board shall make a recommendation on the application based on its consistency with Section 2.4, Review Procedures
2. In making its recommendation, the Planning Board shall prepare a written statement regarding the application's consistency with the Town's adopted policy guidance.
3. During its review, the Planning Board may suggest revisions to the application, consistent with Section 2.4.10, Conditions of Approval. Only those revisions agreed to in writing by the applicant shall be incorporated into the application.

G. DECISION

1. After the conclusion of a legislative public hearing, the Town Council shall decide the application in accordance with the standards in Section 2.4, Review Procedures.
2. The decision shall be one of the following:
   a. Approval of the application;
   b. Denial of the application;
   c. Approval of a revised application; or
   d. Remand of the application to the Planning Board or the Technical Review Committee for further consideration.

3. The decision shall be based on the legislative discretion of the Town Council, taking into consideration the recommendation of the Planning Board, citizen comments, if provided, and the standards in Section 2.4, Review Procedures.
4. In making its decision, the Town Council shall adopt a written statement of reasonableness and consistency with the Town's adopted policy guidance in accordance with NCGS§160D-605.

H. CITIZEN COMMENT

In cases where a resident or landowner submits written comments to the Town at least two business days prior to the date a decision is being made on the application, the Town Clerk shall deliver the statement(s) to the Town Council.

I. APPLICATION REVISION

The applicant may make changes to a Conditional Rezoning application, including changes recommended by the Planning Board or the Town Council at any time prior to the Town Council's decision. The applicant may only propose changes provided that:

1. Changes shall be made in writing to the Planning Director; and
2. Changes shall be signed by all landowners or their agents.

J. REVIEW CRITERIA

The advisability of approving a Conditional Rezoning application is a matter committed to the legislative discretion of the Town Council and is not controlled by any one factor. In determining whether to adopt or deny a proposed Conditional Rezoning, the Town Council may weigh the relevance of and consider the following:

1. If the application is consistent with the applicable standards in Section 3.3, Conditional Zoning Districts;
2. Whether the proposed Conditional Rezoning advances the public health, safety, or welfare;
3. Whether and the extent to which the proposed Conditional Rezoning is appropriate for its proposed location, and is consistent with the purposes, goals, objectives, and policies of the Town's adopted policy guidance;
4. Whether an approval of the Conditional Rezoning is reasonable and in the public interest;
5. Whether and the extent to which the Concept Plan associated with the Conditional Rezoning is consistent with this Ordinance; and
6. Any other factors the Town Council may determine to be relevant.

K. CONDITIONS

1. Only conditions mutually agreed to by the applicant and the Town Council may be approved as part of a Conditional Rezoning.
2. Conditions shall be limited to those that address conformance of development and use on the site with Town regulations and adopted policy guidance and that address the impacts reasonably expected to be generated by the development or use of the site.
3. All conditions shall comply with Section 2.4.10, Conditions of Approval.
4. Conditions shall be in writing and may be supplemented with text, plans, or maps as permitted by this Ordinance.

L. DESIGNATION

1. The Planning Director shall cause changes to be made to the Official Zoning Map promptly after approval of a Conditional Rezoning application by the Town Council.

2. In cases when a Conditional Rezoning application is deemed inconsistent with adopted policy guidance, but is approved by the Town Council, the future land map shall be amended with a note referencing the application approval.

M. SEQUENCE

1. Applications for Subdivisions, Site Plans, and Zoning Compliance Permits may be submitted with a Conditional Rezoning application, but the Conditional Rezoning application establishing the conditional zoning district shall be decided first.
2. A Concept Plan shall not substitute for a required Site Plan or Subdivision Plat, and all applications for required Site Plans or Subdivision Plats shall be reviewed separately from the Conditional Rezoning application.

N. EFFECT

1. In cases where the Town Council approves a Conditional Rezoning application deemed to be inconsistent with the Town's adopted policy guidance, the Conditional Rezoning approval shall also have the effect of amending any applicable future land use map included in the Town's adopted policy guidance, and no additional request or application for a comprehensive plan amendment shall be required.
2. Lands subject to an approved Conditional Rezoning shall be subject to all the standards, conditions, and plans approved as part of that application. These standards, plans, and approved conditions are perpetually binding on the land as an amendment to this Ordinance and the Official Zoning Map. In cases where a Concept Plan is approved as part of a Conditional Rezoning application, the vesting term of the Concept Plan shall be in accordance with the applicable standards in Section 1.11, Vested Rights.
3. Development located outside the Clayton corporate limits shall comply with Town policies and standards related to annexation and the extension of utilities.
4. Regardless of the type of Conditional Rezoning application, the development shall be subject to subsequent review and approval of a Site Plan or Subdivision Plat, as required under this Ordinance.

O. AMENDMENT

Concept Plans shall only be amended in accordance with the standards in this section. Amendments to a Concept Plan approval shall be considered as minor modifications or major modifications, and must be considered in accordance with the following:

1. MINOR MODIFICATIONS

a. Subsequent plans and permits for development may include minor modifications provided the development continues to meet the minimum requirements of this section. Minor modifications are limited to changes that have no material effect on the character of the development or changes that address technical considerations that could not reasonably be anticipated at the time of the application approval.

b. Minor modifications shall be reviewed and decided by the Planning Director, in consultation with other appropriate Town staff.

c. Minor modifications shall be limited to the following:

i. Changes in phase boundaries provided the perimeter location of the development is unaffected;

ii. Revisions to phase boundaries provided each phase is adequately served by necessary infrastructure, stormwater control measures, and open space;

iii. Realignment of internal transportation infrastructure provided the overall connectivity index score of the development, or the phase is not reduced;

iv. Changes to the location of entrances or driveways by 100 feet or less;

v. Changes to the configuration of parking areas, but not the number of parking spaces and provided the parking area continues to meet Ordinance requirements for access and circulation;
vi. Changes to the configuration of landscape yards, including types of landscaping or screening materials, provided minimum width and planting requirements continue to be met;
vii. Changes to the proposed building elevation or facade, including materials, provided that the change retains the same general architectural character, remains consistent with the design parameters established in the original approval, and provided the overall height of the building is not increased; and
viii. Changes to the arrangement or location of buildings provided there is no increase in the number of buildings, size, or amount of impervious surface.

d. In no instance shall a minor modification include any changes to:
i. The range of permitted uses;
ii. The overall density of the development; or
iii. Site features that require the application of professional judgment or discretion by a licensed landscape architect, architect, or professional engineer.

2. MAJOR MODIFICATIONS

a. Changes that materially affect the basic configuration of the development, a condition of approval, or that exceed the scope of a minor change modification are considered major modifications.
b. Major modifications include, but are not limited to:
i. Increases in building height;
ii. Changes in uses;
iii. Changes in density or intensity;
iv. Decreases in open space;
v. 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);
vi. Changes to the location of entrances or driveways by more than 100 feet;
vii. Change in the location of any public easement; and
viii. Changes to site features that require the application of professional judgment or discretion by a licensed landscape architect, architect, or professional engineer.
c. Major modifications must be reviewed and considered only in accordance with the procedures and standards established for the original application approval.

P. EXPIRATION

1. Not applicable.
2. In the event the development contemplated in a Conditional Rezoning application is not substantially commenced within three years from the date of the approval, the Town Council may initiate a rezoning application to return the land to its prior or to some other appropriate zoning district designation.

Q. VESTING

1. The establishment of a conditional zoning district shall run with the land, but a Concept Plan associated with a Conditional Rezoning application shall be subject to Section 1.11.4D, Site-Specific Vesting Plan.
2. Applicants seeking a longer vesting term may file an application in accordance with Section 2.3.30, Vested Rights Certificate.

R. APPEAL

In accordance with Section 2.3.2B.2, Decisions by Town Council.

2.3.7 CONSERVATION SUBDIVISION

A. PURPOSE AND INTENT

The purpose and intent of this section is to provide landowners in certain portions of the Town's planning jurisdiction a development option that provides additional development flexibility to build on smaller lots when additional open space set-asides are provided, and the development is designed and located in a way that protects surrounding community character, agricultural activities, or sensitive environmental features on the site. This is done in order to:

1. Conserve open land, including those areas containing prime agricultural soils, areas of steep slopes, unique and sensitive natural features such as floodplains, wetlands, river and stream corridors, areas with mature hardwood trees, and watersheds;
2. Promote established community character particularly in areas visible from major roadways in the Town;
3. Retain and protect existing wildlife habitat and environmental, natural, and cultural resources;
4. Create a linked network of open lands; and
5. Provide reasonable economic use of the land.

B. APPLICABILITY

1. TYPE OF DEVELOPMENT

This Conservation Subdivision option shall be limited to development of single-family detached residential dwellings (including manufactured homes) on individual lots in subdivisions of more than five lots. The Conservation Subdivision option shall not be available for any other form of development or use type.

2. WHERE PERMITTED

Single-family detached residential subdivisions of more than five lots on and served by a public wastewater system may be developed as a Conservation Subdivision, in accordance with the standards in this section and Section 4.2.5, Listing of Common Principal Uses.

3. RELATIONSHIP TO WATERSHED PROTECTION OVERLAY DISTRICT

a. Land located within a Watershed Protection Overlay District may be configured in accordance with the cluster development option in Section 3.7.5Q, Cluster Development, but a cluster development may not be configured as a conservation subdivision.

b. In the event a conservation subdivision is proposed on land within a Watershed Protection Overlay District, the density shall not exceed that permitted under the cluster development option in Section 3.7.5Q, Cluster Development.

C. PROCESS TYPE

1. Type II (see Section 2.2.3, Process Diagrams).
2. Establishment of a Conservation Subdivision also requires review and approval of a Major Subdivision.

D. CONSERVATION AND DEVELOPMENT PLAN

Prior to review of a Major Subdivision, an applicant shall have a conservation and development plan for the land reviewed and approved, or approved with conditions by the Planning Director in accordance with the following steps and the standards in Section 2.4, Review Procedures.

1. STEP 1: SITE ANALYSIS MAP

The applicant shall prepare a site analysis map that analyzes existing conditions both on the land proposed for the development and land within 500 feet of the site, and submit the site analysis map to the Technical Review Committee. It is the intent of this section that the information required in the site analysis map be produced from existing sources and maps to ensure the process is economical for the applicant.

2. STEP 2: SITE INSPECTION

After receipt of the site analysis map, a representative from the Technical Review Committee shall schedule a site inspection of the land with the applicant. The applicant or the applicant's representative shall attend the site inspection with a Town staff member. The purpose of this site visit is to:

a. Familiarize the staff with the existing site conditions and features of the site;

b. Identify potential site development issues, including the best location for the development to minimize its visibility from existing neighborhoods and adjacent major roadways; and

c. Provide an opportunity to discuss site development concepts, including the general layout of conservation areas and potential locations for proposed structures, utilities, streets, and other development features. Comments made by the staff during the site inspection shall be interpreted as being only suggestive. No official decision on the conservation and development plan shall be made during the site inspection.

3. STEP 3: CONSERVATION AND DEVELOPMENT PLAN

Based on the site analysis map and the information obtained during the site inspection, the applicant shall prepare a conservation and development plan. The conservation and development plan shall include the following:

a. A site analysis map;

b. A conservation and development areas map that depicts areas intended for conservation and areas intended for development; and

c. A preliminary site improvements plan, showing proposed site development, including the approximate locations of utilities, streets, other development features, buffers (if applicable), and lot lines in the proposed development area.

4. STEP 4: REVIEW

The Planning Director shall review and decide the conservation and development plan based on the standards in Section 2.4, Review Procedures.

E. REVIEW CRITERIA

A Conservation Subdivision shall comply with the following standards:

1. LOCATION

Conservation Subdivisions shall be configured to minimize the visibility of new dwellings from adjacent developed lands and roadways located outside the proposed Conservation Subdivision. Techniques to achieve this location criteria include placement of lots, retention of existing vegetation, or installation of berms or new landscaping material.

2. MINIMUM PROJECT SIZE

Conservation Subdivisions shall be at least five acres in land area.

3. REQUIRED CONSERVATION AREA

The required conservation area shall occupy at least 50 percent of the total acreage of the Conservation Subdivision site, but nothing shall limit it from occupying more than 50 percent of a Conservation Subdivision site.

4. MAXIMUM RESIDENTIAL DENSITY

A Conservation Subdivision may establish a maximum residential density that exceeds the maximum residential density for lots in the zoning district where located by up to 50 percent, but in no instance shall the density of a Conservation Subdivision exceed the maximum allowable if located within a Watershed Protection Overlay District.

5. DIMENSIONAL REQUIREMENTS

Lots in a Conservation Subdivision may deviate from the minimum dimensional requirements for lots in the zoning district where located, provided:

a. No lot frontage is less than 20 feet wide;

b. Building separation between structures on different lots meets or exceeds the minimum applicable Fire Code provisions; and

c. All structures shall comply with required setbacks from streets, wetlands/surface waters, or other protected natural areas.

6. LAND USED FOR AGRICULTURE OR FORESTRY

Nothing shall limit the ability of an owners' association to lease conservation area for the purposes of agriculture or forestry.

F. OWNERSHIP OF CONSERVATION AREAS

A conservation area shall be owned jointly by a recognized homeowners' or property owners' association, which shall be established in accordance with Section 6.8, Owners' Associations.

G. SEQUENCE

A Conservation Subdivision shall be approved prior to the associated Major Subdivision Preliminary Plat.

H. AMENDMENT

Amendment of a Conservation Subdivision approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

I. EXPIRATION

1. An approved Conservation Subdivision shall be valid for two years from the date of approval.
2. Once a Preliminary Plat application has been filed, the associated Conservation Subdivision approval shall be subject to the expiration provisions associated with the Preliminary Plat.

J. VESTING

See Section 1.11.4D, Site-Specific Vesting Plan.

K. APPEAL

In accordance with NCGS§160D-405, and Section 2.3.2, Appeal.

2.3.8 CONVENTIONAL REZONING

A. PURPOSE AND INTENT

This section provides a uniform means for reviewing and deciding proposed amendments to the Official Zoning Map to establish or revise a conventional zoning district or overlay zoning district boundary whenever the public necessity, general welfare, the Town's adopted policy guidance, or appropriate land use practices justify or require doing so.

B. APPLICABILITY

This procedure is solely for the establishment of a conventional zoning district or overlay zoning district designation on land within the Town's planning jurisdiction.

C. APPLICATION

1. Applications may be initiated by the Town Council, the Planning Board, the Planning Director, a landowner(s), or a contract purchaser(s) of the land in the proposed application.
2. In no instance shall the Town accept third-party rezoning applications submitted by persons who are not owners or agents authorized to act on behalf of landowners.
3. Applications for a Conventional Rezoning shall not include a Concept Plan or any applicant-sponsored conditions.
4. Applications shall include a Traffic Assessment when required by Section 2.3.27, Transportation Impact Analysis.
5. In cases where a Conventional Rezoning application seeks to rezone only a portion of a lot or tract, the remainder of the lot or tract shall be of a size and location that make it possible to subdivide or develop that portion of the property in accordance with the requirements in this Ordinance.
6. Applications subject to a required neighborhood meeting shall include required information in accordance with Section 2.4.4, Neighborhood Meeting.

D. PROCESS TYPE

Type IV (see Section 2.2.3, Process Diagrams).

E. RECOMMENDATION

1. After conclusion of a public meeting, the Planning Board shall make a recommendation on the application based on its consistency with Section 2.4, Review Procedures.
2. In making its recommendation, the Planning Board shall prepare a written statement regarding the application's consistency with the Town's adopted policy guidance.

F. DECISION

1. After the conclusion of a legislative public hearing, the Town Council shall decide the application in accordance with the standards in Section 2.4, Review Procedures.
2. The decision shall be one of the following:
   a. Approval of the application;
   b. Denial of the application;
   c. Approval of a revised application; or
   d. Remand of the application to Town staff for further consideration.
3. The decision shall be based on the legislative discretion of the Town Council, taking into consideration the recommendation of the Planning Board, citizen comments, if provided, and the standards in Section 2.4, Review Procedures.

4. In making its decision, the Town Council shall adopt a written statement of reasonableness and consistency with the Town's adopted policy guidance in accordance with NCGS§160D-605.

G. CITIZEN COMMENT

In cases where a resident or landowner submits written comments to the Town at least two business days prior to the date a decision is being made on the application, the Town staff member processing the application shall deliver the statement(s) to the Town Council.

H. APPLICATION REVISION

1. In no instance shall a Conventional Rezoning application be converted into a Conditional Rezoning application.
2. Nothing shall limit the Town Council from approving a more restrictive or less intense zoning district than requested by the applicant. In cases where the Town Council decides to approve a more restricted or less intense zoning district than requested, the application shall not require remand back to the Planning Board or any additional public notification.

I. REVIEW CRITERIA

The advisability of approval of a Conventional Rezoning application is a matter committed to the legislative discretion of the Town Council, and is not controlled by any one factor. In determining whether to adopt or deny a rezoning application, the Town Council may weigh the relevance of and consider the following:

1. Whether the proposed rezoning advances the public health, safety, or welfare;
2. Whether and the extent to which the proposed rezoning is appropriate for its proposed location, and is consistent with the purposes, goals, objectives, and policies of the Town's adopted policy guidance;
3. Whether an approval of the rezoning is reasonable and in the public interest; and
4. Other factors, as the Town Council may determine to be relevant.

J. DESIGNATION

1. The Planning Director shall make changes to the Official Zoning Map promptly after approval of a Conventional Rezoning application by the Town Council.
2. In cases when a rezoning application is deemed inconsistent with adopted policy guidance, but is approved by the Town Council, the future land use map shall be amended with a note referencing the rezoning application approval.

K. SEQUENCE

A Conventional Rezoning application may be filed with an Annexation petition in accordance with NCGS§§160A-31 or 160A-58.1, but no other application types shall be submitted with a rezoning application.

L. EFFECT

1. Lands subject to an approved Conventional Rezoning application shall be subject to all the applicable standards in this Ordinance, which shall be binding and shall run with the land.
2. Development located outside the Town's corporate limits shall comply with all Town policies related to annexation and the extension of utilities.
3. In cases where the Town Council approves a Conventional Rezoning application they deem to be inconsistent with the Town's adopted policy guidance, the rezoning approval shall also have the effect of amending any applicable future land use map included in the

Town's adopted policy guidance, and no additional request or application for a comprehensive plan amendment shall be required.

M. AMENDMENT

Not applicable.

N. EXPIRATION

Not applicable.

O. VESTING

Not applicable.

P. APPEAL

In accordance with Section 2.3.2B.2, Decisions by Town Council.

2.3.9 DETERMINATION

A. APPLICABILITY

1. ENGINEERING DIRECTOR

The Engineer Director shall provide determinations on the portions of this Ordinance pertaining to infrastructure (water lines, sewer lines, etc.); construction-related aspects associated with streets, sidewalks, and driveways; land disturbance; special flood hazard area standards; stormwater requirements; and watershed-related provisions.

2. PLANNING DIRECTOR

The Planning Director shall determine all other aspects of this Ordinance, including boundaries on the Official Zoning Map, undefined terms, unlisted use types, prior conditions of approval, the vesting status of development.

B. DETERMINATIONS DISTINGUISHED

1. FORMAL DETERMINATIONS

a. Formal determinations shall be in writing and prepared in accordance with this section.

b. Only formal determinations are subject to appeal as an administrative decision.

2. ADVISORY OPINIONS

a. Any written or oral opinions that do not meet the strict requirements of this section are advisory opinions.

b. Advisory opinions have no binding effect and are not considered formal determinations subject to appeal.

C. PROCESS TYPE

Type I (see Section 2.2.3, Process Diagrams).

D. DECISION

1. The Planning Director or Engineering Director, as appropriate, shall provide determinations of this Ordinance or the Official Zoning Map in accordance with Section 2.4, Review Procedures.

2. Prior to rendering a determination, a Town staff member may consult with the Town Attorney or other Town officials.

E. REVIEW CRITERIA

1. OFFICIAL ZONING MAP BOUNDARIES

Interpretation of district boundaries on the Official Zoning Map shall be in accordance with the standards in Section 3.8.3, Interpretation of Map Boundaries, and consistent with the Town's adopted policy guidance.

2. TEXT PROVISIONS AND PRIOR APPROVALS

Interpretation of this text and approved applications shall be based on the standards in Section 8.2, Language Construction, Section 1.10, Transitional Provisions, and the following considerations:

a. The legislative intent of the provision, as indicated by purpose statements, its context and consistency with surrounding and related provisions, and any legislative history related to its adoption;

b. When the legislative intent of a provision is unclear, the Planning Director shall consider the clear and plain meaning of the provision's wording, as defined by the meaning and significance given specific terms used in the provision, as established in Section 8.3, Terms Defined, and by the common and accepted usage of the term;

c. The general purposes served by this Ordinance, as set forth in Section 1.7, Purpose and Intent of Ordinance; and

d. Consistency with the Town's adopted policy guidance.

3. UNLISTED USE TYPES

Determination of whether an unlisted use is similar to a use identified in Table 4.2.5, Listing of Common Principal Uses, shall be based on consistency with Section 4.7.2, Use Category Descriptions, the Town's adopted policy guidance, and the following standards:

a. The function, product, or physical characteristics of the use;

b. The impact on adjacent lands created by the use;

c. The type, size, and nature of buildings and structures associated with the use;

d. The type of sales (retail, wholesale), and the size and type of items sold and displayed on the premises;

e. The types of items stored (such as vehicles, inventory, merchandise, chemicals, construction materials, scrap and junk, and raw materials including liquids and powders);

f. The volume and type of vehicle traffic generated by the use, and the parking demands of the use;

g. Any processing associated with the use, including assembly, manufacturing, warehousing, shipping, distribution, and whether it occurs inside or outside a building;

h. Any dangerous, hazardous, toxic, or explosive materials associated with the use;

i. The amount and nature of any nuisances generated on the premises, including noise, smoke, odor, glare, vibration, radiation, and fumes; and

j. Any prior applicable determinations made by the Planning Director or decisions made by the Board of Adjustment.

4. UNDEFINED TERMS

If a term in this Ordinance is undefined or the meaning is unclear, the Planning Director may determine the term's meaning based upon appropriate definitions in any of the following sources:

a. The North Carolina General Statutes;

b. The North Carolina Administrative Code;

c. The State Building Code(s);

d. Planning-related definitions in publications prepared or offered by the American Planning Association or the Urban Land Institute;

e. The Oxford Dictionary of Construction, Surveying, and Civil Engineering;

f. Black's Law Dictionary; or

g. Other professionally accepted source.

5. VESTING STATUS

The determination of whether or not certain development activity or a development application approval is vested from changes in this Ordinance and the duration of the vesting shall be based on the following:

a. The standards in Section 1.11, Vested Rights;

b. The standards in NCGS§160D-108; and

c. Prior judicial determination from comparable cases, as determined in the sole discretion of the Planning Director.

F. EFFECT

A written Determination shall be binding on subsequent decisions by the Planning Director or other administrative officials in applying the same provision of this Ordinance or the Official Zoning Map in the same circumstance, unless the Determination is modified in accordance with this section, the Determination is later determined to have been made in error, or the text of this Ordinance is amended.

G. AMENDMENT

Not applicable.

H. EXPIRATION

Not applicable.

I. APPEAL

In accordance with NCGS§160D-405, and Section 2.3.2, Appeal.

2.3.10 DEVELOPMENT AGREEMENT

A. PURPOSE AND INTENT

The Development Agreement procedure is a flexible, voluntary process for the establishment and review of large-scale development projects likely to build out over several years, projects that include over-sizing of public utilities, or projects outside the Town's planning jurisdiction.

B. APPLICABILITY

The Town Council may enter into a Development Agreement with a developer for a development of any size and for any reasonable duration, provided the duration is specified in the agreement. All Development Agreements shall be subject to NCGS§§ 160D-1001 through 160D-1012.

C. PROCESS TYPE

Type IV (see Section 2.2.3, Process Diagrams) except that the Planning Board shall not review the application.

D. DECISION

1. After the conclusion of a legislative public hearing, the Town Council shall decide the application in accordance with the standards in Section 2.4, Review Procedures.
2. The decision shall be one of the following:
   a. Enter into the Development Agreement, as submitted;
   b. Enter into the Development Agreement, subject to changes agreed to in writing by the developer; or
   c. Not enter into the Development Agreement.
3. The decision shall be based on the legislative discretion of the Town Council, taking into consideration the standards in Section 2.4, Review Procedures.

E. REVIEW CRITERIA

1. The Development Agreement shall comply with the applicable standards in NCGS§160D-1006.
2. The development shall demonstrate the impact on existing and future provisions of capital improvements by the Town, including all of the following: transportation, potable water, sanitary sewer, solid waste, stormwater management, educational, parks and recreation, and health systems and facilities.
3. The Development Agreement shall not require the Town to exercise any authority or make any commitment that is unauthorized by general or local act, or impose any unauthorized tax or fee.

F. SEQUENCE

A Development Agreement shall be approved prior to any subsequent development subject to the agreement's provisions.

G. ANNUAL REVIEW

During any period of time in which a permit or development approval subject to a Development Agreement is active, the Planning Director shall review the development at least once every year for compliance with the agreement and file a report with the Town Council.

H. AMENDMENT

1. A Development Agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest.

2. Consideration of a proposed amendment of a Development Agreement shall be reviewed and considered in accordance with NCGS§160D-1003 and the procedures and standards established for its original approval.

I. EXPIRATION

A Development Agreement shall run for the duration of its term unless the agreement is terminated.

J. VESTING

The Development Agreement shall specify the terms and duration of vesting.

K. APPEAL

In accordance with Section 2.3.2B.2, Decisions by Town Council.

2.3.11 DRIVEWAY PERMIT

A. APPLICABILITY

1. All lots seeking to gain vehicular access to a Town-maintained or North Carolina Department of Transportation (NCDOT)-maintained street via a driveway shall obtain a driveway permit in accordance with this section. Lots seeking to obtain vehicular driveway access to an NCDOT-maintained street shall also obtain NCDOT approval prior to issuance of a Driveway Permit. Town staff will inform applicants of the need to contact the NCDOT for a prior NCDOT approval.
2. Lots seeking to gain vehicular access to a private street are not required to obtain a Driveway Permit from the Town, though permission from the owner of the street shall be required if no public access easement is recorded or public access agreement is in place.

B. APPLICATION

An application for a Driveway Permit shall be accompanied by plans or drawings prepared by a professional engineer. Plans or drawings shall demonstrate compliance with all applicable requirements of this Ordinance, other Town documents, and NCDOT's Policy on Street and Driveway Access to North Carolina Highways, if applicable.

C. PROCESS TYPE

Type I (see Section 2.2.3, Process Diagrams).

D. REVIEW CRITERIA

An application for a Driveway Permit shall be decided by the Engineering Director, in accordance with Section 2.4.7, Staff Review and Action, and the following:

1. The applicable requirements of the Town's Engineering Specifications and Design Manual;
2. The Town Code of Ordinances or other policy documents;
3. Any applicable requirements of this Ordinance, including but not limited to Section 6.1, Access and Circulation;
4. NCDOT's Policy on Street and Driveway Access to North Carolina Highways, if applicable; and
5. All other standards or conditions of any prior, applicable permits, and development approvals.

E. SEQUENCE

Applications for a Driveway Permit may be submitted with a Site Plan, Subdivision, or Zoning Compliance Permit, but the Driveway Permit shall be approved after these permit types.

F. INSPECTION

Inspections of the proposed driveway or driveway apron if the driveway is unpaved shall be conducted by the Engineering Director or a designee after the forms demarking the driveway are in place and again after driveway construction is complete but before the approval is finalized.

G. AMENDMENT

A Driveway Permit application may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

H. EXPIRATION

A Driveway Permit shall expire if substantial commencement has not taken place within six months of the approval.

I. VESTING

See Section 1.11.4C, Statutory Vested Rights.

J. APPEAL

In accordance with NCGS§160D-405, and Section 2.3.2, Appeal.

2.3.12 EXEMPT SUBDIVISION

A. EXEMPT SUBDIVISIONS, GENERALLY

1. Subdivisions exempted from this Ordinance are identified in Table 2.2.2, Subdivision Types Table.
2. The Town may not require a plat for an Exempt Subdivision, but the Register of Deeds may require a plat to record the division of land.
3. Land divided as an Exempt Subdivision is subject to other requirements in this Ordinance, including but not limited to water supply watershed standards, stormwater, and flood damage protection.

B. APPLICATION

Applications for review of an Exempt Subdivision are strictly voluntary and at the discretion of the landowner or subdivider.

C. PROCESS TYPE

Type I (see Section 2.2.3, Process Diagrams).

D. REVIEW CRITERIA

An application for an Exempt Subdivision shall be decided by the Planning Director in accordance with Section 2.4.7, Staff Review and Action, and the following:

1. GENERALLY

Except for combinations or recombinations, an Exempt Subdivision shall be approved provided it complies with the following:

a. The plat includes a title block identifying the subdivision as an Exempt Subdivision, and describes what makes the subdivision exempt;
b. The plat complies with the standards in NCGS§47-30;
c. The plat is prepared, signed, and sealed by a registered surveyor;
d. The plat complies with the impervious surface requirements, and the minimum buffer requirements, to the maximum extent practicable, if located within the (WPOD) Watershed Protection Overlay District; and
e. The plat includes all applicable statements and declarations identified in Chapter 9 of this Ordinance.

2. COMBINATIONS OR RECOMBINATIONS

a. An Exempt Subdivision consisting of a combination or recombination of lots shall be approved provided it complies with the following:
   i. The resultant lots comply with the minimum dimensional requirements of the zoning district where located;
   ii. The total number of lots is not increased;
   iii. All the metes and bounds boundaries of the affected lots are shown;
   iv. All lot boundaries changed or eliminated by requested combination are indicated by dashed lines;
   v. The plat complies with the standards in NCGS§47-30;
   vi. The title block contains the word "Recombination;"
   vii. The plat is signed by all property owners if either the number of lots is reduced or different owners for different lots are involved in the recombination;
   viii. The plat is prepared, signed, and sealed by a registered surveyor; and
   ix. The plat includes all applicable statements and declarations identified in Chapter 9 of this Ordinance.

b. A combination or recombination of lots where one or more of the newly-established lots does not meet the minimum dimensional requirements of the zoning district where located shall not be considered an Exempt Subdivision, and shall be reviewed in accordance with Section 2.3.18, Minor Subdivision.

E. STORMWATER PERMIT REQUIRED

While exempt subdivisions are exempted from the subdivision regulations in this Ordinance, they are not exempt from the requirements in Section 2.3.23, Stormwater Permit, and may also be subject to the standards in Section 2.3.15, Land Disturbance Permit, based on the amount of land disturbance involved.

F. APPEAL

In accordance with NCGS§160D-405, and Section 2.3.2, Appeal.

2.3.13 FEE-IN-LIEU

A. PURPOSE AND INTENT

This fee-in-lieu procedure creates a uniform process for consideration of Town-mandated or applicant-requested payment of a fee instead of providing required land or infrastructure. The fee-in-lieu process is intended to create flexibility in the provision of required aspects of development when payment of a fee is appropriate and in closer alignment with the Town's adopted policy guidance than the alternative.

B. APPLICABILITY

Payment of a fee-in-lieu may be approved by the Planning Director or the Engineering Director, as appropriate, only for the following forms of development:

1. LAND DEDICATION OR EASEMENT

Payment of a fee-in-lieu of dedication of the land or granting an easement to the Town for the following features:

- **a.** Public street right-of-way land, including land needed for sidewalks, bike lanes, on-street parking, turn lanes, and ingress or egress into a site;
- **b.** Park land; and
- **c.** Greenway, sidewalk, or trail right-of-way.

2. PUBLIC INFRASTRUCTURE

Payment of a fee-in-lieu of construction of the following public infrastructure features:

- **a.** Streets, including on-street parking;
- **b.** Curb and gutter;
- **c.** Bicycle facilities; and
- **d.** Sidewalks, sidepaths, or greenways.

3. PRIVATE SITE FEATURES

Payment of a fee-in-lieu of inclusion of the following features:

- **a.** Required open space set-aside; and
- **b.** Parking lot cross-access.

C. REQUESTS DISTINGUISHED

1. APPLICANT-REQUESTED

In cases where an applicant or developer desires to provide a fee-in-lieu, the process for considering such requests shall be in accordance with this section.

2. TOWN-MANDATED

- **a.** Town-mandated fee-in-lieu payments are decided by Town staff as part of a Site Plan, Subdivision, or Zoning Compliance Permit application review in accordance with the applicable standards in Section 2.4, Review Procedures.
- **b.** Notification of the requirement for provision of a fee-in-lieu shall be in writing, and shall be delivered to the applicant or developer prior to the notice of decision on the associated application.
- **c.** Upon receipt of notification, an applicant shall provide the required fee-in-lieu in accordance with Section 2.3.13H, Acceptance of Fee-in-Lieu, or the applicant may appeal the decision in accordance with Section 2.3.2, Appeal.

D. APPLICATION

Applicant-requested fee-in-lieu proposals shall be made in writing and shall identify the following:

1. The purpose(s) for the fee-in-lieu;
2. The rationale for why a fee-in-lieu is in closer alignment with the purpose and intent of this Ordinance;
3. The items or site features being replaced by the proposed fee-in-lieu;
4. The amount of the proposed fee-in-lieu; and
5. How the fee amount was determined.

E. PROCESS TYPE

Type II (see Section 2.2.3, Process Diagrams), including comment by the Technical Review Committee.

F. REVIEW CRITERIA

An application for a fee-in-lieu shall be decided by the Planning Director or Engineering Director, as appropriate, in accordance with Section 2.4.7, Staff Review and Action, and the following:

1. GENERALLY

a. Approval of the fee-in-lieu proposal will not negatively impact public health or safety; and
b. Approval of the fee-in-lieu proposal does not interfere with Town's ability to serve landowners and residents; and
c. The proposal is consistent with necessary amount of funding; and
d. The proposal meets any specialized criteria listed below, as appropriate.

2. PARK LAND

a. There is sufficient public park land in proximity to the proposed development based on a review of the Town's adopted policy guidance and information from Town staff;
b. Private common open space resources provided on the subject site will be available for public use and will mitigate park land needs created by the proposed development;
c. Collected funds could be utilized to further improve an existing park facility in a proximate location;
d. The topography or other natural conditions of the site do not provide adequate opportunities for on-site recreation and park areas;
e. The amount of park land to be dedicated is too small to provide adequate recreation and park opportunities or to be efficiently maintained;
f. The intended location of the park land is too far from existing recreation and park areas to be efficiently maintained; or
g. Adequate access is not available to the proposed park land.

3. GREENWAYS OR TRAILS

a. The conditions on the land make installation or operation of a greenway or trail segment impossible or cost prohibitive for the Town;
b. The potential for the connection of a proposed greenway segment to the Town's greenway or trail network is unlikely within the foreseeable future, in the opinion of Town staff; or
c. There are suitable alternatives to in close proximity to the proposed site.

4. STREETS

a. TOWN MANDATED

The Town shall require a fee-in-lieu of installation for residential, residential collector, collector, or commercial streets for the length of the street if any of the following criteria are met:

- **i.** No direct access to the street is proposed;
- **ii.** The minimum street improvement is one-half of an existing unimproved right-of-way, and improvements, if constructed, would not be used for traffic circulation;
- **iii.** Where the new street right-of-way is only partially contained on the development site and therefore, construction of only a portion of the new street cross-section is possible;
- **iv.** The street is a freeway, expressway, or any other fully controlled access facility;
- **v.** The street is in the Town's Capital Improvement Program, final design plans have been initiated, and the project will fall under the assessment policy of the Town; or
- **vi.** The street is on NCDOT's Transportation Improvement Program, final design plans have been initiated, and there will be no Town contribution or participation in funding the project. If the Town funds a portion of the project, then a fee-in-lieu of installation will be required as a contribution to Town-funded improvements.

b. APPLICANT PROPOSED

The Town shall consider a fee-in-lieu request for construction of residential, residential collector, collector, or commercial streets if any of the following criteria and their conditions are satisfied:

- **i.** Where existing unimproved streets have:
  1. Insufficient lineal footage to serve overall traffic circulation purposes or interrupts an existing swale/ditch storm drainage system with curb and gutter, which would disrupt the drainage system operation;
  2. Curb and gutter improvements would not connect to existing curb and gutter, or there are no similar improvements on the same block;
  3. There are no plans for Town improvements on the same block; and
  4. 75 percent or more of the block is already developed such that no future Subdivision or Site Plan submittals are anticipated; or
- **ii.** Where construction of the streets by the Town or other party is imminent, in the sole opinion of the Engineering Director; or
- **iii.** Where street construction will not connect to an existing improved street and there are no plans to construct an adjoining street in the near future; or
- **iv.** Where street construction is impractical due to:
  1. The need for off-site construction or slope encroachment;
  2. Proper street alignment should be determined with off-site development; or
  3. Design of bridges or culverts are required and only a portion of the structure is on the development's property.

5. SIDEWALKS AND SIDEPATHS

- **a.** The potential for the connection of a proposed sidewalk or sidepath segment to the Town's sidewalk network is unlikely within the foreseeable future, in the opinion of Town staff; or
- **b.** There are suitable alternatives to a sidewalk, such as a greenway or trail, in close proximity to the proposed site.

6. OTHER PUBLIC INFRASTRUCTURE

- **a.** Construction of the proposed infrastructure would create maintenance or service delivery problems, in the opinion of the Engineering Director; or
- **b.** Proposed development may be better served by an alternative configuration.

7. OPEN SPACE SET-ASIDE

a. Other open space and recreation resources are in close proximity to the proposed site; or

b. The amount of open space set-aside required is unfeasible to provide.

8. OTHER CRITERIA

a. When, in the sole opinion of the Planning Director, the decision on a fee-in-lieu requires consideration of additional or different criteria, the Planning Director shall identify those criteria and describe how the proposal does or does not address them.

b. The applicant has sufficient opportunity to describe how the proposal meets those criteria prior to a decision by the Town Council.

G. DETERMINATION OF FEE

1. LAND

a. The fee-in-lieu shall be calculated based upon the assessed value of the lot multiplied by the percentage of the lot's total acreage required for dedication or reservation.

b. The land's current assessed value shall be as determined by the county Tax Assessor or a Town-approved appraisal by a certified North Carolina appraiser.

2. INFRASTRUCTURE

a. The amount of fee-in-lieu for streets shall be based on the required improvements for the development.

b. The amount of fee-in-lieu shall be based on an itemized estimate by a professional engineer.

c. The estimate shall include 125 percent of the cost of all materials and labor based on current unit prices.

d. Nothing shall prevent the Engineering or Planning Director, as appropriate, from acquiring an additional estimate for the same infrastructure from another licensed professional.

e. The Engineering or Planning Director, as appropriate, in their discretion, may select the estimate that will form the basis for the fee-in-lieu payment.

H. ACCEPTANCE OF FEE-IN-LIEU

1. All fees collected by the Town pursuant to this section shall be deposited in the Town's revolving fund for purchase of recreation land, installation of vegetation, provision of parking facilities, or installation of required infrastructure.

2. Use of funds collected in accordance with this section shall only take place in the general vicinity of where funds are collected and may only be used for the purchase of in-kind lands or the same type of infrastructure in accordance with all applicable State and federal law.

3. The Planning Director or other designated Town official shall maintain records of the amounts collected, the timing, and the location, which shall be used by the Town as part of its capital facilities program.

I. SEQUENCE

1. Applications for payment of fee-in-lieu may be submitted with the associated development application or at any time prior to issuance of a Certificate of Occupancy or other final approval.

2. In cases where a fee-in-lieu is requested by the applicant and approved by the Town, the payment shall take place prior to recordation of a Final Plat or approval of the Construction Drawing phase of a Site Plan.
3. In cases where a fee-in-lieu is mandated by the Town, the payment shall take place prior to the approval of a final Certificate of Occupancy or other final approval. A temporary Certificate of Occupancy may be issued pending receipt of required or approved payment of fee-in-lieu.

J. EFFECT

Approval of fee-in-lieu for a private site feature shall not render the site nonconforming.

K. AMENDMENT

Not applicable.

L. EXPIRATION

Not applicable.

M. VESTING

Not applicable.

N. APPEAL

Appeals of decision by Town staff shall be in accordance with NCGS§160D-405, and Section 2.3.2, Appeal.

2.3.14 FLOODPLAIN PERMIT

A. APPLICABILITY

The following forms of development shall obtain a Floodplain Permit in accordance with this section prior to or concurrent with an application for a Site Plan or Building Permit, as appropriate:

1. Development proposed on land in the Flood Protection Overlay District, also known as the Flood Hazard Overlay District, as defined by the National Flood Insurance Program (NFIP); and
2. Development that is proximate to and may be impacted by unmapped streams or where regulatory flood elevations are not delineated in the NFIP, in accordance with Section 3.7.2B.3, Standards for Floodplains without Established Base Flood Elevations.

B. APPLICATION

Application for a floodplain permit shall be made prior to any development activities located within the Flood Protection Overlay District or other special flood hazard areas. Applications for a floodplain permit shall include, at a minimum, the following items:

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 Town-designated map, or a statement that the entire lot is within the special flood hazard area;
   c. The flood zone(s) designation of the proposed development area as determined on the FIRM or other flood Town-designated map;
   d. he boundary of the floodway(s) or non-encroachment area(s);
   e. The base flood elevation (BFE) where provided as set forth in Section 8.3, Terms Defined;
   f. The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
   g. The certification of the plot plan by a registered land surveyor or professional engineer.
2. The proposed elevation, and method thereof, of all development within the Flood Protection Overlay District, or other special flood hazard area including but not limited to:
   a. Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
   b. Elevation in relation to NAVD 1988 to which any non-residential structure in Zone E will be floodproofed; and
   c. Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.
3. If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are 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 chapter, 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); and
   b. Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with Section 3.7.2B.2.d, Elevated Buildings, when solid foundation perimeter walls are used in Zones A, E, AH, AO, A99.
5. Usage details of any enclosed areas below the lowest floor.
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. Certification that all other local, State, and federal permits required prior to floodplain development permit issuance have been received including copies of the issued approvals.
8. Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of Section 3.7.2B.2.f, Recreational Vehicles, and Section 3.7.2B.2.g, Temporary Non-residential Structures, 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.

C. PROCESS TYPE

Type I (see Section 2.2.3, Process Diagrams).

D. PERMIT REQUIREMENTS

The Floodplain Permit shall include, but not be limited to:

1. A complete description of all the development to be permitted under the Floodplain Permit (e.g., house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
2. The special flood hazard area determination for the proposed development per available data specified in Section 3.7.2A.5, Basis for Establishing Special Flood Hazard Areas.
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 unless the requirements of Section 3.7.2B.5, Floodways and Non-Encroachment Areas, have been met.
7. The flood openings requirements, if in Zones A, E, AH, AO, A99.

E. MODIFICATIONS TO EXISTING STRUCTURES

For applications for Building Permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator shall:

1. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the

building or structure shall be the market value before the damage occurred and before any repairs are made;

2. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
3. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
4. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this Section is required.

F. REVIEW CRITERIA

An application for a Floodplain Permit shall be decided by the Floodplain Administrator in accordance with Section 2.4.7, Staff Review and Action, and the following:

1. The permit is issued prior to the commencement of development; and
2. The development complies with all applicable standards in Section 3.7.2 FPOD Flood Protection Overlay District.

G. SEQUENCE

Applications for Floodplain Permits may be submitted with any other application for development in a special flood hazard area, but a Floodplain Permit shall be reviewed and approved prior to any other application type.

H. EFFECT

Approval of a Floodplain Permit authorizes an applicant to obtain all required elevation certificates or other required certificates and proceed with development following issuance of a Building Permit.

I. CERTIFICATES REQUIRED

1. ELEVATION CERTIFICATES

a. GENERAL REQUIREMENTS

i. An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988.
ii. Elevation certification shall be prepared by, or under direct supervision of, a registered land surveyor or professional engineer and certified by same.
iii. The Floodplain Administrator shall review the certificate data submitted.
iv. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction.
v. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Permit.

b. REQUIRED AFTER REFERENCE LEVEL ESTABLISHED

i. Within seven calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator an Elevation Certificate (FEMA Form 086-0-33) showing the elevation of the reference level, in relation to NAVD 1988.
ii. Any work done within the seven-day calendar period and prior to submission of the certification shall be at the permit holder's risk.
iii. The Floodplain Administrator shall review the certificate data submitted.

iv. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed.
v. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

c. FINAL AS-BUILT ELEVATION CERTIFICATION REQUIRED

i. A Final As-Built Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to certificate of compliance/occupancy issuance.
ii. 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.
iii. The Elevation Certificate shall be prepared by, or under the direct supervision of, a registered land surveyor or professional engineer and certified by the same.
iv. 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 Occupancy issuance.
v. In some instances, another certification may be required to certify corrected as-built construction.
vi. Failure to submit the certification or failure to make required corrections shall be cause to withhold the Certificate of Occupancy.

2. FLOODPROOFING CERTIFICATE

a. GENERAL REQUIREMENT

i. If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction.
ii. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988.
iii. A floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by the same.
iv. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan.
v. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval.
vi. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Permit.
vii. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Occupancy.

b. FINAL FLOODPROOFING CERTIFICATE REQUIRED

i. A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Occupancy.
ii. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988.
iii. A floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by the same.
iv. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan.
v. Deficiencies detected by the review shall be corrected by the applicant prior to Certificate of Occupancy.

vi. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Permit.
vii. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Occupancy.

c. MANUFACTURED HOMES IN SPECIAL FLOOD HAZARD AREA

If a manufactured home is placed within Zones A, E, AH, AO, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Section 3.7.2B.2.c, Manufactured Homes.

d. WATERCOURSE ALTERATION

If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; 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 showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a Floodplain Permit.

e. CERTIFICATION EXEMPTIONS

The following structures, if located within Zones A, AB, AH, AO, A99, are exempt from these elevation/floodproofing certification requirements:

i. Recreational vehicles that a placed temporarily in accordance with Section 3.7.2B.2.f.i, Temporary Placement;
ii. Temporary structures in accordance with Section 3.7.2B.2.g, Temporary Non-residential Structures; and
iii. Secondary structures less than 150 square feet or less or valued at $3,000 or less and meeting requirements of Section 3.7.2B.2.h, Secondary Structures.

3. FAILURE TO PROVIDE A CERTIFICATE IS A VIOLATION

The Floodplain Administrator shall review the certificate and advise the applicant of any errors or deficiencies, which shall be corrected prior to any further work progressing. Failure to correct errors or deficiencies on an elevation or floodproofing certificate shall be a violation of this Ordinance subject to the provisions in Section 7.6.9, Stop Work Orders.

J. AMENDMENT

A Floodplain Permit application may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

K. REVOCATION

A Floodplain Permit may be revoked by the Floodplain Administrator, following written notice to the violator, for any of the following reasons:

1. Failure or refusal to comply with all applicable State laws or flood damage prevention requirements of this Ordinance;
2. Conduct of development activities that represent a substantial departure from an approved permit, plan, or specification; and
3. False or misrepresented information provided as part of the application.

L. EXPIRATION

A Floodplain Permit shall expire and become null and void if the development it authorizes is not substantially commenced within six months of permit issuance or if activity associated with the permit becomes inactive for a period of one year or longer.

M. VESTING

See Section 1.11.4C, Statutory Vested Rights.

N. APPEAL

In accordance with NCGS§160D-405, and Section 2.3.2, Appeal.

2.3.15 LAND DISTURBANCE PERMIT

A. APPLICABILITY

1. Land-disturbing activities occupying one acre or more in area (regardless of the number of different lots or ownership patterns) shall be subject to a Land Disturbance Permit issued in accordance with this section.
2. Land-disturbing activities occupying less than one acre are exempted from the requirement to obtain a Land Disturbance Permit, but shall still be subject to the standards in Section 6.14, Soil Erosion & Sedimentation Control.

B. APPLICATION

1. An application for a Land Disturbance Permit shall include an erosion control plan prepared in accordance with Section 6.14, Soil Erosion & Sedimentation Control.
2. The permit application shall identify the person financially responsible for the land disturbing activity and shall be signed by the landowner, and the person financially responsible for the land-disturbing activity, or their agent, who shall be licensed to do business in the State of North Carolina.
3. Land-disturbing activity subject to NCGS§113A(1) shall include all necessary environmental documentation.

C. PROCESS TYPE

Type I (see Section 2.2.3, Process Diagrams) except that a pre-application conference is required.

D. "EARLY GRADING" OPTION

1. An applicant may, in their sole discretion, apply for an optional early grading approval that permits the commencement of tree removal and land disturbance on a development site.
2. Issuance of an approval for early grading by the Town shall not require prior approval of a Site Plan or Construction Drawings but shall require prior approval of a Tree Cleaning Certificate (see Section 2.3.28, Tree Clearing Certificate).
3. In no instance shall an approval for early grading from the Town authorize the installation of any infrastructure, which may only take place following the issuance of a Land Disturbance Permit in accordance with this section.

E. REVIEW CRITERIA

An application for a Land Disturbance Permit shall be decided by the Engineering Director in accordance with Section 2.4.7, Staff Review and Action, and the following:

1. All relevant standards in NCGS Art. 4 of Chapter 113A;
2. All relevant standards in Section 6.14, Soil Erosion & Sedimentation Control;
3. All State rules pertaining to protection of riparian buffers along surface waters;
4. All other applicable State and federal requirements in place at the time of application acceptance;
5. All other applicable requirements of this Ordinance;
6. Evidence the site where land disturbance is proposed is not already in violation of the soil erosion and sedimentation control standards of this Ordinance; and
7. Evidence the applicant for the Land Disturbance Permit is in compliance with the requirements of this Ordinance with respect to soil erosion and sedimentation and provided there are no outstanding civil penalties related to erosion control requirements.

F. PERFORMANCE GUARANTEE

All required erosion control measures depicted in an erosion control plan and identified in a Land Disturbance Permit shall be installed and inspected by the Town, and final stabilization shall be subject to a Performance Guarantee in accordance with Section 2.3.19, Performance Guarantee.

G. SEQUENCE

1. See Section 2.4.13, Phased Development.
2. Land Disturbance Permits shall only be issued after approval of a Site Plan or Construction Drawings.
3. Optional early grading approval shall not take place until a Tree Clearing Certificate is approved.

H. EFFECT

1. Approval of a Land Disturbance Permit shall permit the applicant to commence land-disturbing activity.
2. The approved Land Disturbance Permit shall be displayed on site in a location easily accessible to members of the public.

I. AMENDMENT

A Land Disturbance Permit application may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

J. REVOCATION

A Land Disturbance Permit may be revoked by the Engineering Director, following written notice to the violator and in accordance with this process, for any of the following reasons:

1. Failure or refusal to comply with all applicable State laws or soil erosion and sedimentation control requirements of this Ordinance;
2. Conduct of land-disturbing activities that represent a substantial departure from an approved permit, plan, or specification; and
3. False or misrepresented information provided as part of the application.

K. EXPIRATION

See Section 2.4.17, Expiration.

L. VESTING

See Section 1.11.4C, Statutory Vested Rights.

M. APPEAL

In accordance with NCGS§160D-405, and Section 2.3.2, Appeal.

2.3.16 LIMITED SUBDIVISION

A. APPLICABILITY

1. The standards in this section shall apply to divisions of land meeting all the following criteria:
   a. The proposed division of land is not exempted from the subdivision standards of this Ordinance in accordance with NCGS§160D-802;
   b. The proposed division will not result in more than three lots (including any residual or "parent" parcel), with each lot meeting the applicable dimensional requirements of the zoning district where located;
   c. The area of land subject to the division shall be comprised of at least five acres under common ownership;
   d. No land included in an expedited subdivision application shall have been the subject of an expedited subdivision application approval within the preceding ten years;
   e. No extension of public infrastructure (streets, water, or sewer) is proposed; and
   f. A proposed permanent means of ingress and egress to each lot is recorded.
2. Divisions of land not meeting all these standards shall be reviewed as a Major or Minor Subdivision, as appropriate.

B. APPLICATION

1. Applications for a Limited Subdivision shall include a plat prepared by a registered land surveyor or professional engineer licensed to practice in North Carolina.
2. Applications for a Limited Subdivision served by on-site wastewater systems shall include an evaluation from the appropriate county health department indicating that an on-site wastewater system may be used on each lot included in the subdivision.

C. PROCESS TYPE

Type I (see Section 2.2.3, Process Diagrams).

D. REVIEW CRITERIA

An application for a Limited Subdivision shall be decided by the Planning Director in accordance with Section 2.4.7, Staff Review and Action, and the following:

1. The Limited Subdivision plat is on a sheet or sheets suitable for recording with the Register of Deeds in the county where the subdivision is located;
2. The Limited Subdivision plat is prepared and sealed by a licensed professional land surveyor or licensed professional engineer;
3. The Limited Subdivision plat complies with all applicable standards in this Ordinance and NCGS§47-30;
4. The Limited Subdivision complies with all applicable watersupply watershed protection provisions, if located within the (WPOD) Watershed Protection Overlay District;
5. The Limited Subdivision complies with all applicable requirements in Section 6.15, Stormwater;
6. The Limited Subdivision plat includes all required certifications and declarations;
7. The applicant has secured all required State and federal permit approvals;
8. All lots have been certified by the appropriate county Health Department as capable of accommodating the wastewater generated from the proposed use, if served by an on-site wastewater system;

9. All lots in the Limited Subdivision comply with the applicable dimensional requirements for the zoning district where located;
10. No drainage or utility easements will be required to serve any interior lots;
11. The lot is served by a permanent means of ingress and egress that is depicted on the plat;
12. No land included in a Limited Subdivision application shall have been the subject of a Limited Subdivision application approval within the preceding ten years; and
13. The development complies with all applicable overlay zoning district standards.

E. RECORDATION

1. Once a Limited Subdivision plat is approved, a signed statement by the Planning Director shall be entered on the face of the plat. The plat may not be recorded without this and all other required certifications.
2. Following certification, the subdivider shall record the plat and any associated protective covenants and deed restrictions in the office of the Register of Deeds in the county where the development is located. Failure to record the plat in accordance with Section 2.3.17G.7, Expiration, shall render the plat null and void.
3. Land may not be conveyed, or construction started until the Limited Subdivision is recorded.

F. SEQUENCE

1. An application for Site Plan, Special Use Permit, or Zoning Compliance Permit may be filed with a Limited Subdivision application, but the Limited Subdivision application shall be approved first.
2. A limited subdivision shall also be subject to the standards in Section 2.3.23, Stormwater Permit, and may also be subject to the standards in Section 2.3.15, Land Disturbance Permit, based on the amount of land disturbance.

G. EFFECT

1. Approval of the Limited Subdivision plat allows the sale or conveyance of lots within the subdivision.
2. Building permits may be issued following the recording of the Limited Subdivision plat.
3. Land subject to a Limited Subdivision approval shall not be further subdivided as a Limited Subdivision within ten years of the date of the prior subdivision recordation.

H. AMENDMENT

Amendment of a Limited Subdivision approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

I. EXPIRATION

A Limited Subdivision plat shall be null and void unless it is recorded in the office of the Register of Deeds of the county where it is located within 10 days of approval.

J. VESTING

See Section 1.11.4C, Statutory Vested Rights.

K. APPEAL

In accordance with NCGS§160D-405, and Section 2.3.2, Appeal.

2.3.17 MAJOR SUBDIVISION

A. PURPOSE AND INTENT

The purpose for this Major Subdivision procedure is to establish a fair, consistent, and predictable process for the division of land into a series of lots for development or sale in ways that promote the public's health, safety, and welfare. The intent of these standards is to ensure:

1. Orderly growth and development;
2. Coordination of transportation and utility networks;
3. Preservation of open space for purposes of recreation or natural resource protection;
4. Protection from flooding, damaging sedimentation, and decreased surface water quality; and
5. Distribution of population in ways that supports infrastructure investment and diminishes the impact of traffic and overcrowding.

B. APPLICABILITY

Unless exempted by NCGS§160D-802(a), all divisions of land involving the following shall be considered Major Subdivisions subject to the standards of this section:

1. Two or more lots along with the provision of or changes to streets or other public infrastructure (e.g., water lines, sewer lines, storm sewer, etc.); or
2. Six or more lots with no changes to or extension of public infrastructure.

C. STAGES OF REVIEW

The review of a Major Subdivision application is organized into the following three stages:

1. Stage One, review of a Preliminary Plat;
2. Stage Two, review of Construction Drawings, in cases where changes to of extension of public infrastructure is included as part of the development; and
3. Stage Three, review of a Final Plat.
4. Nothing shall prevent the review of application materials associated with Stages One and Two concurrently.

D. PROCESS TYPE

1. Type II (see Section 2.2.3, Process Diagrams) for each of the three stages of review.
2. The Technical Review Committee shall comment on plats and plans prepared as part of each stage.

E. STAGE 1, PRELIMINARY PLAT

A Preliminary Plat is the initial design stage of a proposed Major Subdivision, and shall be reviewed and configured in accordance with the following:

1. APPLICATION

a. A Preliminary Plat shall be prepared by a licensed professional surveyor, registered professional landscape architect, or licensed professional engineer.

b. When a Major Subdivision is to be developed in phases, a master plan shall be submitted for the entire development and a Preliminary Plat shall be submitted for each phase, though there is no limitation on the number of phases that may be included in a Preliminary Plat. Phasing shall be in accordance with Section 2.4.13, Phased Development.

c. The application shall include a Transportation Impact Analysis, or Traffic Assessment, as appropriate, when required by Section 2.3.27, Transportation Impact Analysis.

d. In cases where lots in the subdivision will utilize on-site wastewater, the subdivider shall provide a report from a licensed soil scientist in the form of a letter, signed and dated, that describes the possibilities of lot sizes the site can support and their general locations within the subdivision.

e. Subdivisions seeking to utilize public sewer shall include a wastewater allocation request completed in accordance with all Town requirements.

f. All Major Subdivisions shall submit a stormwater management plan prepared in accordance with Section 6.15, Stormwater, and the most current edition of the North Carolina Department of Environmental Quality, Division of Water Quality's Stormwater Best Management Practices Manual.

g. Applications complying with a Town-mandated Fee-in-Lieu or anticipated to include an applicant-requested Fee-in-Lieu shall include information mandated in Section 2.3.13, Fee-in-Lieu.

h. In cases where a Major Subdivision is seeking to take advantage of sustainability incentives, allowable density bonuses, or allowable alternative forms of compliance, the application shall include supplemental details and justification for the use of these provisions.

2. REVIEW CRITERIA

An application for a Preliminary Plat shall be decided by the Planning Director in accordance with Section 2.4.7, Staff Review and Action, and the following:

a. The Preliminary Plat is prepared and sealed by a professional land surveyor, professional landscape architect, or professional engineer;

b. The Preliminary Plat includes all applicable certifications and declarations;

c. All lots are served by a Town-maintained, NCDOT-maintained, or private street configured in accordance with NCDOT or Town standards, as appropriate;

d. All lots have been certified by a county Health Department as capable of accommodating the wastewater generated from the proposed use, in cases when the lot(s) are served by on-site wastewater systems;

e. The Preliminary Plat includes a stormwater management plan configured in accordance with applicable requirements;

f. The Preliminary Plat complies with all applicable overlay districts standards in Section 3.7, Overlay Zoning Districts;

g. The lots shown on the Preliminary Plat are in conformance with all applicable requirements in the zoning district where located;

h. The Preliminary Plat complies with all standards and conditions of any applicable master plans, permits and development approvals from outside agencies, utilities, volunteer fire departments, and any other applicable agency or service provider;

i. The name of the subdivision does not duplicate or is not phonetically similar to the name of an existing subdivision in the Town's Planning jurisdiction or Johnston County;

j. Street names comply with all applicable Town and County requirements; and

k. The Preliminary Plat complies with all other applicable requirements in this Ordinance and Town policy.

3. EFFECT

a. Approval of a Preliminary Plat does not constitute the approval for recording a subdivision with the Register of Deeds, or approval for the conveyance of lots, but

nothing shall prohibit the landowner or the subdivider, as appropriate, from entering into contracts to sell or lease land by reference to an approved Preliminary Plat in accordance with NCGS§160D-807(c). However, conveyance of ownership may not take place until after recordation of a final plat in accordance with Section 2.3.17G, Stage 3, Final Plat.

b. In cases where Stages One and Two of the Major Subdivision review are conducted separately, approval of a Preliminary Plat authorizes the subdivider to submit Construction Drawings for the installation of public infrastructure in accordance with Section 2.3.17F, Stage 2, Construction Drawings Associated with Subdivision.

c. In cases where Stages One and Two of the Major Subdivision review are conducted separately, an approved Preliminary Plat authorizes the submittal of soil erosion and sedimentation control plans and the issuance of an erosion control permit in accordance with Section 2.3.21J.5, Erosion Control Permit (as applicable).

d. In cases where Stages One and Two of the Major Subdivision review are conducted separately, an approved Preliminary Plat authorizes the submittal of construction drawings, but approval of stormwater management plans and the issuance of a stormwater permit in accordance with Section 2.3.23, Stormwater Permit, shall only take place following completion of Stage Two).

4. DEVELOPMENT PHASING

a. Phased development shall comply with Section 2.4.13, Phased Development.

b. The initial Preliminary Plat may depict one or more phases of the development.

c. Construction Drawings and Final Plats may be prepared by phase and there is no limitation on including two or more phases on the same set of Construction Drawings or Final Plat provided that the phasing submitted must match the phasing approved as part of the Preliminary Plat. In no instance shall a portion of a phase be submitted for Construction Drawing or Final Plat review.

5. AMENDMENT

Amendment of a Preliminary Plat approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

6. EXPIRATION

a. An approved Preliminary Plat shall be valid for two years from the date of its approval.

b. Failure to submit an application for Construction Drawings or a Final Plat for the phase of the land subject to the Preliminary Plat shall render the Preliminary Plat void.

c. A master plan for a phased Major Subdivision shall not expire.

7. VESTING

a. See Section 1.11.4D, Site-Specific Vesting Plan. Applicants seeking a longer vesting term may file an application in accordance with Section 2.3.30, Vested Rights Certificate.

b. In cases where the proposed subdivision has multiple phases, vesting shall be in accordance with Section 1.11.4E, Multi-Phase Development Plan.

8. APPEAL

In accordance with NCGS§160D-405, and Section 2.3.2, Appeal.

F. STAGE 2, CONSTRUCTION DRAWINGS ASSOCIATED WITH SUBDIVISION

Construction Drawings are the middle stage of a proposed Major Subdivision and include the installation of public infrastructure as indicated in the associated Preliminary Plat. Major Subdivisions that do not include any public infrastructure remain subject to these Construction Drawing requirements as part of Land Disturbance Permit and Stormwater Permit approvals. Construction Drawings shall be reviewed and configured in accordance with the following:

1. APPLICATION

Following approval of a Preliminary Plat for a division of land that include changes to or extension of public infrastructure, an application for approval of Construction Drawings shall be submitted in accordance with the following:

- **a.** Construction Drawings shall be prepared for changes to or extensions of public infrastructure, configuration of erosion control and sedimentation features, stormwater control measures;
- **b.** Construction Drawings shall be prepared by, signed, and stamped by a licensed professional engineer;
- **c.** Construction Drawings shall show both the horizontal or "plan" view of infrastructure as well as the vertical or "profile" view of infrastructure; and
- **d.** When a subdivision is to be developed in phases, Construction Drawings shall indicate the number of phases in the plat, and public infrastructure shall be provided so that each lot is adequately served by public infrastructure at the time of conveyance regardless of the phase of development.
- **e.** Phasing must match the phasing approved as part of the Preliminary Plat. In no instance shall a portion of a phase be submitted for Construction Drawing review.

2. REVIEW CRITERIA

Applications for approval of Construction Drawings shall be decided by the Engineering Director in accordance with Section 2.4.7, Staff Review and Action, and the following:

- **a.** Construction Drawings shall be prepared by a professional engineer licensed by the State of North Carolina;
- **b.** The location and configuration of public infrastructure shall be substantially consistent with the Preliminary Plat, including the number of any boundaries of phases;
- **c.** If included as part of a phased development, be configured to be inclusive of all land area located within the particular phase(s) under review;
- **d.** Public infrastructure elements depicted in the Construction Drawings are configured in accordance with all applicable Town and State requirements;
- **e.** The Construction Drawings include all design sheets necessary to determine compliance; and
- **f.** Copies of all required third-party agreements, permits, and approvals necessary to begin construction are included.

3. EFFECT

- **a.** Approval of Construction Drawings permits a subdivider to commence construction of public infrastructure following issuance of a Land Disturbance Permit and conducting a pre-construction meeting on-site with Town staff.
- **b.** A subdivider may file an application for a Final Plat before work associated with Construction Drawings is completed, but in no instance shall a Final Plat be approved or Certificate of Occupancy be issued until all public infrastructure associated with

approved Construction Drawings is complete, inspected, and accepted, or subject to a Performance Guarantee (see Section 2.3.19, Performance Guarantee).

4. AMENDMENT

Amendment of Construction Drawings may only be reviewed and considered in accordance with the procedures and standards established for their original approval.

5. INSPECTION

A passing inspection by Town staff or certification from a third-party utility service provider shall be obtained prior to issuance of a Final Plat or Certificate of Occupancy.

6. AS-BUILT PLANS

As-built plans shall be required prior to issuance of a Final Plat or Certificate of Occupancy in accordance with Section 2.3.19J, As-built Plans Required.

7. EXPIRATION

See Section 2.4.17, Expiration.

8. VESTING

See Section 1.11.4C, Statutory Vested Rights.

9. APPEAL

In accordance with NCGS§160D-405, and Section 2.3.2, Appeal.

G. STAGE 3, FINAL PLAT

Submittal of a Final Plat application is the last stage of a proposed Major Subdivision. The Final Plat ensures that the subdivision and associated public infrastructure is configured in substantial conformity with the Preliminary Plat and all applicable regulations. It also helps ensure the Town or another landowner may readily determine and accurately reproduce the location, bearing, radius (as applicable) and length of the elements of a Major Subdivision.

1. APPLICATION

- **a.** A Final Plat shall be submitted for every Preliminary Plat.
- **b.** In cases where a Major Subdivision has multiple phases, each phase must be depicted on its own Final Plat though there is no limitation on including two or more different phases on the same Final Plat.
- **c.** A Final Plat shall be prepared by a licensed professional surveyor.

2. REVIEW CRITERIA

Applications for a Final Plat shall be decided by the Planning Director in accordance with Section 2.4.7, Staff Review and Action, and the following:

- **a.** The Final Plat is on a sheet or sheets suitable for recording with the county Register of Deeds;
- **b.** The Final Plat is prepared and sealed by a licensed professional land surveyor;
- **c.** The Final plat complies with the standards in NCGS§47-30;
- **d.** The Final Plat includes all required certifications and declarations;
- **e.** All lots shown on the plat have an assigned street address in accordance with Town and County requirements;
- **f.** All required infrastructure improvements (e.g., streets, sewer lines, water lines, drainage, etc.) depicted on the Construction Drawings are installed, inspected, and accepted by the Town, or are subject to a Performance Guarantee (see Section 2.3.19, Performance Guarantee);

g. All required easements and rights-of-way are properly depicted on the Final Plat;
h. If no public wastewater service is associated with the Major Subdivision, all lots have been certified by the county Health Department (as appropriate) as capable of accommodating the wastewater generated from the proposed use;
i. The Final Plat is in substantial conformance with the associated Preliminary Plat(s);
j. The applicant has secured all required State, federal, and other applicable County permit approvals;
k. The Final Plat complies with all standards and conditions of any applicable permits and development approvals; and
l. The Final Plat complies with all other applicable requirements in this Ordinance and Town policy.

3. RECORDATION

a. Once a Final Plat is approved, a signed statement by the Planning Director shall be entered on the face of the plat. The Final Plat may not be recorded without this and all other required certifications.
b. A Final Plat may not be recorded until after public infrastructure has been accepted by the Town.
c. Following certification, the applicant shall record the Final Plat and all associated protective covenants and deed restrictions in the office of the Register of Deeds in the county where the development is located. Failure to record the final plat in accordance with Section 2.3.17G.7, Expiration, shall render the plat null and void.
d. The applicant shall be responsible for delivering a digital copy of the recorded Final Plat to the Planning Department. Failure to deliver the digital copy in accordance with Section 2.3.17G.7, Expiration, shall render the plat null and void.

4. ACCEPTANCE OF PUBLIC INFRASTRUCTURE

a. Approval and recordation of a Final Plat constitutes an offer of dedication by the owner of the right-of-way of each public street and any other public infrastructure shown on the Plat.
b. Approval of the Final Plat does not constitute acceptance for maintenance responsibility of any improvements within a right-of-way or easement and the Town assumes no responsibility to open, operate, repair, or maintain any improvements until it is in the public interest to do so.
c. Improvements within rights-of-way or easements, such as streets, drainage facilities, or sidewalks may be accepted for maintenance by the Town, when deemed appropriate, in the Town's sole discretion.
d. The Town Council may, by resolution, accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes when the lands or facilities are located within the extraterritorial jurisdiction.
e. Acceptance of dedication of lands or facilities located within the extraterritorial jurisdiction but outside the corporate limits of the Town shall not place on the Town any duty to open, operate, repair or maintain any street, utility line, or other land or facility, and the Town shall not be held responsible in any civil action or proceeding for failure to open, repair, or maintain any street located outside its corporate limits.
f. A Final Plat shall not be recorded until public water and sewer service is accepted and in service, if lots in the subdivision are served by public water and sewer service.

5. EFFECT

a. Approval of a Final Plat allows the sale or conveyance of lots within the subdivision following recordation in the office of the Register of Deeds.

b. Building Permits may be issued following recordation of the Final Plat.

6. AMENDMENT

Amendment of a Final Plat approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

7. EXPIRATION

a. A Final Plat shall be null and void unless it is recorded in the office of the Register of Deeds for the county where the development is located within 60 days of approval.

b. If a Final Plat is not recorded within two years of the associated Preliminary Plat approval, or if there is a lapse of more than four years between the recording of different sections or phases, then the Preliminary Plat shall expire. In such cases, the Town may record a notice of expiration in the office of the Register of Deeds for the county where the development is located.

c. An expired Preliminary Plat may be resubmitted in accordance with Section 2.3.17E, Stage 1, Preliminary Plat.

8. VESTING

See Section 1.11.4D, Site-Specific Vesting Plan.

9. APPEAL

In accordance with NCGS§160D-405, and Section 2.3.2, Appeal

2.3.18 MINOR SUBDIVISION

A. APPLICABILITY

1. Divisions of land that include up to five lots (including the parent parcel) with no extension of or changes to public infrastructure (streets, sewer, water, etc.) shall be reviewed in accordance with the standards in this section.
2. No lot within a Minor Subdivision (including the parent parcel) shall be the subject of another Minor Subdivision application for a period of three years from the date the initial Minor Subdivision is recorded.

B. APPLICATION

1. Applications for a Minor Subdivision shall include a plat prepared by a registered land surveyor or professional engineer licensed to practice in North Carolina.
2. The application shall include a Transportation Impact Analysis, or Traffic Assessment, when required by Section 2.3.27, Transportation Impact Analysis.
3. Applications for a Minor Subdivision served by on-site wastewater systems shall include an evaluation from the appropriate county health department indicating that an on-site wastewater system may be used on each lot included in the subdivision.
4. Applications complying with a Town-mandated Fee-in-Lieu or anticipated to include an applicant-requested Fee-in-Lieu shall include information mandated in Section 2.3.13, Fee-in-Lieu.
5. In cases where a Minor Subdivision is seeking to take advantage of sustainability incentives, allowable density bonuses, or allowable alternative forms of compliance, the application shall include supplemental details and justification for the use of these provisions.

C. PROCESS TYPE

Type II (see Section 2.2.3, Process Diagrams) except that a pre-application conference is optional, and the Technical Review Committee shall comment on the proposed plat.

D. REVIEW CRITERIA

An application for a Minor Subdivision shall be decided by the Planning Director in accordance with Section 2.4.7, Staff Review and Action, and the following:

1. GENERALLY

a. The Minor Subdivision plat is on a sheet or sheets suitable for recording with the Register of Deeds in the county where the subdivision is located;
b. The Minor Subdivision plat is prepared and sealed by a licensed professional land surveyor or licensed professional engineer;
c. The Minor Subdivision plat complies with all applicable standards in this Ordinance and NCGS§47-30;
d. The Minor Subdivision plat includes all required certifications and declarations;
e. The applicant has secured all required State and federal permit approvals;
f. All lots have been certified by the appropriate county Health Department as capable of accommodating the wastewater generated from the proposed use, if served by an on-site wastewater system;
g. No drainage or utility easements will be required to serve any interior lots;
h. All lots will have frontage on existing approved streets or qualify for ingress and egress via a shared driveway (see Section 6.1.4D.5, Alternative Access);

i. Except in cases of a combination or recombination involving existing lots of record, all lots in the Minor Subdivision comply with the applicable dimensional requirements for the zoning district where located; and

j. The development complies with all applicable overlay zoning district standards in Section 3.7, Overlay Zoning Districts.

2. FAMILY SUBDIVISION

In cases where the Minor Subdivision is also a Family Subdivision, the following criteria shall also apply in addition to the criteria in sub-section (1) above:

a. The owner and grantee certify, in writing, that the grantee of each lot is the husband, wife, mother, father, brother, sister, child (biological, adopted, or step), grandmother, grandfather, grandchild (biological, adopted, or step), aunt, uncle, niece, or nephew of the owner;

b. The owner and grantee certify, in writing, that no consideration shall be paid for any of the lots; and

c. The owner and grantee certify that the purpose of the Minor Subdivision is not to circumvent the provisions of this Ordinance, and that none of the lots shall be conveyed to third parties for a period of not less than three years, and that the plat shall indicate this three-year limitation.

d. Family subdivisions shall not be subject to the limit on successive minor subdivisions in Section 2.3.18F, Limit on Successive Minor Subdivisions.

E. RECORDATION

1. Once a Minor Subdivision plat is approved, a signed statement by the Planning Director shall be entered on the face of the plat. The plat may not be recorded without this and all other required certifications.
2. Following certification, the subdivider shall record the plat, any certifications associated with a Family Subdivision, and any associated protective covenants and deed restrictions in the office of the Register of Deeds in the county where the development is located.
3. Failure to record the plat in accordance with Section 2.3.18J, Expiration, shall render the plat null and void.
4. Land may not be conveyed, or construction started until the Minor Subdivision is recorded.

F. LIMIT ON SUCCESSIVE MINOR SUBDIVISIONS

The Planning Director may, in their sole discretion, determine that an application for a Minor Subdivision shall be processed as a Major Subdivision in cases where the land that is the subject of a Minor Subdivision application has already part of a Minor Subdivision approved after January 2, 2024.

G. SEQUENCE

1. An application for Site Plan, Special Use Permit, or Zoning Compliance Permit may be filed with a Minor Subdivision application, but the Minor Subdivision application shall be approved first.
2. A limited subdivision shall also be subject to the standards in Section 2.3.23, Stormwater Permit, and may also be subject to the standards in Section 2.3.15, Land Disturbance Permit, based on the amount of land disturbance.

H. EFFECT

1. Approval of the Minor Subdivision plat allows the sale or conveyance of lots within the subdivision.

2. Building permits may be issued following the recordation of the Minor Subdivision plat.

I. AMENDMENT

Amendment of a Minor Subdivision approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

J. EXPIRATION

A Minor Subdivision plat shall be null and void unless the signed or certified plat is recorded in the office of the Register of Deeds of the county where it is located within 30 days of approval.

K. VESTING

See Section 1.11.4C, Statutory Vested Rights.

L. APPEAL

In accordance with NCGS§160D-405, and Section 2.3.2, Appeal.

2.3.19 PERFORMANCE GUARANTEE

A. PURPOSE AND INTENT

1. These standards create the additional flexibility necessary for lots in a subdivision to be conveyed or for issuance of a Building Permit to commence with development prior to completion of all required infrastructure or site improvements, subject to the prior approval of the Town, and provided funds have been reserved for completion of these features.
2. These provisions ensure that funds are available for the Town's use to complete required public infrastructure or private site features in the event an applicant is unable to do so.

B. ELIGIBLE FEATURES

1. Performance Guarantees shall be configured and managed in accordance with the standards in this section. Acceptance of a Performance Guarantee is in the sole discretion of the Town, which is under no obligation to accept a request for or approve a Performance Guarantee for any feature or under any circumstance.
2. Requests for submittal of a Performance Guarantee instead of completion in advance of subdivision approval or Building Permit issuance may be filed with the Town for any of the following public infrastructure elements or private site features:
   a. Sidewalks, sidepaths, trails, and greenways;
   b. The final lift of asphalt on a Town-maintained public street;
   c. Street lights and on-site exterior lighting;
   d. Active and passive recreation features located within open space set-aside;
   e. Private stormwater control measures; and
   f. Placement or replacement of required vegetation, except when required as part of erosion control measures.

C. INELIGIBLE FEATURES

The following forms of public infrastructure may not be subject to a Performance Guarantee, and shall be completed, dedicated to the Town, and inspected prior to conveyance of lots or issuance of a Certificate of Occupancy:

1. Public potable water;
2. Public sanitary sewer;
3. Functional fire protection infrastructure;
4. The base and initial courses of asphalt on a street;
5. Drainage facilities associated with a street right-of-way;
6. Public stormwater control measures;
7. Curb and gutter; and
8. Street signs and traffic control signals.

D. STORMWATER AND EROSION CONTROL FACILITIES

Stormwater control measures and erosion control facilities shall comply with the specific provisions for Performance Guarantees associated with these features in accordance with NCGS§160D-804 rather than the standards in this section.

E. FORM

1. The form of a Performance Guarantee shall take one of the following forms, at the sole discretion of the applicant:
   a. A surety bond issued by a firm licensed to operate in the State of North Carolina;

b. A letter of credit issued by a financial institution licensed to operate in the State of North Carolina; or
c. Cash or certified check; or
d. Another form of guarantee that provides equivalent security to the forms listed above, as determined by the Town.

2. In cases where more than one facility or site feature is requested to be subject to a Performance Guarantee, the applicant may provide a single, consolidated Performance Guarantee for all facilities or site features. In no instance shall Performance Guarantees associated with private stormwater control mechanisms or sedimentation control be consolidated with any other Performance Guarantee.
3. If cash or other instrument is deposited in escrow with a financial institution, an agreement between the financial institution and the developer shall be filed with the Town guaranteeing the following:
   a. That the escrow account shall be held in trust until released by the Town and may not be used or pledged by the developer for any other matter during the term of the escrow;
   b. That in case of a failure on the part of the developer to complete or repair the improvements, the financial institution shall, upon notification by the Town, immediately pay the funds deemed necessary by the Town to complete or repair the improvements up to the full balance of the escrow account, or deliver to the Town any other instruments fully endorsed or otherwise made payable in full to the Town; and
   c. The financial institution holding the cash or other instrument shall indicate to the Town its notification requirements for release or payment of funds.

F. PROCESS TYPE

1. Requests for provision of a Performance Guarantee shall be decided in the same manner as is used by the review authority for deciding the related application type based on the standards in Section 2.4, Review Procedures.
2. In cases where a request for a Performance Guarantee is filed after approval of a development application, or there is a request for renewal or extension, the Planning Director shall decide the Performance Guarantee request in accordance with Section 2.4.7, Staff Review and Action, and Section 2.4, Review Procedures.

G. REVIEW CRITERIA

1. An application for a Performance Guarantee shall include a map or plan showing the infrastructure and site improvements to be subject to a Performance Guarantee.
2. A Performance Guarantee application may be approved if the application complies with the following:
   a. The request is for an eligible facility or site feature;
   b. The request is in the form and the amount required;
   c. The term of the guarantee is for the minimum period of time necessary; and
   d. The application complies with this section, Section 1.7, Purpose and Intent of Ordinance, and the Town's applicable Adopted Policy Guidance.
3. The Performance Guarantee shall be conditioned on the performance of all work necessary to complete the installation of the required improvements within the term of the guarantee.

H. AMOUNT

1. GENERALLY

a. The amount of the performance guarantee shall be 125% of the reasonably estimated cost of completion at the time the Performance Guarantee is issued.

b. The Town may determine the amount of the Performance Guarantee or use a cost estimate determined by the applicant.

c. The reasonably estimated cost of completion shall include 100% of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing.

d. The additional 25% includes inflation and all costs of administration regardless of how such fees or charges are denominated.

2. ESTIMATED COSTS

Estimated costs of completing installation of required public infrastructure or private site features shall be itemized by improvement type and certified by the developer's licensed professional.

3. EXTENSION

The amount of any extension of any Performance Guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed 125% of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.

4. RENEWAL

If a Performance Guarantee is renewed, the Planning Director may require the amount of the Performance Guarantee be updated to reflect changes in cost over time.

I. SEQUENCE

1. Performance Guarantee applications may be filed along with or subsequent to any application for a Subdivision, Site Plan, Special Use Permit, Building Permit, or Zoning Compliance Permit, as appropriate.

2. Development subject to a Performance Guarantee shall not receive a Certificate of Occupancy or other final approval until all public infrastructure and private site features subject to a Performance Guarantee have been installed, inspected, and accepted by the Town or other appropriate agency.

J. AS-BUILT PLANS REQUIRED

1. PUBLIC IMPROVEMENTS

Upon completion of public improvements, a professional engineer shall certify, in writing, that the completed public improvements have been constructed in accordance with the approved plans and shall submit actual "as-built" plans for all public improvements after final construction is completed.

2. STORMWATER CONTROL MEASURES

Upon completion of a private stormwater control mechanism, the developer shall certify to the Engineering Director that the completed project is in accordance with all applicable requirements in this Ordinance and State law.

3. INSPECTION REQUIRED

A final inspection and approval by appropriate Town staff shall occur before the release of the Performance Guarantee.

K. MAINTENANCE WARRANTY

1. WARRANTY FOR STORMWATER CONTROL MEASURES

a. Upon completion of construction of public or private stormwater control measures, the developer shall request a warranty inspection. Once all the improvements are deemed acceptable by the Engineering Director and pass the warranty inspection, the developer shall submit the following to the Town:

- **i.** A set of acceptable as-built drawings;
- **ii.** A written warranty against defects which shall guarantee the material and workmanship of required improvements for a period of not less than one year from the date of such acceptance; and
- **iii.** A maintenance warranty payable to the Town equal to at least 25% of the cost of the installation of such improvements.

2. MAINTENANCE OF STREETS UNTIL ACCEPTANCE

Following completion, the developer of any development containing streets to be maintained by NCDOT or by an owners' association shall sign a street maintenance disclosure statement to guarantee that the streets will be properly maintained until the offer of dedication is accepted by the NCDOT, or until maintenance responsibility is transferred to an owners' association if streets are private.

L. MAXIMUM TERM

Performance Guarantees shall have a maximum term of one year, unless the developer determines a longer term is necessary to complete the public infrastructure or private site features. Acceptance of a proposed guarantee remains at the discretion of the Town.

M. EXPIRATION

1. The applicant shall demonstrate good faith towards the completion of public infrastructure or private site features subject to a Performance Guarantee. I n the event the aspects subject to a guarantee are not completed prior to the expiration of the guarantee, the applicant shall request a renewal of the Performance Guarantee in accordance with these standards.
2. In the event an application for renewal of a Performance Guarantee has been filed with the Town prior to expiration of an existing guarantee, the Town shall delay the provision of notice of failure to install or complete improvements in accordance with Section 2.3.19N, Forfeiture.

N. FORFEITURE

1. NOTICE OF FAILURE TO INSTALL OR COMPLETE IMPROVEMENTS

If the owner or developer fails to complete installation of the guaranteed improvements within the term of the Performance Guarantee (as may be extended), the Town shall give the owner or developer 30 day's written notice of the scope and degree of the default, by certified mail.

2. TOWN COMPLETION OF IMPROVEMENTS

a. After the 30-day notice period expires, the Town may draw on the guarantee and use the funds to perform the work necessary to complete installation of the guaranteed improvements.

b. After completing such work, the Town shall provide a complete accounting of the expenditures to the owner or developer.

c. In the event of a default triggering the use of the performance guarantee, the Town shall return any of the unused deposited cash funds or other security.

O. RELEASE OR REDUCTION

1. RELEASE OR REDUCTION REQUESTED

The Town shall release or reduce a Performance Guarantee only after:

a. The owner or developer has submitted a written request to the Town for a release or reduction of the Performance Guarantee that includes certification by a professional engineer or contractor, whichever is appropriate, that installation of the guaranteed improvements has been completed in accordance with approved plans and specifications, and as-builts (if applicable);

b. Town staff has performed an inspection of the improvements and certified in writing that installation of the guaranteed improvements is completed in accordance with approved plans and specifications; and

c. No release or reduction in Performance Guarantee amounts will be considered until more than 25% of the work is in place and approved.

2. ACCEPTANCE SHALL BE DOCUMENTED

The Planning Director or Engineering Director, as appropriate, shall provide written notice of the Town's final acceptance of the improvements subject to a Performance Guarantee.

3. IMPROPER RELEASE OF PERFORMANCE GUARANTEE

If the Town releases a Performance Guarantee through error, the error shall not release the developer from responsibility for the completion of all improvements in accordance with this Ordinance.

P. APPEAL

1. Decisions by a Town Staff member may be appealed in accordance with NCGS§160D-405, and Section 2.3.2, Appeal.

2. Decisions by the Board of Adjustment or Town Council may be appealed in accordance with In accordance with Section 2.3.2B.1, Decisions by Board of Adjustment, or in accordance with Section 2.3.2B.2, Decisions by Town Council, as appropriate.

2.3.20 SIGN PERMIT

A. APPLICABILITY

1. All signs except those exempted from the sign regulations in Section 6.13.3, Exemptions, shall obtain a Sign Permit in accordance with this section before being erected, replaced, relocated, or altered.
2. Alterations limited to sign copy on a lawfully-established and conforming sign shall not require approval of a Sign Permit.
3. Temporary signage shall be reviewed in accordance with Section 2.3.25, Temporary Permit.
4. Establishment of new outdoor advertising after January 2, 2024, shall be prohibited. Changes to existing outdoor advertising shall be considered in accordance with Section 2.3.22, Special Use Permit.
5. Establishment of new development comprised of two or more principal buildings on one or more lots are encouraged to configure signage in accordance with a Uniform Sign Plan as a part of a Sign Permit application.
6. Applicants seeking to deviate from otherwise applicable signage provisions may request consideration of deviations in accordance with Section 2.3.20K, Alternative Sign Plan.

B. PROCESS TYPE

Type I (see Section 2.2.3, Process Diagrams).

C. REVIEW CRITERIA

Applications for a Sign Permit shall be decided by the Planning Director in accordance with Section 2.4.7, Staff Review and Action, and the following:

1. GENERALLY

a. The standards in Section 6.13, Signage;
b. The sign is located on the same lot or site as the business, product, or service being advertised;
c. The North Carolina State Building Code, including requirements for electrical service, if applicable;
d. All standards or conditions of any prior applicable permits and developments approvals; and
e. All other applicable requirements of this Ordinance.

2. UNIFORM SIGN PLANS

Uniform Sign Plans, if submitted, shall indicate each of the following:

a. A Uniform Sign Plan shall include measured drawings and details about the parameters of signage permitted by the Plan;
b. If the total amount of allowable signage in the development will be apportioned in a manner that deviates from the standards in Section 6.13, Signage, and if so, how the signage will be apportioned;
c. The maximum sign sizes by sign type, and by building type, if different;
d. The rules for signage placement on multi-tenant buildings;
e. The range of proposed unifying elements for signage in the development, including but not limited to style, illumination, color, material;
f. Any sight distance triangles on the site; and

g. Any additional information identified by the Planning Director as necessary to determine compliance with this Ordinance.

D. INSPECTION REQUIRED

Applicants for a Sign Permit shall request inspection of signage by the Town following completion. Operating a use type with signage subject to these Sign Permit requirements but without a passing sign inspection shall be a violation of this Ordinance.

E. SEQUENCE

1. A Sign Permit application may be filed with an application for a Site Plan, Subdivision, or Zoning Compliance Permit, but shall only be approved after these prior applications.
2. An application for a Sign Permit must be submitted with a request for consideration of an Alternative Sign Plan, but the alternative sign plan request shall be decided prior to the Sign Permit.

F. EFFECT

1. SIGN PERMIT

Approval of a Sign Permit shall entitle a landowner to erect or modify signage on a development site.

2. UNIFORM SIGN PLAN

a. Development subject to a Uniform Sign Plan shall require all owners, tenants, sub-tenants, and individual use types within the development to comply with the approved Uniform Sign Plan.

b. No permanent signage shall be erected, altered, or maintained except in accordance with the approved Uniform Sign Plan.

c. In cases where a Uniform Sign Plan is more restrictive than the standards in Section 6.13, Signage, the standards in the Uniform Sign Plan shall control.

3. ALTERNATIVE SIGN PLAN

Approval of an Alternative Sign Plan request shall permit consideration of the associated application for a Sign Permit.

G. AMENDMENT

Amendment of a Sign Permit, Uniform Sign Plan, or Alternative Sign Plan may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

H. EXPIRATION

If the work authorized by a Sign Permit is not substantially commenced within six months from the date of issuance, the Sign Permit shall become null and void.

I. VESTING

In accordance with Section 1.11.4C, Statutory Vested Rights.

J. APPEAL

In accordance with NCGS§160D-405, and Section 2.3.2, Appeal.

K. ALTERNATIVE SIGN PLAN

Development proposing to construct or modify existing signage in ways that do not comply with the standards in Section 6.13, Signage, shall be subject to the requirements for an alternative sign plan in accordance with this section.

1. PURPOSE

The alternative sign plan process is included to allow for creativity of sign design and configuration in ways that do not otherwise comply with the applicable standards of this Ordinance, but that are found to be in closer alignment with the Town's Adopted Policy Guidance or the provisions in Section 1.7, Purpose and Intent of Ordinance, than would result from the strict application of the signage provisions of this Ordinance.

2. APPLICABILITY

Any application for a Sign Permit may incorporate a request for an alternative sign plan configured in accordance with this section, but in no instance shall an alternative sign plan include prohibited signage identified in Section 6.13.5, Prohibited Signs.

3. CONTENTS

Requests for an Alternative Sign Plan shall be part of an application for a Sign Permit, and shall include all of the following:

- **a.** A written statement detailing the project information, the proposed alternatives being requested, and an explanation of how the proposed alternative meets the standards in Section 2.4, Review Procedures;
- **b.** The location of land subject to the Alternative Sign Plan;
- **c.** The proposed allocation of permitted sign area among tenants and any other proposed signs;
- **d.** The total allowable sign face area for the project;
- **e.** Sketches of generic sign design and appearance for each sign type provided in Pantone Matching System (PMS) colors, vinyl manufacturer and numbers, or comparable industry standard of color identification;
- **f.** Color specifications for each sign component shall be specified, including but not limited to sign face backgrounds, lettering, and the sign structure;
- **g.** A plan or other graphical depiction showing where each particular sign type is proposed;
- **h.** A written justification for the Alternative Sign Plan request, including how the proposed signage will result in a development that is in closer alignment with the Town's Adopted Policy Guidance or the standards in Section 1.7, Purpose and Intent of Ordinance; and
- **i.** Any additional information requested by the Planning Director considers necessary to measure the application's conformance with the applicable review criteria.

4. PROCEDURE

Type II (see Section 2.2.3, Process Diagrams), including comment by the Technical Review Committee.

5. REVIEW CRITERIA

An Alternative Sign Plan application shall be only approved provided on a finding the applicant demonstrates:

- **a.** The contents of the Alternative Sign Plan request are consistent with the applicable requirements of this section;

b. The proposed sign design, size, color, illumination, and placement are compatible in style and character with any building to which the sign is to be attached, any surrounding structures, any adjoining signage on the site, and/or the district character or architectural character of the area in which it is located;

c. The Alternative Sign Plan proposes innovative, but appropriate, use of materials and design techniques in response to unique characteristics of the specific site, if applicable;

d. The signage envisioned by the Alternative Sign Plan application will be consistent with approved neighborhood plans, studies, or area plans; and

e. The signage anticipated by the Alternative Sign Plan signage will result in a development that is in closer alignment with the Town's Adopted Policy Guidance or the standards in Section 1.7, Purpose and Intent of Ordinance.

6. CONDITIONS OF APPROVAL

The Planning Director may apply conditions to any approval of an Alternative Sign Plan in accordance with Section 2.3.20K.6, Conditions of Approval. Conditions may include, but are not limited to, any of the following:

a. Specification of color(s);

b. The number of signs;

c. The total amount of sign face area;

d. The location of signs;

e. The maximum height of signs;

f. Sign illumination; and

g. The types of signs allowed.

7. AMENDMENT

Amendment of an Alternative Sign Plan approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

2.3.21 SITE PLAN

A. APPLICABILITY

Except for development exempted from Site Plan review in accordance with Section 2.3.21B, Exemptions, all of the following forms of development shall be subject to Site Plan review in accordance with this section:

1. Any development involving construction, moving, or significant alteration of a building or habitable structure;
2. Any development that results in the increase in the amount of impervious surface on a lot;
3. Any development that changes the vehicular access to or internal circulation on a lot; or
4. Any development subject to a Concept Plan.

B. EXEMPTIONS

1. The following forms of development are exempted from Site Plan review, but remain subject to the applicable standards in this Ordinance:
   a. Construction of one single-family detached dwelling on an individual lot that does not include changes to or extension of public infrastructure;
   b. Placement of one manufactured or mobile home on its own lot in a zoning district permitting such uses that does not include changes to or extension of public infrastructure;
   c. Establishment of a secondary use in an existing structure, or a new secondary structure(s) of 1,000 square feet in floor area or less than the total floor area that existed on a lot on January 2, 2024;
   d. Interior fit-ups or changes to a lawfully-established non-residential structure or use type that do not result in the need for additional off-street parking spaces, additional screening or landscaping, any changes to existing impervious surface coverage, or changes to or extension of public infrastructure;
   e. The construction or alteration of a sign, subject to the requirements and procedures in Section 2.3.20, Sign Permit;
   f. The establishment of a temporary use or structure, subject to the requirements and procedures in Section 2.3.25, Temporary Permit;
   g. The construction or alteration of a fence or wall, subject to the requirements of Section 2.3.31, Zoning Compliance Permit;
2. Development exempted from Site Plan review is still required to obtain a Building Permit in accordance with the North Carolina State Building Code and a Zoning Compliance Permit in accordance with this Ordinance.

C. LIMITATIONS

A Site Plan application may be filed concurrently with an application for a Conditional Rezoning or a Special Use Permit, but a Site Plan shall not be a part of a Conditional Rezoning or Special Use Permit application. Conditional Rezoning and Special Use Permit applications shall include a Concept Plan, not a Site Plan. Site Plans shall be reviewed for consistency with an approved Special Use Permit or Conditional Rezoning Concept Plan, if applicable.

D. STAGES OF REVIEW

The review of a Site Plan application that includes changes to or the extension of public infrastructure is organized into the following two stages:

1. Stage One, review of the Site Plan;

2. Stage Two, review of Construction Drawings for associated public infrastructure, erosion control and sedimentation features, and stormwater control measures.
3. Nothing shall prevent the review of application materials associated with Stages One and Two concurrently.

E. PROCESS TYPE

1. Type II (see Section 2.2.3, Process Diagrams) for each of the two stages of review.
2. The Technical Review Committee shall comment on plats and plans prepared as part of each stage.

F. APPLICATION

1. Site Plan applications shall be prepared by a North Carolina licensed professional qualified to prepare such documents. Site Plans shall be prepared to scale and shall include the basic information for Site Plans identified in the Town's requirements.
2. When a development includes phases, the Site Plan shall depict the entire development and shall indicate all phasing boundaries.
3. Phasing shall be in accordance with Section 2.4.13, Phased Development.
4. The application shall include a Transportation Impact Analysis, or Traffic Assessment, when required by Section 2.3.27, Transportation Impact Analysis.
5. The Site Plan application shall include a wastewater allocation request prepared in accordance with all Town requirements if proposing to utilize public sewer.
6. Applications that involve changes to or extension of public infrastructure, erosion control devices, or stormwater control measures shall include construction drawings prepared in accordance with Section 2.3.21H, Construction Drawings Associated with a Site Plan.
7. Applications complying with a Town-mandated Fee-in-Lieu or anticipated to include an applicant-requested Fee-in-Lieu shall include information mandated in Section 2.3.13, Fee-in-Lieu.
8. In cases where development is seeking to take advantage of sustainability incentives, allowable density bonuses, or allowable alternative forms of compliance, the application shall include supplemental details and justification for the use of these provisions.
9. Applications proposing to disturb one acre of land or more shall include details on compliance with Section 6.14.6, Erosion and Sedimentation Control Plans.

G. REVIEW CRITERIA

Applications for a Site Plan shall be decided by the Planning Director in accordance with Section 2.4.7, Staff Review and Action, and the following:

1. All standards or conditions of any prior applicable permits and development approvals;
2. Any applicable Concept Plans, master plans, or plats;
3. All applicable requirements of this Ordinance and Town policy; and
4. All applicable County, State, and federal requirements.

H. CONSTRUCTION DRAWINGS ASSOCIATED WITH A SITE PLAN

1. DRAWING REQUIREMENTS

Site Plan applications that include changes to or extensions of public infrastructure shall include construction drawings configured in accordance with the following:

a. Construction drawings shall be prepared by, signed, and stamped by a licensed professional engineer;

b. Construction drawings shall show both the horizontal or "plan" view of infrastructure as well as the vertical or "profile" view of infrastructure; and

c. When a Site Plan is to be developed in phases, construction drawings shall be submitted for each individual phase and public infrastructure shall be provided so that each lot is adequately served by public infrastructure at the time of conveyance regardless of the phase of development.

2. CONSTRUCTION DRAWING REVIEW CRITERIA

The portion of a Site Plan application including construction drawings shall be decided by the Engineering Director in accordance with Section 2.4.7, Staff Review and Action, and the following:

a. Construction Drawings shall be prepared by a professional engineer licensed by the State of North Carolina;

b. The location and configuration of public infrastructure shall be substantially consistent with the Site Plan;

c. Public infrastructure elements depicted in the construction drawings are configured in accordance with all applicable Town and State requirements;

d. The construction drawings include all design sheets necessary to determine compliance; and

e. Copies of all required third-party agreements, permits, and approvals necessary to begin construction are included.

I. SEQUENCE

1. Site Plan applications may be submitted or reviewed concurrently with construction drawings or any other development application, but Site Plans shall not receive final approval until after an associated Annexation, Development Agreement, Rezoning, or Subdivision application.

2. Developments subject to a Site Plan shall also be required to obtain a Zoning Compliance Permit, a Building Permit, and may be required to obtain other approvals, such as a Tree Clearing Certificate. Permits associated with site features depicted on a Site Plan may be filed with a Site Plan application, but shall not be issued until after the Site Plan is approved.

J. EFFECT

1. ZONING COMPLIANCE PERMIT

A Site Plan approval authorizes the submittal of or review of an application for a Zoning Compliance Permit in accordance with Section 2.3.31, Zoning Compliance Permit. In cases where the Planning Director determines that a Zoning Compliance Permit is not required, then an applicant may file an application for a Building Permit in accordance with Section 2.3.4, Building Permit.

2. CONSTRUCTION DRAWINGS

a. Construction drawings for all public infrastructure included with the Site Plan application shall be approved prior to street and utility construction in accordance with the applicable Town standards.

b. In the case of a multi-phase Site Plan, any street and utility construction plans shall include all improvements within a phase and all public improvements outside the phase but necessary to serve development within that phase.

c. In no instance shall a portion of a phase be submitted for Construction Drawing review.

d. If included as part of a phased development, each phase shall be configured to be inclusive of all land area located within the particular phase(s) under review.

3. AS-BUILT PLANS

As-built plans for all public infrastructure shall be submitted in accordance with Section 2.3.19J, As-built Plans Required, prior to issuance of a Certificate of Occupancy or other final approval.

4. PERFORMANCE GUARANTEES

All public infrastructure and private site features that have not been installed by the developer, inspected, and accepted by the Town shall comply with the requirements in Section 2.3.19, Performance Guarantee, prior to the issuance of a Certificate of Occupancy or other final approval.

5. EROSION CONTROL PERMIT

Stage Two Construction Drawing approval authorizes the submittal of soil erosion and sedimentation control plans and the issuance of a Land Disturbance Permit in accordance with Section 2.3.15, Land Disturbance Permit, if applicable.

6. STORMWATER PERMIT

Stage Two Construction Drawing approval authorizes the submittal of stormwater management plans and the issuance of a Stormwater Permit in accordance with Section 2.3.23, Stormwater Permit, if applicable.

7. FEE-IN-LIEU

A Site Plan approval authorizes the filing of an applicant-requested payment of Fee-in-Lieu, or payment of Town-mandated Fee-in-Lieu in accordance with Section 2.3.13, Fee-in-Lieu.

K. AMENDMENT

Amendment of a Site Plan approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

L. EXPIRATION

1. Approval of a Site Plan application shall expire and become null and void if substantial commencement is not undertaken within one year of the date of approval.
2. Approval of a Site Plan application shall expire and become null and void if work is voluntarily stopped by the developer and the development fails to maintain substantial progress for a period of one year or longer.
3. Where more than one principal building is included with an approved Site Plan, the applicant may submit a series of Building Permit applications. The first application shall be submitted within one year from the date the Site Plan is approved. Each subsequent Building Permit application shall be submitted within 180 days from the date of issuance of a Certificate of Occupancy or other final approval for the previous building.
4. An applicant may file a request, prior to the expiration of the Site Plan, for a one-time one-year extension to the approval of a Site Plan for good cause shown. The determination of good cause shall be at the sole discretion of the Planning Director.

M. VESTING

1. See Section 1.11.4D, Site-Specific Vesting Plan, or Section 1.11.4E, Multi-Phase Development Plan, as appropriate.
2. Applicants seeking a longer vesting term may file an application in accordance with Section 2.3.30, Vested Rights Certificate.

N. APPEAL

In accordance with NCGS§160D-405, and Section 2.3.2, Appeal.

2.3.22 SPECIAL USE PERMIT

A. PURPOSE AND INTENT

This Special Use Permit procedure defines the process for consideration of a proposed use type that may be allowable in a zoning district, but because of its nature or potential deleterious effects, it requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings.

B. APPLICABILITY

1. Uses identified as requiring a Special Use Permit in Table 4.2.5, Listing of Common Principal Uses, or in Table 4.5.4, Listing of Common Secondary Uses, shall be approved in accordance with the procedures and standards of this section.
2. Applications subject to a required neighborhood meeting shall include required information in accordance with Section 2.4.4, Neighborhood Meeting.
3. In cases where a single use type located within a larger multi-building or multi-use development requires a Special Use Permit, only that particular use type and the lot it is located upon shall be subject to the Special Use Permit, not the entire development.

C. APPLICATION

1. An application for a Special Use Permit shall include a Concept Plan depicting the proposed use and site configuration. The Technical Review Committee shall review and comment on the Concept Plan prior to consideration of the application by the Board of Adjustment.
2. The application shall include a wastewater allocation request prepared in accordance with all Town requirements if proposing development that seeks to utilize public sewer.
3. The application shall include a Transportation Impact Analysis, or Traffic Assessment, as appropriate, when required by Section 2.3.27, Transportation Impact Analysis.
4. Applications that involve changes to or extension of public infrastructure shall identify these features on the Concept Plan.
5. Applications complying with a Town-mandated Fee-in-Lieu or anticipated to include an applicant-requested Fee-in-Lieu shall include information identified in Section 2.3.13, Fee-in-Lieu.
6. In cases where development is seeking to take advantage of sustainability incentives, allowable density bonuses, or allowable alternative forms of compliance, the application shall include supplemental details and justification for the use of these provisions.
7. Applications subject to a required neighborhood meeting shall include required information in accordance with Section 2.4.4, Neighborhood Meeting.

D. PROCESS TYPE

Type III (see Section 2.2.3, Process Diagrams) except that Special Use Permits are required to conduct a neighborhood meeting.

E. DECISION

1. A decision by the Board of Adjustment on a Special Use Permit shall be based on the competent, material, and substantial evidence in the record, as supplemented by arguments presented at the evidentiary hearing, and the standards in Section 2.4, Review Procedures.
2. The decision shall be one of the following:
   a. Approval of the Special Use Permit, as submitted;

b. Approval of a revised Special Use Permit; or
c. Denial of the Special Use Permit.

3. In making its decision on a Special Use Permit, the Board of Adjustment shall not waive or reduce any applicable standard of this Ordinance. It is permissible for the Board of Adjustment to apply conditions of approval that exceed the standards in this Ordinance, as necessary, to mitigate any potentially negative impacts of the use on its surroundings.

F. REVIEW CRITERIA

A Special Use Permit shall be approved upon a finding of fact by the Board of Adjustment that the proposed special use:

1. Is subject to a Concept Plan that accurately depicts the proposed use's configuration and addresses public infrastructure if changes to or extension of public infrastructure are required as part of the application;
2. Complies with all required standards, conditions, and specifications of this Ordinance, including all zoning district dimensional requirements and use-specific standards;
3. Will not materially endanger the public health or safety;
4. Will not substantially injure the value of the abutting land, or the special use is a public necessity;
5. Will not include or result in such additional traffic volume so as to strain the flow of traffic on the streets and roads of the Town; and
6. Will be in harmony with the intensity, scale, and character of existing or planned development in the area in which it is to be located.

G. CONDITIONS

1. The Board of Adjustment may apply conditions of approval that are reasonable and appropriate in accordance with NCGS§160D-705(c) and Section 2.4.10, Conditions of Approval.
2. Conditions may be proposed to:
   a. Assure that the use will be harmonious with the intensity, scale, and character of the area where proposed;
   b. Ensure the use is consistent with the purpose and intent of this Ordinance;
   c. Limit the permit to a specified duration;
   d. Place limits on the availability for occupancy of proposed residential dwelling units to coincide with the provision or maintenance of adequate public facilities; or
   e. Address other considerations necessary, in the sole discretion of the Board of Adjustment.
3. All conditions shall be identified in the approval, the notice of decision, and on any associated Concept Plans.
4. The notice of decision shall not be prepared until the applicant has consented to all applicable conditions of approval in writing.

H. SEQUENCE

1. Special Use Permit applications may include an application for a Site Plan, Zoning Compliance Permit, and Building Permit, but the Special Use Permit shall be decided first.
2. A Concept Plan shall not substitute for a required Site Plan or subdivision plat. Site Plans and subdivision plats are reviewed after approval of the Special Use Permit.
3. Special Use Permit applications may be filed with a rezoning application, but the rezoning application shall be decided first.

4. Special Use Permit applications may be filed with an application for a Variance, but the Variance application shall be approved first.

I. EFFECT

1. Approval of a Special Use Permit allows an applicant to file an application for a Site Plan.
2. A Special Use Permit approval is perpetually binding and shall run with the land, unless amended or limited in duration by the Board of Adjustment.
3. An action invalidating a special use condition of approval (such as an intensity or hours of operation limitation) shall render the Special Use Permit and associated Concept Plan null and void.
4. Special uses shall meet all applicable State and federal requirements for location and operation. Failure to maintain compliance with those requirements may result in the revocation of the Special Use Permit and associated Concept Plan.

J. AMENDMENT

Concept Plans shall only be amended in accordance with the standards in this section. Amendments to a Concept Plan approval shall be considered as minor modifications or major modifications, and must be considered in accordance with the following:

1. MINOR MODIFICATIONS

a. Minor modifications are limited to changes that have no material effect on the character of the development or changes that address technical considerations that could not reasonably be anticipated at the time of the application approval.

b. Minor modifications shall be reviewed and decided by the Planning Director, in consultation with other appropriate Town staff.

c. Minor modifications may include any changes not identified as a major modification in Section 2.3.22J.2, Major Modifications.

2. MAJOR MODIFICATIONS

a. Changes that materially affect the basic configuration of the development, a condition of approval, or that require additional evidentiary support beyond that presented at the public hearing shall be considered major modifications.

b. Major modifications include, but are not limited to:

i. A change in the boundaries of a site;
ii. A change in the approved use type;
iii. An increase in the amount of floor area by five percent or more beyond that approved under the initial Special Use Permit;
iv. An increase in the total number of provided off-street parking spaces by ten percent or more beyond that approved under the initial Special Use Permit;
v. A change in the location of a principal or secondary structure by more than 10 feet in any direction;
vi. Structural alterations increasing the structure height;
vii. Alterations affecting the form, ornamentation, or appearance of a principal or secondary structure as shown in the Concept Plan;
viii. Changes in density or intensity;
ix. Decreases in open space;
x. 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) or pedestrian access or circulation;
xi. A change in the amount or location of proposed landscaping or required screening; or
xii. Changes to site features that require the application of professional judgment or discretion by a licensed landscape architect, architect, or professional engineer.

c. Major modifications must be reviewed and considered only in accordance with the procedures and standards established for the original application approval.

K. EXPIRATION

1. REPLACEMENT

If a special use is replaced by a use type permitted by right in the zoning district, the Special Use Permit approval is deemed abandoned and the Special Use Permit approval is null and void.

2. FAILURE TO START OR COMPLETE CONSTRUCTION

Unless otherwise stated in the Special Use Permit approval, a Special Use Permit shall expire and become null and void two years after the date of issuance if:

a. An application for a Site Plan or subdivision plat has not been filed;
b. Substantial commencement of construction has not taken place; or
c. Construction activities have started, but the owner has voluntarily stopped construction and substantial progress has not been maintained.

3. MULTIPLE BUILDING PERMITS

Where more than one principal building is included with an approved Special Use Permit, the applicant may submit a series of Building Permit applications. The first application shall be submitted within one year of the date the Special Use Permit is approved. Each subsequent Building Permit application shall be submitted within 180 days from the date of issuance of a Certificate of Occupancy or other final approval for the previous building.

L. REVOCATION

1. In the event of failure to comply with the plans or any other conditions imposed upon the Special Use Permit approval, the Planning Director shall give the permit holder 10 days written notice of intent to revoke the permit and request the permit holder to contact staff to set a reasonable time for the violation to be corrected.
2. A Special Use Permit may only be revoked in accordance with the procedure used to grant its approval.
3. If the permit is revoked and the special use has not ceased, the use is considered a violation of this Ordinance and subject to enforcement and penalties in Chapter 7, Violations.

M. VESTING

1. See Section 1.11.4D, Site-Specific Vesting Plan.
2. Applicants seeking a longer vesting term may file an application in accordance with Section 2.3.30, Vested Rights Certificate.

N. APPEAL

In accordance with Section 2.3.2B.1, Decisions by Board of Adjustment.

2.3.23 STORMWATER PERMIT

A. PURPOSE AND INTENT

This Stormwater Permit procedure governs the design, installation, and construction of proposed post-construction structural stormwater control measures or other design features intended to prevent or mitigate any adverse effects of increased post-construction stormwater runoff into receiving surface waters in accordance with Section 6.15, Stormwater, and NCGS§160D-925.

B. APPLICABILITY

1. The standards in this section shall apply to all forms of residential development that cumulatively disturbs an acre of land or more, including Exempt or Limited Subdivisions.
2. The standards in this section shall apply to all forms of mixed-use or non-residential development that cumulatively disturbs one-half-acre of land or more, including Exempt or Limited Subdivisions.
3. These standards shall also apply to development disturbing less than the specified amount of land area when it is a part of a larger development that will disturb more than the designated minimum threshold in aggregate even though multiple, separate, or distinct activities take place at different times on different schedules.

C. EXEMPTIONS

The following forms of development shall be exempted from these standards:

1. Development or redevelopment that cumulatively disturbs less than one acre and is not part of a larger master plan, subdivision plat, or common plan of development is exempt from these standards;
2. Activities that are exempt from permit requirements of Section 404 of the federal Clean Water Act as specified in 40 CFR 232 (e.g., ongoing farming and forestry activities); and
3. A project owned or operated by a governmental agency that is already subject to a NPDES stormwater permit.

D. APPLICATION

1. An application for a Stormwater Permit shall describe 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.
2. All applications shall include a written or graphic concept plan of the proposed post-development stormwater management system including:
   a. The stormwater management concept plan shall be prepared by a qualified licensed North Carolina professional engineer, surveyor, soil scientist, or landscape architect. The engineer, surveyor, soil scientist, or landscape architect shall perform services only within their area of competence.
   b. The stormwater management plan shall detail the following:
      i. An existing conditions and proposed site layout sketch plan showing existing and proposed topography, perennial and intermittent streams, mapping of predominant soils from soil surveys, boundaries of existing predominant vegetation, proposed limits of clearing and grading, and location of existing and proposed roads, buildings, parking areas, and other impervious surfaces.
      ii. A written or graphic inventory of natural resources at the site and surrounding area as it exists prior to the commencement of the project, including 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 buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.).

iii. Preliminary selection and location of proposed structural stormwater controls;
iv. Low-impact design elements;
v. Location of existing and proposed conveyance systems such as grass channels, swales, and storm drains;
vi. Flow paths;
vii. Location of floodplain/floodway limits;
viii. Relationship of site to upstream and downstream properties and drainages; and
ix. Preliminary location of any proposed stream channel modifications, such as bridge or culvert crossings.

c. The stormwater management plan shall contain a signed and sealed statement certifying that the design of all stormwater management facilities and practices will comply with the standards of this Ordinance and all other applicable requirements.

3. The Stormwater Administrator or developer may request a pre-application conference on a stormwater management concept plan to consider the post-construction stormwater management system to be utilized.

E. PROCESS TYPE

Type I (see Section 2.2.3, Process Diagrams).

F. REVIEW CRITERIA

The Stormwater Administrator shall decide an application for a Stormwater Permit in accordance with Section 2.4.7, Staff Review and Action, and the following:

1. All relevant standards in Section 6.15, Stormwater;
2. The approved stormwater management plan and associated stormwater maintenance plan;
3. All standards or conditions of any prior applicable permits or development approvals;
4. All other applicable requirements of this Ordinance and Town policy; and
5. All applicable State and federal requirements in place at the time the application is accepted as complete.

G. FINAL APPROVAL

1. COMPLETENESS PRIOR TO RECORDATION

The construction of all structural stormwater management improvements shown on an approved and permitted Stormwater Management Plan shall be substantially complete or subject to a performance guarantee prior to Final Plat recordation or issuance of a Certificate of Occupancy.

2. CERTIFICATION

Upon completion of a project and its associated structural stormwater management improvements, and before a Certificate of Occupancy shall be granted, the professional responsible for its design shall certify, under seal, that the completed project is in accordance with the approved Stormwater Management Plan and the requirements of this Ordinance.

3. AS-BUILTS

a. The professional responsible for the stormwater management improvements shall also submit as-built plans in accordance with this section.

b. As-built plans shall be certified by a licensed North Carolina professional engineer, and shall show the final design specifications for all stormwater management improvements and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed.

c. The professional responsible for the stormwater management 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.

H. SEQUENCE

1. A Stormwater Permit may be filed along with a Site Plan or Preliminary Plat, but shall only be approved after a Site Plan or Construction Drawings for a Preliminary Plat for Major Subdivision.
2. A Stormwater Permit shall be approved prior to a Building Permit or a Final Plat.

I. EFFECT

1. A Stormwater Permit shall govern the design, installation, and construction of stormwater management and control practices on the site, including engineered stormwater controls and other elements of site design for stormwater management.
2. Approval of a Stormwater Permit allows for applicants to convert temporary erosion control measures associated with Phase One of an Erosion Control Plan to permanent stormwater control measures associated with the approved Stormwater Permit.
3. A Stormwater Permit does not continue in existence indefinitely after the completion of the project; rather, compliance after project construction is required in accordance with the standards in Section 6.15, Stormwater.

J. AS-BUILT PLANS

1. Upon completion of a project, and before a Certificate of Occupancy or Compliance is 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.
2. The as-built plans shall show:
   a. The final design specifications for all stormwater management facilities and practices; The field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed; and
   b. Storm pipe systems with pipe sizes and inverts, as well as structure tops and inverts.
3. The designer of the stormwater management measures and plans shall certify, under seal, that the as-built stormwater measures, controls, and devices comply with the approved stormwater management plans and this Ordinance.
4. A final inspection and approval by the Stormwater Administrator shall occur before the release of any performance guarantees.

K. FINAL APPROVAL

1. Except where multiple units are served by the stormwater practice or facilities, no Certificate of Occupancy or Compliance shall be issued by the Town without final as-built plans and a final inspection and approval by the Stormwater Administrator.
2. In cases where multiple units are served by the stormwater practice or facilities, the Town 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.

L. AMENDMENT

Amendment of a Stormwater Permit may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

M. EXPIRATION

1. A Stormwater Permit shall expire and become null and void if an applicant fails to make substantial progress on the site within one year after the date of approval.
2. 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.

N. VESTING

In accordance with Section 1.11.4C, Statutory Vested Rights.

O. APPEAL

In accordance with NCGS§160D-405, and Section 2.3.2, Appeal.

2.3.24 STREET RENAMING/ CLOSURE

A. APPLICABILITY

This process for the renaming or closure of streets is applied to publicly-owned or maintained streets operated by the NCDOT or the Town.

B. APPLICATION

1. In cases where the Town initiates an application to abandon an existing or platted street, it shall first file a Resolution of Intent to Abandon the street in accordance with NCGS§160A-299.
2. In cases where an application to rename an existing street is filed by landowners (not the Town) the application shall be supplemented with a petition signed by at least 75 percent of the landowners that are affected by the renaming. The application shall also include the desired street name.
3. Applications for Street Renaming filed by landowners for reasons other than public safety or emergency service delivery shall require a determination of merit by Town staff prior to review by the Planning Board.

C. PROCESS TYPE

Type IV (see Section 2.2.3, Process Diagrams).

D. DECISION

1. After the conclusion of a legislative public hearing, the Town Council shall decide the application in accordance with the standards in Section 2.4, Review Procedures.
2. The decision shall be one of the following:
   a. Approve the Street Renaming/ Closure of all or a portion of the street right-of-way;
   b. Denial of the Street Renaming/ Closure; or
   c. Remand of the application to the Planning Board for further consideration.
3. In no instance shall the Town Council approve a different street name or extent than requested without new public notification and another public hearing.

E. REVIEW CRITERIA

An application for a Street Renaming/ Closure shall be approved, provided:

1. STREET CLOSURE

a. Closing of the street is in the best interest of the public; and
b. A landowner in the vicinity of the street would not be deprived of reasonable ingress or egress to their land.

2. STREET RENAMING

a. The street renaming is in accordance with all applicable street name requirements;
b. The street renaming will serve the public interest by enhancing public safety or will do no harm;
c. The street renaming will not adversely affect land values or cause excessive economic impact to landowners or the Town; and
d. The street renaming will result in an overall public good that generally cannot be measured in monetary terms but is found to outweigh known or perceived economic interests and costs.

F. RECORDATION

The Town Clerk shall file a certified copy of a Street Closure approval in the office of the Register of Deeds in the county where located within a reasonable period of time after the approval.

G. SEQUENCE

Not Applicable.

H. EFFECT

1. STREET CLOSURE

Where a platted or existing street is abandoned in accordance with this section, the regulations applicable to a lot shall apply to the portion of the lot formerly occupied by the abandoned street.

2. STREET RENAMING

a. All approved street renaming applications shall have an effective date at least 45 days from the date of approval but may be further delayed for a set period of time not to exceed one year, to assist businesses and other affected landowners in preparing for the name change.

b. Street renaming initiated by the Town due to public safety or emergency service delivery issues may take effect immediately upon approval.

I. AMENDMENT

An application for a Street Renaming with the same name for the same street or portion of the same street shall not be filed within two years from the date of final action on the previous request, unless the Town Council determines a substantial change has occurred in the nature of the application that merits reconsideration.

J. EXPIRATION

Not Applicable.

K. VESTING

Not Applicable.

L. APPEAL

In accordance with Section 2.3.2B.2, Decisions by Town Council.

2.3.25 TEMPORARY PERMIT

A. APPLICABILITY

1. The standards in this section apply to non-permanent uses and structures, including temporary signage, that take place on a temporary basis whether on the same site or in different locations in the Town's planning jurisdiction.
2. Temporary uses occurring within the public right-of-way require approval by the Town Council or NCDOT, as appropriate, and are not subject to a Temporary Permit.

B. EXEMPTIONS

Temporary uses or structures operated by the Town or the County for public safety or as part of a sanctioned governmental event shall be exempted from these requirements.

C. PROCESS TYPE

Type II (see Section 2.2.3, Process Diagrams).

D. REVIEW CRITERIA

The Planning Director shall decide applications for a Temporary Permit in accordance with Section 2.4.7, Staff Review and Action, and the following:

1. The applicant has written permission from the landowner, or is otherwise authorized to make use of the land;
2. The applicant has obtained the appropriate permits and approvals from the Town and other agencies;
3. The temporary use meets public utility and Town requirements for proper connection to water, sewer, electrical, and other utility service connections, as applicable;
4. Inclusion of any lighting or electrical service shall be subject to an approved electrical permit;
5. Any habitable structures shall require approval of a Building Permit;
6. The temporary use or activity complies with all applicable provisions in Section 4.6, Temporary Uses;
7. The temporary use does not violate the applicable conditions of approval that apply to a site or use on the site;
8. The proposed site contains sufficient land area for the temporary use and for the parking and traffic movement associated with the temporary use, without impacting the site's ability to comply with other applicable requirements of this Ordinance;
9. The temporary use is located outside a special flood hazard area;
10. The temporary use provides adequate on-site restroom facilities, if necessary;
11. Adequate provisions for crowd control shall be provided, if necessary, in the sole opinion of the Planning Director;
12. Any signage associated with a Temporary Permit shall comply with the applicable standards in Section 6.13, Signage; and
13. The site of the temporary use shall be cleared of all debris at the end of the temporary use and all temporary structures shall be cleared from the site within five days after the use is terminated.

E. SEQUENCE

Temporary Permits shall be issued prior to issuance for Building Permit for a temporary structure.

F. EFFECT

Approval of a Temporary Permit shall authorize the establishment of a temporary use, structure, or activity for the duration identified in the approval.

G. AMENDMENT

Amendment of a Temporary Permit may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

H. EXPIRATION

1. If the work authorized by a Temporary Permit is not substantially commenced within six months from the date of issuance, the Temporary Permit shall become null and void.
2. An approval of a Temporary Permit is only valid for the term included in the approval. In cases where the activity associated with a Temporary Permit approval cannot be undertaken within the allowable duration, the applicant may withdraw the application and reapply.
3. Failure to achieve substantial commencement or complete the temporary use or activity within the permitted duration shall render the Temporary Permit approval null and void.

I. VESTING

The vesting terms shall be in accordance with Section 1.11.4B, Issuance of a Building Permit.

J. APPEAL

In accordance with NCGS§160D-405, and Section 2.3.2, Appeal.

2.3.26 TEXT AMENDMENT

A. APPLICABILITY

The standards and requirements of this section shall apply to applications to revise the text of this Ordinance.

B. APPLICATION

Applications to amend the text of this Ordinance may be initiated only by the Town Council, the Planning Board, or Town staff. Owners of land within the Town's planning jurisdiction, and residents of the Town of Clayton or its extraterritorial jurisdiction, may request that the Town consider a text amendment, but the decision to pursue a text amendment shall be within the sole discretion of the Town Staff, Planning Board, or Town Council, as appropriate.

C. PROCESS TYPE

Type IV (see Section 2.2.3, Process Diagrams).

D. RECOMMENDATION

1. After conclusion of a public meeting, the Planning Board shall make a recommendation on the application in accordance with Section 2.4, Review Procedures.
2. In making its recommendation, the Planning Board shall prepare a written statement regarding the application's consistency with the Town's Adopted Policy Guidance.

E. DECISION

1. The decision shall be based on the legislative discretion of the Town Council, taking into consideration any recommendation received from the Planning Director, prepared in consultation with other Town staff, the recommendation of the Planning Board, citizen comments, and the standards in Section 2.4, Review Procedures.
2. In making its decision, the Town Council shall adopt a written statement of reasonableness and consistency with the Town's Adopted Policy Guidance in accordance with NCGS§160D-605.

F. CITIZEN COMMENT

In cases where a resident or landowner submits written comments to the Town at least two business days prior to the date a decision is being made on the application, the Town staff member processing the application shall deliver the statement(s) to the Town Council.

G. REVIEW CRITERIA

The advisability of amending the text of this Ordinance is a matter committed to the legislative discretion of the Town Council and is not controlled by any one factor. In determining whether to adopt or deny the proposed text amendment, the Town Council may, but is not required to, consider whether and the extent to which the proposed text amendment:

1. Enhances the public's health, safety, and welfare;
2. Is consistent with the Town's Adopted Policy Guidance;
3. Is required by changed conditions;
4. Addresses a demonstrated community need;
5. Addresses an unforeseen matter not present when the Ordinance was adopted;
6. Addresses other factors determined to be relevant by the Town Council; and
7. Would not result in significantly adverse impacts on the natural environment, including water, air, noise, stormwater management, wildlife, vegetation, and the natural functioning of the environment.

H. SEQUENCE

A Text Amendment application shall not be submitted with another application.

I. EFFECT

The Planning Director shall make changes to the text of this Ordinance promptly after approval of a text amendment application by the Town Council.

J. AMENDMENT

Not Applicable.

K. EXPIRATION

Not Applicable.

L. VESTING

Not Applicable.

M. APPEAL

In accordance with Section 2.3.2B.2, Decisions by Town Council.

2.3.27 TRANSPORTATION IMPACT ANALYSIS

A. PURPOSE AND INTENT

This Transportation Impact Analysis (TIA) procedure allows an assessment of a proposed development's impact on the Town's transportation system. It identifies recommended transportation system improvements to be included by the proposed development as necessary to mitigate any negative impacts created by the proposed development.

B. APPLICABILITY

A Transportation Impact Analysis, prepared in accordance with this section shall be required for any of the following:

1. A new development anticipated to generate 100 or more vehicle trips during any peak hour, or 1,000 or more vehicle trips per day, based on the most recent edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual; or
2. A new development that is part of a larger development that, when considered cumulatively, will generate 100 or more vehicle trips during the AM or PM peak hour, or 1,000 or more vehicle trips per day, based on the most recent edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual; or
3. The proposed development is located on a roadway that has a demonstrated transportation capacity issue, as determined by the Engineering Director; or
4. There are likely to be significant changes to adjacent development traffic patterns, as determined by the Engineering Director, as a result of the proposed development.

C. TRAFFIC ASSESSMENT OPTION

1. In cases where the number of vehicle trips is not known (such as in the case of a Conventional Rezoning application), or in cases where the proposed uses will not result in 100 or more vehicle trips during any peak hour nor more than 1,000 vehicle trips per day, the Engineering Director shall require a Traffic Assessment instead of a Transportation Impact Analysis.
2. A Traffic Assessment is a general investigation of anticipated traffic on adjacent roadway capacity and function as opposed to detailed estimates of the number of trips and steps necessary to maintain a minimum operating level of service.

D. APPLICATION

1. The type, scope, and contents of a Transportation Impact Analysis shall be determined during the mandatory pre-application conference (see Section 2.4.3, Pre-Application Conference).
2. A Traffic Impact Analysis shall be prepared by a professional engineer licensed in the State of North Carolina, and shall include all of the following:
   a. The impact area examined, including the points of access and key streets and intersections to be affected by development;
   b. Existing traffic volumes;
   c. Planned and pending street improvements;
   d. The analysis methodology;
   e. An inventory of the data used;
   f. The findings of the analysis; and
   g. Recommendations based on the results.

3. The Engineering Director shall determine the geographic area to be included in a traffic impact analysis, which shall extend to a point the farther of:
   a. One-half mile from the edges of the development site; or
   b. Where the project traffic at build-out is less than 10% of the capacity of the roadway or intersection.
4. Traffic recorder and turning movement assessment locations may also have to be determined.

E. PROCESS TYPE

Type I (see Section 2.2.3, Process Diagrams) except that a pre-application conference is mandatory, and the Town may require third-party review of a proposed Transportation Impact Analysis prior to deciding an application.

F. THIRD-PARTY REVIEW

1. Transportation impact analyses that include State roads shall require review by the NCDOT.
2. The Engineering Director may require that an independent third party be hired by the Town at the applicant's expense to perform a required Transportation Impact Analysis, or to review a Transportation Impact Analysis filed by an applicant. The third party shall be a professional engineer licensed in the State of North Carolina to prepare such analyses, and the third party's contract shall be administered solely by the Town.
3. The Town shall determine the scope of services to be performed by a third party and receive a cost estimate from the third party for such services.
4. The applicant shall provide funds to the Town for the third-party review in accordance with the Town's fee schedule.
5. Funds for third-party review are not refundable if an applicant withdraws their application prior to third-party review.

G. REVIEW CRITERIA

The Engineering Director shall decide an application for a Transportation Impact Analysis based on Section 2.4.7, Staff Review and Action, the findings of the third-party review (if conducted), and the following:

1. The analysis is prepared and sealed by a licensed professional engineer with expertise in traffic engineering;
2. The analysis includes a summary of findings and recommendations for mitigation based on the Town's Adopted Policy Guidance and applicable State regulations;
3. The analysis conforms with the requirements of this section and the Town's Engineering Specifications and Design Manual;
4. Full payment for all third-party review costs has been provided;
5. The analysis identifies the post-development roadway lane configurations and levels of service for signalized and unsignalized intersections within the study area;
6. The projected traffic generated by the project, combined with existing traffic, either does not exceed the desirable operating level established in the impact area as identified in Section 6.5.12, Streets, or the impacts of the project traffic are properly mitigated by on-site and off-site improvements recommended in the analysis;
7. The analysis identifies the parties responsible for any recommended improvements; and

8. The applicant is willing and able to successfully mitigate the proportional impact that the proposed development will have on the public transportation network as identified in the Transportation Impact Analysis.

H. SEQUENCE

A Transportation Impact Analysis may be filed with an application for a rezoning, subdivision, Site Plan, Special Use Permit, Zoning Compliance Permit, or Building Permit, but the Transportation Impact Analysis shall be decided before these other application types.

I. EFFECT

1. Approval of a Transportation Impact Analysis permits an applicant to file for the next kind of development approval in the sequence.
2. In some cases, the results of a Transportation Impact Analysis may result in an applicant amending other applications in one or more of the following ways:
   a. Changes in use type or scope to reduce the projected vehicle trips per day;
   b. The dedication of additional right-of-way;
   c. The rerouting of traffic or modifications or additions of the internal street network or proposed access and egress points;
   d. Participation in the funding of a traffic signal, intersection improvement, or other off-site transportation improvement; or
   e. Other modification determined to be necessary.

J. AMENDMENT

Amendment to an approved Transportation Impact Analysis may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

K. EXPIRATION

A Traffic Impact Analysis approval shall expire in accordance with the Concept Plan, Site Plan, subdivision plat, or other approval it is associated with.

L. VESTING

In accordance with Section 1.11.4C, Statutory Vested Rights.

M. APPEAL

In accordance with NCGS§160D-405, and Section 2.3.2, Appeal.

2.3.28 TREE CLEARING CERTIFICATE

This Tree Clearing Certificate implements the enabling legislation granted to the Town by the North Carolina General Assembly. The purposes of this procedure is to establish some basic requirements for preserving existing vegetation around the perimeter of lots, or tracts for use towards meeting landscaping requirements of this Ordinance in the event the lot or tract is subsequently developed in accordance with this Ordinance. The intent of this procedure is to:

1. Protect existing trees and shrubs located upon undeveloped sites for use as future buffers and streetscapes to meet future development requirements;
2. Preserve existing tree and vegetative cover to protect the health safety and welfare of the public by:
   a. Preserving the visual and aesthetic qualities of the Town;
   b. Maintaining property values;
   c. Controlling erosion; and
   d. Reducing sediment and other pollutant run-off into streams and waterways to protect water quality.

B. APPLICABILITY

Unless exempted in accordance with sub-section (C) below, a Tree Clearing Certificate shall be required for any land disturbing activities proposed on a site, lot or portion of a lot that is not subject to an approved subdivision, Site Plan, Conditional Rezoning, Zoning Compliance Permit, Erosion Control Permit, or similar development approval.

C. EXEMPTIONS

1. The following forms of development, land disturbance, or other activities are exempted from this section, but shall be subject to other applicable Town, County, State, or federal requirements.
   a. Removal of existing trees on lots or tracts subject to an approved subdivision, Site Plan, Conditional Rezoning, Zoning Compliance Permit, Erosion Control Permit, or similar development approval, which shall comply with the tree protection requirements included in the approval.
   b. The removal of existing trees on a single lot located within an approved single-family residential subdivision that is zoned for single-family use, and provided such trees are not included as required landscaping.
   c. Forestry activities on property taxed on its present-use value as agricultural, horticultural, or forestland in accordance with NCGS Ch. 105, Article 12, or forestry activity that is conducted in accordance with a forestry management plan prepared or approved by a forester registered pursuant to NCGS Ch. 89B, and provided such activities are accomplished in compliance with this section.
   d. The removal of vegetation by public or private agencies within the lines of any public street rights-of-way, utility easements, or other Town property, as may be necessary to ensure public safety, to obtain clear visibility at driveways or intersections, to perform authorized field survey work, or to preserve or enhance the symmetry and beauty of such Town property.
   e. Town-initiated or -approved removal of any vegetation which is in an unsafe condition, constitutes a nuisance or noxious weed, or which by its nature is injurious to sanitary sewers, electrical power lines, gas lines, water lines, stream or conveyance channels, or other public improvements, or vegetation which is infected with any injurious fungus, insect, or other pest.

2. In cases where exemption is claimed based on forestry use, the applicant shall include proof that the property is taxed under the present-use value standard, or a copy of the valid forestry management plan prepared or approved by a North Carolina registered forester.

D. APPLICATION

Prior to the commencement of any vegetation clearing or removal on any undeveloped property, the owner or the owner's agent shall demonstrate exemption from the requirements of this section, or submit a Tree Clearing Certificate application in accordance with the following:

1. Applications for a Tree Clearing Certificate shall be filed only by all the owners of the property or by such owners' authorized agent.
2. The application shall be accompanied by a Vegetation Protection Plan on a sheet no larger than 24 inches by 36 inches, at a scale of one-inch equals 50 feet, that includes all of the following information:
   a. A vicinity map showing the location of the tract at a readable scale;
   b. A map of the entire tract, including the property boundary of the entire tract by courses and distances with references to true meridian and the location and dimension of all on-site and adjacent off-site easements (such as drainage, utility, public access, aerial utility, conservation, permanent and temporary construction easements);
   c. General information about the tract, including but not limited to the owner of the tract; the current zoning of the tract, the area of the tract, and any conditional zoning conditions, if applicable;
   d. The location and use(s) of all existing building(s) on the tract;
   e. The owner, current zoning, and present use of all contiguous properties (including property on opposite side of adjoining streets);
   f. The general classification of all existing and proposed adjacent roadways (as depicted in the Adopted Policy Guidance) and the ultimate right-of-way boundaries associated with these roadways;
   g. The location and width of all future required landscaping areas, including riparian buffers, perimeter landscaping buffers, and streetscapes;
   h. The proposed limits of tree removal or land disturbance activities; and
   i. The location and width of all required tree protection areas.
3. Requirements for a Vegetation Protection Plan may be waived only in situations where the applicant can demonstrate, to the satisfaction of the Planning Director, that all existing tree removal will take place outside of and away from areas that would be configured as required landscaping areas.

E. PROCESS TYPE

Type II (see Section 2.2.3, Process Diagrams).

F. REVIEW CRITERIA

The Planning Director shall decide an application for a Tree Clearing Certificate in accordance with Section 2.4.7, Staff Review and Action, and the following:

1. Other than the clearing necessary to gain reasonable access to the property, clearing and/or removal of trees shall be prohibited in the following areas:
   a. A tree save area with a width of 50 feet as measured from all ultimate property boundaries that adjoin existing public street rights-of-way. For the purposes of this section, "ultimate property boundary" means the final demarcation line around the

perimeter of a lot or tract excluding all areas that must be dedicated to the Town for use as rights-of-way; and

b. A tree save area with a width of 50 feet as measured from all property boundaries that adjoin developed property or vacant property with an approved Site Plan and/or subdivision plat; and

c. A tree save area with a width of 25 feet as measured from all property boundaries that adjoin undeveloped property or vacant property without an approved Site Plan and/or subdivision plat; and

d. Any other areas necessary for the protection of existing vegetation within riparian buffers, jurisdictional wetlands, and resource conservation areas.

2. In situations where one or more tree save areas overlap on the same site, then the area with the wider required width shall apply.

3. The total area of required tree save areas for any tract shall occupy at least 20% of the area of the tract, after subtracting required public street rights-of-way and any required conservation easements.

G. NON-COMPLIANCE

1. Failure to retain existing trees in areas subject to tree protection in accordance with this section shall be a violation of this Ordinance.

2. In cases where all trees or substantially all trees are removed from required tree save areas subject to these standards, the Town shall not grant Site Plan, Building Permit, or subdivision plat approval for the lot or tract for a period of three years following tree removal. For the purposes of this section, "all or substantially all" means 75% or more of the existing trees with a caliper of four inches or greater.

3. The three-year waiting period may be waived if the Town Council by a 3/4 majority vote.

H. INSPECTION

1. Approval of a Tree Clearing Certificate shall permit an applicant to install any and all barriers necessary to protect existing trees within required tree save areas from damage during tree removal or land disturbing activities. Failure to protect required tree save areas is a violation of this Ordinance and shall be subject to the standards in Section 2.3.28G, Non-Compliance.

2. Once all barriers for the protection of existing trees have been installed, the applicant or their agent shall request inspection of such barriers for compliance with the requirements of this Ordinance.

3. Following a passing inspection of vegetation protection barriers, the Planning Director shall issue the Tree Clearing Certificate, and authorized vegetation clearing may commence.

I. SEQUENCE

A Tree Clearing Certificate shall be approved prior to authorization for early grading associated with a Land Disturbance Permit.

J. AMENDMENT

Amendment of a Tree Clearing Certificate may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

K. EXPIRATION

An approved Tree Clearing Certificate shall be valid for a period of not more than one year from the date of issuance.

L. VESTING

In accordance with Section 1.11.4C, Statutory Vested Rights.

M. APPEAL

In accordance with NCGS§160D-405, and Section 2.3.2, Appeal.

2.3.29 VARIANCE

A. PURPOSE AND INTENT

The purpose of this Variance procedure is to allow deviations from certain standards of this Ordinance when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner's control (such as topographical conditions, narrowness, shallowness, or shape of a specific parcel of land), a literal application of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest. This section also includes provisions for reasonable accommodation of persons with physical disabilities and variances pertaining to the Town's special flood hazard area requirements, water supply watershed protection standards, riparian buffer protection provisions, and stormwater provisions.

B. APPLICABILITY

1. VARIANCE

a. Development that would otherwise be subject to undue and unique hardship from the applications of the standards in this Ordinance may seek relief from the standards in accordance with this section.

b. No Variance may be sought for uses not allowed in a zoning district.

c. No Variance may be sought that increases development density (e.g., units per acre) beyond that allowed in the zoning district where located.

2. REASONABLE ACCOMMODATION

a. In cases where the strict application of the standards of this Ordinance would deprive an eligible person of their right to equal opportunity to use a dwelling under the federal Fair Housing Act, the person may apply for a Reasonable Accommodation in accordance with this section.

b. For the purposes of this section, an "eligible person" is a person who meets the definition of a disabled or handicapped person under federal law.

c. A person recovering from substance abuse is considered a person with a disability or handicap provided they are not currently engaging in the illegal use of controlled substances.

C. VARIANCES DISTINGUISHED

1. In addition to applications for a Reasonable Accommodation, this procedure recognizes the following different forms of Variance, each of which may have unique review processes and criteria:
   a. Zoning or Subdivision Variances;
   b. Flood Hazard Overlay Variances;
   c. Stormwater Variances;
   d. Riparian Buffer Variances; and
   e. Water Supply Watershed Variances.
2. Riparian Buffer Variances shall take the form of a Minor Variance or a Major Variance. A Minor Variance shall be one pertaining to or impacting only Zone Two of the riparian buffer. Major Variances shall pertain to or impact Zone One of the riparian buffer (see Section 6.12, Riparian Buffers, for riparian buffer zone boundaries).
3. Water Supply Watershed Variances shall take the form of a Minor Variance or a Major Variance. Minor Variances pertain to a relaxation, by a factor of up to 10% of any buffer,

density, or built-upon area requirement under the low-density option. Major Variances pertain to any of the following:

a. The relaxation, by a factor greater that 10%, of any management requirement under the low-density option;
b. The relaxation, by a factor greater than five percent, of any buffer, density, or built upon area requirement under the high-density option; or
c. Any variation in the design, maintenance, or operation requirements of an approved stormwater control measure.

D. APPLICATION

1. Applications for Zoning or Subdivision Variances and Reasonable Accommodations shall be processed by the Planning Director or a designee.
2. Applications subject to a required neighborhood meeting shall include required information in accordance with Section 2.4.4, Neighborhood Meeting.
3. Applications for Flood Hazard Overlay, Riparian Buffer, Water Supply Watershed, and Stormwater Variances shall be processed by the Floodplain Administrator or Stormwater Administrator, as appropriate.
4. An application for Reasonable Accommodation may be made by a person with a disability or handicap, or their legal representative, or by a provider of housing for persons with disabilities or handicaps. An application for Reasonable Accommodation shall also include the following:
   a. The basis for the claim that the applicant or persons receiving services from the applicant is considered disabled or handicapped under federal law;
   b. The Ordinance provision from which the Reasonable Accommodation is being requested; and
   c. An explanation of why the Reasonable Accommodation is necessary to make specific land or development available for the applicant.

E. PROCESS TYPE

Type III (see Section 2.2.3, Process Diagrams) except that Major Water Supply Watershed and Major Riparian Buffer Variances shall be decided by the North Carolina Environmental Management Commission following review and recommendation by the Board of Adjustment.

F. DECISION

1. GENERALLY

a. The decision shall be based on the competent, material, and substantial evidence in the record, as supplemented by arguments presented at the evidentiary hearing, and the standards in Section 2.4, Review Procedures.
b. The decision shall be one of the following:
   i. Approval of the Variance or Reasonable Accommodation as proposed;
   ii. Approval of the Variance or Reasonable Accommodation with revisions; or
   iii. Denial of the Variance or Reasonable Accommodation as proposed.
c. Voting shall be in accordance with Section 2.4.9C.5, Voting.
d. Each decision shall be made in writing and reflect the Board of Adjustment's determination of facts and their application to the standards in this Ordinance.
e. The written decision shall be signed by the Chair or other duly authorized member of the Board of Adjustment.
f. The decision of the Board of Adjustment shall be effective upon the filing of the written decision in the offices of the Planning Department.

2. MAJOR RIPARIAN BUFFER OR WATER SUPPLY WATERSHED VARIANCE

a. In the case of a recommendation of approval for a Major Riparian Buffer or Water Supply Watershed Variance by the Board of Adjustment, the application materials, along with the recommendation of the Board of Adjustment established in accordance with sub-section (1) above, shall be forwarded to the North Carolina Division of Water Resources for consideration by the North Carolina Environmental Management Commission.

b. Denials of a Major Riparian Buffer or Water Supply Watershed Variance application by the Board of Adjustment shall result in the application not being forwarded to the EMC for a final decision.

c. The final decision regarding a Major Riparian Buffer or Water Supply Watershed Variance shall be made within 90 days of receipt by the North Carolina Environmental Management Commission (EMC) in accordance with all applicable State law. The decision by the EMC shall be one of the following:

- **i.** Approval of the Variance application;
- **ii.** Approval of the Variance application with additional conditions; or
- **iii.** Denial of the Variance application.

d. Any final decision by the EMC on a Major Riparian Buffer or Water Supply Watershed Variance may be appealed to the Superior Court of the county where located.

G. REVIEW CRITERIA

1. ZONING OR SUBDIVISION VARIANCE

a. REQUIRED FINDINGS

A Zoning or Subdivision Variance application shall be approved subject to a finding the applicant demonstrates all of the following:

- **i.** Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the Variance, no reasonable use can be made of the property.
- **ii.** The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a Variance.
- **iii.** The hardship did not result from actions taken by the applicant or the landowner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of the Variance shall not be regarded as a self-created hardship.
- **iv.** 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.
- **v.** The Variance approval is the minimum necessary to make possible the reasonable use of the land, building, or structure.

b. NOT AVAILABLE AS A BASIS FOR DECISION

None of the following may be used as the basis for approving a Zoning or Subdivision Variance:

- **i.** Hardships resulting from factors other than application of the relevant standards of this Ordinance;
- **ii.** Personal circumstances;
- **iii.** A request for a particular use that is expressly, or by inference, prohibited in the zoning district;
- **iv.** The citing of other conforming or nonconforming uses of land or structures in the same or other zoning districts;
- **v.** The fact that land or a structure may be utilized more profitably or be more marketable with a Variance; or

vi. Financial hardship.

2. FLOOD HAZARD OVERLAY VARIANCE

a. REQUIRED FINDINGS

A Flood Hazard Overlay Variance shall be approved on a finding the applicant demonstrates all the following standards are met:

i. There is a good and sufficient cause to grant the Variance;
ii. Failure to grant the Variance would result in exceptional hardship to the landowner; and
iii. Granting the Variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with this Ordinance.

b. OTHER CONSIDERATIONS

In addition to making the required findings, the Board of Adjustment may also consider any of the following:

i. The Variance is the minimum necessary, considering the flood hazard, to afford relief.
ii. Approval of the Variance will not render the building in violation of applicable federal, State, or local requirements.
iii. Approval of the Variance will not result in any increase in flood levels within any designated floodway or non-encroachment area during the base flood discharge.
iv. The Variance is issued prior to any other pre-requisite permit or development approvals.

c. DENIAL

All of the following factors shall be considered by the Board of Adjustment if an application for a Flood Hazard Overlay Variance is denied:

i. The danger that materials may be swept onto other lands and injure others;
ii. The danger to life and land due to flooding or erosion damage;
iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual landowner;
iv. The importance of the services provided by the proposed facility to the community;
v. The necessity to the facility of a waterfront location as a functionally-dependent facility;
vi. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use or activity;
vii. The compatibility of the proposed use with existing and anticipated development;
viii. The relationship of the proposed use to the Town's Adopted Policy Guidance and floodplain management program;
ix. The safety of access to the use in times of flood for ordinary emergency vehicles;
x. The expected height, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
xi. 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.

3. STORMWATER VARIANCE

a. GENERALLY

A Stormwater Variance shall be approved on a finding the applicant demonstrates all of the following standards are met:

i. The applicant can secure no reasonable use of or return from their property if the provisions of the Ordinance are strictly adhered to;
ii. The hardship results from application of this Ordinance to the property rather than from other factors such as deed restrictions or other hardship;

iii. The hardship is due to the physical nature of the applicant's property, such as its location, size, shape, or topography, and compliance with provisions of this Ordinance would not allow reasonable use of the property;
iv. The applicant did not cause the hardship by knowingly or unknowingly violating this Ordinance;
v. The Variance is consistent with the general spirit, purpose, and intent of the State law and this Ordinance; and
vi. In granting the Variance, the public safety and welfare have been assured, water quality has been protected, and substantial justice has been done.

b. STATUTORY EXCEPTIONS

Exceptions from the 30-foot landward location of built-upon area requirement as well as the deed restrictions and protective covenants requirements shall be granted in any of the following instances:

i. When there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of SCMs.
ii. When there is a lack of practical alternatives for a stormwater management facility; a stormwater management pond; or a utility, including, but not limited to, water, sewer, or gas construction and maintenance corridor, as long as it is located 15 feet landward of all perennial and intermittent surface waters and as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of SCMs.
iii. A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration, or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters.

4. RIPARIAN BUFFER VARIANCE

a. A Riparian Buffer Variance shall be approved on a finding that there are practical difficulties or unnecessary hardships that prevent compliance with this Ordinance, and a finding of practical difficulties or unnecessary hardships requires that all of the following standards are met:

i. If the applicant complies with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, their property. Merely proving that the Variance would permit a greater profit from the property shall not be considered adequate justification for a Variance;
ii. Whether the Variance is the minimum possible deviation from the terms of the Ordinance that shall make reasonable use of the property possible;
iii. The hardship results from application of this Ordinance to the property rather than from other factors such as deed restrictions or other hardship;
iv. The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, such that compliance with provisions of this Ordinance would not allow reasonable use of the property;
v. The applicant did not cause the hardship by knowingly or unknowingly violating this Ordinance;
vi. The applicant did not purchase the property after the effective date of this Ordinance, and then request a Variance;
vii. The hardship is rare or unique to the applicant's property;
viii. The Variance is in harmony with the general purpose and intent of the State's riparian buffer protection requirements and this Ordinance; and

ix. In granting the Variance, the public safety and welfare have been assured, water quality has been protected, and substantial justice has been done.

b. The North Carolina Environmental Management Commission shall decide a Major Riparian Buffer Variance based on applicable State law.

5. WATER SUPPLY WATERSHED VARIANCE

a. A Water Supply Watershed Variance shall be approved on a finding that there are practical difficulties or unnecessary hardships that prevent compliance with this Ordinance, and a finding of practical difficulties or unnecessary hardships requires that all of the following standards are met:

i. The applicant can make no reasonable use of or return from their property if the provisions of the Ordinance are strictly adhered to;
ii. The hardship results from application of this Ordinance to the property rather than from other factors such as deed restrictions or other hardship;
iii. The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, such that compliance with provisions of this Ordinance would not allow reasonable use of the property;
iv. The applicant did not cause the hardship by knowingly or unknowingly violating this Ordinance;
v. The Variance is in harmony with the general purpose and intent of the State's water supply watershed requirements and preserves the spirit of this Ordinance; and
vi. In granting the Variance, the public safety and welfare have been assured, water quality has been protected, and substantial justice has been done.

b. The North Carolina Environmental Management Commission shall decide a Major Water Supply Watershed Variance based on applicable State law.

6. REASONABLE ACCOMMODATION

a. A Reasonable Accommodation application shall be approved on a finding the proposed accommodation:

i. Will be used by an individual or individuals with a disability or handicap protected under federal law;
ii. Is the minimum needed to provide accommodation; and
iii. Is reasonable and necessary.

b. For the purposes of this section, an accommodation is reasonable if it would not undermine the legitimate purposes of this Ordinance, it does not constitute a substantial alteration of this Ordinance or other Town standard, and it will not impose significant financial and administrative burden upon the Town.

c. For the purposes of this section, an accommodation is necessary if it would provide direct or meaningful improvement of the effects of the particular disability or handicap, and would afford handicapped or disabled persons equal opportunity to use housing in the Town's planning jurisdiction.

H. CONDITIONS

In granting a Variance, the Board of Adjustment may prescribe conditions of approval to assure that the use of the land to which the Variance applies will be compatible with surrounding lands and will not alter the essential character of the neighborhood. Conditions of approval shall be in accordance with Section 2.4.10, Conditions of Approval, and the following:

1. Conditions of approval must be reasonably related to the application.
2. An application approval granted subject to a condition of approval shall be permitted as long as there is compliance with the condition.

3. Violation of a condition of approval shall be deemed a violation of this Ordinance.
4. If a violation or invalidation of a condition of approval occurs, the Planning Director, or Engineering Director, as appropriate, may revoke the authorization for the development subject to the approval.

I. SEQUENCE

A Variance application may be filed with any other application except an appeal or rezoning, but the Variance approval shall always be required prior to any other associated application.

J. EFFECT

1. GENERALLY

Approval of a Variance authorizes only the particular regulatory relief approved by the Board of Adjustment. It does not exempt the applicant from the responsibility to obtain all other permits or development approvals required by this Ordinance or any other applicable laws, and does not indicate that the development for which the Variance is granted should receive other permits or development approvals unless and until the relevant and applicable portions of this Ordinance are met.

2. NOTIFICATION REGARDING FLOOD INSURANCE COSTS

a. An applicant for whom a Flood Hazard Overlay Variance is approved shall be provided written notice by the Engineering Director specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is built. The notice shall inform the applicant about the risks to life and property from construction below the BFE and that issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance.
b. The notification shall be maintained by the Engineering Director with the record of the Variance action.

3. RECORDS OF FLOOD HAZARD OVERLAY VARIANCES

Upon request, the Engineering Director shall report all Flood Hazard Overlay Variances approved in accordance with this section to the Federal Emergency Management Agency and the State of North Carolina.

4. REASONABLE ACCOMMODATIONS

A Reasonable Accommodation shall not affect an applicant's obligation to comply with other applicable standards in this Ordinance that are not the subject of the reasonable accommodation application.

K. AMENDMENT

Not Applicable.

L. EXPIRATION

Not Applicable.

M. VESTING

Not Applicable.

N. APPEAL

In accordance with Section 2.3.2B.1, Decisions by Board of Adjustment. Applications decided by the North Carolina Environmental Management Commission shall be taken to the Superior Court for the county where located in accordance with applicable State law.

2.3.30 VESTED RIGHTS CERTIFICATE

A. PURPOSE AND INTENT

The purpose for this Vested Rights Certificate procedure is to permit an applicant to request vesting, or an extended vesting period, from changes in this Ordinance that take place after approval of a development application but prior to completion of an approved site-specific vesting plan associated with the application.

B. APPLICABILITY

An application for a Vested Rights Certificate shall be limited to applications with an approved site-specific vesting plan in accordance with Section 1.11.4D, Site-Specific Vesting Plan.

C. PROCESS TYPE

Type IV (see Section 2.2.3, Process Diagrams) except that the Planning Board shall not provide a recommendation and a neighborhood meeting is not required.

D. DECISION

1. After the conclusion of a legislative public hearing, the Town Council shall decide the application in accordance with the standards in Section 2.4, Review Procedures.
2. The decision shall be one of the following:
   a. Approval of the Vested Rights Certificate as proposed;
   b. Approval of a revised Vested Rights Certificate; or
   c. Denial of the Vested Rights Certificate.
3. If approved, the Vested Rights Certificate is deemed established upon the date of approval of a qualifying site-specific vesting plan to which the application for a Vested Rights Certificate was attached.

E. REVIEW CRITERIA

An application for a Vested Rights Certificate shall be approved if:

1. The Vested Rights Certificate is for an approved site-specific vesting plan;
2. The development is valid and unexpired;
3. Any required Variances have been obtained; and
4. The request is in accordance with NCGS§160D-108, and Section 1.11, Vested Rights.

F. SEQUENCE

1. An application for a Vested Rights Certificate may be submitted concurrently with or following the application qualifying as a site-specific vesting plan, but consideration of a Vested Rights Certificate shall only take place following approval of the site-specific vesting plan.
2. A Vested Rights Certificate shall be approved prior to issuance of a Building Permit.

G. EFFECT

1. Each document used to establish a site-specific vesting plan shall bear the following notation:
   "Approval of this application establishes a zoning vested right under Section 160D-108 of the North Carolina General Statutes, as amended. Unless terminated at an earlier date, the vested right shall be valid until _____(date)."
2. The establishment of a vested right shall not preclude the application of overlay zoning district provisions that impose additional requirements but do not affect the allowable type and intensity of use, or through ordinances that are general in nature and are applicable to

all property subject to land use regulation by the Town, including, but not limited to: building, fire, plumbing, electrical, and mechanical codes.

H. AMENDMENT

Amendment of Vested Rights Certificate may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

I. DURATION

1. In no instance shall a Vested Right Certificate provide a vested right for a period of longer than five years from the date of approval of the site-specific vesting plan.
2. A Vested Right Certificate shall expire and become null and void:
   a. At the end of the approved vesting period; or
   b. If a Building Permit application for the development subject to the certificate is not submitted within two years of the approval of the Vested Rights Certificate associated with a Special Use Permit Concept Plan, Major Subdivision Preliminary Plat, or Site Plan, or five years of the approval of a Vested Rights Certificate associated with a Conditional Rezoning Concept Plan; or
   c. Upon a finding by the Town Council after public notice and a public hearing, that:
      i. Natural or man-made hazards on or in the immediate vicinity of the land, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated;
      ii. The landowner or landowner's representative intentionally supplied inaccurate information or made material misrepresentations which affected the approval of the site-specific vesting plan;
      iii. The landowner failed to comply with any condition imposed upon the establishment of the site-specific development plan or Vested Rights Certificate; or
   d. Upon payment to the affected landowner of compensation for all costs, expenses, and other losses incurred by the landowner, including all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant fees incurred after approval of the certificate by the Town, together with interest at the legal rate until paid. Compensation shall not include any diminution in the value of the land which is caused by such action; or
   e. With the written consent of the affected landowner.
3. Upon enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the site-specific vesting plan, the Town Council may modify the affected provisions of the certificate by ordinance, if after conducting a hearing, it finds the changed conditions created by the change in the State or federal law have a fundamental effect on the site-specific vesting plan.

J. EXPIRATION

Unless terminated in accordance with Section 1.11.5, Termination of a Vested Right, a Vested Rights Certificate shall expire at the end of the term identified in the approval.

K. APPEAL

In accordance with Section 2.3.2B.2, Decisions by Town Council.

2.3.31 ZONING COMPLIANCE PERMIT

A. PURPOSE AND INTENT

The purpose of a Zoning Compliance Permit is to ensure no development occurs until there is assurance the development complies with the requirements of this Ordinance and all other applicable requirements.

B. APPLICABILITY

1. A Zoning Compliance Permit shall be required for development applications that are exempted from requirements to obtain a Building Permit, and the following:
   a. Erection or modification of a fence or privacy wall over 24 inches in height;
   b. Any change in principal use within an existing non-residential, multi-family, or mixed-use structure; or
   c. Land disturbing activities; or
2. In cases where a Building Permit is required, review for zoning compliance shall take place as a part of the review for the Building Permit application, and as a result, no Zoning Compliance Permit shall be required for developments subject to a Building Permit.

C. APPLICATION

1. Applications for a Zoning Compliance Permit shall include a generalized sketch of the development that identifies the lot lines and the outer extents of all of the following features (if present):
   a. Principal structure(s);
   b. Secondary structures (including those there on a temporary basis);
   c. Open-air uses of land;
   d. Required setbacks and allowable encroachments, if applicable;
   e. Existing potable water wells, septic tanks, drain fields, and reserve or back-up drain field locations;
   f. Required tree save areas;
   g. Required stormwater control measures;
   h. Any other features identified by the Planning Director as necessary for determining compliance with the requirements of this Ordinance; and
   i. Proposed uses, structures, or development activity associated with the Zoning Compliance Permit.
2. Sketches are not required to be professionally prepared, but must be drawn to scale.
3. Development activity associated with signage shall comply with the standards in Section 2.3.20, Sign Permit.
4. Establishment of a temporary use, structure, or activity shall comply with the standards in Section 2.3.25, Temporary Permit.
5. Applications for new development seeking to connect to public sewer shall include a wastewater allocation request completed in accordance with all Town requirements.

D. PROCESS TYPE

Type I (see Section 2.2.3, Process Diagrams).

E. REVIEW CRITERIA

A Zoning Compliance Permit shall be decided by the Planning Director in accordance with Section 2.4.7, Staff Review and Action, and the following:

1. All standards or conditions of any prior applicable permits and developments approvals;
2. Any applicable County, State, and federal requirements;
3. All applicable requirements of this Ordinance, the Town Code of Ordinances, and any applicable Town manuals or associated regulatory documents; and
4. Approval of the Zoning Compliance Permit does not require any reduction, deviation, or waiver not already approved by the Town.

F. SEQUENCE

A Zoning Compliance Permit application may be filed with or after any other application type except for a Building Permit or Certificate of Occupancy. Development subject to a Building Permit shall not require a Zoning Compliance Permit application.

G. AMENDMENT

Amendment of a Zoning Compliance Permit may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

H. EXPIRATION

1. A Zoning Compliance Permit shall expire and become null and void if the development it authorizes is not substantially commenced within six months of the permit issuance.
2. A Zoning Compliance Permit shall expire if work is discontinued for a period of 12 months after work has commenced.

I. VESTING

See Section 1.11.4C, Statutory Vested Rights.

J. APPEAL

In accordance with NCGS§160D-405, and Section 2.3.2, Appeal.

2.4 REVIEW PROCEDURES

2.4.1 OVERVIEW

A. This section describes the standard procedural steps and rules generally applicable to every development application reviewed under this Ordinance, except where identified in the particular application type in Section 2.3, Application Types.

B. Sub-sections are listed in chronological or sequential order as they relate to the application process rather than being listed in alphabetical order.

2.4.2 PURPOSE AND INTENT

This section establishes the procedures used by the Town for the processing of applications under this UDO. It is the intent of this section to establish a uniform set of processes to foster greater efficiency and predictability for applicants, residents, staff, and elected and appointed officials. The standards in this section are not intended as a substitute for the application of judgment or discretion by a review authority when necessary.

2.4.3 PRE-APPLICATION CONFERENCE

A. PURPOSE

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

B. APPLICABILITY

1. REQUIRED, OPTIONAL, OR NOT APPLICABLE

a. A pre-application conference is required before submittal of some applications, in accordance with Table 2.2.1, Application Types Table.

b. Pre-application conferences are optional while others do not have a pre-application conference associated with them, in accordance with Table 2.2.1, Application Types Table.

c. When a pre-application conference is not required, applicants may contact Town staff with questions about any development application procedure.

d. There are no limits on the number of pre-application conferences that may be conducted, though the Town may charge a pre-application fee for the third or any subsequent pre-application conference regarding the same project or development site.

C. DISCUSSIONS NON-BINDING

Discussions at a pre-application conference are not binding on the Town and do not constitute filing or review of an application.

D. SCHEDULING

Applicants for a pre-application conference may schedule the conference on the Town's webpage in accordance with Town policy.

E. SUBMITTAL REQUIREMENTS

1. Pre-application conferences for development applications that include a Site Plan, subdivision, or Concept Plan shall require the applicant to provide a generalized sketch of

the development as part of the request to schedule a pre-application conference. Generalized site sketches do not need to be professionally prepared, and are not required to be drawn to scale.

2. For other types of development applications, the applicant may submit supplemental information regarding their application, as appropriate, with their request for a pre-application conference, though there is no requirement to submit any material in advance of the conference.
3. Material submitted during a pre-application conference is a matter of public record but shall not be binding on the Town or an applicant.

F. PROCEDURE

1. Based upon the scope and complexity of the proposal, a pre-application conference may take the form of a telephone call, video conference call, or in-person meeting at Town Hall, as determined by the Planning Director.
2. The pre-application conference shall include a presentation of the proposal by the potential applicant, including an overview of any submitted materials.
3. Town staff will identify the relevant Town standards and applicable policy guidance, and will provide an overview of the appropriate application submittal and review process.
4. Pre-application conferences are conducted with some or all members of the Technical Review Committee, as determined by the Planning Director.

G. EXPIRATION

Applications subject to a mandatory pre-application conference shall be filed with the Town within six months of the conclusion of the pre-application conference or an additional pre-application conference shall be conducted.

H. EFFECT

1. When required, completion of a pre-application conference entitles an applicant to take the next step in the application process.
2. In cases where multi-part applications require more than one pre-application conference, an applicant may choose to conduct a single pre-application conference for all portions of a multi-part application or may choose to conduct individual pre-application conferences prior to filing of individual portions of the multi-part application.
3. Applications subject to a mandatory pre-application conference may not be filed until after the pre-application conference has been conducted.

2.4.4 NEIGHBORHOOD MEETING

A. PURPOSE

The purpose of the neighborhood meeting is to inform landowners and occupants of nearby lands about a development application that is going to be reviewed under this Ordinance, and to provide the applicant an opportunity to hear comments and concerns about the proposed development from landowners and occupants of nearby lands. It is not the intent of these standards to unreasonably delay or prevent an applicant from filing their development application.

B. APPLICABILITY

1. Neighborhood meetings are mandatory and shall be conducted by the applicant prior to filing any of the following types of applications:

a. Rezonings, conditional and conventional, which would establish a more dense or intense zoning district or when the Town is annexing land located outside its extraterritorial jurisdiction;
b. Street Renaming/Closures;
c. Special Use Permits; or
d. Variances.

2. Neighborhood meetings for any other kind of application identified in Table 2.2.1, Application Types Table, are optional. However, the Town Council may, by simple majority vote on a motion during a public hearing, require a neighborhood meeting to be conducted before rendering a decision on an application they are deciding.
3. In cases of a multi-part application that includes two or more portions each requiring a neighborhood meeting, only one neighborhood meeting shall be required prior to the filing of the initial portion of the application.

C. PROCEDURE

In cases when a neighborhood meeting is conducted, it shall comply with the following procedures:

1. TIMING

a. The meeting shall start between the hours of 6PM and 8PM on a weekday.
b. The meeting shall take place no less than ten days before the application is to be initially filed with the Town.

2. LOCATION

a. The neighborhood meeting shall take place in a location open to the general public that is as close as possible to the site where development is proposed.
b. In the event no suitable location open to the general public is available, the meeting may take place at a Town-owned or -operated site, subject to any Town requirements for its use.
c. Virtual neighborhood meetings may be conducted when conducted in a manner consistent with the Town's policies for virtual meetings.

3. NOTIFICATION

a. The applicant shall provide notification of the neighborhood meeting via first class mail to all landowners within 300 linear feet of the parcel(s) where development is proposed.
b. Mailed notice shall be provided no less than ten days prior to the date of the neighborhood meeting.
c. Landowners are advised that any required public notice of a subsequent development application will be provided in accordance with Section 2.4.8, Public Notice, which may be less than 300 feet from the parcel where development is proposed.
d. Multiple meetings may take place, but advance notification for each meeting shall be provided in accordance with this subsection.

4. INFORMATION PROVIDED

The applicant shall provide the following in the neighborhood meeting invitation:

a. The purpose of the meeting;
b. A description of the proposed development;
c. The time, date, and location of the meeting;

d. Telephone and email contact information for the applicant or applicant's representative; and

e. Any additional information that would promote understanding of the development proposal.

5. CONDUCT OF MEETING

At the meeting, the applicant shall explain the development proposal and the proposed application, respond to questions and concerns attendees raise about the application, and propose ways to resolve conflicts and concerns.

6. STAFF ATTENDANCE

Town staff shall not attend a neighborhood meeting in a professional capacity. Nothing shall limit a Town staff member from attending a neighborhood meeting as an interested citizen.

7. WRITTEN SUMMARY

The applicant shall submit a written summary of each neighborhood meeting, accompanied by copies of what was presented. At a minimum, the written summary shall include all of the following:

a. A list of all parties and mailing addresses who were mailed a meeting notice;

b. Written proof of mailing provided in accordance with Section 2.4.4C.3, Notification;

c. A copy of the meeting notice;

d. A sign-in sheet of meeting attendees; and

e. A list of the items discussed, including any questions posed by attendees and the answers provided.

2.4.5 APPLICATION FILING

A. AUTHORITY TO FILE APPLICATIONS

1. Unless expressly stated otherwise in this Ordinance, development applications reviewed under this Ordinance shall be filed by the landowner, a contract purchaser with the owner's consent, or other person having a recognized property interest in the land on which development is proposed with the owner's consent.

2. Some applications (e.g., conditional rezoning) must be filed by all landowners, as required in Section 2.3, Application Types.

3. Third-party applications to downzone land shall be prohibited.

B. APPLICATION FORMS

The Town shall establish development application forms, which shall be maintained by the Planning Director. Applications may only be completed on the forms provided by the Town.

C. APPLICATION FEES

1. The Town Council shall establish application fees in its Comprehensive List of Fees and Charges which may be updated at the sole discretion of the Town Council.

2. Full payment of the required application fees shall take place concurrent with filing the application.

D. FILING AND REVIEW SCHEDULE

Town policy documents shall contain the filing and review schedules for applications reviewed under this Ordinance. Copies of the application filing and review schedule shall be on file in the Planning Department.

E. APPLICATION FILING

1. An application shall not be considered submitted until it is determined to be complete in accordance with Section 2.4.5G, Determination of Application Completeness.
2. No application shall be reviewed or decided until after it is determined to be complete.
3. The provisions in Section 2.4.6, Permit Choice, shall only apply to applications that are complete.
4. Multiple concurrent applications may be filed and reviewed in accordance with Section 2.4.12, Simultaneous Processing.

F. BURDEN OF PRESENTING COMPLETE APPLICATION

The burden of presenting and maintaining a complete application shall be solely upon the applicant.

G. DETERMINATION OF APPLICATION COMPLETENESS

The Planning Director shall determine, within a reasonable period of time, whether an application is complete or incomplete. A complete application is one that:

1. Contains all information and materials identified in this Ordinance and all supporting documentation, as required for submittal of the particular type of application;
2. Is in the form and number of copies required by the Town;
3. Is legible and to scale, if including a plan or plat;
4. Is signed by the person(s) with the authority to file the application;
5. Includes information in sufficient detail to evaluate whether the application complies with the applicable review standards in this Ordinance;
6. Is accompanied by the required fee(s);
7. Occurs only after conduct of a pre-application conference if one is required;
8. Occurs only after conduct of a neighborhood information meeting if one is required; and
9. Is not subject to the limitations described in Section 2.4.15, Reconsideration of Denied Applications.

H. APPLICATION INCOMPLETE

1. If the application is incomplete, the Planning Director shall notify the applicant of the deficiencies in writing. The applicant may correct the deficiencies and resubmit the application for completeness determination in accordance with Section 2.4.5E, Application Filing.
2. Following receipt of a notice of application deficiency by the Planning Director, an applicant may revise and resubmit the application.
3. Failure of an applicant to submit missing or deficient portions of an application or file a written request to process the incomplete application within 60 days of delivery of a written notice of application deficiency shall render the application abandoned.
4. In no instance shall an application that is abandoned be considered a complete application subject to the protections described in Section 2.4.6, Permit Choice.

I. APPLICATION COMPLETE

1. On determining that the application is complete, it shall be considered as submitted, and the Town shall notify the applicant and commence review in accordance with the procedures and standards of this Ordinance.
2. Nothing shall preclude the Planning Director or a review authority from re-evaluating an application for completeness in the event application inadequacies are revealed at a date

subsequent to an application being declared complete. Such re-review shall not invalidate options or protections to a complete application extended under Section 2.4.6, Permit Choice.

2.4.6 PERMIT CHOICE

A. In cases where the applicable provisions of this Ordinance are amended between the time that an application is declared complete (see Section 2.4.5G, Determination of Application Completeness) and when it is decided, the applicant may choose which version of this Ordinance shall apply to their application, in accordance with NCGS§143-755.

B. The applicant's decision shall be final, and review under a different set of requirements may only be accomplished through a withdrawal and re-submittal of the application.

C. The application shall be processed in accordance with the newest regulations unless the applicant requests, in writing, to have the application processed in accordance with the rules in place at the time of the application.

D. In cases where an applicant has had an opportunity to exercise permit choice under this section, and subsequently places their application on hold, review of the application shall be discontinued, and the requirements in effect at the time application review recommences shall apply.

2.4.7 STAFF REVIEW AND ACTION

A. STAFF REVIEW

1. Applications shall be reviewed during the review cycle in place when the application is determined to be complete. Application review cycles are described in Town policy documents.
2. When an application is determined complete, it shall be distributed to all appropriate staff and review agencies for review and comment, and submitted for preparation of a staff report, in accordance with Town policy.
3. If deficiencies in complying with applicable standards of this Ordinance are identified, the designated Town staff member responsible for processing the application shall notify the applicant of such deficiencies and provide the applicant a reasonable opportunity to discuss them and revise the application accordingly.

B. STAFF REPORT AND RECOMMENDATION

1. The designated Town staff member responsible for reviewing the application shall prepare a written staff report on any application to be reviewed or decided by the Town Council or the Board of Adjustment.
2. A staff report is not required for applications decided by a member of Town staff or the Technical Review Committee, though one may be prepared.
3. The staff report shall conclude whether the application complies with all applicable review standards of this Ordinance and adopted policy guidance, and recommend one of the decisions authorized for the particular type of application, based on the applicable review standards, in accordance with Section 2.4.7D, Applications Subject to Decision by Town Staff.
4. The staff report shall not include a recommendation from Town staff on Variance, Special Use Permit, or Appeal applications.
5. In cases where the staff finds an application does not comply with the provisions of this Ordinance, the staff report shall cite the specific code section(s) in question and the reasons why the application fails to comply.

6. The staff report may identify and recommend modifications to the development proposal that specify how compliance deficiencies might be corrected and how adverse effects of the development application (if any) might be mitigated.
7. Staff reports prepared for Conditional Rezonings, Special Use Permits, Variances, and Vested Rights Certificates may suggest conditions of approval for consideration by the review authority making the decision on the application.

C. DISTRIBUTION OF APPLICATION AND STAFF REPORT

The designated Town staff member responsible for processing the application shall take the following actions within a reasonable period of time before the application is scheduled for review:

1. Schedule and ensure any required public notice of the application is prepared in accordance with Section 2.4.8, Public Notice;
2. Transmit the application, related materials, and staff report to the appropriate review authority(ies);
3. Transmit a copy of the staff report and any related materials to the applicant and the landowner, if different from the applicant; and
4. Make the application, related materials, and staff report available for examination by the public.

D. APPLICATIONS SUBJECT TO DECISION BY TOWN STAFF

1. In cases where a development application is decided by the Technical Review Committee, the Planning Director, or another designated Town staff member, the appropriate Town staff member shall make one of the following decisions in writing, based on the review standards set forth in Section 2.3, Application Types:
   a. Approve the application;
   b. Disapprove the application; or
   c. Delay decision making for a specified time to allow the applicant to revise the application for compliance with the requirements in this Ordinance.
2. In some instances, Town staff may decide an application contingent upon further revision by the applicant in accordance with the direction provided in the decision.

E. CONFLICT OF INTEREST

Town staff shall comply with all applicable provisions in Section 1.8.2B, Conflict of Interest.

2.4.8 PUBLIC NOTICE

A. PUBLIC MEETINGS DISTINGUISHED FROM PUBLIC HEARINGS

Applications subject to public hearings by the North Carolina General Statutes are required to provide public notice about the pending application to adjacent landowners in accordance with this section. Public meetings are not public hearings, and do not require the provision of individual public notice to adjacent landowners about a pending application in accordance with this section but must provide general notification about the meeting in accordance with NCGS§143-318.12 (the "open meetings" law).

B. PUBLIC HEARING SCHEDULING

When a development application is subject to a public hearing, the Planning Director, or a designee, shall ensure that the public hearing is scheduled for a regular meeting, or a meeting specially called for that purpose by the review authority.

C. PUBLIC NOTIFICATION REQUIREMENTS

1. All development applications subject to public notification shall comply with the appropriate standards in NCGS§§160D-406, 160D-601, 160D-602, 160D-1005, and other applicable sections of the North Carolina General Statutes.
2. Table 2.4.8, Public Notification Requirements, summarizes the requirements for public notice, but in the event of a conflict with State law, State law shall prevail.
3. In computing the required time periods, the day the notice is published, mailed, or posted shall not be included, but the day of the hearing shall be included.

TABLE 2.4.8: PUBLIC NOTIFICATION REQUIREMENTS

Type of Development Application	Type of Public Notification Required (R=Required)		
	Published [1]	Mailed [2]	Posted [3]
Annexation	R	R	R
Appeal	·	R [4]	R
Development Agreement	R	R	R
Rezoning	R [5]	R	R
Special Use Permit	·	R	R
Street Renaming / Closure	R [6]	R [7]	R [8]
Text Amendment	R	·	·
Variance	·	R	R

NOTES:
[1] Notice shall be published once a week for two successive calendar weeks with the first notice published no more than 25 day nor less than 10 days before the public hearing.
[2] Notice shall be mailed to the applicant, affected property owners, and property owners of abutting land between 10 and 25 days before the public hearing.
[3] Notice shall be posted between 10 and 25 days before the public hearing.
[4] Mailed notice shall only be required in cases where the appeal pertains to a particular property.
[5] In the case of large-scale rezonings of 50 or more different landowners, mailed notice only provided to landowners residing outside the area of published notice circulation in accordance with NCGS§160D-602(b).
[6] Published notice for street abandonment shall be provided once per week for 4 weeks before the hearing.
[7] Mailed notice shall be provided between 10 and 25 days before the first public meeting to all landowners with land abutting the street and the NCDOT.
[8] Posted notice shall be provided in at least two locations along the street no less than 10 days before the hearing.

D. PUBLISHED NOTICE REQUIREMENTS

When the North Carolina General Statutes require that public notice be published, the Town staff member responsible shall publish a notice in a newspaper that is regularly published at least one time per week for two successive weeks in a newspaper that has general circulation in the Town.

E. MAILED NOTICE REQUIREMENTS

When the North Carolina General Statutes require that public notice be mailed, mailed notice shall be provided in accordance with the following:

1. The Town shall prepare the required mailed notice.
2. Mailed notice shall be provided to the last known address (as listed in County tax records) for each of the following:
   a. The landowner;
   b. The applicant, if different from the landowner;
   c. Landowners of properties adjacent to the land that is the subject of the application, but also located across a street, railroad, or other transportation corridor; and
   d. Any others who are entitled to receive mailed notice in accordance with NCGS§160D-602.
3. Notice shall be deemed mailed by its deposit in the United States first class mail, properly addressed, postage paid. The content and form of the notice shall comply with Section 2.4.8G, Notice Content.
4. The Town may, on a case-by-case basis, and in the sole discretion of the Town, provide additional mailed notice above and beyond the minimum statutory requirements. The Town is under no obligation to provide any additional notice beyond that specified by the General Statutes, and failure of the Town to provide mailed notice beyond that required by State law shall not impair the notice provided or invalidate the proceedings.
5. A copy of the mailed notice, the list of landowners receiving notice, and a certification of mailing by the Town staff member responsible shall be maintained in the offices of the Planning Department for public inspection during normal business hours.
6. Mailed notice shall not be required when a rezoning includes more than 50 lots or tracts owned by at least 50 different landowners, provided the Town publishes a map (occupying at least ½ of a newspaper page) showing the boundaries of the affected area in a newspaper of general circulation once a week for two successive calendar weeks between 10 days and 25 days before the public hearing. Affected landowners residing outside the newspaper circulation area shall be notified via first class mail pursuant to Section 2.4.8E, Mailed Notice Requirements.

F. POSTED NOTICE REQUIREMENTS

When the North Carolina General Statutes require that public notice be posted, the Planning Director or a designee shall provide the required posted public notice in accordance with the following:

1. A sign (or signs) shall be placed on the subject property in a conspicuous location so as to be clearly visible to the traveled portion(s) of the respective street(s).
2. Where the land subject to the notice does not have frontage on a public street, the sign shall be erected on the nearest street right-of-way.

G. NOTICE CONTENT

Unless expressly indicated otherwise by the North Carolina General Statutes, all notices by mail, posting, or publication shall:

1. Identify the date, time, and place of the public hearing;
2. Describe the land involved by parcel identification number (PIN), street address, or by its relationship to a fronting street and the nearest cross street (if applicable);
3. Describe the nature and scope of the proposed development or action; and
4. Identify the means to contact a Town official for further information.

H. CONSTRUCTIVE NOTICE

1. Minor defects in any notice shall not impair the notice or invalidate proceedings if a bona fide attempt is made to comply with applicable notice requirements. Minor defects in notice may include, but are not limited to:
   a. Errors such as landowner name, title, or address existing in the County tax listing; or
   b. Typographical or grammatical errors that do not impede communication of the notice to affected parties.
2. Failure of a party to receive written notice shall not invalidate subsequent action. A posted notice that becomes no longer visible due to weather, theft, or other unintended circumstances shall not invalidate proceedings if a bona fide attempt is made to comply with applicable posted notice requirements. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a public hearing and the location of the subject property shall be strictly adhered to.

2.4.9 PUBLIC HEARINGS AND MEETINGS

A. HEARINGS DISTINGUISHED

Public hearings identified in this Ordinance shall be either legislative or evidentiary (quasi-judicial) in nature.

B. LEGISLATIVE PUBLIC HEARINGS

Table 2.2.1, Application Types Table, identifies the kinds of development applications decided following completion of a legislative public hearing, which shall be conducted in accordance with the following requirements:

1. PROCEDURE

a. Legislative public hearings shall not be conducted until after provision of required public notice in accordance with Section 2.4.8, Public Notice.
b. The legislative public hearing shall be open to the public and shall be conducted in accordance with the review authority's adopted rules of procedure for public hearings.
c. Attendees shall be afforded the opportunity to comment during a public hearing, as authorized in the adopted rules of procedure.

2. VOTING

a. The review authority shall consider the application, relevant support materials, staff report, any recommendations, and public comments. After the conclusion of the public hearing, it shall make one of the decisions authorized for the particular type of application based on the review standards applicable to the application type, as set forth in Section 2.3, Application Types.
b. A review authority member shall not vote on an application if there is a conflict of interest in accordance with Section 1.8.2B, Conflict of Interest.
c. A decision of the review authority on an application considered during a legislative public hearing shall be decided by a simple majority of the review authority members, excluding any members who are recused from voting due to a conflict of interest.

3. APPLICATION REVISION

a. Except in cases where an applicant has compelled the Town staff to process an incomplete application, an applicant may revise an application during a legislative public hearing in response to recommendations or suggestions of the public, the Town staff, or a review authority.

b. In cases where a substantial change to an application is proposed following review by a prior review authority, the review authority deciding the application shall determine if the prior review authority needs to re-review the application before a decision can be made.

c. The Town may provide additional public notice related to revision of an application on a case-by-case basis but is under no legal requirement to provide additional notice in cases where applications are revised in accordance with this section.

d. The review authority deciding the application may approve an application modified during a legislative public hearing provided that all changes are properly identified in the motion of approval and that any conditions of approval are consented to, in writing, by the applicant.

e. In cases where an application has been modified during a legislative public hearing, the applicant shall submit any necessary plans or other documents depicting the modification to the appropriate Town staff before notice of decision is provided.

4. REMAND

A review authority may remand the application to a prior review authority or Town staff for further consideration of new information or specified issues or concerns, if appropriate.

5. RECORD

a. A recording may be made of all public hearings and if made, the recordings shall be maintained in accordance with Town policy.

b. Accurate minutes shall be kept of all proceedings, but a transcript need not be made.

C. EVIDENTIARY PUBLIC HEARINGS

Table 2.2.1, Application Types Table, identifies the kinds of development applications decided following an evidentiary public hearing, which shall be conducted in accordance with State law, the review authority's rules of procedure, and the following requirements:

1. NOTICE REQUIRED

Evidentiary public hearings shall not be conducted until after the provision of required public notice in accordance with Section 2.4.8, Public Notice.

2. OPPORTUNITY TO PRESENT TESTIMONY AND EVIDENCE

a. The applicant, the Town, and any party with standing shall be afforded a reasonable opportunity to present testimony and evidence in support of or in opposition to the application, and to ask questions of or cross examine the applicant, the applicant's representatives, anyone providing testimony during the hearing, Town staff, and the Town staff's representatives.

b. Determinations of standing shall be in accordance with NCGS§§160D-406(d) and 160D-1402(c).

3. LIMITATION ON EVIDENCE

a. The Chair or other presiding officer may limit or exclude incompetent evidence, immaterial evidence, repetitive evidence, and personal attacks.

b. Decisions shall not be based upon hearsay evidence though such evidence may be entered into the record.

c. Only evidence presented during the public hearing may be relied upon in deciding the application.

4. EX PARTE COMMUNICATION

Ex parte communications between an applicant or an affected party and a member of the review authority are prohibited. If it occurs, it shall be disclosed during the evidentiary public hearing.

5. VOTING

a. GENERALLY

The review authority shall consider the application, relevant support materials, staff report, any recommendations, and public comments. After the conclusion of the public hearing, it shall make one of the decisions authorized for the particular type of application based on the review standards applicable to the application type, as set forth in Section 2.3, Application Types.

b. CLEARLY STATE FACTORS FOR DECISION

Unless stated otherwise in this Ordinance, the decision shall reflect the review authority's determination of any contested facts and their application to the applicable standards.

c. CONFLICTS OF INTEREST

A review authority member shall not vote on an application if there is a conflict of interest in accordance with Section 1.8.2B, Conflict of Interest.

6. APPLICATION REVISION

a. An applicant may revise an application during an evidentiary public hearing in response to recommendations or suggestions of the review authority, Town staff, or the public.

b. The review authority may approve an application modified during an evidentiary public hearing provided all changes are properly identified in the motion of approval by the review authority and that any conditions of approval are consented to, in writing, by the applicant.

c. In cases where an application has been modified during an evidentiary public hearing, the applicant shall submit any necessary plans or other documents depicting the modification to the appropriate Town staff before notice of decision is provided.

7. DELAY OF DECISION

The review authority may delay a decision on the application if additional information is requested of the applicant.

8. RECORD

a. A recording may be made of all public hearings and if made, the recordings shall be maintained in accordance with Town policy.

b. Accurate minutes shall be kept of all proceedings, but a transcript need not be made.

D. PUBLIC MEETINGS

Review of applications by the Technical Review Committee, Planning Board, and Town Council where public notice is not required shall be considered during public meetings not public hearings. Public meetings shall be conducted in accordance with the review authority's rules of procedure and the following requirements:

1. PROCEDURE

a. Public meetings shall require public notification of the meeting in accordance with NCGS§143-318.12 but shall not require public notice of individual applications to adjacent landowners.

b. The Town may choose, on a case-by-case basis, and in the sole discretion of the Town, to provide public notice of a public meeting to adjacent landowners in accordance with Town policy. The Town shall be under no legal requirement to provide public notice of a public meeting to adjacent landowners, and failure to do so shall not invalidate the proceedings.

c. The public meeting shall be open to the public and shall be conducted in accordance with the review authority's adopted rules of procedure for public meetings.

d. There is no requirement to allow public comment or testimony during a public meeting, though it may be provided at the Chair or other presiding officer's discretion.

2. VOTING

a. A decision of a review authority during a public meeting shall be decided by a simple majority of the members present and voting.

b. A review authority member shall recuse themselves from voting on an application when there is a conflict of interest in accordance with Section 1.8.2B, Conflict of Interest.

2.4.10 CONDITIONS OF APPROVAL

A. Conditions shall be limited to those that address conformance of development and use of the site with Town regulations and adopted plans and that address the impacts reasonably expected to be generated by the development or use of the site.

B. Conditions shall be in writing and may be supplemented with text or plans and maps.

C. No condition shall be made part of the application which:

1. Specifies the ownership status, race, religion, or other characteristics of the occupants of housing units;
2. Establishes a minimum size of a dwelling unit;
3. Establishes a minimum value of buildings or improvements;
4. Excludes residents based upon race, religion, or income; or
5. Obligates the Town to perform in any manner relative to the approval of the application or the development of the land.

D. In no instance shall any of the following standards in this Ordinance be waived, reduced, or made less restrictive as part of an application:

1. Any of the applicable overlay district standards in Section 3.7, Overlay Zoning Districts;
2. The maximum allowable residential density, unless subject to an authorized incentive permitted under this Ordinance;
3. The signage standards in Section 6.13, Signage, unless part of Alternative Sign Plan; and
4. Technical requirements associated with public infrastructure.

E. All conditions of approval shall be consented to, in writing, by all owners of land or applicants subject to the conditions prior to delivery of a notice of decision (see Section 2.4.11, Written Notice of Decision).

F. All conditions of approval shall be identified in the approval, the notice of decision, and on any associated plans or plats.

G. Any condition of approval approved by the Town and the applicant shall become a part of the application approval and the applicant, landowner, or subsequent assign shall remain subject to its terms and requirements.

2.4.11 WRITTEN NOTICE OF DECISION

A. CONTENT

The notification of a decision on a development application shall be issued in the name of the applicant or applicant's agent, as appropriate, directed to the address(es) identified in the application materials, and shall identify the following:

1. The land or matter subject to the application;
2. A reference to any approved plans, as appropriate;
3. The approved use(s), if any; and
4. Any conditions of approval or other applicable requirements.

B. TIMING

The Planning Director shall provide the applicant written notification of a decision or action within a reasonable time after a final decision on a development application has been made.

C. COPY OF DECISION

1. In addition to providing the notification of a decision on an application to an applicant, the Planning Director shall make a copy of the decision available to anyone who submits a written request prior to the issuance of the decision.
2. The Planning Director shall also make a copy of the notice of decision available to the public in the Town offices during normal business hours.

2.4.12 SIMULTANEOUS PROCESSING

A. Whenever possible, the Town shall process related development applications (e.g., a Site Plan, a Zoning Compliance Permit, and a Building Permit) simultaneously or concurrently.

B. Generally speaking, establishment of an appropriate zoning designation is a prerequisite to other related application types. A request for variation, deviation, reduction, or adjustment from required standards is a prerequisite to development plan approval. Plan approval is a prerequisite to Building Permit approval.

C. In the event a permit or development approval is a prerequisite to another permit or development approval (e.g., Administrative Adjustment or Variance approval prior to a Site Plan approval), a decision on the dependent application may not take place until all prerequisite approvals are obtained.

D. Approval of one development application does not guarantee approval of any subsequent required development application.

2.4.13 PHASED DEVELOPMENT

Nothing shall prohibit the construction of development in phases, sections, or portions, provided the development complies with the following:

A. Applications associated with phased development shall include plans that clearly identify each phase, the location and extent of each phase boundary, and the anticipated schedule of development (e.g., first phase, second phase, third phase, etc.). Construction Drawings submitted with a phase of a phased development shall be inclusive of all land within the phase.

B. Major subdivisions proposed to be phased shall be configured so that each phase includes at least the lesser of 15 lots or 50% of the land area within the phase. In no instance shall any individual phase include fewer than five lots.

C. Phased development may provide only the required public infrastructure or other required site features concurrently with the active phase(s) of the development.

D. Nothing shall limit the Town from requiring the establishment of public infrastructure or required site features in a physical location outside of the active phase(s) of development if such provision is necessary, in the sole discretion of the review authority, for the development to function as required.

E. Provision of a performance guarantee (see Section 2.3.19, Performance Guarantee) shall not be sufficient in cases where a review authority determines that required public infrastructure or required site features outside an active phase must be provided to ensure development functionality.

F. Each new phase shall be developed contiguous or adjacent to an earlier phase, to the maximum extent practicable.

2.4.14 CONTINUANCE, WITHDRAWAL, AND ABANDONMENT

An applicant may request that a review authority's consideration of a development application be continued or withdrawn by submitting a written request to the appropriate review authority.

A. PROCEDURE FOR CONTINUANCE OF APPLICATIONS SUBJECT TO A PUBLIC HEARING

1. In cases where an applicant seeks a continuance of an application subject to a public hearing, but public notification of the hearing has not yet been provided, the Planning Director shall consider and decide the request.
2. If public notification of the pending public hearing has been provided in accordance with this Ordinance, the request for continuance shall be placed on the public hearing agenda and be considered by the review authority. Additional public notification may be required for a continued application.
3. A request for continuance may be approved in cases where the applicant needs additional time to prepare evidence, secure approval from outside agencies, bring the application into closer alignment with the Town's adopted policy guidance or the requirements of this Ordinance, or for good cause, as determined by the review authority.

B. WITHDRAWAL

1. An applicant may withdraw an application at any time following submittal of a signed request to withdraw the application.
2. If an applicant withdraws an application for the same land after public notification two times within a single calendar year, the same application may not be resubmitted for a period of one year from the date of the second withdrawal.
3. Application fees for withdrawn applications shall not be refunded.

C. ABANDONMENT

1. In cases where Town staff has notified the applicant in writing of a deficiency or a need for additional information in order to review or process an application and 60 days has lapsed with no response from the applicant, the application shall be considered abandoned, and the review process shall be halted.
2. Abandoned applications are considered withdrawn and shall be subject to the standards in Section 2.4.15, Reconsideration of Denied Applications.
3. Abandoned applications are returned to the applicant and application fees shall not be refunded.

2.4.15 RECONSIDERATION OF DENIED APPLICATIONS

A. LEGISLATIVE DECISIONS

If a development application requiring a legislative public hearing is denied, no application proposing the same or similar development on all or part of the same site shall be submitted within one year after the date of denial unless the review authority approves a reduction in this time limit. For the purposes of this section, "the same or similar development" shall mean:

1. The same use type(s) in the same approximate location(s) as the denied application; or
2. The same use type(s) in the same approximate building configuration (e.g., building height, floor area, massing) as the denied application.

B. QUASI-JUDICIAL DECISIONS

There is no time limit on resubmitting an application that is denied during an evidentiary public hearing provided that any subsequent application may not be similar or substantially similar to the application that was denied, in the sole discretion of the review authority responsible for the decision.

C. REDUCTION IN TIME LIMIT

The owner of land subject to this subsection, or the owner's authorized agent, may submit a written request for reduction of the time limit, along with a fee to defray the cost of processing the request, to the Planning Director, who shall transmit the request to the review authority. The review authority may grant the request only on a finding by two-thirds of its membership that the owner or agent has demonstrated that:

1. There is a substantial change in circumstances relevant to the issues or facts considered during review of the prior application that might reasonably affect the review authority's application of the relevant review standards to the development proposed in the new application; or
2. New or additional information is available that was not available at the time of review of the prior application and that might reasonably affect the review authority's application of the relevant review standards to the development proposed in the new application; or
3. The new application proposed to be submitted is materially different from the prior application; or
4. The final decision on the prior application was based on a material mistake of fact.

2.4.16 AMENDMENT OF APPROVED APPLICATION

Except for Conditional Rezonings and Special Use Permits, applications identified as available for amendment in Section 2.3, Application Types, shall only be amended in accordance with the standards in this section. Amendments to a development application approval shall be considered as minor modifications or major modifications, and must be considered in accordance with the following:

A. MINOR MODIFICATIONS

1. Subsequent plans and permits for development may include minor modifications provided the development continues to meet the minimum requirements of this section. Minor modifications are limited to changes that have no material effect on the character of the development or changes that address technical considerations that could not reasonably be anticipated at the time of the application approval.
2. The following minor modifications may be approved by the Planning Director, in consultation with other appropriate Town staff:

a. Changes to the location of entrances or driveways, the rearrangement of internal streets, turn lanes, drives, or access restrictions;
b. Changes to the configuration of parking areas, or an increase or decrease in the provided number of parking spaces by ten percent or less provided the use complies with the applicable off-street parking requirements;
c. Changes to the configuration or location of open space or placement of required amenities, provided the amount of open space (whether passive or active) is unchanged;
d. Changes to the configuration of landscape yards, including types of materials, provided minimum width and planting requirements are met;
e. Changes to the proposed building elevation or facade, including materials, provided that the change retains the same general architectural character and remains consistent with the design parameters established in the original approval; and
f. Changes to the arrangement or location of buildings provided there is no increase in the number of buildings, size, or amount of impervious surface.

3. In no instance shall a minor modification include any changes to the range of permitted uses or the overall density of the development.

B. MAJOR MODIFICATIONS

1. Changes that materially affect the basic configuration of the development, a condition of approval, or that exceed the scope of a minor change modification are considered major modifications.
2. Major modifications include, but are not limited to:
   a. Increases in building height;
   b. Changes in uses;
   c. Changes in density or intensity;
   d. Decreases in open space;
   e. 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); and
   f. Change in the location of any public easement.
3. Major modifications must be reviewed and considered only in accordance with the procedures and standards established for the original application approval.

2.4.17 EXPIRATION

A. Unless otherwise specified in Section 2.3, Application Types, application approvals issued under this Ordinance shall expire within one year of the written notice of decision if the work authorized has not been substantially commenced.
B. In the event the work authorized by an approval has substantially commenced, but has subsequently been delayed or failed to maintain substantial progress for a period of one year or more, the application approval shall expire in accordance with NCGS§160D-403(c).
C. The one-year period identified in this sub-section shall not include the period of time associated with litigation or appeal of an approval.
D. The duration of vested rights associated with an application approval shall be in accordance with Section 1.11, Vested Rights, unless otherwise stated in this Ordinance.

CHAPTER 3
DISTRICTS

3.1 Chapter Introduction 179
- 3.1.1 Chapter Organization 179
- 3.1.2 Districts Distinguished 179
- 3.1.3 Districts Established 180

3.2 Conventional Zoning Districts 182
- 3.2.1 (CRM) Corridor Commercial District 182
- 3.2.2 (CON) Conservation 184
- 3.2.3 (DTNC) Downtown Core 186
- 3.2.4 (DTNN) Downtown Neighborhood 190
- 3.2.5 (DTNT) Downtown Transitional 193
- 3.2.6 (HID) Heavy Industrial 196
- 3.2.7 (LID) Light Industrial 198
- 3.2.8 (MXD) Mixed-Use 200
- 3.2.9 (NCM) Neighborhood Commercial 202
- 3.2.10 (OFI) Office Institutional 204
- 3.2.11 (PUB) Public Facilities 206
- 3.2.12 (RHD) Residential High Density 208
- 3.2.13 (RLL) Residential Large Lot 212
- 3.2.14 (RLD) Residential Low Density 215
- 3.2.15 (RMD) Residential Medium Density 218
- 3.2.16 (RMF) Residential Multi-Family 222
- 3.2.17 (RUR) Rural 226

3.3 Conditional Zoning Districts 229
- 3.3.1 General Provisions 229
- 3.3.2 (CZC) Conditional Commercial 232
- 3.3.3 (CZD) Conditional Downtown 232
- 3.3.4 (CZI) Conditional Industrial 233
- 3.3.5 (CZM) Conditional Mixed-Use 234
- 3.3.6 (CZR) Conditional Residential 235

3.4 General Dimensional Standards 236
- 3.4.1 Maximum Residential Density May be Increased 236
- 3.4.2 Multiple Buildings or Structures on a Lot 236
- 3.4.3 Required Lot Configuration 236
- 3.4.4 Required Yards 238
- 3.4.5 Special Purpose Lots 238
- 3.4.6 Split Zoning 238
- 3.4.7 Unified Development 238

3.5 Incentives and Alternatives 239
- 3.5.1 Density 239
- 3.5.2 Dimensional Standards 239
- 3.5.3 Alternative Means of Compliance 239

3.6 Measurements and Exceptions 240
- 3.6.1 Purpose and Intent 240
- 3.6.2 Generally 240

3.6.3 Density & Yield Calculations 242
3.6.4 Height 244
3.6.5 Floor Area 245
3.6.6 Lot Coverage 245
3.6.7 Lots 246
3.6.8 Setbacks 249
3.6.9 Setback Encroachments 250
3.6.10 Slope and Elevation 254

3.7 Overlay Zoning Districts 255

3.7.1 Generally 255
3.7.2 FPOD Flood Protection Overlay District 255
3.7.3 GTOD Gateway Overlay District 265
3.7.4 LHOD Local Historic Overlay District 267
3.7.5 WPOD Watershed Protection Overlay District 268

3.8 Zoning Map 275

3.8.1 Generally 275
3.8.2 Incorporated by Reference 275
3.8.3 Interpretation of Map Boundaries 275
3.8.4 Revision 276

3.1 CHAPTER INTRODUCTION

3.1.1 CHAPTER ORGANIZATION

A. CONVENTIONAL ZONING DISTRICTS SECTION

1. Sections 3.2.1 through 3.2.17 include the detailed purpose statements, dimensional standards, and interpretive diagrams for each conventional zoning district listed in Table 3.1.3, Zoning Districts Established. The conventional zoning districts in these sections are listed in alphabetical order.
2. The black lettered circles included in each district's dimensional standards table correspond to the black lettered circles in the same district's interpretive diagram. An interpretive diagram is provided for common use types permitted within the conventional zoning district.
3. The interpretive diagrams are for illustrative purposes only. In cases of conflict between the text and a diagram, the applicable standards in Section 1.3, Conflict, shall govern.
4. The range of allowable principal use types for each zoning district is identified in Section 4.2.5, Listing of Common Principal Uses.
5. In cases where a conventional zoning district also includes unique district-specific standards that apply to all lands in that zoning district classification, the unique district standards are found on pages following the interpretive diagram.

B. CONDITIONAL ZONING DISTRICTS SECTION

Section 3.3, Conditional Zoning Districts, sets out the standards applicable to the conditional zoning districts listed in Table 3.1.3, Zoning Districts Established.

C. OVERLAY ZONING DISTRICTS SECTION

Section 3.7, Overlay Zoning Districts, sets out the rules for each of the overlay districts and how they interact with one another and the underlying conventional or conditional zoning districts.

D. MEASUREMENTS AND EXCEPTIONS SECTION

Section 3.6, Measurements and Exceptions, sets down general dimensional requirements applied to all uses in the Town's planning jurisdiction and the rules of measurement for lots, setbacks, height, slope, and other dimensional requirements. It also includes the provisions for exceptions from general dimensional requirements.

E. INCENTIVES AND ALTERNATIVES SECTION

This section includes cross references to other UDO provisions that allow applicants to exceed allowable residential densities or deviate from certain Ordinance requirements as part of providing preferred development forms, providing identified sustainable development features, or complying with voluntary guidelines.

F. ZONING MAP SECTION

Section 3.8, Zoning Map, establishes the Official Zoning Map, describes how it is updated and interpreted, how copies may be obtained, and recognizes other related maps such as the FIRM map.

3.1.2 DISTRICTS DISTINGUISHED

All land within the Town's planning jurisdiction shall be in one or more of the following types of zoning districts:

A. All land subject to these standards shall be classified into one of the conventional or conditional zoning districts identified in Table 3.1.3, Zoning Districts Established.

B. Land in any conventional or conditional zoning district may also be classified with one or more overlay zoning district designations.

C. In cases where land is within an overlay zoning district, the standards in the overlay district apply in addition to the standards governing development in the underlying conventional or conditional zoning district.

D. Conflicts between underlying and overlay zoning districts are addressed in accordance with Section 1.3, Conflict.

E. Land in the Town's planning jurisdiction shall be classified or reclassified into a conventional or conditional zoning district only in accordance with the procedures and requirements set forth in Section 2.3.6, Conditional Rezoning, or Section 2.3.8, Conventional Rezoning, as appropriate.

3.1.3 DISTRICTS ESTABLISHED

A. Table 3.1.3, Zoning Districts Established, sets out the conventional and conditional zoning districts established by this ordinance. Conventional zoning districts are organized into Residential, Non-residential, and Special district categories.

B. On January 2, 2024, land zoned with a zoning district classification from the previous Unified Development Code is translated or reclassified to one of the zoning districts set forth in this Ordinance. The table below summarizes this translation. For example, the table shows that all lands classified as R-E, Residential Estate in the previous Unified Development Code under the column named "Former Zoning Districts" are now classified RLL, Residential Large Lot, in this Ordinance as shown under the column titled "Zoning Districts in this Ordinance."

TABLE 3.1.3: ZONING DISTRICTS ESTABLISHED

Former Zoning Districts (from the Prior UDC)		Zoning Districts in This Ordinance	
Conventional Residential Zoning Districts			
N/A		RUR	Rural
R-E	Residential Estate	RLL	Residential Large Lot
R-10	Single-Family Residential 10	RLD	Residential Low Density
R-8	Single-Family Residential 8	RMD	Residential Medium Density
R-6	Single-Family Residential 6	RHD	Residential High Density
N/A		RMF	Residential Multi-Family
Conventional Non-residential Zoning Districts			
O-R	Office Residential	OFI	Office Institutional
O-I	Office Institutional		
B-1	Central Business [1]	DTNC	Downtown Core
N/A		DTNN	Downtown Neighborhood
N/A		DTNT	Downtown Transitional

TABLE 3.1.3: ZONING DISTRICTS ESTABLISHED

Former Zoning Districts (from the Prior UDC)		Zoning Districts in This Ordinance	
B-2	Neighborhood Business	NCM	Neighborhood Commercial
B-3	Highway Business	CRM	Corridor Commercial
I-1	Industrial Light	LID	Light Industrial
I-2	Industrial Heavy	HID	Heavy Industrial
Conventional Special Zoning Districts			
	N/A	CON	Conservation
PF	Public Facilities	PUB	Public Facilities
	N/A	MXD	Mixed-Use [1]
Conditional Zoning Districts [2]			
CZR	Residential Conditional	CZR	Conditional Residential
	N/A	CZM	Conditional Mixed-Use
	N/A	CZC	Conditional Commercial
	N/A	CZD	Conditional Downtown
CZI	Industrial Conditional	CZI	Conditional Industrial
Overlay Zoning Districts			
TOD	Thoroughfare Overlay District		N/A
WPO	Watershed Protection Overlay	WPOD	Watershed Protection Overlay
DOD	Downtown Overlay District		N/A
	N/A	FPOD	Flood Protection Overlay
	N/A	GTOD	Gateway Overlay
	N/A	LHOD	Local Historic Overlay (placeholder)

NOTES:
[1] The following parcels designated as B-1 prior to the effective date of this Ordinance shall be translated to the MXD district instead of the DTNC district: 16I02056D, 16I02009D, 16I02009D, 16I02009J, 16I02008P, 16I02008N, 16I02009E, 16I02049E, 16I02049Z, 16I02049Y,16I02049X, 16I02049W, 16I02049V, 16I02049U, 16I02049T, 16I02049S, 16I02049R, 16I02049Q, 16I02049P, 16I02049O,16I02049N, 16I02049M, 16I02049L, 16I02049K, 16I02049J, 16I02049I, 16I02049H, 16I02049G, 16I02049F, 16I02009H,16I02009F, 16I02009G, 16I02009I.
[2] Conditional zoning districts may be limited use (____CZ_-LU), limited standards (____CZ_-LS), or unlimited (____CZ_-UN).

3.2 CONVENTIONAL ZONING DISTRICTS

3.2.1 (CRM) CORRIDOR COMMERCIAL DISTRICT

A. CORRIDOR COMMERCIAL DISTRICT PURPOSE STATEMENT

The Corridor Commercial (CRM) District is applied to lots along the Town's major commercial roadways and major intersections like those found along Highway 70 and NC Highway 42. The district accommodates the widest range of commercial development types, including large floorplate shopping uses likely to generate significant amounts of traffic. Development in the CRM district tends to be low-rise single-use buildings configured for easy access by patrons travelling in automobiles. Development sites may be comprised of a mix of individual buildings on individual sites and multi-tenant, or multi-building developments organized into shopping center or campus-style developments located near major roadway intersections. In addition to commercial uses, the district also accommodates a wide range of office and institutional uses. Limited forms of residential, such as upper-story residential and live/work units, are permitted as part of mixed-use development. Public water and sewer service is required for new development, and uses in the district are subject to standards intended to ensure safe vehicular and pedestrian circulation, and that development is well landscaped and aesthetically pleasing.

B. CORRIDOR COMMERCIAL DISTRICT PREFERRED DEVELOPMENT FORMS

The following images are provided as example forms of allowable development and site configuration. These are provided for informational purposes only, and do not constitute a standard or requirement under this Ordinance. Conflicts between images and the text of this Ordinance are addressed in accordance with Section 1.3, Conflict.

Stand-alone commercial building



In-line shopping center



Shopping center with outparcels



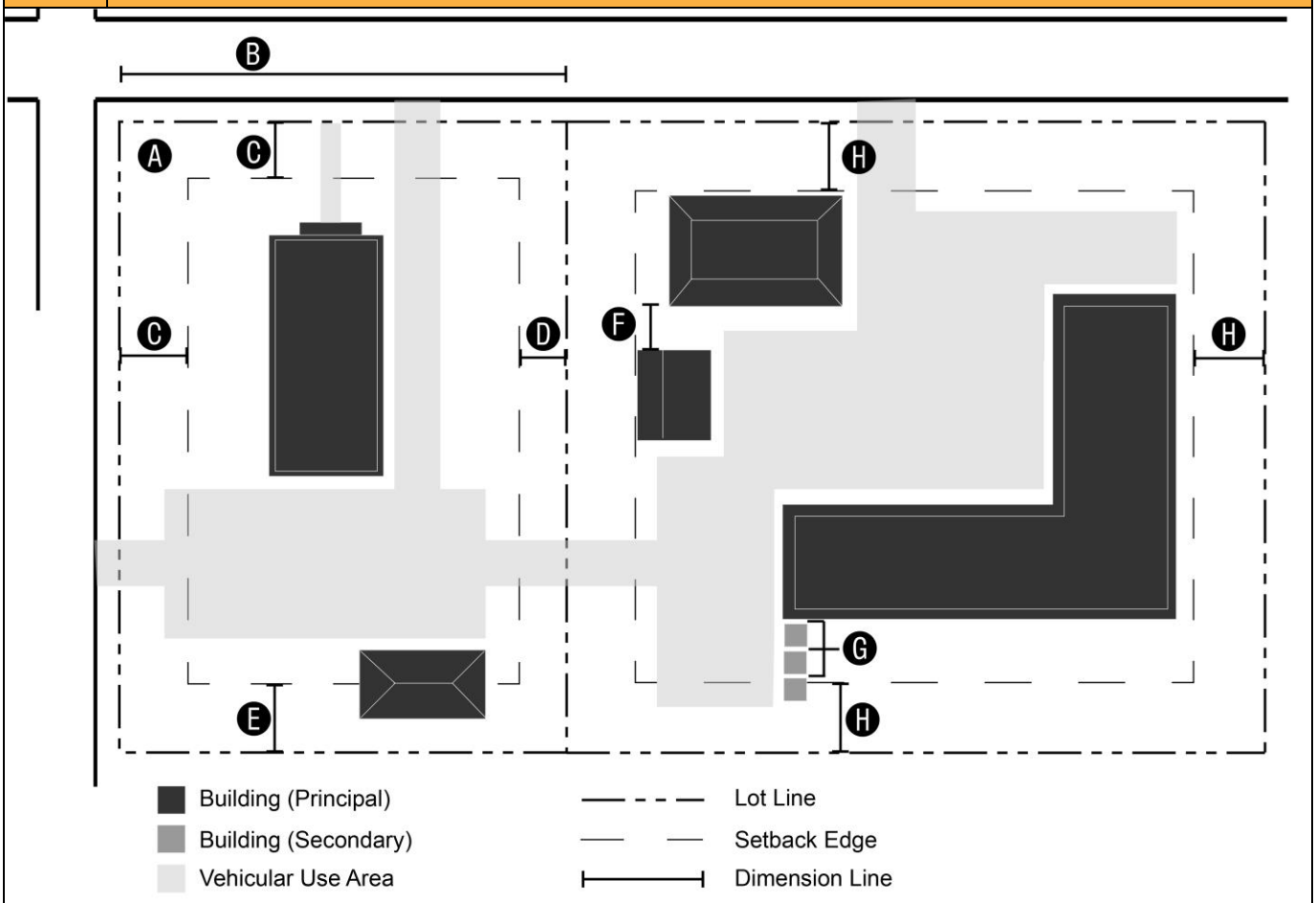
Mixed-use building



C. CORRIDOR COMMERCIAL DISTRICT DIMENSIONAL STANDARDS FOR ALLOWABLE USE TYPES

	Max. Residential Density (du/ac)	6.0	C	Min. Street Setback (ft) [3]	25
A	Min. Lot Area (sf)	8,000	D	Min. Side Setback (ft)	15
	Min. Lot Area with Residential Use (sf) [1]	20,000	E	Min. Rear Setback (ft)	30
B	Min. Lot Width (ft)	60		Min. Spacing Between Buildings (ft) [4]	
	Max. Lot Coverage (% of lot area)	75	F	Principal	20
	Min. Open Space Set-Aside (% of lot area) [2]	5	G	Secondary	5
	Max. Building Height (ft)	60	H	Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [5]	30

NOTES:
[1] Applied to entire development site, not to individual lots within a single development site.
[2] See Section 6.7, Open Space Set-Aside and Parkland, for the type of open space required.
[3] Applied from the edge of public street rights-of-way. Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if provided.
[4] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.
[5] Unified and multi-building developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.



3.2.2 (CON) CONSERVATION

A. CONSERVATION DISTRICT PURPOSE STATEMENT

The Conservation (CON) District is established to preserve and protect natural resources and areas of environmental concern (like the primary and secondary resource conservation areas). The district is intended to protect areas with steep slopes, wetlands, and riparian corridors from erosion and sedimentation; retain and protect environmentally-sensitive areas; protect archeological resources from disturbance; and preserve and maintain the aesthetic qualities and appearance of the Town. The district allows forestry, gardens, public parks, and land conservation activity along with typical secondary uses such as semi-pervious paving and storage. Campgrounds may be permitted as a special use. The district is not intended for athletic fields, courts, or any other features that require significant grading or alteration of existing landforms.

B. CONSERVATION DISTRICT PREFERRED DEVELOPMENT FORMS

The following images are provided as example forms of allowable development and site configuration. These are provided for informational purposes only, and do not constitute a standard or requirement under this Ordinance. Conflicts between images and the text of this Ordinance are addressed in accordance with Section 1.3, Conflict.

Aboretum



Boardwalk



Playground



Campground

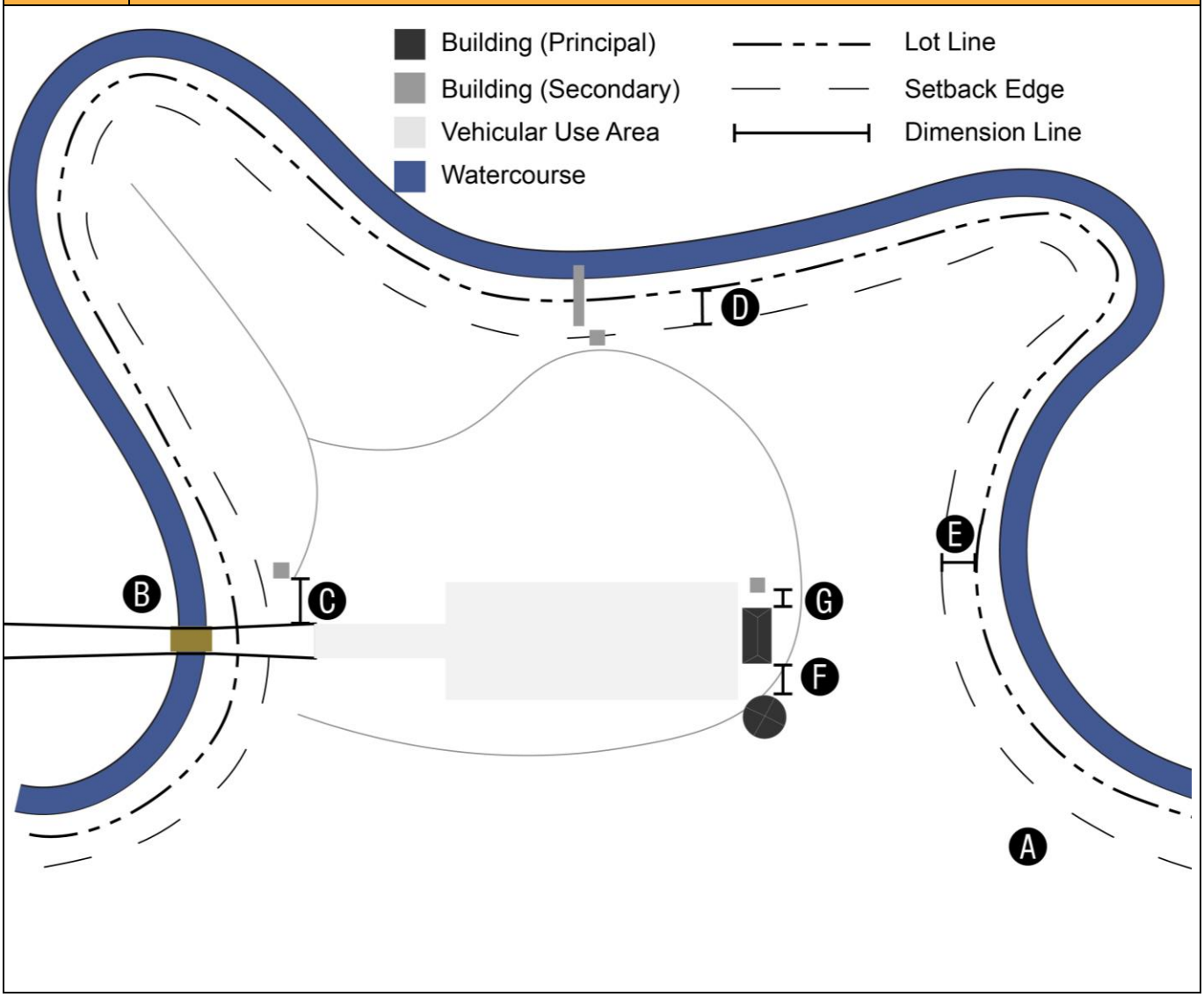


C. CONSERVATION DISTRICT DIMENSIONAL STANDARDS FOR ALLOWABLE USES

	Max. Residential Density (du/ac)	0.0	C	Min. Street Setback (ft) [1]	30
A	Min. Lot Area (sf)	N/A	D	Min. Side Setback (ft)	30
B	Min. Lot Width (ft)	N/A	E	Min. Rear Setback (ft)	30
	Max. Lot Coverage (% of lot area)	5		Min. Spacing Between Buildings (ft) [2]	
	Min. Open Space Set-Aside (% of lot area)	N/A	F	Principal	20
	Max. Building Height (ft)	12	G	Secondary	10
			H	Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [3]	40

NOTES:

[1] Applied from edge of public street rights-of-way. Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if provided.
[2] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.
[3] Unified and multi-building developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.



3.2.3 (DTNC) DOWNTOWN CORE

A. DOWNTOWN CORE (DTNC) DISTRICT PURPOSE STATEMENT

The Downtown Core (DTNC) district is the Town's central business district located on the blocks abutting Main Street in the center of Town. The district includes a wide array of allowable uses, including retail, entertainment, offices, institutional, and residential uses. Uses in the district are all served by public water and sewer and are located on small lots in close proximity to one another. The area is intended to serve residents and visitors with shopping, dining, entertainment, and recreation offerings for at least 18 hours a day. Buildings are typically two-to-four stories in height, located close to the street they front, and symmetrical in design. High quality design is used to preserve land use compatibility rather than large lots or deep landscaping buffers between different uses. The transportation network is a well-established rectilinear street grid network of uniform block sizes, through streets, and alleys. The district includes parks, sidewalks, on-street parking, and pedestrian amenities such as gathering spaces, outdoor dining and seating, and public art. The district is also the center of government and civic life with numerous public and institutional buildings. Emphasis is placed on quality development, pedestrian orientation, and human-scale development.

B. DOWNTOWN CORE (DTNC) DISTRICT PREFERRED DEVELOPMENT FORMS

The following images are provided as example forms of allowable development and site configuration. These are provided for informational purposes only, and do not constitute a standard or requirement under this Ordinance. Conflicts between images and the text of this Ordinance are addressed in accordance with Section 1.3, Conflict.



Mixed-Use Building



Live/Work Building



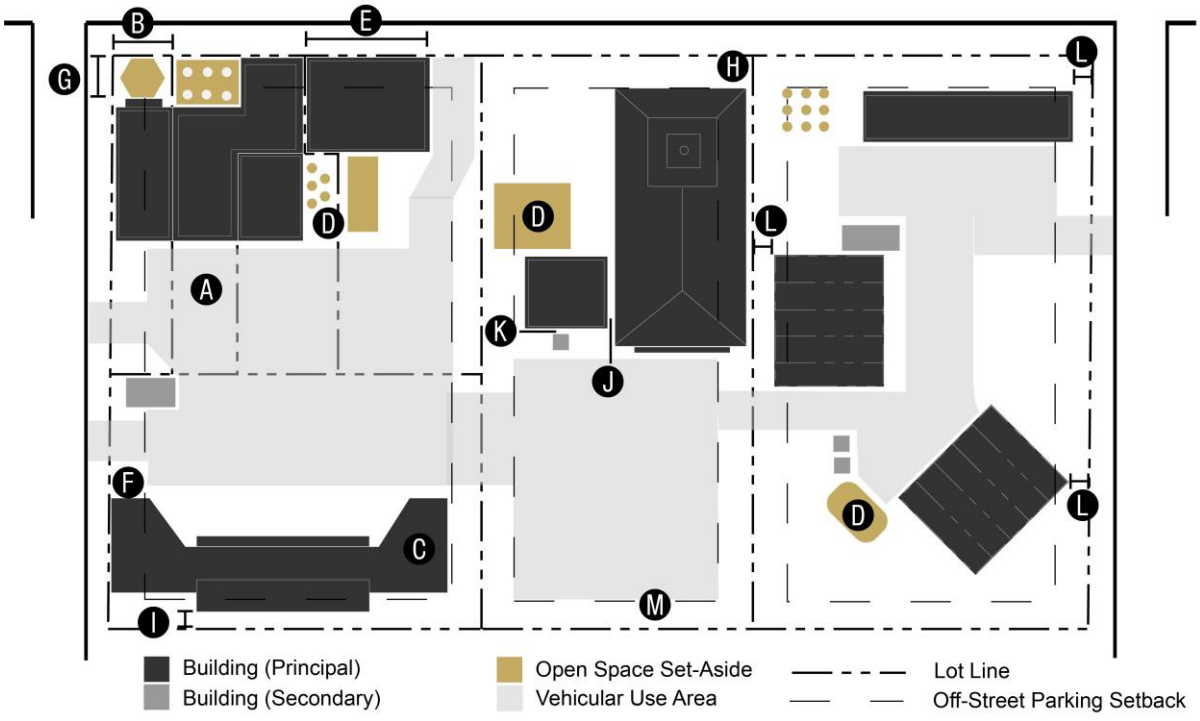
Commercial Building

C. DOWNTOWN CORE (DTNC) DISTRICT DIMENSIONAL STANDARDS

	Max. Residential Density (du/ac)	30.0	F	Min. Street Setback (ft) [9]	None
A	Min. Lot Area (sf)	None	G	Max. Street Setback (ft) [9]	0 [10]
B	Min. Lot Width (ft) [1] [2] [3]	20	H	Side Setback (ft) (Abutting DTNC district / Abutting other district) [11] [12] [13]	0/5
	Max. Lot Coverage (% of lot area)	100	I	Rear Setback (ft) (Abutting DTNC district / Abutting other district) [11] [12] [13]	0/10
C	Max. Building Size (sf) [4]	30,000		Min. Spacing Between Buildings (ft) [11]	
D	Min. Open Space Set-Aside (% of lot area) [5]	5	J	Between Principal Buildings [14]	3
	Min. Building Height (stories) [6]	2	K	Between Secondary and any other Building	3
	Max. Building Height (ft)	50	L	Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [15]	10
E	Min. Building Frontage (% of lot width) [7] [8]	75	M	Min. Off-Street Parking Setback (ft)	20

NOTES:

[1] Applied to the entire development site when buildings on individual lots have shared or party walls.
[2] Measured at the interior building setback line (not the "pole" portion of a flag lot).
[3] New blocks of lots with lot widths of less than 50 feet require the provisions of alleys.
[4] Applied to new commercial buildings only. Buildings on lots over five acres in area are exempt.
[5] See Section 6.7, Open Space Set-Aside and Parkland, for the type of open space required.
[6] At least two stories; but corner buildings shall maintain the same height as an adjacent building of more than two stories.
[7] Measured at inner edge of the street setback adjacent to the primary building facade. Only applied to the lot side adjacent to the primary building façade on corner or dual frontage lots.
[8] Gathering areas abutting the street right-of-way are credited towards building frontage requirements.
[9] Applied from the edge of public street rights-of-way (excluding alleys). Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if one is provided.
[10] Maximum street setback is applied only to the primary building façade and is zero feet. Primary building walls may be built to the edge of a gathering area located between the primary building wall and the street right-of-way.
[11] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.
[12] Not applied to lots lines adjacent to shared or party building walls.
[13] Not applied to multi-building and unified developments.
[14] Excludes buildings with shared or party walls.
[15] Unified and multi-building developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.



D. DOWNTOWN CORE (DTNC) DISTRICT-SPECIFIC STANDARDS

1. GROUND FLOOR CONFIGURATION

a. New mixed-use and non-residential structures shall be configured to comply with commercial building code requirements throughout the ground or street-level floor.

b. Except for buildings required to include ADA-accessible dwelling units, the portion of the building including the primary façade of the street-level ground floor shall be occupied by a non-residential use with a minimum depth equivalent to one-third of the building's total depth.

c. The rear two thirds of the street level floor of a building may be used for residential purposes in accordance with Section 4.2.5, Listing of Common Principal Uses.

d. In cases where a building is required to include ADA-accessible dwelling units, none of the street level floor area must be occupied by a non-residential use.

2. ON-STREET PARKING

On-street parking shall be provided in accordance with the Town's adopted policy guidance, but shall be limited to one side of the street.

3. FENCES AND WALLS

Fences and walls shall comply with the applicable requirements in Section 6.3, Fences and Walls, and the following:

a. Opaque fences and walls located within the off-street parking setback or between the front building façade plane and the street it faces shall maintain a maximum height of three feet or less.

b. Semi-opaque fences and walls located within the off-street parking setback or between the front building façade plane and the street it faces shall maintain a maximum height of four feet or less.

c. Opaque and semi-opaque fences and walls may maintain a maximum height of up to six feet in locations outside of the off-street parking setback and behind the front façade plane.

4. STREET TREES

Street trees shall be provided in accordance with Section 6.6.15, Street Trees, except that understory trees may be utilized instead of canopy trees in any location where overhead or underground utilities may be present.

5. LOT ACCESS

Corner lots shall not maintain direct vehicular ingress or egress to Main Street.

6. ZONING DISTRICT BOUNDARY CHANGES

The zoning district designation of land within a DTNC district may only occur in accordance with the Town's adopted policy guidance for the downtown, Section 2.3.6, Conditional Rezoning, or Section 2.3.8, Conventional Rezoning, and the following:

a. Applications seeking to establish DTNC on land shall be guided by the applicable future land use category on the future land use map in the 2045 Comprehensive Growth Plan, as amended by the Downtown Master Plan.

b. Applications seeking to alter a DTNC boundary shall be limited solely to those lots that abut or are adjacent to land within the DTNC district. Applications on lands not abutting or adjacent to DTNC will be required to demonstrate how the desired rezoning is both compelling and consistent with the public interest.

c. Nothing shall limit an applicant from filing a request to establish a DTNC-CZD conditional zoning district on land anticipated to be located within the DTNC district by the Town's adopted policy guidance.

d. Establishment of a conditional zoning district designation other than CZD within the area designated as downtown in the 2045 Comprehensive Plan may be requested but is unlikely to be approved.

3.2.4 (DTNN) DOWNTOWN NEIGHBORHOOD

A. DOWNTOWN NEIGHBORHOOD (DTNN) DISTRICT PURPOSE STATEMENT

The Downtown Neighborhood (DTNN) district boundary is depicted in the 2045 Comprehensive Growth Plan and includes three groups of neighborhood blocks located to the north and south of Main Street and surrounded on most sides by the Downtown Transitional (DTNT) district. The Downtown Neighborhood Transitional (DTNT) district is comprised of neighborhoods with mid-century and older single-family residential dwellings on contiguous lots around the downtown area. The DTNN district standards are configured to protect and maintain the established residential character of the neighborhoods with allowance for limited amounts of neighborhood-serving non-residential and institutional development, all on public water and sewer utilities. Buildings maintain a residential character and are commonly between one and two stories in height. Privacy fences and landscaping are common methods of maintaining land use compatibility between different lots. As with the other downtown districts, sidewalks, parks, and recreation features are distributed throughout the district. The transportation network continues the well-established rectilinear street grid network of uniform block sizes, through streets, and alleys found in the downtown core and transitional area.

B. DTNN DISTRICT PREFERRED DEVELOPMENT FORMS

The following images are provided as example forms of allowable development and site configuration. These are provided for informational purposes only, and do not constitute a standard or requirement under this Ordinance. Conflicts between images and the text of this Ordinance are addressed in accordance with Section 1.3, Conflict.



Single-Family Detached Dwellings



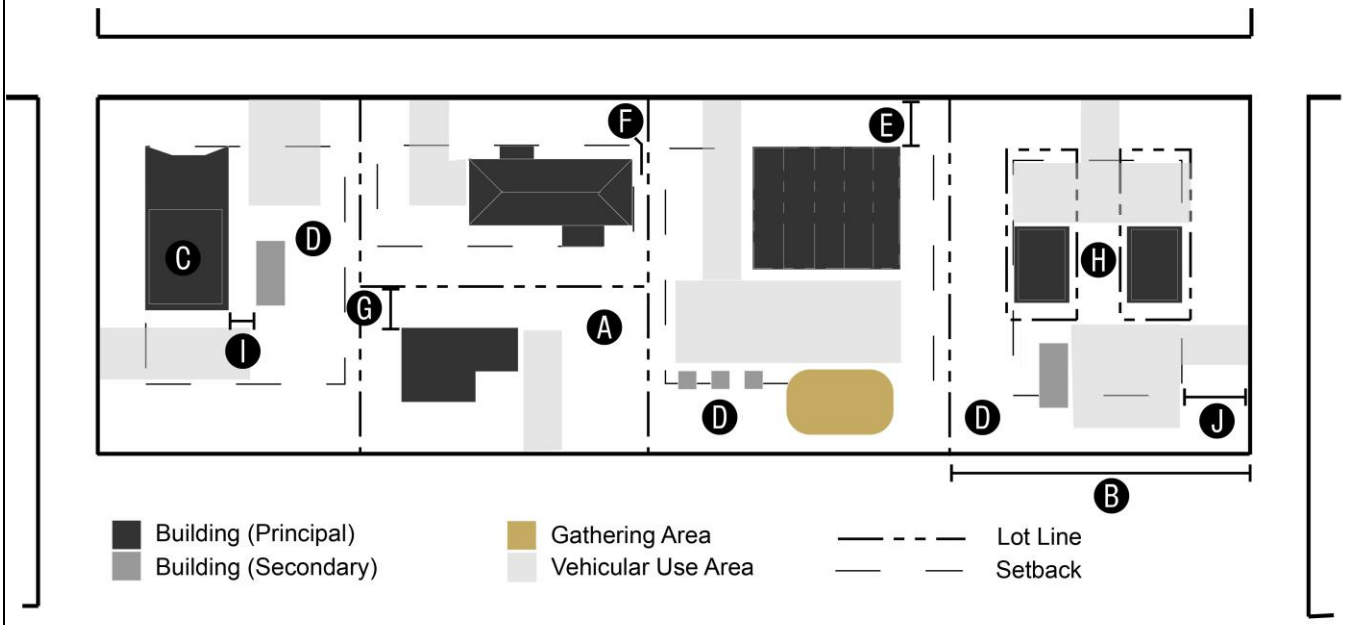
Live/Work Building

C. DOWNTOWN NEIGHBORHOOD DISTRICT DIMENSIONAL STANDARDS

	Max. Residential Density (du/ac)	9.0	E	Min. Street Setback (ft) [5]	20
A	Min. Lot Area (sf)	7,000		Max Street Setback (ft)	None
B	Min. Lot Width (ft) [1] [2]	50	F	Side Setback (ft) (Abutting DTNN district / Abutting other district) [6] [7] [8]	5/10
	Max. Lot Coverage (% of lot area)	60	G	Rear Setback (ft) (Abutting DTNN district / Abutting other district) [6] [7] [8]	20/25
C	Max. Building Size (sf) [3]	5,000		Min. Spacing Between Buildings (ft) [6]	
D	Min. Open Space Set-Aside (% of lot area) [4]	10	H	Between Principal Buildings [7]	20
	Min. Building Height (stories)	None	I	Between Secondary and any other Building	8
	Max. Building Height (ft)	35	J	Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [9]	30
	Min. Building Frontage (% of lot width)	None		Min. Off-Street Parking Setback (ft)	None

NOTES:

[1] Applied to the entire development site when buildings on individual lots have shared or party walls.
[2] Measured at the interior building setback line (not the "pole" portion of a flag lot).
[3] Applied to new commercial and institutional buildings only. Buildings on lots over five acres in area are exempt.
[4] See Section 6.7, Open Space Set-Aside and Parkland, for the type of open space required.
[5] Applied from the edge of public street rights-of-way (excluding alleys). Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if one is provided.
[6] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.
[7] Not applied to lots lines adjacent to shared or party building walls.
[8] Not applied to multi-building and unified developments.
[9] Unified and multi-building developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.



D. DOWNTOWN NEIGHBORHOOD (DTNN) DISTRICT-SPECIFIC STANDARDS

1. ON-STREET PARKING

On-street parking shall be provided in accordance with the Town's adopted policy guidance, but shall be limited to one side of the street.

2. STREET TREES

Street trees shall be provided in accordance with Section 6.6.15, Street Trees, except that understory trees may be utilized instead of canopy trees in any location where overhead or underground utilities may be present.

3. ZONING DISTRICT BOUNDARY CHANGES

The zoning district designation of land within a DTNN district may only occur in accordance with the Town's adopted policy guidance for the downtown, Section 2.3.6, Conditional Rezoning, or Section 2.3.8, Conventional Rezoning, and the following:

a. Applications seeking to establish DTNN on land shall be guided by the applicable future land use category on the future land use map in the 2045 Comprehensive Growth Plan, as amended by the Downtown Master Plan.

b. Applications seeking to alter a DTNN boundary shall be limited solely to those lots that abut or are adjacent to land within the DTNN district. Applications on lands not abutting or adjacent to DTNN will be required to demonstrate how the desired rezoning is both compelling and consistent with the public interest.

c. Nothing shall limit an applicant from filing a request to establish a DTNN-CZD conditional zoning district on land anticipated to be located within the DTNN district by the Town's adopted policy guidance.

d. Establishment of a conditional zoning district designation other than CZD within the area designated as downtown in the 2045 Comprehensive Plan may be requested but is unlikely to be approved.

3.2.5 (DTNT) DOWNTOWN TRANSITIONAL

A. DOWNTOWN TRANSITIONAL (DTNT) DISTRICT PURPOSE STATEMENT

The Downtown Transitional (DTNT) district boundary is depicted in the 2045 Comprehensive Growth Plan and includes the lots surrounding the Town's central business district along Main Street and lands surrounding the downtown core. The district provides a gradual transition in development densities and intensities from the downtown core to the surrounding lower-density neighborhoods and auto-oriented commercial uses along Highway 70. The district is a blend of moderate-to-high-density housing, mixed-uses, institutional development, and neighborhood-serving commercial in small footprint buildings. Uses in the district are found on lots of varying sizes, all served by public water and sewer service. Lots tend to be slightly larger than those found in the downtown core, and the district utilizes a blend of setbacks, architectural controls, and landscaping to protect land use compatibility. Buildings are typically one-to-three stories in height with moderate setbacks from the streets they front. Sidewalks, parks, and recreation features are distributed throughout the district. The transportation network continues the well-established rectilinear street grid network of uniform block sizes, through streets, and alleys found in the downtown core. Emphasis is placed on providing effective transitions between the dense downtown core and the neighborhoods found around the core.

B. DOWNTOWN TRANSITIONAL DISTRICT PREFERRED DEVELOPMENT FORMS

The following images are provided as example forms of allowable development and site configuration. These are provided for informational purposes only, and do not constitute a standard or requirement under this Ordinance. Conflicts between images and the text of this Ordinance are addressed in accordance with Section 1.3, Conflict.



Mixed-Use Building



Commercial Building



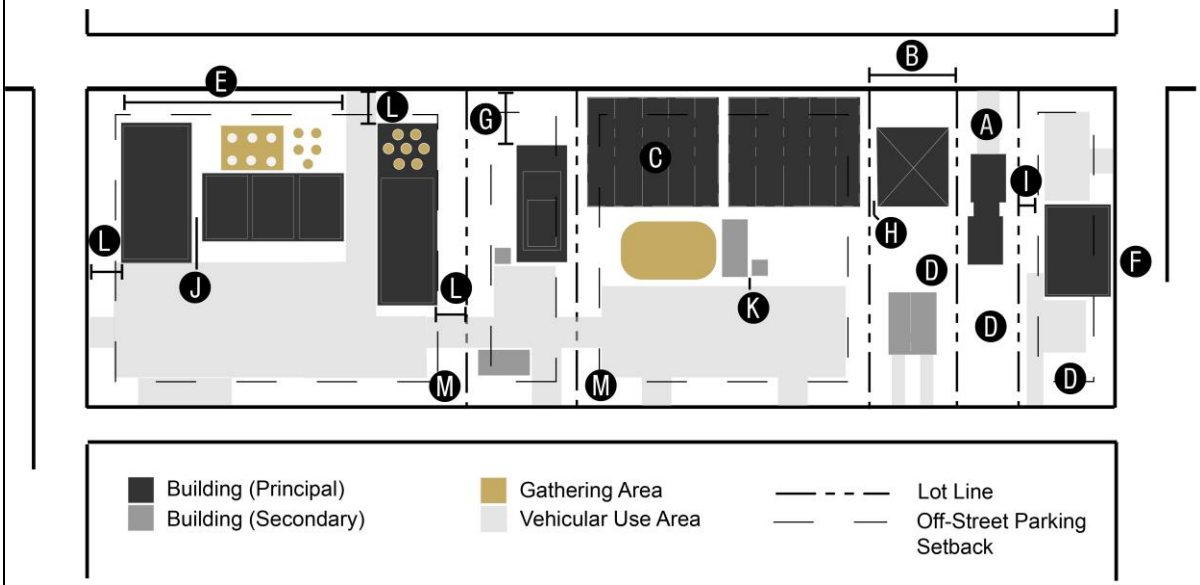
Single-Family Detached Building

C. DOWNTOWN TRANSITIONAL (DTNT) DISTRICT DIMENSIONAL STANDARDS

	Max. Residential Density (du/ac)	16.0	F	Min. Street Setback (ft) [8] [9]	None
A	Min. Lot Area (sf)	5,000	G	Max Street Setback (ft) [8] [10]	35
B	Min. Lot Width (ft) [1] [2] [3]	40	H	Side Setback (ft) (Abutting DTNT district / Abutting other district) [11] [12] [13]	5/6
	Max. Lot Coverage (% of lot area)	70	I	Rear Setback (ft) (Abutting DTNT district / Abutting other district) [11] [12] [13]	15/20
C	Max. Building Size (sf) [4]	7,000		Min. Spacing Between Buildings (ft) [11]	
D	Min. Open Space Set-Aside (% of lot area) [5]	7	J	Between Principal Buildings [14]	10
	Min. Building Height (stories)	2	K	Between Secondary and any other Building	5
	Max. Building Height (ft)	40	L	Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [15]	20
E	Min. Building Frontage (% of lot width) [6] [7]	55	M	Min. Off-Street Parking Setback (ft)	15

NOTES:

[1] Applied to the entire development site when buildings on individual lots have shared or party walls.
[2] Measured at the interior building setback line (not the "pole" portion of a flag lot).
[3] New blocks of lots with lot widths of less than 50 feet require the provisions of alleys.
[4] Applied to new commercial buildings only. Buildings on lots over five acres in area are exempt.
[5] See Section 6.7, Open Space Set-Aside and Parkland, for the type of open space required.
[6] Measured at inner edge of the street setback adjacent to the primary building facade. Only applied to the lot edge adjacent to the primary building façade on corner or dual frontage lots.
[7] Gathering areas abutting the street right-of-way are credited towards building frontage requirements.
[8] Applied from the edge of public street rights-of-way (excluding alleys). Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if one is provided.
[9] Primary building facades may abut the edge of a public street right-of-way unless off-street parking is proposed between the primary façade and the street it faces.
[10] Maximum street setback is applied only to the primary building façade. Primary building walls may be farther than 35 feet from the street, but must be built to the edge of a gathering area abutting the street right-of-way.
[11] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.
[12] Not applied to lots lines adjacent to shared or party building walls.
[13] Not applied to multi-building and unified developments.
[14] Excludes buildings with shared or party walls.
[15] Unified and multi-building developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.



D. DOWNTOWN TRANSITIONAL DISTRICT-SPECIFIC STANDARDS

1. ON-STREET PARKING

On-street parking shall be provided in accordance with the Town's adopted policy guidance, but shall be limited to one side of the street.

2. STREET TREES

Street trees shall be provided in accordance with Section 6.6.15, Street Trees, except that understory trees may be utilized instead of canopy trees in any location where overhead or underground utilities may be present.

3. ZONING DISTRICT BOUNDARY CHANGES

The zoning district designation of land within DTNT district may only occur in accordance with the Town's adopted policy guidance for the downtown, Section 2.3.6, Conditional Rezoning, or Section 2.3.8, Conventional Rezoning, and the following:

a. Applications seeking to establish DTNT on land shall be guided by the applicable future land use category on the future land use map in the 2045 Comprehensive Growth Plan, as amended by the Downtown Master Plan.

b. Applications seeking to alter a DTNT boundary shall be limited solely to those lots that abut or are adjacent to land within the DTNT district. Applications on lands not abutting or adjacent to the DTNT will be required to demonstrate how the desired rezoning is both compelling and consistent with the public interest.

c. Nothing shall limit an applicant from filing a request to establish a DTNT-CZD conditional zoning district on land anticipated to be located within the DTNT district by the Town's adopted policy guidance.

d. Establishment of a conditional zoning district designation other than CZD within the area designated as downtown in the 2045 Comprehensive Plan may be requested but is unlikely to be approved.

3.2.6 (HID) HEAVY INDUSTRIAL

A. HEAVY INDUSTRIAL (HID) DISTRICT PURPOSE STATEMENT

The Heavy Industrial (HID) district is established to provide industrial and similar high impact uses associated with manufacturing, energy production, and utilities. HID areas are typically found on larger lots in areas proximate to major roadways and rail access and located away from residential and environmentally sensitive areas. The district is intended to provide employment opportunities to Town residents and to help the community maintain a diversified tax base. Buildings tend to be large, single-story structures with a utilitarian design and very little architectural embellishment except for the ground-, wall-, and roof-based mechanical equipment and facilities associated with the industrial purpose of the site. Heavy industrial buildings are often surrounded by accessory activity areas such as bulk outdoor storage, trailer and container staging areas, typically surrounded by security fencing. District standards are intended to prevent the establishment of any use types that would interrupt or interfere with industrial operations. The district accommodates uses and activities with extensive movement of vehicles, materials, and goods, truck traffic and greater potential for adverse environmental and visual impacts on neighboring lands. The district also allows limited forms of heavier commercial uses as well as public safety and similar institutional use types, but lighter commercial and residential development are prohibited (except for caretaker quarters as an secondary use). Uses in the industrial district should include adequate setbacks from less intense land uses and methods for mitigating the impacts of noise, lighting, and dust such as extensive landscaping buffers or areas of undisturbed vegetation.

B. HEAVY INDUSTRIAL (HID) DISTRICT PREFERRED DEVELOPMENT FORMS



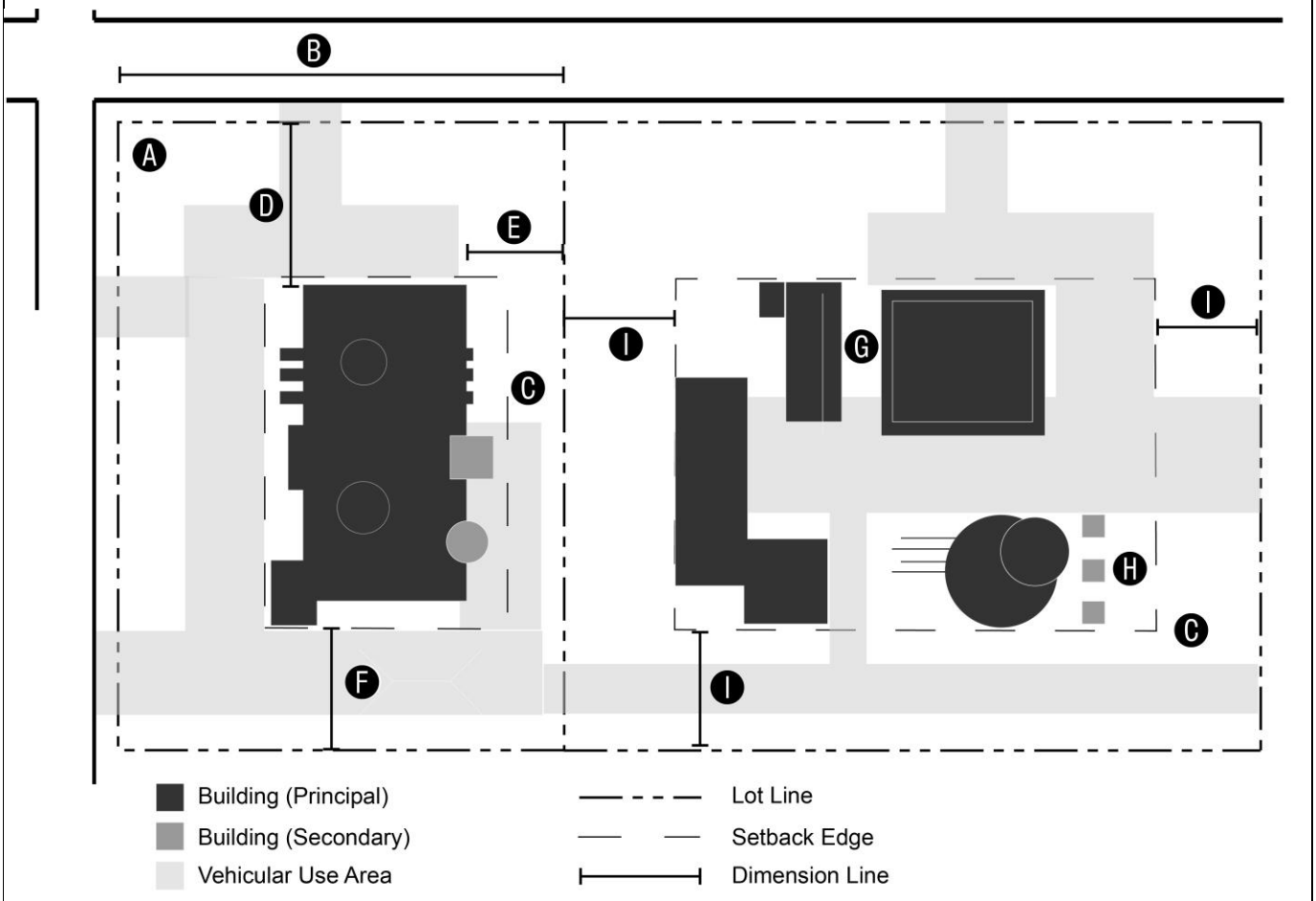


C. HEAVY INDUSTRIAL (HID) DISTRICT DIMENSIONAL STANDARDS

	Max. Residential Density (du/ac)	N/A	E	Min. Side Setback (ft) [3] [4]	20
A	Min. Lot Area (sf)	20,000	F	Min. Rear Setback (ft) [3] [4]	40
B	Min. Lot Width (ft)	100		Min. Spacing Between Buildings (ft) [5]	
	Max. Lot Coverage (% of lot area)	75	G	Principal	20
C	Min. Open Space Set-Aside (% of lot area) [1]	5	H	Secondary	0
	Max. Building Height (ft)	60	I	Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [6]	40
D	Min. Street Setback (ft) [2] [3]	50			

NOTES:

[1] See Section 6.7, Open Space Set-Aside and Parkland, for the type of open space required.
[2] Applied from the edge of public street rights-of-way. Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if provided.
[3] Setbacks applied equally to principal and secondary buildings and open use areas.
[4] Buildings are not required to be setback from rail siding or other active rail facilities serving the use even if located within required setbacks.
[5] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.
[6] Unified and multi-building developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.



3.2.7 (LID) LIGHT INDUSTRIAL

A. LIGHT INDUSTRIAL (LID) DISTRICT PURPOSE STATEMENT

The Light Industrial (LID) District accommodates a wide range of light industrial and commercial uses on lands well-served by public infrastructure, including water, sewer, and good transportation access. The district provides employment opportunities and contributes to the Town's non-residential tax base. Buildings tend to be one or two-story structures that are smaller than the buildings occupied by heavy industrial uses. Uses allowed in the district do not require large amounts of land or large building areas for operation nor large yard areas for isolation or protection from adjoining premises or activities. Buildings may be closer to streets and allow up to one row of off-street parking spaces between the primary building entrance(s) and the street it faces, though most parking is located to the side or rear of the principal building(s). Activities take place almost entirely indoors and result in minimal exterior movement of vehicles, materials, and goods in areas around the district. Buildings are situated so as to have minimal visual impacts and are well-screened from adjacent lots in lower intensity zoning districts with perimeter landscaping buffers. Compatibility with surrounding lower intensity uses and lots in lower intensity districts is addressed through community character standards applied to commercial and industrial uses. The LID district is suitable for light manufacturing and similar light industrial uses such as assembly, fabrication, processing, distribution, storage, and wholesales sale of finished or semi-finished products from previously prepared materials. The district also accommodates a wide variety of commercial use types as well as a limited array of institutional uses. Heavy industrial uses and uses with significant adverse impacts on adjoining lands, most forms of residential, and other low intensity uses are prohibited in the LID district.

B. LIGHT INDUSTRIAL (LID) DISTRICT PREFERRED DEVELOPMENT FORMS







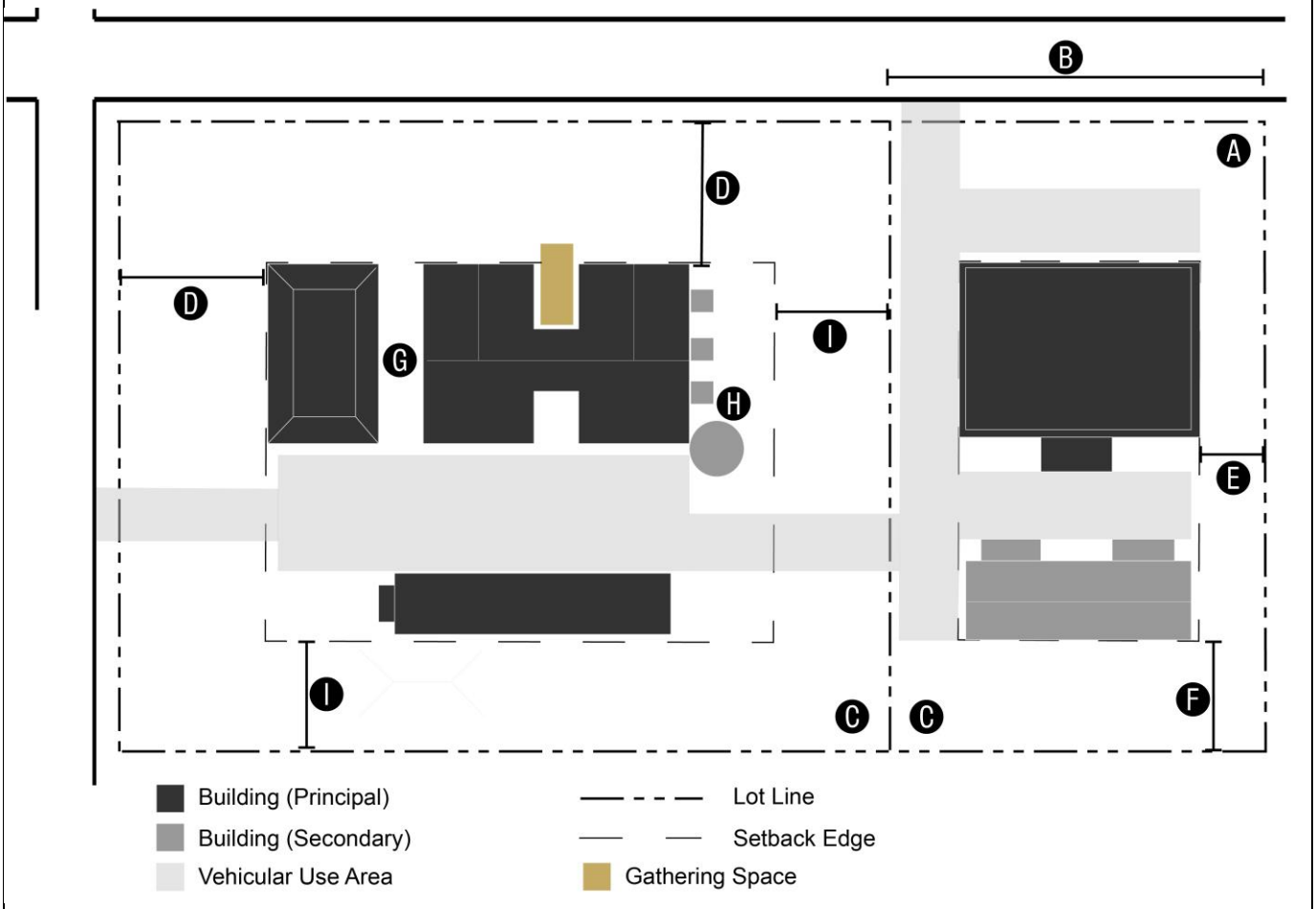


C. LIGHT INDUSTRIAL (LID) DISTRICT DIMENSIONAL STANDARDS

	Max. Residential Density (du/ac) [1]	N/A	E	Min. Side Setback (ft) [4] [5]	20
A	Min. Lot Area (sf)	20,000	F	Min. Rear Setback (ft) [4] [5]	40
B	Min. Lot Width (ft)	100		Min. Spacing Between Buildings (ft) [6]	
	Max. Lot Coverage (% of lot area)	75	G	Principal	20
C	Min. Open Space Set-Aside (% of lot area) [2]	7	H	Secondary	0
	Max. Building Height (ft)	50	I	Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [7]	50
D	Min. Street Setback (ft) [3] [4]	50			

NOTES:

[1] Live/work units are permitted at up to four units per acre.
[2] See Section 6.7, Open Space Set-Aside and Parkland, for the type of open space required.
[3] Applied from the edge of public street rights-of-way. Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if provided.
[4] Setbacks applied equally to principal and secondary buildings and open use areas.
[5] Buildings are not required to be setback from rail siding or other active rail facilities serving the use even if located within required setbacks.
[6] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.
[7] Unified and multi-building developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.



3.2.8 (MXD) MIXED-USE

A. MIXED-USE (MXD) DISTRICT PURPOSE STATEMENT

The Mixed-Use (MXD) District accommodates residential, institutional, and commercial land uses on lands well-served by public utilities. MXD areas are generally located adjacent to major streets and along primary transportation corridors. The district is intended to foster functional neighborhoods where Town residents and visitors can live, work, shop, and enjoy recreation without travelling large distances between differing uses. Buildings are built close to the sidewalk and close to one another or within pedestrian-oriented campuses without suburban-style setbacks and heavy landscaping areas between them. Developments incorporate public gathering areas that create places for people to congregate and interact. Off-street parking and service areas are located to the sides and rears of buildings to help ensure a continuity of building facades along street edges and to avoid areas that are unsafe or undesirable for pedestrians. Buildings range in height from one-to-three stories. The district encourages a fine-grained network of streets and pedestrian ways that allow a wide freedom of movement and choices in transportation mode. Live/work dwellings, upper-story residential units, and a variety of other residential developments are allowed, but the district does not permit single-family detached dwellings. The district accommodates a wide variety of commercial and institutional use types, as well as low-impact industrial uses like maker space. Ground-floor non-residential is encouraged but not required provided the ground floor is configured in accordance with non-residential building code requirements, and horizontally mixed uses (a blend of different use types in adjacent detached structures) is allowable but may be subject to maximum timeframes for establishment of use mixing by the Town.

B. MIXED-USE (MXD) DISTRICT PREFERRED DEVELOPMENT FORMS



Horizontal Mixed-Use



Vertical Mixed-use



Horizontal Mixed-Use



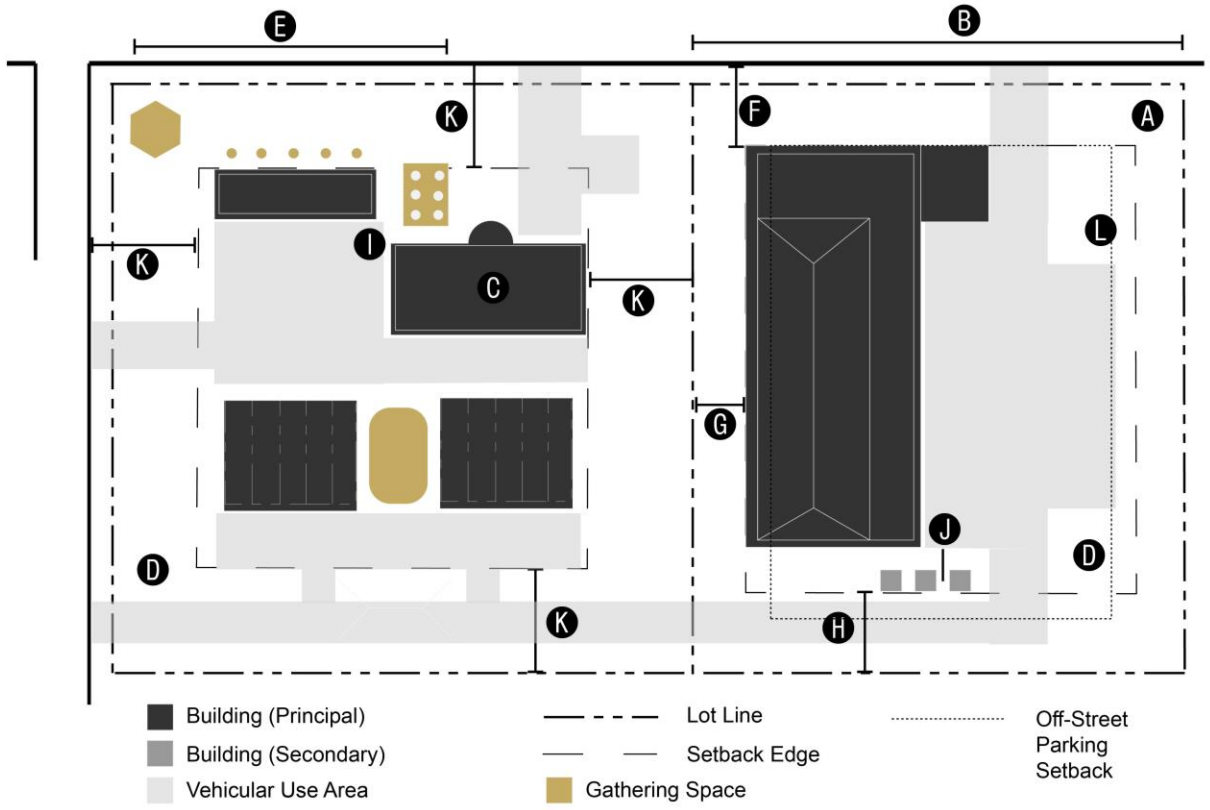
Vertical Mixed-Use

C. MIXED-USE (MXD) DISTRICT DIMENSIONAL STANDARDS

	Max. Residential Density (du/ac)	12.0	F	Min. Street Setback (ft) [10] [11]	20
A	Min. Lot Area (sf) [1]	4,000		Max Street Setback (ft)	None
B	Min. Lot Width (ft) [2] [3] [4]	40	G	Side Setback (ft) [12] [13] [14]	15
	Max. Lot Coverage (% of lot area)	70	H	Rear Setback (ft) [12] [13] [14]	25
C	Max. Building Size (sf) [5]	10,000		Min. Spacing Between Buildings (ft) [12]	
D	Min. Open Space Set-Aside (% of lot area) [6]	10	I	Between Principal Buildings	10
	Min. Building Height (stories) [7]	2	J	Between Secondary and any other Building	5
	Max. Building Height (ft)	42	K	Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [15]	30
E	Min. Building Frontage (% of lot width) [8] [9]	60	L	Min. Off-Street Parking Setback (ft) [16]	20

NOTES:

[1] Plus an additional 500 sf per residential unit for developments in excess of two units.
[2] Applied to the entire development site when buildings on individual lots have shared or party walls.
[3] Measured at the interior building setback line (not the "pole" portion of a flag lot).
[4] New blocks of lots with lot widths of less than 50 feet require the provisions of alleys.
[5] Applied to the non-residential portion of a building. Buildings on lots over five acres in area are exempt.
[6] See Section 6.7, Open Space Set-Aside and Parkland, for the type of open space required.
[7] Only applied to buildings comprised of a single use type.
[8] Measured at inner edge of the street setback adjacent to the primary building facade. Only applied to the lot edge adjacent to the primary building façade on corner or dual frontage lots.
[9] Gathering areas abutting the street right-of-way are credited towards building frontage requirements.
[10] Applied from the edge of public street rights-of-way (excluding alleys). Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if one is provided.
[11] Reduced by 50% for bungalow court and pocket neighborhood uses.
[12] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.
[13] Not applied to lots lines adjacent to shared or party building walls.
[14] Not applied to multi-building and unified developments.
[15] Unified and multi-building developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.
[16] Applied to off-street parking areas including two or more rows of parking spaces.



3.2.9 (NCM) NEIGHBORHOOD COMMERCIAL

A. NEIGHBORHOOD COMMERCIAL (NCM) DISTRICT PURPOSE STATEMENT

The Neighborhood Commercial (NCM) District accommodates commercial, institutional, and several forms of residential development on lots located adjacent to major roadway corridors and intersections. Non-residential buildings are low-rise, small-scale, with small footprints, and with building heights of no greater than two stories. Development in the district is human-scaled, designed to promote visual interest for pedestrians, and to provide convenient retail and services for patrons from nearby neighborhoods. Emphasis is placed on gathering spaces and interaction with others outside of personal vehicles. In addition to retail and personal services uses, the district allows a variety of office and institutional uses. As a means of providing additional housing options, the district allows live/work dwellings and upper story residential over ground-floor non-residential uses, single-family attached residential, and single-family detached dwellings. Industrial uses, multi-family uses, and monolithic automobile-oriented development is not permitted. District regulations discourage uses that are too intense or that draw the majority of their patrons from outside the immediate area.

B. NEIGHBORHOOD COMMERCIAL DISTRICT PREFERRED DEVELOPMENT FORMS



Commercial Use


Commercial Use


Mixed-Use Building



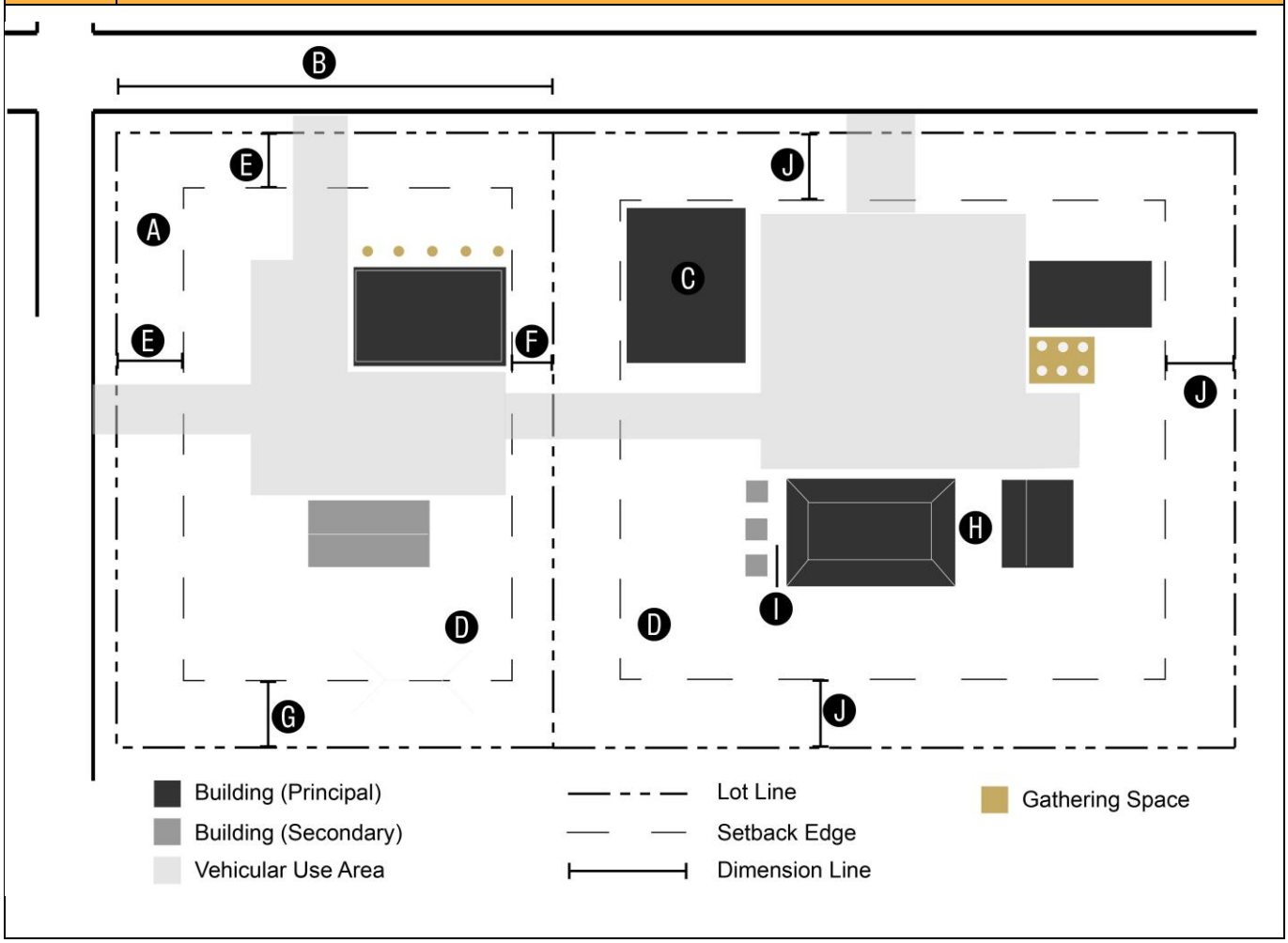
Commercial Use

C. NEIGHBORHOOD COMMERCIAL (NCM) DISTRICT DIMENSIONAL STANDARDS

	Max. Residential Density (du/ac)	6.0	F	Side Setback (ft) [8] [9] [10]	10
A	Min. Lot Area (sf) [1]	6,000	G	Rear Setback (ft) [8] [9] [10]	20
B	Min. Lot Width (ft) [2] [3]	50		Min. Spacing Between Buildings (ft) [8]	
	Max. Lot Coverage (% of lot area)	75	H	Between Principal Buildings	10
C	Max. Building Size (sf) [4]	5,000	I	Between Secondary and any other Building	5
D	Min. Open Space Set-Aside (% of lot area) [5]	10	J	Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [11]	30
E	Min. Street Setback (ft) [6] [7]	20		Max. Building Height (ft)	35

NOTES:

[1] Plus an additional 500 sf per residential unit for developments in excess of two units.
[2] Applied to the entire development site when buildings on individual lots have shared or party walls.
[3] Measured at the interior building setback line (not the "pole" portion of a flag lot).
[4] Vertically-integrated buildings and buildings on lots over five acres in area are exempt.
[5] See Section 6.7, Open Space Set-Aside and Parkland, for the type of open space required.
[6] Applied from the edge of public street rights-of-way (excluding alleys). Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if one is provided.
[7] Reduced by 50% for bungalow court and pocket neighborhood uses.
[8] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.
[9] Not applied to lots lines adjacent to shared or party building walls.
[10] Not applied to multi-building and unified developments.
[11] Unified and multi-building developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.



3.2.10 (OFI) OFFICE INSTITUTIONAL

A. OFFICE INSTITUTIONAL (OFI) DISTRICT PURPOSE STATEMENT

The Office Institutional (OFI) district is established to accommodate office uses, personal services, institutional facilities, educational uses, research and development, and health-related uses in high quality single-building and multi-building campus-style developments. Buildings have a wide range of sizes and heights, based on their function. Land uses typically associated with the office and institutional zoning benefit from a proximate location to one another, and as such this Ordinance encourages the establishment of concentrated areas of OFI zoning rather than a highly dispersed pattern. The district also accommodates the ancillary personal services and commercial uses necessary to support the predominant office and institutional development but is not intended as a retail district. Retail and commercial uses not related to health care should be secondary in nature and configured to minimize visibility from off-site areas. Residential uses are limited to live/work and upper story residential formats. The OFI district often serves as a transition area between higher intensity commercial uses and nearby lower density single-family residential neighborhoods. Higher intensity institutional uses that support activity after 5:00PM should only be located on major streets and should avoid the creation of traffic on residential neighborhood streets.

B. OFFICE INSTITUTIONAL (OFI) DISTRICT PREFERRED DEVELOPMENT FORMS







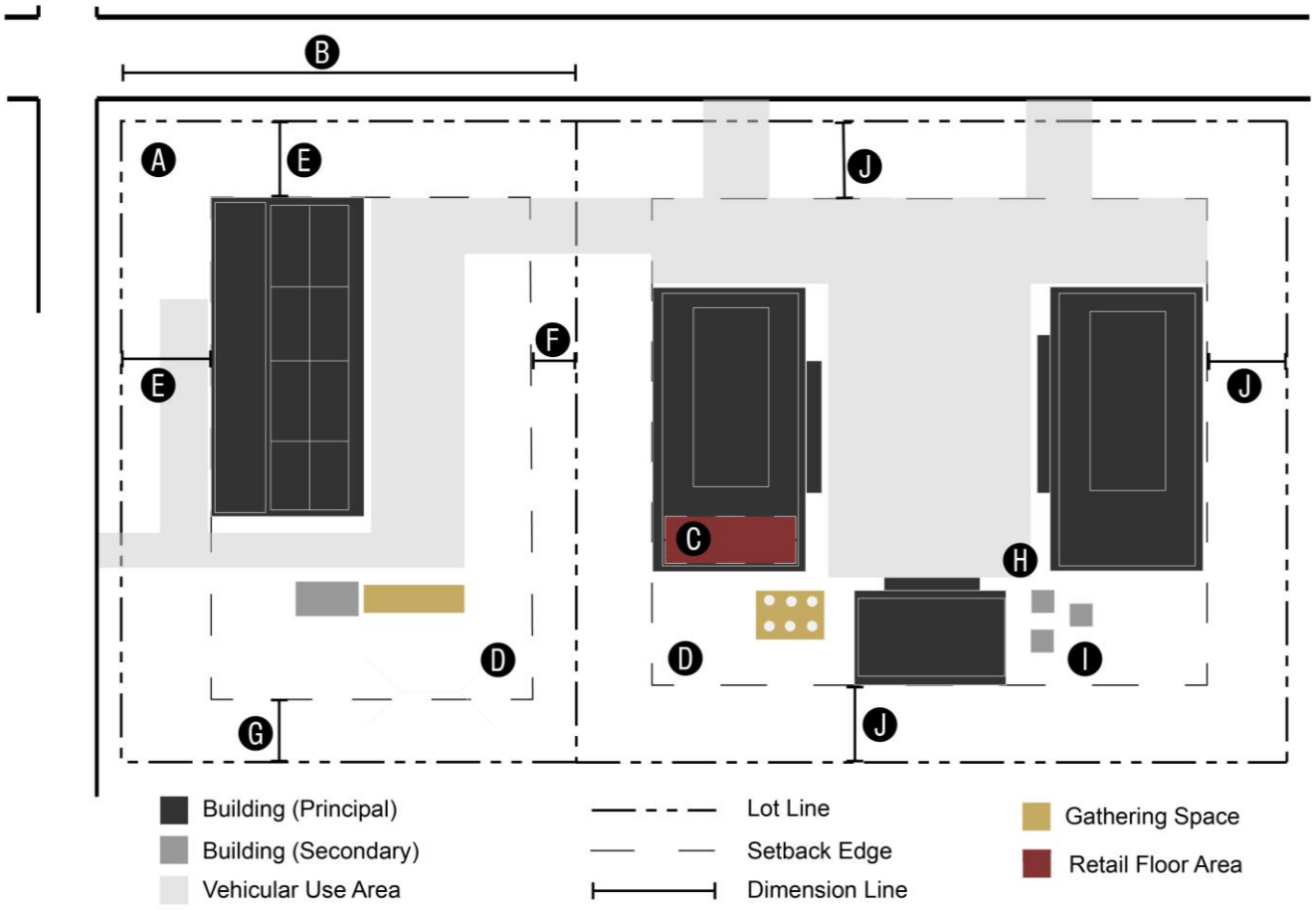


C. OFFICE INSTITUTIONAL (OFI) DISTRICT DIMENSIONAL STANDARDS

	Max. Residential Density (du/ac)	5.0	F	Side Setback (ft) [7] [8] [9]	10
A	Min. Lot Area (sf) [1]	6,000	G	Rear Setback (ft) [7] [8] [9]	20
B	Min. Lot Width (ft) [2] [3]	60		Min. Spacing Between Buildings (ft) [7]	
	Max. Lot Coverage (% of lot area)	75	H	Between Principal Buildings	20
C	Max. Retail Building Floor Area (% of building floor area) [4]	20	I	Between Secondary and any other Building	10
D	Min. Open Space Set-Aside (% of lot area) [5]	7	J	Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [10]	30
E	Min. Street Setback (ft) [6]	30		Max. Building Height (ft)	60

NOTES:

[1] Plus an additional 500 sf per residential unit for developments in excess of two units.
[2] Applied to the entire development site when buildings on individual lots have shared or party walls.
[3] Measured at the interior building setback line (not the "pole" portion of a flag lot).
[4] Retail uses engaged solely in sale of heath-related and health care-related products are exempt from floor area limits.
[5] See Section 6.7, Open Space Set-Aside and Parkland, for the type of open space required.
[6] Applied from the edge of public street rights-of-way (excluding alleys). Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if one is provided.
[7] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.
[8] Not applied to lots lines adjacent to shared or party building walls.
[9] Not applied to multi-building and unified developments.
[10] Unified and multi-building developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.



3.2.11 (PUB) PUBLIC FACILITIES

A. PUBLIC FACILITIES (PUB) DISTRICT PURPOSE STATEMENT

The Public Facilities (PUB) district is established to recognize publicly-owned or operated lands and facilities throughout the Town's Planning Jurisdiction. The district also provides a zoning district designation for certain environmentally-sensitive or conservation lands where development could endanger natural resources. The district permits a broad range of governmental and institutional land uses, utilities, health care, open space, recreation, and transportation uses. The district does not permit residential or most forms of commercial development. Development in the district is configured to promote land use compatibility through setbacks, undisturbed vegetation, landscaping, and avoidance of use of residential neighborhood streets except in cases where such use is in the interest of public safety. Uses that include habitable buildings have limited heights, and public facilities are sited, configured, and operated in ways that generate the lowest possible compatibility impacts on surrounding land uses.

B. PUBLIC FACILITIES (PUB) DISTRICT PREFERRED DEVELOPMENT FORMS





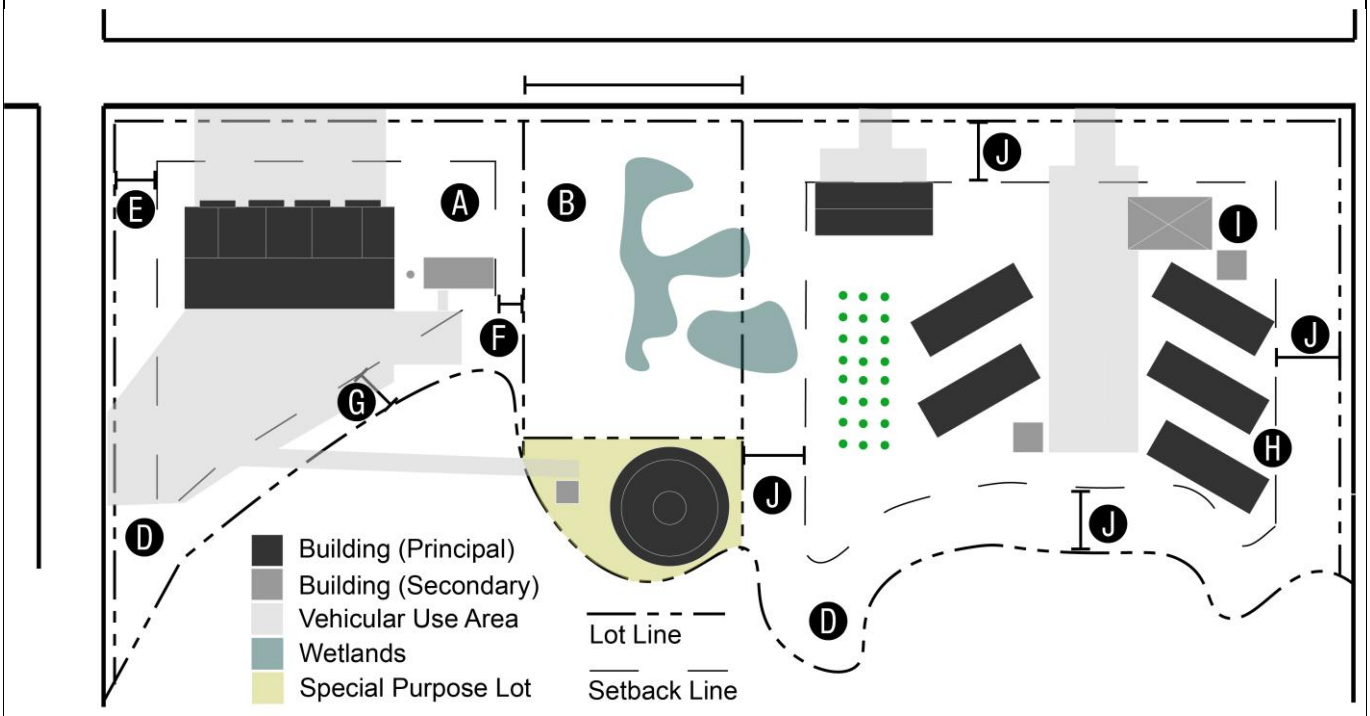




C. PUBLIC FACILITIES (PUB) DISTRICT DIMENSIONAL STANDARDS

	Max. Residential Density (du/ac)	N/A	E	Min. Street Setback (ft) [3]	20
	Min. Lot Area (sf)		F	Side Setback (ft) [4] [5]	10
A	With Water & Sewer	20,000	G	Rear Setback (ft) [4] [5]	30
B	Without Water & Sewer	2,000		Min. Spacing Between Buildings (ft) [4]	
C	Min. Lot Width (ft) [1]	50	H	Between Principal Buildings	20
	Max. Lot Coverage (% of lot area)	75	I	Between Secondary and any other Building	5
D	Min. Open Space Set-Aside (% of lot area) [2]	5	J	Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [6]	30
	Max. Building Height (ft)	35			

NOTES:
[1] Not applied to conservation or environmentally-sensitive lands with no buildings.
[2] See Section 6.7, Open Space Set-Aside and Parkland, for the type of open space required.
[3] Applied from the edge of public street rights-of-way (excluding alleys). Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if one is provided.
[4] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.
[5] Not applied to multi-building and unified developments.
[6] Unified and multi-building developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.



3.2.12 (RHD) RESIDENTIAL HIGH DENSITY

A. RESIDENTIAL HIGH DENSITY (RHD) DISTRICT PURPOSE STATEMENT

The Residential High Density (RHD) District is established to accommodate a wide variety of moderate-density residential uses and their complementary secondary uses in neighborhood and individual lot contexts. The district provides a variety of different locations near downtown and proximate to major transportation corridors for Town residents to establish dwellings at densities necessary to support nearby shopping and employment uses. Residential uses in the district are well-connected with surrounding areas via connected streets, sidewalks, greenways, and trails. Proximity and access to transit facilities and alternative forms of transportation are vital for residents. The district accommodates single-family detached dwellings, single-family attached dwellings, triplexes, quadplexes, duplexes, and a wide variety of small-lot residential developments like bungalow courts, pocket neighborhoods, and conservation subdivisions. Higher density residential uses like multi-family and upper-story residential are not permitted. In order to promote functional neighborhoods, the district also permits a wide variety of institutional uses, like educational, cultural, and governmental uses along with recreation and open space uses. Residential uses are anticipated to include landscaping and private areas for outdoor activity by occupants. The district discourages any uses or development configurations that would interfere with the residential nature of the district.

B. RESIDENTIAL HIGH DENSITY (RHD) DISTRICT PREFERRED DEVELOPMENT FORMS



Single-Family Attached Building



Bungalow Court



Quadplex Building



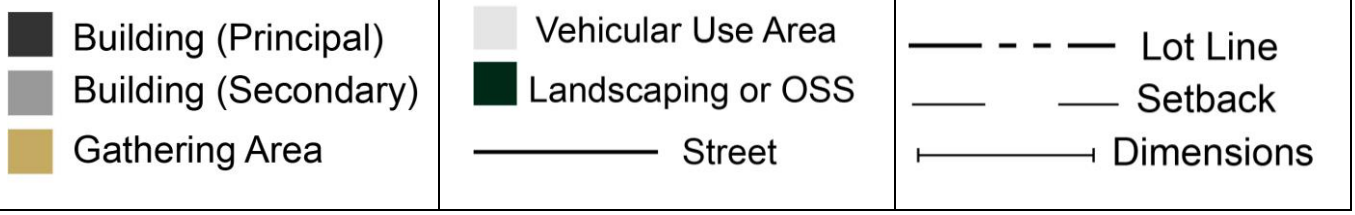
Pocket Neighborhood

C. RESIDENTIAL HIGH DENSITY (RHD) DISTRICT DIMENSIONAL STANDARDS

Dimensional Standard (see following pages for dimensional standard diagrams)	Type of Development									
	Bungalow Court	Conservation Subdivision	Multi-Family	Pocket Neigh-hood	Single-Family Attached	Single-Family Detached	Triplex/ Quadplex	Duplex	Upper-Story Residential	Non-Residential
Maximum Residential Density (du/ac) [1]	8.2 [2]	10.8	N/A	8.2 [3]	7.2 [4]	7.2 [4]	7.2	7.2	N/A	N/A
A Minimum Site Size	1 ac	5 ac	N/A	1 ac	12,000 sf [5]	N/A	N/A	N/A	N/A	N/A
B Minimum Lot Area (sf)	3,600	N/A	N/A	3,600	N/A	6,000	9,000	6,000	N/A	6,000
C Minimum Lot Width (lf) [6]	50 [7]	20	N/A	50 [7]	50 [7]	50	60	50	N/A	50
Maximum Lot Coverage (% of lot area) [8]	80	90	N/A	90	60 [7]	60	60	60	N/A	60
D Minimum Open Space Set Aside (% of lot or site size) [9]	7	50	N/A	10 [10]	10	10 [11]	10	10 [11]	N/A	5
E Minimum Street Setback (lf)	20	3 [12]	N/A	3 [12]	25 [13]	25	25	25	N/A	20
F Minimum Side Setback (lf)	3 [12]	3 [12]	N/A	3 [12]	6 [7]	6	6	6	N/A	6
G Minimum Rear Setback (lf)	3	3 [12]	N/A	3 [12]	20 [7]	20	20	20	N/A	20
H Minimum Spacing Between Principal Buildings on Same Lot (lf) [14]	N/A	N/A	N/A	20	20	N/A	N/A	N/A	N/A	20
I Minimum Spacing Between Secondary Building and Any Other Building on Same Lot (lf) [14]	3	3	N/A	3	10	5	7	5	N/A	10
J Minimum Perimeter Setback for Multi-Building and Unified Developments (lf)	[15]	[16]	N/A	[15]	25	N/A	25	25	N/A	20
Maximum Building Height (lf) [17]	35	35	N/A	24	35	35	35	35	N/A	35

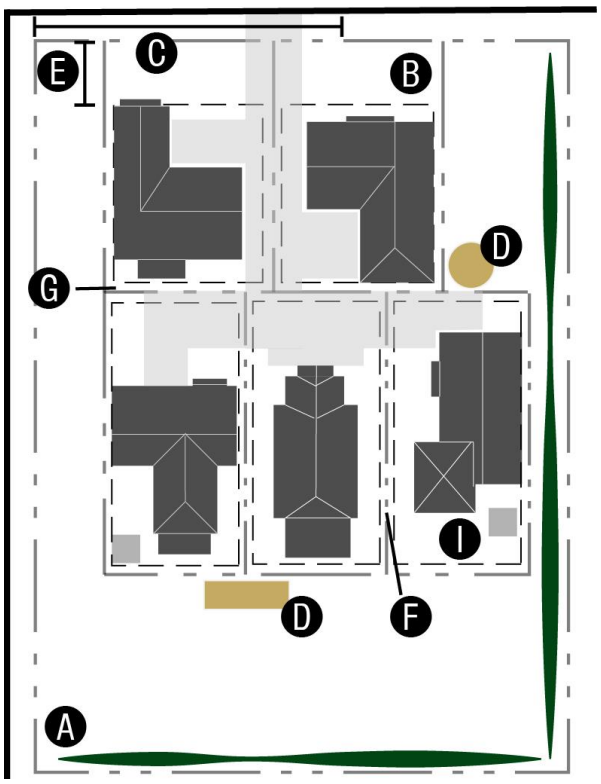
NOTES:

[1] Density bonuses may be granted for inclusion of sustainable development features in accordance with Section 6.17, Sustainable Development Incentives.
[2] Must include at least three principal dwelling units.
[3] Must include at least four principal dwelling units but not more than 24 principal dwelling units.
[4] Maximum density may be increased by up to one unit per acre for voluntary compliance with residential design guidelines.
[5] 12,000 for the first two dwelling units plus an additional 500 sf for each unit beyond two.
[6] Alleys are required to serve lots on blocks where one or more new lot is less than 50 feet in width. Conservation subdivisions exempted.
[7] Applied to entire development, not individual lots.
[8] Subject to applicable built-upon limits if located within the Watershed Protection Overlay District.
[9] See Section 6.7, Open Space Set-Aside and Parkland, for the type of open space required.
[10] At least 300 sf of OSS per unit shall be configured as a central green or garden.
[11] Applied to subdivisions, not individual dwellings.
[12] In no instance shall off-street parking be located in ways in which parked vehicles extend beyond lot lines.
[13] May be reduced to three feet through provision of rear-loaded alleys and no curb cuts along streets abutting front building facades.
[14] A larger distance may be required in accordance with the applicable NC Building Code or NC Fire Code.
[15] Requires a Type C buffer along any portion of the development perimeter abutting a residential zoning district.
[16] As necessary to comply with visibility requirements in Section 2.3.7, Conservation Subdivision.
[17] May be increased in accordance provision of sustainable development incentives.

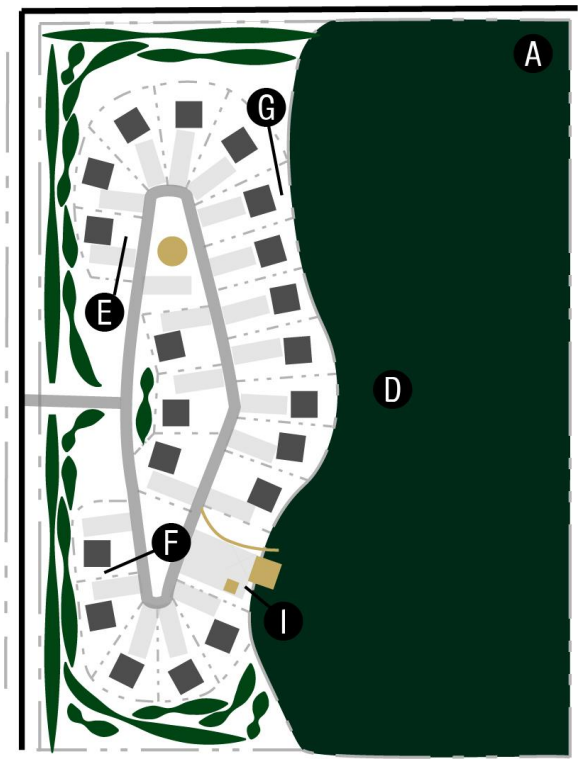


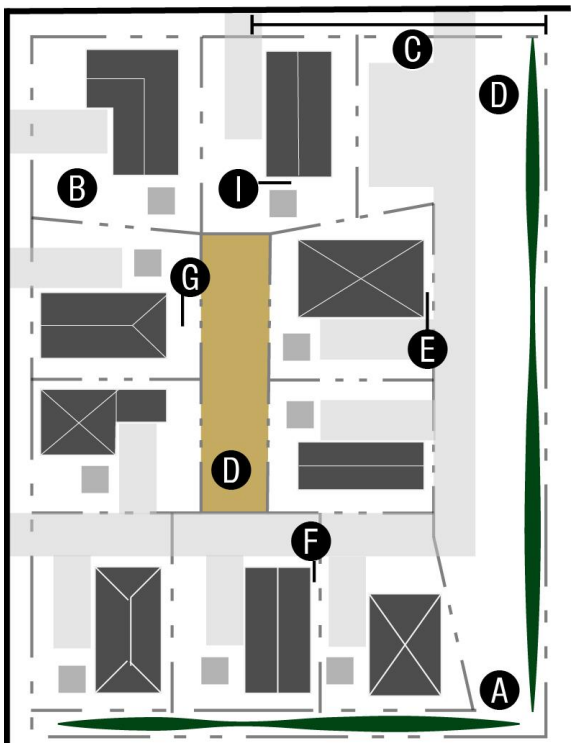
D. RESIDENTIAL HIGH DENSITY (RHD) DISTRICT DIMENSIONAL DIAGRAMS

Bungalow Court Development

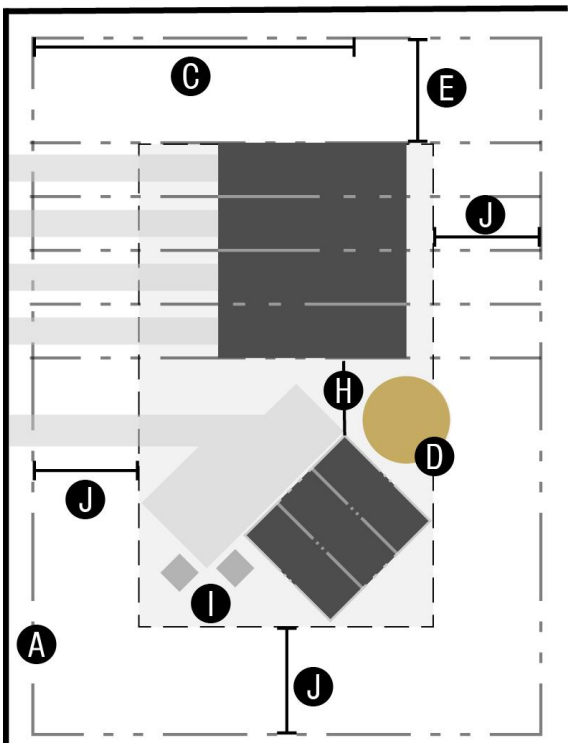


Conservation Subdivision Development





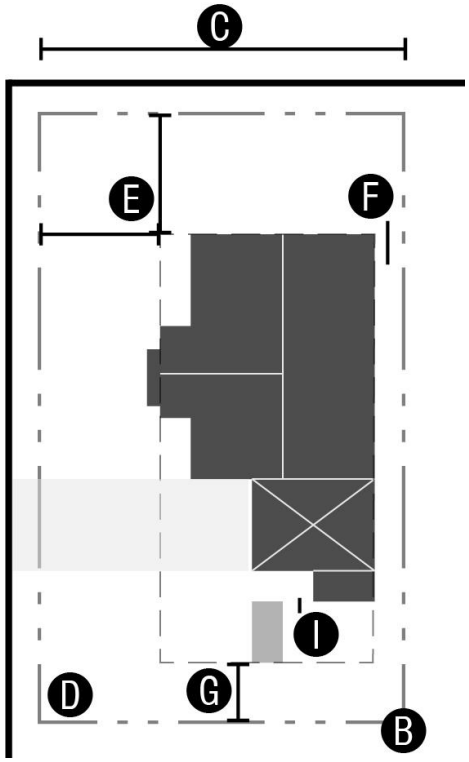
Pocket Neighborhood Development



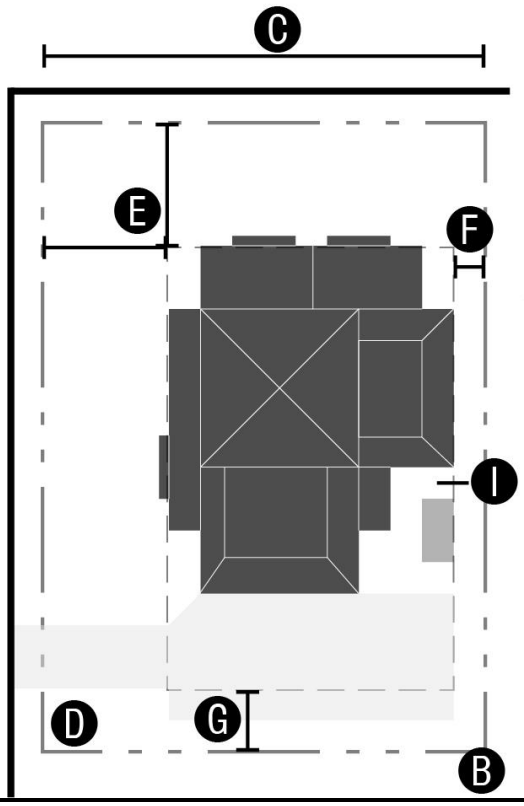
Single-Family Attached Development

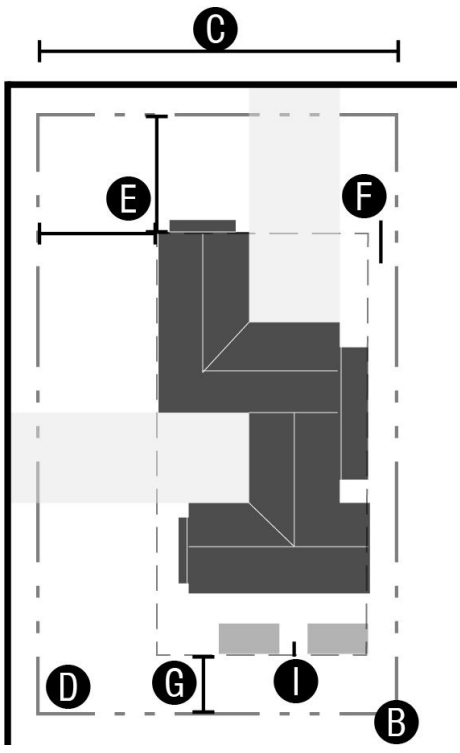
E. RESIDENTIAL HIGH DENSITY (RHD) DISTRICT DIMENSIONAL DIAGRAMS (CON'T)

Single-Family Detached Development

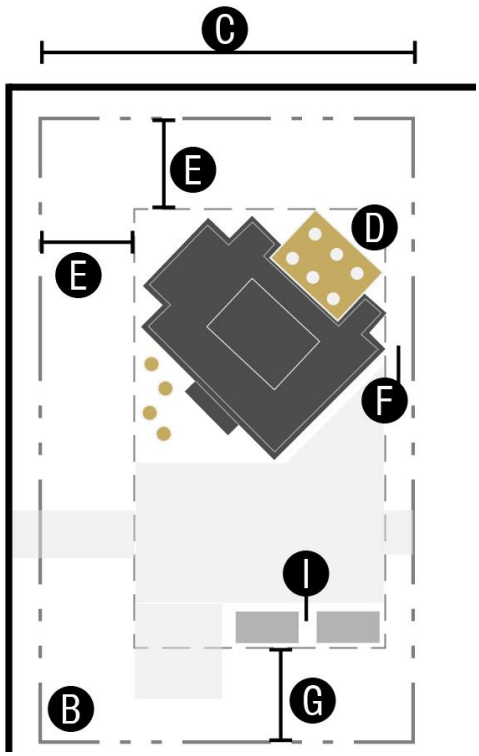


Triplex/Quadplex Development





Duplex Development



Non-Residential Development

3.2.13 (RLL) RESIDENTIAL LARGE LOT

A. RESIDENTIAL LARGE LOT (RLL) DISTRICT PURPOSE STATEMENT

The Residential Large Lot (RLL) District is created to accommodate low-density single-family detached dwellings on individual lots and in estate-style neighborhoods in areas outside the corporate limits within the extraterritorial jurisdiction. Sanitary sewer is not anticipated to be extended to areas zoned RLL within the next five-to-ten years. The district is intended to provide larger lots for executive housing and large homes in perimeter areas of Town away from significant concentrations of commercial or industrial development. The district encourages larger homes in lower densities with more suburban forms of infrastructure, supplemented with greenways that provide for pedestrian connection. Streets meet minimum connectivity requirements, but are curvilinear in nature and comprised of long blocks. The district also permits conservation subdivisions of smaller lots on tracts where at least half of the total area is set aside as open space, and the visibility of the dwellings from adjacent streets and neighborhoods is obscured. Agricultural uses, animal-related commercial activity, institutional uses, and single-family detached dwellings (including manufactured homes). The district does not permit moderate density residential uses, commercial activity, or industrial uses.

B. RESIDENTIAL LARGE LOT (RLL) DISTRICT PREFERRED DEVELOPMENT FORMS



Single-Family Detached Dwelling



Conservation Subdivision



Manufactured Home (Type A)



Single-Family Detached Dwelling

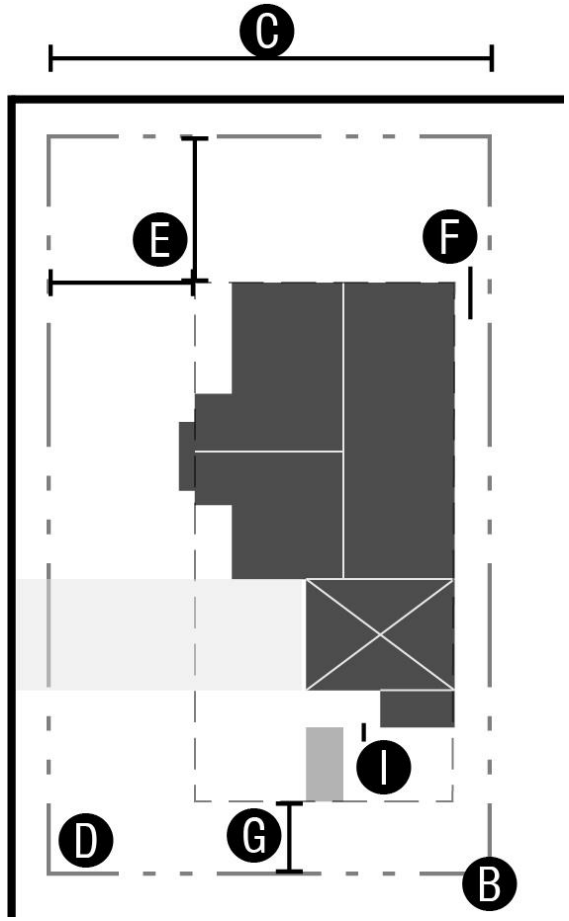
C. RESIDENTIAL LARGE LOT (RLL) DISTRICT DIMENSIONAL STANDARDS

Dimensional Standard (see following page for dimensional standard diagrams)	Type of Development									
	Bungalow Court	Conservation Subdivision	Multi-Family	Pocket Neigh-hood	Single-Family Attached	Single-Family Detached	Triplex/ Quadplex	Duplex	Upper-Story Residential	Non-Residential
Maximum Residential Density (du/ac) [1]	N/A	2.1 [2]	N/A	N/A	N/A	2.1 [2]	N/A	N/A	N/A	N/A
A Minimum Site Size	N/A	5 ac	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
B Minimum Lot Area (sf)	N/A	N/A	N/A	N/A	N/A	20,000 [3]	N/A	N/A	N/A	20,000
C Minimum Lot Width (lf) [4]	N/A	20	N/A	N/A	N/A	80 [5]	N/A	N/A	N/A	80
Maximum Lot Coverage (% of lot area) [6]	N/A	90	N/A	N/A	N/A	50	N/A	N/A	N/A	50
D Minimum Open Space Set Aside (% of lot or site size) [7]	N/A	50	N/A	N/A	N/A	10 [8]	N/A	N/A	N/A	10
E Minimum Street Setback (lf)	N/A	3 [9]	N/A	N/A	N/A	35	N/A	N/A	N/A	35
F Minimum Side Setback (lf)	N/A	3 [9]	N/A	N/A	N/A	15	N/A	N/A	N/A	15
G Minimum Rear Setback (lf)	N/A	3 [9]	N/A	N/A	N/A	30	N/A	N/A	N/A	30
Minimum Spacing Between Principal Buildings on Same Lot (lf) [10]	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	20
I Minimum Spacing Between Secondary Building and Any Other Building on Same Lot (lf) [10]	N/A	3	N/A	N/A	N/A	5	N/A	N/A	N/A	10
J Minimum Perimeter Setback for Multi-Building and Unified Developments (lf)	N/A	[11]	N/A	N/A	N/A	N/A	N/A	N/A	N/A	35
Maximum Building Height (lf) [12]	N/A	35	N/A	N/A	N/A	35	N/A	N/A	N/A	35

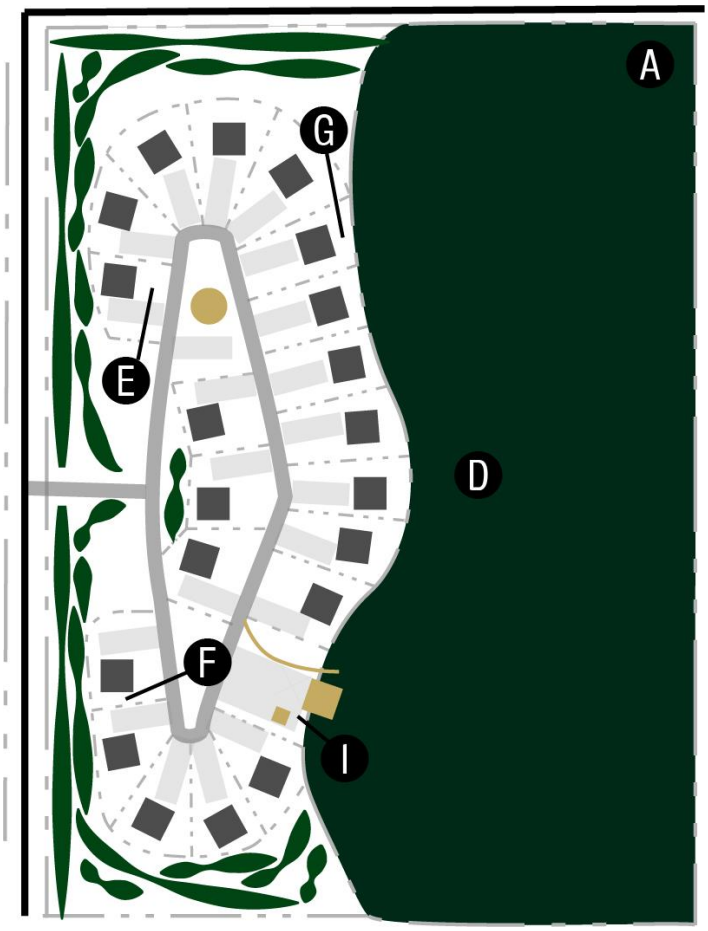
NOTES:

[1] Maximum density may be increased by up to one unit per acre for voluntary compliance with residential design guidelines. Density bonuses may be granted for inclusion of sustainable development features in accordance with Section 6.17, Sustainable Development Incentives.
[2] Maximum residential density for development with water but no sewer is 1.7 units per acre; for development with no public water or sewer 1.0 units per acre.
[3] Minimum lot area of 25,000 square feet for lot with public water but no public sewer.
[4] Alleys are required to serve lots on blocks where one or more new lot is less than 50 feet in width. Conservation subdivisions exempted.
[5] Minimum lot width is 100 linear feet for lots with no public water or sewer.
[6] Subject to applicable built-upon limits if located within the Watershed Protection Overlay District.
[7] See Section 6.7, Open Space Set-Aside and Parkland, for the type of open space required.
[8] Applied to subdivisions, not individual dwellings.
[9] In no instance shall off-street parking be located in ways in which parked vehicles extend beyond lot lines.
[10] A larger distance may be required in accordance with the applicable NC Building Code or NC Fire Code.
[11] As necessary to comply with visibility requirements in Section 2.3.7, Conservation Subdivision.
[12] May be increased in accordance provision of sustainable development incentives.

D. RESIDENTIAL LARGE LOT (RLL) DISTRICT DIMENSIONAL DIAGRAMS



Single-Family Detached Development



Conservation Subdivision Development

Building (Principal)
Building (Secondary)
Gathering Area

Vehicular Use Area
Landscaping or OSS
Street

Lot Line
Setback
Dimensions

3.2.14 (RLD) RESIDENTIAL LOW DENSITY

A. RESIDENTIAL LOW DENSITY (RLD) DISTRICT PURPOSE STATEMENT

The Residential Low Density (RLD) District creates opportunities for low-density suburban-style residential neighborhoods within the corporate limits and extraterritorial jurisdictional areas of the Town. Lands within the RLD district are typically served by public water and sewer, an informal curvilinear street pattern characterized by loop streets, cul-de-sacs, and single-loaded roadways. Sidewalks are provided in heavily traffic areas, but much of the pedestrian movement is accommodated by greenways and trails. Lots are of moderate size, well-landscaped, and provide areas of privacy for residents. Buildings are setback from streets and may include secondary structures, though two or more principal residential dwellings are prohibited on a single lot. Residential uses include single-family detached, organized into either traditional residential neighborhood patterns or as conservation subdivisions with significant amounts of open space and homes concealed from off-site view. The district also permits a wide range of institutional uses, including religious facilities, educational uses, government-related uses, and open space. Agricultural and industrial uses are not permitted.

B. RESIDENTIAL LOW DENSITY (RLD) DISTRICT PREFERRED DEVELOPMENT FORMS



Single-Family Detached Dwelling



Conservation Subdivision



Bed and Breakfast Use

C. RESIDENTIAL LOW DENSITY (RLD) DISTRICT DIMENSIONAL STANDARDS

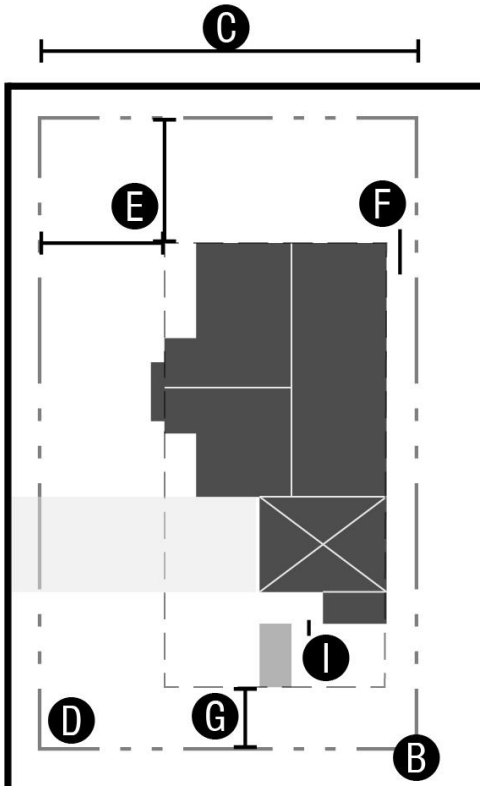
Dimensional Standard (see following page for dimensional standard diagrams)	Type of Development									
	Bungalow Court	Conservation Subdivision	Multi-Family	Pocket Neigh-hood	Single-Family Attached	Single-Family Detached	Triplex/ Quadplex	Duplex	Upper-Story Residential	Non-Residential
Maximum Residential Density (du/ac) [1]	N/A	4.0 [2]	N/A	N/A	N/A	4.0 [2]	N/A	N/A	N/A	N/A
A Minimum Site Size	N/A	5 ac	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
B Minimum Lot Area (sf)	N/A	N/A	N/A	N/A	N/A	10,000 [3]	N/A	N/A	N/A	10,000
C Minimum Lot Width (lf) [4]	N/A	20	N/A	N/A	N/A	70 [5]	N/A	N/A	N/A	70
Maximum Lot Coverage (% of lot area) [6]	N/A	90	N/A	N/A	N/A	50	N/A	N/A	N/A	50
D Minimum Open Space Set Aside (% of lot or site size) [7]	N/A	50	N/A	N/A	N/A	25 [8]	N/A	N/A	N/A	25
E Minimum Street Setback (lf)	N/A	3 [9]	N/A	N/A	N/A	30	N/A	N/A	N/A	30
F Minimum Side Setback (lf)	N/A	3 [9]	N/A	N/A	N/A	10	N/A	N/A	N/A	10
G Minimum Rear Setback (lf)	N/A	3 [9]	N/A	N/A	N/A	25	N/A	N/A	N/A	25
Minimum Spacing Between Principal Buildings on Same Lot (lf) [10]	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	20
I Minimum Spacing Between Secondary Building and Any Other Building on Same Lot (lf) [10]	N/A	3	N/A	N/A	N/A	5	N/A	N/A	N/A	10
J Minimum Perimeter Setback for Multi-Building and Unified Developments (lf)	N/A	[11]	N/A	N/A	N/A	N/A	N/A	N/A	N/A	30
Maximum Building Height (lf) [12]	N/A	35	N/A	N/A	N/A	35	N/A	N/A	N/A	35

NOTES:

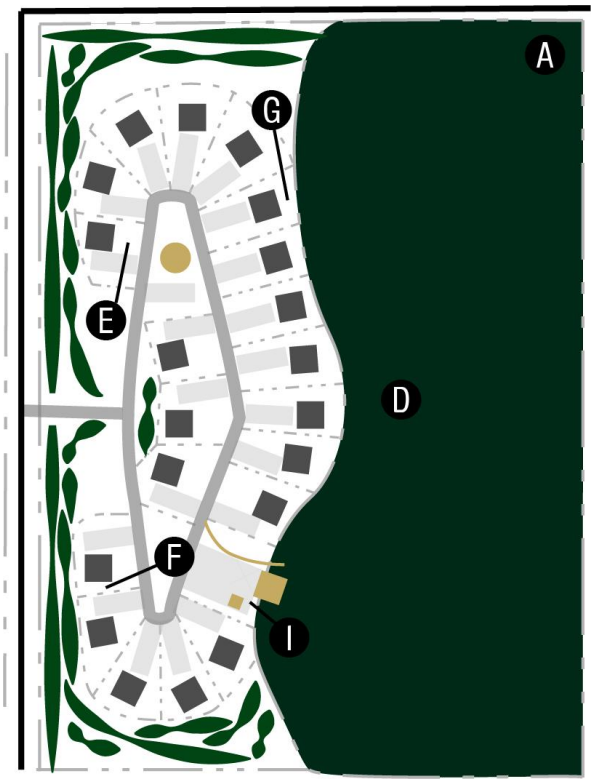
[1] Maximum density may be increased by up to one unit per acre for voluntary compliance with residential design guidelines. Density bonuses may be granted for inclusion of sustainable development features in accordance with Section 6.17, Sustainable Development Incentives.
[2] Maximum residential density for development with water but no sewer is 1.7 units per acre; for development with no public water or sewer 1.0 units per acre.
[3] Minimum lot area of 25,000 square feet for lot with public water but no public sewer.
[4] Alleys are required to serve lots on blocks where one or more new lot is less than 50 feet in width. Conservation subdivisions exempted.
[5] Minimum lot width is 100 linear feet for lots with no public water or sewer.
[6] Subject to applicable built-upon limits if located within the Watershed Protection Overlay District.
[7] See Section 6.7, Open Space Set-Aside and Parkland, for the type of open space required.
[8] Applied to subdivisions, not individual dwellings.
[9] In no instance shall off-street parking be located in ways in which parked vehicles extend beyond lot lines.
[10] A larger distance may be required in accordance with the applicable NC Building Code or NC Fire Code.
[11] As necessary to comply with visibility requirements in Section 2.3.7, Conservation Subdivision.
[12] May be increased in accordance provision of sustainable development incentives.

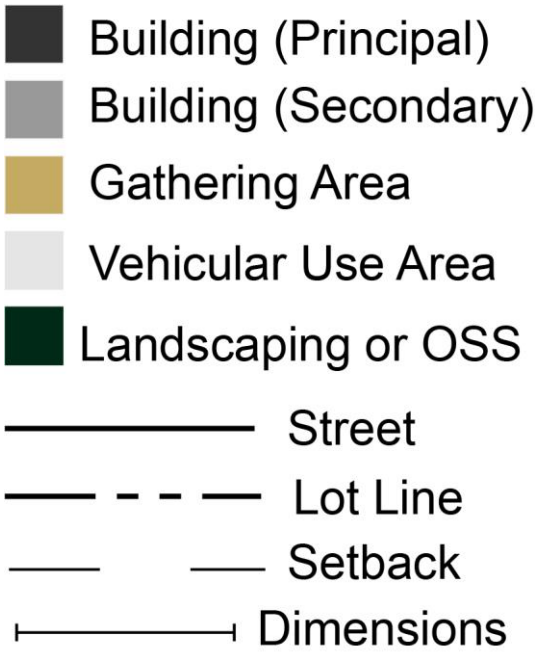
D. RESIDENTIAL LOW DENSITY (RLD) DISTRICT DIMENSIONAL DIAGRAMS

Single-Family Detached Development



Conservation Subdivision Development





Legend

3.2.15 (RMD) RESIDENTIAL MEDIUM DENSITY

A. RESIDENTIAL MEDIUM DENSITY (RMD) DISTRICT PURPOSE STATEMENT

The Residential Medium Density (RMD) District is established to accommodate low-to-moderate-density residential development and complimentary uses on lots served by public utilities in the suburban portions of the Town's jurisdiction. The RMD district provides a transition between lower-density residential areas and higher intensity commercial and shopping areas along major corridors. Development in the RMD district is typically organized as a series of individual neighborhoods. The vast majority of RMD lots are around 8,000 square feet in area and contain a single-family detached dwelling located in the center of a landscaped yard. Off-street parking takes place on a driveway in front of or to the side of the dwelling. Most homes are two-to-three stories tall and around 1,000 square feet in size. While the district accommodates single-family detached homes, it also permits duplex dwellings as well as "small-lot" residential developments such as bungalow courts, pocket neighborhoods, and conservation subdivisions. It also accommodates a limited range of institutional uses but almost no commercial or industrial use types. Streets are typically organized as a modified grid with some curvilinear segments. Neighborhoods are well-served by sidewalks and greenways that permit pedestrians to access nearby institutional and commercial uses.

B. RESIDENTIAL MEDIUM DENSITY DISTRICT PREFERRED DEVELOPMENT FORMS



Single-Family Detached Dwelling



Duplex Dwelling



Conservation Subdivision



Pocket Neighborhood



Bungalow Court

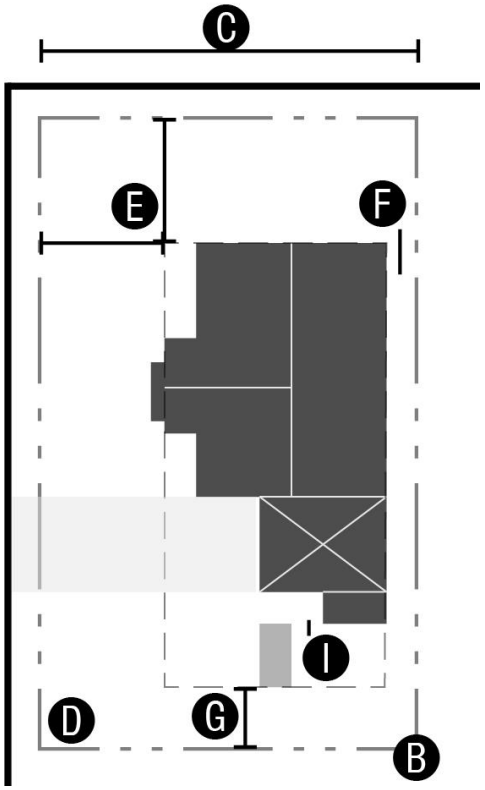
C. RESIDENTIAL MEDIUM DENSITY (RMD) DISTRICT DIMENSIONAL STANDARDS

Dimensional Standard (see following page for dimensional standard diagrams)	Type of Development									
	Bungalow Court	Conservation Subdivision	Multi-Family	Pocket Neigh-hood	Single-Family Attached	Single-Family Detached	Triplex/ Quadplex	Duplex	Upper-Story Residential	Non-Residential
Maximum Residential Density (du/ac) [1]	5.0	5.0	N/A	5.0	N/A	5.0	N/A	5.0	N/A	N/A
A Minimum Site Size	1 ac	5 ac	N/A	1 ac	N/A	N/A	N/A	N/A	N/A	N/A
B Minimum Lot Area (sf)	7,000	N/A	N/A	7,000	N/A	8,000	N/A	10,000	N/A	8,000
C Minimum Lot Width (lf) [2]	60 [3]	20	N/A	60 [3]	N/A	60	N/A	60	N/A	60
Maximum Lot Coverage (% of lot area) [4]	80	90	N/A	90	N/A	55	N/A	55	N/A	55
D Minimum Open Space Set Aside (% of lot or site size) [5]	7	50	N/A	10 [6]	N/A	20 [7]	N/A	20 [7]	N/A	20
E Minimum Street Setback (lf)	20	3 [8	N/A	3 [8]	N/A	25	N/A	25	N/A	25
F Minimum Side Setback (lf)	3	3 [8]	N/A	3 [8]	N/A	10	N/A	10	N/A	10
G Minimum Rear Setback (lf)	3	3 [8]	N/A	3 [8]	N/A	25	N/A	25	N/A	25
Minimum Spacing Between Principal Buildings on Same Lot (lf) [9]	N/A	N/A	N/A	20	N/A	N/A	N/A	N/A	N/A	20
I Minimum Spacing Between Secondary Building and Any Other Building on Same Lot (lf) [9]	3	3	N/A	3	N/A	5	N/A	5	N/A	10
J Minimum Perimeter Setback for Multi-Building and Unified Developments (lf)	[10]	[11]	N/A	[10]	N/A	N/A	N/A	25	N/A	25
Maximum Building Height (lf) [12]	35	35	N/A	24	N/A	35	N/A	35	N/A	35

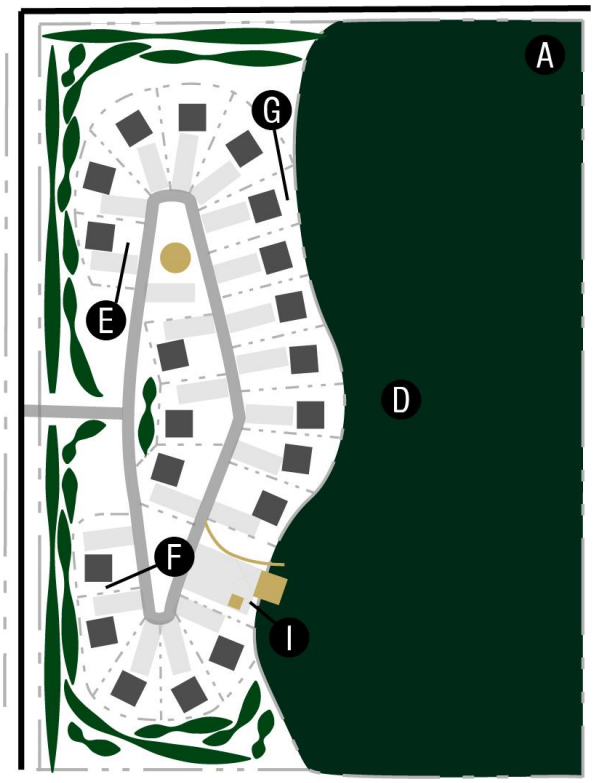
NOTES:
[1] Maximum density may be increased by up to one unit per acre for voluntary compliance with residential design guidelines. Density bonuses may be granted for inclusion of sustainable development features in accordance with Section 6.17, Sustainable Development Incentives.
[2] Alleys are required to serve lots on blocks where one or more new lot is less than 50 feet in width. Conservation subdivisions exempted.
[3] Applied to subdivisions, not individual dwellings.
[4] Subject to applicable built-upon limits if located within the Watershed Protection Overlay District.
[5] See Section 6.7, Open Space Set-Aside and Parkland, for the type of open space required.
[6] At least 300 sf of OSS per unit shall be configured as a central green or garden.
[7] Applied to subdivisions, not individual dwellings.
[8] In no instance shall off-street parking be located in ways in which parked vehicles extend beyond lot lines.
[9] A larger distance may be required in accordance with the applicable NC Building Code or NC Fire Code.
[10] Requires a Type C buffer along any portion of the development perimeter abutting a residential zoning district.
[11] As necessary to comply with visibility requirements in Section 2.3.7, Conservation Subdivision.
[12] May be increased in accordance provision of sustainable development incentives.

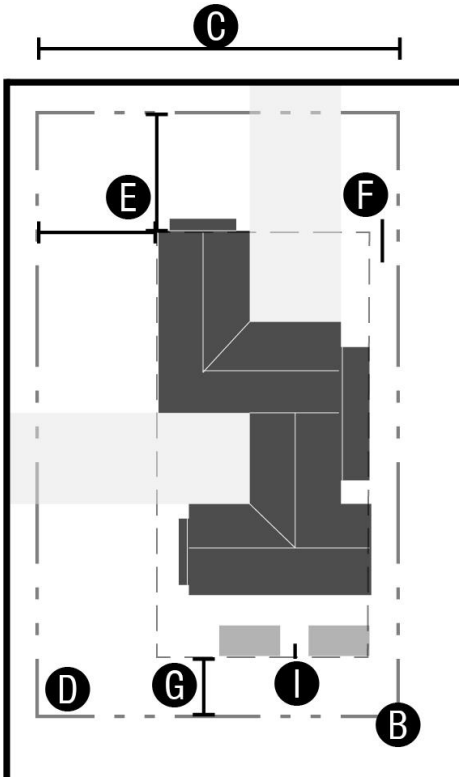
D. RESIDENTIAL MEDIUM DENSITY (RMD) DISTRICT DIMENSIONAL DIAGRAMS

Single-Family Detached Development

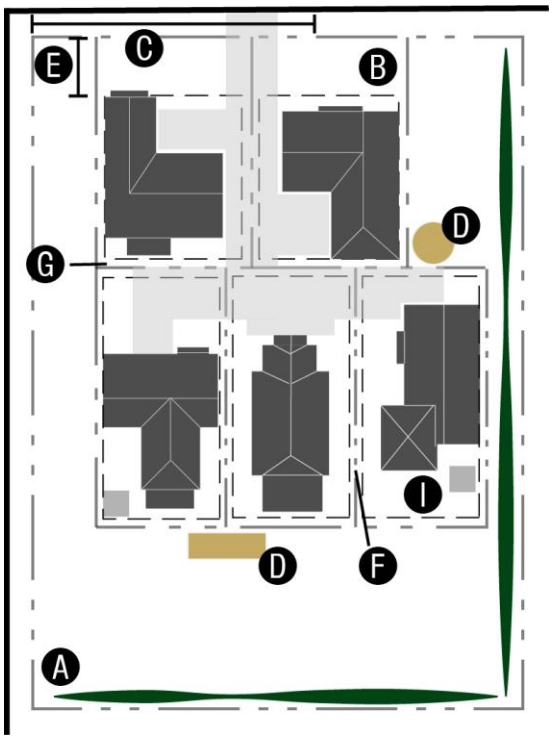


Conservation Subdivision Development





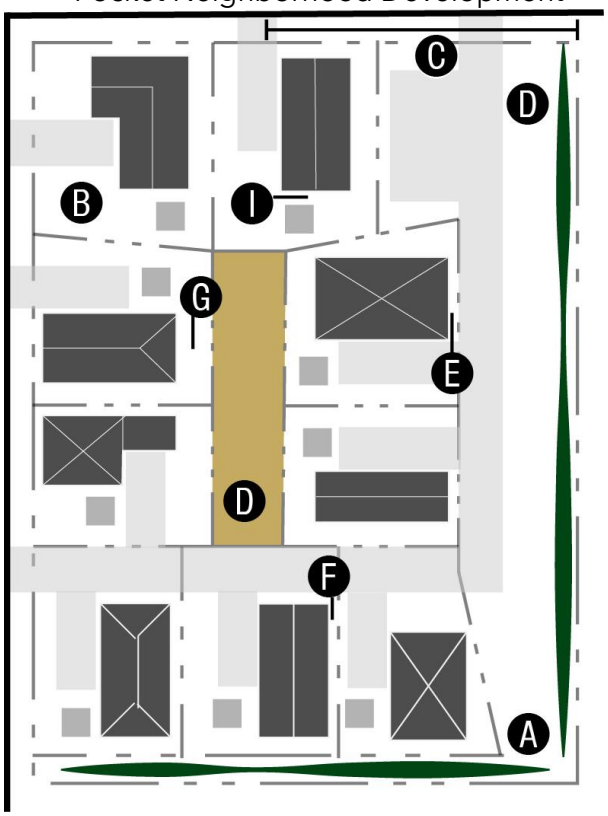
Duplex Dwelling Development

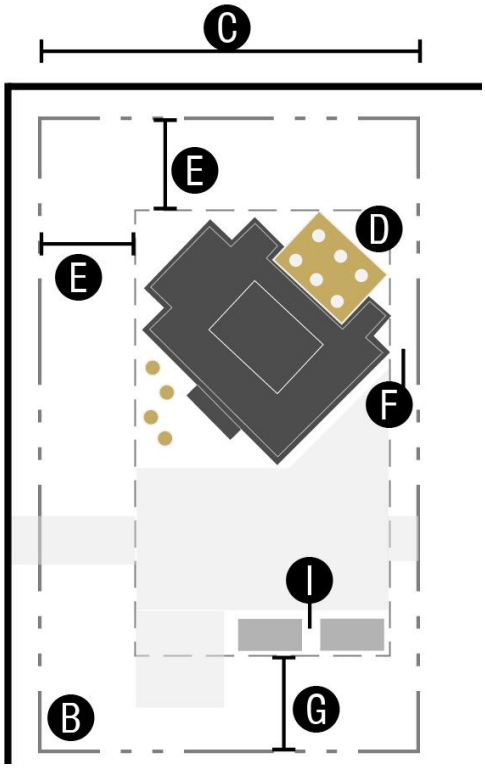


Bungalow Court Development

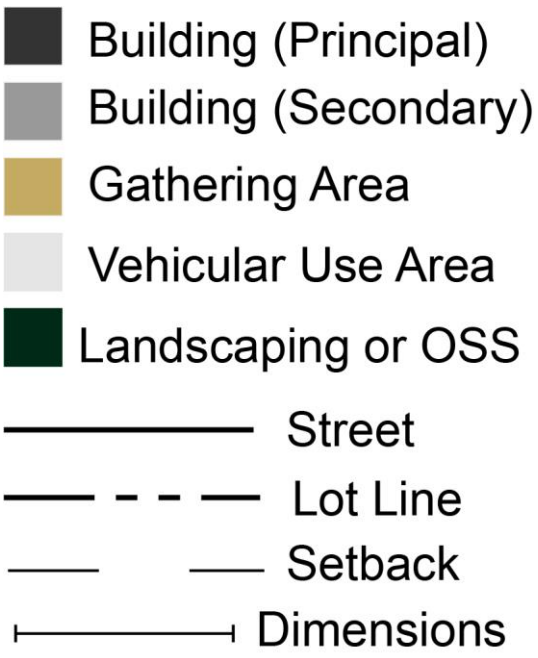
E. RESIDENTIAL MEDIUM DENSITY DISTRICT DIMENSIONAL DIAGRAMS (CON'T)

Pocket Neighborhood Development





Non-Residential Development



Legend

3.2.16 (RMF) RESIDENTIAL MULTI-FAMILY

A. RESIDENTIAL MULTI-FAMILY (RMF) DISTRICT PURPOSE STATEMENT

The Residential Multi-Family (RMF) District is established to accommodate high-density forms of residential development and complimentary uses on lots served by public utilities in the urban portions of Town. The district is intended to provide a wide range of housing choices to Town residents as well as to create sufficient residential densities to support the downtown and employment centers. The district is configurated to support the establishment of functional neighborhoods that include residential, employment, and recreational uses in close proximity to one another. In addition to a wide range of residential uses, the district also permits live/work units, upper-story residential in mixed-use buildings, and neighborhood-serving low-intensity non-residential uses like offices, co-working spaces, walk-up restaurants, and micro-retail. Numerous forms of institutional use are also permitted. Land uses in the RMF district are well-connected with surrounding areas via connected streets, sidewalks, greenways, and trails. Open space set-asides may take the form of active or urban formats. Off-street parking takes place on a driveway in front of or to the side of individual dwellings and in shared surface lots for other residential uses. While the district accommodates residential densities around 12 units an acre, it also allows density bonuses for voluntary compliance with design guidelines or inclusion of sustainable development incentives. All development in the district shall be in accordance with the dimensional requirements in this section and the applicable use standards in Chapter 4, Land Uses.

B. RESIDENTIAL MULTI-FAMILY (RMF) DISTRICT PREFERRED DEVELOPMENT FORMS



Single-Family Attached Buildings



Pocket Neighborhood



Triplex Building



Multi-family Building



Live/Work Building

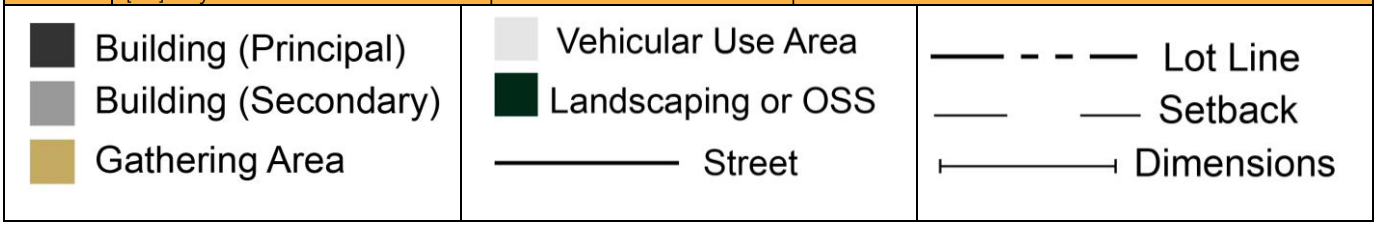


Single-Family Detached

C. RESIDENTIAL MULTI-FAMILY (RMF) DISTRICT DIMENSIONAL STANDARDS

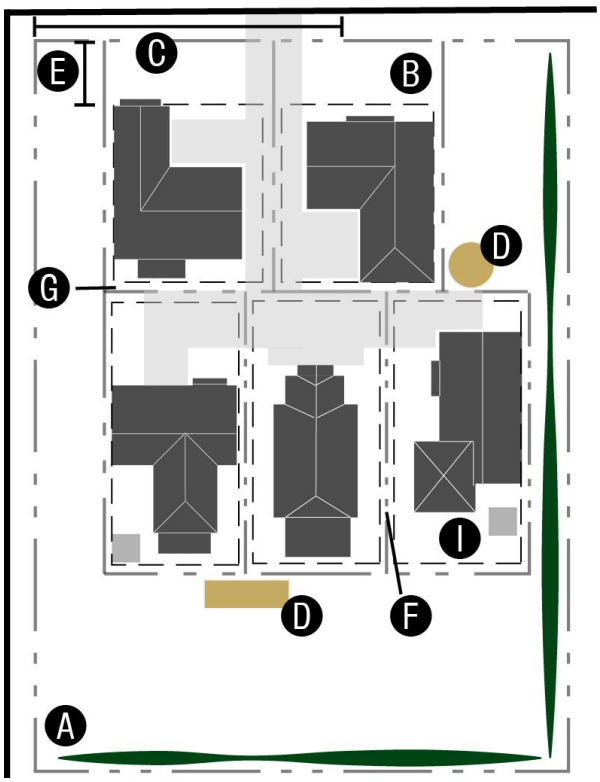
Dimensional Standard (see following pages for dimensional standard diagrams)	Type of Development									
	Bungalow Court	Conservation Subdivision	Multi-Family	Pocket Neigh-hood	Single-Family Attached	Single-Family Detached	Triplex/ Quadplex	Duplex	Live/Work	Non-Residential [1]
Maximum Residential Density (du/ac) [2]	12 [3]	12	12	12 [4]	12 [5]	12 [5]	12	12	6	6
Ⓐ Minimum Site Size	1 ac	5 ac	18,000 sf	1 ac	8,000 sf [6]	N/A	N/A	N/A	N/A	N/A
Ⓑ Minimum Lot Area (sf)	3,600	N/A	N/A	3,600	N/A	3,600	7,000	3,600	7,000	6,000
Ⓒ Minimum Lot Width (lf) [7]	50 [8]	20	50	50 [8]	50 [8]	50	50	50	50	50
Maximum Lot Coverage (% of lot area) [9]	80	90	60	90	60	60	60	60	60	60
Ⓓ Minimum Open Space Set Aside (% of lot or site size) [10]	7	50	10	10 [11]	10	10	10	10	7	5
Ⓔ Minimum Street Setback (lf)	20	3 [12]	20	3 [12]	20 [12]	20	20	20	20	20
Ⓕ Minimum Side Setback (lf)	3 [12]	3 [12]	10	3 [12]	10 [12]	5	10	5	10	10
Ⓖ Minimum Rear Setback (lf)	3	3 [12]	15	3 [12]	15 [12]	15	15	15	15	15
Ⓗ Minimum Spacing Between Principal Buildings on Same Lot (lf) [13]	N/A	N/A	20	20	20	N/A	N/A	N/A	20	20
Ⓘ Minimum Spacing Between Secondary Building and Any Other Building on Same Lot (lf) [13]	3	3	10	3	10	5	7	5	7	10
Ⓙ Minimum Perimeter Setback for Multi-Building and Unified Developments (lf)	[14]	[15]	20	[14]	20	N/A	20	20	20	20
Maximum Building Height (lf) [16]	35	35	45	24	35	35	35	35	45	45

NOTES:
[1] Includes upper-story residential.
[2] Density bonuses may be granted for inclusion of sustainable development features in accordance with Section 6.17, Sustainable Development Incentives.
[3] Must include at least three principal dwelling units.
[4] Must include at least four principal dwelling units but not more than 24 principal dwelling units.
[5] Maximum density may be increased by up to one unit per acre for voluntary compliance with residential design guidelines.
[6] 8,000 for the first two dwelling units plus an additional 500 sf for each unit beyond two.
[7] Alleys are required to serve lots on blocks where one or more new lot is less than 50 feet in width. Conservation subdivisions exempted.
[8] Applied to entire development, not individual lots.
[9] Subject to applicable built-upon limits if located within the Watershed Protection Overlay District.
[10] See Section 6.7, Open Space Set-Aside and Parkland, for the type of open space required.
[11] At least 300 sf of OSS per unit shall be configured as a central green or garden.
[11] Applied to subdivisions, not individual dwellings.
[12] In no instance shall off-street parking be located in ways in which parked vehicles extend beyond lot lines.
[13] A larger distance may be required in accordance with the applicable NC Building Code or NC Fire Code.
[14] Requires a Type C buffer along any portion of the development perimeter abutting a residential zoning district.
[15] As necessary to comply with visibility requirements in Section 2.3.7, Conservation Subdivision.
[16] May be increased in accordance provision of sustainable development incentives.

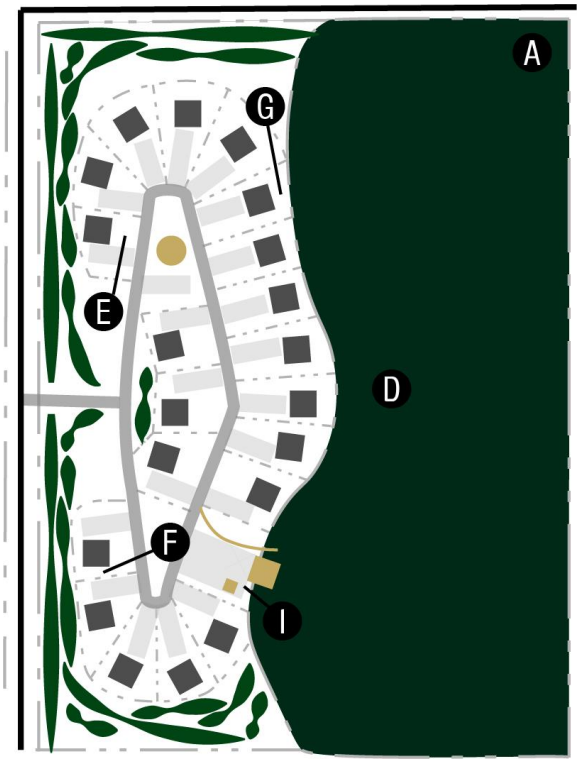


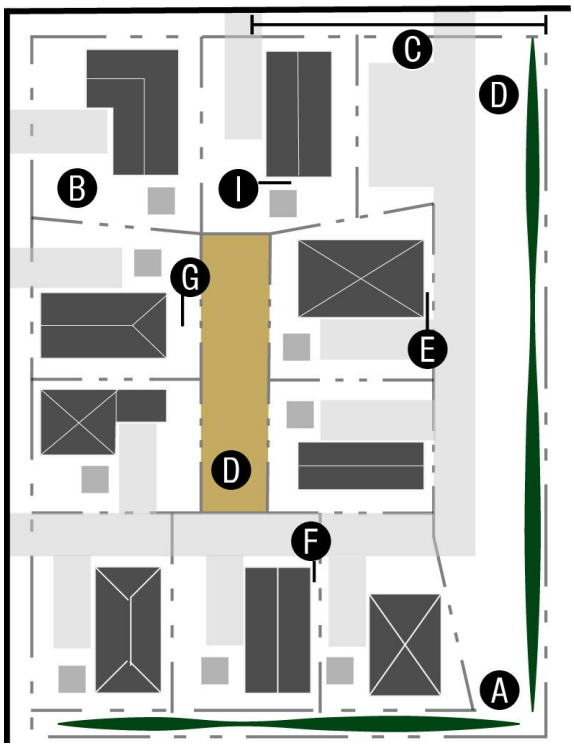
D. RESIDENTIAL MULTI-FAMILY (RMF) DISTRICT DIMENSIONAL DIAGRAMS

Bungalow Court Development

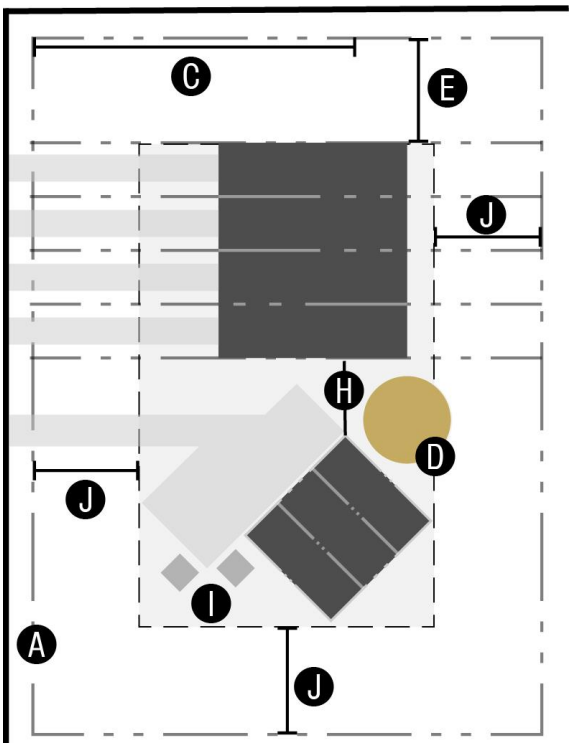


Conservation Subdivision Development





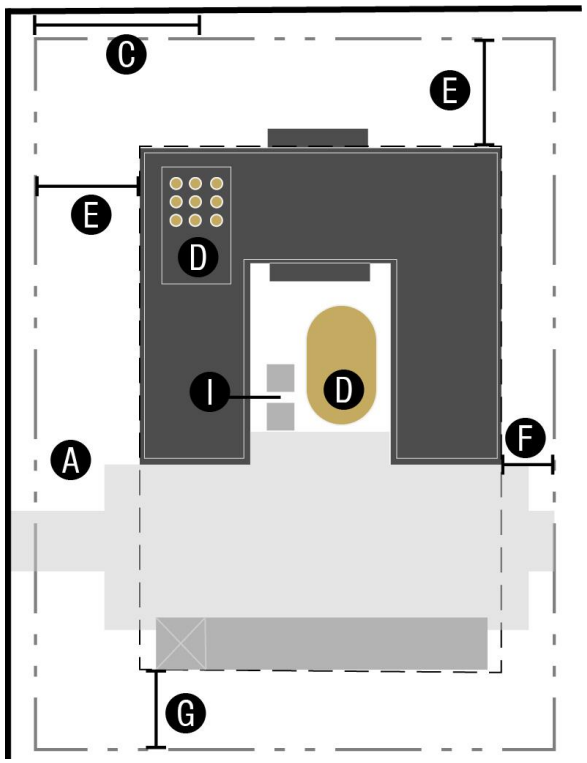
Pocket Neighborhood Development



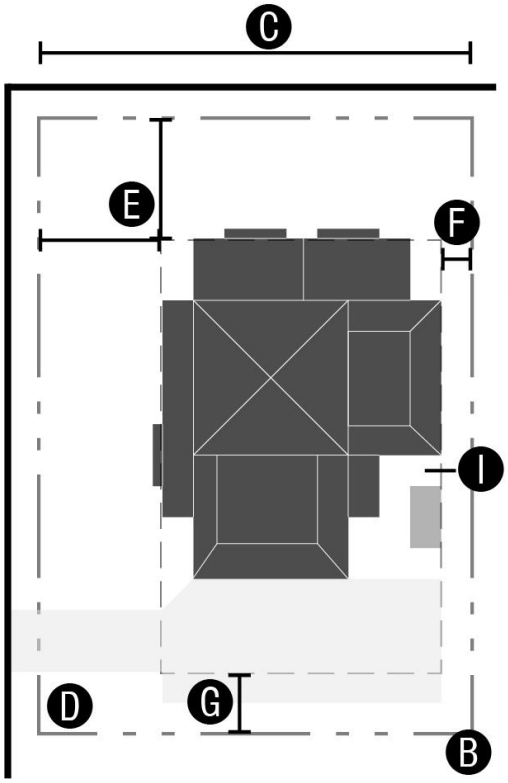
Single-Family Attached Development

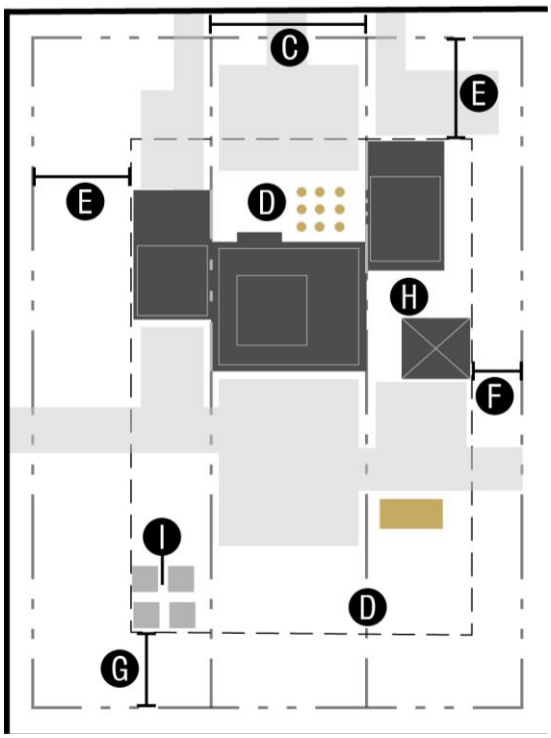
E. RESIDENTIAL MULTI-FAMILY (RMF) DISTRICT DIMENSIONAL DIAGRAMS (CON'T)

Multi-Family Development

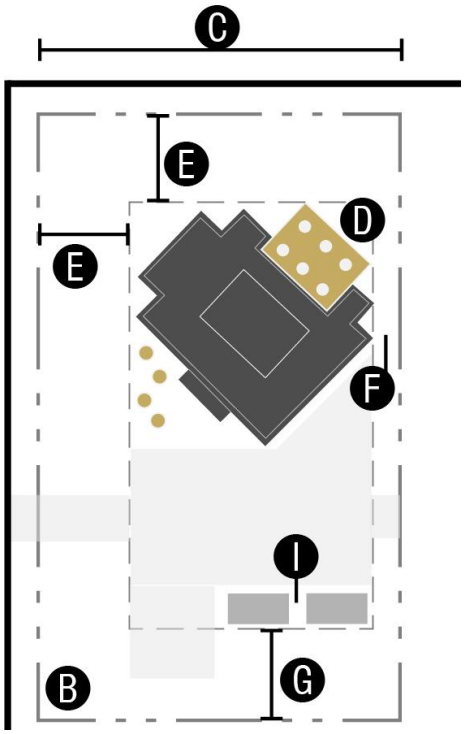


Triplex/Quadplex Development





Live/Work Development



Non-Residential Development

3.2.17 (RUR) RURAL

A. RURAL (RUR) DISTRICT PURPOSE STATEMENT

The Rural (RUR) district is established to protect rural and undeveloped land from premature development at densities that are inconsistent with the Town's adopted policy guidance. The district accommodates low density residential neighborhoods and supporting uses on lots near bona fide farms and agricultural areas in the rural portions of the Town's planning jurisdiction. The district is intended to accommodate residential development in ways that will not interfere with agricultural activity or negatively impact the surrounding rural character. Public water and sewer service is not likely in the district in the short- or medium-terms, and as such, conservation subdivisions and uses that rely on public water and sewer service are generally not permitted. The district accommodates differing agricultural uses and single-family detached homes, including manufactured home parks as a special use. It also allows energy creation uses, telecommunications facilities, parks, public safety facilities, and minor utilities. District regulations discourage uses that interfere with the development of residential dwellings or that are detrimental to the rural nature of the district.

B. RURAL (RUR) DISTRICT PREFERRED DEVELOPMENT FORMS



Single-Family Detached Dwelling



Manufactured Home (Type A)



Agricultural Development



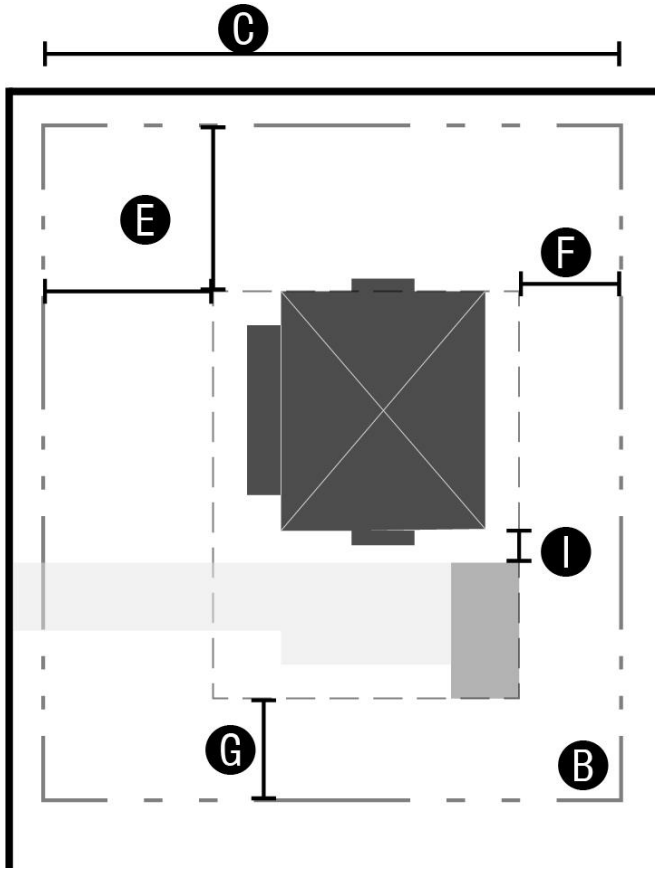
Solar Energy Conversion Use

C. RURAL (RUR) DISTRICT DIMENSIONAL STANDARDS

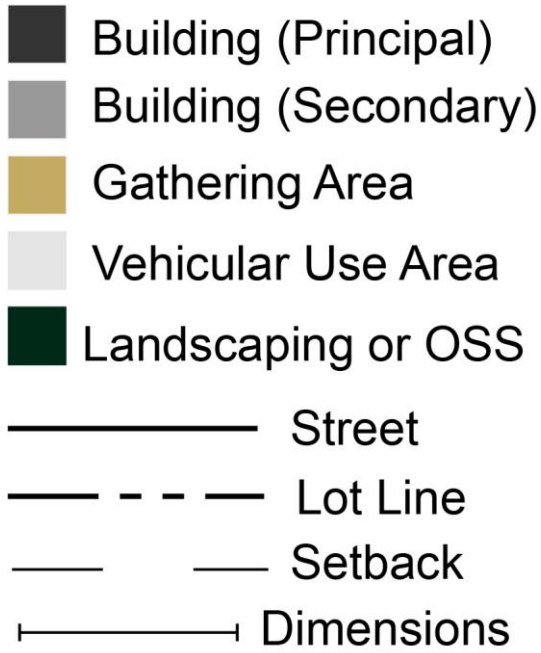
Dimensional Standard (see following page for dimensional standard diagrams)	Type of Development									
	Bungalow Court	Conservation Subdivision	Multi-Family	Pocket Neigh-hood	Single-Family Attached	Single-Family Detached	Triplex/ Quadplex	Duplex	Upper-Story Residential	Non-Residential [1]
Maximum Residential Density (du/ac)	N/A	N/A	N/A	N/A	N/A	1.0 [2]	N/A	N/A	N/A	1.0 [3]
A Minimum Site Size	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	43,560
B Minimum Lot Area (sf)	N/A	N/A	N/A	N/A	N/A	43,560	N/A	N/A	N/A	N/A
C Minimum Lot Width (lf)	N/A	N/A	N/A	N/A	N/A	100	N/A	N/A	N/A	100 [4]
Maximum Lot Coverage (% of lot area) [5]	N/A	N/A	N/A	N/A	N/A	40	N/A	N/A	N/A	40 [4]
D Minimum Open Space Set Aside (% of lot or site size) [6]	N/A	N/A	N/A	N/A	N/A	10	N/A	N/A	N/A	10
E Minimum Street Setback (lf)	N/A	N/A	N/A	N/A	N/A	50	N/A	N/A	N/A	50
F Minimum Side Setback (lf)	N/A	N/A	N/A	N/A	N/A	20	N/A	N/A	N/A	20
G Minimum Rear Setback (lf)	N/A	N/A	N/A	N/A	N/A	35	N/A	N/A	N/A	35
Minimum Spacing Between Principal Buildings on Same Lot (lf) [7]	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	20
I Minimum Spacing Between Secondary Building and Any Other Building on Same Lot (lf) [7]	N/A	N/A	N/A	N/A	N/A	10	N/A	N/A	N/A	10
J Minimum Perimeter Setback for Multi-Building and Unified Developments (lf)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	50
Maximum Building Height (lf) [8]	N/A	N/A	N/A	N/A	N/A	35	N/A	N/A	N/A	N/A

NOTES:
[1] Includes manufactured home parks.
[2] Maximum density may be increased by up to one-half unit per acre for voluntary compliance with residential design guidelines. Density bonuses may be granted for inclusion of sustainable development features in accordance with Section 6.17, Sustainable Development Incentives.
[3] Applied to manufactured home parks only.
[4] Applied to entire manufactured home park, not individual home spaces.
[5] Subject to applicable built-upon limits if located within the Watershed Protection Overlay District.
[6] See Section 6.7, Open Space Set-Aside and Parkland, for the type of open space required.
[7] A larger distance may be required in accordance with the applicable NC Building Code or NC Fire Code.
[8] May be increased in accordance provision of sustainable development incentives.

D. RURAL (RUR) DISTRICT DIMENSIONAL DIAGRAMS



Single-Family Detached Development



Legend

3.3 CONDITIONAL ZONING DISTRICTS

3.3.1 GENERAL PROVISIONS

A. PURPOSE AND INTENT

Conditional zoning districts are established to:

1. Provide an alternative to conventional zoning districts when a conventional zoning district may allow a range of uses that could have adverse impacts on public facilities or surrounding lands;
2. Create an adequate amount of flexibility in addressing the standards of this Ordinance to accommodate unique site-specific conditions or contexts;
3. Allow a landowner to propose, and the Town Council to consider, additional conditions or restrictions on the range of allowable uses, use-specific standards, development intensities, development standards, and other applicable regulations;
4. Allow a landowner to propose, and the Town Council to consider, a reduction in use-specific standards, development intensities, development standards, and other applicable regulations that would otherwise apply, in accordance with these standards;
5. Identify the range of development standards that may not be reduced or varied as part of a conditional rezoning application; and
6. Establish a legislative means to accommodate desirable development while avoiding or addressing anticipated problems that may arise from the proposed development.

B. CREATION

Land shall be classified into a Type 1, Type 2, or Type 3 conditional zoning district only in accordance with this section and the procedures and requirements set forth in Section 2.3.6, Conditional Rezoning.

C. DISTRICTS ESTABLISHED

The conditional zoning districts are established in accordance with the summary table in Section 3.3.1C, Districts Established.

D. CONDITIONS, GENERALLY

Applications for the establishment of a conditional zoning district shall include conditions proposed in accordance with Section 2.4.10, Conditions of Approval, and the following standards:

1. Conditions associated with a conditional zoning district may be proposed by an applicant or the Town Council. Regardless of how proposed, only those conditions agreed to by both the applicant and the Town Council shall be included in the approved conditional rezoning.
2. All conditions of approval shall be consented to, in writing, by the applicant, prior to issuance of the conditional rezoning application approval.
3. Conditions associated with a conditional rezoning application may be either more restrictive or less restrictive than the standards applicable to the parallel conventional zoning district, subject to the provisions in Section 3.3.1E.8, Limitations on Reductions.
4. In cases where a Type 3 Conditional Rezoning application is proposed, the applicant shall provide the following as part of the application materials:
   a. A Concept Plan, prepared in accordance with Section 3.3.1E, Concept Plans Associated with a Type 3 Conditional Rezoning;
   b. An explanation as to why the proposed conditions are necessary;

c. The ways in which approval of the less restrictive condition(s) will result in development that is in closer alignment with the provisions in Section 1.7, Purpose and Intent of Ordinance, and the Town's adopted policy guidance; and

d. Applicants are strongly encouraged to provide mitigation for any potential negative impacts anticipated to result from proposed conditions that are less restrictive than the applicable requirements.

E. CONCEPT PLANS ASSOCIATED WITH A TYPE 3 CONDITIONAL REZONING

1. GENERALLY

A Concept Plan, prepared in accordance with this section, shall be provided with an application for a Type 3 Conditional Rezoning application (see Section 2.3.6D, Application).

2. PREPARATION

A Concept Plan shall be prepared by a professional engineer, a licensed architect, or a licensed landscape architect.

3. CONTENTS

All Concept Plans shall include the following:

a. The general location of individual development areas, identified by land use(s) and/or development density or intensity;

b. The general configuration and relationship of the principal elements of the proposed development, including general building types;

c. Identify, for the entire district and each development area, the acreage, types and mix of land uses, number of residential units (by use type), non-residential floor area (by use type), residential density, and non-residential intensity (floor area square footage);

d. The general location, amount, and type (whether designated for active, passive, or gathering area) of open space set-aside;

e. The location of environmentally sensitive lands, wildlife habitat, and resource protection lands;

f. The on-site transportation circulation system, including the general location of all streets, existing or projected transit service, pedestrian, and vehicular circulation features, and how they will connect with existing and planned systems;

g. The general location of on-site potable water and wastewater facilities, and how they will connect to existing systems;

h. The general location of on-site stormwater control measures, and how they will connect to existing public systems;

i. The general location of all other on-site public facilities serving the development, including but not limited to parks, schools, bus shelters, and facilities for fire protection, police protection, EMS, and solid waste management; and

j. The applicable dimensional standards, including consistency with the conditional zoning district dimensional requirements or any requested deviations.

4. DEVIATIONS OR REDUCTIONS

a. Concept Plans shall clarify the degree to which the development depicted in the Concept Plan will or will not comply with all applicable standards in Chapter 6, Standards.

b. In cases where the application seeks a deviation from the applicable standards, the Concept Plan shall clearly identify all deviations in both narrative and graphic forms.

c. It is insufficient to simply prepare a plan that depicts a building or site configuration that deviates from the applicable standards. Deviations from standards must be clearly noted and described in terms of their scope. Language in the narrative must match or be consistent with visual representations and vice versa.

5. PRINCIPAL AND SECONDARY USES

a. The Concept Plan shall include a list of proposed principal and secondary uses.

b. It is insufficient to reference the table of common principal or secondary uses; Concept Plans shall list all potential allowable uses.

c. Uses that are not listed in a Concept Plan and proposed after its approval shall be considered unlisted uses subject to the process identified in Section 2.3.9, Determination.

6. PHASING

If development in conditional zoning district is proposed to be phased, the Concept Plan shall include phasing details or a phasing plan that identifies the general sequence or phases in which the district is proposed to be developed, including how residential and non-residential 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 Town's capital improvements program.

7. CONSISTENCY

All Subdivisions, Site Plans, and Zoning Compliance Permit applications shall be substantially consistent with the approved Concept Plan. A Concept Plan may only be modified in accordance with Section 2.3.6O, Amendment.

8. LIMITATIONS ON REDUCTIONS

In no instance shall any of the following standards in this Ordinance be waived or reduced as part of an application for a conditional rezoning:

a. Any of the applicable overlay district standards in Section 3.7, Overlay Zoning Districts;

b. The maximum allowable residential density, unless the landowner complies with the applicable provisions in Section 3.5, Incentives and Alternatives;

c. Any applicable conservation subdivision standards in Section 2.3.7, Conservation Subdivision;

d. Any use-specific standards in Section 4.3, Standards for Specific Principal Uses;

e. Any of the standards applicable in Section 4.4, Prohibited Uses;

f. Any applicable standards in Section 6.5, Infrastructure; and

g. Any applicable standards in Section 6.15, Stormwater, and Section 6.12, Riparian Buffers.

9. COMPLIANCE WITH SUBDIVISION REQUIREMENTS

Divisions of land within a conditional zoning district shall be subject to all applicable subdivision requirements in Section 2.3, Application Types.

10. RELATIONSHIP TO OVERLAY DISTRICT STANDARDS

Regulations governing development in an overlay zoning district shall apply in addition to all other applicable conditional zoning district standards.

3.3.2 (CZC) CONDITIONAL COMMERCIAL

A. PURPOSE AND INTENT

The Conditional Commercial (CZC) District is established to provide greater flexibility in terms of the range of allowable uses or applicable development standards than is permitted within the CRM or NCM conventional zoning districts. The CZC District creates a means for an applicant to voluntarily restrict a proposed development in order to protect community character or seek relief from otherwise applicable standards in order to produce commercial development that is in closer alignment with the Town's goals for development than would result from a strict application of the standards applicable in the CZM or NCM districts.

B. DIMENSIONAL STANDARDS

Unless modified as part of a Type 2 or Type 3 Conditional Rezoning application, the dimensional standards in Section 3.2.1, (CRM) Corridor Commercial District, shall apply to all development within a CZC District.

C. ALLOWABLE USES

1. Unless further limited by a Type 1 or Type 2 Conditional Rezoning application, the range of allowable principal uses shall be in accordance with the principal uses listed in the CZM, NCM, or CZC columns of the table in Section 4.2.5, Listing of Common Principal Uses.
2. Unless further limited by a Type 1 or Type 2 Conditional Rezoning application, the range of allowable secondary uses shall be in accordance with the secondary uses listed in the CZM, NCM, or CZC columns of the table in Section 4.5.4, Listing of Common Secondary Uses.
3. In no instance shall a principal or secondary use that is not listed in the CZM, NCM, or CZC columns of the appropriate table be permitted within a CZC District.

D. USE-SPECIFIC STANDARDS

Unless modified as part of a Type 2 or Type 3 Conditional Rezoning application, the use-specific standards in Section 4.3, Standards for Specific Principal Uses, or Section 4.5.5, Standards for Specific Secondary Uses, as appropriate shall apply to development in a CZC District.

E. DEVELOPMENT STANDARDS

Unless modified as part of a Type 3 Conditional Rezoning application, the standards in Chapter 6, Standards, shall apply to all development in the CZC district. Type 3 Conditional Rezoning applications shall comply with the standards in Section 3.3.1E.8, Limitations on Reductions.

3.3.3 (CZD) CONDITIONAL DOWNTOWN

A. PURPOSE AND INTENT

The Conditional Downtown (CZD) District is established to provide greater flexibility in terms of the range of allowable uses or applicable development standards than is permitted within DTNC, DTNT, or DTNN conventional zoning districts. The CZD District creates a means for an applicant to voluntarily restrict a proposed development in order to protect community character or seek relief from otherwise applicable standards in order to produce a development that is in closer alignment with the Town's goals for downtown development than would result from a strict application of the standards applicable in a particular conventional district.

B. DIMENSIONAL STANDARDS

Unless modified as part of a Type 2 or Type 3 Conditional Rezoning application, the dimensional standards in Section 3.2.3, (DTNC) Downtown Core, shall apply to all development within a CZD District.

C. ALLOWABLE USES

1. Unless further limited by a Type 1 or Type 2 Conditional Rezoning application, the range of allowable principal uses shall be in accordance with the principal uses listed in the DTNC, DTNT, DTNN, or CZD columns of the table in Section 4.2.5, Listing of Common Principal Uses.
2. Unless further limited by a Type 1 or Type 2 Conditional Rezoning application, the range of allowable secondary uses shall be in accordance with the secondary uses listed in the DTNC, DTNT, DTNN, or CZD column of the table in Section 4.5.4, Listing of Common Secondary Uses.
3. In no instance shall a principal or secondary use that is not listed in the CZD column of the appropriate table be permitted within a DTNC, DTNT, DTNN, or CZD District.

D. USE-SPECIFIC STANDARDS

Unless modified as part of a Type 2 or Type 3 Conditional Rezoning application, the use-specific standards in Section 4.3, Standards for Specific Principal Uses, or Section 4.5.5, Standards for Specific Secondary Uses, as appropriate shall apply to development in a CZD District.

E. DEVELOPMENT STANDARDS

Unless modified as part of a Type 3 Conditional Rezoning application, the standards in Chapter 6, Standards, shall apply to all development in the CZD district. Type 3 Conditional Rezoning applications shall comply with the standards in Section 3.3.1E.8, Limitations on Reductions.

3.3.4 (CZI) CONDITIONAL INDUSTRIAL

A. PURPOSE AND INTENT

The Conditional Industrial (CZI) District is established to provide greater flexibility in terms of the range of allowable uses or applicable development standards than is permitted within LID or HID conventional zoning districts. The CZI District creates a means for an applicant to voluntarily restrict a proposed development in order to protect community character or seek relief from otherwise applicable standards in order to produce a development that is in closer alignment with the Town's goals for industrial development than would result from a strict application of the standards applicable in the LID or HID districts.

B. DIMENSIONAL STANDARDS

Unless modified as part of a Type 2 or Type 3 Conditional Rezoning application, the dimensional standards in Section 3.2.6, (HID) Heavy Industrial, shall apply to all development within a CZI District.

C. ALLOWABLE USES

1. Unless further limited by a Type 1 or Type 2 Conditional Rezoning application, the range of allowable principal uses shall be in accordance with the principal uses listed in the LID, HID, or CZI columns of the table in Section 4.2.5, Listing of Common Principal Uses.

2. Unless further limited by a Type 1 or Type 2 Conditional Rezoning application, the range of allowable secondary uses shall be in accordance with the secondary uses listed in the LID, HID, or CZI columns of the table in Section 4.5.4, Listing of Common Secondary Uses.
3. In no instance shall a principal or secondary use that is not listed in the CZI column of the appropriate table be permitted within a LID, HID, or CZI District.

D. USE-SPECIFIC STANDARDS

Unless modified as part of a Type 2 or Type 3 Conditional Rezoning application, the use-specific standards in Section 4.3, Standards for Specific Principal Uses, or Section 4.5.5, Standards for Specific Secondary Uses, as appropriate shall apply to development in a CZI District.

E. DEVELOPMENT STANDARDS

Unless modified as part of a Type 3 Conditional Rezoning application, the standards in Chapter 6, Standards, shall apply to all development in the CZI district. Type 3 Conditional Rezoning applications shall comply with the standards in Section 3.3.1E.8, Limitations on Reductions.

3.3.5 (CZM) CONDITIONAL MIXED-USE

A. PURPOSE AND INTENT

The Conditional Mixed-Use (CZM) District is established to provide greater flexibility in terms of the range of allowable uses or applicable development standards than is permitted within the MXD conventional zoning district. The CZM District creates a means for an applicant to voluntarily restrict a proposed development in order to protect community character or seek relief from otherwise applicable standards in order to produce a development that is in closer alignment with the Town's goals for industrial development than would result from a strict application of the standards applicable in the CZM district.

B. DIMENSIONAL STANDARDS

Unless modified as part of a Type 2 or Type 3 Conditional Rezoning application, the dimensional standards in Section 3.2.8, (MXD) Mixed-Use, shall apply to all development within a CZM District.

C. ALLOWABLE USES

1. Unless further limited by a Type 1 or Type 2 Conditional Rezoning application, the range of allowable principal uses shall be in accordance with the principal uses listed in the MXD and CZM columns of the table in Section 4.2.5, Listing of Common Principal Uses.
2. Unless further limited by a Type 1 or Type 2 Conditional Rezoning application, the range of allowable secondary uses shall be in accordance with the secondary uses listed in the MXD and CZM columns of the table in Section 4.5.4, Listing of Common Secondary Uses.
3. In no instance shall a principal or secondary use that is not listed in the MXD or CZM columns of the appropriate table be permitted within a CZM District.

D. USE-SPECIFIC STANDARDS

Unless modified as part of a Type 2 or Type 3 Conditional Rezoning application, the use-specific standards in Section 4.3, Standards for Specific Principal Uses, or Section 4.5.5, Standards for Specific Secondary Uses, as appropriate shall apply to development in a CZM District.

E. DEVELOPMENT STANDARDS

Unless modified as part of a Type 3 Conditional Rezoning application, the standards in Chapter 6, Standards, shall apply to all development in the CZM district. Type 3 Conditional Rezoning applications shall comply with the standards in Section 3.3.1E.8, Limitations on Reductions.

3.3.6 (CZR) CONDITIONAL RESIDENTIAL

A. PURPOSE AND INTENT

The Conditional Residential (CZR) District is established to provide greater flexibility in terms of the range of allowable uses or applicable development standards than is permitted within the RHD, RLL, RLD, RMD, RMF, or RUR conventional zoning districts. The CZR District creates a means for an applicant to voluntarily restrict a proposed development in order to protect community character or seek relief from otherwise applicable standards in order to produce a development that is in closer alignment with the Town's goals for industrial development than would result from a strict application of the standards applicable in the RHD, RLL, RLD, RMD, RMF, or RUR districts.

B. DIMENSIONAL STANDARDS

Unless modified as part of a Type 2 or Type 3 Conditional Rezoning application, the dimensional standards in Section 3.2.15, (RMD) Residential Medium Density shall apply to all development within a CZR District.

C. ALLOWABLE USES

1. Unless further limited by a Type 1 or Type 2 Conditional Rezoning application, the range of allowable principal uses shall be in accordance with the principal uses listed in the RHD, RLL, RLD, RMD, RMF, RUR, or CZR columns of the table in Section 4.2.5, Listing of Common Principal Uses.
2. Unless further limited by a Type 1 or Type 2 Conditional Rezoning application, the range of allowable secondary uses shall be in accordance with the secondary uses listed in the RHD, RLL, RLD, RMD, RMF, RUR, or CZR columns of the table in Section 4.5.4, Listing of Common Secondary Uses.
3. In no instance shall a principal or secondary use that is not listed in the RHD, RLL, RLD, RMD, RMF, RUR, or CZR columns of the appropriate table be permitted within a CZR District.

D. USE-SPECIFIC STANDARDS

Unless modified as part of a Type 2 or Type 3 Conditional Rezoning application, the use-specific standards in Section 4.3, Standards for Specific Principal Uses, or Section 4.5.5, Standards for Specific Secondary Uses, as appropriate shall apply to development in a CZR District.

E. DEVELOPMENT STANDARDS

Unless modified as part of a Type 3 Conditional Rezoning application, the standards in Chapter 6, Standards, shall apply to all development in the CZR district. Type 3 Conditional Rezoning applications shall comply with the standards in Section 3.3.1E.8, Limitations on Reductions.

3.4 GENERAL DIMENSIONAL STANDARDS

3.4.1 MAXIMUM RESIDENTIAL DENSITY MAY BE INCREASED

A. Unless otherwise indicated in this Ordinance, the maximum density for a conventional or conditional zoning district may be increased beyond the amount listed in Section 2.3.8, Conventional Rezoning, or Section 3.3, Conditional Zoning Districts, only in accordance with the standards, incentives, and procedures identified in Section 3.5, Incentives and Alternatives.

B. In cases where an incentive or alternative identified in Section 3.5, Incentives and Alternatives, is proposed and approved by the Town, the increase in maximum residential density shall not require a conventional or conditional rezoning application.

3.4.2 MULTIPLE BUILDINGS OR STRUCTURES ON A LOT

In no instance shall there be more than one principal building per lot, except as allowed by the following:

A. NONRESIDENTIAL UNIFIED DEVELOPMENT

Two or more separate principal non-residential buildings may be permitted on a single lot as a unified development provided the development has been reviewed and approved in accordance with Section 2.3.21, Site Plan, and provided that each building shall be served by a street or an accessway that is maintained in passable condition for service and emergency vehicles.

B. MULTIPLE FAMILY DEVELOPMENT

Two or more separate principal residential buildings may be permitted on a single lot as a part of a single-family attached, multiple-family detached, or multi-family development subject to the applicable use standards in Section 4.3, Standards for Specific Principal Uses, and approval of a site plan in accordance with Section 2.3.21, Site Plan. Each building with residential units shall be served by street or accessway that is maintained in passable condition for service and emergency vehicles.

C. MANUFACTURED OR MOBILE HOME PARK

Manufactured or mobile home buildings may be permitted in a manufactured or mobile home park on a single lot, subject to approval of a Site Plan (see Section 2.3.21, Site Plan), and compliance with all applicable use-specific standards.

D. SINGLE-FAMILY RESIDENTIAL UNIFIED DEVELOPMENT

Two or more principal single-family detached dwellings may be permitted on a single lot, provided:

1. The development is identified, planned, approved, and developed as a unified development;
2. The development has received site plan approval in accordance with Section 2.3.21, Site Plan.

3.4.3 REQUIRED LOT CONFIGURATION

A. DIMENSIONAL REQUIREMENTS

1. The size, width, depth, shape, orientation, and minimum setback lines of lots shall be as required for the zoning district where located in accordance with the standards in Chapter 3, Districts.

2. All lots created after January 2, 2024, shall have sufficient area, dimensions, and access to allow a principal building to be erected on it in compliance with the requirements of this Ordinance.
3. Lots intended for non-residential development shall be of an adequate size and shape to accommodate required off-street parking, loading, landscaping, and on-site circulation features.

B. DOUBLE-FRONTAGE LOTS

1. Double frontage (or "through" lots) shall be prohibited except where essential to provide separation of residential development from traffic arteries or to overcome specific challenges of topography and orientation.
2. In cases where a double frontage lot abuts an arterial or collector street, access to the lot shall be provided from the street with the lowest average daily trips. This requirement may be waived by the Planning Director in cases where compliance with this standard will likely result in dramatic increases in traffic within residential areas.
3. A double frontage lot shall include an easement of at least ten feet in width across the rear of the lot which shall prohibit access to the abutting street.

C. FLAG LOTS

New flag lots may be established, subject to the following requirements:

1. No more than two flag lots may be created from a parent parcel after January 2, 2024;
2. New flag lots may only be established along existing streets;
3. The "pole," arm," or "pan handle" portion of a flag lot shall maintain a minimum width of at least 30 feet;
4. Use of a single driveway to serve an adjoining lot is encouraged. Wherever possible, the shared driveway shall be on the flag lot; and
5. In no case shall flag lots be configured to have two "poles," "arms," or "pan handles" on different lots adjacent to one another.

D. MINIMUM LOT SIZE

1. Except for special purpose lots, or in cases of governmental acquisition of land in accordance with Section 5.2.5, Governmental Acquisition of Land, no lot established after January 2, 2024, shall be reduced in size or dimension such that noncompliance with respect to any dimensional requirement, setback, parking, landscaping, or other development standard is created.
2. Except for special purpose lots, or lots subject to a valid approval in accordance with Section 3.5, Incentives and Alternatives, all lots created after January 2, 2024, shall meet the minimum lot dimensional requirements for the district where located.
3. Corner lots shall be of sufficient size to ensure development may be configured in accordance with the standards in Section 6.1.7, Sight Distance Triangles.

E. MINIMUM LOT FRONTAGE

The minimum frontage of any lot at the right-of-way line shall be at least 20 linear feet.

F. MINIMUM LOT WIDTH

1. Except for lots within conservation subdivisions, new lots created after January 2, 2024, with a lot width of less than 50 linear feet shall be served by rear-loaded alleys.
2. Alleys shall be the minimum length necessary to serve the lot or lots in question, and will be required to extend to a logical termination point necessary to ensure safe vehicular movement, in the sole discretion of the Town's Engineering Director.

G. SIDE LOT LINES

Side lines of lots should be at or near right angles or radial to street lines.

3.4.4 REQUIRED YARDS

A. The land area between a lot line and the inner boundary of a required setback is considered as a required yard.

B. The location of street, side, or rear yards on irregularly-shaped lots shall be determined by the Planning Director in accordance with Section 3.6, Measurements and Exceptions. Wherever possible, the Planning Director shall interpret these boundaries in ways that minimize nonconformities.

C. Except where otherwise provided in Section 3.6.9, Setback Encroachments, required yards shall not be subject to encroachment by a building, structure, or outdoor use area.

3.4.5 SPECIAL PURPOSE LOTS

Zoning district requirements related to street frontage, lot width, minimum lot area, and minimum lot dimensions shall not apply to special purpose lots, which shall be configured in accordance with the following:

A. LOTS DISTINGUISHED

Lots established for the sole purpose of family or church cemeteries, cluster mailbox units, guard houses, wastewater lift stations, wastewater treatment facilities, and similar utility uses shall be considered special purpose lots in accordance with these standards.

B. MINIMUM SIZE

A special purpose lot shall be permitted only after the Planning Director, or TRC, as appropriate, has determined if the proposed lot has sufficient dimensions to accommodate the intended use and any additional required elements.

C. ACCESS REQUIRED

If the special purpose lot does not have direct access to a public road, an easement for ingress and egress with a minimum width of ten feet shall be platted.

D. IDENTIFICATION

The boundaries and purpose for all special purpose lots shall be included on Preliminary and Final Plats.

3.4.6 SPLIT ZONING

Wherever a single lot is located within two or more different zoning districts, each portion of the lot shall be subject to all the regulations applicable to the zoning district where it is located.

3.4.7 UNIFIED DEVELOPMENT

A. A unified development is a residential, non-residential, or mixed-use development consisting of at least two buildings located on one or more lots that are planned, permitted, developed, and operated as a single unit.

B. Structures and land uses located on different lots within a unified development are subject to perimeter setbacks rather than traditional side and rear setbacks applied to individual lots.

C. All the buildings and land uses within a unified development are treated as a single use or structure with respect to the location of off-street parking, the location of landscaping, the application of exterior lighting provisions, the amount and location of required open space set-aside, stormwater requirements, and tree protection provisions.

D. Signage provisions shall be applied to individual lots and uses unless subject to a uniform sign plan in accordance with Section 2.3.20F.2, Uniform Sign Plan.

3.5 INCENTIVES AND ALTERNATIVES

3.5.1 DENSITY

Unless otherwise indicated in this Ordinance, the maximum residential density for a conventional or conditional zoning district may be increased beyond the amount identified in Section 2.3.8, Conventional Rezoning, and Section 3.3, Conditional Zoning Districts, only in accordance with the following:

A. Provision of sustainable development features in accordance with Section 6.17, Sustainable Development Incentives;

B. Voluntary compliance with Section 6.2.6, Single-Family Residential Design Guidelines, as applied to a single-family detached use, a duplex use, or a single-family attached dwelling; or

C. Approval of a Type 3 conditional zoning district application in accordance with Section 2.3.6, Conditional Rezoning.

3.5.2 DIMENSIONAL STANDARDS

Required dimensional standards on lots in conventional, conditional, or overlay districts may be reduced or revised in accordance with the following:

A. Section 2.3.1, Administrative Adjustment;

B. Section 6.17, Sustainable Development Incentives; or

C. Section 2.3.29, Variance.

3.5.3 ALTERNATIVE MEANS OF COMPLIANCE

A. Principal and secondary structures and uses may encroach into required setbacks in accordance with Section 3.6.9, Setback Encroachments.

B. Deviations or exceptions to maximum building height provisions are permitted in accordance with Section 3.6.4D, Exceptions.

C. Alternative site access to single-family detached and duplex dwellings may be established in accordance with Section 6.1.4D.5, Alternative Access.

D. Alternatives to landscaping and screening requirements may be proposed in accordance with Section 6.6.10C, Alternative Landscape Plans.

E. Alternative off-street parking facilities may be provided in accordance with Section 6.9.8, Parking Flexibility.

F. Alternative signage configuration may be proposed in accordance with Section 2.3.20K, Alternative Sign Plan.

3.6 MEASUREMENTS AND EXCEPTIONS

3.6.1 PURPOSE AND INTENT

The purpose of this section is to clarify the rules of measurement and exemptions that apply to all principal and secondary uses allowed in this Ordinance. These standards may be modified by other applicable sections of this Ordinance.

3.6.2 GENERALLY

A. STRAIGHT LINES

Unless otherwise stated in this Ordinance, distances specified in this Ordinance are to be measured as the length of an imaginary straight line joining two points.

B. ROUNDING

All calculations that result in a fractional unit or part of a whole number, the number shall be rounded up to the next highest whole number, unless otherwise provided in this section or elsewhere in this Ordinance.

C. IRREGULAR SHAPES

In cases where an irregular shape complicates the application of these standards, the Planning Director shall determine the applicable dimensional, setback, or bulk standards in accordance with the standards in this section and Section 2.3.9, Determination.

D. SEPARATION

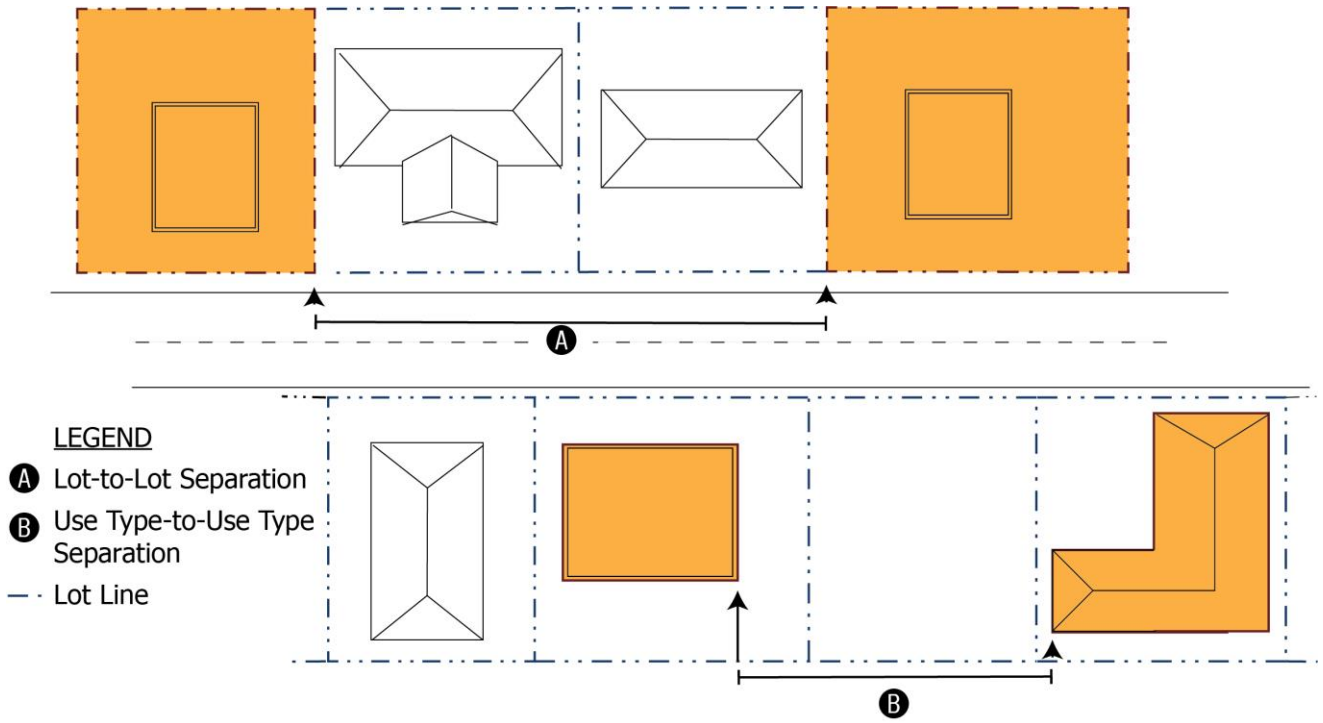
1. LOT TO LOT

When the provisions of this Ordinance require separation between two or more lots, or a lot and another feature, separation shall be measured by drawing straight lines from the nearest point of one lot line to the nearest point of the lot line subject to the separation requirement (see Figure 3.6.2: Use Separation).

2. USE TYPE TO USE TYPE

When the provisions of this Ordinance require one use type to be separated from another use type, separation shall be measured by drawing straight lines from the nearest point of the wall of one existing or proposed principal structure to the nearest point of the wall of another existing or proposed structure subject to the separation requirement (see Figure 3.6.2: Use Separation).

FIGURE 3.6.2: USE SEPARATION



E. ABUTTING VERSUS ADJACENT

1. ABUTTING

The term abutting describes a condition where two or more features (a lot line, building, driveway, etc.) are immediately beside or next to one another either on the same lot or on different lots sharing a common lot line.

2. ADJACENT

The term adjacent describes a condition where two or more similar features (a lot line, building, use type, structure, site feature, etc.) are proximate to one another, but are separated by some form of intervening feature, such as a street, alley, water feature, railroad, lot or property under separate ownership, or natural feature of sufficient size so as to prevent direct site visibility or impede the movement of sound from one feature to another.

3.6.3 DENSITY & YIELD CALCULATIONS

A. GENERALLY

1. Density is the maximum allowable number of residential dwelling units permitted on a particular site, tract, lot, or other unit of land area, typically expressed as a maximum number of residential units per acre.
2. Lot area is the minimum size of a lot, in square feet, that is devoted to a residential dwelling unit as identified for the zoning district where located. Lot area is used to determine the maximum number of lots that can be accommodated on a particular site, tract, lot, or other unit of land area, typically expressed as a whole number.
3. Yield is the total number of residential dwelling units permitted within a particular development. Yield is the lesser of the allowable density or the maximum number of lots.
4. Fractional numbers resulting from a calculation of density, maximum number of lots, or yield shall be rounded downwards to the next whole number.

B. CALCULATION OF DENSITY

1. Maximum residential density is calculated by dividing the square footage of a lot by the number of square feet in an acre (43,560), then multiplying the maximum number dwelling units allowed in the zoning district, and rounding the product downwards (in the tenths place) to remove any fractions.

a. EXAMPLE: 67,000 SQUARE-FOOT SITE IN THE RMD DISTRICT

i. Lot size: 67,000 square feet / 43,560 = 1.53 acres.
ii. Zoning district maximum density for single-family detached dwellings or duplex dwellings is 5.0 units per acre: 1.53 x 5.0 = 7.65.
iii. Maximum residential density = 7 units (fractions are rounded downwards).

2. Land area associated with floodplains and riparian buffers may be included in the calculation of the square footage of a tract or site for the purposes of determining the maximum residential density.
3. Land area located within a public right-of-way shall not be included in the calculation of allowable density.
4. Maximum residential density in a particular zoning district may be increased beyond the amount stated for the zoning district, in accordance with the standards in Section 3.5, Incentives and Alternatives.

C. CALCULATION OF MAXIMUM NUMBER OF LOTS

The maximum number of lots is calculated by dividing the total square footage of a lot or tract by the minimum lot area for the type of use proposed, the resulting number (the quotient) is then rounded downwards to the next lowest whole number to produce the total number of lots permissible for the type of use proposed.

a. EXAMPLE 1: 67,000 SQUARE-FOOT SITE IN THE RMD DISTRICT FOR SINGLE-FAMILY DETACHED DWELLING LOTS

i. Lot size: 67,000 square feet.
ii. Minimum lot area for a single-family detached dwelling: 8,000 square feet.
iii. Maximum number of single-family detached dwelling lots: 67,000 / 8,000 = 8.37, or 8 single-family detached lots (fractions are rounded downwards).

b. EXAMPLE 2: 67,000 SQUARE-FOOT SITE IN THE RMD DISTRICT FOR DUPLEX DWELLING LOTS

i. Lot size: 67,000 square feet.

ii. Minimum lot area for duplex dwelling: 10,000 square feet.
iii. Maximum number of duplex dwelling lots: (67,000 - 10,000) = 6.70, or 6 duplex dwelling lots (fractions are rounded downwards).

D. CALCULATION OF YIELD

Residential yield is the lesser of the maximum allowable density or the maximum number of lots for a given site.

a. EXAMPLE 1: 67,000 SQUARE-FOOT SITE IN THE RMD DISTRICT FOR SINGLE-FAMILY DETACHED DWELLING LOTS

i. Maximum density (based on Example a in Subsection B above): 7 units.
ii. Maximum number of lots (based on Example a in Subsection C above): 8 lots.
iii. Yield = 7 units.

b. EXAMPLE 2: 67,000 SQUARE-FOOT SITE IN THE RMD DISTRICT FOR DUPLEX DWELLING LOTS

i. Maximum density (based on Example a in Subsection B above): 7 units.
ii. Maximum number of lots (based on Example b in Subsection C above): 6 lots (12 dwelling units).
iii. Yield = 7 units (three duplex dwelling structures).

E. DENSITY EQUIVALENCE

1. Accessory dwelling units associated with a single-family residential principal use shall not be counted towards the maximum allowable residential density.
2. When calculating the density for a private dormitory associated with an educational use, two bedrooms in a private dormitory shall be equivalent to one regular dwelling unit.
3. Maximum density amounts do not apply to student housing or lodging on college or university campuses when the housing is owned or operated by the college or university. In these instances, residential land uses are considered as secondary to the college or university principal use.

3.6.4 HEIGHT

A. MEASUREMENT

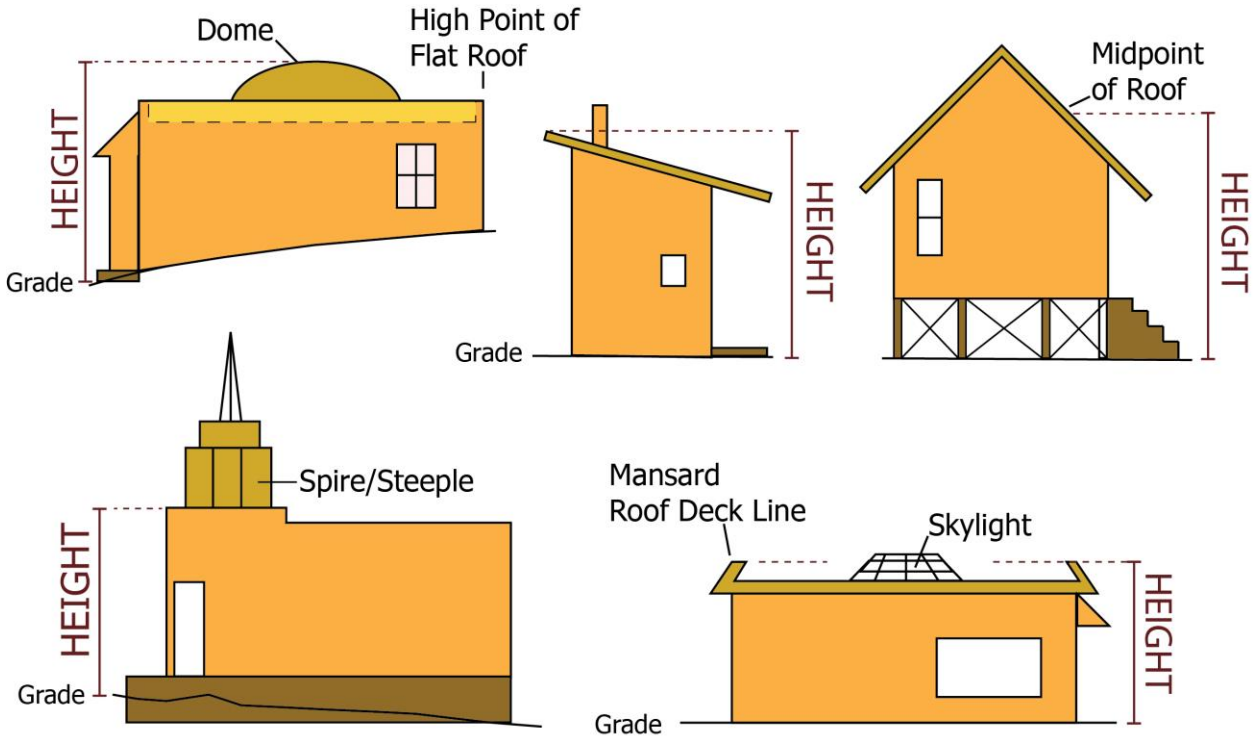
Building height shall be measured from the finished or established grade elevation following any land disturbing activities.

B. MAXIMUM HEIGHT

Building height is the vertical distance from a point established as the mean elevation of the finished grade along the front façade of a building to any of the following points (see Figure 3.6.4: Building Height):

1. The highest point of a flat roof (excluding coping or parapet walls shorter than five feet above the roof deck);
2. The deck line of a mansard or gambrel roof;
3. The mid-point of the roof between the ridge and the eaves for a gable or hip roof; or
4. To the highest point of a dome, mono-pitch shed, or cricket-style roof.

FIGURE 3.6.4: BUILDING HEIGHT



C. STORY

A building story is the portion of a building where all rooms share the same floor and ceiling level.

1. A crawlspace, basement, or condition space with a ceiling height of less than seven feet is not considered as a story.
2. An attic with an average ceiling height of less than six feet is not considered a story.

D. EXCEPTIONS

The following features are exempted from the maximum height requirements in this Ordinance:

1. Parapet walls of less than five feet in height above the roof deck;
2. Spires, steeples, minarets, belfries, cupolas, domes, and similar architectural features not intended for human habitation;
3. Water tanks, vent housings, elevator housings, and equipment covers;
4. Chimneys, vent pipes, skylights, or mechanical equipment; and
5. Bulkheads or a single-story penthouse occupying 25 percent or less of the total roof area.

3.6.5 FLOOR AREA

Gross floor area (GFA) shall be defined as the sum in square feet of all floors of the building measured from the exterior face of the exterior walls. The gross floor area shall include or exclude areas as indicated below:

A. AREAS INCLUDED IN GROSS FLOOR AREA

1. All enclosed habitable space.
2. Elevators, hallways, and stairwells on stories containing habitable space.

B. AREAS EXCLUDED FROM GROSS FLOOR AREA

1. Unenclosed porches or decks.
2. Off-street parking areas, including the elevators, hallways, mechanical equipment, and stairwells serving structured parking.
3. Utility services areas devoted to the electric service, the potable water service, the wastewater system, the telephone service, the cable service, or to a backup generator.
4. Mechanical areas and uninhabited enclosed spaces on tops of roofs not intended for general storage.

3.6.6 LOT COVERAGE

Lot coverage is the percentage of a lot or development site that is covered by buildings or roof structures, excluding allowed projecting eaves and balconies.

3.6.7 LOTS

A. LOT MEASUREMENTS

1. ACREAGE

The total number or gross number of acres on a tract or site.

2. LOT DEPTH

The dimension measured from the front of the lot to the extreme rear line of the lot. In case of irregularly shaped lots, the mean depth shall be taken.

3. LOT WIDTH

The width of a lot is measured at right angles to its depth at the edge of the street setback or at a proposed building setback line, whichever is further from the street right-of-way. If the lot line parallel to the street edge is not straight, the lot width is measured as a chord between the intersection of the street setback line and the two side lot lines.

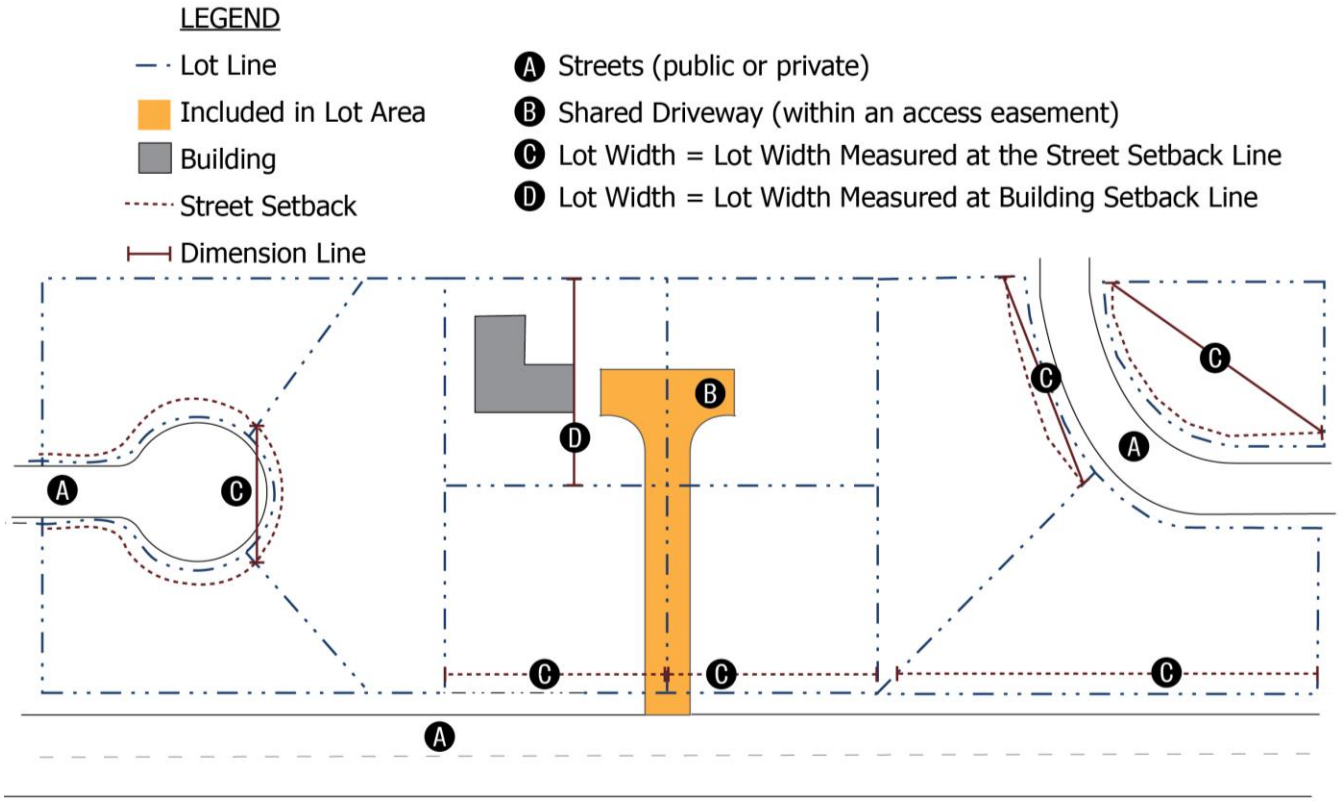
4. MINIMUM LOT AREA

The minimum amount of required land area, measured horizontally, that must be included within the lines of a lot (see Figure 3.6.7.A: Lot Measurement). Lands located within any easements shall be included within the lot area, but public rights-of-way shall not.

5. STREET FRONTAGE

The length of the lot line of a single lot abutting a public or existing private street right-of-way.

FIGURE 3.6.7.A: LOT MEASUREMENT



B. LOT LINES

A lot line is a line of record bounding a lot which separates one lot from another lot or separates a lot from a public or private street or any other public space (see Figure 3.6.7.B: Lot Lines). The following terms describe differing types of lot lines:

1. STREET LOT LINE

The lot line along the edge of the street that provides a lot's street address or the primary entrance of a building. Street setbacks are applied to any lot line abutting a street, but only one lot line serves as the street lot line. The street lot line is the lot line corresponding the front or primary building façade.

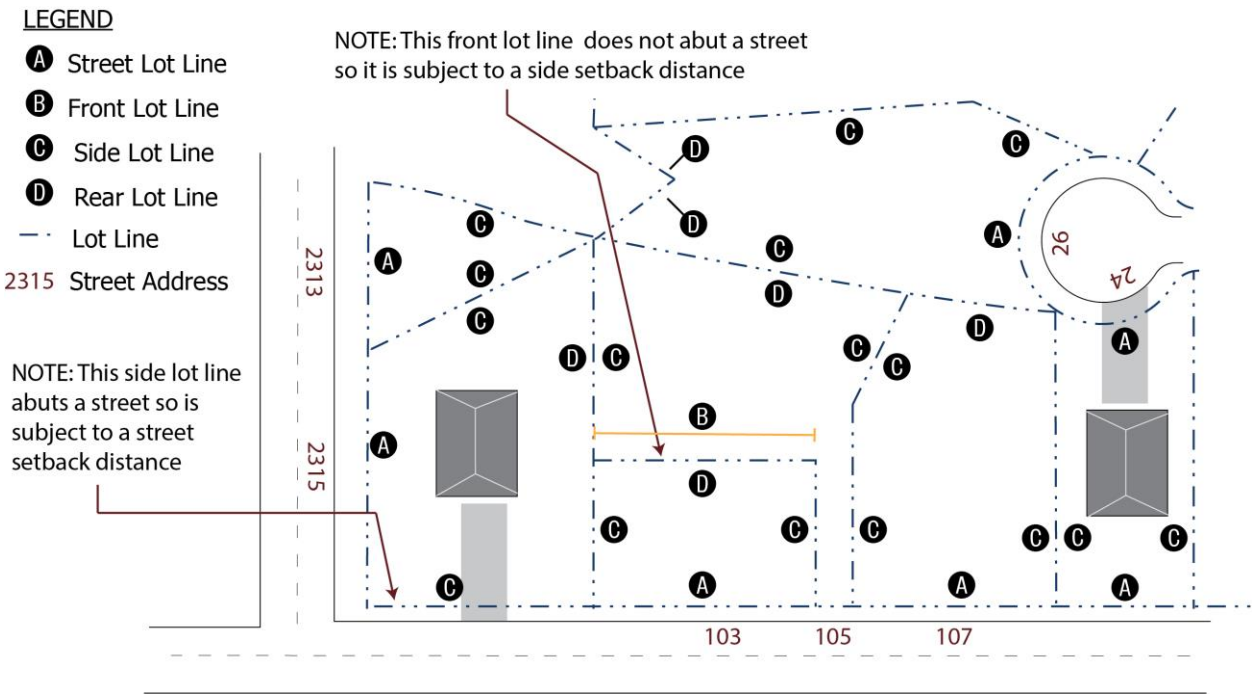
2. REAR LOT LINE

The lot line is opposite the street lot line.

3. SIDE LOT LINE

The lot line connecting the street and rear lot lines regardless of whether it abuts a right-of-way or another lot line.

FIGURE 3.6.7.B: LOT LINES



C. LOT TYPES

1. CORNER LOT

A lot which occupies the interior angle at the intersection of two street lines or a single street which make(s) an angle of more than 45 degrees and less than 135 degrees.

2. FLAG LOT

A lot having shape and configuration so that it connects to street frontage by an extension and/or arm of the main portion of the lot.

3. INTERIOR LOT

A lot other than a corner lot with only one frontage on a street.

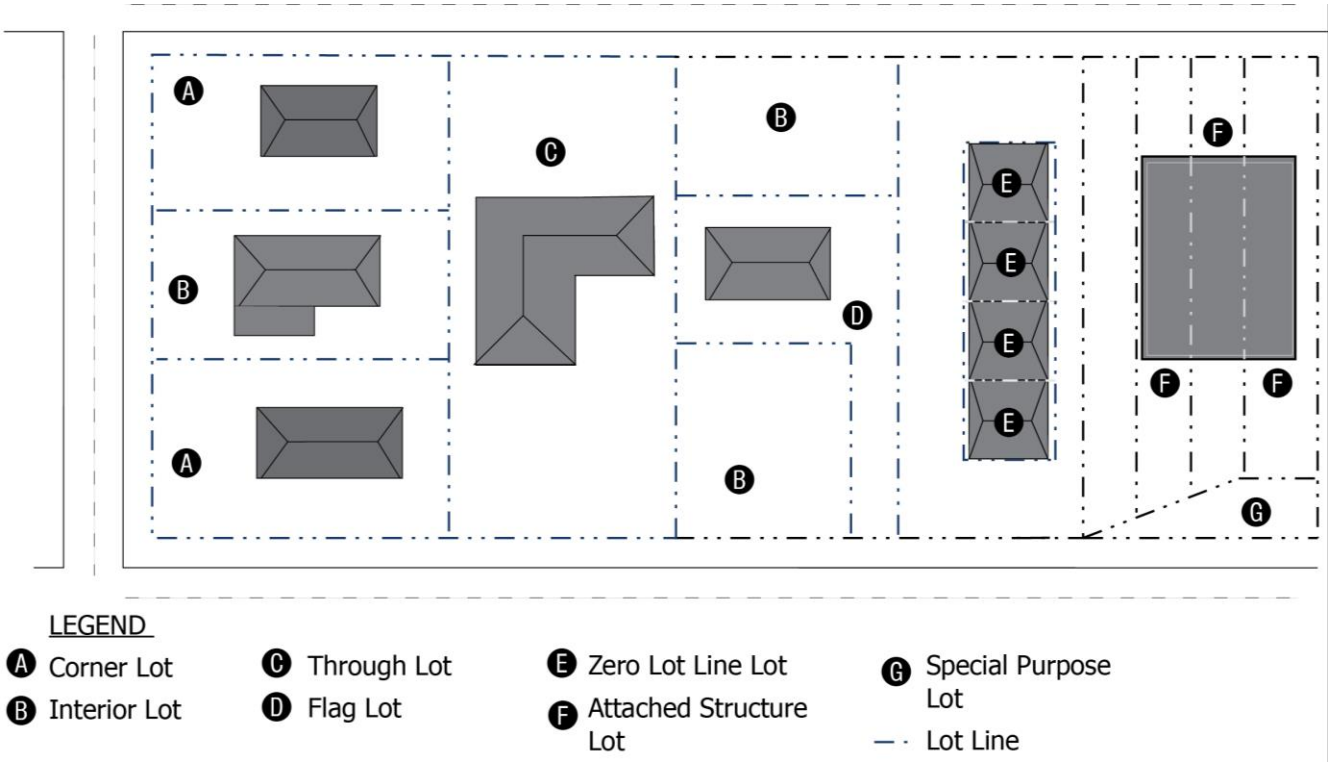
4. LOT OF RECORD

A lot that is a part of a subdivision, a plat of which has been recorded in the office of the Johnston County Register of Deeds, as appropriate or a lot described by metes and bounds, the description of which has been recorded with the Johnston County Register of Deeds, as appropriate.

5. THROUGH LOT (DOUBLE FRONTAGE LOT)

A lot which fronts upon two parallel streets, and/or which fronts upon two streets which do not intersect at the boundaries of the lot.

FIGURE 3.6.7.C: LOT TYPES



D. ZERO LOT LINES

Zero lot line lots serving individual attached structures, whether residential or non-residential, that do not have individual lot frontages are exempted from minimum lot area requirements in this Ordinance but shall be located on a larger site or parent tract that meets the site size standards for the zoning district where located.

3.6.8 SETBACKS

A setback is the horizontal distance from a lot line or street right-of-way line to the nearest part of the applicable building, structure, sign, or activity, measured perpendicularly to the line.

A. PERIMETER SETBACK

Setbacks applied to unified developments or multiple building developments or two or more lots apply only to the outermost buildings along the perimeter of a development. A perimeter setback does not apply along streets, where the minimum or maximum required street setback shall prevail.

B. REAR SETBACK

A setback from an interior lot line lying on the opposite side of the lot from the street setback.

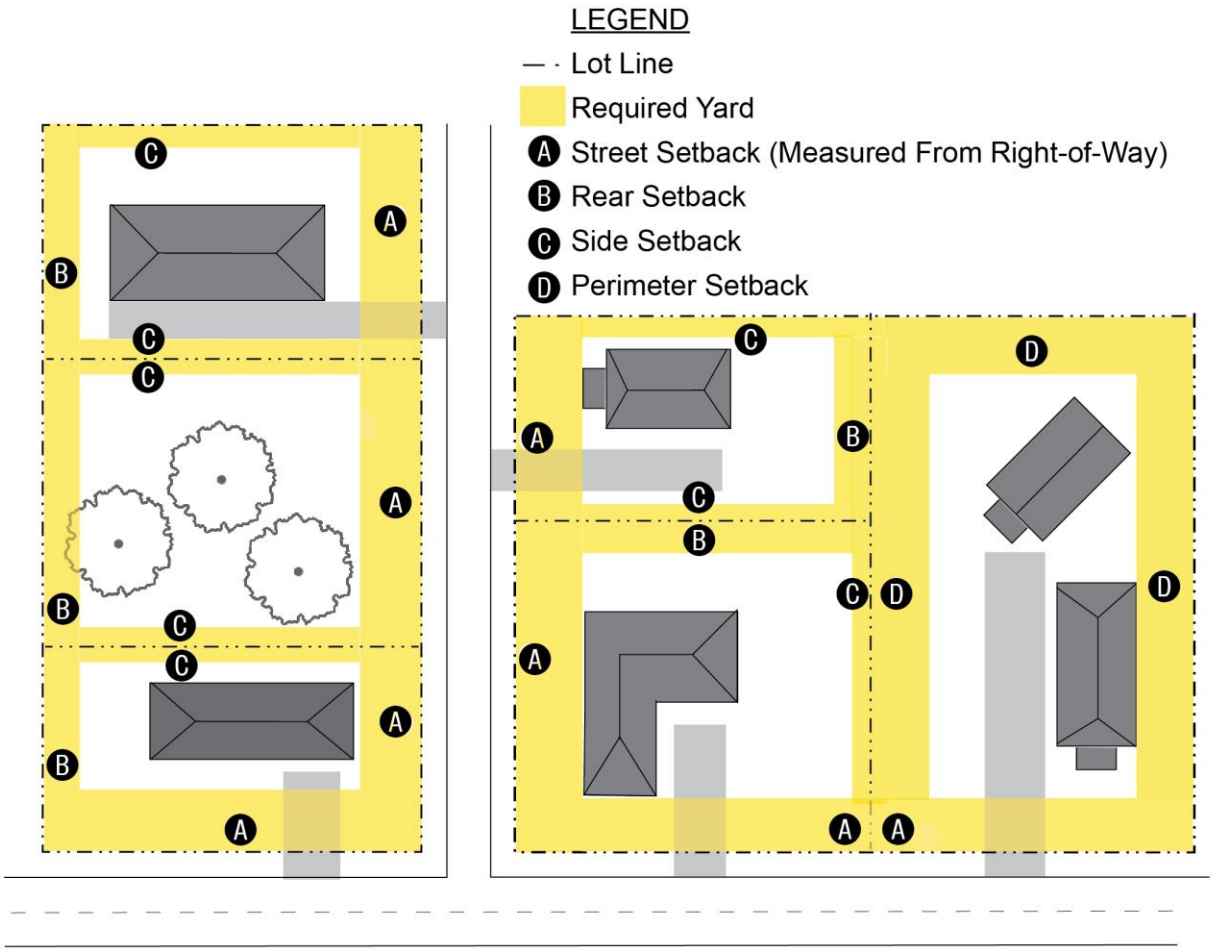
C. SETBACKS FROM RAILROADS OR SIDINGS

Lots serving industrial or commercial uses and abutting a railroad or railroading siding are not required to provide a side or rear setback from the railroad or siding.

D. SIDE SETBACK

Any interior property line setback other than a rear setback.

FIGURE 3.6.8: SETBACKS



E. STREET SETBACK

1. A setback measured from the right-of-way edge associated with a public street.

2. The street setback is a minimum setback, and nothing shall prohibit a building from being located farther from the street right-of-way, except where a maximum street setback is specifically identified by this Ordinance or a condition of approval.
3. In cases where the street right-of-way edge is not readily identifiable, the location of the right-of-way edge shall be determined by measuring outwards from the street centerline one-half of the total right-of-way width. The right-of-way edge location shall be certified by a professional engineer or land surveyor licensed by the State of North Carolina.
4. Lots shall provide a street setback from all lot lines abutting a street (excluding alleys).
5. Lots abutting private streets shall not be subject to a street setback.

F. USE-BASED SETBACKS

In cases where a particular use type has setback requirement or an applicable condition of approval that differs from the generally-applicable setback requirements for the zoning district where located, then the more restrictive setback requirement shall apply.

3.6.9 SETBACK ENCROACHMENTS

Table 3.6.9, Allowable Encroachment into Setbacks, sets out the kinds of features that are permitted to encroach within a required setback, provided they do not obstruct visibility for motorists at any street intersection (see Figure 3.6.9: Setback Encroachment Diagram).

FIGURE 3.6.9: SETBACK ENCROACHMENT DIAGRAM

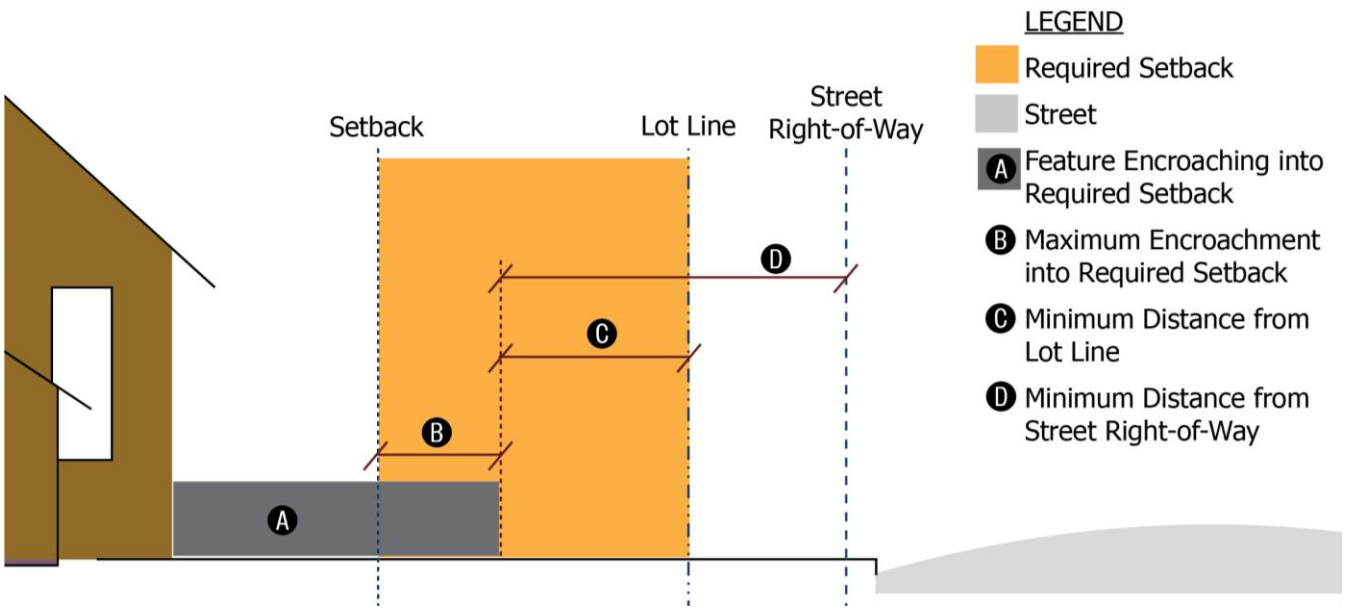


TABLE 3.6.9: ALLOWABLE ENCROACHMENTS INTO REQUIRED SETBACKS

Feature	Maximum Allowable Encroachment Distance into a Required Setback [1]
Art Installation	May encroach into a required setback but no closer than five feet from any lot line
Awnings	May encroach into any setback up to eight feet, but shall maintain a minimum height of at least nine feet above a sidewalk or other pedestrian access
Balcony or Bay Window	May extend up to four feet into any required setback within a residential zoning district, but shall be no closer than three feet from any lot line
Bicycle Parking Facilities	Allowed within a setback, but no closer than five feet to the edge of the pavement of a street
Building Eave or Roof Overhang	May encroach up to 24 inches into a required setback, but must maintain at least seven-and-one-half feet above a sidewalk, greenway, or street
Canopy, Attached	May encroach into any setback up to three feet, but shall maintain a minimum height of at least nine feet above a sidewalk or other pedestrian access. In the DTNC, DTNT, or DTNN districts, a canopy shall maintain a minimum distance of at least two feet from the back of the curb
Canopy, Freestanding	May be located in a setback provided no portion is closer than 15 feet to a street right-of-way
Chimneys, Fireplaces, Outdoor Kitchens, or steps	May extend up to four feet into any setback, but shall be no closer than three feet from any lot line
Cluster Mailbox Unit	May encroach into a required setback but no closer than five feet from any lot line
Cornice, Beltcourse, or Sill	May extend up to two feet into any required setback but no closer than five feet from any lot line
Decks, Covered	Subject to the setbacks applied to principal structures
Decks, Uncovered	May extend up to four feet into a required side yard or ten feet into a required street or rear yard but no closer than five feet from any lot line
Driveways	May be located in any required setback
Elevators and Similar Mechanical Devices	May encroach into side setbacks no more than 18 inches and rear setbacks no more than 36 inches

TABLE 3.6.9: ALLOWABLE ENCROACHMENTS INTO REQUIRED SETBACKS

Feature	Maximum Allowable Encroachment Distance into a Required Setback [1]
Fences, Gates, or Walls, excluding Retaining Walls	May be located in any required setback, subject to the limitations in Section 6.3, Fences and Walls, but shall not be located within a required sight distance triangle
Fire Escape	May encroach up to eight feet into any required yard, but must maintain at least seven-and-one-half feet above a sidewalk, greenway, or street
Flagpoles, Mailboxes, Lamp and Address Posts	May be located in any required setback but no closer than three feet from any lot line
Detached Carport or Garage	May be located within rear yard but no closer than five feet from any lot line, and no closer than 10 feet to the principal structure
Gazebo or Garden Structure	May not be located within a street setback or closer than five feet from any lot line
Handicap Ramps	May be located in any required setback provided it does not unduly obstruct pedestrian or vehicular access
Outdoor Display of Merchandise for Sale (when proposed as part of a non-residential use)	May encroach into a required setback but no closer than five feet from any lot line
Outdoor Equipment (e.g., HVAC condenser, water heater, etc.) Serving Single-family Detached Residential Use	May extend up to four feet into any required setback but no closer than five feet from any lot line
Outdoor Equipment Serving a Use other than Single-family Detached Residential	May encroach by up to five feet into a required setback
Outdoor Seating Areas Serving a Non-residential Use	May encroach into a setback up to eight feet but no closer than three feet from any lot line
Outdoor Storage	May not encroach into a required setback
Parking Structure	May extend up to four feet into a rear yard
Patio or Porch, Covered	May extend up to four feet into a required side yard or ten feet into a required street or rear yard but no closer than five feet from any lot line
Patio or Porch, Uncovered	May be located in any required setback but no closer than five feet from any lot line

TABLE 3.6.9: ALLOWABLE ENCROACHMENTS INTO REQUIRED SETBACKS

Feature	Maximum Allowable Encroachment Distance into a Required Setback [1]
Pet Shelters	Subject to the setbacks applied to principal structures
Playground Equipment Accessory to a Residential Use	When located ten or more feet from the principal structure, may be located within five feet of a side or rear lot line, but shall not be located within a required street setback
Produce Stand	May encroach into a required setback but no closer than five feet from any lot line
Retaining Walls	May encroach into a required setback
Roof Eaves, Rakes, and Overhangs	May extend up to four feet into any required setback but no closer than three feet from any lot line
Signs	May extend into any required setback in accordance with Section 6.13, Signage
Swimming Pool/Hot Tub, (including all ancillary appurtenances)	May extend into a required side or rear setback, but shall be no closer than five feet to a lot line
Tool Shed	May be located within rear yard but no closer than five feet from any lot line, and no closer than five feet to the principal structure
Underground Structures (including septic systems but excluding swimming pools)	May be located in any required setback but no closer than three feet from any lot line
Vegetation and Landscaping Features	May be located in any required setback
Vehicular Off-street Parking Area	May be located in any required setback provided that no parking area is located within five feet of the street right-of-way
Well House (functional or aesthetic)	May be located in any required setback, but shall be no closer than eight feet from a right-of-way

NOTES:
[1] Regardless o the amount of allowable encroachment, no features shall be permitted within a public utility easement.

3.6.10 SLOPE AND ELEVATION

A. SLOPE

The degree of deviation of the ground surface from a flat, horizontal elevation, usually expressed in percent or degrees of deviation from horizontal.

B. BASE FLOOD ELEVATION (BFE)

1. A determination of the water surface elevations of the base flood as published in the flood insurance study.
2. When the BFE has not been provided for land within the Flood Protection Overlay District, it may be obtained from engineering studies available from a federal, State, or other source using FEMA approved engineering methodologies. This elevation establishes the Regulatory Flood Protection Elevation.

C. FINISHED GRADE

The established grade following grading, excavation, or other land-disturbing activity.

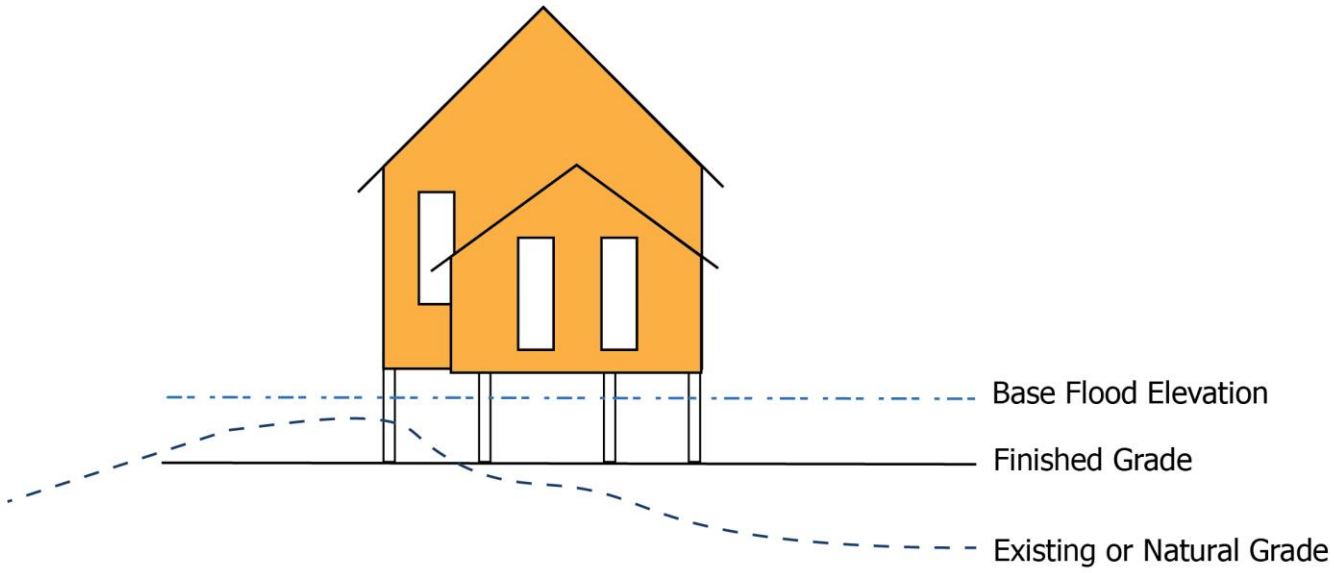
D. NATURAL GRADE

The level of the ground elevation prior to the commencement of development or land disturbing activity (see Figure 3.6.10: Grade Determination).

E. REGULATORY FLOOD PROTECTION ELEVATION

The minimum height allowable for lowest structural member comprising habitable space within a building. This is a height equivalent to two linear feet in elevation above the base flood elevation.

FIGURE 3.6.10: GRADE DETERMINATION



3.7 OVERLAY ZONING DISTRICTS

3.7.1 GENERALLY

A. PURPOSE

Overlay zoning districts are superimposed over either all or a portion of one or more underlying conventional or conditional 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 zoning district.

B. ESTABLISHMENT

The conditional zoning districts are established in accordance with the summary table in Section 3.3.1C, Districts Established.

C. CLASSIFICATION

Land shall be classified or reclassified into an overlay zoning district only in accordance with the procedures and requirements set forth in Section 2.3.8, Conventional Rezoning, and this section.

D. RELATIONSHIP TO UNDERLYING ZONING DISTRICTS

1. Regulations governing development in an overlay zoning district shall apply in addition to the regulations governing development in the underlying conventional or conditional zoning district, unless otherwise expressly stated.
2. In cases where the standards governing an overlay zoning district expressly conflict with those governing an underlying conventional or conditional zoning district, the provisions in Section 1.3, Conflict, shall control.
3. 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 provisions in Section 1.3, Conflict, shall control.

3.7.2 FPOD FLOOD PROTECTION OVERLAY DISTRICT

A. GENERAL PROVISIONS

1. STATUTORY AUTHORIZATION; FINDINGS OF FACT

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter l60A; and Article 7, 9, and 11 of Chapter 160D of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare. Therefore, the Town Council does ordain as follows:

a. The flood prone areas within the jurisdiction of the Town 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.

2. STATEMENT OF PURPOSE

It is the purpose of this section 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 that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights, or velocities;
- **b.** Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- **c.** Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- **d.** Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- **e.** Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters, or which may increase flood hazards to other lands.

3. OBJECTIVES

The objectives of these standards are to:

- **a.** Protect human life, safety, and health;
- **b.** Minimize expenditure of public money for costly flood control projects;
- **c.** Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- **d.** Minimize prolonged business losses and interruptions;
- **e.** Minimize damage to public facilities and utilities (i.e., water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- **f.** Minimize damage to private and public property due to flooding;
- **g.** Make flood insurance available to the community through the National Flood Insurance Program;
- **h.** Maintain the natural and beneficial functions of floodplains;
- **i.** Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- **j.** Ensure that potential buyers are aware that a property is in a special flood hazard area.

4. APPLICABILITY

a. LANDS TO WHICH THIS CHAPTER APPLIES

These standards shall apply to all special flood hazard areas within the Town's planning jurisdiction.

b. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION CODE

These standards are a re-enactment of some of the provisions of the flood damage prevention ordinance enacted June 16, 1987, as amended, and it is not the intention to repeal but rather to reenact 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 these standards shall not affect any action, suit, or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the Town of Clayton enacted on June 16, 1987, as amended, which are not reenacted herein are repealed.

c. EFFECTIVE DATE

The date of the initial Flood Damage Prevention Ordinance for Johnston County is September 30, 1983.

d. 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 a designee before the time of passage of these standards; provided, however, that when construction is not begun under such outstanding permit within a period of six months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this section.

5. BASIS FOR ESTABLISHING SPECIAL FLOOD HAZARD AREAS

a. 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 FIS dated June 20, 2018, for Johnston County, January 19, 2022 for Wake County, and associated DFIRM panels and any revision thereto, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this section.

b. Hereinafter, special flood areas shall be described as the "FPOD," or the Flood Protection Overlay District.

6. ESTABLISHMENT OF FLOODPLAIN PERMIT

A floodplain permit, in the form or document established by the Town, shall be required in conformance with the provisions of this section and Section 2.3.14, Floodplain Permit, prior to the commencement of any development activities within special flood hazard areas determined in accordance with the provisions of 3.7.2A.5, Basis for Establishing Special Flood Hazard Areas.

7. COMPLIANCE

No structure or land subject to these standards shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this section and other applicable regulations.

8. ABROGATION AND GREATER RESTRICTIONS

This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Conflicts between these provisions and other standards in this Ordinance shall be addressed in accordance with the standards in Section 1.3, Conflict.

9. DEFINITIONS

The terms used in this section are further defined in Section 8.3, Terms Defined.

10. INTERPRETATION

In the interpretation and application of this section, 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.

11. WARNING AND DISCLAIMER OF LIABILITY

a. The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur.

b. Actual flood heights may be increased by man-made or natural causes.

c. These standards do not imply that land outside the Flood Protection Overlay District or uses permitted within such areas will be free from flooding or flood damages.

d. These standards shall not create liability on the part of the Town or by any officer or employee thereof for any flood damages that result from reliance on this section, or any administrative decision lawfully made hereunder.

B. PROVISIONS FOR FLOOD HAZARD REDUCTION

1. GENERAL STANDARDS

The following general standards are applied to all lands and development within the Flood Protection Overlay District:

a. All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

b. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, Flood Damage-Resistant Materials Requirements.

c. All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

d. All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the regulatory flood protection elevation, or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, duct work, electric/gas meter panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches.

- **i.** Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
- **ii.** Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.

e. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

f. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.

g. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

h. Nothing in these standards shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this section and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this section.

i. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted in accordance with

Section 4.4, Prohibited Uses. 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 floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of Section 2.3.14, Floodplain Permit.

j. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

k. 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.

l. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

m. 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.

n. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

o. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation shall apply.

2. SPECIFIC STANDARDS

In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in 3.7.2A.5, Basis for Establishing Special Flood Hazard Areas, or Section 3.7.2B.3, Standards for Floodplains without Established Base Flood Elevations, the following provisions, in addition to Section 3.7.2B.1, General Standards, are required:

a. RESIDENTIAL CONSTRUCTION

New construction or 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 Section 8.3, Terms Defined.

b. NON-RESIDENTIAL CONSTRUCTION

i. 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 Section 8.3, Terms Defined.

ii. Structures located in Zones A, AE, AH, AO, A99 may be floodproofed 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.

iii. A registered professional engineer or licensed architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 2.3.14, Floodplain Permit, along with the operational plan and the inspection and maintenance plan.

c. MANUFACTURED HOMES

i. 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 Section 8.3, Terms Defined.
ii. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS§ 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.
iii. All enclosures or skirting below the lowest floor shall meet the requirements of Section 3.7.2B.2.d, Elevated Buildings.
iv. 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.

d. ELEVATED BUILDINGS

Fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

i. 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 partitioned or finished into separate rooms, except to enclose storage areas;
ii. Not be temperature-controlled or conditioned;
iii. Be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
iv. Include, in Zones A, AE, AH, AO, A99 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 licensed architect or meet or exceed the following minimum design criteria:
    1. A minimum of two flood openings on different sides of each enclosed area subject to flooding;
    2. The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;
    3. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
    4. The bottom of all required flood openings shall be no higher than one foot above the higher of the interior or exterior adjacent grade;
    5. 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
    6. 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.

e. ADDITIONS/IMPROVEMENTS

i. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

1. Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
2. A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.

ii. Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements 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.

iii. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

1. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.
2. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

iv. Where a fire wall or independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.

v. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one-year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of these standards. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a ten-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. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

1. Any project for improvement of a building that is required to correct existing health, sanitary, or safety code violations identified by the Town and that are the minimum necessary to assume safe living conditions.
2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

f. RECREATIONAL VEHICLES

Recreational vehicles placed on sites within a special flood hazard area shall either:

i. TEMPORARY PLACEMENT

1. Be on site for fewer than 180 consecutive days; or
2. 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.

ii. PERMANENT PLACEMENT

Recreational vehicles that do not meet the limitations of temporary placement shall meet all the requirements for new construction.

g. TEMPORARY NON-RESIDENTIAL STRUCTURES

Prior to the issuance of a floodplain permit for a temporary structure, applicants must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood, or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

i. A specified time period for which the temporary use will be permitted. The time specified may not exceed three months, renewable up to one year;
ii. The name, address, and phone number of the individual responsible for the removal of the temporary structure;
iii. 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);
iv. A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
v. Designation, accompanied by documentation of a location outside the special flood hazard area, to which the temporary structure will be moved.

h. SECONDARY STRUCTURES

When secondary structures (sheds, detached garages, etc.) are to be placed within a special flood hazard area, the following criteria shall be met:

i. Secondary structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
ii. Secondary structures shall not be temperature-controlled;
iii. Secondary structures shall be designed to have low flood damage potential;
iv. Secondary structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
v. Secondary structures shall be firmly anchored in accordance with Section 3.7.2B.1, General Standards;
vi. All service facilities such as electrical shall be installed in accordance with Section 3.7.2B.1, General Standards; and
vii. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of Section 3.7.2B.1, General Standards.
viii. An secondary structure with a footprint less than 144 square feet or that is a minimal investment of $3,000 or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Section 3.7.2B.2, Specific Standards. Elevation or floodproofing certifications are required for all other secondary structures in accordance with Section 2.3.14, Floodplain Permit.

i. TANKS

When gas and liquid storage tanks are to be placed within a special flood hazard area, the following criteria shall be met:

i. UNDERGROUND TANKS

Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

ii. ABOVE-GROUND TANKS, ELEVATED

Above-ground tanks in flood hazard areas shall be elevated to or above the regulatory flood protection elevation on a supporting structure that is designed to prevent flotation, collapse, or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

iii. ABOVE-GROUND TANKS, NOT ELEVATED

Above-ground tanks that do not meet the elevation requirements of Section 2.3.14, Floodplain Permit, shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the

effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.

iv. TANK INLETS AND VENTS

Tank inlets, fill openings, outlets and vents shall be at or above the regulatory flood protection elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood, and anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

j. OTHER DEVELOPMENT

i. Fences in regulated floodways and non-encroachment areas that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 6.3, Fences and Walls.

ii. Retaining walls, sidewalks and driveways in regulated floodways and non-encroachment areas. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 3.7.2B.5, Floodways and Non-Encroachment Areas.

k. ROADS AND WATERCOURSE CROSSINGS

Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways or non-encroachment areas shall meet the limitations of Section 3.7.2B.5, Floodways and Non-Encroachment Areas.

3. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS

Within the special flood hazard areas designated as Approximate Zone A and established in Section 3.7.2A.5, Basis for Establishing Special Flood Hazard Areas, where no base flood elevation data has been provided by FEMA, the following provisions, in addition to the provisions of Section 3.7.2B.1, General Standards, shall apply:

a. No encroachments, including fill, new construction, substantial improvements, or new development shall be permitted within a distance of 20 feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

b. The base flood elevation used in determining the regulatory flood protection elevation shall be determined based on the following criteria:

i. When base flood elevation data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this chapter and shall be elevated or floodproofed in accordance with standards in Section 3.7.2B.1, General Standards, and Section 3.7.2B.2, Specific Standards.

ii. When floodway or non-encroachment data is available from a federal, state, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Section 3.7.2B.2, Specific Standards, and Section 3.7.2B.5, Floodways and Non-Encroachment Areas.

iii. All subdivision, manufactured home park, and other development proposals shall provide base flood elevation data if development is greater than five acres or has more than 50 lots/manufactured home sites. Such base flood elevation data shall be adopted by reference in accordance with Section 3.7.2A.5, Basis for Establishing Special Flood Hazard Areas, and utilized in implementing this section.

iv. When base flood elevation data is not available from a federal, state, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the regulatory flood protection elevation, as defined in Section 8.3, Terms Defined. All other applicable provisions of Section 3.7.2B.2, Specific Standards, shall also apply.

4. STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS

Along rivers and streams where base flood elevation 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 Section 3.7.2B.1, General Standards, and Section 3.7.2B.2, Specific Standards; 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.

5. FLOODWAYS AND NON-ENCROACHMENT AREAS

Areas designated as floodways or non-encroachment areas are located within the special flood hazard areas established in Section 3.7.2A.5, Basis for Establishing Special Flood Hazard Areas. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Section 3.7.2B.1, General Standards, and Section 3.7.2B.2, Specific Standards, shall apply to all development within such areas:

a. No encroachments, including fill, new construction, substantial improvements, and other developments shall be permitted unless:

i. It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, 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

ii. A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.

b. If division (a) of this sub-section is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Ordinance.

c. No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

i. The anchoring and the elevation standards of Section 3.7.2B.2, Specific Standards; and

ii. The no encroachment standard of division (a) of this sub-section are met.

3.7.3 GTOD GATEWAY OVERLAY DISTRICT

A. PURPOSE AND INTENT

The Gateway Overlay (GTOD) district regulations are intended to enhance the visual appeal of certain roadways in the Town, and to:

1. Designate, preserve, and enhance key roadways that serve as gateways to the Town in order to create aesthetically pleasing and welcoming entryways for residents and visitors;
2. Capitalize on the development potential within the Town's primary commercial corridors as "image-makers" that demonstrate the Town's commitment to design quality and development aesthetics; and
3. Address development issues of special concern along designated corridors, with specific requirements which relate to use, development form, traffic movement, access, environment, landscaping, visual quality, image, and aesthetics.

B. GATEWAY PLAN REQUIRED

1. Prior to establishment of a GTOD district for a specific gateway or corridor, a gateway plan for the specific area shall be adopted by the Town Council.
2. The gateway plan shall describe the conditions, boundaries, development goals, and standards for the proposed GTOD district. The plan shall, at a minimum, address the following:
   a. The unique qualities of the corridor, such as significant buildings, views and vistas, and natural features which lend themselves to special consideration.
   b. The value of the corridor as an entryway to the Town to influence the perception of citizens and persons or businesses considering investment in the Town.
   c. Transportation conditions on the corridor, including vehicular access, dedication of right-of-way, public transit, pedestrian and bicycle circulation, driveway limitations, and traffic impact.
   d. The arrangement of uses along the corridor to create a visually pleasing impression.
   e. The vision and general goals for development along the corridor, and specific recommendations for regulatory changes to achieve the vision and development goals.

3. GATEWAY PLAN APPROVAL

The gateway plan shall be forwarded to the Planning Board for its review and recommendation. Upon completion of its review, the plan along with the recommendations of the Planning Board shall be forwarded to the Town Council for review. A gateway plan shall be approved by the Town Council for a specific gateway before the establishment of a GTOD sub-district for the specific corridor.

4. ESTABLISHMENT OF A GATEWAY OVERLAY SUB-DISTRICTS

a. The standards establishing a specific GTOD sub-district may only be established in accordance with Section 2.3.8, Conventional Rezoning, and Section 2.3.26, Text Amendment.
b. Individual corridor-specific standards shall be developed and included as individual sub-districts in this section.
c. Nothing shall limit amendment to Section 3.7.3B.6, General Standards Applicable to All Gateway Sub-Districts.

5. GENERAL REQUIREMENTS FOR GATEWAY SUB-DISTRICT STANDARDS

GTOD district standards for a specific gateway shall follow the policy direction in the gateway plan approved by the Town Council. The individual GTOD sub-district standards shall, at a minimum, address the following elements:

- **a.** The name and boundaries of the overlay sub-district.
- **b.** The development along the corridor to which the overlay district applies (typically all new development and certain expansions and remodels).
- **c.** Any variations from the requirements of the underlying conventional zoning district(s).
- **d.** The uses allowed in the district, if appropriate.
- **e.** The development and form standards of the overlay district, including some or all of the following:
  - **i.** Dimensions (height, setbacks, build-to-lines, etc.);
  - **ii.** Streetscape landscaping;
  - **iii.** Sidewalks and pedestrian circulation features;
  - **iv.** Off-street parking;
  - **v.** Landscaping and tree preservation/reforestation;
  - **vi.** Open space set-asides;
  - **vii.** Signage;
  - **viii.** Exterior lighting;
  - **ix.** Building design and form;
  - **x.** Transit amenities;
  - **xi.** Road access and traffic circulation; and
  - **xii.** The extent to which a sub-district district-specific standard may be modified.

6. GENERAL STANDARDS APPLICABLE TO ALL GATEWAY SUB-DISTRICTS

The following standards shall be applied to all gateway sub-districts unless further modified, in writing, by the sub-district specific standards:

a. OVERLAY DEPTH

- **i.** The GTOD standards are applied to all lots located within 300 linear feet of the edge of a designated roadway corridor or gateway area.
- **ii.** In cases where some, but not all, of a lot is located within the minimum overlay district depth, the entire lot shall be considered as subject to the overlay district standards.

b. PROHIBITED USES

Lands located within a GTOD shall not permit any of the following use types or activities:

- **i.** Animal shelters or animal processing uses;
- **ii.** Asphalt or concrete plants;
- **iii.** Bulky items sales uses;
- **iv.** Outdoor advertising;
- **v.** Pawn shops;
- **vi.** Recreational vehicle parks;
- **vii.** Sexually-oriented businesses; or
- **viii.** Solar energy conversion uses (level 2 or 3).

c. MULTI-TENANT/MULTI-BUILDING RETAIL CONFIGURATION

- **i.** Development consisting of a multi-building, multi-tenant retail establishment shall be configured in a campus-style configuration where buildings are stand-alone, separated from one other by access, parking, and gathering areas, and configured to enclose and obscure large off-street parking lots from off-site view.
- **ii.** Multi-tenant retail buildings shall not to be configured as single-story "in-line" or strip shopping centers where tenant spaces abut one another in a side-by-side fashion under a

single roof. Nothing shall limit the ground floor side-by-side retail tenant placement if the building includes live/work or upper-story residential units.

d. ACCESS MANAGEMENT

i. Development on lots abutting thoroughfare or higher classification streets shall comply with all applicable NCDOT standards and the following access management provisions:

1. Any lot or development site with less than 400 feet of frontage on a thoroughfare street shall be limited to a maximum of one point of vehicular access to the thoroughfare.
2. One additional driveway for each additional 400 feet of thoroughfare street frontage is permitted.
3. Where medians which prohibit turns into oncoming traffic, access points may be provided every 200 linear feet.
4. No driveway shall be allowed within 300 feet of the intersection of two thoroughfares or within 200 feet of an intersection of any other public street on the thoroughfare.
5. Driveways shall be a minimum of 200 feet apart (measured from center line to center line) on thoroughfares, and shall align with opposing drives, where possible.
6. Shared driveways or parallel access roads shall be used when deemed necessary, and the appropriate legal documents may be required by the Town prior to driveway permit issuance.

ii. Access may be further limited or controlled by the NCDOT or the Engineering Director, as determined necessary, and in their sole discretion, for the protection of public health or safety.

e. STREETSCAPE BUFFER

Development in a GTOD shall provide a streetscape buffer along all abutting public streets in accordance with Section 6.6.16, Streetscape Buffers, except that the number of required plantings shall be double what is required outside the GTOD.

f. SIGNAGE

Pole signs shall not be permitted within 100 feet of the primary transportation corridor in a GTOD. Ground signs may take the form of monument signage, subject to the applicable standards in Section 6.13, Signage.

3.7.4 LHOD LOCAL HISTORIC OVERLAY DISTRICT

[Placeholder]

3.7.5 WPOD WATERSHED PROTECTION OVERLAY DISTRICT

A. AUTHORITY

The General Assembly has, in NCGS§§143-214.5, 160A-174, 160D-702, 160D-801 and 160D-926, delegated the responsibility and directed the Town to establish water supply watershed protection programs, to regulate land use and development within water supply watersheds and to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

B. INTENT

This Watershed Protection Overlay District (WPOD) is intended to provide a higher level of development control to activities and situations that could degrade the quality of the water entering the Neuse River, as identified in the State's watershed protection management plan.

C. APPLICABILITY

1. The provisions of this section shall apply within the area designated as a public water supply watershed by the N.C. Environmental Commission and are defined and established on the map entitled "Watershed Protection Overlay District of Clayton, North Carolina," and as otherwise designated as the (WPOD) Watershed Protection Overlay District on the Official Zoning Map of the Town. For the purposes of this section, the Town's WPOD is comprised solely of lands found in the Protected Area (PA) portion of a Class IV watershed.
2. Land use and development within the WPOD district that requires an erosion and sedimentation control permit must comply with all the requirements of this section as well as the requirements in the underlying zoning district.
3. Except where exempted in Section 3.7.5D, Exceptions to Applicability, expansions to existing development shall meet the requirements of this section. In an expansion, the built-upon area of the existing development is not required to be included in the density calculations. Where there is a net increase of built upon area, only the area of net increase is subject to these standards. Where existing development is being replaced with new built-upon area, and there is net increase of built-upon area, only areas of net increase shall be subject to these standards.
4. Land located within an exempt subdivision (see Section 2.3.12, Exempt Subdivision) or other lot created through a subdivision exempted from the provisions of this Ordinance shall be subject to the land use and impervious surface requirements in these standards, but the lot(s) shall only be required to comply with the minimum buffer requirements to the maximum extent practicable.
5. Nothing contained herein shall repeal, modify, or amend any Federal or State law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; nor shall any provision of this Ordinance amend, modify, or restrict any provisions of the Code of Ordinances of the Town; however, the adoption of this Ordinance shall and does amend any and all ordinances, resolutions, and regulations in effect in the Town at the time of the adoption of these standards that may be construed to impair or reduce the effectiveness of these standards or to conflict with any of their provisions.
6. It is not intended that these regulations interfere with any easement, covenants, or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.

D. EXCEPTIONS TO APPLICABILITY

These watershed protection requirements shall not apply to the following:

1. Existing development, as defined in Section 8.3, Terms Defined;
2. Expansions to existing single family residential development or expansion that is part of an approved common plan of development;
3. Development or redevelopment of a single-family residential use on a nonconforming existing lot of record that is not contiguous to any other lot owned by the same landowner;
4. Minor or limited subdivisions established to convey land from one family member to another family member, provided the lot(s) to be developed is for a single-family detached residence;
5. A development may exceed the density limits in Section 3.7.5L.1, Low Density Development in WS-IV PA, if all of the following circumstances apply:
   a. The property was developed prior to the effective date of these standards;
   b. The property has not been combined with additional lots after January 1, 2021;
   c. The property has not been a participant in a density averaging transaction under NCGS§ 143-214.5(d2);
   d. The current use of the property is nonresidential;
   e. The stormwater from all of the existing and new built-upon area on the property is treated in accordance with all applicable Town, State, and federal laws, in the sole discretion, and at the voluntary election, of the landowner; and
   f. The remaining vegetated buffers on the property are preserved in accordance with the requirements of these standards.

E. EFFECTIVE DATE

These WPOD standards are effective as of November 21, 2005.

F. THE WATERSHED REVIEW BOARD

The Board of Adjustment shall serve as the Watershed Review Board indicated in 15A N.C. Administrative Code 02B.0623 (5).

G. DEFINITIONS

The terms used in this section are further defined in Section 8.3, Terms Defined.

H. WATERSHED PROTECTION PERMITS

1. No watershed protection permit shall be issued except in conformity with the provisions of this Ordinance. This permit shall be filed with the Town and shall expire at the end of 24 months if not used, or if a building permit is not obtained.
2. A zoning compliance permit (see Section 2.3.31, Zoning Compliance Permit) shall serve as a watershed protection permit for development located within the Watershed Protection Overlay (WPOD).
3. Except where provided elsewhere in this Ordinance, no building permit required under the State Building Code shall be issued for any activity for which a watershed protection permit is required until a zoning compliance permit has been issued.
4. A certificate of occupancy (see Section 2.3.5, Certificate of Occupancy) shall serve as a watershed protection occupancy permit for development located within the Watershed Protection Overlay (WPOD). A certificate of occupancy shall not be issued unless the development complies with all applicable requirements in this section.

I. ENFORCEMENT

Enforcement of these WPOD standards shall be in accordance with the applicable provisions of Chapter 7, Violations, particularly Section 7.12, Violation of Water Supply Watershed Controls.

J. USES

1. EXISTING DEVELOPMENT

Existing development, as defined in this Ordinance, may be continued, and maintained subject to the provisions in this section.

a. All existing development, whether or not it meets the statewide minimum standards, is exempt from the provisions of these standards.

b. Expansions to structures classified as existing development must meet the requirements of this section, however, the built-upon area of the existing development is not required to be included in the built-upon area calculations.

2. EXISTING DEVELOPMENT THAT WOULD BE PROHIBITED IF NEW

a. Existing development that would be prohibited if new may be continued except as follows:

i. Such use of land shall be changed only to an allowed use.

ii. When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.

iii. When such use ceases for a period of at least one year, it shall not be reestablished.

b. Existing industrial uses and/or the storage of hazardous or toxic materials where a spill containment plan is not implemented and where such use of the land is not permitted to be established in the watershed area may be continued.

3. RECONSTRUCTION OF BUILDINGS OR BUILT-UPON AREAS

Any existing building or built-upon area not in conformance with the restrictions of this section that has been damaged or removed may be repaired and/or reconstructed, except that there are no restrictions on single family residential development, provided:

a. Repair or reconstruction is initiated within 12 months and completed within two years of such damage.

b. The total amount of space devoted to built-upon area may not be increased unless stormwater control that equals or exceeds the previous development is provided.

4. PERMITTED NEW USES

The following uses are permitted as principal uses in the WPOD provided such uses are also permitted in the underlying zoning district:

a. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.

b. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 1I .0101.0209).

c. Residential development as permitted in the underlying zoning district provided that it meets the standards of the WPOD.

d. Nonresidential development as permitted in the underlying zoning district provided that it meets the standards of the WPOD.

5. PROHIBITED USES

Uses identified in Section 4.4.2A, Watershed Protection Overlay District, shall be prohibited within the WPOD.

K. OCCUPIED NONCONFORMING RESIDENTIAL LOTS

1. Nonconforming lots occupied for residential purposes may continue to be used, provided that whenever two or more adjoining lots of record, one of which is occupied, are in single ownership at any time after November 21, 2005, and such lots individually or together have less area than the minimum requirements for residential purposes specified in this section, such lots shall be combined to create lots which meet the minimum size requirements, or which minimize the degree of nonconformity.
2. The undeveloped lot may not be developed unless and until it complies with this Ordinance.

L. DENSITY AND BUILT-UPON (IMPERVIOUS) LIMITS

The following maximum allowable project densities and minimum lot sizes shall apply to a project according to the classification of the water supply watershed where it is located, its relative location in the watershed, its project density, and the type of development:

1. LOW DENSITY DEVELOPMENT IN WS-IV PA

a. SINGLE-FAMILY DETACHED RESIDENTIAL

Single-family detached residential development may take place under the low-density development option using either of the following three alternatives:

i. Up to one dwelling unit per one-half acre or one dwelling unit per 20,000 square foot lot excluding roadway right-of-way; or
ii. A maximum of 24 percent built-upon area; or
iii. Up to three dwelling units per acre or 36 percent built upon area when streets are configured without curb and gutter.

b. NON-RESIDENTIAL AND ALL OTHER FORMS OF RESIDENTIAL

Non-residential and all forms of residential development other than single-family detached may take place under the low-density development option using either of the following two alternatives:

i. A maximum of 24 percent built-upon area; or
ii. Up to 36 percent built upon area provided streets are configured without curb and gutter.

2. HIGH DENSITY DEVELOPMENT IN WS-IV PA

All residential and non-residential development shall maintain a 24-to-70 percent built-upon area.

M. CALCULATION OF PROJECT DENSITY

1. Project density shall be calculated as the total built-upon area divided by the total project area.
2. A project with existing Development, as defined in this Ordinance, may use the calculation method in sub-section (1) above or may calculate project density as the difference of total built-upon area minus existing built-upon area divided by the difference of total project area minus existing built-upon area.
3. Expansions to existing development shall be subject to 15A NCAC 02B .0624 except as excluded in Rule15A NCAC 02B .0622 (1)(d).

4. Where there is a net increase of built-upon area, only the area of net increase shall be subject to density and built upon area limits.
5. Where existing development is being replaced with new built-upon area, and there is a net increase of built-upon area, only the area of net increase shall be subject to density and built upon area limits.
6. Total project area shall exclude areas below the Normal High-Water Line (NHWL);
7. Projects under a common plan of development shall be considered as a single project for purposes of density calculation except that on a case-by-case basis, local governments may allow projects to be considered to have both high- and low-density areas based on one or more of the following criteria:
   a. Natural drainage area boundaries;
   b. Variations in land use throughout the project; or
   c. Construction phasing.

N. LOW DENSITY PROJECTS

In addition to complying with the project density requirements of Section 3.7.5L, Density and Built-Upon (Impervious) Limits, low density projects shall comply with the following:

1. VEGETATED CONVEYANCES

Stormwater runoff from the project shall be released to vegetated areas as dispersed flow or transported by vegetated conveyances to the maximum extent practicable. In determining whether this criteria has been met, the Town shall consider site-specific factors such as topography and site layout as well as protection of water quality. Vegetated conveyances shall be maintained in perpetuity to ensure that they function as designed. Vegetated conveyances that meet the following criteria shall be deemed to satisfy the requirements of this section:

a. Side slopes shall be no steeper than 3:1 (horizontal to vertical) unless it is demonstrated to the local government that the soils and vegetation will remain stable in perpetuity based on engineering calculations and on-site soil investigation; and
b. The conveyance shall be designed so that it does not erode during the peak flow from the 10-year storm event as demonstrated by engineering calculations.

2. CURB OUTLET SYSTEMS

In lieu of vegetated conveyances, low density projects shall have the option to use curb and gutter with outlets to convey stormwater to grassed swales or vegetated areas. Requirements for these curb outlet systems shall be as follows:

a. The curb outlets shall be located such that the swale or vegetated area can carry the peak flow from the 10-year storm and at a non-erosive velocity;
b. The longitudinal slope of the swale or vegetated area shall not exceed five percent except where not practical due to physical constraints. In these cases, devices to slow the rate of runoff and encourage infiltration to reduce pollutant delivery shall be provided;
c. The swale's cross section shall be trapezoidal with a minimum bottom width of two feet;
d. The side slopes of the swale or vegetated area shall be no steeper than 3:1 (horizontal to vertical);
e. The minimum length of the swale or vegetated area shall be 100 feet; and
f. Low density projects may use treatment swales designed in accordance with 15A NCAC 02H .1061 in lieu of the requirements specified in sub-sections (a) through (e).

O. HIGH DENSITY PROJECTS

In addition to complying with the project density requirements of Section 3.7.5L, Density and Built-Upon (Impervious) Limits, high density projects shall comply with the following:

1. Stormwater Control Measures (SCMs) shall be designed, constructed, and maintained so that the project achieves either "runoff treatment" or "runoff volume match" as those terms are defined in 15A NCAC 02B .0621;
2. For high density projects designed to achieve runoff treatment, the required storm depth shall be one inch. Applicants shall have the option to design projects to achieve runoff volume match in lieu of runoff treatment;
3. Stormwater runoff from off-site areas and existing development shall not be required to be treated in the SCM. Runoff from off-site areas or existing development that is not bypassed shall be included in sizing of on-site SCMs;
4. SCMs shall meet the relevant minimum design criteria set forth in 15A NCAC 02H .1050 through .1062; and
5. Stormwater outlets shall be designed so that they do not cause erosion downslope of the discharge point during the peak flow from the 10-year storm event as shown by engineering calculations.

P. DENSITY AVERAGING

An applicant may average development density on up to two noncontiguous properties for purposes of achieving compliance with the water supply watershed development standards if all of the following circumstances exist:

1. The properties are within the same water supply watershed. However, if one of the properties is located in the critical area of the watershed, the critical area property shall not be developed beyond the applicable density requirements for its classification.
2. Overall project density meets applicable density or stormwater control requirements under 15A NCAC 2B .0200.
3. Vegetated setbacks on both properties meet the minimum statewide water supply watershed protection requirements.
4. Built upon areas are designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.
5. Areas of concentrated density development are located in upland areas and, to the maximum extent practicable, away from surface waters and drainageways.
6. The property or portions of the properties that are not being developed will remain in a vegetated or natural state and will be managed by a homeowners' association as common area, conveyed to a local government as a park or greenway, or placed under a permanent conservation or farmland preservation easement unless it can be demonstrated that the local government can ensure long-term compliance through deed restrictions and an electronic permitting mechanism. A metes and bounds description of the areas to remain vegetated and limits on use shall be recorded on the subdivision plat, in homeowners' covenants, and on individual deeds. Any such limitations or restrictions on use shall be irrevocable.
7. Development permitted under density averaging and meeting applicable low-density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.

8. A special use permit to ensure that both properties considered together meet the standards of the watershed ordinance and that potential owners have a record of how the watershed regulations were applied to the properties.

Q. CLUSTER DEVELOPMENT

1. Minimum lot sizes are not applicable to single family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single family detached developments in Section 3.7.5L, Density and Built-Upon (Impervious) Limits. Density or built-upon area for the project shall not exceed that allowed for the critical area, balance of watershed or protected area, whichever applies.
2. All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.
3. Areas of concentrated density development shall be located in upland area and as far as practicable from surface waters and drainageways.
4. The remainder of the tract shall remain in a vegetated or natural state. The title to the open space area shall be conveyed to an incorporated homeowners association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement.
5. Cluster developments that meet the applicable low-density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.

R. VEGETATED SETBACKS REQUIRED

1. A minimum 100-foot vegetative setback is required for all new development activities that exceed the low-density option; otherwise, a minimum 30-foot vegetative setback for development activities is required along all perennial waters indicated on the most recent versions of USGS 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial streambank or shoreline stabilization is permitted.
2. Where USGS topographic maps do not distinguish between perennial and intermittent streams, an on-site stream determination may be performed by an individual qualified to perform such stream determinations.
3. No new development is allowed in the buffer except for water dependent structures, other structures such as flag poles, signs and security lights which result in only diminutive increases in impervious area and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater Best Management Practices.

S. OPERATION AND MAINTENANCE OF STORMWATER CONTROL MEASURES (SCM)

When engineered stormwater control measures are required, they shall be operated and maintained according to the provisions of 15A NCAC 02B.0623 (7), as amended, which is incorporated herein by reference as if fully set out herein.

3.8 ZONING MAP

3.8.1 GENERALLY

A. The digital Official Zoning Map maintained in the offices of the Planning Department shall be the final authority as to the status of the current zoning district classification of land in the Town's planning jurisdiction, and shall only be amended in accordance with Section 3.8.4, Revision.

B. The Official Zoning Map designates the location and boundaries of the conventional, conditional, and overlay zoning districts established in this Ordinance.

C. The Flood Insurance Rate Map (FIRM) shall designate the location and boundaries of the FPOD Flood Protection Overlay District, as amended by any associated Flood Insurance Studies (FIS).

D. The Official Zoning Map shall be maintained in a digital format and paper copies shall be kept on file in the Planning Department and are available for public inspection during normal business hours.

E. The Town's Geographic Information System (GIS) Administrator shall maintain digital copies of superseded versions of the Official Zoning Map for historical reference, as appropriate.

F. Copies of the Official Zoning Map may be purchased from the Town and paper copies of the map that are certified by the GIS Administrator in accordance with NCGS§160A-79 shall be admissible in evidence and have the same force of effect as the original map.

3.8.2 INCORPORATED BY REFERENCE

A. The Official Zoning Map, as amended, is hereby incorporated by reference herein and made part of this Ordinance.

B. The Flood Insurance Rate Maps (FIRM) prepared by FEMA and the associated Flood Insurance Study (FIS) are hereby incorporated by reference herein and made part of this Ordinance.

3.8.3 INTERPRETATION OF MAP BOUNDARIES

The Planning Director shall be responsible for determination of boundaries on the Official Zoning Map in accordance with the standards in Section 2.3.9, Determination, and the following standards:

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

B. If a street, alley, railroad, 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 roadbed or utility easement.

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

D. Boundaries shown as approximately following a river, stream, canal, lake, or other watercourse shall be interpreted as following the centerline of the watercourse as it actually exists, and as moving with that centerline to the extent the watercourse moves as a result of natural processes (flooding, erosion, sedimentation, etc.).

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

F. Boundaries shown as following the boundary of the Town's corporate limits shall be interpreted as following the boundary of municipal incorporation.

G. Wherever a single lot is located within two or more different zoning districts, each portion of the lot shall be subject to all the regulations applicable to the zoning district where it is located.

H. If the specific location of a depicted boundary cannot be determined from application of the above standards, it shall be determined by using the Official Zoning Map's scale to determine the boundary's distance from other features shown on the map.

I. Where the actual location of existing physical or natural features vary from that shown on the Official Zoning Map, or in other circumstances that are not covered by this subsection, the Planning Director shall have the authority to determine the district boundaries.

J. Determinations of the (FPOD) Flood Protection Overlay District boundary shall be made by the Floodplain Administrator, in accordance with the standards in Section 3.7.2 FPOD Flood Protection Overlay District.

K. In the case of flood hazard overlay district boundaries, the FEMA work maps, if available, shall be used for scaling.

L. In cases where boundaries on the Town's Official Zoning Map are based on another official map promulgated by the State or other federal agency and the other State or federal map is amended, the Town's maps shall automatically be amended to remain consistent with the officially promulgated State or federal map.

3.8.4 REVISION

A. Changes made in zoning district boundaries on the Official Zoning Map shall be considered an amendment to this Ordinance and are made in accordance with Section 2.3.6, Conditional Rezoning, or Section 2.3.8, Conventional Rezoning, as appropriate.

B. Changes to the Official Zoning Map approved by the Town Council shall be entered on the Official Zoning Map by the GIS Administrator promptly after the approval.

C. Where the ordinance enacting a zoning district boundary change contains wording explaining or clarifying the location of the new boundary, the GIS Administrator shall enter the boundary on the Official Zoning Map in accordance with the ordinance wording.

D. Upon entering the most recently approved amendment on the Official Zoning Map, the GIS Administrator shall also change the date of the map to indicate the date of its latest revision.

E. Prior versions of the Official Zoning Map shall be retained in a digital format that is capable of being reproduced on paper if requested.

CHAPTER 4
LAND USES

4.1 Chapter Introduction **281**
4.1.1 Chapter Organization 281
4.1.2 Land Uses Distinguished 281

4.2 Principal Uses **282**
4.2.1 Applicability 282
4.2.2 Establishment of a Principal Use 282
4.2.3 Change of a Principal Use 282
4.2.4 Combination Principal Uses 283
4.2.5 Listing of Common Principal Uses 283

4.3 Standards for Specific Principal Uses **291**
4.3.1 Section Structure Explained 291
4.3.2 General Requirement 291
4.3.3 Adult Day Care 291
4.3.4 Agricultural Packaging & Processing 291
4.3.5 Agricultural Storage & Distribution 291
4.3.6 Animal Husbandry 291
4.3.7 Animal Boarding, Indoor Only 292
4.3.8 Animal Boarding, Indoor and Outdoor 292
4.3.9 Animal Shelter 292
4.3.10 Antenna Collocation, Major 292
4.3.11 Antenna Collocation, Minor 292
4.3.12 Asphalt or Concrete Plant 292
4.3.13 Athletic Field or Court 293
4.3.14 Auditorium, Coliseum, Convention Center 293
4.3.15 Bank, Credit Union, or Similar Use 293
4.3.16 Bar, Cocktail Lounge, Private Club 294
4.3.17 Barber or Beauty Salon 294
4.3.18 Bed & Breakfast 294
4.3.19 Boarding House 294
4.3.20 Bottle Shop (on-premise consumption) 295
4.3.21 Broadcasting Studio 295
4.3.22 Bulky Item Sales 295
4.3.23 Bungalow Court 295
4.3.24 Business Incubator 296
4.3.25 Campground 297
4.3.26 Catering Establishment 297
4.3.27 Cemetery or Mausoleum 297
4.3.28 Check Cashing /Pay Day Lending 298
4.3.29 Child Day Care 298
4.3.30 Coffee Shop or Bakery 298
4.3.31 Community Center 298
4.3.32 Community Recreation Facility (private) 299
4.3.33 Computer Related Services 299
4.3.34 Congregate Care 299
4.3.35 Conservation Subdivision 299
4.3.36 Continuing Care Retirement Community (CCRC) 299

4.3.37 Contractor Services Office/Yard 300
4.3.38 Convenience Store (with gasoline sales) 300
4.3.39 Co-Working Space 300
4.3.40 Cryptomining and Data Processing 300
4.3.41 Duplex Dwelling 301
4.3.42 Electrical, HVAC, or Plumbing Fabrication 301
4.3.43 Equestrian Facility 301
4.3.44 Event Venue, Indoor & Outdoor 301
4.3.45 Extractive Industry 302
4.3.46 Family Care Home 302
4.3.47 Farm Equipment Sales and Service 303
4.3.48 Farm Supply Sales (retail or wholesale) 303
4.3.49 Financial Services 303
4.3.50 Fire/EMS/Police Station 303
4.3.51 Fitness Center 303
4.3.52 Flea Market 303
4.3.53 Fraternal Club or Lodge 304
4.3.54 Freight Terminal 304
4.3.55 Fuel Oil/Bottled Gas Distribution 304
4.3.56 Funeral Related Services 304
4.3.57 Gasoline Sales 304
4.3.58 Golf Course (public or private) 305
4.3.59 Government Office 305
4.3.60 Grocery Store 305
4.3.61 Grooming (Animal) 305
4.3.62 Group Home 305
4.3.63 Hair, Nail, and Skin Related Services 306
4.3.64 Halfway House 306
4.3.65 Heavy Equipment Sales, Rental, & Repair 306
4.3.66 Horticulture 306
4.3.67 Hospital 306
4.3.68 Homeless Shelter 307
4.3.69 Hotel or Motel 307
4.3.70 Indoor Commercial Recreation 307
4.3.71 Indoor Recreation, Public 307
4.3.72 Instructional Services 307
4.3.73 Laboratory 307
4.3.74 Laundry and Fabric Cleaning 307
4.3.75 Libraries 308
4.3.76 Light Equipment Sales, Rental, & Repair 308
4.3.77 Live/Work Dwelling 308
4.3.78 Maker Space 308
4.3.79 Manufactured Home, Class A 308
4.3.80 Manufactured Home, Class B 309
4.3.81 Manufactured Home Park 309
4.3.82 Manufacturing, Heavy 313
4.3.83 Manufacturing, Light 313
4.3.84 Metal Fabrication 313
4.3.85 Micro Brewery, Micro Distillery, or Micro Winery 313
4.3.86 Multi-Family Dwelling 313
4.3.87 Museums 315
4.3.88 Nightclub or Dance Hall 315
4.3.89 Nursery (retail or wholesale) 315
4.3.90 Office, High Intensity 315
4.3.91 Office, Low or High Intensity 315
4.3.92 Outdoor Commercial Recreation 316
4.3.93 Outdoor Recreation, Public 316
4.3.94 Outpatient Facility 317

4.3.95 Packaging and Shipping 317
4.3.96 Park or Playground (public or private) 317
4.3.97 Parking Lot 317
4.3.98 Parking Structure 317
4.3.99 Pawn Shop 318
4.3.100 Pharmacy 318
4.3.101 Pocket Neighborhood 318
4.3.102 Psychiatric Services 320
4.3.103 Rail Related Use 321
4.3.104 Recreational Vehicle Park 321
4.3.105 Recycling Center 321
4.3.106 Religious Institution 322
4.3.107 Repair Shop 322
4.3.108 Research and Development 323
4.3.109 Residential Treatment Facility 323
4.3.110 Restaurants 323
4.3.111 Retail, General 324
4.3.112 Retail, Large Format 324
4.3.113 Retail, Micro 324
4.3.114 Salvage and Junkyard 324
4.3.115 School, Elementary or Middle 325
4.3.116 School, High 325
4.3.117 School, Vocational 325
4.3.118 Sexually-Oriented Business 325
4.3.119 Single-Family Attached Dwelling 326
4.3.120 Single-Family Detached Dwelling 327
4.3.121 Small Wireless Facility 327
4.3.122 Solar Energy Conversion, Level 2 or 3 327
4.3.123 Storage, Indoor 327
4.3.124 Storage, Outdoor (as a Principal Use) 328
4.3.125 Tanning Salon 328
4.3.126 Tattoo & Piercing Establishment 328
4.3.127 Telecommunications Facilities 329
4.3.128 Theatre, Indoors 342
4.3.129 Theatre, Outdoors 342
4.3.130 Tobacco, CBD, and Vapor Shop 342
4.3.131 Transfer Station 343
4.3.132 Triplex or Quadplex 344
4.3.133 Upper-Story Dwelling 344
4.3.134 Urgent Care 345
4.3.135 Utility, Major 345
4.3.136 Vehicle Painting/ Bodywork 345
4.3.137 Vehicle Parts and Accessory Sales 345
4.3.138 Vehicle Repair and Service (no painting/ bodywork) 345
4.3.139 Vehicle Sales and Rental 346
4.3.140 Vehicle Towing and Storage 346
4.3.141 Vehicle Washing or Detailing 346
4.3.142 Veterinary Services, Large Animal 346
4.3.143 Veterinary Services, Small Animal 346
4.3.144 Warehouse, Distribution and Storage 347
4.3.145 Wholesale Sales, Indoor and Outdoor 347
4.3.146 Wind Energy Conversion 348

4.4 Prohibited Uses 350

4.4.1 Prohibited Everywhere 350
4.4.2 Prohibited by Overlay District Standards 351
4.4.3 Prohibited as Secondary Uses 351

4.5 Secondary Uses **352**
4.5.1 Establishment of a Secondary Use 352
4.5.2 Intent of These Standards 352
4.5.3 General Standards for All Secondary Uses 352
4.5.4 Listing of Common Secondary Uses 355
4.5.5 Standards for Specific Secondary Uses 356

4.6 Temporary Uses **372**
4.6.1 Establishment of a Temporary Use or Structure 372
4.6.2 Intent of these Standards 372
4.6.3 General Standards for All Temporary Uses 372
4.6.4 Duration of Common Temporary Uses 373
4.6.5 Standards for Specific Temporary Uses 374

4.7 Unlisted Uses **380**
4.7.1 Procedure for Determination 380
4.7.2 Use Category Descriptions 380

4.1 CHAPTER INTRODUCTION

4.1.1 CHAPTER ORGANIZATION

A. PRINCIPAL USES

1. Section 4.2, Principal Uses, sets out the principal use table, or the master listing of common principal use types and the districts where they are allowed. Each principal use listed in the table is defined in Section 8.3, Terms Defined.
2. Section 4.3, Standards for Specific Principal Uses, sets out the requirements applied to designated principal uses, regardless of the zoning district where they might be located.

B. PROHIBITED USES

1. Section 4.4, Prohibited Uses, identifies principal and secondary use types that are prohibited throughout the Town's planning jurisdiction.
2. In some cases, overlay zoning districts include prohibitions on certain principal or secondary uses. Additional information on these use prohibitions is located within the particular overlay district standards (see Section 3.7, Overlay Zoning Districts).

C. SECONDARY USES

Section 4.5, Secondary Uses, sets out the general standards applicable to all secondary uses as well as any additional standards applicable to specifically designated secondary uses or structures commonly found in the Town. Secondary uses may also be referred to as "accessory uses."

D. TEMPORARY USES

Section 4.6, Temporary Uses, sets out the standards for temporary uses, including the districts where allowed, the maximum allowable duration for the temporary use, and any additional standards applicable to specific temporary uses or activities.

E. UNLISTED USES

Section 4.7, Unlisted Uses, sets out the process and use type classification details for use by the Planning Director in making a Determination on how to classify an unlisted principal or secondary use type.

4.1.2 LAND USES DISTINGUISHED

Chapter 4, Land Uses, contains all the standards related to the use of land in the Town's planning jurisdiction, and is organized by the three types of land uses: principal, secondary, and temporary.

A. Principal uses are the primary, permanent use types proposed on a lot (like a single-family home).

B. Secondary (or accessory) uses are secondary or subordinate uses found on the same lot as a principal use (like a detached garage structure serving a single-family home) and may be a structure or an activity.

C. Temporary uses are structures or activities permitted for a limited duration of time on a lot (like a portable storage container used for the purposes of storing or moving a household's belongings).

4.2 PRINCIPAL USES

4.2.1 APPLICABILITY

A principal use is the main or primary purpose for which a building, other structure and/or lot is designed, arranged, or intended, or for which they may be used, occupied, or maintained under this chapter.

4.2.2 ESTABLISHMENT OF A PRINCIPAL USE

A. USES PERMITTED BY RIGHT

1. A "P" in a cell of the principal use table indicates that the specific use type is permitted by right in the corresponding zoning district, subject to compliance with any referenced use standards and any other applicable standards in this Ordinance.
2. By-right uses require issuance of a Zoning Compliance Permit or Building Permit prior to establishment and may also require approval of a Site Plan (see Section 2.3.21, Site Plan).

B. USES PERMITTED BY SPECIAL USE PERMIT

An "S" in a cell of the principal use table indicates that the specific use type is permitted in the corresponding zoning district only upon approval of a Special Use Permit in accordance with Section 2.3.22, Special Use Permit. Special uses must also comply with any referenced use standards and any other applicable standards in this Ordinance.

C. USES ALLOWED IN A CONDITIONAL ZONING DISTRICT

1. A "C" in a cell of the principal use table indicates that the specific use type is allowable in a conditional zoning district, subject to any referenced use standards.
2. Establishment of a conditional use requires approval of a Conditional Rezoning (see Section 2.3.6, Conditional Rezoning).
3. Conditional rezoning applications shall be a Type 1, Limited Use; Type 2, Limited Standards; or a Type 3, Unlimited conditional rezoning application.

D. USES NOT PERMITTED

An "•" symbol in a cell of the summary use table indicates that the specific use type is not permitted in the corresponding zoning district.

E. USE STANDARD APPLIES

The right-most column of the table includes a reference to any applicable use standards associated with a particular use type. Unless otherwise stated in the standards, a use standard applies to a particular use regardless of the zoning district where it is located.

4.2.3 CHANGE OF A PRINCIPAL USE

A. Several of the provisions in this Ordinance are applied at the time of a change in use. For the purposes of this Ordinance, each of the following shall constitute a "change in use:"

1. When an existing principal use is replaced by a new principal use that is of a different use classification or use category (see Section 4.7, Unlisted Uses);
2. When an existing principal use that is conducted entirely indoors becomes conducted entirely outdoors, or vice versa;
3. Any change in an existing use or development site that triggers the application of a differing set of building code requirements, such as the switch from residential requirements to non-residential or combined use requirements; and
4. If a combined or multiple principal use is changed in ways where the mixture of use types changes or where the relative proportion of floor area devoted to one of the existing use

types is modified to the extent that the total minimum off-street parking standards for the entire development are increased.

B. Conversion from one use type to the same use type under the same or a different owner is not a change in use.

C. Additions or expansions of an existing use may require the need for compliance with development standards in this Ordinance (see Section 5.4, Nonconforming Site Features).

D. Addition or conversion of secondary uses or the operation of a temporary use does not constitute a change in principal use.

4.2.4 COMBINATION PRINCIPAL USES

Developments with combination or multiple principal uses, such as shopping centers or unified developments, shall be configured in accordance with Section 3.4.7, Unified Development, and the following:

A. Incorporate only those use types allowed in the applicable zoning district;

B. Comply with all the use standards that apply to each use type in the development; and

C. Comply with the required method of establishment for the use type identified in Table 4.2.5, Listing of Common Principal Uses.

4.2.5 LISTING OF COMMON PRINCIPAL USES

Table 4.2.5, Listing of Common Principal Uses, lists use classifications, principal use types, and indicates whether the principal use type is permitted by-right, by a special use permit, or is prohibited in a particular zoning district. It also includes a reference to any applicable use standards that apply to a particular principal use (the right-most column will include a cross reference to any applicable use standards in the UDO).

A. USE CLASSIFICATIONS

1. Individual principal uses in the principal use listing are organized into one of the following five different use classifications, based upon their characteristics: Agricultural; Commercial; Industrial; Institutional; and Residential.
2. Use classifications and the use categories that comprise them are more generally described in Section 4.7, Unlisted Uses.
3. Individual use types listed in the table of principal use types are listed in alphabetical order by use classification.

B. USE TYPES

1. Use types are the individual principal use types.
2. Each individual use type is defined in Section 8.3, Terms Defined.

TABLE 4.2.5: LISTING OF COMMON PRINCIPAL USES

P = Permitted, subject to a Zoning Permit & applicable use standards
S = Permitted, subject to a Special Use Permit & applicable use standards
C =Permitted within a conditional zoning district, subject to applicable use standards
"•" = Prohibited
[#] = Table note (see end of table)

Use Type	Conventional Residential Districts						Conventional Non-Residential Districts								Special Districts			Conditional Districts					Use Standards
	RUR	RLL	RLD	RMD	RHD	RMF	OFI	DTNC	DTNT	DTNN	NCM	CRM	LID	HID	CON	MXD	PUB	CZR	CZM	CZC	CZD	CZI	
AGRICULTURAL USE CLASSIFICATION																							
Agricultural Packaging & Processing	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	·	·	·	C	
Agricultural Storage & Distribution	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	·	·	·	C	
Animal Husbandry	P	P	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	·	C	·	·	4.3.6
Animal Processing	·	·	·	·	·	·	·	·	·	·	·	·	·	S	·	·	·	·	·	·	·	C	
Equestrian Facility	P	P	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	·	C	·	·	4.3.43
Farm Equipment Sales and Service	·	·	·	·	·	·	·	·	·	·	·	·	·	P	·	·	·	·	·	C	·	·	
Farm Supply Sales (retail or wholesale)	·	·	·	·	·	·	·	·	·	·	·	·	·	P	·	·	·	·	·	C	·	·	
Horticulture	P	P	·	·	·	·	·	·	·	·	·	·	·	·	P	·	·	·	·	C	·	·	
Nursery (retail or wholesale)	·	P	·	·	·	·	·	·	·	·	P	P	·	·	·	·	P	·	·	·	·	·	
COMMERCIAL USE CLASSIFICATION																							
Animal Boarding Indoor and Outdoor	S	·	·	·	·	·	·	·	·	·	·	S	·	·	·	·	·	C	·	C	·	·	4.3.8
Animal Boarding, Indoor Only	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	·	·	·	C	·	·	4.3.7
Animal Shelter	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	P	·	·	·	·	C	4.3.9
Bank, Credit Union, or Similar Use	·	·	·	·	·	·	P	P	P	·	P	P	·	·	·	P	·	·	·	C	C	·	
Bar, Cocktail Lounge, Private Club	·	·	·	·	·	·	·	P	P	·	·	P	·	·	·	P	·	·	C	C	C	·	4.3.16
Bed & Breakfast	·	S	·	·	S	·	S	S	S	S	·	·	·	·	·	·	·	C	C	C	C	·	4.3.18
Bottle Shop (on-premise consumption)	·	·	·	·	·	·	·	P	P	·	·	P	·	·	·	P	·	·	C	C	C	·	4.3.20
Bulky Item Sales	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	·	·	C	·	C	4.3.22
Campground	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	·	·	·	·	4.3.25
Catering Establishment	·	·	·	·	·	·	·	P	P	·	P	P	P	·	·	P	·	·	C	C	C	·	

TABLE 4.2.5: LISTING OF COMMON PRINCIPAL USES

P = Permitted, subject to a Zoning Permit & applicable use standards
S = Permitted, subject to a Special Use Permit & applicable use standards
C =Permitted within a conditional zoning district, subject to applicable use standards
"•" = Prohibited
[#] = Table note (see end of table)

Use Type	Conventional Residential Districts						Conventional Non-Residential Districts								Special Districts			Conditional Districts					Use Standards
	RUR	RLL	RLD	RMD	RHD	RMF	OFI	DTNC	DTNT	DTNN	NCM	CRM	LID	HID	CON	MXD	PUB	CZR	CZM	CZC	CZD	CZI	
Check Cashing / Pay Day Lending	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	·	·	4.3.28
Coffee Shop or Bakery	·	·	·	·	·	·	·	P	P	P	P	P	P	·	·	P	·	·	C	C	C	C	
Computer Related Services	·	·	·	·	·	·	P	P	P	P	P	P	P	·	·	P	·	·	C	C	C	C	
Convenience Store (with gasoline sales)	·	·	·	·	·	·	·	·	·	·	P	P	P	·	·	·	·	·	·	C	·	C	4.3.38
Co-Working Space	·	·	·	·	·	P	P	P	P	P	P	P	P	·	·	P	·	·	C	C	C	C	4.3.39
Day Spa (medical or non-medical)	·	·	·	·	·	·	·	P	P	·	P	P	·	·	·	P	·	·	C	C	C	·	
Event Venue, Indoor & Outdoor	·	·	·	·	·	·	P	P	P	·	·	P	·	·	·	·	·	C	C	C	C	·	4.3.44
Event Venue, Indoor Only	·	·	·	·	·	·	P	P	P	P	P	P	·	·	·	·	·	C	C	C	C	·	4.3.44
Fitness Center	·	·	·	·	·	P	P	P	P	·	P	P	P	·	·	P	·	·	C	C	C	C	4.3.51
Flea Market	·	·	·	·	·	·	·	·	·	·	·		·	·	·	·	·	·	·	C	·	·	4.3.52
Funeral Related Services	·	·	·	·	·	·	P	·	·	·	·	P	P	·	·	·	·	·	·	·	·	C	4.3.56
Gasoline Sales	·	·	·	·	·	·	·	·	·	·	P	P	P	·	·	·	·	·	·	C	·	C	4.3.57
Grocery Store	·	·	·	·	·	·	·	P	P	·	P	P	·	·	·	P	·	·	C	C	C	·	4.3.60
Grooming	P	·	·	·	·	·	·	P	P	·	P	P	·	·	·	·	·	·	C	C	·	·	
Hair, Nail, and Skin Related Services	·	·	·	·	·	·	·	P	P	P	P	P	·	·	·	P	·	·	C	C	C	·	
Heavy Equipment Sales, Rental, & Repair	·	·	·	·	·	·	·	·	·	·	·	·	P	·	·	·	·	·	·	·	·	·	4.3.65
Hotel or Motel	·	·	·	·	·	·	·	·	·	·	·	P	·	·	·	·	·	·	C	C	C	·	4.3.69
Indoor Commercial Recreation	·	·	·	·	·	·	·	P	P	·	P	P	P	·	·	P	·	·	C	C	C	C	4.3.70
Instructional Services	·	·	·	·	·	·	P	P	P	P	P	P	P	·	·	P	·	·	C	C	C	C	
Laundry and Fabric Cleaning	·	·	·	·	·	·	·	P	P	·	P	P	P	·	·	P	·	·	C	C	C	C	4.3.74
Light Equipment Sales, Rental, & Repair	·	·	·	·	·	·	·	·	·	·	P	P	P	P	·	·	·	·	·	C	·	C	4.3.76
Micro Brewery, Micro Distillery, or Micro Winery	·	·	·	·	·	·	·	P	P	·	P	P	P	P	·	P	·	·	C	C	C	C	4.3.85
Nightclub or Dance Hall	·	·	·	·	·	·	·	·	·	·	·	P	·	·	·	·	·	·	·	·	C	C	4.3.88
Office, High Intensity	·	·	·	·	·	·	P	P	P	·	P	P	P	·	·	P	·	·	C	C	C	C	4.3.90
Office, Low Intensity	·	·	·	·	P	P	P	P	P	·	P	P	P	·	·	P	·	C	C	C	C	C	

TABLE 4.2.5: LISTING OF COMMON PRINCIPAL USES

P = Permitted, subject to a Zoning Permit & applicable use standards
S = Permitted, subject to a Special Use Permit & applicable use standards
C =Permitted within a conditional zoning district, subject to applicable use standards
"•" = Prohibited
[#] = Table note (see end of table)

Use Type	Conventional Residential Districts						Conventional Non-Residential Districts								Special Districts			Conditional Districts					Use Standards
	RUR	RLL	RLD	RMD	RHD	RMF	OFI	DTNC	DTNT	DTNN	NCM	CRM	LID	HID	CON	MXD	PUB	CZR	CZM	CZC	CZD	CZI	
Outdoor Commercial Recreation	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	·	·	C	·	C	4.3.92
Packaging and Shipping	·	·	·	·	·	·	·	P	P	·	P	P	P	·	·	P	·	·	C	C	C	C	
Parking Lot	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	C	·	4.3.97
Parking Structure	·	·	·	·	·	·	·	P	S	S	·	·	·	·	·	·	·	·	·	C	C	·	4.3.98
Pawn Shop	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	·	·	4.3.99
Pharmacy	·	·	·	·	·	·	P	P	P	·	P	P	·	·	·	P	·	·	C	C	C	·	4.3.100
Recreational Vehicle Park	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	·	·	4.3.104
Repair Shop	·	·	·	·	·	·	·	P	P	·	P	P	P	·	·	P	·	·	C	C	C	C	4.3.107
Restaurant Indoor and Outdoor Seating	·	·	·	·	·	·	P	P	P	·	P	P	·	·	·	P	·	·	C	C	C	·	4.3.110
Restaurant Indoor Seating Only	·	·	·	·	·	·	P	P	P	·	P	P	·	·	·	P	·	·	C	C	C	·	
Restaurant Walk-up Service Only	·	·	·	·	·	·	P	P	P	·	P	P	·	·	·	P	·	·	C	C	C	·	
Restaurant with Drive Through	·	·	·	·	·	·	P	·	·	·	P	P	·	·	·	·	·	·	C	C	C	·	4.5.5K
Retail, General	·	·	·	·	·	·	·	P	P	·	P	P	P	·	·	P	·	·	C	C	C	C	4.3.111
Retail, Large Format	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	·	C	C	·	C	4.3.112
Retail, Micro	·	·	·	·	·	P	·	P	P	P	P	P	·	·	·	P	·	C	C	C	C	C	4.3.113
Sexually-Oriented Business	·	·	·	·	·	·	·	·	·	·	·	·	S	·	·	·	·	·	·	·	·	·	4.3.118
Storage, Indoor and Outdoor	·	·	·	·	·	·	·	·	·	·	·	·	P	·	·	·	·	·	·	·	·	·	4.3.124
Storage, Indoor Only	·	·	·	·	·	·	·	·	·	·	·	·	P	·	·	·	·	·	·	·	·	·	4.3.123
Tanning Salon	·	·	·	·	·	·	·	P	P	·	P	P	·	·	·	P	·	·	C	C	C	·	
Tattoo & Piercing Establishment	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	P	·	·	C	·	C	C	4.3.126
Theatre, Indoors	·	·	·	·	·	·	·	P	P	·	P	P	·	·	·	P	·	·	C	C	C	·	
Theatre, Outdoors	·	·	·	·	·	·	·	·	·	·	·	P	·	·	·	·	·	·	·	C	·	·	4.3.129
Tobacco, CBD, and Vapor Shop	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	·	·	4.3.130
Vehicle Painting/ Bodywork	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	·	·	·	C	4.3.136
Vehicle Parts and Accessory Sales	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	·	·	·	C	·	·	4.3.137

TABLE 4.2.5: LISTING OF COMMON PRINCIPAL USES

P = Permitted, subject to a Zoning Permit & applicable use standards
S = Permitted, subject to a Special Use Permit & applicable use standards
C =Permitted within a conditional zoning district, subject to applicable use standards
"•" = Prohibited
[#] = Table note (see end of table)

Use Type	Conventional Residential Districts						Conventional Non-Residential Districts								Special Districts			Conditional Districts					Use Standards
	RUR	RLL	RLD	RMD	RHD	RMF	OFI	DTNC	DTNT	DTNN	NCM	CRM	LID	HID	CON	MXD	PUB	CZR	CZM	CZC	CZD	CZI	
Vehicle Repair and Service (no painting/ bodywork)	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	·	·	C	·	C	4.3.138
Vehicle Sales and Rental	·	·	·	·	·	·	·	·	·	·	·		·	·	·	·	·	·	·	C	·	C	4.3.139
Vehicle Towing and Storage	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	·	·	·	C	4.3.140
Vehicle Washing or Detailing	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	·	·	C	C	C	C	4.3.141
Veterinary Services, Large Animal	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	·	·	·	·	4.3.142
Veterinary Services, Small Animal	·	·	·	·	·	·	P	P	·	·	P	P	·	·	·	·	·	·	C	C	C	C	
INDUSTRIAL USE CLASSIFICATION																							
Asphalt or Concrete Plant	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	4.3.12
Business Incubator	·	·	·	·	·	·	P	P	P	·	P	P	P	·	·	P	·	·	C	C	C	C	4.3.24
Contractor Services Office/Yard	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	·	C	·	C	4.3.37
Cryptomining and Data Processing	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	4.3.40
Electrical, HVAC, or Plumbing Fabrication	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	·	C	·	C	4.3.42
Extractive Industry	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	
Freight Terminal	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	·	C	·	C	4.3.54
Fuel Oil/Bottled Gas Distribution	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	·	·	·	C	4.3.55
Level 2 Solar Energy Conversion	·	·	·	·	·	·	·	·	·	·	·	·	·	P	·	·	P	·	·	·	·	C	4.3.122
Level 3 Solar Energy Conversion	·	·	·	·	·	·	·	·	·	·	·	·	·	P	·	·	P	·	·	·	·	C	4.3.122
Major Utility	·	·	·	·	·	·	S	·	·	·	·	·	P	P	·	·	P	·	·	C	C	C	4.3.135
Maker Space	·	·	·	·	·	·	·	·	·	·	·	P	P	P	·	P	P	·	C	C	C	C	4.3.78
Manufacturing, Heavy	·	·	·	·	·	·	·	·	·	·	·	·	·	P	·	·	·	·	·	·	·	C	4.3.82
Manufacturing, Light	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	·	·	·	C	4.3.83
Manufacturing, Medium	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	·	·	·	C	
Metal Fabrication	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	·	·	·	C	4.3.84
Minor Utility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	·	P	P	C	C	C	C	C	

TABLE 4.2.5: LISTING OF COMMON PRINCIPAL USES

P = Permitted, subject to a Zoning Permit & applicable use standards
S = Permitted, subject to a Special Use Permit & applicable use standards
C =Permitted within a conditional zoning district, subject to applicable use standards
"•" = Prohibited
[#] = Table note (see end of table)

Use Type	Conventional Residential Districts						Conventional Non-Residential Districts								Special Districts			Conditional Districts					Use Standards
	RUR	RLL	RLD	RMD	RHD	RMF	OFI	DTNC	DTNT	DTNN	NCM	CRM	LID	HID	CON	MXD	PUB	CZR	CZM	CZC	CZD	CZI	
Recycling Center	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	P	·	·	·	·	C	4.3.105
Research and Development	·	·	·	·	·	·	P	·	·	·	·	·	P	P	·	·	P	·	C	C	C	C	
Salvage and Junkyard	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	4.3.114
Transfer Station	S	·	·	·	·	·	·	·	·	·	·	·	·	P	·	·	P	·	·	·	·	C	4.3.131
Warehouse, Distribution or Storage	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	·	C	·	C	4.3.144
Wholesale Sales, Indoor and Outdoor	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	·	C	·	C	4.3.145
Wholesales Sales, Indoor Only	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	·	C	·	C	
Wind Energy Conversion	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	4.3.146
INSTITUTIONAL USE CLASSIFICATION																							
Adult Day Care	·	·	·	·	·	·	P	·	·	·	P	P	P	·	·	P	·	C	C	C	C	C	4.3.3
Antenna Collocation, Major	P	·	·	·	·	·	P	P	P	P	P	P	P	P	·	P	P	·	C	C	C	C	4.3.10
Antenna Collocation, Minor	P	P	P	P	P	P	P	P	P	P	P	P	P	P	·	P	P	C	C	C	C	C	4.3.11
Arboretum or Formal Garden	P	P	P	P	P	P	P	P	P	P	P	P	·	·	P	P	P	C	C	C	C	·	
Athletic Field or Court	P	P	P	P	P	P	P	P	P	·	P	P	P	·	·	P	P	C	C	C	·	·	
Auditorium, Coliseum, Convention Center	·	·	·	·	·	·	P	P	P	·	·	P	·	·	·	·	P	·	C	C	C	·	4.3.14
Broadcasting Studio	·	·	·	·	·	·	P	·	·	·	P	P	P	·	·	·	P	·	·	·	C	·	
Bus Station	·	·	·	·	·	·	P	P	P	P	P	P	·	·	·	P	P	C	C	C	C	C	
Cemetery or Mausoleum	P	P	·	·	·	·	P	·	·	·	·	·	·	·	·	·	P	C	·	C	·	·	4.3.27
Child Day Care	·	·	·	·	·	P	P	P	P	P	P	P	·	·	·	P	·	C	C	C	C	C	4.3.29
College or University	·	·	·	·	·	·	P	·	·	·	·	P	·	·	·	·	P	·	C	C	C	·	
Community Center	·	·	·	·	·	P	P	P	P	P	P	P	·	·	·	P	·	C	C	C	C	·	
Community Garden	P	P	P	P	P	P	P	P	P	P	P	·	·	·	P	P	P	C	C	C	C	·	
Community Recreation Facility (private)	P	P	P	P	P	P	P	·	·	·	·	·	·	·	·	P	·	C	C	C	C	·	
Fire/EMS/ Police Station	P	P	P	P	P	P	P	P	P	P	P	P	P	·	·	P	P	C	C	C	C	C	4.3.50
Fraternal Club or Lodge	·	P	P	P	P	·	P	·	·	·	·	·	·	·	·	P	·	C	C	C	C	C	4.3.53
Golf Course (public or private)	P	P	P	P	·	·	·	·	·	·	·	·	·	P	·	·	P	·	·	C	·	·	

TABLE 4.2.5: LISTING OF COMMON PRINCIPAL USES

P = Permitted, subject to a Zoning Permit & applicable use standards
S = Permitted, subject to a Special Use Permit & applicable use standards
C =Permitted within a conditional zoning district, subject to applicable use standards
"•" = Prohibited
[#] = Table note (see end of table)

Use Type	Conventional Residential Districts						Conventional Non-Residential Districts								Special Districts			Conditional Districts					Use Standards
	RUR	RLL	RLD	RMD	RHD	RMF	OFI	DTNC	DTNT	DTNN	NCM	CRM	LID	HID	CON	MXD	PUB	CZR	CZM	CZC	CZD	CZI	
Government Office	·	·	·	·	·	·	P	P	P	P	P	P	·	·	·	P	P	C	C	C	C	C	
Governmental Training Facility	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	P	C	C	C	C	C	
Hospital	·	·	·	·	·	·	P	·	·	·	·	P	·	·	·	·	P	·	C	C	C	·	4.3.67
Indoor Recreation, Public	·	P	·	·	·	P	P	P	P	P	P	P	·	·	·	P	P	C	C	C	C	C	
Laboratory	·	·	·	·	·	·	P	·	·	·	P	P	·	·	·	·	P	·	C	C	·	C	4.3.73
Library	·	·	·	·	P	P	P	P	P	P	P	P	·	·	·	P	P	C	C	C	C	·	
Museum	·	·	·	·	·	·	P	P	P	P	P	P	·	·	·	P	P	·	C	C	C	·	
Outdoor Recreation, Public	P	P	P	·	·	P	P	·	·	·	·	·	·	·	·	P	P	C	C	C	C	·	
Outpatient Facility	·	·	·	·	·	·	P	P	P	·	P	P	·	·	·	P	P	·	C	C	C	·	4.3.94
Park and Ride Facility	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	P	C	C	C	C	C	
Park or Playground (public or private)	P	P	P	P	P	P	P	P	P	P	P	P	·	·	P	P	P	C	C	C	C	·	
Post Office	·	·	·	·	·	·	P	P	P	P	P	P	P	·	·	P	P	C	C	C	C	·	
Psychiatric Services	·	·	·	·	·	·	S	·	·	·	·	·	·	·	·	·	S	·	·	·	·	·	4.3.102
Rail Related	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	P	·	·	C	C	C	
Religious Institution	·	P	P	P	P	·	P	·	·	·	·	·	·	·	·	P	·	C	C	C	C	C	4.3.106
Residential Treatment Facility	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	P	C	C	C	C	C	4.3.109
School, Elementary or Middle	·	P	P	P	P	·	P	·	·	·	·	·	·	·	·	P	·	C	C	C	C	C	
School, High	·	S	S	S	S	·	P	·	·	·	·	·	·	·	·	P	·	C	C	C	C	C	4.3.116
School, Vocational	·	·	·	·	·	·	P	·	·	·	·	·	·	P	·	·	P	C	C	C	C	C	4.3.117
Small Wireless Facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	·	P	P	·	·	·	·	·	4.3.121
Telecommunications Facility, Major	S	·	·	·	·	·	·	·	·	·	·	·	·	P	·	·	P	·	·	·	·	C	4.3.127
Telecommunications Facility, Minor or Concealed	P	·	·	·	P	P	P	P	P	P	P	P	P	P	·	P	P	C	·	·	·	·	4.3.127
Urgent Care	·	·	·	·	·	·	P	·	·	·	·	P	·	·	·	P	P	·	C	C	C	C	4.3.134
RESIDENTIAL USE CLASSIFICATION																							
Boarding House	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	·	·	·	·	4.3.19
Bungalow Court [1]	·	·	·	·	·	P	·	·	·	·	P	·	·	·	·	P	·	C	C	·	C	·	4.3.23

TABLE 4.2.5: LISTING OF COMMON PRINCIPAL USES

P = Permitted, subject to a Zoning Permit & applicable use standards
S = Permitted, subject to a Special Use Permit & applicable use standards
C =Permitted within a conditional zoning district, subject to applicable use standards
"•" = Prohibited
[#] = Table note (see end of table)

Use Type	Conventional Residential Districts						Conventional Non-Residential Districts								Special Districts			Conditional Districts					Use Standards
	RUR	RLL	RLD	RMD	RHD	RMF	OFI	DTNC	DTNT	DTNN	NCM	CRM	LID	HID	CON	MXD	PUB	CZR	CZM	CZC	CZD	CZI	
Congregate Care	·	·	·	·	·	·	P	·	·	·	·	·	·	·	·	·	·	C	·	·	·	·	4.3.34
Conservation Subdivision [1]	·	P	P	P	P	P	·	·	·	·	·	·	·	·	·	P	·	C	C	·	·	·	4.3.35
Continuing Care Retirement Community	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	·	·	·	·	4.3.36
Duplex Dwelling [1]	·	·	·	P	P	P	·	·	·	·	P	·	·	·	·	P	·	C	C	·	C	·	4.3.41
Family Care Home	P	P	P	P	P	P	·	P	P	P	P	·	·	·	·	P	·	C	·	·	·	·	4.3.46
Group Home	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	·	·	·	·	4.3.62
Halfway House	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	·	·	·	·	4.3.64
Homeless Shelter	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	·	·	·	·	4.3.68
Live/Work	·	·	·	·	·	P	P	P	P	P	P	P	P	·	·	P	·	C	C	C	C	C	4.3.77
Manufactured Home (Class A Doublewide)	P	P	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	·	·	·	·	4.3.79
Manufactured Home (Class B Singlewide)	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	·	·	·	·	4.3.80
Manufactured Home Park	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	·	·	·	·	4.3.81
Mobile Home	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	
Mobile Home Park	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	
Multi-Family Dwelling	·	·	·	·	·	P	·	·	·	·	·	·	·	·	·	P	·	C	C	·	C	·	4.3.86
Pocket Neighborhood [1]	·	·	·	P	P	P	·	·	·	·	P	·	·	·	·	P	·	C	C	·	C	·	4.3.101
Single-Family Attached Dwelling [1]	·	·	·	·	P	P	·	·	·	·	·	·	·	·	·	P	·	C	C	C	C	·	4.3.119
Single-Family Detached Dwelling	P	P	P	P	P	P	·	·	P	P	P	·	·	·	·	P	·	C	·	·	C	·	4.3.120
Triplex or Quadplex [1]	·	·	·	·	P	P	·	·	·	·	·	·	·	·	·	P	·	C	C	C	C	·	4.3.132
Upper-Story Dwelling	·	·	·	·	·	P	P	P	P	P	P	P	·	·	·	P	·	C	C	C	C	·	4.3.133

NOTES:
[1] Not permitted on lots within the downtown boundary as designated in the 2045 Comprehensive Growth Plan Future Land Use Map unless permitted by and located within the CZD zoning district.

4.3 STANDARDS FOR SPECIFIC PRINCIPAL USES

The standards in this section are applied to individual principal use types as identified in Table 4.2.5, Listing of Common Principal Uses. These standards are applied to identified principal uses in addition to all other applicable zoning district, design, or development standards in this Ordinance or the Town Code of Ordinances. Conflicts between these standards and other standards in this Ordinance shall be addressed in accordance with Section 1.3, Conflict. Developments with two or more of these use types on a single lot or within a single development shall also be subject to the standards in Section 3.4.7, Unified Development.

4.3.1 SECTION STRUCTURE EXPLAINED

This section identifies the use-specific standards applied to principal use types identified in Table 4.2.5, Listing of Common Principal Uses, as subject to "Use Standards," however, the principal uses included in this section are listed in alphabetical order rather than by use classification or use category.

4.3.2 GENERAL REQUIREMENT

Principal uses structures may deviate from these listed standards only where expressly authorized by this Ordinance, as part of an approved Variance or Administrative Adjustment, as subject to conditions of approval associated with a Type 3 conditional rezoning, or when configured in accordance with Section 3.5, Incentives and Alternatives.

4.3.3 ADULT DAY CARE

An adult day care center use shall comply with the following requirements:

A. The use shall be certified by the North Carolina Department of Health and Human Services;
B. The use shall obtain all required licenses and permits from the State;
C. The use shall not permit overnight accommodation of patrons;
D. The use includes a pick-up and drop-off area that allows patrons to enter and exit vehicles without crossing a parking lot or vehicular accessway;
E. The use shall comply with the standards in Section 6.2.5, Non-Residential Design Standards; and
F. The pick-up and drop-off area shall not be located within a required yard or landscaping area.

4.3.4 AGRICULTURAL PACKAGING & PROCESSING

These uses shall comply with the standards in Section 4.3.83, Manufacturing, Light.

4.3.5 AGRICULTURAL STORAGE & DISTRIBUTION

A. All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from all lot lines.
B. Equipment-capable of producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.
C. All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.
D. Outdoor storage visible from a residential zoning district shall be screened in accordance with Section 6.6.13, Screening.

4.3.6 ANIMAL HUSBANDRY

Animal husbandry as a principal use shall comply with the following standards:

A. Animal husbandry is only permitted on lots located outside the Town's corporate limits.
B. Any use engaged in animal husbandry shall have a minimum of five contiguous acres.

C. All barns, pens, enclosures, feeding troughs or mechanisms, storage, and any secondary structures shall be located at least 100 linear feet from lot lines and water bodies that flow into drinking water sources.

D. A maximum of up to five large animals may be permitted for each acre. For the purposes of this section, "large animals" shall include horses, swine of any size, cattle, goats, llamas, and sheep.

E. A maximum of up to 100 small animals may be permitted for each acre. For the purposes of this section, "small animals" shall include rabbits and fowl, excluding peafowl.

F. In no instance shall exotic animals or animals not typically maintained as livestock be permitted as part of an animal husbandry use.

G. Animals (excluding waterfowl) shall be maintained within pens, fenced areas, or other suitable enclosures.

H. Pens, stalls, and grazing areas shall be maintained in a sanitary manner free from noxious odors.

I. Manure stockpiles shall not exceed six feet in height.

4.3.7 ANIMAL BOARDING, INDOOR ONLY

A. All activities, including kennels, runs, and exercise areas shall take place within fully-enclosed and soundproofed structures;

B. Animal waste shall not be stored within 50 feet of any lot line; and

C. Any animal suspected of showing symptoms of rabies infection shall be immediately segregated and reported to Animal Control.

4.3.8 ANIMAL BOARDING, INDOOR AND OUTDOOR

A. All structures shall be designed and maintained in a manner to prevent the development of unsanitary conditions;

B. All activities associated with the use shall take place within enclosed and soundproofed structures, or the use shall comply with the following requirements:

1. An outdoor activity area or run may be provided only for exercise/relief areas for the animals;
2. All outdoor activity areas or runs shall be located to the side or rear of the principal building;
3. No outdoor activity area or run shall be located within 50 feet of any lot line;

C. Outdoor activity areas shall include areas protected from the weather and be enclosed by a fully opaque fence or wall at least six feet in height; and

D. Any animal suspected of showing symptoms of rabies infection shall be immediately segregated and reported to Animal Control.

4.3.9 ANIMAL SHELTER

A. All activities associated with the use shall take place within enclosed and soundproofed structures, or the use shall be separated from land in an OFI or residential district by at least 1,000 feet.

B. Outdoor areas used to house or exercise animals shall be protected from the weather and enclosed by a fence at least six feet in height.

4.3.10 ANTENNA COLLOCATION, MAJOR

See Section 4.3.127, Telecommunications Facilities.

4.3.11 ANTENNA COLLOCATION, MINOR

See Section 4.3.127, Telecommunications Facilities.

4.3.12 ASPHALT OR CONCRETE PLANT

An asphalt or concrete plant shall comply with the following standards:

A. SETBACKS

An asphalt plant, including secondary structures and storage of materials shall be located at least 100 feet from all lot lines. This standard shall not be applied to temporary asphalt or concrete plants located entirely within a public street right-of-way.

B. SECURITY FENCING

A security fence, a minimum of six feet in height, and a locking gate shall be provided around the use.

C. REHABILITATION

1. Within one year of the cessation of the use, all equipment and stock piles incidental to the operation shall be dismantled and removed by and at the expense of the landowner.
2. The site shall be drained to prevent the accumulation of standing water, and channelization of the drainage shall be designed and controlled so as not to cause erosion or silting of neighboring properties or public ways, nor to appreciably increase the turbidity of any natural water course, or to occlude any existing drainage course, except in an instance where redevelopment for another permitted use is in progress.

D. ACCESS

1. Vehicular access shall be constructed with an all-weather surface and be maintained in a dust-free condition.
2. Access drives shall be located no closer than 15 feet from a lot line.
3. A plan shall be submitted showing truck routes to and from the site. Such routes shall be designed to minimize impacts on residential areas, schools, or other uses negatively affected by truck traffic.

4.3.13 ATHLETIC FIELD OR COURT

Athletic fields and courts shall comply with the following standards:

A. Athletic fields and courts used for night-time or weekend activities shall be located at least 100 feet from lot lines shared with residentially zoned land.

B. The athletic field or court shall be surrounded by a fence with a minimum height of four feet, and shall be supplemented with netting or other devices that limit projectiles from travelling off-site, if determined necessary by the Planning Director.

C. Exterior lighting for athletic fields and courts shall comply with the applicable standards in Section 6.4, Exterior Lighting, and configured so that the maximum illumination at any lot lines abutting residentially zoned or used lands does not exceed one footcandle.

4.3.14 AUDITORIUM, COLISEUM, CONVENTION CENTER

A. Unless located in the Downtown district, the parcel or site shall have an area of at least three acres;

B. Dining and banquet facilities may be provided for employees, trainees, and conferees, provided the gross floor area devoted to such facilities does not exceed 50 percent of the total floor area of the principal building;

C. The building shall be located at least 500 feet from any lot in a single-family residential zoning district;

D. The use shall comply with the standards in Section 6.2.5, Non-Residential Design Standards; and

E. The main entrance to the lot or site shall be served by a collector or higher capacity street.

4.3.15 BANK, CREDIT UNION, OR SIMILAR USE

A. Freestanding automated teller machines require site plan approval and shall comply with the Standards in Section 4.5.5E, Automated Teller Machine (ATM).

B. Drive-throughs shall comply with the standards in Section 4.5.5K, Drive-Through.

4.3.16 BAR, COCKTAIL LOUNGE, PRIVATE CLUB

A bar, cocktail lounge, or private club shall comply with the following requirements:

A. The main entrance of the use shall face a street or outdoor gathering area. In cases where the main entrance could face more than one street, it shall be configured to face the street with the larger number of non-residential establishments or where the larger number of non-residentially zoned lots are located. In no instance shall the use orient the primary entrance toward an abutting lot in a residential district;

B. Except within the Downtown district, the use shall have a six-foot-high opaque fence or masonry wall along all lot lines abutting a residential district; and

C. Outdoor seating (including, but not limited to, seating for dining or listening to live or recorded acoustic or amplified entertainment outside of the building) shall comply with the standards in Section 4.5.5T, Outdoor Dining or Seating.

4.3.17 BARBER OR BEAUTY SALON

All activity shall take place entirely within a fully-enclosed building.

4.3.18 BED & BREAKFAST

A. The use shall be owned and operated by a person who resides on the site.

B. The use shall be located in a structure that was originally constructed as a residential dwelling and there shall be no substantial modifications to the exterior appearance of the structure, provided that fire escapes, handicapped entrances and other features may be added to protect public safety.

C. No more than six guest sleeping rooms may be included. Bed and breakfast uses with more than six guest sleeping rooms are classified as a hotel or motel.

D. Meals served on the premises shall be solely for guests and employees.

E. Rooms shall not be equipped with cooking facilities.

F. Off-street parking other than on a driveway with a maximum width of 24 feet shall not be allowed in any required setback.

G. A Type C perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

4.3.19 BOARDING HOUSE

A boarding house shall comply with the following standards:

A. Boarding houses shall comply with Sections 152.25 through 152.28 of the Town Code of Ordinances;

B. A boarding house shall not be located within 1,000 feet of another boarding house;

C. A boarding house shall meet the applicable dimensional requirements for a single-family detached residential use in the zoning district where located;

D. The property owner or a designated property manager responsible for operating the boarding house in accordance with this Ordinance must reside on the same premise as the boarding house;

E. No more than five resident sleeping rooms shall be available for rent;

F. At least 15 square feet of common living area other than the kitchen, hallways, and bathrooms shall be provided per resident sleeping room;

G. Separate structures, secondary buildings, and garages shall not be used as a resident sleeping room;

H. No separate exterior doorways for individual resident sleeping rooms shall be permitted;

I. A resident sleeping room shall not contain a kitchen;

J. Off-street parking other than on a driveway with a maximum width of 24 feet shall not be allowed in any required setback; and

K. A Type C perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

4.3.20 BOTTLE SHOP (ON-PREMISE CONSUMPTION)

A bottle shop use shall comply with the standards in Section 4.3.16, Bar, Cocktail Lounge, Private Club.

4.3.21 BROADCASTING STUDIO

A. Any broadcasting towers associated with the use shall be setback from all lot lines a minimum distance equal to the height of the tower; and

B. The use shall not include a helipad or helicopter landing facilities.

C. Broadcasting studios that incorporate towers or other vertical projections that send or receive electronic signals shall also comply with the applicable requirements in Section 4.3.127, Telecommunications Facilities.

4.3.22 BULKY ITEM SALES

A. Portable storage containers and dumpsters that are utilized for the purpose of display and any bulky item that exceeds 10 feet in height shall not be placed within required setbacks, parking, or landscape areas.

B. Bulky items that are less than or equal to 10 feet in height must be located at least 10 feet from any public street and shall not be placed within required parking or landscape areas.

C. Bulky items are defined in Section 8.3, Terms Defined.

4.3.23 BUNGALOW COURT

A. PURPOSE AND INTENT

A bungalow court is a group of smaller single-family detached dwellings built in close proximity to one another around a shared driveway. The bungalow court use type is a voluntary means of reducing zoning district dimensional requirements in return for voluntary compliance with the Section 6.2.6, Single-Family Residential Design Guidelines, and the standards in this section.

FIGURE 4.3.23: BUNGALOW COURT CONCEPTUAL DESIGN



B. STANDARDS

1. A bungalow court shall be located on a site of at least one acre, but not more than five acres in area, and shall include at least three principal dwelling units.
2. All dwellings shall be located on their own individual lots.
3. The use shall comply with the maximum density and minimum setback requirements for the bungalow court use type in the zoning district where proposed.
4. Bungalow courts shall be limited to single-family detached dwellings as the principal use, though accessory dwelling units in accordance with Section 4.5.5A, Accessory Dwelling Unit, Detached, or Section 4.5.5B Accessory Dwelling Unit, Internal, and home occupations in accordance with Section 4.5.5Q, Home Occupation, Level 1, shall be permitted.
5. All residential structures in a bungalow court shall voluntarily comply with the provisions in Section 6.2.6, Single-Family Residential Design Guidelines.
6. The bungalow court shall provide a Type C perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, along all lot lines outside the bungalow court that abut a residential district.
7. All driveways shall be shared by at least two, but no more than five lots.
8. Bungalow courts that incorporate off-street parking shall include a shared driveway(s) that:
   a. Is located on commonly-owned land or is the subject of a shared access easement granting access to all lots or dwellings served by the shared driveway;
   b. Comprised of concrete, brick, or pavers; and
   c. Located central to the dwellings served.

4.3.24 BUSINESS INCUBATOR

A business incubator may be provided as a principal use in its own building, as tenant space within a multi-tenant building, or as a secondary use to an existing non-residential use, subject to the following standards.

A. When proposed as a principal use, the maximum floor area associated with a business incubator shall be 10,000 square feet.

B. When proposed as a tenant space within a multi-tenant building, the maximum floor area associated with a business incubator shall be 7,500 square feet.

C. When proposed as a secondary use, the floor area devoted to the business incubator shall not exceed 25 percent of the principal use's total floor area.

D. Use types located within a business incubator use type are subject to the business incubator use specific standards, not the use standards that would typically apply if it were a principal use on its own lot.

E. In no instance shall a business incubator include a use type that is not permitted as a principal use in the district where located, or any of the following use types:

1. Bar; cocktail lounge, or private club;
2. Cryptomining or data processing;
3. Funeral-related services or mausoleums;
4. Heavy equipment sales, rental, or repair;
5. Heavy manufacturing;
6. Metal fabrication;
7. Nightclub or dance hall;
8. Psychiatric services;
9. Residential uses of any kind or type;
10. Salvage or junkyard;
11. Sexually-oriented business;
12. Tattoo or piercing establishment; or
13. Vehicle painting or bodywork.

F. Business incubators shall meet the off-street parking requirement for this use type in Table 6.9.4, Table of Minimum Off-Street Parking Requirements, not the individual types of uses within the business incubator.

G. Floor area within a building serving as a business incubator may be used for storage, but no outdoor activity or storage shall be permitted with a business incubator.

H. When located within a MXD, OFI, NCM, CRM, or conditional zoning district, the use shall comply with the standards in Section 6.2.5, Non-Residential Design Standards.

4.3.25 CAMPGROUND

A. Campgrounds shall not include permanent residences, except as necessary for caretakers;

B. Individual campsites shall maintain a minimum size of 500 square feet in area each and at least 20 feet in width;

C. Campgrounds shall provide a common recreational area consisting of at least 100 square feet per campsite;

D. Campgrounds shall provide sufficient groundcover to prevent erosion;

E. Individual campsites shall be set back at least 100 feet from the front lot line and at least 50 feet from the side and rear lot lines; and

F. Waste collection facilities shall be screened in accordance with Section 6.6.13, Screening.

4.3.26 CATERING ESTABLISHMENT

Catering establishments shall not prepare food or beverages for on-site consumption by patrons.

4.3.27 CEMETERY OR MAUSOLEUM

Except as otherwise required in this Ordinance, new cemeteries and the expansion of existing cemeteries (as a principal use) shall comply with the following standards:

A. New cemeteries shall be located on a site or parcel with an area of at least two acres; this standard shall not apply to existing cemeteries or the expansion of existing cemeteries;
B. New cemeteries shall be located on a site or parcel that fronts a collector or higher classification street; this standard shall not apply to existing cemeteries or the expansion of existing cemeteries;
C. Cemeteries shall include drive aisles or vehicular accessways of at least 12 feet in width or greater as needed for the parking and maneuvering of funeral processions; and
D. Interments shall take place at least 25 feet from any lot line and comply with all applicable requirements of the North Carolina General Statutes.

4.3.28 CHECK CASHING /PAY DAY LENDING

Check cashing establishments and pay day lending uses shall comply with the following standards:

A. Such uses shall not include a drive through window or drive-up service;
B. No products shall be offered for retail or wholesale sale; and
C. In no instance shall the use be configured with outdoor gathering areas or locations where persons may gather outdoors when not engaged in transactions with the use.

4.3.29 CHILD DAY CARE

Child day care centers shall comply with the standards for licensure in Article 7, Chapter 110, of the North Carolina General Statutes, as well as the Summary of North Carolina Child Care Laws and Rules pamphlet, as amended, prepared by the NC Department of Health and Human Services.

A. The use shall not permit overnight accommodation of patrons;
B. The use shall include a fenced outdoor gathering area of at least 25 square feet per patron receiving care;
C. The use includes a pick-up and drop-off area that allows patrons to enter and exit vehicles without crossing a parking lot or vehicular accessway;
D. The pick-up and drop-off area shall not be located within a required yard or landscaping area;
E. The use shall comply with the standards in Section 6.2.5, Non-Residential Design Standards; and
F. A child day care shall provide a Type C perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, along all lot lines that abut a residential district.

4.3.30 COFFEE SHOP OR BAKERY

A. To assure provision of adequate parking, the maximum amount of seating and/or square footage of the public floor area for a coffee shop or bakery in a multi-tenant building shall be specified at the time of site plan approval;
B. Except in the Downtown district, a coffee shop or bakery in its own principal building shall have a six-foot-high opaque fence or masonry wall along all lot lines abutting a residential district; and
C. Coffee shops or bakeries with outdoor seating or gathering areas shall comply with the standards in Section 4.5.5T, Outdoor Dining or Seating.

4.3.31 COMMUNITY CENTER

A. The main entrance to the lot or site shall be served or have direct access to a collector or higher classification street;
B. Outdoor courts, swimming pools, and athletic fields shall be located at least 50 feet from any lot line abutting a residential district;
C. Community centers proposed in residential districts shall be on a lot of at least two acres in area;
D. The use shall comply with the standards in Section 6.2.5, Non-Residential Design Standards; and
E. A Type C perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

4.3.32 COMMUNITY RECREATION FACILITY (PRIVATE)

A. The minimum area for a private community recreation facility shall be at least two acres.

B. Private community recreation uses shall have at least one direct vehicular access to a collector or higher classification street. However, if the use is intended to serve only a membership that is limited to a residential development, access may be provided from an interior street within the same residential development.

C. A minimum distance of at least 50 feet shall be maintained between a clubhouse, swimming pool, any court or athletic field, or golf course tee, green, or fairway and any adjacent residence.

D. A type C perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, shall be installed along all lot lines abutting a residential district as well as along all lot lines shared with a residential dwelling unit, if located within a residential or mixed-use development.

E. Outdoor swimming pools shall be protected by a fence or locking ladders in accordance with Section 4.5.5CC, Swimming Pools/Hot Tubs.

F. Events conducted at community recreation facilities shall be subject to the standards in Section 4.6.5C, Other Special Events.

4.3.33 COMPUTER RELATED SERVICES

The use shall be limited to the repair, sales, re-sale, or refurbishment of desktop and small-scale computers and computer-related equipment. Data processing shall be subject to the standards in Section 4.3.40, Cryptomining and Data Processing.

4.3.34 CONGREGATE CARE

A. Congregate care uses shall meet other applicable dimensional requirements for a non-residential use in the zoning district where located.

B. Congregate care buildings containing living units shall comply with the standards in Section 6.2.4, Multi-Family Design Standards.

C. The facility shall provide centrally located, shared food preparation, services to residents, and shared dining areas.

D. Common recreation, social, and service facilities shall be provided at a minimum rate of 30 square feet per dwelling unit or per rooming unit.

E. All facilities shall be solely for the use of residents and their guests.

F. A Type C perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

4.3.35 CONSERVATION SUBDIVISION

A. Conservation subdivisions shall comply with the standards in Section 2.3.7, Conservation Subdivision.

B. All dwelling units located within a conservation subdivision shall be served by a public wastewater treatment system and a public potable water system.

4.3.36 CONTINUING CARE RETIREMENT COMMUNITY (CCRC)

A. The maximum development density is based on the number of independent living units only and may not exceed that permitted in the zoning district where located.

B. Single-family detached dwellings are not subject to the dimensional standards for the zoning district where located but must maintain 15 feet from each lot line and any other principal structure whether on the same or a different lot. CCRCs shall meet all the other applicable dimensional requirements for a non-residential use in the zoning district where located.

C. Multi-unit structures within a CCRC shall comply with the standards in Section 6.2.4, Multi-Family Design Standards.

D. In no instance shall any individual site within a CCRC exceed a maximum lot coverage of 70 percent.

E. A Type C perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, shall be installed around the perimeter of the development.

F. Access and circulation shall adequately provide for firefighting equipment, service deliveries and refuse collection.

G. Pedestrian paths shall form a logical, safe, and convenient system for pedestrian and handicapped access to all on-site buildings and facilities as well as major off-site destinations.

4.3.37 CONTRACTOR SERVICES OFFICE/YARD

A. All activity, including storage of materials, shall be conducted entirely within a fully enclosed building. The temporary loading and off-loading of vehicles shall be permitted outside.

B. Storage of fleet vehicles and equipment is permitted as a secondary use, subject to the standards in Section 6.6.13, Screening.

4.3.38 CONVENIENCE STORE (WITH GASOLINE SALES)

Convenience stores with gasoline sales shall comply with the following standards:

A. Vehicle repair or storage shall be prohibited.

B. Inclusion of a restaurant or food counter providing products for on-site consumption shall require the development to comply the standards in Section 6.2.3, Mixed-Use Design Standards, and shall require the provision of adequate off-street loading facilities that may be utilized without interrupting typical on-site vehicular and pedestrian circulation.

C. Fuel facilities shall comply with the standards in Section 4.3.57, Gasoline Sales.

D. Drive through and fuel canopies shall comply with the standards in Section 4.5.5G, Canopies (Drive Through and Fuel, etc.).

E. Automatic car washes provided as a secondary structure shall be located behind the rear building line of the principal structure and shall comply with the standards in Section 4.3.141, Vehicle Washing or Detailing.

F. Outdoor sales and display areas, if provided, shall comply with the standards in Section 4.5.5U, Outdoor Display/Sales.

4.3.39 CO-WORKING SPACE

A. Use types and activities associated with a co-working space shall be limited to the range of activities typically associated with office uses.

B. Food or beverages produced or sold within the use shall be limited to patrons of co-working space not the general public.

C. Delivery of personal services within the co-working space (manicure, massage, education, exercise classes, child care, etc.) shall be limited to patrons of the co-working space and shall take place indoors or within designated outdoor gathering areas located outside public rights-of-way.

D. Facilities for pets shall be indoors or fully screened from adjacent streets and other uses.

4.3.40 CRYPTOMINING AND DATA PROCESSING

All principal and secondary structures shall be located and soundproofed so that no use-related noise exceeds 90 decibels when measured at the lot line during daylight hours and 60 decibels after sundown.

4.3.41 DUPLEX DWELLING

A. Use of a single shared primary entrance serving both individual dwelling units is strongly encouraged. If a shared entrance is not practical or possible, placement of primary entrances on separate building facades is encouraged.

B. When a duplex dwelling is on a corner lot, the use may include two separate driveways on different lot frontages, provided each driveway is configured in accordance with Section 6.1, Access and Circulation, and all applicable Town or State standards related to driveway placement and street access.

C. Except in cases where the duplex dwelling complies with the provisions in Section 6.2.6, Single-Family Residential Design Guidelines, a Type B perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

4.3.42 ELECTRICAL, HVAC, OR PLUMBING FABRICATION

A. All activity, including storage of materials and products shall be conducted entirely within a fully enclosed building. The temporary loading and off-loading of vehicles shall be permitted outside.

B. Storage of fleet vehicles and equipment is permitted as a secondary use, subject to the standards in Section 6.6.13, Screening.

C. Uses shall not emit smoke, odor, objectionable waste materials, or excessive noise.

D. No vibration that is discernible without the aid of instruments shall be produced at or beyond the lot line.

E. No direct glare from high temperature processes such as combustion or welding shall be permitted to be visible from off-site areas.

4.3.43 EQUESTRIAN FACILITY

A. There shall be a minimum of 100-foot distance between manure storage areas, barns, or stables and any adjacent residentially zoned property.

B. All unpaved areas shall be maintained in a manner that prevents dust from adversely impacting adjoining properties.

C. A type C perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

4.3.44 EVENT VENUE, INDOOR & OUTDOOR

A. Outdoor activity areas shall be set back from lot lines shared with a residential use by an amount at least twice the minimum rear setback for the district where the use is located.

B. The maximum number of guests shall be in accordance with the maximum occupancy of the principal structure as determined by the Fire Chief.

C. Outdoor activities shall not take place between the hours of 10:00 PM and 7:00 AM on Sundays through Thursdays, and 11:00PM and 7:00AM on Fridays and Saturdays.

D. Exterior lighting shall not project into adjoining residential lots. Use of stadium-style or other pole-mounted lighting is prohibited.

E. Lighting of accessible paths may be provided, if necessary.

F. The event venue shall provide sufficient on-site trash receptacles and shall ensure that windblown trash or other debris does not accumulate anywhere on the site.

G. Event venues shall demarcate the boundaries of the event venue site for guests and shall include fences, walls, or other techniques such as landscaping to ensure guests do not inadvertently trespass on adjacent lots.

H. Event venues shall ensure adequate ingress and egress from all buildings and structures to accommodate emergencies.

I. A type C perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

4.3.45 EXTRACTIVE INDUSTRY

Quarries and other extractive industries shall comply with the following requirements:

A. GENERAL REQUIREMENTS

1. The minimum development area shall be five acres.
2. The use shall not require the use of residential neighborhood streets to gain ingress or egress.
3. Where the final slope of areas being excavated will exceed 30 percent, such areas shall be enclosed with a fence at least six feet high located not less than ten feet from the excavation's edge.
4. Excavated areas, stockpiles, waste storage piles, and associated processing, storage, and loading areas shall be fully screened from view from arterial streets, collector streets, and lots in residential zoning districts in accordance with the standards in Section 6.6.13, Screening.
5. No blasting operations shall be conducted during the hours from 6:00 PM to 8:00 AM, and when conducted, shall not cause unreasonable amounts of noise, vibration, dust, or flying debris on nearby lots.
6. No operations shall impede the normal flow of any stream or watercourse, result in the deposition or erosion of stream banks, pollute any stream, undermine any public street or bridge, or promote flooding on adjacent land.

B. REHABILITATION PLAN AND GUARANTEE REQUIRED

1. Upon discontinuance of operations, all buildings and equipment shall be removed, and excavated areas shall be rehabilitated in accordance with a rehabilitation plan included as part of the application to establish the use.
2. The rehabilitation plan shall identify the ways the site will be returned as closely as possible to its original condition or a condition suitable for a specified alternate use. The rehabilitation plan shall address the storage and protection of topsoil removed during the course of operations as well as regrading, re-fertilization, and replanting.
3. The estimated cost of carrying out the rehabilitation plan shall be filed with the application. The estimate shall be certified as approximately correct by a professional engineer licensed to practice in the State of North Carolina with expertise in rehabilitation.
4. A rehabilitation guarantee, payable to the Town, shall be required in an amount equal to the estimated cost of carrying out the rehabilitation plan in accordance with Section 2.3.19, Performance Guarantee.
5. The rehabilitation guarantee shall be maintained as a legally binding obligation until such time as the Town Council determines that all rehabilitation work has been satisfactorily completed.
6. If the Town Council finds that extractive uses have been discontinued for a period of 12 consecutive calendar months and that no major attempts have been made to implement the rehabilitation plan, it shall order forfeiture of the guarantee and the proceeds shall be used to carry out, to the extent possible, the rehabilitation plan.

4.3.46 FAMILY CARE HOME

A. Family care homes shall obtain a Zoning Compliance Permit and shall comply with the standards in NCGS§ 160D-907.

B. A lot containing a family care home shall not be located within one-half mile (2,640 feet) of another lot containing a family care home or a group home.

C. A family care home house shall meet the applicable dimensional requirements for a single-family detached residential use in the zoning district where located.

4.3.47 FARM EQUIPMENT SALES AND SERVICE

A. All outdoor storage of materials and machinery service areas shall be screened from view of adjacent streets and residentially zoned land in accordance with Section 6.6.13, Screening. This screening requirement shall not apply to the placement of goods or products for sale.

B. Equipment capable of producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

C. All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

D. A Type C perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

4.3.48 FARM SUPPLY SALES (RETAIL OR WHOLESALE)

A. All outdoor storage of materials shall be screened from view of adjacent streets and residentially zoned land in accordance with Section 6.6.13, Screening. This screening requirement shall not apply to the placement of goods or products for sale.

B. Products for sale shall not be placed within required off-street parking areas, required landscape areas, sight distance triangles, public easements, or within public street rights-of-way.

C. All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

4.3.49 FINANCIAL SERVICES

Drive-throughs, if provided, shall be located to the side or rear of the building and shall be subject to the standards in Section 4.5.5K, Drive-Through.

4.3.50 FIRE/EMS/POLICE STATION

A type C perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

4.3.51 FITNESS CENTER

A. Except within the Downtown districts, fitness centers that include outdoor exercise or use areas shall be located on lots of at least one acre in size.

B. Outdoor swimming pools or hot tubs shall comply with all applicable requirements in Section 4.5.5CC, Swimming Pools/Hot Tubs.

C. Outdoor exercise or use areas shall:

1. Be fully enclosed by a fence or wall meeting the minimum height necessary to ensure equipment is contained within the fitness center site;
2. Comply with all applicable requirements in Section 6.4, Exterior Lighting; and
3. Not include a public address system or amplified music audible beyond the lot line after nightfall.

4.3.52 FLEA MARKET

Flea market uses shall comply with the following requirements:

A. Hours of operation shall be limited to 7:00 AM to 7:00 PM;

B. Off-street parking shall be provided with a minimum of three spaces per stand or rented space;

C. Sanitary facilities shall be provided for both men and women;

D. Provisions shall be made for garbage or trash removal for each day the flea market is open to the public; and

E. All rental spaces and buildings shall maintain a 50-foot setback from residentially-zoned land.

4.3.53 FRATERNAL CLUB OR LODGE

A. Fraternal clubs and lodges shall be located on sites of two acres or more in size or shall have direct access to a collector or higher classification street.

B. Outdoor activity areas shall be at least 100 feet from a lot line shared with a single-family residential district.

C. Public address systems are prohibited except when contained entirely within a building.

D. A Type C perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

4.3.54 FREIGHT TERMINAL

A. An application for establishment of this use shall include a truck route plan that designates routes to minimize impacts on residential areas, schools, or other land uses that would be negatively impacted by truck traffic.

B. The use shall have direct access onto a collector or higher classification street.

C. Areas intended for the short-term storage of trucks or trailers shall be considered impervious, regardless of the surface material.

D. All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

E. Security fencing of a minimum height of six feet or other comparable method of enclosure shall be provided around all outside storage and staging areas.

F. Where the site is bounded by a railroad right-of-way currently being used for rail service to the terminal, no setback shall be required between the railroad right-of-way and the freight terminal use.

4.3.55 FUEL OIL/BOTTLED GAS DISTRIBUTION

A. Uses engaged in the storage or distribution of flammable materials shall meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the National Fire Protection Association standards, Flammable and Combustible Liquids Code, NFPA 30 and Standards for the Storage and Handling of Liquefied Petroleum Gases, NFPA 58, as applicable.

B. Above ground storage tanks with a capacity of 55 gallons or more shall be located at least 100 feet from all lot lines.

4.3.56 FUNERAL RELATED SERVICES

A. Crematories shall not be included with a funeral-related service use within or abutting a residential zoning district;

B. All storage shall take place within enclosed buildings; and

C. Display of sample headstones or other memorials shall be fully screened from any lot line shared with a lot in a residential zoning district as well as from any public right-of-way or greenway.

4.3.57 GASOLINE SALES

A. Fuel storage shall take place entirely underground.

B. Fuel storage shall be located at least 20 feet from all principal buildings.

C. Tank access ports for refilling shall be configured so that no refilling vehicle blocks vehicular ingress or egress to the site during the refilling process.

D. Fuel pumps and pump islands shall be located no closer than 20 feet to any lot line or right-of-way.
E. Any secondary use shall comply with the applicable standards in Section 4.5, Secondary Uses.
F. In no instance shall fuel lines be located within a public utility or drainage easement.
G. Vents may not be freestanding, and shall be attached to a principal or secondary structure.
H. Gasoline sales uses shall include an opaque fence or wall of six feet in height or higher if permitted by the fence standards in the district where located, along all lines abutting a residential zoning district.

4.3.58 GOLF COURSE (PUBLIC OR PRIVATE)

A. A minimum distance of at least 50 feet shall be maintained between a tee, green, or fairway and any adjacent principal or habitable secondary structure not associated with the golf course use.
B. Activities like driving ranges and similar features shall incorporate fencing, netting, or other control measures around the perimeter of the activity area to ensure projectiles do not leave the area and endanger off-site areas.
C. Golf course uses that include recreational structures shall comply with the standards applied to Section 4.3.32, Community Recreation Facility (private).

4.3.59 GOVERNMENT OFFICE

A. Equipment capable of producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residential zoning district.
B. All unpaved areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.
C. The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.
D. The use shall comply with the standards in Section 6.2.5, Non-Residential Design Standards.

4.3.60 GROCERY STORE

A. Outdoor display and sales areas shall be configured in accordance with Section 4.5.5U, Outdoor Display/Sales.
B. Storage shall take place within an enclosed building or be located behind the rear line of the principal building.

4.3.61 GROOMING (ANIMAL)

A. Overnight boarding of animals shall not be permitted.
B. All activities shall take place solely within an enclosed structure.
C. Animal grooming uses located within multi-tenant structures shall be soundproofed.
D. Free-standing animal grooming facilities abutting a residential zoning district shall be soundproofed.

4.3.62 GROUP HOME

A group home shall comply with the following standards:

A. A lot containing a group home shall not be located within one-half mile (2,640 feet) of another lot containing a family care home, residential treatment facility, or another group home;
B. A group home shall meet the applicable dimensional requirements for a single-family detached residential use in the zoning district where located;
C. A group home shall provide at least 150 square feet of floor area per occupant;

D. The use shall be operated in a manner that is compatible with the surrounding neighborhood and shall not be detrimental to adjacent lands as a result of traffic, noise, refuse, parking, loitering, or other activities;

E. The number of occupants in a group home shall be limited to the maximum number that may be accommodated while at the same time complying with all applicable Town regulations and State requirements;

F. The use shall maintain a residential appearance compatible with its surroundings when proposed in a residential or mixed-use district; and

G. The use shall meet all State requirements, as well as all applicable housing and building code requirements.

4.3.63 HAIR, NAIL, AND SKIN RELATED SERVICES

All activities shall take place within a fully-enclosed building.

4.3.64 HALFWAY HOUSE

A halfway house shall comply with the following standards:

A. A lot containing a halfway house shall not be located within one-half mile (2,640 feet) of another lot containing another halfway house, or a bar, cocktail lounge, nightclub, boarding house, group home, or sexually oriented business;

B. A halfway house shall meet the applicable dimensional requirements for a non-residential use in the zoning district where located;

C. The maximum number of residents in a halfway house shall be limited to five in addition to any staff or landowners and their families;

D. Visitation by members of the public to a resident living in a halfway house may only take place between the hours of 7:00 AM and 7:00 PM;

E. The use shall meet all State requirements, as well as all applicable housing and building code requirements; and

F. The use shall include information, visible from outside the front entrance, the lists an emergency contact name and telephone number that is available 24 hours a day.

4.3.65 HEAVY EQUIPMENT SALES, RENTAL, & REPAIR

Uses engaged in the sales, rental, or repair of heavy equipment shall comply with the following standards:

A. All outdoor storage of materials, equipment, and service areas shall be screened from view in accordance with Section 6.6.13, Screening;

B. No heavy equipment or displays shall be located within a required setback, perimeter landscaping buffer, sight distance triangle, public utility easement, or public right-of-way;

C. No heavy equipment shall be displayed on the top of a building; and

D. All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

4.3.66 HORTICULTURE

Sale of produce grown on-site or on an adjacent lot that is part of the same agricultural operation is permitted provided they take place outside the right-of-way.

4.3.67 HOSPITAL

A hospital shall comply with the following standards:

A. Be located on a site or parcel with an area of at least five acres;

B. Be located on a parcel that fronts or has direct access to a collector or higher classification street;

C. Locate the emergency vehicle entrance on a collector or higher classification street;
D. Not locate an emergency vehicle entrance in an area across the street from a residential zoning district;
E. Be served by a public water and wastewater system;
F. The use shall comply with the standards in Section 6.2.5, Non-Residential Design Standards; and
G. Ensure that principal structures are located at least 100 feet from any lot line.

4.3.68 HOMELESS SHELTER

A. A lot containing a homeless shelter shall not be located within one-half mile (2,640 feet) of another lot containing another homeless shelter, halfway home, group home, or sexually-oriented business.
B. A homeless shelter shall meet the applicable dimensional requirements for a non-residential use in the zoning district where located.
C. The use shall meet all State requirements, as well as all applicable housing and building code requirements.

4.3.69 HOTEL OR MOTEL

A. Except in the Downtown districts, all hotel and motel buildings and parking shall be located at least 50 feet from any lot line abutting a residential zoning district.
B. In the Downtown districts all hotel and motel buildings and parking shall be located at least 25 feet from any lot line abutting a residential zoning district.
C. Any secondary uses or structures, such as restaurants, shall not be located along the side of the property adjacent to a residential district or use.
D. Restaurants, bars, and night clubs approved as a secondary to a hotel or motel use shall be subject to the principal use standards for these use types.
E. Outdoor activity areas shall not be located along the side of the property adjacent to a residential zoning district or use.

4.3.70 INDOOR COMMERCIAL RECREATION

All activity shall take place entirely within an enclosed structure.

4.3.71 INDOOR RECREATION, PUBLIC

A. All activity shall take place entirely within an enclosed structure.
B. A Type C perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

4.3.72 INSTRUCTIONAL SERVICES

All activity shall take place entirely within an enclosed structure.

4.3.73 LABORATORY

Laboratory uses shall locate all activities within an enclosed structure except within an industrial zoning district.

4.3.74 LAUNDRY AND FABRIC CLEANING

A. No more than 10,000 square feet of floor area shall be devoted to the dry cleaning, laundering, or finishing processes;
B. No smoke-producing equipment or process shall be used;
C. Individual washing machines shall not exceed 50 pounds of capacity;
D. No petroleum-based chemicals in excess of 500 gallons shall be stored in above-ground tanks; and

E. Drive throughs shall comply with the standards in Section 4.5.5K, Drive-Through.

4.3.75 LIBRARIES

The use shall comply with the standards in Section 6.2.5, Non-Residential Design Standards.

4.3.76 LIGHT EQUIPMENT SALES, RENTAL, & REPAIR

A. All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residentially zoned property.

B. The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.

C. Equipment cleaning and repair shall take place entirely within an enclosed structure.

D. Outdoor storage of equipment shall be screened in accordance with Section 6.6.13, Screening.

4.3.77 LIVE/WORK DWELLING

A live/work dwelling shall comply with the mixed-use design standards in Section 6.2.3, Mixed-Use Design Standards, and the following standards:

A. The residential portion of the building shall occupy at least 50 percent of the gross floor area;

B. The non-residential portion of the building shall be limited to an office, personal service, retail sales, or restaurant use type;

C. Drive-through facilities are prohibited; and

D. Nothing shall limit the placement of residential floor area on the ground floor on lots within the Downtown district, provided the non-residential portion of the use has its own entrance or provided that the building has a shared primary entrance. A non-residential portion of the building must occupy at least 33 percent of the front façade width of the street-level ground floor.

4.3.78 MAKER SPACE

A. No outdoor storage or activity shall be permitted.

B. The use shall include adequate ventilation and equipment for the dispersal of vapors, dust, or airborne contaminates created within the structure.

C. The use shall include a fire suppression system as required by the North Carolina Fire Code and associated appendices.

D. The use shall not operate between the hours of 11:00 PM and 7:00 AM.

E. Incidental sale of products created on site is permitted, but shall take place entirely within an enclosed building.

F. When located within a MXD, OFI, NCM, CRM, or conditional zoning district, the use shall comply with the standards in Section 6.2.5, Non-Residential Design Standards.

4.3.79 MANUFACTURED HOME, CLASS A

A. A class A manufactured home located within a manufactured dwelling park shall comply with the standards in Section 4.3.81, Manufactured Home Park.

B. A class A manufactured dwelling located outside a manufactured dwelling park shall comply with the following standards:

1. It shall be occupied only as a single-family dwelling;
2. It shall be the single principal use on a lawfully-established lot of record;
3. It shall comply with NCGS§ 160D-910;
4. It shall be configured in accordance with the standards established by the North Carolina Department of Insurance and the most current version of the State of North Carolina Regulations for Manufactured Homes;
5. It shall maintain a minimum width of 16 feet;

6. The manufactured home shall have a length not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis;
7. It shall be oriented with the longest axis parallel to the lot frontage, to the maximum extent practicable;
8. The towing apparatus, wheels, axles, and transporting lights shall be removed;
9. It shall include a continuous, permanent masonry foundation or masonry curtain wall of solid brick or brick veneer, installed under the perimeter and unpierced except for required ventilation and access;
10. It shall include stairs, porches, entrance platforms, ramps, and other means of entrance and exit that are installed or constructed in accordance with the standards set by the North Carolina Building Code. They shall be attached firmly to the primary structure and anchored securely to the ground;
11. It shall maintain exterior siding comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction, which consists of one or more of the following:
    a. Vinyl or aluminum lap siding (whose reflectivity does not exceed that of flat white paint);
    b. Cedar or other wood siding;
    c. Stucco siding; or
    d. Brick or stone siding;
12. It shall maintain a roof pitch with a minimum vertical rise of three feet for each 12 feet of horizontal run;
13. It shall include a roof finished with a Class C or better roofing material that is commonly used in standard residential construction;
14. It shall provide an eave projection of no less than six inches, which may include a gutter; and
15. All areas not used for parking, manufactured homes, or required porches, shall be covered in turf grass or otherwise suitably landscaped to prevent erosion.

4.3.80 MANUFACTURED HOME, CLASS B

A. A class B manufactured may only be located on a lot of record or manufactured dwelling unit space within a manufactured home park.

B. Class B manufactured dwellings established prior to January 2, 2024, located as the principal use on a lot of record outside a manufactured home park shall be considered a nonconforming use subject to the standards in Section 5.6, Nonconforming Uses.

4.3.81 MANUFACTURED HOME PARK

A. MINIMUM AREA

A manufactured home park shall be at least three acres in area.

B. INDIVIDUAL DWELLING UNIT SPACES

1. GENERALLY

a. The site plan for a manufactured home park shall indicate each individual dwelling unit space.
b. Yards and setbacks shall be measured from dwelling unit space boundaries.
c. No more than one manufactured dwelling may be located on any single dwelling unit space.

d. No manufactured home lots shall be located within the 100-year floodway area, as shown on the latest National Flood Insurance Program map for the Town.

2. SPECIFIC REQUIREMENTS

In no instance shall a manufactured dwelling be located on an individual dwelling unit space that fails to meet the minimum requirements in the table below.

TABLE 4.3.81: MANUFACTURED HOME PARK DWELLING UNIT SPACE DIMENSIONAL REQUIREMENTS

Dimensional Requirement		Amount
Min. Dwelling Unit Space Area (square feet)	Spaces served by both community or public water and sewer	6,000
	Spaces served by public water & individual septic tank or public sewer & individual well	15,000
	Spaces served by individual well & individual septic tank	25,000
Min. Dwelling Unit Space Width (linear feet at front setback)	Spaces served by both community or public water and sewer	50
	Spaces served by public water & individual septic tank or public sewer & individual well	75
	Spaces served by individual well & individual septic tank	75
Max. Impervious Surface Coverage per Dwelling Unit Space (% of space)		40
Min. Setback from Dwelling Unit Space Perimeter Line Abutting a Street (feet)		20
Min. Setback from Side of Dwelling Unit Space Perimeter Line (feet)	Space served by public water and sewer	6
	Space not served by public water and sewer	10
Min. Setback from Rear of Dwelling Unit Space Perimeter Line (feet)		20

C. MANUFACTURED HOME STANDARDS

1. Except for the foundation skirting requirements, all manufactured homes located within a manufactured home park shall comply with the standards in Section 4.3.79, Manufactured Home, Class A.
2. The foundation area of a manufactured home in a manufactured home park shall be completely screened and the foundation screening must be kept in a well-maintained condition.

D. REPLACEMENT DWELLINGS

1. All new or replacement manufactured homes located in manufactured home parks shall be a minimum of 12 feet in width, measured at the narrowest part of the shortest axis of the home.
2. In no instance shall the total number of manufactured or mobile dwellings exceed the total number of dwelling unit spaces as they existed on January 2, 2024.

E. ADDITIONS TO DWELLINGS AND SECONDARY STRUCTURES

1. Detached garages and secondary buildings may be erected on manufactured home dwelling unit spaces in accordance with Section 4.5, Secondary Uses.

2. No living compartment or structure, other than a Florida Room or other prefabricated structure, specifically designed for manufactured home use or extension, shall be added to any manufactured home.
3. Porches covered with a roof and open on three sides may be permitted if required setbacks can be maintained and if such the porch complies with the North Carolina Building Code.

F. PROJECT BOUNDARY BUFFER

A manufactured home park shall include a Type C perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, along the perimeter of the development abutting other lots.

G. PARK OFFICE

Within a manufactured home park, one manufactured home may be used as an administrative office.

H. STREETS

1. Each manufactured home dwelling space shall abut an improved street, accessway, or driveway, which shall have unobstructed access to a Town or State-maintained street.
2. Streets in the manufactured home park shall have a minimum paved width of 20 feet. In addition, every such street shall lie within a cleared right-of-way having a minimum width of 40 feet.
3. Maintenance of such streets shall be provided by the owner or operator of the park.
4. Permanent dead-end streets or cul-de-sacs shall not exceed 500 feet in length and shall be provided with a turnaround or other means of complying with all applicable Fire Code requirements.
5. Streets or drives within the manufactured home park shall intersect as nearly as possible at right angles, and no street shall intersect at less than 75 degrees. Where a street or drive intersects a public street, the park street or drive shall comply with all applicable NCDOT or Town design standards.
6. New street names or manufactured home park names shall not duplicate nor be similar to existing street names or manufactured home park names in the area.

I. UTILITY REQUIREMENTS

1. WATER

a. An accessible, adequate, safe supply of water shall be provided in each manufactured home park.
b. When a municipal water supply is not available, a community water supply shall be developed, and its supply used exclusively in accordance with the standards of the Sanitary Engineering Division of the North Carolina Division of Health Services and the County Health Department.

2. SEWER

a. Adequate and safe sewage disposal facilities shall be provided in all manufactured home parks.
b. Collection systems and sewage treatment complying with the requirements of the North Carolina Department of Environmental Quality and the County Health Department shall be provided.

3. SOLID WASTE

a. The storage, collection, and disposal of solid waste in the manufactured home park shall be so constructed as to create no health hazards, rodent harborage, insect breeding area, accident or fire hazard, or pollution, and shall be maintained at least 100 feet from a well site.

b. All solid waste containing garbage shall be stored in a standard fly-tight, watertight, rodent-proof container, which shall be located at each manufactured home space, or an approved bulk container site. The manufactured home park management shall be responsible for the proper storage, collection, and disposal of solid waste as specified by the County Health Department.

c. Grounds, buildings, and structures shall be maintained free of insect and rodent harborage and infestation.

d. No junk or abandoned vehicles shall be allowed in the park.

4. STREET LIGHTS

a. All streets in the manufactured home park shall be adequately illuminated.

b. The minimum size street light shall be a 175-watt mercury vapor, approximately 7,000-lumen class or its equivalent, spaced at intervals of not more than 400 feet.

c. Equivalent illumination LED lights are also allowed. Streetlights shall be provided at each intersection.

5. TELEPHONE AND POWER LINES

a. All telephone lines and power lines are to be located underground.

b. Utility easements shall not be less than ten feet in width. Easements containing Town-owned or operated utilities shall be configured in accordance with Section 6.5.7, Easements.

J. RECREATION AREAS AND FACILITIES

1. All manufactured home parks having 25 or more manufactured home spaces shall have an active recreation area of 10,000 square feet for every 25 manufactured home spaces. Parks with fewer than 25 spaces shall not be required to provide an active recreation facility, but may still be subject to the provision of private common open space in accordance with Section 6.7.1D, Minimum Open Space Set-Aside Requirements.
2. No active recreational facilities shall be placed in an area utilized for septic tank filter fields.

K. MOBILE HOME PARKS WITH PRIOR APPROVAL

All mobile home parks approved for development by the Town, County, or State prior to January 2, 2024, are hereby granted special use status in accordance with Section 1.10.4, Pre-Existing Uses, and the number of units contained therein may be maintained and replaced with other units, provided that:

1. All replacement units shall obtain an approved zoning compliance permit and inspection by the Town Inspections Department prior to occupancy.
2. All replacement units shall meet the requirements of this section except for dimensional standards applied to pre-existing, lawfully-established manufactured dwelling unit spaces.
3. No replacement unit may increase any nonconforming standard of the existing unit, and in no case may any replacement unit be located nearer than ten feet to a public street right-of-way or periphery property line.
4. Any expansion of a mobile home park shall be in full accordance with the current standards of this Ordinance.

5. If a mobile home park which does not conform to current standards has been discontinued, or if 80 percent of the number of spaces are vacated for a period of 180 days, the mobile home park shall be subject to the standards in Section 5.6.8, Cessation.

4.3.82 MANUFACTURING, HEAVY

Heavy manufacturing uses shall comply with the following standards:

A. Outdoor processing associated with a heavy manufacturing use shall be located at least 1,000 feet from a lot line shared with a residential zoning district.
B. A Type D perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, shall be provided along any lot line shared with another property not zoned for industrial uses.
C. The use shall not require the use of residential neighborhood streets to gain ingress or egress.
D. Uses engaged in the storage or distribution of flammable materials shall meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the National Fire Protection Association standards, Flammable and Combustible Liquids Code, NFPA 30 and Standards for the Storage and Handling of Liquefied Petroleum Gases, NFPA 58, as applicable.

4.3.83 MANUFACTURING, LIGHT

A. All manufacturing activity shall be conducted entirely within a fully enclosed building.
B. All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residential zoning districts.
C. The use shall not generate excessive noise, discernable vibration, glare, fumes, odors, or electrical interference at the lot line.
D. Outdoor storage shall be fully screened in accordance with Section 6.6.13, Screening.
E. Above-ground outdoor storage tanks shall be located at least 200 feet from any lot line.
F. Uses engaged in the storage or distribution of flammable materials shall meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the National Fire Protection Association standards, Flammable and Combustible Liquids Code, NFPA 30 and Standards for the Storage and Handling of Liquefied Petroleum Gases, NFPA 58, as applicable.

4.3.84 METAL FABRICATION

The use shall not generate noise, vibration, glare, fumes, or odors on adjacent residentially zoned or used property.

4.3.85 MICRO BREWERY, MICRO DISTILLERY, OR MICRO WINERY

A micro brewery, micro distillery, or micro winery use shall comply with the standards in Section 4.3.16, Bar, Cocktail Lounge, Private Club.

4.3.86 MULTI-FAMILY DWELLING

Multi-family development shall comply with the standards in this section. Residential development located above non-residential development in the same building is considered upper-story residential.

A. BUILDING PLACEMENT

1. Buildings shall be setback from one another in accordance with the district dimensional requirements unless a larger distance is required by the North Carolina Building Code.
2. Buildings shall be set back from private drives and parking lots a minimum of ten feet as measured from back-of-curb or from the edge of pavement if no curb is provided.

3. Buildings shall be setback from public streets in the development in accordance with the street setbacks for the zoning district where located.

B. BUILDING LENGTH

1. The maximum length of an individual multi-family building shall be 250 linear feet, except in the Downtown district, where no maximum length is applied.
2. No maximum building length shall be applied if the building includes facilities for dining, recreation, or gathering that occupy at least 10 percent of the building's total floor area.
3. In no instance shall the provision of a firewall between different building sections constitute two separate buildings for the purpose of meeting the building length requirement.

C. DESIGN

Multi-family development shall comply with the applicable design standards in Section 6.2.4, Multi-Family Design Standards.

D. OFF-STREET PARKING LOCATION

Except when proposed within the setback from a rear lot line, no off-street parking space shall be located in a required setback area.

E. OUTDOOR SPACE

Each dwelling unit within a multi-family development shall include a patio, deck, or balcony with a width or length dimension of no less than seven feet.

F. RECREATION FACILITIES

Any active recreation facilities shall be located at least 50 feet from any lot line shared with a single-family detached residential dwelling.

G. PEDESTRIAN CONNECTION

Sidewalks or other ADA-compliant trails shall be constructed within the interior of the development to link residential buildings with other destinations such as, but not limited to: off-street parking, adjoining streets, mailboxes, trash disposal, adjoining sidewalks or greenways, and on-site active recreation or gathering areas.

H. SCREENING

Utility areas such as clothes drying yards and outdoor storage areas shall be fully screened from public streets and adjacent lots in accordance with Section 6.6.13, Screening.

I. LIGHTING

All entrances and exits to multi-family residential buildings containing more than five units, shall be adequately lit to ensure the safety of persons and the security of the building.

J. UTILITIES

1. All new electric, communications, water, and sewer utility lines shall be installed underground.
2. Any existing overhead utilities located adjacent to a multi-family development are strongly encouraged to be relocated to an underground location.
3. Multi-family development shall be served by a public potable water system and a public sanitary sewer system.

K. CONDOMINIUMS

Multi-family development configured as condominiums shall comply with the following standards:

1. Condominiums shall conform to the use and development requirements of this Ordinance for the zoning district(s) where located.
2. Condominiums shall conform to the requirements of the North Carolina Condominium Act, in Chapter 47C of the North Carolina General Statutes.
3. Condominium ownership may be created by the owner or co-owners of a structure(s) by an express declaration of their intention to submit such property to the provisions of the North Carolina Condominium Act, which declaration shall be recorded in the office of the Register of Deeds in the county where the development is located.

4.3.87 MUSEUMS

The use shall comply with the standards in Section 6.2.5, Non-Residential Design Standards.

4.3.88 NIGHTCLUB OR DANCE HALL

A nightclub or dance hall shall comply with the standards in Section 4.3.16, Bar, Cocktail Lounge, Private Club, and the following:

A. Except in the Downtown districts, such uses shall be separated from land in a residential zoning district by at least 500 feet;

B. Except in the Downtown districts, such uses shall have direct access via a collector or higher classification street;

C. The main entrance of the building shall face a street or a public gathering area. In cases where the building could face more than one street, it shall be configured to face the street with the larger number of non-residential establishments or where the larger number of non-residentially zoned lots are located; and

D. The building shall be configured, and the use operated such that sound from amplified music or other performance taking place within the building is not audible at the lot line after 11:00 PM on a weeknight or 2:00 AM on a weekend night.

4.3.89 NURSERY (RETAIL OR WHOLESALE)

A. No greenhouse shall be operated within 20 feet of any lot line.

B. Any outside storage of equipment, vehicles, or supplies shall be fully screened from off-site views in accordance with Section 6.6.13, Screening.

C. A Type C perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

4.3.90 OFFICE, HIGH INTENSITY

A. High intensity office uses with 5,000 or more square feet of floor area shall include an outdoor gathering area for patrons or employees with seating and provision of shade to the side or rear of a principal structure.

B. Off-street loading facilities shall comply with the standards in Section 6.9.9, Off-Street Loading.

C. Retail, personal service, and eating establishments may be provided as a secondary use, provided:

1. These secondary uses shall not exceed a cumulative total of 20 percent of the total floor area of the principal use;
2. These secondary uses are accessed via a primary entrance shared with the office use; and
3. These secondary uses do not have signage visible from off-site areas.

4.3.91 OFFICE, LOW OR HIGH INTENSITY

A. Office uses shall conduct all activities within an enclosed building.

B. Assembly, fabrication, display of products for on-site consumption, or related activities shall not take place within an office use.

4.3.92 OUTDOOR COMMERCIAL RECREATION

A. GENERALLY

Outdoor commercial recreation uses shall comply with the following standards:

1. Outdoor recreation uses shall be screened from abutting collector or higher classification streets with a Type B perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers;
2. Grading shall be limited to a maximum of five feet above or below the average grade existing prior to development, but in no instance shall this standard be construed to prevent swimming pools; and
3. No outdoor activities or recreation facilities shall be located between the front façade of the building and the street the front building façade faces.

B. DRIVE-IN THEATRE

A drive-in theatre shall comply with the following requirements:

1. The viewing screen shall be directed away from collector or higher classification streets;
2. Lighting shall be shielded so as to cast no direct light on adjoining lots;
3. An eight-foot-high opaque screen shall be required around the perimeter, except at driveways;
4. Audio shall be delivered to each car by individual speakers only; and
5. The use shall provide stacking spaces at the entrance capable of accommodating 20 percent of the vehicular capacity of the use.

C. GOLF DRIVING RANGE

Golf driving ranges shall comply with the following standards:

1. The depth of a driving range along the driving axis shall be at least 250 yards measured from the location of the tees; and
2. Lighting shall be shielded so as to cast no direct light upon any adjacent lot.

D. MINIATURE GOLF

In addition to the general standards for outdoor commercial recreation uses in sub-section (A) above, miniature golf uses shall also comply with the following:

1. No green shall be allowed within a street setback or closer than 100 feet to any lot line; and
2. Lighting shall be shielded so as to cast no direct light upon any adjacent lot.

4.3.93 OUTDOOR RECREATION, PUBLIC

A. Such uses may only take place on lots or sites of five acres in area or more.

B. No buildings or structures, temporary or otherwise, shall be located within 20 feet of any exterior lot line.

C. No amusement equipment, machinery, or mechanical device of any kind may be operated within 200 feet of any residentially zoned property.

D. Activities like batting cages, driving ranges, and similar features shall incorporate fencing, netting, or other control measures around the perimeter of the activity area to ensure projectiles do not leave the area and endanger other lands.

E. Security fencing with a minimum height of six feet shall be provided along the entire perimeter of the lot or site.

F. The hours of operation shall be compatible with adjacent land uses and in no instance shall outdoor activities take place between the hours of midnight and 7:00 AM.

4.3.94 OUTPATIENT FACILITY

A. An outpatient facility located on a site or parcel with an area of at least five acres shall front and have direct access to a collector or higher classification street.

B. The use shall comply with the standards in Section 6.2.5, Non-Residential Design Standards.

4.3.95 PACKAGING AND SHIPPING

All activity shall take place within an enclosed structure. Outdoor storage is permitted as a secondary use, subject to the standards in Section 4.5.5V, Outdoor Storage.

4.3.96 PARK OR PLAYGROUND (PUBLIC OR PRIVATE)

A. The hours of operation allowed shall be compatible with the land uses adjacent to the facility, in the opinion of the Planning Director.

B. Outdoor storage shall be screened in accordance with Section 6.6.13, Screening.

C. Outdoor swimming pools shall be protected by a fence or other security device in accordance with the county health department's regulations where located.

D. Illumination of outdoor recreation areas shall be in accordance with Section 6.4, Exterior Lighting.

4.3.97 PARKING LOT

A commercial parking lot that is the principal use shall comply with the parking lot configuration requirements in Section 6.9.4, Off-Street Parking Requirements, and the following standards:

A. Parking shall be the principal use of the parking lot. Parking spaces may be rented for parking, or otherwise used in accordance with an approved temporary use permit or other permit, 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;

B. Except in the Downtown Districts, commercial parking lots shall not be located contiguous to a single-family residential zoning district.

4.3.98 PARKING STRUCTURE

Parking structures, whether serving as a principal or secondary use shall be configured in accordance with the following standards:

A. DIMENSIONAL REQUIREMENTS

Parking structures shall comply with the dimensional standards applicable to non-residential principal uses the zoning district where located.

B. GROUND FLOOR CONFIGURATION

The ground floor of a parking structure abutting an existing sidewalk shall be configured as building floor area capable of accommodating a non-residential use or shall be configured with a minimum first floor ceiling height of 20 feet above grade to ease conversion of the ground floor parking area to a habitable space in the future.

C. ARCHITECTURE

1. Parking structures visible from street frontages shall be designed to be compatible with the architectural character and quality of adjacent buildings and shall not adversely impact abutting sidewalks.
2. Parking structure elevations shall use color, massing, or architectural features to reduce the appearance of building bulk.
3. Parking structure façades facing residentially-zoned lots shall:

a. Be enclosed to prevent light spillover from headlights, adverse noise, or pollutants; and
b. Incorporate architectural design elements, including surface treatments, offset planes, structural articulation, and landscaping to provide visual interest and compatibility with adjacent residential uses.

D. DRAINAGE

Parking structures shall be designed and constructed so that stormwater will not drain over sidewalks or adjacent lots.

E. LIGHTING

1. Parking and pedestrian areas shall have adequate illumination for security and safety with a minimum of one foot candle at every point within the parking structure.
2. Lighting fixtures shall be designed and located to illuminate only the interior of the parking structure and not project glare into adjoining land.

4.3.99 PAWN SHOP

A. All activities shall take place within an enclosed structure.
B. Outdoor storage shall be prohibited.
C. Security measures for windows or doors shall be located internally within the building.
D. Exterior lighting shall comply with the standards in Section 6.4, Exterior Lighting.

4.3.100 PHARMACY

A. Drive throughs shall comply with the standards in Section 4.5.5K, Drive-Through.
B. A pharmacy may be permitted as a secondary use to a principal use in the Health Care use category provided:
   1. The pharmacy is on the ground floor and does not occupy more than 50 percent of the ground floor square footage;
   2. The public may access the pharmacy solely through a shared principal entrance; and
   3. The pharmacy be limited to sales of drugs, prescription medicines, medicinal supplies and appliances, and pharmaceutical products.

4.3.101 POCKET NEIGHBORHOOD

A. PURPOSE AND INTENT

A pocket neighborhood is a group of smaller single-family detached dwellings built in close proximity to one another around a small green or commonly owned open space with off-street parking areas to the rear of the homes or in common areas. The pocket neighborhood use type is a voluntary means of reducing zoning district dimensional requirements in return for voluntary compliance with the Section 6.2.6, Single-Family Residential Design Guidelines, and the standards in this section.

FIGURE 4.3.101: POCKET NEIGHBORHOOD CONCEPTUAL DESIGN



B. SITE CONFIGURATION

1. A pocket neighborhood shall be located on a parcel of land or site that is at least one acre but not more than five acres in area.
2. Pocket neighborhoods shall be limited to single-family detached dwellings and typical secondary uses. Manufactured homes, mobile homes, and accessory dwelling units are not permitted in a pocket neighborhood.
3. Secondary uses may include common open space, gardens, a common building for the purposes of storage or recreation, outdoor recreational features, and garages.
4. A pocket neighborhood shall include at least four dwelling units but not more than 24 dwellings.
5. Vehicular entryways into pocket neighborhoods and accessways serving off-street parking areas and individual dwelling lots shall be configured as private streets.
6. A pocket neighborhood shall include common open space that comprises at least 40 percent of the total site and includes improved pedestrian walkways that provide

pedestrian access to each dwelling, connections to the public sidewalk or greenway network (if present), and gathering areas for pocket neighborhood residents.

7. The pocket neighborhood shall configure a portion of its required open space as a centrally-located green, lawn, or garden area that fronts each dwelling in the neighborhood and includes at least 300 square feet of area for each dwelling unit in the pocket neighborhood. This area shall be credited towards either the active, urban, or passive recreation requirements, at the discretion of the applicant.
8. Pocket neighborhoods shall include at least one vehicular parking space for each dwelling unit plus one designated guest parking space for every four dwelling units. In no instance shall a parking area be located between a dwelling and the centrally-located green, lawn, or garden area.
9. The pocket neighborhood may include a shared parking area that accommodates all resident and guest parking.
10. Each individual dwelling shall have at least 40 square feet of covered or enclosed storage space outside the dwelling's heated floor area. Storage space may be located on an individual lot or on common land or within a common building. Storage space located outside of an enclosed building and on common land within the development shall comply with the requirements for outdoor storage in Section 6.6.13, Screening.
11. A Type C perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

C. DWELLING UNIT CONFIGURATION

1. A dwelling unit in a pocket neighborhood shall not exceed 1½ stories, or 24 feet, above grade.
2. No dwelling unit shall be more than 2,000 square feet in floor area.
3. At least two dwellings in a pocket neighborhood shall maintain a total square footage that differs by at least 200 square feet in floor area from the average square footage of all other dwellings. Nothing shall prohibit a configuration where all dwellings are different sizes.

D. OWNERS' ASSOCIATION

A pocket neighborhood shall include a homeowners' or property owners' association established and configured in accordance with Section 6.8, Owners' Associations, that maintains control of common areas and takes responsibility for maintenance of common features in the neighborhood.

4.3.102 PSYCHIATRIC SERVICES

A. A psychiatric services use may only be operated in accordance with a valid State license and all applicable State requirements.

B. The use shall be located on a site with a minimum area of one acre plus an additional 1,000 square feet per patron at total capacity.

C. The use shall front a collector or higher classification street.

D. Outdoor gathering, therapy, or recreation areas shall be located behind the rear building line of the principal structure unless such placement would place outdoor activities closer to a street or residential use.

E. In cases where a psychiatric services use provides services to patrons who are considered a danger to themselves or others under State law, the use shall either:

1. Be fully surrounded by a fence or wall with a minimum height of six feet equipped with anti-climbing mechanisms and locking gates; or
2. Include 24-hour on-site security.

4.3.103 RAIL RELATED USE

Outdoor storage of goods or materials and outdoor activity areas shall be screened in accordance with Section 6.6.13, Screening.

4.3.104 RECREATIONAL VEHICLE PARK

A. GENERALLY

1. No recreational vehicle space shall be used as a permanent residence. Continuous occupancy extending beyond three months in any 12-month period shall be presumed to constitute a permanent residence.
2. The park shall meet the standards for adequate fire protection as established by the latest edition of the National Fire Protection Association Bulletin No. 501-A.
3. Any action toward removal of wheels of a travel trailer except for temporary purposes of repair or to attach the trailer to the ground for stabilizing purposes shall be prohibited.
4. Secondary uses, including management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundry facilities, and other uses and structures shall be clearly incidental to the operation of the park.
5. Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. No portion of the site subject to unpredictable and/or sudden flooding, subsidence, or erosion shall be used for any purpose that would expose persons or property to hazards.
6. Exposed ground surfaces in all parts of the recreational vehicle park shall be paved, or covered with gravel, or other solid materials, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.
7. There shall be at least one off-street parking space for each RV site.
8. All garbage and refuse shall be stored in a suitable water-tight and fly-tight standard garbage receptacle and shall be kept covered with tight-fitting covers.
9. At least one such receptacle shall be provided and conveniently located for every RV site, except where a dumpster or dumpsters are conveniently located and used in the same manner as separate receptacles.

B. DIMENSIONAL REQUIREMENTS

1. Minimum density shall be limited to 15 sites per gross acre, excluding public areas, rights-of-way, watercourses, and other areas as may be set forth.
2. In no case shall any recreational vehicle site contain less than 1,500 square feet.
3. Sites shall be level and well-drained.
4. Recreational vehicles shall be separated from each other and from other structures within the RV park by at least 10 feet.
5. The minimum setback of any building, structure, or recreational vehicle site from a public street right-of-way shall be the same as that required for the zoning district in which the park is located. The minimum setback from any private, interior street shall be 20 feet from the edge of pavement.
6. The recreational vehicle park shall maintain a minimum perimeter setback of at least 50 feet from perimeter lot lines.

4.3.105 RECYCLING CENTER

A. A recycling center shall be surrounded by an opaque fence or wall of at least six feet in height along all sides of the site except between the principal structure and the street it faces.

B. In no instance shall any outdoor storage take place between a principal or secondary structure and the street that gives the site its street address.
C. Recycled batteries must be stored in non-porous containers.
D. All loading and storage areas shall be diked to prevent runoff/spill contamination.
E. Recycled motor oil and grease shall be stored in above-ground tanks in accordance with the adopted NC Fire Code and associated appendices.

4.3.106 RELIGIOUS INSTITUTION

A. GENERAL REQUIREMENTS

1. Each principal and secondary use types, including cemeteries, shall comply with all applicable use and off-street parking standards for each principal and secondary use included within the development.
2. Outdoor recreation areas shall be fenced with a fence of at least four feet in height.
3. Vehicles associated with the use shall be parked within designated parking areas meeting the applicable standards in Section 6.9.4, Off-Street Parking Requirements.
4. On-site residential facilities for members of the clergy and their families are permitted as a secondary use, but no other residential activity or overnight lodging shall be permitted.
5. Religious institutions proposed as part of a multi-tenant building shall maintain a minimum number of designated off-street parking spaces as are required for the use in Section 6.9.4, Off-Street Parking Requirements.
6. Religious institutions that are part of a multi-tenant development shall not include outdoor activity, and shall be configured so that congregants or visitors to the institution have adequate space to gather or wait indoors rather than outside the use.

B. ADDITIONAL STANDARDS FOR RELIGIOUS INSTITUTIONS WITH TWO OR MORE SERVICES PER DAY

1. Religious institutions that conduct two or more different worship services in any given 24-hour period or that are configured with a seating capacity of 300 or more in any single sanctuary shall comply with the following additional standards:
   a. Be located on a lot or site of at least five acres in buildable area;
   b. Be served with direct access from a collector or higher classification street;
   c. Ensure that all principal structures maintain a minimum distance of at least 50 feet from perimeter lot lines and secondary uses maintain a minimum distance of at least 20 feet from perimeter lot lines; and
   d. Include a type C perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.
2. Outdoor recreation areas shall be fenced with a fence of at least four feet in height.
3. Vehicles associated with the use shall be parked within designated parking areas meeting the applicable standards in Section 6.9, Parking and Loading.
4. On-site residential facilities for members of the clergy and their families are permitted as a secondary use, but no other residential activity or overnight lodging shall be permitted.
5. Uses that have or are intended to have more than one worship ceremony or meeting within any two-hour window shall provide overflow parking at one space for every four persons of maximum fire-rated occupancy in addition to the standard parking requirements Section 6.9.4, Off-Street Parking Requirements.

4.3.107 REPAIR SHOP

A. All repair uses shall limit repair activities to those occurring indoors.

B. Gun repair shops shall limit repair activities to entirely within enclosed structures and may include testing facility for firearms, provided:

1. The facilities are constructed in accordance with all applicable laws and regulations;
2. The facilities include acoustical apparatus and/or materials that prevent any noise or disturbance to the owners and/or occupants of the adjoining properties; and
3. The facilities are not used as a shooting range for target practice or the testing of marksmanship skills.

C. Retail sales may take place as a secondary use, but no outdoor display or sales area shall be permitted.

4.3.108 RESEARCH AND DEVELOPMENT

A. Research and development uses shall not include any retail or wholesale sales activities.

B. No residential activity other than a caretaker or security guard quarters shall be included as part of a research and development use.

C. All outdoor storage shall be screened in accordance with Section 6.6.13, Screening.

D. Outdoor testing, development, assembly, or similar outdoor activity may only take place of site of 10 acres in area or larger.

E. The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference on adjacent residentially zoned land.

F. When located within a MXD, OFI, NCM, CRM, or conditional zoning district, the use shall comply with the standards in Section 6.2.5, Non-Residential Design Standards.

4.3.109 RESIDENTIAL TREATMENT FACILITY

A. A lot containing a residential treatment facility shall not be located within one-half mile (2,640 feet) of another lot containing a family care home, group home, halfway house, or other residential treatment facility.

B. The use shall be operated in a manner that is compatible with the surrounding neighborhood and shall not be detrimental to adjacent lands as a result of traffic, noise, refuse, parking, loitering, or other activities.

C. A type C perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, shall be installed along all lot lines shared with a residential zoning district.

D. The number of occupants in a residential treatment facility shall be limited to the maximum number that may be accommodated while at the same time complying with all applicable county regulations and State requirements.

E. The principal structure(s) shall maintain a residential appearance compatible with its surroundings when proposed in a residential district.

F. The use shall meet all State requirements, as well as all applicable housing and building code requirements.

G. The use shall comply with the standards in Section 6.2.4, Multi-Family Design Standards.

4.3.110 RESTAURANTS

All restaurant use types shall comply with the following requirements:

A. A restaurant shall have a six-foot-high opaque fence or masonry wall along all lot lines abutting a residential zoning district.

B. Restaurants having outdoor seating or gathering areas (including, but not limited to, seating for dining or listening to live or recorded acoustic or amplified entertainment outside of the building) shall comply with the standards in Section 4.5.5T, Outdoor Dining or Seating.

C. Restaurants with drive throughs shall comply with the standards in Section 4.5.5K, Drive-Through.

D. Except in the Downtown districts, walk-up restaurants shall incorporate outdoor dining areas approximate to the window where food or beverages may be picked up.

4.3.111 RETAIL, GENERAL

A. Nothing shall limit the placement of retail use within a unified development or mixed-use development, provided the development meets the minimum size and access requirements for unified developments or mixed uses, as appropriate.

B. Such uses shall comply with the standards in Section 6.2.5, Non-Residential Design Standards, including the standards for large format retail establishments, if applicable.

C. Wholesale sales, manufacturing, assembly of raw materials, or on-site consumption of products shall not take place as part of a general retail use.

D. Outdoor display and sales may be permitted as a secondary use, subject to the standards in Section 4.5.5U, Outdoor Display/Sales, provided such display and sales areas:

1. Comply with locational requirements;
2. Do not interfere with safe vehicular or pedestrian circulation; or
3. Obstruct the proper function of stormwater control measures.

E. All outdoor storage shall be screened in accordance with the applicable standards in Section 6.6.13, Screening.

F. Outdoor storage of any kind, including storage within containers, shall not exceed the height of the principal structure.

G. All drive throughs and canopies shall comply with the standards in Section 4.5.5K, Drive-Through, and Section 4.5.5G, Canopies (Drive Through and Fuel, etc.).

4.3.112 RETAIL, LARGE FORMAT

A. Large format retail uses shall comply with the standards in Section 6.2.5G, Retail, Large Format.

B. Outdoor display and sales areas shall comply with the standards in Section 4.5.5U, Outdoor Display/Sales.

C. Outdoor storage areas shall comply with the standards in Section 4.5.5V, Outdoor Storage.

D. In cases where a large format retail use includes outparcels with other use types, those uses shall not be subject to the standards for large format retail uses unless they meet the minimum size thresholds.

E. Large format retail uses shall not engage in wholesale sales activity.

F. Large format retail uses engaged in sales of bulky items shall also comply with the standards in Section 4.3.22, Bulky Item Sales.

4.3.113 RETAIL, MICRO

A. Micro retail uses shall be limited to no more than ten separate tenants or establishment spaces per use.

B. Outdoor sales and display is permitted in accordance with Section 4.5.5U, Outdoor Display/Sales, but all outdoor display or sales shall take place in a single central area that serves all micro retail tenants.

C. Off-street parking standards shall be in accordance with the requirements for micro retail uses rather than the individual tenants.

4.3.114 SALVAGE AND JUNKYARD

A. The minimum area required to establish a salvage and junkyard shall be five acres.

B. The operations of salvage and junkyards shall not be any closer than 300 feet to any residential lot line, school, hospital, congregate care home, or day care facility.

C. All portions of a salvage or junkyard containing junked or wrecked vehicles, inoperable vehicles, or operable vehicles used for parts shall be fully screened in accordance with Section 6.6.13, Screening.

D. All screening shall be maintained in a sound and stable manner for the life of the operation.

E. Equipment capable of producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest lot line. Operations that produce noise that is audible on off-site areas shall not take place on Sundays, holidays, or at any time between the hours of 6:00 PM and 7:00 AM.

F. No vibration shall be produced which is transmitted through the ground and which is discernable without the aid of instruments at or beyond the lot line; nor will any vibration produce a particle velocity of 2.0 inches per second measured at or beyond the property line.

G. Emissions of dust and particulates shall be in accordance with the State of North Carolina rules and regulations governing air contamination and air pollution. Particulate matter emission from materials and products subject to becoming windborne shall be kept to a minimum by paving, sodding, oiling, wetting, covering, or other means such as to render the surface wind resistant.

H. Gasoline and oil shall be removed from scrap engines or vehicles on the premises and adequately stored for disposal.

I. Salvage and junkyard sites shall be adequately drained to assure that no standing water shall exist that might provide breeding habitation for insects.

4.3.115 SCHOOL, ELEMENTARY OR MIDDLE

A. Elementary and middle schools shall be located on sites of three acres or more.

B. Outdoor recreation areas shall be surrounded by a fence at least four feet in height.

C. A middle school shall include a Type C perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, shall be installed along all lot lines shared with a residential district.

4.3.116 SCHOOL, HIGH

A. A high school shall be located on a lot or site of at least five acres in area.

B. A Type C perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, shall be installed along all lot lines shared with a residential district.

C. Outdoor recreation areas that include illumination shall comply with the standards in Section 6.4, Exterior Lighting.

D. Outdoor storage shall be screened in accordance with Section 6.6.13, Screening.

4.3.117 SCHOOL, VOCATIONAL

Facilities within a vocational school which generate significant noise or fumes, such as auto body or engine repair, industrial/auto body painting, or manufacturing processes, and that are adjacent to a residential district shall be at least 300 feet from any lot line abutting the residential district.

4.3.118 SEXUALLY-ORIENTED BUSINESS

A. No sexually-oriented business shall be located within 1,000 feet of a religious institution; elementary, middle, or high school; residentially-zoned property, any establishment serving on-premises beverages requiring an ABC license, or any other sexually-oriented business.

B. There shall be no more than one such use on the same property or in the same building or structure.

C. Except for permanent signage as permitted in Section 6.13, Signage, there shall be no advertisement, promotional materials, displays, or temporary signs visible to the public from public rights-of-way.

4.3.119 SINGLE-FAMILY ATTACHED DWELLING

Single-family attached dwellings shall comply with the following standards:

A. A single-family attached dwelling development of more than eight units shall be served with access from a collector or higher classification street.

B. Individual single-family attached dwelling buildings with more than eight units in a single row shall be served by alleys located to the rear of the building.

C. Each single-family attached dwelling shall have at least one party wall shared fully or partially within another single-family attached dwelling.

D. A single-family attached dwelling unit shall meet all applicable State Building Code standards for minimum room size and ceiling clearance requirements.

E. Attached garages are prohibited for one-story single-family attached dwellings.

F. Detached garages serving single-family attached dwellings shall be located behind the rear building line of the dwelling they serve, or shall be located on common land. In no instance shall a detached garage be located closer than 20 feet to the closest edge of an alley, right-of-way, vehicular travel way, or pedestrian access.

G. In no instance shall a single-family attached dwelling with off-street parking located between the front of the building and the street it faces be located closer than 25 feet from the edge of a right-of-way, sidewalk, or other pedestrian access.

H. In cases where a single-family attached dwelling is served by off-street parking located to the side or rear, the edge of the building shall be no closer than 20 feet from the closest edge of the right-of-way, vehicular travel way, or pedestrian access.

I. Principal buildings shall be setback from parking lots, private streets, and driveways on common land by at least 10 feet, as measured from back of curb or edge of pavement (if no curb is proposed).

J. All new utilities shall be located underground, and existing overhead utilities are strongly encouraged to be relocated to underground locations.

K. All single-family attached dwelling developments shall provide private common open space in accordance with Section 6.7.1D, Minimum Open Space Set-Aside Requirements, and shall include an owners' association established in accordance with Section 6.8, Owners' Associations.

L. Adequate access to all dwelling units shall be provided for firefighting equipment, service deliveries, and refuse collection.

M. A single-family attached dwelling development shall incorporate pedestrian circulation in accordance with Section 6.1, Access and Circulation.

N. A type C perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, shall be installed along all lot lines shared with a residential district that has a lower maximum residential density.

O. Single-family attached dwelling development may take advantage of available residential density bonuses for voluntary compliance with the applicable provisions in Section 6.2.6, Single-Family Residential Design Guidelines.

P. Single-family attached dwelling units configured as condominiums shall comply with the following standards:

1. Condominiums shall conform to the use and development requirements of this Ordinance for the zoning district(s) where located.
2. Condominiums shall conform to the requirements of the North Carolina Condominium Act, in Chapter 47C of the North Carolina General Statutes.
3. Condominium ownership may be created by the owner or co-owners of a structure(s) by an express declaration of their intention to submit such property to the provisions of the North

Carolina Condominium Act, which declaration shall be recorded in the office of the Register of Deeds for the county where located.

4.3.120 SINGLE-FAMILY DETACHED DWELLING

A. Modular homes shall comply with the standards in NCGS§ 160D-911, and shall be treated as site-built single-family detached structures.

B. A single-family detached dwelling shall meet all applicable State Building Code standards for one-family homes, including minimum room size and ceiling clearance requirements.

C. Single-family detached dwellings located on lots 55 feet wide or less established after January 2, 2024, shall be served by alleys configured as private streets that are configured in accordance with the applicable standards in this Ordinance. Developments of five or fewer single-family detached structures on contiguous lots are exempted from this requirement.

D. Single-family detached dwellings constructed in a conditional zoning district shall comply with the standards in Section 6.2.6, Single-Family Residential Design Guidelines.

E. Single-family detached development in all other conventional districts may comply with Section 6.2.6, Single-Family Residential Design Guidelines, with the consent of the landowner(s) at the time of application to establish the development.

F. Single-family detached dwelling development may take advantage of available residential density bonuses for voluntary compliance with the applicable provisions in Section 6.2.6, Single-Family Residential Design Guidelines.

4.3.121 SMALL WIRELESS FACILITY

See Section 4.3.127, Telecommunications Facilities.

4.3.122 SOLAR ENERGY CONVERSION, LEVEL 2 OR 3

A Level 2 or 3 solar energy conversion use shall comply with the standards in NCGS§ 160D-911, and the following:

A. The facility shall be on a site of at least one acre in area.

B. Signage shall be limited to ownership and contact information, and any other information required by State or federal government regulation.

C. Commercial advertising is prohibited.

D. The entire facility shall be enclosed by a fence of at least six feet in height with a locking gate.

E. Equipment shall be configured so as not to create glare or shadows on adjacent lands.

F. A type C perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, shall be installed along all lot lines shared with a residential district.

4.3.123 STORAGE, INDOOR

Indoor storage uses include "self-storage" use types, and shall comply with the following standards:

A. The use shall be located on a lot or site of at least two acres in area.

B. All storage shall be contained within a fully enclosed building. Outdoor storage may be permitted as a secondary use in accordance with the standards in Section 4.5, Secondary Uses.

C. External-access only storage buildings shall not exceed 20 feet or one story in height; indoor-only storage buildings with shared ground-floor entrances may exceed one story height but shall remain subject to the applicable zoning district standards.

D. No activity other than storage shall take place within a storage unit.

E. The following uses and activities shall be prohibited as a part of indoor storage:

1. Habitation of storage units by humans or animals;
2. Storage of hazardous, toxic, or explosive substances;

3. Commercial, wholesale, or retail sales, flea markets or peddling, or miscellaneous or garage sales;
4. Servicing, repair, or fabrication of vehicles or equipment;
5. Operation of power tools, except when needed for maintenance of the use; or
6. Operation of a transfer-and-storage business.

F. In no instance shall a tractor trailer be used for storage except as part of active construction of a principal or secondary use.

G. Nothing shall prohibit the indoor storage use from conducting a quarterly one-day sale of abandoned or stored materials to settle unpaid storage bills in accordance with State regulations.

4.3.124 STORAGE, OUTDOOR (AS A PRINCIPAL USE)

A. The extent of the outdoor storage area shall be clearly delineated on an application for establishment of the use.

B. Except in the LID, HID, and CZI districts, no outdoor storage shall be permitted between the front façade walls of a building and the street it faces.

C. No outdoor storage area shall be located within a perimeter buffer required in accordance with Section 6.6.12, Perimeter Buffers, or a streetscape buffer in accordance with Section 6.6.16, Streetscape Buffers.

D. Outdoor storage areas abutting a street right-of-way, public park, or greenway shall be screened by at least a type A perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, along with a fully opaque fence or wall of the maximum height permitted in the zoning district where located. The fence or wall shall be located between required plantings and the outdoor storage area.

E. In cases where an additional buffer is required by these standards and the lot is also required to provide a perimeter or streetscape buffer, the plant material required for the additional buffer shall be integrated with other required plantings, but the required fence shall be located between the plantings and the storage area.

F. Flammable liquids or gas containers in excess of 1,000 gallons shall be stored underground.

G. No materials shall be stored in areas intended for vehicular or pedestrian circulation.

H. No materials shall be stored on any potable or non-potable water easement, stormwater easement, or sanitary sewer easement.

I. Outdoor storage areas shall be paved or surfaced with gravel.

J. In no instance shall a tractor trailer be used for storage except as part of active construction of a principal or secondary use.

4.3.125 TANNING SALON

All activities shall take place within an enclosed structure.

4.3.126 TATTOO & PIERCING ESTABLISHMENT

A. All activity shall take place within an enclosed structure.

B. Tattoo and piercing establishments shall obtain all required State and local licenses and permits.

C. Windows and glass doors shall not be obstructed with tinting or other coatings that prevent visibility into the establishment.

D. The use shall maintain proper sharps and biohazard disposal protocols, including tamper-proof containers for these types of wastes when located outdoors in areas accessible by the public.

4.3.127 TELECOMMUNICATIONS FACILITIES

Major, minor, and concealed telecommunications towers, as well as antenna collocations, and small wireless facilities shall comply with the standards in NCGS Chapter 160D Article 9, Part 3, and the following standards:

A. PURPOSE AND INTENT

This section establishes general standards for the siting of telecommunications facilities that will provide for the public health, safety, and welfare. The standards are intended to ensure that residents, businesses, and public safety operations in the Town's jurisdiction have reliable access to telecommunications services. More specifically, the provisions of this section are intended to:

1. Ensure adequate protection of residential areas and uses from potential adverse impacts of telecommunications facilities, and to generally encourage the location of these facilities in areas where adverse impact on the community is minimal;
2. Encourage the placement of telecommunications facilities in non-residential areas;
3. Minimize the number of new telecommunications towers taller than 30 feet in height;
4. Create conditions where telecommunications service providers are able to provide telecommunications services effectively and efficiently in accordance with State and federal law;
5. Strongly encourage the joint use or collocation of new and existing telecommunications facilities so as to minimize the number of new telecommunications towers throughout the Town;
6. Establish collocation and concealed towers as the preferred options for the accommodation of telecommunications equipment; and
7. Ensure that telecommunications facilities located within the public right of way do not obstruct sight distance triangles or create safety hazards for pedestrians or bicyclists.

B. APPLICABILITY

The standards in this section shall apply to all telecommunications facilities except for the following, which are exempted from these standards but remain subject to all other applicable standards in this Ordinance:

1. Removal of antennas, antenna support structures, or telecommunications equipment on an existing telecommunications tower, utility pole, vertical projection, or equipment compound that does not result in a substantial modification;
2. The operation of a small wireless facility solely within the interior of a structure, stadium, athletic facility, or within a public street right-of-way;
3. Routine maintenance on an existing wireless telecommunication facility;
4. Installation, modification, or operation of a micro-wireless facility, receive-only television antenna, or receive-only radio antenna for noncommercial use;
5. Installation, modification, or operation of FCC-licensed amateur ("ham") radio equipment; and
6. Dish antenna or earth stations.

C. GENERAL STANDARDS APPLICABLE TO ALL TYPES OF TELECOMMUNICATIONS FACILITIES

The following requirements shall apply to all new telecommunications facilities and any modifications to an existing telecommunications facility that exceeds the scope of routine maintenance, as defined in this section.

1. BUILDING PERMIT REQUIRED

Prior to installation or modification exceeding the scope of routine maintenance, all telecommunications facilities subject to these standards shall receive a Building Permit in accordance with the requirements in this Ordinance.

2. COMPLIANCE WITH FEDERAL AND STATE REGULATIONS

a. All telecommunication facilities shall comply with or exceed current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other agency of the federal government that regulates telecommunications facilities.

b. In addition to federal requirements, all telecommunication facilities shall comply with or exceed current standards and regulations of the State of North Carolina pertaining to telecommunications facilities in NCGS§§ 160D-930 through 160D-934.

3. INTERFERENCE

No telecommunication facility shall disturb, diminish, or interfere with public safety, radio, television, or other wireless communications signals in accordance with FCC requirements.

4. STRUCTURALLY SOUND

All elements of a telecommunication facility shall demonstrate, to the satisfaction of the Town, that the equipment and the structure supporting the equipment is structurally sound and can accommodate the proposed equipment and appurtenances.

5. SIGHT DISTANCE AT INTERSECTIONS

All elements of a telecommunication facility shall be located outside of, and shall in no way obstruct, required sight distances at street intersections. This requirement shall apply to existing streets as well as to future street intersections that have been designed or where right-of-way is currently being protected by the Town.

6. ACCESSORY EQUIPMENT

a. Accessory equipment, including any buildings, cabinets, or shelters, shall be used only for the purposes of housing telecommunications equipment and other supplies in direct support of the operation of the telecommunications facility.

b. Any equipment or materials not used in direct support of such operation shall not be stored on the site.

7. SITE GRADING

Grading and vegetation removal for a telecommunications facility shall comply with the standards in Section 6.14, Soil Erosion & Sedimentation Control, and be limited to the area necessary for the facility and any required secondary structures, including: stormwater management devices, access drives, or off-street parking.

8. LIGHTING

a. Lighting of a telecommunications facility shall be limited to that required for compliance with FAA minimum standards.

b. Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA.

c. Nighttime strobing or flashing lights are prohibited, unless required by the FAA.

d. Lights serving equipment compounds or other service areas shall be configured so that the source of illumination is not visible from off-site areas.

e. All exterior lighting shall comply with the lighting regulations of this Ordinance.

9. SIGNAGE

a. Signage shall be limited to safety or informational signage identifying the party responsible for the operation and maintenance of the facility and any additional security or safety signs, as necessary, in the opinion of the Town.

b. If the electrical service is in excess of 220 volts, the telecommunications facility shall include signs located at least every 20 feet around the perimeter that display the words "HIGH VOLTAGE – DANGER" in bold, high contrast letters with minimum height of four inches for each letter.

c. No signage shall be posted higher than 15 feet above grade.

d. Signage required by this section shall be considered to be safety or governmental signage that is not subject to 1st Amendment protection regarding the regulation of sign content.

10. UNAUTHORIZED ACCESS PROHIBITED

Telecommunications towers and vertical projections with telecommunications equipment with a height of 30 feet above grade or more shall be designed or configured to prevent unauthorized persons from climbing on the telecommunication facility whether through use of walls or fencing with a minimum height of six feet above adjacent grade and configured in accordance with the standards in Section 6.3, Fences and Walls, or anti-climbing devices.

D. STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES

Table 4.3.127.1, Standards for Specific Types of Telecommunication Facilities, sets out the standards that apply to the identified type of telecommunications facility, and shall apply in addition to the standards in Section 4.3.127C, General Standards Applicable to All Types of Telecommunications Facilities.

TABLE 4.3. 127.1: STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES

1. TELECOMMUNICATIONS TOWER, MAJOR	
New or replacement major telecommunications towers shall comply with the following standards:	
Towers Distinguished	a. A new or replacement telecommunications tower with a height of 30 feet or more above grade is a major telecommunications tower subject to these standards. b. A new or replacement telecommunications tower with a height less than 30 feet above grade shall be considered a minor telecommunications tower and shall be subject to the standards for a concealed or minor telecommunications tower in this table.
Type of Structure	a. Telecommunications towers shall be configured as a monopole, self-supporting tower, or be concealed in accordance with this table. b. Construction of new guyed telecommunications tower configurations are prohibited.
Setbacks	a. Towers and their associated antennas shall be set back at least one foot from the front, side, and rear lot lines for each foot of overall telecommunications facility height. b. In cases where an existing telecommunication tower's height is increased or where an existing telecommunications tower is replaced in order to accommodate a major or minor collocation, the existing or replacement

TABLE 4.3. 127.1: STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES

1. TELECOMMUNICATIONS TOWER, MAJOR

New or replacement major telecommunications towers shall comply with the following standards:

	tower shall comply with the setback requirements, to the maximum extent practicable. c. Secondary structures, including equipment cabinets and other ground-based equipment shall conform with the applicable dimensional requirements for the zoning district where located.
Maximum Height	a. The maximum height (including antenna and other appurtenances) for any new, replaced, or collocated wireless telecommunication tower is 199 feet, as measured from the adjacent pre-construction grade to the top of the highest appurtenance on the tower. b. In no instance shall the collocation of an eligible facility or a collocation that constitutes a substantial modification result in a telecommunication tower with a height that exceeds 199 feet above the adjacent pre-construction grade. c. In cases where a telecommunications tower is mounted to or on top of a building, the overall height of the building and the attached tower shall not exceed 199 feet from the adjacent preconstruction grade. The adjacent pre-construction grade shall be the grade at the base of the building closest to the tower.
Collocation Required	a. Telecommunications towers shall be designed to accommodate the present and future needs of the owner and as well as the collocation of additional equipment, in accordance with the following standards: i. Towers of 30 to 80 feet in height shall be configured to accommodate the collocation of at least two wireless telecommunications service provider's equipment. ii. Towers of 81 to 130 feet in height shall be configured to accommodate the collocation of at least three wireless telecommunications service provider's equipment. iii. Towers of 131 feet in height or higher shall be configured to accommodate the collocation of at least four wireless telecommunications service provider's equipment. b. In no instance shall an existing telecommunications tower be permitted to remain in place for a period of more than 60 days following installation of a replacement telecommunications tower constructed to accommodate a collocation.
Screening	a. Except when located in commercial or industrial zoning districts, all ground-based elements, such as an equipment compound or equipment cabinets, shall be completely screened from off-site views through the use of a fully opaque wooden privacy fence, masonry wall, or two staggered rows of evergreen shrubs located around the perimeter of the ground-based elements. b. Screening is not required for ground-based equipment that is not visible from off-site areas. c. Landscaping material shall reach and maintain a minimum height of six feet above grade within four years of planting. d. Landscaping material is not required in front of access gates, provided the gates are fully opaque or are not visible from off-site areas.

TABLE 4.3. 127.1: STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES

1. Telecommunications Tower, Major

New or replacement major telecommunications towers shall comply with the following standards:

Example Images	The following images depict potential monopole telecommunications tower configurations, and are provided for informational purposes only.







TABLE 4.3.127.2: STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES

2. Telecommunications Tower, Concealed and Minor

New or replacement concealed, or minor telecommunications towers shall comply with the following standards:

Towers Distinguished	a. A concealed telecommunications tower is a telecommunications tower and associated equipment that is designed to appear as something other than a traditional telecommunications facility. b. A minor telecommunications tower is a use that is designed to appear as a traditional telecommunications facility except that the maximum height of the tower portion of the facility is less than 30 feet above grade.
Appearance of a Concealed Tele-communications Tower	a. A concealed telecommunications tower shall be configured to conceal the presence of the tower, antennas, antenna-support structures, and related telecommunications equipment in order to obscure its purpose as a telecommunications facility, to the maximum extent practicable. b. Allowable configurations include, but are not limited to: bell towers, clock towers, water towers, silos, chimneys, steeples, light poles, flag poles, or evergreen trees. c. Antennae, antenna support structures, cabling, and related appurtenances shall be enclosed, camouflaged, screened, or otherwise obscured so that they are not readily identifiable as telecommunications equipment to the casual observer.

TABLE 4.3.127.2: STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES	
2. TELECOMMUNICATIONS TOWER, CONCEALED AND MINOR	
New or replacement concealed, or minor telecommunications towers shall comply with the following standards:	
	d. Equipment cabinets and related structures shall be designed, located, and camouflaged in a manner that is compatible with the tower portion of the facility. e. Placement of ground-based telecommunications equipment associated with a concealed telecommunications tower is strongly encouraged to be located indoors or underground.
Setbacks	a. Concealed and minor telecommunications towers and associated secondary structures, including equipment cabinets, shall comply with the applicable dimensional requirements for non-residential uses in the zoning district where located. b. In no instance shall a concealed or minor telecommunications tower be exempted from the minimum applicable setback requirements for non-residential uses. c. In cases where an existing concealed telecommunication tower's height is increased or where an existing concealed telecommunications tower is replaced in order to accommodate a major or minor collocation, the existing or replacement concealed telecommunications tower shall comply with the setback requirements in subsection (i) above, to the maximum extent practicable.
Maximum Height	a. The maximum height for any concealed telecommunication tower is 200 feet, as measured from the adjacent pre-construction grade to the top of the highest appurtenance on the tower. b. In no instance shall a collocation of an eligible facility or work associated with a substantial modification result in a concealed telecommunication tower with a height that exceeds 200 feet above the adjacent pre-construction grade. c. The maximum height for a minor telecommunications tower is less than 30 feet from the adjacent pre-construction grade to the top of the highest appurtenance on the tower.
Collocation	a. Concealed and minor telecommunications towers are encouraged (but not required) to accommodate the collocation of other antennae. b. Collocations of equipment on a minor telecommunications tower (whether a major or minor collocation) shall not increase the overall height of the tower by more than 10 feet beyond the initially approved height of the minor telecommunications tower. Actions that result in an increase in tower height by more than 10 feet shall require the minor telecommunications tower to undergo review as a major telecommunications tower. c. Any collocated equipment on a concealed telecommunications tower must maintain the appearance of the facility as a concealed telecommunications tower. d. In no instance shall a concealed telecommunications tower be replaced with a telecommunications tower that is not concealed in order to accommodate a collocation.
Screening	a. Except when located in commercial or industrial zoning districts, all ground-based elements, such as an equipment compound or equipment

TABLE 4.3.127.2: STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES	
2. Telecommunications Tower, Concealed and Minor	
New or replacement concealed, or minor telecommunications towers shall comply with the following standards:	
	cabinets, shall be completely screened from off-site views through the use of a fully opaque wooden privacy fence, masonry wall, or two staggered rows of evergreen shrubs located around the perimeter of the ground-based elements. b. Screening is not required for ground-based equipment that is not visible from off-site areas. c. Landscaping material shall reach and maintain a minimum height of six feet above grade within four years of planting. d. Landscaping material is not required in front of access gates, provided the gates are fully opaque or are not visible from off-site areas.
Example Images	The following images depict potential concealed telecommunications tower configurations, and are provided for informational purposes only.
	
	

TABLE 4.3.127.3: STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES	
3. Collocation of Antennas	
Collocations, whether on a building wall or roof, a telecommunications tower, or on another vertical projection such as a water tank or electrical transmission tower, shall comply with the following standards:	
Collocations Distinguished	All collocations shall be classified as either a major collocation or a minor collocation in accordance with Section 8.3, Terms Defined, and the following: a. A major collocation includes placement of antennas, antenna-support structures, and related wireless telecommunications equipment on any of the following: i. A building's roof; ii. A building's wall; iii. A vertical projection such as a water tank, electric transmission tower, or similar vertical projection not

TABLE 4.3.127.3: STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES

3. COLLOCATION OF ANTENNAS

Collocations, whether on a building wall or roof, a telecommunications tower, or on another vertical projection such as a water tank or electrical transmission tower, shall comply with the following standards:

	constructed for the sole purpose of providing wireless telecommunications services; or iv. An existing or replacement telecommunications tower where the collocation requires a substantial modification, as defined in these standards and NCGS§ 160D-931. b. A minor collocation includes placement of antennas, antenna-support structures, and related wireless telecommunications equipment on an existing or replacement telecommunications tower, provided no substantial modification, as defined in these standards and NCGS§ 160D-931, is required. A minor collocation may also be referred to as an "eligible facility," as defined in these standards and NCGS§ 160D-931. c. In addition to the placement of antennas and antenna-support structures, collocations may also include the placement of telecommunications equipment on a telecommunications tower, on a vertical projection, on the ground in close proximity to a telecommunications tower or vertical project, within an equipment compound, within an equipment cabinet, within a building, or on a building's roof. D. Nothing shall prohibit the replacement of an existing telecommunications tower or activities that increase the overall height of an existing telecommunications tower in order to accommodate a proposed collocation.
Substantial Modification	Collocations on an existing or replacement telecommunications tower that require or result in any of the following shall be considered a substantial modification: a. Increasing the existing overall height of the telecommunications tower by the greater of: i. 20 feet; or ii. More than ten percent; or b. Adding an appurtenance (excluding cabling supports) to the body of an existing telecommunications tower that protrudes horizontally from the edge of the tower by the greater of: c. Collocation i. More than the width of the telecommunications tower at the height of the appurtenance; or ii. More than 20 feet from the edge of the tower; or iii. Increasing the square footage of an existing equipment compound by more than 2,500 square feet. d. Substantial modifications that require an increase in the overall height of an existing telecommunications tower or

TABLE 4.3.127.3: STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES

3. COLLOCATION OF ANTENNAS	
Collocations, whether on a building wall or roof, a telecommunications tower, or on another vertical projection such as a water tank or electrical transmission tower, shall comply with the following standards:	
	require a replacement tower that exceeds the height of the existing telecommunications tower by more than 40 feet shall require review as a new telecommunication tower subject to the standards in this table. e. In no instance shall an existing telecommunications tower be permitted to remain in place for a period of more than 60 days following installation of a replacement telecommunications tower constructed to accommodate a collocation.
Collocation Prohibited	In no instance shall a collocation take place on or in a single-family detached, duplex, or attached residential structure.
Maximum Height	Antennae, antenna-support structures, or other telecommunications equipment, associated with a major collocation on a building wall or roof shall not project more than ten feet above the highest point of the building's roof or parapet wall.
Method of Attachment	a. Antennae, antenna-support structures, or other telecommunications equipment, associated with a collocation shall be mechanically fastened to the building, roof, vertical projection, or telecommunications tower in a manner that minimizes the potential for structural failure or endangerment of the public from falling telecommunications equipment. b. The Planning Director shall require an applicant for a collocation to furnish evidence from a professional engineer licensed in the State of North Carolina that the proposed collocation meets the applicable State and local building and fire code requirements.
Appearance when Concealed	When a collocation is proposed on a concealed telecommunications tower, the collocation shall be configured in the manner necessary to ensure the tower's concealment is not compromised or negatively impacted.
Setbacks	a. In cases where an existing telecommunication tower's height is increased or where an existing telecommunications tower is replaced in order to accommodate a collocation, the existing or replacement tower shall be set back at least one foot from the front, side, and rear lot lines for each foot of overall telecommunications facility height, to the maximum extent practicable. b. Secondary structures, including equipment cabinets, guy wire anchors, and other ground-based equipment shall conform with the applicable dimensional requirements for the zoning district where located.
Screening	a. Except when located in commercial or industrial zoning districts, all ground-based elements, such as an equipment compound or equipment cabinets, shall be completely

TABLE 4.3.127.3: STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES

3. COLLOCATION OF ANTENNAS

Collocations, whether on a building wall or roof, a telecommunications tower, or on another vertical projection such as a water tank or electrical transmission tower, shall comply with the following standards:

	screened from off-site views through the use of a fully opaque wooden privacy fence, masonry wall, or two staggered rows of evergreen shrubs located around the perimeter of the ground-based elements. b. Screening is not required for ground-based equipment that is not visible from off-site areas. c. Landscaping material shall reach and maintain a minimum height of six feet above grade within four years of planting. d. Landscaping material is not required in front of access gates, provided the gates are fully opaque or are not visible from off-site areas. e. Roof- or building wall-mounted wireless telecommunications equipment (excluding antennae and antenna-support structures) shall be screened from view or shall be camouflaged in order to minimize its appearance from on-site and off-site areas.
Example Images	The following images depict potential collocation configurations, and are provided for informational purposes only.





TABLE 4.3.127.4: STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES	
4. SMALL WIRELESS FACILITY	
Small wireless facilities may be located within a public right-of-way, other right-of-way, or on an individual lot only in accordance with the following standards:	
Consolidated Application	An applicant may file a single consolidated application for up to 25 separate small wireless facilities at one time, but the Town may choose to issue separate decisions on one or more of the facilities included within a consolidated application.
Located within Public Right-of-Way	In cases where a small wireless facility is proposed within a public right-of-way, the small wireless facility shall comply with the Town's policies and standards for right-of-way management instead of the standards in this section.
Timeframe for Review	Applications for establishment of a small wireless facility shall be processed and decided within 45 days from the date the application is determined to be complete. Nothing shall prohibit the Town and the applicant from mutually agreeing to a longer review period.
Timing for Operation	Construction of a small wireless facility shall commence within six months of its approval and the small wireless facility shall be activated for use within one year from the permit issuance date, unless delayed by a lack of commercial power at the site.
Maximum Equipment Size	a. In no instance shall a small wireless facility exceed the following maximum size limitations: i. Each antenna, and any exposed elements, shall be capable of fitting within an enclosure of six cubic feet, or less. ii. All other wireless equipment associated with the small wireless facility shall maintain a maximum cumulative volume of 28 cubic feet, or less. The following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or the support structure. b. A small wireless facility that exceeds these maximum size limitations shall be reviewed in accordance with the standards for a collocation.
Maximum Height	a. No new structure intended to support a small wireless facility shall be taller than 50 feet above the adjacent pre-construction grade. b. An existing structure (such as a utility pole, light standard, sign, etc.) may be replaced in order to accommodate a small wireless facility, but the replacement structure shall not exceed the height of the original structure being replaced. c. In no instance shall the antennae or equipment associated with a small wireless facility project more than ten feet above the height of the structure the small wireless facility is mounted on. d. In cases where a new structure installed to serve a small wireless facility exceeds 50 feet in height, the structure shall be reviewed and decided in accordance with the standards for a telecommunications tower. e. In cases where a replacement structure intended to serve a small wireless exceeds the height of the original structure, the replacement

TABLE 4.3.127.4: STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES	
4. Small Wireless Facility	
Small wireless facilities may be located within a public right-of-way, other right-of-way, or on an individual lot only in accordance with the following standards:	
	structure shall be reviewed and decided in accordance with the standards for a collocation.
Placement	A small wireless facility, including the support structure and all other equipment, shall not obstruct the safe passage of vehicles, pedestrians, or bicycles.
Method of Attachment	a. Antennae, antenna-support structures, or other wireless telecommunications equipment, associated with a small wireless facility shall be mechanically fastened to the supporting structure in a manner that minimizes the potential for structural failure or endangerment of the public from falling wireless telecommunications equipment. b. The Planning Director shall require an applicant for a small wireless facility to furnish evidence from a professional engineer licensed in the State of North Carolina that the proposed wireless telecommunications facility meets the applicable State and local building and fire code requirements.
Appearance	a. The portion of a small wireless facility attached to the support structure shall match the color of the support structure, to the maximum extent practicable. b. In cases where an applicant proposes inclusion of a small wireless facility on a decorative support structure, sign, or other existing structure not constructed solely for the purposes of providing telecommunications services, the Town may require the small wireless facility to be configured or concealed to ensure compatibility with the structure.
Screening	a. Except when located in commercial or industrial zoning districts, all ground-based equipment shall be completely screened from off-site views through the use of a fully opaque wooden privacy fence, masonry wall, or two staggered rows of evergreen shrubs located around the perimeter of the ground-based equipment. b. Screening is not required for ground-based equipment that is not visible from off-site areas.
Electrical Service	In cases where a small wireless facility is proposed in areas where electrical service is underground, all electrical service to the small wireless facility shall also be underground.
Example Images	The following images depict potential small wireless facility configurations, and are provided for informational purposes only.

TABLE 4.3.127.4: STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES

4. SMALL WIRELESS FACILITY

Small wireless facilities may be located within a public right-of-way, other right-of-way, or on an individual lot only in accordance with the following standards:







E. NONCONFORMING TELECOMMUNICATIONS FACILITIES

1. Lawfully established telecommunications facilities in operation prior to January 2, 2024, that do not comply with these standards may remain and operate as nonconforming uses.
2. Minor collocation of antennae, antenna-support structures, and related telecommunications equipment is allowed in accordance with the requirements in Table 4.3.127.3, Standards for Specific Types of Telecommunication Facilities, provided that the overall height of the existing nonconforming wireless telecommunications facility remains unchanged or is reduced.
3. In no instance shall a collocation resulting in an increased overall height or a requiring substantial modification, as defined in this section and NCGS§ 160D-932, be permitted on a nonconforming telecommunications facility.
4. In the event a nonconforming telecommunications tower is removed, it shall not be replaced with another nonconforming telecommunications tower.

F. CESSATION, ABANDONMENT, AND REMOVAL OF TELECOMMUNICATIONS FACILITIES

1. CESSATION

a. A telecommunication facility shall be considered to have ceased operation if:
   i. The Town receives written notice from a telecommunication services provider that it intends to cease operations at a particular telecommunication facility; or
   ii. A telecommunications facility ceases to transmit a telecommunications signal for a period of 30 consecutive days or longer.

b. Upon receipt of a written notice from a telecommunication services provider or upon determination that a telecommunication facility has ceased operation, the Town shall forward written documentation of the cessation to the telecommunication services provider, or the owner of the land, if different.

2. ABANDONMENT

a. The telecommunications facility shall be deemed abandoned if telecommunications signals do not resume for a period of 180 consecutive days or longer from the date the written documentation of cessation is filed.

b. Upon determining that a telecommunications facility has been abandoned, the Town shall forward written documentation of the abandonment to the telecommunication services provider, or the owner of the land, if different.

3. REMOVAL

a. The Town may require the telecommunication services provider or the owner of the land, if different, to remove an abandoned telecommunications facility within 30 days of the date it is deemed abandoned.

b. Should the telecommunication services provider, or the owner of the land, if different, fail to remove the abandoned telecommunications facility within 30 days of the date that notice of abandonment is filed, the Town may cause the telecommunications facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the telecommunication services provider, or the owner of the land, if different.

4.3.128 THEATRE, INDOORS

A. Ticket purchase areas shall be configured so that patron ques take place entirely indoors or in outdoor gathering areas that do not impede the movement of pedestrian, bicycles, or vehicles.

B. All exits, including emergency exits, shall be served with sidewalks or pedestrian walkways configured so that patrons may exit the building within the need to walk in parking lot drive aisles or streets.

C. Theatres that include restaurants or sit-down dining facilities shall comply with all applicable requirements in Section 4.3.110, Restaurants.

4.3.129 THEATRE, OUTDOORS

A. The hours of operation allowed shall be compatible with the land uses adjacent to the outdoor theater.

B. The amount of noise generated shall not disrupt the activities of the adjacent land uses.

C. Principal access must be from a collector or higher classification street.

D. No part of any theater screen, projection booth, or other building shall be located closer than 500 feet to any residentially zoned property or any closer than 50 feet to any other property line or public street right-of-way.

E. No parking space shall be located closer than 100 feet from any residentially-zoned property.

F. The theater screen shall not face a collector or higher classification street.

4.3.130 TOBACCO, CBD, AND VAPOR SHOP

A. PURPOSE

The regulation of tobacco, CBD, and vapor shops is necessary in the interest of protecting public health, safety, and welfare as the uncontrolled expansion of such uses throughout the Town would result in undesirable impacts, including:

1. The potential for unlawful sale of tobacco and related products to minors;

2. An increased opportunity for the sale of illegal drug paraphernalia marketed as tobacco paraphernalia; and

3. The heightened risk of negative aesthetic impacts and loss of property values of residential neighborhoods and businesses in close proximity to such uses.

B. STANDARDS

Tobacco, CBD, and vapor shops, as defined by this Ordinance, shall be subject to the following standards:

1. Such uses shall secure and maintain all licenses and permits, including licenses to sell vapor products, required by the State prior to operation;
2. Such uses shall be separated from the following use types by at least 1,000 linear feet:
   a. A bar, cocktail lounge, or private club;
   b. A child day care;
   c. A community center;
   d. A library;
   e. A museum;
   f. A nightclub or dance hall;
   g. A park or play (whether public or private);
   h. A religious institution;
   i. A school (elementary, middle, or high);
   j. A sexually-oriented business; or
   k. Another tobacco, CBD, or vapor shop;
3. No smoking shall be permitted on the premises at any time; and
4. No outdoor storage, outdoor activity areas, or outdoor vending machine sales of tobacco, CBD, or vapor products may take place on the site.

C. DESIGNATION

1. Except for a grocery store use of 10,000 square feet of floor area or more, these standards shall be applied to any retail use type engaged in the sale of tobacco, tobacco products, electronic cigarettes, and related products where the lesser of five percent or 500 square feet or more of the use's gross floor area is for the display, sale, distribution, delivery, offering, furnishing, or marketing of cigarettes, tobacco, electronic cigarettes, or any related product.
2. Grocery store uses of 10,000 square feet of floor area or more that meet the definition of a grocery store in this Ordinance shall not be considered a tobacco, CBD, or vapor shop despite the retail sale of cigarettes, tobacco, electronic cigarettes, or any related product.

4.3.131 TRANSFER STATION

A. All structures, buildings, and landfilling operations shall be a minimum of 500 feet from a residential zoning district.
B. Equipment capable of producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residential district.
C. Access to the facility shall be by way of a collector or higher classification street.
D. Entrances shall be controlled to prevent unregulated access to the facility.
E. Access streets leading to any part of the facility shall be constructed with a gravel or crushed stone surface and maintained in a dust-free manner.
F. No part of access streets shall be located closer than 15 feet to an external property line other than a limited access highway or railroad right-of-way line.
G. An application for establishment of this use shall include a truck route plan that designates routes to minimize impacts on residential areas, schools, or other land uses that would be negatively impacted by truck traffic.

H. The siting and design of the facility shall comply with the applicable requirements of the NC Solid Waste Management Rules.

I. The operation of the facility shall maintain compliance with the State of North Carolina's operation, maintenance, and monitoring regulations for solid waste disposal facilities.

4.3.132 TRIPLEX OR QUADPLEX

A. Triplex and quadplex dwellings shall comply with the following:

1. Use of a single shared primary entrance serving all of the individual dwelling units is strongly encouraged. If a single shared entrance is not practical or possible, then consolidation of individual dwelling unit entrances into shared entrances is encouraged.
2. At least one primary entrance of the structure shall face the street from which the structure derives its street address.
3. Except for through lots, if a parking lot is provided, it shall be located to the interior side or rear of the dwelling and not be located between the dwelling and a street. Through lots are exempted from this requirement, but shall not locate a parking lot between the primary entrance and the street from which the structure derives its street address.
4. Attached garages or carports shall be located to the side or rear of the principal structure.
5. When a triplex or quadplex dwelling is on a corner lot, the use may include two separate driveways on different lot frontages, provided each driveway is configured in accordance with Section 6.1, Access and Circulation, and all applicable Town or State standards related to driveway placement and street access.
6. In no instance shall a lot with a triplex or quadplex include more than one recreational vehicle, inoperable vehicle, or trailer, all of which shall be located in accordance with the applicable standards in Section 4.5, Secondary Uses.
7. Up to one detached secondary structure may be permitted on a lot with a triplex or quadplex, and in no instance shall it contain an accessory dwelling unit.
8. A Type B perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

B. Triplex and quadplex dwellings constructed in a conditional zoning district shall comply with the standards in Section 6.2.6, Single-Family Residential Design Guidelines.

C. Triplex and quadplex development in all other conventional districts are strongly encouraged to comply with Section 6.2.6, Single-Family Residential Design Guidelines, with the consent of the landowner(s) at the time of application to establish the development.

4.3.133 UPPER-STORY DWELLING

A. Except within the Downtown districts, an upper-story dwelling unit shall occupy the second or higher floor of a building with a non-residential use on the ground floor.

B. In the Downtown districts, nothing shall limit the placement of residential floor area on the ground or basement floor provided:

1. The non-residential portion of the building occupies the front façade of the street-level ground floor; and
2. The non-residential portion of the use has its own entrance, or the building has a shared primary entrance.

C. Upper story dwelling units are subject to the dimensional requirements for non-residential development in the zoning district where located.

D. Buildings containing upper-story dwelling units shall comply with the standards in Section 6.2.3, Mixed-Use Design Standards.

E. Upper-story dwellings configured as condominiums shall comply with the standards in Section 4.3.86K, Condominiums.

4.3.134 URGENT CARE

A. An urgent care use shall have direct access to a collector or higher classification street.

B. All activity shall take place within an enclosed structure.

C. A six-foot-high opaque fence or wall shall be erected along all lot lines shared with a residential zoning district.

D. The use shall maintain proper sharps and biohazard disposal protocols, including tamper-proof containers for these types of wastes when located outdoors in areas accessible by the public.

E. The uses shall comply with the standards in Section 6.2.5, Non-Residential Design Standards.

4.3.135 UTILITY, MAJOR

Major utilities shall comply with the standards in this section, but these standards are not applied to minor utility use types.

A. All structures, buildings, or enclosed areas used for the operation of a wastewater treatment facility shall be a minimum of 300 feet from a residentially zoned lot.

B. Equipment capable of producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residential district, unless located on a special purpose lot.

C. Security fencing, a minimum of six feet in height, shall be provided around the perimeter of the use.

D. A type C perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

4.3.136 VEHICLE PAINTING/ BODYWORK

A. The use shall be located at least 250 feet from any residential district, school (except vocational schools), or public recreation area.

B. Vehicles shall not be parked or stored as a source of parts.

C. No vehicle sales or rental shall be permitted.

D. Repair all vehicles shall occur within an enclosed building. In no instance shall any activity that results in airborne particulates, including painting, sanding, or application of coatings, take place outdoors.

E. 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 fully screened by an opaque fence or wall of at least six feet in height.

4.3.137 VEHICLE PARTS AND ACCESSORY SALES

A. No vehicle sales or rental shall be permitted.

B. No vehicle repairs shall take place as part of a vehicle parts and accessory sales use.

C. No vehicles or parts shall be stored outside, and all storage shall take place within an enclosed structure.

4.3.138 VEHICLE REPAIR AND SERVICE (NO PAINTING/ BODYWORK)

A. No vehicle sales or rental shall be permitted, but sales of parts or accessories may take place as a secondary use.

B. Service bay doors shall not be oriented toward land in a residential zoning district.

C. All repair or service operations, excluding washing, shall be conducted entirely within a fully enclosed building. Nothing shall limit the opening of bay doors during hours of operation.

D. Outdoor storage of vehicles shall comply with the applicable standards in Section 6.6.13, Screening. Outdoor parking of vehicles outside of hours of operation shall be considered outdoor storage subject to applicable screening requirements.

E. There shall be no dismantling of vehicles for salvage.

F. The temporary storage of impounded vehicles is prohibited.

4.3.139 VEHICLE SALES AND RENTAL

A. Vehicle display areas shall be surfaced with concrete, asphalt, or other permanent surfacing material other than crushed stone.

B. No vehicles or other similar items shall be displayed on the top of a building.

C. Vehicle display areas shall provide landscaping in accordance with Section 6.6.11, Off-Street Parking Lot Landscaping, when abutting public or private street rights-of-way.

D. All lights and lighting shall be designed and arranged so no source of illumination is directly visible from any adjacent property.

E. Repair and service functions are permitted as an secondary use provided all repair-related activities take place entirely within an enclosed building.

F. Outdoor parking of vehicles being serviced shall only take place within an area that complies with the applicable requirements in Section 6.6.13, Screening.

4.3.140 VEHICLE TOWING AND STORAGE

A. A maximum of no more than 100 vehicles at any one time shall be stored on the property.

B. All towed vehicles must be stored in a vehicle storage area depicted in an approved site plan.

C. All vehicles shall be operable, and no wrecked or junked vehicles shall be permitted.

D. The storage area shall be paved with asphalt, concrete, or other suitable all-weather surface to minimize dust emissions and the buildup of dirt, mud, and other debris.

E. All entrances to and from the storage area shall be secured and locked whenever an employee is not present on the property.

F. Storage of motor vehicles shall comply with the applicable standards in Section 6.6.13, Screening.

4.3.141 VEHICLE WASHING OR DETAILING

A. Equipment capable of producing noise or sound in excess of 70 decibels, including vacuums, shall be located no closer than 200 feet to the nearest lot line shared with residentially-zoned land.

B. No vehicle washing bays shall be located within 20 feet of a side or rear lot line.

C. No outdoor display of merchandise or outdoor storage shall be permitted. Storage of chemicals in containers larger than 55 gallons shall take place entirely underground.

D. No overnight storage of vehicles shall be permitted.

E. Outdoor drying and detailing areas shall include drains or other features that prevent the accumulation of rinse water or chemicals on a street right-of-way or in a roadway's drainage system.

F. Retail sales of gasoline or vehicle-related products may be permitted as a secondary use, subject to the applicable standards in Section 4.5, Secondary Uses.

4.3.142 VETERINARY SERVICES, LARGE ANIMAL

No pens or runs shall be located within 500 feet of a lot line.

4.3.143 VETERINARY SERVICES, SMALL ANIMAL

A. All activities, except for pet rehabilitation or testing activities, shall take place entirely within an enclosed structure.

B. Outdoor activity areas shall be located to the side or rear of a structure unless such placement results in these areas having a closer proximity to a residential zoning district boundary.

C. Small animal veterinary service uses offering boarding shall comply with the standards in Section 4.3.7, Animal Boarding, Indoor Only.

D. Principal and secondary structures used for boarding or animal recuperation located on lots that border residential zoning districts shall be fully soundproofed.
E. Animal waste shall not be stored within 50' of any adjacent property.
F. The use shall maintain proper sharps and biohazard disposal protocols, including tamper-proof containers for these types of wastes when located outdoors in areas accessible by the public.

4.3.144 WAREHOUSE, DISTRIBUTION AND STORAGE

A. A warehouse use shall have direct access to a collector or higher classification street.
B. An application for establishment of this use shall include a truck route plan that designates routes to minimize impacts on residential areas, schools, or other land uses that would be negatively impacted by truck traffic.
C. No outdoor storage of products or materials shall be permitted.
D. Areas engaged in the storage of trucks or trailers shall be paved with asphalt, concrete, or other suitable all-weather surface to minimize dust emissions and the buildup of dirt, mud, and other debris.
E. Uses engaged in the storage or distribution of flammable materials shall meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the National Fire Protection Association standards, Flammable and Combustible Liquids Code, NFPA 30 and Standards for the Storage and Handling of Liquefied Petroleum Gases, NFPA 58, as applicable.
F. In cases where the lot is served by a rail line, buildings may reduce required side or rear setbacks in order to facilitate utilization of rail service.
G. No manufacturing or assembly activity shall be permitted.

4.3.145 WHOLESALE SALES, INDOOR AND OUTDOOR

A. Except for above-ground storage tanks, outdoor storage areas shall be no closer than 50 feet to any adjoining OFI or residentially-zoned property.
B. Equipment capable of producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residential district.
C. All non-paved storage areas shall be maintained in a manner so as to limit dust from leaving the storage area.
D. A wholesale sales use shall have direct access to a collector or higher classification street.
E. An application for establishment of this use shall include a truck route plan that designates routes to minimize impacts on residential areas, schools, or other land uses that would be negatively impacted by truck traffic.
F. Uses engaged in the storage or distribution of flammable materials shall meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the National Fire Protection Association standards, Flammable and Combustible Liquids Code, NFPA 30 and Standards for the Storage and Handling of Liquefied Petroleum Gases, NFPA 58, as applicable.
G. Above-ground outdoor storage tanks shall be subject to the following standards:
    1. They shall be located at least 200 feet from any lot line.
    2. Tanks or groups of tanks shall be diked to prevent the spread of liquid onto other property, waterways, or drainageways.
    3. The volumetric capacity of the diked area shall not be less than the capacity of the largest tank within the diked area.
    4. Dikes or retaining walls shall be of earth, steel, concrete, or solid masonry designed and constructed to be liquid tight and to withstand a full hydraulic head.

5. Earthen dikes three feet or more in height shall have a flat section at the top not less than two feet in width.
6. The slope shall be consistent with the angle of repose of the material of which the dikes are constructed.
7. Dikes shall be restricted to an average height of not more than six feet above the exterior grade unless means are available for extinguishing a fire in any tank.
8. Dikes enclosing such tanks shall be provided at the top with a flareback section designed to turn back a boil-over wave.
9. A flareback section shall not be required for dikes and walls enclosing approved floating roof tanks.
10. No loose combustible material, empty or full drums or barrels, shall be permitted within the diked area.
11. Where provision is made for draining rainwater from diked areas, such drains shall normally be kept closed and shall be designed so that when in use they will not permit flammable liquids to enter natural watercourses, public sewers, or public drains. Where pumps control drainage from the diked area, they shall not be self-starting.

4.3.146 WIND ENERGY CONVERSION

A. No tower associated with a wind energy conversion use shall be located within 1,000 feet of land in a residentially-zoned district or a public park.
B. All ground-based equipment buildings shall be located under the blade sweep area, to the maximum extent practicable.
C. All towers associated with a wind energy conversion use shall be set back a distance equal to one-and-one-half times the overall height of the tower and associated wind turbine blade.
D. All associated facilities other than towers and associated wind turbines shall be subject to the setback standards for the district where located.
E. Wind energy conversion uses shall utilize monopole or self-supporting towers.
F. All towers and turbines within the use shall maintain uniform design in terms of the following features:
    1. Tower type;
    2. Tower, turbine, and blade colors;
    3. The number of blades per turbine; and
    4. The direction of blade rotation.
G. The maximum height of a wind energy conversion use (including the tower and extended blades) shall be 300 feet.
H. The blade tip or vane of any wind energy conversion use shall have a minimum ground clearance of 50 feet above grade, as measured at the lowest point of the arc of the blades. No blades shall extend over public rights-of-way.
I. All wind energy conversion uses shall incorporate anti-climbing devices to prevent unauthorized climbing.
J. Except for transmission lines, all utilities associated with a wind energy conversion use shall be located underground.
K. The wind turbine and tower shall be painted or finished in the color originally applied by the manufacturer, or a matte neutral color (e.g., gray, white, or galvanized steel).
L. No illumination of the turbine or tower shall be allowed, unless required by the (FAA). In the event obstruction lighting is required by the FAA, it shall be of the lowest intensity allowed, and strobes or blinking lights shall be avoided, to the maximum extent practicable.

M. Signage visible from any public street or off-site area shall be limited to the manufacturer's or installer's identification, appropriate warning signs, or owner identification.

N. The noise at the lot line produced by the wind energy conversion use during operation shall not exceed 55 decibels. This standard shall not apply during power outages, windstorms, or other conditions beyond the owner's control.

O. Shadows cast by the rotating blade of a wind energy conversion use shall not fall upon off-site areas.

P. The owner shall take all reasonable steps to prevent or eliminate interference with transmission of communications signals (e.g., radio, television, telephone, etc.) resulting from a wind energy conversion use.

4.4 PROHIBITED USES

4.4.1 PROHIBITED EVERYWHERE

A. The following use types are not listed in Table 4.2.5, Listing of Common Principal Uses, and are prohibited throughout the Town's planning jurisdiction in all zoning districts.

B. In cases where one or more of these uses is lawfully established and in operation prior to January 2, 2024, the use shall be subject to the provisions in Section 1.10, Transitional Provisions.

1. AGRICULTURAL USES

- **a.** Concentrated animal feeding operations; and
- **b.** Slaughterhouses, or offal and animal reduction.

2. COMMERCIAL USES

- **a.** Electronic gaming operations;
- **b.** Outdoor advertising or billboards, in accordance with Section 5.3.4, Amortization of Nonconforming Outdoor Advertising; and
- **c.** Outdoor shooting ranges.

3. INDUSTRIAL USES

- **a.** Acetylene gas manufacture;
- **b.** Acid manufacture;
- **c.** Ammonia, bleaching powder, or chlorine manufacture;
- **d.** Brick, tile, or terra cotta manufacture;
- **e.** Cellophane manufacture;
- **f.** Creosote manufacture or treatment plants;
- **g.** Distillation of bones, coal, petroleum, refuse, tar, or wood;
- **h.** Explosives, ammunition, fireworks, or gunpowder manufacture;
- **i.** Fat rendering, or production of fats and oils from animal or vegetable products by boiling or distillation;
- **j.** Glue and size manufacture;
- **k.** Hazardous materials handling or storage;
- **l.** Leather and leather products manufacturing involving tanning;
- **m.** Linseed oil, shellac, turpentine manufacture or refining;
- **n.** Nitrogenous tankage, fish meal or manufacture of any fertilizer materials carrying an objectionable odor;
- **o.** Oilcloth or linoleum manufacture;
- **p.** Ore reduction;
- **q.** Pulp mills;
- **r.** Storage or processing of radioactive or infectious waste; and
- **s.** Vinegar manufacturing.

4. INSTITUTIONAL USES

- **a.** Package treatment plant wastewater disposal systems that discharge to surface waters or that involve use of spray fields; and
- **b.** Correctional or detention facilities.

5. RESIDENTIAL USES

a. Use of a boat, houseboat, or other floating structure as a temporary or permanent residence (this shall not prevent the overnight occupancy of a vessel temporarily moored while in transit on navigable waters);
b. Use of a structure that does not comply with the applicable State Building Code requirements as a permanent, single-family dwelling; and
c. Use of a tent, recreational vehicle, or travel trailer as a permanent residence.

4.4.2 PROHIBITED BY OVERLAY DISTRICT STANDARDS

Regardless of how a use type is permitted or prohibited in Table 4.2.5, Listing of Common Principal Uses, if a lot or tract is located within one or more overlay zoning districts, any use type limitations in the overlay district standards (see Section 3.7, Overlay Zoning Districts) shall control.

A. WATERSHED PROTECTION OVERLAY DISTRICT

The following uses are prohibited in the WPOD:

1. New demolition or sanitary landfills;
2. New sites for land application of residuals;
3. New sites for land application of petroleum-contaminated soils;
4. Collection, storage, or application of untreated sewage; and
5. Collection, storage, or application of industrial or other wastes.

B. FLOOD PROTECTION OVERLAY DISTRICT

1. The following uses are prohibited in designated floodways:
   a. Buildings, including manufactured homes;
   b. Any use that would cause any increase in base flood levels; and
   c. Accessory dwelling units within the regulatory floodplain.
2. The following development is prohibited in designated floodplains due to the North Carolina Flood Act of 2000:
   a. New solid waste disposal facilities;
   b. New hazardous waste management facilities;
   c. New salvage or junkyards; and
   d. New chemical storage facilities.

4.4.3 PROHIBITED AS SECONDARY USES

The following uses shall not be permitted as secondary uses within the Town's planning jurisdiction:

A. HOME OCCUPATIONS

In no instance shall a Type 1 or Type 2 home occupation include any of the following activities or use types:

1. Vehicle repair of any kind, whether to drive trains, body work, or other aspects;
2. Outdoor repair of any kind;
3. Outdoor storage of any kind;
4. Commercial nurseries or horticulture;
5. Food handling, processing, or packing with industrial-scale equipment;
6. Medical or dental labs;
7. Restaurants of any kind;
8. Sale, repair, manufacture, or discharge of firearms or explosives;

9. Bulk storage of flammable or hazardous liquids;
10. Funeral homes and mortuaries; and
11. Animal hospitals, boarding of animals as a commercial enterprise, and kennels operated as a commercial enterprise.

4.5 SECONDARY USES

4.5.1 ESTABLISHMENT OF A SECONDARY USE

A. Secondary uses or structures may be approved in conjunction with the approval of the principal use or subsequently following the establishment of the principal use. No secondary use or structure shall be approved, established, or constructed before the principal use is approved in accordance with this Ordinance.

B. Except when indicated as a special use or a conditional use in Table 4.5.4, Listing of Common Secondary Uses, establishment of a secondary use or structure subsequent to an established principal use shall require approval of a Zoning Compliance Permit in accordance with Section 2.3.31, Zoning Compliance Permit.

C. In cases where a secondary use or structure is identified as a special use in Table 4.5.4, Listing of Common Secondary Uses, establishment of a secondary use or structure subsequent to an established principal use shall require approval of a Special Use Permit in accordance with Section 2.3.22, Special Use Permit.

D. In cases where a secondary use or structure is identified as a conditional use in Table 4.5.4, Listing of Common Secondary Uses, establishment of a secondary use or structure subsequent to an established principal use shall require approval of a conditional rezoning in accordance with Section 2.3.6, Conditional Rezoning. Applications to establish a conditional zoning district shall include a written list of proposed secondary uses which shall be attached to the application approval along with other conditions of approval.

E. Section 4.5.4, Listing of Common Secondary Uses, may not be inclusive of all possible secondary uses, and in the event a secondary use is proposed that is not listed in the table, the Planning Director shall consult Table 4.2.5, Listing of Common Principal Uses, to determine if the proposed secondary use corresponds to a listed principal use. Any listed principal use is permitted as a secondary use in any zoning district where the principal use is permitted. In no instance shall a secondary use be permitted in a zoning district where it is prohibited as a principal use.

F. In the event a proposed secondary use is not listed in Table 4.5.4, Common Secondary Use Table, and there is no corresponding principal use, the Planning Director shall determine how to treat the secondary use in accordance with Section 4.7, Unlisted Uses.

4.5.2 INTENT OF THESE STANDARDS

This section authorizes the establishment of secondary uses and structures that are incidental and subordinate to principal uses. The purpose of this section is to allow a broad range of secondary uses and structures, provided they comply with the standards set forth in this section in order to reduce potentially adverse impacts on surrounding lands.

4.5.3 GENERAL STANDARDS FOR ALL SECONDARY USES

Secondary structures may deviate from these general standards and the specific standards in Section 4.5.5, Standards for Specific Secondary Uses, only where expressly authorized by this Ordinance, as part of an approved Variance or Administrative Adjustment, are subject to conditions of approval associated with a type 3 Conditional Rezoning, or are configured in accordance with Section 3.5, Incentives and Alternatives.

A. CHARACTERISTICS OF SECONDARY USES AND STRUCTURES

Permitted secondary uses and structures include those that the Planning Director determines:

1. Are clearly incidental to an allowed principal use or structure;
2. Are subordinate to and serving an allowed principal use or structure;
3. Are subordinate in extent and purpose to the principal use or structure;
4. Are smaller in terms of total floor area or square footage than the principal structure; or
5. Are shorter in height and smaller in mass than the principal structure.

B. LOCATION OF SECONDARY USES AND STRUCTURES

1. ON A LOT WITH AN ESTABLISHED PRINCIPAL USE

a. Except on special purpose lots, secondary uses may only be established on lots that contain a pre-existing principal use. Some secondary uses or structures may be located on a lot during construction of a principal use when expressly permitted by this Ordinance.

b. Secondary uses may be located on a designated special purpose lot prior to a principal use.

c. A secondary use and the principal use it serves shall be located within the same zoning district.

2. WITHIN REQUIRED LANDSCAPING OR STREETSCAPE BUFFERS

Except for fences and walls contributing to the screening function of a buffer, no secondary structure shall be located within a required landscaping or streetscape buffer except where permitted in accordance with Section 6.6.14, Site Landscaping, or Section 6.6.13, Screening.

3. WITHIN A REQUIRED SETBACK

No secondary use or structure shall deviate from the setbacks applied to the zoning district where located, except as authorized by Table 3.6.9, Allowable Encroachment into Setbacks.

4. WITHIN OTHER AREAS ON A SITE

No secondary use or structure shall:

a. Be located within a designated fire lane;

b. Obstruct required sight distance triangles;

c. Impede ingress or egress to a lot, site, or principal structure;

d. Be located within a public utility easement;

e. Interfere with drainage or stormwater control measures;

f. Be within an emergency access route designated on an approved site plan; or

g. Create an unsafe condition, in the sole opinion of the Planning Director or Engineering Director.

5. WITHIN AN EASEMENT (OTHER THAN A PUBLIC UTILITY EASEMENT)

a. No secondary uses or structures shall be located within a public utility easement.

b. Except for authorized stormwater control measures within a drainage easement, no secondary use or structure shall be located within any platted or recorded easement without the prior written consent of the landowner.

6. PROXIMITY TO A STREET

In no instance shall the following secondary uses or structures be closer to a public street right-of-way than a principal structure on the same lot:

- **a.** Accessory dwelling unit;
- **b.** Detached garage or carport;
- **c.** Ham radio antenna or equipment;
- **d.** Stables;
- **e.** Tool sheds;
- **f.** Swimming pools or hot tubs;
- **g.** Storage of an inoperable vehicle; or
- **h.** Parking of a recreational vehicle, heavy truck, or trailer containing another vehicle, boat, or equipment.

C. MAXIMUM SIZE

1. Except for in-ground swimming pools, secondary uses and structures shall be smaller in square footage, floor area, and use area than the principal structure they serve.
2. In-ground swimming pools may have a use area or volume greater than the principal structure they serve.
3. Barns, silos, green houses, and similar features serving as secondary structures to agricultural uses may exceed the total floor area or square footage of a principal single-family dwelling on the lot where the agricultural use is located.

D. ALLOWABLE HEIGHT

1. Secondary structures shall comply with the maximum building height requirements for the zoning district where located, except that secondary structures within 10 feet of a lot line shall not be taller than 15 feet.
2. Maximum height standards shall not apply to certain secondary structures in accordance with Section 3.6.4D, Exceptions.

E. COMPLIANCE WITH DESIGN STANDARDS

1. Secondary uses and structures serving principle uses that are subject to the design standards or guidelines in Section 6.2, Design Standards and Guidelines, shall comply with the design standards applied to the principal use they serve or shall employ exterior materials, colors, and architectural details that are configured to be complementary to the principal use, as determined by the Planning Director.
2. The degree to which proposed exterior materials, colors, and architectural details are configured in a complementary manner to a principal use shall be in the sole opinion of the review authority deciding the application.

F. COMPLIANCE WITH USE STANDARDS

1. Secondary uses shall only be permitted subject to all applicable standards in Section 4.5.5, Standards for Specific Secondary Uses.
2. In cases where a use type identified in Table 4.2.5, Listing of Common Principal Uses, is proposed as a secondary use, the secondary use shall also comply with all applicable standards in Section 4.3, Standards for Specific Principal Uses.

4.5.4 LISTING OF COMMON SECONDARY USES

A. TABLE AS GUIDE

Table 4.5.4, Listing of Common Secondary Uses, is established as a guide to identify the appropriateness of the more common secondary uses in each zoning district.

B. LISTED SECONDARY USES

Table 4.5.4, Listing of Common Secondary Uses, lists what types of secondary uses, structures, and activities are allowed in each of the zoning districts.

1. If a specific secondary use is allowed by-right, subject to issuance of a Zoning Compliance Permit, and any applicable secondary use-specific standards, the cell underneath the zoning district is marked with a "P".
2. If a specific secondary use is allowed subject to a special use permit, subject to any applicable secondary use-specific standards the cell underneath the zoning district is marked with a "S".
3. If the specific secondary use or structure is not allowed in a zoning district, the cell is blank (marked with a "•").
4. In the case of conditional development districts, if a secondary use is allowable subject to any applicable secondary use-specific standards, it is marked with an "C", and the secondary use must be identified in the application or approved conditions.

TABLE 4.5.4: LISTING OF COMMON SECONDARY USES

"C" = Permitted, subject to Section 2.3.6, Conditional Rezoning, applicable secondary use-specific standards, and conditions of approval
"P" = Permitted, subject to applicable secondary use-specific standards
"S" = Permitted subject to Section 2.3.22, Special Use Permit, and applicable secondary use-specific standards
" • " (blank cell) = Not allowed or no additional secondary use-specific standards
Most secondary uses are subject to use standards in Section 4.5.5, Standards for Specific Secondary Uses

Secondary Use Type [1]	Conventional Residential Districts						Conventional Non-Residential Districts								Special Districts			Conditional Districts				
	RUR	RLL	RLD	RMD	RHD	RMF	OFI	DTNC	DTNN	DTNT	NCM	CRM	LID	HID	Con	MXD	PUB	CZR	CZM	CZC	CZD	CZI
Accessory Dwelling Unit, Detached	P	P	P	P	P	•	•	P	P	P	•	•	•	•	•	•	•	C	•	•	•	•
Accessory Dwelling Unit, Internal	P	P	P	P	P	•	•	P	P	P	P	•	•	•	•	•	•	C	•	•	•	•
Amateur Ham Radio	P	P	P	P	P	P	P	P	P	P	P	P	P	•	•	P	•	C	C	C	C	C
Art Installation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	•	P	P	C	C	C	C	C
Automated Teller Machine	•	•	•	•	•	•	P	P	P	P	P	P	P	•	•	P	•	•	C	C	C	•
Bus Shelter	•	•	•	P	P	P	P	P	P	P	P	P	P	P	•	P	P	C	C	C	C	C
Canopy (Drive Through, Fuel, etc.)	•	•	•	P	P	P	P	•	•	•	P	P	P	P	•	P	P	C	C	C	C	C
Child Care, Incidental	P	P	P	P	P	P	P	P	P	P	P	P	P	•	•	P	P	C	C	C	C	C
Cluster Box Unit	P	P	P	P	P	P	P	P	P	P	P	P	P	P	•	P	P	C	C	C	C	C
Drive Through	•	•	•	•	•	•	P	•	•	•	P	P	P	P	•	S	P	C	C	C	•	C
Electric Vehicle Charging Station	P	P	P	P	P	P	P	P	P	P	P	P	P	P	•	P	P	C	C	C	C	C
Family Health Care Structure	P	P	P	P	P	P	P	P	P	P	•	•	•	•	•	P	•	C	C	•	C	•
Flagpole	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C	C	C	C	C

TABLE 4.5.4: LISTING OF COMMON SECONDARY USES

"C" = Permitted, subject to Section 2.3.6, Conditional Rezoning, applicable secondary use-specific standards, and conditions of approval
"P" = Permitted, subject to applicable secondary use-specific standards
"S" = Permitted subject to Section 2.3.22, Special Use Permit, and applicable secondary use-specific standards
" • " (blank cell) = Not allowed or no additional secondary use-specific standards
Most secondary uses are subject to use standards in Section 4.5.5, Standards for Specific Secondary Uses

Secondary Use Type [1]	Conventional Residential Districts						Conventional Non-Residential Districts								Special Districts			Conditional Districts				
	RUR	RLL	RLD	RMD	RHD	RMF	OFI	DTNC	DTNN	DTNT	NCM	CRM	LID	HID	CON	MXD	PUB	CZR	CZM	CZC	CZD	CZI
Garage or Carport, Detached	P	P	P	P	P	P	P	P	P	P	P	P	P	P	•	P	P	C	C	C	C	C
Guard House, Shelter, or Gatehouse	P	P	P	P	P	P	P	P	P	P	P	P	P	P	•	P	P	C	C	C	C	C
Helistop	•	•	•	•	•	•	S	•	•	•	•	•	•	S	•	•	S	•	C	C	C	C
Home Occupation, Type 1	P	P	P	P	P	•	P	P	P	P	P	P	•	•	•	•	•	C	•	•	•	•
Home Occupation, Type 2	P	S	S	S	S	•	S	P	P	P	P	P	•	•	•	•	•	C	•	•	•	•
Mobile Restaurant	•	•	•	•	•	•	•	P	P	P	•	P	P	P	•	•	•	•	C	C	C	C
Outdoor Dining and Seating	•	•	•	•	•	P	P	P	P	P	P	P	P	P	•	P	•	C	C	C	C	C
Outdoor Display/Sales	•	•	•	•	•	•	•	P	P	P	P	P	P	P	•	S	P	•	C	C	C	•
Outdoor Storage	•	•	•	•	•	•	•	P	P	P	P	P	P	P	•	•	P	•	•	C	C	C
Parking of Heavy Trucks or Trailers	P	•	•	•	•	•	•	•	•	•	•	P	P	P	•	•	P	•	•	C	•	C
Parking of Recreational Vehicles	P	P	P	P	•	•	•	•	•	•	•	P	P	P	•	•	•	C	•	C	•	C
Play Equipment	P	P	P	P	P	P	P	P	P	P	P	•	•	•	P	P	P	C	C	C	C	•
Private Stables	P	P	P	•	•	•	•	•	•	•	•	•	•	•	•	•	•	C	•	•	•	•
Produce Stand	P	P	P	P	P	•	P	P	P	P	P	P	•	•	•	•	•	C	•	C	C	•
Solar Energy Conversion, Level 1	P	P	P	P	P	P	P	P	P	P	P	P	P	P	•	P	P	C	C	C	C	C
Swimming Pool/Hot Tub	P	P	P	P	P	P	P	P	P	P	P	P	•	•	•	P	•	C	C	C	C	•
Tool/Storage Shed	P	P	P	P	P	P	P	P	P	P	P	P	P	P	•	P	P	C	C	C	C	C
Underground Storage Tank	•	•	•	•	•	•	•	•	•	•	P	P	P	P	•	•	P	•	•	C	•	C
Vehicle Repair (non-commercial)	P	P	P	P	•	•	P	•	•	•	P	P	P	•	•	•	•	C	•	C	•	•

NOTES:
[1] Unlisted secondary uses may be permitted in accordance Section 4.7, Unlisted Uses.

4.5.5 STANDARDS FOR SPECIFIC SECONDARY USES

A. ACCESSORY DWELLING UNIT, DETACHED

A detached accessory dwelling unit (DADU) is permitted as secondary to a single-family detached dwelling, subject to the following standards:

1. No more than one DADU shall be located on a lot with a single-family detached dwelling;
2. A DADU shall not exceed 50 percent of the total amount of finished floor area in the principal structure;
3. A DADU shall be configured as a complete residential dwelling or housekeeping unit.

4. A DADU shall not exceed the height of the principal structure, but nothing shall limit an DADU from being located on a second or third story provided the structure complies with the applicable maximum height limitations in the district where located;
5. The DADU shall be located at least ten feet from the principal structure;
6. A DADU shall include at least one but not more than two off-street parking spaces;
7. A DADU and the principal dwelling shall have the same street address and mailbox;
8. A DADU shall not be subdivided or otherwise separated in ownership from the principal dwelling unit;
9. A DADU and the principal dwelling shall utilize the same driveway, unless the ADU is accessed from a right-of-way not used by the principal dwelling (e.g., a rear alley or separate street access on a corner or through lot); and
10. A DADU shall be served by shared water, sanitary sewer, gas, and electrical utilities.

B. ACCESSORY DWELLING UNIT, INTERNAL

An internal accessory dwelling unit (IADU) is permitted as secondary to a single-family detached dwelling only in accordance with the following standards:

1. No more than one IADU shall be located on a lot with a single-family detached dwelling;
2. The IADU shall be fully enclosed within the outer extents of the principal structure walls and roof, and shall not be located in a detached structure of any kind;
3. An IADU shall be configured as a complete residential dwelling or housekeeping unit;
4. An IADU shall not exceed 35 percent of the total amount of finished floor area in the principal structure;
5. An IADU and the principal dwelling shall have the same street address and mailbox;
6. An IADU and the principal dwelling shall utilize the same driveway;
7. An IADU shall include at least one but not more than two off-street parking spaces; and
8. An IADU shall be served by shared water, sanitary sewer, gas, and electrical utilities.

C. AMATEUR HAM RADIO

Amateur radio antennas shall comply with NCGS§ 160D-905 and the following:

1. Towers associated with an amateur ham radio operator or private television antenna shall not exceed 100 feet above grade;
2. Towers or antennas attached to a principal structure shall be located on a side or rear elevation; and
3. Freestanding towers or antennas shall be located behind the principal structure.

D. ART INSTALLATION

1. In no instance shall an art installation visible from a street or off-site area depict specified anatomical areas or specified sexual activities as defined by this Ordinance and the North Carolina General Statutes.
2. Public art or murals are exempted from the standards for signs, but shall be subject to any applicable adopted policy guidance and the following:
   a. A mural or public art installation shall require approval of a Zoning Compliance Permit in accordance with the standards in Section 2.3.31, Zoning Compliance Permit, if proposed on private property or within a public street right-of-way. If a mural is inside a building or is not visible off-site areas, then no zoning compliance permit is required.
   b. A mural may be configured to include a wall sign provided:
      i. The wall sign is applied to the wall using a similar technique as is used for the mural;

ii. The wall sign portion of the mural is clearly delineated to enable the Town to determine its compliance with applicable sign standards; and
iii. The wall sign portion of the mural complies with the standards for a wall sign in accordance with Section 6.13.9, Sign Standards by Sign Type.

c. Murals and public art shall be maintained and periodically cleaned, refreshed, or refurbished so that the mural remains visible and consistent with its approval.
d. In the event the owner of a building with a mural no longer wishes to maintain the mural, it shall be removed or covered with paint or other material consistent with the existing exterior material on the building wall where the mural is located. In cases where an approved mural is removed or concealed, it may only be re-established through approval of a Zoning Compliance Permit in accordance with Section 2.3.31, Zoning Compliance Permit.

3. Public art that is determined by the Planning Director to be a sign shall comply with the standards in Section 6.13.7I, Public Art as Signage.

E. AUTOMATED TELLER MACHINE (ATM)

1. An ATM designed for walk-up use and located in the exterior wall of a building, or a parking area shall be designed to avoid obstructions to pedestrian movement along sidewalks, through public use areas, or between parking areas and building entrances, or vehicular movement in front of buildings or through parking areas.
2. If an ATM is designed for use by customers in their vehicles, it shall comply with the secondary use standards (including districts where permitted) in Section 4.5.5K, Drive-Through.
3. The overall character of an automated teller machine in terms of materials, colors, and architectural character shall be compatible with that of the principal structure.

F. BUS SHELTER

Bus shelters shall be configured in accordance with the applicable transit provider's specifications, but shall not be located within a public utility easement, a required sight distance triangle, or obstruct the passage of pedestrians along pedestrian facilities.

G. CANOPIES (DRIVE THROUGH AND FUEL, ETC.)

1. Canopies located between the front façade of a building and a street shall be arched, vaulted, or monopitch shed style, but shall not be flat or maintain a slope of 3:12 or less. This standard shall not apply to canopies located behind a principal structure and farther from a street right-of-way than the principal structure.
2. Supports or uprights for a canopy structure shall be clad in brick, masonry, or treated with some other architectural treatment compatible with the principal structure. In no instance shall supports or uprights take the form of a simple metal pole that is just painted.
3. The maximum height of the canopy may exceed the height of the principal building, but in no instance shall any signage associated with the canopy be higher above grade than would be permitted on the exterior wall of the adjacent principal structure.
4. The edge of the canopy structure shall be no closer than 15 feet from a lot line or right-of-way.
5. Exterior lighting associated with a fuel canopy shall comply with the requirements for shielding and glare control in Section 6.4, Exterior Lighting.

H. CHILD CARE, INCIDENTAL

1. An incidental child care or home day care for three or more children is permitted as a secondary use to an occupied residential dwelling unit provided it complies with Article 7 of Chapter 110 of the North Carolina General Statutes, and the Summary of North Carolina Child Care Laws and Rules pamphlet, as amended prepared by the NC Department of Health and Human Services.
2. Incidental child care uses shall obtain all applicable approvals from the State of North Carolina.
3. In cases where an incidental child care use is operated within a residential dwelling and includes more than five children or includes employees who do not reside in the principal dwelling the incidental child care use shall meet all the requirements in Section 4.5.5R, Home Occupation, Level 2.

I. CLUSTER BOX UNIT

Cluster box units shall comply with the standards of the United States Postal Service and the following:

1. Cluster box units shall be located within one or more of the following locations:
   a. On land owned or maintained by an owners' association;
   b. Outside a public street right-of-way; or
   c. Within a private access easement.
2. Wherever possible, cluster box units shall be located central to the development they serve or proximate to a primary vehicular entrance to the development.
3. In no instance shall a cluster box unit be located within a required sight distance triangle, a public utility easement, within the vehicular travelway portion of a street or alley, or in a manner that obstructs the movement of pedestrians along a sidewalk or trail.
4. A cluster box unit shall be positioned so that the individual mailbox units may be accessed without the need to stand within a street travelway.
5. In cases where a subdivision includes a recreational amenity building, cluster box units are encouraged to be located within or adjacent to the building.
6. All cluster box units in a development shall be directly served by a sidewalk, pedestrian trail, or include facilities for vehicular access.
7. At least five percent of the provided mailboxes shall be configured to permit access in accordance with the American with Disabilities Act.
8. A cluster box unit with 20 or more mailboxes shall be served by one on-street or off-street parking space. Cluster box units with 40 mailboxes or more shall be served by two on-street or off-street parking spaces plus one additional on-street or off-street parking space for every additional 20 mailboxes beyond 40 to a maximum of four parking spaces. At least one of the parking spaces provided shall meet the requirements for an accessible parking space in accordance with the State Building Code. All on-street parking spaces shall be parallel parking spaces.
9. In cases where cluster box units are located within a building or structure used for other purposes, vehicular parking spaces shall be reserved for patrons using the cluster box, and such spaces shall include signage or other visible designations to this effect.
10. As an alternative to providing parking spaces, a cluster box unit may incorporate a separate vehicular pull-off area with sufficient width to accommodate a standard passenger vehicle and a sufficient length to accommodate the same number of stacked vehicles as could be accommodated by required on-street or off-street parking.

11. Cluster box units shall be served by one or more streetlights in developments where street lights are provided.
12. Except in cases where cluster units are located within a building, such facilities shall be located on paved concrete pads and anchored in accordance with the NC State Building Code and US Postal Service requirements.
13. Cluster box facilities with 100 or more mailboxes in one location shall be located within a roofed structure that provides shelter from sun or rain.

J. DETACHED GARAGE/CARPORT

1. Detached garages or carports shall be located behind the rear building wall of the principal structure and shall comply with all applicable standards.
2. Detached garages may include interior storage or activity areas or accessory dwelling units, provided all secondary uses comply with the applicable requirements of this Ordinance.

K. DRIVE-THROUGH

Drive-through facilities shall comply with the following standards:

1. Outdoor speakers associated with a drive-through shall be at least 50 feet from any abutting lot in a residential district;
2. In cases where a use with a drive through that includes an outdoor speaker abuts a residential zoning district, the perimeter buffer located between the outdoor speaker and the residential lot shall include a fence or wall of at least six feet in height, regardless of the type of perimeter buffer required;
3. Drive-through windows, menus, or order boxes shall not be located on the primary façade of the building they serve;
4. Drive-through facilities shall be designed so as not to obstruct the movement of pedestrians along sidewalks, through areas intended for public use, or between the building entrance and customer parking spaces;
5. Drive through lanes located adjacent to a public street right-of-way shall include screening configured in accordance with Section 6.6.11B, Perimeter Plantings;
6. Canopies or other features installed over a drive through window shall maintain common roof lines and materials with the principal structure and comply with all applicable standards in Section 4.5.5G, Canopies (Drive Through and Fuel, etc.); and
7. Drive throughs shall not be located within a Downtown district.

L. ELECTRIC VEHICLE (EV) CHARGING STATION

1. Electric vehicle (EV) charging station spaces shall be reserved for the charging of electric vehicles only and shall be posted with signage identifying the spaces as reserved only for the charging of electric vehicles, amperage and voltage levels, any enforceable time limits or tow away provisions, and contact information for reporting non-operating equipment or other problems.
2. A required accessible parking space may also serve as an EV charging station space, provided the charging station and its controls meet ADA standards for accessibility to persons with physical disabilities.
3. EV charging station equipment shall be located so as not to interfere with vehicle, bicycle, or pedestrian access and circulation, or with required landscaping.
4. Equipment-capable of producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

5. Transformers and similar equipment shall be screened in accordance with Section 6.6.13, Screening.

M. FAMILY HEALTH CARE STRUCTURE

One family health care structure is permitted on a lot with a single-family detached dwelling, in accordance with the standards in NCGS§ 160D-915 and the following:

1. STRUCTURE

A family health care structure is one that:

a. Is transportable and primarily assembled at a location other than the site of installation;
b. Is located on a lot with an existing single-family detached dwelling;
c. Is limited to one occupant who is a mentally or physically impaired person related to the caregiver;
d. Is used by a caregiver or legal guardian in providing care for one mentally or physically impaired person on property owned or occupied as the caregiver's or guardian's residence;
e. Has no more than 300 square feet of gross floor area;
f. Is connected with water, wastewater, and electrical systems by branching service from the single-family detached dwelling;
g. Has the same street address and mailbox as the existing single-family detached dwelling;
h. Uses the same driveway as the existing single-family dwelling, unless the structure is accessed from a right-of-way not used by the dwelling (e.g., a rear alley or separate street access on a corner or through lot);
i. Meets the dimensional standards of the zoning district for a single-family detached dwelling; and
j. Meets the applicable provisions in the North Carolina Building Code; however, is not located on a permanent foundation.

2. NEED AND RELATIONSHIP

a. The occupant of the structure must be a mentally or physically impaired person that is a resident of the State who requires assistance with two or more activities of daily living (bathing, dressing, personal hygiene, ambulation, or locomotion, transferring, toileting, and eating) as certified in writing by a physician licensed to practice in North Carolina.
b. The caregiver must be an individual 18 years of age or older who provides care for the mentally or physically impaired person and is a first or second degree relative of the impaired person. A first or second degree relative is a spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew, or niece, including half, step, and in-law relationships.

3. PERMIT CONDITIONS

a. Once the applicant provides sufficient proof that the family health care structure meets all standards, then the structure shall be permitted for a period of 12 months.
b. The applicant may renew the prior approval for a 12-month period and continue to renew it provided the applicant provides evidence of continued need and compliance with these standards.
c. The Town may make periodic inspections of the family health care structure at reasonable times convenient to the applicant.

d. No signage shall be permitted on the exterior of the structure or on the lot that identifies or promotes the existence of the structure.
e. The structure shall not be subdivided or otherwise separated in ownership from the single-family detached dwelling.
f. The structure shall be removed within 60 days if the impaired occupant is no longer receiving or in need of assistance.
g. The approval may be revoked, or other enforcement actions taken if these standards are violated.

N. FLAGPOLE

1. No more than two flagpoles shall be allowed on a residential lot in a residential zoning district.
2. Flagpoles on all other lots shall comply with the following standards:
   a. No more than three flagpoles shall be allowed;
   b. Flagpoles shall be located on the same lot as the principal building;
   c. Flagpoles may be located on the wall of the principal building on the lot or within 75 feet of the building's main entrance;
   d. Flagpoles shall not be located within a public right-of-way; and
   e. Flagpoles shall not exceed a height of 25 feet.
3. Flags shall comply with the appropriate standards in Section 6.13.9, Sign Standards by Sign Type.

O. GUARD HOUSE, SHELTER, OR GATEHOUSE

Nothing shall limit the placement of a guard house, guard shelter, or gatehouse within a required yard or setback, provided it shall:

1. Maintain a maximum size or floor area of 100 square feet or less;
2. A height of 15 feet or less;
3. Be located outside any required sight distance triangles; and
4. Maintain a minimum distance of five feet from a public street right-of-way.

P. HELISTOP

Auxiliary facilities such as parking, waiting room, fueling, and maintenance equipment are not permitted.

Q. HOME OCCUPATION, LEVEL 1

1. The area set aside for a home occupation shall occupy no more than 25 percent of the gross floor area of a dwelling unit or of a secondary structure or 500 square feet, whichever is less.
2. No outside storage or display of materials, animals, or items associated with the home occupation is permitted. Nothing shall limit storage of such items within enclosed structures.
3. No goods, stock-in-trade, or other commodities shall be displayed.
4. The home occupation shall be conducted entirely within a dwelling unit or secondary structure. It must be a use that is clearly incidental and secondary to the use of the dwelling unit for residential purposes and does not change the character of the residence.
5. Permitted home occupations include, but are not limited to:
   a. Offices;

b. Personal services;
c. Day care of up to five children;
d. Catering, provided food is prepared solely with residential-grade equipment;
e. Tailoring; and
f. Handcrafting, and similar vocations.

6. No on-site retail sales, except for goods made on the premises, are allowed. Nothing shall prohibit the digital sale of material for delivery off-site.
7. Activities shall not generate traffic, noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.
8. No home occupation shall involve the use of electrical or mechanical equipment that would change the fire rating of the structure in which the home occupation is located.
9. No one may be employed who is not an occupant of the residence.
10. Instruction in music, dancing, art, or similar subjects shall be limited to no more than five students at one time.
11. Signs for home occupations shall be limited to incidental signs permitted in residential zoning districts (see Section 6.13, Signage).

R. HOME OCCUPATION, LEVEL 2

1. The level 2 home occupation shall be located on a lot or tract of one acre or more in area.
2. The total floor area of all buildings engaged in the home occupation shall not exceed the lesser of: 20% of the principal dwelling's floor area or 1,000 square feet.
3. All operations associated with the home occupation use shall maintain a minimum 50-foot setback from all lot lines.
4. A type C perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.
5. All operations associated with the home occupation shall be located behind the rear building line of the principal dwelling.
6. The person operating the home occupation shall reside on the property.
7. No more than two persons shall be employed other than those residing on the property.
8. Establishment of a level 2 home occupation shall require review of a site plan in accordance with Section 2.3.21, Site Plan, and the site plan shall indicate the location of outside storage, if any, the proposed number of vehicles to be parked on the lot, and methods of screening.
9. The home occupation shall not be operated between the hours of 9 PM to 6 AM.
10. Permitted uses shall be limited to those products assembled or manufactured on-site for resale elsewhere, professional and business services, or stock-in-trade clearly incidental to such services.

S. MOBILE RESTAURANT

1. LOCATION

Mobile restaurants may only be operated on private land in accordance with Section 4.5.4, Listing of Common Secondary Uses. Nothing shall limit the operation of a mobile restaurant on public property provided the use takes place solely within a space designated for mobile restaurants.

2. PERMITS REQUIRED

- **a.** The operation of a mobile restaurant shall require approval of a Zoning Compliance Permit.
- **b.** A Zoning Compliance Permit for the operation of a mobile restaurant shall be obtained by the landowner or landowner's agent for the site where the mobile restaurant will operate.
- **c.** In cases where a mobile restaurant operates on two or more different lots or sites, the landowner of each lot or site where a mobile restaurant operates shall secure a separate Zoning Compliance Permit for operation of the mobile restaurant.
- **d.** Vendors in vehicles must provide documentation of approval from the Health Department of the County in which the mobile restaurant's associated restaurant or commissary is located.
- **e.** The County Health Permit must be displayed during hours of operation.

3. PLACEMENT DURING AND AFTER FOOD SALES

- **a.** Mobile restaurants shall be parked on private property with the property owners' permission and shall not be parked within any public street, right-of-way, or sidewalk unless the street has been closed for a special event.
- **b.** Mobile restaurants shall not block parking spaces, drive aisles, access to loading/service areas, or emergency access and fire lanes. Associated vending must also be positioned at least 15 feet away from fire hydrants, any fire department connection, and driveway entrances.
- **c.** No more than two mobile restaurants are permitted as a secondary use at the same time, unless at an approved special event, market, festival, or an active construction site.
- **d.** A mobile restaurant shall be removed after operating hours or a special event and be stored in a legally permissible location.

4. ADDITIONAL STANDARDS FOR MOBILE RESTAURANTS WITHIN DOWNTOWN DISTRICT

- **a.** Mobile restaurants operating between the hours of 8 AM and 5 PM shall not be parked on the street for more than two consecutive hours unless the street has been closed for a special event.
- **b.** In cases where a mobile restaurant is operating within an off-street parking lot, the mobile restaurant shall be located outside of loading zones, fire zones, and vehicular travelways.
- **c.** Customer access for food sales shall be from the side of the food truck facing the sidewalk not the street.
- **d.** Food sales shall not impede pedestrian traffic along the sidewalk.

5. MINIMUM DISTANCE FROM CERTAIN USE TYPES

- **a.** No mobile restaurant shall operate within 100 feet of any school, religious institution, or cemetery.
- **b.** No mobile restaurant shall operate within 100 feet of the main entrance of a restaurant located within a principal structure during business hours, unless authorized by a restaurant.

6. OPERATION

- **a.** The mobile restaurant owner or their designee shall be present at all times except in case of an emergency.

b. The hours of operation shall be between the hours of 7:00 AM and 12:00 AM except for special events.

c. Temporary connections to potable water are prohibited. All plumbing and electrical connections shall be in accordance with the State Building Code.

d. Grease and wastewater must be contained and disposed of in an approved grease receptacle located at the associated restaurant or commissary.

e. The operator shall keep all areas within ten feet of the mobile restaurant clean of grease, trash, paper, cups, or cans associated with the operation. No liquid waste or grease is to be disposed into tree pits, storm drains, or onto the sidewalks, streets, or other public locations. Under no circumstances shall grease be released into or disposed of in the Town's sanitary sewer system.

f. If the vendor is operating a vehicle after dark, the vehicle shall provide appropriate lighting.

g. A mobile restaurant or vehicle shall not operate as a drive-up window.

h. Mobile restaurant operators are responsible for the proper disposal of waste and trash associated with the operation. Town trash receptacles are not to be used for this purpose. Operators shall remove all waste and trash from their location at the end of each day or as needed to maintain the health and safety of the public.

i. The Planning Director may initiate enforcement action if a mobile restaurant is causing parking, traffic congestion, or litter problems either on or off the property where the use is located or such use is otherwise creating a danger to the public health or safety.

7. ASSOCIATED FEATURES

a. No tables, chairs, or other structures shall be allowed outside of the mobile restaurant.

b. Advertising consisting of business name, logo, and items available for sale may be displayed on the mobile restaurant's vehicle(s). No other form of advertising shall be permitted.

T. OUTDOOR DINING OR SEATING

Outdoor dining or seating shall comply with the following requirements:

1. GENERALLY

a. Approval of a Zoning Compliance Permit shall be required for the establishment of outdoor dining or seating areas capable of accommodating up to 12 people. Site Plan approval shall be required for outdoor dining or seating areas capable of accommodating more than 12 people.

b. Unless proposed within a public right-of-way, outdoor dining or seating shall be located on the same lot or tract or under the same ownership as the principal use it serves. If located within a public right-of-way, the outdoor dining or seating area shall be directly adjacent to the lot where the principal use is located.

c. Outdoor dining or seating areas where alcohol is served or may be consumed shall be clearly demarcated from other areas of the site or a public right-of-way with planters, fencing, roping, railing, or some other physical barrier that separates the area from its surroundings.

d. Outdoor dining or seating areas that include any form of public address system, recorded or live musical performances, or other sounds provided as part of the operation of the principal use shall be located as far as possible from adjacent residential zoning.

e. Lighting associated with outdoor dining or seating shall comply with the standards in Section 6.4, Exterior Lighting, except that exterior lighting may be located within Town right-of-way subject to all applicable Town policies.

f. Outdoor dining or seating areas shall comply with the applicable off-street parking standards in Section 6.9.4, Off-Street Parking Requirements.

g. In no instance shall an outdoor dining or seating area take place within a required landscaping, screening, or parking area or interfere with safe pedestrian or vehicular circulation on or off the site.

h. In no instance shall an outdoor dining or seating area obstruct access to an entrance or exit, emergency exit, drainage infrastructure, fire hydrant, standpipe, utility access area, ventilation, or ADA access features.

i. Outdoor dining or seating areas shall include trash receptacles and shall not result in the accumulation of litter or waste in the public right-of-way or on adjacent lots.

2. IF LOCATED WITHIN A PUBLIC RIGHT-OF-WAY

a. In cases where outdoor dining or seating areas are proposed on a public sidewalk or other public right-of-way, establishment of the secondary use shall require approval of a site plan and execution of an encroachment agreement with the Town or NCDOT in accordance with Town policy, as appropriate.

b. Outdoor dining and seating areas in a public right-of-way areas shall comply with the standards in NCGS§136-27.4, and the following:

- **i.** All tables, chairs, and other furnishing shall be at least six linear feet from any vehicular travel lane;
- **ii.** There shall be at least five feet of unobstructed sidewalk width maintained at all times across the frontage of a site with outdoor dining or seating areas on a public sidewalk;
- **iii.** Awnings, umbrellas, and coverings shall maintain at least nine feet of clearance above sidewalks and shall not project out into the vehicle travelway;
- **iv.** In on instance shall an outdoor dining or seating area be located adjacent to a street with a posted speed limit of 45 miles-per-hour or greater; and
- **v.** No water misters, heaters, or mechanical climate control devices shall be located within the public right-of-way.

c. The owner of the business utilizing an outdoor dining or seating area within a public right-of-way shall be responsible for repairing any incidental damage to public sidewalk resulting from the secondary use.

d. The owner or operator of the principal use shall provide evidence of adequate liability insurance specified by the Town under NCGS§ 160A-485 as the limit of the Town's waiver of immunity or the amount of tort claim liability specified in NCGS§ 143-299.2, whichever is greater. The insurance shall protect and name NCDOT and the Town as additional insured on any policies covering the use and any activities on a public sidewalk.

e. The owner or operator of the principal use shall provide an agreement to indemnify and hold harmless NCDOT and the Town from any claim resulting from the operation of activities on a public sidewalk.

f. The owner or operator of the principal use shall provide a copy of all permits and licenses issued by the State, County, or Town, including health and ABC permits, if any, necessary for the operation of the principal use, or a copy of the application for the permit if no permit has been issued. This requirement includes any permits or certificates issued by the Town for exterior alterations or improvements to the principal use.

g. The owner or operator of the principal use shall cease any outdoor activities in the public right-of-way in order to allow construction, maintenance, or repair of any street, sidewalk, utility, or public building, by NCDOT, the Town, its agents or employees, or by any other governmental entity or public utility.

h. The owner or operator of the principal use shall comply with any other requirements deemed necessary by the NCDOT or Town, either for a particular Town or a particular component of the State highway system.

i. The Town reserves the right to terminate the authorization for outdoor dining or seating within a public right-of-way at any time. Upon notice, all furnishings must be removed from the public right-of-way within 24 hours of notice from the Town. If furnishings are not removed within the time specified, the Town has the right to remove and dispose of these items and may assess the property owner for the cost of removal and disposal. The Town also has the right to remove such items immediately in emergency situations, and the Town is not responsible for damage to the furnishings under any circumstances.

U. OUTDOOR DISPLAY/SALES

The outdoor display and sale of goods as a secondary use shall be limited to a commercial or mixed-use development and shall comply with the following standards:

1. GENERALLY

a. Outdoor seasonal sales proposed as a temporary use shall be subject to the standards in Section 4.6.5B, Outdoor Seasonal Sales.

b. Establishment of a display/sales area greater than 50 square feet in area shall require approval of a site plan (see Section 2.3.21, Site Plan). Display/sales areas smaller than 50 square feet shall require approval of a Zoning Compliance Permit.

c. Outdoor display/sales areas shall provide ADA-compliant customer access.

d. Except on lots in the Downtown district, outdoor display/sales shall be located on the same site as the principal use, and shall be located at least five from any lot line.

2. ALONG THE FRONT FAÇADE

Outdoor display/sales areas located along the front façade of a principal use shall comply with the following standards:

a. Outdoor display/sales areas shall be located on a sidewalk.

b. In no instance shall an outdoor display/sales area occupy more than 75 percent of the front façade wall of a single tenant or individual tenant's portion of a multi-tenant building wall.

c. Outdoor display/sales areas shall be no closer than five feet to a building entrance or exit.

d. In no instance shall an outdoor display/sales area block an emergency exit, standpipe, utility meter, or ventilation access.

e. Outdoor display/sales areas shall maintain at least five feet of pedestrian access on all sides.

f. Outdoor display/sales area shall not exceed five feet in height from the sidewalk.

g. Outdoor display/sales areas that are not accessible to members of the public shall be subject to the standards in Section 4.5.5V, Outdoor Storage.

3. WITHIN A PARKING LOT

Outdoor display/sales areas located within a parking lot of a principal use shall comply with the following standards:

- **a.** Outdoor display/sales area shall not occupy a required parking or landscaping area.
- **b.** Outdoor display/sales areas shall not be located in ways that interfere with loading or on-site circulation of vehicles or pedestrians.
- **c.** Outdoor display/sales areas shall not include signage that is legible from off-site areas.
- **d.** Display areas that are inaccessible to the public are considered outdoor storage.
- **e.** Outdoor display/sales areas in parking lots shall comply with the dimensional requirements for the district where located.

4. ON A PUBLIC SIDEWALK

Outdoor display/sales area proposed on a public sidewalk shall comply with all applicable standards in this section and the following:

- **a.** Outdoor display/sales areas on a public right-of-way shall require an encroachment agreement with the Town.
- **b.** Products, merchandise, and display structures must be removed from the sidewalk within 24 hours of notice from the Town. If such items are not removed following notice, the Town has the right to remove and dispose of these items and may assess the property owner for the cost of removal and disposal. The Town has the right to remove such items immediately in emergency situations. The Town is not responsible for damage to the merchandise under any circumstances.
- **c.** The owner or operator of the principal use displaying or selling merchandise within a public sidewalk shall be responsible for repairing any incidental damage to public sidewalk resulting from outdoor display/sale.

V. OUTDOOR STORAGE

Outdoor storage as a secondary use shall comply with the standards in Section 4.3.124, Storage, Outdoor (as a Principal Use).

W. PARKING OF HEAVY TRUCKS OR TRAILERS

1. The parking or storage of motorized vehicles in excess of 10,000 pounds of gross vehicle weight, or with more than two axles, shall be prohibited in all residential districts except for loading and unloading purposes; for emergency home service; for use in the conduct of a legal non-conforming use; for temporary construction purposes; or for bona fide agricultural purposes.
2. The parking or storage of non-motorized vehicles with more than two axles shall be prohibited in all residential districts except for loading and unloading purposes; for emergency home service; for use in the conduct of a legal non-conforming use; for temporary construction purposes; or for bona fide agricultural purposes.
3. In no instance shall a non-motorized vehicle have an overall length exceeding 22 feet not including the tongue or towing assembly.
4. No apparatus designed to be used as a motor vehicle or designed to be towed by a separate motorized unit or vehicle shall be used for the purposes of storage in any residential district.

X. PARKING OF RECREATIONAL VEHICLES

1. No recreational vehicle (RV) shall be used as a permanent residence or business.

2. Nothing in this section shall preclude a RV owner from parking the RV on a parcel of land they own provided the RV is not used as an occupied dwelling or business.
3. Recreational vehicles shall meet the setbacks of a single-family dwelling in the zoning district in which it is located.
4. The RV shall not be located between a principal structure and a street.
5. Sewer or water connections are not permitted.
6. Any source of electricity must be solely intended for the RV and be on the same parcel of land as the RV.
7. Removal of wheels of a recreational vehicle except for temporary repairs shall be prohibited.
8. Any RV subject to these standards must be road ready and capable of moving within 24 hours.
9. These standards shall not apply to RVs located within a lawfully established and operating recreational vehicle park.

Y. PLAY EQUIPMENT

1. Play equipment shall comply with the setback requirements for the zoning district where located, though it may encroach into setbacks in accordance with Section 3.6.9, Setback Encroachments.
2. In no instance shall play equipment be located between the front façade of a residential dwelling and the street it faces in cases where the lot or tract is two acres or less in area.

Z. PRIVATE STABLES

Stables shall comply with the following standards:

1. Stables are not permitted on land within the corporate limits;
2. The land on which the facility is located shall be at least two acres in size;
3. No stalls or stables shall be within 200 feet of any existing adjoining residential dwelling and 100 feet from any adjoining well being used for human consumption; and
4. Stables must be operated and maintained in a healthy and safe manner. "Healthy and safe" is defined as, but not limited to: fences kept in good repair; potable water available on demand; protection from wind or rain; a sign posted indicating the name and phone number of the person to be contacted in case of emergency.

AA. PRODUCE STAND

The sale of fresh vegetables and produce from curbside stands or in a similar fashion shall:

1. Be located on the same lot as a principal use;
2. Be limited to retail sale of agricultural or horticultural products grown on-site or in agricultural facilities under the same ownership as the produce stand;
3. Be located outside public street rights-of-way, sight distance triangles, or other areas that may result in visual obstructions to drivers;
4. Not exceed 1,000 square feet in area; and
5. Provide adequate ingress/egress and off-street parking.

BB. SOLAR ENERGY CONVERSION, LEVEL 1

A level 1 solar energy conversion use shall comply with the following requirements:

1. The system may be roof-mounted, attached to a principle or secondary structure, be ground-mounted, or placed over a parking or other hard-surface area;

2. The footprint of a ground-mounted system shall not exceed 50 percent of the footprint of the principal structure, or one acre, whichever is less;
3. The system shall comply with the dimensional requirements for the district where located, as modified by Section 4.5.3, General Standards for All Secondary Uses;
4. The system shall not obscure required sight distance triangles;
5. Ground-mounted facilities are exempted from the screening requirements in Section 6.6.13, Screening; and
6. Ground-mounted facilities shall not exceed 20 feet in height above adjacent pre-construction grade.

CC. SWIMMING POOLS/HOT TUBS

1. Swimming pools and hot tubs shall be configured in accordance with all applicable requirements of the North Carolina State Building Code and Chapter 154 of the Town Code of Ordinances.
2. All swimming pools, hot tubs, and ancillary facilities shall comply with the setback provisions applicable in the zoning district where located.
3. In-ground swimming pools built as secondary uses shall be completely isolated from adjacent lands and streets by a fence or other structure having a minimum height of four feet and configured to prevent small children from gaining unsupervised access to the pool or hot tub.
4. Hot tubs shall be completely isolated from adjacent lands and streets by a fence or other structure having a minimum height of four feet or include a cover with a lockable latch to prevent small children from gaining unsupervised access to the hot tub.
5. Gates or doors opening into the area around the in-ground swimming pool or hot tub from outside the dwelling shall have self-closing and self-latching devices for keeping the gate or door closed at all times when not in use.
6. Above ground swimming pools are not required to have a fence but shall have a locking ladder that prevents access to the surface of the water when raised or otherwise locked.
7. These standards shall apply to any built structure placed or constructed for the purpose of bathing or swimming at a depth of two feet or more.
8. Access to a pool or hot tub serving a non-residential use shall limit access to the pool or hot tub by members of the general public.
9. Swimming pools and hot tubs included as a secondary use to a residential or mixed-use development shall include one off-street parking space for every four persons of design capacity. This standard does not apply to private pools located on single-family detached residential lots.
10. In no instance shall a swimming pool or hot tub included as a secondary use to a residential or mixed-use development include a public address system capable of playing music or other audio.
11. Swimming pools built as secondary uses shall be completely isolated from adjacent lands and streets by a fence or other structure having a minimum height of four feet and configured to prevent small children from gaining unsupervised access to the pool or hot tub.
12. Gates or doors opening into the area around the swimming pool from outside the dwelling shall have self-closing and self-latching devices for keeping the gate or door closed at all times when not in use.
13. These standards shall apply to any built structure placed or constructed for the purpose of bathing or swimming with a depth of two feet or more.

14. Access to a pool or hot tub serving a non-residential use shall limit access to the pool or hot tub by members of the general public.
15. Swimming pools and hot tubs included as a secondary use to a single-family subdivision shall include one off-street parking space for every four persons of design capacity.

DD. TOOL/STORAGE SHED

1. Tool or storage sheds shall comply with the dimensional requirements for the zoning district where located.
2. Tool or storage sheds may not be located within required landscaping areas, within ten feet of an on-site wastewater facility (including drain fields).
3. Tool or storage sheds shall be required to secure a Zoning Compliance Permit prior to construction or installation.

EE. UNDERGROUND STORAGE TANK

Underground storage tanks shall comply with the following requirements:

1. Underground storage tanks shall not be located within required setbacks, easements, or beneath public rights-of-way;
2. Underground storage tanks shall be installed and operated only in accordance with the North Carolina Building Code and all applicable Fire Code requirements; and
3. Underground storage tanks shall be depicted on site plans and as-builts.

FF. VEHICLE REPAIR (NON-COMMERCIAL)

Up to two private vehicles may be repaired on residentially-zoned land, provided:

1. The vehicles are registered to the occupant of the residence; and
2. The repair takes place within an entirely enclosed structure or within an area meeting the standards in Section 6.6.13, Screening, and located to the interior side or rear of the principal structure.

4.6 TEMPORARY USES

4.6.1 ESTABLISHMENT OF A TEMPORARY USE OR STRUCTURE

A. Temporary uses or structures may be approved prior to the establishment of a principal use, in conjunction with the approval of the principal use, or subsequent to the establishment of a principal use.

B. All temporary uses or structures listed in this section shall require prior approval of a temporary permit in accordance with Section 2.3.25, Temporary Permit.

C. In the event a temporary use is proposed that is not listed in this section, the Planning Director shall consult Section 4.7, Unlisted Uses, to determine how to treat the proposed temporary use.

4.6.2 INTENT OF THESE STANDARDS

This section allows for the establishment of specific temporary uses of limited duration, provided that such uses do not negatively affect adjacent land, and provided that such temporary uses 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.

4.6.3 GENERAL STANDARDS FOR ALL TEMPORARY USES

All temporary uses and structures shall comply with the following general standards, unless otherwise specified in this Ordinance:

A. GENERAL REQUIREMENTS

An applicant proposing a temporary use or structure shall:

1. Secure written permission from the landowner;
2. Obtain the appropriate permits and licenses from the Town and other agencies;
3. Comply with the applicable requirements for signs in Section 6.13, Signage, if signage is proposed;
4. Meet public utility requirements for proper connection to water, sewer, electrical and other utility service connections, as applicable;
5. Not violate the applicable conditions of approval that apply to a site or use on the site;
6. Not result in a situation where the principal use, if present, fails to comply with the standards of this Ordinance;
7. Ensure the site of a temporary use or structure contains sufficient land area for the temporary use and for the parking and traffic movement associated with the temporary use, without impacting environmentally sensitive lands;
8. Ensure temporary uses remain in place no longer than 90 days if located within a special flood hazard area;
9. Provide adequate on-site restroom facilities (as appropriate); and
10. Cease all outdoor activities within 500 feet of a residential use by 11:00 PM.

B. GENERAL CONDITIONS

In approving a Temporary Permit, the Planning Director is authorized to impose any of the following general conditions upon the premises benefited by the permit as may be necessary to reduce or minimize any potential adverse impacts upon other property in the area, as long as the condition relates to a situation created or aggravated by the proposed temporary use or structure. The Planning Director is authorized, where appropriate, to require:

1. Provision of temporary parking facilities, including vehicular access and egress;

2. Control of nuisance factors, such as but not limited to, the prevention of glare or direct illumination of adjacent properties, noise, vibrations, smoke, dust, dirt, odors, gases, and heat;
3. Prohibition of the storage or use of hazardous materials;
4. Regulation of placement, height, size, and location of equipment;
5. Provision of sanitary and medical facilities;
6. Provision of solid waste collection and disposal;
7. Provision of security and safety measures;
8. Use of an alternate location or date;
9. Modification or elimination of certain proposed activities;
10. Regulation of operating hours and days, including limitation of the duration to a shorter time period than requested or specified in this subsection; and
11. Submission of a performance guarantee (see Section 2.3.19, Performance Guarantee) to ensure that any temporary use will be removed from the lot.

4.6.4 DURATION OF COMMON TEMPORARY USES

This section includes a summary table of common temporary uses and their maximum duration.

TABLE 4.6.4: TABLE OF COMMON TEMPORARY USES AND DURATION

Type of Temporary Use or Structure		Maximum Duration [1]	Maximum Frequency per Calendar Year
Itinerant Merchant Sale		No more than 45 continuous days per lot per calendar year	Three, subject to maximum duration per year
Outdoor Seasonal Sales		No more than 45 continuous days per lot per calendar year	Three, subject to maximum duration per year
Portable Storage Containers		90 days per lot per calendar year	Once, subject to maximum duration per year
Other Special Event	Circus, Carnival or Fair	Up to 14 consecutive days per calendar year	Once
	Grand Opening Sale	Up to 7 consecutive days per calendar year	Once
	Non-profit Event	Up to 7 consecutive days per calendar year	Once every three months
	Outdoor Vehicle Sale	Up to 3 consecutive days per calendar year	Twice
	Religious Event	Up to 5 consecutive days per calendar year	Up to four per development per calendar year
	Tent Sale	Up to 7 consecutive days per calendar year	Twice per lot per calendar year
Temporary Disaster Dwelling		No more than 12 months	N/A
Temporary Dwelling		No more than 6 months	N/A
Temporary Fencing		Up to 90 days per calendar year	Once
Temporary Office		Must be removed within 30 days after all units are sold or leased	

TABLE 4.6.4: TABLE OF COMMON TEMPORARY USES AND DURATION		
TYPE OF TEMPORARY USE OR STRUCTURE	MAXIMUM DURATION [1]	MAXIMUM FREQUENCY PER CALENDAR YEAR
Temporary Wireless Communications Facility	No more than 14 days unless placed for emergency purposes	
	No more than 30 days when placed to serve emergency purposes	
NOTES: [1] No temporary use shall remain in place more than 90 days if located on a lot within the within a Flood Protection Overlay District.		

4.6.5 STANDARDS FOR SPECIFIC TEMPORARY USES

A. ITINERANT MERCHANT SALES

Itinerant merchant sales, not including mobile restaurant vendors, are permitted on lots in non-residential and mixed-use zoning districts, subject to the following standards:

1. The sale of merchandise, products, or material must be a permitted principal or secondary use in the zoning district where the sales are temporarily located;
2. Itinerant merchants shall file an indemnification form with the Town when engaged in open air sales;
3. Itinerant merchant sales shall be located outside of street rights-of way, required sight distance triangles, required landscape areas, vehicular circulation areas, required off-street parking spaces, and areas where pedestrian access is needed to ensure safe movement through or across a site;
4. Signage shall comply with the applicable standards in Section 6.13, Signage;
5. All merchandise and related materials shall be removed from the site following the sale;
6. The maximum period of operation of itinerant merchant sales shall be from 8:00 AM to 11:00 PM; and
7. Permitted itinerant merchant sales shall be limited in duration to a maximum of 45 continuous days from the date the Temporary Permit is issued.

B. OUTDOOR SEASONAL SALES

Outdoor seasonal sales are permitted on a lot in all zoning districts, except lots occupied by residential uses, subject to the following standards:

1. Seasonal sales shall be limited to seasonal agricultural products such as Christmas trees, pumpkins, and living plants;
2. The maximum hours of operation of an outdoor seasonal sales use shall be from 8:00 AM to 11:00 PM, except when located in a residential district, then the seasonal sales use shall cease by 9:00 PM;
3. Exterior lighting shall comply with the requirements in Section 6.4, Exterior Lighting;
4. One recreational vehicle is allowed as a temporary dwelling for security purposes in association with the seasonal sales use, provided it meets the general standards of Section 4.6.5F, Temporary Dwelling, and is removed at the end of the sales;
5. The on-site secondary sale of seasonal products by an agricultural use or retail sales use is not considered outdoor seasonal sales and is not subject to these standards; and

6. Outdoor seasonal sales shall be limited in duration to a maximum of 45 continuous days from the date the Temporary Permit is issued.

C. OTHER SPECIAL EVENTS

1. EXEMPT EVENTS

A special event is not subject to the requirements in this section, if:

a. The event lasts one day or less within a 180-day period on a lot with an established principal use; or

b. The event is sponsored by the Town, a county, or the State.

2. SUBJECT TO THIS ORDINANCE

A special event not otherwise exempted from the standards in this section is permitted on a lot in a non-residential zoning district, subject to the following standards:

a. A special event includes, but is not limited to arts and crafts shows, cultural events, musical events, concerts, and stage shows, celebrations, festivals, fairs, carnivals, circuses, or outdoor religious events; and

b. Circuses, carnivals, and similar amusements may be subject to the applicable provisions of the Town Code of Ordinances.

D. PORTABLE STORAGE CONTAINERS

1. RESIDENTIAL USES

Storage in a storage container (e.g., a portable storage container) may be permitted as a temporary use to a single-family detached, single-family attached, duplex, triplex, or quadplex dwelling unit, subject to the following standards.

a. TYPES DISTINGUISHED

Storage containers shall take one of the following two forms:

i. A container used for the purposes of storage of personal property such as household items being temporarily stored or relocated; or

ii. A roll-off box, bin, or construction dumpster used for the collection and hauling of waste or debris.

b. PERMIT REQUIRED

A building permit shall not be required for a storage container, but a temporary use permit issued in accordance with Section 2.3.25, Temporary Permit, is required.

c. EXEMPTIONS

The standards in this section shall not apply to storage containers used as temporary construction trailers, construction dumpsters, or construction materials recycling facilities, provided construction on the site is on-going.

d. MAXIMUM SIZE

Containers shall be no larger in dimension than eight feet in height, eight feet in width, or 20 feet in length.

e. MAXIMUM NUMBER

No more than two storage containers shall be located on a single lot or parcel of land.

f. HAZARDOUS SUBSTANCES

Storage containers shall not be used to store or transport non-residential materials and substances, including but not limited to the following: solid waste, hazardous materials, explosives, or unlawful substances and materials.

g. LOCATION

i. A storage container may be located in a driveway, a designated parking area, or behind a dwelling.
ii. If site conditions make placement of the storage container behind a dwelling, on a driveway, or in a designated parking area impossible, then the storage container may be located immediately adjacent to the driveway or designated parking area.
iii. A storage container shall not be located between the front of a dwelling and the street it faces unless any other placement is impossible due to site conditions.
iv. In no instance shall a storage container be located within a Town street, public street right-of-way, or in a location that poses a threat to public health or safety.

h. DURATION

i. Storage containers may be located on a site for a maximum of up to 90 days per calendar year. This period may be renewed once by the Planning Director, for good cause shown, as determined in the sole discretion of the Planning Director, and based upon factors outside the control of the applicant.
ii. In no instance shall these standards be construed to allow placement of one or more storage containers on a single site for more than 90 days in any single calendar year.

2. NON-RESIDENTIAL AND MIXED USES

Storage of goods, products, or materials within a storage container (e.g., portable storage container, shipping container, etc.) may be permitted as a temporary use as part of a lawfully established non-residential or mixed-use, subject to the following standards:

a. TYPES DISTINGUISHED

Storage containers shall take one of the following four forms:

i. A portable storage container (sometimes referred to a as a "POD") used for the purposes of storage of finished goods or bulk materials within packaging;
ii. A shipping container;
iii. A roll-off box, bin, or construction dumpster used for the collection and hauling of waste or debris; or
iv. A fully-enclosed, non-motorized, trailer (commonly known as a semi-trailer) with wheels intended to be towed to a site for the purpose of storage or transport of goods, materials, or equipment.

b. PERMIT REQUIRED

A building permit shall not be required for a storage container, but a temporary use permit issued in accordance with Section 2.3.25, Temporary Permit, is required.

c. EXEMPTIONS

The standards in this section shall not apply to storage containers used as temporary construction trailers, construction dumpsters, or construction materials recycling facilities, provided construction on the site is on-going.

d. MAXIMUM SIZE

Containers shall be no larger in dimension than ten feet in height, eight feet in width, or 40 feet in length.

e. MAXIMUM NUMBER

No more than four storage containers shall be located on a single lot or parcel of land.

f. HAZARDOUS SUBSTANCES

Storage containers shall not be used to store or transport solid waste, hazardous materials, explosives, or unlawful substances and materials.

g. LOCATION

i. A storage container may be located to the side or rear of a building, but shall not be located between a primary building wall and the street.
ii. If site conditions make placement of the storage container behind or beside a building impossible, then the storage container may be located within designated parking or loading area provided such placement does not interfere with the safe operation of vehicles and provided the placement does not render the site nonconforming with respect to off-street parking space requirements.
iii. In no instance shall a storage container be located within a Town street, public street right-of-way, or in a location that poses a threat to public health or safety.

h. DURATION

i. Portable storage containers may be located on a site for a maximum of up to 90 days per calendar year.
ii. In no instance shall these standards be construed to allow placement of one or more storage containers on a single site for more than 90 days in any single calendar year.

E. TEMPORARY DISASTER DWELLING

A temporary disaster dwelling unit is permitted on a lot in a residential, business, special, or conditional zoning district, subject to the following standards:

1. One temporary dwelling may be used to house occupants of the principal dwelling under construction or subject to repair due to a disaster, natural or fire or other damage.
2. Temporary dwellings shall be located on the same lot as the structure under construction.
3. Temporary emergency dwellings operated by a religious institution, governmental agency, or nonprofit organization may be located to provide emergency shelter where fire, flood, or other natural disaster has displaced persons.
4. A temporary dwelling shall be removed within 30 days of issuance of a certificate of occupancy for the structure, or removed immediately if the building permit expires or is revoked.
5. A temporary dwelling shall be limited in duration to a maximum of twelve months, except that the Temporary Permit may be renewed for good cause shown.

F. TEMPORARY DWELLING

A temporary dwelling is permitted on a lot while a permanent dwelling is being constructed, subject to the following standards:

1. GENERAL STANDARDS

a. A temporary dwelling may be either a dwelling that meets all applicable North Carolina Building Code requirements for a dwelling or a recreational vehicle.
b. The temporary dwelling shall be located on the lot in a manner to meet the dimensional standards of the zoning district, to the maximum extent practicable.
c. One temporary dwelling may be used to house occupants of the principal dwelling under construction or subject to repair.
d. Temporary dwellings may be used on a construction site and occupied by persons having construction or security responsibilities over such construction site.
e. Temporary dwellings shall be located on the same lot as the structure under construction.
f. The temporary use permit shall not be issued until a Site Plan is approved or a Building Permit is issued for the principal structure.

2. DURATION

a. A temporary dwelling shall be removed within 30 days of issuance of a Certificate of Occupancy for the structure, or removed immediately if the Building Permit expires or is revoked.

b. A temporary dwelling shall be limited in duration to a maximum of six months, except that the Temporary Use Permit may be renewed for good cause shown.

G. TEMPORARY FENCING

Temporary fencing shall require approval of a Temporary Use Permit in accordance with Section 2.3.25, Temporary Permit, and shall be subject to the following standards:

1. Temporary fencing sections shall be adequately secured to the ground in order to prevent uplift, movement, or shifting;
2. Temporary fencing shall be located outside of rights-of-way unless subject to prior approval by the owner of the right-of-way;
3. Temporary fencing shall maintain a minimum height of at least four feet in accordance with OSHA regulations, but in no instance shall temporary fencing exceed a maximum height of six feet above grade;
4. Temporary fencing that includes screening cloth or other opaque material shall not be located within a required sight distance triangle; and
5. Temporary fencing may be comprised of chain link, wire, or plastic, but shall comply with the standards in Section 6.3.4D, Restricted Fence Materials.

H. TEMPORARY OFFICE

A temporary office is permitted on a lot in a non-residential zoning district, subject to the following standards:

1. The office is located on a lot that is part of the development being sold or leased;
2. Signage complies with the standards of Section 6.13, Signage;
3. The office complies with the dimensional standards of the zoning district in which it is located;
4. The temporary office is converted into a dwelling or removed within 30 days after all units are sold or leased; and
5. In the event a temporary office is a trailer, it shall be removed within 30 days after all units are sold or leased.

I. TEMPORARY USES ON TOWN-OWNED LAND IN THE PUB DISTRICT

1. PURPOSE AND INTENT

This section provides standards for temporary uses and structures on Town-owned lots located in the PUB zoning district. This section outlines the permitting requirements and standards for temporary uses and structures often required as a part of new projects and routine maintenance on Town facilities.

2. APPLICABILITY

The provisions of this section shall only apply to lands in the Public Facilities (PUB) zoning district. These provisions shall apply to all types of applications regardless or the review procedures by which they are approved, unless otherwise specified in this Ordinance. These standards may be modified by other applicable standards or requirements in this Ordinance.

3. STANDARDS

At the Planning Director's discretion, a Temporary Use Permit may be granted for placement of mobile or modular structures in the PUB district for up to one year, subject to the following standards:

a. GENERALLY

All temporary uses and structures shall:

i. Not be placed within a public right-of-way;
ii. Meet all current zoning standards for building height, impervious surface, and setbacks;
iii. Have active Building and Zoning Compliance Permits;
iv. Be shown on an approved Site Plan and Construction Drawings;
v. Conform to structural strength and uplift requirements;
vi. Show the occupancy, means of egress, and occupant load for all temporary structures;
vii. Be provided with a portable fire extinguisher in accordance with the State Building Code;
viii. Not include permanent alterations to the site; and
ix. Not interfere with the normal operations or any permanent use on the site.

b. TEMPORARY PARKING

i. Temporary parking areas associated with uses subject to these standards may be unpaved and may be used regardless of whether a structure exists at the site.
ii. Temporary parking areas are exempt from the standards in Section 6.6.11, Off-Street Parking Lot Landscaping.

c. TEMPORARY USE PERMIT RENEWAL

i. Upon expiration, a Temporary Use Permit may be renewed for up to one year by the Town Council.
ii. A Temporary Use Permit approved under this section may be renewed up to two times.
iii. The maximum period of time a temporary use that is permitted under these standards may a be in place is three years.

d. SITE RESTORATION

Applicants shall be required to either restore the site, structure, or parking area to its original condition, or construct a permanent site, structure, or parking area in accordance with plans and permits approved in accordance with this Ordinance.

J. TEMPORARY WIRELESS COMMUNICATIONS FACILITY

A temporary wireless telecommunications facility shall comply with the following standards:

1. A temporary wireless telecommunications facility may be allowed on a lot after a disaster or other emergency for a period not to exceed 30 days, except that the Temporary Permit may be renewed for good cause shown;
2. A temporary wireless telecommunications facility may be allowed on a lot to evaluate the technical feasibility of a site for a period not to exceed 14 days, except that the Temporary Permit may be renewed for good cause shown;
3. A temporary wireless telecommunications facility may be allowed on a lot in association with an event where the anticipated demand cannot be handled by existing facilities for a period not to exceed 14 days;
4. A temporary wireless telecommunications facility may be allowed on a lot with an existing permanent wireless telecommunications facility where the permanent structure is undergoing reconstruction or maintenance, and the temporary facility is needed to maintain sufficient levels of service. The temporary facility shall be removed after reconstruction or maintenance is complete and service restored on the permanent structure; and

5. All temporary wireless telecommunications facilities, including all supporting cables and anchors, shall be contained on the lot.

4.7 UNLISTED USES

4.7.1 PROCEDURE FOR DETERMINATION

A. In the event that a proposed principal, secondary, and temporary use type is not listed in this Ordinance, and such land use is not listed in Section 4.4, Prohibited Uses, or is not otherwise prohibited by law, the Planning Director shall determine whether a materially similar land use exists in this Ordinance.

B. The Planning Director shall determine whether or not an unlisted use is similar to an existing use type based on the definitions in Section 8.3, Terms Defined, the standards for unlisted uses in Section 2.3.9, Determination, and the appropriate table in Section 4.7.2, Use Category Descriptions. Nothing shall limit the Planning Director from seeking input from Town staff, the Planning Board, or the Town Council in determining how to categorize an unlisted use.

C. Should the Planning Director determine that a materially similar land use does exist, the regulations governing that land use shall apply to the unlisted use type and the Planning Director's determination shall be recorded in writing.

D. In cases where a proposed unlisted use type is not found to be similar to an existing use type, the Planning Director may, but shall not be required to, initiate a text amendment application to revise the text of this Ordinance to add the use type in accordance with Section 2.3.26, Text Amendment.

4.7.2 USE CATEGORY DESCRIPTIONS

The following tables set out the range of use categories, use characteristics, and example use types by use classification listed in Section 4.2.5, Listing of Common Principal Uses.

A. AGRICULTURAL USE CLASSIFICATION

Table 4.7.2, Agricultural Use Categories, sets out the use categories included in the agricultural use classification in Table 4.2.5, Listing of Common Principal Uses. It also describes the characteristics and examples of the use types in each use category.

TABLE 4.7.2.A: AGRICULTURAL USE CATEGORIES

USE CATEGORY	CHARACTERISTICS EXAMPLES
Agricultural Processing	The Agricultural Processing Use Category is characterized by uses engaged in the storage, distribution, refinement, packaging, and transport of agricultural products and by-products.
	Example use types include grain and feed elevators, processing, caning, and dehydration plants, as well as storage facilities. Processing of animal products is an industrial use.

TABLE 4.7.2.A: AGRICULTURAL USE CATEGORIES	
USE CATEGORY	CHARACTERISTICS EXAMPLES
Agricultural Production	The Agricultural Production Use Category is characterized by general agricultural activities, including the cultivation and production of orchard, garden, or nursery crops on a small or large scale, the production of field grown crops, specialty crops, flowers, fruit, grapes, market gardening, nursery stock, nuts, ornamental plants, sod, vegetables, and similar horticultural uses. The use category also includes agronomy, aquaculture, biotechnical agriculture (including education parks for biotechnical agriculture or a demonstration farm), fisheries, honey production, and similar uses. Secondary uses may include offices, storage areas and repair facilities related to agriculture uses.
	Example use types include agronomy, aquaculture, biotechnical, crop farming, fisheries, apiculture, silviculture, plant nurseries, and similar uses.
Agricultural Support Services	The Agricultural Support Services Use Category is characterized by commercial establishments engaged in the sales, repair, rental, and storage of tools, equipment, supplies, and machinery in support of farms, farming, agriculture, or horticulture.
	Example use types include farm equipment sales, sales of farming supplies, establishments engaged in repair, refurbishment, servicing of farm equipment (whether on-site or in a centralized location), agricultural research facilities, and similar uses.
Livestock-Related	The Livestock-Related Use Category is characterized by the commercial and non-commercial propagation, rearing, exercising, feeding, milking, housing, controlling, handling, or general care of living animals and livestock.
	Example use types include the raising and production of cattle (beef and dairy), pigs, mules, ducks, horses, goats, poultry, sheep, and similar livestock or domesticated animals. Breeding and rearing of animals typically thought of as household pets (e.g., dogs, cats, small rodents, etc.) is not animal husbandry.

B. COMMERCIAL USE CLASSIFICATION

Table 4.7.2.B, Commercial Use Categories, sets out the use categories included in the commercial use classification in Table 4.2.5, Listing of Common Principal Uses. It also describes the characteristics and examples of the use types in each use category.

TABLE 4.7.2.B: COMMERCIAL USE CATEGORIES	
USE CATEGORY	**CHARACTERISTICS** **EXAMPLES**
Animal Related	The Animal-Related Use Category is characterized by uses related to the provision of medical services and treatment to animals, including veterinary services, animal hospitals, and the boarding of animals related to the provision of these services.
	Examples use types include animal shelters, animal grooming, kennels (outdoor and indoor), animal hospitals, and veterinary clinics.
Eating & Drinking	The Eating and Drinking Use Category includes use types that prepare and sell food and beverages for immediate or direct on- or off-premise consumption. Secondary uses may include bars or cocktail lounges associated with the establishment, decks and patios for outdoor seating, drive-through facilities, facilities for live entertainment or dancing, customer and employee parking areas, and valet parking facilities.
	Example use types include restaurants (including brewpubs) with indoor and outdoor seating, caterers, restaurants, specialty eating establishments (ice cream parlors, bakery shops, dessert shops, juice, or coffee houses). Secondary uses may include bars or cocktail lounges associated with the establishment, decks and patios for outdoor seating, drive-through facilities, facilities for live entertainment or dancing, customer and employee parking areas, and valet parking facilities.
Equipment Related	The Equipment-Related Use Category is characterized by commercial establishments engaged in the rental and repair of large and small equipment, tools, tables, chairs, party supplies, plants, and similar features available for short term rental for consideration.
	Example use types include tool rental, and heavy and light equipment repair/refurbishment uses.
Event Venue	The Event Venue Use Category is characterized by establishments that provide gathering spaces and facilities available for conducting events, receptions, and similar shared experiences. Such facilities are rented hourly or by the day, and may include dining, catering, and activity areas. Secondary uses may include classrooms, accommodations, and equipment storage.
	Example use types include conference halls, conference centers, retreats, wedding venues, and similar spaces.
Financial Services	The Financial Services Use Category includes use types engaged in the provision of financial advice, savings, making of loans, and secure storage of currency or similar valuables.
	Example use types include banks, credit unions, investment offices, payday loan establishments, credit counselling, and pawn shops.
Lodging	The Lodging Use Category includes use types that provide lodging units or space for short-term stays for rent, lease, or interval occupancy. Secondary uses may include pools and other recreational facilities, limited storage, restaurants, bars, supporting commercial, meeting facilities, offices, and parking.

TABLE 4.7.2.B: COMMERCIAL USE CATEGORIES	
USE CATEGORY	CHARACTERISTICS EXAMPLES
	Example use types include hotels, motels, bed and breakfast inns, extended stay facilities, campgrounds, and hunting lodges.
Office Related	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. Secondary 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.
	Example use types include business and sales offices (such as tax preparers, and real estate agents), and professional services (such as lawyers, accountants, engineers, or architects). Offices that are part of and located with a principal use in another use category are considered secondary to the establishment's primary activity. 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. Government offices and medical and dental clinics, medical or dental labs, and blood collection facilities are classified as Institutional uses.
Parking Related	The Parking-Related Use Category includes uses engaged in the provision of short-term, temporary off-site parking for automobile, trucks, motorcycles, battery powered vehicles, and similar vehicles intended for personal transport. Such uses may or may not permit the temporary storage of trailers and similar vehicle-related appurtenances.
	Example use types include parking lots and parking structures. Uses engaged in sales or rental are vehicle-related uses.
Personal Services	The Personal Service Use Category is characterized by use types related to the provision of services or product repair for consumers. Personal services use types meet frequent or recurrent service needs of a personal nature, including the repair of small personal items such as shoes, watches, jewelry, and clothing.
	Example use types include laundromats, laundry and dry-cleaning drop-off establishments, photographic studios, mailing or packaging services, photocopy and blueprint services, funeral homes, fitness centers, locksmiths, hair salons and barber/beauty shops, tanning and nail salons, tattoo parlors and body piercing establishments, massage therapy and day spas, dance or music instruction, and psychics or mediums.
Recreation Related	The Recreation-Related Use Category is characterized by use types that provide recreational, amusement, and entertainment opportunities that are privately-owned and commercial in nature. Uses may be either indoors, outdoors, or both.

TABLE 4.7.2.B: COMMERCIAL USE CATEGORIES	
USE CATEGORY	**CHARACTERISTICS** **EXAMPLES**
	Example use types include recreational uses occurring outdoors (private golf driving ranges and privately-owned miniature golf facilities; go-cart racing, race-track, or dirt-track facilities; water parks, and amusement parks; and privately-owned active sports facilities), billiard halls, indoor commercial recreation uses, bowling alleys, movie theatres, dance and yoga studios, fitness centers, sports instructional schools, martial arts instruction, and similar uses.
Retail Sales	The Retail Sales Use Category includes use types involved in the sale, lease, or rent of new or used products primarily intended for the general public. Secondary uses may include offices, storage of goods, limited assembly, processing, or repackaging of goods for on-site sale, concessions, ATM machines, outdoor display/sales areas, and parking. Use types within this use category are categorized based on their intensity, scale, and function.
	Example use types include 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, florist shops, garden supply centers, gift shops, grocery stores, hardware stores, stores that sell household products, jewelry stores, office supply stores, pet and pet supply stores, and pharmacies. Secondary uses may include storage of products for sale, offices, concessions, seating areas, areas for testing of products prior to purchase, and provision of product-related service or repair.
Sexually-Oriented Business	An adult use as defined in Section 14-202.10(2) of the North Carolina General Statutes.
Storage Related	The Storage-Related Use Category includes uses engaged in the temporary short-term storage of goods, personal property, vehicles, and similar aspects in off-site areas. Storage of goods can take place in indoor and outdoor facilities.
	Example use types include self-storage facilities.
Vehicle Related	The Vehicle-Related Use Category includes use types involving the direct sale; rental; storage; and servicing of automobiles, trucks, boats, motorcycles, recreational vehicles, 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. Secondary uses may include offices, sales of parts, maintenance facilities, parking, outdoor display, and vehicle storage.

TABLE 4.7.2.B: COMMERCIAL USE CATEGORIES	
USE CATEGORY	CHARACTERISTICS EXAMPLES
	Example use types include vehicle sales or rentals; automotive repair and servicing; automotive painting/bodywork; boat and marine sales or rental; aircraft parts, sales, and maintenance; transmission shops; automotive wrecker services; oil change, state vehicle inspection, and muffler shops; automotive parts sales and maintenance; car wash and auto detailing; and tire sales and mounting services.

C. INDUSTRIAL USES

Table 4.7.2.C, Industrial Use Categories, sets out the use categories included in the industrial use classification in Table 4.2.5, Listing of Common Principal Uses. It also describes the characteristics and examples of the use types in each use category.

TABLE 4.7.2.C: INDUSTRIAL USE CATEGORIES	
USE CATEGORY	CHARACTERISTICS EXAMPLES
Energy Related	The Energy-Related Use Category is characterized by establishment engaged in the industrial-scale production of energy (electricity).
	Example use types include solar energy conversion, wind energy conversion, geothermal, and gas energy conversion activities, as well as coal-fired plants, natural gas plants, and hydro-electric facilities.
Extractive Industry	The Extractive Industry Use Category includes use types involving the extraction, removal, or basic processing of minerals, liquids, gases, or other natural resources. Such uses also include quarrying, well operation, drilling, mining, or other procedures typically done at an extraction site. Secondary uses may include offices, limited wholesale sales, security or caretaker's quarters, outdoor storage, and maintenance facilities.
	Examples use types include quarries, borrow pits, mining, and sand and gravel operations.
Flex Space	The Flex Space Use Category includes uses engaged in the provision of covered floor area available for short-term or long-term rental for the conduct of light industrial, assembly, storage, office, and related functions.
	Example use types include industrial floor area that is available for rental and configuration as a wide variety of use types.

TABLE 4.7.2.C: INDUSTRIAL USE CATEGORIES	
USE CATEGORY	CHARACTERISTICS EXAMPLES
Industrial Services	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 use types perform services off-site. Few customers, especially the general public, come to the site. Secondary activities may include limited retail or wholesale sales, offices, parking, warehousing, and outdoor storage.
	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. Contractors and others who perform services off-site are included in the Office Use Category under Commercial Use Classification if equipment and materials are not stored outside and no fabrication, services, or similar work is carried on at the site.
Manufacturing	The Manufacturing 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. Secondary 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.
	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, the manufacture of other wood products; production or repair of small machines or electronic parts and equipment; and similar uses.
Utility-Related	The Utility-Related Use Category is characterized by activities associated with the provision of a utility or infrastructure-related service such as electricity distribution, potable water treatment, storage, or delivery, wastewater collection, storage, or treatment. Facilities are classified as major or minor depending upon their impacts or scale.

TABLE 4.7.2.C: INDUSTRIAL USE CATEGORIES	
USE CATEGORY	CHARACTERISTICS EXAMPLES
	Example use types include potable water treatment plants, utility equipment and storage yards, utility substations, water towers, pump stations, stormwater management facilities, telephone exchanges, and facilities serving transit.
Warehouse-Related	The Warehouse-Related 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. Secondary uses include offices, truck fleet parking, outdoor storage, and maintenance areas.
	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; and outdoor storage (as a principal use). Self-storage is a commercial use type.
Waste-Related	The Waste-Related 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 wastes from others. Secondary uses may include offices, outdoor storage, recycling of materials, and repackaging and trans-shipment of by-products.
	Example use types include recycling and salvage centers, convenience centers, transfer stations, land clearing and construction debris landfills, tire disposal or recycling, waste composting, incinerators, energy recovery plants, salvage yards and junkyards, and recycling drop-off centers.
Wholesale Sales	The Wholesale 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. Secondary uses may include offices, product repair, warehouses, minor fabrication services, outdoor storage, and repackaging of goods.
	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.

D. INSTITUTIONAL USES

Table 4.7.2.D, Institutional Use Categories, sets out the use categories included in the institutional use classification in Table 4.2.5, Listing of Common Principal Uses. It also describes the characteristics and examples of the use types in each use category.

TABLE 4.7.2.D: INSTITUTIONAL USE CATEGORIES

USE CATEGORY	CHARACTERISTICS EXAMPLES
Assembly	The Assembly Use Category is characterized by uses and facilities that bring people together for the purposes of learning or discussion, worship, recreation, or as part of a fraternal organization. Secondary uses may include entertainment or recreation facilities, day care, food preparation facilities, offices, parking, and similar features.
	Example use types include auditoriums, community centers, fraternal clubs, lodges, and religious institutions. Schools are included in the education related category.
Cultural Facility	The Cultural Facility Use Category includes use types of a public, nonprofit, or charitable nature that provide cultural amenities and educational services. Services and facilities typically include meeting areas, display areas, recreational features, as well as indoor facilities used primarily for business or professional conferences, seminars, and training programs. Generally, such uses are open to or provide services to members of the general public. Secondary uses may include parking, training facilities, kitchens/cafeterias, recreation areas, offices, meeting rooms, storage, food sales or consumption.
	Example use types include museums, libraries, senior centers, youth clubs, and art galleries.
Day Care	The Day Care Use Category includes use types that provide care, protection, and supervision for children or adults on a regular basis away from their primary residence, and for less than 24 hours a day. Care can include education and development activities. Care can be provided during daytime or nighttime hours. Secondary uses include offices, food preparation, recreation areas, and parking.
	Example use types day care centers, nurseries, nursery schools, adult day care facilities. Home day care is considered a secondary use. Drop-in or short-term day care provided in connection with employment or at a shopping center, recreational facility, religious institution, hotel, or other principal uses are not included in the Day Care Use Category.
Education Related	The Educational Use Category is characterized by uses engaged in the provision of educational services to children and adults, whether through public or private learning institutions. Secondary uses include living quarters, food preparation facilities, recreational facilities, offices, gathering spaces, and related activities.
	Example use types include primary and secondary schools, colleges, vocational schools, and establishments engaged in providing training whether for profit or as a community service.

TABLE 4.7.2.D: INSTITUTIONAL USE CATEGORIES	
USE CATEGORY	**CHARACTERISTICS** **EXAMPLES**
Governmental Related	The Government-Related Use Category includes facilities and establishments engaged in governance and the provision of governing-related services, public safety, and operations.
	Example use types include governmental offices, governmental maintenance facilities, post offices, law enforcement facilities, fire stations, and similar uses.
Health Care	The Health Care Use Category includes use types that provide medical or surgical care and treatment to patients as well as laboratory services. Secondary uses may include offices, laboratories, laundry facilities, teaching facilities, meeting areas, cafeterias, parking, maintenance facilities, housing for staff or trainees, and limited accommodations for family members.
	Example use types include hospitals, outpatient medical facilities, urgent care providers, medical offices (doctors, dentists, radiologists, etc.), clinics, congregate care, memory care, drug and alcohol treatment facilities, psychiatric treatment facilities, and blood/tissue collection facilities.
Open Space	The Open Space 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. Secondary uses may include club houses, recreational structures, statuary, fountains, maintenance facilities, concessions, parking, and columbaria and mausoleums (as secondary to cemeteries).
	Example use types include arboretums or botanical gardens, parks, community gardens, areas of undisturbed vegetation on land owned by the public or a conservation entity, and cemeteries.
Recreation Related	The Recreation Use Category includes active and passive recreation uses and facilities (whether indoor or outdoor) that are available for use by the general public or by the residents of a neighborhood or community.
	Example use types include athletic fields or courts, swim clubs, country clubs, golf courses, indoor recreation uses, and similar facilities.
Telecommunications	The Telecommunications Use Category is characterized by uses and facilities engaged in the provision of wireless telecommunication signals and information.
	Example use types include telecommunications antennae, signal processing equipment, antenna supporting structures, broadcasting studio and broadcasting towers.
Transportation	The Transportation Use Category includes use types that provide for the landing and takeoff of airplanes and helicopters, and passenger terminals for surface transportation. Secondary uses may include freight handling areas, concessions, offices, parking, maintenance, and fueling facilities.

TABLE 4.7.2.D: INSTITUTIONAL USE CATEGORIES	
USE CATEGORY	CHARACTERISTICS EXAMPLES
	Example use types include airports, helicopter landing facilities, and passenger terminals for ground transportation (train, bus). Transit route facilities such as bus stops, bus shelters, and park-and-ride facilities are classified as Utilities.

E. RESIDENTIAL USES

Table 4.7.2.E, Residential Use Categories, sets out the use categories included in the residential use classification in Table 4.2.5, Listing of Common Principal Uses. It also describes the characteristics and examples of the use types in each use category.

TABLE 4.7.2.E: RESIDENTIAL USE CATEGORIES	
USE CATEGORY	CHARACTERISTICS EXAMPLES
Assisted Living	The Assisted Living Use Category is characterized by establishment providing residential occupancy to unrelated individuals in need of care, treatment, or assistance. Assistance may take the form of daily life care, specialized medical care, counselling, addiction, or fostering services.
	Example use types include congregate care, nursing homes, rehabilitation centers, and retirement communities.
Group Living	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 typically arranged on a monthly or longer basis. Generally, group living structures have a common eating and or congregating area for residents. The residents may receive care, training, or treatment. Secondary uses include recreational facilities, dining facilities, and parking of vehicles for occupants and staff.
	Example use types include dormitories, family care homes, group homes, rooming, boarding houses, and similar uses. Facilities for rehabilitation or the treatment of addiction are considered assisted living facilities.
Household Living	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. Secondary uses commonly associated with household living are recreational activities, raising of pets, hobbies, and parking of the occupants' vehicles. Home occupations are secondary uses that are subject to additional regulations.

TABLE 4.7.2.E: RESIDENTIAL USE CATEGORIES	
USE CATEGORY	CHARACTERISTICS EXAMPLES
	Example use types include detached residential dwellings like single-family detached dwellings or manufactured homes, attached residential structures like townhouses, multi-family uses, upper story dwellings, and similar uses.

CHAPTER 5
NONCONFORMITIES

5.1 Chapter Introduction **394**
5.1.1 Purpose and Intent 394
5.1.2 Determination of Nonconforming Status 394
5.1.3 Maintenance, Minor Repairs, and Continuation Allowed 394
5.1.4 Tenancy and Ownership Changes 395
5.1.5 Overlay Zoning Districts 395

5.2 Nonconforming Lots of Record **396**
5.2.1 Applicability 396
5.2.2 Nonconforming Lot Width or Area 396
5.2.3 Nonconformity Affects Setbacks 396
5.2.4 Further Subdivision Limited 397
5.2.5 Governmental Acquisition of Land 397
5.2.6 Nonconforming Special Purpose Lot 397

5.3 Nonconforming Signs **398**
5.3.1 Applicability 398
5.3.2 Maintenance of Nonconforming Signage Allowed 398
5.3.3 Replacement of Nonconforming Signage 398
5.3.4 Amortization of Nonconforming Outdoor Advertising 399

5.4 Nonconforming Site Features **400**
5.4.1 Applicability 400
5.4.2 Determination of Cost and Assessed Value 400
5.4.3 Change of Use 400
5.4.4 Reconstruction of Principal Structure 401
5.4.5 Expansion of Existing Principal Structure 401
5.4.6 Expansion of Outdoor Use Area 401
5.4.7 Two or Fewer Additional Parking Spaces 401
5.4.8 Physically-Constrained Properties 401

5.5 Nonconforming Structures **402**
5.5.1 Applicability 402
5.5.2 Continuation and Replacement 402
5.5.3 Alteration and Expansion 402
5.5.4 Compliance with Design Standards 402
5.5.5 Reconstruction Following Damage 402

5.6 Nonconforming Uses **403**
5.6.1 Declared Incompatible 403
5.6.2 Continuation Allowed 403
5.6.3 Increasing Elevation 403
5.6.4 Separation Requirements 403
5.6.5 Extension or Expansion 403
5.6.6 Conversion 404
5.6.7 Restoration Following Casualty Damage 404
5.6.8 Cessation 405
5.6.9 Rezoning 405

5.1 CHAPTER INTRODUCTION

5.1.1 PURPOSE AND INTENT

There are existing structures, uses of land, signs, and lots of record that were lawfully established before the effective date of this Ordinance or a subsequent amendment thereto, that now do not conform to standards and requirements of this Ordinance. Such uses, structures, signs, and lots are collectively referred to as "nonconformities" that are subject to the standards in this Chapter. The purpose of this Chapter is to establish the rules under which nonconformities may continue and how their continued existence may be affected by changing conditions. More specifically, these standards are intended to:

A. Allow lawfully-established nonconformities to continue;

B. Encourage routine maintenance and activities necessary to preserve or improve public safety associated with a lawful nonconformity;

C. Foster compliance with development and design standards as part of redevelopment or expansion of a nonconforming site;

D. Clarify how certain nonconformities may be continued or re-established following casualty damage;

E. Limit the re-establishment of a nonconformity following its discontinuance; and

F. Require removal of nonconforming signage following cessation of the use being advertised.

5.1.2 DETERMINATION OF NONCONFORMING 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 nonconformity is located.

5.1.3 MAINTENANCE, MINOR REPAIRS, AND CONTINUATION ALLOWED

A. CONTINUATION

Nonconformities are allowed to continue in accordance with the requirements of this Chapter.

B. COMPLETION

1. Nonconforming projects incomplete as of January 2, 2024, shall only be completed in accordance with this Chapter and Section 1.10.2, Existing Nonconformities.
2. Nothing in these standards shall require a change in approved plans or uses for development upon which construction was lawfully commenced prior to January 2, 2024, even though the development is nonconforming.

C. MAINTENANCE ALLOWED

Incidental or minor repairs and routine maintenance necessary to keep a nonconformity in safe and sound condition are permitted and encouraged. Activities that amount to an expansion of a nonconformity may only be permitted in accordance with the provisions of this Ordinance.

D. STRENGTHENING ALLOWED

1. Nothing in this Ordinance shall prevent the strengthening or restoration to a safe or lawful condition of any part of any building or structure declared unsafe or unlawful by a duly authorized Town official.
2. Nothing shall prevent the elevation of habitable or conditioned floorspace to a point above the regulatory floodplain or freeboard elevation, as appropriate.

5.1.4 TENANCY AND OWNERSHIP CHANGES

Nonconforming status shall run with the land and is not affected by a change in tenancy, ownership, or management.

5.1.5 OVERLAY ZONING DISTRICTS

Nonconformities located on lots within an overlay zoning district shall be subject to the standards for the overlay district in accordance with Section 3.7, Overlay Zoning Districts.

5.2 NONCONFORMING LOTS OF RECORD

5.2.1 APPLICABILITY

Lawfully established nonconforming lots of record may be developed in accordance with the standards in this section.

5.2.2 NONCONFORMING LOT WIDTH OR AREA

A. SINGLE LOT OF RECORD IN A DOWNTOWN OR RESIDENTIAL ZONING DISTRICT

1. When a lawfully-established single lot of record in a downtown or residential zoning district has a lot width or area that does not conform to the dimensional requirements of the district where it is located, a single-family detached dwelling may be built on the lot, provided the dwelling complies with the applicable setback standards to the maximum extent practicable.
2. In cases where the single-family detached dwelling is a manufactured or mobile home, such dwelling may only be established in zoning districts that permit such uses, and the dwelling shall comply with applicable setback standards, to the maximum extent practicable.
3. An Administrative Adjustment or Variance to lot width or lot area shall not be required to establish a single-family detached dwelling as a principal structure on lots subject to these standards.

B. SINGLE LOT OF RECORD IN A NON-RESIDENTIAL ZONING DISTRICT

1. When a lawfully-established single lot of record in a non-residential or mixed-use zoning district has a lot width or area that does not conform to the dimensional requirements of the district where it is located, then development on the lot may be permitted, subject to compliance with all other required dimensional, development, and design standards.
2. An Administrative Adjustment or Variance to lot width or lot area standards shall not be required to establish permitted principal structures on lots subject to these standards.

C. LOTS WITH CONTIGUOUS FRONTAGE IN ONE OWNERSHIP

Whenever two or more contiguous vacant lots are in single ownership, and the lots individually or together have less minimum lot area than is required for the zoning district where located, such lots shall be combined via an Exempt Subdivision or Minor Subdivision in order to reduce the nonconformity.

D. ADDITION OF LAND ENCOURAGED

Landowners seeking to develop a nonconforming lot of record are strongly encouraged to investigate if adjacent landowners will consider transferring land to the nonconforming lot in order to reduce or remove the nonconforming situation.

5.2.3 NONCONFORMITY AFFECTS SETBACKS

A. In cases where the size or shape of a nonconforming lot inhibits the ability of a use to comply with required setbacks, an applicant may apply to reduce the setback requirements the minimum amount necessary in accordance with the standards and requirements in Section 2.3.1, Administrative Adjustment, or Section 2.3.29, Variance.

B. Development of a single-family detached dwelling on a lawfully-established nonconforming lot of record within a downtown or any residential zoning district shall comply with the applicable

setbacks to the maximum extent practicable., but shall not be required to request an Administrative Adjustment or a Variance.

5.2.4 FURTHER SUBDIVISION LIMITED

The boundaries, shape, or size of a nonconforming lot may be modified in accordance with Section 2.3.18, Minor Subdivision, provided such modification does not increase the extent of the nonconformity.

5.2.5 GOVERNMENTAL ACQUISITION OF LAND

Lawfully-established conforming lots of record subject to governmental acquisition of a portion of the lot for a public purpose where the acquisition results in the lot no longer complying with required minimum lot area, width, or setback standards of the district shall be deemed conforming provided the development complies with the following:

A. COMPLIES WITH USE TABLE

The development proposed complies with the requirements in Table 4.2.5, Listing of Common Principal Uses; and

B. COMPLIES WITH APPLICABLE USE-SPECIFIC STANDARDS

The development continues to apply with all applicable use-specific standards in Section 4.3, Standards for Specific Principal Uses.

5.2.6 NONCONFORMING SPECIAL PURPOSE LOT

In cases where a use or feature on a lawfully-established special purpose lot ceases or is abandoned, the special purpose lot shall be considered a nonconforming special purpose lot. Development on a nonconforming special purpose lot shall comply with all applicable dimensional requirements of the zoning district where it is located, or shall be subject to an approved Administrative Adjustment or Variance.

5.3 NONCONFORMING SIGNS

5.3.1 APPLICABILITY

A sign that was legally in existence on January 2, 2024, and was constructed in accordance with the applicable laws and ordinances in effect, but by reason of its size, height, location, design, or construction is no longer in compliance with the requirements of this Ordinance, shall be deemed a nonconforming sign subject to the standards in this section.

5.3.2 MAINTENANCE OF NONCONFORMING SIGNAGE ALLOWED

A nonconforming sign may remain in place and be maintained, subject to the following standards:

A. MAINTENANCE ACTIONS

Routine maintenance of a nonconforming sign shall be allowed, and shall be limited to the following:

1. Nonstructural repairs, such as repainting or electrical repairs;
2. Incidental alterations which do not increase the degree or extent of the nonconformity; and
3. Changing of copy, as provided in this section.

B. CHANGE OF SIGN COPY

Nonconforming signs may change copy in the form of replacement panels or replacement lettering, provided such change does not impact or reduces the degree of nonconformity.

C. DIGITIZATION

In no instance shall a non-digital existing sign be replaced with a new digital sign. This prohibition includes digitization of existing outdoor advertising.

D. ENLARGEMENT OR ALTERATION

Structural alteration, enlargement, or extension of a nonconforming sign or sign structure shall not be permitted; however, nothing shall limit the ability to modernize an existing and lawfully permitted outdoor advertising sign type in accordance with NCGS§136.131.2.

5.3.3 REPLACEMENT OF NONCONFORMING SIGNAGE

A. REMOVAL

A nonconforming sign that is removed for any reason shall only be replaced with a sign that complies with the provisions of this Ordinance.

B. RELOCATION

1. A nonconforming sign may be relocated on the same lot or within the same development provided:
   a. The need for relocation results solely from right-of-way acquisition or roadway construction;
   b. The relocation complies with the applicable requirements of this Ordinance, including Section 5.3.4, Amortization of Nonconforming Outdoor Advertising; and
   c. The amount of nonconformity is not increased.
2. A lawfully established nonconforming outdoor advertising sign located on property that is annexed for development may be relocated through approval of a Development Agreement (see Section 2.3.10, Development Agreement) or Annexation Agreement, provided the outdoor advertising complies with the applicable requirements in Section

6.13.9, Sign Standards by Sign Type. In no instance shall a nonconforming outdoor advertising sign be relocated to a zoning district that prohibits such forms of signage.

C. DAMAGE

1. If damage to a nonconforming sign from any cause is less than 50 percent of its replacement cost, the sign may be rebuilt or repaired to its original condition in its original location and may continue to be displayed as long as the use it serves remains in operation.
2. If damage from any cause to a nonconforming sign equals or exceeds 50 percent of its replacement cost, the nonconforming sign, including sign supports and mounting hardware, may only be replaced with a sign that complies with the provisions of this Ordinance.
3. For the purposes of this section, "replacement cost" shall be a figure provided by the applicant. The Town may require review of the proposed replacement cost by a qualified third party. The Town staff may determine a reasonable replacement costs based upon this third-party review. Town decisions on the amount of a replacement cost may be appealed in accordance with Section 2.3.2, Appeal.

D. CESSATION OF USE BEING ADVERTISED

In cases where the principal use being advertised by a nonconforming sign is abandoned or ceases for a period of 180 days or more, then the nonconforming sign shall be removed or altered to make it conforming with respect to the applicable requirements in this Ordinance.

E. LOTS WITH NONCONFORMING SIGNAGE

In cases where development that includes nonconforming signage seeks to establish a new ground sign or electronic message board, the nonconforming signage shall be removed from the site prior to the establishment of the new ground signage or electronic message board.

5.3.4 AMORTIZATION OF NONCONFORMING OUTDOOR ADVERTISING

Outdoor advertising located on property that is annexed into Town limits, and properly relocated billboards as allowed by this section, shall be removed within the timeframe established within a Development Agreement or annexation agreement but not to exceed 15 years from the date of annexation.

5.4 NONCONFORMING SITE FEATURES

5.4.1 APPLICABILITY

A. Applications that include any of the following actions shall address nonconforming site features in accordance with the standards in this section:

1. Changes of principal use within an existing single-tenant structure;
2. Demolition of all or substantially all of an existing principal structure;
3. Expansion to the floor area of an existing principal structure totaling 75 percent or more of the structure's assessed value; or
4. Expansion of the outdoor use area of 50 percent or more.

B. For purposes of this section, the term "nonconforming site features" includes only the following:

1. Nonconforming off-street parking;
2. Nonconforming landscaping;
3. Nonconforming screening;
4. Nonconforming open space set-aside;
5. Nonconforming walls or fences; and
6. Nonconforming exterior lighting.

C. Town staff may develop administrative guidelines to assist in the implementation of this section, 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 compliance with the requirements of this Ordinance because of particular site constraints or impacts on adjacent sites.

D. Applications for development on sites with existing structures that do not comply with applicable design standards shall be subject to the applicability standards in Section 6.2.3, Mixed-Use Design Standards, Section 6.2.4, Multi-Family Design Standards, or Section 6.2.5, Non-Residential Design Standards, as appropriate.

5.4.2 DETERMINATION OF COST AND ASSESSED VALUE

A. For the purposes of determining if upgrading of nonconforming site features is required by this section, the cost of the expansion shall be as shown on the approved building permit application. In cases where no building permit is required, the applicant shall provide a written cost estimate detailing the cost of the expansion. The Planning Director may require a written cost estimate to be reviewed by a licensed professional engineer to ensure accuracy.

B. Assessed value shall be based on the most recently available tax records from the county where the development is located.

5.4.3 CHANGE OF USE

A. Except on lots in the Downtown district, in cases where an existing principal use in a single-tenant building is replaced by a different use type, or a vacant principal structure is proposed for occupancy by a new principal use, all nonconforming site features shall be brought into full compliance with all applicable requirements in this Ordinance.

B. In cases where the principal use within a principal structure on a lot within the Downtown district is subject to a change in use, nonconforming site features associated with screening, fences, walls, and exterior lighting shall be brought into full compliance with all applicable requirements of this Ordinance. Full compliance with off-street parking, landscaping, or open space set-aside shall not be required, but are encouraged.

5.4.4 RECONSTRUCTION OF PRINCIPAL STRUCTURE

If all or substantially all of a principal structure is demolished and a new principal structure or structures is proposed, all nonconforming site features shall be brought into full compliance with all applicable requirements in this Ordinance.

5.4.5 EXPANSION OF EXISTING PRINCIPAL STRUCTURE

If an existing principal structure on a lot with nonconforming site features is expanded, the expansion shall require correction of existing nonconforming site features in accordance with this section.

A. 75 PERCENT OR LESS OF STRUCTURE VALUE

Expansions in any one-year period that cost 75 percent or less of the current assessed value of the principal structure shall not require any correction to nonconforming site features.

B. MORE THAN 75 PERCENT OF STRUCTURE VALUE

Expansions to the floor area of an existing principal structure in any one-year period that cost more than 75 percent of the current assessed value of the structure shall require all nonconforming site features be brought into full compliance with all applicable requirements in this Ordinance.

5.4.6 EXPANSION OF OUTDOOR USE AREA

When existing or new outdoor use area other than that necessary for accommodating required off-street vehicular parking spaces or open space set-aside is increased by 50 percent or more, all nonconforming site features shall be brought into full compliance with all applicable requirements in this Ordinance.

5.4.7 TWO OR FEWER ADDITIONAL PARKING SPACES

In cases where two or fewer additional vehicular off-street parking spaces are required as a result of a change in use, demolition, or expansion, the additional vehicular off-street parking shall not be required to be installed, but the applicant may install a comparable number of bicycle parking spaces.

5.4.8 PHYSICALLY-CONSTRAINED PROPERTIES

Only those lands that are physically constrained due to limited lot area, topography, or other environmental considerations may seek a reduction to these standards in accordance with Section 2.3.1, Administrative Adjustment, or Section 2.3.29, Variance.

5.5 NONCONFORMING STRUCTURES

5.5.1 APPLICABILITY

Nonconforming principal and secondary structures shall be subject to the standards in this section.

5.5.2 CONTINUATION AND REPLACEMENT

A. CONTINUATION

A nonconforming structure may be continued in accordance with Section 5.1.3, Maintenance, Minor Repairs, and Continuation Allowed.

B. REPLACEMENT

1. Nonconforming manufactured or mobile homes may be replaced in accordance with the standards in Section 5.6.5B, Manufactured or Mobile Homes.
2. Nothing shall limit activities that increase habitable space of a nonconforming residential structure to a height above the regulatory flood elevation.

C. RELOCATION

A nonconforming structure shall not be moved, in whole or in part, to another location on the parcel of land on which it is located, unless the relocation removes the nonconformity.

5.5.3 ALTERATION AND EXPANSION

A. No nonconforming structure may be altered in any way which increases the nonconformity; however, any nonconforming structure or portion thereof may be altered to decrease the degree of nonconformity.

B. Additions or expansions to a nonconfoming structure that encroaches into a required setback may be permitted provided that no portion of the addition or expansion is closer to a lot line than the closest point of the existing nonconforming structure.

C. Nothing shall limit the elevation of a residential structure as necessary to ensure habitable floor area is outside the regulatory flood elevation provided that the maximum height of the structure complies with the standards for the district where it is located.

5.5.4 COMPLIANCE WITH DESIGN STANDARDS

Applications for expansions, alterations or additions to existing principal nonconforming structures that do not comply with applicable design standards shall be subject to the applicability standards in Section 6.2.3, Mixed-Use Design Standards, Section 6.2.4, Multi-Family Design Standards, or Section 6.2.5, Non-Residential Design Standards, as appropriate.

5.5.5 RECONSTRUCTION FOLLOWING DAMAGE

A. Except for single-family detached dwellings, if a nonconforming structure is damaged or destroyed by any means to an extent of 51 percent or more of its replacement cost or size, it may only be reconstructed in accordance with the requirements of this Ordinance.

B. Nonconforming single-family detached dwellings damaged or destroyed by any means may be restored or reconstructed to the pre-damaged state regardless of the degree of damage or cost of restoration or reconstruction. In no instance shall the restoration or reconstruction increase the level of nonconformity.

5.6 NONCONFORMING USES

The lawful nonconforming use of a structure, land, or water existing as of January 2, 2024, may only be continued in accordance with the standards in this section. The standards in this section shall apply to both principal and secondary uses unless otherwise indicated.

5.6.1 DECLARED INCOMPATIBLE

All nonconforming uses are hereby declared generally incompatible with the permitted uses in the district in which they are located and with the provisions of this Ordinance.

5.6.2 CONTINUATION ALLOWED

Nonconforming uses are allowed to continue, be maintained, and strengthen in accordance with the requirements of this Chapter.

5.6.3 INCREASING ELEVATION

Nothing in this section shall limit the increase in elevation of an existing or damaged building or structure in the Flood Protection Overlay District to a height above the regulatory flood elevation.

5.6.4 SEPARATION REQUIREMENTS

In cases where a use type is lawfully established and in compliance with the applicable standards of this Ordinance, and another use type is subsequently established within a minimum required separation distance required by Section 4.3, Standards for Specific Principal Uses, the initial existing use shall not be rendered nonconforming.

5.6.5 EXTENSION OR EXPANSION

A nonconforming use shall not be extended or expanded to occupy more space or altered in any way that increases the degree of nonconformity, except in accordance with the following standards:

A. SINGLE-FAMILY DETACHED DWELLINGS

1. ADDITIONS

a. A lawfully-established nonconforming single-family detached residential dwelling that is a principal use may be altered or extended to include additional interior floor space or outdoor use area (such as a deck, patio, or other typical feature) in an amount equal to or less than the total floor area of the structure as it existed on January 2, 2024.

b. Any alteration or expansion shall comply with all applicable setback requirements for a single-family detached dwelling in the RMD zoning district.

2. SECONDARY USES OR STRUCTURES

Any lot containing a lawfully-established nonconforming single-family detached dwelling as a principal use may be supplemented with a secondary use or structure meeting the applicable requirements of Section 4.5, Secondary Uses, and the zoning district where located.

B. MANUFACTURED OR MOBILE HOMES

1. An existing nonconforming manufactured or mobile home serving as a principal use may be replaced with another nonconforming manufactured or mobile home provided the replacement mobile or manufactured home:
   a. Is 12 feet wide or wider;
   b. Is in place within 365 days of the removal of the prior nonconforming mobile or manufactured home;

c. Is connected to the public sewer system, or has all the necessary permits from the county health department pertaining to wastewater treatment; and
d. Is surrounded by underpinning comprised of an all-weather base material.

2. Nothing shall require the owner of a mobile home park or manufactured dwelling park to surrender the ability to maintain a lawfully established leasehold or home/dwelling site even after a nonconforming mobile or manufactured home is removed.
3. A mobile home park or manufactured dwelling park may reconfigure individual sites within the park as long as each home or dwelling continues to meet applicable dimensional requirements.
4. In cases where a mobile home park or a manufactured home park is reconfigured by the owner in ways that reduce the total number of individual sites from the number that existed prior to the reconfiguration, the total number of sites shall not be increased after the reconfiguration.
5. A nonconforming mobile home park or manufactured dwelling park shall not be re-established after removal of all mobile homes or manufactured dwellings has taken place.

C. ALL OTHER USES

A nonconforming use may not be extended, expanded, enlarged, or altered in any way that increases the degree of nonconformity.

D. RENOVATION

A nonconforming use may be renovated provided the renovation does not extend, expand, or enlarge the nonconformity or create a new nonconforming use.

5.6.6 CONVERSION

No nonconforming use shall be converted to another nonconforming use. Nonconforming uses may only be converted to a conforming use.

5.6.7 RESTORATION FOLLOWING CASUALTY DAMAGE

A. SIGNIFICANT DAMAGE

1. Except for single-family detached dwellings, a nonconforming use that is damaged by fire, explosion, flood, or other calamity in an amount equal to 51 percent or more of the use's current assessed value may not be restored or reconstructed, except as a conforming use.
2. Nonconforming single-family detached dwellings damaged by fire, explosion, flood, or other calamity may be restored or reconstructed to the pre-damaged state regardless of the degree of damage or cost of restoration or reconstruction.
3. Nonconforming manufactured or mobile homes damaged by fire, explosion, flood, or other calamity in an amount equal to 51 percent or more of the use's current assessed value may be restored or reconstructed only in accordance with the standards in Section 5.6.5B, Manufactured or Mobile Homes.

B. INSIGNIFICANT DAMAGE

If a nonconforming use is damaged by fire, explosion, flood, or other calamity to an extent less than 51 percent of its current assessed value or square footage, it may be restored to its pre-damage condition, provided the degree of nonconformity is not extended, expanded, enlarged, or the use is altered in any way that increases the degree of nonconformity.

5.6.8 CESSATION

A. In the event a nonconforming use is discontinued or abandoned for a period of more than 180 consecutive days, the nonconforming use may only be replaced by a use permitted in the district where located.

B. Any time a nonconforming use is converted to a conforming use, the conforming use shall not revert to the former nonconforming use or any other nonconforming use.

5.6.9 REZONING

A. Nonconforming uses located on land subject to an application for a Conventional or Conditional Rezoning shall either be permitted uses or special uses in the zoning district being requested in the application.

B. In cases where an existing nonconforming use is not permitted within a zoning district being requested, the nonconforming use shall be eliminated prior to the effective date of the application seeking to rezone the land.

C. In cases where an existing nonconforming use is permitted as a special use in a newly-approved conventional zoning district designation, an application for the special use permit (see Section 2.3.22, Special Use Permit) shall be filed within 30 days of the date the rezoning becomes effective or the nonconfoming use shall be eliminated.

CHAPTER 6
STANDARDS

6.1 Access and Circulation 411
- 6.1.1 Purpose and Intent 411
- 6.1.2 Applicability 411
- 6.1.3 Access to Lots 411
- 6.1.4 Driveways 413
- 6.1.5 On-Site Pedestrian Circulation 421
- 6.1.6 Parking Lot Connections 422
- 6.1.7 Sight Distance Triangles 424

6.2 Design Standards and Guidelines 426
- 6.2.1 Section Contents 426
- 6.2.2 Farmland Protection Standards 426
- 6.2.3 Mixed-Use Design Standards 428
- 6.2.4 Multi-Family Design Standards 437
- 6.2.5 Non-Residential Design Standards 446
- 6.2.6 Single-Family Residential Design Guidelines 460

6.3 Fences and Walls 466
- 6.3.1 Purpose and Intent 466
- 6.3.2 Applicability 466
- 6.3.3 Locational Standards 466
- 6.3.4 Materials 467
- 6.3.5 Maintenance 469
- 6.3.6 Maximum Height 469
- 6.3.7 Finished Side 471
- 6.3.8 Measurement 471

6.4 Exterior Lighting 473
- 6.4.1 Purpose and Intent 473
- 6.4.2 Applicability 473
- 6.4.3 Exemptions 473
- 6.4.4 Prohibited Lighting 473
- 6.4.5 Lighting Plan 474
- 6.4.6 Exterior Lighting Standards 475
- 6.4.7 Standards for Specific Site Features and Uses 477
- 6.4.8 Street Lights 479
- 6.4.9 Measurement 479

6.5 Infrastructure 481
- 6.5.1 Purpose and Intent 481
- 6.5.2 Applicability 481
- 6.5.3 Generally 481
- 6.5.4 Bridges and Dams 483
- 6.5.5 Cluster Mailboxes 483
- 6.5.6 Drainage Facilities 485
- 6.5.7 Easements 486
- 6.5.8 Electricity 489
- 6.5.9 Fire Protection 490

6.5.10 Potable Water 490
6.5.11 Refuse Collection 493
6.5.12 Streets 494
6.5.13 Wastewater 506

6.6 Landscaping and Screening 510
6.6.1 Purpose and Intent 510
6.6.2 Applicability 510
6.6.3 Exemptions 511
6.6.4 Landscaping Plan Required 511
6.6.5 Landscaping Timing 512
6.6.6 Maintenance and Inspection Required 512
6.6.7 Plant Material Specifications 514
6.6.8 Plant Measurement 516
6.6.9 Plant Placement 518
6.6.10 Planting Flexibility 519
6.6.11 Off-Street Parking Lot Landscaping 522
6.6.12 Perimeter Buffers 525
6.6.13 Screening 532
6.6.14 Site Landscaping 540
6.6.15 Street Trees 541
6.6.16 Streetscape Buffers 543
6.6.17 Violation and Replacement 546

6.7 Open Space Set-Aside and Parkland 547
6.7.1 Open Space Set-Aside 547
6.7.2 Parkland Dedication 553

6.8 Owners' Associations 556
6.8.1 Purpose 556
6.8.2 Applicability 556
6.8.3 Creation Required 556
6.8.4 Membership Requirements 556
6.8.5 Procedure for Establishment 556
6.8.6 Responsibilities 557
6.8.7 Required Documentation 557
6.8.8 Transfer of Maintenance Responsibility 558
6.8.9 Failure to Maintain is a Violation 558

6.9 Parking and Loading 559
6.9.1 Purpose and Intent 559
6.9.2 Applicability 559
6.9.3 Exemptions 560
6.9.4 Off-Street Parking Requirements 560
6.9.5 Bicycle Spaces 569
6.9.6 Stacking Spaces 571
6.9.7 Parking Lot Configuration 573
6.9.8 Parking Flexibility 576
6.9.9 Off-Street Loading 578
6.9.10 Measurement 580

6.10 Pedestrian Facilities 582
6.10.1 Greenways and Trails 582
6.10.2 Sidewalks and Multi-Use Paths 584

6.11 Resource Conservation Areas 589
6.11.1 Determination of Resource Conservation Areas 589
6.11.2 General Requirements 589
6.11.3 Permitted Uses of Resource Conservation Areas 589

6.11.4 Prohibited Uses of Resource Conservation Areas 589
6.11.5 Ownership and Maintenance 590

6.12 Riparian Buffers 591

6.12.1 Authority 591
6.12.2 Purpose and Intent 591
6.12.3 Applicability 591
6.12.4 Exemptions 592
6.12.5 Zones of The Riparian Buffer 593
6.12.6 Stormwater Runoff Through the Riparian Buffer 594
6.12.7 Platting within a Riparian Buffer 595
6.12.8 Uses 595
6.12.9 Table of Uses 596
6.12.10 Mitigation 607

6.13 Signage 608

6.13.1 Purpose and Intent 608
6.13.2 Applicability 608
6.13.3 Exemptions 608
6.13.4 Nonconforming Signage 609
6.13.5 Prohibited Signs 609
6.13.6 Prohibited Sign Locations 610
6.13.7 Provisions Applicable to All Signs 610
6.13.8 Sign Measurement 614
6.13.9 Sign Standards by Sign Type 617

6.14 Soil Erosion & Sedimentation Control 634

6.14.1 Purpose and Intent 634
6.14.2 Scope and Exclusions 634
6.14.3 Mandatory Standards for Land-Disturbing Activity 635
6.14.4 Effective Date 636
6.14.5 Violations 636
6.14.6 Erosion and Sedimentation Control Plans 637
6.14.7 Inspections 641
6.14.8 Basic Control Objectives 642
6.14.9 Design and Performance Standards 643
6.14.10 Stormwater Outlet Protection 643
6.14.11 Other Disturbed Areas 645
6.14.12 Natural Features 645
6.14.13 Maintenance 645

6.15 Stormwater 647

6.15.1 Authority 647
6.15.2 Findings 647
6.15.3 Purpose 647
6.15.4 Applicability and Jurisdiction 648
6.15.5 Design Manual 650
6.15.6 Effective Date 650
6.15.7 Review Procedures 650
6.15.8 Standards 650
6.15.9 Maintenance 653
6.15.10 Enforcement 657

6.16 Subdivision Design 658

6.16.1 Purpose and Intent 658
6.16.2 Applicability 658
6.16.3 Exemptions 658
6.16.4 Approval and Recordation of Plats Required 658
6.16.5 Easements 659

6.16.6 Landscaping 659
6.16.7 Lot Configuration 659
6.16.8 Monuments 659
6.16.9 Reasonable Relationship 659
6.16.10 School Site Reservations 659
6.16.11 Subdivision Name 660

6.17 Sustainable Development Incentives 661

6.17.1 How to Use These Incentives 661
6.17.2 Purpose and Intent 661
6.17.3 Applicability 661
6.17.4 Type of Incentives 661
6.17.5 Procedure 662
6.17.6 Menu of Sustainable Development Practices 663
6.17.7 Failure to Install or Maintain Sustainable Development Practices 667

6.18 Tree Protection 668

6.18.1 Purpose and Intent 668
6.18.2 Applicability 668
6.18.3 Exemptions 668
6.18.4 Limitation on Development Proposals Following Clear Cutting 668
6.18.5 Retention or Re-Establishment of Tree Canopy Required 669
6.18.6 Tree Canopy Cover Determination 671
6.18.7 Tree Protection During Construction 672
6.18.8 Credit Towards Landscaping and Open Space Standards 673
6.18.9 Remedies For Removal 673
6.18.10 Tree Removal and Topping on Public Property 675

6.1 ACCESS AND CIRCULATION

6.1.1 PURPOSE AND INTENT

The purpose of this section is to establish standards for the safe and efficient ingress into, egress from, and circulation within development sites in the Town's planning jurisdiction for vehicles, pedestrians, and bicyclists. More specifically, these standards are intended to:

A. Protect the health and safety of the Town's residents and visitors;
B. Clarify when access and circulation standards are applied to new development or redevelopment of existing sites;
C. Establish uniform methods for site access and driveway configuration;
D. Protect visibility for motorists, bicyclists, and pedestrians at intersections;
E. Facilitate pedestrian movement around development sites; and
F. Enable vehicles to travel from one parking lot to another without needing to enter a street right-of-way.

6.1.2 APPLICABILITY

A. GENERALLY

Unless otherwise expressly exempted from these standards elsewhere in this Ordinance, these access and circulation standards shall apply to all new development in the Town's planning jurisdiction.

B. REDEVELOPMENT

Compliance with these standards shall also apply to redevelopment of an existing principal building, parking lot, or outdoor use that is proposed for an expansion or an increase in intensity by 50 percent or more.

C. REVIEW REQUIRED

Revisions to the access or on-site circulation system of a developed lot or site shall require site plan approval in accordance with Section 2.3.21, Site Plan.

6.1.3 ACCESS TO LOTS

Except where authorized in accordance with Section 6.1.4D.5, Alternative Access, all development subject to these standards shall comply with the following:

A. ACCESS REQUIRED FOR ALL LOTS

1. Every lot shall abut or have driveway access to a public or private street.
2. No building or structure shall be constructed or placed on a lot that does not abut or have driveway access to a public or private street.
3. Except for lots within conservation subdivisions, lots that abut a public or private street shall maintain at least 30 linear feet of street frontage along the abutting public or private street right-of-way. Lots within a conservation subdivision shall maintain a minimum street frontage of at least 20 feet. Lots that do not abut a public or private street shall receive access via a driveway configured in accordance with Section 6.1.4, Driveways.
4. Driveways may be located exclusively on the same lot as the building they serve, or may cross a lot under separate ownership, in order to access a public or private street.
5. In cases where a driveway must cross a lot under separate ownership, the driveway shall be located within a recorded access easement and may not extend through or across land in a

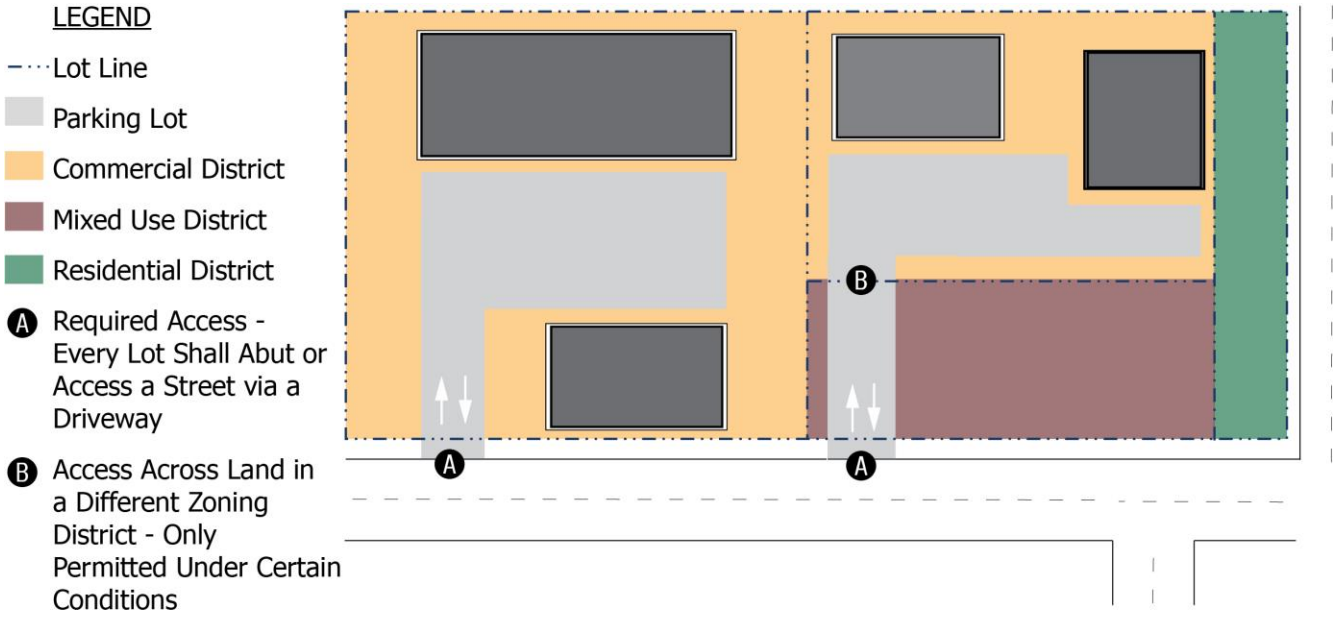
different zoning district than the lot being served by the driveway (see Figure 6.1.3, Lot Access via Driveway). This requirement is waived when the land in the different zoning district:

a. Is classified as a business or mixed-use district; or

b. Allows the use being served by the direct access; or

c. Provides the sole means of access for the lot.

FIGURE 6.1.3: LOT ACCESS VIA DRIVEWAY



B. DIRECT ACCESS TO MAJOR THOROUGHFARES

Lots serving individual residential dwelling units should generally not have direct access to a major thoroughfare street. Direct access to a major thoroughfare shall be configured in accordance with the following standards.

1. In cases where a vacant lot of record abuts a major thoroughfare and is proposed for development, access to the lot shall be obtained from a street other than the thoroughfare, or from a driveway that accesses a street other than the thoroughfare, to the maximum extent practicable.
2. In cases where a tract or site abutting a major thoroughfare is proposed for subdivision (whether residential or otherwise), then all lots created shall maintain sufficient frontage on a different street, either pre-existing or created as part of the subdivision, so that direct access to lots is not provided by the thoroughfare. Driveways serving lots along a new frontage street shall be located no closer than 150 feet from the new frontage street's intersection with other streets.
3. The final plat creating the subdivision shall indicate that driveway access to a thoroughfare is limited and shall be provided by a different street.
4. In the event the subdivision is unable to comply with the access limitations in this subsection, an applicant may seek a variance in accordance with Section 2.3.29, Variance.

C. AUTHORIZATION REQUIRED BEFORE CONSTRUCTION

Prior to beginning any driveway construction, permits necessary to connect to the right-of-way network of the Town or State shall be secured by the applicant.

1. Failure to secure necessary permits prior to construction may result in the removal of the driveways and/or denial of access at that location.
2. A certificate of occupancy shall not be issued until the access requirements of this section have been met.

6.1.4 DRIVEWAYS

A. PURPOSE FOR THESE STANDARDS

These driveway standards are intended to:

1. Ensure safe vehicular movements in the Town's planning jurisdiction;
2. Configure lot access in accordance with the Town's adopted policy guidance for roadway corridors;
3. Minimize conflicts between pedestrians, bicyclists, and vehicles;
4. Provide as much physical separation between street intersections and driveways serving individual land uses as is practicable;
5. Minimize individual access points to thoroughfare streets to the minimum necessary; and
6. Encourage shared access to individual lots.

B. PARKING LOTS DISTINGUISHED

1. The standards in this section shall apply to driveways, which are areas of ingress or egress onto an individual lot or site measured from the edge of the abutting street pavement inwards to one of the following termination points:
   a. The end of the driveway pavement on lots where off-street parking is permitted to take place within a driveway; or
   b. The minimum depth of the driveway on lots or sites where off-street parking takes place within a shared parking lot or structure.
2. Surfacing, width, and other configuration requirements associated with a parking lot are located in Section 6.9, Parking and Loading.

C. GENERAL STANDARDS APPLIED TO ALL DRIVEWAYS

1. COMPLIANCE WITH NCDOT STANDARDS

a. Driveways providing ingress or egress to a State-maintained street shall be placed and constructed in accordance with the "Policy on Street and Driveway Access to North Carolina Highways" adopted by the North Carolina Department of Transportation (NCDOT), as amended.
b. In cases where Town requirements are more stringent than NCDOT's standards, the driveway shall comply with Town standards.
c. All driveways connecting to State-maintained streets shall obtain driveway permit approval from NCDOT prior to the construction.

2. COMPLIANCE WITH TOWN STANDARDS

a. Driveways providing ingress or egress to a Town-maintained street shall be placed and constructed in accordance with applicable Town requirements.

b. All driveways connecting to Town-maintained streets shall obtain driveway permit approval from the Town prior to construction.

3. CONFIGURATION

a. All driveways shall be constructed so that:

i. Vehicles can enter and exit from a lot without posing any substantial danger to themselves, pedestrians, bicycles, or vehicles traveling on abutting streets; and

ii. Interference with the free flow of traffic on abutting or surrounding streets is minimized.

b. No driveway serving an off-street parking area or providing on-site circulation is permitted within any required landscaping area, but driveways may be installed across these areas.

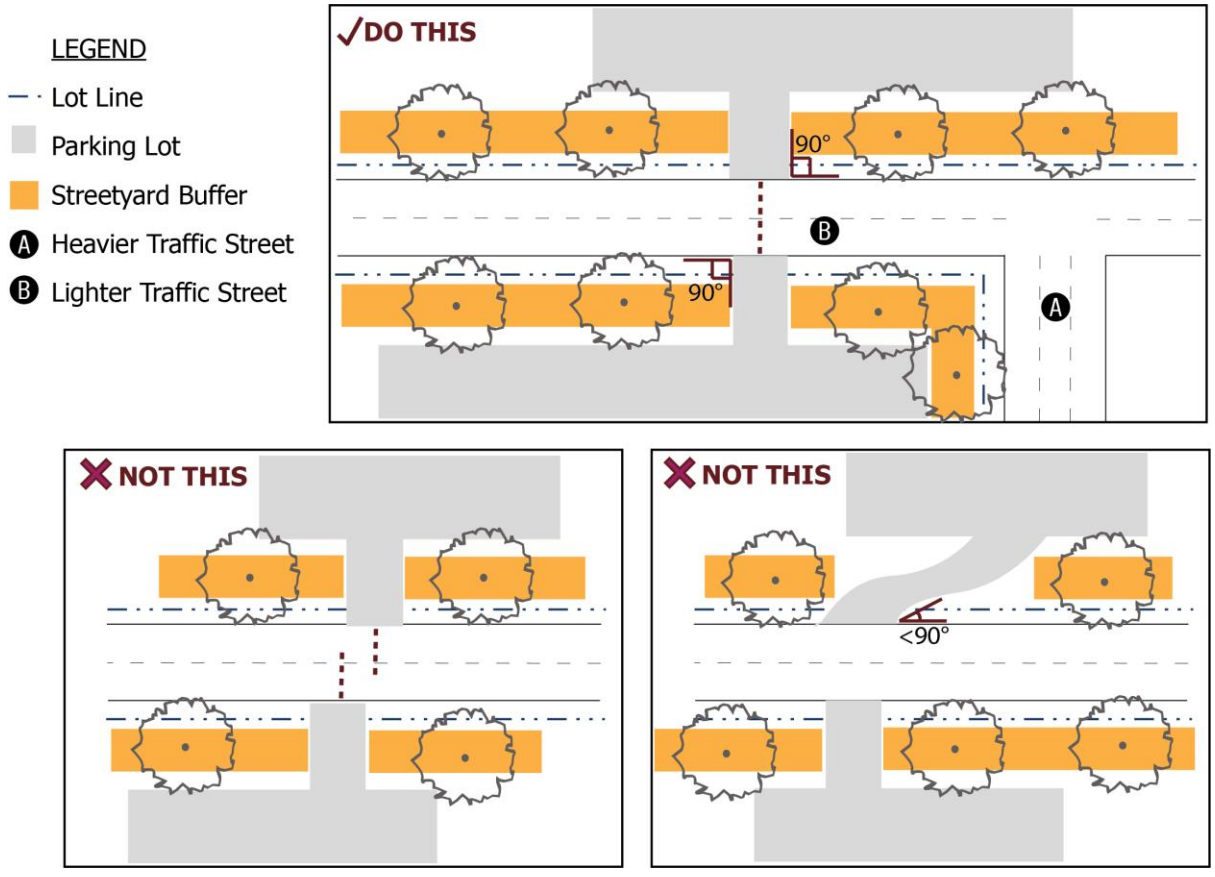
c. Driveway radii shall be designed in accordance with the 'NCDOT's or the Town's Engineering Specifications and Design Manual and shall not extend beyond lot lines.

d. Driveways shall be as nearly perpendicular to the street right-of-way as possible (see Figure 6.1.4.C, Driveway Configuration);

e. Driveways shall line up with other driveways across the street, where practicable.

f. Driveways on corner lots shall provide access from the street with less traffic, to the maximum extent practicable.

FIGURE 6.1.4.C: DRIVEWAY CONFIGURATION



4. DRIVEWAY SURFACING

a. New driveways established after January 2, 2024, that abut a right of way with a paved street shall be surfaced with asphalt or six inches of concrete and extend outwards from the lot line to the edge of the pavement and inwards from the lot line for a distance of at least five feet from the edge of the existing pavement.

b. In cases where a sidewalk is present or is not present but is required, the apron shall be configured so as not to interfere with the sidewalk.

5. MAINTENANCE

The Town shall not be responsible for maintenance of driveways or other vehicular use areas, whether located within or outside a public right-of-way, or on land not owned and operated by the Town of Clayton.

D. RESIDENTIAL DRIVEWAYS

1. DESIGN

The standard residential driveway access for the Town shall be a "ramp" type driveway section, constructed in accordance with applicable Town standards.

2. WIDTH AND DEPTH

Table 6.1.4.D.2, Driveway Width and Depth for Residential Development, establishes the driveway width and depth requirements for residential developments (see Figure 6.1.4.D.2: Residential Driveway Width and Depth).

TABLE 6.1.4.D.2: DRIVEWAY WIDTH AND DEPTH FOR RESIDENTIAL DEVELOPMENT

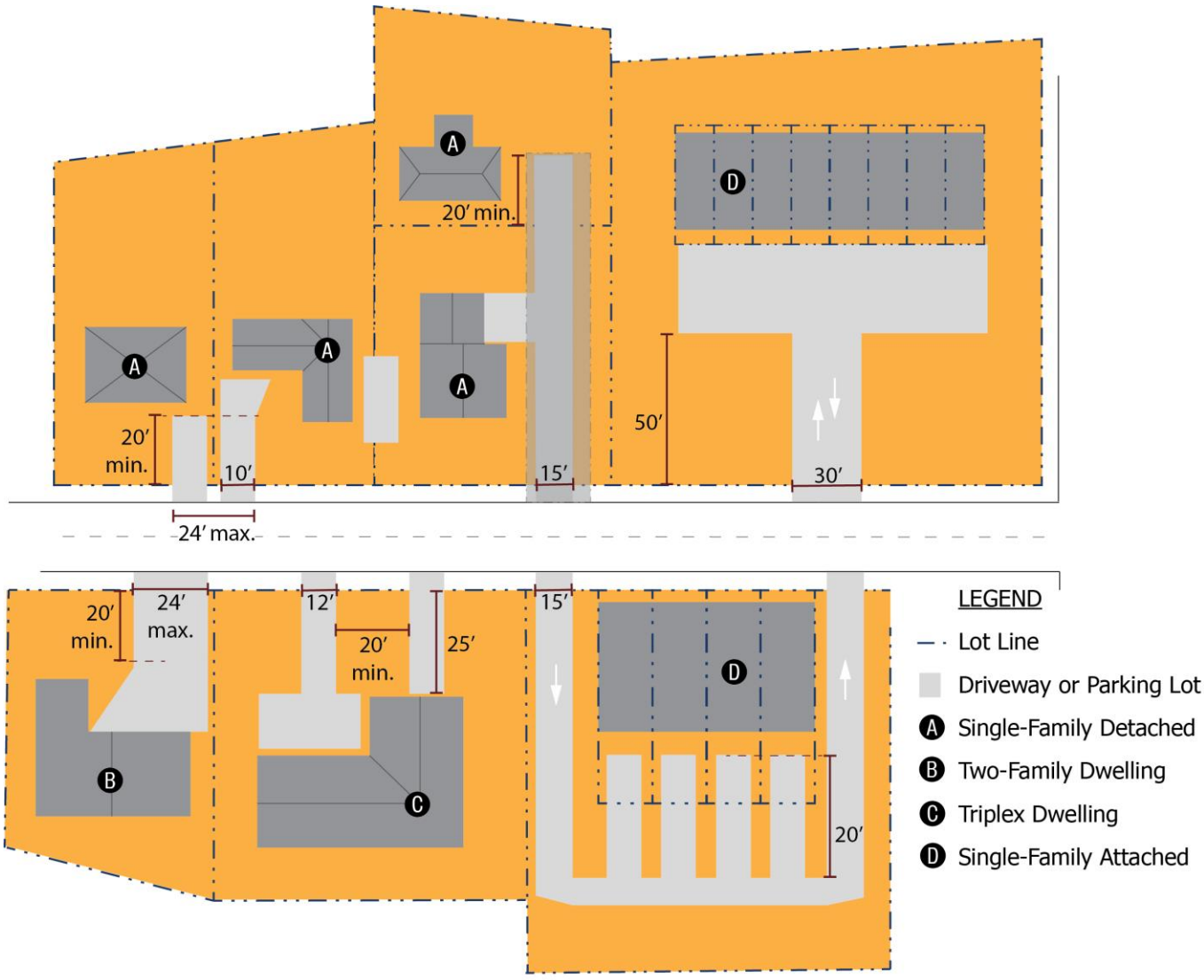
Type of Development [1]	Minimum Driveway Width (feet)	Maximum Driveway Width (feet) [2]	Minimum Driveway Depth (feet) [3]
Single-Family Detached Home on its Own Lot	10 [4]	24 [5]	20
Duplex Dwelling	10 [4]	24 [6]	25
Triplex/Quadplex	12	24 [6]	25
Single-Family Attached Dwelling with a Driveway on the Same Lot	10	[7]	20
Single-Family Attached Development with Shared Parking and Multi-family Development	One way: 15 Two way: 30 [8]	One way: 18 Two way: 45	[9]

NOTES:
[1] Standards for Mixed-Use, Live/Work, and Upper-story Residential are included in the corresponding table for non-residential development.
[2] Only applied within the portion of the driveway subject to the minimum depth requirement.
[3] Measured from the edge of the right-of-way inwards. All driveways shall be the minimum depth necessary to ensure that no vehicle protrudes past the edge of the lot line.
[4] Increased to 15 feet when part of a shared driveway serving two or more different lots.
[5] When two driveways abut one another, the maximum width shall not exceed 24 feet. Two driveways shall not be considered to be abutting when there is at least six feet of unpaved area between each driveway edge.
[6] Individual driveways on the same lot and located outside a required setback area shall maintain a minimum spacing of at least 20 feet from one another.

TABLE 6.1.4.D.2: DRIVEWAY WIDTH AND DEPTH FOR RESIDENTIAL DEVELOPMENT			
TYPE OF DEVELOPMENT [1]	MINIMUM DRIVEWAY WIDTH (FEET)	MAXIMUM DRIVEWAY WIDTH (FEET) [2]	MINIMUM DRIVEWAY DEPTH (FEET) [3]

[7] Shall not exceed the lesser of: 24 feet or the lot's width.
[8] Shall increase by up to five feet with inclusion of a center median. Minimum accessway width of at least 15 feet required on each side of median.
[9] In accordance with Section 6.1.4E.4, Minimum Parking Lot Accessway Depth.

FIGURE 6.1.4.D.2: RESIDENTIAL DRIVEWAY WIDTH AND DEPTH



3. REQUIRED NUMBER

a. The maximum number of driveway access points serving an individual single-family detached, duplex, triplex, or quadplex dwelling on its on lot shall be two, but the lot

shall maintain a minimum lot width of at least 80 linear feet. Lots with lot widths less than 80 feet shall be limited to a maximum of one driveway. Alley-loaded driveways are not included in the number of driveways calculation.

b. The maximum number of driveway access points serving an individual single-family attached dwelling on its own lot shall be one. Developments of up to six single-family attached dwellings may be configured to include individual driveways on commonly-owned land, provided all driveways meet the spacing requirements in this Ordinance.

c. The minimum number of driveways serving a multi-family residential development shall be:

- **i.** One for developments of 100 or fewer units;
- **ii.** Two for developments of 101 to 300 units; and
- **iii.** One additional driveway for every 100 units beyond 300.

d. The number of driveway access points serving a multi-family residential development may be restricted where it is necessary for purposes of decreasing traffic congestion or hazards. These restrictions may include required common or shared access points.

4. SPACING

a. Except for developments of six or fewer single-family attached residential dwellings, residential driveways shall be spaced at least 20 feet from one another when located on the same lot.

b. Driveways serving six or fewer single-family attached residential units where driveways are located within commonly-owned land shall be at least three feet from one another.

c. Driveways shall be no closer than 3 feet from any lot line, except where two driveways on abutting lots are intended to touch one another.

d. The minimum corner clearance from the curb line or edge of pavement of intersecting streets shall be at least 20 feet from the point of tangency of the radius curvature, or 20 feet from the intersection of right-of-way lines, whichever is greater.

e. The radius of the driveway shall not encroach on the minimum corner clearance.

5. ALTERNATIVE ACCESS

As an alternative to compliance with the other standards in this section, single-family detached and duplex dwellings may comply with one of the following alternative lot access standards (see Figure 6.1.4.D.5, Alternative Lot Access):

a. MULTIPLE RESIDENTIAL LOT DEVELOPMENT

An individual residential lot configured with a single-family detached or duplex dwelling may establish access across one or more different lots via a single shared driveway, provided the shared driveway:

- **i.** Does not serve more than five single-family detached or duplex dwellings on the same or different lots;
- **ii.** Is located within a recorded access easement configured in accordance with Section 6.1.4D.5.d, Access Easement; and
- **iii.** Connects to a publicly maintained or a private street built to public street standards.

b. SINGLE-FAMILY LOT OF RECORD

A vacant single-family lot of record established prior to January 2, 2024, that does not abut a publicly maintained street may establish access across another lot provided the driveway:

- **i.** Does not serve more than five single-family or duplex dwellings on the same or different lots;
- **ii.** Is located within a deeded access easement configured in accordance Section 6.1.4D.5.d, Access Easement; and

iii. Connects to a publicly maintained or a private street built to public street standard.

c. DRIVEWAYS SERVING MORE THAN FOUR LOTS

Driveways serving more than four single-family detached or duplex dwelling lots shall be configured as a public or private street in accordance with the applicable standards in this Ordinance.

d. ACCESS EASEMENT

i. Driveways serving development utilizing these alternative access provisions shall be located within an access easement.

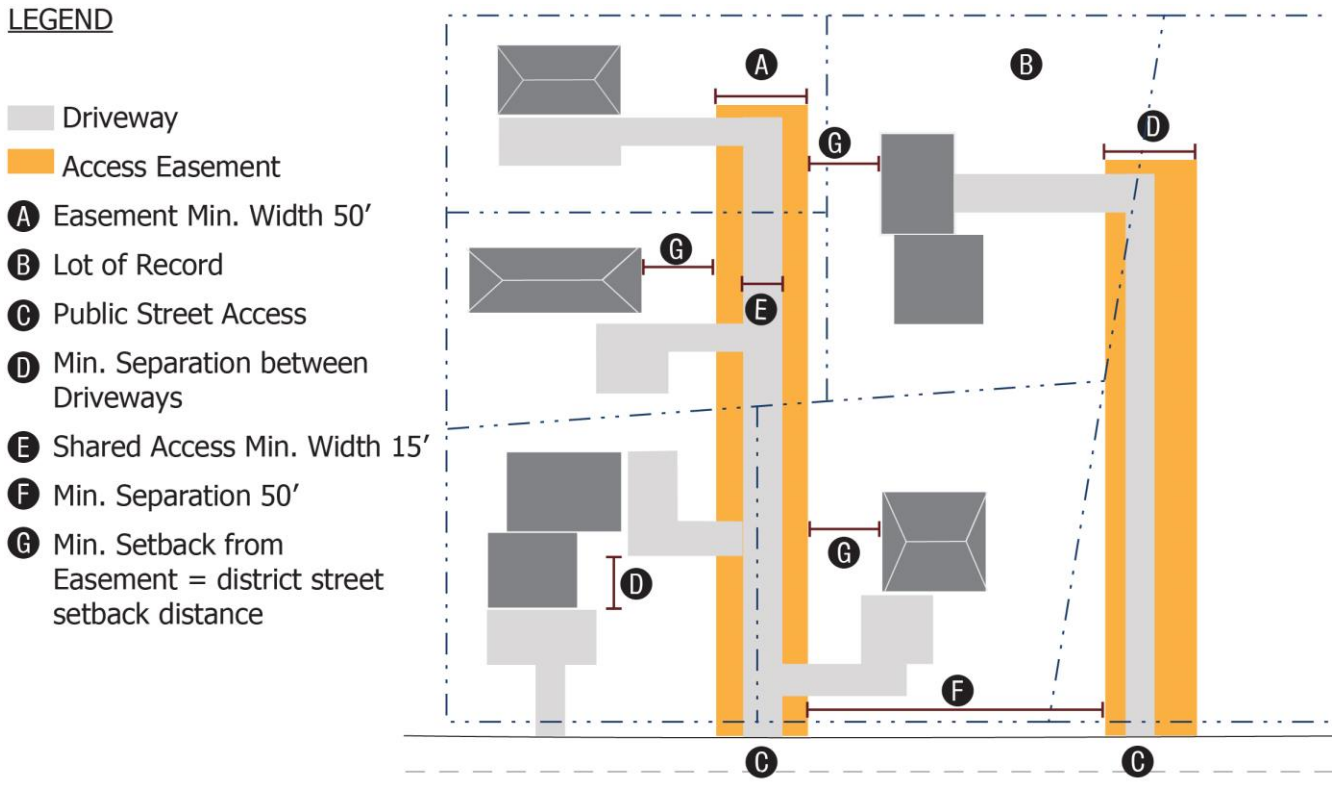
ii. All new access easements shall be configured in accordance with the following:

1. The easement shall maintain a minimum width of at least 50 feet;
2. There shall be a minimum separation between the easement and any other platted access or right-of-way of at least 50 feet;
3. The location of the easement shall be recorded on a plat; and
4. The easement shall be configured to permit safe ingress, egress, regress, and necessary utilities to serve the lot.

e. MAINTENANCE

The landowners who benefit from the access easement associated with a shared driveway shall be responsible for maintenance of the driveway and access easement. In no instance shall the Town be responsible for maintenance of driveways or access easements.

FIGURE 6.1.4.D.5: ALTERNATIVE LOT ACCESS



E. NON-RESIDENTIAL DRIVEWAYS

1. DESIGN

a. Non-residential driveway access to and from streets shall be constructed in accordance with the standards and specifications provided in *Policy on Street and Driveway Access to North Carolina Highways*, as adopted and amended by NCDOT.

b. In cases where a development includes outparcels, the outparcel shall be directly accessible from the vehicular accessways serving the larger development in addition to access from the adjacent public street network.

2. NUMBER

The number of driveway access points may be restricted where it is necessary for purposes of decreasing traffic congestion or hazards. These restrictions may include required common or shared access points.

3. SPACING

Approval of driveway access between a lot and the right-of-way at an interval less than those specified in the *Policy on Street and Driveway Access to North Carolina Highways,* manual, as adopted and amended by NCDOT, may be granted subject to the approval of the Town Engineer and NCDOT.

4. MINIMUM PARKING LOT ACCESSWAY DEPTH

a. Driveways serving off-street parking lots shall comply with the standards for minimum depth in Table 6.1.4.E: Parking Lot Accessway Depth.

b. In no instance shall a parking lot be configured to allow access to an individual off-street parking space, drive aisle, or other vehicular accessway at a point closer to the street right-of-way than the minimum parking lot accessway depth (see Figure 6.1.4.E: Parking Lot Accessway Depth).

c. In cases where a development is subject to a transportation impact analysis, the parking lot accessway depth specified in the transportation impact analysis shall control.

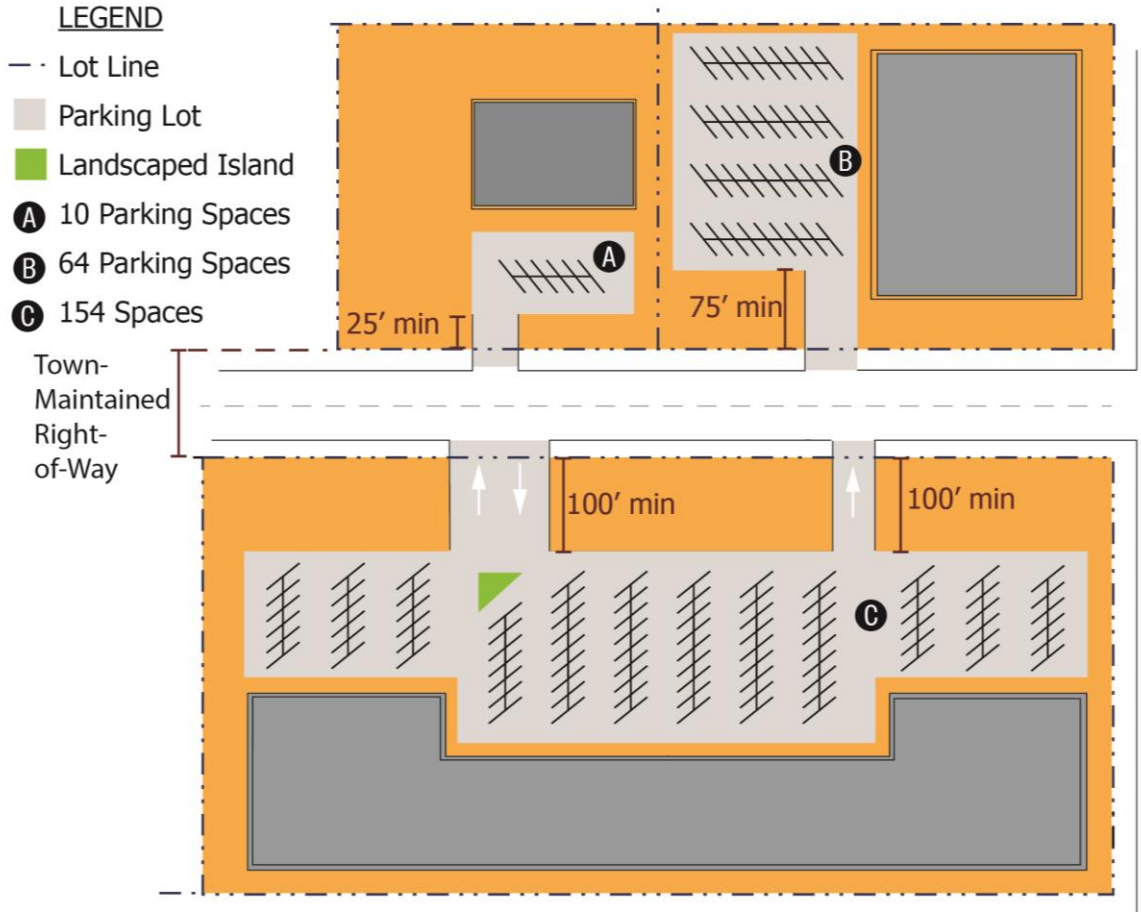
d. Nothing shall limit a parking lot accessway from having a deeper depth than specified in this subsection.

TABLE 6.1.4.E: PARKING LOT ACCESSWAY DEPTH

Number of Provided Off-Street Parking Spaces in Parking Lot	Minimum Parking Accessway Depth (feet) [1] [2]	
	From a Town-Maintained Street	From a NCDOT-Maintained Street
10 or less	25	100
11 to 50	50	100
51 to 100	75	100
101 to 200	100	100
201 or more	As determined by the Engineering Director	As determined by NCDOT
NOTES:		

TABLE 6.1.4.E: PARKING LOT ACCESSWAY DEPTH		
NUMBER OF PROVIDED OFF-STREET PARKING SPACES IN PARKING LOT	MINIMUM PARKING ACCESSWAY DEPTH (FEET) [1] [2]	
	FROM A TOWN-MAINTAINED STREET	FROM A NCDOT-MAINTAINED STREET
[1] Measured from the edge of the right-of-way serving the parking lot. [2] The Engineering Director may require a planted landscaping island opposite the accessway where necessary for access management or traffic control.		

FIGURE 6.1.4.E: PARKING LOT ACCESSWAY DEPTH



F. SHARED ACCESS

Shared driveways may be required between adjacent lots fronting on a thoroughfare in order to minimize the total number of access points along those streets and to facilitate traffic flow between lots.

G. REVISION OF EXISTING ACCESS

1. The Town Council, in conjunction with NCDOT, shall have the authority to require the closure, relocation, or restriction of existing access points where multiple access points to the site are available.
2. The Town Council may require the closure of driveway access in those cases where adjoining parcels are subsequently developed with a residential use.

H. NONCONFORMING DRIVEWAYS

Lawfully-established driveways existing prior to (insert the effective date of this Ordinance) that do not conform to these standards shall be subject to the standards in Chapter 5, Nonconformities.

6.1.5 ON-SITE PEDESTRIAN CIRCULATION

On-site pedestrian walkways that minimize conflict between pedestrians and vehicles shall be provided on all non-residential, mixed-use, single-family attached, and multi-family development sites, and shall be configured in accordance with the following standards:

A. On-site pedestrian walkways shall connect each primary building entrance to off-street parking areas and to other building entrances on the same site (see Figure 6.1.5, Pedestrian Walkways);

B. Development subject to these standards shall provide at least one connection to an existing or planned public sidewalk or existing greenway via an on-site pedestrian walkway, configured in accordance with these standards;

C. In cases where a lot has two or more sides bounded by a sidewalk, a sidewalk connection shall be made on each side with an existing or planned sidewalk;

D. Connections shall be made to all existing or planned adjacent transit facilities, to the maximum extent practicable;

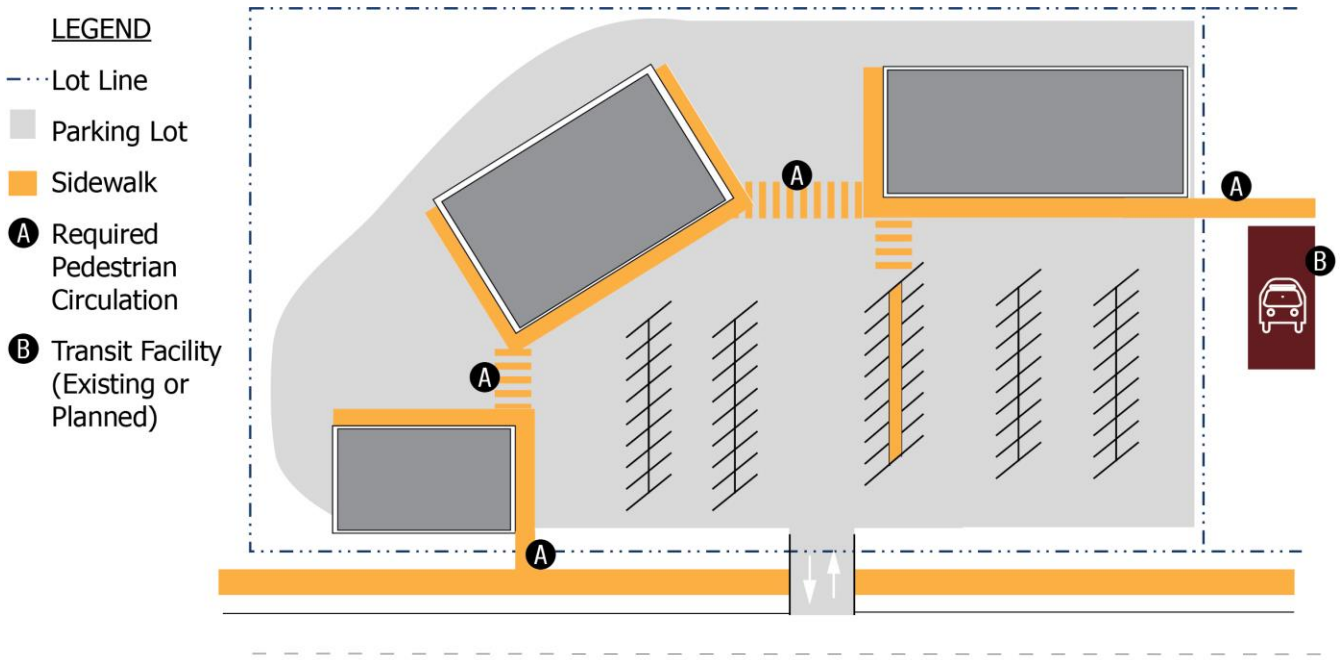
E. On-site pedestrian walkways shall be paved with asphalt, concrete, pavers, bricks, stone, or other masonry material, and shall be of contrasting color or materials when crossing drive aisles;

F. On-site pedestrian walkways shall be positively drained and configured to avoid areas of pooling water;

G. On-site pedestrian walkways shall comply with applicable State and federal requirements, including ADA requirements; and

H. Development with 200 or more off-street parking spaces shall provide fully-separated, improved on-site pedestrian walkways within planted landscape islands located a minimum of every six parking rows. On-site pedestrian walkways shall be aligned perpendicular to the buildings served and terminate at building entrances, to the maximum extent practicable.

FIGURE 6.1.5: PEDESTRIAN WALKWAYS



6.1.6 PARKING LOT CONNECTIONS

A. PURPOSE AND INTENT

The intent of this section is to provide for parking lot connections between comparable commercial, mixed-use, single-family attached, and multi-family land uses that front thoroughfare streets so that vehicles leaving one lot may access the adjoining lot without having to re-enter the street system.

B. APPLICABILITY

The standards in this section shall apply to lots abutting thoroughfare streets that contain any of the following uses:

1. Uses in the commercial uses classification in Section 4.2.5, Listing of Common Principal Uses;
2. Mixed-use development;
3. Single-family attached residential development; and
4. Multi-family development.

C. EXEMPTIONS

Parking lot connections are not required when any of the following conditions are present:

1. Adjacent lots do not have common frontage along an arterial or collector street;
2. The adjacent lot is nonconforming with respect to the minimum number of required off-street parking spaces;
3. Significant natural features exist in the only viable location for parking lot connections and construction of the connection would damage the significant natural features;

4. Vehicular safety factors exist or would be created including, but not limited to, unsafe turning movements or pedestrian conflicts;
5. Sufficient access already exists without need for additional parking lot connections;
6. Residential, institutional, or other incompatible land uses are present on adjacent lots;
7. Existing infrastructure obstructions; or
8. Other safety or security concerns, or topographic constraints, in the sole opinion of the Town Engineer.

D. CONFIGURATION

Parking lot connections shall join parking lots on two or more different lots (see Figure 6.1.6: Parking Lot Connections) subject to these standards:

1. A parking lot connection shall be included on at least two sides of a lot except when conditions prevent connections in accordance with Section 6.1.6C, Exemptions;
2. Parking lot connections shall be paved with asphalt, concrete, or pavers and shall maintain a minimum width of 12 feet for one-way traffic and 24 feet for two-way traffic;
3. All parking lot connections shall be built to the lot line, to the maximum extent practicable; and
4. A minimum distance of 60 feet shall be required between a parking lot connection and the intersection of a driveway entrance and a street.

E. IMPACT ON REQUIRED SITE FEATURES

1. Where a required parking lot connection eliminates a required landscape planting area, the landscaping requirements shall be reduced to accommodate the cross-accessway and replacement landscaping shall not be required.
2. When a required parking lot connection eliminates required off-street parking spaces, replacement parking spaces shall not be required.
3. The cross-accessway may be used for off-street parking until cross access on the adjacent lot is complete and the accessway is opened to permit vehicular traffic between the two lots provided this is noted on approved Site Plans and Construction Drawings

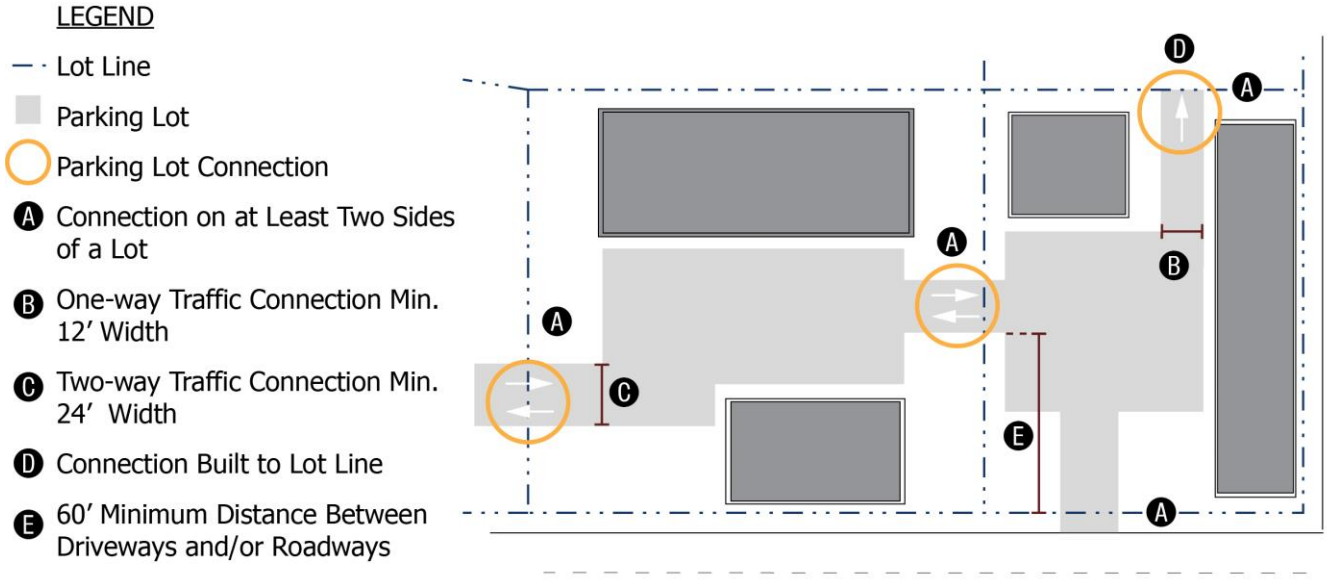
F. EASEMENT REQUIRED

A parking lot connection easement shall be dedicated on the final plat for property involving a subdivision, or deeded by a separate recorded instrument, when no plat is proposed.

G. CONNECTION REQUIRED

Development subject to these standards shall install parking lot connections to the shared lot line. In the event development subject to these standards can not achieve a required parking lot cross-access connection, the applicant shall provide a fee-in-lieu in accordance with Section 2.3.13, Fee-in-Lieu.

FIGURE 6.1.6: PARKING LOT CONNECTIONS



6.1.7 SIGHT DISTANCE TRIANGLES

A. SIGHT DISTANCE TRIANGLES ESTABLISHED

Corner lots and lots with driveways, alleys, or other methods of ingress/egress to a street shall include sight distance triangles to ensure visibility for drivers and pedestrians moving through or in an intersection. Required sight distance triangles shall be configured in accordance with Table 6.1.7: Sight Distance Triangle Requirements. Land within a required sight distance triangle shall comply with the standards in Section 6.1.7C, Limitations on Obstructions within Required Sight Distance Triangles.

TABLE 6.1.7: SIGHT DISTANCE TRIANGLE REQUIREMENTS

Type of Street, Intersection, or Driveway		Minimum Sight Distance Configuration Required [1] [2]
Intersections of street [3]		10/70
Driveways serving parking lots		10/70
Driveways serving individual land uses without parking lots	Single-family detached, single-family attached, Duplex, Triplex, Quadplex	None
	All other uses of land	10/70, wherever possible

NOTES:
[1] The NCDOT or the Town may require an alternative sight distance triangle configuration.
[2] AASHTO requirements shall be applied to curved or curvilinear streets.
[3] Includes all streets (State-maintained or Town-maintained).

B. MEASUREMENT OF SIGHT DISTANCE TRIANGLE

Sight distance triangles shall be provided in locations and in configurations as specified in the Town's Engineering Specifications and Design Manual.

C. LIMITATIONS ON OBSTRUCTIONS WITHIN REQUIRED SIGHT DISTANCE TRIANGLES

1. No planting, structure, fence, wall, slope, embankment, parked vehicle, or other obstruction to vision between the heights of two-and-one-half (2½) feet and ten feet above the centerline grades of intersecting streets or accessways may be located within a required sight distance triangle.
2. No structure or object, regardless of its size, which obstructs visibility within a required sight distance triangle to the detriment of vehicular or pedestrian traffic shall be permitted.

6.2 DESIGN STANDARDS AND GUIDELINES

6.2.1 SECTION CONTENTS

A. DESIGN STANDARDS

The design standards in this section address the following types of development:

1. Farmland;
2. Mixed-uses;
3. Multi-family residential uses; and
4. Non-residential uses (including institutional, light industrial, office, and retail use types).

B. DESIGN GUIDELINES

This section also sets out a series of design guidelines that may be applied to single-family detached, single-family attached, duplex, triplex, and quadplex development through landowner or applicant consent or as a condition associated with establishment of a conditional zoning district designation (see Section 2.3.6, Conditional Rezoning).

6.2.2 FARMLAND PROTECTION STANDARDS

A. PURPOSE AND INTENT

The purpose and intent of these farmland protection standards is to promote development that is compatible with existing farms and agricultural uses in the Town's planning jurisdiction. More specifically, these standards are intended to:

1. Ensure new development does not negatively impact existing adjacent agricultural uses;
2. Maintain and promote rural character in agricultural areas; and
3. Ensure greater compatibility between existing farms and new non-farm uses developed in close proximity to an existing farm or tract engaged in agricultural activity.

B. APPLICABILITY

The standards in this section shall apply to all major and minor subdivisions, conditional rezonings, special use permits, or site plans on lots or tracts of two acres in area or greater proposed adjacent to a bona fide farm or agricultural use associated with a bona fide farm.

C. COMPATIBILITY STANDARDS

Development subject to the standards in this section shall comply with the following compatibility standards:

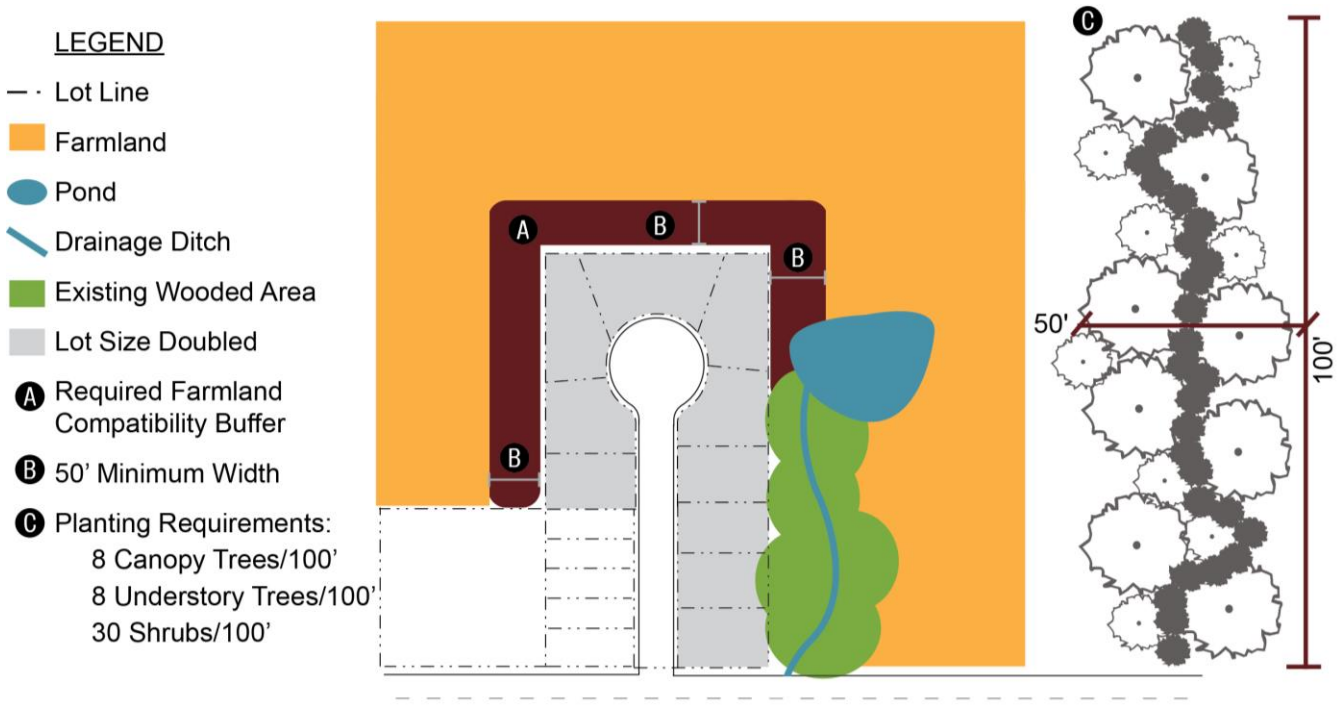
1. VEGETATED BUFFER

a. Development subject to these standards shall provide a 50-foot-wide vegetated buffer between building lots in the development and an adjacent agricultural use (see Figure 6.2.2: Vegetated Buffer). The buffer shall:
   i. Remain undisturbed for a minimum distance of 25 feet from the edge of the agricultural use or boundary of the agricultural activity;
   ii. Include at least eight trees for every 100 linear feet of buffer length;
   iii. Include at least eight evergreen shrubs for every 100 linear feet of buffer length;
   iv. Incorporate existing or planted vegetation, configured in a staggered fashion, so as to create two or more rows of trees within the buffer; and
   v. Incorporate a berm, drainage ditch, or any combination of these features to physically separate the agricultural use from the new development.

b. Nothing shall limit the placement of a required stormwater control measure or best management practice within a required buffer provided the minimum buffer width is maintained.

c. No plantings shall be required in cases where a water feature or stormwater control measure is located within the area occupied by the required buffer.

FIGURE 6.2.2: VEGETATED BUFFER



2. LOCATION OF OPEN SPACE SET-ASIDE

In cases where new development includes an open space set-aside, it shall be located between the agricultural use and the buildings in the new development, to the maximum extent practicable. Land area occupied by the vegetated buffer may be credited towards the open space set-aside requirements. Nothing shall limit the requirement for the vegetated buffer even in cases when it will result in more open space than is required by Section 6.7.1D, Minimum Open Space Set-Aside Requirements.

3. LOT SIZE INCREASED

Except for lots in a conservation subdivision, lots bordering the vegetated buffer shall maintain a minimum lot area twice the minimum lot area required by the base zoning district where the subdivision is located.

D. NOTIFICATION ON PLAT

Preliminary and final plats subject to these standards shall bear a notation indicating the development is adjacent to an existing agricultural or farm use that is anticipated to generate noise, light, dust, odor, or vibration as part of its normal operations.

6.2.3 MIXED-USE DESIGN STANDARDS

A. PURPOSE AND INTENT

The purpose for these standards is to create vibrant, pedestrian-oriented areas of residential and non-residential use that are located in the same building or in close proximity to one another on the same site. More specifically, these standards are intended to:

1. Create well-designed, desirable places for Town residents and visitors to shop, dine, recreate, and live;
2. Ensure development within mixed use areas is compact and walkable;
3. Shorten travel times and support alternative modes of transportation by reducing the need for automobile travel within urban portions of the Town;
4. Encourage human-scaled development that is pedestrian-oriented;
5. Reduce development costs by facilitating the most dense forms of development in areas easily served by public infrastructure; and
6. Accommodate both vertically mixed-use development within an individual building as well as horizontally mixed-use development on a single site.

B. APPLICABILITY

The standards in this section shall apply to all the following:

1. New development within the MXD district;
2. Live/work dwellings;
3. Upper story residential; and
4. Any development that includes principal use types from the residential and commercial, industrial, and institutional use classifications in Table 4.2.5, Table of Common Principal Uses, within the same building or within the same development site; and
5. The demolition, addition, or expansion of existing structures identified in this section in accordance with the following table:

TABLE 6.2.3.B: APPLICABILITY OF MIXED-USE DESIGN STANDARDS TO EXISTING SITES

Type of Structure or Activity	Applicability of Mixed-Use Design Standards
New principal structure(s) on a vacant site	Full compliance required
Construction of a new principal structure following removal of an existing principal structure	Full compliance required
Addition or expansion to an existing principal structure already subject to the mixed-use design standards	Full compliance required
Addition or expansion to an existing principal structure constructed prior January 2, 2024, or not subject to the mixed-use design standards [1]	Exempt from mixed-use design standards

TABLE 6.2.3.B: APPLICABILITY OF MIXED-USE DESIGN STANDARDS TO EXISTING SITES

Type of Structure or Activity	Applicability of Mixed-Use Design Standards
Interior or exterior upfit of an existing principal structure with no addition of floor space constructed prior to January 2, 2024, or not subject to the mixed-use design standards	Exempt from mixed-use design standards
Site improvement of an existing site with no changes to existing principal structure(s)	Mixed-use design standards not applicable
Construction of a new secondary structure	Secondary structures must be complimentary to the principal structure in terms of form and materials

NOTES:
[1] Activity resulting in the addition of new floor area only shall be exempted from these standards if the addition or expansion:
a. Physically touches the existing structure; and
b. Is enclosed by walls and a roof; and
c. Includes conditioned space; and
d. Allows direct access between the existing structure and the addition or expansion without having to walk outside or through unconditioned space.

C. EXEMPTIONS

These standards shall not be applied to the following forms of development:

1. Agriculture-related uses;
2. Renovation of existing structures in the DTNC, DTNT, or DTNN districts; and
3. Mixed-use development established prior to January 2, 2024.

D. TIMING OF REVIEW

Review for compliance with these standards shall take place during review of an associated rezoning, Site Plan, or Special Use Permit, as appropriate.

E. DESIGN REQUIREMENTS

Development subject to these standards shall be designed in accordance with the following:

1. MIXED-USE STREET NETWORK

In cases where mixed-use development involves the construction of new streets or alleys, the new streets, whether public or private, shall be configured in accordance with the following standards:

a. Streets shall be organized into a grid pattern with block lengths that do not exceed 500 feet;
b. Streets shall be configured to a design speed of 25 miles per hour;

c. Streets shall include traffic-calming features such as roundabouts, raised pedestrian crossings, bulb-outs, speed tables, raised medians, and chicanes, but excluding speed bumps, which shall not be included;
d. Streets shall include well-defined ADA-compliant crosswalks and small turning radii at intersections;
e. Streets shall include bicycle lanes in cases where the roadway is subject to size or volume constraints, such as in the downtown area;
f. Streets shall include sidewalks configured in accordance with Section 6.10.2, Sidewalks and Multi-Use Paths;
g. Mid-block alleys shall be included to facilitate off-street parking and to accommodate service functions; and
h. Cul-de-sacs and dead-end streets are prohibited, except where topography or natural features make them necessary.

2. MIXED-USE BUILDING ORIENTATION

a. SINGLE BUILDING DEVELOPMENT

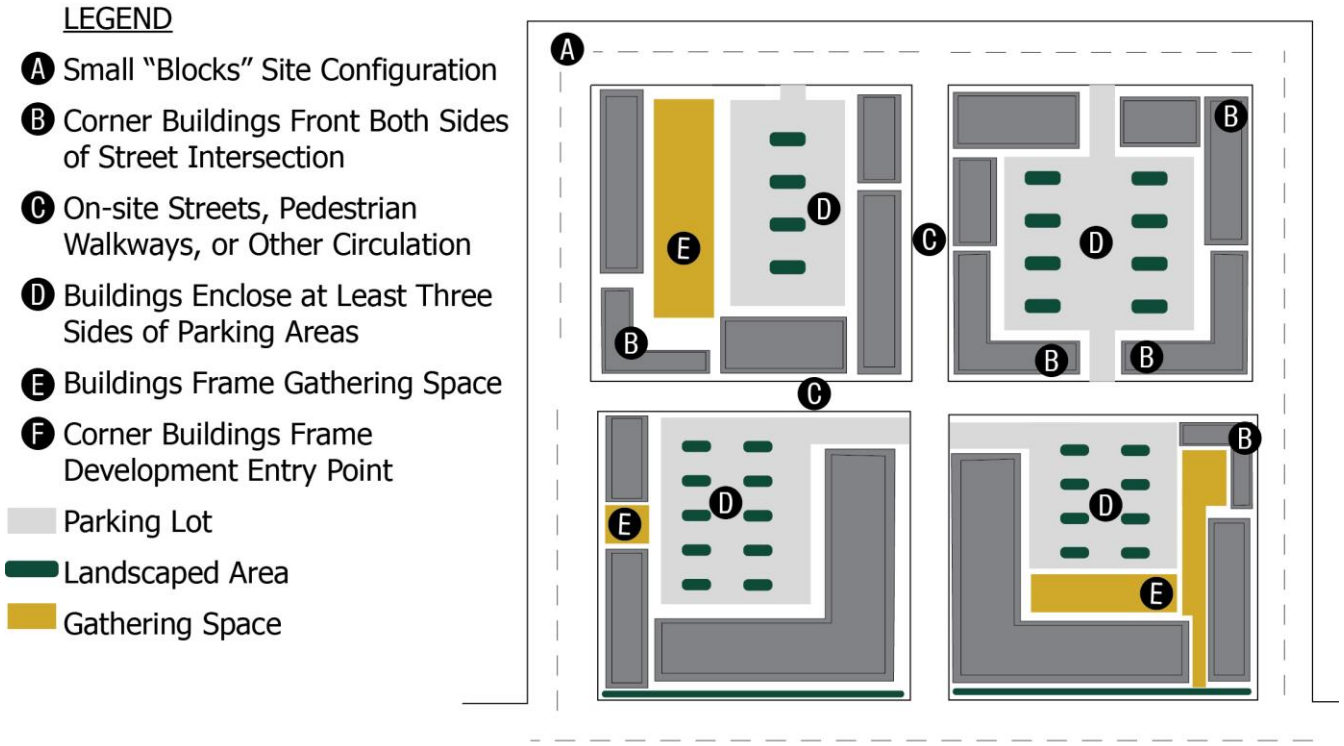
New development consisting of a single building shall be oriented such that the long axis of the building is either parallel or perpendicular to the street right-of-way it faces. This standard may be waived when topographic constraints make compliance impractical, in the sole discretion of the Planning Director.

b. MULTIPLE BUILDING DEVELOPMENT

Development comprised of multiple buildings shall be configured with two or more of the following design elements (see Figure 6.2.3.E.2, Multiple Building Development):

i. Site configuration as a series of smaller "blocks" defined by buildings fronting on-site streets and internal vehicle accessways, utilizing pedestrian-oriented design such as walkways, or other circulation routes and multi-modal transportation access/waiting areas when appropriate;
ii. Corner buildings designed to front both sides of an adjacent street intersection or entry point to the development in an "L" configuration;
iii. Buildings facing each other across a relatively narrow vehicular access area with pedestrian amenities in a "main street" character;
iv. Buildings enclosing at least three sides of parking areas, public spaces, or other site amenities; or
v. Buildings enclosing outdoor dining or gathering spaces for pedestrians between buildings.

FIGURE 6.2.3.E.2: MULTI-BUILDING DEVELOPMENT



3. MIXED-USE BUILDING LOCATION

a. Buildings on lots bounding streets shall be built to the edge of the sidewalk. In the case of double or reverse frontage lots, the building shall be located adjacent to the street providing the street address for the building.

b. When development is proposed on a corner lot, the building shall be configured to occupy the lot corner at the street intersection.

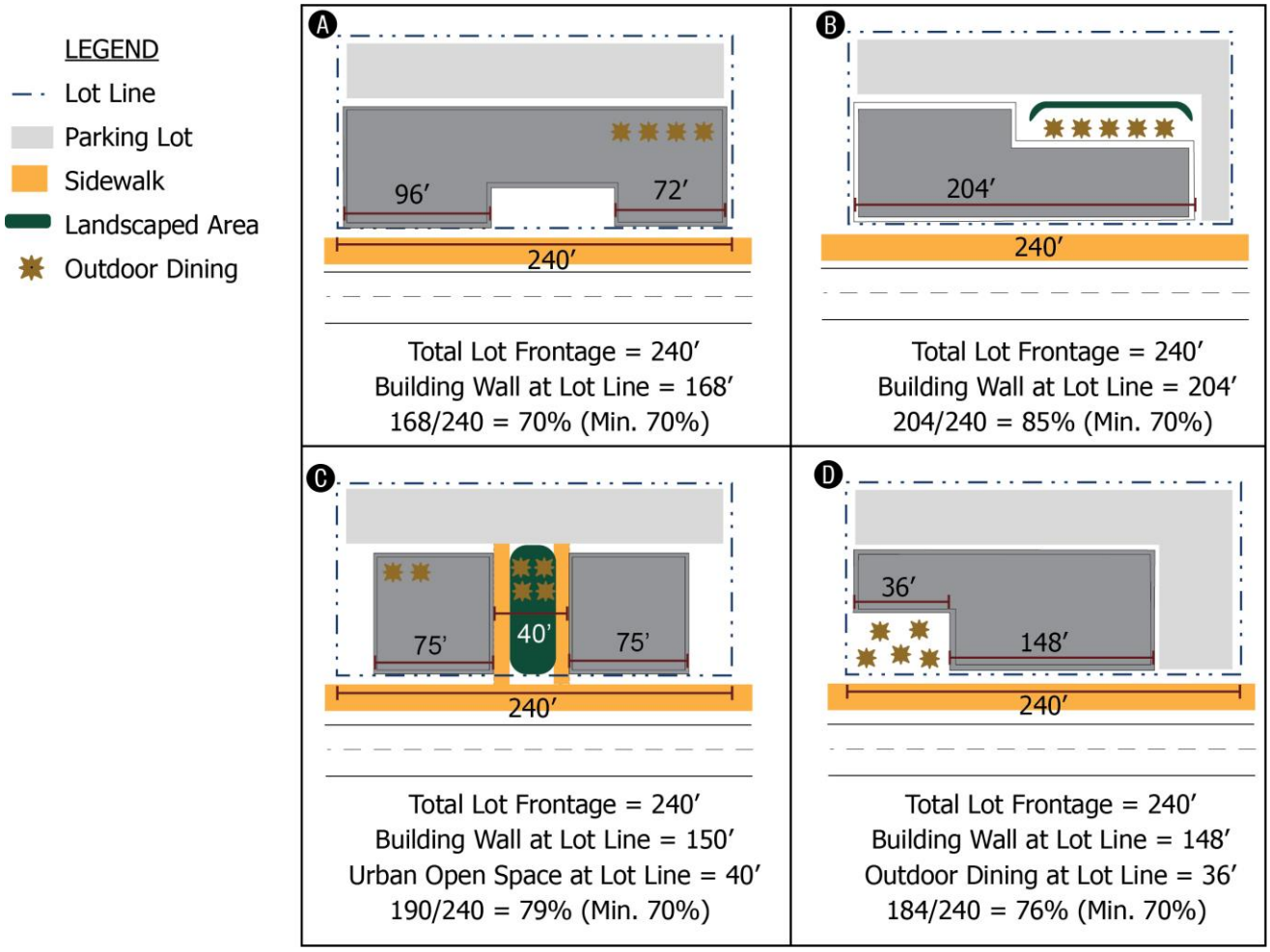
c. Nothing shall prevent a mixed-use building from exceeding a maximum street setback, provided the area between the building and the street is occupied by a public gathering space, open space set-aside, or an area used for outdoor dining.

4. MIXED-USE LOT FRONTAGE TO BE OCCUPIED BY BUILDING WALL

a. In order to ensure an inviting and desirable streetscape for pedestrians, mixed use development shall be configured so that at least 70 percent of the lot frontage is occupied by building wall (see Figure 6.2.3.E.4, Occupied Frontage).

b. Areas occupied by gathering areas (like plazas), urban open space set-aside, or outdoor dining areas shall be credited towards the lot frontage requirements.

FIGURE 6.2.3.E.4: OCCUPIED FRONTAGE



5. MIXED-USE GROUND FLOOR CONFIGURATION

a. The ground floor of mixed-use buildings and buildings located in the MXD district shall be configured to meet the North Carolina Building Code requirements for commercial development.

b. Except for buildings required to include ADA-accessible dwelling units, the portion of the building including the primary façade of the street-level ground floor shall be occupied by a non-residential use with a minimum depth equivalent to one-third of the building's total depth.

c. Nothing shall limit the rear two thirds of the street level floor from being used for residential purposes.

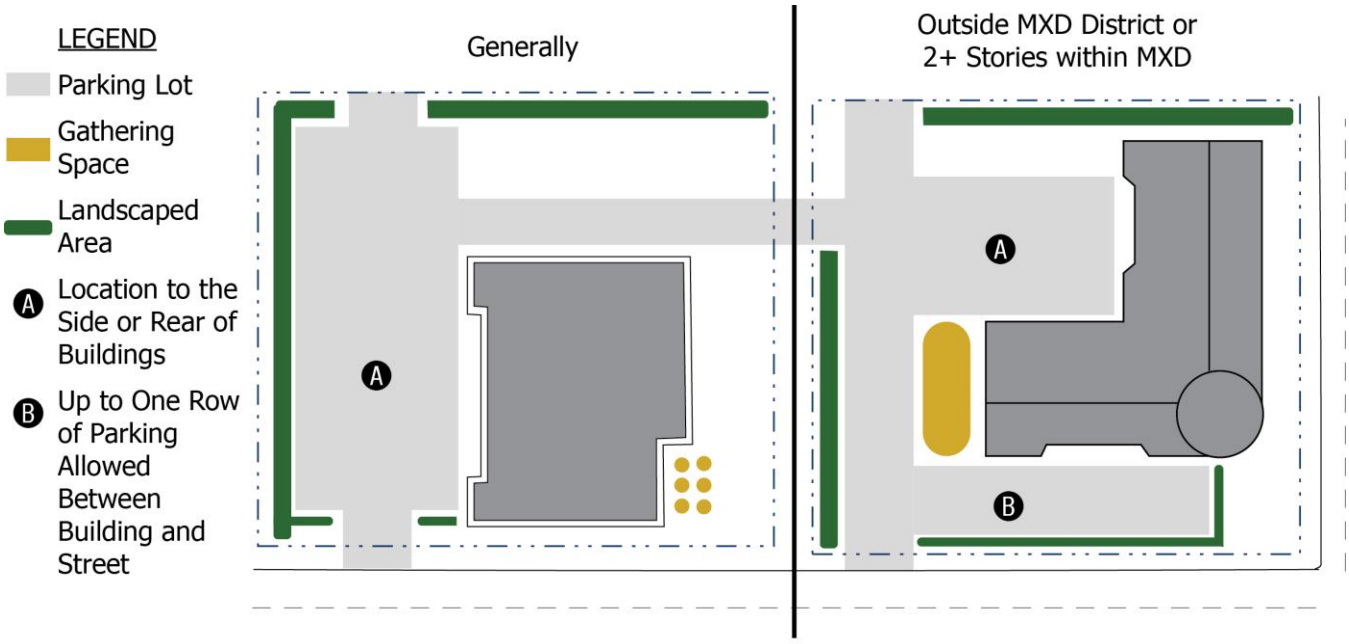
d. In cases where a building is required to include ADA-accessible dwelling units, none of the street level floor area must be occupied by a non-residential use.

6. OFF-STREET PARKING LOCATION

a. Off-street parking areas shall be located to the side or rear of buildings subject to these standards.

b. Mixed-use buildings located outside the MXD district and with two or more habitable stories may be configured to allow up to one row of off-street parking spaces between the building and the street it fronts (see Figure 6.2.3.E.6, Off-Street Parking Location). All other off-street parking shall be located to the side or the rear of a mixed-use building.

FIGURE 6.2.3.E.6: OFF-STREET PARKING LOCATION



7. MIXED-USE BUILDING ARTICULATION

Buildings subject to these standards shall be configured so that no single facade fronting a public street shall extend for longer than 35 linear feet without inclusion of one or more of the following features (see Figure 6.2.3.E.7, Mixed-use Building Articulation):

- **a.** The use of projections or recesses in the building façade wall with a minimum depth of 18 inches from the primary facade plane and a minimum span of eight feet;
- **b.** The use of columns, pilasters, or other architectural detail harmonious with the general design of the structure with a minimum width of eight inches and spaced no less than every ten feet on-center;
- **c.** Distinct changes in building material that are vertically aligned with variations in roof form and parapet heights;
- **d.** Inclusion of weather protection for pedestrians, such as awnings, canopies, or overhangs along the entire building frontage abutting a street. Execution of an encroachment agreement is required in cases where weather protection features extend into the public right-of-way; or
- **e.** A single vertical accent or focal point such as a tower feature located on a prominent building corner.

FIGURE 6.2.3.E.7: MIXED-USE BUILDING ARTICULATION

LEGEND

- (A) Projections or Recesses in the Facade Wall (Depth Between 18-36" and Min. Span 8')
- (B) Columns, Pilasters, or Other Architectural Detail (Spaced Max. 10' On-center)
- (C) Changes in Building Material (Vertically Aligned with Roof Form Changes)
- (D) Single Vertical Accent Point on Corner









F. MIXED-USE BUILDING FENESTRATION

1. Blank, windowless walls facing sidewalks, streets, and other public places shall be prohibited.
2. At least 40 percent of the first-floor facade facing a street shall be transparent, whether through the use of glass windows, doors, or both (see Figure 6.2.3.F, Mixed-Use Building Fenestration).
3. At least 25 percent of each upper story façade facing a street shall be transparent.
4. Ventilation grates or emergency exit doors located at the first-floor level oriented toward a street shall be decorative.

FIGURE 6.2.3.F: MIXED-USE BUILDING FENESTRATION

Ⓐ Upper Story Facade =
10′ x 60′ = 600 sf

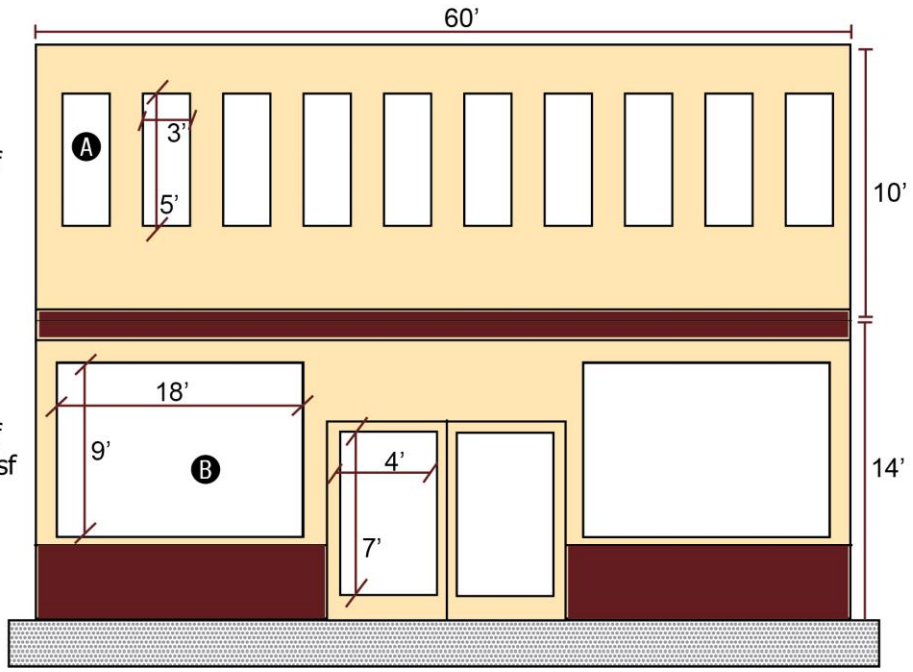
Fenestration =
10 Windows x 15 sf = 150 sf

Percent Transparent =
150 ÷ 600 = **25%**
(Minimum 25%)

Ⓑ First Floor Facade =
14′ x 60′ = 840 sf

Fenestration =
2 Windows x 162 sf = 324 sf
Glass Portion of Doors = 56 sf

Percent Transparent =
380 ÷ 840 = **45.2%**
(Minimum 40%)



G. MIXED-USE BUILDING ENTRANCES

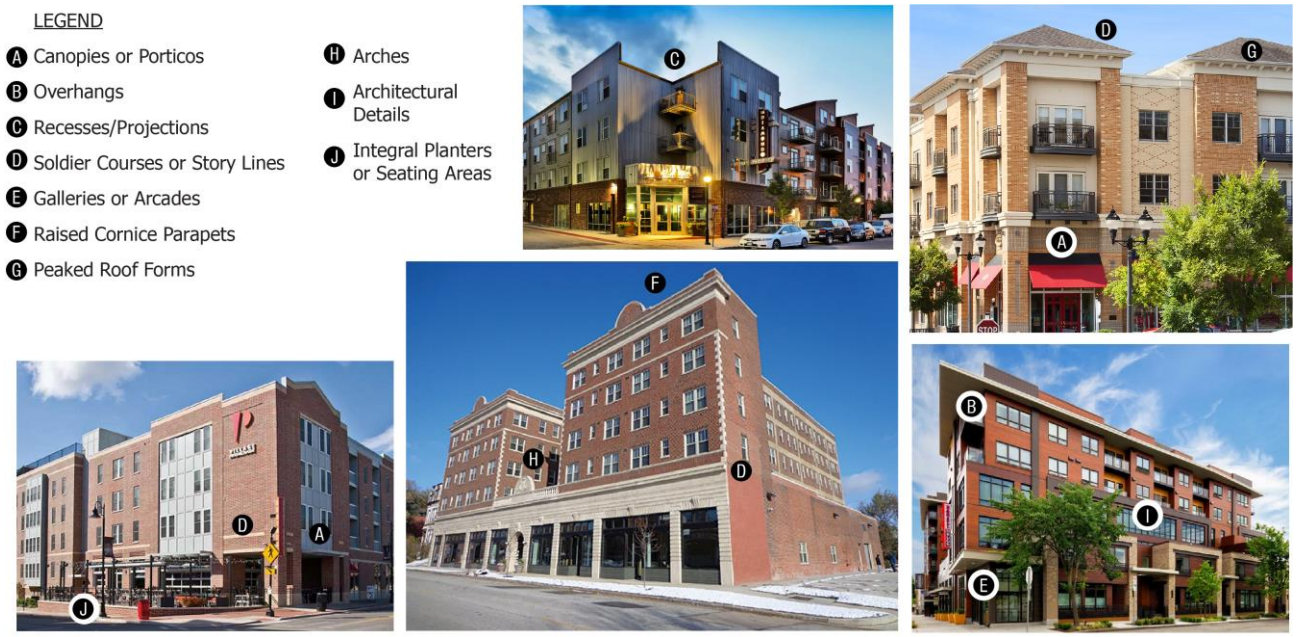
1. Primary structures must be oriented with their main entrance facing the street upon which the project fronts.
2. If the site is on a corner, it may have its main entrance oriented to either street or at the corner.
3. Entrances serving mixed-use buildings shall include at least two of the following features fronts (see Figure 6.2.3.G, Mixed-Use Building Entrances):
   a. Canopies or porticos;
   b. Overhangs;
   c. Recesses/projections;
   d. Soldier courses or story lines;
   e. Galleries or arcades;
   f. Raised corniced parapets over the door;
   g. Peaked roof forms;

h. Arches;

i. Architectural detail such as tile work and moldings integrated into the building structure and design; or

j. Integral planters that incorporate landscaped areas and places for sitting.

FIGURE 6.2.3.G: MIXED-USE BUILDING ENTRANCES



H. MIXED-USE ROOF FORM

1. Roof pitches less than 3:12 and flat roofs shall require a parapet wall on all sides visible from the street. Parapet walls shall fully screen all roof-top mechanical equipment from the street.
2. Parapet walls shall have decorative cornices or caps.
3. A pitched roof shall have eaves that extend a minimum of 12 inches from the building face.
4. Roof-mounted mechanical equipment on a pitched roof shall be screened or otherwise camouflaged from view from the street.

6.2.4 MULTI-FAMILY DESIGN STANDARDS

A. PURPOSE AND INTENT

These multi-family residential design standards supplement the applicable zoning district and use-specific standards of this Ordinance by providing the minimum requirements for design and configuration of multi-family development within the Town's planning jurisdiction. They are intended to:

1. Ensure multi-family development takes place in a manner consistent with the context, scale, and proportion of its surroundings;
2. Promote greater compatibility between new multi-family development and other allowable use types, particularly adjacent residential single-family detached dwellings;
3. Establish expectations for minimum level of quality for multi-family development;
4. Encourage creativity in design and promote individual project identity;
5. Create neighborhoods with enhanced architectural and visual interest; and
6. Preserve property values and protect public and private investment.

B. APPLICABILITY

1. GENERALLY

Except where expressly exempted in writing in this Ordinance, the standards in this section shall apply to the following forms of development:

a. New multi-family buildings;
b. New multi-unit residential structures within a continuing care retirement community use type;
c. New residential treatment facilities; and
d. New congregate care buildings containing residential uses.

2. EXEMPTIONS

The following forms of development shall be exempted from these standards:

a. Renovation of existing multi-family buildings; and
b. Detached multi-family development consisting of two or more structures located on a lot under common ownership. These structures shall comply with the standards in Section 6.2.6, Single-Family Residential Design Guidelines.

3. VOLUNTARY COMPLIANCE FOR SINGLE-FAMILY ATTACHED DEVELOPMENT

a. Single-family attached development shall be subject to these standards in cases where the applicant agrees to voluntarily comply with them. In such cases, a signed copy of the following statement shall be included on all approved site plans and plats.

VOLUNTARY COMPLIANCE WITH MULTI-FAMILY RESIDENTIAL DESIGN STANDARDS

The single-family attached development depicted on the attached site plan or subdivision plat is subject to the Town of Clayton's Multi-family Residential Design Standards in place at the time the application for this development was determined to be complete. I hereby voluntarily consent to the application of these design standards, the acceptance of which shall run with the land regardless of changes in ownership, and recognize that failure to comply with the applicable requirements following approval is a violation of the Clayton Unified Development Ordinance.

_____ _____

Landowner Signature Date

b. The signed statement of consent and an associated plan depicting how the development complies with these standards shall be recorded in the office of the Register of Deeds for the county where the development is located prior to issuance of a building permit.

C. TIMING OF REVIEW

Review for compliance with these standards shall take place during review of an associated type 3 Conditional Rezoning, Site Plan, or Special Use Permit, as appropriate.

D. DESIGN REQUIREMENTS

Development subject to these standards shall be designed in accordance with the following:

1. MULTI-FAMILY STREET NETWORK

a. On sites including new streets, whether public or private, an interconnected network of streets shall be provided, to the maximum extent practicable, and streets shall connect to adjacent existing streets outside of the development.

b. Vehicular driveways into a development with 10 or more dwelling units shall be at least 100 feet away from any major intersection to the maximum extent practicable.

c. Driveways shall be consolidated in order to reduce curb cuts, to the maximum extent practicable.

2. MULTI-FAMILY BUILDING ORIENTATION

a. Buildings that abut streets shall be oriented parallel to the street they front rather than being oriented at an angle to the street.

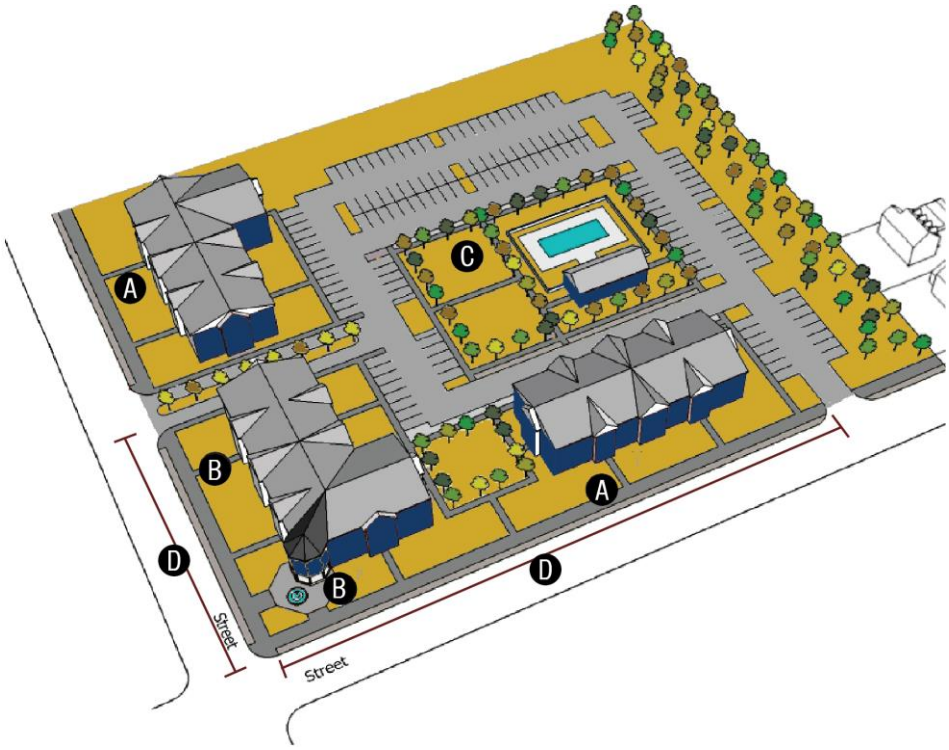
b. On corner lots, the long axis of the building shall be parallel to the longest lot frontage unless such orientation is incompatible with adjacent, existing development along the same street (see Figure 6.2.4.D.2, Multi-family Building Orientation).

c. Buildings within multiple-building developments shall be clustered in order to define open space recreation areas and development entry points.

FIGURE 6.2.4.D.2: MULTI-FAMILY BUILDING ORIENTATION

LEGEND

- Ⓐ Buildings Abutting Streets Oriented Parallel to Street
- Ⓑ Corner Lot Building's Longer Axis Parallel to Longest Lot Frontage
- Ⓒ Buildings Clustered to Define Open Space Areas
- Ⓓ Vehicular Entrance Min. 100' Separation from Intersection



3. MULTI-FAMILY BUILDING ENTRANCES

a. The facades of buildings abutting streets shall be configured so that entryways to individual dwelling units or shared entrances face the street.

b. Access to upper-floor dwelling units shall be obtained from shared internal entries. In no instance shall walkways to individual upper-story dwelling units take place on the exterior of the building.

c. Individual ground-floor and shared entryways shall be sheltered from the weather either by:

- **i.** Recessing the entrance at least three feet to the inside of the primary ground floor façade plane; or
- **ii.** Inclusion of an overhead architectural treatment that extends outward at least three feet from the primary façade plane.

4. MULTI-FAMILY BUILDING FACADES

a. Buildings subject to these standards shall maintain a consistent level of architectural detailing and composition on each building façade facing a street.

b. Building facades facing streets shall provide a minimum of three of the following architectural elements (see Figure 6.2.4.D.4, Multi-Family Building Facades):

- **i.** A covered porch or terrace;
- **ii.** One or more dormer windows or cupolas;
- **iii.** Eyebrow windows;
- **iv.** Awnings or overhangs;
- **v.** Decorative moldings;
- **vi.** Shutters;
- **vii.** Pillars, posts, or pilasters;
- **viii.** One or more bay windows with a minimum twelve-inch projection from the facade plane;
- **ix.** Multiple windows with a minimum of four-inch-wide trim;
- **x.** Corniced parapets;
- **xi.** Eaves with a minimum of four-inch-wide trim; or
- **xii.** Integral planters that incorporate landscaped areas and/or places for sitting.

FIGURE 6.2.4.D.4: MULTI-FAMILY BUILDING FACADES



c. Garage entries, loading and service entries, utility rooms, stairs, elevators, or similar features shall not occupy more than 20 percent of the width of a building façade facing a street.

d. Attached street-facing garages serving individual dwelling units shall be recessed at least three feet inwards from the primary first floor façade plane or be associated with an upper-story projection that exists above the garage.

5. BUILDING FAÇADE VARIATION IN MULTI-BUILDING DEVELOPMENTS

Multi-family developments with three or more principal buildings shall provide variation between the different buildings in accordance with the following standards:

a. MINIMUM NUMBER OF VARIATION ELEMENTS TO BE INCLUDED

Multi-family development comprised of three or more principal buildings shall incorporate a minimum number of variation elements in accordance with Table 6.2.4.D.5: Multi-Family Building Variability:

TABLE 6.2.4.D.5: MULTI-FAMILY BUILDING VARIABILITY

Number of Principal Buildings in the Multi-Family Development	Minimum Number of Variation Elements to Include [1] [2]
Three to Five	Two
Six to Eight	Three
Nine to Eleven	Four
Twelve or More	Five

NOTES:
1] Variation elements must be provided on each different building. All or the majority of the features may not be located on a single building.
[2] The menu of different variation elements are listed in Section 6.2.4D.5.b, Menu of Variation Elements.

b. MENU OF VARIATION ELEMENTS

Multi-family developments comprised of three or more principal buildings shall provide the minimum number of the following variation elements in accordance with Table 6.2.4.D.5, Multi-Family Building Variability. Nothing shall prevent a development from including more than the minimum number of required building variation elements.

i. One or more principal buildings has a maximum height of one or more stories either greater than or less than average number of stories of the other principal buildings.
ii. One or more of the principal buildings has a footprint that differs in square footage by 25 percent or more than the average principal building footprints of the other principal buildings.
iii. One or more of the principal buildings has a different primary exterior color than the other principal buildings.
iv. One or more of the principal buildings incorporates required architectural elements from Section 6.2.4D.4, Multi-Family Building Facades, on building facades that do not face streets.
v. One or more principal buildings has a different primary exterior material than the other principal buildings (use of the same material with a different color is insufficient). Use of brick as a primary material on all principal buildings shall be credited as compliance with this element.
vi. One of more of the principal buildings has a different roof style (gabled, shed, flat, hip, etc.) than the other principal buildings (use of the same combination of roof forms on each principal building is insufficient).
vii. One or more of the buildings has a different roof material than the other principal buildings (use of the same material with a different color is insufficient). Use of roof-mounted solar panels over 40 percent of one principal building's roof shall be credited as compliance with this element.
viii. One or more of the principal buildings shall be oriented with the long axis of the principal building perpendicular to the street that serves the primary entrance of the development.

ix. One or more of the principal buildings includes overhangs, roofs, or coverings for all patios, balconies, or terraces.

x. One or more of the principal buildings is configured so that all the windows incorporate a canopy, awning, overhang, or other covering.

xi. An alternative that differs from those listed that meets the intent of these standards, in the opinion of the Planning Director.

6. MULTI-FAMILY BUILDING MASSING

a. Upper-story façade walls shall not project beyond the ground floor footprint except to accommodate bump-outs with windows.

b. In the case of two-story buildings, the exterior façade walls of the second floor shall be in line with or setback from the first-floor façade walls.

c. Multi-family buildings configured with upper story façade walls that are setback from the second or ground-floor floor façade walls to preserve light and air and avoid casting shadows (see Figure 6.2.4.D.6, Multi-family Building Massing) may utilize sustainable development incentives in Section 6.17, Sustainable Development Incentives.

FIGURE 6.2.4.D.6: MULTI-FAMILY BUILDING MASSING



7. MULTI-FAMILY BUILDING ARTICULATION

a. Street-facing building facades shall be articulated with wall offsets, in the form of recesses or projections from the primary façade plane, of at least two feet for every 35 linear feet of facade frontage (see Figure 6.2.4.D.7, Multi-family Façade Articulation).

b. Projections or recesses shall occupy at least one building floor, and may extend downwards to the grade or upwards beyond the primary roof line.

FIGURE 6.2.4.D.7: MULTI-FAMILY FAÇADE ARTICULATION

LEGEND

- Ⓐ Primary (street-facing) Facade
- Ⓑ Minimum 2′ Articulation Every 35 Linear Feet
- Ⓒ Projections Extend Beyond Primary Roof Line
- Ⓓ Entry Feature

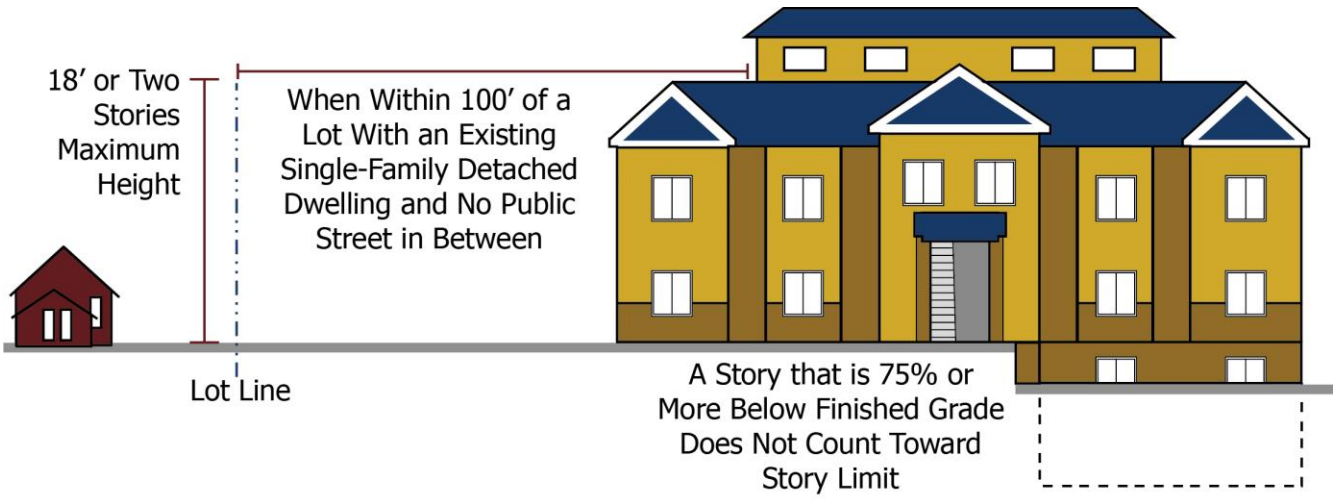


8. MULTI-FAMILY BUILDING HEIGHT

a. Buildings subject to the standards of this section shall have a maximum height of two stories or 18 feet within 100 feet of a lot with an existing single-family detached residential dwelling, without an intervening street. This standard shall apply regardless of any incentives, administrative adjustments, or conditional rezoning conditions (see Figure 6.2.4.D.8, Multi-family Building Height).

b. Building stories that are 75 percent or more below the finished grade at the front of the lot shall not be counted towards the number of allowable stories.

FIGURE 6.2.4.D.8: MULTI-FAMILY BUILDING HEIGHT



9. MULTI-FAMILY ROOF FORM

a. New multi-family development shall incorporate roof pitches between 3:12 and 12:12, or shall incorporate parapet walls with a dimensional cornice around a flat roof.

b. Alternative roof forms or pitches are encouraged for small roof sections over porches, entryways, or similar features.

c. Buildings with eaves shall be configured such that no single horizontal eave continues for more than 60 linear feet without being broken up by a gable, building projection, or articulation feature.

d. Overhanging eaves and roof rakes shall extend at least six inches beyond supporting walls.

10. MULTI-FAMILY BUILDING MATERIALS AND COLORS

a. CONFIGURATION

i. Buildings subject to these standards shall include at least two primary exterior materials on any single building.

ii. Changes in colors and materials shall take place at internal corners or in logical locations, such as: building wings, bays, bump-outs, or recesses (see Figure 6.2.4.D.10, Multi-family Building Materials). In no instance shall exterior materials or colors change at outside corners.

iii. Heavier or more bulky exterior materials shall be located beneath or below lighter materials.

b. PROHIBITED MATERIALS

The following materials shall be prohibited on any façade facing a street, open space, or district intended primarily for single-family detached development:

i. Vinyl, asphalt, or aluminum siding;

ii. Smooth-faced concrete block;

iii. Corrugated metal siding; or

iv. Synthetic stucco within two feet of the grade.

FIGURE 6.2.4.D.10: MULTI-FAMILY BUILDING MATERIALS



11.MULTI-FAMILY SECONDARY STRUCTURES

In addition to the standards in Section 4.5, Secondary Uses, secondary uses and structures associated with a development subject to these standards shall comply with the following:

a. Street-facing detached garages on corner lots shall be located to the side or rear of buildings;

b. Access to secondary structures (such as garages, carports, storage areas, etc.) shall be provided from alleys or secondary streets to the maximum extent practicable;

c. Secondary buildings shall include exterior materials, colors, and roof form designed to be consistent with the principal structure;

d. Secondary structures shall not physically obstruct pedestrian entrances; and

e. Centralized refuse collection containers, if provided, shall be in an enclosed area located to the rear of principal buildings.

12.MULTI-FAMILY SITE FEATURES

a. Multi-family development accessed by a public street shall not include a gate or obstruction that blocks access to the site for vehicles. Multi-family development accessed via a private street or driveway may include a vehicular gate in accordance with Section 6.5.12G.6, Vehicular Gates.

b. Off-street parking serving guests shall be evenly distributed throughout the development.

c. Shared refuse collection containers shall be evenly distributed throughout the development or be centrally located.

d. Detached garages or carports shall not be located between the principal building and the street it faces.

e. Utilities shall be provided underground, and utility vaults shall be clustered in areas outside of required landscaping.

6.2.5 NON-RESIDENTIAL DESIGN STANDARDS

A. PURPOSE AND INTENT

These non-residential design standards supplement the applicable zoning district and use-specific standards of this Ordinance by providing minimum requirements for design and configuration of certain non-residential development within the Town's planning jurisdiction. They are proposed to provide clarity on the Town's expectations for the quality and appearance of these forms of development. More specifically, the purposes of these standards are to:

1. Foster high-quality, attractive non-residential development consistent with Town's adopted policy guidance;
2. Assure a fair and consistent application of the design standards to certain forms of new non-residential development and redevelopment;
3. Foster creativity in design and greater compatibility between non-residential development and its local surroundings; and
4. Promote property values and protect existing public and private investment.

B. APPLICABILITY

These non-residential design standards shall apply to the following use types:

1. NEW COMMERCIAL USE TYPES

New principal structures from all use types listed in the Commercial Use Classification section of Table 4.2.5, Table of Common Principal Uses.

2. NEW INSTITUTIONAL USE TYPES

The following newly-established institutional use types, in every zoning district where permitted:

a. Auditoriums, coliseums, and convention centers;
b. Adult and child day care centers;
c. Bus stations;
d. Community centers;
e. Government offices;
f. Hospitals;
g. Libraries;
h. Museums;
i. Outpatient facilities; and
j. Urgent care uses.

3. NEW INDUSTRIAL USE TYPES

The following new-established industrial use types, when proposed in a MXD, OFI, NCM, or CRM zoning district:

a. Business incubators;
b. Maker space; and
c. Research and development.

4. EXPANSIONS AND ADDITIONS TO EXISTING USE TYPES

The demolition, addition, or expansion of existing structures identified in this section in accordance with the following table:

TABLE 6.2.5.B.4: APPLICABILITY OF NON-RESIDENTIAL DESIGN STANDARDS TO EXISTING SITES

Type of Structure or Activity	Applicability of Mixed-Use Design Standards
New principal structure(s) on a vacant site	Full compliance required
Construction of a new principal structure following removal of an existing principal structure	Full compliance required
Addition or expansion to an existing principal structure already subject to the non-residential design standards	Full compliance required
Addition or expansion to an existing principal structure constructed prior January 2, 2024, or not subject to the non-residential design standards [1]	Exempt from non-residential design standards
Interior or exterior upfit of an existing principal structure with no addition of floor space constructed prior to January 2, 2024, or not subject to the non-residential design standards	Exempt from non-residential design standards
Site improvement of an existing site with no changes to existing principal structure(s)	Non-residential design standards not applicable
Construction of a new secondary structure	Secondary structures must be complimentary to the principal structure in terms of form and materials

NOTES:
[1] Activity resulting in the addition of new floor area only shall be exempted from these standards if the addition or expansion:
a. Physically touches the existing structure; and
b. Is enclosed by walls and a roof; and
c. Includes conditioned space; and
d. Allows direct access between the existing structure and the addition or expansion without having to walk outside or through unconditioned space.

C. EXEMPTIONS

The standards in this section shall not apply to the following forms of development:

1. Mixed-uses, which shall instead comply with the standards in Section 6.2.3, Mixed-Use Design Standards;
2. Industrial use types identified in Table 4.2.5, Table of Common Principal Uses, when located in the LID or HID districts (standards may be applied in the CZI district); and
3. Routine maintenance and repairs, provided that such maintenance or repairs does not render a conforming use or building as nonconforming with respect to these standards.

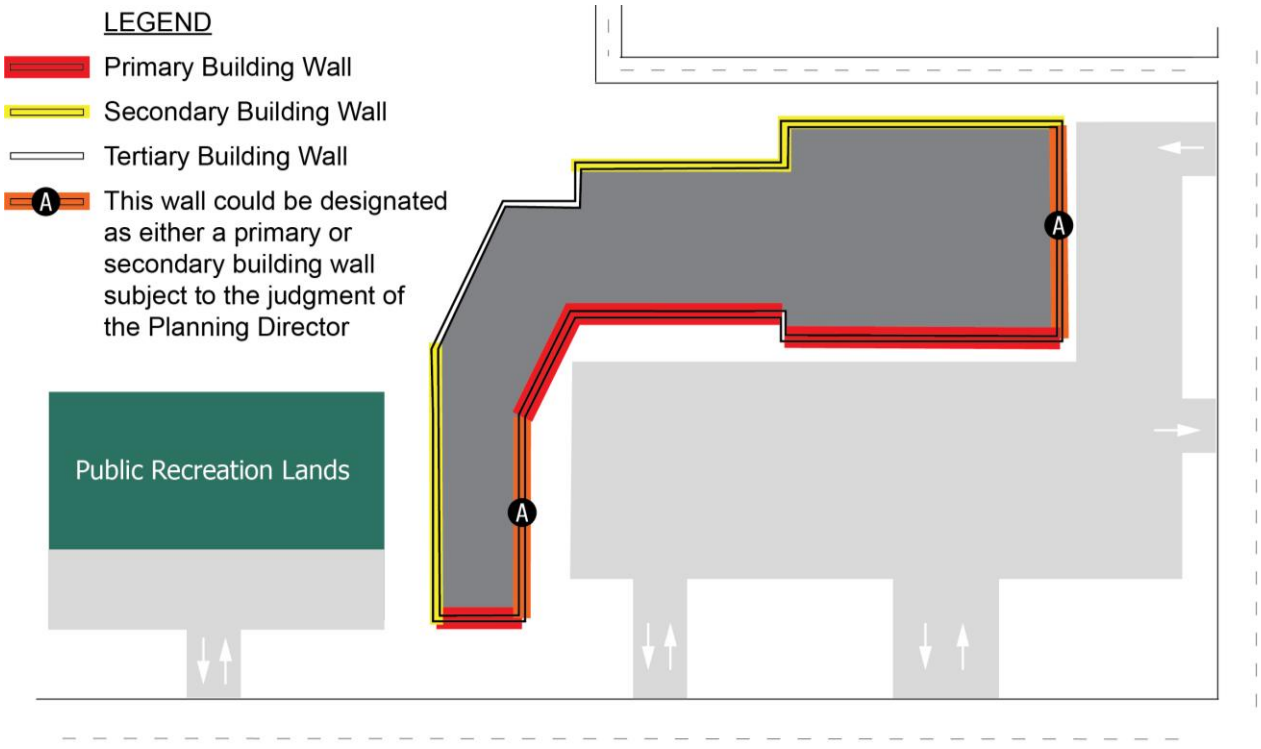
D. TIMING OF REVIEW

Review for compliance with these standards shall take place during review of an associated rezoning, site plan, planned development master plan, or special use permit, as appropriate.

E. NON-RESIDENTIAL BUILDING WALLS DISTINGUISHED

1. Exterior building wall facades shall be distinguished as primary, secondary, or tertiary, in accordance with the following standards (see Figure: 6.2.5.E, Building Façade Walls Distinguished):
   a. Primary walls are the architectural front façade of the building that faces the street from which the building is addressed. As an alternative, the primary wall is the building wall that includes the use's primary entrance.
   b. Secondary building walls are exterior building walls that are visible from a street or public recreation land such as a park, greenway, or other public recreation use but that are not the building's primary wall.
   c. Tertiary walls are all other exterior building walls that are not primary or secondary.
2. Different standards apply to building walls based on their designation as a primary, secondary, or tertiary building wall.
3. In cases where site conditions result in a situation where a building wall could be designated as either a primary or secondary wall by the Planning Director, the wall shall be treated as a primary wall. Nothing in these standards shall limit the number of primary walls on any individual building.
4. In cases where site conditions result in a situation where a building wall could be designated as either a secondary or tertiary wall by the Planning Director, the wall shall be treated as a secondary wall.

FIGURE 6.2.5.E: BUILDING FAÇADE WALLS DISTINGUISHED



F. NON-RESIDENTIAL DESIGN REQUIREMENTS

Development subject to these commercial design standards shall be designed in accordance with the following:

1. STREET NETWORK

a. On sites including new streets, whether public or private, an interconnected network of streets shall be provided, to the maximum extent practicable, and streets shall connect to adjacent existing streets outside of the development.

b. Circulation patterns for drive-through facilities shall be designed to accommodate the stacking of vehicles without interfering with the movement of vehicles or pedestrians.

c. Development shall comply with all applicable provisions in Section 6.1, Access and Circulation.

2. CUSTOMER ENTRANCES

a. Building entrances shall be designated as a primary or a secondary entrance by the applicant, but each principal building shall have at least one primary entrance. Nothing shall limit a building from having multiple primary entrances.

b. Primary building entrances shall be visually prominent and shall include at least three of the following features (see Figure 6.2.5.F: Primary Building Entrances):

FIGURE 6.2.5.F: PRIMARY BUILDING ENTRANCES







LEGEND

- A Change in Building Material or Color
- B Change in Paving Material
- C Significant Architectural Feature
- D Projections or Recesses
- E Canopy, Gallery or Arcade
- F Architectural Detail Such as Tile Work
- G Landscaping Planter
- H Glazing Extending Upwards
- I Outdoor Pedestrian Gathering Area

i. Changes in building material or color;
ii. Changes in paving or walking surface materials, textures, colors, or discernable pattern adjacent to the entrance;
iii. A significant architectural feature that extends above the primary roof height;
iv. A projection or recess of at least five feet beyond the adjacent wall plane;
v. Outdoor pedestrian gathering or seating areas capable of serving at least five people at the same time;
vi. A canopy, awning, portico, archway, arcade, or other covering that extends outwards from the building wall by at least five feet;
vii. Glazing that extends upwards for at least 75 percent of the building's height proximate to the entrance door(s);
viii. Architectural detailing around the entryway such as tilework, entablature, or integrated moldings; or
ix. Fountains, artwork, or landscaping plantings in raised planters adjacent to the entrance door(s).

3. NON-RESIDENTIAL BUILDING ADDRESS NUMBERS

a. Every principal building subject to these standards shall include the building's street address above or adjacent to the primary building entrance in accordance with applicable requirements in the Town Code of Ordinances.
b. Address numbers shall be provided in numeric form rather than spelled out, and shall be provided in an easily discernable typeface.

4. NON-RESIDENTIAL BUILDING ARTICULATION

Building walls subject to these standards shall include articulation features in accordance with the following standards (see Section 6.2.5E, Non-Residential Building Walls Distinguished).

a. NUMBER OF ARTICULATION FEATURES REQUIRED

The minimum number of articulation features to be provided on any single building wall depends upon whether the wall is a primary, secondary, or a tertiary wall. Nothing shall limit a building wall from providing more articulation features than the minimum number required by this section.

i. PRIMARY BUILDING WALLS

Primary building walls shall be configured to provide at least two types of building articulation listed in Section 6.2.5F.4.b, Types of Building Articulation.

ii. SECONDARY BUILDING WALLS

Secondary building walls shall provide at least one of the building articulation types identified in Section 6.2.5F.4.b, Types of Building Articulation.

iii. TERTIARY BUILDING WALLS

Tertiary building walls shall not be required to provide any building articulation features.

b. TYPES OF BUILDING ARTICULATION

Each of the following seven features shall qualify as one type of building articulation for the purposes of Section 6.2.5F.4.a, Number of Articulation Features Required:

i. HORIZONTAL FACADE MODULATION

1. Horizontal façade modulation is the projection or recesses of building floor area either forward of primary wall plane or inwards from the primary wall plane.
2. Each individual projection or recess shall have a minimum depth of five feet either beyond or inwards from the primary wall plane.
3. Each individual projection or recess shall have a minimum span of at least 20 percent of the façade's total length.

4. At least 40 percent of the façade's total length shall be occupied by a projection or recess.
5. Individual projections or recesses along a wall shall be separated from one another by at least two linear feet.
6. In the case of multi-story buildings, horizontal façade modulation shall be required only on the first floor for two-story buildings and on the first and second floors for three- or more-story buildings.

ii. VERTICAL FAÇADE MODULATION

Vertical façade modulation consists of architectural building elements such as columns, pilasters, posts, bays, fins, ribs, moldings, pediments, arcades, or similar features that extend outwards or recess inwards from the primary wall plan for a minimum distance of two feet. Vertical façade modulation shall extend from the grade to the top of the façade and shall maintain regular spacing across at least 50 percent of the facade.

iii. BOW OR CURVILINEAR FEATURE

1. Inclusion of a convex or concave bow or other curvilinear wall feature with a minimum depth or projection of at least ten feet relative to the primary façade plane.
2. Bows or curvilinear features shall occupy at least 50 percent of the total facade length.
3. In the case of multi-story buildings, a bow or curvilinear feature shall be required only on the first floor for two-story buildings and on the first and second floors for three- or more-story buildings.

iv. GREEN WALL

Wall-mounted panels affixed to an exterior building wall configured in accordance with the following:

1. Each panel shall include living plants in a growing medium spaced so that no portion of the growing medium or the exterior wall beneath the panel is visible from a distance of five feet;
2. Panels shall be self-watering and comprised of cold-hardy plants endemic to central North Carolina;
3. Panels shall be configured so that at least 40 percent of the exterior façade is beneath a panel; and
4. Plants shall be maintained and replaced as needed to ensure compliance with subsection (1) above.

v. ROOF MODULATION

Inclusion of two or more differing roof planes, roof pitches, roof heights, or roof materials that are visually distinct from one another and visible from the public realm adjacent to the building wall. This standard may be met by any of the following:

1. Combining sections of flat roof with sections of pitched roof on a single building such that no single type occupies more than 75 percent of the roof area;
2. Use of three or more roof pitches that differ from one another by an amount that is discernable from the adjacent public realm;
3. Use of two or more parapet wall heights with a height difference of at least two feet from one another;
4. Use of dormer windows or shed dormers spaced at uniform intervals or configured to present a balanced appearance;
5. Use of a barrel vault, arc, or other curvilinear roof form configured to cover at least 25 percent of the roof area;
6. Use of a tower, spire, steeple, or other vertical projection with a width no less than ten feet and a height of at least seven feet above the adjacent roof height; or
7. Other architectural feature acceptable to the review authority approving the development.

vi. PRIMARY BUILDING ENTRANCE

Inclusion of a primary building entrance configured in accordance with Section 6.2.5F.2, Customer Entrances.

vii. OUTDOOR SEATING

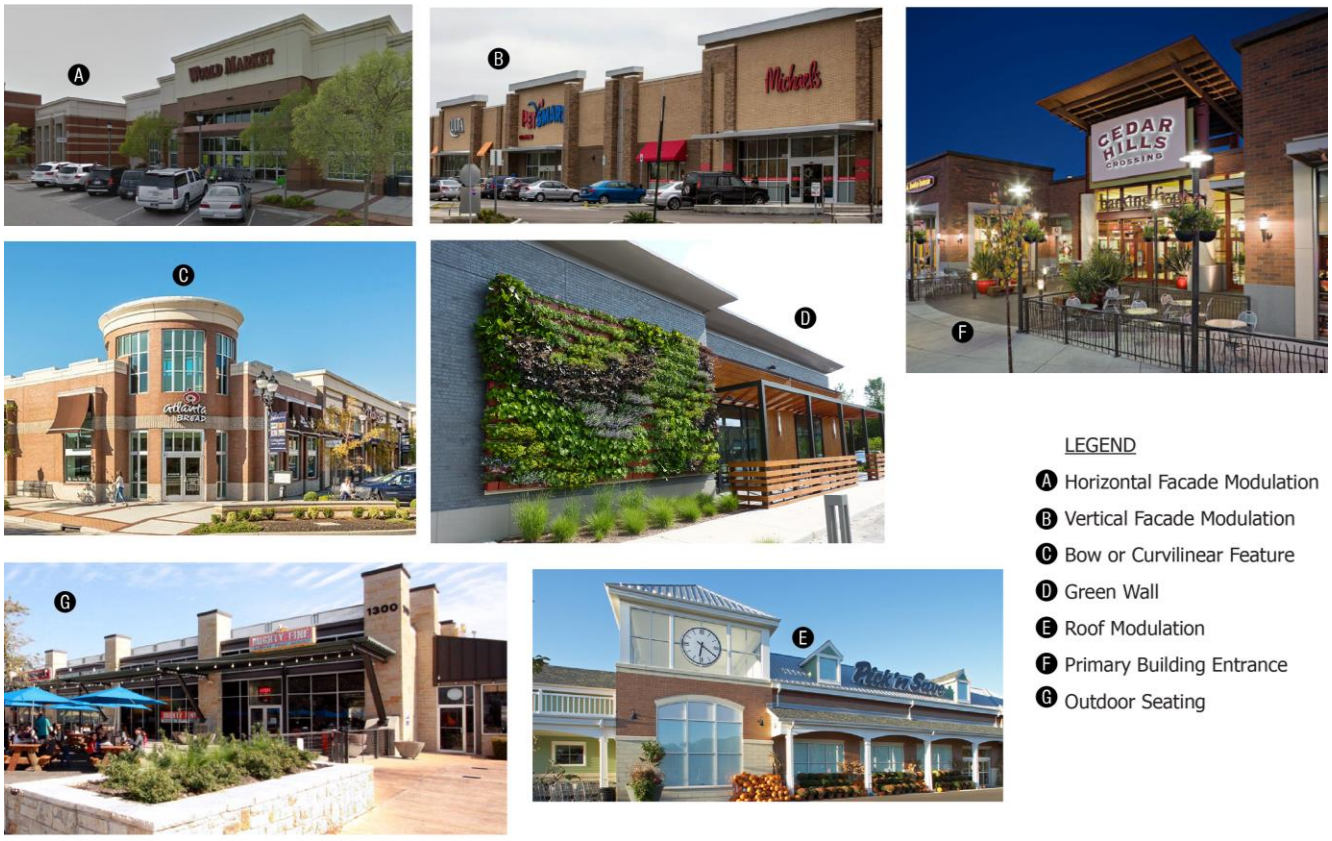
Inclusion of an outdoor seating or outdoor dining area adjacent to the façade with all the following features:

1. A direct means of entry into the building if the public is permitted to enter the building;
2. Seating capable of accommodating at least five people at the same time;
3. Protection from automobiles and bicycles circulating on the site or on an adjacent street;
4. Exterior lighting, if the establishment is open before sunrise or after dark;
5. Shading from the sun or rain; and
6. Wi-Fi access, if Wi-Fi is provided to members of the public indoors.

viii. WEATHER PROTECTION

Inclusion of weather protection for pedestrians, such as awnings, canopies, or overhangs along the entire building frontage abutting a street. Execution of an encroachment agreement is required in cases where weather protection features extend into the public right-of-way.

FIGURE 6.2.5.F.4: NON-RESIDENTIAL BUILDING ARTICULATION

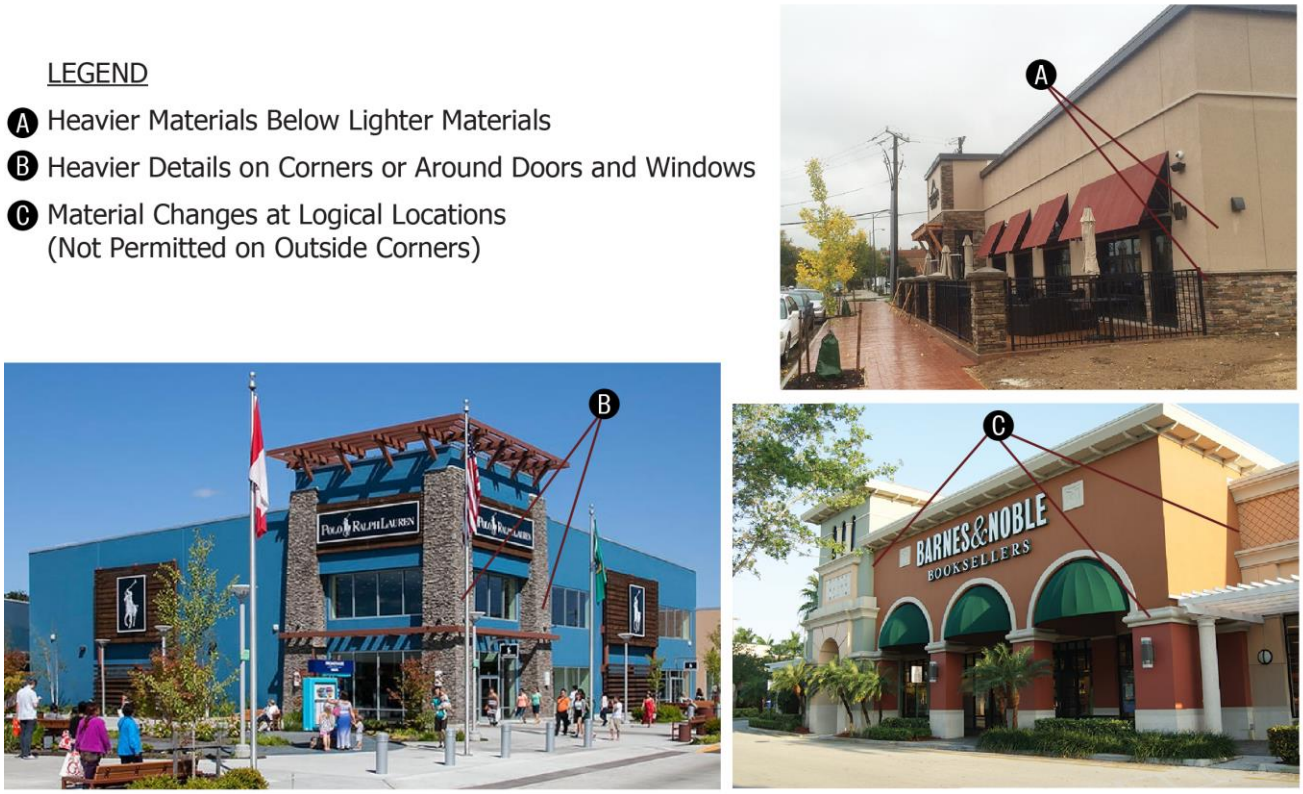


5. NON-RESIDENTIAL MATERIALS AND COLORS

a. MATERIAL CONFIGURATION

i. Where two or more materials are proposed on a building façade, the heavier or more massive material (like stone) shall be located below the lighter or less massive material (like stucco).
ii. Heavier materials may be permitted as details on corners or around doors and windows.
iii. Material changes shall take place at locations such as the intersection of building wings, the intersection of differing storefronts or leaseholds, interior corners, or other logical locations.
iv. Material changes shall not take place at outside corners and material returns shall be included to a logical termination point past an exterior building corner such as a bump-out, building wing, or change in wall direction (see Figure 6.2.5.F.5: Non-Residential Building Materials).

FIGURE 6.2.5.F.5: NON-RESIDENTIAL BUILDING MATERIALS



b. PROHIBITED MATERIALS

i. The following materials shall be prohibited on any primary or secondary building façade walls:
1. Untextured tilt-up concrete panels;
2. Pre-fabricated steel panels;
3. Corrugated sheet metal;
4. Smooth-face concrete blocks;
5. Vinyl siding, soffit, or fascia;
6. Synthetic stucco within two feet of the grade;
7. Asphalt shingles or siding; or
8. Mirrored glass.

ii. A secondary wall may be configured with one or more of the prohibited materials listed above. However, in cases where the secondary wall includes a prohibited material, the secondary wall shall comply with the building articulation standards in Section 6.2.5F.4.b, Types of Building Articulation, and the fenestration standards in Section 6.2.5F.8, Non-Residential Fenestration, applied to primary building façade walls.

c. COLOR

i. PRIMARY COLORS

Overly-bright, neon, or "day-glow" colors shall not be used as primary exterior building colors. Nothing shall limit the use of pastel or traditional community material colors as primary colors.

ii. ACCENT COLORS

Building trim and accent areas may feature brighter colors including primary colors, but accent colors shall not comprise more than 15 percent of any building facade.

6. NON-RESIDENTIAL BUILDING WALL ATTACHMENTS AND FIXTURES

a. Building wall attachments and fixtures shall be located so as to avoid primary building walls where possible.

b. For the purposes of this section, building wall attachments and fixtures shall include the following:

- **i.** Downspouts;
- **ii.** Utility meters;
- **iii.** Utility panels and disconnects;
- **iv.** Utility doors;
- **v.** Vents, pipes, and stacks; and
- **vi.** Condensers, coolers, and air handling equipment.

c. In no instance shall exterior lighting, security cameras, fire protection equipment be considered as a building wall attachment or fixture subject to these standards.

d. In cases where placement on a primary building wall is necessary, the appearance of building wall attachments or fixtures shall be minimized in at least one of the following ways:

- **i.** Concealment within a chase or other enclosure configured to match the building wall materials or colors;
- **ii.** Painted the same color as the primary building wall color; or
- **iii.** Fully screened with evergreen vegetation of a height necessary to fully conceal the attachment or fixture.

7. NON-RESIDENTIAL ROOF FORM

a. Roof pitches less than 3:12 and flat roofs shall require a parapet wall on all sides visible from the street. Parapet walls shall fully screen all roof-top mechanical equipment from the street in accordance with Section 6.6.13, Screening.

b. Parapet walls shall have decorative cornices or caps.

c. A pitched roof shall have eaves that extend a minimum of 12 inches beyond the building's exterior walls.

d. Gable roofs shall incorporate roof rakes that project outwards a minimum of six inches beyond the building's exterior walls.

8. NON-RESIDENTIAL FENESTRATION

Building walls shall incorporate fenestration features in accordance with the following standards (see Figure 6.2.5.F.8, Non-Residential Building Fenestration):

a. PRIMARY BUILDING WALLS

Primary building walls shall be configured so that:

i. At least 30 percent of the ground floor portion of the primary wall is occupied by visually transparent windows or doors. For the purposes of this section, the ground floor extends from the finished floor elevation upwards to the underside of the roof deck of a one-story structure;

ii. At least 20 percent of a second-floor portion of the primary wall (if provided) is occupied by visually transparent windows or doors;

iii. Primary wall calculations exclude parapet walls, cornices, mansard roofs, and dormer windows;

iv. A window or functional general access doorway is located at least every 20 feet along the façade; and

v. No more than 50 percent of any single window or door is obstructed by a window sign or other opaque display.

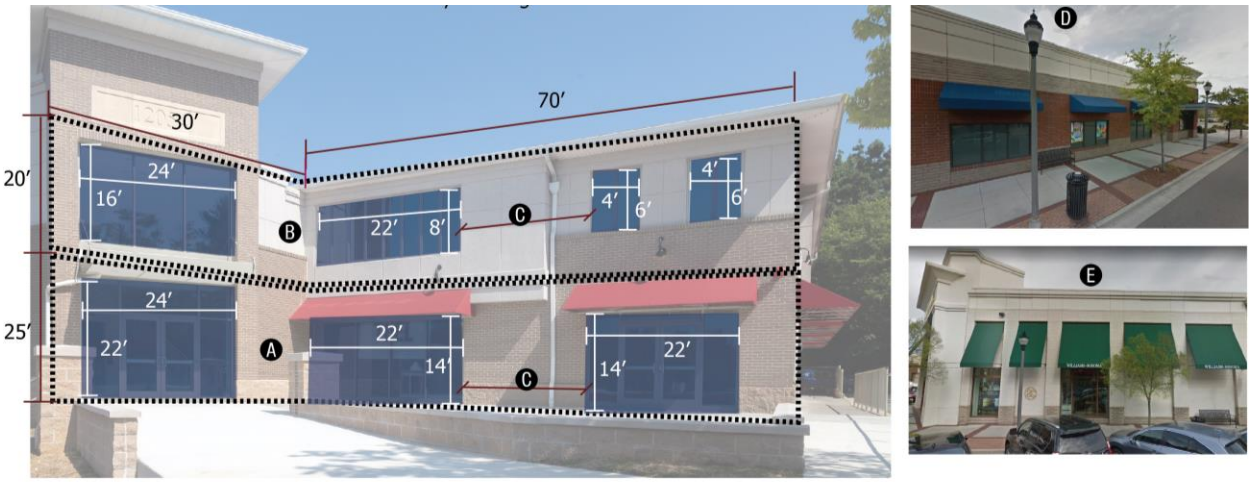
b. SECONDARY BUILDING WALLS

i. Secondary building walls shall be configured so that at least 20 percent of the ground floor façade and at least 10 percent of any second-floor façade is occupied by visually transparent windows or doors with regular spacing;

ii. For the purposes of this section, the ground floor extends from the finished floor elevation upwards to the underside of the roof deck;

iii. Secondary wall calculations exclude parapet walls, cornices, mansard roofs, and dormer windows.

FIGURE 6.2.5.F.8: NON-RESIDENTIAL BUILDING FENESTRATION



LEGEND

Ⓐ First Floor Primary Wall
Total Area = 25 x (30+70) = 2,500 sf
Fenestration Area = (22x24) + (22x14) + (22x14) = 1,164 sf
Percent Fenestration = 1,164 / 2,500 = 46.6% (Minimum 40%)

Ⓑ Second Floor Primary Wall
Total Area = 20 x (30+70) = 2,000 sf
Fenestration Area = (16x24) + (22x8) + (4x6) + (4x6)= 1,176 sf
Percent Fenestration = 608 / 2,000 = 30.4% (Minimum 30%)

Ⓒ 20′ Max. Distance Between Windows or General Access Doorways

Ⓓ Secondary Building Wall Alternative: False or Opaque Windows

Ⓔ Secondary Building Wall Alternative: Articulated Wall Forms with Awnings

c. ALTERNATIVES TO VISUALLY TRANSPARENT WINDOWS AND DOORS

Primary and secondary walls may utilize one or more of the following alternatives to visually transparent windows or doors provided the alternatives occupy an equal or greater percentage of the façade area:

i. Two or more false or opaque windows with regular spacing;
ii. Recesses or projections of at least four inches in deviation from the primary façade plane that are designed to mimic window or door openings in terms of size and placement;
iii. Features or fixtures of a different material than the exterior wall that are mechanically attached or otherwise affixed (i.e., not painted or glued on) and designed to be compatible with the building's architecture or appearance (For example, false sliding barn doors, louvered doors, shuttered windows, or similar features; metal utility doors shall not be credited towards this requirement); or
iv. Inclusion of a series of awnings or overhangs that mimics how such features would be configured if windows were included on the building facade.

9. NON-RESIDENTIAL AWNINGS

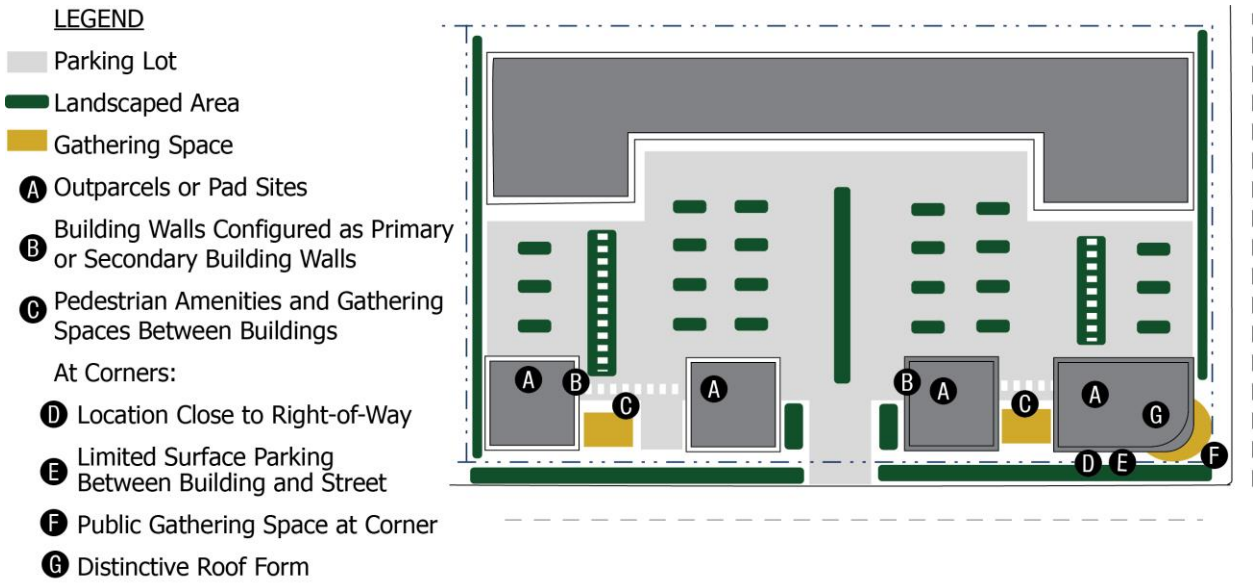
a. No awning shall extend outwards from the building wall more than the width of the sidewalk or ten feet, whichever is less.
b. Awnings must be self-supporting from the building wall.
c. No supports shall rest on or interfere with the use of pedestrian walkways or streets.
d. In no case shall any awning extend beyond the street curb or interfere with street trees or public utilities.

10. NON-RESIDENTIAL OUTPARCELS

Development on outparcels or pad sites associated with a commercial development shall comply with the following requirements (see Figure 6.2.5.F.10: Outparcel Development):

a. Buildings on outparcels or pad sites shall incorporate materials that are similar to and compatible with those used on the primary buildings in the development. Corporate or prototypical architecture shall be reconfigured as necessary in order to comply with this standard.
b. Building walls associated with development on an outparcel or pad site shall be configured solely in accordance with the articulation and fenestration provisions for primary or secondary walls, as appropriate, for the main buildings in the development.
c. Spaces between buildings on outparcels or pad sites shall include pedestrian amenities such as plazas, seating areas, and gathering places in addition to off-street parking spaces.
d. Outparcel buildings 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 rights-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; and
   iv. Use of distinctive roof form or other pedestrian features such as porches, canopies, or arcades.

FIGURE 6.2.5.F.10: OUTPARCEL DEVELOPMENT



11. 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 (see Figure 6.2.5.F.11, Multi-building Development):

a. Break up the site into a series of smaller "blocks" defined by on-site streets;

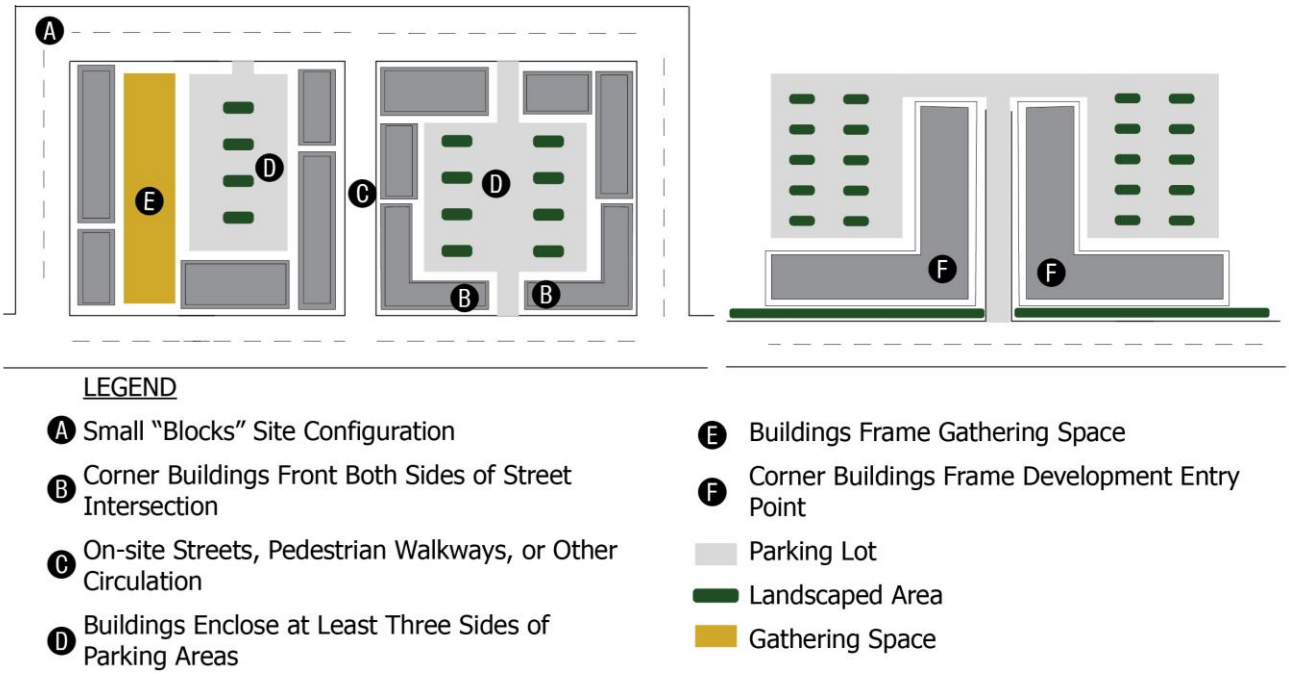
b. pedestrian walkways, or other circulation routes;

c. Locate the buildings around the corner of an adjacent street intersection or entry point to the development;

d. Enclose parking areas, public spaces, or other site amenities on at least three sides through the placement of buildings; or

e. Enclose outdoor dining or gathering places between buildings.

FIGURE 6.2.5.F.11: MULTI-BUILDING DEVELOPMENT



G. RETAIL, LARGE FORMAT

The following standards shall apply to large format retail uses:

1. LARGE FORMAT RETAIL USES DISTINGUISHED

Large format retail uses are commercial use types (see Table 4.2.5, Table of Common Principal Uses) consisting of a single or multiple commercial tenants in one or more buildings totaling more than 70,000 square feet in area when 70% or more of the total floor area is occupied by retail sales activity.

2. COMPLIANCE WITH COMMERCIAL DESIGN REQUIREMENTS

Large format retail uses shall comply with the following commercial design standards:

- **a.** Section 6.2.5F.1, Street Network;
- **b.** Section 6.2.5F.3, Non-Residential Building Address Numbers;
- **c.** Section 6.2.5F.4, Non-Residential Building Articulation;
- **d.** Section 6.2.5F.5, Non-Residential Materials and Colors;
- **e.** Section 6.2.5F.6, Non-Residential Building Wall Attachments and Fixtures;
- **f.** Section 6.2.5F.7, Non-Residential Roof Form;
- **g.** Section 6.2.5F.9, Non-Residential Awnings;
- **h.** Section 6.2.5F.10, Non-Residential Outparcels; and
- **i.** Section 6.2.5F.11, Multi-building Development.

3. ADDITIONAL STANDARDS FOR LARGE FORMAT RETAIL USES

a. CUSTOMER ENTRANCES

Large format retail uses shall comply with the standards in Section 6.2.5F.2, Customer Entrances, except that primary entrances shall include four of the listed options instead of three.

b. FENESTRATION

Building walls on large format retail uses shall incorporate fenestration features in accordance with the following standards (see Figure 6.2.5.G, Large Retail Building Fenestration):

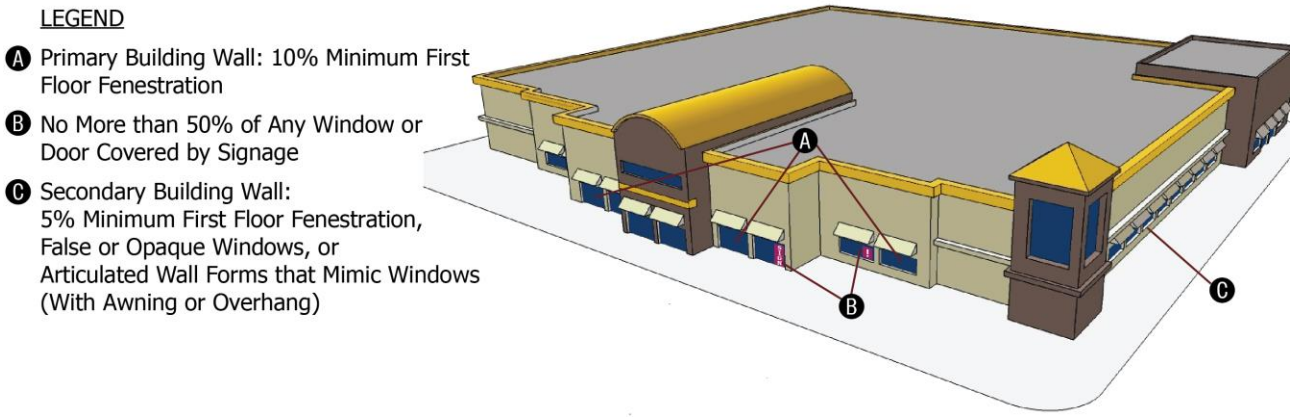
i. PRIMARY BUILDING WALLS

Primary building walls shall be configured so that at least 10 percent of the first-floor portion of the primary wall is occupied by visually transparent windows or doors; and no more than 50 percent of any single window or door is obstructed by a window sign or other opaque display.

ii. SECONDARY BUILDING WALLS

Secondary building walls shall be configured so that at least five percent of the ground floor façade is occupied by visually transparent windows or doors; false or opaque windows; or articulated wall forms designed to mimic window openings that also include an overhang or awning.

FIGURE 6.2.5.G: LARGE RETAIL BUILDING FENESTRATION



c. OFF-STREET PARKING LOCATION

i. Sites comprised of large format retail uses subject to these design standards shall be configured such that no more than 75 percent of the provided off-street parking shall be located between a building's primary building façade and the street it faces.

ii. Off-street parking serving large format retail development located within a Gateway Overlay District shall be configured in accordance with the applicable requirements in Section 3.7.3, GTOD Gateway Overlay District.

6.2.6 SINGLE-FAMILY RESIDENTIAL DESIGN GUIDELINES

A. PURPOSE AND INTENT

These residential design guidelines are proposed as ways to ensure that new single-family detached and duplex housing is high quality, aesthetically pleasing, and provides a wide variety of living options for Town residents. More specifically, these guidelines are intended to:

1. Ensure single-family detached and duplex homes maintain consistent exterior materials and architectural treatments on the front and sides of buildings;
2. Establish guidance regarding changes of exterior finishes and materials on individual facades;
3. Avoid garage-dominated street fronts in residential neighborhoods;
4. Encourage duplex structures to appear as single-family homes; and
5. Ensure an adequate level of variability in single-family home design so as to avoid monotonous streetscapes where every dwelling appears identical or very similar to its neighboring dwellings.

B. APPLICABILITY

1. Single-family detached, duplex, triplex, and quadplex dwellings shall comply with these guidelines in the following instances:
   a. When proposed development is subject to a signed statement of consent in accordance with Section 6.2.6C, Statement of Consent; and
   b. When compliance with these guidelines is included as a condition of approval associated with a type 3 Conditional Rezoning (see Section 2.3.6, Conditional Rezoning).
2. Single-family detached, duplex, triplex, and quadplex dwellings not subject to a statement of consent are not required to comply with these guidelines, though conformance is strongly encouraged.

C. STATEMENT OF CONSENT

1. Compliance with the design guidelines in this section is voluntary and at the discretion of the applicant. In cases where an applicant chooses to comply with the guidelines in this section, the landowner shall sign the following statement of consent and include it with the application for a Preliminary Plat, Final, Plat Special Use Permit, Site Plan, or Building Permit, as appropriate.

VOLUNTARY COMPLIANCE WITH RESIDENTIAL DESIGN GUIDELINES

The single-family detached, duplex, triplex, or quadplex depicted on the attached site plan, subdivision plat, or other development approval is subject to the Town of Clayton's Single-Family Residential Design Guidelines in place at the time the application for this development was determined to be complete. I hereby voluntarily consent to the application of these design guidelines, this acceptance of which shall run with the land regardless of changes in ownership, and recognize that failure to comply with the applicable guidelines following approval is a violation of the Clayton Unified Development Ordinance.

_____ _____

Landowner Signature Date

2. The signed statement of consent and the development approval shall be recorded in the office of the Register of Deeds for the county where the development is located prior to issuance of a Building Permit.
3. When the guidelines are to be applied to lots within a subdivision, the Final Plat shall include a disclosure statement that all lots shown on the plat shall be subject to these guidelines.

D. DESIGN FEATURES

1. SIDE AND REAR FACADES

a. Although the front facade of a principal building is expected to be the primary focal point in terms of architectural character and features, all sides of a building shall incorporate architectural detailing and windows that complement the front facade and provide visual interest.
b. Blank walls void of windows and architectural detailing are prohibited when adjacent to a street.

2. FOUNDATION MATERIALS

a. Poured concrete foundations, concrete block foundations, or smooth-faced concrete masonry unit foundations shall be covered by decks, porches, or be clad in face brick, stone, stucco, or some other masonry material accurately imitating these materials. In no instance shall poured concrete, concrete block, or smooth-faced concrete masonry unit foundations be visible on a front or street-facing facade.
b. In cases where a dwelling includes a finished or unfinished basement, the exterior basement walls on the rear or on sides not visible from streets are exempted from these standards.

3. MATERIAL CHANGES

a. Exterior materials on the front façade shall not change at outside corners, but shall continue along side or rear facades for a minimum distance of at least five feet. Wherever possible, materials shall continue to a logical termination point such as a change in roof line or where a separate wing meets the main body of the dwelling (see Figure 6.2.6.D.3, Exterior Material Changes).
b. Exterior material changes shall take place along a horizontal line where two forms meet, such as the wall and the foundation, the first and second stories, or the wall and roof. It is acceptable for material changes to be configured as architectural accents in areas around windows, doors, cornices, at corners, or in a repeating pattern across a façade.
c. Where two or more exterior materials meet or are combined, the heavier or more massive material shall be located below the lighter element(s). For example, brick below wood siding, stone below brick, wood siding below stucco, etc.
d. It is acceptable for heavier materials to be used as accents around doors, windows, and corners.

FIGURE 6.2.6.D.3: EXTERIOR MATERIAL CHANGES



4. PROHIBITED MATERIALS

a. The use of corrugated metal siding, unpainted plywood, or smooth-faced concrete block is prohibited.

b. Synthetic stucco or EIFS shall be prohibited within two feet of the finished grade.

5. STREET-FACING GARAGES

a. MAXIMUM DOOR WIDTH

Street-facing garage doors configured in accordance with these guidelines shall not exceed a maximum width of 18 feet per garage door.

b. LOCATION

The placement of the primary entrance closer to the street than a street-facing garage door is strongly encouraged, but in no instance shall a primary dwelling entrance be more than nine feet farther from the street than a street-facing garage door.

c. DESIGN FEATURES

Street-facing garages configured in accordance with these guidelines shall incorporate at least three of the following design features on the building wall containing the garage doors (see Figure 6.2.6.D.5, Garage Door Design Features):

i. Each garage door shall include transparent or opaque windows;

ii. Garage doors shall incorporate decorative hinges or hardware that may be functional or aesthetic;

iii. Garage doors shall include an overhang, eave, trellis, arbor, awning, or other similar architectural feature that projects at least 16 inches beyond the facade directly above the garage door(s);
iv. Garage doors shall be flanked on either side by vertical design elements like columns, pilasters, posts, or similar vertical feature; or
v. The garage door(s) are located at least two or more feet behind a front porch or the primary entrance to the dwelling.

FIGURE 6.2.6.D.5: GARAGE DOOR DESIGN FEATURES



6. SIDE-LOADED GARAGES

Side-loaded garages configured in accordance with these guidelines may be closer to the street than the primary entrance to the dwelling, provided the garage facade facing the street includes compatible design features found on other building facades, including but not limited to:

a. Windows;
b. Eaves;
c. Overhangs;
d. Decorative trim;
e. Material changes; or
f. Other architectural features included for the sake of compatibility with the building's other facades.

7. DUPLEX, TRIPLEX, AND QUADPLEX ENTRANCES

a. A duplex, triplex, or quadplex structure shall be organized so as to give the appearance of being a large single-family detached home.
b. A single shared main entry door is strongly encouraged.

c. In no instance shall the primary façade of the building contain fewer than one dwelling entrance.

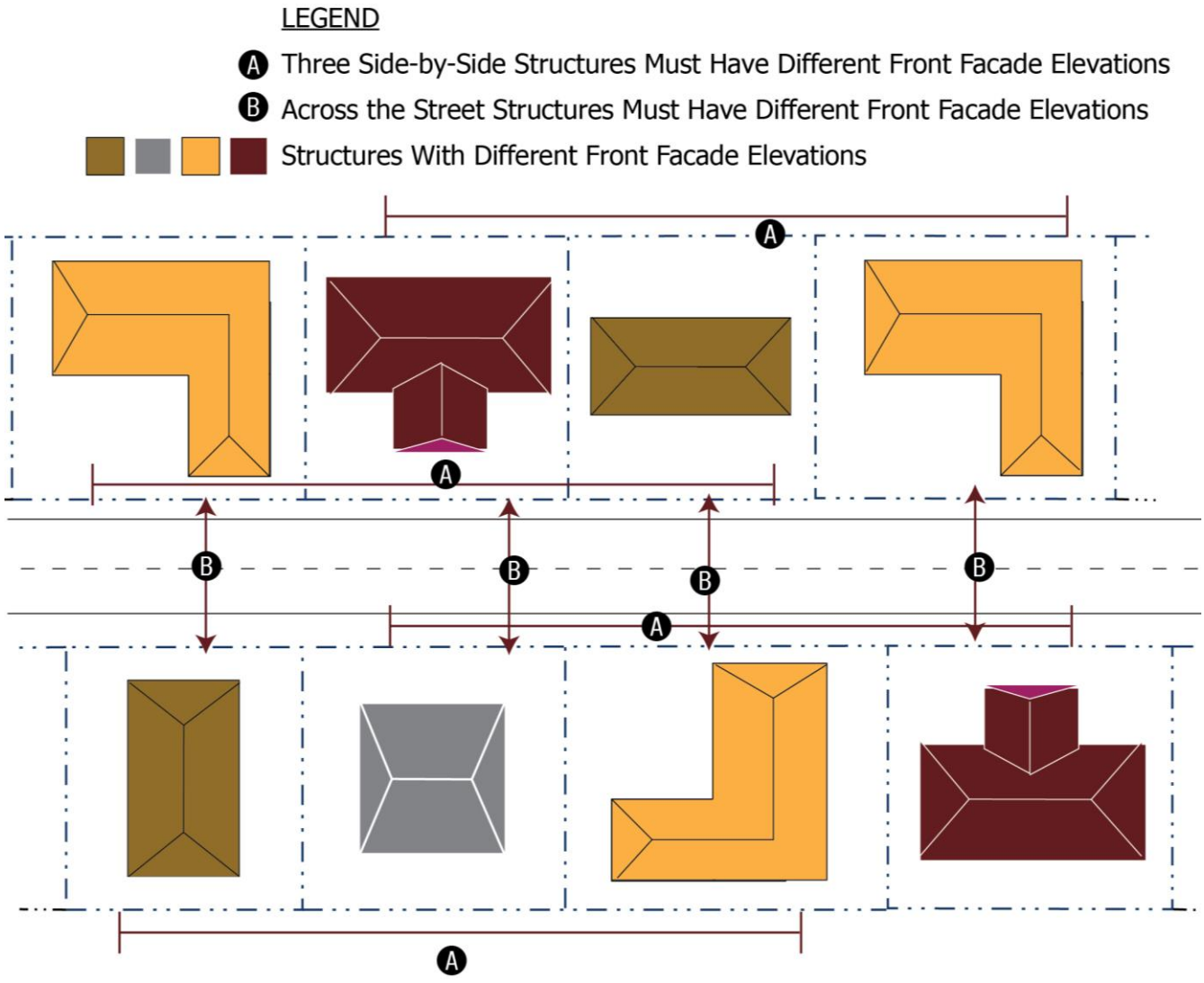
8. ARCHITECTURAL VARIABILITY

a. A continuous row of identical buildings along a block shall be prohibited. Each building shall include "distinctly different" front facade elevations within any single phase of the development such that:

i. No three structures that are side-by-side may have the same front façade elevation; and

ii. No structures directly across the street from one another shall have the same front facade elevation (see Figure 6.2.6.D.8: Distinctly Different).

FIGURE 6.2.6.D.8: DISTINCTLY DIFFERENT



b. For the purposes of this section, "distinctly different" shall mean that a dwelling must differ from other adjacent and opposing dwellings in at least six of the following ways (see Figure 6.2.6.D.9: Distinction Options):

i. A discernable exterior primary color variation, not a slight variation of a similar hue, such as beige or pastel;
ii. Variation in exterior materials;
iii. Use of two or more distinct variations in roof forms (e.g., gable, hip, shed, mansard, gambrel, flat, or other);
iv. Variations in the number of building stories of at least one story;
v. Variation in the amount of habitable space by 400 square feet or more;
vi. A change in the depth of the setback from the street which gives the dwelling its street address by 15 feet or more;
vii. Changes in the type and color of roofing material on structures with pitched roofs;
viii. The orientation of the longest building axis to the street the dwelling faces, whether parallel, perpendicular, or at an angle; or
ix. The orientation of primary roof ridgeline to the street the dwelling faces, whether parallel, perpendicular, or at an angle.

FIGURE 6.2.6.D.9: DISTINCTION OPTIONS



6.3 FENCES AND WALLS

6.3.1 PURPOSE AND INTENT

These standards provide development standards for permanent fences and walls on individual lots or development sites. These standards are proposed to protect the health and safety of the public while balancing the practical uses for fencing and walls like security and privacy with the need for aesthetic quality and a high-quality built environment. More specifically, these standards are intended to:

A. Provide for privacy and security on individual lots;
B. Ensure proper construction techniques are followed and that fences and walls are maintained in good repair;
C. Assist with the transition between public and private spaces;
D. Minimize the appearance of fence or wall "canyons" along streets; and
E. Ensure fencing and walls are consistent with the Town's desired architectural character.

6.3.2 APPLICABILITY

A. GENERALLY

1. The provisions of this section shall apply to all new fence or wall construction or replacement of all fences, screening walls, or retaining walls.
2. A fence or wall may only be erected in accordance with the standards in this section and Section 2.3.31, Zoning Compliance Permit.
3. Except for retaining walls, fences, or privacy walls over six feet in height shall comply with the structural requirements necessary to meet applicable wind loading standards and shall be subject to issuance of a building permit in accordance with Section 2.3.4, Building Permit.
4. Retaining walls with a total height of five feet or more, including the buried portion, require sealed plans prepared by a professional engineer as part of the application for a Building Permit.

B. EXEMPTIONS

The following are exempted from the standards in this section:

1. Fences and walls associated with bona fide farms and agricultural use types in districts where these uses are permitted; and
2. Temporary fences for construction sites, including but not limited to: fencing necessary for soil erosion and sedimentation control and tree protection.

C. PRE-EXISTING DEVELOPMENT

Lawfully established fences and walls established prior to January 2, 2024, that do not comply with these standards shall be subject to the applicable standards in Section 5.4, Nonconforming Site Features.

6.3.3 LOCATIONAL STANDARDS

A. GENERAL

No fence or wall shall:

1. Be located within the public right-of-way (except for public fences or walls, or as needed for retention of soil, subject to an approved encroachment agreement with the Town);
2. Be located within a designated public utility or drainage easement;

3. Obstruct visibility at intersections as required in accordance with Section 6.1.7, Sight Distance Triangles;
4. Impede visibility of the required property address number; or
5. Block pedestrian access from doors or windows.

B. EASEMENTS

1. Retaining walls shall provide maintenance easements along their course, particularly when a retaining wall cross lot lines shall be located within a maintenance easement.
2. In cases where a fence or wall is permitted within an easement, the fence or wall shall be allowed to cross the easement perpendicularly or run parallel to and within the easement as close as is practicable to the edge of the easement. Crossings may be required to install a gate wide enough for maintenance equipment to transverse.
3. It is the landowner's responsibility to verify fence or wall locations within a private easement with the easement owner. The Town's permitting of fences or walls does not supersede or negate any private easement agreements or allowances.
4. The landowner shall remain solely liable for any repair or replacement if any portion of the fence or wall located within a required easement is damaged during maintenance or construction activities within the easement by the easement owner or their agent.

C. BLOCK DRAINAGE

Fences or walls shall not alter or impede the natural flow of water in any stream, creek, drainage swale, or ditch.

D. REQUIRED SETBACKS

Fences or walls may be located within required setbacks but shall not encroach onto a separate lot.

E. REQUIRED LANDSCAPING AREAS

Fences or walls may be located within required landscaping areas, subject to the standards in Section 6.6.9H, Permitted Encroachments. In no instance shall chain link or other semi-opaque fencing be credited towards applicable screening requirements.

6.3.4 MATERIALS

A. LIFESPAN

1. Fences be designed, constructed, and maintained to ensure a minimum useful life of at least ten years.
2. Walls be designed, constructed, and maintained to ensure a minimum useful life of at least 30 years.

B. PERMITTED FENCE MATERIALS

The following fencing materials are permitted for fences:

1. Masonry or stone;
2. Ornamental iron, steel, or aluminum;
3. Wood;
4. Vinyl, rigid non-rolled plastic, or composite; or
5. Wire or chain-link only in accordance with Section 6.3.4D.2, Wire and Chain Link Fencing.

C. PROHIBITED FENCE MATERIALS

1. Fences made of wooden pallets, tires, debris, junk, rolled or sheet plastic, sheet metal, untreated or unpainted plywood, readily flammable material, or waste materials shall be prohibited, unless the materials have been recycled and reprocessed, for marketing to the general public as building materials designed to resemble new building materials (e.g., picket fencing made from recycled plastic and fiber).
2. In no instance shall tarps or silt fencing remain on a lot or site after completion of construction.

D. RESTRICTED FENCE MATERIALS

1. ELECTRIC FENCES

Fences that carry an electrical current are allowed solely for the purposes of enclosing livestock as part of a bona fide farm use. Nothing shall prohibit below-ground electrical fences intended for the keeping of pets.

2. WIRE AND CHAIN LINK FENCING

a. BARBED, RAZOR, OR CONCERTINA WIRE AS FENCING

Barbed wire as a fence is prohibited in all zoning districts except that it may be allowed as part of a bona fide farm use.

b. BARBED, RAZOR, OR CONCERTINA WIRE ATOP ANOTHER MATERIAL

i. Barbed, razor, or concertina wire may be permitted atop another material or along the top of a wall within the CZC, CZD, CZI, CZM, CZR, PUB, LID, or HID districts.
ii. Where permitted, barbed, razor, or concertina wire shall be at least six feet above the grade measured from the base of the fence or wall upon which it is located.

c. CHAIN LINK FENCING

Chain link fencing shall be fully coated in black vinyl, and shall comply with the following requirements:

i. Except within industrial districts, black vinyl coated chain link fencing is prohibited in the area forward of the front façade line of a principal building and the street it faces.
ii. Black vinyl coated chain link fencing may not be located with a street setback unless fully obscured from view from the street by landscaping material to the same height as the chain link fencing.
iii. Shrubs used for the purposes of obscuring chain link fencing shall be at least 30 inches in height at planting.
iv. Vinyl coating is not required for chain link fences located in non-residential districts when the fence is not visible from adjacent property or right-of-way.
v. Nothing shall limit the use of black vinyl coated chain link fencing around all sides of a recreational facility, educational institution, utility, or governmental facility where such fencing is necessary for public safety or security.

d. WIRE MESH OR WIRE FABRIC FENCING

Wire mesh fencing (e.g., chicken wire, hardware cloth, etc.) is permitted as part of a residential use provided it is not located within a required setback or does not exceed 36 inches in height above the adjacent grade.

E. TEMPORARY FENCE MATERIALS

Temporary fences shall comply with the requirements in Section 4.6.5G, Temporary Fencing.

F. WALL MATERIALS

1. Walls shall be constructed of one or more of the following materials:
   a. Stucco or similar parging over concrete block;
   b. Exposed aggregate concrete; or
   c. Brick, stone, or architectural block assembled in a structurally safe and attractive condition.
2. No walls of exposed smooth-faced concrete block shall be permitted. Smooth-faced concrete block is permitted when coated with stucco, parging, or other masonry material. Painting alone is insufficient to meet these requirements.
3. Stacked stone or other masonry configurations where no mortar or other bonding agent is used between stones or individual masonry units shall not exceed 36 inches in height above grade.
4. Alternative wall materials may be permitted by the Planning Director provided they provide a similar level of opacity to that of the listed materials and are in keeping with the architecture of the development.

6.3.5 MAINTENANCE

A. Any fence or wall which, through neglect, lack of repair, type or manner of construction, method of placement or otherwise, constitutes a hazard or endangers any person, animal, or property is in violation of this Ordinance.

B. When a fence or wall is in violation of this Ordinance, the Planning Director shall require the owner or occupant of the property upon which the fence or wall is located to repair, replace, or demolish the fence or wall in accordance with all applicable standards in this Ordinance.

6.3.6 MAXIMUM HEIGHT

A. Maximum fence and wall height shall be in accordance with Table 6.3.6, Maximum Fence and Wall Height, and Figure 6.3.6, Maximum Fence and Wall Height.

B. Fence and wall height shall be measured in accordance with the standards in Section 6.3.8, Measurement.

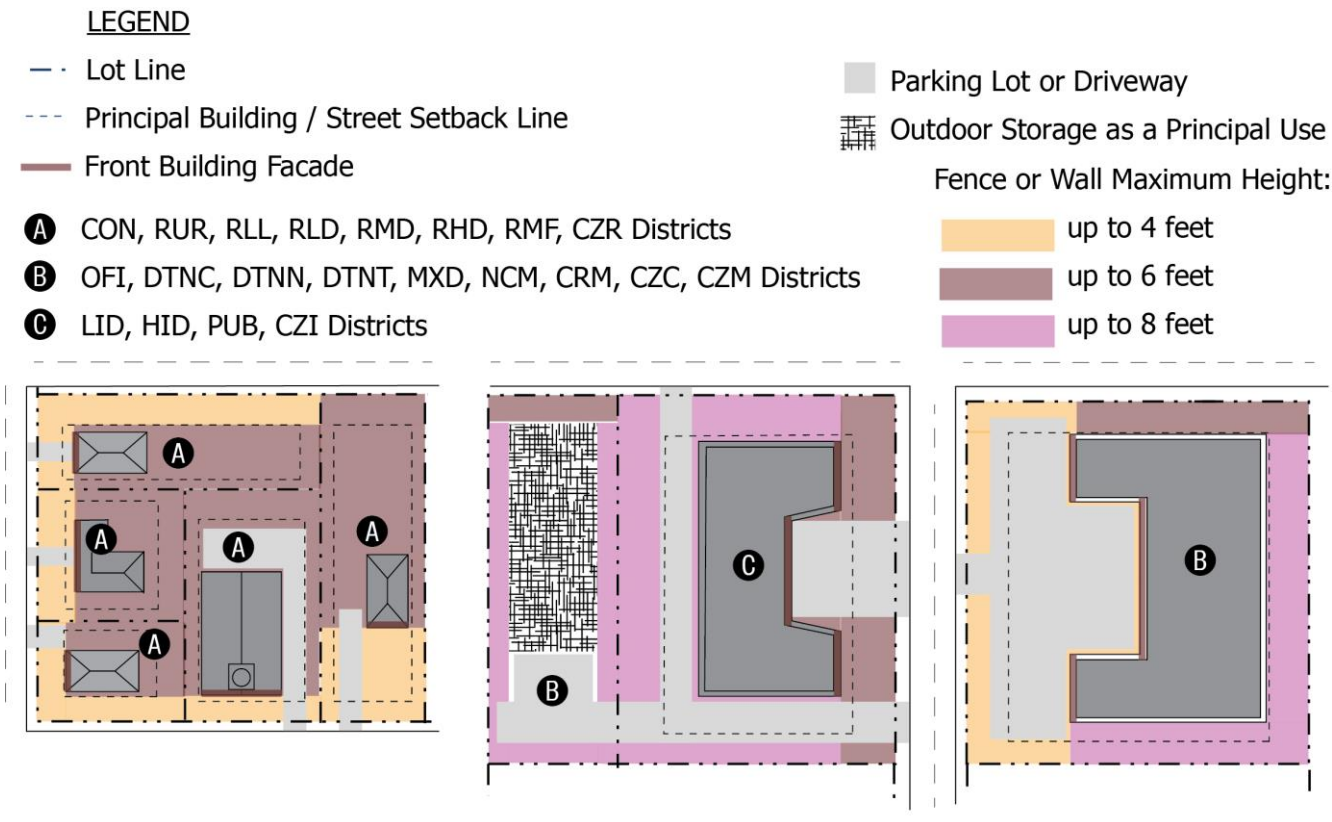
TABLE 6.3.6: MAXIMUM FENCE AND WALL HEIGHT

Zoning District Where Located	Location on Lot or Site	Maximum Height (feet) [1]
CON, RUR, RLL, RLD, RMD, RHD, RMF, CZR	Anywhere between the front façade line of a principal building and a lot line abutting a street right-of-way	4
	Anywhere behind the front façade line and between a lot line abutting a street right-of-way and the inner edge of a required street setback	4 [2]
	All other locations	6
OFI, DTNC, DTNN, DTNT, MXD, NCM, CRM, CZC, CZM	Anywhere between the front façade line of a principal building and a lot line abutting a street right-of-way	4
	Anywhere behind the front façade line and between a lot line abutting a street right-of-way and the inner edge of a required street setback	6
	All other locations	8 [3]

TABLE 6.3.6: MAXIMUM FENCE AND WALL HEIGHT		
ZONING DISTRICT WHERE LOCATED	LOCATION ON LOT OR SITE	MAXIMUM HEIGHT (FEET) [1]
LID, HID, PUB, CZI	Anywhere between the front façade line of a principal building and a lot line abutting a street right-of-way	6
	All other locations	8 [3]

NOTES:
[1] Fence height limits are not applied to fences or walls surrounding tennis courts, athletic fields, ballstops, and around public utility features where public safety must be maintained.
[2] On through lots bounding a street at the front and the rear, a fence or wall in the rear of the lot may have a maximum height of six feet between the street setback line and the lot line abutting the street right-of-way.
[3] All fences or walls over six feet in height shall require issuance of a Building Permit and compliance with State Building Code standards for wind loading.

FIGURE 6.3.6: MAXIMUM FENCE AND WALL HEIGHT



6.3.7 FINISHED SIDE

A. Fences over three feet in height and located within a required street setback shall be configured so that the finished side faces outwards toward the abutting street right-of-way.

B. All fences or walls shall be configured so that the finished side faces outwards. For the purposes of this section, the finished side does not include any supporting members or bracing (see Figure 6.3.7, Finished Side).

C. As an alternative to configuring the fence with the finished side facing outwards, the fence may be obscured by an evergreen hedge configured with shrubs planted no greater than 30 inches on-center and located between the fence and the street right-of-way. Shrubs shall be planted along the entire span of the fence that is located within a street setback and located no closer than 36 inches to the edge of the right-of-way. Shrubs shall comply with the minimum standards for shrubs at the time of planting in Section 6.6.7, Plant Material Specifications.

FIGURE 6.3.7: FINISHED SIDE

Ⓐ Finished Side of Fence - Facing Outward

Ⓑ Unfinished Side of Fence - Facing Inward



6.3.8 MEASUREMENT

A. MEASUREMENT LOCATION

1. Fence height shall be measured at the highest point above grade (not including columns or fence posts) on the portion of the fence nearest an abutting or adjacent lot or street right-of-way.
2. In cases where a fence or wall is placed on a berm, the maximum fence or wall height shall include the height of the berm, as measured from the toe of the slope (see Figure 6.3.8, Fence Height Measurement).

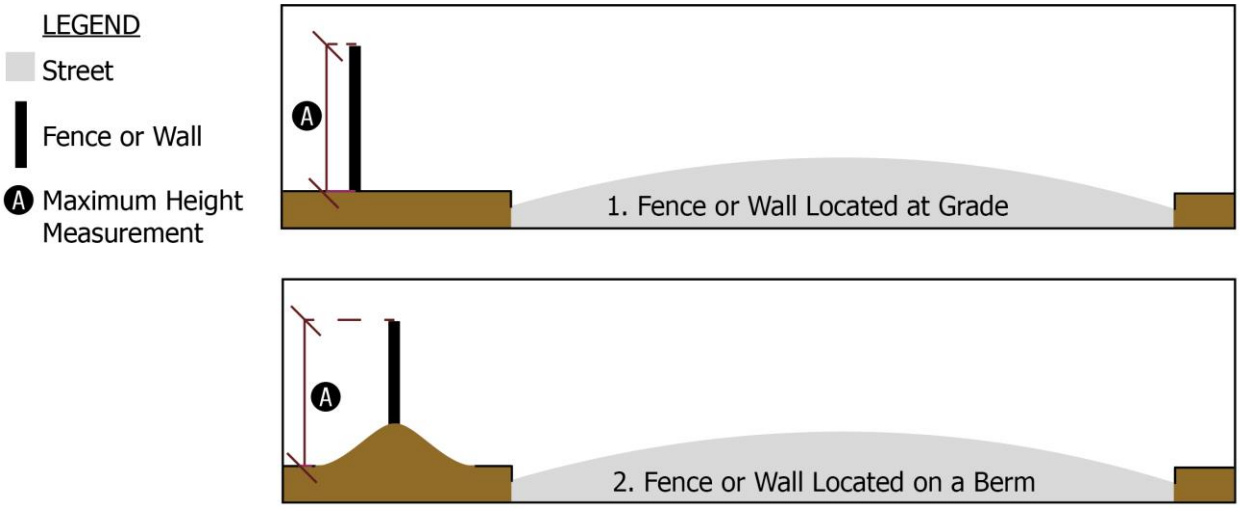
B. COLUMN AND POST HEIGHT

Columns or posts shall not exceed a height 18 inches above the built height of the fence.

C. RAILINGS NOT INCLUDED

Safety railings required by the North Carolina Building Code shall not be included in wall height measurements.

FIGURE 6.3.8: FENCE HEIGHT MEASUREMENT



6.4 EXTERIOR LIGHTING

6.4.1 PURPOSE AND INTENT

The purpose of these standards is to control light trespass and glare so as not to adversely affect motorists, pedestrians, or adjacent properties. Lighting intensities should be controlled to assure public health, safety, and welfare. Further, it is the intent of this section to:

A. Maintain the minimal amounts of exterior lighting needed for night-time safety, security, commerce, and enjoyment;
B. Minimize the adverse off-site impacts of light pollution such as glare, and light trespass, and obtrusive light;
C. Promote the conservation of energy;
D. Help protect the natural environment from the adverse effects of nighttime lighting;
E. Provide adequate lighting for pedestrian and bicycle safety; and
F. Promote the ability of Town residents and visitors to enjoy dark nighttime skies and the ability to see stars after nightfall.

6.4.2 APPLICABILITY

A. GENERALLY

The provisions of this section shall apply to all multi-family, single-family attached residential, mixed-use, and non-residential development unless exempted in accordance with Section 6.4.3, Exemptions.

B. RESIDENTIAL DEVELOPMENT

Single-family detached, duplex, triplex, and quadplex development shall comply with the standards in Section 6.4.4, Prohibited Lighting, and Section 6.4.6G, Shielding, but shall be exempted from the rest of the standards in this section.

C. EXPANSION OR REMODELING

All expansions or remodeling of principal buildings, parking areas, or open uses of land shall comply with these standards, subject to the requirements in Section 5.4, Nonconforming Site Features.

D. NONCONFOMING LIGHTING

Exterior lighting for development subject to these standards that does not comply with these provisions shall be addressed in accordance with Section 5.4, Nonconforming Site Features.

6.4.3 EXEMPTIONS

The following forms of exterior lighting or activities are exempt from the requirements of this section:

A. Special events and holiday displays;
B. FAA-required lighting on buildings, towers, or other structures;
C. Interior lighting for stadiums, arenas, and similar facilities; and
D. Temporary lighting necessary for construction or emergencies, used by construction workers or emergency personnel.

6.4.4 PROHIBITED LIGHTING

The following forms of exterior lighting shall be prohibited.

A. EXCESSIVE ILLUMINATION

Exterior lighting that exceeds the maximum allowable levels of illumination at a lot line, fails to maintain the minimum required level of shielding, or that creates glare on off-site areas shall be a violation of these standards and subject to the provisions in Chapter 7, Violations.

B. FLASHING OR REVOLVING

Flashing, revolving, or intermittent exterior lighting visible from any lot line or street is prohibited.

C. HIGH INTENSITY LIGHTING

The following forms of exterior lighting shall be prohibited:

1. High intensity light beams, such as searchlights or laser lights, except when used by federal, State, or local authorities;
2. High intensity LED or neon lighting fixtures mounted around the interior or exterior of a window, door, or other architectural feature on a structure; or
3. Cobra-head-type fixtures having dished or drop lenses or refractors which house other than incandescent sources.

D. LUMINOUS TUBE LIGHTING

Luminous tube lighting (e.g., neon, rope lighting, etc.) is prohibited on building exteriors and in configurations where it outlines a window or glass door from the inside or outside of a structure. Nothing shall prevent the use of neon lighting as a sign when configured in accordance with Section 6.13, Signage.

E. TRAFFIC CONTROL SIGNALS

Lighting that imitates an official highway or traffic control light or sign or that is in the direct line of sight with any traffic control light or sign is prohibited.

6.4.5 LIGHTING PLAN

A. APPLICABILITY

1. An exterior lighting plan shall be required for all areas proposed for illumination that exceed 10,000 square feet in area.
2. Projects with multiple areas proposed to be illuminated (such as separate parking lots) shall submit a lighting plan if the sum of the multiple areas exceed 10,000 square feet.

B. LIGHTING PLAN NOT REQUIRED

In cases where development proposes exterior lighting, but a lighting plan is not required, the development application shall indicate the following:

1. Exterior lighting fixture type(s);
2. Exterior lighting mounting height(s); and
3. A written statement by the applicant that all proposed exterior lighting complies with the applicable requirements in this section.

C. CERTIFICATION REQUIRED

Certification must be provided by the person preparing a lighting plan that the proposed development complies with the exterior lighting standards of this section.

6.4.6 EXTERIOR LIGHTING STANDARDS

All exterior lighting fixtures on any portion of a site shall meet the following requirements:

A. APPEARANCE

1. Exterior lighting fixtures shall be designed as an integral element that complements the design of the project through compatible style, material, and color.
2. Exterior lighting fixtures shall be designed in a consistent and coordinated manner for the entire site.
3. Light poles, bases, and housings shall be matte or low-gloss finish to minimize glare from the light source.

B. ARCHITECTURAL LIGHTING

1. Shielded floodlights, spotlights, or any other similar lighting may be used to accent architectural elements but shall not be used to illuminate entire building facades.
2. Only lighting used to accent architectural features, landscaping, flags, or art may be directed upwards; however, such uplighting shall be shielded, directed away from off-site view, and shall be limited to a light source of 50 watts or less.

C. FIXTURE HEIGHT

1. Lighting fixtures shall be a maximum of 25 feet in height within a parking lot and shall be a maximum of 16 feet in height within non-vehicular pedestrian areas.
2. Except within the Downtown District, no exterior light fixtures, where pole-mounted or building mounted, located within 50 feet of any single-family detached or duplex dwelling shall exceed 16 feet in height.

D. LAMP TYPE

1. Incandescent, florescent, metal halide, light-emitting diode (LED), or color corrected high-pressure sodium lamps are permitted. Other lamp types are allowed when the color emitted is similar to the permitted lamp types.
2. Low-pressure sodium, non-color-corrected high-pressure sodium, and mercury vapor light sources are prohibited.
3. The same lamp type must be used for the same or similar types of lighting throughout a development.

E. MAXIMUM ILLUMINATION LEVELS

New development subject to these standards shall be configured so that the maximum illumination level at the lot lines of the new development complies with the limitations as specified in Table 6.4.6, Maximum Illumination Levels.

TABLE 6.4.6: MAXIMUM ILLUMINATION LEVELS

Location of New Development [1]	Maximum Illumination Level at the Lot Line (footcandles) [2] [3] [4]
Lot abuts land in a CON, RUR, RLL, RLD, or RMD zoning district	1.0
Lot abuts land in a RHD, RMF, MXD, or CZR zoning district	1.5

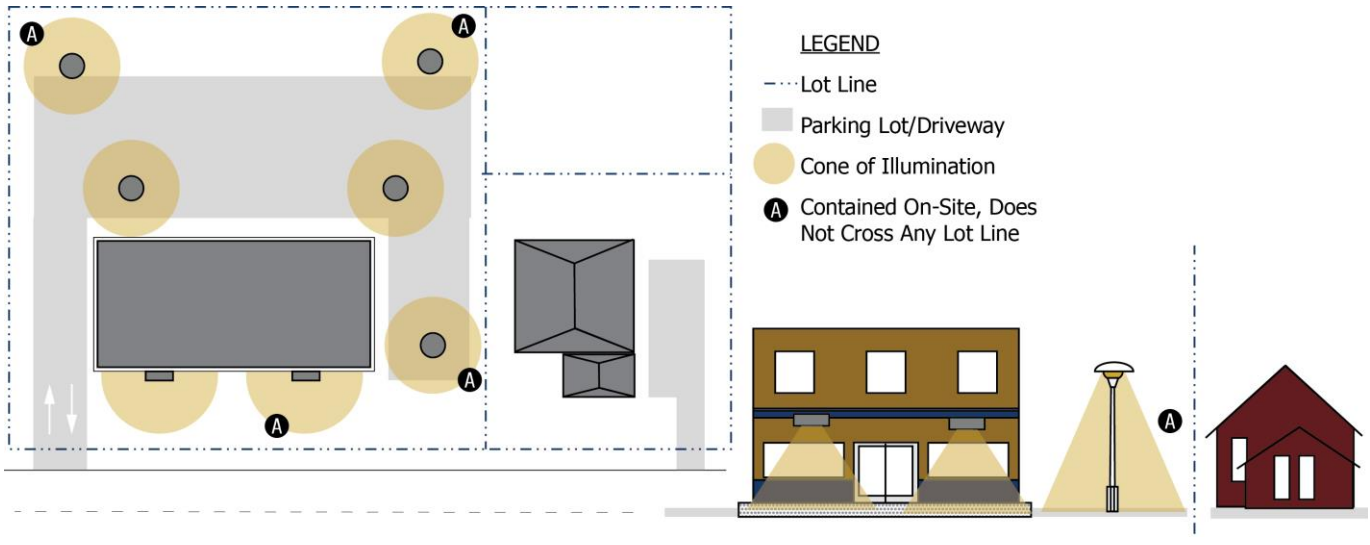
TABLE 6.4.6: MAXIMUM ILLUMINATION LEVELS	
LOCATION OF NEW DEVELOPMENT [1]	MAXIMUM ILLUMINATION LEVEL AT THE LOT LINE (FOOTCANDLES) [2] [3] [4]
Lot abuts land in an OFI, DTNC, DTNN, DTNT, NCM, CZM, or CZD zoning district	2.0
Lot abuts land in a PUB, CRM, LID, HID, CZC, or CZI zoning district	2.5

NOTES:
[1] Standards are applied based on the zoning district designation of abutting land, not the zoning district designation where the new development is located.
[2] Maximum illumination level measured at a lot line shared with the zoning district identified in the corresponding Location column.
[3] Illumination level as determined in accordance with Section 6.4.9, Measurement.
[4] In cases where a single development occupies multiple lots, the standard shall apply to the lot line(s) around the perimeter of the project.

F. MOUNTING LOCATION

1. Exterior lighting shall be mounted and configured in such a manner so that the cone of illumination is contained on-site and does not cross any lot line around the perimeter of the site (see Figure 6.4.6.F: Mounting Location).
2. Wall pack and wall-mounted lighting fixtures shall not project above the fascia or roof line of the building.

FIGURE 6.4.6.F: MOUNTING LOCATION

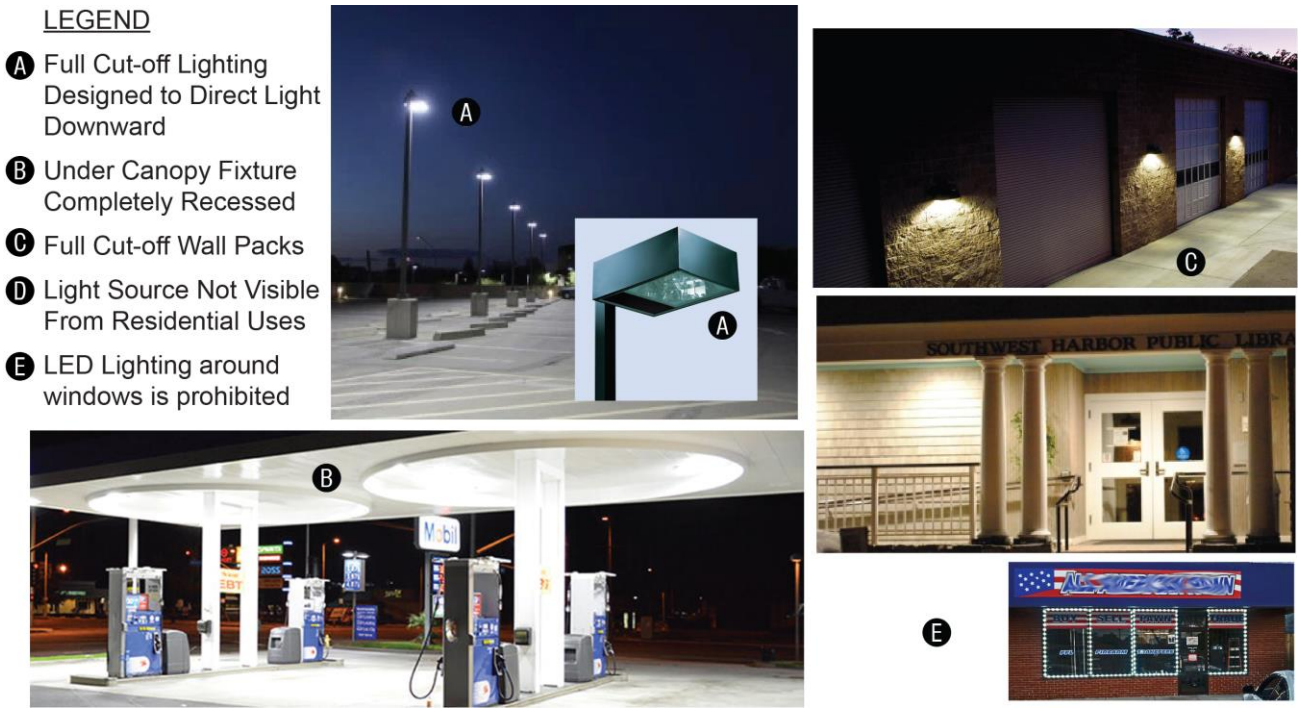


G. SHIELDING

1. Overhead lighting fixtures shall be designed to prevent light from emitting upwards towards the sky (see Figure 6.4.6.G: Light Shielding).

2. Under canopy lighting fixtures shall be recessed within the canopy so that no source of illumination is visible except from directly underneath the light fixture.
3. Wall packs and floodlights and shall be shielded (e.g., true full cut-off type bulb or light source not visible from off-site) and configured to direct light downwards rather than outwards.

FIGURE 6.4.6.G: LIGHT SHIELDING



6.4.7 STANDARDS FOR SPECIFIC SITE FEATURES AND USES

A. BUILDING ENTRANCES AND GATHERING AREAS

Entrances to buildings and outdoor gathering spaces available for use by the general public after dusk shall be illuminated to provide safety and security, subject to Section 6.4.6, Exterior Lighting Standards.

B. OUTDOOR RECREATION AND PERFORMANCE USES

Exterior lighting of outdoor recreation, sports areas, athletic fields and courts, and outdoor performance areas shall comply with the following standards:

1. GLARE CONTROL PACKAGE

All lighting fixtures subject to these standards shall be equipped with a glare control package (e.g., louvers, shields, or similar devices) and be aimed so that their beams are directed and fall solely within the designated playing or performance areas.

2. HOURS OF OPERATION

The hours of operation for the lighting system for any game or event shall not continue more than one hour after the end of the game or event.

C. PARKING LOTS

1. LIGHTING REQUIRED

Off-street parking lots of five or more spaces shall include exterior lighting configured in accordance with Section 6.4.6, Exterior Lighting Standards.

2. AMBIENT LIGHTING REQUIRED

a. Exterior lighting within parking lots, including driveways and drive aisles, shall be configured and operated in order to maintain a minimum threshold of ambient lighting of at least 0.5 footcandles after dusk throughout the parking lot and vehicular use areas.

b. Exterior lighting serving residential and mixed-use parking lots shall provide ambient lighting throughout the evening hours unless a reduced period of time is approved as part of a conditional rezoning approval (see Section 2.3.6, Conditional Rezoning).

3. PLACEMENT CONSISTENT WITH REQUIRED LANDSCAPING

Exterior lighting located within a parking lot shall comply with the standards in Section 6.6.11, Off-Street Parking Lot Landscaping.

D. STRING LIGHTS

String lights are permitted as a part of non-residential and mixed-use development in the CRM, DTNC, DTNT, MXD, NCM, OFI, CZC, CZD, and CZM districts, subject to the following standards:

1. Exposed decorative string lighting shall be limited to a maximum bulb rating of 5 watts or less.

2. Decorative string lighting shall consist of single strands and run in any of the following configurations:

- **a.** Following the architectural features of a building, including doors, windows, awnings, or rooflines;
- **b.** Hung parallel or perpendicular to the architectural feature;
- **c.** Wrapped around columns, posts, or pillars on a building;
- **d.** Wrapped around existing on-site features such as landscaping, trees, or posts;
- **e.** Strung overhead in activated public and private alleys; or
- **f.** Placed around, across, or as a way to define outdoor dining or outdoor seating areas.

3. Decorative string lighting shall be designed to create a constant glow and prevent glare.

4. The color of decorative string lighting shall be white light in the color temperature range of not less than 2,700 K and not exceeding 4,200 K, except as permitted during a holiday period as defined below:

- **a.** Colors beyond white are permitted for decorative string lighting between November 1 and January 15 of each year.
- **b.** Decorative string lighting of a different color than white must be removed, turned off, or changed back to an allowable shade of white no later than 10 days following the end of the holiday period.

5. All decorative string lighting must be maintained in proper working order, and must be replaced, turned off, or removed entirely if a portion of the string lighting is not in proper working order.

6. Decorative string lighting can be left on at all times to enhance the beautification and lighting of downtown, even outside of business hours.

7. Decorative string lighting must be securely and safely affixed to any structure or site feature.
8. Suggestions of movement such as flashing, blinking, flickering, neon or scrolling string or rope lighting, or lighting that changes in intensity or color is prohibited.
9. Lighting in the shape of a sign, or spelling out the name or products of a business shall be prohibited.

6.4.8 STREET LIGHTS

A. Public and private streets shall be illuminated in accordance with NCDOT's Roadway Lighting Policy, 2020, as amended.
B. In cases where a subdivision includes streets and intersections subject to these standards, the subdivider shall coordinate with the Town or Duke Energy Progress, as appropriate, or other designated electrical service provider to prepare a street lighting plan that identifies the location and configuration of required street lights.
C. The infrastructure plan associated with the subdivision shall include the street light plan.
D. Street lights, where provided, shall be located within the street right-of-way.
E. Street lights shall maintain a maximum on-center spacing of 150 linear feet unless topographic or safety concerns mandate a different configuration.
F. Street lights shall generally be located on the opposite side of the street from the closest adjacent street light.
G. All street lights shall be located inside full cut-off fixtures mounted on non-corrosive poles served by underground wiring.
H. The light structure and light color of street lights shall be consistent throughout the subdivision.
I. Nothing shall limit a subdivider from providing street lights in areas beyond street intersections provided the street lighting is configured in accordance with NCDOT or Town policy guidance and provided the owners' association is responsible for street light maintenance.

6.4.9 MEASUREMENT

A. MEASURED AT THE LOT LINE

Light level measurements shall be made at the lot line of the land upon which light to be measured is being generated. If measurement on private property is not possible or practical, light level measurements may be made at the boundary of the public street right-of-way that adjoins the land.

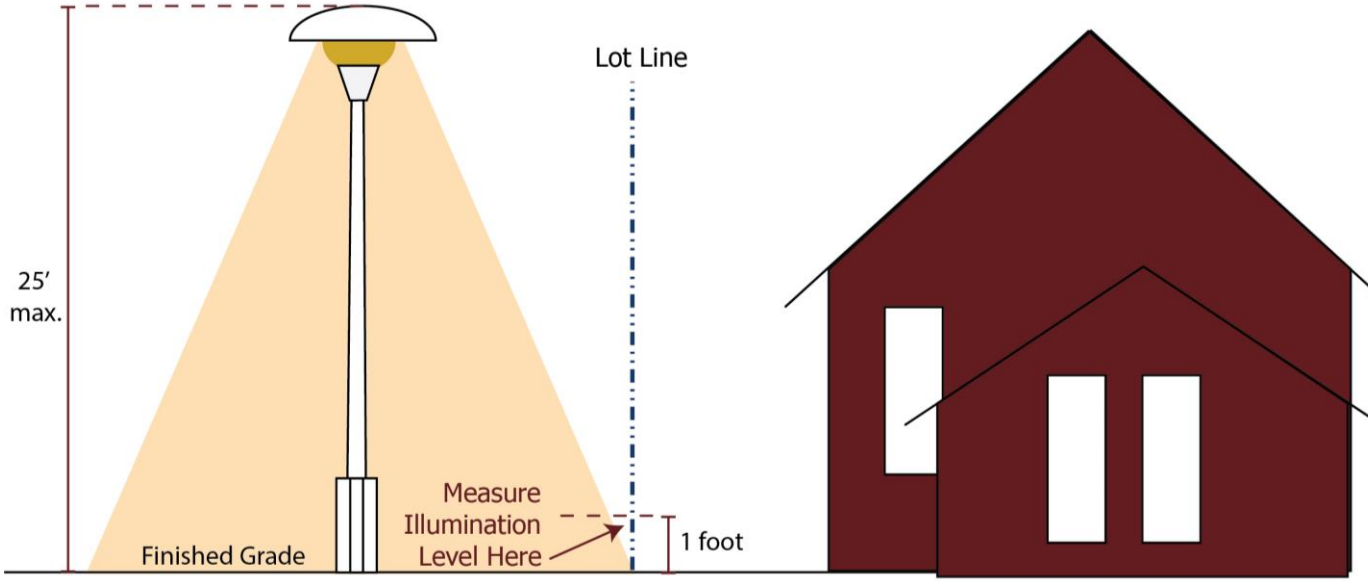
B. MEASURED AT FINISHED GRADE

Measurements shall be made within one foot of the finished grade (ground level), with the light-registering portion of the meter held parallel to the ground pointing up. The meter shall have cosine and color correction and have an accuracy tolerance of no greater than plus or minus five percent.

C. MEASUREMENT DEVICE

Measurements shall be taken with a light meter that has been calibrated within two years and by a person certified to operate the device.

FIGURE 6.4.9: LIGHT MEASUREMENT



6.5 INFRASTRUCTURE

6.5.1 PURPOSE AND INTENT

The purpose of this section is to establish standards for the planning and installation of public infrastructure as part of development, whether as part of a subdivision, site plan, or expansion or addition of an existing site. More specifically, this section is intended to:

A. Provide for the orderly growth and development of the Town, and its planning jurisdiction;
B. Coordinate the logical extension of streets and other public utilities as a part of new development and redevelopment;
C. Provide for the adequate provision of services and infrastructure for features such as potable water, wastewater, and fire protection;
D. Maintain conditions essential to the public's health, safety, and general welfare;
E. Protect environmentally sensitive lands and resources; and
F. Facilitate the further re-subdivision of larger tracts into smaller parcels of land, where appropriate.

6.5.2 APPLICABILITY

A. The standards in this section are applied to all forms of development that include or are served by the following forms of infrastructure:
1. Electricity, whether provided by the Town or other service provider;
2. Fire protection features, such as fire hydrants;
3. Natural gas (other than propane or liquified petroleum stored and used by a principal or secondary use on the same site);
4. Streets, including private streets;
5. Street curbing, drainage, lighting, and signage;
6. Potable water, other than an on-site water source; and
7. Wastewater (sanitary sewer), other than an on-site wastewater treatment system located on the same site as the principal use it serves.

B. The timing of review for compliance with these standards shall take place as part of review for a Site Plan, Subdivision Plat, Construction Drawings, Zoning Compliance Permit, Building Permit, or Certificate of Occupancy, as appropriate.
C. Development subject to these standards shall have installed all required infrastructure in accordance with this section or shall have secured its completion in accordance with Section 2.3.19, Performance Guarantee, prior to final approval of a Final Plat (see Section 2.3.17G, Stage 3, Final Plat) or issuance of a Certificate of Occupancy (see Section 2.3.5, Certificate of Occupancy).

6.5.3 GENERALLY

The following standards are applied to all forms of infrastructure regulated under this Ordinance.

A. BEAR REASONABLE RELATIONSHIP

All required improvements and rights-of-way (other than required reservations) in this section shall substantially benefit the development or bear a reasonable relationship to the need for infrastructure attributable to the new development.

B. CONSISTENCY WITH ADJACENT DEVELOPMENT

Whenever it can reasonably be anticipated that infrastructure constructed in one development will be extended to serve other adjacent or nearby developments, the infrastructure (such as streets, water, or sewer lines) shall be located and constructed so that extensions can be made conveniently and without undue burden or expense or unnecessary duplication of service.

C. INSTALLATION SEQUENCE

Infrastructure shall be installed in the following sequence:

1. Street grading and installation of water distribution lines, sanitary sewers, storm sewers, gas, telephone, cable television, and electric service lines, with connections for each system extended beyond the curb line to preclude subsequent cutting of pavement;
2. Street base material;
3. Curb and gutter and sidewalks; and
4. Street paving. Installation of the final lift of asphalt on roadway surfaces shall be delayed until at least 80 percent of the development (or 80 percent of the development within a particular phase) is completed.

D. LOCATION

1. All infrastructure located within a Town-maintained right-of-way shall be subject to the Town's policies regarding public rights-of-way.
2. Placement of required infrastructure within a special flood hazard area shall only be in accordance with the applicable standards in this Ordinance and applicable State law.

E. MAINTENANCE REQUIRED

1. Required infrastructure installed or caused to be installed by a subdivider and intended for ownership or operation by another entity (like the Town, NCDOT, or an owners' association) shall be maintained by the subdivider until such time as the infrastructure is accepted by the entity who will own or operate it.
2. All infrastructure shall be constructed in a manner as to minimize interference with pedestrian or vehicular traffic and to facilitate maintenance without undue damage to improvements or facilities located within the development.

F. PLANS (AS-BUILT) REQUIRED

1. Whenever a subdivider installs or causes to be installed any Town-operated or maintained infrastructure, the subdivider shall, as soon as practicable after installation is complete, and before acceptance, furnish the Town with an as-built plan prepared by a professional engineer that shows the exact location and configuration of all infrastructure features. Nothing shall limit the depiction of more than one type of infrastructure or utility on the same as-built plan sheet.
2. The as-built plan must be verified as accurate by the Town or appropriate utility service provider. Compliance with this requirement shall be a condition of the continued validity of the permit authorizing the development.
3. As-built plans shall be prepared and verified prior to commencement of operation, issuance of a Certificate of Occupancy, approval of a Final Plat, or as otherwise required by the Engineering Director.

G. UNDERGROUND UTILITIES REQUIRED

1. Except for high voltage electrical transmission lines, all new electric power lines, excluding transformers or enclosures containing electrical equipment which may be pad mounted, as well as telephone, gas distribution, and cable television lines in development constructed after January 2, 2024, shall be placed underground in accordance with the specifications and policies of the respective utility service providers.
2. Except for existing high voltage electrical transmission lines, existing overhead utilities located on land adjacent to new development subject to the standards of this section are strongly encouraged to be relocated to underground locations.
3. No electric power, telephone, cable television or other utility lines may be installed over ponds, lakes, rivers, or other bodies of water.

6.5.4 BRIDGES AND DAMS

A. BRIDGES

All bridges for vehicles and pedestrians shall be designed and configured by a professional engineer in accordance with applicable NCDOT standards.

B. DAMS

All dams shall be designed, constructed, and operated in accordance with NCGS§143-215.23, the Dam Safety provisions of the North Carolina Administrative Code, the Town's Engineering Specifications and Design Manual, and the following:

1. If located within a Special Flood Hazard Area, the structure shall be designed to meet or exceed all FEMA standards for such structures;
2. Dams shall not incorporate landscaping material and shall not be credited towards open space set-aside standards;
3. Maintenance of a dam structure shall be the responsibility of the developer or an owners' association, who shall be responsible for conducting all scheduled inspections and furnishing results of inspections to the Town, upon request; and
4. The party responsible for dam maintenance shall provide a performance guarantee for the dam's maintenance in perpetuity in accordance with the standards in Section 2.3.19, Performance Guarantee.

6.5.5 CLUSTER MAILBOXES

New subdivisions and new phases to existing subdivisions shall incorporate cluster mailbox units configured in accordance with all applicable US Postal Service requirements and the following:

A. ACCESS

1. All cluster box units in a development shall be directly served by a sidewalk, pedestrian trail, or include facilities for vehicular access.
2. At least five percent of the provided mailboxes shall be configured to permit access in accordance with the American with Disabilities Act.

B. CONSTRUCTION

Cluster box units shall be constructed in accordance with the following requirements:

1. Except in cases where cluster units are located within a building, such facilities shall be located on paved concrete pads and anchored in accordance with the NC State Building Code and US Postal Service requirements.

2. Cluster box facilities with 100 or more mailboxes in one location shall be located within a roofed structure that provides shelter from sun or rain.

C. LOCATION

1. Cluster box units shall be located within one or more of the following locations:
   a. On land owned or maintained by an owners' association; or
   b. Within a private access easement.
2. Where possible, cluster box units shall be located central to the development they serve or proximate to a primary vehicular entrance to the development.
3. In no instance shall a cluster box unit be located within a required sight distance triangle, a public utility easement, within the vehicular travelway portion of a street or alley, or in a manner that obstructs the movement of pedestrians along a sidewalk or trail.
4. A cluster box unit shall be positioned so that the individual mailbox units may be accessed without the need to stand within a street travelway.
5. In cases where a subdivision includes a recreational amenity building, cluster box units are encouraged to be located within or adjacent to the building.

D. LIGHTING

Cluster box units shall be served by one or more street lights configured in accordance with Section 6.4.8, Street Lights, in developments where street lights are provided.

E. PARKING

1. A cluster box unit with 20 or more mailboxes shall be served by one on-street or off-street parking space.
2. Cluster box units with 40 mailboxes or more shall be served by two on-street or off-street parking spaces plus one additional on-street or off-street parking space for every additional 20 mailboxes beyond 40 to a maximum of four parking spaces.
3. On-street parking spaces shall be parallel to the vehicle travelway. On-street parking spaces that are perpendicular to the travelway are prohibited.
4. At least one of the parking spaces provided shall meet the requirements for an accessible parking space in accordance with the State Building Code.
5. As an alternative to providing parking spaces, a cluster box unit may incorporate a separate vehicular pull-off area with sufficient width to accommodate a standard passenger vehicle and a sufficient length to accommodate the same number of stacked vehicles as could be accommodated by the required on-street or off-street parking.
6. In cases where a cluster box unit is located within a neighborhood amenity use (like a clubhouse) or is located within an off-street parking lot serving such a use, the off-street parking provided for the cluster box unit shall be marked and reserved. In no instance shall the off-street parking serving a cluster box unit be shared or off-site parking.

6.5.6 DRAINAGE FACILITIES

New development shall provide for the proper drainage of all stormwater runoff in order to protect the proposed development and neighboring developments from water damage in accordance with State law, this Ordinance, and the following standards.

A. APPLICABILITY

New non-residential, mixed-use, multi-family, and major residential subdivisions shall provide drainage facilities in accordance with the standards in this section.

B. APPROVAL REQUIRED

The design of a drainage facility system, whether on public or private land, shall be subject to the approval of the Engineering Director in accordance with all applicable State law and standards in this Ordinance.

C. CONFIGURATION

1. COMPLIANCE WITH STORMWATER SECTION

Drainage facilities subject to these standards shall also comply with the standards in Section 6.15, Stormwater.

2. MUNICIPAL STORM DRAINAGE SYSTEM

a. Where feasible, the developer shall connect to the municipal storm drainage system.

b. Storm sewers, drains, and structures installed by the developer shall be installed of a size, type, and location approved by the Technical Review Committee, the Engineering Director, or NCDOT, as appropriate.

c. Cross pipes under streets and driveways shall be a minimum of 15 inches in diameter and comprised of concrete, reinforced concrete, or other material, as approved by the Engineering Director.

d. In cases where storm drainage infrastructure associated with the municipal storm drainage system is not located within a street right of way, it shall be located within a public drainage easement configured in accordance with Section 6.5.7C, Drainage Easements.

3. PRIVATE DRAINAGE SYSTEM

a. Where the municipal storm drainage system cannot feasibly be extended to a proposed development, a surface or sub-surface private drainage system shall be designed to complement surface drainage systems serving surrounding properties.

b. All aspects of a private drainage system shall be located within a designated private drainage easement configured in accordance with Section 6.5.7C, Drainage Easements.

c. Surface drainage courses shall have side slopes of at least one foot of horizontal distance for each foot of vertical distance.

d. The minimum grade along the bottom of a surface drainage course shall be a vertical fall of approximately one foot in each 300 feet of horizontal distance.

e. In no instance shall surface stormwater be channeled into a sanitary sewer system.

D. MAINTENANCE RESPONSIBILITY

1. Street drainage facilities located outside the street right-of-way shall be maintained by the developer, the landowner, or an owners' association, and maintenance responsibility shall be noted on the final plat.

2. The Town shall not be responsible for any private or commonly-held subdivision drainage infrastructure connected to publicly-maintained drainage facilities, streams, or other outlets having constant flow.

E. TIMING

1. All required drainage facilities shall be constructed prior to approval of a Final Plat (see Section 2.3.17G, Stage 3, Final Plat), or a Certificate of Occupancy (see Section 2.3.5, Certificate of Occupancy).
2. In the case of phased development, drainage facilities shall be completed for the active phase of development unless an alternative configuration is warranted in accordance with Section 2.4.13, Phased Development.

6.5.7 EASEMENTS

Easements for infrastructure shall be required when infrastructure is located outside a public street right-of-way or land owned by the Town. Easements, where required, shall be configured in accordance with the following standards:

A. GENERALLY

1. EASEMENTS DISTINGUISHED

a. Easements shall take one of the following forms:
   i. An access easement;
   ii. A drainage easement;
   iii. A maintenance easement;
   iv. A public utility easement; or
   v. A roadway slope easement.

b. All easements shall be either public easements or private easements. Public easements are granted in favor of the Town, the NCDOT, or some other governmental entity. Private easements are granted in favor of an owners' association or to one or more individual landowners.

2. ALLOWABLE FEATURES

a. No landscaping, signage, fences, walls, patios, decks, or secondary structures shall be located within a public utility easement or a drainage easement.

b. Greenways, configured in accordance with Section 6.10.1A.1, Greenways, may be located within a public utility easement.

c. Parking lots, driveways, and vehicular accessways may be located within any type of easement provided the purpose and function of the easement are not interrupted and provided the Town may access utility features, such as valves or manholes, at all times.

3. AUTHORIZATION FOR REMOVAL OF FEATURES IN EASEMENT

a. In the event landscaping or other structure located within a public easement must be removed in order to gain access or conduct maintenance, the Town may remove such features at the owner's expense and shall not be required to replace any removed landscaping or other structures located within a designated public easement.

b. In the event the removed landscaping or other required feature is required by this Ordinance, then it shall be re-established by the landowner promptly after removal by the Town.

4. IDENTIFICATION

All easements whether public or private, shall be granted in favor of the Town of Clayton, the State of North Carolina, the appropriate utility provider, an owners' association, or to the benefit of specific lots, as appropriate, and shall be shown and clearly labeled on a Site Plan or Final Plat.

B. ACCESS EASEMENTS

Access easements shall take one of the following forms:

1. An access easement for the purposes of accommodating a shared driveway, configured in accordance with Section 6.1.4D.5, Alternative Access;
2. An access easement for the purposes of an existing or future parking lot cross accessway configured in accordance with Section 6.1.6, Parking Lot Connections
3. An access easement associated with a private street, configured in accordance with Section 6.5.12G, Private Streets.

C. DRAINAGE EASEMENTS

Drainage infrastructure that crosses a lot line and that is not located within a public street right-of-way shall be located within a drainage easement configured in accordance with the following standards:

1. Drainage easements shall either be public, with the infrastructure owned and operated by the Town or other governmental entity, or private, with the infrastructure owned and operated by a landowner or private entity.
2. No development or land disturbance shall block or obstruct a drainage easement. Nothing shall limit vegetation within a drainage easement provided the vegetations does not interrupt the flow of water.
3. Open channel drainage easements shall have a minimum width of at least 10 feet.
4. Drainage easements containing sub-surface piped stormwater facilities shall have a minimum width of at least 20 feet.
5. Drainage easements of greater width may be required along the lines of or across lots where necessary for storm drainage, channels, surface overflow or for the extension of main sewers or similar utilities and when necessary for adequate separation of specific utilities.
6. Where development abuts or is traversed by a watercourse, drainage way, canal or stream, the developer shall provide a drainage easement with a minimum width of at least 20 feet for channel improvement, but may be wider if necessary to accommodate deep channels. The drainage easement shall be the minimum width necessary to include both banks and follow the center line of the watercourse, drainage way, canal, or stream.

D. MAINTENANCE EASEMENTS

Maintenance easements shall be required as a part of stormwater control measures in accordance with the standards in Section 6.15, Stormwater, as well as along retaining walls in Section 6.3, Fences and Walls.

E. PUBLIC UTILITY EASEMENTS

Public utility easements shall be configured in accordance with the Town's Engineering Specifications and Design Manual and the following standards:

1. CONFIGURATION

a. POWER OR COMMUNICATIONS

Where alleys are not provided, public utility easements of not less than ten feet in width shall be provided adjacent to public rights-of-way or in such other locations as may be directed by the Engineering Director for poles, wires, or conduits for electrical utilities, natural gas service, or telephone services.

b. POTABLE WATER

i. Public utility easements of at least 20 feet in width, centered on the pipe, shall be provided for public potable water supply distribution systems in locations as may be directed by the Engineering Director for water distribution lines, water meters, and access points.

ii. Wider easements may be required if the topography along the proposed right-of-way is such that maintenance equipment cannot reasonably operate within the easement's width or depth.

c. SANITARY SEWER

i. Public utility easements of at least 30 feet in width, as centered on the pipe, shall be provided for public sanitary sewer collection systems in locations as may be directed by the Engineering Director for sewer collection lines and access points.

ii. Easements for lift stations and other facilities shall be sized and located as may be directed by the Engineering Director.

iii. Wider easements may be required if the topography along the proposed right-of-way is such that maintenance equipment cannot reasonably operate within the easement's width or depth.

d. SHARED EASEMENTS

Potable water and sanitary sewer may also be located within a 40-foot-wide shared easement.

2. GRADE

Public utility easements shall be configured with a cross-slope of 6:1 and a maximum grade of four percent or less.

3. LOCATION

a. Public utility easements shall:

i. Be located in commonly-held lands, where practicable;

ii. Be placed along and centered on property lines, where practicable; and

iii. Be located proximate to side or rear lot lines, wherever possible.

b. Public utility easements may be located within off-street parking lots, driveways, and vehicular use areas provided access to valves is maintained at all times.

c. In cases where public utilities are located within a development required to provide open space set-aside, public utility easements may be located within open space-set areas.

d. Redesign of the lot arrangements may be required to accommodate easements in extreme conditions.

4. MAINTENANCE

a. Following acceptance, public utility easements shall be maintained by the Town or other public entity.

b. Easements for public utilities shall be cleared of undergrowth, trees, and other obstructions prior to approval of the Final Plat or Certificate of Occupancy unless the Engineering Director certifies in writing that such clearance is unnecessary.

c. Clearance is not required for easements that are provided for possible future use.

d. Public utility easements shall be fully accessible from a rubber-tired vehicle.

F. ROADWAY SLOPE EASEMENTS

A roadway slope easement is provided in cases where a developer seeks to install improvements proximate to the street right-of-way that could make it impossible or impractical to construct or maintain street-related features. Roadway slope easements shall be configured in accordance with the Town's Engineering Specifications and Design Manual and the following standards:

1. A roadway slope easement of 20 feet in width may be required adjoining each side of a public street right-of-way.
2. The Town may reduce or increase the slope easement width due to surrounding terrain conditions.
3. Private improvements may be located within a required roadway slope easement in cases where the applicant submits information sufficient to demonstrate that, in the sole opinion of the Engineering Director, the private improvements do not interfere with the right of the public to construct within the adjoining right-of-way streets, sidewalks, or both.

6.5.8 ELECTRICITY

New development located within the Town's electrical service provision area shall comply with the following standards:

A. SERVICE PROVIDER DETERMINATION

1. The electrical service provider to new development shall be determined based on the proximity of current electrical service provider boundaries, and whether a particular provider was already providing electrical service in the area to be developed.
2. Applicants for new development shall be informed of the designated electrical service provider as the pre-application conference (see Section 2.4.3, Pre-Application Conference), or upon the application for a determination in accordance with Section 2.3.9, Determination.
3. Maps indicating the boundaries of Duke Energy Progress and the Town's electrical service shall be on file and available for public inspection in the offices of the Town's Engineering Department.

B. CONFIGURATION

1. Electrical service shall be configured in accordance with all applicable standards and requirements of the electrical service provider.
2. All Site Plans and subdivision plats shall indicate the electrical delivery point(s).
3. Landscaping shall be located at least three feet from ground-based electrical equipment.
4. In cases where the design or configuration of development changes following approval of the electrical delivery point, the development shall require additional review and approval by the Town.

C. OWNERSHIP

All electrical facilities located within the Town's electrical service provision area shall become the sole property of the Town upon acceptance. A deed to the Town for such facilities, including any necessary easements, shall be executed prior to connections to the electrical system.

6.5.9 FIRE PROTECTION

A. FIRE CODE

All new development subject to these standards shall comply with the 2018 North Carolina Fire Code, as amended, which is adopted by the Town.

B. FIRE HYDRANTS

1. Fire hydrants shall be required when indicated by the applicable Fire Code or when a development includes four or more proposed lots, four or more dwelling units, or non-residential uses to be served by extension of a public water supply system. Fire hydrants shall comply with the following requirements:
   a. Fire hydrants shall be located within street rights-of-way, no more than 1,000 feet apart, and no more than 500 feet from any lot or unit to be served;
   b. Fire hydrants shall be located at street intersections where practical, near the turnaround of a dead-end street, and at property line intersections;
   c. Water lines serving fire hydrants shall be at least six inches in diameter, or larger size, as required by the water service provider, and shall not be dead-end lines, unless no other practicable alternative exists;
   d. Fire hydrants shall comply with standard hydrant design (National Standard Thread, 4½-inch steamer, two 2½- inch discharge connections, etc.);
   e. Fire hydrants shall be maintained by the provider providing water to the development; and
   f. Fire hydrants shall only be required in cases where the system operator is capable of supplying sufficient water pressure to operate the hydrants.
2. All fire hydrants installed under the requirements of this section shall become the sole property of the Town upon acceptance.
3. In cases where a building includes sprinklers or similar fire suppression devices, fire hydrants shall be required in accordance with Appendix B Table 105.1(2) and Chapter 5 507.5.1.1 of the 2018 North Carolina Fire Code.

6.5.10 POTABLE WATER

All development utilizing potable water shall comply with the following standards:

A. POTABLE WATER SUPPLY SYSTEM REQUIRED

1. Every development, building lot, and manufactured home space shall be served by a means of a water supply that is adequate to accommodate the reasonable needs of the use(s) or lot(s) and complies with all applicable public health regulations.
2. All materials and pipes shall be provided by the developer and shall meet or exceed the requirements established by State, Town, or utility service provider requirements for the potable water system.
3. The Town may, before issuing any approval under this Ordinance, make an investigation and require the developer to submit the information as appears reasonably necessary to ensure that the development will be able to comply with the water supply system requirements of this Ordinance.

B. CONNECTION TO PUBLIC POTABLE WATER SYSTEM

1. WITHIN THE CORPORATE LIMITS

a. Each new development and each lot in all major subdivisions within the Town's corporate limits, and each development and lot in all major subdivisions in the extraterritorial jurisdiction located within a specified distance of an existing or approved but not yet constructed public potable water system shall be connected, at the developer's expense to the Town's potable water system. Mandatory connections to the public potable water system shall be in accordance with Table 6.5.10, Mandatory Sewer System Connection Required.

TABLE 6.5.10: MANDATORY WATER SYSTEM CONNECTION REQUIRED

Number of Lots Proposed	Maximum Distance From Existing Water System Before Water System Connection is No Longer Required (feet) [1]
5-20	300
21-50	500
51-100	1,000
More than 100	Connection is mandatory regardless of distance

NOTES:
[1] Measured from closest point of proposed development to the existing or approved but not yet constructed public potable water system.

b. In the event a development has 100 or fewer lots and is farther than the maximum distance required in Table 6.5.10, Mandatory Water System Connection Required, the applicant may choose to connect the development to the public potable water supply system, but such connection is voluntary and is not required.

2. OUTSIDE THE CORPORATE LIMITS

a. Where a new development or a proposed major subdivision located in the Town's extraterritorial jurisdiction and is located within a specified distance from an existing or approved but not yet constructed public potable water supply system, the applicant shall, at the applicant's expense, connect the development or subdivision lots to the Town's public potable water system. Minimum connection distances shall be in accordance with Table 6.5.10, Mandatory Water System Connection Required, except that if a new development or major subdivision includes fewer than 100 units and is located more than 1,000 linear feet from an existing public potable water service line, connection to the Town's public potable water system is voluntary at the discretion of the applicant.

b. In the event a development in the extraterritorial jurisdiction is farther than the maximum distance required in Table 6.5.10, Mandatory Water System Connection Required, the applicant may choose to connect the development to the public potable water system, but such connection is voluntary and is not required.

c. No public potable water service shall be provided to any lot or development outside the Town's corporate limits, except in accordance with one of the following:

i. If the lot or site is contiguous to the Town's corporate limits, the landowner shall immediately petition for and obtain annexation of the property into the Town's corporate limits.

ii. If the lot or site is not then contiguous to the Town's corporate, the landowner shall enter into a written agreement with the Town for the voluntary annexation of the lot or site at such future date as indicated by the Town.
iii. If the lot is located behind the Town's Master Meter Network, and is subject to an agreement with Johnston County.
iv. The Town Council may negotiate terms for voluntary annexation of major industrial or commercial tracts which require water and/or sewer system extensions.

3. Any applicant desiring to extend potable water service in an area where no public potable water service is available shall apply, in writing, to the Town for a specific daily allocation for such services.

C. CONFIGURATION

A public water supply system shall comply with the following requirements:

1. When a public water supply is provided, water service shall be required along all lot frontages and along all proposed street extensions, including street stubs.
2. The developer shall install potable water mains in a development so that all lots to be developed will be able to connect to the centralized water system.
3. Water mains shall be installed within street rights-of-way or dedicated public utility easements.
4. The minimum diameter of a water main shall be six inches.
5. Water service shall be provided by service lines with a minimum six-inch nominal diameter on streets which are "stubbed out" at property lines to permit future development.
6. In cases where development is proposed in phases, water line valves shall be installed at all phase boundaries.
7. The developer shall submit detailed drawings with the Construction Drawings associated with a development, prepared, and sealed by a professional engineer, showing the installation of the required public water supply system infrastructure.
8. All materials and pipes shall meet or exceed the requirements of the public water supply system provider.

D. DEDICATION AND ACCEPTANCE

1. Each developer of land connected to a public potable water supply system shall be responsible for providing system-related equipment and appurtenances, including water tanks, water mains, pump stations, fire hydrants, gate valves, blow-offs, and valve covers between their property and the Town's water supply system.
2. Individual water service meters shall be installed by the Town at the expense of the applicant.
3. All potable water supply facilities installed in accordance with these standards shall become the sole property of the Town upon acceptance. A deed to the Town for such facilities, including easements pertaining to the right-of-way entrance for maintenance, shall be executed prior to connection to the Town system.

E. CONNECTION FEES

The applicant shall pay all applicable water system development fees for each lot or development to be served by a connection to the Town's public potable water supply system in accordance with the Comprehensive List of Fees and Charges in place at the time of Building Permit issuance or Construction Drawing approval, whichever is appropriate.

F. OVERSIZING

1. Where the Town Council deems it necessary in the interest of the health, safety, and general welfare, the applicant shall make certain improvements at sizes in excess of those which would normally be required to serve only the applicant's development.
2. Where oversized improvements are required, the Town shall reimburse the applicant for the cost of materials incurred over and above those required to serve the applicant's development.
3. Such reimbursement shall be mutually agreed upon through a reimbursement agreement as authorized by NCGS§ 160A-499.

G. ON-SITE POTABLE WATER SUPPLY SERVICE

1. All on-site potable water supply systems shall be designed and installed in accordance with Johnston County Health Department requirements.
2. On-site potable water supply systems shall be located upon the same lot as the use they serve.
3. When proposing lots or units to be served by on-site potable water service, the lot shall be of sufficient size to accommodate all the proposed on-site utilities as well as to provide for adequate building area.
4. Every plat with lots served by on-site potable water service shall include the following disclosure statement:

   "Public potable water services are not available, as of the date of the recording of this deed. On-site potable water systems must be approved by the Johnston County Health Department."

6.5.11 REFUSE COLLECTION

Developments seeking to incorporate Town-provided refuse collection shall be configured to allow access by collection vehicles in accordance with the minimum requirements in the Town's Engineering Specifications and Design Manual.

6.5.12 STREETS

A. COMPLIANCE WITH ADOPTED POLICY GUIDANCE

1. All streets and street-related infrastructure in the Town's planning jurisdiction shall be installed and maintained in accordance with these standards and the Town's adopted policy guidance, including, but not limited to the following:
   a. The Comprehensive Transportation Plan;
   b. The Functional Classification Map, as amended;
   c. The Town's Standard Specifications; and
   d. Any applicable North Carolina Department of Transportation requirements.
2. All public streets and rights-of-way shall be constructed in accordance with the standards established for the particular type of street in question by the Town of Clayton, unless a higher or more restrictive standard is established by NCDOT, in which case the street or right-of-way shall meet that higher or more restrictive standard.

B. STREETS DISTINGUISHED

All streets within the Town's planning jurisdiction shall take one of the following three forms:

1. Public streets, owned and operated by the NCDOT;
2. Public streets, owned and operated by the Town; or
3. Private streets, owned and operated by landowners or owners' association.

C. DEDICATION REQUIRED

1. In cases where development abuts or is transected by a thoroughfare or other type of street identified in the Town's adopted policy guidance, the street(s) shall be designated as a public street and the developer shall dedicate land necessary for the street right(s)-of-way in accordance with NCGS§§ 136-66.10 and 160D-804, and the following:
   a. In cases where the designated street alignment is surrounded by the land to be developed, the entirety of the street right-of-way shall be dedicated; or
   b. In cases where the land to be developed abuts one side of the designated street alignment, one-half of the total right-of-way, as measured from the street centerline, shall be dedicated along the development's frontage.
2. In cases where a developer intends to provide new or extend existing public streets and the NCDOT or the Town has indicated a willingness to accept a proposed street or street segment as a public street, the developer shall dedicate all land necessary for the street right(s)-of-way in accordance with NCGS§§ 136-66.10 and 160D-804. In cases where the land to be developed abuts one side of a proposed street alignment, one-half of the total right-of-way, as measured from the street centerline, shall be dedicated along the development's frontage.
3. Subdivisions located adjacent to and anticipated to be served by existing streets of inadequate right-of-way width shall dedicate the additional right-of-way necessary to meet the minimum widths specified in the applicable Town or NCDOT standards.
4. Reservation of designated right(s)-of-way shall be required in lieu of dedication of land for public streets in cases where a right of direct access from abutting property in the proposed development is denied.
5. Right-of-way area to be dedicated or reserved shall be depicted on a Site Plan, Preliminary Plat, Construction Drawings, and a Final Plat, as appropriate, and shall include bearings and distances of the required dedication or reservation lines shown.

6. Any right-of-way required to be dedicated or reserved shall not be included in the calculation of land area for district dimensional requirements for the zoning district where located.

D. CONSTRUCTION AND IMPROVEMENT REQUIRED

1. New development in the Town's planning jurisdiction that meets any of the following criteria shall dedicate all required street right-of-way, and construct new streets, and/or improve existing abutting street facilities in accordance with all applicable Town requirements:
   a. The development is located on or includes land designated for provision of a public street right-of-way;
   b. The development is on a lot or site that abuts land with public streets stubbed to the adjoining lot line;
   c. The development anticipates the inclusion of new public streets; or
   d. The development abuts an existing street that does not meet all the applicable street standards.
2. In cases where the street is to be owned and operated by the NCDOT, and the NCDOT's street standards are more stringent than the Town's street standards, the street shall be constructed to the NCDOT's standards.
3. A fee-in-lieu of public street construction may be required by the Town or requested by an applicant in accordance with the appropriate provisions in Section 2.3.13, Fee-in-Lieu.

E. MAINTENANCE REQUIRED

In cases where new development includes public streets and is located outside the Town's corporate limits but within its extraterritorial jurisdiction, the applicant shall provide the Town and all purchasers of land within the development an agreement configured in accordance with NCGS§136-102.6 specifying that the developer is responsible for adequate maintenance of all new streets until the streets are accepted for maintenance by the NCDOT.

F. GENERAL REQUIREMENTS FOR ALL STREETS

1. STREET CLASSIFICATION

a. All streets dedicated to public use shall be configured in accordance with the applicable NCDOT standards, the Town's Comprehensive Transportation Plan, the Town's Engineering Specifications and Design Manual, or the Town's adopted policy guidance, as appropriate.
b. Whenever a street within a new development continues an existing street that formerly terminated outside the development or it is expected that a new street will be continued beyond the development at some future time, the classification of the street will be based upon the street in its entirety, both within and outside of the development.

2. STREET CROSS SECTIONS

a. All public streets established in the Town's planning jurisdiction shall include a minimum street right-of-way and cross section configured in accordance with the applicable Town or NCDOT standards.
b. Street cross-section requirements for Town-maintained streets shall be located in the Town's Engineering Specifications and Design Manual.

c. Alternative cross-sections may be approved in accordance with the standards and procedures in Section 2.3.29, Variance, or as a part of a Type 3 Conditional Rezoning application (see Section 2.3.6, Conditional Rezoning). In cases where the alternative cross section is proposed for a street owned and operated by NCDOT, the NCDOT shall also approve the proposed alternative street cross section.

d. Alternative street cross sections shall be configured to readily accommodate emergency vehicles and sanitation trucks.

3. STREET DESIGN

a. GENERAL LAYOUT

i. The layout, arrangement, width, grade, character, and location of streets shall conform to the Town's adopted policy guidance, topographic conditions, natural features, and drainage systems.

ii. When a development abuts or contains an existing or proposed major thoroughfare, the Town may require frontage streets, reverse frontage lots with landscape plantings, or other treatment as may be necessary for adequate protection of residential properties and to ensure separation of through and local traffic.

iii. Reserve strips or parcels controlling access to streets shall be prohibited, except where required as part of development on a double-frontage lot.

iv. Public streets shall not terminate into a driveway, parking lot, or alley.

b. COMPLIANCE WITH OTHER STANDARDS

New streets and changes to existing streets located within or adjacent to a lot or tract shall comply with the applicable standards in the following sections:

i. Section 6.1, Access and Circulation;

ii. Section 6.1.7, Sight Distance Triangles;

iii. Section 6.5.6, Drainage Facilities; and

iv. Section 6.5.7, Easements.

c. COMPLIANCE WITH TIA FINDINGS

In cases where new development is subject to Section 2.3.27, Transportation Impact Analysis, all streets and street-related infrastructure shall comply with the findings of the analysis.

d. STREET INTERSECTIONS

Street intersections shall be configured in accordance with the following standards (see Figure 6.5.12.F.3.1: Street Intersections):

i. Not more than two streets shall intersect at any one point unless the Town or NCDOT certifies that such an intersection can be constructed with no extraordinary danger to public safety;

ii. Streets shall intersect at right angles to the maximum extent practicable, and no two streets shall intersect at less than 60 degrees;

iii. Whenever possible, proposed intersections along one side of a street shall coincide with existing or proposed intersections on the opposite side of the street;

iv. Where a street center line offset (jog) occurs at an intersection, the distance between centerlines of the intersecting streets shall be not less than 125 feet;

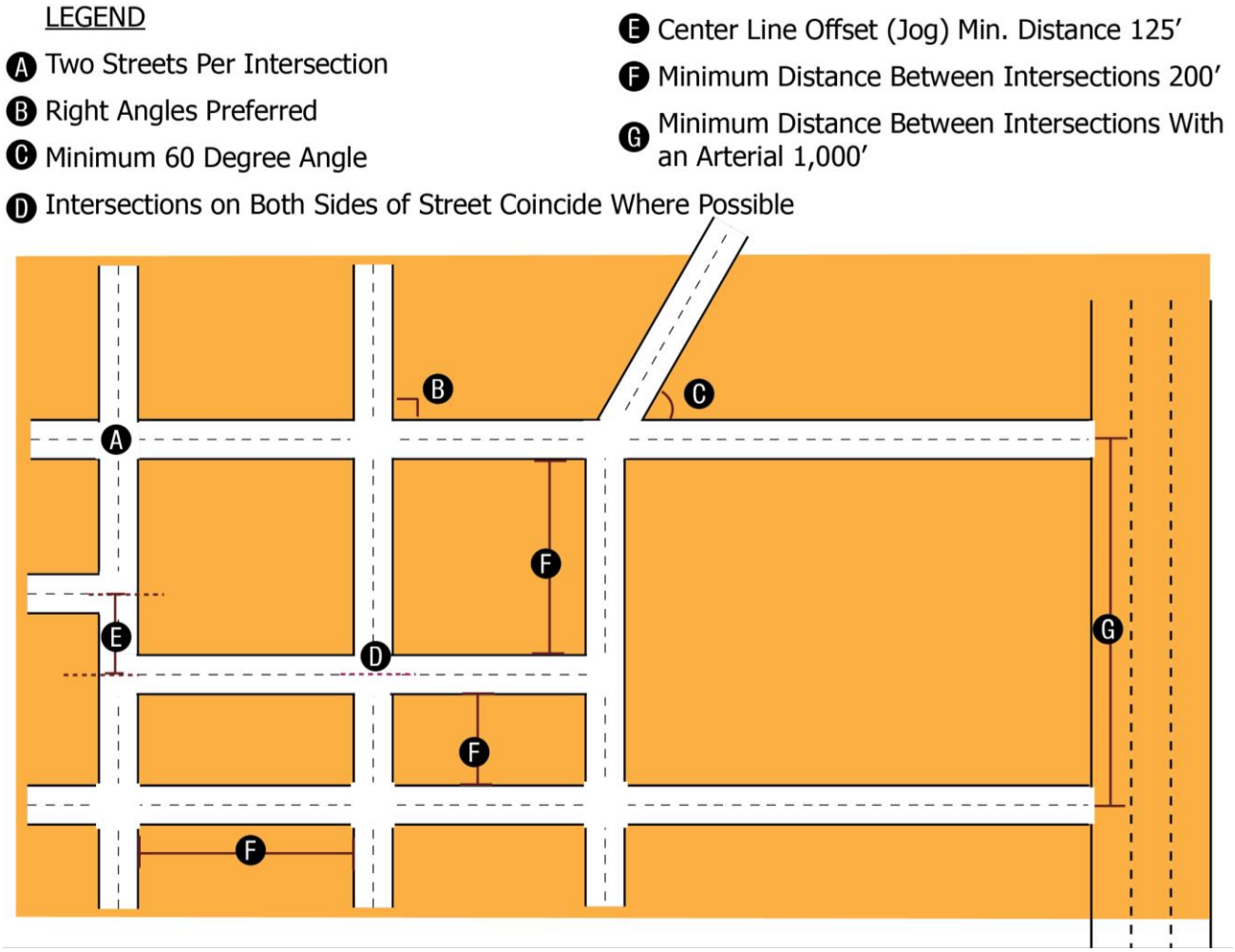
v. Except when no other alternative is practicable or legally possible, no two streets may intersect with any other street on the same side at a distance of less than 200 feet measured from centerline to centerline of the intersecting street. When the intersected street is a major thoroughfare, the distance between intersecting streets shall be at least 1,000 feet, unless no other alternative is practicable;

vi. Property lines at street intersections shall be shown as a chord connecting points not less than 15 feet back from the street intersection along each street right-of-way line. Longer

setbacks for chord connections for property lines may be required by the Town as needed for public safety; and

vii. In commercial developments, the Town may assign traffic control to through traffic within 500 feet of the point of access to the public right-of-way.

FIGURE 6.5.12.F.3.1: STREET INTERSECTIONS



e. CUL-DE-SAC AND DEAD-END STREET DESIGN

i. No cul-de-sac or dead-end street serving residential lots of 20,000 square feet or greater in area shall exceed 1,000 feet in length.

ii. No cul-de-sac or dead-end street serving residential lots less than 20,000 square feet in area shall exceed 750 feet in length.

iii. No cul-de-sac or dead-end street serving commercial or mixed-use development shall exceed 400 feet in length.

iv. In cases where one cul-de-sac is accessed from another cul-de-sac, the maximum length for all cul-de-sacs accessed from another cul-de-sac street shall be 400 linear feet (see Figure 6.5.12.F.3.2, Maximum Cul-de-Sac Length).

v. Cul-de-sac medians may be permitted where the cul-de-sac radius is increased, and emergency vehicles and sanitation trucks can be accommodated. Unless agreed to in writing by the Town, landscaped medians in cul-de-sac streets will not be maintained by the Town. Provision of maintenance for any landscaped median within a cul-de-sac shall require approval of a private maintenance agreement by the Town Attorney.

vi. All permanent cul-de-sacs or other dead-end streets shall be provided with a turn-around at the closed end configured in accordance with the Town's Engineering Specifications and Design Manual.

vii. Stub streets shall be provided in accordance with the standards in Section 6.5.12F.5, Street Continuation.

viii. Stub-streets shall not exceed 150 feet in length without inclusion of an approved turn-around for emergency vehicles.

ix. In cases where adjacent development connects to an existing stub-street and provides another point of ingress/egress, the development with the stub street and turn around may be amended to remove the turn-around and convert it to recreational amenities, open space, or additional lots as permitted within this Ordinance.

FIGURE 6.5.12.F.3.2: MAXIMUM CUL-DE-SAC LENGTH



f. TERMINATION

In no instance shall a public street terminate into a parking lot.

g. STREET GRADE AND CURVES

Street grades, curves, reverse curves, tangents, and other street characteristics shall be in accordance with NCDOT requirements or the Town's Engineering Specifications and Design Manual, as appropriate.

h. HALF STREETS

i. Whenever an existing half street is adjacent to a tract of land to be subdivided or otherwise developed, the other half of the street shall be dedicated and constructed unless no access to the street from the development is permitted.

ii. In cases where access to an adjacent half street is not permitted, then the land corresponding to the other half of the street shall be reserved and included within an easement for conditional future dedication within the new subdivision or other development.

iii. New half streets are prohibited except when essential to the reasonable progression of the subdivision or other development in conformity with the other requirements of these regulations and where it will be practicable to require the dedication of the other half when the adjoining property is subdivided or otherwise developed.

i. MARGINAL ACCESS STREETS

When a tract of land to be subdivided or developed adjoins a limited access highway, the developer may be required to provide a marginal access street parallel to the highway or reserve frontage on an interior street for the lots being proposed that are adjacent to the highway.

4. BLOCK LENGTH AND WIDTH

a. BLOCK LENGTH

Except for major thoroughfare streets, streets surrounded by the RUR or RLL districts, or where otherwise required by the NCDOT, intersecting streets shall be laid out at such intervals that block lengths do not exceed 1,500 linear feet. Streets may exceed a block length of 1,500 linear feet, provided the street includes traffic calming devices configured in accordance with the Town's Engineering Specifications and Design Manual.

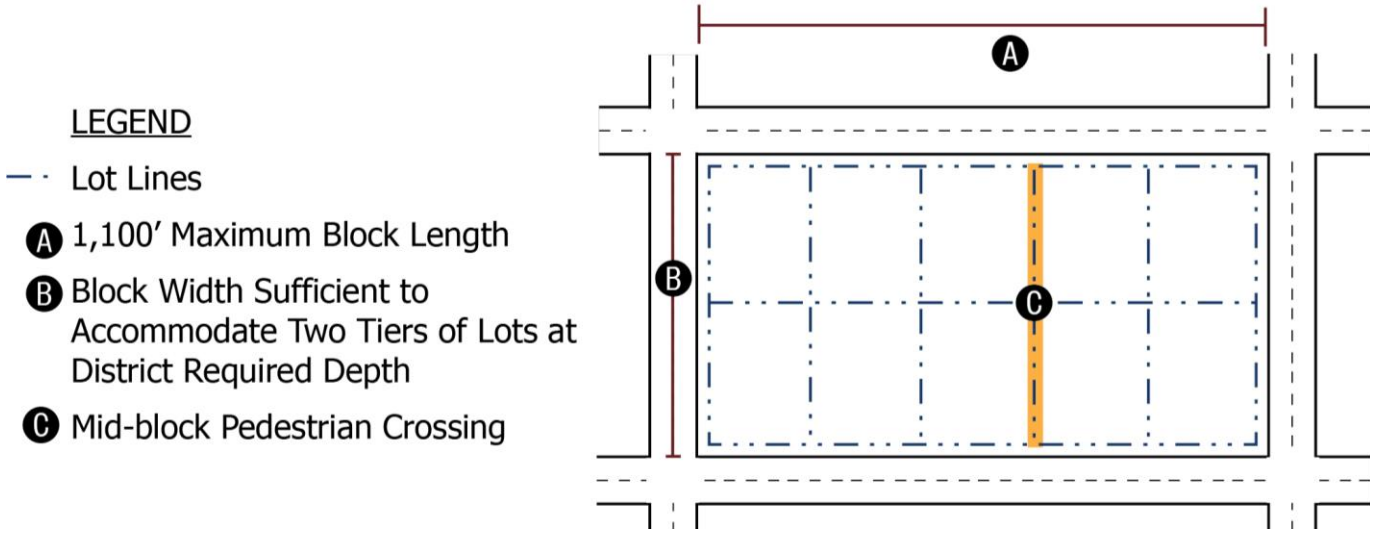
b. BLOCK WIDTH

i. Except where required to separate residential development from through traffic, the width of a block shall normally be sufficient to allow two tiers of lots of appropriate depth.

ii. Blocks intended for business or industrial use shall be of such width as to be considered most suitable for their respective use, including adequate space for off-street parking and deliveries (see Figure 6.5.12.F.4, Block Configuration).

iii. In cases where the block length exceeds 900 linear feet, a mid-block pedestrian connection through the entire depth of the block shall be provided for all forms of development except when located in a RUR, RLL, LID, or HID district.

FIGURE 6.5.12.F.4: BLOCK CONFIGURATION



5. STREET CONTINUATION

a. Whenever a street within a new subdivision or development continues an existing street that formerly terminated outside the development or it is expected that a new street will be continued beyond the subdivision boundaries at some future time, the classification of the street will be based upon the street in its entirety, both within and outside of the development.

b. The arrangement of streets in a subdivision or development shall provide for the alignment and continuation of existing or proposed streets into adjoining undeveloped lands or in cases where adjoining lands are developed but include opportunities for such connections.

c. 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 where practicable and feasible in each direction (north, south, east, and west) for development which abuts vacant lands.

d. Major thoroughfare streets shall intersect with surrounding thoroughfare streets at safe and convenient locations, as determined by the Town and the NCDOT, as appropriate.

e. 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.

f. The Site Plan or Final Plat shall identify all stub streets and include a notation that all street stubs are intended for connection with future streets on adjoining undeveloped or underdeveloped lands.

g. The use of residential strips of land in order to prevent the extension of proposed or existing streets or access thereto is prohibited.

6. STREET CONNECTIVITY

Streets within new developments and subdivisions shall be connected to one another to ensure emergency access and prevent traffic congestion in accordance with the following:

a. MINIMUM CONNECTIVITY INDEX SCORE REQUIRED

All development subject to this Ordinance shall achieve an internal street connectivity score in accordance with the following table:

TABLE 6.5.12.F.6: MINIMUM STREET CONNECTIVITY INDEX SCORE

Zoning District Where Located [1]	Minimum Required Index Score
RUR, RLL, RLD	1.20
LID, HID, CZI	1.25
RMD, RHD, CZR	1.30
NCM, PUB, CZC	1.40
DTNC, DTNN, DTNT, MXD, CZM, CZD	1.50

NOTES:
[1] In cases where a single development is located within more than one zoning district, the connectivity index score shall be based on the zoning district with the highest minimum score requirements.

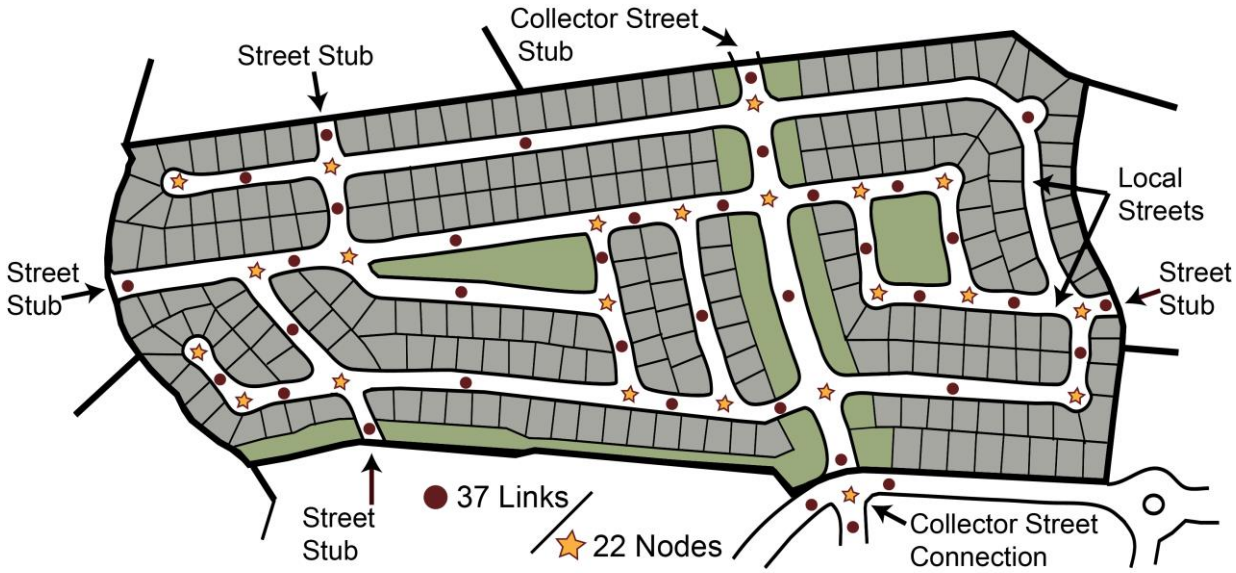
b. CONNECTIVITY INDEX SCORE CALCULATION

i. The connectivity index for a development is calculated by dividing its links by its nodes.

ii. Figure 6.5.12.F.6, Street Connectivity Index Example, provides an example of how to calculate the connectivity index. Nodes (stars) exist at street intersections and cul-de-sac heads within the development. Links (circles) are stretches of road that connect nodes. Street stub-outs are considered as links, but temporary dead-end streets internal to a development or alleys are not counted as links. One link beyond every node that exists in the development and provides access to the street system outside the development shall be included in the index calculation.

iii. In the diagram, there are 37 links (circles) and 22 nodes (stars); therefore, the connectivity index is 1.68 (37/22 = 1.68).

FIGURE 6.5.12.F.6: STREET CONNECTIVITY INDEX EXAMPLE



c. REDUCTION IN MINIMUM INDEX SCORE

The minimum connectivity index score may be reduced if the developer demonstrates it is not possible to achieve due to topographic conditions, natural features, existing road configurations, or adjacent existing development patterns. In these instances, internal street design shall achieve as high a connectivity index score as is reasonably practical.

7. DEVELOPMENT ENTRY POINTS

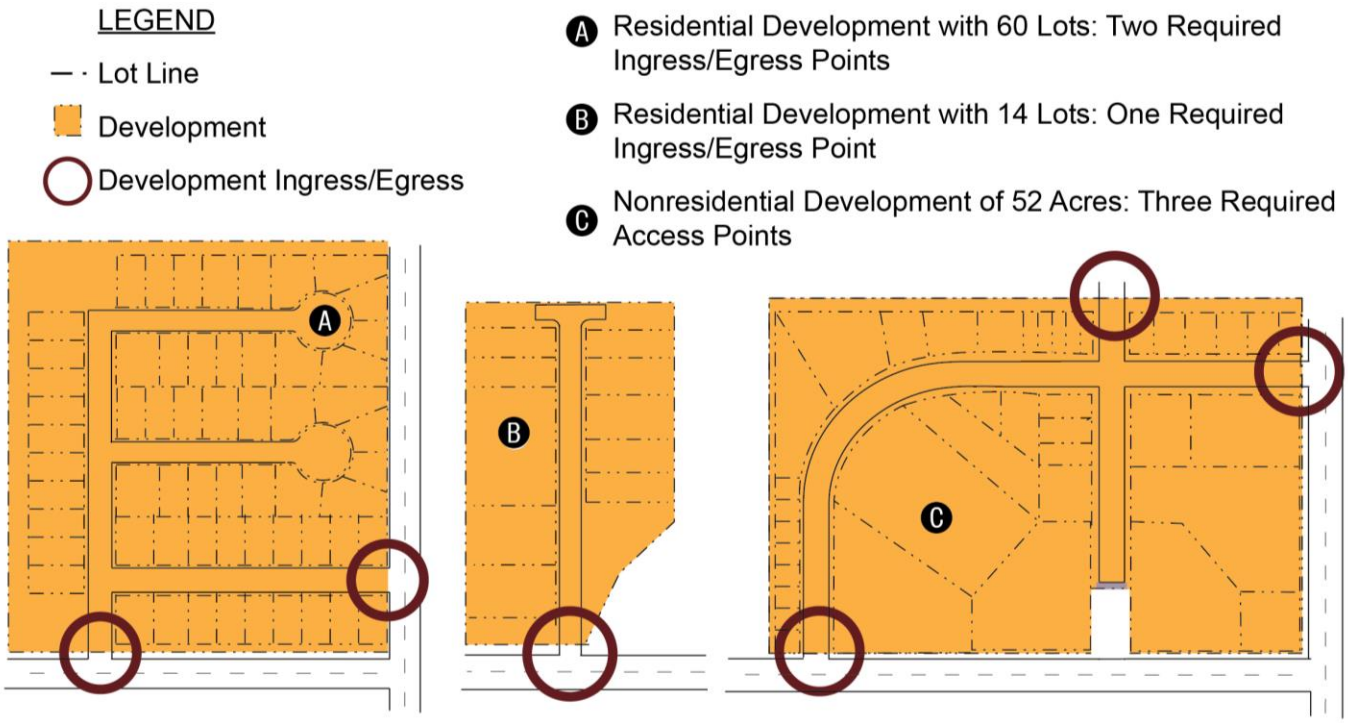
a. All new subdivisions and developments shall provide streets from the development to the street system outside the development in accordance with the following table:

TABLE 6.5.12.F.7: MINIMUM NUMBER OF DEVELOPMENT ENTRY POINTS [1]

Type of Proposed Development	Development Size	Minimum Number of Vehicular Access Points [2]
Single-Family Detached Residential, Duplex, Triplex, and Quadplex	50 or fewer lots or units	1
	51 to 100 lots or units	2
	101 or more lots or units	3+ as required by a Transportation Impact Analysis
Single-Family Attached Development, Multi-Family, and Mixed-Use Development	Less than 100 units	2
	101 to 500 units	3
	501 or more units	4
Non-Residential Development [3]	Less than 10 acres	1
	10 to 50 acres	2
	More than 50 acres	3

NOTES:
[1] Development entry points shall refer to streets, not driveways.
[2] Additional development entry points may be required by the Town.
[3] Industrial development is exempted from these standards.

FIGURE 6.5.12.F.7: DEVELOPMENT ENTRY POINTS



b. Nothing in this section shall limit the total number of streets providing access to the street system outside a development, or exempt a development from meeting all applicable street connectivity standards.

c. In cases where a development is required to provide three or more access points, one access point may be access-controlled and limited to emergency access by authorized vehicles only.

d. Development shall be exempted from these standards if it is demonstrated the following conditions apply:

- **i.** A transportation impact analysis allows a deviation;
- **ii.** No other street access points can be located due to existing lot configurations, absence of connecting streets, environmental, or topographic constraints;
- **iii.** NCDOT will not authorize the required number of entrances; or
- **iv.** Alternative access can be provided in a manner acceptable to the Town that is supported by a transportation impact analysis.

G. PRIVATE STREETS

1. COMPLY WITH STANDARDS FOR PUBLIC STREETS

New private streets proposed after January 2, 2024, shall be configured in accordance with applicable public street standards.

2. LIMITED TO LOCAL STREETS

In no instance shall a street with a classification higher than a local street be configured as a private street.

3. MAINTENANCE

a. Neither the Town of Clayton nor NCDOT shall be responsible for maintenance of private streets.

b. Private streets may be marked with signage indicating where Town or State maintenance responsibility stops.

4. PRIVATE STREET DEED DISCLOSURE

Every deed created for a lot served by a private street subject to this Ordinance filed with the Johnston County Register of Deeds shall include the following disclosure:

> "It is hereby acknowledged that a Subdivision Streets Disclosure Statement has been executed in accordance with Section 136-102.6 of the North Carolina General Statutes."

5. COMPLIANCE WITH EASEMENTS

All private streets shall be located within an access easement configured in accordance with the applicable requirements in Section 6.5.7, Easements.

6. VEHICULAR GATES

a. In no instance shall vehicular gates be placed across public street rights-of-way.

b. Gates on a non-residential, mixed-use, or multi-family site shall:

i. Conform to Town requirements for emergency access;

ii. Be located no closer than 50 feet to the street right-of-way;

iii. Be served by a vehicular turnaround; and

iv. Be reviewed and approved by the Technical Review Committee.

H. CURB AND GUTTER

1. All public streets, whether inside the corporate limits of the Town or outside the Town's corporate limits but abutting land served by public water or sewer, shall be constructed with curb and gutter.

2. Curb and gutter shall be configured in accordance with the Town's Engineering Specifications and Design Manual.

3. Rolled or valley-type curbs may be permitted for new residential streets, but are prohibited on residential collector and other collector streets.

I. STREET NAMES

1. All street names, including names for private streets, shall be in accordance with the County's street naming ordinance, and shall require approval by Johnston County prior to recordation of a Final Plat.

2. Where proposed streets are extensions of existing streets, or are in obvious alignment with existing streets, the existing street names shall be used except where a new name can reasonably be used to avoid further street name duplication.

3. Proposed street names shall not duplicate or phonetically approximate the name of any street anywhere within Clayton or unincorporated Johnston County.

J. STREET SIGNS

1. The subdivider or developer shall install street signs as part of new development.

2. All streets within a development shall be marked with a street name sign of a design specification and location in accordance with Town requirements.

3. Decorative street signs shall be approved as to form and configuration by the Town or NCDOT, as appropriate, prior to installation.
4. In cases where decorative street signs are proposed, the developer or subdivider shall be responsible for the cost of the decorative street signs.
5. Street signs shall be configured as break away signs in the event of collision with a vehicle.
6. All street name signs shall conform to Town and NCDOT standards.
7. Street name signs shall be installed free of visual obstruction.

K. TRAFFIC CONTROL DEVICES

1. If deemed necessary by the Town or by NCDOT, signals shall be installed by the developer at each street intersection within the subdivision and at each intersection of a subdivision street and a state-maintained road or access road.
2. Signs and signals shall comply with NCDOT regulations with regards to size, shape, color, location, and information contained thereon.
3. At least two or more traffic-control signs shall be placed at each four-way street intersection and at least one at each "T" street intersection.
4. Signs and signals shall be installed free of visual obstruction.

6.5.13 WASTEWATER

All development connected to a potable water supply shall include a wastewater treatment system configured to comply with the following standards:

A. WASTEWATER TREATMENT SYSTEM REQUIRED

1. Every development, building lot, and manufactured home space shall be served by a wastewater treatment or disposal system that is adequate to accommodate the reasonable needs of the use(s) or lot(s) and complies with all applicable Town, County, and State requirements.
2. All materials and pipes shall be provided by the subdivider and shall meet or exceed the requirements established by a State, Town, or utility service provider requirements for wastewater.
3. The Town may, before issuing any approval under this Ordinance, make the investigation and require the developer to submit the information as appears reasonably necessary to ensure that the development will be able to comply with the wastewater treatment or disposal system requirements of this Ordinance.

B. CONNECTION TO PUBLIC WASTEWATER TREATMENT SYSTEM

1. WITHIN THE CORPORATE LIMITS

a. Each new development and each lot in all major subdivisions within the Town's corporate limits, and each development and lot in all major subdivisions in the extraterritorial jurisdiction located within a specified distance of an existing or approved but not yet constructed gravity-fed public wastewater treatment line shall be connected, at the developer's expense to the Town's wastewater treatment system. Mandatory connections to public sanitary sewer service shall be in accordance with Table 6.5.13.B, Mandatory Sewer System Connection Required.

TABLE 6.5.13.B: MANDATORY SEWER SYSTEM CONNECTION REQUIRED

Number of Lots Proposed	Maximum Distance From Existing Sewer System Before Sewer System Connection is No Longer Required (feet) [1]
5-20	300
21-50	500
51-100	1, 000
More than 100	Connection is mandatory within 5,000 linear feet

NOTES:
[1] Measured from closest point of proposed development to the existing or approved but not yet constructed public sewer system.

b. In the event a development has 100 or fewer lots and is farther than the maximum distance required in Table 6.5.13.B, Mandatory Sewer System Connection Required, the applicant may choose to connect the development to the public sewer system, but such connection is voluntary and is not required.

2. OUTSIDE THE CORPORATE LIMITS

a. Where a new development or a proposed major subdivision located in the Town's extraterritorial jurisdiction and is located within a specified distance from an existing or approved but not yet constructed gravity-fed public wastewater line, the applicant shall, at the applicant's expense, connect the development or subdivision lots to the Town's public wastewater treatment system. Minimum connection distances shall be in accordance with Table 6.5.13.B, Mandatory Sewer System Connection Required, except that if a new development or major subdivision is more than 1,000 linear feet from an existing sanitary sewer service line, connection to the Town's sanitary sewer system is voluntary at the discretion of the applicant.

b. In the event a development in the extraterritorial jurisdiction is farther than the maximum distance required in Table 6.5.13.B, Mandatory Sewer System Connection Required, the applicant may choose to connect the development to the public sewer system, but such connection is voluntary and is not required.

c. No public wastewater treatment system service shall be provided to any lot or development outside the Town's corporate limits, except in accordance with one of the following:

i. If the lot or site is contiguous to the Town's corporate limits, the landowner shall immediately petition for and obtain annexation of the property into the Town's corporate limits.

ii. If the lot or site is not then contiguous to the Town's corporate, the landowner shall enter into a written agreement with the Town for the voluntary annexation of the lot or site at such future date as indicated by the Town.

iii. The Town Council may negotiate terms for voluntary annexation of major industrial or commercial tracts which require water and/or sewer system extensions.

3. Any applicant desiring to extend public wastewater treatment system service in an area where no public wastewater treatment service is available shall apply, in writing, to the Town for a specific daily allocation for such services.

C. CONFIGURATION

Public wastewater treatment systems shall comply with the following requirements:

1. The minimum diameter for a sewer main shall be eight inches.

2. All sewer mains shall be installed at a maximum depth to ensure service to as large an area as possible.

3. The developer shall install sewer mains so that all lots to be developed will be able to connect to the wastewater treatment system.

4. Sewer lines shall be installed within street rights-of-way or dedicated public utility easements.

5. The developer shall submit detailed drawings with the Construction Drawings plan associated with the development, prepared, and sealed by a professional engineer, showing the installation of the required wastewater infrastructure.

6. All materials and pipes shall meet or exceed the requirements of the public wastewater treatment system provider.

7. On streets which are "stubbed out" at property lines to permit future development, wastewater service must be provided by lines of at least eight inches in diameter. This requirement is not applied in cases when abutting land is located within a different drainage basin.

D. DEDICATION AND ACCEPTANCE

1. Each developer of land connected to a public wastewater treatment system shall be responsible for providing system-related equipment and appurtenances, including treatment facilities, pump stations, force mains, laterals, valve, and manhole covers between their property and the Town's wastewater treatment system.
2. Individual water service meters shall be furnished and installed by the Town.
3. All wastewater treatment system facilities installed in accordance with these standards shall become the sole property of the Town upon acceptance. A deed to the Town for such facilities, including easements pertaining to the right-of-way entrance for maintenance, shall be executed prior to connection to the Town system.

E. CONNECTION FEES

The applicant shall pay all applicable wastewater treatment system development fees for each lot or development to be served by a connection to the Town's public wastewater treatment system.

F. OVERSIZING

1. Where the Town Council deems it necessary in the interest of health, safety, and general welfare, the applicant shall make certain improvements to sizes in excess of those which would normally be required to serve only the applicant's development.
2. Where oversized improvements are required, the Town shall reimburse the applicant for the cost of materials incurred over and above those required to serve the applicant's development.
3. Such reimbursement shall be mutually agreed upon through a reimbursement agreement as authorized by NCGS§ 160A-499.

G. ON-SITE WASTEWATER TREATMENT SERVICE

1. All on-site wastewater disposal systems shall be designed and installed in accordance with Johnston County Health Department requirements.
2. In cases where a development includes lots to be served by individual on-site wastewater disposal systems, the application for a Preliminary Plat shall include a preliminary soil suitability analysis prepared by a professional engineer. Prior to approval of a Final Plat, all lots in the development indicated for on-site wastewater service shall be certified as capable of accommodating an on-site wastewater disposal system by the Johnston County Health Department.
3. When proposing lots or units to be served by an on-site wastewater disposal system, the lot shall be of sufficient size to accommodate all proposed on-site utilities and provide an adequate building area.
4. In no instance shall on-site wastewater treatment facilities be located on a lot other than the lot where the principal use being served is located. Off-site septic easements are not permitted by this Ordinance.
5. In no instance shall a sewer service line serving an individual use extend across the lot line of a lot owned or controlled by a separate landowner.
6. In cases where an existing lot of record served by an on-site wastewater disposal system is proposed for subsequent re-subdivision, all plats must indicate the locations of exiting on-site wastewater disposal and on-site potable water systems.
7. Every plat with lots served by on-site wastewater disposal system shall include the following disclosure statement:

"Public sanitary sewer services are not available, as of the date of the recording of this deed. All on-site potable water supply systems shall be designed and installed in accordance with Johnston County Health Department requirements."

H. PRIVATE COMMUNITY-LEVEL WASTEWATER TREATMENT FACILITIES

1. Existing, lawfully-established and functioning private community-level wastewater treatment facilities established prior to January 2, 2024, shall be permitted to continue operation provided such systems continue to comply with all applicable Town, County, and State rules.
2. Private community-level wastewater treatment facilities shall require the approval of a Development Agreement (see Section 2.3.10, Development Agreement).
3. In no instance shall a wastewater service line associated with a private community-level wastewater treatment facility cross a lot line dividing two or more lots under separate ownership. Lots located within a unified development may be served by a community-level wastewater treatment facility that includes service lines that cross one or more lot lines.
4. In cases where an existing force main private community-level wastewater treatment system is proposed for connection to the Town's public sewer system, such private force main systems shall be converted to gravity systems at the applicant's expense. The Engineering Director may also require separate metering of a prior to connection.

6.6 LANDSCAPING AND SCREENING

6.6.1 PURPOSE AND INTENT

The purpose of these provisions is to establish minimum requirements for the provision and maintenance of functionally adequate, attractive screening and buffering of buildings, certain site features, and off-street parking areas. These standards are intended to:

A. Promote and increase design compatibility between different land uses, while ensuring attractive views from streets and adjacent properties;
B. Assist in delineating separations of spaces, structures, uses, and activities on a site, or between adjacent sites;
C. Shield adjacent properties from potentially adverse external impacts of adjacent land uses and activities;
D. Abate glare and moderate temperatures of impervious areas;
E. Help filter air of fumes and dust;
F. Provide shade;
G. Reduce noise;
H. Reduce the visual impact of large expanses of pavement;
I. Promote energy conservation;
J. Reduce the amount and rate of stormwater runoff and erosion;
K. Improve water quality;
L. Increase in the capacity for groundwater recharge; and
M. Enhance the appearance and value of both residential and non-residential development.

6.6.2 APPLICABILITY

The standards in this section apply to the following forms of development:

A. NEW PRINCIPAL BUILDINGS OR USES

New principal buildings, except for single-family detached dwellings on individual lots of record, open uses of land, and publicly-owned buildings or sites, constructed, reconstructed, or established after January 2, 2024.

B. SUBDIVISIONS OF LAND

Except for subdivisions exempted from subdivision review by NCGS§160D-802 and Limited Subdivisions (see Section 2.3.16, Limited Subdivision), the subdivision of land shall comply with the applicable landscaping and screening requirements in this section.

C. IMPROVEMENTS AND EXPANSIONS

All improvements and expansions of principal and secondary buildings, off-street parking areas, or open uses of land lawfully-established before January 2, 2024, shall comply with the standards for landscaping and screening in Section 5.4, Nonconforming Site Features.

D. MULTI-PHASE DEVELOPMENT

Development that is planned and developed in phases shall be required to install landscaping that is associated with the active phase or phases only, unless an alternative arrangement is otherwise agreed to by the Planning Director and the developer. An active phase of a development is the one that is subject to permitted and on-going development activity.

6.6.3 EXEMPTIONS

A. The following forms of development are exempted from these standards:

1. Routine maintenance of existing vegetation, such as watering and fertilizing;
2. The removal of dead trees and shrubs, or trees and shrubs that have been diagnosed and determined to be diseased beyond treatment, provided the screening function of the landscaping is maintained or re-established. Failure to maintain the screening function of a required landscaping area is a violation of this Ordinance;
3. Pruning of vegetation, provided the screening function of the required landscaping is maintained. Severe pruning is a violation of this Ordinance, and shall require replacement of required vegetation; and
4. Repaving or restriping of a parking lot, provided there is no increase in parking lot size or the number of parking spaces, which would impact landscaping requirements.

B. Development in the DTNC district shall be exempted from the off-street parking landscaping standards in Section 6.6.11, Off-Street Parking Lot Landscaping, the perimeter landscaping buffer standards in Section 6.6.12, Perimeter Buffers, and the foundation planting standards in Section 6.6.14, Site Landscaping, but shall be subject to the other standards in this section.

6.6.4 LANDSCAPING PLAN REQUIRED

Development subject to these standards shall include a landscape plan as part of the submittal for a Site Plan, Major or Minor Subdivision Plat, Concept Plan associated with a Special Use Permit, type 3 Conditional Rezoning Application, or other application type, as directed by the Planning Director.

A. GENERALLY

1. A landscape plan depicting how required landscaping will be planted in accordance with these standards shall be included with an application for site plan, preliminary plat, planned development master plan, special use permit, or building permit, as appropriate, to ensure compliance with this section.
2. The landscape plan shall be approved prior to, or concurrent with an associated application.
3. A landscape plan shall be prepared or sealed by a registered landscape architect and contain, at a minimum, the following:
   a. Location of required planting material;
   b. Grouping or clusters of planting material, if proposed;
   c. Identification of required plants, including their scientific names;
   d. Minimum and maximum dimensions of all planting yard areas;
   e. Calculations determining the number of canopy trees, understory trees, and shrubs required;
   f. Locations, species, sizes, and methods of protection during construction for existing trees to be retained and counted towards minimum landscaping requirements; and
   g. Existing topography, or proposed topography where site grading is proposed to occur.

B. LANDSCAPING IN A STORMWATER RETENTION POND

If trees or shrubs are proposed on or within 20 feet of the embankment of a stormwater retention pond, a landscape plan showing the retention pond and surrounding landscaping shall be submitted for review to determine that the safety and functionality of the device will not be compromised by the trees or shrubs.

C. PHASED DEVELOPMENT

Development subject to these standards that is planned in phases may submit a landscape plan for the entire development, or separate landscape plans for each phase, which shall be approved as part of development of that phase.

6.6.5 LANDSCAPING TIMING

A. A Certificate of Occupancy shall not be issued, until all required landscaping and screening have been placed in accordance with the approved Site Plan, Subdivision Plat, or other approval, and requirements of this section.

B. A temporary Certificate of Occupancy may be issued by the Building Inspector for a period of up to 30 days under circumstances that would affect the seeding and planting of the site, or until the proper planting season is reached to complete the landscaping requirements, and may be extended up to 90 days upon approval of the request to the Planning Director.

C. In cases where a temporary Certificate of Occupancy is requested, the applicant shall furnish the following:

1. A signed contract for the installation of all required landscape materials; and
2. A performance guarantee for the amount of the contract configured in accordance with the standards in Section 2.3.19, Performance Guarantee.

6.6.6 MAINTENANCE AND INSPECTION REQUIRED

A. RESPONSIBILITY

1. The responsibility for maintenance of required landscaping areas shall remain with the landowner, their successors, heirs, assignees, or any consenting grantee.
2. Maintenance is required in order to ensure the proper functioning of landscaping and screening material.
3. Failure to adequately maintain required landscaping or screening material is a violation of this Ordinance subject to the remedies and penalties in Chapter 7, Violations.

B. MAINTENANCE

1. All plantings shall be maintained in an attractive and healthy condition. Maintenance shall include, but not be limited to: watering, mulching, fertilizing, pest management, mowing, weeding, removal of litter and dead plant material, and necessary pruning and trimming.
2. Necessary pruning and trimming shall be accomplished in accordance with the Tree Care Industry Association (TCIA) Standards for the Professional Arborist, and shall not include:
   a. The topping of trees;
   b. Removal of 30 percent or more of the crown material in one calendar year;
   c. Removal of the central leader; or
   d. Any other similarly severe procedures that may cause irreparable harm to the natural form of the tree.
3. Dead or diseased plantings shall be removed. Unless specifically exempted (such as understory trees shaded by canopy trees), replacement plantings shall be provided for any dead, diseased, or removed vegetation when such replacement plantings are necessary to meet the standards or this Ordinance or maintain the screening objective of the landscaping material.
4. Landscape structural features such as walls, fences, berms, or water features shall be maintained in a structurally safe and attractive condition.

5. Where other uses, including pedestrian and bicycle accessways, are allowed within a required landscaping area, these uses shall be maintained to provide for their safe use.
6. A water source shall be supplied within 50 feet of any planting requiring continuing watering. Where non-native or non-drought tolerant native vegetation is incorporated an irrigation system shall be required. Irrigation systems shall meet the standards of the Town.

C. INSPECTION

1. POST CONSTRUCTION INSPECTION

a. A permanent Certificate of Occupancy for any development shall not be issued unless the landscaping and screening required under this section is installed in accordance with these standards and the development approval.

b. No person shall refuse entry or access to any staff or authorized representative of the Town who requests entry for the purpose of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper, or interfere with that representative while in the process of carrying out official duties.

2. FOLLOW-UP INSPECTION

The Planning Director, or a designee, may inspect a site one year after the issuance of a permanent Certificate of Occupancy in order to ensure compliance with this Ordinance.

3. PERIODIC INSPECTION

a. The Planning Director, or a designee, may periodically inspect sites subject to the provisions of this Ordinance. If, through inspection, it is determined that a site does not comply with the development approval, a notice of violation shall be prepared in accordance with Section 7.5.3, Written Notice of Violation.

b. The Town shall have the power to conduct investigations as it may reasonably deem necessary to carry out its duties as prescribed in this Ordinance and for this purpose may enter at reasonable times upon the property, public or private, for the purpose of inspecting the site(s) subject to the provisions of this Ordinance.

6.6.7 PLANT MATERIAL SPECIFICATIONS

Landscaping materials required under these standards shall be configured in accordance with the following:

A. CANOPY TREE SIZE

1. Canopy trees shall have a minimum height at maturity of 40 feet and a minimum crown width of 30 feet (see Figure 6.6.7.A, Plant Material Specifications).
2. All canopy trees shall have a minimum height of eight feet, or more, and a minimum caliper size of 2.5 inches, or more, at planting (see Section 6.6.8, Plant Measurement).
3. Evergreen trees shall be a minimum of eight feet in height at planting.

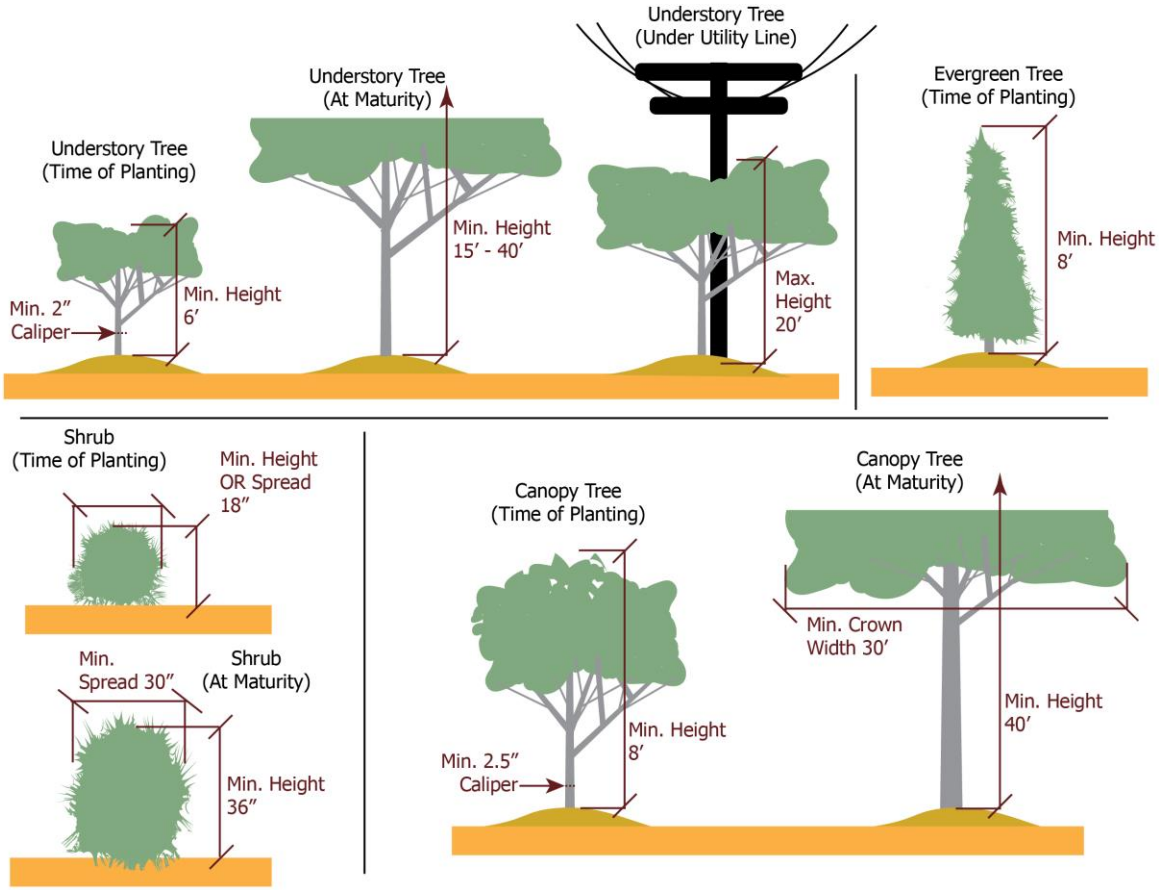
B. UNDERSTORY TREE SIZE

1. Understory trees shall have a minimum height at maturity of 15 to 40 feet, except that trees to be placed below overhead utility lines may not exceed a mature height of 20 feet (see Figure 6.6.7.A, Plant Material Specifications).
2. All understory trees shall have a minimum height of six feet, or more, and a minimum caliper size of two inches, or more, at planting (see Section 6.6.8, Plant Measurement).
3. Drought tolerant understory trees shall be so designated in the field and shall have a minimum caliper size of one-and-half inches inch at planting.
4. Nothing shall limit the use of multi-stemmed understory trees provided that 25 percent or more of the leaders meet the requirements in Section 6.6.8, Plant Measurement.

C. SHRUB SIZE AND VARIETY

1. All shrubs shall be at least a three-gallon size and have a minimum height or spread of 18 inches at the time of planting (see Figure 6.6.7.A, Plant Material Specifications).
2. Shrubs shall reach a minimum height of 36 inches and a spread of 30 inches within three years of planting.
3. Decorative grasses may be proposed as a substitute for shrubs, provided the grasses meet the screening objectives and are approved by the Planning Director.
4. Shrubs or grasses used to screen off-street parking areas shall be evergreen or retain their leaves/blades throughout the year.

FIGURE 6.6.7.A: PLANT MATERIAL SPECIFICATIONS



D. NATIVE OR LOCALLY-ADAPTED SPECIES

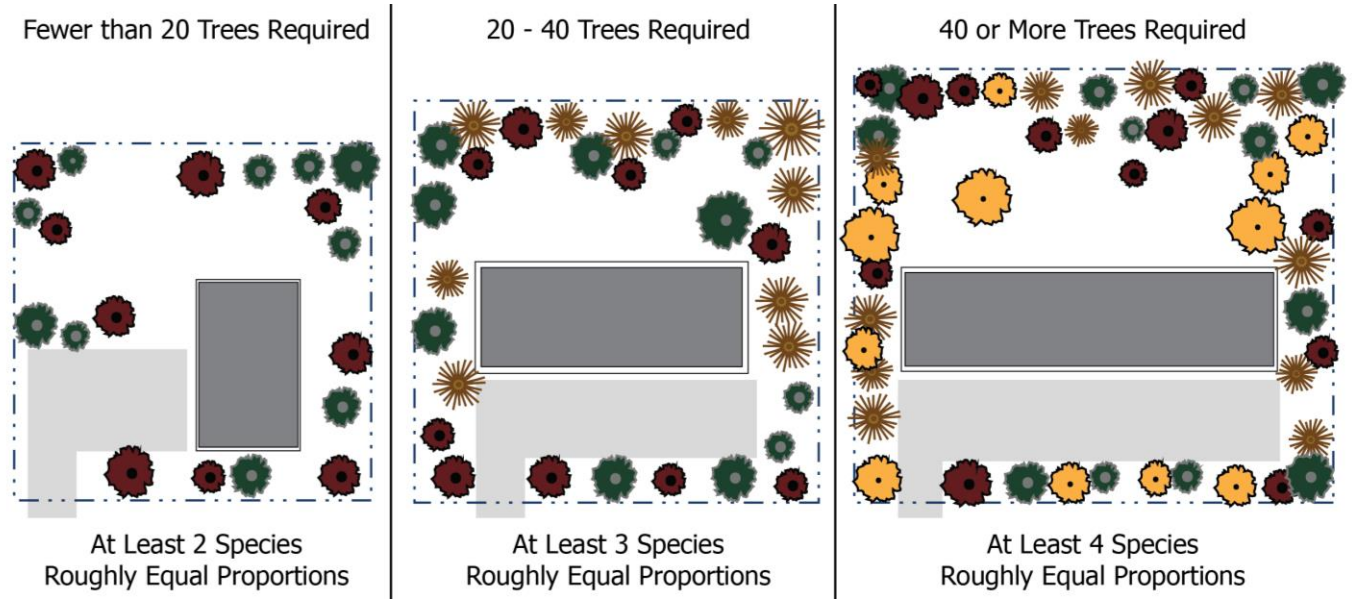
1. Required landscaping materials shall be cold-hardy for the location where planted.
2. Plant species used in required landscaping areas shall be native species. Use of exotic or other invasive species is prohibited.

E. SPECIES DIVERSITY

To curtail the spread of disease or insect infestation in a plant species, new plantings shall comply with the following standards:

1. When fewer than 20 trees are required on a site, at least two different species shall be utilized, in roughly equal proportions (see Figure 6.6.7.E, Species Diversity);
2. 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;
3. When 40 or more trees are required on a site, at least four different species shall be utilized, in roughly equal proportions;
4. A larger number of different species than specified may be utilized; and
5. In no instance shall invasive species, as determined by the North Carolina Forest Service, the NC Invasive Plant Council, or the NC Agricultural Extension Office be utilized as landscaping materials to meet the requirements of this Ordinance.

FIGURE 6.6.7.E: SPECIES DIVERSITY



F. SOIL STABILIZATION

1. Planting areas shall have uncompacted coarse loam that is a minimum of 12 inches deep and free of large stones, rubble, trash, or other debris.
2. Required landscaping areas shall be stabilized and maintained with vegetative cover, mulch, decorative gravel, cinders, or other approved materials to prevent soil erosion and allow rainwater infiltration.
3. Gravel, decorative gravel, or cinders shall not be permitted as a ground cover or stabilization material within a required streetscape or perimeter buffers.
4. Required landscaping areas with slopes of 15 percent or more shall be stabilized with vegetative cover (not mulch or gravel) designed to minimize erosion. Required vegetative cover shall be established and functional prior to issuance of a Certificate of Occupancy.
5. Use of landscape fabric on slopes of 15 percent or more is discouraged.

6.6.8 PLANT MEASUREMENT

A. DETERMINING TREE SIZE AT TIME OF PLANTING

1. TREES UNDER FOUR INCHES IN CALIPER

The minimum size at time of planting shall be determined by taking a measurement of the girth or circumference of the tree trunk, in inches, at a height of six inches above the bole, or the location where tree trunk meets the soil it is planted in.

2. TREES OVER FOUR, BUT LESS THAN TWELVE INCHES, IN CALIPER

The minimum size at time of planting shall be determined by taking a measurement of the girth or circumference of the tree trunk, in inches, at a height of 12 inches above the bole, or the location where tree trunk meets the soil it is planted in.

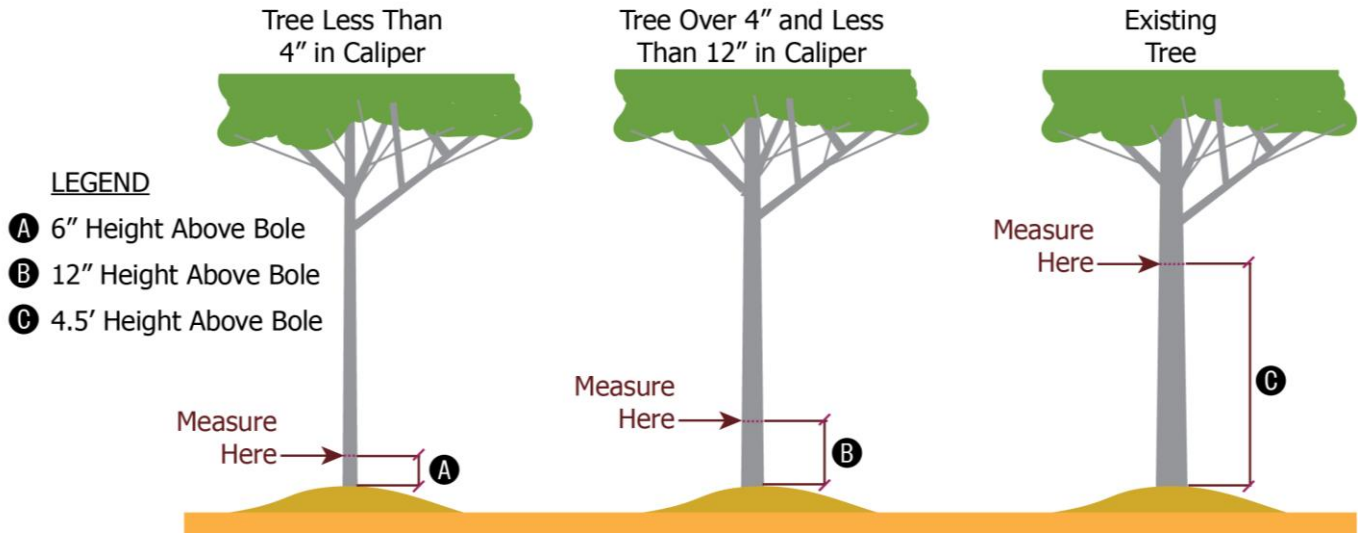
3. TREES OF TWELVE INCHES, OR MORE, IN CALIPER

Existing tree size shall be determined by taking a measurement of the girth or circumference of the tree trunk, in inches, at a height of four-and-one-half feet above the bole, or the location where tree trunk meets the soil it is planted in.

B. DETERMINING TREE SIZE OF EXISTING TREES

1. Existing tree size shall be determined by taking a measurement of the girth or circumference of the tree trunk, in inches, at a height of four-and-one-half feet above the bole, or the location where tree trunk meets the soil it is planted in.
2. In the case of a multi-stemmed tree, the cumulative DBH shall be the square root of the sum of all the individual stem diameters squared. As an alternative, the tree's basal area is the sum of the diameters of all tree stems.

FIGURE 6.6.8: PLANT SIZE DETERMINATION



C. ROUNDING

When computation of the amount of landscaping material to be provided results in a fraction, the minimum number of shrubs or trees to be provided shall be rounded upwards to the next highest whole number.

D. CALCULATION OF REQUIRED LANDSCAPING YARD OR AREA DISTANCES

1. In cases where a driveway, sidewalk, or greenway trail intersects a required landscaping area or yard, the width of these features shall be subtracted from the yard or area distance.
2. In cases where an easement that prohibits the placement of landscaping material intersects a required landscaping yard or area, the width of the easement shall not be subtracted from the required yard or area distance. Required plant material shall be located outside the easement but within the required landscaping area or yard.

6.6.9 PLANT PLACEMENT

A. OUTSIDE PUBLIC STREET RIGHTS-OF-WAY

1. Except for street trees, required landscaping material shall not be located within a street right-of-way.
2. Street trees may be located within a street right-of-way in the DTNC, DTNN, and DTNT districts as well as within the GTOD when specified by adopted policy guidance.
3. Where provided, street trees shall be configured in accordance with Section 6.6.15, Street Trees.

B. GROUPING OF PLANT MATERIAL

1. Except for street trees, vegetation within a type A perimeter buffer, shrubs around a parking lot perimeter, or when vegetation is included as a screening device in accordance with Section 6.6.13, Screening, required plant material may generally be grouped or clustered, however, the overall screening intent must be adequately addressed.
2. Required plant material in a type A perimeter buffer may not be grouped, and shall be planted according to the required on-center spacing in Table 6.6.12.D, Perimeter Buffer Configuration.
3. Street trees shall maintain on-center spacing requirements in Section 6.6.15, Street Trees.
4. Shrubs intended to screen features in accordance with Section 6.6.13, Screening, may not be grouped if such grouping results in the failure to meet the minimum screening standards of this Ordinance.

C. MULTIPLE-LOT UNIFIED DEVELOPMENT

A multiple-lot unified development is not required to provide perimeter buffers along lot lines internal to the development, but the perimeter of the development shall be subject to the standards in Section 6.6.12, Perimeter Buffers.

D. EASEMENTS

1. Landscaping material may not be located within a public utility or drainage easement.
2. When authorized, trees and shrubs may be located within a required easement on a case-by-case basis with the permission of the easement holder.
3. When landscaping is within an easement, the landowner is responsible for replacement of any required vegetation if maintenance or other actions result in its removal.
4. Where an easement and a required landscape area coincide and there is a prohibition on planting within the easement, then the required landscaping area shall be located outside the easement.

E. SETBACK SMALLER THAN REQUIRED LANDSCAPING AREA

In cases where a required setback or yard is smaller or more narrow than a required landscaping area, the landscaping area width or size shall not be reduced except as authorized by any of the following:

1. An alternative landscape plan;
2. An administrative adjustment;
3. A conditional rezoning approval; or
4. A sustainable development incentive.

F. FIRE PROTECTION SYSTEM

The minimum clear separation distances required by the current adopted version of the North Carolina Fire Code shall be maintained for landscaping near a fire protection system.

G. LANDSCAPING IN BIO-RETENTION CELLS

Trees and shrubs used in bio-retention cells or rain gardens located in parking lots or within landscape yards may be counted toward tree or shrub requirements of this Ordinance, provided they meet the minimum specifications in Section 6.6.7, Plant Material Specifications.

H. PERMITTED ENCROACHMENTS

1. The following features may be located entirely within required landscaping areas, provided the screening function of the landscaping is maintained and provided any encroachments into a required setback are in accordance with Table 3.6.9, Allowable Encroachments into Required Setbacks:
   a. Principal buildings, provided the minimum setbacks of the zoning district where located, are maintained;
   b. Landscaping features such as, ornamental pools, planting boxes, sculpture, arbors, trellises, and birdbaths;
   c. Pet shelters, well houses, and mechanical enclosures;
   d. On-grade patios, steps, benches, outdoor fireplaces, playground equipment serving an individual dwelling unit, accessibility ramps, roof overhangs, and fire escapes;
   e. Ornamental entry columns, gates, fences, walls, and retaining walls;
   f. Flagpoles of 30 feet in height or less;
   g. Lamp and address posts;
   h. Utility cabinets of four feet in height or less;
   i. Mailboxes; and
   j. Signage.
2. The following features may cross a required landscaping area in a manner that minimizes the impact to the required landscaping:
   a. Driveways, sidewalks, pedestrian walkways, greenways, or multi-use trails;
   b. Utilities; and
   c. Stormwater management facilities.

I. PROHIBITED FEATURES

The following features shall not be located within a required landscaping area:

1. A secondary structure or open-air use;
2. Off-street parking or loading areas; or
3. Outdoor storage or display of products for sale.

6.6.10 PLANTING FLEXIBILITY

A. CREDIT FOR EXISTING VEGETATION

1. In order to encourage the preservation of established, healthy vegetation, credit shall be given towards the landscaping requirements in this section for preservation of existing trees that are pre-existing within the boundaries of required landscaping areas and that meet the standards in this Ordinance at a rate of two times the amount of existing, healthy trees proposed to be retained during and after development. The Planning Director may

require certification of a tree's health by a certified arborist or landscape architect at the applicant's expense.

2. Vegetation to be credited towards these requirements shall be protected in accordance with Section 6.18.7, Tree Protection During Construction, before and during development of the site and maintained thereafter in a healthy growing condition.
3. In no instance shall credit be given for the retention of existing vegetation that is identified as an invasive species by the North Carolina Agricultural Extension, the North Carolina Forest Service, or the North Carolina Invasive Plant Council.

B. REVISIONS TO APPROVED LANDSCAPE PLANS

Due to seasonal planting problems and/or a lack of plant availability, approved landscape plans may require minor revisions. Minor revisions to planting plans may be approved by the Planning Director if:

1. There is no reduction in the quantity of plant material;
2. There is no significant change in size or location of plant materials; and
3. The new plants are of the same general category (i.e., canopy tree, understory tree, evergreen, or shrub) and have the same general design characteristics (mature height, crown spread, etc.) as the materials being replaced.

C. ALTERNATIVE LANDSCAPE PLANS

An alternate landscape plan that allows modifications to the requirements of this section may be approved by the Planning Director in accordance with the following.

1. CONDITIONS JUSTIFYING ALTERNATIVE LANDSCAPE PLAN

Any of the following natural physical conditions may be used as a justification for an alternative landscape plan:

a. Wetland areas;
b. Topography;
c. Non-arable soils;
d. Difficult or unusual lot configuration;
e. Utility or drainage easements;
f. A desire to retain existing on-site vegetation;
g. Natural rock formations;
h. Required landscaping areas that are shaded; and
i. Impractical situations that would result from the application of this section.

2. INTENT

To be approved, any alternative landscape plan shall meet the intent of the applicable planting area(s) and the purpose and intent of the landscaping standards of this section.

3. ALLOWABLE MODIFICATIONS

a. The following landscape standards may be modified by an alternate landscape plan:
   i. The location of required plant materials;
   ii. The width of required planting areas;
   iii. The configuration of required plant materials; and
   iv. The number of required plant materials.
b. The alternative landscape plan shall include justification for the modifications requested, based upon but not limited to, the following:

i. The presence or planned location of public utilities, infrastructure, or easements;
ii. The location of existing healthy vegetation or other beneficial site features to be retained after development;
iii. The size, shape, or topographic elevation of the site relative to the street(s) it abuts; and
iv. The need to protect solar access or avoid permanently shaded areas on the site.

4. DOCUMENTATION

In cases where a proposed development employs planting flexibility provisions to address the landscaping requirements of this section, the site plan, subdivision, permit, or other approval shall document the locations where and describe the extent to which planting flexibility provisions were employed.

D. BERMS

Berms may be used independently, or in conjunction with a wall or fencing, to meet the screening intent of a perimeter buffer or other required screening when configured in accordance with the following:

1. Berms shall have a minimum height of three feet, a minimum crown width of at least three feet, and a slope of no greater than 3:1;
2. Berms shall be no taller than twelve feet above the toe of the berm;
3. Berms shall be stabilized with vegetation and ground cover;
4. A berm may not damage the roots of existing healthy vegetation being preserved for credit towards the landscaping requirements in this Ordinance. Suffocation of existing roots by deposition of fill in excess of 12 inches shall be considered damage to existing tree roots; and
5. A berm shall not interfere with a required sight distance triangle (see Section 6.1.7, Sight Distance Triangles).

E. FENCES AND WALLS

1. Opaque fences or walls, a minimum of four feet in height, constructed within required landscaping areas, and configured in accordance with Section 6.3, Fences and Walls, may reduce the minimum and average perimeter buffer width requirement in accordance with Table 6.6.12.D, Perimeter Buffer Configuration.
2. If utilized, fences or walls shall be located within the required landscaping area and all required shrubs shall be planted between the fence or wall and the lot line.
3. Required trees may be planted either in front of or behind the fence or wall.

F. PLANTERS

1. Planters, if provided, shall be constructed of masonry, stone, or pressure treated lumber stamped for ground contact. Other materials may be approved, based upon their durability, by the Planning Director.
2. Planters shall maintain a minimum height of 30 inches and have an effective planting area of seven feet (measured in any direction) if trees are to be planted and an effective planting area of four feet (measured in any direction) if no trees are to be included.
3. The minimum height of shrubs in the planter, except for ground cover, shall be six inches at the time of planting.

6.6.11 OFF-STREET PARKING LOT LANDSCAPING

All off-street parking lots with five or more spaces serving multi-family, single-family attached residential, mixed-use, and non-residential developments shall comply with the following parking lot landscaping standards:

A. INTERIOR PLANTINGS

1. AREA TO BE LANDSCAPED

For the purposes of this section, the interior of a parking lot shall be all of the area within the outer boundary of the parking lot including interior and corner landscape islands intended to fulfill the interior parking lot landscaping requirements, but not including landscaping planted around the perimeter of the parking lot (see Figure 6.6.11.A, Parking Lot Interior Plantings).

2. LANDSCAPING ISLANDS AND STRIPS

A parking aisle with 12 or more vehicle spaces in a single row shall provide and maintain landscaping islands at each end of the row as well as a landscaping island located every 12 spaces, in accordance with the following standards:

- **a.** Islands shall have no minimum dimension less than nine feet and a minimum area of 180 square feet, including the curb (if curbing is provided);
- **b.** Landscape islands that do not contain canopy trees shall contain three or more shrubs and also may contain understory trees;
- **c.** Off-street parking lots of 100 or more spaces shall include at least one landscaping strip for every six rows of parking spaces; and
- **d.** Landscaping strips shall maintain a minimum width of nine feet and run the full length of a row of parking spaces. Landscape strips shall include shrubs and a pedestrian walkway of at least four feet in width and configured to comply with applicable ADA requirements, and may include trees and parking lot lighting, provided tree trunks are at least five feet from the pedestrian accessway.

3. PROTECTION OF LANDSCAPE ISLANDS

- **a.** Landscape islands shall be protected from vehicle damage by the installation of curbing, wheel stops, or other comparable methods.
- **b.** The placement of plant material within landscape islands shall allow for a two-and-one-half-foot vehicle overhang from the face of the curb or wheel stop.

4. PROTECTION FROM PEDESTRIAN WALKWAYS

In cases where a pedestrian walkway must be located within five feet of a tree trunk, wooden walkways, pervious pavers, or other methods shall be used to ensure the required tree is not damaged by the walkway.

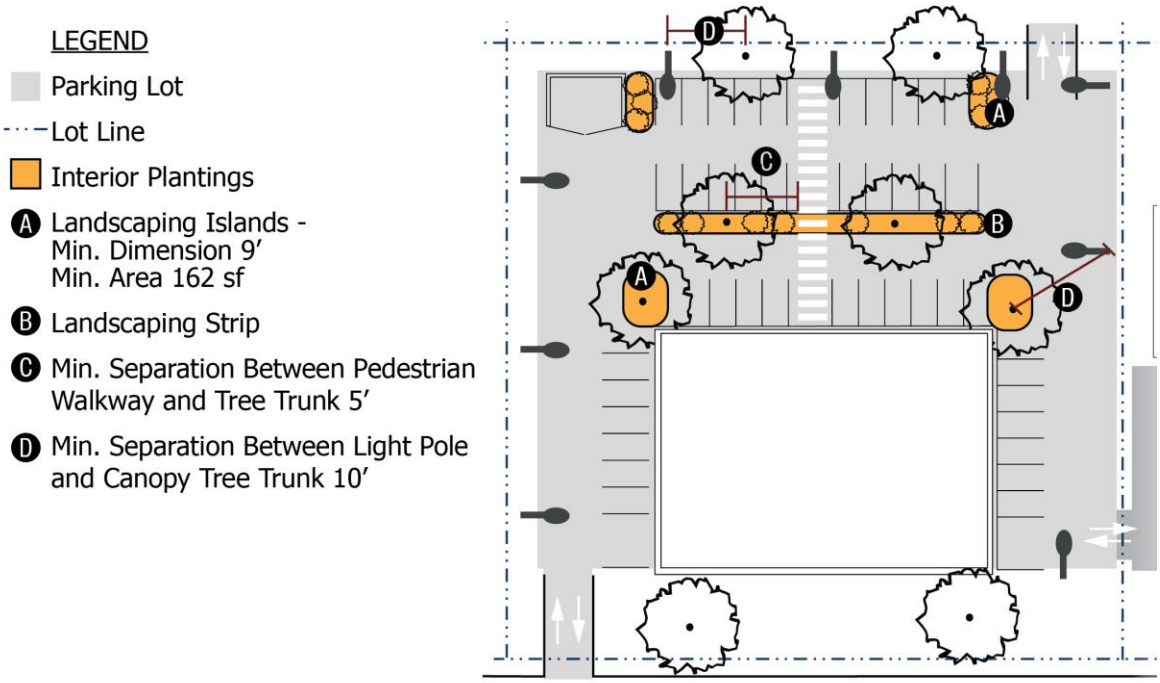
5. STORMWATER MANAGEMENT

A landscape island may be designed to function as a stormwater control measure, provided its landscaping performance function is maintained.

6. STRUCTURAL SOIL REQUIRED

Landscaping islands and strips located within a parking lot shall be comprised of properly-prepared structural soil that has been amended and cultivated to support healthy vegetation.

FIGURE 6.6.11.A: PARKING LOT INTERIOR PLANTINGS



B. PERIMETER PLANTINGS

1. INTENT

Parking lot perimeter landscaping shall be designed to soften the view of the parking lot from an abutting street or development and to filter spillover light from vehicle headlights. Required plant material shall be planted in such a way as to best achieve this intent.

2. LOCATION

Required plant material shall be placed adjacent to the perimeter of the parking lot. Landscaping material located within the boundaries of the parking lot paving shall not be credited towards these perimeter planting requirements.

3. PLANTING RATE

Parking lot perimeter landscaping shall consist of a single continuous row of evergreen shrubs planted no greater than three feet on-center and within five feet of the parking lot edge.

4. SIZE OF PLANT MATERIAL

a. Shrubs used for parking lot perimeter landscaping shall be of a minimum size necessary to achieve a maximum height of 36 inches above grade within three years of planting.

b. In cases when vegetation provided as perimeter plantings around a parking lot grow to a height exceeding 48 inches above grade, they shall be trimmed or pruned as necessary to maintain a minimum height of 36 inches.

c. It shall be a violation of this Ordinance to remove or severely prune shrubs required as parking lot perimeter vegetation to a height of less than 36 inches.

5. CREDIT TOWARDS REQUIRED PERIMETER BUFFERS

Perimeter parking lot landscaping may be credited towards the perimeter buffer requirements in this Ordinance only in cases where it meets the locational requirements of this section and is also located within an adjacent perimeter landscaping buffer.

6. ALTERNATIVES

Perimeter parking lot plantings may be supplemented or replaced through use of a vegetated berm configured in accordance with Section 6.6.10D, Berms, or an opaque fence or wall that meets the screening objective of this section and is configured in accordance with Section 6.3, Fences and Walls.

7. EXEMPTIONS

a. Where off-street parking lots are adjacent to one another, but on different lots, perimeter plantings or other forms of screening are not required along the common boundary between the two parking lots.

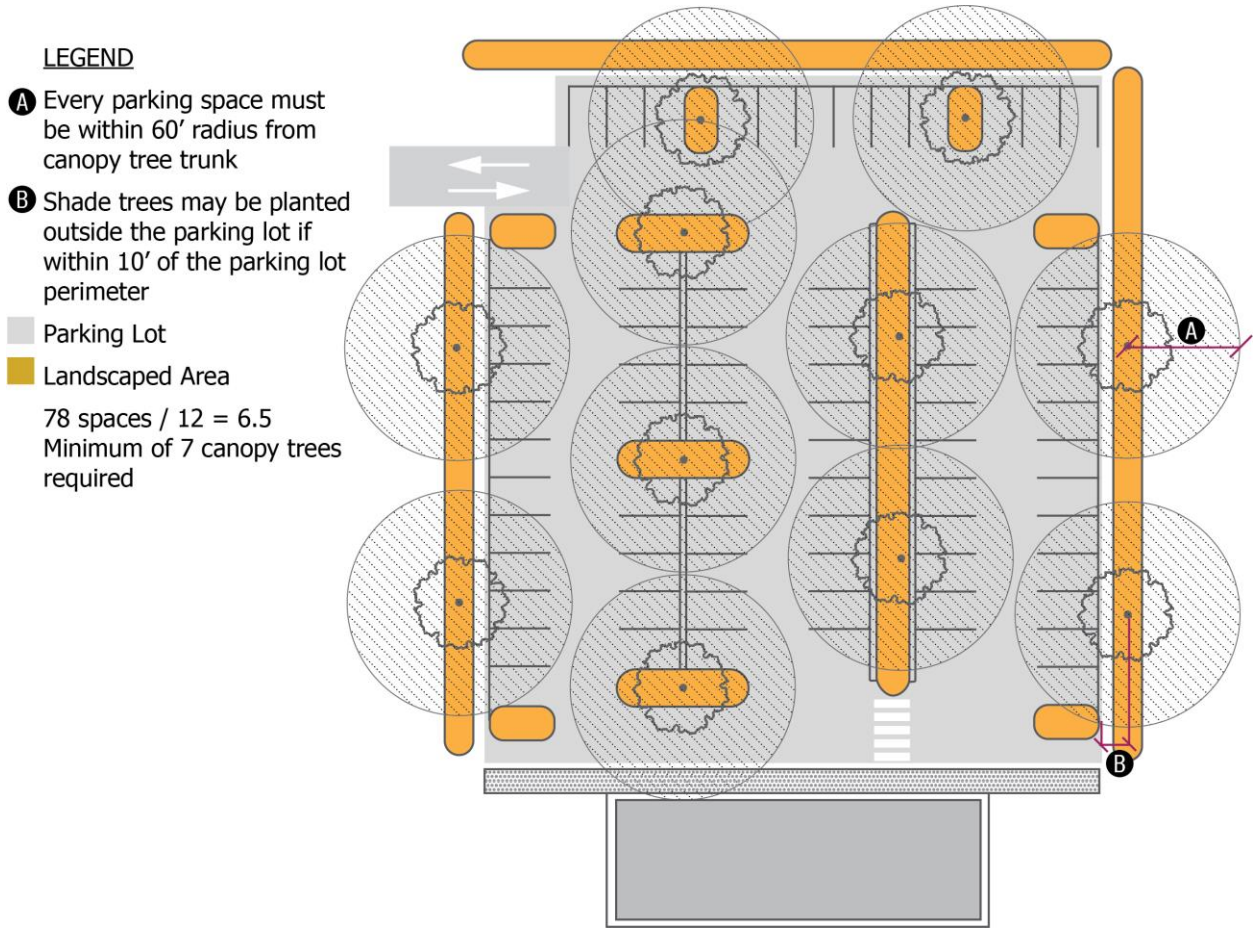
b. Developments consisting of multiple lots that are planned and developed as a single, unified, or consolidated project may be configured so that perimeter plantings are only located around the perimeter of the entire development instead of between parking lots and buildings located within the development.

C. SHADE TREES

All parking lots shall be served by shade trees to reduce the heat island effect and soften the appearance of the parking lot, in accordance with the following standards:

1. Parking lots subject to these standards shall include at least one canopy tree for every 12 off-street parking spaces provided;
2. Required canopy trees may be placed around, in, or near the parking lot provided that no parking space is more than 60 feet from the trunk of a canopy tree (see Figure 6.6.11.C: Parking Lot Shading); and
3. Required canopy trees shall be distributed throughout parking areas and may be located in landscape islands, between rows of parking, in driveway medians, and within ten feet of the perimeter of the parking lot.

FIGURE 6.6.11.C: PARKING LOT SHADING



6.6.12 PERIMETER BUFFERS

A. PURPOSE AND INTENT

These standards are proposed to eliminate or minimize potential nuisances, such as dirt, litter, noise, glare of lights, signs, and unsightly buildings or parking areas through physical and visual separation between land uses in separate zoning districts.

B. APPLICABILITY

1. All development subject to these landscaping standards shall comply with the perimeter buffer standards in this section.
2. Development shall provide perimeter buffers along side and rear lot lines in accordance with Table 6.6.12.G, Buffer Application.
3. Lot lines abutting street rights-of-way shall comply with the standards in Section 6.6.16, Streetscape Buffers, or Section 6.6.15, Street Trees, as appropriate.

C. BUFFERS DISTINGUISHED

Table 6.6.12.D, Perimeter Buffer Configuration, establishes the standards for perimeter buffers, including the minimum requirements for each of the following buffer types:

1. Type A, Separation Buffer;
2. Type B, Intermittent Buffer;
3. Type C, Semi-Opaque Buffer; and
4. Type D, Opaque Buffer.

D. BUFFER DETERMINATION

1. The lot or site being developed is the one responsible for providing the required perimeter buffer, which shall be located solely upon the lot or site being developed.
2. Landscaping material located on an adjacent lot may not be credited towards these perimeter buffer requirements.
3. The type of perimeter buffer required is based upon the zoning district designation of the land being developed as well as the zoning district designation of the abutting lots (see Table 6.6.1.G, Buffer Application).

E. BUFFER LOCATION

1. Perimeter buffers required by this section shall be located along the outer perimeter of the lot and shall extend to the connecting lot lines.
2. In cases where the lot line is within a drainage swale, the perimeter buffer shall extend to the edge of the swale instead of the lot line.
3. A perimeter buffer may be located along shared access easements between parcels in non-residential developments.

F. MASS GRADING

In cases where new development subject to these standards includes mass grading, as defined, in this Ordinance, the minimum required buffer width and the minimum number of required plantings specified in this section shall be doubled.

TABLE 6.6.12.D: PERIMETER BUFFER CONFIGURATION

TYPE A – SEPARATION

The Type A Separation perimeter buffer serves as a visual break between land ownership or zoning district designations. It is not intended to provide complete visual or acoustic buffering. The image below shows an approximation of this buffer type at maturity.



BUFFER CONFIGURATION	REQUIREMENT
Buffer width (feet)	10
Canopy trees per every 100 linear feet (#) / Max. on-center spacing (feet)	None / None
Understory trees per every 100 linear feet (#) / Max. on-center spacing (feet)	4 / None [1]
Shrubs per every 100 linear feet (#) / Max. on-center spacing (feet) [2]	15 / None [1]
Minimum percentage of evergreen shrubs (% of total along 1 side)	50

NOTES:	[1] Grouping of trees or shrubs is permitted provided there is no span of un-vegetated buffer exceeding 30 feet in length. [2] In the event a fence or wall is provided, it shall be located within 10 feet of the lot line. Shrubs, if required, shall be located between the fence or wall and t–e lot line, but no closer than three feet to the lot line.

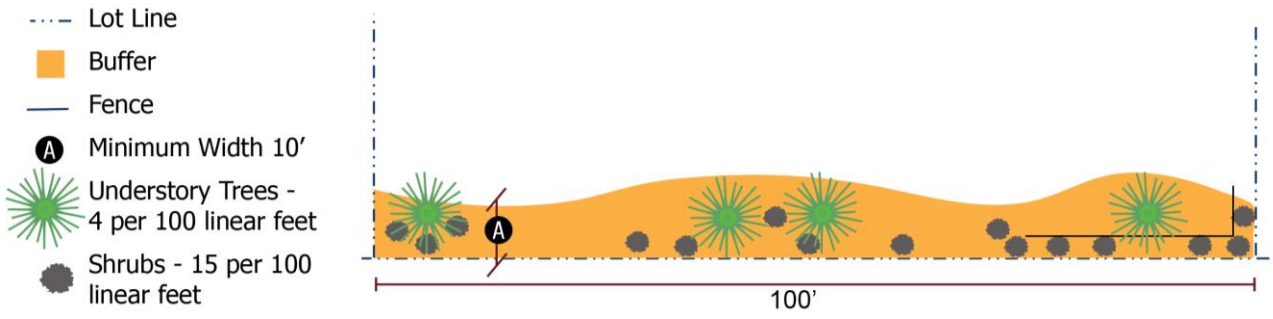


TABLE 6.6.12.D: PERIMETER BUFFER CONFIGURATION

TYPE B - INTERMITTENT

The Type B Intermittent perimeter buffer functions as an intermittent visual screen from the ground to a height of five feet. It is intended to partially block visibility between different uses but not totally obstruct visual contact from one use to another. The image below shows an approximation of this buffer type at maturity.



BUFFER CONFIGURATION	REQUIREMENT
Buffer width (feet)	20
Canopy trees per every 100 linear feet (#) / Max. on-center spacing (feet)	2 / 50
Understory trees per every 100 linear feet (#) / Max. on-center spacing (feet)	4 / 25 [1]
Shrubs per every 100 linear feet (#) / Max. on-center spacing (feet) [2]	15 / None [1]
Minimum percentage of evergreen shrubs (% of total along 1 side)	60

NOTES:	[1] Grouping of trees or shrubs is permitted provided there is no span of un-vegetated buffer exceeding 30 feet in length. [2] In the event a fence or wall is provided, it shall be located within 10 feet of the lot line. Shrubs, if required, shall be located between the fence or wall and the lot line, but no closer than three feet to the lot line.

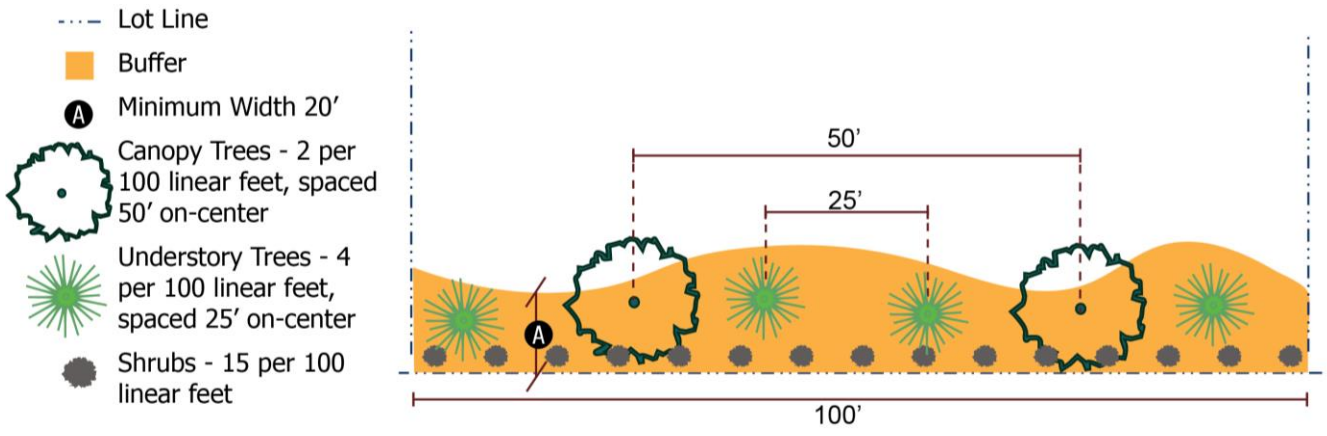


TABLE 6.6.12.D: PERIMETER BUFFER CONFIGURATION

TYPE C – SEMI-OPAQUE

The Type C Semi-Opaque perimeter buffer functions as a partially opaque screen from the ground to a height of six feet. This type of buffer prevents visual contact between uses but not total obstruction from one use to another. The buffer creates a sense of visual separation but provides only minor acoustic separation. The image below shows an approximation of this buffer type at maturity.



BUFFER CONFIGURATION	REQUIREMENT
Buffer width (feet) [1]	30
Canopy trees per every 100 linear feet (#) / Max. on-center spacing (feet)	3 / 33
Understory trees per every 100 linear feet (#) / Max. on-center spacing (feet)	6 / 16 [2]
Shrubs per every 100 linear feet (#) / Max. on-center spacing (feet) [3]	25 / 4 [2]
Minimum percentage of evergreen shrubs (% of total along 1 side)	75

NOTES:

[1] Provision of a semi-opaque fence or wall along the entire buffer span allows the buffer width to be reduced by 5 feet (chain-link fencing is not permitted). Provision of a fully-opaque fence, wall, or berm along the entire buffer span allows the buffer width to be reduced by 10 feet.

[2] Grouping of trees or shrubs is permitted provided there is no span of un-vegetated buffer exceeding 20 feet in length.

[3] In the event a fence or wall is provided, it shall be located within 10 feet of the lot line. Shrubs, if required, shall be located between the fence or wall and the lot line, but no closer than three feet to the lot line.

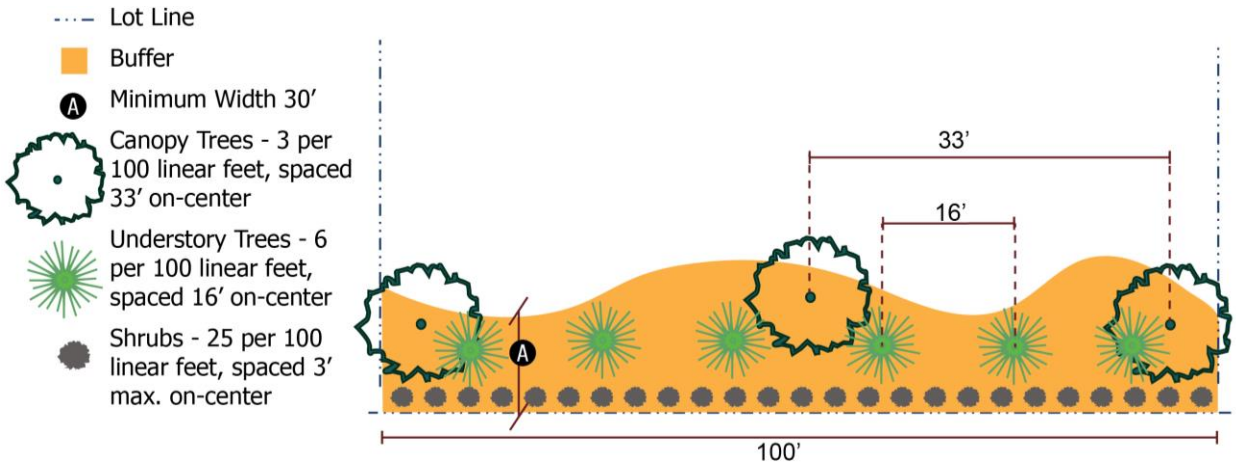


TABLE 6.6.12.D: PERIMETER BUFFER CONFIGURATION

TYPE D – OPAQUE

The Type D Opaque perimeter buffer functions as a fully opaque screen from the ground to a height of eight feet. This type of buffer provides a strong sense of visual and acoustic separation between uses. The cross-section image below shows an approximation of this buffer type at maturity.

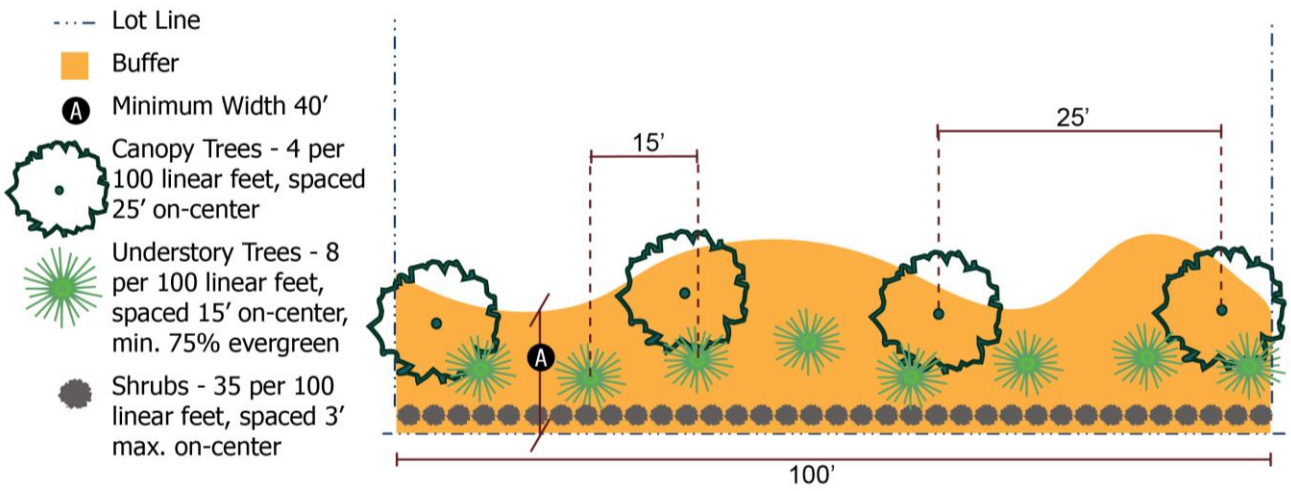


BUFFER CONFIGURATION	REQUIREMENT
Buffer width (feet) [1]	40
Canopy trees per every 100 linear feet (#) / Max. on-center spacing (feet)	4 / 25
Understory trees per every 100 linear feet (#) / Max. on-center spacing (feet)	8 / 15
Minimum percentage of evergreen understory trees (% of total along 1 side)	75
Shrubs per every 100 linear feet (#) / Max. on-center spacing (feet) [2]	35 / 3
Minimum percentage of evergreen shrubs (% of total along 1 side)	85

NOTES:

[1] Provision of a semi-opaque fence or wall along the entire buffer span allows the buffer width to be reduced by 5 feet (chain-link fencing is not permitted). Provision of a fully-opaque fence, wall, or berm along the entire buffer span allows the buffer width to be reduced by 10 feet.

[2] In the event a fence or wall is provided, it shall be located within 10 feet of the lot line. Shrubs, if required, shall be located between the fence or wall and the lot line, but no closer than three feet to the lot line.



G. BUFFER APPLICATION

Table 6.6.12.G, Buffer Application, specifies the type of perimeter buffer that development shall provide between it and adjacent land, based on the zoning district of the development site and that of the adjacent land. The buffer type is indicated by a letter corresponding to one of the four buffer types described in Table 6.6.12.D, Perimeter Buffer Configuration.

TABLE 6.6.12.G: BUFFER APPLICATION

Zoning District of Developing Land [1] [2]	Zoning District of Land Adjacent to Proposed Development [3] [4] [5] [6] [7]					
	CON, RLD, RLL, RUR	RMD, RMF, CZR	RHD, OFI, DTNC, DTNT, DTNN, CZD	NCM, PUB, MXD,	CRM, CZM, CZC, LID	HID, CZI
CON, RLD, RLL, RUR	A	None	None	A	B	B
RMD, RMF, CZR	B	A	A	None	A	B
RHD, OFI	C	B	A	A	None	A
NCM, PUB, MXD	D	C	B	A	A	None
CRM, CZM, CZC, LID	D	D	C	B	A	None
HID, CZI	D	D	D	D	C	None

NOTES:
[1] This column identifies the zoning district of the land that is developing and is responsible for providing a perimeter buffer.
[2] Development within the DTNC, DTNT, and DTNN districts are exempted from providing a perimeter buffer.
[3] Lot lines abutting public street rights-of-way shall be subject to the standards in Section 6.6.16, Streetscape Buffers.
[4] A perimeter buffer shall not be required when the developing lot abuts unbuildable land within a riparian buffer, a lot in the Flood Protection Overlay (FPOD) district, a Town-designated tree-save area, or other Town-designated conservation area where existing vegetation will not be removed.
[5] A type A buffer shall be provided along all lot lines bordering the Town's planning jurisdiction.
[6] A type D buffer of at least 40 feet in width shall be provided along all lot lines bordering an interstate or limited access highway, including on- and off-ramps, and railroad lines.
[7] A perimeter buffer is not required if proposed development is surrounded by existing vegetation of a minimum width necessary to obstruct view from off-site areas provided such existing vegetation remains in place in perpetuity.

H. EXEMPTIONS

Developments consisting of multiple lots that are planned and developed as a single, unified, or consolidated project may be configured so that perimeter buffers are only located around the perimeter of the entire development instead of between lots within the development.

6.6.13 SCREENING

A. PURPOSE AND INTENT

These standards are intended to reduce the visual and auditory impact upon adjacent lots and the public realm from certain site features and activities occurring on individual non-residential, multi-family, single-family attached residential, and mixed-use lots. In addition to mitigating negative impacts, these standards are also proposed to enhance the aesthetics of development in the Town's jurisdiction.

B. USING THESE STANDARDS

1. These standards identify a series of use types, site features, and activities that are required to be screened from off-site views (see Section 6.6.13C, Applicability, and Section 6.6.13D, Exemptions).
2. The standards establish a series of screening methods organized into differing levels (e.g., Level 1 through Level 10). The higher the screening method's level number, the greater its opacity, or its ability to obscure a particular site feature from off-site view (see Table 6.6.13.E, Screening Methods).
3. In addition to a range of screening methods, these standards also recognize that differing levels of screening are necessary from different viewpoints. For example, the ways in which a refuse collection feature should be screened from view from an adjacent single-family detached dwelling likely differ from the ways in which the same refuse collection feature needs to be screened from the back of a commercial establishment or from a private street. The standards identify which methods of screening may be used to screen a particular site feature or activity from the view from a particular location, such as an adjacent street or abutting lot with residential zoning (see Table 6.6.13.F: Views to be Screened). Nothing prohibits a landowner from using a more intense or opaque screening technique than is required by Table 6.6.13.F: Views to be Screened.

C. APPLICABILITY

1. GENERALLY

Unless exempted in accordance with Section 6.6.13D, Exemptions, the standards in this section apply to the following site features and activities for all development in the Town's jurisdiction:

a. Refuse collection containers of more than 100 gallons in size;
b. Recycling containers of more than 100 gallons in size, including cardboard recycling containers;
c. Waste and cardboard compactors;
d. Ground-based mechanical equipment, including but not limited to wireless telecommunications equipment, permanently-mounted electrical generators, compressors, climate control equipment, electrical circuit breaker panels or disconnects, and similar equipment;
e. Roof-mounted equipment of any kind;
f. Above ground storage tanks for gases, solids, or liquids;
g. Outdoor equipment storage or repair areas;
h. Outdoor storage of raw or semi-finished materials, including tires;
i. Outdoor storage of finished products for sale, including tires;

j. The outdoor storage, repair, or impoundment of vehicles or equipment, whether operable, inoperable, or being used for parts; and

k. Other items as determined by the Planning Director as part of a determination prepared in accordance with Section 2.3.9, Determination.

2. PRE-EXISTING DEVELOPMENT

Lawfully-established development existing prior to January 2, 2024, that is subject to, but that does not comply with these standards may continue, subject to applicable the standards in Chapter 5, Nonconformities.

3. EXPANSIONS OR REMODELING

Unless exempted in accordance with Section 6.6.13D, Exemptions, all expansions or remodeling of principal buildings or open uses of land existing on or before January 2, 2024, shall comply with these standards as required by Section 5.4, Nonconforming Site Features.

D. EXEMPTIONS

The following items are exempted from the screening requirements of this section:

1. Any of the features listed in the sub-section (C.1) above that are located entirely within a building;
2. Refuse collection containers serving individual single-family detached or duplex dwellings;
3. Refuse containers serving an individual single-family attached dwelling unit located on the same building lot as the single-family attached dwelling it serves;
4. Mechanical and climate control equipment serving individual single-family detached, single-family attached, or duplex dwellings;
5. Utility meters, whether wall or ground mounted;
6. Small wireless facilities;
7. Roof-mounted solar energy or wind energy conversion devices;
8. Transformers and similar devices serving electric vehicle charging stations;
9. Family health care structures;
10. Outdoor display/sales as a principal or secondary use subject to an approved Zoning Compliance Permit (see Section 2.3.31, Zoning Compliance Permit);
11. Outdoor seasonal sales and portable storage containers subject to an approved Temporary Use Permit (see Section 4.6, Temporary Uses); and
12. Above ground storage tanks serving individual single-family detached, single-family attached, and duplex dwellings located upon the same lot as the dwelling it serves.

E. GENERAL REQUIREMENTS

1. Items or activities subject to the requirements in this section shall be fully screened from one or more off-site views in accordance with Section 6.6.13F, Views to be Screened, using one of the allowable methods identified in Table 6.6.13.E, Screening Methods.
2. Table 6.6.13.E, Screening Methods, sets out the various methods for screening site features and activities subject to these standards. Screening, when required, shall comply with the configuration requirements listed in the table.

TABLE 6.6.13.E: SCREENING METHODS [1]

LEVEL OF SCREENING
Requirements
A. SCREENING LEVEL 1 UNDERSTORY SHRUB ROW

i. All shrubs shall be of the same species and all shrubs shall be of an evergreen species. ii. Screening shall include one row of evergreen shrubs. iii. The screening shall include plants capable of providing a fully opaque screen of at least 36 inches in depth from the grade to the minimum height required. iv. Shrubs shall maintain an on-center spacing of no greater than 36 inches. v. Shrubs shall be of a minimum height necessary at time of planting to achieve a minimum height of 5 feet above grade within 3 years. vi. If damaged in a manner that impairs the performance of screening, vegetative material shall be promptly replaced.
B. SCREENING LEVEL 2 EVERGREEN TREE HEDGEROW

i. All trees shall be evergreen and of the same species. ii. The screening material shall be configured as two staggered rows of trees that together form a hedgerow. iii. The area devoted to screening material shall be at least six feet in depth. iv. Each trees shall be capable of providing a fully opaque screen of at least 36 inches in depth from the grade to the required height. v. Tree rows shall be planted no more than 36 inches apart. vii. Trees shall maintain an on-center spacing of no greater than 36 inches. vii. Trees shall be of a minimum height necessary at time of planting to achieve a minimum height of 6 feet above grade within 3 years. ix. If damaged in a manner that impairs the performance of the screening, vegetative material shall be promptly replaced.

TABLE 6.6.13.E: SCREENING METHODS [1]

Level of Screening
Requirements
c. Screening Level 3 Chain Link Fence with Semi-Opaque Slats/Fabric

i. Fencing must be configured in accordance with Section 6.3, Fences and Walls. ii. All fencing shall remain subject to maximum fence or wall height standards for the district where located. iii. Fencing shall be at least 60 percent opaque, when viewed from a distance of 10 feet or more. iv. All gates shall maintain a complimentary level of opacity excluding gaps for mounting hardware, latches, and hinges. v. Slats or fabric shall extend downwards to the grade level. vi. The fence and screening material shall be comprised of consistent materials and shall maintain a single color. vii. Slats may be plastic or wood and shall be promptly repaired if damaged in any way.
d. Screening Level 4 Chain Link Fence with Fully Opaque Slats/Fabric

i. Fencing must be configured in accordance with Section 6.3, Fences and Walls. ii. All fencing shall maintain a minimum height of six feet above adjacent grade, but shall not exceed the maximum fence height standards for the district where located. iii. Fencing shall be 100 percent opaque, when viewed from a distance of 10 feet or more. iv. All gates shall maintain a complimentary level of opacity excluding gaps for mounting hardware, latches, and hinges. v. Slats or fabric shall extend downwards to the grade level. vi. The fence and screening material shall be comprised of consistent materials and shall maintain a single color. vii. Slats may be plastic or wood and shall be promptly repaired if damaged in any way.

TABLE 6.6.13.E: SCREENING METHODS [1]

LEVEL OF SCREENING
Requirements
E. SCREENING LEVEL 5 WOODEN OPAQUE FENCE

i. Fencing shall be configured in accordance with Section 6.3, Fences and Walls, and the North Carolina Building Code. ii. All fencing shall maintain the minimum height necessary to fully screen the site feature or activity, but shall not exceed a maximum height of 10 feet. iii. All gates shall maintain a complimentary level of opacity excluding gaps for mounting hardware, latches, and hinges. iv. The fence shall be comprised of consistent materials and colors. v. Enclosures for refuse and recycling containers shall meet all applicable Town requirements for such enclosures. vi. Screening material shall be promptly repaired if damaged in any way.
F. SCREENING LEVEL 6 OPAQUE MASONRY WALL

i. Walls shall be configured in accordance with Section 6.3, Fences and Walls. ii. All walls shall maintain the minimum height necessary to fully screen the site feature or activity, but shall not exceed a maximum height of 10 feet. iii. The wall shall be comprised of consistent materials and colors to those used on the principal structure. iv. Masonry walls may incorporate louvers or similar features, provided the screening function is maintained. v. All gates shall be comprised of a complimentary material and be opaque, excluding gaps for mounting hardware, latches, and hinges. vi. Support columns may exceed the maximum height as necessary for wall construction. vii. Enclosures for refuse and recycling containers shall meet all applicable Town requirements for such enclosures. viii. Screening material shall be promptly aired if damaged in a manner that reduces the screening function.

TABLE 6.6.13.E: SCREENING METHODS [1]

LEVEL OF SCREENING
Requirements
G. SCREENING LEVEL 7 BERMS AND MOUNDS

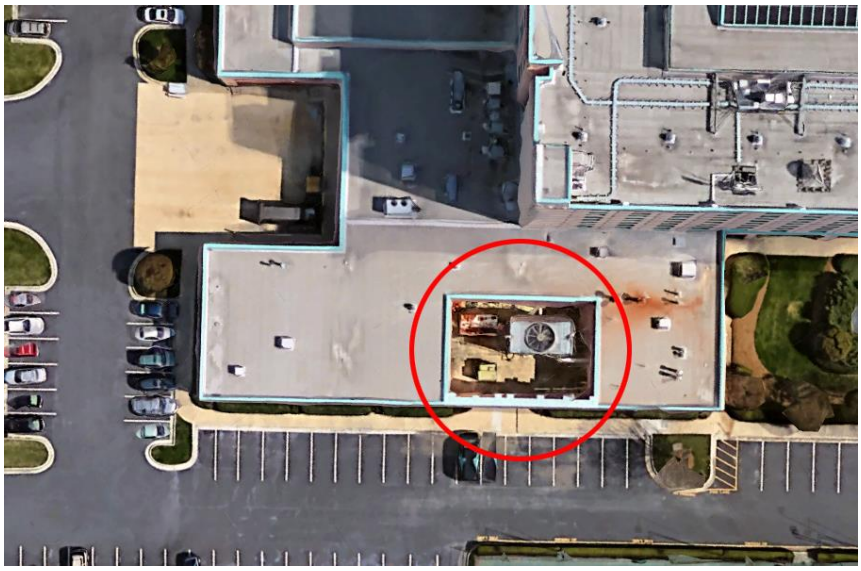
i. Berms shall be configured in accordance with the standards in Section 6.6.10D, Berms. ii. Nothing shall limit the use of retaining walls, as necessary. iii. Berms shall be supplemented with walls, fencing, or vegetation as necessary to meet screening objectives.
H. SCREENING LEVEL 8 CONCEALMENT BY OTHER ON-SITE STRUCTURES

i. Site features and activities subject to these standards may be screened by other permanent buildings or structures on the same lot. ii. Buildings or structures used to provide screening shall be permanent and shall be of a minimum height necessary to provide required screening. (note: red circle in photo added for clarity)

TABLE 6.6.13.E: SCREENING METHODS [1]

LEVEL OF SCREENING
Requirements
I. SCREENING LEVEL 9 ROOF SCREENING

i. Roof screening shall match the primary exterior color of the building, be 100 percent opaque, and shall only be used to screen items on a roof. ii. Roof screening shall extend the minimum height necessary to fully screen roof-mounted equipment as seen at grade from any lot line. iii. Roof-mounted equipment on pitched roofs shall be located on the side of the roof least visible from the street, to the maximum extent practicable.
J. SCREENING LEVEL 10 PARAPET WALL

i. Parapet walls shall be comprised of the same exterior material or be the same color as the building and shall be capped with a cornice, coping, or other decorative molding. ii. Parapet walls shall be in alignment with the exterior building wall below. iii. Parapet walls shall extend above the roof deck the minimum height necessary to screen roof-mounted equipment as seen from grade-level at the lot line. iv. Parapet walls shall be engineered to comply with all applicable North Carolina Building Code requirements, including wind loading.

TABLE 6.6.13.E: SCREENING METHODS [1]
LEVEL OF SCREENING
Requirements
NOTES: [1] Screening provided in accordance with this section shall be credited towards perimeter buffer and parking lot landscaping requirements when the screening methods contribute to the performance objective of required landscaping.

F. VIEWS TO BE SCREENED

Site features and activities subject to these standards shall be screened from identified locations in Table 6.6.13.F, Views to be Screened. The level of screening provided is at the applicant or landowner's discretion, provided it meets or exceeds the minimum screening level specified in the table below.

TABLE 6.6.13.F: VIEWS TO BE SCREENED

FEATURE OR ACTIVITY TO BE SCREENED	REQUIRED SCREENING LEVEL, BY LOCATION			
	FROM AN ABUTTING PUBLIC STREET, SIDEWALK, GREENWAY, OR OPEN SPACE	FROM LAND IN A RESIDENTIAL OR MIXED-USE ZONING DISTRICT	FROM LAND IN A COMMERCIAL ZONING DISTRICT	FROM LAND IN AN INDUSTRIAL ZONING DISTRICT
Refuse or Recycling Containers or Compactors	6 or higher	5 or higher	3 or higher	2 or higher
Ground-based Mechanical Equipment	4 or higher	4 or higher	3 or higher	1 or higher
Roof-mounted Equipment	10	9 or higher	9 or higher	9 or higher
Above Ground Storage Tanks	6 or higher	5 or higher	3 or higher	1 or higher
Outdoor Storage of Raw or Semi-finished Materials	5 or higher	4 or higher	3 or higher	1 or higher
Outdoor Storage of Finished Products for Sale including vehicles for sale, but not including parts or partial assemblies of products	2 or higher	2 or higher	1 or higher	1 or higher

TABLE 6.6.13.F: VIEWS TO BE SCREENED

Feature or Activity to be Screened	Required Screening Level, By Location			
	From an Abutting Public Street, Sidewalk, Greenway, or Open Space	From Land In a Residential or Mixed-Use Zoning District	From Land in a Commercial Zoning District	From Land in an Industrial Zoning District
Outdoor Storage of Equipment and Vehicles that are Licensed and Operable but not for Purposes of Sale	4 or higher	5 or higher	4 or higher	1 or higher
All Other Forms of Outdoor Storage of Equipment or Vehicles, including Inoperable, Unlicensed, Wrecked, or Junked	5 or higher	5 or higher	4 or higher	3 or higher

6.6.14 SITE LANDSCAPING

A. PURPOSE AND INTENT

Site landscaping material is intended to soften the visual impact of the building foundation as seen from a street.

B. SITE LANDSCAPING STANDARDS

1. Site landscaping shall be required for all development except single-family detached, single-family attached, and duplex dwellings.
2. Site landscaping shall consist of shrubs, grasses, or a combination of these kinds of plantings. At least 50 percent of site landscaping shall be evergreen.
3. Shrubs shall be planted at a rate of one shrub per every five linear feet of building façade that faces a public or private street.
4. Shrubs shall be planted within 15 feet of the building façade.
5. Site landscaping shall meet the requirements in Section 6.6.7, Plant Material Specifications.
6. Shrub placement may be interrupted as needed to accommodate utilities, accessways, architectural projections, outdoor dining or gathering areas, or other features, however, the minimum required number of shrubs shall be located upon each site (see Figure 6.6.14: Site Landscaping).
7. These site landscaping standards are waived in cases where development is located on lots of two acres or more in size provided the buildings may not been seen from off-site areas.

FIGURE 6.6.14: SITE LANDSCAPING



6.6.15 STREET TREES

Development within the downtown, residential, mixed-use, NCM, CZD, CZM, and CZR districts shall provide street trees in accordance with the following standards:

A. WHERE REQUIRED

Street trees shall be located within tree pits or planting strips within the street right-of-way (see Figure 6.6.15: Street Tree Configuration).

B. LOCATION

1. WITHIN TREE PITS

In cases where sidewalks, boardwalks, or paving is located in the right-of-way, street trees shall be located within tree pits, configured in accordance with the following standards:

- **a.** Tree pits shall have a minimum planting area of at least 36 square feet per tree pit;
- **b.** Tree pits shall be covered or configured with ground covering at the same general height as the pedestrian walkway to avoid being a tripping hazard; and
- **c.** Tree pits shall include structural soils or screened backfill to ensure appropriate drainage and backfill.

2. WITHIN PLANTING STRIPS

In cases where sidewalks are not present or where a portion of the right-of-way is not paved, street trees may be placed within planting strips, configured in accordance with the following standards:

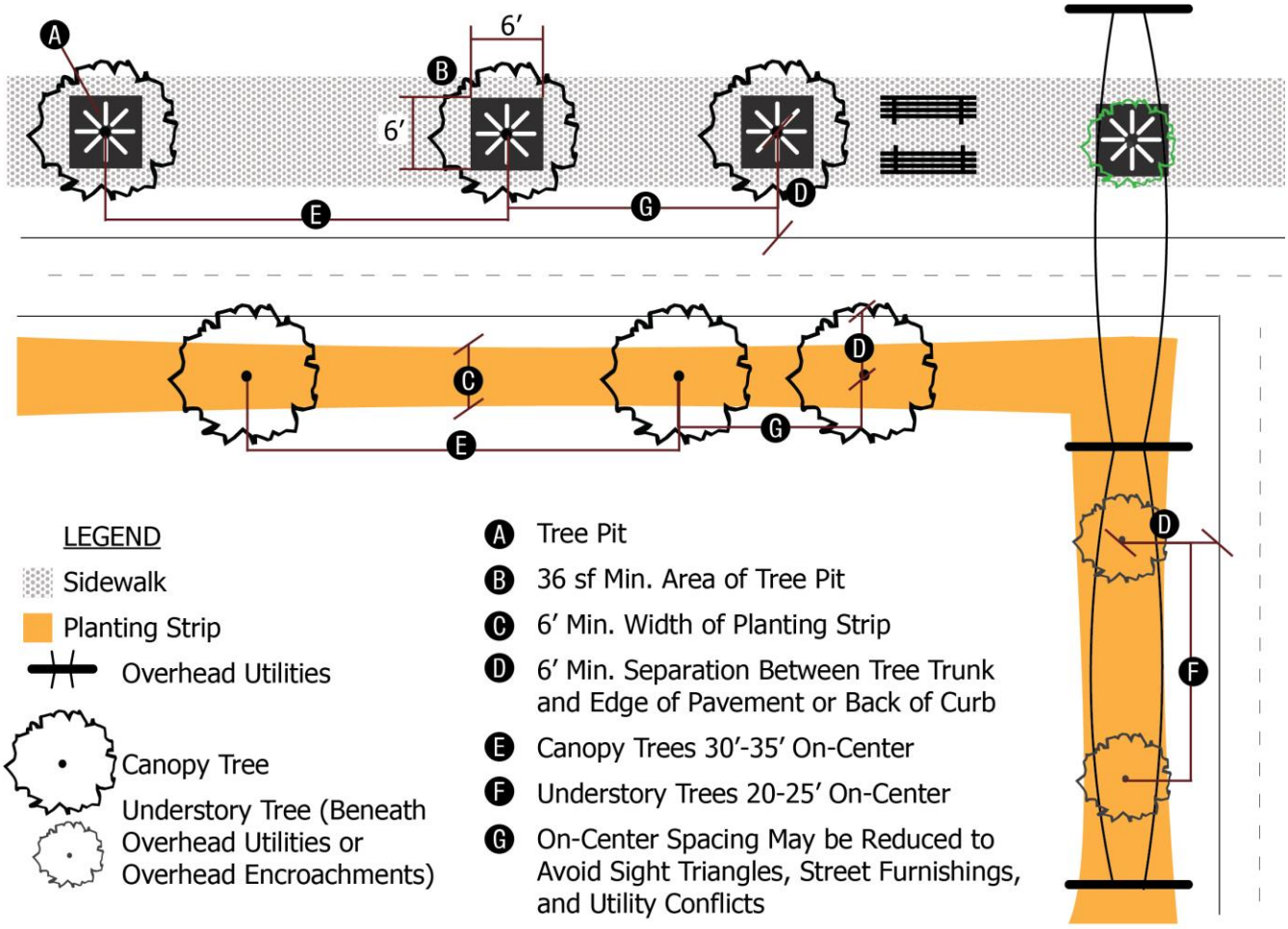
- **a.** Tree planting strips shall be configured parallel to the street;
- **b.** Tree planting strips shall maintain a minimum width of six feet; and
- **c.** Tree planting strips shall be raised above the grade or include edging that prevents pedestrians from walking in the planting strip.

3. TREE PLACEMENT

- **a.** Street trees, when located within tree pits or planting strips, shall be located so that the trunk is at least two-and-one-half feet from the back of the curb or the edge of the pavement.

b. Street trees shall not be located within sight distance triangles (see Section 6.1.7, Sight Distance Triangles).

FIGURE 6.6.15: STREET TREE CONFIGURATION



4. TYPES OF TREES

a. Except in areas underneath existing overhead utilities or upper story encroachments into the right-of-way, street trees shall be canopy trees that meet the standards in Figure 6.6.7.A, Plant Material Specifications.

b. In areas beneath existing overhead utilities or upper story encroachments into the right-of-way, street trees shall be understory trees that meet the standards in Figure 6.6.7.A, Plant Material Specifications.

5. SPECIES

a. Only those species identified in Table 6.6.15.B: Preferred Street Tree Species, shall be utilized to meet these standards:

TABLE 6.6.15.B.5: PREFERRED STREET TREE SPECIES

Canopy Trees (by Common Name)	Understory Trees (by Common Name)
Bald Cypress	Carolina Silverbell
European Hornbeam	Chinese Pistache
Hedge Maple	Common Witchhazel
Japanese Zelkova	Crape Myrtle
Lacebark Elm	Dogwood
London Planetree	Eastern Redbud
Hardy Rubber Tree	Fringetree
Thornless Honey Locust	Green Hawthorne
Kentucky Coffee Tree	Serviceberry

b. Applicants may propose a different species, subject to approval by the Engineering Director.

6. ON-CENTER SPACING

a. Canopy trees shall be planted 30 to 35 feet on-center.
b. Understory trees shall be planted 20 to 25 feet on-center.
c. Grouping or clustering of street trees shall be prohibited, but on-center spacing may be reduced as necessary to avoid sight distance triangles, street furnishings, or other utility conflicts.

7. COMPLIANCE WITH NCDOT STANDARDS

In cases where street trees are located within street rights-of-way maintained by the NCDOT, street tree configuration shall be in accordance with NCDOT standards in addition to the standards in this section. In the event the standards in this section conflict with applicable NCDOT standards, the NCDOT standards shall control.

6.6.16 STREETSCAPE BUFFERS

A. PURPOSE AND INTENT

Streetscape buffers are proposed to soften the view of development from the Town's street rights-of-way, and are intended to:

1. Enhance pedestrian orientation and encourage pedestrian travel;
2. Address urban heat islands by providing shade for streets and sidewalks;
3. Provide shade on sidewalks;
4. Promote the Town's "sense of place";
5. Support property values by enhancing the aesthetic character of the Town's streets; and
6. Provide habitat for flora and fauna.

B. APPLICABILITY

Streetscape buffers shall be provided on lots in the CRM, CZC, CZI, HID, LID, OFI, PUB districts in accordance with the following:

1. The standards in this section shall apply to all lot lines bounded by the following features, whether existing or identified in the Town's adopted policy guidance:

a. Local streets;
b. Collector streets;
c. Arterial streets; and
d. As specified in Section 3.7.3, GTOD Gateway Overlay District.

2. In cases where a future street is planned but its approximate location is not indicated on an adopted or approved Town map or plan, streetscape buffering shall not be required on lots abutting the future street alignment.
3. In cases where the rear yard of a lot abuts a Town street right-of-way, the rear yard shall include a streetscape buffer configured in accordance with these standards.

C. EXEMPTION

1. Streetscape buffers are not required in the following locations:
   a. Land in the CON district;
   b. Adjacent to portions of lot lines crossed by driveways, private drives, or alleys;
   c. Lot lines abutting platted street rights-of-way that are or have remained unopened for at least 15 years; or
   d. Lot frontages where the entirety of the lot frontage is within a required sight distance triangle.
2. Development subject to the standards in Section 6.6.15, Street Trees, is not required to provide streetscape buffers.

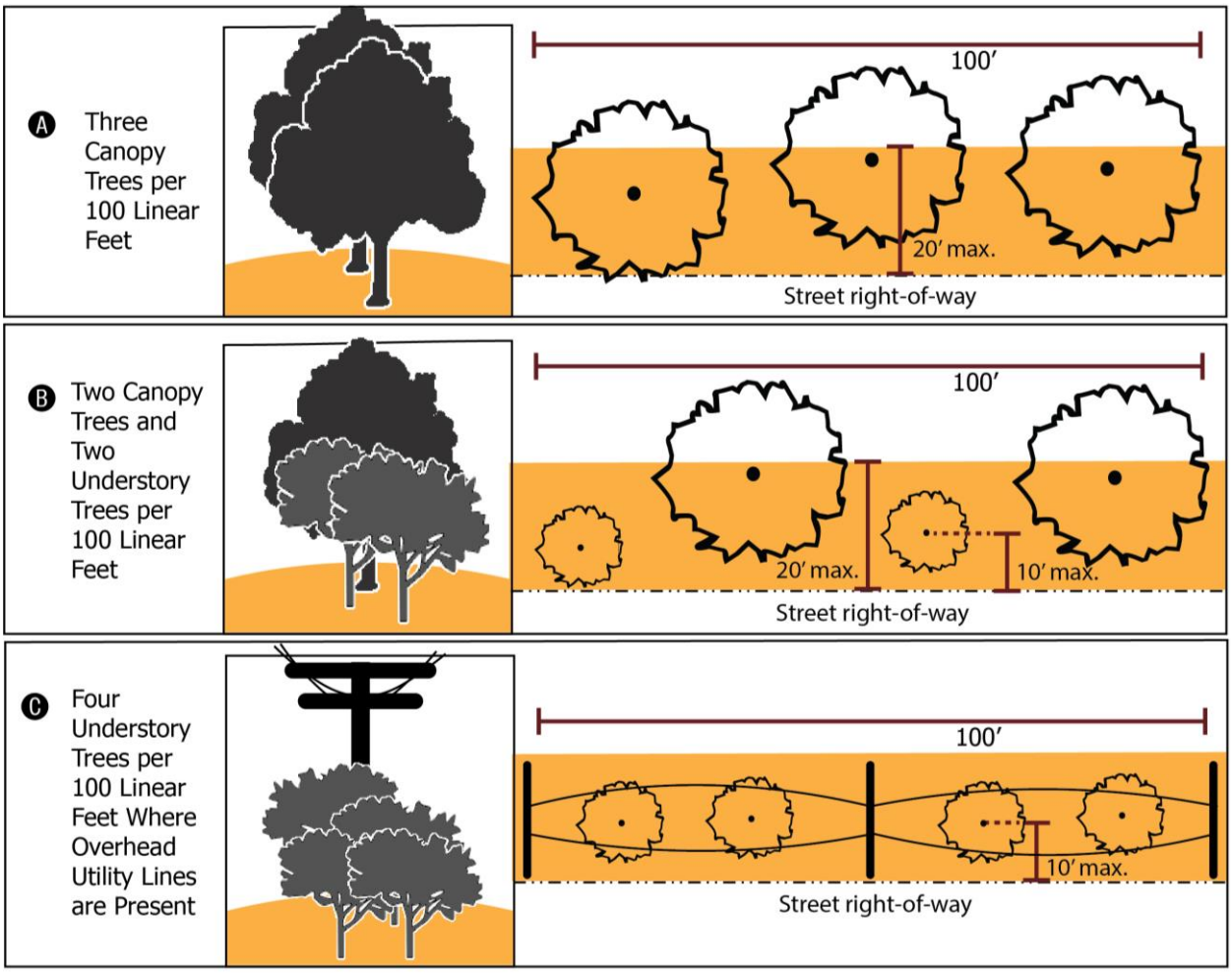
D. REQUIRED PLANT MATERIAL

1. GENERALLY

Streetscape buffers shall be configured in one of the following three ways (see Figure 6.6.16.D: Streetscape Buffer Configuration):

a. Three canopy trees for every 100 linear feet of lot frontage; or
b. Two canopy trees and two understory trees for every 100 linear feet of lot frontage; or
c. Four understory trees for every 100 linear feet, where overhead utilities are present.

FIGURE 6.6.16.D: STREETSCAPE BUFFER CONFIGURATION



2. REAR YARD STREETSCAPE BUFFERS

In cases when a lot's rear yard abuts a Town street right-of-way, the rear yard shall be configured with a streetscape buffer meeting the requirements for a type C perimeter buffer (see Section 6.6.12, Perimeter Buffers). In cases where a streetscape buffer is configured in accordance with a type C perimeter buffer, trees shall maintain a uniform on-center spacing across the width of the buffer and the distance from the right of way shall be in accordance with the perimeter buffering standards instead of the placement standards in this section.

E. PLACEMENT

1. Vegetation required as part of a streetscape buffer shall be located outside the street right-of-way.
2. Canopy trees shall be located within 20 feet of the right-of-way edge.
3. Understory trees shall be located within 10 feet of the right-of-way edge.

4. An alternative location may be approved by the Planning Director in cases where underground utilities, drainage easements, topography, or other obstructions make placement of streetscape buffer vegetation in accordance with these standards impractical.

F. PROHIBITED FEATURES

Off-street parking, off-street loading, merchandise display, outdoor storage, or use of gravel, decorative gravel, or cinders as a ground cover shall not take place within a required streetscape buffer.

6.6.17 VIOLATION AND REPLACEMENT

A. DAMAGE OR REMOVAL OF VEGETATION IS A VIOLATION

The damage, disturbance, or removal of any landscaping area or vegetation required by this section shall constitute a violation of this Ordinance subject to the remedies described in Chapter 7, Violations.

B. REPLACEMENT REQUIRED

1. Any disturbed landscaping areas, areas of preserved existing vegetation, or required plant material shall be replaced in accordance with the approved development application and these standards.
2. Trees or vegetation that die within one year of construction completion shall be removed and replaced with new vegetation of equal or greater size.
3. Replacement trees shall be planted within 90 days of removal of required vegetation.

C. REVEGETATION PLAN REQUIRED

In cases where required landscaping or existing vegetation required to be preserved is damaged, disturbed, or removed, a revegetation plan shall be submitted for review and approval by the Planning Director, in accordance with the following standards:

1. Any tree with a caliper of at least eight inches that is damaged or removed shall be replaced with one or more trees that have a caliper of at least three inches and a cumulative caliper equal to or greater than the original tree.
2. Trees damaged or destroyed less than eight inches in diameter shall be replaced to satisfy the performance criteria of this section.
3. Shrubs may also be required to restore the landscaping performance criteria for the disturbed area.

D. LOCATION OF REPLACEMENT TREES AND VEGETATION

1. Replanting shall be located within the vicinity of the vegetation to be replaced.
2. If the area is too small for sufficient growth, a more suitable location on the site may be selected, as permitted by the Planning Director.

E. EXCESSIVE PRUNING OR TRIMMING

Pruning or trimming exceeding the TCIA standards or activities exceeding necessary pruning or trimming shall be a violation of this Ordinance, and shall require replacement of damaged vegetation in accordance with Section 6.6.17B, Replacement Required.

F. FAILURE TO MAINTAIN

Failure to maintain required landscaping areas is a violation of this Ordinance, in accordance with Chapter 7, Violations.

6.7 OPEN SPACE SET-ASIDE AND PARKLAND

6.7.1 OPEN SPACE SET-ASIDE

A. HOW TO USE THESE STANDARDS

1. Developments subject to these open space set-aside standards (see Section 6.7.1C, Applicability) shall provide the minimum amount of open space set-aside required for the zoning district where located as identified in Chapter 3, Districts.
2. The physical amount of open space to be set aside within a particular development is a percentage of total development size. These percentage requirements are found in the dimensional standards tables for the zoning districts in Chapter 3, Districts. There is no limitation on the provision of additional open space set-aside beyond the minimum specified in Chapter 3, Districts.
3. Once the minimum amount of open space set-aside to be provided is determined, the type of open space set-aside, if specified, should also be determined in accordance with Section 6.7.1D.2, Type.
4. Applicants should consult Section 6.7.1E, Open Space Set-Aside Configuration, in order to determine any applicable design requirements or prohibited features.
5. The required amount of open space set-aside may be reduced based on the provision of sustainable development features in accordance with Section 6.17, Sustainable Development Incentives, or other aspects of this Ordinance.

B. PURPOSE AND INTENT

The purpose of this section is to help ensure the provision and maintenance of open space resources that encourage recreation and the gathering of Town residents and visitors. These standards are further intended to:

1. Establish the standards under which residential, mixed-use, and non-residential development shall set aside a portion of the development area as open space;
2. Distinguish between the characteristics, requirements, and appropriate locations for open space set-asides, based on the zoning district designation; and
3. Establish minimum ownership and maintenance standards for homeowner and property owner associations related to open space set-asides.

C. APPLICABILITY

1. GENERALLY

a. Unless exempted in accordance with Section 6.7.1C.3, Exemptions, the standards in this section shall apply to all new development and redevelopment in the Town.
b. Redevelopment conducted after January 2, 2024, shall comply with the standards in this section, to the maximum extent practicable, and shall provide its pro rata share of open space set-aside.

2. CONSERVATION SUBDIVISIONS

Open space set-asides associated with a conservation subdivision shall be subject to the standards in Section 2.3.7, Conservation Subdivision, in addition to these standards. In the event of a conflict, the standards in Section 2.3.7, Conservation Subdivision, shall control.

3. EXEMPTIONS

The following forms of development shall be exempted from the standards in this section:

a. Development of an individual single-family dwelling (including manufactured homes) on lots platted prior to January 2, 2024;

b. Single-family detached residential subdivisions comprised solely of five or fewer lots where all lots are intended for single-family detached residential dwellings;

c. Development consisting of up to five duplex, triplex, or quadplex buildings (not individual units); and

d. Development located within the CON district.

D. MINIMUM OPEN SPACE SET-ASIDE REQUIREMENTS

1. AMOUNT

a. The minimum required amount of open-space set-aside, as a percentage of a development's size, shall be in accordance with the dimensional standards for the type of use in the zoning district where the development is located. Chapter 3, Districts, sets out the open space set-aside requirements for each zoning district.

b. Nothing shall limit the provision of more open space set-aside, provided the minimum requirements in this Ordinance are met.

2. TYPE

a. Table 6.7.1.D, Open Space Type, identifies the form(s) of open space set-aside required by this Ordinance.

TABLE 6.7.1.D: OPEN SPACE SET-ASIDE TYPE

Zoning District Where Located [1]	Type of Open Space Set-Aside Required [2]	
CRM, HID, LID, NCM, OFI, CZC, CZI	Passive Open Space [3]	
DTNC, DTNN, DTNT, CZD	Gathering Space [4]	
MXD, CZM	Active Open Space [5]	
PUB	Passive Open Space [5]	
RHD, RLL, RLD, RMD, RMF, RUR, CZR	Residential Development with 6 or more units	50% Active Open Space or Gathering Space [6]
	Residential Development with 5 or fewer units	N/A
	All Other Development	Passive Open Space [5]

NOTES:
[1] The type of open space set-aside provided may deviate from these requirements as part of a Type 3 Conditional Rezoning.
[2] See Section 6.7.1E, Open Space Set-Aside Configuration, on allowable forms of development and configuration.
[3] Development may provide some or all of the required open space set-aside as active open space or gathering space, at the discretion of the applicant.
[4] Development may provide some or all of the required open space set-aside as active open space.

TABLE 6.7.1.D: OPEN SPACE SET-ASIDE TYPE	
ZONING DISTRICT WHERE LOCATED [1]	TYPE OF OPEN SPACE SET-ASIDE REQUIRED [2]
[5] Development may provide some or all of the required open space set-aside as gathering space. [6] The remainder of required open space set-aside may be configured as active open space, gathering space, or passive open space.	

b. In cases where development must configure open space set-aside with active recreation features, it shall be configured in accordance with Section 6.7.1E.2, Active Open Space Set-Aside.

c. In cases where open space set-aside shall be configured as gathering space, it shall be configured in accordance with Section 6.7.1E.3, Gathering Spaces.

E. OPEN SPACE SET-ASIDE CONFIGURATION

Open space set-asides shall be configured in accordance with the following standards.

1. PASSIVE OPEN SPACE SET-ASIDE

Passive open space set-asides are intended to provide land area that is undeveloped, or that is developed with low-intensity recreational features (such as those for walking or sitting), landscaping, replacement trees, or stormwater control measures that are configured as a site amenity (see Figure 6.7.1.E.2, Types of Open Space).

a. ALLOWABLE FEATURES

The land area occupied by any of the following types of features is credited towards required passive open space set-aside:

i. Walking, bicycling, and equestrian trails outside of greenways;
ii. Boardwalks outside of greenways;
iii. Gardens;
iv. Benches and seating areas;
v. Tables, grills, and related picnicking facilities;
vi. Lawn areas and community greens;
vii. Lakes, ponds, wetlands, swamps, canals, and streams;
viii. Areas occupied by trees and undisturbed vegetation;
ix. Piers and docks for fishing or viewing wildlife; and
x. Undisturbed land subject to a deed restriction or conservation easement.

b. SITE FEATURES CREDITED TOWARDS PASSIVE OPEN SPACE SET-ASIDE REQUIREMENTS

i. The following site features shall be credited towards passive open space set-aside requirements:

1. Lands dedicated for public parks or greenways, when not already credited towards active open space set-asides or gathering areas;
2. Required landscaping areas;
3. Permanent tree save areas;
4. U.S. Army Corps of Engineers designated 404 wetlands;
5. Riparian buffer areas;
6. Natural heritage areas;
7. Areas qualifying as resource conservation areas; and

8. Land area occupied by stormwater control measures, including retention ponds, fully vegetated detention basins, and other bio-retention devices, provided these facilities are treated as a site amenity.

ii. In order to be considered a site amenity that is credited towards passive open space set-aside requirements, stormwater control measures shall include all the following:

1. Pedestrian access to the facility;
2. Gentle slopes of three-to-one (3:1) or less;
3. Pedestrian elements such as paths, benches, and similar aspects to and around the facility; and
4. Vegetation, whether planted or retained.

c. CONFIGURATION

In no instance shall passive open space set-asides be retained, located, or configured in ways that reduce required street setbacks between the edge of a street right-of-way. Passive open space set aside areas that border a street shall maintain a minimum width at least as deep as the applicable street setback in the district where located.

2. ACTIVE OPEN SPACE SET-ASIDE

Active open space set-asides provide for active recreational needs of the residents or visitors they serve. Active features include fields and courts as well as built structures (see Figure 6.7.1.E.2, Types of Open Space). Active open space set-asides shall meet the following standards:

a. CONFIGURATION

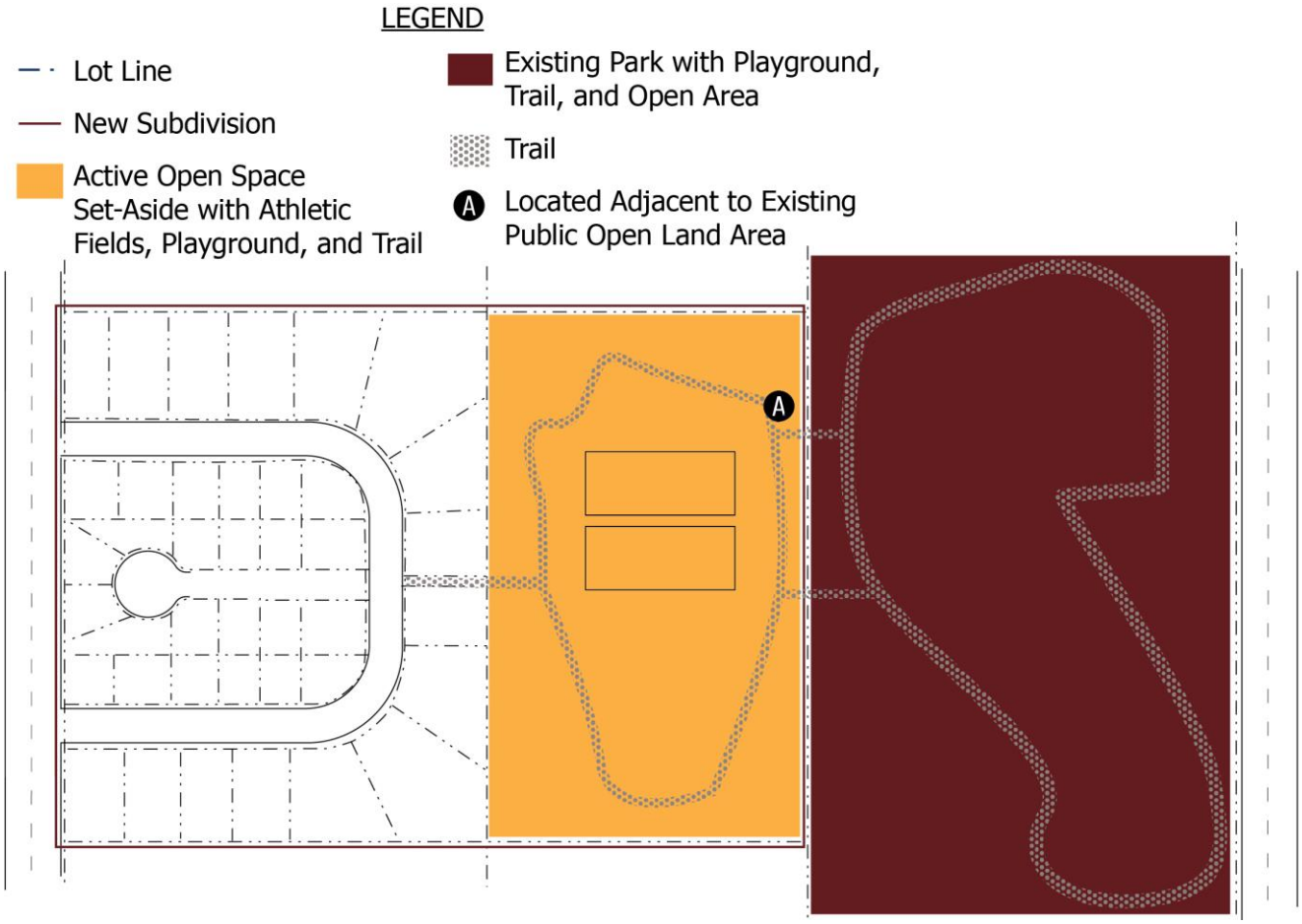
i. Lands set aside as active open space set-aside shall be compact and contiguous unless the land is used as a continuation of an existing trail, or specific natural or topographic features require a different configuration.

ii. Active open space set-aside areas shall be located so as to be readily accessible and usable by residents and users of the development.

iii. Where possible, a portion of the open space set-aside should provide focal points for the development.

iv. Where the development site is adjacent to existing or planned trails, parks, or other public open area land, 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 (see Figure 6.7.1.E.1, Open Space Continuation).

FIGURE 6.7.1.E.1: OPEN SPACE CONTINUATION



b. ALLOWABLE FEATURES

The following types of features are allowable in and credited towards active open space set-asides:

- **i.** Lands dedicated for public parks or greenways;
- **ii.** Swimming pools, splash pads, and areas devoted to water play for children;
- **iii.** Athletic fields and courts;
- **iv.** Boat launches and swimming platforms;
- **v.** Club houses and shelters;
- **vi.** Playgrounds and play structures for children; and
- **vii.** Obstacle courses and exercise trails.

3. GATHERING SPACES

Gathering spaces are open space set-asides that provide formal or informal gathering areas for people or locations for vegetation or stormwater uptake within urbanized portions of the Town's planning jurisdiction. Gathering spaces can include outdoor dining areas, outdoor seating areas, performance spaces, building atriums with plants and seating, or green roofs (see Figure 6.7.1.E.2, Types of Open Space).

a. ALLOWABLE FEATURES

The following types of features are allowable in gathering spaces:

i. Lands dedicated for public parks or greenways;
ii. Plazas and courtyards;
iii. Public art installations;
iv. Roof gardens;
v. Indoor atriums with plantings and seating that are open to the general public;
vi. Outdoor dining areas;
vii. Fountains; and
viii. Areas devoted to public gathering.

FIGURE 6.7.1.E.2: TYPES OF OPEN SPACE



4. FEATURES NOT CREDITED TOWARDS OPEN SPACE SET-ASIDE

The following areas shall not be included in or credited towards any open space set-aside requirements:

a. Private yards not subject to a deed restriction or conservation easement;
b. Street rights-of-way;
c. Parking areas and driveways for dwellings or other uses;
d. Land covered by structures not designated for active recreational uses;
e. On-site wastewater treatment facilities, including septic tank drain fields;
f. Stormwater control measures not configured as a site amenity; and
g. Designated outdoor storage areas.

F. MAINTENANCE OF OPEN SPACE SET-ASIDES

1. The owner of the land shall be responsible for maintenance of all open space set-aside areas including land, vegetation, private infrastructure, greenways, and other features, in accordance with this Ordinance and any conditions of approval associated with the development.
2. Failure to maintain open space set-aside areas is a violation of this Ordinance subject to the remedies and penalties in Chapter 7, Violations.

G. OWNERSHIP OF OPEN SPACE SET-ASIDES

Open space set-asides are intended to remain under private ownership while being available for use to residents and visitors in the development where located. Ownership of open space set-asides shall remain with the owner of the land, except in the following circumstances.

1. HOMEOWNERS' OR PROPERTY OWNERS' ASSOCIATION

All open space set-aside areas may be owned jointly or in common by the owners of the development through a recognized homeowners' or property owners' association, which shall be established in accordance with Section 6.8, Owners' Associations.

2. NONPROFIT ORGANIZATION

The landowners may decide to convey an open space set-aside to a nonprofit organization such as a land trust or land conservancy for management and maintenance if the Town is provided adequate assurance the set-aside will be properly managed and maintained.

3. DEDICATED TO TOWN OR OTHER PUBLIC AGENCY

In some cases, certain lands designated as open space set-asides, such as wildlife habitat or greenways, may be dedicated to the Town or other public agency during the development review process. The Town Council shall determine which lands and under what conditions open space set-asides may be dedicated to the Town or other public agency.

6.7.2 PARKLAND DEDICATION

Subdivisions of land for five or more single-family residential lots (including detached or attached units) shall be required to dedicate a portion of the land, or pay a fee-in-lieu thereof, for public parkland, in accordance with the standards of this section.

A. DEDICATION AMOUNT

1. Single-family residential subdivisions of five or more lots shall dedicate 1,244 square feet of land per residential lot or principal dwelling unit to the Town for its use in developing public parkland.
2. No credit towards required parkland dedication is given for lands mandated for preservation by State or federal requirements.
3. No more than 25 percent of the total dedication requirement may be met through dedication of water areas.

B. DEDICATION OR PAYMENT OF FEE-IN-LIEU PROCEDURE

1. The developer or landowner, as appropriate, shall identify land proposed for dedication or propose payment of a fee-in-lieu as part of the application for approval in accordance with Section 2.3.13, Fee-in-Lieu.

2. The Town staff shall review the proposed application and determine if it complies with the standards in this section. The decision to accept dedication or payment of a fee-in-lieu is up to the sole discretion of the Town Council.
3. In the event a request for payment of fee-in-lieu is made, the request shall be accompanied by the following:
   a. The assessed value of the land indicated for dedication and how the assessed value amount was determined; and
   b. The rationale or basis for the request for payment of a fee-in-lieu.
4. The fee-in-lieu shall be calculated based upon the total acreage of land required for dedication.
5. The land's assessed value (as determined by the Johnston County Tax Assessor) shall be used to arrive at the required payment-in-lieu amount.
6. Use of funds collected in accordance with this section shall only take place in the general vicinity of where funds are collected and may only be used for the purchase of in-kind lands or the same type of infrastructure in accordance with all applicable State and federal law.
7. The planning director shall maintain records of the amounts collected, the timing, and the location, which shall be used by the Town as part of its capital facilities program.
8. Land shall be dedicated prior to recording the first final plat for the subdivision, or the payment-in-lieu shall be paid prior to recording the first final plat for the subdivision for which the payment-in-lieu is paid.

C. NATURE OF LAND TO BE DEDICATED

All lands proposed for dedication as park areas shall meet the following standards:

1. UNITY

The dedicated land shall be a single parcel of land, whether the development is developed in phases or sections, except where it is determined by the Town that multiple parcels would better serve Town residents and visitors.

2. USABILITY

a. Public parkland must be without significant topographic elevation changes, well-drained, usable land for a park, as determined by the Planning Director.
b. In cases where dedication includes an area of water, public access to all portions of a water feature shall be provided and maintained, regardless of the water feature's size.
c. The land must not be a former site of or contain any remains of hazardous materials.

3. SHAPE

The dedicated land shall be of a shape that supports gathering and recreation activities.

4. LOCATION

a. The dedicated parkland shall be located so it can reasonably serve the park needs of the residents of the development and immediate area.
b. The Town may require that the land dedicated be located on the periphery of the development in order to allow enlargement by combining the recreation and park area with adjacent development or park facilities, existing or planned.

5. ACCESS

a. All dwelling units in the development and residents in the immediate area shall have access to and from the parkland provided by means of streets and public walkways or trails.

b. Rights-of-way for this access shall be shown on the preliminary and final plats.

c. All dedicated lands shall have access by way of a street. Such access can be provided when the dedicated land is adjacent to existing or proposed public parkland with street access.

6. GREENWAYS

In cases where a proposed subdivision is located or configured in ways that would assist the Town in developing its greenway or trail network, dedication of greenway land will be credited towards public parkland dedication.

6.8 OWNERS' ASSOCIATIONS

6.8.1 PURPOSE

The purpose of this section is to set out the requirements for establishment of a homeowners' or property owners' association (hereinafter "owners' association") that shall be responsible for the long-term maintenance of common areas, common features, and private infrastructure in a subdivision. This section also sets out the requirements associated with transfer of subdivision control and maintenance responsibility from the subdivider to the association.

6.8.2 APPLICABILITY

A. The standards in this section shall apply to developments with lands held under common ownership (like open space set-aside), or with shared responsibility for common infrastructure including, but not limited to:

1. Stormwater control measures;
2. Private potable water systems;
3. Private sewage system features (such as pump stations serving only the development where located);
4. Cluster mailbox units;
5. Commonly-held streets and off-street parking facilities; and
6. Open space set-asides.

B. In no instance shall any common area be further subdivided, developed, or conveyed by the owners' association, except in accordance with the provisions of this Ordinance.

6.8.3 CREATION REQUIRED

A. An association shall be established in areas that have private common open space or shared private infrastructure. Associations are required to accept ownership and maintenance responsibility of all open space set-aside(s), shared infrastructure, or common areas within a development.

B. Associations are also required in order to fulfill the requirements of Chapter 47C (the "Condominium Act") of the North Carolina General Statutes, or the requirements of Chapter 47F (the "Planned Community Act") of the North Carolina General Statutes.

C. The association shall be in legal existence prior to the conveyance, lease-option, or other long-term transfer of control of any unit or lot in the development, though maintenance responsibility shall only transfer from the developer to the association in accordance with Section 6.8.8, Transfer of Maintenance Responsibility.

6.8.4 MEMBERSHIP REQUIREMENTS

A. Following establishment of the association by the subdivider, membership in the association shall be automatic and mandatory for all purchasers of land within the subdivision and their successors in title.

B. All members of an association shall be responsible for contributions to the association's reserve fund to cover their proportionate share of maintenance costs associated with common areas, common features, and private infrastructure.

6.8.5 PROCEDURE FOR ESTABLISHMENT

A. Documents for the creation of the association shall be submitted to the Town for review and approval prior to approval of the final plat (see Section 2.3.17G, Stage 3, Final Plat).

Documentation shall include, but not be limited to the information in Section 6.8.7, Required Documentation.

B. The association shall be established by the subdivider prior to the sale of the first lot in the subdivision.

C. The association documents shall establish that the subdivider shall maintain the common area, common facilities, and infrastructure at least until 51 percent of the lots are sold.

D. Responsibility for maintaining the subdivision's common areas, common facilities, and private infrastructure shall be transferred in accordance with the standards in Section 6.8.8, Transfer of Maintenance Responsibility.

E. Nothing shall prevent the subdivider from retaining maintenance responsibility after more than 51 percent of the lots are sold.

6.8.6 RESPONSIBILITIES

A. Upon transfer of maintenance responsibility, the association shall be responsible for:

1. Liability insurance and payment of premiums for liability insurance and local taxes;
2. Maintenance of all common elements including, but not limited to, stormwater control measures in accordance with Section 6.15.9, Maintenance, private utilities, private drives, private sidewalks and trails, private streetlights, and private common recreation facilities shown on the preliminary and final plats;
3. Maintenance of public streets until such time as the Town or NCDOT agrees to accept the responsibility for street maintenance;
4. Maintenance of an escrow account intended for the maintenance and repair of community facilities;
5. Payment of system development fees for public and private improvements made to or for the benefit of the common elements; and
6. Payment of assessments for public and private capital improvements made to or for the benefit of the common area located within the development.

B. The owners' association shall grant easements over the common areas for access, ingress, and egress from and to public streets and walkways, and easements for enjoyment of the common area and for parking areas shall be granted to each owner of any lot or unit within the development, unless expressly stated otherwise and classified as "limited common areas and facilities" with the declaration.

C. Common walls between any units shall be party walls, and provisions for the maintenance thereof, including restoration in the event of destruction or damage, shall be established within the covenants.

D. In the event of default by the owners' association in the payment to the Town of any ad valorem taxes levied against the common area or assessments for public improvements to the common area, for a period of six months or more, then each owner of a lot or unit in the development shall become personally obligated to pay to the Johnston County Tax Assessor a proportionate share of such taxes or assessments. If such sum is not paid by the owner within 30 days following receipt of notice of the amount due, then such sum shall become a continuing lien on the lot or unit of the then owner(s), the owner(s)' heirs, devisees, personal representatives and assigns, and the Johnston County Tax Assessor may either bring an action at law against the owner personally obligated to pay the same or may elect to foreclose the lien against the property of the owner.

6.8.7 REQUIRED DOCUMENTATION

A. The association documents submitted to the Town for review shall include, but not be limited to, the following:

1. A declaration of all restrictive covenants;
2. A declaration of all deed restrictions;
3. A declaration that the association is responsible for liability insurance and all applicable taxes;
4. A declaration of common ownership and maintenance responsibilities of all on-site improvements not dedicated to a local or State agency, including but not limited to drainage systems, wastewater systems, open space set-aside areas, recreational facilities, and private infrastructure;
5. A statement that all common areas shall not be further subdivided, developed, or conveyed by the owners' association, except where approved under the provisions of this Ordinance;
6. A description of the structural organization and operating procedures of the association;
7. Association by-laws;
8. A legal description of all open space set-asides and other lands owned in common;
9. A description of areas designated as limited common areas and facilities, where access to or through such areas by members of the associated is limited, and the reasons for such limitations;
10. Provisions establishing the legal authority of the association to maintain control over all common areas, common features, and private infrastructure in the subdivision, following transfer of control by the subdivider;
11. Provisions authorizing the association to compel contributions from owners in the development to cover their proportionate share of maintenance costs associated with common areas, common features, and private infrastructure;
12. Provisions authorizing the association to increase the amount of mandatory fees or assessments, when necessary, for the continued maintenance of common areas, common features, or private infrastructure;
13. Provisions authorizing the association to convert any member's unpaid assessments into a lien on real property; and
14. Evidence related to the establishment of a reserve fund under the sole control of the association to support the continued maintenance and upkeep of common areas, common features, and private infrastructure.

B. Following review of the required documentation by the Town, the subdivider shall record all required documentation with the Johnston County Register of Deeds, as appropriate.

6.8.8 TRANSFER OF MAINTENANCE RESPONSIBILITY

A. The developer shall be responsible for maintenance of all common areas, common features, and private infrastructure until maintenance responsibility is transferred to the association in accordance with the standards in this sub-section.

B. The developer shall be responsible for conveyance of the fee simple title to all areas designated as common areas as a part of transfer of maintenance responsibility.

C. The developer shall submit, along with the final plat, documents showing proof that any mortgage on the property or facility is subject to all easements or rights which may be transferred to the individual lot or unit owner or to the owners' association.

6.8.9 FAILURE TO MAINTAIN IS A VIOLATION

Failure to maintain common areas, common features, or infrastructure is a violation of this Ordinance and is subject to the penalties and remedies in Chapter 7, Violations.

6.9 PARKING AND LOADING

6.9.1 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 are further intended to:

A. Provide for adequate off-street parking, off-street loading, and safe movement of vehicles into, out of, and through parking areas;

B. Allow for flexibility to accommodate alternative solutions to off-street parking and loading needs, where such flexibility is consistent with the Town's adopted policy guidance;

C. Reduce the aesthetic impact of surface parking lots in gateway corridors, downtown, and mixed-use areas through standards addressing on-site parking lot locations;

D. Avoid excessive paved surface areas and the resulting problems associated with stormwater runoff and urban heat islands; and

E. Protect compatibility between adjacent uses of land.

6.9.2 APPLICABILITY

The standards in this section shall apply to all development in the Town's jurisdiction, unless exempted in accordance with Section 6.9.3, Exemptions.

A. GENERALLY

Whenever a building is constructed, an open-air use of land is conducted, or a principal or secondary use is established, the development shall meet the requirements of this section.

B. ADDITIONS AND EXPANSIONS

Whenever an existing building, open air use of land, or principal or secondary building is enlarged or increased in capacity after January 2, 2024, the development shall comply with the requirements in Section 5.4, Nonconforming Site Features.

C. CHANGES IN USE

1. If the principal use changes, then the new principal use shall meet the requirements of this section, except that if the use change results in an increase of less than five percent in the required number of off-street parking spaces, or less than two additional parking spaces, no additional parking spaces are required.
2. In cases where an existing off-street parking lot does not comply with the parking lot configuration requirements of this section, changes in use shall require the parking lot's configuration to be brought into compliance with these standards, to the maximum extent practicable.

D. ADDITION OF NEW PARKING SPACES

1. New off-street parking spaces added to a development, lot, or site after January 2, 2024, shall comply with the standards in this section. In cases where the development, lot, or site has existing off-street parking spaces that do not comply with these standards, those spaces are subject to Section 6.9.2E, Pre-Existing Nonconforming Development.
2. Driveways, aisles, or vehicular maneuvering areas serving new off-street parking spaces or connecting new off-street parking spaces to the existing parking spaces established prior to January 2, 2024, shall also comply with the requirements in this section. Nothing shall preclude the use of an administrative adjustment or alternative parking plan as needed to ensure continuity and practical connection between different parking areas.

E. PRE-EXISTING NONCONFORMING DEVELOPMENT

Lawfully-established off-street parking and loading areas established prior to January 2, 2024, that do not comply with these standards shall be subject to the applicable standards in Chapter 5, Nonconformities.

6.9.3 EXEMPTIONS

A. The following forms of development are exempt from the requirements of this section:

1. Lawfully-established lots of record existing prior to January 2, 2024, that are 33 feet wide or less, contain a single-family detached residential structure, and are not served by an alley; and
2. Re-striping an existing parking lot which does not create a deficient number of parking spaces or a nonconforming situation.

B. Non-residential and mixed-use development located in the DTNC, DTNT, and DTNN districts is exempted from the minimum off-street parking requirements in Table 6.9.4, Table of Minimum Off-Street Parking Requirements, but off-street parking lots, if provided, shall comply with the standards in Section 6.9.7, Parking Lot Configuration.

6.9.4 OFF-STREET PARKING REQUIREMENTS

A. PARKING PLAN REQUIRED

Every application for a site plan or building permit shall include a parking plan or plot plan drawn to scale and fully-dimensioned as necessary in order to demonstrate compliance with the standards in this section.

B. MINIMUM OFF-STREET PARKING SPACES REQUIRED

1. The minimum number of off-street parking spaces required for development shall be in accordance with Table 6.9.4, Table of Minimum Off-Street Parking Requirements.
2. Off-street parking shall be provided to meet the parking demand without the use of streets, driveways, and garages, except as specifically allowed by this section.
3. Some uses may also be required to provide vehicle stacking spaces in accordance with Section 6.9.6, Stacking Spaces.
4. Some uses may also be required to provide bicycle parking spaces in accordance with Section 6.9.5, Bicycle Spaces.

C. OFF-STREET PARKING SPACE MAXIMUM

1. Where identified in Table 6.9.4, Table of Minimum Off-Street Parking Requirements, uses subject to an off-street parking maximum shall comply with the applicable maximum provisions in the table.
2. Deviations from the maximum parking space standards may be requested in accordance with Section 6.9.8, Parking Flexibility.

D. USE TYPE NOT LISTED

1. For use types that do not correspond to the use types listed in Table 6.9.4, Table of Minimum Off-Street Parking Requirements, any one of the following actions may be taken as part of determining the applicable off-street parking requirements:
   a. The applicant may provide a parking study for the use(s) prepared by a professional engineer licensed by the State of North Carolina;
   b. The applicant may propose a text amendment to this UDO in accordance with Section 2.3.26, Text Amendment;

c. The applicant may request a formal determination of these off-street parking standards in accordance with Section 2.3.9, Determination, or
d. The Planning Director may determine the minimum parking space requirement based on a similar use in accordance with the standards of this Ordinance.

2. In cases where the applicant desires the Planning Director to make a determination, the application shall provide the following information:
   a. The type of use(s);
   b. Number of employees;
   c. The availability of transit;
   d. The occupancy of the building;
   e. Anticipated square feet of sales, service, and office areas;
   f. Number of off-street parking spaces proposed; and
   g. Hours of operation.

E. DEVELOPMENTS WITH MULTIPLE USE TYPES OR LOTS

1. Development containing more than one principal use shall provide the minimum number of off-street parking spaces in an amount equal to the total required for all individual principal uses in the development, except as allowed by Section 6.9.8, Parking Flexibility.
2. Developments consisting of multiple lots that are planned and developed as a single, unified, or consolidated project may be configured to locate a portion of the required parking for one lot on another in the same development as allowed by Section 6.9.8, Parking Flexibility.

F. USE OF REQUIRED OFF-STREET PARKING SPACES

1. Off-street parking areas used for any of the following vehicles are not credited towards the minimum number of required off-street parking spaces in Table 6.9.4, Table of Minimum Off-Street Parking Requirements, and such vehicles shall be located outside required off-street parking spaces and any street right-of-way:
   a. Vehicles for sale or lease;
   b. Vehicles being stored, serviced, or repaired; or
   c. Vehicles belonging to the use, such as company vehicles.
2. Required off-street parking spaces shall not be used for any purpose other than the temporary parking of operable vehicles.
3. In no instance shall motor vehicle servicing or repair of a vehicle take place within a required off-street parking space except for washing and emergency service necessary to start the vehicle.

G. DRIVEWAYS USED TO MEET PARKING REQUIREMENTS

1. Driveways may be used to accommodate required off-street parking spaces only for the following uses:
   a. Boarding houses;
   b. Cemeteries;
   c. Family care homes;
   d. Group homes;
   e. Live/work dwellings;
   f. Manufactured dwellings;

g. Mobile homes;
h. Single-family attached dwellings when located in developments of six or fewer dwellings (driveways may be located on land owned in common);
i. Single-family detached dwellings, including those in bungalow courts and pocket neighborhoods;
j. Secondary dwelling units;
k. Triplex/quadplex dwellings; and
l. Duplex dwellings.

2. Driveways shall be of sufficient size to accommodate all the off-street parking spaces required by Table 6.9.4, Table of Minimum Off-Street Parking Requirements, and comply with the applicable standards in Section 6.1.4, Driveways. In no instance shall accommodation of vehicle parking in accordance with this subsection result in parked vehicles protruding into or over street rights-of-way, sidewalks, greenways, required sight distance triangles, areas used for refuse collection, or required landscaping areas.

H. GARAGES USED TO MEET PARKING REQUIREMENTS

On-site garages may be credited towards the off-street parking requirements only in accordance with the following:

1. SINGLE-FAMILY DETACHED DWELLINGS

a. Except when configured as bungalow courts or pocket neighborhoods, single-family detached dwellings, whether occupied as a principal or secondary use, that include one one-car garage shall not receive credit from this garage parking space towards meeting the required number of off-street parking spaces. Lots with single-family detached dwellings that include two or more garage parking spaces shall receive credit towards off-street parking requirements for the second and each subsequent garage parking space on the lot.
b. A one-car garage shall be credited towards off-street parking space requirements for a single-family detached dwelling when the dwelling is included as part of a bungalow court or pocket neighborhood.

2. SINGLE-FAMILY ATTACHED, DUPLEX, TRIPLEX, AND QUADPLEX DWELLINGS

a. A one-car garage integral or attached to a single-family attached dwelling shall not receive credit towards off-street parking. Garages with two or more garage parking spaces shall receive credit towards off-street parking requirements for the second and each subsequent garage parking space on the lot.
b. Garage parking spaces intended to serve three or more individual dwelling units and located within a single principal or secondary structure shall be credited towards the off-street parking spaces in this section.

3. STRUCTURED PARKING

Garage parking spaces located within structured parking and serving two or more separate residential dwellings or a non-residential use type shall be credited towards the off-street parking requirements in this section.

I. ON-STREET PARKING SERVING REAR-LOADED LOTS

1. All development including residential lots served by vehicular access located to the rear of the lot shall include at least one dedicated parallel on-street parking space proximate to each lot served by rear access.

2. On-street parking spaces shall not be located within the travel lane of the street or alley they serve.
3. Development including dedicated on-street parallel parking spaces provided in accordance with this sub-section shall configure parallel parking areas to include a landscaping island in-line with the parallel parking spaces.
4. Landscaping islands required by this sub-section shall be at least nine feet in depth and six feet in width and be located at least every three parking spaces along the street they serve.

J. MINIMUM OFF-STREET PARKING REQUIREMENTS TABLE

The following table sets out the minimum and applicable maximum off-street parking standards for development subject to these standards. Off-site and on-street parking may be used to satisfy some or all of these requirements if configured in accordance with Section 6.9.8, Parking Flexibility.

TABLE 6.9.4: MINIMUM OFF-STREET PARKING SPACES REQUIRED
[#] = Notes at the end of the table

USE TYPE	MINIMUM NUMBER OF REQUIRE OFF-STREET PARKING SPACES [1] [2]
AGRICULTURAL USE CLASSIFICATION	
Agricultural Packaging & Processing	1 per every 1,500 sf [3]
Agricultural Storage & Distribution	1 per every 6,000 sf [3]
Horticulture	1 per every 1,500 sf [3]
Nursery	1 per every 1,500 sf
Farm Equipment Sales and Service	1 per every 300 sf
Farm Supply Sales	1 per every 300 sf
COMMERCIAL USES CLASSIFICATION	
Animal Shelter	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Animal Boarding, Indoor only	1 per every 200 sf
Animal Boarding, Indoor and Outdoor	1 per every 200 sf [3]
Animal Grooming	1 per every 200 sf
Bank, Credit Union, or Similar Use	1 per every 300 sf
Bar, Cocktail Lounge, or Private Club	1 per every 150 sf
Bed & Breakfast	1 per guest room plus minimum required for single-family detached dwelling
Bottle Shop (with on premise consumption)	1 per every 4 seats [4]
Bulky Item Sales	1 for every 600 sf
Campground	1 + 1 per camping space

TABLE 6.9.4: MINIMUM OFF-STREET PARKING SPACES REQUIRED
[#] = Notes at the end of the table

Use Type	Minimum Number of Require Off-Street Parking Spaces [1] [2]
Catering Establishment	1 per every 300 sf
Check Cashing / Pay Day Lending	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Co-Working Space	1 per every 250 sf
Coffee Shop or Bakery	1 per every 150 sf; May not exceed 125% of minimum
Computer Related Services	1 per every 600 sf
Convenience Store (with gasoline sales)	1 per every 200 sf
Day Spa (medical and non-medical)	1 per every 150 sf; May not exceed 125% of minimum
Event Venue, Indoor Only	1 per every 150 sf; May not exceed 125% of minimum
Event Venue, Indoor & Outdoor	1 per every 150 sf + 1 per every 1,500 sf of outdoor use area; May not exceed 125% of minimum
Fitness Center	1 per every 200 sf; May not exceed 125% of minimum
Flea Market	1 per every 200 sf; May not exceed 125% of minimum
Funeral-related Service	Greater of: 1 per every 200 sf used by public, or 1 per every 4 seats in worship area
Gasoline Sales	1 per every 200 sf
Hair, Nails, and Skin-related Service	1 per every 200 sf
Grocery Store	<30,000 sf: 1 per every 400 sf; May not exceed 125% of minimum
	30,000 sf – 55,000 sf: 1 per every 300 sf; May not exceed 125% of minimum
	>55,000 sf: 1 per every 200 sf; May not exceed 125% of minimum
Heavy Equipment Sales, Rental, and Repair	1 per every 600 sf
Hotel or Motel	5 + 1 per every rental unit
Indoor Commercial Recreation	1 per every 200 sf; May not exceed 125% of minimum
Instructional Services	1 per every 200 sf
Laundry and Cleaning Service	1 per every 200 sf used by the public
Light Equipment Sales, Rental, and Repair	1 per every 250 sf
Micro Brewery, Micro Distillery, or Micro Winery	1 per every 150 sf
Medium Manufacturing	2 per every 3 employees on largest shift
Nightclub or Dance Hall	1 per every 150 sf; May not exceed 125% of minimum
Office, High Intensity	1 per every 200 sf; May not exceed 125% of minimum

TABLE 6.9.4: MINIMUM OFF-STREET PARKING SPACES REQUIRED
[#] = Notes at the end of the table

USE TYPE	MINIMUM NUMBER OF REQUIRE OFF-STREET PARKING SPACES [1] [2]
Office, Low Intensity	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Outdoor Commercial Recreation	1 per every 1,000 sf of activity area (including building sf); May not exceed 125% of minimum
Parking Related Use	1 per employee on the largest shift
Packaging and Shipping	1 per every 200 sf
Pawn Shop	1 per every 300 sf
Pharmacy	1 per every 200 sf
Recreational Vehicle Park	1 per employee on largest shift + 0.25 per every recreational vehicle space
Repair Shop	1 per every 600 sf
Restaurant with Drive-Through	1 per every 4 seats [4]; May not exceed 1 per every 150 sf
Restaurant, Indoor Seating Only	1 per every 4 seats [4]; May not exceed 1 per every 150 sf
Restaurant, Indoor and Outdoor Seating	1 per every 5 seats [4]; May not exceed 1 per every 150 sf
Restaurant, Walk-up Service Only	1 per employee on largest shift + 1 per every two outdoor seating locations
Retal, General	1 per every 200 sf; May not exceed 125% of minimum
Retail, Large Format	70,000 sf – 200,000 sf: 1 per every 600 sf; May not exceed 125% of minimum
	>200,000 sf: 1 per every 800 sf; May not exceed 125% of minimum
Retail, Micro	1 per every 600 sf
Sexually-Oriented Business	1 per every 200 sf
Storage, Indoor Only	1 per every 5,000 sf
Storage, Indoor and Outdoor	1 + 1 per employee on largest shift
Tanning Salon	1 per every 200 sf
Tattoo and Piercing Establishment	1 per every 600 sf
Theatre, Indoors	Greater of: 1 per every 4 seats or 1 per every 40 sf of seating area with moveable seating; May not exceed 1 per every 150 sf
Theatre, Outdoors	2 + 1 per employee on largest shift
Tobacco, CBD, and Vapor Shop	1 per every 200 sf
Vehicle Repair and Service (no painting/body work)	2 + 1 per each service bay
Vehicle Sales and Rental	1 per every 200 sf of floor area open to the public
Vehicle Painting/Bodywork	2+ 1 per employee on largest shift + 1 per service bay

TABLE 6.9.4: MINIMUM OFF-STREET PARKING SPACES REQUIRED
[#] = Notes at the end of the table

USE TYPE	MINIMUM NUMBER OF REQUIRE OFF-STREET PARKING SPACES [1] [2]
Vehicle Parts and Accessory Sales	1 per every 200 sf
Vehicle Towing and Storage	1 per employee on the largest shift
Vehicle Washing or Detailing	1 + 1 per employee on largest shift
Veterinary Services, Large Animal	1 + 1 per doctor or care provider
Veterinary Services, Small Animal	1 per every 200 sf
INDUSTRIAL USE CLASSIFICATION	
Asphalt or Concrete Plant	2 per every 3 employees on major shift
Business Incubator	1 per every 450 sf
Contractor Services/Yard	Greater of: 1 per every 300 sf or 1 per every 1,000 sf of outdoor area
Cryptomining and Data Processing	1 per employee on the largest shift
Electrical, HVAC, or Plumbing Fabrication	2 per every 3 employees on largest shift
Extractive Industry	1 + 1 per employee on largest shift
Freight Terminal	2 per every 3 employees on largest shift
Fuel Oil/Bottled Gas Distributor	1 per every 200 sf used by public + 1 per employee on largest shift
Level 2 Solar Energy Conversion	None
Level 3 Solar Energy Conversion	None
Makerspace	1 per every 400 sf
Manufacturing, Heavy, Light, or Medium	2 per every 3 employees on largest shift
Metal Fabrication	2 per every 3 employees on largest shift
Transfer Station	10 + 1 per employee on the largest shift
Recycling Center	1 per every 1,000 sf (min. of 2 spaces)
Research and Development	1 per every 300 sf of office area + 1 per every 500 sf of other floor area
Salvage or Junkyard	3+ 1 per employee on the largest shift
Utility, Major	1 per employee on largest shift
Utility, Minor	None
Warehouse, Distribution/Storage	2 per every 3 employees on largest shift
Wholesale Sales, Indoor Only	1 per every 900 sf
Wholesale Sales, Indoor and Outdoor	1 per every 900 sf + 1, per every 5,000 sf of outdoor area
Wind Energy Conversion	None

TABLE 6.9.4: MINIMUM OFF-STREET PARKING SPACES REQUIRED

[#] = Notes at the end of the table

USE TYPE	MINIMUM NUMBER OF REQUIRE OFF-STREET PARKING SPACES [1] [2]
INSTITUTIONAL USE CLASSIFICATION	
Adult Day Care Center	1 + 1 per every employee on largest shift
Antenna Collocation, Major or Minor	None
Arboretum or Formal Garden	1 per employee on largest shift + 1 per 5,000 sf of garden area
Athletic Field or Court	1 per every 1,000 sf of court or field area
Auditorium, Coliseum, Convention Center	Greater of: 1 per every 4 seats or 1 per every 40 sf of seating area with moveable seating
Broadcasting Studio	1 per every employee on largest shift
Bus Station	1 per every 200 sf [5]
Cemetery or Mausoleum	1 per every employee on largest shift
Child Day Care Center	1 per employee + 1 per every 10 children
College or University	5 per every classroom and 1per every office
Community Center	1 per every 300 sf
Community Garden	None
Community Recreation Facility (private)	1 per every 1,000 sf of outdoor activity area + 1 per every 400 sf of building area
Coliseum, Convention, Conference Center	Greater of: 1 per every 4 seats or 1 per every 40 sf of seating area with moveable seating
Fire/EMS/Police Station	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Fraternal Club or Lodge	1 per every 300 sf
Golf Course (public or private)	1 per every 4 persons of design capacity
Government Office	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Governmental Training Facility	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Hospital	1 per every 2 beds + 1 per every employee on largest shift
Indoor Recreation, Public	1 per every 400 sf
Laboratory	2 per every 3 employees on major shift
Library	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Museum	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Outdoor Recreation, Public	1 per every 1,000 sf of outdoor activity area
Outpatient Treatment Facility	1 per every 200 sf

TABLE 6.9.4: MINIMUM OFF-STREET PARKING SPACES REQUIRED
[#] = Notes at the end of the table

USE TYPE	MINIMUM NUMBER OF REQUIRE OFF-STREET PARKING SPACES [1] [2]
Park	1 per employee on largest shift + 1 per acre
Park and Ride Facility	1 per every 200 sf [3]
Post Office	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Psychiatric Services	1 per every 3 patient beds
Rail Related	Passenger: 1 per every 400 sf [5]
	Freight: 1 per every employee on largest shift
Religious Institution	Greater of: 1 per every 4 seats or 1 per every 50 sf of floor area in main worship area; May not exceed 125% of minimum
Residential Treatment Facility	2 + 1 per every employee on largest shift
School, Elementary or Middle	1 per every employee on largest shift
School, High	5 per every classroom and 1 per every office
School, Vocational	1 per every 3 students + 1 per classroom
Small Wireless Facility	None
Telecommunications Facility, Major	One
Telecommunications Facility, Minor or Concealed	None
Urgent Care	1 per employee on the largest shift + 1 per every 300 sf
RESIDENTIAL USE CLASSIFICATION	
Boarding House	2 + 1 per each rental room
Bungalow Court	1 + 0.25 guest spaces per dwelling unit
Congregate Care	1 per employee on largest shift + 0.25 per bed
Continuing Care Retirement Community	1.5 per each individual dwelling unit + 1 per employee on the largest shift + 1 per each 200 sf used by the public
Family Care Home	2 + 1 per bedroom
Group Home	2 + 1 per bedroom
Halfway House	2 per bedroom
Homeless Shelter	1 per every employee on largest shift
Live/Work Dwelling	2 + 1 per every 500 sf of non-residential floor area
Manufactured Home	2 per dwelling unit
Manufactured Home Park	2 per each home site + 0.25 guest spaces per dwelling unit
Multi-Family Dwelling	1 per each one-bedroom unit; 1.25 per each unit with two or more bedrooms; 0.25 guest spaces per dwelling unit

TABLE 6.9.4: MINIMUM OFF-STREET PARKING SPACES REQUIRED
[#] = Notes at the end of the table

USE TYPE	MINIMUM NUMBER OF REQUIRE OFF-STREET PARKING SPACES [1] [2]
Pocket Neighborhood	1 + 0.25 guest spaces per dwelling unit
Single-Family Attached Dwelling	2 per dwelling unit + 0.25 guest spaces per dwelling unit
Single-Family Detached Dwelling	2 per dwelling unit [6]
Triplex/Quadruplex	2 per dwelling unit
Duplex Dwelling	2 per dwelling unit
Upper-Story Dwelling	1 per dwelling unit

NOTES:
[1] See Section 6.9.10, Measurement, for details on how required parking spaces are computed.
[2] "sf" means the total square feet of all principal buildings, the total square footage associated with all secondary buildings used for a use listed in this table, and outdoor use area when specified in this table.
[3] Excludes bona fide farms, raw land in agricultural production, and other non-habitable agricultural buildings.
[4] In the event seating associated with on-site consumption is permanently removed from the premises, the off-street parking standard shall convert to 2 + 1 per employee on the largest shift.
[5] Excludes long-term parking for travelers.
[6] Major subdivisions in the DTNN, RHD, and RMF districts shall include an additional 0.25 off-street parking space for every dwelling unit. These parking spaces shall be designated as guest parking, located in commonly-held off-street areas, and centrally-located or dispersed throughout the subdivision.

6.9.5 BICYCLE SPACES

Bicycle parking shall be provided in accordance with the following standards:

A. APPLICABILITY

1. Bicycle parking facilities shall be provided on all new commercial, mixed-use, multi-family, and institutional use types served by 20 or more required off-street parking spaces for vehicles.
2. The following use types are exempted from these providing bicycle parking space requirements:
   a. Single-family detached dwellings, manufactured homes, or mobile homes;
   b. Single-family attached dwellings;
   c. Telecommunications facilities of any type;
   d. Helistops;
   e. Bulky item sales;
   f. Equipment or tool rental;
   g. Funeral-related service;
   h. Outdoor storage;
   i. Repair shop;

j. Self service storage (regardless of access type);
k. Sexually-oriented businesses; or
l. Any industrial use types.

B. RATE OF PROVISION

Bicycle parking spaces shall be provided in accordance with Table 6.9.5, Bicycle Parking Space Provisions:

TABLE 6.9.5: BICYCLE PARKING SPACE PROVISIONS

TYPE OF USE OR DEVELOPMENT	MINIMUM NUMBER OF BICYCLE SPACES PROVIDED
Commercial Development	1 per every 5,000 square feet of floor area
Institutional Development	
Mixed-Use Development	1 per every 15 units + 1 per every 1,500 square feet of non-residential floor area
Multi-family Development	1 per every 15 units

NOTES:
[1] Nothing shall limit the provision of more bicycle parking spaces than are required.

C. CONFIGURATION

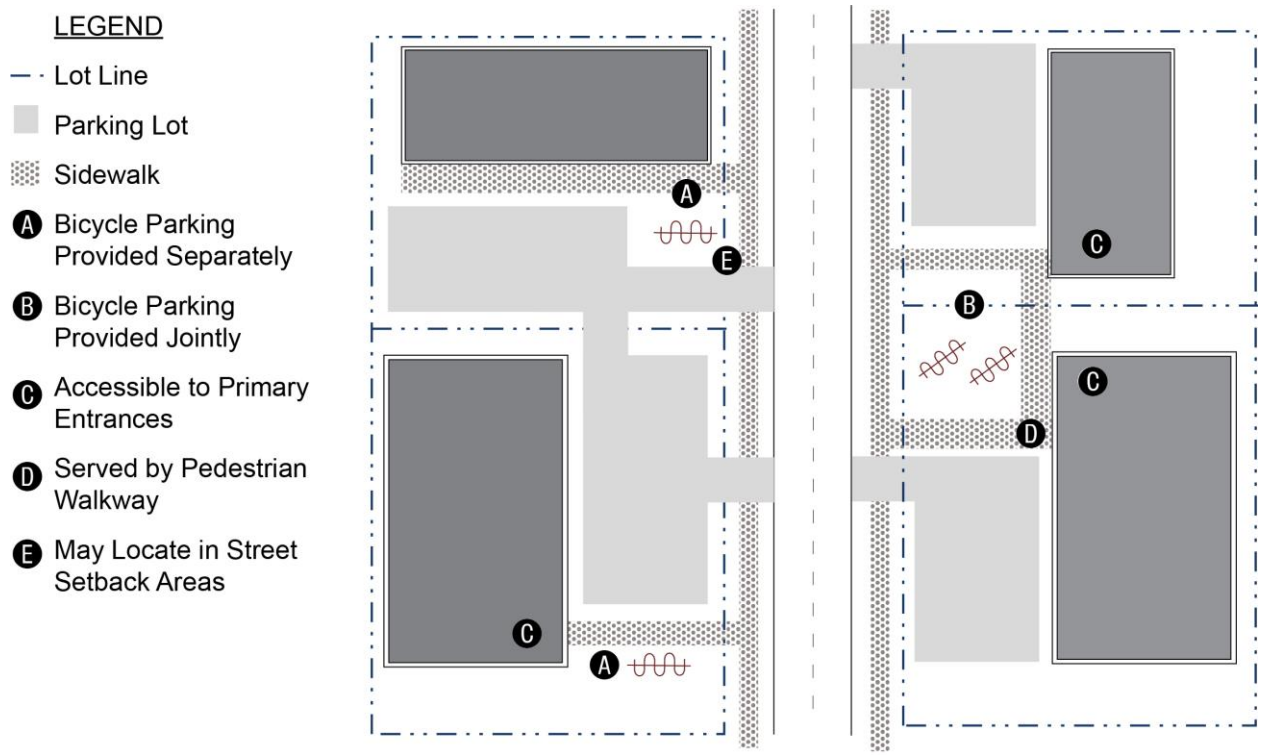
All bicycle parking spaces provided, including those provided in excess of the minimum number of required spaces, shall comply with the following configuration requirements.

1. Bicycle parking should be accessible to the primary entrances of the development and located in a visible, well-lit area (see Figure 6.9.5, Bicycle Parking).
2. Bicycle parking shall be served by a pedestrian walkway connecting the bicycle parking to the closest primary building entrance.
3. Bicycle parking shall be located where it does not interfere with pedestrian traffic and is protected from conflicts with vehicular traffic.
4. Bicycle parking may be accommodated within street setback areas.
5. A bicycle rack or other device shall be provided to enable bicycles to be secured.

D. SHARED PARKING SPACES

Nothing shall limit uses on the same block face from establishing shared or consolidated bicycle parking spaces in central or mid-block locations, provided there are sufficient bicycle parking spaces for all uses sharing the required bicycle parking.

FIGURE 6.9.5: BICYCLE PARKING



6.9.6 STACKING SPACES

A. GENERAL

Uses with drive-through facilities and other auto-oriented uses where vehicles queue up to access a service shall provide adequate stacking spaces on-site for the uses or buildings in accordance with Table 6.9.6: Stacking Spaces Required, and Figure 6.9.6, Stacking Space Configuration.

TABLE 6.9.6: STACKING SPACES REQUIRED

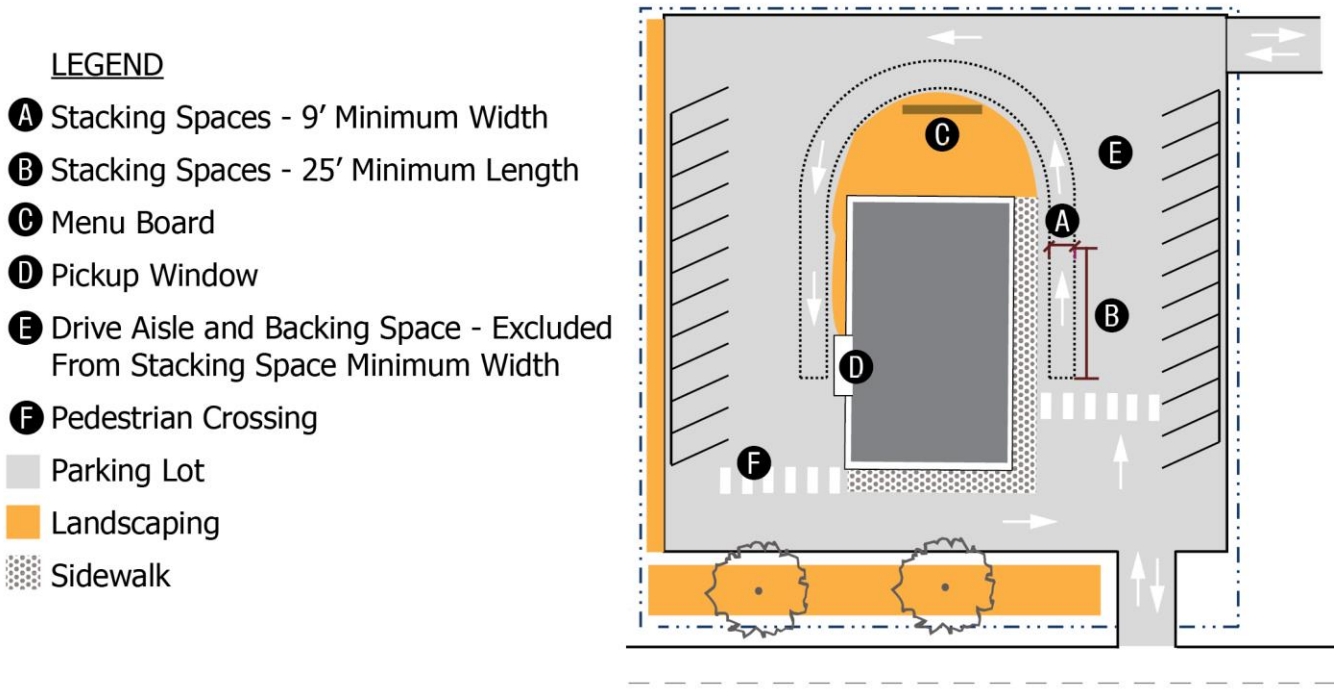
Use or Activity	Minimum Number of Stacking Spaces Required [1]	Origin Point of Measurement for Stacking Spaces
Assisted living facility and nursing home	1 per bay	Bay entrance
Automated teller machine (drive through)	2	Teller machine
Automobile repair and servicing / Automotive painting or body shop	1 per bay	Bay entrance
Car wash or automobile detailing	1 per bay for manual car washes, otherwise 3	Bay/wash process entrance
Child day care center	2	Building entrance adjacent to stacking spaces

TABLE 6.9.6: STACKING SPACES REQUIRED

Use or Activity	Minimum Number of Stacking Spaces Required [1]	Origin Point of Measurement for Stacking Spaces
Convenience store with gasoline sales	2	Each end of the outermost gas pump
Coffee shop with drive through	4	[1]
Equipment and tool rental	2	Security gate
Financial services with drive through	3 per lane	Agent window
Funeral-related service	2	Building entrance adjacent to stacking spaces
Gasoline sales, whether as a principal or secondary use	2	Each end of the outermost gas pump
Heavy equipment sales, rental, and repair	2 [2]	Security gate
Hospital	4	Building entrance adjacent to stacking spaces
Hotel or motel	2	Building entrance adjacent to stacking spaces
Laundry and cleaning service with drive through	3	Agent window or door intended for service to vehicles
Outpatient treatment facility	4	Building entrance adjacent to stacking spaces
Pharmacy with drive through	3 per lane	Agent window
Post office	2	Each mailbox intended for access via automobile
Public convenience center/transfer station	5	Front edge of scale, first dumpster, or first service point
Restaurant with drive through	4	[1]
School (elementary, middle, or high)	In accordance with MSTA calculator	Building entrance adjacent to stacking spaces
Truck or freight terminal	1 [3]	Security gate
Truck stop	[4]	[4]
Valet Parking	3	At drop-off point

NOTES:
[1] Stacking spaces shall be measured from menu board, input devices, or other locations of interaction with service providers.
[2] Each stacking space shall be at least 50 feet long.
[3] The stacking space shall be of sufficient length to accommodate a trailer attached to a cab.
[4] Subject to the standards for gasoline sales if provided to individual passenger automobiles.

FIGURE 6.9.6: STACKING SPACE CONFIGURATION



6.9.7 PARKING LOT CONFIGURATION

Except for driveways credited towards these parking standards in Section 6.9.4G, Driveways Used to Meet Parking Requirements, or parking areas subject to an approved alternative parking plan (see Section 6.9.8, Parking Flexibility), all parking lots shall comply with the following standards:

A. GENERAL

1. All required off-street parking spaces shall be located on the same lot as the principal use they serve, except as allowed in Section 6.9.8, Parking Flexibility.
2. Required off-street parking shall be maintained for the duration of the principal use and shall not be reduced unless the principal use ceases or changes.
3. Except where allowed by this Ordinance, off-street parking spaces shall not be located in any required landscaping or stormwater management area.
4. Off-street parking spaces shall not protrude into any street, fire lane, drive aisle, sidewalk, greenway, or pedestrian connection.

B. CURBS AND WHEEL STOPS

All off-street parking spaces provided in accordance with Table 6.9.4, Table of Minimum Off-Street Parking Requirements, shall have curbs or wheel stops located so that no part of the parked vehicle extends onto or over a sidewalk, walkway of six feet in width or less, adjacent property, or landscape area, whether the vehicular use area is paved or unpaved.

C. DIMENSIONAL STANDARDS FOR PARKING SPACES AND AISLES

Off-street parking spaces and drive aisles serving them shall comply with the minimum dimensional standards established in Table 6.9.7, Dimensional Standards for Off-Street Parking Spaces, and Figure 6.9.7, Parking Space and Access Aisle Dimensions.

TABLE 6.9.7: DIMENSIONAL STANDARDS FOR OFF-STREET PARKING SPACES

Type of Parking Space [1]	Minimum Width (Feet)	Minimum Depth (Feet)	Minimum Aisle Width (Feet) [2]	
			One-Way	Two-Way
Parallel (0°)	9	22	12	24
Angled (45°)	10	20	12	24
Angled (60°)	10	20	18	24
Perpendicular (90°)	9	20	20	24

NOTES:
[1] All off-street parking spaces shall remain unobstructed from grade level to a height of at least 6½ feet above the parking space's grade level.
[2] Minimum aisle width shall be measured from edge-of-pavement to edge-of-pavement, and shall not include gutters or curbing.
[3] The Town may require one direction of travel to maintain a wider width than the other direction.

D. EXTERIOR LIGHTING

1. Exterior lighting in parking lots shall be designed to provide illumination of parking lot areas for the purposes of safe vehicle and pedestrian circulation.
2. Exterior lighting within a parking lot shall be configured to prevent glare or illumination exceeding maximum allowable levels on adjacent land and shall comply with the standards of Section 6.4, Exterior Lighting, as appropriate.

E. GRADING AND DRAINAGE

1. The parking lot shall be graded, properly drained, stabilized, and maintained to minimize dust and erosion.
2. Parking lots shall not impound stormwater unless surface impoundment is required as an approved stormwater control measure. However, in no instance shall surface impoundment result in a fewer number of parking spaces than required by Table 6.9.4, Table of Minimum Off-Street Parking Requirements.

F. LANDSCAPING

Parking lot landscaping shall be provided in accordance with Section 6.6.11, Off-Street Parking Lot Landscaping.

G. MAINTENANCE

The Town shall not be responsible for maintenance of drive aisles or other vehicular use area located outside a public right-of-way or on land not owned and operated by the Town of Clayton.

H. MARKINGS

1. All parking spaces and lanes in parking lots shall be clearly delineated with paint lines, curbs, or other treatment.
2. All pavement markings shall be maintained to be distinguishable. Failure to maintain required markings shall be a violation of this Ordinance.

I. MINIMUM PARKING LOT STEM LENGTH

All vehicular accessways serving off-street parking lots shall comply with the standards in Section 6.1.4E, Non-residential Driveways.

J. PARKING SPACE ACCESS

1. All off-street parking spaces shall be accessed directly from drive aisles or private driveways and not directly from arterial or collector streets.
2. All off-street parking areas shall be designed with an appropriate means of vehicular access to a street or alley in a manner that allows for safe vehicular movements.

K. PEDESTRIAN WALKWAYS

Pedestrian walkways between the principal buildings on a development site and a sidewalk or other pedestrian way (like a greenway trail) shall be provided in accordance with Section 6.1, Access and Circulation.

L. SEPARATION FROM FIRE PROTECTION FACILITIES

1. No required off-street parking space shall be located within 15 feet of a fire hydrant or other fire protection facility.
2. Parking shall not take place within designated fire lanes or other areas demarcated for fire protection.

M. SURFACE MATERIALS

1. All off-street parking spaces, accessible parking spaces, drive aisles, and vehicular use areas shall be paved and maintained with concrete, asphalt, or similar material of sufficient thickness and consistency to support anticipated traffic volumes and weights (see Figure 6.9.7.M, Parking Lot Surface Materials).
2. The use of pervious or semi-pervious materials may be approved as part of an alternative parking plan (see Section 6.9.8, Parking Flexibility), provided it is demonstrated that the materials will function in a similar fashion as required materials.
3. Configuration of parking lots in accordance with low impact development practices (see Section 6.17.6, Menu of Sustainable Development Practices) is encouraged.
4. Parking lots shall not drain onto or across public sidewalks, or into adjacent property except into a natural watercourse or a drainage easement unless alternative provisions for drainage are proposed and accepted by the Engineering Director.

FIGURE 6.9.7.M: PARKING LOT SURFACE MATERIALS



N. VEHICLE BACKING

Vehicular use areas shall be designed so that a vehicle is not required to back onto a street to enter or exit the parking lot, a parking space, or a stacking space.

6.9.8 PARKING FLEXIBILITY

Development may deviate from the off-street parking requirements in this section through the requirements and procedures in Section 2.3.1, Administrative Adjustment, Section 2.3.29, Variance, or through approval of an alternative parking plan accepted by the Planning Director and configured in accordance with the following:

A. GENERALLY

All parking spaces provided in accordance with this section shall comply with the applicable provisions in Section 6.9.7, Parking Lot Configuration.

B. ALTERNATIVE SURFACING

1. The use of pervious or semi-pervious parking area surfacing materials—including, but not limited to, "grasscrete," "turfstone," cellular reinforced paving systems, porous concrete, crushed stone, or recycled materials such as glass, rubber, used asphalt, brick, block, and concrete, may be proposed for required off-street parking spaces, drive aisles, or vehicular surface areas on a site, provided such areas are properly maintained. Where possible, such materials should only be used in areas proximate to and in combination with on-site stormwater control measures or tree protection measures.
2. Grass or other pervious parking surfaces may be permitted for the following use types:
   a. Uses which require off-street parking less than five days per week during a month;
   b. Religious institutions; and

c. Parks, trailheads, playgrounds, ballfields, football and baseball stadiums, fairgrounds, and similar outdoor recreation areas.

3. Where provided, such alternative parking surfaces shall be maintained in a smooth, well-graded condition. If parking demand is such that the grass is damaged or destroyed to the extent that it ceases to grow and is not repaired or replaced, then paving in accordance with this section will be required.

C. DEVIATION FROM REQUIRED MINIMUM

An applicant may propose a reduced rate of provision for off-street parking less than that specified in Table 6.9.4, Table of Minimum Off-Street Parking Requirements, in accordance with a parking study prepared by a professional engineer licensed by the State of North Carolina. The parking study shall document why fewer spaces than required will be adequate while still protecting the public's health, safety, and welfare.

D. OFF-SITE PARKING

Up to 50 percent of off-street parking space requirements may be met by locating required parking in an off-site location, in accordance with the following standards:

1. The off-site parking is located within 1,000 feet from the use it serves, as measured from the entrance of the use to the nearest off-site parking space;
2. A sidewalk or paved pedestrian walkway is provided to the off-site parking area from the use;
3. In cases where the off-site parking is located on land under separate ownership from the use it serves, the off-site parking shall be subject to a written agreement executed by the owners involved and filed with the Planning Director prior to the use of off-site parking facilities. The agreement shall guarantee the long-term availability of the off-site parking in question; and
4. Should an off-site parking agreement cease, then the use shall be considered a nonconformity subject to the standards in Chapter 5, Nonconformities, unless the use is brought into compliance with the minimum off-street parking requirements of this section.
5. In no instance shall a residential use other than multi-family utilize off-site parking on lots within the DTNC district.

E. ON-STREET PARKING

1. On-street parking spaces located immediately abutting the subject parcel, entirely within the extension of the side lot lines into the street right-of-way, and not within any required clear sight triangle, may be credited toward minimum off-street parking standards.
2. On-street parking shall consist solely of parallel parking spaces and shall not encroach into vehicle travelways.
3. In no instance shall on-street parking located within the middle of the street or on the opposite side of a street from the use to be served be credited toward required off-street parking.

F. PROVISION OVER THE MAXIMUM ALLOWED

An applicant proposing development subject to the standards in Section 6.9.4C, Off-Street Parking Space Maximum, may propose a total number of off-street parking spaces that exceeds the maximum allowed only through the provision of a parking study prepared by a professional engineer licensed by the State of North Carolina. The parking study shall document why the provision of off-street parking spaces beyond the maximum authorized is necessary for the public's health, safety, or welfare.

G. SHARED PARKING

The required off-street parking for a use may be met with shared use of the required off-street parking spaces of another use, only in accordance with the following standards:

1. The use of shared off-street parking spaces shall be subject to a shared parking agreement executed by the landowners of the uses involved, approved by the Planning Director, and recorded in the office of the Register of Deeds for the county where the development is located;
2. The shared parking agreement shall guarantee the long-term availability of the shared parking spaces in question. Nothing shall limit the percentage of required off-street parking spaces that may be provided through a shared parking agreement;
3. The shared parking is located within 1,000 feet, as measured from the entrance of the use to the nearest shared parking space;
4. A sidewalk or paved pedestrian walkway is provided to the shared parking area from the use;
5. The uses served by the shared parking must have different peak parking demands, differences in hours or days of operation, or otherwise operate such that the uses sharing parking have access to the required minimum number of off-street parking spaces when in operation; and
6. Should the shared parking agreement cease, then the use(s) formerly served by shared parking shall be considered a nonconformity subject to the standards in Chapter 5, unless the use(s) is brought into compliance with the minimum off-street parking requirements of this section.

H. VALET PARKING

The Planning Director shall approve valet parking as a means of satisfying off-street parking requirements. Valet parking shall not cause customers or patrons who do not use the valet service to park off site or in the right-of-way or cause queuing in a street, driveway, or drive aisle. The following additional standards shall apply to valet parking:

1. Adequate assurance of the continued operation of the valet parking is provided, such as a contractual agreement for valet services or the tenant's affidavit agreeing to provide such services;
2. The maximum number of spaces reserved for valet parking shall not exceed 25 percent of the minimum number of required off-street parking spaces.
3. A valet parking area shall not be located within 200 feet of a public entrance to a building. Areas designated for valet parking shall not interfere with vehicular circulation or emergency access and shall not cause customers who do not use the valet service to park off-premise or cause queuing in the right-of-way.

6.9.9 OFF-STREET LOADING

A. LOADING FACILITIES REQUIRED

Every application for a non-residential use shall ensure that adequate off-street loading facilities are provided so that loading vehicles do not occupy required off-street parking spaces, block vehicular access, or prevent appropriate on-site maneuvering during times when the site is open to the public. Nothing shall limit the use of these areas at times of the day when the use is not open to the public. Uses may also establish dedicated loading zones for the purpose of accepting deliveries or making shipments during operating hours.

B. MINIMUM OFF-STREET LOADING SPACE REQUIREMENTS

1. A minimum number of off-street loading spaces is not established; however, if off-street loading spaces are provided, they shall be provided and maintained in sufficient numbers to adequately handle the needs of a non-residential use.
2. Failure to provide or maintain off-street loading spaces when they are necessary to serve the development is a violation of this Ordinance.
3. In no instance shall an off-street loading space occupy a required off-street parking space, project into a required drive aisle, or interrupt the safe operation of vehicles or circulation of pedestrian or bicycles.
4. Each off-street loading space shall be designed with an appropriate means of vehicular access to a street or alley in a manner that will least interfere with traffic circulation.

C. LOCATION

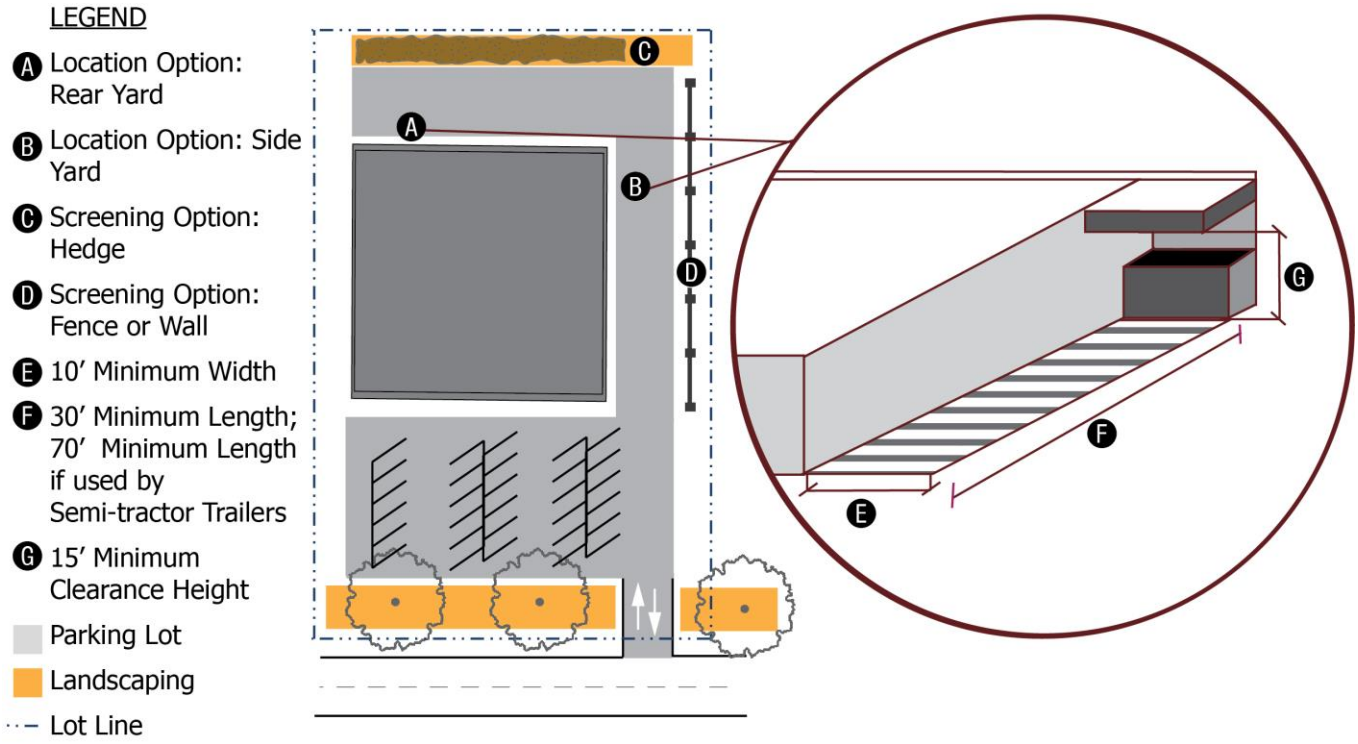
No off-street loading space shall be located within a required setback or within 30 feet of a street intersection.

D. DIMENSIONAL STANDARDS FOR LOADING SPACES

When off-street loading spaces are provided, they shall comply with the following minimum requirements (see Figure 6.9.9, Off-Street Loading Spaces):

1. Except for loading spaces used by semi-tractor trailers, off-street loading spaces shall be at least 10 feet wide and at least 30 feet long;
2. Off-street loading spaces used by semi-tractor trailers shall be at least 70 feet long;
3. Overhead clearance for an off-street loading space shall be at least 15 feet; and
4. Off-street loading spaces shall be designed so that no backing onto or from a public street is necessary.

FIGURE 6.9.9: OFF-STREET LOADING SPACES



6.9.10 MEASUREMENT

A. ROUNDING

When computation of the number of required parking spaces results in a fraction, the fraction shall be rounded upwards to the next highest whole number.

B. MULTIPLE AND MIXED USES

Unless otherwise approved, development containing more than one principal use shall 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.

C. 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 number of seats provided, including outdoor and waiting areas.

D. EMPLOYEE BASED STANDARDS

When the minimum number of off-street parking spaces is based on the number of employees, the computations shall be based on the number of employees on the largest shift.

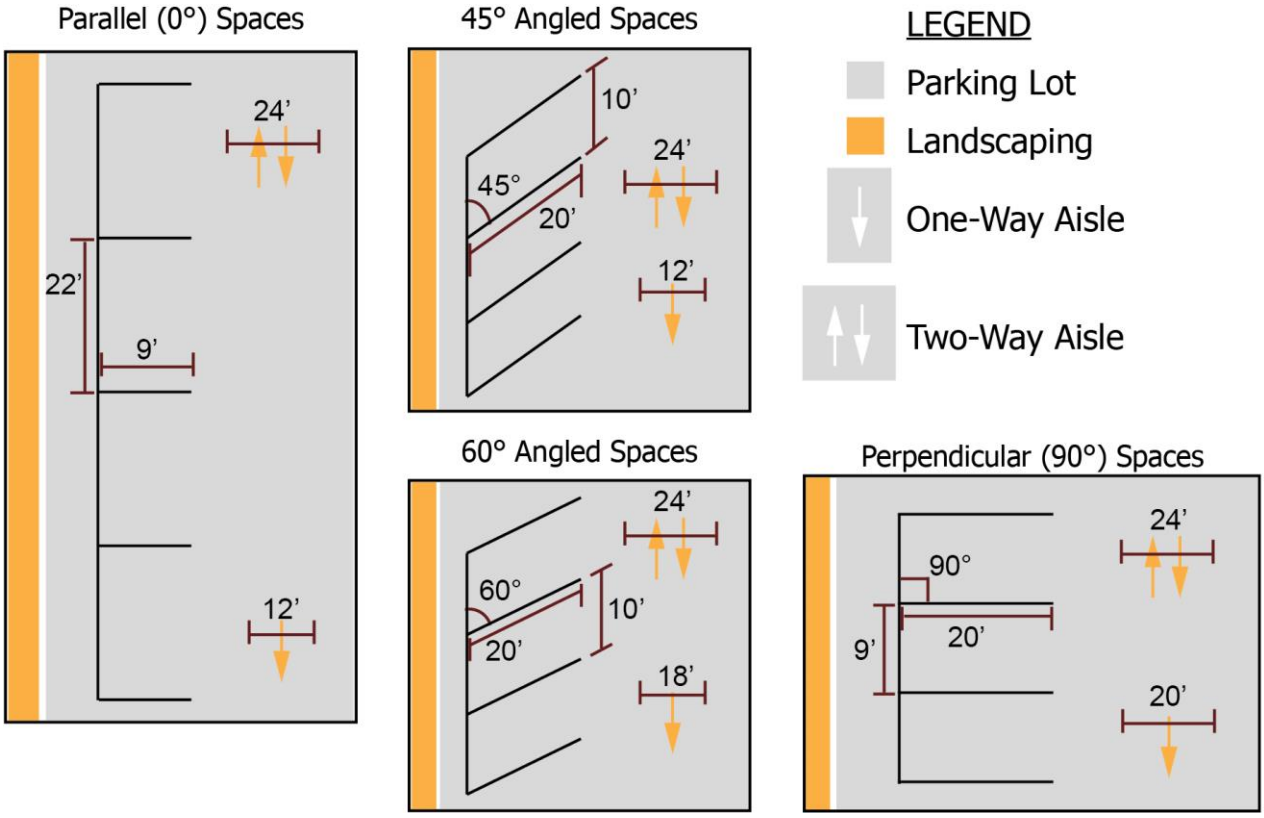
E. FLOOR-AREA BASED STANDARDS

Where the minimum number of off-street parking spaces is based on square feet of floor area, all computations shall be based on gross floor area. The square footage shall include outdoor use area.

F. PARKING SPACE AND ACCESS AISLE DIMENSIONS

Figure 6.9.10: Parking Space and Aisle Dimensions, sets out the minimum off-street parking space dimensions and minimum widths of access aisles.

FIGURE 6.9.10: PARKING SPACE AND AISLE DIMENSIONS



6.10 PEDESTRIAN FACILITIES

6.10.1 GREENWAYS AND TRAILS

A. GREENWAYS AND TRAILS DISTINGUISHED

1. GREENWAYS

a. Greenways are linear alignments of land that incorporate an improved pedestrian walkway or multi-purpose accessway available for use by bicyclists as well as pedestrians. Greenways are located within access easements reserved for and granted to the Town for the purpose of allowing access to members of the general public.

b. Greenways are located in areas designated by the Town's adopted policy guidance and may take the place of a required sidewalk or sidepath.

c. Greenways are constructed to Town standards and operated and maintained by the Town.

d. Greenways are configured in accordance with the standards in this section.

2. TRAILS

a. Trails are linear alignments of land that incorporate an improved pedestrian walkway or multi-purpose accessway available for use by bicyclists as well as pedestrians, but that are included as part of required private common open space set-aside.

b. Trails are not located in access easements granted to the Town for members of the general public, though the owner(s) of a trail may make it available for use by members of the general public.

c. Trails may not be substituted for required sidewalks or greenways.

d. Trails are not required to be constructed to Town standards and are operated and maintained by an owners' association.

e. Trails are configured in accordance with the standards in Section 6.7, Open Space Set-Aside and Parkland.

B. GREENWAY RESERVATION AND CONSTRUCTION REQUIRED

1. Whenever a tract of land included within any proposed Major Subdivision, Minor Subdivision, Site Plan, or Rezoning includes any part of a greenway designated in the Town's adopted policy guidance, the land area indicated for use as a greenway alignment shall be reserved and included within an access easement in favor of the Town.

2. Development on land subject to these standards shall incorporate greenway reservation and construction as specified in the relevant adopted policy guidance and in Table 6.10.1: Greenway Construction Required, as part of the required infrastructure serving the development.

TABLE 6.10.1: GREENWAY CONSTRUCTION REQUIRED

Type of Activity or Development	Greenway Construction Requirement [1]
Subdivision of Land [2]	Greenway Reservation and Construction Required
Development on a Vacant Lot or Site	
Replacement of an Existing Principal Structure	

TABLE 6.10.1: GREENWAY CONSTRUCTION REQUIRED

Type of Activity or Development		Greenway Construction Requirement [1]
Addition or Expansion of Existing Principal Building with no new Principal Building Construction	Total Project Cost Exceeds 50% of Preconstruction Assessed Value	Greenway Reservation and Construction Required
	Total Project Costs are 50% or less than Preconstruction Assessed Value	Greenway Reservation Required; Exempted from Greenway Construction
Change of Use with No Addition or Expansion to any Principal Building and with no New Principal Building Construction		Exempted from Greenway Reservation and Construction
Addition or Expansion of a Secondary Building with no Changes to any Principal Buildings		
Establishment of or Change to Open Air Use of Land		

NOTES:
[1] Greenways are only required in locations specified in the Town's adopted policy guidance.
[2] Exempt and Limited Subdivisions are exempted from these requirements.

3. In cases where a greenway extends between two or more phases of a development, only the portion of the greenway in the active phase of the development is required to be reserved and constructed.

C. GREENWAY CONFIGURATION

Greenways shall be located and configured in accordance with the Town's adopted policy guidance and the following:

1. MINIMUM GREENWAY WIDTH

The land area associated with a greenway shall be at least 20 feet wide, though a wider greenway may be required in accordance with adopted policy or as needed in cases where a public utility or drainage easement is located within the greenway alignment.

2. EASEMENT REQUIRED

The greenway shall be wholly located within an access easement granted by the landowner in favor of the Town. The easement shall be clearly identified on all Site Plans, Construction Drawings, and Subdivision Plats, and shall be recorded in the office of the Johnston County Register of Deeds prior to the issuance of any Certificates of Occupancy.

3. GREENWAY ACCESS

A greenway may only be accessed by a public street, publicly-owned land, or by another greenway segment.

4. GREENWAY SURFACE

a. The trail or pathway portion of a greenway shall maintain a minimum width of at least ten feet unless a wider configuration is specified in the adopted policy guidance.

b. The trail or pathway portion shall be paved with concrete or asphalt in accordance with the Town's Engineering Specifications and Design Manual and federal ADA requirements.

c. The trail or pathway portion shall be crowned or maintain positive drainage so that water does not collect or pool within the walkway.

d. All bridges located within a greenway shall include railings of at least 42 inches in height and shall be configured to accommodate the movement of public vehicles.

e. All greenways shall maintain a minimum vertical clearance of at least eight feet.

5. MAXIMUM GRADE

In no instance shall the grade of a paved greenway surface exceed five percent.

6. SLOPE

In no instance shall the vertical slope exceed five percent, or the cross slope exceed two percent.

7. ASSOCIATED FEATURES

Benches, seating, trashcans, lighting, play structures, and other related features located within a greenway shall be approved by the Town prior to placement.

8. LOCATION WITHIN BUILDABLE LOTS

In no instance shall a greenway easement be located within the boundaries of a buildable lot.

9. LOCATION WITH RIPARIAN AREAS

Greenways may be located within riparian buffers, watersupply watershed areas, and resource conservation areas in accordance with the standards in this Ordinance and applicable State and federal law.

D. GREENWAY FEE-IN-LIEU

Only Town-mandated fee-in-lieu proposals (see Section 2.3.13, Fee-in-Lieu) for the reservation or construction of a required greenway shall be considered.

E. GREENWAY CREDITS

Land that is occupied by a required greenway easement shall be credited toward the donating parcel, lot, or tract area for the purpose of calculating the available density of development though no longer part of the parcel.

F. OPEN SPACE SET-ASIDE CREDITS

Land located within a greenway access easement and accepted for operation and maintenance by the Town shall be credited towards applicable open space set-aside requirements for active recreation or gathering space in Section 6.7, Open Space Set-Aside and Parkland.

G. MAINTENANCE REQUIREMENTS

Maintenance and operation of a greenway following reservation and construction shall be the responsibility of the Town.

6.10.2 SIDEWALKS AND MULTI-USE PATHS

A. SIDEWALKS AND MULTI-USE PATHS DISTINGUISHED

1. SIDEWALKS

a. Sidewalks are improved pedestrian walkways located within and parallel to a public street right-of-way.

b. Sidewalks are paved with concrete and maintain a minimum width of five to eight feet, depending upon location, width of adjacent pre-existing sidewalks, anticipated use level, or terrain.

2. MULTI-USE PATHS

a. Multi-use paths are improved pedestrian ways located within a public street right-of-way, or located on public land dedicated to the Town located outside a public street right-of-way.

b. Multi-use paths are paved with concrete or asphalt.

c. Multi-use paths are at least ten feet wide, though they may be wider based on site conditions, anticipated use level, or terrain.

B. APPLICABILITY

1. The standards in this section shall be applied to applications for a Major Subdivision, Minor Subdivision, Site Plan, or Rezoning in accordance with Table 6.10.2: Sidewalk or Multi-use Path Construction Required.

2. These standards are not applied to the development of a single lot with a single-family detached, single-family attached, or duplex dwelling.

C. SIDEWALK AND MULTI-USE PATH DEDICATION AND CONSTRUCTION REQUIRED

1. Whenever a tract of land included within any proposed Major Subdivision, Minor Subdivision, Site Plan, or Rezoning includes or abuts an existing or planned pedestrian facility identified by this section or the Town's adopted policy guidance, the land area indicated for use as a sidewalk or multi-use path shall be dedicated to the Town.

2. All new sidewalks and multi-use paths shall be constructed by the developer as part of the proposed development or redevelopment in accordance with this section.

3. The determination of whether a required pedestrian facility will take the form of a sidewalk or a multi-use path, or both depending upon the size of the proposed development, shall be based upon the Town's adopted policy guidance, the Town's Comprehensive Transportation Plan, the current Capital Improvement Plan, any applicable conditions of approval, or existing conditions on lands abutting a proposed development or redevelopment. In cases where one or more of these provisions conflict, the Engineering Director shall determine the pedestrian facility configuration. The Engineering Director's decision may be appealed in accordance with Section 2.3.2, Appeal.

4. In cases where an existing pedestrian facility is already present on land subject to development or redevelopment, but is substandard in terms of its minimum width, required materials, location, or other Town requirement, the developer shall take whatever actions are necessary to improve the existing pedestrian facility to the minimum level required by this Ordinance and adopted policy guidance.

5. Table 6.10.2: Sidewalk or Multi-use Path Construction Required, listed below, identifies the kinds of development subject to or exempted from these standards.

TABLE 6.10.2: SIDEWALK OR MULTI-USE PATH CONSTRUCTION REQUIRED

Type of Activity or Development [1]	Sidewalk or Multi-use Path Requirement
Construction of New Street or Street Segment	Sidewalk/Multi-use Path Dedication and Construction Required
Subdivision of Land [2]	

TABLE 6.10.2: SIDEWALK OR MULTI-USE PATH CONSTRUCTION REQUIRED

TYPE OF ACTIVITY OR DEVELOPMENT [1]		SIDEWALK OR MULTI-USE PATH REQUIREMENT
Development on a Vacant Lot or Site		
Replacement of an Existing Principal Structure		
Addition or Expansion of Existing Principal Building with no new Principal Building Construction	Total Project Cost Exceeds 50% of Preconstruction Assessed Value	Sidewalk/Multi-use Path Dedication and Construction Required
	Total Project Costs are 50% or less than Preconstruction Assessed Value	Exempted from Sidewalk/Multi-use Path Construction [3]
Change of Use with No Addition or Expansion to any Principal Building and with no New Principal Building Construction		Exempted from Sidewalk/Multi-use Path Requirements
Addition or Expansion of a Secondary Building with no Changes to any Principal Buildings		
Establishment of or Change to Open Air Use of Land		

NOTES:
[1] Development exempted in accordance with Section 6.10.2B, Applicability, are exempted from these standards.
[2] Exempt and Limited Subdivisions are exempt from these requirements.
[3] The Town may, in its sole discretion, require dedication of land necessary for a sidewalk or multi-use path.

6. In cases where a sidewalk or multi-use path extends between two or more phases of a development, only the portion of the sidewalk or multi-use path in the active phase of the development is required to be dedicated and constructed.

D. SIDEWALK AND MULTI-USE PATH LOCATION

Sidewalk and multi-use path locations are established in accordance with the Town's adopted policy guidance and the following standards:

1. BOTH SIDES OF THE STREET

a. Except where otherwise allowed by this section, sidewalks, or multi-use paths (or a combination of the two) shall be provided along both sides of all public streets, including cul-de-sac heads, within the Town's corporate limits.

b. Outside the corporate limits, sidewalks or multi-use paths are required on both sides of all public streets within and abutting developments where lots are smaller than one acre in size.

2. ONE SIDE OF THE STREET

a. Sidewalks or multi-use paths are required on only one side of a street within and abutting developments where lots are one acre in size or larger located outside the Town's corporate limits.

b. When sidewalks are required on one side of the street, they shall generally be located on the side of the street to best continue existing sidewalk networks if present.

c. Where there is no clear preferable street side for the placement of a sidewalk or a multi-use path, the pedestrian facility shall be placed on the street side where it is least likely to have a negative impact on deployment of subsequent infrastructure or stormwater management, in the opinion of the Engineering Director.

d. In cases where a new sidewalk or multi-use path is only required on one side of the street, the subdivider shall provide a pedestrian crossing or other acceptable form of pedestrian connection to ensure a continuous and uninterrupted pedestrian access, as appropriate.

3. NO SIDEWALKS OR MULTI-USE PATHS REQUIRED

No sidewalks or multi-use paths shall be required in the following locations:

a. Along alleys and accessways to individual lots not served by a street;

b. Where an existing or proposed greenway can provide an equivalent level of pedestrian circulation, in the sole opinion of the Engineering Director;

c. In developments where provision of a fee-in-lieu in accordance with Section 2.3.13, Fee-in-Lieu, is approved; and

d. In cases where environmental or topographic conditions make required sidewalk or multi-use path provision impossible, in the sole opinion of the Engineering Director.

E. SIDEWALK AND MULTI-USE PATH CONFIGURATION

1. Sidewalks and multi-use paths shall be configured in accordance with the Town's Engineering Specifications and Design Manual.
2. Sidewalks shall be located within public street rights-of-way. In cases where the street is operated and maintained by NCDOT, the sidewalk location shall be in accordance with applicable NCDOT requirements.
3. Except when configured to transverse a tract in areas apart or away from a public street, multi-use paths shall be located within public street rights-of-way. In cases where a multi-use path is not located within a public street right-of-way, it shall be located on land dedicated to the Town.
4. Whenever curb and gutter construction is used on public streets, wheelchair ramps for the disabled, configured in accordance with Town or NCDOT standards, as applicable, shall be provided at intersections and other major points of pedestrian flow in accordance with NCGS§136-44.14.
5. Multi-use paths when located outside a street right-of-way shall originate and terminate at logical locations as determined by the applicable adopted policy guidance, condition of approval, or site conditions as determined by the Engineering Director.
6. Sidewalks and multi-use paths shall connect with existing or planned sidewalks at property boundaries.
7. Sidewalks and multi-use paths shall continue across the full frontage of a lot from lot line to lot line.
8. Any required sidewalk shall be constructed with concrete or other approved surface material and shall comply with the provisions of the Americans with Disabilities Act.
9. The required sidewalk shall be constructed with a minimum width of 60 inches, a minimum of four inches thickness for areas subject to pedestrian traffic, a minimum of seven inches thickness for areas subject to vehicular traffic, joints spaced every three feet, and a minimum 3,000 PSI compressive strength.
10. The required sidewalk width shall increase from 60 inches to 72 inches when it abuts the back of the curb.

11. In cases where new sidewalk or multi-use path sections are proposed to join with existing pedestrian facilities of a differing width, the new sidewalk or multi-use path width shall include a gradual taper or flare, as appropriate so as to avoid abrupt changes in pedestrian facility width.

F. TIMING OF INSTALLATION

Sidewalks and multi-use paths shall be installed by the developer in accordance with Section 2.3.21H, Construction Drawings Associated with a Site Plan, if associated with a Site Plan, or Section 2.3.17F, Stage 2, Construction Drawings Associated with Subdivision, if associated with a Subdivision.

G. FEE-IN-LIEU

1. Proposed sidewalks and multi-use paths that may cause conflicts with other Town, State, or federal infrastructure projects in the opinion of the Engineering director may be subject to the requirements for Town-mandated fee-in-lieu provision in accordance with Section 2.3.13, Fee-in-Lieu.
2. All other fee-in-lieu requests shall be considered in accordance with Section 2.3.13, Fee-in-Lieu.

H. MAINTENANCE REQUIREMENTS

Maintenance and operation of a sidewalk or multi-use path following acceptance by the Town shall be the responsibility of the Town.

6.11 RESOURCE CONSERVATION AREAS

6.11.1 DETERMINATION OF RESOURCE CONSERVATION AREAS

The following are considered resource conservation areas and shall be unoccupied by buildings or other impervious surfaces unless permitted in accordance with the standards in this section.

A. The 100-year floodplain;
B. Stream buffer areas;
C. Jurisdictional wetlands under federal law that meet the definition applied by the United States Army Corps of Engineers; and
D. Natural steep slopes defined as slopes 25 percent (4:1) or greater that are directly connected to one of the above features, and at least 5,000 square feet of contiguous area.

6.11.2 GENERAL REQUIREMENTS

A. Resource conservation areas shall be identified on Site Plans, Preliminary Plats, and Final Plats as being permanently set aside from development.
B. No resource conservation area shall be counted towards the minimum lot area required in Chapter 3, Districts, with the exception of land occupied by a riparian buffer in accordance with NCGS §143-214.23A.
C. Resource conservation areas may be included within a platted lot provided the area of the lot not identified as resource conservation area is sufficient to meet the lot area requirements for the zoning district where located.
D. Except for the following, no resource conservation area shall be counted as open space set-aside required in Section 6.7, Open Space Set-Aside and Parkland:
  1. Riparian buffers identified in accordance with NCGS §143-214.23A, and Section 6.12, Riparian Buffers; and
  2. Greenways, greenway access, and water-access configured in accordance with the Town's adopted policy guidance and Section 6.10.1, Greenways and Trails.
E. In cases where an appropriate State or federal agency issues permits for development in a stream buffer area or jurisdictional wetlands, the area may be developed as if it is not located within a resource conservation area, in the sole discretion of the Planning Director.

6.11.3 PERMITTED USES OF RESOURCE CONSERVATION AREAS

Uses in resource conversation areas may include the following:

A. Conservation areas for natural, archeological, or historical resources;
B. Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
C. Agriculture, horticulture, silviculture, or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts;
D. Walking or bicycle trails;
E. Easements for drainage, access, and underground utility lines;
F. Other conservation-oriented uses compatible with the purposes of this section; and
G. Public infrastructure projects and supporting facilities.

6.11.4 PROHIBITED USES OF RESOURCE CONSERVATION AREAS

Use of resource conservation areas may not include the following:

A. Stormwater control measures;

B. Roads, parking lots and impervious surfaces, except as specifically authorized through the appropriate governing body (DEQ, USACE, etc.); and

C. Golf courses, agricultural and forestry activities not conducted according to accepted best management practices.

6.11.5 OWNERSHIP AND MAINTENANCE

A. OWNERSHIP

Resource conservation areas shall be accepted and owned by one of the following entities:

1. LAND CONSERVANCY OR LAND TRUST

The responsibility for maintenance shall be borne by a land conservancy or land trust.

2. OWNERS' ASSOCIATION

An owners association representing residents of the subdivision shall own the resource conservation areas. The owners' association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintenance of the resource conservation area shall be borne by the owner's association.

3. PRIVATE LANDOWNER

A private landowner may retain ownership of the resource conservation areas and may be responsible for maintenance of the resource conservation area.

B. MAINTENANCE REQUIREMENTS

1. Resource conservation area maintenance is limited to removal of litter, dead tree and plant materials and brush.
2. Natural water courses are to be maintained as free-flowing and devoid of debris.
3. Stream channels shall be maintained so as not to alter floodplain levels.
4. Unless otherwise specified by the Town Council, maintenance is limited to ensuring that there exist no hazards, nuisances, or unhealthy conditions.

C. LEGAL INSTRUMENT FOR PERMANENT PROTECTION

1. Resource conservation areas shall be protected in perpetuity by a binding legal instrument that is recorded with the Register of Deeds for Johnston County.
2. The instrument for permanent protection shall include clear restrictions on the use of the of resource conservation area. These restrictions shall include all restrictions contained in this section, as well as any further restrictions the applicant chooses to place on the use of the resource conservation areas. Where appropriate, the instrument shall allow for stream or habitat restoration.

6.12 RIPARIAN BUFFERS

6.12.1 AUTHORITY

This section is adopted pursuant to the authority vested in the Town of Clayton and the General Statutes of North Carolina, particularly:

A. NCGS§§ 153A-121 and 153A-140;
B. NCGS§§ 160A-174 and 160A-193;
C. Chapter 160D of the North Carolina General Statutes; and
D. Any special legislation enacted by the General Assembly for the Town of Clayton.

6.12.2 PURPOSE AND INTENT

This section is adopted to protect and preserve existing riparian buffers throughout the Neuse River Basin as generally described in Rule 15A NCAC 02B .0714 (Nutrient Sensitive Waters Management Strategy: Protection and Maintenance of Existing Riparian Buffers) of the North Carolina Administrative Code, in order to maintain their nutrient removal and stream protection functions. Further, this section is intended to:

A. Help protect the water supply uses of Falls of the Neuse Reservoir Watershed and designated water supplies throughout the Neuse River Basin;
B. Enhance and protect the natural ecology of stream systems;
C. Protect water quality through bank stabilization, shading, and nutrient removal;
D. Minimize flood damage in flood prone areas;
E. Help to remove nitrogen from surface waters; and
F. Prevent sediment and sediment-bound pollutants such as phosphorous from reaching the streams.

6.12.3 APPLICABILITY

Except where exempted by Section 6.12.4, Exemptions, the standards in this section shall apply to all landowners and governmental entities conducting activities within riparian buffer areas as designated below.

A. GENERALLY

1. These standards shall apply to activities conducted within 50-foot-wide riparian buffers directly adjacent to surface waters in the Neuse River Basin (intermittent streams, perennial streams, lakes, ponds, reservoirs, and estuaries), excluding wetlands.
2. Wetlands adjacent to surface waters or within 50 feet of surface waters shall be considered as part of the riparian buffer but are regulated pursuant to 15A NCAC 02H .0506.
3. Riparian buffers shall be determined in accordance with Section 6.12.5, Zones of The Riparian Buffer.
4. No new clearing, grading, or development shall take place, nor shall any new building permits be issued in violation of these standards.
5. Stormwater runoff from activities conducted outside the riparian buffer but that result in stormwater entering the riparian buffer shall comply with Section 6.12.6, Stormwater Runoff Through the Riparian Buffer.
6. A riparian buffer may be exempt from these standards in accordance with Section 6.12.4, Exemptions.

B. RIPARIAN BUFFERS DESIGNATED BY MAP

A surface water, and the buffer area along it, shall be subject to these standards if the surface water is approximately shown on any of the following references:

1. The most recent version of the published manuscript of the soil survey map that shows stream layers prepared by the Natural Resources Conservation Service of the United States Department of Agriculture;
2. The United States Geologic Survey's (USGS) National Map; or
3. Other maps approved by the Environmental Management Commission as more accurate than those identified above. Other maps shall use a hydrography dataset developed using hydrography specifications and standard metadata approved by the Geographic Information Coordinating Council (GICC) and maintained on a GICC list of the best available hydrography. Edits, deletions, and additions to the hydrography dataset shall follow GICC approved standards and specifications, per stewardship governance. Other maps shall have their hydrography dataset and procedures for edits, deletions and additions reviewed and approved by the GICC. Other maps shall be submitted to the Division for review and recommendation to the Environmental Management Commission. Prior to recommendation to the Environmental Management Commission, the Division shall issue a 30-calendar day public notice through the Division's Mailing List in accordance with 15A NCAC 02H .0503. Division staff shall present recommendations including comments received during the public notice period to the Environmental Management Commission for a final decision. Maps approved in this way shall not apply to projects subject to Section 6.12.4B, Exemption when Exiting Uses are Present and Ongoing.

6.12.4 EXEMPTIONS

A. EXEMPTIONS BASED ON ON-SITE DETERMINATION

Surface waters that appear on the maps identified in Section 6.12.3B, Riparian Buffers Designated By Map, shall not be subject to these standards if an on-site determination shows that they fall into one of the following categories:

1. Ditches and manmade conveyances other than modified natural streams unless constructed for navigation or boat access;
2. Manmade ponds and lakes that are not fed by an intermittent or perennial stream or do not have a direct discharge point to an intermittent or perennial stream;
3. Ephemeral streams; and
4. The absence on the ground of a corresponding perennial waterbody, intermittent waterbody, lake, pond, or estuary.

B. EXEMPTION WHEN EXITING USES ARE PRESENT AND ONGOING

1. The standards in this section shall not apply to portions of the riparian buffer where a use is existing and ongoing. A use shall be considered existing if:
   a. It was present within the riparian buffer as of July 22, 1997, and has continued to exist since that time; or
   b. It was a deemed allowable activity as listed in Table 6.12.9, Table of Uses; or
   c. It was conducted and maintained pursuant to a Variance or other allowable deviation.
2. Existing and ongoing uses shall include, but not be limited to, agriculture, buildings, industrial facilities, commercial areas, transportation facilities, maintained lawns (i.e., can be mowed without a chainsaw or bush-hog), existing utility line maintenance corridors and on-

site sanitary sewage systems, any of which involve either specific periodic management of vegetation or displacement of vegetation by structures or regular activity.

3. Only the portion of the riparian buffer that contains the footprint of the existing and ongoing use is exempt from these standards.
4. Change of ownership through purchase or inheritance is not a change of use.
5. Activities necessary to maintain existing and ongoing uses are allowed provided that the site remains similarly vegetated, no built upon area is added within the riparian buffer where it did not exist prior to July 22, 1997, and the site complies with Section 6.12.6, Stormwater Runoff Through the Riparian Buffer.
6. These standards shall apply at the time an existing and ongoing use is changed to another use. Change of use shall involve the initiation of any activity not defined as existing and ongoing in this sub-section.

C. EXEMPTION FOR PONDS CONSTRUCTED AND USED FOR AGRICULTURAL PURPOSES

These standards shall not apply to a freshwater pond if all of the following conditions are met:

1. The property on which the pond is located is used for agriculture as that term is defined in NCGS§ 106-581.1.
2. The use of the property complies with all other water quality and water quantity statutes and rules applicable to the property before July 22, 1997.
3. The pond is not a component of an animal waste management system as defined in NCGS§143-215.10B (3).

6.12.5 ZONES OF THE RIPARIAN BUFFER

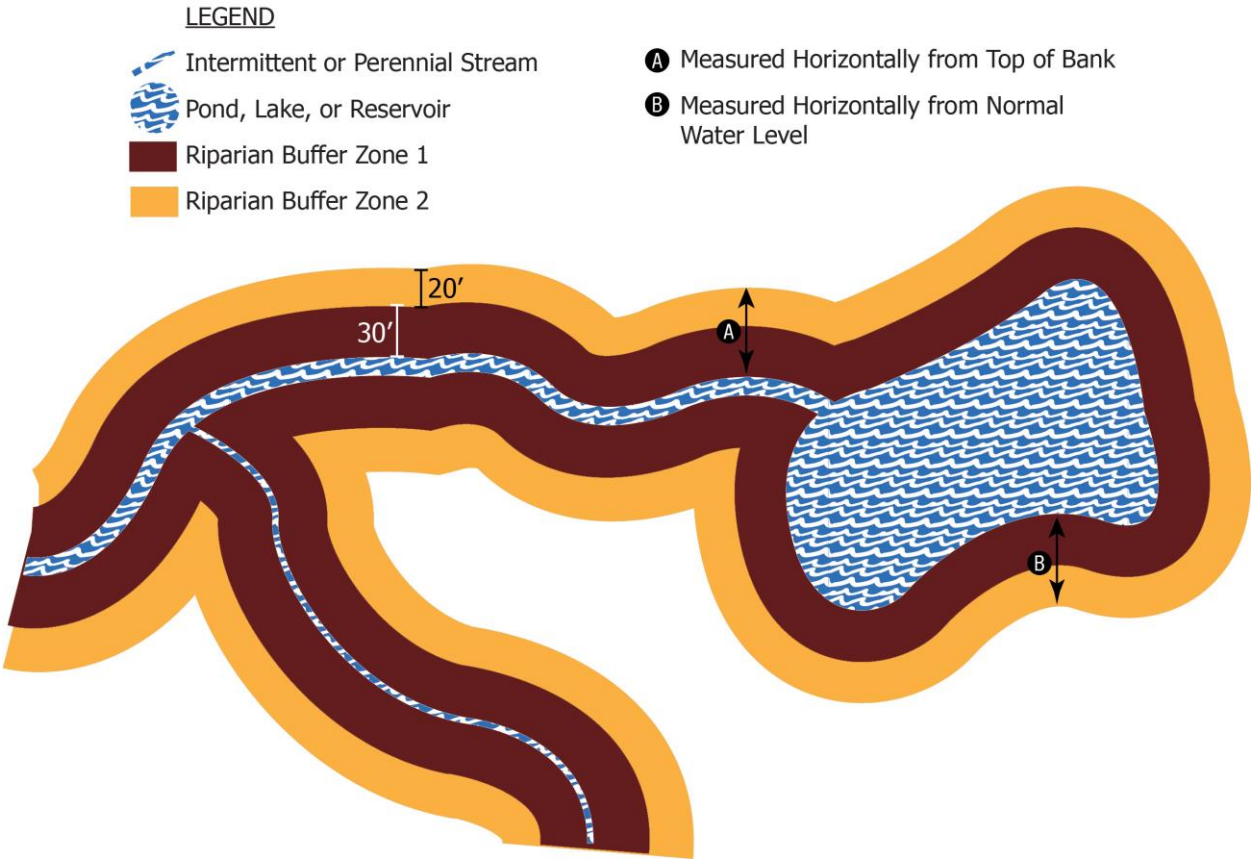
The protected riparian buffer shall have two zones as follows (see Figure 6.12.5: Riparian Buffer Zones):

A. Zone 1 shall consist of a vegetated area that is undisturbed except for uses provided for in Section 6.12.6, Stormwater Runoff Through the Riparian Buffer, and Section 6.12.9, Table of Uses. The location of Zone 1 shall be as follows:

1. For intermittent and perennial streams, Zone 1 shall begin at the most landward limit of the top of bank or the rooted herbaceous vegetation and extend landward a distance of 30 feet on all sides of the stream, measured horizontally on a line perpendicular to the stream (where an intermittent or perennial stream begins or ends, including when it goes underground, enters, or exits a culvert, or enters or exits a wetland, the required distance shall be measured as a radius around the beginning or the end).
2. For ponds, lakes, and reservoirs subject to these standards, Zone 1 shall begin at the normal water level and extend landward a distance of 30 feet, measured horizontally on a line perpendicular to the surface water.

B. Zone 2 shall consist of a stable, vegetated area that is undisturbed except for activities and uses provided for in Section 6.12.6, Stormwater Runoff Through the Riparian Buffer, and Section 6.12.9, Table of Uses. Grading and revegetating Zone 2 is allowed provided that the health of the vegetation in Zone 1 is not compromised. Zone 2 shall begin at the outer edge of Zone 1 and extend landward 20 feet as measured horizontally on a line perpendicular to the surface water. The combined width of Zones 1 and 2 shall be 50 feet on all sides of the surface water.

FIGURE 6.12.5: RIPARIAN BUFFER ZONES



6.12.6 STORMWATER RUNOFF THROUGH THE RIPARIAN BUFFER

Stormwater runoff into the riparian buffer shall meet dispersed flow as defined in 15A NCAC 02H .1002 except as otherwise described in this sub-section. Drainage conveyances include drainage ditches, roadside ditches, and stormwater conveyances. The following stormwater conveyances through the riparian buffer are either deemed allowable or allowable upon authorization, as defined in Section 6.12.9, Table of Uses, provided that they do not erode through the riparian buffer and do not cause erosion to the receiving waterbody. Stormwater conveyances through the riparian buffer that are not listed below shall be allowable with exception as defined in Section 6.12.8E, Allowable With Exception.

A. ALLOWABLE - RUNOFF

The following are deemed allowable as defined in Section 6.12.8A, Deemed Allowable:

1. New drainage conveyances from a primary SCM, as defined in 15A NCAC 02H .1002, when the primary SCM is designed to treat the drainage area to the conveyance and that comply with a stormwater management plan reviewed and approved under a State stormwater program or a State-approved local government stormwater program; and
2. New stormwater flow to existing drainage conveyances provided that the addition of new flow does not result in the need to alter the conveyance.

B. ALLOWABLE UPON AUTHORIZATION - RUNOFF

The following are allowable upon authorization as defined in Section 6.12.8B, Allowable Upon Authorization:

1. New drainage conveyances from a primary SCM as defined in 15A NCAC 02H .1002 when the primary SCM is provided to treat the drainage area to the conveyance but are not required to be approved under a State stormwater program or a State-approved local government stormwater program;
2. New drainage conveyances when the drainage area to the conveyance is demonstrated via approved nutrient calculation methodologies to meet the nutrient loading goal of 3.6 pounds per acre per year of Nitrogen (N) outside of the Falls of the Neuse Reservoir Watershed;
3. New drainage conveyances when the flow rate of the conveyance is less than 0.5 cubic feet per second during the peak flow from the 0.75 inch per hour storm;
4. New stormwater runoff that has been treated through a level spreader-filter strip that complies with 15A NCAC 02H .1059;
5. Realignment of existing drainage conveyances applicable to publicly funded and maintained linear transportation facilities when retaining or improving the design dimensions provided that no additional travel lanes are added, and the minimum required roadway typical section is used based on traffic and safety considerations;
6. Realignment of existing drainage conveyances retaining or improving the design dimensions provided that the size of the drainage area and the percent built-upon area within the drainage area remain the same;
7. New or altered drainage conveyances applicable to publicly funded and maintained linear transportation facilities provided that SCMs or BMPs from the NCDOT Stormwater Best Management Practices Toolbox, are employed;
8. New drainage conveyances applicable to publicly funded and maintained linear transportation facilities that do not provide a stormwater management facility due to topography constraints provided other measures are employed to protect downstream water quality to the maximum extent practical; and
9. New drainage conveyances where the drainage area to the conveyance has no new built-upon area as defined in 15A NCAC 02H .1002 and the conveyance is necessary for bypass of existing drainage only.

6.12.7 PLATTING WITHIN A RIPARIAN BUFFER

In no instance shall riparian buffers be included as part of a buildable lot established as part of a Major, Minor, or Limited Subdivision.

6.12.8 USES

Uses within the riparian buffer, or outside the riparian buffer with hydrological impacts on the riparian buffer, shall be designated as deemed allowable, allowable upon authorization, allowable with mitigation upon authorization, allowable with exception or prohibited. Potential new uses shall have the following requirements:

A. DEEMED ALLOWABLE

Uses designated as deemed allowable in Section 6.12.6A, Allowable - Runoff, or Section 6.12.9, Table of Uses, may occur within the riparian buffer. Deemed allowable uses shall be designed, constructed, and maintained to minimize vegetation and soil disturbance and to provide the maximum water quality protection practicable, including construction, monitoring, and maintenance activities. In addition, deemed allowable uses shall meet the requirements listed in Section 6.12.9, Table of Uses, for the specific use.

B. ALLOWABLE UPON AUTHORIZATION

Uses designated as allowable upon authorization in Section 6.12.6B, Allowable Upon Authorization - Runoff, or Section 6.12.9, Table of Uses, require a written authorization from the Town for impacts within the riparian buffer pursuant to these standards.

C. ALLOWABLE WITH MITIGATION UPON AUTHORIZATION

Uses designated as allowable with mitigation upon authorization in Section 6.12.9, Table of Uses, require a written authorization from the Town for impacts within the riparian buffer pursuant to these standards and an appropriate mitigation strategy that has received written approval pursuant to Section 6.12.10, Mitigation.

D. PROHIBITED

Uses designated as prohibited in Section 6.12.9, Table of Uses, may not proceed within the riparian buffer unless a variance has been granted in accordance with Section 2.3.29, Variance. Mitigation may be required as a condition of approval of the variance.

E. ALLOWABLE WITH EXCEPTION

Uses not designated as deemed allowable, allowable upon authorization, allowable with mitigation upon authorization or prohibited in Section 6.12.9, Table of Uses, require a written authorization certificate with exception from the Town for impacts within the riparian buffer pursuant to this Ordinance and an appropriate mitigation strategy that has received written approval pursuant to Section 6.12.10, Mitigation.

6.12.9 TABLE OF USES

The following table sets out potential new uses within the riparian buffer, or outside the riparian buffer with hydrological impacts on the riparian buffer, and designates them as deemed allowable, allowable upon authorization, allowable with mitigation upon authorization, or prohibited:

TABLE 6.12.9: TABLE OF USES IN RIPARIAN BUFFERS				
USE OR ACTIVITY	DEEMED ALLOWED	ALLOWABLE UPON AUTHORIZATION	ALLOWABLE WITH MITIGATION UPON AUTHORIZATION	PROHIBITED
1. Airport facilities				
(i) Vegetation removal activities necessary to comply with Federal Aviation Administration requirements (e.g. line of sight requirements) provided the disturbed areas are stabilized and revegetated	X			
(ii) Airport facilities that impact equal to or less than one-third of an acre of riparian buffer		X		
(iii) Airport facilities that impact greater than one-third of an acre of riparian buffer			X	
2. Archaeological activities	X			
3. Bridges				
(i) Impact equal to or less than one-tenth of an acre of riparian buffer	X			
(ii) Impact greater than one-tenth of an acre of riparian buffer		X		
4. Dam maintenance activities				
(i) Dam maintenance activities that do not cause additional riparian buffer disturbance beyond the footprint of the existing dam	X			
(ii) Dam maintenance activities that do cause additional riparian buffer disturbance beyond the footprint of the existing dam		X		
5. Drainage of a pond subject to Section 6.12.3B, Riparian Buffers Designated By Map, provided that a new riparian buffer is established by natural regeneration or planting, within 50 feet of any stream which naturally forms or is constructed within the drained pond area. Drained ponds shall be allowed to naturalize for a minimum of six months from completion of the draining activity before a stream determination is conducted pursuant to Section 6.12.4A, Exemptions Based on on-Site Determination	X			
6. Fences				
(i) Fencing livestock out of surface waters	X			
(ii) Installation does not result in removal of trees from Zone 1	X			
(iii) Installation results in removal of trees from Zone 1		X		
7. Fertilizer Application				
(i) One-time fertilizer application at agronomic rates in the riparian buffer to establish replanted vegetation. No runoff from this one-time application in the riparian buffer is allowed in the surface water	X			

TABLE 6.12.9: TABLE OF USES IN RIPARIAN BUFFERS				
USE OR ACTIVITY	DEEMED ALLOWED	ALLOWABLE UPON AUTHORIZATION	ALLOWABLE WITH MITIGATION UPON AUTHORIZATION	PROHIBITED
(ii) Ongoing fertilizer application				X
8. Forest harvesting	See Section 15A NCAC 02B .0612			
9. Grading only in Zone 2 provided that the health of existing vegetation in Zone 1 is not compromised, Section 6.12.6, Stormwater Runoff Through the Riparian Buffer, is complied with, and disturbed areas are stabilized and revegetated	X			
10. Greenways, trails, sidewalks, or linear pedestrian/ bicycle transportation systems				
(i) In Zone 2 provided that no built upon area is added within the riparian buffer	X			
(ii) In Zone 1 provided that no built upon area is added within the riparian buffer and the installation does not result in the removal of tree(s)	X			
(iii) When built upon area is added to the riparian buffer, equal to or less than 10 feet wide with two-foot-wide shoulders. Shall be located outside Zone 1 unless there is no practical alternative		X		
(iv) When built upon area is added to the riparian buffer, greater than 10 feet wide with two-foot-wide shoulders. Shall be located outside Zone 1 unless there is no practical alternative			X	
11. Historic preservation	X			
12. New landfills as defined in NCGS§ 130A-290				X
13. Maintenance access on modified natural streams or canals: a grassed travelway on one side of the waterbody when less impacting alternatives are not practical. The width and specifications of the travel way shall be only that needed for equipment access and operation. The travelway shall be located to maximize stream shading		X		
14. Mining activities				
(i) Mining activities that are covered by the Mining Act provided that new riparian buffers that meet the requirements of Section 6.12.5, Zones of The Riparian Buffer, and Section 6.12.6, Stormwater Runoff Through the Riparian Buffer, are established adjacent to any relocated channels		X		

TABLE 6.12.9: TABLE OF USES IN RIPARIAN BUFFERS

USE OR ACTIVITY	DEEMED ALLOWED	ALLOWABLE UPON AUTHORIZATION	ALLOWABLE WITH MITIGATION UPON AUTHORIZATION	PROHIBITED
(ii) Mining activities that are not covered by the Mining Act or where new riparian buffers that meet the requirements of Section 6.12.5, Zones of The Riparian Buffer, and Section 6.12.6, Stormwater Runoff Through the Riparian Buffer, are not established			X	
(iii) Wastewater or mining dewatering wells with approved NPDES permit	X			
15. On-site sanitary sewage systems - new ones that use ground absorption				X
16. Pedestrian access trail and associated steps leading to a surface water, dock, canoe or kayak access, fishing pier, boat ramp or other water dependent structure				
(i) Equal to or less than six feet wide that does not result in the removal of tree(s) within the riparian buffer and does not result in the addition of built upon area to the riparian buffer	X			
(ii) Equal to or less than six feet wide that results in the removal of tree(s) or the addition of built upon area to the riparian buffer		X		
(iii) Greater than six feet wide			X	
17. Playground equipment				
(i) Playground equipment on single-family lots provided that installation and use does not result in removal of vegetation	X			
(ii) Playground equipment on single-family lots where installation or use results in the removal of vegetation		X		
(iii) Playground equipment installed on lands other than single-family lots		X		
18. Ponds created or modified by impounding streams subject to riparian buffers pursuant to Section 6.12.3B, Riparian Buffers Designated By Map and not used as stormwater control measures (SCMs)				
(i) New ponds provided that a riparian buffer that meets the requirements of Section 6.12.5, Zones of The Riparian Buffer, and Section 6.12.6, Stormwater Runoff Through the Riparian Buffer is established adjacent to the pond		X		
(ii) New ponds where a riparian buffer that meets the requirements of Section 6.12.5, Zones of The Riparian Buffer, and Section 6.12.6, Stormwater Runoff Through the Riparian Buffer is not established adjacent to the pond			X	
19. Protection of existing structures and facilities when this requires additional disturbance to the riparian buffer		X		

TABLE 6.12.9: TABLE OF USES IN RIPARIAN BUFFERS

Use or Activity	Deemed Allowed	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
20. Public Safety - publicly owned spaces where it has been determined by the head of the local law enforcement agency with jurisdiction over that area that the riparian buffers pose a risk to public safety. The head of the local law enforcement agency shall notify the local government with land use jurisdiction over the publicly owned space and the Division of Water Resources of any such determination in writing	X			
21. Removal of previous fill or debris provided that Section 6.12.6, Stormwater Runoff Through the Riparian Buffer, is complied with and any vegetation removed is restored	X			
22. Residential Properties: Where application of this Rule would preclude construction or expansion of a single-family residence and necessary infrastructure, the single-family residence may encroach in the buffer if all of the following conditions are met: (1) the residence is set back the maximum feasible distance from the top of the bank, rooted herbaceous vegetation, normal high-water level, or normal water level, whichever is applicable, on the existing lot; (2) the residence is designed to minimize encroachment into the riparian buffer; (3) the residence complies with Section 6.12.6, Stormwater Runoff Through the Riparian Buffer; and (4) if the residence will be served by an on-site wastewater system, no part of the septic tank or drainfield may encroach into the riparian buffer				
(i) The residence or necessary infrastructure only impact Zone 2		X		
(ii) The residence or necessary infrastructure impact Zone 1			X	
(iii) Impacts other than the residence or necessary infrastructure			X	
23. Restoration or enhancement (wetland, stream) as defined in 33 CFR Part 332				
(i) Wetland or stream restoration is part of a compensatory mitigation bank, nutrient offset bank, or the in-lieu fee program	X			
(ii) Wetland or stream restoration other than those listed above		X		
24. Road, driveway, or railroad - impacts other than perpendicular crossings of streams and other surface waters subject to these standards			X	
25. Road, driveway, or railroad - perpendicular crossings of streams and other surface waters subject to these standards				
(i) Impact equal to or less than one-tenth of an acre of riparian buffer	X			

TABLE 6.12.9: TABLE OF USES IN RIPARIAN BUFFERS				
USE OR ACTIVITY	DEEMED ALLOWED	ALLOWABLE UPON AUTHORIZATION	ALLOWABLE WITH MITIGATION UPON AUTHORIZATION	PROHIBITED
(ii) Impact greater than one-tenth of an acre but equal to or less than one-third of an acre of riparian buffer		X		
(iii) Impact greater than one-third of an acre of riparian buffer			X	
(iv) Driveway crossings in a residential subdivision that cumulatively impact equal to or less than one-third of an acre of riparian buffer		X		
(v) Driveway crossings in a residential subdivision that cumulatively impact greater than one-third of an acre of riparian buffer			X	
(vi) Farm roads and forest roads that are exempt from permitting from the U.S. Army Corps of Engineers per Section 404(f) of the Federal Clean Water Act	X			
26. Road relocation of existing private access roads associated with public road projects where necessary for public safety				
(i) Less than or equal to 2,500 square feet of riparian buffer impact		X		
(ii) Greater than 2,500 square feet of riparian buffer impact			X	
27. Scientific studies and stream gauging	X			
28. Slatted uncovered decks, including steps and support posts, which are associated with a dwelling, provided that it meets the requirements of Section 6.12.5, Zones of The Riparian Buffer, and Section 6.12.6, Stormwater Runoff Through the Riparian Buffer				
Installation does not result in removal of vegetation in Zone 1		X		
(ii) Installation results in removal of vegetation in Zone 1			X	
29. Stormwater Control Measure (SCM) as defined in 15A NCAC 02H .1002				
(i) In Zone 2 if Section 6.12.6, Stormwater Runoff Through the Riparian Buffer is complied with		X		
(ii) Installation results in removal of vegetation in Zone 1			X	
30. Streambank or shoreline stabilization		X		
31. Temporary roads, provided that the disturbed area is restored to pre-construction topographic and hydrologic conditions and replanted with comparable vegetation within two months of when construction is complete. Tree planting may occur during the dormant season. At the end of five years, any restored wooded riparian buffer shall comply with the restoration criteria in 15A NCAC 026 .0295(i)				
(i) Less than or equal to 2,500 square feet of riparian buffer disturbance	X			
(ii) Greater than 2,500 square feet of riparian buffer disturbance		X		
(iii) Associated with culvert installation or bridge construction or replacement		X		

TABLE 6.12.9: TABLE OF USES IN RIPARIAN BUFFERS

Use or Activity	Deemed Allowed	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
32. Temporary sediment and erosion control devices provided that the disturbed area is restored to preconstruction topographic and hydrologic conditions and replanted with comparable vegetation within two months of when construction is complete. Tree planting may occur during the dormant season. At the end of five years, any restored wooded riparian buffer shall comply with the restoration criteria in 15A NCAC 026 .0295(i)				
(i) In Zone 2 provided that ground cover is established within the timeframes required by the Sedimentation and Erosion Control Act, vegetation in Zone 1 is not compromised, and that discharge is released in accordance with Section 6.12.6, Stormwater Runoff Through the Riparian Buffer	X			
(ii) In Zones 1 and 2 to control impacts associated with uses identified in this Table or uses that have received an Authorization Certificate with Exception provided that sediment and erosion control for upland areas is addressed outside the riparian buffer		X		
(iii) In-stream temporary erosion and sediment control measures for work within a stream channel that is authorized under Sections 401 and 404 of the Federal Clean Water Act	X			
33. Utility Lines - Streambank stabilization for the protection of publicly owned utility lines (not including new line installation)				
(i) Less than 150 feet of streambank disturbance	X			
(ii) Greater than 150 feet of streambank disturbance		X		
34. Utility – Sewer lines – Sanitary Sewer Overflows				
(i) Emergency sanitary sewer overflow response activities, provided that the disturbed area within the riparian buffer outside of the existing utility line maintenance corridor is the minimum necessary to respond to the emergency overflow, is restored to pre-construction topographic and hydrologic conditions, and is replanted with comparable vegetation (e.g. grass with grass, hardwoods with hardwoods) within two months of when disturbance is complete	X			
(ii) Emergency sanitary sewer overflow response activities that do not meet the listing above. For any new proposed permanent impacts that are not a "Deemed Allowable Activity", an application for an Authorization Certificate shall be submitted to the Authority no later than 30 calendar days of conclusion of the emergency response activities		X		
35. Utility - Sewer Lines – Vegetation maintenance activities that remove forest vegetation from existing sewer utility right of ways (not including new line installation) outside of the existing utility line maintenance corridor				
(i) Zone 2 impacts	X			

TABLE 6.12.9: TABLE OF USES IN RIPARIAN BUFFERS				
USE OR ACTIVITY	DEEMED ALLOWED	ALLOWABLE UPON AUTHORIZATION	ALLOWABLE WITH MITIGATION UPON AUTHORIZATION	PROHIBITED
(ii) Zone 1 impacts: For lines that have not been maintained, the vegetation can be mowed, cut or otherwise maintained without disturbance to the soil structure for a maintenance corridor that is equal to or less than 30 feet wide	X			
(iii) Zone 1 impacts other than those listed above		X		
36. Utility - Sewer Lines –Replacement / Rehabilitation of existing sewer lines within, or adjacent to, an existing right of way but outside of an existing utility line maintenance corridor provided that comparable vegetation (e.g., grass with grass, hardwoods with hardwoods) is allowed to regenerate in disturbed riparian buffers outside of the permanent maintenance corridor and riparian buffers outside of the permanent maintenance corridor are not maintained				
(i) Permanent maintenance corridor equal to or less than 30 feet wide provided there is no grading and/or grubbing within 10 feet of the top of bank when the sewer line is parallel to the stream	X			
(ii) Grading and/or grubbing within 10 feet of the top of bank when the sewer line is parallel to the stream and permanent maintenance corridor equal to or less than 30 feet wide		X		
(iii) Permanent maintenance corridor greater than 30 feet wide. For impacts other than perpendicular crossings, mitigation is only required for Zone 1 impacts. For perpendicular crossings that disturb equal to or less than 40 linear feet, no mitigation is required. For perpendicular crossings that disturb greater than 40 linear feet, mitigation is only required for Zone 1 impacts			X	
37. Utility - Sewer Lines – New Line Construction / Installation Activities – Perpendicular crossings of streams and other surface waters subject to this Rule or perpendicular entry into the riparian buffer that does not cross a stream or other surface water subject to these standards provided that vegetation is allowed to regenerate in disturbed areas outside of the permanent maintenance corridor				
(i) Construction corridor of less than or equal to 40 linear feet wide and a permanent maintenance corridor that is equal to or less than 30 feet wide	X			
(ii) Construction corridor of greater than 40 linear feet wide and less than or equal to 150 linear feet wide and a permanent maintenance corridor that is equal to or less than 30 feet wide		X		
(iii) Construction corridor of greater than 150 linear feet wide and a permanent maintenance corridor that is equal to or less than 30 feet wide			X	

TABLE 6.12.9: TABLE OF USES IN RIPARIAN BUFFERS

Use or Activity	Deemed Allowed	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
(iv) Permanent maintenance corridor greater than 30 feet wide. For impacts other than perpendicular crossings, mitigation is only required for Zone 1 impacts. For perpendicular crossings that disturb equal to or less than 40 linear feet, no mitigation is required. For perpendicular crossings that disturb greater than 40 linear feet, mitigation is only required for Zone 1 impacts			X	
38. Utility - Sewer Lines – New Line Construction / Activities – Impacts other than perpendicular crossings provided that vegetation is allowed to regenerate in disturbed areas outside of the permanent maintenance corridor				
(i) Zone 2 impacts	X			
(ii) Zone 1 impacts to less than 2,500 square feet when impacts are solely the result of tying into an existing utility line and when grubbing or grading within 10 feet immediately adjacent to the surface water is avoided		X		
(iii) Zone 1 impacts other than those listed above			X	
39. Utility - Non-Sewer Underground Lines – Vegetation maintenance activities that remove forest vegetation from existing utility right of ways (not including new line installation) outside of the existing utility line maintenance corridor				
(i) Zone 2 impacts	X			
(ii) Zone 1 impacts: For lines that have not been maintained, the vegetation can be mowed, cut or otherwise maintained without disturbance to the soil structure for a maintenance corridor that is equal to or less than 30 feet wide	X			
(iii) Zone 1 impacts other than those listed above		X		
40. Utility – Non-Sewer Underground Lines – Perpendicular crossings of streams and other surface waters subject to this Rule or perpendicular entry into the riparian buffer that does not cross a stream or other surface water subject to these standards provided that vegetation is allowed to regenerate in disturbed areas outside of the permanent maintenance corridor				
(i) Construction corridor of less than or equal to 50 linear feet wide and a permanent maintenance corridor that is equal to or less than 30 feet wide	X			
(ii) Construction corridor of greater than 50 linear feet wide and less than or equal to 150 linear feet wide and a permanent maintenance corridor that is equal to or less than 30 feet wide		X		
(iii) Construction corridor of greater than 150 linear feet wide and a permanent maintenance corridor that is equal to or less than 30 feet wide			X	
(iv) Permanent maintenance corridor that is greater than 30 linear feet wide (mitigation is required only for Zone 1 impacts)			X	

TABLE 6.12.9: TABLE OF USES IN RIPARIAN BUFFERS

Use or Activity	Deemed Allowed	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
41. Utility – Non-Sewer Underground Lines – Impacts other than perpendicular crossings provided that vegetation is allowed to regenerate in disturbed areas outside of the permanent maintenance corridor				
(i) Zone 2 impacts	X			
(ii) Zone 1 impacts to less than 2,500 square feet when impacts are solely the result of tying into an existing utility line and when grubbing or grading within 10 feet immediately adjacent to the surface water is avoided		X		
(iii) Zone 1 impacts other than those listed above			X	
42. Utilities – Non-sewer aerial lines - Perpendicular crossings of streams and other surface waters subject to this Rule or perpendicular entry into the riparian buffer that does not cross a stream or other surface water subject to these standards				
(i) Disturb equal to or less than 150 linear feet wide of riparian buffer provided that a minimum zone of 10 feet wide immediately adjacent to the waterbody is managed such that only vegetation that poses a hazard or has the potential to grow tall enough to interfere with the line is removed, that no land grubbing or grading is conducted in Zone 1, and that poles or aerial infrastructure are not installed within 10 feet of a waterbody	X			
(ii) Disturb greater than 150 linear feet wide of riparian buffer		X		
43. Utilities – Non-sewer aerial lines - Impacts other than perpendicular crossings of streams and other surface waters subject to this Rule or perpendicular entry into the riparian buffer that does not cross a stream or other surface water subject to these standards				
(i) Impacts in Zone 2 only	X			
(ii) Impacts in Zone 1 provided that a minimum zone of 10 feet wide immediately adjacent to the waterbody is managed such that only vegetation that poses a hazard or has the potential to grow tall enough to interfere with the line is removed, that no land grubbing or grading is conducted in Zone 1, and that poles or aerial infrastructure are not installed within 10 feet of a waterbody		X		
44. Vegetation management				
(i) Emergency fire control measures provided that topography is restored	X			
(ii) Periodic mowing and harvesting of plant products only in Zone 2	X			
(iii) Placement of mulch ring around restoration plantings for a period of five years from the date of planting	X			
(iv) Planting non-invasive vegetation to enhance the riparian buffer	X			
(v) Pruning forest vegetation provided that the health and function of the forest vegetation is not compromised	X			

TABLE 6.12.9: TABLE OF USES IN RIPARIAN BUFFERS

USE OR ACTIVITY	DEEMED ALLOWED	ALLOWABLE UPON AUTHORIZATION	ALLOWABLE WITH MITIGATION UPON AUTHORIZATION	PROHIBITED
(vi) Removal of individual trees, branches or limbs which are in danger of causing damage to dwellings, existing utility lines, other structures or human life, or are imminently endangering stability of the streambank provided that the stumps are left or ground in place without causing additional land disturbance	X			
(vii) Removal of individual trees that are dead, diseased, or damaged	X			
(viii) Removal of poison ivy, oak, or sumac. Removal can include application of pesticides within the riparian buffer if the pesticides are certified by EPA for use in or near aquatic sites and are applied in accordance with the manufacturer's instructions. If removal is significant, then the riparian buffer shall be replanted with non-invasive species	X			
(ix) Removal of understory nuisance vegetation as defined in: Smith, Cherri L. 2008. Invasive Plants of North Carolina. Dept. of Transportation. Raleigh, NC. Removal can include application of pesticides within the riparian buffer is the pesticides are certified by EPA for use in or near aquatic sites and are applied in accordance with the manufacturer's instructions. If removal is significant then the riparian buffer shall be replanted with non-invasive species	X			
(x) Removal of woody vegetation in Zone 1 provided that Section 6.12.6, Stormwater Runoff Through the Riparian Buffer is complied with			X	
45. Vehicle access roads and boat ramps (excluding parking areas) leading to surface water, docks, fishing piers, and other water dependent activities				
(i) Single vehicular access road and boat ramp to the surface water but not crossing the surface water that are restricted to the minimum width practicable not to exceed 15 feet wide		X		
(ii) Vehicular access roads and boat ramps to the surface water but not crossing the surface water that are restricted to the minimum width practicable and exceed 15 feet wide			X	
46. Water dependent structures (except for boat ramps) as defined in 15A NCAC 02B .0202		X		
47. Water supply reservoirs:				
(i) New reservoirs provided that a riparian buffer that meets the requirements of Section 6.12.5, Zones of The Riparian Buffer, and Section 6.12.6, Stormwater Runoff Through the Riparian Buffer is established adjacent to the reservoir		X		

TABLE 6.12.9: TABLE OF USES IN RIPARIAN BUFFERS				
USE OR ACTIVITY	DEEMED ALLOWED	ALLOWABLE UPON AUTHORIZATION	ALLOWABLE WITH MITIGATION UPON AUTHORIZATION	PROHIBITED
(ii) New reservoirs where a riparian buffer that meets the requirements of Section 6.12.5, Zones of The Riparian Buffer, and Section 6.12.6, Stormwater Runoff Through the Riparian Buffer is not established adjacent to the reservoir			X	
48. Water wells	X			
49. Wildlife passage structures		X		

6.12.10 MITIGATION

Persons who wish to undertake uses designated as allowable with mitigation upon authorization as defined in Section 6.12.8C, Allowable With Mitigation Upon Authorization, or allowable with exception as defined in Section 6.12.8E, Allowable With Exception, shall meet the following requirements in order to proceed with their proposed use:

A. Obtain an authorization certificate pursuant to 15A NCAC 02B.0611; and

B. Obtain written approval for a mitigation proposal pursuant to 15A NCAC 02B.0295.

6.13 SIGNAGE

6.13.1 PURPOSE AND INTENT

This section provides guidance and standards for signage across the Town's jurisdiction. The erection and maintenance of signs is controlled and regulated in order to promote the health, safety, welfare, convenience, and enjoyment of travel on streets and sidewalks. These provisions are also intended to balance between the promotion of beneficial commerce and the protection of community character. More specifically, these standards are intended to:

A. Promote traffic safety;
B. Avoid interference with protected free speech;
C. Regulate the content of signs to the least extent possible and only when absolutely necessary to protect public health and safety;
D. Regulate off-premise signage in accordance with State law and federal jurisprudence;
E. Ensure that any content-based signage standards serve a compelling public purpose and are as narrowly-tailored as possible;
F. Promote economic development and beneficial commerce;
G. Ensure residents and visitors can locate desired goods, services, and destinations;
H. Avoid conflicts between advertising and public safety signage;
I. Reflect the aesthetic character and design quality anticipated in the Town's adopted policy guidance; and
J. Minimize any detrimental effects of signage on adjacent properties.

6.13.2 APPLICABILITY

A. Except for the sign types exempted from these standards identified in Section 6.13.3, Exemptions, all signs shall be constructed, erected, affixed, placed, posted, painted, repainted, hung, or otherwise established only in accordance with the standards in this section and Section 2.3.20, Sign Permit.
B. Deviations from these standards may be proposed in accordance with Section 2.3.20K, Alternative Sign Plan.
C. New development comprised of two or more principal buildings on one or more lots is encouraged (but not required) to configure signage in accordance with a Uniform Sign Plan as specified in Section 2.3.20, Sign Permit.

6.13.3 EXEMPTIONS

The following forms of signage shall not be subject to these signage standards, but may be subject to other applicable standards in this Ordinance, such as the requirement to obtain a Building Permit. Applicants shall be responsible for securing all required permits prior to erecting or modifying any of the following forms of excluded signage:

A. Fence-wrap signs affixed to fences surrounding a construction site in accordance with the standards in NCGS§ 160D-908;
B. Legal notices required by governmental bodies, public utilities, or civic associations;
C. Signage owned or maintained by any unit of government or public agency that includes, but is not limited to, flags, street signs, traffic warning signs, and other signage provided solely by governmental agencies for public health and safety;
D. Building cornerstones, historical plaques, or grave markers;
E. Signage associated with public transit stops;
F. Holiday displays on lots within all zoning districts;

G. Signage affixed to a motor vehicle or trailer, provided the motor vehicle or trailer is parked or stored on the same lot or site where the business being advertised is located;

H. Signage that is not visible from any off-site areas (e.g., entirely enclosed by opaque walls that prevent the visibility of signage from any off-site areas); and

I. Signage associated with off-street parking spaces or the prohibition of parking in certain locations like fire lanes, bus lanes, or loading zones.

6.13.4 NONCONFORMING SIGNAGE

Nonconforming signage is subject to the standards in Section 5.3, Nonconforming Signs.

6.13.5 PROHIBITED SIGNS

The following signs, sign construction, and displays are prohibited throughout the Town's jurisdiction:

A. Freestanding or pole signs where the sign face area is mounted on one or more poles in a manner where air or open space exists between the bottom of the sign face area and the surface of the ground beneath it, provided that this prohibition shall not apply to incidental signs configured in accordance with the applicable standards in Section 6.13.9, Sign Standards by Sign Type;

B. Off-premise signs or signage that advertises goods or services provided on a different lot, tract, or site from where the sign is located, provided that this prohibition shall not apply to subdivision signs configured in accordance with the applicable standards in Section 6.13.9, Sign Standards by Sign Type;

C. Outdoor advertising, whether on- or off-premise, except for outdoor advertising lawfully established prior to January 2, 2024, which may be permitted to continue as a nonconforming use for up to 15 years following the date of annexation by the Town;

D. Feather flags, bow signs, pennants, and streamers;

E. Moving signs, excluding flags, banners, and clocks;

F. Flashing, scrolling, twirling, or blinking signs;

G. Gas- or air-filled balloons, figures, and other inflatable signs;

H. Signs on the roof or above the parapet of a building;

I. Any sign which the Planning Director determines obstructs the view of bicyclists, pedestrians, or motorists using any street, approach to any street intersection, sidewalk, public trail, or which interferes with the effectiveness of or obscures any traffic sign, device, or signal;

J. Signs, lights, rotating features, words, and other devices, which resemble or may be erroneously construed as traffic signals, traffic signs, or emergency vehicle lights;

K. Illuminated or highly reflective signs that law enforcement determines hampers the vision of motorists, pedestrians, or bicyclists;

L. Any sign which interferes with free passage from or obstructs any fire escape, downspout, door, stairway, ladder, or opening intended as a means of ingress or egress;

M. Any sign placed on a utility pole, street sign post, traffic signal support, hydrant, bridge, tree, aspect of public infrastructure, or street paving that is not installed or approved by an appropriate governmental agency;

N. Signage affixed to a stationary motor vehicle, boat, or trailer on a lot or site not occupied by the business being advertised. Nothing shall prohibit a motor vehicle, boat, or trailer with signage at a location while services are being provided at that location.

O. Signs with speakers intended for audio playback;

P. Unpainted plywood; and

Q. Use of vinyl or fabric material over or around a cabinet sign frame.

6.13.6 PROHIBITED SIGN LOCATIONS

A. In no instance shall a sign or sign support structure be located within the following areas:

1. Within five feet of the street right-of-way, except as allowed in Section 6.13.7C.2, Signs Allowed in the Right-of-Way;
2. Sight distance triangles, unless required by NCDOT;
3. Required open space set-asides; or
4. Within a public utility or drainage easement.

B. Nothing shall limit the placement of a sign or sign support structure within a required zoning district setback, provided it complies with the applicable standards in this section and does not interfere with landscaping materials required by Section 6.6, Landscaping and Screening.

6.13.7 PROVISIONS APPLICABLE TO ALL SIGNS

A. SIGN PERMIT REQUIRED

1. Unless exempted by Section 6.13.3, Exemptions, or included in Section 6.13.7B, Signs Not Subject to Sign Permit, all signs shall require issuance of a sign permit in accordance with Section 2.3.20, Sign Permit, prior to construction, installation, revision, or display.
2. Some signs may also require building and electrical permits in accordance with the North Carolina Building Code.

B. SIGNS NOT SUBJECT TO SIGN PERMIT

1. The following sign types shall not be required to obtain a sign permit, but shall comply with all applicable requirements in this section and this Ordinance:
   a. The placement of one or more incidental signs, subject to the applicable standards in Section 6.13.9, Sign Standards by Sign Type;
   b. The placement of a temporary sign, subject to the applicable standards in Section 2.3.25, Temporary Permit, and Section 6.13.9, Sign Standards by Sign Type; and
   c. Public art, subject to the standards in Section 4.5.5D, Art Installation.
2. Failure to comply with the standards for these sign types shall be a violation of this Ordinance subject to the provisions in Chapter 7, Violations.

C. SIGNS IN PUBLIC STREET RIGHTS-OF-WAY

1. GENERALLY

No sign shall be permitted within a public street right-of-way except in accordance with Section 6.13.7C.2, Signs Allowed in the Right-of-Way.

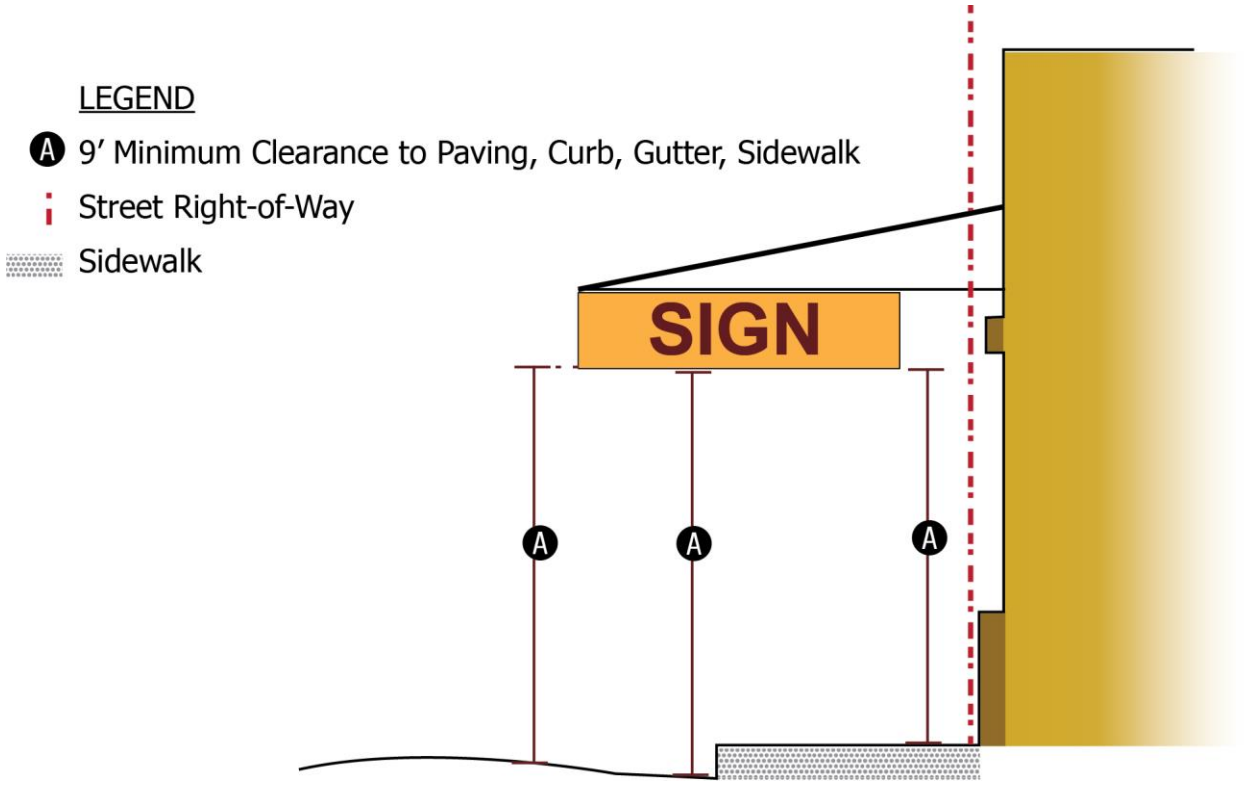
2. SIGNS ALLOWED IN THE RIGHT-OF-WAY

a. Only the following signs may be permitted in a public street right-of-way:
   i. Governmental signage erected by the Town of Clayton;
   ii. Signage erected by NCDOT;
   iii. Emergency warning signage erected by a governmental agency, public utility, or contractor performing work within the right-of-way;
   iv. Political signs; and
   v. Allowable farm signs.

b. Except for sidewalks signs, signs permitted within a street right-of-way shall maintain a minimum vertical clearance of at least nine feet above the paving, curb, gutter, sidewalk, or grade, as appropriate (see Figure 6.13.7, Minimum Vertical Clearance).

c. In the event the establishment or realignment of a street results in an existing sign becoming wholly or partially within the right-of-way in violation of these standards, the sign shall be removed at the expense of the person or agency establishing or realigning the street.

FIGURE 6.13.7: MINIMUM VERTICAL CLEARANCE



3. REMOVAL OF ILLEGAL SIGNS IN RIGHT-OF-WAY AND ON PUBLIC PROPERTIES

a. The Planning Director or a designee may remove any sign placed on public property or within any public right-of-way in violation of this Ordinance.

b. Signage determined to be in violation of this Ordinance and removed from public property or a public right-of-way shall be discarded.

c. Penalties may be levied for each such illegal sign as prescribed in Chapter 7, Violations.

D. CHANGEABLE COPY

Areas devoted to changeable copy on a sign shall be subject to the following standards:

1. Changeable copy areas may only be located on ground or wall signs;
2. No more than 50 percent of the sign face area may be devoted to changeable copy area;
3. As a means of avoiding distractions for drivers, bicyclists, and pedestrians, the display of changeable copy shall not change more than once per minute;
4. Outdoor advertising signs shall not include areas devoted to changeable copy;
5. Signage copy shall not be animated, and shall not blink, scroll, flash, or have other moving effects. This provision shall not restrict the copy from changing from one message to another.

E. ILLUMINATION

Where authorized, signs may only be illuminated in accordance with the following standards:

1. GENERALLY

a. Illuminated signs shall obtain a building permit and be configured in accordance with North Carolina Building Code, applicable electric code, and the adopted fire code.

b. All wiring to ground, pole, or other freestanding signs erected after January 2, 2024, shall be located underground.

2. INTERNAL ILLUMINATION

a. Internally illuminated signs are prohibited within all residential districts.

b. Nothing shall require a pre-existing internally illuminated sign lawfully established prior to January 2, 2024, to be removed if the lot it faces becomes used solely for residential purposes.

3. INDIRECT OR EXTERNAL ILLUMINATION

a. All external or indirectly illuminated signs shall illuminate only the face of the sign and shall not shine directly into or create glare on a right-of-way or residential use.

b. Indirect or externally illuminated signs shall comply with the standards in Section 6.4.6E, Maximum Illumination Levels.

4. FLASHING OR INTERMITTENT LIGHTS PROHIBITED

a. Flashing lights are prohibited.

b. Sign illumination shall not vary in degrees of brightness or intensity.

F. STRUCTURAL CONFIGURATION

All signs and sign supporting structures shall be constructed and designed according to generally accepted engineering practices to withstand wind pressures and load distribution as specified in the current North Carolina Building Code.

G. MAINTENANCE REQUIRED

1. All signs and sign supports shall be maintained in good repair.

2. In the event a sign or sign support is poorly maintained or becomes unsafe, the Planning Director shall notify the sign owner of the condition in writing, and the sign owner shall take whatever action is required to maintain public safety.

3. Failure to correct the unsafe condition is a violation of this Ordinance and shall be subject to the remedies in Section 7.6, Remedies.

H. REMOVAL OF DILAPIDATED OR OBSOLETE SIGNS

1. DILAPIDATED SIGNS

a. Dilapidated signs shall be removed or repaired by a landowner or other responsible party in accordance with the requirements described in a notice of violation by the Planning Director.

b. An existing sign shall be considered dilapidated if it:

i. Is in disrepair or exhibits a state of being broken or neglected;

ii. Fails to maintain its form as originally constructed or permitted;

iii. Fails to perform its intended function;

iv. Suffers from support pole or structural failure;

v. Has borders that are falling off or are already removed;

vi. Has panels that are missing or that have fallen off;
vii. Has its message falling off or in a state of disrepair such that it cannot be interpreted by the motoring public; or
viii. Is overgrown by vegetation.

2. OBSOLETE SIGNS

a. Signs identifying business establishments that are no longer in operation shall be removed from the premises within 180 days from the date of termination.
b. For the purposes of this sub-section, removal of a sign shall mean:
   i. The removal of the entire sign including all supports and mounting hardware; or
   ii. The removal of the just the sign's face.
c. The decision as to whether the entire sign is removed or just the sign face is removed shall be at the discretion of the landowner. Failure to provide a decision to the Town may result in Town action in accordance with Section 6.13.7H.3, Failure to Remove Signage.
d. In cases where the entire sign is removed, all sign supports, sign framework, mounting hardware, or similar features shall also be removed.
e. In cases where only the sign face is removed, all internal elements, internal frameworks, wiring, or mounting hardware associated with the sign face shall be obscured from view by fully covering them with painted plywood, rigid plastic, or other permanent material that includes no copy or other embellishment. Coverings shall be of a neutral, non-reflective color. The plywood, rigid plastic, or other covering shall be mechanically attached to the sign support structure. In no instance shall fabric, vinyl, or other non-permanent material be used to obscure sign cabinets, framework, or mounting hardware.

3. FAILURE TO REMOVE SIGNAGE

Failure of an owner to remove an obsolete or dilapidated sign face or sign structure may result in removal of the sign face or sign structure at the owner's expense following provision of written notice to the owner by the Planning Director.

4. INSPECTION

If, through inspection, the Planning Director determines that a sign or sign supporting structure does not comply with the provisions of these regulations, the Town shall take action in accordance with the standards in Chapter 7, Violations.

I. PUBLIC ART AS SIGNAGE

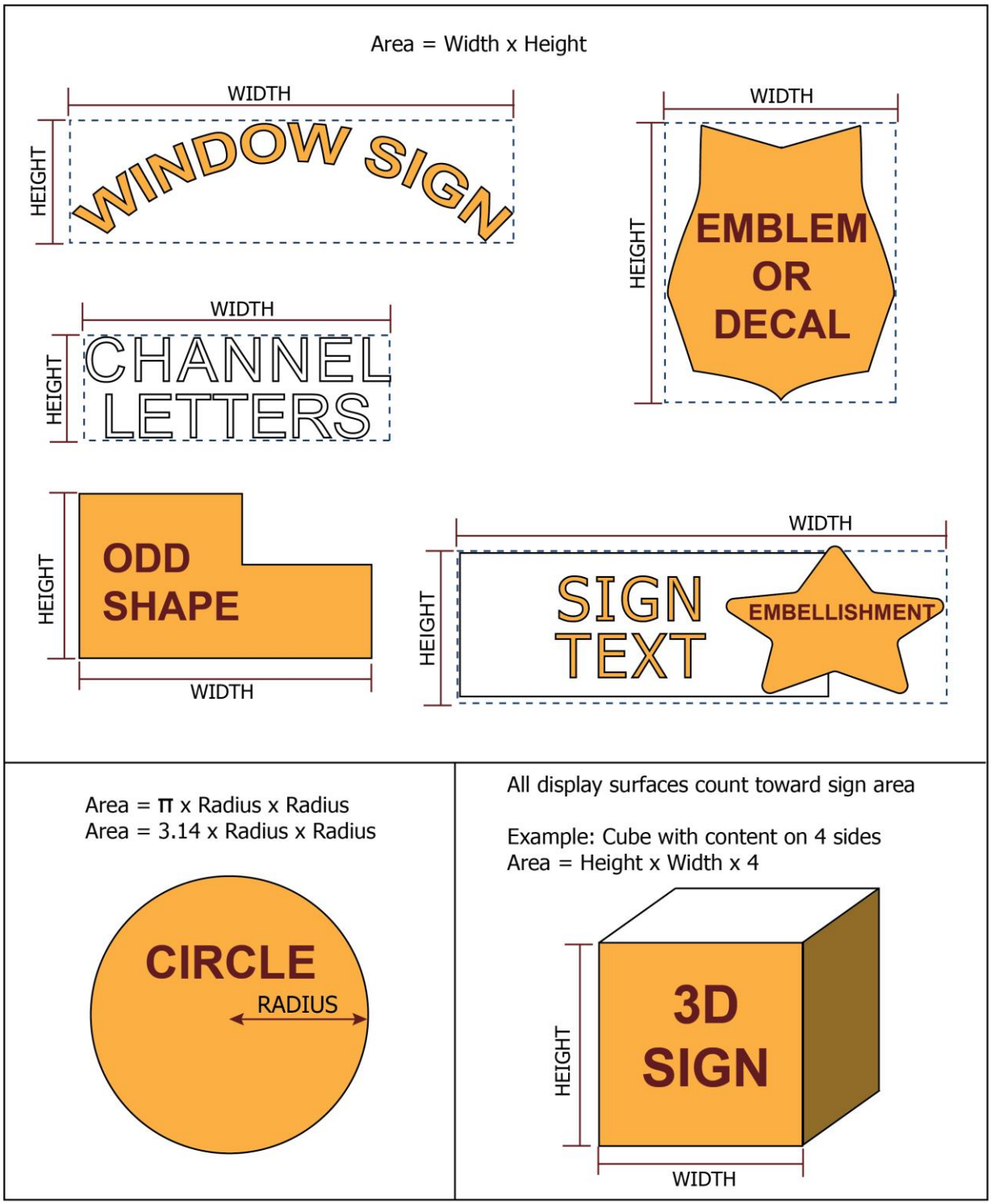
1. Painted or printed murals or other forms of public art shall not be considered as signage subject to these standards in cases where the art or mural does not incorporate a direct or indirect reference to a tradename, trademark, or the name of the establishment associated with the mural or artwork. Public art shall be subject to the standards in Section 4.5.5D, Art Installation.
2. Public art or murals that incorporate a direct or indirect reference to a tradename, trademark, or the name of the establishment associated with the mural or public art shall be considered as wall signage subject to the applicable standards in this section.

6.13.8 SIGN MEASUREMENT

A. SIGN FACE AREA DETERMINATION

1. The sign face area of a sign is computed as including the entire area within a parallelogram, triangle, circle, semi-circle, or other regular geometric figure, including all of the elements of the display, including incidental or changeable copy signage, frames, display of identification or licensing officially required by any governmental body, and structural elements.
2. The supporting structure for a sign shall not be included within the calculation of the sign face area unless otherwise indicated in this Ordinance.
3. In the case of signs mounted back-to-back, only one side of the sign is to be included in the calculation of sign face area. Otherwise, the face area of each sign is to be separately computed.
4. When two identical sign faces are placed back-to-back so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.
5. For multi-faced signs, the sign area shall be computed by summing the area of all sign faces.
6. In the case of cylindrical signs, signs in the shape of cubes, or other signs, which are substantially three-dimensional with respect to their display surfaces, the entire display surface or surfaces, is included in the computation of sign face area.
7. Embellishments such as display portions of signs extending outside the primary sign face area, incidental signage, changeable copy, or supplemental signage affixed to or included on a sign or sign support structure shall be computed as part of the total face area of the sign, unless otherwise indicated in this Ordinance.
8. If a sign is attached to an entrance wall or fence, only that portion of that wall or fence on which the sign face or letters are placed shall be calculated in the sign face area.

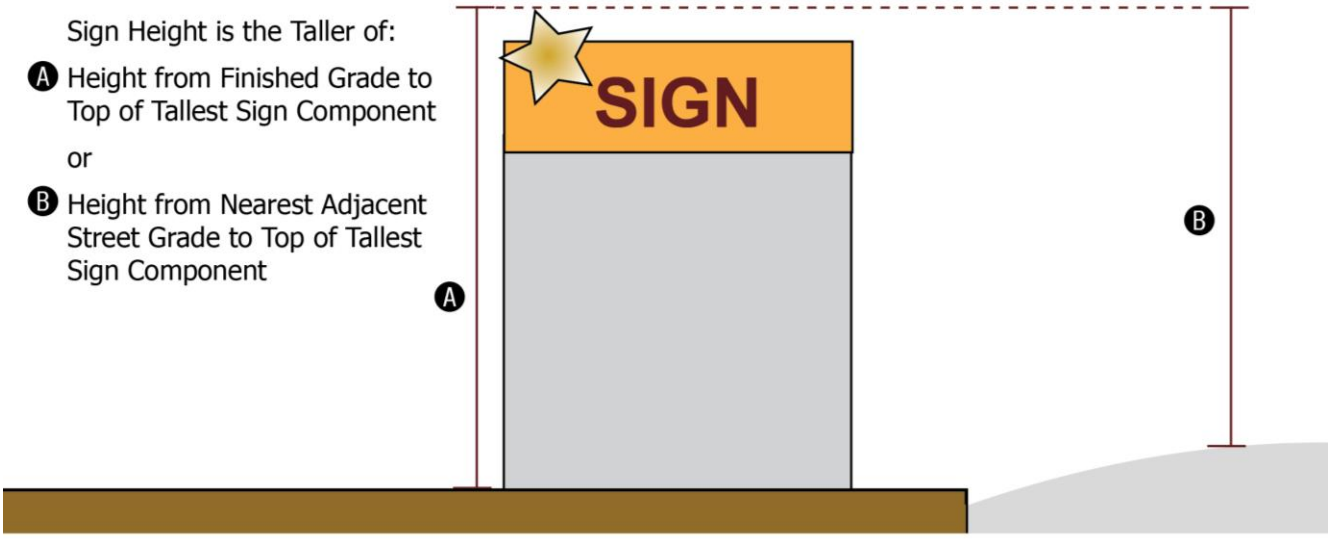
FIGURE 6.13.8.A: SIGN FACE AREA DETERMINATION



B. SIGN HEIGHT DETERMINATION

1. Sign height shall be computed as the distance from the base of the sign at the finished grade or from the nearest adjacent street grade to which the sign is oriented and on which the lot has frontage, whichever is higher, to the top of the highest component of the sign.
2. The finished grade shall be the grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.

FIGURE 6.13.8.B, SIGN HEIGHT DETERMINATION



C. WALL AREA (FOR THE PURPOSES OF SIGN AREA MEASUREMENT)

For the purposes of determining allowable sign area, a wall is the vertical exterior surface of a building, the area of which shall be determined as follows:

1. The area of all parallel vertical surfaces along a single building elevation regardless of offsets shall be counted as one wall. This includes wall surfaces that are parallel or approximately parallel that may be located in front of or behind the primary façade plane.
2. The front of each unit of a multiple tenant commercial building shall be counted as a separate wall.
3. The area of an angled wall surface shall be counted as part of whichever adjoining wall surface it is most parallel with.
4. A 45-degree angled wall may be counted as part of the area of either adjoining wall, but not as a part of both.

FIGURE 6.13.8.C: WALL AREA DETERMINATION FOR WALL SIGNAGE



LEGEND

One Wall

A Area of Parallel Vertical Surfaces Along a Single Building Elevation, Regardless is One Wall

B Front of Each Unit of a Multi Tenant Commercial Building is One Wall

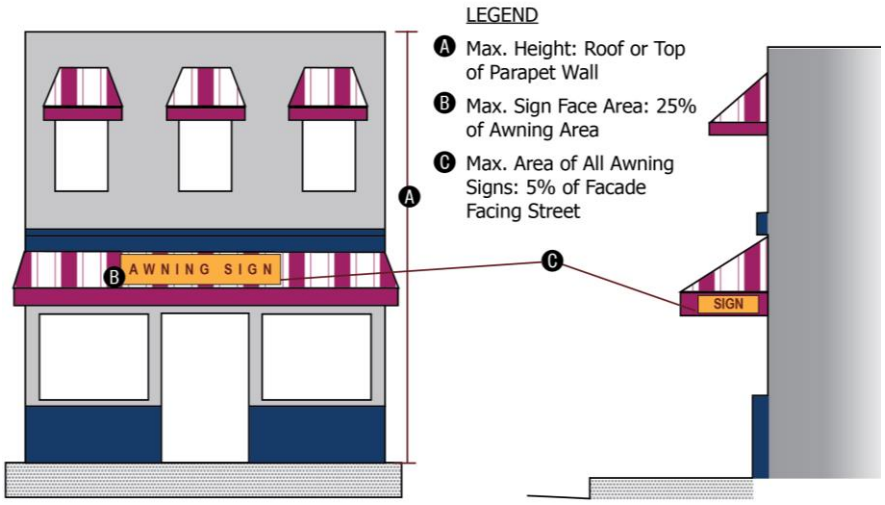
C Area of An Angled Wall Surface is Part of the Adjoining Wall Surface it is Most Parallel With

D 45 Degree Angled Wall May Count as Part of Either Adjoining Wall, But Not Both

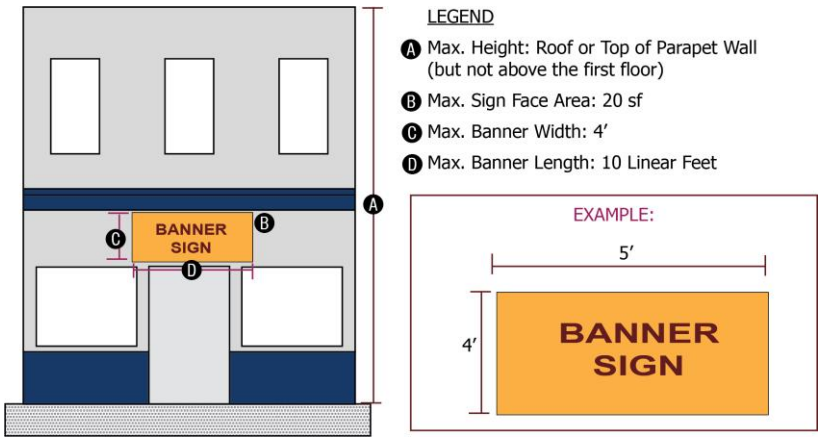
6.13.9 SIGN STANDARDS BY SIGN TYPE

The following section sets out the standards applicable to each sign type regulated by this Ordinance.

A. AWNING SIGNS

1. Definition	A sign that is part of or attached to an awning, canopy, or other protective canvas, plastic, or metal cover affixed to a building and located over a door, entrance, window, or other outdoor area. Colors, stripes, or patterns on an awning's surface shall not be considered as signage.					
2. Districts Where Permitted	**CON, PUB**	**Residential, CZR**	**OFI, NCM**	**DTNC, CZD, MXD, CZM**	**CRM, CZC**	**LID, HID, CZI**
	No	No	Yes	Yes	Yes	Yes
3. Dimensional Standards	**Maximum Number of Awning Signs per Lot**	1 per every ten linear feet of building façade facing a street [1]				
	Maximum Height	Under the roof or top of a parapet wall [2]				
	Maximum Sign Face Area per Individual Awning Sign	25 percent of the awning area upon which it is located, including the drip flap, if provided				
	Maximum Sign Face Area of all Awning Signs per Lot	5 percent of each façade facing a street [1]				
	NOTES:	[1] Signage on umbrellas or shade structures associated with an outdoor dining area are not counted as awning signs and are exempted from the awning sign number and face area standards. [2] Awning signs attached to a building shall maintain a minimum height of at least nine feet above grade.				
4. Additional Requirements	a. Signage may be located on the drip flap, subject to the maximum sign face area standards.					
	b. No awnings above the 3rd building story may be internally illuminated.					
	c. Awning signs, when allowed within a street right-of-way, shall not project more than five feet into a right-of-way, nor closer than two feet from the curb line.					
	e. An awning sign may only be established on a lot with a principal structure.					
5. Sample Calculation	 EXAMPLE: Total Awning Area of Lower Awning = 90 sf Total Area of Facade Facing Street = 600 sf Max. Awning Sign Area on Lower Awning = 25% x 90 = **22.5 sf** Max. Area of All Awning Signs: 5% x 600 sf = **30 sf**					

B. BANNER SIGNS

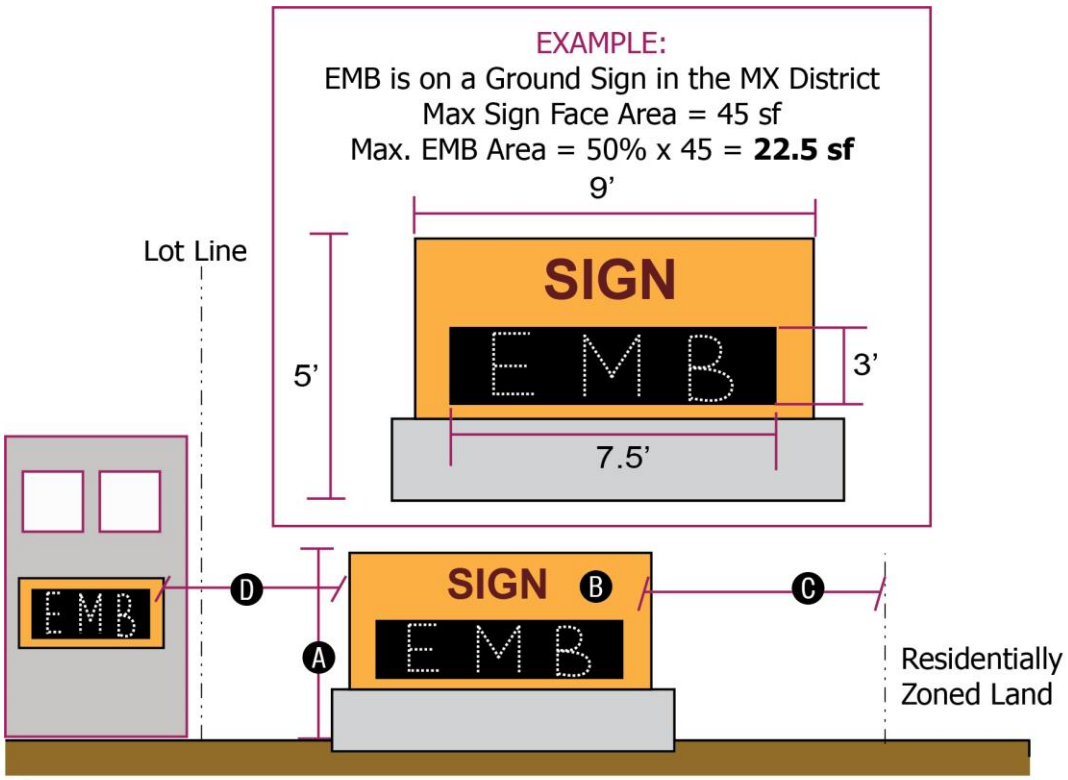
1. Definition	A sign made of a flexible fabric or plastic material that is affixed to a building or other vertical projection, except utility poles, but is not an awning sign or a flag. Feather flags and bow signs are not banners and are prohibited by this Ordinance.					
2. Districts Where Permitted	**CON, PUB**	**Residential, CZR**	**OFI, NCM**	**DTNC, CZD, MXD, CZM**	**CRM, CZC**	**LID, HID, CZI**
	No	No	No	Yes	Yes	No
3. Dimensional Standards	**Maximum Number of Banners per Lot**			1 per use or non-residential tenant in a multi-tenant building [1]		
	Maximum Mounting Height			Below the roof or parapet [2]		
	Maximum Sign Face Area per Individual Banner			20 square feet		
	Maximum Banner Length			10 linear feet		
	Maximum Banner Width			4 linear feet		
	Minimum Setback	10 feet from the edge of pavement or minimum necessary to avoid placement within a street right-of-way [3]				
	Maximum Duration	One occurrence for a maximum duration of 30 consecutive days per use or tenant per calendar year [4]				
	NOTES:	[1] Maximum of 3 banners per multi-tenant development at any one time. [2] When located on a fence, wall, or as a freestanding banner, a maximum height of 12 feet to the highest point. When located on a building wall, the banner shall not be mounted above the first floor. [3] Banners in a unified development subject to a single site plan shall be at least 10 feet from the outside perimeter boundary of the development. [4] Placement of a banner shall require prior issuance of a temporary use permit in accordance with Section 2.3.25, Temporary Permit.					
4. Additional Requirements	a. Banners shall be adequately secured through the use of grommets, d-rings, brackets, or similar fastening devices.					
	b. Banners over 9 square feet in size shall incorporate wind slits.					
	c. Banners shall not be placed within required sight distance triangles or in locations that obstruct the safe movement of vehicles and pedestrians.					
	d. Except for open air uses of land, a banner may only be established on a lot with a principal structure.					
5. Sample Calculation						

C. ELECTRONIC MESSAGE BOARDS

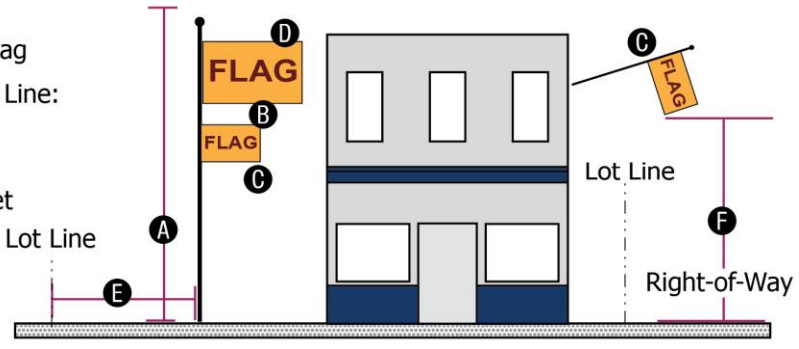
1. Definition	A wall or ground sign, or portion thereof that electronically displays information that may or may not change. Sign content is displayed by light emitting diodes (LED's), fiber optics, light bulbs, or other illumination devices arranged in a matrix within the display area. Electronic message boards ("EMBs") do not display animation or imagery that appears to move.					
2. Districts Where Permitted	**CON, PUB**	**Residential, CZR**	**OFI, NCM**	**DTNC, CZD, MXD, CZM**	**CRM, CZC**	**LID, HID, CZI**
	No	No [1]	No [1]	Yes	Yes	Yes
3. Dimensional Standards	**Maximum Number of EMBs per Lot**	One per lot or development [2]				
	Minimum Separation of EMB from Residentially-Zoned Land	150 linear feet [3]				
	Minimum Separation from Another EMB	35 linear feet				
	Maximum Height	In accordance with wall or ground sign standards, as appropriate [4]				
	Maximum EMB Face Area	In accordance with wall or ground sign standards, as appropriate [5]				
	Maximum Percentage of Total Sign Face Area Devoted to an EMB	Lesser of: 32 square feet or 50% of the total allowable sign face area for the type of sign proposed (i.e., wall, ground) [6]				
	Minimum Static Hold Time Between Message Changes	1 minute [7]				
	Maximum Brightness	465 lumens per square foot during daytime hours				
		70 lumens per square foot during dawn, dusk, and nighttime hours				
	NOTES:	[1] May be permitted on a lot containing a religious institution, school, or fraternal club or lodge, and the EMB may occupy 100% of the allowable sign face area. [2] Development on corner lots of two acres or more in area may have up to two EMBs, subject to these standards. [3] Not applied on residential lots containing a religious institution, school, or fraternal club with an EMB. [4] In no instance shall an EMB extend higher than 30 feet above grade. [5] The face area shall include all mounting hardware, framework, and sign supports. [6] A sign's face area could include two or more separate EMB areas, provided the total amount of EMB does not exceed the maximum permitted percentage of allowable EMB size (For example, a ground sign could be configured with one portion of the sign face areas as an EMB with prices and another portion of the same sign face could include a separate EMB area that displays different information). [7] Transition between images shall take place within one second or less.					

Continued on the Following Page

C. ELECTRONIC MESSAGE BOARDS CONTINUED

4. Additional Requirements	a. EMBs may only be configured as a wall or ground sign, or portion thereof.
	b. EMBs may only be allowed as part of a permanent sign, not a temporary sign.
	c. Use of the terms "stop", "caution", or "danger" is prohibited on an EMB for reasons of public safety.
	d. Appearance of animation or message movement is prohibited.
	e. The owner or operator of an EMB shall attest to the installation of a power supply system that will power the EMB off after a power outage or other condition that causes the sign to blink, flash, or have the appearance of movement.
	f. An EMB may only be established on a lot with a principal structure.
5. Sample Calculation	 Ⓐ Max Height = According to Sign Type (Ground, Wall) Ⓑ Maximum Sign Face Area =According to Sign Type (Ground, Wall); Maximum EMB Area = Lesser of 50% Total Allowable Sign Face Area or 32 sf Ⓒ Minimum Separation from Residentially-Zoned Land = 150' Ⓓ Minimum Separation from Another EMB = 35'

D. FLAGS

1. Definition	A piece of cloth or similar material, typically rectangular or square in shape, that is attached to a pole or rope along the shorter side of the material. Flags flown by a governmental agency, located on land owned or operated by a governmental agency, or on a building owned or operated by a governmental agency are exempt from these standards. Flags affixed to two or more poles at the same time are subject to the standards for banners. Feather flags and bow signs are prohibited.					
2. Districts Where Permitted	**CON, PUB**	**Residential, CZR**	**OFI, NCM**	**DTNC, CZD, MXD, CZM**	**CRM, CZC**	**LID, HID, CZI**
	Yes	Yes	Yes	Yes	Yes	Yes
3. Dimensional Standards	**Maximum Number of Flags per Lot**			3		
	Maximum Flagpole Height			40 feet above grade or 40 feet above the highest point of a building if building-mounted [1]		
	Maximum Number of Flags per Flag Pole			2		
	Maximum Size per Flag			60 square feet		
	Minimum Setback from any Lot Line for a Flagpole or other Mounting Device			The height of the flagpole or mounting device if building-mounted		
	NOTES:	[1] In cases where a flag projects out into a street right-of-way, the flag shall maintain a minimum vertical clearance of 18 feet above the street pavement and 9 feet above a sidewalk.				
4. Additional Requirements	a. Flags and flagpoles shall not be placed within required sight distance triangles or in locations that obstruct the safe movement of vehicles and pedestrians.					
	b. Except on lots in residential districts, flags on poles shall be located no more than 10 feet from the front building line.					
5. Sample Calculation	LEGEND Ⓐ Max. Height: 30' or 30' Above Highest Point of Building if Mounted Ⓑ Max. Flags per Pole: 2 Ⓒ Max Flags Per Lot: 3 Ⓓ Max. Size: 40 sf per Flag Ⓔ Min. Setback from Lot Line: Height of Flagpole or Mounting Device Ⓕ If Projecting into Street Right-of-Way, Min. Vertical Clearance: 18' Above Street; 9' Above Sidewalk					

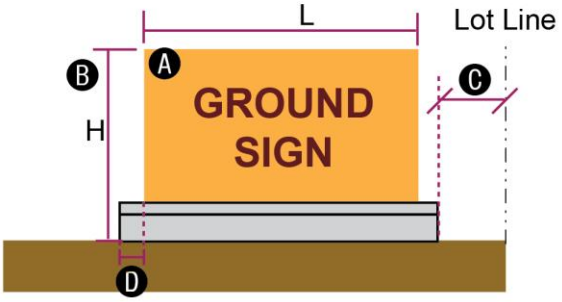
E. GROUND SIGNS

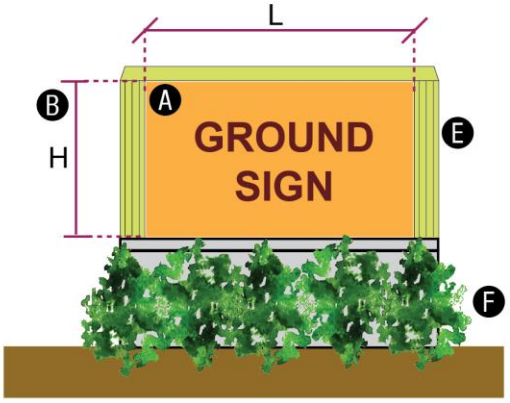
1. Definition	Any sign, other than a pole sign, that is attached directly to the ground by means of a supporting system comprised of a solid pedestal, or other bracing system where there is no open space between the bottom of the sign face area and the ground. Ground signs are configured so that the base of the sign support structure is at least as wide as the sign face area. Ground signs may also be referred to as "pedestal" signs or "monument" signs. Any sign with an opening between the bottom of the sign's face area and ground or where the sign face area is wider than the sign support structure shall be considered as a pole or "freestanding" sign, which are prohibited. Ground signs are not mounted to a building wall, and are not located within a street right-of-way.					
2. Districts Where Permitted	**CON, PUB**	**Residential, CZR**	**OFI, NCM**	**DTNC, CZD, MXD, CZM**	**CRM, CZC**	**LID, HID, CZI**
	Yes	Yes	Yes	Yes	Yes	Yes
3. Dimensional Standards	**Maximum Number of Ground Signs Per Lot**	1 [1]				
	Maximum Height [2]	6 feet for lots in residential districts; 15 feet for lots in all other districts [3] [4]				
	Maximum Sign Face Area [2]	Lots in CON, PUB, and residential districts	32 sf per sign			
		Lots in OFI, NCM	32 sf per sign			
		Lots in DTNC, CZD, MXD CZM	48 sf per sign			
		Lots in CRM, CZC, LID, HID, CZI	150 sf per sign			
	Minimum Setback from any Lot Line	5 feet [5]				
	Min. Separation between Ground Signs on Same Lot	At least 250 feet apart at the closest point				
	Min. Separation between Ground Signs on Adjacent Lots	50 feet [6]				
	NOTES:	[1] Developments on corner lots of 2 acres in size or greater may have a ground sign for each roadway frontage. [2] The following features may be excluded from the calculation of maximum sign height and maximum sign face area: a. The first 36 inches in height of a sign's base when it is surrounded by evergreen shrubs configured as a fully opaque screen and sized in accordance with Section 6.6.7C, Shrub Size and Variety. b. Architectural embellishments along the side of the sign support structure, such as columns, pilasters, coping, or vertical design features with a maximum width of up to 1 foot, provided such embellishments do not include advertising copy. c. Architectural embellishments along the top of the sign support structure, such as caps, cornices, coping, eaves, or horizontal design features with a maximum height of up to 1 foot and a maximum projection of up to 6 inches beyond the sign face, provided such embellishments do not include advertising copy. [3] Sign height shall be determined based on the higher of: the adjacent grade level or the grade level of the adjacent street. [4] The support structure shall be included within the measurement of the sign's maximum height. [5] All portions of a ground sign shall be at least 5 feet from a public street right-of-way.					

Continued on the Following Page

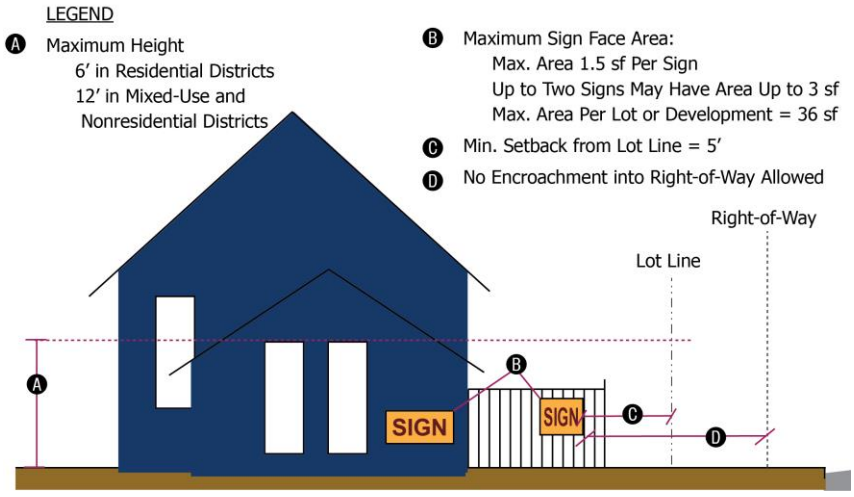
E. GROUND SIGNS CONTINUED

	NOTES:	[6] In cases where a ground sign is proposed and it is impossible to meet the minimum separation distance requirements from an existing ground sign, the proposed sign shall maintain the minimum street setback necessary to ensure an unimpeded view of the existing ground sign on an adjacent lot.
4. ADDITIONAL REQUIREMENTS	a. Establishment of a new ground sign on a lot with an existing pole or freestanding sign shall require removal of the existing pole or freestanding sign prior to or concurrent with establishment of the ground sign.	
	b. Ground signs shall not be placed within required sight distance triangles or in locations that obstruct the safe movement of vehicles and pedestrians.	
	c. A ground sign base may project outwards beyond the edge of the sign face or architectural embellishment by up to six inches on the front, rear, and each side of the sign.	
	d. In no instance shall the depth of a ground sign, including the sign base, architectural embellishments, and the sign face area exceed four feet.	
	e. Ground signs shall not be located on the same lot as a single-family detached, single-family attached, duplex, triplex, or quadplex dwelling.	
	f. A ground sign face area may be comprised of durable, UV resistant, professionally printed fabric stretched taught over an interior frame is permitted provided the sign does not show visible disrepair (fading, torn corners, etc.).	
	g. Except for open air uses of land, a ground sign may only be established on a lot with a principal structure.	
5. SAMPLE CALCULATION	LEGEND Ⓐ Maximum Sign Face Area = LxH: Ⓑ 6′ Max. Height in Residential District; 15′ in Mixed-Use and Nonresidential Districts Ⓒ 5′ Minimum Setback from Lot Line Ⓓ 6″ Max. Foundation Base Extension Ⓔ Allowable Architectural Embellishment Ⓕ Evergreen Shrubs Forming Opaque Screen	

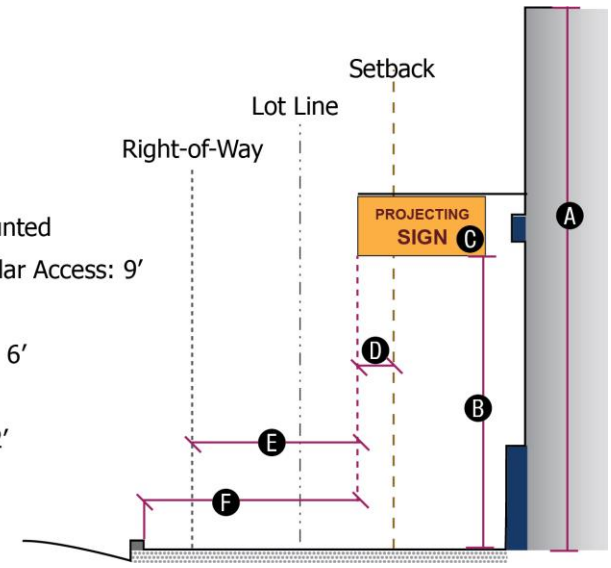




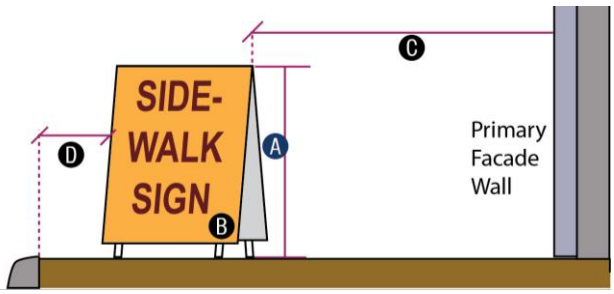
F. INCIDENTAL SIGNS

1. Definition	Any small or nondescript sign that only provides directional information or safety information for the public. Examples of incidental signs include signs addressing on-site traffic circulation (such as "entrance" or "exit" signs), public safety (such as "high voltage" or "beware of dog" signs), or address signs.					
2. Districts Where Permitted	**CON, PUB**	**Residential, CZR**	**OFI, NCM**	**DTNC, CZD, MXD, CZM**	**CRM, CZC**	**LID, HID, CZI**
	Yes	Yes	Yes	Yes	Yes	Yes
3. Dimensional Standards [1]	**Maximum Number of Incidental Signs Per Lot**	Lots with an existing single family detached dwelling or manufactured home	1 per principal + 1 per secondary building			
		Lots with a single family attached, duplex, triplex, or quadplex dwelling unit	1 per dwelling unit			
		Multi family dwelling	1 per building + 5			
		Lots in a mixed-use or non-residential district	[2]			
	Maximum Height	6 feet for lots in residential districts; 12 feet for lots in mixed-use and non-residential districts [3]				
	Maximum Sign Face Area	1½ square feet per sign [4]				
	Total Incidental Sign Face Area per Mixed-use or Nonresidential Lot or Development	36 square feet				
	Minimum Setback from any Lot Line	5 feet [5]				
	NOTES:	[1] Incidental signs that exceed the maximum height or sign face area shall be considered as a wall sign, ground sign, pole sign, or projecting sign, as appropriate. [2] See total incidental sign face area per mixed-use or nonresidential lot or development. [3] Sign height shall be determined based on the grade adjacent to the sign. [4] Up to two incidental signs on any single lot may be up to three square feet in sign face area size. [5] In no instance shall an incidental sign be located within a right-of-way, a sight distance triangle, or in locations that obstruct the safe movement of vehicles and pedestrians					
4. Additional Requirements	a. No sign permit shall be required for the establishment of incidental signs, but all incidental signage shall comply with the standards in this section.					
5. Sample Calculation						

G. PROJECTING SIGNS

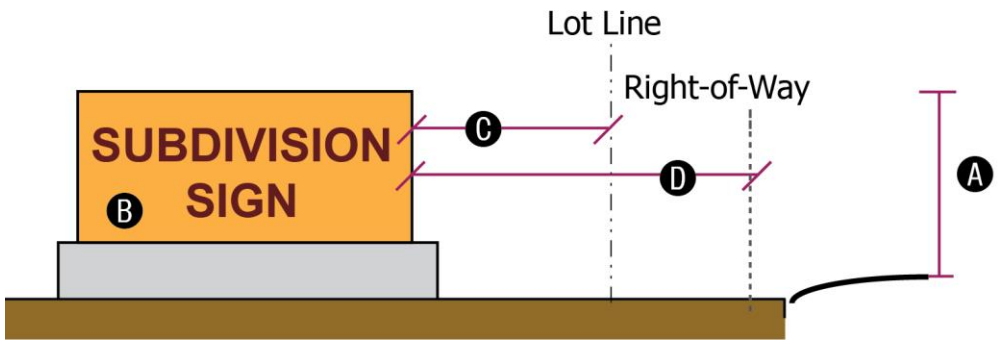
1. Definition	Any sign that projects outward from a building's exterior wall where the sign face area is not parallel to the building wall upon which is mounted. Projecting signs are also referred to as "marquee" signs. Signs mounted to a building wall with sign face areas that are parallel to the building wall are considered "wall" signs. A sign comprised of fabric or similar material is a "flag" or a "banner" sign.					
2. Districts Where Permitted	**CON, PUB**	**Residential, CZR**	**OFI, NCM**	**DTNC, CZD, MXD, CZM**	**CRM, CZC**	**LID, HID, CZI**
	No	Yes	Yes	Yes	Yes	Yes
3. Dimensional Standards	**Maximum Number of Projecting Signs Per Lot**			One per building façade		
	Maximum Height			A projecting sign shall not project above the height of the wall it is mounted to [1]		
	Maximum Sign Face Area			40 square feet [2]		
	Minimum Setback from any Lot Line			A projecting sign shall not encroach into a required yard by more than 6 feet [3]		
	NOTES:	[1] Any projecting sign that projects into a right-of-way or that projects over a sidewalk or vehicular accessway shall maintain a minimum clearance of at least 9 feet above grade. [2] Projecting signs with 3 sides may have up to 80 square feet of sign area. [3] A projecting sign shall not project into a right-of-way by more than 36 inches, and shall maintain a minimum of two feet of horizontal distance from the back of the curb.				
4. Additional Requirements	Projecting signs of 1½ square feet in total sign area or less shall be considered incidental signs.					
	Any electrical wiring shall be located within the sign or the wall it is affixed to.					
	Projecting signs shall not be located on the same lot as a single-family detached, attached, duplex, triplex, or quadplex dwelling.					
	A projecting sign may only be established on a lot with a principal structure.					
5. Sample Calculation	LEGEND Ⓐ Max. Height: Wall on Which Sign is Mounted Ⓑ Min. Clearance Over Sidewalk or Vehicular Access: 9′ Ⓒ Max. Sign Face Area: 40 sf Ⓓ Max. Encroachment into Required Yard: 6′ Ⓔ Max. Projection into Right-of-Way: 36″ Ⓕ Minimum Distance from Back of Curb: 2′					

H. SIDEWALK SIGNS

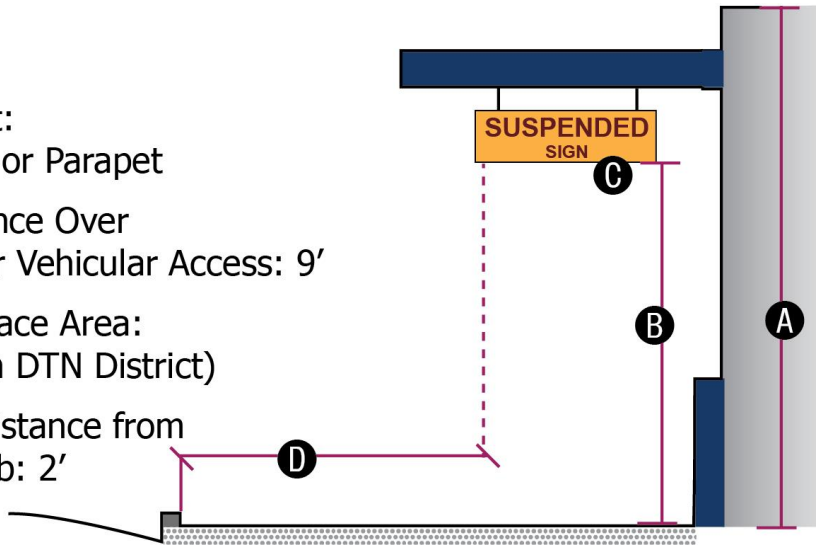
1. Definition	A pedestrian-oriented movable sign that sits on the grade located proximate to the primary entrance of the non-residential or mixed use being advertised. Sidewalk signs are also referred to as "A-frame" signs or "Board" signs. The sign shall be self-supporting and only visible during operating hours. Sidewalk signs are configured with a broader base then a top or are equipped with supports to ensure they remain stable in normal wind conditions.					
2. Districts Where Permitted	**CON, PUB**	**Residential, CZR**	**OFI, NCM**	**DTNC, DTNT, CZD, MXD, CZM**	**CRM, CZC**	**LID, HID, CZI**
	No	Yes	No	Yes	Yes	No
3. Dimensional Standards	**Maximum Number of Sidewalk Signs Per Lot**	1 per street frontage, regardless of the number of tenants [1] [2]				
	Minimum Clearance Around Sidewalk Sign	5 feet [3] [4]				
	Maximum Height	4 feet				
	Maximum Sign Face Area	8.5 square feet				
	Maximum Number of Sidewalk Sign Sides	2				
	Maximum Distance from Primary Entrance of Use Being Advertised	25 linear feet				
	NOTES:	[1] Sidewalk signs may only be permitted on a sidewalk or on-site pedestrian walkway. [2] Nothing shall limit the rotating of different sidewalk signs on an individual lot provided the total number of signs does not exceed the maximum. [3] A sidewalk sign may only be placed in a manner that allows for unrestricted pedestrian access around all sides of the sign, and shall not be located within a disabled pedestrian access ramp, proximate to an accessible parking space, or within a sight distance triangle. [4] A sidewalk sign shall be no closer than 6 inches from the curb.					
4. Additional Requirements	a. A sidewalk sign shall not be permanently attached to the sidewalk, signs, street trees, landscaping, bicycle rack, or any other fixtures on the sidewalk.					
	b. Sidewalk signs may be located within the street right-of-way adjacent to lots in the DTNC, DTNT, MXD, CZM districts only.					
	c. Each sidewalk sign shall be removed each day by the close of business.					
	d. Sidewalks signs may include changeable copy.					
	e. Sidewalks signs shall not be illuminated.					
	f. Except for open air uses of land, a sidewalk sign must be associated with an adjacent principal structure.					
5. Sample Calculation	LEGEND Ⓐ Maximum Height = 4′ Ⓑ Maximum Sign Face Area = 8.5 sf Ⓒ Minimum Clearance = 5′ Ⓓ Min. Distance from Curb = 6″					

I. SUBDIVISION SIGNS

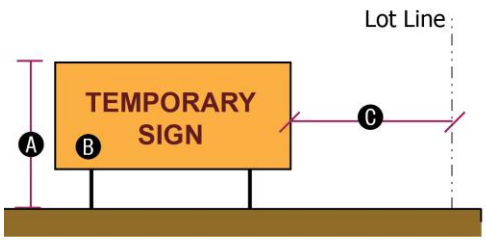
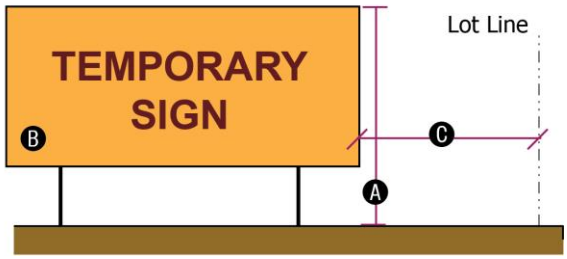
1. Definition	A ground sign located at the entrance to a subdivision consisting of two or more lots. Subdivision signs shall be located outside all street rights-of-way, unless permitted by the Engineering Director, and shall not be located on a lot with a principal building.					
2. Districts Where Permitted	**CON, PUB**	**Residential, CZR**	**OFI, NCM**	**DTNC, DTNN, CZD, MXD, CZM**	**CRM, CZC**	**LID, HID, CZI**
	No	Yes	Yes	Yes	Yes	Yes
3. Dimensional Standards	**Maximum Number of Subdivision Signs Per Development**	1 per development entrance				
	Maximum Height	6 feet [1]				
	Maximum Sign Face Area	32 square feet [2] [3]				
	Minimum Setback from any Lot Line	None				
	Minimum Setback from Right-of-Way	5 feet				
	NOTES:	[1] Sign height shall be determined based on the higher of: the adjacent grade level or the grade level of the adjacent street. [2] The support structure for a subdivision sign configured as a ground sign shall not be included with the calculation of the maximum allowable sign face area. [3] Developments with 2 or more entries may have up to 64 square feet of subdivision sign provided that no single entry has a subdivision sign with a sign face area exceeding 32 square feet.				
4. Additional Requirements	a. Subdivision signs may only be configured as a ground sign.					
	b. Subdivision signs shall not be placed within required sight distance triangles or in locations that obstruct the safe movement of vehicles and pedestrians.					
	c. Subdivision signs that are illuminated shall comply with the applicable limitations on glare in Section 6.4, Exterior Lighting.					
5. Sample Calculation	LEGEND Ⓐ 6′ Maximum Height Ⓑ Maximum Sign Face Area = 32 sf (Support Structure Not Counted as Sign Area) Ⓒ No Min. Setback from Lot Line Ⓓ Minimum Setback from Right-of-Way = 5′					



J. SUSPENDED SIGNS

1. Definition	A sign that is suspended from the underside of a principal building's overhang or canopy that is intended for view by pedestrians or patrons already on a site. The sign may be parallel or perpendicular to the building wall. A sign that is not suspended from a canopy or overhang of a building is not a suspended sign. A sign mounted on a building wall parallel to the wall is a "wall" sign. A sign mounted on a building wall perpendicular to the building wall is a "projecting" sign. Signs visible through a window are "window" signs.					
2. Districts Where Permitted	**CON, PUB**	**Residential, CZR**	**OFI, NCM**	**DTNC, CZD, MXD, CZM**	**CRM, CZC**	**LID, HID, CZI**
	No	No	Yes	Yes	Yes	Yes
3. Dimensional Standards	**Maximum Number of Projection Signs Per Development**			1 per lot or 1 per tenant in a multi-tenant building		
	Maximum Mounting Height			Below the roof or parapet [1]		
	Maximum Sign Face Area			3 square feet; 6 square feet in the DTNC district		
	Minimum Setback from any Lot Line			[2]		
	NOTES:	[1] Any suspended sign that projects into a right-of-way or that projects over a sidewalk, walkway, or vehicular accessway shall maintain a minimum clearance of at least 9 feet above the grade or the walkway. [2] A suspended sign shall maintain a minimum of two feet of horizontal distance from the back of the curb.				
4. Additional Requirements	a. Suspended signs shall not project beyond the canopy or overhang they are mounted to.					
	b. Suspended signs shall be flush mounted or drop mounted with metal pipe, chain, wire, or other comparable material and permanently affixed to the overhang or canopy where mounted.					
	c. Suspended signs shall not be mounted to a secondary structure.					
	d. A suspended sign may only be established on a lot with a principal structure.					
5. Sample Calculation	LEGEND A Max. Height: Below Roof or Parapet B Min. Clearance Over Sidewalk or Vehicular Access: 9' C Max. Sign Face Area: 3 sf (6 sf in DTN District) D Minimum Distance from Back of Curb: 2'					

K. TEMPORARY SIGNS

1. Definition	Any sign that is not permanently affixed to the ground or a building which can be removed without special handling and which is in place for a limited duration. Banners and incidental signs are not supplemental signs. Ideological signs are considered supplemental signs.					
2. Districts Where Permitted	**CON, PUB**	**Residential, CZR**	**OFI, NCM**	**DTNC, DTNT, CZD, MXD, CZM**	**CRM, CZC**	**LID, HID, CZI**
	Yes	Yes	Yes	Yes	Yes	Yes
3. Dimensional Standards	**Maximum Number of Supplemental Signs Per Lot**		1 per lot + 1 per non-residential tenant in a multi-tenant development			
	Maximum Sign Height [1]		Residential Districts	6 feet		
			All Other Districts	12 feet		
	Maximum Sign Face Area [2]		Residential Districts	6 square feet		
			All Other Districts	32 square feet [3]		
	Minimum Setback	10 feet from the edge of pavement or minimum necessary to avoid placement within a street right-of-way [4]				
	Maximum Duration	30 days per site per calendar year				
	Maximum Frequency	Not more than twice per site per calendar year				
	NOTES:	[1] Sign support structures shall be included in maximum sign height and face area. [2] Signs visible through a window are also subject to the standards for window signs. [3] In the case of a multi-tenant building, the temporary sign provided to each individual tenant shall not exceed 6 square feet in area. [4] Signs in a unified development shall be at least 10 feet from the outside perimeter boundary of the development.				
4. Additional Requirements	a. Temporary signs shall not require issuance of a Sign Permit but do require approval of a Temporary Permit.					
	b. Temporary signs shall not be located within a street right-of-way.					
	e. Temporary signs may not be illuminated.					
	f. Temporary signs shall not block windows or doors.					
	h. A temporary sign consisting of durable, UV resistant, professionally printed fabric stretched taught over an interior frame is permitted provided the sign does not show visible disrepair (fading, torn corners, etc.).					
5. Sample Calculation	In Residential Districts Ⓐ Maximum Height = 6′ Ⓑ Maximum Sign Face Area = 6 sf Ⓒ Min. Setback from Lot Line = 10′ 		In Nonesidential Districts Ⓐ Maximum Height = 12′ Ⓑ Maximum Sign Face Area = 20 sf Ⓒ Min. Setback from Lot Line = 10′ 			

L. WALL SIGNS

1. Definition	Any sign, other than a projecting sign, that is mounted to or painted on an exterior building wall. Wall signs have only one sign face and are configured to be parallel to the building wall upon which they are located. Signs mounted perpendicular to a wall are "projecting" signs. Signs mounted from the ceiling of a building's canopy or overhang are "suspended" signs. Signs made of fabric or other material that moves are "banners" or "flags." Signs visible through a window are "window" signs.					
2. Districts Where Permitted	**CON, PUB**	**Residential, CZR**	**OFI, NCM**	**DTNC, CZD, MXD, CZM**	**CRM, CZC**	**LID, HID, CZI**
	Yes	Yes	Yes	Yes	Yes	Yes

3. Dimensional Standards

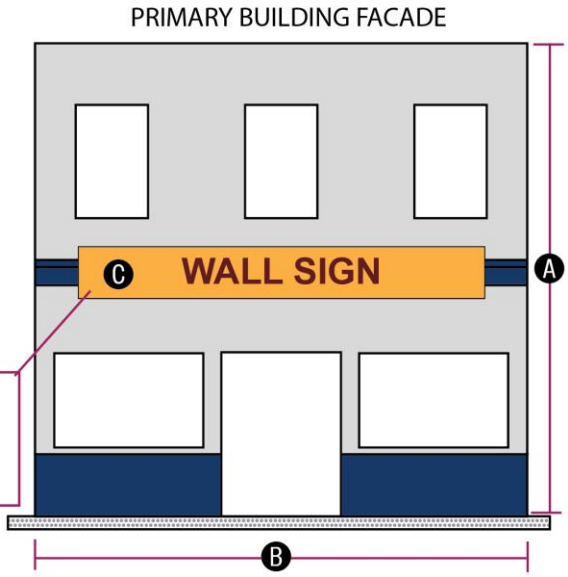
District	Type of Tenancy	Type of Façade [1]	Max. # of Signs	Total Sign Area/Façade [2]
CON, PUB, Residential, CZR	All	Primary [3]	1	16 square feet
OFI, NCM	Single-tenant	Primary [3]	1	32 square feet
	Multi-tenant	Primary [3]	1/tenant	
All Others	Single-tenant [4]	Primary	2	Lesser of: 1.5 sf/linear foot of building façade or 200 sf
	Single-tenant [4]	Secondary	1	Lesser of: 1 sf/linear foot of building façade or 100 sf
	Multi-tenant	Primary	1/tenant	Lesser of: 1.5 sf/linear foot of building façade or 200 sf
	Multi-tenant	Secondary	1/tenant [5]	Lesser of: 1 sf/linear foot of building façade or 100 sf
	Large format retail	Primary	4	Lesser of: 1.5 sf/linear foot of building façade or 200 sf
	Large format retail	Secondary	2	Lesser of: 1 sf/linear foot of building façade or 100 sf
Maximum Mounting Height	No wall sign shall extend above, below, or beyond the building wall to which it is attached [6]			
Maximum Distance from a Building Corner or Multi-Tenant Boundary	Wall signs shall be no less than 18 inches from the outside corner of a building wall or from the boundary of a tenant's wall frontage on a multi-tenant building			
Minimum Setback from any Lot Line	Same as the building [7]			

NOTES:

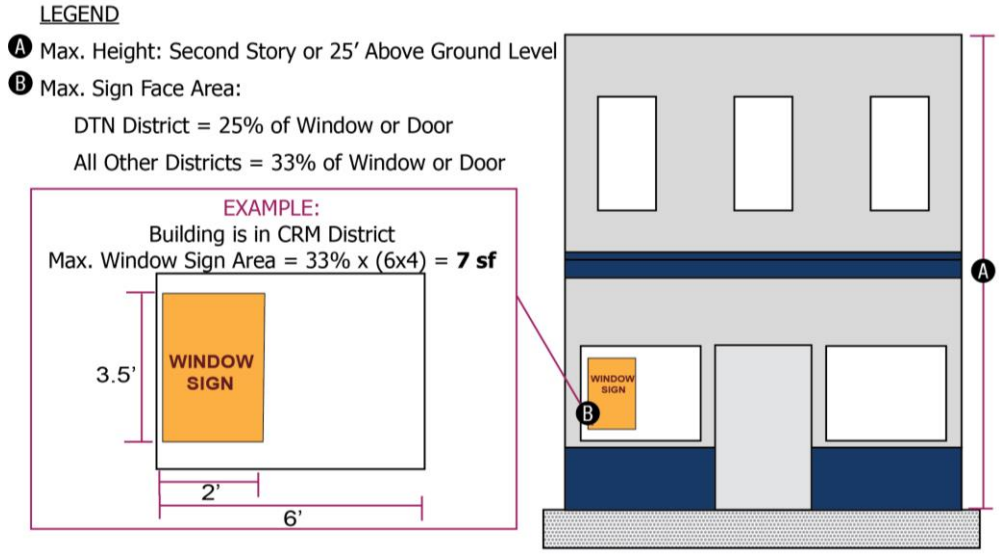
[1] See Section 6.2.5E, Non-Residential Building Walls Distinguished, for building façade type determination.
[2] This is the total amount of allowable wall sign face area per façade of a single-tenant or a large format retail building, regardless of the number of individual wall signs on the façade. It is also the total amount of allowable wall sign face area per individual tenant wall frontage in a multi-tenant building (see Section 6.13.8, Sign Measurement, for determination of individual tenant wall frontage).
[3] Wall signs not permitted on secondary or tertiary building facades.

Continued on the Following Page

L. WALLS SIGNS CONTINUED

		[4] Does not include large format retail establishments. [5] End units in a multi-tenant building may have a wall sign on a primary and secondary building façade. [6] Wall signs that project into a right-of-way shall maintain a minimum vertical clearance of at least 9 feet above grade. [7] Wall signs shall not project into a right-of-way by more than six inches.
4. Additional Requirements	a. No wall sign shall be located in a manner that covers or blocks ingress or egress from a door, window, or fire escape.	
	b. Any electrical wiring shall be located within the sign or the wall it is affixed to.	
	c. Wall signs on secondary building walls abutting a residential use shall not be illuminated.	
	d. Wall signs that are illuminated shall comply with the applicable limitations on glare in Section 6.4, Exterior Lighting.	
	e. A wall sign face area may consist of durable, UV resistant, professionally printed fabric stretched taught over an interior frame is permitted provided the sign does not show visible disrepair (fading, torn corners, etc.).	
	f. A wall sign may only be established on a lot with a principal structure.	
5. Sample Calculation	Ⓐ Max. Height: Height of Building Ⓑ Primary Facade Length Ⓒ Max. Sign Face Area: 16 sf Residential Districts 32 sf OFI and NCM Districts All Other Districts = Lesser of: 1.5 sf area per linear foot of facade or 200 sf on primary building facade; + Lesser of: 1 sf area per linear foot of facade or 100 sf on secondary or building facades EXAMPLE: Building is in CRM District 30' Primary Facade Length Max. Wall Sign Area = 30 x 1.5 = **45 sf**	

M. WINDOW SIGNS

1. Definition	A sign affixed to or visible through the surface of a window or glass door that is intended to be visible to the public from outside the building. Signs painted on glass and etched or frosted glass that includes text or symbols shall be considered as a window sign. Signs not visible from off-site areas are exempt from these standards. Signs mounted to a building's exterior wall are "wall" signs.					
2. Districts Where Permitted	**CON, PUB**	**Residential, CZR**	**OFI, NCM**	**DTNC, DTNT, CZD, MXD, CZM**	**CRM, CZC**	**LID, HID, CZI**
	No	No	Yes	Yes	Yes	Yes
3. Dimensional Standards	**Maximum Number of Window Signs Per Development**		No limit, subject to the maximum sign face area standards			
	Maximum Mounting Height		Window signs are not permitted above the second story or higher than 25 feet above ground level			
	Maximum Sign Face Area [1]		DTNC District	25% of the outer extent of any single window or door [2]		
			All Other Districts	33% of the outer extent of any single window or door [2]		
	NOTES:	[1] Groups of multiple windows or doors within six inches of one another on the same building façade shall be considered as one window or door for the purposes of sign face area calculation. [2] Window signs shall not be located or configured in ways that prevent patrons operating doors safely.				
4. Additional Requirements	a. Up to six square feet of window signage may be illuminated per lot or tenant in a multi-tenant building.					
	b. Material used to block views into a vacant building (such as brown paper) is not considered to be a window sign.					
	c. Blinds, shades, or curtains bearing symbols or text that is visible from off-site areas shall be considered to be a window sign subject to these standards.					
	d. A window sign may only be established on a lot with a principal structure.					
5. Sample Calculation						

6.14 SOIL EROSION & SEDIMENTATION CONTROL

6.14.1 PURPOSE AND INTENT

This section is adopted for the purposes of:

A. Regulating certain land-disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses, and other public and private property by sedimentation; and

B. Establishing procedures through which these purposes can be fulfilled.

6.14.2 SCOPE AND EXCLUSIONS

A. GEOGRAPHICAL SCOPE OF REGULATED LAND-DISTURBING ACTIVITY

This section shall apply to land-disturbing activity within the territorial jurisdiction of the town and to the extraterritorial jurisdiction of the Town as allowed by agreement between local governments, the extent of annexation or other appropriate legal instrument or law.

B. EXCLUSIONS FROM REGULATED LAND-DISTURBING ACTIVITY

Notwithstanding the general applicability of this section to all land-disturbing activity, these standards shall not apply to the following types of land-disturbing activity:

1. Activities, including the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:
   - **a.** Forage and sod crops, grain and feed crops, tobacco, cotton, and peanuts.
   - **b.** Dairy animals and dairy products.
   - **c.** Poultry and poultry products.
   - **d.** Livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules, and goats.
   - **e.** Bees and apiary products.
   - **f.** Fur producing animals.
   - **g.** Mulch, ornamental plants, and other horticultural products. For purposes of this section, "mulch" means substances composed primarily of plant remains or mixtures of such substances.
2. An activity undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality (Best Management Practices), as adopted by the North Carolina Department of Agriculture and Consumer Services. If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality, the provisions of this chapter shall apply to such activity and any related land-disturbing activity on the tract.
3. An activity for which a permit is required under the Mining Act of 1971, North Carolina General Statutes Chapter 74, Article 7.
4. A land-disturbing activity over which the state has exclusive regulatory jurisdiction as provided in NCGS§113A-56(a).
5. An activity which is essential to protect human life during an emergency.

6. Activities undertaken to restore the wetland functions of converted wetlands to provide compensatory mitigation to offset impacts permitted under Section 404 of the Clean Water Act.
7. Activities undertaken pursuant to Natural Resources Conservation Service standards to restore the wetlands functions of converted wetlands as defined in Title 7 Code of Federal Regulations Section 12.2.
8. Notwithstanding the general requirement to obtain a plan approval prior to undertaking land-disturbing activity, a plan approval shall not be required for land-disturbing activity that does not exceed one acre (43,560 square feet) in surface area. In determining the area, lands under one or diverse ownership being developed as a unit will be aggregated.

C. PLAN APPROVAL REQUIREMENT FOR LAND-DISTURBING ACTIVITY

No person shall undertake any land-disturbing activity subject to this section without first obtaining the appropriate form(s) of approval from the Town.

D. PROTECTION OF PROPERTY

Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity.

6.14.3 MANDATORY STANDARDS FOR LAND-DISTURBING ACTIVITY

No land-disturbing activity subject to these standards shall be undertaken except in accordance with the following:

A. BUFFER ZONE; STANDARD BUFFER

1. No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the 25 percent of the buffer zone nearest the land-disturbing activity.

a. PROJECTS ON, OVER OR UNDER WATER

This standard shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.

b. BUFFER MEASUREMENT

Unless otherwise provided, the width of a buffer zone is measured horizontally from the top of bank to the nearest edge of the disturbed area, with the 25percent of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.

B. GRADED SLOPES AND FILLS

The angle for graded slopes and fills shall be no greater than the angle that can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within 14 calendar days of completion of any phase of grading, be planted or otherwise provided with temporary or permanent ground cover, devices, or structures sufficient to restrain erosion. The angle for graded slopes and fills must be demonstrated to be stable. Stable is the condition where the soil remains in its original configuration, with or without mechanical constraints.

C. FILL MATERIAL

Unless a permit from the Department's Division of Waste Management to operate a landfill is on file for the official site, acceptable fill material shall be free of organic or other degradable materials, masonry, concrete, and brick in sizes exceeding 12 inches, and any materials which would cause the site to be regulated as a landfill by the State of North Carolina.

D. GROUND COVER

Whenever land-disturbing activity is undertaken on a tract, the person conducting the land-disturbing activity shall install erosion and sedimentation control devices and practices that are sufficient to retain the sediment generated by the land disturbing activity within the boundaries of the tract during construction and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development. Provisions for a ground cover sufficient to restrain erosion must be accomplished within 14 calendar days following completion of construction or development if an NCG01 permit is required. Unless where otherwise specified in the Act or the rules of this Chapter, provisions for permanent ground cover sufficient to restrain erosion shall be accomplished within 90 calendar days following completion of construction or development.

E. PRIOR PLAN APPROVAL

No person shall initiate any land-disturbing activity that will disturb more than one acre on a tract unless, 30 or more days prior to initiating the activity, a plan for the activity is filed with and approved by the Town. The land-disturbing activity may be initiated and conducted in accordance with the plan once the plan has been approved.

F. DE-WATERING

The Town shall forward to the Director of the Division of Water Resources a copy of each plan for a land-disturbing activity that involves the utilization of ditches for the purpose of de-watering or lowering the water table of the tract.

G. PLAN APPROVAL REQUIRED

1. The land-disturbing activity shall be conducted in accordance with the approved erosion and sedimentation control plan.
2. All individuals that obtain a state or locally-approved erosion and sedimentation control plan that disturb one acre or more of land are required by the U.S. Environmental Protection Agency to obtain coverage under the N.C. Department of Environmental Quality Construction General Permit No. NCG010000 (NCG01). The requirements in NCG01 for temporary or permanent ground cover may differ from the ground cover, or stabilization, requirements in this chapter. It is the responsibility of the person conducting the land-disturbing activity to ensure compliance with the NCG01.

6.14.4 EFFECTIVE DATE

This section shall be effective on January 1, 2021.

6.14.5 VIOLATIONS

Violations of these provisions shall be addressed in accordance with Chapter 7, Violations, including Section 7.9, Violation of Soil Erosion and Sedimentation Controls.

6.14.6 EROSION AND SEDIMENTATION CONTROL PLANS

A. PLAN SUBMISSIONS

A plan shall be prepared for all land-disturbing activities subject to this section whenever the proposed activity will disturb more than one acre on a tract. Plans should be submitted per current Town standard procedures and policies.

B. FINANCIAL RESPONSIBILITY AND OWNERSHIP

1. Plans shall be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or his attorney in fact. The statement shall include the mailing and street addresses of the principal place of business of (1) the person financially responsible; (2) the owner of the land; and (3) any registered agents. If the person financially responsible is not a resident of North Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of compliance or non-compliance with the plan, the Act, this section, or rules or orders adopted or issued pursuant to this section. Except as provided in Section 6.14.6C, Utilities, and Section 6.14.6K, Plan Appeals, if the applicant is not the owner of the land to be disturbed, the draft erosion and sedimentation control plan must include the owner's written consent for the applicant to submit a draft erosion and sedimentation control plan and to conduct the anticipated land-disturbing activity.
2. Plans shall be disapproved unless accompanied by documentation of property ownership.

C. UTILITIES

If the applicant is not the owner of the land to be disturbed and the anticipated land-disturbing activity involves the construction of utility lines for the provision of water, sewer, gas, telecommunications, or electrical service, the draft erosion and sedimentation control plan may be submitted without the written consent of the owner of the land, so long as the owner of the land has been provided prior notice of the project.

D. PERFORMANCE GUARANTEE

1. A performance guarantee, configured in accordance with Section 2.3.19, Performance Guarantee, is required to ensure that stabilization of the site is achieved throughout the disturbed area in the event the contractor is unable to complete the project and shall be paid to the Town prior to the issuance of the Land Disturbance Permit.
2. The guarantee amount shall be equal to $1,500/acre of land disturbance rounded to the nearest half acre.
3. The guarantee will be released once a certificate of completion is issued by the Town. A certificate of completion will be provided when the site is stabilized with a sufficient amount of ground cover to prevent erosion, or permanent mow-able planting with 100 percent coverage and 80 percent growth with no large bare patches.
4. The Town may cash the guarantee if the site is issued a continuing violation notice for ground stabilization.

E. ENVIRONMENTAL POLICY ACT DOCUMENT

Any plan submitted for a land-disturbing activity for which an environmental document is required by the North Carolina Environment Policy Act (NCGS§ 113A-1, et seq.) shall be deemed incomplete until a complete environmental document is available for review. The Town shall promptly notify the person submitting the plan that the 30-day time limit for review of the plan pursuant to this section shall not begin until a complete environmental document is available for review.

F. CONTENT

The plan required by this section shall contain architectural or engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with these requirements. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for plan preparation may be obtained from the Town on request.

G. TIMELINE FOR DECISIONS ON PLANS

1. The Town will review each complete plan submitted to them and within 30 days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, or disapproved.
2. Failure to approve, approve with modifications, or disapprove a complete plan within 30 days of receipt shall be deemed approval.
3. The Town of Clayton will review each revised plan submitted to them and within 15 days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, or disapproved.

H. APPROVAL

1. The Town shall only approve a plan upon determining that it complies with all applicable State and local regulations for erosion and sedimentation control. Approval assumes the applicant's compliance with the federal and State water quality laws, regulations, and rules.
2. The Town shall condition approval of plans upon the applicant's compliance with federal and State water quality laws, regulations, and rules.
3. Plan approval is contingent on land-disturbing activity commencing within a year of Land Disturbing Permit issuance.
4. Issuance and regulation of a Land Disturbance Permit shall be in accordance with Section 2.3.15, Land Disturbance Permit.

I. DISAPPROVAL FOR CONTENT

The Town may disapprove a plan or draft plan based on its content. A disapproval based upon a plan's content must specifically state in writing the reasons for disapproval.

J. OTHER DISAPPROVALS

1. The Town shall disapprove an erosion and sedimentation control plan if implementation of the plan would result in a violation of rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters.
2. The Town may disapprove an erosion and sedimentation control plan or disapprove a transfer of a plan under Section 6.14.6K, Plan Appeals, upon finding than an applicant or a parent, subsidiary, or other affiliate of the applicant:

a. Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the Commission or the Town pursuant to this section and has not complied with the notice within the time specified in the notice.
b. Has failed to pay a civil penalty assessed pursuant to these standards by the time the payment is due.
c. Has been convicted of a misdemeanor pursuant to NCGS§ 113A-64(b) or other aspect of these standards.
d. Has failed to substantially comply with State rules or these regulations.

3. In the event that an erosion and sedimentation control plan or a transfer of a plan is disapproved by the Town pursuant to this sub-section, the Town shall notify the Director of the Division of Energy, Mineral, and Land Resources within ten days of the disapproval. The Town shall advise the applicant or the proposed transferee and the Director in writing as to the specific reasons that the plan was disapproved. Notwithstanding the provisions of Section 6.14.6K, Plan Appeals, the applicant may appeal the local government's disapproval of the plan directly to the Commission.
4. For purposes of this section, an applicant's record or the proposed transferee's record may be considered for only the two years prior to the application date.

K. PLAN APPEALS

1. The appeal of a disapproval or approval with modifications of a plan shall be governed by the following provisions:
   a. The disapproval or modification of any proposed plan by the Town, may be appealed in accordance with Section 2.3.2, Appeal.
   b. If the Board of Adjustment upholds the disapproval or modification of a proposed plan following the hearing, the person submitting the plan shall then be entitled to appeal the decision to the Commission as provided NCGS§ 113A-61(c) and 15A NCAC 4B.0118(d).
2. In the event that a plan is disapproved pursuant to Section 6.14.6J, Other Disapprovals, the applicant may appeal the Town's disapproval directly to the Commission.

L. TRANSFERS

The Town may transfer an erosion and sedimentation control plan approved pursuant to this section without the consent of the plan holder to a successor-owner of the property on which the permitted activity is occurring or will occur as provided in this section.

1. The Town may transfer a plan if all of the following conditions are met:
   a. The successor-owner of the property submits to the Town a written request for the transfer of the plan and an authorized statement of financial responsibility and ownership.
   b. The Town finds all of the following:
      i. The plan holder is one of the following:
         1. A natural person who is deceased.
         2. A partnership, limited liability corporation, corporation, or any other business association that has been dissolved.
         3. A person who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur.
         4. A person who has sold the property on which the permitted activity is occurring or will occur.

ii. The successor-owner holds title to the property on which the permitted activity is occurring or will occur.
iii. The successor-owner is the sole claimant of the right to engage in the permitted activity.
iv. There will be no substantial change in the permitted activity.

2. The plan holder shall comply with all terms and conditions of the plan until such time as the plan is transferred.
3. The successor-owner shall comply with all terms and conditions of the plan once the plan has been transferred.
4. Notwithstanding changes to law made after the original issuance of the plan, the Town may not impose new or different terms and conditions in the plan without the prior express consent of the successor-owner. Nothing in this section shall prevent the Town from requiring a revised plan pursuant to NCGS§ 113A-54.1(b).

M. NOTICE OF ACTIVITY INITIATION

No person may initiate a land-disturbing activity before notifying the agency that issued the plan approval of the date that land-disturbing activity will begin.

N. PRE-CONSTRUCTION CONFERENCE

When deemed necessary by the Town, a pre-construction conference may be required and shall be noted on the approved plan.

O. DISPLAY OF PLAN APPROVAL

1. A plan approval issued under this section shall be prominently displayed at either the primary entrance of the job site or at another location that is observable to the public and inspectors until all construction is complete, all permanent sedimentation and erosion control measures are installed, and the site has been stabilized.
2. A paper copy of the approved plan shall be kept on file at the job site.

P. REQUIRED REVISIONS

1. After approving a plan, if the Town, either upon review of such plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the Town shall require a revised plan.
2. Pending the preparation of the revised plan, work shall cease or shall continue under conditions outlined by the appropriate authority.
3. If following commencement of a land-disturbing activity pursuant to an approved plan, the Town determines that the plan is inadequate to meet the requirements of this section, the Town may require any revision of the plan that is necessary to comply with these standards.

Q. AMENDMENT TO A PLAN

Applications for amendment of a plan in written and/or graphic form may be made at any time under the same conditions as the original application. Until such time as the amendment is approved by the Town, the land-disturbing activity shall not proceed except in accordance with the plan as originally approved.

R. FAILURE TO FILE A PLAN

Any person engaged in land-disturbing activity who fails to file a plan in accordance with this section, or who conducts a land-disturbing activity except in accordance with provisions of an approved plan shall be deemed in violation of this Ordinance.

6.14.7 INSPECTIONS

A. SELF INSPECTIONS

1. The landowner, the financially responsible party, or their agent shall perform an inspection of the area covered by the plan after each phase of the plan has been completed and after establishment of temporary ground cover in accordance with NCGS§ 113A-57(2).
2. In addition, weekly and rain-event self-inspections are required by federal regulations that are implemented through the NPDES Construction General Permit No. NCG 010000.
3. The person who performs the inspection shall maintain and make available a record of the inspection at the site of the land-disturbing activity. The record shall set out any significant deviation from the approved erosion control plan, identify any measures that may be required to correct the deviation; and document the completion of those measures.
4. The record shall be maintained until permanent ground cover has been established as required by the approved erosion and sedimentation control plan.
5. The inspections required by this section shall be in addition to inspections required by NCGS§ 113A-61.1.
6. Where inspections are required by this section or NCGS§ 113A-54.1(e), the following apply:
   a. The inspection shall be performed during or after each of the following phases of a plan:
      i. Installation of all erosion and sediment control measures;
      ii. Clearing and grubbing of existing ground cover;
      iii. Completion of any grading that requires ground cover;
      iv. Completion of storm drainage facilities;
      v. Completion of all land-disturbing activities, construction, or development, including permanent ground cover establishment and removal of all temporary measures;
      vi. Quarterly until the establishment of permanent ground cover sufficient to restrain erosion;
      vii. Transfer of ownership or control of the tract of land where the erosion and sedimentation control plan has been approved and work has begun. The new owner or person in control shall conduct and document inspections until the project is permanently stabilized with ground cover following completion of grading.
   b. Documentation of self-inspections shall include:
      i. Visual verification of ground stabilization and other erosion control measures and practices as called for in the approved plan;
      ii. Verification by measurement of settling basins, temporary construction entrances, energy dissipators, and traps;
      iii. The name, address, organization affiliation, telephone number, and signature of the person conducting the inspection and the date of the inspection shall be included, whether on a copy of the approved erosion and sedimentation control plan or an inspection report. A template for an example of an inspection and monitoring report is provided on the DEMLR website at: https://deq.nc.gov/about/divisions/energy-mineral land-resources/erosion-sediment-control/forms. Any relevant licenses and certifications may also be included. Any documentation of inspections that occur on a copy of the approved erosion and sedimentation control plan shall occur on a single copy of the plan and that plan shall be made available on the site; and
      iv. A record of any significant deviation from any erosion or sedimentation control measure from that on the approved plan. For the purpose of this rule, a "significant deviation" means an omission, alternation, or relocation of an erosion or sedimentation control measure that prevents it from performing as intended. The record shall include measures required to correct the significant deviation, along with documentation of when those measures were

taken. Deviations from the approved plan may also be recommended to enhance the intended performance of the sedimentation and erosion control measures.

B. OTHER INSPECTIONS AND INVESTIGATIONS

1. INSPECTION

Agents, officials, or other qualified persons authorized by the Town, will periodically inspect land-disturbing activities to ensure compliance with the Act, this section, or rules or orders adopted or issued pursuant to this section, and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation resulting from land-disturbing activity. Notice of the right to inspect shall be included in the certificate of approval of each plan.

2. WILLFUL RESISTANCE, DELAY OR OBSTRUCTION

No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of the Town, while that person is inspecting or attempting to inspect a land-disturbing activity under this section.

3. NOTICE OF VIOLATION

If the town determines that a person engaged in land-disturbing activity has failed to comply with the Act, this section, or rules or orders adopted or issued pursuant to this section, a notice of violation shall be served upon that person in accordance with Section 7.5, Enforcement Procedure.

4. INVESTIGATION

The Town shall have the power to conduct such investigation as it may reasonably deem necessary to carry out its duties as prescribed in this section, and who presents appropriate credentials for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any land-disturbing activity.

5. STATEMENTS AND REPORTS

The Town shall also have the power to require written statements, or filing of reports under oath, with respect to pertinent questions relating to land-disturbing activity.

6.14.8 BASIC CONTROL OBJECTIVES

A. OBJECTIVES

An erosion and sedimentation control plan may be disapproved if the plan fails to address the following control objectives:

1. IDENTIFY CRITICAL AREAS

On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention.

2. LIMIT TIME OF EXPOSURE

Limit exposure to the shortest time specified in NCGS§ 113A-57, the rules of this section, or as directed by the approving authority.

3. LIMIT EXPOSED AREAS

All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at anyone time.

4. 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.

5. CONTROL SEDIMENTATION

All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage.

6. MANAGE STORMWATER RUNOFF

Plans shall be designed so that any increase in velocity of stormwater runoff resulting from a land-disturbing activity will not result in accelerated erosion of the receiving stormwater conveyance or at the point of discharge. Plans shall include measures to prevent accelerated erosion within the project boundary and at the point of discharge.

6.14.9 DESIGN AND PERFORMANCE STANDARDS

A. DESIGN AND PERFORMANCE STANDARDS

1. Erosion and sedimentation control measures, structures, and devices shall be planned, designed, and constructed to provide protection from the runoff of a ten-year storm that produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture, Natural Resources Conservation Service's "National Engineering Field Handbook 630 (Handbook 630)."
2. This document is herein incorporated by reference including subsequent amendments and editions.
3. Other methodologies may be used if based on generally accepted engineering standards that are shown to be equivalent to or improved over the procedures in Handbook 630. The approving authority shall determine acceptability of an alternative methodology based upon a showing that the runoff model used was based on observed data in agreement with the predictive model.
4. The Sedimentation Control Commission and DEQ have created and adopted a North Carolina Erosion and Sedimentation Control Planning and Design Manual describing recommended sedimentation control techniques for construction activities. This is an acceptable resource for design of the erosion control plan.

6.14.10 STORMWATER OUTLET PROTECTION

A. INTENT

Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity.

B. PERFORMANCE STANDARD

1. Persons shall conduct land-disturbing activity so that the post construction velocity of the ten-year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:
   a. The velocity established in Table 6.14.10, Maximum Permissible Velocities; or
   b. The velocity of the ten-year storm runoff in the receiving watercourse prior to development.
2. If the standards in sub-section (1) above cannot be met, then the receiving watercourse and including the discharge point shall be designed and constructed to withstand the

expected velocity anywhere the velocity exceeds the "prior to development" velocity by 10 percent.

TABLE 6.14.10: MAXIMUM PERMISSIBLE VELOCITIES

MATERIAL	FPS (FEET PER SECOND)	MPS (METERS PER SECOND)
Fine sand (noncolloidal)	2.5	0.8
Sandy loam (noncolloidal)	2.5	0.8
Silt loam (noncolloidal)	3.0	0.9
Ordinary firm loam	3.5	1.1
Fine gravel	5.0	1.5
Stiff clay (very colloidal)	5.0	1.5
Graded, loam to cobbles (noncolloidal)	5.0	1.5
Graded silt to cobbles (colloidal)	5.5	1.7
Alluvial silts (noncolloidal)	3.5	1.1
Alluvial silts (colloidal)	5.0	1.5
Coarse gravel (noncolloidal)	6.0	1.8
Cobbles and shingles	5.5	1.7
Shales and hard pans	6.0	1.8

Source: Adapted from recommendations by Special Committee on Irrigation Research, American Society of Civil Engineers, 1926, for channels with straight alignment. For sinuous channels, multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels.

C. ACCEPTABLE MANAGEMENT MEASURES

Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences. The Town recognizes that the management of stormwater runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results. Some alternatives, while not exhaustive, are to:

1. Avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious;
2. Avoid increases in stormwater discharge velocities by using vegetated or roughened swales and waterways in place of closed drains and high velocity paved sections;
3. Provide energy dissipators at outlets of storm drainage facilities to reduce flow velocities to the point of discharge;
4. Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining; and

5. Upgrade or replace the receiving device structure, or watercourse such that it will receive and conduct the flow to a point where it is no longer subject to degradation from the increased rate of flow or increased velocity.

D. EXCEPTIONS

This rule shall not apply where it can be demonstrated to the Town that stormwater discharge velocities will not create an erosion problem in the receiving watercourse.

6.14.11 OTHER DISTURBED AREAS

A. BORROW AND WASTE AREAS

1. If the same person conducts the land-disturbing activity and any related borrow or waste activity, the related borrow or waste activity shall constitute part of the land-disturbing activity, unless the borrow or waste activity is regulated under the Mining Act of 1971, NCGS Chapter 74, Article 7, or is a landfill regulated by the Division of Waste Management.
2. If the land-disturbing activity and any related borrow or waste activity are not conducted by the same person, they shall be considered by the approving authority as separate land-disturbing activities.

B. ACCESS AND HAUL ROADS

Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity shall be considered a part of such activity.

6.14.12 NATURAL FEATURES

A. OPERATIONS IN LAKES AND NATURAL WATERCOURSES

Land disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall minimize the extent and duration of disruption of the stream channel. Where relocation of a stream forms an essential part of the proposed activity, the relocation shall minimize changes in the stream flow characteristics. Permits shall be obtained by other regulatory authorities, such as DEQ and USACE, when applicable and prior to issuance of grading permit from the Town.

6.14.13 MAINTENANCE

A. RESPONSIBILITY FOR MAINTENANCE

1. 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 or any provision of this section, the North Carolina Environment Policy Act (NCGS§ 113A-1, et seq.), or any order adopted pursuant to this section or the Act.
2. After site development, the landowner or person in possession or control of the land shall maintain all necessary permanent stormwater post-construction measures per the town's NPDES Phase 2 permit, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

B. ADDITIONAL MEASURES

Whenever the Town, determines that accelerated erosion and sedimentation continues despite the installation of protective practices, they shall direct the person conducting the land-disturbing activity to take additional protective action necessary to achieve compliance with the conditions specified in the North Carolina Environment Policy Act (NCGS§ 113A-1, et seq.) or its rules.

6.15 STORMWATER

6.15.1 AUTHORITY

The Town is authorized to adopt these stormwater standards pursuant to North Carolina law, including but not limited to:

A. Article 14, Section 5 of the Constitution of North Carolina;
B. NCGS§143-214.7 and rules promulgated by the Environmental Management Commission thereunder;
C. NCGS§§ 143-215.6A, 153A-454, 160A-174, 160A-185, and 160A-459;
D. Session Law 2009-216 and Session Law 2009-484;
E. Section NCAC 02B .0711 of the North Carolina Administrative Code;
F. The Charter of the Town of Clayton; and
G. Any special legislation enacted by the North Carolina General Assembly for the Town of Clayton.

6.15.2 FINDINGS

A. It is hereby determined that:
  1. Development and redevelopment alter the hydrologic response of local watersheds 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;
  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
  3. These effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from development sites.

B. It is further determined that the Federal Water Pollution Control Act of 1972 ("Clean Water Act") and federal Phase II Stormwater Rules promulgated under it, as well as rules of the North Carolina Environmental Management Commission promulgated in response to federal Phase II requirements, compel certain urbanized areas, including this jurisdiction, to adopt minimum stormwater controls such as those included in this section.

C. Additionally, the North Carolina Environmental Management Commission has identified and has promulgated rules that have been amended and affirmed by the North Carolina General Assembly (Neuse River Nutrient Management Strategy) to reduce the average annual loads of nitrogen delivered to the Neuse River Basin from all point and nonpoint sources of these nutrients located within its watershed, including stormwater from new development in Clayton's planning jurisdiction.

D. Therefore, the Town 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 from development and redevelopment.

6.15.3 PURPOSE

A. The purpose of this section 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 increased post-development stormwater runoff, including nitrogen, phosphorus, and total suspended solids in stormwater runoff, as well as to control the adverse effects of nonpoint and point source pollution associated with new development and redevelopment. It has been determined that proper management of construction-related and

post-development stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, and general welfare, and protect water and aquatic resources.

B. This section seeks to meet its general purpose through the following specific objectives and means:

1. Establishing decision-making processes for development that protect the integrity of watersheds and preserve the health of water resources;
2. Requiring that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable for the applicable design storm to reduce flooding, streambank erosion, nonpoint and point source pollution and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats;
3. Establishing minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
4. Establishing design and review criteria for the construction, function, and use of structural stormwater best management practices ("BMPs") and stormwater control measures ("SCMs") that may be used to meet the minimum post-development stormwater management standards;
5. Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for stormwater and the preservation of greenspace, riparian buffers and other conservation areas to the maximum extent practicable;
6. Establishing provisions for the long-term responsibility for and maintenance of structural and nonstructural stormwater BMPs and SCMs to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety;
7. Establishing administrative procedures for the submission, review, approval, and disapproval of stormwater management plans, for the inspection of approved projects, and to assure appropriate long-term maintenance;
8. Controlling illicit discharges into municipal separate stormwater system;
9. Coordinating site design plans that include open space; and
10. Assigning responsibility and processes for approving the creation and maintenance of adequate drainage.

6.15.4 APPLICABILITY AND JURISDICTION

A. GENERAL

Beginning with and subsequent to its effective date, this section shall be applicable to all development and redevelopment, including, but not limited to, Site Plan applications, Subdivision applications, and Land Disturbance Permit applications, unless exempted in accordance with Section 6.15.4C, Exemptions.

B. ESTABLISHMENT OF VESTED RIGHTS

Vested rights are established in accordance with Section 1.11, Vested Rights, and Section 2.3.30, Vested Rights Certificate.

C. EXEMPTIONS

The following forms of development and actions shall be exempted from the requirements in this section:

1. Single-family detached dwellings, duplex dwellings, and manufactured home dwellings and recreational development and redevelopment that cumulatively disturbs less than one acre and are not part of a larger common plan of development or sale are exempt from the provisions of this section, unless deemed otherwise by the Stormwater Administrator.
2. Commercial, industrial, institutional, single-family attached, and multi-family residential, or local government development and redevelopment that cumulatively disturbs less than one-half acre and are not part of a larger common plan of development or sale are exempt from the provisions of this section.
3. Development and redevelopment that disturbs less than a stated area threshold are not exempt if such activities are part of a larger common plan of development or sale that exceeds the relevant threshold, even though multiple, separate, or distinct activities take place at different times on different schedules.
4. Activities that are exempt from permit requirements of Section 404 of the federal Clean Water Act as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities) are exempt from these provisions.
5. In accordance with the requirements of 15A NCAC 02B .0711 and the Town's Phase II Permit NCS000559, new development undertaken by the Town solely as a public road project shall be deemed compliant with the purposed of this section if it meets the riparian buffer protection requirements of the Neuse River buffer rules. For these public road projects, the following shall be done to the maximum extent practicable:
   a. Minimize BUA;
   b. Divert runoff away from surface waters; and
   c. Implement BMPs and SCMs.
6. Existing impervious surfaces established prior to November 1, 2008, as determined through aerial photography, permits, plans, etc. however, if the impervious area limits are reduced after November 1, 2008, and the previously impervious area is reestablished as pervious for a period of one year or more, the impervious area is no longer exempt.

D. NO DEVELOPMENT OR REDEVELOPMENT UNTIL COMPLIANCE AND PERMIT

1. No development or redevelopment shall occur except in compliance with the provisions of this section or unless exempted.
2. No development for which a permit is required pursuant to this section shall occur except in compliance with the provisions, conditions, and limitations of the permit.

E. MAP

1. The provisions of this chapter shall apply within the areas designated on the map titled "Stormwater Map of Town of Clayton, 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 Chapter.
2. The Stormwater Map shall be kept on file by the Stormwater Administrator and shall be updated to consider changes in the land area covered by this section and the geographic location of all engineered stormwater controls permitted under this section. In the event of a dispute, the applicability of this section to a particular area of land or SCM or BMP shall be determined by reference to the North Carolina Statutes, the North Carolina Administrative Code, and this Ordinance.

6.15.5 DESIGN MANUAL

A. REFERENCE TO DESIGN MANUAL

1. The Stormwater Administrator shall use the policy, criteria, and information, including technical specifications and standards, in the Design Manual as the basis for decisions about stormwater permits and about the design, implementation and performance of structural and non-structural stormwater SCMs.
2. 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 Phase II and other applicable stormwater laws.

B. 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.

C. 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 chapter but prior to approval, the new information shall control and shall be utilized in reviewing the application and in implementing this Section with regard to the application.

6.15.6 EFFECTIVE DATE

These standards shall take effect on January 2, 2024.

6.15.7 REVIEW PROCEDURES

A. PERMITS

Stormwater Permits shall be reviewed and decided in accordance with Section 2.3.23, Stormwater Permit.

B. VARIANCE

Variance from the standards in this section shall be in accordance with Section 2.3.29, Variance.

C. APPEALS

Appeals of decisions of the Stormwater Administrator regarding these standards shall be in accordance with Section 2.3.2, Appeal.

6.15.8 STANDARDS

All development and redevelopment subject to these standards shall comply with the following:

A. RESTRICTION REQUIRED

Approval of the Stormwater Permit shall require 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 stormwater management plan.

B. NEUSE RIVER ESTUARY NUTRIENT MANAGEMENT REQUIREMENTS

1. Nitrogen and phosphorus loads contributed by the proposed new development shall not exceed 3.6 pounds per acre per year unit-area mass loading rates for nitrogen.
2. Redevelopment subject to these standards that would replace or expand existing structures or improvements and would result un a net increase in built-upon area shall have the option of either meeting the loading standards identified in this sub-section or meeting a loading rate that achieves a nutrient load corresponding to a 35 percent reduction for nitrogen as compared to the existing development.
3. The developer shall determine the need for engineered stormwater controls to meet these loading rate targets by using the latest NCDEQ-approved nutrient accounting tool.

C. NITROGEN AND PHOSPHORUS STANDARD IS SUPPLEMENTAL; TOTAL SUSPENDED SOLIDS (TSS) REMOVAL

1. The nitrogen and phosphorus loading standards in this section 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, including, without limitation, the riparian buffer protection requirements of 15A NCAC 2B.0714.
2. All stormwater systems used to meet these requirements shall be designed to have a minimum of 85 percent average annual removal for TSS.

D. CONTROL AND TREATMENT OF RUNOFF VOLUME

1. Stormwater systems shall be designed to control and treat runoff volume generated from all surfaces by one inch of rainfall; the treatment volume.
2. The treatment volume shall not exceed the maximum ponding depth and be drawn down pursuant to standards specific to each practice as provided in the Design Manual.
3. To minimize flooding and to ensure that the integrity and nutrient processing functions of receiving waters and associated riparian buffers are not compromised by evasive flows, stormwater flows from development or redevelopment shall not contribute to degradation of waters of the State.
4. At a minimum, the development and redevelopment shall not result in a net increase in peak flow leaving the site from pre-development conditions for the 1-year, 24-hour storm; 2-year, 24-hour storm; 10-year, 24-hour storm; and 25-year 24-hour storm events.

E. PARTIAL OFFSET OF NUTRIENT CONTROL REQUIREMENTS

1. Development subject to these standards shall attain a maximum nitrogen loading rate on-site of six pounds per acre per year for single-family detached and duplex residential development, and ten pounds per acre per year for other development, including multi-family residential, commercial, and industrial. Development shall also meet any requirements for engineered stormwater controls otherwise imposed by these standards. A developer subject to these standards may achieve the additional reductions in nitrogen and phosphorus loading by use of the following options:
   a. Purchasing offset credits from an approved private seller with a project located in the same eight-digit Hydrologic Unit Code (8-digit HUC) as the proposed development (refer to the North Carolina Department of Environmental Quality (NCDEQ) Division of Water Resources (DWR) for approved mitigation banks with applicable and eligible credits in Clayton).

b. Making offset payments to the NC Ecosystem Enhancement Program contingent upon acceptance of payments by that program.

c. Making offset payments to the Town of Clayton for equivalent nutrient credits at 80 percent of the rate calculated by the NC Ecosystem Enhancement Program for the Neuse-Falls Lake watershed.

d. A developer may propose to offset measures to the Town, including providing their own off-site offset.

2. All offsite measures shall meet the requirements of 15A NCAC 02B .0273 (2) through (4) and 15A NCAC 02B. 0240.

3. Documentation and proof of purchase for offset credit options is required prior to construction plan approval.

F. STANDARDS FOR STORMWATER CONTROL MEASURES

1. EVALUATION ACCORDING TO CONTENTS OF DESIGN MANUAL

a. All stormwater control measures, stormwater systems, and stormwater treatment practices (also referred to as Best Management Practices, or BMP/SCMs) required by these standards shall be evaluated by the Stormwater Administrator according to the policies, criteria for each stormwater practice, in the most updated version of the Design Manual.

b. The Stormwater Administrator shall determine whether proposed BMP/SCMs will be adequate to meet the requirements of this section.

2. DETERMINATION OF ADEQUACY; PRESUMPTIONS AND ALTERNATIVES

a. Stormwater treatment practices that are designed, constructed, and maintained in accordance with the criteria and specifications in the Design Manual and the approved accounting tool will be presumed to meet the minimum water quality and quantity performance standards of these standards.

b. 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 these standards.

c. 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.

3. SAFETY REQUIREMENTS

All SCM facilities subject to this ordinance shall be designed with features to discourage access from unauthorized personnel to prevent injury and accidental loss of life.

G. COMPLETION OF STORMWATER BMPS AND SCMS

1. The developer of any non-residential development will be expected to have installed and stabilized the final stormwater BMP/SCMs supporting their development prior to issuance of a Certificate of Occupancy.

2. For residential development, the final stormwater device can be installed at such point that 80 percent or more of the residential lots are completed.

H. DEDICATION OF BMP/SCMS, FACILITIES, AND IMPROVEMENTS

The Town may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this section and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

I. VARIATIONS FROM THIS SECTION

The town shall have the option to approve projects that do not comply with all the provisions of these standards on a case-by-case basis as follows:

1. If the variation pertains to a BMP/SCM design that does not meet all the minimum design criteria, then the applicant shall provide technical justification based on engineering calculations and the results of research studies showing that the proposed design provides equal or better stormwater control and equal or better protection of waters of the State than these requirements and that it shall function in perpetuity.
2. The town shall have the option to require compliance with the minimum design criteria in the event that the alternative BMP/SCM design fails.
3. If the variation pertains to other aspects of the project, then the applicant shall demonstrate that the project provides equal or better stormwater control and equal or better protection of waters of the State than these requirements.

6.15.9 MAINTENANCE

A. GENERAL STANDARDS FOR MAINTENANCE

1. FUNCTION OF BMPS OR SCMS AS INTENDED

The owner of each structural and engineered stormwater control installed pursuant to this chapter 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 engineered stormwater control was designed.

2. ANNUAL MAINTENANCE INSPECTION AND REPORT

a. The person responsible for maintenance of any structural and engineered stormwater control installed pursuant to this section shall 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:
   i. The name and address of the land owner;
   ii. The recorded book and page number of the lot of each structural and engineered stormwater control;
   iii. A statement that an inspection was made of all structural and engineered stormwater control;
   iv. The date the inspection was made;
   v. A statement that all inspected structural and engineered stormwater controls are performing properly and comply with the terms and conditions of the approved maintenance agreement required by this section; and
   vi. The original signature and seal of the engineer, surveyor, or landscape architect.

b. All inspection reports shall be on forms supplied by the Stormwater Administrator.

c. 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.

B. OPERATION AND MAINTENANCE AGREEMENT

1. IN GENERAL

a. Prior to the conveyance or transfer of any lot or building site to be served by a engineered stormwater control pursuant to this section, and prior to issuance of any permit for development or redevelopment requiring a engineered stormwater control pursuant to this section, the applicant or owner of the site shall 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 engineered stormwater control in a form acceptable to the Stormwater Administrator.

b. Until the transference of all property, sites, or lots served by the engineered stormwater control, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.

c. The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the engineered stormwater control, and shall state the terms, conditions, and schedule of maintenance for the engineered stormwater control. In addition, it shall grant to the Town 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 engineered stormwater control; however, in no case shall the right of entry, of itself, confer an obligation of the Town to assume responsibility for the engineered stormwater control.

d. 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 Johnston County Register of Deeds upon Final Plat approval.

e. A copy of the recorded maintenance agreement shall be given to the Stormwater Administrator within 14 days following its recordation.

f. For all engineered stormwater controls required pursuant to this section that are to be or are owned and maintained by an owners' association, the required operation and maintenance agreement shall include all of the following provisions:

i. A statement that the agreement shall grant the Town of Clayton a right of entry to inspect, monitor, repair, and reconstruct structural BMP/SCMs.

ii. A statement that the Town of Clayton is authorized to recover from the property owner and/or association and its members, any and all costs the Town of Clayton expends to maintain or repair the structural BMP/SCMs or to correct any operational deficiencies. Failure to pay the Town of Clayton all of its expended costs, after 45 days' written notice, shall constitute a breach of the agreement. The Town of Clayton shall thereafter be entitled to bring an action against the property owner and/or 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.

iii. A statement that the agreement shall not obligate the Town of Clayton to maintain or repair any structural BMP/SCMs or encompassing easements, and the Town of Clayton shall not be liable to any person for the condition or operation of structural BMP/SCMs.

iv. Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities.

v. 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.

vi. A statement that the property owner and/or association and its members indemnifies and holds harmless the Town of Clayton for any costs and injuries arising from or related to the structural BMP/SCM, unless the Town of Clayton has agreed in writing to assume the maintenance responsibility for the BMP/SCM and has accepted dedication of any and all rights necessary to carry out that maintenance.

2. THIRD PARTY TRANSFER DOCUMENT FOR OWNERS' ASSOCIATIONS

A third-party document signed by the Town of Clayton, the developer, and the owners' association shall be required upon completion of the project and handoff of all structural BMP/SCM devices included in the recorded operations and maintenance agreement.

a. A formal onsite inspection with all three parties present shall be required. If all devices are compliant and functioning as designed the agreement will be signed by all three parties and recorded.

b. The attachment shall then be recorded as an addendum to the original recorded operations and management agreement.

C. INSPECTION PROGRAM

1. Inspections and inspection programs by the town may be conducted or established on any reasonable basis, including but not limited to:
   a. Routine inspections;
   b. Random inspections;
   c. Inspections based upon complaints or other notice of possible violations; and
   d. Joint inspections with other agencies inspecting under environmental or safety laws.
2. Inspections may include, but are not limited to:
   a. Reviewing maintenance and repair records;
   b. Sampling discharges, surface water, groundwater, and material or water in BMPs and SCMs; and
   c. Evaluating the condition of BMPs and SCMs.
3. 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.
4. No person shall obstruct, hamper, or interfere with the Stormwater Administrator while carrying out their official duties.

D. PERFORMANCE GUARANTEE FOR INSTALLATION AND MAINTENANCE

1. REQUIRED

a. The Town requires the submittal of a performance guarantee, the form of which may be selected by the applicant. The guarantee is required to be posted prior to issuance of a permit in order to ensure that the structural BMPs/SCMs are installed by the permit holder as required by the approved stormwater management plan.

b. The guarantee is also required to ensure the BMPs/SCMs are maintained by the owner as required by the operation and maintenance agreement.

2. GUARANTEES DISTINGUISHED

Performance guarantees required by this section take one of the following two forms:

a. INSTALLATION PERFORMANCE GUARANTEE

i. An installation performance guarantee shall be required by the Town prior to the commencement of construction of all required structural or engineered stormwater controls.
ii. Installation performance guarantees shall be submitted, reviewed, retained, and released in accordance with Section 2.3.19, Performance Guarantee. However, submittal of an installation performance guarantee identified in this section shall be mandatory, not optional.

b. MAINTENANCE PERFORMANCE GUARANTEE

A maintenance performance guarantee shall be required by the Town following construction and inspection of a required structural or engineered stormwater control.

3. MAINTENANCE GUARANTEE

a. AMOUNT

The amount of a maintenance guarantee shall be 25 percent of the total cost of construction of the BMP or SCM.

b. COSTS IN EXCESS OF PERFORMANCE SECURITY

If the Town acts upon such failure by the applicant or owner, the Town may collect from the applicant or owner the difference between the amount of the reasonable cost of such action and the amount of the guarantee held, in addition to any other penalties or damages due.

c. FORM OF MAINTENANCE GUARANTEE

The form of the maintenance guarantee shall be at the discretion of the applicant, but shall take one of the forms identified in Section 2.3.19E, Form.

d. DEFAULT

i. Upon default of the owner to maintain, repair and, if necessary, reconstruct any structural SCM in accordance with the applicable permit or operation and maintenance agreement, the Stormwater Administrator shall obtain and use all or any portion of the maintenance guarantee to make necessary improvements based on an engineering estimate.
ii. Such expenditure of funds shall only be made after requesting the owner to comply with the permit or maintenance agreement.

e. RELEASE

A maintenance guarantee shall not be released, but instead shall be held by the Town until the associated BMP or SCM is lawfully removed by the owner or responsible party.

E. NOTICE TO OWNERS

1. DEED RECORDATION AND INDICATIONS ON PLAT

a. The applicable operations and maintenance agreement and conservation easement, pertaining to every structural and engineered stormwater control shall be referenced on the Final Plat and shall be recorded with the Johnston County Register of Deeds upon Final Plat approval.
b. 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 Johnston County Register of Deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles.

2. SIGNAGE

a. Where determined appropriate by the Stormwater Administrator to assure compliance with this section, engineered stormwater controls shall be posted with a conspicuous sign stating who is responsible for required maintenance and annual inspection.

b. The sign shall be maintained so as to remain visible and legible.
c. For the purposes of this Ordinance, these signs are considered government signs exempted from First Amendment protections regarding regulation of sign content.

F. RECORDS OF INSTALLATION AND MAINTENANCE ACTIVITIES

The owner of each engineered stormwater control shall keep records of inspections, maintenance, and repairs for at least five years from the date of creation of the record and shall submit the same upon reasonable request to the Stormwater Administrator.

G. NUISANCE

The owner of each stormwater SCM, whether structural or engineered, shall maintain it so as not to create or result in a nuisance condition.

H. ACCESS AND MAINTENANCE EASEMENT

1. Every engineered stormwater control installed pursuant to this section shall be made accessible for adequate maintenance and repair by a maintenance easement accessible to a public right-of-way. The easement shall be recorded and its terms shall specify who may make use of the easement and for what purposes.
2. Access and maintenance easements shall not have lateral or incline slopes that exceed 5:1 (horizontal to vertical).

6.15.10 ENFORCEMENT

Enforcement of the standards in this section shall be in accordance with Chapter 7, Violations, and Section 7.10, Violation of Stormwater Controls.

6.16 SUBDIVISION DESIGN

6.16.1 PURPOSE AND INTENT

The purpose of this section is to establish standards for the subdivision of land and extension of public infrastructure in the Town's planning jurisdiction. More specifically, this section is intended to:

A. Provide for the orderly growth and development of the Town;
B. Maintain conditions essential to the public's health, safety, and welfare;
C. Facilitate the further re-subdivision of larger tracts into smaller parcels of lands and individual lots, where appropriate;
D. Coordinate the provision of streets within and contiguous to proposed subdivisions;
E. Provide for the dedication or reservation of rights-of-way, and easements, in accordance with the Town's adopted policy guidance; and
F. Ensure lots and public infrastructure are configured in ways that ensure public safety, easy maintenance, and good planning practice.

6.16.2 APPLICABILITY

Unless exempted in accordance with Section 6.16.3, Exemptions, any division of land consistent with the definition of a subdivision in Section 8.3, Terms Defined, that is located within the Town's planning jurisdiction or the subject of a development agreement to become part of the Town's planning jurisdiction at some point in the future shall comply with the requirements of this section, the standards in Chapter 6, Standards, and the relevant application procedures in Chapter 2, Applications.

6.16.3 EXEMPTIONS

The following divisions of land shall be exempt from these subdivision standards:

A. Exempt subdivisions in accordance with Section 2.3.12, Exempt Subdivision;
B. Court-ordered subdivisions that comply with Chapter 29 of the North Carolina General Statutes;
C. In no instance shall any division of land be exempted from the standards in the following sections:
  1. Section 6.1, Access and Circulation;
  2. Section 6.5, Infrastructure;
  3. Section 6.11, Resource Conservation Areas;
  4. Section 6.12, Riparian Buffers;
  5. Section 6.14, Soil Erosion & Sedimentation Control, unless the amount of land disturbance is below established thresholds;
  6. Section 6.15, Stormwater; and
  7. Section 6.18, Tree Protection.

6.16.4 APPROVAL AND RECORDATION OF PLATS REQUIRED

A. No subdivision of land within the Town's planning jurisdiction, as defined in Section 8.3, Terms Defined, shall occur, and no lot or parcel created by such division of land may be conveyed or developed unless the division complies with the standards of this Ordinance as well as the applicable standards in Section 2.3.16, Limited Subdivision, Section 2.3.17, Major Subdivision, or Section 2.3.18, Minor Subdivision, as appropriate.
B. Subdivisions of land subject to these standards shall be recorded in the office of the Johnston County Register of Deeds following approval of the plat by the Town.
C. The owner of land or an authorized agent shall sign a statement on the plat prior to recordation that states whether or not all the land shown on the plat is within the Town's planning jurisdiction.

D. No subdivision plat of land within the Town's planning jurisdiction that is subject to these standards shall be filed or recorded until it has been approved by the Town in accordance with this Ordinance.

E. The Johnston County Register of Deeds shall not file or record a subdivision plat for land located within the Town's planning jurisdiction without evidence that the division has been approved by the Town, or is not subject to this Ordinance.

6.16.5 EASEMENTS

Subdivisions including infrastructure, as defined in Section 8.3, Terms Defined, shall comply with the standards in Section 6.5.7, Easements.

6.16.6 LANDSCAPING

Subdivisions shall be subject to the applicable standards for perimeter buffers, street trees, and streetscape landscaping in Section 6.6, Landscaping and Screening.

6.16.7 LOT CONFIGURATION

All lots shall be configured in accordance with the standards in Section 3.4.3, Required Lot Configuration, or Section 3.4.5, Special Purpose Lots, as applicable.

6.16.8 MONUMENTS

Monuments shall be included as part of any subdivision, and shall be configured in accordance 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, and the following:

A. Markers shall be set at all lot corners, points of curvature, points of tangency, and at all points with a change in bearings; and

B. The location and type of all markers used shall be indicated on the Final Plat.

6.16.9 REASONABLE RELATIONSHIP

All required improvements, easements, and rights-of-way (other than required reservations) shall substantially benefit the development or bear a reasonable relationship to the need for public facilities attributable to the new development.

6.16.10 SCHOOL SITE RESERVATIONS

A. When a Major Subdivision application is submitted for approval and school site is identified on the site in the Town's or the County's adopted policy guidance, the school site shall be reserved and the Planning Director shall notify the County Board of Education that the subdivision has been submitted for approval.

B. In reviewing the subdivision and giving approval the Planning Director shall consult the Board of Education in determining the exact size and location of any school site to be reserved therein.

C. Before the Final Plat of the subdivision is approved, the Board of Education shall determine whether or not it wishes to have a school site reserved in the subdivision. If the Board of Education does wish to have a school site reserved in the subdivision, the subdivider shall reserve a school site of a size and location agreeable to the Board of Education and the Planning Director.

D. The Board of Education shall then have 18 months, beginning on the date of the final approval of the subdivision, within which to acquire the site. If the Board of Education has not purchased or begun proceedings to acquire the site within 18 months after the subdivision is finally approved, the applicant may proceed to dispose of the reservation and develop the area in accordance with the subdivision procedure and provisions of this Ordinance.

6.16.11 SUBDIVISION NAME

Every subdivision shall be given a name that shall not duplicate or be similar to that of any other subdivision existing or previously planned within the Town's planning jurisdiction or the unincorporated county in which the development is located.

6.17 SUSTAINABLE DEVELOPMENT INCENTIVES

6.17.1 HOW TO USE THESE INCENTIVES

These sustainable development incentives are intended to reward applicants and forms of development that are configured in ways that conserve resources or are better able to withstand damaging natural hazards. Rewards take the form of increased maximum residential densities, increased maximum building heights, or reductions from other kinds of development standards such as required off-street parking or maximum sign face area.

A. Applicants seeking to take advantage of these sustainable development incentives should first understand the type of incentives available in accordance with Section 6.17.4, Type of Incentives.

B. Once the preferred type of incentive(s) is determined, an applicant should review Section 6.17.5, Procedure, in order to determine the minimum number and type(s) of sustainable development practices required to take advantage of the desired incentive(s).

C. Each type of incentive requires provision of one or more types of sustainable development practice from each of two different schedules (Schedule A and Schedule B).

D. The sustainable development practices are listed, by schedule type, in Table 6.17.6, Menu of Sustainable Development Practices.

E. The types of sustainable development practices to be provided are at the applicant's discretion, but the minimum number of practices from each schedule must be provided in order to benefit from a sustainable development incentive. Nothing shall limit the Town Council from including a condition of approval that specifies the use of one or more particular types of sustainable development practice should an applicant decide to pursue a sustainable development incentive.

F. Site Plans, Subdivision Plats, Concept Plans, and other application materials shall identify the type(s) of incentives sought and the sustainable development practices provided.

6.17.2 PURPOSE AND INTENT

In an effort to encourage sustainable development practices as a means of addressing climate change and the need for more resilient development practices, the protection of natural resources, and ensuring a high quality of life for future Town residents, this Ordinance provides the following sustainable development practice incentives.

6.17.3 APPLICABILITY

The incentives included in this section are available to any new development in the Town's planning jurisdiction unless use of an incentive or inclusion of a particular sustainable development feature has been limited as a condition of approval or is prohibited by State or federal law.

6.17.4 TYPE OF INCENTIVES

A. Development integrating sustainable development practices in accordance with the provisions of this section shall be eligible for incentives identified in Table 6.17.4, Sustainable Development Practice Incentives.

B. Development may include a sufficient number of sustainable development practices to take advantage of more than one type of incentive, but in no instance shall the amount of an incentive be increased or decreased (as appropriate) beyond the maximum listed in this sub-section.

TABLE 6.17.4: SUSTAINABLE DEVELOPMENT PRACTICE INCENTIVES

Type of Incentive	Minimum Number of Sustainable Development Practices Necessary to Utilize Incentive	
	From Schedule A	From Schedule B
A density bonus of up to one additional dwelling unit per acre beyond the maximum allowed in the base zoning district [1]	1	2
A density bonus of up to two additional dwelling units per acre beyond the maximum allowed in the base zoning district [2]	1	3
A density bonus of up to three additional dwelling units per acre beyond the maximum allowed in the base zoning district [2]	2	4
An increase in the maximum allowable height by up to one story or ten feet beyond the maximum allowed in the base zoning district	2	3
A reduction from the minimum parking space requirements by 15 percent, or an increase to the maximum allowable number of parking spaces provided by 15 percent	2	2
An increase in the maximum allowable sign area or maximum height for wall or ground-based signs by 10 percent	1	3

NOTES:
[1] All zoning district dimensional requirements still apply.
[2] Zoning district dimensional requirements may be reduced in accordance with the standards and procedures for an Administrative Adjustment.

6.17.5 PROCEDURE

A. Development seeking to use incentives in this section shall include a written request with the development application that identifies the type of sustainable development practice proposed and demonstrates how compliance with the standards will be achieved.

B. Review for compliance with this section, and granting of requests in accordance with this section shall occur during review of a Site Plan, Subdivision, Type 3 Conditional Rezoning, Special Use Permit, or Building Permit, as appropriate. The review authority responsible for review of the development application shall also be responsible for the review of sustainable development incentive request.

C. Approval of use of a particular incentive shall be based on the number of sustainable development practices provided, in accordance with Table 6.17.4, Sustainable Development Practice Incentives, and Table 6.17.6, Menu of Sustainable Development Practices. To obtain the right to a particular incentive, development shall provide the minimum number associated of sustainable development practices from both schedule A and schedule B in the table below.

D. In cases where a proposed development seeks to combine two or more development incentives, the minimum number of required sustainable development practices for each individual incentive shall be provided.

6.17.6 MENU OF SUSTAINABLE DEVELOPMENT PRACTICES

One or more of the sustainable development practices in Table 6.17.6, Menu of Sustainable Development Practices, may be offered by an applicant for proposed development in accordance with Table 6.17.4, Sustainable Development Practice Incentives. An applicant may suggest a practice not listed, approval of which shall require approval via a Determination (see Section 2.3.9, Determination) by the Planning Director.

TABLE 6.17.6: MENU OF SUSTAINABLE DEVELOPMENT PRACTICES

Schedule [1]	Type of Practice	Documentation of Compliance
ENERGY CONSERVATION		
A	Inclusion of solar photovoltaic panels or small wind energy facilities in an amount capable of producing 900 kilowatt hours of electricity per month for each dwelling or principal use in the development	Indication on site plan
A	Use of central air conditioners that are Energy Star qualified	Provision of manufacturer's certification statement
A	Use of only solar water heating systems throughout the structure	Inclusion on construction drawings
A	Use of a white roof or roofing materials with minimum reflectivity rating of 60 percent or more	Provision of materials sample and manufacturer's certification statement (statement not required for white roofs)
A	Pre-plumb and pre-wire structures for solar water heating and photovoltaic installation	Indication on site plan
B	Provision of skylights in an amount necessary to ensure natural lighting is provided to at least 15 percent of the habitable rooms in the structure	Indication on site plan
B	Roof eaves or overhangs of three feet or more on southern or western elevations	Indication on site plan

TABLE 6.17.6: MENU OF SUSTAINABLE DEVELOPMENT PRACTICES

SCHEDULE [1]	TYPE OF PRACTICE	DOCUMENTATION OF COMPLIANCE
B	Structure design that can accommodate the installation and operation of solar photovoltaic panels or solar thermal heating devices (including appropriate wiring and water transport systems)	Inclusion on construction drawings
B	Inclusion of shade features (e.g., awnings, louvers, shutters, etc.) to shade all windows and doors on the southern building facade	Indication on site plan
B	Shade impervious surfaces and southern/western building exposures to limit heat gain	Indication on site plan
B	Inclusion of on-demand hot water systems instead of tank-based systems	Indication on site plan
B	Configuration of new buildings with one axis at least 1.5 times longer than the other, and the long axis oriented in an east-west configuration for solar access	Indication on site plan
BB	Inclusion of electrical transmission lines and transformers capable of providing sufficient electrical current to the development to power EV charging facilities for each principal use	Indication on construction drawings
CERTIFICATION		
AAA	Construction of the principal structure(s) to meet or exceed LEED Platinum certification standards	Provision of verification of project compliance by certifying agency (may be provided within one year following occupancy)
AA	Construction of the principal structure(s) to meet or exceed LEED Gold certification standards	
BBB	Construction of the principal structure(s) to meet or exceed LEED Silver certification standards	
BB	Construction of the principal structure(s) to meet or exceed LEED Bronze certification standards	
AAA	Construction of the principal structure(s) to meet or exceed BREEAM "Excellent" certification standards	
AA	Construction of the principal structure(s) to meet or exceed BREEAM "Very Good" certification standards	
BBB	Construction of the principal structure(s) to meet or exceed BREEAM "Good" certification standards	

TABLE 6.17.6: MENU OF SUSTAINABLE DEVELOPMENT PRACTICES

SCHEDULE [1]	TYPE OF PRACTICE	DOCUMENTATION OF COMPLIANCE
BB	Construction of the principal structure(s) to meet or exceed BREEAM "Pass" certification standards	
AAA	Construction of the principal structure(s) to meet or exceed National Green Building Standard's "Emerald" certification standards	
AA	Construction of the principal structure(s) to meet or exceed National Green Building Standard's "Gold" certification standards	
BBB	Construction of the principal structure(s) to meet or exceed National Green Building Standard's "Silver" certification standards	
BB	Construction of the principal structure(s) to meet or exceed National Green Building Standard's "Bronze" certification standards	
AA	Green Globes certification for new construction or an existing building, as appropriate	
A	Construction of the principal structure(s) to meet some other recognized organization's sustainability standards, as determined by the Technical Review Committee	
WATER CONSERVATION AND QUALITY PROTECTION		
AA	Configuration of the principal structure's roof so that at least 50 percent of the roof is a "green" roof intended to capture and hold rain water	Indication on site plan
A	Inclusion of rain water capture and re-use devices such as cisterns, rain filters, and underground storage basins with a minimum storage capacity of 500 gallons	Inclusion on construction drawings
A	Provision of bio-retention area(s) or other appropriate stormwater infiltration system(s) of at least 700 square feet in area	Indication on site plan
A	Provision of open space set-asides at a rate 200 percent or more beyond the minimum required	
B	Provision of bio-retention area(s) or other appropriate stormwater infiltration SCM systems of at least 100 square feet in area (includes features in off-street parking lots)	

TABLE 6.17.6: MENU OF SUSTAINABLE DEVELOPMENT PRACTICES

Schedule [1]	Type of Practice	Documentation of Compliance
B	Removal of all lawn or turf in favor of living ground cover	
B	Use of xeriscape landscaping techniques without irrigation	
B	Provision of 150-foot undisturbed buffers adjacent to/surrounding all wetlands or surface waters	
B	Use of permeable surfacing on 50 percent or more of the vehicular use area	
AA	Configuration of a development that avoids placement of principal or secondary structures outside the 500-year floodplain boundary	Indication on site plan or subdivision plat
BUILDING CONFIGURATION		
AA	Compliance with the multi-family residential design standards in Section 6.2.4, Multi-Family Design Standards, for single-family attached development	Indication on site plan & signature on statement of consent
B	Exceeding minimum design standards requirements in Section 6.2, Design Standards and Guidelines	
A	Construction of principle structure in accordance with Barrier Free Design Standards (ANSI A1171.1)	Inclusion on construction drawings
A	Construction of the principal structure to a design wind speed standard of 160 mph	Signed attestation from a qualified NC licensed engineer
B	Inclusion of 2 to 4 dedicated off-street parking spaces devoted to electrical vehicle charging via a level 1 or level 2 EV charging station	Indication on site plan
BB	Inclusion of 5 or more dedicated off-street parking spaces devoted to electrical vehicle charging via level 1 or level 2 EV charging stations	
A	Inclusion of 2 to 4 dedicated off-street parking spaces devoted to electrical vehicle charging via a level 3 EV charging station	
AA	Inclusion of 5 or more dedicated off-street parking spaces devoted to electrical vehicle charging via level 3 EV charging stations	

TABLE 6.17.6: MENU OF SUSTAINABLE DEVELOPMENT PRACTICES

SCHEDULE [1]	TYPE OF PRACTICE	DOCUMENTATION OF COMPLIANCE
A	Inclusion of underground parking or parking structures sufficient to accommodate 51 percent or more of the off-street parking requirements	
A	Setback of a second- or higher story primary building façade wall from a multi-family building's first floor primary façade plane by 12 feet or more	
B	Include operable windows on all building sides	
B	Provision of on-site transit facilities (e.g., designated park-and-ride parking spaces, bus shelters, or similar features)	
B	Inclusion of showering and dressing facilities in non-residential developments for employees using alternative forms of transportation	Inclusion on construction drawings
B	Provision of at least one enclosed recycling station per building suitable for storage and collection of recyclable generated on-site	Indication on site plan
B	Setback of a second- or higher story primary building façade wall from a multi-family building's first floor primary façade plane by six feet or more	

NOTES:
[1] In cases where there are two or more letters listed in the Schedule column, the sustainable development practice qualifies as two or three sustainable development practices.

6.17.7 FAILURE TO INSTALL OR MAINTAIN SUSTAINABLE DEVELOPMENT PRACTICES

The failure to install or maintain approved sustainable development practices is a violation of this Ordinance, shall render the subject development nonconforming, and may result in revocation of the authorization for use of sustainable development practice incentives.

6.18 TREE PROTECTION

6.18.1 PURPOSE AND INTENT

This section is proposed to ensure that the Town's planning jurisdiction includes areas of mature tree canopy cover during and after development. These standards are further intended to:

A. Promote sequestration of carbon dioxide through the retention of existing trees on lots or the re-establishment of new trees as part of the development process;

B. Protect species diversity and habitat through the establishment of connected or linked areas of tree canopy;

C. Encourage the retention of existing trees during the development process through accelerated credit towards Ordinance requirements; and

D. Establish tree protection requirements for trees voluntarily proposed for retention during the development process.

6.18.2 APPLICABILITY

Unless exempted in accordance with Section 6.18.3, Exemptions, the standards in this section shall apply to new development in the Town's planning jurisdiction.

6.18.3 EXEMPTIONS

The following activities are exempt from the standards of this section:

A. Activity on a bona fide farm;

B. Tree removal associated with normal forestry activity that is conducted:

1. On land taxed on the basis of its present-use value as forestland pursuant to Chapter 105, Article 12 of the North Carolina General Statutes; or
2. In accordance with a forest management plan prepared or approved by a forester registered in accordance with Chapter 89B of the North Carolina General Statutes;

C. Tree removal associated with an approved Tree Clearing Certificate (see Section 2.3.28, Tree Clearing Certificate);

D. Development or redevelopment within Downtown zoning district;

E. Construction of an individual single family detached dwelling on its own lot;

F. Construction of an individual duplex dwelling on its own lot;

G. The removal of diseased trees posing a threat to adjacent healthy trees;

H. The removal of invasive species of trees, provided the removal results in the complete removal of the trees including roots;

I. The selective and limited removal of trees or vegetation necessary to obtain clear visibility within required sight distance triangles;

J. The removal of trees that the Engineering Director determines to be a hazard to traffic or that interfere with the provision of utility lines or public services; and

K. The removal of trees as necessary for rescue in an emergency or for clean-up following a natural disaster.

6.18.4 LIMITATION ON DEVELOPMENT PROPOSALS FOLLOWING CLEAR CUTTING

A. GENERALLY

1. Clear cutting of a lot or tract subject to this Ordinance in a manner not consistent with the requirements of Section 2.3.28, Tree Clearing Certificate, or Section 6.18.5, Retention or

Re-Establishment of Tree Canopy Required, is prohibited and shall be subject to the requirements of this subsection.

2. For the purposes of these standards, "clear cutting" shall be defined as any activity that results in the removal of 80 percent or more of the tree canopy coverage over a lot or tract from existing trees that meet or exceed the minimum size at time of planting requirements in this Ordinance.

B. DELAY FOLLOWING CLEAR CUTTING AS PART OF EXEMPTED FORESTRY ACTIVITY OR A TREE CLEARING CERTIFICATE

If 80 percent or more of a lot or site is cleared of trees that would have been protected by this section, no application for a Rezoning, Special Use Permit, Subdivision, or Site Plan shall be accepted for development of the land for a period of three years after the tree clearing activity.

C. DELAY FOLLOWING CLEAR CUTTING THAT IS NOT EXEMPTED

If one of the exemptions from Section 6.18.3, Exemptions, is not met and 80 percent or more of the trees that would have been protected by this section are removed, no application for a Rezoning, Special Use Permit, Subdivision, or Site Plan shall be accepted for development of the land for a period of five years after completion of the tree removal.

D. ABILITY TO DEVELOP FOLLOWING MITIGATION

Delays on the acceptance of applications in accordance with subsections (B) or (C) above may be reduced or removed by the Town Council following reforestation of the land in accordance with Section 6.18.9A, Replacement Trees.

6.18.5 RETENTION OR RE-ESTABLISHMENT OF TREE CANOPY REQUIRED

Development subject to the standards in this section shall comply with the following tree canopy retention or re-establishment requirements:

A. MINIMUM PERCENTAGE OF EXISTING TREE CANOPY COVER TO BE RETAINED

1. Existing trees shall be retained on a lot or site at a rate sufficient to ensure that at least 15 percent of the lot or total site area is covered by existing tree canopy cover at the time of development approval.
2. For the purposes of this section, "existing tree canopy cover" shall mean the percentage of a lot or tract's total area located beneath the canopy (leaves or needles) of existing, healthy, non-invasive trees prior to development or land disturbing activity. The area to be occupied by required street rights-of-way, required public utility easements, and water surface areas are excluded from a lot or tract's total area. Only those trees meeting or exceeding the minimum size at time of planting requirements in Section 6.6.7, Plant Material Specifications, shall be considered as part of the existing tree canopy cover.

B. MINIMUM PERCENTAGE OF TREE CANOPY COVER TO BE RE-ESTABLISHED

1. As an alternative to compliance with the tree canopy cover retention requirements in sub-section (A) above, an applicant for development subject to these standards may remove all or a portion of the existing trees on a lot or site, provided that the lot or site is replanted with replacement trees during the development process at a rate sufficient to ensure that at least 25 percent of the lot or total site area is covered by tree canopy cover at tree maturity.
2. The area to be occupied by required street rights-of-way, required utility easements, and water surface areas are excluded from a lot or tract's total area.
3. Trees planted in accordance with these standards shall be at least three inches in caliper at time of planting.

4. Except for trees located within parking lot landscaping islands, trees of three inches in caliper or greater that are provided in order to comply with the standards in Section 6.6, Landscaping and Screening, shall be credited towards these requirements.

C. DETERMINATION OF TREE CANOPY COVER

1. EXISTING TREE CANOPY COVER TO BE RETAINED

Compliance with the standards in Section 6.18.5A, Minimum Percentage of Existing Tree Canopy Cover to be Retained, shall be determined in accordance with the following procedure:

a. The extent of the existing tree canopy to be retained shall be determined in accordance with Section 6.18.6, Tree Canopy Cover Determination.
b. The Planning Director may require an applicant to provide a square footage number associated with the tree canopy cover area in cases where aerial photography is used to identify the existing tree canopy coverage to be retained.
c. The total size of the lot or area (in square feet) minus street rights-of-way, required public utility easements, and water surface areas is then divided by the size of the retained tree canopy cover area.
d. The product of the calculation shall equal or exceed 15 percent of the lot or site area. In the event the product of the calculation does not equal or exceed 15 percent of the lot or site area, then the applicant shall also be required to plant additional trees in accordance with Section 6.18.5B, Minimum Percentage of Tree Canopy Cover to be Re-established, at the minimum rate necessary to equal or exceed 15 percent of the lot or site area.

2. TREE CANOPY COVER TO BE RE-ESTABLISHED

Compliance with the standards in Section 6.18.5B, Minimum Percentage of Tree Canopy Cover to be Re-established, shall be determined in accordance with the following procedure:

a. The applicant shall determine the total size of the lot or area (in square feet) minus street rights-of-way, required public utility easements, and water surface areas.
b. The total lot area shall be multiplied by 0.25 to determine the total square footage of the area to be covered by re-established tree canopy.
c. Canopy and understory trees shall be re-planted at the rate necessary to ensure that the total crown square footage of all newly planted trees at maturity meets or exceeds the total area required to be covered by re-established tree canopy.
d. The Site Plan, Subdivision Plat, or Concept Plan, as appropriate shall depict the designated area to be covered by re-established tree canopy and the approximate placement of the trees that will be utilized to establish the canopy, along with their species.
e. Each newly planted tree shall be credited towards the total re-established tree canopy cover in accordance with the following table:

TABLE 6.18.5.C: RE-ESTABLISHED CANOPY COVER BY TREE TYPE		
TREE SIZE	TREE TYPE	TREE CROWN SIZE AT MATURITY (SQUARE FEET)
Canopy	Deciduous	900
	Evergreen	450
Understory	Deciduous	225
	Evergreen	100

D. MAINTENANCE AND PROTECTION OF TREES COMPRISING THE TREE CANOPY COVER

1. Trees retained or replanted in accordance with these standards shall be protected during the development process in accordance with Section 6.18.7, Tree Protection During Construction.
2. Damage or removal of trees required by this section shall be subject to Section 6.18.9, Remedies For Removal.

6.18.6 TREE CANOPY COVER DETERMINATION

A. AERIAL PHOTOGRAPHY

1. The extent, location, and general characteristics of trees comprising a site's existing tree canopy cover shall be determined based on the following:
   a. The most recent aerial photography of the site, as provided by The Town of clayton, Johnston County, or other recognized source;
   b. Prior aerial photographs in cases where tree clearing has taken place prior to application submittal; and
   c. A diagram showing the site boundaries and the outer extent of the dripline of trees comprising the existing tree canopy cover prepared by an ISA-certified arborist, registered landscape architect, registered forester, professional land surveyor, or professional engineer.
2. Nothing shall limit an applicant from preparing a tree survey in addition to or in lieu of aerial photography, provided the tree survey includes sufficient information for the determination of the extent, location, and general characteristics of the exiting tree canopy cover on a site.

B. TREE SURVEY

1. A tree survey shall be provided in cases where an applicant seeks to receive credit towards the landscaping requirements in Section 6.6, Landscaping and Screening, from existing retained trees. A tree survey shall be prepared by an ISA-certified arborist, registered landscape architect, registered forester, professional land surveyor, or professional engineer, and shall identify all the following for each existing tree to be credited:
   a. The exact location of the tree;
   b. Species, by common name;
   c. Whether the tree is evergreen or deciduous;
   d. Whether the tree is an understory or canopy tree;
   e. Size of the tree in DBH or caliper, as appropriate;

f. The approximate height of the tree;
g. The general health and approximate life stage (young, mature, or aged) of the tree; and
h. Any observations or special characteristics of the tree, as appropriate.

2. The tree survey will be used by the Planning Director to determine if the retained trees will meet the performance standards for the type of required landscaping. Supplemental plantings may be required in cases where the retention of trees is insufficient to meet landscaping performance objectives.
3. Tree surveys may be limited to only those portions of the site being used to meet landscaping requirements, and in no instance shall existing trees located outside the boundaries of required landscaping areas be used to meet the standards in Section 7.4: Landscaping.

6.18.7 TREE PROTECTION DURING CONSTRUCTION

A. RESPONSIBILITY

During any development activity (including demolition or clearing activity), the property owner or developer shall be responsible for protecting existing or replacement trees within a tree save area in accordance with the standards in this section.

B. PROTECTIVE FENCING AND SIGNAGE

1. PROTECTIVE FENCING

a. Continuous fencing consisting of a bright orange plastic mesh at least four feet high shall be provided along the boundaries of tree save areas (see Figure 6.18.7: Tree Fencing). The Town shall consider existing site conditions and the species and size of the trees to be protected in determining the exact location of tree protective fencing and may require the fencing to be extended to include the critical root zones of trees. In no instance shall the area required to be located within protective fencing exceed the size of the required tree save area.
b. Tree save areas that are inaccessible to development activities or separated from development activities by a distance of at least 100 linear feet are exempted from the requirement for tree protection fencing.
c. Nothing shall prevent tree protection fencing and silt fencing from being consolidated.

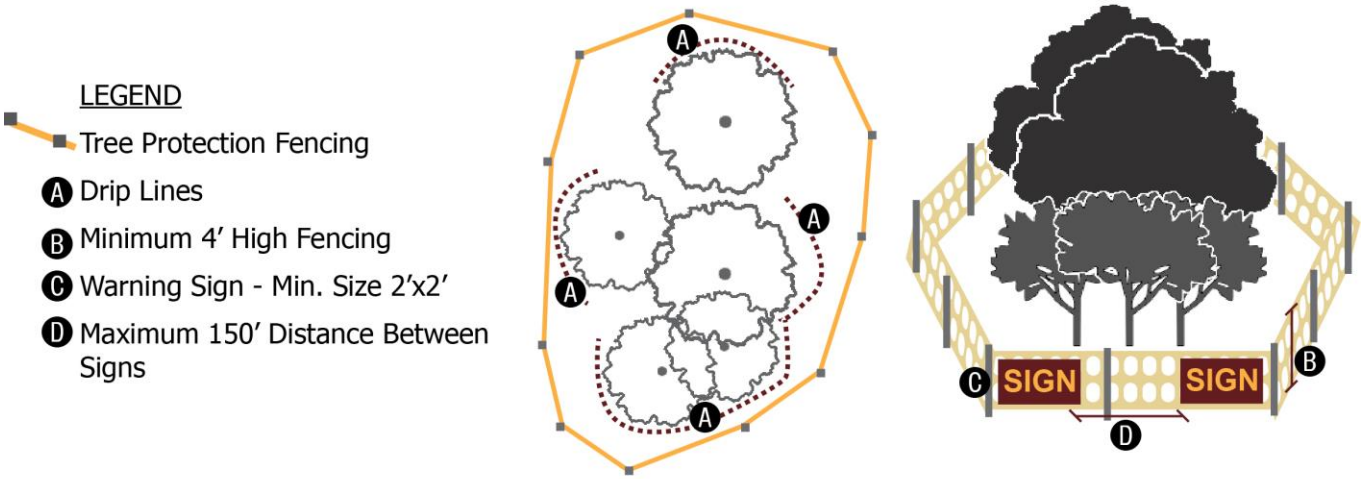
2. WARNING SIGN

Warning signs shall be installed along any required tree protective fencing at points no more than 150 feet apart. The signs shall be clearly visible from all sides of the outside of the fenced-in area. The size of each sign must be a minimum of two feet by two feet. The sign message shall, in both English and Spanish, identify the fenced or marked area as a tree protection area and direct workers not to encroach into the area (e.g., "Tree Protection Area: Do Not Enter"). For the purposes of this Ordinance, these warning signs are considered government signs exempted from First Amendment protections regarding regulation of sign content.

3. DURATION OF PROTECTIVE FENCING OR SIGNAGE

Required protective fencing and signage shall be erected before any grading or other development activity begins and shall be maintained until issuance of a Certificate of Occupancy or other final approval.

FIGURE 6.18.7: TREE FENCING



C. TREE SAVE AREA REQUIREMENTS

Except where agreed to by the Town, encroachments into a tree save area may occur only when no other alternative exists, and shall comply with landscaping best management practices and the following limitations and requirements:

1. No development activity—including grade changes, the operation or parking of heavy equipment, or the washing down of concrete or cement handling equipment, or the storage of fuel, chemicals, materials, supplies, or construction waste and debris—shall be allowed within the tree save area;
2. Any permitted clearing of vegetation within the tree save area shall be only by hand;
3. Retaining walls and drywells may be used to protect trees to be preserved from severe grade changes if venting, adequate to allow air and water to reach tree roots, is provided through any fill;
4. No structures or hard surfaces shall be located within a tree save area; and
5. Installation of fences and walls shall take into consideration the root systems of existing trees. Post-holes and trenches close to trees shall be dug by hand and adjusted as necessary to avoid damage to major roots. Continuous footers for masonry walls shall end at the point where major large roots are encountered, and major roots shall be bridged.

6.18.8 CREDIT TOWARDS LANDSCAPING AND OPEN SPACE STANDARDS

A. Existing trees within a tree save area that coincides with a required landscaping area may be credited towards the landscaping requirements of this Ordinance in accordance with Section 6.6.10, Planting Flexibility.

B. Tree save areas shall be credited towards the passive recreation area requirements in Section 6.7, Open Space Set-Aside and Parkland.

6.18.9 REMEDIES FOR REMOVAL

Remedies for removal of existing trees required to be retained by these standards shall be in accordance with the following standards.

A. REPLACEMENT TREES

1. RATE OF PROVISION

a. TREES WITHIN A DESIGNATED TREE SAVE AREA

i. Each existing tree that is removed in violation of this Ordinance shall be replaced with one or more trees with a minimum DBH of four inches each and a cumulative DBH equal to the DBH of the removed tree(s).

ii. Required replacement tree(s) shall be planted and maintained in accordance with the planting standards in Section 6.6.9, Plant Placement, and shall comply with all the standards in this subsection.

b. TREES REMOVED PRIOR TO ESTABLISHMENT OF A TREE SAVE AREA

i. In cases where irreparable damage to or removal of existing trees takes place on a site that is subject to these standards, but where a tree save area has not yet been established, a reforestation plan prepared by a North Carolina registered forester or registered landscape architect shall be prepared and provided to the Town.

ii. The reforestation plan shall require new tree plantings throughout the area where existing trees were irreparably damaged or removed. The number and placement of replacement trees shall be located as necessary to result in a comparable density of trees at maturity as were removed.

iii. New vegetation identified in the reforestation plan shall be installed within six months of the tree removal or within a timeframe specified by a North Carolina registered forester or registered landscape architect and agreed to by the Planning Director.

2. LOCATION OF REPLACEMENT TREES

a. TREES WITHIN A DESIGNATED TREE SAVE AREA

Replacement trees shall be planted in the following planting areas, listed in priority order. Replacement trees shall maintain adequate spacing across an area as needed for proper growth and development and may be located in more than one priority location. However, to the maximum extent practicable, replacement trees shall first be planted in the highest priority location and may only be located in the next highest priority area when the area of higher priority can no longer accommodate additional replacement trees. Replacement tree planting areas in priority order are as follows:

i. Inside a designated tree save area;

ii. Outside a designated tree save area but within the area of development;

iii. Away from an area of development but upon the same lot;

iv. On a different lot within the Town's planning jurisdiction but under the same ownership as the area of development;

v. On land owned by the Town; or

vi. Within a public right-of-way, subject to approval of the right-of-way owner.

b. TREES REMOVED PRIOR TO AN ESTABLISHED TREE SAVE AREA

Reforestation shall occur within the entire area where existing trees were irreparably damaged or removed.

3. GUARANTEED ESTABLISHMENT PERIOD

a. The applicant shall guarantee the survival and health of all replacement trees during an establishment period of at least three years and guarantee any associated replacement costs in accordance with Section 2.3.19, Performance Guarantee.

b. If the replacement trees do not survive the establishment period, the applicant shall purchase and install new replacement trees and guarantee their survival and health for a new three-year establishment period.

B. PAYMENT IN-LIEU OF PROVIDING REQUIRED REPLACEMENT TREES

1. In-lieu of providing all or a portion of the replacement trees required by sub-section (A) above, the developer may, with the approval of the Town Council, and subject to the provisions in Section 2.3.13, Fee-in-Lieu, make a payment to the Town that approximates the cost of purchasing and installing the required replacement trees.
2. The applicant may propose an in-lieu payment option only upon determining that it is impractical to provide the replacement trees for which in-lieu payment is proposed on the development site.
3. The amount of the in-lieu payment shall be determined based upon an estimate provided by the applicant and accepted by the Planning Director. The Town may require an independent analysis of the estimate, the cost of which shall be the responsibility of the applicant.
4. The applicant shall make the in-lieu payment before recordation of any Subdivision Plat for the development or issuance of any Building Permit for the development (if no subdivision approval is required)—provided, however, that the payment may be phased in accordance with an approved phasing plan for the development.
5. The Town shall deposit any in-lieu payment into a special Town fund that shall be used only for purchasing, installing, replacing, and/or maintaining trees in public parks, greenways, or other land owned or leased by the Town.

6.18.10 TREE REMOVAL AND TOPPING ON PUBLIC PROPERTY

A. The removal or topping of trees shall be prohibited on public property and designated rights-of-way unless such activity is conducted by the Town or a public utility provider, and is necessary to protect public health, safety, or welfare.

B. Trees severely damaged by storms or other causes, or certain trees under utility lines or other obstructions where other pruning practices are impractical may be exempted from this standard by the Planning Director.

CHAPTER 7
VIOLATIONS

7.1 Purpose and Intent 679

7.2 Compliance Required 679

7.3 Description of Violations 679

7.3.1 Development Without Authorization 679
7.3.2 Development Inconsistent with Authorization 679
7.3.3 Violation by Act or Omission 679
7.3.4 Use in Violation 679
7.3.5 Subdivide Land in Violation 679
7.3.6 Violation of Environmental Regulations 679
7.3.7 Removal of Existing Trees Subject to Protection 680
7.3.8 Continuing or Repeating a Prior Violation 680

7.4 Entity Responsible for Violation 680

7.4.1 Generally 680
7.4.2 Failure by Town does not Relieve Individual 680

7.5 Enforcement Procedure 681

7.5.1 Complaints 681
7.5.2 Inspections and investigations 681
7.5.3 Written Notice of Violation 681
7.5.4 Remedy Upon Notice 682
7.5.5 Failure to Comply with Order 682
7.5.6 Each Day a Separate Violation 682

7.6 Remedies 683

7.6.1 Civil Penalties 683
7.6.2 Conditioned Permit or Authorization 684
7.6.3 Criminal Penalties 684
7.6.4 Denial of Permit or Authorization 684
7.6.5 Equitable Remedy 684
7.6.6 Injunctive Relief 684
7.6.7 Order of Abatement 685
7.6.8 Revocation of Permits 685
7.6.9 Stop Work Orders 685

7.7 Statute of Limitations 687

7.8 Violation of Flood Protection Controls 687

7.8.1 Violations to be Corrected 687
7.8.2 Actions in Event of Failure to take Corrective Action 687
7.8.3 Order to Take Corrective Action 687
7.8.4 Appeal 687
7.8.5 Failure to Comply with Order 687
7.8.6 Penalties 688

7.9 Violation of Soil Erosion and Sedimentation Controls 689

7.10 Violation of Stormwater Controls 691

7.10.1 Generally 691
7.10.2 Enforcement Procedures 692
7.10.3 Remedies and Penalties 693

7.11 Violation of Stream Buffer Controls 695

7.11.1 Willful Violation May Result in Criminal Penalty 695
7.11.2 Accidental Violation May Result in Civil Penalty 695

7.12 Violation of Water Supply Watershed Controls 695

7.12.1 Willful Violation May Result in Criminal Penalty 695
7.12.2 Accidental Violation May Result in Civil Penalty 695

7.1 PURPOSE AND INTENT

This Chapter identifies the range of activities commonly considered as violations of this Ordinance and sets out the process used by the Town to investigate and remedy identified violations. These provisions are intended to encourage the voluntary correction of violations where possible, rather than to simply punish violators.

7.2 COMPLIANCE REQUIRED

Compliance with all the procedures, standards, and provisions of this Ordinance, as well as with conditions of approval applied under this Ordinance, is required by all persons owning, developing, managing, using, or occupying land or structures in the Town.

7.3 DESCRIPTION OF VIOLATIONS

Any of the following shall be a violation of this Ordinance and shall be subject to the remedies and penalties provided by this Ordinance and by State law:

7.3.1 DEVELOPMENT WITHOUT AUTHORIZATION

Engaging in the development, use, construction, land disturbance, or other activity of any nature upon land or improvements thereon subject to the jurisdiction of this Ordinance without all required plan approvals, permits, certificates, or other forms of authorization as set forth in this Ordinance.

7.3.2 DEVELOPMENT INCONSISTENT WITH AUTHORIZATION

Engaging in any development, use, construction, land disturbance, or related activity of any nature in any way inconsistent with any approved plan, plat, permit, certificate, or other form of authorization granted for such activity.

7.3.3 VIOLATION BY ACT OR OMISSION

Violating, by act or omission, any term, variance, modification, adjustment, condition, requirement, or qualification placed upon any required plan, plat, permit, certificate, or other form of authorization for the development, use, construction, land disturbance, or other activity upon land or improvements thereon.

7.3.4 USE IN VIOLATION

Erecting, constructing, altering, repairing, maintaining, or using any building or structure, or use of any land in violation of this Ordinance or any regulation made under the authority conferred thereby.

7.3.5 SUBDIVIDE LAND IN VIOLATION

Subdividing land in violation of this Ordinance, or transferring land by reference to a plat or map showing a subdivision of land before the plat or map has been properly approved under this Ordinance and recorded in the office of the Register of Deeds in the county where the subdivision is located.

7.3.6 VIOLATION OF ENVIRONMENTAL REGULATIONS

Failing to follow or violating the rules or regulations of Section 6.15, Stormwater; Section 6.12, Riparian Buffers; Section 3.7.2 FPOD Flood Protection Overlay District; and Section 6.14, Soil Erosion & Sedimentation Control.

7.3.7 REMOVAL OF EXISTING TREES SUBJECT TO PROTECTION

Removal of all or substantially all existing trees at or above four inches in caliper from a lot, tract, or development site, including lots designated for use by single-family detached residential dwellings, prior to receipt of all required approvals in accordance with Section 2.3, Application Types.

7.3.8 CONTINUING OR REPEATING A PRIOR VIOLATION

Where a violation of the same nature has been issued to the same violator at the same property within two years and the violation continues or is repeated, the violation shall be treated as an on-going violation.

7.4 ENTITY RESPONSIBLE FOR VIOLATION

7.4.1 GENERALLY

Any of the following parties associated with or participating in a situation that is contrary to the requirements of this Ordinance may be jointly or separately held responsible for a violation and subject to the penalties and remedies provided in this Ordinance:

A. A property owner(s);
B. A tenant or occupant of any land, building, structure, sign, use of land, or part thereof;
C. A permit or approval holder;
D. A contractor or designated agent;
E. An architect, engineer, or builder; or
F. Any person conducting the violating activity.

7.4.2 FAILURE BY TOWN DOES NOT RELIEVE INDIVIDUAL

Except as authorized under Section 7.7, Statute of Limitations, failure of a Town official charged with enforcement responsibility to observe or recognize conditions which violate this Ordinance, or to deny the issuance of a development permit, shall not relieve the applicant or landowner from responsibility for the condition or damages that may result and shall not result in the Town, its officers, or agents being responsible for conditions or damages.

7.5 ENFORCEMENT PROCEDURE

When a Town official identifies or is made aware of a potential violation of this Ordinance, the enforcement procedure shall take place in accordance with this section.

7.5.1 COMPLAINTS

A. Whenever the Planning Director or other designated Town official receives a complaint in a manner consistent with Town policy that alleges a violation of this Ordinance, the Planning Director or other designated Town official shall investigate the violation allegation in accordance with the standards in this section.

B. The Planning Director, or other designated Town official, shall inform the complainant, if complainant has identified themselves, as to whether a violation of this Ordinance was discovered upon investigation, and if a violation is found to exist, the actions that will be taken by the Town to address the violation.

C. Nothing shall limit the Planning Director or other designated Town official from investigating possible violations of this Ordinance without receipt of a written complaint.

7.5.2 INSPECTIONS AND INVESTIGATIONS

A. The Planning Director or other designated Town official, as appropriate, shall have the power to conduct any lawful inspection and investigation as may be deemed necessary to carry out their duties as prescribed in this Ordinance.

B. In exercising these powers, the Planning Director or other designated Town official may enter any premises open to the general public and located within the Town's planning jurisdiction at all reasonable hours for the purposes of inspection or other enforcement action.

C. The Planning Director or other designated Town official shall, upon presentation of proper credentials, and receipt of permission from a responsible entity, have the right to enter any premises within the Town's planning jurisdiction not open to the general public at any reasonable hour for the purpose of inspecting locations subject to any complaints or alleged violations, or determination of compliance or other enforcement action of this Ordinance.

D. If the Planning Director or other designated Town official charged with enforcing this Ordinance seeks to enter a premises not open to the general public but cannot obtain permission to enter from a responsible entity, the Town shall obtain an administrative search or inspection warrant prior to entering the property.

E. The Planning Director or other designated Town official shall have the power to compel a person responsible for an alleged violation to provide written statements, certificates, certifications, evidence, or reports relating to complaints or alleged violations of this Ordinance.

7.5.3 WRITTEN NOTICE OF VIOLATION

A. CONTENTS OF WRITTEN NOTICE OF VIOLATION

When the Planning Director or other designated Town official finds that a violation of this Ordinance exists, a written notice of violation shall be delivered to the responsible entity(ies). The notice of violation shall include all of following:

1. VIOLATION EXISTS

That the land, building, structure, sign, or use is in violation of this Ordinance;

2. NATURE OF THE VIOLATION

The nature of the violation, and citation of the section(s) of this Ordinance violated;

3. REMEDY

The measures necessary to remedy the violation;

4. TIME PERIOD FOR CORRECTION

The time period in which the violation must be corrected;

5. PENALTIES THAT MAY BE ASSESSED

That penalties or remedies may be assessed if the violation is not addressed within the time period for correction; and

6. APPEAL

That the responsible entity has the right to appeal the notice in accordance with Section 2.3.2, Appeal.

B. DELIVERY OF WRITTEN NOTICE

1. The notice of violation shall be delivered to the responsible entity and the landowner if the landowner is not the responsible entity, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity.
2. The notice of violation may be posted on the property.
3. The Town official providing the notice of violation shall certify that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud.

C. INITIAL NOTICE SHALL CONSTITUTE FINAL NOTICE

The initial written notice of a violation shall constitute final notice regarding a violation, though additional written notice may be provided, in the sole discretion of the Planning Director or other designated Town official.

7.5.4 REMEDY UPON NOTICE

Upon delivery of a written notice of a violation, the landowner or any other responsible person shall remedy the violation within the time period for correction stated in the notice of violation.

7.5.5 FAILURE TO COMPLY WITH ORDER

If the landowner or responsible entity fails to comply with a notice of violation from which no appeal has been taken, or fails to comply following a final decision by the Board of Adjustment on an appeal, the landowner or responsible entity shall be subject to such remedies and penalties as may be provided for by State law or Section 7.6, Remedies.

7.5.6 EACH DAY A SEPARATE VIOLATION

Each day a violation continues following notice or failure to comply is considered a separate and distinct offense.

7.6 REMEDIES

Upon failure to address a notice of violation in accordance with this Ordinance, the Town may pursue any of the following remedies to correct the violation. Each of these remedies is cumulative and continuous to the maximum extent provided by State law. Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions.

7.6.1 CIVIL PENALTIES

A. GENERALLY

Any responsible person who violates any provision of this Ordinance shall be subject to the assessment of a civil penalty of the minimum amount per day specified in the Town's adopted schedule of fees in accordance with Section 7.6.1B, Assessment, and any other applicable enforcement provisions in this Ordinance and the Town Code of Ordinances.

B. ASSESSMENT

The following procedure shall be applied by the Town in the assessment and collection of civil penalties.

1. NOTICE

a. NOTIFICATION REQUIRED

Civil penalties may not be assessed until the responsible entity in violation has been notified in accordance with Section 7.5, Enforcement Procedure.

b. CIVIL PENALTY IMPOSED

If after receiving a written notice of violation under Section 7.5, Enforcement Procedure, the responsible party fails to take corrective action or file an appeal, a civil penalty may be imposed in accordance with this section.

c. NOTICE OF PENALTY ASSESSMENT

Notice of the civil penalty assessment shall be served in the same manner as a notice of violation.

d. ASSESSMENT CONTENTS

The assessment notice shall state the nature of the violation, the civil penalty to be imposed upon the responsible party, and shall direct the responsible party to pay the civil penalty within 30 days of the date of the notice.

e. SEPARATE NOTICES

Separate notices must be provided for the first or second violations. The Town may, in its discretion, treat the first notice for a violation as the final notice for chronic violators.

f. ASSESSMENT UNTIL COMPLIANCE

Civil penalties may be assessed until compliance is achieved.

C. CONTINUING VIOLATION

For each day the violation is not corrected, the responsible party shall be subject to an additional and separate offense and subject to additional civil penalty.

D. DEMAND FOR PAYMENT

1. If compliance is not achieved, then the Town shall make a written demand for payment of penalties that have accrued while the property has been in violation.
2. The demand for payment shall be sent to the responsible party in violation and must include a description of the violation for which the civil penalties have been imposed.
3. Payment of the penalty shall not constitute a remedy for the violation.

E. NONPAYMENT

If payment is not received or an equitable settlement reached within 30 days after demand for payment is made, the Town may recover any unpaid civil penalty by filing a civil action in the nature of debt.

F. PENALTIES

Any person who violates any provision of this Ordinance shall be subject to assessment of a civil penalty for each succeeding violation over the course of a calendar year.

7.6.2 CONDITIONED PERMIT OR AUTHORIZATION

A. The Planning Director or other designated Town official may condition a permit, authorization, or other approval for land, subdivision, building, structure, sign, use, or development activity on the correction of the violation, payment of civil penalties, and/or the posting of a compliance guarantee approved by the appropriate governmental authority.

B. In no instance shall the authorization of any permit, certificate, or approval for one property with a violation or outstanding enforcement action be conditioned with the correction of a violation, payment of civil penalties within a specified time, or the posting of a compliance guarantee for a different property.

7.6.3 CRIMINAL PENALTIES

Violations of certain environmental standards may subject the violator to the imposition of criminal penalties in accordance with the following sections:

A. Section 7.8, Violation of Flood Protection Controls;

B. Section 7.9, Violation of Soil Erosion and Sedimentation Controls;

C. Section 7.10, Violation of Stormwater Controls;

D. Section 7.11, Violation of Stream Buffer Controls; and

E. Section 7.12, Violation of Water Supply Watershed Controls.

7.6.4 DENIAL OF PERMIT OR AUTHORIZATION

The Planning Director or other designated Town official may withhold or deny a permit or other authorization for the same land, subdivision, building, structure, sign, use, or development activity 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.

7.6.5 EQUITABLE REMEDY

The Town may apply to a court of law for any appropriate equitable remedy to enforce the provisions of this Ordinance. The fact that other remedies are provided under general law or this Ordinance shall not be used by the responsible party as a defense to the Town's application for equitable relief.

7.6.6 INJUNCTIVE RELIEF

A. ACTION BY TOWN COUNCIL

Whenever the Town Council has reasonable cause to believe that any person is violating or threatening to violate this Ordinance, or any rule or order adopted or issued pursuant to this Ordinance, or any term, condition, or provision of an approved development plan, or soil erosion and sedimentation control plan, it may, either before or after the institution of any other action or proceeding authorized by this Ordinance, institute a civil action in the name of the Town, for injunctive relief to restrain, correct, abate, mandate, or enjoin the violation or threatened violation.

B. SUPERIOR COURT

The action shall be brought in the Superior Court of the appropriate county. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation.

C. NO RELIEF FROM CRIMINAL PENALTIES

The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of this Ordinance.

7.6.7 ORDER OF ABATEMENT

In addition to an injunction, the Town may apply for and the court may enter an Order of Abatement as part of the judgment in the case. An Order of Abatement may direct any of the following actions:

A. That buildings or other structures on the property be closed, demolished, or removed;
B. That fixtures, furniture, or other moveable property be moved or removed entirely;
C. That improvements, alterations, modifications, or repairs be made; or
D. That any other action be taken as necessary to bring the property into compliance with this Ordinance.

7.6.8 REVOCATION OF PERMITS

A. The Planning Director or other designated Town official may revoke and require the return of a permit by notifying the permit holder in writing, stating the reason for the revocation.
B. Building permits may be revoked, in accordance with NCGS§ 160D-1115, for any of the following:
  1. Any substantial departure from the approved application, plans, or specifications;
  2. Refusal or failure to comply with the requirements of State or local laws; or
  3. For making false statements or misrepresentations in securing the permit, certificate, or approval.
C. Any permit or certificate mistakenly issued in violation of an applicable State or Town law may also be revoked.

7.6.9 STOP WORK ORDERS

A. GENERAL

Whenever the Planning Director or other designated Town official determines that a person is engaged in doing work that constitutes, creates, or results in a violation of this Ordinance and that irreparable injury will occur if the violation is not terminated immediately, that Town official may order all or the specific part of the work that constitutes, creates, or results in a violation of this Ordinance to be immediately stopped.

B. ORDER IN WRITING

1. The stop work order shall be in writing and directed to the landowner, and the occupant or person doing the work.
2. 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.
3. A copy of the order shall be delivered to the responsible party and to the owner of the property involved (if that person is not the responsible party) by personal delivery, electronic delivery, or first-class mail.
4. The Town official delivering the notice shall certify that the order was delivered, and that certificate shall be deemed conclusive in the absence of fraud.

C. APPEAL

Any person aggrieved by the issuance of a stop work order may appeal the issuance of the order to the Board of Adjustment in accordance with Section 2.3.2, Appeal. No further work or activity shall take place in violation of a stop work order until the ruling on the appeal has been made.

D. COMPLIANCE REQUIRED

Neither the responsible entity nor a landowner upon whom a stop work order is served shall continue with work in violation of the stop work order while it remains in effect unless the order is stayed in accordance with applicable State law.

7.7 STATUTE OF LIMITATIONS

Enforcement of violations of this Ordinance shall be in accordance with NCGS§ 1-49(3) and NCGS§1-51(5) of the North Carolina General Statutes.

7.8 VIOLATION OF FLOOD PROTECTION CONTROLS

7.8.1 VIOLATIONS TO BE CORRECTED

When the Floodplain Administrator finds violations of applicable State and Town laws, the Floodplain Administrator shall notify the responsible party(ies) of the violation. The responsible party(ies) shall immediately remedy each of the violations of law pertaining to their property.

7.8.2 ACTIONS IN EVENT OF FAILURE TO TAKE CORRECTIVE ACTION

If the responsible party(ies) fails to take corrective action within the timeframe specified by the Floodplain Administrator, the Floodplain Administrator shall give the responsible party(ies) written notice, by certified or registered mail to the party's last known address or by personal service, stating:

A. That the building or property is in violation of the flood damage prevention standards in this Ordinance;

B. That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten days after the date of the notice, at which time the responsible party(ies) 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 appears appropriate.

7.8.3 ORDER TO TAKE CORRECTIVE ACTION

A. If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator finds that the building or development is in violation of the flood damage prevention standards in this Ordinance, they shall issue an order in writing to the responsible party(ies), requiring them to remedy the violation within a specified time period, not less than 60 calendar days, nor more than 180 calendar days.

B. Where the Floodplain Administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in a lesser period, as may be feasible.

7.8.4 APPEAL

A. Any responsible party who has received an order to take corrective action may appeal the order to the Board of Adjustment by giving notice of appeal in writing to the Floodplain Administrator and the Town Clerk within ten days following issuance of the final order.

B. In the absence of an appeal, the order of the Floodplain Administrator shall be final.

C. The Board of Adjustment shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

7.8.5 FAILURE TO COMPLY WITH ORDER

If the responsible party(ies) 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 Board of Adjustment following an appeal, the party(ies) shall be guilty of a Class 1 misdemeanor pursuant to NCGS § 143-215.58 and shall be punished at the discretion of the court, and the standards in this section.

7.8.6 PENALTIES

A. Violation of the provisions of Section 3.7.2 FPOD Flood Protection Overlay District, Section 2.3.14, Floodplain Permit, this section, or violation of conditions and safeguards established in connection with a related Variance, shall constitute a Class 1 misdemeanor pursuant to NCGS§ 143-215.58.

B. Any person convicted by a court of appropriate jurisdiction of violating the flood protection controls enumerated in this sub-section shall be fined not more than $100 or imprisoned for not more than 30 days, or both.

C. Each day such violation continues shall be considered a separate offense.

D. Nothing shall prevent the Town from taking any additional lawful actions as is necessary to prevent or remedy any violation of the flood protection provisions in this Ordinance or applicable State law.

7.9 VIOLATION OF SOIL EROSION AND SEDIMENTATION CONTROLS

Violations of the Town's erosion control and sedimentation standards (see Section 6.14, Soil Erosion & Sedimentation Control) shall be subject to the provisions of this Chapter as well as the following:

A. CIVIL PENALTIES

1. GENERALLY

Any responsible entity who accidentally or inadvertently violates any of the provisions of Section 2.3.21J.5, Erosion Control Permit, or Section 6.14, Soil Erosion & Sedimentation Control, or who initiates or continues a land-disturbing activity for which an erosion control or sedimentation plan is required, or fails to comply with the provisions of an approved erosion control and sedimentation plan, shall be subject to a civil penalty in accordance with the following:

a. The maximum civil penalty amount the Town may assess per violation is $5,000.

b. A civil penalty may be assessed from the date of the violation, and each day of a continuing violation shall constitute a separate violation.

c. When the responsible entity has not been assessed any civil penalty under this section for any previous violation, and that responsible entity has abated continuing environmental damage resulting from the violation within 180 days from the date of the notice of violation, the maximum cumulative total civil penalty assessed under this section for all violations associated with the land-disturbing activity for which the erosion and sedimentation control plan is required is $25,000.

2. ENVIRONMENTAL IMPACTS

a. In addition to the civil penalties provided with the Town's fee schedule, the Town may also assess a one-time civil penalty of $5,000 on the day of the violation for off-site sedimentation damage especially in the case of damage to a body of water, wetlands, or riparian buffer.

b. Any malicious or intentional destruction of silt fencing or other sedimentation and erosion control device will result in a one-time civil penalty of up to $1,000.

3. REPEAT OFFENSES

a. An additional civil penalty of $1,000 per day shall be charged to any responsible entity assessed a civil penalty for any violation of these standards within the prior two years.

b. A responsible party may be assessed a civil penalty from the date the violation is detected if the deadline stated is not met.

c. Each day of a continuing violation shall constitute a separate violation.

4. CIVIL PENALTY ASSESSMENT FACTORS

The Engineering Director shall determine the amount of the civil penalty based upon the following factors:

a. The degree and extent of harm caused by the violation;

b. The cost of rectifying the damage;

c. The amount of money the responsible entity saved by noncompliance;

d. Whether the violation was committed willfully, and therefore subject to Section 7.6.3, Criminal Penalties; and

e. The prior record of the responsible entity in complying or failing to comply with the Town's standards for erosion and sedimentation control.

5. NOTICE OF PENALTY ASSESSMENT

a. The Engineering Director shall provide notice of the civil penalty amount and basis for assessment to the responsible entity in accordance with NCGS§ lA-1, Rule 4.

b. A notice of assessment shall direct the responsible entity to either pay the assessment, contest the assessment within 30 days by filing an appeal (see Section 2.3.2, Appeal), or file a request with the Sedimentation Control Commission for remission of the assessment within 60 days of receipt of the notice of assessment.

c. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to NCGS Chapter 150B and a stipulation of the facts on which the assessment was based.

6. REMISSION OF CIVIL PENALTY ASSESSMENT

A request for remission of a civil penalty imposed under NCGS§ 113A-64 may be filed with the North Carolina Sedimentation Control Commission within 60 days of receipt of the notice of assessment. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to NCGS § 150B-31 and a stipulation of the facts on which the assessment was based.

7. COLLECTION

a. If payment is not received within 60 days after it is due, the Town may institute a civil action to recover the amount of the assessment.

b. The civil action may be brought in the Johnston County Superior Court, or the County Superior Court of the responsible entity's residence or principal place of business.

c. Such civil actions must be filed within three years of the date the assessment was due.

d. An assessment that is not contested and a remission that is not requested is due when the responsible entity is served with a notice of assessment.

e. An assessment that is contested or a remission that is requested is due at the conclusion of the administrative and judicial review of the assessment.

B. CRIMINAL PENALTIES

Any person who knowingly or willfully violates any provision of Section 2.3.21J.5, Erosion Control Permit, or Section 6.14, Soil Erosion & Sedimentation Control, or who knowingly or willfully initiates or continues a land-disturbing activity for which an erosion control and sedimentation plan is required except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a Class 2 misdemeanor pursuant to NCGS§ 113A-64. Any responsible entity who engages in this conduct shall, upon conviction thereof, be fined not more than $5,000.

C. RESTORATION AFTER NON-COMPLIANCE

The Town, may require a person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, as required by Section 6.14, Soil Erosion & Sedimentation Control, and NCGS§ 113A-57(3), to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this Ordinance.

7.10 VIOLATION OF STORMWATER CONTROLS

7.10.1 GENERALLY

A. AUTHORITY TO ENFORCE

The stormwater provisions in this Ordinance (see Section 6.15, Stormwater) shall be enforced by the Stormwater Administrator, or a designee.

B. VIOLATION UNLAWFUL

Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by the stormwater standards in this Ordinance, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to this Ordinance, is unlawful and shall constitute a violation subject to the standards in this section and applicable State law.

C. EACH DAY A SEPARATE OFFENSE

Each day that a violation continues shall constitute a separate and distinct violation or offense.

D. RESPONSIBLE PARTIES

1. Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair, or maintain any structure, SCM, practice, or condition in violation of this Ordinance shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section.
2. Parties 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.
3. For the purposes of this section, responsible party(ies) shall include but not be limited to:

a. 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 the stormwater provisions in this Ordinance, or fails to take appropriate action, so that a violation of this Ordinance results or persists.

b. 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 redevelopment of the property.

7.10.2 ENFORCEMENT PROCEDURES

A. INITIATION OR COMPLAINT

Whenever a violation of the stormwater provisions in 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.

B. 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.

C. NOTICE OF VIOLATION AND ORDER TO CORRECT

1. When the Stormwater Administrator finds that any building, structure, or land is in violation of the stormwater provisions of this Ordinance, the Stormwater Administrator shall notify, in writing, the responsible party(ies). 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.
2. The Stormwater Administrator may deliver the notice of violation and correction order personally, by the Town Police Department, by Town Code Enforcement Officer, by certified or registered mail, return receipt requested, or by any means authorized for the service of documents by NCGS § 1A-1, Rule 4.
3. If a violation is not corrected within a reasonable period of time, as provided in the notification, the Stormwater Administrator may take appropriate action under this Ordinance to correct and abate the violation and to ensure compliance with this Ordinance.

D. EXTENSION OF TIME

1. 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.
2. 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 may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 30 days.
3. The Stormwater Administrator may grant 15-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.
4. The Stormwater Administrator may grant an extension only by written notice of extension.
5. 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.

E. ENFORCEMENT AFTER TIME TO CORRECT

After the time has expired to correct a violation, including any extension(s) if authorized by the Stormwater Administrator, the Stormwater Administrator shall determine if the violation is corrected. If the violation is not corrected, the Stormwater Administrator may act to impose one or more of the remedies and penalties authorized by this Ordinance.

F. EMERGENCY ENFORCEMENT

1. 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 may order the immediate cessation of a violation.
2. Any responsible party(ies) so ordered shall cease any violation immediately.
3. The Stormwater Administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this section.

7.10.3 REMEDIES AND PENALTIES

The remedies and penalties provided for violations of the stormwater provisions in 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 may refuse to issue a Certificate of Occupancy 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 party(ies) 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 the stormwater provisions in this Ordinance continues and remains uncorrected, the Stormwater Administrator or other authorized agent may withhold, and the Planning Board may disapprove, any request for permit or development approval or authorization provided for by this Ordinance or the building regulations, as appropriate, for the land on which the violation occurs.

3. INJUNCTION AND ABATEMENT

The Stormwater Administrator, with the written authorization of the Town Manager, 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 the stormwater provisions 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

If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by NCGS§ 160A-193, the Stormwater Administrator, with the written authorization of the Town Manager, 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 responsible party(ies) violating this Ordinance. The stop work order shall remain in effect until the party(ies) 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

Violation of the stormwater provisions in 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.

C. CRIMINAL VIOLATIONS OF STORMWATER STANDARD

1. Any willful violation of the stormwater standards in this Ordinance may be enforced as a Class 3 misdemeanor as provided for by NCGS§ 14-4 and all other applicable law, subject to a maximum fine of $500 or a maximum of 30 days imprisonment.
2. Accidental violation of the stormwater standards shall be subject to the standards applicable to a civil penalty.

7.11 VIOLATION OF STREAM BUFFER CONTROLS

7.11.1 WILLFUL VIOLATION MAY RESULT IN CRIMINAL PENALTY

Any willful violation of the stream buffer standards in this Ordinance may be enforced as a Class 3 misdemeanor as provided for by NCGS§ 14-4 and all other applicable law, subject to a maximum fine of $500 or a maximum of 30 days imprisonment.

7.11.2 ACCIDENTAL VIOLATION MAY RESULT IN CIVIL PENALTY

Accidental violation of the stream buffer standards in this Ordinance shall be subject to the standards in Section 7.6.1, Civil Penalties.

7.12 VIOLATION OF WATER SUPPLY WATERSHED CONTROLS

7.12.1 WILLFUL VIOLATION MAY RESULT IN CRIMINAL PENALTY

Any willful violation of the water supply watershed protection standards in this Ordinance may be enforced as a Class 3 misdemeanor as provided for by NCGS§ 14-4 and all other applicable law, subject to a maximum fine of $500 or a maximum of 30 days imprisonment.

7.12.2 ACCIDENTAL VIOLATION MAY RESULT IN CIVIL PENALTY

A. Accidental violation of the water supply watershed protection standards shall be subject to the standards applicable to a civil penalty (see Section 7.6.1, Civil Penalties).

B. In addition to the remedies available in Section 7.6, Remedies, the North Carolina Environmental Management Commission may also assess civil penalties for violation of the Watershed Protection Overlay District standards in accordance with NCGS§ 143-215.6(A).

CHAPTER 8
WORD USAGE

8.1 Abbreviations **698**

8.2 Language Construction **702**

8.2.1 Meanings and Intent 702
8.2.2 Lists and Examples 702
8.2.3 Computation of Time 702
8.2.4 Time-Related Language 702
8.2.5 References to this Ordinance 702
8.2.6 References to Other Ordinances or Publications 702
8.2.7 References to North Carolina General Statutes 703
8.2.8 Delegation of Authority 703
8.2.9 Joint Authority 703
8.2.10 Technical and Non-Technical Terms 703
8.2.11 Public Officials and Agencies 703
8.2.12 Mandatory and Discretionary Terms 703
8.2.13 Conjunctions 703
8.2.14 Tenses, Plural, and Gender 703
8.2.15 Oath 703
8.2.16 Term Not Defined 703

8.3 Terms Defined **704**

8.1 ABBREVIATIONS

Table 8.1, Abbreviations, is a summary of the abbreviations and acronyms used in this Ordinance.

TABLE 8.1: ABBREVIATIONS

Abbreviation	Meaning
AASHTO	American Association of State Highway and Transportation Officials
ABC	Alcoholic Beverage Control
ADA	Americans with Disabilities Act
ADU	Accessory Dwelling Unit
AM	Ante Meridiem (before noon)
ANSI	American National Standards Institute
ATM	Automated Teller Machine
BFE	Base Flood Elevation
BMP	Best Management Practice
BOA	Board of Adjustment of Clayton, North Carolina
BUA	Built-Upon Area
CBU	Cluster Mailbox Unit
CCRC	Continuing Care Retirement Community
CFR	Code of Federal Regulations
CLG	Certified Local Government
CLOMR	Conditional Letter of Map Revision
CO	Certificate of Occupancy
CON	Conservation Zoning District
CZC	Conditional Commercial Zoning District
CZD	Conditional Downtown Zoning District
CZI	Conditional Industrial Zoning District
CZM	Conditional Mixed-Use Zoning District
CZR	Conditional Residential Zoning District
CTS	Cooperating Technical State
CWA	Clean Water Act
DADU	Detached Accessory Dwelling Unit
DAS	Distributed Antenna System
DBH	Diameter at Breast Height
DEMLR	Department of Energy, Mineral, and Land Resources
DFIRM	Digital Flood Insurance Rate Map
DTNC	Downtown Core Zoning District

TABLE 8.1: ABBREVIATIONS	
Abbreviation	**Meaning**
DTNN	Downtown Neighborhood Zoning District
DTNT	Downtown Transitional Zoning District
EIFS	Exterior Insulation and Finish System
EMB	Electronic Message Board
EMC	Environmental Management Commission
EMS	Emergency Medical Service
EPA	Environmental Protection Agency
ETJ	Extraterritorial Jurisdiction
EV	Electric Vehicle
FAA	Federal Aviation Administration
FBFM	Flood Boundary and Floodway Maps
FCC	Federal Communications Commission
FEMA	Federal Emergency Management Agency
FHBM	Flood Hazard Boundary Map
FIRM	Flood Insurance Rate Map
FIS	Flood Insurance Study
FPOD	Flood Protection Overlay District
FPS	Feet per Second
GFA	Gross Floor Area
GICC	Geographic Information Coordinating Council
GIS	Geographic Information System
GTOD	Gateway Overlay District
HID	Heavy Industrial Zoning District
HVAC	Heating, Ventilation, and Air Conditioning
IADU	Internal Accessory Dwelling Unit
ITE	Institute of Traffic Engineers
LAG	Lowest Adjacent Grade
LED	Light-Emitting Diode
LID	Light Industrial Zoning District
LOMA	Letter of Map Amendment
LOMA-F	Letter of Map Amendment - Fill
LOMC	Letter of Map Change
LOMR	Letter of Map Revision

TABLE 8.1: ABBREVIATIONS	
ABBREVIATION	**MEANING**
MDC	Minimum Design Criteria
MPS	Meters per Second
MXD	Mixed-Use Zoning District
NAVD	North American Vertical Datum (of 1988)
NC	North Carolina
NCAC	North Carolina Administrative Code
NCDEQ (DEQ)	North Carolina Department of Environmental Quality
NCDOT	North Carolina Department of Transportation
NCG	North Carolina General [Permit]
NCGS	North Carolina General Statutes
NCM	Neighborhood Commercial Zoning District
NEA	Non-Encroachment Area
NFIP	National Flood Insurance Program
NFPA	National Fire Protection Association
NHWL	Normal High Water Line
NPDES	National Pollutant Discharge Elimination System
OFI	Office Institutional Zoning District
OSHA	Occupational Safety and Health Administration
OSS	Open Space Set-Aside
PA	Protected Area
PB	Planning Board of Clayton, North Carolina
PIN	Parcel Identification Number
PM	Post Meridiem (after noon)
PMS	Pantone Matching System
POD	Portable On-Demand Storage Container
PSI	Pounds Per Square Inch
PUB	Public Facilities Zoning District
RHD	Residential High Density Zoning District
RLD	Residential Low Density Zoning District
RLL	Residential Large Lot Zoning District
RMD	Residential Medium Density Zoning District
RMF	Residential Multi-Family Zoning District
ROW	Right-of-Way

TABLE 8.1: ABBREVIATIONS	
ABBREVIATION	**MEANING**
RUR	Rural Zoning District
RV	Recreational Vehicle
SCM	Stormwater Control Measure
SES	Solar Energy System
SFHA	Special Flood Hazard Area
TCIA	Tree Care Industry Association
TIA	Transportation Impact Analysis
TRC	Technical Review Committee of Clayton, North Carolina
TSS	Total Suspended Solids
UDC	Unified Development Code
UDO	Unified Development Ordinance
US	United States
USACE	United States Army Corps of Engineers
USC	United States Code
USGS	United States Geologic Survey
UV	Ultraviolet
WPOD	Watershed Protection Overlay District
WSE	Water Surface Elevation

8.2 LANGUAGE CONSTRUCTION

The following rules shall apply for construing or interpreting the terms and provisions of this Ordinance.

8.2.1 MEANINGS AND INTENT

A. All provisions, terms, phrases, and expressions contained in this Ordinance shall be interpreted in accordance with the general purposes set forth in Section 1.7, Purpose and Intent of Ordinance, and the specific purpose statements set forth throughout this Ordinance.

B. When a specific section of these regulations gives a different meaning than the general definition provided in Section 8.3, Terms Defined, the specific section's meaning and application of the term shall control.

C. Terms that are not defined are subject to their common or customary meaning.

8.2.2 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.

8.2.3 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 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.

8.2.4 TIME-RELATED LANGUAGE

A. Whenever certain hours are named, they shall mean standard time or daylight savings time as may be in current use by the Town.

B. The term "day" means a calendar day, or any day during a week, including business days and weekend days.

C. The term "holiday" means a legal holiday recognized by the Town.

D. The term "week" means five business days and two weekend days.

E. Weeks commence on a Monday.

F. The term "month" means a calendar month.

G. The term "year" means a calendar year.

H. The term "temporary" shall mean a condition lasting for only a limited period of time; not permanent.

8.2.5 REFERENCES TO THIS ORDINANCE

A reference to a chapter, section, sub-section, or paragraph means a chapter, section, sub-section, or paragraph of this Ordinance, unless otherwise specified.

8.2.6 REFERENCES TO OTHER ORDINANCES 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 or adopted version of such regulation, resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.

8.2.7 REFERENCES TO NORTH CAROLINA GENERAL STATUTES

Whenever any provision of this Ordinance refers to or cites a section of the North Carolina General Statutes and that section is later amended or superseded, this Ordinance shall be deemed amended to refer to the amended section.

8.2.8 DELEGATION OF AUTHORITY

Whenever a provision of this Ordinance requires or authorizes an officer or employee of the Town to do some act or perform some duty, the officer or employee may designate, delegate, or authorize subordinates to perform the act or duty unless the terms of the provision specifically provide otherwise.

8.2.9 JOINT AUTHORITY

All words giving joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

8.2.10 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.

8.2.11 PUBLIC OFFICIALS AND AGENCIES

All public officials, bodies, and agencies to which references are made are those of the Town of Clayton, North Carolina, unless otherwise indicated.

8.2.12 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," "can," and "should" are permissive in nature.

8.2.13 CONJUNCTIONS

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

A. "And" indicates that all connected items, conditions, provisions, or events apply.

B. "Or" indicates that one or more of the connected items, conditions, provisions, or events apply.

8.2.14 TENSES, PLURAL, AND GENDER

A. Words used in the past or present tense include the future tense as well as the past and present.

B. 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.

C. Words used in the masculine gender include the feminine gender and the neuter, and vice versa.

8.2.15 OATH

The term "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in like cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

8.2.16 TERM NOT DEFINED

If a term used in any article of this Ordinance is not defined, the Planning Director is authorized to interpret the term in accordance with Section 2.3.9, Determination, based upon the definitions used in professionally accepted sources.

8.3 TERMS DEFINED

This section sets out the definitions of terms used in the UDO, including all use types, all procedures, all review authorities, and terms common to development standards and use standards. The section will include notes that some definitions, like those associated with signs, lot dimensions, or flood protection standards are located elsewhere in the Ordinance.

TABLE 8.3: TERMS DEFINED

Term	Definition(s)
10-YEAR, 24-HOUR STORM	For the purposes of Stormwater Management, the surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in 120 months and with a duration of 24 hours.
1-YEAR, 24-HOUR STORM	For the purposes of Stormwater Management, the surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in 12 months and with a duration of 24 hours.
2-YEAR, 24-HOUR STORM	For the purposes of Stormwater Management, the surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in 24 months and with a duration of 24 hours.
A	
ABANDONED APPLICATION	See "Application, Abandoned."
ABANDONMENT	The relinquishment of property or a cessation of the use of the property for a continuous period.
ABROGATE	To abolish or annul.
ABUTTING	The condition of two parcels of land having a common property line or boundary, including cases where two or more parcels of land adjoin at a corner, but not including cases where parcels of land are separated by a street, water body, or right-of-way.
ACCELERATED EROSION	For the purposes of Soil Erosion and Sedimentation, any increase over the rate of natural erosion as a result of land-disturbing activity.
ACCENT	The use of an alternate material or color to a detail that is emphasized by contrasting with its surroundings.
ACCESS EASEMENT	See "Easement, Access."
ACCESSIBLE PARKING SPACE	An off-street parking space provided for the exclusive use of vehicles serving disabled persons.
ACCESSORY DWELLING UNIT	See "Dwelling Unit, Accessory."
ACCESSWAY	A paved or unpaved travelway intended to serve vehicles for the purposes of obtaining ingress, egress, or circulation around a lot or site.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
ACQUISITION	Act or process of acquiring fee title or interest other than fee title of real property (including the acquisition of development rights or remainder interest).
ACT	For the purposes of Soil Erosion and Sedimentation, act shall mean the North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant to it.
ACTIVE OPEN SPACE SET-ASIDE	Land set aside for the residents or a development and under common ownership that is configured for active forms of recreation. Active open space typically includes playgrounds, athletic fields and courts, and similar features devoted to movement, activity, or sports pursuits.
ADDITION (TO AN EXISTING BUILDING)	For the purposes of the Flood Protection Overlay District standards, an extension or increase in the floor area or height of a building or structure.
ADEQUATE EROSION CONTROL MEASURE, STRUCTURE, OR DEVICE	For the purposes of Soil Erosion and Sedimentation, one which controls the soil material within the land area under responsible control of the person conducting the land-disturbing activity.
ADJACENT	A parcel of land or development that shares all or part of a common lot line or boundary with another parcel of land, or a parcel of land that would abut another parcel of land, but for the fact a street, waterbody, or right-of-way divides the parcels.
ADMINISTRATIVE ADJUSTMENT	A request by an applicant to deviate from a specified numerical standard of this UDO by a specified percentage, subject to consistency with applicable review criteria.
ADMINISTRATIVE SEARCH WARRANT	An order signed by a court of competent jurisdiction authorizing a Town official to enter land or a structure for the purposes of inspection for compliance with the requirements of this Ordinance.
ADOPTED POLICY GUIDANCE	The combined future land-use policy guidance provided by the adopted comprehensive plan, the comprehensive transportation plan, area or corridor plans prepared for specific parts of the Town, and system plans related to the Town's infrastructure systems.
ADULT DAY CARE	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 residence, to adults 18 years or older who may be physically or mentally disabled, and which is certified or approved to operate by the State of North Carolina.
ADVISORY OPINION	See "Determination, Advisory (Opinion)."
AFFECTED PARTY	Owners of land adjoining the land subject to an application and any other person who could suffer an adverse effect to a property interest from a proposed development.
AFFILIATE	For the purposes of Soil Erosion and Sedimentation, a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another person.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
AGRICULTURAL LAND	Land, including water areas, engaged in the production of crops, plants, livestock, or other agricultural commodities. Agricultural land does not include land used for processing or altering agricultural products.
AGRICULTURAL PACKAGING AND PROCESSING	A commercial establishment engaged in the preparation, processing, and packaging of agricultural products.
AGRICULTURAL STORAGE AND DISTRIBUTION	Commercial establishments devoted to the assembly, storage, and shipment of produce and agricultural products. Such uses do not include farms or places of production.
AGRICULTURE (AGRICULTURAL ACTIVITY)	A commercial establishment engaged in farming, including cultivation of the soil for the growing of crops and the rearing of animals to provide food, wool, and other products for trade or re-sale.
AGRI-TOURISM	Any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, hunting, fishing, equestrian activities, or natural activities and attractions. A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting.
ALLEY	See 'Street, Alley."
ALL-WEATHER SURFACE	Paving or surface treatment to a walkway or vehicular use area that is capable of withstanding adverse weather while still maintaining is regular or typical surface characteristics.
ALTERATION OF A WATERCOURSE	For the purposes of the Flood Protection Overlay District standards, a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard, or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.
ALTERNATIVE FORM OF COMPLIANCE	Use or a different approach, configuration, set of materials, or other means of complying with a particular standard in this Ordinance that has been considered and approved by the Town.
ALTERNATIVE LANDSCAPE PLAN	See "Plan, Alternative Landscape."
ALTERNATIVE PARKING PLAN	See "Plan, Alternative Parking."
AMATEUR HAM RADIO	Equipment, including antennas, transmitters, and antenna support structures used by a non-professional person in the transmittal of messages and information within the radio frequency portion of the electro-magnetic spectrum.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
AMENDMENT	A significant change, revision, addition, or deletion to a legal statutory document such as a development approval, the text of this Ordinance, or the Official Zoning Map. Amendment to a development approval is also referred to as a "major modification."
ANIMAL BOARDING, INDOOR AND OUTDOOR	A commercial establishment providing socialization, training, or housing, in the absence of the owner, during the daytime or overnight for domesticated pets owned by the general public for which a fee is charged. Such uses may include any outdoor activity areas, runs, enclosures, or storage.
ANIMAL BOARDING, INDOOR ONLY	A commercial establishment providing socialization, training, or housing, in the absence of the owner, during the daytime or overnight for domesticated pets owned by the general public for which a fee is charged. Such uses do not include any outdoor activity areas, runs, enclosures, or storage.
ANIMAL HUSBANDRY	The commercial and non-commercial propagation, rearing, exercising, feeding, milking, housing, controlling, handling, or general care of living animals and livestock. Examples include, but are not limited to, the raising and production of cattle (beef and dairy), pigs, mules, ducks, horses, goats, poultry, sheep, fish, and similar livestock or domesticated animals, and equestrian facilities. Concentrated animal feeding operations (CAFOs) are industrial uses. Breeding and rearing of animals typically thought of as household pets (e.g., dogs, cats, small rodents, etc.) is not animal husbandry.
ANIMAL SHELTER	A facility used to house and care for stray, homeless, abandoned, or neglected animals and that is owned, operated, or maintained by a public body, an established humane society, or other private or nonprofit organization.
ANNEXATION	The process where land not located within the Town's corporate limits is added to the corporate limits.
ANSI STANDARDS	Standards published by the American National Standards Institute (ANSI), a private, non-profit organization [501(c)(3)] that administers and coordinates the U.S. voluntary standardization and conformity assessment system.
ANTENNA	Any structure or device used to collect or radiate electromagnetic waves, including both directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whips, but not including satellite earth stations.
ANTENNA COLLOCATION, MAJOR	Uses involving the placement of antennas on building's roof or wall, placement of antennas on a vertical projection not constructed for communications purposes, or placement of antennas on a communications structure that requires "substantial modifications" as defined in NCGS§ 160D-931.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
ANTENNA COLLOCATION, MINOR	Uses involving the placement of antennas on a vertical projection (including a structure built for communications) that does not require substantial modifications and meets the definition of an "eligible facility" in NCGS§ 160D-931.
ANTENNA SUPPORT STRUCTURE	The frame, bracket, or other mechanical device, including mounting hardware such as bolts, screws, or other fasteners used to affix an antenna to a wireless telecommunications tower, building, utility pole, or other vertical projection.
APPEAL	A request for a review of a determination, decision, or the application of any provision of this Ordinance.
APPLICANT	A person who has submitted a development application for review under applicable provisions of this Ordinance.
APPLICATION	The completed form or forms and all accompanying documents, exhibits, and fees required of an applicant by the appropriate Town department or board as part of the development review processes.
APPLICATION, ABANDONED	An application for development approval that has been delayed and has not met the timing standards in Section 2.4.14C, Abandonment.
APPLICATION, COMPLETE	A complete application is one that: 1. Contains all information and materials established by the Planning Director as required for submittal of the particular type of application; 2. Is in the form established by the Planning Director as required for submittal of the particular type of application; 3. Includes information in sufficient detail to evaluate the application to determine whether it complies with the appropriate review standards of this Ordinance; and 4. Is accompanied by the fee established for the particular type of application. An application is not considered as submitted until it is determined to be a complete application.
APPLICATION, INCOMPLETE	An application for proposed development that does meet the minimum requirements in Section 2.4.5G, Determination of Application Completeness.
APPLICATION, MULTI-PART	An application for development approval submitted under this Ordinance that is comprised of two or more different application types described in Chapter 2, Applications.
APPROVING AUTHORITY	For the purposes of Soil Erosion and Sedimentation, the division or other state or local government agency that has been delegated erosion and sedimentation plan review responsibilities in accordance with the provision of the Act.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
APPURTENANT (SECONDARY) STRUCTURE	For the purposes of the Flood Protection Overlay District standards, a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports, and storage sheds are common urban appurtenant structures. Pole barns, hay sheds, and the like qualify as appurtenant structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.
AQUACULTURE	The cultivation of saltwater or freshwater plants or animals on land in tanks under controlled conditions.
ARBOR	A structure with an open roof system providing partial shading and which may also have non-opaque fencing on the outside perimeter.
ARBORETUM OR FORMAL GARDEN	A 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.
ARCADE	A series of arches supported by piers or columns. It is typical for an arcade to have habitable floor space directly above it.
ARCH OR ARCHWAY	A curved, semicircular opening in a wall.
ARCHITECTURAL METAL PANEL	A strip or sheet of high-quality metal (typically stainless steel, copper, or bronze) applied to the exterior wall of a building for decorative purposes.
AREA OF FUTURE-CONDITIONS FLOOD HAZARD	For the purposes of the Flood Protection Overlay District standards, the land area that would be inundated by the 1 percent annual chance (100-year) flood based on future- conditions hydrology.
AREA OF SHALLOW FLOODING	For the purposes of the Flood Protection Overlay District standards, a designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one to three feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.
AREA OF SPECIAL FLOOD HAZARD	See "Special Flood Hazard Area (SFHA)."
ART INSTALLATION	Two- or three-dimensional art (such as sculpture, painting, or other physical form of expression) that is created, constructed, and installed on the site where it is displayed for the purposes of expressing an idea, feeling, or desire to evoke a reaction from the viewer.
ARTERIAL STREET	See "Street, Arterial."
ARTICULATION	The presence or projections, recesses, or other architectural features along a building façade.
AS-BUILT PLAN	A set of engineering or site drawings that delineate the specific permitted development as actually constructed.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
ASPHALT OR CONCRETE PLANT	An industrial establishment engaged in the production of asphalt, macadam, blacktop, concrete, or mortar for use in the construction and repair of buildings, roadways, and vehicular use areas. The use involves the stockpiling of sand, binder and filler, as well as a heater to mix the ingredients, and trucks to deliver products to the site of installation.
ASSISTED LIVING	See "Congregate Care."
ATHLETIC FIELD OR COURT	An outdoor facility used for organized or unorganized sports or recreation. Such facilities may include storage or gathering structures, equipment housing, lights, spectator areas, hard or soft surface play areas, fences, walls, or netting. Swimming pools are not athletic fields or courts.
ATRIUM	An open, central area of a building with large windows or a glass roof available for use by the occupants of the building or the public at large. The atrium typically includes or open onto the building's primary entrance.
AUDITORIUM, COLISEUM, OR CONVENTION CENTER	A building or structure designed or intended for use for spectator sports, entertainment events, expositions, conferences, seminars, product displays, recreation activities, and other public gatherings, all occurring inside a structure typically limited to a capacity of 500 or fewer seats, along with secondary functions including temporary outdoor displays, and food and beverage preparation and service for on-premise consumption.
AUTHORIZED AGENT	A person or legal entity with express written consent to act upon another's behalf.
AUTOMATED TELLER MACHINE	An automated mechanized consumer banking device operated by a financial institution for the convenience of its customers, whether inside or outside of a financial institution, or located in a structure unrelated to the financial institution operating it. Such uses may not serve as the principal use of a parcel of land or site.
AWNING	A plastic, canvas, or metal porch or shade supported by a frame and often foldable that is placed over a storefront, doorway, or window.
AXIS	See "Building Axis."
B	
BALCONY	A sign of lightweight fabric or similar material which is rigidly mounted to a pole or a building by a rigid frame at two or more opposite sides. Flags are mounted along one side and shall not be considered banners.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
BANK, CREDIT UNION, OR SIMILAR USE	An establishment that provides retail banking services, mortgage lending, cash or checks for the purposes of payments or investments, or similar services to individuals and businesses. Financial institutions include those establishments engaged in the on-site circulation of cash money and check-cashing facilities including bail bond brokers. Banks or credit unions 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, as well as drive-through facilities. Establishments where patrons compete against others for cash or other prizes in games where the outcome is based on skill are electronic gaming operations.
BANNER	A sign of lightweight fabric or similar material which is rigidly mounted to a pole or a building by a rigid frame at two or more opposite sides. Flags are mounted along one side and shall not be considered banners.
BAR, COCKTAIL LOUNGE, OR PRIVATE CLUB	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 alcohol sales, and the secondary source from the serving of food. Such uses may also provide on-site entertainment in the form of live performances, dancing, billiards, or other entertainment activities.
BARBED, CONCERTINA, OR RAZOR WIRE	Wire serving as a fence or located on top of a fence, wall, or building, that includes clusters of short spikes set at regular intervals or supplemented with strands of sharpened metal used as a security method to deter people or animals from climbing the fence, building, or wall.
BARBER OR BEAUTY SALON	A personal services establishment where one or more persons provides grooming services to members of the general public. Such uses may include secondary retail sale of personal products for patrons.
BASE FLOOD	For the purposes of the Flood Protection Overlay District standards, the flood having a 1 percent chance of being equaled or exceeded in any given year.
BASE FLOOD ELEVATION (BFE)	For the purposes of the Flood Protection Overlay District standards, a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a Special Flood Hazard Area, it may be obtained from engineering studies available from a federal, state, or other source using FEMA approved engineering methodologies. This elevation, when combined with the freeboard, establishes the Regulatory Flood Protection Elevation.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
BASEMENT	Any area of a building with its floor subgrade (below ground level) on all sides. For the purposes of the Flood Protection Overlay District standards, any area of the building having its floor subgrade (below ground level) on all sides.
BAY WINDOW	A window, typically with two or more sides that is built to project outward from an outside wall.
BED AND BREAKFAST	A private residence, generally a single-family residence, engaged in renting one or more dwelling rooms on a daily basis to tourists, vacationers, and businesspeople, where provision of meals is limited to breakfast for guests only. A bed and breakfast with more than six rooms available for rent is considered a hotel or motel.
BEING CONDUCTED	For the purposes of Soil Erosion and Sedimentation, a land-disturbing activity has been initiated and not deemed complete by the approving authority.
BELFRY	An enclosed vertical projection attached or detached to another habitable structure (like a church or school) typically used for the location of bells.
BELT COURSE	A projecting horizontal course of the same or a contrasting material (often masonry) on the exterior of a building used to direct water off the wall or denote an interior floor level.
BERM	An elongated earthen mound typically designed or constructed on a site to separate, screen, or buffer adjacent uses or site features.
BEST MANAGEMENT PRACTICE (BMP)	For the purposes of riparian buffers or stormwater management, a practice or combination of practices that is determined to be an effective and practicable means of preventing or reducing the amount of pollution to a level compatible with the water quality goals in Section 6.12, Riparian Buffers, or Section 6.15, Stormwater.
BICYCLE LANE	A portion of a street designated solely for use by bicyclists.
BICYCLE PARKING SPACE	Land and facilities used for the parking of bicycles, including a mechanism for securing a parked bicycle.
BILLBOARD	See "Outdoor Advertising."
BIO-RETENTION CELL	A stormwater infiltration device consisting of an excavated area that is filled with a specialized soil media and plants, grass, or sod.
BLOCK	The land lying within an area bounded on all sides by streets.
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.
BOARD OF ADJUSTMENT	A quasi-judicial decision-making body responsible for hearing Appeals, Variance requests, and Special Use Permits in Clayton, North Carolina.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
BOARDING HOUSE	A residential dwelling that offers five or fewer sleeping rooms for rent by lodgers staying one or more nights. The dwelling contains a single common kitchen and may include other common areas for dining, laundry, and congregating. Boarding houses are not intended as group homes or halfway houses.
BOLE	For the purposes of this Ordinance, a specific location on the trunk or main stem of a tree where the adjacent soil touches the tree trunk or stem. Tree size is determined by measuring the tree's circumference at specified distances upwards from the bole. The portion of the tree below the established soil line around the base of the trunk is not considered to be the bole.
BONA FIDE FARM	Any tract or tracts of land used for farm purposes as defined in NCGS§ 160D-930, including the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture as defined in NCGS§106-581.1. In addition, the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under NCGS§106-743.2 is a bona fide farm purpose. Any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes: 1. A farm sales tax exemption certificate issued by the Department of Revenue; 2. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to NCGS§105-277.3; 3. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return; and 4. A forest management plan.
BORROW	For the purposes of Soil Erosion and Sedimentation, fill material that is required for on-site construction that is obtained from other locations.
BOTTLE SHOP (ON-PREMISE CONSUMPTION)	A commercial establishment engaged in the retail sale of beer, wine, or spirits in sealed containers offered for sale to an individual solely as a sealed container such as a bottle or can. Beverages may be sold for off-site or on-site consumption only in accordance with all applicable State laws and permits. Incidental sale of food or associated merchandise may also take place. Bottle shops that do not permit on-site consumption are considered general retail, high intensity.
BOW	An exterior building wall that is curved.
BOW SIGN	See "Sign, Bow."
BROADCASTING STUDIO	Uses including buildings, studios, and transmission facilities for the production and distribution of radio and television signals.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
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. For the purposes of riparian buffers or watershed protection, a buffer is a vegetated area bordering a body of water such as a stream, pond, or lake.
BUFFER ZONE	For the purposes of Soil Erosion and Sedimentation, the strip of land adjacent to a lake or natural watercourse.
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 the type A Separation, type B Intermittent, type C Semi-Opaque, and type D, Opaque.
BUFFER, STREETSCAPE	Landscaping provided on individual lots abutting arterial, collector, or local streets, but located outside the street right-of-way.
BUILDING	Any structure used or intended for supporting or sheltering any use or occupancy.
BUILDING AXIS	An imaginary line between two points on a building that describes or explains how the building is organized. For example, the ridgeline of a roof gable depicts a building's axis.
BUILDING CORNERSTONE	A stone that forms the base of a building's most prominent corner.
BUILDING FACADE	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.
BUILDING FLOOR AREA	The gross floor area of an individual structure built for support, shelter or enclosure for any occupancy or storage.
BUILDING FLOORPLATE	The area occupied by the outermost perimeter of a building or structure at the ground level only.
BUILDING FOOTPRINT	The area occupied by the perimeter of a principal building. Accessory structures and non-building facilities are not included in the building footprint.
BUILDING PERMIT	Authorization granted by the Town for an applicant to begin construction of a building or structure.
BUILDING PROJECTION	An extension of a building wall or building façade projecting outwards from the primary building façade plane typically used to conceal or screen a service element of site feature like a refuse collection container.
BUILDING RECESS	The portion of a building wall or building façade receding or directed inwards from the primary building façade plane typically used as an entryway or as an area for outdoor activity. A recess may or may not include an overhanging roof.
BUILDING WALL	See "Wall, Building."

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
BUILDING WING	A portion of a building that is subordinate to the main or central part of the structure. Building wings may share a wall with the main or central part of the building or be joined to it by another ancillary structure like a hallway or a colonnade.
BUILT-UPON AREA (BUA)	For purposes of Stormwater Management, that portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. Built-upon area does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material. The project site or area must exclude any land adjacent to the area disturbed by the project that has been counted as pervious by any other development regulated under a federal, State, or local stormwater regulation.
BULB OUT	A curb extension used to extend the sidewalk, reducing the street crossing distance for pedestrians while also allowing approaching vehicle drivers to see pedestrians when vehicles parked in a parking lane would otherwise block visibility.
BULKHEAD	A vertical or horizontal wall used to enhance structural integrity or to conceal mechanical equipment.
BULKY ITEM SALES	A commercial establishment engaged in the retail sale of large or bulky items that are not commonly constructed or maintained indoors, such as truck camper tops, bed liners, prefabricated outdoor buildings, manufactured homes, modular homes, play equipment, portable storage containers, or hot tubs. Such uses may include on-site assembly or fabrication of such items for sale.
BUNGALOW COURT	A series of single-family detached homes configured as a cohesive development that incorporates smaller lot sizes, reduced setbacks, shared accessways, a shared driveway, perimeter landscape buffering, and where each home complies with the residential design guidelines in this Ordinance.
BUS SHELTER	A structure or covering located within or adjacent to a street right-of-way or vehicular driveway that includes areas for standing or seating for patrons waiting to board or disembark from a bus or other form of public transportation. Such uses may include un-manned ticket sales or vending machines, secondary bicycle parking, or refuse collection.
BUSINESS DAY	Any day in which normal business is conducted. A business day does not include a holiday or a weekend day.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
BUSINESS INCUBATOR	A commercial establishment that provides support and encouragement to new business startups and ventures in the form of affordable floor area to rent, shared office space, shared marketing resources, and may also provide management training services and access to financing. Business incubators contain a wide array of use types, including retail, office, personal service, and light manufacturing uses. Some use types are specifically prohibited within a business incubator use, as specified in this Ordinance.
C	
CALENDAR DAY	Any day of the week.
CALIPER	Measurement for determining the size of trees at time of planting. Caliper is the quantity in inches of the diameter of trees measured at six inches or 12 inches above the ground, depending upon the size of the tree.
CAMPER	A portable dwelling (as a special equipped trailer or automobile vehicle) for use during casual travel and camping.
CAMPGROUND	A commercial establishment containing two or more campsites or cabins available for overnight camping use whether by rental fee or short-term lease. Campgrounds may include recreational facilities, a store for the sale of food or camping supplies while on the premises, and facilities for the assembly of campers and guests. Campground does not include a summer camp, migrant labor camp, manufactured or mobile home park, or recreational vehicle park.
CAMPUS-STYLE DEVELOPMENT	A development of two or more principal buildings along with any secondary structures that are planned, designed, and operated as an integral unit. Campus-style developments are typically organized around a central feature such a central open space or common area, and use consistent architecture, landscape plantings, street configurations, and other features to reinforce the idea that all buildings are part of one centralized campus.
CANOPY (DRIVE THROUGH, FUEL, ETC.)	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. A canopy is not a completely enclosed structure.
CANOPY TREE	A species of tree which normally grows to a mature height of 40 feet or more with a minimum mature crown width of 30 feet.
CARETAKER DWELLING	See "Dwelling, Caretaker."
CARPORT	A permanent structure comprised of a roof and vertical supports typically used to house an automobile or other vehicle. A carport is open or lacks structural walls on two or more sides and may be detached or attached to a principal structure. Overhead coverings for vehicles not intended as a location to park a vehicle are canopies.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
CARRIER OR WIRELESS CARRIER	An entity licensed by the FCC to provide radio frequency communications services to individuals.
CASUALTY DAMAGE	The damage to or loss of a nonconforming structure or use that is sudden, unexpected, and unusual. Typically associated with fire, severe weather, or Act of God.
CATERING ESTABLISHMENT	A commercial establishment that prepares, delivers, and may or may not serve food and/or beverages to clients in a pre-arranged on-site or off-site location at a pre-arranged time. Catering operations associated with a restaurant are considered eating establishments, and catering associated with a hotel, motel, or conference venue is considered a secondary use.
CELLULAR REINFORCED PAVING SYSTEM	Plastic, metal, or polymers that are installed into a matrix of earth or crushed stone and used to reinforce or stabilize parking or vehicular use areas.
CEMETERY OR 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.
CENTRAL LEADER	The dominant upright branch (or trunk) of a tree.
CERTIFICATE OF OCCUPANCY	Authorization granted by the Town for the occupancy of a building reviewed and approved under this Ordinance.
CERTIFIED ARBORIST	An individual who has successfully completed the International Society of Arboriculture (ISA) exam process.
CERTIFIED LOCAL GOVERNMENT (CLG) PROGRAMS	For the purposes of the Flood Protection Overlay District standards, CLG Programs are approved by the U.S. Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.
CERTIORARI	A court process to used to seek judicial review of a decision of a lower court or government agency. Cases reviewed in the manner of certiorari are cases reviewed by a court solely upon the record that exists, and new testimony, facts, or evidence are not typically considered.
CHANGE OF USE	The change in the use of a building, structure, or land. "Change of use" includes a change from one use type to another use type.
CHANGEABLE COPY	Text or other depictions on the face of a sign that are capable of being revised on a regular or infrequent basis.
CHANNEL	As used in the riparian buffer standards, a natural water-carrying trough cut vertically into low areas of the land surface by erosive action of concentrated flowing water or a ditch or canal excavated for the flow of water.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
CHECK CASHING / PAY DAY LENDING	An establishment engaged in loaning money upon deposit of personal property or signature on a promise to repay. Such uses also store personal property on site and may sell goods at retail sale.
CHEMICAL STORAGE FACILITY	For the purposes of the Flood Protection Overlay District standards, 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	A serpentine curve added to a street as a traffic calming measure.
CHILD CARE, INCIDENTAL	A secondary use where, at any one time, three or more children under the age of 13, receive child care on a regular basis of at least once per week for at least four (but less than 24) hours per day from persons other than their guardians, full-time custodians, or persons related to them by blood, marriage, or adoption. This definition does not include child day care centers, cooperative arrangements among parents, or other activities not defined as child care by NCGS§ 110-86. Provision of child care services for more than six children in a residential dwelling is not a secondary use and is subject to the standards for a child day care center.
CHILD DAY CARE	A commercial or non-profit use licensed by the State where, at any one time, three or more unrelated children under the age of 13 receive child care from an unrelated person in a building other than a private residence on a regular basis of at least one occurrence per week for more than four hours per occurrence. Such uses may also involve the provision of educational services in preparation for elementary school. This definition does not include incidental child 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).
CITATION	As used in Chapter 7, Violations, a formal notice to a person that he or she is charged with a violation of this Ordinance, and that penalty is due.
CIVIL ACTION	A legal action at law brought between a private party(ies) and the Town to protect a civil right or to compel a civil remedy (as opposed to criminal prosecution).
CIVIL PENALTY	A fine or other financial penalty imposed by a court, the County, or another governmental entity as restitution for violation of this Ordinance or other wrongdoing.
CLEAN WATER ACT	For the purposes of stormwater management, the Federal Water Pollution Control Act, also known as the Clean Water Act (CWA), as amended, 33 USC 1251, et seq.
CLEAR CUTTING	Any activity that results in the removal of 80 percent or more of the tree canopy coverage over a lot or tract from existing trees that meet or exceed the minimum size at time of planting requirements in this Ordinance.
CLEARING	The act of removing existing vegetation. Grading of the land includes clearing when grading is taking place while vegetation is still present.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
CLIMATE CONTROL EQUIPMENT	Heating, ventilation, air conditioning, and similar heating or cooling equipment typically located outdoors.
CLOSE FAMILIAL RELATIONSHIP	An instance where a review authority responsible for a decision under this Ordinance has or maintains any of the following types of relationships with an applicant: spouse, parent, child, brother, sister, grandparent, or grandchild, including step, half, and in-law relationships.
CLUSTER BOX UNIT	A centralized grouping of individually locked and keyed mailboxes meeting the specifications of the United States Postal Service.
CLUSTER DEVELOPMENT	For the purposes of water supply watershed protection, the grouping of buildings to conserve land and minimize stormwater runoff impacts. Non-residential, multi-family, and single-family development can be clustered, and planned and mixed-use development are also considered cluster developments for the purposes of the WPOD standards.
COCKTAIL LOUNGE	See "Bar, Cocktail Lounge, or Private Club."
COFFEE SHOP OR BAKERY	A commercial establishment engaged in the retail sale of coffee, tea, related beverages, as well as bread, baked goods, and confections for on-site and off-site consumption. Coffee shops or bakeries may also offer a limited range of food available for on-site or off-site consumption as well as merchandise associated with home consumption of coffee or tea. A coffee shop may also include, as a secondary use, equipment, and facilities to prepare coffee beans for consumption. Uses engaged solely in coffee bean, flour, sugar, fruit, or other food staple processing for off-site consumption are manufacturing uses. Uses that derive the majority of their income from sales of food are restaurant uses.
COLD-HARDY	A plant's ability to withstand normal winter temperatures while remaining alive.
COLLECTOR STREET	See "Street, Collector."
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.
COLLOCATION	See "Antenna Collocation Major," or "Antenna Collocation, Minor."
COLOR CORRECTED HIGH-PRESSURE SODIUM	A form of exterior illumination from a bulb with a compact arc tube that, when energized, produces a warm, deep yellow light.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
COLUMN	An upright pillar, typically cylindrical and made of stone or concrete, supporting an entablature, arch, or other structure, or standing alone as a monument.
COMBINATION / RECOMBINATION	The assembling or joining of two or more different lots of record into a different configuration of lot lines.
COMMISSION	For the purposes of Soil Erosion and Sedimentation, the North Carolina Sedimentation Control Commission.
COMMON AREA	Land within a subdivision or development that is owned in common by two or more residents or property owners. Common area may or may not be open to use by members of the general public.
COMMON LAW VESTED RIGHT	Legal doctrine that recognizes where property owners have reasonably made a substantial expenditure of money, time, labor, or energy in a good faith reliance on a permit from the government, that they acquire "vested rights" or a protected right to complete the development of their land as originally begun despite any changes in the zoning on the property.
COMMON PLAN OF DEVELOPMENT	For purposes of Stormwater Management, a site where multiple separate and distinct development activities may be taking place at different times on different schedules but governed by a single development plan regardless of ownership of the parcels. Information that may be used to determine a common plan of development include plats (including exempt), blueprints, marketing plans, contracts, building permits, public notices or hearings, zoning requests, and infrastructure development plans.
COMMON PROCEDURE	Actions undertaken by Town staff or requirements of applicants that are uniformly applied to all types of development applications reviewed and decided under this UDO.
COMMUNITY CENTER (PUBLIC)	A building and grounds, open to members of the general public to be used as a place of meeting, recreation, or social activity and not operated for profit. Community centers are operated by governmental agencies, not-for-profit entities, or other private institutions.
COMMUNITY CHARACTER	The sum or combined effect of the attributes and assets that make the Town unique and that establish the Town's "sense of place." Attributes include the resident population, local institutions, visual characteristics, natural features, and shared history.
COMMUNITY GARDEN	See "Garden, Community, Public, or Private."
COMMUNITY RECREATION FACILITY (PRIVATE)	A non-commercial establishment engaged in the provision of recreational opportunities, features, or facilities to the owners or residents of a specific development or subdivision and their guests. Such uses are not typically available for use by non-members. A community recreation facility may or may not include a habitable structure.
COMPLETE APPLICATION	See "Application, Complete."

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
COMPLETE RESIDENTIAL DWELLING OR HOUSEKEEPING UNIT	A structure primarily devoted to residential occupancy that complies with all applicable requirements for a dwelling for human habitation in the North Carolina Building Code and that contains its own kitchen, bathroom facilities for sanitation and washing, and sleeping area(s).
COMPLETENESS DETERMINATION	The process of determining if an application for a development approval is or is not complete. An application for development is not considered as "submitted" until it is determined to be complete.
COMPLETION OF CONSTRUCTION OR DEVELOPMENT	For the purposes of Soil Erosion and Sedimentation, no further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.
COMPREHENSIVE PLAN	A comprehensive plan that has been officially adopted by the Town Council in accordance with Section 160D-501.
COMPUTER RELATED SERVICES	A commercial establishment engaged in diagnosis and repair of personal computers and associated peripherals, including printers, network equipment, monitors, and related equipment. Such uses may also procure replacement parts and construct computer components or systems for clients. Limited sale of new or reconstructed computers and computer equipment is a secondary use. Manufacture or assembly of computer systems on an industrial scale or for resale to members of the general public is a light manufacturing use.
CONCENTRATED ANIMAL FEEDING OPERATION	A facility devoted to the large-scale storage, feeding, and processing of animals in accordance with NCGS§ 143-215.10B.
CONCEPT PLAN	See "Plan, Concept."
CONCRETE PLANT	See "Asphalt or Concrete Plant."
CONDITION OF APPROVAL	A limitation or stipulation on the range of allowable uses, density, intensity, configuration, or operational parameters of new development or redevelopment. A condition may be proposed by an applicant, a staff member, or a review authority that must be accepted by an applicant and the Town to become binding.
CONDITIONAL LETTER OF MAP REVISION (CLOMR)	For the purposes of the Flood Protection Overlay District standards, a CLOMR is a formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.
CONDITIONAL REZONING	A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
CONDITIONAL ZONING DISTRICT	A type of zoning district subject to one or more conditions included as part of the legislative approval by the Town Council that establishes the conditional zoning district. Conditions may address dimensional standards, development standards, subdivision requirements, or other elements, as permitted by this Ordinance.
CONDOMINIUM	A development containing individually owned dwelling units and jointly owned and shared areas and facilities that is subject to the North Carolina Unit Ownership Act (North Carolina General Statutes Section Ch. 47A) and/or the North Carolina Condominium Act (North Carolina General Statutes Section Ch. 47C).
CONE OF ILLUMINATION	The detectable spread of illumination from a source of exterior lighting.
CONGREGATE CARE	A residential facility with support and supervisory personnel for the elderly or infirm that provide rooms, meals, personal care, and supervision of self-administered medication. They may provide other services such as recreational and social activities, financial services, transportation, laundry, and other services appropriate for the residents and designed to provide a relatively independent lifestyle.
CONNECTIVITY	The relative degree of connection between streets, sidewalks, or other means of travel.
CONSERVATION AND DEVELOPMENT AREA	The two portions of a conservation subdivision. The conservation area is the portion of the land protected from development and the development area is the portion of the subdivision utilized for development purposes. Agricultural activities may take place in either or both portions.
CONSERVATION EASEMENT	See "Easement, Conversation."
CONSERVATION SUBDIVISION	See "Subdivision, Conservation."
CONSISTENT	Architectural design, site configuration, or building materials or colors that are compatible, accordant, or harmonious with one another or with similar features in other developments in the general vicinity.
CONSTRUCTION	The erection of any building, structure, on-site improvement, or any preparations (including land disturbing activities) for the same, regardless whether the site is presently improved, unimproved, or hereafter becomes unimproved by "demolition," destruction of the improvements located thereon by fire, windstorm, or other casualty.
CONSTRUCTION DRAWINGS	Technical diagrams, drawn to scale, depicting the placement and configuration of buildings, structures, site features, and infrastructure.
CONTAINERIZED STOCK	Trees or other vegetation delivered for planting or establishment in individual or group containers.
CONTIGUOUS	See "Abutting."
CONTINUANCE	The adjournment or postponement of review or a decision on an application for development approval to a specified future date.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
CONTINUING CARE RETIREMENT COMMUNITY (CCRC)	A retirement community configured as a single unified campus that includes independent living dwellings, assisted living facilities, and skilled nursing facilities that are owned and operated by a private company that provides a continuum of care to residents of the community. It may include on-site dining, medical care, and recreation and social facilities in addition to guest lodging and employee housing.
CONTRACT PURCHASER	A person who has entered into a contract with another party to purchase real property, but who has not yet settled on the purchase.
CONTRACTOR SERVICES OFFICE/YARD	Offices for building, heating, plumbing, electrical, or similar contractors, along with related indoor and outdoor storage facilities. Such uses may include minor assembly of parts but do not include fabrication of finished products from raw materials.
CONVENIENCE STORE (WITH GASOLINE SALES)	A retail establishment which offers for sale, primarily, the following types of articles: gasoline, vehicle-related products, pre-packaged, canned, and bottled foods and drinks, tobacco products, beer, wine, candy, papers and magazines, and general hardware articles. Site-prepared food products may also be offered for sale but only as a secondary activity of a convenience store and subject to the standards of this Ordinance. If vehicular maintenance and service are provided, the establishment is not classified as a convenience store.
CONVENTION CENTER	See "Auditorium, Coliseum, or Convention Center."
CONVENTIONAL ZONING DISTRICT	A designation or classification applied to certain lots or tracts as shown on the Official Zoning Map. Conventional zoning districts specify the broad range of allowable land use types permitted on lots or tracts within the particular district. The conventional zoning district standards also specify the applicable dimensional requirements for lots and buildings as well as any unique provisions that apply to solely lands in the particular district.
COPING	A finishing or protective course of masonry or cap of metal located at the top of a brick, stone, or masonry wall.
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.
CORPORATE LIMITS	The legal name that refers to the boundaries of a municipal corporation (i.e., the Town of Clayton, North Carolina).
CORRECTIONAL OR DETENTION FACILITIES	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.
COUNTY	Johnston County, North Carolina.
COURT-ORDERED SUBDIVISION	See "Subdivision, Court-Ordered."

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
COURTYARD	An open, unoccupied space, other than a required yard, on the same lot as a building and bounded on two or more sides by a building on the same lot.
COVENANT	A binding written agreement between two or more private parties regarding the use, occupancy, or configuration of development that runs with the land.
CO-WORKING SPACE	A land use that serves as a shared workspace for employees of different organizations. Co-working spaces consist of private, self-contained offices as well as shared or common office workspaces available for rent by more than one individual. Co-working spaces may include shared administrative staff, document production, presentation equipment, storage, kitchens, or private meeting rooms.
CRIMINAL PENALTY	A fine, fee, imprisonment, or other activity ordered by a court or governmental agency as punishment for a violation of this Ordinance or other applicable law.
CRITICAL ROOT ZONE	The area around the stem or trunk of a tree located around the trunk, the radius of which is 12 inches in distance from the base of the trunk for every inch of tree diameter measured at 4.5 feet above grade.
CRYPTOMINING AND DATA PROCESSING	An industrial-scale facility used primarily for the storage, management, processing, and transmission of digital data, which houses computer or network equipment, systems, servers, appliances, climate control, back-up power generation, and other associated components related to digital data storage and transfer operations. Such uses may include secondary office or storage facilities located within enclosed structures.
CUL-DE-SAC STREET	See "Street, Cul-de-Sac."
CUPOLA	A domelike structure on top of a roof or dome, often used as a lookout or to admit light and air.
CURB	A constructed element used to stabilize paving, gutter, planting areas, or sidewalks.
CURB OUTLET SYSTEM	For purposes of Stormwater Management, curb and gutter with breaks or other outlets used to convey stormwater runoff to vegetated conveyances or other vegetated areas.
CURVILINEAR WALL FEATURE	A portion of a building's exterior wall that is curved or arced relative to the primary wall plane.
CUT-OFF BULB	A device providing a source of visible illumination that is painted, shielded, or otherwise configured so that the direction of light is controlled and prevented from travelling upwards, downwards, or sideways from the bulb's relative location.
D	
DAM	A barrier, whether constructed or natural that holds back water.
DANCE HALL	See "Nightclub or Dance Hall."

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
DATA PROCESSING	See "Cryptomining and Data Processing."
DAY SPA (MEDICAL OR NON-MEDICAL)	A commercial or institutional use engaged in the provision of health, relaxation, exercise, diet, or lifestyle training or related services to members of the general public during regular business hours. Day spas do not offer overnight lodging or accommodations.
DEAD-END STREET	See "Street, Dead-End."
DECK	A structure, without a roof, directly adjacent to a principal building which has an average elevation above finished grade.
DECORATIVE GLASS	Glass located on an exterior wall of a building that may be transparent, semi-transparent, or opaque.
DEDICATION	The act of giving, donating, or dedicating land or infrastructure improvements to a unit of government for their operation and maintenance.
DEED RESTRICTION	A written private agreement that restricts the use, occupancy, or configuration placed upon the title of real estate often by the developer.
DEPARTMENT	For the purposes of Soil Erosion and Sedimentation and Stormwater Management, the North Carolina Department of Environmental Quality (DEQ).
DESIGN FLOOD	See "Regulatory Flood Protection Elevation."
DESIGN MANUAL	For purposes of Stormwater Management, the stormwater design manual approved for use in Phase II jurisdictions by the Department for the proper implementation of the requirements of the federal Phase II stormwater program. All references herein to the Design Manual are to the latest published edition or revision.
DESIGN VOLUME	For purposes of Stormwater Management, the amount of stormwater runoff that a BMP/SCM or series of BMP/SCMs is designed to treat.
DESIGNEE	A person selected or designated to carry out a duty or role.
DETACHED GARAGE/CARPORT	See "Carport," or "Garage."
DETENTION BASIN	Surface storage basins or facilities that provide flow control through attenuation of stormwater runoff. They also facilitate some settling of particulate pollutants. Detention basins are normally dry and in certain situations the land may also function as a recreational facility.
DETERMINATION, ADVISORY (OPINION)	An oral interpretation of a provision in this Ordinance, a boundary on the Official Zoning Map, or a prior development approval that is not binding on the Town or the Town official making the interpretation.
DETERMINATION, FORMAL	A determination, made in writing, by the Planning Director, Engineering Director, or Town Attorney regarding the proper application of provisions in this Ordinance, vested rights, the boundaries on the Official Zoning Map, or a prior-approved condition of approval.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
DEVELOPER	A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.
DEVELOPMENT	Development means any of the following: [1] The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure; [2] Excavation, grading, filling, clearing, or alteration of land; [3] The subdivision of land, as defined in Section 160D-802 of the North Carolina General Statutes; or [4] The initiation or substantial change in the use of land or the intensity of the use of land. For the purposes of the Flood Protection Overlay District standards, any activity defined as development which necessitates a Floodplain Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures. For the purposes of Stormwater Management, any land-disturbing activity that increases the amount of built-upon area or that otherwise decreases the infiltration of precipitation into the soil.
DEVELOPMENT ACTIVITY	For the purposes of the Flood Protection Overlay District standards, any activity defined as development which necessitates a Floodplain Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.
DEVELOPMENT AGREEMENT	A written agreement between the Town and a developer or applicant that sets down the rights and responsibilities of each party as pertaining to a single development.
DEVELOPMENT ENTRY POINT	A vehicular access point providing ingress or egress to an individual neighborhood or development.
DIAMETER AT BREAST HEIGHT (DBH)	Measurement for determining the size of existing trees to be credited towards landscaping requirements or for violations of this Ordinance. DBH is the measurement of the diameter of an existing tree trunk taken at a height of 4 ½ 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.
DIGITAL FLOOD INSURANCE RATE MAP (DFIRM)	For the purposes of the Flood Protection Overlay District standards, the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
DIRECTOR	For the purposes of Soil Erosion and Sedimentation, the Director of the Division of Energy Mineral and Land Resources of the Department of Environmental Quality.
DISCHARGE POINT OR POINT OF DISCHARGE	For the purposes of Soil Erosion and Sedimentation, that point where runoff leaves a tract of land where a land disturbing activity has occurred or enters a lake or natural watercourse.
DISH ANTENNA	A directional antenna consisting of a parabolic reflector used to send and receive microwave or radio frequency communication signals.
DISPOSAL	For the purposes of the Flood Protection Overlay District standards, 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 groundwaters.
DISTRIBUTED ANTENNA SYSTEM (DAS) NODE	Wireless telecommunications equipment that includes one or more antennas mounted on a support structure (such as a utility pole, building, or other vertical projection) which is connected via cable or wirelessly to an equipment cabinet on site that is joined via cable to the internet and/or other communication network. Applications for the establishment of a DAS node are reviewed and decided in accordance with the procedures for establishment of a small wireless facility.
DISTURBED AREA	Any use of the land that results in a change in the natural cover or topography that may cause or contribute to sedimentation including but not limited to grubbing, stump removal, grading, or removal of structures.
DITCH OR CANAL	For the purposes of the Riparian Buffer standards, a man-made channel other than a modified natural stream constructed for drainage purposes that is typically dug through inter-stream divide areas. A ditch or canal may have flows that are perennial, intermittent, or ephemeral and may exhibit hydrological and biological characteristics similar to perennial or intermittent streams.
DIVISION	For the purposes of Stormwater Management, the Division means the Division of Energy, Mineral, and Land Resources.
DOME	A roof having a circular, polygonal, or elliptical base and a generally spherical shape.
DORMER WINDOW	A window that projects vertically from a sloping roof.
DOUBLE FRONTAGE LOT	See "Lot, Double Frontage."
DOWNZONE	A reduction in the available development potential of a lot or lots based on a zoning map amendment that establishes a new zoning district for the lot(s) in question.
DRAINFIELD	The portion of an on-site septic or wastewater treatment system designed to allow treated wastewater to percolate into the adjacent soil.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
DRIP LINE	An area on the ground that corresponds to the outer extents of a tree's canopy where rainwater falls from leaves and branches downward to the ground.
DRIVE AISLE	A vehicular accessway within a surface parking lot or a parking structure.
DRIVE THROUGH	A primary or secondary facility where goods or services may be obtained by motorists without leaving their vehicles. These facilities include drive-through bank teller windows, dry cleaners, fast-food restaurants, drive-through coffee, photo stores, pharmacies, etc., but not automated teller machines (ATMs), gas stations, or other vehicle services such as car washes.
DRIVEWAY	The portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not a part of the vehicle accommodation.
DRIVEWAY APRON	The portion of a driveway within or adjacent to a street right-of-way.
DRIVEWAY MEDIAN	A constructed device, whether raised or lowered from grade level, located within a driveway or drive aisle that is used to control traffic direction or limit turning movements.
DRIVEWAY, SHARED	A driveway serving two to four single-family detached or duplex lots.
DROUGHT TOLERANT TREE	See "Tree, Drought Tolerant."
DWELLING	Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses or appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any manufactured home, mobile home, or recreational vehicle if used solely for a seasonal vacation purpose.
DWELLING UNIT	A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
DWELLING UNIT, ACCESSORY	A separate or distinct residential dwelling or housekeeping unit that is located either internally or fully detached from a principal single-family dwelling. An accessory dwelling unit is a complete residential dwelling or housekeeping unit.
DWELLING UNIT, ACCESSORY (DETACHED)	An accessory dwelling unit established on the same lot as a principal single-family detached dwelling but within a separate structure that is clearly separate and detached from the principal single-family detached dwelling.
DWELLING UNIT, ACCESSORY (INTERNAL)	An accessory dwelling unit established within the perimeter walls and roof of an existing single-family detached residential dwelling unit.
DWELLING, CARETAKER	A secondary dwelling unit on a non-residential, mixed-use, or multi-family development site that houses staff responsible for security or maintenance of the site. Accessory dwelling units are not considered as a caretaker dwelling.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
DWELLING, DUPLEX	A single detached dwelling on one lot that contains two dwelling units. The units may be located side by side in a horizontal configuration or stacked one above the other in a vertical configuration, sharing common vertical walls or horizontal floors and ceilings.
DWELLING, LIVE/WORK	A structure or portion of a structure combining a dwelling unit with an integrated non-residential work space used by one or more of the residents. The non-residential work space is found on the building's ground floor.
DWELLING, MANUFACTURED HOME	See "Manufactured Home."
DWELLING, MOBILE HOME	See "Mobile Home."
DWELLING, MULTI-FAMILY	A structure containing five or more dwelling units that are not located on individual lots. Units may be located side by side in a horizontal configuration or stacked one above the other in a vertical configuration, sharing common vertical walls or horizontal floors and ceilings. Multi-family dwellings include what are commonly called apartments, or condominium units, but not single-family attached dwellings since single-family attached dwellings are on their own individual lots. Structures containing two dwelling units on one lot are duplex or duplex uses. Structures containing three dwelling units on one lot are triplexes. Structures containing four dwelling units on one lot are quadplexes.
DWELLING, QUADPLEX	A single residential structure on one fee simple lot that contains four dwelling units. The units may be located side by side in a horizontal configuration or stacked one above the other in a vertical configuration, sharing common vertical walls or horizontal floors and ceilings. A residential structure containing four units, each on its own fee simple lot, is single-family attached.
DWELLING, SINGLE-FAMILY ATTACHED	A principal dwelling unit in its own structure located on its own fee simple lot. One or more dwelling unit walls on each lot may be shared, party walls. Lots may maintain individual lot frontages on a public street, or may be located entirely within a larger parcel owned in common that incorporates shared parking, recreation features.
DWELLING, SINGLE-FAMILY DETACHED	A dwelling in a single structure located on its own fee simple lot containing one principal dwelling unit meeting the minimum size requirements in the North Carolina Building Code that is occupied by one family and that is not physically attached to any other principal structure on an individual lot. For regulatory purposes, this term does not include manufactured dwellings, mobile homes, or recreational vehicles. An accessory dwelling unit may be within, attached to, or on the same lot as a single-family detached home.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
DWELLING, TEMPORARY	A structure established to serve as a temporary domicile while an existing principal residence is constructed, repaired, or established. A temporary dwelling may also be located on a non-residential construction site and occupied by persons having construction or security responsibilities over the construction.
DWELLING, TEMPORARY DISASTER	A residence (which may be a manufactured home) that is located on the same lot as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster.
DWELLING, TRIPLEX	A single residential structure on one fee simple lot that contains three dwelling units. The units may be located side by side in a horizontal configuration or stacked one above the other in a vertical configuration, sharing common vertical walls or horizontal floors and ceilings. A residential structure containing three units, each on its own fee simple lot, is single-family attached.
DWELLING, TWO-FAMILY	See "Dwelling, Duplex."
DWELLING, UPPER-STORY RESIDENTIAL	A residential dwelling unit located on the second or higher floors of a building with some form of non-residential use on the first or ground floor. Dwelling units may be configured as apartments or condominiums. Building devoted entirely to residential apartments or condominiums are multi-family.
E	
EASEMENT	The right to use or occupy the real property of another owner for a specifically identified purpose. An easement is a recognized interest in real property, but legal title to the underlying land is retained by the owner granting the easement.
EASEMENT PLAT	See "Plat, Easement."
EASEMENT, ACCESS	An easement granted for the purpose of allowing others access to or across land, a site, or a development feature.
EASEMENT, CONSERVATION	An easement granting a right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural, scenic, open, or wooded condition.
EASEMENT, DRAINAGE	An easement granted for the purpose of allowing stormwater runoff to collect and be conveyed to another location.
EASEMENT, MAINTENANCE	An easement granted to enable the Town or other non-owning party to maintain a building, site, or site feature.
EASEMENT, PUBLIC UTILITY	An easement granted for the purpose of overhead or underground public utilities.
EASEMENT, ROADWAY SLOPE	An easement located alongside a public street right-of-way that controls roadside features, topography, vegetation, and drainage.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
EAVE	The projecting lower edges of a roof that overhangs the wall of a building.
EGRESS	An exit from a building or site.
ELECTRIC VEHICLE CHARGING STATION	An off-street parking space that is served by an electrical component assembly or cluster of component assemblies (battery charging station) designed and intended to transfer electric energy, by conductive or inductive means, from the electric grid or other off-board electrical source to a battery or other energy storage device within an electric vehicle.
ELECTRICAL, HVAC, OR PLUMBING FABRICATION	An industrial establishment operated by a contractor, supplier, or distributor engaged in the fabrication and assembly of plumbing fixtures, electrical fixtures, HVAC ducting and equipment, fireplaces, or similar household or commercial features for off-site installation.
ELECTRONIC GAMING OPERATION	Any business or enterprise where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games or chance, skill, or sweepstakes, and where cash, merchandise, or anything else or value is redeemed or otherwise distributed or placed on an account or other record, whether or not the value or such distribution is determined by electronic games played or by predetermined odds. Electronic gaming operations may include, but are not limited to, internet cafes, internet sweepstakes, electronic gaming machines/operations, cybercafes, business centers, or by whatever other terminology such establishment might be known. Electronic gaming operation does not include any lottery approved by the State or video arcade game uses.
ELEVATED BUILDING	For the purposes of the Flood Protection Overlay District standards, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
ELEVATION CERTIFICATE	A written certificate of the elevation of a building or structure located in a special flood hazard area used to determine the proper flood insurance premium rate for the building.
ELIGIBLE FACILITY REQUEST	An application for the installation of new or replacement antennas and related telecommunications equipment on an existing telecommunications tower. An eligible facilities request may include increasing the height and/or replacement of an existing telecommunications tower but shall not include any activities that constitute a "substantial modification" as defined in this Ordinance and NCGS§ 160D-931. Eligible facility requests are reviewed and decided in accordance with the procedures for a minor collocation.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
ENCROACHMENT	The location of a building, structure, or portion of a building or structure in an open space, setback, yard, or other area typically required to remain free of buildings or structures. For the purposes of the Flood Protection Overlay District standards, the advance or infringement of uses, fill, excavation, buildings, structures, or development into a special flood hazard area, which may impede or alter the flow capacity of a floodplain.
ENERGY DISSIPATOR	For the purposes of Soil Erosion and Sedimentation, a structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.
ENLARGEMENT	Increasing the floorplate, footprint, or square footage of a building, structure, outdoor use area, or activity.
ENTABLATURE	A horizontal, continuous lintel on a classical building supported by columns or a wall, comprising the architrave, frieze, and cornice.
ENTRANCE, PRIMARY	See "Primary Entrance."
EQUESTRIAN FACILITY	A commercial establishment engaged in the provision of boarding, training, and basic health care for horses and mules. Such uses may provide educational instruction. Secondary uses include showing areas, pastures, exercise facilities, and may also include facilities for conducting horse shows and hunts.
EQUIPMENT CABINET	A non-habitable structure, such as a box, enclosure, vault, shelter, or pedestal, typically located above ground, that contains radios, computers, or other equipment necessary for the transmission or reception of telecommunication signals.
EQUIPMENT COMPOUND	An area containing telecommunications equipment serving antennas on a nearby telecommunications tower, utility pole, building, or other vertical projection. An equipment compound is commonly fenced or surrounded by walls that limit access to members of the general public. Nothing shall limit an equipment compound from being located within a building, on the roof of a building, or underground.
EQUITABLE REMEDY	A court-ordered non-monetary remedy that directs a party to take a particular action for violation of this Ordinance or other applicable law.
EROSION	For the purposes of Soil Erosion and Sedimentation, the wearing away of land surfaces by the action of wind, water, gravity, or any combination thereof.
EROSION CONTROL FACILITY	Site features and elements on a construction site configured to prevent erosion and contain sediment.
EROSION CONTROL PLAN	See "Plan, Erosion Control."
ESTABLISHED GRADE	See "Grade, Established."

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
EVENT VENUE, INDOOR & OUTDOOR	A commercial establishment and associated grounds engaged in the hosting and production of pre-planned events like weddings, corporate parties, or reunions. Typical secondary uses include kitchens or meal preparation space, limited overnight accommodations, photography studios, facilities to accommodate live or recorded music, on- and off-site parking, and outdoor recreation facilities.
EVERGREEN TREE	See "Tree, Evergreen."
EVIDENTIARY PUBLIC HEARING	See "Public Hearing, Evidentiary."
EXCESSIVE NOISE	A steady-state or short pulse of sound that exceeds maximum allowable levels.
EXEMPTION	A use, site feature, or development condition that is exempted authorized to deviate from otherwise applicable requirements.
EXISTING BUILDING AND EXISTING STRUCTURE	For the purposes of the Flood Protection Overlay District standards, any building or structure for which the start of construction commenced before April 1, 1982, the effective date of the initial Flood Insurance Rate Map.
EXISTING DEVELOPMENT	Those projects that are built prior to January 2, 2024, or those projects with an established a vested right established in accordance with Section 1.11, Vested Rights, as of the effective date of this Ordinance.
EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION	For the purposes of the Flood Protection Overlay District standards, 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 June 16, 1987, before the initial effective date of the floodplain management regulations adopted by the Town.
EXISTING TREES	Trees or other woody vegetation that exist prior to development or land disturbance and that are retained on a development site after construction, development, or land disturbance.
EXPANSION	An increase in the floor area of an existing structure or building, or the increase of area of a use.
EX-PARTE COMMUNICATION	Any communication between a member of a decision-making body and another person involved in a development application that is made without the presence or knowledge of the other members of the same decision-making body.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
EXTERIOR ARCHITECTURAL FEATURES	Includes the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the color, the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs and other appurtenant fixtures. In the case of outdoor advertising signs, "exterior architectural features" shall be construed to mean the style, material, size, and location of all such signs. Such "exterior features" shall include historic signs, color and significant landscape, archaeological and natural features of the area.
EXTERIOR LIGHTING	Illumination of a building, parking lot, or site feature.
EXTRACTIVE INDUSTRY	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, hydraulic fracturing, and similar activities. 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.
EXTRATERRITORIAL JURISDICTION	The land area located outside the corporate limits of a municipality, but still subject to the planning and zoning laws associated with the municipality.
EYEBROW WINDOW	A low dormer window with no sides located on the slope of a roof where the roofing material is carried over the top of the window without interruption.
F	
FACADE	See "Building Façade."
FAÇADE, FRONT	The exterior façade of a building where the primary or front entrance is located. Typically, the front façade faces the street from which the building derives its street address.
FAÇADE, PRIMARY	See "Façade, Front."
FAÇADE, REAR	The exterior façade of a building that is opposite the front façade.
FAÇADE, SIDE	The exterior façade of a building perpendicular to the front façade.
FALSE (OR OPAQUE) WINDOWS	An exterior building material provided to replace or approximate a window.
FAMILY	One or more persons related by blood, adoption or marriage living and cooking together as a single housekeeping unit. The number of persons, but not exceeding a total of three unrelated persons, living, and cooking together as a single housekeeping unit though not related by blood, adoption or marriage, shall be deemed to constitute a family.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
FAMILY CARE HOME	A North Carolina licensed facility home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than six resident persons with disabilities. A mental health facility licensed by the State of North Carolina for up to six people shall also be considered a family care home. A disabled person is a person with a temporary or permanent physical, emotional, or mental disability including but not limited to an intellectual disability, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in NCGS§ 122C-3(11)b.
FAMILY HEALTH CARE STRUCTURE	A transportable residential structure that is primarily assembled at a location other than its site of installation and provides an environment facilitating a caregiver's provision of care for a mentally or physically impaired person.
FARM EQUIPMENT SALES AND SERVICE	Commercial establishments engaged in the sales, repair, rental, and storage of tools, equipment, supplies, and machinery in support of farms, farming, agriculture, or horticulture. Uses also include sales of products grown on a farm, provision of farm-related experiences (e.g., immersion farming or pick-your-own establishments), wineries, and agritourism.
FARM SUPPLY SALES (RETAIL AND WHOLESALE)	Commercial establishments engaged in the sale, whether at retail or wholesale, of seeds, feed, tools, equipment, or services related to the operation of agricultural uses. Farm supply sales uses are not engaged in the sale of produce or agricultural products for end-user or non-farm consumption.
FARMERS MARKET	A principal use that includes the sale of horticulture or agriculture products, including nursery stock, perennial, annuals, bulbs, mulch, compost, dried flowers, Christmas trees and greens, fresh produce, honey, cider, and similar agriculture products.
FASCIA	A fascia is a board or other exterior material provided at the edge of a building where the roof meets the exterior wall. When gutters are provided, they are typically mounted to the fascia.
FEATHER FLAG	See "Sign, Feather Flag."
FEE	An amount charged in accordance with the regularly adopted fee schedule of the Town.
FEE-IN-LIEU	Monetary compensation offered by a landowner or applicant as an alternative to provision of some other required site or development feature.
FENCE OR WALL	A physical barrier or enclosure consisting of wood, stone, brick, block, wire, metal, or similar material used as a boundary or means of protection, retention, or confinement, but not including a hedge or vegetation.
FENESTRATION	The arrangement of windows, doors, and false casements on a building's façade.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
FINAL PLAT	See "Plat, Final."
FINANCIAL GUARANTEE	See "Performance Guarantee."
FINE	A sum of money imposed on a violator as punishment for violation of law.
FINISHED GRADE	The grade after construction, exclusive of any filling, berming, mounding, or excavating.
FINISHED SIDE OF FENCE	The side of a fence configured for the best possible appearance that does not include structural supports or exterior materials with imperfections.
FINS	A decorative or structural device consisting of a series of narrow vertical projections or ribs along a building's façade that provide screening to windows or that conceal structural supports that provide rigidity to the walls or support the roof.
FIRE ESCAPE	A structural mechanism affixed to the exterior of a building that allows occupants to gain egress from each floor of the building without use of the primary entrance in the event of fire or other dangerous situation.
FIRE HYDRANT	A connection point to a public water supply system used by firefighters to access water as a part of fire suppression.
FIRE LANE	A lane or designated area in a parking lot or on a street that is reserved for firefighting equipment or staging of people during a fire and is not intended for the parking of vehicles or storage.
FIRE PROTECTION SYSTEM	A fire hydrant, water storage tank, or connection to a building's sprinkler system, typically referred to as a standpipe, all used for the purposes of providing water for fire suppression.
FIRE/EMS/POLICE STATION	A facility that serves as the base of operations for a fire company, police precinct, sheriff's office, or emergency medical technician operation. Such facilities may also include living quarters for personnel, equipment storage, and vehicular maintenance areas.
FIREPLACE	A structure, located within or outside a building, used for the sole purpose of combustion of wood or gas for recreational, food preparation, or climate control purposes.
FIRST CLASS MAIL	Correspondence, including postcards, sealed letters, and sealed packages deposited with the US Postal Service for transmittal to an addressee for a fee. First class mail is the basic level of service offered by the US Postal Service and does not include a guarantee of delivery or receipt.
FITNESS CENTER	A facility where members or nonmembers use equipment or space for the purpose of physical exercise. Such uses may include indoor swimming pools, athletic courts, tracks, or other similar features. Retail sales of hand-held fitness equipment, clothing, or health foods may occur as a secondary use.
FLAG	See Section 6.13.9, Sign Standards by Sign Type.
FLAG LOT	See "Lot, Flag."

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
FLAGPOLE	A freestanding structure or structure attached to the wall or roof of a building that is used to display flags.
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.
FLOOD AND FLOODING	For the purposes of the Flood Protection Overlay District standards, 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 or runoff of surface waters from any source.
FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)	For the purposes of the Flood Protection Overlay District standards, an official map of a community, issued by the FEMA, on which the special flood hazard areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).
FLOOD HAZARD BOUNDARY MAP (FHBM)	For the purposes of the Flood Protection Overlay District standards, an official map of a community, issued by the FEMA, where the boundaries of the special flood hazard areas have been defined as Zone A.
FLOOD INSURANCE	For the purposes of the Flood Protection Overlay District standards, the insurance coverage provided under the National Flood Insurance Program.
FLOOD INSURANCE RATE MAP (FIRM)	For the purposes of the Flood Protection Overlay District standards, an official map of a community, issued by the FEMA, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated. See also "DFIRM."
FLOOD INSURANCE STUDY	For the purposes of the Flood Protection Overlay District standards, an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.
FLOOD PRONE AREA	See "Floodplain."
FLOOD ZONE	For the purposes of the Flood Protection Overlay District standards, a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.
FLOODPLAIN	For the purposes of the Flood Protection Overlay District standards, any land area susceptible to being inundated by water from any source.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
FLOODPLAIN ADMINISTRATOR	For the purposes of the Flood Protection Overlay District standards, the Floodplain Administrator is the individual appointed to administer and enforce the floodplain management regulations.
FLOODPLAIN MANAGEMENT	For the purposes of the Flood Protection Overlay District standards, 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	For the purposes of the Flood Protection Overlay District standards, this Ordinance and development regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes federal, State, or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.
FLOODPLAIN PERMIT	For the purposes of the Flood Protection Overlay District standards, any type of permit that is required in conformance with the provisions of this Ordinance, prior to the commencement of any development activity.
FLOODPROOFING	For the purposes of the Flood Protection Overlay District standards, floodproofing is any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.
FLOOD-RESISTANT MATERIAL	For the purposes of the Flood Protection Overlay District standards, any building product [material, component, or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Acceptable flood-resistant materials are identified in Technical Bulletin 2, Flood Damage-Resistant Materials Requirements available from the FEMA.
FLOODWAY	For the purposes of the Flood Protection Overlay District standards, the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
FLOODWAY ENCROACHMENT ANALYSIS	For the purposes of the Flood Protection Overlay District standards, an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina professional engineer using standard engineering methods and models.
FLOOR	The top surface of an enclosed area in a building, including basement, such as, top of slab in concrete slab construction or top of wood flooring in frame construction.
FLUORESCENT	A method of providing illumination by a bulb coated in a material that releases photons when subject to an electrical current.
FOOD TRUCK	See "Mobile Restaurant."
FOOTCANDLE	A unit of measure of the intensity of light falling on a surface. It is often defined as the amount of illumination the inside surface of a one-foot-radius sphere would be receiving if there were a uniform point source of one candela in the exact center of the sphere. One footcandle is equal to one lumen per square foot.
FOOTPRINT	See "Building Footprint."
FORESTLAND	Land used for the purposes of growing trees for harvest.
FORESTRY	An activity related to plating, maintaining, or removing trees as part of a forestry management plan or bona fide farming activity.
FORESTRY MANAGEMENT PLAN	"See Plan, Forestry Management."
FORMAL DETERMINATION	See "Determination, Formal."
FRATERNAL CLUB OR LODGE	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.
FREEBOARD	For the purposes of the Flood Protection Overlay District standards, the height added to the Base Flood Elevation to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed. The Base Flood Elevation plus the freeboard establishes the Regulatory Flood Protection Elevation.
FREIGHT TERMINAL	A use where trucks, trailers, and cargo are stored, where loading and unloading is carried on regularly, and where minor maintenance of these types of vehicles is performed. A commercial use engaged solely in short- or long-term storage is a warehouse use.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
FRONT FAÇADE	See "Façade, Front."
FRONTAGE	The portion of a lot a strip or extent of land abutting and extending along a street.
FRONTAGE STREET	See "Street, Frontage."
FUEL OIL/BOTTLED GAS DISTRIBUTION	An establishment that stores and distributes fuel oil or bottled gases such as propane, oxygen, or liquid petroleum in bulk quantities for wholesale sale or distribution to retail outlets or end consumers at the point of use. A use engaged in sale of automobile fuel is a retail use.
FUNCTIONALLY DEPENDENT FACILITY	For the purposes of the Flood Protection Overlay District standards, 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.
FUNERAL RELATED SERVICES	A commercial establishment engaged in the provision of services related to funeral services for humans or pets. Such uses may provide embalming, cremation, and memorial services. Chapels and storage areas are secondary uses. Uses for the internment of human or animal remains are cemeteries.
FUTURE LAND USE MAP	A portion of the Town's Comprehensive Plan that identifies the locations and boundaries of adopted future land use designations, including information on the types of appropriate land uses and the desired density or intensity of development.
G	
GABLE	A triangular area of an exterior wall formed by two sloping roofs.
GALLERY	A balcony or platform on an upper floor that projects from the primary wall plane of the building that is open underneath.
GARAGE	A secondary structure that includes four connected walls and a roof that is typically used for the storage of automobiles or equipment. A garage may be attached to or detached from the principal structure it serves.
GARAGE OR YARD SALE	A sale conducted by an occupant of a residence alone or in cooperation with neighbors conducted for the purpose of selling surplus household items for profit or for charitable purposes. Such sales are usually conducted from a garage associated with the residence or from the yard of the residence. Garage or yard sales may be distinguished from flea markets by the number of days of sale.
GARDEN (COMMUNITY, PUBLIC, OR PRIVATE)	An exterior area for the small-scale production of vegetables and flowering plants for personal or small commercial use. This definition includes community and private gardens. This definition does not include crop production and nurseries.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
GASOLINE SALES	A commercial establishment engaged in the retail sale of gasoline for use by consumers in private vehicles. Gasoline sales uses may also offer minor vehicle repairs and similar services as well as the secondary sale of food or beverages for off-site consumption. Gasoline sales uses are not engaged in the sale of oil products unrelated to the operation of private vehicles.
GATEWAY OR GATEWAY CORRIDOR	A portion of a street corridor and the lots that front it as designated in the Town's adopted policy guidance where additional design or development standards are applied. Typically, gateway areas are designated as overlay zoning districts.
GATHERING AREA	A formal or informal area intended for or used by the general public to gather or congregate together for interaction or recreation. A gathering area may be a part of a required private common open space, and may be owned and operated by the Town or by a private landowner. Areas configured for outdoor dining or seating, outdoor performance spaces, plazas and beneath permitted public art installations are considered as gathering areas.
GENERAL ASSEMBLY	The General Assembly for the State of North Carolina. Also referred to as the Legislature.
GENERAL PUBLIC	Residents of and visitors to the Town on a lot, site, or within a building, but who do not own the lot, site, or building, or who do not belong to an owners' association with maintenance responsibility of the lot, site, or building.
GENERAL RETAIL	See "Retail, General."
GENERAL STATUTES	A statute is a written law passed the General Assembly that sets forth general propositions of law that courts apply to specific situations.
GLARE	The effect produced within the visual field by a high intensity or insufficiently shielded light source that is significantly brighter than the level to which the eyes are adapted, causing annoyance, discomfort, or loss of visual performance or visibility of objects.
GLAZING	The portion of an exterior building surface occupied by glass or windows. Also referred to as transparency.
GOLF COURSE (PUBLIC OR PRIVATE)	A tract of land 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.
GOOD CAUSE	Legally adequate or substantial grounds or reason to take a certain action based upon the circumstances of each individual case.
GOOD FAITH	Sincere conduct free from malice or a desire to defraud others.
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.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
GOVERNMENTAL TRAINING FACILITY	A governmental operation, including structures, open areas, and other facilities intended for training use by governmental emergency service providers and personnel. Governmental training facilities are not open to members of the general public.
GRADE, ESTABLISHED	The ground elevation at a specific point on a site after completion of development activity or prior to development activity on a vacant site.
GRADE, FINISHED	See "Finished Grade."
GRADING	Excavating, filling (including hydraulic fill) or stockpiling of earth material, or any combination thereof, including the land in its excavated or filled condition.
GRATE	Metal, wood, or plastic configured to cover or obscure an opening in a wall, roof, or the ground.
GREEN ROOF	The roof of a building that is partially or completely covered with vegetation and a growing medium, planted over a waterproofing membrane. It may also include additional layers such as a root barrier and drainage and irrigation systems.
GREEN WALL	See "Wall, Green."
GREENWAY	Public open space under the control and maintenance of the Town which has been designated on an officially adopted greenway or open space plan and developed in accordance with the adopted greenway or open space plan.
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.
GROOMING (ANIMAL)	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.
GROSS FLOOR AREA	See Section 3.6.5, Floor Area.
GROUND COVER	Low growing plants such as grasses, ivy, creeping bushes, and similar decorative plantings as well as mulch, pinestraw, or other similar materials used to cover the ground within required landscaping areas. For the purposes of Soil Erosion and Sedimentation, any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.
GROUND-BASED MECHANICAL EQUIPMENT	Utility or other equipment of a mechanical nature that is mounted on or below grade on the site it serves.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
GROUP HOME	A residential facility (such as an orphanage, shelter, crisis center) with support and supervisory personnel that provides temporary room and board, housekeeping, personal care, or rehabilitation services for more than six persons needing emergency or post-incarceration services (but not including those with mental illness who are dangerous to themselves or others).
GUARD HOUSE, SHELTER, OR GATEHOUSE	A secondary structure typically located on the perimeter or at the entry of a development and used to screen visitors or maintain records of persons entering or leaving a development.
GUYED TOWER	A telecommunications tower that is supported, in whole or in part, by guy wires and ground anchors.
H	
HABITABLE SPACE	A space in a building for living, sleeping, eating, or cooking, or used as a home occupation.
HAIR, NAIL, AND SKIN RELATED SERVICES	A commercial establishment engaged in the provision of services pertaining to hair care, hair styling, hair removal, nail care, makeup, facial treatments, tanning, massage therapy, and similar cosmetic treatments. Such uses may or may not include other spa or salon facilities such as showers, baths, and the incidental sales of food for on-site consumption and personal skin or hair care products. Commercial uses engaged in hair cutting, hair styling, or hair coloring are barber and beauty salons.
HALF STREET	See "Street, Half."
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.
HARDSHIP	Special or specified circumstances that place an unreasonable or disproportionate burden on one applicant or landowner over another.
HAZARDOUS WASTE	By-products, derivatives, or residuals taking the form of a solid, liquid, or gas that has a degree rating in health, flammability, or reactivity of Class 3 or 4 as ranked by the National Fire Protection Association's Document 704 and that is used directly in research, laboratory, or production processes that have as their end product materials that are not hazardous, as defined in the North Carolina Building Code, Volume V – Fire Prevention.
HAZARDOUS WASTE MANAGEMENT FACILITY	For the purposes of the Flood Protection Overlay District standards, as defined in NCGS§ 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
HEAT ISLAND EFFECT	An effect, typically in more urban areas, where ambient heat builds up in localized areas due to increased absorption of solar radiation by constructed surfaces such as paving, building walls, and roofs.
HEAVY EQUIPMENT SALES, RENTAL, & REPAIR	Premises on which new or used heavy equipment (tractors, loaders, excavators, backhoes, cranes, lifts, rollers and similar devices) are displayed for sale, lease, or rental. On-site repair and service to heavy equipment is also provided.
HEDGE	A row of shrubs planted with close spacing that grow together to form a dense opaque screen.
HEDGEROW	A row of shrubs and trees planted with close or uniform on-center spacing that grow together to form a dense opaque screen that blocks wind or visibility between different areas.
HELISTOP	An area of land, water, or structural surface designed for discharge or pick-up of passengers or cargo from or by helicopters, but excluding field service or maintenance.
HIGH INTENSITY LED	One or more light emitting diodes that are optimized for providing an extra-bright, highly visible light.
HIGH INTENSITY OFFICE	See "Office, High Intensity."
HIGH PRESSURE SODIUM LAMP	A lamp of lightbulb that uses sodium under pressure to produce a broad spectrum of visible light for the purposes of providing exterior illumination.
HIGHEST ADJACENT GRADE	For the purposes of the Flood Protection Overlay District standards, the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.
HISTORIC MARKER	A sign, plaque, or other visual appurtenance used to identify a particular location, activity, or event of historic significance.
HISTORIC STRUCTURE	For the purposes of the Flood Protection Overlay District standards, any structure that is: 1. 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 Interior as meeting the requirements for individual listing on the National Register; 2. Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; 3. Individually listed on a local inventory of historic landmarks in communities with a Certified Local Government (CLG) Program; or 4. Certified as contributing to the historical significance of a historic district designated by a community with a Certified Local Government (CLG) Program.
HOLIDAY DISPLAY	Lights or other exterior display in recognition of a holiday, tradition, or event.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
HOME OCCUPATION, LEVEL 1	A commercial or other non-residential secondary use of a portion of a principal dwelling that employs one or more of the dwelling's residents in activity that takes place entirely indoors and is of a low intensity nature that is unlikely to create disturbance of adjacent residential uses.
HOME OCCUPATION, LEVEL 2	A commercial or other non-residential secondary use of a portion of a principal dwelling that may employ the dwelling's residents as well as other non-residents. The activity is more intense in nature than the level 1 home occupation, including limited assembly, limited in-person sales, and a slightly higher level of anticipated traffic to the site where located. The use incorporates aspects to help mitigate any potential negative impacts on adjacent residential uses.
HOMELESS SHELTER	A facility or structure established by a governmental, institutional, or non-profit agency intended to provide shelter from the elements, food, and other services to community members who lack individual homes or who are in danger of losing their home.
HORIZONTAL FAÇADE MODULATION	Projections, recesses, ribs, fins, or building wings distributed evenly across the façade of a building.
HORIZONTAL MIXED-USE	A development that includes use types from at least two different use classifications on the same lot or on different lots within a unified development.
HORTICULTURE	The cultivation and production of orchard, garden, or nursery crops on a small or large scale, the production of field grown crops, specialty crops, flowers, fruit, market gardening, nuts, ornamental plants, sod, vegetables, and similar horticultural uses.
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.
HOT TUB	See 'Swimming Pool/Hot Tub."
HOTEL OR MOTEL	A building or 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. Hotels or motels may include an associated eating establishment, conference facilities, and on-site recreational amenities. Hotels or motels regularly offering extended duration stay facilities to patrons are extended stay facilities. Hotel, motel, resorts, lodges, and similar overnight lodging uses are to be considered synonymous uses.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
HOUSEBOAT	A barge or boat designed and equipped for use as a residence that is docked or moored, connected to land-based utilities, and is occupied by one or more residents using the vessel as a residence for any period of time.
I	
ILLICIT DISCHARGE	Any discharge to a municipal separate storm sewer system that is not composed entirely of stormwater except discharges pursuant to an NPDES permit (other than the National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System Permit), allowable non-stormwater discharges, and discharges resulting from fire-fighting activities.
IMPERVIOUS SURFACE	Any material that prevents or reduces the infiltration of stormwater into the soil as it entered in natural conditions prior to development.
IMPOUNDED VEHICLE	A private vehicle that is being stored in a controlled location pending action by the vehicle's owner.
IMPROVEMENT	The construction of buildings and the establishment of basic services and amenities associated with development, including, but not limited to streets and sidewalks, parking areas, water and sewer systems, drainage system, property markers and monuments, recreation facilities (i.e., lakes, swimming pools, tennis courts, golf courses, riding stables, club houses, cabanas, marinas, docks, and the like) and other similar construction or establishment.
INCANDESCENT	A method of providing illumination by a bulb with a filament that is heated to incandescence by an electrical current.
INCOMPLETE APPLICATION	See "Application, Incomplete."
INDOOR ATRIUM	An interior court enclosed by building walls with or without a roof.
INDOOR COMMERCIAL RECREATION	A commercial establishment located entirely indoors that provides recreational, amusement, and entertainment opportunities for patrons, including activities such as billiards, bingo, bowling, video games, escape rooms, fortune tellers, skating rinks, laser tag, trampolines, and climbing walls.
INDOOR RECREATION, PUBLIC	An institutional or public use that provides generalized or specialized recreational services or opportunities to members of the general public for free or for a fee. Recreation services could include swimming, court-based sports, fitness activities, or other forms of community-based recreation.
INFILL	The process of developing vacant or under-used parcels within existing developed areas that are already largely developed.
INFRASTRUCTURE, PUBLIC	See "Public Infrastructure."
INGRESS	Access or entry to a building or site.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
INJUNCTIVE RELIEF	A court-order act or inhibition of an act by a violator granted to the County or other governmental agency for a violation of this Ordinance or other applicable law.
IN-LIEU FEE	See "Fee-in-Lieu."
INSTRUCTIONAL SERVICES	A commercial establishment that offers instruction in arts, sports, crafts, skilled trades, or recreational activities to members of the general public for a fee.
INTEGRAL PLANTER	A structure provided for the purpose of cultivating plants that is located within or connected to an exterior building wall.
INTERMITTENT	Lighting, movement, or other activity that alternately starts or stops at regular intervals.
INTERNALLY ILLUMINATED	An awning, sign, or canopy with an internal source of illumination.
INTERNATIONAL BUILDING CODE	The model building code developed by the International Building Code Council.
INVASIVE SPECIES	A plant species identified as noxious or dangerous by the Town or other governmental agency.
ITINERANT MERCHANT SALES	An individual or business offering goods or services for sale at retail to members of the general public either in their homes, their place of business, or from a vehicle on a lot with an established use or a vacant lot, but not within a street right-of-way.
J	
JUNKYARD	See "Salvage and Junkyard."
JURISDICTION	The official power to make legal decisions and judgments. The term can also be used to describe the geographic boundaries of a municipal corporation or the extent over which a particular agency has control.
JURISDICTIONAL STREAM	A stream or other waterbody that meets the definition of "waters of the United States" or "waters of the State," and is thus subject to the jurisdiction of the US Army Corps of Engineers or the NC Department of Environmental Quality.
JUST CAUSE	Legitimate cause; legal or lawful ground for action.
K	
KENNEL	A facility where dogs, cats, or other domestic animals over six months of age are kept, raised, boarded, bred, or shown. This use is also referred to as animal boarding. The facility may be indoors, outdoors, or both.
L	
LABORATORY	An institutional use type engaged in the analysis, testing, identification, or research of chemicals, compounds, tissue, animals, or equipment.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
LAKE OR NATURAL WATERCOURSE	For the purposes of Soil Erosion and Sedimentation, any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake, or pond.
LAND TRUST	A legal agreement in which a property owner transfers the title to a property to a trustee. The property owner is typically the beneficiary and directs the trustee in all matters relating to the management of the property, as outlined in the trust agreement or deed.
LAND-DISTURBING ACTIVITY	For the purposes of Soil Erosion and Sedimentation, any use of the land by any person in residential, industrial, education, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.
LANDFILL	A facility for the disposal of solid waste other than compost on land in a sanitary manner in accordance with Chapter 130A, Article 9, of the North Carolina General Statutes.
LANDOWNER	The holder of the title to land in fee simple. Absent evidence to the contrary, the Town may rely on county tax records to determine the landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as their representative for the purpose of making applications for development approvals.
LANDSCAPE FABRIC	A geotextile material used to control weeds by inhibiting their exposure to sunlight.
LANDSCAPE ISLAND	The portion of a parking lot intended for landscaping material and pervious surfaces.
LANDSCAPE STRIP	Linear landscape islands located between two parallel rows of off-street parking spaces.
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.
LARGE FORMAT RETAIL	See "Retail, Large Format."
LATTICE TOWER	A guyed or self-supporting, open, steel frame structure, with three or more sides, that is used to support telecommunications equipment.
LAUNDRY AND FABRIC CLEANING	A commercial establishment engaged in the cleaning fabrics, textiles, wearing apparel, or articles of any sort by immersion and agitation, or by immersions only, in water or volatile solvents. Such uses may provide cleaning and laundering services on-site or in off-site locations.
LEGISLATIVE PUBLIC HEARING	See "Public Hearing, Legislative."

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
LETTER OF MAP CHANGE (LOMC)	For the purposes of the Flood Protection Overlay District standards, an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include a Letter of Map Amendment (LOMA) - an official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
LETTER OF MAP REVISION (LOMR)	For the purposes of the Flood Protection Overlay District standards, a revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
LETTER OF MAP REVISION BASED ON FILL (LOMR-F)	For the purposes of the Flood Protection Overlay District standards, a determination that a structure or parcel of land has been elevated by fill above the Base Flood Elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the Town's floodplain management regulations.
LEVEL 1 EV CHARGING STATION	A facility or device providing 120-volt electric service and at least one dedicated off-street parking space intended for charging an electric vehicle.
LEVEL 2 EV CHARGING STATION	A facility or device providing 240-volt single-phase electric service and at least one dedicated off-street parking space intended for charging an electric vehicle.
LEVEL 3 EV CHARGING STATION	A facility or device providing 480-volt triple-phase electric service and at least one dedicated off-street parking space intended for charging an electric vehicle. May also be referred to as a "DC" EV charging station.
LIBRARY	A public facility for the use, but not sale, of literary, historical, scientific, musical, artistic, or other reference materials.
LIGHT DUTY TRUCK	For the purposes of the Flood Protection Overlay District standards, any motor vehicle rated at 8,500 pounds gross vehicular weight rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 C.F.R. 86.082-2 and is: 1. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle; or 2. Designed primarily for transportation of persons and has a capacity of more than 12 persons; or 3. Available with special features enabling off-street or off-highway operation and use.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
LIGHT EQUIPMENT SALES, RENTAL, & REPAIR	A commercial established engaged in the retail sale, rental, or service of hand tools, small electrical or gasoline-powered tools, or similar devices typically used by home or business owners for non-professional purposes. Such uses may also provide for the rental of furniture, household goods, or appliances on a non-continuous short-term basis.
LIGHT TRESPASS	Unwanted light that shines from one lot to another.
LIGHTING PLAN	A graphic deposition of proposed exterior lighting fixture locations, height, anticipated luminance, and cones of illumination.
LIVE/WORK DWELLING	See "Dwelling, Live/Work."
LOADING SPACE, ZONE, FACILITY	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.
LOCAL GOVERNMENT	For the purposes of Soil Erosion and Sedimentation, any county, incorporated village, town or city, or any combination of counties, incorporated villages, towns, and cities, acting through a joint program pursuant to the provisions of the Act.
LOCAL STREET	See "Street, Local."
LOT	A parcel of land not divided by streets that is or will be occupied by a building and its secondary building(s) or an open-air use of land, together with all required yard and other required open spaces, with all forms of required access and necessary utilities.
LOT DEPTH	See Section 3.6.7A.2, Lot Depth.
LOT FRONTAGE	For the purposes of the subdivision regulations, the distance for which the front boundary line of a lot and the street line are coincident. In the case of corner lots, this shall be the lot line adjacent to the street from which the lot obtains its street address.
LOT OF RECORD	A lot or tract of land that is either part of a subdivision or identified by a set of metes and bounds that has been recorded in the office of the Register of Deeds for the county where it is located prior to the effective date of this Ordinance.
LOT WIDTH	See Section 3.6.7A.3, Lot Width.
LOT, CORNER	See Section 3.6.7C.1, Corner Lot.
LOT, DOUBLE FRONTAGE	A lot with frontage on streets located at the front and rear of the lot.
LOT, FLAG	An irregularly shaped lot where the buildable portion of the lot is connected to its street frontage by an arm. Further, in cases where a minimum lot width is prescribed, the arm is less than the presumptive minimum required lot width.
LOT, NONCONFORMING	A lot of record that that was lawful at the date on which it was established, but does not conform to the current dimensional requirements of the zoning district in which it is located.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
LOT, THROUGH	A lot having frontage on two parallel or approximately parallel streets.
LOUVERS	A set of angled slats or flat strips fixed or hung at regular intervals in a door, shutter, screen, or light fixture to allow air or light to pass through.
LOW IMPACT DEVELOPMENT	A method of site development and stormwater management that mimics the natural hydro- logic functions of infiltration, runoff, and evapotranspiration on a site before development occurs.
LOW INTENSITY OFFICE	See "Office, Low Intensity."
LOWEST ADJACENT GRADE (LAG)	For the purposes of the Flood Protection Overlay District standards, the lowest elevation of the ground, sidewalk, or patio slab immediately next to the building, or deck support, after completion of the building.
LOWEST FLOOR	For the purposes of the Flood Protection Overlay District standards, the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.
LUMEN	A quantitative unit measuring the amount of light emitted by a light source.
LUMINOUS TUBE LIGHTING	Tubing, whether flexible or rigid, mounted to a building wall or other building feature for the purposes of providing illumination, security, attracting attention, or displaying a message.
M	
MAJOR INTERSECTION	An intersection between two or more local or higher-traffic streets.
MAJOR MODIFICATION	A significant deviation in an application, proposed development, or portion of a development that impacts the operation, appearance, function, value, or compatibility of proposed development with its surroundings. A change in the meaning or language of a legal document, such as a contract, agreement, or approval that is made by one party to the document without the consent of the other after it has been signed or completed.
MAJOR SUBDIVISION	See "Subdivision, Major."
MAJOR UTILITY	See "Utility, Major."

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
MAJOR VARIANCE (WATERSHED)	A variance from the minimum statewide watershed protection rules that results in the relaxation by a factor of greater than 10 percent of any of the management requirements. Major variances shall be approved by the North Carolina Environmental Management Commission after initial review and recommendation from the Town of Clayton. The Stormwater Administrator shall notify in writing each local government having jurisdiction in the watershed and the entity using the water supply for consumption.
MAJOR WATERSHED (RIPARIAN BUFFER)	A Variance from the minimum statewide riparian buffer rules that results in development located within Zone One of the buffer. Major Variances shall be approved by the North Carolina Environmental Management Commission after initial review and recommendation from the Town of Clayton.
MAKERSPACE	A collaborative workspace that includes shared tools, workspaces, technology, and knowledge in order to assist participants working alone or with collaborators to create and produce ideas, products, and services. Makerspaces can be formed for the purpose of instruction, creation of material for sale, or a combination of the two.
MANUFACTURE	A commercial or industrial activity devoted to the production, assembly, refinement, or processing of raw or semi-finished materials into a finished product.
MANUFACTURED HOME	A factory-built structure, transportable in one or more sections, that is built on a permanent chassis and designed to be used as a 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. This includes any structure with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.), as amended. This does not include recreation vehicles. For the purposes of the Flood Protection Overlay District standards, a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "Manufactured Home" does not include a "Recreational Vehicle."
MANUFACTURED HOME PARK	The location of two or more manufactured or mobile homes on a parcel of land shall constitute a manufactured home park. For the purposes of the Flood Protection Overlay District standards, a manufactured home park or subdivision is a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
MANUFACTURED HOME SPACE	A leasehold or designated area for the placement of a single manufactured home plus all associated secondary uses.
MANUFACTURED HOME, CLASS A	A manufactured home that is commonly referred to as a "double-wide" home, or one that is brought to its site in two or more separate parts of at least 10 feet in width and assembled on a single foundation.
MANUFACTURED HOME, CLASS B	A manufactured home that is commonly referred to as a "single-wide" home that is comprised of a single structure approximately 12 feet in width or less and placed on a single foundation.
MANUFACTURING, HEAVY	Uses that tend to require large amounts of bulk or unrefined materials which are typically processed and stored outdoors on the site. These uses require a significant amount of energy for the processing of raw materials, and are likely to generate significant noise, vibration, dust, glare, heat, odor, smoke, truck traffic, in the immediate vicinity of the use. 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.
MANUFACTURING, LIGHT	Uses that involve indoor processing or assembly of finished or partially finished goods and do not require large stockpiles of raw material. Processing and storage activities take place solely within enclosed buildings, which helps limit (but does not completely prevent) the creation of noise, vibration, dust, glare, heat, odor, and smoke. 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.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
MANUFACTURING, MEDIUM	Uses that involve indoor processing or assembly of bulk, unrefined, or raw materials. Processing and storage activities of any raw materials shall take place solely within enclosed buildings to minimize (but not completely prevent) the creation or emission of noise, vibration, dust, glare, heat, odor, and smoke outdoors. Outdoor storage of natural materials is permitted. Examples of these uses could include, but are not limited to: packaging of products being manufactured on site, ceramic, clay, glass, and pottery products, food and beverages, candy and other confectionary products, computer hardware, products made from glass, rubber, plastic, or resin, converted paper and cardboard, fabricated metal products made from semi-finished metals.
MAP AMENDMENT	See "Conditional Rezoning," or "Conventional Rezoning."
MARKET VALUE	For the purposes of the Flood Protection Overlay District standards, the building value, not including the land value and that of any secondary 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.
MASS GRADING	Movement or redistribution of large quantities of soil or fill material on a development site.
MASTER PLAN	See "Plan, Master."
MATERIAL RETURN	The continuation of one or more exterior building materials on one building façade beyond an inside or outside building corner to a logical termination point on a different wall plane.
MATURE TREE	A tree that has reached more than one-third of its expected maximum size.
MAUSOLEUM	See "Cemetery or Mausoleum."
MAXIMUM EXTENT PRACTICABLE (POSSIBLE)	No feasible or practical alternative exists, as determined by the Town, and all possible efforts to comply with the standards or regulation to 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."
MDC	For purposes of Stormwater Management, minimum design criteria as set forth by the Department for stormwater control devices in the Design Manual.
MEAN SEA LEVEL	The National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected 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.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
MECHANICAL EQUIPMENT	Equipment and fixtures used for HVAC, fabrication, assembly, or production purposes.
METAL FABRICATION	A commercial establishment engaged in the alteration or modification of metal goods, building supplies, tools, or other products comprised primarily of metal. Such uses may include welding, folding, shaping, assembly, coating, or other activity associated with raw forms of metal, but metal fabrication uses are not involved in the creation of metal products from raw materials.
METAL HALIDE	A method of providing illumination by a bulb filled with gas or vapor that provides illumination when an electrical current is passed through it.
MICRO BREWERY, MICRO DISTILLERY, OR MICRO WINERY	An establishment engaged in the production and packaging of malt beverages, wine or spirits for distribution, retail, or wholesale both on and off-premises. A micro brewery is a facility that produces less than 15,000 barrels of beer per year and sells the majority of the beer it produces for off-site resale and consumption. A micro winery produces less than 100,000 gallons of wine per year. A micro distillery produces less than 15,000 gallons of alcoholic spirits per year. Secondary uses may include a taproom, seating areas, ancillary sales of related merchandise, event space, and warehouse space for stored product.
MICRO RETAIL	See "Retail, Micro."
MINOR MODIFICATION	An insignificant deviation in an application, proposed development, or portion of a development that does not impact the operation, appearance, function, value, or compatibility of proposed development.
MINOR SUBDIVISION	See "Subdivision, Minor."
MINOR UTILITY	See "Utility, Minor."
MINOR VARIANCE (WATERSHED)	A variance from the minimum statewide watershed protection rules that results in a relaxation by a factor of up to 10 percent of any management requirements.
MIXED-USE DEVELOPMENT	A format that includes some combination of integrated residential, commercial, industrial, or institutional use types in one single building or within one single development that is planned, built, themed, or operated in a unified manner. Mixed use development may include different use types within the same building or different use types within the same development that is comprised of multiple buildings.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
MOBILE HOME	A detached residential dwelling unit constructed prior to July 15, 1976, that does not bear a certification of compliance with National Manufactured Housing Construction and Safety Standards Act of 1974. A mobile home is designed for transportation after fabrication on streets or highways on its own wheels or a flatbed or other trailer, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities, and similar features. Mobile homes are typically 16-feet-wide or less.
MOBILE HOME PARK	A commercial use where land is divided into individual leaseholds, but not individual lots owned in fee simple that are intended for occupation by individual mobile, manufactured, or modular homes. Mobile home parks may include shared or individual accessways, recreation facilities, and other shared secondary uses like laundries, storage, or refuse collection areas.
MOBILE RESTAURANT	A motorized vehicle that is designed to be readily moved and operated for the purpose of preparing and or selling food and or non-alcoholic beverages to the general public on a recurring basis.
MODIFICATION, MAJOR	See "Amendment."
MODIFICATION, MINOR	A change, revision, addition, or deletion to a development approval of a de minimum or small nature that does not impact the basic configuration or operation of development.
MOLDING	An ornamentally shaped outline as an architectural feature, especially in a cornice.
MONOPOLE TOWER	A communication tower consisting of a single pole, constructed without guy wires and ground anchors.
MONUMENT	A permanent marker, typically inserted into the ground, showing the location of a lot line, lot corner, or other demarcation associated with a lot or right-of-way.
MULTI-BUILDING DEVELOPMENT	See "Unified Development."
MULTI-FAMILY DWELLING	See "Dwelling, Multi-Family."
MULTI-PART APPLICATION	See "Application, Multi-Part."
MULTI-PHASE DEVELOPMENT	A development consisting of two or more different phases where each phase is reviewed and constructed at different times.
MULTI-PHASE DEVELOPMENT PLAN	See "Plan, Multi-Phase Development."
MULTI-TENANT DEVELOPMENT	A single building or a single development with two or more different non-residential uses located within it on one or more lots that is planned, developed, and operated as a single entity.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
MULTI-USE PATH	A form of infrastructure that supports multiple recreation and transportation opportunities, such as walking, bicycling, inline skating, and people in wheelchairs. Paths re typically surfaced with asphalt or concrete and are located within public street rights-of-way.
MURAL	A painting or other work of art executed directly on a wall.
N	
NATIONAL FLOOD INSURANCE PROGRAM	A program operated by the Federal Emergency Management Agency that provides flood insurance for development within areas within a community that are susceptible to flooding and establishes a set of standards for development as a condition of participation in the program.
NATIVE TREE	See "Tree, Native."
NATIVE VEGETATION	Plants that are endemic or naturally occurring within a specified area.
NATURAL EROSION	For the purposes of Soil Erosion and Sedimentation, the wearing away of the earth's surface by water, wind, or other natural agents under natural environmental conditions undisturbed by man.
NATURAL HERITAGE AREA	A site designated by the federal government to encourage historic preservation of the area and an appreciation of the history and heritage of the site.
NEIGHBORHOOD	A distinct area including two or more building lots that share some defining characteristics such as the type of development, the time of development, architecture, general location, socio-economic or demographic characteristics, or other feature that allows the area to be distinguished as a single unit from its surroundings.
NEIGHBORHOOD INFORMATION MEETING	A meeting conducted by the applicant of a proposed development with those in the area around the proposed development.
NEON LIGHTING	See "Luminous Tube Lighting."
NEW CONSTRUCTION	For the purposes of the Flood Protection Overlay District standards, structures for which the start of construction commenced on or after June 16, 1987, the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
NIGHTCLUB OR DANCE HALL	Any establishment, whether public or a private club, serving a predominantly adult clientele, and whose primary business is the sale of alcoholic beverages, including beer and wine, for consumption on the premises in conjunction with dancing or live performances, and which sets a minimum age requirement for entrance. An establishment is not a nightclub if the establishment: (1) has a Class A restaurant license from the State of North Carolina; (2) maintains a full-service restaurant on its premises at all times when it is open to the public for business; or (3) provides facilities for seating not less than 40 persons simultaneously at tables for the service of meals. The establishment is also not a nightclub if the establishment allows entrance at all times to any person regardless of age.
NONCONFORMING LOT	See "Lot, Nonconforming."
NONCONFORMING SIGN	See "Sign, Nonconforming."
NONCONFORMING SITE OR SITE FEATURE	A site that was legally established, but that is not presently in full compliance with elements of this Ordinance pertaining to landscaping, lighting, access and on-site circulation, fences and walls, parking areas, and screening.
NONCONFORMING STRUCTURE	A structure that was lawful on the date on which it was established, but does not conform to current dimensional, elevation, location, or other requirements of this Ordinance.
NONCONFORMING USE	A use type which was lawful on the date on which it was established, but is now no longer a permitted use of that lot, building, or structure under this Ordinance. A use that when established did not require a special use permit, but now requires a special use permit shall be considered a nonconforming use until special use permit approval is obtained.
NONCONFORMITY	Any land use, development, structure, sign, or site, including any lot of record, that was legally established, but that is not presently in full compliance with the provisions of this Ordinance.
NON-CONVERSION AGREEMENT	For the purposes of the Flood Protection Overlay District standards, a document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of this Ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk's or recorder's stamps and/or notations that the filing has been completed.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
NON-ENCROACHMENT AREA (NEA)	For the purposes of the Flood Protection Overlay District standards, the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the Flood Insurance Study report.
NON-EROSIVE VELOCITY	For purposes of Stormwater Management, the flow rate of water, usually measured in feet-per-second that does not exceed the maximum permissible shear stress for the condition and type of soil and groundcover over which the water is flowing. Erosion occurs when the maximum permissible shear stress is exceeded.
NON-STRUCTURAL SCM	For the purposes of Stormwater Management, non-structural stormwater control measures (SCM) are preventive actions that involve management and source controls such as: (1) Policies and ordinances that provide requirements and standards to direct growth to identified areas, protect sensitive areas such as wetlands and riparian areas, maintain and/or increase open space, provide buffers along sensitive water bodies, minimize impervious surfaces, and/or minimize disturbance of soils and vegetation; (2) Policies or ordinances that encourage infill development in higher density urban areas, and areas with existing storm sewer infrastructure; (3) Education programs for developers and the public about minimizing water quality impacts; and (4) Other measures such as minimizing the percentage of impervious area after development, use of measures to minimize directly connected impervious areas, and source control measures often thought of as good housekeeping, preventive maintenance, and spill prevention.
NORTH CAROLINA BUILDING CODE	The most-recently adopted construction code(s) for buildings adopted by the North Carolina Department of Insurance.
NOTICE OF APPEAL	The formal legal notification that an applicant or aggrieved party disagrees with a decision or action taken by the Town and seeks further consideration by an appellate authority like the Board of Adjustment.
NOTICE OF PUBLIC HEARING	The formal legal notification of a public hearing on a proposed development application. A "published notice" is one required to be printed in a newspaper of general circulation. A "mailed notice" is one delivered to specified individuals by US Mail. A “posted notice” is a sign posted on or near the property subject to the application.
NOTICE OF VIOLATION	A notice indicating a violation of this Ordinance.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
NURSERY (RETAIL OR WHOLESALE)	The cultivation and production of orchard, garden, or nursery crops on a small or large scale, for retail or wholesale sales to members of the public. Such uses may also include secondary sales of ground cover, soil, compost, and planting materials, along with tools, pots, and equipment needed for plant propagation. Such uses may also include a sales or display area, greenhouses, outdoor storage, secondary structures, and offices where consultation or training may take place as a secondary use.
O	
OATH	The term "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in like cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."
OBSOLETE SIGN	See "Sign, Obsolete."
OCCUPANCY	The act, state, or condition of holding, possessing, residing, or otherwise using a premises, lot, site, building, or dwelling.
OFFICE, HIGH INTENSITY	A use, typically involving two or more persons who are engaged in the provision of business, medical, professional, financial, or other related services to customers or clients who come to the office to receive care or services. High intensity office uses typically serve two or more customers at once. Such uses may include a shared kitchen, lobby area, meeting rooms, and document production areas.
OFFICE, LOW INTENSITY	A use where one or more persons are engaged in the operation of a business or the provision of professional, clerical, administrative, financial, research, or sales activities. Low intensity offices provide services and information only to a limited number of customers on the premises (seldom more than one at a time) and are engaged primarily in activities that do not require significant amounts of face-to-face interaction or significant amounts of in-person interactions with clients, suppliers, or the public. Such uses may include a shared kitchen, lobby area, meeting rooms, and document production areas.
OFFICIAL ZONING MAP	The Official Zoning Map upon which the boundaries of various zoning districts are drawn and which is an integral part of this Ordinance.
OFF-SITE VIEWS	Views of or into a development site from off-site locations such as other lots, rights-of-way, or locations within the public realm.
OFF-STREET LOADING SPACE	An area provided for the purpose of loading and unloading goods or materials for use.
OFF-STREET PARKING SPACE	An area designated for the temporary storage of one vehicle.
ON-CENTER SPACING	Placement of landscape material in a regularly-spaced pattern of equal distance between plants.
ON-SITE WASTEWATER SYSTEM	A wastewater treatment system serving an individual lot or site.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
OPACITY	A measurement indicating the degree of obscuration of light or visibility.
OPAQUE	A building, structure, building material, vegetation, or other site feature that forms a solid visual barrier.
OPEN AIR USE	A use type that does not include any habitable buildings or structures.
OPEN SPACE SET-ASIDE	Land or water areas within the site designated for a particular development, not individually owned, or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development, but not including any lands occupied by streets, street rights-of-way or off-street parking.
ORDINANCE	A legislative enactment of the Town of Clayton, North Carolina.
ORDINARY REPAIRS AND MAINTENANCE	Work done on a sign or structure to prevent deterioration or to replace any part thereof in order to correct any deterioration, decay, or damage to any part thereof in order to restore same as nearly as practical to its condition prior to such deterioration, decay, or damage.
OTHER SPECIAL EVENTS	Temporary activities or events conducted by civic, philanthropic, educational, or religious organizations, or activities of a business or organization that is not part of its daily activities and are open to the public. Such activities include, but are not limited to, closeout sales, grand openings, fundraising or membership drives, carnivals, fairs, circuses, and tent revivals.
OUTDOOR ADVERTISING	Billboards or other forms of signage as defined in NCGS§ 160D-912.
OUTDOOR COMMERCIAL RECREATION	A commercial establishment located entirely primarily outdoors that provides recreational, amusement, and entertainment opportunities for patrons, including activities such as: water parks, miniature golf, go cart racing, obstacle or ropes courses, zip lines, paintball, mechanical rides, four-wheel drive off-road courses, and similar attractions. Outdoor commercial recreation uses may include buildings or structures that also provide indoor recreational activities
OUTDOOR DINING OR SEATING	An outdoor area used primarily for gathering, dining, seating, or entertainment that includes chairs or other forms of seating and may also include tables. The area may also be used for the consumption of food and beverages.
OUTDOOR DISPLAY/SALES	The keeping of any goods, merchandise, or vehicles, in an unroofed area for marketing or sales purposes.
OUTDOOR KITCHEN	An outdoor activity area used for the preparation of food for on-site consumption.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
OUTDOOR RECREATION, PUBLIC	An institutional or public establishment located outdoors and engaged in the provision of land and facilities for the purposes of recreation and leisure for the members of the general public. Outdoor public recreation uses include numerous athletic fields, performance space, large courts, or similar features that draw or host large groups of visitors or spectators. These uses are generally more intense than park uses. Such uses may include secondary structures offering concessions, providing storage, restroom facilities, or other related purposes.
OUTDOOR SEASONAL SALES	The temporary and seasonal sale of produce, agricultural, and seasonal products such as pumpkins, Christmas trees, mums, fireworks, and temporary farmers' markets. Outdoor seasonal sales may take place on vacant or occupied land but may not render an existing development site nonconforming in terms of compliance with the standards in this Ordinance.
OUTDOOR SHOOTING RANGE	A commercial establishment providing a location for patrons to discharge firearms in an outdoor setting in a safe manner that will not endanger nearby lands. Such uses may also include limited facilities for the repair of firearms or ammunition sales for on-site consumption.
OUTDOOR STORAGE	See "Storage, Outdoor (as a Principal Use)."
OUTPARCEL	A lot located within a multi-tenant development (e.g., a shopping center) which may or may not have access from a public road abutting the development. The lot is treated as part of the larger development with respect to applicable yard and dimensional requirements.
OUTPATIENT FACILITY	A small-scale facility where patients are admitted for examination and treatment by one or more physicians, dentists, or psychologists on a short-term basis. Patients may or may not receive care or lodging overnight, but the facility is not intended for long-term overnight care. Such facilities may include sleeping rooms for care workers and members of patient's families.
OVERHANG	The edge of a roof or upper building story projecting outwards.
OVERLAY ZONING DISTRICT	A zoning district designation that is applied over one or more previously established conventional or conditional zoning district designations. Overlay districts modify the existing zoning district provisions by either adding additional regulations or providing greater flexibility in deviations from the existing applicable standards. Typically, when overlay district standards conflict with the underlying conventional or conditional zoning district standards, the overlay zoning district standards control.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
OWNER	The purposes of Stormwater Management, the legal or beneficial owner of land, including but not limited to a mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property. Owner shall include long-term commercial tenants; management entities, such as those charged with or engaged in the management of properties for profit; and every person or entity having joint ownership of the property. A secured lender not in possession of the property does not constitute an owner, unless the secured lender is included within the meaning of owner under another description in this definition, such as a management entity.
OWNERS' ASSOCIATION	An organization of homeowners or property owners of lots or land in a particular subdivision, condominium, or planned development. The owners' association is responsible for maintaining and enhancing the shared private infrastructure (e.g., stormwater, streets, and sidewalks) and common elements such as recreation areas.
P	
PACKAGING AND SHIPPING	A commercial establishment providing printing, faxing, copying, document binding, photographic processing, packing, mailbox, mailing, and related services. Printing, document production, and processing services may be provided either on- or off-site. Such uses may also provide computer terminals, copiers, and similar equipment for self-service use by customers.
PAD SITE	See "Outparcel."
PARAPET WALL	See "Wall, Parapet."
PARENT	For the purposes of Soil Erosion and Sedimentation, an affiliate that directly, or indirectly through one or more intermediaries, controls another person.
PARENT PARCEL	A tract of land further subdivided into one or more additional lots.
PARK AND RIDE FACILITY	Parking facilities close to or connected with public transport facilities that allow commuters and other transit users to leave their private vehicles and transfer to a bus, rail, ferry, or carpool for the remainder of the journey.
PARK LAND	Land intended for development as a public park or recreation area.
PARK OR PLAYGROUND (PUBLIC OR 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.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
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 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 street.
PARKING LOT STEM LANE	A point of ingress into a parking lot from a street. A parking lot stem lane does not accommodate parking areas or access to drive aisles within its minimum length.
PARKING OF HEAVY TRUCKS OR TRAILERS	The temporary storage of motor vehicles over 10,000 pounds of gross vehicle weight or that include three or more axles and associated trailers or equipment.
PARKING OF RECREATIONAL VEHICLES	The temporary storage of motorized or non-motorized recreational vehicles, campers, travel trailers, and 5th wheels, as well as trailers containing vehicles and equipment used for recreational purposes, such as are used for boats, personal watercraft, and off-road vehicles.
PARKING PLAN	A plan or diagram prepared by an applicant for development that depicts the required and provided number of parking spaces (if different from the required number of parking spaces. The plan also shows points of vehicular ingress and egress, drive aisles, the locations of parking lot landscaping islands, pedestrian circulation features, and off-street loading facilities.
PARKING RELATED USES	A use of land devoted to the temporary off-street parking of vehicles, including vehicular ingress and egress, parking aisles, internal travel ways, fire lanes, and other areas dedicated to vehicular use, but not necessarily including vehicular storage areas.
PARKING SPACE	A location where an automobile or passenger truck is temporarily stored, whether on-street or off-street.
PARKING SPACE, REVERSE ANGLE	On-street parking spaces configured at an angle to the direction of travel for the street where located. Vehicles back into reverse angle parking spaces.
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 STUDY	An analysis of the minimum number of off-street parking spaces necessary to serve a proposed use type.
PARKING, OFF-SITE	Off-street parking facilities located on a different lot or site than the use served.
PARKING, SHARED	Off-street parking spaces that are shared or used by two or more different use types with differing patterns of use through the day or the week.
PASSIVE OPEN SPACE SET ASIDE	Open space areas designated for passive recreation uses including trails, gazebos, greens, picnic areas, fountains, and similar areas. Such areas may also include undisturbed natural vegetation.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
PATIO	An improved area, located at or below grade, with a paved or otherwise improved surface typically used for dining, gathering, recreation, or leisure activity. A patio may be covered or uncovered, but does not include walls that support a roof.
PAWNSHOP	A commercial establishment operated by a pawnbroker, who provides short-term loans to customers who leave collateral items with the pawnbroker to secure the loan for the agreed-upon holding period. Collateral from unpaid loans is made available for purchase at retail to customers following the end of the holding period. Such uses may include indoor storage areas.
PEAFOWL	A peacock, peahen, or any species of Pavo pheasant.
PEAK ATTENUATION VOLUME	The purposes of Stormwater Management, stormwater runoff in excess of the design volume that is conveyed to an SCM where it is not treated in accordance with the applicable MDC, but is released by the SCM in a controlled manner to address potential downstream erosion and flooding impacts to meet federal, state, or local regulations beyond the requirements of this section.
PEDESTRIAN LIGHTING	Exterior lighting scaled to pedestrians.
PEDESTRIAN WALKWAY	An on-site pedestrian access way connecting building entrances, parking areas, and the larger sidewalk network around the site.
PEDIMENT	The triangular upper part of the front of a building in classical style, typically surmounting a portico of columns.
PENALTY	Punishment for violation of a law or rule.
PENNANT	A lightweight plastic, fabric, or other material, whether containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.
PERENNIAL STREAM	Streams located on United States Geological Survey (USGS) maps shown as solid blue lines with a well-defined channel that contains water year-round during a year of normal rainfall with the aquatic bed located below the water table for most of the year.
PERFORMANCE GUARANTEE	Cash or other guarantee provided by an applicant in-lieu of completion of public infrastructure or required private site feature prior to issuance of a building permit, final plat, or other development approval.
PERIMETER BUFFER	See "Buffer, Perimeter."
PERIMETER PARKING LOT LANDSCAPING	Required landscaping located around the perimeter of a parking lot.
PERMIT CHOICE	State laws that permit an applicant to choose which set of development rules to follow if the development rules change between the time an applicant's application form is determined to be complete and when a decision is made on the application by the Town.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
PERSON	An individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity. For the purposes of Soil Erosion and Sedimentation, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.
PERSON CONDUCTING THE LAND-DISTURBING ACTIVITY	Any person who may be held responsible for violation of any regulations governing land-disturbing activity, unless expressly provided otherwise. For the purposes of Soil Erosion and Sedimentation, any person who may be held responsible for violation unless expressly provided otherwise by this chapter, the Act, or any order adopted pursuant to this chapter or the Act.
PERSON WHO VIOLATES OR VIOLATOR	For the purposes of Soil Erosion and Sedimentation, as used in NCGS§ 113A-64, means: (1) Any landowner or other person who has financial or operational control over the land-disturbing activity; or (2) Who has directly or indirectly allowed the activity, and who has failed to comply with the provisions of the Act, the rules of this Ordinance, or any order or local ordinance adopted pursuant the Act, as it imposes a duty upon that person.
PERSONAL PROPERTY	All forms of property, except real property.
PERVIOUS SURFACE	A substance that allows water to pass through it.
PHARMACY	A commercial establishment engaged in the storage, preparation, and sale of drugs and other medications to customers at retail. Pharmacy uses may also offer a wide variety of food, household goods, or other personal products for sale. A pharmacy may also incorporate a medical technician who provides on-site medical assistance and counselling to patrons. Pharmacies that exceed the floor area thresholds for large format retail uses shall be considered as a large format retail use.
PHASE	The discrete portion of a proposed development.
PILASTER	A rectangular column with a capital and base that is attached or affixed to a wall as an ornamental design feature.
PLAN	For the purposes of Soil Erosion and Sedimentation, an erosion and sedimentation control plan.
PLAN, ALTERNATIVE LANDSCAPE	A document prepared by an applicant's representative that proposes an alternative means of compliance with the standards in Section 6.6, Landscaping and Screening.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
PLAN, ALTERNATIVE PARKING	A document prepared by an applicant's representative that proposes an alternative means of compliance with the standards in Section 6.9, Parking and Loading.
PLAN, ALTERNATIVE SIGN	A document prepared by an applicant's representative that proposes an alternative means of compliance with the standards in Section 6.13, Signage.
PLAN, CONCEPT	A plan for development intended solely for illustrative purposes to assist a review authority in its consideration of a proposed development (like a Type 3 Conditional Rezoning or a Special Use Permit). A Concept Plan may, but does not necessarily need to include, the detailed elements typically found in a site plan (for example, detailed locations of buildings, location of off-street parking, location of landscaping, etc.).
PLAN, EROSION CONTROL	A plan illustrating the extent of land disturbance and the steps taken to prevent erosion and off-site sedimentation.
PLAN, FORESTRY MANAGEMENT	A plan depicting the location and extents of forestry activities.
PLAN, LANDSCAPE	A plan illustrating the design and specifications for the preservation of existing vegetation; the placement of any live plant materials such as trees, shrubs, grasses, ground covers, etc.; and the location and design of built features such as berms, fencing, walls, etc.
PLAN, LIGHTING	A graphic deposition of proposed exterior lighting fixture locations, height, anticipated luminance, and cones of illumination.
PLAN, MULTI-PHASE DEVELOPMENT	A site plan that includes development proposed in two or more distinct phases.
PLAN, PARKING	A plan or diagram prepared by an applicant for development that depicts the required and provided number of parking spaces (if different from the required number of parking spaces. The plan also shows points of vehicular ingress and egress, drive aisles, the locations of parking lot landscaping islands, pedestrian circulation features, and off-street loading facilities.
PLAN, PLOT	A simple drawing or sketch depicting compliance with one or more requirements of this Ordinance.
PLAN, SITE	A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include, but is not limited to, site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities, that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
PLAN, SITE-SPECIFIC VESTING PLAN	A plan that describes, with reasonable certainty, the type and intensity of use for a specific lot or lots. The plan may be in the form of a Subdivision plat, a Site Plan, a Special Use Permit, or a Conditional District plan. The 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 buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways.
PLAN, SKETCH	A simple drawing or schematic showing proposed site features or buildings in a conceptual fashion. Sketch plans may be, but are not required to be drawn to scale. In cases where the drawing is not to scale, accurate dimensions should be noted.
PLAN, VEGETATION PROTECTION	A plan identifying the location, type, and characteristics of existing vegetation to be preserved and protected during and after the development process. The plan also depicts proposed tree protection devices.
PLANNING BOARD	An advisory body responsible for making recommendations on certain applications for development approval to the Town Council. The Planning Board also makes special studies of land use and assists in the preparation and revision of the comprehensive plan.
PLANNING JURISDICTION	The geographic extents of where this Ordinance is applied that includes the Town's corporate limits, lands within the extraterritorial jurisdiction, and lands subject to annexation petitions or development agreements that require inclusion within the Town's corporate limits at some point in the future.
PLANTING SEASON	The dormant time of the year for trees beginning with leaf drop and ending with bud break; generally late fall to early spring.
PLANTING STRIP	Required landscaping material configured in a linear strip.
PLAT, EASEMENT	A surveyed map or plan depicting one or more easements granted to a party other than the landowner.
PLAT, FINAL	A map, plan, or survey document prepared by a licensed, registered land surveyor containing a drawing and description of the subdivided land with ties to permanent monuments (for the purposes of reproduction) prepared in a form that is suitable for recording with the Register of Deeds for Johnston County.
PLAT, PRELIMINARY	A drawing or plan prepared by a licensed professional showing the layout of a proposed subdivision including, but not restricted to, road and lot layout and approximate dimensions, topography and drainage, and all proposed facilities unsized and without profiles, at suitable scale and in such detail as required by this Ordinance.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
PLAY EQUIPMENT	Secondary structures devoted to active recreation by children associated with residential and institutional uses. Such uses typically include swing sets, trampolines, jungle gyms, play structures, obstacle courses, tree houses, slides, zip lines. Facilities and features devoted to the playing of organized or unorganized sports are outdoor recreation facilities.
PLAY STRUCTURE	A non-habitable structure intended for recreational purposes.
PLAZA	An open space at the intersection of important streets or adjacent to important structures, set aside for civic purposes and commercial activity, which may include parking, consisting of durable pavement, and formal landscaping or tree plantings.
POCKET NEIGHBORHOOD	A master-planned development of small single-family detached dwellings, each on their own lot, located around a common open space and served by either on-street, on-site, or shared off-street parking. Each home fronts a shared common open space which can be configured as an open green, community garden, or recreation area.
PORCH	A covered or uncovered projection (can be glazed or screened) from the main wall of a building, located at or above grade, that provides ingress or egress to a building but is not used for livable space.
PORTABLE STORAGE CONTAINERS	A moveable container intended for storage of personal property, waste, or debris, that is brought to a site on a temporary basis.
PORTICO	A large porch usually with a pediment usually associated with an entrance, supported by columns.
POST OFFICE	An office or station of a government postal system at which mail is received and sorted, from which it is dispatched and distributed, and at which stamps are sold or other services rendered.
POST-FIRM	For the purposes of the Flood Protection Overlay District standards, construction, or other development for which the "Start of Construction" occurred on or after April 1, 1982, the effective date of the initial Flood Insurance Rate Map.
PRE-APPLICATION CONFERENCE	A meeting or conference conducted by a potential applicant for a permit or development approval and Town staff for the purposes of discussing a potential application or Town rules regarding development.
PRE-FIRM	For the purposes of the Flood Protection Overlay District standards, construction, or other development for which the "Start of Construction" occurred before April 1, 1982, the effective date of the initial Flood Insurance Rate Map.
PRELIMINARY PLAT	See "Plat, Preliminary."
PRESENT USE VALUE	The value of land in its current use as agricultural land, horticultural land, or forestland, based solely on its ability to produce income and assuming an average level of management.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
PRESERVATION	The act or process of applying measures to sustain the existing form, integrity and material of a building or structure and the existing form and vegetative cover of a site. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building materials.
PRIMARY BUILDING FAÇADE OR WALL	See "Façade, Front."
PRIMARY CONSERVATION AREA	The portion of a conservation subdivision required to be included within the conservation or set-aside area where development will not take place.
PRIMARY CORPORATE LIMITS	The contiguous corporate limits of the Town of Clayton, North Carolina.
PRIMARY ENTRANCE	The place of ingress and egress to a building, parcel, or development used most frequently by the public.
PRIMARY FAÇADE PLANE	The largest uninterrupted exterior surface of a building wall from the grade to the underside of the eave or top of the parapet. The primary building façade excludes any offsets, projections, recesses, wings, bump-outs, or cornices.
PRIMARY ROOF RIDGELINE	The longest ridgeline on a building with a pitched roof.
PRIMARY SCM	The purposes of Stormwater Management, a wet pond, stormwater wetland, infiltration system, sand filter, bio-retention cell, permeable pavement, green roof, rainwater harvesting, or an approved new stormwater technology that is designed, constructed, and maintained in accordance with the MDC.
PRIMARY WALL PLANE	See "Wall Plane, Primary."
PRIME AGRICULTURAL LAND	Resource land best suited for agricultural activity.
PRINCIPAL BUILDING	See "Principal Structure."
PRINCIPAL STRUCTURE	A structure in which is conducted the principal use(s) of the lot on which it is located.
PRINCIPAL USE	A primary or predominate use of a lot or parcel.
PRINCIPALLY ABOVE GROUND	For the purposes of the Flood Protection Overlay District standards, a situation where at least 51 percent of the actual cash value of the structure is above ground.
PRIVATE CLUB	See "Bar, Cocktail Lounge, or Private Club."
PRIVATE COMMON INFRASTRUCTURE	Infrastructure or facilities such as streets, water, sewer, stormwater management, open space, streetlights, or street signs that are owned and maintained by a private owners' association.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
PRIVATE SITE FEATURE	Structure, feature, or aspect of a development site that is owned and operated by a private individual. Such features include buildings, structures, landscaping, accessways, and similar features outside public rights-of-way or land dedicated to the public.
PRIVATE STABLES	A building or structure devoted to the care and keeping of horses or other livestock not open to members of the general public. Such uses may include outdoor storage, exercise areas, paddocks, and similar facilities.
PRIVATE STREET	See "Street, Private."
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.
PROFESSIONAL ENGINEER	A civil, structural, or traffic engineer licensed by the State of North Carolina.
PROFESSIONAL LAND SURVEYOR	An expert knowledgeable in the delineation and demarcation of lot lines, land ownership, grading, and similar aspects licensed by the State of North Carolina to provide design and construction services for development.
PROFESSIONAL LANDSCAPE ARCHITECT	An expert knowledgeable in plants, planting techniques stormwater management, outdoor structural design, and similar aspects licensed by the State of North Carolina to provide design and construction services for development.
PROGRAM ADMINISTRATOR	For the purposes of Soil Erosion and Sedimentation, Engineering Director, or a designee.
PROJECT	The purposes of Stormwater Management, the proposed development activity for which an applicant is seeking a stormwater permit from the town in accordance with this section. Project shall exclude any land adjacent to the area disturbed by the project that has been counted as pervious by any other development regulated under a federal, state, or local stormwater regulation. Owners and developers of large developments consisting of many linked projects may consider developing a master plan that illustrates how each project fits into the design of the large development.
PROJECTION	Habitable space projecting outwards from the main wall of a building.
PROTECTED TREE	See "Tree, Protected."
PROTOTYPICAL ARCHITECTURE	Exterior building materials and architecture that is standardized for a particular use type or franchise operation.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
PSYCHIATRIC SERVICES	Inpatient facility which provides care for persons with psychiatric problems, and which may include outpatient follow-up care to the facility's patients. Such uses may include overnight stays for patrons. Facilities for the involuntary commitment of persons are not psychiatric service uses.
PUBLIC ART	Art, in any media, that has been planned and executed with the intention of being staged in the physical public domain, usually outside and accessible to all.
PUBLIC GATHERING AREA	See "Gathering Area."
PUBLIC HEARING, EVIDENTIARY	A public hearing involving the legal rights of specific parties conducted by the Board of Adjustment based on evidence and sworn testimony presented during the public hearing. Decisions made during such hearings are based upon and supported by the record developed at the hearing, and involve findings of fact and conclusions of law made by the review authority.
PUBLIC HEARING, LEGISLATIVE	A public hearing held for the purpose of soliciting public comments on a proposed development application. Reasonable time limits on speakers may be imposed and responsible decorum maintained. However, unlike evidentiary hearings, there is no requirement for oaths, no limits on expression of personal opinions, and no limit on discussing the matter outside the context of the hearing.
PUBLIC INFRASTRUCTURE	Development features consisting of streets and public alleys, bicycle infrastructure within a public right-of-way, curb and gutter, potable water lines, sanitary sewer lines, electrical service (where applicable), street drainage facilities, public stormwater control measures, and sidewalks or trails located within public rights-of-way.
PUBLIC MEETING	A gathering of Town officials and interested members of the public to discuss an action of the Town or consider a development application. Unlike a public hearing, no prior public notification is required for a public meeting, and the acceptance of testimony from meeting attendees is at the discretion of the review authority conducting the public meeting.
PUBLIC REALM	Land, buildings, and structures owned by the government or a governmental entity that is made available for use by all persons.
PUBLIC RIGHT-OF-WAY	For the purposes of the communications use-specific standards, a right-of-way owned, leased, or operated by the Town, but not including any street or alley that is a part of the State highway system.
PUBLIC SAFETY AND/OR NUISANCE	For the purposes of the Flood Protection Overlay District standards, 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.
PUBLIC STREET	See "Street, Public."

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
PUSH CART	Any non-motorized piece of equipment designed to be readily moved from which a vendor or itinerant merchant prepares and or sells food, non-alcoholic beverages, or other products to the general public.
Q	
QUADPLEX	See "Dwelling, Quadplex."
QUASI-JUDICIAL	See "Public Hearing, Evidentiary."
QUORUM	The minimum number of council, board, or commission members that must be present in order to conduct official business or take official action.
R	
RACETRACK	A track, whether paved or unpaved, for the competitive racing of automobiles, motorcycles, trucks, tractors, dogs, or horses. Such uses may also include seating for spectators, equipment and staging areas, and concessions areas.
RADII	Curves or bends in a street, sidewalk, greenway, or other travel route.
RAIL-RELATED USE	A commercial or industrial establishment engaged in the transportation, storage, and distribution of raw materials and products via railroad. Such uses may include storage of locomotives, rail cars, and loading facilities.
RAIN GARDEN	See "Bio-retention Cell."
RAW OR SEMI-FINISHED MATERIALS	Products, materials, or components in an original or unrefined state that are altered through the manufacturing process.
REAL PROPERTY	All land, all buildings, all structures, and other fixtures firmly attached thereto.
REAR FACADE	See "Façade, Rear."
REASONABLE ACCOMMODATION	Any change or adjustment to a provision of this Ordinance or condition of approval that would allow an individual with a disability to enjoy equal access to a dwelling, structure or site that is available to other individuals.
RECESS	Habitable space that is recessed inwards from the main wall of a building.
RECOGNIZED PROPERTY INTEREST	A financial or other interest in real property.
RECOMBINATION	See "Combination / Recombination."
RECORD DRAWING	See "As-Built."

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
RECREATIONAL VEHICLE	A vehicle, which is: 1. Built on a single chassis; 2. 400 square feet or less when measured at the largest horizontal projection; 3. Designed to be self-propelled or permanently towable by a light duty truck; 4. Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use; and 5. Is fully licensed and ready for highway use. A recreational vehicle shall also include a boat or personal water craft and its associated trailer, a travel trailer, a camper, and a 5th wheel, regardless of size or capacity. For the purposes of the Flood Protection Overlay District standards, a vehicle, which is: 1. Built on a single chassis; 2. 400 square feet or less when measured at the largest horizontal projection; 3. Designed to be self-propelled or permanently towable by a light duty truck; 4.Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use; and 5. Is fully licensed and ready for highway use. For the purpose of the Flood Protection Overlay District standards, park models that do not meet the items listed above are not considered recreational vehicles and should meet the standards of and be permitted as residential structures.
RECREATIONAL VEHICLE PARK	A commercial establishment offering individual spaces or "sites" for short term rental to owners or operators of recreational vehicles. Such uses typically have shared or common restroom, showering, and laundry facilities, and may also include recreational features and incidental sale of food, travel supplies, and recreational vehicle equipment. Rental of an individual site for a period of more than three continuous months or uses that allow vehicles to be modified in ways that result in permanent, non-mobile structures are considered mobile home parks.
RECYCLING CENTER	A facility engaged solely in the storage, processing, resale, or reuse of recyclable and recovered materials.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
REDEVELOPMENT	Installation of any improvements, new construction, or reconstruction on a lot or site that has pre-existing uses. The purposes of Stormwater Management, any development on previously developed land, other than a rebuilding activity that results in no net increase in built-upon area and provides equal or greater stormwater control than the previous development.
REFERENCE LEVEL	For the purposes of the Flood Protection Overlay District standards, the reference level is the top of the lowest floor for structures within special flood hazard areas designated as Zones A, AE, AH, AO, A99.
REFORESTATION	The re-establishment of trees or tree canopy cover to land area that was cleared prior to or as part of the development process.
REFORESTATION AREA	The portion of a lot or site designated for the retention of or planting of trees in accordance with the reforestation requirements.
REFUSE COLLECTION CONTAINER	A metal or plastic container used for the collection and temporary storage of refuse or waste for pickup by the Town or a solid waste management contractor.
REGISTER OF DEEDS	A public officer designated by Johnston County to register documents, mainly related to real estate. The register of deeds verifies mortgage ownership and property ownership, such as houses and land, in official record books.
REGULATORY FLOOD PROTECTION ELEVATION	For the purposes of the Flood Protection Overlay District standards, the "Base Flood Elevation" plus the "Freeboard." In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet freeboard. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.
RELIGIOUS INSTITUTION	Any facility such as a church, temple, monastery, synagogues, or mosque used for worship by a non-profit organization and their customary related uses for education (pre-schools, religious education, etc.), recreation (gymnasiums, activity rooms, ball fields, etc.), housing (rectory, parsonage, elderly, or disabled housing, etc.) and secondary uses such as cemeteries, mausoleums, offices, soup kitchens, and bookstores. .
REMEDY	The manner in which a right or law is enforced or satisfied when a violation of the UDO or related law has occurred.
REMEDY A VIOLATION	For the purposes of the Flood Protection Overlay District standards, to bring the structure or other development into compliance with State and the Town's floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this Ordinance, or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
REMODELING	Development activity associated with an existing building, structure, or use of land that includes: - Replacement or upgrade of existing fixtures, fittings, or surfacing materials; - Refurbishment of internal systems or equipment; - Installation of new features such as doorways, windows, or habitable space within the existing footprint and floorplate; - Cosmetic changes to existing buildings or structures without any changes to existing footprint or floorplate; or - Enhancement of existing site features without the addition of new impervious surface area. For the purposes of this Ordinance, "renovation" or "expansion" includes the construction of new floor area (principal or secondary) that extends the building's footprint or floorplate.
REPAIR SHOP	An establishment primarily engaged in the provision of repair services for electronics, bicycles, clocks, watches, shoes, guns, canvas products, appliances, and office equipment; including tailor; locksmith; and upholsterer. Repair establishments do not include outdoor storage of goods, materials, or equipment. Repair of cars, trucks, or similar heavy equipment is a vehicle-related establishment.
REQUIRED LANDSCAPE AREA	An area required to be planted with trees, shrubs, or ground cover as required by Section 6.6, Landscaping and Screening.
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 prototypical devices as well as the creation and testing of drugs and compounds, vehicles, equipment, and industrial processes.
RESERVATION	An obligation, shown on a Subdivision or Site {Plan, to keep land free from development and available for public acquisition for a stated period of time.
RESERVE STRIPS	Strips of land that are not developed as a means of limiting or preventing vehicular access.
RESIDENTIAL DEVELOPMENT	Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, and their associated outbuildings such as garages, storage buildings, and gazebos and customary home occupations.
RESIDENTIAL 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.
RESIDUALS	Any solid or semi-solid waste generated from a wastewater treatment plant, water treatment plant, or air pollution control facility permitted under the authority of the Environmental Management Commission.
RESOLUTION	The official written expression of the opinion or the will of the Town Council, Board of Adjustment, or Planning Board.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
RESTAURANT	An establishment where meals or prepared food, including beverages and confections, are served to customers for consumption on or off the premises. Seating for patrons consuming products on site are located either indoors or outdoors, and the use does not provide drive-through service. Such uses may include a bar or cocktail lounge as a secondary use.
RESTAURANT, MOBILE	See "Mobile Restaurant."
RESTORATION	The act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.
RETAIL, GENERAL	Commercial establishments engaged in the retail sale of goods and services.
RETAIL, LARGE FORMAT	A retail establishment consisting of a single or multiple tenants in one or more buildings totaling 70,000 square feet or more of indoor and outdoor area with 70 percent or more of the total floor area occupied by retail sales activities.
RETAIL, MICRO	Small-scale commercial operations employing two or fewer people on a shift in a building or individual tenant space of 1,000 square feet or less. A micro-retail use may share building floor area with other residential or non-residential uses.
RETAINING WALL	See "Wall, Retaining."
RETENTION POND (WET)	A stormwater control measure consisting of a depression in the land that is designed to capture runoff from a design storm and release it gradually over a specified period of time via a properly designed outlet structure.
REVEGETATION PLAN	A plan depicting the re-establishment or replanting of required vegetation or landscaping material on a lot or site where clearing has taken place in violation of this Ordinance or a condition of approval.
REVERSE FRONTAGE	A lot with two or more street frontages that includes a building or structure that is oriented in a manner that differs from other existing structures or from the development patterns indicated by adopted policy guidance or good planning practice.
REVIEW AUTHORITY	The Town Manager, Planning Board, Board of Adjustment, Town Council, Planning Director, Engineering Director, or Technical Review Committee, as appropriate.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
REZONING	An amendment to a zoning regulation to change the zoning district that is applied to a specified property or properties. It does not include the initial adoption of a zoning map by Town Council or the repeal of a zoning map and re-adoption of a new zoning map for the Town's jurisdiction. It does not include updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district. It does include the initial application of zoning when land is added to the Town's jurisdiction that has previously adopted zoning regulations. It does include the application of an overlay zoning district or a conditional zoning district.
RIBS	See "Fins."
RIGHT-OF-WAY	Shall mean that property located within and adjoining the streets, roads and highways within the Town, which rights-of-way are owned by the Town or the State or are otherwise maintained by the Town or the State.
RIP RAP	The random or specific placement of rock or fieldstone along drainage channels, stormwater inlets or outfalls, streams, or other areas subject to accelerated erosion where vegetation or geotextile measures are insufficient to prevent erosion and sedimentation.
RIPARIAN BUFFER	A vegetated area proximate to and parallel with a stream that helps shade and partially protect the stream and water quality from the impact of adjacent land uses.
RIVERINE	For the purposes of the Flood Protection Overlay District standards, relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
ROADWAY	The paved portion of right-of-way over which vehicular traffic travels.
ROOF GARDEN	Landscaping material, whether in a formal or informal arrangement located on the roof of a building or structure.
ROOF OVERHANG	See "Eave."
ROOF PITCH	The amount of rise or the vertical increase in elevation over the run or the horizontal distance of a roof.
ROOF PLANES	Portions of a roof constructed at different angles to one another.
ROOF RAKE	The portion of a gabled roof that extends past the exterior wall of the building.
ROOM	Any floor space exceeding 40 square feet enclosed by partitions or walls having cased openings or doors but excluding areas devoted exclusively to kitchen and bath facilities.
ROPE LIGHTING	See "Luminous Tube Lighting."

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
ROUTINE MAINTENANCE	Simple, small-scale activities (usually requiring only minimal skills or training) associated with regular (daily, weekly, monthly, etc.), recurring, and preventative upkeep of a building, equipment, or machine against normal wear and tear. For the purposes of the telecommunications use-specific standards, routine maintenance includes cleaning, repair, and replacement of existing antennas, antenna support structures, wireless telecommunications equipment, equipment cabinets, equipment compounds, telecommunications towers, utility poles, or other vertical projections used to deliver wireless telecommunications services. Activities that result in larger, taller, more visible, more impactful, or additional wireless telecommunications equipment are not considered routine maintenance.
RURAL CHARACTER	Patterns of land use and development in which open space, the natural landscape, and vegetation predominate over the built environment.
S	
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 includes automobile wrecking or automobile wrecking yards 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. For the purposes of the Flood Protection Overlay District standards, 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.
SATELLITE ANNEXATION	A lot or area of land located within the corporate limits of the Town but outside the contiguous portion of the Town.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
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, ELEMENTARY OR MIDDLE	A public or private school offering general, technical, or alternative instruction at the elementary through middle school levels (k-8) 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, VOCATIONAL	An educational institution providing secondary or post-secondary education designed to provide vocational education, or technical skills required to perform the tasks of a particular and specific job or trade.
SCREENING WALL	A wall, whether part of habitable space or not, that interrupts off-site views into a site.
SECONDARY BUILDING FAÇADE (WALL)	See "Wall, Secondary."
SECONDARY BUILDING OR STRUCTURE	A use or structure that is clearly incidental to and customarily found in connection with a principal building or use, is located on the same parcel and serves a principal building or use, and is subordinate in area, extent and purpose to the principal building or principal use served.
SECONDARY CONSERVATION AREA	The portion of a conservation subdivision containing resources to be retained as conservation land or open space after development that is not as imperative to retain as the primary conservation land.
SECONDARY ENTRANCE	An entrance into a building located on a side or rear building façade.
SECURITY LIGHTING	Exterior illumination of a building, parking area, or other site feature for the purposes of security.
SEDIMENT	For the purposes of Soil Erosion and Sedimentation, 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	For the purposes of Soil Erosion and 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.
SEMI-OPAQUE	A building, structure, building material, vegetation, or other site feature partially obscures visibility from one location to another.
SEMI-PERVIOUS	A material that allows some, but not all, stormwater to flow through it.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
SEPTIC TANK	An on-site sewage treatment or storage device.
SETBACK	A required distance from a lot line or development boundary for a principal or secondary building and some required site features, as determined in accordance with Section 3.6.8, Setbacks.
SEVERE PRUNING	The pruning, cutting, or otherwise damaging of the natural form of a tree or shrub, whether existing or planted, such that a significant or noticeable portion of the crown system is removed (e.g., 25 percent of the crown removed from a tree, or the continued cutting/trimming of trees previously pruned illegally, or pruning of trees that must grow naturally to meet the landscaping requirements), and/or if more than 1/3 of the overall circumference of a tree is exposed by pruning cuts.
SEXUALLY-ORIENTED BUSINESS	Any place defined as an "adult establishment" by NCGS§ 14-202.10, except that the use type shall not include and adult bookstore, adult video store, adult cabaret, or adult motel as identified and defined in this Ordinance. Another adult use shall not include any establishment or business where massage is practiced that is a health club, exercise studio, hospital, physical therapy use, or other similar health-related use provided the person rendering or receiving a massage does not exhibit or include "specified anatomical areas" as defined by NCGS§ 14-202.10.
SHADE TREE	See "Tree, Shade."
SHARED DRIVEWAY	See "Driveway, Shared."
SHIELDING (OR SHIELDED)	A light fixture constructed and installed in such a manner that all light emitted by it, either directly from the lamp (bulb) or a diffusing element, or indirectly by reflection or refraction from any part of the fixture, is projected below the horizontal plane of the fixture.
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.
SHRUB, EVERGREEN	A shrub that retains the majority of its leaves or needles throughout the year.
SIDE FAÇADE	See "Façade, Side."
SIDEWALK	A paved area running parallel to the street for the purposes of pedestrian travel and to facilitate pedestrian access to adjacent streets and land.
SIGHT DISTANCE TRIANGLE	The triangular area formed by a diagonal line connecting two points located at designated locations on intersecting right-of-way lines or a right-of-way line and the curb or a driveway.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
SIGN	Any words, lettering, numerals, parts of letters or numerals, figures, phrases, sentences, emblems, devices, designs, trade names or trademarks by which any message is made known, including any surface, fabric or other material or structure designed to carry such devices that are used to designate or attract attention to an individual, a firm, an event, an association, a corporation, a profession, a business or a commodity or product that are exposed to public view. The definition of a sign does not include flags, badges, or insignias of any governmental unit.
SIGN CABINET	A metal enclosure housing sign face displays and methods of internal illumination, when provided.
SIGN FACE AREA	The portion of sign that contains the message being conveyed, as determined in accordance with Section 6.13.8, Sign Measurement.
SIGN HEIGHT	The height to the tallest point of a sign structure, as determined in Section 6.13.8, Sign Measurement.
SIGN PERMIT	A development approval associated with the erection, alteration, continuation, or removal of signage or ancillary features associated with a sign.
SIGN SUPPORTING STRUCTURE	The framework and structural support for a sign.
SIGN, AWNING	See Section 6.13.9, Sign Standards by Sign Type.
SIGN, BANNER	See Section 6.13.9, Sign Standards by Sign Type.
SIGN, BILLBOARD	See "Sign, Outdoor Advertising."
SIGN, BOW	A feather flag sign with an elongated mounting post that curves at the top to form a circular shape within which the sign material is mounted.
SIGN, CHANGEABLE COPY	A sign with a portion of the face area that accommodates the regular or occasional manual modification to the message or copy.
SIGN, DILAPIDATED	A sign that is old or that has been poorly maintained that poses a public safety hazard or is difficult to read.
SIGN, ELECTION	See "Sign, Political."
SIGN, FEATHER FLAG	A sign made of fabric or similar material in a curvilinear shape that is mounted to a pole along the long edge of the sign.
SIGN, FENCE WRAP	A temporary sign affixed to fencing surrounding an active construction site.
SIGN, FLASHING	A sign with a message that is intermittently on and off or supplemented with lights that turn on and off in rapid succession.
SIGN, GOVERNMENT	Any temporary or permanent sign erected and maintained for any government purposes.
SIGN, GROUND	See Section 6.13.9, Sign Standards by Sign Type.
SIGN, INCIDENTAL	See Section 6.13.9, Sign Standards by Sign Type.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
SIGN, INFLATABLE	A hollow sign that is intended to expand as air is pumped inside of it. Inflatable signs are tethered to the ground or some other structure.
SIGN, MONUMENT	See Section 6.13.9, Sign Standards by Sign Type.
SIGN, MOVING	A sign that moves or has moving parts, including but not limited to the sign face area, the sign support structure, or some other element of the sign. Flags and banners are not considered moving signs.
SIGN, NONCONFORMING	Any sign that was lawfully established, but does not meet the standards of this Ordinance.
SIGN, OBSOLETE	A sign advertising a use or establishment that is no longer present.
SIGN, OUTDOOR ADVERTISING	A sign, configured for viewing primarily by persons travelling in an automobile on an interstate or primary commercial highway. Outdoor advertising directs attention to a business, commodity, service, or entertainment that is conducted, sold, or offered either on the premises or off the premises where the sign is located.
SIGN, PROJECTING	See Section 6.13.9, Sign Standards by Sign Type.
SIGN, SIDEWALK	See Section 6.13.9, Sign Standards by Sign Type.
SIGN, SUBDIVISION	See Section 6.13.9, Sign Standards by Sign Type.
SIGN, SUSPENDED	See Section 6.13.9, Sign Standards by Sign Type.
SIGN, TEMPORARY	See Section 6.13.9, Sign Standards by Sign Type.
SIGN, TRAFFIC WARNING	Signage devoted to warning motorists, pedestrians, or bicyclists of a potential traffic hazard or other danger.
SIGN, WALL	See Section 6.13.9, Sign Standards by Sign Type.
SIGN, WINDOW	See Section 6.13.9, Sign Standards by Sign Type.
SILL	A horizontal piece or structural member typically found below a window, door, or other opening.
SILTATION	For the purposes of Soil Erosion and Sedimentation, sediment resulting from accelerated erosion which is settleable 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.
SIMPLE MAJORITY	More than half of the voting members of a review authority deciding an application under this Ordinance.
SINGLE-FAMILY ATTACHED DWELLING	See "Dwelling, Single-Family Attached."
SINGLE-FAMILY DETACHED DWELLING	See "Dwelling, Single-Family Detached."
SITE AMENITIES	A utility or functional aspect of a site that is designed or configured in some way to be beneficial to pedestrians or aesthetically pleasing.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
SITE FEATURES	Structures or elements (not including principal or secondary structures) required or authorized to accompany a development, such as off-street parking, landscaping, exterior lighting, or signage.
SITE PLAN	See "Plan, Site."
SITE SKETCH	See "Plan, Sketch."
SITE-SPECIFIC VESTING PLAN	See "Plan, Site-Specific Vesting."
SKETCH PLAN	See "Plan, Sketch."
SLATS, FENCE	Thin strips of wood, plastic, or other material woven between the components of a chain link-style fence or gate.
SMALL WIRELESS FACILITY	A wireless telecommunications facility consisting of an antenna and associated wireless telecommunications equipment installed on a utility pole, public utility pole, building, or other vertical projection not specifically intended for the accommodation of wireless telecommunications facilities (e.g., a traffic signal mast arm, a light standard, sign pole, etc.) that does not exceed the maximum size requirements for such facilities as listed in NCGS§ 160D-947.
SMOOTH-FACED CONCRETE BLOCK	Concrete blocks that do not include adornment or any surface relief.
SOFFIT	The exterior material mounted to the underside of the roof rafters that project past the edge of an exterior building wall.
SOLAR ENERGY CONVERSION, LEVEL 1	A system consisting of solar panels, modules, and related equipment (e.g., heat exchanger, pipes, inverter, wiring, storage) that collects solar radiation and transfers it as heat to a carrier fluid for use in hot water heating or space heating and cooling, and/or that collects solar energy and converts it into electricity. Level 1 solar energy conversion uses are secondary uses serving a principal use on the same lot and is an energy system is designed to primarily meet on-site demands (but may include transfer of excess electricity to an electric utility grid) and components are typically mounted on the roof(s) of principal or secondary structures, but may also be mounted on the ground.
SOLAR ENERGY CONVERSION, LEVEL 2 OR 3	A system consisting of solar panels, modules, and related equipment that collects solar radiation and converts it into electricity for use on site and in other sites. Level 2 solar energy conversion uses are industrial-scale principal uses devoted to collecting solar energy scale for conversion to electricity, and subsequent use in another location. Level 2 solar energy conversion uses are located on lots or sites of less than 10 acres in area. Level 3 solar energy conversion uses are located on lots or sites of 10 acres or more in area.
SOLDIER COURSE	One or more courses of bricks or blocks that are installed within a masonry wall in a vertical instead of horizontal alignment. Soldier courses are often used to denote differing floors of a multi-story building.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
SOLID WASTE DISPOSAL FACILITY	For the purposes of the Flood Protection Overlay District standards, any facility involved in the disposal of solid waste, as defined in NCGS§ 130A-290(a)(35).
SOLID WASTE DISPOSAL SITE	For the purposes of the Flood Protection Overlay District standards, 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 EVENT	Temporary activities or events conducted by civic, philanthropic, educational, or religious organizations, or activities of a business or organization that is not part of its daily activities and are open to the public. Such activities include, but are not limited to, closeout sales, grand openings, fundraising or membership drives, carnivals, fairs, circuses, and tent revivals.
SPECIAL FLOOD HAZARD AREA (SFHA)	For the purposes of the Flood Protection Overlay District standards, the land in the floodplain subject to a 1 percent or greater chance of being flooded in any given year, as determined in Section 3.7.2, FPOD Flood Protection Overlay District.
SPECIAL USE PERMIT	A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with any applicable specific standards.
SPECIFIED ANATOMICAL AREAS	Specified Anatomical Areas is defined in the North Carolina General Statutes as: Less than completely and opaquely covered human genitals, pubic regions, buttocks, and female breasts below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if completely and opaquely covered.
SPECIFIED SEXUAL ACTIVITIES	Specified Sexual Activities is defined in the North Carolina General Statutes as including, but are not limited to, the following: 1. Human genitals in a state of sexual stimulation, arousal, or tumescence; or 2. Sex acts, normal or perverted, actual or simulated, including human masturbation, sexual intercourse, sodomy, or oral copulation; or 3. Fondling or other erotic touching of human genitals, pubic regions, buttocks, anus, or female breasts.
SPIRE	A tapering, conical, or pyramidal structure on the top of a building, typically a church tower.
SPLASH PAD	An outdoor play area with sprinklers, fountains, nozzles, and other devices or structures that spray water into the air.
STABILIZATION	The process of restoring a site with ground cover or armor to resist soil erosion from the forces of air, wind, or water.
STACKING SPACE	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.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
STANDING	The legal right or authority to initiate or participate in legal proceedings based upon a sufficient level of connection or potential harm from a decision or activity.
START OF CONSTRUCTION	For the purposes of the Flood Protection Overlay District standards, start of construction includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of secondary buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.
STATE BUILDING CODE	A series of ordinances enacted by North Carolina that establish the minimum requirements that must be met in the construction and maintenance of buildings for the purpose of safety and sanitation.
STATEMENT OF CONSENT	A statement signed by the landowner of a single-family detached, attached, or duplex dwelling development that records the landowner's willingness to voluntarily comply with the single-family design guidelines in this Ordinance.
STEEPLE	See "Spire."
STEP BACK	A condition where a building is configured so that the tallest portions of the structure are located the farthest distance from a lot line or an adjacent shorter structure.
STOP WORK ORDER	An order issued by the Town to a landowner or developer to cease and desist all land-disturbing or development activity on a site pending resolution of a problem or conflict.
STOPPING SITE DISTANCE	The minimum amount of physical space necessary for a driver operating a vehicle at the street's design speed to bring the vehicle to a complete stop before colliding with a pedestrian, stopped vehicle, animal, or debris in the roadway.
STORAGE IN A CONTAINER	The temporary storage of goods, products, or materials within an enclosed container. Storage containers may be repurposed shipping containers or tractor trailers.
STORAGE SHED	See "Tool/Storage Shed."

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
STORAGE, INDOOR	A storage building or buildings that are divided into sections or compartments for the storage of business or personal items on a temporary or long-term basis only where all units are accessed by one or more shared entrances. Such uses may include a very limited amount of outdoor storage as a secondary use.
STORAGE, OUTDOOR (AS A PRINCIPAL USE)	The keeping, in an unroofed area, of any goods or materials, particularly goods and materials that have a large size, mass, or volume and are either not easily moved or carried or require a mechanical lifting device (e.g., non-bagged mulch and lumber). This use does not include a junkyard or recycling facility, or the display and storage of vehicles as part of an automobile sales or rental use. Storage of goods or materials within a shipping or other container is not outdoor storage.
STORM DRAIN	A stormwater conveyance system that is integral to a street or sidewalk.
STORM DRAINAGE FACILITIES	For the purposes of Soil Erosion and Sedimentation, the system of inlets, conduits, channels, ditches, and appurtenances which serve to collect and convey stormwater through and from a given drainage area.
STORMWATER CONTROL MEASURE (SCM)	A physical device designed to trap, settle out, or filter pollutants from stormwater runoff; to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics; to approximate the pre-development hydrology on a developed site; or to achieve any combination of these goals. Engineered stormwater controls includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. Stormwater control measure is synonymous with "structural practice," "stormwater control facility," "stormwater control practice," "stormwater treatment practice," "stormwater management practice," "stormwater control measures," "structural stormwater treatment systems," and similar terms used in this Ordinance. For the purposes of Stormwater Management, stormwater control measure; also known as BMP or best management practice; means a permanent structural device that is designed, constructed, and maintained to remove pollutants from stormwater runoff by promoting settling or filtration; or to mimic the natural hydrologic cycle by promoting infiltration, evapo-transpiration, post-filtration discharge, reuse of stormwater, or a combination thereof.
STORMWATER CONVEYANCE SYSTEM OR STRUCTURE	Any feature, natural or manmade, that collects and transports stormwater, including but not limited to roadways with collection systems, catch basins, manmade and natural channels, streams, pipes and culverts, and any other structure or system designed to transport runoff.
STORMWATER RUNOFF	For the purposes of Soil Erosion and Sedimentation, the runoff of water resulting from precipitation in any form.
STREAM	A body of concentrated flowing water in a natural low area or natural channel on the land surface.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
STREAMER	A long, narrow strip of material used as a decoration or symbol.
STREET	A paved or unpaved vehicular accessway of more than 20 feet in width intended for the movement of vehicles and bicycles that is maintained as a street by the Town, NCDOT, or is indicated as a private street on a recorded final plat.
STREET BULB OUT	A street intersection where one or more corners is rounded into a circle similar to a cul-de-sac turnaround.
STREET CENTER LINE	A line lying halfway between the two edges of a street right-of-way, or in some other location as determined by the Engineering Director.
STREET CONNECTION	A location where one or more planned or existing streets join together.
STREET CONNECTIVITY	A measure of the overall connectedness of the streets in a street network that is largely controlled by individual block length.
STREET DESIGN SPEED	A selected speed used by an engineer to determine the various geometric features of a street. The design speed should be a logical one with respect to the topography, anticipated operating speed, the adjacent land use, and the functional classification of the roadway.
STREET FRONTAGE	A strip or extent of land abutting and extending along a street.
STREET GRADE	The magnitude of a street's incline or decline over a specified lateral distance.
STREET INTERSECTION APPROACH	The portion of a street proximate to an intersection.
STREET LIGHT	Exterior illumination located within or adjacent to a street right-of-way and intended to illuminate the street and sidewalk.
STREET STUB	A nonpermanent dead-end street intended to be extended in conjunction with development on adjacent lots or sites.
STREET TREE	See "Tree, Street."
STREET WIDTH	The horizontal distance between parallel right-of-way lines of a street measured at right angles to such lines.
STREET, ALLEY	A local access street used for service access to the back or side of properties otherwise abutting on a street.
STREET, ARTERIAL (PRINCIPAL OR MINOR)	A street whose principal function is to carry large volumes of traffic at higher speeds through the county or from one part of the Town to another.
STREET, COLLECTOR (MAJOR OR MINOR)	A street whose principal function is to carry traffic between local streets and arterial streets but that may also provide direct access to abutting properties.
STREET, COMMERCIAL	Commercial streets provide access to abutting commercial property, circulate traffic in commercial areas and provide direct access to off-street parking facilities. Commercial streets have at least two traffic lanes with provisions for curb parking if desirable and feasible.
STREET, CUL-DE-SAC	A local access street having access from one end only and having a circular or other expanded surface for turning around at the closed end.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
STREET, DEAD-END	A street that terminates with a street stub or vehicular turn around.
STREET, FRONTAGE	A local access street that parallels and is adjacent to expressways or arterial streets for the purposes of providing access to abutting properties and separation of traffic seeking such access from through-traffic.
STREET, HALF	A street right-of-way dedicated for a new street by a developer along the developer's perimeter property line in an amount equal to only one-half of the total right-of-way width required by this Ordinance. Dedication of a half street presumes future dedication of a corresponding amount of right-of-way from adjoining land on the other side of the right-of-way in order to provide the total right-of-way required for a proposed street.
STREET, INDUSTRIAL	Industrial streets provide access to abutting industrial development and are adequately designed to accommodate large trucks. At least two traffic lanes are provided.
STREET, INTERSTATE	Those streets used or to be used primarily to carry traffic and having few points of access and no intersections at grade designated or to be designated as interstates or expressways on the Comprehensive Transportation Plan.
STREET, LOCAL	Streets which are used primarily for access to abutting properties.
STREET, PRIVATE	A vehicular travelway not dedicated or offered for dedication to the Town or the NCDOT as a public street.
STREET, RESIDENTIAL	Residential streets provide access to abutting residential property and discourage through-traffic movements by design as short loops, curvilinear streets, or cul-de-sacs. These streets have two traffic lanes and may have on-street parking.
STREET, STATE-MAINTAINED	A street, its right-of-way, and all street-related infrastructure that is owned, operated, and maintained by the North Carolina Department of Transportation.
STREET, TOWN-MAINTAINED	A street, its right-of-way, and all street-related infrastructure that is owned, operated, and maintained by the Town of Clayton.
STREETSCAPE BUFFER	Landscaping provided on individual lots abutting arterial and collector streets, but located outside the street right-of-way.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
STRUCTURAL SCM	For the purposes of Stormwater Management, a physical device designed to trap, settle out, or filter pollutants from stormwater runoff; to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics; to approximate the pre-development hydrology on a developed site; or to achieve any combination of these goals. Structural SCMs includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. Structural SCM is synonymous with "structural practice," "stormwater control facility," "stormwater control practice," "stormwater treatment practice," "stormwater management practice," "stormwater control measures," "structural stormwater treatment systems," and similar terms used in this Ordinance.
STRUCTURAL SOIL	A planting medium that can be compacted to pavement design and installation requirements while permitting root growth.
STRUCTURE	For the purposes of the Flood Protection Overlay District standards, a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.
SUBDIVIDER	A person, firm, or corporation having a proprietary interest in land and acting to subdivide that land under the applicable provisions of this Ordinance.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
SUBDIVISION	As used in this Ordinance means all divisions of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets or the rearrangement of an existing lot or lots so as to front on another street or streets from that on which they originally fronted regardless of the number of lots so involved; but the following shall not be included within this definition provided, however, that any subdivision document or plat to be recorded pursuant to such exclusions shall have the notation of "No Approval Required" and the signature of the Subdivision Administrator before filing in the office of the Register of Deeds. A "Subdivision" shall not include the following: 1. 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 or exceed the standards of the Town as shown in this Ordinance; 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; 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 or easement dedication is involved and where the resultant lots equal or exceed the standards set forth in this Ordinance; 5. The trading or exchanging of portions of previously platted and recorded properties that are contiguous and that necessitate the creation of parcels not conforming to the requirements of this Ordinance provided that a statement is placed on the plat to be recorded to the effect that such parcels are not created as individual building lots and are not approved as such and that no building permit shall be issued for construction on such parcels; or 6. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the North Carolina General Statutes.
SUBDIVISION, CONSERVATION	The division of a tract of land into two or more lots, building sites, or other divisions along with additional land area set aside as private common open space for conservation and/or recreation purposes. Dwelling units and related secondary uses are configured to be obscured from view from off-site areas within a conservation subdivisions.
SUBDIVISION, COURT-ORDERED	The division of land between two or more parties as ordered as part of a settlement imposed by the judicial system.
SUBDIVISION, EXEMPT	A division of land that is exempted from review and approval by the County in accordance with the North Carolina General Statutes.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
SUBDIVISION, FAMILY	A division of land where lots are conveyed from one immediate family member to another immediate family member.
SUBDIVISION, LIMITED	A subdivision of three or fewer lots comprised of more than five acres in accordance with Section 160D-802 of the North Carolina General Statutes.
SUBDIVISION, MAJOR	A division of two or more lots involving the extension or installation of public infrastructure, or the division of land creating six or more lots with no extension or installation of public infrastructure.
SUBDIVISION, MINOR	A division of land creating more than one but fewer than six lots, with no extension or installation of public infrastructure.
SUBSIDIARY	For the purposes of Soil Erosion and Sedimentation, an affiliate that is directly, or indirectly through one or more intermediaries, controlled by another person.
SUBSTANTIAL CHANGE	An amendment or deviation in a development, a development application, a use, or a site condition that is significant enough to alter the nature of the development or proposal, its function, or its impact on its surroundings. Substantial changes typically require re-review or additional consideration by an appropriate review authority.
SUBSTANTIAL COMMENCEMENT	The initiation of development or development-related activity subject to the requirements of this Ordinance. Each of the following activities must have taken place in order to achieve substantial commencement: - All required authorizations to begin the development (including a Building Permit) are secured; and - All application fees and applicable fines have been paid in full; and - Any required notice of commencement to all governmental entities or other identified parties has taken place; and - Performance of some form of site-related activity that requires prior approval from the Town has taken place. Initiation of site-related activity that does not require some form of approval from the Town, such as surveying, site investigation, plan or study preparation, minor clearing or grubbing of the site, full or partial demolition, or agricultural related activity associated with a bona fide farm, shall not be considered as substantial commencement. Substantial commencement does not require the start of construction on a principal structure or commencement of the anticipated operation of the approved use.
SUBSTANTIAL CONFORMITY	A condition where there is no variation from the preliminary plan or plat, other than minor changes in the size of lots, the location of lot lines, the locations or sizes of easements, or the width of streets. Change in types or numbers of land uses, any variance in residential density, or any change in location of a public right-of-way shall not be considered as being in substantial conformity with an initial approval. For the purposes of this definition, minor changes shall be changes in dimensional attributes of five feet or less or any variation of a dimensional standard of five percent or less.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
SUBSTANTIAL DAMAGE	For the purposes of the Flood Protection Overlay District standards, damage of any origin sustained by a structure during anyone-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.
SUBSTANTIAL DETRIMENT	A condition resulting from revisions to an ordinance or development regulations that renders an existing or partially completed development to a status of being in violation of the standards or being otherwise unlawful.
SUBSTANTIAL IMPROVEMENT	For the purposes of the Flood Protection Overlay District standards, 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: 1. Any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the Town's code enforcement official and which are the minimum necessary to assure safe living conditions; or 2. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Section 2.3.29, Variance.
SUBSTANTIAL MODIFICATION	The collocation of antenna and related wireless telecommunications equipment on an existing telecommunications tower that necessitates replacement of the existing tower, structural additions to the existing tower that increase its height or the length of protrusions from the tower, or increases in the size of the equipment compound by an amount specified in Section 160D-931 of the North Carolina General Statutes. Collocations requiring structural modifications are reviewed and decided in accordance with the procedures for a major collocation. Collocations involving changes to an existing telecommunications tower or equipment compound beyond those identified as "substantial modifications" in Section 160D-931 in the North Carolina General Statutes are reviewed and decided in accordance with the procedures for a major telecommunications tower.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
SUBSTANTIAL PROGRESS	A condition where an applicant has commenced an activity, achieved a minimum threshold of completion, and maintained regular, continuous progress towards completion of the activity. Regular or frequent intermittent interruptions or discontinuance of activities shall not be considered as substantial progress. Examples of substantial progress include completion of required inspections before permit applications expire, meeting deadlines for affirmative acts such as recordation, payment of funds, or applying for subsequent, but required approvals. For the purposes of Stormwater Management, for the purposes of determining whether sufficient progress has been made on an approved plan, one or more of the following construction activities toward the completion of a site or subdivision plan shall occur: obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than 30 days; or installation and approval of on-site infrastructure; or obtaining a building permit for the construction and approval of a building foundation. Substantial progress for purposes of determining whether an approved plan is null and void is not necessarily the same as "substantial expenditures" used for determining vested rights pursuant to applicable law.
SUPER MAJORITY	A situation where an affirmative vote on a development application requires more positive or supportive votes than a simple majority. Typically, a super majority requires an affirmative vote of at least four-fifths of the review authority members present and voting.
SUPERIOR COURT	The Superior Court for Johnston County, North Carolina.
SURFACE WATERS	As used in the riparian buffer standards, all waters of the state as defined in NCGS § 143-212, except underground waters.
SUSTAINABLE DEVELOPMENT INCENTIVE	An incentive or reward, often in the form of additional allowable residential density or building height that is offered to an applicant proposing to include sustainable development practices.
SUSTAINABLE DEVELOPMENT PRACTICE	One or more development features voluntarily provided by an applicant or developer as a means of promoting sustainable development and/or taking advantage of available sustainable development practice incentives.
SWALE	A depression in the land that collects stormwater runoff and conveys it to another location.
SWIMMING POOL/HOT TUB	An above- or below-ground structure that is filled with water and used for swimming or relaxing.
SYNTHETIC STUCCO	A multi-layered application of polystyrene, fiberglass mesh, and atop coat of cement.
T	

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
TANGENT	A straight line or plane that touches a curve or curved surface at a point, but if extended does not cross it at that point.
TANNING SALON	A commercial establishment where patrons expose themselves to ultraviolet light in order to increase the amount of pigment in their skin. Such uses may also include limited spa or exercise facilities.
TATTOO & PIERCING ESTABLISHMENT	An establishment whose principal 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; or 2. Performance of body modification including puncturing or cutting a part of the human body so as to create an opening in which jewelry may be worn.
TECHNICAL BULLETIN AND TECHNICAL FACT SHEET	For the purposes of the Flood Protection Overlay District standards, a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by state and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations. It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive state or local regulations apply to the building or site in question. All applicable standards of the state or local building code must also be met for any building in a flood hazard area.
TECHNICAL REVIEW COMMITTEE	A group of Town staff members and others associated with development review in the Town.
TELECOMMUNICATIONS FACILITIES, COLLOCATION	The placement, installation, modification, or replacement of antenna and related wireless telecommunications equipment on, under, or within an existing or replacement telecommunications tower, utility pole, building, or other vertical projection.
TELECOMMUNICATIONS FACILITIES, MAJOR	The construction or installation of a new telecommunications tower with a height of 30 feet or more above the adjacent pre-construction grade and associated equipment, including the equipment compound, access, electrical service, and other related facilities.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
TELECOMMUNICATIONS FACILITIES, MINOR	The construction or installation of a new telecommunications tower with a height of less than 30 feet above the adjacent pre-construction grade or that is configured to appear as a building or structure other than a telecommunications facility.
TELECOMMUNICATIONS FACILITY, CONCEALED	A telecommunications tower and associated telecommunications equipment that is integrated as an architectural feature into an existing structure (such as a steeple, bell tower, clock tower, silo, etc.), or that is designed to conceal the presence of the tower, antennas, and related wireless telecommunications equipment in a manner so that the purpose of the tower is obscured.
TEMPERATURE CONTROLLED	For the purposes of the Flood Protection Overlay District standards, having the temperature regulated by a heating and/or cooling system, built-in or appliance.
TEMPORARY DISASTER DWELLING	See "Dwelling, Temporary Disaster."
TEMPORARY DWELLING	See "Dwelling, Temporary."
TEMPORARY OFFICE	A temporary commercial establishment, typically associated with a residential subdivision or building that serves as an office while a permanent structure is built or repaired on the same lot or site. A temporary office may also be used to provide office functions for a short duration and then is subsequently removed.
TEMPORARY USE PERMIT	A permit authorizing the operation of a temporary use or special event.
TEMPORARY WIRELESS COMMUNICATIONS FACILITY	A portable, self-contained wireless facility that provides wireless telecommunications services on a temporary or emergency basis. A temporary wireless facility may include a generator to provide power to the facility.
TEN-YEAR STORM OR Q10	For the purposes of Soil Erosion and Sedimentation, a rainfall of an intensity that, based on historical data, is predicted, by a method acceptable to the approving authority, to be equaled or exceeded, on the average, once in ten years, or the probability (10 percent) of a storm of this magnitude occurring in any given year and of a duration which will produce the maximum peak rate of runoff from the watershed of interest under average antecedent wetness conditions.
TERRACE	A level, surfaced area or platform next to a building used as a gathering area.
TERTIARY BUILDING FAÇADE (WALL)	See "Wall, Tertiary."
TEXT AMENDMENT	An amendment to the language of this Ordinance.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
THEATRE, INDOORS	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. Theatres that also serve meals at tables prior to or during a performance are specialty eating establishments.
THEATRE, OUTDOORS	An outdoor use consisting of a screen and projector along with facilities to accommodate private vehicles or outdoor seating for the viewing of films. Such uses may also include concessions and restroom facilities for patrons.
THIRD-PARTY APPLICATION	An application for development on a lot or site submitted by someone other than the landowner, the landowner's authorized agent, or the Town.
THROUGH LOT	See "lot, Through."
TILT-UP CONCRETE PANEL	A reinforced concrete panel used to form the exterior walls of a building.
TOBACCO, CBD, OR VAPOR SHOP	A commercial establishment, operated as a principal use, engaged in the retail sale of tobacco, nicotine, hemp-derived compounds, including CBD, for the purpose of human ingestion as authorized for sale by the State, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, or any other preparation of tobacco, tobacco-related paraphernalia of any type, electronic cigarettes, any electronically-actuated device or inhaler meant to simulate cigarette smoking that causes the user to exhale any smoke, vapor, or substance other than that produced by unenhanced human exhalation.
TOOL/STORAGE SHED	A secondary structure with or without electricity used for the keeping of tools and equipment or general storage purposes on the same lot as the principal use it serves.
TOP OF BANK	The points in a cross-section where the stream channel makes a transition to floodplain. Top of bank can be identified by a change in the slope of the land, a transition from terrestrial to riparian vegetation, and/or changes in the composition of substrate materials.
TOWN	For the purposes of Soil Erosion and Sedimentation, the Town of Clayton, North Carolina; both town limits and extraterritorial jurisdiction (ETJ). For the purposes of Stormwater Management, Town of Clayton, NC.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
TOXIC SUBSTANCE	Any substance or combination of substances (including disease-causing agents), that 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	For the purposes of Soil Erosion and Sedimentation, all contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.
TRAFFIC CONTROL SIGNAL	A mechanical device used to regulate the flow of vehicles, bicycles, or pedestrians along streets, sidewalks, and intersections.
TRANSFER STATION	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 wastes from others.
TRANSPORTATION IMPACT ANALYSIS	A study conducted to evaluate the capacity and safety impacts on the transportation system from a proposed development and identify necessary improvements or management strategies to mitigate negative impacts. Such studies shall be performed by a licensed professional engineer in accordance with this Ordinance.
TREE	For the purposes of Riparian Buffer protection, a woody plant with a DBH equal to or exceeding five inches or a stump diameter exceeding six inches.
TREE CANOPY	The layer of vegetation formed by the crowns of mature trees.
TREE CANOPY COVER	See "Tree Canopy."
TREE PIT	A depression in or adjacent to a sidewalk intended for the placement of a street tree and associated ground cover.
TREE PROTECTION AREA	See "Tree Save Area."
TREE PROTECTION FENCING	Fencing or other barrier provided to protect trees to be retained from damage or encroachment during the development process.
TREE RETENTION AREA	See "Tree Save Area."
TREE SAVE AREA	The portion of a lot or site with existing trees to be retained during and after development.
TREE TOPPING	The removal of the central leader and primary upper branches of a tree.
TREE, CANOPY	A species of tree which normally grows to a mature height of 40 feet or more with a minimum mature crown width of 30 feet.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
TREE, DROUGHT TOLERANT	A species of tree that is capable of surviving in an environment with no artificial irrigation and with only limited amounts of rain.
TREE, EVERGREEN	A woody plant with one or more stems that does not lose the majority of its leaves during winter or dormancy.
TREE, HARDWOOD	A deciduous tree with broad leaves that produces fruit or a nut and goes dormant during winter months.
TREE, NATIVE	Trees that have originated from or occur naturally without being introduced in a particular area.
TREE, PROTECTED	A tree that is present prior to the commencement of development or land disturbance that is required or intended to remain after completion of development or land disturbing activities.
TREE, SHADE	A tree with a crown that provides shade to the surface area within a parking lot and associated parking spaces.
TREE, STREET	A canopy or understory tree planted or existing within or along either side of a street right-of-way. Understory trees are typically used in locations where there are overhead utilities, sidewalks, or underground utilities proximate to the tree planting area.
TREE, UNDERSTORY	A species of tree which normally grows to a mature height of 15 to 35 feet.
TRELLIS	A framework of light wooden or metal bars, chiefly used as a support for fruit trees or climbing plants.
TRIPLEX	See "Dwelling, Triplex."
TURRET	A cylindrical architectural feature typically located at the corner or near the primary entrance of a building.
TWENTY-FIVE YEAR STORM OR Q25	For the purposes of Soil Erosion and Sedimentation, a rainfall of an intensity that, based on historical data, is predicted, by a method acceptable to the approving authority, to be equaled or exceeded on the average, once in 25 years, or the probability (4 percent) of a storm of this magnitude occurring in any given year and of a duration which will produce the maximum peak rate of runoff from the watershed of interest under average antecedent wetness conditions.
TWO-FAMILY DWELLING	See "Dwelling, Duplex."
U	
UNCOVERED	For the purposes of Soil Erosion and Sedimentation, the removal of ground cover from, on, or above the soil surface.
UNDERGROUND STORAGE TANK	A container used for the storage of gas, liquid, powder, or other substance that is all or partially below grade. Pipes, pumping equipment, and ventilation features are considered part of an underground storage tank.
UNDERSTORY TREE	See "Tree, Understory."

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
UNDERTAKEN	For the purposes of Soil Erosion and Sedimentation, the initiating of any activity, or phase of activity, which results or will result in a change in the ground cover or topography of a tract of land.
UNIFIED DEVELOPMENT	A development consisting of two or more principal structures on one or more lots that is planned, organized, and operated as a single development for the purposes of the development standards.
UNLICENSED VEHICLE	A motor vehicle, including a trailer, that does not have a valid and unexpired license plate.
UPPER STORY RESIDENTIAL	See 'Dwelling, Upper-Story Residential."
URBAN HEAT ISLAND	A portion of an urban or metropolitan area that is significantly warmer than its surroundings due to additional paving, building mass, and lack of shade. The temperature difference usually is larger at night than during the day, and is most apparent when winds are weak.
URGENT CARE	A walk-in clinic or medical facility focused on the delivery of ambulatory care for injuries or illnesses requiring immediate care, but not serious enough to require a hospital emergency department.
USABLE OPEN SPACE	A parcel or parcels of land or an area of water as a combination of both land and water and designed for the recreational use and enjoyment of residents of the proposed development, not including streets or off-street parking areas. Not more than one half of the required usable open space may be areas covered by water. Usable open space shall be substantially free of structures but may contain such improvements as are appropriate for the benefit of residents. A maximum of five percent of the area designated as usable open space may be covered by structures clearly ancillary to the recreational use of the space. Except for such structures, all usable open space shall be unobstructed except for plants, lawn furniture, swimming pools, terraces, walkways, play equipment, etc., so arranged to provide for the free movement of the people within the space. No portion of any such usable open space shall be located in any required yard area adjacent to a public street. Parking areas, vehicle drive aisles, and storage areas shall not be included in the calculation of usable open space.
USE	The purpose for which land or structures thereon is designed, arranged, or intended to be occupied or used, or for which it is occupied, maintained, rented, or leased.
USE STANDARD	The requirements in this Ordinance applied to a particular use type regardless of the zoning district where it is located.
USE TYPE	See "Use."
USE, NONCONFORMING	See "Nonconforming Use."

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
USE, TEMPORARY	A land use on an individual parcel or site established for a limited and fixed period of time for a purpose which may not normally be permitted in a zoning district, or which does not meet all zoning requirements, but which is necessary in special situations.
UTILITY POLE	For the purposes of the communications use-specific standards, a structure that is designed for and used to carry cables, wires, lighting facilities, or small wireless facilities for telephone, cable television, electricity, lighting, or wireless telecommunication services that is located outside the public right-of-way.
UTILITY POLE, PUBLIC	For the purposes of the communications use-specific standards , a utility pole owned, leased, or operated by the Town that is located in the public right-of-way.
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, natural gas citygates, and solid waste facilities. Facilities generating energy from solar radiation are solar energy conversion uses. Facilities generating energy from the wind are wind energy conversion uses.
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, electrical substations, and surface transportation stops such as bus stops and park-and-ride facilities.
V	
VARIANCE	A grant of relief from the requirements of this Ordinance. A variance may grant relief from water-related standards (stormwater, stream/riparian buffers, water supply watershed, or special flood hazard area) or relief from other zoning or subdivision standards in this Ordinance.
VEGETATION PROTECTION PLAN	See "Plan, Vegetation Protection."
VEGETATIVE COVER	The presence of vegetation (whether tree, shrubs, or ground cover) in a particular location.
VEHICLE PAINTING/ BODYWORK	Repair of automobiles, vehicles, or trailers, including bodywork, framework, welding, and major painting service.
VEHICLE PARTS AND ACCESSORY SALES	The on-site sale and subsequent installation of various automobile parts and accessories, including but not limited to bed liners, toolboxes, truck tops, or audio systems. Such uses do not include the sale of gasoline or other fuels.
VEHICLE REPAIR (NON-COMMERCIAL)	The non-commercial servicing or repair of a personal vehicle on private property.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
VEHICLE REPAIR AND SERVICE (NO PAINTING/ BODYWORK)	General repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, not including bodywork, framework, welding, and major painting service provided as a principal use or a secondary use to a non-residential establishment.
VEHICLE SALES AND RENTAL	Premises on which new or used passenger automobiles, trailers, recreational vehicles, or light trucks in operating condition are displayed for sale, lease, or rental.
VEHICLE TOWING AND STORAGE	An establishment operated for the purpose of temporary storage on-site of operable or inoperable vehicles. If an establishment , stacks vehicles or portions of stored vehicles are dismantled or removed for sale, it shall be considered a salvage and junkyard.
VEHICLE TRIP	For the purposes of calculating transportation impacts, a vehicle trip is a one-way journey taken from an origin to a destination in an automobile or similar private vehicle.
VEHICLE WASHING OR 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. Incidental sales of automobile-related accessories may take place.
VEHICULAR USE AREA	An off-street parking space or parking lot along with associated drive aisles and means on ingress or egress.
VELOCITY	For the purposes of Soil Erosion and Sedimentation, the speed of flow through a cross section perpendicular to the direction of the main channel at the peak flow of the storm of interest but not exceeding bank full flows.
VENDOR	A person who hawks, peddles, sells, or offers products, including food or beverages for sale.
VERTICAL FAÇADE MODULATION	The organization of an individual building façade into a base, middle, and cap configuration where there are discernable differences in exterior materials, building wall planes, or architectural detailing along the façade from the grade to the top of the building.
VESTED RIGHT	The right to undertake and complete the development and use of property under the terms and conditions of an approval secured as specified in NCGS§ 160D-108, or under common law.
VESTED RIGHTS CERTIFICATE	An authorization granted by Town Council to an approved site-specific development plan that protects the development from the need to comply with some (but not all) regulatory changes that are adopted by the Town during the period which the development is vested.
VETERINARY SERVICES, LARGE ANIMAL	A facility for the care and treatment of large animals, including livestock, domesticated, and exotic animals. Such facilities may be entirely indoors or may have both indoor and outdoor components.
VETERINARY SERVICES, SMALL ANIMAL	A facility for the care and treatment of small animals, including household pets and domesticated animals. Such facilities may be entirely indoors or may have both indoor and outdoor components.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
VIOLATION	For the purposes of the Flood Protection Overlay District standards, the failure of a structure or other development to be fully compliant with the Town's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this Ordinance is presumed to be in violation until such time as that documentation is provided.
VISUALLY TRANSPARENT	Glass or glazing that does not obstruct the view into a structure.
W	
WALK-UP SERVICE	A commercial establishment or feature of a commercial establishment providing products or services to customers solely via a window or wall cavity where patrons approach on foot and do not enter the structure.
WALL OFFSET	A projection or recess located in or along a building wall.
WALL PACK	An exterior lighting device that is flush-mounted on a vertical wall surface.
WALL PLANE	The exterior surface of a building wall relative to the lot line it abuts.
WALL PLANE, PRIMARY	The largest portion of a building wall in terms of area on a single building façade that maintains a uniform distance from the abutting lot line.
WALL, BUILDING	The entire surface area, including windows and doors, of an exterior wall of a building.
WALL, GREEN	A building wall that is partially or completely covered with greenery that includes a growing medium, such as soil, water or a substrate and an integrated water delivery system.
WALL, PARAPET	A building façade that rises above the roof level, typically obscuring a gable or flat roof as well as any roof-mounted equipment.
WALL, PRIMARY	The architectural front façade of the building that faces the street from which the building is addressed. The primary wall may also be the building wall that contains the primary entrance, which may or may not face the street from which the building is addressed. Only one building wall shall be considered as the primary wall.
WALL, RETAINING	A structure, either masonry, metal, or treated wood, designed to prevent the lateral displacement of soil, rock, fill, or other similar material.
WALL, SECONDARY	Exterior building walls that correspond to the side or rear of a building that that are visible from public recreation lands or streets.
WALL, TERTIARY	Building walls that are not primary or secondary building walls.
WAREHOUSE, DISTRIBUTION AND STORAGE	A use engaged in long-term or short-term 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.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
WASTE	For the purposes of Soil Erosion and Sedimentation, Surplus materials resulting from on-site land-disturbing activities and being disposed of at other locations.
WATER DEPENDENT STRUCTURE	Any structure for which the use requires access to 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 SUPPLY WATERSHED	The entire land area contributing surface drainage to a designated water supply reservoir.
WATER SURFACE ELEVATION	The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.
WATER SURFACE ELEVATION (WSE)	For the purposes of the Flood Protection Overlay District standards, the height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
WATERCOURSE	For the purposes of the Flood Protection Overlay District standards, 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.
WATERSHED	The entire land area contributing surface drainage to a specific point.
WATERSHED CRITICAL AREA	The area adjacent to a water supply intake or reservoir where the risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending one mile from the normal pool elevation of a water supply reservoir or to the ridge line of the watershed (whichever comes first); or one 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).
WELL HOUSE	An secondary structure located above a water well. A well house may be functional or only for aesthetic purposes.
WETLANDS (INCLUDING 404 WETLANDS)	Wetlands either with or without a surface or subsurface connection to a larger body of water under the permitting jurisdiction of the U.S. Army Corps of Engineers.
WHEEL STOP	Small projections or barriers extending from grade level within a parking space or in a vehicular use area designed to prevent the front or rear of vehicles from encroaching into pedestrian walkways, landscaping areas, fire zones, or storage areas.
WHOLESALE SALES, INDOOR AND OUTDOOR	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, office, or retail sales to the general public. Establishments that require memberships and that make memberships available for purchase to members of the general public at the door are not wholesale sales uses.

TABLE 8.3: TERMS DEFINED	
TERM	**DEFINITION(S)**
WIND ENERGY CONVERSION	A power generating use that converts kinetic energy from the wind into mechanical energy through the use of a wind turbine. The mechanical energy can then be used to power on-site equipment or an electrical generator to create electricity for on-site or off-site use. Such uses may include batteries for the storage of electrical energy.
WINDOW SURROUND	An exterior material located around the perimeter of a window or opening that protects joints in exterior materials from the weather or provides architectural interest.
WORKING DAYS	For the purposes of Stormwater Management, days exclusive of Saturday and Sunday and federal and state holidays observed by the Town.
WRIT OF CERTIORARI	A writ of superior court to call up the records of an inferior court or a body acting in a quasi-judicial capacity.
X	
XERISCAPE	The use of plant materials and planting techniques that conserve water.
Y	
YARD	An open space on the same lot with a building or group of buildings which open space lies between the building or group of buildings and the nearest lot line and is occupied and unobstructed from the ground upward by buildings or structures except by permitted secondary buildings or uses.
YARD OR GARAGE SALE	A temporary sale of used goods conducted by the resident of a dwelling. Yard or garage sales may include used goods from more than one family.
Z	
ZONING MAP	See "Official Zoning Map."

CHAPTER 9
APPENDICES

Appendix 9.1: Subdivision Plat Certifications and Declarations

Appendix 9.2: Information Required with Applications

9.1 SUBDIVISION PLAT CERTIFICATIONS AND DECLARATIONS

This appendix includes the required language and format for subdivision plat certifications and declarations required under this Ordinance. The exact wording of these statements may change from time to time as conditions warrant and/or agency policies change. Failure to include a required certification or declaration shall be cause for declaring an application to be incomplete.

TABLE 9.1: TABLE OF REQUIRED CERTIFICATES AND NOTES

Type of Certificate	Exempt Plat	Final Plat	Preliminary Plat	Construction Drawings
Certificate of Survey Accuracy signed by surveyor	X	X	X	
Plat Certification by Surveyor	X	X		
Certificate of Ownership		X		
Certificate of Ownership and Dedication		X		
Certificate of Approval		X	X	X
Certificate of Exemption	X			
Review Officer's Certificate	X	X		
Certificate of Floodway Information		X	X	
Certificate for Water Supply and Sewage Disposal Systems		X		
Design and Installation of Utilities and Other Required Improvements		X		
Certificate of Public Utilities		X		

9.1.1 CERTIFICATE OF OWNERSHIP

To be used when no easements, rights-of-way or other properties are to be dedicated.

CERTIFICATE OF OWNERSHIP

I (We) hereby certify that I am (we are) the owner(s) of the property described hereon, which property is within the subdivision regulation jurisdiction of the Town of Clayton, and that I (we) freely adopt this plan of subdivision.

_____ _____

Owner, Printed Name(s) Owner, Signature(s)

_____

Date

9.1.2 CERTIFICATE OF OWNERSHIP AND DEDICATION

To be used when plat includes the dedication of easements, rights-of-way or any other property or property interest.

CERTIFICATE OF OWNERSHIP AND DEDICATION

I (We), _____, hereby certify that I am (we are) the owner(s) of the property described hereon, which property is located within the subdivision regulation jurisdiction of the Town of Clayton, that I (We) hereby freely adopt this plan of subdivision and dedicate to all areas shown on this plat as roads, alleys, walks, parks, open space, and easements to the public or for private use as specifically indicated, and that I (we) will maintain all such areas until the offer of dedication is accepted by the appropriate public authority or private entity. All property shown on this plat as dedicated for a public use shall be deemed to be dedicated for any other public use authorized by law when such other use is approved by the Town of Clayton in the public interest.

_____ _____

Owner Date

9.1.3 CERTIFICATES OF APPROVAL

CERTIFICATE OF APPROVAL

I hereby certify that this plat has been found to comply with the Unified Development Ordinance of Clayton, North Carolina, and that this plat has been approved for recording in the Office of the Johnston County Register of Deeds.

_____ _____

Planning Director Date

TOWN OF CLAYTON CERTIFICATION FOR A FINAL PLAT

I hereby certify that the Town of Clayton, NC has approved this plat for recording in the Office of the Johnston County Register of Deeds, and accepts the dedication of streets, easements, rights-of-way, and public lands shown thereon, but assumes no responsibility to open or maintain the same until, in the opinion of the Clayton Town Council, it is in the public interest to do so.

_____ _____

Town Manager Date

9.1.4 CERTIFICATE OF EXEMPTION

Plats deemed to be exempt from the provisions of this ordinance shall contain the following statement.

The plat is exempt from the provisions of the Town of Clayton Unified Development Ordinance and may be recorded with the Office of the Johnston County Register of Deeds.

_____ _____
Planning Director Date

9.1.5 REVIEW OFFICER'S CERTIFICATE

All plats to be recorded shall have the following certificate.

REVIEW OFFICER'S CERTIFICATE

STATE OF NORTH CAROLINA
COUNTY OF JOHNSTON

I, _____ , Review Officer of Johnston County, certify that the plat to which this certification is affixed meets all statutory requirements for recording.

_____ _____
Review Officer Date

9.1.6 SURVEYOR CERTIFICATES

CERTIFICATE OF SURVEY AND ACCURACY

I, _____, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book _____, page _____, etc.) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book _____, page _____; that the ratio of precision as calculated is 1:_____; that this plat was prepared in accordance with NCGS 47-30 as amended. Witness my original signature, registration number and seal this _____ day of _____, A.D., 20_____.

Seal or Stamp of Surveyor

_____
Surveyor

_____
Registration Number

PLAT CERTIFICATION BY SURVEYOR

I, _____, certify to one of the following:

A. This survey creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land;

B. This survey is located in a portion of a county or municipality that is unregulated as to an ordinance that regulates parcels of land;

C. Any one of the following:

1. This survey is of an existing parcel or parcels of land and does not create a new road or change an existing road;
2. This survey is of an existing building or other structure, or natural feature, such as a water course;
3. This survey is a control survey;

D. This survey is of another category, such as the recombination of existing parcels, a court-ordered survey, or other exception to the definition of subdivision; or

E. The information available to the surveyor is such that the surveyor is unable to make a determination to the best of the surveyor's professional ability as to provisions contained in (a) through (d) above.

Signed:

SEAL

_____
Surveyor

_____
Date

9.1.7 CERTIFICATE OF FLOODWAY INFORMATION

The property shown hereon is (is not) located in a FEMA designated flood zone.

FLOOD HAZARD PANEL NUMBER:

EFFECTIVE DATE:

_____
Surveyor

_____
Date

FOR DESIGN AND INSTALLATION OF UTILITIES AND OTHER REQUIRED IMPROVEMENTS

I hereby certify that all streets, utilities, and other required improvements have been installed in an acceptable manner and according to town specifications and standards in the Town's Engineering Specifications and Design Manual, or that a financial guarantee has been posted with the Town of Clayton to assure the completion of all required improvements in the case of default.

_____
Engineering Director

_____
Date

CERTIFICATE OF PUBLIC UTILITIES

All obligations and requirements for the utilities to serve _____ Subdivision, Section _____ , lots _____ , as set forth by the Town of Clayton Water Resources Department, have been met and are satisfactory for the purpose of recording the subdivision plat.

_____
Engineering Director

_____
Date

NOTES:

A. No structures to be built inside any utility easement.
B. Homeowner is required to connect to public water (and sewer, where available) before a Certificate of Occupancy is issued for the principal structure.

9.1.8 CERTIFICATES AND NOTES REGARDING NEW STREETS

One or more of the Certificates and related notes may be required depending on the status of the new streets within the development.

CERTIFICATE OF APPROVAL OF THE DESIGN AND INSTALLATION OF STREETS, UTILITIES, AND OTHER REQUIRED IMPROVEMENTS

I hereby certify that the Town of Clayton, NC has approved this plat for recording in the Office of the Johnston County Register of Deeds, and accepts the dedication of streets, easements, rights-of-way, and public lands shown thereon, but assumes no responsibility to open or maintain the same until, in the opinion of the Clayton Town Council, it is in the public interest to do so.

_____ _____

Town Manager Date

DEPARTMENT OF TRANSPORTATION DIVISION OF HIGHWAYS CERTIFICATE

PROPOSED SUBDIVISION ROAD CONSTRUCTION STANDARDS CERTIFICATION.

APPROVED:

_____

NCDOT District Engineer

_____

Date

NOTES:

A. Only North Carolina Department of Transportation approved structures are to be constructed on public right-of-way.

B. Site triangle takes precedent over any sign easement.

C. Owner, developer, or contractor shall set the centerline of the existing roadway ditch back to a minimum of 12 feet from the existing/proposed edge of pavement along all road front lots.

D. All drainage easements shall be dedicated as public and it shall be the responsibility of the property owners to maintain the drainage easements and any drainage structures therein, so as to maintain the integrity of the drainage system and insure positive drainage.

ROAD MAINTENANCE STATEMENT OF UNDERSTANDING

I, _____, developer/owner am responsible for the construction, maintenance and required road improvements of subdivision streets until:

Approved/taken over by North Carolina Department of Transportation for public roads,
Or

Approved/taken over by homeowners association for private roads maintenance,
Or

Private road maintenance agreement is signed and recorded by owners of each lot.

_____
Owner/Developer

_____
Date

9.2 INFORMATION REQUIRED WITH APPLICATIONS

9.2.1 APPLICATION MATERIALS

A. Submission of all applications filed under this Ordinance shall contain the following information, as appropriate.

B. An "X" in a cell in the table below indicates that the noted information is required on the particular type of plan or plat.

C. A "•" symbol in a cell in the table below indicates that the noted information is not required on the particular type of plan or plat.

D. Failure to include one or more required elements indicated with an "X" may result in the application being considered incomplete.

E. Additional materials may be required in order to determine if an application is complete.

F. The Planning Director may waive required items listed in the table below if they are determined to not be necessary to complete the review, in the sole discretion of the Planning Director.

TABLE 9.2: TABLE OF REQUIRED APPLICATION MATERIALS

"X" = Required
"•" = Not Required

Required Information	Concept Plan	Site Plan	Preliminary Plat	Construction Drawings	Final Plat
Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such a person	•	X	X	X	X
Certifications from the appropriate agencies that proposed utility systems are or will be adequate to handle the proposed development and that all necessary easements have been provided	•	X	•	X	X
Detailed descriptions of recreational facilities to be provided	•	X	X	•	•
Legal documentation establishing owners' associations or other legal entities responsible for control over required common areas and private infrastructure	•	X	•	•	X
Bonds, letters of credit, or other performance guarantees	•	X	•	•	X
A transportation impact analysis performed and prepared by a qualified transportation or traffic engineer	X	X	X	•	•

TABLE 9.2: TABLE OF REQUIRED APPLICATION MATERIALS

"X" = Required
"•" = Not Required

Required Information	Concept Plan	Site Plan	Preliminary Plat	Construction Drawings	Final Plat
Time schedules for the completion of phases in staged development	•	X	X	X	•
The environmental impact of a development, including its effect on historically significant or ecologically fragile or important areas and its impact on pedestrian or traffic safety or congestion	X	X	X	•	X
If any road is proposed to intersect with a state-maintained road, a copy of the application for driveway approval as required by the Department of Transportation, Division of Highways Manual on Driveway Regulation	•	•	•	X	X
Proposed deed restrictions or covenants to be imposed upon newly created lots	•	X	X	•	X
Documentation of submission of an Erosion Control Plan, if disturbing more land area than the maximum permitted without such plan	•	•	•	X	•
Documentation of approval of an Erosion Control Plan, if disturbing more land area than the maximum permitted without such plan	•	•	•	X	•
Evidence of notification to U.S. Army Corps of Engineers of earth-disturbing activities in jurisdictional wetlands, if applicable	•	X	X	X	•

9.2.2 REQUIRED INFORMATION FOR PLANS AND/OR PLATS

A. All plans and plats filed under this Ordinance shall contain the following information.

B. Failure to include one or more required elements may result in the application being considered incomplete.

C. An "X" in a cell in the table below indicates that the noted information is required on the particular type of plan or plat.

D. A "•" symbol in a cell in the table below indicates that the noted information is not required on the particular type of plan or plat.

E. Failure to include one or more required elements indicated with an "X" may result in the application being considered incomplete.

F. Additional materials may be required in order to determine if an application is complete.

G. The Planning Director may waive required items listed in the table below if they are determined to not be necessary to complete the review, in the sole discretion of the Planning Director.

9.2.3 PLAN OR PLAT SIZE

A. Construction plans and site plans shall not exceed 24" x 36" unless authorized by the Planning Director.

B. Plans and plats may be drawn on more than one sheet with appropriate match lines.

C. Plats to be recorded shall be of a size and material as required by the Office of the Johnston County Register of Deeds.

D. For plats to be recorded, preliminary plats, construction drawings and site plans, a scale of not less than 1" equal to 100' shall be used unless all lots are greater than 3 acres and then a scale of 1" = 200' may be used.

E. For concept plans, drawing shall be at a scale of not less than 1" equal to 40 feet.

TABLE 9.2.3: TABLE OF REQUIRED PLAN/PLAT ELEMENTS

"X" = Required
"•" = Not Required

Required Information	Exempt Plats	Final Plats	Preliminary Plats	Construction Drawings	Concept Plans	Site Plans
Title Block						
Name of development/project	X	X	X	X	X	X
Recorded reference (plat book/page number and/or deed book/page number)	X	X	•	•	X	X
Tax map number	•	•	X	X	X	X
Type of development application	X	X	X	X	X	X
Owner's name with address	X	X	X	X	X	X
Developer's name, address, and phone number (if different from owner's)	•	X	X	X	X	X
Building contractor's name, address, and phone number	•	•	•	X	•	X
Location (including township, county, state)	X	X	X	X	X	X
Street address	•	•	•	X	X	X
Date(s) of map preparation	X	X	X	X	X	X
Scale of drawing in feet per inch (by text and bar graph)	X	X	X	X	X	X
Name, address, telephone # and registration number of preparer of map (licensed surveyor, engineer, or architect)	X	X	X	X	X	X
Vicinity Information						
Vicinity map showing location of site relative to surrounding area (typically drawn in upper right-hand corner)	X	X	X	X	X	X
Zoning district(s) within the property and adjacent properties	X	X	X	X	X	X
Names of adjoining property owners (or subdivisions or developments of record with plat book reference)	X	X	X	X	X	X

TABLE 9.2.3: TABLE OF REQUIRED PLAN/PLAT ELEMENTS

"X" = Required
"•" = Not Required

Required Information		Exempt Plats	Final Plats	Preliminary Plats	Construction Drawings	Concept Plans	Site Plans
Corporate limits, county lines, and other jurisdiction lines, if any, on the tract		X	X	X	X	X	X
North arrow and orientation (north arrow should not be oriented towards bottom of map)		X	X	X	X	X	X
Site Features							
Source of property boundaries signed or sealed by registered land surveyor, architect, landscape architect, or engineer		•	•	X	X	•	X
Boundaries of the tract to be subdivided or developed:	Distinctly and accurately represented and showing all distances	X	X	X	X	X	X
	Tied to nearest street intersection (within 300') or USGS (within 2,000')						
	Showing locations of intersecting boundary lines or adjoining properties						
Location and descriptions of all monuments, markers, and control corners		X	X	X	X	•	•
Existing property lines on tract to be subdivided. If existing property lines are to be changed, label as 'old property lines' and show as dashed lines		X	X	X	X	•	•
Dimensions, location, and use of all existing and proposed buildings; distances between buildings measured at the closest point; distance from buildings to the closest property lines; building setback lines. A dashed line should be shown on the plat outlining all known structures, ponds or lakes removed or filled		•	•	X	X	X	X
Proposed principal and secondary use(s)		•	•	X	X	X	X
The name and location of any property or building on the National Register of Historic Places or locally designated historic property		•	•	X	X	X	X
Railroad lines and rights-of-way		X	X	X	X	X	X
Water courses, ponds, lakes, or streams		X	X	X	X	X	X
Marshes, swamps, and other wetlands		X	X	X	X	X	X
Location of public water supply watershed boundaries		X	X	X	X	X	X
Vegetative cover (from trees meeting the minimum planting requirements)		•	•	X	X	X	X
Areas to be dedicated or reserved for the public or a local jurisdiction		•	X	X	X	X	X

TABLE 9.2.3: TABLE OF REQUIRED PLAN/PLAT ELEMENTS

"X" = Required
"•" = Not Required

Required Information		Exempt Plats	Final Plats	Preliminary Plats	Construction Drawings	Concept Plans	Site Plans
Areas designated as common area or open space under control of an Owners' Association		•	X	X	X	X	X
Proposed building locations for zero lot-line developments		•	•	X	X	X	X
Location of manufactured dwelling spaces and whether they are designated for single or double wide dwellings		•	•	X	X	X	X
Typical diagram of manufactured dwelling space		•	•	X	X	X	X
Location of designated open space set-asides including type of recreation areas and facilities		•	•	X	X	X	X
Location of floodway and floodway fringe from Flood Hazard Boundary Maps and cross-section elevations		X	X	X	X	X	X
Existing and proposed topography of tract and 100' beyond property showing existing contour intervals of no greater than 5' (2' where available) and labeling at least two contours per map and all others at 10' intervals from sea level		•	•	X	X	X	•
Dimensional Aspects							
Proposed lot lines and dimensions		X	X	X	X	X	X
Square footage of all proposed lots under an acre in size and acreage for all lots over an acre in size		X	X	X	X	•	X
Lots sequenced or numbered consecutively		X	X	X	X	•	X
Site calculations, including:	Acreage in total tract	X	X	X	X	•	X
	Total number of proposed lots	X	X	X	X	•	X
	Linear feet in roads	•	X	X	X	•	
	Area in newly dedicated rights-of-way	•	X	X	X	•	X
Streets and Roads							
Addresses assigned by Johnston County for each lot		X	X	•	•	X	X
Existing and proposed rights-of-way lines within and adjacent to property (shown with a cross-hatch pattern)		X	X	X	X	X	X
Existing and proposed rights-of-way within and adjacent to property showing	Total right-of-way width dimension	•	•	X	X	•	X
	Right-of-way width dimension from centerline of existing public roads	•	X	X	X	•	X
	Pavement or curb lines	•	•	X	X	•	X

TABLE 9.2.3: TABLE OF REQUIRED PLAN/PLAT ELEMENTS

"X" = Required
"•" = Not Required

Required Information		Exempt Plats	Final Plats	Preliminary Plats	Construction Drawings	Concept Plans	Site Plans
Existing and proposed roads showing	Pavement width dimension (face-to-face)	•	•	X	X	•	X
	Cul-de-sac pavement radius	•	•	X	X	•	X
	Existing and proposed road names	X	X	X	X	•	X
	Road profiles	•	•	X	X	•	X
Utilities							
Location, dimension, and type of all easements, existing and proposed		X	X	X	X	X	X
Type of wastewater disposal (public sewer, septic, etc.)		•	X	X	X	X	X
Type of potable water supply (public water system, private well, etc.)		•	X	X	X	X	X
Utility Layout Plan showing connections to existing systems, line sizes, materials, fire hydrants, blowoffs, valves, manholes, catch basins, force mains, etc. for the following types of utilities:	Sanitary sewer	•	•	X	X	X	X
	Water distribution	•	•	X	X	X	X
	Natural gas, electric, cable, fiber optic, etc.	•	•	X	X	X	X
Electric power provider		•	•	X	X	X	X
Location of individual on-site septic system, if applicable		•	•	X	X	X	X
Location of off-site and multi-user septic systems, if applicable		•	•	X	X	X	X
Stormwater Management Plans and Erosion Control							
Area to be disturbed with number of graded acres and percentage noted		•	X	X	X	X	X
Location of temporary erosion control devices		•	•	X	X	X	X
Maximum allowable built -upon area for each lot or tract (if applicable)		X	X	X	X	X	X
Total impervious surface area, including roads, roofs, patios, parking areas, sidewalks, and driveways		•	•	X	X	X	X

TABLE 9.2.3: TABLE OF REQUIRED PLAN/PLAT ELEMENTS

"X" = Required
"•" = Not Required

Required Information	Exempt Plats	Final Plats	Preliminary Plats	Construction Drawings	Concept Plans	Site Plans
Permanent watershed protection controls/ Stormwater Best Management Practices including wet detention ponds, maintenance and access easements and natural filtration and infiltration areas	•	X	X	X	X	X
Location and width of required riparian buffer areas	X	X	X	X	X	X
Stormwater network, including swales, culverts, inlet and outlet structures with grades, elevations, dimensions, and hydraulic calculations	•	•	X	X	X	X
Engineering certification statement, when required by this Ordinance	•	X	X	X	X	X
Documentation of maintenance of diffuse flow to the buffer	•	•	X	X	X	X
Off-Street Parking and Loading						
Location and dimensions of all parking areas, aisles, driveways, service areas, off-street loading facilities	•	•	X	X	X	X
Clearly indicate each parking space with angle and size including handicap spaces	•	•	X	X	X	X
Provide number of required and provided parking spaces	•	•	X	X	X	X
Pedestrian walkways and crosswalks within the site	•	•	X	X	X	X
Landscaping						
Location of all planting yards and/or parking lot plantings	•	•	X	X	X	X
Location and screening of features required to be screened	•	•	X	X	X	X
Location, species, size, number, spacing, height of trees and shrubs in required planting areas (If existing vegetation is to be preserved, indicate approximate height and species mix)	•	•	X	X	X	X
Location and size of planting yard, walls, berms, and fences	•	•	X	X	X	X
Provisions for watering, soil stabilization, plant protection, and maintenance access	•	•	X	X	X	X
Location and description of barriers to protect any vegetation from damage both during and after construction	•	•	X	X	X	X
Building Location and Design						
Location of each principal building	•	•	X	X	X	X
Location, dimensions and details of proposed clubhouses, pools, tennis courts, tot lots or other common area recreation facilities	•	•	X	X	X	X

TABLE 9.2.3: TABLE OF REQUIRED PLAN/PLAT ELEMENTS

"X" = Required
"•" = Not Required

Required Information	Exempt Plats	Final Plats	Preliminary Plats	Construction Drawings	Concept Plans	Site Plans
Front, side, and rear elevations of proposed commercial, mixed-use, and multi-family buildings	•	•	X	X	X	X

9.3 UNIFIED DEVELOPMENT ORDINANCE INDEX

A

Abbreviations	8.1
Access and Circulation	
Access and Circulation Standards	6.1
Administrative Adjustment	2.3.1
Adopted Policy Guidance	1.4
Agricultural Use Classification	4.7.2A
Alternative Access	6.1.3
Amendments	
Comprehensive Growth Plan	1.4.3
UDO Text	2.3.26
Zoning Map	3.8
Annexation	2.3.3
Appeal	2.3.2
Application	
Amendment of Approval	2.3
Completeness	2.4.5G
Continuance	2.4.14
Fees	2.4.5C
Filing	2.4.5
Information Required	Appendix 9.2
Pending	1.10.1
Permit Choice	2.4.6
Process Diagrams	2.2.3
Submittal Requirements	Appendix 9.2
Summary Table	2.2.1
Types	2.3
Withdrawal	2.4.14
As-Built Plans	2.3.19J

B

Base Flood Elevation	3.6.10B
Berm	6.6.10D
Bicycle Space Parking	6.9.5
Board of Adjustment (BOA)	1.8.5
Bona Fide Farm	
Defined	8.3
Exemptions	1.1.3B
Bridges	6.5.4
Building Inspector	1.8.7B
Building Permit	2.3.4

C

Calculations	
Height	3.6.4
Lot Coverage	3.6.6
Parking Spaces	6.9.4
Plant Measurement	6.6.8
Project Density	3.7.5M
Rules of Measurement	3.6
Signage	6.13.8
Slope & Elevation	3.6.10
Time	8.2.3
Certificate of Occupancy	2.3.5
Civil Penalties	7.6.1
Clear Cutting	6.18.4
Cluster Mailboxes	6.5.5
Commercial Use Classification	4.7.2B
Computation of Time	8.2.3
Conditional Zoning Districts	
(CZC) Conditional Commercial	3.3.2
(CZD) Conditional Downtown	3.3.3
(CZI) Conditional Industrial	3.3.4
(CZM) Conditional Mixed-Use	3.3.5
(CZR) Conditional Residential	3.3.6
Conditions of Approval	2.4.10
Conflict	
Between Standards	1.3.1
Conflict of Interest	1.8.2B
Conservation Subdivision	2.3.7
Construction Drawings	
Plats	9.2.3
Site Plans	9.2.3
Conventional Zoning Districts	
(CON) Conservation	3.2.2
(CRM) Corridor Commercial District	3.2.1

(DTNC) Downtown Core	3.2.3
(DTNN) Downtown Neighborhood	3.2.4
(DTNT) Downtown Transitional	3.2.5
(HID) Heavy Industrial	3.2.6
(LID) Light Industrial	3.2.7
(MXD) Mixed-Use	3.2.8
(NCM) Neighborhood Commercial	3.2.9
(OFI) Office Institutional	3.2.10
(PUB) Public Facilities	3.2.11
(RHD) Residential High Density	3.2.12
(RLD) Residential Low Density	3.2.14
(RLL) Residential Large Lot	3.2.13
(RMD) Residential Medium Density	3.2.15
(RMF) Residential Multi-Family	3.2.16
(RUR) Rural	3.2.17
Credit Towards Landscaping and Open Space Standards	6.18.8

D

Dams	6.5.4
Decision	
Appeal	2.3.2G
Written Notice of	2.4.11
Definitions	8.3
Delegation	8.2.8
Density	3.6.3
Density & Yield Calculations	3.6.3
Design Guidelines	6.2
Design Standards	
Farmland Protection	6.2.2
Mixed Use	6.2.3
Multi-Family	6.2.4
Non-Residential	6.2.5
Single-Family Guidelines	6.2.6
Determination	2.3.9
Development	
Defined	8.3
Existing	1.10.2
Subject to this Ordinance	1.1
Unified	3.4.7
Development Agreement	2.3.10
Dimensional Standards	
General	3.4
Required Lot Configuration	3.4.3
Setbacks	3.6.8
Districts	
Conditional	3.3
Conventional	3.2
Established	3.1.3
Overlay	3.7
Drainage Facilities	6.5.6
Driveway	
Parking in	6.9.4G
Permit	2.3.11
Shared	6.1.4
Stem Length	6.9.7I
Driveways	6.1.4

E

Easement	
Access	6.5.7B
Allowable Feature	6.5.7A.2
Drainage	6.5.7C
Maintenance	6.5.7D
Public Utility	6.5.7E
Roadway Slope	6.5.7F
Easements	6.5.7
Effective Date	1.6
Electricity	6.5.8
Elevation Certificate	2.3.14I
Encroachment	
Agreement	6.3.3A
Defined	8.3
Setback	3.6.9
Enforcement	
Civil Penalties	7.6.1
Procedure	7.5
Remedies	7.6
Enforcement Procedure	7.5
Erosion Control	6.14
Exempt Subdivision	6.16.3
Expiration	2.4.17
Exterior Lighting Standards	
General Standards	6.4.6
Glare Control	6.4.7B.1
Maximum Illumination Levels	6.4.6E
Measurement	6.4.9

Prohibited Lighting	6.4.4
Standards	6.4
Extraterritorial Jurisdiction	1.1.1

F

Farmland Protection Standards	6.2.2
Fee-In-Lieu	2.3.13
Fence and Wall Height	6.3.6
Fence/Wall	
Finished Side	6.3.7
Location	6.3.3
Maintenance	6.3.5
Materials	6.3.4
Maximum Height	6.3.6
Measurement	6.3.8
Fences	6.3
Final Plat	2.3.17G
Fire Protection	6.5.9
Flag	6.13.9D
Flexibility Provisions	
Administrative Adjustment	2.3.1
Alternative Landscape Plan	6.6.10C
Alternative Parking Plan	6.9.8
Alternative Sign Plan	2.3.20K
Development Agreement	2.3.10
Encroachments	3.6.9
Fee-in-lieu	2.3.13
Incentives	3.5
Parking	6.9.8
Performance Guarantee	2.3.19
Permit Choice	2.4.6
Planned Development	1.10.3C
Planting	6.6.10
Sustainable Development Incentives	6.17
Variance	2.3.29
Flood	
Definitions	8.3
Flood Protection Overlay District (FPOD)	3.7.2
Floodplain Administrator	1.8.7D
Permit	2.3.14
Standards	3.7.2B
Floodplain Certification	9.1.7
Floodplain Development	2.3.14
Floor Area	3.6.5

G

Greenways	6.10.1

H

Hearing	2.4.9
Height	3.6.4

I

Industrial Use Category	4.7.2C
Infrastructure	6.5
Infrastructure Standards	6.5
Injunctive Relief	7.6.6
Institutional Use Category	4.7.2D

J

K

L

Land Disturbance Permit	2.3.15
Landscaping	
General Standards	6.6
Off-Street Parking Lot Landscaping	6.6.11
Perimeter Buffers	6.6.12
Plant Material Specifications	6.6.7
Planting Flexibility	6.6.10
Screening	6.6.13
Site Landscaping	6.6.14
Street Trees	6.6.15
Streetscape Buffers	6.6.16
Landscaping Plan Required	6.6.4
Landscaping Timing	6.6.5
Landscaping Violations and Replacement	6.6.17
Language Construction	8.2
Legislative Public Hearing	2.4.9B
Lighting	6.4
Lighting Measurement	6.4.9
Lighting Plan	6.4.5
Limited Subdivision	2.3.16
Loading Space Requirements	6.9.9B

Lot	
Encroachments	3.6.9
Flag	3.6.7C.2
Lines	3.6.7B
Measurement	3.6.7A
Nonconforming	5.2
Setbacks	3.6.8
Special Purpose	3.4.5
Standards	3.6.7
Types	3.6.7C
Yards	3.6.8
Zero Lot Line	3.6.7D
Lot Coverage	3.6.6
Lots	3.6.7

M

Maintenance and Inspection Required	6.6.6
Major Subdivision	2.3.17
Mass Grading	6.6.12F
Maximum Illumination	6.4.6E
Measurement	6.9.10
Minor Subdivision	2.3.18
Mixed-Use Design Standards	6.2.3
Monuments	6.16.8
Multi-Family Design Standards	6.2.4
Multi-Use Path	6.10.2

N

Neighborhood Meeting	2.4.4
Nonconforming	
Lots of Record	5.2
Signs	5.3
Site Features	5.4
Special Purpose Lot	3.4.5
Structures	5.5
Uses	5.6
Nonconformity	5.1
Non-Residential Design Standards	6.2.5
Notice	
Of Decision	2.4.11
Of Violation	7.5.3
Public Meeting or Hearing	2.4.9

O

Official Zoning Map	1.5.2
Off-Street Loading Standards	6.9.9
Off-Street Parking Lot Connections	6.1.6
Off-Street Parking Lot Landscaping	6.6.11
Off-Street Parking Standards	
Accessible Spaces	6.9.7M
General Requirements	6.9
Parking Flexibility	6.9.8
Parking Lot Configuration	6.9.7
Stacking Spaces	6.9.6
Summary Table	6.9.4J
On-Site Circulation	6.1.5
Open Space Set Aside Standards	
Active Recreation	6.7.1E.2
Gathering Area	6.7.1E.3
How Calculated	6.7.1D
Passive Recreation	6.7.1E
Open Space Set-Aside	6.7.1
Open Space Set-Aside and Parkland	6.7
Order of Abatement	7.6.7
Overlay Zoning Districts	
FPOD Flood Protection Overlay District	3.7.2
GTOD Gateway Overlay District	3.7.3
LHOD Local Historic Overlay District	3.7.4
WPOD Watershed Protection Overlay District	3.7.5
Owners' Association Standards	6.8
Owners' Associations	6.8

P

Parking and Loading	6.9
Parking Flexibility	6.9.8
Parking Lot Configuration	6.9.7
Parking Lot Connection	6.1.6
Parking Lot Landscaping	6.6.11
Parking Standards	6.6
Parkland Dedication	6.7.2
Performance Guarantee	2.3.19
Perimeter Buffers	6.6.12
Permits	

Building	2.3.4
Choice	2.4.6
Conditional Use	1.10.3A
Land Disturbance	2.3.15
Revocation	7.6.8
Sign	2.3.20
Special Use	2.3.22
Stormwater	2.3.23
Temporary	2.3.25
Phased Development	2.4.13
Plan	
Alternate Parking	6.9.8
Alternative Landscape	6.6.10C
Alternative Sign	2.3.20K
Concept	3.3.1E
Conservation and Development	2.3.7D
Erosion Control and Sedimentation	6.14
Forestry Management	1.1.3B
Landscaping	6.6.4
Lighting	6.4.5
Multi-Phase Development	1.11.4E
Parking	6.9.4A
Plot	2.3.14B
Revegetation	6.6.17C
Site	2.3.21
Site-Specific Vesting	1.11.4D
Sketch	2.4.3E
Type 3 Conditional Rezoning	3.3.1D
Uniform Sign	2.3.20F.2
Vegetation Protection	2.3.28D
Planning Board (PB)	1.8.4
Planning Director	1.8.7A
Plant Measurement	6.6.8
Plant Placement	6.6.9
Planter	6.6.10F
Planting Flexibility	6.6.10
Plat	
Certification	Appendix 9.1
Final	2.3.17G
Preliminary	2.3.17E
Recombination	2.3.12D.2
Transfer	7.3.5
Potable Water	6.5.10
Pre-Application Conference	2.4.3
Principal Use	
Summary Table	4.2.5
Use Categories	4.2.5A
Use Standards	4.3
Prohibited Lighting	6.4.4
Prohibited Uses	4.4
Public Hearings and Meetings	2.4.9
Public Notice	2.4.8
Purpose and Intent	1.7

Q

R

Reasonable Accommodation	2.3.29B.2
Reconsideration of Denied Applications	2.4.15
Refuse Collection	6.5.11
Remedies	
Civil Penalties	7.6.1
Conditioned Permit	7.6.2
Criminal Penalties	7.6.3
Denial of Permit	7.6.4
Equitable Remedy	7.6.5
General	7.6
Injunctive Relief	7.6.6
Order of Abatement	7.6.7
Revocation	7.6.8
Stop Work Order	7.6.9
Residential Design Guidelines	6.2.6
Residential Use Category	4.7.2E
Resource Conservation Areas	6.11
Retaining Wall	6.3
Review Authorities	
Board of Adjustment	1.8.5
Building Inspector	1.8.7B
Engineering Director	1.8.7C
Floodplain Administrator	1.8.7D
Planning Board	1.8.4
Planning Director	1.8.7A
Stormwater Administrator	1.8.7D
Technical Review Committee	1.8.6
Town Council	1.8.3
Watershed Administrator	1.8.7E
Zoning Administrator	1.8.7A

Review Procedures	
Application Types	2.3
Review Procedures (for all applications)	2.4
Rules of Procedure	1.8.2D
Summary Table	2.2
Rezoning	
Conditional	2.3.6
Conventional	2.3.8
Riparian Buffers	
Allowable Uses	6.12.8A
Encroachments	6.12.8
General Standards	6.12
Standards	6.12
Zones	6.12.5
Rules of Measurement	3.6
S	
School Site Reservation	6.16.10
Screening	6.6.13
Secondary Uses	
Common Table	4.5.4
Home Occupation	4.4.3A
Procedure for Establishment	4.5.1
Specific Standards	4.5.5
Setback	3.6.8
Setback Encroachments	3.6.9
Setbacks	3.6.8
Severability	1.9
Shared Parking Space	6.9.8G
Shielding (Lighting)	6.4.6G
Sidewalks	6.10.2
Sight Distance Triangle	6.1.7
Sign Permit	2.3.20
Signage	
General Standards	6.13
Height	6.13.8B
Illumination	6.13.7E
Nonconforming	6.13.4
Permit	2.3.20
Prohibited	6.13.5
Specific Standards	6.13.9
Uniform Plan	2.3.20F.2
Wall Area	6.13.8C
Signs	
Applicable to All	6.13.7
Awning	6.13.9A
Banner	6.13.9B
Changeable Copy	6.13.7D
Dilapidated or Obsolete	6.13.7H
Electronic Message Board	6.13.9C
Flag	6.13.9D
Ground	6.13.9E
Incidental	6.13.9F
Measurement	6.13.8
Nonconforming	6.13.4
Prohibited	6.13.5
Prohibited Locations	6.13.6
Projecting	
Sidewalk	6.13.9H
Subdivision	6.13.9I
Summary Table	I don't see this
Suspended	6.13.9J
Temporary	6.13.9K
Wall	6.13.9L
Window	6.13.9M
Simultaneous Processing	2.4.12
Single Family Design Guidelines	6.2.6
Single-Family Residential Design Guidelines	6.2.6
Site Landscaping	6.6.14
Site Plan	2.3.21
Slope and Elevation	3.6.10
Soil Erosion and Sedimentation Control	6.14
Special Flood Hazard Area	3.7.2A.5
Special Purpose Lot	3.4.5
Special Use Permit	2.3.22
Stacking Spaces	6.9.6
Staff Report	2.4.7B
Staff Review and Action	2.4.7
Standards for Specific Site Features and Uses	6.4.7
Statute of Limitations	7.7
Stop Work Order	7.6.9
Stormwater	
Administrator	1.8.7E
Control Objectives	6.14.8
Design Manual	6.15.5
Maintenance Guarantee	6.15.9D
Outlet Protection	6.14.10

Permit	2.3.23
Standards	6.15
Through Riparian Buffer	6.12.6
Stormwater Permit	2.3.23
Street	
Abandonment	2.3.24
Access	6.1
Classification	6.5.12F.1
Connectivity Index	6.5.12F.6
Continuation	6.5.12F.5
Cross-Section	6.5.12F.2
Cul-de-sac	6.5.12F.3.e
Dead-End	6.5.12F.3.e
Dedication	6.5.12C
Defined	6.5.12B
Design	6.5.12F.3
Half	6.5.12F.3.h
Lights	6.4.8
Marginal Access	6.5.12F.3.i
Names	6.5.12I
Private	6.5.12G
Right-of-way	6.5.12
Street Lights	6.4.8
Street Renaming/Closure	2.3.24
Street Trees	6.6.15
Streets	6.5.12
Streetscape Buffers	6.6.16
Subdivision	
Approval and Recordation of Plats Required	6.16.4
Certificates	Appendix 9.1
Conservation Subdivision	2.3.7
Definition	6.16.2
Design Standards	6.16
Easements	6.16.5
Exempt	6.16.3
Family	2.3.18
Final Plat	2.3.17G
Landscaping	6.16.6
Limited	2.3.16
Major	2.3.17
Minor	2.3.18
Plat Certification	Appendix 9.1
Preliminary Plat	2.3.17E
School Site Reservations	6.16.10
Sign	6.13.9I
Sustainable Development Incentives	6.17
Transfer Plat	7.3.5
Types	2.2.2
Sustainable Development	
Incentives	6.17
Practices	6.17.6

T

Technical Review Committee (TRC)	1.8.6
Temporary Permit	2.3.25
Temporary Sign	6.13.9K
Temporary Use	
General Standards	4.6.3
Permit	2.3.2
Specific Standards	4.6.5
Terms Defined	8.3
Text Amendment	2.3.26
Town Council	1.8.3
Town Staff	1.8.7
Trails	6.10.1
Transitional Provisions	
Approved Applications	1.10.3
Existing Development	1.10.2
Existing Nonconformities	1.10.2
Pending Applications	1.10.1
Prior Violations	1.10.5
Transportation Impact Analysis	2.3.27
Tree	
Canopy	6.18.6
Canopy Cover	6.18.6
Protection	6.18
Re-Establishment of Tree Canopy	6.18.5
Removal and Topping on Public Property	6.18.10
Removal Remedies	6.18.9
Replacement	
Retention of	6.18.5
Shade	
Tree Clearing Certificate	2.3.28
Understory	6.6.7B

U

Unified Development	3.4.7

Unlisted Use	4.7
Use Table	4.2.5
Uses	
Principal	4.3
Prohibited	4.4
Secondary	4.5
Temporary	4.6
Unlisted	4.7
Use-Specific Standards	4.3

V

Variance	
Flood-Related	2.3.29G.2
General Standards	2.3.29
Watershed	2.3.29G.5
Zoning and Subdivision-Related	2.3.29G.1
Vested Rights	
Certificate	2.3.30
Common Law	1.11.4A
General Standards	1.11
Relationship to Other Laws	1.11.3
Site-Specific Vesting Plan	1.11.4D
Termination	1.11.5
Vested Rights Certificate	2.3.30
Violations	7.3

W

Wastewater	6.5.13
Community	6.5.13H
On-Site	6.5.13G
Public	6.5.13B
Watershed	
Administrator	1.8.7E
Buffer	3.7.5R
Cluster Development Option	3.7.5Q
Permit	3.7.5H
Protection Overlay District (WPOD)	3.7.5
Wetland Standards	6.11
Written Notice of Decision	2.4.11

X

Y

Yard, Required	3.4.4
Yield Calculation	3.6.3

Z

Zero Lot Line	3.6.7D
Zoning Administrator	1.8.7A
Zoning Compliance Permit	2.3.31
Zoning Districts	3.1.3
Zoning Map	
Amendment	3.8.4
Interpretation	3.8.3