



MORRISVILLE UNIFIED DEVELOPMENT ORDINANCE



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Article 1: General Provisions

SECTION 1.1. TITLE, AUTHORITY, AND PURPOSE

1.1.1. Title

This ordinance shall be known and officially cited as the “Unified Development Ordinance of the Town of Morrisville, North Carolina.” It is referred to in this ordinance as “the Unified Development Ordinance” or “this Ordinance” or “the UDO.”

1.1.2. Authority

A. General

The Unified Development Ordinance is enacted pursuant to authority granted by the Charter of the Town of Morrisville and the laws of the State of North Carolina—including, but not limited to:

1. Article 14, Section 5 of the Constitution of North Carolina;
2. Articles 8 and 19 of Chapter 160A, Article 4 of Chapter 63, Article 4 of Chapter 113, Chapter 136, and Article 21 of Chapter 143 of the General Statutes of North Carolina;
3. Session Laws 2009-216 and 2009-484 of the General Assembly of North Carolina;
4. Title 15A of the North Carolina Administrative Code; and
5. Any special legislation enacted by the North Carolina General Assembly for the Town of Morrisville.

B. References to North Carolina Laws

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General Statutes or (N.C.G.S.) or the North Carolina Administrative Code (NCAC), and that section is later amended or superseded, this Ordinance shall be deemed to refer to the amended section or the section that most nearly corresponds to the superseded section.

1.1.3. Purpose and Intent

The general purpose of this Ordinance is to guide and manage the development of Morrisville in a way that takes into account present and future needs and resources and that protects the health, safety, prosperity, and general welfare of the Town’s citizens and landowners. This Ordinance is also intended to implement the goals, objectives, and policies in the Land Use Plan, Transportation Plan, Town Center Plan, and other adopted plans guiding the Town’s growth and development. More specifically, this Ordinance is intended to:

- A. Ensure a diverse development pattern that sustains livability and the environment by encouraging future development and public infrastructure that is complementary to existing development;
- B. Ensure the provision of adequate open space for light, air, and fire safety;
- C. Prevent the overcrowding of land and avoid undue concentration of population;
- D. Ensure that Morrisville integrates attractively and sustainably designed communities of complementary uses;
- E. Maintain and enhance the character of various districts within the town, in light of their peculiar suitability of particular uses;
- F. Improve transportation mobility by integrating land uses with transportation infrastructure;
- G. Lessen congestion in the streets;

- H. Facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other community services and public infrastructure to maintain and enhance the quality of life for Town citizens of today, the elderly who have enriched our past, and future generations;
- I. Foster a collaborative environment internally and with relevant local, regional, state, and federal partners to develop new opportunities for Morrisville's residents and business community;
- J. Secure safety from fire, panic, and dangers;
- K. Conserve the value of buildings and land; and
- L. Encourage the most appropriate use of land.

SECTION 1.2. APPLICABILITY

1.2.1. Effective Date

This Ordinance shall be in full force and effect from and after July 1, 2014.

1.2.2. Territorial Jurisdiction

This Ordinance shall apply to any development that occurs within the corporate limits and extraterritorial jurisdiction (ETJ) of the Town of Morrisville unless expressly provided otherwise by the terms of this Ordinance.

1.2.3. Development Subject to Ordinance

A. Development Subject to Ordinance

Except as otherwise provided in subsection B below, the following activities shall be considered development subject to this Ordinance:

1. Any construction, reconstruction, erection, installation, placement, relocation, demolition, or alteration in the size or external appearance of a building or other structure on land;
2. The establishment of a new use of land or a structure or any change in such use;
3. Any change in the intensity of the use of land or a structure, such as: an increase in the number of businesses, establishments, offices, dwelling units, or lodging units comprising the use; an increase in the number of products or services provided by the use; an increase in the volume or characteristics of vehicular traffic generated by the use; an increase in noise levels, thermal conditions, or emissions of waste materials associated with the use; or an increase in the duration of a temporary or seasonal use;
4. Any land-disturbing activity that increases or changes the amount of impervious or partially impervious cover or that otherwise decreases the infiltration of precipitation into the soil;
5. An alteration of the natural topography of land, such as mining, grading, ditching, extracting earth materials, dredging, excavation, filling, or deposition of soil;
6. A removal of vegetative cover, such as site clearing or the removal of protected trees;
7. Any alteration of the channel, bank, shore, floodway, or floodplain of a watercourse, body of water, or wetland;
8. The deposition of refuse or solid or liquid waste on land; and
9. A division of a 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 any division of land involving dedication of a new street or a change in existing streets.

(Ord. No. 2014-051, 11/10/2014)

B. Activities Not Subject to Ordinance

Unless part of a more extensive activity identified as development in subsection A above, the following activities do not constitute development subject to this Ordinance:

1. The inspection, maintenance or repair of an existing transportation facility (roadway, walkway, railroad tracks, bus shelter, traffic control device, etc.) or an existing utility, stormwater management, or public service facility (pipe, cable, valve, catch basin, outlet, ditch, basin, bulk refuse container pad, etc.), if no substantial engineering redesign is involved;
2. The ordinary maintenance and repair of existing structures, where no activities identified as development in subsection A above are involved;
3. The ordinary planting or maintenance of vegetative landscaping or gardens;
4. A change in the ownership or form of ownership of any parcel or structure;
5. The creation or termination of easements, covenants, condominium titles, or other rights in land or development, where no street right-of-way dedication is involved;
6. Any division of land proposed as one of the activities specially listed as excluded from the definition of "subdivision" in Section 11.5, Terms and Uses Defined.

1.2.4. Application to Governmental Units

To the extent allowed by law, this Ordinance shall apply to any development by Town, county, state, or federal agencies within the Town's territorial jurisdiction, and any land, buildings, and structures—including uses thereof—owned or otherwise controlled by such agencies. Where this Ordinance does not control such development, land, buildings, and structures, such agencies are encouraged to meet the provisions of this Ordinance.

1.2.5. Emergency Exemption

The Town Manager may, after consultation with the Planning Director and Town Engineer and without any otherwise required prior notice or public hearing, authorize Town agencies to deviate from the provisions of this Ordinance during and after an emergency (such as a hurricane or other storm, flooding, chemical spill or leak) when the need to act quickly to secure the public health, safety, or welfare makes it impossible to submit to the normal procedures and requirements of this Ordinance.

SECTION 1.3. RELATIONSHIP TO COMPREHENSIVE PLAN

This Ordinance is intended to ensure that all development within the Town's jurisdiction is generally consistent with goals, objectives, and policies of those plans and policies adopted by the Town Council to address the Town's growth and development. Such plans and policies comprise the Town's Comprehensive Plan and include, but are not limited to, the Land Use Plan, the Town Center Plan and other small area plans that provide guidance on desired development in specific geographic areas and corridors, as well as the Transportation Plan, the Parks and Recreation Master Plan, and other functional plans related to public infrastructure and services. To the extent this Ordinance is or becomes inconsistent with the Comprehensive Plan, this Ordinance or the Comprehensive Plan should be amended so the plan and this Ordinance remain generally consistent with each other. Additionally, all amendments to this Ordinance's text or Zoning Map should maintain and enhance consistency between this Ordinance and the Comprehensive Plan.

SECTION 1.4. RELATIONSHIP TO OTHER LAWS

1.4.1. Conflicts with Other Town Laws

If provisions of this Ordinance are inconsistent with one another, or conflict with provisions found in other adopted ordinances of the Town, the more restrictive provision, as determined by the Planning Director or Town Engineer, as appropriate, shall govern unless otherwise expressly provided.

1.4.2. Conflicts with County, State, or Federal Laws

If the provisions of this Ordinance are inconsistent with those of applicable county, state, or federal laws, the more restrictive provision, as determined by the Planning Director, Town Engineer, or Building Official, as appropriate, shall govern, to the extent permitted by law.

1.4.3. Relationship to Private Agreements

Nothing in this Ordinance is intended to supersede, annul, or interfere with any easement, covenant, deed restriction, or other agreement between private parties, but such private agreements shall not excuse any failure to comply with this Ordinance. The Town shall not be responsible for monitoring or enforcing private agreements.

SECTION 1.5. OFFICIAL ZONING MAP

1.5.1. Establishment and Maintenance

- A. Land subject to this Ordinance is divided into the various zoning districts established in Article 3: Zoning Districts, with the locations and boundaries of the districts shown on the Official Zoning Map. The Official Zoning Map and all notations thereon is hereby incorporated by reference and made part of this Ordinance.
 - B. The original and all revised versions of the Official Zoning Map shall be certified as such by the Town Clerk and shall be kept on file, in either hardcopy or digital form, in the Planning Department.
 - C. Copies of the Official Zoning Map shall be made available for public inspection during normal business hours in the Planning Department.
-

1.5.2. Changes

- A. Changes made in zoning district boundaries or other matters portrayed on the Official Zoning Map shall be made in accordance with Section 2.5.3, Rezoning.
 - B. The Planning Director shall enter changes on the Official Zoning Map promptly after a rezoning is approved by the Town Council. Where the ordinance enacting a rezoning contains wording explaining or clarifying the location of zoning district boundaries, the Planning Director may enter on the Official Zoning Map notations reflecting the ordinance wording.
 - C. The Planning Director shall maintain copies of superseded versions of the Official Zoning Map for historical reference.
-

1.5.3. Interpretation

The Planning Director shall be responsible for interpretations of the Official Zoning Map in accordance with the standards in Section 11.2, Interpretation of Zoning Map Boundaries.

SECTION 1.6. TRANSITIONAL PROVISIONS

1.6.1. Prior Violations

To the extent a development or activity in violation of the previous development regulations fully complies with the provisions of this Ordinance, it shall no longer be deemed a violation. Otherwise, it shall continue to be deemed a violation under this Ordinance and subject to penalties and enforcement in accordance with Article 10: Enforcement.

1.6.2. Prior Nonconformities

To the extent a legal nonconformity under the previous development regulations becomes conforming under this Ordinance, it shall no longer be deemed nonconforming. Otherwise, it shall continue to be deemed a nonconformity and subject to the provisions of Article 9: Nonconformities.

1.6.3. Prior Development Approvals

- A. Any use or development approved under the previous development regulations may be established or carried out in accordance with the terms and conditions of the approval and the development standards in effect at the time of approval, provided the approval has not expired and otherwise remains valid, and the approved use or development complies with applicable standards of this Ordinance pertaining to ongoing operations and maintenance activities (such as standards regulating illicit discharges into stormwater conveyances, the use of parking spaces, or the maintenance of required landscape vegetation). If the prior approval expires, is revoked, or otherwise becomes invalid (e.g., for failure to comply with time limits or the terms and conditions of approval), any subsequent development of the site shall be subject to the procedures and standards of this Ordinance.
- B. To the extent a prior approval authorizes a use or development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of Article 9: Nonconformities.

1.6.4. Pending Applications

- A. A development application accepted as complete under the prior development regulations, but still pending a final decision as of July 1, 2014, shall thereafter be reviewed and decided, at the applicant's option, wholly in accordance with the development regulations in effect when the application was accepted, or wholly in accordance with this Ordinance (but not in accordance with a mix of provisions from both sets of regulations).
- B. If the applicant elects to have the pending development application reviewed in accordance with the prior development regulations, the Town shall review and decide the application in good faith and in accordance with any time frames established by the prior regulations. If the application is approved and the approval or subsequent authorization of the approved development expires or otherwise becomes invalid (e.g., for failure to comply with time limits or the terms and conditions of approval), any subsequent development of the site shall be subject to the procedures and standards of this Ordinance.
- C. To the extent approval of a pending application in accordance with the prior development regulations authorizes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of Article 9: Nonconformities.

1.6.5. New Zoning Districts Compared to Previous Zoning Districts

Table 1.6.5, New Zoning Districts, shows the new zoning districts established in Article 3: Zoning Districts, next to comparable zoning districts established in the Town's previous Zoning Ordinance.

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1.6.5. New Zoning Districts Compared to Previous Zoning Districts

Table 1.6.5, New Zoning Districts		
Previous Zoning District	New Zoning District	
Conservation Districts		
Conservation/Buffer (CB)	Park/Greenway/Open Space (PGO)	
Residential Districts		
Agricultural (AD)	Very Low Density Residential (VLDR)	
R-12 Residential (R-12)	Low Density Residential (LDR)	
R-10 Residential (R-10)		
R-8 Residential (R-8)		
R-6 Residential (R-6)	Medium Density Residential (MDR)	
Residential Multi-Family (RMF)	High Density Residential (HDR) [NEW]	
Activity Center Districts		
	Neighborhood Activity Center (NAC) [NEW]	
	Business Activity Center (BAC) [NEW]	
	Community Activity Center (CAC) [NEW]	
	Regional Activity Center (RAC) [NEW]	
	Transit-Oriented Development (TOD) [NEW]	
Town Center Districts		
Historic Crossroads Village (HCV)	Historic Crossroads Village (HCV)	
Main Street (MS)	Main Street (MS)	
Corridor Commercial (CC)	Town Center Commercial (TCC)	
Town Center Residential (TCR)	Town Center Residential (TCR)	
Residential Transition (RT)	Residential Transition (RT)	
Residential Neighborhood Preservation (RNP)	Residential Neighborhood Preservation (RNP)	
Commercial and Industrial Districts		
	Corridor Commercial (CC)	
Office/Institutional (OI)	Office/Institutional (OI)	
Neighborhood Business (NB)	[Reclassified to Neighborhood or Business Activity Center – see above]	
General Business (GB)	[Reclassified to Business, Community, or Regional Activity Center – see above]	
Industrial Management (IM)	Industrial Management (IM)	
Planned Development Districts		
Mixed Use (MU) [base district]	Mixed-Use Planned Development (MUPD)	
Overlay Districts		
Planned Development Overlay	DELETE	
Airport Overlay	Subdistrict A	Airport Overlay-A
	Subdistrict B	Airport Overlay-B
	Floodplain Overlay (FO) [NEW]	
Town Center Conservation Overlay	Town Center Conservation Overlay	

SECTION 1.7. SEVERABILITY

The Town Council hereby declares that it would have adopted this Ordinance and any section, subsection, sentence, clause, or phrase thereof regardless whether one or more other portions of the Ordinance is declared invalid by a court of competent jurisdiction.

- A.** If a court of competent jurisdiction holds any section, subsection, sentence, clause, or phrase of this Ordinance to be invalid for any reason, such judgment shall not affect the validity of the remaining portions of this Ordinance.
- B.** If a court of competent jurisdiction holds any condition attached to a development permit or approval granted in accordance with this Ordinance to be invalid for any reason, such judgment shall not affect the validity of any other conditions of the permit or approval not specifically included in the judgment.

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

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Article 2: Administration

SECTION 2.1. PURPOSE AND ORGANIZATION OF THIS ARTICLE

This article describes the procedures for review of all applications for land use and development activity in Morrisville.

- A. Section 2.2, Review Authorities, describes the powers and duties, composition, and basic rules for each of the Town boards or other entities that have advisory and/or decision-making roles and responsibilities under this Ordinance.
- B. Section 2.3, Summary Table of Development Review Procedures, includes a summary table listing the land use and development procedures in this Ordinance.
- C. Section 2.4, Standard Review Procedures, describes standard procedures that generally apply to most types of development applications.
- D. Section 2.5, Application-Specific Review Procedures, supplements the standard review procedures with additions and variations specific to each type of development application, such as review standards and special submittal or voting requirements.

SECTION 2.2. REVIEW AUTHORITIES

This section identifies the roles and responsibilities of Town staff and various Town boards involved in the review of development applications.

2.2.1. Town Staff

A. Planning Director

1. General

The Planning Director is the Town official primarily responsible for administering most provisions of this Ordinance. The Planning Director may delegate any review or decision-making authority to any professional-level staff in the Planning Department and may delegate clerical authority to any staff in the Planning Department.

2. Powers and Duties

a. Review of Development Applications

The Planning Director shall have the review, recommendation, and decision-making authority and responsibilities shown in Table 2.3, Summary Table of Development Review Procedures.

b. Other Powers and Duties

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

- (1) To conduct pre-application conferences (Section 2.4.2);
- (2) To serve as Chair of the Development Review Committee and participate in the review of development applications as a member of the committee;
- (3) To establish requirements for the contents and format of development applications reviewed under this Ordinance, and a schedule for the submittal and review of such applications;
- (4) To develop, adopt, and amend an administrative manual that may specify detailed submittal and procedural requirements for various development applications (e.g.,

application forms, checklists for plans and other documents to be submitted with applications, the content and scale/format of such plans and documents, schedules and timelines for application review steps), identify application fees (as established by the Town Council), summarize development review procedures and standards to facilitate the use and understanding of them, and include detailed specifications and illustrations identifying how this Ordinance's standards for landscaping, public infrastructure, and other aspects of development may be met;

- (5) To maintain the official Zoning Map and related materials;
- (6) To serve as professional staff to the Board of Adjustment, Planning and Zoning Board, and Town Council;
- (7) To assist in enforcing this Ordinance in accordance with Article 10: Enforcement;
- (8) To interpret the provisions of this Ordinance in accordance with the standards in Article 11: Interpretation and Definitions;
- (9) To provide expertise and technical assistance to the Town's review and decision-making bodies on request; and
- (10) To maintain on file a record of all development applications reviewed under this Ordinance and make copies available on request.

B. Town Engineer

1. General

The Town Engineer is the Town official primarily responsible for administering those provisions in this Ordinance pertaining to floodplain management, stormwater management and riparian buffers, and for reviewing detailed construction plans for compliance with infrastructure and various environmental regulations, for monitoring and inspecting authorized construction, and for reviewing completed public infrastructure proposed to acceptance by the Town. The Town Engineer may delegate any review or decision-making authority to any professional-level staff in the Engineering Department and may delegate clerical authority to any staff in the Engineering Department.

2. Powers and Duties

a. Review of Development Applications

The Town Engineer shall have the review, recommendation, and decision-making authority and responsibilities shown in Table 2.3, Summary Table of Development Review Procedures.

b. Other Powers and Duties

The Town Engineer shall have the following additional powers and duties under this Ordinance:

- (1) To participate in pre-application conferences (Section 2.4.2);
- (2) To serve as Vice-Chair of the Development Review Committee and participate in the review of development applications as a member of the committee;
- (3) To assist the Planning Director in establishing requirements for the contents and format of development applications reviewed under this Ordinance, with prime responsibility for establishing requirements for stormwater and riparian buffer applications;
- (4) To assist the Planning Director in developing and maintaining an administrative manual, with prime responsibility for developing and maintaining those parts of the administrative manual related to stormwater, riparian buffer, and construction plan applications and standards;
- (5) To assist in enforcing this Ordinance in accordance with Article 10: Enforcement;

- (6) To interpret the provisions of this Ordinance in accordance with the standards in Article 11: Interpretation and Definitions; and
- (7) To provide expertise and technical assistance to the Town's review and decision-making bodies on request.

(Ord. No. 2014-051, 11/10/2014)

C. Building Official

1. General

The Building Official is the Town official responsible for reviewing building plans for compliance with the Building Code, including review and deciding applications for a Building Permit (2.5.13) and a Certificate of Compliance/Occupancy (Section 2.5.14).

2. Powers and Duties

In addition to the powers authorized by the Building Code, the Building Official shall have the following powers and duties under this Ordinance:

- a. To participate in the review of development applications as a member of the Development Review Committee;
- b. To assist the Planning Director in establishing requirements for the contents and format of development applications reviewed under this Ordinance, on request;
- c. To assist the Planning Director in developing and maintaining an administrative manual, on request;
- d. To assist in enforcing this Ordinance in accordance with Article 10: Enforcement; and
- e. To provide expertise and technical assistance to the Town's review and decision-making bodies on request.

D. Development Review Committee

1. General

The Development Review Committee (DRC) is an advisory group of Town staff members and outside agencies (as necessary) who meet to review and comment on major development applications and discuss other matters related to the Town's review and management of development.

2. Powers and Duties

a. Review of Development Applications

The Development Review Committee shall have the review authority and responsibilities shown in Table 2.3, Summary of Development Review Procedures.

b. Other Powers and Duties

The Development Review Committee shall have the following additional powers and duties under this Ordinance:

- (1) To assist the Planning Director in developing and maintaining an administrative manual, on request;
- (2) To provide expertise and technical assistance to the Town's review and decision-making bodies on request; and
- (3) To review and comment on proposed amendments to the Comprehensive Plan.

3. Membership and Appointment

- a. The Development Review Committee shall consist of the Planning Director and Town Engineer, plus representatives from each of the following Town departments typically involved with review of development in Morrisville, as designated by the head of the department:
 - (1) Planning Department;
 - (2) Engineering Department; and
 - (3) Fire Department.
- b. On request by the Planning Director, representatives from other Town departments (e.g., Parks, Recreation, and Cultural Resources Department, Police Department, Public Works Department, Inspections Department) and from outside regulatory agencies, service providers, and organizations generally involved with development review or commonly affected by development in Morrisville (e.g., Cary Department of Public Works and Utilities, Wake County Department of Environmental Services, North Carolina Department of Transportation, Duke Energy/Progress Energy) may participate in committee meetings.

4. Chair and Vice-Chair

The Planning Director shall serve as Chair of the Development Review Committee, and shall schedule meetings, coordinate committee activities, preside over committee meetings, prepare committee reports, and serve as liaison to the departments and agencies involved for clarification of issues and resolution of conflicts. The Town Engineer shall serve as Vice-Chair, and shall preside over board meetings in the absence of the Chair.

5. Meetings

- a. The Development Review Committee shall establish a regular meeting schedule and meet frequently enough to act as expeditiously as practicable on matters before it. The Chair may adjourn a regular meeting on determining that there are no agenda items for consideration, and may call a special or emergency meeting.
- b. The Chairman of the Development Review Committee may invite applicants to attend Development Review Committee meetings as necessary to answer questions from, or provide clarifications requested by, Development Review Committee members.
- c. Written comments of committee members shall be filed in the Town's permitting information database.

E. Town Attorney

1. General

The Town Attorney is appointed by the Town Council and serves as its legal advisor, as well as legal advisor to Town staff in administering laws of the Town.

2. Powers and Duties

In addition to the authority and duties conferred by general law and the Town Council, the Town Attorney shall have the following powers and duties under this Ordinance:

- a. To review and approve as to form all written findings of fact, conclusions of law, development permits, ordinances, and other documents draft by the Town Council, Planning and Zoning Board, Board of Adjustment, Development Review Committee, Town Engineer, Planning Director, and Town departments in connection with any requirement of this Ordinance;
- b. To review as to form all agreements, easements, declarations of covenants, performance or maintenance guarantees, or other such documentation in connection with any requirement of this Ordinance;

- c. To assist the Planning Director and Town Engineer in interpreting the provisions of this Ordinance in accordance with Article 11: Interpretation and Definitions;
- d. To assist in enforcing this Ordinance and in prosecuting actions against violators in accordance with Article 10: Enforcement; and
- e. To counsel the Town Council, Planning and Zoning Board, Board of Adjustment, Planning Director, Town Engineer, and Town departments in the review of development applications and the general implementation of this Ordinance.

2.2.2. Board of Adjustment

A. Establishment

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

B. Powers and Duties

1. Review of Development Applications

The Board of Adjustment shall have the review, recommendation, and decision-making authority and responsibilities shown in Table 2.3, Summary Table of Development Review Procedures.

2. Other Powers and Duties

The Board of Adjustment shall have any other powers and duties delegated to it by the Town Council, consistent with state law.

C. Membership, Appointment, and Terms of Office

1. Membership and Appointment

- a. The Board of Adjustment shall consist of five regular voting members and two alternate members.
- b. Four of the regular members shall be residents of the Town's incorporated area and shall be appointed by the Town Council.
- c. One regular member shall be a resident of the Town's extraterritorial jurisdiction (ETJ) and shall be appointed by the Wake County Board of Commissioners.
- d. The two alternate members shall be residents of either the Town's incorporated area or its extraterritorial jurisdiction, and shall be appointed by the Town Council.

(Ord. No. 2016-001, 05/10/2016)

2. Alternate Members

The Chair of the Board of Adjustment shall assign an alternate member to serve as a substitute for a regular member who is temporarily absent or disqualified. When substituting for a regular member, an alternate member shall have the same powers and duties as the replaced regular member.

3. Terms

- a. Members of the Board of Adjustment shall be appointed for three-year terms that are staggered such that the terms of not more than three regular members and two alternate members expire in a given year. Board members may be appointed to successive terms without limitation.
- b. Vacancies occurring for reasons other than expiration of the term shall be filled for the period of the unexpired term only, and by the body (Town Council or Wake County Board of Commissioners) that appointed the vacating member.

- c. Board members shall continue to serve until their successors are appointed.

4. Attendance

Board of Adjustment members are responsible for attending all regular board meetings as set forth by the Town Council, and may be replaced in accordance with the current public body attendance policy.

D. Staff

The Planning Director shall serve as the professional staff for the Board of Adjustment and as the board's Secretary, providing it administrative support, notifying members of board meetings, and keeping the minutes of meetings.

E. Officers

1. The Board of Adjustment shall recommend one of its members to serve as its Chair and another as its Vice-Chair. The Town Council shall consider those recommendations and appoint the board's Chair and Vice-Chair, each to serve a one-year term. Members may be appointed to successive terms without limitation.
2. The Chair shall preside over all board meetings. The Vice-Chair shall preside over board meetings in the absence of the Chair. If both the Chair and Vice-Chair are absent, the board shall vote to determine who shall serve as acting Chair for the meeting.

F. Meetings

1. Meeting Schedule

The Board of Adjustment shall establish a schedule of regular meetings—including the date, time, and location of meetings—and keep a copy of the schedule on file with the Town Clerk. In accordance with state law, the Chair may cancel a regular meeting on determining that there are no agenda items for consideration, or call a special or emergency meeting.

2. Meeting Notice

Notice of all Board of Adjustment meetings shall be provided in accordance with state law and the public meeting requirements in Section 2.4.5.B, Public Notice.

3. Open Meetings

All Board of Adjustment meetings shall be open to the public in accordance with state law.

4. Meeting Procedure

In conducting its meetings, the Board of Adjustment shall follow rules of procedure adopted in accordance with Section 2.2.2.1, Rules of Procedure, consistent with the procedural requirements of this Ordinance and state law.

5. Meeting Record

The Board of Adjustment shall keep full and accurate minutes of its meetings in accordance with state law, including its findings and decisions and the votes thereon. Meeting minutes shall be a public record in accordance with state law.

G. Quorum and Vote

1. Quorum

Four members of the Board of Adjustment shall constitute a quorum. No official business of the board shall be conducted without a quorum present.

2. Voting

The concurring vote of four members of the Board of Adjustment shall be necessary to approve a Variance. The affirmative vote of three members shall be required for all other decisions, other than to adjourn a meeting for lack of a quorum.

H. Conflict of Interest

1. A Board of Adjustment member shall not participate in the review of, or vote on, an application for a Variance or Administrative Appeal if the action proposed by the application creates a conflict of interest. Such a conflict of interest exists if the member:
 - a. Has a fixed opinion prior to a hearing on the application that is not susceptible to change;
 - b. Fails to disclose *ex parte* communications;
 - c. Has a financial interest in the outcome of the review;
 - d. Has a close familial, business, or other associational relationship with an affected person; or
 - e. Otherwise has a relationship or acts in a manner that would violate affected persons' constitutional rights to an impartial decision maker.
2. If an objection is raised to a board member's participation in a matter based on a conflict of interest, and the member does not recuse himself or herself, the remaining members of the board present shall by majority vote determine whether the member is or is not disqualified from participating in the review.

I. Rules of Procedure

The Board of Adjustment shall adopt rules of procedure governing its procedures and operations. Copies shall be made available for public inspection in the Planning Department.

2.2.3. Planning and Zoning Board

A. Establishment

The Planning and Zoning Board is hereby established in accordance with state law.

B. Powers and Duties

1. Review of Development Applications

The Planning and Zoning Board shall have the review and recommendation authority and responsibilities shown in Table 2.3, Summary Table of Development Review Procedures.

2. Other Powers and Duties

a. Prepare Comprehensive Plan

The Planning and Zoning Board shall formulate and maintain a Comprehensive Plan.

b. Studies

The Planning and Zoning Board shall make careful studies of present conditions and the probable future development of the town and its environs, including, but not limited to, land use surveys, population studies; economic base studies; school, park, and recreation studies; and traffic and parking studies.

c. Other Powers and Duties

The Planning and Zoning Board shall have any other powers and duties delegated to it by the Town Council, consistent with state law.

C. Membership, Appointment, and Terms of Office

1. Membership and Appointment

- a. The Planning and Zoning Board shall consist of five regular voting members and two alternate members.
- b. Four of the regular members shall be residents of the Town's incorporated area and shall be appointed by the Town Council.
- c. One regular member shall be a resident of the Town's extraterritorial jurisdiction (ETJ) and shall be appointed by the Wake County Board of Commissioners.
- d. The two alternate members shall be residents of either the Town's incorporated area or its extraterritorial jurisdiction, and shall be appointed by the Town Council.

2. Alternate Members

The Chair of the Planning and Zoning Board shall assign alternate members, generally on a rotating basis, to serve as substitutes for regular members who are temporarily absent or disqualified. When substituting for a regular member, an alternate member shall have the same powers and duties as the replaced regular member.

3. Terms

- a. Members of the Planning and Zoning Board shall be appointed for three-year terms that are staggered such that the terms of not more than three regular members and two alternate members expire in a given year. Board members may be appointed to successive terms without limitation.
- b. Vacancies occurring for reasons other than expiration of the term shall be filled for the period of the unexpired term only, and by the body (Town Council or Wake County Board of Commissioners) that appointed the vacating member.
- c. Board members shall continue to serve until their successors are appointed.

4. Attendance

Planning and Zoning Board members are responsible for attending all regular board meetings as set forth by the Town Council, and may be replaced in accordance with the current public body attendance policy.

D. Staff

The Planning Director shall serve as the professional staff for the Planning and Zoning Board and as the board's secretary, providing it administrative support, notifying members of board meetings, and keeping the minutes of meetings.

E. Officers

1. The Planning and Zoning Board shall recommend one of its members to serve as its Chair and another as its Vice-Chair. The Town Council shall consider those recommendations and appoint the board's Chair and Vice-Chair, each to serve a one-year term. Members may be appointed to successive terms without limitation.
2. The Chair shall preside over all board meetings. The Vice-Chair shall preside over board meetings in the absence of the Chair. If both the Chair and Vice-Chair are absent, the board shall vote to determine who shall serve as acting Chair for the meeting.

F. Meetings

1. Meeting Schedule

The Planning and Zoning Board shall establish a schedule of regular meetings—including the date, time, and location of meetings—and keep a copy of the schedule on file with the Town Clerk. The Chair may adjourn a regular meeting on determining that there are no agenda items for consideration, and may call a special or emergency meeting in accordance with state law.

2. Meeting Notice

Notice of all Planning and Zoning Board meetings shall be provided in accordance with state law and the public meeting requirements in Section 2.4.5.B, Public Notice.

3. Open Meetings

All Planning and Zoning Board meetings shall be open to the public in accordance with state law.

4. Meeting Procedure

In conducting its meetings, the Planning and Zoning Board shall follow rules of procedure adopted in accordance with Section 2.2.3.I, Rules of Procedure, consistent with the procedural requirements of this Ordinance and state law.

5. Meeting Record

The Planning and Zoning Board shall keep full and accurate minutes of its meetings in accordance with state law, including its findings and decisions and the votes thereon. Meeting minutes shall be a public record in accordance with state law.

G. Quorum and Vote

1. Quorum

Three members of the Planning and Zoning Board shall constitute a quorum. No official business of the board shall be conducted without a quorum present.

2. Voting

The concurring vote of a majority of Planning and Zoning Board members present and constituting a quorum shall be required for all decisions of the board, other than to adjourn a meeting for lack of a quorum.

H. Conflict of Interest

A Planning and Zoning Board member shall not participate in the review of, or vote on, a development application if the outcome of the matter is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

I. Rules of Procedure

The Planning and Zoning Board shall adopt rules of procedure governing its procedures and operations. Copies shall be made available for public inspection in the Planning Department.

2.2.4. Town Council

A. Powers and Duties

To exercise the authority granted it by state law and the Town's charter, the Town Council shall have the following powers and duties under this Ordinance.

1. Review of Development Applications

The Town Council shall have the review, recommendation, and decision-making authority and responsibilities shown in Table 2.3, Summary Table of Development Review Procedures.

2. Adopt Schedule of Development-Related Fees

The Town Council is authorized to adopt, by ordinance, a schedule of fees governing the review of development applications and plans, inspections, and other matters involving the administration and enforcement of this Ordinance.

3. Adopt Schedule of Civil Penalties

The Town Council is authorized to adopt, by ordinance, a schedule of civil penalties for violations of this Ordinance.

4. Other Actions

The Town Council is authorized to take any other action not assigned or delegated to the Planning Director, Board of Adjustment, Planning and Zoning Board, or other advisory or design-making authority as the Town Council deems desirable and necessary to implement provisions of this Ordinance, and as authorized by state law.

B. Conflicts of Interest

1. Special Use Permit Applications

- a. A Town Council member shall not participate in the review of, or vote on, an application for a Special Use Permit if the action proposed by the application creates a conflict of interest. Such a conflict of interest exists if the member:
 - (1) Has a fixed opinion prior to a hearing on the application that is not susceptible to change;
 - (2) Fails to disclose *ex parte* communications; has a financial interest in the outcome of the review;
 - (3) Has a close familial, business, or other associational relationship with an affected person; or
 - (4) Otherwise has a relationship or acts in a manner that would violate affected persons' constitutional rights to an impartial decision maker.
- b. If an objection is raised to a Town Council member's participation in a matter based on a conflict of interest, and the member does not recuse himself or herself, the remaining members of the Town Council present shall by majority vote determine whether the member is or is not disqualified from participating in the review.

2. Other Development Applications

A Town Council member shall not participate in the review of, or vote on, any other development application if the outcome of the matter is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

SECTION 2.3. SUMMARY TABLE OF DEVELOPMENT REVIEW PROCEDURES

Table 2.3, Summary of Development Review Procedures, lists the various types of development approvals authorized by this Ordinance. For each type of application for approval, the table indicates whether a pre-application staff conference is required, what role various Town review authorities play in its review, when a public comment session or public hearing is required, and what type of public hearing (standard or quasi-judicial) is involved. Reading table rows from left to right provides a summary view of the major steps involved with each type of application for a development approval.

Table 2.3: Summary of Development Review Procedures

C = Review and Comment R = Review and Recommend D = Review and Decide
() = Public Comment Session [] = Standard Public Hearing < > = Quasi-Judicial Public Hearing
M = Mandatory O = Optional

Application Type		Section	Pre-Application Conference	Review Authorities						
				Staff				Advisory	Decision-Making	
				Building Official	Development Review Committee	Town Engineer	Planning Director	Planning and Zoning Board	Board of Adjustment	Town Council
Ordinance Amendments										
Text Amendment		2.5.2	M				R	(R)		[D]
Rezoning	General	2.5.3	M				R	(R)		[D]
	Conditional	2.5.3	M				R	(R)		[D]
	Planned Development	2.5.3	M				R	(R)		[D]
Development Permits and Approvals										
Conceptual Master Plan Approval		2.5.4	M		C		R	(R)		[D]
Special Use Permit		2.5.5	M				R	(R)		<D>
Subdivision Approvals	Type 1 Subdivision Preliminary Plat Approval	2.5.6.B.1	M		C		R	R		D
	Type 2 Subdivision Preliminary Plat Approval	2.5.6.B.2	M		C		D			
	Final Plat Approval	2.5.6.C	O			C	D			
	Determination of Subdivision Exclusion	2.5.6.D	O			C	D			
Site Plan Approval	Major	2.5.7.B	M		C		R	R		D
	Minor	2.5.7.C	M		C		D			
Construction Plan Approval		2.5.8	M			D	C			
Floodplain Development Permit		2.5.9	O			D	C			
Riparian Buffer Development Review		6.5	M			D	C			
Stormwater Management Permit		7.2	M			D				
Sign Permit [1]		2.5.12	O	C			D			
Building Permit [2]		2.5.13	O	D		C	C			
Certificate of Compliance/Occupancy [2]		2.5.14	O	D		C	C			
Interpretation		2.5.15	O			C	D			
Variance		2.5.16	M				R			<D>
Riparian Buffer Variance	Major	2.5.17	M			R	C			<D>[3]
	Minor	2.5.17	M			R	C			<D>
Stormwater Variance	Major	7.2.5	M			R				<D>[3]
	Minor	7.2.5	M			R				<D>
Administrative Adjustment		2.5.19	O			C	D			
Alternative Equivalent Compliance [4]		2.5.20	O			C	R	(R)		<D>
Site-Specific Development Plan Designation		2.5.21	M		C		R	(R)		[D]
Administrative Appeal		2.5.22	O							<D>
Development Agreement		2.5.23	M		C		R	(R)		[D]
Right-of-Way Encroachment Agreement		2.5.23	O		C		R	(R)		[D]

Article 2: Administration

Section 2.3. Summary Table of Development Review Procedures

2.2.4. Town Council

Table 2.3: Summary of Development Review Procedures

C = Review and Comment R = Review and Recommend D = Review and Decide
 () = Public Comment Session [] = Standard Public Hearing < > = Quasi-Judicial Public Hearing
 M = Mandatory O = Optional

Application Type		Section	Pre-Application Conference	Review Authorities						
				Staff				Advisory	Decision-Making	
				Building Official	Development Review Committee	Town Engineer	Planning Director	Planning and Zoning Board	Board of Adjustment	Town Council
Wireless Telecommunication Facilities	Special Use Permit	2.5.25	M				R	(R)		<D>
	Major Site Plan	2.5.25	M		C		R	R		D
	Minor Site Plan	2.5.25	M		C		D			

Notes:

- [1] The Building Official only reviews Sign Permit applications where an electrical or Building Permit is also required under the Building Code.
- [2] Review procedures for Building Permits and Certificates of Compliance/Occupancy are established in the Building Code, but are shown here because they are closely related to the development review procedures in this Ordinance.
- [3] The Board of Adjustment’s decision is preliminary and is submitted to the N.C. Environmental Management Commission for a final decision (see 7.2.5.C).
- [4] A quasi-judicial public hearing and decision is required irrespective of whether one is required for the concurrently reviewed application.

(Ord. No. 2014-016, 06/24/2014; Ord. No. 2014-051, 11/10/2014; Ord. No. 2016-001, 05/10/2016)

SECTION 2.4. STANDARD REVIEW PROCEDURES

2.4.1. General

This section describes the standard procedural steps and other rules that are generally applicable to all development applications reviewed under this Ordinance, unless otherwise expressly exempted or alternative procedures are specified in Section 2.5, Application-Specific Review Procedures. (See Figure 2.4.1: Standard Review Procedures.)

2.4.2. Pre-Application Conference

A. Purpose

The purpose of a pre-application conference is to provide an opportunity for an applicant and Town staff to: review applicable submittal requirements, procedures, and schedules; discuss the scope, features, and potential impacts of the proposed development as they relate to the standards in this Ordinance; and identify primary contacts for the applicant and Town staff.

B. When Required

A pre-application conference between the applicant and Town staff is mandatory for a particular application type as shown in Table 2.3, Summary of Development Review Procedures. A pre-application conference is optional for all other application types.

C. Procedure

If a pre-application conference is held, whether it is mandatory or optional, it shall be scheduled and conducted in accordance with the following procedural provisions.

1. Request

For applications for Construction Plan Approval, Stormwater Management Permit, or Stream Origin Determination, an applicant shall submit a request for a pre-application conference to the Town Engineer. For all other applications, the request shall be submitted to the Planning Director.

2. Scheduling

On receiving a request for a pre-application conference, the Planning Director or Town Engineer, as appropriate, shall schedule the pre-application conference with appropriate Town staff members and notify the applicant of the time and place of the conference.

3. Required Information Submitted Prior to Conference

a. Text Amendments and Rezoning

At least two business days before a scheduled pre-application conference for a Text Amendment or Rezoning application, the applicant shall submit to the Planning Director a written description of the nature and purpose of the amendment or rezoning and its consistency with the Comprehensive Plan.

b. All Other Application Types

At least two business days before a scheduled pre-application conference for any other development application, the applicant shall submit to the Planning Director or Town Engineer,

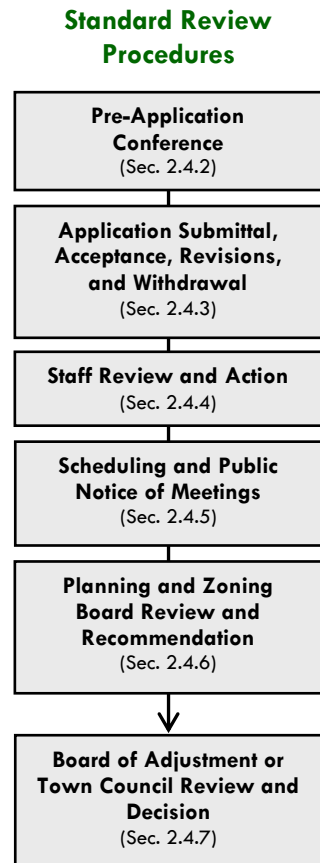


Figure 2.4.1

as appropriate, a conceptual plan or drawings showing the location, general layout, and main elements of the proposed development.

4. Conference Determinations

Town staff attending the pre-application conference shall identify concerns, problems, or other factors the applicant should consider about the application and the scope, features, and potential impacts of the proposed development as they relate to compliance with this Ordinance—including the need for other approvals and the opportunity or need for approval of deviations from Ordinance standards through a Variance, Administrative Adjustment, or Alternative Equivalent Compliance or alternatives standards to requirements in the Engineering Design and Construction Manual.

(Ord. No. 2014-022, 06/24/2014)

D. Effect

The pre-application conference is intended as a means of facilitating the review process. Discussions held in accordance with this section are not binding on the Town or the applicant. Processing times for review of development applications do not begin until a formal application is submitted and accepted for review.

2.4.3. Application Submittal, Acceptance, Revisions, and Withdrawal

A. Authority to File Applications

1. Unless expressly stated otherwise in this Ordinance, development applications reviewed under this Ordinance shall be submitted by:
 - a. The owner, contract purchaser, or any other person having a recognized property interest in the land on which development is proposed; or
 - b. A person authorized to submit the application on behalf of the owner, contract purchaser, or other person having a recognized property interest in the land, as evidenced by a letter or document signed by the owner, contract purchaser, or other person.
2. If there are multiple owners, contract purchasers, or other persons authorized to submit the application, all such persons shall sign the application or a letter or document consenting to the application.

B. Application Content

The Planning Director or Town Engineer, as appropriate, is authorized to establish the requirements for the content and form for each type of specific development application reviewed under this Ordinance, and may amend and update these requirements as necessary to ensure effective and efficient review. These requirements shall be placed in the Administrative Manual. The applicant bears the burden of ensuring that an application contains sufficient information to demonstrate compliance with all applicable standards.

C. Application Fees

The Town Council is authorized to establish application fees, by ordinance, which shall be referenced in the Administrative Manual, and may amend and update those fees as necessary.

D. Submittal and Review Schedule

The Planning Director shall establish a submittal and review schedule (including time frames for review) for the various types of development applications, which shall be included in the Administrative Manual. The Planning Director may amend and update the schedule as is determined necessary to ensure effective and efficient review under this Ordinance.

E. Application Submittal

Applications shall be delivered to the Planning Director or Town Engineer, as appropriate, in the form established under subsection B above, along with the appropriate application fee. Until an application is determined to be complete in accordance with Section 2.4.3.F.3, Application Complete, an application has not been submitted.

F. Determination of Application Completeness

1. Completeness Review

On receiving a development application, the Planning Director or Town Engineer, as appropriate, shall, within two business days, determine whether the application is complete or incomplete. A complete application is one that:

- a. Contains all information and materials required by the Administrative Manual for submittal of the particular type of application, and in sufficient detail and readability to evaluate the application for compliance with applicable review standards;
- b. Is in the form required by the Administrative Manual for submittal of the particular type of application; and
- c. Is accompanied by the fee established for the particular type of application.

2. Application Incomplete

- a. On determining that the application is incomplete, the Planning Director or Town Engineer, as appropriate, shall provide the applicant written notice of the submittal deficiencies. The applicant may correct the deficiencies and resubmit the application for a completeness review.
- b. If the applicant fails to resubmit an application within 30 calendar days after being first notified of submittal deficiencies, the application submittal shall be considered abandoned. If an applicant submits a request in writing to the Planning Director or Town Engineer, as appropriate, within 15 calendar days of the application abandonment date, 50 percent of the application fee paid for the withdrawn application shall be refunded.
- c. No development application shall be considered as submitted until it is determined to be complete.

3. Application Complete

On determining that the application is complete, the Planning Director or Town Engineer, as appropriate, shall:

- a. Accept the application as submitted in accordance with the procedures and standards of this Ordinance in effect at the time of the submittal; and
- b. Provide the applicant written notice of application submittal acceptance.

G. Application Revisions

1. An applicant may revise a development application for any of the following reasons.
 - a. To address deficiencies provided as part of the staff review (see Section 2.4.4.B, Staff Review and Opportunity for Application Revision),
 - b. To make limited changes that directly respond to specific requests or suggestions made by a reviewing board or staff in response to a reviewing board, as long as they constitute only minor additions, deletions, or corrections and do not include substantive changes to the development proposed in the application. Such changes shall only occur after requesting and receiving permission from the Planning and Zoning Board (see Section 2.4.6.C, Revision of Application) or the Board of Adjustment or Town Council (see Section 2.4.7.D, Revision of Application) after such board has reviewed, but not yet taken action on the application.

Additional application fees to defray the additional costs of processing the revised application may be required; or

- c. To have the application reviewed under a new rule or ordinance change that went into effect after the applicant received a written notice of application submittal acceptance, but prior to receiving a written decision on the application. This revision option is limited to application types listed below, and additional application fees to defray the additional costs of processing the revised application may be required.
 - (1) Section 2.5.6, Subdivision Approvals;
 - (2) Section 2.5.8, Construction Plan Approval;
 - (3) Section 2.5.9, Floodplain Development Permit;
 - (4) Section 2.5.10, Riparian Buffer Development Review; and
 - (5) Section 2.5.11, Stormwater Management Permit.
2. Any other revisions to a development application may be submitted at any time during the review procedure, but the original application shall be withdrawn and the revised application shall be submitted and reviewed as a new application.
3. The revised application submittal may be subject to additional application fees to defray the additional costs of processing the revised application.

H. Application Withdrawal

After an application has been accepted for review, the applicant may withdraw the application at any time by submitting a letter of withdrawal to the Planning Director or Town Engineer, as appropriate, but the application fee shall not be refunded.

(Ord. No. 2015-002, 04/29/2015; Ord. No. 2016-001, 05/10/2016)

2.4.4. Staff Review and Action

A. Referral of Application to Development Review Committee, Staff, and Review Agencies

If a development application is subject to review and comment by the Development Review Committee (see Table 2.3, Summary Table of Development Review Procedures), the Planning Director shall refer the application to Development Review Committee members for review and comments. In all other cases, the Planning Director or Town Engineer, as appropriate, shall refer the application to those Town staff members and review agencies deemed appropriate for review and comment on the application (which may include the Development Review Committee).

B. Staff Review and Opportunity for Application Revision

1. Before preparing a staff report or making a decision on a development application, the Planning Director or Town Engineer, as appropriate, shall review the application, relevant support material, and any comments from the Development Review Committee and other staff and review agencies to which the application was referred.
2. If deficiencies in complying with this Ordinance are identified, the Planning Director or Town Engineer, as appropriate, shall notify the applicant of such deficiencies and provide the applicant a reasonable opportunity to discuss the deficiencies and revise the application to address them. The Planning Director or Town Engineer may also offer the applicant comments and suggestions regarding possible improvements to the proposed development that are not required by this Ordinance, provided the notice distinguishes such comments and suggestions from any identified compliance deficiencies.
3. The applicant shall respond to the notice within 60 days after being notified of compliance deficiencies by submitting a written request that the application be processed as submitted, by

submitting a revised application, or by submitting a written request for an extension. If the applicant fails to so respond to the notice within this time period, or a one-time 30-day extension granted by the Planning Director or Town Engineer, as appropriate, the application shall be considered withdrawn.

4. If the applicant submits a revised application, the Planning Director or Town Engineer, as appropriate, shall refer the application to the appropriate Town staff members and review agencies for review and comment and shall review any such comments received. At the discretion of the Planning Director or Town Engineer, as appropriate, the applicant may be provided the opportunity to revise the application further to address identified remaining compliance deficiencies.

(Ord. No. 2016-001, 05/10/2016)

C. Applications Subject to Staff Recommendation

1. Staff Report

If a development application is subject to staff review and a staff recommendation to the Board of Adjustment, Planning and Zoning Board, or Town Council (see Table Section 2.3, Summary of Development Review Procedures), the Planning Director shall prepare a written staff report. The staff report shall conclude whether the application complies with all applicable standards of this Ordinance and recommend one of the decisions authorized for the particular type of application, based on the review standards applicable to the application type, as set forth in Section 2.5, Application-Specific Review Procedures. The staff report may identify and recommend conditions of approval addressing how compliance deficiencies might be corrected and adverse effects of the development proposal might be mitigated.

2. Distribution and Availability of Application and Staff Report

Within a reasonable time period before the meeting at which a development application is scheduled for review by the Board of Adjustment, Planning and Zoning Board, or Town Council, the Planning Director shall:

- a. Schedule and verify any required public notice of the meeting in accordance with 2.4.5, Scheduling and Public Notice of Meetings;
- b. Transmit the application, related materials, and the staff report to the Board of Adjustment, Planning and Zoning Board, or Town Council, as appropriate;
- c. Transmit a copy of the staff report to the applicant; and
- d. Make the application, related materials, and the staff report available for examination by the public during normal business hours, and make copies of such materials available at a reasonable cost.

D. Applications Subject to Staff Decision

1. Decision

If a development application is subject to staff review and a final decision by the Planning Director or Town Engineer (see Table 2.3, Summary Table of Development Review Procedures), the Planning Director or Town Engineer, as appropriate, 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 2.5, Application-Specific Review Procedures. The decision shall be in writing and shall clearly state reasons for a denial or for conditions of approval.

2. Conditions of Approval

Any conditions of approval shall be expressly set forth in the approval, shall be limited to conditions deemed necessary to ensure compliance with the requirements and particular standards of this

Ordinance, and shall relate in both type and scope to the anticipated impacts of the proposed development.

2.4.5. Scheduling and Public Notice of Meetings

A. Scheduling

1. If a development application is subject to further review by the Board of Adjustment, Planning and Zoning Board, or Town Council (see Table 2.3, Summary Table of Development Review Procedures), the Planning Director shall ensure that the application is scheduled for either a regularly scheduled meeting of the board or a meeting specially called for that purpose by the board.
2. If public notice of the Board of Adjustment, Planning and Zoning Board, or Town Council meeting is required (see subsection B below), the application shall be scheduled for a meeting that allows sufficient time for preparation of a staff report and provision of the required public notice.

B. Public Notice

1. Notice Requirements

a. General

Public notice of meetings by the Board of Adjustment, Planning and Zoning Board, or Town Council on a development application shall be provided in accordance with Table 2.4.5.B.1: Public Notice Requirements, which shows the meetings for which public notice is required (by application type and board), the type(s) of notice required, the timing requirements for notices, and other requirements.

Table 2.4.5.B.1: Public Notice Requirements

Application Type	Review Body Meeting	Posted Notice	Mailed Notice	Published Notice
Text Amendment	Planning and Zoning Board (public comment session)	n/a	n/a	n/a
	Town Council (public hearing)			The Planning Director shall prepare notice of the meeting and ensure that it is published in a newspaper having general circulation in the town for 2 successive calendar weeks before the meeting, with the first notice published at least 10 days, and not more than 25 days, before the meeting.
General Rezoning; Conditional Rezoning; Planned Development	Planning and Zoning Board (public comment session)	The Planning Director shall prepare notice of the meeting and	The Planning Director shall prepare notice of the meeting and ensure it is mailed via first-class mail to the applicant and the owners of the application site and all	n/a

Table 2.4.5.B.1: Public Notice Requirements

Application Type	Review Body Meeting	Posted Notice	Mailed Notice	Published Notice
Rezoning; Site-Specific Development Plan; Development Agreement	Town Council (public hearing)	ensure it is prominently posted on the application site or on an adjacent street right-of-way at least 10 days before the meeting.	properties located within 500 feet of the application site at least 10 days, and not more than 25 days, before the meeting date. (Also see subsection b(4) below.)	The Planning Director shall prepare notice of the meeting and ensure that it is published in a newspaper having general circulation in the town for 2 successive calendar weeks before the meeting, with the first notice published at least 10 days, and not more than 25 days, before the meeting.
Conceptual Master Plan Approval	Planning and Zoning Board (public comment session)	n/a	n/a	n/a
	Town Council (public hearing)			
Special Use Permit	Planning and Zoning Board (public comment session)	n/a	The Planning Director shall prepare notice of the meeting and ensure it is mailed via first-class mail to the applicant and the owners of the application site and all properties located within 500 feet of the application site at least 10 days, but not more than 25 days, before the meeting date.	The Planning Director shall prepare notice of the meeting and ensure that it is published in a newspaper having general circulation in the town at least 10 days before the meeting.
	Town Council (public hearing)			
Variance	Board of Adjustment (public hearing)	n/a		
Alternative Equivalent Compliance	Planning and Zoning Board (public comment session)			
	Town Council (public hearing)			
Administrative Appeal	Board of Adjustment (public hearing)	If the appeal pertains to a particular site, the Planning Director shall prepare notice of the meeting and ensure it is prominently posted on the application site or on an adjacent street right-of-way at least 10 days before the meeting date.	The Planning Director shall prepare notice of the meeting and mail it via first-class mail to the applicant, the owners of the application site and all properties abutting the site (if the appeal pertains to a particular site), and the applicant for the decision being appealed, at least 10 days, but not more than 25 days, before the meeting date.	n/a
Right-of-Way Encroachment Agreement	Planning and Zoning Board (public comment session)	The Planning Director shall prepare notice of the meeting and ensure it is prominently posted on the application site or on an adjacent street right-of-way at least 10 days before the meeting.	The Planning Director shall prepare notice of the meeting and ensure it is mailed via first-class mail to the applicant and the owners of the application site and all properties located within 500 feet of the application site at least 10 days, but not more than 25 days, before the meeting date.	n/a
	Town Council (public hearing)			

(Ord. No. 2014-016, 06/24/2014; Ord. No. 2016-001, 05/10/2016)

b. Application of Notice Requirements

- (1) In computing the required time periods for providing notices, the day the notice is published or postmarked shall not be included, but the day of the meeting shall be included.
- (2) Required posted notices need not be posted on each parcel where an application site includes multiple contiguous parcels, provided a sufficient number of notices are posted to provide reasonable notice to interested persons passing by the site.
- (3) The applicant shall provide mailing labels and stamps for required mailed notices. Unless evidence to the contrary exists, the names and mailing addresses for property owners required to be mailed notices shall be as shown on the most current Wake County or Durham County tax records, as appropriate.
- (4) If a rezoning application directly affects more than 50 properties, owned by at least 50 different property owners, the Planning Director may elect to rely on the published notice instead of mailed notice for those affected property owners who reside in the area of the publishing newspaper's general circulation—provided that each notice shall not be less than one-half of a newspaper page in size. Mailed notice shall continue to be required for all property owners who reside outside the area of the publishing newspaper's general circulation.

2. Notice Content

a. Posted Notices

Required posted notices shall, at a minimum:

- (1) Identify the application type;
- (2) Identify the date, time, and location of the meeting being noticed; and
- (3) Comply with any other notice content requirements established by state law.

b. Mailed and Published Notices

Required mailed and published notices shall, at a minimum:

- (1) Identify the application;
- (2) Describe the nature and scope of the proposed development or action;
- (3) Identify the location of land subject to the application;
- (4) Identify the date, time, and location of the meeting being noticed; and
- (5) Comply with any other notice content requirements established by state law.

3. Certification of Notice

The person or persons required to provide notice shall sign a certification that proper notice has been provided in fact. Such certificate shall be deemed conclusive in the absence of fraud.

C. Requests to Defer Scheduled and Noticed Review Meetings

1. An applicant may request that review of an application scheduled for review at a Board of Adjustment, or Planning and Zoning Board meeting be deferred in accordance with the following provisions.
 - a. The Planning Director may grant such a request for good cause shown provided the request is in writing, states the reasons for deferral, and is submitted to the Planning Director before any mailed notices are mailed and final arrangements for any published notice are made.

C. Revision of Application

1. After the Planning and Zoning Board has reviewed an application but has not yet taken action on it, the applicant may request an opportunity to revise the application. The board may grant such a request on condition that revisions shall be limited changes that directly respond to specific requests or suggestions made by the staff or the Planning and Zoning Board and shall constitute only minor additions, deletions, or corrections, and not significant substantive changes, to the development proposed by the application.
2. Any other revisions to the application may be submitted, but the revised application shall be submitted to the Planning Director and reviewed as if it were a new application. The revised application is subject to additional application fees to defray the additional processing costs.

2.4.7. Board of Adjustment or Town Council Review and Decision

If a development application is subject to a final decision by the Board of Adjustment or Town Council (see Table 2.3, Summary Table of Development Review Procedures), that body shall review and act on the application in accordance with the following procedures.

A. Public Hearing Procedures

1. General

If the application is subject to a hearing (see Table 2.3, Summary Table of Development Review Procedures), the Board of Adjustment or Town Council, as appropriate, shall hold a hearing on the application in accordance with the following procedures.

- a. On being properly recognized by the person chairing the hearing, any person may appear at the public hearing, either individually or as a representative of an organization, and submit documents, materials, and other written or oral testimony in support of or in opposition to the application.
- b. Before start of the meeting, persons intending to speak at the public comment session shall register to speak, providing their name, home or business address, and if appearing on behalf of an organization, the name and mailing address of the organization. Persons actually speaking at the session shall begin by identifying themselves.
- c. The person chairing the hearing may place reasonable and equitable time restrictions on the presentation of testimony and the submittal of documents and other materials.
- d. The body conducting the hearing may, on its own motion or at the request of any person, continue the public hearing to a fixed date, time, and place, for good cause.
- e. The proceedings of the hearing shall be recorded by any appropriate means. If a sound recording is made, any person shall be entitled to listen to the recording or make copies, at that person's expense, in the Planning Department (for hearings conducted by the Board of Adjustment) or in the offices of the Town Clerk (for hearings conducted by the Town Council).

2. Quasi-Judicial Hearings

If the application being heard requires a quasi-judicial hearing (see Table 2.3, Summary Table of Development Review Procedures), the hearing shall be subject to the following additional procedures:

- a. The applicant bears the burden of demonstrating that the application complies with applicable standards of this Ordinance, which shall be demonstrated by competent, material, and substantial evidence. The burden is not on the Town or other parties to show that the standards have not been met by the applicant.

- b. The body conducting the hearing is not bound by the rules of evidence, or limited to consideration of evidence that is admissible in a court of law. It may consider all testimony and evidence it deems competent and material to the application under consideration, and may exclude testimony or evidence it determines to be irrelevant, immaterial, incompetent, unreliable, or unduly repetitious.
- c. All persons who will testify at the hearing shall be sworn in or affirmed.
- d. On being properly recognized by the person chairing the hearing, the applicant, Town staff, or other affected party may be granted an opportunity to ask questions of any other person who has testified at the hearing or to rebut any testimony, comments, documents, or materials presented by such person. Any such inquiry or rebuttal shall be limited to matters raised directly by the testimony being questioned or rebutted.

B. Review and Decision

The Board of Adjustment or Town Council shall consider the application, relevant support materials, staff report, the recommendation from the Planning and Zoning Board (if applicable), and any comments made at a public hearing (if required), and 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 2.5, Application-Specific Review Procedures.

- 1. The Board of Adjustment or Town Council shall clearly state the factors considered in its decision and the basis or rationale for the decision.
- 2. If the review involves a quasi-judicial hearing, the decision shall be reduced to writing, be signed by a duly authorized member of the Board of Adjustment or Town Council, as appropriate, include findings of fact based on competent, material, and substantial evidence presented at the hearing, reflect the determination of contested facts, and state how the findings support compliance with applicable review standards. The decision is effective upon its filing with the Planning Director (for Board of Adjustment decisions) or the Town Clerk (for Town Council decisions).
- 3. The Board of Adjustment or Town Council shall take action as promptly as possible in consideration of the interests of the applicant, affected parties, and citizens of the town.

C. Conditions of Approval

Any conditions of approval shall be:

- 1. Expressly set forth in the approval;
- 2. Limited to conditions deemed necessary to ensure compliance with the requirements and particular standards of this Ordinance, Manuals referenced herein, or related approvals (e.g., conditional zoning, special use permit, etc.); or
- 3. Related in both type and scope to the anticipated impacts of the proposed development.

D. Revision of Application

- 1. After the Board of Adjustment or Town Council, as appropriate, has reviewed an application but has not yet taken action on it, the applicant may request an opportunity to revise the application. The Board of Adjustment or Town Council, as appropriate, may grant such a request on condition that revisions shall be limited changes that directly respond to specific requests or suggestions made by the staff or the Board of Adjustment or Town Council, as appropriate, and shall constitute only minor additions, deletions, or corrections, and not significant substantive changes, to the development proposed by the application.
- 2. Any other revisions to the application may be submitted, but the revised application shall be submitted to the Planning Director and reviewed as if it were a new application. The revised application is subject to additional application fees to defray the additional processing costs.

(Ord. No. 2016-001, 05/10/2016)

2.4.8. Post-Decision Actions and Limitations

A. Notice of Decision

1. Within ten calendar days after a final decision on a development application, the Planning Director shall provide a written copy of the decision via personal delivery, electronic mail, or first-class mail to the applicant and make a copy of the decision available to the public in the Planning Department during normal business hours.
2. If the review involves a quasi-judicial hearing, the Planning Director shall, within ten days after a final decision on the application, also provide a written copy of the decision via personal delivery, electronic mail, or first-class mail to the owner(s) of application site, the applicant (if different than the owner), and to any person who has submitted a written request for a copy of the decision before its effective date. The Planning Director shall also certify that the copy of the decision has been provided.

(Ord. No. 2016-001, 05/10/2016)

B. Appeal

1. A party aggrieved or adversely affected by any final decision on an application by the Town Council or Board of Adjustment may seek review of the decision in the courts in accordance with applicable state law, provided that the appeal shall be filed with the clerk of the Superior Court of Wake County or Durham County, as appropriate, within 30 days after the decision is effective or the date a written notice of decision or copy of the decision has been provided in accordance with subsection A above. If the notice of decision or copy of the decision was provided via first class mail, three days shall be added to filing deadline.
2. A party aggrieved by other final decisions may appeal the decision in accordance with the procedures and standards in Section 2.5.22, Administrative Appeal.

C. Effect of Approval

1. Authorized Activity

- a. Approval of any development application in accordance with this Ordinance authorizes only the particular use, plan, or other specific activity approved, and not any other development requiring separate application.
- b. If one development permit or approval is a prerequisite to another permit or approval (e.g., variance approval prior to a site plan approval), development may not take place until all required permits and approvals are obtained. Approval of one application does not necessarily guarantee approval of any subsequent application.

2. Expiration of Approval

- a. A development application approval shall be valid as authorization for the approved activity until the end of the expiration time period provided in Section 2.5, Application-Specific Review Procedures, for the particular type of application.
- b. A change in ownership of the land shall not affect the established expiration time period of an approval.

D. Modification or Amendment of Approval

Unless otherwise provided in Section 2.5, Application-Specific Review Procedures, for the particular type of application, any modifications of approved plans or conditions of approval shall require a new application that is submitted and reviewed in accordance with the full procedure and fee requirements applicable to the particular type of application.

E. Limitation on Subsequent Similar Applications

1. If an application requiring a public hearing is denied or withdrawn after provision of or final arrangement for required notice of the public hearing meeting, no application proposing the same or similar development on all or part of the same land shall be submitted within one year after the date of the denial or withdrawal unless the decision-making body waives this time limit in accordance with subsection 2 below.
2. The owner of land subject to the time limit provided in subsection 1 above, or the owner's authorized agent, may submit a written request for waiver 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 decision-making body. The decision-making body may grant a waiver of the time limit only if two-thirds of its membership finds that the owner or agent has demonstrated that:
 - a. 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 decision-making body's application of the relevant review standards to the development proposed in the new application; or
 - b. 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 decision-making body's application of the relevant review standards to the development proposed in the new application; or
 - c. The new application proposed to be submitted is materially different from the prior application; or
 - d. The final decision on the prior application was based on a material mistake of fact.

SECTION 2.5. APPLICATION-SPECIFIC REVIEW PROCEDURES

2.5.1. General

This section sets forth supplemental procedures, standards, and related information for each development application reviewed under this Ordinance, as listed in Table 2.3, Summary Table of Development Review Procedures. They state the purpose of the subsection and set forth the applicable review procedure by reference to the standard procedures in Section 2.1, Purpose and Organization of this Article, including any variations of, or additions to, the standard procedures. This is followed by the review standards for the application, and any variations of, or additions to, provisions in the standard procedures that address the expiration and amendment of approvals.

2.5.2. Text Amendment

A. Applicability

The procedures and standards in this subsection apply to the review of any proposal to revise the text of this Ordinance.

B. Text Amendment Procedure

Figure 2.5.2.B and the following subsections identify those steps in the standard review procedure (see Section 2.4) applicable to the review of Text Amendment applications and note any specific variations of, or additions to, those review steps.

1. Application Submittal and Acceptance

The application shall be submitted and accepted, and may be withdrawn, in accordance with Section 2.4.3 except that an application may be initiated only by the Planning Director, Planning and Zoning Board, or Town Council.

2. Staff Review and Recommendation

The Planning Director shall review the application and prepare a staff report and recommendation in accordance with Section 2.4.4.

3. Scheduling and Public Notice of Meetings

The application shall be scheduled, and required public notices provided, for Planning and Zoning Board and Town Council meetings in accordance with Section 2.4.5.

4. Planning and Zoning Board Review and Recommendation

The Planning and Zoning Board shall review the application, hold a public comment session, and make a recommendation in accordance with Section 2.4.6.

5. Town Council Review and Decision

The Town Council shall review the application, hold a standard public hearing, and decide the application in accordance with Section 2.4.7. The decision shall be one of the following:

- a. Adopt the amendment as proposed;
- b. Adopt a revised amendment (which may require a new public hearing);
- c. Deny the amendment;
- d. Remand the application back to the Planning Director or Planning and Zoning Board for further consideration. (This may require further public notices and additional review fees.)

6. Post-Decision Actions and Limitations

The post-decision actions and limitations in Section 2.4.8 shall apply to the application except as follows:

a. Effect of Approval

Approval of a Text Amendment authorizes the approved revisions to the text of this Ordinance. Such approval does not itself authorize specific development activity.

b. Expiration of Approval

A Text Amendment does not expire, but shall remain valid unless and until the revised text of this Ordinance is subsequently amended in accordance with this subsection's Text Amendment procedure.

C. Text Amendment Review Standards

Amending the text of this Ordinance is a matter committed to the legislative discretion of the Town Council. In deciding the application, the Town Council shall consider and weigh the relevance of and consider whether and the extent to which the proposed amendment:

- 1. Is consistent with the Comprehensive Plan;



Figure 2.5.2.B

2. Conflicts with any other provisions of this Ordinance or the Code of Ordinances;
3. Is required by changed conditions;
4. Addresses a demonstrated community need;
5. Is consistent with the purpose and intent of the zoning districts in this Ordinance, or would improve compatibility among uses and would ensure efficient development within the town;
6. Would result in a logical and orderly development pattern; and
7. Would result in significantly adverse impacts on the natural environment—including, but not limited to, water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

2.5.3. Rezoning

A. Applicability

1. The procedure and standards in this subsection apply to the review of any proposal to revise the Zoning Map to change the zoning district classification applicable to a particular parcel, portion of a parcel, or group of parcels.
2. An application for Conceptual Master Plan Approval may be submitted and reviewed concurrently with an application for Conditional Rezoning (see Section 2.5.4). In such a case, the Town Council shall decide the Conceptual Master Plan Approval application concurrently with its decision on the Conditional Rezoning application, and the approved Conceptual Master Plan Approval application—including any conditions of such approval agreed to by the applicant and subject to the post-decision actions and limitations in Section 2.5.4.C.7, shall constitute a condition of the Conditional Rezoning application and approval.

B. General, Conditional, and Planned Development Rezoning Distinguished

There are three types of rezoning authorized by this Ordinance: General Rezoning; Conditional Rezoning; and Planned Development Rezoning.

1. A General Rezoning reclassifies land to a base zoning district and subjects future development in the district to all the development regulations applicable to that district, including allowance of the full range of uses and development intensity permitted in the district.
2. A Conditional Rezoning reclassifies land to a conditional zoning district that is parallel to a base zoning district and subjects future development in the district to the same development regulations applicable to the parallel base district except as modified by conditions that:
 - a. Are proposed or agreed to by the owner(s) of the subject land;
 - b. Incorporate any proposed modifications to use, intensity, or development standards applicable in the parallel base district; and
 - c. Are limited to conditions that address conformance of the allowable development and use of the rezoning site with Town regulations and adopted plans, and impacts reasonably expected to be generated by the allowable development or use of the site.
3. A Planned Development Rezoning reclassifies land to a Planned Development (PD) zoning district for which applicable development regulations are defined by a Planned Development plan and agreement (PD Plan/Agreement). Subsequent development with a PD district occurs through Subdivision Approval and Site Plan Approval procedures and standards, which ensure compliance with the PD Plan/Agreement.

C. Rezoning Procedure

Figures 2.5.3.C-1, 2.5.3.C-2, and 2.5.3.C-3 and the following subsections identify those steps in the standard review procedure (see Section 2.4) applicable to the review of General Rezoning, Conditional Rezoning, and Planned Development Rezoning applications and note any specific variations of, or additions to, those review steps.

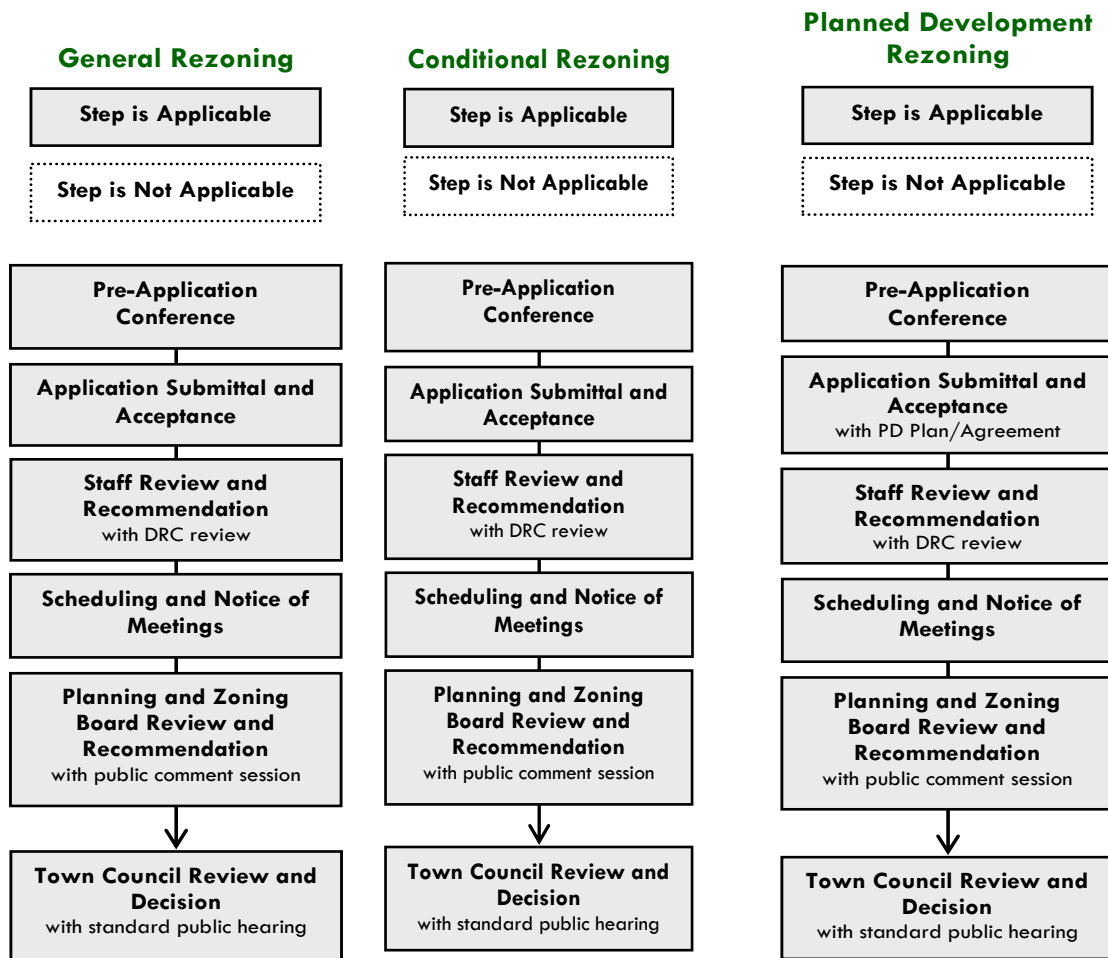


Figure 2.5.3.C.1

Figure 2.5.3.C.2

Figure 2.5.3.C.3

1. Pre-Application Conference

The applicant shall hold a pre-application conference with Town staff in accordance with Section 2.4.2 unless the applicant is the Planning Director, Planning and Zoning Board, or Town Council.

2. Application Submittal and Acceptance

The application shall be submitted and accepted, and may be withdrawn, in accordance with Section 2.4.3, except that:

- a. A General Rezoning application for any land may also be initiated by the Planning Director, Planning and Zoning Board, or Town Council.
- b. A Conditional Rezoning application may be submitted only by the owner(s) of the property or properties proposed to be rezoned or a person duly authorized to submit the application on behalf of the owner(s). The application may propose conditions in the form of text and/or plans

and maps. Unless accompanied by an application for Conceptual Master Plan Approval (Section 2.5.4), a Conditional Rezoning application shall include a sketch plan.

- c. A Planned Development Rezoning application may be submitted only by the owner(s) of the property or properties proposed to be rezoned or a person duly authorized to submit the application on behalf of the owner(s). The application shall include a PD Plan/Agreement that depicts the general configuration and relationship of the principal elements of the proposed development (uses, intensity, circulation, open space, public facilities), outlines how the development will be phased and served by public facilities, and provides for unified management. (See Section 3.7.1.E.1, PD Plan/Agreement.)
- d. The applicant for a General Rezoning application may only change the application into a Conditional Rezoning application by withdrawing the General Rezoning application before provision of or final arrangement for required notice of the public hearing meeting and submitting an application for Conditional Rezoning. The Conditional Rezoning application is subject to additional application fees to defray the additional processing costs.

3. Staff Review and Recommendation

The Planning Director shall review the application, allow revisions of the application, and prepare a staff report and recommendation in accordance with Section 2.4.4.

4. Scheduling and Public Notice of Meetings

The application shall be scheduled, and required public notices provided, for Planning and Zoning Board and Town Council meetings in accordance with Section 2.4.5.

5. Planning and Zoning Board Review and Recommendation

The Planning and Zoning Board shall review the application, hold a public comment session, and make a recommendation in accordance with Section 2.4.6, except that the recommendation shall address whether the proposed rezoning is consistent with the Comprehensive Plan, and the board shall take action on the application for a General Rezoning within 60 days after the meeting at which it first reviews the application—provided, however, that the board may vote to extend this time period to up to 90 days for good cause.

6. Town Council Review and Decision

The Town Council shall review the application, hold a standard public hearing, and decide the application in accordance with Section 2.4.7, subject to the following provisions.

- a. A decision on a General Rezoning application shall be one of the following:
 - (1) Approve the application as submitted;
 - (2) Approve a rezoning to a more restrictive district, with the applicant's consent;
 - (3) Deny the application; or
 - (4) Remand the application back to the Planning Director or Planning and Zoning Board for further consideration. (This may require further public notice and additional review fees.)
- b. A decision on a Conditional Rezoning application shall be one of the following:
 - (1) Approve the application as submitted (including any conditions proposed as part of a Conditional Rezoning application);
 - (2) Approve the application subject to modified or additional conditions, with the applicant's consent;
 - (3) Deny the application; or

- (4) Remand the application back to the Planning Director or Planning and Zoning Board for further consideration. (This may require further public notice and additional review fees.)
- c. A decision on a Planned Development Rezoning application shall be one of the following:
 - (1) Approve the application as submitted (including the submitted PD Plan/Agreement);
 - (2) Approve the application subject to conditions, with the applicant's consent;
 - (3) Deny the application; or
 - (4) Remand the application back to the Planning Director or Planning and Zoning Board for further consideration. (This may require further public notice and additional review fees.)

7. Post-Decision Actions and Limitations

The post-decision actions and limitations in Section 2.4.8 shall apply to the application except as follows:

a. Effect of Approval

Approval of a Rezoning application reclassifies the rezoning site to the approved zoning district and subjects it to the development regulations applicable to the district (including any conditions associated with a conditional zoning district, and any PD Plan/Agreement approved as part of a Planned Development Rezoning). Such approval does not itself authorize specific development activity.

b. Expiration of Approval

A rezoning does not expire, but shall remain valid unless and until the rezoned land is subsequently rezoned in accordance with this subsection's rezoning procedure.

c. Minor Modifications of Approved PD Plan/Agreement Allowed

- (1) Subsequent development applications may incorporate minor changes from the development defined by the PD Plan/Agreement, without the need to amend the PD Plan/Agreement in accordance with Section 2.4.8.D, Modification or Amendment of Approval, where the Planning Director determines that the changes:
 - (A) Continue to comply with this Ordinance;
 - (B) Are necessary to comply with conditions of approval; or
 - (C) Are consistent with the PD Plan/Agreement approval. Consistency means the changes would not significantly alter the development's general function, form, intensity, character, demand on public facilities, impact on adjacent properties, or other characteristic from that indicated by the PD Plan/Agreement approval.
- (2) In any case, the following changes from the PD Plan/Agreement approval shall constitute a major change requiring amendment of the PD Plan/Agreement in accordance with Section 2.4.8.D, Modification or Amendment of Approval:
 - (A) A change in a condition of approval;
 - (B) An increase greater than 20 percent in residential density;
 - (C) An increase greater than 20 percent in total nonresidential floor area;
 - (D) An increase greater than ten percent in the amount of land devoted to nonresidential uses; and
 - (E) A deviation greater than 20 percent in the extent to which one type of residential use may be converted to another type of residential use and one type of

nonresidential use may be converted to another type of nonresidential use, as identified in the conversion schedule.

d. Action if Condition of Conditional Rezoning Invalidated

If any condition applicable to a Conditional Rezoning approval is declared invalid by a court of competent jurisdiction, the Town Council may subsequently rescind the approval on determining that it would not have approved the application but for the condition. If the Town Council rescinds its approval, it shall provide the applicant an opportunity to revise the application in accordance with Section 2.4.7.D, Revision of Application, in response to the condition invalidation and rescission.

(Ord. No. 2016-001, 05/10/2016)

D. Rezoning Review Standards

1. Planned Development District

For an application to rezone to a Planned Development district, the Town Council shall consider the compliance of the proposal, including the PD Plan/Agreement, with the review standards in Section 3.7.2 for the Mixed-Use PD district.

(Ord. No. 2015-066, 07/28/2015; Ord. No. 2016-001, 05/10/2016)

2.5.4. Conceptual Master Plan Approval

A. Purpose

The purpose of this subsection is to provide an administrative procedure whereby a developer may opt to submit, and the Town consider, a conceptual master plan for a large and/or phased development proposal that depicts its major development and design parameters (i.e., major circulation and infrastructure systems, major open spaces, allocation of categories of land uses and development intensities among portions of the development site, and phasing of development over time). Conceptual Master Plan Approval is intended to provide a developer an opportunity to obtain the Town’s preliminary approval of such conceptual master plans—either in conjunction with an application for Conditional Rezoning or as a precursor to the preparation and submittal of the more specific and more detailed plans required for subdivision approvals or site plan approvals.

B. Applicability

1. General

Conceptual Master Plan Approval is not required for any development, but any landowner may submit an application for Conceptual Master Plan Approval to obtain the Town’s preliminary approval of conceptual plans for a development, provided the application meets at least one of the following qualifications:

- a. The application site includes a contiguous area of at least ten acres;
- b. The application proposes development containing at least 100,000 square feet of total gross floor area with three or more principal uses;

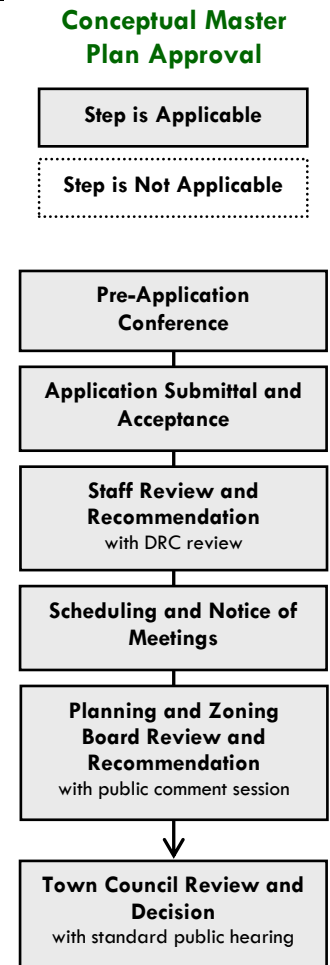


Figure 2.5.4.C

- c. The application proposes to phase initiation of the development over a three- to five-year period; or
- d. The application is for any development proposed within the Transit-Oriented Development District.

2. Relationship to Other Applications

- a. An application for Conceptual Master Plan Approval may be submitted and reviewed concurrently with an application for Conditional Rezoning.
- b. If an application for Conceptual Master Plan Approval is approved, subsequent approval of the development may be reviewed and decided in accordance with one of the following approval procedures irrespective of the size of the proposed development (see Section 2.5.6.A.2 and Section 2.5.7.A):
 - (1) Minor Site Plan Approval procedure rather than the Major Site Plan Approval procedure; or
 - (2) Type 2 Subdivision Preliminary Plat Approval and Final Plat procedures rather the Type 1 Subdivision Preliminary Approval and Final Plat procedures, provided all owners execute the Statement of Voluntary Compliance in Section 5.9.7.C.2 of this Ordinance, if single-family attached, detached, or duplex development is proposed.

(Ord. No. 2016-001, 05/10/2016)

C. Conceptual Master Plan Approval Procedure

Figure 2.5.4.C and the following subsections identify those steps in the standard review procedure (see Section 2.4) applicable to the review of a Conceptual Master Plan Approval application and note any specific variations of, or additions to, those review steps.

1. Pre-Application Conference

The applicant shall hold a pre-application conference with Town staff in accordance with Section 2.4.2.

2. Application Submittal and Acceptance

The application shall be submitted and accepted, and may be withdrawn, in accordance with Section 2.4.3.

3. Staff Review and Recommendation

The Planning Director shall review the application, allow revisions of the application, and prepare a staff report and recommendation in accordance with Section 2.4.4.

4. Scheduling and Public Notice of Meetings

The application shall be scheduled, and required public notices provided, for Planning and Zoning Board and Town Council meetings in accordance with Section 2.4.5.

5. Planning and Zoning Board Review and Recommendation

The Planning and Zoning Board shall review the application, hold a public information session, and make a recommendation in accordance with Section 2.4.6.

6. Town Council Review and Decision

The Town Council shall review the application, hold a standard public hearing, and decide the application in accordance with Section 2.4.7. The decision shall be one of the following:

- a. Approve the application as submitted;
- b. Approve the application subject to conditions;

- c. Deny the application;
- d. Remand the application back to the Planning Director or Planning and Zoning Board for further consideration. (This may require further public notice and additional review fees.)

7. Post-Decision Actions and Limitations

The post-decision actions and limitations in Section 2.4.8 shall apply to the application except as follows:

a. Effect of Approval

Conceptual Master Plan Approval authorizes the subsequent submittal of applications for subsequent development approvals required to undertake and complete the development proposed by the approved Conceptual Master Plan. Such applications shall be subject to staff approval only, including those for a Type 2 Subdivision Preliminary Plat Approval, Minor Site Plan Approval, and Construction Plan Approval. Conceptual Master Plan Approval does not itself authorize specific development activity.

b. Expiration of Approval

Conceptual Master Plan Approval shall expire if no application for a development approval required to undertake the development proposed by the approved Conceptual Master Plan, or an approved phase thereof, is approved and vested within five years after the date of Conceptual Master Plan Approval.

c. Minor Changes from Conceptual Master Plan Approval Allowed

- (1) Subsequent development applications may incorporate minor changes from the development defined by the Conceptual Master Plan Approval, without the need to amend the Conceptual Master Plan Approval in accordance with Section 2.4.8.D, Modification or Amendment of Approval, where the Planning Director determines that the changes:
 - (A) Continue to comply with this Ordinance;
 - (B) Are necessary to comply with conditions of approval; or
 - (C) Are consistent with the Conceptual Master Plan Approval. Consistency means the changes would not significantly alter the development's general function, form, intensity, character, demand on public facilities, impact on adjacent properties, or other characteristic from that indicated by the Conceptual Master Plan Approval.
- (2) In any case, the following changes from the Conceptual Master Plan Approval shall constitute a major change requiring amendment of the Conceptual Master Plan Approval in accordance with Section 2.4.8.D, Modification or Amendment of Approval:
 - (A) A change in a condition of approval;
 - (B) An increase greater than 20 percent in residential density;
 - (C) An increase greater than 20 percent in total nonresidential floor area;
 - (D) An increase greater than ten percent in the amount of land devoted to nonresidential uses; and
 - (E) A decrease greater than 20 percent in the ratio of single-family dwelling units to other residential building types.

(Ord. No. 2016-001, 05/10/2016)

D. Conceptual Master Plan Approval Review Standards

A Conceptual Master Plan Approval application shall be approved only if the Town Council determines that the proposed development complies with the applicable standards in this Ordinance to the extent determinable for a conceptual plan—specifically that:

1. Proposed uses and development intensities are consistent with applicable district and use standards and do not preclude compliance with this Ordinance’s specific use, intensity, and dimensional standards;
2. Proposed layouts of vehicular circulation routes are consistent with the purposes and intent of the general access and circulation standards of this Ordinance, and do not preclude compliance with the Ordinance’s more detailed access and circulation standards;
3. The proposed size, layout, and timing of water, sewer, and other major infrastructure systems are consistent with the general infrastructure standards of this Ordinance, and do not preclude compliance with the Ordinance’s more detailed infrastructure standards;
4. The proposed size and arrangement of developed areas in relationship to drainage systems on and adjacent to the site are consistent with the purposes and intent of the general stormwater management and water quality standards of this Ordinance, and do not preclude compliance with this Ordinance’s more detailed stormwater and water quality standards;
5. The proposed size and arrangement of major open space areas and developed areas are consistent with the general open space and natural resource protection standards in this Ordinance, and do not preclude compliance with this Ordinance’s specific open space and natural resource standards;
6. The proposed arrangement of other development elements are consistent with the purposes and intent of the general development standards of this Ordinance, and do not preclude compliance with the Ordinance’s more detailed development and design standards; and
7. The proposed types and arrangements of uses, development intensities, and major development elements would allow the development to be compatible with existing and proposed surrounding uses and developments.

(Ord. No. 2014-051, 11/10/2014)

2.5.5. Special Use Permit

A. Purpose

A use designated as a Special Use in a particular zoning district is a use that may be appropriate in the district, but because of its nature, extent, and external effects, requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings. The purpose of this section is to establish a mechanism to review Special Uses to ensure they are appropriate as and where proposed.

B. Applicability

1. The procedure and standards in this subsection apply to the review of any proposed development involving a Special Use as designated in the Use Tables in Section 4.2.4, or proposed development for which a Special Use Permit is required by any other provision of this Ordinance.
2. An application for a Special Use Permit may be submitted and reviewed concurrently with an application for Minor Site Plan Approval (and any other application submitted and reviewed concurrently with the Minor Site Plan Approval application, except in cases where an applicant is requesting designation of a Site-Specific Development Plan).

(Ord. No. 2016-001, 05/10/2016)

C. Special Use Permit Procedure

Figure 2.5.5.C and the following subsections identify those steps in the standard review procedure (see Section 2.4) applicable to the review of a Special Use Permit application and note any specific variations of, or additions to, those review steps.

1. Pre-Application Conference

The applicant shall hold a pre-application conference with Town staff in accordance with Section 2.4.2.

2. Application Submittal and Acceptance

The application shall be submitted and accepted, and may be withdrawn, in accordance with Section 2.4.3.

3. Staff Review and Recommendation

The Planning Director shall review the application, allow revisions of the application, and prepare a staff report and recommendation in accordance with Section 2.4.4.

4. Scheduling and Public Notice of Meetings

The application shall be scheduled, and required public notices provided, for Planning and Zoning Board and Town Council meetings, in accordance with Section 2.4.5.

5. Planning and Zoning Board Review and Recommendation

The Planning and Zoning Board shall review the application, hold a public comment session, and make a recommendation in accordance with Section 2.4.6.

6. Town Council Review and Decision

The Town Council shall review the application, hold a quasi-judicial public hearing, and decide the application in accordance with Section 2.4.7, subject to the following provisions.

- a. The decision shall be one of the following:
 - (1) Approve the application as submitted;
 - (2) Approve the application subject to conditions;
 - (3) Deny the application;
 - (4) Remand the application back to the Planning Director or Planning and Zoning Board for further consideration. (This may require further public notice and additional review fees.)

7. Post-Decision Actions and Limitations

The post-decision actions and limitations in Section 2.4.8 shall apply to the application except as follows:

a. Issuance and Recordation of Special Use Permit

- (1) If the Special Use Permit application is approved, the Planning Director shall issue the applicant a Special Use Permit that identifies the property to which it applies, the development plans on which it is based, and any conditions of approval.

Special Use Permit

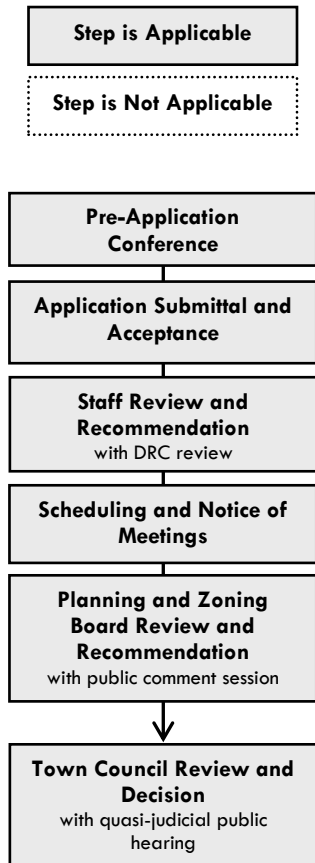


Figure 2.5.5.C

- (2) On expiration of the deadline for filing an appeal of the decision (see Section 2.4.8.B), the applicant shall record the Special Use Permit with the Register of Deeds for the county in which the development site is located and return a copy of the recorded Special Use Permit to the Planning Director.

b. Effect of Approval

Approval and recordation of a Special Use Permit application allows approval of a concurrently-reviewed Site Plan Approval application for the same development, and authorizes submittal of other development applications that may be required before construction or use of the development authorized by the approved Special Use Permit.

c. Expiration of Approval

- (1) Approval of a Special Use Permit application shall expire if the Special Use Permit is not recorded in the appropriate county Register of Deeds in accordance with subsection a above within 30 days after expiration of the deadline for filing an appeal of the decision approving the application.
- (2) An approved and recorded Special Use Permit shall expire if an application for a Construction Plan Approval for the approved development is not accepted for review within one year after the date of approval of the Special Use Permit application.
- (3) An approved and recorded Special Use Permit shall expire if at any time after its issuance any other applicable State or federal agency revokes or terminates a required permit.

d. Minor Modifications Allowed

- (1) Subsequent development applications may incorporate minor changes from the development defined by the Special Use Permit approval, without the need to amend the Special Use Permit in accordance with Section 2.4.8.D, Modification or Amendment of Approval, where the Planning Director determines that the changes:
 - (A) Continue to comply with this Ordinance;
 - (B) Are necessary to comply with conditions of approval; or
 - (C) Are consistent with the Special Use Permit approval or any Town Council approval on which the Special Use Permit approval was based (e.g., PD Plan/Agreement approval, Conceptual Master Plan Approval). Consistency means the changes would not significantly alter the development's general function, form, intensity, character, demand on public facilities, impact on adjacent properties, or other characteristic from that indicated by the Special Use Permit approval or any prior Town Council approval on which it was based.
- (2) In any case, the following changes from the Special Use Permit approval or Town Council approval on which it was based shall constitute a major change requiring amendment of the Special Use Permit in accordance with Section 2.4.8.D, Modification or Amendment of Approval:
 - (A) A change in a condition of approval;
 - (B) An increase greater than 20 percent in residential density;
 - (C) An increase greater than 20 percent in total nonresidential floor area;
 - (D) An increase greater than ten percent in the amount of land devoted to nonresidential uses;
 - (E) A change greater than ten percent in the ratio of gross floor area devoted to residential uses to that devoted to nonresidential floor area; and

- (F) A decrease greater than 20 percent in the ratio of single-family dwelling units to other residential building types.
- (3) Before determining whether a change is a minor change or a major change, the Planning Director shall review the record of the proceedings on the Special Use Permit application and consider whether any proposed modification would require evidentiary support in addition to that on which approval of the Special Use Permit application was based.

(Ord. No. 2016-001, 05/10/2016)

D. Special Use Permit Review Standards

A Special Use Permit application shall be approved only if the Town Council reaches each of the following conclusions of law, based on findings of fact supported by competent, substantial, and material evidence presented at the hearing:

1. The proposed development will not materially endanger the public health or safety;
2. The proposed development will comply with all regulations and standards generally applicable within the zoning district and specifically applicable to the particular type of Special Use;
3. The proposed development will not substantially injure the value of adjoining property, or is a public necessity;
4. The proposed development will be in harmony with the intensity, scale, and character of development existing or planned in the surrounding area;
5. The proposed development will not cause undue traffic congestion or create a traffic hazard;
6. The proposed development will not generate needs for transportation, water supply, sewage disposal, fire and police protection, and similar public services that cannot be adequately handled by available infrastructure and facilities;
7. The proposed development will be consistent with the Comprehensive Plan.

(Ord. No. 2015-002, 04/29/2015)

2.5.6. Subdivision Approvals

A. Applicability

1. General

The procedure and standards in this subsection apply to the review of any proposed subdivision, as defined in Section 11.5, Terms and Uses Defined, including the development of open space, streets, other public infrastructure improvements, and private utility improvements proposed or required to serve the future development of subdivided lots and parcels.

2. Subdivisions Distinguished

a. Type 1 Preliminary Plat

All preliminary plats proposing single-family detached, attached, or duplex dwellings submitted under this Ordinance shall be reviewed and decided in accordance with the procedures and standards in Section 2.5.6.B.1, Type 1 Preliminary Plat Approval Procedure and Section 2.5.6.C, Final Plat Approval.

b. Type 2 Preliminary Plat

- (1) With the exception of subdivisions associated with a Planned Development District or a Conceptual Master Plan Approval, if all property owners provide an executed Statement of Voluntary Compliance in accordance with Section 5.9.7.B.2 of this Ordinance and Section 2.5.6.C, Final Plat Approval, plats proposing single-family detached, attached,

or duplex dwellings may be reviewed and decided in accordance with Section 2.5.6.B.2, Type 2 Subdivision Preliminary Plat Approval Procedure.

- (2) All preliminary plats associated with a Minor Site Plan or Major Site Plan for non-residential development shall be reviewed and decided in accordance with the procedures and standards in Section 2.5.6.B.2, Type 2 Subdivision Preliminary Plat Approval Procedure, and Section 2.5.6.C, Final Plat Approval.

c. Subdivision Exclusions

A Subdivision Exclusion is any division of land that is proposed as one of the activities specifically listed as excluded from the definition of “subdivision” in Section 11.5, Terms and Uses Defined, and thus from the subdivision procedures and standards in this Ordinance. Determination of Subdivision Exclusion in accordance with Section 2.5.6.D is required before recordation of any division of land claimed to be excluded from regulation as a subdivision under this Ordinance.

3. Concurrent Applications

Applications for Type 1 Subdivision Preliminary Plat Approval or Type 2 Subdivision Preliminary Plat Approval may be submitted and reviewed concurrently with an application for Construction Plan Approval, Administrative Adjustment, or Alternative Equivalent Compliance. An application for Determination of Subdivision Exclusion may be submitted and reviewed concurrently with any development application.

(Ord. No. 2015-002, 04/29/2015; Ord. No. 2016-001, 05/10/2016)

B. Preliminary Plat Approvals

1. Type 1 Preliminary Plat Approval Procedure

Figure 2.5.6.B.1 and the following subsections identify those steps in the standard review procedure (see Section 2.4) applicable to the review of a Type 1 Subdivision Preliminary Plat Approval application and note any specific variations of, or additions to, those review steps.

a. Pre-Application Conference

The applicant shall hold a pre-application conference with Town staff in accordance with Section 2.4.2.

b. Application Submittal and Acceptance

The application shall be submitted and accepted, and may be withdrawn, in accordance with Section 2.4.3.

c. Staff Review and Recommendation

The Planning Director shall review the application, allow revisions of the application, and prepare a staff report and recommendation in accordance with Section 2.4.4.

d. Scheduling and Public Notice of Meetings

The application shall be scheduled for Planning and Zoning Board and Town Council meetings in accordance with Section 2.4.5.

e. Planning and Zoning Board Review and Recommendation

The Planning and Zoning Board shall review the application and make a recommendation in accordance with Section 2.4.6.

Type 1 Subdivision Preliminary Plat Approval

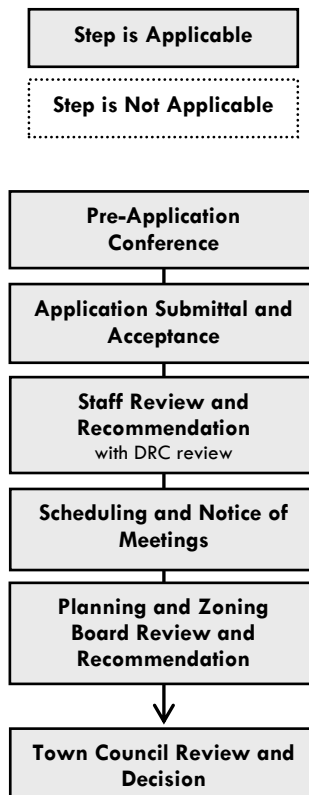


Figure 2.5.6.B.1

f. Town Council Review and Decision

The Town Council shall review the application and decide the application in accordance with Section 2.4.7. The Town Council's decision on an application for Type 1 Subdivision Preliminary Plat Approval shall be one of the following:

- (1) Approve the application as submitted;
- (2) Approve the application subject to conditions;
- (3) Deny the application; or
- (4) Remand the application back to the Planning Director or Planning and Zoning Board for further consideration. (This may require additional review fees.)

g. Post-Decision Actions and Limitations

The post-decision actions and limitations in Section 2.4.8 shall apply to the application except as follows:

(1) Effect of Approval

Type 1 Subdivision Preliminary Plat Approval does not authorize specific development activity, but does authorize the submittal of applications for Construction Plan Approval (Section 2.5.7) and other development permits and approvals required to construct or install the public infrastructure and private utility improvements proposed to serve the subdivision or an approved phase of the subdivision (see Section 8.1.2 Phasing of Development).

(2) Expiration of Approval

- (A) Type 1 Subdivision Preliminary Plat Approval shall expire if no significant work is done or development is made for the subdivision, or an approved phase of the subdivision, within two years after the date of Preliminary Plat Approval.
- (B) If significant work is completed or development is made for a phase of the subdivision, Type 1 Subdivision Preliminary Plat Approval shall expire if no significant work is done or development is made for any remaining phases of the subdivision within two years after recordation of the last Final Plat for a phase of the subdivision in which significant work was completed or development was made.

(3) Minor Changes Allowed

- (A) Subsequent development applications may incorporate minor changes from the development defined by the Type 1 Subdivision Preliminary Plat Approval, without the need to amend the Type 1 Subdivision Preliminary Plat Approval in accordance with Section 2.4.8.D, Modification or Amendment of Approval, where the Planning Director determines that the changes:
 - (i) Continue to comply with this Ordinance;
 - (ii) Are necessary to comply with conditions of approval; or
 - (iii) Are consistent with the Type 1 Subdivision Preliminary Plat Approval. Consistency means the changes would not significantly alter the development's general function, form, intensity, character, demand on public facilities, impact on adjacent properties, or other characteristic from that indicated by the Type 1 Subdivision Preliminary Plat Approval.
- (B) In any case, the following changes from the Type 1 Subdivision Preliminary Plat Approval shall constitute a major change requiring amendment of the Type 1

Subdivision Preliminary Plat Approval in accordance with Section 2.4.8.D, Modification or Amendment of Approval:

- (i) A change in a condition of approval; and
- (ii) An increase in the number of lots.

2. Type 2 Subdivision Preliminary Plat Approval Procedure

Figure 2.5.6.B.2 and the following subsections identify those steps in the standard review procedure (see Section 2.4) applicable to the review of a Type 2 Subdivision Preliminary Plat Approval application and note any specific variations of, or additions to, those review steps.

a. Application Submittal and Acceptance

The application shall be submitted and accepted, and may be withdrawn, in accordance with Section 2.4.3.

b. Staff Review and Decision

The Planning Director shall review the application, allow revisions of the application, and decide the application in accordance with Section 2.4.4. The decision shall be one of the following:

- (1) Approve the application as submitted;
- (2) Approve the application subject to conditions; or
- (3) Deny the application.

c. Post-Decision Actions

The post-decision actions and limitations in Section 2.4.8 shall apply to the application except as follows:

(1) Effect of Approval

Type 2 Subdivision Preliminary Plat Approval does not authorize specific development activity, but does authorize the submittal of applications for Construction Plan Approval (Section 2.5.7) and other development permits and approvals required to construct or install the public infrastructure and private utility improvements proposed to serve the subdivision or an approved phase of the subdivision (see Section 8.1.2 Phasing of Development).

(2) Expiration of Approval

- (A) Type 2 Subdivision Preliminary Plat Approval shall expire if no significant work is done or development is made for the subdivision, or an approved phase of the subdivision, within two years after the date of Preliminary Plat Approval.
- (B) If significant work is completed or development is made for a phase of the subdivision, Type 2 Subdivision Preliminary Plat Approval shall expire if no significant work is done or development is made for any remaining phases of the subdivision within two years after recordation of the last Final Plat for a phase of the subdivision in which significant work was completed or development was made.
- (C) Failure to comply with the executed Statement of Voluntary Compliance is a violation of this Ordinance and shall void the Type 2 Preliminary Plat Approval.

Type 2 Subdivision Preliminary Plat Approval

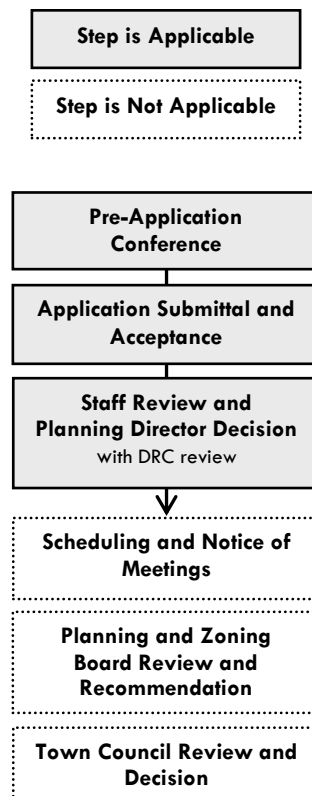


Figure 2.5.6.B.2

(3) Minor Changes Allowed

- (A)** Subsequent development applications may incorporate minor changes from the development defined by the Type 2 Subdivision Preliminary Plat Approval, without the need to amend the Type 2 Subdivision Preliminary Plat Approval in accordance with Section 2.4.8.D, Modification or Amendment of Approval, where the Planning Director determines that the changes:
 - (i)** Continue to comply with this Ordinance;
 - (ii)** Are necessary to comply with conditions of approval; or
 - (iii)** Are consistent with the Type 2 Subdivision Preliminary Plat Approval and any prior Town Council approval on which the Type 2 Subdivision Preliminary Plat Approval was based (e.g., PD Plan/Agreement approval, Conceptual Master Plan Approval, Type 1 Preliminary Plat Approval). Consistency means the changes would not significantly alter the development's general function, form, intensity, character, demand on public facilities, impact on adjacent properties, or other characteristic from that indicated by the Type 2 Subdivision Preliminary Plat Approval or any prior Town Council approval on which it was based.

- (B)** In any case, the following changes from the Type 2 Subdivision Preliminary Plat Approval or any prior Town Council approval on which it was based shall constitute a major change requiring amendment of the Type 2 Subdivision Preliminary Plat Approval in accordance with Section 2.4.8.D, Modification or Amendment of Approval:
 - (i)** A change in a condition of approval; and
 - (ii)** An increase in the number of lots.

3. Preliminary Plat Approval Review Standards

An application for Type 1 Subdivision Preliminary Plat Approval or a Type 2 Preliminary Plat Approval shall be approved only if the Town Council or Planning Director, as appropriate, determines that the proposed subdivision:

- a.** Identifies tree protection areas as required in Section 5.4.5, Tree Protection Plan and Tree Protection Areas;
- b.** Complies with applicable standards in Article 5: Development Standards, Article 6: Riparian Buffers, Article 7: Stormwater Management, and Article 8: Performance and Maintenance;
- c.** Complies with the provisions of the Statement of Voluntary Compliance in Section 5.9.7.B.2 of this Ordinance, if applicable;
- d.** Complies with all other applicable standards in this Ordinance; and
- e.** Complies with all other applicable Town ordinances and state and federal laws.

(Ord. No. 2016-001, 05/10/2016)

C. Final Plat Approval

1. Final Plat Approval Procedure

Figure 2.5.6.C.1 and the following subsections identify those steps in the standard review procedure (see Section 2.4) applicable to the review of a Final Plat Approval application and note any specific variations of, or additions to, those review steps.

a. Pre-Application Conference

The applicant shall hold a pre-application conference with Town staff in accordance with Section 2.4.2.

b. Application Submittal and Acceptance

The application shall be submitted and accepted, and may be withdrawn, in accordance with Section 2.4.3, except that no application shall be submitted unless:

- (1) Type 1 Subdivision Preliminary Plat Approval or Type 2 Preliminary Plat Approval for the subdivision has been obtained and is unexpired and otherwise valid;
- (2) Construction Plan Approval for all public infrastructure and private utility improvements required has been obtained and is unexpired and otherwise valid; and
- (3) Construction or installation of the approved improvements has been ensured by one or a combination of the following:
 - (A) Completion of the construction or installation of approved improvements and acceptance of the improvements by the appropriate agency;
 - (B) Payment to the Town of funds in lieu of required street construction in accordance with Section 8.1.3, Payment in Lieu of Construction of Public Street; and/or
 - (C) Provision of performance and maintenance guarantees ensuring the construction and acceptance of approved improvements in accordance with Section 8.1.4, Performance Guarantees, and Section 8.2.2, Maintenance Guarantees.

Final Plat Approval

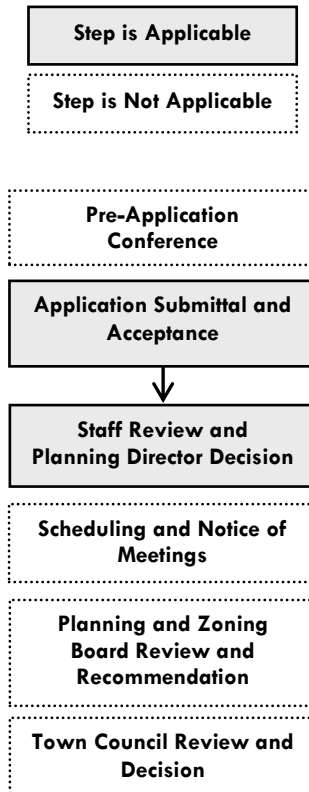


Figure 2.5.6.C.1

c. Staff Review and Recommendation

The Planning Director shall review the application, allow revisions of the application, and decide the application in accordance with Section 2.4.4. The decision shall be one of the following:

- (1) Approve the application as submitted;
- (2) Approve the application subject to conditions; or
- (3) Deny the application.

d. Post-Decision Actions

The post-decision actions and limitations in Section 2.4.8 shall apply to the application except as follows:

(1) Payment In Lieu of Parkland Dedication

If the Final Plat is approved and such approval includes a proposed or conditional requirement for a payment in lieu of providing required common space or public recreation area, the applicant shall deposit such payment with the Town in accordance with Section 5.5.3.C, Payment in Lieu of Providing Required Public Recreation Area, before recordation of the approved Final Plat.

(2) Certification and Recordation of Approved Final Plat

- (A)** If the Final Plat is approved, the applicant shall revise the Final Plat as necessary to incorporate any conditions of approval and any required certification forms and signatures, and submit the revised plat to the Planning Director for review.
- (B)** On determining that the plat has been properly revised and that all prerequisites to recordation of the plat have been met, the Planning Director shall certify the Town's approval on the plat.
- (C)** The applicant shall then record the Final Plat with the Register of Deeds for the county in which the development site is located and return a copy of the recorded Final Plat to the Planning Director.

(3) Effect of Approval

Recordation of a certified Final Plat authorizes the applicant to convey the platted lots by reference to the recorded plat. It also authorizes the owners of recorded lots to submit applications for a Building Permit or other development permit or approval required to develop the lot, provided all dedications and public infrastructure and private utility improvements required to serve the lot have been completed and accepted by the appropriate agency.

(4) Expiration of Approval

If the applicant fails to record the Final Plat within 30 days after the date of its approval, the Final Plat Approval shall become invalid. A recorded Final Plat shall not expire.

2. Final Plat Approval Review Standards

An application for Final Plat Approval shall be approved only if the Planning Director determines that the Final Plat:

- a.** Substantially conforms to an unexpired and valid Type 1 Subdivision Preliminary Plat Approval or Type 2 Subdivision Preliminary Plat Approval for the subdivision;
- b.** Identifies tree protection areas as required in Section 5.4.5, Tree Protection Plan and Tree Protection Areas;
- c.** Complies with applicable standards in Article 5: Development Standards, Article 6: Riparian Buffers, Article 7: Stormwater Management, and Article 8: Performance and Maintenance;
- d.** Complies with all other applicable standards in this Ordinance;
- e.** Complies with all other applicable Town ordinances and state and federal laws; and
- f.** Includes all required certifications.

(Ord. No. 2016-001, 05/10/2016)

D. Determination of Subdivision Exclusion

1. Determination of Subdivision Exclusion Procedure

Figure 2.5.6.D.1 and the following subsections identify those steps in the standard review procedure (see Section 2.4) applicable to the review of a Determination of Subdivision Exclusion application and note any specific variations of, or additions to, those review steps.

a. Application Submittal and Acceptance

The application shall be submitted and accepted, and may be withdrawn, in accordance with Section 2.4.3, except that this application is not eligible for a 50 percent refund.

b. Staff Review and Decision

- (1) The Planning Director shall review the application, allow revisions of the application, and decide the application in accordance with Section 2.4.4. The decision shall be one of the following:
 - (A) Determination that the proposed division of land is not a subdivision subject to regulation under this Ordinance; or
 - (B) Determination that the proposed division of land is a subdivision subject to regulation under this Ordinance.
- (2) On determining that the proposed division of land is a subdivision subject to regulation under this Ordinance, the Planning Director shall direct the applicant to the Type 1 Subdivision Preliminary Plat Approval procedure or the Type 2 Subdivision Preliminary Plat Approval procedure, as appropriate.

Determination of Subdivision Exclusion

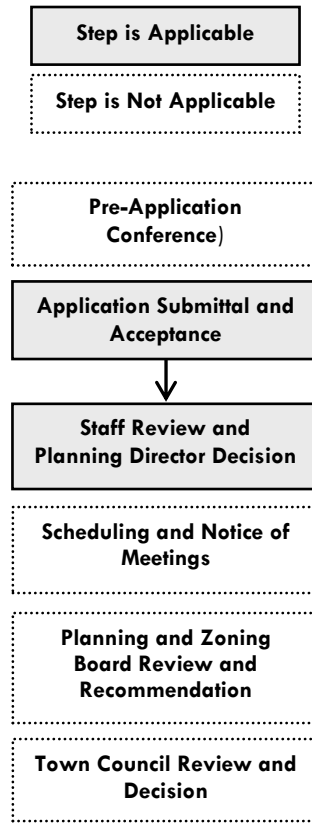


Figure 2.5.6.E.1

c. Post-Decision Actions

The post-decision actions and limitations in Section 2.4.8 shall apply to the application except as follows:

(1) Certification and Recordation of Approved Subdivision Exclusion Plat

If the Planning Director determines that the proposed division of land is not a subdivision subject to regulation under this Ordinance and the applicant wishes to record a plat of the division, the applicant shall submit the plat to the Planning Director, who shall certify on the plat the Town's determination that the plat is not subject to subdivision regulation under this Ordinance. The applicant may then record the certified Subdivision Exclusion plat with the Register of Deeds for the county in which the development site is located and shall return a copy of the recorded plat to the Planning Director.

(2) Effect of Approval

Recordation of a certified Subdivision Exclusion Plat authorizes the applicant to convey the platted lots by reference to the recorded plat. It also authorizes the owners of recorded lots to submit applications for a Building Permit or other development permit or approval required to develop the lot, provided all dedications and public infrastructure and private utility improvements required to serve the lot have been completed and accepted by the appropriate agency.

(3) Expiration of Approval

If the applicant fails to record the plat within 30 days after the date of approval, the Determination of Subdivision Exclusion shall become invalid. A recorded Subdivision Exclusion plat shall not expire.

2. Subdivision Exclusion Review Standards

An application for a Determination of Subdivision Exclusion shall be approved only if the Planning Director determines that the proposed division of land falls within the one of the activities specially listed as excluded from the definition of "subdivision" in Section 11.5, Terms and Uses Defined.

(Ord. No. 2016-001, 05/10/2016)

2.5.7. Site Plan Approval

A. Applicability

1. The procedure and standards in this subsection apply to the review of applications for Major Site Plan Approval and Minor Site Plan Approval. Site Plan Approval shall be required for all development, unless exempted in accordance with subsection 3 below, before submittal of an application for Construction Plan Approval, unless the applicant elects to submit applications for both Site Plan Approval and Construction Plan Approval for concurrent review in accordance with subsection 2 below.
2. For developments requiring both Site Plan Approval and Construction Plan Approval, the applicant may submit an application for Construction Plan Approval concurrently with an application for Site Plan Approval. In such a case, Town staff shall review the more detailed Construction Plan Approval application concurrently with the Site Plan Approval application, but the Town Engineer shall not decide the Construction Plan Approval application until after the Site Plan Approval application is decided by either the Planning Director or the Town Council, as appropriate.
3. The following development is exempt from the requirements of this section:
 - a. Internal construction that does not increase gross floor area or structure height, increase the density or intensity of use, or affect parking or landscaping requirements;
 - b. Accessory apartments;
 - c. Nonhabitable detached accessory structures associated with and located on the same lot as single-family detached, attached, duplex, or manufactured home dwellings;
 - d. New manufactured home dwellings; and
 - e. Additions to single-family detached, attached, and duplex dwellings.
4. Unless exempted in accordance with subsection 3 above, Major Site Plan Approval shall be required for development of any principal use designated in Table 4.2.4, Principal Use Table, as permitted with Major Site Plan Approval by Town Council (unless qualifying for Minor Site Plan Approval in accordance with Section 2.5.7.A.5).
5. Minor Site Plan Approval shall be required for any of the following developments unless exempted in accordance with subsection 3 above:
 - a. Development in accordance with a valid PD Plan/Agreement;
 - b. Development in accordance with a valid Conceptual Master Plan Approval;
 - c. Development in accordance with a valid Special Use Permit approval;
 - d. Development of any principal use designated in Table 4.2.4, Principal Use Table, as permitted with Minor Site Plan Approval by Town staff;
 - e. Accessory uses and structures;
 - f. Temporary uses and structures; and
 - g. Single-family detached, attached, or duplex dwellings where the landowner has executed a Statement of Voluntary Compliance in accordance with Section 5.9.7.B.2.
6. An application for Major Site Plan Approval or Minor Site Plan Approval, as appropriate, may be submitted and reviewed concurrently with an application for Construction Plan Approval in accordance with subsection 2 above, or with applications for a Special Use Permit, Floodplain Management Permit, Stormwater Permit, Administrative Adjustment, Alternative Equivalent Compliance, or Site-Specific Development Plan Designation.

(Ord. No. 2015-002, 04/29/2015; Ord. No. 2016-001, 05/10/2016)

B. Major Site Plan Approval Procedure

Figure 2.5.7.B and the following subsections identify those steps in the standard review procedure (see Section 2.4) applicable to the review of a Major Site Approval application and note any specific variations of, or additions to, those review steps.

1. Pre-Application Conference

The applicant shall hold a pre-application conference with Town staff in accordance with Section 2.4.2.

2. Application Submittal and Acceptance

The application shall be submitted and accepted, and may be withdrawn, in accordance with Section 2.4.3.

3. Staff Review and Recommendation

The Planning Director shall review the application, allow revisions of the application, and prepare a staff report and recommendation in accordance with Section 2.4.4.

4. Scheduling and Public Notice of Meetings

The Planning Director shall schedule the application for, and provide required public notices of, Planning and Zoning Board and Town Council meetings in accordance with Section 2.4.5.

5. Planning and Zoning Board Review and Recommendation

The Planning and Zoning Board shall review the application and make a recommendation in accordance with Section 2.4.6.

6. Town Council Review and Decision

The Town Council shall review and decide the application in accordance with Section 2.4.7. The decision shall be one of the following:

- a. Approve the application as submitted;
- b. Approve the application subject to conditions;
- c. Deny the application; or
- d. Remand the application back to the Planning Director or Planning and Zoning Board for further consideration. (This may require additional review fees.)

7. Post-Decision Actions

The post-decision actions and limitations in Section 2.4.8 shall apply to the application except as follows:

a. Effect of Approval

Major Site Plan Approval allows the approval of any concurrently-reviewed applications for Construction Plan Approval, Floodplain Management Permit, Stormwater Management Permit, Administrative Adjustment, Alternative Equivalent Compliance, or Site-specific Development Plan Designation for the same development. It also authorizes submittal of any other development applications that may be required before construction or use of the development authorized by the Major Site Plan Approval.

Major Site Plan Approval

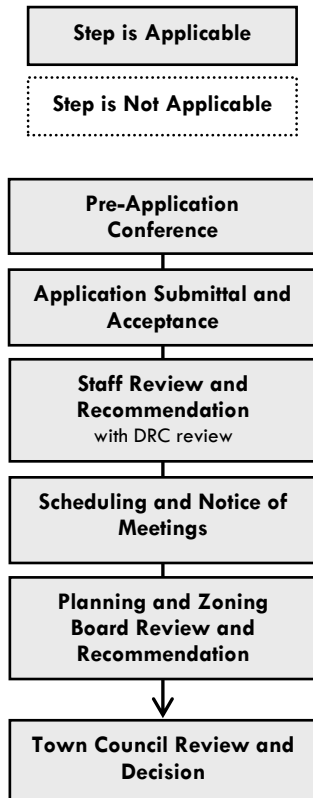


Figure 2.5.7.B

b. Expiration of Approval

A Major Site Plan Approval shall expire if no significant work is done or development is made within two years after the date of Major Site Plan Approval.

c. Minor Changes Allowed

- (1) Subsequent development applications may incorporate minor changes from the development defined by the Major Site Plan Approval without the need to amend the Major Site Plan Approval in accordance with Section 2.4.8.D, Modification or Amendment of Approval, where the Planning Director determines that the changes:
 - (A) Continue to comply with this Ordinance;
 - (B) Are necessary to comply with conditions of approval; or
 - (C) Are consistent with the Major Site Plan Approval. Consistency means the changes would not significantly alter the development's general function, form, intensity, character, demand on public facilities, impact on adjacent properties, or other characteristic from that indicated by the Major Site Plan Approval.
- (2) In any case, the following changes from the Major Site Plan Approval shall constitute a major change requiring amendment of the Minor Site Plan Approval in accordance with Section 2.4.8.D, Modification or Amendment of Approval:
 - (A) A change in a condition of approval;
 - (B) An increase greater than 20 percent in residential density;
 - (C) An increase greater than 20 percent in total nonresidential floor area;
 - (D) An increase greater than 20 percent in the height of a structure;
 - (E) An increase greater than ten percent in the amount of land devoted to nonresidential uses;
 - (F) A change greater than ten percent in the ratio of gross floor area devoted to residential uses to that devoted to nonresidential floor area; and
 - (G) A decrease greater than 20 percent in the ratio of single-family dwelling units to other residential building types.
- (3) Applications for multifamily development determined to be complete in accordance with Section 2.4.3.F, Determination of Application Completeness, on or before July 28, 2015 may only seek approval of a minor change from the standards in Section 5.9.4, Exterior Facade Materials and Colors for All Development, Section 5.9.8, Building and Design Standards for Multifamily Development, Section 5.9.9, Building and Design Standards for the Transit-Oriented Development (TOD) District, or Section 5.9.10, Building and Design Standards for Town Center Development, after complying with the standards in Section 5.5.3.C, Payment in Lieu of Providing Required Public Recreation Area.

(Ord. No. 2016-001, 05/10/2016)

C. Minor Site Plan Approval Procedure

Figure 2.5.7.C and the following subsections identify those steps in the standard review procedure (see Section 2.4) applicable to the review of a Minor Site Approval application and note any specific variations of, or additions to, those review steps.

1. Pre-Application Conference

The applicant shall hold a pre-application conference with Town staff in accordance with Section 2.4.2.

2. Application Submittal and Acceptance

The application shall be submitted and accepted, and may be withdrawn, in accordance with Section 2.4.3.

3. Staff Review and Decision

The Planning Director shall review the application, allow revisions of the application, and decide the application in accordance with Section 2.4.4. The decision shall be one of the following:

- a. Approve the application as submitted;
- b. Approve the application subject to conditions; or
- c. Deny the application.

4. Post-Decision Actions

The post-decision actions and limitations in Section 2.4.8 shall apply to the application except as follows:

a. Effect of Approval

Minor Site Plan Approval allows the approval of any concurrently-reviewed applications for Construction Plan Approval, Floodplain Management Permit, Stormwater Management Permit, Administrative Adjustment, Alternative Equivalent Compliance, or Site-specific Development Plan Designation for the same development. It also authorizes submittal of any other development applications that may be required before construction or use of the development authorized by the Minor Site Plan Approval.

b. Expiration of Approval

A Minor Site Plan Approval shall expire if no significant work is done or development is made within two years after the date of Minor Site Plan Approval.

c. Minor Changes Allowed

(1) Subsequent development applications may incorporate minor changes from the development defined by the Minor Site Plan Approval without the need to amend the Minor Site Plan Approval in accordance with Section 2.4.8.D, Modification or Amendment of Approval, where the Planning Director determines that the changes:

- (A) Continue to comply with this Ordinance;
- (B) Are necessary to comply with conditions of approval; or
- (C) Are consistent with the Minor Site Plan approval or any prior Town Council approval on which it was based (e.g., PD Plan/Agreement approval, Conceptual Master Plan Approval, Major Site Plan Approval). Consistency means the changes would not significantly alter the development’s general function, form, intensity, character, demand on public facilities, impact on adjacent properties, or other characteristic from that indicated by the Minor Site Plan Approval or any prior Town Council approval on which it was based.

(2) In any case, the following changes from the Minor Site Plan Approval or any prior Town Council approval on which it was based shall constitute a major change requiring amendment of the Minor Site Plan Approval in accordance with Section 2.4.8.D, Modification or Amendment of Approval:

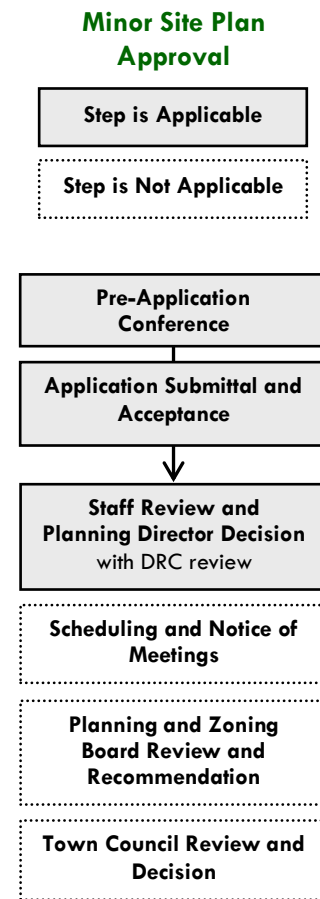


Figure 2.5.7.C

- (A) A change in a condition of approval;
 - (B) An increase greater than 20 percent in residential density;
 - (C) An increase greater than 20 percent in total nonresidential floor area;
 - (D) An increase greater than 20 percent in the height of a structure;
 - (E) An increase greater than ten percent in the amount of land devoted to nonresidential uses;
 - (F) A change greater than ten percent in the ratio of gross floor area devoted to residential uses to that devoted to nonresidential floor area; and
 - (G) A decrease greater than 20 percent in the ratio of single-family dwelling units to other residential building types.
- (3) Applications for multifamily development determined to be complete in accordance with Section 2.4.3.F, Determination of Application Completeness, on or before July 28, 2015 may only seek approval of a minor change from the standards in Section 5.9.4, Exterior Facade Materials and Colors for All Development, Section 5.9.8, Building and Design Standards for Multifamily Development, Section 5.9.9, Building and Design Standards for the Transit-Oriented Development (TOD) District, or Section 5.9.10, Building and Design Standards for Town Center Development, after complying with the standards in Section 5.5.3.C, Payment in Lieu of Providing Required Public Recreation Area.

(Ord. No. 2016-001, 05/10/2016)

D. Site Plan Approval Standards

An application for Major Site Plan Approval or Minor Site Plan Approval shall be approved only if the Town Council or Planning Director, as appropriate, determines that the Site Plan:

1. Identifies tree protection areas as required in Section 5.4.5, Tree Protection Plan and Tree Protection Areas;
2. Complies with applicable district standards in Article Zoning Districts, and applicable use standards in Article 4: Use Standards;
3. Complies with the provisions of the Statement of Voluntary Compliance in Section 5.9.7.B.2 of this Ordinance, if applicable;
4. Complies with applicable standards in Article 5: Development Standards, Article 6: Riparian Buffers, Article 7: Stormwater Management, and Article 8: Performance and Maintenance;
5. Complies with all other applicable standards in this Ordinance;
6. Complies with all other applicable Town ordinances and state and federal laws; and
7. Complies with all requirements and conditions of approval of any prior development permits or approvals.

(Ord. No. 2016-001, 05/10/2016)

2.5.8. Construction Plan Approval

A. Applicability

- The procedure and standards in this subsection apply to the review of applications for Construction Plan Approval, which shall be required before issuance of a Building Permit or Certificate of Compliance/Occupancy for any development involving grading, construction of infrastructure and utility improvements, or other land disturbance. Construction Plan Approval shall also be required before submittal of an application for Final Plat Approval that includes infrastructure or utility improvements unless construction and acceptance of the improvements is ensured by performance and maintenance guarantees.

An application for Construction Plan Approval shall be submitted and reviewed concurrently with an application for Stormwater Management Development Approval. It may be submitted and reviewed concurrently with an application for Major Site Plan Approval, Minor Site Plan Approval, Type 1 Subdivision Preliminary Plat Approval, Type 2 Subdivision Preliminary Plat Approval, Floodplain Development Permit, Administrative Adjustment, or Alternative Equivalent Compliance.

(Ord. No. 2016-001, 05/10/2016)

B. Construction Plan Approval Procedure

Figure 2.5.8.B and the following subsections identify those steps in the standard review procedure (see Section 2.4) applicable to the review of a Construction Plan Approval application and note any specific variations of, or additions to, those review steps.

1. Pre-Application Conference

The applicant shall hold a pre-application conference with Town staff in accordance with Section 2.4.2.

2. Application Submittal and Acceptance

The application shall be submitted and accepted, and may be withdrawn, in accordance with Section 2.4.3.

3. Staff Review and Decision

The Town Engineer shall review the application, allow revisions of the application, and decide the application in accordance with Section 2.4.4. The decision shall be one of the following:

- Approve the application as submitted;
- Approve the application subject to conditions;
- Issue a Letter of Conditional Construction Plan Approval; or
- Deny the application.

4. Post-Decision Actions

The post-decision actions and limitations in Section 2.4.8 shall apply to the application except as follows:

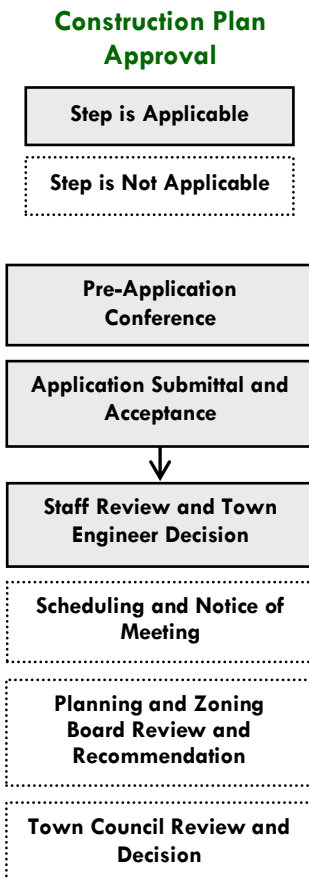


Figure 2.5.8.B

a. Effect of Approval

Construction Plan Approval allows the approval of any concurrently-reviewed applications for Floodplain Management Permit or Administrative Adjustment for the same development. It also authorizes submittal of an application for Building Permit for construction of approved buildings and structures, construction of approved site improvements, and other approved land disturbing activities.

b. Expiration of Approval

- (1) Except of as otherwise provided in subsection (2) below, Construction Plan Approval shall automatically expire if the associated development application approval expires, is revoked, or otherwise becomes invalid. If there is no associated application, the Construction Plan Approval does not expire.
- (2) A Letter of Conditional Construction Plan Approval shall expire six months from the date of issuance.

c. Minor Modifications Allowed

- (1) The applicant may request, and the Town Engineer may approve, minor deviations from the approved Construction Plan where the applicant demonstrates that such deviations:
 - (A) Do not affect the overall development concept of the approved Construction Plan;
 - (B) Do not impede or prevent construction of infrastructure serving either the development or region;
 - (C) Will not result in substantially greater long-term maintenance costs for the Town;
 - (D) Are necessitated by physical or construction difficulties, or by application of best engineering and management practices; and
 - (E) Are consistent with the Construction Plan Approval and any prior Town Council approval on which the Construction Plan approval was based (e.g., Type 1 Subdivision Preliminary Plan Approval, Major Site Plan Approval).
- (2) The request shall be in writing, include a detailed justification for the requested deviations, and be accompanied by the appropriate revised Construction Plan Approval sheets or bulleted drawings, as determined by the Town Engineer.
- (3) If the Town Engineer approves the requested deviations, the revised Construction Plan shall be modified to meet as-built submittal requirements for certifications and signatures.
- (4) Any change from the approved Construction Plan other than those authorized in subsection (1) above requires a new application for Construction Plan Approval.

d. Inspections

Town staff and agents may inspect sites undergoing development authorized by Construction Plan Approval to determine whether development activities conform to approved plans and whether adequate measures are in place to control off-site contamination and other adverse impacts from constructions activities.

C. Construction Plan Approval Review Standards

An application for Construction Plan Approval shall be approved only if the Town Engineer determines that all infrastructure and utility improvements serving the development have been approved by the appropriate agency, and that the Construction Plan:

1. Identifies tree protection areas as required in Section 5.4.5, Tree Protection Plan and Tree Protection Areas;

2. Complies with applicable standards in Article 5: Development Standards, Article 6: Riparian Buffers, Article 7: Stormwater Management, and Article 8: Performance and Maintenance;
3. Complies with all other applicable standards in this Ordinance;
4. Complies with the Engineering Design and Construction Manual;
5. Complies with all other applicable Town ordinances and state and federal laws;
6. Complies with all requirements and conditions of approval of any prior development permits or approvals.

2.5.9. Floodplain Development Permit

A. Applicability

1. The procedure and standards in this subsection apply to the review of applications for a Floodplain Development Permit, which shall be required before commencement of any development activities within Floodplain Overlay (FO) districts.
2. An application for a Floodplain Development Permit may be submitted and reviewed concurrently with applications for Site Plan Approval, Construction Plan Approval, or Stormwater Management Permit, Administrative Adjustment, or Alternative Equivalent Compliance.

B. Floodplain Development Permit Procedure

Figure 2.5.9.B and the following subsections identify those steps in the standard review procedure (see Section 2.4) applicable to the review of a Floodplain Development Permit application and note any specific variations of, or additions to, those review steps.

1. Application Submittal and Acceptance

The application shall be submitted and accepted, and may be withdrawn, in accordance with Section 2.4.3, except that the application shall include certificates of reference level elevations and any proposed floodproofing. (See Section 5.6, Floodplain Management.)

2. Staff Review and Decision

The Town Engineer shall review the application, allow revisions of the application, and decide the application in accordance with Section 2.4.4. The decision shall be one of the following:

- a. Approve the application as submitted;
- b. Approve the application subject to conditions; or
- c. Deny the application.

3. Post-Decision Actions

The post-decision actions and limitations in Section 2.4.8 shall apply to the application except as follows:

a. Effect of Approval

A Floodplain Development Permit allows the approval of any concurrently-reviewed applications for Site Plan Approval, Construction Plan Approval, Stormwater Management Permit, Administrative Adjustment, or Alternative Equivalent Compliance for the same

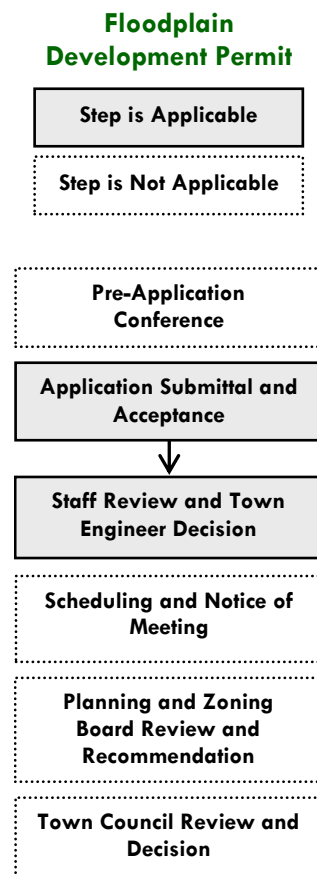


Figure 2.5.9.B

development. It also authorizes submittal of an application for Building Permit for construction of approved buildings and structures in the Floodplain Overlay (FO) district, construction of approved site improvements, approved alteration or relocation of watercourses, and other approved land disturbing activities in the FO district.

b. Expiration of Approval

A Floodplain Development Permit shall expire if an application for a Building Permit (or Certificate of Compliance/Occupancy, if a Building Permit is not required) for the approved development is not submitted within two years after the date of the Construction Plan Approval,

c. As-Built Elevation Certificate

Before a Certificate of Compliance/Occupancy may be approved for development subject to the Floodplain Development Permit, the applicant shall submit a final, "as-built" elevation certificate prepared by, or under the direct supervision of, a professional land surveyor or engineer to the Town Engineer for approval.

d. Inspections

Town staff and agents may inspect sites undergoing development authorized by a Floodplain Development Permit to determine whether development activities conform to approved plans and terms of the permit and comply with non-encroachment requirements.

C. Floodplain Development Permit Review Standards

An application for a Floodplain Development Permit shall be approved only if the Town Engineer determines that the proposed development complies with all applicable standards in Section 5.6, Floodplain Management.

(Ord. No. 2014-051, 11/10/2014)

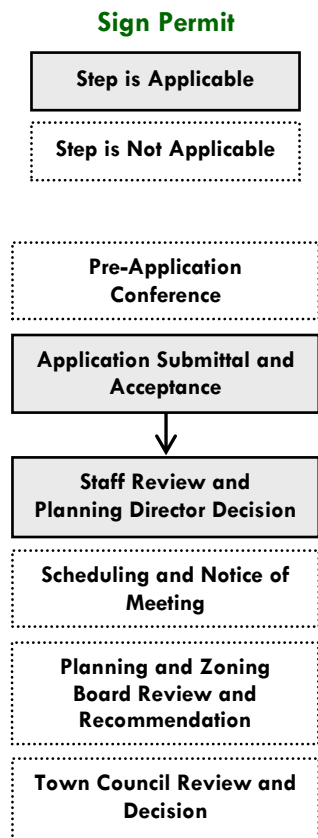


Figure 2.5.12.B

2.5.10. Riparian Buffer Development Review

See Section 6.5, Riparian Buffer Development Review.

2.5.11. Stormwater Management Permit

See Section 7.2, Administration and Procedures.

2.5.12. Sign Permit

A. Applicability

1. General

The procedure and standards in this subsection apply to the review of applications for a Sign Permit, which shall be required before the erection, installation, construction, alteration, or moving of any sign unless exempted from this Ordinance signage regulations in accordance with subsection 2 below, or from the permit requirements in accordance with subsection 3 below.

2. Signs Exempt from Regulation

Signs exempt from the signage regulations of this Ordinance are listed in Section 5.16.2.B, Exemptions.

3. Signs Exempt from Sign Permit Requirement

Signs subject to this Ordinance's signage standards, but exempt from the requirement for a Sign Permit are listed in Section 5.16.2.C, Signs Not Requiring a Sign Permit.

B. Sign Permit Procedure

Figure 2.5.12.B and the following subsections identify those steps in the standard review procedure (see Section 2.4) applicable to the review of a Sign Permit application and note any specific variations of, or additions to, those review steps.

1. Application Submittal and Acceptance

The application shall be submitted and accepted, and may be withdrawn, in accordance with Section 2.4.3.

2. Staff Review and Decision

The Planning Director shall review the application, allow revisions of the application, and decide the application in accordance with Section 2.4.4. The decision shall be one of the following:

- a. Approve the application as submitted;
- b. Approve the application subject to conditions; or
- c. Deny the application.

3. Post-Decision Actions

The post-decision actions and limitations in Section 2.4.8 shall apply to the application except as follows:

a. Effect of Approval

A Sign Permit authorizes submittal of an application for an Electrical Permit for approved signage involving electrical power, and the erection, installation, construction, alteration, or moving of approved signage.

b. Expiration of Approval

A Sign Permit shall expire if the approved signage is not erected, installed, constructed, altered, or moved within six months after the date of Sign Permit Approval.

C. Sign Permit Review Standards

An application for a Sign Permit shall be approved only if the Planning Director determines that the proposed sign complies with all applicable standards in Section 5.16, Signage.

2.5.13. Building Permit

A. Building Permits are approved and issued by the Building Official in accordance with review procedures and construction standards in the State Building Code. A Building Permit is required before construction, erection, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal, or demolition of any building or structure. It certifies that plans for such activity demonstrate compliance with the construction standards in the Building Code.

B. No Building Permit shall be issued for a structure unless it is in accordance with all prior approvals.

2.5.14. Certificate of Compliance/Occupancy

- A. Certificates of Compliance/Occupancy are approved and issued by the Building Official in accordance with review procedures and standards in the State Building Code. A Certificate of Compliance/Occupancy is required before a structure being developed in accordance with a Building Permit may be occupied or used for its authorized purpose. It certifies that work on the structure is completed in compliance with the Building Code and the terms and conditions of a Building Permit, but also in compliance with all other applicable Town regulations, including those in this Ordinance. A Certificate of Compliance/Occupancy serves as a final check on a structure's compliance with the requirements of this Ordinance. Approval and issuance of a Certificate of Compliance/Occupancy does not preclude any responsibilities to obtain licenses and other approvals.
- B. No Certificate of Compliance/Occupancy shall be issued for a structure except in accordance with all prior approvals. Issuance of a Certificate of Compliance/Occupancy does not preclude requirements for licenses and other approvals.

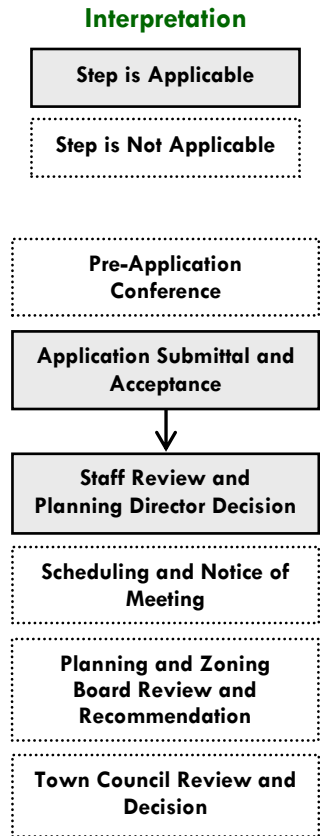


Figure 2.5.15.C

2.5.15. Interpretation

A. Purpose

The purpose of this section is to provide a uniform mechanism for rendering formal written interpretations of this Ordinance.

B. Authority

Responsibility for making interpretations of provisions of this Ordinance is assigned as follows:

1. The Planning Director shall be responsible for all interpretations of the zoning and subdivision provisions in the text of this Ordinance, including, but not limited to, interpretations of compliance with a condition of approval, and interpretations of whether an unspecified use falls within a use classification, use category, or use type allowed in a zoning district. The Planning Director shall also be responsible for interpretations of the zoning district boundaries on the Official Zoning Map.
2. The Town Engineer shall be responsible for all interpretations of the riparian buffer, stormwater management, and engineering provisions in the text of this Ordinance.
3. The Building Official shall be responsible for all interpretations of Building Code provisions as they relate to this Ordinance including interpretations relating to issuance of a Certificate of Compliance/Occupancy.

C. Interpretation Procedure

Figure 2.5.15.C and the following subsections identify those steps in the standard review procedure (see Section 2.4) applicable to the review of an Interpretation application and note any specific variations of, or additions to, those review steps.

1. Application Submittal and Acceptance

The application shall be submitted and accepted, and may be withdrawn or revised, in accordance with Section 2.4.3, except that it may be initiated by the Town Council, the Planning and Zoning Board, any resident or landowner in the town, or any person having a contractual interest in land in the town.

2. Staff Review and Decision

The Planning Director shall review the application and render a decision in accordance with Section 2.4.4, except that the decision shall be in the form of a written interpretation and the Planning Director shall consult with the Town Attorney and affected Town officials before rendering the interpretation.

3. Post-Decision Actions

The post-decision actions and limitations in Section 2.4.8 shall apply to the application except as follows:

a. Effect of Approval

A written interpretation shall be binding on subsequent decisions by the Planning Director or other Town administrative official in applying the same provision of this Ordinance or the Zoning Map in the same circumstance, unless the interpretation is reversed or modified on appeal to the Board of Adjustment or a court of law.

b. Official Record of Interpretations

The Planning Director shall maintain a record of written interpretations that shall be available for public inspection, on reasonable request, during normal business hours.

D. Interpretation Standards

1. Zoning Map Boundaries

Interpretation of zoning district boundaries on the Official Zoning Map shall be in accordance with the standards in Section 11.2, Interpretation of Zoning Map Boundaries, and consistent with the Comprehensive Plan.

2. Unspecified Uses

Interpretation of whether an unspecified use falls within a use classification, use category, or use type allowed in a zoning district shall be based the standards in Section 11.3, Use Classifications and Interpretation, and the Comprehensive Plan.

3. Text Provisions

Interpretation of text provisions and their application shall be based on the standards in Section 11.1, Interpretation of Ordinance Text, and the following considerations:

- a.** The clear and plain meaning of the provision's wording, as defined by the meaning and significance given specific terms used in the provision—as established in Section 11.5, Terms and Uses Defined, and by the common and accepted usage of the term;
- b.** The intended purpose of the provision, as indicated by purpose statements, its context and consistency with surrounding and related provisions, and any legislative history to its adoption;
- c.** The general purposes served by this Ordinance, as set forth in Section 1.1.3, Purpose and Intent; and
- d.** Consistency with the Comprehensive Plan.

(Ord. No. 2014-22, 06/24/2014)

2.5.16. Variance

A. Purpose

The purpose of a Variance is to allow certain deviations from standards of this Ordinance when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner's control (such as exceptional topographical conditions or the narrowness, shallowness, or shape of a specific parcel of land), the 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. Variances are to be sparingly exercised and only in rare instances and under exceptional circumstances to relieve undue and unique hardships to the landowner. No change in permitted uses or increases in maximum allowable development intensity may be authorized by variance.

B. Applicability

The procedure and standards in this subsection apply to the review of applications for a Variance seeking hardship relief from the standards of this Ordinance other than the standards in Article 6: Riparian Buffers, and Article 7: Stormwater Management, provided that no Variance may be sought or granted that would permit a use not allowed by use standards applicable in a zoning district or increase development intensity (e.g., dwelling units per acre or floor area ratio) beyond that allowed by intensity standards applicable in a zoning district. (Procedures and standards for variances from riparian buffer standards are in Section 6.6, Variances from Riparian Buffer Regulations; those for variances from stormwater management regulations are in 7.2.5, Stormwater Variances.)

C. Variance Procedure

Figure 2.5.16.C and the following subsections identify those steps in the standard review procedure (see Section 2.4) applicable to the review of a Variance application and note any specific variations of, or additions to, those review steps.

1. Pre-Application Conference

The applicant shall hold a pre-application conference with Town staff in accordance with Section 2.4.2.

2. Application Submittal and Acceptance

The application shall be submitted and accepted, and may be withdrawn, in accordance with Section 2.4.3.

3. Staff Review and Report

The Planning Director shall review the application, allow revisions of the application, and prepare a staff report in accordance with Section 2.4.4, except that the staff report shall summarize the variance request based on submitted evidence—but need not include a recommendation for action.

4. Scheduling and Public Notice of Meetings

The application shall be scheduled, and required public notices provided, for a Board of Adjustment meeting in accordance with Section 2.4.5.

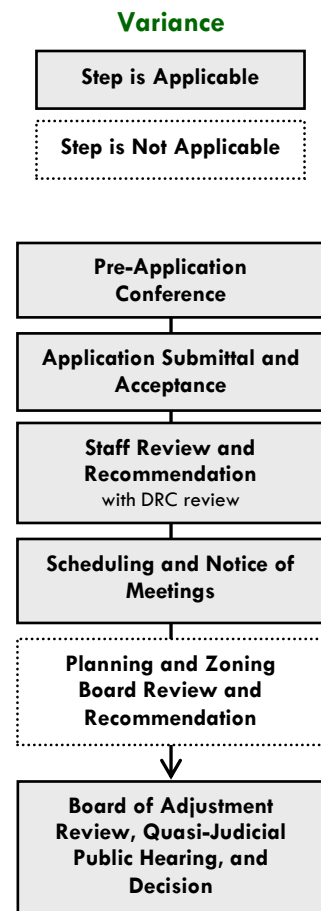


Figure 2.5.16.C

5. Board of Adjustment Review and Decision

The Board of Adjustment shall review the application, hold a quasi-judicial public hearing, and decide the application in accordance with Section 2.4.7, subject to the following provisions.

- a. The decision shall be one of the following:
 - (1) Approve the application as submitted;
 - (2) Approve the application subject to conditions;
 - (3) Deny the application.
- b. Approval of the application shall require the affirmative vote of at least 4/5 of all the members of the board. (In such cases, vacant positions and members who are excused from voting shall not be considered members of the board.)

6. Post-Decision Actions

The post-decision actions and limitations in Section 2.4.8 shall apply to the application except as follows:

a. Issuance and Recordation of Variance

If the Variance application is approved, the Planning Director shall issue the applicant documentation of the approval that identifies the property to which it applies, the development plans on which it is based, and any conditions of approval. On expiration of the deadline for filing an appeal of the decision (see Section 2.4.8.B, Appeal), the applicant shall record such documentation with the Register of Deeds of the county in which the subject property is located.

b. Effect of Approval

- (1) Approval and recordation of a Variance authorizes only the particular regulatory relief approved as part of the Variance, as applied only to the land for which the Variance is approved, and only in accordance with any approved plans and documents, and conditions of approval. It does not exempt the applicant from the responsibility to obtain all other development permits and approvals required by this Ordinance and any other applicable laws, and does not indicate that the development for which the Variance is granted should receive approval of other applications for a development permit required under this Ordinance unless the relevant and applicable portions of this Ordinance or any other applicable laws are met.
- (2) Unless it expires in accordance with subsection c below, an approved and recorded Variance—including any approved plans and documents, and conditions of approval—shall run with the land, shall be binding on the landowners and their successors and assigns, and shall not be affected by a change in ownership. All decisions, determinations, and interpretation by Town staff shall be consistent with an approved and recorded Variance.

c. Expiration of Approval

A Variance shall expire and become invalid if the property owner changes development on the site such that the extraordinary and exceptional conditions that warranted the hardship and Variance no longer do so.

D. Variance Review Standards

1. General Variance Review Standards

A Variance application shall be approved only if the Board of Adjustment reaches each of the following conclusions, based on findings of fact supported by competent, substantial, and material evidence presented at the hearing:

- a. There are extraordinary and exceptional conditions (such as topographic conditions, narrowness, shallowness, or the shape of the parcel of land) pertaining to the particular land or structure for which the Variance is sought, that do not generally apply to other lands or structures in the vicinity;
- b. The extraordinary and exceptional conditions referred to above are not the result of the actions of the landowner;
- c. Because of the extraordinary and exceptional conditions referred to above, the application of this Ordinance to the land or structure for which the Variance is sought would effectively prohibit or unreasonably restrict the utilization of the land or structure and result in unnecessary and undue hardship;
- d. The Variance would not confer any special privilege on the landowner that is denied to other lands or structures that are similarly situated;
- e. The extent of the Variance is the minimum necessary to allow a reasonable use of the land or structure;
- f. The Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit;
- g. The Variance would not adversely affect the health or safety of persons residing or working in the neighborhood, be injurious to property or improvements in the neighborhood, or otherwise be detrimental to the public welfare; and
- h. The Variance is consistent with the Comprehensive Plan.

2. Additional Review Standards for Variances from Flood Damage Prevention Standards

- a. If the Variance application involves standards in Section 5.6, Floodplain Management, the Board of Adjustment shall reach each of the following additional conclusions, based on findings of fact supported by competent, substantial, and material evidence presented at the hearing:
 - (1) The Variance would not result in increased flood heights;
 - (2) The Variance would not result in additional threats to public safety;
 - (3) The Variance would not result in extraordinary public expense;
 - (4) The Variance would not create nuisances;
 - (5) The Variance would not cause fraud on or victimization of the public; and
 - (6) The Variance would not conflict with existing local laws or ordinances.
- b. The Board of Adjustment's review of a Variance application involving flood damage prevention standards shall consider all technical evaluations and relevant factors, including:
 - (1) The danger that materials may be swept onto other lands to the injury of others;
 - (2) The danger to life and property due to flooding or erosion damage;
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (4) The importance of the services provided by the proposed facility to the community;
 - (5) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
 - (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (7) The compatibility of the proposed use with existing and anticipated development;

- (8) The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

3. Insufficient Grounds for Approving Variances

The following factors shall not constitute sufficient grounds for approval of any Variance:

- a. A request for a particular use that is expressly, or by inference, prohibited in the zoning district;
- b. Hardships resulting from factors other than application of requirements of this Ordinance;
- c. The fact that land or a structure may be utilized more profitably or be more marketable with a Variance; or
- d. The citing of other nonconforming or conforming uses of land or structures in the same or other zoning districts.

2.5.17. Riparian Buffer Variance

See Section 6.6, Variances from Riparian Buffer Regulations.

2.5.18. Stormwater Variance

See Section 7.2.5, Stormwater Variances.

2.5.19. Administrative Adjustment

A. Purpose

An administrative adjustment is intended to allow minor deviations, or adjustments, to certain dimensional or numerical standards in this Ordinance based on specific criteria. The intent is to provide relief where application of a standard creates practical difficulties in allowing development that otherwise advances the purposes served by the standards of this Ordinance and the Comprehensive Plan, and is compatible with surrounding development.

B. Applicability

- 1. The procedure and standards in this subsection apply to the review of applications for an Administrative Adjustment, which may be submitted and granted for the standards identified in Table 2.5.19.B, Allowable Administrative Adjustments, up to the limits set forth in the table for the type of standard.
- 2. An application for an Administrative Adjustment may only be submitted and reviewed concurrently with applications for a Special Use Permit, Type 1 Subdivision Preliminary Plat Approval, Type 2 Subdivision Preliminary Plat Approval, Major Site Plan Approval, Minor Site Plan Approval, Construction Plan Approval, Sign Permit, Building Permit, or Certificate of Compliance/Occupancy. Where the concurrently reviewed application is subject to review and approval by the Planning and Zoning Board, Board of Adjustment, or Town Council, Town staff shall review and decide the Administrative Adjustment application before distributing the concurrently reviewed application to the Planning and Zoning Board, Board of Adjustment, or Town Council.

(Ord. No. 2016-001, 05/10/2016)

Table 2.5.19.B: Allowable Administrative Adjustments	
Standard	Allowable Administrative Adjustment
Shape factor	2 percentage points
Net lot area, minimum	10 %
Lot width, minimum	10 %
Lot coverage, maximum	10 %
Front setback, minimum	5 %
Corner side setback, minimum	15 %
Side setback, minimum	15 %
Building separation, minimum	30 %
Rear setback, minimum	15 %
Build-to line, minimum	15 %
Build-to line, maximum	15 %
Structure height, maximum	5 %
Build-to zone frontage occupied by buildings, minimum	15 %
Block length, minimum	10 %
Block length, maximum	10 %
Perimeter or streetyard buffer width, minimum	10 %
Perimeter or streetyard buffer planting rate, minimum	10 %
Driveway spacing, minimum	20 %
Street intersection spacing, minimum	10 %
Number of off-street vehicle parking spaces, minimum	10 %
Number of off-street bicycle parking spaces, minimum	10 %
Stacking lane distance for parking area entrance drives, minimum	10 %
Walking distance between shared, off-site, or on-street vehicle parking spaces and primary pedestrian entrance of uses served, minimum	10 %
Vegetation size at time of planting, minimum	20 %
Vehicle use area planting island area and dimensions, minimum	10 %
Fence or wall height, maximum	1 ft
Average light level to minimum light level uniformity ratio	15 %
Lighting height, maximum	10 %
Projection fascia sign, maximum projection	10 %
Sign face area or dimensions, maximum	10 %
Sign height, maximum	10 %
Sign wall coverage, maximum	10 %
Encroachment into required yards, maximum	15 %

(Ord. No. 2015-047, 07/28/2015; Ord. No. 2016-001, 05/10/2016)

C. Administrative Adjustment Procedure

Figure 2.5.19.C and the following subsections identify those steps in the standard review procedure (see Section 2.4) applicable to the review of an Administrative Adjustment application and note any specific variations of, or additions to, those review steps.

1. Application Submittal and Acceptance

The application shall be submitted and accepted, and may be withdrawn, in accordance with Section 2.4.3, except that this application is not eligible for a 50 percent refund.

2. Staff Review and Decision

The Planning Director shall review the application, allow revisions of the application, and decide the application in accordance with Section 2.4.4. The decision shall be one of the following:

- a. Approve the application as submitted;
- b. Approve the application subject to conditions; or
- c. Deny the application.

3. Post-Decision Actions

The post-decision actions and limitations in Section 2.4.8 shall apply to the application except as follows:

a. Effect of Approval

Approval of an Administrative Adjustment authorizes only the particular adjustment of standards approved, as applied only to the development authorized by the approved development application with which it is associated.

b. Expiration of Approval

Approval of an Administrative Adjustment shall automatically expire if the associated development application is denied or if approval of the concurrently reviewed application expires, is revoked, or otherwise becomes invalid.

Administrative Adjustment

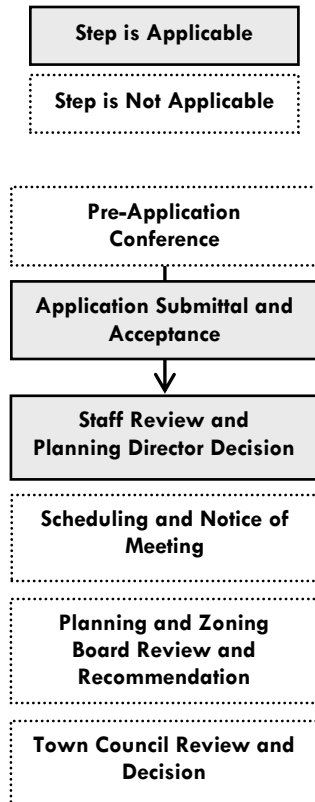


Figure 2.5.19.C

D. Administrative Adjustment Review Standards

An application for an Administrative Adjustment shall be approved only if the Planning Director determines that the adjustment falls within the limitations in Table 2.5.19.B, Allowable Administrative Adjustments, and that:

1. The Administrative Adjustment is consistent with the character of development in the surrounding area, and will not result in incompatible development.
2. Any adverse impacts resulting from the Administrative Adjustment will be mitigated to the maximum extent practicable.
3. The Administrative Adjustment is of a technical nature (i.e., relief from a dimensional or design standard), and is either:
 - a. Required to compensate for some unusual aspect of the development site or the proposed development that is not shared by landowners generally (e.g. lot size or configuration);
 - b. Proposed to protect sensitive natural resources or save healthy existing trees;
 - c. Required to eliminate a minor inadvertent failure to fully comply with a standard;
 - d. Required due to natural conditions, such as watercourses, riparian buffers, natural rock formations, or topography;
 - e. Needed for infill development or redevelopment on small lots; or
 - f. Required due to the presence of existing utilities or other easements.

4. The Administrative Adjustment will not substantially interfere with the convenient and enjoyable use of adjacent lands, and will not pose a danger to the public health or safety.
5. The Administrative Adjustment is consistent with the purpose of the zoning district where located and with the Comprehensive Plan.

(Ord. No. 2014-051, 11/10/2014; Ord. No. 2015-047, 07/28/2015)

2.5.20. Alternative Equivalent Compliance

A. Purpose

To encourage creative and unique design, the Alternative Equivalent Compliance procedure allows development to occur in a manner that meets the intent of this Ordinance, yet through an alternative design that does not strictly adhere to the Ordinance’s design standards. This is not a general waiver of regulations. Rather, the procedure authorizes a specific development plan for a particular site that incorporates deviations from certain development design standards, but achieves the intent of the standards from which a deviation is sought to the same or greater degree than what would result from the strict application of the standards.

B. Applicability

1. The procedure and standards in this subsection apply to the review of applications for an Alternative Equivalent Compliance, which may be submitted and granted for the following standards:
 - a. Reductions to the required tree canopy retention percentage in Section 5.4.4, Tree Canopy Retention, by an amount between 50 percent and 75 percent (requests to reduce the required percentage by more than 75 percent are prohibited);
 - b. Section 5.8, Access and Circulation;
 - c. Section 5.9, Building Configuration and Design;
 - d. Section 5.10, Parking and Loading
 - e. Section 5.12, Landscaping.
2. An application for an Alternative Equivalent Compliance may only be submitted and reviewed concurrently with an application for a Special Use Permit, Type 1 Subdivision Preliminary Plat Approval, Type 2 Subdivision Preliminary Plat Approval, Major Site Plan Approval, Minor Site Plan Approval, or Construction Plan Approval. The application for an Alternative Equivalent Compliance shall be reviewed in accordance with subsection C below irrespective of whether all the required review steps are required for the concurrently reviewed application.

(Ord. No. 2016-001, 05/10/2016)

C. Alternative Equivalent Compliance Procedure

Figure 2.5.20.C and the following subsections identify those steps in the standard review procedure (see Section 2.4) applicable to the review of an Alternative Equivalent Compliance application and note any specific variations of, or additions to, those review steps.

1. Pre-Application Conference

The applicant shall hold a pre-application conference with Town staff in accordance with Section 2.4.2.

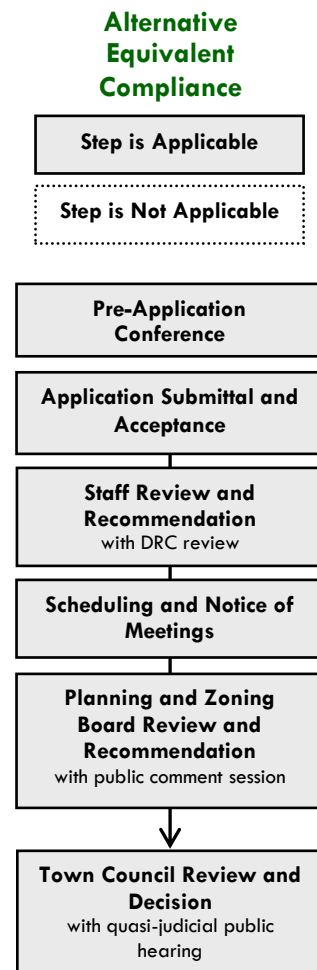


Figure 2.5.20.C

2. Application Submittal and Acceptance

- a. The application shall be submitted and accepted, and may be withdrawn, in accordance with Section 2.4.3, except that this application is not eligible for a 50 percent refund. The request shall include justifications for the Alternative Equivalent Compliance, based on the review standards in subsection 2.5.19.D, Alternative Equivalent Compliance Review Standards below.
- b. In no instance shall an application for an Alternative Equivalent Compliance be submitted after an associated application has been determined complete by the Planning Director and accepted for review.

3. Staff Review and Recommendation

The Planning Director shall review the application, allow revisions, and prepare a staff report and recommendation in accordance with Section 2.4.4.

4. Scheduling and Public Notice of Meetings

The Planning Director shall schedule the application for, and provide required public notices of, Planning and Zoning Board and Town Council meetings in accordance with Section 2.4.5.

5. Planning and Zoning Board Review and Recommendation

The Planning and Zoning Board shall review the application, hold a public comment session, and make a recommendation in accordance with Section 2.4.6.

6. Town Council Review and Decision

The Town Council shall review the application, hold a quasi-judicial public hearing, and decide the application in accordance with Section 2.4.7. The decision shall be one of the following:

- a. Approve the application as submitted;
- b. Approve the application subject to conditions;
- c. Deny the application;
- d. Remand the application back to the Planning Director or Planning and Zoning Board for further consideration. (This may require further public notice and additional review fees.)

7. Post-Decision Actions

The post-decision actions and limitations in Section 2.4.8 shall apply to the application except as follows:

a. Issuance and Recordation of Alternative Equivalent Compliance

If the Alternative Equivalent Compliance application is approved, the Planning Director shall issue the applicant documentation of the approval that identifies the property to which it applies, the development plans on which it is based, and any conditions of approval. On expiration of the deadline for filing an appeal of the decision (see Section 2.4.8.B, Appeal), the applicant shall record such documentation with the Register of Deeds of the county in which the subject property is located.

b. Effect of Approval

Approval of an Alternative Equivalent Compliance authorizes only the particular alternative design authorized by the approval, as applied only to the development authorized by the approved development application with which it is associated.

c. Expiration of Approval

Approval of an Alternative Equivalent Compliance shall automatically expire if the associated development application is denied or if approval of the concurrently reviewed application expires, is revoked, or otherwise becomes invalid.

D. Alternative Equivalent Compliance Review Standards

A request for an Alternative Equivalent Compliance shall be approved only if the Town Council reaches each of the following conclusions, based on findings of fact supported by competent, substantial, and material evidence presented at the hearing:

1. The proposed alternative design will achieve the intent of the standard(s) from which a deviation is sought to the same or a higher degree than the subject standard(s);
2. The proposed alternative design is consistent with the Comprehensive Plan and advances the goals of this Ordinance to the same or a higher degree than the standard(s) from which a deviation is sought;
3. The proposed alternative design will impose no greater impacts on adjacent lands than would occur through compliance with the standard(s) from which a deviation is sought; and
4. The proposed alternative design will provide one or more of the following public benefits to an extent that exceeds requirements of this Ordinance and any other local, state, or federal laws and that is sufficient to compensate for the requested deviation from standards:
 - a. Deed-restricted workforce and/or affordable housing;
 - b. Redevelopment of a brownfield site;
 - c. Permanent conservation of natural areas, lands, or existing trees in addition to that required by this Ordinance;
 - d. Protection against flood damage in addition to that required by Section 5.6, Floodplain Management;
 - e. Cultural or historic facilities deeded to the Town or qualified not-for-profit agencies;
 - f. Dedication of land for or the construction of transportation facilities in addition to that required by this Ordinance;
 - g. Protection of streams by providing higher water quality standards to that required by Article 7: Stormwater Management;
 - h. Protection of streams by providing an additional 50 feet of riparian buffer to that required by Article 6: Riparian Buffers, for a total of 100 feet;
 - i. Planting of replacement trees exceeding the standards of Section 5.4.7.A, Replacement Trees, on public lands or other suitable sites, as determined by the Town Council; or
 - j. Other benefits approved by the Town Council.

(Ord. No. 2014-051, 11/10/2014)

2.5.21. Site-Specific Development Plan Designation

A. Purpose

The purpose of this subsection is to provide a procedure whereby the applicant for a development permit or approval that includes a plan describing with reasonable certainty the type and intensity of use on a specific parcel may have such plan designated as a site-specific development plan that establishes a vested right to the development shown on the plan in accordance with the requirements in N.C.G.S 160A-385.1.

B. Applicability

The procedure and standards in this subsection apply to the review of applications for an Site-Specific Development Plan Designation, which may only be submitted and reviewed concurrently with an application for a Major or Minor Site Plan Approval. The application for a Site-Specific Development Plan Designation shall be reviewed in accordance with subsection C below irrespective of whether all the required review steps are required for the concurrently reviewed application. It may be approved only if the concurrently reviewed application is approved and shall be subject to any conditions imposed on that application.

(Ord. No. 2016-001, 05/10/2016)

C. Site-Specific Development Plan Designation Procedure

Figure 2.5.21.C and the following subsections identify those steps in the standard review procedure (see Section 2.4) applicable to the review of a Sign Permit application and note any specific variations of, or additions to, those review steps.

1. Pre-Application Conference

The applicant shall hold a pre-application conference with Town staff in accordance with Section 2.4.2.

2. Application Submittal and Acceptance

The application shall be submitted and accepted, and may be withdrawn, in accordance with Section 2.4.3, except that this application is not eligible for a 50 percent refund.

3. Staff Review and Recommendation

The Planning Director shall review the application, allow revisions, and prepare a staff report and recommendation in accordance with Section 2.4.4.

4. Scheduling and Public Notice of Meetings

The Planning Director shall schedule the application for, and provide required public notices of, Planning and Zoning Board and Town Council meetings in accordance with Section 2.4.5.

5. Planning and Zoning Board Review and Recommendation

The Planning and Zoning Board shall review the application and make a recommendation in accordance with Section 2.4.6.

6. Town Council Review and Decision

The Town Council shall review the application, hold a standard public hearing, and decide the application in accordance with Section 2.4.7, subject to the following provisions:

- a. The decision shall be one of the following:

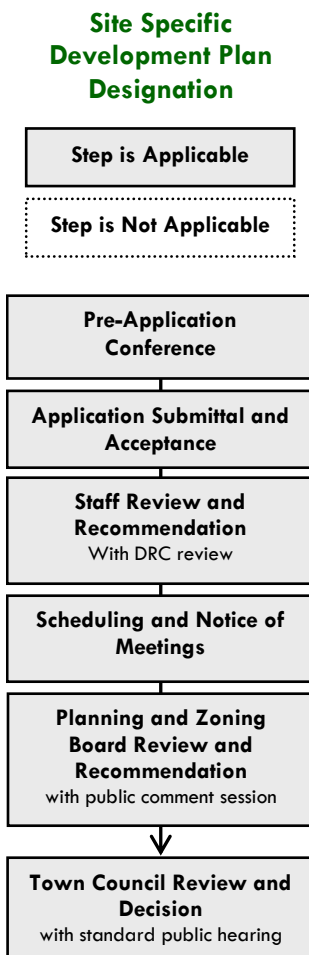


Figure 2.5.21.C

- (1) Approve the application as submitted;
 - (2) Approve the application subject to conditions;
 - (3) Deny the application.
- b. If the Town Council approves the application, it shall designate each of the site-specific development plans in the concurrently reviewed development application as a site-specific development plan that establishes a vested right in accordance with Section 160A-385.1 of the North Carolina General Statutes for at least two years after the date of approval. The Town Council may extend the vested rights period to up to five years if it determines the extension is warranted in light of all relevant circumstances—including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions.

7. Post-Decision Actions

The post-decision actions and limitations in Section 2.4.8 shall apply to the application except as follows:

a. Effect of Approval

Designation of an approved plan as a site-specific development plan establishes a vested right to development shown on the plan and authorized by approval of the concurrently reviewed application for at least two years, but not exceeding five years, after the date of approval, as provided for in Section 160A-385.1 of the North Carolina General Statutes.

b. Expiration of Approval

Designation of an approved plan as a site-specific development plan shall automatically expire at the end of the approved vested rights period.

c. Revocation of Site-Specific Development Plan Designation

- (1) The Town may revoke approval of Site-specific Development Plan Designation if:
 - (A) The applicant fails to comply with all applicable terms and conditions of the approval;
 - (B) The affected landowner consents, in writing, to the revocation;
 - (C) The Town Council holds a duly noticed public hearing and adopts an ordinance revoking the approval based on a finding that natural or man-made hazards pose a threat to the public health, safety, and welfare if the development were to proceed;
 - (D) The Town provides the affected landowner compensation for all costs, expenses, and other losses incurred by the landowner—including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the Town, together with interest thereon at the legal rate;
 - (E) The Town Council holds a duly noticed public hearing and adopts an ordinance revoking the approval based on a finding that the landowners or their representatives intentionally supplied inaccurate information or misrepresented the development proposal in a manner that made a difference in the Town's approval; or
 - (F) Enactment of a state or federal law or regulation precludes the authorized development, in which case the Town Council may, after a duly noticed public hearing, modify the approval on finding that the enacted state or federal law has

a fundamental effect on approval of the site-specific development plan or the concurrently reviewed development application.

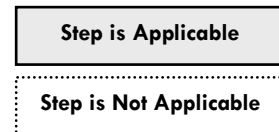
- (2) Revocation of Site-Specific Development Plan Designation eliminates the vested right established by approval of the Site-Specific Development Plan Designation, but does not itself terminate any unexpired development permit or approval associated with the plan.

2.5.22. Administrative Appeal

A. Right to Appeal

Any party aggrieved by a decision, interpretation, or order made by the Planning Director, Town Engineer, or other Town administrative official in administering or enforcing the provisions of this Ordinance may appeal the decision, interpretation, or order to the Board of Adjustment by submitting an Administrative Appeal application to the Planning Director within 30 days after the decision, interpretation, or order being appealed.

Administrative Appeal



B. Administrative Appeal Procedure

Figure 2.5.22.B shows those steps in the standard review procedure (see Section 2.4) that apply to the review of applications for Administrative Appeal. Specific variations of, or additions to, the standard review procedures are identified below.

1. Application Submittal and Acceptance

The application shall be submitted and accepted, and may be withdrawn, in accordance with Section 2.4.3, subject to the following:

- a. The application shall:
 - (1) Identify the decision, interpretation, order being appealed;
 - (2) State facts demonstrating that the applicant is a party aggrieved by the decision, interpretation, or order being appealed;
 - (3) Describe the alleged error in the decision, interpretation, or order being appealed and the grounds on which the applicant contends that an error was made;
 - (4) Set forth facts and materials in support of the appeal; and
 - (5) Set forth the relief the applicant seeks.

- b. Except for appeals of the amount of an imposed civil penalty, submittal and acceptance of an Administrative Appeal application stays all Town actions in furtherance of the decision, interpretation, or order being appealed unless the official from whom the appeal is taken certifies to the Board of Adjustment that, because of facts stated in the certification, a stay would cause imminent peril to life or property, or that, because the violation charged is transitory in nature, a stay would seriously interfere with enforcement of this Ordinance. In that case, proceedings may not be stayed except by a restraining order granted by the Board of Adjustment or by a court of record on petition, after notice to the official from whom the appeal is taken, and for due cause shown.

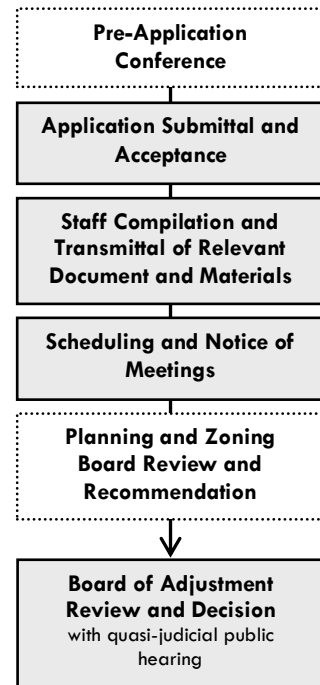


Figure 2.5.22.B

2. Staff Transmittal of Materials to Board of Adjustment

The Planning Director shall:

- a. Refer the application to the administrative official whose decision, interpretation, or order is being appealed;
- b. Collect and compile all documents and other materials relevant to the decision, interpretation, or order being appealed; and
- c. Transmit the application and relevant documents and other materials to the Board of Adjustment in accordance with Section 2.4.4.C.2.

3. Scheduling and Public Notice of Meetings

The application shall be scheduled, and required public notices provided, for a Board of Adjustment meeting in accordance with Section 2.4.5.

4. Board of Adjustment Review and Decision

The Board of Adjustment shall review the application, hold a quasi-judicial public hearing, and decide the application in accordance with Section 2.4.7, subject to the following provisions:

- a. The decision shall be one of the following:
 - (1) Affirmation of the decision, interpretation, or order being appealed (in whole or in part);
 - (2) Modification of the decision, interpretation, or order being appealed (in whole or in part);
or
 - (3) Reversal of the decision, interpretation, or order being appealed (in whole or in part).
- b. In deciding the application, the Board of Adjustment shall make any order, requirement, decision, or determination that in its opinion ought to be made in the circumstances, and shall have all the powers of the officer from whom the appeal is taken.

5. Post-Decision Actions

The post-decision actions and limitations in Section 2.4.8 shall apply to the application except as follows:

a. Effect of Approval

To the extent a decision on an Administrative Appeal application pertains to application of a particular provision of this Ordinance in a particular circumstance, the appeal decision shall be binding on subsequent decisions by the Planning Director, Town Engineer, or other administrative official in applying the same provision of this Ordinance in the same circumstance.

b. Expiration of Approval

The decision on an Administrative Appeal application does not expire, but shall remain valid except to the extent this Ordinance is subsequently amended to reflect any reversal or modification of the decision, interpretation, or order that was appealed.

C. Administrative Appeal Review Standards

1. The Board of Adjustment shall review the Administrative Appeal application in accordance with the standards of this Ordinance applicable to the decision, interpretation, or order being appealed, and shall base its decision solely on the record established below for the decision, interpretation, or order being appealed. The record shall consist of the all documents, hearing records, and other materials related to the decision, interpretation, or order.
2. The Board of Adjustment may modify or reverse a decision, interpretation, or order (in whole or in part) only if it finds that there is competent substantial evidence in the record of a clear and demonstrable error in the administrative officer's application of the relevant standards or provisions of this Ordinance.

2.5.23. Development Agreement

A. Findings and Purpose

1. The Town Council finds and determines that development agreements may be useful to both the Town and developers of land in the town by providing more regulatory certainty, establishing a schedule for development, assisting both developers and the Town coordinate the provision of adequate public facilities to serve development, coordinating the phasing of development, and administering management efforts to maintain open space and environmentally sensitive lands.
2. The purpose of this section is to authorize development agreements to be entered into between a developer and the Town Council in accordance with the procedures and standards of this section to encourage comprehensive planning and capital facilities planning, ensure the provision of adequate public facilities for development, encourage the efficient use of resources, while providing certainty in the process of obtaining development permits and approvals, and reduce the economic costs of development by providing greater regulatory certainty.

B. Applicability

The Town Council may enter into a development agreement with a developer, subject to Chapter 160A, Article 19, Part 3D of the North Carolina General Statutes. In entering into a development agreement, the Town may not exercise any authority or make any commitment not authorized by general or local act, and may not impose any tax or fee not authorized by otherwise applicable law.

C. Development Agreement Procedure

Figure 2.5.23.C and the following subsections identify those steps in the standard review procedure (see Section 2.4) applicable to the review of a Development Agreement application and note any specific variations of, or additions to, those review steps.

1. Pre-Application Conference

The applicant shall hold a pre-application conference with Town staff in accordance with Section 2.4.2.

2. Application Submittal and Acceptance

The application shall be submitted and accepted, and may be withdrawn, in accordance with Section 2.4.3, except that an application for a Development Agreement may be submitted only by the owner(s) of the property or properties proposed to be rezoned or a person duly authorized to submit the application on behalf of the owner(s).

3. Staff Review and Recommendation

The Planning Director shall review the application, allow revisions of the application, and prepare a staff report and recommendation in accordance with Section 2.4.4.

4. Scheduling and Public Notice of Meetings

The Planning Director shall schedule the application for, and provide required public notices of, Planning and Zoning Board and Town Council meetings in accordance with Section 2.4.5.

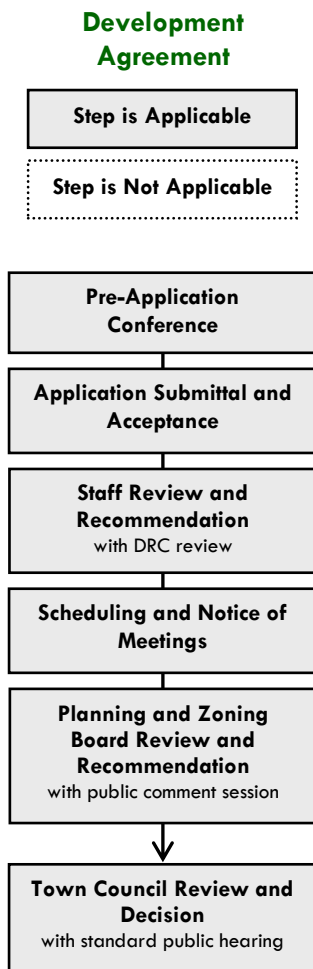


Figure 2.5.23.C

5. Planning and Zoning Board Review and Recommendation

The Planning and Zoning Board shall review the application and make a recommendation in accordance with Section 2.4.6.

6. Town Council Review and Decision

The Town Council shall review the application, hold a standard public hearing, and decide the application in accordance with Section 2.4.7. The decision shall be one of the following:

- a. Enter into the development agreement, as submitted;
- b. Enter into the development agreement, subject to modifications agreed to in writing by the developer; or
- c. Not enter into the development agreement.

7. Post-Decision Actions

The post-decision actions and limitations in Section 2.4.8 shall apply to the application except as follows:

a. Recordation

A Development Agreement shall be record in accordance with Section 160A-400.30 of the General Statutes.

b. Effect of Approval

Development pursuant to the Development Agreement shall be subject to the terms and conditions of the agreement and to the laws in force at the time of execution of the agreement unless otherwise provided by specific provisions in the agreement or Section 160A-400.26 of the North Carolina General Statutes. The Development Agreement shall be subject to the requirements of Section 160A-400.20 et seq.

c. Periodic Review

At least every 12 months following execution of the agreement, the Planning Director shall conduct a periodic review during which the developer shall be required to demonstrate good faith compliance with the terms of the agreement. If the periodic review finds a material breach of the terms or conditions of the Development Agreement has occurred, notice of the breach and a reasonable opportunity to correct it shall be provided in accordance with Section 160A-400.27 of the General Statutes. If the breach is not cured within the time given, the Town may terminate or modify the Development Agreement.

d. Expiration, Termination, or Modification of Agreement

- (1) A Development Agreement shall expire in accordance with the provision of the agreement, and may be terminated or modified by mutual consent of the parties to the agreement or their successors in interest, or in accordance with the provisions of this section or Section 160A-400.20 et seq. of the North Carolina General Statutes.
- (2) Major modification of the agreement shall follow the same procedures as required for initial approval of a Development Agreement.
- (3) With the mutual consent of the other parties to the agreement, the Planning Director may approve minor modifications of the Development Agreement, without following the same procedures as required for initial approval of the agreement. Before doing so, the Planning Director shall make written findings that the proposed minor modifications would not significantly change the use, intensity, or design of the development, would be consistent with the purposes and goals of the agreement, would comply with this Ordinance, and would not adversely affect the public health, safety, or general welfare.

D. Development Agreement Review Standards

A development agreement shall meet and be subject to all requirements and provisions in Chapter 160A, Article 19, Part 3D of the North Carolina General Statutes, including the following:

1. Section 160A-400.23's site area and duration requirements;
2. Section 160A-400.24's requirement that delivery of public facilities be tied to implementation of the proposed development;
3. Section 160A-400.25's requirements for minimum contents of development agreements, phasing, performance standards and agreement modifications; and
4. Section 160A-400.28's provisions for amendment or cancellation of development agreements.

2.5.24. Right-of-Way Encroachment Agreement Approval

A. Applicability

The procedures and standards in this subsection apply to the review of applications for Right-of-Way Agreement Approval, which shall be required prior to locating any structure accessory to development on adjoining property within a public street right-of-way maintained by the Town of Morrisville.

B. Right-of-Way Encroachment Agreement Approval Procedure

Figure 2.5.24.B and the following subsections identify those steps in the standard review procedure (see Section 2.4) applicable to the review of Right-of-Way Encroachment Agreement Approval applications and note any specific variations of, or additions to, those review steps.

1. Pre-Application Conference

The applicant shall hold a pre-application conference with Town staff in accordance with Section 2.4.2.

2. Application Submittal and Acceptance

The application shall be submitted and accepted, and may be withdrawn, in accordance with Section 2.4.3.

3. Staff Review and Recommendation

The Planning Director shall review the application, allow revisions of the application, and prepare a staff report and recommendation in accordance with Section 2.4.4.

4. Scheduling and Public Notice of Meetings

The Planning Director shall schedule the application for, and provide required public notices of, Planning and Zoning Board and Town Council meetings in accordance with Section 2.4.5.

5. Planning and Zoning Board Review and Recommendation

The Planning and Zoning Board shall review the application and make a recommendation in accordance with Section 2.4.6.

6. Town Council Review and Decision

The Town Council shall review and decide the application in accordance with Section 2.4.7. The decision shall be one of the following:

Right-of-Way Encroachment Agreement Approval

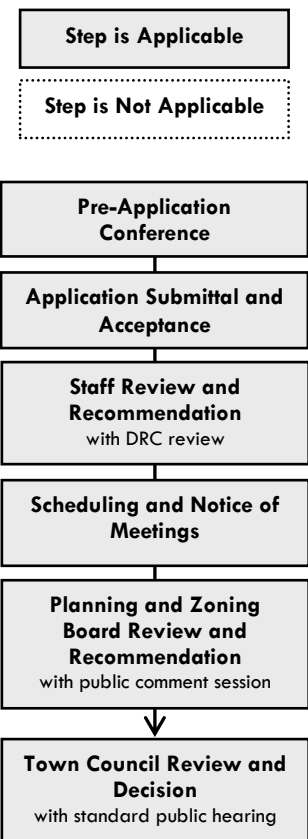


Figure 2.5.24.B

- a. Approve the application as submitted;
- b. Approve the application subject to conditions;
- c. Deny the application; or
- d. Remand the application back to the Planning Director or Planning and Zoning Board for further consideration. (This may require additional review fees.)

7. Post-Decision Actions

The post-decision actions and limitations in Section 2.4.8 shall apply to the application except as follows:

a. Effect of Approval

Right-of-Way Encroachment Agreement Approval authorizes submittal of an application for a Building Permit to install or construct approved structures accessory to development on adjoining property within a public street right-of-way maintained by the Town of Morrisville

b. Expiration of Approval

Right-of-Way Encroachment Agreement Approval shall expire if the approved structures accessory to development on adjoining property is not constructed or installed within six months after the date of Right-of-Way Encroachment Agreement Approval.

c. Minor Modifications Allowed

- (1) The applicant may request, and the Planning Director may approve, minor deviations from the approved Right-of-Way Encroachment Agreement where the applicant demonstrates that such deviations:
 - (A) Do not affect the overall concept of the approved Right-of-Way Encroachment Agreement;
 - (B) Will not result in any maintenance costs for the Town;
 - (C) Are necessitated by physical, construction, or installation difficulties; and
 - (D) Are consistent with the Right-of-Way Encroachment Agreement Approval.
- (2) The request shall be in writing, include a detailed justification for the requested deviations, and be accompanied by the appropriate revised bulleted drawings, as determined by the Planning Director.
- (3) Any change from the approved Right-of-Way Encroachment Agreement other than those authorized in subsection (1) above requires a new application for Right-of-Way Encroachment Agreement Approval.

C. Right-of-Way Encroachment Agreement Approval Review Standards

An application for Right-of-Way Encroachment Agreement Approval shall be approved only if the Town Council determines that the structure accessory to development on adjoining property associated with the Right-of-Way Encroachment Agreement:

- 1. Complies with applicable district standards in Article 3: Zoning Districts, and applicable use standards in Section 4.3, Accessory Uses and Structures;
- 2. Complies with all other applicable standards in this Ordinance;
- 3. Complies with the Engineering Design and Construction Manual;
- 4. Complies with all other applicable Town ordinances and state and federal laws; and

5. Complies with all requirements and conditions of approval of any prior development permits or approvals.

2.5.25. Wireless Telecommunication Facilities

A. Purpose

The purpose of this section is to:

1. Promote the health, safety, and general welfare of the public by regulating the location of telecommunication facilities.
2. Minimize the impacts of telecommunication facilities on surrounding land uses by establishing standards for location, structural integrity, and compatibility.
3. Encourage the location and collocation of telecommunication equipment on existing structures, thereby minimizing new visual, aesthetic, and public safety impacts, effects upon the natural environment and wildlife, and reduce the need for additional facilities.
4. Accommodate the growing need and demand for telecommunication services.
5. Encourage coordination between suppliers and providers of telecommunication services.
6. Establish predictable and balanced codes governing the construction and location of telecommunication facilities within the confines of permissible local regulations.
7. Establish review procedures to ensure that applications for telecommunication facilities are reviewed and acted upon within a reasonable period as required by applicable state and federal regulations.
8. Respond to the policies embodied in the Telecommunications Act of 1996 in such a manner as not to discriminate between providers of functionally equivalent telecommunication services or to prohibit or have the effect of prohibiting telecommunication services.
9. Protect the character of the Town while meeting the needs of its citizens to enjoy the benefits of telecommunication services.
10. Encourage the use of town-owned lands, buildings, and structures as locations for telecommunication infrastructure demonstrating concealed technologies and revenue generating methodologies.
11. Incorporate the policies, recommendations and design guidelines adopted as part of the *Town of Morrisville Wireless Telecommunication Facilities Master Plan*.
12. Establish compliance with applicable federal and state laws.

B. Applicability

1. New Facility

- a. The procedure and standards in this subsection apply to the review of applications for Wireless Telecommunication Facilities which shall be submitted and reviewed concurrently with any telecommunication facilities use requiring an application for a Special Use Permit, Major Site Plan Approval, or Minor Site Plan Approval in Section 4.2.4, Principal Use Table or Section 4.3.4, Accessory Use/Structure Table. Wireless Telecommunication facilities Approval shall apply uniformly to all areas within the Town of Morrisville and approval is required, unless exempted in accordance with Section 2.5.25.B.1.c below, before submittal of an application for Construction Plan Approval, unless the applicant elects to submit applications for both Site Plan Approval and Construction Plan Approval for concurrent review in accordance with Section 2.5.25.B.1.b below.
- b. For developments requiring Construction Plan Approval in addition to Special Use Permit Approval, Major Site Plan Approval, or Minor Site Plan Approval, the applicant may submit

an application for Construction Plan Approval concurrently with an application for Special Use Permit or Site Plan Approval. In such a case, Town staff shall review the more detailed Construction Plan Approval application concurrently with the Special Use Permit or Site Plan Approval application, but the Town Engineer shall not decide the Construction Plan Approval application until after the Special Use Permit application or Site Plan Approval application is decided by either the Town Council or Planning Director, as appropriate.

- c. The following development is exempt from the requirements of this section, notwithstanding any other measures:
- (1) Satellite earth stations that are one meter (39.37 inches) or less in diameter in all residential zoning districts and two meters or less in all other zoning districts.
 - (2) Regular and ordinary maintenance of antenna elements of any existing telecommunication facilities that does not include the replacement of any antenna elements, the addition of any new antenna elements, feed lines or associated support equipment or the placement of new telecommunication facilities.
 - (3) Government-owned telecommunication facilities, upon the declaration of a state of emergency by federal, state, or local government; except that such facilities must comply with all federal and state requirements. The subject facilities may be exempt from the provisions of Section 2.5.25, Wireless Telecommunication Facilities, of this ordinance up to three months after the duration of the state of emergency.
 - (4) Government-owned telecommunication facilities erected for the purposes of installing antenna(s) and ancillary equipment necessary to provide communications for public health and safety.
 - (5) Temporary, commercial telecommunication facilities, upon the declaration of a state of emergency by federal, state, or local government, or determination of public necessity by the Town and approved by the Town; except that such facilities must comply with all federal and state requirements. The subject facilities may be exempt from the provisions of Section 2.5.25, Wireless Telecommunication Facilities, of this ordinance up to three months after the duration of the state of emergency.
 - (6) Temporary, commercial telecommunication facilities, for the purposes of providing coverage of a special event such as news coverage or sporting event, subject to approval by the Town, except that such facilities must comply with all federal and state requirements. Said facilities may be exempt from the provisions of Section 2.5.25, Wireless Telecommunication Facilities, of this ordinance up to one week after the duration of the special event.

2. Existing Facilities

Any telecommunication facilities lawfully established before the effective date of this Ordinance, and that are not in violation of this Ordinance or the pre-existing Telecommunication Tower Ordinance of the Town, shall be allowed to continue to operate provided they meet the requirements set forth by the Town. Existing Facilities shall also comply with Section 2.5.25.D.1.f(2), Analysis of Existing Telecommunication Facilities.

3. Discontinued (Abandoned) Telecommunication Facilities

- a. Towers, antennas, equipment compounds and all associated equipment shall be removed, at the owner's expense, within 180 days of cessation of use, unless the abandonment is associated with mitigation as provided in Section 2.5.25.D.2.b, Telecommunication Tower Replacement or Mitigation (not involving collocation), of this ordinance, in which case the removal shall occur within 90 days of cessation of use.
- b. If the tower or antenna is not removed within the timeframe, established in Section 2.5.25.B.3.a above, the Town may give notice that it will contract for removal within 30 days following written notice to the owner. Thereafter, the Town may cause removal of the tower with costs being borne by the owner in accordance with Article 10: Enforcement.
- c. Upon removal of the tower, antenna, concrete pads, equipment compound and all associated equipment, the development area shall be returned to its natural state and topography and vegetated consistent with the natural surroundings or consistent with the current uses of the surrounding or adjacent land at the time of removal.

C. Wireless Telecommunication Review Procedures

1. Special Use Permit

Figure 2.5.25.C.1 and the following subsections identify those steps in the standard review procedure (see Section 2.4) applicable to the review of a Wireless Telecommunication Facilities application requiring a Special Use Permit and note any specific variations of, or additions to, those review steps.

a. Pre-Application Conference

The applicant shall hold a pre-application conference with Town staff in accordance with Section 2.4.2.

b. Application Submittal and Acceptance

The application shall be submitted and accepted, and may be withdrawn, in accordance with Section 2.4.3.

c. Staff Review and Recommendation

The Planning Director shall review the application, allow revisions of the application, and prepare a staff report and recommendation in accordance with Section 2.4.4.

d. Scheduling and Public Notice of Meetings

The application shall be scheduled, and required public notices provided, for Planning and Zoning Board and Town Council meetings, in accordance with Section 2.4.5.

e. Planning and Zoning Board Review and Recommendation

The Planning and Zoning Board shall review the application, hold a public comment session, and make a recommendation in accordance with Section 2.4.6.

f. Town Council Review and Decision

The Town Council shall review the application, hold a quasi-judicial public hearing, and decide the application in accordance with

Wireless Telecommunication Facilities Requiring a Special Use Permit

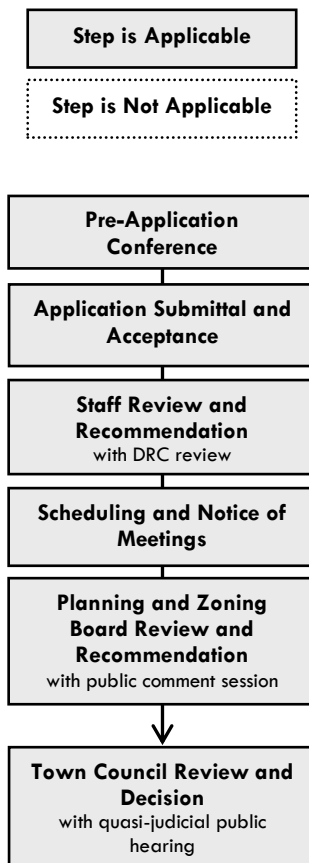


Figure 2.5.25.C.1

Section 2.4.7, and Section 2.5.5.D, subject to the following provisions. The decision shall be one of the following:

- (1) Approve the application as submitted;
- (2) Approve the application subject to conditions;
- (3) Deny the application;
- (4) Remand the application back to the Planning Director or Planning and Zoning Board for further consideration. (This may require further public notice and additional review fees.)

g. Post-Decision Actions and Limitations

The post-decision actions and limitations in Section 2.4.8 shall apply to the application except as follows:

(1) Issuance and Recordation of Special Use Permit

- (A) If the Special Use Permit application is approved, the Planning Director shall issue the applicant a Special Use Permit for Wireless Telecommunication Facilities that identifies the property to which it applies, the development plans on which it is based, and any conditions of approval.
- (B) On expiration of the deadline for filing an appeal of the decision (see Section 2.4.8.B), the applicant shall record the Special Use Permit for Wireless Telecommunication Facilities with the Register of Deeds for the county in which the development site is located and return a copy of the recorded Special Use Permit to the Planning Director.

(2) Effect of Approval

Approval and recordation of a Special Use Permit for Wireless Telecommunication Facilities application allows approval of a concurrently-reviewed Site Plan Approval application for the same Wireless Telecommunication Facility, and authorizes submittal of other development applications that may be required before construction or use of Wireless Telecommunication Facilities authorized by the approved Special Use Permit.

(3) Expiration of Approval

- (A) Approval of a Special Use Permit for Wireless Telecommunication Facilities application shall expire if the Special Use Permit is not recorded in the appropriate county Register of Deeds in accordance with subsection 2.5.25.C.1.g(1)(B), above, within 30 days after expiration of the deadline for filing an appeal of the decision approving the application.
- (B) An approved and recorded Special Use Permit for Wireless Telecommunication Facilities shall expire if an application for a Construction Plan Approval for the approved development is not accepted for review within one year after the date of approval of the Special Use Permit application.
- (C) An approved and recorded Special Use Permit for Wireless Telecommunication Facilities application shall expire automatically if the associated Site Plan Approval application expires, is revoked, or otherwise becomes invalid.

(4) Minor Changes Allowed

- (A) Subsequent development applications may incorporate minor changes from the Special Use Permit Approval for Wireless Telecommunication Facilities without the need to amend the Special Use Permit in accordance with Section 2.4.8.D, Modification or Amendment of Approval, Modification or Amendment of Approval, where the Planning Director determines that the changes:

- (i) Continue to comply with this Ordinance;
 - (ii) Are necessary to comply with conditions of approval;
 - (iii) Comply with the policies set forth in the Town of Morrisville Wireless Telecommunication Facilities Master Plan; or
 - (iv) Are consistent with the Special Use Permit approval or any Town Council approval on which the Special Use Permit approval was based. Consistency means the changes would not significantly alter the development's general function, form, intensity, character, demand on public facilities, impact on adjacent properties, or other characteristic from that indicated by the Special Use Permit approval or any prior Town Council approval on which it was based.
- (B) In any case, the following change from the Special Use Permit for Wireless Telecommunication Facilities approval on which it was based shall constitute a major change requiring amendment of the Special Use Permit in accordance with Section 2.4.8.D Modification or Amendment of Approval:
- (i) A change in a condition of approval.
 - (ii) A change in the height of the facility.
 - (iii) A change in the size of the compound area.
- (C) Before determining whether a change is a minor change or a major change, the Planning Director shall review the record of the proceedings on the Special Use Permit application and consider whether any proposed modification would require evidentiary support in addition to that on which approval of the Special Use Permit application was based.

**Wireless
 Telecommunication
 Facilities Requiring a
 Major Site Plan**

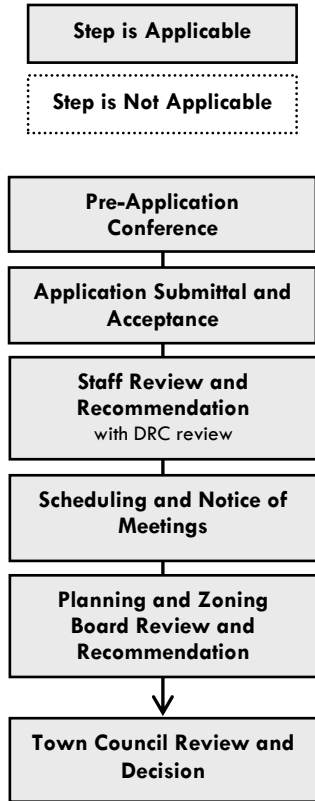


Figure 2.5.25.C.2

2. Major Site Plan

Figure 2.5.25.C.2 and the following subsections identify those steps in the standard review procedure (see Section 2.4) applicable to the review of Wireless Telecommunication Facilities application requiring a Major Site Plan and note any specific variations of, or additions to, those review steps.

a. Pre-Application Conference

The applicant shall hold a pre-application conference with Town staff in accordance with Section 2.4.2.

b. Application Submittal and Acceptance

The application shall be submitted and accepted, and may be withdrawn, in accordance with Section 2.4.3.

c. Staff Review and Recommendation

The Planning Director shall review the application, allow revisions of the application, and prepare a staff report and recommendation in accordance with Section 2.4.4.

d. Scheduling and Public Notice of Meetings

The Planning Director shall schedule the application for, and provide required public notices of, Planning and Zoning Board and Town Council meetings in accordance with Section 2.4.5.

e. Planning and Zoning Board Review and Recommendation

The Planning and Zoning Board shall review the application and make a recommendation in accordance with Section 2.4.6.

f. Town Council Review and Decision

The Town Council shall review and decide the application in accordance with Section 2.4.7 and Section 2.5.7.D. The decision shall be one of the following:

- (1) Approve the application as submitted;
- (2) Approve the application subject to conditions;
- (3) Deny the application; or
- (4) Remand the application back to the Planning Director or Planning and Zoning Board for further consideration. (This may require additional review fees.)

g. Post-Decision Actions

The post-decision actions and limitations in Section 2.4.8 shall apply to the application except as follows:

(1) Effect of Approval

Major Site Plan Approval for Wireless Telecommunication Facilities allows the approval of any concurrently-reviewed applications for Construction Plan Approval, Floodplain Management Permit, Stormwater Management Permit, Administrative Adjustment, or Alternative Equivalent Compliance for the same development. It also authorizes submittal of any other development applications that may be required before construction or use of the development authorized by the Major Site Plan Approval.

(2) Expiration of Approval

A Major Site Plan Approval for Wireless Telecommunication Facilities shall expire if no significant work is done or development is made within two years after the date of Major Site Plan Approval.

(3) Minor Changes Allowed

(A) Subsequent development applications may incorporate minor changes from the development defined by the Major Site Plan Approval for Wireless Telecommunication Facilities without the need to amend the Major Site Plan Approval in accordance with Section 2.4.8.D, Modification or Amendment of Approval, where the Planning Director determines that the changes:

- (i) Continue to comply with this Ordinance;
- (ii) Are necessary to comply with conditions of approval;
- (iii) Comply with the policies set forth in the Town of Morrisville Wireless Telecommunication Facilities Master Plan; or

(iv) Are consistent with the Major Site Plan Approval. Consistency means the changes would not significantly alter the development’s general function, form, intensity, character, demand on public facilities, impact on adjacent properties, or other characteristic from that indicated by the Major Site Plan Approval.

(B) In any case, the following changes from the Major Site Plan Approval for Wireless Telecommunication Facilities shall constitute a major change requiring amendment of the Major Site Plan Approval in accordance with Section 2.4.8.D Modification or Amendment of Approval:

- (i) A change in a condition of approval.
- (ii) A change in the height of the facility.
- (iii) A change in the size of the compound area.

3. Minor Site Plan

Figure 2.5.25.C.3 and the following subsections identify those steps in the standard review procedure (see Section 2.4) applicable to the review of Wireless Telecommunication Facilities application requiring a Minor Site Plan, or additions to, those review steps.

a. Pre-Application Conference

The applicant shall hold a pre-application conference with Town staff in accordance with Section 2.4.2.

b. Application Submittal and Acceptance

The application shall be submitted and accepted, and may be withdrawn, in accordance with Section 2.4.3.

c. Staff Review and Decision

The Planning Director shall review the application, allow revisions of the application, and decide the application in accordance with Section 2.4.4 and Section 2.5.7.D. The decision shall be one of the following:

- (1) Approve the application as submitted;
- (2) Approve the application subject to conditions; or
- (3) Deny the application.

d. Post-Decision Actions

The post-decision actions and limitations in Section 2.4.8 shall apply to the application except as follows:

(1) Effect of Approval

Minor Site Plan Approval for Wireless Telecommunication Facilities allows the approval of any concurrently-reviewed applications for Construction Plan Approval, Floodplain Management Permit, Stormwater Management Permit, Administrative Adjustment, or Alternative Equivalent Compliance for the same development. It also authorizes submittal of any other development applications that may be required before construction or use of the development authorized by the Minor Site Plan Approval.

Wireless Telecommunication Facilities Requiring a Minor Site Plan

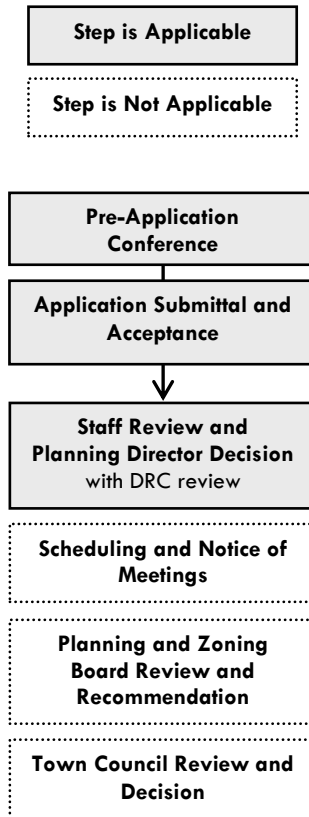


Figure 2.5.25.C.3

(2) Expiration of Approval

A Minor Site Plan Approval for Wireless Telecommunication Facilities shall expire if no significant work is done or development is made within two years after the date of Minor Site Plan Approval.

(3) Minor Changes Allowed

(A) Subsequent development applications may incorporate minor changes from the development defined by the Minor Site Plan Approval for Wireless Telecommunication Facilities without the need to amend the Minor Site Plan Approval in accordance with Section 2.4.8.D, Modification or Amendment of Approval, where the Planning Director determines that the changes:

- (i)** Continue to comply with this Ordinance;
- (ii)** Are necessary to comply with conditions of approval; or
- (iii)** Comply with the policies set forth in the Town of Morrisville Wireless Telecommunication Facilities Master Plan; or
- (iv)** Are consistent with the Minor Site Plan approval or any prior Town Council approval on which it was based (e.g., PD Plan/Agreement approval, Conceptual Master Plan Approval, Major Site Plan Approval). Consistency means the changes would not significantly alter the development's general function, form, intensity, character, demand on public facilities, impact on adjacent properties, or other characteristic from that indicated by the Minor Site Plan Approval or any prior Town Council approval on which it was based.

(B) In any case, the following changes from the Minor Site Plan Approval for Wireless Telecommunication Facilities or any prior Town Council approval on which it was based shall constitute a major change requiring amendment of the Minor Site Plan Approval in accordance with Section 2.4.8.D Modification or Amendment of Approval:

- (i)** A change in a condition of approval.
- (ii)** A change in the height of the facility.
- (iii)** A change in the size of the compound area.

(Ord. No. 2016-001, 05/10/2016)

D. Wireless Telecommunication Facilities Approval

An application for Wireless Telecommunication Facilities Approval may be approved only if the Town Council or Planning Director, as appropriate, determine that the facilities comply with the following:

1. All Telecommunication Facilities

a. Permitted as a Principal or Accessory Use

- (1)** On town-owned property the Town may authorize the application and use of town property after the applicant executes a lease agreement acceptable to the Town.
- (2)** Non-concealed attached antenna, as part of existing utility distribution poles, and dual-function telecommunication facilities within an existing transmission tower shall be permitted as an accessory use.
- (3)** Except for dual-function towers, new freestanding telecommunication towers shall be prohibited within utility easements.

- (4) New freestanding telecommunication facilities shall be prohibited within railroad right-of-way, unless otherwise preempted by federal regulations.
- (5) New freestanding telecommunication facilities shall be prohibited within road right-of-way.
- (6) Telecommunication facilities as accessory uses may be placed on existing towers or support structures in accordance with the provisions of this Ordinance.

b. Interference with Public Safety Telecommunication Equipment

In order to facilitate the regulation, placement, and construction of antenna, and to ensure that all parties are complying to the fullest extent possible with the rules, regulations, and/or guidelines of the Federal Communications Commission (FCC), each owner of an antenna, antenna array or applicant for collocation shall provide a written statement agreeing to the following:

- (1) Compliance with "Good Engineering Practices" as defined by the FCC in its rules and regulations.
- (2) Confirmation from a Radio Frequency (RF) Engineer, compliance with FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to radio frequency interference (RFI).
- (3) In the case of an application for collocated facilities, the applicant, together with the owner of the subject site, shall provide a composite analysis of all users of the site to determine that the applicant's proposed facility will not cause radio frequency interference with the Town's public safety telecommunication equipment and will implement appropriate technical measures, to attempt to prevent such interference.
- (4) Whenever the Town encounters radio frequency interference with its public safety telecommunication equipment, and it believes that such interference has been or is being caused by one or more antenna arrays, the following steps shall be taken:
 - (A) The Town shall provide notification to all wireless service providers operating in the Town of possible interference with public safety telecommunication equipment, and upon such notification, the owners shall cooperate and coordinate with the Town and among themselves to investigate and mitigate the interference, utilizing the procedures set forth in the joint wireless industry-public safety "Enhanced Best Practices Guide," released by the FCC in Appendix D of FCC 04-168 (released August 6, 2004), including the "Good Engineering Practices," as may be amended or revised by the FCC from time to time in any successor regulations.
 - (B) If any equipment owner fails to cooperate with the Town in complying with the owner's obligations under this section or if the FCC makes a determination of radio frequency interference with the Town public safety communications equipment, the owner who failed to cooperate and/or the owner of the equipment which caused the interference shall be responsible, upon FCC determination of radio frequency interference, for reimbursing the Town for all costs associated with ascertaining and resolving the interference, including but not limited to any engineering studies obtained by the Town to determine the source of the interference. For the purposes of this subsection, failure to cooperate shall include failure to initiate any response or action as described in the "Enhanced Best Practices Guide" within 24 hours of the Town's notification.

c. North Carolina Building Code Requirements

Antennas, towers, and associated equipment shall be constructed and maintained in conformance with all applicable NC Building Code requirements. The following requirements shall apply:

- (1) Structural capacity shall not exceed a literal one-hundred percent of the designed loading and stress capability of the telecommunication tower or support structure, and
- (2) The telecommunication tower or support structure shall comply with ANSI EIA/TIA 222 standard as adopted by the current NC Building Code.

d. Transportation Improvements and Right-of-Way Dedication Requirements

The installation or expansion of telecommunication facilities that do not generate weekly traffic will not be required to install road improvements. However, the installation or expansion of facilities shall require the dedication of applicable right-of-way along the frontage of the subject property consistent with the Morrisville Comprehensive Plan.

e. Hierarchy of Preferences

The following list indicates the Town's hierarchy of preferences for telecommunication facilities, in descending order of preference, with the letter (A) being the most preferred and the letter (H) being the least preferred. When an applicant proposes a lower ranked preference, the applicant must file relevant information including, but not limited to, an affidavit by a radio frequency (RF) engineer demonstrating that despite diligent efforts to adhere to the established hierarchy within the geographic search area, a higher ranked preference is not technically practicable and/or economically feasible. The information will be reviewed for consistency with State Statutes, Town Ordinances, and the Morrisville Comprehensive Plan, and may require additional information and clarification to substantiate efforts to adhere to said statute, ordinance or plan. The information may also be subject to a third party peer review with the cost borne by the applicant consistent with all applicable laws.

- (1) Concealed attached antenna.
- (2) Collocation or combination antenna on existing telecommunication towers.
- (3) Non-concealed attached antenna in private utility easement (on an existing transmission tower structure).
- (4) Telecommunication facilities on town-owned property in nonresidential area/district.
 - (A) Concealed (e.g. faux tree, flagpole, banner pole, etc.).
 - (B) Other.
- (5) Dual-function telecommunication facilities in private utility easement in nonresidential area/district (within an existing transmission tower structure).
- (6) New telecommunication facilities on private property in nonresidential area/district.
 - (A) Concealed (e.g. faux tree, flagpole, banner pole, etc.).
 - (B) Monopole.
 - (C) Other.
- (7) Concealed telecommunication facilities in residential area/district.
 - (A) On town-owned property.
 - (B) On private property.

- (8) Dual-function telecommunication facilities in private utility easement in residential area/district (within an existing transmission tower structure).

f. General Inspection Standards

(1) Inspections

- (A) Telecommunication tower owners shall submit a report to the Town that certifies structural and electrical integrity upon completion of the initial construction and at intervals as specified in this subsection.
- (B) The tower owner shall keep inspection records and make those records available upon request to the Town during regular business hours.
- (C) Inspections are required in accordance to the following schedule:

(i) Major Inspection

At least once every 36 months or 36 months from the date of a collocation approval, a structural engineer who is regularly involved in the maintenance, inspection and/or installation of telecommunication towers shall inspect the tower and submit a report to the Town within 30 days thereafter. At a minimum, this inspection shall be conducted in accordance with the provisions of this subsection and in accordance with the tower inspections check list provided in the ANSI EIA/TIA 222 standard s, as amended.

(ii) Minor Inspection

At least once every 12 months, a structural engineer who is regularly involved in the maintenance, inspection and/or installation of telecommunication towers, or tower consultant on behalf of the Town, shall conduct a visual inspection from the ground and a report shall be filed with the Town within 30 days thereafter. This inspection shall include, but shall not be limited to, visual inspection of tower foundations, structures, guys, and connections for evidence of settlement or lateral movement; soil erosion; condition of paint or galvanizing; rust or corrosion, loose or missing bolts, loose or corroded lightning protection connectors; tower plumbness, significant variation in guy sags (i.e. tensions), all feed lines, fiber optic, power cables, and associated tower mounted equipment shall be secured, confirm there is sufficient drainage and no standing water within the compound or tower, and other material areas or matters relating to the structural integrity of the tower. If, however, during the calendar year, a tower modification requiring a structural analysis was provided to the Town as part of an application process a new structural analysis will not be required.

(iii) Miscellaneous Inspection

In addition to the regularly scheduled major and minor inspection set forth herein, a minor inspection, at a minimum, will be conducted if the tower or its appurtenances are noted at any time to be visibly damaged. Additionally, a major inspection shall be conducted if the visible damage to the tower is significant or when, after conducting a minor inspection, significant questions remain about the structural integrity of the tower.

- (D) The Town or tower consultant on behalf of the Town may conduct periodic inspections of telecommunication towers to ensure electrical integrity. The owner of the telecommunication tower may be required by the Town to have more frequent inspections should there be reason to believe that the electrical integrity of the tower is jeopardized. The Town reserves the right to require additional inspections

if there is evidence that the tower has a safety problem or is exposed to extraordinary conditions.

- (E) Any tower found, through inspection by the owner or by inspection of the Town or tower consultant on behalf of the Town, to be structurally unsafe shall be brought into compliance. A plan and time frame to bring the tower into compliance shall be provided to the town within 30 days thereafter. Once the tower is brought into compliance, the tower owner shall provide the Town a Certification of Compliance within 30 days thereafter.
- (F) Any tower found, through inspection by the owner or by inspection of the Town or tower consultant on behalf of the Town, to be structurally unsafe and that cannot be brought into compliance within 180 days shall be removed at the owner's expense. The Planning Director shall send the property owner a notice requiring compliance. If the owner fails to bring the tower into compliance within the established time frame, the owner shall be required, at the owner's expense, to remove the tower for safety reasons. If the owner fails to remove the tower, the Town may cause removal of the tower with costs being borne by the owner in accordance with Article 10: Enforcement.

(2) Analysis of Existing Telecommunication Facilities

- (A) Within 12 months of the effective date of this ordinance, an analysis (P.E. analysis) commissioned by tower owners and prepared by a registered Professional Engineer licensed by the State of North Carolina shall be performed on all existing towers and shall be submitted to the Town within 30 days thereafter.
- (B) The P.E. analysis shall determine the tower's compliance or lack thereof with the ANSI EIA/TIA 222 standards as adopted by the current NC Building Code and when the most recent structural loading change was made.
- (C) If the tower does not meet the ANSI EIA/TIA 222 standards as adopted by the current NC Building Code, the P.E. analysis shall include the types of modifications that would be required to bring the tower up to current standard.
- (D) The Town shall be notified in writing when a required P.E. analysis is complete and a copy of the P.E. analysis shall be provided to the Town. The P.E. analysis shall also give details of the net result of any changes made to the tower or its appurtenances since the last inspection.

(3) The ANSI EIA/TIA 222 standards

The ANSI EIA/TIA 222 standards as adopted by the current NC Building Code shall apply to the addition of antennas or other appurtenances to telecommunication towers under the following conditions:

- (A) Additions to towers constructed prior to the effective date of this Ordinance, regardless of whether the additions are accounted for in the original design, shall comply with the ANSI EIA/TIA 222 standards as adopted by the current NC Building Code and the wind loading specified therein. Additions to towers constructed subsequent to the effective date of this Ordinance shall comply with standards set forth elsewhere in this Section.
- (B) If a structural analysis shows a tower does not comply with the appropriate ANSI EIA/TIA 222 standards as adopted by the current NC Building Code, the owner shall submit an application to the Planning Department with a plan to bring the tower into compliance within six months. The tower owner shall obtain all applicable permits for the work.

2. Existing Telecommunication Facilities

a. Existing Antenna Modification, Replacement or Upgrade

For any existing antenna modification, replacement or upgrade, the applicant must, prior to making such modifications, submit the following:

- (1) A description of the proposed revisions to the antenna, including the element design, type and number, as well as changes in the number and/or size of any feed lines, from the base of the equipment cabinet to such antenna elements.
- (2) A signed statement from an RF Engineer, together with their qualifications, shall be included representing the tower's owner or owner's agent that the radio frequency emissions comply with FCC standards for such emissions. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the revised antenna complies with FCC standards.
- (3) A sealed structural analysis of the existing structure prepared by a registered Professional Engineer licensed by the State of North Carolina indicating that the existing tower as well as all existing and proposed appurtenances meets current NC Building Code requirements, including, but not limited to, wind loading and ANSI EIA/TIA 222 standards, for the tower.

b. Telecommunication Tower Replacement or Mitigation (not involving collocation)

(1) General

- (A) Tower replacement or mitigation (not involving collocation) shall accomplish a minimum of one of the following:
- (i) Reduce the number of towers.
 - (ii) Reduce the number of nonconforming towers.
 - (iii) Replace an existing tower with a new tower to improve network functionality resulting in compliance with this ordinance.
- (B) No tower shall be mitigated more than one time.

(2) Telecommunication Tower Design and Construction

Towers shall be engineered and constructed as follows:

- (A) All towers up to 120 feet in height shall accommodate no less than three antenna arrays.
- (B) All towers between 120 feet one-inch and 140 feet shall accommodate no less than four antenna arrays.
- (C) All towers between 140 feet one-inch and 199 feet shall be engineered and constructed to accommodate at least five antenna arrays.

(3) Height

The height of a tower approved for replacement or mitigation shall not exceed one-hundred percent of the height of the tower being replaced or mitigated. For example, an existing 170 foot tower could be rebuilt at 170 feet.

(4) Breakpoint Technology

New replacement towers or towers used for mitigation shall be designed using breakpoint technology. Certification by a registered Professional Engineer licensed by the State of

North Carolina of the breakpoint design and the design's fall radius must be provided together with the other information required herein from an applicant.

(5) Setbacks

A new tower approved for replacement or mitigation of an existing tower shall not be required to meet new setback standards so long as the new tower and its equipment compound are no closer to any property lines or dwelling units as the tower and equipment compound being replaced or mitigated.

(6) Landscape Buffers

At the time of replacement or mitigation, the tower equipment compound shall be brought into compliance with Section 4.2.5.D.4.e(15), Landscape Buffers.

(7) Visibility

Replacement or mitigated towers shall be configured and located in a manner that minimizes adverse impacts on the landscape and adjacent properties, with specific design considerations as to height, scale, color, texture, and architectural design of the buildings on the same and adjacent lots, and consideration of those same factors for the replacement or mitigated tower in comparison to the tower being replaced or mitigated, with the intent that the new replacement or mitigated tower having fewer adverse impacts on the landscape and adjacent properties than the tower being replaced or mitigated.

(8) Generators

Generators within an existing compound area shall be screened with an opaque row of evergreen landscaping planted outside the compound area to screen the generator from the view from nearby streets, sidewalks, greenways and residential areas. The evergreen landscaping shall screen both the height and width of the generator. Existing vegetation may be used to satisfy the generator screening requirement.

(Ord. No. 2014-016, 06/24/2014; Ord. No. 2014-051, 11/10/2014)

Article 3: Zoning Districts

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Article 3: Zoning Districts

SECTION 3.1. GENERAL PROVISIONS

3.1.1. Establishment of Zoning Districts

This Ordinance establishes the base, planned development, and overlay zoning districts listed in Table 3.1.1, Zoning Districts Established, as well as conditional zoning districts paralleling each of the base zoning districts identified in Table 3.1.1.

3.1.2. Types of Zoning Districts

A. Base Zoning Districts

1. Base zoning districts are established initially by the Town Council’s adoption of the Official Zoning Map and subsequently by approval of a General Rezoning (see Section 2.5.3). Such approval authorizes the full range of development allowed by the standards applicable to the base zoning district.
2. Development in a base zoning district is subject to predetermined standards set out or referenced for the district in Section 3.2 through Section 3.6.
3. For each base zoning district, regulations set out the district’s purpose and the intensity and dimensional standards applicable in the district, and reference other Ordinance standards generally applicable to development in the district. Each base zoning district also includes a photo depicting a building form typical in the district and an illustration depicting how the district’s dimensional standards apply to lots and typical building forms. The illustration is intended to illustrate the general character of the district; if a standard shown in the illustration is inconsistent with the table of intensity or dimensional standards, the standards in the table shall govern.

(Ord. No. 2016-001, 05/10/2016)

B. Conditional Zoning Districts

1. Conditional zoning districts (e.g., C-NAC) parallel each of the base zoning districts and are established through the Town Council’s approval of a Conditional Rezoning (see Section 2.5.3), which incorporates district-specific plans and conditions agreed to by the owner(s) of the rezoned land.

Table 3.1.1: Zoning Districts Established	
BASE DISTRICTS	
Conservation Districts	
Park/Greenway/Open Space (PGO) (Sec. 3.2.2)	
Residential Districts	
Very Low Density Residential (VLDR) (Sec. 3.3.2)	
Low Density Residential (LDR) (Sec. 3.3.3)	
Medium Density Residential (MDR) (Sec. 3.3.4)	
High Density Residential (HDR) (Sec. 3.3.5)	
Activity Center Districts	
Neighborhood Activity Center (NAC) (Sec. 3.4.2)	
Business Activity Center (BAC) (Sec. 3.4.3)	
Community Activity Center (CAC) (Sec. 3.4.4)	
Regional Activity Center (RAC) (Sec. 3.4.5)	
Transit-Oriented Development (TOD) (Sec. 3.4.6)	
Town Center Districts	
Historic Crossroads Village (HCV) (Sec. 3.5.2)	
Main Street (MS) (Sec. 3.5.3)	
Town Center Commercial (TCC) (Sec. 3.5.4)	
Town Center Residential (TCR) (Sec. 3.5.5)	
Residential Transition (RT) (Sec. 3.5.6)	
Residential Neighborhood Preservation (RNP) (Sec. 3.5.7)	
Commercial and Industrial Districts	
Corridor Commercial (CC) (Sec. 3.6.2)	
Office/Institutional (OI) (Sec. 3.6.3)	
Industrial Management (IM) (Sec. 3.6.4)	
CONDITIONAL DISTRICTS	
One parallel to each Base District above (e.g., C-NAC)	
PLANNED DEVELOPMENT DISTRICTS	
Mixed-Use Planned Development (MUPD) (Sec. 3.7.2)	
OVERLAY DISTRICTS	
Airport Overlay-A (AO-A) (Sec. 3.8.2)	
Airport Overlay-B (AO-B) (Sec. 3.8.2)	
Floodplain Overlay (FO) (Sec. 3.8.3)	
Town Center Conservation Overlay (TCCO) (Sec. 3.8.4)	
(Ord. No. 2014-022, 06/24/2014)	

Article 3: Zoning Districts

Section 3.1. General Provisions

3.1.3. Relationships Between Standards for Overlay Districts and Other Districts

2. Except as otherwise provided in Section 3.1.4, Development Incentives for Provision of Public Benefits development in a conditional zoning district is subject to the same standards applicable to the parallel base zoning district, as modified by the approved district-specific plans and conditions.

(Ord. No. 2016-001, 05/10/2016)

C. Planned Development Zoning Districts

1. Planned development zoning districts are established by the Town Council's approval of a Planned Development Rezoning (see Section 2.5.3), which includes district-specific plans and standards set out in a Planned Development (PD) Plan/Agreement.
2. Development in a planned development zoning district is subject to the plans and standards set out or referenced in the approved PD Plan/Agreement.
3. Section 3.7, Planned Development Districts, describes the base purpose of planned development zoning districts and sets out base requirements applicable to all planned development zoning districts. For each type of planned development zoning district, it sets out the district's purpose, the intensity and dimensional standards to apply in the district or be addressed in the district's PD Plan/Agreement, and the development and environmental standards to be addressed in the district's PD Plan/Agreement and the means of modifying them (e.g., through an alternative landscaping plan).

D. Overlay Zoning Districts

1. Overlay zoning districts are established initially by the Town Council's adoption of the Official Zoning Map and subsequently by approval of a General Rezoning (see Section 2.5.3). They are superimposed over one or more underlying base, conditional, or planned development zoning districts.
2. Development in an overlay zoning district is subject to predetermined standards set out or referenced for the district in Section 3.8, Overlay Districts. Such standards supplement, modify, or supersede standards applicable by the underlying base, conditional, or planned development district.
3. Regulations for each overlay zoning district set out the district's purpose and the supplemental, modified, or superseding standards applicable in the district.

3.1.3. Relationships Between Standards for Overlay Districts and Other Districts

If the standards for an overlay district expressly conflict with those for an underlying base zoning district, conditional zoning district, planned development district, or another applicable overlay district, the more restrictive standards shall apply.

3.1.4. Development Incentives for Provision of Public Benefits

A. Purpose

The purpose of this section is to provide development incentives for the provision of public benefits in conjunction with development. It does so by authorizing additional allowable uses and less restrictive intensity and dimensional standards for certain conditional zoning districts that provide one or more public benefit not otherwise required by this Ordinance. Such incentives include allowance of certain uses in addition to those allowed in the parallel base zoning district, and an increase in the maximum net density, maximum floor area ratio, maximum lot coverage, and maximum structure height. Such public benefits include: dedication of land or facilities to be used for public parks or greenways; off-site or regional stormwater management; off-site transportation improvements; and/or cultural centers, public plazas, public art, and other community amenities. The extent of public benefits provided is intended to be that necessary to balance and justify the extent of the proposed development incentives.

B. Conditional Rezoning Application and Review

1. If the applicant for a Conditional Rezoning proposes use of the development incentives authorized by this section, the Conditional Rezoning application shall specify the additional allowable uses and the less restrictive intensity and dimensional standards proposed to be applicable to district development (see subsection C below) and the compensating public benefits proposed to be provided (see subsection D below).
2. In reviewing the Conditional Rezoning application, Town staff, the Planning and Zoning Board, and the Town Council shall consider the extent to which the proposed public benefit(s) compensate for the additional allowable uses and the less restrictive intensity and dimensional standards proposed as part of the application.

C. Development Incentives

The additional uses that may be allowed in a conditional zoning district on provision of compensating public benefits are identified in the use tables in Article 4: Use Standards, with a “C” in the column for the parallel base district. The less restrictive intensity and dimensional standards that may be applied if a development incentive is proposed are identified in the table of intensity and dimensional standards set out in this article for the parallel base zoning district.

D. Compensating Public Benefits

One or more of the following benefits may be proposed as part of a Conditional Rezoning application proposing to use the development incentives authorized by this section—provided the benefit is in addition to what is otherwise required to meet the minimum standards of this Ordinance and other Town, County, State, or federal regulations.

1. Dedication of Land or Facilities or In-Lieu Fee Contribution

a. Parks and Greenways

The dedication of land, construction of facilities, or contribution of an in-lieu fee for public parks or greenways called for in Town plans.

b. Stormwater Management Facilities

The dedication of land, construction of facilities, or contribution of an in-lieu fee for stormwater management facilities supporting the Town’s Stormwater Program.

c. Transportation Facilities

The dedication of land, construction of facilities, or contribution of an in-lieu fee for off-site transportation facilities called for in the Comprehensive Plan.

d. Community Facilities

The dedication of land or construction of facilities for community facilities (e.g. cultural arts center, public plaza, and public art) called for in Town plans or supporting studies.

2. Rehabilitation of Historic Structures

The protection and/or rehabilitation of a historic structure or site identified on the Reference Sheet of Historic Structures (available in the Planning Department).

3. Workforce Housing

The construction of workforce dwelling units, and/or contribution of funds for such construction, that is consistent with the goals of the Comprehensive Plan and workforce housing studies that have been conducted for the community.

(Ord. No. 2016-001, 05/10/2016)


SECTION 3.2. CONSERVATION DISTRICTS

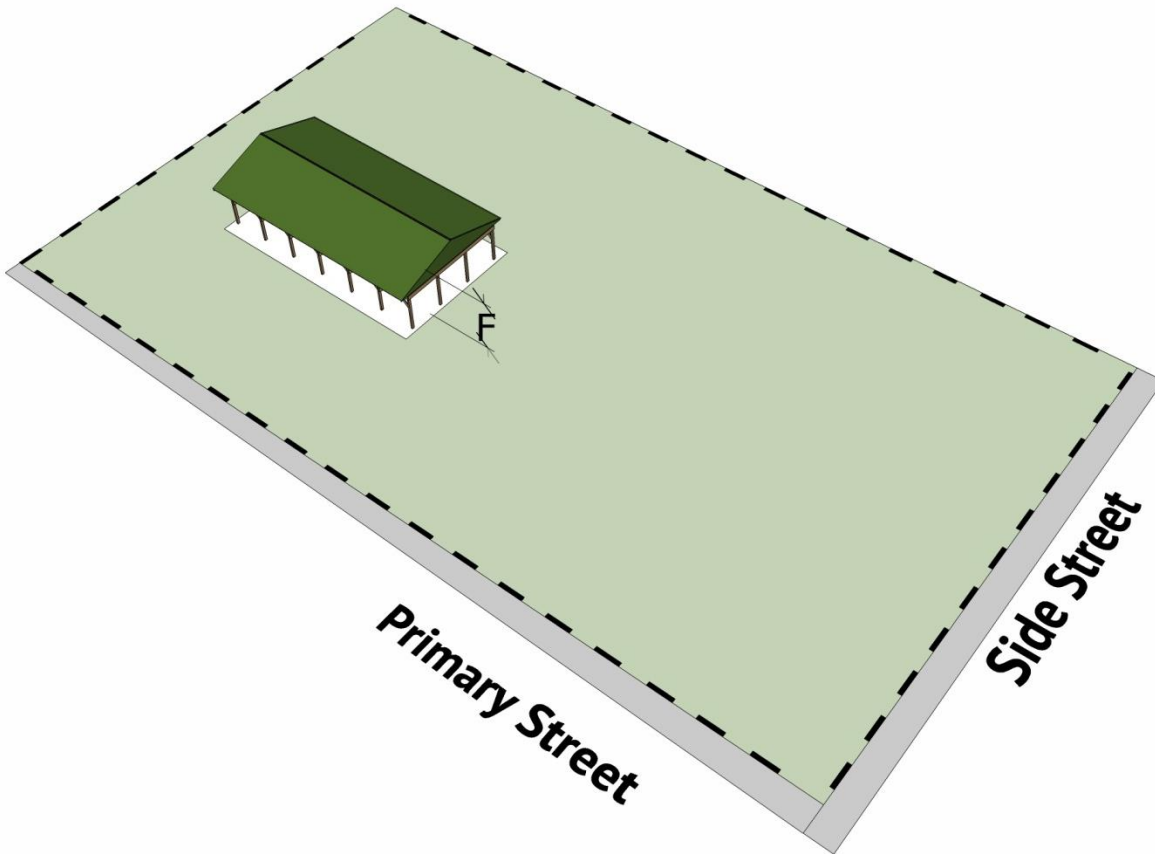
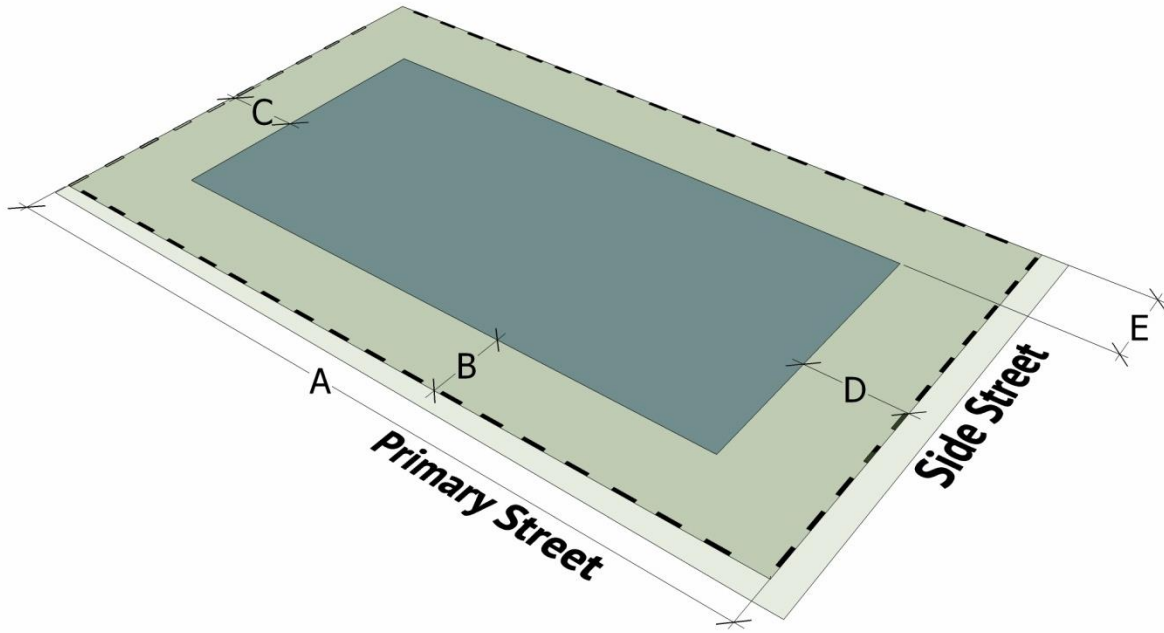
3.2.1. General Purposes of Conservation Districts

The Conservation Districts established in this section are intended to:

- A. Provide open space and recreation area to meet the physical and natural resource needs of the Town and its residents;
- B. Enhance the Town's aesthetic appeal within its neighborhoods and along transportation corridors; and
- C. Reduce stormwater runoff with increased pervious surfaces that allow water infiltration.

3.2.2. Park/Greenway/Open Space (PGO) District

PARK/GREENWAY/OPEN SPACE (PGO) DISTRICT		
A. Purpose		
<p>In accordance with the Comprehensive Plan, the Park/Greenway/Open Space District provides for passive and active recreational uses, the protection and conservation (and restoration) of natural open space areas, and landscaped buffers. Active recreational open space should be readily accessible. Existing vegetation should be retained, reforestation or revegetation of open areas with native plants is encouraged, and degraded landscapes and wildlife habitats should be restored or enhanced.</p>		
B. Principal Intensity and Dimensional Standards		Cross References
A, etc. are symbols used in the illustrations showing application of dimensional standards		
Lot Standards	All Uses	Art. 4: Use Standards
Min. Net Lot Area (sf)	no minimum	Art. 5: Development Standards
A Min. Lot Width (ft)	no minimum	Art. 6: Riparian Buffers
Max. Net Density (du/ac)	n/a	Art. 7: Stormwater Management
Max. Lot Coverage (%)	65	
Setbacks		
B Min. Front (ft)	20	
C Min. Side (ft)	20	
D Min. Corner Side (ft)	20	
E Min. Rear (ft)	20	
Building Standards		
F Max. Structure Height (ft)	35	
G Min. Building Separation (ft)	n/a	
Notes: sf = square feet; ft = feet; du = dwelling unit; ac = acre; % = percent; n/a = not applicable (Ord. No. 2016-001, 05/10/2016)		



SECTION 3.3. RESIDENTIAL DISTRICTS

3.3.1. General Purposes of Residential Zoning Districts

The residential districts established in this section are intended to provide a comfortable, healthy, safe, and pleasant environment in which to live and recreate. More specifically, they are intended to:

- A.** Provide appropriately located lands for residential development that are consistent with the goals, objectives, and policies of the Comprehensive Plan and any functional plans and small area plans adopted by the Town.
- B.** Ensure adequate light, air, privacy, recreation areas, and open space for each dwelling, and protect residents from the negative effects of noise, incompatible population density, traffic congestion, flooding, and other significant adverse environmental impacts;
- C.** Protect residential areas from fires, explosions, toxic fumes and substances, and other public safety hazards;
- D.** Provide for residential housing choice, affordability, and diversity with varying housing densities, types, and designs, including accessory dwelling units;
- E.** Provide for safe and efficient vehicular access and circulation and promote bicycle-, pedestrian-, and transit-friendly neighborhoods;
- F.** Provide for public services and facilities needed to serve residential areas and accommodate public and semi-public land uses that complement residential development while protecting residential areas from incompatible nonresidential development;
- G.** Create neighborhoods and preserve existing community character while accommodating new infill development and redevelopment consistent with the Town's goals and objectives;
- H.** Preserve the unique character of the Town's traditional neighborhoods; and
- I.** Promote sustainable development in terms of energy efficiency and conservation, greenhouse gas reductions, food security, materials recycling, and similar sustainability goals.

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3.3.2. Very Low Density Residential (VLDR) District

VERY LOW DENSITY RESIDENTIAL (VLDR) DISTRICT

A. Purpose

In accordance with the Comprehensive Plan, the Very Low Density Residential District accommodates neighborhoods of single-family detached dwellings with a net density of no more than 1.0 dwelling unit per acre. It is also intended to accommodate the protection and preservation of agricultural lands for the performance of agricultural functions, and to apply to areas not currently suitable for more urban levels of development.



B. Principal Intensity and Dimensional Standards

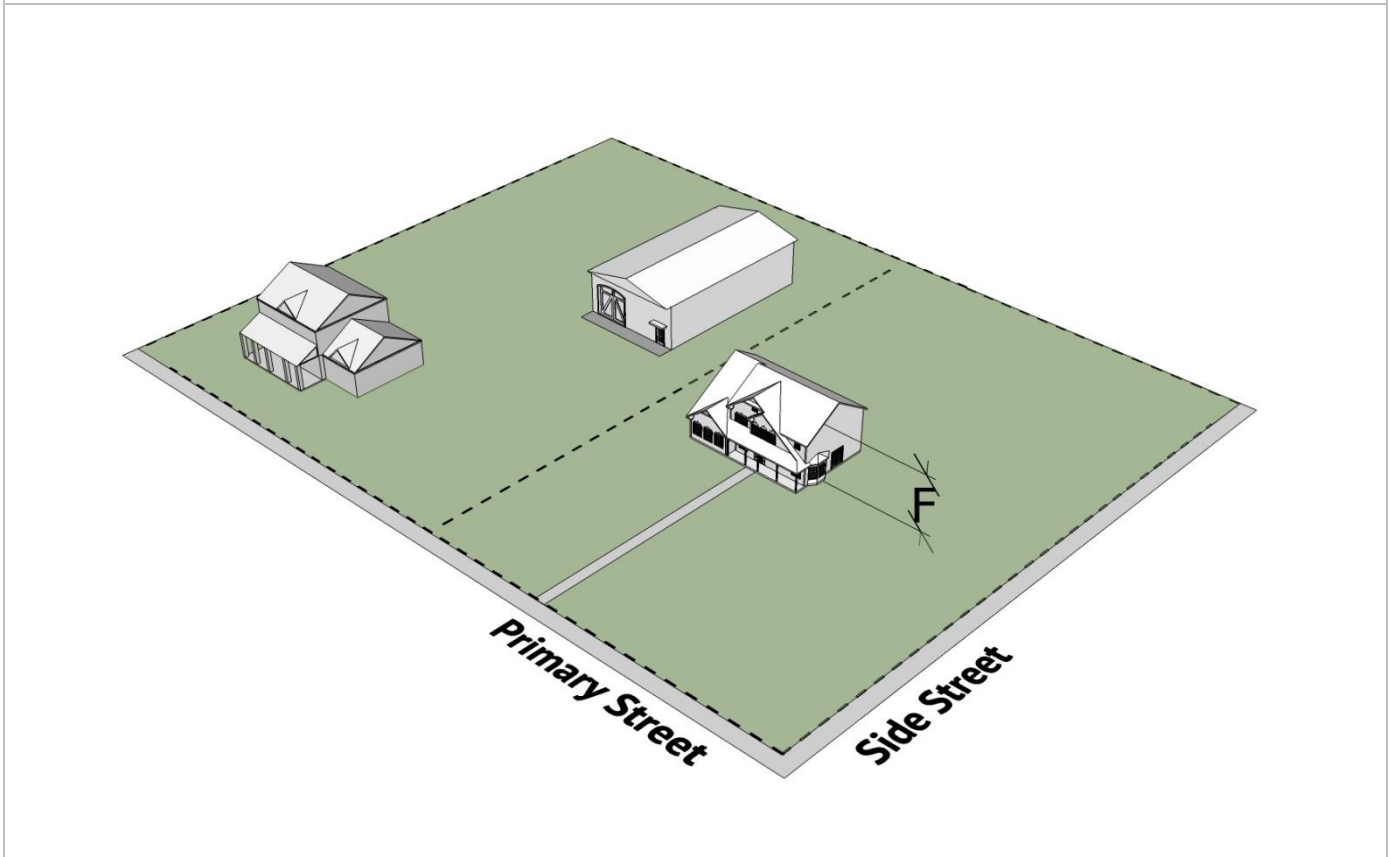
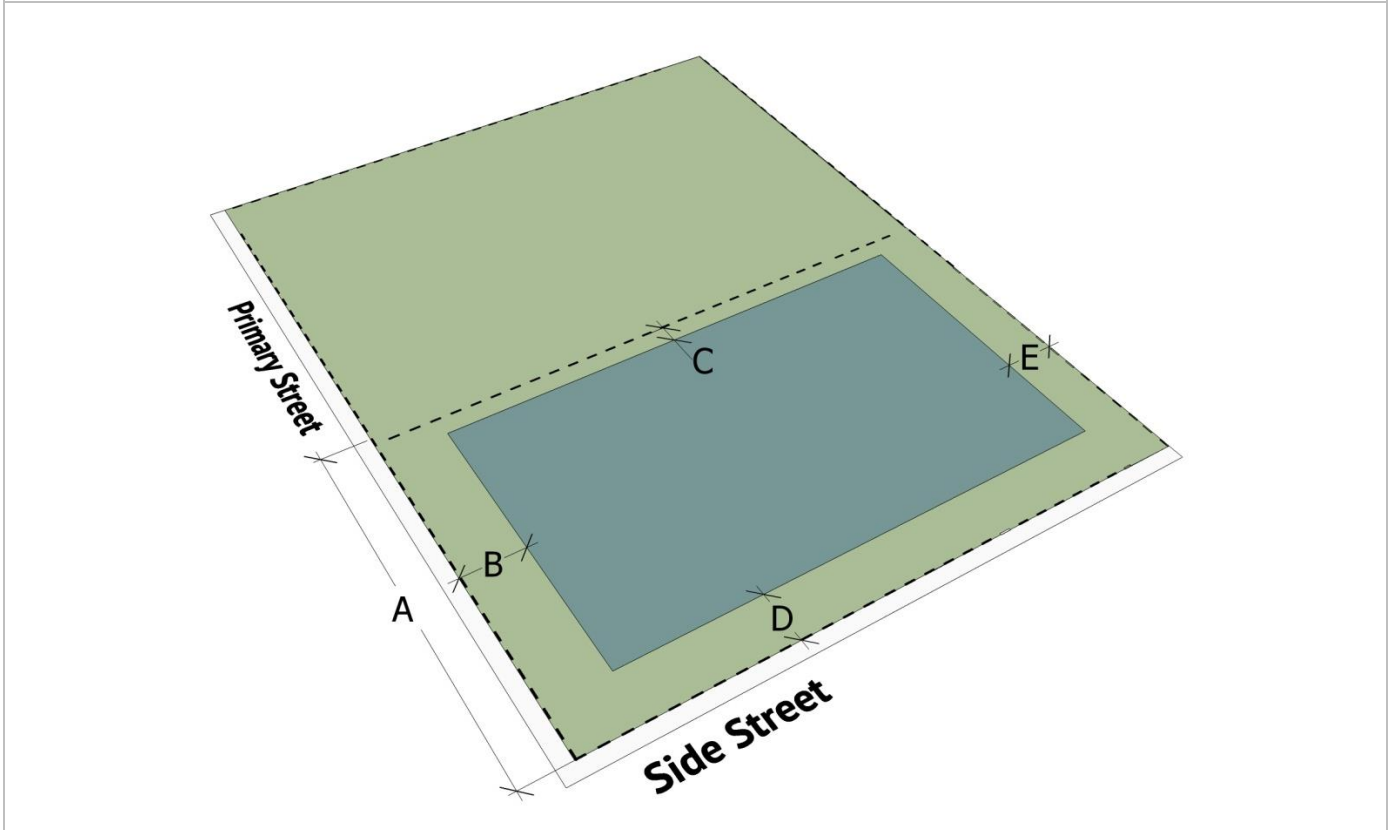
A, etc. are symbols used in the illustrations showing application of dimensional standards

	All Uses
Lot Standards	
Min. Net Lot Area (sf)	40,000
A Min. Lot Width (ft)	140
Max. Net Density (du/ac)	1.0
Max. Lot Coverage (%)	65
Setbacks	
B Min. Front (ft)	30
C Min. Side (ft)	10
D Min. Corner Side (ft)	25
E Min. Rear (ft)	25
Building Standards	
F Max. Structure Height (ft)	35
G Min. Building Separation (ft)	n/a

Cross References

- Art. 4: Use Standards
- Art. 5: Development Standards
- Art. 6: Riparian Buffers
- Art. 7: Stormwater Management

Notes: sf = square feet; ft = feet; du = dwelling unit; ac = acre; % = percent; n/a = not applicable



3.3.3. Low Density Residential (LDR) District

LOW DENSITY RESIDENTIAL (LDR) DISTRICT

A. Purpose

In accordance with the Comprehensive Plan, the Low Density Residential District accommodates neighborhoods of single-family detached dwellings with a net density between 1.0 and 4.5 dwelling units per acre. It is intended to discourage any use that would substantially interfere with the development of single-family detached dwellings or would be detrimental to the quiet residential nature of existing single-family detached neighborhoods.



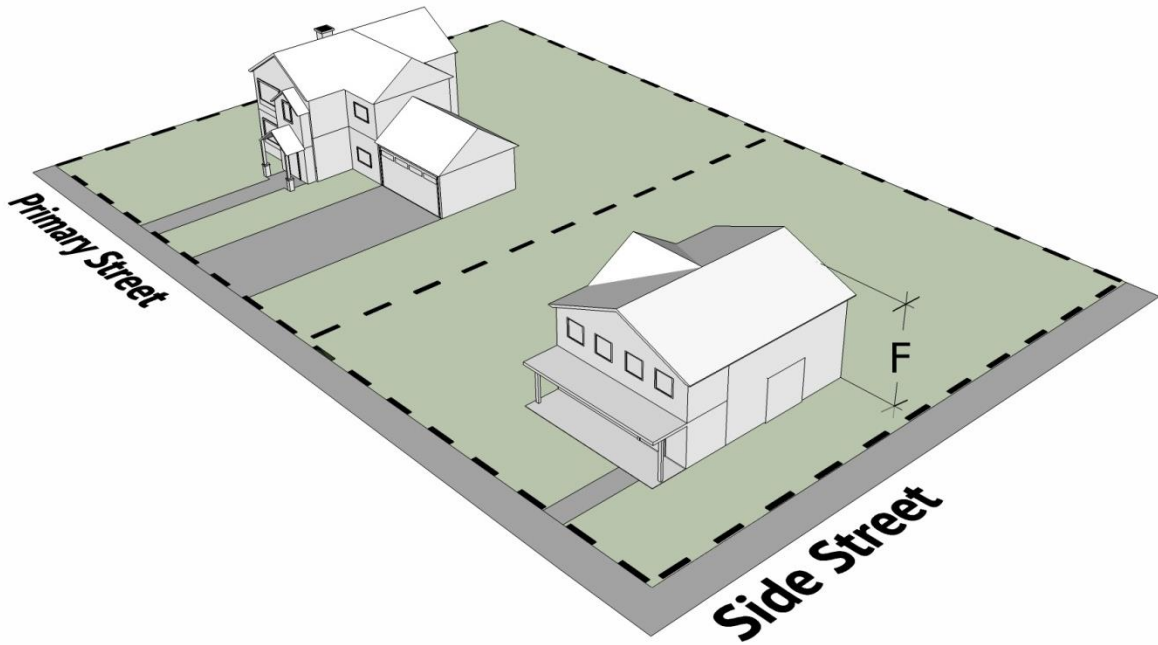
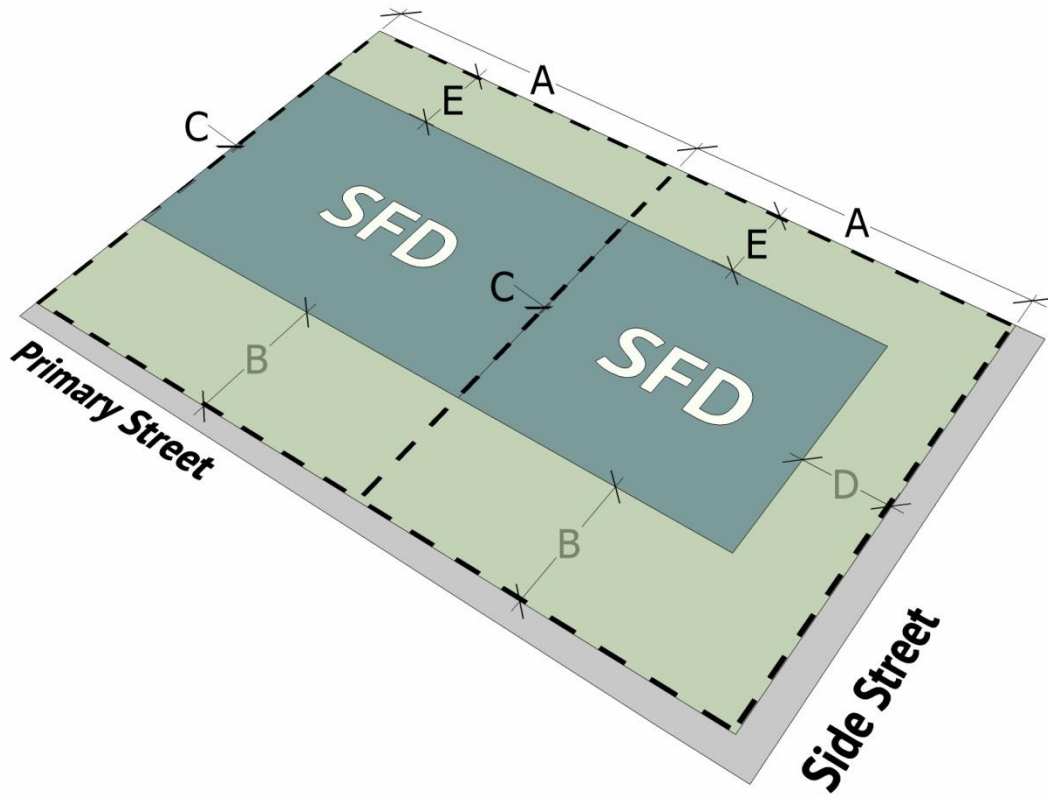
B. Principal Intensity and Dimensional Standards

A, etc. are symbols used in the illustrations showing application of dimensional standards

Cross References

	All Uses	
Lot Standards		Art. 4: Use Standards
Min. Net Lot Area (sf)	8,000	Art. 5: Development Standards
A Min. Lot Width (ft)	60	Sec. 5.9.6
Max. Net Density (du/ac)	4.5	Sec. 5.9.7
Max. Lot Coverage (%)	65	Art. 6: Riparian Buffers
Setbacks		Art. 7: Stormwater Management
B Min. Front (ft)	30	
C Min. Side (ft)	0	
D Min. Corner Side (ft)	18	
E Min. Rear (ft)	20	
Building Standards		
F Max. Structure Height (ft)	35	
G Min. Building Separation (ft)	15	

Notes: sf = square feet; ft = feet; du = dwelling unit; ac = acre; % = percent
 (Ord. No. 2016-001, 05/10/2016)



3.3.4. Medium Density Residential (MDR) District

MEDIUM DENSITY RESIDENTIAL (MDR) DISTRICT

A. Purpose

In accordance with the Comprehensive Plan, the Medium Density Residential District accommodates neighborhoods with a variety of housing types and a net density between 4.5 and 7.5 dwelling units per acre. It is suitable for infill development in established neighborhoods, for development of areas identified as medium density residential in the Comprehensive Plan, or areas suited to medium density development supported by adequate infrastructure and nonresidential land uses. The regulations of this district are intended to allow innovation in the arrangement of buildings within such developments and discourage the development of land uses that could substantially interfere with, or be detrimental, to residential character.



B. Principal Intensity and Dimensional Standards

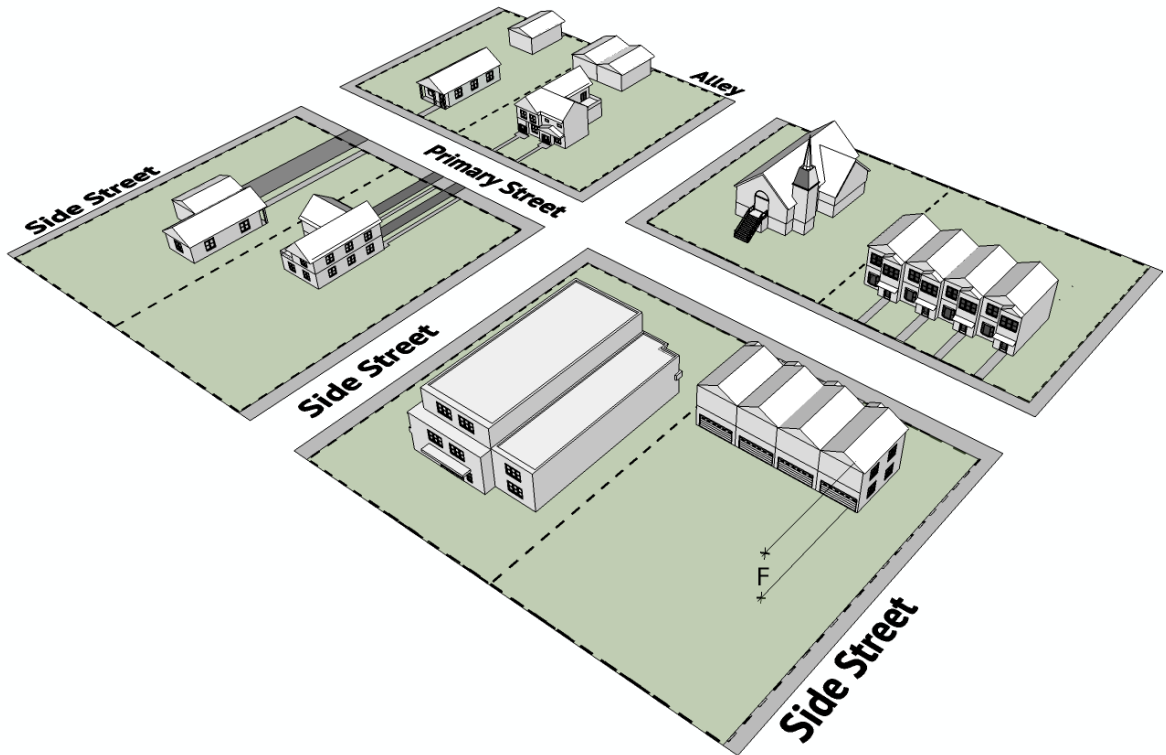
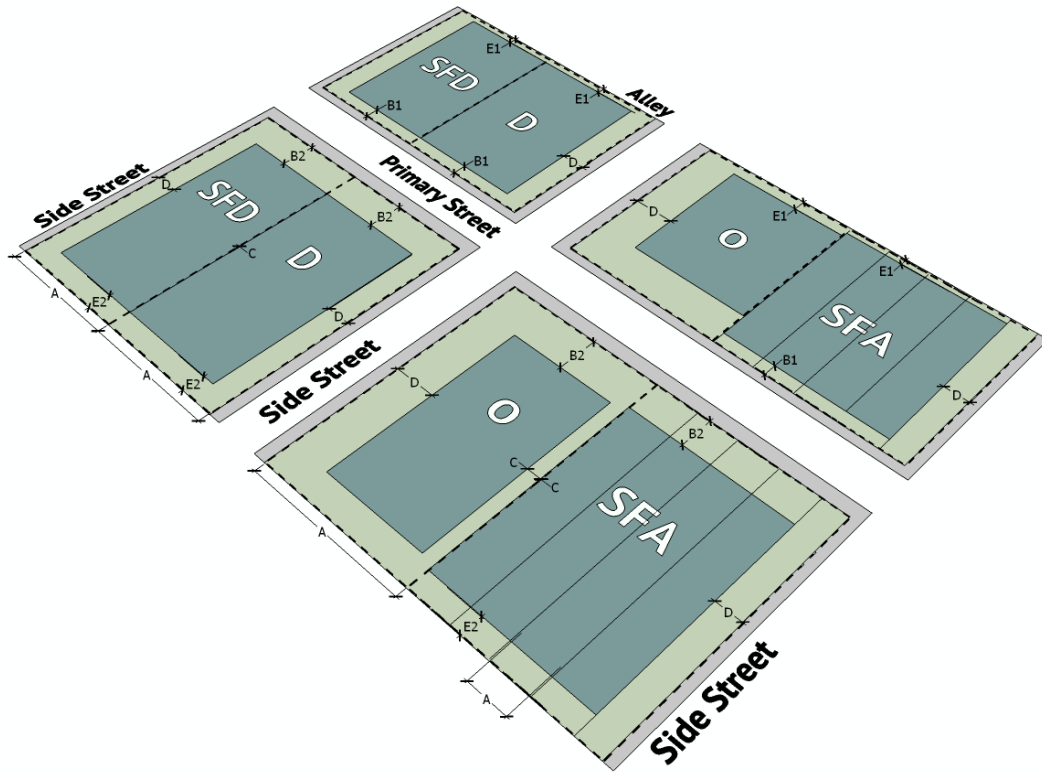
A, etc. are symbols used in the illustrations showing application of dimensional standards

Cross References

	Single-Family Detached Dwellings	Duplex Dwellings	Single-Family Attached Dwellings	Other Uses	
Lot Standards					Art. 4: Use Standards
Min. Net Lot Area (sf)	5,000	8,000	n/a	20,000	Art. 5: Development Standards
A Min. Lot Width (ft)	50	60	24	100	Sec. 5.9.6
Max. Net Density (du/ac)	7.5	7.5	7.5	n/a	Sec. 5.9.7
Max. Lot Coverage (%)	65	65	70	65	Art. 6: Riparian Buffers
Setbacks					Art. 7: Stormwater Management
B1 Min. Front (ft) - Alley-loaded	10 [1]	10 [1]	10 [1]	n/a	
B2 Min. Front (ft) - Other	25	25	25	30	
C Min. Side (ft)	0	0	0	30	
D Min. Corner Side (ft)	18	18	18	30	
E1 Min. Rear (ft) - Alley-loaded	6 [1]	6 [1]	6 [1]	10	
E2 Min. Rear (ft) - Other	15	15	10	n/a	
Building Standards					
F Max. Structure Height (ft)	35	35	35	45	
G Min. Building Separation (ft)	15	15	24	n/a	

Notes: sf = square feet; ft = feet; du = dwelling unit; ac = acre; % = percent; n/a = not applicable

[1] Setbacks also apply to residential developments with detached front-loaded garages located to the rear of the principal structure. (Ord. No. 2014-022, 06/24/2014); Ord. No. 2016-001, 05/10/2016)



3.3.5. High Density Residential (HDR) District

HIGH DENSITY RESIDENTIAL (HDR) DISTRICT

A. Purpose

In accordance with the Comprehensive Plan, the High Density Residential District accommodates neighborhoods with a variety of housing types and a net density greater than 7.5 dwelling units per acre. It is suitable for infill development in established neighborhoods, for development of areas identified as high density residential in the Comprehensive Plan, or areas suited to high density development supported by adequate infrastructure and nonresidential land uses. The regulations of this district are intended to allow innovation in the arrangement of buildings within such developments and discourage the development of land uses that could substantially interfere with, or be detrimental, to residential character.



B. Principal Intensity and Dimensional Standards

A, etc. are symbols used in the illustrations showing application of dimensional standards

		Single-Family Detached Dwellings	Duplex Dwellings	Single-Family Attached Dwellings	Multi-family Dwellings	Other Uses	
Lot Standards							
Min. Net Lot Area (sf)		3,500	5,000	n/a	20,000	20,000	
A	Min. Lot Width (ft)	35	50	24	100	100	
Max. Net Density (du/ac)		17.0	17.0	17.0	17.0	n/a	
Max. Lot Coverage (%)		65	65	70	65	65	
Setbacks							
B1	Min. Front (ft)	Alley-loaded	10 [1]	10 [1]	10 [1]	n/a	n/a
B2		Other	20	20	20	20	30
C	Min. Side (ft)		0	0	0	30	30
D	Min. Corner Side (ft)		8	8	18	30	30
E1	Min. Rear (ft)	Alley-loaded	6 [1]	6 [1]	6 [1]	n/a	n/a
E2		Other	15	15	10	30	30
Building Standards							
F1	Max. Structure Height (ft)		45	45	45	75	75
F2	Min. Structure Height (stories)		no minimum	no minimum	no minimum	3 [2][3]	no minimum
G	Min. Building Separation (ft)		6	6	24	n/a	n/a

Cross References

Art. 4: Use Standards
 Art. 5: Development Standards
 Sec. 5.9.6
 Sec. 5.9.7
 Art. 6: Riparian Buffers
 Art. 7: Stormwater Management

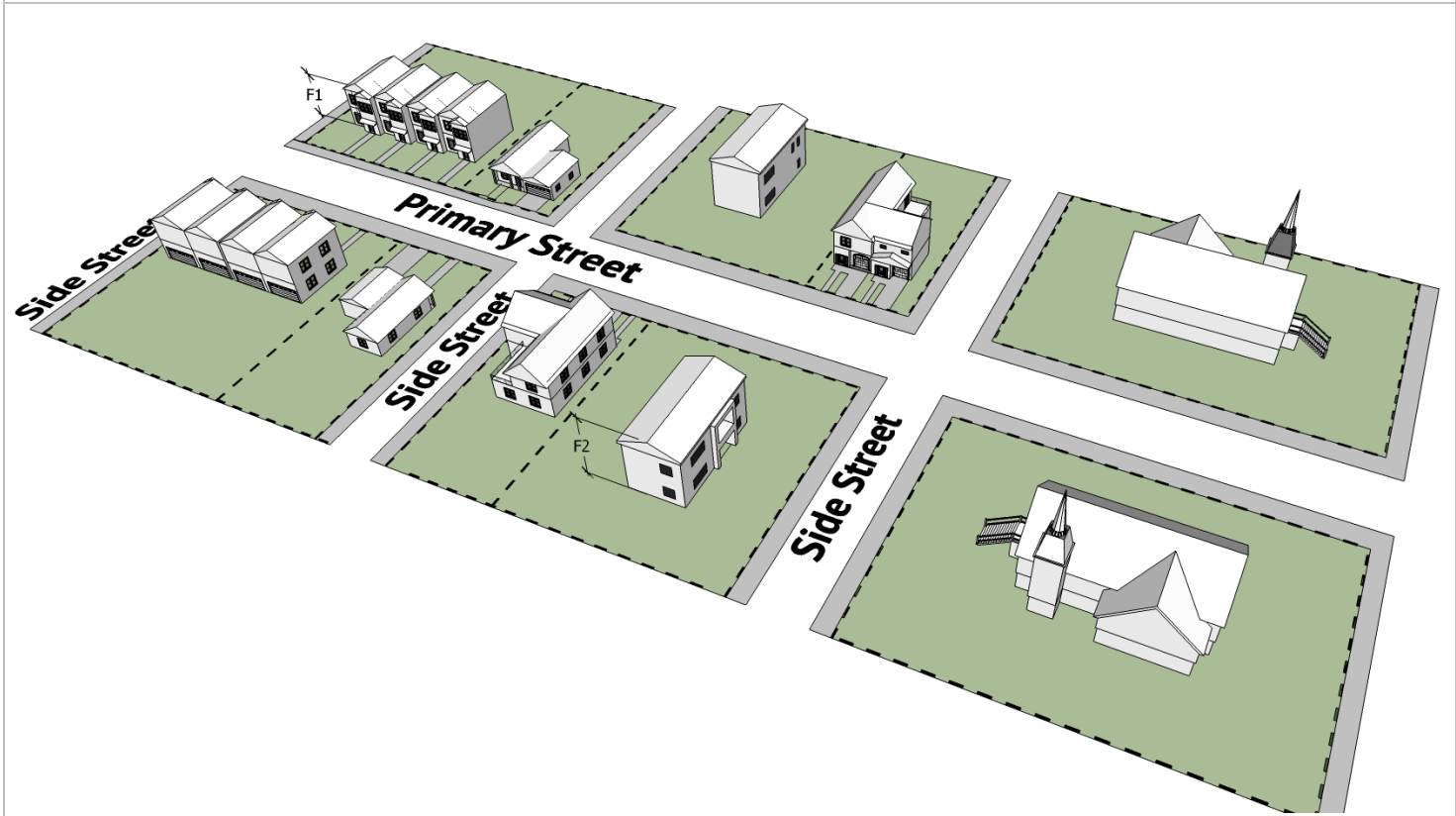
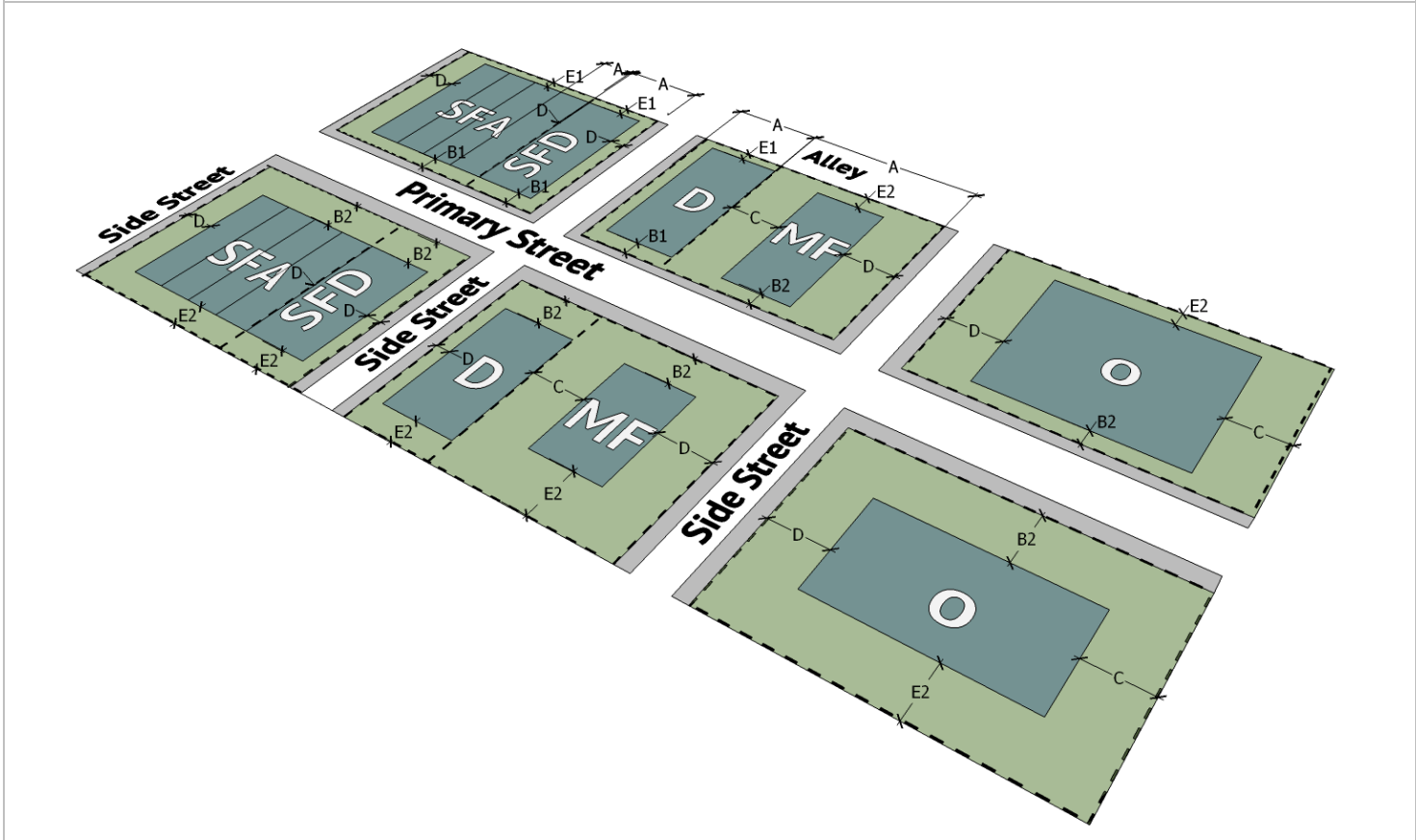
Notes: sf = square feet; ft = feet; du = dwelling unit; ac = acre; % = percent; n/a = not applicable

[1] Setbacks also apply to residential developments with detached front-loaded garages located to the rear of the principal structure.

[2] Applied to multifamily developments. See additional standards in Section 5.9.8.C.1, Minimum Height.

[3] The minimum structure height for a carriage-style building with multifamily dwellings over garages is two stories.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2016-001, 05/10/2016)



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SECTION 3.4. ACTIVITY CENTER DISTRICTS

3.4.1. General Purposes of Activity Center Districts

The activity center districts established in this section are intended to foster compact, mixed-use development patterns that provide people with the opportunity to live, work, recreate, and shop in a pedestrian-friendly environment. More specifically, they are intended to:

- A.** Provide strong connections between diverse uses to create a busier, safer, and more exciting environment for residents, employees, and visitors throughout the day, in evenings, and during weekends;
- B.** Encourage a complementary mix of residential, retail, office, employment-generating, and recreation uses in close proximity to each other;
- C.** Accommodate development intensities appropriate to the scale of the area served by the activity center (e.g., neighborhood, community, region);
- D.** Provide integrated pedestrian and bicycle access to afford safe and accessible foot and bike travel between the land uses; and
- E.** Facilitate efficient vehicular traffic flow by allowing only land uses developed with comprehensively planned access, egress, and internal circulation systems.

3.4.2. Neighborhood Activity Center (NAC) District

NEIGHBORHOOD ACTIVITY CENTER (NAC) DISTRICT

A. Purpose

In accordance with the Comprehensive Plan, the Neighborhood Activity Center District provides for moderate scale, mixed-use activity centers that serve as convenient, walkable service and retail destinations for surrounding neighborhoods. It is intended to support a mix of residential, retail, cultural, entertainment, and office opportunities in a mixed-use village center, with street-level uses that generate pedestrian activity and upper-story uses that provide complementary residential and employment uses to “keep the street level active.” Land uses should include a mix of uses, such as housing, commercial and office uses, restaurants, entertainment, personal and household service uses, institutional uses, public facilities and parks, and similar uses meeting the needs of occupants of the district and adjoining neighborhoods.



B. Principal Intensity and Dimensional Standards

Cross References

A, etc. are symbols used in the illustrations showing application of dimensional standards

		Single-Family Attached Dwellings	Multifamily Dwellings	Other Uses	Cross References
					Art. 4: Use Standards
					Sec. 4.2.5.E.7.e
					Art. 5: Development Standards
Lot Standards					Sec. 5.9.6
Min. Net Lot Area (sf)		n/a	20,000	20,000	Sec. 5.9.7
A	Min. Lot Width (ft)	24	100	150	Sec. 5.10.6.B.2
Max. Net Density (du/ac)		17.0	17.0	n/a	Sec. 5.10.9.G
Max. Lot Coverage (%)		70	65	65	Art. 6: Riparian Buffers
Setbacks					Art. 7: Stormwater Management
B1	Min. Front (ft)	Alley-loaded	10 [1]	n/a	n/a
B2		Other	20	30	30

Article 3: Zoning Districts
 Section 3.4. Activity Center Districts
 3.4.2. Neighborhood Activity Center (NAC) District

C	Min. Side (ft)	0	10	10
D	Min. Corner Side (ft)	18	20	20
E 1	Min. Rear (ft)	Alley-loaded	6 [1]	n/a
E 2		Other	10	20
Building Standards				
F 1	Max. Structure Height (ft)	35	50	50
F 2	Min. Structure Height (stories)	no minimum	3 [2][3]	no minimum
G	Min. Building Separation (ft)	24	n/a	n/a

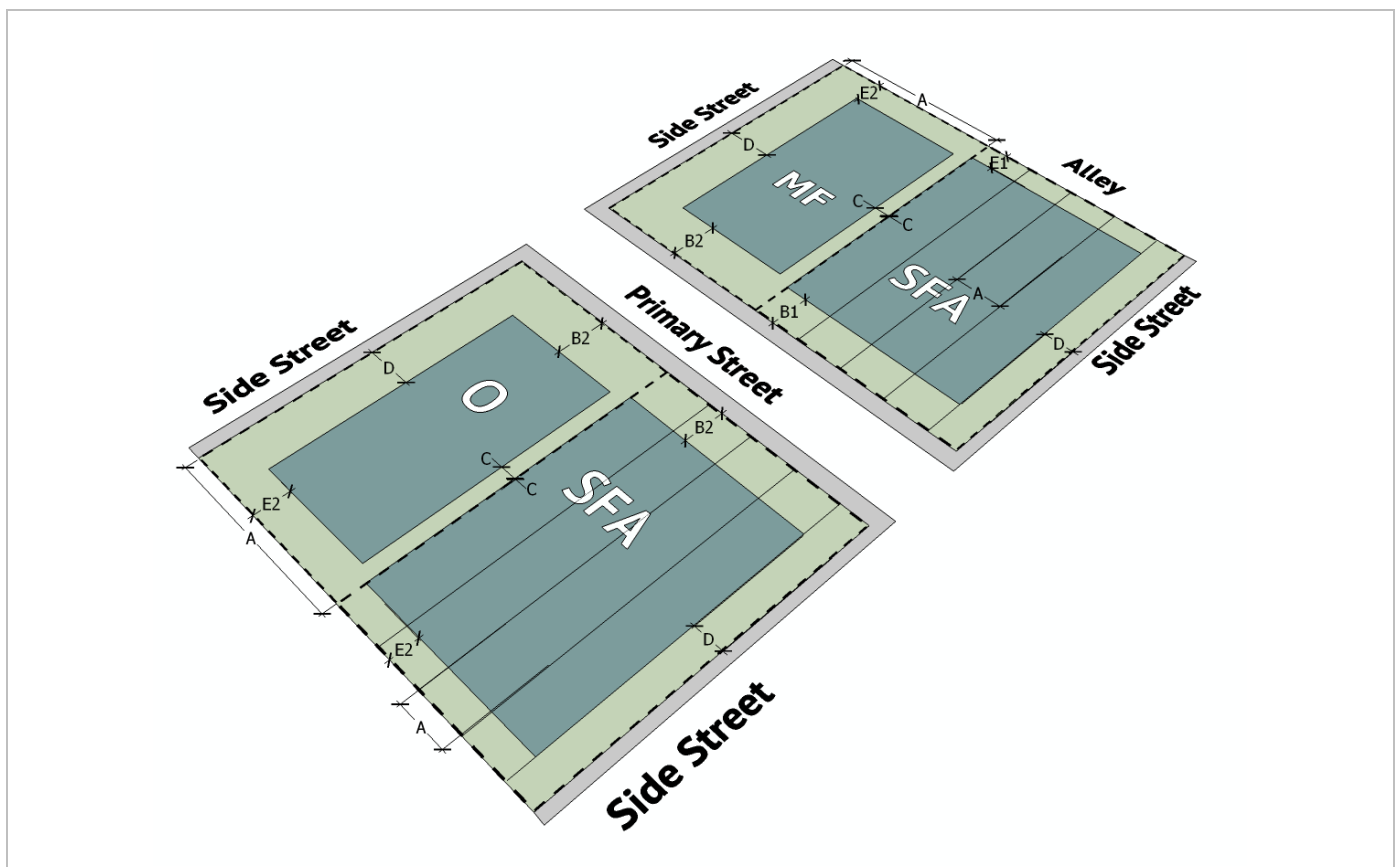
Notes: sf = square feet; ft = feet; du = dwelling unit; ac = acre; % = percent; n/a = not applicable

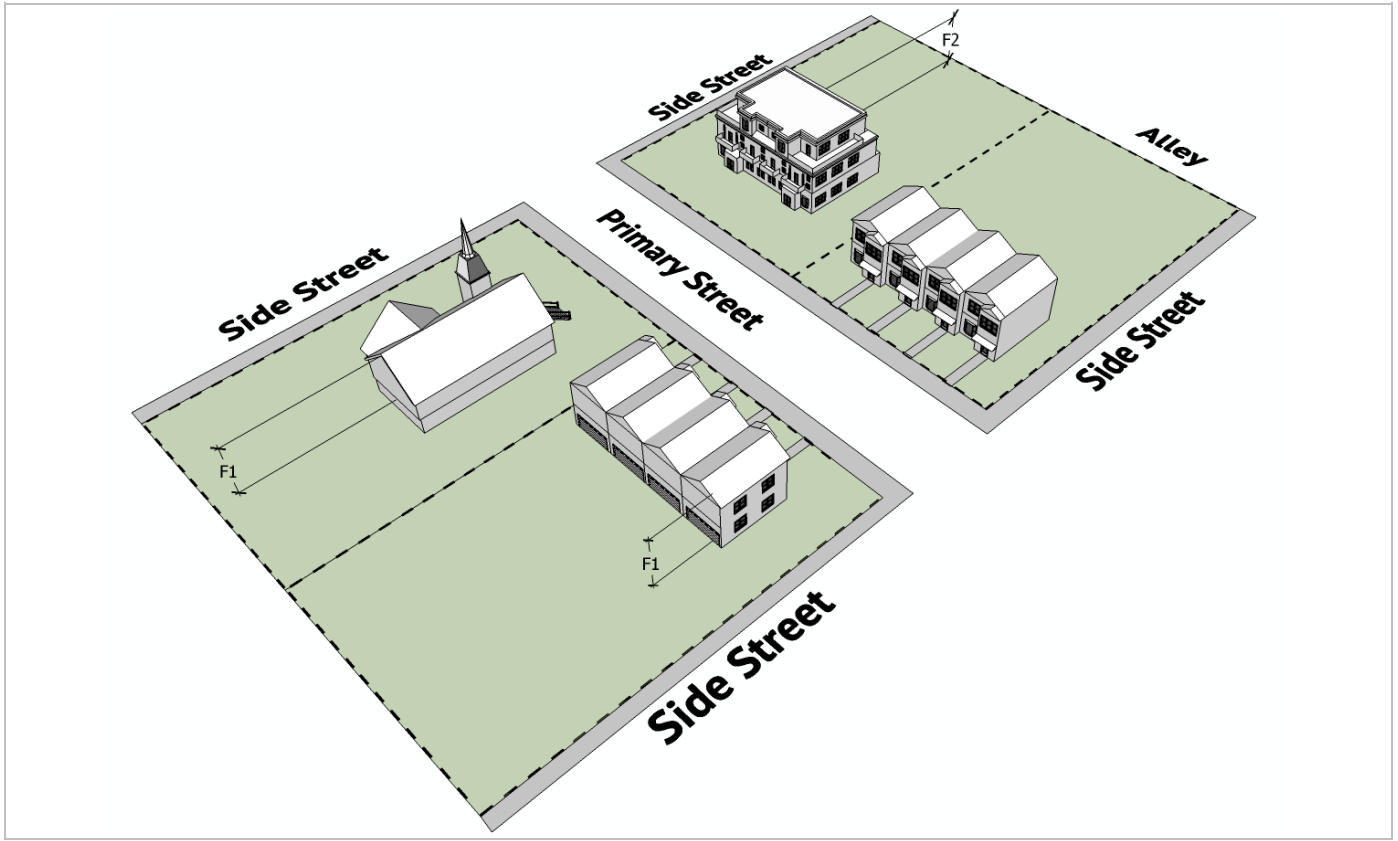
[1] Setbacks also apply to residential developments with detached front-loaded garages located to the rear of the principal structure.

[2] Applied to multifamily developments. See additional standards in Section 5.9.8.C.1, Minimum Height.

[3] The minimum structure height for a carriage-style building with multifamily dwellings over garages is two stories.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2016-001, 05/10/2016)





3.4.3. Business Activity Center (BAC) District

BUSINESS ACTIVITY CENTER (BAC) DISTRICT

A. Purpose

In accordance with the Comprehensive Plan, the Business Activity Center District provides for access to daily retail and service needs within walking distance of primary office/industrial uses. It is intended to provide for a mix of residential, local retail, and office opportunities in the nature of a small mixed-use community center, primarily oriented around a surrounding office or industrial concentration. Land uses in this district should be small-scale mixed commercial uses, including local services, workshops, professional offices, institutional, housing, and specialty shops catering to local workers.



B. Principal Intensity and Dimensional Standards

Cross References

A, etc. are symbols used in the illustrations showing application of dimensional standards

		Single-Family Attached Dwellings	Multi-family Dwellings	Other Uses	
					Art. 4: Use Standards
					Art. 5: Development Standards
					Sec. 5.9.6
Lot Standards					Sec. 5.9.7
Min. Net Lot Area (sf)		n/a	20,000	20,000	Sec. 5.10.6.B.2
A	Min. Lot Width (ft)	24	100	Sec. 5.9.7	Sec. 5.10.9.G
Max. Net Density (du/ac)		no maximum	no maximum	n/a	Art. 6: Riparian Buffers
Max. Lot Coverage (%)		70	65	65	Art. 7: Stormwater Management
Setbacks					
B 1	Min. Front (ft)	Alley-loaded	10 [1]	n/a	n/a
B 2		Other	20	30	30
C	Min. Side (ft)		0	10	10
D	Min. Corner Side (ft)		18	20	20
E 1	Min. Rear (ft)	Alley-loaded	6 [1]	n/a	n/a
E 2		Other	10	20	20
Building Standards					
F 1	Max. Structure Height (ft)		35	60	60
F 2	Min. Structure Height (stories)		no minimum	3 [2][3]	no minimum
G	Min. Building Separation (ft)		24	n/a	n/a

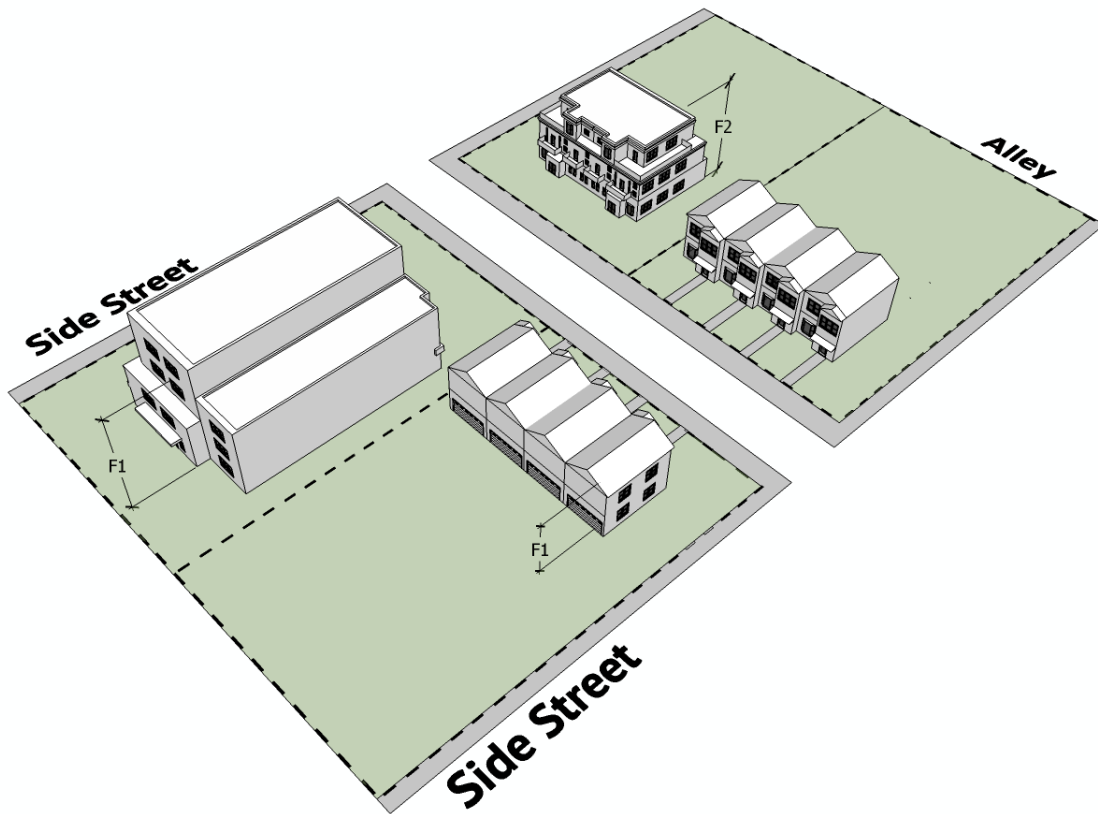
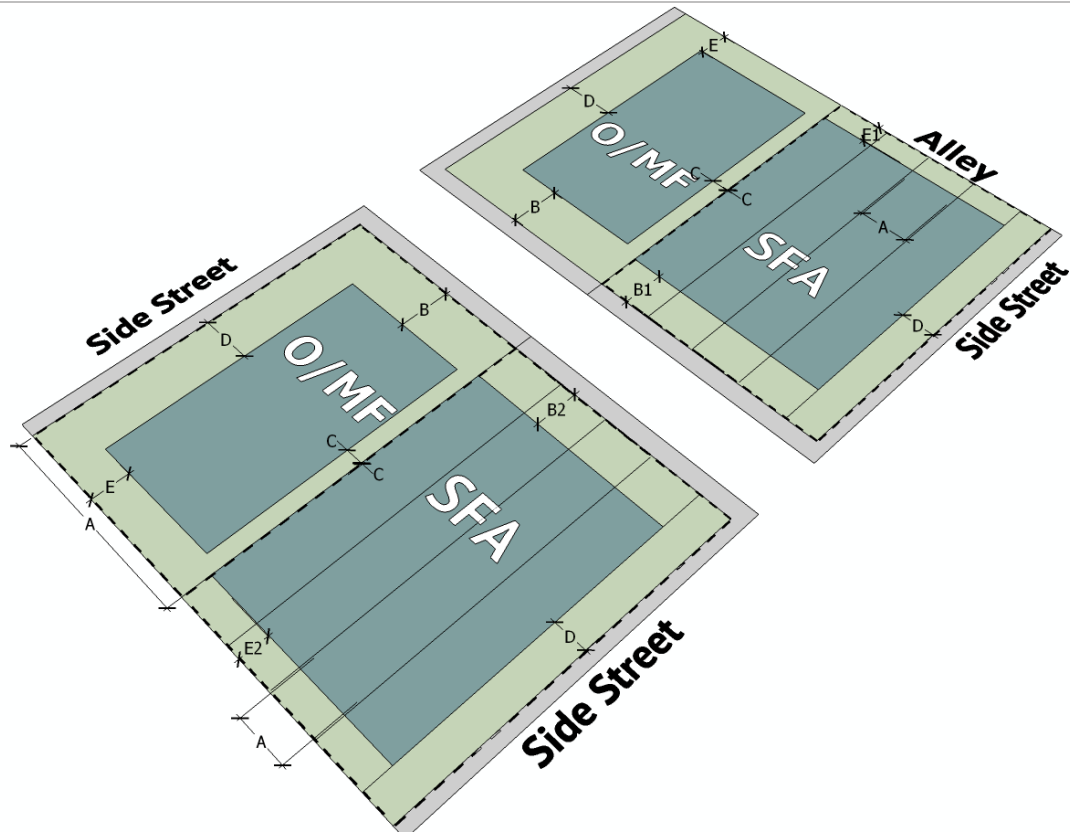
Notes: sf = square feet; ft = feet; du = dwelling unit; ac = acre; % = percent; n/a = not applicable

[1] Setbacks also apply to residential developments with detached front-loaded garages located to the rear of the principal structure.

[2] Applied to multifamily developments. See additional standards in Section 5.9.8.C.1, Minimum Height.

[3] The minimum structure height for a carriage-style building with multifamily dwellings over garages is two stories.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2016-001, 05/10/2016)



3.4.4. Community Activity Center (CAC) District

COMMUNITY ACTIVITY CENTER (CAC) DISTRICT

A. Purpose

In accordance with the Comprehensive Plan, the Community Activity Center District provides for community-wide employment, retail, education, health care, entertainment, or mixed-use destinations at key intersections of major transportation corridors in Town. It is intended to provide improved access to jobs and daily institutional and service needs, a compatible mix of uses, and access to a variety of transportation options. Land uses in the district should include a mix of uses, such as office and institutional, entertainment, retail, major commercial, and residential uses—but not destination retail uses requiring substantial outdoor display or storage, such as building supply stores, plant nurseries, or auto sales.



B. Principal Intensity and Dimensional Standards

A, etc. are symbols used in the illustrations showing application of dimensional standards

Cross References

	Single-Family Attached Dwellings	Multifamily Dwellings	Other Uses
Lot Standards			
Min. Net Lot Area (sf)	n/a	20,000	20,000
A Min. Lot Width (ft)	20	100	150
Max. Net Density (du/ac)	no maximum	no maximum	n/a
Max. Lot Coverage (%)	70	65	65
Setbacks			
B1 Min. Front (ft)	Alley-loaded: 10 [1]	n/a	n/a
B2	Other: 20	30	30
C Min. Side (ft)	0	10	10
D Min. Corner Side (ft)	18	30	30
E1 Min. Rear (ft)	Alley-loaded: 6 [1]	n/a	n/a
E2	Other: 10	20	20
Building Standards			
F1 Max. Structure Height (ft)	45	60	70
F2 Min. Structure Height (stories)	no minimum	3 [2][3]	no minimum
G Min. Building Separation (ft)	25	n/a	n/a

Art. 4: Use Standards
 Art. 5: Development Standards
 Sec. 5.9.6
 Sec. 5.9.7
 Sec. 5.10.6.B.2
 Sec. 5.10.9.G
 Art. 6: Riparian Buffers
 Art. 7: Stormwater Management

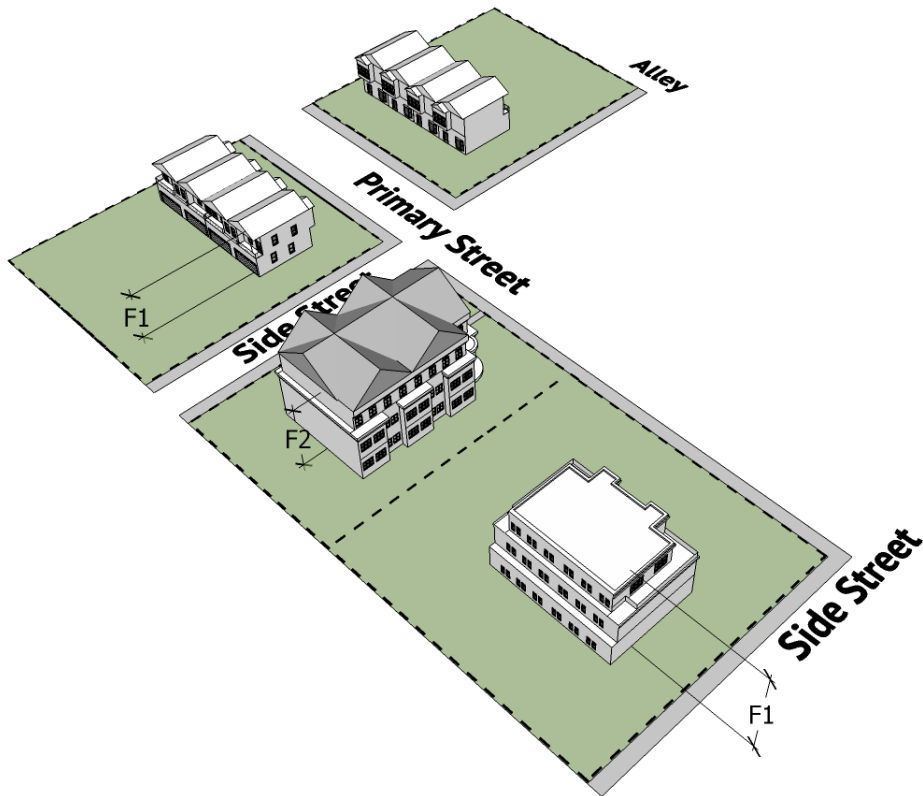
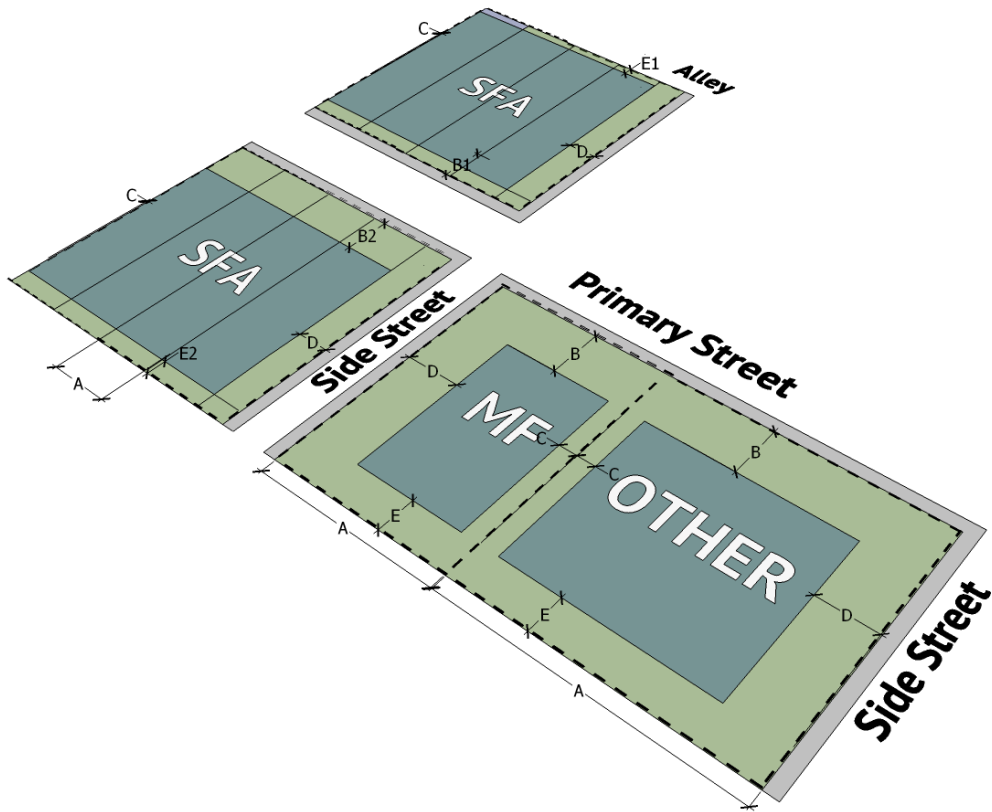
Notes: sf = square feet; ft = feet; du = dwelling unit; ac = acre; % = percent; n/a = not applicable

[1] Setbacks also apply to residential developments with detached front-loaded garages located to the rear of the principal structure.

[2] Applied to multifamily developments. See additional standards in Section 5.9.8.C.1, Minimum Height.

[3] The minimum structure height for a carriage-style building with multifamily dwellings over garages is two stories.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2016-001, 05/10/2016)



3.4.5. Regional Activity Center (RAC) District

REGIONAL ACTIVITY CENTER (RAC) DISTRICT

A. Purpose

In accordance with the Comprehensive Plan, the Regional Activity Center District provides for significant regional employment, retail, education, health care, entertainment or mixed-use destinations at key interchanges/intersections of major transportation corridors in Town. It is also intended to provide improved access to jobs, a compatible mix of uses and access to a variety of transportation options. Land uses should include a mix of uses, such as of office and institutional, entertainment, retail and major commercial land uses. Medium and high density residential uses should be included.



B. Principal Intensity and Dimensional Standards

Cross References

A, etc. are symbols used in the illustrations showing application of dimensional standards

	Single-Family Attached Dwellings	Multifamily Dwellings	Other Uses	
Lot Standards				Art. 4: Use Standards
Min. Net Lot Area (sf)	n/a	20,000	20,000	Art. 5: Development Standards
A Min. Lot Width (ft)	20	100	150	Sec. 5.9.6
Max. Net Density (du/ac)	no maximum	no maximum	n/a	Sec. 5.9.7
Max. Lot Coverage (%)	70	65	65	Sec. 5.10.6.B.2
Setbacks				Sec. 5.10.9.G
B1 Min. Front	Alley-loaded	10 [1]	n/a	Art. 6: Riparian Buffers
B2 (ft)	Other	20	30	Art. 7: Stormwater Management
C Min. Side (ft)		0	10	
D Min. Corner Side (ft)		18	30	
E1 Min. Rear	Alley-loaded	6 [1]	n/a	
E2 (ft)	Other	10	20	
Building Standards				
F1 Max. Structure Height (ft)		45	60	
F2 Min. Structure Height (stories)		no minimum	3 [2][3]	
G Min. Building Separation (ft)		25	n/a	

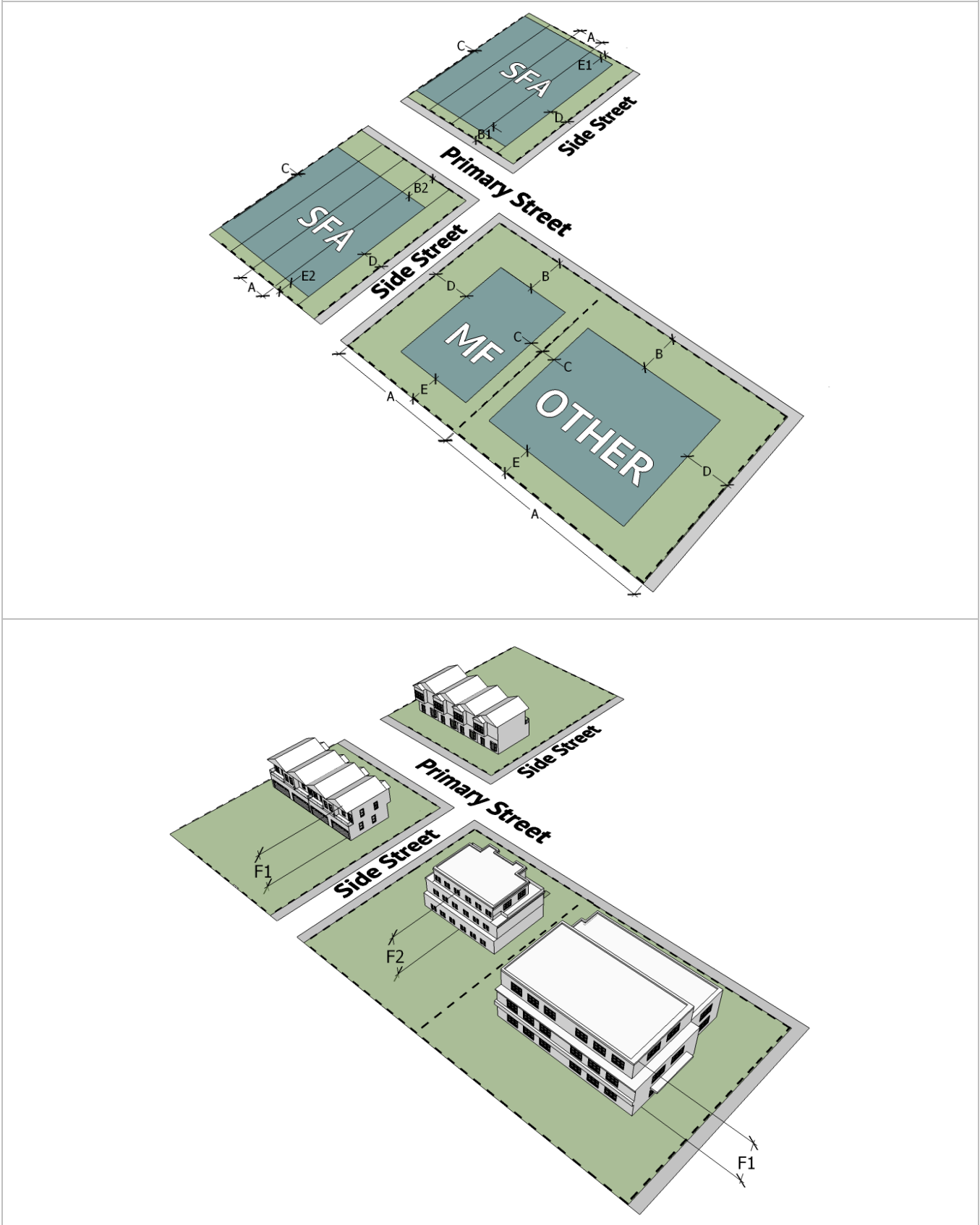
Notes: sf = square feet; ft = feet; du = dwelling unit; ac = acre; % = percent; n/a = not applicable

[1] Setbacks also apply to residential developments with detached front-loaded garages located to the rear of the principal structure.

[2] Applied to multifamily developments. See additional standards in Section 5.9.8.C.1, Minimum Height.

[3] The minimum structure height for a carriage-style building with multifamily dwellings over garages is two stories.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2016-001, 05/10/2016)



3.4.6. Transit-Oriented Development (TOD) District

TRANSIT-ORIENTED DEVELOPMENT (TOD) DISTRICT

A. Purpose

The Transit-Oriented Development District provides for transit-supportive development types and intensities within convenient walking distance of a transit station. The district is intended to create a vibrant, well-designed center of activity, expand transportation choices, provide workforce housing, and promote economic development. The district is also intended to accommodate compact and pedestrian-friendly development that: Includes a well-integrated mix of complementary high-activity uses, including transit-supportive commercial, residential, civic, and employment uses; Provides multiple, direct, and safe vehicular, bicycle, and pedestrian connections between the transit station and the surrounding uses, with sufficient—but not excessive—parking to accommodate transit users and district visitors and residents; Includes distinctive, attractive, and engaging public spaces that help create a sense of place for the station area; Includes a range of housing choices for households of different incomes; and Is consistent with the McCrimmon Transit Small Area Plan.



B. Principal Intensity and Dimensional Standards

A, etc. are symbols used in the illustrations showing application of dimensional standards

Cross References

	Single-Family Detached Dwellings	Single-Family Attached Dwellings	Multi-family Dwellings	Other Uses	
Lot Standards					Art. 2: Administration
Min. Net Lot Area (sf)	3,500	n/a	5,000	n/a	Sec. 2.5.4
A Min. Lot Width (ft)	35	20	50	24	Art. 4: Use Standards
Min. Net Density (du/ac)	7.5	15	15	n/a	Art. 5: Development Standards
Max. Net Density (du/ac)	12	35	35	n/a	Sec. 5.2.2
Min. Floor Area Ratio (FAR)	n/a	n/a	n/a	0.75	Sec. 5.3.1
Max. Floor Area Ratio (FAR)	n/a	n/a	n/a	4.0	Sec. 5.3.2
Min. Lot Coverage (%)	50	60	60	60	Sec. 5.4.4.A
Max. Lot Coverage (%)	75	100	100	100	Sec. 5.5.1.C.2
Setbacks					Sec. 5.8.6.E.2.e
B Min. Front (ft)	n/a – see Min. Build-to Line below				Sec. 5.8.8.C.2
C Min. Side (ft)	0 [1]	0 [1]	0 [1]	0 [1]	Sec. 5.9.6
D Min. Corner Side (ft)	0	0	0	0	Sec. 5.9.7
E1 Min. Rear (ft)	Alley-loaded	6	6	n/a	Sec. 5.10.6
	Other	15 [1]	0 [1]	0 [1]	Sec. 5.10.9.G
E2 (ft)					Sec. 5.10.9.H
Build-to Zone					Sec. 5.13.3.B
H Min. Build-to Line (ft)	0	0	0	0	Sec. 5.14.4
I Max. Building-to Line (ft)	15	15	15	15	Sec. 5.14.7.F
Min. Build-to Zone Street Frontage Occupied by Buildings (%)	80 [2]	80 [2]	80 [2]	80 [2]	Sec. 5.14.8.C
Building Standards					Sec. 5.15.7
F1 Max. Structure Height (ft)	35	45	75	75	Art. 6: Riparian Buffers
F2 Min. Structure Height (stories)	no minimum	no minimum	3 [3][4]	no minimum	Art. 7: Stormwater Management
G Min. Building Separation (ft)	6	n/a	n/a	n/a	

Notes: sf = square feet; ft = feet; du = dwelling unit; ac = acre; % = percent; n/a = not applicable

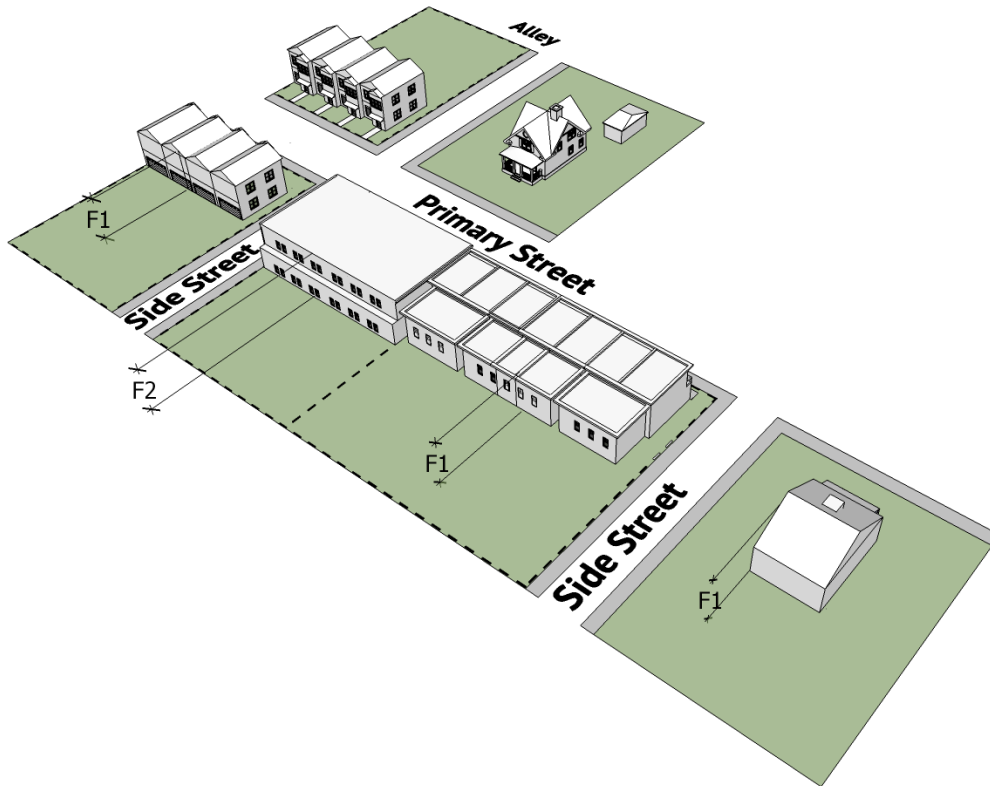
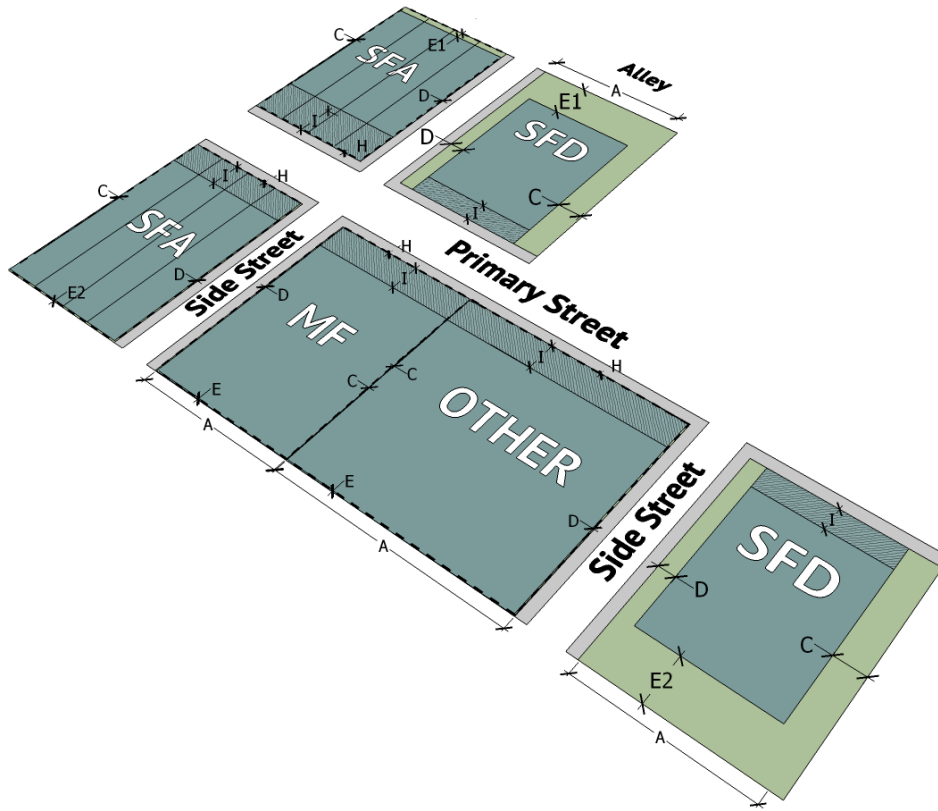
[1] 30 feet along lot lines shared with lots within a residential zoning district.

[2] The remaining build-to zone street frontage may be occupied by outdoor gathering spaces, driveways, or pedestrian walkways—and before rail transit is available, by surface parking located to the sides of buildings.

[3] Applied to multifamily developments. See additional standards in Section 5.9.8.C.1, Minimum Height.

[4] The minimum structure height for a carriage-style building with multifamily dwellings over garages is two stories.

Ord. No. 2016-001, 05/10/2016



C. Consistency with McCrimmon Transit Small Area Plan

All new development within the TOD District shall be generally consistent with the Comprehensive Plan and the McCrimmon Transit Small Area Plan. Proposed development may deviate from the TOD Concept Design included in the McCrimmon Transit Small Area Plan in terms of the specific uses and development types designated for the development site or locations within the development site, but only through approval of a Conceptual Master Plan (see Section 2.5.4) that shows the deviation(s) and is consistent with the TOD Policy Goals and Objectives of the McCrimmon Transit Small Area Plan.

D. Development Agreement for Large Developments

If the site of a development proposed in the TOD District contains 25 or more acres of developable property, the applicant is strongly encouraged to propose a development agreement with the Town in accordance with development agreements between the applicant and the Town in accordance with Section 2.5.23, Town Center Districts

SECTION 3.5. TOWN CENTER DISTRICTS

3.5.1. General Purposes of Town Center Districts

The Town Center districts established in this section are intended to:

- A.** Implement the vision established by the Comprehensive Plan and the Town Center Plan;
- B.** Protect and enhance the historic character of the Historic Crossroads Village;
- C.** Facilitate the creation of a new Main Street district in the Town Center that will serve as a gathering place for Morrisville residents;
- D.** Allow for and encourage a broader mix of uses and housing types in the Town Center; and
- E.** Encourage the expansion of the Town Center's existing network of parks, trails, and greenways as consistent with the Comprehensive Plan and the Town Center Plan.

3.5.2. Historic Crossroads Village (HCV) District

HISTORIC CROSSROADS VILLAGE (HCV) DISTRICT

A. Purpose

The Historic Crossroads Village District encourages the preservation of existing historic resources in the Historic Crossroads Village and the area’s low intensity and rural character. It accommodates infill developments and redevelopment that are compatible with the overall scale, orientation, and architectural character of historic homes in the area, as well as a mix of small-scale retail, restaurant, and office uses that are compatible with the traditional character of the street frontage in the Historic Crossroads Village.



B. Principal Intensity and Dimensional Standards

Cross References

A, etc. are symbols used in the illustrations showing application of dimensional standards

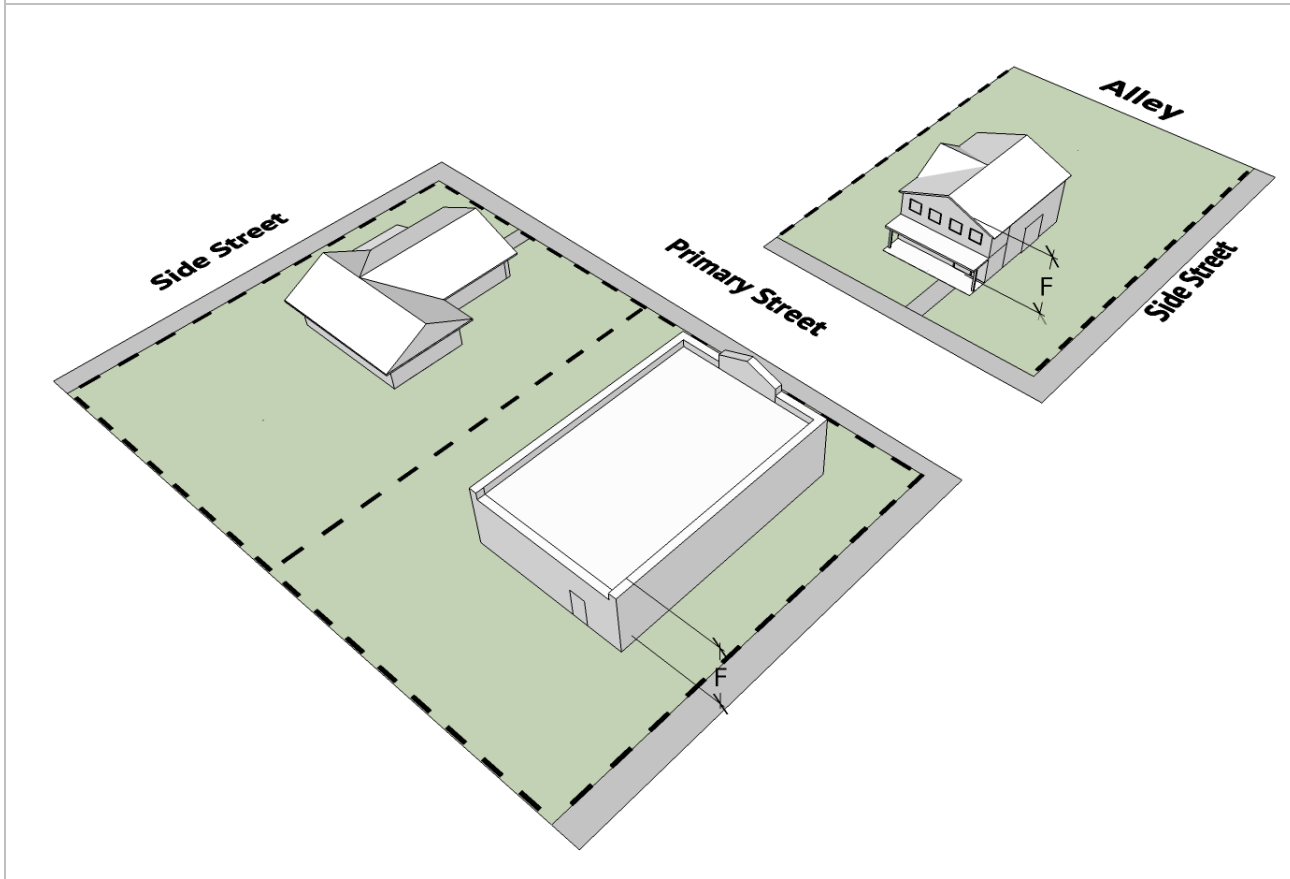
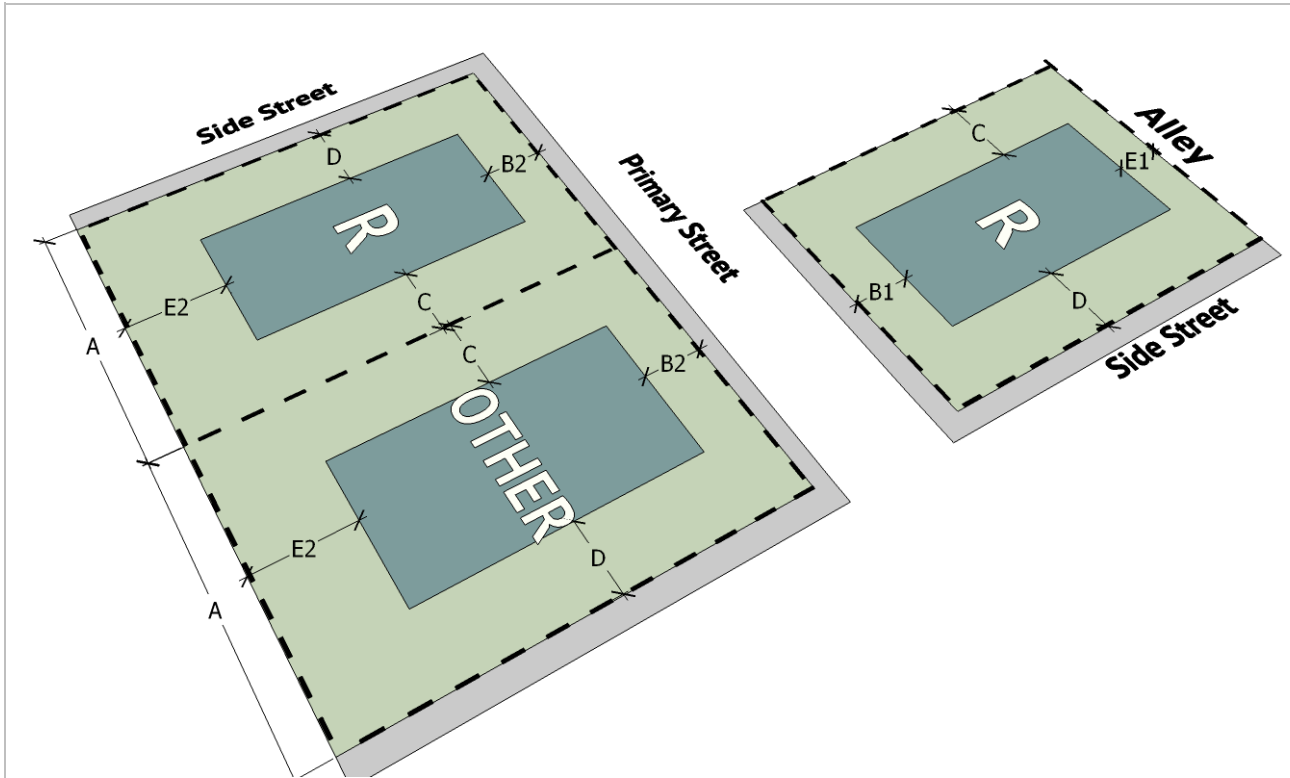
		Residential Uses	Other Uses		
Lot Standards				Art. 4: Use Standards	
				Art. 5: Development Standards	
Min. Net Lot Area (sf)		8,712	8,712	Sec. 5.9.4	
A	Min. Lot Width (ft)	75	75	Sec. 5.9.6	
Max. Net Density (du/ac)		5.0	n/a	Sec. 5.9.7	
Max. Lot Coverage (%)		40	40	Sec. 5.9.10	
Setbacks				Sec. 5.11.1.B.2	
B 1	Min. Front (ft)	Alley-loaded	10 [1]	n/a	Sec. 5.14.7.E
B 2		Other	20 [2]	20 [2]	Sec. 5.14.8.B
C	Min. Side (ft)		20	20	Sec. 5.16.4
D	Min. Corner Side (ft)		20	20	Sec. 5.16.7.D
E 1	Min. Rear (ft)	Alley-loaded	6 [1]	n/a	Art. 6: Riparian Buffers
E 2		Other	25	25	Art. 7: Stormwater Management
Building Standards					
F	Max. Structure Height (ft)		35	35	
G	Min. Building Separation (ft)		n/a	n/a	

Notes: sf = square feet; ft = feet; du = dwelling unit; ac = acre; % = percent; n/a = not applicable

[1] Setbacks also apply to residential developments with detached front-loaded garages located to the rear of the principal structure.

[2] For infill development, see Section 11.4.2.B, Reduction of Minimum Front Setbacks to Block Face Average.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2016-001, 05/10/2016)



C. Recognized Historic Structures

The Historic Crossroads Village District contains a mix of historic and modern structures. In some instances, standards contained in this Ordinance refer to and are intended only to apply to historic structures identified by the Town of Morrisville. A reference sheet of Recognized Historic Structures in the Town of Morrisville is available from the Town of Morrisville Planning Department.

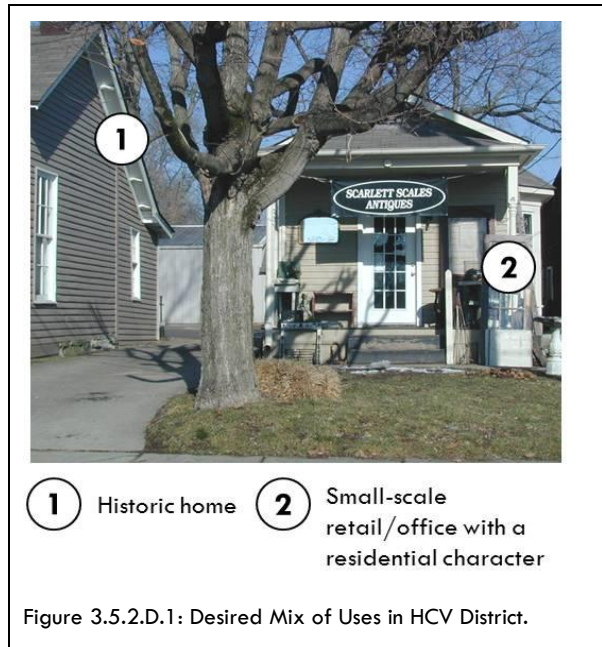
D. Mix of Uses

1. Mix of Uses Desired

Along with residential uses, the Historic Crossroads Village District is intended to allow for the development of a mix of small-scale retail, restaurants, and office uses. (See Figure 3.5.2.D.1: Desired Mix of Uses in HCV District.)

2. Location of Nonresidential Uses

- a. Nonresidential uses shall be located so as to minimize traffic and noise impacts on adjacent homes.
- b. Restaurants, retail stores, and other activity-generating uses shall be located near Morrisville-Carpenter Road and along Franklin Upchurch Sr. Street.
- c. Offices and live/work uses may be located throughout the Historic Crossroads Village District.



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3.5.3. Main Street (MS) District

MAIN STREET (MS) DISTRICT

A. Purpose

The Main Street District facilitates the development of a central gathering place within Morrisville’s Town Center that includes a mix of local retail, civic, office, institutional, restaurant, and residential uses in a compact, pedestrian-oriented setting.



B. Principal Intensity and Dimensional Standards

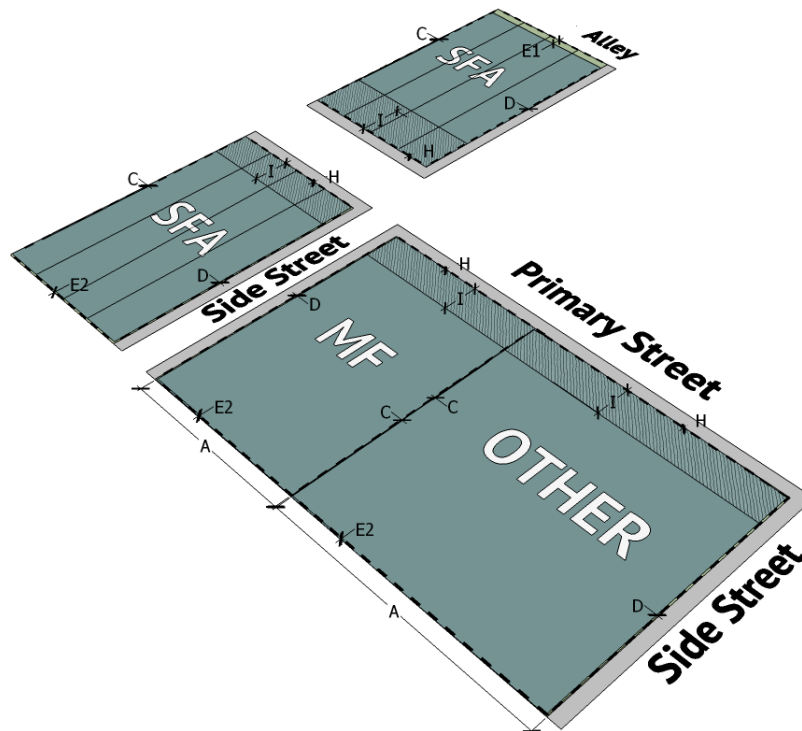
Cross References

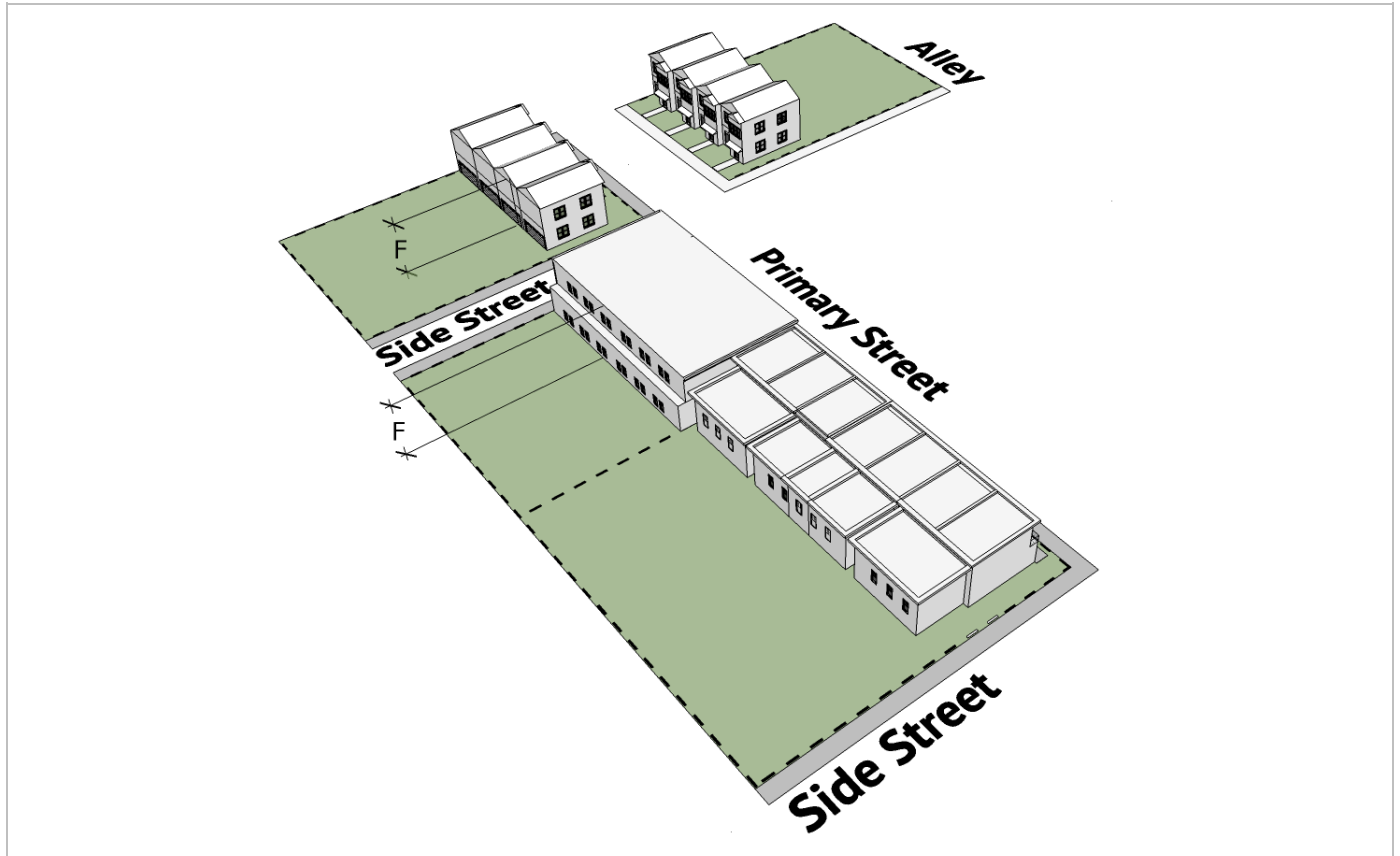
A, etc. are symbols used in the illustrations showing application of dimensional standards

	Single-Family Attached Dwellings	Multifamily Dwellings	Other Uses	Development Incentives [1]	
Lot Standards					Art. 4: Use Standards
Min. Net Lot Area (sf)	n/a	n/a	n/a	2.0	Art. 5: Development Standards
A Min. Lot Width (ft)	20	0	0	n/a	Sec. 5.3.1
Max. Net Density (du/ac)	n/a	n/a	n/a	n/a	Sec.5.4.2.B
Min. Floor Area Ratio (FAR)	0.5	0.5	0.5	n/a	Sec. 5.9.10
					Sec. 5.14.4
					Sec. 5.14.8.C
					Sec. 5.15.8

Max. Floor Area Ratio (FAR)		1.0	1.0	1.0	n/a	Art. 6: Riparian Buffers
Max. Lot Coverage (%)		100	100	100	n/a	Art. 7: Stormwater Management
Setbacks						
B	Min. Front (ft)	n/a - see Min. Build-to Line below				
C	Min. Side (ft)	0 [2]	0 [2]	0 [2]	n/a	
D	Min. Corner Side (ft)	0	0	0	n/a	
E 1	Min. Rear (ft)	Alley-loaded	6 [3]	n/a	n/a	n/a
E 2		Other	0 [2]	0 [2]	0 [2]	n/a
Build-to Zone						
H	Min. Build-to Line (ft)	0	0	0	n/a	
I	Max. Build-to Line (ft)	20	20	20	n/a	
Min. Build-to Zone Street Frontage Occupied by Buildings (%)		80 [4]	80 [4]	80 [4]	n/a	
Building Standards						
F	Max. Structure Height (ft) [5]	Feet	30	30	30	40
		Stories	2	2	2	3
G	Min. Building Separation (ft)	n/a	n/a	n/a	n/a	

Notes: sf = square feet; ft = feet; du = dwelling unit; ac = acre; % = percent; n/a = not applicable
 [1] Available only in a Conditional-Main Street District approved with the provision of compensating public benefits (see Section 3.1.4).
 [2] 30 feet along lot lines shared with lots containing existing residential uses or within a residential zoning district.
 [3] Setbacks also apply to single-family detached dwelling developments with detached front-loaded garages located to the rear of the principal structure.
 [4] The Minimum Build-to Zone Street Frontage Occupied by Buildings standard shall apply buildings adjacent to a “main street”. If the building is not adjacent to a “main street”, the standard applies to the frontage of the street with the highest vehicular accessway classification for a particular site (see Section 5.8.6.C, Vehicular Accessway Classifications). In instances where more than one street has the highest classification, the applicant has to meet the standard along only one of these streets, and can choose which of these streets to use in meeting the standard.
 [5] Both feet and story maximums apply.
 (Ord. No. 2014-022, 06/24/2014; Ord. No. 2016-001, 05/10/2016)





C. Mix of Uses

1. Overall Mix of Uses

A mix of retail, office, institutional, live-work, and residential uses is desired in the Main Street District.

- a. Retail uses shall be concentrated along the pedestrian “main street” (as required in Section 5.9.10.C.2), with residential or office units above to promote an active pedestrian environment. (See Figure 3.5.3.C.1: Overall Mix of Uses in MS District.)
- b. Single-use residential buildings and live/work units are permitted on all streets except the pedestrian “main street.”

Ord. No. 2016-001, 05/10/2016

2. Retail Store Fronts

The incorporation of commercial uses such as retail shops and restaurants at the street level is strongly desired



- 1 Upper floors occupied by residential and office uses.
- 2 Street-level space occupied by retail uses to promote pedestrian activity.

Figure 3.5.3.C.1: Overall Mix of Uses in MS District.


within the Main Street District to promote an active environment for pedestrians and support residential and office uses located within the same building (on upper floors) and in the adjacent Town Center Residential district. If less than 50 percent of a structure's ground level will be devoted to commercial space, such space shall be located along those facades adjacent to the required pedestrian "main street" and adjacent to Town Hall Drive.

3. Temporary Use of Store Fronts

Although retail and restaurant uses are preferred to promote an active pedestrian environment at the street level, ground-level commercial spaces may be filled with office uses until such time as retail tenants are secured to fill the space as long as transparency is maintained.

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3.5.4. Town Center Commercial (TCC) District

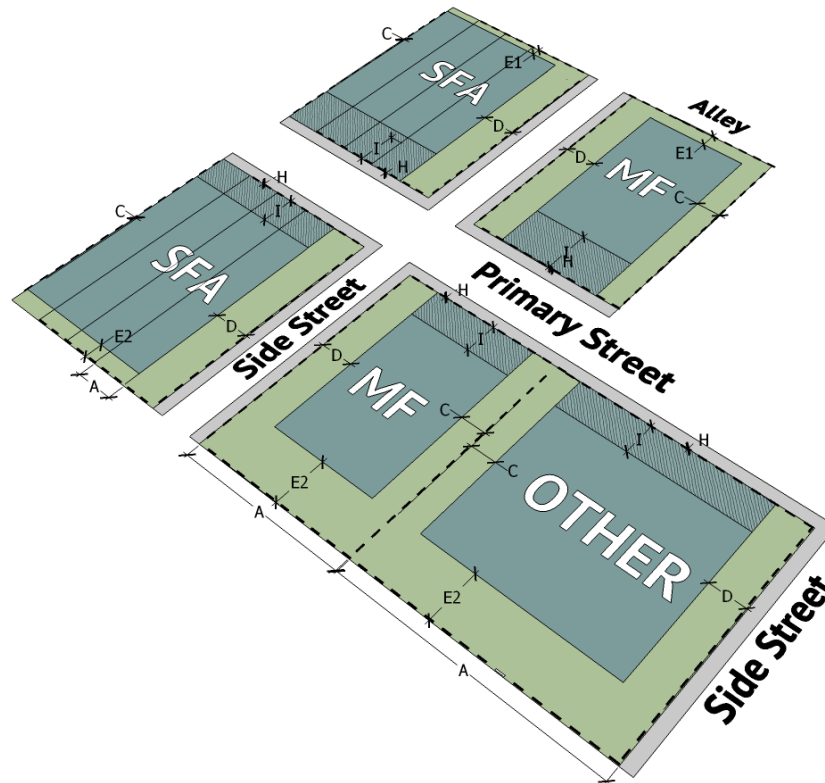
TOWN CENTER COMMERCIAL (TCC) DISTRICT					
A. Purpose					
<p>The Town Center Commercial District along Morrisville-Carpenter Road, Chapel Hill Road, and other corridors and gateways into the Town Center accommodates a mix of small-scale retail, office and service, institutional, cultural/public, and entertainment developments that meet local and regional needs and are sensitively designed to reflect a positive image of the Town. The district also accommodates higher-density residential and live/work uses. District regulations encourage pedestrian-scale retail development and the integration of outdoor gathering spaces to provide opportunities for residents to walk to meet some of their daily service, entertainment, and open space needs.</p>					
B. Principal Intensity and Dimensional Standards					Cross References
A , etc. are symbols used in the illustrations showing application of dimensional standards					
	Single-Family Attached Dwellings	Multifamily Dwellings	Other Uses	Development Incentives [1]	Art. 4: Use Standards
					Sec. 4.2.5.E.7.e
					Art. 5: Development Standards
					Sec. 5.7.2.A
Lot Standards					
Min. Net Lot Area (sf)	n/a	20,000	20,000	n/a	Sec. 5.9.6
A Min. Lot Width (ft)	20	100	150	n/a	Sec. 5.9.7
Max. Net Density (du/ac)	n/a	n/a	n/a	n/a	Sec. 5.9.10
Max. Floor Area Ratio (FAR)	n/a	n/a	1.0	1.5	Art. 6: Riparian Buffers
Max. Lot Coverage (%)	70	65	65	n/a	Art. 7: Stormwater Management
Setbacks					

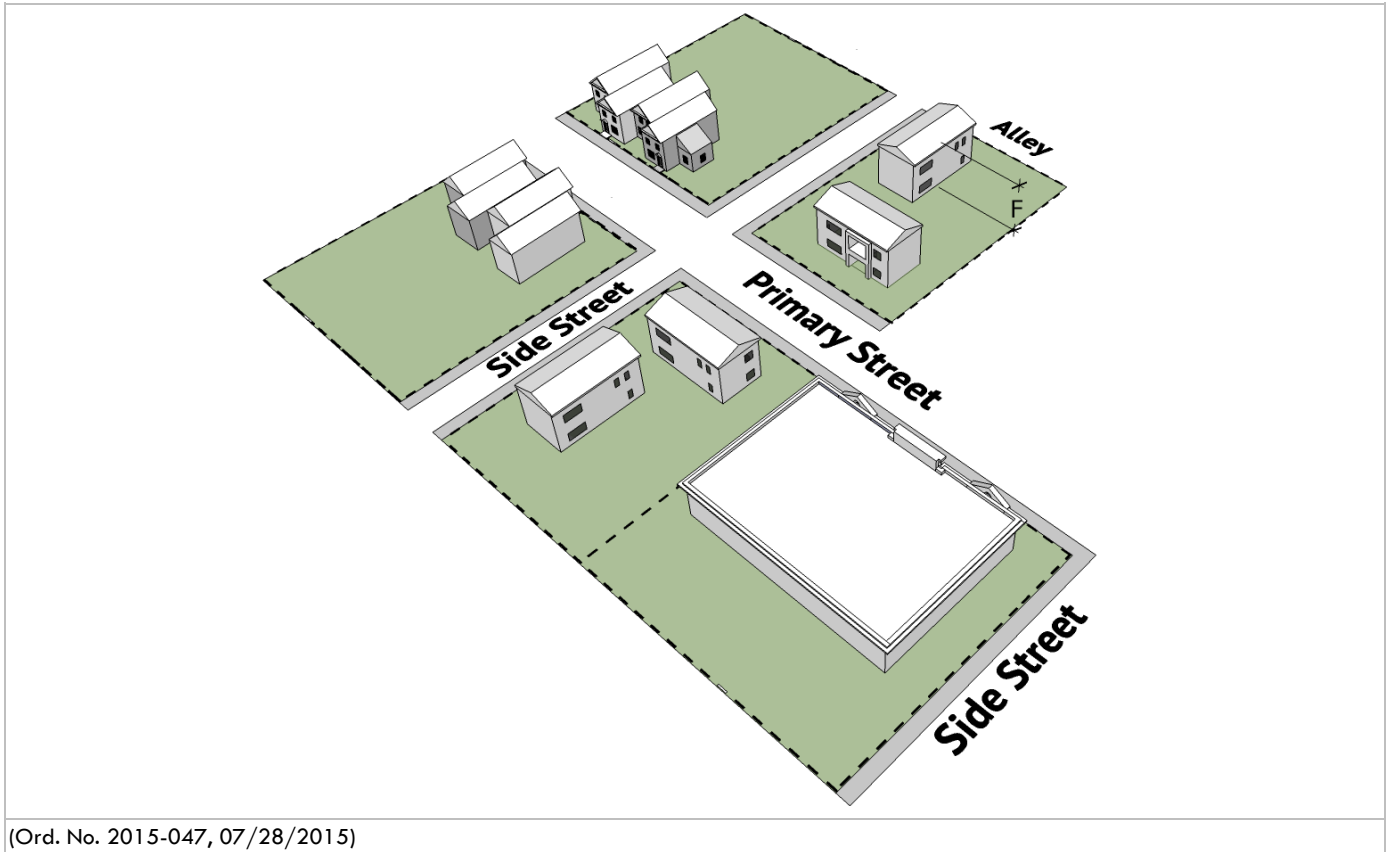
B	Min. Front (ft)	n/a – see Min. build-to Line below			n/a
C	Min. Side (ft)	0	15	15	n/a
D	Min. Corner Side (ft)	20	20	20	n/a
E1	Min. Rear (ft)	Alley-Loaded	6 [2]	10	n/a
E2		Other	10	30	30
Build-to Zone					
H	Min. Build-to Line (ft)	10	10	10	n/a
I	Max. Build-to Line (ft)	25	25	25	n/a
Min. Build-to Zone Street Frontage Occupied by Buildings (%)		60 [3]	60 [3]	60 [3]	n/a
Building Standards					
F	Max. Structure Height [4]	Feet	35	35	35
		Stories	2	2	2
G	Min. Building Separation (ft)	n/a	n/a	n/a	n/a

Notes: sf = square feet; ft = feet; du = dwelling unit; ac = acre; % = percent; n/a = not applicable

- [1] Available only in a Conditional-Town Center Commercial District approved with the provision of compensating public benefits (see Section 3.1.4).
- [2] Setbacks also apply to single-family attached dwelling developments with detached front-loaded garages located to the rear of the principal structure.
- [3] The Minimum Build-to Zone Street Frontage Occupied by Buildings standard shall only apply to the frontage of the street with the highest vehicular accessway classification below a freeway for a particular site (see Section 5.8.6.C, Vehicular Accessway Classifications). In instances where more than one street has the highest classification, the applicant has to meet the standard along only one of these streets, and can choose which of these streets to use in meeting the standard.
- [4] Both feet and story maximums apply.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2015-047, 07/28/2015; Ord. No. 2016-001, 05/10/2016)





C. Mix of Uses

1. Overall Mix of Uses

- a. A mix of commercial, office, and residential uses is encouraged in the Town Center Commercial (TCC) District.
- b. If a mix of uses is provided in a building, commercial uses shall be the predominant use in terms of total floor area.

2. Relationship of Uses

- a. Uses in the Town Center Commercial (TCC) District may be vertically or horizontally mixed. Horizontally mixed-uses are typically located in close proximity to each other as part of a larger development; however each building consists of a separate use. (See Figure 3.5.4.C.2: Horizontal Mix of Uses in TCC District.)
- b. Residential uses incorporated as part of the Town Center Commercial (TCC) District shall be visually and physically integrated with nonresidential uses. This shall be achieved by ensuring that residential uses meet one or more of the following:
 - (1) Located above street-level commercial uses in a vertical mixed-use setting;
 - (2) Used to provide a transition between the Town Center Commercial (TCC) District and the adjacent Town Center Residential (TCR) District in a horizontal mixed-use setting; and
 - (3) Integrated with nonresidential uses through non-gated pedestrian connections and shared public spaces.



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3.5.5. Town Center Residential (TCR) District

TOWN CENTER RESIDENTIAL (TCR) DISTRICT

A. Purpose

The Town Center Residential District encourages a variety of compatible housing choices within proximity of the Main Street District. The district encourages a mix of residential housing types, with densities varying between parts of the district located west and east of Chapel Hill Road (NC 54) to reflect differences in the established pattern of development. East of Chapel Hill Road, housing densities range from 8 to 12 dwelling units per acre. West of Chapel Hill Road and adjacent to the Main Street district, densities up to 15 dwelling units/acre are encouraged.



B. Principal Intensity and Dimensional

A, etc. are symbols used in the illustrations showing application of dimensional standards

	Single-Family Detached Dwellings	Single-Family Attached Dwellings	Multi-family Dwellings	Other Uses	Development Incentives [1]	Cross References
Lot Standards						Art. 4: Use Standards Art. 5: Development Standards Sec. 5.7.2.A Sec. 5.9.6 Sec. 5.9.7
Min. Net Lot Area (sf)	n/a	n/a	n/a	n/a	n/a	Art. 6: Riparian Buffers

A	Min. Lot Width (ft)		35	20	50	50	n/a	Art. 7: Stormwater Management
	Min. Net Density (du/ac)		6.0	6.0	6.0	n/a	n/a	
	Max. Net Density (du/ac)		8.0	8.0	8.0	n/a	12.0 [2]/15.0 [3]	
	Max. Lot Coverage (%)		65	70	50	65	n/a	
Setbacks								
B 1	Min. Front (ft)	Alley-loaded	10 [4]	10 [4]	n/a	n/a	n/a	
B 2		Other	20 [5]	20 [5]	20 [5]	30 [5]	n/a	
C	Min. Side (ft)		5 [6]	0 [6]	10 [6]	10 [6]	n/a	
D	Min. Corner Side (ft)		same as minimum front				n/a	
E 1	Min. Rear (ft)	Alley-loaded	6 [4]	6 [4]	n/a	n/a	n/a	
E 2		Other	15	15	15	15	n/a	
Building Standards								
F	Max. Structure Height (ft)		35	35	35	35	45 [3]	
G	Min. Building Separation (ft)		n/a	20	n/a	n/a	n/a	

Notes: sf = square feet; ft = feet; du = dwelling unit; ac = acre; % = percent; n/a = not applicable

[1] Available only in a Conditional-Town Center Residential District approved with the provision of compensating public benefits (see Section 3.1.4).

[2] Where located east of NC 54.

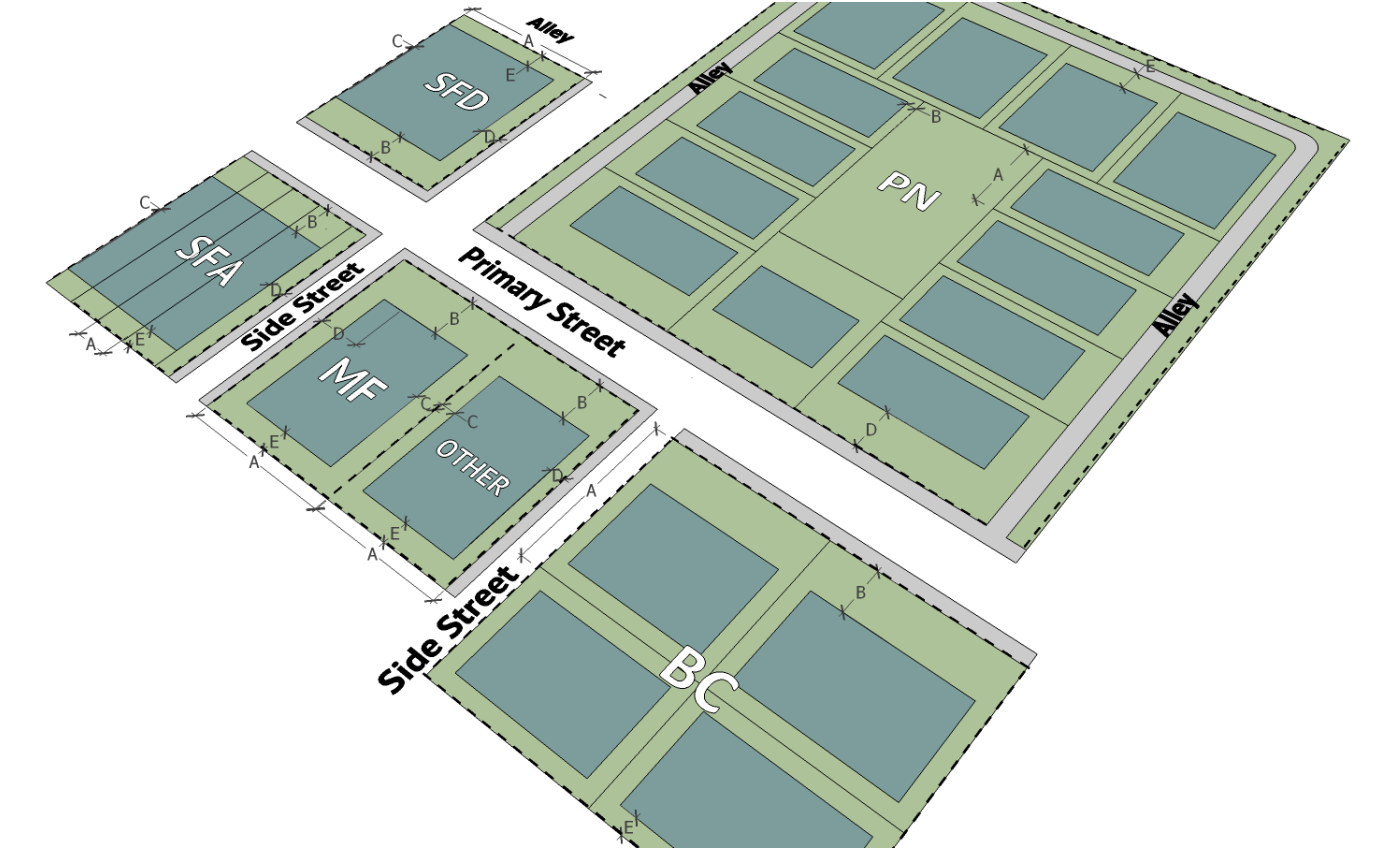
[3] Where located west of NC 54.

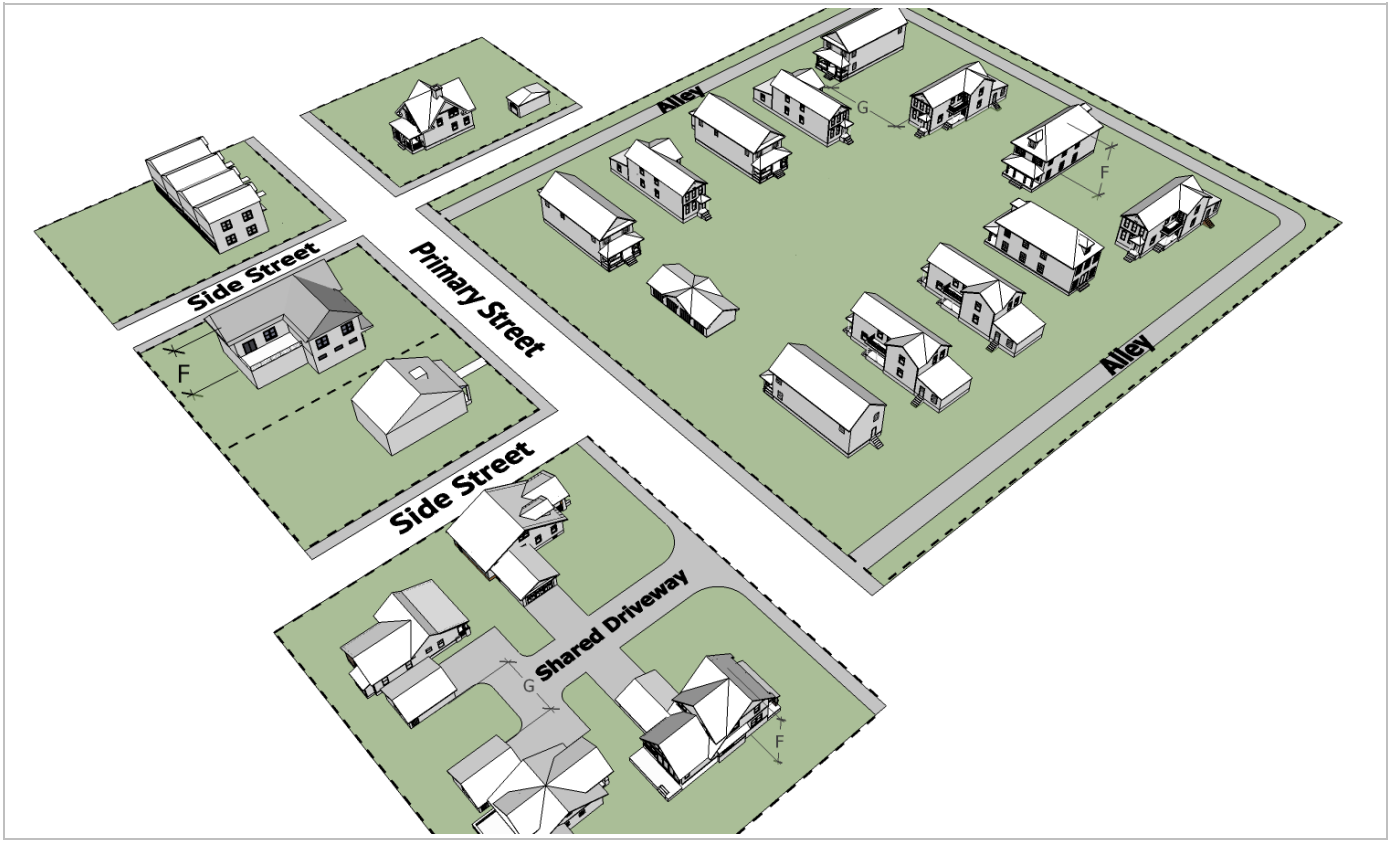
[4] Setbacks also apply to residential developments with detached front-loaded garages located to the rear of the principal structure.

[5] For infill development, see Section 11.4.2.B. Reduction of Minimum Front Setbacks to Block Face Average.

[6] A minimum of 15 feet is required along lot lines shared with lots containing single-family detached residential uses built before 2010.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2016-001, 05/10/2016)





3.5.6. Residential Transition (RT) District

RESIDENTIAL TRANSITION (RT) DISTRICT

A. Purpose

The Residential Transition District accommodates a range of housing choices within proximity to Town Center amenities such as parks, historic sites, and commercial areas. This district allows moderate residential densities in order to provide a transition between the Aviation Parkway corridor and the Residential Neighborhood Preservation District.



B. Principal Intensity and Dimensional

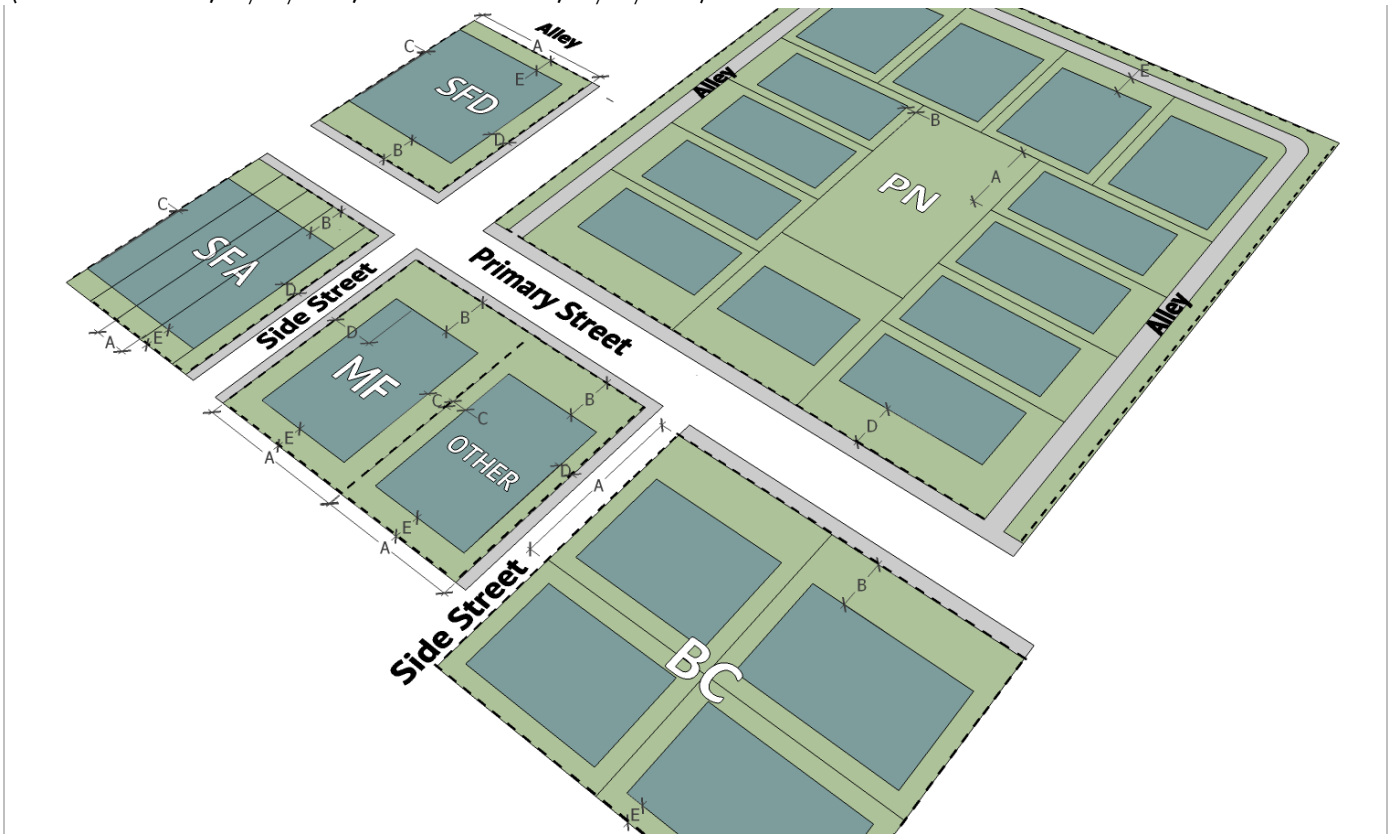
A, etc. are symbols used in the illustrations showing application of dimensional standards

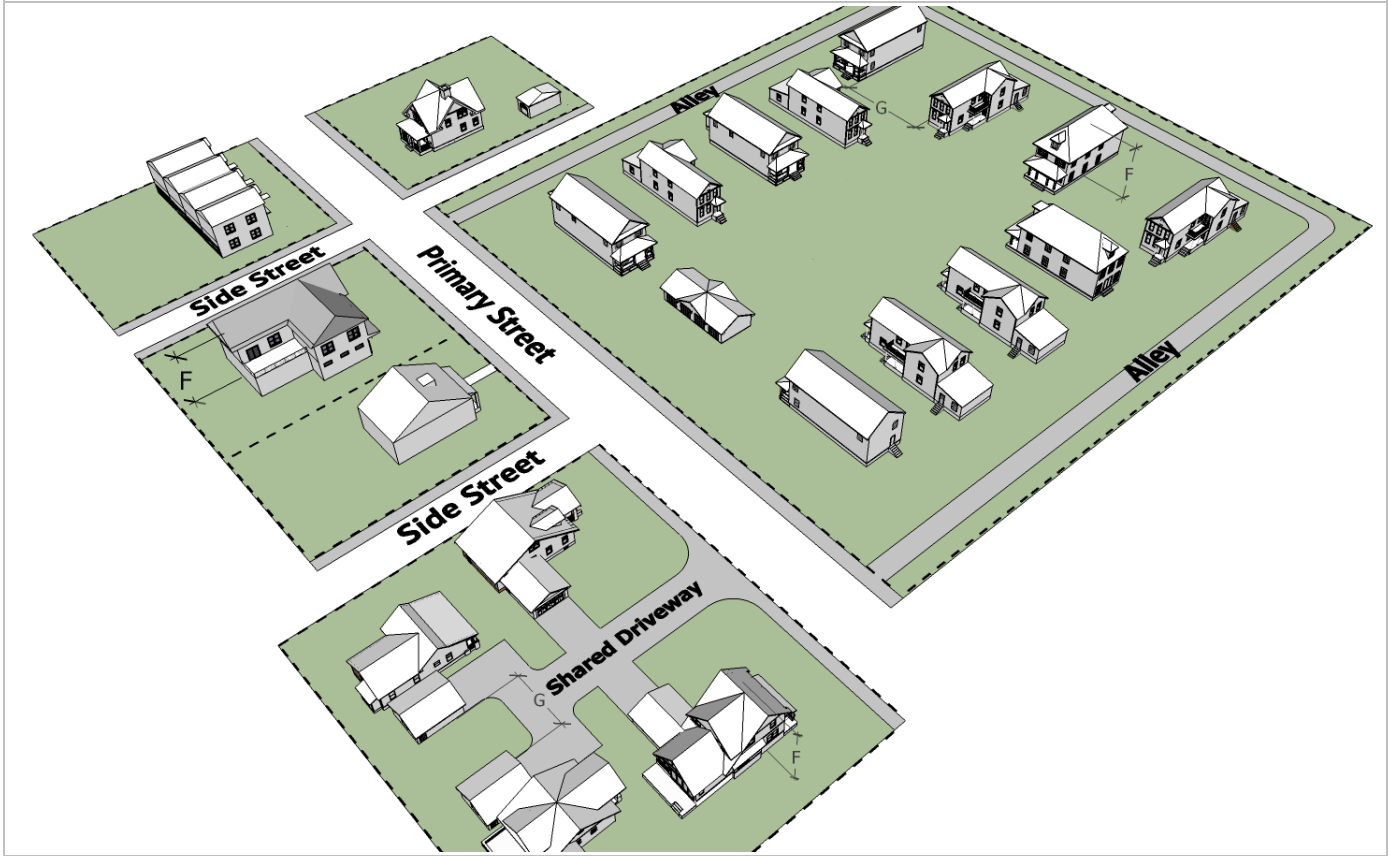
	Single-Family Detached Dwellings	Bungalow Court	Pocket Neighborhood	Single-Family Attached Dwellings	Multi-family Dwellings	Other Uses	Development Incentives [1]	Cross References
Lot Standards								
Min. Net Lot Area (sf)	n/a	2,500	n/a	n/a	n/a	n/a	n/a	Art. 6: Riparian Buffers
A Min. Lot Width (ft)	35	35	35	20	50	50	n/a	Art. 7: Stormwater Management
Min. Net Density (du/ac)	4.0	n/a	n/a	4.0	4.0	n/a	n/a	

Max. Net Density (du/ac)		8.0	n/a	n/a	8.0	8.0	n/a	10.0
Max. Lot Coverage (%)		65	75	85	70	50	65	n/a
Setbacks								
B 1	Min. Front (ft)	Alley-loaded	10 [2]	n/a	8 [5]	10 [2]	n/a	n/a
B 2		Other	20 [3]	10 [6]	8 [5]	20 [3]	25 [3]	30 [3]
C	Min. Side (ft)		5 [4]	0 [4]	0 [4]	0	15	10 [4]
D	Min. Corner Side (ft)		same as minimum front		10 [6]	same as minimum front		n/a
E 1	Min. Rear (ft)	Alley-loaded	6	n/a	6	6	n/a	n/a
E 2		Other	15	20 [6]	20	15	15	15
Building Standards								
F	Max. Structure Height (ft)		35	35	35	35	35	35
G	Min. Building Separation (ft)		n/a	8	8	20	n/a	n/a

Notes: sf = square feet; ft = feet; du = dwelling unit; ac = acre; % = percent; n/a = not applicable

- [1] Available only in a Conditional-Residential Transition District approved with the provision of compensating public benefits (see Section 3.1.4).
 - [2] Setbacks also apply to residential developments with detached front-loaded garages located to the rear of the principal structure.
 - [3] For infill development, see Section 11.4.2.B, Reduction of Minimum Front Setbacks to Block Face Average.
 - [4] A minimum of 15 feet is required along lot lines shared with lots containing single-family detached residential uses built before 2010.
 - [5] The front setback is measured from the common open space.
 - [6] For single family detached dwellings located in a bungalow court, the front setback is measured from the public street fronting the development or from the lot line adjacent to the shared driveway for the lots not fronting a public street.
- (Ord. No. 2014-022, 06/24/2014; Ord. No. 2016-001, 05/10/2016)





3.5.7. Residential Neighborhood Preservation (RNP) District

RESIDENTIAL NEIGHBORHOOD PRESERVATION (RNP) DISTRICT

A. Purpose

The Residential Neighborhood Preservation District maintains the open residential character of the existing neighborhood, to retain affordable housing options, and to reduce the impact caused by incompatible infill development. Standards in this area address infill considerations associated with the existing pattern of single-family development. Allowing only low density single-family detached and manufactured homes will help to ensure that future growth is harmonious with the established pattern of development.



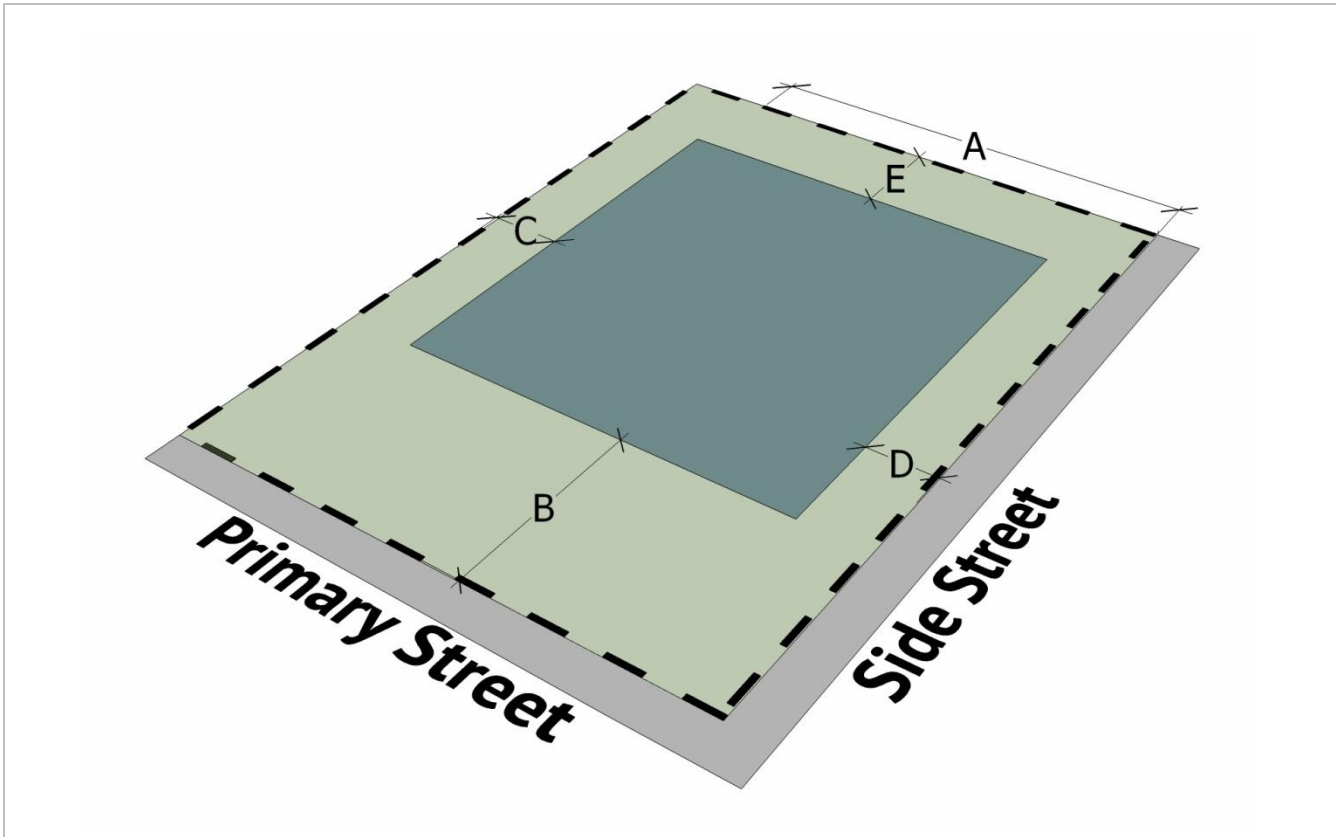
B. Principal Intensity and Dimensional Standards

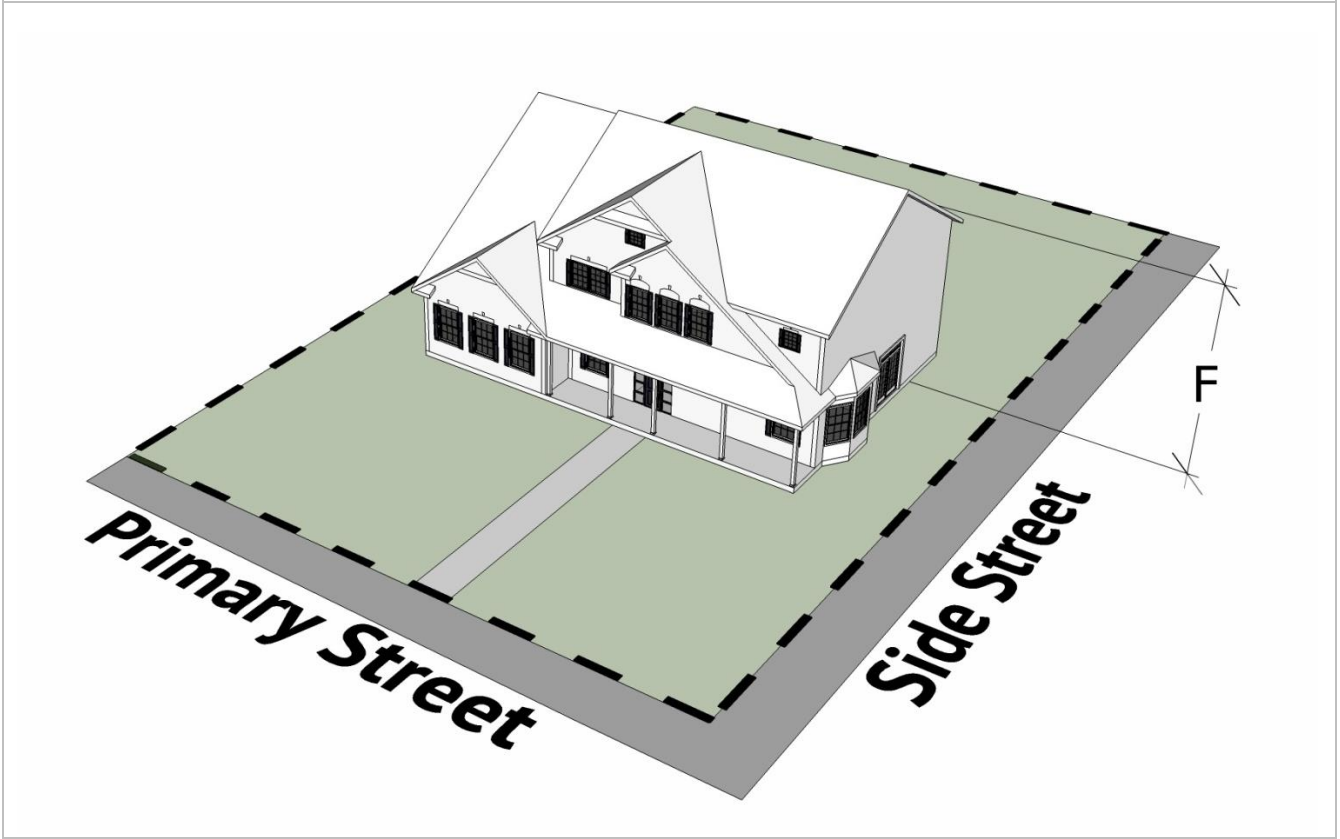
A, etc. are symbols used in the illustrations showing application of dimensional standards

Cross References

Lot Standards	All Uses	
Min. Net Lot Area (sf)	10,000	Art. 4: Use Standards
A Min. Lot Width (ft)	70	Art. 5: Development Standards Sec. 5.9.6
Max. Net Density (du/ac)	n/a	Sec. 5.9.7
		Art. 6: Riparian Buffers

Max. Lot Coverage (%)	40	Art. 7: Stormwater Management
Setbacks		
B Min. Front (ft)	30	
C Min. Side (ft)	10	
D Min. Corner Side (ft)	10	
E Min. Rear (ft)	15	
Building Standards		
F Max. Structure Height (ft)	35	
G Min. Building Separation (ft)	n/a	
Notes: sf = square feet; ft = feet; du = dwelling unit; ac = acre; % = percent; n/a = not applicable (Ord. No. 2016-001, 05/10/2016)		





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SECTION 3.6. COMMERCIAL AND INDUSTRIAL DISTRICTS

3.6.1. General Purposes of Commercial and Industrial Districts

The commercial and industrial districts established in this section are intended to provide a wide range of office, retail, service, institutional, industrial, and related uses to meet household and business needs, and more specifically to:

- A.** Provide appropriately located lands for the full range of commercial and industrial uses needed by the Town's residents, businesses, and workers, consistent with the goals, objectives, and policies of the Comprehensive Plan;
- B.** Strengthen the Town's economic base, and provide employment opportunities close to home for residents of the Town and surrounding communities;
- C.** Create suitable environments for various types of commercial and industrial uses, and protect them from the adverse effects of incompatible uses;
- D.** Create suitable environments for various types of mixed-use development, where business, office, retail, and residential uses are designed and integrated in compatible ways;
- E.** Minimize the impact of commercial and industrial development on residential uses; and
- F.** Promote sustainable development in terms of energy efficiency and conservation, greenhouse gas reductions, food security, materials recycling, and similar sustainability goals.

3.6.2. Corridor Commercial (CC) District

CORRIDOR COMMERCIAL (CC) DISTRICT

A. Purpose

In accordance with the Comprehensive Plan, the Corridor Commercial District along the Town's primary transportation corridors and gateways accommodates retail, office and service, small-scale business park, institutional, cultural/public, and entertainment developments that meet local and regional needs and are sensitively designed to reflect a positive image of the Town. The district also accommodates higher-density residential and live/work uses in locations outside the Airport Overlay Districts. District regulations encourage pedestrian-scale retail development and provide opportunities for residents to walk to meet some of their daily service, entertainment, and open space needs.



B. Principal Intensity and Dimensional Standards

Cross References

A, etc. are symbols used in the illustrations showing application of dimensional standards

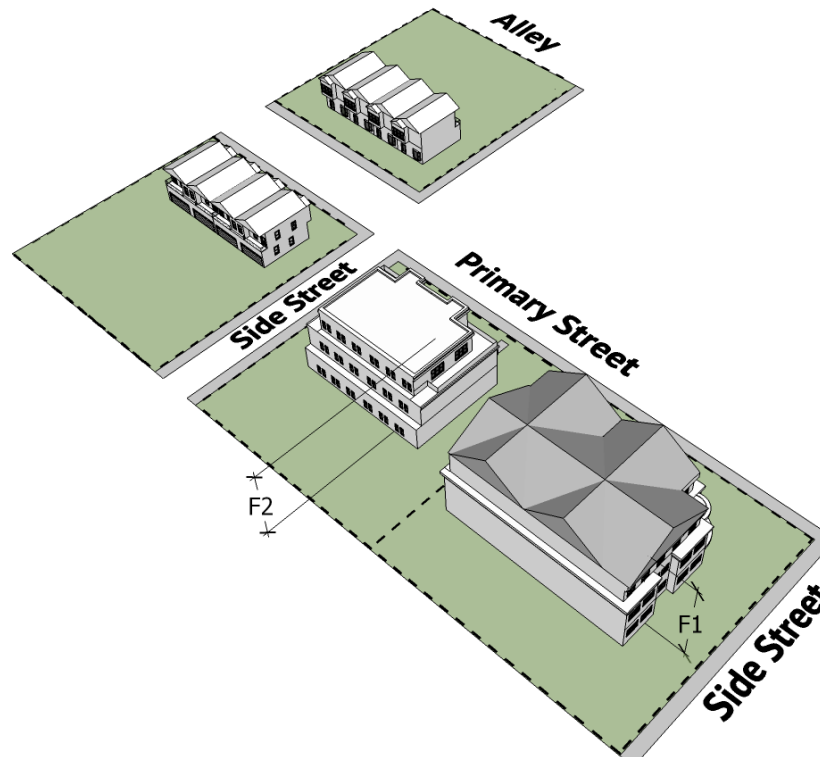
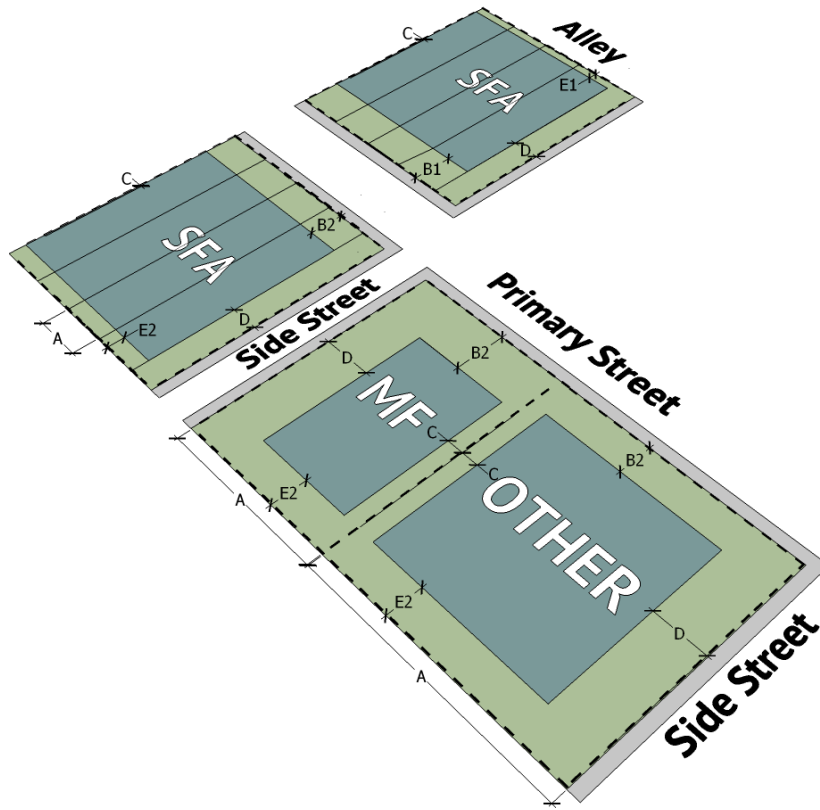
		Single-Family Attached Dwellings	Multifamily Dwellings	Other Uses
Lot Standards				
Min. Net Lot Area (sf)		n/a	20,000	20,000
A	Min. Lot Width (ft)	24	100	150
Max. Net Density (du/ac)		17.0	17.0	n/a
Max. Lot Coverage (%)		70	65	65
Setbacks				
B1	Min. Front (ft)	Alley-loaded	10	n/a
B2		Other	20	30
C	Min. Side (ft)		0	10
D	Min. Corner Side (ft)		20	30
E1	Min. Rear (ft)	Alley-loaded	6	n/a
E2		Other	10	20
Building Standards				
F1	Max. Structure Height (ft)		35	50
F2	Min. Structure Height (stories)		n/a	3 [1][2]
G	Min. Building Separation (ft)		24	n/a

- Art. 4: Use Standards
- Art. 5: Development Standards
- Art. 6: Riparian Buffers
- Art. 7: Stormwater Management

Notes: sf = square feet; ft = feet; du = dwelling unit; ac = acre; % = percent; n/a = not applicable

[1] Applied to multifamily developments. See additional standards in Section 5.9.8.C.1, Minimum Height.
 [2] The minimum structure height for a carriage-style building with multifamily dwellings over garages is two stories.

(Ord. No. 2016-001, 05/10/2016)



3.6.3. Office/Institutional (OI) District

OFFICE/INSTITUTIONAL (OI) DISTRICT

A. Purpose

In accordance with the Comprehensive Plan, the Office and Institutional District accommodates large-scale regional office developments that feature high visual quality and high trip-generating uses, including office parks, research and development parks, corporate headquarters, and emerging technologies facilities that support high quality local and regional employment opportunities. The district also accommodates the ancillary service uses necessary to support the predominant office development.



B. Principal Intensity and Dimensional Standards

A, etc. are symbols used in the illustrations showing application of dimensional standards

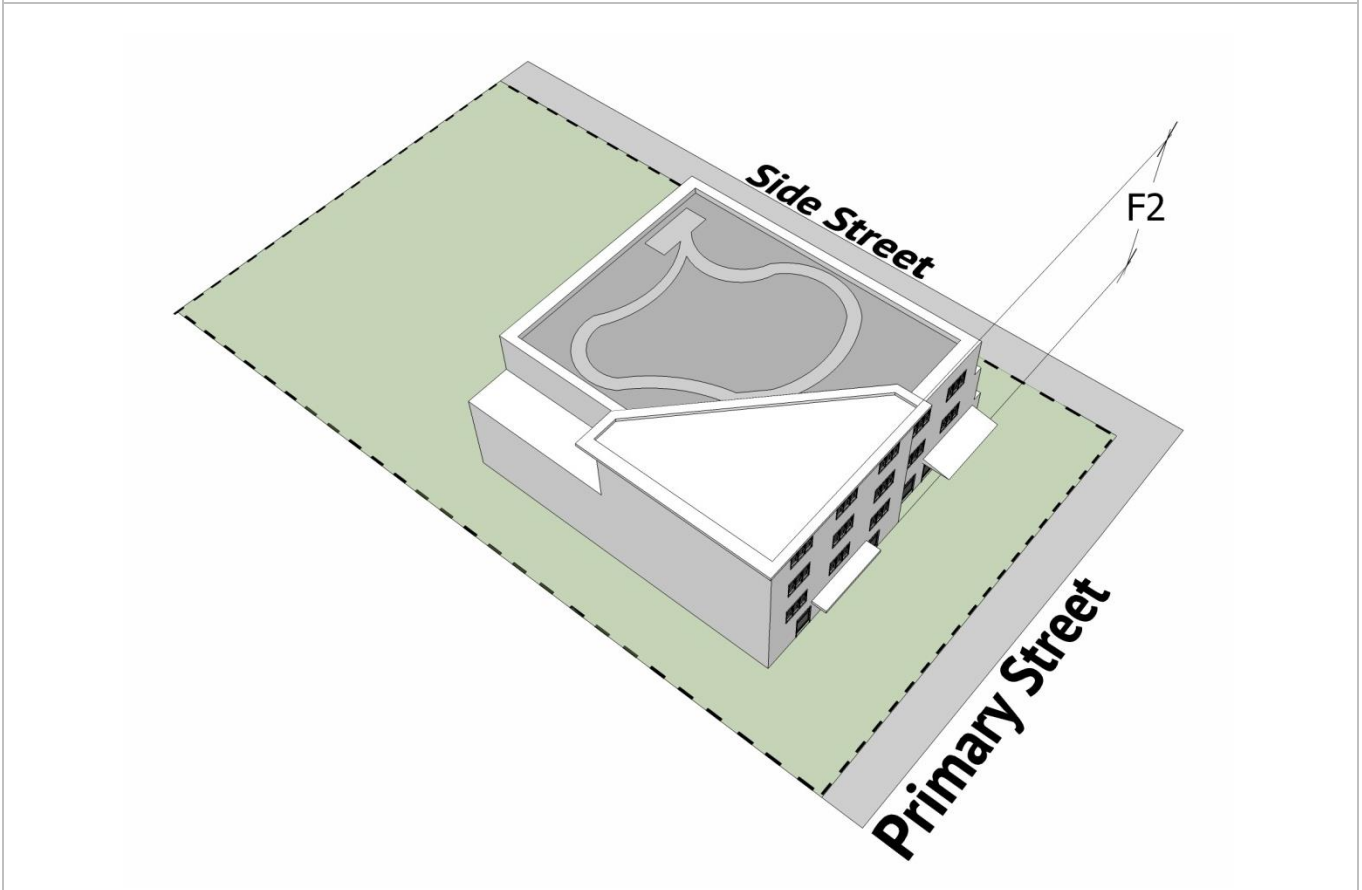
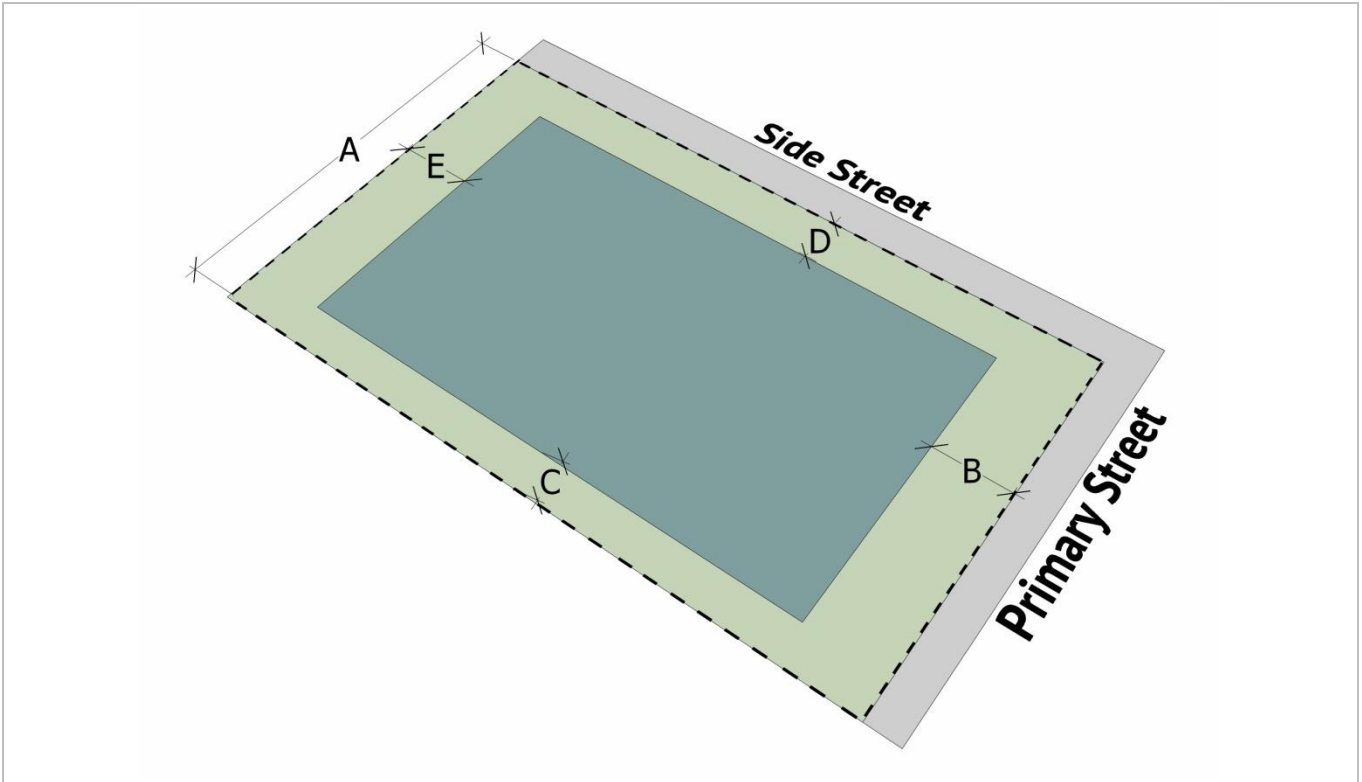
Cross References

		All Uses in the Town Center	All Uses Outside the Town Center
Lot Standards			
Min. Net Lot Area (sf)		20,000	20,000
A	Min. Lot Width (ft)	150	150
Max. Net Density (du/ac)		n/a	n/a
Max. Lot Coverage (%)		65	65
Setbacks (also see height standard)			
B	Min. Front (ft)	30	30
C	Min. Side (ft)	15	15
D	Min. Corner Side (ft)	20	20
E	Min. Rear (ft)	30	30
Building Standards			
F 1	Max. Structure Height (ft) Lots where any building, or portion thereof, is located within the Floodplain Overlay (FO) District [1]	40	No Maximum
F 2	Lots where all buildings are clustered outside the Floodplain Overlay (FO) District [1]	Lots fronting Aviation Pkwy: 50 Lots fronting all other roads: No Maximum	No Maximum
G	Min. Building Separation (ft)	n/a	n/a

Art. 4: Use Standards
 Art. 5: Development Standards
 Art. 6: Riparian Buffers
 Art. 7: Stormwater Management

Notes: sf = square feet; ft = feet; du = dwelling unit; ac = acre; % = percent; n/a = not applicable

[1] See Figure 3.6.3.B: Maximum Structure Height in Relationship to Floodplain Location.
 (Ord. No. 2016-001, 05/10/2016)



Buildings Located within the Floodplain Overlay District



Buildings Clustered Outside of the Floodplain Overlay District




Figure 3.6.3.B: Maximum Structure Height in Relationship to Floodplain Location

(Ord. No. 2016-001, 05/10/2016)

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3.6.4. Industrial Management (IM) District

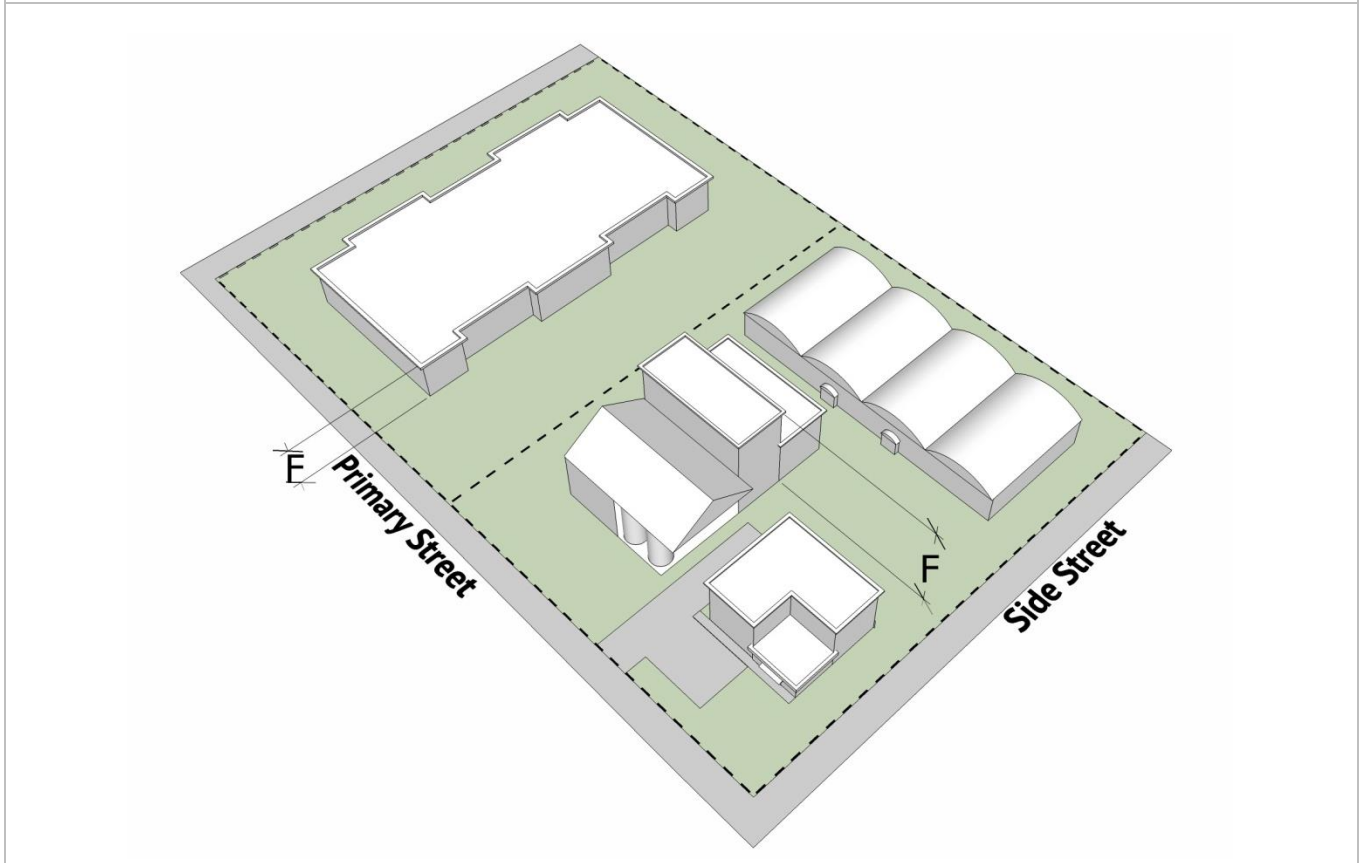
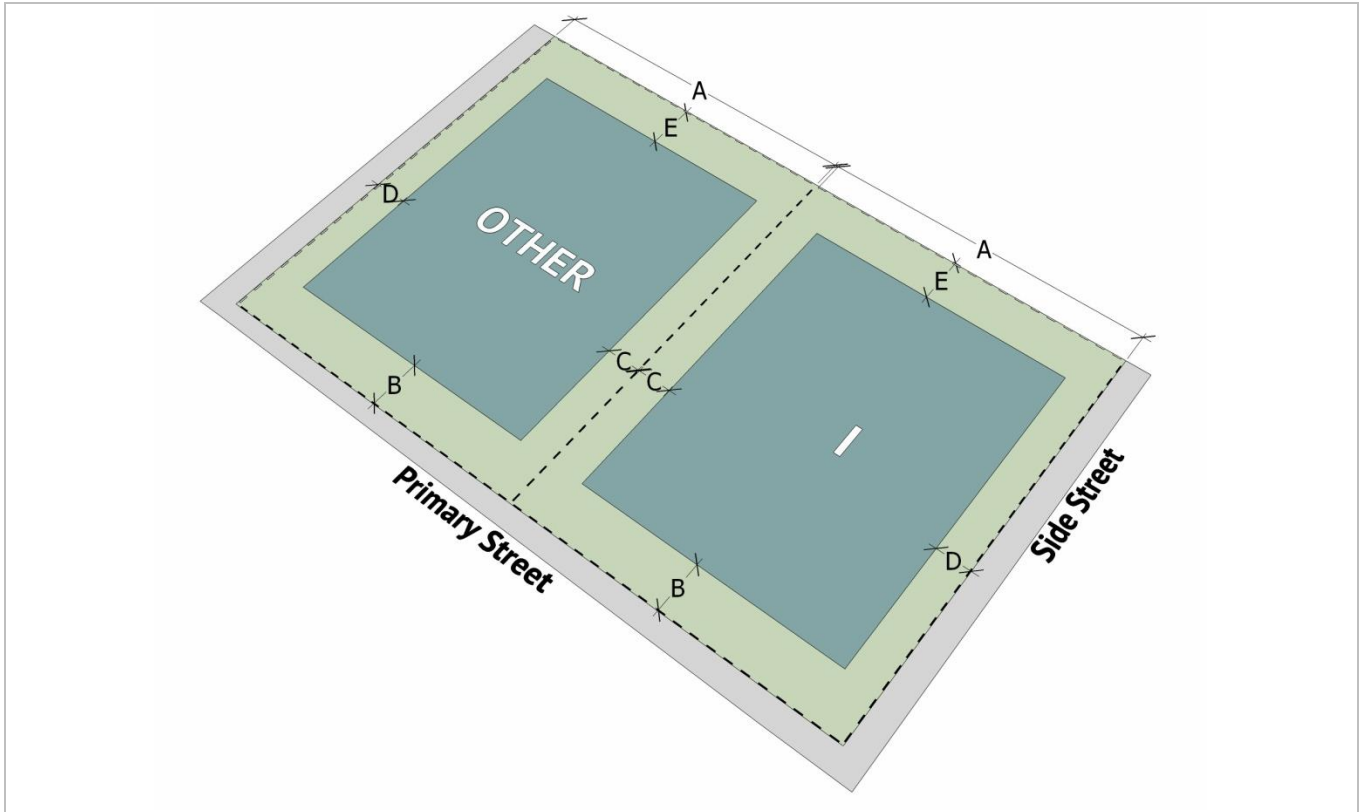
INDUSTRIAL MANAGEMENT (IM) DISTRICT			
A. Purpose			
<p>In accordance with the Comprehensive Plan, the Industrial Management District accommodates industrial uses (e.g., manufacturing, distribution, wholesale operations, warehouses, research facilities, flex space, and business parks) that are compatible and integrated with the Town’s office, commercial, and other employment or institutional uses. The district also accommodates limited retail and commercial uses that serve the needs of nearby industrial uses. Campus-style industrial parks are appropriate along major transportation corridors, while warehouse, manufacturing, and repair uses should be located along less visible industrial collector roads.</p>			
B. Principal Intensity and Dimensional Standards			Cross References
A , etc. are symbols used in the illustrations showing application of dimensional standards			
	Industrial Uses	Other Uses	
Lot Standards			
Min. Net Lot Area (sf)	80,000	80,000	Art. 4: Use Standards
A Min. Lot Width (ft)	200	200	Art. 5: Development Standards Sec. 5.14.8.A.2
Max. Net Density (du/ac)	n/a	n/a	Art. 6: Riparian Buffers
Max. Lot Coverage (%)	65	65	Art. 7: Stormwater Management
Setbacks (also see height standard)			
B Min. Front (ft)	30	30	
C Min. Side (ft)	20	20	

Article 3: Zoning Districts

Section 3.6. Commercial and Industrial Districts

3.6.4. Industrial Management (IM) District

D	Min. Corner Side (ft)	20	20	
E	Min. Rear (ft)	30	30	
Building Standards				
F	Max. Structure Height (ft)	50	100	
G	Min. Building Separation (ft)	n/a	n/a	
Notes: sf = square feet; ft = feet; du = dwelling unit; ac = acre; % = percent; n/a = not applicable				



SECTION 3.7. PLANNED DEVELOPMENT DISTRICTS

3.7.1. General

A. General Purposes of Planned Development Districts

The Planned Development (PD) districts are established and intended to encourage innovative land planning and site design concepts that support a high quality of life and achieve a high quality of development, environmental sensitivity, energy efficiency, and other Town goals and objectives by:

1. Reducing or diminishing the inflexibility or uniform design that sometimes results from strict application of zoning and development standards designed primarily for individual lots;
2. Allowing greater freedom in selecting the means of providing access, open space, and design amenities;
3. Allowing greater freedom in providing a well-integrated mix of residential and nonresidential land uses in the same development, including a mix of housing types, lot sizes, and densities;
4. Allowing more efficient use of land, with smaller networks of streets and utilities, and thereby lowering development and housing costs; and
5. Promoting quality design and environmentally sensitive development that respects surrounding established land use character and respects and takes advantage of a site's natural and man-made features, such as trees, wetlands, floodplains, and historic features.

B. Classification of Planned Development Districts

Land shall be classified into a PD district only in accordance with the procedures and requirements set forth in Section 2.5.3, Rezoning, and this section.

C. Relationship to Existing Planned Development Districts

Lands designated PD District on July 1, 2014 are subject to the standards and conditions included within the previously adopted master plans, development agreements, and other requirements related to their approval. These developments may proceed subject to their original approvals in accordance with Section 1.6, Transitional Provisions. If the PD district authorization expires, or a modification other than a minor modification of the district is proposed, the provisions in this Ordinance shall apply.

D. Organization of Planned Development Zoning District Regulations

Section 3.7.1.E, General Standards for All Planned Development Districts, sets out general standards applicable to all types of PD districts. The following sections set out, for each type of PD district, a purpose statement, a list of the types of intensity and dimensional standards to be applied as part of the PD Plan/Agreement, and references to applicable use, development, and environmental standards.

E. General Standards for All Planned Development Districts

Before approving a PD zoning district classification, the Town Council shall find that the application for the PD zoning district classification, as well as the PD Plan/Agreement included as part of the application, comply with the following standards:

1. PD Plan/Agreement

The PD Plan/Agreement shall:

- a. Include a statement of planning objectives for the district;
- b. Identify the general location of individual development areas, identified by land use(s) and/or development density or intensity;

- c. Identify for the entire PD district and each development area the acreage, types and mix of land uses, number of residential units (by use type), nonresidential floor area (by use type), residential density, and nonresidential intensity;
- d. Identify the general location, amount, and type (whether designated for active or passive recreation) of open space;
- e. Identify the location of environmentally sensitive lands, existing tree canopy coverage to be retained, existing tree canopy coverage to be removed and any associated mitigation, wildlife habitat, and waterway corridors;
- f. Identify the on-site transportation circulation system, including the general location of all public streets, existing or projected transit corridors, and pedestrian and bicycle pathways, and how they will connect to existing and planned Town and regional systems;
- g. Include a Transportation Impact Analysis in accordance with Section 5.8.6.B;
- h. Identify the general location of on-site potable water and wastewater facilities, and how they will connect to existing and planned Town systems;
- i. Identify the general location of on-site storm drainage facilities, and how they will connect to existing and planned Town systems;
- j. Identify the general location of all other on-site public facilities serving the development, including but not limited to parks, schools, and facilities for fire protection, police protection, EMS, stormwater management, and solid waste management;
- k. Include any conditions related to the form and design of development;
- l. Include provisions addressing how transportation, potable water, wastewater, stormwater management, and other public facilities will be provided to accommodate the proposed development;
- m. Include provisions related to environmental protection and monitoring (e.g., restoration or mitigation measures, annual inspection reports); and
- n. Include any other provisions the Town Council determines are relevant and necessary to the development of the PD in accordance with applicable standards and regulations.

2. Consistency with Town Comprehensive Plan

The PD zoning district designation and the PD Plan/Agreement shall be generally consistent with the Comprehensive Plan.

3. Compatibility with Surrounding Areas

Development along the perimeter of a PD district shall be compatible with adjacent existing or approved development. Where there are issues of compatibility, the PD Plan/Agreement shall provide for transition areas at the edges of the PD district that provide for appropriate buffering and/or ensure a complementary character of uses. Determination of complementary character shall be based on densities/intensities, lot size and dimensions, structure height, building mass and scale, hours of operation, exterior lighting, and siting of service areas.

(Ord. No. 2015-002, 04/29/2015)

4. Development Phasing Plan

If development in the PD district is proposed to be phased, the PD Plan/Agreement shall include a development phasing plan that identifies the general sequence or phases in which the district is proposed to be developed, including how residential and nonresidential development will be timed, how infrastructure (public and private) and open space will be provided and timed, and how development will be coordinated with the Town's capital improvements program.

5. Conversion Schedule

The PD Plan/Agreement shall include a conversion schedule that identifies the extent to which one type of residential use may be converted to another type of residential use and one type of nonresidential use may be converted to another type of nonresidential use. Such conversions may occur if the number of projected trips per day for the PD district development, as identified in the TIA, does not increase.

6. On-Site Public Facilities

a. Design and Construction

The PD Plan/Agreement shall establish the responsibility of the developer/landowner to design and construct or install required and proposed on-site public facilities in compliance with applicable Town, State, and federal regulations.

b. Dedication

The PD Plan/Agreement shall establish the responsibility of the developer/landowner to dedicate to the public the rights-of-way and easements necessary for the construction or installation of required and proposed on-site public facilities in compliance with applicable Town, State, and federal regulations.

7. Uses

The principal, accessory, and temporary uses allowed in each type of PD district are identified in the use tables in Article 4: Use Standards. Allowed principal uses in a particular PD district shall be established in the PD Plan/Agreement, subject to conversion in accordance with a schedule incorporated in the PD Plan/Agreement in accordance with Section 3.7.1.E.5, Conversion Schedule. Allowed uses shall be consistent with Town plans and the purpose of the particular type of PD district, and subject to applicable use-specific standards in Article 4: Use Standards, and any additional limitations or requirements applicable to the particular type of PD district.

8. Densities/Intensities

The densities for residential development and the intensities for nonresidential development applicable in each development area of a PD district shall be as established in the PD Plan/Agreement, and shall be consistent with the Comprehensive Plan, other adopted special area and Town plans, and the purpose of the particular type of PD district.

9. Dimensional Standards

The dimensional standards applicable in each development area of a PD district shall be as established in the PD Plan/Agreement, and shall be consistent with the purpose of the particular type of PD district. The PD Plan/Agreement shall include at least the following types of dimensional standards, unless the PD Plan/Agreement expressly states otherwise:

- a.** Maximum net density and/or maximum floor area ratio;
- b.** Minimum net lot area;
- c.** Minimum lot width;
- d.** Maximum lot coverage;
- e.** Maximum structure height;
- f.** Maximum individual building size;
- g.** Minimum and maximum setbacks; and
- h.** Minimum setbacks from abutting residential development or residential zoning districts.

(Ord. No. 2015-002, 04/29/2015)

10. Development Standards

All development in a PD district shall comply with the standards of Article 5: Development Standards, or any modifications of those standards established in the PD Plan/Agreement as consistent with Town plans.

11. Riparian Buffer and Stormwater Management Standards

All development in a PD district shall comply with the standards of Article 6: Riparian Buffers, and Article 7: Stormwater Management, that are in place at the time of Construction Plan application acceptance (see Section 2.5.8, Construction Plan Approval).

12. Modifications and Amendments to Approved PD Plan/Agreement

Minor modifications of an approved PD Plan/Agreement may occur in accordance with Section 2.5.3.C.7.c, Minor Modifications of Approved PD Plan/Agreement Allowed. Any other modification shall require an amendment of the PD Plan/Agreement in accordance with the procedures for its original approval.

3.7.2. Mixed-Use Planned Development (MUPD) District

MIXED USE PLANNED DEVELOPMENT (MUPD) DISTRICT

A. Purpose

The Mixed-Use Planned Development District is intended to accommodate high-quality development incorporating a range of complementary and mutually supporting land uses, using innovative arrangements of uses, buildings, and open spaces throughout the development. District regulations are intended to provide substantial design flexibility and appropriate transitions to, and mitigation of potential adverse impacts on, adjacent developments.



B. Intensity and Dimensional Standards

Min. District Gross Area (acres)	5 [1]
Max. Net Density (du/ac)	To be established in PD Plan/Agreement (see Section 3.7.1.E.1)
Max. Floor Area Ratio (FAR)	
Min. Net Lot Area (sf)	
Min. Lot Width (ft)	
Max. Lot Coverage (% of district area)	
Max. Structure Height (ft)	
Max. Individual Building Size (sf)	
Min. Setbacks (ft)	
Min. Setbacks from Abutting Residential Development or Zoning (ft)	

C. Use Standards

Uses allowed in the Mixed-Use Planned Development District shall be established in the PD Plan/Agreement. Uses shall be consistent with the Comprehensive Plan, other Town-adopted plans, and the purpose of the MUPD district, and shall comply with the use-specific standards in Article 4: Use Standards.

At least 20 percent, but no more than 80 percent, of the total gross floor area within that part of the district located outside the Airport Overlay District shall be devoted to residential uses.

D. Development Standards

The development standards in Article 5: Development Standards, shall apply to all development in MUPD Districts, but some development standards may be modified as part of the PD Plan/Agreement as indicated below if consistent with the Comprehensive Plan, other Town-adopted plans, and the purpose of the MUPD District.

Standard	Means of Modifying	Standard	Means of Modifying
General Site Layout and Design (Sec. 5.2)	PD Plan/Agreement	Building Configuration and Design (Sec. 5.9)	PD Plan/Agreement
Subdivision Blocks, Lots, and Reference Points (Sec. 5.3)	PD Plan/Agreement	Parking and Loading (Sec. 5.10)	Alternative Parking Plan
		Utilities and Services (Sec. 5.11)	PD Plan/Agreement
Tree Protection (Sec. 5.4)	PD Plan/Agreement	Landscaping (Sec. 5.12)	Alternative Landscaping Plan
Common Open Space and Public Recreation Area (Sec. 5.5)	Modifications Prohibited	Screening (Sec. 5.13)	PD Plan/Agreement
		Fences and Walls (Sec. 5.14)	PD Plan/Agreement
Floodplain Management (Sec. 5.6)	Modifications Prohibited	Exterior Lighting (Sec. 5.15)	PD Plan/Agreement
Perimeter and Streetyard Buffers (Sec. 5.7)	Alternative Landscaping Plan	Signage (Sec. 5.16)	PD Plan/Agreement
		Sustainable Development Practices (Sec. 5.17)	[to be added after adoption of UDO]
Access and Circulation (Sec. 5.8)	PD Plan Agreement		

E. Riparian and Stormwater Management Standards

The procedures and standards in Article 6: Riparian Buffers, and Article 7: Stormwater Management, shall apply to all development in MUPD Districts, and may not be modified, but the PD Plan/Agreement may designate the entire district or any part of the district, consistent with the phasing plan, as the site(s) for application of these procedures and standards.

Notes: sf = square feet; ft = feet; du = dwelling unit; ac = acre

[1] May be waived by the Town Council on finding that creative planning of a smaller site is necessary to address a physical development constraint, protect natural areas, or promote as community goal when more conventional development would result in more difficult or undesirable development.

(Ord. No. 2014-051, 11/10/2014; Ord. No. 2015-002, 04/29/2015; Ord. No. 2016-001, 05/10/2016)

SECTION 3.8. OVERLAY DISTRICTS

3.8.1. General

A. General Purpose of Overlay Districts

Overlay zoning districts are superimposed over portions of one or more underlying base, conditional, or planned development 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 districts. Some overlay districts include standards that modify or supersede standards applied by the underlying district.

B. Classification of Overlay Districts

Land shall be classified or reclassified into an overlay zoning district only in accordance with the procedures and requirements set forth in Section 2.5.3, Rezoning, and this section.

3.8.2. Airport Overlay (AO) Districts

A. Purpose

The purpose of the Airport Overlay Districts is to promote the most appropriate use of land affected by airport activities associated with the Raleigh-Durham International Airport. More specifically, the districts are intended to ensure the safety and welfare of the community from danger from falling aircraft and the annoyance and potential adverse health impacts of aircraft noise, and to ensure that development within the districts are compatible with activities associated with air traffic and services associated with the airport. To achieve these purposes, district regulations are intended, to the extent possible, to limit land uses to specific industrial, commercial, agricultural, recreational, and other nonresidential uses that are not subject to high population concentrations; restrict the aboveground storage of materials that pose major safety hazards if subject to an airplane crash; limit land uses particularly sensitive to aircraft noise within the area subject to average day/night sound levels (DNL or Ldn) of 65 decibels (dB) or greater; limit land uses and development that pose potential obstructions to safe air traffic and effective air traffic control; and ensure that development near the airport is located, designed, constructed, and maintained in a manner that minimizes exposure to safety risks associated with the airport, mitigates noise impacts, and avoids impediments to safe and efficient airport operations.

B. Applicability

1. The regulations in this section apply to the Airport Overlay-A (AO-A) and Airport Overlay-B (AO-B) Districts.
2. The Airport Overlay-A (AO-A) District consists of that part of the area subject to an average day/night sound level (DNL) from aircraft noise of 65 dB or greater (as established by the Raleigh-Durham Airport Authority and shown on the Town of Morrisville RDU Contours Map) located east of Chapel Hill Road (NC54). The Airport Overlay-B (AO-B) District consists of that part of such area located west of Chapel Hill Road (NC54).

C. Modifications of Otherwise Applicable Standards

1. Uses Prohibited in Airport Overlay-A (AO-A) District

Irrespective of the use standards applicable in the underlying base, conditional, or planned development district, or in any other applicable overlay district, certain uses shall be prohibited in the Airport Overlay-A (AO-A) District, as indicated in the use tables in Article 4: Use Standards.

2. Underground Storage of Hazardous Chemicals and Substances

In the Airport Overlay-A District or Airport Overlay-B District, permanent or long-term storage of significant quantities of highly explosive, flammable, toxic, corrosive, or otherwise hazardous liquids, gases, chemicals, or other hazardous substances shall be located underground to reduce the hazardous consequences from an airplane crash.

3. Structure Height

The height of any structure in the Airport Overlay-A District or Airport Overlay-B District shall not exceed that which constitutes an obstruction to air navigation, navigational aids, or navigational facilities under standards of the Federal Aviation Administration (FAA) in 14 CFR Part 77, Subpart C, as applied to the area around Raleigh-Durham International Airport, unless the FAA determines no substantial obstruction exists in accordance with 14 CFR Part 77, Subpart D. Documentation of compliance with this requirement may be required for any structure or structural alteration that extends more than 50 feet above ground level.

4. Outdoor Lighting

- a. Outdoor lighting in the Airport Overlay-A District or Airport Overlay-B District shall be shielded to minimize direct skyward glare from the light source and otherwise located and designed to avoid producing light emissions—whether direct or indirect (reflective) of such intensity and directed in such directions as to impair pilot visibility or otherwise interfere with the safe operation of overhead aircraft.
- b. Lighting of towers, tall buildings, and other potential obstructions to air navigation shall include warning lighting that complies with FAA standards in Advisory Circular 70/7460-1 (Obstruction Marking and Lighting).

5. Electronic Interference

No use, development, or activity in the Airport Overlay-A District or Airport Overlay-B District shall produce electronic emissions that interfere with navigation signals or radio communications between aircraft and landing control facilities or with aircraft navigational or communication equipment.

6. Sound Mitigation

a. Airport Overlay-A

New construction, or substantial improvement, of buildings within the Airport Overlay-A District shall be designed to limit interior noise from aircraft to an average day/night sound level (DNL) of 45 dB in the following use categories if permitted in Table 4.2.4, Principal Use Table:

- (1) Group Living Uses (e.g. dormitories);
- (2) Community and Government Service Uses (e.g. clubs or lodges, college or universities, public park or recreation facilities, business or vocational schools, or sports academies); and
- (3) Health Care Uses (e.g. hospitals, nursing homes).

b. Airport Overlay-B

New construction, or substantial improvement, of buildings within the Airport Overlay-B District shall be designed to limit interior noise from aircraft to an average day/night sound level (DNL) of 45 dB in the following use categories if permitted in Table 4.2.4, Principal Use Table:

- (1) Household Living Uses (e.g. dwellings or family care homes);
 - (2) Group Living Uses (e.g. congregate living facilities, dormitories, or rooming houses);
 - (3) Community and Government Service Uses (e.g. clubs or lodges, elementary, middle and high schools, cultural facilities, day care centers, places of worship, or sports academies);
 - (4) Health Care Uses (e.g. hospitals, nursing homes); and
 - (5) Visitor Accommodation Uses (e.g. bed and breakfasts or hotel/motels).
- c. Applications for a Building Permit for any building subject to the standards in subsection a above shall include the written certification by a Professional Engineer or Licensed Architect experienced and qualified in the field of acoustical testing and engineering that the proposed new construction will comply with the applicable standards.

7. Avigation Easement

The developer of new development in the Airport Overlay-A District or Airport Overlay-B District shall grant an avigation easement to the Raleigh-Durham Airport Authority for the subject property where needed to ensure the safe approach and departure of aircraft to and from the Raleigh-Durham International Airport. A copy of the recorded avigation easement shall be provided to the Planning Director before issuance of any Certificate of Compliance/Occupancy for a building on the property.

(Ord. No. 2016-001, 05/10/2016)

3.8.3. Floodplain Overlay (FO) District

A. Findings and Purpose

1. The flood prone areas within the jurisdiction of the Town are subject to periodic inundation. The cumulative effect of obstructions in floodplains cause increases in flood heights and velocities and the occupancy in flood prone areas of uses vulnerable to floods increase the likelihood of loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which could adversely affect the public health, safety and general welfare.
2. The purpose of the Floodplain Overlay District is to minimize these risks and losses by provisions designed to:
 - a. Protect human life 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. Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and

- g. Ensure that potential buyers are aware that property is in a Special Flood Hazard Area or Future Conditions Flood Hazard Area.

B. Applicability

1. The Floodplain Overlay (FO) District applies to all land within any Special Flood Hazard Area or a Future Conditions Flood Hazard Area within the corporate limits and extraterritorial jurisdiction of the Town of Morrisville. Special Flood Hazard Areas and Future Conditions Flood Hazard Areas shall be as determined under the Cooperating Technical State (CTS) agreement between the State of North Carolina and the Federal Emergency Management Agency (FEMA) using the most recent version of the Flood Insurance Study (FIS) for Wake County and associated DFIRM panels, which are adopted by reference as part of this Ordinance. Future revisions to the FIS or DFIRM panels that do not change flood hazard data within the jurisdiction of Morrisville are also adopted by reference as part of this Ordinance.
2. Within the Floodplain Overlay (FO) District, no structure shall be located, extended, converted, or altered, and no development activity shall occur, in any way except after approval of a Floodplain Development Permit in accordance with 2.5.9, Floodplain Development Permit, and in full compliance with the provisions of Section 5.6, Floodplain Management.
3. The degree of flood protection required by the Floodplain Overlay District is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by manmade or natural causes. This section does not imply that land outside the Special Flood Hazard Areas and Future Conditions Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of the Town or by any Town officer or employee for any flood damages that result from reliance on Floodplain Overlay District regulations or any administrative decision lawfully made in accordance with such regulations.

3.8.4. Town Center Conservation Overlay (TCCO) District

A. General

Any landowner who wants to apply for the provisions identified in this overlay district shall seek approval of a Conditional Rezoning in accordance with Section 2.5.3, Rezoning.

B. Purpose

To facilitate the implementation of the community's vision for parks and open space in the Town Center, as illustrated in the Town Center Plan. To provide additional site development options in return for open space conservation measures.

C. Applicability

The Town Center Conservation Overlay District is a district available to any land that is identified as an existing or proposed park in the Town Center Plan.

D. Pre-Application Conference

Irrespective of whether a pre-application meeting is shown as mandatory in Table 2.3, Summary of Development Review Procedures, a pre-application conference shall be required for all development identified as an "existing or proposed park" on the Town Center Plan. The purpose of the conference is to provide an opportunity for the applicant and Town staff to discuss the proposed project, and to provide the Town with an opportunity to ensure the most effective implementation of the Town Center Plan.

E. Site Layout and Building Organization

1. Intent

- a. To minimize the visual and physical impacts of development on the natural character of land identified as existing or proposed parks in the Town Center Plan through a voluntary conservation district.
- b. To preserve open space.

2. Buffering

- a. Riparian buffers shall be provided in accordance with Article 6: Riparian Buffers.
- b. On wooded sites, established trees shall be integrated into the overall development to the maximum extent practicable by preserving a 50-foot-wide buffer along the length of all of the following:
 - (1) Property boundary lines; and
 - (2) Greenway easements.
- c. Utilities, sidewalks, greenways, and other similar features may cross a buffer perpendicularly or at an angle, but shall not run parallel inside the buffer.

3. Clustering of Residential Development in Very Low Density Residential (VLDR) and Historic Crossroads Village (HCV) Districts

The following standards shall apply to new residential development within the Very Low Density Residential (VLDR) and Historic Crossroads Village (HCV) Districts.

a. Open Space

- (1) At least 75 percent of the development site shall be preserved as permanent open space.
- (2) Permanent open space may include:
 - (A) Common open space (see Section 5.5, Common Open Space and Public Recreation Area);
 - (B) Perimeter buffers (see Section 5.7, Perimeter and Streetyard Buffers);
 - (C) Riparian buffers (see Article 6: Riparian Buffers);
 - (D) Floodways (see Section 5.6, Floodplain Management); and/or
 - (E) Stormwater facilities that use Low Impact Design (LID) techniques as approved by the Planning Director and the Town Engineer (see Article 7: Stormwater Management).
- (3) Permanent open space shall not include:
 - (A) Structural stormwater management facilities,
 - (B) Developed areas, and
 - (C) Areas with impervious surface, unless approved as historically significant by the Planning Director.
- (4) Land included as preserved open space shall prioritize sensitive environmental features, scenic views, and historically significant lands for protection.
- (5) Development shall be clustered to retain areas of contiguous open space on the site and to retain future opportunities for recreational trail access along drainages and creeks, to the maximum extent practicable.

(6) Developable Area

- (A) The minimum lot size may be reduced to 4,500 square feet.
- (B) Development shall be sited amongst established trees to maintain the open character of the remainder of the site to the maximum extent practicable.
- (C) The maximum number of dwelling units in the Town Center Conservation Overlay District shall match the maximum number allowable under the base zoning for the district. First the “buildable area” shall be calculated by taking the total site area and subtracting the area for all required riparian buffers and perimeter buffers, as well as floodways and street rights-of-way. A factor consisting of ten percent of the total site area shall be used for the street right-of-way. The “buildable area” shall then be divided by the minimum lot size for the base zoning district to establish the “lot yield”. The lot yield shall be rounded down to the nearest whole number to determine the maximum allowable number of dwelling units that can be built on the site.

(7) Density Bonus

- (A) An applicant may petition the Town for a density bonus of up to an additional 20 percent of the maximum allowable number of dwelling units allowed under the base zoning if the applicant permanently dedicates open space to the Town for public use in a manner consistent with the current Town Center Plan (as determined by the Planning Director) and the current Parks, Recreation, Greenways, and Open Space Master Plan (as determined by the Parks & Recreation Director). The number of additional dwelling units granted shall be commensurate with the amount of open space dedicated. The Town Council shall decide whether or not to grant the density bonus requested by the applicant.
- (B) If the maximum lot yield allowed through the density bonus cannot be accommodated on a given site, as determined by the Planning Director, then the applicant may reduce the required open space. However, in no case shall the amount of protected open space be less than 70 percent of the total site area.

b. Development in Town Center Commercial (TCC) and Floodplain Overlay (FO) Districts

The following standards apply to new development within the Town Center Commercial (TCC) District, where part of the development site is located within the Floodplain Overlay (FO) District.

- (1) Buildings shall be clustered out of the Floodplain Overlay (FO) District to the maximum extent practicable.
- (2) The maximum structure height may be increased to three stories for developments that cluster buildings out of the Floodplain Overlay (FO) District. However, the maximum floor area ratio (FAR) shall not exceed the maximum allowed in the underlying base district.
- (3) Impervious areas, such as parking lots, that are located within the Floodplain Overlay (FO) District shall incorporate Low Impact Development (LID) techniques to protect water quality and reduce run-off. Low impact development techniques may include infiltration rain gardens, grass swales, or other porous landscape stormwater detention areas as approved by the Town Engineer. These shall be provided in addition to the Town’s standard stormwater requirements.

(Ord. No. 2015-002, 04/29/2015)

Article 4: Use Standards

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Article 4: Use Standards

SECTION 4.1. ORGANIZATION

Section 4.2, Principal Uses, identifies land uses allowed as the principal uses in the various zoning districts and sets out the special standards that apply to a number of the allowable principal uses. Section 4.3, Accessory Uses and Structures, identifies land uses and structures commonly allowed as accessory to principal uses, sets out general standards applicable to all accessory uses and structures, and sets out special standards that apply to particular accessory uses and structures. Section 4.4, Temporary Uses and Structures, identifies land uses or structures allowed on a temporary basis, sets out general standards applicable to all temporary uses and structures, and sets out special standards that apply to particular temporary uses and structures.

SECTION 4.2. PRINCIPAL USES

4.2.1. Purpose

The purpose of this section is to authorize the establishment and continuation of land uses that are allowed as the primary use(s) of a parcel—i.e., principal uses. This section identifies the zoning districts in which such principal uses are allowed, identifies what type of permit or review is required to establish them, and sets out any special standards applicable to particular principal uses. This section is also intended to establish a hierarchy for organizing principal uses that reflects functional relationships among the various principal uses and that in conjunction with Section 1 1.3, Use Classifications and Interpretation, makes it easier to determine whether a particular proposed use is allowable as a principal use in a particular zoning district.

4.2.2. Organization and Applicability

Section 4.2.3, Classification of Principal Uses, identifies the hierarchy of use classifications, use categories, and use types by which principal uses are organized in this section's Principal Use Table and use-specific standards. Section 4.2.4, Principal Use Table, contains a table listing allowable principal uses and showing whether each use is permitted or prohibited within the various zoning districts, as well as the type of permit or approval by which the use may be allowed. Section 4.2.5, Principal Use-Specific Standards, sets forth standards applicable to specific principal uses regardless of the zoning district in which they are allowed or the review procedure by which they are approved, unless expressly stated to the contrary. These standards may be modified by other applicable requirements in this Ordinance.

4.2.3. Classification of Principal Uses

A. The following hierarchy of use classifications, use categories, and use types is used to organize allowable uses listed in Section 4.2.4, Principal Use Table, and the use-specific standards set out in Section 4.2.5, Principal Use-Specific Standards, Descriptions of this classification system and hierarchy are contained in Section 1 1.3, Use Classifications and Interpretation.

1. Use Classifications

Use Classifications are very broad and general (e.g., Agricultural Uses, Residential Uses, Institutional Uses, Commercial Uses, and Industrial Uses).

2. Use Categories

Use Categories represent major subgroups of the use classifications that have common functional, product, or physical characteristics, such as the type and amount of activity, type of occupants or users/customers, or operational characteristics. For example, the Commercial Use Classification is divided into multiple use categories, including Eating or Drinking Uses and Visitor Accommodation Uses.

3. Use Types

Use Types identify specific principal land uses whose characteristics are considered to fall within the various use categories. For example, bars, lounges, brewpubs, and restaurants are use types within the Eating and Drinking Use Category. Each use type is defined in Section 11.5, Terms and Uses Defined. While the Residential and Institutional use classifications tend to include relatively specific and well-defined use types, the Commercial and Industrial use classifications tend to include broader uses types, reflecting the wider range and ever-growing variety of commercial and industrial uses existing in the community.

- B. Classifying principal uses in this manner provides a systematic basis for determining whether a particular land use not expressly listed should be considered a form or example of a listed principal use, and for addressing future additions to the Principal Use Tables. See Section 11.3, Use Classifications and Interpretation, for a description of the use classification system and procedures for using it to interpret unlisted uses.

4.2.4. Principal Use Table

A. Structure of Principal Use Table

1. Designation of Uses

The Principal Use Table uses the following abbreviations to designate whether and how a principal use is allowed in a particular zoning district:

P	A “P” under a base zoning district column indicates that the use is allowable as a principal use in the district without a permit or with Minor Site Plan Approval in accordance with Section 2.5.7, Site Plan Approval, subject to any referenced use-specific standards and all other applicable regulations of this Ordinance.
P*	A “P*” under a base zoning district column indicates that the use is allowable as a principal use in the district with Major Site Plan Approval in accordance with Section 2.5.7, Site Plan Approval, unless the development qualifies for Minor Site Approval in accordance with Section 2.5.7.A.5 because of its lower intensity or prior approval, subject to any referenced use-specific standards and all other applicable regulations of this Ordinance.
S	An “S” under a base zoning district column indicates that the use is allowable as a principal use in the district only on approval of a Special Use Permit in accordance with Section 2.5.5, Special Use Permit, and subject to any referenced use-specific standards and all other applicable regulations of this Ordinance.
C	A “C” under a base zoning district indicates that the use is allowable as a principal use in the parallel conditional zoning district in addition to those uses also allowed in the base zoning district, subject to any referenced use-specific standards and all other applicable regulations of this Ordinance, and any limiting plans and conditions proposed and approved as part of the Conditional Rezoning establishing the conditional zoning district.
A	An “A” under a planned development (PD) district column indicates that the use is allowable as a principal use in the district only if the PD Plan/Agreement approved for the district expressly identifies the use type as allowed, and subject to any referenced use-specific standards and all other applicable regulations of this Ordinance.
	A blank cell under a base or planned development zoning district column indicates that the use is prohibited as a principal use in the district.
X	An “X” under an overlay district column indicates that the use is prohibited as a principal use in the overlay district, irrespective of whether it is allowed by the underlying base district. This designation applies only to overlay zoning districts.

2. Reference to Use-Specific Standards

A particular use category or use type allowable as a principal use in a zoning district may be subject to additional standards that are specific to the particular use. The applicability of such use-specific standards is noted in the last column of the Principal Use Table (“Use-Specific Standards”) through a reference to standards in Section 4.2.5, Principal Use-Specific Standards.

B. Multiple Principal Uses

A development may include a single principal use with one or more accessory uses that are customarily incidental and subordinate to the principal use (e.g., home occupation as accessory to a dwelling, or administrative offices as accessory to a school, retail sales, or manufacturing use). A development may

also include multiple principal uses, none of which is necessarily customarily incidental or subordinate to another principal use (e.g., a place of worship combined with a school, a gas station combined with a convenience store, restaurant, or automotive repair use, or a flex building housing retail, industrial service, and warehousing tenants). A development with multiple principal uses shall include only those principal uses designated in the use tables as allowed in the applicable zoning district, and each principal use shall be subject to any use-specific standards applicable to the use.

C. Principal Use Table

Table 4.2.4: Principal Use Table

P = Permitted as exempt from Site Plan Approval or with Minor Site Plan Approval by Town staff

P* = Permitted with Major Site Plan Approval by Town Council

(unless qualifying for Minor Site Plan Approval in accordance with Section 2.5.7.A.5)

S = Allowed as a Special Use

C = Allowed as an additional use in the parallel Conditional Zoning District

A = Allowed subject to a PD Plan/Agreement

Blank Cell = Prohibited (except Overlay Districts) X = Prohibited (Overlay Districts only)

Use Category	Use Type	Base/Conditional Districts																	Overlay Districts				Use-Specific Standard			
		PGO	VLDR	LDR	MDR	HDR	NAC	BAC	CAC	RAC	TOD	HCV	MS	TCC	TCR	RT	RNP	CC	OI	IM	MUPD	AO-A		AO-B	FO	TCCO
Agricultural and Animal Related Uses																										
Agricultural Uses	Community Garden	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A					4.2.5.B.1.a
	Farm, Small		P	P								P								P	A					4.2.5.B.1.b
	Farm, Large																			P	A					
	Forestry	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A				4.2.5.B.1.c
	Garden Center													P					P	P	P	A				
	Greenhouse/ Nursery																	P		P	A					
Animal Related Uses	Kennel, Indoor						P	P	P	P	P			P				P	P	P	A					4.2.5.B.2.a
	Kennel, Outdoor																			P	A					4.2.5.B.2.b
	Stables	P	P																	P	A					
	Veterinary Clinic/Hospital						P	P	P	P	P			P				P	P	P	A					4.2.5.B.2.c
Residential Uses																										
Household Living Uses	Bungalow Court																									4.2.5.C.1.a
	Dwelling, Duplex			P*	P*	P*															A	X				
	Dwelling, Live/Work				P	P	P	P	P	P	C		P	C	C		P				A	X				4.2.5.C.1.b
	Dwelling, Manufactured Home															P						X				4.2.5.C.1.c
	Dwelling, Multi- family	≤50 du				P	P	P	P	P	P		P	P	C	C		P			A	X				4.2.5.C.1.d
	>50 du				P*	P*	P*	P*	P*	P		P*	P*	C	C		P*				A	X				
	Dwelling, Single- Family Attached				P*	P*	P*	P*	P*	P*	C		C	C	P*	P*		P*			A	X				
	Dwelling, Single- Family Detached		P*	P*	P*	P*					C	C			P*	P*	P*					A	X			
	Family Care Home		P	P	P	P	P	P			P	P			P	P	P					A	X			4.2.5.C.1.e
Pocket Neighborhood															P										4.2.5.C.1.f	

Table 4.2.4: Principal Use Table

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(unless qualifying for Minor Site Plan Approval in accordance with Section 2.5.7.A.5)

S = Allowed as a Special Use

C = Allowed as an additional use in the parallel Conditional Zoning District

A = Allowed subject to a PD Plan/Agreement

Blank Cell = Prohibited (except Overlay Districts) X = Prohibited (Overlay Districts only)

Use Category	Use Type	Base/Conditional Districts																Overlay Districts				Use-Specific Standard					
		PGO	VLDR	LDR	MDR	HDR	NAC	BAC	CAC	RAC	TOD	HCV	MS	TCC	TCR	RT	RNP	CC	OI	IM	MUPD		AO-A	AO-B	FO	TCCO	
Group Living Uses	Congregate Living Facility					P	P	P	P	P								P	P		A	X				4.2.5.C.2.a	
	Continuing Care Retirement Community					S	S	S										P	P		A	X				4.2.5.C.2.b	
	Dormitory						P	P	P	P	P		P	P				P	P	P	A						
	Rooming House																	P			A	X					
Institutional Uses																											
Community and Government Service Uses	Club or Lodge				P	P	P			P			P	P	P			P	P	P	A	X					
	College or University						P	P	P	P	P		P	P				P	P	P	A						
	Community Center					P	P	P	P	P	P		P	P	P	P		P	P	P	A						
	Cultural Facility						P	P	P	P	P	P	P	P	C			P	P	P	A	X					
	Day Care Center				P	P	P	P	P	P			P					P	P		A	X				4.2.5.D.1.a	
	Emergency Services					P	P	P	P	P	C	P	P	C	C			P	P	P	A						
	Government Services, Administrative				P	P	P	P	P	P			P	P	P			P	P	P	A						
	Government Maintenance, Storage, or Distribution Facility																		P	P	P	A	X				
	Place of Worship, Community					P*	P*	P*			P*	P*		P*		C	C	P	P	P	A	X				4.2.5.D.1.b	
	Place of Worship, Neighborhood		P*	P*	P*	P*	P	P	P		P	P		P	P	C	C	P	P	P	A	X				4.2.5.D.1.c	
	Public Park or Recreation Facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A						
	School, Elementary			P*	P*	P*	P	P	P	P	P	P		P	C	C					A	X					
	School, Middle				P*	P*	P	P	P	P	P	P		P	C	C					A	X					
	School, High					P*	P	P	P	P	P	P		P	C	C					A	X					
	School, Business or Vocational						P	P	P	P	P	P		P	C	C			P	P	P	A					
Sports Academy																			P	P	A						
Health Care Uses	Hospital						P*	P	P									P	P	P	A	X					
	Nursing Home					P	P	P	P	P			P		P			P	P		A	X				4.2.5.D.2.a	
	Office, Medical/ Dental						P	P	P	P	P		P					P	P	P	A						
	Office Park, Medical/ Dental							P	P	P				P					P	P	P	A					
	Urgent Care Facility						P	P	P	P	P		P	P					P	P	P	A					
	Wellness Center						P	P	P	P	P		P	P					P	P	P	A					

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Blank Cell = Prohibited (except Overlay Districts) X = Prohibited (Overlay Districts only)

Use Category	Use Type	Base/Conditional Districts																	Overlay Districts				Use-Specific Standard			
		PGO	VLDR	LDR	MDR	HDR	NAC	BAC	CAC	RAC	TOD	HCV	MS	TCC	TCR	RT	RNP	CC	OI	IM	MUPD	AO-A		AO-B	FO	TCCO
Transportation and Utility Uses	Bus Station							C	C	C	P							C	C	C	A					
	Central Utility Plant						P	P	P	P								P	P	P	A					4.2.5.D.3.a
	Heliport																			S						
	Office, Utility						P	P	P	P	P							P	P	P	A					
	Park and Ride Terminal								C	C	P							C	C	P	A					
	Parking Deck or Lot (as a principal use)	C	C	C	C	C	P	P	P	P	C	C	C	C	C	C	C	P	P	P	A					4.2.5.D.3.b
	Railroad Yard																			S						
	Solar Energy Collection System (as a principal use)																				P	A				4.2.5.D.3.c
	Transit Station						P	P	P	P	P							P	P	P	A					
	Utility Facility, Major				S	S	S	S	S	S								S	S	S	A					
Utility Facility, Minor		P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	A						
Telecommunication Uses	Antenna collocation or combination on existing tower	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A					4.2.5.D.4.a	
	Broadcasting Station																	P	P	P	A					
	Broadcast Studio							P	P	P	P		P	P				P	P	P	A					
	Concealed attached antenna				S	P	P	P	P	P		S	P					P	P	P	A					4.2.5.D.4.b
	Non-concealed attached antenna (private utility easement)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A						4.2.5.D.4.c
	Non-concealed dual-function tower (private utility easement)				P	P	P	P	P	P				P				P	P	P	A					4.2.5.D.4.d
	Concealed towers (town-owned property)	S	S	S	S	P	P	P	P	P	P	S	S	P	S	S	S	P	P	P	A					4.2.5.D.4.e
	Non-concealed towers (town-owned property)					S	S	S	S	S	S							S	S	S	A					4.2.5.D.4.e
	Concealed towers (private property)					p*	p*	p*	p*	p*	p*		S	p*				p*	p*	p*	A					4.2.5.D.4.e
	Non-concealed towers (private property)						S	S	S	S	S							S	S	S	A					4.2.5.D.4.e
DAS Node		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A					4.2.5.D.4.f	

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Use Category	Use Type	Base/Conditional Districts																	MUPD	Overlay Districts				Use-Specific Standard			
		PGO	VLDR	LDR	MDR	HDR	NAC	BAC	CAC	RAC	TOD	HCV	MS	TCC	TCR	RT	RNP	CC		OI	IM	AO-A	AO-B		FO	TCCO	
	DAS Wired Hub		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A					4.2.5.D.4.g	
Commercial Uses																											
Eating and Drinking Establishment Uses	Restaurant						P	P	P	P	P	P	P					P	P	P	A					4.2.5.E.1.a	
	Specialty Eating or Drinking Establishment						P	P	P	P	P	P	P					P	P	P	A						
	Bar or Lounge						P	P	P	P	P	P	P					P	P		A						
Office Uses	Office Building						P	P	P	P	P		P	P				P	P	P	A						
	Office Park							P	P	P				P						P	P	A					
Recreation Uses	Country Club		P	P	P	P															A						
	Golf Course	P	P	P	P	P															A					4.2.5.E.3.a	
	Private Recreation Facility, Indoor					P	P	P	P	P			C	P				P	P	P	A						
	Private Recreation Facility, Outdoor						P	P	P	P								P	P	P	A					4.2.5.E.3.b	
	Sports Training Facility, Indoor																			P	P	A					
Entertainment Uses	Sports Training Facility, Outdoor																			P	P	A				4.2.5.E.3.c	
	Adult Establishment																				S					4.2.5.E.4.a	
	Banquet Hall						P	P	P	P	P			P				P	P	P	A						
	Private Entertainment Facility, Indoor					P	P	P	P	P			C	P				P	P	P	A						
Funeral Related Uses	Private Entertainment Facility, Outdoor						P	P	P	P				P				P	P	P	A						
	Funeral Home						P							P				P		P	A						
	Cemetery		P															P	P	P	A						
	Crematorium																				P	A					
Retail Sales and Service Uses	Stonecutting/Monument Sales																				P	A					
	Convenience Store						P	P	S	S	P							P	P	P	A						
	Farmers' Market							P	P	P	P	P	P	P				P	P	P	A					4.2.5.E.6.a	
	Retail Store	< 3,000 sf						P	P	P	P	P	P	P					P	P	P	A					
		3,000 to < 20,000 sf						P	P	P	P	P	C	P	P				P	P	P	A					
		20,000 to < 50,000 sf						P	P	P	P	P	C	C	C				P	P	P	A					
50,000 to < 75,000 sf									P	P								P		P	A						
≥ 75,000 sf								P*	P*								P*		P	A							

Table 4.2.4: Principal Use Table

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(unless qualifying for Minor Site Plan Approval in accordance with Section 2.5.7.A.5)

S = Allowed as a Special Use

C = Allowed as an additional use in the parallel Conditional Zoning District

A = Allowed subject to a PD Plan/Agreement

Blank Cell = Prohibited (except Overlay Districts) X = Prohibited (Overlay Districts only)

Use Category	Use Type	Base/Conditional Districts																	Overlay Districts				Use-Specific Standard				
		PGO	VLDR	LDR	MDR	HDR	NAC	BAC	CAC	RAC	TOD	HCV	MS	TCC	TCR	RT	RNP	CC	OI	IM	MUPD	AO-A		AO-B	FO	TCCO	
	Service Establishment						P	P	P	P	P	P	P					P	P	P	A						
Retail Sales and Service Uses	Service Establishment, Personal						P	P	P	P	P	P	P					P	P	P	A					4.2.5.E.6.b	
	Shopping Center, Major								P*	P*								P*		P	A						
	Shopping Center, Neighborhood						P	P	P	P	P			P				P		P	A						
Vehicle/ Equipment Sales and Service Uses	Automobile Repair, Major																			P	A					4.2.5.E.7.a	
	Automobile Repair, Minor								P	P				P				P		P	A					4.2.5.E.7.b	
	Automobile Sales or Rental																	P		P	A					4.2.5.E.7.c	
	Automobile Service Station								S	S								P		P	A					4.2.5.E.7.d	
	Car Wash/ Detailing						P							P				P	P	P	A					4.2.5.E.7.e	
	Recreational Vehicle Sales, Rental, or Service																			P	A					4.2.5.E.7.f	
	Taxi or Limousine Service																	P*		P	A					4.2.5.E.7.g	
	Tire Capping and Retreading																			P	A					4.2.5.E.7.h	
	Vehicle Fleet Storage																			P	A					4.2.5.E.7.i	
	Vehicular Towing Service																			P	A					4.2.5.E.7.j	
Visitor Accommodation Uses	Bed and Breakfast										P	P		P							A					4.2.5.E.8.a	
	Hotel/Motel							P	P	P	P		C	P				P	P	P	A						
Industrial Uses																											
Industrial and Service Uses	Construction-Related Activities																				P					4.2.5.F.1.a	
	Flex Space, Major																				P						
	Flex Space, Minor													P					P	P	P						
	Industrial Park																				P						
	Industrial Equipment Sales and Rental																				P					4.2.5.F.1.b	
	Mini-Storage														C						P					4.2.5.F.1.c	

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Use Category	Use Type	Base/Conditional Districts																MUPD	Overlay Districts				Use-Specific Standard			
		PGO	VLDR	LDR	MDR	HDR	NAC	BAC	CAC	RAC	TOD	HCV	MS	TCC	TCR	RT	RNP		CC	OI	IM	AO-A		AO-B	FO	TCCO
Industrial and Service Uses	Motor Freight Terminal, Small																			P						
	Motor Freight Terminal, Large																			S						
	Outdoor Equipment Performance Testing Facility																			P						4.2.5.F.1.d
	Research Laboratory							P											P	P						
	Tank Farm																			S	X					
	Warehousing/ Distribution																			P						
	Wholesale Food Preparation																		P	P						4.2.5.F.1.e
	Wholesale Establishment																			P						
Manufacturing Uses	Brewery																		P	P	P					
	Industrial Assembly, Light																		P	P						
	Industrial Assembly, Heavy																			P						4.2.5.F.2.a
	Manufacturing, Custom						P*	P*											P	P	P					
	Manufacturing, Light																			P						
	Manufacturing, Medium																			P						
	Manufacturing, Heavy																			S						4.2.5.F.2.a
	Micro-Brewery								P	P	P								P	P	P					
	Micro-Winery								P	P	P								P	P	P					
	Winery																		P	P	P					
Extraction and Landfill Uses	Composting Facility																			S						4.2.5.F.3.a
	Extraction of Earth Products																			S						4.2.5.F.3.b
	Hydraulic Fracturing																			S						4.2.5.F.3.c
	Junkyard or Recycling Facility																			S						4.2.5.F.3.d
	Landfill, Construction and Demolition Debris																			S						4.2.5.F.3.e
	Landfill, Municipal Solid Waste																			S	X					4.2.5.F.3.f

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Use Category	Use Type	Base/Conditional Districts																	Overlay Districts				Use-Specific Standard			
		PGO	VLDR	LDR	MDR	HDR	NAC	BAC	CAC	RAC	TOD	HCV	MS	TCC	TCR	RT	RNP	CC	OI	IM	MUPD	AO-A		AO-B	FO	TCCO
Extraction and Landfill Uses	Landfill, Land Clearing and Inert Debris																			S						4.2.5.F.3.g

(Ord. No. 2014-016, 06/24/2014; Ord. No. 2014-022, 06/24/2014; Ord. No. 2014-051, 11/10/2014; Ord. No. 2015-002, 04/29/2015, Ord. No. 2015-083, 01/26/2016; Ord. No. 2016-001, 05/10/2016)

4.2.5. Principal Use-Specific Standards

A. General

Standards for a specific principal use shall apply to the particular individual principal use regardless of the zoning district in which it is located or the review procedure by which it is approved, unless otherwise specified in this Ordinance. This section sets forth and consolidates the standards for all principal uses for which a reference to this section is provided in the “Use-Specific Standards” column of the principal use table in Section 4.2.4.C, Principal Use Table, and in the same order as they are listed in the table. These standards may be modified by other applicable standards or requirements in this Ordinance.

B. Standards for Specific Agricultural and Animal Related Uses

1. Agricultural Uses

a. Community Garden

- (1) Overhead lighting is prohibited.
- (2) Accessory buildings shall be limited to sheds for the storage of tools, greenhouses, and seasonal farm stands. The combined area of all buildings and other structures shall not exceed 15 percent of the area of the parcel.
- (3) Areas used for communal composting shall be limited to ten percent of the area of the parcel.
- (4) Perimeter fences, including trellises, are allowed in community gardens, subject to the standards in Section 5.14, Fences and Walls.
- (5) The community garden shall have an established set of operating rules addressing the governance structure of the garden, hours of operation, assignment of garden plots, and maintenance and security requirements and responsibilities.

b. Farm, Small

The raising of livestock or other animals for commercial purposes is not allowed within the boundary of the Town Center.

c. Forestry

- (1) Forestry activities may occur only on property enrolled as timberland in the State's present use-value tax program or pursuant to a forest management plan prepared by a registered forester.
- (2) Forestry activities shall apply best management practices as necessary to comply with the North Carolina Forestry Practice Guidelines Related to Water Quality (15A NCAC 011.0102 et seq.).
- (3) Forestry activities resulting in the clear-cutting of trees from a site subsequently proposed for development may result in up to a five-year delay in obtaining permits for the development, in accordance with 5.4.2.C, Limitations on Development Proposals Subsequent to Exempt Forestry Activity.

2. Animal Related Uses

a. Kennel, Indoor

- (1) Those parts of structures in which animals are boarded shall be fully enclosed with solid core doors and no operable windows, and shall be sufficiently insulated so noises comply with the noise regulations in the Code of Ordinances, and no unreasonable odor can be detected off the premises.
- (2) The facility shall include a minimum of 200 square feet of outdoor enclosed yard for supervised use by boarded animals for exercise or elimination of waste. Such yard shall be enclosed by an opaque fence or masonry wall at least eight feet in height.
- (3) All boarded animals shall be kept within a totally enclosed part of a structure between the hours of 10:00 p.m. and 6:00 a.m.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2016-001, 05/10/2016)

b. Kennel, Outdoor

- (1) Those parts of structures in which animals are boarded shall be fully enclosed with solid core doors and no operable windows, and shall be sufficiently insulated so noises comply with the noise regulations in the Code of Ordinances, and no unreasonable odor can be detected off the premises.
- (2) Any outdoor enclosed yard for exercise or elimination of waste shall be at least 150 feet from adjoining properties, except where the adjoining property is owned or occupied by the operator of the kennel. A Type B perimeter buffer shall be provided between the enclosed yard and the adjoining property. Such yard shall be enclosed by a fence.
- (3) All boarded animals shall be kept within a totally enclosed part of a structure between the hours of 10:00 p.m. and 6:00 a.m.

(Ord. No. 2016-001, 05/10/2016)

c. Veterinary Clinic/Hospital

- (1) Those parts of structures in which animals are kept shall be fully enclosed, with solid core doors and no operable windows, and shall be sufficiently insulated so no unreasonable noise or odor can be detected off the premises.

- (2) The facility shall include a minimum of 200 square feet of outdoor enclosed yard for temporary use by cared-for animals for exercise or elimination of waste. Such yard shall be enclosed by a solid decorative fence or masonry wall at least eight feet in height.

(Ord. No. 2016-001, 05/10/2016)

C. Standards for Specific Residential Uses

1. Household Living Uses

a. Bungalow Court

(1) Neighborhood Design Standards and Guidelines

A bungalow court is a voluntary single-family detached dwelling alternative that allows lot access via a shared driveway configured as a central motor court in return for voluntary compliance with Section 5.9.7, Single-Family Attached, Detached and Duplex Design Guidelines. Figure 4.2.5.C.1.a: Bungalow Court Configuration provides an example of how development in a bungalow court may be configured. A pocket neighborhood shall comply with all the standards in this section.



Figure 4.2.5.C.1.a: Bungalow Court Configuration

(2) Site Requirements

Development in a bungalow court shall:

- (A) Comply with the requirements in Section 5.9.7, Single-Family Attached, Detached and Duplex Design Guidelines;
- (B) Be located on a site of at least one acre, but not more than ten acres in area;
- (C) Be limited to single-family detached dwellings as the principal use;
- (D) Be configured so that each dwelling unit obtains vehicular access via a common shared driveway that is:
 - (i) Located on common area maintained by a Home Owners Association;
 - (ii) Comprised of concrete, brick, or pavers; and
 - (iii) Located central to the development.
- (E) Be limited to no more than five dwelling units sharing the same common shared driveway; and
- (F) Provide an automatic fire suppression system in each dwelling unit.

(Ord. No. 2016-001, 05/10/2016)

b. Dwelling, Live/Work

- (1) The residential portion of the use shall occupy at least 50 percent of the total gross floor area.
- (2) The nonresidential portion of the building shall be located on the ground floor.
- (3) Employees shall be limited to occupants of the residential portion of the building plus up to three persons not residing in the residential portion.
- (4) Drive-through service is prohibited as an accessory use.

c. Dwelling, Manufactured Home

- (1) The home's length shall be no more than four times its width.
- (2) The enclosed living area shall contain at least 1,200 square feet.
- (3) The roof shall have a minimum pitch of five feet or rise to 12 feet of horizontal run, and shall be finished with a type of shingle or other roofing material commonly used in the construction of single-family detached dwellings.
- (4) Exterior siding shall consist predominantly of vinyl or aluminum horizontal lap siding (with reflectivity no greater than gloss white paint), wood, or hardboard that is comparable in composition, appearance, and durability to the exterior siding commonly used in the construction of single-family detached dwellings.
- (5) The home shall have a permanent masonry foundation around the exterior perimeter of the structure.
- (6) All utility lines connecting directly to the home shall be installed underground.
- (7) The front door of the manufactured home shall face a street.
- (8) Any moving hitch, tongue, wheels, axles, and transporting lights shall be removed before occupancy of the dwelling.

d. Dwelling, Multifamily

- (1) Provision shall be made in all multifamily developments for on-site collection of recyclables as follows:
 - (A) Collection facilities shall be co-located with dumpster enclosures and in central and visible locations.
 - (B) Provision shall be made for collection of the following items: paper, glass, aluminum, cardboard, and plastic.
- (2) Parking spaces shall be distributed in a multifamily development so that each building has access to the number of spaces required to serve that building.

(Ord. No. 2016-001, 05/10/2016)

e. Family Care Home

No new family care home is permitted within a one-half mile radius of an existing family care home.

f. Pocket Neighborhood

(1) Neighborhood Design Standards

A pocket neighborhood is a voluntary single-family detached dwelling alternative that allows reduced dimensional standards in return for voluntary compliance with Section

5.9.7, Single-Family Attached, Detached and Duplex Design Guidelines. Figure 4.2.5.C.1.f: Pocket Neighborhood Configuration provides an example of how development in a pocket neighborhood may be configured. A pocket neighborhood shall comply with all the standards in this section.



Figure 4.2.5.C.1.f: Pocket Neighborhood Configuration

(2) Site Requirements

Development in a pocket neighborhood shall:

- (A) Comply with the requirements in 5.9.7, Single-Family Attached, Detached and Duplex Design Guidelines;
- (B) Be located on a site of at least one-third (1/3) of an acre but no greater than four acres in area;
- (C) Be limited to single-family detached dwellings as the principal use;
- (D) Include at least four, but not more than 12 dwelling units;
- (E) Include common open space configured as a central green, garden, or gathering space with at least 375 square feet of area per dwelling in the development in addition to the open space requirements set forth in Section 5.5, Common Open Space and Public Recreation Area;
- (F) Be served solely by private alleys;
- (G) Limit detached garage structures to no more than five car bays per structure, and garage doors to no more than 12 feet in width per door; and
- (H) Provide an automatic fire suppression system in each dwelling unit.

(3) Dwelling Unit Configuration

All dwelling units in a pocket neighborhood shall be configured in accordance with the following standards:

- (A) A dwelling unit shall be at least 1,300 square feet, but not more than 2,500 square feet;
- (B) Each dwelling unit shall incorporate a covered front porch of at least five feet in depth and five feet in width; and
- (C) Any facade facing common area shall incorporate a sufficient amount of windows to facilitate observation of the common area from within the dwelling.

(4) Common Building

A common building located within the common open space area may be included as an accessory use, but in no instance shall the common building exceed 4,000 square feet or serve as a permanent dwelling unit.

(Ord. No. 2016-001, 05/10/2016)

2. Group Living Uses

a. Congregate Living Facility

(1) A minimum of 15 percent of the land area (excluding streets and parking areas) shall be designated as outdoor open space for enjoyment and use of the residents. The open space shall be safe and easily accessible, and provide active or passive recreation opportunities.

b. Continuing Care Retirement Community

- (1) The continuing care retirement community shall be for the sole residency of persons 62 years or older.
- (2) The number of nursing care beds shall not be more than 50 percent of the total number of permitted dwelling units.
- (3) Conveniently located indoor common areas for recreation, social, and dining shall be provided for the residents.
- (4) A minimum of 15 percent of the land area (excluding streets and parking areas) shall be designated as outdoor open space for the enjoyment and use of the residents. The open space shall be safe and easily accessible, and provide active or passive recreation opportunities.

D. Standards for Specific Institutional Uses

1. Community and Government Service Uses

a. Day Care Center

(1) The center shall comply with all applicable State regulations and obtain appropriate State licensing prior to operation.

b. Place of Worship, Community

- (1) The place of worship shall be located on a lot that fronts an thoroughfare or collector street.
- (2) If the place of worship is proposed within a facility previously used for a commercial use, it shall comply with standards for minimum number of parking spaces required for a place of worship.
- (3) A decision-making authority may grant modifications of the standards applicable to a place of worship on finding that the modification is necessary to eliminate a substantial burden on religious practice, as guaranteed by the federal Religious Land Use and Institutionalized Persons Act (RLUIPA) of 2000 (42 U.S.C. § 2000 et seq.). In doing so, the decision-making authority may impose conditions consistent with RLUIPA that will substantially secure the objectives of the modified standard and substantially mitigate any potential adverse impact on the environment or adjacent properties.

(Ord. No. 2016-001, 05/10/2016)

c. Place of Worship, Neighborhood

- (1) If the place of worship is proposed within a facility previously used for a commercial use, it shall comply with standards for minimum number of parking spaces required for a place of worship.
- (2) A decision-making authority may grant modifications of the standards applicable to a place of worship on finding that the modification is necessary to eliminate a substantial burden on religious practice, as guaranteed by the federal Religious Land Use and Institutionalized Persons Act (RLUIPA) of 2000 (42 U.S.C. § 2000 et seq.). In doing so, the decision-making authority may impose conditions consistent with RLUIPA that will substantially secure the objectives of the modified standard and substantially mitigate any potential adverse impact on the environment or adjacent properties.

2. Health Care Uses

a. Nursing Home

- (1) A minimum of 15 percent of the land area (excluding streets and parking areas) shall be designated as outdoor open space for enjoyment and use or viewing by the residents. The open space shall be safe, easily accessible, and visible from major indoor activity areas and patient rooms, and provide active or passive recreation opportunities.

3. Transportation, Communication, and Utility Uses

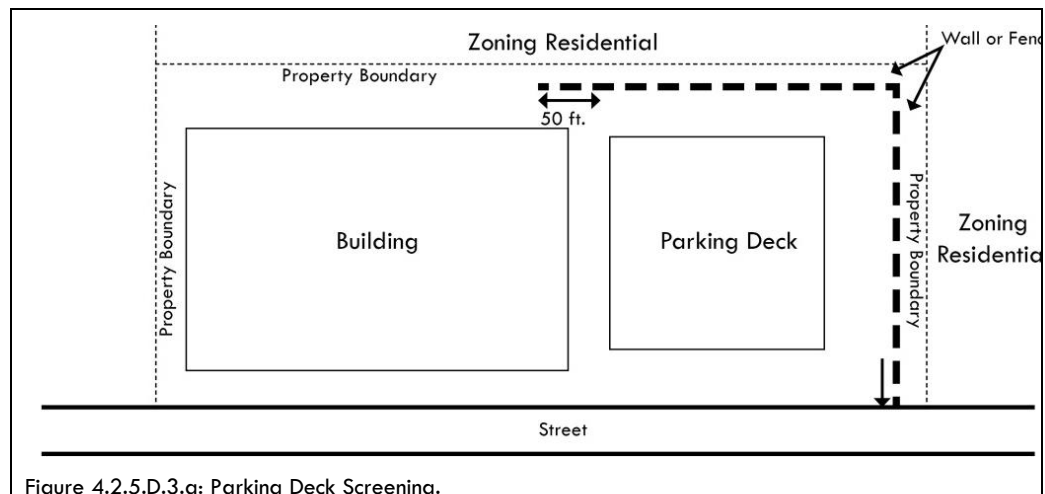
a. Central Utility Plant

- (1) A central utility plant use is only permitted in conjunction with the following principal uses:
 - (A) College or University; and
 - (B) Hospital.

(Ord. No. 2015-002, 04/29/2015)

b. Parking Deck or Lot (as a principal use)

- (1) When a parking deck is the closest structure to an adjoining property in a residential zoning district, a continuous opaque wall or fence at least six feet high shall be provided along the property line(s) between the parking deck and the adjoining property, and extending for at least 50 feet beyond the edge of the parking deck or to the property line. (See Figure 4.2.5.D.3.a: Parking Deck Screening.)



- (2) Residential uses, retail sales and service uses, and office uses may be located on the ground floor of a parking deck. No other business shall be conducted in the parking deck or lot, including, but not limited to, repair, servicing, washing, display, or storage of vehicles or other goods.
- (3) To provide visual interest and create pedestrian activity at the street level, parking decks within the Transit-Oriented Development (TOD) District shall contain retail sales and service uses and office uses along a minimum of 50 percent of their ground-floor frontage along streets other than alleys. The Planning Director may approve alternative requirements if the site lacks sufficient depth to accommodate both a parking deck and usable retail and office space at the ground-floor level.

c. Solar Energy Collection System (as a principal use)

- (1) The maximum lot coverage of the system and any associated equipment shall not exceed 65 percent.
- (2) Adequate access for maintenance of the system shall be provided.
- (3) The system shall not exceed a height of 20 feet.
- (4) The property owner shall be responsible for negotiating with other property owners in the vicinity to establish any solar easement designed to protect solar access for the solar energy collection system, and for recording any such solar easement with the Register of Deeds for the county in which the easement is located.

(Ord. No. 2014-051, 11/10/2014)

4. Telecommunication Uses

a. Antenna Collocation or Combination on Existing Telecommunication Facilities

Collocations and combinations are subject to the following requirements:

- (1) A collocated or combined antenna or antenna array shall not increase the height of an existing tower by more than 20 feet and shall not affect any tower lighting.
- (2) The compound area shall be subject to the setback requirements of the underlying zoning district.
- (3) When a collocated or combined antenna is to be located on a nonconforming tower or support structure, the existing permitted nonconforming setback(s) shall prevail.
- (4) A description of the proposed antenna collocation or combination, including the element design, type and number, as well as changes in the number and/or size of any feed lines, from the base of the equipment cabinet to such antenna elements.
- (5) A signed statement from a qualified individual representing the applicant, along with the individual's qualifications, certifying that the applicant will comply with all FCC standards regarding:
 - (A) Human exposure to RF emission; and
 - (B) Interference with other radio services.
- (6) A sealed structural analysis of the existing structure prepared by a registered Professional Engineer licensed by the State of North Carolina indicating that the existing tower as well as all existing and proposed appurtenances meets current NC Building Code requirements, including, but not limited to, wind loading and ANSI EIA/TIA 222 standards, for the tower.

- (7) Applications entitled to the streamlined processes shall meet all of the requirements described in Section 160A-400.50 through Section 160A-400.53 of the North Carolina General Statutes.
- (8) Applications for collocation entitled to streamlined processing pursuant to Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 USC 1455(a)) shall be approved provided they meet the following requirements:
 - (A) A collocation on an existing tower or support structure shall not increase the overall height of the tower, support structure, antenna and/or antenna array more than ten percent or 20 feet, whichever is greater, and shall not cause the width (girth) of the structure to be increased more than 20 feet or the existing girth of the tower or support structure, whichever is greater.
 - (B) Any collocation on an existing tower or support structure shall meet current NC Building Code requirements (including wind loading).
 - (C) A collocation shall not add more than four additional equipment cabinets or one additional equipment shelter to be eligible as a collocation under this subsection 4.2.5.D.4.a(8).
 - (D) A collocation eligible under this subsection 4.2.5.D.4.a(8) shall not require excavation outside of existing leased or owned parcel or existing easements.
 - (E) Proposed collocations that do not meet the standards of subsection 4.2.5.D.4.a(8) shall be processed either pursuant to subsection 4.2.5.D.4.a(7) or pursuant to subsection 4.2.5.D.4.b or subsection 4.2.5.D.4.c.

(Ord. No. 2015-002, 04/29/2015)

b. Concealed Attached Antenna

Concealed attached antennas may be mounted onto a building, support structure, transmission tower structure, or other similar structure, which is not primarily constructed for holding antennas but on which one or more antennas may be mounted. Concealed attached antennas shall be subject to the following:

- (1) The top of the antennas shall not exceed 20 feet above the top of the structure and shall be architecturally indiscernible from the building, support structure, transmission tower structure, or other similar structure.
- (2) The applicant shall provide documentation verifying that the installation of a concealed attached antenna will not compromise the structural integrity of the building, support structure, transmission tower structure or other similar structure.
- (3) If installed onto a building wall, concealed attached antennas shall be flush-mounted and may protrude from the wall no more than 12 inches.
- (4) Concealed attached antennas and ancillary equipment shall only be allowed on buildings, support structures, streetlights, traffic signal poles, flagpoles, or other similar structures subject to compliance with this ordinance and applicable utility company requirements or building owner requirements.
- (5) Feed lines, cables, and ancillary equipment shall be designed to architecturally match the facade, roof, wall, pole and/or structure on which they are affixed in order to blend with the existing structural design, color, and texture.
- (6) If an ancillary equipment compound area is located on the roof of a building, the compound area shall not occupy more than twenty-five percent of the roof area, and shall comply with all current NC Building Code requirements for the proposed or existing building. If an ancillary equipment compound is located on the roof of the building, the

compound area shall not be visible from any pedestrian or right of way view, shall be screened with opaque material consistent with the building or rooftop and shall be no higher than the parapet wall or 10 feet, whichever is taller.

- (7) The applicant shall provide renderings or photographs of the proposed concealed attached antenna including, but not limited to, design, colors and screening devices.
- (8) When a concealed attached antenna is to be located on a building or support structure with nonconforming setbacks, the existing permitted nonconforming setback shall prevail.

c. Non-Concealed Attached Antenna

Non-concealed attached antennas may be mounted onto a support structure, utility distribution pole, transmission tower structure or other similar structure, which is not primarily constructed for holding antennas but on which one or more antennas may be mounted. Non-concealed attached antennas shall be subject to the following:

- (1) The top of the antennas shall not exceed 20 feet above the top of the support structure, or transmission tower structure or other similar structure.
- (2) The applicant shall provide documentation verifying that the installation of a non-concealed attached antenna will not compromise the structural integrity of the support structure, transmission tower structure or other similar structure.
- (3) If a non-concealed attached antenna is installed on a transmission tower structure, the applicant shall provide documentation verifying that the antenna will not interfere, or be interfered with, by the normal operating characteristics of the transmission line.
- (4) Antenna elements shall only be permitted atop existing transmission tower structures and existing light stanchions subject to compliance with this ordinance and applicable utility company requirements.
- (5) Antennas, and related equipment buildings, shall be located or screened to minimize the visual impact of the non-concealed attached antennas upon adjacent properties and shall be of a material or color that matches the exterior of the building or structure upon which it is situated.
- (6) Commercial advertising shall not be allowed on an antenna.
- (7) Signals, lights, or illumination shall not be permitted on an antenna, unless required by the FCC or the FAA.
- (8) Non-concealed attached antenna(s) may be located on utility distribution poles pursuant to the following regulations:
 - (A) The antenna shall not extend more than twenty percent or ten feet, whichever is less, above the existing pole height. If the pole is replaced to withstand the addition of telecommunication equipment, the replacement pole shall not exceed the height of the original pole.
 - (B) The maximum height of the pole with antenna shall not exceed 45 feet in height.
 - (C) The utility distribution pole is located on public property, within public easements, or public rights-of-way.
 - (D) The utility distribution pole shall not be wooden.
 - (E) The antenna shall be of a size and placement that is structurally compatible with the engineering design of the pole pursuant to the NC Building Code and attested to by a professional engineer licensed in the State of North Carolina, and competent to evaluate antenna choices.

- (F) Placement of an antenna on a utility distribution pole shall only be on poles owned or operated by a public utility authorized to operate in the Town, a Town franchisee, or the Town of Morrisville.
- (G) All relocation costs associated with any relocation of the antenna necessitated by street or sidewalk improvements shall be borne by the telecommunication provider.

d. Non-Concealed Dual-Function Tower (Private Utility Easement)

A non-concealed dual-function tower may be installed within an existing transmission tower structure, subject to the following:

- (1) The top of the non-concealed dual-function tower shall not exceed 20 feet above the top of the transmission tower structure.
- (2) The applicant shall provide documentation verifying that the installation of a non-concealed dual-function tower will not compromise the structural integrity of the transmission tower structure.
- (3) The applicant shall provide documentation verifying that the antenna will not interfere, or be interfered with, by the normal operating characteristics of the transmission line.
- (4) The non-concealed dual-function tower shall only be permitted subject to compliance with this ordinance and applicable utility company requirements.
- (5) Related equipment buildings, shall be located or screened to minimize the visual impact upon adjacent properties, which includes, but is not limited to, materials, colors, landscaping to blend with the surrounding environment in which it is situated.
- (6) Commercial advertising shall not be allowed on the non-concealed dual-function tower.
- (7) Signals, lights, or illumination shall not be permitted on the non-concealed dual-function tower, unless required by the FCC or the FAA.

e. Concealed and Non-Concealed Telecommunication Towers

New telecommunication towers are subject to the following:

(1) Determination of Need

No new tower shall be permitted unless the applicant demonstrates compliance with this ordinance, including, but not limited to compliance with Article 6 – Riparian Buffers and Article 7 – Stormwater Management, and that no existing facility can accommodate the applicant's proposed use; or that use of such existing facility would prohibit personal wireless services in the geographic search area to be served by the new tower.

(2) Telecommunication Tower Design and Construction

New telecommunication towers shall be engineered and constructed as follows:

- (A) All towers up to 120 feet in height shall accommodate no less than three antenna arrays.
- (B) All towers between 120 feet one-inch and 140 feet shall accommodate no less than four antenna arrays.
- (C) All towers greater than 140 feet one-inch shall be engineered and constructed to accommodate at least five antenna arrays.
- (D) New non-concealed towers shall be limited to monopole type towers.

(3) Height

The height of new towers shall be limited as follows:

(A) Residential Areas

New towers shall be limited to 100 feet or less in height.

(B) Nonresidential Areas

New towers shall be limited to 130 feet or less in height.

(4) Breakpoint technology

New towers shall be designed using breakpoint technology. Certification by a registered professional engineer licensed by the State of North Carolina of the breakpoint design and the design's fall radius must be provided together with the other information required herein from an applicant.

(5) Setbacks

Setbacks shall equal the height of the designed breakpoint of new tower. For example, if the designed breakpoint equals ninety feet, the new tower then requires a 90-foot setback on all sides. Setbacks are measured as follows:

(A) From the property line(s) to the vertical centerline of the proposed tower.

(B) The equipment compound area fence shall be subject to the underlying zoning district setbacks.

(C) When adjacent to railroad right-of-way, the underlying zoning district setbacks shall prevail.

(6) Equipment Compounds

The fenced in compounds shall not be used for the storage of any excess equipment or hazardous materials. Outdoor storage yards shall be prohibited within an equipment compound.

(7) Equipment Cabinets and Shelters

Cabinets and shelters shall not be visible from pedestrian and vehicular right-of-way views. Cabinets and shelters may be provided within the principal building, behind a screen on a rooftop, or on the ground within the fenced-in and screened equipment compound.

(8) Fencing

All equipment compounds shall be enclosed with an opaque black vinyl-coated fence with an entrance gate. The fence shall be a minimum of six feet in height.

(9) Signage

Commercial messages are prohibited on any tower or fencing. Required noncommercial signage shall be subject to the following requirements:

(A) The only signage that is permitted upon a tower, equipment cabinets, or compound area fence shall be informational, and for identifying the tower (such as ASR registration number and address), as well as the party responsible for the operation and maintenance of the facility, and any additional security and safety signs, as applicable.

(B) If more than 220 voltage is necessary for the operation of the facility and is present in a ground grid or in the tower, signs located every twenty feet and attached to the fence shall display in large, bold, high contrast letters, minimum height of each letter four inches, the following: "HIGH VOLTAGE - DANGER."

- (C) Nameplate signage shall be provided, in an easily visible location, including the address and telephone number of the contact to reach in the event of an emergency or equipment malfunction, including property manager signs as applicable.

(10) Lighting

Lighting on towers shall not exceed the Federal Aviation Administration (FAA) minimum standards. 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. Strobe light standards are prohibited unless required by the FAA. The lights shall be oriented so as not to project directly onto surrounding property, consistent with FAA requirements.

(11) Location

In residential zoning districts, new towers shall only be permitted on lots whose principal use is not single-family residential, including schools, churches, places of worship, synagogues, fire stations, or parks.

(12) Visibility

New concealed towers shall be subject to the following requirements:

- (A) New concealed towers shall be configured and located in a manner that minimizes adverse effects including visual impacts on the landscape and adjacent properties.
- (B) New concealed towers shall be designed to match adjacent structures and landscapes with specific design considerations such as architectural designs, height, mass, scale, color, and texture.

(13) Balloon Test

- (A) A balloon test shall be required subsequent to the receipt of the photo simulations in order to demonstrate the proposed height of the tower. The applicant shall arrange to raise a colored balloon no less than three feet in diameter at the maximum height of the proposed tower, and within 50 horizontal feet of the center of the proposed tower.
- (B) The applicant shall comply with the following balloon test requirements:
 - (i) Inform the Planning Department and all property owners within 500 feet in writing of the date and times, including alternative date and times, of the test at least 14 days in advance. The letter shall include an alternative date if inclement weather occurs.
 - (ii) The balloon shall be flown for at least four (4) consecutive hours during daylight hours on the date chosen. The applicant shall record the weather during the balloon test.

(14) Site Grading

Grading shall be minimized and limited to the development area necessary for the new tower, equipment compound, and any applicable access drive.

(15) Landscape Buffers

Landscaping shall be provided within a minimum 10 foot wide buffer around the perimeter of the equipment compound. The following planting standards shall apply:

- (A) All plants and trees shall be indigenous to this part of North Carolina.
- (B) Existing trees and shrubs on the site should be preserved and may be used in lieu of required landscaping as approved by the Planning Department.

- (C) One continuous row of evergreen trees surrounding the compound area, excluding the entry gate. The evergreen trees shall be a minimum 2.5 inch caliper, and 10 feet in height at the time of planting, and spaced 25 feet on center.
- (D) One continuous row of evergreen shrubs capable of creating a continuous hedge surrounding the compound area, excluding the entry gate. The evergreen shrubs shall be a minimum 3 gallon or 24 inches tall at the time of planting, and spaced 5 feet on center.
- (E) Alternative landscaping plans may be considered and approved by the Planning Department, provided the proposed alternative proposes an equivalent opacity and density of landscape screening as provided above, and is otherwise consistent with the requirements of this section.
- (F) Generators within the compound area shall be screened with an opaque row of evergreen landscaping planted outside the compound area to screen the generator from the view from nearby streets, sidewalks, greenways and residential areas. The evergreen landscaping shall screen both the height and width of the generator. Existing vegetation may be used to satisfy the generator screening requirement.

(Ord. No. 2016-001, 05/10/2016)

f. Distributed Antenna System (DAS) Nodes

DAS Nodes may be mounted onto a building, support structure, utility distribution pole, transmission tower structure or other similar structure, which is not primarily constructed for holding antennas but on which one or more antennas may be mounted. DAS Nodes shall be subject to the following:

- (1) The top of the DAS Node antennas shall not exceed 10 feet above the building roofline, above the top of the support structure, utility distribution pole or transmission tower structure or other similar structure.
- (2) The applicant shall provide documentation verifying that the installation of the DAS Node equipment will not compromise the structural integrity of the building, support structure, utility distribution pole, transmission tower or other similar structure.
- (3) If DAS Node equipment is installed on a utility distribution pole or transmission tower, the applicant shall provide documentation verifying that the DAS Node equipment will not interfere, or be interfered with, by the normal operating characteristics of the utility distribution pole or transmission tower.
- (4) DAS Node antenna shall only be permitted atop existing utility distribution pole or transmission tower and existing light stanchions subject to compliance with this ordinance and with approval by the Town and applicable utility company.
- (5) If a DAS Node includes a DAS System (meaning a DAS Wired Hub adjacent to the DAS Node) and the DAS Wired Hub compound area is located on the roof of a building, the compound area shall not occupy more than twenty-five percent of the roof area, and shall comply with all current NC Building Code requirements for the proposed or existing building.
- (6) DAS Node equipment cabinets and shelters shall be located or screened to minimize the visual impact of the DAS Node equipment cabinets upon adjacent properties and shall be of a material and color that matches the exterior of the building or structure upon which it is situated. DAS Node equipment cabinets and shelters shall be located in a manner so as to not create any pedestrian or vehicular impediments or hazards.
- (7) Commercial advertising shall not be allowed on a DAS Node.

- (8) Signals, lights, or illumination shall not be permitted on a DAS Node, unless required by the FCC or the FAA.
- (9) DAS Node equipment may be located on utility distribution poles pursuant to the following regulations:
 - (A) The maximum height of the pole with the DAS Node equipment shall not exceed 45 feet in height.
 - (B) The utility distribution pole is located on public property, within public easements, or public rights-of-way.
 - (C) The DAS Node and ancillary equipment shall be concealed in such a manner that the equipment is visually indiscernible from the pole on which the DAS Node and equipment is attached.
 - (D) The DAS Node equipment shall be of a size and placement that is structurally compatible with the engineering design of the pole pursuant to the current NC Building Code and attested to by a professional engineer licensed in the State of North Carolina, and competent to evaluate antenna choices.
 - (E) The DAS Node shall not extend more than 10 feet above the existing pole height. If the pole is replaced to withstand the addition of telecommunications equipment, the replacement pole shall not exceed the height of the original pole.
 - (F) Placement of a DAS node on a utility distribution pole shall only be on poles owned or operated by a public utility authorized to operate in the Town, a Town franchisee, or the Town of Morrisville.
- (10) All relocation costs associated with any relocation of the DAS Node necessitated by roadway or sidewalk improvements shall be borne by the applicant.

g. Distributed Antennae System (DAS) Wired Hub

DAS Wired Hubs are subject to the following:

(1) Setbacks

Setbacks shall equal 100 percent of the length of the longest side of the DAS Wired Hub compound area (width or length) For example, if the longest side of the DAS Wired Hub compound area equals 30 feet, then the required setback equals 30 feet on all sides. Setbacks are measured as follows:

- (A) From the property line(s) to the equipment compound area fence.
- (B) From the road right-of-way line to the equipment compound area fence.
- (C) When adjacent to railroad right-of-way, the underlying zoning setback shall prevail.

(2) Screening

DAS Wired Hub facilities and equipment shall be hidden and/or screened from public view by one or more of the following techniques:

(A) Locate equipment within a building

The building shall be designed to be consistent with the prevailing architectural style of the neighborhood in which it is located, including exterior materials and roof pitch. The enclosure shall not exceed one story, unless location in a flood plain or other drainage concerns requires it to be elevated.

(B) Locate equipment behind a secured, fenced area with a landscaped perimeter

An evergreen landscape buffer shall surround the perimeter of the DAS Wired Hub per the buffer requirements identified in Section 4.2.5.D.4.g(8) below .

(C) Roof-top equipment

DAS Wired Hub equipment shall be screened from public view in a manner that is consistent with the architectural style of the building upon which the DAS Wired Hub is located.

(3) DAS Wired Hub Compound Area

The DAS Wired Hub compound area shall not be used for the storage of any excess equipment or hazardous materials. Outdoor storage yards shall be prohibited within a compound area.

(4) Equipment cabinets and shelters

Cabinets and shelters shall not be visible from pedestrian and vehicular right-of-way views. Cabinets may be provided within the principal building, behind a screen on a rooftop, or on the ground within the fenced-in and screened DAS Wired Hub compound area.

(5) Fencing

The DAS Wired Hub compound area shall be enclosed with an opaque black vinyl-coated fence or wall with an access gate to minimize opportunities for unauthorized access, climbing, vandalism, graffiti and other conditions that would result in hazardous conditions, visual blight and attractive nuisances. The fence or wall shall be no less than the above grade height of any equipment within the compound area, which shall not be taller than one story, unless located in a flood zone.

(6) Signage

Commercial messages are prohibited on any tower or fencing. Required noncommercial signage shall be subject to the following requirements:

(A) The only signage that is permitted upon a DAS Wired Hub or compound area fence shall be informational such as the party responsible for the operation and maintenance of the facility, and any additional security and safety signs as applicable.

(B) If more than 220 voltage is necessary for the operation of the facility, signs located every twenty feet and attached to the fence shall display in large, bold, high contrast letters, minimum height of each letter four inches, the following: "HIGH VOLTAGE - DANGER."

(C) Nameplate signage shall be provided, in an easily visible location, including the address and telephone number of the contact to reach in the event of an emergency or equipment malfunction, including property manager signs as applicable.

(7) Lighting

Lighting on DAS Wired Hub shall be limited to that required for compliance with FCC or FAA minimum standards. 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. Strobe light standards are prohibited unless required by the FAA. The lights shall be oriented so as not to project directly onto surrounding property, consistent with FAA requirements.

(8) Landscape Buffers

Landscaping shall be provided within a minimum 10 foot wide buffer around the perimeter of the DAS Wired Hub compound area. The following planting standards shall apply:

- (A) All plants and trees shall be indigenous to this part of North Carolina.
- (B) Existing trees and shrubs on the site should be preserved and may be used in lieu of required landscaping as approved by the Planning Department.
- (C) One continuous row of evergreen trees surrounding the compound area, excluding the entry gate. The evergreen trees shall be a minimum 2.5 inch caliper, and 10 feet in height at the time of planting, and spaced 25 feet on center.
- (D) One continuous row of evergreen shrubs capable of creating a continuous hedge surrounding the compound area, excluding the entry gate. The evergreen shrubs shall be a minimum 3 gallon or 24 inches tall at the time of planting, and spaced 5 feet on center.
- (E) Alternative landscaping plans may be considered and approved by the Planning Department, provided the proposed alternative proposes an equivalent opacity and density of landscape screening as provided above, and is otherwise consistent with the requirements of this section.
- (F) Generators within the compound area shall be screened with an opaque row of evergreen landscaping planted outside the compound area to screen the generator from the view from nearby streets, sidewalks, greenways and residential areas. The evergreen landscaping shall screen both the height and width of the generator. Existing vegetation may be used to satisfy the generator screening requirement.

(Ord. No. 2014-016, 06/24/2014; Ord. No. 2014-051, 11/10/2014; Ord. No. 2016-001, 05/10/2016)

E. Standards for Specific Commercial Uses

1. Eating and Drinking Establishments

a. Restaurant

To assure provision of adequate parking, the maximum amount of seating and/or square footage of the public floor area for a potential restaurant use in a multi-tenant building shall be specified at the time of site plan approval.

2. Office Uses (reserved)

3. Recreation Uses

a. Golf Course

A golf course shall not locate any permanent structures in the Parks/Greenway/Open Space (PGO) District.

b. Private Recreation/Entertainment Facility, Outdoor

A shooting range is not a permitted use.

(Ord. No. 2015-083, 01/26/2016)

c. Sports Training Facility, Outdoor

A shooting range is not a permitted use.

(Ord. No. 2015-083, 01/26/2016; Ord. No. 2016-001, 05/10/2016)

4. Entertainment Uses

a. Adult Establishment

- (1) A property containing an adult establishment shall be located at least 1,000 feet from any residential zoning district, other property containing an establishment with an on premise North Carolina ABC license, and other property containing any of the following uses:
 - (A) Any household living or group living residential use;
 - (B) College or University;
 - (C) Day care center;
 - (D) Dormitory;
 - (E) Cultural facility;
 - (F) School, elementary, middle, or high;
 - (G) School, business or vocational;
 - (H) Sports Academy;
 - (I) Public park or recreation facility; or
 - (J) Place of worship, community or neighborhood.
- (2) A property containing an adult establishment shall be located at least 2,000 feet from other property containing another adult establishment.
- (3) There may be no more than one such establishment on the same property, or in the same building.
- (4) No other principal use may occupy the same property or building as the adult establishment.
- (5) Except for ground-mounted and wall-mounted fascia signs permitted in Section 5.16, Signage, there shall be no other advertisements, displays, signs, or promotional materials visible to the public from streets or sidewalks.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2016-001, 05/10/2016)

5. Funeral Related Uses (reserved)

6. Retail Sales and Service Uses

a. Farmers' Market

- (1) Market sales shall be limited to the retail sale of fresh fruits and vegetables, herbs, mushrooms, nuts, honey, raw juices, molasses, dairy products, eggs, poultry, meats, fish, shellfish, fresh-cut or dried flowers, nursery stock, seedlings, plants, and other agriculture, aquaculture, and horticulture products produced by the vendor/producer, including the sale of products made by the vendor/producer from such agriculture, aquaculture, and horticulture products (e.g., baked goods, jams and jellies, juices, cheeses) and incidental sales of crafts or similar home-made products made by the vendor/producer.
- (2) The market shall provide adequate ingress, egress, and off-street parking areas.
- (3) Items for sale shall not be displayed or stored within customer pathways.
- (4) The market shall have an established set of operating rules addressing the governance structure of the market, hours of operation, and maintenance and security requirements and responsibilities.

- (5) The market shall have a manager authorized to direct the operations of all participating vendors during all hours of operation.
- (6) The market shall comply with applicable signage standards in Section 5.16, Signage.

b. Service Establishment, Personal

A tattoo parlor, massage parlor, or tarot card reading use is not allowed in any Town Center District (HCV, MS, TCC, TCR, RT, RNP).

7. Vehicle/Equipment Sales and Service Uses

a. Automobile Repair, Major

- (1) Areas used to store vehicles awaiting repair or pick-up shall be screened in accordance with the outdoor storage screening standards in Section 4.3.5.B.20, Outdoor Storage (as an accessory use).
- (2) All repairs shall be performed inside a building.
- (3) Vehicles shall not be parked or stored for more than 30 consecutive days.
- (4) Parking or storage of vehicles for parts outside of a building is not permitted.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2015-002, 04/29/2015)

b. Automobile Repair, Minor

- (1) Areas used to store vehicles awaiting repair or pick-up shall be located at least 30 feet from a street right-of-way.
- (2) All repairs shall be performed inside a building.
- (3) Vehicles shall not be parked or stored for more than three consecutive days.
- (4) Parking or storage of vehicles for parts outside of a building is not permitted.

(Ord. No. 2015-002, 04/29/2015)

c. Automobile Sales or Rental

- (1) No displays of automobiles shall be located in required perimeter or streetyard buffers, on top of buildings, or in required off-street parking spaces, drive aisles, fire lanes, passenger loading zones, commercial loading areas, or public or private streets.
- (2) Automobiles must be stored on asphalt, concrete, brick, pavers, or an equivalent hard, dustless, and bonded surface material that is maintained in a smooth, well-graded, clean, orderly, and dust-free condition. The use of gravel is prohibited.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2016-001, 05/10/2016)

d. Automobile Service Station

- (1) Areas used to store vehicles awaiting repair or pick-up shall be screened in accordance with the outdoor storage screening standards in Section 4.3.5.B.20, Outdoor Storage (as an accessory use).
- (2) All repairs shall be performed inside a building.
- (3) Vehicles shall not be parked or stored for more than 30 consecutive days.
- (4) Parking or storage of vehicles for parts outside of a building is not permitted.
- (5) Driveways providing right in/right out access shall be no more than 28 feet wide and driveways providing full access shall be no more than 36 feet wide.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2015-002, 04/29/2015)

e. Car Wash/Detailing

- (1) In the Neighborhood Activity Center (NAC) and Town Center Commercial (TCC) Districts, all activities and operations associated with the primary activities and operations of the car wash/detailing use, other than vacuuming, detailing, and hand-drying, shall be completely enclosed within a building. Self-service car wash bays or similar facilities are not permitted.

f. Recreational Vehicle Sales, Rental, or Service

- (1) No displays of recreational vehicles shall be located in a required perimeter or streetyard buffer, on top of a building, or in off-street parking spaces, fire lanes, passenger loading zones, commercial loading areas, or public rights-of-way.
- (2) Recreational vehicles must be stored on asphalt, concrete, brick, pavers, or an equivalent hard, dustless, and bonded surface material that is maintained in a smooth, well-graded, clean, orderly, and dust-free condition. The use of gravel is prohibited.

(Ord. No. 2014-022, 06/24/2014)

g. Taxi or Limousine Service

- (1) Vehicles cannot be stored in off-street parking spaces, fire lanes, passenger loading zones, commercial loading areas, or public rights-of-way.
- (2) Vehicles must be stored on asphalt, concrete, brick, pavers, or an equivalent hard, dustless, and bonded surface material that is maintained in a smooth, well-graded, clean, orderly, and dust-free condition. The use of gravel is prohibited.

(Ord. No. 2014-022, 06/24/2014)

h. Tire Capping and Retreading

- (1) Areas used to store vehicles awaiting repair or pick-up shall be located at least 30 feet from a street right-of-way.
- (2) All repairs shall be performed inside a building.
- (3) Vehicles shall not be parked or stored for more than 30 consecutive days.
- (4) Parking or storage of vehicles for parts outside of a building is not permitted.

(Ord. No. 2015-002, 04/29/2015)

i. Vehicle Fleet Storage

- (1) Vehicles cannot be stored in off-street parking spaces, fire lanes, passenger loading zones, commercial loading areas, or public rights-of-way.
- (2) Vehicles must be stored on asphalt, concrete, brick, pavers, or an equivalent hard, dustless, and bonded surface material that is maintained in a smooth, well-graded, clean, orderly, and dust-free condition. The use of gravel is prohibited.

(Ord. No. 2014-022, 06/24/2014)

j. Vehicular Towing Service

- (1) Vehicles cannot be stored in off-street parking spaces, fire lanes, passenger loading zones, commercial loading areas, or public rights-of-way.
- (2) Vehicles must be stored on asphalt, concrete, brick, pavers, or an equivalent hard, dustless, and bonded surface material that is maintained in a smooth, well-graded, clean, orderly, and dust-free condition. The use of gravel is prohibited.

- (3) Stored vehicles shall be screened in accordance with Section 4.3.5.B.20, Outdoor Storage (as an accessory use).

(Ord. No. 2014-022, 06/24/2014)

8. Visitor Accommodation Uses

a. Bed and Breakfast

- (1) The owner or manager of the use shall reside on the premises.
- (2) No more than 12 sleeping rooms shall be offered to no more than 24 persons per night for a period of no more than one week.
- (3) The use shall comply with all applicable State regulations.

F. Standards for Specific Industrial Uses

1. Industrial and Service Uses

a. Construction-Related Activities

- (1) To screen stored goods and materials, six evergreen shade trees per 100 linear feet shall be installed in accordance with Section 5.12.3, General Landscaping Standards adjacent to the exterior perimeter of the fence required in Section 4.3.5.B.20, Outdoor Storage (as an accessory use), to form a continuous opaque screen. This buffer shall be installed along the entire fence line visible from the line of sight from all street rights-of-way.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2015-002, 04/29/2015)

b. Industrial Equipment Sales and Rentals

- (1) To screen stored goods and materials, six evergreen shade trees per 100 linear feet shall be installed in accordance with Section 5.12.3, General Landscaping Standards adjacent to the exterior perimeter of the fence required in Section 4.3.5.B.20, Outdoor Storage (as an accessory use), to form a continuous opaque screen. This buffer shall be installed along the entire fence line visible from the line of sight from all street rights-of-way.
- (2) No displays of industrial equipment shall be located in a required perimeter or streetyard buffer, on top of a building, or in off-street parking spaces, fire lanes, passenger loading zones, commercial loading areas, or public rights-of-way.
- (3) Industrial equipment must be stored on asphalt, concrete, brick, pavers, or an equivalent hard, dustless, and bonded surface material that is maintained in a smooth, well-graded, clean, orderly, and dust-free condition. The use of gravel is prohibited.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2014-051, 11/10/2014; Ord. No. 2015-002, 04/29/2015)

c. Mini-Storage

- (1) A mini-storage facility is allowed in the Town Center Commercial (TCC) District only if it is combined with another permitted principal use and is located to the rear of the structure(s) devoted to the other principal use so that the mini-storage facility is not visible from an existing or proposed street right-of-way.

d. Outdoor Equipment Performance Testing Facility

- (1) Property containing an outdoor equipment performance testing facility shall not be located within 1,100 feet of property containing a residential use.
- (2) Hours of operation shall be limited to between 8:00 a.m. and 6:00 p.m. on Monday through Friday and between 8:00 a.m. and 5:00 p.m. on Saturday and Sunday.

e. Wholesale Food Preparation

- (1) A wholesale food preparation use is allowed in the Town Center Commercial (TCC) and Corridor Commercial (CC) Districts only if it includes on-site retail sales of food merchandise prepared on or distributed from the site.

2. Manufacturing Uses

a. Industrial Assembly, Heavy

- (1) To screen stored goods and materials, six evergreen shade trees per 100 linear feet shall be installed in accordance with Section 5.12.3, General Landscaping Standards installed adjacent to the exterior perimeter of the fence required in Section 4.3.5.B.20, Outdoor Storage (as an accessory use), to form a continuous opaque screen. This buffer shall be installed along the entire fence line visible from the line of sight from all street rights-of-way.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2015-002, 04/29/2015)

b. Manufacturing, Heavy

- (1) To screen stored goods and materials, six evergreen shade trees per 100 linear feet shall be installed in accordance with Section 5.12.3, General Landscaping Standards adjacent to the exterior perimeter of the fence required in Section 4.3.5.B.20, Outdoor Storage (as an accessory use), to form a continuous opaque screen. This buffer shall be installed along the entire fence line visible from the line of sight from all street rights-of-way.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2015-002, 04/29/2015)

3. Extraction and Landfill Uses

a. Composting Facility

- (1) Any repair operations shall be conducted in an enclosed building, and shall not include the cleaning, repairing, or servicing of equipment, containers, or vehicles in which waste, refuse, or discarded materials are transported, handled, stored, or processed.
- (2) To screen stored goods and materials, six evergreen shade trees per 100 linear feet shall be installed in accordance with Section 5.12.3, General Landscaping Standards adjacent to the exterior perimeter of the fence required in Section 4.3.5.B.20, Outdoor Storage (as an accessory use), to form a continuous opaque screen. This buffer shall be installed along the entire fence line visible from the line of sight from all street rights-of-way.
- (3) If the lot containing a composting facility is located within 600 feet of a residential zoning district, any outdoor storage area shall only be permitted as an accessory use if it is located at least 100 feet from any public right-of-way and at least 70 feet from any adjoining property.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2015-002, 04/29/2015)

b. Extraction of Earth Products

- (1) To screen stored goods and materials, six evergreen shade trees per 100 linear feet shall be installed in accordance with Section 5.12.3, General Landscaping Standards adjacent to the exterior perimeter of the fence required in Section 4.3.5.B.20, Outdoor Storage (as an accessory use), to form a continuous opaque screen. This buffer shall be installed along the entire fence line visible from the line of sight from all street rights-of-way.
- (2) Any outdoor storage area shall only be permitted as an accessory use if it is located at least 100 feet from any public right-of-way and at least 70 feet from any adjoining property.

- (3) A property extracting earth products shall be located at least 1,000 feet from any residential zoning district and other property containing any of the following uses:
 - (A) Any household living or group living residential use;
 - (B) College or University;
 - (C) Day care center;
 - (D) Dormitory;
 - (E) Cultural facility;
 - (F) School, elementary, middle, or high;
 - (G) School, business or vocational;
 - (H) Sports Academy;
 - (I) Public park or recreation facility; or
 - (J) Place of worship, community or neighborhood.
- (4) Access to extraction of earth product operations is prohibited through a residential neighborhood where the streets are primarily intended to provide access to adjacent residences.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2015-002, 04/29/2015)

c. Hydraulic Fracturing

- (1) To screen equipment and stored goods and materials, six evergreen shade trees per 100 linear feet shall be installed adjacent to the exterior perimeter of the fence required in Section 4.3.5.B.20, Outdoor Storage (as an accessory use), to form a continuous opaque screen. This buffer shall be installed along the entire fence line visible from the line of sight from all street rights-of-way.
- (2) Any outdoor storage area shall only be permitted as an accessory use if it is located at least 100 feet from any public right-of-way and at least 70 feet from any adjoining property.
- (3) A property containing hydraulic fracturing shall be located at least 1,000 feet from any residential zoning district and other property containing any of the following uses:
 - (A) Any household living or group living residential use;
 - (B) College or University;
 - (C) Day care center;
 - (D) Dormitory;
 - (E) Cultural facility;
 - (F) School, elementary, middle, or high;
 - (G) School, business or vocational;
 - (H) Sports Academy;
 - (I) Public park or recreation facility; or
 - (J) Place of worship, community or neighborhood.
- (4) Access to hydraulic fracturing operations is prohibited through a residential neighborhood where the streets are primarily intended to provide access to adjacent residences.

d. Junkyard or Recycling Facility

- (1) Any salvage yard, junkyard, or similar use is allowed only in conjunction with a recycling facility use.
- (2) Any repair operations shall be conducted in an enclosed building, and shall not include the cleaning, repairing, or servicing of equipment, containers, or vehicles in which waste, refuse, or discarded materials are transported, handled, stored, or processed.
- (3) Materials allowed on the site shall be limited to those necessary for the normal operation of the recycling use.
- (4) To screen stored goods and materials, six evergreen shade trees per 100 linear feet shall be installed in accordance with Section 5.12.3, General Landscaping Standards adjacent to the exterior perimeter of the fence required in Section 4.3.5.B.20, Outdoor Storage (as an accessory use), to form a continuous opaque screen. This buffer shall be installed along the entire fence line visible from the line of sight from all street rights-of-way.
- (5) If the lot containing a recycling facility is located within 600 feet of a residential zoning district, any outdoor storage area shall only be permitted as an accessory use if it is located at least 100 feet from any public right-of-way and at least 70 feet from any adjoining property.

(Ord. No. 2015-002, 04/29/2015)

e. Landfill, Construction and Demolition Debris

- (1) Any repair operations shall be conducted in an enclosed building, and shall not include the cleaning, repairing, or servicing of equipment, containers, or vehicles in which waste, refuse, or discarded materials are transported, handled, stored, or processed.
- (2) To screen stored goods and materials, six evergreen shade trees per 100 linear feet shall be installed in accordance with Section 5.12.3, General Landscaping Standards adjacent to the exterior perimeter of the fence required in Section 4.3.5.B.20, Outdoor Storage (as an accessory use), to form a continuous opaque screen. This buffer shall be installed along the entire fence line visible from the line of sight from all street rights-of-way.
- (3) If the lot containing a construction and demolition debris landfill is located within 600 feet of a residential zoning district, any outdoor storage area shall only be permitted as an accessory use if it is located at least 100 feet from any public right-of-way and at least 70 feet from any adjoining property.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2015-002, 04/29/2015)

f. Landfill, Municipal Solid Waste

- (1) Any repair operations shall be conducted in an enclosed building, and shall not include the cleaning, repairing, or servicing of equipment, containers, or vehicles in which waste, refuse, or discarded materials are transported, handled, stored, or processed.
- (2) To screen stored goods and materials, six evergreen shade trees per 100 linear feet shall be installed in accordance with Section 5.12.3, General Landscaping Standards adjacent to the exterior perimeter of the fence required in Section 4.3.5.B.20, Outdoor Storage (as an accessory use), to form a continuous opaque screen. This buffer shall be installed along the entire fence line visible from the line of sight from all street rights-of-way.
- (3) If the lot containing a municipal solid waste landfill is located within 600 feet of a residential zoning district, any outdoor storage area shall only be permitted as an accessory use if it is located at least 100 feet from any public right-of-way and at least 70 feet from any adjoining property.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2015-002, 04/29/2015)

g. Landfill, Land Clearing and Inert Debris

- (1) Any repair operations shall be conducted in an enclosed building, and shall not include the cleaning, repairing, or servicing of equipment, containers, or vehicles in which waste, refuse, or discarded materials are transported, handled, stored, or processed.
- (2) To screen stored goods and materials, six evergreen shade trees per 100 linear feet shall be installed in accordance with Section 5.12.3, General Landscaping Standards adjacent to the exterior perimeter of the fence required in Section 4.3.5.B.20, Outdoor Storage (as an accessory use), to form a continuous opaque screen. This buffer shall be installed along the entire fence line visible from the line of sight from all street rights-of-way.
- (3) If the lot containing a municipal solid waste landfill is located within 600 feet of a residential zoning district, any outdoor storage area shall only be permitted as an accessory use if it is located at least 100 feet from any public right-of-way and at least 70 feet from any adjoining property.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2015-002, 04/29/2015)

SECTION 4.3. ACCESSORY USES AND STRUCTURES

4.3.1. Purpose

The purpose of this section is to authorize the establishment and continuation of land uses and structures that are incidental and customarily subordinate to principal uses—i.e., accessory uses and structures. This section also identifies the zoning districts in which such accessory uses and structures are allowed, identifies what type of permit or review is required to establish them, sets out general standards applicable to all accessory uses and structures, and sets out any special standards applicable to particular accessory uses and structures. This section is intended to allow a broad range of accessory uses and structures, so long as they are located on the same site as the principal use and comply with the standards set forth in this section to reduce potentially adverse impacts on surrounding lands.

4.3.2. Organization and Applicability

Section 4.3.3, General Standards for All Accessory Uses and Structures, establishes general standards that apply to all allowed accessory uses and structures. Section 4.3.4, Accessory Use/Structure Table, shows whether a particular type of accessory use or structure is permitted or prohibited within the various zoning districts. It is not intended to limit allowable accessory uses and structures to those listed in the Accessory Use/Structure Table. Section 4.3.5, Accessory Use-Specific Standards, sets forth standards for all accessory uses and structures for which a reference to this section is provided in the “Use-Specific Standards” column of the Accessory Use/Structure Table for a particular type of accessory use or structure regardless of the zoning district in which they are allowed or the review procedure by which they are approved, unless expressly stated to the contrary. These standards may be modified by other applicable requirements in this Ordinance.

4.3.3. General Standards for All Accessory Uses and Structures

A. Relationship to Principal Use or Structure

1. Except as otherwise expressly allowed in this Ordinance, an accessory use or structure shall not be established or constructed before the establishment or construction of the principal use or structure.
2. If the principal use or structure is destroyed or removed, the accessory use or structure shall no longer be allowed.
3. Except as otherwise expressly allowed in this Ordinance, the total floor area of non-habitable accessory structures to a residential use shall not exceed 50 percent of the heated floor area of

Article 4: Use Standards

Section 4.3. Accessory Uses and Structures

4.3.3. General Standards for All Accessory Uses and Structures

the principal structure(s) on the lot. See Section 4.3.5.B.1, Accessory Apartment for habitable accessory structure standards.

4. Except where otherwise expressly allowed in this Ordinance, the total floor area of buildings accessory to a nonresidential use shall not exceed the lesser of 2,000 square feet or 10 percent of the floor area of the principal building(s) on the lot.

B. Location of Accessory Uses and Structures

1. No accessory use or structure shall be located within any platted or recorded easement or over any known utility, or in an area designated as a fire lane or emergency access route on an approved site plan.
2. No accessory structure shall be located within a perimeter or streetyard buffer except a screening fence or wall in accordance with Section 5.7, Perimeter and Streetyard Buffers
3. No accessory structure shall inhibit the access to or function of a street or vehicle use area.
4. No accessory structure shall obstruct sight distances.
5. No accessory structure shall impede emergency access.
6. Unless otherwise provided in Section 11.4.2.D, Allowable Encroachments into Required Yards, no accessory structure shall be located in a required front yard or corner side yard.
7. Unless otherwise provided in Section 11.4.2.D, Allowable Encroachments into Required Yards, accessory uses or structures may be located in a required side yard or rear yard, provided an accessory structure, other than a fence or wall, that is more than ten feet in height is set back from the nearest side or rear lot line one foot for every foot (or fraction thereof) the structure's height exceeds ten feet.
8. Unless otherwise provided in subsection 7 above or in Section 11.4.2.D, Allowable Encroachments into Required Yards, accessory uses and structures shall comply with the minimum setback standards applicable in the zoning district where the structure is located.

C. Accessory Uses and Structures in the Right-of-Way

Except where otherwise expressly prohibited in this Ordinance, any structure accessory to development on adjoining property within a public street right-of-way maintained by the Town of Morrisville shall:

1. Comply with Section 2.5.24.B, Right-of-Way Encroachment Agreement Approval Procedure;
2. Be located in right-of-way maintained by either a Home Owners Association or a Property Owners Association;
3. Have expressed written support from either the Home Owners Association or the Property Owners Association;
4. Be a minimum of five feet from the back of curb on all sides except the front and rear of a linear median located on a divided street. (See Figure 4.3.3.C: Distance from back of curb.)
5. Prohibit pedestrian access unless the proposed structure is located in the right-of-way of a main street or local street classified accessway (see Table 5.8.6.C, Vehicular Accessway Classifications);

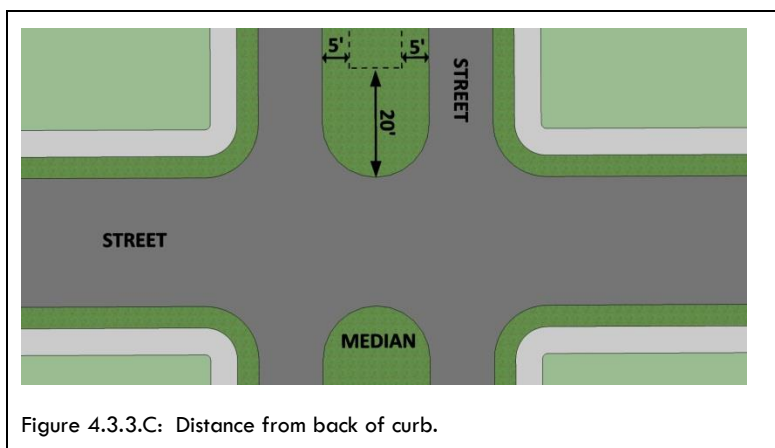


Figure 4.3.3.C: Distance from back of curb.

6. Be decorative and aesthetically consistent with the adjoining property; and
7. Be maintained at a condition comparable to the original installation or construction.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2016-001, 05/10/2016)

4.3.4. Accessory Use/Structure Table

A. Structure of Accessory Use/Structure Table

1. Organization of Accessory Uses and Structures

Table 4.3.4, Accessory Use/Structure Table, lists accessory uses and structures alphabetically.

2. Designation of Uses and Structures

Table 4.3.4, Accessory Use/Structure Table, uses the following abbreviations to designate whether and how an accessory use or structure is allowed in a particular zoning district:

P	A “P” under a base zoning district column indicates that the use or structure is allowable as an accessory use or structure in the district as exempt from Site Plan Approval or with Site Plan Approval in accordance with Section 2.5.7, Site Plan Approval, subject to Section 4.3.3, General Standards for All Accessory Uses and Structures, any referenced use-specific standards, and all other applicable regulations of this Ordinance.
A	An “A” under a planned development (PD) district column indicates that the use or structure is allowable as an accessory use or structure in the district, subject to Section 4.3.3, General Standards for All Accessory Uses and Structures, any referenced use-specific standards, and all other applicable regulations of this Ordinance—unless the PD Plan/Agreement approved for the district expressly identifies the use or structure as prohibited.
	A blank cell under a zoning district column indicates that the use or structure is prohibited as an accessory use or structure in the district.
X	An “X” under an overlay district column indicates that the use or structure is prohibited as an accessory use or structure in the overlay district, (in which prohibitions of uses allowed by underlying district is an exception) irrespective of whether it is allowed by the underlying district.

3. Reference to Use-Specific Standards

A particular use or structure allowable as an accessory use or structure in a zoning district may be subject to additional standards that are specific to the particular accessory use or structure. The applicability of such use-specific standards is noted in the last column of the Accessory Use/Structure Table (“Use-Specific Standards”) through a reference to standards in Section 4.3.5, Accessory Use-Specific Standards.

Table 4.3.4: Accessory Use/Structure Table

P = Permitted as exempt from Site Plan Approval or with Minor Site Plan Approval by Town staff

A = Allowed subject to a PD Plan/Agreement

Blank Cell = Prohibited (*except Overlay Districts*) X = Prohibited (*Overlay Districts only*)

Use Type	Base/Conditional Districts																MUPD	Overlay Districts				Use-Specific Standard			
	PGO	VLDLDR	LDR	MDR	HDR	NAC	BAC	CAC	RAC	TOD	HCV	MS	TCC	TCR	RT	RNP		CC	OI	IM	AO-A		AO-B	FO	TCCO
Accessory Apartment		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	X				4.3.5.B.1
Agritourism Activity		P	P																						
Amateur Ham Radio Antenna (Telecommunication Use)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					4.3.5.B.2
Arbor	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					
Art	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					
Automated Teller Machine (ATM)				P	P	P	P	P	P	P	P	P	P				P	P	P	P					4.3.5.B.3

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Section 4.3. Accessory Uses and Structures

4.3.4. Accessory Use/Structure Table

Table 4.3.4: Accessory Use/Structure Table

P = Permitted as exempt from Site Plan Approval or with Minor Site Plan Approval by Town staff

A = Allowed subject to a PD Plan/Agreement

Blank Cell = Prohibited (except Overlay Districts) X = Prohibited (Overlay Districts only)

Use Type	Base/Conditional Districts																	MUPD	Overlay Districts				Use-Specific Standard		
	PGO	VLDR	LDR	MDR	HDR	NAC	BAC	CAC	RAC	TOD	HCV	MS	TCC	TCR	RT	RNP	CC		OI	IM	AO-A	AO-B		FO	TCCO
Bike Rack	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					
Broadcast Facility (Telecommunication Use)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					4.3.5.B.4
Canopy, Nonresidential		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					4.3.5.B.5
Carport		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					4.3.5.B.6
Clothesline		P	P	P	P	P	P	P	P	P	P		P	P	P	P	P			P					4.3.5.B.7
Cluster Box Unit	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					4.3.5.B.8
Composting Facility, Small	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					
Drive-Through Service Facility						P	P	P	P				P				P	P	P	P					4.3.5.B.9
Electric Vehicle (EV) Charging Station, Level 1 or 2	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					4.3.5.B.10
Electric Vehicle (EV) Charging Station, Level 3					P	P	P	P	P								P	P	P	P					4.3.5.B.11
Family Child Care Home		P	P	P	P	P	P	P	P	P	P			P	P	P				P	X				4.3.5.B.12
Fence or Wall	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					
Flagpole and Flag	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					4.3.5.B.13
Garage		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					4.3.5.B.14
Gazebo	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					
Greenhouse		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					
Heliport							P	P	P						P			P	P	P					4.3.5.B.15
Home Occupation		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			P					4.3.5.B.16
Limited Fuel/Oil/Bottled Gas Distribution						P	P	P	P	P			P					P	P	P	P				4.3.5.B.17
Outdoor Display of Merchandise						P	P	P	P	P	P	P						P	P	P	P				4.3.5.B.18
Outdoor Seating						P	P	P	P	P	P	P						P	P	P	P				4.3.5.B.19
Outdoor Storage (as an accessory use)						P	P	P	P	P			P					P	P	P	P				4.3.5.B.20
Produce Stand		P	P									P								P	P				4.3.5.B.21
Public Safety Training Structure					P	P	P	P	P				P					P	P	P	P				4.3.5.B.22
Rainwater Cistern	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					4.3.5.B.23
Recreation Facility, Residential Support	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			P	X				4.3.5.B.24
Satellite Dish	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					4.3.5.B.25
Small Wind Energy System	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					4.3.5.B.26
Solar Energy Collection System (as an accessory use)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					4.3.5.B.27
Stables	P	P																			A				
Storage Shed	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					

Table 4.3.4: Accessory Use/Structure Table

P = Permitted as exempt from Site Plan Approval or with Minor Site Plan Approval by Town staff

A = Allowed subject to a PD Plan/Agreement

Blank Cell = Prohibited (except Overlay Districts) X = Prohibited (Overlay Districts only)

Use Type	Base/Conditional Districts																MUPD	Overlay Districts				Use-Specific Standard			
	PGO	VLDR	LDR	MDR	HDR	NAC	BAC	CAC	RAC	TOD	HCV	MS	TCC	TCR	RT	RNP		CC	OI	IM	AO-A		AO-B	FO	TCCO
Swimming Pool, Spa, or Hot Tub		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					4.3.5.B.28
Television, Radio, or Wireless Cable Antenna	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					4.3.5.B.29
Vehicle Fleet Storage													P				P	P	P	P					4.3.5.B.30

(Ord. No. 2014-016, 06/24/2014; Ord. No. 2014-022, 06/24/2014; Ord. No. 2015-002, 04/29/2015; Ord. No. 2016-001, 05/10/2016)

4.3.5. Accessory Use-Specific Standards

A. General

Standards for a specific accessory use or structure shall apply to the particular individual accessory use or structure regardless of the zoning district in which it is located or the review procedure by which it is approved, unless otherwise specified in this Ordinance. This section sets forth and consolidates the standards for all accessory uses and structures for which a reference to this section is provided in the "Use-Specific Standards" column of the accessory use/structure table in 4.3.4, Accessory Use/Structure Table, and in the same order as they are listed in the table. These standards may be modified by other applicable standards or requirements in this Ordinance.

B. Standards for Specific Accessory Uses and Structures

1. Accessory Apartment

An accessory apartment is allowed only as accessory to, and on the same lot as, a single-family detached dwelling unit (excluding bungalow courts and pocket neighborhoods where it is expressly prohibited), duplex dwelling unit, single-family attached dwelling unit, or a live/work dwelling, subject to the following standards:

- a. There shall be no more than one accessory apartment on a lot.
- b. An accessory apartment may be a detached structure (e.g., an apartment above a detached garage or a guesthouse).
- c. An accessory apartment may be within the principal dwelling (e.g., a downstairs or upstairs apartment).
- d. A manufactured home, recreational vehicle, or travel trailer shall not be used as an accessory apartment.
- e. The floor area of an accessory apartment within a principal dwelling shall be no more than 1,000 square feet (excluding carports and garages).
- f. The height of the accessory structure or use shall be visually subordinate to the principal structure and shall in no instance exceed the height of the principal structure.
- g. At least one off-street parking space shall be provided in addition to those required for the primary dwelling.
- h. An accessory apartment shall not be sold apart from the principal dwelling on the same lot.

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4.3.5. Accessory Use-Specific Standards

- i. An accessory apartment shall not be leased or rented for tenancies of less than 30 days.
- j. Only one kitchen is allowed in the accessory apartment.
- k. Accessory apartments shall not count towards the maximum net density standards.

(Ord. No. 2016-001, 05/10/2016)

2. Amateur Ham Radio Antenna (Telecommunication Use)

- a. The antenna shall not exceed a height of 90 feet above grade.
- b. An antenna attached to a principal structure on the lot shall be located on a side or rear elevation of the structure.
- c. A freestanding antenna shall be located to the rear of the principal structure on the lot, but not within 10 feet of any lot line.
- d. The Planning Director shall waive or approve a deviation of the above standards if the ham radio operator demonstrates that such waiver or deviation is necessary to accommodate the operator's amateur communications needs.

(Ord. No. 2014-016, 06/24/2014)

3. Automated Teller Machine (ATM)

- a. 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.
- b. If an ATM is designed for use by customers in their vehicles, it shall comply with the accessory use standards (including districts where permitted) in Section 4.3.5.B.9, Drive-Through Service Facility.
- c. 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.

(Ord. No. 2016-001, 05/10/2016)

4. Broadcast Facility (Telecommunication Use)

a. Determination of Need

No new tower shall be permitted unless the applicant demonstrates that no existing broadcast tower can accommodate the applicant's proposed use.

b. Height

Height for broadcast facilities shall be evaluated on a case-by-case basis. The determination of height contained in the applicant's FCC Form 351/352 Construction Permit or application for Construction Permit and an FAA Determination of No Hazard (FAA Form 7460/2) shall be considered prima facie evidence of the height required for such broadcast facilities.

c. Equipment Compounds

The fenced in compounds shall not be used for the storage of any excess equipment or hazardous materials. Outdoor storage yards shall be prohibited within an equipment compound.

d. Equipment cabinets

Cabinets shall not be visible from pedestrian and vehicular right-of-way views. Cabinets may be provided within the principal building, behind a screen on a rooftop, or on the ground within the fenced-in and screened equipment compound.

e. Setbacks:

All facilities shall be:

- (1) A minimum of 500 feet from any Household Living or Group Living Use.
- (2) A minimum of one foot for every one foot of facility height from all adjacent recorded lot lines.

(Ord. No. 2014-016, 06/24/2014)

5. Canopy, Nonresidential

- a. The nonresidential canopy shall be located at least 30 feet from any street right-of-way or property line.
- b. The nonresidential canopy shall have a maximum clearance height of 15 feet, as measured from the finished grade to the underside of the nonresidential canopy, except where State or federal law requires higher clearance.
- c. The nonresidential canopy shall have a maximum structure height of 23 feet. The maximum structure height can increase proportionally to any increase in the clearance height permitted in b above.
- d. The design of the nonresidential canopy, including any columns, shall match the design and exterior building materials of the principal building. Plastic or other similar roofing materials are prohibited.
- e. A nonresidential canopy covering fuel pumps may only include logos or trademarks. The logo or trademark shall comply with Section 5.16.4.B, Wall-Mounted Fascia Signs.
- f. A nonresidential canopy shall not be internally illuminated and any lighting on the nonresidential canopy shall be fully recessed into the nonresidential canopy and shall not extend downward beyond the ceiling of the nonresidential canopy.

(Ord. No. 2015-002, 04/29/2015)

6. Carport

- a. Carports shall be attached to the primary structure and architecturally integrated with the overall design of the structure in terms of materials, colors, and architectural character.
- b. Freestanding carports are prohibited.

(Ord. No. 2016-001, 05/10/2016)

7. Clothesline

Clotheslines are only allowed as accessory uses to residential uses, provided they are not located in a front or corner side yard.

(Ord. No. 2016-001, 05/10/2016)

8. Cluster Box Unit (CBU)

Cluster Box Units shall:

- a. Provide parking in accordance with Section 5.10.3.J, Minimum Number of Off-Street Vehicle Spaces for Accessory Uses/Structures.
- b. Be located in common open space or on a private access easement.
- c. Provide a separate pull off area to adequately stack vehicles in accordance with Section 5.8.6.I, Vehicle Stacking Space for Drive-Through, Pick-up/Drop-off, and Related Uses if:
 - (1) Located on a street with a posted speed limit greater than 25 mph; and

(2) No off-street parking spaces are required per Section 5.10.3.J, Minimum Number of Off-Street Vehicle Spaces for Accessory Uses/Structures.

d. Be accessible from a sidewalk.

(Ord. No. 2015-002, 04/29/2015; Ord. No. 2016-001, 05/10/2016)

9. Drive-Through Service Facility

- a. The drive-through service facilities shall be designed in accordance with Section 5.8.6.I, Vehicle Stacking Space for Drive-Through, Pick-up/Drop-off, and Related Uses.
- b. The drive-through service facility shall be designed to avoid obstructions to pedestrian movement along sidewalks, through public use areas, or between parking spaces and building entrances.
- c. The design of any roof or awning over the drive-through service facilities and lanes, including any supporting columns and brackets, shall match the design and exterior building materials of the principal building.
- d. Drive-through service facilities located in the Town Center Commercial (TCC) District shall be designed in accordance with Section 5.9.10.D.2, Drive-Through Facilities.

(Ord. No. 2015-002, 04/29/2015; Ord. No. 2016-001, 05/10/2016)

10. Electric Vehicle (EV) Charging Station, Level 1 or 2

- a. Except as otherwise provided in subsection b below or where accessory to a bungalow court, pocket neighborhood, single-family detached, duplex, single-family attached, or manufactured home dwelling, EV charging station spaces shall be reserved for the charging of electric vehicles only. Such reserved spaces shall be posted with signage identifying the spaces as reserved only for the charging of electric vehicles, amperage and voltage levels, any enforceable time limits or tow away provisions, and contact information for reporting non-operating equipment or other problems.
- b. A required accessible parking space for persons with physical disabilities (see Section 5.10.3.I, Accessible Parking Spaces for Physically Disabled Persons) may also serve as an EV charging station space, provided the charging station and its controls meet ADA standards for accessibility to persons with physical disabilities.
- c. EV charging station equipment shall be located so as not to interfere with vehicle, bicycle, or pedestrian access and circulation, or with required landscaping.

(Ord. No. 2016-001, 05/10/2016)

11. Electric Vehicle (EV) Charging Station, Level 3

- a. In Commercial, Activity Center, Town Center, Industrial, and Planned Development districts, EV Level 3 charging stations are allowed as accessory uses to any permitted principal use.
- b. In Residential districts, EV Level 3 charging stations are allowed as accessory uses to: continuing care retirement communities; colleges or universities; government maintenance, storage, or distribution facilities; major utility facilities; country clubs and golf courses; and developments of single-family attached dwellings or multifamily dwellings that contain more than 100 dwelling units.
- c. Except as otherwise provided in subsection d below, EV charging station spaces shall be reserved for the charging of electric vehicles only. Each EV charging station space shall be posted with signage identifying the space 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.

- d. A required accessible parking space for persons with physical disabilities (see Section 5.10.3.1, Accessible Parking Spaces for Physically Disabled Persons) 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.
- e. EV charging station equipment shall be located so as not to interfere with vehicle, bicycle, or pedestrian access and circulation, or with required landscaping.

12. Family Child Care Home

- a. The home shall comply with all applicable State regulations and obtain appropriate State licensing prior to operation.
- b. The family child care home use shall be conducted in a portion of an occupied residential dwelling.
- c. The principal person conducting the family child care home use shall be a full-time resident of the dwelling, and there shall be no more than one employee who does not reside in the dwelling.
- d. The business use shall use no more than 20 percent of the total floor area of the dwelling.
- e. The use shall include at least 75 square feet of outdoor play area per child and at least 25 square feet of indoor space per child.
- f. Outdoor play areas shall be located in a rear yard and enclosed by an opaque fence at least five feet in height. Alternatively, common open space within the neighborhood may be used as required outdoor play area with the appropriate property owners' association's written agreement to set aside a fenced outdoor play area so long as the family child care home is operational.
- g. There shall be adequate off-street parking for child drop-off and pick-up.
- h. On-site signs advertising the family child care home use are not permitted.
- i. Outdoor storage of materials associated with the family child care home use is not permitted. Such materials do not include outdoor playground equipment.

13. Flagpole and Flag

- a. Flagpoles and flags in a residential development shall comply with the following standards:
 - (1) No more than two flagpoles and two flags per flagpole shall be allowed on a lot.
 - (2) No flag shall bear a commercial message.
- b. Flagpoles and flags in a nonresidential development shall comply with the following standards:
 - (1) No more than three flagpoles and two flags per flagpole shall be allowed per approved site plan.
 - (2) Flagpoles shall be located on the same lot as the principal building.
 - (3) Flagpoles shall be located on the wall of the principal building on the lot or within 75 feet of the building's main entrance.
 - (4) Flagpoles shall not be located within a public right-of-way.
 - (5) Flagpoles shall not exceed a height of 25 feet.
 - (6) The area of a flag shall not exceed five feet by eight feet.

14. Garage

- a. A detached garage shall be located to the side or rear wall of the building the garage serves.

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- b. The detached garage shall set back at least ten feet from the rear facade of the building the garage serves.
- c. The exterior materials, color, design features, and roof form of a detached garage shall be compatible with the building the garage serves.
- d. Garages associated with a multifamily, mixed-use, commercial, institutional, or industrial development are also subject to the standards set forth in Section 5.9.4, Exterior Facade Materials and Colors for All Development.

(Ord. No. 2016-001, 05/10/2016)

15. Heliport

Auxiliary facilities such as parking, waiting room, fueling, and maintenance equipment are not permitted.

16. Home Occupation

- a. The business use shall be conducted in a portion of an occupied residential dwelling.
- b. The principal person conducting the business use shall be a full-time resident of the dwelling, and there shall be no more than one employee who does not reside in the dwelling.
- c. The business use shall use no more than 20 percent of the total floor area of the dwelling.
- d. On-site signs advertising the business are not permitted.
- e. Outdoor storage of goods associated with the business use is not permitted.
- f. Any visits to the site by business customers or clients shall be by appointment only. Appointments may not overlap.
- g. There shall be no wholesale or retail sales of goods on the premises except of those goods incidental to the provision of a service by the business use (e.g., a hairdresser may sell shampoo).
- h. The business use shall not generate noise, vibration, odor, glare, fumes, or electrical or communications interference (including visual or audible interference with television or radio reception) that can be detected by the normal senses off the premises.

17. Limited Fuel/Oil/Bottled Gas Distribution

- a. Limited fuel/oil/bottled gas distribution is allowed as an accessory use to garden centers, convenience stores, retail stores, major and neighborhood shopping centers, automobile service stations, recreational vehicle rental and service uses, industrial equipment sales and rental uses, and storage of petroleum products uses.
- b. Any structure housing the fuel, oil, or bottled gas that is located on a sidewalk shall be located to maintain at least five feet of clearance along the sidewalk for use by pedestrians.

18. Outdoor Display of Merchandise

Outdoor display of merchandise is only allowed as an accessory use to any retail sales and service use or wholesale establishment use that is conducted within a building located on the same lot, subject to the following standards:

- a. Merchandise displayed shall be limited to that sold or rented by the principal use of the lot.
- b. All outdoor display of goods shall be located immediately adjacent to the front or side of the principal building, and not in drive aisles, loading zones, fire lanes, or off-street parking spaces.
- c. Outdoor display areas along the front or side of a principal building shall be limited to no more than one-half of the length of the building's front or side, as appropriate.

- d. Outdoor display areas shall be located to maintain a clearance area in front of primary building entrances for at least ten feet directly outward from the entrance width.
- e. An obstruction-free area at least five feet wide shall be maintained through the entire length of the display area or between it and adjacent parking areas so as to allow pedestrians and handicapped persons to safely and conveniently travel between parking areas or drive aisles to the building and along the front and side of the building, without having to detour around the display area.

(Ord. No. 2015-002, 04/29/2015)

19. Outdoor Seating

Outdoor seating is only allowed as an accessory use to any eating or drinking establishment, subject to the following standards:

- a. No sound production or reproduction machine or device (including, but not limited to musical instruments, loud-speakers, and sound amplifiers) shall be used, operated, or played in the outdoor seating area at a volume that is any louder than necessary for the convenient hearing of persons within the outdoor seating area, and that would disturb the peace, quiet, or comfort of adjoining properties.
- b. Hours of operation of the outdoor seating area shall be the same as those for the eating or drinking establishment.
- c. Food preparation shall occur only within the enclosed principal building containing the eating or drinking establishment.
- d. The outdoor seating area shall not obstruct the movement of pedestrians along sidewalks or through areas intended for public use.
- e. No tables, chairs, umbrellas, or other furnishings or equipment associated with the outdoor seating area shall be attached, chained, or otherwise affixed to any curb, sidewalk, tree, post, sign, or other fixture within the outdoor seating area.
- f. The outdoor seating area may be permitted on a public sidewalk abutting or adjacent to the front of the property containing an eating or drinking establishment subject to the following requirements:
 - (1) The outdoor seating area shall be limited to that part of the sidewalk directly in front of the property containing the eating or drinking establishment unless the owner of adjoining property agrees in writing to an extension of the outdoor seating area to that part of the sidewalk in front of the adjoining property.
 - (2) The operator of the establishment shall enter into a revocable license agreement with the Town that has been approved as to form by the Town Attorney and:
 - (A) Ensures that the operator is adequately insured against and indemnifies and holds the Town harmless for any claims for damages or injury arising from sidewalk dining operations, and will maintain the sidewalk seating area and facilities in good repair and in a neat and clean condition;
 - (B) Authorizes the Town to suspend authorization of the outdoor seating use, and to remove or relocate or order the removal or relocation of any sidewalk seating facilities, at the owner's expense, as necessary to accommodate repair work being done to the sidewalk or other areas within the right-of-way containing or near the outdoor seating area; and
 - (C) Authorizes the Town to remove or relocate or order the removal or relocation of any sidewalk seating facilities, at the operator's expense, if the operator fails to comply with a Town order to do so within a reasonable time period.

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- (3) A clear pathway at least five feet wide shall be maintained to allow through public pedestrian traffic along the sidewalk and from the sidewalk into the entrance to the establishment. A greater width may be required where necessary to ensure the safe and convenient flow of pedestrian traffic.
- (4) A clear separation of at least five feet shall be maintained from any alley, crosswalk, fire hydrant, or similar public or emergency access feature in or near the sidewalk. A greater clear distance may be required where necessary to ensure use of the public or emergency access feature.
- (5) No objects shall be placed along the perimeter of the outdoor sidewalk seating area that would have the effect of forming a physical or visual barrier discouraging the use of the sidewalk by the general public.
- (6) Tables, chairs, umbrellas, and other furnishings associated with the outdoor seating area shall be of sufficient quality design, materials, and workmanship to ensure the safety and convenience of area occupants and compatibility with adjacent uses.

(Ord. No. 2016-001, 05/10/2016)

20. Outdoor Storage (as an accessory use)

a. General Standards

The following standards shall apply to all outdoor storage areas.

- (1) The extent of the outdoor storage area shall be clearly delineated on an application for Site Plan Approval.
- (2) Outdoor storage areas shall comply with the minimum setback standards applicable in the zoning district where the outdoor storage area is located.
- (3) Unless otherwise provided in Section 4.3.5.B.20.c(1), Garden Centers, outdoor storage areas shall be located to the side or rear of the development's principal building(s) unless expressly prohibited in (4), (5) or (6) below.
- (4) Outdoor storage areas are prohibited between the development's principal structure(s) and a thoroughfare (major and minor) or collector street.
- (5) Within the Transit-Oriented Development (TOD) District, outdoor storage areas shall only be located to the rear of the development's principal building(s).
- (6) No outdoor storage area shall be located within a perimeter buffer required in accordance with Section 5.7, Perimeter and Streetyard Buffers.
- (7) Stored goods, materials, and equipment shall be limited to those goods, materials, and equipment associated with the principal use or uses of the lot.
- (8) Storage of equipment such as trailers and bobcats, as well as heavy equipment such as cranes, front-end loaders and bulldozers, is permitted provided such vehicles and equipment are in operable condition and comply with subsection (6) and (7) above.
- (9) Flammable liquids or gases in excess of 1,000 gallons shall be stored underground.
- (10) No materials shall be stored in areas intended for vehicular or pedestrian circulation.
- (11) No materials shall be stored on any potable or non-potable water easement, stormwater easement, or sanitary sewer easement.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2015-002, 04/29/2015)

b. Screening Requirements

Unless otherwise provided in Section 4.3.5.B.20.c, Standards for Specific Principal Uses, the following requirements shall apply to all outdoor storage areas.

- (1) The outdoor storage area shall be screened by an opaque fence or wall at least eight feet in height (see Section 5.14, Fences and Walls).
- (2) Stored goods and materials shall be screened from view from all property lines and adjacent rights-of-way, sidewalks, streets, and greenways.
- (3) Stored goods and materials shall not exceed the height of the fence required in subsection (1) above.
- (4) Equipment can exceed the fence height required in subsection (1) above, but should be stored in a manner that limits visibility from the line of sight from all street rights-of-way.

(Ord. No. 2014-022, 06/24/2014)

c. Standards for Specific Principal Uses

(1) Garden Centers

(A) Outdoor storage areas attached to the principal structure shall be enclosed with either a wall made of masonry material consistent with that of the primary building(s) on the lot, or a combination of masonry columns and metal fencing. (See Figure 4.3.5.B.20.c(1): Masonry and Metal Fence Enclosure.)



Figure 4.3.5.B.20.c(1): Masonry and Metal Fence Enclosure.

(B) Outdoor storage areas not attached to the principal structure can be located to the front of the development's principal building(s) provided that the outdoor storage area is enclosed by fencing at least four feet in height and constructed of aluminum, steel, iron, or similar material with unpainted masonry columns (See Figure 5.14.8.A.4: Garden Center Front Yard Fencing Option.)



Figure 5.14.8.A.4: Garden Center Front Yard Fencing Option.

(C) Outdoor storage areas not attached to the principal structure or located in the front of the development's principal building(s) shall be screened in accordance with the screening requirement in (B) above or Section 4.3.5.B.20.b(1).

(D) Stored goods, materials and equipment shall be limited to those goods, materials, and equipment associated with the principal use or uses of the lot.

(E) Stored goods and materials, with the exception of plants, shall not exceed the height of the fence required in (A), (B), or (C) above.

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(Ord. No. 2014-022, 06/24/2014; Ord. No. 2016-001, 05/10/2016)

(2) Construction-Related Activities

- (A)** The outdoor storage area shall be screened by an opaque fence or wall at least eight feet in height (see Section 5.14, Fences and Walls).
- (B)** See Section 4.2.5.F.1.a, Construction-Related Activities, for additional screening requirements.

(Ord. No. 2014-022, 06/24/2014)

(3) Industrial Equipment Sales and Rental

- (A)** The outdoor storage area shall be screened by an opaque fence or wall at least eight feet in height (see Section 5.14, Fences and Walls).
- (B)** See Section 4.2.5.F.1.b, Industrial Equipment Sales and Rentals, for additional screening requirements.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2014-051, 11/10/2014)

(4) Extraction and Landfill Uses (all use types)

- (A)** The outdoor storage area shall be screened by an opaque fence or wall at least eight feet in height (see Section 5.14, Fences and Walls).
- (B)** See Section 4.2.5.F.3, Extraction and Landfill Uses, for additional screening requirements.

(Ord. No. 2014-022, 06/24/2014)

21. Produce Stand

- a.** No more than one stand per lot is allowed.
- b.** Sales shall be limited to the retail sale of agricultural products produced on the lot, including the sale of products made from such products by the producer (e.g., jams and jellies, juices).
- c.** The area occupied by the stand shall not exceed 150 square feet.

22. Public Safety Training Structure

- a.** A public safety training structure is only permitted as an accessory use or structure to the following principal uses:
 - (1)** Emergency Services,
 - (2)** Government Maintenance, Storage, or Distribution Facility, and
 - (3)** School, Business or Vocational.
- b.** The structure shall be screened from the line of sight of any street with a continuous row of evergreen shade trees.

(Ord. No. 2015-002, 04/29/2015; Ord. No. 2016-001, 05/10/2016)

23. Rainwater Cistern

An aboveground rainwater cistern is allowed as an accessory use or structure to any principal use or structure, provided it:

- a.** Is located directly adjacent to the principal structure on a lot.
- b.** Does not serve as signage or have signage affixed to it.
- c.** Is constructed of galvanized steel or wood, or is screened in accordance with Section 5.13, Screening.

(Ord. No. 2015-002, 04/29/2015)

24. Recreation Facility, Residential Support

A residential support recreation facility is allowed as an accessory use to a residential subdivision or other development including single-family detached dwellings, single-family attached dwellings, and/or multifamily dwellings, subject to the following standards:

- a. The facility shall not abut a thoroughfare.
- b. The facility shall provide parking in accordance with Section 5.10.3.J, Minimum Number of Off-Street Vehicle Spaces for Accessory Uses/Structures.
- c. A residential support recreation facility accessory to a residential subdivision shall be proposed, reviewed, and developed in conjunction with the subdivision, or approved phase thereof.
- d. The exterior materials, color, design features, and roof form of a residential support recreation facility shall be compatible with the building they serve.
- e. Accessory buildings or structures associated with a multifamily, mixed-use, commercial, institutional, or industrial development are also subject to the standards set forth in Section 5.9.4, Exterior Facade Materials and Colors for All Development.

(Ord. No. 2015-002, 04/29/2015; Ord. No. 2016-001, 05/10/2016)

25. Satellite Dish

A satellite dish is allowed as an accessory use or structure to any principal use or structure. A satellite dish greater than one meter in diameter in a residential zoning district, or a satellite dish greater than two meters in diameter in a nonresidential zoning district, shall comply with the following standards to the extent such compliance does not unreasonably delay, prevent, or increase the cost of installation, maintenance, or use of the dish, or preclude reception of an acceptable quality signal. These standards shall not be interpreted or enforced in any manner contrary to federal or State law.

- a. In a residential zoning district, a satellite dish may be located within a required side yard or rear yard, but shall not:
 - (1) Be located within a front yard or corner side yard; and
 - (2) Be located within five feet of any lot line.

26. Small Wind Energy System

a. Location and Setback

- (1) Tower-mounted wind energy systems shall not be located within a front yard.
- (2) A small wind energy system shall be set back a distance equal to its total extended height (e.g., if on a roof, roof height plus the height of any tower extending from the roof) plus five feet from all property lines, public street rights-of-way, and overhead utility lines. Guy wires and other support devices shall be set back at least five feet from all property lines.

b. Height

The maximum height of a small wind energy system (including the tower and extended blades) shall be the maximum height allowed in the zoning district plus 50 feet.

c. Sound

Sound produced by the wind turbine under normal operating conditions, as measured at the property line abutting an existing residential use, shall not exceed 55 dBA at any time. The

55dBA sound level, however, may be exceeded during short-term events that occur beyond the property owner's control, such as utility outages and/or severe wind storms.

d. Appearance

The wind turbine and tower shall be painted or finished in the color originally applied by the manufacturer, or a matte neutral color (e.g., gray, white) that blends into a range of sky colors, or a color consistent with that of the buildings on the site. Bright, luminescent, or neon colors, as determined by the Planning Director, are prohibited.

e. Blade Clearance

The blade tip or vane of any small wind energy system shall have a minimum ground clearance of 15 feet, as measured at the lowest point of the arc of the blades. No blades may extend over parking areas, public right of ways, driveways, or sidewalks.

f. Lighting

No illumination of the turbine or tower shall be allowed unless required by the Federal Aviation Administration (FAA).

g. Access to Tower

On a freestanding tower, any climbing foot pegs or rungs below 12 feet shall be removed to prevent unauthorized climbing. For lattice or guyed towers, sheets of metal or wood or similar barriers shall be fastened to the bottom tower section such that it cannot readily be climbed.

h. Signage Prohibited

No wind generator, tower, building, or other structure associated with a small wind energy system shall include any signage visible from any public street other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification.

i. Utility Notification

No small wind energy system intended to connect to the electric utility shall be installed until evidence has been submitted to the Town that the relevant electric utility company has been informed of the customer's intent to install an interconnected customer-owned generator.

j. Abandonment

On determining that a wind turbine has been inoperable for six consecutive months, the Planning Director shall send the property owner a notice and order requiring restoration of the system to operating order within three months after receiving the notice. If the owner fails to restore the system to operating condition within the three-month time frame, the owner shall be required, at the owner's expense, to remove the wind turbine from the tower for safety reasons. If the owner fails to remove the wind turbine from the tower, the Town may pursue legal action to have the wind turbine removed at the owner's expense, in accordance with Article 10: Enforcement.

27. Solar Energy Collection System (as an accessory use)

a. Location

The system may be located on the roof of a principal or accessory structure, on the side of such structures, on a pole, or on the ground in accordance with the standards in Section 4.3.3.B, Location of Accessory Uses and Structures.

b. Height

- (1) The system shall comply with the maximum height standards for the zoning district in which it is located, provided that a roof-mounted system shall not extend more than 15 feet above the roofline of the structure on which it is mounted.
- (2) Where an existing structure exceeds the applicable height limit, a solar energy collection system may be located on its roof irrespective of applicable height standards, provided the system extends no more than five feet above the roof surface.

c. Solar Easements

The property owner shall be responsible for negotiating with other property owners in the vicinity to establish any solar easement designed to protect solar access for the solar energy collection system, and for recording any such solar easement with the Register of Deeds for the county in which the easement is located.

28. Swimming Pool, Spa, or Hot Tub

Swimming pools, spas or hot tubs are only permitted as an accessory use or structure to the following:

- a. Household living uses;
- b. Group living uses;
- c. Visitor accommodation uses;
- d. High schools; and
- e. College or universities.

(Ord. No. 2016-001, 05/10/2016)

29. Television, Radio, or Wireless Cable Antenna

A television, radio, or wireless cable antenna is allowed to be attached to a principal structure provided it is located on a side or rear elevation of the structure and extends no more than 15 feet above the highest point of the structure.

30. Vehicle Fleet Storage

- a. Fleet vehicles cannot be stored in off-street parking spaces, fire lanes, passenger loading zones, commercial loading areas, or public rights-of-way.
- b. Vehicles must be stored on asphalt, concrete, brick, pavers, or an equivalent hard, dustless, and bonded surface material that is maintained in a smooth, well-graded, clean, orderly, and dust-free condition. The use of gravel is prohibited.
- c. In the Town Center Commercial (TCC) District, fleet vehicles shall be:
 - (1) Screened by an opaque fence at least eight feet in height (see Section 5.14, Fences and Walls).
 - (2) Screened from view from all property lines and adjacent rights-of-way, sidewalks, streets, and greenways.
 - (3) Parked to the rear of the development's principal building(s).

(Ord. No. 2014-022, 06/24/2014)

SECTION 4.4. TEMPORARY USES AND STRUCTURES

4.4.1. Purpose

The purpose of this section is to authorize the establishment of certain uses (including special events) and structures of a limited duration—i.e., temporary uses and structures. This section also identifies the zoning districts in which such temporary uses and structures are allowed, identifies what type of permit or review is required to establish them, sets out general standards applicable to all temporary uses and structures, and sets out any special standards applicable to particular temporary uses and structures. This section is intended to ensure that such uses or structure do not negatively affect adjacent land, are discontinued upon the expiration of a set time period, and do not involve the construction or alteration of any permanent building or structure.

4.4.2. Organization and Applicability

Section 4.4.3, General Standards for All Temporary Uses and Structures, establishes general standards that apply to all allowed temporary uses and structures. Section 4.4.4, Temporary Use/Structure Table, shows whether a particular type of temporary use or structure is permitted or prohibited within the various zoning districts. Section 4.4.5, Temporary Use-Specific Standards, establishes standards that apply to particular types of temporary uses or structures regardless of the zoning district in which they are allowed or the review procedure by which they are approved, unless expressly stated to the contrary. These standards may be modified by other applicable requirements in this Ordinance.

4.4.3. General Standards for All Temporary Uses and Structures

Unless otherwise specified in this Ordinance, any temporary use or structure shall:

- A. Obtain any other applicable Town, County, State, or federal permits;
- B. Not involve the retail sales or display of goods, products, or services within a public right-of-way, except as part of an authorized not-for-profit, special, or Town-recognized or authorized event;
- C. Not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare;
- D. Be compatible with the principal uses taking place on the site;
- E. Not have substantial adverse effects or noise impacts on any adjoining permanent uses or nearby residential neighborhoods;
- F. Not include permanent alterations to the site;
- G. Comply with temporary signage standards in Section 5.16, Signage.
- H. Not maintain temporary signs associated with the temporary use or structure after the activity ends;
- I. Not violate the applicable conditions of approval that apply to a site or a use on the site;
- J. Not interfere with the normal operations of any permanent use located on the property; and
- K. Be located on a site containing sufficient land area to allow the temporary use, structure, or special event to occur and accommodate associated pedestrian, parking, traffic movement without disturbing environmentally sensitive lands.

4.4.4. Temporary Use/Structure Table

A. Structure of Temporary Use/Structure Table

1. Organization of Temporary Uses and Structures

Table 4.4.4, Temporary Use/Structure Table, lists accessory uses and structures alphabetically.

2. Designation of Uses and Structures

Table 4.4.4, Temporary Use/Structure Table, uses the following abbreviations to designate whether and how a temporary use or structure is allowed in a particular zoning district:

P	A "P" under a base zoning district column indicates that the use or structure is allowable as a temporary use or structure in the district as exempt from Site Plan Approval or with Site Plan Approval in accordance with Section 2.5.7, Site Plan Approval, subject to Section 4.4.3, General Standards for All Temporary Uses and Structures, any referenced use-specific standards, and all other applicable regulations of this Ordinance.
S	An "S" under a base zoning district column indicates that the use or structure is allowable as temporary use or structure in the district only on approval of a Special Use Permit in accordance with Section 2.5.5, Special Use Permit, and subject to Section 4.4.3, General Standards for All Temporary Uses and Structures, any referenced use-specific standards, and all other applicable regulations of this Ordinance.
A	An "A" under a planned development (PD) district column indicates that the use or structure is allowable as a temporary use or structure in the district, subject to Section 4.4.3, General Standards for All Temporary Uses and Structures, any referenced use-specific standards, and all other applicable regulations of this Ordinance—unless the PD Plan/Agreement approved for the district expressly identifies the use or structure as prohibited.
	A blank cell under a zoning district column indicates that the use or structure is prohibited as a temporary use or structure in the district.
X	An "X" under an overlay district column indicates that the use or structure is prohibited as an accessory use or structure in the overlay district (in which prohibitions of uses allowed by underlying district is an exception), irrespective of whether it is allowed by the underlying district.

3. Reference to Use-Specific Standards

A particular use or structure allowable as an accessory use or structure in a zoning district may be subject to additional standards that are specific to the particular accessory use or structure. The applicability of such use-specific standards is noted in the last column of the Temporary Use/Structure Table ("Use-Specific Standards") through a reference to standards in Section 4.4.5, Temporary Use-Specific Standards.

B. Temporary Use/Structure Table

Table 4.4.4: Temporary Use/Structure Table

P = Permitted as exempt from Site Plan Approval or with Minor Site Plan Approval by Town staff

S = Allowed as a Special Use

A = Allowed subject to a PD Plan/Agreement

Blank Cell = Prohibited (*except Overlay Districts*) X = Prohibited (*Overlay Districts only*)

Use Type	Base/Conditional Districts																Overlay Districts				Use-Specific Standard				
	PGO	VLDR	LDR	MDR	HDR	NAC	BAC	CAC	RAC	TOD	HCV	MS	TCC	TCR	RT	RNP	CC	OI	IM	MUPD		AO-A	AO-B	FO	TCCO
Farmers' Market						P	P	P	P	P			P				P			A					4.4.5.B.1
Food Truck								P	P	P	P	P	P				P	P	P	P					4.4.5.B.2
Garage or Yard Sale		P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P		A					4.4.5.B.3
Mobile Auto Detailing		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A					
Mobile Classrooms		S	S	S	S	S	S	S	S		S	S	S	S	S	S	S	S	S		X				4.4.5.B.4

Table 4.4.4: Temporary Use/Structure Table

P = Permitted as exempt from Site Plan Approval or with Minor Site Plan Approval by Town staff
 S = Allowed as a Special Use
 A = Allowed subject to a PD Plan/Agreement
 Blank Cell = Prohibited (except Overlay Districts) X = Prohibited (Overlay Districts only)

Use Type	Base/Conditional Districts																Overlay Districts				Use-Specific Standard				
	PGO	VLDR	LDR	MDR	HDR	NAC	BAC	CAC	RAC	TOD	HCV	MS	TCC	TCR	RT	RNP	CC	OI	IM	MUPD		AO-A	AO-B	FO	TCCO
Outdoor Sales, Seasonal		P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	A					4.4.5.B.5
Real Estate Sales Office, Temporary		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A					4.4.5.B.6
Special Event	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A					4.4.5.B.7
Stockpiling of Materials	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A					4.4.5.B.8
Street Vendor	P			P	P	P	P	P	P	P	P	P					P	P	P	A					4.4.5.B.9
Temporary Construction-Related Structure or Facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A					4.4.5.B.10
Temporary Family Health Care Structure		P	P	P	P					P	P			P	P	P				P	X				4.4.5.B.11
Temporary Office Structure						P	P	P	P	P	P	P					P	P	P	A					4.4.5.B.12
Temporary Portable Storage Unit		P	P	P	P															A					4.4.5.B.13

(Ord. No. 2015-002, 04/29/2015)

4.4.5. Temporary Use-Specific Standards

A. General

Standards for a specific temporary use of structure shall apply to the particular individual temporary use or structure regardless of the zoning district in which it is located or the review procedure by which it is approved, unless otherwise specified in this Ordinance. This section sets forth and consolidates the standards for all temporary uses and structures for which a reference to this section is provided in the "Use-Specific Standards" column of Table 4.4.4, Temporary Use/Structure Table, and in the same order as they are listed in the table. These standards may be modified by other applicable standards or requirements in this Ordinance.

B. Standards for Specific Temporary Uses and Structures

1. Farmers' Market (as a temporary use)

- a. The market shall operate on a continuous basis for no more than five months per year on a single site.
- b. Market sales shall be limited to the retail sale of fresh fruits and vegetables, herbs, mushrooms, nuts, honey, raw juices, molasses, dairy products, eggs, poultry, meats, fish, shellfish, fresh-cut or dried flowers, nursery stock, seedlings, plants, and other agriculture, aquaculture, and horticulture products produced by the vendor/producer, including the sale of products made by the vendor/producer from such agriculture, aquaculture, and horticulture products (e.g., baked goods, jams and jellies, juices, cheeses) and incidental sales of crafts or similar home-made products made by the vendor/producer.

- c. The market shall provide adequate ingress, egress, and off-street parking areas.
- d. Items for sale shall not be displayed or stored within customer pathways.
- e. The market shall have an established set of operating rules addressing the governance structure of the market, hours of operation, and maintenance and security requirements and responsibilities.
- f. The market shall have a manager authorized to direct the operations of all participating vendors during all hours of operation.
- g. The market shall comply with applicable signage standards in Section 5.16, Signage.

2. Food Truck

- a. Food trucks shall obtain a food truck permit from the Town, which must be displayed on the rear bumper at all times.
- b. Except for ice cream trucks and food trucks associated with special event permits, food trucks shall be located only in an off-street parking facility serving a principal building or use.
- c. Except if associated with a special event permit, food trucks shall be located at least 100 linear feet from the main entrance to any eating establishment, 100 linear feet from any outdoor dining area, and 50 linear feet from any permitted food street vendor.
- d. Ice cream trucks may stop and operate from a permitted curbside parking area along a street only where the speed limit is no more than 35 miles per hour.
- e. Food trucks shall not locate on any street or within any area of an off-street parking facility in a manner that impedes, endangers, or interferes with pedestrian or vehicular traffic.
- f. Food truck shall be located at least 15 feet from any fire hydrant.
- g. Food trucks shall not occupy any accessible parking space.
- h. No free-standing signage shall be permitted as part of the food truck's vending operation.
- i. No audio amplification is allowed except for ice cream trucks, which shall comply with the noise regulations in Article II (Noise) of Chapter 18 (Environment) of the Code of Ordinances.
- j. Outdoor seating areas associated with a food truck's vending operation are not permitted.
- k. Hours of operation of food trucks shall be limited to the hours between 6:00 a.m. and 12:00 a.m. (midnight) unless the designated location on the lot accommodating the food truck is located within 150 feet of a lot containing a bungalow court, pocket neighborhood, single-family detached or duplex dwelling, in which case the hours of operation shall be limited to the hours between 7:00 a.m. and 10:00 p.m.
- l. The food truck's operator or designee must be present at all times except in cases of an emergency.
- m. Food trucks shall not be stored, parked, or left overnight on any public street.
- n. The food truck's operator is 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 associated with their truck at the end of each day. The operator shall keep all areas within five feet of the truck clean of grease, trash, paper, cups, or cans associated with the vending operation. No liquid waste or grease is to be disposed in tree pits, storm drains, or onto the sidewalks, streets, or other public space. Under no circumstances shall grease be released or disposed of into the Town of Cary's sanitary sewer system.

Article 4: Use Standards

Section 4.4. Temporary Uses and Structures

4.4.5. Temporary Use-Specific Standards

- o. All equipment required for the operation shall be contained within, attached to, or located within three feet of the food truck and all food preparation, storage, and sales/distribution shall be in compliance with all applicable County, State, and federal sanitary regulations.
- p. Approval shall be obtained from the property owner for any lot proposed to accommodate one or more food truck businesses. If at any time evidence is provided that the food truck business is not in compliance with these regulations (such as those limiting the number of food trucks allowed on the lot, outdoor seating, or hours of operation), the property owner and/or food truck may be held responsible for the violation.
- q. The vendor shall provide evidence of having obtained a County Permit (e.g. Wake County Commissary Form), a NC Sales and Use Certificate for collecting and paying the proper sales taxes and prepared meals taxes, and a means for the disposal of grease within an approved grease disposal facility as part of their food truck application. All required Town, County, and State permits and licenses shall be clearly displayed on the food truck.
- r. If at any time the County revokes or suspends any issued permit, the Town approval of the food truck permit shall be immediately revoked or suspended.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2015-002, 04/29/2015; Ord. No. 2016-001, 05/10/2016)

3. Garage or Yard Sale

- a. No garage or yard sale shall occur for longer than three days.
- b. No more than two garage or yard sales may be conducted on an individual site in any calendar year.

4. Mobile Classrooms

Mobile classrooms are allowed on the site of an existing school or place of worship, subject to the following standards:

- a. Mobile classrooms shall be used only as temporary expansion of classroom space pending implementation of definite plans for the permanent expansion of classroom space or alternative means of meeting growing classroom needs.
- b. Mobile classrooms shall not be placed within existing required landscaping or perimeter or streetyard buffer areas, or areas designated on approved development plans for future landscaping, perimeter and streetyard buffers, open space, or vehicular access.
- c. All permits required by applicable building, electrical, plumbing, and mechanical codes shall be obtained before placement of the mobile classroom on the site.
- d. There shall be plan in place for the rapid evacuation of the mobile classrooms in case of severe weather or other natural or man-made disaster.

5. Outdoor Sales, Seasonal

Goods may be displayed and sold on a temporary basis, without establishing a permanent place of business, subject to the following standards:

- a. The property contains an area not actively used that will support the proposed temporary sale of products without encroaching into or creating a negative impact on existing vegetated areas, open space, landscaping, traffic movements, or parking-space availability.
- b. The display or sale of goods, products, and/or services shall not occur in the public right-of-way or within 100 feet of an existing residential use.
- c. Any tent or other temporary structure shall be located so as not to interfere with the normal operations of any permanent use located on the property.
- d. Off-street parking shall be adequate to accommodate the proposed sale of products.

- e. The temporary display or sale of products shall not cause interference with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services cannot be provided.
- f. The hours of operation of the temporary sale of products shall be from no earlier than 7:00 a.m. to no later than 10:00 p.m., or the same as the hours of operation of the principal use, whichever is less.
- g. The temporary sales of agricultural products on an individual site shall be limited to no more than 60 days per calendar year. The temporary sale of non-agricultural products on an individual site shall be limited to no more than 30 total days per calendar year.
- h. The number of temporary sales of products per site per calendar year shall not exceed three.
- i. All required inspections have been made and approved.
- j. The fire department has been notified of the proposed use.

6. Real Estate Sales Office, Temporary

A model home or other building, or unit thereof, located on the site of new development is allowed to be temporarily used for sales or leasing associated with the development, subject to the following standards:

- a. There shall be no more than one such office per builder in the development.
- b. The sales office shall be located on a lot or building site approved as part of the development, or within a building approved as part of the development.
- c. The building used as or containing a sales office shall comply with all building setbacks and other development requirements.
- d. The building shall be aesthetically compatible with the character of the community and surrounding area in terms of exterior color, predominant exterior materials, and landscaping.
- e. At least one parking space shall be provided for every 300 square feet of gross floor area devoted to the sales office use. Accessible parking for persons with physical disabilities is required (see 5.10.3.I, Accessible Parking Spaces for Physically Disabled Persons).
- f. On termination of the temporary real estate sales/leasing use, the building or unit shall be converted to a permanent permitted use or removed.

7. Special Event

A special event permit shall be subject to the following standards:

- a. A special event permit is obtained from the Town.
- b. Adequate off-street parking and accessibility is provided.
- c. The Fire Department and Police Department have determined that the site is accessible for public safety vehicles and equipment.
- d. The Inspections Department has determined that any existing or proposed permanent or temporary structures comply with applicable regulation of the State Building Code.
- e. Adequate restroom facilities are provided.
- f. Adjacent property owners are notified of the proposed event before its approval.
- g. A special event cannot exceed a collective total of 20 days or four weekends (Saturday and Sunday) within any calendar year, except where the site is publicly-owned property and used for events sponsored by the Town for the enjoyment or enrichment of its citizens.

(Ord. No. 2014-051, 11/10/2014)

8. Stockpiling of Materials

The temporary stockpiling of materials is permitted subject to the following standards:

- a. A stockpiling permit is obtained from the Town.
- b. The stockpiled material shall not exceed 25 feet in height above the original natural grade.
- c. The area of disturbance associated with the stockpiling shall be one half acre or less.
- d. The footprint of the stockpiling area shall be located at least 25 feet from adjoining property lines.
- e. The side slope of the stockpiled materials shall not exceed a 3:1 ratio.
- f. Stockpiled materials shall be limited to dirt, fill, and/or gravel.
- g. Stockpiled materials shall be seeded or covered with tarps or mulch. Tarps shall be keyed in at the top of the slope to keep water from running underneath the plastic.
- h. All stockpiled materials shall be removed within 90 days after approval of the use.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2014-051, 11/10/2014)

9. Street Vendor

- a. Street vendors shall obtain a street vendor permit from the Town.
- b. Carts used for street vending shall be on wheels, be no longer six feet, and be no higher than five feet (excluding umbrellas or transparent enclosures).
- c. No signage for street vendors shall be allowed other than signs permanently attached to the cart.
- d. Encroachment permits and liability insurance shall be required to operate within any Town or State right-of-way.
- e. If operating adjacent to or in front of a business other than one they own or operate, street vendor cart operators shall be responsible for obtaining permission to operate from the owner of such business and shall submit evidence of such permission to the Planning Director. This requirement does not apply if the street vender is part of an event for which a special event permit has been obtained from the Town.
- f. Temporary connections to potable water systems are prohibited. All plumbing and electrical connections shall be in accordance with the State Building Code.
- g. Mobile prepared-food vendors shall not operate as a drive-through facility.
- h. Approval by the Health Department is required for all food vendors.
- i. Vendor carts shall not restrict or interfere with the ingress to or egress from an abutting building.
- j. Vendor carts shall not be located in medians.
- k. The Planning Director may revoke any development permit issued for this use on determining that the vendor's operations are causing parking, traffic congestion, or litter problems either on or off the property where the use is located, or that the use is otherwise creating a danger to public health or safety.

(Ord. No. 2014-022, 06/24/2014)

(Ord. No. 2015-002, 04/29/2015)

10. Temporary Construction-Related Structure or Facility

- a. A construction-related structure or facility shall be used only as office space for construction management and security uses during authorized construction of development, and shall not be used as a residence.
- b. A construction-related structure or facility shall be assigned a street address before issuance of a Building Permit for the development being constructed.
- c. All permits required by applicable building, electrical, plumbing, and mechanical codes shall be obtained before placement of temporary construction-related structures and facilities on the site.
- d. No construction-related structure or facility shall be placed within the right-of-way of a street.
- e. All temporary construction-related structures and facilities shall be removed from the construction site within 30 days after issuance of the final Certificate of Compliance/Occupancy for the constructed development.
- f. A temporary construction-related structure or facilities may be placed on a property adjacent to the construction site if site constraints make it infeasible to locate the structures or facilities on the construction site, provided the adjacent site is restored to its previous condition within 60 days after issuance of the final Certificate of Compliance/Occupancy for the constructed development.

11. Temporary Family Health Care Structure

- a. A temporary family health care structure is only allowed as a temporary accessory use to a single-family detached dwelling.
- b. The structure shall have no more than 300 square feet of gross floor area.
- c. The caregiver shall own or occupy the single-family detached dwelling as their residence and shall be related by blood, marriage, or adoption, or be the legally appointed guardian of, the mentally or physically impaired person occupying the temporary health care structure.
- d. The application for the structure shall include written certification by a physician licensed in North Carolina that the mentally or physically impaired person occupying the temporary health care structure requires assistance with two or more activities of daily living (i.e., bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating).
- e. Only one temporary health care structure shall be allowed on the lot.
- f. The structure shall be connected to the water, sewer, and electric utilities serving the principal single-family dwelling on the lot and shall comply with all applicable local and State regulations.
- g. No signage advertising or otherwise promoting the existence of the structure shall be allowed on the exterior of the structure or elsewhere on the property.
- h. The caregiver shall provide the Planning Director evidence of compliance with these standards on an annual basis for as long as the temporary health care structure remains on the lot, and shall allow the Planning Director to inspect the structure for compliance with these standards at reasonable times convenient to the caregiver.
- i. The structure shall be removed from the lot within 60 days after the time the mentally or physically impaired person is no longer receiving, or is no longer in need of, the required assistance.

(Ord. No. 2015-002, 04/29/2015)

12. Temporary Office Structure

- a. A temporary office structure is allowed on a site where an existing office space is being renovated or up-fitted pursuant to an issued Building Permit or on property within the Town that is owned by the holder or the Building Permit.
- b. Except as otherwise provided in subsection c below, the temporary office structure shall comply with all applicable provision of this Ordinance except for Section 5.7, Perimeter and Streetyard Buffers, Section 5.9, Building Configuration and Design, and those parts of Section 5.12, Landscaping, other than Section 5.12.5, Foundation Plantings.
- c. Parking areas shall have an all-weather surface.
- d. Structure height shall be limited to one story.
- e. No temporary office structure shall be erected where it will adversely affect any means of exit.
- f. The temporary office structure shall be located at least ten feet from another building or structure.
- g. Public improvements shall include accessible parking and an accessible route from the parking area to the temporary office structure.
- h. The temporary office structure shall have a continuous curtain wall, unpierced except for required ventilation or access, installed under the temporary office structure.
- i. The temporary office structure must provide restroom facilities and handicap accessibility.
- j. A temporary office structure use may be allowed for up to 12 months from the date of approval. At the end of this period, the temporary office structures shall be removed from the site and the site shall be restored to its former condition with the exception of any permanent public improvements added, or stabilized with seed or grass. The Planning Director may, for good cause shown, approve written requests for six-month extensions of this period in response, provided the request is submitted to the Planning Director at least 30 days before expiration of the period or last extension.
- k. The applicant shall post a performance guarantee equal to 150 percent of the estimated cost of removing the temporary office structure and restoring or stabilizing the site as required, which shall be prepared and sealed by a licensed engineer or other licensed professional authorized to conduct the required removal and restoration work under North Carolina law. The applicant may petition the Town to release performance guarantee on removal of the temporary office structure and completion of the required restoration or stabilization.

(Ord. No. 2016-001, 05/10/2016)

13. Temporary Portable Storage Unit

Temporary storage in a portable storage unit may be permitted to serve an existing use on the same lot, subject to the following standards:

- a. No more than one unit shall be located on a lot.
- b. A unit shall be no more than eight feet wide, 16 feet long, or eight feet high.
- c. No unit shall be placed on a lot for more than 30 consecutive days, or for more than 60 days within any calendar year.
- d. In nonresidential zoning districts a unit may be placed only in the rear yard or side yard. In no case may a unit be placed in the front yard, in any front off-street parking facility of a commercial use, or in fire lanes, passenger loading zones, commercial loading areas, or public rights-of-way.

- e. The owner and operator of the lot containing a portable storage unit shall ensure that the unit is in good condition, free from evidence of deterioration, weathering, discoloration, rust, ripping, tearing, or other holes or breaks. The unit shall be kept locked when not being loaded or unloaded.
- f. The owner and operator of the lot containing a portable storage unit shall ensure that no hazardous substances are stored within the unit.

(Ord. No. 2015-002, 04/29/2015)

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Article 5: Development Standards

SECTION 5.1. GENERAL PROVISIONS

5.1.1. General Intent

This Article includes standards and guidelines for developing property or establishing new uses of property within Morrisville, to ensure the protection of the health, welfare, safety, and quality of life for local citizens, visitors, and business owners. These provisions address the physical relationship between development and adjacent properties, public streets, neighborhoods, and the natural environment, in order to implement the Land Use Plan vision for a more attractive, efficient, and livable community.

SECTION 5.2. GENERAL SITE LAYOUT AND DESIGN

5.2.1. All Districts

- A. The general location, character, and extent of new, extended, or widened or expanded streets, public utilities and service facilities, and parks and other public areas shall be consistent with the Comprehensive Plan.
- B. Developments shall be laid out and designed to functionally and visually integrate their design elements (open spaces, buildings, parking, utilities, stormwater management facilities, etc.)—both within the development and in relationship to surrounding developments—to the maximum extent practicable.
- C. The layout of streets, lots, building sites, and other elements of development shall be designed to minimize alteration of natural and historic site features to be preserved.
- D. Developments shall minimize impacts to sensitive natural resources and other unique and fragile site elements—including, but not limited to, wetlands and steep slopes—and significant stands of mature trees shall be preserved where practicable, with development reserved for environmentally stable areas.
- E. All new bungalow court, pocket neighborhood, single-family detached, attached, duplex, and manufactured home lots shall be located wholly outside any riparian buffer required in accordance with Article 6: Riparian Buffers.
- F. Streets, building sites, and the buildable areas of lots shall be located outside floodways and non-encroachment areas of Special Flood Hazard Areas and, to the maximum extent practicable, outside all other parts of a Floodplain Overlay (FO) district. Public infrastructure improvements and utility facilities shall be located and constructed to minimize exposure to flood hazards.

(Ord. No. 2015-047, 07/28/2015; Ord. No. 2016-001, 05/10/2016)

5.2.2. Transit-Oriented Development (TOD) District

The layout of streets, lots, blocks, building sites, and other elements of development in the Transit-Oriented Development (TOD) District shall be designed to maximize safe and convenient vehicular, bicycle, and pedestrian access to the associated transit station and provide the views and community amenities that help define the station as the focal point of the District.

SECTION 5.3. SUBDIVISION BLOCKS, LOTS, AND REFERENCE POINTS

5.3.1. Blocks

- A. Blocks shall be laid out to provide a functional street pattern and circulation and connectivity in accordance with the standards in Section 5.8, Access and Circulation.

Article 5: Development Standards

Section 5.3. Subdivision Blocks, Lots, and Reference Points

5.3.2. Lots

- B.** Blocks shall have sufficient width to provide for two back-to-back rows of street-fronting lots of appropriate depth for the zoning district, excluding any water bodies, public alleys, or other public rights-of-way. Exceptions shall be permitted in blocks adjacent to thoroughfares, railroads, or waterways, or due to limiting topographical conditions, the size or configuration of the site, or for approved through lots.
- C.** Blocks in the Main Street (MS) District shall not exceed a length of 350 feet. Blocks in the Transit-Oriented Development (TOD) District shall not exceed a length of 800 feet. In all other districts, blocks shall be at least 400 feet long and no more than 1,200 feet long except as necessary to secure efficient use of land, or desired features of the street pattern, or to reflect the size and configuration of the site.
- D.** The lengths, widths, and shapes of blocks shall be determined based on the following:
 - 1. Lot area and width standards;
 - 2. Needs for convenient access, circulation, control, and safety of vehicular, bicycle, and pedestrian traffic;
 - 3. Relationship to existing utilities;
 - 4. Layout of the water system with regard to eliminating stagnant water, providing adequate fire flow, appropriately placing fire hydrants, and meeting minimum pressure requirements;
 - 5. Layout of the sanitary sewer system with regard to utilizing gravity sewer system wherever possible and minimizing the use of sewer force mains;
 - 6. Layout of the stormwater management system with regard to utilizing natural outfalls adjacent to the land being subdivided, and effectively using existing public stormwater or drainage systems;
 - 7. Location of existing and proposed easements; and
 - 8. Limitations and opportunities of existing, pre-development topography.

5.3.2. Lots

- A.** Each lot shall meet the applicable lot area and width standards set forth in Article 3: Zoning Districts, and otherwise be developable in accordance with the standards in this Ordinance.
- B.** Lots shall be arranged in relationship to topography, flood hazards, tree protection requirements, or other site conditions to minimize difficulties in providing a reasonable building site and yard area in accordance with requirement of this Ordinance.
- C.** Each lot shall be situated so that stormwater may be easily directed away from buildings in subsequent site-specific development. Lots shall be configured so that buildings and general flood sensitive site facilities are not located in drainage ways.
- D.** Each single-family detached, duplex, manufactured home, and single-family attached dwelling lot shall have at least 20 feet of frontage on a public street right-of-way—except for the following:
 - 1. The Transit-Oriented Development (TOD) District where lots with vehicular access from a rear alley may front on publicly-dedicated open space instead of a street;
 - 2. Bungalow courts that comply with Section 4.2.5.C.1.a(2), Site Requirements; or
 - 3. Pocket neighborhoods that comply with Section 4.2.5.C.1.f(2), Site Requirements.
- E.** Each nonresidential, multifamily, and mixed-use lot shall have at least 20 feet of frontage on a public or private street with a right-of-way or easement that is at least 50 feet wide—except in the Transit-Oriented Development (TOD) District, where lots with vehicular access from a rear alley may front on publicly-dedicated open space instead of a street.

- F.** The creation of through lots shall be avoided except where necessary to provide access to residential development from a street other than a major or minor thoroughfare, or to overcome specific disadvantages of existing, pre-development topography and lot configuration.
- G.** The creation of flag lots is prohibited.
- H.** Lot lines shall intersect a fronting street right-of-way or easement in a substantially perpendicular manner or radially to curves or cul-de-sacs.
- I.** No lot shall be created so as to be so irregularly shaped with a shape factor in excess of 35. Shape factor equals the square of the lot perimeter divided by the net lot area (P^2/A).
- J.** Where land is subdivided into parcels large enough to be further divided into ordinary sized building lots, such parcels shall be arranged to allow for the opening of future streets and logical further subdivision.
- K.** The size, shape, and orientation of nonresidential lots shall be appropriate for the type of development and use contemplated.
- L.** No more than one single-family detached, duplex, manufactured home or single-family attached dwelling is permitted per lot.

(Ord. No. 2015-002, 04/29/2015; Ord. No. 2016-001, 05/10/2016)

5.3.3. Subdivision Reference Points

A. Monuments and Control Corners

1. Permanent monuments shall be placed at not less than two corners of the subdivision. Additional monuments shall be placed where necessary to ensure that no point within the subdivision lies more than 500 feet from a monument.
2. Two or more of the monuments shall be designated as control corners. Such monuments may be of concrete or iron pipe. Where concrete monuments are employed, they shall have an indented cross metal pin or plate at the top to properly identify the point. All monuments and control corners shall be made of such materials and installed in such manner as established by the North Carolina Board of Examiners for Engineers and Land Surveyors.
3. All monuments and control corners shall be shown on the Final Plat.

B. Markers

All lot corners, all points where the street lines intersect the exterior boundaries of the subdivision, and all angle points and points of curve in each street, shall be marked with iron pipe not less than $\frac{3}{4}$ inch in diameter and 30 inches long, and shall be driven so as to be within one inch of finished grade.

C. Property Corner Tie

At least one corner of the property surveyed shall be designated by course and distance (tie) from a readily discernible reference marker. If a corner is within 2,000 feet of a U.S. coast and geodetic station or state grid system coordinated monument, then this corner shall be marked with a monument so designated and shall be accurately tied to the station or monument by computed X and Y coordinates. The station or monument shall be located on the Final Plat to an accuracy of 1:15,000 with a statement identifying the station or monument. If such a monument or station is not available, the tie shall be made to some permanent and readily recognizable landmark or identifiable point, physical object, or structure.

D. Subdivision Survey Accuracy

1. Angular error of closure shall not exceed 20 seconds times the square root of the number of angles turned.

2. Linear error of closure shall not exceed one foot per 10,000 feet of perimeter of the lot of land (1:10,000), except for commercial and industrial subdivisions, where linear error closure shall not exceed one foot per fifteen thousand 15,000 feet of perimeter (1:15,000).

SECTION 5.4. TREE PROTECTION

5.4.1. Purpose

The purpose of this section is to establish minimum standards to ensure that development and land-disturbing activities do not result in the unnecessary removal or damage of tree canopy and mature trees that contribute to the character and quality of life in Morrisville by:

- A. Preserving and enhancing the visual and aesthetic qualities of the Town;
 - B. Reducing glare, dust, heat, and noise;
 - C. Maintaining and enhancing property values;
 - D. Increasing slope stability and controlling erosion and sedimentation;
 - E. Reducing stormwater runoff into waterways and preserving and enhancing water quality;
 - F. Preserving and enhancing air quality;
 - G. Conserving wildlife habitat; and
 - H. Conserving energy by moderating temperatures and reducing heating and cooling demands.
-

5.4.2. Applicability

A. General

The standards in this section shall apply to all new development subject to Planned Development Rezoning (Section 2.5.3), Conceptual Master Plan Approval (Section 2.5.4), Special Use Permit (Section 2.5.5), Major Site Plan Approval (Section 2.5.7.B), or Minor Site Plan Approval (Section 2.5.7.C), unless such new development is expressly exempted in accordance with subsection B below.

B. Exemptions

The following activities are exempt from the standards of this section:

1. The removal or replacement of trees associated with the development of a bungalow court, pocket neighborhood, single-family detached, duplex, or manufactured home dwelling, or a subdivision that creates lots for such dwellings;
2. The removal or replacement of trees associated with an existing single-family detached, duplex, or manufactured home dwelling;
3. The removal or replacement of trees associated with development in a Main Street or Transit-Oriented Development zoning district;
4. The removal of dead or naturally-fallen trees;
5. The removal of trees that pose an imminent threat of falling onto an existing structure, are so close to an existing structure as to endanger the stability of the structure, or otherwise create on-going safety problems for existing development;
6. The removal of diseased trees posing a threat to adjacent trees;
7. The removal of invasive species of trees, provided the removal results in the complete removal of the trees (including roots);

8. The selective and limited removal of trees or vegetation necessary to obtain clear visibility within intersection sight distance areas;
9. The removal of trees that the Town Engineer determines to be a hazard to traffic or to interfere with the provision of utility lines or public services;
10. The removal of trees as necessary for rescue in an emergency or for clean-up following a natural disaster;
11. The removal of trees in Airport Overlay Districts that the Planning Director, after consultation with staff of the Raleigh-Durham Airport Authority, determines to be an obstruction to air navigation to and from the Raleigh-Durham International Airport;
12. The removal or replacement of trees outside of an approved tree protection area, when associated with an expansion of the building footprint or parking area of an existing nonresidential development by ten percent or less from that originally approved for the development; and
13. Tree removal associated with normal forestry activity that is conducted:
 - a. On land taxed on the basis of its present-use value as forestland pursuant to N.C.G.S. ch. 105, art. 12, subject to the limitations on subsequent development in subsection C below; or
 - b. In accordance with a forest management plan prepared or approved by a forester registered in accordance with N.C.G.S. ch. 89B, subject to the limitations on subsequent development in subsection C below, and provide to the Town of Morrisville prior to proceeding with the forestry activity.

(Ord. No. 2016-001, 05/10/2016)

C. Limitations on Development Proposals Subsequent to Exempt Forestry Activity

1. Clear-cutting of a site in a manner not consistent with the requirements of Section 5.4, Tree Protection is prohibited.
2. If one of the forestry exemptions in subsection B.13 above is used to remove all or some of the trees that would have been protected by this section, no application for Rezoning (Section 2.5.3), Conceptual Master Plan (Section 2.5.4), Special Use Permit (Section 2.5.5), Type 1 Subdivision Preliminary Plat (Section 2.5.6.B.1), Type 2 Subdivision Preliminary Plat (Section 2.5.6.B.2), Major Site Plan (Section 2.5.7.B), or Minor Site Plan (Section 2.5.7.C), shall be accepted for development of the land for a period of three years after completion of the forestry activity.
3. If one of the forestry exemptions in subsection B.13 above is not met, and some or all of the trees that would have been protected by this section are removed, no application for Rezoning (Section 2.5.3), Conceptual Master Plan (Section 2.5.4), Special Use Permit (Section 2.5.5), Type 1 Subdivision Preliminary Plat (Section 2.5.6.B.1), Type 2 Subdivision Preliminary Plat (Section 2.5.6.B.2), Major Site Plan (Section 2.5.7.B), or Minor Site Plan (Section 2.5.7.C), shall be accepted for development of the land for a period of five years after completion of the forestry activity or site clearing and grading.
4. In the event an application is submitted for exempted development but then converted to a different kind of development subject to the standards in Section 5.4, Tree Protection, approval of the converted application shall be delayed for a period of five years after the completion of forestry activity or site clearing and grading.

(Ord. No. 2015-002, 04/29/2015; Ord. No. 2016-001, 05/10/2016)

5.4.3. Tree Survey

A. Purpose

The purpose of the tree survey is to clearly demonstrate the location and area of existing tree canopy coverage for stands of trees on a development site as well as the location and size of individual specimen trees on the site.

B. Required

A tree survey shall be prepared and submitted as part of any application for development subject to this section.

C. Form

Except for vacant sites of more than 30 acres in area that are 100 percent covered by an existing tree canopy, the tree survey shall include:

1. The latest available aerial photograph of the development site; and
2. A plan depicting:
 - a. The location, area, predominant species, general health, estimated tree number, and average diameter at breast height (DBH) of stands of trees;
 - b. The location, species, general health, and DBH of all individual specimen trees on the site;
 - c. The location and DBH of trees to be credited towards the requirements in Section 5.7, Perimeter and Streetyard Buffers, and Section 5.12, Landscaping;
 - d. The proposed tree protection area boundary, including any areas where replacement trees are proposed in accordance with Section 5.4.7.A.2, Location of Replacement Trees;
 - e. The location of the drip line and tree trunks associated with trees bordering the tree protection area boundary;
 - f. Known dead or diseased trees, where practical; and
 - g. The percentage of the lot area (excluding all proposed street rights-of-way, existing utility easements, and natural water surface areas) that is covered by existing tree canopy.

(Ord. No. 2015-002, 04/29/2015)

D. Vacant Sites Over 30 Acres

Applications for development on vacant sites of 30 acres in area or larger that are 100 percent covered by existing tree canopy may submit the latest available aerial photograph as the required tree survey, provided:

1. The aerial photograph is supplemented by a plan showing the location of the drip edge and tree trunks associated with trees bordering the tree protection area boundary; and
2. In cases where an applicant is seeking to use existing trees to comply with the standards in Section 5.7, Perimeter and Streetyard Buffers, Section 5.12, Landscaping, or Section 5.4.7, Mitigation for Tree Removal, a plan prepared in accordance with subsection 5.4.3.C.2 above is also required.

5.4.4. Tree Canopy Retention

A. Minimum Percentage

Except as exempted by 5.4.2.B, Exemptions, or otherwise allowed and mitigated in accordance with Section 5.4.7, Mitigation for Tree Removal, existing tree canopy cover on a development site shall be retained and protected in accordance with Table 5.4.4.A, Existing Tree Canopy Retention Standards, based on the proposed type of development and the percentage of the site covered by existing tree

canopy and the priorities established in Section 5.4.4.B, Priority Retention Areas. (See example application in Table 5.4.4.A: Existing Tree Canopy Retention Standards.)

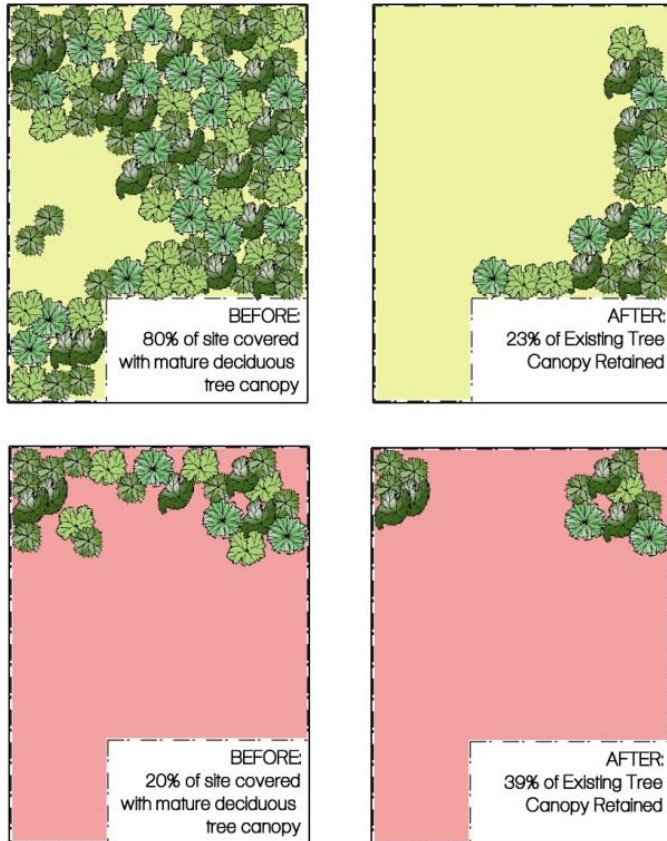
Table 5.4.4.A: Existing Tree Canopy Retention Standards		
Existing Tree Canopy Cover [1]	Minimum Percentage of Existing Tree Canopy Cover to be Retained	
	Single-Family Attached and Multifamily Development	Nonresidential and Mixed-Use Development
92% up to 100%	19%	10%
84% up to 92%	21%	11%
76% up to 84%	23%	12%
68% up to 76%	25%	13%
60% up to 68%	27%	14%
52% up to 60%	29%	15%
44% up to 52%	31%	16%
38% up to 44%	33%	17%
30% up to 38%	35%	18%
22% up to 30%	37%	19%
14% up to 22%	39%	20%
6% up to 14%	41%	21%
0% up to 6%	n/a	n/a

Notes:
 [1] Existing tree canopy cover is the percentage of a development site (excluding proposed street rights-of-way, existing utility easements, and natural water surface areas) that is covered by existing tree canopy before development or land disturbing activity.

ILLUSTRATIVE EXAMPLES:

(1) The tree survey establishes that 80% of a 100,000-square-foot multifamily development site is covered by existing tree canopy. Because 80% falls within the 76% up to 84% range, the minimum required tree canopy retention for the site is 23% of the existing canopy from mature deciduous trees. This equates to 18.4% of the total development site (80,000 x 23%), yielding a tree protection area of approximately 18,400 square feet.

(2) On the same sized multifamily development site, the tree survey established that only 20% of the site is covered by existing from mature deciduous trees. Because 20% falls within the 14% up to 22% range, the minimum required tree canopy retention is 39% of the existing tree cover. This equates to 7.8% of the total development site (20,000 x 39%), yielding a tree protection area of 7,800 square feet.



(Ord. No. 2016-001, 05/10/2016)

B. Priority Retention Areas

When meeting the tree canopy retention standards outlined in Table 5.4.4.A, Existing Tree Canopy Retention Standards, priority areas for retention of existing tree canopy cover shall include the retention areas identified in Table 5.4.4.B, Priority Retention Areas, listed in priority order. The existing tree

canopy cover retained may include a combination of the areas listed below, but shall, to the maximum extent practicable, include all the highest priority areas, then all of the next highest priority areas, and so forth until the minimum percentage is met.




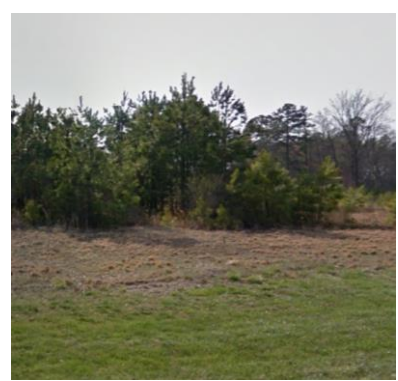
Table 5.4.4.B: Priority Retention Areas		
Order of Priority	Required Preservation	Preservation Example
1	Existing tree canopy area containing mature deciduous trees and their root zones.	
2	Existing tree canopy area containing mature evergreen or both evergreen and deciduous trees and their root zones.	
3	Existing specimen trees and their associated root zones.	

Table 5.4.4.B: Priority Retention Areas		
Order of Priority	Required Preservation	Preservation Example
4	Existing tree canopy area containing deciduous, evergreen, or both evergreen and deciduous trees and their root zones that do not qualify as an Order of Priority 2.	

(Ord. No. 2016-001, 05/10/2016)

C. Reduction or Modification

1. The standards in Table 5.4.4.A, Existing Tree Canopy Retention Standards, may be reduced or modified only in accordance with the following standards.
 - a. Applications to reduce the minimum existing tree canopy retention standards by less than 50 percent may be proposed, subject to the standards in Section 5.4.7.A, Replacement Trees; and
 - b. Applications to reduce the minimum existing tree canopy retention standards by 50 percent or more may be reviewed and approved in accordance with the standards and procedures in Section 2.5.20, Alternative Equivalent Compliance. The use of the Alternative Equivalent Compliance procedure requires compliance both with Section 2.5.20, Compliance and with Section 5.4.7, Mitigation for Tree Removal. In no instance shall the minimum existing tree canopy retention standards be reduced by more than 75 percent.
2. In no instance shall a development be granted more than one tree canopy reduction or modification request authorized in Section 5.4.4.C., Reduction or Modification. In cases where a single development is comprised of multiple lots, development applications on individual lots may not request tree canopy retention reductions to the tree protection area created with the approval that established the individual lots.

5.4.5. Tree Protection Plan and Tree Protection Areas

- A. All applications subject to this section shall include a tree protection plan prepared by an ISA-certified arborist, registered landscape architect, or registered forester that designates boundaries of one or more tree protection areas and shows grading and other major development activities proposed adjacent to the tree protection area(s).
- B. The tree protection area(s) shall include land within the drip lines for all individual trees and stands of trees proposed to be retained and protected in accordance with Section 5.4.4, Tree Canopy Retention as well as for any replacement trees proposed to be provided in accordance with Section 5.4.7.A, Replacement Trees. The tree protection plan shall also depict the location and details of protective fencing, marking, and signage to be provided in accordance with Section 5.4.6.B, Protective Fencing and Signage.
- C. Tree protection areas shall be located within required common open space or public recreation areas, where they are maintained so as to protect the included trees in accordance with Section 5.5.1.F, Ownership, Management, and Maintenance of Common Open Space. For subdivision developments, subject to these standards, tree protection areas shall not be located within individual lots, and the

recorded subdivision plat shall include a note prohibiting disturbance of the tree protection area during development of the subdivision except as authorized by this section.

- D.** Tree protection areas shall be shown and labeled as Tree Preservation Area(s) on a Final Plat recorded at the Register of Deeds for the county in which the development site is located prior to issuance of the first Certificate of Compliance/Occupancy for the development.

(Ord. No. 2016-001, 05/10/2016)

5.4.6. Tree Protection During Development Activity

A. Responsibility

During any development activity (including demolition activity), the property owner or developer shall be responsible for protecting existing or replacement trees within a tree protection area.

B. Protective Fencing and Signage

1. Protective Fencing

Continuous fencing consisting of a bright orange plastic mesh at least four feet high shall be provided along the boundaries of tree protection areas, no closer than one linear foot outside of the drip lines of trees within the area. The Planning Director 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. (See Figure 5.4.6.B.1: Tree Protection Fencing and Signage.)

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 construction workers not to encroach into the area (e.g., "Tree Protection Area: Do Not Enter").

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 Compliance/Occupancy following completion of all development in the immediate area of the fencing or signage.

C. Tree Protection Area Limitations and Requirements

Except where authorized by the tree protection plan, encroachments into a tree protection area may occur only when no other alternative exists, and shall comply with landscaping best management practices and the following limitations and requirements:

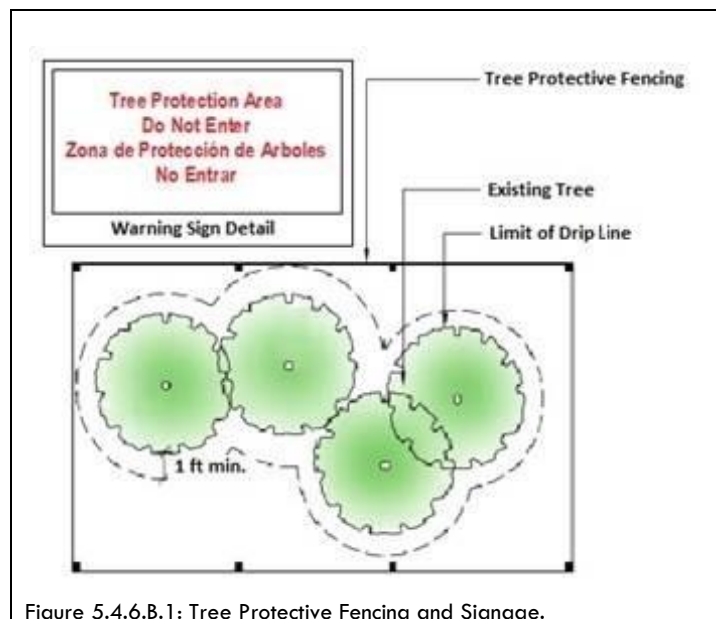


Figure 5.4.6.B.1: Tree Protective Fencing and Signage.

1. Construction Activity, Equipment, or Materials Storage

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 protection area.

2. Clearing of Vegetation

Any clearing of vegetation within the tree protection area shall be only by hand.

3. Use of Retaining Walls and Drywells

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. Structures and Hard Surfaces

No structures or hard surfaces can be located within a tree protection area.

5. Fences and Walls

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 these roots bridged.

(Ord. No. 2016-001, 05/10/2016)

5.4.7. Mitigation for Tree Removal

A. Replacement Trees

1. Rate of Provision

a. Trees within a Designated Protection Area

- (1) Each existing non-specimen tree that is removed pursuant to a reduction or modification of the minimum existing tree canopy retention standard or required per Section 10.4.2.D.3, Tree Replacement Required, shall be replaced with one or more trees with a minimum caliper of two inches each and a cumulative caliper equal to the DBH of the removed tree(s).
- (2) Each existing specimen tree that is removed pursuant to a reduction or modification of the minimum existing tree canopy retention standard or required per Section 10.4.2.D.3, Tree Replacement Required, shall be replaced with one or more trees with a minimum caliper of five inches each and a cumulative caliper equal to or greater than two times the DBH of the removed tree(s).
- (3) Required replacement tree(s) shall be planted and maintained in accordance with the planting standards in Section 5.12.3, General Landscaping Standards, and shall comply with all the standards in this subsection.

b. Trees without an Established Protection Area

- (1) In cases where irreparable damage to or removal of existing trees takes place on a site that is subject to the standards in Section 5.4, Tree Protection, but where a tree protection area has not yet been established, a reforestation plan prepared by a North Carolina Registered Forester shall be prepared and provided to the Town.

- (2) New vegetation shall be installed within six months of the tree removal or within a timeframe specified by a North Carolina Registered Forester and agreed to by the Planning Director.

2. Location of Replacement Trees

a. Trees within a Designated Protection 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 are as follows:

- (1) Inside a designated tree protection area;
- (2) Outside a designated tree protection area but within the area of development;
- (3) Away from an area of development but upon the same zoning lot;
- (4) On a different zoning lot within the Town's planning jurisdiction but under the same ownership of the area of development;
- (5) On land owned by the Town of Morrisville; or
- (6) In Town of Morrisville public right-of-way.

b. Trees without an Established Protection Area

Reforestation shall occur within the entire area where existing trees were irreparable damaged to or removed.

3. Xeriscape and Native Species Required

Replacement trees shall be a native listed in the Xeriscape and Native Vegetation Guide (see Administrative Manual).

4. Tree Type

Where more than 12 replacement trees are provided, they shall comprise at least four different species, including at least three deciduous species, unless otherwise recommended by North Carolina Registered Forester as part of a reforestation plan.

5. Guaranteed Establishment Period

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 8.2.2, Maintenance Guarantees. 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 subsection A above, the developer may, with the approval of the Town Council, make a payment to the Town that approximates the cost of purchasing and installing the required caliper inches of replacement trees.
2. The Town Council may approve the use of the 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 from per caliper inch replacement tree fee in the Town's fee schedule.

4. The developer 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.

(Ord. No. 2016-001, 05/10/2016)

5.4.8. Credit Towards Other Standards

Tree protection areas, and trees and other vegetation within such areas, may be credited towards compliance with riparian buffer, common open space, public recreation area, perimeter and streetyard buffer, and landscaping requirements to the extent they comply with the standards in Section 5.12.3.A, New Planting Standards, or other applicable landscaping standards (see Section 5.12, Landscaping).

(Ord. No. 2014-051, 11/10/2014)

SECTION 5.5. COMMON OPEN SPACE AND PUBLIC RECREATION AREA

5.5.1. Common Open Space

A. Purpose

The purpose of this section is to ensure that developments other than residential subdivisions include or contribute to the provision of common open space for the use and enjoyment of the development's occupants and users. Open space serves numerous purposes, including preservation and protection of natural areas and features, providing opportunities for passive and active recreation, enhancing management of stormwater runoff to protect water quality and reduce flooding, and mitigating the heat island effect of developed areas.

B. Applicability

1. General

The standards in this section, unless expressly exempted in accordance with subsection 2 below, shall apply to all new development subject to:

- a. Planned Development Rezoning (Section 2.5.3);
- b. Conceptual Master Plan Approval (Section 2.5.4);
- c. Special Use Permit (Section 2.5.5);
- d. Type 1 Subdivision Preliminary Plat Approval (Section 2.5.6.B.1);
- e. Type 2 Subdivision Preliminary Approval (Section 2.5.6.B.2);
- f. Major Site Plan Approval (Section 2.5.7.B); or
- g. Minor Site Plan Approval (Section 2.5.7.C).

2. Exemptions

The following development is exempt from the standards of this section:

- a. Development directly associated with a permitted agricultural use;
- b. Public Park or Recreational Facility;
- c. Recreation Facility, Residential Support;

- d. Residential subdivisions subject to public recreation area standards in Section 5.5.2, Public Recreation Area;
- e. Multifamily Dwelling developments subject to public recreation area standards in Section 5.5.2, Public Recreation Area; and
- f. Development of one single-family detached, duplex, or manufactured home dwelling on an existing lot.

(Ord. No. 2015-066, 07/28/2015; (Ord. No. 2016-001, 05/10/2016)

C. Required Open Space Area

1. Required Total Common Open Space Area

A development shall provide the minimum area of common open space identified in Table 5.5.1.C.1, Required Total Common Open Space Area, based on the development’s base zoning district and use classification.

Table 5.5.1.C.1: Required Total Common Open Space Area		
Use Classification	Minimum Total Common Open Space Area (as percentage of lot area)	
	Transit-Oriented Development (TOD) and Town Center Districts	All Other Districts
Mixed-Uses	5%	15% [1]
Institutional Uses	5%	10%
Commercial Uses (includes Animal Related Uses)	5%	10%
Industrial Uses	5%	5%
Notes:		
[1] If residential dwelling units are proposed, the Minimum Total Common Open Space Area is reduced to 5%.		

(Ord. No. 2015-002, 04/29/2015; Ord. No. 2015-066, 07/28/2015; Ord. No. 2016-001, 05/10/2016)

2. Allowable Common Open Space Areas

The features and areas identified in Table 5.5.1.C.2, Allowable Common Open Space Areas shall be credited towards compliance with the open space set-aside standards of this section. They are listed generally in the order of priority.


Table 5.5.1.C.2: Allowable Common Open Space Areas		
Area Counted as Common Open Space	Description	Design and Maintenance Requirements
Natural Resource and Hazard Areas		
	Natural water features (including lakes, ponds, rivers, streams, rivers, wetlands, drainageways), riparian buffers, flood hazard areas, existing tree canopy and specimen trees, steep slopes, and important wildlife habitat areas, including such areas used for required public recreation area	<ul style="list-style-type: none"> Preservation of any existing natural resource and hazard areas shall have highest priority for locating open space. Maintenance is limited to the minimum removal and avoidance of hazards, nuisances, or unhealthy conditions.

Table 5.5.1.C.2: Allowable Common Open Space Areas






Area Counted as Common Open Space	Description	Design and Maintenance Requirements
Active Recreational Areas		
	Land occupied by areas and facilities used for active recreational purposes, such as pools, playgrounds, tennis courts, jogging trails, ball fields, and clubhouses, including required public recreation area	<ul style="list-style-type: none"> Land shall be compact and contiguous unless used to link or continue an existing or planned open space resource. Areas shall have at least one direct access to a building or to a street, bikeway, or walkway accessible to the public or the development's occupants and users.
Stormwater Management Devices		
	Up to 75 percent of land area occupied by stormwater management devices (including retention and detention ponds and other bioretention devices), when such features are treated as an open space site amenity	<ul style="list-style-type: none"> To qualify, stormwater management devices shall support passive recreation uses by providing access and pedestrian elements such as paths, benches, and educational signage.
Formal Plantings and Gardens		
	Formally planned and regularly maintained open areas that provide passive recreation opportunities, including arranged plantings, gardens, gazebos, and similar structures, as well as roof gardens	<ul style="list-style-type: none"> Formal plantings and gardens shall have at least one direct access to a building, or to street, bikeway, or walkway accessible to the public or the development's occupants and users. Such features shall be oriented to surrounding development.
Squares, Forecourts, Plazas, and Outdoor Dining Areas		
	Squares, forecourts, plazas, and outdoor dining areas that provide gathering places or active and passive recreational opportunities	<ul style="list-style-type: none"> Squares, forecourts, plazas, and outdoor dining areas shall be at least 200 square feet, but no more than one acre, in area. Such features shall have at least one direct access to a principal building, or to a street, bikeway, or walkway accessible to the public or the development's occupants and users. Surrounding principal buildings shall be oriented toward the square, forecourt, plaza, or outdoor dining area where possible.

Table 5.5.1.C.2: Allowable Common Open Space Areas

Area Counted as Common Open Space	Description	Design and Maintenance Requirements
Public Access Easements		
	<p>Public access easements that are available for passive recreational activities such as walking, running, and biking</p>	<ul style="list-style-type: none"> Such public access easements shall include at least one direct and signed access from a street, bikeway, or walkway accessible to the public.

(Ord. No. 2015-002, 04/29/2015; Ord. No. 2016-001, 05/10/2016)

3. Areas Not Allowable as Required Common Open Space

The following areas shall not be allowed as required common open space:

- a. Private yards not subject to an open space or conservation easement;
- b. Street rights-of-way or private access easements, including sidewalks located within those rights-of-way or easements;
- c. Open parking areas and driveways;
- d. Land covered by structures, unless designated for active recreational uses;
- e. Designated outdoor storage areas; and
- f. Stormwater ponds not located and designed as a site amenity (e.g., with low fencing, vegetative landscaping, gentle slopes, fountain or other visible water circulation device, and pedestrian access or seating).

D. Design Standards for Common Open Space

Areas used as a required common open space shall meet the following design standards:

- 1. To the maximum extent practicable, required common open space shall be located and configured to include, protect, or enhance as many of the allowable types of common open space shown in Table 5.5.1.C.2, Allowable Common Open Space Areas as possible, with a priority generally reflecting the order in which the types are listed in the table.
- 2. Required common open space areas shall be compact and contiguous unless a different configuration is needed to continue an existing trail or accommodate preservation of natural features.
- 3. Required common open space shall be located to be readily accessible and useable by occupants and users of the development. Where possible, a portion of the open space should provide focal points for the development through prominent placement or easy visual access from streets.
- 4. If the development site is adjacent to existing or planned parks, greenways, or other public open space, required common open space shall, to the maximum extent practicable, be located to adjoin, extend, and enlarge the park, greenway, or other public open space.
- 5. If the development contains, or adjoins an existing or planned transit station, required common open space shall, to the maximum extent practicable, adjoin the transit station site or be integrated with the transit station or other open space adjoining the transit station in accordance with any Town-adopted plans for the transit station area. Such required common open space shall be furnished with at least three of the following types of community amenities:

- a. Benches or seating areas;
- b. Raised landscape planters;
- c. Shade structures;
- d. Public art (e.g., sculptures, murals, water elements, carvings, frescos, mosaics, mobiles);
- e. A courtyard;
- f. Decorative shelters for transit riders (as approved by the Town); or
- g. Similar community amenities approved by the Town.

E. Development Within Required Common Open Space Areas

1. Development within required common open space areas shall be limited to that appropriate to the purposes of the type(s) of common open space (see Table 5.5.1.C.2, Allowable Common Open Space Areas).
2. Where appropriate to the type of common open space, such development may include, but is not limited to:
 - a. Walking, jogging, and biking paths or trails;
 - b. Benches or other seating areas;
 - c. Tables, shelters, grills, and other picnicking facilities;
 - d. Docks and other facilities for fishing;
 - e. Environmental education guides and exhibits;
 - f. Gazebos and other decorative structures;
 - g. Fountains or other water features;
 - h. Tot lots and play structures for children;
 - i. Gardens or seasonal planting areas; and
 - j. Swimming pools, athletic fields and courts, and associated clubhouses.

F. Ownership, Management, and Maintenance of Common Open Space

1. Required common open space area shall be managed and maintained as permanent open space through one or more of the following options:
 - a. Open space may be held in common ownership by the owner(s) of the development, who will be responsible for managing and maintaining the land for its intended open space purposes.
 - b. Open space areas may be conveyed to a property owners' or homeowners' association that holds the land in common ownership and will be responsible for managing and maintaining the land for its intended open space purposes.
 - c. Open space areas may be conveyed to a third-party beneficiary such as an environmental or civic organization that is organized for, capable of, and willing to accept responsibility for managing and maintaining the land for its intended open space purposes.
 - d. Open space areas may be dedicated to the public and conveyed to the Town or other public agency that is organized for, capable of, and willing to accept responsibility for managing and maintaining the land for its intended open space purposes.
2. Easements may be established on those parts of individually-owned lots including open space areas that require the areas to be managed consistent with their intended open space purposes and prohibit any inconsistent future development. Any options involving private ownership of required common open space area shall include association by-laws, deed restrictions, covenants, or other

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Section 5.5. Common Open Space and Public Recreation Area

5.5.2. Public Recreation Area

legal instruments that ensure continued use of the land for its intended open space purposes and provide for the continued and effective management, operation, and maintenance of the land and facilities. Such instruments shall be approved by the Town as sufficient to comply with this standard before or conjunction with approval of any Subdivision Approval for the development, or any Construction Plan Approval for the development (if no Subdivision Approval is required).

3. Responsibility for managing and maintaining common open space areas lies with the owner of the land comprising the areas. Failure to maintain common open space areas in accordance with the approved development shall be a violation of this Ordinance. Identification of who bears responsibility for managing and maintaining common open space areas shall be shown on any recorded subdivision plat for the development or any approved Construction Plan for the development (if no Subdivision Approval is required).

(Ord. No. 2015-066, 07/28/2015)

5.5.2. Public Recreation Area

A. Purpose

The purpose of this section is to ensure that new dwelling units include or contribute to the provision of a public recreation area sufficient to meet the passive and active recreation needs of residents of the new development, as well of the surrounding neighborhood.

B. Applicability

1. Type 1 and Type 2 Subdivisions

The standards in Sections 5.5.2.C through 5.5.2.F shall apply to all new:

- (1) Type 1 Subdivision Preliminary Plat Approvals; or
- (2) Type 2 Subdivision Preliminary Plat Approvals.

2. Major and Minor Site Plan Approval for Multifamily Dwellings

Any multifamily dwelling development or mixed-use development not subject to Section 5.5.2.B.1, shall provide a flat fee per unit as set forth in Section 5.5.3.C, Payment in Lieu of Providing Required Public Recreation Area. In instances where the Town Council determines that a combination of partial payment of in lieu funds and partial dedication of public recreation area is in the best interest of the Town, the standards in Sections 5.5.2.C through 5.5.2.F shall also apply.

(Ord. No. 2016-001, 05/10/2016)

C. Required Public Recreation Area

1. Type 1 and Type 2 Subdivisions

Any subdivisions proposing to create lots designed and intended to serve as building sites for bungalow court, pocket neighborhood, single-family detached, duplex, manufactured home, single-family attached, multifamily, live/work, congregate living facility, and continuing care retirement facility shall dedicate a portion of the subdivision site as public recreation area. The amount of land required to be dedicated shall equal 1/35 of an acre multiplied by the number of dwelling units proposed to be accommodated by subdivision lots (for subdivisions creating lots for bungalow court, pocket neighborhood, single-family detached, manufactured home, or single-family attached dwellings, this will equal the number of such lots; for subdivisions creating lots for duplex dwellings, this will equal twice the number of lots; for subdivisions creating lots for multifamily dwellings, live/work, congregate living, and continuing care retirement facilities this will equal the number of dwelling units).

2. Major and Minor Site Plan Approval for Multifamily Dwellings

In instances where the Town Council authorizes partial payment of in lieu funds and partial dedication of public recreation area for any multifamily dwelling development or mixed-use not

subject to subdivision regulations, the amount of land required to be dedicated shall equal $1/35$ acre multiplied by the number of multifamily dwelling units proposed for land dedication multiplied by the current multifamily factor (e.g. $1/35 * \text{the number of dwelling units} * .80$). A flat fee per unit shall be paid for any dwelling unit not proposed for land dedication.

(Ord. No. 2016-001, 05/10/2016)

D. Design Standards for Required Public Recreation Area

Areas used as a required public recreation area shall meet the following design standards:

1. Required public recreation area shall be compact and contiguous, forming a single area, unless multiple public recreation areas or a different configuration is needed to continue an existing trail or accommodate preservation of natural features.
2. The size and shape of required public recreation area shall be sufficient to accommodate active recreation activities appropriate to the recreational needs of subdivision residents (e.g., public recreation area should be sufficiently large and rectangular to accommodate soccer or softball fields, tennis courts, swimming pools, etc.).
3. Required public recreation area shall be located to be readily accessible and useable by occupants and users of the development.
4. Required public recreation area shall have at least 50 feet of frontage on a public street or a public access easement at least 30 feet wide.
5. No land dedicated as active public recreation area shall be located on slopes exceeding five percent.
6. No more than 25 percent of land dedicated as active public recreation area shall be located within a Floodplain Overlay District.
7. If the development site is adjacent to existing or planned parks, greenways, or other public open space, required public recreation area shall, to the maximum extent practicable, be located to adjoin, extend, and enlarge the park, greenway, or other public open space.

E. Dedicated Recreation Area to be Shown on Recorded Plat

Dedicated recreation area shall be shown on the recorded Final Plat prior issuance of any Building Permit for the development.

F. Conveyance of Dedicated Recreation Area

Required public recreation area shall be dedicated to the public and conveyed to the Town or other public agency that is organized for, capable of, and willing to accept responsibility for managing and maintaining the land for its intended open space purposes. The Town may sell or otherwise convey any public recreation area conveyed to the Town if the Town Council determines that development of the land for park and recreation purposes is no longer feasible or consistent with the Comprehensive Plan. Any proceeds from such transactions shall be deposited into the Town fund referenced in Section 5.5.3.C.2.b below.

(Ord. No. 2015-066, 07/28/2015)

5.5.3. Alternative Options for Meeting Common Open Space and Public Recreation Area Requirements

A. Review Authority

Decisions on whether or not to approve or deny requests in Section 5.5.3.B, Off-Site Provision and Section 5.5.3.C, Payment in Lieu of Providing Required Public Recreation Area, are made by the following review authorities:

Article 5: Development Standards

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5.5.3. Alternative Options for Meeting Common Open Space and Public Recreation Area Requirements

1. Town Council

The Town Council decides whether or not to approve or deny requests for Type 1 Subdivision Preliminary Plat Approval, Major Site Plan Approval, or Minor Site Plan Approval for multifamily dwelling developments requesting partial dedication of public recreation area .

2. Planning Director

The Planning Director decides whether or not to approve or deny requests for Type 2 Subdivision Preliminary Plat Approval, or Minor Site Plan Approval.

(Ord. No. 2016-001, 05/10/2016)

B. Off-Site Provision

1. In lieu of providing required common open space area or public recreation area on a development site in accordance with Section 5.5.1 or Section 5.5.2, the developer may, with the approval of the Town provide all or some of required common open space or public recreation area on land outside the development site.
2. Where off-site provision of required common open space or public recreation area is proposed, the application shall include a map showing the location, boundaries, and topography of the site, as well as any additional information deemed necessary by the Town to ascertain the site's suitability as common open space or public recreation area, as appropriate.
3. Any approved off-site common open space or public recreation area shall be identified on a plat. The plat shall be recorded with the Register of Deeds for the county in which the dedicated land is located. Ownership, management, and maintenance of common open space shall be in accordance with Section 5.5.1.F, and the conveyance of dedicated recreation area shall be in accordance with Section 5.5.2.F.
4. The Town's decision on whether to approve off-site provision of required common open space or public recreation area shall be based on the following:
 - a. Whether the proposed off-site common open space or public recreation area would meet the design standards for required common open space (Section 5.5.1.D) or public recreation area (Section 5.5.2.C.2), as appropriate;
 - b. Whether the proposed off-site common open space or public recreation area is located sufficiently close to the development site to meet the open space or recreation needs, as appropriate, of the occupants and users of the development;
 - c. Whether the proposed off-site common open space or public recreation area would contribute more to meeting the open space or recreation needs, as appropriate, of the occupants and users of the development than on-site provision of the common open space or public recreation area or the Town's use of in-lieu payments to acquire and develop parks, greenways, and other open space areas in the vicinity of the development; and
 - d. Whether the proposed public recreation area is consistent with the Comprehensive Plan.

C. Payment in Lieu of Providing Required Public Recreation Area

In lieu of providing all or a portion of the required public recreation area on a development site in accordance with Section 5.5.2, the developer may, with Town approval, make a payment to the Town.

1. Payment in Lieu Amount

a. Type 1 and Type 2 Subdivisions

- (1) The amount of the in lieu payment shall be the product of the number of acres of required public recreation area that is proposed and approved for the in lieu payment option multiplied by the pre-development fair market value per acre of land making up the development site. The development application shall include an appraisal or other

documentation acceptable to the Town showing the development site's predevelopment fair market value.

- (2) If the Town disagrees with the pre-development fair market value submitted by the applicant, such value shall be determined by a professional appraiser appointed by the Town Manager. The cost of the appraisal shall be borne by the applicant.

b. Major and Minor Site Plan Approval for Multifamily Dwellings

The amount of the payment for any multifamily dwelling development or mixed-use development that includes multifamily dwelling units that is not subject to Section 5.5.2.B.1, Type 1 and Type 2 Subdivisions Type 1 and Type 2 Subdivisions, shall be a flat fee per unit as established in the current Town of Morrisville Planning Department Fee Schedule.

2. Timing of Payment in Lieu

- a. The developer 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 payments may be phased in accordance with an approved phasing plan for the development.
- b. The Town shall deposit any in-lieu payment into a special Town fund that shall be used only for the acquisition or development of parks, greenways, and other open space areas that will serve occupants and users of the development. Such areas may also serve other developments in the immediate area.

3. Payment in Lieu Review Standards

The decision on whether to approve a payment in lieu of providing required public recreation area shall be based on the following criteria:

- a. Whether the on-site provision, or any proposed off-site provision, of required public recreation area could be used to establish, expand, or extend an existing or planned public park, greenway, or other open space area identified in parks and recreation plans or other plans adopted by the Town;
- b. The extent to which the size, shape, topography, geology, soils, and public accessibility of the development site makes it impractical to provide required public recreation area that complies with Section 5.5.2.D, Design Standards for Required Public Recreation Area.
- c. Whether the in-lieu payment option provides the additional design flexibility needed to accommodate allowable higher-intensity development in the Transit-Oriented Development (TOD) District, or allowable higher-intensity development on substantially constrained sites elsewhere in the town; and
- d. Whether the Town's use of an in-lieu payment to help acquire and develop parks, greenways, and other open space areas would better meet the open space and recreational needs of occupants and users of the development than on-site provision, or any proposed off-site provision, of the required public recreation area.

(Ord. No. 2014-051, 11/10/2014; Ord. No. 2015-047, 07/28/2015; Ord. No. 2015-066, 07/28/2015; Ord. No. 2016-001, 05/10/2016)

SECTION 5.6. FLOODPLAIN MANAGEMENT

5.6.1. Purpose

The purpose of this section is to set forth methods and provisions for minimizing the risks of flooding and flood damage in the Floodplain Overlay (FO) District. Specifically the standards in this section are intended to:

- A. Restrict or prohibit development that is dangerous to health, safety, and property due to water or erosion hazards, or that result in damaging increases in erosion or in flood heights or velocities;
 - B. Require development vulnerable to floods, including facilities serving such development, to 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 help accommodate or channel floodwaters;
 - D. Control filling, grading, dredging, and other development that may increase flood damage; and
 - E. Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or which may increase flood hazards in other areas.
-

5.6.2. Required Certificates

A. Elevation Certificates

1. An Elevation Certificate (FEMA Form 81-31) is required before the actual start of any new construction. It shall be the duty of the applicant for a Floodplain Development Permit to submit to the Town Engineer a certification of the elevation of the reference level, in relation to mean sea level. The Town Engineer shall review the certificate data submitted. The permit holder shall correct deficiencies detected by such review before the application for a Floodplain Development Permit may be approved. Failure to submit the certification or make required corrections of it shall be cause to deny a Floodplain Development Permit.
2. An Elevation Certificate (FEMA Form 81-31) is required after the reference level is established. Within seven calendar days after establishment of the reference level elevation, it shall be the duty of the holder of a Floodplain Development Permit to submit to the Town Engineer a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven-day calendar period and before submittal of the certification shall be at the permit holder's risk. The Town Engineer shall review the certificate data submitted. The permit holder shall correct deficiencies detected by such review immediately, and before proceeding further on the work being permitted. Failure to submit the certification or make required corrections shall be cause to issue a stop work order for the development.
3. A final as-built Elevation Certificate (FEMA Form 81-31) is required after construction is completed and before issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the holder of a Floodplain Development Permit to submit to the Town Engineer a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Town Engineer shall review the certificate data submitted. The permit holder shall correct deficiencies detected by such review immediately, and before issuance of a Certificate of Compliance/Occupancy. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

B. Floodproofing Certificate

If nonresidential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 81-65), with supporting data and an operational plan, is required before the actual start of any new construction. It shall be the duty of the applicant for a Floodplain Development Permit to submit to the Town Engineer a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a licensed Professional Engineer or architect and certified by same. The Town Engineer shall review the certificate data and plan. The applicant shall correct deficiencies detected by such review before the application for a Floodplain Development Permit may be approved. Failure to submit the certification or make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

C. Foundation Certificate

If a manufactured home is placed within Zone AE or Zone X (Future) and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with subsection A above.

D. Watercourse Alteration Certification

If a watercourse is proposed to be altered or relocated, the applicant for a Floodplain Development Permit shall submit to the Town Engineer a description of the extent of watercourse alteration or relocation, a licensed Professional Engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream, and a map showing the location of the proposed watercourse alteration or relocation.

E. Certification Exemptions

The following structures, if located within Zone AE or Zone X (Future), are exempt from the elevation/floodproofing certification requirements specified in subsections A and B above:

1. Recreational vehicles meeting requirements of 5.6.5.F;
2. Temporary nonresidential structures meeting requirements of 5.6.5.G; and
3. Accessory structures meeting requirements of 5.6.5.H.

5.6.3. Determinations for Existing Buildings and 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 Town Engineer, in coordination with the Building Official, shall:

- A.** 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);
- B.** 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;
- C.** Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- D.** 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 North Carolina Building Code and this Ordinance is required.

5.6.4. General Standards for All Special Flood Hazard Areas

In all areas of special flood hazard the following standards are required:

- A.** All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse and lateral movement of the structure.
- B.** All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- C.** All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

Article 5: Development Standards

Section 5.6. Floodplain Management

5.6.5. Standards for Special Flood Hazard Areas with Flood Elevation Data

- D. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- 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 discharge from the systems into floodwaters.
- G. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- H. Any alteration, repair, reconstruction or improvements to a structure, which complies with the provisions of this article, shall meet the requirements of “new construction” as contained in this article.
- I. Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
- J. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted. 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 or Future Conditions Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified according to Section 5.6.2, Required Certificates.
- K. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- L. 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.
- M. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- N. 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.

5.6.5. Standards for Special Flood Hazard Areas with Flood Elevation Data

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, and in Future Conditions Flood Hazard Areas where Future Conditions Flood Elevations data has been provided, the following standards shall apply in addition to the standards in Section 5.6.4, General Standards for All Special Flood Hazard Areas:

A. Residential Construction

New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation.

B. Nonresidential Construction

New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation. Structures located in AE and X (future) zones may be floodproofed to the regulatory

flood protection elevation in lieu of elevation, provided that a licensed Professional Engineer or architect certifies to the Town Engineer 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, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A licensed Professional Engineer or architect shall certify that the standards of this subsection are satisfied.

C. Manufactured Homes

1. 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.
2. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, in accordance with an engineer's certification or the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to N.C.G.S. 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.
3. All enclosures below the lowest floor shall meet the requirements of subsection 4 below.
4. 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 Town Engineer and the local Emergency Management coordinator.

D. Elevated Buildings

Fully enclosed areas of new construction and substantially improve structures that are below the lowest floor:

1. Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
2. Shall be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
3. Shall include, in Zones AE and X (Future), 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 licensed Professional Engineer or architect or meet or exceed the following minimum design criteria;
 - a. A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - b. The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;
 - c. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 - d. The bottom of all required flood openings shall be no higher than one foot above the adjacent grade;
 - e. Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

- f. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

E. Additions/Improvements

1. Where additions and/or improvements to pre-FIRM structures, in combination with any interior modifications to the existing structure, do not constitute a substantial improvement, the addition and/or improvements shall be designed to minimize flood damages and shall not be any more nonconforming than the existing structure.
2. Where additions and/or improvements to pre-FIRM structures, in combination with any interior modifications to the existing structure, constitute a substantial improvement, both the existing structure and the addition and/or improvements shall comply with the standards for new construction.
3. Where additions to post-FIRM structures constitute a substantial improvement and involve no modifications to the existing structure other than a standard door in the common wall, only the addition is required to comply with the standards for new construction.
4. Where additions and/or improvements to post-FIRM structures, in combination with any interior modifications to the existing structure, do not constitute a substantial improvement, only the addition and/or improvements is required to comply with the standards for new construction.
5. Where additions and/or improvements to post-FIRM structures, in combination with any interior modifications to the existing structure, constitutes a substantial improvement, both the existing structure and the addition and/or improvements shall comply with the standards for new construction.
6. Where any combination of repair, reconstruction, rehabilitation, addition, or improvement of a building or structure takes place during a ten-year period and their cumulative cost equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started, the improvement or repair must comply with the standards for new construction. For each building or structure, the ten-year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this Ordinance. 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:
 - a. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the Building Official and that are the minimum necessary to assume safe living conditions; or
 - b. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.
7. Where an 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 is required to comply with the standards for new construction.

F. Recreational Vehicles

Unless a recreational vehicle is on site for fewer than 180 consecutive days and is 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), it shall be required to meet all the requirements for new construction.

G. Temporary Nonresidential Structures

An application for a Floodplain Development Permit for a temporary nonresidential structure shall include a plan for the removal of such structure in the event of a hurricane, flash flood, or other type of flood warning notification. The plan shall include the following information:

1. A specified time period, not exceeding three months, for which the temporary structure will be permitted, which may be renewed for up to one year;
2. The name, address, and phone number of the individual responsible for the removal of the temporary structure;
3. The time frame before the flood event for removal of the temporary structure (e.g., a minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
4. A copy of the contract or other suitable instrument with the entity responsible for physical removal of the temporary structure; and
5. Documented designation of a location outside the Special Flood Hazard Area or Future Conditions Flood Hazard Areas to which the temporary structure will be moved.

H. Accessory Structures

1. The following standards shall apply to accessory structures (sheds, detached garages, etc.) placed within a Special Flood Hazard Area or Future Conditions Flood Hazard Area:
 - a. The accessory structure shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas).
 - b. The accessory structures shall not be temperature-controlled.
 - c. The accessory structures shall be designed to have low flood damage potential.
 - d. The accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
 - e. The accessory structures shall be firmly anchored in accordance with Section 5.6.4.A.
 - f. All service facilities such as electrical shall be installed in accordance with Section 5.6.4, General Standards for All Special Flood Hazard Areas.
 - g. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below the regulatory flood protection elevation in accordance with subsection D.3 above.
2. An accessory structure that has a footprint less than 150 square feet, or represents a minimal investment of \$3,000 or less, and satisfies the standards in subsection 1 above shall not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with 5.6.2, Required Certificates.

I. Tanks

The following standards shall apply when gas and liquid storage tanks are placed within a Special Flood Hazard Area:

1. Underground Tanks

Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

2. Elevated Above-Ground Tanks

Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood 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.

3. Non-Elevated Above-Ground Tanks

Above-ground tanks that do not meet the elevation requirements of Section 5.6.5.B, Nonresidential Construction, shall be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed 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 and the effects of flood-borne debris.

4. Tank Inlets and Vents

Tank inlets, fill openings, outlets, and vents shall be:

- a. At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
- b. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

J. Other Development

Prior to the issuance of a Floodplain Development Permit for a temporary structure, the applicant shall submit to the Town Engineer for review and written approval 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 plan shall include information demonstrating compliance with the following standards:

1. Fences in Regulated Floodways and NEAs

Fences that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 5.6.7, Standards for Floodways and Non-Encroachment Areas.

2. Retaining Walls, Sidewalks, and Driveways in Regulated Floodways and NEAs

Retaining walls, sidewalks, and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 5.6.7, Standards for Floodways and Non-Encroachment Areas.

3. Roads and Watercourse Crossings in Regulated Floodways and NEAs

Roads and watercourse crossings—including roads, bridges, culverts, low-water crossings, and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side—that encroach into regulated floodways shall meet the limitations of Section 5.6.7, Standards for Floodways and Non-Encroachment Areas.

5.6.6. Standards for Floodplains Without Established Base Flood Elevations

In Special Flood Hazard Areas designated as Approximate Zone A, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following standards shall apply in addition to the standards in 5.6.5, Standards for Special Flood Hazard Areas with Flood Elevation Data:

- 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 a licensed Professional Engineer provides certification, with supporting technical data, 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 (BFE) used in determining the regulatory flood protection elevation shall be determined based on one of the following criteria set in priority order:
 1. If Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in 5.6.5, Standards for Special Flood Hazard Areas with Flood Elevation Data.

2. All subdivision, manufactured home park, and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five acres or has more than 50 lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference to be utilized in implementing this Ordinance.
3. When Base Flood Elevation (BFE) data is not available from a federal, State, or other source, the reference level shall be elevated to or above the regulatory flood protection elevation.

5.6.7. Standards for Floodways and Non-Encroachment Areas

Areas designated as floodways or non-encroachment areas within the Special Flood Hazard Areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following standards shall apply to all development within such areas in addition to the standards in 5.6.5, Standards for Special Flood Hazard Areas with Flood Elevation Data:

- A. No encroachments—including fill, new construction, substantial improvements, and other development—shall be permitted unless it has been demonstrated that:
 1. The proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Town Engineer before issuance of a Floodplain Development Permit, or
 2. A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA and a Letter of Map Revision (LOMR) is obtained upon completion of the proposed encroachment.
- B. If subsection A above is satisfied, all development shall comply with all applicable flood hazard reduction standards in 5.6.3 through 5.6.6.
- C. Manufactured homes may be permitted provided the following provisions are met:
 1. The anchoring and the elevation standards of Section 5.6.5.C, Manufactured Homes; and
 2. The no encroachment standard of subsection 1 above.

(Ord. No. 2014-051, 11/10/2014)

SECTION 5.7. PERIMETER AND STREETYARD BUFFERS

5.7.1. Purpose

- A. Perimeter buffers are intended to provide spacing and landscaping between proposed development and adjoining property developed or zoned for significantly different uses to help mitigate potential negative impacts on or from development activities on adjoining properties.
- B. Streetyard buffers are intended to provide spacing and landscaping between proposed development and adjoining streets. These buffers mitigate potential adverse impacts from traffic on the adjoining street, provide a transition between public and private realms, create an attractive, unifying edge along the street for motorists and pedestrians, and provide shading of streets and sidewalks.

(Ord. No. 2016-001, 05/10/2016)

5.7.2. Applicability

A. New Development

1. Except as otherwise provided in Section 5.7.2.C, Exemptions, the standards in this section shall apply to all new development.

(Ord. No. 2016-001, 05/10/2016)

B. Existing Development

1. Change in Use

Any change in the use of an existing development shall provide additional buffer width, landscaping, and fence or wall, to the maximum extent practicable, necessary to comply with the standards in this section.

2. Upgrading of Buffer Nonconformities

Where existing development is nonconforming in terms of compliance with this section's standards for perimeter and streetyard buffers, such development is subject to the limitations and upgrading requirements in Section 9.7, Nonconforming Site Features.

(Ord. No. 2016-001, 05/10/2016)

C. Exemptions

1. Residential Development

Except when abutting any of the following uses or uses located outside of the Town Center, new residential development in the Town Center shall be exempted from the perimeter buffer standards in this section. In cases where new residential development abuts the following forms of development in the Town Center, the new residential development shall provide a perimeter buffer in accordance with these standards.

- a. Cemetery;
- b. Major utility facility;
- c. Minor utility facility;
- d. Railroad;
- e. Thoroughfare;
- f. Street; or
- g. An existing residential dwelling or development.

(Ord. No. 2016-001, 05/10/2016)

5.7.3. Required Buffer Type

Table 5.7.3, Required Buffer Type, specifies the type of perimeter or streetyard buffer that a new development shall provide between it and an adjoining property or street, based on the proposed use type on the development site and the existing use type on the adjoining property, the zoning district in which abutting vacant property is located, or the classification of an adjoining street. The type of buffer to be provided is indicated by a letter corresponding to one of the buffer types depicted in Table 5.7.4, Buffer Type Standards.

Table 5.7.3: Required Buffer Type

A, B, C, D, E = Type of Perimeter Buffer (see Section 5.7.4) F, G, H, I, J, K = Type of Streetyard Buffer (see Section 5.7.4)
n/a = Not Applicable (no buffer required)

Existing Use Type or Category on Adjoining Land [2] or Classification of Adjoining Street	Zoning of Adjoining Vacant Land [2]	Proposed Use Type or Category [1]					
		Single-Family Detached, Duplex, or Manufactured Home Dwelling	Single-Family Attached Dwelling	Multifamily Dwelling	Institutional Use	Commercial Use, or Mixed-Use Development	Industrial Use
Single-family detached, duplex, or manufactured home dwelling	VLDR, LDR, HCV, RNP	D [3]	D	C	C	B	A
Single-family attached dwelling, bungalow court, pocket neighborhood	MDR, TCR, RT	D	D	C	C	B	A
Multifamily, manufactured home park	HDR	C	C	D	C	B	A
Institutional use	PGO, OI	C	C	C	D	C	B
Commercial use, mixed-use development, agricultural use, animal related use	NAC, BAC, CAC, RAC, TOD, MS, CC, TCC, MUPD	B	B	B	C	C	B
Industrial use	IM	A	A	A	B	B	C
Cemetery	n/a	C	C	C	C	C	C
Major utility facility [3]	n/a	E	E	E	E	E	E
Minor utility facility [4]	n/a	C	C	C	C	C	C
Railroad	n/a	A	A	A	B	B	B
Freeway	n/a	F	F	F	F	F	F
Major or minor thoroughfare	n/a	G	G	G	G	G	G
Collector street	n/a	H	H	H	H	H	H
Local street (nonresidential – excluding TOD and MS Districts)	n/a	K	J	I	I	I	I
Local street (residential – excluding TOD and MS Districts)	n/a	K	K	J	J	J	J
Local street (TOD and MS Districts)	n/a	L	L	L	L	L	L

Notes:

- [1] Where a development includes multiple buildings, buffer requirements shall apply to the zoning lot rather than to individual lots in the development.
- [2] Where the adjoining land is vacant and located within another zoning jurisdiction, the perimeter buffer type required shall be based on the Town zoning classification that, in the Planning Director's opinion, most closely matches the zoning classification given the land by the adjoining jurisdiction.
- [3] Where an easement for major overhead high-voltage (100kV+) electrical power transmission lines abuts or crosses a residential use, a Type C buffer shall be provided along the outside of the power line easement.
- [4] This buffer requirement is only applicable to sewage pump stations.

(Ord. No. 2015-002, 04/29/2015; Ord. No. 2016-001, 05/10/2016)

5.7.4. Buffer Type Standards

Table 5.7.4, Buffer Type Standards, describes five types of perimeter buffer and six different types of streetyard buffer in terms of their function, opacity, width, and screening requirements.

Table 5.7.4: Buffer Type Standards MINIMUM WIDTH AND SCREENING REQUIREMENTS <i>Also see general requirements for all buffer types at bottom of table.</i>		
Buffer Type A (Perimeter)		
This perimeter buffer provides a continuous opaque screen to a height of at least six feet. It serves as a visual and noise barrier between developments on adjoining properties.		
Option 1		<ul style="list-style-type: none"> • Shade trees: 6 per 100 linear feet, with at least 5 feet between mature canopies • Understory trees: 4 per 100 linear feet • Evergreen shrubs: 20 per 100 linear feet and at least 6 feet high at maturity • At least 50% of all trees must be evergreen
Option 2		<ul style="list-style-type: none"> • Shade trees: 5 per 100 linear feet, with at least 5 feet between mature canopies • Understory trees: 3 per 100 linear feet • Evergreen shrubs: 15 per 100 linear feet and at least 3 feet high at maturity • A solid fence or wall at least 6 feet high [1] • At least 50% of all trees must be evergreen

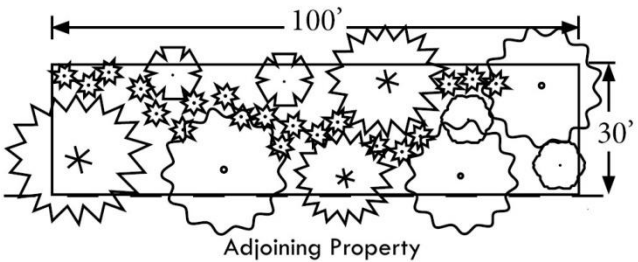
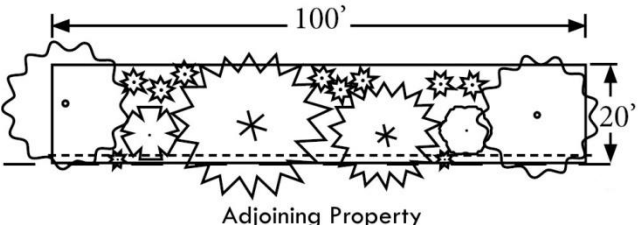
Table 5.7.4: Buffer Type Standards

MINIMUM WIDTH AND SCREENING REQUIREMENTS

Also see general requirements for all buffer types at bottom of table.

Buffer Type B (Perimeter)

This perimeter buffer provides a continuous opaque screen to a height of at least six feet. It serves as a visual and noise barrier between developments on adjoining properties, but less separation between developments than the Buffer Type A.

Option 1		<ul style="list-style-type: none"> • Shade trees: 6 per 100 linear feet, with at least 5 feet between mature canopies • Understory trees: 4 per 100 linear feet • Evergreen shrubs: 20 per 100 linear feet and at least 6 feet high at maturity • At least 50% of all trees must be evergreen
Option 2		<ul style="list-style-type: none"> • Shade trees: 4 per 100 linear feet, with at least 5 feet between mature canopies • Understory trees: 2 per 100 linear feet • Evergreen shrubs: 10 per 100 linear feet and at least 3 feet high at maturity • A solid fence or wall at least 6 feet high [1] • At least 50% of all trees must be evergreen

Buffer Type C (Perimeter)

This perimeter buffer provides semi-opaque screening atop a continuous opaque screen to a height of at least three feet. It allows views between developments on adjoining properties.

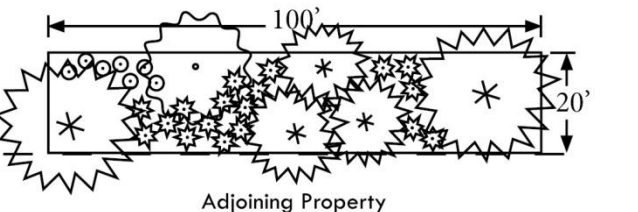
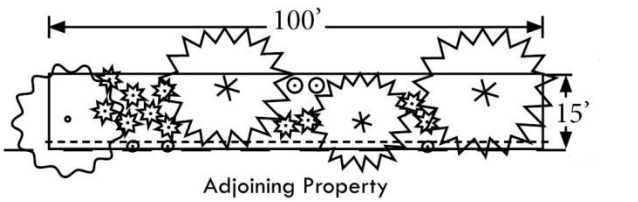
Option 1		<ul style="list-style-type: none"> • Shade trees: 6 per 100 linear feet, with at least 10 feet between mature canopies • Shrubs: 25 per 100 linear feet, at least 75% evergreen, and at least 3 feet high at maturity
Option 2		<ul style="list-style-type: none"> • Shade trees: 4 per 100 linear feet, with at least 10 feet between mature canopies • Shrubs: 15 per 100 linear feet, at least 75% evergreen, and at least 3 feet high at maturity • A solid fence or wall at least 6 feet high [1]

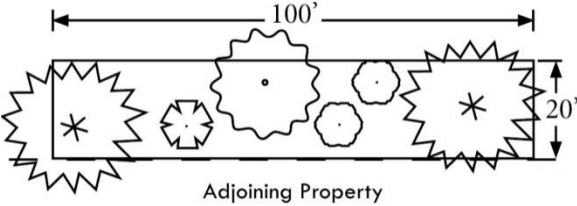
Table 5.7.4: Buffer Type Standards

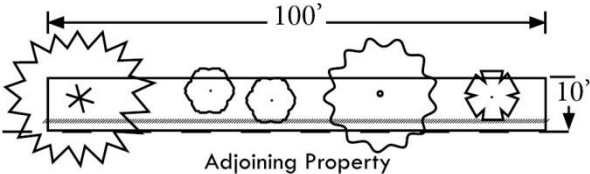
MINIMUM WIDTH AND SCREENING REQUIREMENTS

Also see general requirements for all buffer types at bottom of table.

Buffer Type D (Perimeter)

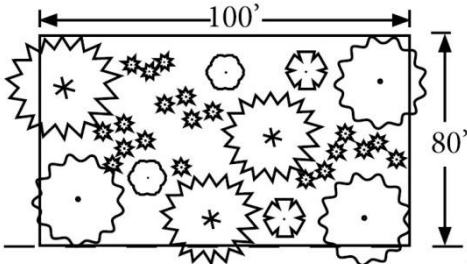
This perimeter buffer provides a relatively open tree buffer between developments on adjoining properties. It is not intended to screen views but to enhance visual appeal of the development.

Option 1	 <p style="text-align: center;">Adjoining Property</p>	<ul style="list-style-type: none"> • Shade trees: 3 per 100 linear feet, with at least 20 feet between mature canopies • Understory trees: 3 per 100 linear feet
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Option 2	 <p style="text-align: center;">Adjoining Property</p>	<ul style="list-style-type: none"> • Shade trees: 2 per 100 linear feet, with at least 20 feet between mature canopies • Understory trees: 3 per 100 linear feet • A solid fence or wall at least 3 feet high or solid evergreen hedge at least 3 feet and 2 feet wide [1]
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Buffer Type E (Perimeter)

This perimeter buffer provides a continuous opaque screen to a height of at least six feet. It serves as a visual and noise barrier between a development and an adjoining major utility facility.

Option 1	 <p style="text-align: center;">Adjoining Property</p>	<ul style="list-style-type: none"> • Shade trees: 6 per 100 linear feet, with at least 5 feet between mature canopies • Understory trees: 4 per 100 linear feet • Evergreen shrubs: 20 per 100 linear feet and at least 6 feet high at maturity • At least 50% of all trees must be evergreen
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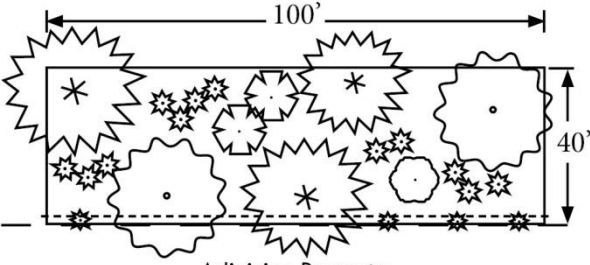
Option 2	 <p style="text-align: center;">Adjoining Property</p>	<ul style="list-style-type: none"> • Shade trees: 5 per 100 linear feet, with at least 5 feet between mature canopies • Understory trees: 3 per 100 linear feet • Evergreen shrubs: 15 per 100 linear feet and at least 3 feet high at maturity • A solid fence or wall at least 6 feet high [1] • At least 50% of all trees must be evergreen
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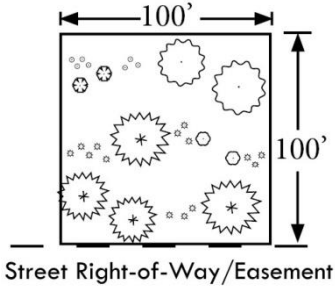
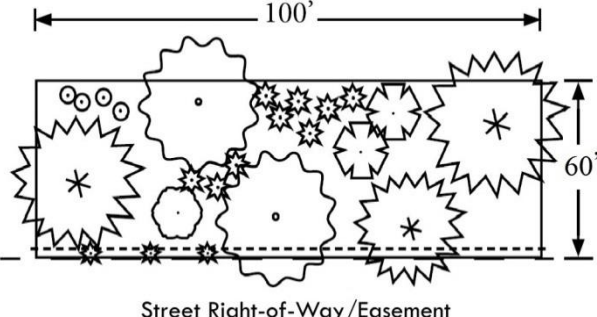
Table 5.7.4: Buffer Type Standards

MINIMUM WIDTH AND SCREENING REQUIREMENTS

Also see general requirements for all buffer types at bottom of table.

Buffer Type F (Streetyard)

This streetyard buffer provides a continuous opaque screen to a height of at least six feet. It serves as a visual and noise barrier between the developments and an adjoining controlled access highway.

<p>Option 1</p>		<ul style="list-style-type: none"> • Shade trees: 6 per 100 linear feet, with at least 5 feet between mature canopies [2] • Understory trees: 4 per 100 linear feet [2] • Shrubs: 20 per 100 linear feet, at least 75% evergreen, and at least 6 feet high at maturity • At least 50% of all trees must be evergreen
<p>Option 2</p>		<ul style="list-style-type: none"> • Shade trees: 5 per 100 linear feet, with at least 5 feet between mature canopies [2] • Understory trees: 3 per 100 linear feet [2] • Evergreen shrubs: 15 per 100 linear feet, at least 75% evergreen, and at least 3 feet high at maturity • A solid fence or wall at least 6 feet high [1] • At least 50% of all trees must be evergreen

Buffer Type G (Streetyard)

This streetyard buffer provides intermittent visual obstruction and creates the impression of spatial separation without eliminating visual contact between the street and the development.

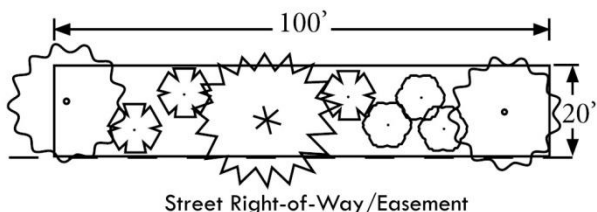
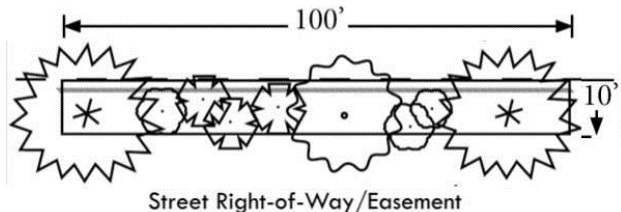
<p>Option 1</p>		<ul style="list-style-type: none"> • Shade trees: 3 per 100 linear feet, with at least 25 feet between mature canopies [2] • Understory trees: 6 per 100 linear feet [2]
<p>Option 2</p>		<ul style="list-style-type: none"> • Shade trees: 3 per 100 linear feet, with at least 25 feet between mature canopies [2] • Understory trees: 6 per 100 linear feet [2] • A solid masonry wall between 3 to 4 feet high with 15 evergreen shrubs per 100 linear feet between the wall and the street [1]

Table 5.7.4: Buffer Type Standards

MINIMUM WIDTH AND SCREENING REQUIREMENTS

Also see general requirements for all buffer types at bottom of table.

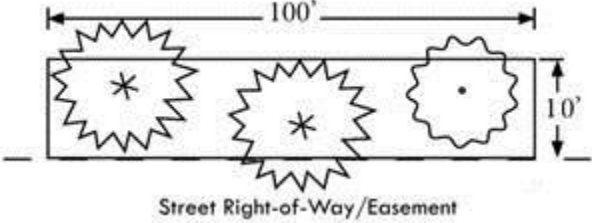
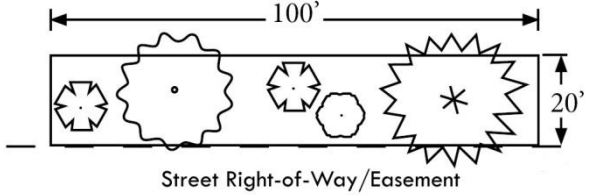
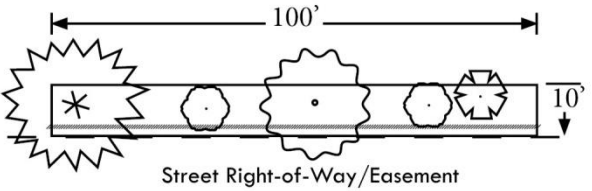
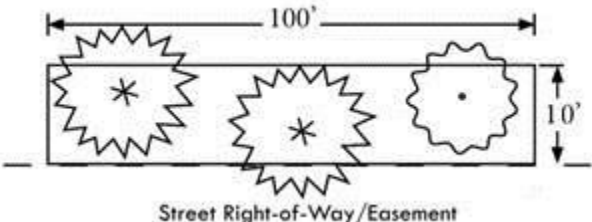
<p>Option 3 (TCC between the road and building, MS, and TOD Districts only)</p>	 <p style="text-align: center;">Street Right-of-Way/Easement</p>	<ul style="list-style-type: none"> • Shade trees: 3 per 100 linear feet [2]
<p>Buffer Type H (Streetyard)</p>		
<p>This streetyard buffer provides spacing and landscaping that strongly defines the boundary between the street corridor and the development.</p>		
<p>Option 1</p>	 <p style="text-align: center;">Street Right-of-Way/Easement</p>	<ul style="list-style-type: none"> • Shade trees: 2 per 100 linear feet [2] • Understory trees: 3 per 100 linear feet [2]
<p>Option 2</p>	 <p style="text-align: center;">Street Right-of-Way/Easement</p>	<ul style="list-style-type: none"> • Shade trees: 2 per 100 linear feet [2] • Understory trees: 3 per 100 linear feet [2] • A solid fence or wall at least 3 feet high or solid evergreen hedge at least 3 feet high and 2 feet wide [1]
<p>Option 3 (MS and TOD Districts only)</p>	 <p style="text-align: center;">Street Right-of-Way/Easement</p>	<ul style="list-style-type: none"> • Shade trees: 3 per 100 linear feet [2]

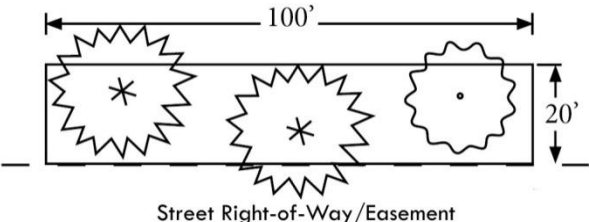
Table 5.7.4: Buffer Type Standards

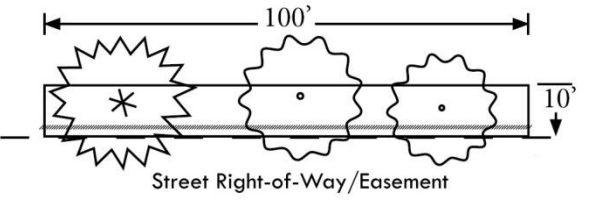
MINIMUM WIDTH AND SCREENING REQUIREMENTS

Also see general requirements for all buffer types at bottom of table.

Buffer Type I (Streetyard)

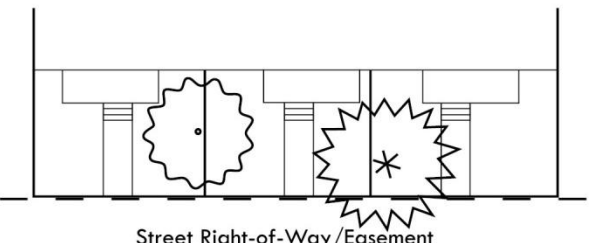
This streetyard buffer provides spacing and landscaping that moderately defines the boundary between the street corridor and the development.

Option 1		<ul style="list-style-type: none"> • Shade trees: 3 per 100 linear feet [2]
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Option 2		<ul style="list-style-type: none"> • Shade trees: 3 per 100 linear feet [2] • A solid fence or wall at least 3 feet high or solid evergreen hedge at least 3 feet high and 2 feet wide [1]
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Buffer Type J (Streetyard)

This streetyard buffer provides basic landscaping along the street corridor.

Option 1		<ul style="list-style-type: none"> • 2 trees (shade or understory) per every 3 dwelling units in buildings fronting the street [2]
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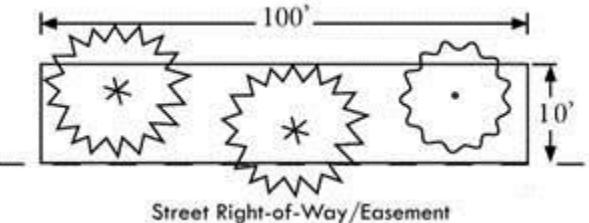
Option 2		<ul style="list-style-type: none"> • Shade trees: 3 per 100 linear feet [2]
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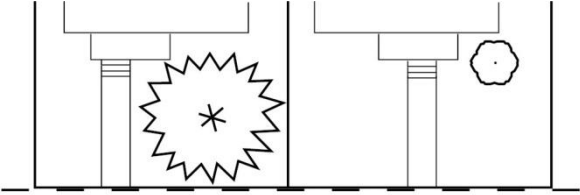
Table 5.7.4: Buffer Type Standards

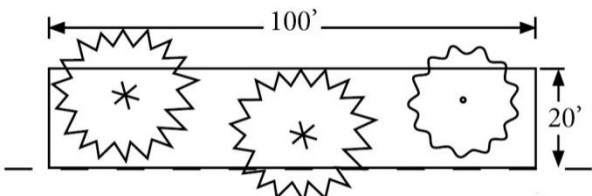
MINIMUM WIDTH AND SCREENING REQUIREMENTS

Also see general requirements for all buffer types at bottom of table.

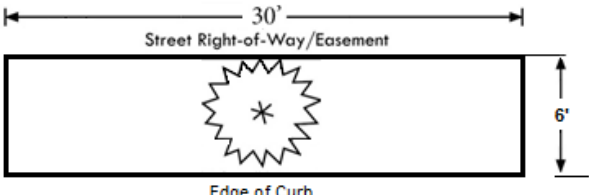
Buffer Type K (Streetyard)

This streetyard buffer provides minimal landscaping along the street corridor.

Option 1	 <p>Street Right-of-Way/Easement</p>	<ul style="list-style-type: none"> 1 tree (shade or understory) per dwelling fronting the street [2]
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Option 2	 <p>Street Right-of-Way/Easement</p>	<ul style="list-style-type: none"> Shade trees: 3 per 100 linear feet [2]
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Buffer Type L (Streetyard)

Single Option	 <p>Street Right-of-Way/Easement</p> <p>Edge of Curb</p>	<ul style="list-style-type: none"> Shade trees: 1 per every 30 feet [2] [3]
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General Requirements for all Buffer Types:

- [A] Required shade trees shall generally be distributed evenly along the length of the buffer (e.g., 4 shade trees per 100 linear feet should result in shade trees spaced approximately every 25 feet of buffer length) and spaced to maximize their future health and effectiveness. Other required vegetation and shall be distributed within the buffer as appropriate to the function of the buffer.
- [B] Where an adjacent existing development is designed for solar access, the Planning Director may allow understory trees to be substituted for any shade trees where necessary to ensure such solar access.
- [C] Berms may be used in conjunction with shrubs or fences or walls atop them to achieve required screening. Berms within a buffer shall comply with the standards of Section 5.12.3.E, Berms.
- [D] Buffers, with the exception of Type J, Option 2, and Type K, Option 2, shall not be located on single-family detached, duplex, attached, or manufactured home dwelling lots.

Notes:

- [1] Fences or walls within a buffer shall comply with the standards of Section 5.14, Fences and Walls
- [2] Trees in streetyard buffers shall be of species and varieties appropriate to their location next to roadways and sidewalks. (See appropriate street tree species and varieties listed in the Administrative Manual.)
- [3] A planting strip located between the back of the curb and a sidewalk shall be at least six feet wide. Where such a planting strip does not exist or is impractical to provide, the Planning Director may allow the trees to be provided within tree pits that are at least 25 square feet in area and located adjacent to the back of the curb.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2014-051, 11/10/2014; Ord. No. 2016-001, 05/10/2016)

5.7.5. Location of Buffers

- A.** Required buffers shall be located along the outer perimeter of the lot containing the proposed development, just inside its boundary with the adjoining property or street right-of-way/easement. Where an access or utility easement runs along that boundary and the easement precludes or restricts provision of required screening, the required buffer shall be located along the interior boundary of the easement.
- B.** Where a perimeter buffer meeting the standards in this section has already been provided by the adjoining existing development, the proposed development can provide 50 percent of the minimum buffer width and screening required in Section 5.7.4 for the requisite buffer type provided a written agreement between the owners of the adjoining properties establishing an alternative arrangement to share responsibility for providing a buffer in full accordance with the standards of this section is approved by the Planning Director and recorded in the appropriate county Register of Deeds.

(Ord. No. 2016-001, 05/10/2016)

5.7.6. Development within Required Buffers

- A.** The required buffer shall not contain any development, impervious surfaces, retaining walls (including easements), or site features (except fences or walls) that do not function to meet the standards of this section, unless otherwise permitted or required in this Ordinance.
- B.** Walkways, trails, and other elements associated with passive recreation, as well as overhead and underground utility lines and low-impact stormwater management facilities, may be located within a required buffer if:
 - 1.** All required landscaping is provided;
 - 2.** The element, line, or facility crosses the buffer as close to a right angle as practicable; and
 - 3.** The Planning Director and Town Engineer determine that installation or maintenance of such element, line, or facility will minimize impacts on to required vegetation to the maximum extent practicable.

(Ord. No. 2016-001, 05/10/2016)

5.7.7. Alternative Configuration

The Planning Director may approve an alternative buffer location, width, or planting configuration through submittal of an alternative landscape plan (Section 5.12.6, Alternative Landscape Plan).

5.7.8. Credit Towards Other Required Landscaping

- A.** Required buffers, and the trees and other vegetation within such buffers, may be credited towards compliance with common open space and public recreation area, and landscaping, requirements to the extent they comply with applicable standards in Section 5.5, Common Open Space and Public Recreation Area, and Section 5.12, Landscaping.
- B.** Existing trees retained on a site in accordance with the standards in Section 5.4, Tree Protection, can be credited towards the perimeter and streetyard buffer standards provided the trees meet the minimum size at time of planning standards in Section 5.12.3.A, New Planting Standards, and the trunks are physically located within ten feet of the required perimeter or streetyard buffer boundary.

(Ord. No. 2014-051, 11/10/2014)

SECTION 5.8. ACCESS AND CIRCULATION

5.8.1. Purpose

The purpose of this section is to ensure that development is served by a coordinated, multimodal transportation system that, to the extent practicable, permits the safe and efficient movement of motor vehicles, emergency vehicles, transit, bicyclists, and pedestrians within the development and between the development and external transportation systems, neighboring development, and local destination points such as places of employment, schools, parks, and shopping areas. Such a multimodal transportation system is intended to:

- A.** Provide transportation options;
 - B.** Increase the effectiveness of local service delivery;
 - C.** Reduce emergency response times;
 - D.** Promote healthy walking and bicycling;
 - E.** Facilitate use of public transportation;
 - F.** Contribute to the attractiveness of the development and community, connect neighborhoods and increase opportunities for interaction between neighbors;
 - G.** Reduce vehicle miles of travel and travel times and greenhouse gas emissions;
 - H.** Improve air quality, minimize congestion and traffic conflicts; and
 - I.** Preserve the safety and capacity of community transportation systems.
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5.8.2. Applicability

Except as otherwise provided in this Ordinance, the standards in this section shall apply to all development.

5.8.3. Consistency with Plans

The design and construction of access and circulation systems associated with a development shall be consistent with the transportation goals, objectives, and actions in the Comprehensive Plan, and other Town-adopted plans addressing transportation.

5.8.4. Multimodal Transportation System

Access and circulation systems associated with a development shall provide for multiple travel modes (vehicular, transit, bicycle, and pedestrian), as appropriate to the development's size, character, and relationship to existing and planned community transportation systems. Vehicular, transit, bicycle, and pedestrian access and circulation systems shall be coordinated and integrated as necessary to offer the development's occupants and visitors improved transportation choices while enhancing safe and efficient mobility throughout the development and the community.

5.8.5. Developer Responsibility for Access and Circulation Improvements

A. On-Site

- 1.** If a street is proposed within a development site, the developer shall provide roadway, bikeway, sidewalk, and other access and circulation improvements in accordance with the standards in this section, and shall dedicate any required rights-of-way or easements.
- 2.** If a development site includes the proposed corridor of a street designated on an adopted plan, the development shall incorporate provision of the street into the design of the development, and shall dedicate right-of-way that meets the right-of-way width standards for the street. If a

transportation impact analysis shows that the development itself is expected to generate sufficient traffic to warrant design of the street as a major or minor thoroughfare (see Section 5.8.6.B, Transportation Impact Analysis), the developer shall be responsible for constructing the street (including any bikeway, sidewalk, and other associated access and circulation improvements) in accordance with this section's standards for a major or minor thoroughfare, as appropriate; otherwise, the developer shall be responsible for constructing the street (including any bikeway, sidewalk, and other associated access and circulation improvements) to meet at least those standards required by this section for a collector street.

B. Off-Site

If a development site fronts on and obtains vehicular access from an existing street, the developer shall be required to dedicate additional right-of-way along the street frontage or in the vicinity of the development and to provide roadway, bikeway, sidewalk, and other access and circulation improvements within the street right-of-way that are reasonably necessary to ensure the safe, convenient, efficient, and orderly accommodation of vehicular and pedestrian traffic demands and impacts generated by the proposed development. Such improvements may include, but are not limited to, turn lanes, deceleration and acceleration lanes, widening or paving of substandard roadways, medians, bikeways, sidewalks, sidewalk ramps and crossings, street lights, bus shelters, relocation of existing driveways, and the relocation or improvement of utility lines and facilities needed to accommodate street improvements. The extent of required dedications and improvements related to the abutting street shall be roughly proportional to the traffic demands and impacts generated to and along that street by the proposed development.

5.8.6. Vehicular Access and Circulation

A. Circulation Plan

1. Applications for Type 1 Subdivision Preliminary Plat Approval (Section 2.5.6.B.1), Type 2 Subdivision Preliminary Plat Approval (Section 2.5.6.B), Major Site Plan Approval (Section 2.5.6.B.2), or Minor Site Plan Approval (Section 2.5.7.C) shall include a circulation plan that addresses street connectivity, emergency and service vehicle access, parking movements, accommodation of loading operations, turning radii, traffic calming measures where future "cut-through" traffic is likely, and similar issues.
2. The Planning Director may waive the requirement for a circulation plan on determining that a proposed development is expected to have no impact on circulation or proposes no change in existing circulation patterns. This provision shall not be construed to exempt development that includes additional parking, driveways, or substantial modifications to the existing pedestrian network.

B. Transportation Impact Analysis

1. Purpose

The Transportation Impact Analysis (TIA) is a part of the overall development review process conducted by the Town of Morrisville to safeguard the safety, health, and well-being of its citizens. The TIA is intended to:

- a. Assess the impact of a proposed development on the roadway capacity, public transportation, bicycle, and pedestrian transportation systems;
- b. Help mitigate potential effects of a proposed development on the transportation system; and
- c. Identify solutions to potential problems and recommend improvements to be incorporated as required conditions to a proposed development.

2. Thresholds for a Transportation Impact Analysis

a. General Thresholds

- (1) A TIA is required if one or more of the following thresholds are met.
 - (A) The proposed development is expected to generate 100 or more vehicle trips over any one-hour period or 1,000 or more trips per day based on the most recent edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual;
 - (B) There are existing issues with complex roadway geometry or intersection features (e.g. design and/or capacity) within the study area; or
 - (C) There are significant potential changes to adjacent development traffic patterns as a result of the proposed development.
- (2) A reduced set of analysis requirements, as determined by the Planning Director, may be required if one or more of the following thresholds are met.
 - (A) A proposed amendment to the Comprehensive Plan, Town Center Plan, and/or other small area plan would redesignate the development site to a more intensive trip generation land use classification (e.g., Low Density Residential to Medium Density Residential);
 - (B) An amendment to the Transportation Plan is proposed;
 - (C) A rezoning application proposes reclassification of the development site to a more intensive trip generation zoning district (e.g., Low Density Residential District to Medium Density Residential District) that is not consistent with the adopted Comprehensive Plan;
 - (D) The proposed development does not meet any of the thresholds in subsection (1) above, but is located on a roadway that has an existing capacity issue; or
 - (E) A proposed revision to an approved, built out, or partially built out development:
 - (i) Has an existing TIA that is less than two years old, as determined by comparing the submittal date on the TIA report and the submittal date of the proposed amendment;
 - (ii) Requires a change in access, intensity, or type of development; or
 - (iii) Is impacted by any major changes to the roadway system, such as but not limited to, road closures and new thoroughfares.

3. General Requirements

a. Preparer Qualifications

The analysis shall be prepared by a Professional Engineer licensed by the State of North Carolina and having expertise in traffic engineering.

b. Scoping Meeting

Prior to submitting any analysis, the Professional Engineer preparing the analysis shall meet with the Planning Director to determine the following:

- (1) Study area boundary (See Section 5.8.6.B.3.f, Analysis Study Area Boundary);
- (2) Trip generation assumptions;
- (3) Growth Rate for future year traffic estimation;
- (4) Trip distribution;
- (5) Pass-by traffic and/or internal capture;

- (6) Nontraditional peak hour studies, if required;
- (7) Whether or not truck or heavy vehicle distributions need to be considered separately;
- (8) Approved development applications within the study area;
- (9) Funded capital improvement projects (Town, State, and federal) that will increase the capacity of the facilities in question;
- (10) Site construction phasing;
- (11) If a signal warrant analysis for high volume unsignalized intersections is needed;
- (12) The parameters of the Memorandum of Understanding (MOU); and
- (13) Any questions, issues, or assumptions that must be taken into account or addressed.

c. Memorandum of Understanding

The Town will prepare a Memorandum of Understanding (MOU) that outlines the agreements made during the scoping meeting. The applicant shall return the signed MOU to the Planning Director. The Professional Engineer cannot begin work on the analysis until both the Town and the applicant have signed the MOU.

d. Analysis Period

The analysis shall examine future traffic conditions one year after the proposed development is scheduled to be completed (build +1).

e. Analysis Software

The study shall be performed using the operational analysis of the latest Highway Capacity Manual and the preferred software listed in the Table 5.8.6.B.3.e, Preferred Software. Other software packages such as Synchro are preferred for coordinated signal systems and may be required for supplemental analysis.

Table 5.8.6.B.3.e: Preferred Software [1]	
Items for Analysis	Software [2]
Multiple Intersections	Synchro
Isolated Signalized Intersections	Synchro
Isolated Unsignalized Intersections	Synchro, HCS
Simulation	SimTraffic, VISSIM, CORSIM
Roundabouts	SIDRA, VISSIM
Roadway Segment	HCS
Merge, Diverge, and Weave	HCS
Notes:	
[1] Use of alternate analysis software must be approved by the Town of Morrisville; however, the above software is not specifically endorsed by the Town of Morrisville.	
[2] Version of software currently in use by NCDOT	

(Ord. No. 2016-001, 05/10/2016)

f. Analysis Study Area Boundary

- (1) The analysis study area shall at a minimum include any roadways and intersections within one-half mile of the proposed development.
- (2) The analysis study area may be modified if the Planning Director:
 - (A) Determines a larger study area or additional roadways or intersections for analysis are required due to the size or characteristics of the proposed development; or
 - (B) Waives the need to study roadways or intersections that are determined not to be significantly affected by the proposed development, as long as all key intersections within the study area are studied.

g. Analysis Scenarios

The analysis shall have a timeframe adequate to address all phases of the proposed development. Intersections shall be analyzed using the four scenarios in Table 5.8.6.B.3.g: Analysis Scenario Requirements, and shall include queue analysis:

Table 5.8.6.B.3.g: Analysis Scenario Requirements					
Type of Scenario [1]	Existing	Annual Growth [2]	Approved Developments	Proposed Development	Necessary Improvements
Existing	X				
No-Build	X	X	X		
Build	X	X	X	X	
Build Improved [3]	X	X	X	X	X
Notes:					
[1] For a phased proposed development analysis, the build and build improved conditions shall be assessed, and the traffic associated with each previous phase shall be included in the analysis of each successive phase of the proposed development.					
[2] The Annual Growth rate will be determined in the Memorandum of Understanding (see Section 5.8.6.B.3.c).					
[3] This scenario may be eliminated if improvements are not necessary to satisfy any queuing problems or the LOS criteria in Section 5.8.6.B.4.j(2), Recommendations.					
(Ord. No. 2016-001, 05/10/2016)					

h. Traffic Counts

Traffic counts shall reflect normal and/or peak hour traffic conditions, as determined by the Planning Director.

(1) Traffic counts used for analysis shall be collected:

- (A) Within the twelve months prior to the date of the TIA submittal;
- (B) On Tuesday, Wednesday, or Thursdays;
- (C) On other peak periods such as noon or weekend periods, if required; and
- (D) When school is in session. If not practicable, the Planning Director can approve the use of school traffic estimates.

(2) Traffic counts used for analysis should not be collected:

- (A) On holidays; and
- (B) When significant weather or traffic incidents occur.

i. Trip Generation Standards

Trip generation data for each proposed development shall be based upon the ITE Trip Generation Manual, most recent edition, or another source of trip generation approved by the Planning Director. In addition to this requirement, the following standards shall apply:

(1) **Internal Capture**

- (A) The internal capture calculation shall utilize the percentages from the most recent edition of the ITE Trip Generation Manual to estimate the internal capture reduction percentage;
- (B) Rates higher than 15 percent require justification and may be approved on a case-by-case basis with Planning Director approval;
- (C) Reductions for internal capture should be applied to multi-use or mixed-use sites only;
- (D) Internal capture shall not be taken for AM peak hours or from lodging land uses;
- (E) Internal capture procedures shall not be used on a retail-only site; and

(F) Internal capture reduction shall be applied before the pass-by trips are calculated.

(2) Pass-by Trips

(A) Pass-by percentages shall be obtained from the most recent edition of the ITE Trip Generation Manual;

(B) Pass-by percentages shall only be applied to land uses numbered in the 800s and 900s, using the convention listed in the most recent edition of the ITE Trip Generation Manual;

(C) For multi-use developments, pass-by percentages shall be applied to the retail component only. Pass-by trips shall not exceed 10% of the total volume on the adjacent street; and

(D) All efforts should be made to ensure that upstream and downstream traffic volumes along corridors balance and maintain continuity. If balanced volumes are not attainable, an explanation should be provided. Documentation regarding the balancing methodology should be provided as well.

j. Signal Analysis

All signals shall be analyzed. The following assumptions with supporting data are required:

(1) Present signal timings including coordination and phasing shall be used for the existing conditions analysis;

(2) Signal timings and phasing can be optimized if multiple Build Improved scenarios are provided, but the recommendation must be based on present signal timings and phasing. The Planning Director may allow optimized timing and phasing recommendations on a case-by-case basis;

(3) A peak hour factor of 0.90 shall be applied for all cases except existing traffic when traffic counts have been acquired;

(4) Zero right turns on red shall be used for signalized intersections as a worst-case scenario;

(5) Type III arrival rate shall be used;

(6) Minimum five-second yellow two-second all-red clearance interval and a -2 second lost time adjustment, or the actual timing of any existing signal(s) shall be used;

(7) Minimum seven-second green time per phase for left turns or the actual timing of any existing signal(s) shall be used;

(8) Minimum green time for through movements as specified by NCDOT or the actual timing of any existing signal(s) shall be used;

(9) Base Saturation Flow Rates and Lane Utilization Factors shall be used in accordance with the latest edition of the Highway Capacity Manual. Lane Utilization shall be accounted for when one or more lanes drop less than 1,000 feet from an intersection); and

(10) Minimum signal cycle lengths as listed in Table 5.8.6.B.3.j, Minimum Signal Cycle Lengths, shall be used:

Table 5.8.6.B.3.j: Minimum Signal Cycle Lengths	
Number of Phases	Minimum Recommended (seconds) [1]
2	60
3	90
4 or more [2]	120
Notes: [1] All cycle lengths should be rounded to the nearest 5 seconds. [2] Traffic Signal Timing Manual (FHWA) for planning level analysis. (Ord. No. 2016-001, 05/10/2016)	

4. Content of the Analysis

a. General Requirements

The analysis shall:

- (1) Be sealed and dated by the Professional Engineer and include the information outlined in this subsection 4 as well as an executive summary;
- (2) Include a table of contents and clearly labeled maps, tables, and figures presented in a legible scale; and
- (3) Include a CD-ROM or DVD that contains all printed report files and electronic input/output files, including analysis files.

b. Site Location, Access, and Background Information

This section of the analysis shall include:

- (1) A description of the existing land use(s), site, and analysis study area boundary;
- (2) A vicinity map that includes the existing and approved uses/developments in the vicinity of the proposed development;
- (3) A description of the uses in the proposed development;
- (4) A site plan for the proposed development, if applicable;
- (5) A figure showing the existing lane geometry of study intersections, including current approach and departure laneage at each intersection, distances between intersections, speed limits, traffic control, and length of the full width storage for exclusive turn lanes, lane additions, or lane merges;
- (6) A figure showing traffic accident counts as recorded by the NC Highway Patrol and other local law enforcement agencies, if available;
- (7) Figure showing average annual daily traffic volume (AADT), if available;
- (8) Bicycle and pedestrian infrastructure within 1/2 mile of the proposed development; and
- (9) Public transportation facilities within one mile of the proposed development.

c. Existing Analysis

This section of the analysis shall include:

- (1) A figure showing existing AM and PM turning movement volumes; and
- (2) A table showing existing level of service (LOS) results, which includes overall LOS indicated for signalized intersections and worst movement/approach for unsignalized intersections.

d. Future No-Build Analysis

This section of the analysis shall include:

- (1) A figure showing no-build AM and PM turning movement volumes; and
- (2) A table showing no-build LOS results, which includes overall LOS indicated for signalized intersections and worst movement/approach for unsignalized intersections.

e. Trip Generation

This section of the analysis shall include a table showing trip generation rates that include:

- (1) Land use and size (e.g. square footage, number of rooms, number of employees);
- (2) ITE Code with resulting volumes using most recent NCDOT guidance;
- (3) AM and PM peak entering and exiting volumes;
- (4) AM and PM non-traditional peak entering and exiting volumes, if applicable;
- (5) Internal Capture, if applicable; and
- (6) Pass-by trips, if applicable.

f. Trip Distribution and Assignment

This section of the analysis shall include:

- (1) A figure showing the directional distribution percentages; and
- (2) A figure showing the site generated trip assignment.

g. Future Build Analysis

This section of the analysis shall include:

- (1) A figure showing the build AM and PM turning movement volumes; and
- (2) A table showing the build LOS results, which includes overall LOS indicated for signalized intersections and worst movement/approach for unsignalized intersections.

h. Future Build Improved Analysis

This section of the analysis shall include:

- (1) A figure showing build improved AM and PM turning volumes;
- (2) A figure showing proposed mitigation(s); and
- (3) A table showing build improved LOS results, which includes overall LOS indicated for signalized intersections and worst movement/approach for unsignalized intersections.

i. Supplemental Analysis

This section of the analysis shall include any safety, signal warrant, queue, or other analyses identified as required in the MOU.

j. Summary of Findings and Recommendations

The TIA shall include a summary of findings and recommendations for mitigation based on the adopted plans and policies of the Town of Morrisville, and applicable local and state regulations.

(1) Summary of Findings

The conclusions portion of the analysis shall include:

- (A)** A table of the LOS comparisons of all scenarios, which includes the overall LOS indicated for signalized intersections and worst movement/approach for unsignalized intersections; and

- (B) A figure showing the roadway lane configurations for existing and proposed improvements, including accompanying identification of the parties responsible for the improvements.

(2) Recommendations

- (A) The recommendations portion of the analysis shall include the following:
 - (i) For signalized intersections, a list of specific recommended improvements to achieve the minimum LOS D for each movement and approach. If the existing LOS falls below this threshold, the recommended improvements shall at a minimum maintain the existing LOS and delay;
 - (ii) For unsignalized intersections, a list of specific recommended improvements to achieve the minimum LOS D for each movement. If the existing LOS falls below this threshold, the recommended improvements shall at a minimum maintain the existing LOS and delay;
 - (iii) For both signalized and unsignalized intersections, if a single vehicle would cause a reduction in the LOS and/or delay, then the applicant may request that this impact not be counted in the TIA; and
 - (iv) Any improvements identified in the No Build analysis that are not a funded Town, State, or federal capital improvement project.
- (B) All recommendations shall be:
 - (i) Consistent with adopted plans; and
 - (ii) Supported by the data provided in the analysis.

k. Appendices

A separate appendix for each of the following shall be included in this section.

- (1) Traffic count data;
- (2) Trip generation calculations;
- (3) Intersection capacity analysis, including the associated Synchro output;
- (4) Any other additional documents or analyses required per the MOU;
- (5) A bicycle and pedestrian network plan, if the proposed development application is for Type 1 Subdivision Preliminary Plat Approval (Section 2.5.6.B.1), Type 2 Subdivision Preliminary Plan Approval (Section 2.5.6.B.2), or Major Site Plan Approval (Section 2.5.7.B);
- (6) Signal plans, including timing plans;
- (7) A figure showing the approved development trips; and
- (8) Any future volume calculations.

5. Incorporation of Recommended Improvements into Proposed Development or Decision

The applicant is expected to incorporate improvements recommended by the transportation impact analysis into the proposed development to the extent they are required by Section 5.8.5, Developer Responsibility for Access and Circulation Improvements. The entity deciding the application shall consider the transportation impact analysis as part of the review of the application, and may incorporate such recommended improvements in its decision—e.g., as conditions of approval requiring provision of the recommended improvements or requiring modification of the development's uses or intensity, or as a basis for denial of the application.

C. Vehicular Accessway Classifications

As a basis for application of many of the access and circulation standards in this section, proposed and existing vehicular accessways shall be classified in accordance with the classifications in Table 5.8.6.C, Vehicular Accessway Classifications, which reflect accessway characteristics and relative functions in providing access to and from principal origin and destination points and accommodating travel mobility. Driveways represent the lowest basic classification and freeways the highest basic classification. Main Street is a special classification of accessway.

Table 5.8.6.C: Vehicular Accessway Classifications					
Accessway Classification and Description	Number of Lanes [1]	Daily Traffic Volume	Access Control	Land Use Service	Posted Speed
Driveways —Accessways that function solely to provide direct and immediate vehicular access between a street and the principal origin and destination points within an abutting development, or part of a large development. They generally handle low vehicular travel speeds and traffic volumes, though may also handle moderate to high traffic volumes within large commercial and mixed-use developments.	1-2	Variable	Very Low	Very High	<15 mph
Alleys —Specialized accessways that primarily function to provide secondary vehicular access and/or service and delivery vehicle access between a street and the rear or sides of lots or buildings. Alleys also may provide primary vehicular access for dwellings designed to have no driveway access from the fronting street.	1-2	10 - 250	Very Low	Very High	5-10 mph
Local Streets —Accessways that primarily function to provide direct vehicular access to and from abutting development, or parts of a large development, as well as to provide travel mobility by connecting driveways and other local streets with collector streets and thoroughfares. Local streets generally handle low to medium vehicular travel speeds and traffic volumes, but may handle high traffic volumes within large commercial and mixed-use developments or in urbanized areas	2-3	50 – 12,000	Very Low	High	15-35 mph
Main Streets —Specialized accessways that primarily function to accommodate pedestrian access to and within concentrations of higher intensity retail and mixed land uses such as the Town Center and activity center centers. They are designed with attractive pedestrian-friendly streetscapes that promote walking, bicycling, and transit. To accommodate high pedestrian activity, they generally provide limited direct driveway access to abutting development, relying instead on side street access to rear parking facilities.	2-3	250 – 10,000	Very Low	Very High	15-25 mph
Collector Streets —Accessways that primarily function both to provide direct vehicular access to and from abutting development, particularly in commercial and industrial areas, and to provide travel mobility among neighborhoods and activity centers by connecting local streets and other collector streets with thoroughfares. They generally handle relatively moderate travel speeds and traffic volumes over moderately average trip lengths.	2-3	1,000 – 20,000	Low	Moderate - High	25-40 mph

Table 5.8.6.C: Vehicular Accessway Classifications

Accessway Classification and Description	Number of Lanes [1]	Daily Traffic Volume	Access Control	Land Use Service	Posted Speed
Minor Thoroughfares —Accessways that primarily function to provide travel mobility among the Town’s major activity centers by connecting local streets, collector streets, and other minor thoroughfares with major thoroughfares. They generally handle moderate vehicular travel speeds and traffic volumes, and may provide some direct driveway access to abutting development, particularly in commercial and industrial areas, but to a degree and in a way that minimizes interference with through movements along the minor thoroughfare.	2-5	5,000 – 40,000	Fair	Moderate	35-45 mph
Major Thoroughfares —Accessways that primarily function to channel intercity vehicular traffic to and through the Town and to provide travel mobility among the Town’s major activity centers by connecting minor thoroughfares with each other and with collector streets. They handle moderate to high travel speeds and traffic volumes over relatively long distances, and provide limited direct driveway access to abutting development.	2-7	≥ 20,000	Moderate	Low	45-55 mph
Freeways —Specialized accessways that function solely to channel intercity vehicular traffic to and through the Town and to connect major thoroughfares. They consist of multi-lane divided highways that handle high traffic volumes at very high travel speeds, and limit access to grade-separated interchanges.	4 or more	≥ 40,000	High	None	≥ 50 mph
Notes:					
[1] Can include center turn lanes, but does not include acceleration and deceleration lanes. (Ord. No. 2015-047, 07/28/2015; Ord. No. 2016-001, 05/10/2016)					

D. Vehicular Connectivity

1. Purpose

The purpose of the following vehicular connectivity standards is to enhance safe and convenient mobility within and between developments that helps integrate and connect neighborhoods, allow people to conveniently access activity centers without compromising the capacity of the Town’s streets to accommodate through traffic, improve opportunities for comprehensive and convenient transit service, enhance efficient provision of public services, improve the speed and effectiveness with which emergency services and police and fire protection can be provided to Town residents and properties, and implement other connectivity objectives and policies in the Comprehensive Plan.

2. Required Vehicular Access and Circulation

- a. A development shall be served by an internal system of vehicular accessways (including alleys, fire lanes, and drive aisle lanes) that permits safe, convenient, efficient, and orderly movement of vehicles among origin and destination points within the development in accordance with the following standards for the type of vehicle:
 - (1) Firefighting and other emergency vehicles shall be provided access to points within 150 feet of all portions of buildings and facilities, or such smaller distance required in accordance with requirements for fire apparatus access roads in the Fire Prevention Code.
 - (2) Public transit and school buses shall be provided access to designated or planned bus stops and shelters.
 - (3) Garbage trucks shall be provided access to bulk refuse containers and to points within 150 feet of individual refuse receptacle storage/collection sites.

- (4) Large delivery trucks shall be provided access to off-street loading spaces.
- (5) Small delivery trucks, service vehicles, and passenger motor vehicles shall be provided access to points within 100 feet of a single-family detached, duplex, or manufactured home dwelling, and to the off-street parking spaces serving any other development.
- b. The development's internal system of vehicular accessways shall also permit safe, convenient, efficient, and orderly movement of vehicles between the development's internal origin and destination points and the external roadway system and adjacent transit stations.

(Ord. No. 2015-002, 04/29/2015)

3. Required Multiple Means of Vehicular Access

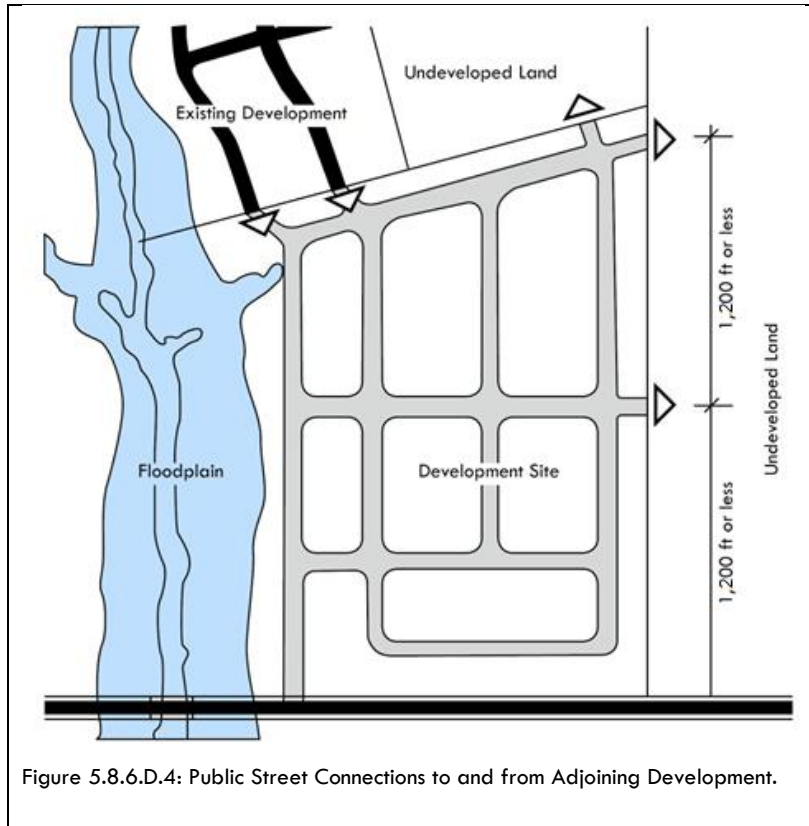
- a. A residential development shall provide each building or facility at least two separate means of vehicular access, which provide an outlet to two different public streets, meeting Fire Code requirements for fire apparatus access roads if the development includes:
 - (1) More than 30 single-family detached (including bungalow court and pocket neighborhood), duplex, or manufactured home dwellings, or subdivision lots designed to contain more than 30 such dwellings; or
 - (2) More than 60 single-family attached or multifamily dwelling units.
- b. A nonresidential or mixed-use development shall provide:
 - (1) At least two separate means of vehicular access to each building or facility that has a height exceeding 30 feet or three stories; or
 - (2) At least two separate means of vehicular access, which provide an outlet to two different public streets, to each building or facility that has a gross floor area exceeding 62,000 square feet.
- c. Where two means of vehicular access are required, the distance between the points where such access enters the development site shall be at least $\frac{1}{2}$ the maximum overall diagonal dimension of the development site.
- d. The required two means of vehicular access shall be provided before issuance of a Building Permit authorizing the 31st single-family detached (including bungalow court and pocket neighborhood), duplex, or manufactured home dwelling, or the 61st single-family attached or multifamily dwelling unit.
- e. The Planning Director, after consulting with the Fire Chief, may waive these requirements on determining provision of a second access is impractical due to topography, natural features, cultural resources, or the configuration of adjacent developments and/or the dwellings, buildings, or facilities are equipped with an approved automatic sprinkler system.

Ord. No. 2016-001, 05/10/2016)

4. Public Street Connectivity

- a. The vehicular access and circulation for a development shall incorporate the continuation and connection of public street roadways and associated rights-of-way that have been extended or connected to the boundary of the development site from existing or approved adjoining developments. (See Figure 5.8.6.D.4: Public Street Connections to and from Adjoining Development.)
- b. The vehicular access and circulation for a development shall provide for the extension or connection of proposed internal public street roadways and associated rights-of-way to those boundaries of the development site that adjoin potentially developable or redevelopable property whenever such extensions or connections are or may be necessary to ensure that the development site or the adjoining property will have:

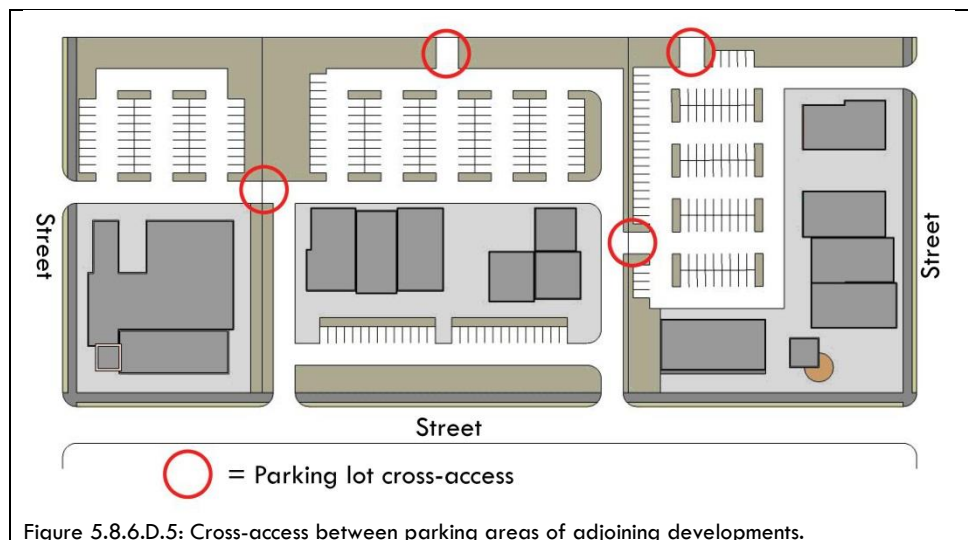
- (1) At least two vehicular access points to and from an external through street system, plus one additional vehicular access point for each additional 2,000 vehicles per day, or fraction thereof, expected to be generated by the proposed development or by the maximum allowable development of the adjoining property;
 - (2) Convenient and efficient access by vehicles needed to provide police, fire, and emergency services; and
 - (3) Convenient and efficient access by vehicles needed to provide other public services.
- c.** Roadway extensions and connections to adjoining properties shall be spaced at intervals along each principal boundary direction (north, south, east, west) that do not exceed the maximum block length established in Section 5.3.1, Blocks.
- d.** An extension or connection of a public street roadway and right-of-way to an adjoining property shall also include the extension or connection of associated bikeways or sidewalks.
- e.** The Planning Director may require the provision of a temporary turnaround at the end of a roadway extension on determining that the turnaround is needed to facilitate traffic flow or accommodate emergency vehicles pending the roadway's connection to other roadways.
- f.** The Planning Director may waive or modify the requirements or standards for extension or connection of a public roadway from or to adjoining property on determining that such extension is impractical or undesirable because it would:
- (1) Require crossing a significant physical barrier or environmentally sensitive area (e.g., railroads, watercourses, floodplains, wetlands, steep slopes);
 - (2) Require the extension or connection of a proposed internal public street to an adjoining property with existing development whose design makes it unlikely that the street will ever be part of a network of public streets (e.g., the adjoining existing development has no public streets, or there are no 'stubbed-out' street rights of way or open corridors between the proposed development site and public streets in the adjoining development to accommodate a current or future extension or connection);
 - (3) Require the extension or connection of a proposed internal public street to an adjoining property owned by a government or public utility to which vehicular access is restricted, or other property to which vehicular access is restricted by a conservation easement; or
 - (4) Require the extension or connection of a proposed internal public street to an adjoining property that is developed or zoned for a use whose level and type of generated traffic would be incompatible with the proposed development—provided, however, that residential, institutional, and commercial uses shall generally be deemed compatible.
- g.** Where a roadway is extended to, but not yet onto, adjoining land, a sign shall be installed at the terminus of the roadway that informs neighboring property owners that the roadway is intended to be extended in the future (e.g., "STREET MAY BE EXTENDED BY AUTHORITY OF THE TOWN OF MORRISVILLE"). Notation of that intent shall also be included on the Final Plat for Type 1 or Type 2 Subdivisions and record plat for Type Subdivisions (see Section 2.5.6), Major Site Plan or Minor Site Plan (see Section 2.5.7), and Construction Plan (see Section 2.5.8), as appropriate.



5. Cross Access Between Adjoining Development

To facilitate vehicular access between adjoining developments, encourage shared parking, and minimize access points along streets, new single-family attached, multifamily, nonresidential, and mixed-use development or redevelopment shall comply with the following standards:

- a. The internal vehicular circulation system shall be designed to allow for vehicular cross-access between the development's common vehicle use areas and common vehicle use areas in an adjoining single-family attached, multifamily, nonresidential, or mixed-use development, or to the boundary of adjoining vacant land zoned to allow single-family attached, multifamily, nonresidential or mixed-use development. (See Figure 5.8.6.D.5: Cross-access between parking areas of adjoining developments.)



- b. Required vehicular cross access between the adjoining lots shall be provided through the use of a frontage or service street (if the lots front on a major thoroughfare right-of-way), a single two-way driveway or drive aisle, or two one-way driveways or aisles that are sufficiently wide to accommodate traffic by automobiles, service vehicles, loading vehicles, and emergency vehicles.
- c. The Planning Director, in conjunction with the Town Engineer, may waive or modify the requirement for vehicular cross access on determining that such cross access is impractical or undesirable because it would require crossing a significant physical barrier or environmentally sensitive area (e.g., railroad, watercourse, floodplain, wetlands, steep slopes), or would create unsafe conditions.
- d. Easements allowing cross access to and from properties served by a vehicular cross-access, along with agreements defining maintenance responsibilities of property owners, shall be recorded with the Register of Deeds for the county in which the properties are located before issuance of a Building Permit for the development.

E. Vehicular Access Management

1. Purpose

The purpose of the access management standards in this subsection is to control vehicular access to developments from adjacent streets in a way that preserves the safe and efficient flow of the traffic on the streets while providing property owners a right to reasonable access to a general system of streets and highways. Specifically, the standards are intended to limit the number of traffic conflicts, separate basic conflict areas, separate turning volumes from through movements, and maintain progressive speeds along thoroughfares.

2. Driveway Intersections

a. Limitation on Direct Driveway Access Along Thoroughfares

Direct driveway access to a development's principal origin or destination points (including individual lots in a subdivision) may be provided directly from a major or minor thoroughfare only if:

- (1) No alternative direct vehicular access from a lower-classified accessway (e.g., collector street, local street, alley, or driveway) is available or feasible to provide;
- (2) Only one two-way driveway, or one pair of one-way driveways, is allowed onto lots with 250 or less feet of lot frontage on the major or minor thoroughfare, and no more than one additional two-way driveway or pair of one-way driveways per additional 250 feet of frontage; or
- (3) The development(s) served by the driveway is expected to generate an average daily traffic (ADT) count of 1,000 trips or less, or the Planning Director determines that the origin or destination points accessed by the driveway will generate sufficiently low traffic volumes, and the adjacent major or minor thoroughfare has sufficiently low travel speeds and traffic volumes, to allow safe driveway access while preserving the safety and efficiency of travel on the thoroughfare.

b. Limitation on Direct Driveway Access Along Other Roadways

The following standards shall apply to vehicular access along a roadway other than a freeway or a major or minor thoroughfare.

- (1) For single-family detached, duplex, manufactured home dwellings, and pocket neighborhood developments, no more than two direct driveway access points are allowed.
- (2) For bungalow courts, no more than one driveway access point is allowed.

- (3) For single-family attached and multifamily dwellings, and for institutional, commercial, mixed-use, and industrial developments, the number of vehicular access points along a street shall be minimized as necessary to protect the function, safety, and efficiency of travel on the street and any associated bikeways and sidewalks.
- (4) Where a through lot or corner lot fronts on roadways of different classifications, direct driveway access to the lot shall be from the lower-classified fronting street, to the maximum extent practicable.

(Ord. No. 2016-001, 05/10/2016)

c. Spacing of Driveway Intersections

- (1) Intersections of driveways along major or minor thoroughfares shall be spaced at least 250 feet from any street intersection, as measured between centerlines.
- (2) Intersections of driveways serving traffic volumes exceeding 300 ADT (average daily traffic), based on the most recent edition of the ITE Trip Generation Manual, shall be spaced at least 400 feet apart, as measured between centerlines, and shall be spaced at least 250 feet from any street intersection, as measured between centerlines.
- (3) Intersections of full access driveways open to signalization shall be spaced at least 1,000 feet apart, as measured between centerlines.
- (4) Intersections of driveways into major and neighborhood shopping centers shall be spaced at least 400 feet apart, as measured between centerlines.
- (5) Intersections of driveways along a collector street shall be spaced at least 100 feet from any street intersection, as measured between centerlines.
- (6) Intersections of driveways along a local street shall be spaced at least 40 feet from any street intersection, as measured from the point of tangency of the radius curvature of the intersecting street.

(Ord. No. 2015-047, 07/28/2015)

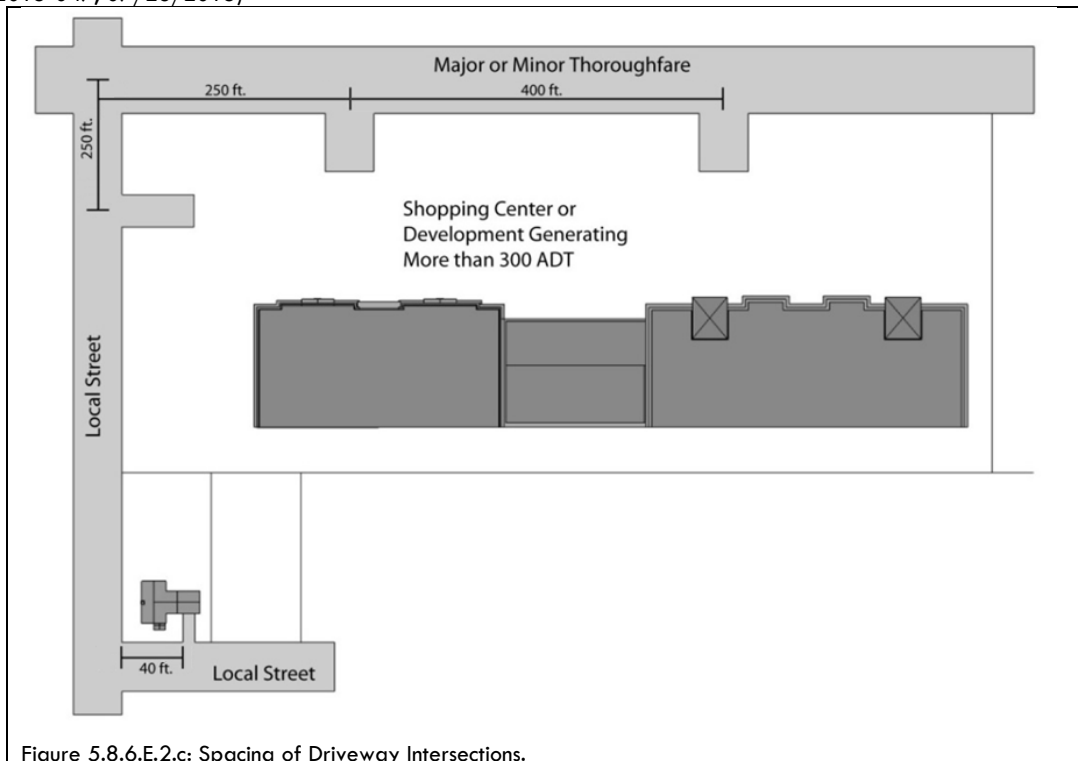


Figure 5.8.6.E.2.c: Spacing of Driveway Intersections.

d. Shared Driveways

- (1) Driveway access shared between adjoining lots is encouraged and may be required to limit direct vehicular access along streets (see subsections a and b above) or comply with driveway intersection spacing requirements (see subsection c above).
- (2) Easements allowing cross-access to and from properties served by a shared driveway, along with agreements defining maintenance responsibilities of property owners, shall be recorded with the Register of Deeds for the county in which the driveway is located before issuance of a Building Permit for the development proposing the shared driveway access.

e. Rear Alley Access

Within the Transit-Oriented Development (TOD) District, a continuous network of rear alleys providing vehicular access to all lots is encouraged. Vehicular access to lots 50 feet or less in width shall be from a rear alley.

3. Street Intersections

- a. Street intersections shall be spaced in accordance with the standards in Table 5.8.6.E.3, Street Intersection Spacing.

Table 5.8.6.E.3: Minimum Street Intersection Spacing ^[1]				
Intersection Type		Intersected Street		
		Thoroughfare	Collector Street	Local Street
Intersections controlled by a traffic signal		½ to 1 mile	¼ mile	1,000 feet
Four-legged intersections not controlled by a traffic signal		1,000 feet	750 feet	300 feet
Three-legged intersections not controlled by a traffic signal	Along the same side of the street	800 feet	500 feet	200 feet
	Along opposite sides of the street	200 feet	200 feet	125 feet
Notes:				
[1] As measured between centerlines.				

(Ord. No. 2015-047, 07/28/2015 Ord. No. 2016-001, 05/10/2016)

- b. Median breaks should be spaced at intervals no less than the applicable minimum block length (see Section 5.3.1, Blocks).

4. Gating of Streets

- a. The use of gates, manned or unmanned, to control vehicular access on any public street or alley is prohibited except at railroad crossings.
- b. The use of gates, manned or unmanned, to control vehicular access on a private street, alley, or driveway may be allowed only with if the Town Engineer, after consulting the Fire Chief, determines that gate would not restrict vehicular access to an existing street, restrict timely access by emergency vehicles, or solely serve to isolate or segregate an organization or segment of the population from access. This requirement does not apply to a driveway serving an individual single-family detached, duplex, manufactured home, or single-family attached dwelling.

F. Intersection Sight Distance Areas

Intersection sight distance areas shall be established at each corner of all intersections of streets, as well as intersections of driveways and streets, in accordance with the standards in the Engineering Design and Construction Manual. Within intersection sight distance areas, development and landscaping shall be restricted to enable motorists approaching the intersection to see and react to vehicular traffic approaching the intersection from other directions, in accordance with standards in the Engineering Design and Construction Manual.

G. Fire Lanes

Fire lanes shall be installed where deemed necessary by the Fire Chief as necessary to provide the Fire Department firefighting access and comply with the Fire Code.

H. Vehicular Accessway Design Standards

All vehicular accessways (including streets, alleys, driveways, and fire lanes) and intersections of such accessways shall be designed and constructed in accordance with standards in the Engineering Design and Construction Manual.

I. Vehicle Stacking Space for Drive-Through, Pick-up/Drop-off, and Related Uses

1. Required Number of Stacking Spaces

For uses with drive-through facilities and other auto-oriented uses where vehicles queue up in a driveway or drive aisle to access a service facility, the driveway or drive aisle shall include the minimum number of stacking spaces established in Table 5.8.6.1.1, Minimum Stacking Spaces for Drive-Through and Related Uses.

Table 5.8.6.1.1: Minimum Stacking Spaces for Drive-Through and Related Uses		
Use	Minimum Number of Stacking Spaces [1]	Measured From
Automated Teller Machine (ATM)	2	Teller machine
Automobile Service Station	1	Each end of the outermost gas pump island
Car Wash/Detailing, Automatic	4 per bay	Bay entrance
Car Wash/Detailing, Self-service	2 per bay	Bay entrance
Cluster Box Unit (CBU) [2]	1 per 20 mailboxes	The point where the stacking lane reaches a full ten feet in width
Eating or Drinking Establishment (with drive-through service) [3]	4 per lane	Order box
Retail Sales and Service Use (with drive-through service)	3 per lane	Window
School, elementary or middle [4]	40	Building entrance
Other	Uses not specifically listed are determined by the Planning Director based on standards for comparable uses, or alternatively based on a parking demand study	
<p>Notes:</p> <p>[1] When computation of the number of required stacking spaces results in a fraction, the result shall be rounded upward to the next highest whole number.</p> <p>[2] Stacking spaces are only required if the parameters of subsection 4.3.5.B.8.c are met.</p> <p>[3] Restaurants with drive-through service shall provide at least four additional stacking spaces between the order box and the pick-up window. (See Figure 5.8.6.1.1: Stacking spaces for a drive-through restaurant.)</p> <p>[4] Drop-off/pick-up spaces for schools may include the temporary, supervised use of dual stacking lanes.</p>		

(Ord. No. 2015-002, 04/29/2015; Ord. No. 2016-001, 05/10/2016)

2. Design and Layout

Required stacking spaces are subject to the following design and layout standards:

- a. Stacking spaces shall be a minimum of ten feet wide and 20 feet long.
- b. Stacking spaces shall not impede on-site or off-site vehicular traffic movements or movements into or out of off-street parking spaces.
- c. Stacking spaces shall not impede on-site or off-site bicycle or pedestrian traffic movements.
- d. Stacking spaces shall be separated from other internal driveways by raised medians that are at least four feet wide if deemed necessary for traffic movement and safety by the Planning Director.

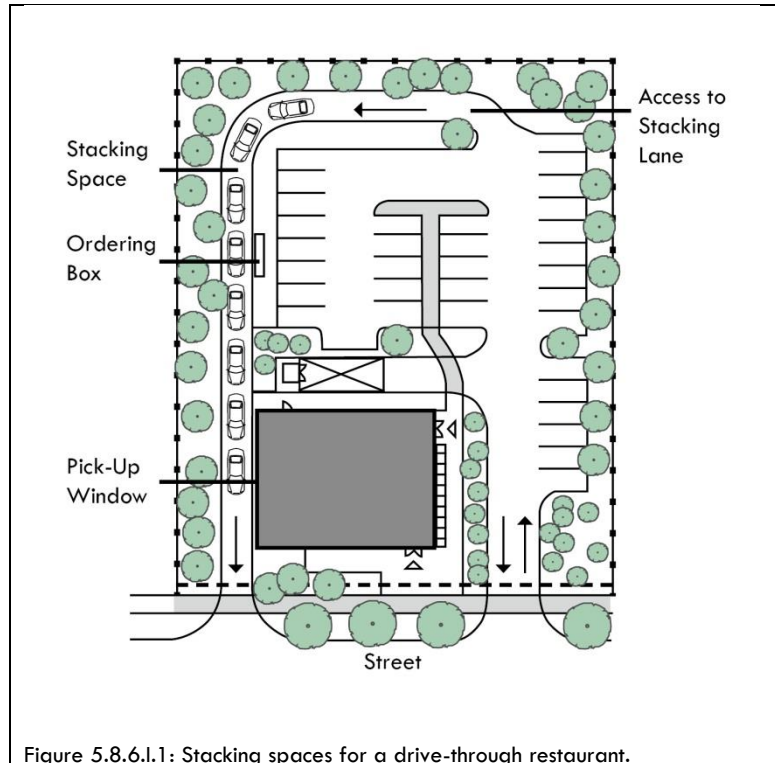


Figure 5.8.6.l.1: Stacking spaces for a drive-through restaurant.

5.8.7. Bicycle Access and Circulation

A. Required Bicycle Access

1. All new development except individual lot development of a single-family detached, duplex, or manufactured home dwelling on an existing lot (i.e., including subdivisions for such dwellings) shall be served by an internal bicycle circulation system (including shared roadway lanes, widened outside roadway lanes, bike lanes, shoulders, and/or separate bike paths) that permits safe, convenient, efficient, and orderly movement of bicyclists among the following origin and destination points within the development.
 - a. Bicycle parking facilities or areas near the primary entrance(s) of principal buildings (or the buildable area of lots, for subdivisions);
 - b. Any designated or planned bus stops and shelters; and
 - c. Recreation facilities and other common use area and amenities.
2. The development's internal bicycle circulation system shall also permit safe, convenient, efficient, and orderly movement of vehicles between the development's internal origin and destination points and adjoining parts of an existing or planned external, community-wide bicycle circulation system as well as any adjoining transit stations, bus stops and shelters, public parks, greenways, schools, community centers, and shopping areas.

B. Bike Lanes Required

1. All new development except individual lot development of a single-family detached, duplex, or manufactured home dwelling on an existing lot (i.e., including subdivisions for such dwellings) shall provide bike lanes within the development site and along the entire frontage of the development site with an existing street where bike lanes are called for by the Comprehensive Plan or other Town-adopted plans addressing transportation (unless an existing bike lane meeting Town standards is already in place).

2. Such bike lane shall be provided within the right-of-way of the street unless the Planning Director determines that location within the right-of-way is not practicable or preferable—in which case, the bike path may be provided on the development site, within a dedicated widening of the right-of-way or a dedicated public easement running parallel and adjacent to the thoroughfare or collector street.

C. Bicycle Connectivity

1. Bikeway Connections to/from Adjoining Development and Developable Land

- a. Where a public street is extended to or from a development's boundary in accordance with Section 5.8.6.D.4, Public Street Connectivity, such extension shall include the extension of any bike lanes within the right-of-way of the street.
- b. The pedestrian access and circulation system for a development shall incorporate the continuation and connection of public bike paths and associated rights-of-way or easements that have been extended or connected to the boundary of the development site from existing or approved adjoining developments.
- c. The pedestrian access and circulation system for a development shall provide for the extension or connection of proposed internal public bike paths and associated rights-of-way or easements to those boundaries of the development site that adjoin potentially developable or redevelopable land.
- d. The Planning Director may waive or modify the requirements or standards for extension of a public bikeway from or to adjoining property on determining that such extension is impractical or undesirable because it would:
 - (1) Require crossing a significant physical barrier or environmentally sensitive area (e.g., railroads, watercourses, floodplains, wetlands); or
 - (2) Require the extension or connection of a proposed public bike path to an adjoining existing development whose design makes it unlikely that the bike path will ever be part of a network of public bikeways (e.g., the adjoining existing development has no bike paths or there are no open corridors between the proposed development site and public bikeways in the adjoining development to accommodate a current or future extension or connection).

2. Cross Access Between Adjoining Development

To facilitate vehicular access between adjoining developments, new single-family attached, multifamily, nonresidential, and mixed-use development or redevelopment shall comply with the following standards.

- a. Any internal bicycle circulation system shall be designed to allow for bicycle cross access between it and any internal bicycle circulation system in an adjoining single-family attached, multifamily, nonresidential, and mixed-use development, or to the boundary of adjoining vacant land that is zoned to allow such single-family attached, multifamily, nonresidential, and mixed-use development.
- b. The Planning Director, in conjunction with the Town Engineer, may waive or modify the requirement for bicycle cross access on determining that such cross access is impractical or undesirable because it would require crossing a significant physical barrier or environmentally sensitive area (e.g., railroad, watercourse, floodplain, wetlands), or would create unsafe conditions.
- c. Easements allowing cross-access to and from properties served by a bicycle cross-access, along with agreements defining maintenance responsibilities of property owners, shall be recorded with the Register of Deeds for the county in which the properties are located before issuance of a Building Permit for the development.

D. Bikeway Design Standards

All bike lanes and bike paths shall be designed and constructed in accordance with standards in the Engineering Design and Construction Manual.

5.8.8. Pedestrian Access and Circulation

A. Required Pedestrian Access

1. General Pedestrian Access

- a.** All new development except an individual single-family detached, duplex, or manufactured home dwelling on an existing lot (i.e., including subdivisions for such dwellings) shall be served by a system of pedestrian walkways (including sidewalks, pedestrian paths, and/or trails) that permits safe, convenient, efficient, and orderly movement of pedestrians among the following origin and destination points within the development:
 - (1)** The primary entrance(s) of principal buildings (or the buildable area of lots, for subdivisions);
 - (2)** Off-street parking bays (including any parking serving on-site transit stations or facilities);
 - (3)** Any designated or planned bus stops and shelters; and
 - (4)** Recreation facilities and other common use area and amenities.
- b.** The development internal pedestrian circulation system shall also provide safe, convenient, efficient, and orderly movement of pedestrians between the development's internal pedestrian origin and destination points and adjoining parts of an existing or planned external, community-wide pedestrian circulation system as well as any adjoining transit stations, bus stops and shelters, public parks, greenways, schools, community centers, and shopping areas.

2. Sidewalks Required

- a.** All new development except an individual single-family detached, duplex, or manufactured home dwelling on an existing lot shall install sidewalks along both sides of roadways proposed within the development site and along the entire frontage of the development site with an existing street (unless an existing sidewalk meeting Town standards is already in place).
- b.** Such sidewalks shall be provided within the right-of-way of the street unless the Planning Director determines that location within the right-of-way is not practicable—in which case, the sidewalk may be provided on the development site, within a dedicated widening of the right-of-way or a dedicated public easement and running parallel and adjacent to the street.
- c.** The Planning Director may require additional sidewalks where warranted by the safety and welfare of the general public—including, but not limited to:
 - (1)** Along one side of all driveway entrances to residential and nonresidential off-street parking facilities;
 - (2)** In nonresidential off-street parking facilities to maximize pedestrian travel to and from each business; and
 - (3)** In off-street parking facilities in accordance with Section 5.10.6.D, Pedestrian Walkways through Large Vehicle Parking Areas.
- d.** Additional sidewalks or pedestrian walkways may be required where called for by the Comprehensive Plan.

(Ord. No. 2015-002, 04/29/2015)

B. Greenway Paths Required

All new development except individual lot development of a single-family detached, duplex, or manufactured home dwelling on an existing lot (i.e., including subdivisions for such dwellings) shall incorporate into its required open space any greenway path or multi-use path called for across the development site by the Comprehensive Plan. Such incorporation shall include installation of the path and recording of an associated pedestrian access easement, if applicable.

(Ord. No. 2014-022, 06/24/2014)

C. Pedestrian Connectivity

1. Walkway Connections to/from Adjoining Development and Developable Land

- a.** Where a public street is extended to or from a development site's boundary in accordance with Section 5.8.6.D.4, Public Street Connectivity, such extension shall include the extension of any sidewalks within the right-of-way of the street.
- b.** The pedestrian access and circulation system for a development shall incorporate the continuation and connection of public walkways and associated rights-of-way or easements that have been extended or connected to the boundary of the development site from existing or approved adjoining developments.
- c.** The pedestrian access and circulation system for a development also shall provide for the extension or connection of proposed internal public walkways and associated rights-of-way or easements to those boundaries of the development site that adjoin potentially developable or redevelopable land.
- d.** The Planning Director may waive or modify the requirements or standards for extension of a public walkway from or to adjoining property on determining that such extension is impractical or undesirable because it would:
 - (1)** Require crossing a significant physical barrier or environmentally sensitive area (e.g., railroads, watercourses, floodplains, wetlands); or
 - (2)** Require the extension or connection of a proposed public walkway to an adjoining existing development whose design makes it unlikely that the walkway will ever be part of a network of public walkways (e.g., the adjoining existing development has no public walkways or there are no open corridors between the proposed development site and public walkways in the adjoining development to accommodate a current or future extension or connection).

2. Pedestrian Cut-Throughs

- a.** On determining that such connection is necessary to provide convenient pedestrian access within a development or to adjacent schools, transit facilities, recreation facilities, or commercial developments, the Planning Director may require pedestrian walkways to be provided between the ends of cul-de-sacs and the nearest existing or proposed public walkway (e.g., sidewalk, pedestrian path, or trail). (See Figure 5.8.8.C.2: Pedestrian cut-through at end of cul-de-sac.)
- b.** On determining that such connection is necessary to provide convenient pedestrian access within a development or to adjacent schools, transit stations, recreation facilities, or commercial developments, the Planning Director may require a pedestrian walkway to be provided through approximately the centers of blocks more than 900 feet long. Within the Transit-Oriented Development (TOD), pedestrian cut-throughs may be required at least every 200 feet of block length.
- c.** These pedestrian cut-through walkways shall be located within a right-of-way or a public access easement within common open space. The easement shall be at least 20 feet wide.

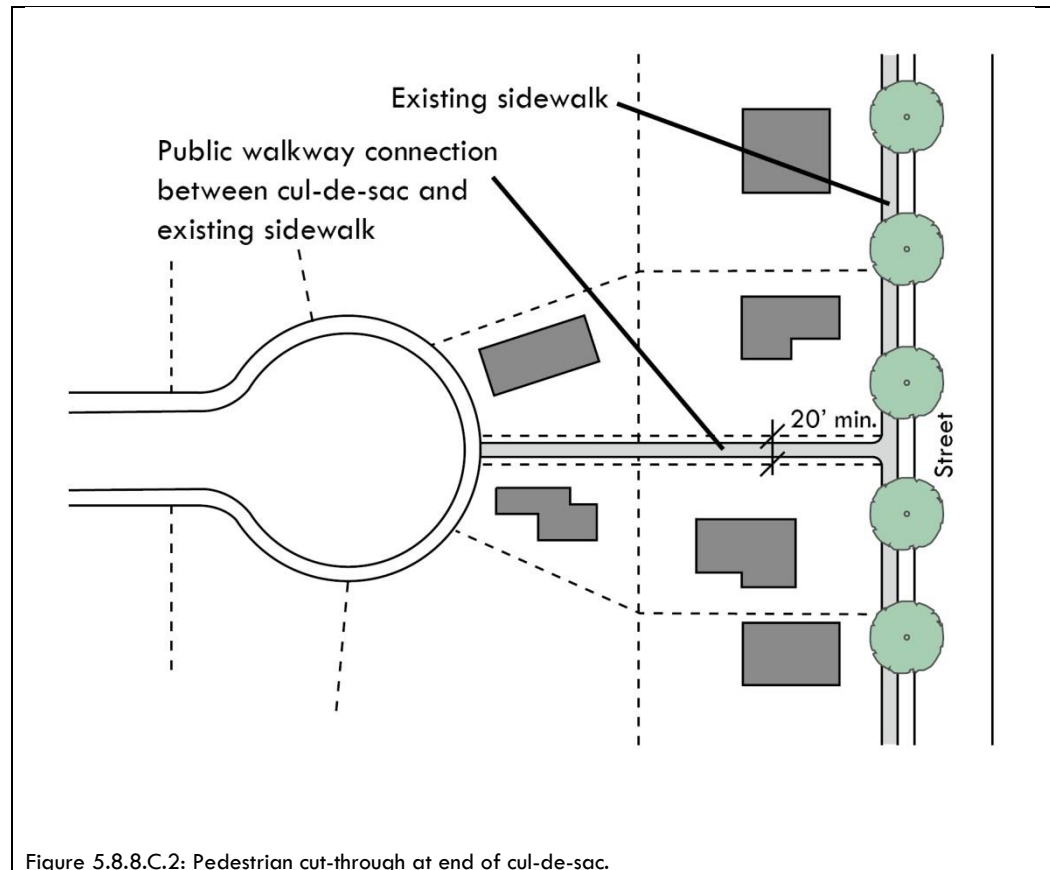


Figure 5.8.8.C.2: Pedestrian cut-through at end of cul-de-sac.

3. Cross Access Between Adjoining Development

To facilitate pedestrian access between adjoining developments, new single-family attached, multifamily, nonresidential, and mixed-use development shall comply with the following standards:

- a. The internal pedestrian circulation system shall be designed to allow for pedestrian walkway cross-access between the development's buildings and parking areas and those in an adjoining single-family attached, multifamily, nonresidential, and mixed-use development, or to the boundary of adjoining vacant land zoned to allow single-family attached, multifamily, nonresidential, and mixed-use development.
- b. The Planning Director, in conjunction with the Town Engineer, may waive or modify the requirement for pedestrian cross-access on determining that such cross-access is impractical or undesirable due to the presence of topographic conditions, natural features, or safety factors.
- c. Easements allowing cross-access to and from properties served by a pedestrian cross-access, along with agreements defining maintenance responsibilities of property owners, shall be recorded with the Register of Deeds for the county in which the properties are located before issuance of a Building Permit for the development.

D. Walkway Design Standards

All sidewalks, internal walkways, and greenway/multi-use paths shall be designed and constructed in accordance with standards in the Engineering Design and Construction Manual.

SECTION 5.9. BUILDING CONFIGURATION AND DESIGN

5.9.1. Purpose and Intent

These design standards are intended to protect and preserve the quality and character of the Town. More specifically, the intent of this section is to:

1. Encourage distinctive, well-designed, high quality developments as a strategy for investing in the Town's future;
2. Provide a range of housing options to Town residents;
3. Ensure variability in neighborhood streetscapes;
4. Provide incentives to single-family detached, attached, and duplex development that complies with voluntary design guidelines in this Ordinance; and
5. Protect and enhance property values.

(Ord. No. 2016-001, 05/10/2016)

5.9.2. Applicability

A. New Development

Except as otherwise provided in this section, all new development shall comply with the standards in this section.

B. Existing Development

1. Change in Use

If an existing principal structure is expanded, enlarged, or modified any change shall be subject to the standards in this section.

2. Expansion

If an existing principal structure is expanded or enlarged, any expansion shall be subject to the standards in this section.

(Ord. No. 2016-001, 05/10/2016)

5.9.3. Organization

The standards in Section 5.9, Building Configuration and Design, establishes the building material, facade color, composition, fenestration, primary entrance, and building configuration requirements for all forms of development.

- A. Section 5.9.4 establishes the range of allowable exterior materials and color configurations applicable to all forms of development.
- B. Section 5.9.5 establishes standards for facade projections, facade wall details, parapet walls, primary entrances, and fenestration for mixed-use, commercial, institutional, or industrial development outside the Transit-Oriented Development (TOD) and the Town Center (TC) districts.
- C. Sections 5.9.6 and 5.9.75.9.6 establish the mandatory design standards and voluntary design guidelines for bungalow court, pocket neighborhood, single-family detached, single-family attached, and duplex development located outside the Town Center (TC) districts.
- D. Section 5.9.8 establishes the design standards for multifamily development located outside the Transit-Oriented Development (TOD) and the Town Center (TC) districts.

Article 5: Development Standards

Section 5.9. Building Configuration and Design

5.9.4. Exterior Facade Materials and Colors for All Development

- E.** Section 5.9.9 establishes the building and design standards for non-residential, mixed-use, and multifamily development in the TOD district.
- F.** Section 5.9.10 establishes the building and design standards for all mixed-use, nonresidential and multifamily development as well as structures listed on the National Register of Historic Places or designated historic landmarks located in HCV, MS, and TCC Districts.

(Ord. No. 2015-002, 04/29/2015; Ord. No. 2016-001, 05/10/2016)

5.9.4. Exterior Facade Materials and Colors for All Development

A. Applicability

All development in the Town, except for bungalow courts, pocket neighborhoods, single-family detached, single-family attached, and duplex dwellings comply with the following exterior facade and material colors standards.

B. Materials

1. Multifamily Development Buildings and Structures

- a.** Materials used for net facade areas, cornices, and architectural accents on all multifamily principal buildings and structures are subject to the standards in Table 5.9.4.B.1, Multifamily Exterior Facade Materials.
- b.** Only those exterior facade materials listed in Table 5.9.4.B.1, Multifamily Exterior Facade Materials, are permitted on multifamily principal buildings and structures.

2. Nonresidential and Mixed-Use Buildings and Structures

- a.** Materials used for net facade areas, cornices, and architectural accents on all nonresidential principal buildings are subject Table 5.9.4.B.2, Nonresidential and Mixed-Use Exterior Facade Materials.
- b.** Materials used for net facade areas, cornices, and architectural accents on all mixed-use principal buildings, that do not include multifamily dwelling units, are subject Table 5.9.4.B.2, Nonresidential and Mixed-Use Exterior Facade Materials.
- c.** Materials used for net facade areas, cornices, and architectural accents on all mixed-use principal buildings, that include multifamily dwelling units, are subject to:
 - (1)** Table 5.9.4.B.2, Nonresidential and Mixed-Use Exterior Facade Materials; or
 - (2)** Table 5.9.4.B.2, Nonresidential and Mixed-Use Exterior Facade Materials, for any building story that has multiple uses and Section 5.9.4.B.1, Multifamily Development Buildings and Structures, for any building story that only includes multifamily dwelling units.

3. Accessory Buildings and Structures

Materials used on accessory buildings or structures associated with a multifamily, mixed-use, commercial, institutional, or industrial development shall be consistent with the materials used on the principal buildings or structures.

Table 5.9.4.B.1: Multifamily Exterior Facade Materials A = If selected, shall occupy at least 50% of Total Facade [1] B = If selected, shall not exceed 50% of Total Net Facade [2] Blank cell = Not Allowed		
Material	Town Center Districts [6]	Other Districts [6]
Brick	A	A
Stone or rock (natural or cultured)	A	A
Architectural precast concrete	A	A
Composite metal wall panels [3]		B
Factory tinted/textured concrete masonry units		A
Fiber cement siding [4]	B	B
Shingle siding	B	B
Traditional (three coat) stucco [5]		B
Architectural Metal (metal siding is not allowed)		B
Wood	B	B
Other high-quality, long-lasting material	B	B
Notes: [1] Different materials with an “A” rating may be combined to comply with the 50% of the Total Net Facade coverage requirement. [2] If at least 50% of the provided off-street vehicle parking is located in a structure (parking deck or podium), the allowed total net facade percentage is increased to 75%. [3] Metal panels cannot be textured or embossed to look like other materials such as concrete or stucco. [4] Allowed up to 100% on accessory buildings and structures. [5] Must be at least 10 feet above the finished grade of the building. [6] When a multifamily development includes three or more buildings with dwelling units, the use of the same materials on every building is prohibited. To achieve this requirement, a variety of “A” materials shall be used throughout the development, and the use of the same “A” materials on adjacent buildings shall be minimal.		

(Ord. No. 2016-001, 05/10/2016)

Table 5.9.4.B.2: Nonresidential and Mixed-Use Exterior Facade Materials

F = Allowed as Net Facade Material

C = Allowed as Cornice Material

A = Allowed as Architectural Accent Material

Blank cell = Not Allowed

Material	Transit-Oriented Development (TOD) District	Main Street (MS) District	Historic Crossroads Village (HCV) District	Other Districts				
				Primary Building Use				
				Office		Industrial	Recreation Uses ^[9] > 40,000 sf	Other
				≤ 2 Stories	> 2 Stories			
Brick [1]	F/C/A	F/C/A	A ^[7]	F/C/A	F/C/A	F/C/A	F/C/A	F/C/A
Stone or rock (natural or cultured) [1]	F/C/A	F/C/A		F/C/A	F/C/A	F/C/A	F/C/A	F/C/A
Tilt-up concrete	F ^[2] /C/A			F ^[2] /C/A	F ^[3] /C/A	F/C/A	F/C/A	F ^[2] /C/A
Architectural precast concrete	F ^[2] /C/A			F ^[2] /C/A	F ^[3] /C/A	F/C/A	F/C/A	F ^[2] /C/A
Composite metal wall panels ^[4] [8]	F/C/A			F ^[2] /C/A	F/C/A	F/C/A	F/C/A	F ^[2] /C/A
Factory tinted/textured concrete masonry units [1]	F/C/A	F/C/A		F/C/A	F/C/A	F/C/A	F/C/A	F/C/A
Fiber cement siding ^[4] ^[6]	F ^[2] /A	C/A	F/C/A	F ^[2]	F ^[2]	F ^[2]	F ^[2]	F ^[2] /A
Shingle siding	F ^[2]			F ^[2]	F ^[2]			F ^[2]
Traditional (three coat) stucco [4]	F ^[2] /C/A			F ^[2] /C/A				F ^[2] /C/A
Exterior Insulation and Finish Systems (EIFS) [5]	C			C	C	C		C
Architectural Metal (metal siding is not allowed) [4]	F ^[2] /C/A	A	A	C/A	C/A	C/A	C/A	C/A
Wood [4]	F ^[2] /C/A	C/A ^[6]	F/C/A	C/A			C/A	C/A
Tile [1]	F ^[2] /C/A			A			A	A
Composite wood panels [4]	F ^[2] /A			A	A	A	A	A
Green wall/screen	F/A			F	F	F	F/A	F/A
Other high-quality, long-lasting material [4]	C/A	F/A		C/A	C/A	C/A	C/A	C/A

Table 5.9.4.B.2: Nonresidential and Mixed-Use Exterior Facade Materials

F = Allowed as Net Facade Material

C = Allowed as Cornice Material

A = Allowed as Architectural Accent Material

Blank cell = Not Allowed

Material	Transit-Oriented Development (TOD) District	Main Street (MS) District	Historic Crossroads Village (HCV) District	Other Districts				
				Primary Building Use				
				Office		Industrial	Recreation Uses ^[9]	Other
				≤ 2 Stories	> 2 Stories			

Notes:

- [1] May not be painted.
- [2] Allowed only as a non-predominant net facade material. (See definition of “net facade material, non-predominant” in Section 11.5, Terms and Uses Defined.)
- [3] Allowed as a predominant net facade material only if the building is constructed of more than 50 percent glass. (See definition of “net facade material, predominant” in Section 11.5, Terms and Uses Defined.)
- [4] Must be at least 3 feet above the finished grade of the building.
- [5] The manufacturer’s certification of correct installation of all EIFS shall be provided to the Town before issuance of any Certificate of Compliance/Occupancy.
- [6] Permitted as a predominant net facade material on accessory buildings and structures.
- [7] Brick shall be limited to ten percent of the surface area of any single building facade. Foundations, porch supports, and chimneys are excluded from the 10% maximum.
- [8] Metal panels cannot be textured or embossed to look like other materials such as concrete or stucco.
- [9] At least 75% of the facade of the building with the main public entrance, as determined by the Planning Director, shall be constructed of brick, stone, or rock.

(Ord. No. 2014-051, 11/10/2014; Ord. No. 2016-001, 05/10/2016; Ord. No. 2016-001, 05/10/2016)

C. Colors

1. Primary Colors

a. Historic Crossroads Village

- (1) Exterior paint and roof colors shall be compatible with the palette of colors found on traditional buildings in the Historic Crossroads Village District. White and other light hues are the predominant primary building colors found in this District.
- (2) Use of dark or bright hues as a primary building color is not consistent with the historic character of the district and shall not be permitted.

b. Other Districts

(1) Nonresidential and Mixed-Use Development

A maximum of three predominant colors or a range of complementary hues shall be permitted on the exterior of any one building. (See Figure 5.9.4.C5.9.3: Example of Exterior Facade Color.)

(2) Multifamily Development

The color scheme found throughout a multifamily development shall include complementary hues. When a multifamily development includes three or more buildings containing dwelling units, use of the same color scheme on adjacent buildings is prohibited.

2. Accent Colors

a. Historic Crossroads Village

All accent colors shall be compatible with the colors found on traditional buildings in the Historic Crossroads Village District. These accent colors range from a deep red and green hues to black.

b. Other Districts

All accent colors shall complement the primary color palette and should be limited to the awnings, doors, and roof materials. (See Figure 5.9.4.C: Example of Exterior Facade Color.)

3. Window, Awning, Roof Material, Aluminum Storefront, Door Frame and Similar Element Colors

The colors of these building features shall be identified, shall complement the primary color palette, and if applicable, shall be identified as an accent color.



Figure 5.9.4.C: Example of Exterior Facade Color.

(Ord. No. 2016-001, 05/10/2016)

5.9.5. Building and Design Standards for Mixed-Use and Nonresidential Development

A. Applicability

In addition to the exterior material and color standards Section 5.9.4, Exterior Facade Materials and Colors for All Development, mixed-use and nonresidential development located outside the Transit-Oriented Development (TOD) and Town Center districts shall comply with the following building and design standards.

B. Facade Wall – Length

1. A facade wall greater than 100 feet in length, measured horizontally, shall:
 - a. Incorporate wall plane projections or recesses having a depth of at least three percent of the length of the longest segment of the facade wall. Said projections or recesses shall extend at least 20 percent of the length of the facade wall. (See Figure 5.9.5.B.1: Wall Plane Projects or Recesses.)
 - b. Not exceed 100 feet in uninterrupted length.

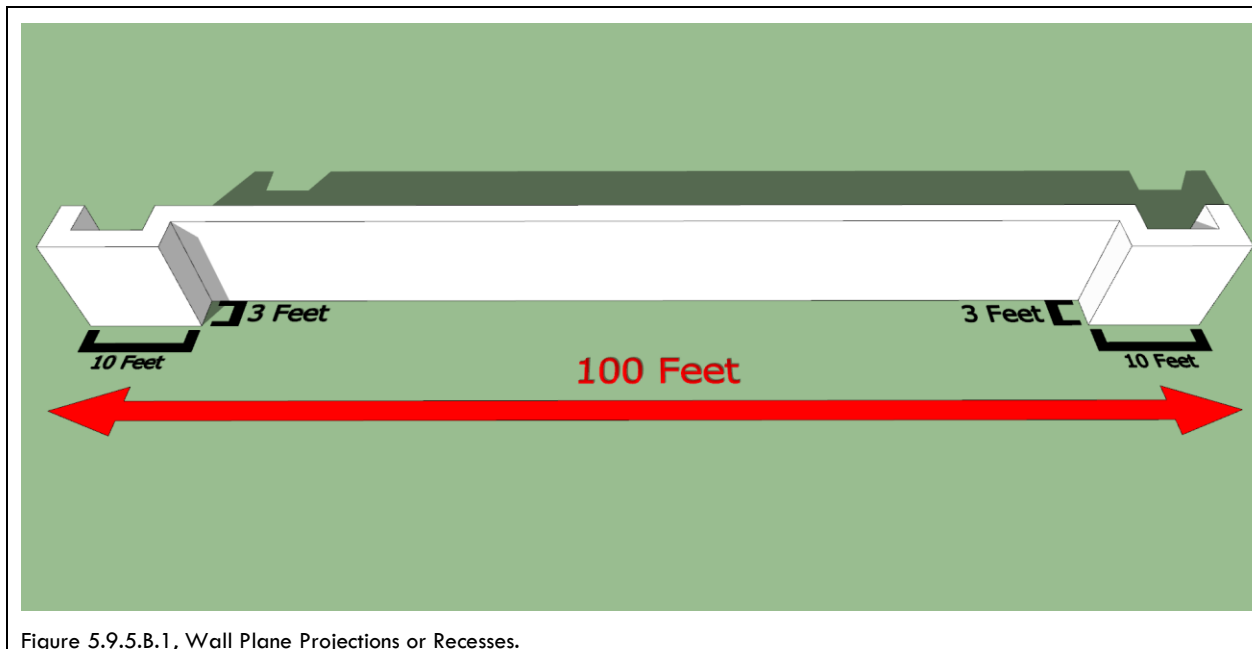


Figure 5.9.5.B.1, Wall Plane Projections or Recesses.

2. As an alternative to complying with the facade wall length requirement in subsection 1 above, office buildings may have a minimum of ten corners. (See Figure 5.9.5.C.2: Office Corner Requirement.)

C. Facade Wall – Expression

1. Facade walls shall include no less than two of the following elements:
 - a. Color change;
 - b. Texture change; or
 - c. Material change.
2. As an alternative to complying with the facade wall expression requirement in subsection 1 above, office buildings at least three stories in height and located outside the Town Center may have:
 - a. A minimum of ten corners (See Figure 5.9.5.C.2: Office Corner Requirement.);

Article 5: Development Standards

Section 5.9. Building Configuration and Design

5.9.5. Building and Design Standards for Mixed-Use and Nonresidential Development

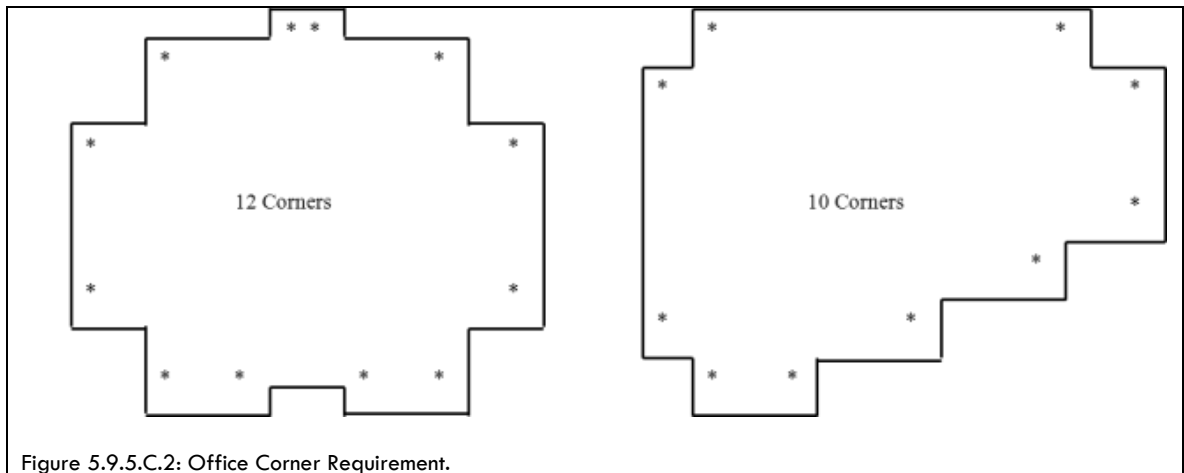


Figure 5.9.5.C.2: Office Corner Requirement.

- b. A change in color.
- 3. As an alternative to complying with the facade wall expression requirement in subsection 1 above, industrial buildings not located in a Town Center district, facade walls may include a change in color or reveals (if tilt-up concrete is the predominant facade material).

D. Facade Wall – Features

1. Facades Adjacent to a Public or Private Street Right-of-Way

Ground floor facade walls adjacent to an existing or proposed public or private street shall have entry areas, awnings (fabric or metal, no plastic), windows, recessed areas for seating or gathering, or similar features designed to provide visual interest along no less than 60 percent of the horizontal length of the wall. (See Figure 5.9.5.D: Example of Awnings and Entry Area Elements.)



Figure 5.9.5.D: Example of Awnings and Entry Area Elements.

2. Side and Rear Facades

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 (e.g., windows, doors, accent materials, and other features) that complement the front facade and provides visual interest.

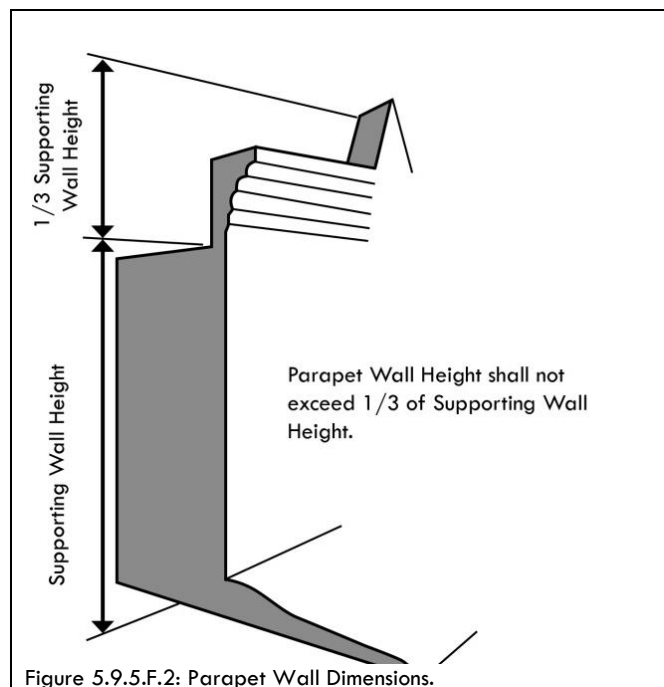
E. Primary Building Entrances

1. Primary building entrances shall be clearly distinguished through the use of one or more of the following architectural features:
 - a. Covered walkways or arcades;
 - b. Awnings (fabric or metal, no plastic), nonresidential canopies, or porches; or
 - c. Projected or recessed building mass.
2. Buildings adjacent to public rights-of-way shall have at least one entrance with safe and continuous pedestrian access to the public right-of-way. This entrance shall be open during regular hours of operation. This entrance is not required to be adjacent to the right-of-way.

(Ord. No. 2015-002, 04/29/2015)

F. Parapet Walls

1. Where provided, parapet walls shall extend over the entire length of the building facade and over any side or rear facades visible from a street or adjoining property.
2. Parapet walls shall not exceed one-third of the height of the supporting wall unless the parapet wall is an architectural feature (such as over a primary building entrance or faux second story) that is in scale with the building and the heights of adjoining parapet walls. (See Figure 5.9.5.F.2: Parapet Wall Dimensions.)
3. Parapet walls shall be made of materials consistent with the predominant net facade materials in Section 5.9.4, Exterior Facade Materials and Colors for All Development.
4. The backside of a parapet wall, even when used as an architectural feature shall not be visible from a drive aisle, street or vehicle use area, to the maximum extent practicable. To achieve this, taller parapets shall wrap around on each side of the building or be constructed as a three- or four-sided architectural feature. The material on the sides of the wrapped parapet wall or the architectural feature shall be consistent with that on the front of the parapet wall. (See Figure 5.9.5.F.3: Example of Parapet Walls.)



G. Utility Equipment and Downspouts on Facades

1. Electrical meters and conduits, ventilation panels and screens, and other utility equipment affixed to a building facade shall be painted to match the adjacent surface.
2. Downspouts affixed to a building facade shall be:
 - a. Painted to match the primary color palette or the adjacent surface; or
 - b. Constructed of a natural material that complements the structure.



Figure 5.9.5.F.3: Example of Parapet Walls.

H. Fenestration

1. Ground-floor building facades adjacent to an existing or proposed public or private street shall include windows and glass doors in the following amounts:
 - a. 50 percent of the ground floor facade elevation for eating and drinking establishments and retail sales and service uses;
 - b. 35 percent of the ground floor facade elevation for mixed-use and all other nonresidential uses;
 - c. 20 percent of all upper floors.
2. Required fenestration on the ground-level shall comply with the following standards:
 - a. Window or glass door shall cover an average of at least 60 percent of the ground floor facade height, as measured from the finished grade to the top of the first floor facade; and
 - b. Each individual glass window or door shall:
 - (1) Provide direct views to the building's interior;
 - (2) Provide direct views to lit display areas extending a minimum of three feet behind the window; or
 - (3) Be tinted to provide the appearance of a window.
3. These fenestration standards shall not apply to building facades that conceal structured parking.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2016-001, 05/10/2016)

5.9.6. Single-Family Attached, Detached, and Duplex Design Standards

A. Applicability

Except where exempted in accordance with Section 5.9.6.B, Exemptions, the standards in Section 5.9.6.C, Standards, shall apply to all new bungalow court, pocket neighborhood, single-family detached, attached, and duplex development in the Town.

B. Exemptions

The following forms of single-family detached, attached, and duplex development are exempted from these design standards:

1. Development located within a Type 1 or Type 2 subdivision submitted and determined complete in accordance with Section 2.4.3.F, Determination of Application Completeness, prior to May 11, 2016;
2. Development located in a preliminary subdivision plat approved prior to May 11, 2016;
3. Manufactured homes; and
4. Development in a Very Low Density Residential (VLDR) district (See Section 3.3.2, Very Low Density Residential (VLDR) District).

C. Standards

1. Finished Floor Elevation

Except for structures located more than 30 feet from the front lot line or designed or intended for occupation by persons with physical disabilities, the finished floor elevation at the front facade shall be a minimum of 18 inches above grade for structures set back from the front lot line from 10 feet to 30 feet. (See Figure 5.9.6.C.1: Foundation Heights.)

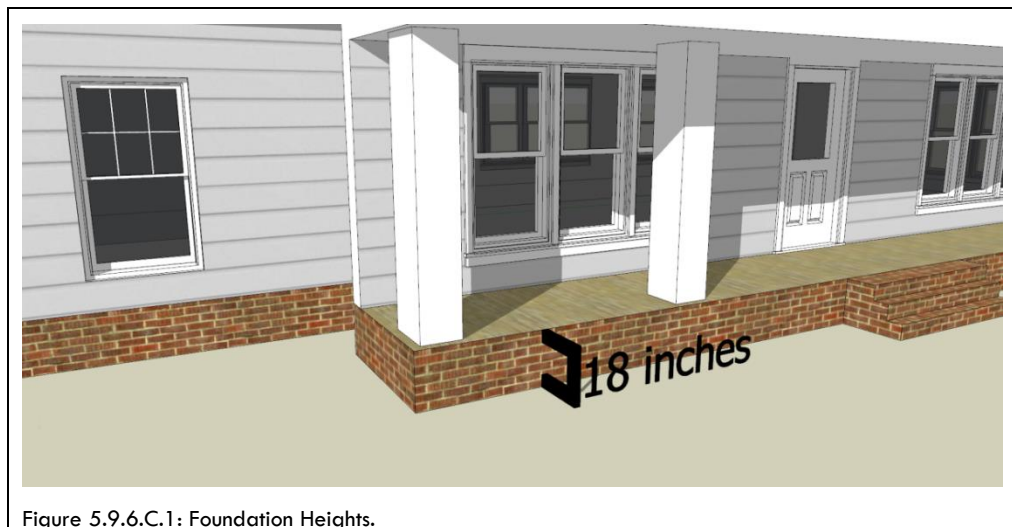


Figure 5.9.6.C.1: Foundation Heights.

2. Building Orientation (Town Center Districts)

- a. Except for pocket neighborhoods, the orientation of the primary entrance to the dwelling shall be consistent with the established pattern along the block face.
- b. In pocket neighborhoods, primary entrances shall be oriented in accordance with Section 4.2.5.C.1.f.

3. Relationship to Surrounding Development (Town Center Districts)

a. Transitions

Buildings with a height that exceeds that of neighboring existing homes by one story or more shall provide a transition using at least three of the following techniques. (See Figure 5.9.6.C.3.a: Transitions – Town Center Districts.):

- (1) “Stepping down” structure height and mass along the shared property line to meet the height of the existing neighboring home along a minimum of fifty percent of the building’s length. “Stepped down” portion of the building shall be a minimum of ten feet in depth;
- (2) Increasing the side yard setback a minimum of ten feet beyond that which is required;
- (3) Providing variations in the side building wall and roof form so that new structures have a comparable scale to that of neighboring homes along the shared property line; and/or

(4) Utilizing dormers and sloping roofs to accommodate upper stories.

(Ord. No. 2015-002, 04/29/2015)



(Ord. No. 2016-001, 05/10/2016)

5.9.7. Single-Family Attached, Detached and Duplex Design Guidelines

A. Applicability

1. Single-family detached development located in a bungalow court or pocket neighborhood shall comply with these design guidelines.
2. Unless exempted, single-family detached, attached, or duplex development located in a subdivision reviewed and decided in accordance with in accordance with Section 2.5.6.B.2, Type 2 Subdivision Preliminary Plat Approval Procedure, shall comply with these design guidelines.
3. Single-family detached, attached, or duplex development subject to a statement of voluntary compliance (Section 5.9.7.B.2) shall comply with these design guidelines.

B. Design Guidelines

1. Guidelines Voluntary

Except where explicitly stated otherwise in the Ordinance, compliance with the design guidelines in this section is voluntary and at the discretion of the applicant.

2. Statement of Voluntary Compliance

In cases where an applicant chooses to comply with the guidelines in this section, the applicant shall include the following notation and landowner signature on the:

- a. Development application;
- b. Approved Type 2 development; and
- c. The Final Plat.

The development depicted herein is subject to the Town of Morrisville Single Family Attached, Detached, and Duplex 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 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 Town of Morrisville Unified Development Ordinance.

Signature

Date

3. Guidelines

a. Side and Rear Facade

- (1) 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 provides visual interest. Blank walls void of architectural detailing are prohibited.
- (2) Building walls configured in accordance with these guidelines that are blank or void of architectural detailing and windows are prohibited adjacent to a street.

b. Foundation Materials

Poured concrete foundations, concrete block foundations, or smooth-faced concrete masonry unit foundations configured in accordance with these guidelines shall be covered by decks, porches, or be clad in face brick, stone, 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.

c. Duplexes

A duplex structure shall be organized so as to give the appearance of being a large single-family home.

d. Street-Facing Garages

(1) Maximum Door Width

A street-facing garage door configured in accordance with these guidelines shall not exceed a maximum width of 16 feet.

(2) Location

In no instance shall a street-facing garage door configured in accordance with these guidelines be more than nine feet closer to the front lot line than the primary entrance to the dwelling.

(3) Design Features

(A) Street-facing garages configured in accordance with these guidelines shall incorporate at least three design features on the building wall containing the garage doors:

- (i) Each garage door shall include transparent or opaque windows;

- (ii) Each garage door shall be comprised of high quality materials other than vinyl or aluminum;
- (iii) Garage doors shall incorporate decorative hinges or hardware that may be functional or aesthetic;
- (iv) 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);
- (v) Garage doors shall be flanked on either side by vertical design elements like columns, pilasters, posts, or similar vertical feature; or
- (vi) The garage door(s) are located at least two or more feet behind the primary entrance to the dwelling.

e. Side-loaded Garages

Side-loaded garages configured in accordance with these guidelines may be closer to the front lot line 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: windows, eaves, overhangs, decorative trim, material changes, or other architectural features.

f. Architectural Variability

(1) Bungalow Court, Pocket Neighborhood, Single-Family Detached, and Duplex Structures

- (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 facade elevation (See Figure 5.9.7.B.3.f(1): Architectural Variability.); and
 - (ii) No structures directly across the street from one another shall have the same front facade elevation.

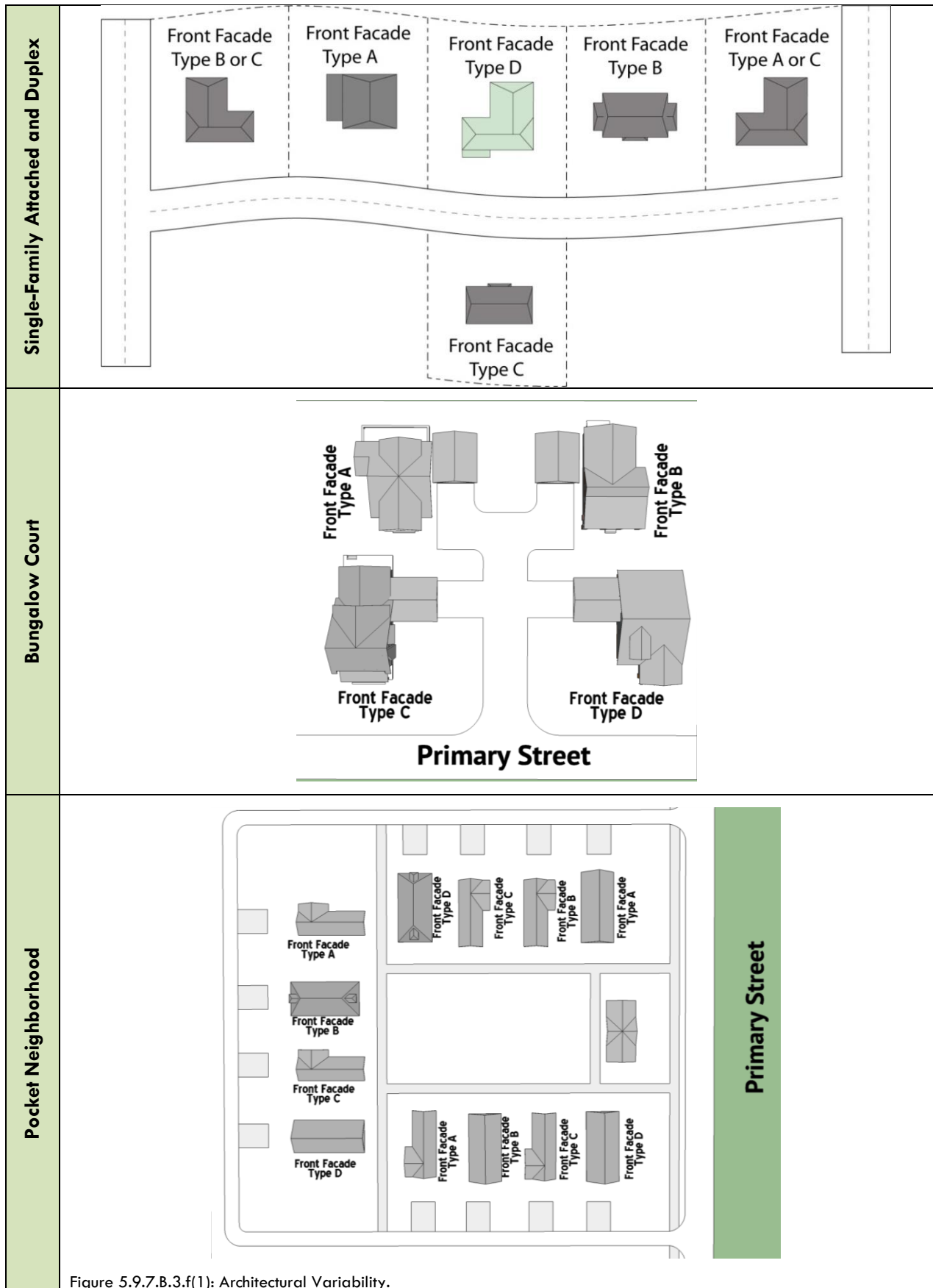


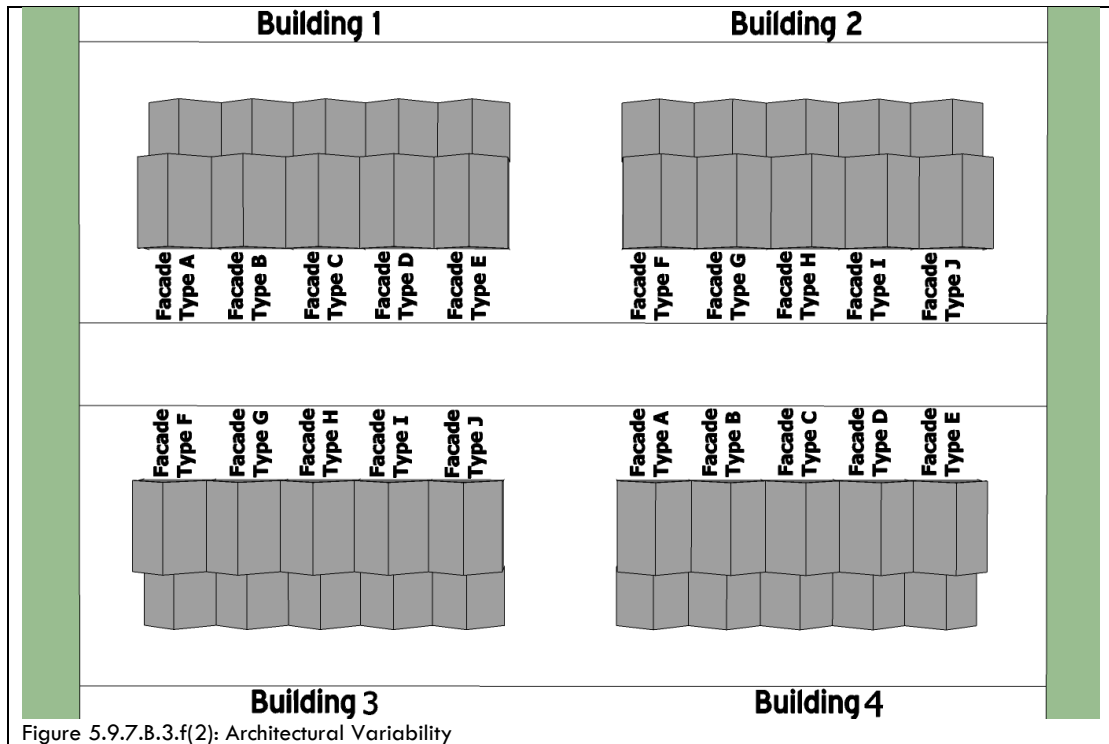
Figure 5.9.7.B.3.f(1): Architectural Variability.

- (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:
- (i) Color variation (not a slight variation of a similar hue, such as beige or pastel);
 - (ii) Variation in materials;
 - (iii) Use of distinct variations in roof forms (e.g. gable, hip, shed, mansard, gambrel, flat, or other);
 - (iv) Variations in the number of building stories by at least one story;
 - (v) Variation in the amount of habitable space (a minimum distinction of 400 square feet or more);
 - (vi) A change in the depth of the front setback by 15 feet or more;
 - (vii) The type and color of roofing material on structures with pitched roofs;
 - (viii) The orientation of the longest building axis (either parallel, perpendicular; or canted to the street the dwelling faces); or
 - (ix) The primary roof ridgeline orientation (either parallel, perpendicular, canted to the street the dwelling faces).

(2) Single-family Attached Structures

- (A) Single-family attached development shall maintain architectural variability from building to building within a development and from unit to unit within a single building. A continuous row of identical or near identical buildings or units within a building 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) Each in-line unit in a row of attached single-family dwellings located within a single building includes a front facade comprised of different exterior materials, colors, or architectural features;
 - (ii) Each individual building (comprised of several in-line units in a row) shall be configured such that the overall front facade of one building differs from the overall front facade of each adjacent building (See Figure 5.9.7.B.3.f(2); Architectural Variability.); and
 - (iii) No individual building directly across the street from another building shall have the same overall front facade.
- (B) For the purposes of this section, “distinctly different” shall mean that a building comprised of multiple in-line units must differ from other adjacent and opposing buildings containing multiple in-line units in at least five of the following ways:
- (i) Variation in structure height of at least one story or more;
 - (ii) Variation in primary roof form (e.g., gabled, hip, flat, or a combination of multiple distinct roof slopes or planes);
 - (iii) Variation in building footprint by at least 1,000 square feet or more;
 - (iv) The presence or absence of attached garages;
 - (v) One-car versus two-car garage;
 - (vi) Variation in garage orientation;
 - (vii) Variation in exterior cladding material over at least 75 percent of the building’s area; or

(viii) Variation in the size and placement of windows.



(Ord. No. 2016-001, 05/10/2016)

5.9.8. Building and Design Standards for Multifamily Development

A. Applicability

In addition to the exterior material and color standards in Section 5.9.4, Exterior Facade Materials and Colors for All Development, the standards in this section shall apply to the principal structures in a new multifamily development except where exempted in accordance with Section 5.9.8.B, Exemptions.

B. Exemptions

Multifamily development submitted and determined complete in accordance with Section 2.4.3.F, Determination of Application Completeness, prior to May 11, 2016 or located within the following zoning districts is exempted from these standards:

1. The Main Street (MS) district in Section 3.5.3;
2. The Town Center Commercial (TCC) district in Section 3.5.4;
3. The Transit-Oriented Development (TOD) district in Section 3.4.6.

C. Standards

1. Minimum Height

- a. Buildings and/or structured parking in a multifamily development subject to the standards in this section shall comply with the minimum height requirements for the zoning district except when all or a portion of the building and/or structured parking is located within 50 linear feet of:
 - (1) An existing single-family detached dwelling; or
 - (2) A lot approved for development as a single-family detached dwelling.

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5.9.8. Building and Design Standards for Multifamily Development

- b. Buildings and/or structured parking in a multifamily development located within 50 linear feet of the items listed in subsection a above shall maintain a maximum structure height of 25 feet along the shared property line for a minimum of fifty percent of the building's length. (See Figure 5.9.8.C.1: Multifamily Structure Height.)



Figure 5.9.8.C.1: Multifamily Structure Height.

2. Balconies and Patios

- a. Upper-story dwelling units adjacent to an existing or proposed street or drive aisle shall incorporate a balcony accessible from inside the dwelling unit with a minimum area of at least 25 square feet.
- b. Ground-level units adjacent to a sidewalk, walkway, or public open space shall include a patio or porch of at least 25 square feet in area.
- c. Balconies and patios required in a and b above shall either project or recess a minimum of two feet from the facade wall, as measured from the edge of the patio or railing, as appropriate, to the facade wall.
- d. Balconies and patios required in a and b above are required on at least 75 percent of the multifamily dwelling units.

3. Upper-Story Pedestrian Access

- a. All upper-story accessways serving two or more individual multifamily units shall be located entirely within a building. All upper-story accessways are strictly prohibited from being visible from any existing or proposed street or drive aisle.
- b. An access controlled building serving two or more individual multifamily units with all accessways (ground floor and upper-story) located entirely within a building shall be exempted from subsection a above.
- c. This requirement may be waived where necessary to meet Fire Code requirements.

4. Roof Standards

A multifamily development shall comply with the following:

a. Roof Pitch

Distinctions in roof pitch (through the use gables, dormers, shed dormers, hip roofs, flat roofs, towers) that are visually apparent as seen from the ground.

b. Roof Materials

The type of roof material (e.g. shingle, metal) shall vary throughout the development. These varying materials shall be visually apparent as seen from the ground.

5. Fenestration

Each facade on a multifamily building facing an existing or proposed street, public park, greenway, or residential support recreation facility shall be configured so that at least 35 percent of the facade wall from grade level to the top of the parapet wall or underside of the eave is comprised of windows and/or doors. (See Figure 5.9.8.C.4: Fenestration.)



6. Side and Rear Facades

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 provides visual interest. Blank walls void of architectural detailing are prohibited except where necessary to meet Fire Code requirements (e.g. adjacent to parking garage).

7. Building Footprint

A multifamily development with three or more buildings containing dwelling units shall include a variety of building footprint shapes. To achieve this, the buildings can be "I", "L", "O", and "U"-shaped.

(Ord. No. 2016-001, 05/10/2016)

5.9.9. Building and Design Standards for the Transit-Oriented Development (TOD) District

A. Applicability

In addition to the exterior material and color standards in Section 5.9.4, Exterior Facade Materials and Colors for All Development, the following building organization and design standards shall apply to all non-residential, mixed-use, and multifamily development within the Transit-Oriented Development (TOD) District.

B. Intent

The standards in this subsection are intended to ensure that buildings in the TOD District are organized and designed to promote varied, visually interesting, and human-scale streetscapes and architectural character that encourage a high degree of pedestrian activity.

C. Multiple Buildings

Development made up of multiple buildings shall be configured to achieve at least two of the following:

1. Break up the site into a series of smaller “blocks” defined by on-site streets, vehicle accessways, pedestrian walkways, or other circulation routes;
2. Frame the corners of street intersections or entry points into the development;
3. Frame and enclose a “main street” pedestrian and/or vehicle access corridor within the development site;
4. Frame and enclose, on at least three sides, parking areas, public spaces, or other site amenities; or
5. Frame and enclose plazas, pocket parks, squares, outdoor dining areas, or other outdoor gathering space for pedestrians.

D. Facade Mass and Scale

If the street-facing facade of a building is more than 40 feet wide, the perceived mass and scale of the building shall be reduced by incorporating at least three of the following design elements that are consistent with the development’s architectural character and create distinctive variations in the facade spaced no more than 40 feet apart:

1. Variations in roof form and parapet heights;
2. Pronounced (as least one foot deep) recesses and/or projections in the wall plane;
3. Distinct changes in texture and/or color of wall surfaces;
4. Pilasters that are at least eight inches deep and at least eight inches wide, and have a height equal to at least 80 percent of the facade’s height; or
5. Second floor galleries/balconies.

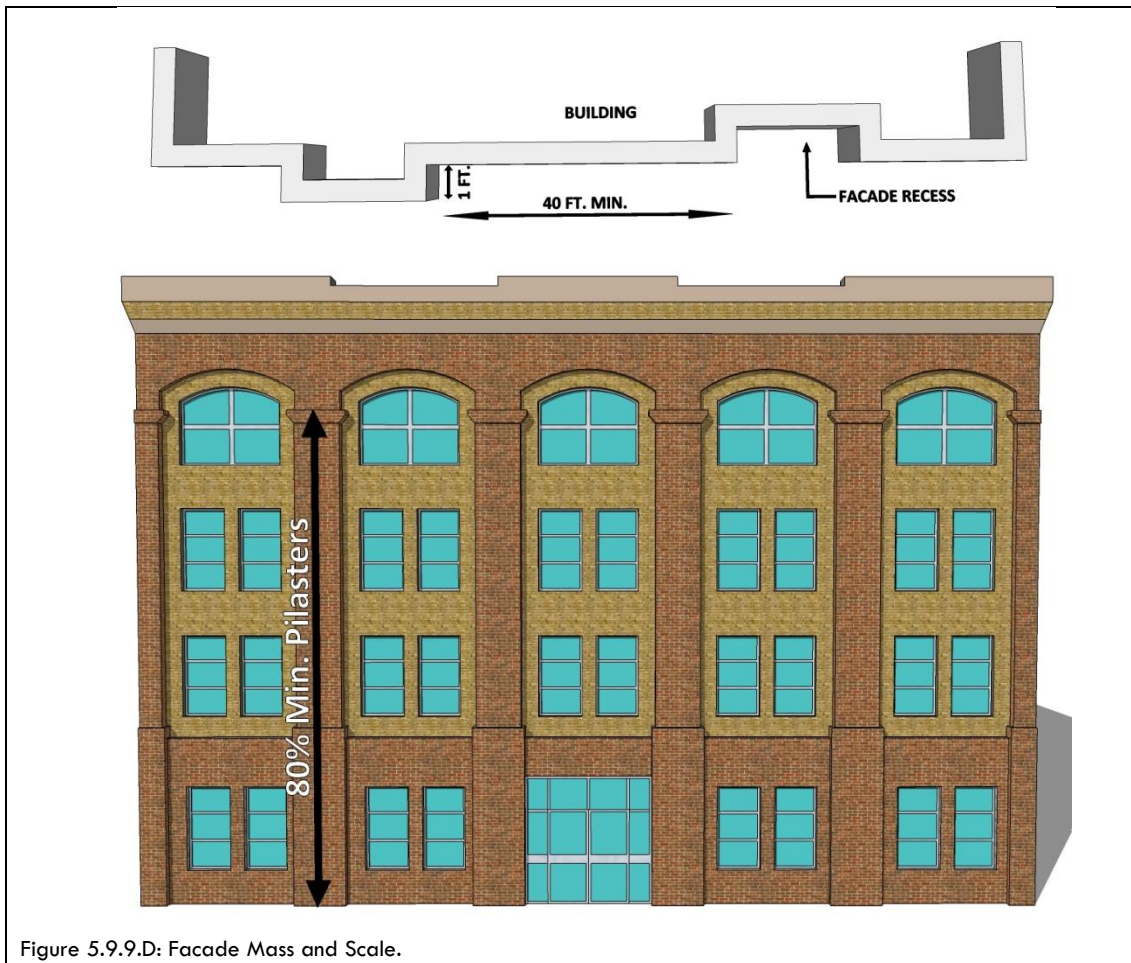


Figure 5.9.9.D: Facade Mass and Scale.

E. Building Entrances

Primary building entrances shall be clearly distinguished by using one or more of the following architectural features:

1. Covered walkways or arcades;
2. Awnings (fabric or metal, no plastic), nonresidential canopies, or porches; or
3. Projected or recessed building mass.

(Ord. No. 2015-002, 04/29/2015)

F. Fenestration Along Street-Level Facades

At least 35 percent of the facade area of the street-level floor of buildings facing the transit station, a street providing direct access to the station, or a nearby public space shall be comprised of windows or doorways.

5.9.10. Building and Design Standards for Town Center Development

A. Applicability

The following building organization and design standards shall apply to all mixed-use, nonresidential and multifamily development as well as structures listed on the National Register of Historic Places or designated historic landmarks development within the Historic Crossroads Village, Main Street, and the Town Center Commercial Districts.

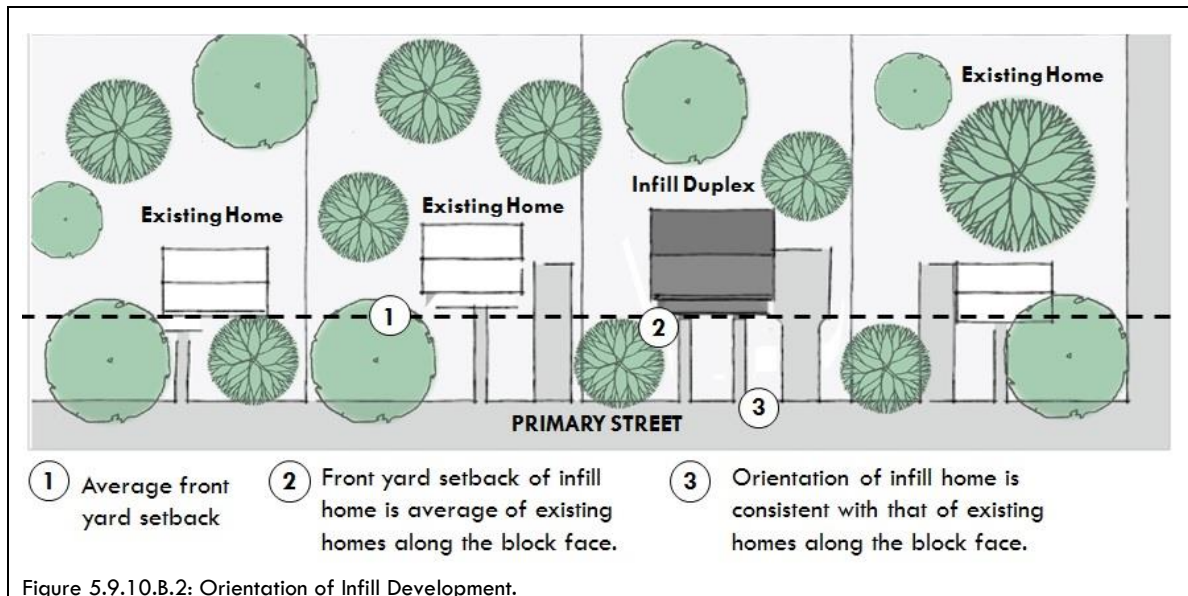
B. Historic Crossroads Village (HCV) District

1. Intent

The standards in this subsection are intended to ensure that the mass, scale, architectural character, and height of infill development and substantial renovations complement traditional building forms and styles found in the district.

2. Building Orientation

- a. The primary entrance and front facade of infill development shall be oriented towards the primary street frontage, consistent with the typical orientation of historic structures in the district. (See Figure 5.9.10.B.2: Orientation of Infill Development.)



- b. The location and size of primary entrances on recognized historic structures in the district shall be maintained during substantial renovation projects.

3. Massing and Form

a. General

- (1) The overall massing and form of infill development and substantial renovations shall be based on the simple rectangular building modules typical of historic structures in the area.
- (2) Variations in the horizontal plane of the front facade shall be limited to that provided by a front porch.
- (3) Larger buildings shall incorporate a series of rectangular building modules to provide the appearance of having been added on to over time. Rear and side building modules shall be perpendicular to and visually subordinate to the primary building module in terms of their height, mass, and footprint.

b. Substantial Renovations

Substantial renovation projects that incorporate new floor area outside of the existing building footprint shall incorporate new floor area at the rear or side of and perpendicular to the primary building module so as to appear visually subordinate to the primary building module in terms of its height, mass, and footprint.

4. Roof Form and Materials

Simple side-gable, hipped and shed roof forms are typical of historic structures in the Historic Crossroads Village District.

a. General

- (1) Infill development and substantial renovation projects shall incorporate similar roof forms, pitches, and materials as found on existing homes along the block face.
- (2) Dormers or similar projecting roof elements shall be visually subordinate to primary roof forms.

b. Recognized Historic Structures

Existing roof forms and pitches shall be maintained as part of substantial renovation projects to the maximum extent practicable. (See Figure 5.9.10.B.4: Roof Form - Historic Crossroads Village District.)



5. Architectural Elements

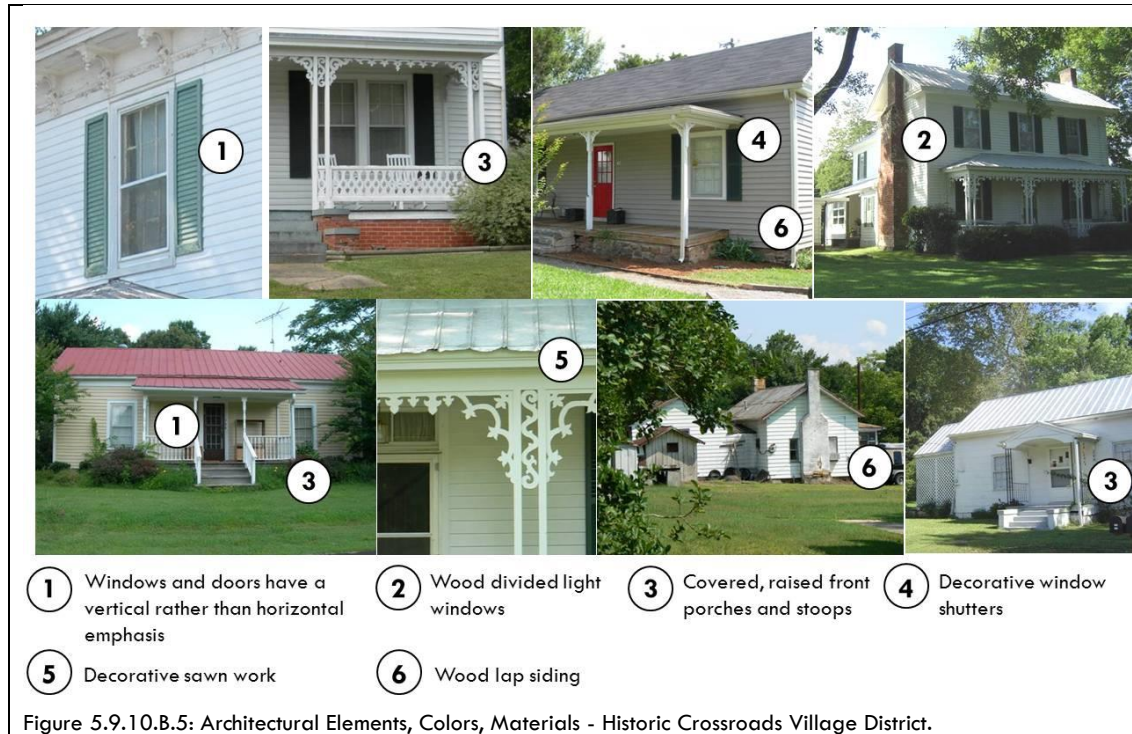
Architectural detailing on infill development, see Figure 5.9.10.B.5: Architectural Elements, Colors, Materials - Historic Crossroads Village District, shall reflect the overall character of traditional building form through the integration of at least three of the following types of architectural features common to buildings in the area:

- a. Windows and doors have a vertical rather than horizontal emphasis;
- b. Wood divided light windows (six-over-six most common);
- c. Covered, raised front porches and stoops;
- d. Decorative window shutters;
- e. Decorative sawn work; and
- f. Wood lap siding.

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6. Retention of Historic Building Materials

Retention of original historic building materials is encouraged over replacement. When replacement is required, replacement materials shall be constructed of the same material as the original to the maximum extent practicable.

7. Window Materials

Vinyl clad windows shall not be permitted.

8. Adaptive Re-Use of Residential Homes

a. The adaptive re-use of residential homes for nonresidential uses, such as an office, restaurant, or small retail store is strongly encouraged in the Historic Crossroads Village District. The residential character of these uses shall be preserved by maintaining:

- (1) Original window and door openings;
- (2) Existing porches and other decorative elements original to the residential structure;
- (3) The landscaped character of the front yard setback; and
- (4) Other distinguishing features of the home.

b. In cases where ADA compliance would impact the aesthetics of the primary front entrance, a second entrance which is ADA accessible shall be established to the side or rear of the building, to the maximum extent practicable. If located on the side of the building, the entrance shall be on the interior edge of the structure and not adjacent to the street. (See Figure 5.9.10.B.8: Adaptive Re-Use of Residential Homes - Historic Crossroads Village District)



Figure 5.9.10.B.8: Adaptive Re-Use of Residential Homes - Historic Crossroads Village District.

C. Main Street (MS) District

1. Intent

The standards in this subsection are intended to:

- a. Establish a “main street” with an appearance that evokes the character of small traditional North Carolina downtowns, yet is unique to Morrisville; and
- b. Encourage varied building design and architectural character that appears to have evolved gradually over time.

2. Pedestrian “Main Street”

Blocks shall be organized to create a pedestrian “main street” perpendicular to Town Hall Drive, to serve as an organizing feature and gateway to the Main Street District. The street cross-section shall include diagonal on-street parking to slow vehicular traffic and provide opportunities for parking adjacent to stores and businesses. Alternative parking configurations may be approved in accordance with Section 5.10.9, Off-Street Vehicle Parking Alternatives. (See Figure 5.9.10.C.2: Building Organization and Site Layout – Main Street District.)

3. Building Organization

Development within the Main Street District shall be organized to create pedestrian-friendly spaces and streetscapes. (See Figure 5.9.10.C.2: Building Organization and Site Layout – Main Street District.) These objectives shall be accomplished by placing a percentage of the building wall at the back of the sidewalk edge, as required in Section 3.5.3.B, Principal Intensity and Dimensional Standards, and by using building walls to frame and enclose the following features:

- a. The pedestrian “main street,” as required above;
- b. The corners of internal street intersections or secondary entry points into the district;
- c. On at least three sides parking areas, public spaces, or other site amenities; and
- d. A plaza, pocket park, amphitheater, town square, outdoor dining area, or other outdoor gathering space for pedestrians between buildings.

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Section 5.9. Building Configuration and Design

5.9.10. Building and Design Standards for Town Center Development

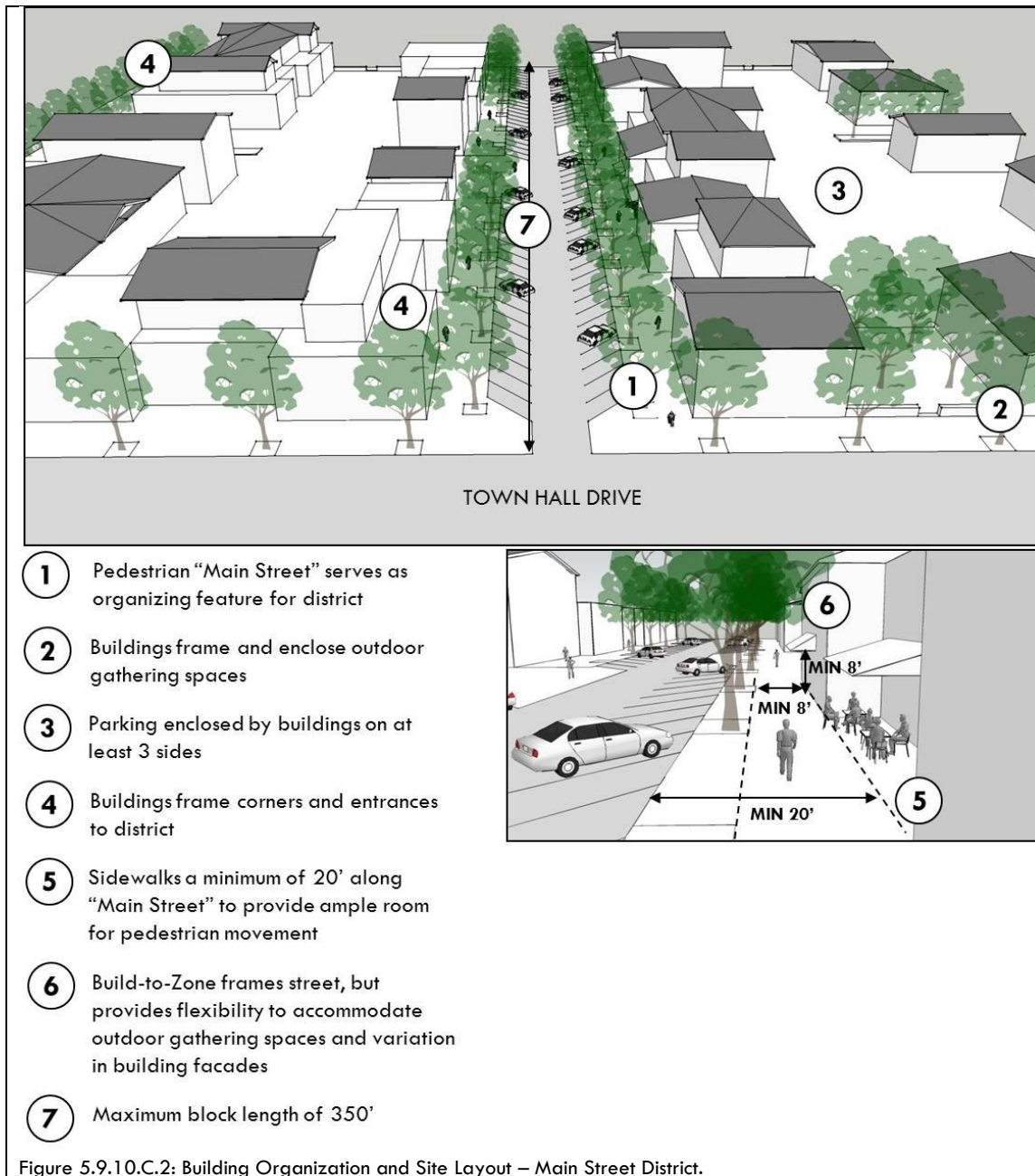


Figure 5.9.10.C.2: Building Organization and Site Layout – Main Street District.

4. Outdoor Gathering Spaces

a. Outdoor Gathering Spaces Required

- (1) Development shall incorporate on-site outdoor gathering spaces or community amenities as highly-visible, easily-accessible, focal points as follows:
 - (A) Lot area of 30,000 square feet or less: At least one outdoor gathering space;
 - (B) Lot area greater than 30,000 square feet: At least two outdoor gathering spaces; and
 - (C) One additional outdoor gathering space for each 15,000 square feet above 30,000 square feet of lot area.

- (2) Developments required to provide more than one gathering space shall provide a minimum of one gathering space that is open to and accessible to the public.
- (3) Outdoor gathering spaces may be consolidated into one or more larger spaces to serve the development as approved by the Planning Director.
- (4) All outdoor gathering spaces provided to comply with this section shall have a minimum depth and width of 20 feet and a minimum total area of 1,000 square feet.

b. Approved Features

The following features may be used to satisfy the above standard:

- (1) Patio or plaza with seating, outdoor dining, landscaping, water features and other unique features;
- (2) Landscaped mini-parks or squares; or
- (3) Similar feature as approved by the Planning Director.

5. Buildings Adjacent to Outdoor Gathering Spaces and Community Amenities

To ensure the visibility and security of outdoor gathering spaces and community amenities, buildings located adjacent to an existing or planned pedestrian plaza, patio, park, amphitheater, or similar space shall provide at least two of the following elements along the building wall abutting the space or amenities:

- a. A building entry;
- b. Windows meeting the street frontage standards facing onto the outdoor amenity;
- c. Arcades along the edges of the outdoor amenity;
- d. Outdoor seating areas or cafes; or
- e. A similar feature that the Planning Director finds will, to at least the equivalent degree, bolster security and encourage pedestrian use of the outdoor amenity.

6. Outdoor Decks and Balconies

Decks and balconies may project a maximum of six feet into the public right-of-way, over sidewalk areas, subject to pedestrian “clear zone” requirements contained in this subsection.

7. Architectural Character

a. Building Massing and Form

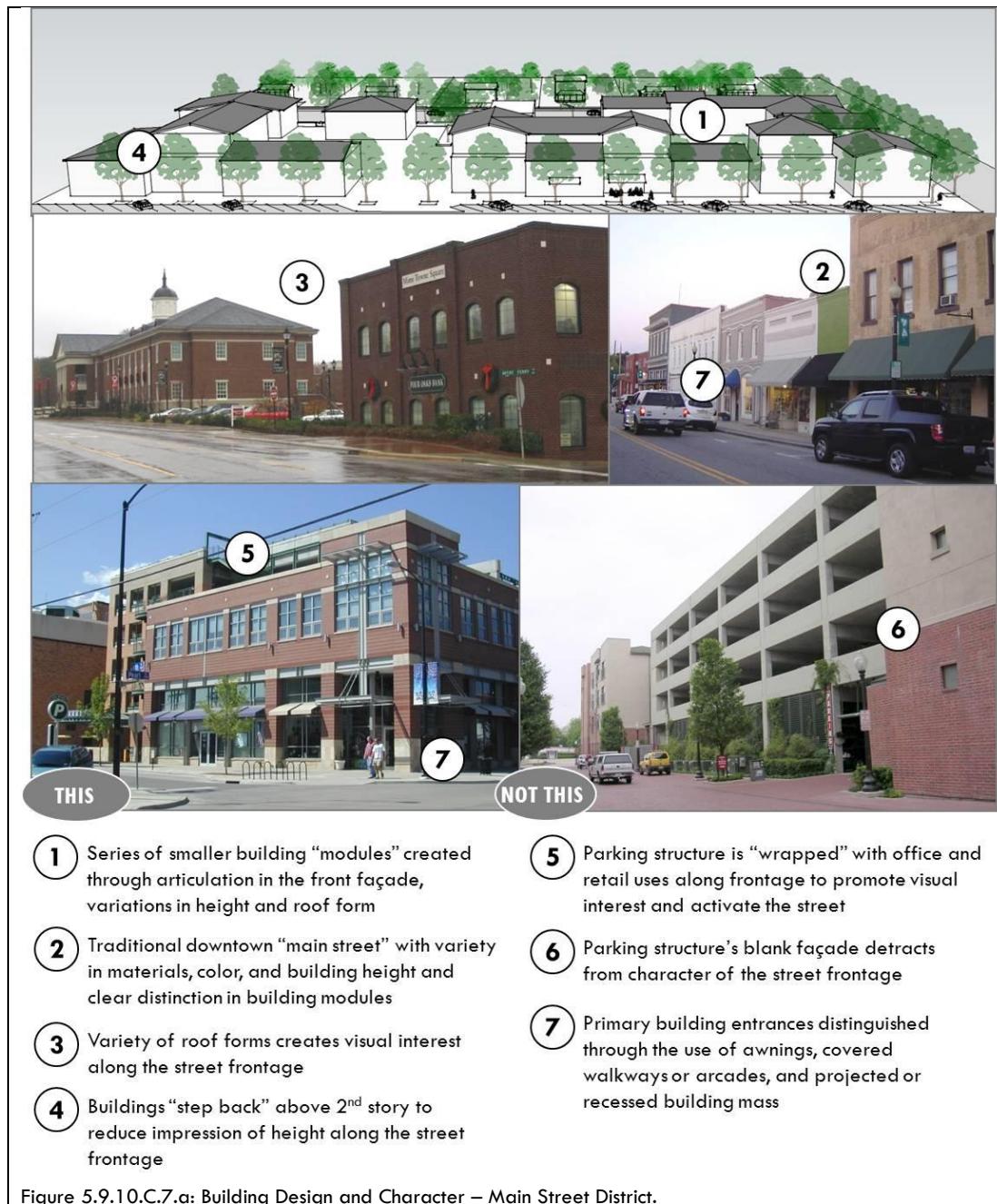
- (1) A single, large, dominant building mass shall be prohibited. In addition to the requirements for building articulation, below, building mass and height above the second floor shall be stepped back from the street. Each “step back” shall be a minimum of ten feet in depth.
- (2) Buildings fronting onto the required pedestrian “main street” that exceed 40 feet in length shall incorporate changes in a minimum of four of the following to establish the appearance of a series of smaller buildings along the street frontage:
 - (A) Changes in materials;
 - (B) Color;
 - (C) Height;
 - (D) Roof form;
 - (E) Variations in the modulation of the front facade (e.g. changes in the brick pattern);
 - (F) Incorporation of outdoor seating or gathering spaces; and
 - (G) Other features as approved by the Planning Director.

Article 5: Development Standards

Section 5.9. Building Configuration and Design

5.9.10. Building and Design Standards for Town Center Development

- (3) Building “modules” created through building articulation required above, shall range from 25 to 50 feet in width. A series of evenly spaced modules is not desired, the appearance of building modules shall vary along the length of the building. (See Figure 5.9.10.C.7.a: Building Design and Character – Main Street District.)



b. Roof Form

- (1) A variety of flat and pitched roof forms shall be permitted in the Main Street District to provide visual variety.
- (2) Flat roof forms should be concealed by a decorative parapet wall. (See Figure 5.9.10.C.7.a: Building Design and Character – Main Street District.)

c. Specifications for Ground Floor Space

- (1) A minimum of 45 percent of the total area of each street-level building facade that abuts Town Hall Drive, the Main Street District's primary pedestrian streets, a plaza, park, or other public gathering space, shall be comprised of transparent window and door openings to allow views of interior spaces and merchandise, to enhance the safety of public spaces by providing direct visibility to the street, and to create a more inviting environment for pedestrians in the Main Street District.
- (2) For the purposes of the above standard, all percentages shall be measured using elevation views of the building plan and "ground floor" shall be measured from floor plate to floor plate. The following standards shall apply to all street-level windows:
 - (A) Glazing on all ground floor windows shall have a minimum Visible Light Transmittance of 0.65 and a maximum Visible Light Reflectance of 0.2.
 - (B) Black or mirrored glass is prohibited.

8. Relationship to Surrounding Development

a. Intent

The standards in this subsection are intended to provide a visual and physical linkage between the Main Street District and adjacent residential neighborhoods.

b. Transitions in Height and Mass

Transitions between the Main Street District and the adjacent Town Center Residential District shall be provided by utilizing the following techniques, as applicable:

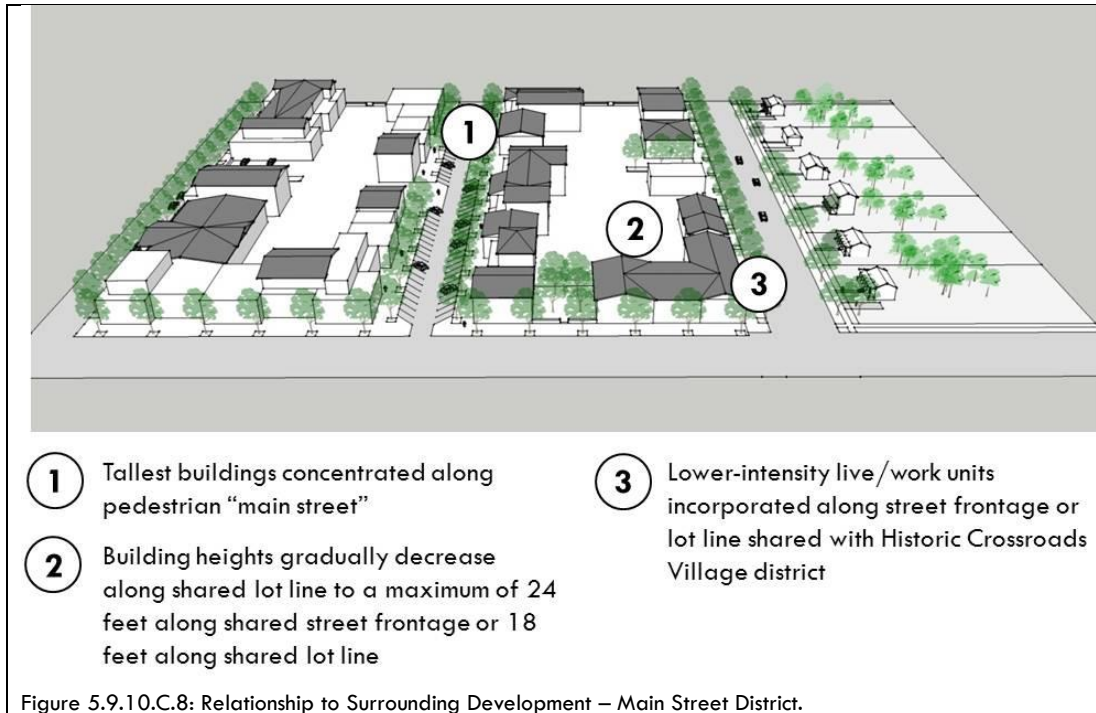
- (1) Concentrating tallest buildings at the center of the Main Street District and along Town Hall Drive;
- (2) Providing gradual decreases in structure height and mass so that new structures are a maximum of 18 feet in height along the shared lot line or a maximum of 24 feet in height along the shared street frontage; or
- (3) Incorporating lower-intensity live/work units along shared street frontage or lot line. (See Figure 5.9.10.C.8: Relationship to Surrounding Development – Main Street District.)

(Ord. No. 2015-002, 04/29/2015)

Article 5: Development Standards

Section 5.9. Building Configuration and Design

5.9.10. Building and Design Standards for Town Center Development



D. Town Center Commercial (TCC) District

1. Intent

The standards in this subsection are intended to establish a strong presence at the intersection of Morrisville-Carpenter Road and Chapel Hill Road, a key gateway to the Historic Crossroads Village District, and along each corridor in the Town Center.

2. Drive-Through Facilities

a. Location

Drive-through facilities shall not be located adjacent to Morrisville-Carpenter Road or Chapel Hill Road. (See Figure 5.9.10.D.2: Site Layout and Building Organization – Town Center Commercial District.)

b. Screening

Drive-through facilities shall be screened in accordance with the standards for perimeter landscaping of vehicle use areas in Section 5.12.4.C, Perimeter Landscaping.

3. Building Organization

a. Buildings shall be organized to frame the intersection of Morrisville-Carpenter Road and Chapel Hill Road.

b. Multi-story buildings are encouraged and shall be concentrated adjacent to the intersection of Morrisville-Carpenter Road and Chapel Hill Road when provided. (See Figure 5.9.10.D.2: Site Layout and Building Organization – Town Center Commercial District.)



4. Transitions

- a. Buildings with a height that exceeds that of neighboring existing homes by one story or more shall provide a transition by “stepping down” structure height and mass along the shared property line to a maximum of 35 feet within 40 feet of the shared property line.
- b. “Stepped down” portion of the building shall be a minimum of ten feet in depth.

(Ord. No. 2015-002, 04/29/2015; Ord. No. 2016-001, 05/10/2016)

SECTION 5.10. PARKING AND LOADING

5.10.1. Purpose

The purpose of this section is to ensure provision of off-street parking and loading facilities in proportion to the generalized parking and loading demand of the different uses allowed by this Ordinance. The standards in this section are intended to provide for adequate off-street parking and loading while allowing the flexibility needed to accommodate alternative solutions.

The standards are also intended to achieve Town policies of supporting development and redevelopment of transit-oriented development and commercial corridors, accommodating appropriate infill development, and encouraging pedestrian-oriented development while avoiding excessive paved surface areas, promoting low impact development, and safeguarding historic resources.

5.10.2. Applicability

A. New Development

All new development shall provide off-street parking and loading areas in accordance with the standards of this section.

B. Existing Development

1. Change in Use

Any change in use of an existing development shall be subject to these parking and loading standards to the maximum extent practicable.

2. Expansion

If an existing structure or use is expanded or enlarged in terms of the size unit used in this section to determine the minimum number of off-street parking spaces or loading spaces required for the applicable use (e.g., number of dwelling units, floor area, number of employees, seating capacity) such expansion or enlargement shall be accompanied by provision of any additional off-street parking and loading spaces needed to make up the difference between the minimum number of spaces required by this section for the existing development and the minimum number of spaces required by this section for the expanded or enlarged development.

3. Upgrading of Parking and Loading Nonconformities

Where existing development is nonconforming in terms of compliance with this section's standards for off-street parking and loading, such development is subject to the limitations and upgrading requirements in Section 9.7, Nonconforming Site Features.

5.10.3. Off-Street Vehicle and Bicycle Parking Space Requirements

A. Minimum Number of Off-Street Vehicle and Bicycle Parking Spaces

Except as otherwise provided in this Ordinance, new development shall provide the minimum number of off-street vehicle and bicycle parking spaces in accordance with Table 5.10.3.A, Minimum Number of Off-Street Vehicle and Bicycle Parking Spaces, based on the principal use(s) involved and the extent of development. Interpretation of the off-street vehicle parking space requirements for uses with variable parking demands or unlisted uses is provided in Section 5.10.3.B, Uses with Variable Vehicle Parking Demand Characteristics and Unlisted Uses.

Table 5.10.3.A: Minimum Number of Off-Street Vehicle and Bicycle Parking Spaces [1]

Use Category	Use Type	Minimum Number of Vehicle Parking Spaces [2][3][4][5][6]		Minimum Number of Bicycle Parking Spaces		
		TOD and MS Districts	Other Districts	TOD and MS Districts	Other Districts	
Agricultural and Animal Related Uses						
Agricultural Uses	Community Garden	1	2	n/a	n/a	
	Farm, Small	n/a	n/a			
	Farm, Large					
	Forestry					
	Garden Center					
	Greenhouse/ Nursery					
Animal Related Uses	Kennel, Indoor	1 per 600 sf used for boarding (excluding exercise areas)	1 per 300 sf used for boarding (excluding exercise areas)	4	2	
	Kennel, Outdoor	n/a	1 per 300 sf used for boarding (excluding exercise areas)	n/a	2	
	Stables		1 per 5 stalls		n/a	
	Veterinary Clinic/Hospital		1 per 500 sf		1 per 500 sf	4
	Residential Uses					
Household Living Uses	Bungalow Court [7]	n/a	2.25 per du	n/a	n/a	
	Dwelling, Duplex	1 per du	2 per du			
	Dwelling, Live/Work	0.5 per du	1 per du			
	Dwelling, Manufactured Home	n/a	2 per du			
	Dwelling, Multifamily	1 bedroom	0.5 per du	1.0 per du	Greater of 4 per building or 1 per 25 du	Greater of 2 per building or 1 per 50 du
		2 bedroom	0.75 per du	1.5 per du		
		3+ bedrooms	1.0 per du	2.0 per du		
	Dwelling, Single-Family Attached [7]	1.25 per du	2.25 per du	n/a	n/a	
	Dwelling, Single-Family Detached [7]	Lot area < 10,000 sf	1.25 per du			2.25 per du
		All other	1 per du			2 per du
Family Care Home	1 per 6 bedrooms	1 per 3 bedrooms	4	2		
Pocket Neighborhood [7]	n/a	2.25 per du	n/a	n/a		
Group Living Uses	Congregate Living Facility	1 per 6 bedrooms + 1 per 600 sf of office area	1 per 3 bedrooms + 1 per 300 sf of office area	4 per building	2 per building	
	Continuing Care Retirement Community	Sum of minimum for component parts	Sum of minimum for component parts			
	Dormitory	n/a	1 space per 5 beds	n/a	4 per building	
	Rooming House	n/a	1 per guest room	n/a	2	

Table 5.10.3.A: Minimum Number of Off-Street Vehicle and Bicycle Parking Spaces [1]

Use Category	Use Type	Minimum Number of Vehicle Parking Spaces [2][3][4][5][6]		Minimum Number of Bicycle Parking Spaces	
		TOD and MS Districts	Other Districts	TOD and MS Districts	Other Districts
Institutional Uses					
Community and Governmental Service Uses	Club or Lodge	1 per 240 sf of assembly space	1 per 120 sf of assembly space	Greater of 4 or 1 per 25 vehicle parking spaces	Greater of 2 or 1 per 50 vehicle parking spaces
	College or University	1 per 1,800 sf of academic space + 1 per 20 beds in an on-campus residential facility	1 per 900 sf of academic space + 1 per 10 beds in an on-campus residential facility	1 per 10 students and employees	1 per 20 students and employees
	Community Center	1 per 600 sf	1 per 300 sf	Greater of 12 or 1 per 12.5 vehicle parking spaces	Greater of 6 or 1 per 25 vehicle parking spaces
	Cultural Facility	1 per 1,000 sf + 1 per 8 seats of assembly space	1 per 500 sf + 1 per 4 seats of assembly space		
	Day Care Center	1 per 650 sf of licensed primary indoor space	1 per 325 sf of licensed primary indoor space	4	2
	Emergency Services	1 per 1,000 sf	1 per 500 sf	4	2
	Government Services, Administrative	1 per 800 sf	1 per 400 sf	Greater of 4 per building or 1 per 12,500 sf	Greater of 2 per building or 1 per 25,000 sf
	Government Maintenance, Storage, or Distribution Facility	n/a	1 per 600 sf	n/a	2
	Place of Worship, Community	1 per 200 sf of assembly space	1 per 100 sf of assembly space	1 per 25 vehicle parking spaces	1 per 50 vehicle parking spaces
	Place of Worship, Neighborhood	1 per 300 sf of assembly space	1 per 150 sf of assembly space		
	Public Park or Recreation Facility	See Section 5.10.3.B	See Section 5.10.3.B	Greater of 12 or 1 per 12.5 vehicle parking spaces	Greater of 6 or 1 per 25 vehicle parking spaces
	School, Elementary	1 per 2 classrooms +5 visitor spaces	1 per classroom +10 visitor spaces	1 per 10 students above 2 nd grade and all employees	1 per 20 students above 2 nd grade and all employees
	School, High	1 per 2 classrooms +1 per 20 students	1 per classroom +1 per 10 students	1 per 10 students and employees	1 per 20 students and employees
	School, Middle	1 per 2 classrooms +5 visitor spaces	1 per classroom +10 visitor spaces		
	School, Business or Vocational	1 per 1,800 sf of academic space	1 per 900 sf of academic space	Greater of 4 or 1 per 25 vehicle parking spaces	Greater of 2 or 1 per 50 vehicle parking spaces
	Sports Academy	n/a	1 per classroom +10 visitor spaces	n/a	4 per building

Table 5.10.3.A: Minimum Number of Off-Street Vehicle and Bicycle Parking Spaces [1]

Use Category	Use Type	Minimum Number of Vehicle Parking Spaces [2][3][4][5][6]		Minimum Number of Bicycle Parking Spaces	
		TOD and MS Districts	Other Districts	TOD and MS Districts	Other Districts
Health Care Uses	Hospital	n/a	1 per 3 inpatient beds	n/a	Greater of 2 per building or 1 per 25,000 sf
	Nursing Home	1 per 10 beds	1 per 5 beds	4 per building	2 per building
	Urgent Care Facility	1 per 600 sf	1 per 300 sf	Greater of 4 per building or 1 per 12,500 sf	Greater of 2 per building or 1 per 25,000 sf
	Office Park, Medical/ Dental	n/a		n/a	
	Office, Medical/ Dental	1 per 600 sf		Greater of 4 per building or 1 per 12,500 sf	
	Wellness Center		Greater of 12 or 1 per 12.5 vehicle parking spaces	Greater of 6 or 1 per 25 vehicle parking spaces	
Transportation, Communication, and Utility Uses	Broadcasting Station	n/a	1 per 1,000 sf	n/a	Greater of 2 per building or 1 per 25,000 sf
	Broadcast Studio	1 per 2,000 sf		Greater of 4 per building or 1 per 12,500 sf	
	Bus Station	1 per 800 sf of passenger waiting area	1 per 400 sf of passenger waiting area	1 per 5 vehicle parking spaces	1 per 10 vehicle parking spaces
	Central Utility Plant	n/a	See Section 5.10.3.B	n/a	2 per building
	Heliport	n/a	1 per 400 sf of passenger waiting area	n/a	n/a
	Office, Utility	1 per 600 sf	1 per 300 sf	Greater of 4 per building or 1 per 12,500 sf	Greater of 2 per building or 1 per 25,000 sf
	Park and Ride Terminal	n/a	n/a	1 per 10 vehicle parking spaces	1 per 20 vehicle parking spaces
	Parking Deck or Lot (as a principal use)			See Section 5.10.3.B	n/a
	Railroad Yard		1		
	Solar Energy Collection System (as a principal use)			1 per 800 sf of passenger waiting area	1 per 400 sf of passenger waiting area
	Telecommunications Facility	n/a	See Section 5.10.3.B		
	Transit Station	1 per 800 sf of passenger waiting area	1 per 400 sf of passenger waiting area	1 per 10 vehicle parking spaces	1 per 20 vehicle parking spaces
Utility Facility, Major	n/a	See Section 5.10.3.B	n/a	n/a	
Utility Facility, Minor					
Telecommunication Uses	Antenna collocation or combination on existing tower	n/a	n/a	n/a	n/a
	Concealed attached antenna				
	Non-concealed attached antenna (private utility easement)				
	Non-concealed dual-function tower (private utility easement)	1	1	n/a	n/a
	Concealed towers (public property)				
	Non-concealed towers (public property)				
	Concealed towers				
Non-concealed towers					

Table 5.10.3.A: Minimum Number of Off-Street Vehicle and Bicycle Parking Spaces [1]

Use Category	Use Type	Minimum Number of Vehicle Parking Spaces [2][3][4][5][6]		Minimum Number of Bicycle Parking Spaces		
		TOD and MS Districts	Other Districts	TOD and MS Districts	Other Districts	
Commercial Uses						
Eating and Drinking Establishments	Restaurant	1 per 200 sf	1 per 100 sf	Greater of 4 or 1 per 25 vehicle parking spaces	Greater of 2 or 1 per 50 vehicle parking spaces	
	Specialty Eating or Drinking Establishment					
	Bar or Lounge					
Office Uses	Office Building	n/a	1 per 400 sf	n/a	Greater of 2 per building or 1 per 25,000 sf	
	Office Park					
Recreation/ Entertainment Uses	Adult Establishment	n/a	1 per 300 sf	n/a	Greater of 2 or 1 per 50 vehicle parking spaces	
	Banquet Hall	1 per 200 sf	1 per 100 sf	Greater of 4 or 1 per 25 vehicle parking spaces		
	Country Club	n/a	1 per 300 sf of indoor area + 1 per golf course hole + 1 per 100 sf of banquet area	n/a	Greater of 6 or 1 per 50 vehicle parking spaces	
	Golf Course	n/a	1 per 300 sf of indoor area + 1 per hole	n/a		
	Private Recreation/ Entertainment Facility, Indoor	Basketball facility	1 per basket	2 per basket		Greater of 12 or 1 per 25 vehicle parking spaces
		Bowling alley	1 per 2 lanes	1 per lane		
		Health exercise facility	1 per 300 sf	1 per 200 sf		
		Racquet sports facility	1 per court	2 per court		
		Skating/ hockey rink	1 per 500 sf	1 per 250 sf		
		Sport shooting range	1 per range position	2 per range position		
		Swimming pool	1 per 280 sf of pool surface water area	1 per 140 sf of pool surface water area		
	Other	See Section 5.10.3.B	See Section 5.10.3.B			
	Private Recreation/ Entertainment Facility, Outdoor	Basketball facility	n/a	2 per basket	n/a	
Driving Range		1 per tee				
Miniature Golf		3 per hole				
Racquet sports facility		2 per court				
Swimming pool		1 per 140 sf of pool surface water area				
Other		See Section 5.10.3.B				

Table 5.10.3.A: Minimum Number of Off-Street Vehicle and Bicycle Parking Spaces [1]

Use Category	Use Type		Minimum Number of Vehicle Parking Spaces [2][3][4][5][6]		Minimum Number of Bicycle Parking Spaces	
			TOD and MS Districts	Other Districts	TOD and MS Districts	Other Districts
Recreation/ Entertainment Uses (cont.)	Sports Training Facility, Indoor	Basketball facility	n/a	2 per basket + 1 per 4 fixed stadium seats	n/a	Greater of 6 or 1 per 50 vehicle parking spaces
		Gymnastics		1 per 500 + 1 per 4 fixed stadium seats		
		Racquet sports facility		2 per court + 1 per 4 fixed stadium seats		
		Skating/hockey rink		1 per 500 sf + 1 per 4 fixed stadium seats		
		Sport shooting range		2 per range position		
		Swimming pool		1 per 280 sf of pool surface water area + 1 per 4 fixed stadium seats		
		Volleyball court		+ 1 per 4 fixed stadium seats		
		Other		See Section 5.10.3.B		
	Sports Training Facility, Outdoor	Basketball facility	n/a	2 per basket + 1 per 4 fixed stadium seats	n/a	
		Cricket pitch		25 per playing field + 1 per 4 fixed stadium seats		
		Racquet sports facility		2 per court + 1 per 4 fixed stadium seats		
		Swimming pool		1 per 280 sf of pool surface water area + 1 per 4 fixed stadium seats		
		Volleyball court		2 per court + 1 per 4 fixed stadium seats		
		Other		See Section 5.10.3.B		
Funeral Related Uses	Funeral Home	n/a	1 + 1 per 4 seats in assembly space	n/a	2	
	Cemetery		1 per 500 sf of office area + a per 5 seats in assembly space		n/a	
	Crematorium		1 + 1 per 4 seats in assembly space		2	
	Stonecutting/Monument Sales		1 per 500 sf of office space			

Table 5.10.3.A: Minimum Number of Off-Street Vehicle and Bicycle Parking Spaces [1]

Use Category	Use Type	Minimum Number of Vehicle Parking Spaces [2][3][4][5][6]		Minimum Number of Bicycle Parking Spaces	
		TOD and MS Districts	Other Districts	TOD and MS Districts	Other Districts
Retail Sales and Service Uses	Convenience Store	1 per 400 sf	1 per 200 sf	4	2
	Farmers' Market	1 per 1,000 sf of sales area	1 per 500 sf of sales area		
	Retail Store	1 per 600 sf	1 per 300 sf	Greater of 4 or 1 per 25 vehicle parking spaces	Greater of 2 or 1 per 50 vehicle parking spaces
	Service Establishment				
	Service Establishment, Personal				
Shopping Center, Major and Neighborhood	1 per 500 sf	1 per 250 sf	Greater of 4 per building or 1 per 12,500 sf	Greater of 2 per building or 1 per 25,000 sf	
Vehicle/Equipment Sales and Service Uses	Automobile Repair, Major	n/a	1 per 500 sf	n/a	n/a
	Automobile Repair, Minor				
	Automobile Sales or Rental		1 per 400 sf of indoor display area and office space		Greater of 2 or 1 per 50 vehicle parking spaces
	Automobile Service Station		2 + 1 per pump		2
	Car Wash/Detailing		1 per 500 sf		n/a
	Recreational Vehicle Sales, Rental, or Service		1 per 400 sf of indoor display area and office space		2
	Taxi or Limousine Service		1 per employee		
	Tire Capping and Retreading		1 per 500 sf		n/a
Visitor Accommodation Uses	Bed and Breakfast	1 + 1 per 2 guest rooms	2 + 1 per guest room	4	2
	Hotel/Motel	1 per 2 guest rooms + 1 per 1,600 sf of assembly space	1 per guest room + 1 per 800 sf of assembly space		
Industrial Uses					
Industrial Service Uses	Construction-Related Activities	n/a	1 per 400 sf of office space	n/a	2
	Flex Space (Major and Minor)		See Section 5.10.3.B		
	Industrial Park		1 per 1,000 sf		
	Industrial Equipment Sales and Rental		1 per 400 sf of indoor display area and office space		
	Mini-Storage		1 per 5,000 sf		n/a
	Motor Freight Terminal, Small		1 per 500 sf		n/a
	Motor Freight Terminal, Large				
	Research Laboratory				2
	Tank Farm		1 per 400 sf of office space		n/a
	Warehousing/ Distribution		1 per 2,000 sf		2
	Wholesale Food Preparation				
	Wholesale Establishment		1 per 1,000 sf		

Table 5.10.3.A: Minimum Number of Off-Street Vehicle and Bicycle Parking Spaces [1]

Use Category	Use Type	Minimum Number of Vehicle Parking Spaces [2][3][4][5][6]		Minimum Number of Bicycle Parking Spaces	
		TOD and MS Districts	Other Districts	TOD and MS Districts	Other Districts
Manufacturing Uses	Brewery	n/a	1 per 1,000 sf	n/a	2
	Industrial Assembly, Light				
	Industrial Assembly, Heavy				
	Manufacturing, Custom				
	Manufacturing, Light				
	Manufacturing, Medium				
	Manufacturing, Heavy				
	Micro-Brewery	1 per 600 sf of accessory public retail sales, restaurant, or tasting room space + 1 per 2,000 sf of other space	1 per 300 sf of accessory public retail sales, restaurant, or tasting room space + 1 per 1,000 sf of other space	4	
Micro-Winery					
Winery	n/a		n/a		
Extraction and Landfill Uses	Composting Facility	n/a	See Section 5.10.3.B	n/a	2
	Extraction of Earth Products				n/a
	Hydraulic Fracturing				
	Landfill, Construction and Demolition Debris				
	Landfill, Land Clearing and Inert Debris				
	Landfill, Municipal Solid Waste				
Recycling Facility				2	

Notes: sq ft = square feet du = dwelling unit

[1] See Sections 5.10.5, General Standards for Off-Street Vehicle Parking and Loading Areas, Section 5.10.6, Off-Street Parking Arrangement and Design, and Section 5.10.8, Off-Street Bicycle Parking Arrangement and Design, for applicable design standards.

[2] When computation of the number of required parking spaces results in a fraction, the result shall be rounded upward to the next highest whole number.

[3] Except as otherwise provided in this section, where the minimum off-street parking space requirement is based on square feet of floor area, all computations shall be based on gross floor area.

[4] Except as otherwise provided in this section, where the minimum off-street parking space requirement is based on the number of seats, all computations shall be based on the design capacity of the areas used for seating.

[5] Except as otherwise provided in this section, where the minimum off-street parking space requirement is based on the maximum occupancy capacity, all computations shall be based on the occupant load of the building or facility as established in accordance with the Building Code.

[6] Except as otherwise provided in this section, where the minimum off-street parking space requirement is based on the number of employees, students, or residents, all computations shall be based on the largest number of persons working on any single shift (for employees), or the maximum enrollment (for students), or the fire-rated capacity (for residents), as appropriate.

[7] Off-street parking spaces may be provided on the lot containing the individual dwelling unit or within common parking areas, provided such off-lot spaces serving the resident or guest parking needs are located within convenient walking distance of the dwelling.

(Ord. No. 2014-016, 06/24/2014; Ord. No. 2014-022, 06/24/2014; Ord. No. 2015-002, 04/29/2015, Ord. No. 2015-083; Ord. No. 2015-083, 01/26/2016; Ord. No. 2016-001, 05/10/2016)

B. Uses with Variable Vehicle Parking Demand Characteristics and Unlisted Uses

For some listed uses, Table 5.10.3.A, Minimum Number of Off-Street Vehicle and Bicycle Parking Spaces, refers to this subsection because the use has widely varying vehicle parking and loading demand characteristics, making it difficult to establish a single appropriate off-street vehicle parking or loading standard. On receiving an application proposing such a use, or proposing a use not expressly listed in Table 5.10.3.A, the Planning Director is authorized to:

1. Apply the minimum off-street parking space requirement specified in Table 5.10.3.A for the listed use that is deemed most similar to the proposed use; or

2. Establish the minimum off-street parking space requirement by reference to standard parking resources published by the National Parking Association or the American Planning Association; or
3. Establish the minimum off-street parking space requirement based on a parking demand study prepared by the applicant that estimates parking demand based on the recommendations of the Institute of Traffic Engineers (ITE) or other acceptable source of parking demand data, and that includes relevant data collected from uses or combinations of uses that are the same or comparable to the proposed use in terms of density, scale, bulk, area, type of activity, and location.

C. Requirements for Developments with Multiple Uses

Developments containing more than one principal institutional or commercial use shall provide vehicle parking spaces in an amount equal to the total of the requirements applied to all individual principal uses. This provision shall not limit the opportunity to reduce the minimum number of required off-street vehicle parking spaces through approval of an alternative parking plan that justifies the feasibility of shared parking (See Section 5.10.9.C, Shared Parking.)

D. Maximum Number of Off-Street Vehicle Parking Spaces

For major and neighborhood shopping center use types listed in 5.10.3.A, Minimum Number of Off-Street Vehicle and Bicycle Parking Spaces, the number of off-street vehicle parking spaces shall not exceed 125 percent of the minimum number of parking spaces required, except within a parking deck or garage or as may be allowed through approval of an alternative parking plan in accordance with Section 5.10.9.B, Provision over Maximum Allowed.

E. Compact Vehicle Parking Spaces

1. Up to 20 percent of the required number of off-street vehicle parking spaces may be designed to accommodate compact vehicles.
2. Compact vehicle parking spaces may only be used where the parking angle is 90 degrees.
3. Compact vehicle parking spaces shall consist as one or more group(s) of contiguous spaces located where they can be readily identified by vehicle drivers through signage and/or pavement marking.

F. Electric Vehicle (EV) Charging Stations

1. Up to ten percent of the required number of off-street vehicle parking spaces may be used and designated as electric vehicle (EV) charging stations, subject to the use-specific standards in Section 4.3.5 and subsection 2 below. Such spaces may include one required accessible parking space (see subsection 1 below). The Planning Director shall have authority to approve the use and designation of additional required parking spaces as electric vehicle charging stations, provided that such additional spaces shall count as only one-half of a parking space when computing the minimum number of parking spaces required.
2. Vehicle parking spaces used as electric vehicle charging stations shall consist as one or more group(s) of contiguous spaces located where they can be readily identified by electric vehicle drivers (e.g., through directional signage), but where their use by non-electric vehicles is discouraged (e.g., not in locations most convenient to the entrances of the buildings served).

G. On-Street Vehicle Parking

Except as authorized in the list below, streets shall not be used to satisfy the off-street vehicle parking standards of this section.

1. Off-street parking is part of an alternative parking plan in Section 5.10.9, Off-Street Vehicle Parking Alternatives, or
2. The road is specifically designed to accommodate parallel parking on local residential streets with landscaped chokers or other similar delineation methods approved by the Planning Director.

(Ord. No. 2015-002, 04/29/2015)

H. Driveways Used to Satisfy Off-Street Vehicle Requirements

Driveways can only be used to satisfy the minimum off-street vehicle parking requirements for bungalow court, pocket neighborhood, single-family detached, duplex, manufactured home, and single-family attached dwellings provided sufficient space is available outside a street right-of-way or easement to satisfy the standards of this section and this Ordinance. The use of a garage or carport to meet this requirement shall be prohibited.

(Ord. No. 2015-002, 04/29/2015; Ord. No. 2016-001, 05/10/2016)

I. Accessible Parking Spaces for Physically Disabled Persons

In each off-street parking area, a portion of the total number of off-street vehicle parking spaces shall be spaces specifically designated, located, and reserved for use by persons with physical disabilities (“accessible parking spaces”), in accordance with the standards of the North Carolina Accessibility Code for Building Construction.

J. Minimum Number of Off-Street Vehicle Spaces for Accessory Uses/Structures

Table 5.10.3.J, Minimum Number of Off-Street Vehicle and Bicycle Parking Spaces for Accessory Uses/Structures [1]				
Use Type		Minimum Number of Vehicle Parking Spaces [2]		Minimum Number of Bicycle Parking Spaces
Cluster Box Unit – Mailbox	Number of Mailboxes	0-19	0	n/a
		20-39	1	
		40-59	2	
		60-79	3	
		80-99	4	
		100 or more	5 plus 1 per each additional 50 mailboxes	
Recreation Facility, Residential Support	Basketball facility	2 per basket		Greater of 6 or 1 per 50 vehicle parking spaces
	Health exercise facility	1 per 200 sf		
	Playground Equipment	n/a		
	Pocket Park	n/a		
	Swimming pool	1 per 140 sf of pool surface water area		
	Tennis Courts	2 per court		
	Other	See Section 5.10.3.B		
<p>Notes: sq ft = square feet</p> <p>[1] See Sections 5.10.5, General Standards for Off-Street Vehicle Parking and Loading Areas, Section 5.10.6, Off-Street Parking Arrangement and Design, and Section 5.10.8, Off-Street Bicycle Parking Arrangement and Design, for applicable design standards.</p> <p>[2] When computation of the number of required parking spaces results in a fraction, the result shall be rounded upward to the next highest whole number.</p>				

(Ord. No. 2015-002, 04/29/2015;(Ord. No. 2016-001, 05/10/2016)

5.10.4. Off-Street Loading Space Requirements

A. Minimum Number of Off-Street Loading Spaces

1. New development involving the routine vehicular delivery or shipping of goods, supplies, or equipment to or from the development site shall provide a sufficient number of off-street loading spaces to accommodate the delivery and shipping operations of the development’s uses in a safe and convenient manner.
2. Table 5.10.4.A, Minimum Number of Off-Street Loading Spaces, sets forth the minimum number of loading spaces that presumptively satisfies the loading space needs of medium-sized and large-

sized delivery/shipping trucks based on the use classification or category of the principal use and the size of the development. It is assumed that the needs of small delivery/shipping trucks can be met through the temporary use of parking spaces or vehicle use areas, without impeding or blocking the use of adjacent driveways or fire lanes.

3. The Planning Director may require a higher or lower number of loading spaces than called for by Table 5.10.4.A on determining that the characteristics of the particular development warrant such an increase or decrease and the general standard in subsection 1 is met.

Table 5.10.4.A: Minimum Number of Off-Street Loading Spaces		
Gross Floor Area (GFA)	Minimum Number of Loading Spaces	
	Medium-Sized Truck	Large-Sized Truck
Institutional and Office Uses		
Up to 10,000 sf	0	0
10,001 to 50,000 sf	1	0
50,001 to 500,000 sf	2	0
Over 500,000 sf	2 medium-sized truck spaces; additional spaces based on development-specific assessment	
Commercial Uses Other than Office Uses		
Up to 5,000 sf	0	1
5,001 to 20,000 sf	0	1
20,001 to 50,000 sf	1	1
50,001 to 100,000 sf	1	2
100,001 to 200,000 sf	2	2
Over 200,000 sf	3 medium-sized truck spaces and 2 large-sized truck space; additional spaces based on development-specific assessment	
Industrial Uses		
Up to 5,000 sf	0	0
5,001 to 10,000 sf	1	0
10,001 to 50,000 sf	0	1
50,001 to 100,000 sf	0	2
100,001 to 150,000 sf	0	3
Over 150,000 sf	3 large truck spaces; additional spaces based on development-specific assessment	
Notes: sf = square feet		
1. See Sections 5.10.5, General Standards for Off-Street Vehicle Parking and Loading Areas, and Section 5.10.7, Off-Street Loading Area Arrangement and Design, for applicable design standards.		
2. For mixed-use developments, gross floor area devoted to residential uses is excluded.		

(Ord. No. 2016-001, 05/10/2016)

5.10.5. General Standards for Off-Street Vehicle Parking and Loading Areas

A. Use of Parking and Loading Areas

1. Off-street vehicle parking areas required by this section shall be used solely for the parking of licensed motorized vehicles in operating condition.
2. Required off-street vehicle parking spaces and loading spaces for nonresidential uses other than hotels shall not be used for:
 - a. Overnight parking of vehicle or containers—including, but not limited to, semi-trailer trucks, semi-trailers, or recreational vehicles, mobiles homes, and other vehicles providing transient residency, or similar uses;

- b. The display or storage of goods for sale or lease (except storage of vehicles as part of an automobile or recreational vehicle sales or rental use, or a temporary portable storage unit);
- c. The dismantling or service of any motor vehicles, recreational vehicles, or manufactured homes; or
- d. Other vehicles or containers used for storage of building materials, equipment, or supplies.

B. Surfacing

All off-street vehicle parking, loading areas, fire lanes, vehicle fleet storage, and permanent fire access roads/areas shall be surfaced with asphalt, concrete, brick, pavers, or an equivalent hard, dustless, and bonded surface material. Use of surfacing that includes recycled materials is encouraged. These surfaces shall be maintained in a smooth, well-graded, clean, orderly, and dust-free condition. The use of gravel is prohibited.

C. Safe and Convenient Access

1. Off-street vehicle parking and loading areas shall be arranged for convenient access between an adjacent street and all parking spaces and loading spaces to facilitate ease of mobility, ample clearance, and safety of vehicles and pedestrians. Each off-street parking space and loading space shall have adequate, unobstructed means for the ingress and egress of vehicles.
2. Except for driveways serving as off-street vehicle parking areas for bungalow court, pocket neighborhood, single-family detached, duplex, manufactured home, and single-family attached dwellings, off-street vehicle parking and loading areas shall:
 - a. Include painted lines, wheel stops, or other methods of identifying individual parking spaces and loading spaces and distinguishing such spaces from aisles;
 - b. Be arranged so that no vehicle maneuvering incidental to parking or loading shall occur on a public street or sidewalk (but such maneuvering may occur on an alley or driveway);
 - c. Provide suitable maneuvering room so that vehicles may enter an abutting public street in a forward direction; and
 - d. Be arranged so an automobile may be parked or unparked without moving another automobile (unless within an automated or mechanical parking deck or garage or part of valet or tandem parking in accordance with Section 5.10.9.F, Valet and Tandem Parking).
3. Driveways that may serve as off-street vehicle parking areas for bungalow court, pocket neighborhood, single-family detached, duplex, manufactured home, and single-family attached dwellings shall provide at least 20 feet of separation between the street right-of-way or easement and the entrance into any garage or carport (to accommodate the outside parking of at least one vehicle on the driveway without it encroaching into the street right-of-way or easement).
4. Off-street loading areas shall be arranged so that no loading space extends into the required drive aisle of an off-street parking facility.

(Ord. No. 2015-002, 04/29/2015; Ord. No. 2016-001, 05/10/2016)

D. Markings

1. Except for driveways serving as off-street vehicle parking areas for bungalow court, pocket neighborhood, single-family detached, duplex, manufactured home, and single-family attached dwellings, each required vehicle off-street parking area and space, and each off-street loading area and space, shall be identified by surface markings that are arranged to provide for orderly and safe loading, unloading, parking, and storage of vehicles. Such markings shall include 4-inch-wide white striping, white directional arrows, lettering on signs and in handicapped-designated areas, and labeling of the pavement.
2. One- and two-way entrance driveways into required vehicle parking facilities shall be identified by directional arrows. Any two-way entrance driveway located at any angle other than 90

degrees to a street shall be marked with a traffic separation stripe running the length of the access. This requirement does not apply to aisles within parking bays.

(Ord. No. 2015-002, 04/29/2015; Ord. No. 2016-001, 05/10/2016)

E. Exterior Lighting

Lighted off-street vehicle parking and loading areas shall comply with the standards of Section 5.15, Exterior Lighting.

F. Landscaping

Except for driveways serving as off-street vehicle parking areas for bungalow court, pocket neighborhood, single-family detached, duplex, manufactured home, and single-family attached dwellings, all off-street vehicle parking and loading areas shall comply with the standards of Section 5.12.4, Vehicle Use Area Landscaping.

(Ord. No. 2016-001, 05/10/2016)

G. Maintained In Good Repair

1. Maintained at All Times

All off-street vehicle parking and loading areas shall be maintained in safe condition and good repair at all times so as not to constitute a hazard to public safety or a visual or aesthetic nuisance to surrounding land.

2. Periodically Restored

All off-street vehicle parking and loading areas shall be periodically painted or otherwise restored to maintain a clear identification of separate parking spaces or loading spaces.

5.10.6. Off-Street Parking Arrangement and Design

A. Consideration of Structured Parking

To conserve land and minimize the negative impacts on the natural and human environment, developers are encouraged to consider the feasibility of providing structured vehicle parking rather than surface vehicle parking.

B. Off-Street Parking Facility Location

1. Transit-Oriented Development (TOD) District and Town Center Districts

- a.** For all development located in the Transit-Oriented Development (TOD) or a Town Center districts, all proposed new or additional surface vehicle parking with more than three spaces shall be located to the rear or side of the development's principal building(s) to the maximum extent practicable—and not between the building(s) and abutting street(s). The Planning Director shall determine the practicability of such location based on, but not limited to, topography, lot configuration, existing utility locations, watercourses, riparian buffers, natural rock formations, or other site encumbrances. For already developed sites, the Planning Director shall also consider the location and orientation of existing buildings, building entrances, parking areas, and access and circulation patterns.
- b.** On determining that it is impracticable to locate all proposed new or additional surface vehicle parking to the rear or side of the development's principal building(s), the Planning Director may allow alternative locations and arrangements of the surface parking—provided that in addition to vehicle use area screening required by Section 5.12.4, Vehicle Use Area Landscaping, a Type G, Option 2 streetyard buffer shall be provided between a street and any surface vehicle parking located between it and the development's principal building(s). (See Section 5.7, Perimeter and Streetyard Buffers.)

(Ord. No. 2015-047, 07/28/2015)

2. Activity Center Districts

- a. For multifamily, nonresidential and mixed-use developments with off-street surface vehicle parking located in an Activity Center district, no more than one single-loaded bay of off-street surface vehicle parking may be located between the development's principal buildings(s) and abutting streets. (See Figure 5.10.6.B.2: Single-loaded bay of off-street surface vehicle parking.)
- b. On determining that it is impracticable to locate only one single-loaded bay of off-street surface vehicle parking between the development's principal buildings(s) and abutting streets, the Planning Director may allow alternative locations and arrangements of the surface parking—provided that in addition to vehicle use area screening required by Section 5.12.4, Vehicle Use Area Landscaping, a Type G, Option 2 streetyard buffer shall be provided between a street and any surface vehicle parking located between it and the development's principal building(s). (See Section 5.7, Perimeter and Streetyard Buffers.)

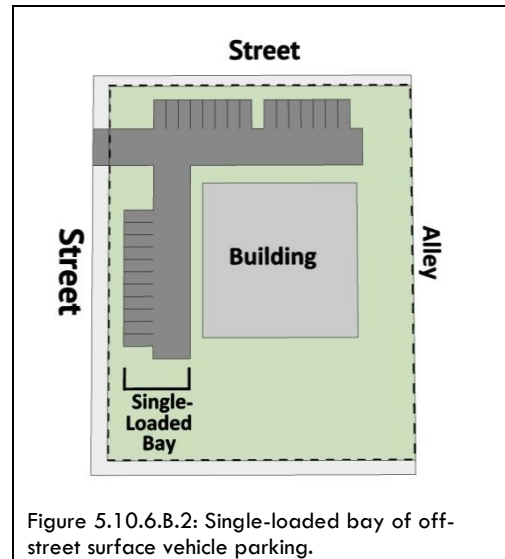


Figure 5.10.6.B.2: Single-loaded bay of off-street surface vehicle parking.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2015-047, 07/28/2015; Ord. No. 2016-001, 05/10/2016)

3. Other Districts

- a. For multifamily, nonresidential and mixed-use developments located outside the Transit-Oriented Development (TOD) District, a Town Center, or Activity Center district, no more than 50 percent of the overall required parking shall be located between the development's principal building(s) and abutting streets. (See Figure 5.10.6.B.3: Fifty percent of the overall required parking shall be located between the development's principal building(s) and abutting streets.)

- b. On determining that it is infeasible to locate 50 percent or less of the overall required parking between the development's principal building(s) and abutting streets, the Planning Director may allow alternative locations and arrangements of the surface parking—provided that in addition to vehicle use area screening requirements required by Section 5.12.4, Vehicle Use Area Landscaping, a Type I, Option 2 streetyard buffer shall be provided between a street and any surface vehicle parking located between it and the development's principal building(s). (See Section 5.7, Perimeter and Streetyard Buffers.)

(Ord. No. 2015-002, 04/29/2015; Ord. No. 2015-047, 07/28/2015)

C. Vehicle Stacking Space for Parking Area Entrance Driveways

Except for driveways serving as off-street vehicle parking areas for bungalow court, pocket neighborhood, single-family detached, duplex, manufactured home, and single-family attached dwellings, the length of a driveway serving as the vehicular entrance to any off-street surface vehicle parking area shall comply with the minimum stacking lane distance established in Table 5.10.6.C: Minimum Stacking Lane Distance for Off-Street Parking Facility Entrance Driveways or any stacking lane distance recommended by a transportation impact analysis prepared for the development in accordance with Section 5.8.6.B, Transportation Impact Analysis. (See Figure 5.10.6.C: Stacking lane for an off-street parking facility entrance driveway.)

(Ord. No. 2015-002, 04/29/2015; Ord. No. 2016-001, 05/10/2016)

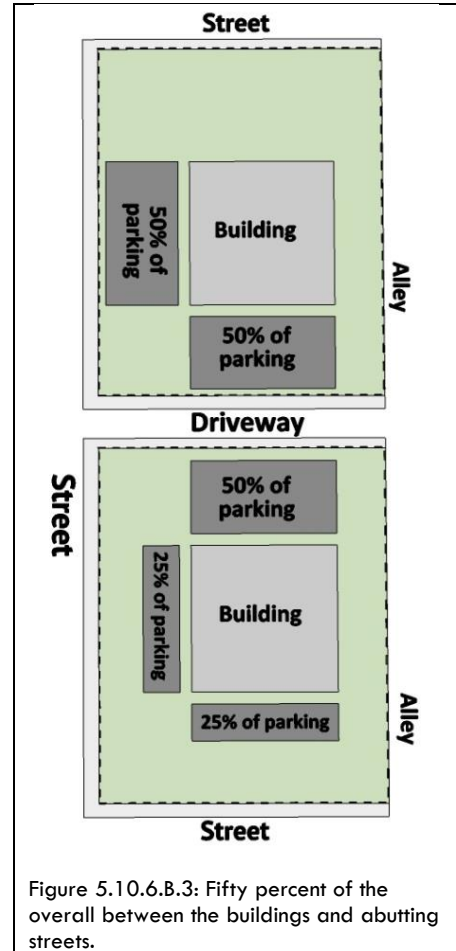


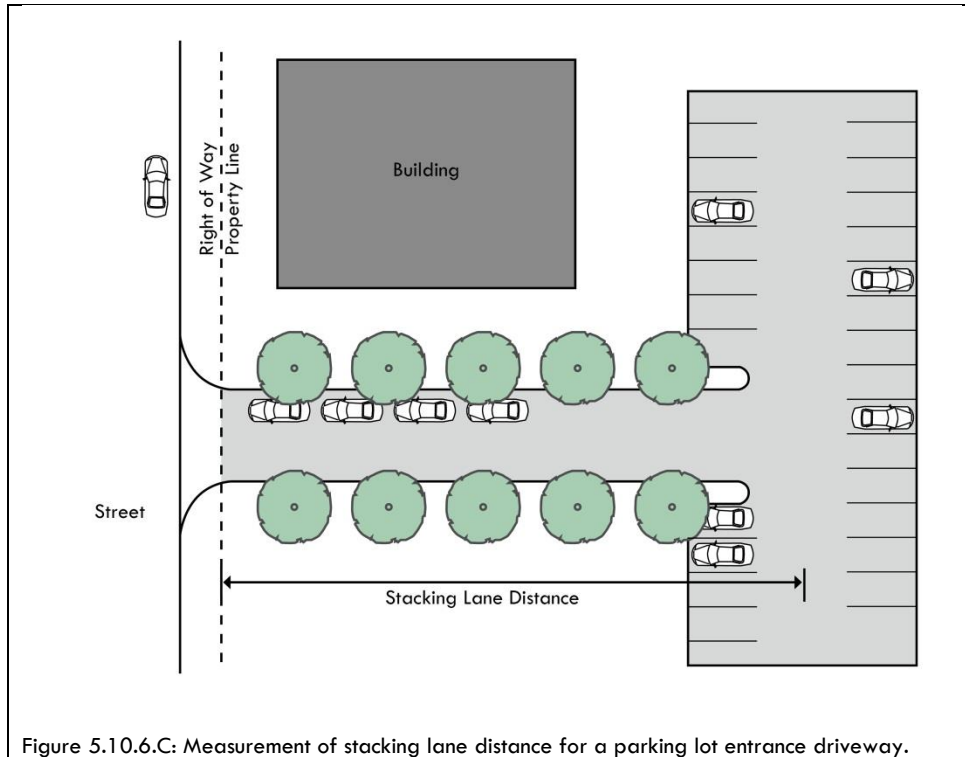
Figure 5.10.6.B.3: Fifty percent of the overall between the buildings and abutting streets.

Table 5.10.6.C: Minimum Stacking Lane Distance for Off-Street Parking Facility Entrance Driveways

Number of Off-Street Parking Spaces [1]	Minimum Stacking Lane Distance (feet) [2,3]
1 – 49	25
50 – 249	50
250 – 499	100
500 or more	100 + 15 ft for every additional 50 spaces beyond 500

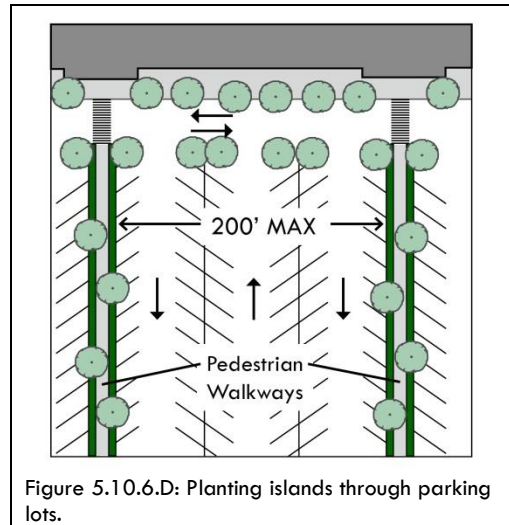
Notes:
 [1] Entrances into parking structures may be credited towards the stacking lane distance requirement provided the parking structure entrance is accessed from a development driveway and not a primary drive aisle.
 [2] Stacking lane distance is measured from the intersection of the driveway with the street right-of-way, along the centerline of the stacking lane, to its intersection with the centerline of the first entrance into a parking area or other internal intersecting driveway.
 [3] If the parking area is served by more than one entrance driveway, the Planning Director can approve a reduction or increase in the stacking distance for any one entrance driveway in order to allow the minimum requirement to be allocated to other driveway(s). The sum of all driveways must meet or exceed the minimum stacking lane distance requirement in this table.

(Ord. No. 2016-001, 05/10/2016)



D. Pedestrian Walkways through Large Vehicle Parking Areas

1. All vehicle off-street parking facilities containing more than 50 parking spaces shall provide a clearly identified pedestrian route between parking areas and the primary pedestrian entrance(s) to the building(s) served by the parking areas, or to a pedestrian walkway providing direct access to the primary building entrance(s).
2. A vehicle parking lot containing more than 50 parking spaces shall provide a planting island between at least every three parking bays. The planting island shall comply with Section 5.12.4.D.3, Planting Islands Between Parking Bays. (See Figure 5.10.6.D: Planting islands through parking lots.)



3. Where a vehicle parking lot containing more than 50 parking spaces has parking bays running parallel to the front of the building(s) served by the parking, a pedestrian walkway shall be provided connecting landscaped islands along or at the ends of the parking bays as necessary to provide walkways through the parking lot at intervals of 200 feet or less. (See Section 5.12.4.D.2.a.)
4. Crosswalks meeting the standards in the Engineering Design and Construction Manual shall be provided where pedestrian walkways through large parking lots cross a drive aisle within the parking bays or between them and the building(s) served by the parking.
5. Walkways providing pedestrian access between parking areas and associated buildings may be extended to provide the connections to abutting street sidewalks or to adjoining development required by Section 5.8.8.A.1, General Pedestrian Access, and Section 5.8.8.B, Pedestrian Connectivity.

(Ord. No. 2015-002, 04/29/2015)

E. Podium or “Tuck Under” Parking

Openings in podium parking areas shall be designed to screen views of parked cars from surrounding properties through the use of architectural screens or similar features, as approved by the Planning Director. (See Figure 5.10.6.E: Podium or “Tuck Under” Parking.)



F. Minimum Dimensions for Vehicle Parking Spaces and Aisles

1. Spaces

- a. Standard vehicle parking spaces shall be in accordance with that shown in Table 5.10.6.F: Minimum Dimensions for Vehicle Parking Spaces and Aisles for the proposed parking angle.
- b. Compact vehicle parking spaces shall comprise a rectangle that is at least eight feet wide and at least 16 feet long.
- c. Where a parking space abuts a wall or fence, the minimum distance between the back of curb and the wall or fence shall be at least two feet for the entire row of parking.

(Ord. No. 2015-002, 04/29/2015)

2. Aisles

The minimum width of a drive aisle through a parking bay shall be in accordance with that shown in Table 5.10.6.F: Minimum Dimensions for Vehicle Parking Spaces and Aisles, for the proposed parking space/drive aisle angle. The other dimensions in Table 5.10.6.F are representative of minimum standard parking space and parking bay dimensions for the arrangement shown in Figure 5.10.6.F: Minimum Dimensions for Vehicle Parking Spaces and Aisles.

Table 5.10.6.F: Minimum Dimensions for Vehicle Parking Spaces and Aisles

Parking Angle (degrees) [1]	Minimum Parking Space Width (feet)	Minimum Parking Row Depth (feet) [3]	Minimum Aisle Width (feet) [4][5][6]		Minimum Double Row Parking Bay Width (feet)	
			One-Way	Two-Way	One-Way	Two-Way
A [7]	B	C	D [8]	D [9]	E	E
Parallel	20	9	12	23	30	41
30	9	17	14	n/a	48	n/a
45	9	19	15	n/a	53	n/a
60	9	20	16	n/a	56	n/a
90	9	18	20	23	56	59
No Parking	n/a	n/a	20	23	n/a	n/a

Notes:

- [1] The same angle shall be used along the full length of one side of a parking bay, though different angles may be used on each side of a double-loaded parking bay.
- [2] With the exception of parallel parking spaces, the width of a parking space shall not exceed 12 feet.
- [3] Where a space includes a wheel stop, the length of the space shall be increased by 1.5 feet.
- [4] Where the angle is other than 90 degrees or 0 degrees (parallel), the drive aisle shall be designed for one-way traffic.
- [5] A greater aisle width may be necessary to Fire Prevention Code requirements.
- [6] Where each side of a double loaded parking bay uses different parking space/drive aisle angles, the drive aisle shall comply with the greater applicable minimum drive aisle width standard.
- [7] Letters correspond to dimension measurement lines in Figure 5.10.6.F: Minimum Dimensions for Vehicle Parking Spaces and Aisles.
- [8] The width of a one-way drive cannot exceed more than three feet over the required minimum.
- [9] The width of a two-way drive aisle shall not exceed 30 feet.

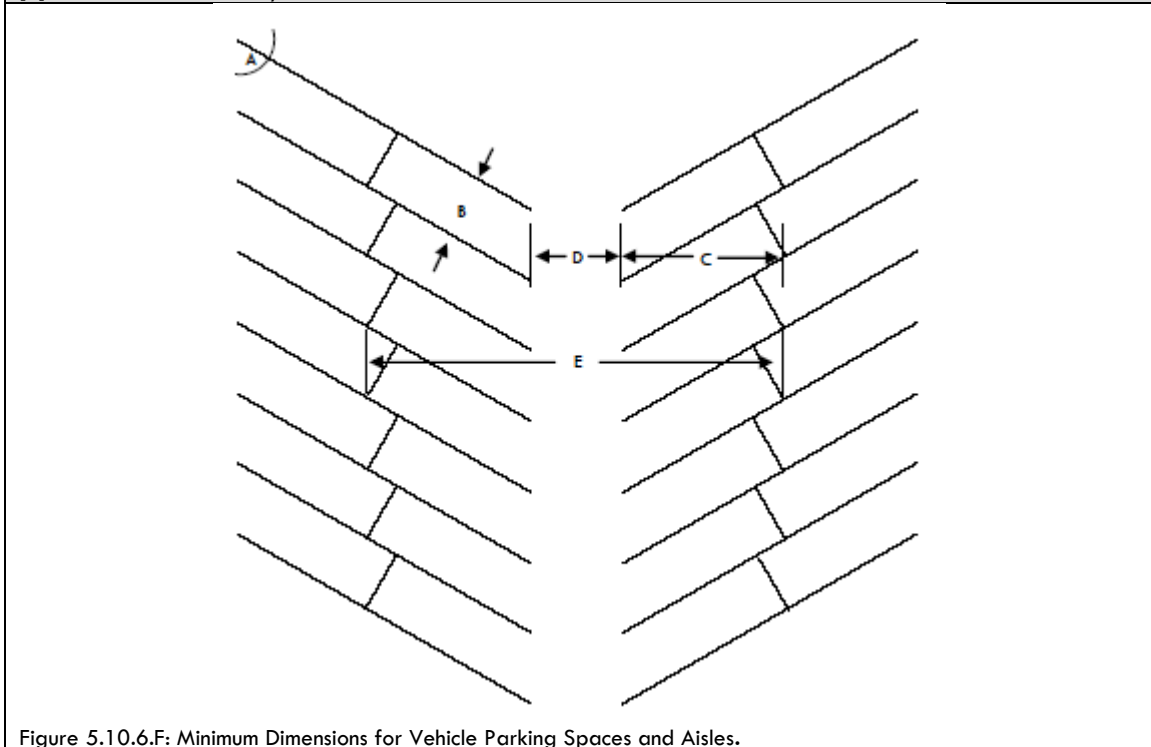


Figure 5.10.6.F: Minimum Dimensions for Vehicle Parking Spaces and Aisles.
 (Ord. No. 2014-022, 06/24/2014; Ord. No. 2016-001, 05/10/2016)

3. Vertical Clearance

All off-street parking spaces shall have a minimum overhead clearance of seven feet.

G. Curbs and Wheel Stops

1. Except for driveways serving as off-street vehicle parking areas serving bungalow court, pocket neighborhood, single-family detached, duplex, manufactured home, and single-family attached dwellings, each off-street vehicle parking space shall be bounded by curbing as necessary to prevent vehicles from overhanging a public right-of-way, walkway, landscaped areas, or adjoining property.
2. Wheel stops may not be installed in vehicle parking spaces except in accessible parking spaces for physically disabled persons (see 5.10.3.l) or as installed to comply with subsection 3 below.
3. Where the development uses depressed landscaping island, rain gardens, or other techniques to catch, store, and filter stormwater runoff, curbing shall be designed, or wheel stops installed, to allow stormwater runoff to flow into such areas.

(Ord. No. 2016-001, 05/10/2016)

5.10.7. Off-Street Loading Area Arrangement and Design

A. Location of Loading Areas

Where possible, a loading area shall be located to the rear of the principal building(s) it serves. In addition, the loading area shall be located adjacent to the building's loading doors, in an area that promotes its practical use.

B. Dimensional Standards for Loading Areas

1. Each loading space shall be of sufficient size to accommodate the types of delivery/shipping vehicles likely to use the loading area.
2. The size of a loading space that presumptively satisfies the needs of a medium-sized truck is at least 12 feet wide and 35 feet long, and has at least 13 feet of vertical clearance.
3. The size of a loading space that presumptively satisfies the needs of a large-sized truck is at least 12 feet wide and 75 feet long, and has at least 14 feet of vertical clearance.
4. The Planning Director may require larger or smaller loading spaces than called for by subsections 2 and 3 above upon determining that the characteristics of the particular development warrant such a variation and the general standard in subsection 1 is met.

5.10.8. Off-Street Bicycle Parking Arrangement and Design

Off-street bicycle parking spaces required by Section 5.10.3, Off-Street Vehicle and Bicycle Parking Space Requirements, shall be provided with bike racks, bike lockers, or similar parking facilities that comply with the following standards:

- A. The parking facility shall be located in a visible, well-lit ground-level area that:
 1. Is conveniently accessible to the primary entrances of a development principal building(s);
 2. Does not interfere with pedestrian traffic; and
 3. Is protected from conflicts with vehicular traffic.
- B. Each bicycle parking space within a bicycle parking facility shall be at least two feet wide and six feet long. (See Figure 5.10.8: Bike Rack Placement.)

- C. The parking facility shall have an overhead clearance of at least seven feet, at least six feet of horizontal clearance around its perimeter, and at least four feet of separation between bike racks.
- D. The parking facility shall be securely anchored and designed to support parked bicycles securely and enable them to be locked.
- E. Bike lockers or other indoor parking spaces shall be clearly demarcated.

(Ord. No. 2016-001, 05/10/2016)

5.10.9. Off-Street Vehicle Parking Alternatives

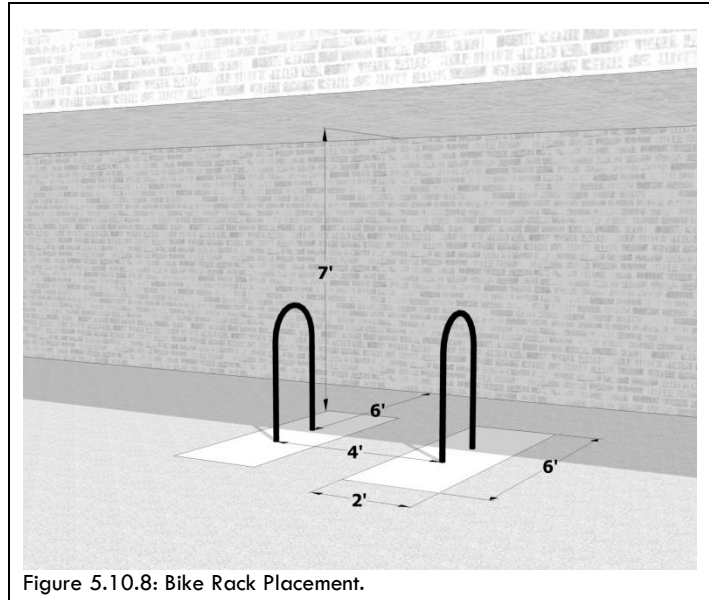


Figure 5.10.8: Bike Rack Placement.

A. Alternative Parking Plan

The Planning Director may approve an alternative parking plan that proposes alternatives to complying with the vehicle parking standard in Section 5.10.3, Off-Street Vehicle and Bicycle Parking Space Requirements, in accordance with the standards listed below. The alternative parking plan shall be submitted with an application for a Planned Development Rezoning (Section 2.5.3), Site Plan Approval (Section 2.5.7), or Construction Plan Approval (Section 2.5.8), as appropriate. Additional review fees are assessed to cover the Town's additional costs in reviewing alternative parking plans and any subsequent agreements.

B. Provision over Maximum Allowed

An alternative parking plan may propose to exceed the maximum number of off-street vehicle parking spaces allowed by Section 5.10.3.D, Maximum Number of Off-Street Vehicle Parking Spaces, in accordance with the following standards:

1. Parking Demand Study

The alternative parking plan shall include a parking demand study demonstrating how the maximum number of parking spaces specified by Section 5.10.3.D, Maximum Number of Off-Street Vehicle Parking Spaces, is insufficient for the proposed development.

2. Minimum Exceedance Required

The number of additional off-street vehicle parking spaces allowed beyond that specified by Section 5.10.3.D, Maximum Number of Off-Street Vehicle Parking Spaces, shall be limited to the minimum number of additional spaces recommended as needed by the required parking demand study.

C. Shared Parking

An alternative parking plan may propose to meet a portion of the minimum number of off-street parking spaces required for a use with shared parking—i.e., use of parking spaces used or proposed to be used to meet the minimum number of off-street parking spaces required for one or more other uses—in accordance with the following standards. This alternative and these standards (except Section 5.10.9.C.4, Signage Directing Public to Parking Spaces) may also be applied to bicycle parking.

1. Maximum Shared Spaces

Up to 50 percent of the number of parking spaces required for a use may be used to satisfy the number of parking spaces required for other uses that generate parking demands during different times of the day or different days of the week.

2. Location

- a. Shared parking spaces shall be located within 500 feet walking distance of the primary pedestrian entrances to the uses served by the parking.
- b. Shared parking spaces shall not be separated from the use they serve by a major or minor thoroughfare unless pedestrian access across the thoroughfare is provided by a grade-separated pedestrian walkway or appropriate traffic controls (e.g., signalized crosswalk).

3. Pedestrian Access

Adequate and safe pedestrian access shall be provided between the shared parking areas and the primary pedestrian entrances to the uses served by the parking.

4. Signage Directing Public to Parking Spaces

Signage complying with the standards of Section 5.16, Signage, shall be provided to direct the public to the shared parking spaces.

5. Justification

The alternative parking plan shall include justification of the feasibility of shared parking among the proposed uses. Such justification shall address, at a minimum, the size and type of the uses proposed to share off-street parking spaces, the composition of their tenants, the types and hours of their operations, the anticipated peak parking and traffic demands they generate, and the anticipated rate of turnover in parking space use.

6. Shared Parking Agreement

- a. An approved shared parking arrangement shall be enforced through written agreement among all the owners or long-term lessees of lands containing the uses proposed to share off-street parking spaces. The agreement shall provide all parties the right to joint use of the shared parking area for as long as the shared parking spaces are needed to comply with this Ordinance, and shall be binding on subsequent owners or long-term lessees. The agreement shall be submitted to the Planning Director for review and approval. An attested copy of an approved and executed agreement shall be recorded with the Register of Deeds for the county in which the site is located before issuance of a Certificate of Compliance/Occupancy for any use to be served by the shared parking area.
- b. Any termination of the agreement does not negate the parties' obligations to comply with parking requirements and thus shall constitute a violation of this Ordinance. No use served by the shared parking may be continued if the shared parking becomes unavailable to the use unless substitute off-street parking spaces are provided in accordance with this section.

D. Off-Site Parking

An alternative parking plan may propose to meet a portion of the minimum number of off-street vehicle parking spaces required for a use with off-site parking—i.e., off-street parking spaces located on a lot separate from the lot containing the use—in accordance with the following standards. This alternative and these standards may also be applied to bicycle parking.

1. Zoning Classification

The zoning district classification of the off-site parking area shall be one that allows the use served by off-site parking (and thus off-street parking is accessory to such use) or that allows parking as a principal use.

2. Location

- a. Off-site parking spaces shall be located within 500 feet walking distance of the primary pedestrian entrances to the uses served by the parking.
- b. Off-site parking spaces shall not be separated from the use they serve by a major or minor thoroughfare unless safe pedestrian access across the street is provided by a grade-separated pedestrian walkway or appropriate traffic controls (e.g., signalized crosswalk).

3. Pedestrian Access

Adequate and safe pedestrian access shall be provided between the off-site parking areas and the primary pedestrian entrances to the use served by the parking.

4. Off-Site Parking Agreement

- a. If land containing the off-site parking area is not under the same ownership as land containing the principal use served, the off-site parking arrangement shall be established in a written agreement between the owners or long-term lessees of land containing the off-site parking area and land containing the served use. The agreement shall provide the owner or long-term lessee of the served use the right to use the off-site parking area for as long as the shared parking spaces are needed to comply with this Ordinance, and shall be binding on subsequent owners or long-term lessees. The agreement shall be submitted to the Planning Director for review and approval. An attested copy of an approved and executed agreement shall be recorded with the Register of Deeds for the county in which the site is located before issuance of a Certificate of Compliance/Occupancy for any use to be served by the shared parking area.
- b. Any termination of the agreement does not negate the landowner's obligation to comply with parking requirements and thus shall constitute a violation of this Ordinance. No use served by the off-site parking may be continued if the off-site parking becomes unavailable unless substitute off-street parking spaces are provided in accordance with this section.

E. Deferred Parking

An alternative parking plan may propose to defer construction of up to 20 percent of the number of off-street vehicle parking spaces required by Section 5.10.3.A, Minimum Number of Off-Street Vehicle and Bicycle Parking Spaces, in accordance with the following standards:

1. Justification

The alternative parking plan shall include a study demonstrating that because of the location, nature, or mix of uses, there is a reasonable probability the number of parking spaces actually needed to serve the development is less than the minimum required by Section 5.10.3.A, Minimum Number of Off-Street Vehicle and Bicycle Parking Spaces.

2. Reserve Parking Plan

The alternative parking plan shall include a reserve parking plan identifying: (a) the amount of off-street parking being deferred, and (b) the location of the area to be reserved for future parking, if future parking is needed.

3. Parking Demand Study

- a. The alternative parking plan shall provide assurance that within 18 months after the initial Certificate of Compliance/Occupancy is issued for the proposed development, an off-street parking demand study evaluating the adequacy of the existing parking spaces in meeting the off-street parking demand generated by the development will be submitted to the Planning Director.
- b. If the Planning Director determines that the study indicates the existing parking is adequate, then construction of the remaining number of parking spaces shall not be required. If the

Planning Director determines that the study indicates additional parking is needed, such parking shall be provided consistent with the reserve parking plan and the standards of this section, and shall be provided within 12 months after the Planning Director's determination.

4. Limitations on Reserve Areas

Areas reserved for future parking shall be brought to the finished grade and shall not be used for buildings, storage, loading, or other purposes.

5. Landscaping of Reserve Areas Required

Areas reserved for future off-street parking shall be landscaped with an appropriate ground cover, and if ultimately developed for off-street parking, shall be landscaped in accordance with Section 5.12.4, Vehicle Use Area Landscaping.

F. Valet and Tandem Parking

An alternative parking plan may propose to use valet and tandem parking to meet a portion of the minimum number of off-street vehicle parking spaces required for a development with commercial uses in accordance with the following standards:

1. Number of Valet or Tandem Spaces

- a. The development provides a total of at least 75 or more off-street parking spaces.
- b. No more than 30 percent of the total number of parking spaces provided shall be designated for valet or tandem spaces except for hotels, where up to 100 percent of parking spaces may be designated for valet parking.

2. Drop-Off and Pick-Up Areas

The development shall provide a designated drop-off and pick-up area. The drop-off and pick-up area may be located adjacent to the building served, but may not be located in a fire lane or where its use would impede vehicular and/or pedestrian circulation or cause queuing in a public street or internal drive aisle serving the development.

3. Valet Parking Agreement

Except where associated with a hotel, valet parking may be established and managed only in accordance with a valet agreement. The agreement shall include provisions ensuring that a valet parking attendant will be on duty during hours of operation of the uses served by the valet parking. The agreement shall be submitted to the Planning Director for review and approval. An attested copy of an approved and executed agreement shall be recorded with the Register of Deeds for the county in which the site is located before issuance of a Certificate of Compliance/Occupancy for any use to be served by the shared parking area.

G. On-Street Parking

An alternative parking plan may propose to meet a portion of the minimum number of off-street vehicle parking spaces required for a use with on-street vehicle parking spaces, in accordance with the following standards. This alternative and these standards may also be applied to bicycle parking, where bicycle parking facilities are provided within the street right-of-way or easement.

1. The use is located within the Transit-Oriented Development (TOD) District or a Town Center, Activity Center, or Planned Development district;
2. The on-street parking spaces are located along the development site's street frontage or within 150 linear feet of walking distance from the primary entrance of the proposed use;
3. The on-street parking spaces are not counted towards meeting the off-street parking requirement for any other development;
4. No more than 25 percent of the off-street parking requirement is met through the use of on-street parking; and

5. There is no negative impact to existing or planned traffic circulation patterns.

(Ord. No. 2016-001, 05/10/2016)

H. Payment of Fee to Master Parking Program in Lieu of Providing Required Parking

1. Within the Main Street (MS) District or Transit-Oriented Development (TOD) District, the Town Council may authorize applicable off-street parking requirements for a nonresidential use to be satisfied, in whole or in part, by the applicant's payment of a proportionate share in-lieu fee established by the Town Council that is consistent with, but does not exceed, costs the Town will incur to provide the equivalent number of public parking spaces that can serve the use.
2. A request to pay an in-lieu fee shall be submitted in writing to the Planning Director, who shall forward it to the Town Council for review. The Town Council may approve such a request on determining that:
 - a. Due to the availability of transit or unique characteristics of the use or area, the unavailability of the off-street parking spaces for which the fee is made as part of the development will not result in traffic congestion and will be compatible with the character of surrounding properties, and
 - b. Sufficient public parking exists or is budgeted and scheduled within ¼ mile feet of the development to satisfy the parking demand it generates.
3. If an applicant requests to pay an in-lieu fee for a number of parking spaces exceeding 25 spaces or 50 percent of the minimum number of off-street parking spaces required by this section, the request shall be accompanied by a transportation impact analysis prepared in accordance with Section 5.8.6.B, Transportation Impact Analysis, and showing that the unavailability of the off-street parking spaces as part of the development will not result in traffic congestion.
4. The developer shall pay an in-lieu fee before Construction Plan Approval for the development.
5. The Town shall deposit the fee into the account designated for the provision of parking spaces through the Town's Master Parking Program and shall spend it within a reasonable time period only towards provision of public parking spaces that reasonably accommodate the parking demand generated by the development. Town costs for which in-lieu fees may be spent include, but are not limited to, the cost of land, leases, rights, easements and franchises; financing charges; interest paid before and during construction; cost of plans and specifications; cost of engineering and legal services and other expenses necessary or incidental for determining the feasibility or practicability of construction, reconstruction or use; cost of all labor and materials; and administrative expenses and such other expenses as may be necessary or incidental to the provision of public parking spaces.
6. The Town Council may, by resolution, accept an interest in land instead of accepting all or a portion of an in-lieu parking fee on determining that land would be used in connection with the provision of public parking through the Master Parking Program and the value of the land equals or exceeds the in-lieu parking fee that would otherwise be required. In making its determinations, the Town Council may consider the size of the land, the feasibility of constructing a parking facility on the land, and the land's proximity to parking demands identified and addressed by the Master Parking Program.

5.10.10. Reduced Vehicle Parking Requirements for Parking Demand Reduction Strategies

The minimum number of vehicle parking spaces required in Section 5.10.3.A, Minimum Number of Off-Street Vehicle and Bicycle Parking Spaces, may be reduced through implementation of one or more of the following strategies for reducing vehicle parking demand. Additional review fees are assessed to cover the Town's additional costs in reviewing requests for reduced vehicle parking requirements and any subsequent agreements.

A. Transit Accessibility

The Planning Director may authorize up to a 15 percent reduction in the minimum number of off-street vehicle parking spaces required by Section 5.10.3.A, Minimum Number of Off-Street Vehicle and Bicycle Parking Spaces, for uses located within 1,000 feet of a bus or rapid transit stop.

B. Transportation Demand Management

The Planning Director may, through approval of a Transportation Demand Management (TDM) plan, authorize up to a 15 percent reduction in the minimum number of off-street vehicle parking spaces required by Section 5.10.3.A, Minimum Number of Off-Street Vehicle and Bicycle Parking Spaces, for nonresidential or mixed-use developments having a floor area of at least 25,000 square feet, in accordance with the standards below. Additional review fees are assessed to cover the Town's additional costs in reviewing TDM plans.

1. TDM Plan Requirements

The TDM plan shall include facts and/or projections (e.g., type of development, proximity to transit and/or other multi-modal systems, anticipated number of employees and/or patrons, minimum parking requirements) and indicate the types of transportation demand management activities that will be instituted to reduce single-occupant vehicle use and reduce traffic congestion.

2. Transportation Demand Management Activities

- a.** The TDM plan shall provide at least two of the following transportation demand management activities:
 - (1)** Establishment of a development-specific website that provides multi-modal transportation information such as real-time travel/traffic information, bus schedules and maps, and logging of alternative commutes (e.g., bicycle, pedestrian, carpool, and vanpool);
 - (2)** Written disclosure of transportation information and educational materials to all employees;
 - (3)** Creation of a Preferential Parking Management Plan that specifically marks spaces for registered carpool and/or vanpool vehicles that are located near building entrances or in other preferential locations.
 - (4)** Establishment of an office, staffed by a TDM program coordinator, that makes transportation and ride-sharing information available to employees, residents, and nonresidents.
- b.** The TDM plan shall provide at least one of the following transportation demand management activities:
 - (1)** Formation of transportation demand reduction programs such as carpooling, vanpooling, ridesharing, guaranteed ride home, teleworking, and shuttle service programs.
 - (2)** Institution of off-peak work schedules that allow employees to arrive and depart at times other than the peak morning commute period (defined as 7:00 a.m. to 9:00 a.m.) and peak evening commute period (defined as 5:00 p.m. to 7:00 p.m.).
 - (3)** Any other transportation demand management activity as may be approved by the Planning Director as a means of complying with the parking reduction provisions of this subsection.

3. TDM Program Coordinator

- a.** The applicant shall appoint a TDM program coordinator to oversee transportation demand management activities.
- b.** The TDM program coordinator shall be a trained TDM professional.

- c. The TDM program coordinator shall be appointed prior to issuance of a Building Permit for the buildings to be served by the transportation demand management program.

4. TDM Annual Report

On or about each anniversary date of the TDM plan approval, the TDM program coordinator shall submit to the Planning Director an annual report that details implementation of the approved TDM plan. The report may include, but is not limited to, the following:

- a. A description of transportation demand management activities undertaken;
- b. An analysis of parking demand reductions based on employee and/or resident use of ridership programs or alternative transportation options;
- c. Changes to the TDM plan to increase transit ridership and other commuting alternatives; and
- d. The results of an employee transportation survey.

5. Recording of Approved TDM Plan

A copy of the approved TDM plan shall be recorded with the Register of Deeds for the county in which the development site is located before issuance of a Building Permit for the development to be served by the plan. The TDM plan shall be recorded against the property, and the applicant and/or successors of interest in the property shall be responsible for implementing the plan in perpetuity.

6. Notification of TDM to Potential Buyers and Lessees

The owner of the development shall provide written notification that the development is subject to the recorded TDM plan to potential buyers and lessees of any part of the development.

7. Amendments

The Planning Director may approve amendments to an approved TDM plan following the same process required for the initial approval.

8. Parking Required if TDM Terminated

If the applicant and/or successors in interest in the property covered by the TDM plan stop implementing the plan or fail to submit a TDM annual report to the Planning Director within 90 days after the anniversary date of the TDM plan approval, the TDM plan shall be considered terminated. Any such termination of the TDM plan does not negate the parties' obligations to comply with parking requirements and thus shall constitute a violation of this Ordinance. No use served by the TDM plan may be continued unless another TDM plan is approved or all required off-street parking spaces are provided in full in accordance with this section.

C. Special Facilities for Bicycle Commuters

The Planning Director may authorize up to a five percent reduction in the minimum number of off-street parking spaces required by Section 5.10.3.A, Minimum Number of Off-Street Vehicle and Bicycle Parking Spaces, for developments that provides both of the following:

1. Enclosed (indoor or locker) and secure bicycle parking spaces equal to at least five percent of the number of vehicle parking spaces provided; and
2. Shower and dressing areas for employees.

D. Other Eligible Alternatives

The Planning Director may authorize up a ten percent reduction in the minimum number of off-street parking spaces required by Section 5.10.3.A, Minimum Number of Off-Street Vehicle and Bicycle Parking Spaces, in exchange for any other strategy that an applicant demonstrates will effectively reduce parking demand on the site of the subject development, provided the applicant also demonstrates that the proposed development plan will do at least as good a job in protecting

surrounding neighborhoods, maintaining traffic-circulation patterns, and promoting quality urban design as would strict compliance with the otherwise applicable off-street parking standards.

SECTION 5.11. UTILITIES AND SERVICES

5.11.1. General

A. Compliance with Provider Standards

All utility lines and facilities—such as, but not limited to, those providing sewage disposal, drinking water, nonpotable reclaimed water, electric power, natural gas, telecommunication, or cable television service—shall be located, designed, and constructed or installed in accordance with the standards of the utility entity providing the utility service.

B. Installation

1. General

All utility lines and facilities shall be installed in such a manner and at such a time as to minimize interference with other utility lines and facilities, disruption of roadways or other infrastructure improvements, and disruption of vehicular or pedestrian traffic, and to facilitate maintenance of the utility lines and facilities without undue damage to infrastructure improvements.

2. Underground Installation Required

In all new development, electric distribution feeder lines and all other utility lines located on the development site and/or along the public right-of-way abutting the site shall be installed underground unless the Town Engineer waives this requirement in response to demonstration that undergrounding the line will be detrimental to the overall safety and/or reliability of the circuit or utility system. Development in the Historic Crossroads Village District that involves the adaptive reuse of an existing structure is exempt from this requirement.

(Ord. No. 2016-001, 05/10/2016)

5.11.2. Public Sewer and Water

A. Development with public sewer and potable and reclaimed water are conditioned on the availability of sufficient sewer or water capacity in the Town of Cary sewer and/or water systems to serve the proposed development.

- 1.** If sufficient sewer and/or water capacity for the proposed development is available, then sewer and/or water lines and facilities for the development shall be connected to the Town of Cary sewer and/or water system. Public sewer and/or water lines and facilities shall be constructed to the standards, sizes, and specifications of the Town of Cary, and dedicated to the Town of Cary for operation and maintenance.
- 2.** If sufficient sewer and/or water capacity for the proposed development is not available, then the developer may request Town approval of plans for the construction of alternative public sewer and/or water systems. Sewer and/or water lines for an alternative community sewer or water system shall be built to the standards, sizes, and specifications of the Town of Cary.

B. Oversized sewer and/or water improvements shall be provided where required by the Town of Cary in accordance with its policies and regulations.

C. The developer shall pay all water and sewer development fees to the Town of Cary before plat recordation or issuance of a Building Permit, whichever occurs first.

D. For any development applications located outside of the Morrisville-Durham Water and Sewer Service Areas and Annexation Boundaries Agreement Area, upon Rezoning Approval (Section 2.5.3), Conceptual Master Plan Approval (Section 2.5.4), Special Use Permit (Section 2.5.5), Type 1 Subdivision

Preliminary Plat Approval (Section 2.5.6.B.1), Type 2 Subdivision Preliminary Plat Approval (Section 2.5.6.B.2), Major Site Plan Approval (Section 2.5.7.B), Minor Site Plan Approval (Section 2.5.7.C) for a development located outside the corporate limits of the Town, the property owner of the development site shall submit a petition for voluntary annexation of an area that includes the development site before submitting any further applications for development of the site. For any development applications located in the Morrisville-Durham Water and Sewer Service Areas and Annexation Boundaries Agreement Area, the property owner shall submit a petition for voluntary annexation of an area that includes the development site with the initial development application.

(Ord. No. 2014-051, 11/10/2014; Ord. No. 2016-001, 05/10/2016)

5.11.3. Utility Easements

- A. Developments shall provide utility easements to the appropriate utility service provider as necessary to accommodate the installation and maintenance of utility lines and facilities that are not proposed within street rights-of-way or access easements. The width and location of easements shall be as required by the utility service provider, but generally shall be at least 20 feet wide and centered along or adjacent to lot lines to the greatest extent practicable.
- B. Development within utility easements shall comply with the standards and restrictions of the appropriate utility service provider(s).

5.11.4. Solid Waste Removal

A. Purpose

The purpose of this section is to minimize the impact that noise associated with the removal of solid waste may have on adjacent residential development.

B. Hours of Collection

Solid waste shall not be collected from exterior commercial containers located within a residential development or within 500 feet of a residential dwelling between the hours of 9:00 PM and 7:00 AM. Notice of this limitation shall be posted on the gate screening the container.

SECTION 5.12. LANDSCAPING

5.12.1. Purpose

It is the purpose of this section to establish minimum standards for the development, installation, and maintenance of landscaping that protects and enhances property values, the environment, and aesthetic qualities in the Town, and otherwise promotes the public health, safety and general welfare. The standards are specifically intended to ensure and promote the planting and maintenance of trees, shrubs, ground cover, and other landscaping that will:

- A. Mitigate against erosion and sedimentation by stabilizing the soils through root systems that hold and consolidate soil and other loose earthen materials;
- B. Reduce stormwater runoff and associated costs by intercepting, dispersing, and absorbing rainfall and slowing down surface flow;
- C. Reduce water pollution by filtering pollutants from stormwater runoff;
- D. Conserve water supplies by allowing more rainfall to stay in the water table and minimizing water use for landscaping maintenance;
- E. Moderate urban heat island effects by shading buildings and paved surfaces and lowering ambient temperatures through transpiration;

- F. Improve air quality by removing carbon dioxide and pollutant gases from the air and producing oxygen that helps dilute air pollutant concentrations;
- G. Restore soils and land denuded as a result of construction or grading;
- H. Maintain the continued vitality of natural habitats for the propagation and protection of wildlife, birds, game, and fish and other aquatic life;
- I. Limit glare created by exterior lighting;
- J. Provide a sense of privacy from neighbors and the street;
- K. Provide human scale to urban environments by breaking up the visual impact of structures and off-street parking facilities;
- L. Help differentiate streets and other areas of the public realm from private lands;
- M. Stimulate economic development by increasing the Town's attractiveness and quality of life to shoppers and employers;
- N. Safeguard and enhance property values and protect public and private investments; and
- O. Protect Town residents and visitors from personal injury and property damage, and avoid interruption of electrical and other utility services.

(Ord. No. 2015-002, 04/29/2015)

5.12.2. Applicability

A. New Development

Except where expressly provided otherwise in this Ordinance, the landscaping requirements in this section shall apply to all new development in the Town other than temporary uses and structures.

B. Existing Development

Except where expressly provided otherwise in this Ordinance, the landscaping requirements in this section shall apply to existing development in accordance with the following.

1. Change in Use

Any change in use of an existing development shall be subject to these landscaping standards to the maximum extent practicable.

2. Expansion

Except as otherwise provided in subsection 3 below, if an existing structure or use is expanded or enlarged (in terms of the number of dwelling units, floor area, number of employees, seating capacity, or other size unit), additional landscaping shall be provided in accordance with the requirements of this section to serve the expanded or enlarged part of the structure or use.

3. Upgrading of Landscaping Nonconformities

Where existing development is nonconforming in terms of compliance with this section's standards for off-street parking and loading, such development is subject to the limitations and upgrading requirements in Section 9.7, Nonconforming Site Features.

C. Landscape Plan Required

A landscape plan shall be included as part of any application for Type 1 Subdivision Preliminary Plat Approval (Section 2.5.6.B.1), Type 2 Subdivision Preliminary Plat Approval (Section 2.5.6.B.2), Major Site Plan Approval (Section 2.5.7.B), or Minor Site Plan Approval (Section 2.5.7.C) or Construction Plan Approval (Section 2.5.8) for development subject to the standards in this section. Landscape plans shall be prepared in accordance with the requirements of the Administrative Manual.

(Ord. No. 2016-001, 05/10/2016)

D. Allowed Deviation of Standards

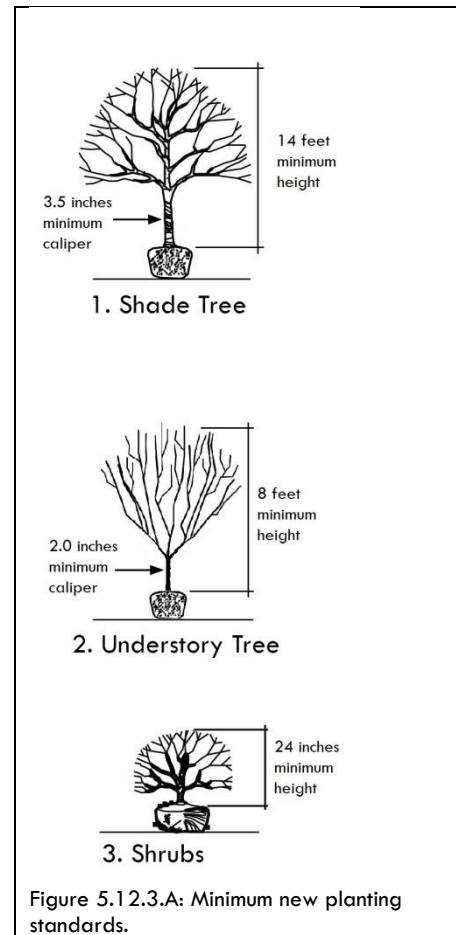
Deviations from the landscaping standards in this section may be authorized in Section 2.5.19, Administrative Adjustment, Section 2.5.20, Alternative Equivalent Compliance, or Section 5.12.6, Alternative Landscape Plan.

(Ord. No. 2014-051, 11/10/2014)

5.12.3. General Landscaping Standards

A. New Planting Standards

1. Required vegetation shall be planted in accordance with American Standards of Nursery Stock guidelines.
2. At the time of planting, vegetation included as part of required landscaping shall comply with the following size standards:
 - a. Shade trees shall have a caliper of at least three and one-half inches and be at least 14 feet in height above ground level. They shall be capable of attaining a height of at least 35 feet and a crown diameter of at least 30 feet at maturity.
 - b. Understory trees shall have a caliper of at least two inches and shall be at least eight feet in height above ground level.
 - c. Shrubs shall be upright in nature and at least 18 inches in height above ground level. They shall be capable of attaining a height of at least 30 inches within three years after planting.
 - d. Grasses and groundcovers do not have a required minimum.
3. All landscape plant materials shall be of standard quality or better, true to name and type of species or variety.
4. The use of drought-tolerant vegetation native to the Morrisville area is strongly encouraged (see the list of acceptable native plant species in the Administrative Manual).
5. Required landscaping areas shall be protected from vehicular damage by the installation of curbing, wheel stops, or extra width in the landscaping strip.



(Ord. No. 2016-001, 05/10/2016)

B. Existing Vegetation

The use of existing healthy, well-formed canopy trees, understory trees, evergreen trees, and shrubs shall be maximized wherever practical to comply with these landscaping standards. The use of existing vegetation shall be credited towards meeting tree protection standards (Section 5.4), perimeter and streetyard buffer standards (Section 5.6) and the landscaping standards in this section provided the vegetation meets those standards, is protected before and during development of the site in accordance with Section 5.4.6, Tree Protection During Development Activity, and is maintained thereafter in a healthy growing condition.

C. Stabilization

All required landscape planting areas shall be stabilized and maintained with turf, ground covers, or other approved materials to prevent soil erosion and allow rainwater infiltration.

D. Easements

Nothing except ground cover shall be planted or installed within any underground or overhead utility, drainage or gas easement, or within three feet of a fire protection system, except in accordance with the consent, standards, or guidelines of the utility provider, easement holder, or the Town, as appropriate.

E. Berms

All berms shall comply with the following standards:

1. Berms shall be at least one and one-half feet high, with side slopes not exceeding a ratio of three horizontal feet to one vertical foot, and with a crown at least two feet wide.
2. Berms proposed to be placed along street rights-of-way shall be designed and constructed to provide adequate sight distances at intersections and shall not impair safe operation of vehicles.
3. In no case shall berms be located or designed so they damage the roots or trunks of existing healthy vegetation designated to be preserved.
4. Berms shall not be located or designed so as to block or divert a natural drainage flow on to or off of any other land.

F. Time for Installation of Required Landscaping

1. Installation Before Certificate of Compliance/Occupancy

All required landscaping (including ground cover) shall be installed in accordance with the required planting standards set forth in this section prior to issuance of a Certificate of Compliance/Occupancy unless the Planning Director allows delayed installation in accordance with subsection 2 below.

2. Allowance of Deferred Installation

- a. The Planning Director may, for good cause shown, allow installation of required landscaping to be deferred until after issuance of a Certificate of Compliance/Occupancy. Circumstances that may warrant an extension include, but are not limited to, the following:
 - (1) Unusual environmental conditions, such as drought, hurricanes, or over-saturated soil;
 - (2) The inappropriateness of the current season for planting the approved plant species; or
 - (3) Utility work occurring in a proposed landscaped area that is incomplete or delayed.
- b. Any allowance of deferred installation shall be conditioned on the required landscaping being installed as soon as practicable after the circumstances warranting deferral cease to exist, but no later than six months after such time, and the provision of a performance guarantee ensuring such installation in accordance with Section 8.1.4, Performance Guarantees.

G. Maintenance of Required Landscaping

1. The owner shall be responsible for maintaining, in perpetuity, all required landscape areas and landscaping materials (including berms, walls, and fences as well as vegetation) in accordance with the approved landscape plan or alternative landscape plan and the standards of this section.
2. Required vegetation shall be maintained in a healthy condition and landscape areas shall be kept in an orderly appearance, free from refuse and debris.
3. All required vegetation shall be maintained in their characteristic natural shape and shall not be severely pruned or sheared. Trees shall not be topped or shaped as shrubs. Vegetation that has

been severely pruned, sheared, topped, or shaped shall be considered damaged and shall be replaced with healthy comparable plant material.

4. Actions shall be taken to protect required landscaping materials from unnecessary damage during all facility and site maintenance operations.
5. Landscaping materials shall be maintained in a way that does not obstruct sight visibility within intersection sight distance areas (see Section 5.8.6.F, Intersection Sight Distance Areas), obstruct traffic signs or devices, or interfere with the use of bikeways and walkways.
6. Landscaping shall comply with Building Code restrictions on placing or storing combustible materials near buildings.
7. If landscaping materials used to meet the requirements of this section die, are seriously damaged, or are removed, they shall be replaced with comparable landscaping materials meeting the standards of this section within the next six months—or within the next year if the death, damage, or removal of the landscaping materials was due to an unusual weather occurrence or other act of nature (e.g., tornado, hurricane). In determining the extent of replacement required, the Planning Director shall consider the type and location of the required landscaping materials as well as the propensity for natural re-vegetation.
8. All initial and replacement landscaping shall be subject to a two-year performance guarantee that ensures proper maintenance and replacement, in accordance with Section 8.1.4, Performance Guarantees.

H. Alteration of Required Landscaping

Landscaping may be altered through replacement or relocation by a maximum of ten percent over the life of the development without submittal of a revised landscape plan provided that the overall landscaping remains in compliance with this section. A revised plan shall not be required for plantings that exceed the requirements of this section.

5.12.4. Vehicle Use Area Landscaping

A. Applicability

Except for driveways serving as off-street vehicle parking areas for bungalow court, pocket neighborhood, single-family detached, duplex, manufactured home, and single-family attached dwellings, the vehicle use areas of developments shall include landscaping both within the interior of the vehicle use area (interior landscaping) and around its perimeter (perimeter landscaping) as a means of mitigating the vehicle use area's microclimate and visual impacts.

(Ord. No. 2016-001, 05/10/2016)

B. General

1. To the maximum extent practicable, required landscaped planting areas and shade trees shall be distributed and sited within and around the vehicle use area so as to maximize shading of pavement and pedestrian routes through the parking area. Part of every parking space shall be located within 50 feet from the trunk of a shade tree.
2. Perimeter landscaping and interior landscaping shall be sited and designed for stormwater management purposes to the maximum extent practicable, as long as they comply with these vehicle use area landscaping standards.
3. Perimeter landscaping and interior landscaping may include non-landscaping features such as walkways, light or utility poles, utility lines, and fire hydrants, provided the minimum landscaping width and planting standards for vehicle use areas are met.

C. Perimeter Landscaping

Where a vehicle use area is within 50 feet of and visible from a street, other development (except another vehicle use area), or vacant property, perimeter landscaping shall be provided and maintained within the strip of land between the vehicle use area and the adjacent street right-of-way or easement or property line in accordance with the following standards, except where such strip is crossed by an authorized vehicular or pedestrian accessway or utility easement. (See Figure 5.12.4.C: Perimeter Landscaping.)

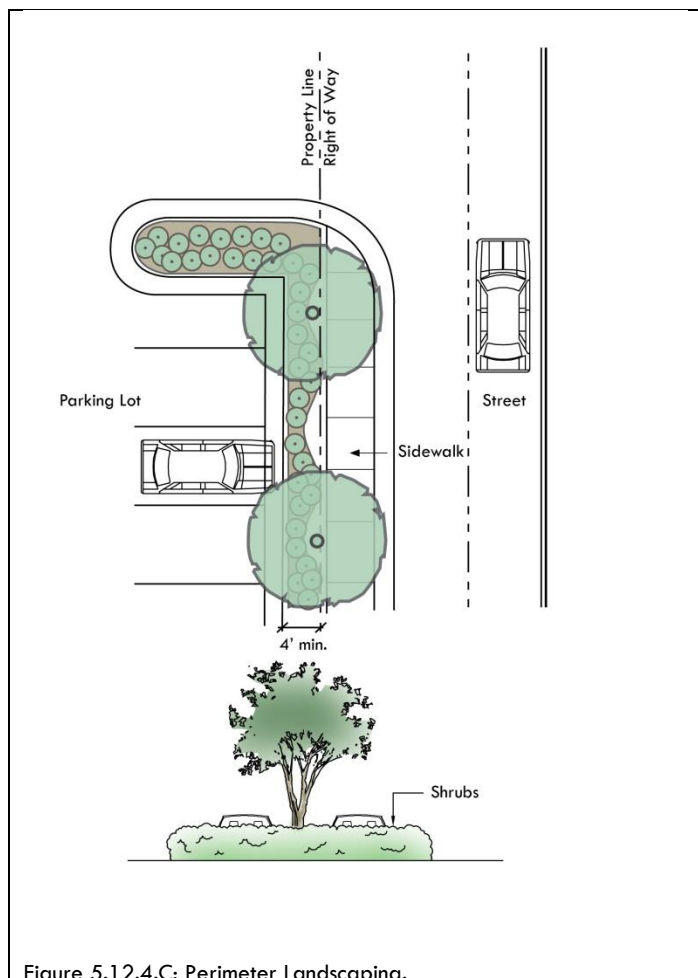
1. Location and Configuration

Perimeter landscaping shall be located on the same property as the vehicle use area and placed to assure visibility and safety of pedestrians within the vehicle use area.

2. Composition

Perimeter landscaping shall be comprised of any combination of trees, evergreen shrubs, berms, walls, and fences that form a continuous screen along the perimeter of the vehicle use area that will be at least 75 percent opaque within one year and at least 30 inches above ground level at the time of installation, subject to the following standards:

- a. Screening within a perimeter landscaping strip between a vehicle use area and a street shall be designed to screen the headlights of vehicles in the vehicle use area yet allow security surveillance of vehicle use areas from the adjacent street. Ways to achieve this include, but are not limited to, limiting the height of the largely opaque screening to three feet or using landscape features above a height of three feet that are at least 75 percent transparent (e.g., see-through metal railing or a trellis).
- b. Screening within a perimeter landscaping strip between a vehicle use area and a street shall allow compliance with all applicable sight distance and intersection sight distance area standards in the Engineering and Design and Construction Manual.
- c. The perimeter landscaping strip between a vehicle use area and a street shall not be located within any future street right-of-way whose boundary is delineated or otherwise established by the Comprehensive Plan.
- d. The perimeter landscaping strip shall be located on the same property as the vehicle use area.
- e. Any planted trees or shrubs shall comply with the standards in Section 5.12.3.A, New Planting Standards.



- f. Any wall or fence shall comply with the standards in Section 5.14, Fences and Walls.
- g. Ground cover or turf shall be planted in all areas not covered by trees, shrubs, or walls.

3. Width

The perimeter landscaping strip shall be the minimum width necessary to adequately accommodate the proposed plantings and other screening materials and avoid damage to such materials by vehicles within the vehicle use area. In no instance shall the strip be less than four feet wide.

4. Credit Towards Other Landscaping Requirements

- a. Perimeter landscaping associated with a vehicle use area may be credited towards compliance with perimeter and streetyard buffer standards to the extent landscaping within the strips complies with applicable buffer standards (see Section 5.7, Perimeter and Streetyard Buffers).
- b. Existing trees retained on a site in accordance with the standards in Section 5.4, Tree Protection, can be credited towards the perimeter landscaping standards associated with a vehicular use area, provided the trees meet the minimum size at time of planting standards in Section 5.12.3.A, New Planting Standards, and the trunks are physically located within ten feet of the required perimeter landscaping boundary.

(Ord. No. 2014-051, 11/10/2014)

D. Interior Landscaping Standards

Vehicle use areas, except those containing 15 or fewer vehicle parking spaces, shall provide and maintain landscaped islands within the interior of the vehicle use area in accordance with the following standards. These standards shall not apply to parking structures.

1. General

- a. For each 2,000 square feet of area within a vehicle use area, at least one shade tree and ten shrubs meeting the standards in Section 5.12.3.A, New Planting Standards, shall be provided. Up to 25 percent of the shrubs may be deciduous.
- b. Understory trees may be substituted for shade trees in areas beneath or immediately adjacent to overhead utilities or exterior lighting fixtures.
- c. Those parts of planting islands not containing required shade trees shall be landscaped with other trees, shrubs, or ground cover.

2. Planting Islands within Parking Bays

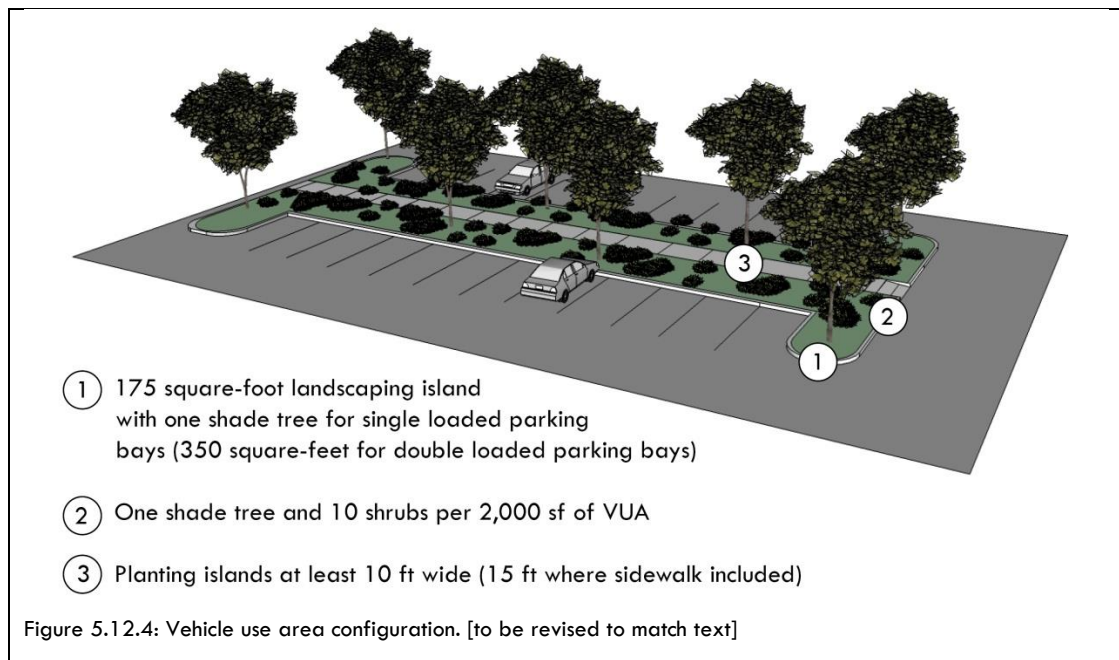
- a. A planting island shall be provided at each end of every row of parking spaces. Where a row of parking spaces contains more than 20 parking spaces, additional planting islands shall be provided at a spacing no greater than one island at the end of every 20 contiguous parking spaces.
- b. A planting island at the end of single-loaded parking bays shall be at least 175 square feet in area. A planting island at the end of double-loaded bays shall be at least 350 square feet in area.
- c. Each planting island shall be at least ten feet wide. If the planting islands at the ends of parking bays include a connecting walkway, they shall be at least 15 feet wide and designed to maximize shading of the walkway and minimize disturbance of vegetation by pedestrians.
- d. Each planting island shall contain at least one shade tree.

3. Planting Islands Between Parking Bays

- a. A planting island at least ten feet wide shall be provided between at least every three parallel parking bays. If the planting island includes a walkway, it shall be at least 15 feet wide and

designed to maximize shading of the walkway and minimize disturbance of vegetation by pedestrians.

- b. The planting island shall include shade trees spaced no more than 40 feet apart.



5.12.5. Foundation Plantings

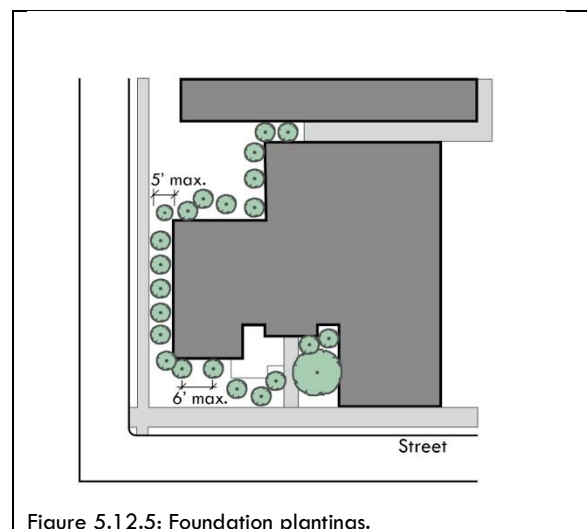
A. Purpose and Intent

Foundation plantings are intended to soften the visual impact of building foundations and provide for the even dispersal of shrubs along building facades. They consist of evergreen and deciduous shrubs planted around a building's foundation to help soften its appearance.

(Ord. No. 2016-001, 05/10/2016)

B. Applicability

1. All new development shall plant shrubs along any building foundation that faces:
 - a. A street; or
 - b. An off-street parking facilities or driveway, unless separated from the building by only a paved walkway.
2. This requirement shall not apply to a building foundation constructed along or within one foot of the street right-of-way boundary, or along those parts of a building facade containing building entrances, driveways into garages or carports, or loading docks.



(Ord. No. 2015-002, 04/29/2015; Ord. No. 2016-001, 05/10/2016)

C. Foundation Planting Standards

The required shrubs shall:

1. Be planted within five feet of the building foundation, or of any patio, terrace, or courtyard extending from the foundation;
2. Be planted in a foundation bed that is a minimum of 3 feet in width;
3. Maintain a maximum on-center spacing of six feet, and be evenly-distributed along foundation walls;
4. Include a both evergreen and deciduous vegetation of varying heights and species; and
5. Be planted in the ground, within planters, or in decorative pots. (See Figure 5.12.5: Foundation plantings.)

(Ord. No. 2016-001, 05/10/2016)

5.12.6. Alternative Landscape Plan

A. General

The Planning Director may approve an alternative landscape plan where a deviation from this the standards in Section 5.7, Perimeter and Streetyard Buffers, or this Section 5.12, is justified because of site or development conditions that make strict compliance with such standards impossible or impractical. The alternative landscape plan shall indicate how the proposed deviations are justified by site or development conditions and illustrate how compliance with the standard(s) from which a deviation is sought can be achieved to the maximum extent practicable. Conditions justifying approval of an alternative landscape plan may include:

1. Natural conditions, such as watercourses, natural rock formations, or topography;
2. The likelihood that landscaping material would be ineffective at maturity due to topography, placement, or other existing site conditions;
3. Lot size or configuration;
4. Infill development or redevelopment on small lots;
5. The presence of existing utility or other easements;
6. The potential for interference with public safety; and
7. Other situations where strict adherence to the buffer or landscaping standards in this Ordinance are determined impractical by the Planning Director.

B. Submittal and Review

An applicant may submit an alternative landscape plan as part of an application for Conceptual Master Plan Approval, Type 1 Subdivision Preliminary Plat Approval, Type 2 Subdivision Preliminary Plat Approval, Site Plan Approval, or Construction Plan Approval, as appropriate. The Planning Director may approve an alternative landscape plan if it meets the purpose and intent of the perimeter and streetyard buffer standards in Section 5.7 or the landscaping standards in this Section 5.12, as appropriate. Additional review fees are assessed to cover the Town's additional costs in reviewing alternative landscape plans

(Ord. No. 2016-001, 05/10/2016)

C. Allowable Deviations

Allowable deviations from the perimeter standards in Section 5.7 and the landscaping standards in this Section 5.12 include, but are not limited to, the following:

1. Reduced Planting Rates due to Existing Public Utilities

An adjustment to planting locations or reduction of up to 20 percent in the total number of required trees or shrubs may be allowed when underground connections to public utilities or public easements or rights-of-way, are located upon or in close proximity to the parcel.

(Ord. No. 2016-001, 05/10/2016)

2. Reduction in Standards due to Nature of Parcel

A reduction in the count or spacing standards by up to 20 percent may be allowed when desirable in terms of enhanced protection of existing natural resources, greater consistency with the goals of the Comprehensive Plan, or a site design that exceeds the quality of what would otherwise result under a strict application of the standards in this Ordinance.

3. Reduction in Standards due to Site Size

A reduction in the count, configuration, or location of required landscaping materials may be allowed in cases where a lot is nonconforming in terms of dimensional requirements or setbacks, or in cases of redevelopment on existing small lots, is not capable of supporting the minimum amount of landscaping material required.

4. Upgrading of Nonconforming Landscaping

An adjustment to planting locations or spacing may be allowed in conjunction with an upgrading of nonconforming buffer or landscaping in accordance with Section 9.7, Nonconforming Site Features.

5. Reduction in Standards due to Existing Infrastructure

A reduction in the count, configuration, or location of required landscaping materials is permitted in cases where landscaping is strictly prohibited since it creates a public safety hazard (e.g. headwalls of dams).

(Ord. No. 2016-001, 05/10/2016)

SECTION 5.13. SCREENING

5.13.1. Screening of Exterior Mechanical Equipment

A. Applicability

1. General

- a. Except for bungalow court, pocket neighborhood, single-family detached, single-family attached, duplex, and manufactured dwellings, which is screened with evergreen landscaping, all new development, and expansions to principal structures shall screen the following exterior mechanical equipment and similar features from line of sight of adjacent streets, sidewalks, and greenways in accordance with the standards of this subsection:
 - (1) Electrical and gas-powered mechanical equipment and power systems equipment (e.g., permanent electrical generators, refrigeration equipment and ductwork, swimming pool pumps, back-flow prevention devices);
 - (2) Heating, ventilating, and air conditioning equipment, tanks, and ductwork (e.g., air conditioning condensers and compressors, heat pump condensers and evaporators, air filtration systems, bottled gas tanks, propane tanks), and vent openings greater than eight inches wide;
- b. All new development and expansions to principal structures shall also screen the above mechanical equipment and similar features from line of sight of on-site walkways.
- c. Roof- or wall-mounted antennas, vent openings no more than eight inches wide, the tower and blades of a small wind energy system, or the solar panels or modules of a solar energy collection system shall not be considered exterior mechanical equipment for purposes of these screening standards.

2. Change in Use

- a. Any change in use of an existing development shall be subject to these screening of exterior mechanical equipment standards to the maximum extent practicable.

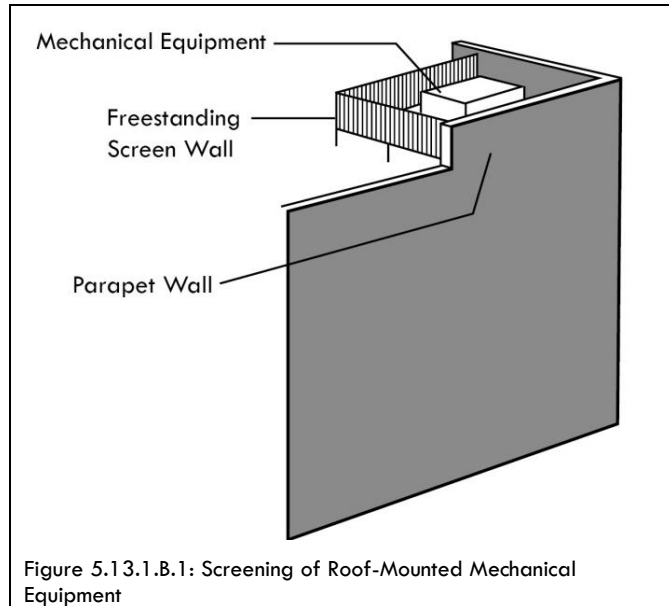
(Ord. No. 2016-001, 05/10/2016)

B. Screening Standards

1. Roof-Mounted Mechanical Equipment

Mechanical equipment mounted on the roof of a building shall be screened from line of sight of adjacent streets, sidewalks, and greenways by a parapet wall, freestanding screen wall, or similar device.

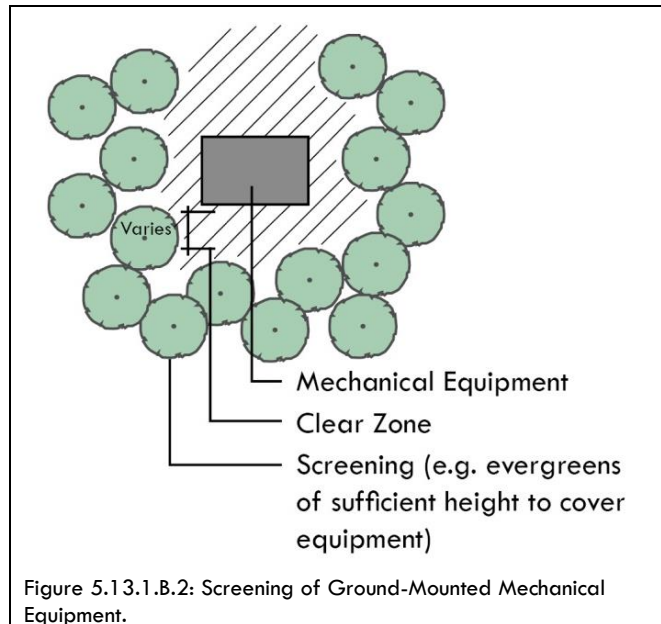
- a. The screening shall incorporate materials, colors, and design that are visually consistent with the building's architectural design.
- b. The height of the screening shall equal or exceed that of the mechanical equipment being screened.



2. Ground- or Wall-Mounted Mechanical Equipment

Mechanical equipment mounted on or near ground-level or on a building wall shall be screened from line of sight of adjacent streets, sidewalks, and greenways by any combination of adjacent buildings and durable and sight-obscuring walls, or in residential developments only, dense continuous hedges. (See Figure 5.13.1.B.2: Screening of Ground-Mounted Mechanical Equipment.)

- a. Screening walls shall incorporate at least one of the primary materials of the nearest wall of the primary structure on the lot.
- b. The height of the screening walls, fences, or hedges shall equal or exceed that of the mechanical equipment being screened.



3. Deviation of Standards

The Planning Director may approve deviations from the screening standards in this subsection on making one or more of the following findings:

- a. The deviation is necessary to comply with overriding life safety requirements or other regulations.

- b. The design of the proposed building and/or mechanical equipment is equally or more effective in mitigating the negative impacts of the mechanical equipment as the required screening.
- c. The required screening itself creates a greater negative impact than the mechanical equipment it is intended to screen.
- d. The deviation is necessary to accommodate existing utility connections or utility easements.

5.13.2. Screening of Off-Street Loading and Service Areas

- A. All exterior off-street loading areas and service areas (e.g. equipment cleaning areas and delivery truck areas) shall be located, oriented, and designed to reduce the adverse visual and acoustic impacts of their use on adjacent streets, sidewalks, and properties to the maximum extent practicable.
- B. Exterior off-street loading and service areas shall be screened from view from adjacent streets, sidewalks, and properties by any combination of adjacent buildings, durable and sight-obscuring walls or fences, or dense continuous hedges.
 - 1. Points of vehicular access into or from the loading or service area need not be screened, provided they are located, oriented, and designed to minimize direct views into the service or loading area from adjacent streets and properties.
 - 2. Screening walls, fences, and hedges shall extend at least six feet above ground level.
 - 3. Screening walls and fences shall incorporate materials, colors, and design that are visually consistent with those of the primary structure on the lot.

(Ord. No. 2015-002, 04/29/2015)

5.13.3. Location and Screening of Commercial Containers

A. Applicability

1. General

Except as otherwise provided in subsection 2 below, all exterior commercial containers—including, but not limited to, garbage dumpsters and compactors, cardboard receptacles and compactors, large recyclable containers, grease/oil tanks—shall be located and screened from line of view from adjacent streets and properties in accordance with the standards in this subsection.

2. Change in Use

Any change in use of an existing development shall be subject to these location and screening for commercial container standards to the maximum extent practicable.

3. Exemptions

These standards shall not apply to commercial containers placed by or on authority of the Town on a temporary basis or placed for the temporary purpose of disposing of waste generated during construction (e.g., construction waste bins) or demolition activity on the site.

B. Location

Commercial containers shall not be placed in the following locations:

- 1. Any required tree protection area, buffer, or landscaped area;
- 2. Any front, corner side, or side yard in the Transit-Oriented Development (TOD) District, or any front yard or corner side yard in other districts, to the maximum extent practicable;
- 3. Any fire lane;
- 4. Any off-street parking space;

5. Any location that blocks vehicular, bicycle, or pedestrian traffic;
6. Any location that interferes with utility lines or facilities; and
7. Any location where runoff from the container could flow directly into a stormwater drainage system or a water body.

C. Screening of Commercial Containers

1. Commercial containers shall be screened on three sides by a durable, sight-obscuring wall, and enclosed on the fourth side by an opaque, secured gate.
2. If a container is one regularly accessed by pedestrians, the required screening walls shall include an opening at least three feet wide for pedestrian access. This pedestrian opening shall be screened from view by an “L”-shaped extension of a screening wall or a secured metal door. (See Figure 5.13.3.C.2: Screening of Commercial Container with Pedestrian Access.)
3. The height of the screening walls and the gate shall be at least six inches higher than the height of the container.

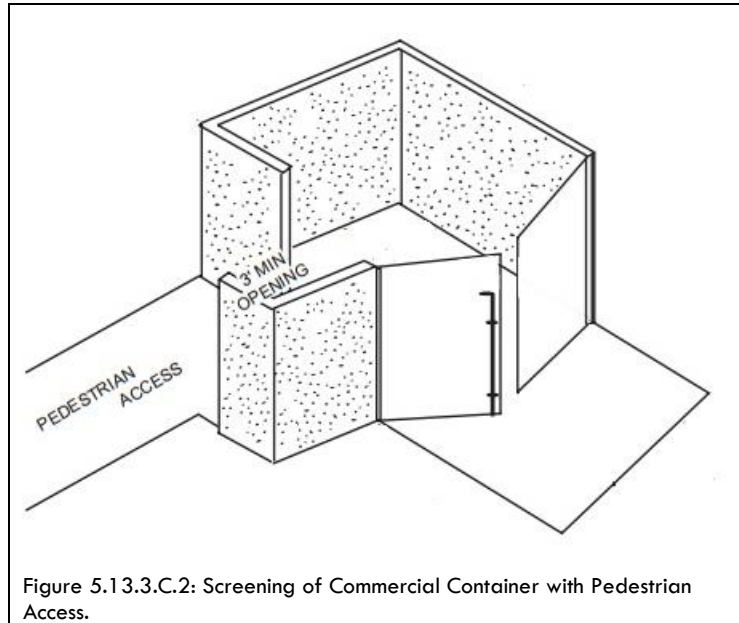


Figure 5.13.3.C.2: Screening of Commercial Container with Pedestrian Access.

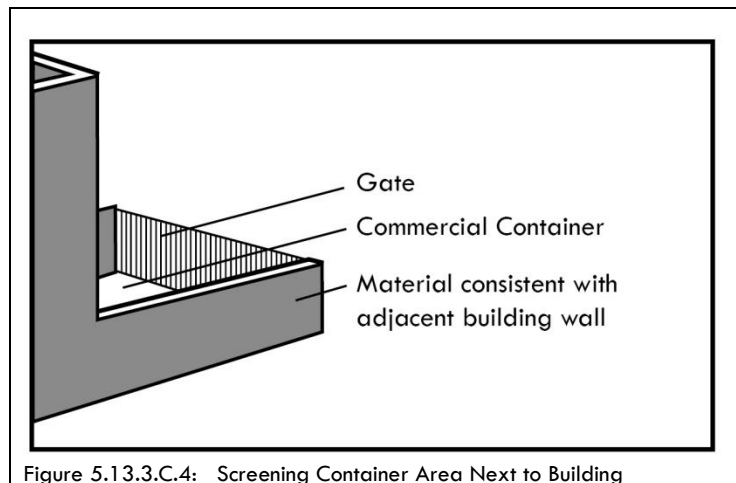
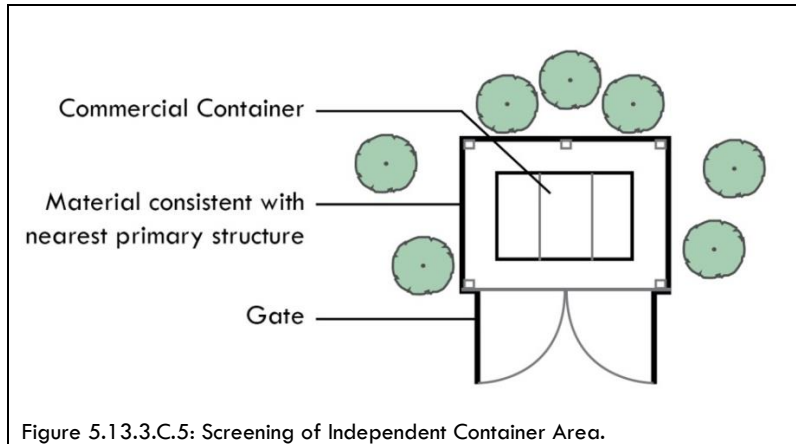


Figure 5.13.3.C.4: Screening Container Area Next to Building

4. Where the container is located next to a building wall, the building wall may serve as a screening wall, and the other screening walls (including any extension from the building wall (e.g., “wing wall”) shall incorporate materials, colors, and design that are visually consistent with that of the adjacent building wall. (See Figure 5.13.3.C.4: Screening Container Area Next to Building, Screening of Container Area Next to Building.)
5. Where the container is not located next to a building, the screening walls shall be constructed of brick, stone, pre-cast or tilt-up concrete, or tinted or textured concrete masonry units. The external sides of the screening walls shall incorporate materials, colors, and design that are visually consistent with those of the nearest primary structure on the lot. (See Figure 5.13.3.C.5, Screening of Independent Container Area.)
6. Where practicable, the external sides of screening walls shall be landscaped to soften their visual impact in accordance with Section 5.14.8.A.6, Fence and Wall Landscaping.
7. The gate shall be constructed of metal or composite wood and shall incorporate colors and design that are visually consistent with those of the screening walls.



SECTION 5.14. FENCES AND WALLS

5.14.1. Purpose

The purpose of this section is to regulate the location, height, and appearance of fences and walls to maintain visual harmony within neighborhoods and the Town, protect adjacent properties from the indiscriminate placement and unsightliness of fences and walls, and ensure the safety, security, and privacy of properties.

5.14.2. Applicability

This section shall apply to all development, new fences or walls associated with the expansion of an existing principal structure, new fences or walls associated with a change in use, or replacement of fences or walls not required for support of a principal or accessory structure, or any other linear barrier intended to delineate different portions of a lot. If there is any inconsistency between the provisions of this section and any screening standard in Section 5.13, Screening, the standards in Section 5.13 shall control.

5.14.3. Prohibited Fences and Walls

A. Barbed Wire, Concertina Wire, and Above Ground Electrified Fences

Fences using barbed or concertina wire and above ground electrified fences shall be prohibited unless used in association with agricultural activities or allowed through an approved security plan (see Section 5.14.9, Security Plan Fences and Walls). Underground electric fences designed for control of domestic animals are allowed.

B. Debris, Junk, Rolled Plastic, Sheet Metal, Plywood, or Other Waste Materials

Fences or walls made of debris, junk, rolled plastic, sheet metal, plywood, or waste materials are prohibited unless such materials have been recycled and reprocessed for marketing to the general public

as building materials that resemble new building materials (e.g., picket fencing made from recycled plastic and fiber).

5.14.4. Limited Fences and Walls Allowed in the Transit-Oriented Development and Main Street Districts

To promote an integrated pattern of development and provide for frequent pedestrian connection, fences and walls in the Transit-Oriented Development (TOD) District and the Main Street (MS) District shall be limited to:

- A.** Fencing used for tree protection (see Section 5.4.6.B, Protective Fencing and Signage);
- B.** Fences and walls used for required screening (see Section 5.7, Perimeter and Streetyard Buffers, Section 5.12.4.C, Perimeter Landscaping, Section 5.13, Screening, and the use-specific standards in Section 4.2.5, Principal Use-Specific Standards, and Section 4.3.5, Accessory Use-Specific Standards);
- C.** Decorative metal sectional fencing used to define outdoor dining areas;
- D.** Decorative metal sectional fencing used to define outdoor child play spaces; and
- E.** Fences required around swimming pools by the Building Code.

5.14.5. Temporary Fences

Temporary fences for construction sites or a similar purpose are exempt from this section provided they:

- A.** Comply with the requirements of the Building Code and all applicable standards of Section 4.4, Temporary Uses and Structures;
- B.** Are not located in a public rights-of-way;
- C.** Provide a knock box that complies with Fire Department regulations, if gated; and
- D.** Are removed within 30 days after construction has been completed, stopped, or halted, or after a one-time extension for up to twelve months is granted by the Planning Director.

(Ord. No. 2015-002, 04/29/2015)

5.14.6. General Requirements for Fences and Walls

A. Location

Fences and walls are permitted along the perimeters of properties and within front, corner side, side, and rear yards except where expressly prohibited by this Ordinance, the Building Code, or other Town ordinances.

B. Fences and Walls near Fire Hydrants

Fences and walls shall not be located where they would prevent immediate view of, or access to, fire hydrants or other fire-fighting water supply devices, in accordance with the Fire Prevention Code.

C. Fences and Walls in Easements

Fences and walls shall be prohibited within utility easements except to the extent approved by the Town Engineer or Town of Cary, as appropriate, after finding the fence would not impede the purpose or function of the easement, including access to the easement for maintenance purposes. The Town shall not be responsible for damage to, or the repair or replacement of, fences that must be removed to access such easements. Appropriate access gates may be required to allow maintenance of the easement.

(Ord. No. 2014-022, 06/24/2014)

D. Blocking Natural Drainage Flow

No fence or wall shall be installed so as to block or divert a natural drainage flow on to or off of any other land.

(Ord. No. 2014-022, 06/24/2014)

E. Fences Around Swimming Pools

A fences or wall shall be provided around outdoor swimming pools in accordance with the Building Code's swimming pool barrier enclosure standards.

(Ord. No. 2014-022, 06/24/2014)

5.14.7. Height Requirements for Fences and Walls

A. Applicability

1. General

- a. Except where exempted by subsection 2, fences or walls shall comply with the height limits in this subsection.
- b. Fence or wall height is measured from natural grade.
- c. If a fence is constructed on top of a wall or berm, the combined height of the fence plus wall or berm shall not exceed the maximum height that would apply to the fence or wall alone.

2. Exemptions

a. Required Screening

A fence or wall provided to meet the standards of Section 5.13, Screening, is exempt from the height standards of this subsection.

b. Recreational Fencing

Customary fencing provided as a part of a permitted tennis court, athletic field, or other recreational facility shall be exempt from the height restrictions of this subsection.

c. Deer Fencing

Fencing provided as a part of a garden associated with the production of field crops, fruits, and vegetables shall be exempt from the height restrictions of this subsection.

B. Fences and Walls Within Intersection Sight Distance Areas

The height of a fence or wall within an intersection sight distance area shall be limited as necessary to avoid obstructing sight visibility, in accordance with the Engineering Design and Construction Manual.

C. Public Safety Use Fences and Walls

Major utilities, telecommunications towers, government facilities, and other public safety uses shall be allowed to increase maximum fence or wall heights to ten feet in front, corner side, side, and rear yards, unless further increased through an approved security plan—see Section 5.14.9, Security Plan Fences and Walls.

D. Fences and Walls

Except in the Historic Crossroads Village, Transit-Oriented Development District, and Main Street Districts, fences and walls shall comply with the following height requirements:

1. No fence or wall within a front yard shall exceed a height of four feet.
2. No fence or wall within a corner side yard, side yard, or a rear yard shall exceed a height of eight feet.

E. Fences and Walls in the Historic Crossroads Village (HCV) District

1. No fence or wall within a front yard shall exceed a height of four feet.
2. No fence or wall within a corner side yard, side yard or a rear yard shall exceed a height of eight feet.

F. Fences and Walls in the Transit-Oriented Development (TOD) and Main Street (MS) Districts

Fences and walls in the Transit-Oriented Development (TOD) District and the Main Street (MS) District shall comply with the following standards.

1. Fencing used to define outdoor dining areas shall not exceed a height of three feet.
2. Fencing used to define outdoor child play spaces shall not exceed a height of six feet.

(Ord. No. 2016-001, 05/10/2016)

5.14.8. Appearance

A. General

Except as otherwise provided in subsections B and C below, the following appearance standards shall apply to all fences and walls.

1. Customary Materials

Except where otherwise provided in this Ordinance, fences shall be constructed of any combination of treated or composite wood posts and planks, rot-resistant wood (such as cypress or redwood), wrought iron, vinyl, or decorative metal materials. Walls shall be constructed of brick, stone, masonry materials, or products designed to resemble these materials. Where certain materials are specified for particular types of buffer or screening fences or walls, all other materials are prohibited.

2. Chain Link Fencing

Chain link fencing is allowed, unless expressly prohibited, only:

- a. In the Industrial Management (IM) District;
- b. As part of security fencing approved in accordance with Section 5.14.9, Security Plan Fences and Walls; or
- c. In any district, around park or recreation facilities, telecommunications towers, pump stations, stormwater detention/retention ponds, and outdoor exercise areas associated with kennels—provided such fence is clad in black vinyl.

3. Deer Fencing

Deer fencing is allowed only around gardens associated with the production of field crops, fruits, and vegetables provided that:

- a. Rot-resistant wood posts are spaced no more than 10 feet; and
- b. The plastic or wire mesh is flanked by rot-resistant wood.

4. Finished Side to Outside

Fences and walls located within 15 feet of a greenway, and fences and walls in a single-family attached, multifamily, or nonresidential development that are located within 15 feet of a public street right-of-way, shall have their “finished” side face the adjacent greenway or public street. (See Figure 5.14.8.A.4: Fence with Finished Side Out.)



Figure 5.14.8.A.4: Fence with Finished Side Out.

5. Compatibility of Materials Along a Single Lot Side

All fencing or wall segments located along a single lot side shall be composed of a uniform style and colors compatible with other parts of the fence and with any nearby primary buildings on the lot.

6. Fence and Wall Landscaping

Except on lots containing single-family detached, duplex, or manufactured home dwellings, fences and walls over four feet in height and located within 15 feet of a greenway or a street right-of-way or easement shall be supplemented with landscape screening to soften the visual impact of the fence, in accordance with the standards below. (See Figure 5.14.8.A.6: Fence and Wall Landscaping.)

- a. Evergreen shrubs shall be installed on the exterior side of the fence or wall at an average spacing of one per five linear feet of fence or wall length.
- b. Shrubs shall meet the size standards of Section 5.12.3.A, New Planting Standards, and may be installed in a staggered, clustered, grouped, or linear fashion.
- c. One understory tree may be substituted for every three evergreen shrubs, provided the tree meets the size standards of Section 5.12.3.A, New Planting Standards.
- d. Required fence and wall landscaping may be integrated into the plant materials provided to meet standards for perimeter or streetyard buffers (Section 5.6) or vehicular use area screening (Section 5.12.4).

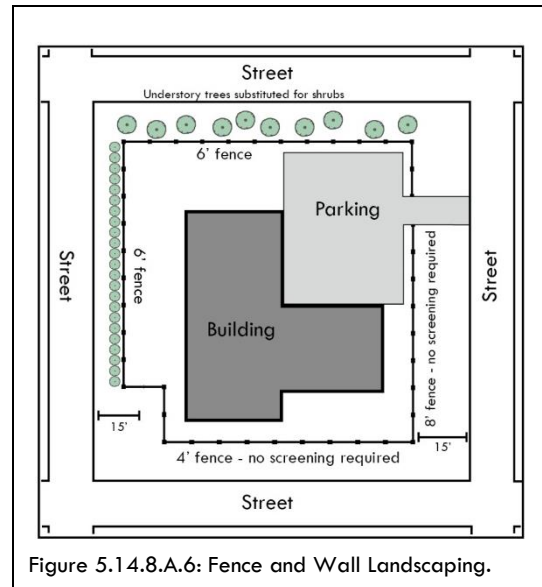


Figure 5.14.8.A.6: Fence and Wall Landscaping.

B. Fences in the Historic Crossroads Village (HCV) District

1. Fences shall be of a similar character and color as the principal structure.
2. Masonry walls are prohibited. The use of masonry as a post is permitted.
3. To avoid disruption of the open character of the street frontage, solid privacy fencing and other opaque privacy fencing is prohibited.
4. To maintain an open character, the pickets shall be spaced at least two and a half, but no more than four inches on center.

C. Fences and Walls in the Transit-Oriented Development (TOD) and Main Street (MS) Districts

Fences and walls in the Transit-Oriented Development (TOD) District and the Main Street (MS) District shall comply with the following standards.

1. Fencing Defining Outdoor Dining Areas

- a. Fencing shall have an open character, with slats or other decorative elements spaced at least three inches apart. Opaque fencing is prohibited.
- b. Fencing shall be constructed of aluminum, steel, iron, or similar material. Wood, chain link, or other materials not specifically manufactured for pedestrian control are prohibited.

2. Fencing Defining Child Play Spaces

- a. Fencing shall have an open character, with slats or other decorative elements spaced at least three inches apart unless more stringent standards are required by a State regulatory agency. Opaque fencing is prohibited.
- b. Fencing shall be constructed of aluminum, steel, iron, or similar material with unpainted masonry columns. Wood, chain link, or other materials are prohibited.
- c. Fencing shall be divided by individual four-sided masonry columns spaced no more than 50 feet on center. Each column shall have a cross-section of at least two feet by two feet, project at least one foot from the wall of fence plane towards the adjacent street, be topped with a cap detail for visual interest, and be constructed of the same masonry material on all four sides.

3. All Other Fences and Walls

- a. Walls shall be constructed of a masonry material that is consistent with that of the principal building on the lot.
- b. Fences made of chain link, wire mesh, or other similar materials are prohibited.
- c. Walls and fences shall be divided by individual four-sided masonry columns spaced no more than 50 feet on center. Each column shall have a cross-section of at least two feet by two feet, project at least one foot from the wall of fence plane towards the adjacent street, be topped with a cap detail for visual interest, and be constructed of the same masonry material on all four sides.

(Ord. No. 2015-002, 04/29/2015; Ord. No. 2016-001, 05/10/2016)

5.14.9. Security Plan Fences and Walls

In the Industrial Management (IM) District, an owner or tenant of property, or a representative of a public agency responsible for a public facility, may submit to the Planning Director a site security plan proposing fences or walls taller than those permitted by this section, or the use of barbed or concertina wire atop a fence or wall. The Planning Director shall approve, or approve with conditions, the site security plan and its proposed exemption of fences or walls from the standards of this subsection, on finding that:

- A.** The condition, location, or use of the land, or the history of activity in the area, indicates the land or any materials stored or used on it are in significantly greater danger of theft or damage than surrounding land; and
- B.** The proposed taller fences or walls, or use of barbed or concertina wire, will not have a significant adverse effect on the security, functioning, appearance, or value of adjacent lands or the surrounding area as a whole.

(Ord. No. 2016-001, 05/10/2016)

SECTION 5.15. EXTERIOR LIGHTING

5.15.1. Purpose

This section is intended to regulate exterior lighting to:

- A. Permit the use of exterior lighting at the minimum levels necessary for nighttime safety, utility, security, productivity, enjoyment, and commerce;
- B. Ensure exterior lighting does not adversely impact land uses on adjacent lands by minimizing light trespass, obtrusive light, and glare;
- C. Ensure the safety of motorists by minimizing light spillage and glare onto adjacent streets;
- D. Curtail light pollution, reduce skyglow, and preserve the nighttime environment for the enjoyment of residents and visitors;
- E. Conserve energy and resources to the greatest extent possible; and
- F. Ensure security for persons and properties.

5.15.2. Applicability

A. General

The provisions of this section shall apply to all new or expanded multifamily, nonresidential, and mixed-use development, as well as any new or expanded off-street parking facilities, and any off-street loading area, unless exempted by subsection B below.

(Ord. No. 2015-002, 04/29/2015)

B. Exemptions

The following are exempted from the exterior lighting standards of this section:

1. Lighting within a public street right-of-way or easement that is used principally for illuminating a roadway—but not lighting within a street right-of-way or easement that is designed to illuminate areas outside the right-of-way or easement;
2. Lighting exempt from this Ordinance under state or federal law;
3. FAA-mandated lighting associated with a telecommunications or utility tower or an airport;
4. Lighting for public monuments and statuary;
5. Lighting for flags permitted in accordance with ;
6. Lighting solely for signage (subject to standards in Section 5.16, Signage);
7. Temporary lighting for circuses, fairs, carnivals, theatrical and other performance areas—provided such lighting is discontinued upon completion of the performance;
8. Temporary lighting of construction sites—provided such lighting is discontinued upon completion of the construction activity;
9. Temporary lighting for emergency situations—provided such lighting is discontinued upon abatement of the emergency situation;
10. Security lighting controlled and activated by motion sensor devices for a duration of 15 minutes or less;
11. Underwater lighting in swimming pools, fountains, and other water features; and
12. Holiday or festive lighting—provided such lighting complies with the limitations on temporary lighting associated with holiday decorations and civic events in Section 5.16.2.C.4.

C. Measurement of Light Levels

Light levels are specified, calculated, and measured in maintained foot-candles (i.e., include a maintenance factor for dirt build-up and lamp lumen depreciation) unless specified otherwise. Measurements of light levels shall be taken with a light meter that has been calibrated within two years. They shall be taken at finished grade (ground level), with the light-registering portion of the light meter held parallel to the ground and pointing up. The meter shall have cosine and color correction and an accuracy tolerance of no greater than plus or minus five percent.

5.15.3. Parking and Outdoor Lighting Light Levels

A. Light Levels and Uniformity Ratios for High Pressure Sodium (HPS) and Metal Halide (MH) Lighting

Exterior light levels for high pressure sodium (HPS) and metal halide (MH) lighting shall comply with standards in Table 5.15.3, Light Levels and Uniformity Ratios for High Pressure Sodium (HPS) and Metal Halide (MH) Lighting, for the type of lighting.

Table 5.15.3: Light Levels and Uniformity Ratios for High Pressure Sodium (HPS) and Metal Halide (MH) Lighting				
Type of Lighting	Light Level (foot-candles) [1][2]			Average Light Level to Minimum Light Level Uniformity Ratio
	Maximum	Average	Minimum	
Anchor Tenant in a Major or Neighborhood Shopping Center	n/a	4.0	0.2	4:1
Loading Dock	n/a	3.0	0.2	4:1
Nonresidential Parking Lot	n/a	3.0	0.2	4:1
Vehicle Sales	20.0	n/a	0.2	5:1
Vehicular Canopy	20.0	n/a	0.2	4:1
<p>Notes: n/a = not applicable</p> <p>[1] Maximum and average light levels shall be a horizontal measurement at grade or ground level of light level points on a ten-foot by ten-foot point-by-point layout grid in the overall lighted area. They shall be a not-to-exceed value measured or calculated using only the area of the site intended to receive illumination.</p> <p>[2] Measurements and calculations for a new system (after 100 hours of burn-in) shall be multiplied by a maintenance factor of not greater than 0.72 foot-candles for high pressure sodium lighting and 0.64 for metal halide lighting to determine compliance with the standards in this table. For example, if a maximum point measurement of 23 foot-candles was taken on a vehicle sales lot for a new metal halide lighting system, then $23 \times 0.64 = 14.72$ foot-candles.</p>				

B. Light Levels and Uniformity Ratios for Light Emitting Diode (LED) Lighting

Exterior light levels for Lighting Emitting Diode (LED) lighting shall comply with standards in Table 5.15.3.B: Light Levels and Uniformity Ratios for Light Emitting Diode (LED) Lighting, for the type of lighting.

Table 5.15.3.B: Light Levels and Uniformity Ratios for Light Emitting Diode (LED) Lighting				
Type of Lighting	Light Level (foot-candles) [1][2]			Average Light Level to Minimum Light Level Uniformity Ratio
	Maximum	Average	Minimum	
Anchor Tenant in a Major or Neighborhood Shopping Center	n/a	3.0	0.2	4:1
Loading Dock	n/a	2.25	0.2	4:1
Nonresidential Parking Lot	n/a	2.25	0.2	4:1
Vehicle Sales	15.0	n/a	0.2	5:1
Vehicular Canopy	15.0	n/a	0.2	4:1

Notes: n/a = not applicable
 [1] Maximum and average light levels shall be a horizontal measurement at grade or ground level of light level points on a ten-foot by ten-foot point-by-point layout grid in the overall lighted area. They shall be a not-to-exceed value measured or calculated using only the area of the site intended to receive illumination.
 [2] Measurements and calculations for a new system (after 100 hours of burn-in) shall be multiplied by a maintenance factor of not greater than 0.85 foot-candles to determine compliance with the standards in this table.

(Ord. No. 2016-001, 05/10/2016)

5.15.4. Fixture Requirements

A. Building Exterior

1. All fixtures designed to highlight building elements, entrances, signs, or other distinctive architectural features shall be affixed to the building where possible. (See Figure 5.15.4.A: Building Exterior Fixtures.)

2. Fixtures shall be designed to illuminate the building, entrances, walkways or wall-mounted fascia signs.

3. All wall packs shall be located at non-public entrances only.

4. All High Intensity Discharge (HID) and Light Emitting Diode (LED) wall packs shall be full cutoff.

5. All fixtures should be mounted above the wall-mounted fascia sign whenever possible.

6. All fixtures shall be directed downward rather than upward, to the extent practicable. When upward aiming is used, placing low wattage fixtures with shields as needed close to the building to graze the facade is encouraged to minimize reflected light from windows and other surfaces that would be present from a flood design.

7. The following fixtures shall not be permitted:

- a. Fixtures attached to poles designed to illuminate the exterior of a building;
- b. Neon lights or lights that emit a color;
- c. Fixtures that create off-site glare;
- d. Fixtures that flicker, rotate, or flash;
- e. Flood lights;
- f. Fixtures designed to attract attention to themselves; or
- g. Fixtures deemed architecturally non-compatible by the Planning Director.

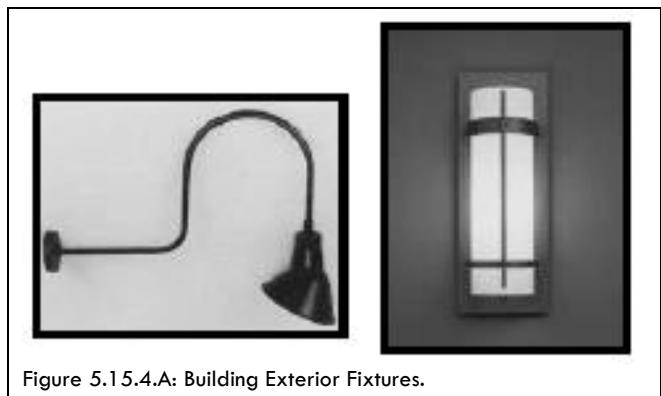


Figure 5.15.4.A: Building Exterior Fixtures.

8. The color and style of the fixture shall complement the architectural character of the building.

B. Canopies and Awnings

1. All fixtures shall be designed to illuminate the underside of a canopy, including nonresidential canopies, or awning.
2. Fixtures shall be:
 - a. Recessed fixtures incorporating a lens cover that is either recessed or flush with the bottom surface (ceiling) of the canopy or awning that provides full cutoff light distribution. (See Figure 5.15.4.C: Recessed Lighting Fixtures.); or
 - b. Surface mounted fixtures incorporating a flat glass that provides a full cutoff or fully shielded light distribution
3. Fixtures shall be low wattage (100 watts or less for HPS or MH, and 1000 lumens or less for LED).
4. The following fixtures shall not be permitted:
 - a. Indirect lighting that is beamed upward to reflect the underside of the canopy or awning;
 - b. Fixtures that do not provide a fully-shielded light distribution; and
 - c. Other fixtures deemed architecturally non-compatible by the Planning Director.
5. The color and style of the fixture shall complement the architectural character of the building.
6. Light levels for nonresidential canopies shall comply with the standards in Section 5.15.3, Parking and Outdoor Lighting Light Levels.



Figure 5.15.4.C: Recessed Lighting Fixtures.

(Ord. No. 2015-002, 04/29/2015)

C. Uncovered Parking and Drive Aisles

1. All fixtures shall be designed to illuminate the parking area or drive aisles.
2. Fixtures mounted higher than 20 feet above ground level shall have a full cutoff light distribution.
3. Fixtures mounted at 20 feet or less shall have a full cutoff light distribution, see Figure 5.15.4.C: Non-Cutoff Fixture, or shall meet all of the following criteria to diffuse light and reduce glare:
 - a. The Illuminating Engineering Society of North America (IESNA) cutoff classification for the fixture shall be cutoff, semi-cutoff or non-cutoff.
 - b. The maximum initial lumens generated by each fixture shall be 9500 initial lamp lumens or less.
 - c. The outer lamp envelope for medium based metal halide lamps shall be coated with an internal white frosting.
 - d. Metal halide fixtures shall be equipped with:
 - (1) An internal "jelly jar" refractive lens;
 - (2) A diffuse outer lens; or
 - (3) A wide-body refractive globe as defined in Section 11.5, Terms and Uses Defined.
 - e. The top of the fixture shall be capped.
4. The following fixtures shall not be permitted:



Figure 5.15.4.C: Non-Cutoff Fixture.

- a. Cutoff where full cutoff is required; and
 - b. Other fixtures deemed architecturally non-compatible by the Planning Director.
5. The color and style of the fixture shall complement the architectural character of the building.
 6. The light pole cannot be greater than 35 feet in height above the ground level at its base. Raised foundations are permissible where appropriate for parking.
 7. Light levels shall comply with the standards in Section 5.15.3, Parking and Outdoor Lighting Light Levels.
 8. The maximum light level shall not exceed one-half the horizontal maintained foot-candles of light trespass at any residential property line.
 9. Service connections for all freestanding fixtures shall be underground.

D. Covered Parking

Garage parking facilities shall be lighted to IESNA recommendations outlined in Table 5.15.4.D: Light Levels and Uniformity Ratios for Covered Parking, for the type of lighting.

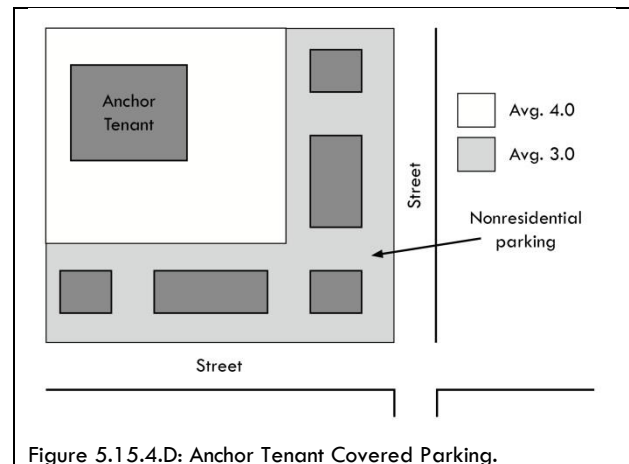


Figure 5.15.4.D: Anchor Tenant Covered Parking.

Table 5.15.4.D: Light Levels and Uniformity Ratios for Covered Parking						
Type of Lighting	Minimum Horizontal Light Level [1]		Maximum Horizontal Light Level to Minimum Horizontal Light Level Uniformity Ratio [3]	Minimum Vertical Light Level [4]		
	Lux	Foot-candle [2]		Lux	Foot-candle [2]	
Basic [5]	10	1	10:1	5	0.5	
Ramps [6]	Day [7]	20	2	10:1	1	
	Night	10	1	10:1	0.5	
Entrance Areas [8]	Day	500	50	250	25	
	Night	10	1	5	0.5	
Stairways	20	2	10:1	10	1	

Notes:

[1] Measured on the parking surface, without any shadowing effect from parked vehicles or columns. For preliminary design, an average value of 50 horizontal lux (5 horizontal foot-candles) for basic illuminance (and equivalent for other conditions) may be calculated.

[2] Rounded conversion of lux to foot-candles.

[3] The highest horizontal illuminance area, divided by the lowest horizontal illuminance area, shall not be greater than the ratio shown.

[4] Measured at 1.5 meters (5.0 feet) above parking surface at the point of lowest horizontal illuminance, excluding facing outward along boundaries.

[5] For typical conditions. While these values are intended to address personal security issues, some retailers may increase them to further offset perceived concerns. Top levels of garages open to the sky shall not exceed 0.5 foot-candles minimum with a maximum to minimum uniformity ratio of 15:1 horizontal and 0.25 foot-candle minimum vertical illuminance (source IESNA 9th edition handbook). The mounting height on the top level of a garage shall not be greater than 22 feet above the parking deck top floor, including raised foundations, and the light fixture classification shall be full cutoff.

[6] Applies to clearway ramps (no adjacent parking) but not to sloping floor designs.

[7] Daylight may be considered in the design calculation.

[8] A high illuminance level for about the first 20 meters (66 feet) inside the structure is needed to effect a transition from bright daylight to a lower internal level.

E. Loading Docks

1. Fixtures shall be full cutoff.

2. Fixtures shall be affixed to an outside building wall or pole (see subsection 4 below for pole height requirements).
3. The color and style of the fixture shall complement the architectural character of the building.
4. The light pole shall not be greater than 35 feet in height above the ground level at its base. Raised foundations are permissible where appropriate.
5. The light level shall comply with Section 5.15.3.
6. The maximum light level shall not exceed one-half the horizontal maintained foot-candles of light trespass at any residential property line.
7. Service connections for all freestanding fixtures shall be underground.

F. Outdoor Sports Fields

1. The mounting height of outdoor sports field lighting fixtures shall not exceed 80 feet from finished grade unless approved by the Town Council.
2. All outdoor sports field and outdoor performance area lighting fixtures shall be equipped with a glare control package such as louvers, shields, or similar devices.
3. The fixtures must be aimed so that their beams are directed and fall within the primary playing or performance area, directed away and/or down from residential areas, and comply with the light trespass limit of 0.5 maintained foot-candle, measured at any residential lot line.
4. The hours of operation for the lighting system for any game or event shall not exceed one hour after the end of the event.
5. Nonconforming fixtures lighting sports fields may be replaced or otherwise changed on an individual/small cluster basis with new non-conforming fixtures. However, when all the fixtures are upgraded or otherwise changed, the fixtures shall be brought into compliance with the requirements of this ordinance, and shall conform to the set standard of type of light projection that is of comparable luminance.

(Ord. No. 2016-001, 05/10/2016)

5.15.5. Permanent String Lighting

A. General

Permanent string lighting may be allowed with a string lighting permit issued by the Planning Director and an electrical permit issued in accordance with the Building Code.

B. Standards

Permanent string lighting shall be:

1. Composed of white lights with a clear bulb;
2. Limited to living landscaping;
3. Affixed to landscaping in a secure manner;
4. UL listed for commercial use;
5. Installed so as not to constrict or otherwise damage the plant at the time of installation or any time thereafter;
6. Installed per the current National Electrical Code with dedicated electrical service receptacle(s) wired underground;
7. Prohibited within a streetyard buffer or public street right-of-way; and
8. Listed by an approved testing agency for "permanent use."

5.15.6. Street Lighting

A. Purpose

Good visibility under day or night conditions is one of the fundamental requirements enabling all users of streets to move on roadways, bikeways, and sidewalks in a safe and coordinated manner. The purpose of this subsection is to ensure street lighting that is properly designed and maintained to produce comfortable and accurate visibility at night and facilitate and encourage both vehicular and pedestrian traffic.

B. Applicability

1. The standards in this subsection shall be applied when any of the following occur:
 - a. A developer requests installation of street lights adjacent to a roadway to be accepted by the Town.
 - b. A Certificate of Compliance/Occupancy is issued in the immediate area of the proposed street light location, provided the proposed location serves a roadway that has been accepted by the Town or by the North Carolina Department of Transportation.
 - c. A thoroughfare or collector street within the corporate limits of the Town is constructed or improved as a part of development.
2. Street lighting facilities and street lights shall be installed, at the developer's expense, on any roadway, portion of roadway, or widening prior to acceptance of that roadway by the Town or North Carolina Department of Transportation for routine maintenance, unless otherwise approved by the Planning Director and Town Engineer.

C. Electrical Distribution Systems for Street Lighting

All underground electrical distribution systems for street lighting shall be installed according to the following standards:

1. Underground service for light fixtures shall be installed in conformance with the electric utility service provider and Town standards at the developer's expense.
2. The placement of street lighting fixtures in residential areas shall be at intervals of 400 to 600 feet unless:
 - a. The roadway length is less than 400 feet, but more than 200 feet, in which case a street light shall be provided at the end of the street and/or in the cul-de-sac;
 - b. The roadway length is less than 200 feet, a street light is placed at the intersection, and no natural features create a problem—in which case a street light is required at the end of the roadway;
 - c. The vertical and horizontal street alignment or natural features necessitate shorter spacing intervals; or
 - d. A decorative pole of less than 25 feet and fixture are proposed.
3. The placement of street lighting along thoroughfares and collector streets, and in nonresidential areas, shall be in accordance with the latest revision of the Illuminating Engineering Society's "American National Standard for Roadway Lighting" and the Town's street lighting policy.
4. A street light shall be provided at all street intersections and adequately light all crosswalks.

D. Street Light Fixtures

1. Along Streets Other than Thoroughfares

a. Residential Areas

- (1) Except as otherwise provided in subsection (2) below, all fixtures along a non-thoroughfare street and located in a residential area shall be either:
 - (A) A Light Emitting Diode (LED) fixture that:
 - (i) Emits no light emitted at or above 90 degrees;
 - (ii) Delivers a minimum delivered lumens of 4,850 or a maximum delivered lumens of 7,100; and
 - (iii) Is located on an electric service provider's gray fiberglass pole, or equivalent, installed at a mounting height of 25 feet or less; and/or
 - (B) A cutoff, semi-cutoff or non-cutoff fixture that:
 - (i) Complies with standards in Section 5.15.4.C, Uncovered Parking and Drive Aisles; and
 - (ii) Is located on an electric service provider's decorative pole installed at a mounting height of 20 feet or less.
- (2) The Town Engineer and Planning Director may approve street lighting exceeding the standards in subsection (1) above where necessary to reduce the length of sag vertical curves, provided the street lights are operational prior to the acceptance of such street by the Town.

b. Nonresidential Areas

(1) Town-Maintained

All fixtures along a non-thoroughfare street maintained by the Town and located in a nonresidential area shall be a Light Emitting Diode (LED) fixture that:

- (A) Emits no light emitted at or above 90 degrees;
- (B) Delivers a minimum delivered lumens of 7,100 or a maximum delivered lumens of 13,650; and
- (C) Is located on an electric service provider's standard gray fiberglass pole installed at a mounting height of 30 feet.

(2) State-Maintained

All fixtures along a non-thoroughfare street maintained by the North Carolina Department of Transportation and located in a nonresidential area shall be a 16,000-lumen, 27,500-lumen, or 28,500-lumen cutoff enclosed high pressure sodium or a Light Emitting Diode (LED) fixture that:

- (A) Emits no light emitted at or above 90 degrees;
- (B) Delivers a minimum delivered lumens of 7,100 or a maximum delivered lumens of 13,650; and
- (C) Is located on an electric service provider's standard gray fiberglass poles installed at a mounting height of 30 feet.

2. Along Thoroughfares

a. Town-Maintained

All fixtures along thoroughfares maintained by the Town shall be a Light Emitting Diode (LED) fixture that:

- (1) Emits no light emitted at or above 90 degrees;
- (2) Delivers a minimum delivered lumens of 7,100 or a maximum delivered lumens of 13,650; and
- (3) Is located on an electrical service provider's standard gray fiberglass poles installed at a mounting height of 30 feet.

b. State-Maintained

(1) Except as otherwise provided in subsection (2) below, all fixtures along thoroughfares maintained by the North Carolina Department of Transportation shall be a 50,000-lumen cutoff, a Light Emitting Diode (LED) or enclosed high pressure sodium (HPS) fixture that:

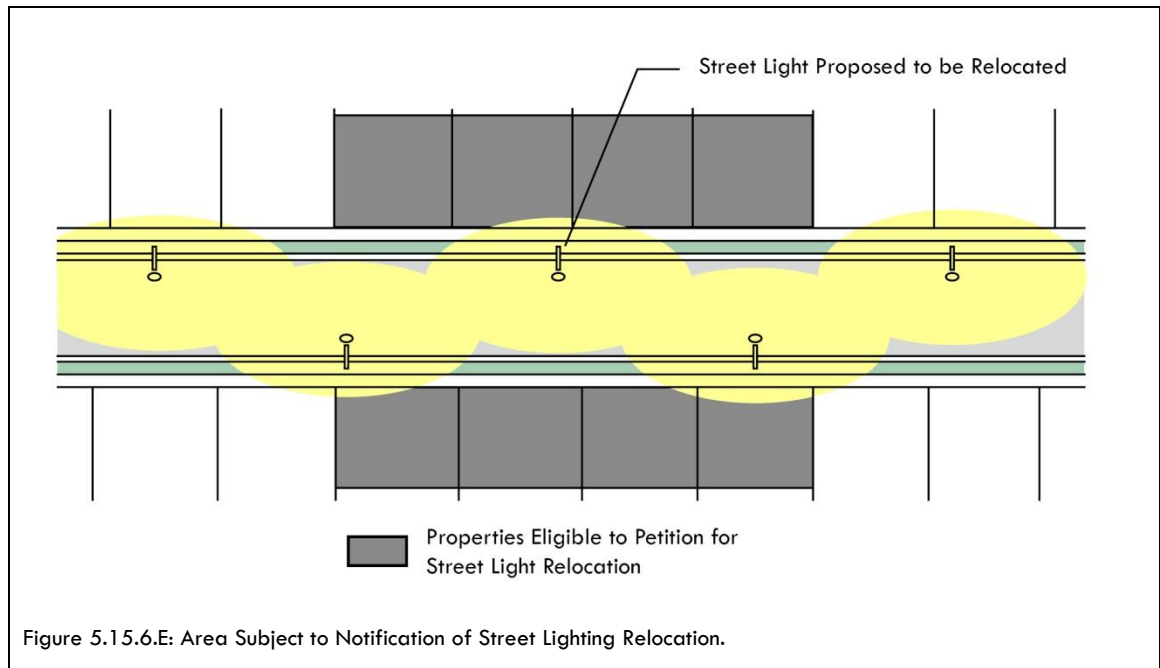
- (A) Emits no light emitted at or above 90 degrees;
- (B) Delivers a minimum delivered lumens of 7,100 or a maximum delivered lumens of 13,650; and
- (C) Is located on an electric service provider's standard gray fiberglass pole, or equivalent, installed at a mounting height of 30 or 35 feet.

(2) In residential areas when spillover from the a 50,000-lumen fixture would be excessive, fixtures may be a 27,500-lumen or 28,500-lumen cutoff, Light Emitting Diode (LED) or enclosed high pressure sodium (HPS) fixture that:

- (A) Emits no light emitted at or above 90 degrees;
- (B) Delivers a minimum delivered lumens of 7,100 or a maximum delivered lumens of 13,650; and
- (C) Is located on an electric service provider's standard gray fiberglass pole, or equivalent, installed at a mounting height of 25 or 30 feet.

E. Relocation of Street Lighting

1. Residents along a street may request, and the Town Engineer and Planning Director may approve, the relocation of a street light subject to the following:
 - a. The request shall be in the form or a petition signed by all persons owning property fronting the street within the boundaries of the next closest installed or proposed street lights. (See Figure 5.15.6.E: Area Subject to Notification of Street Lighting Relocation).



- b. Street light fixture types and locations shall meet the street lighting standards in this subsection.
 - c. The relocation or replacement cost and all facilities abandonment costs shall be paid in full to the electric service provider in advance by the resident(s) requesting the relocation or replacement.
 - d. The Town will not pay for any costs associated with the lighting of private streets or drives.
2. A developer or property owners' or homeowners' association may request, and the Town Engineer and Planning Director may approve, the use decorative street lighting on public streets within a development, subject to the following:
- a. Street light fixture types and locations shall meet the street lighting standards in this subsection.
 - b. The developer or property owners' or homeowners' association shall enter into an Agreement for Upgraded Street Light Services with the Town that makes provisions ensuring that the installation costs and monthly pole charges incurred by the Town for the decorative street lighting fixture will be no greater than those associated with standard street lighting facilities provided in accordance with this subsection.
 - c. All responsibilities of the property owners' or homeowners' association pertaining to the street lighting shall be established in the development covenants. The developer shall inform all purchasers of property in the development of these same responsibilities.

(Ord. No. 2016-001, 05/10/2016)

5.15.7. Additional Standards for the Transit-Oriented Development (TOD) District

The following standards shall apply in the Transit-Oriented Development (TOD) District in addition to the other standards in this section:

A. Fixtures

Shoe-box and cobrahead style fixtures with drop-down lenses extending below the fixture housing are prohibited.

B. Pedestrian Lighting

1. Pedestrian-oriented lighting no higher than 15 feet above the ground shall be provided along all sidewalks and other walkways connecting principal uses to parking areas, the adjacent transit station, and surrounding neighborhoods to enhance security and extend hours of activity.
2. Light fixtures shall be uniformly spaced to ensure that pedestrian areas are well lit and promote pedestrian activity.
3. Pedestrian lighting plans shall be coordinated with landscaping to ensure pedestrian areas are well lit and that conflicts between trees and light fixtures are avoided.

5.15.8. Additional Lighting Standards for the Main Street (MS) District

The following standards shall apply in the Main Street (MS) District in addition to the other standards in this section:

A. Fixtures

Shoe-box and cobrahead style fixtures with drop-down lenses extending below the fixture housing are prohibited.

B. Pedestrian Lighting

1. Pedestrian-oriented lighting no higher than 15 feet above the ground shall be provided along all sidewalks and other walkways connecting principal uses to parking areas and surrounding neighborhoods to enhance security and extend hours of activity.
2. Light fixtures shall be uniformly spaced to ensure that pedestrian areas are well lit and promote pedestrian activity.
3. Pedestrian lighting plans shall be coordinated with landscaping to ensure pedestrian areas are well lit and that conflicts between trees and light fixtures are avoided.

C. Street Lighting

1. Ornamental street lights shall be provided on all streets within the Main Street district at a spacing of 100 feet on center on each side of the street, but staggered on opposite sides of the street so there is a street light every 50 feet along the street.
2. The model and height of ornamental street lights shall be as specified in the Administrative Manual.

SECTION 5.16. SIGNAGE

5.16.1. Purpose

The purpose of this section is to regulate and control signs to:

- A.** Encourage the use of signage as a means of visual communication;
- B.** Safeguard vehicular, bicycle, and pedestrian traffic within streets by minimizing visual distractions to motorists and preventing obstruction of or interferences with traffic signs and signals;
- C.** Preserve property values and community character by promoting quality design in signage and preventing unsightly signage and visual clutter; and
- D.** Minimize possible adverse impacts of signage on adjacent public and private properties.

5.16.2. Applicability

A. General

Except as exempted in subsection B below, no sign shall be erected, installed, constructed, altered, or moved except in accordance with the standards in this section.

B. Exemptions

The following signs are exempt from the signage regulations of this Ordinance:

1. Town, county, state, and federal traffic signs;
2. Historical markers, monuments, or signs erected by public authority;
3. Official notices or advertisements posted or displayed by or under the direction of any court official in the performance of his/her official or directed duties, or by trustees under deeds of trust or other similar instruments;
4. Signs denoting the location of underground utilities;
5. Signs approved by the Town Council for posting in association with municipal, county, state, or federal authorities for crime prevention and public safety and health;
6. Temporary signs advertising Town-sponsored events;
7. Warning signage affixed to tree protection fencing;
8. Flags or emblems of any political unit, government, civic, educational, or religious organization (though not regulated as signs, such flags are subject to the standards for accessory flags and flagpoles in Section 4.3.5.B.13, Flagpole and Flag);
9. Political signs placed within the right-of-way of the State highway system subject to requirements and standards in Section 136-32 of the North Carolina General Statutes; and
10. Signs denoting a product being sold out of a vending machine or self-service container that distributes the product by depositing money into the machine or container, or depositing such money with an attendant.

C. Signs Not Requiring a Sign Permit

The following signs are subject to this Ordinance's signage standards, but are exempt from the requirement for a Sign Permit:

1. A single non-illuminated temporary sign advertising the sale or lease of a dwelling on the same parcel, in residential districts only;
2. Private unofficial traffic signs indicating directions, entrances, exits, or menu boards, provided any such sign does not exceed 12 square feet in area;
3. "Now hiring" signs, provided that any such sign does not exceed 12 square feet in area;
4. Temporary string lighting and displays as part of customary holiday decorations and civic events, provided that:
 - a. The string lighting and displays are not placed in any right-of-way;
 - b. The string lighting and displays are removed once the applicable customary holiday or civic event period ends;
 - c. Temporary string lighting is only affixed to buildings and landscaping, and does not blink, strobe, or flash; and
 - d. The string lighting and displays are not displayed for a period of more than 45 days per customary holiday or civic event.

5. A change of movable or electronic lettering or numbering on permitted changeable copy sign (including electronic signs in accordance with Section 5.16.7.C, Electronic Signs);
6. Private unofficial signs pertaining to regulations, instructions, restrictions, or charge card services, provided the signs do not display the name of a business and are attached to a permitted building or other structure;
7. Municipal, school, recreational, and civic club sponsored signs, schedule of events, rules and regulations, and school and parking signs;
8. Temporary signs advertising an event sponsored by a elementary, middle, or high school, provided the sign is located on the site of the school;
9. Signage located at and secured to each pump island at an automobile service station or any other business selling gasoline that identifies the pumps as self-service and indicates current gasoline prices;
10. Signage at each pump island at an automobile service station or any other business selling gasoline that displays each brand name and emblem of the gasoline sold, the grade of gasoline, and any other related signage, provided the aggregate signage area per pump island shall not exceed nine square feet;
11. Signage directly affixed to the interior or exterior face of windows, other than flashing, blinking, scrolling, waving, fluttering, or floating signs, provided that the total area of all such signage shall not cover more than 20 percent of the window's total area; and
12. Any political sign on Town property that is:
 - a. Located at a polling station, in which case the political sign is only permitted on early voting and election days.
 - b. Sponsored by the Town (e.g. bond referendum).
13. Political signs placed in rights-of-way of streets located within the Town corporate limits and maintained by the Town provided the following standards are met:
 - a. **Duration**

A political sign is permitted beginning on the 30th day before the beginning date of one-stop early voting under NCGS 163-227.2 and ending on the 10th day after the primary or election day.
 - b. **Placement**
 - (1) No political sign shall impede any sidewalk.
 - (2) No political sign shall obscure motorist visibility.
 - (3) A political sign shall be self-supporting.
 - (4) Except at street intersections, political signs for an individual candidate or issue shall be placed at least 500 feet apart.
 - c. **Size**
 - (1) No sign shall be higher than 42 inches above the edge of the pavement of the road.
 - (2) No sign shall be larger than 864 square inches.

(Ord. No. 2015-002, 04/29/2015; Ord. No. 2017-006, 03/28/2017)

D. Prohibited Signs

The following signs are prohibited:

1. Any sign located in any manner or place so as to constitute a hazard to traffic;

2. Any moving sign or device to attract attention, all or any part of which moves by any means, including floating, fluttering, rotating, or otherwise moving devices, set in motion by movement of the atmosphere or by mechanical, electrical, or any other means including, but not limited to, pennants, flags, propellers, balloons or discs, whether or not any device has a written message;
3. Any flashing sign or device displaying flashing or intermittent lights or lights of changing degrees of intensity;
4. Any permanent illuminated tubing or strings of lights outlining property lines, open sales areas, rooflines, doors, windows, edges of any building, and fencing;
5. Any sign that obstructs or substantially interferes with any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress or egress for any building;
6. Any portable sign, including any sign painted on or displayed on vehicles or trailers placed or parked in such a manner as to be used primarily for the purpose of advertising a business, but not including signs painted or displayed on vehicles and used solely to identify the owner, business, agency, or activity for which the vehicle is regularly used for transportation, service, or delivery purposes;
7. Any sign that is a copy or imitation of an official sign or purports to have official status;
8. Any temporary sign or banner except as specifically permitted in Section 5.16.6, Standards for Temporary Signs;
9. Any sign within 100 feet of a controlled-access right-of-way;
10. Any sign emitting sound and/or smoke to attract attention;
11. Persons holding, spinning, tossing, waving, or moving any device used as advertising signage;
12. Use of vegetation as signs for advertising;
13. A series of two or more signs placed in a line or in a similar fashion, part of which is carrying advertising, messages, or products;
14. Any sign, whether permanent or temporary, that is attached, tied, or affixed to benches, bus stop shelters, planters, utility poles, traffic sign poles, refuse containers, rocks, trees, or bushes—unless permitted as a light pole banner sign (see Section 5.16.6.A.5, Light Pole Banner Signs);
15. A political sign larger than 864 square inches;
16. A political sign higher than 42 inches, measured at the adjacent ground level;
17. A non-self-supporting political sign; and
18. Any political sign on Town property unless the sign is allowed per Section 5.16.2.C, Signs Not Requiring a Sign Permit.

(Ord. No. 2017-006, 03/28/2017)

5.16.3. General Sign Standards

A. Off-Premise Signs Not Allowed

No sign shall be permitted that directs attention to any business, profession, service entertainment, product, or activity located on any premises other than the premises where the sign is located, unless specifically allowed in Section 5.16.6, Standards for Temporary Signs.

B. Signs in Rights-of-Way

1. No sign or sign-related structure shall be erected, constructed, or maintained in any State-maintained right-of-way except in accordance with N.C.G.S. 136-32.

2. No sign or sign-related structure regulated under this ordinance shall be erected, constructed, or maintained in any Town-maintained right-of-way, except for the following:
 - a. Political signs in accordance with Section 5.16.2.C.12;
 - b. Off-site directional signs in accordance with Section 5.16.6.A.4, Off-Site Temporary Directional Signs;
 - c. Light pole banner signs in accordance with 5.16.6.A.4, Light Pole Banner Signs;
 - d. Temporary directional signs to residential developments in accordance with Section 5.16.6.B, Special Standards for Temporary Directional Signs to Residential Developments; and
 - e. Ground signs located within a median of a divided road with approval from the Morrisville Board of Adjustment, provided the maximum height of such signs is 42 inches.

C. Obstruction of Sight Distance

Signs shall not be located in and/or obstruct any driveway, road, or alley sight distance triangle.

5.16.4. Standards for Specific Sign Types

All signs except special purpose signs (see Section 5.16.5) and temporary signs (see Section 5.16.6) shall comply with the standards in Table 5.16.4, Standards for Specific Sign Types, applicable to the type of sign, based on the zoning district in which the sign is located and/or the use classification or type of the principal use that the sign is identifying.

Table 5.16.4: Standards for Specific Sign Types												
	Base/Conditional Districts											
Zoning District:	PGO, VLDR, LDR, MDR, HDR, TCR, RT, RNP			NAC, TOD, MS [1]			HCV [2]	BAC, CAC, RAC, TCC, CC, OI				IM
Use:	Institutional	Office	All Other	Institutional	Office	All Other	All	Institutional	Office	Shopping Center [3]	All Other	All
A. Ground-Mounted Signs												
Max. Number	1 per lot			1 per lot			1 per lot	1 per lot		1 along each thoroughfare or collector road adjacent to the development	1 per lot	1 per lot
Max. Area per Sign Face	16 sf	16 sf	12 sf	32 sf	12 sf	24 sf	4 sf	32 sf	32 sf	64 sf	32 sf	32 sf
Max. Height	10 ft	5 ft	5 ft	15 ft	5 ft	15 ft	6 ft	15 ft	15 ft	15 ft	15 ft	15 ft
a. Sign height shall be measured from the finished grade of the ground to the top of the sign structure. b. All ground signs shall be secured to the ground so as not to create a public safety hazard and meet all NC Building Code requirements. c. Both sides of a two-sided sign shall be identical. d. If more than one ground sign is permitted, no more than one sign is permitted on each road; except that one of the permitted signs can be located at the intersection.												
B. Wall-Mounted Fascia Signs [6]												
Max. Number [5]	1 per building			2 per single tenant building or 1 per tenant in multi-tenant building [4]			1 per building	2 per single tenant building or 1 per tenant in multi-tenant building [4]				1 per building
Max. Area per Sign Face	16 sf	16 sf	12 sf	1 sf per lf of building frontage			16 sf	2 sf per lf of building frontage				2 sf per lf of building frontage

Table 5.16.4: Standards for Specific Sign Types

Base/Conditional Districts												
Zoning District:	PGO, VLDL, LDR, MDR, HDR, TCR, RT, RNP			NAC, TOD, MS [1]			HCV [2]	BAC, CAC, RAC, TCC, CC, OI				IM
Use:	Institutional	Office	All Other	Institutional	Office	All Other	All	Institutional	Office	Shopping Center [3]	All Other	All
Max. Height	10 ft	10 ft	10 ft	10 ft	10 ft	15 ft	10 ft	10 ft	n/a	n/a	n/a	n/a
Max. Wall Coverage	30% of building or tenant facade wall where the sign is affixed											
a. Signs shall not extend more than 12 inches from a building wall and shall be placed flat against the wall so that any sign message reads parallel with the wall. b. No sign shall be placed on a roof, or project above a roofline, unless the projection is no more than 50 percent above the deck of a flat roof when installed on a parapet wall. c. Signs placed on a nonresidential canopy cannot extend below the underside of the canopy.												
C. Projection Fascia Signs [6]												
Max. Number [5]	1 per building			2 per single tenant building or 1 per tenant in multi-tenant building [4]			n/a	2 per single tenant building or 1 per tenant in multi-tenant building [4]				1 per building
Max. Area per Sign Face	16 sf	16 sf	12 sf	1 sf per lf of building frontage				2 sf per lf of building frontage				2 sf per lf of building frontage
Max. Height	12 ft			12 ft				15 ft				15 ft
Min. Clearance	8 ft			8 ft				8 ft				8 ft
Max. Projection from Building	4 ft			4 ft				4 ft				4 ft
a. No sign shall be placed on a roof or project above the roofline unless the projection is no more than 50 percent above the deck of a flat roof when installed on a parapet wall. b. Projection signs shall not swing. c. In the Transit-Oriented Development (TOD) and Main Street (MS) Districts, projection signs may project into the public right-of-way (over the sidewalk). d. No sign shall be placed on a roof, project above a parapet wall or an architectural feature, and/or project more than 50 percent above the deck of a flat roof when installed on a parapet wall.												

Table 5.16.4: Standards for Specific Sign Types

Base/Conditional Districts												
Zoning District:	PGO, VLDL, LDR, MDR, HDR, TCR, RT, RNP			NAC, TOD, MS [1]			HCV [2]	BAC, CAC, RAC, TCC, CC, OI				IM
Use:	Institutional	Office	All Other	Institutional	Office	All Other	All	Institutional	Office	Shopping Center [3]	All Other	All

D. Bracket-Mounted Signs [6]

Max. Number	n/a	1 per building or 1 per tenant in multi-tenant building	1 per building	1 per or tenant in multi-tenant building	n/a
Max. Dimensions		3 ft long 2 ft high	3 ft long 1 ft high	5 ft long 2 ft high	
Min. Clearance		8 ft	8 ft	8 ft	
Max. Projection from Building		4 ft	4 ft	4 ft	

- a. The bottom of the sign shall extend no more than 18 inches below the canopy or building overhang from which the sign hangs.
 b. Bracket-mounted signs shall not swing.
 c. The sign shall be placed directly adjacent to the main entrance to the business it serves.

E. Awning-Mounted Signs

Max. Number [5]	1 per building			2 per single tenant building or 1 per tenant in multi-tenant building [4]			n/a	2 per single tenant building or 1 per tenant in multi-tenant building [4]				1 per building
Max. Area per Sign Face	16 sf	16 sf	12 sf	64 sf	32 sf	1 sf per lf of building frontage		64 sf	32 sf	2 sf per lf of building frontage	2 sf per lf of building frontage	2 sf per lf of building frontage
Max. Height	3 ft above awning base			6 ft above awning base				8 ft above awning base				
Max. Wall Coverage	30% of building or tenant facade wall where the awning is affixed											

- a. Awning-mounted signs shall be limited to awnings associated with the primary entrances on the ground floor of buildings.
 b. Signage shall be:
- Suspended under an awning, perpendicular to the wall to which the awning is attached; or
 - Mounted partially or entirely above the upper edge of the awning valence of an awning extending parallel to the ground, parallel to the wall to which the awning is attached. (See illustration below.)



F. Marquee Signs [6]

Max. Number	n/a	1 per building	n/a	1 per building	n/a
Max. Area		32 sf		64 sf	
Max. Height		12 ft		15 ft	
Min. Clearance		8 ft		8 ft	

Table 5.16.4: Standards for Specific Sign Types

Base/Conditional Districts												
Zoning District:	PGO, VLDL, LDR, MDR, HDR, TCR, RT, RNP			NAC, TOD, MS [1]			HCV [2]	BAC, CAC, RAC, TCC, CC, OI				IM
Use:	Institutional	Office	All Other	Institutional	Office	All Other	All	Institutional	Office	Shopping Center [3]	All Other	All

G. Sandwich Board Signs

Max. Number	n/a	1 per building or 1 per tenant in multi-tenant building	n/a	1 per building or 1 per tenant in multi-tenant building	n/a
Max. Area per Sign Face		8 sf		8 sf	

A sandwich board sign shall not be:
 a. Permanently affixed to the ground or surface upon which it is located;
 b. Placed in any area other than the sidewalk directly adjacent to the main entrance to the business it serves;
 c. Displayed during non-business hours; and
 d. Located where interfere with the flow of pedestrian traffic along the sidewalk.

Notes: sf = square feet ft = feet n/a = not applicable X = not allowed

- [1] In the Main Street (MS) District, no more than two sign types, excluding sandwich board signs (e.g., a wall-mounted fascia sign and a projection sign), may be used for a single business, and no ground-mounted signs are allowed along the “pedestrian main street.”
- [2] In the Historic Crossroads Village (HCV) District, all signs shall be constructed of durable materials that are compatible with the design and character of the building they serve and shall be designed to reflect the residential scale and historic character of the district. (See Figure 5.16.4: Historic Crossroads Village Signs.)
- [3] Includes both major and neighborhood shopping centers.
- [4] Except where prohibited:
 - A tenant in a multi-tenant building is allowed a second sign if the tenant is located on the corner of the building or if the second sign is located on the facade wall directly adjacent to the business it serves. In no instance shall the signs be located on the same facade wall.
- [5] A single tenant building is permitted a maximum of two wall-mounted fascia, projection fascia, and/or awning-mounted signs. A tenant of a multiple tenant building can have a wall-mounted fascia, projection fascia, and/or awning-mounted sign if the standards in [4] above are met.
- [6] Except of office buildings greater than 100,000 square feet, the sign shall be located on the facade wall directly adjacent to the business it serves. If the tenant does not abut an exterior facade wall, the following standards apply:
 - The sign shall be located on the facade wall closest to the tenant’s interior space, and
 - Only one wall-mounted fascia-sign is permitted.

(Ord. No. 2014-022, 06/24/2014; Ord. No. 2015-002, 04/29/2015; Ord. No. 2016-001, 05/10/2016)



5.16.5. Standards for Special Purpose Signs

A. Basic Standards for Special Purpose Signs

Table 5.16.5, Standards for Special Purpose Signs, contains standards applicable to various types of signs that serve special purposes, based on the zoning district in which the sign is located and the use classification or type of the principal use that the sign is identifying. This subsection authorizes and regulates signage in addition to that authorized and regulated under Section 5.16.4, Standards for Specific Sign Types.

Table 5.16.5: Standards for Special Purpose Signs

Table 5.16.5: Standards for Special Purpose Signs			
	Base/Conditional Districts		
Zoning District:	PGO, VLDR, LDR, MDR, HDR, HCV ^[1] , TCR, RT, RNP	NAC, TOD, MS ^[2] , BAC, CAC, RAC, TCC, CC, OI, IM	
Type of Development:	All	Office Park, Business Park, Shopping Center ^[2] , or Industrial Park	All Other
1. Address Signs			
Max. Number	n/a	n/a	
Max. Area per Sign Face	2 sf	6 sf	
Max. Height	5 ft	5 ft if ground-mounted; 10 ft if wall-mounted	
2. Contractor/Construction Signs (ground-mounted only)			
Max. Number	2 per lot	2 per lot	
Max. Area per Sign Face	32 sf	64 sf	
Max. Height	15 ft	15 ft	
<p>a. Cannot be installed until after Construction Plan Approval.</p> <p>b. Contractors, developers, finance companies, logos, development name, and future tenant names are permitted on the sign.</p> <p>c. Must be removed prior to the issuance of the first certificate of occupancy.</p>			
3. Residential Development Identification Signs			
Max. Number	1 per development entrance	1 per development entrance	
Max. Area per Sign Face	16 sf	64 sf	32 sf
Max. Height	6.5 ft	15 ft	15 ft
<p>a. Ground signs shall be limited to the entrances of the development.</p> <p>b. A maximum of two ground signs are allowed at each entrance.</p> <p>c. The sign face may be placed on a subdivision wall or fence provided that no part of the wall or fence exceeds six and one-half feet in height. (See Figure 5.16.5.A.3: Example of a Residential Development Identification Sign.)</p> <p>d. Light fixtures and/or decorative elements can be installed on top of a subdivision wall or fence provided that the fixtures and/or elements do not exceed three feet in height.</p> <p>f. A residential development can either have residential development identification signs or a ground-mounted sign (see Table 5.16.4: Standards for Specific Sign Types), not both.</p>			
4. Directional Signs			
Max. Number	n/a	n/a	
Max. Area per Sign Face	10 sf	10 sf	
Max. Height	12 ft	12 ft	
<p>a. Logos are permitted along with the tenant name on directional signage.</p> <p>b. Signs cannot be affixed to a building.</p>			

Table 5.16.5: Standards for Special Purpose Signs

	Base/Conditional Districts		
Zoning District:	PGO, VLDR, LDR, MDR, HDR, HCV ^[1] , TCR, RT, RNP	NAC, TOD, MS ^[2] , BAC, CAC, RAC, TCC, CC, OI, IM	
Type of Development:	All	Office Park, Business Park, Shopping Center ^[2] , or Industrial Park	All Other
5. Directory Signs (ground-mounted only)			
Max. Number	1 per street frontage	1 per street frontage	
Max. Area per Sign Face	16 sf	48 sf	
Max. Height	5 ft	15 ft	
a. Directory signs are allowed only for nonresidential and mixed-use developments with multiple parcels, and standards are applied per street frontage of the development site as a whole. b. Each individual parcel or tenant in a nonresidential or mixed-use development is prohibited from having a ground-mounted sign (see Table 5.16.4: Standards for Specific Sign Types). A directory sign is the only ground-mounted sign option permitted.			
Notes: sf = square feet ft = feet n/a = not applicable X = not allowed [1] In the Historic Crossroads Village (HCV) District, all signs shall be constructed of durable materials that are compatible with the design and character of the building they serve and shall be designed to reflect the residential scale and historic character of the district. (See Figure 5.16.4: Historic Crossroads Village Signs.) [2] Includes both major and neighborhood shopping centers.			

(Ord. No. 2016-001, 05/10/2016)



Figure 5.16.5.A.3: Example of a Residential Development Identification Sign.

B. Signage Related to Automobile Service Stations

The following signage is allowed at automobile service stations selling gasoline:

1. A single sign attached to a ground sign on the site that identifies the pumps as self-service and indicates current gasoline prices, provided the area of such sign shall not exceed 12 square feet (this is in addition to sign face area allowed the ground sign).

(Ord. No. 2015-002, 04/29/2015; Ord. No. 2016-001, 05/10/2016)

5.16.6. Standards for Temporary Signs

This section authorizes and regulates signage in addition to that authorized and regulated under Section 5.16.4, Standards for Specific Sign Types, and Section 5.16.5, Standards for Special Purpose Signs.

A. Basic Standards for Temporary Signs

Table 5.16.6: Standards for Temporary Signs				
		Base/Conditional Districts		
Zoning District:		PGO, VLDR, LDR, MDR, HDR, HCV, TCR, RT, RNP		NAC, TOD, MS, BAC, CAC, RAC, TCC, CC, OI, IM
Type of Development:		Residential	All Other	Residential
				All Other
1. Home Garden Produce Sales Signs				
Max. Number		1 per lot		1 per lot
Max. Area per Sign Face		4 sf		4 sf
Max. Height		n/a		n/a
Max. Duration		60 days		
2. Real Estate Signs				
Max. Number		1 per street frontage		1 per street frontage
Max. Area per Sign Face		2 sf		6 sf
Max. Height	Ground-mounted	5 ft		5 ft
	Wall-mounted			10 ft
Max. Duration		Until sales or lease transaction is completed		
3. Promotional Event Signs				
Max. Number		1 per lot on which promotional event is located		1 per lot on which promotional event is located
Max. Area per Sign Face		32 sf		64 sf
Max. Height		15 ft		15 ft
Max. Duration		60 days		
a. The promotional event sign shall be located on the same zoning lot where the business is located.				
4. Off-Site Temporary Directional Signs				
Max. Number	Special Event Permits	6 per Special Event Permit		
	Temporary Directional for Residential Developments	Section 5.16.6.B.3		
Max. Area per Sign Face		6 sf	10 sf	6 sf
Max. Height		3.5 ft	12 ft	3.5 ft
Max. Duration		Duration of the event to which directions are provided, except as modified by Section 5.16.6.B		
a. For special events that have been issued a special event permit in accordance with Section 4.4.5.B.7, temporary directional signs are permitted only if the location, quantity, and design of the sign are approved by the Planning Director as part of a special event permit.				
b. Off-site temporary directional signs to residential development are also subject to the standards in Section 5.16.6.B.				

Table 5.16.6: Standards for Temporary Signs

Table 5.16.6: Standards for Temporary Signs				
	Base/Conditional Districts			
Zoning District:	PGO, VLDR, LDR, MDR, HDR, HCV, TCR, RT, RNP		NAC, TOD, MS, BAC, CAC, RAC, TCC, CC, OI, IM	
Type of Development:	Residential	All Other	Residential	All Other
5. Light Pole Banner Signs				
Max. Dimensions	28.5 in wide and 6 ft tall			
Min. Clearance for Poles owned/leased by a Power Company	11 ft [2]			
Min. Clearance for Privately Owned Poles	7 ft [2][3]			
a. If the banner extends over the public street, the banner shall include vents or cuts to reduce wind loading. b. The banner shall be affixed to a metal support system manufactured for the specific type of light pole c. The banner shall include pole pockets. d. A banner can only be affixed to a functioning light pole. e. If the banner extends over the public street, it shall have at least 15 ft of clearance above the roadway. f. For nonresidential, mixed-use, and multifamily developments, light pole banner signs cannot be affixed to light poles adjacent to public rights-of-way.				
6. Banner Signs on Ground-Mounted Signs				
Max. Dimensions	3 ft wide and 8 ft tall			
a. Cannot extend over sidewalks or streets. b. The banner shall include vents or cuts to reduce wind loading. c. The banner shall be affixed to a metal support system. d. The banner shall include pole pockets.				
Notes: sf = square feet ft = feet in = inch				

(Ord. No. 2014-051, 11/10/2014; Ord. No. 2016-001, 05/10/2016)

B. Special Standards for Temporary Directional Signs to Residential Developments

1. Temporary residential directional signs are allowed on weekends only to direct the public to the following:
 - a. Single-family and multifamily residential developments that are under construction;
 - b. Multifamily residential development with units available for sale or lease by the property manager or builder;
 - c. Residential dwelling units offered for sale by the owner or the owner's agent;
2. All temporary residential directional signs are subject to the following requirements:
 - a. The color, location, or design or any sign shall not resemble or conflict with traffic control signs or signals.
 - b. The property to which the public is being directed is located within the municipal limits or extra-territorial jurisdiction of the Town of Morrisville.
 - c. Signs shall not interfere with visibility at intersections or railroad crossings.
 - d. Signs shall not be placed on private property without the written permission of the property owner.
 - e. Signs shall be permitted only between the hours of 3:00 p.m. local time on Friday and 5:00 a.m. local time on Monday.

- f. Signs shall be freestanding and self-supporting and may be located in a public road right-of-way, but shall not be attached to any utility structure, tree, fence, or other public or private sign structure.
 - g. Signs shall be placed at least five feet from the edge of the pavement of any roadway except on internal residential subdivision streets, where signs can be placed between the street and sidewalk provided that they do not interfere with or obstruct a motorist's view of pedestrian or vehicular traffic.
 - h. One sign per open house, auction, or sale may be placed in the vicinity of a street intersection. A maximum of two signs may be permitted in the vicinity of an intersection of a major or minor thoroughfare if needed to provide visibility for two directions of travel.
 - i. Except as provided above, any two signs referring to the same property shall be separated by at least 500 feet.
3. Weekend directional signs advertising a residential development under construction, or a multifamily development with units available for sale or lease by the property manager or builder shall satisfy the following conditions in addition to those in subsection 2 above:
- a. Issuance of a permit for the calendar year is required prior to placement of each sign. The maximum number of permits that may be issued for any given development is as shown in Table 5.16.6.B.3, Maximum Number of Weekend Directional Sign Permits for Residential Developments under Construction or For Sale.

Table 5.16.6.B.3: Maximum Number of Weekend Directional Sign Permits for Residential Developments under Construction or For Sale or Lease		
Development under construction [1]	< 200 dwelling units	6
	≥ 200 dwelling units	8 [2]
Existing multifamily development with units for sale or lease by the property manager		4
Notes:		
1. Subdivisions or developments with an approved conceptual master plan or within a Planned Development district shall be collectively treated as a single development project, provided sign copy references the name of the master planned development or the planned development rather than an individual development or neighborhood within it.		
2. The Planning Department may consider requests for additional permits up to a maximum of ten upon finding a unique need based on the size of the project and its location relative to existing roadways.		

- b. The fee for each permit shall be the amount listed in the current Town of Morrisville Planning Department Fee Schedule. All such permits shall expire on December 31st of the year of issuance.
- c. A sticker shall be provided to the applicant for each permit issued. Said sticker shall be affixed to each sign as evidence of permit approval.

(Ord. No. 2016-001, 05/10/2016)

5.16.7. Illuminated Signs

A. Sign Illumination

Unless otherwise expressly prohibited, signs may be internally or externally illuminated; provided, that lighting directed toward a sign shall be shielded in such manner as to illuminate only the face of the sign.

B. Wiring of Electrical Signs

All electric signs with internal wiring or lighting equipment, and all external lighting equipment used to direct light on signs, must bear the seal of approval of an electrical testing laboratory that is nationally

recognized as having facilities for testing and requires proper installation in accordance with the National Electrical Code. All wiring to electric ground signs or to lighting equipment directed to ground signs shall be underground.

C. Electronic Signs

All electronic signs shall be prohibited except as follows:

1. Electronic signs are allowed at automobile service stations only for the display of gasoline prices.
2. Electronic signs indicating time and/or temperature with a minimum duration of eight seconds and static display are allowed. Transmission time between the date and time shall be no longer than two seconds.

D. Sign Illumination in the Historic Crossroads Village (HCV) District

The following additional sign standards shall apply in the Historic Crossroads Village (HCV) District:

1. Small-scale decorative lighting may be used to accent signage; and
2. Internally-lit signage is prohibited.

SECTION 5.17. SUSTAINABLE DEVELOPMENT PRACTICES

[Reserved]

Article 6: Riparian Buffers

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Article 6: Riparian Buffers

SECTION 6.1. PURPOSE

The purpose of the standards in this section is to protect water quality in the Upper Neuse River Basin and the Jordan Lake watershed, including water supplies throughout the Neuse River Basin and Jordan Lake watershed. Specifically, it is intended to protect and preserve existing riparian buffers in accordance with State riparian buffer rules. Vegetative buffers adjacent to surface waters provide multiple environmental protection and resource management benefits. Forested buffers enhance and protect the natural ecology of stream systems, as well as water quality through bank stabilization, shading, and nutrient removal. They also help minimize flood damage in flood prone areas. Well-vegetated riparian buffers help remove nitrogen and prevent sediment and sediment-bound pollutants such as phosphorus from reaching the waters. The riparian buffer standards in this article are intended to achieve these important benefits.

SECTION 6.2. GENERAL

6.2.1. Authority

This article is enacted and administered pursuant to the Town's general authority to regulate development (see Section 1.1.2, Authority) and the local delegation or assignment of authority for the protection and maintenance of riparian buffers granted by the North Carolina Environmental Management Commission in accordance with 15A NCAC 2B .0241 (Neuse River Basin: Nutrient Sensitive Waters Management Strategy: Delegation of Authority for the Protection And Maintenance of Riparian Buffers) and 15A NCAC 02B .0267 (Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian Buffers).

6.2.2. Applicability

A. General

1. Except as otherwise provided in Section 6.2.2.B, Exemptions, this article applies to any development, as well as any other activity listed in Table 6.8, Uses and Activities Permitted in Riparian Buffers, that occurs within riparian buffers directly adjacent to surface waters in the Neuse River Basin and the Jordan watershed (as identified in accordance with Section 6.3, Riparian Buffers), as well as to any development or listed activity that occurs outside of such buffers and has hydrologic impacts in violation of the diffuse flow requirements set out in Section 6.7. No new clearing, grading, or development shall take place, nor shall any new building permits be issued, in violation of the standards in this article.
2. No development or activity subject to this article may occur within a required riparian buffer unless reviewed and approved in accordance with Section 6.5, Riparian Buffer Development Review.
3. Parties subject to this article shall abide by all State rules and laws regarding waters of the state—including, but not limited to, Rules 15A NCAC 2B .0230 and .0231, Rules 15A NCAC 2H .0500, 15A NCAC 2H .1300, and Sections 401 and 404 of the Federal Water Pollution Control Act.

B. Exemptions

1. Existing and Ongoing Uses

- a. This article shall not apply to uses that are existing and on-going. Existing uses may include agriculture, buildings, industrial facilities, commercial areas, transportation facilities, maintained lawns, utility lines, 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. An existing, on-going use is one meeting the following criteria:

(1) Neuse River Basin

A use in the Neuse River Basin is existing if it existed before July 22, 1997 (the effective date of the North Carolina Division of Water Resources' Neuse Rule).

(2) Jordan Lake Watershed

A use in the Jordan Lake watershed is existing only if one of the following occurred before April 26, 2011 (the date the Morrisville Town Council adopted the Riparian Buffer Protection Ordinance):

- (A) If subject to requirements for a 401 Certification/404 Permit, such certification and permit were issued for the use;
 - (B) If subject to a State permit or certification (e.g., for landfills, NPDES wastewater discharges, land application of residuals, and road construction activities), all such State permits and certifications were obtained for the use and construction of the permitted activity began or was under contract to begin;
 - (C) If reviewed through the Clean Water Act Section 404/National Environmental Policy Act Merger 101 Process, an agreement with the North Carolina Department of Environment and Natural Resources (NCDENR) on avoidance and minimization was reached; or
 - (D) If not subject to review through the Clean Water Act Section 404/National Environmental Policy Act Merger 101 Process, a Finding of No Significant Impact pursuant to the National Environmental Policy Act (NEPA) was issued for the use and the use was approved, in writing, by the Town.
- b. A change in an existing, on-going use to another use is not exempt, though a mere change in ownership through purchase or inheritance does not constitute such a change in use.
 - c. Only that portion of the riparian buffer occupied by the footprint of the existing and on-going use is exempt from this article.

C. Existing Single-Family Detached Dwelling Lots in Neuse River Basin

This article shall not apply to activities associated with the development of single-family detached and manufactured home dwellings on existing lots equal to or less than 2 acres in size that were platted and recorded prior to August 1, 2000 in the Neuse river basin, and are zoned for and otherwise intended to be used as building sites for single-family detached or manufactured home dwellings—provided, however, that development on these existing lots shall meet all of the conditions in Section 8.(b) of Session Law 2012-200. This exemption does not include duplex dwellings or subdivisions that create new lots for such dwellings, which shall be subject to this article.

D. Ponds for Agricultural Purposes

This article shall not apply to freshwater ponds constructed and used for agricultural purposes 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 G.S. 106-581.1; and
2. Except for the Riparian Buffer Rules and any similar rule adopted for the protection and maintenance of riparian buffers, the use of the property is in compliance with all other water quality and water quantity statutes and rules applicable to the property before the adoption of the Riparian Buffer Rules for the river basin or watershed in which the property is located; and
3. The pond is not a component of an animal waste management system as defined in G.S. 143-215.10B (3).

(Ord. No. 2014-006, 05/27/2014, Ord. No. 2016-054, 11/22/2016)

6.2.3. Interpretation of Riparian Buffer Regulations

When interpreting the meaning or application of the riparian buffer regulations in this article, the Town Engineer shall consider the clarification memos and other information developed and maintained by the North Carolina Division of Water Resources.

6.2.4. Records

The Town shall maintain on-site records for a minimum of five years, and shall furnish a copy of these records to the North Carolina Division of Water Resources within 30 days of receipt of a written request for them. Such records shall include the following:

- A.** A copy of all variance requests;
- B.** Findings of fact on all variance requests;
- C.** Results of all variance proceedings;
- D.** A record of complaints and action taken as a result of complaints;
- E.** Records for stream origin calls and stream ratings; and
- F.** Copies of all requests for authorization, records approving authorization, and Authorization Certificates.

SECTION 6.3. RIPARIAN BUFFERS AND ZONES

6.3.1. Riparian Buffer

Riparian buffers subject to this section include all land (including wetlands) within 50 feet of, and directly adjacent to, all sides of surface waters in the Neuse River Basin and the Jordan Lake watershed. (Wetlands within a riparian buffer are also regulated pursuant to Rules 15A NCAC 2B .0230, and .0231, Rules 15A NCAC 2H .0500, 15A NCAC 2H .1300, and Sections 401 and 404 of the Federal Water Pollution Control Act.)

6.3.2. Riparian Buffer Zones

Riparian buffers shall consist of two zones that have a combined width of 50 feet:

A. Zone One

Zone One consists of a vegetated area that is undisturbed except for uses and activities allowed in accordance with Section 6.8, Uses and Activities Permitted in Riparian Buffers.

1. For intermittent and perennial streams, Zone One begins at the top of the bank and extends landward on both sides of the stream a distance of 30 feet, measured horizontally on a line perpendicular to a vertical line marking the top of the bank.
2. For ponds, lakes, and reservoirs located within natural drainageway, Zone One begins at the normal water level and extends landward on all sides of the water body a distance of 30 feet, measured horizontally on a line perpendicular to a vertical line marking the outer edge of the normal water level.

B. Zone Two

Zone Two consists of a stable, vegetated area that is undisturbed except for uses and activities allowed in accordance with Section 6.8, Uses and Activities Permitted in Riparian Buffers. Zone Two begins at the outer edge of Zone One and extends landward a distance of 20 feet, measured horizontally on a line perpendicular to a vertical line marking the outer edge of Zone One.

SECTION 6.4. IDENTIFICATION OF RIPARIAN BUFFERS

6.4.1. Surface Waters with Riparian Buffers

A. General

Except as provided in subsection B below, riparian buffers subject to this section shall be required along all surface waters in the Neuse River Basin and the Jordan Lake watershed identified on designated maps (Section 6.4.2) or by on-site determinations (Section 6.4.3).

B. Exception

Riparian buffers shall not be required along mapped surface waters where an on-site determination in accordance with Section 6.4.3 shows that mapped surface water is:

1. A man-made pond or lake that is not part of a natural drainage way classified in accordance with 15A NCAC 2B .0100, including ponds and lakes created for animal watering, irrigation, or other agricultural use as defined in N.C.G.S. 106-581.1 (A pond or lake is part of a natural drainage way when it is fed by an intermittent or perennial stream or when it has a direct discharge point to an intermittent or perennial stream.);
2. An ephemeral stream;
3. Lacks on-the-ground evidence of a corresponding intermittent or perennial stream, lake, reservoir, or pond; or
4. A ditch or other man-made water conveyance other than a modified natural stream.

6.4.2. Maps Used to Identify Surface Waters with Riparian Buffers

Only one of the following types of maps shall be used for purposes of identifying surface waters with riparian buffers subject to this section:

- A. The most recently published version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture.
- B. The most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS).
- C. In the Jordan Lake Watershed, a map approved by the Geographic Information Coordinating Council and the North Carolina Environmental Management Commission (Commission) following a 30-day public notice and opportunity for comment.

(Ord. No. 2016-054, 11/22/2016)

6.4.3. On-Site Determination of Surface Waters with Riparian Buffers

A. A landowner or other affected party (including the North Carolina Division of Water Resources) who believes the maps used to identify riparian buffers (see Section 6.4.2, Maps Used to Identify Surface Waters with Riparian Buffers) inaccurately depict the surface waters subject to these riparian buffer regulations may request the Town for an on-site determination of the presence, location, and extent (including the origin point) of such surface waters, or whether the mapped surface waters are excepted from riparian buffer regulations in accordance with Section 6.4.1.B, Exception.

1. The determination shall be conducted by the Town Engineer who has successfully completed the Surface Water Identification Training Certification course, or other equivalent training curriculum approved by the North Carolina Division of Water Resources. The Town may accept the results of site assessments made by other parties who have successfully completed such training.

2. If determining the origin of a stream, the determination shall use the latest version of the North Carolina Division of Water Resources' Identification Methods for the Origins of Intermittent and Perennial Streams.
- B.** Any disputes over on-site determinations shall be referred in writing to the Director of the North Carolina Division of Water Resources and is subject to review as provided in Articles 3 and 4 of N.C.G.S 150B.

SECTION 6.5. RIPARIAN BUFFER DEVELOPMENT REVIEW

6.5.1. Applicability

- A.** Except as exempted in Section 6.2.2.B, Exemptions, Riparian Buffer Development Review is required before any development, or any other activity listed in Table 6.8, Uses and Activities Permitted in Riparian Buffers, may be conducted within a riparian buffer.
- B.** An application for Riparian Buffer Development Review may be submitted and reviewed concurrently with applications for Conceptual Master Plan Approval, Site Plan Approval, Construction Plan Approval, Floodplain Development Permit, Stormwater Management Permit, Administrative Adjustment, or Alternative Equivalent Compliance.

6.5.2. Riparian Buffer Development Review Procedure

Figure 6.5 and the following subsections identify those steps in the standard review procedure (see Section 2.4) applicable to the review of a Riparian Buffer Development Review application and note any specific variations of, or additions to, those review steps.

A. Pre-Application Conference

The applicant shall hold a pre-application conference with Town staff in accordance with Section 2.4.2.

B. Application Submittal and Acceptance

The application shall be submitted and accepted, and may be withdrawn, in accordance with Section 2.4.3, except that if the application proposes development or activity that is allowable only with mitigation, the application shall include a mitigation strategy.

C. Staff Review and Decision

The Town Engineer shall review the application, allow revisions of the application, and decide the application in accordance with Section 2.4.4, subject to the following provisions:

1. The decision shall be one of the following:
 - a. Determine that the proposed development or activity is permitted without an Authorization Certificate ("Exempt");
 - b. Approve the proposed development or activity as allowable, as submitted;
 - c. Approve the proposed development or activity as allowable, subject to conditions;
 - d. Approve the proposed development or activity as allowable with mitigation, as submitted;
 - e. Approve the proposed development or activity as allowable with mitigation, subject to conditions; or

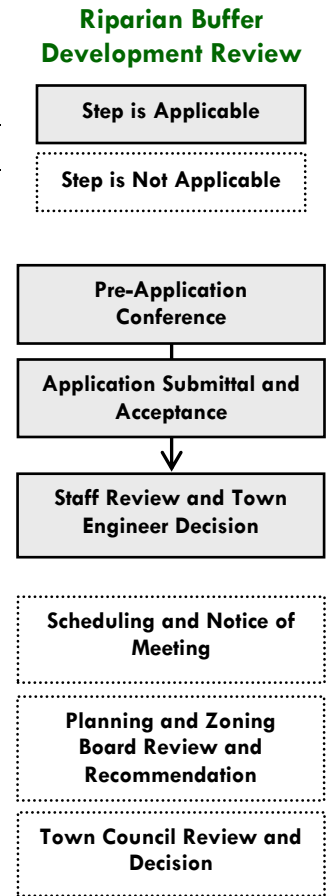


Figure 6.5.2

- f. Deny the application.
2. If the Town Engineer fails to decide the application within 60 days after its acceptance, the application shall be deemed approved as submitted unless the applicant:
 - a. Agrees in writing to a longer time period; or
 - b. Refuses access to its records or premises for gathering information necessary to a decision on the application; or
 - c. Has outstanding review comments from the Town.

(Ord. No. 2016-054, 11/22/2016)

D. Post-Decision Actions

The post-decision actions and limitations in Section 2.4.8 shall apply to the application except as follows:

1. Issuance of Authorization Certificate

On approving the proposed development or activity as allowable or allowable with mitigation, the Town Engineer shall issue the applicant an Authorization Certificate. If the development or activity is approved with mitigation, the Authorization Certificate shall identify the approved mitigation option, including the area of mitigation and the location of donated property or restored riparian buffer and/or amount of mitigation fee, as appropriate.

2. Appeal

The decision on an application for Riparian Buffer Development Review may be appealed to the Director of the North Carolina Division of Water Resources for review and decision in accordance with the North Carolina Administrative Hearings Act. The Director's decision is subject to review as provided in NC General Statute 150B Articles 3 and 4.

(Ord. No. 2016-054, 11/22/2016)

3. Effect of Approval

Approval of the proposed development or activity as "Exempt" or issuance of an Authorization Certificate allows approval of any concurrently-reviewed applications for Conceptual Master Plan Approval, Site Plan Approval, Construction Plan Approval, Floodplain Development Permit, Stormwater Management Permit, Administrative Adjustment, or Alternative Equivalent Compliance for the same development. It also authorizes submittal of an application for Building Permit or other development permits or approval needed to undertake the authorized land disturbing activities within the riparian buffer, including any mitigation included in the application approval.

4. Expiration of Approval

Approval of the proposed development or activity as "Exempt" or issuance of an Authorization Certificate shall expire if an application for a Building Permit (or Certificate of Compliance/Occupancy, if a Building Permit is not required) for the approved development is not submitted within one year after the date of approval or issuance.

6.5.3. Riparian Buffer Development Review Standards

A. Exempt

A development or activity proposed in a riparian buffer is permitted without an Authorization Certificate ("Exempt") only if all of the following are met:

1. The proposed development or activity falls within a use listed as "Exempt" in Table 6.8, Uses and Activities Permitted in Riparian Buffers; and
2. The proposed development or activity complies with the diffuse flow requirements in Section 6.7, Diffuse Flow Requirements; and

3. The proposed development or activity will be designed, constructed, and maintained to minimize soil disturbance and provide the maximum water quality protection practicable.

(Ord. No. 2016-054, 11/22/2016)

B. Allowable

A development or activity proposed in a riparian buffer is permitted without an Authorization Certificate (“Exempt”) only if all of the following are met:

1. The proposed development or activity falls within a use listed as “Allowable” in Table 6.8, Uses and Activities Permitted in Riparian Buffers.
2. The proposed development or activity complies with the diffuse flow requirements in Section 6.7, Diffuse Flow Requirements.
3. There are no practical alternatives to the proposed development or activity within the riparian buffer—that is, that:
 - a. The basic purpose of the proposed development or activity cannot be practically accomplished in a manner that would better minimize disturbance of the riparian buffer, preserve aquatic life and habitat, and protect water quality;
 - b. The proposed development or activity cannot practically be reduced in size or density, reconfigured, or redesigned to better minimize disturbance of the riparian buffer; and
 - c. Best management practices will be used as necessary to minimize disturbance of the riparian buffer, preserve aquatic life and habitat, and protect water quality.

C. Allowable with Mitigation

The Town Engineer shall determine that the development or activity proposed in a riparian buffer is allowable with an Authorization Certificate and mitigation only on reaching each of the following conclusions:

1. The proposed development or activity falls within a use listed as “Allowable with Mitigation” in Table 6.8, Uses and Activities Permitted in Riparian Buffers.
2. The proposed development or activity complies with the diffuse flow requirements in Section 6.7, Diffuse Flow Requirements.
3. There are no practical alternatives to the proposed development or activity within the riparian buffer—that is, that:
 - a. The basic purpose of the proposed development or activity cannot be practically accomplished in a manner that would better minimize disturbance of the riparian buffer, preserve aquatic life and habitat, and protect water quality;
 - b. The proposed development or activity cannot practically be reduced in size or density, reconfigured, or redesigned to better minimize disturbance of the riparian buffer; and
 - c. Best management practices will be used as necessary to minimize disturbance of the riparian buffer, preserve aquatic life and habitat, and protect water quality.
4. The proposed mitigation strategy complies with the mitigation standards in Section 6.9, Mitigation.

D. Additional Requirement for Single-Family Detached, Duplex, Attached, and Manufactured Home Dwelling Lots

Riparian buffers, for both the Neuse River basin and Jordan Lake watershed, shall not be located on single-family detached, duplex, attached, and manufactured home dwelling lots.

(Ord. No. 2014-006, 05/27/2014)

E. Plats

Parcels that include riparian buffers must show the buffer areas, with both zones labeled and dimensioned, on the recorded plats.

(Ord. No. 2016-054, 11/22/2016)

SECTION 6.6. VARIANCES FROM RIPARIAN BUFFER REGULATIONS

6.6.1. Applicability

A. General

The procedure and standards in this subsection apply to the review of applications for a Riparian Buffer Variance seeking hardship relief from the standards of this article.

B. Minor Variances and Major Variances Distinguished

1. Minor Variance

A Minor Variance is a variance pertaining to activities that will impact only Zone Two of the riparian buffer.

2. Major Variance

A Major Variance is a variance pertaining to activities that will impact any portion of Zone One of the riparian buffer (irrespective of whether it also impacts Zone Two).

6.6.2. Riparian Buffer Variance Procedure

Figure 6.6.2 and the following subsections identify those steps in the standard review procedure (see Section 2.4) applicable to the review of a Riparian Buffer Variance application and note any specific variations of, or additions to, those review steps.

A. Pre-Application Conference

The applicant shall hold a pre-application conference with Town staff in accordance with Section 2.4.2.

B. Application Submittal and Acceptance

The application shall be submitted and accepted, and may be withdrawn, in accordance with Section 2.4.3.

C. Staff Review and Report

The Town Engineer shall review the application, allow revisions of the application, and prepare a staff report in accordance with Section 2.4.4, except that the staff report shall summarize the variance request based on submitted evidence—but need not include a recommendation for action.

D. Scheduling and Public Notice of Meetings

The application shall be scheduled, and required public notices provided, for a Board of Adjustment meeting in accordance with Section 2.4.5.

E. Board of Adjustment Review and Decision

The Board of Adjustment shall review the application, hold a quasi-judicial public hearing, and decide the application in accordance with Section 2.4.7, subject to the following provisions.

1. If the Riparian Buffer Variance application requests a Minor Variance, the decision shall be one of the following:
 - a. Approve the application as submitted;
 - b. Approve the application subject to conditions;
 - c. Deny the application.
2. If the Riparian Buffer Variance application requests a Major Variance, the decision shall be a preliminary determination of compliance with the review standards in Section 6.6.3, Riparian Buffer Variance Review Standards, which shall be submitted to the North Carolina Environmental Management Commission to approve, approve with conditions, or deny.
3. Approval of an application for a Minor Variance shall require the affirmative vote of at least 4/5 of all the members of the board. (In such cases, vacant positions and members who are excused from voting shall not be considered members of the board.)

F. Post-Decision Actions

The post-decision actions and limitations in Section 2.4.8 shall apply to the application except as follows:

1. Appeal of Decisions on Minor Variance Applications

If the decision was approval or denial of an application for a Minor Variance, the decision may be appealed to the Board of Adjustment under NCGS 160A-388 or NCGS 153A-345.

2. Appeal of Decisions on Major Variance Applications

Appeals from a Commission decision on a major variance request are made on judicial review to Superior Court.

- a. Upon the Commission's approval, the Division or the delegated local authority shall issue a final decision granting the major variance.
- b. Upon the Commission's approval with conditions or stipulations, the Division or the delegated local authority shall issue a final decision, which includes these conditions or stipulations.
- c. Upon the Commission's denial, the Division or the delegated local authority shall issue a final decision denying the major variance.

(Ord. No. 2016-054, 11/22/2016)

3. Submittal of Preliminary Determination on Major Variance Applications to State

- a. If the decision was a preliminary determination on an application for a Major Variance, the Town Engineer shall submit the preliminary determination to the North Carolina Environmental Management Commission for approval in accordance with applicable State regulations.
- b. After the North Carolina Environmental Management Commission approves the Major Variance or approves it with conditions or stipulations added, then the Commission shall submit a copy of its decision to the Town Engineer, who shall file it in the Planning Department.

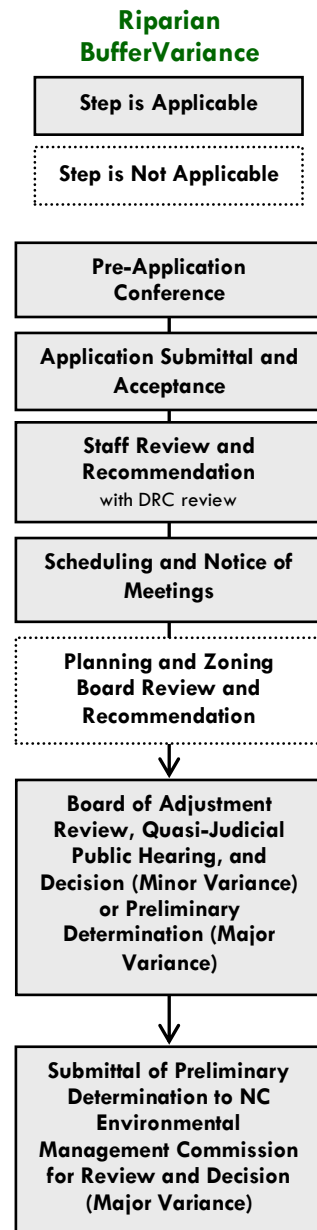


Figure 6.6.2

4. Issuance and Recordation of Variance

If a Riparian Buffer Variance application is approved, the Town Engineer shall issue the applicant documentation of the approval that identifies the property to which it applies, the development plans on which it is based, and any conditions of approval. The documentation shall also include notice of the Town's right to inspect riparian buffers to ensure compliance with this article. On expiration of the deadline for filing an appeal of the decision (see Section 2.4.8.B), the applicant shall record such documentation with the Register of Deeds of the county in which the subject property is located.

5. Effect of Approval

- a. Approval and recordation of a Riparian Buffer Variance authorizes only the particular regulatory relief approved as part of the Variance, as applied only to the land for which the Variance is approved, and only in accordance with any approved plans and documents, and conditions of approval. It does not exempt the applicant from the responsibility to obtain all other development permits required by this Ordinance and any other applicable laws, and does not indicate that the development for which the Variance is granted should receive approval of other applications for a development permit required under this Ordinance unless the relevant and applicable portions of this Ordinance or any other applicable laws are met.
- b. Unless it expires in accordance with Section 6 below, an approved and recorded Riparian Buffer Variance—including any approved plans, documents, and conditions of approval—shall run with the land, shall be binding on the landowners and their successors and assigns, and shall not be affected by a change in ownership. All decisions, determinations, and interpretation by Town staff shall be consistent with an approved and recorded Variance.

6. Expiration of Approval

A Riparian Buffer Variance shall expire and become invalid if the property owner changes development on the site such that the extraordinary and exceptional conditions that warranted the hardship and Variance no longer do so.

6.6.3. Riparian Buffer Variance Review Standards

A. Riparian Buffer Variance Review Standards

The Board of Adjustment shall approve an application for a Minor Riparian Buffer Variance or make a preliminary determination in favor of an application for a Major Riparian Buffer Variance only if it reaches each of the following conclusions, based on findings of fact supported by competent, substantial, and material evidence presented at the hearing:

1. There are extraordinary and exceptional conditions (such as topographic conditions, narrowness, shallowness, or the shape of the parcel of land) pertaining to the particular land or structure for which the Variance is sought, that do not generally apply to other lands or structures in the vicinity;
2. The extraordinary and exceptional conditions referred to above are not the result of the actions of the landowner;
3. The applicant did not purchase the property subject to the Variance application after January 22, 1997, if the property is located in the Neuse River Basin, or after April 26, 2011, if the property is located in the Jordan Lake watershed;
4. Because of the extraordinary and exceptional conditions referred to above, the application of this article to the land or structure for which the Variance is sought would effectively prohibit or unreasonably restrict the utilization of the land or structure and result in unnecessary and undue hardship;
5. The Variance would not confer any special privilege on the landowner that is denied to other lands or structures that are similarly situated;

6. The extent of the Variance is the minimum necessary to allow a reasonable use of the land or structure;
7. The Variance is in harmony with the general purpose and intent of this Ordinance and the State's riparian buffer protection requirements and preserves the spirit of such Ordinance or requirements;
8. The Variance would not adversely affect the health or safety of persons residing or working in the neighborhood, be injurious to property or improvements in the neighborhood, or otherwise be detrimental to the public welfare;
9. Granting of the Variance would assure the public safety and welfare, protect water quality, and achieve substantial justice; and
10. The Variance is consistent with the Comprehensive Plan.

B. Insufficient Grounds for Approving Variances

The following factors shall not constitute sufficient grounds for approval of any Riparian Buffer Variance:

1. A request for a particular use that is expressly, or by inference, prohibited in the zoning district or the riparian buffer zone;
2. Hardships resulting from factors other than application of requirements of this Ordinance;
3. The fact that land or a structure may be utilized more profitably or be more marketable with a Variance; or
4. The citing of other nonconforming or conforming uses of land or structures in the same or other zoning districts or riparian buffers.

SECTION 6.7. DIFFUSE FLOW REQUIREMENTS

Diffuse flow of runoff shall be maintained in the riparian buffer by dispersing concentrated flow prior to its entry into the buffer and reestablishing vegetation as follows:

- A. Concentrated runoff from new ditches or man-made conveyances shall be converted to diffuse flow at non-erosive velocities before the runoff enters Zone Two of the riparian buffer;
- B. Periodic corrective action to restore diffuse flow shall be taken as necessary and shall be designed to impede the formation of erosion gullies; and
- C. No new stormwater conveyances are allowed through the buffers except for those specified in Table 6.8, Uses and Activities Permitted in Riparian Buffers, addressing stormwater management ponds, drainage ditches, roadside ditches, and stormwater conveyances.

SECTION 6.8. USES AND ACTIVITIES PERMITTED IN RIPARIAN BUFFERS

Table 6.8 sets out potential new uses and activities permitted within a riparian buffer, or outside the buffer with impacts on the buffer, and categorizes them as "Exempt," "Allowable," or "Allowable with Mitigation." All uses or activities not listed in the table shall be considered prohibited and may not occur within the riparian buffer, or outside the buffer if the use would impact the buffer, unless a Riparian Buffer Variance is granted pursuant to Section 6.6, Variances from Riparian Buffer Regulations.

Article 6: Riparian Buffers

Section 6.8. Uses and Activities Permitted in Riparian Buffers

6.6.3. Riparian Buffer Variance Review Standards

Table 6.8: Uses and Activities Permitted in Riparian Buffers

Use or Activity	Exempt [1]	Allowable [2]	Allowable with Mitigation [3]
Access trails (pedestrian access trails leading to the surface water, docks, fishing piers, boat ramps, and other water dependent activities) [9]:			
Pedestrian access trails that are restricted to the minimum width practicable and do not exceed 4 feet in width of buffer disturbance, and provided that installation and use does not result in removal of trees and no impervious surface is added to the riparian buffer [9]	X		
Pedestrian access trails that exceed 4 feet in width of buffer disturbance, the installation or use results in removal of trees or impervious surface is added to the riparian buffer [9]		X	
Airport facilities that impact no more than 150 linear feet or 1/3 acre of riparian buffer		X	
Airport facilities that impact more than 150 linear feet or 1/3 acre of riparian buffer			X
Activities necessary to comply with FAA requirements (e.g. radar uses or landing strips), where [9]: <ul style="list-style-type: none"> No heavy equipment is used in Zone One; Vegetation in undisturbed portions of the buffer is not compromised; Felled trees are removed by chain; No permanent felling of trees occurs in protected buffers or streams; Stumps are removed only by grinding; At the completion of the project the disturbed area is stabilized with native vegetation; and Zones One and Two meet the requirements of Section 6.3, Riparian Buffers and Zones, and Section 6.7, Diffuse Flow Requirements. 		X	
Archaeological activities	X		
Bridges		X	
Canoe Access provided that installation and use does not result in removal of trees as defined in this Ordinance and no impervious surface is added to the buffer. [9]	X		
Dam maintenance activities that do not cause additional buffer disturbance beyond the footprint of the existing dam or those covered under the U.S. Army Corps of Engineers Nationwide Permit No. 3	X		
Dam maintenance activities that do cause additional buffer disturbance beyond the footprint of the existing dam or those not covered under the U.S. Army Corps of Engineers Nationwide Permit No.3		X	
Drainage ditches, roadside ditches, and stormwater conveyances through riparian buffers:			
New stormwater flows to existing drainage ditches, roadside ditches, and stormwater conveyances provided flows do not alter or result in the need to alter the conveyance and are managed to minimize the sediment, nutrients and other pollution that convey to water bodies [9]	X		
Realignment of existing roadside drainage ditches retaining 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 [9]		X	
New or altered drainage ditches, roadside ditches and stormwater outfalls provided that a stormwater management facility is installed to control nutrients and attenuate flow before the conveyance discharges through the riparian buffer [9]		X	

Table 6.8: Uses and Activities Permitted in Riparian Buffers

Use or Activity	Exempt [1]	Allowable [2]	Allowable with Mitigation [3]
New drainage ditches, roadside ditches and stormwater conveyances applicable to linear projects that do not provide a stormwater management facility due to topography constraints provided that other practicable BMPs are employed [9]			X
Existing drainage ditches, roadside ditches, and stormwater outfalls provided that they are managed to minimize the sediment, nutrients and other pollution that convey to waterbodies [8]	X		
New drainage ditches, roadside ditches and stormwater outfalls provided that a stormwater management facility is installed to control nitrogen and attenuate flow before the conveyance discharges through the riparian buffer [8]		X	
New drainage ditches, roadside ditches and stormwater outfalls that do not provide control for nitrogen before discharging through the riparian buffer [8]			X
Excavation of the streambed in order to bring it to the same elevation as the invert of a ditch [8]			X
Drainage of a pond in a natural drainage way provided that a new riparian buffer that meets the requirements of this article is established adjacent to the new channel	X		
Driveway crossings of streams and other surface waters subject to this article:			
Driveway crossings on single family residential lots that disturb no more than 25 linear feet or 2,500 square feet of riparian buffer	X		
Driveway crossings on single family residential lots that disturb more than 25 linear feet or 2,500 square feet of riparian buffer		X	
Driveway crossings in a subdivision that cumulatively disturb no more than 150 linear feet or 1/3 acre of riparian buffer		X	
Driveway crossing in a subdivision that cumulatively disturb more than 150 linear feet or 1/3 of an acre of riparian buffer			X
Driveway impacts other than crossing of a stream or other surface waters subject to this article [9]			X
Fences where disturbance is minimized and installation does not result in removal of trees as defined in this Ordinance	X		
Fences where disturbance is minimized and installation results in removal of trees as defined in this Ordinance [9]		X	
Fertilizer application: one-time application to establish vegetation	X		
Grading and revegetation in Zone Two where diffuse flow and the health of existing vegetation in Zone One is not compromised and disturbed areas are stabilized until they are revegetated	X		
Grading and revegetation in Zone Two where diffuse flow and the health of existing vegetation in Zone One is not compromised and disturbed areas are stabilized [8]	X		
Greenway/hiking trails designed, constructed, and maintained to maximize nutrient removal and erosion protection, minimize adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practical [9]		X	
Greenway/hiking trails [8]		X	
Historic preservation	X		
Maintenance access on modified natural streams via a grassed travel way on one side of the water body where less impacting alternatives are not practical, the width and specifications of the travel way are only that needed for equipment access and operation, and the travel way is located to maximize stream shading [9]		X	

Article 6: Riparian Buffers

Section 6.8. Uses and Activities Permitted in Riparian Buffers

6.6.3. Riparian Buffer Variance Review Standards

Table 6.8: Uses and Activities Permitted in Riparian Buffers

Use or Activity	Exempt [1]	Allowable [2]	Allowable with Mitigation [3]
Mining activities covered by the Mining Act where new riparian buffers that meet the requirements of Section 6.3, Riparian Buffers and Zones, and Section 6.7, Diffuse Flow Requirements, are established adjacent to the relocated channels		X	
Mining activities not covered by the Mining Act OR where new riparian buffers that meet the requirements of Section 6.3, Riparian Buffers and Zones, and Section 6.7, Diffuse Flow Requirements, are not established adjacent to the relocated channels			X
Wastewater or mining dewatering wells with approved NPDES permit	X		
Piping of a stream allowed under a permit issued by the U.S. Army Corps of Engineers [9]		X	
Playground equipment on lots with single-family detached or manufactured home dwellings where installation and use does not result in removal of vegetation	X		
Playground equipment installed on lands other than single-family lots or that requires removal of vegetation		X	
Ponds created by impounding streams and not used as stormwater BMPs:			
New ponds provided that a riparian buffer that meets the requirements of Section 6.3 and Section 6.7 of this Article is established adjacent to the pond.		X	
New ponds provided that a riparian buffer that meets the requirements of Section 6.3 and Section 6.7 of this Article is NOT established adjacent to the pond.			X
Protection of existing structures, facilities, and stream banks when this requires additional disturbance of the riparian buffer or the stream channel		X	
Railroad impacts other than crossings of streams and other surface waters subject to this article [9]			X
Railroad crossings of streams and other surface waters subject to this article:			
Railroad crossings that impact no more than 40 linear feet of riparian buffer	X		
Railroad crossings that impact more than 40 linear feet but no more than 150 linear feet or 1/3 acre of riparian buffer		X	
Railroad crossings that impact more than 150 linear feet or 1/3 acre of riparian buffer			X
Recreational and accessory structures in Zone Two: Sheds and gazebos in Zone Two, provided they are not prohibited under local water supply ordinance [9]:			
Total footprint less than or equal to 150 square feet per lot [9]		X	
Total footprint greater than 150 square feet per lot [9]			X
Recreational and accessory structures in Zone Two: Wooden slatted decks and associated steps, provided the use meets the requirements of Section 6.3 and Section 6.7 of this Article [9]:			
Deck at least eight feet in height and no vegetation removed from Zone One [9]		X	
Deck less than eight feet in height or vegetation removed from Zone One [9]			X
Removal of previous fill or debris where diffuse flow is maintained and vegetation is restored	X		
Road impacts other than crossings of streams and other surface waters subject to this article			X
Road crossings of streams and other surface waters subject to this article:			
Road crossings that impact no more than 40 linear feet of riparian buffer	X		

Table 6.8: Uses and Activities Permitted in Riparian Buffers

Use or Activity	Exempt [1]	Allowable [2]	Allowable with Mitigation [3]
Road crossings that impact more than 40 linear feet but no more than 150 linear feet or 1/3 acre of riparian buffer		X	
Road crossings that impact more than 150 linear feet or 1/3 acre of riparian buffer			X
Road relocation:			
Relocation of existing private access roads associated with public road projects that are necessary for public safety and impact no more than 2,500 square feet of riparian buffer [9]		X	
Relocation of existing private access roads associated with public road projects that are necessary for public safety and impact more than 2,500 square feet of riparian buffer [9]			X
Scientific studies and stream gauging	X		
Stormwater BMPs [9]:			
Wet detention, bioretention, and constructed wetlands in Zone Two if diffuse flow of discharge is provided into Zone One [9]		X	
Wet detention, bioretention, and constructed wetlands in Zone One [9]			X
Stormwater management ponds excluding dry ponds [8]:			
New stormwater management ponds provided that a riparian buffer that meets the requirements of Section 6.3 and Section 6.7 of this Article is established adjacent to the pond [8]		X	
New stormwater management ponds provided that a riparian buffer that meets the requirements of Section 6.3 and Section 6.7 of this Article is NOT established adjacent to the pond [8]			X
Stream bank or shoreline stabilization		X	
Temporary roads provided that the disturbed area is restored to pre-construction topographic and hydrologic conditions immediately after construction is complete and replanted immediately with comparable vegetation—provided that: tree planting may occur during the dormant season; a one-time application of fertilizer may be used to establish vegetation; and the restored buffer shall comply with the restoration criteria in Section 6.9, Mitigation by the end of five years:			
Less than or equal to 2,500 square feet of buffer disturbance	X		
Greater than 2,500 square feet of buffer disturbance		X	
Associated with culvert installation or bridge construction or replacement		X	
Temporary sediment and erosion control devices, provided that the disturbed area is restored to pre-construction topographic and hydrologic conditions immediately after construction is complete and replanted immediately with comparable vegetation—provided that: tree planting may occur during the dormant season; a one-time application of fertilizer may be used to establish vegetation; and the restored buffer shall comply with the restoration criteria in Section 6.9, Mitigation, by the end of five years:			
In Zone Two provided ground cover is established within timeframes required by the Sedimentation and Erosion Control Act, vegetation in Zone One is not compromised, and runoff is released as diffuse flow in accordance with Section 6.7 of this Article	X		
In Zones One and Two to control impacts associated with uses approved by the Town Engineer or that have received a variance, provided that sediment and erosion control for upland areas is addressed, to the maximum extent practical, outside the buffer.		X	

Article 6: Riparian Buffers

Section 6.8. Uses and Activities Permitted in Riparian Buffers

6.6.3. Riparian Buffer Variance Review Standards

Table 6.8: Uses and Activities Permitted in Riparian Buffers

Use or Activity	Exempt [1]	Allowable [2]	Allowable with Mitigation [3]
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 Water Pollution Control Act [9].	X		
In-stream temporary erosion and sediment control measures for work within a stream channel [9].		X	
In-stream temporary erosion and sediment control measures for work within a stream channel [8].	X		
Utility line crossings of streams and other surface waters subject to this article:			
Above-ground electric line crossings that are perpendicular to the stream and disturb no more than 150 linear feet of riparian buffer [4][5][6]	X		
Above-ground electric line crossings that are perpendicular to the stream and disturb more than 150 linear feet of riparian buffer [4][5][6]		X	
Above-ground electric line crossings that are not perpendicular to the stream and impact Zone Two [4][6][9]		X	
Above-ground electric line crossings that are not perpendicular to the stream and impact Zone One [4][5][6][9]			X
Above-ground electric line crossings that are not perpendicular to the stream and impact Zone Two [4][6][8]	X		
Above-ground electric line crossings that are not perpendicular to the stream and impact Zone One [4][5][6][8]	X		
Underground electric line crossings that are perpendicular to the stream and disturb no more than 40 linear feet of riparian buffer [4][6][7]	X		
Underground electric line crossings that are perpendicular to the stream and disturb more than 40 linear feet of riparian buffer [4][6][7]		X	
Underground electric line crossings that are not perpendicular to the stream and impact Zone Two [4][6]	X		
Underground electric line crossings that are not perpendicular to the stream and impact Zone One [4][6][7]	X		
Non-electric utility line crossings that are perpendicular to the stream and disturb no more than 40 linear feet of riparian buffer and have a maintenance corridor no more than 10 feet wide [4][6]	X		
Non-electric utility line crossings that are perpendicular to the stream and disturb no more than 40 linear feet of riparian buffer and have a maintenance corridor more than 10 feet wide [4][6][9]		X	
Non-electric utility line crossings that are perpendicular to the stream and disturb more than 40 linear feet but no more than 150 linear feet of riparian buffer and have a maintenance corridor no more than 10 feet wide [4][6]		X	
Non-electric utility line crossings that are perpendicular to the stream and disturb more than 40 linear feet but no more than 150 linear feet of riparian buffer and have a maintenance corridor more than 10 feet wide [4][6][9]			X
Non-electric utility line crossings that are perpendicular to the stream and disturb more than 40 linear feet but no more than 150 linear feet of riparian buffer and have a maintenance corridor more than 10 feet wide [4][6][8]		X	
Non-electric utility line crossings that are perpendicular to the stream and disturb more than 150 linear feet of riparian buffer			X
Non-electric utility line crossings that are not perpendicular to the stream and impact Zone Two [4][6][7]		X	

Table 6.8: Uses and Activities Permitted in Riparian Buffers

Use or Activity	Exempt [1]	Allowable [2]	Allowable with Mitigation [3]
Non-electric utility line crossings that are not perpendicular to the stream and impact Zone One [4][6][7]			X
Non-electric utility line impacts that do not cross the stream and are not perpendicular to the stream and impact Zone Two [4][6][7][9]	X		
Vegetation management:			
Emergency fire control measures where topography is restored	X		
Mowing maintenance in Zone Two	X		
Planting vegetation to enhance the riparian buffer	X		
Pruning forest vegetation where the health and function of the forest vegetation is not compromised	X		
Removal of individual trees that are in danger of causing damage to dwellings, other structures, or human life, or are imminently endangering stability of the stream bank	X		
Removal of individual trees that are dead, diseased, or damaged	X		
Removal of poison ivy	X		
Removal of invasive exotic vegetation as defined in <i>Smith, Cherri L. 1998. Exotic Plant Guidelines. Dept. of Environment and Natural Resources. Division of Parks and Recreation. Raleigh, NC. Guideline #30</i>	X		
Water dependent structures as defined in 15A NCAC 02B .0202, where installation and use result in disturbance to riparian buffers; and vehicular access roads leading to water-dependent structures provided they do not cross surface water and have minimum practicable width not exceeding ten feet [9]		X	
Water dependent structures as defined in 15A NCAC 02B .0202 [8].		X	
Water supply reservoirs:			
New reservoirs where a riparian buffer that meets the requirements of Section 6.3, Riparian Buffers and Zones, and Section 6.7, Diffuse Flow Requirements, is established adjacent to the reservoir		X	
New reservoirs where a riparian buffer that meets the requirements of Section 6.3, Riparian Buffers and Zones, and Section 6.7, Diffuse Flow Requirements, is not established adjacent to the reservoir			X
Water wells [8]	X		
Water wells [9]:			
Single family residential water wells [9]	X		
All other water wells [9]		X	
Wetland or Stream Restoration [8]			
Wetland, stream, and buffer restoration that results in impacts to the riparian buffers [9]:			
Restoration that requires North Carolina Division of Water Resources approval for the use of a 401 Water Quality Certification [9]	X		
Restoration that does not require North Carolina Division of Water Resources approval for the use of a 401 Water Quality Certification [9]		X	
Wildlife passage structures in the Jordan Lake watershed [9]		X	

Notes:

[1] Uses and activities designated as "Exempt" must be designed, constructed, and maintained to minimize soil disturbance and provide the maximum water quality protection practicable, including construction, monitoring, and maintenance activities.

[2] Uses and activities designated as "Allowable" are allowed only if no practical alternatives are available and upon approval and issuance of an Authorization Certificate in accordance with Section 6.5, Riparian Buffer Development Review.

Table 6.8: Uses and Activities Permitted in Riparian Buffers

Use or Activity	Exempt [1]	Allowable [2]	Allowable with Mitigation [3]
<p>[3] Uses and activities designated as "Allowable with Mitigation" are allowed only if no practical alternatives are available and on approval and issuance of an Authorization Certificate with a mitigation strategy in accordance with Section 6.5, Riparian Buffer Development Review, and Section 6.9, Mitigation.</p>			
<p>[4] Perpendicular crossings are those that intersect the surface water at an angle between 75 and 105 degrees.</p>			
<p>[5] Overhead electric lines crossing Zone One shall comply with all of the following best management practices, unless the Town Engineer finds no practical alternative exists to such compliance per 6.5.2.:</p>			
<ul style="list-style-type: none"> • A minimum zone of 10 feet wide immediately adjacent to the water body shall be managed such that only vegetation that poses a hazard or has the potential to grow tall enough to interfere with the line is removed. • Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed. • Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain where trees are cut. • Riprap shall not be used unless it is necessary to stabilize a tower. • No fertilizer shall be used other than a one-time application to re-establish vegetation. • Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state. • Active measures shall be taken after construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer. • In wetlands, mats shall be utilized to minimize soil disturbance. 			
<p>[6] Poles or other above-ground utility line infrastructure shall be installed within 10 feet of a water body unless the Town Engineer finds no practical alternative exists to such location per 6.5.2.</p>			
<p>[7] Underground utility lines crossing Zone One shall comply with all of the following best management practices, unless the Town Engineer finds no practical alternative exists to such compliance per 6.5.2.:</p>			
<ul style="list-style-type: none"> • Woody vegetation shall be cleared by hand. Felled trees are removed by chain. No heavy equipment, land grubbing, or grading is allowed. • Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain, except in the trench where trees are cut or removed by grinding. • Underground cables shall be installed by vibratory plow or trenching. • The trench shall be backfilled with the excavated soil material immediately following cable installation. • No fertilizer shall be used other than a one-time application to re-establish vegetation. • Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state. Disturbed area shall be stabilized with native vegetation. • Measures shall be taken on completion of construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer. 			
<p>[8] Neuse River Basin Only.</p>			
<p>[9] Jordan River Basin Only.</p>			

(Ord. No. 2014-006, 05/27/2014; Ord. No. 2016-001, 05/10/2016, Ord. No. 2016-054, 11/22/2016)

SECTION 6.9. MITIGATION

6.9.1. Applicability

This subsection applies where a Riparian Buffer Development Review application proposes a use or activity listed as "Allowable with Mitigation" in Table 6.8, Uses and Activities Permitted in Riparian Buffers, or where mitigation is proposed or required as a condition of approval for a Riparian Buffer Variance application. Any application for Riparian Buffer Development Review or a Riparian Buffer Variance that proposes mitigation shall include a written mitigation proposal that calculates the required area of mitigation in accordance with this Section, and describes the area and location of each type of proposed mitigation. The applicant shall submit to the Town Engineer a mitigation proposal in accordance with 15A NCAC 02B .0295, *Mitigation Program Requirements for Protection and Maintenance of Riparian Buffers*. The applicant shall not impact buffers until the Town Engineer approves the mitigation plan and issues written authorization. The NC Administrative Code (NCAC) is available at no cost from the N.C. Office of Administrative Hearings at: <http://www.ncoah.com/rules/>.

(Ord. No. 2016-054, 11/22/2016)

Article 7: Stormwater Management

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Article 7: Stormwater Management

SECTION 7.1. GENERAL PROVISIONS

7.1.1. Findings

- A.** It is hereby determined that:
1. Development and redevelopment alter the hydrologic response of local watersheds and increases 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 and redevelopment 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 Ordinance.
- C.** Additionally, the North Carolina Environmental Management Commission has identified B. Everett Jordan reservoir, a water supply reservoir, as nutrient sensitive waters; has identified all or a portion of the reservoir as impaired waters under the federal Clean Water Act due to exceedances of the chlorophyll a standard; and has promulgated rules that have been amended and affirmed by the North Carolina General Assembly (the “Jordan Rules”) to reduce the average annual loads of nitrogen and phosphorus delivered to Jordan Reservoir from all point and nonpoint sources of these nutrients located within its watershed, including stormwater from new development in this jurisdiction;
- D.** Therefore, the Morrisville Town Council 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 for development and redevelopment.

7.1.2. Purpose

- A.** The purpose of this article 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, nitrogen; phosphorus, and total suspended solids in stormwater runoff; nonpoint and point source pollution associated with new development and redevelopment; and illicit discharges into municipal stormwater systems. 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 article seeks to meet its general purpose through the following specific objectives and means:
1. Establishing decision-making processes for development and redevelopment that protects the integrity of watersheds and preserves the health of water resources;
 2. Requiring that new development and redevelopment maintain the pre-development hydrologic response in their post-development state 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) 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 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 the municipal separate stormwater system.

7.1.3. Authority

The Morrisville Town Council is authorized to adopt this article pursuant to North Carolina law, including but not limited to Article 14, Section 5 of the Constitution of North Carolina; North Carolina General Statutes Chapter 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Chapter 143-215.6A; Session Laws 2009-216, 2009-484; Chapter 153A-454; Chapter 160A, §§ 174, 185, 459.

7.1.4. Applicability and Jurisdiction

A. General

Beginning with and subsequent to its effective date, this article shall be applicable to all development and redevelopment—including, but not limited to, applications for Site Plan Approval, Subdivision Approval, Construction Plan Approval, and grading approval—unless exempt pursuant to this article.

B. Implementation

As per Session Law (SL) 2015-241 and SL 2015-246, implementation of 7.3.2 and 7.3.5 of this Article are temporarily suspended until August 10, 2020.

C. Exemptions

1. Single-family detached, duplex, 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 article.
2. Commercial, industrial, institutional, single-family attached and multifamily 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 article.
3. Development and redevelopment that disturbs less than the above thresholds are not exempt if such activities are part of a larger common plan of development or sale and the larger common plan exceeds the relevant threshold, even though multiple, separate, or distinct activities take place at different times on different schedules.
4. Development or redevelopment that is exempt from permit requirements of Section 404 of the federal Clean Water Act as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities) is exempt from the provisions of this article.

5. Per the requirements of 15A NCAC 02B .0265 and the Town's Phase II Permit NCS000465, new development undertaken by a local government solely as a public road project shall be deemed compliant with the purposes of this article if it meets the riparian buffer protection requirements of Article 6: Riparian Buffers. For these public road projects, the following shall be done to the maximum extent practicable (MEP):
 - a. Minimize BUA;
 - b. Divert runoff away from surface waters; and
 - c. Implement BMPs.

D. No Development or Redevelopment until Compliance and Permit

No development or redevelopment shall occur except in compliance with the provisions of this article or unless exempted. No development or redevelopment for which a permit is required pursuant to this article shall occur except in compliance with the provisions, conditions, and limitations of the permit.

(Ord. No. 2016-004, 04/01/2016)

7.1.5. Map

- A. The provisions of this article shall apply within the areas designated on the map titled "Stormwater Map of Morrisville, North Carolina" ("the Stormwater Map"), which is adopted simultaneously herewith. The Stormwater Map and all explanatory matter contained thereon accompanies and is hereby made a part of this Ordinance.
- B. The Stormwater Map shall be kept on file by the Stormwater Administrator and shall be dated to take into account changes in the land area covered by this Ordinance and the geographic location of all engineered stormwater controls permitted under this article. In the event of a dispute, the applicability of this article to a particular area of land or BMP shall be determined by reference to the North Carolina Statutes, the North Carolina Administrative Code, and local zoning and jurisdictional boundary ordinances.

7.1.6. Design Manual

A. Reference to Design Manual

1. The Stormwater Administrator shall use the policy, criteria, and information, including technical specifications, standards, and the Minimum Design Criteria in the Design Manual as the basis for decisions about stormwater permits and about the design, implementation, and performance of engineered stormwater controls and other practices for compliance with this article.
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 the Jordan Rules, 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 article, but prior to approval, the new information shall control and shall be utilized in reviewing the application and in implementing this article with regard to the application.

D. Amendments to Design Manual

1. The Design Manual may be updated and expanded from time to time, based on advancements in technology and engineering, improved knowledge of local conditions, or local monitoring or maintenance experience.
2. Prior to amending or updating the Design Manual, proposed changes shall be generally publicized and made available for review, and an opportunity for comment by interested persons shall be provided.

(Ord. No. 2016-004, 04/01/2016)

SECTION 7.2. ADMINISTRATION AND PROCEDURES

7.2.1. Stormwater Administrator

A. Designation

A Stormwater Administrator shall be designated by the Morrisville Town Engineer to administer and enforce this article.

B. Powers and Duties

In addition to the powers and duties that may be conferred by other provisions of this Ordinance and other laws, the Stormwater Administrator shall have the following powers and duties under this article:

1. To review and approve, approve with conditions, or disapprove applications for approval of plans pursuant to this article.
2. To make determinations and render interpretations of this article. Any person may request an interpretation by submitting a written request to the Stormwater Administrator, who shall respond in writing within 30 days. The Stormwater Administrator shall keep on file a record of all written interpretations of this article.
3. To establish application requirements and schedules for submittal and review of applications and appeals, to review and make recommendations to other Town staff and Town boards on applications for development or redevelopment approvals.
4. To enforce the provisions of this article in accordance with its enforcement provisions.
5. To maintain records, maps, forms, and other official materials as relate to the adoption, amendment, enforcement, and administration of this article.
6. To provide expertise and technical assistance to the Town, on request.
7. To designate appropriate other person(s) who shall carry out the powers and duties of the Stormwater Administrator.
8. To take any other action necessary to administer the provisions of this article.

7.2.2. Review Procedures

A. Stormwater Management Permit Required; Must Apply for Permit

A Stormwater Management Permit is required for all development and redevelopment unless exempt pursuant to this article. A Stormwater Management Permit may only be issued subsequent to a properly submitted and reviewed permit application, pursuant to this section.

B. Effect of Permit

1. A Stormwater Management Permit shall govern the design, installation, and construction of stormwater management and control practices on the site, including engineered stormwater controls and elements of site design for stormwater management other than engineered stormwater controls.

2. The Stormwater Management Permit is intended to provide a mechanism for the review, approval, and inspection of the approach to be used for the management and control of stormwater for the development or redevelopment site consistent with the requirements of this article, whether the approach consists of engineered stormwater controls or other techniques such as low-impact or low-density design. The permit does not continue in existence indefinitely after the completion of the project; rather, compliance after project construction is assured by the maintenance provisions of this article.

C. Authority to File Applications

All Stormwater Management Permit applications required pursuant to this article shall be submitted to the Stormwater Administrator by the landowner or the land owner's duly authorized agent.

D. Establishment of Application Requirements, Schedule, and Fees

1. Application Contents and Form

The Stormwater Administrator shall establish requirements for the content and form of all Stormwater Management Permit applications and shall amend and update those requirements from time to time. At a minimum, the Stormwater Management Permit application shall describe in detail how post-development stormwater runoff will be controlled and managed, the design of all stormwater facilities and practices, and how the proposed project will meet the requirements of this article.

2. Submission Schedule

The Stormwater Administrator shall establish a submission schedule for Stormwater Management Permit applications. The schedule shall establish deadlines by which complete applications must be submitted for the purpose of ensuring that there is adequate time to review applications, and that the various stages in the review process are accommodated.

3. Permit Review Fees

The Town Council shall establish Stormwater Management Permit review fees as well as policies regarding refund of any fees upon withdrawal of an application, and may amend and update the fees and policies from time to time.

4. Administrative Manual

For Stormwater Management Permit applications required under this Code, the Stormwater Administrator shall compile the application requirements, submission schedule, fee schedule, a copy of this article, and information on how and where to obtain the Design Manual in an Administrative Manual, which shall be made available to the public.

E. Submittal of Complete Application

1. Stormwater Management Permit applications shall be submitted to the Stormwater Administrator pursuant to the application submittal schedule, and in the form established by the Stormwater Administrator, along with the appropriate fee established pursuant to this section.
2. A Stormwater Management Permit application shall be considered as timely submitted only when it contains all elements of a complete application pursuant to this article, along with the appropriate fee. If the Stormwater Administrator finds that an application is incomplete, the applicant shall be notified of the deficient elements and shall be provided with an opportunity to submit a complete application. However, the submittal of an incomplete application shall not suffice to meet a deadline contained in the submission schedule established above.

F. Review

Within the timeframe specified in the submission schedule after a complete Stormwater Management Permit application is submitted, the Stormwater Administrator shall review the application and determine whether the application complies with the standards of this article.

1. Approval

If the Stormwater Administrator finds that the Stormwater Management Permit application complies with the standards of this article and this Ordinance, the Stormwater Administrator shall approve the application. The Stormwater Administrator may impose conditions of approval as needed to ensure compliance with this article. The conditions shall be included as part of the approval.

2. Fails to Comply

If the Stormwater Administrator finds that the Stormwater Management Permit application fails to comply with the standards of this article, the Stormwater Administrator shall notify the applicant and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application.

3. Revision and Subsequent Review

- a. A complete revised Stormwater Management Permit application shall be reviewed by the Stormwater Administrator within the timeframe specified in the submission schedule after its resubmittal and shall be approved, approved with conditions or disapproved.
- b. If a revised Stormwater Management Permit application is not re-submitted within six months from the date the applicant was notified, the application shall be considered withdrawn, and a new submittal for the same or substantially the same project shall be required along with the appropriate fee for a new submittal.
- c. Two resubmittals of a revised Stormwater Management Permit application may be submitted without payment of an additional permit review fee. Any resubmittal after the second resubmittal shall be accompanied by an additional permit review fee, as established pursuant to this Ordinance.

7.2.3. Applications for Approval

A. Concept Plan and Consultation Meeting

1. Consultation Meeting

Before a Stormwater Management Permit application is deemed complete, the Stormwater Administrator or developer may request a consultation on a concept plan for the post-construction stormwater management system to be utilized in the proposed development project. This consultation meeting should take place at the time of the preliminary plan of subdivision or other early step in the development process. The purpose of this meeting is to discuss the stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities, and potential approaches to stormwater management designs before formal site design engineering is commenced. Local watershed plans, the Comprehensive Plan, and other relevant resource protection plans should be consulted in the discussion of the concept plan.

2. Concept Plan Contents

To accomplish this goal, the following information should be included in the concept plan, which should be submitted in advance of the meeting:

a. Existing Conditions/Proposed Site Plans

Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (if available); stream and other buffers and features used in designing buffers and meeting any applicable buffer requirements; 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.

b. Natural Resources Inventory

A written or graphic inventory of natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, geologic features, topography, wetlands, and native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as lakes, ponds, floodplains, stream buffers, and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development and stormwater management.

c. Stormwater Management System Concept Plan

A written or graphic concept plan of the proposed post-development stormwater management system including: preliminary selection and location of proposed engineered stormwater controls; low-impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of any proposed stream channel modifications, such as bridge or culvert crossings.

B. Stormwater Management Permit Application

1. The Stormwater Management Permit application shall detail how post-development stormwater runoff will be controlled and managed and how the proposed project will meet the requirements of this article, including Section 7.3, Standards. All such plans shall be prepared by a qualified licensed North Carolina Professional Engineer or registered surveyor, soil scientist, or landscape architect. The engineer, surveyor, soil scientist, or landscape architect shall perform services only in their area of competence, and shall verify that the design of all stormwater management facilities and practices meets the submittal requirements for complete applications, that the designs and plans are sufficient to comply with applicable standards and policies found in the Design Manual, and that the designs and plans ensure compliance with this article.
2. The submittal shall include all of the information required in the submittal checklist established by the Stormwater Administrator. Incomplete submittals shall be treated pursuant to Section 7.2.2.E, Submittal of Complete Application.

C. Sedimentation & Erosion Control Plan Approval and Grading Permit

Within the corporate limits and ETJ of the Town of Morrisville, the Wake County Department of Environmental Services is responsible for the administration and enforcement of Wake's sedimentation and erosion control program, including approval, issuance of permits related to, and enforcement of erosion and sedimentation control plans. Prior to land disturbing activities, a Sedimentation & Erosion Control Plan Approval and a Grading Permit shall be obtained directly from Wake County. Sedimentation & Erosion Control Plans shall be prepared in accordance with Article 10 – Erosion and Sedimentation Control of the Wake County Unified Development Ordinance, and as subsequently amended.

D. As-Built Plans and Final Approval

1. Upon completion of a project, and before a Certificate of Compliance/Occupancy shall be granted, the applicant shall certify that the completed project is in accordance with the approved stormwater management plans and designs, and shall submit actual "as built" plans for all stormwater management facilities or practices after final construction is completed.
2. The plans shall show the final design specifications for all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. The designer of the stormwater management measures and plans shall certify, under seal, that the as-built stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and designs and with the requirements of this article. A

final inspection and approval by the Stormwater Administrator shall occur before the release of any performance securities.

E. Other Permits

No Certificate of Compliance/Occupancy shall be issued by the Town Inspections Department without final as-built plans and a final inspection and approval by the Stormwater Administrator, except where multiple units are served by the stormwater practice or facilities, in which case the Inspections Department may elect to withhold a percentage of permits or Certificates of Compliance/Occupancy until as-built plans are submitted and final inspection and approval has occurred.

(Ord. No. 2016-004, 04/01/2016)

7.2.4. Approvals

A. Effect of Approval

Approval of a Stormwater Management Permit authorizes the applicant to go forward with only the specific plans and activities authorized in the permit. The approval shall not be construed to exempt the applicant from obtaining other applicable approvals from local, State, and federal authorities.

B. Time Limit/Expiration

1. An approved plan shall become null and void if the applicant fails to make substantial progress on the site within one year after the date of approval. The Stormwater Administrator may grant a single, one-year extension of this time limit, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan.
 2. In granting an extension, the Stormwater Administrator may require compliance with standards adopted since the original application was submitted unless there has been substantial reliance on the original permit and the change in standards would infringe the applicant's vested rights.
-

7.2.5. Stormwater Variances

- A.** Any person may petition the Town for a variance granting permission to use the person's land in a manner otherwise prohibited by this article. For all proposed major and minor variances from the requirements of this article, the Board of Adjustments shall make findings of fact showing that:
1. There are practical difficulties or unnecessary hardships that prevent compliance with the strict letter of the article;
 2. The variance is in harmony with the general purpose and intent of the local watershed protection regulations and preserves their spirit; and
 3. In granting the variance, the public safety and welfare have been assured and substantial justice has been done.
- B.** In the case of a request for a minor variance, the Board of Adjustment may vary or modify any of the regulations or provisions of the article so that the spirit of the article shall be observed, public safety and welfare secured, and substantial justice done, and may impose reasonable and appropriate conditions and safeguards upon any variance it grants.
- C.** The Board of Adjustment may attach conditions to the major or minor variance approval that support the purpose of the local watershed protection regulations. If the variance request qualifies as a major variance, and the Board of Adjustment decides in favor of granting the major variance, the Board shall then prepare a preliminary record of the hearing and submit it to the North Carolina Environmental Management Commission for review and approval. If the Commission approves the major variance or approves with conditions or stipulations added, then the Commission shall prepare a Commission decision which authorizes the Board of Adjustment to issue a final decision which would include any conditions or stipulations added by the Commission. If the Commission denies the major variance, then the Commission

shall prepare a decision to be sent to the Board of Adjustment. The Board of Adjustment shall prepare a final decision denying the major variance.

- D. Appeals from the local government decision on a major or minor variance request are made on certiorari to the local Superior Court. Appeals from the Commission decision on a major variance request are made on judicial review to Superior Court.
- E. On request of the Stormwater Administrator, any person who petitions the Board of Adjustment for a variance under this section shall provide notice to the affected local governments of the variance request as required under the Jordan Rule, 15A NCAC 2B.0104(r). For purposes of this notice requirement, "affected local governments" means any local governments that withdraw water from Lake Jordan or its tributaries downstream of the site of the proposed variance. If the proposed variance is in a Water Supply Watershed area classified as WS II, WS III or WS IV, "affected local governments" also includes any other local governments in the same water supply watershed as the proposed variance. The notice shall provide a reasonable period for comments and shall direct the comments to be sent to the Stormwater Administrator. The person petitioning for the variance shall supply proof of notification in accordance with this section to the Stormwater Administrator.

7.2.6. Appeals

Any aggrieved person affected by any decision, order, requirement, or determination relating to the interpretation or application of this article made by the Stormwater Administrator, may file an appeal to the Board of Adjustment within 30 days. Applications for an Appeal shall be filed, reviewed, and decided in accordance with 2.5.22, Administrative Appeal, except that the Board of Adjustment shall make a final decision on an appeal of a decision relating to civil penalties for violations of this article within 90 days after the date the appeal application is accepted.

SECTION 7.3. STANDARDS

7.3.1. General Standards

All development and redevelopment to which this article applies shall comply with the standards of this section. The approval of the Stormwater Management Permit shall require an enforceable restriction on property usage that runs with the land, such as a recorded deed restriction or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.

7.3.2. Nitrogen and Phosphorus Loading

- A. Nitrogen and phosphorus loads contributed by the proposed new development shall not exceed the following unit-area mass loading rates: 2.2 and 0.82 pounds per acre per year for nitrogen and phosphorus, respectively.
- B. Notwithstanding 15A NCAC 2B.104(q), redevelopment subject to this article that would replace or expand existing structures or improvements and would result in a net increase in built-upon area shall have the option of either meeting the loading standards identified in subsection A or meeting a loading rate that achieves the following nutrient loads compared to the existing development: 35 percent and five percent reduction for nitrogen and phosphorus, respectively.
- C. The developer shall determine the need for engineered stormwater controls to meet these loading rate targets by using the approved accounting tool.

*Note: As per Session Law (SL) 2015-241 and SL 2015-246, implementation of 7.3.2 of this Article is temporarily suspended until August 10, 2020.

(Ord. No. 2016-004, 04/01/2016)

7.3.3. Nitrogen and Phosphorus Standard Is Supplemental; Total Suspended Solids (TSS) Removal

- A.** The nitrogen and phosphorus loading standards in this article are supplemental to, not replacements for, stormwater standards otherwise required by federal, state, or local law, including without limitation any riparian buffer requirements applicable to the location of the development. This includes, without limitation, the riparian buffer protection requirements of 15A NCAC 2B.0267 and .0268.
- B.** All stormwater systems used to meet these requirements shall be designed to have a minimum of 85 percent average annual removal for TSS .

(Ord. No. 2016-004, 04/01/2016)

7.3.4. Control and Treatment of Runoff Volume

- A.** Stormwater systems shall be designed to control and treat the runoff volume generated from all surfaces by one inch of rainfall; the treatment volume. This 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.
- B.** To minimize flooding and to ensure that the integrity and nutrient processing functions of receiving waters and associated riparian buffers are not compromised by erosive flows, stormwater flows from the development or redevelopment shall not contribute to degradation of waters of the State. At a minimum, the development or 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; and 10-year, 24-hour storm events.

(Ord. No. 2014-006, 05/27/2014, (Ord. No. 2016-004, 04/01/2016)

7.3.5. Partial Offset of Nutrient Control Requirements

- A.** Development subject to this article 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 multifamily residential, commercial, and industrial, and shall meet any requirements for engineered stormwater controls otherwise imposed by this article. A developer subject to this article may achieve the additional reductions in nitrogen and phosphorus loading required by this article by use of the following options:
 - 1.** Purchasing offset credits from an approved private seller with a project located within 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 to Morrisville.
 - 2.** Making offset payments to the NC Ecosystem Enhancement Program contingent upon acceptance of payments by that Program.
 - 3.** Making offset payments to the Town of Morrisville for equivalent nutrient credits at 80 percent of the rate calculated by the NC Ecosystem Enhancement Program for the Neuse-Falls Lake watershed.
 - 4.** A developer may propose other offset measures to the Town, including providing his or her own off-site offset.
- B.** All offset measures permitted by the ordinance shall meet the requirements of 15A NCAC 02B .0273 (2) through (4) and 15A NCAC 02B .0240. Documentation and proof of purchase for offset credit options is required prior to construction plan approval.

*Note: As per Session Law (SL) 2015-241 and SL 2015-246, implementation of 7.3.5 of this Article is temporarily suspended until August 10, 2020.

(Ord. No. 2014-006, 05/27/2014, (Ord. No. 2016-004, 04/01/2016)

7.3.6. Evaluation of Standards for Stormwater Control Measures

A. Evaluation According to Contents of Design Manual

All stormwater control measures, stormwater systems and stormwater treatment practices (also referred to as Best Management Practices, or BMPs) required under this article shall be evaluated by the Stormwater Administrator according to the policies, criteria, and information, including technical specifications and standards and the specific design criteria for each stormwater practice, in the Design Manual. The Stormwater Administrator shall determine whether proposed BMPs will be adequate to meet the requirements of this article.

B. Determination of Adequacy; Presumptions and Alternatives

Stormwater treatment practices that are designed, constructed, and maintained in accordance with the criteria and specifications in the Design Manual and the approved accounting tool will be presumed to meet the minimum water quality and quantity performance standards of this article. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the Design Manual, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of this article. 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.

7.3.7. Dedication of BMPs, 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 article and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

SECTION 7.4. MAINTENANCE

7.4.1. General Standards for Maintenance

A. Function of BMPs as Intended

The owner of each engineered stormwater control installed pursuant to this article 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.

B. Annual Maintenance Inspection and Report

1. The person responsible for maintenance of any engineered stormwater control installed pursuant to this article 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 licensed North Carolina Professional Engineer or registered surveyor, landscape architect, 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:
 - a. The name and address of the land owner;
 - b. The recorded book and page number of the lot of each engineered stormwater control;
 - c. A statement that an inspection was made of all engineered stormwater controls;
 - d. The date the inspection was made;
 - e. A statement that all inspected engineered stormwater controls are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this article; and

- f. The original signature and seal of the engineer, surveyor, or landscape architect.
2. All inspection reports shall be on forms supplied by the Stormwater Administrator. An original inspection report shall be provided to the Stormwater Administrator beginning one year from the date of as-built certification and each year thereafter on or before the date of the as-built certification.

7.4.2. Operation and Maintenance Agreement

A. In General

1. Prior to the conveyance or transfer of any lot or building site to be served by a engineered stormwater control pursuant to this article, and prior to issuance of any permit for development or redevelopment requiring a engineered stormwater control pursuant to this article, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the engineered stormwater control. 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.
2. 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 on the Town to assume responsibility for the engineered stormwater control.
3. 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 Register of Deeds of the county in which the stormwater control is located upon final plat approval. A copy of the recorded maintenance agreement shall be given to the Stormwater Administrator within 14 days following its recordation.
4. For all engineered stormwater controls required pursuant to this article the required operation and maintenance agreement shall include all of the following provisions:
 - a. A statement that the agreement shall grant to the Town of Morrisville a right of entry to inspect, monitor, maintain, repair, and reconstruct structural BMPs.
 - b. A statement that the Town of Morrisville is authorized to recover from the property owner and/or association and its members, any and all costs the Town of Morrisville expends to maintain or repair the *structural BMPs* or to correct any operational deficiencies. Failure to pay the Town of Morrisville all of its expended costs, after forty-five days written notice, shall constitute a breach of the agreement. The Town of Morrisville 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.
 - c. A statement that the agreement shall not obligate the Town of Morrisville to maintain or repair any *structural BMPs*, and the Town of Morrisville shall not be liable to any person for the condition or operation of *structural BMPs*.
 - d. A statement that the agreement shall not in any way diminish, limit, or restrict the right of the Town of Morrisville to enforce any of its ordinances as authorized by law.
 - e. A statement that the property owner and/or association and its members indemnifies and holds harmless the Town of Morrisville for any costs and injuries arising from or related to the structural BMP, unless the Town of Morrisville has agreed in writing to assume the maintenance

responsibility for the BMP and has accepted dedication of any and all rights necessary to carry out that maintenance.

(Ord. No. 2016-054, 11/22/2016)

B. Special Requirement for Homeowners' and Other Associations

For all engineered stormwater controls required pursuant to this article and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement shall include all of the following provisions:

1. Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities.
2. Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the engineered stormwater controls. If engineered stormwater controls are not performing adequately or as intended or are not properly maintained, the Town, in its sole discretion, may remedy the situation, and in such instances the Town shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the engineered stormwater controls, provided that the Town shall first consent to the expenditure.
3. Both developer contribution and annual sinking funds shall fund the escrow account. Prior to plat recordation or issuance of construction permits, whichever shall first occur, the developer shall pay into the escrow account an amount equal to 15 percent of the initial construction cost of the engineered stormwater controls. Two-thirds of the total amount of sinking fund budget shall be deposited into the escrow account within the first five years and the full amount shall be deposited within ten years following initial construction of the engineered stormwater controls. Funds shall be deposited each year into the escrow account. A portion of the annual assessments of the association shall include an allocation into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the sinking fund budget.
4. The percent of developer contribution and lengths of time to fund the escrow account may be varied by the Town depending on the design and materials of the stormwater control and management facility.

(Ord. No. 2016-054, 11/22/2016)

7.4.3. Inspection Program

- A. Inspections and inspection programs by the Town may be conducted or established on any reasonable basis, including but not limited to routine inspections, random inspections, inspections based upon complaints or other notice of possible violations, and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in BMPs; and evaluating the condition of BMPs.
- B. 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 N.C.G.S. 15-27.2 or its successor. No person shall obstruct, hamper or interfere with the Stormwater Administrator while carrying out his or her official duties.

7.4.4. Performance Security for Installation and Performance

A. Performance Security

The Town shall require the submittal of a performance security prior to issuance of a permit in order to ensure that the engineered stormwater controls are:

1. Installed by the permit holder as required by the approved stormwater management plan, and/or
2. Maintained by the owner as required by the operation and maintenance agreement.

B. Amount

1. Installation

The amount of an installation performance security shall be the total estimated construction cost of the BMPs approved under the permit, plus 25 percent.

2. Maintenance

The amount of a maintenance performance security shall be a one-time cash payment equal to 30 percent of the total estimated construction cost of the BMPs approved under the permit.

C. Uses of Performance Security

1. Forfeiture Provisions

The performance security shall contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain any actions which may be required of the applicant or owner in accordance with this article, approvals issued pursuant to this article, or an operation and maintenance agreement established pursuant to this article.

2. Default

Upon default of the owner to construct, maintain, repair and, if necessary, reconstruct any engineered stormwater control in accordance with the applicable permit or operation and maintenance agreement, the Stormwater Administrator shall obtain and use all or any portion of the security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after requesting the owner to comply with the permit or maintenance agreement. In the event of a default triggering the use of installation performance security, the Town shall not return any of the unused deposited cash funds or other security, which shall be retained for maintenance.

3. Costs in Excess of Performance Security

If the Town takes action 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 security held, in addition to any other penalties or damages due.

4. Refund

After final approval of record drawings, as-builts, and certifications, the installation performance security shall be refunded to the applicant or terminated in accordance with this ordinance and the Town's Engineering Design and Construction Manual (EDCM).

(Ord. No. 2016-054, 11/22/2016)

7.4.5. Notice to Owners

A. Deed Recordation and Indications on Plat

The applicable operations and maintenance agreement pertaining to every engineered stormwater control shall be referenced on the final plat and shall be recorded with the Register of Deeds of the county in which the stormwater control is located upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement shall be recorded with the Register of Deeds of the appropriate county so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles.

B. Signage

Where appropriate in the determination of the Stormwater Administrator to assure compliance with this article, engineered stormwater controls shall be posted with a conspicuous sign stating who is responsible for required maintenance and annual inspection. The sign shall be maintained so as to remain visible and legible and comply with the standards in Section 5.16, Signage.

7.4.6. 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.

7.4.7. Nuisance

The owner of each stormwater BMP, whether engineered stormwater control or non-engineered stormwater control, shall maintain it so as not to create or result in a nuisance condition.

7.4.8. Maintenance Easement

Every engineered stormwater control installed pursuant to this article shall be made accessible for adequate maintenance and repair by a maintenance easement. The easement shall be recorded and its terms shall specify who may make use of the easement and for what purposes.

SECTION 7.5. ENFORCEMENT AND VIOLATIONS

7.5.1. General

A. Authority to Enforce

The provisions of this article shall be enforced by the Stormwater Administrator, his or her designee, or any authorized agent of the Town. Whenever this section refers to the Stormwater Administrator, it includes his or her designee as well as any authorized agent of the Town.

B. Violation Unlawful

Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this article, or the terms or conditions of any permit or other development approval or authorization granted pursuant to this ordinance, is unlawful and shall constitute a violation of this Ordinance.

C. Each Day a Separate Offense

Each day that a violation continues shall constitute a separate and distinct violation or offense.

D. Responsible Persons/Entities

1. Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair, or maintain any structure, BMP, engineered stormwater control, practice, or condition in violation of this article shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. Persons subject to the remedies and penalties set forth herein may include any architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this article, or fails to take appropriate action so that a violation of this article 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.
2. For the purposes of this article, responsible person(s) 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 this article, or fails to take appropriate action so that a violation of this article results or persists.

b. Person Responsible 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 or development of the property.

7.5.2. Remedies and Penalties

The remedies and penalties provided for violations of this article, 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 Compliance/Occupancy

The Stormwater Administrator or other authorized agent may refuse to issue a Certificate of Compliance/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 person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

2. Disapproval of Subsequent Permits and Development Approvals

As long as a violation of this article continues and remains uncorrected, the Stormwater Administrator or other authorized agent may withhold, and the Town Council may disapprove, any request for permit or development approval or authorization provided for by this Ordinance and/or building regulations, as appropriate for the land on which the violation occurs.

3. Injunction, Abatements, Etc.

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 this article. Any person violating this article shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.

4. Correction as Public Health Nuisance, Costs as Lien, etc.

If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by N.C.G.S 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 person(s) violating this article. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.

B. Civil Penalties

The Stormwater Administrator may assess a civil penalty against any person who violates any provision of this article or of a permit or other requirement pursuant to this article. Civil penalties may be assessed up to the full amount of penalty authorized by N.C.G.S. 143-215.6A.

C. Criminal Penalties

Violation of this article may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law.

7.5.3. Procedures

A. Initiation/Complaint

Whenever a violation of this article 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 article.

C. Notice of Violation and Order to Correct

1. When the Stormwater Administrator finds that any building, structure, or land is in violation of this article, the Stormwater Administrator shall notify, in writing, the property owner or other person violating this article. 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 by any means authorized for the service of documents by Rule 4 of the North Carolina Rules of Civil Procedure.
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 article to correct and abate the violation and to ensure compliance with this article.

D. Extension of Time

A person who receives a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the Stormwater Administrator a written request for an extension of time for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the Stormwater Administrator may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 30 days. The Stormwater Administrator may grant 30-day extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the person violating this article. The Stormwater Administrator may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.

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. The Stormwater Administrator may act to impose one or more of the remedies and penalties authorized by this article whether or not the violation has been corrected.

F. Emergency Enforcement

If delay in correcting a violation would seriously threaten the effective enforcement of this article or pose an immediate danger to the public health, safety, or welfare, then the Stormwater Administrator may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The Stormwater Administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this article.

SECTION 7.6. ILLICIT DISCHARGES AND CONNECTIONS

7.6.1. Illicit Discharges

A. No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any stormwater conveyance, the waters of the State, or upon the land in manner and amount that the substance is likely to reach a stormwater conveyance or the waters of the State, any liquid, solid, gas, or other substance, other than stormwater; provided that non-stormwater discharges associated with the following activities are allowed and provided that they do not significantly impact water quality:

1. Water line and fire hydrant flushing;
2. Landscape irrigation;
3. Diverted stream flows;
4. Rising groundwaters;
5. Uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(20));
6. Uncontaminated pumped ground water;
7. Discharges from uncontaminated potable water sources;
8. Foundation drains;
9. Residential or commercial air conditioning condensate;
10. Irrigation water;
11. Springs;
12. Water from crawl space pumps;
13. Footing drains;
14. Lawn watering;
15. Individual residential and charity car washing;
16. Flows from riparian habitats and wetlands;
17. Dechlorinated swimming pool discharges;
18. Flows from firefighting activities;
19. Street wash water; and

20. Other non-stormwater discharges for which a valid NPDES discharge permit has been approved and issued by the State of North Carolina, and provided that any such discharges to the municipal separate storm sewer system shall be authorized by the Town.

(Ord. No. 2014-006, 05/27/2014; Ord. No. 2014-051, 11/10/2014)

- B. Prohibited substances include but are not limited to: oil, anti-freeze, chemicals, animal waste, paints, garbage, and litter.

7.6.2. Illicit Connections

- A. Connections to a stormwater conveyance or stormwater conveyance system that allow the discharge of non-stormwater, other than the exclusions described in subsection 7.6.1 above, are unlawful. Prohibited connections include, but are not limited to: floor drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems.
- B. Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other regulation prohibiting such connections, the property owner or the person using said connection shall remove the connection within one year following the effective date of this article. However, the one-year grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.
- C. Where it is determined that said connection (a) may result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat, or (b) was made in violation of any applicable regulation or ordinance other than this section, the Stormwater Administrator shall designate the time within which the connection shall be removed. In setting the time limit for compliance, the Stormwater Administrator shall take into consideration:
1. The quantity and complexity of the work,
 2. The consequences of delay,
 3. The potential harm to the environment, to the public health, and to public and private property, and
 4. The cost of remedying the damage.

7.6.3. Spills

- A. Spills or leaks of polluting substances released, discharged to, or having the potential to released or discharged to the stormwater conveyance system, shall be contained, controlled, collected, and properly disposed. All affected areas shall be restored to their preexisting condition.
- B. Persons in control of the polluting substances immediately prior to their release or discharge, and persons owning the property on which the substances were released or discharged, shall immediately notify the Fire Chief of the release or discharge, as well as making any required notifications under State and federal law. Notification shall not relieve any person of any expenses related to the restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by State or other law.

7.6.4. Nuisance

Illicit discharges and illicit connections which exist within the Town are hereby found, deemed, and declared to be dangerous or prejudiced to the public health or public safety and are found, deemed, and declared

to be public nuisances. Such public nuisances shall be abated in accordance with the procedures set forth in subsection 7.6.5. below.

(Ord. No. 2014-006, 05/27/2014)

7.6.5. Enforcement

A. Authority to Enter

Any authorized town personnel shall be permitted to enter upon public or private property for the purposes of observation, inspection, sampling, monitoring, testing, surveying, and measuring compliance. No person shall obstruct, hamper, or interfere with any such representative while carrying out his official duties.

B. Civil and Criminal Penalties

1. Illicit Discharges

Any designer, engineer, contractor, agent, or any other person who allows, acts in concert, participates, directs, or assists directly or indirectly in the creation of a violation of this article shall be subject to civil penalties as follows:

- a. For first time offenders, if the quantity of the discharge is equal to or less than five gallons and consists of domestic or household products in quantities considered ordinary for household purposes, or for any quantity of yard waste or litter, said person shall be assessed a civil penalty of \$100.00 per violation or per day for any continuing violation and if the quantity of discharge is greater than five gallons or contains non-domestic substances, including but not limited to process wastewater, or if the person cannot provide clear and convincing evidence of the volume and nature of the substance discharged, said person shall be assessed a civil penalty of \$1,000.00 per violation or per day for any continuing violation.
- b. For repeat offenders, the amount of the penalty shall be double the amount assessed for the previous penalty, not to exceed \$10,000.00 per violation for any continuing violation.

2. Illicit Connections

Any person found with an illicit connection in violation of this article and any designer, engineer, contractor, agent, or any other person who allows, acts in concert, participates, directs, or assists directly or indirectly in the establishment of an illicit connection in violation of this article shall be subject to civil penalties as follows:

- a. First time offenders shall be subject to a civil penalty of \$500.00 per day of continuing violation.
- b. Repeat offenders shall be subject to a civil penalty of \$1,000.00 per day of continuing violation.

3. Procedures for Assessing Civil Penalties

Said penalties shall be assessed by the town manager or his designee. No penalty shall be assessed until the person alleged to be in violation is served written notice of the violation by registered, certified mail-return receipt requested, or personal service. Refusal to accept the notice shall not relieve the violator of the obligation to pay the penalty. The notice shall describe the violation with particularity and specify the measures needed to come into compliance. The notice shall designate the time within which such measures must be completed. The notice shall warn that failure to correct the violation within the specified time period will result in the assessment of additional civil penalties.

4. Payment/Collection Procedures

Penalties shall be assessed by the town manager or his designee after proper notice has been served as described in subsection (b)(3) above. The town manager or designee shall make written demand for payment upon the person in violation. If payment is not received within 30 days after

demand for payment is made, the matter shall be referred to the town attorney for possible institution of a civil action in the name of the town for recovering the penalty.

5. Criminal Penalties

Any person who knowingly or willfully violates any provision of this article or any order duly adopted or issued pursuant to this article shall be guilty of a misdemeanor, punishable by a fine not to exceed \$500.00 or imprisonment for not longer than 30 days. Each violation shall be a separate offense.

(Ord. No. 2014-006, 05/27/2014)

Article 8: Performance and Maintenance

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Article 8: Performance and Maintenance

SECTION 8.1. PERFORMANCE

8.1.1. Review for Compliance

Unless otherwise provided in this article or in Article 7: Stormwater Management, review for compliance with the standards of this article shall occur during review of an application for Final Plat Approval (Section 2.5.6.C), or Construction Plan Approval (Section 2.5.8), as appropriate.

(Ord. No. 2016-001, 05/10/2016)

8.1.2. Phasing of Development

The phasing of development is allowed as part of Conceptual Master Plan Approval (Section 2.5.4), Subdivision Approval (Section 2.5.6), or Site Plan Approval (Section 2.5.7) in accordance with the following standards.

A. Phasing Criteria

Phasing of approved development shall be in keeping with an approved phasing plan that shows phase boundaries and describes included development and improvements in accordance with the following criteria:

1. The numbering of phases shall be sequential and coincide with the order in which the different development phases are proposed to be constructed.
2. Each phase shall be designed to include all improvements and other aspects of development necessary to meet all requirements of this Code and other applicable regulations, either as a stand-alone development or in conjunction with completed and accepted phases of the same development.

B. Temporary Measures

A phasing plan may include installation of temporary measures as necessary to allow a particular phase to meet the phasing criteria in subsection A above, provided authorization of the temporary measures shall be valid for one year and be accompanied by the provision of a performance guarantee and a maintenance guarantee for the temporary measures in accordance with Section 8.1.4, Performance Guarantees, and Section 8.2.2, Maintenance Guarantees.

8.1.3. Payment in Lieu of Construction of Public Street Improvements

A. General

In lieu of providing all of the required public street improvements (including associated roadways, bikeways, and sidewalks), the developer may, with Town approval, provide payment in lieu of construction of public street improvements. The Town may require a combination of partial payment of funds and partial dedication of constructed street improvements on determining that a combination is in the best interests of the citizens of the area to be served. Decisions on whether or not to approve or deny these requests are made by the following review authorities:

1. Town Council

The Town Council decides whether or not to:

- a. Approve or deny requests for Type 1 Subdivision Preliminary Plat Approval or Major Site Plan Approval; and
- b. Waive providing payment in lieu for Town funded development applications.

2. Planning Director

The Planning Director decides whether or not to approve or deny requests for Type 2 Subdivision Preliminary Plat Approval or Minor Site Plan Approval.

(Ord. No. 2014-022, 06/24/2014)
(Ord. No. 2015-047, 07/28/2015)

B. Form of in Lieu Payment

The in lieu payment shall be provided in cash or certified check from a North Carolina lender to the Town prior to Construction Plan Approval.

C. Amount of in Lieu Payment

The amount of an in-lieu payment shall be in an amount equal to 150 percent of the estimated full cost of completing the installation of the required improvements, including the costs of materials, labor, and project management.

D. Use of in Lieu Funds

The Town shall deposit any in-lieu payment into a special Town fund that shall be used only for the design and construction of street improvements, including associated land acquisition, that serve the occupants, residents, or invitees of the subdivision or development for which the in-lieu payment is made (though the improvements may also serve more than one subdivision or development in the area). Such activities may be undertaken by the Town or in conjunction with the North Carolina Department of Transportation (NCDOT) under an agreement between the Town and NCDOT.

(Ord. No. 2015-002, 04/29/2015; Ord. No. 2016-001, 05/10/2016)

8.1.4. Performance Guarantees

A. General

A performance guarantee in accordance with the standards in this section shall be furnished the Town prior to Construction Plan Approval in the following circumstances:

1. To ensure completion of public infrastructure improvements (e.g., roadways, bike lanes, curb and gutter, sidewalks, bike paths, crosswalks, traffic signs and controls, street lights, fire lanes, bus shelters and other transit facilities, greenway paths—but not public improvements provided in accordance with Article 7: Stormwater Management) that are required as part of Construction Plan Approval; and
2. To ensure completion of plantings of replacement trees, buffer screening, and landscaping that are required as part of Construction Plan Approval.

B. Term of Performance Guarantee

The term of a performance guarantee shall reflect any time limit for completing installation of required improvements that is included in the Construction Plan Approval in a condition deemed acceptable by the Town Engineer—but in any case, the term shall not exceed three years. The Planning Director or Town Engineer, as appropriate, may, for good cause shown and with approval of the provider of the guarantee, grant extensions of the term for up to a total extended period of two years.

C. Form of Performance Guarantee

1. Where required, the owner or developer shall furnish a performance guarantee in any of the following forms with terms and conditions acceptable to the Town Attorney:
 - a. Cash deposit with the Town;
 - b. Surety bond issued by any company authorized to do business in this State;
 - c. Letter of credit issued by any financial institution licensed to do business in this State; or

- d. Other form of guarantee that provides equivalent security to a surety bond or letter of credit.
2. 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 performance guarantee. Performance guarantees shall provide that in case of the owner's or developer's failure to complete the guaranteed improvements, the Town shall be able to immediately obtain the funds necessary to complete installation of the improvements.

D. Amount of Performance Guarantee

1. Performance guarantees for required improvements shall be in an amount equal to 125 percent of the estimated full cost of completing the installation of the required improvements within the term of the guarantee, including the costs of materials, labor, and project management.
2. Estimated costs for completing installation of required public infrastructure improvements shall be itemized by improvement type and certified by the owner's or developer's licensed Professional Engineer, and are subject to approval by the Town Engineer.
3. Estimated costs for completing installation of required replacement trees, buffer screening, and landscaping shall be itemized and certified by the owner's or developer's registered landscape architect or licensed Professional Engineer and are subject to approval by the Planning Director.
4. If the guarantee is renewed, the Town Engineer or Planning Director, as appropriate, may require the amount of the performance guarantee be updated to reflect cost increases over time.
5. The amount of a performance guarantee may be waived or reduced by the Town Council where the improvements are being installed with federal funds or in other circumstances where similar third-party assurance of their completion exists.

E. Release or Reduction of Performance Guarantees

1. Requirements for Release or Reduction

The Town Engineer (for public infrastructure improvements) or Planning Director (for private site improvements, replacement trees, buffer screening, and landscaping) shall release or reduce a performance guarantee only after:

- a. The owner or developer has submitted to the Town Engineer or Planning Director, as appropriate, an application for a release or reduction of the performance guarantee that includes certification by the owner's or developer's engineer or landscape architect, as appropriate, that installation of the guaranteed improvements has been completed in accordance with approved plans and specifications;
- b. The Town Engineer or Planning Director, as appropriate, has performed a final inspection of the improvements for which a release or reduction is requested, and certified in writing that installation of the guaranteed improvements has been completed in accordance with approved plans and specifications;
- c. The owner or developer has reimbursed the Town for all costs associated with conducting any inspection that finds the guaranteed improvements for which a release or reduction is requested have not been installed in accordance with approved plans and specifications;
- d. The owner or developer has provided the Town Engineer or Planning Director, as appropriate, assurances that liens against guaranteed public infrastructure improvements will not be filed after their acceptance by the Town (e.g., through affidavits, releases, or waivers of liens from all contractors and subcontractors); and
- e. The owner or developer has provided the Town Engineer or Planning Director, as appropriate, any required maintenance guarantee for the same improvements (see Section 8.2.2, Maintenance Guarantees).

2. Limits on Reductions

- a. No performance guarantee for public infrastructure improvements shall be reduced to less than 30 percent of the full amount of the performance guarantee until all guaranteed public infrastructure improvements have been completed by the owner or developer.
- b. No performance guarantee for required private site improvements such as replacement trees, buffer screening, and landscaping shall be reduced to less than 75 percent of the full amount of the performance guarantee, until all guaranteed private site improvements have been completed by the owner or developer.

F. Default and Forfeiture of Performance Guarantee

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 Engineer (for public infrastructure improvements) or Planning Director (for private site improvements) shall give the owner or developer 30 days written notice of the default by certified mail.

2. Town Completion of Improvements

After the 30-day notice period expires, the Town may:

- a. Issue a Stop Work Order in accordance with Section 10.4.1.A, Issuance of Stop Work Order; and/or
- b. Draw on the security and use the funds to perform work necessary to complete installation of the guaranteed improvements. After completing such work, the Town shall provide a complete accounting of the expenditures to the owner or developer and, as applicable, refund all unused security deposited, without interest.

(Ord. No. 2015-002, 04/29/2015; Ord. No. 2016-001, 05/10/2016))

SECTION 8.2. MAINTENANCE

8.2.1. General Maintenance Requirement

When the standards and procedures of this Ordinance, or a development approval issued pursuant with this Ordinance, or conditions attached to any such approval require that any building or site feature be constructed or installed, the owner of the affected property shall be responsible for maintaining those building or site features in good repair, and for replacing them if they are damaged or destroyed or, in the case of living materials, if they die or are effectively destroyed after installation. In addition, property owners shall be responsible for each of the additional maintenance and replacement standards set forth in the various parts and sections of this article.

8.2.2. Maintenance Guarantees

A. General

A maintenance guarantee in accordance with the standards in this section is required in the following circumstances:

1. To ensure against defects in workmanship or materials in providing public infrastructure improvements (e.g., roadways, bike lanes, curb and gutter, sidewalks, bike paths, crosswalks, traffic signs and controls, street lights, fire lanes, bus shelters and other transit facilities, greenway paths—but not public improvements provided in accordance with Article 7: Stormwater Management) required as part of Construction Plan Approval (Section 2.5.8) or a Subdivision Approval (Section 2.5.6);

2. To ensure the survival and health of landscaping that is required in accordance with Section 5.7, Perimeter and Streetyard Buffers, Section 5.12, Landscaping, or Section 5.13, Screening, during an establishment period, and during a maintenance and monitoring period.

B. Term of Maintenance Guarantees

1. Public Infrastructure Improvements

The term of a maintenance guarantee for public infrastructure improvements shall be a minimum of one year from the date of acceptance.

2. Landscaping

The term of a maintenance guarantee for landscaping shall be one year from the date the landscaping is installed.

3. Replacement Trees

The term of a maintenance guarantee for replaced trees shall be three years from the date the trees are planted, provided that such term shall be extended for any guaranteed tree that is replaced during the original three-year term to cover three years after the date of replacement.

C. Form of Maintenance Guarantees

1. Where required, the owner or developer shall furnish a maintenance guarantee for the provision of required landscaping in any of the following acceptable forms:
 - a. Cash deposit with the Town;
 - b. Certified check from a North Carolina lender based upon a cash deposit, in a form acceptable to the Town Attorney;
 - c. Irrevocable letter of credit from a North Carolina banking institution in a form acceptable to the Town Attorney; or
 - d. Surety bond from a North Carolina surety bonding company in a form acceptable to the Town Attorney.
2. A maintenance guarantee for public infrastructure improvements or landscaping shall be conditioned on the performance of all work necessary to maintain required public infrastructure improvements or landscaping during the term of the maintenance guarantee, including work needed to repair or replace infrastructure defects or replace plants that have died within the term of the maintenance guarantee.
3. A maintenance guarantee for a replacement tree shall be conditioned on the performance of all work necessary to transplant or plant replacement trees and maintain them during the term of the maintenance guarantee, including work needed to replace replacement trees that have died or been effectively destroyed during the term of the maintenance guarantee.
4. Maintenance guarantees shall provide that in case of the owner's or developer's failure to maintain and repair or replace the guaranteed public infrastructure improvements or landscaping—or to transplant or plant and maintain the guaranteed replacement trees—during the term of the maintenance guarantee, the Town shall be able to immediately obtain the funds necessary to make necessary repairs or replacements.

D. Amount of Maintenance Guarantees

1. Maintenance guarantees for public infrastructure improvements and landscaping shall be in an amount equal to at least 20 percent of the full actual cost, including the costs of materials and labor, of installing the required public infrastructure improvements or landscaping. The Town Engineer may require a greater amount on determining it is necessary to cover the costs of greater than usual damage or deterioration that might be expected to result from on-going construction activities in the development (e.g., damage to roadways from heavy vehicles involved in the

construction of homes on remaining lots within a subdivision). Actual costs for installing required public infrastructure improvements shall be itemized by improvement type and certified by the owner's or developer's licensed Professional Engineer. Actual costs for installing required landscaping shall be itemized and certified by the owner's or developer's registered landscape architect.

2. Maintenance guarantees for tree replacement or corrective action for damaged trees shall be in an amount determined based on Guide for Plant Appraisal (Council of Tree and Landscape Appraisers), as amended.
3. The amount of a maintenance guarantee for required public infrastructure improvements or landscaping may be waived or reduced by the Town Council where alternative means of ensuring proper maintenance of the improvements or landscaping are used.

E. Release or Reduction of Maintenance Guarantees

1. The Planning Director or Town Engineer, as appropriate, shall release a maintenance guarantee for public infrastructure improvements or landscaping at the end of the term of the maintenance guarantee only after Town staff has performed an inspection of the guaranteed improvements or landscaping and certified in writing that they have been maintained in accordance with approved plans and specifications.
2. The Planning Director shall release a maintenance guarantee for tree replacement or corrective action for damaged trees at the end of the term of the maintenance guarantee only after Town staff has performed an inspection of the subject trees and has certified in writing that they were properly transplanted, planted, or corrected and have been maintained in a healthy state in accordance with approved plans and specifications.
3. Where the term of a maintenance guarantee for tree replacement has been extended to cover the replacement of trees that died or were effectively destroyed during the original term (see Section 8.2.2.B, Term of Maintenance Guarantees), the Planning Director may reduce the guarantee by the percentage of the total number of guaranteed trees that survived the original term.

F. Default and Forfeiture of Maintenance Guarantee

1. Notice of Failure to Maintain Guaranteed Improvements, Landscaping, or Trees

If the owner or developer fails to maintain the guaranteed public infrastructure improvements, landscaping, or replacement trees during the term of the performance guarantee, the Planning Director or Town Engineer, as appropriate, shall give the owner or developer 30 days written notice of the default by certified mail.

2. Town Correction of Defects

After expiration of the 30-day notice period for failure to maintain guaranteed public infrastructure improvements or landscaping, the Town may draw on the security and use the funds to perform work necessary to ensure the guaranteed public infrastructure improvements or landscaping comply with approved plans and specifications. After completing such work, the Town shall provide a complete accounting of the expenditures to the owner or developer and, as applicable, refund all unused security deposited, without interest.

(Ord. No. 2015-002, 04/29/2015)

Article 9: Nonconformities

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Article 9: Nonconformities

SECTION 9.1. GENERAL APPLICABILITY

9.1.1. Purpose and Scope

There exist lots, uses of land, structures, signs, exterior lighting, and other site features that were lawfully established before the effective date of this Ordinance, or a subsequent amendment thereto, but that do not conform to the standards and requirements of this Ordinance or subsequent amendment. Such lots, uses of land, structures, signs, lighting, and other site features are collectively referred to as “nonconformities.” It is the general policy of the Town to allow nonconformities to continue to exist. It also is the policy of the Town to bring as many nonconformities into conformance with this Ordinance as is reasonably practicable, subject to the requirements of this article. The purpose and intent of this article is to recognize the interests of property owners in continuing to use the land, but to preclude the expansion of a nonconformity or the reconstruction or reestablishment of a substantially destroyed or discontinued nonconformity unless doing so can serve as an incentive to achievement of even greater public benefit.

9.1.2. Applicability

This article applies to nonconformities created by initial adoption of, or amendments to, this Ordinance unless otherwise expressly provided by provisions in this Ordinance.

9.1.3. Determination of Nonconformity Status

In all cases, the burden of establishing that a nonconformity lawfully exists shall be the responsibility of the owner of the land on which the nonconformity is located.

9.1.4. Continuation and Minor Repairs and Maintenance Allowed

Nonconformities are allowed to continue in accordance with the requirements of this article, and are encouraged to receive minor repairs and routine maintenance that are necessary to maintain the nonconformity and its surroundings in a safe condition and protect against health hazards.

9.1.5. Change of Tenancy or Ownership

No change of title or possession or right to possession of land involved shall be construed to prevent the continuance of such nonconformity.

SECTION 9.2. NONCONFORMING LOTS

9.2.1. Definition

A nonconforming lot is a lot that was lawfully created before the effective date of this Ordinance, or a subsequent amendment thereto, but does not conform to the lot standards applied by this Ordinance or the subsequent amendment.

9.2.2. Use of Nonconforming Lots

- A. Except as otherwise provided in subsection B below, a nonconforming lot may be used for any use or structure subject to compliance with applicable use regulations and dimensional standards of this Ordinance.

Article 9: Nonconformities

Section 9.3. Nonconforming Uses

9.2.3. Governmental Acquisition of a Portion of Lot

- B.** A nonconforming vacant lot shall not be developed if it can be combined with an adjoining lot (whether conforming or nonconforming) under the same ownership on or after the effective date of this Ordinance to create a single lot. If the combination results in the creation of a single lot that is more than one and one-half (1½) times the minimum lot width or area required in the zoning district, the single lot may be divided into two lots of equal width and area without being further classified as nonconforming. For the purposes of this section, "adjoining" shall be deemed to mean the sharing of one or more common lot lines and access to both lots can be provided by the same street without crossing that street. (Any combination or division of lots required or allowed by this subsection shall occur in accordance with Section 2.5.6, Subdivision Approvals.)

9.2.3. Governmental Acquisition of a Portion of Lot

If a conforming lot is made nonconforming due to governmental acquisition of a portion of the lot for a public purpose that results in the lot no longer complying with applicable lot area or lot width standards, the lot shall be deemed a conforming lot on receipt of a Site Plan or Building Permit demonstrating that the development existing or proposed on the lot:

- A.** Complies with the use table in Section 4.2.4, Principal Use Table;
- B.** Complies with the dimensional standards of this Ordinance to the maximum extent practicable;
- C.** Complies with the off-street parking and landscaping standards of this Ordinance to the maximum extent practicable;
- D.** Complies with all other standards and requirements of this Ordinance; and
- E.** Is designed and configured in a way that is compatible with surrounding development.

SECTION 9.3. NONCONFORMING USES

9.3.1. Definition

A nonconforming use is a use of land, buildings, and/or structures that was lawfully established before the effective date of this Ordinance, or a subsequent amendment thereto, but does not comply with the use standards applied by this Ordinance or the subsequent amendment.

9.3.2. Regulations

Nonconforming uses may be continued subject to the following limitations:

- A.** No nonconforming use shall be extended, expanded, enlarged, or moved to occupy a different or greater area of land, buildings, or structures than was occupied by such use at the time it became nonconforming, provided that a nonconforming use may be extended throughout any parts of a building that were specifically designed and arranged for such use at the time it became nonconforming.
- B.** No building or structure devoted to a nonconforming use shall be enlarged, extended, or moved unless such building or structure is thereafter devoted to a conforming use.
- C.** If a nonconforming use ceases for more than 90 consecutive days or a total of 180 days in any 12-month period, subsequent use of land or structures previously devoted to such use shall not be used for any nonconforming uses and shall thereafter be devoted to conforming uses only.
- D.** If a structure (whether conforming or nonconforming) containing a nonconforming use is damaged to an extent less than 50 percent of its assessed value, the structure may be reconstructed and used as before if a Building Permit for the reconstruction is secured within 12 months after such damage. Any delays in reconstruction due to factors beyond the control of the structure's owner or occupant shall not be considered in determining this time period. If such structure is damaged to an extent exceeding 50

percent of its assessed value, the structure shall not be reconstructed or used except in conformity with the provisions of this Ordinance.

SECTION 9.4. NONCONFORMING STRUCTURES

9.4.1. Definition

A nonconforming structure is a structure other than a sign, exterior lighting fixture, or structure associated with a nonconforming site feature that was lawfully established before the effective date of this Ordinance, or subsequent amendment thereto, but does not comply with the floor area ratio, setback, dimensional, elevation, location, material, height or other standards applied by this Ordinance or the subsequent amendment.

9.4.2. Regulations

Nonconforming structures may be continued subject to the following limitations:

- A. A nonconforming structure shall not be enlarged or structurally altered in a way that increases the nonconformity.
- B. If a nonconforming structure other than a manufactured home is damaged to an extent 50 percent or less of its assessed value, it may be reconstructed on the same lot provided a Building Permit for the reconstruction is secured within 12 months after the date of the damage. Any delays in securing a Building Permit due to factors beyond the control of the structure's owner shall not be considered in determining this time period.
- C. If a nonconforming structure other than a manufactured home is damaged to an extent exceeding 50 percent of its assessed value, it may be reconstructed on the same lot provided:
 1. A Building Permit for the reconstruction is secured within 180 days after the date of the damage;
 2. The structure meets all requirements of this Ordinance to the maximum extent practicable;
 3. The structure is reconstructed in a manner that does not increase its nonconformity; and
 4. Any reconstruction of a nonconforming nonresidential structure shall require the installation of sufficient parking, landscaping, perimeter and streetyard buffers, and screening to comply with the provisions of this Ordinance to the maximum extent practicable.
- D. If a nonconforming structure is moved on the lot on which it is located, it shall, to the extent possible, be moved to make the structure conforming. Otherwise, the moved structure shall be placed on the lot in as conforming a manner as possible.

SECTION 9.5. NONCONFORMING SIGNS

9.5.1. Definition

A nonconforming sign is a sign that was lawfully established before the effective date of this Ordinance, or a subsequent amendment thereto, but does not conform to the signage standards applied by this Ordinance.

9.5.2. Regulations

Nonconforming signs may be continued subject to the following limitations:

- A. No nonconforming sign, including its permanent message or its structure, shall be extended, expanded, enlarged, moved, or otherwise altered unless such sign is made to conform to this Ordinance.

- B.** If a nonconforming sign is damaged to an extent less than 50 percent of its appraised value, as submitted by the sign owner and subject to approval by the Planning Director, it may be reconstructed on the same lot provided:
1. A Sign Permit for the reconstruction is secured within 180 days after the date of the damage;
 2. The sign meets all requirements of this Ordinance to the maximum extent practicable; and
 3. The sign is reconstructed in a manner that does not increase its nonconformity.

SECTION 9.6. NONCONFORMING EXTERIOR LIGHTING FIXTURES

9.6.1. Definition

A nonconforming exterior lighting fixture is an exterior lighting fixture that was lawfully established before the effective date of this Ordinance, or a subsequent amendment thereto, but does not comply with the exterior lighting standards applied by this Ordinance or the subsequent amendment.

9.6.2. Regulations

If a nonconforming exterior lighting fixture is replaced, moved, upgraded, or otherwise changed, it shall be brought into compliance with the exterior lighting standards of this Ordinance.

SECTION 9.7. NONCONFORMING SITE FEATURES

9.7.1. Definition

A nonconforming site feature is any obstruction within a required sight distance triangle or any off-street parking, landscaping, perimeter and streetyard buffer, or screening that was lawfully established before the effective date of this Ordinance, or a subsequent amendment thereto, but does not comply with the sight distance triangle standards or the off-street parking, landscaping perimeter and streetyard buffer, or screening standards applied by this Ordinance or the subsequent amendment. The lack of required sight distance triangle, off-street parking, landscaping, perimeter or streetyard buffer, or screening also shall constitute a nonconforming site feature.

9.7.2. Regulations

A. General

Nonconforming site features may be continued subject to the following limitations:

1. For development existing (or for which a vested right had been established) before the effective date of this Ordinance, nonconforming site features created by a change in regulations may continue to exist, and structures comprising such nonconforming site features may be reconstructed if demolished or destroyed.
2. For all other nonconforming site features, no action shall be taken that increases the degree or extent of the nonconforming site feature, and no nonconforming site feature shall be extended, expanded, enlarged, or otherwise altered, unless the site feature thereafter conforms to all current requirements of this Ordinance.

B. Upgrading of Nonconforming Site Features with Substantial Remodeling of Structures

If an application is filed for a Building Permit for the remodeling of one or more structures on a site containing nonconforming site features, and the cumulative costs of any such remodeling over the past five-year period (as shown on Building Permit applications) exceeds 50 percent of the current assessed

value of the structures, the nonconforming site features shall be upgraded in conjunction with the remodeling to conform to all current standards of this Ordinance.

C. Upgrading of Nonconforming Site Features with Substantial Expansion of Structures

If an application is filed for a Building Permit for the expansion of one or more structures on a site containing nonconforming site features, and the cumulative increase in such structures' floor area over the past five-year period (as shown on Building Permit applications) exceeds 50 percent of the current floor area of the structures, the nonconforming site features shall be upgraded in conjunction with the expansion to conform to the current standards of this Ordinance.

D. Upgrading of Nonconforming Site Features with Substantial Expansion of Outdoor Operations, Storage, and Display Areas

If outdoor operations, storage, and display areas are being expanded on a site containing nonconforming perimeter or streetyard buffers or screening of such outdoor areas, and the increase in the gross square footage of all such outdoor areas exceeds 50 percent of the current area used for outdoor operations, storage, and displays, the nonconforming buffers and screening shall be upgraded in conjunction with the expansion to conform to the current standards of this Ordinance.

E. Compliance to Maximum Extent Practicable

Where full compliance with the requirements of this section is precluded by a lack of sufficient developable area due to the size of the lot, the layout of existing development, or the presence of significant wetlands, floodplains, watercourses, or other significant environmental constraints on development, the applicant shall comply with the requirements of this section to the maximum extent practicable, as determined by the Planning Director.

Article 10: Enforcement

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Article 10: Enforcement

SECTION 10.1. GENERAL PROVISIONS

10.1.1. Purpose

This article establishes procedures through which the Town seeks to ensure compliance with the provisions of this Ordinance and obtain corrections for Ordinance violations. It also sets forth the remedies and penalties that apply to violations of this Ordinance. The provisions of this chapter are intended to encourage the voluntary correction of violations, where possible.

10.1.2. Compliance Required

Compliance with all the procedures, standards, and other provisions of this Ordinance is required by all persons owning, developing, managing, using, or occupying land or structures in the town.

SECTION 10.2. VIOLATIONS AND RESPONSIBLE PERSONS

10.2.1. Violations Generally

A. Failure to Comply with Ordinance or Term or Condition of Approval Constitutes Ordinance Violation

Any failure to comply with a standard, requirement, prohibition, or limitation imposed by this Ordinance, or the terms or conditions of any permit or other development approval or authorization granted in accordance with this Ordinance shall constitute a violation of this Ordinance punishable as provided in this article.

B. Permits or Permit Approvals Only Authorize Development Approved

Permits or permit approvals issued by a decision-making body authorize only the use, arrangement, location, design, density or intensity, and development set forth in such permits or development approvals.

10.2.2. Specific Violations

It shall be a violation of this Ordinance to undertake any activity contrary to the provisions of this Ordinance, including but not limited to any act or omission, or failure to comply with any other provisions, procedures, or standards as required by this Ordinance.

10.2.3. Responsible Persons

The owner, tenant, or occupant of any land or structure, and an architect, engineer, builder, contractor, agent, or any other person who participates in, assists, directs, creates, or maintains a situation that constitutes a violation of this Ordinance may be held responsible for the violation and subject to the remedies and penalties set forth in this article.

SECTION 10.3. ENFORCEMENT RESPONSIBILITY AND PROCEDURES

10.3.1. Responsibility for Enforcement

A. Primary responsibility for enforcing the provisions of this Ordinance shall be divided among Town officials as follows:

Article 10: Enforcement

Section 10.3. Enforcement Responsibility and Procedures

10.3.2. Complaints Regarding Violations

1. The Planning Director shall be responsible for all enforcement of the zoning and subdivision provisions in the text of this Ordinance, zoning district boundaries, and compliance with conditions of approval.
 2. The Town Engineer shall be responsible for enforcement of the riparian buffers, stormwater management, and engineering provisions in the text of this Ordinance and compliance with conditions of approval.
- B.** The Planning Director and Town Engineer may delegate enforcement authority to other Town officials involved with reviewing or inspecting development, who shall be responsible for assisting them in enforcing this Ordinance.
- C.** The Building Official is responsible for all enforcement of Building Code provisions, including issuance of Building Permits and Certificates of Compliance/Occupancy for development approved in accordance with this Ordinance.
- D.** All other officers and employees of the Town—especially members of the Police Department and Fire Department—shall have the duty to assist in enforcing this Ordinance by reporting apparent violations of this Ordinance to these officials.
-

10.3.2. Complaints Regarding Violations

In addition to enforcement by Town officials under Section 10.3.1, Responsibility for Enforcement, any person may submit to the Town officials identified in Section 10.3.1 a complaint alleging a violation of this Ordinance. On receiving a signed written complaint that fully states the basis for the allegation, including the apparent cause of the alleged violation, the Planning Director, Town Engineer, or Building Official, as appropriate, shall properly record such complaint, investigate the alleged violation, and take appropriate action as provided by this Ordinance.

10.3.3. Inspections

- A.** On presenting proper credentials, the Planning Director, Town Engineer, and Building Official may enter upon land or inspect any structure to ensure compliance with the provisions of this Ordinance. These inspections shall be carried out during normal business hours unless the Planning Director, Town Engineer, or Building Official determines there is an emergency necessitating inspections at another time.
- B.** No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of the Town of Morrisville while that person is inspecting or attempting to inspect land or structures nor shall any person obstruct, hamper, or interfere with any such representative while in the process of carrying out their official duties.
-

10.3.4. Enforcement Procedure

A. Notice of Violation and Opportunity for Correction

1. On finding that a violation of this Ordinance exists, whether from an investigation of a written complaint or otherwise, the Planning Director or Town Engineer, as appropriate, shall provide written notice of the violation, by personal service or certified mail, return receipt requested, to the owner of the property on which the violation exists and the person causing or maintaining the violation. Such notification shall:
 - a. Describe the location and nature of the violation;
 - b. State the actions necessary to abate the violation; and
 - c. Order that the violation be corrected or an administrative hearing be requested within a specified reasonable time period not to exceed 30 days after receipt of the Notice of Violation.

2. The final Notice of Violation (which may also be the initial Notice of Violation) shall state what course of action is intended if the violation is not corrected or an administrative hearing is not requested within the specified time limit. If the final Notice of Violation identifies the assessment of a civil penalty as a potential intended course of action, the Notice of Violation shall also serve as a warning citation. The final Notice of Violation shall also advise the violators of their rights to appeal the Notice of Violation to the Board of Adjustment in accordance with Section 2.5.22, Administrative Appeal.
3. On receiving a written request for extension of the time limit for correction specified in the Notice of Violation, the Planning Director or Town Engineer, as appropriate, may grant a single extension of the time limit for up to 90 days for good cause shown.
4. If the owner of the property cannot be located or determined, the Planning Director or Town Engineer, as appropriate shall post a copy of the notice on the building, structure, sign, or site that is the subject of the violation. In such a case, the time limit for correction of the violation shall be deemed to begin five days after the notice is posted.

B. Administrative Hearing

If the violator requests an administrative hearing within the deadline set forth in the Notice of Violation, the Planning Director or Town Engineer, as appropriate shall schedule a hearing not less than seven days or more than 30 days after receiving the request, and shall provide the violator written notice of the time and place of the hearing. At the conclusion of the hearing, the Planning Director or Town Engineer, as appropriate shall make a final determination of whether a violation exists and, if finding that a violation does exist, shall order the violator to undertake actions necessary to abate the violation within a set time limit. The Planning Director or Town Engineer, as appropriate shall also advise the violator of the right to appeal the final determination of violation to the Board of Adjustment in accordance with Section 2.5.22, Administrative Appeal.

C. Application of Remedies and Penalties

On determining that the violator has failed to correct the violation by the time limit set forth in the final Notice of Violation (or any granted extension thereof) or set at a subsequent administrative hearing, or has failed to appeal the Notice of Violation or final determination of violation in a timely manner and in accordance with Section 2.5.22, Administrative Appeal, the Planning Director or Town Engineer, as appropriate shall take appropriate action, as provided in Section 10.4, Remedies and Penalties, to correct the violation and to ensure compliance with this Ordinance.

D. Emergency Enforcement without Notice

On determining that delay in correcting the violation would pose a danger to the public health, safety, or welfare, the Planning Director or Town Engineer, as appropriate may seek immediate enforcement without prior written notice by invoking any of the remedies authorized in Section 10.4, Remedies and Penalties.

E. Repeat Violations

If the same violation, except for repeat violations subject to Section 10.4.2.A, Violations of Riparian Buffer Regulations, is repeated by the same offender over any two-year period, the Town may commence the application of remedies or penalties at the stage in the process where the previous violation was resolved.

F. Authority to Require Statements

The Town shall have the authority to require written statements, or the filing of reports under oath, with respect to pertinent questions relating to land-disturbing activities constituting a potential violation of this Ordinance.

SECTION 10.4. REMEDIES AND PENALTIES

The Town may use any combination of the following remedies and penalties to enforce compliance with this Ordinance.

10.4.1. Remedies

A. Issuance of Stop Work Order

Whenever any development subject to this Ordinance, including a building or structure that is being constructed, demolished, renovated, altered, or repaired, is in violation of any applicable provision of this Ordinance, the Planning Director, Town Engineer, or Building Official may issue a Stop Work Order. The Stop Work Order shall be in writing, directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons for cessation, and the action(s) necessary to lawfully resume work.

B. Revocation of Permit or Approval

The Planning Director or Town Engineer, as appropriate, may revoke any development permit or approval granted under this Ordinance, by written notice to the permit or approval holder, when false statements or misrepresentations were made in securing the permit or approval, work is being or has been done in substantial departure from the approved application or plan, there has been a failure to comply with the requirements of this Ordinance, or a permit or approval has been mistakenly granted in violation of this Ordinance.

C. Denial or Withholding of Related Permits

1. The Town may deny or withhold a Certificate of Compliance/Occupancy in accordance with the Building Code—or deny or withhold any permit, approval, or other authorization under this Ordinance to use or develop any land, structure, or improvements—until an alleged violation related to such land, use, or development is corrected and any associated civil penalty is paid.
2. Any person, firm, or corporation who violates any Special Event provisions authorized in Article 6: Temporary Use/Structure Table, or Section 4.4.5.B.7, Special Event, shall be prohibited from obtaining a Special Event Permit within 14 months of the date a Notice of Violation is issued.

D. Removal of Illegal Signs from Town-Maintained Streets

The Town may remove any sign placed within the right-of-way of a Town-maintained street in violation of the standards in this Ordinance.

E. Injunction

When a violation occurs, the Town may, either before or after the initiation of other authorized actions, apply to the appropriate court for a mandatory or prohibitory injunction ordering the offender to correct the unlawful condition or cease the unlawful use of the land in question.

F. Order of Abatement

1. In addition to an injunction, the Town may apply for and the court may enter into 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;
 - d. That removed trees be replaced; or

- e. That any other action be taken as necessary to bring the property into compliance with this Ordinance.
2. The Town may execute the Order of Abatement and will have a lien on the property in the nature of a mechanic's and materialman's lien for the cost of executing the order.

G. Equitable Remedy

The Town may apply to the appropriate court 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 a violator as a defense to the Town's application for equitable relief.

10.4.2. Citations and Civil Penalties

A. Violations of Riparian Buffer Regulations

Any person, firm, or corporation who violates any provisions in Article 6: Riparian Buffers, shall be in violation of this article and shall be subject to civil penalties as follows:

1. For first time offenders a civil penalty in the amount of \$100.00 per violation shall be assessed.
2. For repeat offenders, the amount of the penalty shall be double the amount assessed for the previous penalty, not to exceed \$10,000.00 per violation for any continuing violation.
3. Each day's continuing violation shall be a separate and distinct offense.

B. Violations of Stormwater Management Regulations

Any person, firm, or corporation who violates any provision in Article 7: Stormwater Management, or order made pursuant to Article 7, shall be subject to the civil penalties set forth in Section 7.5, Enforcement and Violations.

C. Violations of Special Event Permit Regulations

Any person, firm, or corporation who violates any Special Event provisions authorized in Article 6: Temporary Use/Structure Table, or Section 4.4.5.B.7, Special Event, shall be in violation of this article and shall be subject to Section 10.4.1.C.2, as well as civil penalties as follows:

1. For first time offenders a civil penalty in the amount of \$100.00 per violation shall be assessed.
2. For repeat offenders a civil penalty in the amount of \$200.00 per violation shall be assessed

D. Violation of Tree Protection Standards

1. Damage or Removal within a Designated Protection Area

- a. Irreparable damage to or removal of existing trees located within a designated tree protection area or existing trees depicted on a tree protection plan shall be subject to a civil penalty in the amount of \$1,000 per tree with a DBH of less than 24 inches and \$5,000 per tree with a DBH of 24 inches or more.
- b. The civil penalty associated with damage to or removal of existing trees located within a designated tree protection area or existing trees depicted on a tree protection plan shall not exceed a maximum of \$500,000 for any single occurrence.

2. Damage or Removal without an Established Protection Area

- a. In cases where irreparable damage to or removal of existing trees takes place on a site that is subject to the standards in Section 5.4, Tree Protection, but where a tree protection area has not yet been established or a tree survey is not yet submitted, a civil penalty shall be imposed in the amount of \$5.00 per square foot of tree canopy retention area required but not provided (due to the removal or damage of existing trees).

- b. The land area subject to the penalty shall be equivalent to the land area that would have been located within the required tree protection area if it had been established.
- c. The civil penalty associated with damage to or removal of existing trees where a tree protection area is required but not established shall not exceed a maximum of \$1,000,000 for any single occurrence.

3. Tree Replacement Required

In addition to the imposition of civil penalties, replacement trees planted in accordance with the standards in Section 5.4.7, Mitigation for Tree Removal, shall be required.

E. Other Violations

Any person, firm, or corporation who violates the provisions of this Ordinance other than those in Article 6: Riparian Buffers or Article 7: Stormwater Management, shall be subject to civil penalties as follows:

1. A civil penalty in the amount of \$50.00 per violation for the first day and \$100.00 per violation for any day thereafter in violation.
2. Each day's continuing violation shall be a separate and distinct offense.

F. Citation

1. To impose a civil penalty, the Planning Director or Town Engineer, as appropriate, shall first provide the violator a written citation, either by personal service or certified mail, return receipt requested. The citation shall:
 - a. Describe the violation;
 - b. Specify the amount of the civil penalty being imposed;
 - c. Direct the violator to, within 30 calendar days after the date the citation is received, pay the civil penalty to the Town or contest the citation by submitting a written request an administrative hearing; and
 - d. Advise the violator of the right to appeal the citation to the Board of Adjustment in accordance with Section 2.5.22, Administrative Appeal.
2. If the violator requests an administrative hearing within the deadline set forth in the citation, the Planning Director or Town Engineer, as appropriate, shall schedule a hearing not less than seven days or more than 30 days after receiving the request, and shall provide the violator written notice of the time and place of the hearing. At the conclusion of the hearing, the Planning Director or Town Engineer, as appropriate, shall make a final determination of (1) whether the citation is warranted, and (2) whether the penalty amount is appropriate or should be reduced. If finding that the citation is warranted and the penalty amount is confirmed or reduced, the Planning Director or Town Engineer shall order the violator to pay the civil penalty to the Town. The Planning Director or Town Engineer, as appropriate, shall also advise the violator of the right to appeal the citation to the Board of Adjustment in accordance with Section 2.5.22, Administrative Appeal.
3. If the violator fails to either pay the civil penalty or set at a subsequent administrative hearing, or has failed to appeal the citation in a timely manner and in accordance with Section 2.5.22, Administrative Appeal, the Town may institute a civil action in the nature of a debt in a court of competent jurisdiction to recover the civil penalty.

10.4.3. Criminal Penalties

A. Violations of Riparian Buffer Regulations

1. Any person, firm, or corporation who negligently violates any provision in Article 6: Riparian Buffers, or order made pursuant to Article 6, shall, upon conviction, be guilty of a Class 2 misdemeanor and

subject to a criminal fine of up to \$15,000 per day of violation, up to a cumulative total fine of \$200,000 for each period of 30 days during which the violation continues.

2. Any person, firm, or corporation who knowingly or willingly violates any provision in Article 6: Riparian Buffers, or order made pursuant to Article 6, shall be guilty of a Class I felony and subject to a fine of up to \$100,000 per day of violation, up to a cumulative total \$500,000 for each period of 30 days during which the violation continues.
3. Any person, firm, or corporation who knowingly violates any provision in Article 6: Riparian Buffers, or order made pursuant to Article 6, shall be guilty of a Class C felony and subject to a fine of up to \$250,000 per day of violation, up to a cumulative total one million dollars (\$1,000,000) for each period of 30 days during which the violation continues.

B. Violations of Stormwater Management Regulations

Any person, firm, or corporation who violates any provision in Article 7: Stormwater Management, or order made pursuant to Article 7, shall be subject to the criminal penalties and fines set forth in Section 7.5, Enforcement and Violations.

C. Other Violations

In accordance with Section 14-4 of the North Carolina General Statutes, any person, firm, or corporation who violates the provisions of this Ordinance other than those in Article 6: Riparian Buffers, or Article 7: Stormwater Management, shall, upon conviction, be guilty of a misdemeanor and subject to a criminal fine of \$500.

10.4.4. Cumulative Remedies and Penalties

The remedies and penalties provided for violations of this Ordinance, whether civil or criminal, shall be cumulative and in addition to any other remedy or penalty provided by law, and may be exercised in any order.

(Ord. No. 2014-051, 11/10/2014)

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Article 11: Interpretation and Definitions

SECTION 11.1. INTERPRETATION OF ORDINANCE TEXT

The following rules shall apply for construing or interpreting the terms and provisions of this Ordinance.

11.1.1. Meanings and Intent

All provisions, terms, phrases, and expressions contained in this Ordinance shall be interpreted in accordance with the general purposes set forth in Section 1.1.3, Purpose and Intent, and the specific purpose statements set forth throughout this Ordinance. When a specific section of these regulations provides a different meaning than the general definition provided in Section 11.5, Terms and Uses Defined, the specific section's meaning and application of the term shall control.

11.1.2. Headings, Illustrations, and Text

In the event of a conflict or inconsistency between the text of this Ordinance and any heading, caption, figure, illustration, table, or map, the text shall control. Graphics and other illustrations are provided for informational purposes only and should not be relied on as a complete and accurate description of all applicable regulations or requirements.

11.1.3. 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.

11.1.4. 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. References to days are calendar days unless otherwise stated.

11.1.5. References to Other Regulations/Publications

Whenever reference is made to a resolution, ordinance, code, statute, regulation, or document, it shall be construed as a reference to the most recent edition of such regulation, manual, resolution, ordinance, code, statute, regulation, or document, unless otherwise specifically stated.

11.1.6. Delegation of Authority

Any act authorized by this Ordinance to be carried out by a specific official of the Town may be carried out by a professional-level designee of such official at the direction of the official.

11.1.7. Technical and Nontechnical Terms

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

11.1.8. Public Officials and Agencies

All public officials, bodies, and agencies to which references are made are those of the Town of Morrisville, unless otherwise indicated.

11.1.9. Mandatory and Discretionary Terms

The words “shall,” “must,” and “will” are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words “may” and “should” are permissive in nature.

11.1.10. 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 or are required;
 - B. “Or” indicates that only one of the connected items, conditions, provisions, or events applies or is required; and
 - C. “And/or” indicates that one or more of the connected items, conditions, provisions, or events apply or are required.
-

11.1.11. Tenses and Plurals

Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

11.1.12. Term Not Defined

If a term used in this Ordinance is not defined in this article, the Planning Director or Town Engineer, as appropriate, shall have the authority to provide a definition based on the definitions used in accepted sources—including, but not limited to, *A Planners Dictionary*, *A Glossary of Zoning, Development, and Planning Terms*, and *A Survey of Zoning Definitions*, published by the American Planning Association.

SECTION 11.2. INTERPRETATION OF ZONING MAP BOUNDARIES

The Planning Director shall be responsible for interpretations of the Zoning Map in accordance with the standards in Section 11.1, Interpretation of Ordinance Text, and the following rules and standards.

11.2.1. Map Interpretation Rules

- A. Boundaries shown as approximately following a utility line or a street, road, alley, railroad, or other public access way shall be interpreted as following the centerline of the right-of-way or easement for the utility line or access way.
 - B. Boundaries shown as approximately following a property line shall be interpreted as following the property line as it existed when the boundary was established. If a subsequent minor adjustment (such as from settlement of a boundary dispute or overlap) results in the property line moving 10 feet or less, the zoning boundary shall be interpreted as moving with the property line.
 - C. Boundaries shown as approximately following a 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.).
-

- D.** Boundaries shown as approximately following the shoreline of a body of water shall be interpreted as following the shoreline and as moving with shoreline to the extent the shoreline moves as a result of natural processes (flooding, erosion, sedimentation, etc.).
- E.** Boundaries shown as entering a body of water shall be interpreted as continuing in the direction at which they enter the body of water and extending until they intersect another zoning district boundary or similarly extended boundary, or the limits of the Town's jurisdiction.
- F.** Boundaries shown as approximately following established municipal corporate limits or other political boundaries shall be interpreted as following the corporate limits or boundary.
- G.** Boundaries shown parallel to or as extensions of features indicated in this subsection shall be interpreted as such.
- H.** If the specific location of a depicted boundary cannot be determined from notations on the Zoning Map or application of the above standards, it shall be determined by using the map's scale to determine the boundary's distance from other features shown on the map.

11.2.2. Map Interpretation Where Rules Do Not Apply

Where the actual locations of existing physical or natural features vary from that shown on the Zoning Map, or in other circumstances not covered by this subsection, the Planning Director shall have the authority to interpret the district boundaries.

SECTION 11.3. USE CLASSIFICATIONS AND INTERPRETATION

11.3.1. Principal Use Classification System

A. Purpose

This section is intended to provide a systematic framework for identifying, describing, categorizing, consolidating, and distinguishing land uses in a way that makes it easier to determine whether a particular use, activity, or combination of activities is allowable as a principal use in a particular zoning district in accordance with the use tables in Article 4: Use Standards, or is subject to other use-specific provisions in this Ordinance. This section is also intended to guide interpretations of how a particular unlisted use should be categorized and to address future additions to the use tables.

B. Structure of Principal Use Classification System

The principal use classification system described in this section groups uses into three levels: use classifications, use categories, and use types.

1. Use Classifications

The use classifications identify broad general classifications of land use and include agricultural and extraction uses, residential uses, institutional uses, commercial uses, and industrial uses. Use classifications are further broken down into a series of general "use categories."

2. Use Categories

- a.** The use categories describe the major sub-groups of the respective use classifications, and are based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. For example, the Residential Uses Classification is divided into the Household Living and Group Living use categories.
- b.** Each use category is described in terms of the common characteristics of included uses (including common or typical accessory uses), examples of common use types included in the category,

and, for a number of use categories, exceptions—i.e., those uses that might appear to fall within the use category, but are included in another use category.

3. Use Types

The specific use types included in each use category identify specific principal uses that are considered to possess the characteristics identified for the use category. For example, single-family detached dwellings, duplex dwellings, single-family attached dwellings, multifamily dwellings, and manufactured home dwellings are use types in the Household Living use category.

C. Development with Multiple Principal Use Types

A development may include multiple principal uses, provided each principal use is a principal use type allowed in the applicable zoning district and the development complies with any use-specific standards applicable to each of the included use types. If a use within a development is determined to be an accessory use to a principal use in the development, such accessory use shall be subject to the accessory use standards in Section 4.3, Accessory Uses and Structures.

D. Agricultural and Animal Related Uses Classification

1. Agriculture Uses

The Agriculture Uses category is characterized by activities related to the production of field crops, fruits, vegetables, ornamental and flowering plants, and the breeding, raising, or keeping of livestock, poultry, swine, or other animals for food or other marketable products. The Agriculture Uses category also includes silvicultural activities related to the planting, management, protection, and harvesting of trees for timber or other forest products. Example use types include farms, forestry, and greenhouse and nursery production. Also included are garden centers, and community gardens. This use category does not include the processing of animal or plant products for wholesale or retail sale purposes, which is generally considered an industrial manufacturing use type. Accessory uses may include offices, storage areas, barns, irrigation systems, and repair facilities related to the agricultural activities.

2. Animal Related Uses

The Animal Related Uses category includes use types that provide services, general care, and boarding services for domestic animals. Example use types include stables, kennels, and veterinary clinics. Accessory uses may include offices, storage areas, stables, outdoor exercise pens or runs, and limited retail sales.

E. Residential Uses Classification

1. Household Living Uses

The Household Living Uses category includes use types providing for the residential occupancy of a dwelling unit by a single family. Tenancy is generally arranged on a month-to-month or longer basis. Example use types include single-family detached dwellings, duplex dwellings, single-family attached dwellings, multifamily dwellings, bungalow court, pocket neighborhood, and manufactured home dwellings. In accordance with State law, dwelling units providing a single housekeeping environment for groups of six or fewer persons with physical, emotional, or mental disabilities are treated as any other household living use, and not as a group living use. This use category does not include residential use types that generally involve some level of managed personal care for a larger number of residents (e.g., congregate living facilities), which are categorized as group living uses. It also does not include use types where persons generally occupy living units for periods of less than 30 days (e.g., hotel/motel), which are categorized as visitor accommodation uses. Accessory uses common to household living uses include recreational activities, raising of domestic pets, hobbies, swimming pools, and parking of the occupants' vehicles. Some accessory uses (e.g., home occupations and accessory dwelling units) are subject to additional regulations (see Section 4.3, Accessory Uses and Structures).

2. Group Living Uses

The Group Living Uses category includes use types providing for the residential occupancy of a group of living units by persons who do not constitute a single family and may receive some level of personal care. Individual living units often consist of a single room or group of rooms without cooking and eating facilities, but unlike a hotel/motel, are generally occupied on a monthly or longer basis. Example use types include congregate living facilities, and rooming houses. Although continuing care retirement communities include household living uses (e.g., dwellings) and health care uses (e.g., nursing homes), they are categorized as a group living use because of their focus on the present or future provision of personal care to senior citizens and their integration of various uses as a single cohesive development. This use category does not include use types where persons generally occupy living units for periods of less than 30 days (e.g., hotel/motels), which are categorized as visitor accommodation uses. It also does not include use types where residents or inpatients are routinely provided more than minor health care services (e.g., nursing homes), which are categorized as health care uses. Accessory uses common to group living uses include recreational facilities, administrative offices, and food preparation and dining facilities.

F. Institutional Uses Classification

1. Community and Government Service Uses

The Community and Government Service Uses category includes use types of a public, nonprofit, or charitable nature providing a local service (e.g., cultural, recreational, counseling, education, training, religious) directly to people of the community. Generally, such uses provide ongoing continued service on-site or have employees at the site on a regular basis. The category does not include uses with a residential component. Example use types include clubs or lodges of community-oriented associations, colleges and universities, community centers, day care centers, emergency services, administrative government services, government maintenance/storage/distribution facilities, places of worship, public cultural facilities (e.g. libraries, museums), public parks and recreation facilities, and schools. This use category does not include private or commercial health clubs or recreational facilities (categorized as recreation/entertainment uses), or counseling in an office setting (categorized as an office use), or passenger terminals for public transportation services, park and ride terminals, or water, wastewater, gas, electric, or other infrastructure services (categorized as transportation, communication, and utility uses). Accessory uses may include offices, meeting areas, food preparation and dining areas, health and therapy areas, and indoor and outdoor recreational facilities.

2. Health Care Uses

The Health Care Uses category includes use types providing a variety of health care services, including surgical or other intensive care and treatment, various types of medical treatment, nursing care, preventative care, diagnostic and laboratory services, and physical therapy. Care may be provided on an inpatient, overnight, or outpatient basis. Example use types include hospitals, nursing homes, medical/dental offices, urgent care facilities, and wellness centers. This use category does not include congregate living facilities, which focus on providing personal care rather than medical care to residents, and are categorized as group living uses. Accessory uses may include food preparation and dining facilities, recreation areas, offices, meeting rooms, teaching facilities, hospices, maintenance facilities, staff residences, and limited accommodations for members of patients' families.

3. Transportation and Utility Uses

The Transportation, Communication, and Utility Uses category includes uses and facilities providing transportation, communication, and utility services. Services may be publicly or privately provided and may include on-site personnel. Example use types include bus and transit stations, park and ride terminals, railroad yards, broadcast stations and studios, telecommunications towers and telecommunication facilities, major utility facilities (infrastructure services that provide regional or

community-wide service), and minor utility facilities (infrastructure services that need to be located in or near where the service is provided). The category also includes parking decks and lots where they are principal uses. Accessory uses may include offices, monitoring, storage areas, fueling facilities, or data transmission equipment.

4. Telecommunication Facility Uses

Telecommunication Facility Uses category includes uses and facilities providing communication services. Services may be publicly or privately provided. Example use types include DAS, antenna collocations, concealed attached antennas, non-concealed attached antennas, non-concealed dual-function towers, concealed towers, non-concealed towers, broadcast stations and studios. Accessory uses may include amateur ham radio antennas or data transmission equipment.

(Ord. No. 2014-016, 06/24/2014)

G. Commercial Uses Classification

1. Eating and Drinking Establishments

The Eating and Drinking Establishments category includes use types involving the preparation and selling of food and beverages for immediate or direct on- or off-premise consumption. Example use types include bars or lounges, restaurants, and specialty eating or drinking establishments. Accessory uses may include decks and patios for outdoor seating, drive-through service facilities, facilities for live entertainment or dancing, and valet parking services.

2. Office Uses

The Office Uses category includes office buildings housing activities conducted in an office setting, usually with limited contact with the general public, and generally focusing on the provision of business services, professional services (e.g., lawyers, accountants, engineers, architects), or financial services (e.g., lenders, brokerage houses, tax preparers). Example use types include office buildings and parks, and service establishments. This use category does not include offices that are a component of or accessory to a principal use in another use category, such as administrative government services (categorized as community and government service uses), medical/dental offices (categorized as health care uses), or banks or financial institutions (categorized as retail sales and service uses). Accessory uses may include cafeterias, recreational or fitness facilities, incidental commercial uses, or other amenities primarily for the use of employees in the business, office building, or office park.

3. Recreation Uses

The Recreational Uses category includes use types providing indoor or outdoor facilities for recreation-oriented activities by patrons or members. Example use types include golf courses, country clubs, and indoor and outdoor private recreation facilities (including tennis and swim clubs). It also does not include recreational facilities that are accessory to community and government service uses (categorized as other institutional uses), or are reserved for use by a particular residential development's residents and their guests (e.g., residential support recreation facility). Accessory uses may include offices, concessions, snack bars, and maintenance facilities.

4. Entertainment Uses

The Entertainment Uses category includes use types providing indoor or outdoor facilities for entertainment-oriented activities by patrons or members. Example use types include movie theaters and music venues. This use category includes adult establishments (including adult bookstores, adult motion picture theatres, adult mini motion picture theatres, adult live entertainment businesses, and adult massage businesses). It also includes stand-alone banquet halls, but does not include banquet halls that are accessory to a hotel/motel (categorized as a visitor accommodation use) or restaurant (categorized as an eating and drinking establishment). This use does not include internet

sweepstakes operations. Accessory uses may include offices, concessions, snack bars, and maintenance facilities.

5. Funeral Related Uses

The Funeral Related Uses category includes use types providing services related to the burial or cremation of deceased persons. Example use types include funeral homes, cemeteries, and crematoriums. The category also includes stonecutting and sales of monuments. A wide range of accessory uses may be included, depending on the use type.

6. Retail Sales and Service Uses

The Retail Sales and Service Uses category includes use types involved in the sale, rental, and incidental servicing of goods and commodities that are generally delivered or provided on the premises to a consumer. They may also include uses that provide personal services, or product repair or services for consumer and business goods. Example use types include convenience stores, farmers' markets, service establishments, personal service establishments, retail stores, and major and neighborhood shopping centers. This use category does not include sales or service establishments related to vehicles (categorized as vehicle/equipment sales and service uses), or entertainment establishments primarily engaged in selling food or beverages for on-site consumption (categorized as eating and drinking establishments), or establishments primarily selling supplies to contractors or retailers (categorized as wholesale establishments), or the provision of financial, professional, or business services in an office setting (categorized as office uses), or uses providing recreational or entertainment opportunities (categorized as recreation/entertainment uses), or uses involving the sales, distribution, or presentation of materials or activities featuring specific sexual activities or nudity (categorized as adult uses). Accessory uses may include offices, storage of goods, assembly or repackaging of goods for on-site sale, concessions, ATM machines, and outdoor display of merchandise.

7. Vehicle/Equipment Sales and Service Uses

The Vehicle/Equipment Sales and Service Uses category includes use types involving the direct sales and servicing of automobiles (including motorcycles and trucks) and recreational vehicles, whether for personal transport, commerce, or recreation. Example use types include automobile repair, automobile service stations, automobile sales or rental, car wash/detailing, recreational vehicles sales, rental, or service, and tire capping and retreading. Accessory uses may include offices, sales of parts, maintenance facilities, outdoor display, and vehicle storage.

8. Visitor Accommodation Uses

The Visitor Accommodation Uses category includes use types providing lodging units or rooms for short-term stays of typically less than 30 days for rent, lease, or interval occupancy. Example use types include hotels/motels and bed and breakfasts. This use category does not include rooming houses, which are generally occupied for tenancies of a month or longer, and thus categorized as group living uses. Accessory uses may include pools and other recreational facilities, restaurants, bars, limited storage, laundry facilities, gift shops, supporting commercial activities, meeting facilities, and offices.

H. Industrial Uses Classification

1. Industrial Services Uses

The Industrial Services Uses 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 a centralized source of services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site. The category also includes use types involving the storage or movement of goods. Example use types include construction-related activities, industrial equipment sales and rentals, outdoor storage, research laboratories, tank

farms, warehousing/distribution, and wholesale establishments. The category also includes flex space (major and minor) buildings, industrial parks, and mini-storage facilities. Accessory activities may include limited retail or wholesale sales, offices, parking, and storage.

(Ord. No. 2014-022, 06/24/2014)

2. Manufacturing Uses

The Manufacturing Uses category includes use types involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Products may be finished or semi-finished and are generally made for the wholesale market, made for transfer to other plants, or made to order for firms or consumers. This use category divides such uses into light, medium, and heavy manufacturing use types, based on the general extent of off-site impacts and extent of outdoor storage. It also includes custom manufacturing (establishments primarily engaged in the on-site production of goods by use of hand tools and small-scale equipment). Goods are generally not displayed or sold on-site, but if so, such sales are a subordinate part of total sales. Relatively few customers come to the manufacturing site. Accessory uses may include limited retail sales and wholesale sales, offices, cafeterias, employee recreational facilities, warehouses, storage yards, repair facilities, truck fleets, fueling facilities, and security and caretaker's quarters.

3. Extraction and Landfill Uses

The Extraction and Landfill Uses category is characterized by activities related to the extraction of naturally occurring materials and the processing and disposal of solid waste. . Example use types include extraction of earth products such as stone, gravel, sand, or soil; hydraulic fracturing for natural gas; oil exploration; sanitary, reclamation, and debris landfills; and recycling facilities. This use category does not include facilities for the drop-off or collection, and temporary holding, of household or business recyclables (classified as minor utilities in the utility and communication use category). Accessory uses may include offices, and outdoor storage.

(Ord. No. 2016-001, 05/10/2016)

11.3.2. Interpretation of Unlisted Uses

A. Procedure for Interpreting Unlisted Uses

The Planning Director may interpret a particular principal use or accessory use or structure not expressly listed in Article 4: Use Standards, as allowed in a particular zoning district—as a permitted principal use, a Special Use, or a permitted accessory use or structure—based on the standards in subsection B or C below, as appropriate.

B. Criteria for Allowing Unlisted Principal Uses

The Planning Director shall interpret an unlisted principal use as an allowed permitted use or a Special Use in a particular zoning district only after finding that the nature, function, and duration of the use and the impact of allowing it in the zoning district are so similar to those of a use type or use category that is allowed in the zoning district that the unlisted use should be deemed allowed in the same manner (i.e., as a permitted use or a Special Use) as the similar use type or use category and subject to the same use-specific standards. In making such interpretation, the Planning Director shall consider the relevant characteristics of the unlisted use relevant to the those of listed and defined use types and/or of the use categories described in this section, the purpose and intent statements in this Ordinance concerning the zoning district (Article 3: Zoning Districts), and the character of use types allowable in the district. The relevant characteristics of the unlisted use that should be considered in making this interpretation include, but are not limited to, the following:

1. Actual or projected characteristics of each activity likely to occur at the unlisted use;
2. The type, size, orientation, and nature of buildings, and structures devoted to each activity;

3. The number and density of employees and customers per unit area of site in relation to business hours and employment shifts;
4. Vehicles used and their parking requirements, including the ratio of the number of spaces required per unit area or activity;
5. Transportation demands, including the volume and frequency of trips generated to and from the site, the split of traffic volume among various means of transportation, and other characteristics of trips and traffic;
6. Relative amounts of sales from each activity;
7. The nature and location of storage and outdoor display of merchandise, whether enclosed, open, inside or outside the principal building, and the predominant types of items stored;
8. Customer type for each activity;
9. How each use is advertised, including signage;
10. The amount and nature of any nuisances generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation, and fumes;
11. Any special public utility requirements for serving the proposed use type, including but not limited to water supply, wastewater output, pre-treatment of wastes and emissions required or recommended, and any significant power structures and communications towers or facilities; and
12. The impact on adjacent lands created by the proposed use type, which should not be greater than that of other use types allowed in the zoning district.

C. Criteria for Allowing Unlisted Accessory Uses and Structures

The Planning Director shall interpret an unlisted use or structure as an allowable accessory use or structure to a principal use allowed in a particular zoning district only after finding that:

1. The use or structure is accessory to the principal use, in accordance with the definitions of “accessory use” and “accessory structure” in Section 11.5, Terms and Uses Defined, and the example accessory uses listed in Section 11.5’s definition of the principal use or in this section’s description of the relevant use category;
2. The nature, function, and potential impacts of the use or structure are so similar to those of uses or structures that are accessory to the principal use, or of accessory uses allowable in the zoning district, that the unlisted use or structure should be deemed allowable in the same manner as the similar accessory uses or structures;
3. The use or structure is compatible with the character of principal and accessory uses allowable in the district; and
4. Allowing the use or structure as an accessory use or structure is consistent with the purpose and intent statements in this Ordinance concerning the zoning district (see Article 3: Zoning Districts).

D. Effect of Allowing Unlisted Uses as Permitted Use or Special Use

On interpreting an unlisted use or structure as allowed in a zoning district, and finding that the use or structure is likely to be common or would lead to confusion if it remains unlisted, the Planning Director may initiate an application for a text amendment to this Ordinance in accordance with Section 2.5.2, Text Amendment, to list the use or structure in Article 4 as a permitted principal use, a Special Use, or a permitted accessory use or structure, as appropriate. Until final action is taken on the text amendment application, the interpretation of the Planning Director shall be binding.

SECTION 11.4. MEASUREMENT, EXCEPTIONS, AND VARIATIONS OF INTENSITY AND DIMENSIONAL STANDARDS

11.4.1. Measurement

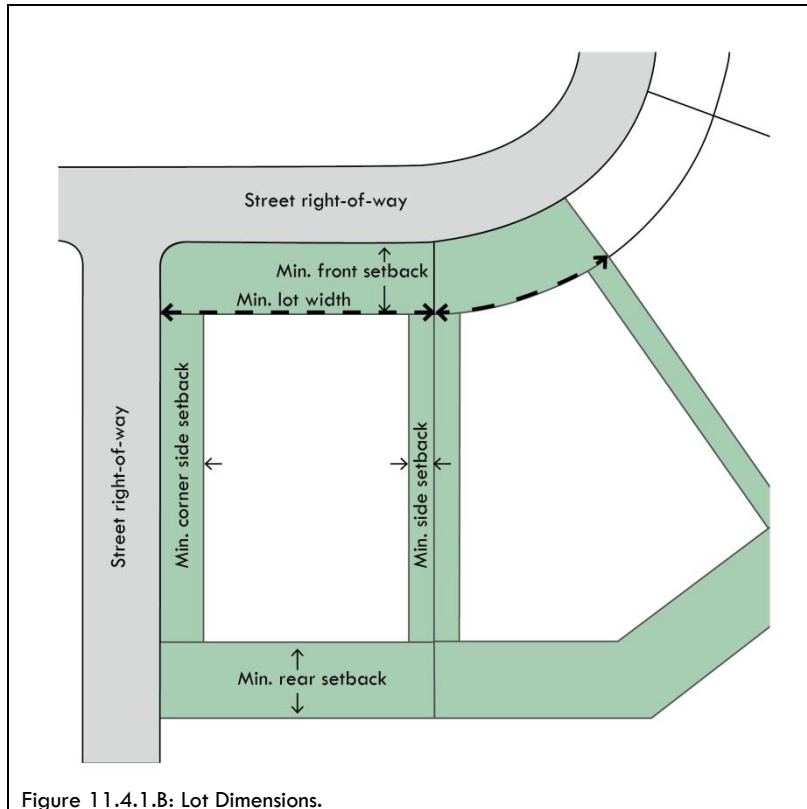
A. Net Lot Area

Net lot area shall be determined by measuring the total horizontal land area (in acres or square feet) within the lot lines of the zoning lot, excluding public street rights-of-way. For purposes of determining net density, any part of the net lot area dedicated as recreation area, park, greenway, or other public open space in conjunction with a development approval in accordance with this Ordinance shall continue to be considered part of the net lot area of the zoning lot.

(Ord. No. 2015-002, 04/29/2015)

B. Lot Width

Lot width shall be determined by measuring the distance along a line delineating the minimum front setback applicable to the lot, between its intersections with the side lot lines, or for corner lots, between a corner side lot line and the opposite side lot line. (See Figure 11.4.1.B: Lot Dimensions.)



C. Net Density (Dwelling Units per Acre)

1. Net density (expressed as dwelling units per acre) shall be determined by dividing the total number of dwelling units located or proposed on a lot by the net lot area (see subsection A above). If net lot area is measured in square feet, that result shall be multiplied by 43,560. For purposes of determining maximum net density, an accessory apartment shall not count as a dwelling unit.
2. Maximum net density standards apply only to development comprised of dwelling uses (e.g., household living uses). For a mixed-use development containing dwelling units and nonresidential or non-dwelling principal uses, net density shall be determined by dividing the total number of dwelling units located or proposed on the lot by that portion of the net lot area allocated to the dwelling uses (and not allocated to nonresidential or non-dwelling uses).

D. Floor Area Ratio

Floor area ratio shall be determined by measuring the gross floor area (in square feet) devoted to nonresidential and non-dwelling uses on all floors of all buildings located or proposed on a lot by the net lot area (in square feet) (see subsection A above).

E. Lot Coverage

Lot coverage (expressed as a percentage of lot area) shall be determined by measuring the total horizontal land area (in acres or square feet) covered by all solid surfaces (hard surfaces and buildings) on the lot, dividing that coverage area by the lot area, and multiplying the result by 100.

F. Structure Height

The height of a structure shall be determined by measuring the vertical distance from the mean elevation of the finished grade at the base of the front of the building up to:

1. The highest point of the deck line for a flat roof;
2. The mean height level between eave and ridge for a gable, hip, cone, gambrel, or pyramid roof;
3. The deck line of a mansard roof; or
4. The highest point of a shed roof. (See Figure 11.4.1.F: General Height Measurement.)

(Ord. No. 2015-002, 04/29/2015)

G. Setback

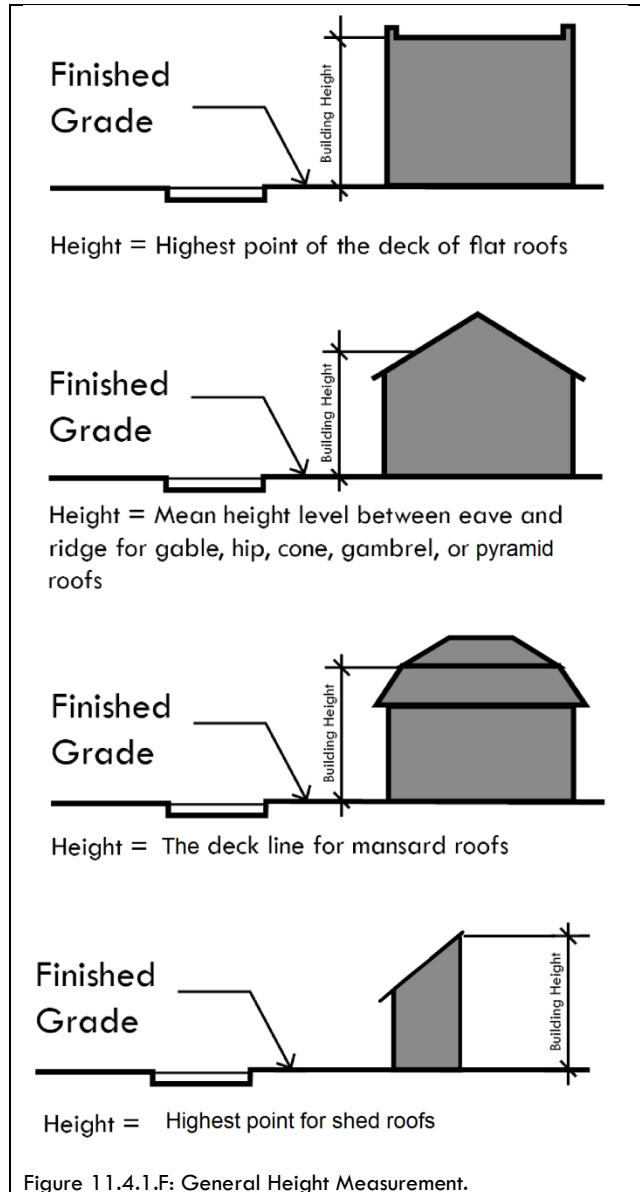
1. Generally

Front, corner side, side, and rear setbacks on a lot shall be determined by measuring the horizontal distance along a straight line extending at a right angle from the lot's front, corner side, side, or rear lot line (as appropriate) to the foundation of the nearest structure on the lot. (See Figure 11.4.1.B: Lot Dimensions.) The area defined by a minimum setback and the lot line from which it measured is a required front, corner side, side, or rear yard (as appropriate). Allowable encroachments into required yards shall be ignored when measuring setbacks (see Section 11.4.2.D, Allowable Encroachments into Required Yards).

2. Front and Corner Side Setbacks

a. Corner Lot

- (1) On a corner lot, the front and corner side setbacks shall be measured—and the minimum front and corner side setback requirements applied—from the front or corner side lot line, as appropriate.
- (2) On a corner lot where the intersecting right-of-way boundaries are defined by a radius, the front and corner side setbacks shall be measured—and the minimum front and corner side setback requirements applied—from the front or corner side lot line, as appropriate,



Article 11: Interpretation and Definitions

Section 11.4. Measurement, Exceptions, And Variations of Intensity and Dimensional Standards

11.4.1. Measurement

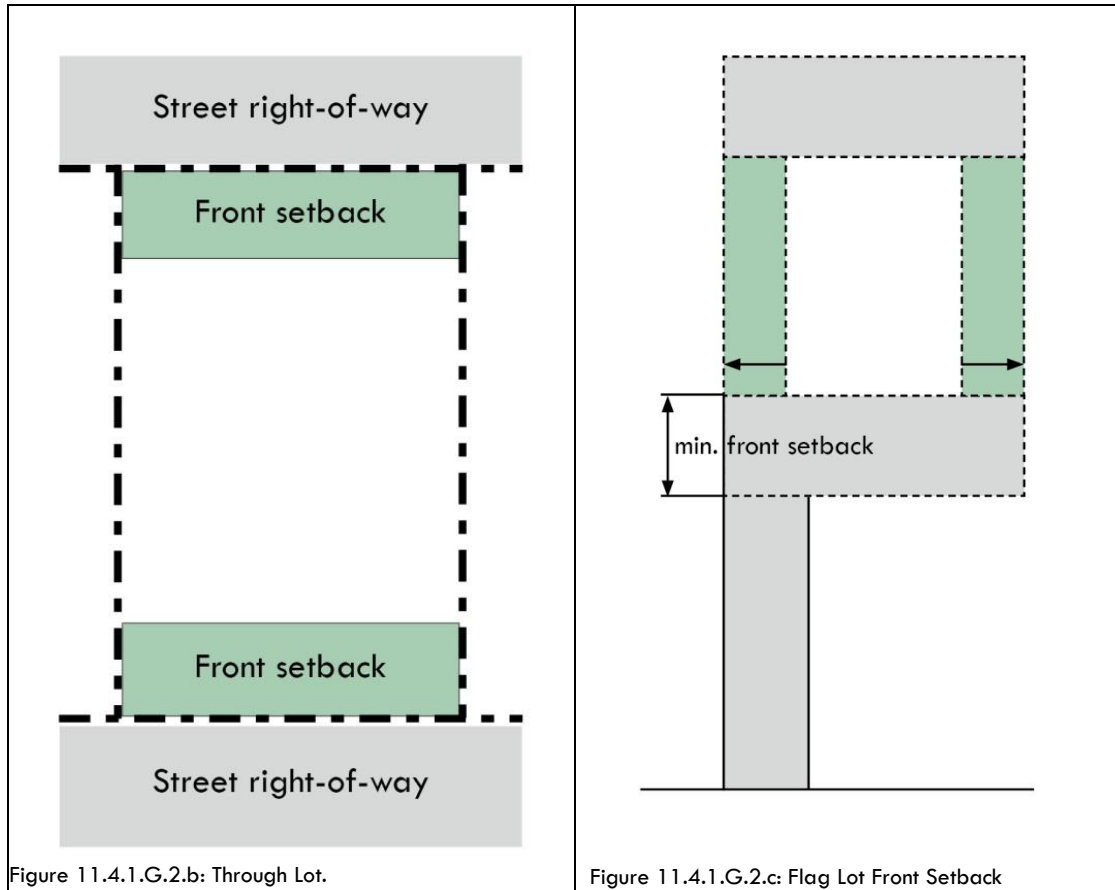
extended to form an intersecting angle with an extension of the corner side or front lot line, as appropriate. (See Figure 11.4.1.B: Lot Dimensions.)

b. Through Lot

On a through lot, the front setback shall be measured—and the minimum front setback requirement applied—from each of the parallel or nearly parallel street-fronting lot lines. (See Figure 11.4.1.G.2.b: Through Lot.)

c. Flag Lot

On a flag lot, the front setback shall be measured within the “flag” portion of the lot, from the lot line delineating the base of that portion. (See Figure 11.4.1.G.2.c: Flag Lot Front Setback.)



d. Measured from Future Street Right-of-Way

Where the Comprehensive Plan or regional plans call for the future widening of the street right-of-way abutting a lot and identify the future right-of-way boundary (e.g., by delineating the boundary or establishing its distance from the street's centerline), the front and corner side setbacks shall be measured—and the minimum front and corner setback requirements applied—from the future right-of-way boundary. (See Figure 11.4.1.G.2.d: Setback Abutting Future Right-of-Way.)

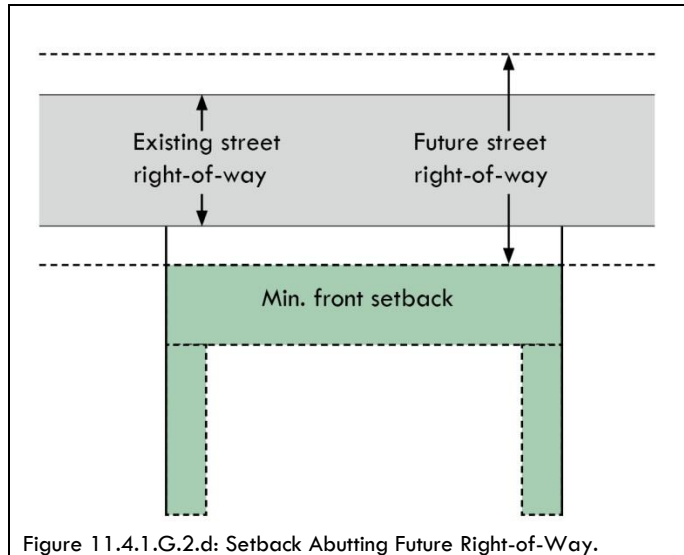


Figure 11.4.1.G.2.d: Setback Abutting Future Right-of-Way.

(Ord. No. 2016-001, 05/10/2016)

11.4.2. Exceptions and Variations

A. Reduction of Minimum Net Lot Area or Width to Block Face Average

If the average net lot area or width of existing lots located on the same block face and in the same zoning district is less than the minimum net lot area or minimum lot width (as appropriate) applied to a lot by the standards in Article 3: Zoning Districts, the minimum net lot area or minimum lot width (as appropriate) applicable to a lot on the block face shall be reduced to such average. Calculation of the average shall exclude any net lot area or width (as appropriate) that exceeds the next largest net lot area or next widest lot width by more than 25 percent. (See Figure 11.4.2.A: Reduction of Minimum Lot Area, Lot Width, and Front Setback to Block Face Average.)

(Ord. No. 2015-002, 04/29/2015)

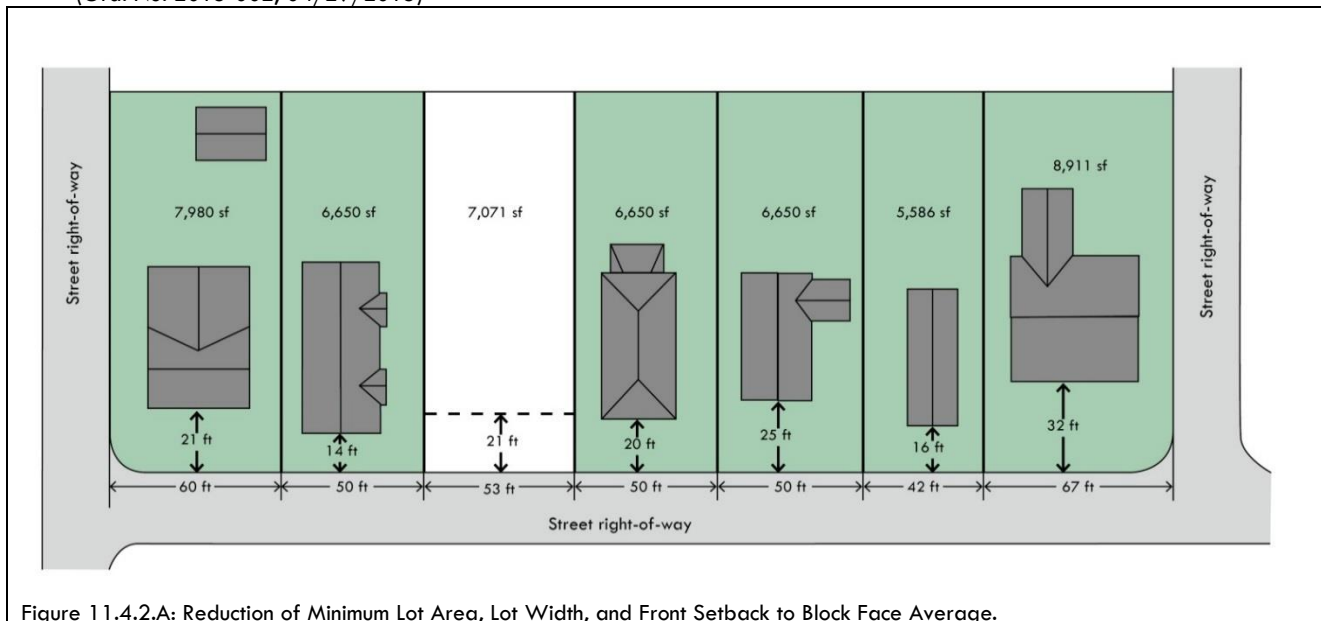


Figure 11.4.2.A: Reduction of Minimum Lot Area, Lot Width, and Front Setback to Block Face Average.

B. Reduction of Minimum Front Setbacks to Block Face Average

If the average front setback on improved lots located on the same block face and in the same zoning district is less than the minimum front setback applied to a lot by the standards in Article 3: Zoning Districts, the minimum front setback applicable to a lot on the block face shall be reduced to such average. Calculation of the average shall exclude any front setback that exceeds the next deepest setback by more than 15 feet. (See Figure 11.4.2.A: Reduction of Minimum Lot Area, Lot Width, and Front Setback to Block Face Average.)

C. Exceptions to Maximum Structure Height

The maximum structure height limits established in Article 3: Zoning Districts, shall not apply to the following structures or structural elements:

1. Monuments, water towers, silos, granaries, barns, utility transmission towers, derricks, cooling towers, fire towers, and other similar structures not intended for human occupancy.
2. Spires, belfries, cupolas, domes, chimneys, elevator shaft enclosures, ventilators, skylights, mechanical equipment and appurtenances, and similar rooftop structures or structural elements not intended for human occupancy, provided they:
 - a. Cover not more than 25 percent of the roof area of the structure to which they are attached;
 - b. Comply with applicable screening requirements for mechanical equipment and appurtenances in Section 5.13.1, Screening of Exterior Mechanical Equipment; and
 - c. Extend above the applicable maximum height limit by no more than 25 percent of the height limit (unless otherwise allowed in this Ordinance).
3. Ham radio antennas, broadcast facility, roof-mounted satellite dishes, and television or radio antennas, provided they comply with height limits established for the specific use in Section 4.3.5, Accessory Use-Specific Standards.
4. Roof-mounted solar energy collection systems, in accordance with the height standards in Section 4.3.5.B.27, Solar Energy Collection System (as an accessory use).
5. Small wind energy systems, in accordance with the height standards in Section 4.3.5.B.26, Small Wind Energy System.
6. Telecommunication facilities, in accordance with the height standards in 2.5.25, Wireless Telecommunication Facilities.

(Ord. No. 2014-051, 11/10/2014)

D. Allowable Encroachments into Required Yards

Every part of every required yard shall remain open and unobstructed from the ground to the sky except as otherwise allowed in Table 11.4.2.D, Allowable Encroachment into Required Yards, or allowed or limited by provisions in Article 4: Use Standards, Article 5: Development Standards, Article 6: Riparian Buffers, Article 7: Stormwater Management, or elsewhere in this Ordinance. (See Figure 11.4.2.D: Allowable Encroachments into Required Yards.)

Table 11.4.2.D: Allowable Encroachments into Required Yards	
FEATURE	EXTENT AND LIMITATIONS OF ENCROACHMENT
1. Open balconies and fire escapes	May extend up to five feet into any required minimum yard
2. Decks, porches (screened or unscreened), stoops, or exterior stairways	May extend up to five feet into any required minimum yard; decks and porches on a single-family attached dwelling may extend to a rear lot line that abuts permanent open space or to within 3 feet of a rear lot line that abuts another single-family attached dwelling lot, provided that any stairs leading to the deck or porch is at least 3 feet from the rear lot line
3. Bay windows	May extend up to three feet into any required minimum yard if no more than nine feet wide
4. Chimneys or fireplaces	May extend up to three feet into any required minimum yard
5. Moveable awnings	
6. Roof eaves and overhangs, or marquees	
7. Window sills or entablatures	
8. Patios or terraces, or walkways	May extend into or be located in any required minimum yard if less than 2 inches high
9. Signs, projecting or free-standing	May extend into or be located in any required minimum yard in accordance with Section 5.16, Signage
10. Garages, detached	May extend into or be located in any required minimum side or rear yard, subject to the height-related setback standards in Section 4.3, Accessory Uses and Structures
11. Flagpoles	May be located in any required yard if less than 20 feet high, set back from side and rear lot lines by at least ten feet, and set back from abutting street rights-of-way by a distance equal to the flagpole height
12. Lighting fixtures, projecting or free-standing (including lampposts)	May be located in any required minimum yard
13. Mailbox, freestanding	May be located in any required minimum yard
14. Fences or walls (including associated gates and arbors)	May be located in any required minimum yard, subject to the limitations in Section 5.14, Fences and Walls
15. Accessory structures other than those listed above	May be located in a required minimum side or rear yard, subject to the limitations in Section 4.3, Accessory Uses and Structures
16. Swimming pool	May be located in any required minimum yard
17. Vegetation and landscaping and minor ornamental yard or garden features such as retaining walls, fountains, ponds, birdbath, sculptures and similar landscaping features	May be located in any required minimum yard

Article 11: Interpretation and Definitions

Section 11.4. Measurement, Exceptions, And Variations of Intensity and Dimensional Standards

11.4.2. Exceptions and Variations

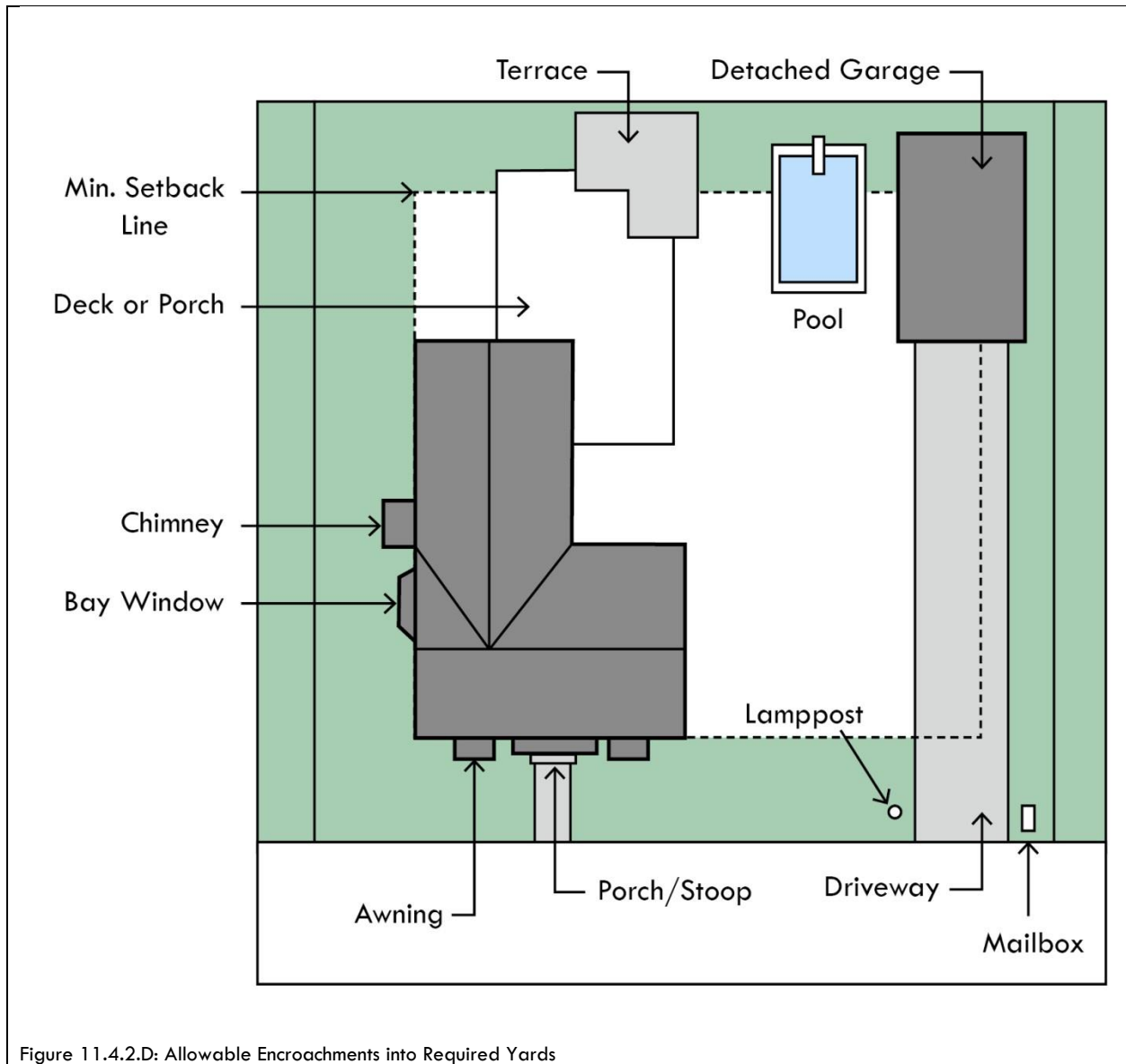


Figure 11.4.2.D: Allowable Encroachments into Required Yards

SECTION 11.5. TERMS AND USES DEFINED

10-YEAR, 24-HOUR STORM

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

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

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.

ACCESSORY APARTMENT

An ancillary or secondary living unit, with no direct access to the interior of a single-family detached dwelling use, that has a separate kitchen, bathroom, and sleeping area, existing either within the same structure, or on the same lot, as the primary dwelling unit. For purposes of determining maximum density, an accessory apartment shall not count as a dwelling unit.

ACCESSORY STRUCTURE

A nonhabitable structure located on the same lot as a principal structure and use that is incidental and subordinate in size and use to the principal structure and principal use of the lot. Examples of accessory structures include detached garages and carports and storage sheds.

ACCESSORY USE

A use customarily incidental and subordinate to the principal use and located on the same lot with such principal use. Off-premise signage shall not be considered an accessory use.

ACCESSWAY

A roadway or driveway (including alleys) that provides a means for vehicular travel between communities, neighborhoods, properties, and origin and destination points within a property (e.g., parking spaces and loading/unloading spaces).

ADDITION (TO AN EXISTING BUILDING)

An extension or increase in the floor area or height of a building or structure.

ADDRESS SIGN

See Sign, Address.

ADMINISTRATIVE ADJUSTMENT

A request for a review of an administrative decision, interpretation or order made in administering or enforcing the provisions of this Ordinance. See Section 2.5.19.

ADMINISTRATIVE APPEAL

See Section 2.5.21.C.7.c(2)

ADMINISTRATIVE MANUAL

A manual containing details on the mechanics of the development review process, information for potential applicants, and development review application forms.

ADT (AVERAGE DAILY TRAFFIC)

The average number of vehicles in both directions that pass a specific point along a roadway in a 24-hour period, as measured throughout the year.

ADULT ESTABLISHMENT

Any place defined as an “adult establishment” by N.C.G.S. 14-202.10, as such statute may be amended from time to time, except the definition of “massage business” shall not include any establishment or business where massage is practiced that is a health club, exercise studio, hospital, physical therapy business or other similar health related business. Adult establishment specifically includes, however, any massage business where “massages” are rendered by any person exhibiting “specified anatomical areas” and/or where “massages” are performed on any client’s “specified anatomical areas” as “specified anatomical areas” is defined by N.C.G.S. 14-202.10 as such statute may be amended from time to time.

AGGRIEVED PARTY

A person with a legally recognized interest that will be injuriously affected by a decision made in administering this Ordinance.

AGRICULTURAL OR ANIMAL RELATED USE OR DEVELOPMENT

Development whose primary use(s) is one (or more) of the principal use categories and use types listed under the Agricultural and Animal Related Uses classification in Article 4: Use Standards, and as described in Section 11.3.1.D, Agricultural and Animal Related Uses Classification.

AGRITOURISM ACTIVITY

Events and activities conducted on a working farm offered to the public or to invited groups for the purpose of recreation, education, or active involvement in the farm operation, and that are related to agriculture or natural resources and directly associated with and incidental to on-going agricultural activity on-site. Agritourism activities include, but are not limited to, farm tours, hayrides, corn mazes, petting zoos, classes related to agricultural products or skills, picnic and party facilities offer in conjunction with such activities.

AIRPORT FACILITIES

For purposes of riparian buffer regulations, all properties, facilities, buildings, structures, and activities that satisfy or otherwise fall within the scope of one or more of the definitions or uses of the words or phrases “air navigation facility,” “airport,” or “airport protection privileges” under N.C.G.S. 63-1; the definition of “aeronautical facilities” in N.C.G.S. 63-79(1); the phrase “airport facilities” as used in N.C.G.S. 159-48(b)(1); the phrase “aeronautical facilities” as defined in N.C.G.S. 159-81 and N.C.G.S. 159-97; and the phrase “airport facilities and improvements” as used in Article V, Section 13, of the North Carolina Constitution, which shall include, without limitation, any and all of the following: airports, airport maintenance facilities, clear zones, drainage ditches, fields, hangars, landing lighting, airport and airport-related offices, parking facilities, related navigational and signal systems, runways, stormwater outfalls, terminals, terminal shops, and all appurtenant areas used or suitable for airport buildings or other airport facilities, and all appurtenant rights-of-way; restricted landing areas; any structures, mechanisms, lights, beacons, marks, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport or restricted landing area; easements through, or interests in, air space over land or water, interests in airport hazards outside the boundaries of airports or restricted landing areas, and other protection privileges, the acquisition or control of which is necessary to ensure safe approaches to the landing areas of airports and restricted landing areas, and the safe and efficient operation thereof and any combination of any or all of such facilities. Notwithstanding the foregoing, the following shall not be included in the definition of “airport facilities:”

- Satellite parking facilities;
- Retail and commercial development outside of the terminal area, such as rental car facilities; and
- Other secondary development, such as hotels, industrial facilities, free-standing offices and other similar buildings, so long as these facilities are not directly associated with the operation of the airport, and are not operated by a unit of government or special governmental entity such as an airport authority, in which case they are included in the definition of “airport facilities.”

ALLEY

A specialized accessway that primarily functions to provide secondary vehicular access and/or service and delivery vehicle access between a street and the rear or sides of lots or buildings. Alleys also may provide primary vehicular access for dwellings designed to have no driveway access from the fronting street.

ALTERATION

(a) Any addition to the height or depth of a building; (b) any change in the location of any of the exterior walls of a building; or (c) any increase in the interior accommodations of a building.

ALTERNATIVE EQUIVALENT COMPLIANCE

See Section 2.5.20.

ANCHOR TENANT

The major or prime tenant of a shopping center.

APPLICANT

A person who submits a development application requesting a development permit or approval authorized by this Ordinance.

APPLICATION ACCEPTANCE (ACCEPTED FOR REVIEW)

The formal acceptance of a development application for review following determination that the application, as submitted, complies with all applicable submittal requirements, in accordance with Section 2.4.3.

APPRAISED VALUE

The monetary value estimated for a parcel of land, portion of land, improvement on land, or other commodity by a person who is registered, licensed, or certified as a real estate appraiser by the North Carolina Appraisal Board.

APPROVED ACCOUNTING TOOL

The accounting tool for nutrient loading approved by the North Carolina Environmental Management Commission for the relevant geography and development type under review.

ARBOR

An open wood-framed roof, supported by regularly spaced posts or columns, and often covered with lattice and climbing plants such as vines or roses, that shades a walk, patio, or passageway.



ARBORIST, ISA-CERTIFIED

A person trained and certified by the International Society of Arboriculture as an ISA Certified Arborist.

ARCADE

A series of arches supported by columns, piers, or pillars, either freestanding or attached to a wall to form a gallery.

ARCHITECTURAL ACCENT - ABOVE THE ROOFLINE

A feature such as dormer, cupola, or steeple, located above the roofline, excluding signs and parapet walls.

ARCHITECTURAL ACCENT - BELOW THE ROOFLINE

A feature such as an arch or other element attached to exterior walls of the building that are usually a different color or decorative material from that of the adjacent wall surface, and serve no structural purpose.

ARCHITECTURAL FEATURE

A part, portion, or projection of a building or structure that contributes to its character or style, exclusive of signs, that is not necessary for the structural integrity of the building or to make said building habitable.

ARCHITECTURAL LIGHTING

Exterior lighting that is designed to highlight structures, plantings, or significant architectural features in a direct or indirect fashion.

ART

A fountain, sculpture, or similar object that is sited within a development as a focal point and is intended for the enjoyment of the general public. It can be located on both private and public property.

ASSESSED VALUE

The monetary value that a parcel of land, portion of land, improvement on land, or other commodity is assigned by the Wake County Revenue Department for the purposes of taxation.

AUTOMATED TELLER MACHINE (ATM)

A mechanized device operated by or on behalf of a bank or financial institution that allows customers to conduct automated banking or financial transactions. Where an ATM is provided at the site of a bank or financial institution for use by customers in motor vehicles, the ATM is considered a drive-through service accessory use. At other locations, an ATM may be considered a separate accessory use to the principal use(s) of the location.

AUTOMATIC FIRE SUPPRESSION SYSTEM

An automatic fire suppression system controls and extinguishes fires without human intervention. An examples of an automatic fire suppression system is a fire sprinkler system.

AUTOMOBILE REPAIR, MAJOR

General repair, rebuilding or reconditioning of engines, motor vehicles, or trailers, such as collision services, body repair and frame straightening, painting and upholstering, vehicle steam cleaning and undercoating.

AUTOMOBILE REPAIR, MINOR

Minor repairs, incidental replacement of parts, and maintenance and servicing of passenger automobiles and trucks not exceeding one and one-half ton capacity.

AUTOMOBILE SALES AND RENTAL

Storage and display for sale, rental, or lease of more than two cars, trucks, motor scooters, and other similar motorized vehicles.

AUTOMOBILE SERVICE STATION

A building or other structure or a tract of land where gasoline or other similar fuel, stored only in underground tanks, is dispensed directly to users of motor vehicles.

AVIGATION EASEMENT

A property right acquired from a land owner that grants the right-of-flight; the right to cause noise, dust, etc., related to aircraft flight; the right to restrict or prohibit certain lights, electromagnetic signals and bird-attracting land uses; the right to unobstructed airspace over the property above a specified height and the right of ingress/egress upon the land to exercise those rights.

AWNING

An exterior shading device attached to and supported entirely from a building facade that projects outward from the facade, commonly above (and sometimes to the side of) a window or door to block or minimize direct sunlight reaching the window or door. An awning may also overhang and provide shelter to people using sidewalks and outdoor seating areas. An awning may be a basic awning made up of opaque or translucent nonrigid materials except for the supporting framework, or may be a horizontal or vertical louvered awning.

AWNING SIGN

See Sign, Awning

BALCONY

An exterior platform at an opening in a building facade (generally a door opening in the upper floors of the facade), which is enclosed by a railing, balustrade, or parapet.

BANNER SIGN

See Sign, Banner.

BANQUET FACILITY

A facility or hall that is hired or rented by individuals or groups to accommodate private functions such as banquets, weddings, receptions, anniversaries, and other similar celebrations and social events. Such facilities may include kitchen facilities for the preparation or catering of food, and the sale of alcoholic beverages to guests only for on premise consumption during scheduled events.

BAR OR LOUNGE

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.

BASE FLOOD

The flood having a one percent chance of being equaled or exceeded in any given year based on current conditions hydrology.

BASE FLOOD ELEVATION (BFE)

A determination of the water surface elevations of the base flood based on current conditions hydrology 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 or state or other source using FEMA-approved engineering methodologies. This elevation, when combined with the "Freeboard, establishes the "Regulatory Flood Protection Elevation" in Special Flood Hazard Areas.

BASEMENT

Any area of the building having its floor subgrade (below ground level) on all sides.

BAY WINDOW

A projection from a building facade that contains windows and rises from the ground or from some other support, such as a porch roof.

BED AND BREAKFAST

A residence engaged in renting one or more sleeping rooms to persons for periods of less than one week, and providing gress breakfast.

BERM

An elongated earthen mound typically designed or constructed on a site to separate, screen, or buffer adjacent uses.

BICYCLE PARKING SPACE

Space designed for the parking of a single bicycle. One bike rack = two bicycle parking spaces and one bike locker = one bicycle parking space.

BIKE LANE

A designated area within a street roadway or other vehicular accessway that is reserved for bicycle travel and separated from the rest of the roadway or vehicular accessway by painted lines or other pavement markings.

BIKE LOCKER

A locker or box in which a single bicycle is placed and locked in.

BIKE PATH

A designated accessway reserved for bicycle travel that is not within a street roadway or other vehicular accessway. A bike path may be within a greenway or may parallel a street or other vehicular accessway, but are typically separated from them by landscaping.

BIKE RACK

A stand used for mounting and securing two bicycles when not in use.

BIKEWAY

Any improved bicycle accessway that is specifically designated as being open to bicycle travel, regardless of whether such facility is designated for the exclusive use of bicycles or is shared with other transportation modes. Bikeways include bike lanes within roadways and off-street bike paths.

BLOCK

A unit of land bounded by streets or by a combination of streets and parks or open space, railroad rights-of-way, waterways or any barrier to the continuity of development.

BLOCK FACE

Properties abutting one side of a street or public right-of-way and lying between the two nearest intersecting streets or rights-of-way, or intersecting right-of-way and railroad right-of-way, unsubdivided land, water course or Town boundary.

BOARD OF ADJUSTMENT

See Section 2.2.2.

BREWERY

An establishment primarily engaged in the brewing ale, beer, malt liquors, and nonalcoholic beer that is permitted to do so in accordance with N.C.G.S. 18B-1104 and regulations of the Alcoholic Beverage Control Commission, with a capacity of 15,000 barrels or more per year. Accessory uses include a restaurant, a public tasting room, and retails sales of ale or beer, or related products.

BRICK

Block made of kiln-fired material, usually clay or ground shale, laid in small, individual units with concrete mortar joints.

BRIDGE

A structure carrying a walkway, bikeway, roadway, or railway over a depression or obstacle such as a watercourse, ravine, roadway, or railway. Roadway bridges cannot be constructed of wood.

BROADCAST STUDIO

Commercial and public communications uses including radio and television broadcasting and receiving stations and studios, with facilities entirely within buildings.

BROADCASTING STATION

Commercial and public communication uses including radio and television broadcasting and receiving stations and studios, including ancillary outdoor communications equipment such as transmission towers and satellite dishes.

BROWNFIELD

Abandoned, idled, or underused industrial and commercial facilities where expansion or redevelopment is complicated by real or perceived environmental contamination.

BUILDING

Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any person, process, equipment, or goods.

BUILDING CODE

The North Carolina State Building Code and any amendments thereto.

BUILDING FOOTPRINT

The portion of a lot covered by a building or structure at the surface level, measured on a horizontal plane.

BUILDING FRONTAGE

The linear distance along the exterior building wall that faces a public right-of-way abutting the lot on which the building is located.

BUILDING HEIGHT

See "Structure Height."

BUILDING MASS

The three-dimensional bulk of a building.

BUILDING OFFICIAL

The person authorized by the Town Manager to issue Building Permits for the construction, alteration, reconstruction, or demolition of all or part of any building in accordance with the Building Code.

BUILDING PERMIT

An approval statement signed by the Building Official authorizing the construction, alteration, reconstruction, or demolition of all or part of any building as complying with the Building Code.

BUILDING SEPARATION

The minimum distance between two principal structures.

BUILD-TO LINE

The minimum and maximum allowable setback of a building from the abutting street.

BUILD-TO ZONE

The area within which the front of a building must be located in relation to the adjacent street.

BUILT-UPON AREA (BUA)

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.

BUNGALOW COURT

A series of two or more single-family detached homes configured as a cohesive development that incorporates smaller lot sizes, reduced setbacks, shared accessways, and where each home complies with the Town's residential design guidelines.

BUS STATION

A place where the transfer of people between buses and other vehicular modes of transportation takes place.

CALIPER

Diameter measurement of a tree-trunk taken at six inches above ground level for trees up to and including four inches in caliper. For trees larger greater than four inches in caliper, measurement of caliper shall be taken at 12 inches above ground level.

CANDELA

A measure of luminosity or light intensity in a certain direction. Useful in determining how much light is shining out of a fixture and in what direction.

CANOPY, NONRESIDENTIAL

An accessory structure to a nonresidential principal use such as an automobile service station or hotel/motel that consists of a rigid horizontal roof-like structure supported by an attached building or columns or posts, is largely open along its sides, and is intended to provide shelter to people or automobiles.

CAR WASH/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. Interior cleaning and/or drying may be conducted manually by the vehicle operator or on-site attendants. (Also see the definition of "Mobile Auto Detailing.")

CARPORT

See Garage or Carport.

CEMETERY

A placed used for internment of human or animal remains or cremated remains, including a burial park for earth internments, a mausoleum for vault or crypt internments, a columbarium for cinerary internments, or a combination thereof.

CENTRAL UTILITY PLANT

A facility that produces electricity, heat, cooling, steam, compressed air, natural gas, and other similar resources for a hospital, college, or university.

CERTIFICATE OF COMPLIANCE/OCCUPANCY

A certificate issued by a building official representing a determination that work done on a building or development project has been completed in compliance with all applicable State and local laws and with the terms of building permits and may be occupied safely.

CHANGE IN USE

A change in the principal use of a structure or land, or a portion thereof, including a new, different, or additional principal use listed in Table 4.2.4: Principal Use Table. For multi-tenant structures a change in use does not occur unless either (a) a Major Site Plan Approval, a Special Use Permit Approval or a Conditional Rezoning Approval is required for a use or (b) one principal use occupies more than 50% of the total approved square footage—e.g., a place of worship is proposed to take more than 50% of a structure approved as a shopping center, or eating and drinking establishments are proposed to take more than 50% of a structure approved as major flex space.

CHANGEABLE COPY SIGN

See Sign, Changeable Copy.

CHANNEL

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.

CHEMICAL CONDITIONS HYDROLOGY

The flood discharges associated with the land-use conditions existing within the drainage area of a watercourse at the time a flood study of the watercourse was conducted. Current conditions flood discharges and historical flood study information is published in the Flood Insurance Study.

CHIMNEY

A vertical structure attached to a building that contains a flue for drawing off smoke from a furnace, water heater, or fireplace

CLOTHESLINE

A cord, rope, or wire stretched between two points above ground level on which clothes are hung to dry or air.

CLUB OR LODGE

An organization and its premises catering exclusively to members and guests for social, intellectual, recreational, or athletic purposes not intended for profit.

CLUSTER BOX UNIT

A centralized grouping of individually locked and keyed mailboxes meeting the specifications of the United States Postal Service.

CODE OF ORDINANCES

The Morrisville, North Carolina Code of Ordinances.

COLLECTOR STREET

An accessway that primarily functions both to provide direct vehicular access to and from abutting development, particularly in commercial and industrial areas, and to provide travel mobility among neighborhoods and activity centers by connecting local streets and other collector streets with thoroughfares. It generally handles relatively moderate travel speeds and traffic volumes over moderately average trip lengths.

COLLEGE OR UNIVERSITY

A post-secondary institution for higher learning that grants associate, bachelor, or higher degrees. This use also includes community colleges that grant associate or bachelor degrees or may offer certificate courses in business and technical fields, but does not include business or vocational schools.

COLOR PALETTE

A color scheme that incorporates related colors of complementary hues and shades.

COMMERCIAL USE OR DEVELOPMENT

Development whose primary use(s) is one (or more) of the principal use categories and use types listed under the Commercial Uses classification in Article 4: Use Standards, and as described in Section 11.3.1.G, Commercial Uses Classification.

COMMON OPEN SPACE

See Section 5.5.1.

COMMUNITY CENTER

A place, building, area, or other facility used for providing social and recreational programs. The facility may be private or the facility may be open to the general public and designed to accommodate and serve significant segments of the community.

COMMUNITY GARDEN

A private or public facility for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person, household, or family.

COMPOSITE METAL WALL PANELS

Factory engineered panels used mainly for exterior cladding on non-residential buildings. Panels are manufactured on a continuous lamination basis with metal facings encapsulating a foamed polyurethane core. Metal on these panels can be aluminum, stainless steel, copper or steel.

COMPOSITE WOOD

Engineered wood manufactured by binding the strands, particles, fibers, flakes, chips, shavings, or veneers of wood, together with adhesives, to form composite materials. Composite woods include structural composite lumber and composite decking.

COMPOSTING FACILITY

A facility where organic matter derived primarily from off-site is processed by composting and/or is processed for commercial purposes. Activities of a composting facility may include management, collection, transportation, staging, composting, curing, storage, marketing, or use of compost.

COMPOSTING FACILITY, SMALL

An enclosed area at least 100 square feet in area that contains a compost tumbler or similar apparatus designed for the purpose of converting household kitchen and yard waste into fertilizer.

COMPREHENSIVE PLAN

Those plans and policies adopted by the Town Council to address the Morrisville's growth and development—including, but not limited to, the Land Use Plan, the Town Center Plan, the Wireless Telecommunication Facilities Master Plan, and other small area plans that provide guidance on desired development in specific geographic areas and corridors, as well as the Transportation Plan, the Parks and Recreation Master Plan, and other functional plans related to public infrastructure and services.

CONCEPTUAL MASTER PLAN APPROVAL

See Section 2.5.4.

CONDITIONAL REZONING

See Section 2.5.3.

CONGREGATE LIVING FACILITY

A facility that provides housing, shared dining and recreational opportunities, limited medical care, personal services, and significant social facilities to meet the needs of the residents. The use may include facilities for elderly, their spouses, and surviving spouses, as well as facilities for persons who are developmentally disabled or orphaned. For purposes of calculating residential density, each bedroom shall be considered the equivalent of .25 dwelling unit.

CONSTRUCTION

The erection of any building or structure or any preparations (including land disturbing activities) for the same.

CONSTRUCTION PLAN APPROVAL

See Section 2.5.8.

CONSTRUCTION TRAILER

A manufactured structure temporarily placed on or adjoining the site of new construction and used during the construction process as an office for construction management and site security.

CONSTRUCTION-RELATED ACTIVITIES

Activities related to the building industry, such as storage of construction equipment and materials, bulk material storage, such as bricks, pavers, stone, and mulch, and retail sales of associated merchandise, provided the principal commodity sold is a construction-related material.

CONTRACTORS/CONSTRUCTION SIGN

See Sign, Contractors/Construction.

CONTINUING CARE RETIREMENT COMMUNITY

An integrated development that offers senior citizens a full continuum of housing options and assistance, ranging from fully independent dwelling units, to assistance with personal care in assisted living facilities, to long-term skilled nursing care in a nursing home facility.

CONVENIENCE STORE

A retail establishment that offers for sale, primarily, the following types of articles: bottled drinks, candy, canned foods, bread, milk, cheese, tobacco products, beer, wine, papers and magazines, and general hardware articles. Fast food may be offered as a secondary activity of the convenience store. A convenience store use is frequently combined with an automobile service station use and sometimes a restaurant or specialty eating establishment.

CORNICE

The uppermost horizontal molded projection or other uppermost horizontal element located at the top of a building or a portion of a building.

CORPORATE LIMITS

The boundaries of the Town, established and amended from time to time in accordance with Articles 4 and 4A of Chapter 160A of the North Carolina General Statutes.

COUNTRY CLUB

A chartered, nonprofit membership club catering primarily to its members, providing but not limited to one or more of the following recreational and social activities: golf, swimming, riding, outdoor recreation, club house, locker room, and pro shop.

COUNTY

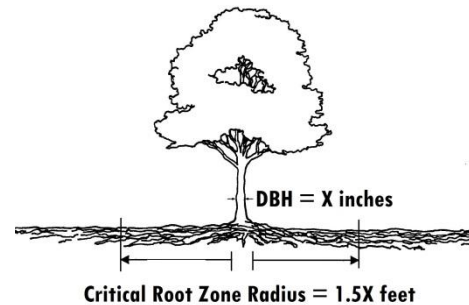
Wake County or Durham County, North Carolina.

CREMATORIUM

A location containing properly installed, certified apparatus intended for the use in the act of cremation.

CRITICAL ROOT ZONE

The area circling the trunk of a tree within a radius equal to 1.5 feet for each inch of trunk diameter (DBH), measured outward from the root flare at ground level.



CROSS ACCESS

Vehicular access provided between the vehicular use areas of two or more adjacent development sites or parcels that is intended to allow travel between the sites without the use of a street.

CROSSWALK

A public pedestrian right-of-way, which cuts across a block to facilitate pedestrian access to adjacent streets and properties.

CUL-DE-SAC

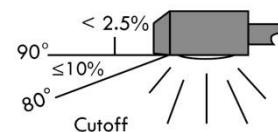
A short street designed to have one end permanently closed; the closed end terminated by a vehicular turnaround.

CULTURAL FACILITY

A public or private nonprofit facility that provides services to the public—including, but not limited to, museums, performing arts facilities, and libraries.

CUTOFF FIXTURE

A fixture light distribution where no more than 2.5 percent of a lamp's light intensity is emitted at or above a horizontal plane drawn through the bottom of the fixture and no more than ten percent of the lamp's light intensity is emitted at or above an angle ten degrees below that cutoff horizontal plane, at all lateral angles around the fixture.



CYCLE LENGTH

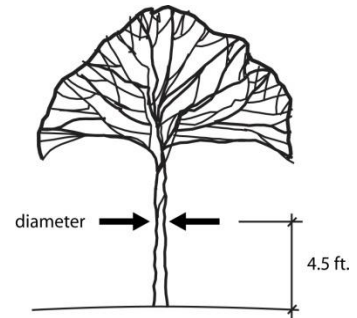
The time required for a complete sequence of traffic signal indications.

DAY CARE CENTER

A building or structure and associated outdoor area where care, protection and supervision are provided for a fee, on a regular schedule at least twice a week, to more than six children or aging adults at one time.

DBH (DIAMETER AT BREAST HEIGHT)

The diameter of a tree four and a half (4.5) feet above ground level.



DECIDUOUS

Plant material that seasonally drops (loses) its leaf material.

DECK

A roofless outdoor space built as an above ground platform, freestanding or attached, projecting from the wall of a structure and supported by posts or pillars.

DEDICATION

The offer of real property by its owner(s) for a public purpose and its acceptance by a government entity having jurisdiction over the public function for which it will be used. Dedications may be made for streets, recreation areas, parks, greenways, utility easements, etc.

DELIVERED LUMENS

Amount of light delivered out of the fixture, which is different from non-LED fixtures that utilize lamp lumens or the amount of light emitted from a light source.

DENSITY, NET

See Section 11.4.1.C, Net Density (Dwelling Units per Acre)

DESIGN MANUAL

The stormwater design manual approved for use in the Town of Morrisville by the Department for the proper implementation of the requirements of the Jordan Watershed stormwater program, NPDES Phase II stormwater program and other applicable stormwater laws. All references herein to the Design Manual are to the latest published edition or revision.

DETERMINATION OF SUBDIVISION EXCLUSION

See Section 2.5.6.D.

DEVELOPER

Any person, including a governmental agency, undertaking development.

DEVELOPMENT

See Section 1.2.3, Development Subject to Ordinance.

DEVELOPMENT ACTIVITY

For purposes of floodplain management regulations, development that requires a Floodplain Development Permit.

DEVELOPMENT APPLICATION

The completed form or forms and all accompanying documents, exhibits, and fees required by this Ordinance to be submitted as part of the review of a request for a development permit or approval.

DEVELOPMENT PERMIT OR APPROVAL

Any permit or approval for which there is a procedure in Section 2.5, Application-Specific Review Procedures

DEVELOPMENT REVIEW COMMITTEE

See Section 2.2.1.D.

DEVELOPMENT SITE

The lot or parcel within which development exists or is proposed.

DIRECTORY SIGN

See Sign, Directory.

DISPOSAL

For purposes of floodplain management, and as defined in N.C.G.S. 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

DITCH OR CANAL

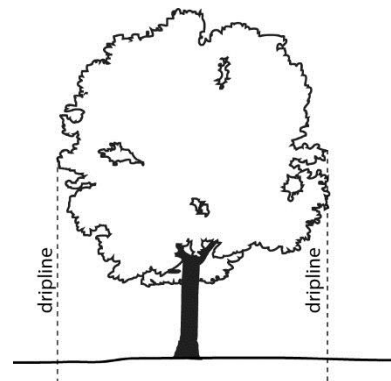
A man-made channel other than a modified natural stream constructed for drainage purposes that is typically dug through inter-stream divide areas. A ditch or canal may have flows that are perennial, intermittent, or ephemeral, and may exhibit hydrological and biological characteristics similar to perennial or intermittent streams.

DORMITORY

A structure specifically designed for a long-term stay by students of a college, university, sports academy, or nonprofit organization for the purpose of providing rooms for sleeping purposes. One common kitchen and some common gathering rooms for social purposes may also be provided.

DRIP LINE

An imaginary line extending downward from the outermost tips of the tree canopy to the ground.



DRIVE AISLE

An area within an off-street parking facilities that provides one- or two-way movement and maneuvering between rows of parking stalls.

DRIVE-THROUGH SERVICE FACILITY

A facility used to provide products or services to customers who remain in their vehicles, whether through a window or door in a building, a machine in a building or detached structure (e.g., ATM), or via a mechanical device (e.g., a pneumatic tube system). In addition to the pick-up window or door, drive-through service facilities also may include remote menu boards and ordering stations. Use types that commonly have drive-through service include banks, restaurants, specialty eating or drinking establishments, and drug stores.

DRIVEWAY

An accessway that functions solely to provide direct and immediate vehicular access between a street and the principal origin and destination points within an abutting development, or part of a large development. It generally handles low vehicular travel speeds and traffic volumes, though may also handle moderate to high traffic volumes within large commercial and mixed-use developments.

DUMPSTER

A container used for the temporary storage of waste.

DWELLING

A building, part of a building, or combination of buildings located on a single lot or development site (in the case of single-family attached dwellings) and used or designed to be used primarily as living quarters for one or more families.

DWELLING UNIT

A room or combination of connected rooms within a dwelling that constitutes a single and separate habitable unit that contains independent living, sleeping, cooking, and sanitation facilities, and that is used or designed to be used for occupancy on a monthly or longer basis by a single family.

DWELLING, DUPLEX

A single detached dwelling on a 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 residential dwelling unit for one or more persons with an integrated work space principally used by one or more of the dwelling unit residents.

DWELLING, 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 travel trailers or recreation vehicles.

DWELLING, MULTIFAMILY

A building or group of buildings containing three or more dwelling units that are typically located on one lot. The dwelling 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. Each dwelling unit shall include permanent provisions for living, sleeping, cooking, and sanitation, and can be owner or tenant occupied. Multifamily dwellings also include carriage-style buildings with multifamily dwelling units over garages.

DWELLING, SINGLE-FAMILY ATTACHED

A dwelling containing two or more dwelling units that are attached horizontally through common walls. Each dwelling unit occupies space from the ground to the roof of the building, and is located on a separate lot.

DWELLING, SINGLE-FAMILY DETACHED

A single detached dwelling on a lot, other than a manufactured home dwelling, that contains a single dwelling unit (excluding any accessory apartment).

EASEMENT

An interest in land granted by the owner to another party that entitles its holder to a specific use, including a grant by the property owner for use by the public, a utility company, or person(s) of land for specified purposes.

EAVE

The edge or edges of a roof usually projecting beyond the sidewall of a building.

ELECTRIC VEHICLE CHARGING STATION

An electric vehicle (EV) charging station is a vehicle 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.

ELEVATED BUILDING

A non-basement building that has its lowest floor elevated floor above ground level by foundation walls, pilings, columns, posts, piers, or shear walls.

ELEVATION

A vertical distance above or below a fixed reference level. For purposes of measuring the height of structures, elevation is the distance above finished grade at the base of the structure. For purposes of floodplain management, elevation is the distance above mean sea level. Elevation may also refer to a fully dimensioned drawing of the side of a building showing features such as windows and doors, and the relationship of grade to floor level.

EMERGENCY SERVICES

A government facility for public services such as fire and police protection, Emergency Medical Services (EMS), emergency operation centers, and related administrative services.

ENCROACHMENT

For purposes of floodplain management, the advance or infringement of uses, fill, excavation, buildings, permanent structures, or development into a floodplain, that may impede or alter the flow capacity of a floodplain.

ENGINEER, LICENSED PROFESSIONAL

A professional individual licensed by the State of North Carolina to practice in the field of engineering sciences. Also referred to as a Professional Engineer.

ENGINEERED STORMWATER CONTROL

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 control includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. "Engineered stormwater control" 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. It is a broad term that may include practices that do not require design by a professionally licensed engineer.

EPHEMERAL STREAM

A feature that carries only stormwater in direct response to precipitation with water flowing only during and shortly after large precipitation events. An ephemeral stream may or may not have a well-defined channel, the aquatic bed is always above the water table, and stormwater runoff is the primary source of water. An ephemeral stream typically lacks the biological, hydrological, and physical characteristics commonly associated with the continuous or intermittent conveyance of water.

EVERGREEN

Plant material that retains its leaf material year-round.

EXISTING DEVELOPMENT

Development not otherwise exempted by this ordinance that meets one of the following criteria:

- It either is built or has established a statutory or common-law vested right as of the effective date of this ordinance; or
- It occurs after the effective date of this ordinance, but does not result in a net increase in built-upon area and does not decrease the infiltration of precipitation into the soil.

EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION

For purposes of floodplain management, 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, either final site grading or the pouring of concrete pads, and the construction of streets) was completed before the original effective date of the floodplain management regulations adopted by the community.

EXISTING TREE CANOPY

Tree canopy that existed for at least two years prior to development as evidenced by the aerial photography and/or satellite imagery on file with or approved by the Town of Morrisville Planning Department.

EXPANSION

An increase in the floor area of an existing structure or building, or the increase of area of a use.

EXTERIOR INSULATION AND FINISH SYSTEM (EIFS)

Multi-layered system of Styrofoam panels typically adhered to wood or gypsum sheathing and finished with a waterproof resin.

EXTRACTION OF EARTH PRODUCTS

A use involving on-site extraction of surface or subsurface mineral products or natural resources. Typical uses are quarries, borrow pits, sand and gravel operations, mining, and soil mining. Specifically excluded from this use is grading and removal of dirt associated with an approved Site Plan or subdivision or excavations associated with, and for the improvement of, a bona fide farm.

EXTRATERRITORIAL JURISDICTION (ETJ)

That part of the planning jurisdiction of the Town located outside the Town's corporate boundaries, established and amended from time to time in accordance with N.C.G.S. 160A-360.

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.

FACADE WALL

The vertical surface or surfaces within 15 degrees of vertical on the building's exterior including parapet walls. Windows, doors, and cornices are excluded.

FAMILY

One or more persons occupying a single dwelling unit and living together as a single housekeeping unit, provided that the unit is made up of any number of persons related by blood, marriage, adoption, or foster care arrangement, plus up to three additional unrelated persons.

FAMILY CARE HOME

A home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident persons with disabilities. Persons with disabilities means a person with a temporary or permanent physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in N.C.G.S. 122C-3(11)b.

FAMILY CHILD CARE HOME

A private residence where care, protection, and supervision are provided for a fee, on a regular schedule, at least twice a week, to no more than six children (including any children of the day care provider).

FARM, BONA FIDE

A single tract of land, or identifiable portion of a tract, used for 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 N.C.G.S. 106-581.1e, along with any other buildings and structures that are customarily and necessarily incidental to such activities.

FARM, LARGE

A bona fide farm with an area greater than ten acres.

FARM, SMALL

A bona fide farm with an area of ten acres or less.

FARMERS' MARKET

A public market held in a structure or open area, where farmers sell produce and other farm products they have grown, gathered, or raised directly to consumers. A farmers' market may be a principal use, occurring regularly for all or most of the year, or a temporary use, occurring only occasionally or periodically for only a limited time period during the year.

FASCIA SIGN

See Sign, Wall-Mounted Fascia.

FENESTRATION

The arrangement of windows, doors, and other openings on the elevation or facade of a building.

FENCE OR WALL

An artificially erected freestanding barrier used to enclose (and protect) an area, restrict or prevent access to an area, to conceal or screen an area, and/or for decorative purposes. A fence may be open or solid and generally consists of wood, metal, concrete, or plastic posts connected by boards, rails, panels, wire, or mesh. A wall is generally solid and consists of masonry, stone, brick, tile, concrete, or plaster. Natural growth barriers such as hedges are not considered fences or walls.

FINAL PLAT APPROVAL

See Section 2.5.6.C, Final Plat Approval.

FINISHED GRADE

The final elevation of the ground surface after completion of authorized development and associated man-made alterations of the ground surface such as grading, grubbing, fillings, or excavating.

FIRE CHIEF

The Fire Chief for the Town of Morrisville, North Carolina.

FIRE ESCAPE

A stairway, ladder, or chute on the outside wall of a building intended to be used to help people escape from the building in case of a fire or other calamity.

FIXTURE

An assembly that holds the lamp (bulb) in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.

FLAG LOT

An irregularly shaped lot where the buildable portion (flag) of the lot is connected to a street by a narrow non-buildable strip (pole) that does not meet the minimum lot width requirement at the minimum setback for that specific zoning district.

FLAGPOLE

A freestanding structure or structure attached to the wall or roof of a building that is used to display flags.

FLEX SPACE, MAJOR

Buildings designed to accommodate a combination of offices (e.g. service establishments and contractor's offices), wholesale establishments, warehousing/distribution, and industrial assembly (light and heavy), and manufacturing (custom and light) the exact proportions of each use being subject to user needs over time. The footprint of the building exceeds 10,000 square feet, and the building is usually designed with bay doors to the rear. Major flex space may be combined with other uses that generally exist as a principal use—e.g., restaurant or retail store not associated with a wholesale establishment. Such uses are treated as principal uses and subject to the standards and limitations applicable to such uses—e.g., parking, and are included in the total gross floor area if located on the same lot. Accessory uses may include outdoor storage (as an accessory use), subject to the standards and limitations applicable to such an accessory use.

FLEX SPACE, MINOR

Buildings designed to accommodate a combination of offices (e.g. service establishments and contractor's offices), wholesale establishments, warehousing/distribution, and industrial assembly (light), and manufacturing (custom) the exact proportions of each use being subject to user needs over time. The footprint of the building is 10,000 square feet or less, and the building is usually designed with bay doors to the rear. Minor flex space may be combined with other uses that generally exist as a principal use—e.g., restaurant or retail store not associated with a wholesale establishment. Such uses are treated as principal uses and subject to the standards and limitations applicable to such uses —e.g., parking and are included in the total gross floor area if located on the same lot. Accessory uses may include outdoor storage (as an accessory use), subject to the standards and limitations applicable to such an accessory use.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)

An official map of a community, issued by the Federal Emergency Management Agency, 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

A hazard to land or improvements due to overflow water having sufficient depth or velocity to transport or deposit debris, scour the surface soil, dislodge or damage buildings, or erode the banks of watercourses.

FLOOD INSURANCE

The insurance coverage provided under the National Flood Insurance Program.

FLOOD INSURANCE RATE MAP (FIRM)

An official map of the community, issued by the Federal Emergency Management Agency, on which the Special Flood Hazard Areas, the Future Conditions Flood Hazard Areas, and the risk premium zones applicable to the community are delineated.

FLOOD INSURANCE STUDY (FIS)

An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

FLOOD LAMP

A form of lighting designed to direct its output in a specific direction with a reflector formed from the glass envelope of the lamp itself. Such lamps are so designated by the manufacturers and are typically used in residential outdoor area lighting.

FLOOD LIGHT

A form of lighting designed to direct its output, more or less in a specific direction, with reflecting or refracting elements located external to the lamp.

FLOOD OR FLOODING

A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland waters; and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD PRONE AREA

See Floodplain.

FLOOD ZONE

A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

FLOODPLAIN

Any land area susceptible to inundation by water from any source.

FLOODPLAIN ADMINISTRATOR

The individual appointed to administer and enforce the floodplain management regulations. See "Town Engineer."

FLOODPLAIN DEVELOPMENT PERMIT

A pre-development permit required to show conformance with the floodplain management provisions of this Ordinance. See Section 2.5.9.

FLOODPLAIN MANAGEMENT

The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

FLOODPLAIN MANAGEMENT REGULATIONS

The floodplain management regulations in this Ordinance and other building codes, health regulations, special purpose ordinances, and other applications of police power that control development in flood-prone areas. This term describes federal, state, or local regulations, in any combination thereof, that provide standards for preventing and reducing flood loss and damage.

FLOODPROOFING

Any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

FLOODWAY

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

FLOOR AREA

The sum of the gross horizontal areas of each floor of the principal building and any accessory buildings or structures, measured from the exterior walls or from the centerline of party walls. The term does not include any area used exclusively for the surface parking of motor vehicles (e.g., garage) or maintenance crawl space.

FLOOR AREA RATIO

See Section 11.4.1.D, Floor Area Ratio.

FOOD TRUCK

A licensed, motorized vehicle or mobile food unit that is designed and equipped to serve food and is temporarily located for the purpose of selling food items to the general public. This use includes ice cream trucks.

FOOT-CANDLE

A unit of illuminance on a surface one foot from a uniform point source of light of one candle and equal to one lumen per square foot. (1 foot-candle = 10.7638 LUX)

FORESTER, REGISTERED

An individual registered by the State of North Carolina as qualified to practice forestry by reason of their special knowledge and training in natural sciences, mathematics, silviculture, forest protection, forest mensuration, forest management, forest economics, and forest utilization.

FORESTRY

A woodland area where all of the following occur:

- The growing of trees;
- The harvesting of timber, leaves or seeds;
- The regeneration by either timely replanting of trees or natural generation in accordance with a forest management plan acceptable to the Division of North Carolina Forest Resources; and
- The application of “best management practices” including the NC Department of Environment, Health and Natural Resources, “Forestry Practice Guidelines related to Water Quality”, and all successor documents.

FREEBOARD

The height added to the Base Flood Elevation (BFE) or the Future Conditions 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, bridge openings, and the hydrological effect of urbanization on the watershed. The Base Flood Elevation plus the freeboard establishes the “Regulatory Flood Protection Elevation.”

FREEWAY

A specialized accessway that functions solely to channel intercity vehicular traffic to and through the Town and to connect major thoroughfares. It consists of a multi-lane divided highway that handles high traffic volumes at very high travel speeds, and limits access to grade-separated interchanges.

FRONT OR FRONTAGE

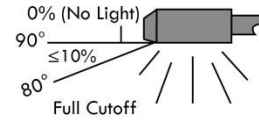
The “front” or “frontage” is that side of a lot abutting on a street or way, and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side line of a corner lot.

FRONTAGE ROAD

A road that is parallel to any freeway or expressway and provides access to adjacent land.

FULL CUTOFF

A fixture light distribution where no light intensity is emitted at or above a horizontal plane drawn through the bottom of the fixture and no more than ten percent of the lamp’s light intensity is emitted at or above an angle ten degrees below that horizontal plane, at all lateral angles around the fixture.



FULL CUTOFF WALL PACK

A type of light fixture typically flush-mounted on a vertical wall surface that emits no light above the horizontal plane of the fixture.

FUNCTIONALLY DEPENDENT FACILITY

A facility that cannot be used for its intended purpose unless it is located in close proximity to water, such as 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 HOME

An establishment engaged in undertaking services such as preparing the dead for burial, and arranging and managing funerals.

FUTURE CONDITIONS FLOOD

The flood having a one percent chance of being equaled or exceeded in any given year based on future conditions hydrology.

FUTURE CONDITIONS FLOOD ELEVATION

A determination of the water surface elevations of the one percent annual chance flood based on future conditions hydrology as published in the Flood Insurance Study. This elevation, when combined with the freeboard, establishes the “Regulatory Flood Protection Elevation” in Future Conditions Flood Hazard Areas.

FUTURE CONDITIONS FLOOD HAZARD AREA

The land area that would be inundated by the one percent annual chance flood based on future conditions hydrology.

FUTURE CONDITIONS HYDROLOGY

The flood discharges associated with projected land-use conditions based on the 1999 version of the Town of Morrisville Land Use Plan, and without consideration of projected future construction of flood detention structures or projected future hydraulic modifications within a stream or other waterway such as bridge and culvert construction, fill, and excavation. Future conditions flood discharges are published in the Flood Insurance Study.

GARAGE OR CARPORT

A structure used or designed to be used to provide shelter for the parking and storage of motor vehicles or boats. A garage is an enclosed building whereas a carport is a roofed structure open on one or more sides. Garages and carports are commonly attached to and considered part of a dwelling or other principal building, but may also exist as a detached accessory structure.

GARAGE OR YARD SALE

The temporary and occasional use of a garage or yard of a residential dwelling for the casual sale or miscellaneous items of personal property to the general public.

GARDEN CENTER

The retail handling, sales, and outdoor storage of any article, substance, or commodity related to, but not limited to the planting, maintenance, or harvesting of garden plants, shrubs, or small trees that can be carried by customers without the assistance of equipment or retail personnel.

GAZEBO

A freestanding, roofed, open-aired accessory structure.



GLARE

The effect produced by a light source within the visual field that is sufficiently brighter than the level to which the eyes are adapted, causing annoyance, discomfort or loss of visual performance and ability.

GOLF COURSE

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. Accessory uses of 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.

GOVERNMENT MAINTENANCE, STORAGE, OR DISTRIBUTION FACILITY

A facility housing government shops, maintenance and repair centers, equipment, and outdoor storage yards.

GOVERNMENT SERVICES, ADMINISTRATIVE

A building containing offices of a governmental agency that provides administrative and/or direct services to the public, such as, but not limited to, local or state government agency administration, public assistance, postal services, employment services, or motor vehicle licensing and registration services.

GREEN ROOF

A roof of a structure that is partially or completely covered with vegetation and a growing medium, planted over a waterproofing membrane. Green roofs are sometimes known as rooftop gardens.

GREENHOUSE

A structure, primarily of glass, in which temperature and humidity can be controlled for the cultivation or protection of plants.

GREENHOUSE/NURSERY

A facility where ornamental trees and plants are stored or grown for wholesale or retail sale. This use may include bulk storage of mulch, fertilizer, and other landscaping materials, as well as the sale of tools, equipment, and other materials normally associated with home landscaping or the landscaping industry.

GREENWAY

A pedestrian trail or multi-use path constructed of pervious or impervious surfaces and related structures—including, but not limited to, boardwalks, steps, rails, and signage.

GROSS FLOOR AREA

The total floor area of a building exclusive of stairways, storage closets, and elevator shafts.

GROUND COVER

Low-growing plants other than turf grass that grow in a spreading fashion to form a more or less solid mat of vegetation, generally planted to provide decorative landscaping or permeable cover for bare earth that prevents soil erosion.

GROUND FLOOR (NONRESIDENTIAL)

The first floor level of any building or structure at or above finished grade not including a basement or cellar.

GROUND SIGN

See Sign, Ground.

HARD SURFACE

As pertaining to driveways, drive aisles, parking, sidewalks, loading areas, and storage for vehicles, recreation vehicles, travel trailers, commercial equipment, trailers, boats, and other similar uses—it is a durable surface constructed of concrete, asphalt, brick pavers, or similar material. For the purpose of calculating the lot coverage, it also includes surfaces of gravel or other loose aggregate except if used in lieu of mulch or pine straw around the base of foundation plantings required in Section 5.12.5, Foundation Plantings.

HAZARDOUS WASTE FACILITY

For purposes of floodplain management, and as defined in N.C.G.S. 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

HEDGE

A group of shrubs planted in line or in groups that forms a compact, dense, visually opaque living barrier that demarcates and/or screens an area from on-site or off-site views.

HELIPORT

An area, either on ground level or elevated on a structure, licensed or approved for the landing and takeoff of helicopters and which may include auxiliary facilities such as parking, waiting room, fueling, and maintenance equipment.

HID

High intensity discharge lighting, a bulb type including mercury vapor, metal halide, high pressure or low-pressure sodium lighting, which glows when an electric current is passed through a gas mixture inside the bulb.

HIGHEST ADJACENT GRADE

For purposes of floodplain management, the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

HISTORIC STRUCTURE

Any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on any inventory of historic landmark adopted by the Town of Morrisville or Wake County; or
- (d) Certified as contributing to the historical significance of a historic district designated and adopted by the Town of Morrisville.

HOME OCCUPATION

A business, profession, occupation, or trade that is conducted within a residential dwelling unit for the economic gain or support of a resident of the dwelling, is incidental and secondary to the residential use of the lot and does not adversely and/or perceptively affect the character of the lot or surrounding area.

HOSPITAL

An institution licensed by the state that provides primary health services and medical or surgical care to humans, primarily inpatients, who are sick or injured, and including as an integral part of the institution, related facilities such as clinical laboratories, outpatient facilities, training facilities, central services facilities, and staff offices. Hospitals offer facilities and beds for use beyond 24 hours by persons needing medical treatment or service. This use type does not include urgent care facilities, nursing homes, or medical/dental offices.

HOT TUB

See Spa or Hot Tub.

HOTEL/MOTEL

An establishment with at least five units that provides overnight and short-term lodging accommodations for guests. Each guest unit includes standard utilities, such as electricity, water, gas, internet, local phone, and cable, and may include kitchen facilities in each guest unit. Short-term lodging includes extended stay and corporate lodging that may have weekly or monthly occupancy. Accessory uses may include restaurants, bars or lounges, conference and meeting rooms, business centers, gift shops, recreational amenities, etc.

HYDRAULIC FRACTURING

A process in which fractures in rocks below the earth's surface are opened and widened by injecting chemicals and liquids at high pressure in order to extract natural gas or oil.

IESNA

The Illuminating Engineering Society of North America, a non-profit professional organization of lighting specialists that has established recommended design standards for various lighting applications.

ILLICIT CONNECTION

Any unlawful connection that allows the discharge of non-stormwater to the stormwater conveyance system or waters of the state.

ILLICIT DISCHARGE

Any unlawful disposal, placement, emptying, dumping, spillage, leakage, pumping, pouring, emission, or other discharge of any substance other than stormwater into a stormwater conveyance, the waters of the state, or upon the land in manner and amount that the substance is likely to reach a stormwater conveyance or the waters of the state.

ILLUMINANCE

The amount of light falling on a surface as measured in lux or foot-candles.

ILLUMINATED SIGN

See Sign, Illuminated.

INDUSTRIAL ASSEMBLY, HEAVY

The fitting or joining of parts of a mechanism by means of fasteners, nuts and bolts, screws, glue, welding, or other similar technique—but not including the construction, stamping, or reshaping of any of the component parts. Heavy industrial assembly uses are distinguished from light industrial assembly uses by their potential for off-site impacts, not necessarily being entirely within an enclosed building, and not being limited in the extent of outdoor storage involved.

INDUSTRIAL ASSEMBLY, LIGHT

The fitting or joining of parts of a mechanism by means of fasteners, nuts and bolts, screws, glue, or other similar technique that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the lot on which the use is located—but not including the construction, stamping, or reshaping of any of the component parts. Light industrial assembly uses are conducted entirely within enclosed buildings, but may include areas used for outdoor storage of goods and materials that do not exceed 25 percent of the combined floor area of all buildings on the lot.

INDUSTRIAL EQUIPMENT SALES AND RENTAL

An establishment primarily engaged in the sale and rental of tools, trucks, tractors, construction equipment, agricultural implements, and similar industrial equipment.

INDUSTRIAL PARK

A development containing three or more separate buildings used for industrial purposes that is designed, constructed, and operated on an integrated and coordinated basis. Examples of existing Industrial Parks in Morrisville include Cedar Fork Industrial Park and Southport.

INDUSTRIAL USE OR DEVELOPMENT

Development whose primary use(s) is one (or more) of the principal use categories and use types listed under the Industrial Uses classification in Article 4: Use Standards, and as described in Section 11.3.1.H, Industrial Uses Classification.

INTERMITTENT STREAM

A well-defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by stormwater runoff. An intermittent stream often lacks the biological and hydrological characteristics commonly associated with the continuous conveyance of water.

INTERNAL REFRACTIVE LENS

A glass or plastic lens installed between the lamp and the sections of the outer fixture globe or enclosure. "Refractive refers" to the redirection (bending) of the light as it goes through the lens, softening and spreading the light being distributed from the light source, thereby reducing direct glare.

INTERPRETATION

An interpretation of the text, uses, or other provisions of this Ordinance, or the boundaries of this Ordinance's Zoning Map, or the conditions of approval imposed on a permit or development approval.

INTERSECTION SIGHT DISTANCE AREA

An area of unobstructed sight distance along the approaches of a street or driveway to an intersection.

INTERSECTION, MAJOR

The junction of two rights-of-way, one being either a major or minor thoroughfare, crossing at-grade per the Town of Morrisville Transportation Plan, as amended.

ISO FOOT-CANDLE CURVE

A demonstration of topographic light levels over a given area.

JORDAN LAKE

The surface water impoundment operated by the US Army Corps of Engineers and named B. Everett Jordan Reservoir, as further delineated for purposes of the Jordan nutrient strategy in 15A NCAC 2B .0262(4).

JORDAN LAKE WATERSHED

All lands and waters draining to B. Everett Jordan Reservoir.

JORDAN NUTRIENT STRATEGY OR JORDAN WATER SUPPLY NUTRIENT STRATEGY

The set of rules in 15A NCAC 2B .0262 through .0273 and .0311(p).

JUNKYARD OR RECYCLING FACILITY

Any land or buildings used, in whole or in part, for the commercial collection, storage, and sale of waste paper, rags, scrap metal, bottles, or other discarded materials, and including the storage and dismantling of motor vehicles or machinery for parts; or for the collection and storage of recyclable materials (e.g., scrap metal, glass, tires) and the sorting and processing of such materials in preparation for shipment to others for use in manufacturing new products.

KENNEL, INDOOR

A commercial establishment where six or more domestic pets are kept, boarded, bred, groomed, or trained. Animals shall be supervised while temporarily outdoors for exercise and elimination of waste.

KENNEL, OUTDOOR

A commercial establishment where six or more domestic pets are kept, boarded, bred, groomed, or trained. Animals may spend more extended periods of unsupervised time outdoors.

LAND

The earth, water, and air, above, below, or on the surface, and including any mineral resources and natural resources and any improvements or structures customarily regarded as land.

LAND DISTURBING ACTIVITY

Any use of the land that results in a change in the natural cover or topography that may cause or contribute to sedimentation.

LANDFILL, CONSTRUCTION AND DEMOLITION DEBRIS

A facility for the land disposal of solid waste generated solely from the construction, remodeling, repair, or demolition operations on pavement and buildings or structures.

LANDFILL, LAND CLEARING AND INERT DEBRIS

A facility for the land disposal of land clearing waste (solid waste generated solely from land clearing activities, such as stumps, trees, limbs, brush, grass, and other naturally occurring vegetative material), concrete, brick, concrete block, uncontaminated soil, gravel and rock, untreated and unpainted wood, and yard trash (solid waste resulting from landscaping and yard maintenance such as brush, grass, tree limbs, and similar vegetative material).

LANDFILL, MUNICIPAL SOLID WASTE

A facility for the land disposal of solid waste resulting from the operation of residential, commercial, industrial, governmental, or institutional establishments that would normally be collected, processed, and disposed of through a public or private solid waste management service.

LANDFILL, ON-SITE DEBRIS

A landfill that is limited to receiving stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth, or other uncontaminated solid waste from on-site construction activities.

LANDOWNER

Any owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and agent or personal representative of the owner.

LANDSCAPE ARCHITECT, REGISTERED

An individual registered by the State of North Carolina as qualified to practice landscape architecture by reason on their special knowledge of natural, physical, and mathematical sciences, and the principles and methodology of landscape architecture and landscape architectural design.

LANDSCAPING

Shall be defined as any living plant material such as trees, shrubs, ground cover, and grass used in spaces void of impervious material or building structure.

LARGER COMMON PLAN OF DEVELOPMENT OR SALE

Any area where multiple separate and distinct construction or land-disturbing activities will occur under one plan. A plan is any announcement or piece of documentation (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, permit application, zoning request, or computer design) or physical demarcation (including but not limited to boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.

LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN (LEED)

Verification by the U.S. Green Building Council of a building or development that is designed and constructed using strategies aimed at improving environmental performance including, but not limited to, energy savings, water efficiency, CO₂ emissions reduction, and indoor environmental quality in the form of LEED certification.

LEVEL OF SERVICE (LOS)

A scale that measures the amount of traffic that a roadway or intersection can accommodate, based on such factors as maneuverability, driver dissatisfaction, and delay. The following describe levels of service:

- *LOS A* indicates a relatively free flow of traffic, with little or no limitation on vehicle movement or speed.
- *LOS B* describes a steady flow of traffic, with only slight delays in vehicle movement and speed. All queues clear in a single signal cycle.
- *LOS C* denotes a reasonably steady, high-volume flow of traffic, with some limitations on movement and speed, and occasional backups on critical approaches.
- *LOS D* designates the level where traffic nears an unstable flow. Intersections still function, but short queues develop and cars may have to wait through one cycle during short peaks.
- *LOS E* represents traffic characterized by slow movement and frequent (although momentary) stoppages. This type of congestion is considered severe, but is not uncommon at peak traffic hours, with frequent stopping, longstanding queues, and blocked intersections.
- *LOS F* represents an unacceptable, forced or breakdown flow, representing jammed conditions. The amount of traffic approaching an intersection cannot be accommodated adequately.

LEVEL OF SERVICE, PRE-DEVELOPMENT

Existing traffic plus background development traffic, but not including the proposed development traffic.

LIGHT EMITTING DIODE (LED)

An electronic semiconductor device that emits light when an electric current passes through it. They are considerably more efficient than incandescent bulbs, and rarely burn out. LEDs are used in many applications such as flat-screen video displays, and increasingly as general sources of light.

LIGHT SOURCE

The element of a lighting fixture that is the point of origin of the lumens emitted by the fixture.

LIGHT TRESPASS

The occurrence when light emitted by a lighting installation falls outside the boundaries of the property on which the installation is sited. This can have adverse effects on residents, vehicle operators and pedestrians, the natural environment.

LIMITED-ACCESS HIGHWAY

Thoroughfares so designated on the Morrisville Thoroughfare Plan where access is by at-grade thoroughfares and driveway cuts onto the limited-access road are prohibited.

LIMITED FUEL/OIL/BOTTLED GAS DISTRIBUTION

The distribution of fuel oil or bottled gases, such as propane or liquid petroleum, in cans with volumes no greater than five gallons, for compensation.

LOADING AREAS

A portion of the vehicle use area where merchandise and/or supplies are delivered and unloaded.

LOADING DOCK

The area where trucks maneuver in order to back up against the loading and unloading platform.

LOCAL RESIDENTIAL STREET

Street that is used primarily for access to the abutting residential properties.

LOT

A portion of a subdivision or any other parcel of land intended as a unit of ownership.

LOT AREA

The total horizontal land area within the lot lines of the zoning lot.

LOT AREA, NET

See Section 11.4.1.A, Net Lot Area.

LOT, CORNER

A lot abutting two or more streets at their intersection.

LOT COVERAGE

See Section 11.4.1.E.

LOT LINE

A line forming a boundary of a lot.

LOT LINE, CORNER SIDE

A lot line, other than a front lot line, separating the lot from an abutting public street right-of-way or private street easement. Generally, the corner side lot line is the longer of the lot lines abutting a street.

LOT LINE, FRONT

A lot line separating the lot from the public street right-of-way or private street easement towards which the front of the principal building on the lot faces. On a corner lot, the front lot line is generally the shorter of the lot lines abutting a street. For a vacant corner lot where the lengths of the street-fronting lot lines are within 20 percent of each other, the front lot line shall be the lot line the lot owner elects to identify as the front lot line.

LOT LINE, REAR

A lot line connecting the lot's interior side lot lines, or an interior side lot line and a street side lot line, along the edge of the lot opposite its front lot line.

LOT LINE, SIDE

A lot line not abutting a street and connecting the lot's front and rear lot lines.

LOT WIDTH

See Section 11.4.1.B, Lot Width.

LOT, ZONING

A parcel or contiguous parcels of land that is indicated by the owner or applicant at the time of application acceptance as being a cohesive development site. An example of a zoning lot is the lots (including outparcels) comprising the development site for a major shopping center.

LOW IMPACT DEVELOPMENT

A manner of land development that seeks to protect waterways, habitat, baseflow, and groundwater recharge. Low Impact Development also protects water quality by minimizing the pollutant loading to waterways from developed areas.

LOW SOLAR GAIN/LOW EMITTANCE (LOW E) WINDOW

Low solar gain, low-emittance (Low-E) refers to windows designed to suppress radiative heat transfer through the use of a microscopically thin, virtually invisible, metal or metallic oxide layer coating, reducing heat loss in winter and heat gain in summer.

LOWEST ADJACENT GRADE (LAG)

For purposes of floodplain management, the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

LOWEST FLOOR

For purposes of floodplain management, 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 enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this article.

LUMEN

A quantitative unit measuring the amount of light emitted by a light source. A lamp is generally rated in lumens.

LUX

A unit of illuminance on a surface one meter from a uniform point source of light of one candle and equal to one lumen per meter. (1 LUX = 0.0929 foot-candle)

MAIN STREET

Specialized accessways that primarily function to accommodate pedestrian access to and within concentrations of higher intensity retail and mixed land uses, such as the Town Center and activity center districts. They are designed with attractive pedestrian-friendly streetscapes that promote walking, bicycling, and transit. To accommodate high pedestrian activity, they generally provide limited direct driveway access to abutting development, relying instead on side street access to rear parking facilities.

MAINTAINED FOOT-CANDLES

Illuminance of lighting fixtures adjusted for a maintenance factor accounting for dirt build-up and lamp output depreciation. The maintenance factor used in the design process to account for this depreciation cannot be lower than 0.72 FC for high-pressure sodium and 0.64 FC for metal halide and mercury vapor.

MAJOR THOROUGHFARE

An accessway that primarily functions to channel intercity vehicular traffic to and through the Town and to provide travel mobility among the Town's major activity centers by connecting minor thoroughfares with each other and with collector streets. It handles moderate to high travel speeds and traffic volumes over relatively long distances, and provides limited direct driveway access to abutting development.

MAJOR VARIANCE

A variance from the minimum statewide watershed protection or Jordan rules that results in the relaxation, by a factor greater than five percent of any buffer, density, or built-upon area requirement under the high density option; any variation in the design, maintenance, or operation requirements of a wet detention pond or other approved stormwater management system; or relaxation by a factor greater than 10 percent, of any management requirement under the low density option. For provisions in this Ordinance that are more stringent than the state's minimum water supply protection rules and Jordan rules, a variance to this Ordinance is not considered a major variance as long as the result of the variance is not less stringent than the state's minimum requirements. See Section 6.6, Variances from Riparian Buffer Regulations.

MANUFACTURED HOME PARK OR SUBDIVISION

For purposes of floodplain management, a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MANUFACTURING, CUSTOM

An establishment primarily engaged in the on-site production of finished handmade goods in small quantities by a tradesman or artisan provided that all manufacturing activities occur in an enclosed building. Examples of this custom manufacturing include, but are not limited to: handmade jewelry making, glassblowing, custom woodworking, and pottery with a single kiln.

MANUFACTURING, HEAVY

An establishment engaged in manufacturing or other industrial processing of products primarily from extracted or raw materials or bulk storage and handling of such products and materials, or an industrial establishment having potential to produce noise, dust, glare, odors, or vibration beyond the property line. Heavy manufacturing is distinguished from light and medium manufacturing by its potential for off-site impacts, not necessarily being entirely within an enclosed building, and not being limited in the extent of outdoor storage it involves. This does not include uses constituting a heavy industrial assembly use.

MANUFACTURING, LIGHT

The manufacturing, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, provided all manufacturing activities are contained entirely within a building and noise, odor, smoke, heat, glare, and vibration resulting from the manufacturing activity are confined entirely within the building. Examples of this light manufacturing include, but are not limited to: production or repair of small machines or electronic parts and equipment; computer design and development; apparel production; sign making; manufacturing of electric, electronic, or optical instruments or devices; manufacturing of artificial limbs, dentures, hearing aids, and surgical instruments; manufacturing of cosmetics; and manufacturing of components, clothing, trimming decorations, and any similar item. This does not include uses constituting a light industrial assembly use.

MANUFACTURING, MEDIUM

The manufacturing of products from processed or unprocessed raw materials, where the finished product is noncombustible and nonexplosive, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, provided all manufacturing activities are contained entirely within a building. This manufacturing may produce noise, odor, smoke, heat, glare, and vibration resulting from the manufacturing activities that is perceptible to adjacent land users, but is not offensive or obnoxious. Odors produced on-site shall not have a material negative effect on other businesses or properties in the area. This does not include uses constituting a light industrial assembly use. Examples of this medium manufacturing include, but are not limited to: glass products made from manufactured glass, products made from rubber, plastic, or resin; converted paper and cardboard products; fabricated metal products made from semi-finished metals.

MARKET VALUE

For purposes of floodplain management, the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

MARQUEE

A permanent canopy, often constructed of metal and glass, that projects over the entrance of a building, generally a place of assembly such as a cinema, theater, auditorium, or arena.

MARQUEE SIGN

See Sign, Marquee.

MASONRY

Stonework, brickwork, or concrete masonry unit (CMU) bonded with mortar by a mason.

MAXIMUM EXTENT PRACTICABLE

The degree to which a project meets an adopted standard in which all possible efforts to comply with the standards or regulation or minimize harmful or adverse effects have been undertaken by an applicant, but full compliance cannot be obtained, and no feasible or practical alternative exists.

MEAN SEA LEVEL

For purposes of floodplain management, the National Geodetic Vertical Datum (NGVD) 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.

MECHANIC'S OR MATERIALMAN'S LIEN

A security interest in the title to real or personal property for the benefit of those who have supplied labor or materials that improve the property, as authorized and regulated in accordance with Article 2 of Chapter 44A of the North Carolina General Statutes.

MECHANICAL EQUIPMENT

Includes, but is not be limited to, heating, venting and air conditioning equipment, water tanks and their supporting structures, stair and elevator bulkheads, screens, baffles and other accessory installations but shall not include telecommunication equipment and conventional television antennas.

MEDIUM BASE

The size of lamp socket designed to accept a medium or Edison base lamp.

MICRO-BREWERY

An establishment primarily engaged in the brewing ale, beer, malt liquors, and nonalcoholic beer that is licensed to do so in accordance with N.C.G.S. 18B-1104 and regulations of the Alcoholic Beverage Control Commission, with a capacity less than 15,000 barrels per year, and with 75 percent or more of its ale, beer, and malt liquors sold off-site. A restaurant/brewery where more than 25 percent of produced ale, beer, and malt liquors are sold on-site is classified as a restaurant (with the brewery as an accessory use). Accessory uses include a restaurant, a public tasting room, and the retail sales of ale or beer, or related products.

MICRO-WINERY

An establishment primarily engaged in the manufacture of unfortified or fortified wine of not more than 25,000 gallons per year that is permitted to do in accordance with N.C.G.S. 18B-1100 and regulations of the Alcoholic Beverage Control Commission. Accessory uses include a public tasting room and retail sales of wine and related products.

MINIMUM HEATING SYSTEM EFFICIENCY

The heating system efficiency as measured using the U.S. Department of Energy Annual Fuel Utilization Efficiency rating, which measures the percentage of heat delivered to a building or structure to the amount of fuel delivered to the system. A system with a 95 percent rating converts 95 percent of the fuel supplied to the system to heat.

MINI-STORAGE

A building or group of buildings divided into separate self-contained units or areas offered for rent for self-service storage of household and personal property. The storage units or areas are designed to allow private access by the tenant for storing and removing personal property. Accessory uses may include leasing offices, outdoor storage of boats and recreational vehicles, incidental sales or rental of moving supplies and equipment, and living quarters for a resident manager or security guard. The rental of trucks or trailers is a separate principal use and not considered accessory to this use.

MINOR THOROUGHFARE

An accessway that primarily functions to provide travel mobility among the Town's major activity centers by connecting local streets, collector streets, and other minor thoroughfares with major thoroughfares. It generally handles moderate vehicular travel speeds and traffic volumes, and may provide some direct driveway access to abutting development, particularly in commercial and industrial areas, but to a degree and in a way that minimizes interference with through movements along the minor thoroughfare.

MINOR VARIANCE

A variance from the minimum statewide watershed protection or Jordan rules that results in a relaxation, by a factor of up to five percent of any buffer, density, or built-upon area requirement under the high density option; or that results in a relaxation by a factor up to 10 percent, of any management requirement under the low density option. See Section 6.6, Variances from Riparian Buffer Regulations.

MOBILE AUTO DETAILING

A business engaged in traveling to and thoroughly cleaning and refurbishing of automobiles, inside and out, at the site where the automobile is parked.

MOBILE CLASSROOMS

Temporary building installed on the grounds of a school or church to provide additional classroom space where there is a shortage of capacity.

MOTOR FREIGHT TERMINAL

A business operation with the primary purpose of the transfer, storage, and distribution of goods and materials and the distribution of goods and materials to another location for the purpose of resale or use at the place distributed to. Involves use of tractor-trailer or tandem truck vehicles for the movement of goods. If the motor freight terminal contains no more than 15,000 square feet of floor area and has no more than seven loading areas, it is classified as a small motor freight terminal. All other motor freight terminals are classified as large motor freight terminals.

NET FACADE AREA

The total area of all facade walls, including parapet walls, on all elevations of the exterior of a building, minus the area of any windows, doors, and cornices.

NET FACADE MATERIAL, NON-PREDOMINANT

Material used on 25 percent or less of the net facade area.

NET FACADE MATERIAL, PREDOMINANT

Material used on 75 percent or more of the net facade area.

NEW CONSTRUCTION

For purposes of floodplain management, structures for which the “start of construction” commenced on or after the original version of the Flood Damage Prevention Ordinance and includes any subsequent improvements to such structures.

NEW DEVELOPMENT

Development of a site that was previously unimproved (with no existing principal structures or uses) or has been or will be cleared of structures. New development is distinguished from existing development and the expansion or alteration of existing development.

NONCONFORMING EXTERIOR LIGHTING FIXTURE

See Section 9.6, Nonconforming Exterior Lighting Fixtures.

NONCONFORMING LOT

See Section 9.2, Nonconforming Lots.

NONCONFORMING SIGN

See Section 9.5, Nonconforming Signs.

NONCONFORMING SITE FEATURE

See Section 9.7, Nonconforming Site Features.

NONCONFORMING STRUCTURE

See Section 9.4, Nonconforming Structures.

NONCONFORMING USE

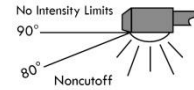
See Section 9.3, Nonconforming Uses.

NONCONFORMITY

A nonconforming lot, use, structure, sign, exterior lighting fixture, or site feature.

NON-CUTOFF

A fixture light distribution where there is no light intensity limitation in the zone above the maximum distribution of light intensity.



NON-ENCROACHMENT AREA

For purposes of floodplain management, the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the Flood Insurance Study report.

NORMAL FORESTRY ACTIVITIES

Forestry activities conducted pursuant to a forestry management plan prepared or approved by a forester registered pursuant to Chapter 89B of the General Statutes of the State of North Carolina.

NOTICE OF VIOLATION

An initial notice indicating a violation of this Ordinance.

NURSING HOME

A facility maintained for the purpose of providing nursing or convalescent care for three or more persons unrelated to the licensee. A nursing home is a home for chronic or convalescent patients, who on admission, are not as a rule, acutely ill and who do not usually require specialized medical facilities. Accessory uses may include dining rooms and recreation and physical therapy facilities for residents, and offices and storage facilities for professional and supervisory staff. This use type does not include congregate living facilities, where the focus is on providing personal care rather than medical care, or hospitals, where more acute and specialized medical care is provided.

OFF-PREMISE SIGN

See Sign, Off-Premise.

OFF-SITE TEMPORARY DIRECTIONAL SIGN

See Sign, Off-Site Temporary Directional

OFFICE BUILDING

A building primarily consisting of offices used for conducting the affairs of various businesses. Accessory uses may include uses intended to serve the daily needs of office employees, such as restaurant, coffee shop, newspaper, or candy stand.

OFFICE PARK

A development containing a number of separate office buildings that is designed, constructed, and operated on an integrated and coordinated basis.

OFFICE PARK, MEDICAL/ DENTAL

A development containing a number of separate buildings used for medical/dental offices that is designed, constructed, and operated on an integrated and coordinated basis. A medical/dental office park may include an urgent care facility or a hospital.

OFFICE, MEDICAL/DENTAL

A facility operated by one or more physicians, dentists, chiropractors, or other licensed practitioners of the healing arts for the examination and treatment of persons solely on an outpatient basis.

OFFICE, UTILITY

A facility operated by any person, firm, corporation, municipal department, or firm authorized to furnish utilities such as, but not limited to, natural gas, electric, water, and telephone services.

OPACITY

A measurement indicating the degree of obscuration of light or visibility. The degree of a feature's opacity is sometimes inversely referred to in term of its "see-through" capacity.

ORDINANCE

A legislative enactment of the Town.

ORDINARY MAINTENANCE AND REPAIR

The painting of a structure, the replacement of damaged or worn finishes or building materials, or other work done on a structure to correct any deterioration or decay of, or damage to, the structure, or any part thereof, and restore the structure as nearly as practical to its condition before the deterioration, decay, or damage.

OUTDOOR DISPLAY OF MERCHANDISE

The placement of products or materials for sale or rental outside the entrance of a retail or wholesale sales establishment.

OUTDOOR EQUIPMENT PERFORMANCE TESTING FACILITY

Use of a property to conduct tests and evaluations of only lawn mowers, utility vehicles, and golf course equipment weighing less than 10,000 pounds. This use does not include the testing and evaluation of two-wheeled motor bikes or agricultural equipment.

OUTDOOR SALES, SEASONAL

A temporary outdoor business enterprise that is conducted primarily outdoors and offers for retail sale items that are , by their nature, in particular demand during a relatively short peak season—including, but not limited to, Christmas trees, pumpkins, produce, flowers, and fireworks.

OUTDOOR SEATING (AS ACCESSORY TO AN EATING OR DRINKING ESTABLISHMENT)

The provision of on-site outdoor seating areas by an eating and drinking establishment where food or beverages are served for consumption. The accessory use also may include outdoor seating areas on public sidewalks in front of the establishment.

OUTDOOR SPORTS FIELD

An area designed for recreation (public or privately owned). These areas include, but are not limited to baseball/softball diamonds, soccer fields, football fields, golf courses, golf driving ranges, tennis courts, racetracks, and swimming pools.

OUTDOOR STORAGE

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 devise (e.g., non-bagged mulch and lumber). This use does not include a junkyard or recycling facility, vehicle fleet storage, or the display and storage of vehicles as part of an automobile sales or rental use.

OUTFALL

A point at which stormwater (1) enters surface water or (2) exits the property of a particular owner.

OWNER

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.

PARAPET WALL

That portion of a facade wall that extends above the roofline.

PARK AND RIDE TERMINAL

An off-street parking facility designed or intended to provide peripheral collection and storage of motor vehicles to accommodate commuter traffic into or out of the community. Accessory structure may include passenger shelters.

PARKING DECK OR GARAGE

A structure, or a portion of a structure, composed of one or more levels or floors used exclusively for the temporary storage of motor vehicles. A parking deck or garage may be totally below grade or partially or totally above grade, with levels either being open to the sides (deck) or enclosed (garage). A parking deck or garage may be a principal use of a lot or accessory to the principal use of the lot.

PARKING LOT

An off-street, hard-surfaced, ground level area approved for the temporary storage of motor vehicles. A parking lot may be a principal use of a lot or accessory to the principal use of the lot.

PARKING SPACE, ACCESSIBLE

A space designated for the parking or temporary storage of one motor vehicle in addition to the space necessary for the ingress and egress from the vehicle by a disabled person and any equipment needed for that purpose.

PASSIVE SOLAR

The use of the sun's energy for the heating and cooling of living spaces, where the building itself or some element of it takes advantage of natural energy characteristics in materials and air created by exposure to the sun. Buildings designed to maximize passive solar exposure have most of their windows located on a south-facing wall.

PEAK HOUR

The hour (four consecutive 15-minute periods) of the day that observes the largest utilization of capacity, or the hour of the day in which the largest number of vehicles use the intersection approach or lane of interest.

PEAK HOUR FACTOR (PHF)

The ratio of the total volume in four consecutive 15-minute intervals (hourly volume) divided by four times the volume in the highest 15-minute interval. This relationship gives information relating to the peaking and arrival characteristics.

PEDESTRIAN CLEAR ZONE

A zone in the public right-of-way that is hardscaped and unobstructed by any permanent or nonpermanent object for a minimum width of eight feet and a minimum height of eight feet.

PERENNIAL STREAM

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. Groundwater is the primary source of water for a perennial stream, but it also carries stormwater runoff. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.

PERENNIAL WATER BODY

A natural or man-made basin, including lakes, ponds, and reservoirs, that stores surface water permanently at depths sufficient to preclude growth of rooted plants. For the purpose of the State's riparian buffer protection program, the water body must be part of a natural drainage way (i.e., connected by surface flow to a stream).

PERFORMANCE GUARANTEE

Cash or other surety provided by an applicant in lieu of completing the construction or installation of public infrastructure or required private site features before application for Final Plat Approval for a Type 1 or Type 2 Subdivision, recordation of a plat for a Type 2 Subdivision, issuance of a Building Permit, or other development approval.

PERIMETER BUFFER

A landscaped area of varying width (depending on the use and surrounding uses) located along that part of the perimeter of a development site between the development and adjoining property.

PERSON

For purposes of enforcing this Ordinance in accordance with Article 10: Enforcement, "person" includes any individual, corporation, government agency, government official, business trust, partnership, two or more persons having a joint interest, or any other legal entity. Persons subject the remedies and penalties established in Article 10: Enforcement, for violating this Ordinance shall include: an architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition resulting in or constituting a violation of this Ordinance; or an owner, any tenant or occupant, or any other person who has control over, or responsibility for, the use or development of the land on which the violation occurs. For all other purposes, "person" means any individual, corporation, government agency, government official, business trust, partnership, two or more persons having a joint interest, or any other legal entity.

PILASTER

A rectangular column with a capital and base that is attached or affixed to a wall as an ornamental design feature.

PLACE OF WORSHIP, COMMUNITY OR NEIGHBORHOOD

A structure, together with its accessory buildings and uses, where people regularly assemble to conduct religious worship, ceremonies, rituals, and related education. The structure and its accessory buildings and uses are maintained and controlled by a religious body. Places of worship include chapels, churches, mosques, shrines, synagogues, tabernacles, temples, and other similar religious places of assembly. Accessory uses may include administrative offices, classrooms, meeting rooms, and cooking and eating facilities. A place of worship may be combined with other uses that generally exist as principal uses—e.g., day care center, school, cemetery, or private recreational/entertainment facility. Such uses are treated as principal uses and subject to the standards and limitations applicable to such uses, and are included in the total gross floor area if located on the same lot..

A community place of worship is a place of worship where the total gross floor area exceeds 8,000 square feet. A neighborhood place of worship is a place of worship where the total gross floor area is no more than 8,000 square feet.

PLACE SIGN

See Sign, Place.

PLANNED UNIT DEVELOPMENT

A tract of land under individual, corporate, firm, partnership, or association ownership, or under common control evidenced by duly recorded contracts or agreements, planned and developed as an integral unit in a single development operation or in a definitely programmed series of development operations in accordance with a master land use plan and detailed engineering and architectural plans.

PLANNING AND ZONING BOARD

See Section 2.2.3.

PLANNING DIRECTOR

The Director of the Morrisville, North Carolina Planning Department. See Section 2.2.1.A.

PLAT

A map or plan of a parcel of land which is to be, or which has been, subdivided.

POCKET NEIGHBORHOOD

A cohesive development of at least four single-family detached dwellings located around a common open space and served by either on-street, on-site, or shared off-street parking. Each home fronts the common open space, and is configured with a front porch and windows on the front facade.

PODIUM PARKING

Parking garage that is completely enclosed at the ground level of a building, beneath the building's occupied levels. Podium parking is generally designed with an open floor plan and a single access point to serve multiple users.

POLITICAL SIGN

See Sign, Political.

POLLUTION

Man-made or man-induced alteration of the chemical, physical, biological, thermal, and/or radiological integrity of water.

PORCH

A projection from an outside wall of a dwelling covered by a roof and/or sidewalls (other than the sides of the building to which the porch is attached) not more than two feet in height. A porch that projects beyond a setback or building restriction line may be screened, but may not be enclosed with glass, jalousies, canvas, plastic or any solid material to a height exceeding two feet.

PORTABLE SIGN

See Sign, Portable.

POST-FIRM

For purposes of floodplain management, construction or other development for which the “start of construction” occurred on or after the effective date of the initial Flood Insurance Rate Map (FIRM) for the area.

PRE-FIRM

For purposes of floodplain management, construction or other development for which the “start of construction” occurred before the effective date of the initial Flood Insurance Rate Map (FIRM) for the area.

PREMISE

For the purpose of definition the term “premise” shall be interchangeable with the term “zoning lot”.

PRIMARY ENTRANCE

The place of pedestrian ingress and egress to a building, parcel, or development used most frequently by the public.

PRINCIPAL BUILDING

A building that is occupied by or devoted to a principal use of the lot on which it is located. There may be more than one principal building on a lot.

PRINCIPALLY ABOVE GROUND

For purposes of floodplain management, at least 51% of the actual cash value of the structure is above ground.

PRIVATE ENTERTAINMENT FACILITY, INDOOR

A facility open to the general public within a completely enclosed building or buildings. Indoor entertainment facilities may be operated as nonprofit or for profit, and include, but are not limited to, theatrical productions, music venues, arcades, movie theaters, or similar indoor uses. This use does not include facilities that are part of public parks or recreation facilities or public cultural facilities.

PRIVATE ENTERTAINMENT FACILITY, OUTDOOR

A facility open to the general public, but not solely within a completely enclosed building or buildings. Indoor entertainment facilities may be operated as nonprofit or for profit, and include, but are not limited to, amusement parks, outdoor theaters, arcades, movie theaters, or similar outdoor uses. This use does not include facilities that are part of public parks or recreation facilities or public cultural facilities.

PRIVATE RECREATION FACILITY, INDOOR

A facility providing sports, game-playing, or similar amusements to the general public within a completely enclosed building or buildings. Indoor recreation facilities may be operated as nonprofit or for profit, and include, but are not limited to, indoor arenas, billiard parlors, bowling alleys, miniature golf courses, indoor tennis courts or swimming pools, roller or ice skating, or similar indoor uses. This use does not include facilities that are part of public parks or recreation facilities or public cultural facilities.

PRIVATE RECREATION FACILITY, OUTDOOR

A facility offering sports, , game-playing, or similar amusements to the general public, but not solely within a fully enclosed building. Outdoor recreation facilities may be operated for nonprofit or profit, and include, but are not limited to, outdoor tennis courts or swimming pools, miniature golf, batting cages, and driving ranges. This use does not include facilities that are part of public parks or recreation facilities or cultural facilities.

PRODUCE STAND (AS ACCESSORY TO A FARM OF COMMUNITY GARDEN)

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 products made from produce and plants grown on the premises, such as jams, jellies, pickles, sauces or baked goods.

PROJECTION SIGN

See Sign, Projection.

PROMOTIONAL EVENTS SIGN

See Sign, Promotional Events.

PUBLIC PARK OR RECREATION FACILITY

A natural or landscaped area, greenways, buildings, or structures such as restrooms, playground equipment, shelters, concession stands, maintenance buildings, and educational centers, provided by a unit of government to meet the active or the passive recreational needs of people.

PUBLIC RECREATION AREA

See Section 5.5.2.

PUBLIC SAFETY AND/OR NUISANCE

For purposes of floodplain management, anything that 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 SAFETY TRAINING STRUCTURE

A training prop that provides hands-on tactical training for police and fire professionals and students.

PUBLIC SQUARE OR PLAZA

A community space generally open and readily accessible to the public and used by pedestrians for passive recreation and as an outdoor meeting or gathering place. Such uses may be provided with amenities such as shelters, seating, fountains, art, and landscaping.

QUORUM

The minimum number of board members that must be present at a meeting for the board to conduct official business or take official action.

RAILROAD YARD

An area for storing and switching of short-line and line-haul freight.

RAINWATER CISTERN

A catchment device to capture rain water from a roof or other surface before it reaches the ground, which may be either above or below ground level.

REAL ESTATE SALES OFFICE, TEMPORARY

The temporary use of a dwelling unit or manufactured home as an office for the purpose of selling real estate during development.

REAL ESTATE SIGN

See Sign, Real Estate.

RECOGNIZED HISTORIC STRUCTURES

Structures identified on the Reference Sheet of Recognized Historic Structures in the Town of Morrisville available from the Town of Morrisville Planning Department.

RECREATION FACILITY, RESIDENTIAL SUPPORT

A private recreational facility for use solely by the residents and guests of a particular residential development, including residential subdivisions, multifamily, and mixed-use developments.

RECREATIONAL VEHICLE (RV)

A vehicle that is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

RECREATIONAL VEHICLE RENTAL AND SERVICE

An establishment engaged in the rental and service of recreational vehicles such as motor homes, travel trailers, boats, and campers.

RECYCLING CONTAINER

A container used for the temporary storage of materials to be recycled.

RECYCLING DROP-OFF STATION

A container or set of containers used for the collection and temporary storage of recyclable materials generated on-site.

RECYCLING FACILITY

Any land or buildings primarily used for the collection and storage of recyclable materials (e.g., waste paper, rags, scrap metal, bottles, glass, tires), the sorting, processing, and repair of such materials in preparation for shipment to others for use in manufacturing new products, and the direct sale of such materials. This use includes junkyards, salvage yards, and similar uses—but only to the extent such uses occur in conjunction with the principal recycling function and operations of the facility.

REDEVELOPMENT

Any development on previously-developed land. Redevelopment of structures or improvements that (a) existed prior to December 2001, (b) would not result in an increase in built-upon area, and (c) provide stormwater control at least equal to the previous development is not required to meet the nutrient loading targets of this Ordinance.

REFERENCE LEVEL

For purposes of floodplain management, the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zone A1-A30, AE, A, A99 or AO.

REFORESTATION

Replanting or planting of forest plant materials. Reforestation also includes planting for mitigation purposes in areas not originally forested.

REGISTERED FORESTER

A person who by reason of special knowledge and training in natural sciences, mathematics, silviculture, forest protection, forest mensuration, forest management, forest economics, and forest utilization is qualified to engage in the practice of forestry.

REGULATORY FLOOD PROTECTION ELEVATION

The elevation above mean sea level to which the reference level of all structures and other development located within Special Flood Hazard Areas and Future Conditions Flood Hazard Areas must be protected, as established in Section 5.6, Floodplain Management.

(a) In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet of freeboard.

(b) In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.

(c) In Future Conditions Flood Hazard Areas this elevation shall be the Future Conditions Flood Elevation plus two feet of freeboard.

REMEDY A VIOLATION

For purposes of floodplain management, to bring the structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced including protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this article or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

RESEARCH LABORATORY

A facility that is designed or equipped for basic or applied research of experimental study, testing, or analysis in the natural and medical sciences or engineering, including any educational activities associated with and accessory to such research.

RESERVATION

The setting aside of real property for a specified use, purpose, or activity. Compare to "dedication." which generally involves the conveyance of real property to a government entity for a public purpose.

RESIDENTIAL USE OR DEVELOPMENT

Development whose primary use(s) is one (or more) of the principal use categories and use types listed under the Residential Uses classification in Article 4: Use Standards, and as described in Section.

RESTAURANT

An establishment where meals or prepared food, including beverages and confections, are served to customers. Accessory uses may include bars, banquet rooms, catering services, pick-up facilities for take-out orders, windows for walk-up service, outdoor seating, and where specifically allowed, drive-through service facilities. An establishment that sells both alcoholic beverages and food is classified as a bar or lounge if it derives most of its gross revenue from the sale of food and nonalcoholic beverages consumed on the premises.

RETAIL STORE

A building, property, or activity, the principal use or purpose of which is the sale of goods, products, or materials directly to the consumer. This use includes, but is not limited to, clothing stores, appliance stores, food stores, grocers, caterers, pharmacies, book stores, florists, furniture stores, hardware stores, and pet stores. This use does not include convenience stores, automobile service stations, service establishments, restaurants, or adult establishments.

REVEAL

A change in height of the primary plane that brings relief to an otherwise flat surface and increases its complexity.

REZONING, CONDITIONAL

See Section 2.5.3.

REZONING, GENERAL

See Section 2.5.3.

REZONING, PLANNED DEVELOPMENT

See Section 2.5.3.

RIVERINE

Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

ROOF FORM

The shape of a roof, of which there are many variations. The most common roof forms are sloped roofs (roofs constructed of flat sections that are sloped) and flat roofs. Sloped roofs may be side gable roofs or end gable roofs (based on whether the gable ends are on the sides or front and back of the building), and may have dormers. The edges of flat roofs (particularly along the front of a building) are commonly defined by parapets and/or cornices.

ROOFLINE

The highest point of a flat or shed roof and the lowest point of a mansard, gable, hip, cone, gambrel, or pyramid roof excluding any cupolas, chimneys, or other minor projection.

ROOMING HOUSE

A building, or portion thereof, that contains three or more sleeping rooms used or designed to provide rental lodging for five to nine individuals for compensation, whether the compensation be paid directly or indirectly. Rooming houses may provide meals to guests.

ROOT FLARE

The area where a tree begins to flare outward at ground level.

SALVAGE YARD

See “Junkyard or Recycling Facility.”

SANDWICH BOARD SIGN

See Sign, Sandwich Board.

SATELLITE DISH

A round or parabolic antenna and its supporting structure used to send or receive radio or electromagnetic signals.

SCHOOL, BUSINESS OR VOCATIONAL

A facility that provides special on-site teaching or training related to industrial, clerical, managerial, or artistic skills focused on specific trades or occupations. The use does not include schools offering a complete educational curriculum (e.g., colleges or universities, or elementary, middle, or high schools).

SCHOOL, ELEMENTARY, MIDDLE, OR HIGH

A public or private educational facility providing instruction in accordance with the compulsory education laws and regulations of the State of North Carolina. Such uses include classrooms, laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.

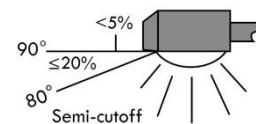
Elementary schools generally provide instruction for students in kindergarten through fifth grade. Middle schools generally provide instruction to students in sixth through eighth grade. High schools generally provide instruction for students in ninth through twelfth grade.

SEASONAL ENERGY EFFICIENCY RATIO (S.E.E.R.)

A measure of the seasonal efficiency of an air conditioning cooling system. S.E.E.R. ratings increase as cooling system efficiency increases. Cooling systems sold in the United States are required to reach a S.E.E.R. rating of 12.

SEMI-CUTOFF

A fixture light distribution where no more than five percent of a lamp’s light intensity is emitted at or above a horizontal plane drawn through the bottom of the fixture and no more than 20 percent of the lamp’s light intensity is emitted at or above an angle ten degrees below that horizontal plane, at all lateral angles around the fixture.



SERVICE ESTABLISHMENT

Offices for agencies rendering specialized professional services such as legal, engineering, architectural, surveying, accounting services, real estate, banks, insurance, computer training, and similar services not involving retail trade or the maintenance of a stock of goods or other merchandise for sale. This use also includes businesses that provide services to customers at another location, such as a locksmith, exterminator, or contractor.

SERVICE ESTABLISHMENT, PERSONAL

A business primarily engaged in the provision of frequent or recurrent needed services of a personal nature that are not medically related. This use includes, but is not limited to, travel agencies, drycleaners, laundries, tailors, hair stylists, cosmeticians, toning or tanning salons, nail care stores, clothing rental establishments, postal stations, package delivery drop-off and pick-up stations, photocopy centers, shoe repair shops, appliance and electronics repair shops, interior design studios, and dance and martial art studios. A personal care establishment does not include an adult establishment.

SETBACK

The shortest horizontal distance from a lot line of a lot to the nearest point of a structure on the lot.

SETBACK LINE

A line delineating the minimum front, corner side, side, or rear yard setback applicable to a lot—as measured from, and running parallel to, the associated front, corner side, side, or rear lot line.

SETBACK, CORNER SIDE

The shortest horizontal distance from the corner side lot line of a lot to the nearest point of a principal structure on the lot.

SETBACK, FRONT YARD

The shortest horizontal distance from the front lot line of a lot to the nearest point of a principal structure on the lot.

SETBACK, INTERIOR SIDE YARD

The shortest horizontal distance from the side lot line of a lot to the nearest point of a principal structure on the lot.

SETBACK, REAR YARD

The shortest horizontal distance from the rear lot line of a lot to the nearest point of a principal structure on the lot.

SETBACK, REQUIRED CORNER SIDE YARD

All land area between the corner side lot line and the corner side setback line that lies between the lot's front setback area and its rear lot line.

SETBACK, REQUIRED FRONT YARD

All land area between the front lot line and the front setback line that lies between the lot's side lot lines, or in the case of a corner lot, between a side lot line and the opposite corner side lot line.

SETBACK, REQUIRED REAR YARD

All land area between the rear lot line and the rear setback line that lies between the lot's interior side lot lines, or in the case of a corner lot, between an interior side lot line and the opposite street side lot line.

SETBACK, REQUIRED SIDE YARD

All land area between a side lot line and the side setback line that lies between the lot's front setback area and its rear setback area.

SHOEBOX FIXTURE

A rectangular shaped fixture that has a flat glass lens on the bottom to emit light.

SHOPPING CENTER, MAJOR

A building or a group of connected or freestanding buildings under single or multiple ownership that contains retail goods and service uses serving the needs of a neighborhood, community, and regional customer base. A major shopping center is designed, constructed, and operated on an integral and coordinated basis, with common parking, pedestrian movement, and ingress and egress. It may be located on a site larger than 15 acre and has at least one tenant with more than 60,000 square feet of floor area.

SHOPPING CENTER, NEIGHBORHOOD

A building or a group of connected or freestanding buildings under single or multiple ownership that contains retail goods and service uses serving the needs of local residential neighborhoods. A neighborhood shopping center is designed, constructed, and operated on an integral and coordinated basis, with common parking, pedestrian movement, and ingress and egress. It has no more than 150,000 square feet of total floor area, and no single tenant greater than 60,000 square feet of floor area.

SHORELINE STABILIZATION

The in-place stabilization of an eroding shoreline. Stabilization techniques which include “soft” methods or natural materials (such as root wads, or rock vanes) may be considered as part of a restoration design. However, stabilization techniques that consist primarily of “hard” engineering, such as concrete lined channels, riprap, or gabions, while providing bank stabilization, shall not be considered stream restoration.

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.

SIDEWALK

A hard-surfaced, all-weather pedestrian walkway within a street right-of-way or easement.

SIGN

Any identification, description, animation, illustration, or device (including logos, trademarks, branding, project initials, and the like), whether illuminated or non-illuminated, that is visible from any right-of-way and directs attention to any realty, product, service, place, activity, person, institution, performance, commodity, firm business or solicitation, including any permanently installed or situated merchandise or any emblem, painting, banner, poster, bulletin board, pennant, placard, or temporary sign designed to identify or convey information, with the exception of North Carolina state, municipal, or national flags.

SIGN AREA/SURFACE AREA

The entire area shall be measured by the square, rectangle, semicircle, or parallelogram thereof, and comprise the entire sign inclusive of any border or trim and all the elements of the matter displayed, but excluding the base or apron, supports and other structural members. In the case of three-dimensional letters or painted letters directly on a building wall surface, the surface area shall be defined as that area encompassing the area of the letters including any trim or border.

SIGN PERMIT

A document that is issued by the Planning Director that authorizes the posting, display, repair, change, painting, or erection of a sign or sign structure as being in compliance with signage standards in Section 5.16, Signage.

SIGN, ADDRESS

A sign identifying the street number and/or name of the occupant of the property on which the sign is located.

SIGN, AWNING

A sign affixed to or part of an awning supported entirely from the exterior wall of a building and composed on nonrigid materials except for the supporting framework.

SIGN, AWNING-MOUNTED

A sign mounted above or under the outside edge of an awning.

SIGN, BANNER

Any sign, except an awning sign, made of flexible, fabric-like material, for temporary use.

SIGN, BRACKET-MOUNTED

A sign hanging from a bracket attached to and projecting out from a building face or wall, generally at a right angle to the building.

SIGN, CHANGEABLE COPY

A sign that is designed to accommodate the frequent changing of message copy (e.g., letters, numerals, graphics), whether through manual means (e.g., changing of attachable characters or graphics), mechanical means (e.g., rotation of sign face or sign panels), or electronic means (e.g., automatic switching of sign face or sign panels or of the message itself). Changeable copy signs include bulletin or reader boards, time and temperature signs, and electronic message signs.

SIGN, CONTRACTOR/CONSTRUCTION

A sign identifying the contractor(s), construction work, or future development/tenants on the premise or building containing the sign.

SIGN, DIRECTORY

A sign identifying two or more persons, agencies, or establishments, located in a place or location common to all.

SIGN, ELECTRONIC

A sign that changes its message copy by means of light emitting diodes (LEDs), fiber optics, light bulbs, or other illumination devices within the display area.

SIGN, GROUND-MOUNTED

A free standing sign that is not attached to any building structure; sometimes called a “detached,” “freestanding,” or “pole” sign.

SIGN, ILLUMINATED

A sign that is illuminated by electric or other device mainly for clear visibility at night.

SIGN, MARQUEE

A sign attached to or mounted to the top of a marquee, generally used to identify a specific motion picture or event, and subject to frequent change in copy.

SIGN, OFF-PREMISE

See Section 5.16.3.A.

SIGN, OFF-SITE TEMPORARY DIRECTIONAL

A sign located outdoors, which guides, instructs, or directs viewers to a place or event not located on the same premise.

SIGN, POLITICAL

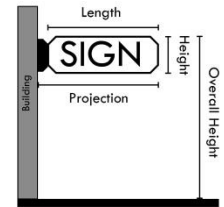
A sign attracting attention to political candidates or political issues and regulated as a temporary sign.

SIGN, PORTABLE

Any sign that rests upon the ground, a structure, frame, building, or other surface; such signs include but are not limited to the following: trailer signs, sandwich board signs, and sidewalk or curb signs.

SIGN, PROJECTION FASCIA

A sign attached to and projecting out from a building face or wall, generally at a right angle to the building.



SIGN, PROMOTIONAL EVENT

A sign identifying a grand opening, parade, festival, fund drive, holidays, fairs, carnivals, special sales, or similar events. Special event signs are only permitted after approval by the Town.

SIGN, REAL ESTATE

Any sign announcing the sale, rental, or lease of a lot, tract of land, one or more structures, or a portion thereof, upon which the sign is located.

SIGN, SANDWICH BOARD

A movable ground sign, not secured or attached to the surface or ground upon which it is located, that constructed in such a manner as to form and “A” or tent-like shape.

SIGN, TEMPORARY

A sign that can be used only for a designated period of time.

SIGN, TRAFFIC

A sign indicating federal, state, or Town regulations for automobile, truck, bicycle, and pedestrian movement.

SIGN, WALL-MOUNTED FASCIA

A sign attached to a vertical wall and confined to the area between the final grade elevation and the eaves of a building structure.

SITE PLAN APPROVAL, MAJOR

See Section 2.5.7.

SITE PLAN APPROVAL, MINOR

See Section 2.5.7.

SITE-SPECIFIC DEVELOPMENT PLAN

A plan submitted to the Town as part of an application for a Special Use Permit or Site Plan Approval in accordance with the provisions of N.C.G.S. 160A-385.1 for local designation of site-specific development plans for the purposes of establishing vesting.

SITE-SPECIFIC DEVELOPMENT PLAN DESIGNATION

See Section 2.5.21.

SKETCH PLAN

A plan that depicts the general configuration and relationship of the principal elements of the proposed development such as uses, intensity, access and circulation, and open space.

SMALL WIND ENERGY SYSTEM

A wind energy conversion system consisting of a rotating wind turbine and related control or conversion equipment that converts the kinetic energy in wind into mechanical energy, has a rated capacity of not more than 100 kilowatts (kW), and is intended to primarily reduce on-site consumption of utility power for homes or businesses.

SOLAR ENERGY COLLECTION SYSTEM

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. As an accessory use, a solar energy collection 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 accessory structures, but may be mounted on other parts of structures, or on the ground.

SOLAR REFLECTIVE INDEX (SRI)

A measure of a constructed surface's ability to reflect solar heat, as shown by a small temperature rise. It is defined so that a standard black (reflectance 0.05, emittance 0.90) is 0 and a standard white (reflectance 0.80, emittance 0.90) is 100. SRI combines reflectance and emittance into one number.

SOLID WASTE DISPOSAL FACILITY

As defined in N.C.G.S. 130A-290(a)(35), any facility involved in the disposal of solid waste.

SOLID WASTE DISPOSAL SITE

As defined in N.C., Gen. Stat. 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

SPA OR HOT TUB

An above- or below-ground structure that is filled with water and used for soaking, relaxation, massage, or hydrotherapy.

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.

SPECIAL FLOOD HAZARD AREA (SFHA)

The land in the floodplain subject to a one percent or greater chance of being flooded in any given year based on current conditions hydrology.

SPECIAL USE PERMIT

See Section 2.5.5.

SPECIALTY EATING ESTABLISHMENT

An establishment selling specialty food or beverage items that normally do not constitute a full meal—including, but not limited to, ice cream parlors, dessert cafés, snack shops, juice and coffee houses, and retail bakeries. Accessory uses may include pick-up facilities for take-out orders, windows for walk-up service, outdoor seating, and where permitted, drive-through service facilities.

SPECIMEN TREE

See Tree, Specimen.

SPORTS ACADEMY

A private school that includes all or part of grades six to twelve and provides specialized sport services and education to athletes. A sports academy may include other uses that generally exist as principal uses – e.g. dormitory.

SPORTS TRAINING FACILITY, INDOOR

A facility providing indoor professional and pre-professional sports instruction. These facilities tend to be fairly large with a significant amount of off-street parking.

SPORTS TRAINING FACILITY, OUTDOOR

A facility providing outdoor professional and pre-professional sports instruction. These facilities tend to be fairly large with a significant amount of off-street parking.

STABLE

A building in which animals other than cats, dogs, and other small domesticated animals are sheltered and fed.

STACKING LANE

That part of an accessway that accommodates temporary queuing of motor vehicles waiting to enter an off-street parking facility.

STAND OF TREES

See Trees, Stand of.

START OF CONSTRUCTION

For purposes of floodplain management, the date the building permit was issued provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. For purposes of vesting determination and other construction activities, the actual start means the first placement of permanent of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

STATE

The State of North Carolina.

STOCKPILING OF MATERIALS

The acceptance, collection, or stockpiling of more than 25 cubic yards of dirt, fill, gravel from off-site sources.

STONE

Concreted earthy or mineral matter; rock.

STONECUTTING/MONUMENT SALES

Manufacturing establishments primarily engaged in cutting, shaping, and finishing marble, granite, slate, and other stone for building and miscellaneous uses. This use also includes establishments primarily engaged in buying or selling partially finished monuments and tombstones.

STOP WORK ORDER

An order issued by a Town official that directs the person responsible for a development activity or other act in violation of this Ordinance to cease and desist such activity or act.

STORAGE OF PETROLEUM PRODUCTS

The use of tanks, both above and underground, to store petroleum based products.

STORAGE SHED

An uninhabitable accessory structure used or designed to be used for provide shelter for or storage of materials, or as a small workshop. Storage sheds may be enclosed or open and may be attached to a principal building or exist as a detached structure.

STORMWATER

Any flow resulting from, and occurring during or following, any form of natural precipitation.

STORMWATER CONVEYANCE

Any feature, natural, or manmade, that collects and transports stormwater, including but not limited to roads with drainage systems, catch basins, curbs, gutters, ditches, channels, pipes, culverts, storm drains, and any other feature or structure designed or used for collecting or conveying stormwater.

STORMWATER MANAGEMENT PERMIT

See Section 7.2.

STORMWATER SYSTEM

All engineered stormwater controls owned or controlled by a person that drains to the same outfall, along with the conveyances between those controls. A system may be made up of one or more stormwater controls.

STREAM

A body of concentrated flowing water in a natural low area or natural channel on the land surface.

STREAM RESTORATION

The process of converting an unstable, altered, or degraded stream corridor, including adjacent riparian zone and flood-prone areas to its natural or referenced, stable conditions considering recent and future watershed conditions. This process also includes restoring the geomorphic dimension, pattern, and profile as well as biological and chemical integrity, including transport of water and sediment produced by the stream's watershed in order to achieve dynamic equilibrium. "Referenced" or "referenced reach" means a stable stream that is in dynamic equilibrium with its valley and contributing watershed. A reference reach can be used to develop natural channel design criteria for stream restoration projects.

STREET

Any public or private accessway used primarily for vehicular access and circulation, including the roadway and the right-of-way or access easement within which the roadway is located.

STREET VENDOR

Any person or persons selling or offering for sale products on a street, sidewalk or alley.

STREETScape

A varying width (depending on street type) landscaped strip parallel to the recorded or proposed street right-of-way containing plantings of trees and shrubs in accordance with this Ordinance.

STREETYARD BUFFER

A landscaped area of varying width (depending on the use and surrounding uses) located along a development site's street frontage between the development and adjoining street right-of-way.

STRING LIGHTING

Low wattage lights designed for exterior installation and use with individual bulb receptacles connected by electrical wires that are exposed to an outside surface.

STRUCTURE

Anything constructed, installed, or portable, the use of which requires a location on a parcel of land. This includes a fixed or movable building which can be used for residential, business, commercial, agricultural, or office purposes, either temporarily or permanently. "Structure" also includes, but is not limited to, swimming pools, tennis courts, signs, cisterns, sewage treatment plants, sheds, docks, mooring areas, fountains, art, and similar accessory construction. It also includes a gas, liquid, or liquefied gas storage tank that is principally above ground.

STRUCTURE HEIGHT

See Section 11.4.1.F, Structure Height.

STUMP DIAMETER

The diameter of a tree measured at six inches above the ground surface level.

SUBDIVIDER

Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

SUBDIVISION

Any division of a tract or parcel of land into two or more lots or building sites or any other division of land for the purpose, whether immediate or future, of sale or building development, and any division of land involving the dedication of a new street or a change in an existing street—provided, however, that the following are excluded from the definition of "subdivision:"

1. The combination or recombination of portions of previously subdivided and recorded lots, where the total number of lots is not increased and the resultant lots meet or exceed the lot standards in Section 5.3.2;
2. The division of land where all resulting parcels are greater than ten acres in area and no street right-of-way dedication is involved;
3. The public acquisition of land for the opening or widening of streets or for public transportation corridors; and
4. The division of a parcel of land with an area no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and the resultant lots meet or exceed the lot standards in Section 5.3.2.

SUBDIVISION APPROVAL

See “Type 1 Subdivision Preliminary Plat Approval,” “Type 2 Subdivision Preliminary Plat Approval,” or “Final Plat Approval.”

SUBDIVISION EXCLUSION

A division of land excluded from the definition of “subdivision,” and thus from subdivision regulation under this Ordinance - see Section 2.5.6.D.

SUBDIVISION, RESIDENTIAL

A subdivision, or part of a subdivision, that creates lots as building sites for individual single-family detached, duplex, bungalow court, pocket neighborhood, or manufactured home dwellings.

SUBDIVISION, TYPE 1

See Section 2.5.6.A.2, Subdivisions Distinguished.

SUBDIVISION, TYPE 2

See Section 2.5.6.A.2, Subdivisions Distinguished.

SUBSTANTIAL IMPROVEMENT

For purposes of floodplain management, 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. The term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. However, the term does not include either:

(a) any correction of existing violations of State or community health, sanitary or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or,

(b) any alteration of a historic structure provided that the alteration will not preclude the structure’s continued designated as a historic structure and the alteration is approved by a variance issued pursuant to Section 2.5.16, Variance.

SUBSTANTIAL PROGRESS

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:

1. Obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than 30 days; or
2. Installation and approval of on-site infrastructure; or
3. 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.

SURFACE WATERS

All waters of the state as defined in N.C.G.S. 143-212 except underground waters

SWIMMING POOL

An above- or below-ground structure that is filled with water and used for swimming.

TANDEM PARKING

An arrangement of vehicle parking spaces such that one or more spaces must be driven across in order to access another space or spaces.

TANK FARM

The storage of chemicals, petroleum products, hazardous materials, materials that are flammable or explosive, or other materials that present hazards or conditions commonly recognized as offensive in above ground or below ground storage containers designed for subsequent resale to distributors, retail dealers, or outlets.

TAXI OR LIMOUSINE SERVICE FACILITY

A service that offers transportation in passenger automobiles and vans to persons, including those who are handicapped, in return for remuneration. The business may include facilities for servicing, repairing, and fueling the taxicabs or limousines.

TECHNICALLY IMPRACTICABLE

Incapable of being put into practice with the available means or impossible to carry out with current technology.

TELECOMMUNICATION, AMATEUR HAM RADIO ANTENNA

Any tower used for amateur radio transmissions consistent with the "Complete FCC U.S. Amateur Part 97 Rules and Regulations" for amateur radio towers.

TELECOMMUNICATION, ALTERNATIVE STRUCTURE

A structure that is not primarily constructed for holding antennas but on which one (1) or more antennas may be mounted, which includes, but is not limited to, buildings, flagpoles, utility distribution poles, church steeples, and transmission tower structures.

TELECOMMUNICATION, ANTI-CLIMBING DEVICE

A piece or pieces of equipment, which are either attached to a tower or support structure, which are freestanding and are designed to prevent people from climbing the structure, including fine mesh wrap around structure legs, "squirrel-cones," and other approved devices, but excluding the use of barbed or razor wire.

TELECOMMUNICATION, ANTENNA

Any apparatus designed for the transmitting and/or receiving of electromagnetic waves, including telephonic, radio or television communications. Types of elements include omni-directional (whip) antennas, sectionalized (panel) antennas, multi or single bay (FM & TV), yagi, or parabolic (dish) antennas.

TELECOMMUNICATION, ANTENNA ARRAY

A single or group of antenna elements and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving electromagnetic waves.

TELECOMMUNICATION, ANTENNA ELEMENT

Any antenna or antenna array.

TELECOMMUNICATION, AREA - RESIDENTIAL

A land use in which housing predominates, as opposed to nonresidential areas. Housing may vary significantly between, and through, residential areas. These include single-family housing, multifamily residential, or mobile homes.

TELECOMMUNICATION, AREA - NONRESIDENTIAL

A nonresidential area is real estate primarily intended for use by for-profit businesses, such as office complexes, shopping malls, automobile service stations and restaurants.

TELECOMMUNICATION, ASR

The Antenna Structure Registration Number as required by the FAA and FCC.

TELECOMMUNICATION, BASE STATION

The electronic equipment utilized by the wireless providers for the transmission and reception of radio signals.

TELECOMMUNICATION, BREAKPOINT TECHNOLOGY

The engineering design of a tower or support structure wherein a specified point is designed to have stresses concentrated so that the point is at least five percent (5%) more susceptible to failure than any other point so that in the event of a structural failure, the failure will occur at the breakpoint rather than at the base plate, anchor bolts, or any other point on the tower or support structure.

TELECOMMUNICATION, BROADCAST FACILITY

Towers, satellite dishes, antennas, and/or antenna arrays for AM/FM/TV/HDTV broadcasting transmission facilities that are licensed by the Federal Communications Commission (see graphic to the right).



TELECOMMUNICATION, BROADCAST STUDIO

Commercial and public communications uses including radio and television broadcasting and receiving stations and studios, with facilities entirely within buildings.

TELECOMMUNICATION, BROADCASTING STATION

Commercial and public communication uses including radio and television broadcasting and receiving stations and studios, including ancillary outdoor communications equipment such as transmission towers and satellite dishes.

TELECOMMUNICATION, COLLOCATION

The placement or installation of antenna(s) on existing towers or support structures, including transmission tower poles, buildings, and other structures capable of structurally supporting the placement or installation in compliance with this ordinance and applicable codes.

TELECOMMUNICATION, COMBINED ANTENNA

An antenna element designed and utilized to provide services for more than one (1) wireless provider, or a single wireless provider utilizing more than one (1) frequency band or spectrum, for the same or similar type of services.

TELECOMMUNICATION, CONCEALED ATTACHED ANTENNA

An antenna that is not readily identifiable as such, and is designed to be aesthetically compatible with existing and proposed building(s) and uses on a site. Concealed Attached antennas include painted antenna and feed lines to match the color of a building or structure, faux windows, dormers or other architectural features that blend with an existing or proposed building or structure (see graphic to the right).



TELECOMMUNICATION, CONCEALED FREESTANDING TOWER

A tower that is not readily identifiable as such, and is designed to be aesthetically compatible with existing and proposed building(s) and uses on a site. Concealed freestanding towers include faux trees, but they may also have a secondary function that could include a church steeple, windmill, bell tower, clock tower, light pole, flagpole, etc. (see graphics to the right).



TELECOMMUNICATION, CONCEALMENT TECHNOLOGY

A design or treatment that minimizes aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in general the same area as the requested location of such towers or support structures, which shall mean building the least visually and physically intrusive facility that is not technologically or economically impracticable under the facts and circumstances. Concealment technology includes such technology as Distributed Antenna System (DAS) or its functional equivalent or camouflage where the tower or support structure is disguised to make it less visually obtrusive and not recognizable to the average person as a tower or support structure.



TELECOMMUNICATION, DAS (DISTRIBUTED ANTENNA SYSTEM)

A network of smaller, spatially separated antennas connected to a telecommunications network. A DAS splits the transmitted signal among several smaller antennas to provide coverage and reliability over a smaller geographic area or within a structure. A DAS is the combination of a DAS Node and a DAS Wired Hub. A DAS can be comprised of the following:

- A self-contained single installation which has a DAS antenna mounted to a medium elevation support structure such as a light pole or telephone pole and includes the DAS Wired Hub either mounted on the same pole or ground mounted in close proximity; or
- A DAS Node that is connected by fiber optic cables to a remote located DAS Wired Hub.

TELECOMMUNICATION, DAS NODE

A set of equipment including wireless antenna mounted on a support structure such as a utility distribution pole which is connected via fiber optic cable initially to an equipment cabinet on site and thereafter to a DAS Wired Hub at either the same location or a different location. DAS Nodes may or may not share common ownership with DAS Wired Hubs (see graphic to the right).



TELECOMMUNICATION, DAS WIRED HUB

Ancillary equipment usually contained in a shelter or other enclosure which does not have any wireless transmission or receive equipment contained therein but is utilized in the deployment and operation of wireless DAS receive/transmit infrastructure that is located elsewhere.

TELECOMMUNICATION, DEVELOPMENT AREA

The vicinity occupied by telecommunication facilities including inside or under a support structure's framework, equipment cabinets, ancillary structures, and access driveway.

TELECOMMUNICATION, DISCONTINUED USE (ABANDONMENT)

Any tower without any mounted transmitting and/or receiving antennas in continued use for a period of 180 consecutive days.

TELECOMMUNICATION, DUAL-FUNCTION TOWER

Antenna mounted atop telecommunication facilities that runs up the middle of an existing transmission tower structure as opposed mounted atop the transmission tower structure (see graphic to the right).



TELECOMMUNICATION, ANSI EIA/TIA 222 STANDARDS

Telecommunications Industry Association and Electronics Industries Association Standard 222 (Structural Standard for Antenna Support Structures and Antennas).

TELECOMMUNICATION, EQUIPMENT COMPOUNDS

The fenced-in area surrounding or near the base of a wireless support structure. Allowable equipment within the compound include that necessary to operate the antenna on the structure and that is above the FEMA established base flood elevation including cabinets, shelters, pedestals, backup generators and other similar structures. Equipment compounds shall be non-habitable.

TELECOMMUNICATION, EQUIPMENT CABINET OR SHELTER

Any structure above the FEMA established base flood elevation including cabinets, shelters, pedestals, and other similar structures and used exclusively to contain radio or other equipment necessary for the transmission or reception of wireless telecommunication signals.

TELECOMMUNICATION, FAA

The Federal Aviation Administration or its duly designated and authorized successor agency.

TELECOMMUNICATION, FACILITY/FACILITIES

Any unstaffed location for the transmission and/or reception of radio frequency signals or other wireless telecommunications, and usually consisting of an antenna or group of antennas, feed cables, equipment cabinets or shelter, generator, and may include a tower. The following developments shall be deemed telecommunication facilities: new, mitigated, or existing towers, public towers, replacement towers, collocation on existing towers, attached wireless telecommunications facilities, concealed wireless telecommunication facilities, and non-concealed wireless telecommunication facilities.

TELECOMMUNICATION, FCC

The Federal Communications Commission or its duly designated and authorized successor agency.

TELECOMMUNICATION, FEED LINES

Cables used as the interconnecting media between the transmission/receiving base station(s) and the antenna.

TELECOMMUNICATION, FLUSH-MOUNTED

Any antenna element attached directly to the face of a support structure or building such that no portion of the antenna element extends above the height of the support structure or building.

TELECOMMUNICATION, GEOGRAPHIC SEARCH RING

An area designated by a wireless provider or operator for a new base station or telecommunication facility, produced in accordance with generally accepted principles of wireless engineering.

TELECOMMUNICATION, GUYED

A style of tower consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly is attached to a tower base and supported by a series of wires that are connected to anchors placed in the ground or on a building.

TELECOMMUNICATION, LATTICE

A tapered style of tower that consists of vertical and horizontal supports with multiple legs and cross bracing, and metal crossed strips or bars to support antennas. New lattice towers are not permitted in Morrisville.

TELECOMMUNICATION, LEAST VISUALLY OBTRUSIVE PROFILE

The design of a telecommunication facility intended to present a visual profile that is the minimum profile necessary for the facility to function properly.

TELECOMMUNICATION, MITIGATION

A modification of an existing tower by replacing or removing one (1) or several towers located in proximity to a proposed new tower in order to encourage compliance with this Ordinance, or improve aesthetics or functionality of the overall wireless network.

TELECOMMUNICATION, MODIFICATION OR MODIFY

The addition, removal, or change of any of the physical and visually discernable components or aspects of telecommunication facilities, such as antennas, cabling, equipment shelters, landscaping, fencing, feed lines, changing the color or materials or any visually discernable components, vehicular access, parking and/or an upgrade or change-out of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a telecommunication tower as a collocation is a modification.

TELECOMMUNICATION, MONOPOLE

A style of freestanding tower consisting of a single shaft usually composed of two (2) or more hollow sections that attach to a tower base. This type of tower is designed to support itself without the use of guy wires or other stabilization devices. These facilities are mounted to a tower base that rests on or in the ground or on a building's roof. All cables and feed lines shall be installed within the shaft of the tower (see graphic to the right).



TELECOMMUNICATION, NON-CONCEALED

A wireless telecommunication facility that is readily identifiable as such and can be either freestanding or attached.

TELECOMMUNICATION, PANEL ANTENNA

An inconspicuous, relatively flat, square or rectangular antenna designed to be affixed to the wall of a building or structure in order to receive and transmit signals from a telecommunication device.

TELECOMMUNICATION, PERSONAL WIRELESS SERVICE

Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services as defined in the Telecommunications Act of 1996.

TELECOMMUNICATION, PUBLIC SAFETY TELECOMMUNICATIONS EQUIPMENT

All telecommunication equipment utilized by a public entity for the purpose of ensuring the safety of the citizens of the Town and operating within the designated frequency range and any future spectrum allocations at the direction of the FCC.

TELECOMMUNICATION, RADIO FREQUENCY EMISSIONS

Any electromagnetic radiation or other communications signal emitted from an antenna or antenna-related equipment on the ground, tower, building, or other vertical projection.

TELECOMMUNICATION, RADIO FREQUENCY PROPAGATION ANALYSIS

Computer modeling to show the level of signal saturation in a given geographical area.

TELECOMMUNICATION, REPAIRS AND MAINTENANCE

The replacement or repair of any components of telecommunication facilities where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of telecommunication facilities without the addition, removal or change of any of the physical or visually discernable components or aspects of telecommunication facilities that will add to the visible appearance of the facility as originally permitted, but does not constitute a modification to telecommunication facilities.

TELECOMMUNICATION, REPLACEMENT

See Telecommunication Facilities, Mitigation

TELECOMMUNICATION, SATELLITE EARTH STATION

A single or group of parabolic or dish antennas mounted to a support device that may be a pole or truss assembly attached to a foundation in the ground, or in some other configuration, including the associated separate equipment cabinets necessary for the transmission or reception of wireless communications signals with satellites.

TELECOMMUNICATION, STRUCTURAL CAPACITY

Up to and not exceeding one hundred percent (100%) of the designed loading and stress capability of the telecommunication tower or support structure.

TELECOMMUNICATION, TOWER BASE

The foundation, usually concrete, on which the tower and other support equipment are situated. For measurement calculations, the tower base is that point on the foundation reached by dropping a perpendicular from the geometric center of the tower.

TELECOMMUNICATION, TOWER HEIGHT

When referring to a tower or support structure, the vertical distance measured from the pre-existing grade level to the highest point of the tower, including any antenna, lighting, lightning rod or other affixed equipment.

TELECOMMUNICATION, UTILITY DISTRIBUTION POLE

A structure that is designed for and used to carry lines, cables, or wires for telephone, cable television, electricity, or to provide lighting.

TELECOMMUNICATION, TRANSMISSION TOWER STRUCTURE

An electrical transmission structure that is designed for and used to carry high voltage overhead power lines. The term shall not include any utility distribution pole.

TELECOMMUNICATION, WIRELESS SUPPORT STRUCTURE

A new or existing structure, such as a monopole, lattice, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility distribution pole or transmission tower structure is not a wireless support structure.

TELECOMMUNICATION, WIRELESS TELECOMMUNICATION FACILITIES MASTER PLAN (“PLAN”)

A plan developed for the Town of Morrisville to balance the goals of providing good cell phone service with minimizing impacts from telecommunication facilities on neighborhoods and the community. This plan works to achieve this balance by planning for well-sited, well-designed, and inconspicuous telecommunication facilities that fit within the community. This plan creates an illustrative planning tool to aid decision makers and staff in this work. The Master Plan includes the following:

- An analysis of existing telecommunication facilities locations, approximate coverage areas, and an analysis of current network deployment patterns in the Morrisville area to identify areas with less than desirable coverage;
- An engineering analysis of potential coverage areas in Morrisville based on the existing antenna locations, assumptions regarding height, along with other network and planning design criteria;
- An analysis of reasonably projected telecommunication facilities growth in Morrisville over the next 10 years, and recommendations for managing the development of infrastructure with an emphasis on minimizing the total number of telecommunication facilities;
- Identification of town-owned property as potential sites for future telecommunication facilities.

TELEVISION, RADIO, OR WIRELESS CABLE ANTENNA

An omnidirectional antenna tuned to receive the broadcast frequencies assigned to television or commercial radio, or wireless microwave transmitters. This use does not include amateur ham radio antennas or satellite dishes.

TEMPORARY CONSTRUCTION-RELATED STRUCTURE OR FACILITY

A structure or facility temporarily placed on or adjoining the site of new construction and used during the construction process for construction-related purposes—including construction trailers (manufactured structures used as an office for construction management and site security), storage buildings, construction waste and recycling receptacles, temporary sanitation facilities, outdoor storage, and employee parking areas—and located on or adjacent to the construction site.

TEMPORARY 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.

TEMPORARY OFFICE STRUCTURE

A building which may be used to house an office use for a limited period of time.

TEMPORARY PORTABLE STORAGE UNIT

A transportable unit designed and used primarily for temporary storage of building materials, household goods, personal items, and other materials for use on a limited basis.

TEMPORARY ROAD

A road constructed temporarily for equipment access to build or replace hydraulic conveyance structures such as bridges, culverts, pipes, or water dependent structures, or to maintain public traffic during construction.

TEMPORARY SIGN

See Sign, Temporary.

TEMPORARY USE

A use established for a temporary period of time with the intent to discontinue such use on the expiration of the time period.

TEXT AMENDMENT

See Section 2.5.2.

THOROUGHFARE

A thoroughfare shall mean and include all streets on the adopted thoroughfare plan. "Thoroughfare" is also synonymous with the term "Arterial" as used in ASHTO and NCDOT publications.

THROUGH LOT

A continuous (through) lot accessible from both of the parallel streets upon which it fronts. (Also referred to as a double-frontage lot.)

TILT-UP CONCRETE

Concrete that has been cast on the site of installation and raised into place.

TINTED/TEXTURED CONCRETE MASONRY UNIT (CMU)

A manufactured building unit constructed of concrete.

TIRE CAPPING AND RETREADING

Any business where tires are collected, stored, or maintained for the purpose of capping or retreading.

TOWN

Town of Morrisville, North Carolina.

TOWN CLERK

The Town Clerk of the Town of Morrisville.

TOWN COUNCIL

The elected legislative governing body of the Town of Morrisville.

TOWN ENGINEER

See Section 2.2.1.B.

TRADITIONAL STUCCO

Siding material made of Portland cement, sand, lime and water, and applied in three coats with a total thickness of $\frac{3}{4}$ of an inch or more over a with metal lath backing.

TRAFFIC SIGN

See Sign, Traffic.

TRANSIT STATION

Any structure or transit facility that is primarily used as part of a transit system for the purpose of loading, unloading, or transferring of passengers or accommodating the movement of passengers from one mode of transportation to another.

TRANSIT STOP

Improvements and facilities at selected points along transit routes for passenger pickup, drop off, and waiting. Facilities and improvements may include shelters, benches, signs with or without electronic messaging, structures, and other improvements to provide security, protection from the weather, and access to nearby services.

TRANSPORTATION DEMAND MANAGEMENT (TDM)

A strategy for reducing demand on the street system by reducing the number of vehicles using the streets and/or increasing the number of persons per vehicle. TDM attempts to reduce the number of persons who drive alone on the roadway during the commute period and to increase the number in carpools, vanpools, buses, and trains, or walking and biking.

TRANSPORTATION IMPACT ANALYSIS (TIA)

An analysis conducted by a qualified professional assessing the impacts of a development application proposal on the transportation network, including adjacent streets, nearby intersections, public transportation, bicycling, and walking modes of travel. (See Section 5.8.6.B, Transportation Impact Analysis.)

TREE

A plant having a permanently woody main stem or trunk, ordinarily growing to a considerable height, and usually developing branches at some distance from the ground.

TREE CANOPY

The layer of leaves, branches, and stems of trees that cover the ground when viewed from above (excluding small openings in the tree crown). Such area may also be defined as the area within the drip line of a tree or group of trees.

TREE CANOPY COVER

The proportion of a given area of land (and water) covered by tree canopy.

TREE CROWN

The branches, twigs, and leaves that make up the foliage portion of a tree.

TREE PIT

A pit within a sidewalk, courtyard, or other paved area that is sized and filled with planting soil to a sufficient depth to accommodate the root ball of a tree. Tree pits may be uncovered or covered with grating or other permeable material that allows the infiltration of water to the tree's roots.

TREE PROTECTION AREA

An area composed of closely grouped healthy trees designated for preservation and protection, delineated by both the critical root zone and drip line.

TREE PROTECTION PLAN

A plan prepared by an ISA-certified arborist, registered landscape architect, or a registered forester that is intended to provide accurate information regarding the condition, welfare, maintenance, and value of existing trees.

TREE SURVEY

A survey performed by an ISA-certified arborist, registered Landscape Architect, or a Registered Forester—including, but not limited to, species, location, general health, and DBH of all individual trees or stands of trees selected to be applied towards the minimum existing tree canopy coverage on site.

TREE, INDIVIDUAL

A tree that is not located within a stand of trees.

TREE, MATURE

Trees that have reached at least 75 percent of their final height and spread as listed in the Administrative Manual.

TREE, SHADE

A self-supporting woody perennial plant, usually with one vertical stem or main trunk, that naturally develops a more or less distinct and elevated crown and that, at maturity, provides shade to an area at least 35 feet in diameter. A shade tree may have two or more trunks, which is a natural characteristic of some species.

TREE, SPECIMEN

Any deciduous tree that has a DBH of 24 inches or greater, except any tree listed as a non-native invasive plant by the US Forest Service or the NC Forest Service.

TREES, STAND OF

Three or more uniform, mature trees that form a continuous canopy.

TREE, STREET

Any shade tree placed in a street right-of-way.

TREE, UNDERSTORY

An evergreen or deciduous tree whose mature height for its species can be expected to not exceed 25 feet. These are ideal for planting in streetscapes where overhead power lines would necessitate unsightly pruning.

TRIP

A single travel movement with either the origin or destination of the trip inside the study area of the Transportation Impact Analysis.

TRIP GENERATION

The total number of trip ends produced by a specific land use or activity.

TRIP GENERATION STUDY

A study designed to measure the purpose and movement of vehicular traffic.

TRIPS, INTERNAL

Trips that are made within a multi-use or mixed-use development, by vehicle or by an alternate mode such as walking or bicycling.

TRIPS, NEW

Trips, minus pass-by trips, minus internal trips if applicable; generated from the proposed development.

TRIPS, PASS-BY

Vehicle trips which are made by traffic already using the adjacent roadway and entering the site as an intermediate stop on the way to another destination.

TRUCK, LARGE-SIZED

A motor vehicle designed or used to carry goods or materials that has two or more rear axles or is designed and used for drawing a trailer.

TRUCK, MEDIUM-SIZED

A motor vehicle designed or used to carry goods or materials that has only two axles and is not designed or used for drawing a trailer.

TURF (OR TURF GRASS)

Any of various spreading grasses grown to form a continuous carpet of grass whose roots tightly bind the layer of soil beneath it. Turf grass endures and typically requires regular mowing.

TYPE 1 SUBDIVISION PRELIMINARY PLAT APPROVAL

See Section 2.5.6.B.1, Type 1 Preliminary Plat Approval Procedure.

TYPE 2 SUBDIVISION PRELIMINARY PLAT APPROVAL

See Section 2.5.6.B.2, Type 2 Subdivision Preliminary Plat Approval Procedure.

URGENT CARE FACILITY

A facility that provides urgent care medical service outside normal physician office hours or before a physician appointment is available, but with no provision for overnight or continuing care on an inpatient basis. This use does not include hospitals or medical/dental offices.

USE

The purpose for which land or a building or structure is arranged, designed, or intended, or for which either land or a building or structure is or may be occupied or maintained.

UTILITY FACILITY, MAJOR

A structure or facility that is a relatively major component of an infrastructure system providing community- or region-wide utility services. Examples of major utility facilities include potable water treatment plants, water towers, wastewater treatment plants, solid waste facilities, gas compressor stations, major overhead high-voltage electrical power transmission lines, and electrical substations. This use does not include central utility plants or telecommunications facilities or towers.

UTILITY FACILITY, MINOR

A structure or facility that by itself is a relatively minor component of an infrastructure system providing community- or region-wide utility services and that needs to be in or near the neighborhood or use type where the service is provided. Examples of minor utility facilities include water and sewage pipes and pump stations, stormwater pipes and retention/detention facilities, telephone lines and local exchanges, electric lines and transformers, gas transmission pipes and valves, utility huts, and CATV lines. This use does not include central utility plants.

UTILITY HUT

A structure containing fiber-optic or other similar equipment that links to a regional network. This is not a type of Telecommunication Facility Use.

UNIVERSITY

See College or University.

VALET PARKING

Parking of vehicles by an attendant provided by the establishment for which the parking is provided.

VARIANCE

A grant of hardship relief from the requirements of this Ordinance. See Section 2.5.16.

VEHICLE DISPLAY AREA

An area of a development site where motor vehicles, recreational vehicles, trailers, boats, or other vehicles are displayed for sale or lease.

VEHICLE FLEET STORAGE

Storage of fleet vehicles used regularly in business operation and not available for sale, or long-term storage of operating vehicles. Typical uses include rental car fleet storage, taxi fleet storage, medium-sized delivery trucks, small construction-related equipment such as skid steer loaders with the associated trailer. This does not include storage of tractor-trailer trucks associated with freight movement and storage, which is part of a motor freight terminal.

VEHICLE PARKING SPACE, OFF-STREET

A space that is designated for the parking or temporary storage of one motor vehicle located outside of a dedicated street right-of-way, vehicular travel way, or parking aisle.

VEHICLE USE AREA

Any area of the site where motor vehicles (including trucks, buses, cars, and motorcycles) are driven or stored. This includes parking spaces, drive aisles, loading docks, service drives, and entrance and internal drives.

VEHICULAR TOWING SERVICE

An establishment operated for the purpose of towing and temporarily storing wrecked or inoperable motor vehicles. If an establishment regularly stores inoperable vehicles for more than 90 days, stacks vehicles, or dismantles vehicles to sell parts, it is not a vehicular towing service but is considered to be a recycling facility.

VETERINARY CLINIC/HOSPITAL

A facility used for the care, diagnosis, and treatment of sick, ailing, infirm, or injured animals and preventive care for healthy animals. Accessory uses may include animal grooming services, short-term boarding that is incidental to medical care or treatment, and limited retail sales of pet-related merchandise.

VIOLATION

The failure of a structure or other development to be fully compliant with the provisions of this Ordinance. (See Section 10.2, Violations and Responsible Persons.). For purposes of floodplain management, a structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Divisions 4 and 5 is presumed to be in violation until that documentation is provided.

VISIBLE LIGHT TRANSMITTANCE

An optical property that indicates the amount of visible light transmitted. The higher the visible transmittance, the more light is transmitted. A high visible transmittance is desirable to maximize daylight.

WALKWAY

Any improved pedestrian accessway that is separate from vehicular accessways and traffic. Walkways include sidewalks alongside streets and off-street paved walkways and graded trails with durable surfacing.

WALL

See Fence or Wall.

WALL PACK

A type of light fixture typically flush-mounted on a vertical wall surface.

WAREHOUSING/DISTRIBUTION

A facility primarily engaged in the storage and distribution of manufactured products, supplies, and equipment, excluding bulk storage of petroleum products or other materials that are flammable or explosive or that present hazards or conditions commonly recognized as offensive.

WATER SURFACE ELEVATION (WSE)

The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

WATERS OF THE STATE

Surface waters within or flowing through the boundaries of the state including, any intermittent or perennial stream, river, creek, brook, swamp, lake, or wetland.

WATERCOURSE

A lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

WELLNESS CENTER

An establishment containing customized health services that may include fitness, personal training, and nutrition consulting, and that incorporates an individualized program with specific goals. Clients are generally under the supervision of licensed staff, which may include health care providers, nutritionists, personal trainers, and practitioners of medical and other specialties such as chiropractic, acupuncture, and biofeedback. Clients may be enrolled in an individualized nutritional and fitness program and may exercise independently or in small group settings. Amenities often include limited weights and cardio machines.

WHOLESALE FOOD PREPARATION

An establishment or place of business primarily engaged in the preparing, selling, or distributing food merchandise to retailers, businesses, or other wholesalers.

WHOLESALE ESTABLISHMENT

An establishment that involves the sale of products to users other than end consumers with orders placed either onsite, over the phone, or online.

WIDE-BODY REFRACTIVE GLOBE

A translucent lamp enclosure used with some outdoor fixtures to provide a decorative look (including but not limited to acorn- and carriage light-style fixtures). "Wide-body" refers to a wider than average size globe (greater than 15.75 inches in diameter). "Refractive" refers to the redirection (bending) of the light as it goes through the lens, rendering the light fixture more effective. Wide-body refractive globes are intended to soften and spread the light being distributed from the light source thereby reducing direct glare.

WINERY

An establishment primarily engaged in the manufacture of unfortified or fortified wine that is permitted to do in accordance with N.C.G.S. 18B-1100 and regulations of the Alcoholic Beverage Control Commission. Accessory uses include a public tasting room and retail sales of wine and related products.

WING WALL

An extension of a wall which projects out beyond the building itself, and is constructed of the same material as the adjoining building. This wall shall be considered part of the primary building.

WIRELESS COMMUNICATION ANTENNA

Any exterior transmitting or receiving device mounted on a tower, building, or structure and used in communications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals, and other communications signals.

WORKFORCE HOUSING

Housing that is affordable to working households that do not qualify for publicly subsidized housing, yet cannot afford appropriate market-rate housing in the community. Workforce housing is generally considered to be housing that is affordable to households earning between 60 and 150 percent of the median income for the area.

XERISCAPING

A landscaping technique that utilizes water conservation practices such as the planting of drought tolerant plants, mulching, and the instillation of efficient irrigation systems.

YARD

An area within a lot that lies between the principal structure(s) on the lot and the nearest lot lines. Yards are further classified as front yards, corner side yards, side yards, and rear yards.

YARD SALE

See Garage or Yard Sale.

YARD, CORNER SIDE

The yard between the side facade of the principal structure(s) on a lot and the nearest corner side lot line, and extending between the front yard and rear yard of the lot.

YARD, FRONT

The yard between the front facade of the principal structure(s) on a lot and the front lot line, and extending the full width of a lot.

YARD, REAR

The yard between the rear facade of the principal structure(s) on a lot and the rear lot line, and extending the full width of the lot.

YARD, REQUIRED

The area within a lot that extends inward from front, corner side, side, and rear lot lines for the minimum front, corner side, side, and rear setbacks required for the zoning district in which the lot is located, and that is required to remain unoccupied and unobstructed from the ground upward except as may be specifically provided otherwise in this Code.

YARD, SIDE

The yard between the side facade of the principal structure(s) on a lot and the nearest side lot line, and extending between the front yard and rear yard of the lot.

ZONING DISTRICT

An area delineated on the Zoning Map within which a prescribed set of development standards are applied to various types of development.

ZONING DISTRICT, BASE

A zoning district within which a single set of use, intensity, dimensional, and development standards are applied.

ZONING DISTRICT, OVERLAY

A zoning district superimposed over one or more underlying base zoning districts that imposes standards and requirements in addition to those required by the underlying base zoning district.

ZONING MAP

The official Zoning Map on which the boundaries of various zoning districts are drawn and that is an integral part of this Ordinance.

(Ord. No. 2014-006, 05/27/2014; Ord. No. 2014-016, 06/24/2014; Ord. No. 2014-022, 06/24/2014; Ord. No. 2014-051, 11/10/2014; Ord. No. 2015-002, 04/29/2015; Ord. No. 2015-047, 07/28/2015; Ord. No. 2015-083, 01/26/2016; Ord. No. 2016-001, 05/10/2016)