

UNIFIED DEVELOPMENT ORDINANCE

Town of Laurel Park

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ACKNOWLEDGEMENTS

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TABLE OF AMENDMENTS

UDO AMENDMENTS		
ORDINANCE NUMBER	ADOPTION DATE	DESCRIPTION
UDO TA-1-21	11.16.21	Amendments to setbacks on lots with steep & very steep slopes, amendments to the number of allowable building stories in TC & MM districts, amendments to stormwater treatment on lots with steep and very steep slopes, amendments to erosion control plan requirements, amendment to CO procedure related to new requirements for as-built plans, and amendments to alternative lot access provisions (requiring easements)
UDO TA-1-22	5.17.22	Amendments to streetscape buffers to differentiate only between local and all other streets, additional guidance regarding perimeter buffer requirements between the TC and MM districts, and minor changes to the required public notice table
UDO TA-2-22	10.13.22	Amendments clarifying the review authority composition and member terms
UDO TA 3-22	12-15-22	Revisions to the Steep and very steep slope standards for stormwater and sediment control
UDO TA-1-23	8-15-23	<ul style="list-style-type: none"> • Incorporate Parks & Greenway Board review into procedural flow charts • Clarify that a variance, if required, must be approved prior to a site plan and that variance applications require submittal of a site plan; • Clarify fence heights are measured from the grade at the base of the fence; • Remove references to temporary certificates of occupancy; • Add a standard culvert size to driveway requirements; • Clarify subdividers or developers are responsible for addressing sediment build-up in adjacent Town stormwater conveyances resulting from land disturbance

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1.1: TITLE

1.1.1: UNIFIED DEVELOPMENT ORDINANCE TEXT

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

1.1.2: OFFICIAL ZONING MAP

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

1.2: EFFECTIVE DATE

This Ordinance shall be in full force and effect on August 18, 2021, and repeals and replaces the following regulations:

1.2.1: The Zoning Ordinance of the Town of Laurel Park, North Carolina, as originally adopted on November 5, 1968, and most recently amended on September 15, 2015; and

1.2.2: The Subdivision Ordinance of the Town of Laurel Park, North Carolina, as originally adopted on January 16, 2001, and as subsequently amended.

1.3: SEVERABILITY

Should the courts declare any section or provisions of this Ordinance invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

1.4: AUTHORITY

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

1.4.1: The North Carolina General Statutes, including, but not limited to:

- A:** Chapter 160A, Article 8 (Police Powers);
- B:** Chapter 160A, Article 15 (Streets, Traffic, and Parking);
- C:** Chapter 160D (Local Planning and Development Regulation);
- D:** Chapter 143, Article 21 (Water and Air Resources);

1.4.2: The Charter of the Town of Laurel Park, North Carolina; and

1.4.3: Other relevant laws, including but not limited to:

- A:** All other relevant laws of the State of North Carolina; and
- B:** Any special legislation enacted by the General Assembly.

1.5: APPLICABILITY

1.5.1: GENERAL APPLICABILITY

The provisions of this Ordinance shall apply to the development of all land within the corporate limits and the Extraterritorial Jurisdiction (ETJ) of the Town of Laurel Park, as shown on the adopted Official Zoning Map, unless the development is expressly exempted by a specific section or subsection of this Ordinance.

1.5.2: APPLICATION TO GOVERNMENTAL UNITS

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

A: THE TOWN OF LAUREL PARK

Development by the Town or its agencies or departments.

B: COUNTY AND STATE GOVERNMENT

Development of buildings by State or County agencies or departments, public colleges or universities, or other political subdivisions of the State, in accordance with the standards in Section 160D-913 of the North Carolina General Statutes.

C: THE FEDERAL GOVERNMENT

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

1.5.3: NO DEVELOPMENT UNTIL COMPLIANCE WITH ALL APPLICABLE LAW

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

A: NO LAND DEVELOPED

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

B: NO GRADING OR EXCAVATION

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

C: NO REMOVAL OF TREES

Unless exempted, no trees of a minimum size regulated by this Ordinance shall be removed without compliance with this Ordinance and all other applicable Town, State, and federal regulations.

D: NO USE OR OCCUPANCY

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

E: NO BUILDING CONSTRUCTED

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

F: NO SALE OR TRANSFER

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

G: NO DOUBLE COUNTING OF REQUIRED AREAS

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

1.5.4: THESE ARE MINIMUM REQUIREMENTS

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

1.6: GENERAL PURPOSE AND INTENT

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

- 1.6.1: Maintain a small-town appeal and an attractive appearance of the community while continuing to encourage managed growth;
- 1.6.2: Maintain the Town as a predominantly residential area;
- 1.6.3: Promote the controlled development of the Brevard Road/Highway-64 Corridor Study Area so that it is compatible with surrounding neighborhoods and provides a lasting value to the community;
- 1.6.4: Support the mixed-use development of the Brevard Road/Highway-64 corridor promoting small business development to strengthen the local tax base;
- 1.6.5: Motivate growth that pays for itself in support of sustainable fiscal management of municipal services;
- 1.6.6: Ensure that growth and the natural environment exist in harmony;
- 1.6.7: Preserve valuable open space throughout the Town and stimulate the expansion of the community's parks and greenways;
- 1.6.8: Advance further development of walking trails and bicycle paths throughout the community with connections to other multi-use trails in the area;
- 1.6.9: Facilitate a well-planned infrastructure with sufficient provision for transportation, water and wastewater services, and other public requirements in an environmentally responsible and timely manner;
- 1.6.10: Encourage the preservation of historic structures within the Town;
- 1.6.11: Increase community involvement by providing a means of meaningful cooperation between the community and Town government thus facilitating community pride;
- 1.6.12: Help secure safety from fire, crime, and other dangers;
- 1.6.13: Protect Laurel Park's tree canopy which provides clean air, minimizes increases in temperature levels, helps to maintain moisture levels, and provides physical and visual buffers;
- 1.6.14: Help prevent the overcrowding of land and undue concentration of population;
- 1.6.15: Regulate the uses of buildings, structures, and land for trade, industry, commerce, residence, recreation, public activities, or other purposes;
- 1.6.16: Regulate the size of yards, courts, and other spaces;
- 1.6.17: Regulate the location, height, bulk, and size of buildings and other structures;
- 1.6.18: Regulate the density and distribution of boundaries thereof;
- 1.6.19: Provide penalties for violations; and
- 1.6.20: For other purposes described herein.

1.7: CONSISTENCY WITH ADOPTED POLICY GUIDANCE

1.7.1: ADOPTED POLICY GUIDANCE

The administration, enforcement, and amendment of this Ordinance shall be accomplished in accordance with the Town’s adopted planning policy framework. This includes the most recently adopted Comprehensive Plan, the US 64 Corridor Study, the Parks and Greenway Comprehensive Plan, and all other applicable Town-adopted policy guidance.

1.7.2: CONFORMANCE

A: ADVISORY

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

B: CONSISTENCY

This Ordinance is intended to ensure that all development within the Town is consistent with the goals, objectives, policies, strategies, and actions contained in the Town’s adopted policy guidance.

C: AMENDMENT UPON INCONSISTENCY

- 1: To the extent this Ordinance or the Official Zoning Map is or becomes inconsistent with the Town’s adopted policy guidance, it should be amended to remain consistent.
- 2: Consistency with adopted policy guidance is not a prerequisite for approval of a rezoning or planned development application, and the future land use map portion of the Comprehensive Plan shall be deemed amended when the Town Council approves a rezoning or planned development application that is inconsistent with the future land use map in accordance with Section 160D-605 of the North Carolina General Statutes.

1.8: RELATIONSHIP TO OTHER LAWS

1.8.1: PRIVATE AGREEMENTS, EASEMENTS, OR COVENANTS

- A: Except as hereinafter provided, this Ordinance shall not be deemed to interfere with, abrogate, annul, or otherwise affect in any manner whatsoever any easement, covenants, or other private agreements between parties.
- B: Unless deed restrictions, covenants, or other contracts directly involve the Town of Laurel Park as a party in interest, the Town shall have no administrative responsibility for enforcing such deed restrictions or covenants.

1.8.2: VESTED RIGHTS

Nothing in this Ordinance is intended to repeal, supersede, annul, impair, or interfere with any existing vested rights, provided that vested rights were lawfully established and remain in effect.

1.9: CONFLICTS

1.9.1: CONFLICTS WITH STATE OR FEDERAL LAW

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

1.9.2: CONFLICTS WITH OTHER TOWN CODES OR LAWS

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

1.9.3: CONFLICTS BETWEEN STANDARDS IN THIS ORDINANCE

A: GENERALLY

In cases where two or more standards in this Ordinance conflict with one another, the more restrictive standard shall control.

B: AUTHORIZED DEVIATIONS OR INCENTIVES

- 1: Development configured in accordance with an allowable deviation, such as an approved administrative adjustment or incentive such as a residential density increase, that is authorized by and established in accordance with this Ordinance shall control and not be considered to conflict with other standards in this Ordinance.
- 2: Development located within the SBO district shall comply with the standards for allowable uses, district dimensional standards, and applicable development standards in Section 2.12.1: Significant Building Overlay (SBO) District, rather than any applicable conventional zoning district standards.

1.9.4: CONFLICTS WITH PRIVATE AGREEMENTS

In cases where the standards in this Ordinance conflict with private agreements, covenants, or deed restrictions and the standards in this Ordinance are more restrictive, the standards in this Ordinance shall control.

1.9.5: DETERMINATION OF THE MORE-RESTRICTIVE STANDARD

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

1.10: TRANSITIONAL PROVISIONS

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

1.10.1: PRIOR VIOLATIONS

- A:** Violations of the previous ordinance shall continue to be violations under this Ordinance, unless the development complies with this Ordinance and is no longer considered to be in violation, or the ability to address the violation has lapsed in accordance with [Section 9.3: Statute of Limitations](#).
- B:** Violations of this Ordinance shall be subject to the penalties and enforcement provisions in [Chapter 9: Violations](#).

1.10.2: EXISTING NONCONFORMITIES

If any use, structure, lot, or sign, legally existed on August 18, 2021, but does not fully comply with the standards of this Ordinance, the use, structure, lot, or sign, is considered nonconforming under this Ordinance and shall comply with the requirements in [Chapter 5: Nonconformities](#).

1.10.3: PRIOR APPLICATION APPROVALS

- A:** Any development approvals granted before August 18, 2021, shall remain valid until their expiration date.
- B:** Developments with valid approvals or permits may be carried out in accordance with the terms and conditions of their approval and the development standards in effect at the time of approval, provided the permit or approval is valid and has not expired.
- C:** If an approval expires or is revoked (e.g., for failure to comply with the terms and conditions of approval), any subsequent development of the site shall be applied for in accordance with the procedures and standards of this Ordinance.
- D:** An applicant shall be deemed to have initiated an approved development upon the subsequent application for and diligent pursuit of other required Town, State, or federal permits or approvals.
- E:** Timelines for the commencement or expiration of development in accordance with an approved application shall be suspended in the event of legal challenge.
- F:** To the extent a prior-approved application proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of [Chapter 5: Nonconformities](#).

1.10.4: PENDING APPLICATIONS

A: COMPLETE APPLICATIONS

Applications accepted as complete prior to August 18, 2021, may be decided in accordance with either the regulations in affect at the time the application was determined complete or the regulations in this Ordinance, as requested by the applicant in accordance with [Section 6.2.7: Permit Choice](#).

B: IF APPROVED

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

C: FILED, BUT NOT COMPLETE APPLICATIONS

Applications that have been filed prior to August 18, 2021, but not determined to be complete by the Town Manager as of that date shall be reviewed and decided in accordance with this Ordinance.

1.10.5: PRE-EXISTING CONDITIONAL USE PERMIT

Existing conditional use permits approved prior to August 18, 2021, are hereby converted to special use permits and shall continue to apply as approved. In the event an applicant seeks to revise development subject to a conditional use permit, all changes shall be considered in accordance with [Section 6.3.17: Special Use Permit](#).

1.10.6: PRE-EXISTING CONDITIONAL USE ZONING DISTRICTS

- A:** Lands subject to a conditional use zoning district designation approved prior to August 18, 2021 are hereby reverted to the most closely corresponding conventional zoning district in this Ordinance as determined by the Town Council. Landowners may obtain documentation of this change in accordance with Section 6.3.6: Determination.
- B:** Any conditional use permits associated with a pre-existing conditional use zoning district designation shall be subject to the standards in Section 1.10.5: Pre-Existing Conditional Use Permit, or Section 1.10.7: Pre-Existing Planned Unit Development, as appropriate.

1.10.7: PRE-EXISTING PLANNED UNIT DEVELOPMENT

Planned unit developments approved prior to August 18, 2021, shall continue in accordance with all applicable conditions of approval. Any revisions to a planned unit development beyond the scope anticipated in the original approval shall require a rezoning in accordance with Section 6.3.13: Planned Development.

1.10.8: PRE-EXISTING USE NOW A SPECIAL USE

- A:** If a use was a lawfully established permitted use before August 18, 2021, and is subsequently made a special use in Table 4.2.6: Principal Land Use Table, the use shall be considered by the Town as a lawfully-established nonconforming use.
- B:** Any modifications to the use or the site after August 18, 2021, shall require approval of a special use permit in accordance with Section 6.3.17: Special Use Permit.

1.11: VESTED RIGHTS

1.11.1: PURPOSE AND INTENT

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

1.11.2: VESTED RIGHTS DEFINED

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

1.11.3: SITE-SPECIFIC VESTING PLAN DEFINED

- A:** For the purposes of this section, a site-specific vesting plan is defined as a plan of land development submitted to the Town for purposes of obtaining approval.
- B:** A site-specific vesting plan must provide, with reasonable certainty, all of the following:
- 1: The boundaries of the development;
 - 2: Topographic and natural features affecting the site;
 - 3: The approximate location of proposed buildings, structures, and other improvements;
 - 4: The approximate dimensions, including height, of proposed buildings and other structures;
 - 5: The approximate location of all existing and proposed infrastructure on the site, including water, sewer, streets, and pedestrian ways;
 - 6: The type or types of proposed land uses; and
 - 7: The density or intensity of development.
- C:** A variance, plot plan, or any other document that fails to describe with reasonable certainty the type and intensity of use for a specific lot or lots of property shall not constitute a site-specific vesting plan.
- D:** The following development approvals constitute a site-specific vesting plan:
- 1: Final plats approved in accordance with Section 6.3.10: Final Plat;
 - 2: Planned developments approved in accordance with Section 6.3.13: Planned Development;
 - 3: Preliminary plats approved in accordance with Section 6.3.14: Preliminary Plat;
 - 4: Site plans approved in accordance with Section 6.3.16: Site Plan; and
 - 5: Special use permits approved in accordance with Section 6.3.17: Special Use Permit.

1.11.4: ESTABLISHMENT OF A VESTED RIGHT

A: GENERALLY

A vested right may only be established following an approval of a development application in accordance with this Ordinance and the applicable requirements in the North Carolina General Statutes.

B: COMMON LAW VESTING

A common law vested right is established only when the following can be demonstrated by the landowner:

- 1: There is an affirmative governmental act by the Town in the form of an approval of a permit or development approval under this Ordinance; and
- 2: The landowner relies on this affirmative governmental act in good faith and makes substantial expenditures to develop the land; and
- 3: It would be inequitable to prevent the landowner from proceeding to develop the land consistent with the terms and conditions of the permit or development approval relied upon.

1.11.5: PROCESS TO CLAIM VESTED RIGHT

- A:** A landowner seeking to claim a vested right shall submit information to substantiate their claim of vesting status along with an application for a determination in accordance with Section 6.3.6: Determination.
- B:** Appeal of a decision on a determination application may be filed with the Board of Adjustment in accordance with Section 6.3.3: Appeal.

1.11.6: EFFECT OF A VESTED RIGHT

- A:** Development approvals that have an established vested right in accordance with Section 160D-108 of the North Carolina General Statutes and this section shall preclude any action by the Town that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property authorized by the development approval, except where a change in State or federal law occurs and has a retroactive effect on the development or use.
- B:** Except when subject to sub-section C below, amendments to this Ordinance shall not be applicable to any of the following development approvals after they are vested:
 - 1:** Building or uses of land for which a development permit application has been submitted and approved in accordance with this Ordinance and Section 143-755 of the North Carolina General Statutes;
 - 2:** Subdivisions of land for which a subdivision application has been submitted and approved in accordance with this Ordinance and Section 143-755 of the North Carolina General Statutes;
 - 3:** A site-specific vesting plan approved in accordance with this Ordinance and Section 160D-108.1 of the North Carolina General Statutes;
 - 4:** A multi-phase development approved in accordance with this Ordinance and Section 160D-108 of the North Carolina General Statutes; and
 - 5:** A vested right established by the terms of an approved development agreement in accordance with this Ordinance and Article 10 of Chapter 160D of the North Carolina General Statutes.
- C:** Amendments to this Ordinance shall apply to vested development approvals if:
 - 1:** A change to State or federal law occurs and has a retroactive effect on the development or use;
 - 2:** There is written consent to be subject to the amendment by the landowner;
 - 3:** The development approval expires; or
 - 4:** The development is not undertaken or completed in accordance with the approval.

1.11.7: DURATION

Vested rights shall commence upon approval of a development application and shall continue through the maximum duration periods established in this section.

A: BUILDING PERMITS

The issuance of a building permit establishes a vested right to development for a period of six months, as long as the building permit complies with the terms and conditions of approval of that building permit.

B: DEVELOPMENT APPROVALS

Except for building permits, site-specific vesting plans, development agreements, and multi-phase developments, any development approval under this Ordinance shall be vested from changes in this Ordinance for a period of one year from the date of approval, provided the development subject to the approval complies with all applicable terms and conditions.

C: SITE SPECIFIC VESTING PLANS

- 1:** Development approvals identified by this Ordinance as site-specific vesting plans shall be granted a vested right to develop for a maximum period of two years from the date of the approval, provided the development subject to the approval complies with all applicable terms and conditions.

- 2: Site-specific vesting plans meeting the definition of a multi-phase development shall be vested in accordance with Section 1.11.7:D:Multi-Phase Developments.

D: MULTI-PHASE DEVELOPMENTS

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

E: DEVELOPMENT AGREEMENTS

A development agreement shall be vested in accordance with the vesting term identified in the development agreement.

1.11.8: TERMINATION

- A: Vested rights established in accordance with this Ordinance shall run with the land.
- B: In no instance shall vesting status extend beyond the maximum duration for the type of development application approval identified in Section 1.11.7: Duration.
- C: In no instance shall the vesting status of a development approval continue after the development approval expires or if the development approval is revoked for failure to comply with the terms of the approval or of this Ordinance.
- D: In no instance shall the vesting status of a development approval continue after it is determined that the development approval was based upon intentional inaccurate information or material misrepresentations.
- E: In no instance shall vested rights continue if the Town Council finds, after a duly noticed public hearing, that natural or man-made hazards resulting from the development would result in a serious threat to public health, safety, or welfare if the development were to be continued or completed.
- F: In the event of commenced but uncompleted work associated with a development approval, vested rights shall expire within 24 months of the discontinuance of work. This 24-month period shall not include the time associated with work stoppage resulting from an appeal or litigation.

1.11.9: LIMITATIONS

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

1.12: REVIEW AUTHORITIES, GENERALLY**1.12.1: AUTHORITIES IDENTIFIED**

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

- A:** The Town Council;
- B:** The Planning Board;
- C:** The Board of Adjustment;
- D:** The Parks and Greenways Board;
- E:** The Watershed Review Board;
- F:** The Technical Review Committee; and
- G:** The Town Manager.

1.12.2: GENERAL REQUIREMENTS FOR ALL REVIEW AUTHORITIES**A: ALL MEETINGS SHALL BE OPEN**

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

B: RULES OF PROCEDURE

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

C: OATH OF OFFICE

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

D: CONFLICT OF INTEREST

- 1:** For legislative matters, a member shall not participate in or vote on any matter where an existing or potential conflict of interest may exist in accordance with [Section 6.2.10:B:2: Voting](#).
- 2:** For quasi-judicial matters, a member shall not participate in or vote on any matter where an existing or potential conflict of interest may exist in accordance with [Section 6.2.10:C:5: Voting](#).
- 3:** If an objection is raised to a member's participation and that member does not recuse himself or herself, then the remaining members shall, by majority vote, rule on the objection.

E: MINUTES AND RECORDS

- 1:** Accurate minutes of each meeting shall be maintained by each review authority showing the vote of each member on each question, or if absent or failing to vote, indicating such fact.
- 2:** Each review authority shall keep records of its examinations and official actions.
- 3:** All minutes and records shall be filed in the office of the Town Clerk for the public record.

F: REGULAR MEETINGS

- 1:** All review authorities shall meet at regularly scheduled times and at such other times as determined by the Chairperson as provided for in the rules of procedure.

- 2: Special meetings may be called at any time by the Chairperson or by request of a majority of members of the review authority.

G: STAFF TO BOARDS

- 1: The Town Manager or a designee shall serve as staff to the review authorities identified in this Ordinance.
- 2: The Town Attorney may provide legal and procedural assistance, when requested.

H: ATTENDANCE POLICY

- 1: All members shall attend meetings on a regular basis.
- 2: If any member fails to attend three consecutive meetings or five out of 12 regular meetings within a calendar year without a reasonable excuse or notification, they may be replaced at the discretion of the Town Council.
- 3: Any member shall notify the other members in the event that they will be unable to attend a meeting.

I: REMOVAL

The Town Council may remove any member of the Planning Board, Board of Adjustment, Parks and Greenways Board, or Watershed Review Board for malfeasance or for violation of **Section 1.12.2:H: Attendance Policy**.

J: WAIVER OF TERM LIMIT REQUIREMENTS

The Town Council may, by a majority vote, waive any of the term limit requirements of a review authority, for reasonable cause, including but not limited to, a lack of sufficiently qualified and willing candidates to replace outgoing term-limited members.

1.13: THE TOWN COUNCIL

The Town Council is the elected body of the Town of Laurel Park, North Carolina.

1.13.1: POWERS AND DUTIES

The Town Council shall have the power to initiate, review, and decide applications for:

- A: Fee-in-lieu requests;
- B: Performance guarantees;
- C: Planned developments;
- D: Preliminary plats;
- E: Rezoning;
- F: Special use permits; and
- G: Text amendments to this UDO.

1.13.2: OTHER POWERS AND DUTIES

The Town Council shall have the following other powers and duties:

- A: To approve, by resolution, a schedule of fees governing:
 - 1: Applications for permits and other development approval reviews under this Ordinance; and
 - 2: Civil penalties for violations of this Ordinance.
- B: To take any other action not delegated to other review authorities, as the Town Council may deem desirable and necessary to implement the provisions of this Ordinance.
- C: To conduct any and all business in accordance with the Town Charter and North Carolina General Statutes; and
- D: To amend the Comprehensive Plan and other adopted policy guidance as necessary.

1.14: THE PLANNING BOARD

The Planning Board is hereby established in accordance with Section 160D-301 of the North Carolina General Statutes, and the following.

1.14.1: POWERS AND DUTIES

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

A: APPLICATION DECISIONS

The Planning Board shall review and decide applications for site plans. Compliance with district-specific requirements and design standards shall be determined during site plan review.

B: APPLICATION REVIEWS

The Planning Board shall review and make recommendations on the following applications:

- 1: Planned developments;
- 2: Preliminary plats;
- 3: Rezoning; and
- 4: Text amendments to this UDO.

C: OTHER POWERS AND DUTIES

- 1: To perform studies and surveys of the present conditions and probable future development of the Town and its environs, including but not limited to, studies and surveys of land uses, population, traffic, parking, annexation, and expansions of the extraterritorial jurisdiction.
- 2: To formulate and recommend to the Town Council the adoption and amendment of the Town of Laurel Park Comprehensive Plan and other plans as necessary.
- 3: To initiate proposals for text amendments to the Unified Development Ordinance based upon the findings and recommendations delivered in such studies and adopted plans.
- 4: To determine whether specific proposed developments conform to the principles and requirements of the adopted comprehensive plan for growth and improvement of the Town.

1.14.2: COMPOSITION

- A: The Planning Board shall consist of seven members.
- B: Six members shall reside within the corporate limits of Laurel Park and one member shall reside in the extra-territorial planning jurisdiction (ETJ).
- C: The Town Council shall appoint the members from within the Laurel Park corporate limits from a list of qualified applicants who have submitted a Planning Board application.
- D: The Henderson County Board of Commissioners shall appoint the members from within the ETJ following receipt of a recommendation from the Town Council.
- E: The member from the extra-territorial planning jurisdiction shall have equal rights, privileges, and duties as the members from within the corporate limits.

1.14.3: TERMS

- A: Member terms shall be in accordance with the review authority's rules of procedure.
- B: Term limit requirements, if required by the review authority's rules of procedure, may be waived by the Town Council.

1.14.4: QUORUM

A quorum of four members shall be necessary to transact official business of the Planning Board.

1.15: THE BOARD OF ADJUSTMENT

The Board of Adjustment is hereby established in accordance with Section 160D-302 of the North Carolina General Statutes, and the following:

1.15.1: POWERS AND DUTIES

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

A: APPLICATION DECISIONS

The Board of Adjustment shall render final decisions regarding the following permit types:

- 1: Appeal of administrative decisions and determinations;
- 2: Variances except for those pertaining to the watershed protection standards; and
- 3: Special use permits for the establishment of government uses or operations.

B: OTHER POWERS AND DUTIES

To exercise other powers and authority provided to it by the Town Council, this Ordinance, or State law.

1.15.2: COMPOSITION

- A: The Board of Adjustment shall consist of seven regular members and one alternate member.
- B: At least six members shall reside within the corporate limits of Laurel Park and at least one member shall reside in the extra-territorial planning jurisdiction (ETJ).
- C: The Town Council shall appoint the members from within the Laurel Park corporate limits from a list of qualified applicants who have submitted a Board of Adjustment application.
- D: The Henderson County Board of Commissioners shall appoint the members from within the ETJ following receipt of a recommendation from the Town Council.
- E: The member from the extra-territorial planning jurisdiction shall have equal rights, privileges, and duties as the members from within the corporate limits.

1.15.3: TERMS

- A: Member terms shall be in accordance with the review authority's rules of procedure.
- B: Term limit requirements, if required by the review authority's rules of procedure, may be waived by the Town Council.

1.15.4: QUORUM

A quorum of four members shall be necessary to transact official business.

1.15.5: VOTING

- A: The concurring vote of four-fifths of the Board of Adjustment members voting on a case shall be necessary to grant a variance.
- B: A simple majority of the Board of Adjustment members present and voting on a case shall be required to decide an appeal.
- C: Members who are recused from voting due to a conflict of interest shall not be counted towards a simple or super majority.

1.16: THE PARKS AND GREENWAYS BOARD

The Parks and Greenways Board is hereby established in accordance with Section 160D-306 of the North Carolina General Statutes, and the following.

1.16.1: POWERS AND DUTIES

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

A: APPLICATION REVIEWS

- 1: The Parks and Greenways Board shall review and provide comments solely with respect to any tree protection, public park, and public greenway aspects of the following applications:
 - a: Fee-in-lieu requests;
 - b: Performance guarantees;
 - c: Planned developments;
 - d: Preliminary plats;
 - e: Rezoning;
 - f: Site plans; and
 - g: Text amendments of this UDO.
- 2: Comments by the Parks and Greenways Board shall be provided prior to consideration of an application by the Planning Board or the Town Council.

B: OTHER POWERS AND DUTIES

- 1: To plan for the maintenance and development of the Town’s Parks and Greenways.
- 2: To serve as the Town’s Tree Board and make all final decisions therein.
- 3: To exercise other powers and authority provided to it by the Town Council, this Ordinance, or State law.

1.16.2: COMPOSITION

The Parks and Greenways Board shall consist of seven members and shall be appointed in accordance with the Parks and Greenways Board’s Rules of Procedure and applicable Town policy.

1.16.3: TERMS

- A: Member term limits shall be in accordance with the review authority’s rules of procedure.
- B: Term limit requirements , if required by the review authority’s rules of procedure, may be waived by the Town Council.

1.16.4: QUORUM

A quorum of four members shall be necessary to transact business the official business of the Parks and Greenways Board.

1.17: WATERSHED REVIEW BOARD

1.17.1: ESTABLISHMENT

- A:** The Watershed Review Board is hereby established in accordance with Section 143-214.5 of the North Carolina General Statutes.
- B:** The Board of Adjustment shall perform the duties of the Watershed Review Board in accordance with the standards in this Ordinance and any rules of procedure adopted by the Watershed Review Board.

1.17.2: POWERS AND DUTIES

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

A: APPLICATION DECISIONS

The Watershed Review Board shall render final decisions on minor variances from the standards in Section 2.12.2: Watershed Protection Overlay (WPO) District.

B: APPLICATION REVIEWS

The Watershed Review Board shall review applications for major variances to the standards in Section 2.12.2: Watershed Protection Overlay (WPO) District, and provide a recommendation to the North Carolina Environmental Management Commission.

C: OTHER POWERS AND DUTIES

To exercise other powers and authority provided to it by the Town Council, this Ordinance, or State law.

1.17.3: COMPOSITION

The Board of Adjustment shall serve as the Watershed Review Board and shall be comprised in accordance with the composition standards for the Board of Adjustment.

1.17.4: TERMS

Member term limits shall be in accordance with the review authority's rules of procedure.

1.17.5: QUORUM

- A:** A quorum of four members shall be necessary to transact any official business of the Watershed Review Board.
- B:** In no instance shall a matter to be decided by the Watershed Review Board be decided by the Board of Adjustment until it has officially convened as the Watershed Review Board.

1.17.6: VOTING

- A:** The concurring vote of four-fifths of the Watershed Review Board members present and voting on a case shall be necessary to grant a minor variance.
- B:** Members who are recused from voting due to a conflict of interest shall not be counted towards a majority.

1.18: TECHNICAL REVIEW COMMITTEE

The Technical Review Committee (TRC) is hereby established in accordance with Section 160D-306 of the North Carolina General Statutes and the following:

1.18.1: POWERS AND DUTIES

A: APPLICATION DECISIONS

The Technical Review Committee shall render final decisions regarding the following permit types:

- 1: Expedited subdivisions; and
- 2: Final plats.

B: APPLICATION REVIEWS

- 1: The Technical Review Committee shall review and provide a recommendation on site plan applications.
- 2: The Technical Review Committee shall review and provide comments on the following applications:
 - a: Planned development master plans; and
 - b: Concept plans associated with a special use permit.
- 3: Reviews, comments, and recommendations provided by the Technical Review Committee shall take place prior to consideration of an application by the Planning Board or Parks and Greenways Board.

C: OTHER POWERS AND DUTIES

To exercise other powers and authority provided to it by the Town Council, this Ordinance, or State law.

1.18.2: COMPOSITION

- A: The Town Manager shall serve as the Chair of the Technical Review Committee and shall 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.
- B: The Technical Review Committee shall be comprised of Town department heads or their representatives, and may also include representatives from other municipalities, NCDOT, County agencies, and utility providers.
- C: One Town Council member may serve as an ex-officio member of the TRC.

1.18.3: MEETINGS

- A: The Technical Review Committee shall establish a regular meeting schedule, though it may not meet if there are no items for consideration.
- B: Technical Review Committee meetings are open to the public, though the opportunity to address the Committee during a meeting is at the sole discretion of the Chair.
- C: The Town Manager may invite applicants to attend Technical Review Committee meetings, though applicant attendance is not required.

1.19: TOWN STAFF**1.19.1: TOWN MANAGER****A: POWERS AND DUTIES**

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

1: APPLICATION DECISIONS

The Town Manager shall render final decisions regarding the following permit types:

- a:** Administrative adjustments;
- b:** Determinations;
- c:** Exempt subdivisions; and
- d:** Zoning compliance permits.

2: APPLICATION REVIEWS

- a:** The Town Manager shall review and provide a recommendation on the following applications:
 - i:** Fee-in-lieu requests; and
 - ii:** Performance guarantees.
- b:** The Town Manager shall review and provide comments on applications for expedited subdivisions.
- c:** Comments and recommendations by the Town Manager shall be provided prior to consideration of an application by any other review authority.

3: OTHER POWERS AND DUTIES

The Town Manager shall have the following other powers and duties:

- a:** To serve as Zoning Administrator in accordance with State law;
- b:** To serve as the Floodplain Administrator in accordance with Chapter 152 of the Town Code of Ordinances;
- c:** To serve as Stormwater Administrator in accordance with Chapter 53 of the Town Code of Ordinances;
- d:** To serve as Watershed Administrator in accordance with this Ordinance;
- e:** To conduct pre-application conferences;
- f:** To enforce the provisions of this Ordinance, including entering any building, structure, or premises, as provided by law, to perform any duty imposed by this Ordinance;
- g:** To apply remedies for violations of this Ordinance in accordance with Chapter 9: Violations;
- h:** To maintain the Official Zoning Map and related materials;
- i:** To process development applications and prepare staff reports as indicated in this Ordinance;
- j:** To maintain public records pertaining to this Ordinance and to make those records available to members of the public upon request;
- k:** To maintain rules of procedures for each review authority in this Ordinance;
- l:** To provide technical assistance to review authorities, upon request; and
- m:** To carry out any other powers and duties delegated by the Town Council that are consistent with this Ordinance and State law.

1.19.2: WATERSHED ADMINISTRATOR

The Watershed Administrator shall administer and enforce the provisions of this Ordinance pertaining to watershed protection.

A: POWERS AND DUTIES

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

1: APPLICATION DECISIONS

The Watershed Administrator shall render final decisions regarding applications for watershed permits.

2: OTHER POWERS AND DUTIES

The Watershed Administrator shall have the following other powers and duties:

- a:** To maintain records of all watershed-related permits, including minor and major variances;
- b:** To serve as clerk to the Watershed Review Board, as required;
- c:** To provide copies of all amendments of this Ordinance related to watershed protection, upon adoption, to the Water Quality Section of the North Carolina Division of Environmental Management;
- d:** To maintain a record of variances pertaining to the watershed protection standards, and submit these records to the Water Quality Section of the North Carolina Division of Environmental Management prior to January 1st of each year; and
- e:** To administer and enforce the provisions of this Ordinance, including entering any building, structure, or premises, as provided by law, to perform any duty imposed by this Ordinance.

1.19.3: STORMWATER ADMINISTRATOR

The Town Manager shall serve as the Stormwater Administrator. The Stormwater Administrator shall administer and enforce the provisions of this Ordinance pertaining to stormwater management.

A: POWERS AND DUTIES

1: APPLICATION DECISIONS

The Stormwater Administrator shall render final decisions regarding applications for stormwater permits.

2: OTHER POWERS AND DUTIES

In addition to the powers and duties that may be conferred by other provisions of the Town’s Code of Ordinances and other laws, the Stormwater Administrator shall have the following powers and duties under this UDO:

- a:** To review and approve, approve with conditions or disapprove applications for approval of plans pursuant to stormwater management;
- b:** To make determinations about the stormwater management-related provisions of this Ordinance;
- c:** To establish application requirements and schedules for submittal and review of applications and appeals, to review and make recommendations to the Town Council on applications for development or redevelopment approvals;
- d:** To enforce the stormwater management provisions of this Ordinance in accordance with its enforcement provisions;
- e:** To maintain records, maps, and official materials as related to the adoption, amendment, enforcement or administration of the stormwater management-related aspects of this Ordinance;
- f:** To provide expertise and technical assistance to the Town Council and the Planning Board, upon request;
- g:** To designate appropriate other person(s) who shall carry out the powers and duties of the Stormwater Administrator; and
- h:** To take any other action necessary to administer the stormwater management provisions of this Ordinance.

2: DISTRICTS

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2.1: ZONING DISTRICTS DISTINGUISHED

All land within the Town’s planning jurisdiction shall be in one or more of the following types of zoning districts:

- 2.1.1: All land subject to these standards shall be classified into one of the conventional or planned development zoning districts identified in [Table 2.2: Zoning Districts Established](#).
- 2.1.2: Land in any conventional or planned development zoning district may also be classified into one or more overlay zoning districts.
- 2.1.3: In cases where land is within an overlay zoning district, the standards in the overlay district apply in addition to the standards governing development in the underlying conventional or planned development zoning district.
- 2.1.4: Conflicts between underlying and overlay zoning districts are addressed in accordance with [Section 1.9: Conflicts](#).
- 2.1.5: Land in the Town’s planning jurisdiction shall be classified or reclassified into a conventional, planned development, or overlay zoning district only in accordance with the procedures and requirements set forth in this Chapter, [Section 6.3.15: Rezoning](#), or [Section 6.3.13: Planned Development](#), as appropriate.

2.2: ZONING DISTRICTS ESTABLISHED

[Table 2.2: Zoning Districts Established](#), sets out the conventional, planned development, and overlay zoning districts established by this Ordinance. All land in the Town’s planning jurisdiction shall be included in at least one the available conventional or planned development zoning districts.

TABLE 2.2: ZONING DISTRICTS ESTABLISHED			
CONVENTIONAL ZONING DISTRICTS		OVERLAY ZONING DISTRICTS	
ABBREVIATION	DISTRICT NAME	ABBREVIATION	DISTRICT NAME
R-30	Low Density Residential	SBO	Significant Building Overlay
R-20	Moderate Density Residential	WPO	Watershed Protection Overlay
OI	Office and Institutional		
MM	Mountainside Mixed-Use		
TC	Town Center		
I-1	Industrial		
PD	Planned Development /1/		
NOTES: /1/ Planned Development districts are applied to individual lots or developments, each with its own unique planned development district designator.			

2.3: OFFICIAL ZONING MAP

2.3.1: GENERALLY

- A: The paper version of the Official Zoning Map maintained in the offices of the Town of Laurel Park shall be the final authority as to the status of the current zoning district classification of land in the Town’s planning jurisdiction, and shall only be amended in accordance with [Section 2.3.4: Revision](#).
- B: The Official Zoning Map designates the location and boundaries of the conventional, overlay, and planned development zoning districts established in this Ordinance.

- C: The Official Zoning Map shall be maintained in a digital format and paper copies shall be kept on file and are available for public inspection during normal business hours.
- D: The Town Manager shall maintain paper copies of superseded versions of the Official Zoning Map for historical reference, as appropriate.
- E: Copies of the Official Zoning Map may be purchased from the Town and paper copies of the map that are certified by the Town Manager in accordance with Section 160A-79 of the North Carolina General Statutes shall be admissible in evidence and have the same force of effect as the original map.

2.3.2: INCORPORATED BY REFERENCE

- A: The Town of Laurel Park Official Zoning Map, as amended, (hereinafter the "Official Zoning Map") is hereby incorporated by reference herein and made part of this Ordinance.
- B: The Official Zoning Map shall bear the adoption date of this Ordinance and the signatures of the Mayor and Town Clerk
- C: The Flood Insurance Rate Maps (FIRM) prepared by FEMA and the associated Flood Insurance Study (FIS) are hereby incorporated by reference herein and made part of this Ordinance.

2.3.3: DETERMINATION OF BOUNDARIES

When uncertainty exists with respect to the boundaries or districts as shown on the Official Zoning Map, the Town Manager shall determine the boundaries in accordance with the standards in [Section 6.3.6: Determination](#), and the following:

- A: Boundaries shown as approximately following a utility line or a street, alley, railroad, or other public accessway shall be interpreted as following the centerline of the right-of-way or easement for the utility line or accessway.
- B: If a street, alley, railroad, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the centerline of the abandoned or vacated roadbed or utility easement.
- C: Boundaries shown as approximately following a lot line shall be interpreted as following the lot line as it existed when the boundary was established. If a subsequent minor adjustment (such as from settlement of a boundary dispute or overlap) results in the lot line moving 10 feet or less, the zoning boundary shall be interpreted as moving with the lot line.
- D: Boundaries shown as approximately following a river, stream, canal, lake, or other watercourse shall be interpreted as following the centerline of the watercourse as it actually exists, and as moving with that centerline to the extent the watercourse moves as a result of natural processes (flooding, erosion, sedimentation, etc.).
- E: Boundaries shown parallel to or as extensions of features indicated in this subsection shall be interpreted as such.
- F: Boundaries shown as following the boundary of the Town corporate limits shall be interpreted as following the boundary of municipal incorporation.
- G: If the specific location of a depicted boundary cannot be determined from application of the above standards, it shall be determined by using the Official Zoning Map's scale to determine the boundary's distance from other features shown on the map.
- H: Where the actual location of existing physical or natural features varies from that shown on the Official Zoning Map, or in other circumstances that are not covered by this subsection, the Town Manager shall have the authority to determine the district boundaries.
- I: In the case of flood hazard overlay district boundaries, the FEMA work maps, if available, shall be used for scaling.

J: In cases where boundaries on the Town’s Official Zoning Map are based on another official map promulgated by the State or other federal agency and the other State or federal map is amended, the Town’s maps shall automatically be amended to remain consistent with the officially promulgated State or federal map.

2.3.4: REVISION

- A:** Changes made in zoning district boundaries on the Official Zoning Map shall be considered an amendment to this Ordinance and are made in accordance with **Section 6.3.15: Rezoning**, or **Section 6.3.13: Planned Development**, as appropriate.
- B:** Changes to the Official Zoning Map approved by the Town Council shall be entered on the Official Zoning Map by the Town Manager promptly after the approval.
- C:** Where the ordinance enacting a zoning district boundary change contains wording explaining or clarifying the location of the new boundary, the Town Manager shall enter the boundary on the Official Zoning Map in accordance with the ordinance wording.
- D:** Upon entering the most recently approved amendment on the Official Zoning Map, the Town Manager shall also change the date of the map to indicate the date of its latest revision.

2.4: GENERALLY APPLICABLE DIMENSIONAL STANDARDS**2.4.1: DEVELOPMENTS OF MULTIPLE BUILDINGS OR STRUCTURES**

- A:** Developments that include multiple principal buildings as part of a single development, such as a multi-family, shopping center, or campus-style development, shall be subject to a perimeter setback from all boundary lot lines and are exempted from setbacks from lot lines internal to the development.
- B:** Individual principal and accessory buildings and structures within a multi-building development shall be set back from one another in accordance with the building separation standards in the zoning district where located.

2.4.2: REDUCTIONS PROHIBITED

Except where otherwise authorized by this Ordinance:

- A:** No lot shall be reduced in area below the minimum area requirements for the district where located.
- B:** Lots created after August 18, 2021, shall meet the minimum dimensional requirements for the district where located.

2.4.3: REQUIRED LOT WIDTH

All buildable lots established after August 18, 2021, shall maintain the minimum required lot width on a street in accordance with the dimensional requirements for the zoning district where located.

2.4.4: REQUIRED YARDS

- A:** The land area between a lot line and the boundary of a required setback is considered as a required yard.
- B:** The location of street (front), side, or rear yards on irregularly shaped lots shall be determined by the Town Manager in accordance with Section 10.2.3: Lot Dimensions. Wherever possible, the Town Manager shall interpret these boundaries in ways that minimize nonconformities.
- C:** Except where otherwise provided in Section 2.4.8: Allowable Encroachments, required yards shall not be subject to encroachment by a building, structure, or outdoor use area.

2.4.5: SETBACK FROM STREETS

No building shall be located closer to any street right-of-way or existing private street pavement edge than the minimum street setback line established by this Ordinance.

2.4.6: SPLIT ZONING

Wherever a single lot is located within two or more different zoning districts, each portion of the lot shall be subject to all the regulations applicable to the zoning district where it is located.

2.4.7: INCENTIVES AND ALTERNATIVES**A: DENSITY BONUS FOR COMPLIANCE**

Unless otherwise indicated in this Ordinance, the maximum allowable residential density for one-family and two-family dwellings in a conventional zoning district may be increased in accordance with the dimensional standards table for the zoning district where located based on voluntary compliance with Section 7.1.4: Residential Design Guidelines.

B: DIMENSIONAL STANDARD REVISIONS

Dimensional standards for conventional or overlay districts may be reduced or revised in accordance with the following:

- 1: Section 6.3.2: Administrative Adjustment;
- 2: Section 6.3.20: Variance;
- 3: Section 7.7.7: Parking Alternatives;
- 4: Section 7.4.13:C: Alternative Landscape Plans; or
- 5: Section 2.11: PD Planned Development District.

C: ALLOWABLE USES

Lots located within the SBO may accommodate principal and accessory use types identified in Section 2.12.1: Significant Building Overlay (SBO) District, even if such uses are not permitted in an underlying conventional zoning district.

2.4.8: ALLOWABLE ENCROACHMENTS INTO SETBACKS

Table 2.4.8: Allowable Encroachments into Setbacks, sets out the kinds of structures or building features that are permitted to encroach within a required setback, subject to the following:

- A:** Features identified in Table 2.4.8 may encroach into a required setback or required yard but may not cross a lot line into a lot under separate ownership or included as part of a separate development.
- B:** Regardless of the amount of permitted encroachment, features identified in Table 2.4.8 shall not:
 - 1:** Obstruct visibility for motorists, pedestrians, or bicyclists at any street, driveway, accessway, or intersection;
 - 2:** Obstruct access for vehicles, pedestrians, or bicyclists along streets, sidewalks, trails, or internal circulation routes; and
 - 3:** Interfere with the function of infrastructure facilities.
- C:** In the event a feature identified in Table 2.4.8 encroaches into a right-of-way owned or operated by the Town, an encroachment agreement with the Town shall be required.
- D:** Structures or building features not listed in Table 2.4.8 may only encroach into a required setback following approval of a variance in accordance with Section 6.3.20: Variance. An applicant may request the Planning Board propose a text amendment (see Section 6.3.19:Text Amendment) to this Ordinance in order to include a building or feature not listed in Table 2.4.8.

TABLE 2.4.8: ALLOWABLE ENCROACHMENTS INTO SETBACKS

FEATURE	MAXIMUM ALLOWABLE ENCROACHMENT /1/	
	LOTS IN THE R-30 AND R-20 DISTRICTS	LOTS IN ALL OTHER ZONING DISTRICTS /2/
Awnings	- When attached to a principal structure, may encroach up to four feet into any required setback, but shall be no closer than ten feet from any lot line - When attached to an accessory structure, may not encroach into a required setback	- May extend into any required setback, but shall be no closer than five feet from any lot line - Must maintain a minimum height of at least nine feet above a sidewalk or other pedestrian access and shall not encroach into a planting required landscaping area or into a vehicular travel way
Balcony or Bay Window	- When attached to a principal structure, may extend up to one foot within any required setback - When attached to an accessory structure, may not encroach into a required setback	- When attached to a principal structure, may extend up to four feet into any required setback, but shall be no closer than three feet from any lot line and shall not interfere with a required landscaping area or with pedestrian or vehicular movement - When attached to an accessory structure, may not encroach into a required setback
Canopy, Attached	May not encroach into any required setback	- May extend into any required setback, but shall be located no closer than five feet to a lot line - Regardless of where located, shall maintain a minimum height of at least nine feet above a sidewalk or other pedestrian access and shall not

CHAPTER 2: DISTRICTS

SECTION 2.4: GENERALLY APPLICABLE DIMENSIONAL STANDARDS

TABLE 2.4.8: ALLOWABLE ENCROACHMENTS INTO SETBACKS

FEATURE	MAXIMUM ALLOWABLE ENCROACHMENT /1/	
	LOTS IN THE R-30 AND R-20 DISTRICTS	LOTS IN ALL OTHER ZONING DISTRICTS /2/
		encroach into a required landscaping area or into a vehicular travel way
Canopy, Freestanding	May not encroach into any required setback	- May extend into any required setback, but shall be located no closer than five feet to a lot line - Regardless of where located, shall maintain a minimum height of at least nine feet above a sidewalk or other pedestrian access and shall not encroach into a required landscaping area or into a vehicular travel way
Chimneys, Fireplaces, Outdoor Kitchens	- When proposed as part of a building constructed prior to August 18, 2021, may extend up to one foot into any required setback, but shall be no closer than ten feet from any lot line /3/	- When proposed as part of a building constructed prior to August 18, 2021, may extend up to four feet into any required setback, but shall be no closer than ten feet from any lot line
Cornice, Beltcourse, Sill, Gutter, or Downspout	May extend up to two feet into any required setback	
Decks, Covered	May not encroach into any required setback	
Decks, Uncovered	May not encroach into any required setback	- May extend into any required setback, but shall be located no closer than five feet to a lot line - When attached to an accessory structure, may not encroach into a required setback
Driveways	May cross any required setback /4/	
Elevators and Similar Mechanical Devices	May be located in any required setback, subject to Section 6.3.20:D:2: Reasonable Accommodation	
Fences or Walls, excluding Retaining Walls	May be located in any required setback but shall not be located within a required sight distance triangle	
Fire Escape	- May not encroach into any required front setback - When proposed as part of a building constructed prior to August 18, 2021, may extend up to one foot into any required side or rear setback, but shall be no closer than ten feet from any lot line	- May not encroach into any required front setback - When proposed as part of a building constructed prior to August 18, 2021, may extend up to four feet into any required side or rear setback but shall maintain a minimum height of at least nine feet above a sidewalk or other pedestrian access
Flagpoles, Mailboxes, Lamp and Address Posts	May be located in any required setback but flagpoles shall not be located within five feet of a street right-of-way /5/	May be located in any required setback but flagpoles shall not be located within five feet of a street right-of-way
Detached Garage or Carport	May not encroach into any required setback	

CHAPTER 2: DISTRICTS

SECTION 2.4: GENERALLY APPLICABLE DIMENSIONAL STANDARDS

TABLE 2.4.8: ALLOWABLE ENCROACHMENTS INTO SETBACKS

FEATURE	MAXIMUM ALLOWABLE ENCROACHMENT /1/	
	LOTS IN THE R-30 AND R-20 DISTRICTS	LOTS IN ALL OTHER ZONING DISTRICTS /2/
Gazebo or Garden Structure	May not encroach into any required setback	
Handicap Ramps	May be located in any required setback provided it does not unduly obstruct pedestrian or vehicular access	
Off-Street Parking Area	May not be located within a required setback	
Outdoor Equipment (e.g., HVAC condenser, water heater, etc.)	May not encroach into any required setback	
Outdoor Seating Areas Serving a Non-residential Use	May not encroach into any required setback	<ul style="list-style-type: none"> - May extend into any required setback, but shall be located no closer than five feet to a lot line - Regardless of where located, shall maintain a minimum height of at least nine feet above a sidewalk or other pedestrian access and shall not encroach into a required landscaping area or into the vehicular travel way
Outdoor Storage	May not encroach into a required setback	
Outdoor Display and Sales	May not encroach into a required setback	
Parking Area, Uncovered	May not be located within a required setback	
Patio, Covered	May not encroach into any required setback	
Patio, Uncovered	<ul style="list-style-type: none"> - When serving a principal structure, may extend up to one foot within any required setback but may not encroach into a required landscaping or screening area - May not encroach into required setbacks when serving an accessory structure 	<ul style="list-style-type: none"> - May extend into any required setback, but shall be located no closer than five feet to a lot line - Regardless of where located, shall not encroach into a required landscaping area or into the vehicular travel way - May not encroach into required setbacks when serving an accessory structure
Pet Shelters or Enclosures	Subject to the setbacks applied to accessory structures	
Playground Equipment Accessory to a Residential Use	May not be located within a required setback	
Public Art	May not encroach into any required setback	May encroach into a required setback but shall not be located within a required sight distance triangle
Retaining Walls	May encroach into a required setback but shall not be located within a required sight distance triangle	
Roof Eaves, Rakes, and Overhangs	May extend up to two feet into any required setback	May extend up to four feet into any required setback
Signs	May extend into any required setback only in accordance with Section 7.8: Signage	

TABLE 2.4.8: ALLOWABLE ENCROACHMENTS INTO SETBACKS

FEATURE	MAXIMUM ALLOWABLE ENCROACHMENT /1/	
	LOTS IN THE R-30 AND R-20 DISTRICTS	LOTS IN ALL OTHER ZONING DISTRICTS /2/
Steps and Stairs	May encroach up to four feet into any required setback but no closer than ten feet to any lot line	May encroach up to six feet into any required setback but no closer than ten feet to any lot line
Swimming Pool, (including all ancillary appurtenances)	May not encroach into any required setback	
Underground Structures (including septic systems but excluding swimming pools)	May encroach into any required setback	
Vegetation and Landscaping Features	May encroach into any required setback	
Potable Water Well House (functional or aesthetic)	May be located in any required setback, but shall be no closer than fifteen feet to a right-of-way	
<p>NOTES:</p> <p>/1/ Except where otherwise specified, principal and accessory structures shall comply with all dimensional requirements for the district where located.</p> <p>/2/ Development within a PD district will be subject to these standards unless otherwise approved in the applicable master plan or terms and conditions statement.</p> <p>/3/ Outdoor kitchens may not encroach into any required setbacks.</p> <p>/4/ Subject to Section 7.4.7:H: Permitted Encroachments.</p> <p>/5/ Flagpoles, lamp posts, or similar features with a height exceeding 15 feet may not encroach into any required setback.</p>		

2.5: R-30 RESIDENTIAL LOW DENSITY DISTRICT

2.5.1: PURPOSE AND INTENT

The R-30 district is designated primarily for single-family detached residential development on individual lots with a minimum of 30,000 square feet. The areas of Laurel Park designated for the R-30 district are generally characterized as areas with steeper slopes, limited access to public sewer, limited road access, watershed restrictions, and established patterns of lower density development.

2.5.2: TYPICAL FORMS OF DEVELOPMENT



2.5.3: DIMENSIONAL STANDARDS

Requirement		Lots with Low Slopes (less than 15%)	Lots with Steep Slopes (15% to 25%)	Lots with Very Steep Slopes (25% or more)
Maximum Residential Density (units/acre)		1.45 /1/	1.22	1.0
Minimum Lot Area (sq. ft.)		30,000 /2/	35,500 /3/	43,560 /3/
Maximum Impervious Cover (% of lot area)		40	35	30
Minimum Lot Width (feet) /4/		100	90	80
Minimum Street Setback (feet) /5/ (AMENDED 11-16-21 UDOTA1-21)	Principal Structure	35	40 /6/	45 /6/
	Accessory Structure /7/	35	40	45
Minimum Side Setback (feet) (AMENDED 11-16-21 UDOTA1-21)	Principal Structure	25	35	40
	Accessory Structure /7/	10	15	20
Minimum Rear Setback (feet)	Principal Structure	25	35	45
	Accessory Structure /7/	10	15	20
Minimum Spacing Between Principal Structure and Detached Accessory Structure (feet)		In accordance with State Building Code and applicable fire codes		
Maximum Building Height (stories feet)	Principal Structure	3 35	3 35	3 35
	Accessory Structure	2 20	2 20	2 20
Minimum Open Space Set-Aside (% of total development size)	Residential Uses /8/	10	12 /9/	15 /9/
	All Other Allowable Uses	5	7 /9/	10 /9/

2.5.3: DIMENSIONAL STANDARDS

NOTES:

- /1/ May be increased to 2.0 for developments subject to Section 7.1.4: Residential Design Guidelines, on land annexed after the effective date of this Ordinance.
- /2/ May be reduced to 21,780 square feet for developments subject to Section 7.1.4: Residential Design Guidelines, on land annexed after the effective date of this Ordinance provided compliance with all applicable Henderson County Health Department requirements is maintained.
- /3/ May be reduced to 30,000 square feet for lots of record lawfully established prior to the effective date of this Ordinance.
- /4/ Measured at the interior edge of the front setback.
- /5/ 50 feet from an arterial or thoroughfare street right-of-way.
- /6/ May be reduced to 25 feet when necessary to minimize erosion, sedimentation, or land disturbance. The rear or alternate side setback, as appropriate, shall be increased by an amount corresponding to the reduction in the street setback.
- /7/ Except for fences, walls, and features identified in Section 2.4.8: Allowable Encroachments into Setbacks, detached accessory structures shall not be located between the primary front façade of the principal structure and a street setback line.
- /8/ Minimum setback increases by two feet for every foot in height beyond 8 feet.
- /9/ At least 50 percent of the open space set-aside shall be configured for active recreation.
- /10/ Applied based on the average grade of the development.

2.6: R-20 MODERATE DENSITY RESIDENTIAL DISTRICT

2.6.1: PURPOSE AND INTENT

The R-20 district is designated primarily for single-family detached residential development on individual lots with a minimum of 20,000 square feet.

2.6.2: TYPICAL FORMS OF DEVELOPMENT



2.6.3: DIMENSIONAL STANDARDS

Requirement		Lots with Low Slopes (less than 15%)	Lots with Steep Slopes (15% to 25%)	Lots with Very Steep Slopes (25% or more)
Maximum Residential Density (units/acre)		2.17 /1/	2.0	1.75
Minimum Lot Area (sq. ft.) /2/		20,000 /3/	21,750 /4/	25,000 /4/
Maximum Impervious Cover (% of lot area)		45	40	35
Minimum Lot Width (feet) /5/ /6/		80	70	70
Minimum Street Setback (feet) /7/ <small>(AMENDED 11-16-21 UDOTA1-21)</small>	Principal Structure	30	35 /8/	40 /8/
	Accessory Structure /9/ /10/	30	35	40
Minimum Side Setback (feet)	Principal Structure	20	25	30
	Accessory Structure /10/	10	15	20
Minimum Rear Setback (feet)	Principal Structure	20	25	30
	Accessory Structure /10/	10	15	20
Minimum Spacing Between Principal Structure and Detached Accessory Structure (feet)		In accordance with State Building Code and applicable fire codes		
Maximum Building Height (stories feet)	Principal Structure	3 35	3 35	3 35
	Accessory Structure	2 20	2 20	2 20
Minimum Open Space Set-Aside (% of total dev. size)	Residential Uses /11/	10	12 /12/	15 /12/
	All Other Allowable Uses	5	7 /12/	10 /12/

2.6.3: DIMENSIONAL STANDARDS

NOTES:

- /1/ May be increased to 2.5 for developments subject to Section 7.1.4: Residential Design Guidelines, on land annexed after the effective date of this Ordinance.
- /2/ Any allowable uses other than a single-family detached dwelling require an additional 10,000 square feet per lot.
- /3/ May be reduced to 17,420 square feet for developments subject to Section 7.1.4: Residential Design Guidelines, on land annexed after the effective date of this Ordinance provided compliance with all applicable Henderson County Health Department requirements is maintained.
- /4/ May be reduced to 20,000 square feet for single-family detached dwellings on lots of record lawfully established prior to the effective date of this Ordinance.
- /5/ Measured at the interior edge of the front setback.
- /6/ Increase by 10 feet any other allowable uses other than a single-family detached dwelling.
- /7/ 50 feet from an arterial or thoroughfare street right-of-way.
- /8/ May be reduced to 25 feet when necessary to minimize erosion, sedimentation, or land disturbance. The rear or alternate side setback, as appropriate, shall be increased by an amount corresponding to the reduction in the street setback.
- /9/ Except for fences, walls, and features identified in Section 2.4.8: Allowable Encroachments into Setbacks, accessory structures shall not be located between the primary front façade of the principal structure and a street setback line.
- /10/ Minimum setback increases by two feet for every foot in height beyond 8 feet.
- /11/ At least 50 percent of the open space set-aside shall be configured for active recreation.
- /12/ Applied based on the average grade of the development.

2.7: OI OFFICE INSTITUTIONAL DISTRICT

2.7.1: PURPOSE AND INTENT

The Office Institutional (OI) district is established to accommodate civic and institutional uses in high quality single-building and multi-building developments. The OI district also serves as a transition area between higher intensity commercial and mixed-use developments and nearby lower density single-family residential neighborhoods.

2.7.2: TYPICAL FORMS OF DEVELOPMENT



2.7.3: DIMENSIONAL STANDARDS

Requirement		Lots with Low Slopes (less than 15%)	Lots with Steep Slopes (15% to 25%)	Lots with Very Steep Slopes (25% or more)
Maximum Residential Density (units/acre)		None	None	None
Minimum Lot Area (sq. ft.)		20,000	21,750	25,000
Maximum Impervious Cover (% of lot area)		55	45	40
Minimum Lot Width (feet) /1/ /2/		80	70	70
Minimum Street Setback (feet)	Principal Structure	30	35	40
	Accessory Structure	30 /3/	35 /3/	40 /3/
Minimum Side Setback (feet)	Principal Structure	20	25	30
	Accessory Structure /4/	10	15	20
Minimum Rear Setback (feet)	Principal Structure	20	25	30
	Accessory Structure /4/	10	15	20
Minimum Spacing Between Principal Structure and Detached Accessory Structure (feet)		In accordance with State Building Code and applicable fire codes		
Maximum Building Height (stories feet)	Principal Structure	3 35	3 35	3 35
	Accessory Structure	2 20	2 20	2 20
Minimum Open Space Set-Aside (% of total dev. size)		5	7 /5/	10 /5/

2.7.3: DIMENSIONAL STANDARDS

NOTES:

/1/ Measured at the interior edge of the street setback.

/2/ Increase by 10 feet for allowable uses other than a single-family detached dwelling.

/3/ Except for fences, walls, and features identified in Section 2.4.8: Allowable Encroachments into Setbacks, accessory structures shall not be located between the primary front façade of the principal structure and a street setback line.

/4/ Minimum setback increases by two feet for every foot in height beyond 8 feet.

/5/ At least 50 percent of the open space set-aside shall be configured for passive recreation; the balance may be configured as urban or active.

2.8: MM MOUNTAINSIDE MIXED-USE DISTRICT

2.8.1: PURPOSE

The primary purpose of the Mountainside Mixed-Use (MM) district is to permit a mix of various housing types, commercial businesses, and institutional uses in a pedestrian-oriented setting with a sense of community and place. The MM district extends commercial and residential activity along US 64 in areas proximate to the Ecusta Trail. The activities and uses are configured to promote small and medium-sized lots in a pedestrian-scaled, mixed-use district which caters to the everyday needs of nearby neighborhoods, emphasizing accessibility by automobiles, bicycles, and pedestrians. The design and arrangement of buildings, structures, facilities, and landscaping should emphasize compatibility between the district and adjacent residential and commercial areas.

2.8.2: INTENT

The following are the MM district’s primary intentions:

- A. To serve as a transitional area between residential and non-residential zones;
- B. To create a mixed-use, small-town character that distinguishes the area along the US 64 corridor;
- C. To allow a range of small-scale commercial and institutional uses within easy walking distance of adjoining residential homes;
- D. To accommodate a variety of housing types and discourage one housing type from dominating the streetscape;
- E. To ensure that commercial and institutional uses have a character that is compatible with the existing nearby residential development;
- F. To promote pedestrian orientation of streets;
- G. To promote pedestrian orientation, scale, and bulk of buildings;
- H. To develop businesses, institutions, streets, parks, and homes that promote social interaction as well as privacy;
- I. To give priority to pedestrian movement and access to buildings, open spaces, and streets, and discourage design that gives priority to vehicular convenience only;
- J. To create a street circulation system that provides safe and convenient access but discourages fast or heavy traffic that is incompatible with a residential neighborhood;
- K. To encourage use of scale, building orientation, and landscaping to establish community identity;
- L. To foster open and recreational spaces configured as community focal points;
- M. To provide and connect to recreational opportunities; and
- N. To ensure that new development is compatible with existing neighborhoods.

2.8.3: WHERE PERMITTED

- A. The MM district may be established on lots located within the MM eligibility area as depicted on the Official Zoning Map. The eligibility area shall include the lands within 500 feet south of the Ecusta Trail and 500 feet of the north side of the Highway 64 right-of-way between Windsor Drive and Hawkins Creek Road, and as further identified in the Town’s adopted policy guidance.
- B. In cases where a portion of a lot is located within the eligibility boundary for the MM district, the entire lot shall be considered eligible for classification as MM.
- C. Extension of the MM eligibility area may only take place following amendment of the Town’s adopted policy guidance and an amendment to the Official Zoning Map.
- D. Establishment of a zoning district classification other than MM or PD within the MM eligibility area is discouraged.

CHAPTER 2: DISTRICTS

SECTION 2.8: MM MOUNTAINSIDE MIXED-USE DISTRICT

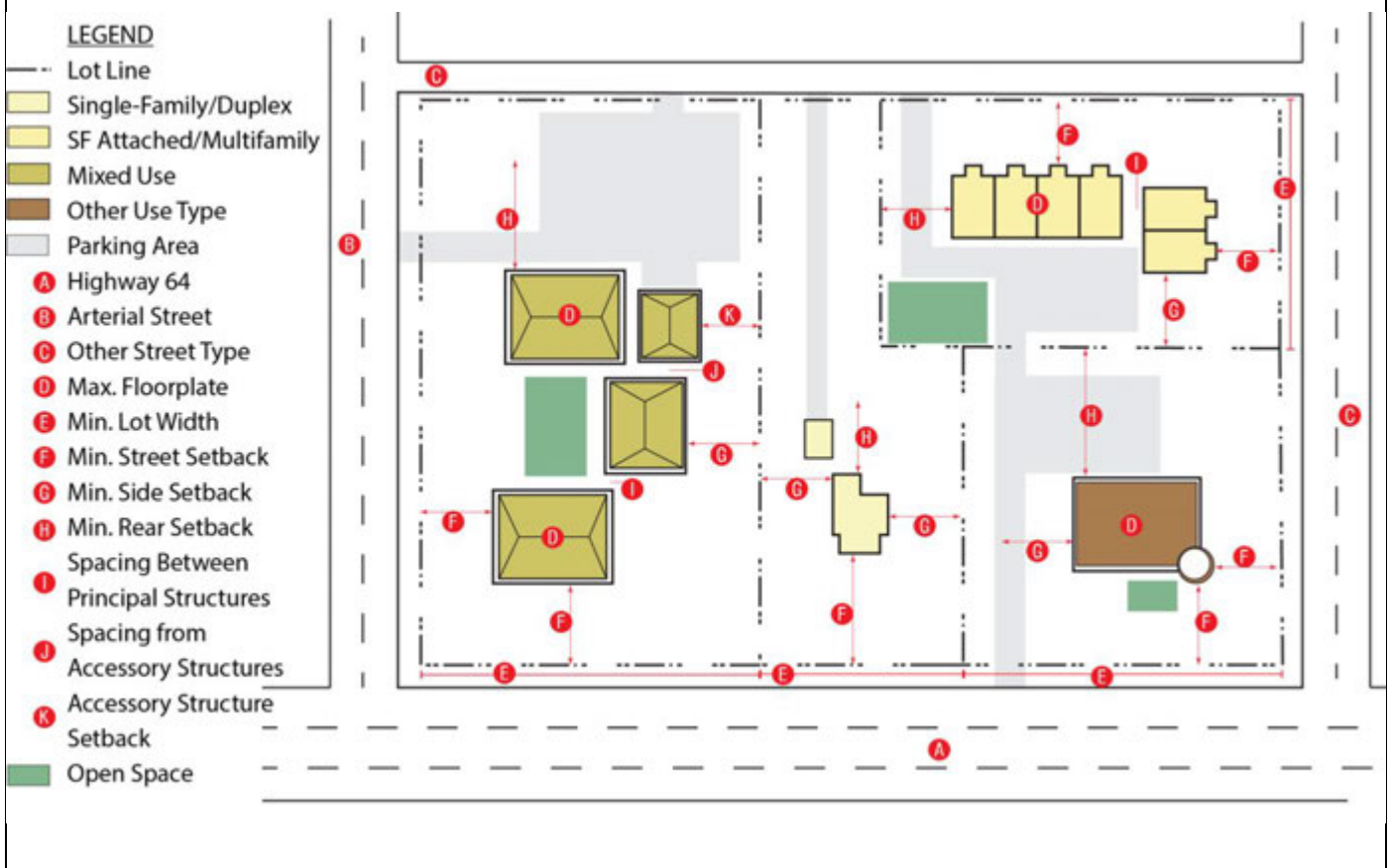
2.8.4: DIMENSIONAL STANDARDS

Requirement		Single-Family Residential & Duplex	Single-Family Attached and Multi-Family Residential	Mixed-Use	All Other Forms of Development
Maximum Residential Density (units/acre)		4.35 /1/	4.84 /2/	5.44	N/A
Minimum Lot Area (sq. ft.)		9,000 /3/ /4/	9,000/unit for first 5, then 1,000 for each additional unit /5/	6,000/unit	9,000
Maximum Impervious Cover (% of lot area)		50	60 /6/	70 /6/	60
Maximum Individual Building Floorplate (square feet)		N/A	5,000	5,000	5,000
Minimum Lot Width (feet)		40 /7/	60 /6/	50	70
Minimum Street Setback (feet) /8/	Lots abutting Highway 64	40	35	35	35
	Lots abutting arterial streets	25	20	20	20
	Lots abutting all other streets	15	15	15	15
Maximum Street Setback (feet) /8/	Lots abutting Highway 64	40	35	35	35
	Lots abutting all other streets	N/A	40	25 /9/	25 /9/
Minimum Side Setback (feet)		10	10 [6]	15	15
Minimum Rear Setback (feet)	Abutting lots with a residential use	25	25	50	50
	Abutting lots with a mixed or non-residential use	15	15	20	20
Perimeter Setback in a Multi-Building Development (feet)	Abutting lots with a residential use	N/A	25	25	25
	Abutting lots with a mixed or non-residential use	N/A	20	15	15
Minimum Between Principal Structures in a Multi-Building Development (feet)		In accordance with State Building Code and applicable fire codes			
Minimum Spacing Between Principal Structure and Detached Accessory Structure (feet)		In accordance with State Building Code and applicable fire codes			
Accessory Structure Setback From Lot Lines /10/		10 /11/	10 /11/	20	20
Maximum Building Height (stories feet) <small>(AMENDED 11-16-21 UDOTA1-21)</small>	Principal Structure	3 35	3 40 /12/	3 40 /12/	3 40 /12/
	Accessory Structure	2 20	2 20	2 20	2 25
Minimum Open Space Set-Aside (% of total development size)		10 /13/ /14/	15 /14/	7 /15/	5 /15/

NOTES:

- /1/ May be increased to 5.0 for single-family and duplex developments subject to Section 7.1.4: Residential Design Guidelines.
- /2/ May be increased to 5.44 for single-family developments subject to Section 7.1.4: Residential Design Guidelines.
- /3/ Duplexes require an additional 5,000 square feet per lot.
- /4/ May be reduced to 8,720 square feet (13,720 square feet for duplexes) for developments subject to Section 7.1.4: Residential Design Guidelines, provided compliance with all applicable Henderson County Health Department requirements is maintained.
- /5/ May be reduced to 8,000 square feet for the first 5 units for developments subject to Section 7.1.4: Residential Design Guidelines, provided compliance with all applicable Henderson County Health Department requirements is maintained.
- /6/ Applied to the entire development, not individual dwelling lots.
- /7/ May be reduced to 50 feet on lots served by rear-loaded alleys.
- /8/ Measured from the edge of the ultimate right-of-way as depicted in Town-adopted Transportation Plan.
- /9/ Outdoor dining, seating, and public gathering areas excluded from maximum setback measurement.
- /10/ Minimum setback increases by two feet for every foot in height beyond 8 feet.
- /11/ Except for fences, walls, and features identified in Section 2.4.8: Allowable Encroachments into Setbacks, accessory structures shall not be located between the primary front façade of the principal structure and the front setback line.
- /12/ Maximum building heights may not exceed 20 feet of building height for the first 35 feet of lot depth as measured from the interior edge of the front building setback line.
- /13/ Applied to subdivision preliminary plats.
- /14/ At least 50 percent of the open space set-aside shall be configured for active recreation; the balance may be configured as urban or passive.
- /15/ At least 75 percent of the open space shall be configured as urban; the balance may be active or passive.

2.8.5: DIMENSIONAL STANDARDS DIAGRAM



2.8.6: TYPICAL FORMS OF DEVELOPMENT



2.8.7: DISTRICT-SPECIFIC STANDARDS

A. DESIGN STANDARDS AND GUIDELINES

- 1: All forms of new non-residential and mixed-use development shall comply with the standards in Section 7.1.2: Commercial and Mixed-Use Design Standards.
- 2: New multi-family development of three or more units shall comply with the standards in Section 7.1.3: Multi-Family Residential Design Standards.
- 3: Single-family detached, attached, and duplex development may comply with the guidelines in Section 7.1.4: Residential Design Guidelines.

2.9: TC TOWN CENTER DISTRICT

2.9.1: PURPOSE

The purpose of the Town Center district is to foster the establishment of a high quality, mixed-use town center that is aesthetically pleasing, visually unified and has a balanced functionality between pedestrian and vehicular uses. The district is the prime gateway into the Town of Laurel Park and is the cultural and economic center of the Town. Building within the district is scaled and massed appropriately together and set close to the street and to each other, inviting pedestrians to walk from place to place, with mixed uses that will serve a multitude of purposes for both residents and visitors. The district is intended to provide for the most frequent daily needs of the residents in a compact area rather than a commercial strip catering to a more regional market. Development within the district is to provide adequate access, off-street parking, and setbacks to maintain traffic flow. The design and arrangement of buildings, structures, facilities, and landscaping should emphasize the compatibility sought between the commercial service areas and adjacent residential areas. The district will expand the availability of land eligible for commercial activity through increased density and building height, while at the same time protecting adjacent residential neighborhoods through the use of landscaping, building design controls, and by limiting the height and scale of structures along the district edge.

2.9.2: INTENT

The following are the TC district’s primary intentions:

- A. To define an aesthetically pleasing town center and community gateway, with businesses closer to the road and visible from Highway 64 (Brevard Road);
- B. To facilitate safe access onto and along US Highway 64 (Brevard Road) while minimizing the number of vehicular access points;
- C. To provide for a safe, convenient parking and circulation system that balances multi-modal uses but that gives priority to pedestrian movement and access, with multiple pedestrian entrances into the district and robust connections between land uses;
- D. To promote a mixture of land uses including civic and cultural, shopping, restaurants, offices, and residences;
- E. To establish community identity and ensure that new development is aesthetically pleasing through the appropriate use of building mass and orientation, building materials, lighting, and landscaping;
- F. To protect the character of adjacent residential development through the use of landscaping, limitations upon exterior lighting, and appropriate transitions in building height and mass;
- G. To promote pedestrian orientation of streets and buildings;
- H. To develop businesses, institutions, streets, parks, and homes that promote social interaction;
- I. To use civic and cultural spaces as community focal points;
- J. To provide and connect to recreational opportunities;
- K. To ensure the efficient use of land through the sharing of parking areas, stormwater systems, and other infrastructure;
- L. To provide a direct connection to the proposed Ecusta Trail, integrating that recreational opportunity to redevelopment in the hope that investments will be made in alignment with a broader, regional perspective; and
- M. To ensure that new development is compatible with existing neighborhoods.

CHAPTER 2: DISTRICTS

SECTION 2.9: TC TOWN CENTER DISTRICT

2.9.3: DIMENSIONAL STANDARDS

Requirement		Multi-Family Residential	Mixed-Use	All Other Forms of Development
Maximum Residential Density (units/acre)		6.0	8.0	N/A
Minimum Lot Area (sq. ft.)		7,260/unit for first 6 units, then 1,000 for the next 6 units, then no limit	5,000/unit	8,000
Maximum Impervious Cover (% of lot area)		90 /1/	90	85
Maximum Individual Building Floorplate (square feet)		25,000	25,000	25,000
Minimum Lot Width (feet)		60 /1/	30	20
Minimum Street Setback (feet) /2/	Lots abutting arterial streets	20	10	10
	Lots abutting all other streets	20	20	20
Maximum Street Setback (feet)	Lots abutting arterial streets	30	20 /3/	20 /3/
	Lots abutting all other streets	40	40 /3/	40 /3/
Minimum Side Setback (feet)		10 /1/	None required, 10 if provided	
Minimum Rear Setback (feet)		10 /1/	10	10
Perimeter Setback in a Multi-Building Development (feet)		15	15	15
Minimum Between Principal Structures in a Multi-Building Development (feet)		In accordance with State Building Code and applicable fire codes		
Minimum Spacing Between Principal and Detached Accessory Structure (feet)		In accordance with State Building Code and applicable fire codes		
Accessory Structure Setback From Lot Lines /4/		5	5	5
Maximum Building Height (stories feet) <small>(AMENDED 11-16-21 UDOTA1-21)</small>	Principal Structure /5/	3 35	3 40	3 35
	Accessory Structure	2 20	2 20	2 20
Minimum Open Space Set-Aside (% of total development size)		10 /6/	7 /6/	5 /7/

NOTES:

/1/ Applied to the entire development, not individual dwelling lots.

/2/ Measured from the edge of the ultimate right-of-way as depicted in Town-adopted Transportation Plan.

/3/ Outdoor dining, seating, and public gathering areas excluded from maximum setback measurement.

/4/ Minimum setback increases by two feet for every foot in height beyond 8 feet.

/5/ Maximum building heights may not exceed 20 feet of building height for the first 35 feet of lot depth as measured from the interior edge of the street setback line.

/6/ At least 50 percent of the open space set-aside shall be configured for active recreation; the balance may be configured as urban or passive.

/7/ At least 75 percent of the open space shall be configured as urban; the balance may be configured as active or passive.

2.9.4: DIMENSIONAL STANDARDS DIAGRAM



2.9.5: TYPICAL FORMS OF DEVELOPMENT



CHAPTER 2: DISTRICTS

SECTION 2.10: I-1 INDUSTRIAL DISTRICT

2.9.6: DISTRICT-SPECIFIC STANDARDS

A. DESIGN STANDARDS AND GUIDELINES

- 1:** All forms of new non-residential and mixed-use development shall comply with the standards in Section 7.1.2: Commercial and Mixed-Use Design Standards.
- 2:** New multi-family development of three or more units shall comply with the standards in Section 7.1.3: Multi-Family Residential Design Standards.
- 3:** Single-family attached development may comply with the guidelines in Section 7.1.4: Residential Design Guidelines.

2.10: I-1 INDUSTRIAL DISTRICT

2.10.1: PURPOSE AND INTENT

The I-1 district is established to provide for industrial development in appropriate locations within Laurel Park and to ensure that the future use and development of the district will safeguard the physical and economic well-being of the industrial district and the adjacent property owners.

2.10.2: TYPICAL FORMS OF DEVELOPMENT



2.10.3: DIMENSIONAL STANDARDS

Requirement	All Forms of Development	
Minimum Lot Area (acres)	10	
Maximum Impervious Cover (% of lot area)	70	
Minimum Lot Width (feet)	300	
Minimum Street Setback (feet)	50	
Minimum Side Setback (feet)	Abutting lots with a residential use	100
	Abutting lots with a mixed or non-residential use	30
Minimum Rear Setback (feet)	Abutting lots with a residential use	100
	Abutting lots with a mixed or non-residential use	30
Perimeter Setback in a Multi-Building Development (feet)	100	

CHAPTER 2: DISTRICTS

SECTION 2.10: I-1 INDUSTRIAL DISTRICT

Minimum Between Principal Structures in a Multi-Building Development (feet)	In accordance with State Building Code and applicable fire codes	
Minimum Spacing Between Principal Structure and Detached Accessory Structure (feet)	In accordance with State Building Code and applicable fire codes	
Accessory Structure Setback From Lot Lines	30	
Maximum Building Height (stories feet)	Principal Structure	2 35
	Accessory Structure /1/	2 35
NOTES: /1/ Minimum setback increases by two feet for every foot in height beyond 8 feet.		

2.11: PD PLANNED DEVELOPMENT DISTRICT**2.11.1: PURPOSE AND INTENT**

- A:** The Planned Development (PD) district is 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 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 non-residential land uses in the same development, including a mix of housing types, lot sizes, and densities;
 - 4:** Creating a system of incentives for redevelopment and infill in order to revitalize established areas;
 - 5:** Promoting a vibrant public realm by placing increased emphasis on active ground floor uses, pedestrian-oriented building façade design, intensive use of sidewalks, and establishment of public gathering areas;
 - 6:** Providing for efficient use of land resulting in smaller networks of utilities and streets and thereby lowering development and housing costs; and
 - 7:** 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, ridgelines, special flood hazard area, and historic features.
- B:** Use of the planned development district allows an applicant to negotiate with Town officials in pursuit of the best development possible. This negotiated process allows an applicant to request the Town consider deviations from some otherwise applicable standards. In return for this flexibility, it is the Town's expectation that the proposed development will be of an exceptional quality, and it is incumbent upon the applicant to demonstrate the ways in which the proposed development will exceed the overall quality of development that would have resulted from a strict application of the standards in this Ordinance.
- C:** Approval or denial of a planned development application is solely within the legislative discretion of the Town Council, who shall have maximum freedom in the determination of a proposal's quality and appropriateness.

2.11.2: GENERAL STANDARDS FOR ALL PLANNED DEVELOPMENTS**A: HOW ESTABLISHED**

A planned development is established in accordance with the procedures and requirements in [Section 6.3.13: Planned Development](#).

B: ESTABLISHMENT LIMITED

- 1:** A planned development district may not be established on land that is designated as R-30 or R-20 at the time the planned development application is filed.
- 2:** Nothing shall limit land that is newly annexed and receiving its first zoning district designation from the Town of Laurel Park to be designated as Planned Development provided an application for establishment of the district has been submitted in accordance with [Section 6.3.13: Planned Development](#).
- 3:** In no instance shall a planned development district with a total buildable area of less than five acres be established.

C: MASTER PLAN REQUIRED

All development configured as a PD shall be subject to a master plan submitted and approved as part of the application to establish the district. The master plan shall:

- 1:** Include a statement of planning objectives for the district;

- 2: Describe the specific ways in which any modifications to the generally applicable standards in this Ordinance will result in a development of higher quality than would have otherwise resulted if the development was established without any proposed modifications to the standards in this Ordinance;
- 3: Identify the general location of individual development areas, identified by land use(s) and/or development density or intensity;
- 4: Depict the general configuration and relationship of the principal elements of the proposed development, including general building types;
- 5: Identify for the entire district and each development area, the acreage, types and mix of land uses, number of residential units (by use type), non-residential floor area (by use type), residential density, and non-residential intensity;
- 6: Identify the general location, amount, and type (whether designated for active, passive, or urban) of open space;
- 7: Identify the location of environmentally sensitive lands, wildlife habitat, and resource protection lands;
- 8: Identify the on-site transportation circulation system, including the general location of all public and private streets, existing or projected transit service, pedestrian and vehicular circulation features, and how they will connect with existing and planned systems;
- 9: Identify the general location of on-site potable water and wastewater facilities, and how they will connect to existing systems;
- 10: Identify the general location of on-site stormwater management facilities, and how they will connect to existing public systems; and
- 11: Identify the general location of all other on-site public facilities serving the development, including but not limited to parks, schools, bus shelters, and facilities for fire protection, police protection, EMS, and solid waste management.

2.11.3: COMPLIANCE WITH SUBDIVISION STANDARDS

Planned developments that include the division of land into two or more lots shall be subject to the subdivision standards in Chapter 8: Subdivisions, and shall be subject to the requirements of Section 6.3.14: Preliminary Plat, and Section 6.3.10: Final Plat, prior to the issuance of a building permit.

2.11.4: SITE PLAN REVIEW

- A: The planned development master plan may take the form of a generalized concept plan for development that provides a general indication of building and site feature location, or it may be configured to the level of detail associated with site plans and construction drawings depicting exact building placement, location and profile of public infrastructure, and configuration of site features like parking, landscaping, and similar elements.
- B: In cases where the master plan is more general or conceptual in nature, the development proposed in the planned development designation shall also undergo site plan review in accordance with Section 6.3.16: Site Plan.
- C: In cases where the master plan is detailed and meets the minimum requirements for a site plan in the opinion of the Town Council, the applicant shall request, and the Town Council may grant an exemption from subsequent site plan review.
- D: If a site plan review exemption is granted by the Town Council, the proposed development shall fully comply with the development configuration depicted in the planned development master plan. Failure to comply with the approved master plan configuration shall require an amendment of the planned development application in accordance with Section 6.3.13:L: Amendment.

2.11.5: DENSITIES/INTENSITIES

The densities for residential development and the intensities for non-residential development applicable in each development area of a PD district shall be as established in the master plan and shall be consistent with adopted policy guidance.

2.11.6: DIMENSIONAL STANDARDS

- A:** The dimensional standards applicable in each development area of a PD district shall be as established in the master plan. The master plan shall identify at least the following types of dimensional standards for the entire development:
 - 1:** Minimum lot area;
 - 2:** Minimum lot width;
 - 3:** Minimum and maximum setbacks;
 - 4:** Maximum lot coverage;
 - 5:** Maximum building height;
 - 6:** Maximum individual building size;
 - 7:** Floor area ratio; and
 - 8:** Minimum setbacks from adjoining residential development or residential zoning districts.
- B:** Applicants for a planned development shall comply with the applicable dimensional requirements associated with the conventional zoning district in place at the time of the application. In cases where compliance with such standards is impractical, the applicant shall provide justification of why deviation is necessary.
- C:** In the event land subject to a planned development application is being annexed and does not have

2.11.7: DEVELOPMENT STANDARDS

- A:** All development in a PD district shall comply with the development standards of Chapter 7: Standards, and the subdivision and infrastructure design standards of Chapter 8: Subdivisions, unless modified in accordance with this section.
- B:** In no instance shall a planned development district seek to modify, waive, or reduce any of the following standards:
 - 1:** Section 2.12: Overlay Zoning Districts;
 - 2:** Section 3.1: Sites with Slopes or Geologic Hazards;
 - 3:** Section 3.4: Tree Protection; or
 - 4:** Section 8.9: Owners' Associations.
- C:** In cases where a planned development district is proposed as part of redevelopment of an existing site and the existing site does not comply with the standards in subsection (B) above, the development contemplated in the planned development shall not be required to achieve full compliance but shall not increase the degree to which the development fails to comply with the standards in subsection (B) above.

2.11.8: CONSISTENCY WITH ADOPTED POLICY GUIDANCE

The PD zoning district designation, the master plan, and the terms and conditions document should be consistent with the Comprehensive Plan, and any other adopted policy guidance.

2.11.9: COMPATIBILITY WITH SURROUNDING AREAS

Development along the perimeter of a PD district shall be compatible with adjacent existing or proposed development outside the district. Where there are issues of compatibility, the master plan 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, building height, building mass and scale, hours of operation, exterior lighting, siting of service areas, or other aspects identified by the Town Council.

2.11.10: DEVELOPMENT PHASING PLAN

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

2.11.11: CONVERSION SCHEDULE

- A:** The planned development application may include a conversion schedule that identifies the extent to which one type of residential use may be converted to another type of residential use or one type of non-residential use may be converted to another type of non-residential use (i.e., residential to residential, or non-residential to non-residential). These conversions may occur within development areas and between development areas, as long as they occur within the same development phase, as identified by the approved development phasing plan, and are consistent with established extents of conversion set down in the conversion schedule.
- B:** In the event an applicant seeks to revise the development in accordance with an approved conversion schedule, the applicant shall provide a revised site plan depicting the proposed conversions to the Technical Review Committee for review and approval prior to commencing any conversions.

2.11.12: ON-SITE PUBLIC FACILITIES

A: DESIGN AND CONSTRUCTION

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

B: DEDICATION

The master plan shall establish the responsibility of the developer/landowner to dedicate to the public the right-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.

C: MODIFICATIONS TO STREET STANDARDS

In approving a master plan, the Town Council may approve modifications or reductions of street design standards—including those for right-of-way widths, pavement widths, required materials, provision of public transit amenities, and turning radii, with NCDOT approval, on finding that:

- 1:** The master plan provides for adequate separation/integration of vehicular, pedestrian, and bicycle traffic;
- 2:** Access for emergency service vehicles is not substantially impaired;
- 3:** Adequate parking is provided for the uses proposed; and
- 4:** Adequate space for public utilities is provided within the street right-of-way.

2.11.13: USES

The uses allowed in a PD district are identified in Table 4.2.6: Principal Land Use Table, as allowed subject to a master plan. Allowed uses shall be listed in the approved master plan or terms and conditions documents. Allowed uses shall be consistent with adopted policy guidance, the purpose of the particular PD district, and subject to any additional limitations or requirements set forth in Section 4.4: Use-Specific Standards, for the PD district. Nothing shall limit an applicant from seeking to modify an otherwise applicable use-specific standard in accordance with the standards in Section 2.11.2:C: Master Plan Required.

2.11.14: PLANNED DEVELOPMENT TERMS AND CONDITIONS

The terms and conditions document shall incorporate by reference or include, but not be limited to:

- A:** Conditions related to approval of the application for the PD zoning district classification;
- B:** The master plan, including any density/intensity standards, dimensional standards, and development standards established in the master plan;

- C: Conditions related to the approval of the master plan, including any conditions related to the form and design of development shown in the master plan;
- D: Provisions addressing how transportation, potable water, wastewater, stormwater management, and other infrastructure will be provided to accommodate the proposed development;
- E: Provisions related to environmental protection and monitoring;
- F: The range of allowable and accessory uses; and
- G: Any other provisions the Town Council determines are relevant and necessary to the development of the PD in accordance with applicable standards and regulations.

2.11.15: AMENDMENTS TO APPROVED MASTER PLAN

Amendments or modifications to a master plan shall be considered in accordance with the standards in [Section 6.3.13: Planned Development](#).

2.12: OVERLAY ZONING DISTRICTS

2.12.1: SIGNIFICANT BUILDING OVERLAY (SBO) DISTRICT

A: PURPOSE AND INTENT

These standards establish the Significant Building Overlay (SBO) district, which is proposed to recognize and encourage the continued maintenance and operation of culturally significant buildings and development in the Town of Laurel Park. These standards are intended to:

- 1: Identify significant buildings and sites in the Town;
- 2: Recognize the Town’s desire to allow significant buildings and their traditional operations to continue, even in cases when the use type is not permitted by the underlying zoning district;
- 3: Allow traditional operations to continue or be re-established following a period of discontinuance;
- 4: Set out the criteria under which allowable development or operational activities within the overlay district may be modified or expanded; and
- 5: Protect lots and uses adjacent to the overlay from incompatible forms of development.

B: APPLICABILITY

The standards in this section shall apply only to the following sites and operations:

1: ECHO MOUNTAIN INN

The lot and traditional operations in place prior to August 18, 2021, located at 2849 Laurel Park Highway (Henderson County PIN 9558658002);

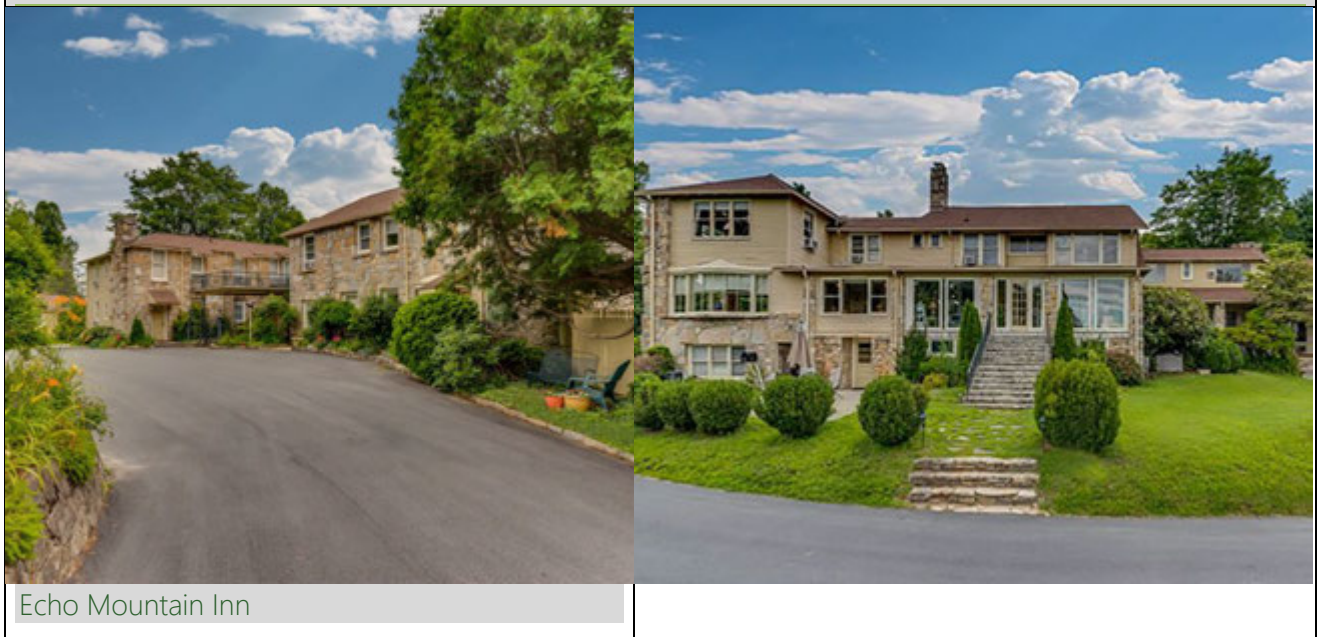
2: POPLAR LODGE

The lot and traditional operations in place prior to August 18, 2021, located at 2550 Hebron Road (Henderson County PIN 9558459457); and

3: HENDERSONVILLE COUNTRY CLUB

The lots and traditional operations in place prior to August 18, 2021, located at 1860 Hebron Road (Henderson County PIN 9568037844, 9568147129, 9568147554, 9568240228, 9568149323, 9568144482, 9558842133).

FIGURE 2.12.1.B: DEVELOPMENT WITHIN THE SBO DISTRICT



Echo Mountain Inn

FIGURE 2.12.1.B: DEVELOPMENT WITHIN THE SBO DISTRICT



Poplar Lodge



Hendersonville Country Club



C: ESTABLISHMENT AND MODIFICATION OF BOUNDARIES

- 1: The boundaries of the SBO may only be changed through an amendment to the Official Zoning Map in accordance with Section 6.3.15: Rezoning, initiated by the Town Council.
- 2: Only the owner of a lot within the SBO may apply for an amendment to the Official Zoning Map to remove the SBO designation from the lot. Revisions to the underlying zoning district classification of a lot in the SBO shall not affect the lot’s SBO classification.
- 3: In no instance shall the SBO be expanded without due consideration of the matter by the Town’s Planning Board and Town Council via a small area plan or amendment to the Town’s adopted policy guidance and amendment of this Ordinance.

D: ALLOWABLE USES AND OPERATIONS

Use types, operations, and activities on lots within the SBO on August 18, 2021, shall be subject to the following standards:

1: CONTINUATION

Lawfully established use types and existing operations or business activities underway on August 18, 2021, on a lot in the SBO may continue regardless of whether the use type, existing operation, or business activity is permitted within the underlying zoning district classification.

2: EXTENSION OR ENLARGEMENT

- a:** Extension or enlargement of a lawfully established use type, existing operation, or business activity beyond that existing on August 18, 2021, that is not allowed in an underlying zoning district may only be permitted subject to the requirements in [Section 6.3.17: Special Use Permit](#).
- b:** In no instance shall an extension or enlargement take place beyond the boundaries of the lot where located as it existed upon August 18, 2021.

3: CONVERSION

- a:** A lawfully established use type, operation, or business activity may be converted to an identical or similar use type, operation, or business activity on a lot in the SBO subject to the standards in [Section 6.3.22: Zoning Compliance Permit](#). Determination of identical or similar shall be within the sole discretion of the Town Manager.
- b:** Conversion of a lawfully established use type, operation, or business activity to one that is not identical or similar, as determined by the Town Manager, may only be permitted subject to the requirements in [Section 6.3.17: Special Use Permit](#).
- c:** Nothing shall limit the conversion of a lawfully established use type, operation, or business activity to another use type, operation, or business activity that is permitted in the underlying zoning district, provided the converted use type, operation, or business activity is established in accordance with the applicable requirements in this Ordinance.

4: REPLACEMENT AFTER DISCONTINUANCE OR CASUALTY DAMAGE

- a:** Nothing shall limit the re-establishment of a pre-existing use type, operation, or business activity that does not conform to the underlying zoning district requirements on a lot in the SBO, provided the re-established use type, operation, or business activity is identical or similar (in the sole discretion of the Town Manager) to the one discontinued.
- b:** In the event of casualty damage, it shall not be necessary for the re-established use type, operation, or business activity to be located in the exact same location or the exact same configuration as existed prior to casualty damage. Nothing shall prevent the Town Manager from determining a proposed re-establishment application rises to the level of a conversion subject to the requirements in [Section 6.3.17: Special Use Permit](#).

E: DIMENSIONAL REQUIREMENTS

1: NEW DEVELOPMENT

New development on lots within the SBO shall comply with all applicable dimensional requirements in the underlying zoning district where located.

2: PRIOR EXISTING DEVELOPMENT

Lawfully established development existing prior to August 18, 2021, located on a lot in the SBO shall conform with the applicable dimensional requirements in the underlying zoning district where located, to the maximum extent practicable. Development that increases the amount of nonconformance with an existing applicable dimensional requirement shall be subject to [Section 6.3.20: Variance](#).

F: USE-SPECIFIC STANDARDS

Development on lots in the SBO shall comply with all applicable use-specific standards in [Section 4.4: Use-Specific Standards](#), unless compliance results in modifications that run counter to the purpose and intent of this section in the opinion of the Town Manager.

G: DEVELOPMENT STANDARDS

1: STEEP SLOPE REQUIREMENTS

Development on lots with steep slopes or very steep slopes shall comply with the standards in Section 3.1: Sites with Slopes or Geologic Hazards.

2: TREE PROTECTION

Development in the SBO shall be subject to the standards in Section 3.4: Tree Protection.

3: LANDSCAPING

Use types, operations, and activities on lots in the SBO that do not conform with the underlying zoning district requirements shall be subject to the streetscape buffer, perimeter buffer, and parking lot landscaping requirements applied to development within the Mountainside Mixed-Use District, regardless of the applicable underlying zoning district where the lot is located.

4: OFF-STREET PARKING

Use types, operations, and business activities on lots in the SBO shall be subject to the applicable off-street parking and loading requirements. In no instance shall more than 150 percent of the minimum number of required off-street parking spaces be provided on lots with use types, operations, or activities that do not conform with the underlying zoning district requirements.

5: DESIGN STANDARDS

Development, redevelopment, or reconstruction following casualty damage on lots within the SBO are not subject to design standards in this Ordinance but shall maintain a complimentary general configuration that is consistent with pre-existing development. For the purposes of this section, "complimentary" shall apply to proposed exterior materials, building height, roof pitch, and general size.

6: LIGHTING

All exterior lighting serving use types, operation, and activities in the SBO that do not conform with the underlying zoning district requirements shall comply with the standards for non-residential development in Section 7.2: Exterior Lighting.

7: SIGNAGE

Signage on lots within the SBO shall be limited to the signage types and maximum sizes applicable within the Mountainside Mixed-Use (MM) district, except that no signage shall be internally illuminated, and no sign shall extend more than eight feet above the adjacent grade around the base of the sign.

2.12.2: WATERSHED PROTECTION OVERLAY (WPO) DISTRICT

It is the purpose of these standards, as adopted on January 30, 1997, and hereafter amended, to implement the provisions of the Water Supply Watershed Protection Act (N.C.G.S. 143-214.5) within the zoning jurisdiction of Laurel Park. The provisions of this section shall apply to all lands located within the designated water supply watershed shown on the Official Zoning Map and shall be in addition to all other requirements of this Ordinance.

A: WS-IV WATERSHED AREAS – PROTECTED AREA (WS-IV-PA)

In order to accommodate moderate-to-high land use intensity, single family residential uses shall develop at a maximum of two dwelling units per acre. All other residential development shall be allowed at a maximum of 24 percent built-upon area. A maximum of 36 percent built-upon area is allowed for projects without a curb and gutter street system.

1: USES ALLOWED

Only the following uses shall be allowed within the WPO:

- a:** Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990;
- b:** Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209); and
- c:** Residential development.

2: DENSITY AND BUILT-UPON LIMITS**a: SINGLE-FAMILY DETACHED RESIDENTIAL**

- i:** Development shall not exceed two dwelling units per acre, as defined on a project-by-project basis.
- ii:** No residential lot shall be less than one-half acre or 20,000 square feet, excluding road right-of-way.

b: ALL OTHER FORMS OF RESIDENTIAL DEVELOPMENT

- i:** Except for development constructed without curb and gutter, development shall not exceed a 24 percent built-upon area on a project-by-project basis.
- ii:** For projects without curb and gutter, development shall not exceed 36 percent built-upon area on a project-by-project basis.
- iii:** For the purpose of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed.

3: CLUSTER DEVELOPMENT

Cluster development for single-family detached residential development is allowed on a project-by-project basis in the WPO under the following conditions:

- a:** Minimum lot sizes are not applicable to cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single-family detached developments in the underlying conventional or planned development zoning district.
- b:** Density or built-upon area for the project shall not exceed that allowed for the critical area or balance of watershed, whichever applies.
- c:** All built-upon areas shall be designed and located to minimize stormwater runoff impact to the receiving waters and to minimize concentrated stormwater flow.
- d:** The remainder of the tract outside built-upon areas shall remain in a vegetated or natural state. The title to the open space area shall be conveyed to an incorporated homeowners' association for management, to a local government for preservation as a park or open space, or to a conservation

organization for preservation in a permanent easement. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.

4: PLANNED DEVELOPMENT

Planned developments that do not exceed the applicable low-density requirements must meet the following criteria:

- a: Buffers shall meet the minimum statewide water supply watershed protection requirements.
- b: Stormwater runoff shall be transported primarily by vegetated conveyances. Conveyance systems shall not include a discrete stormwater collection system as defined in 15A NCAC 2B .0202, except that curb outlet systems will be allowed as described in 15A NCAC 2H .1000.
- c: In reviewing and approving a master plan for a planned development, the Planning Board shall have the option of determining built-upon area for the entire development or for each type of land use within the development. The Planning Board may require additional stormwater controls on a case-by-case basis if it determines that:
 - i: Areas of concentrated development are located such that stormwater flows and stormwater impacts to receiving waters are not minimized;
 - ii: Sheet flow through vegetated areas is not maximized;
 - iii: The flow length through vegetated areas is not maximized; or
 - iv: Areas of concentrated development are not located in upland areas and away, to the maximum extent practicable, from surface waters and drainageways.

B: BUFFER AREAS REQUIRED

- 1: A minimum 30-foot vegetative buffer for development activities is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by Town studies. Desirable artificial streambank or shoreline stabilization is permitted.
- 2: No new development is allowed in the buffer except for water dependent structures or other structures such as flag poles, signs, and security lights which result in only minimal increases in impervious area, and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters, and maximize the utilization of stormwater Best Management Practices.

C: RULES GOVERNING THE DETERMINATION OF WATERSHED AREA BOUNDARIES

Where uncertainty exists as to the boundaries of the watershed areas, as shown on the Official Zoning Map, the following rules shall apply:

- 1: Where area boundaries are indicated as approximately following either street, alley, railroad, or highway lines or centerlines thereof, such lines shall be construed to be said boundaries.
- 2: Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. However, a surveyed plat prepared by a registered land surveyor may be submitted to the Town as evidence that one or more properties along these boundaries do not lie within the watershed area.
- 3: Where the watershed area boundaries lie at a scaled distance more than 25 feet from any parallel lot line, the location of watershed area boundaries shall be determined by use of the scale appearing on the watershed map.
- 4: Where the watershed area boundaries lie at a scaled distance of 25 feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.
- 5: Where other uncertainty exists, the Watershed Manager shall determine the location of such boundaries. This decision may be appealed to the Board of Adjustment.

D: APPLICATION OF REGULATIONS

- 1: No building or land shall hereafter be used and no development shall take place except in conformity with the regulations herein specified for the watershed area in which it is located.
- 2: No area required for the purpose of complying with the provisions of this Ordinance shall be included in the area required for another building.
- 3: If a use type is not specifically indicated as being allowed in the WPO, such use type may be prohibited by the Town following consideration in accordance with Section 4.1.4: Procedure for Classification of Unlisted Use Types.

E: EXISTING DEVELOPMENT

Existing development as defined in this Ordinance, may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing development must meet the requirements of this Ordinance, however, the built-upon area of the existing development is not required to be included in the built-upon area calculations.

F: USES OF LAND

This category consists of uses existing at the time of adoption of this Ordinance where such use of the land is not permitted to be established hereafter in the watershed area in which it is located. Such uses may be continued except as follows:

- 1: When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.
- 2: Such use of land shall be changed only to an allowed use.
- 3: When such use ceases for a period of at least one year, it shall not be reestablished.

G: RECONSTRUCTION OF BUILDINGS OR BUILT-UPON AREAS

Any existing building or built-upon area not in conformance with the restrictions of this Ordinance that has been damaged or removed may be repaired and/or reconstructed, except that there are no restrictions on single-family detached residential development, provided:

- 1: Repair or reconstruction is initiated within 12 months and completed within two years of such damage.
- 2: The total amount of space devoted to built-upon area may not be increased unless stormwater control that equals or exceeds the previous development is provided.

H: PUBLIC HEALTH

No activity, situation, structure, or land use shall be allowed within the watershed which poses a threat to water quality or to public health, safety, or welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash, or other refuse within a buffer area; the improper management of stormwater runoff; or any other situation found to pose a threat to water quality.

I: ABATEMENT

The Watershed Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality. Where the Watershed Administrator finds a threat to water quality and the public health, safety, and welfare, the Watershed Administrator shall institute any appropriate action or proceeding to restrain, correct, or abate the condition and/or violation.

J: APPEAL FROM THE WATERSHED ADMINISTRATOR

Any order, requirement, decision, or determination made by the Watershed Administrator may be appealed to and decided by the Board of Adjustment in accordance with Section 6.3.3: Appeal.

K: CHANGES AND AMENDMENTS TO THE WATERSHED PROTECTION ORDINANCE

- 1: The Town Council may, on its own motion or on petition, amend, supplement, change, or modify the watershed regulations and restrictions in accordance with Section 6.3.19: Text Amendment, or Section 6.3.15: Rezoning.
- 2: Under no circumstances shall the Town Council adopt such amendments, supplements, or changes that would cause this Ordinance to violate the watershed protection rules as adopted by the N.C. Environmental Management Commission. All amendments must be filed with the N.C. Division of Environmental Management, N.C. Division of Environmental Health, and the N.C. Division of Community Assistance.

L: VARIANCE FROM WATERSHED STANDARDS**1: APPLICATIONS**

Applications for a variance shall be made on the proper form obtainable from the Watershed Administrator and shall include the following information:

- a: A site plan, drawn to a scale of adequate size, indicating the property lines of the parcel upon which the use is proposed, any existing or proposed structures, parking areas and other built-upon areas, and surface water drainage. The site plan shall be neatly drawn and indicate a North arrow, the name and address of person who prepared the plan, the date of the original drawing, and an accurate record of any later revisions.
- b: A complete and detailed description of the proposed variance together with any other pertinent information which the applicant feels would be helpful to the Watershed Review Board in considering the application.

2: LOCAL GOVERNMENT NOTIFICATION

The Watershed Administrator shall notify in writing each local government having jurisdiction in the watershed and any entity using the water supply for consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Watershed Review Board. Such comments shall become a part of the record of proceedings of the Watershed Review Board.

3: WATERSHED REVIEW BOARD FINDINGS

Before the Watershed Review Board may grant a variance, it shall make the following three findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based:

- a: There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five following conditions exist:
 - i: If applicant complies with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, applicant's property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the Ordinance that will make possible the reasonable use of his property.
 - ii: The hardship results from the application of the Ordinance to the property rather than from other factors such as deed restrictions or other hardship.

3: ENVIRONMENT

3.1: Sites with Slopes or Geologic Hazards.....78

3.2: Soil Erosion and Sedimentation Control.....87

3.3: Stormwater87

3.4: Tree Protection.....98

3.1: SITES WITH SLOPES OR GEOLOGIC HAZARDS

3.1.1: RATIONALE

The Town of Laurel Park is a community located primarily upon Echo Mountain and Jump Off Mountain. The terrain of the community is highly varied with ridgelines, steep slopes, geologic hazards, valleys, and riparian areas that transect the community. The microclimate, soil conditions, and variations in terrain found in mountainous areas can contribute to high velocity stormwater runoff, soil subsidence, and accretion of sediment and vegetated material that can exacerbate flooding conditions in lower elevations. These factors have deleterious effects on public safety, the functioning of public infrastructure, and private investment. As a result, the Town Council finds that it is necessary and in the public interest to adopt development regulations that consider the sensitive nature of the terrain and that establish higher standards of review for lands with steep slopes and geologic hazards. These development regulations are considered to be the minimum standards necessary in order to preserve the health, safety, and welfare of the citizens of Laurel Park.

3.1.2: PURPOSE AND INTENT

A: These standards are proposed to regulate the development of land with steep and very steep slopes or geologic hazards in order to preserve the health, safety, and general welfare of the citizens of Laurel Park. The standards are intended to ensure that development located on a lot or site with steep slopes or geologic hazards does not result in:

- 1: The slumping, sliding, or washing of land to downslope areas;
- 2: Landslides or debris flow to adjacent lands or public infrastructure;
- 3: Loss of life, injury, or property damage, including to public infrastructure and utilities;
- 4: Accelerated erosion or sedimentation resulting in decreased water quality, watercourse alteration, or off-site flooding;
- 5: Loss of living tree cover or vegetation, accumulation of deadfall, and accelerated risk of forest fire; and
- 6: Increasing maintenance costs of public infrastructure and improvements.

(AMENDED 12-15-22 UDOTA 3-22)

B: The standards are also intended to require sites with steep and very steep slopes or geologic hazards to disperse stormwater runoff from the development sites unless such dispersal could increase the possibility of landslide hazards on the site.

(AMENDED 12-15-22 UDOTA 3-22)

C: In cases where a geo-technical evaluation determines that landslide hazards or soil instability are likely because of stormwater dispersal, then development on the site shall include stormwater control measures that retain a portion of the stormwater falling onto or washing into a site, limit the infiltration of stormwater into surrounding the soil, and release it in a gradual manner at a non-erosive velocity.

(AMENDED 12-15-22 UDOTA 3-22)

D: These standards are included in the Ordinance in recognition of and in response to the increased amount of average rainfall occurring in Laurel Park relative to the State average.

(AMENDED 05-17-22 UDOTA1-22; 12-15-22 UDOTA 3-22)

E: Establishment of open space set-asides in unbuildable areas with geologic hazards, steep slopes, or very steep slopes is strongly encouraged.

3.1.3: SLOPES DISTINGUISHED

All lands within the Town's planning jurisdiction are classified into one of the four categories identified in [Table 3.1.3: Slopes Distinguished](#):

TABLE 3.1.3: SLOPES DISTINGUISHED

DESCRIPTION OF SITE CONDITIONS	IDENTIFICATION TERM USED IN THIS ORDINANCE
Lots or tracts having slopes of less than 15 percent without geologic hazards	Low Slope
Lots or tracts having with slopes of less than 15 percent with geologic hazards present	Geologic Hazard
Lots or tracts having slopes that range from 15 percent to 25 percent, with or without geologic hazards present	Steep Slope
Lots or tracts having slopes in excess of 25 percent, with or without geologic hazards present	Very Steep Slope

3.1.4: APPLICABILITY

The standards in this section shall apply to all lots or tracts with geologic hazards present as well as to lots or tracts with steep or very steep slopes on any portion of the lot or tract, whether such slopes existed prior to or after land-disturbing activity or grading.

3.1.5: STANDARDS

Land or development subject to these standards shall comply with the following:

A: PRE-DEVELOPMENT INVESTIGATION REQUIRED

- 1: Whenever new development is proposed which involves land disturbing activity on land subject to these standards, or if geological hazard indicators are observed on the land which will be disturbed by the development, the applicant shall provide investigation(s) documents prepared by a North Carolina licensed geologist or professional engineer licensed by the State, as appropriate, as part of the development application materials.
- 2: Investigation documents shall include an analysis and conclusion about the likelihood of landslide hazards or soil instability because of utilization of typical stormwater dispersal measures such as disconnected downspouts, level spreaders, or similar techniques for disbursing stormwater across a development site.
(AMENDED 12-15-22 UDOTA 3-22)
- 3: Applications for development proposed on lands with very steep slopes must be accompanied by a site-specific geologic analysis of the very steep slope portion of the site to be disturbed by the proposed development plan, paid for by the applicant, and conducted by a North Carolina licensed geologist, to determine whether that plan can be developed on the site without jeopardizing slope stability on the site itself or on properties surrounding the site.
- 4: If the property is determined to be safe for development and requires no remedial measures, no further studies are required.
- 5: The Town shall have the option to employ or contract with an independent North Carolina licensed geologist or professional engineer to evaluate plans for development as necessary, whether such development is on a very steep slope, on a steep slope, or when the Town Manager believes that the development presents geological hazards or geological hazard indicators which have not been adequately investigated by the applicant.

B: REQUIREMENTS FOR REMEDIATION

- 1: If the property is determined to be safe for development but requires remedial measures to ensure slope stability, a North Carolina professional engineer competent in geotechnical engineering must prepare

and seal a plan that will preserve slope stability on the site during and after the completion of grading and construction for the site.

- 2: Such plans shall also address slope stability during and after the completion of grading and construction for surrounding properties, to the extent that the contemplated development activities affect surrounding properties.
- 3: Following the completion of grading and construction activities on the site, a North Carolina professional engineer shall provide a report certifying that the features and techniques employed to preserve slope stability are completed in accordance with the approved plans and the applicable requirements of this section.
- 4: If the property is determined to be safe for development but that landslide hazards or soil instability may result from use of stormwater dispersal techniques, the application for development shall be prepared in accordance with the standards in Section 3.1.5:D: Requirements for Retention of Stormwater.

(AMENDED 12-15-22 UDOTA 3-22)

C: REQUIREMENTS FOR DISPERSAL OF STORMWATER

(AMENDED 12-15-22 UDOTA 3-22)

1: GENERALLY

- a: Except on sites where landslide hazards or soil instability may result from stormwater dispersal, development subject to the standards in this section shall incorporate stormwater control measures that effectively disperse stormwater that falls on or flows through the development site in accordance with the standards in this section.
- b: In cases of sites where landslide hazards or soil instability may result from stormwater dispersal, development shall not include methods of stormwater dispersal and shall comply with the standards in Section 3.1.5:D: Requirements for Retention of Stormwater.

2: DISPERSAL DEFINED

Stormwater dispersal is the practice of directing stormwater runoff from built-upon areas of impervious surface (e.g., rooftops, driveways, patios, etc.) to multiple, different areas of vegetated pervious surface located throughout a development site. Instead of collecting stormwater and discharging it at concentrated volumes to one or two off-site points, rainwater is directed to numerous different on-site locations where it is encouraged to infiltrate into the soil.

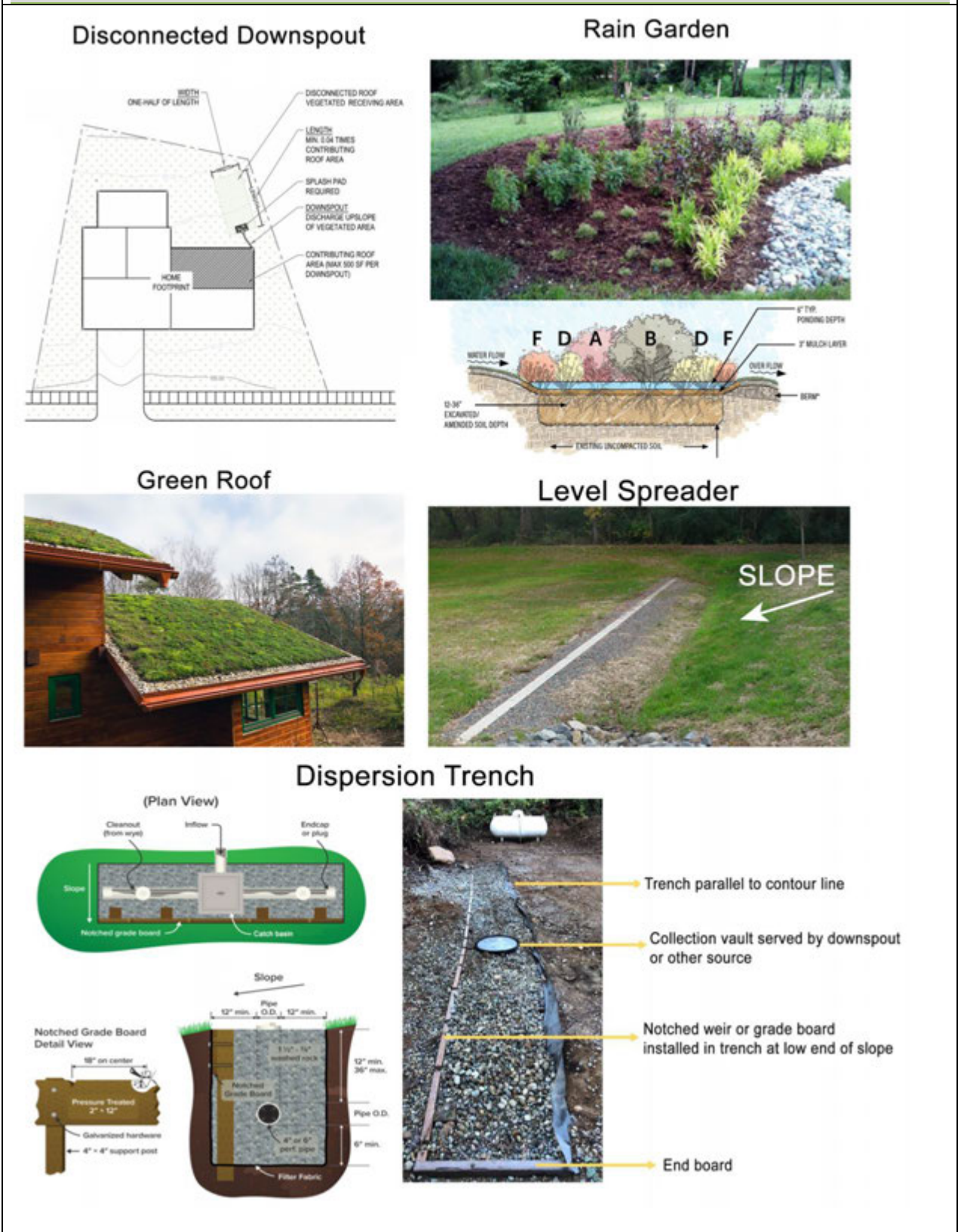
3: ALLOWABLE METHODS

Allowable methods of stormwater dispersal include, but are not limited to the following (see Figure 3.1.5.A, Dispersal Techniques):

- a: Disconnected downspouts located in logical dispersed locations around a structure, such as adjacent to structural corners, that drain to flat or relatively flat vegetated areas of a site;
- b: Use of green roofs that retain stormwater;
- c: Use of rain gardens, bio-retention cells, dry wells, or planting beds located at strategic points of stormwater flow;
- d: Use of pervious paving or pavers;
- e: Avoiding impervious edging along a paved surface that will channel stormwater runoff to a single point;
- f: Use of rainwater harvesting devices like cisterns or rain barrels that capture rainwater for subsequent and directed hand watering;
- g: Dispersion trenches of two-to-three feet in depth filled with crushed stone and a notched weir or spreader board on the downslope side of the trench;
- h: Level spreaders intended to facilitate localized sheet flow of rainwater runoff across a site; and

- i: Other techniques as approved by the Planning Board during the site plan review.

FIGURE 3.1.5.A: DISPERSAL TECHNIQUES



4: PROHIBITED METHODS

The following stormwater control measures or configurations are prohibited on sites utilizing a dispersed approach to stormwater management:

- a: Configuring the site in such a way as to result in a single point of concentrated stormwater discharge onto adjacent lots or public street rights-of-way (nothing shall prohibit the dispersed sheet flow of stormwater runoff into a public right-of-way or adjacent lot);
- b: Connection or consolidation of gutters and downspouts in a manner that drains more than 500 square feet of roof area through a single downspout;
- c: Inclusion of impervious edging or curbing along driveways or paved areas that has the effect of channeling stormwater to one or two exit points; or
- d: Directing stormwater runoff into an on-site or public wastewater system.

5: NON-EROSIVE VELOCITY REQUIRED

The site and all stormwater control measures shall be configured to ensure that any stormwater exiting a site exits at a non-erosive velocity. "Non-erosive velocity" is defined as the maximum allowable flow rate of stormwater, usually measured in feet per second, that can be accommodated without resulting in erosion, sedimentation, or damage to vegetation, including ground cover.

6: TIMING OF REVIEW

Review for compliance with these standards shall take place as part of site plan review in accordance with Section 6.3.16: Site Plan.

D: REQUIREMENTS FOR RETENTION OF STORMWATER

(AMENDED 12-15-22 UDOTA 3-22)

Development sites where the required pre-development investigation reveals that landslide hazards or soil instability may result from the use of stormwater dispersal measures shall include measures to retain stormwater in accordance with this sub-section.

1: STORMWATER MANAGEMENT PLAN REQUIRED

- a: Prior to any land disturbing activities, development shall be the subject of a stormwater management plan prepared in accordance with the NC Department of Environmental Quality's Stormwater Best Management Practice Manual.
- b: The stormwater management plan and associated stormwater control measures designed to implement the plan shall be designed and sealed by a professional engineer or professional landscape architect licensed to practice in the State of North Carolina.

2: STORMWATER RUNOFF TREATMENT REQUIREMENTS

- a: The required stormwater management plan shall identify the minimum number and configuration of stormwater control measures necessary to achieve runoff treatment with a required storm depth of one-and-one-nineteen hundredths of an inch (1.19") of stormwater regardless of the type of design storm or duration of the storm event. "Runoff treatment" is defined as a condition where the volume of stormwater runoff generated from all of the built-upon area of a project at build-out during a storm of the required storm depth is treated in one or more primary stormwater control measures or a combination of Primary and Secondary stormwater control measures that provides equal or better treatment.
- b: Applicants may design the proposed development to achieve runoff volume match instead of runoff treatment. "Runoff volume match" is defined as a condition where the annual runoff volume after development shall not be more than ten percent higher than the annual runoff volume before development.

- C:** Regardless of the design method utilized, all stormwater control measures on lots subject to these standards shall be configured to ensure that stormwater runoff leaves a site at a non-erosive velocity. "Non-erosive velocity" is defined as the maximum allowable flow rate of stormwater, usually measured in feet per second, that can be accommodated without resulting in erosion, sedimentation, or damage to vegetation, including ground cover.

3: INFILTRATION

Stormwater control measures established in accordance with these standards shall be configured to prevent or minimize stormwater infiltration into adjacent soils. Stormwater runoff collected by these measures shall be retained and gradually released at a non-erosive velocity.

4: INSPECTION REQUIRED

Installation of the stormwater control measures intended to implement the stormwater management plan shall be inspected and approved by a professional engineer or professional landscape architect or other professional licensed to practice in the State of North Carolina prior to issuance of a certificate of occupancy.

5: SUBJECT TO STORMWATER REQUIREMENTS

Sites subject to the requirement to prepare a stormwater management plan shall also be subject to all applicable provisions in [Section 3.3: Stormwater](#).

E: ADDITIONS AND EXPANSIONS

1: GENERALLY

(AMENDED 12-15-22 UDOTA 3-22)

Additions and expansions of 144 square feet of impervious surface or less to an existing lawfully-established structure or development site as it existed on June 15, 2021, shall be permitted without a requirement to prepare a pre-development investigation study or revise an existing stormwater management plan. All other additions or expansions shall be subject to the standards in this sub-section.

2: ON SITES SUBJECT TO PRIOR PRE-DEVELOPMENT INVESTIGATION STUDY

(AMENDED 12-15-22 UDOTA 3-22)

Any additions or expansions of more than 144 square feet of floor area or impervious surface to a site subject to a pre-development investigation study that resulted in the need to prepare a stormwater management plan shall revise the stormwater management plan to incorporate the proposed addition or expansion.

3: ON SITES NOT SUBJECT TO A PRIOR PRE-DEVELOPMENT INVESTIGATION STUDY

(AMENDED 12-15-22 UDOTA 3-22)

a: Additions or expansions of more than 144 square feet of floor area or impervious surface to an existing, lawfully-established structure or site subject to these standards that is not already subject to a pre-development investigation study as required by [Section 3.1.5:A: Pre-Development Investigation Required](#), shall secure such an investigation study prior to an approval of an addition or expansion of floor area or impervious surface.

b: Development on a site subject to these standards shall be subject to the recommendations of the pre-development investigation study.

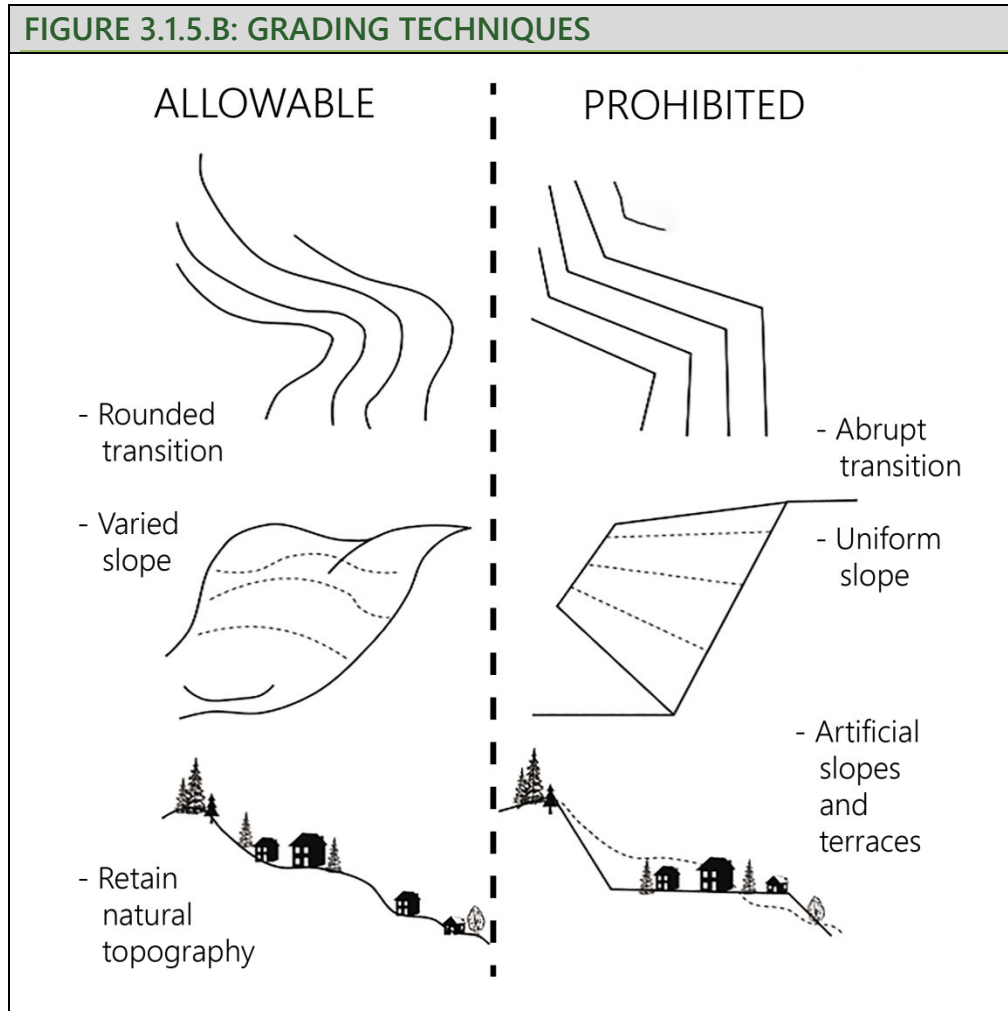
F: REQUIREMENTS FOR SEDIMENTATION AND EROSION CONTROL

Development subject to the standards in this section shall comply with all applicable Henderson County requirements for soil erosion and sedimentation control plans.

G: ALLOWABLE METHODS OF GRADING

In cases where grading is proposed on a lot or tract subject to these standards, grading shall utilize rounded transitions and varied slopes with the minimal amount of disruption to pre-construction grades (see Figure 3.1.5.B: Grading Techniques).

(AMENDED 12-15-22 UDOTA 3-22)



H: CONSTRUCTION ON FILL PROHIBITED

- 1: No habitable principal or accessory structure shall be built upon fill located on a lot subject to these standards.
- 2: Where outdoor spaces such as decks, patios, and driveways are to be constructed, such structures may be constructed on filled-in land.

I: POST-CONSTRUCTION SOIL STABILIZATION REQUIRED

- 1: All areas of disturbance not covered by a structure shall be covered with permanent vegetation.
- 2: In no instance shall areas of disturbance be covered by materials such as crushed stone or mulch.
- 3: Where a professional engineer determines that materials such as riprap must be used, such materials shall be approved by the Town Manager prior to installation.

J: REQUIREMENTS FOR RIPARIAN FEATURES

- 1: To prevent debris flow, development and damage to slope stability in areas adjacent to perennial streams, removal of trees, vegetation, soils, or disturbance of soils within 35 feet of the top of a stream bank is prohibited except when required for vehicular or pedestrian access to the site or in cases where necessary for the extension of utilities to serve the principal use of the site.
- 2: No diversion or channelization of perennial streams in areas with steep or very steep slopes shall be permitted.
- 3: Culverting of perennial streams is strongly discouraged and shall only be permitted where necessary for site access and pedestrian circulation.

K: COMPLIANCE WITH STANDARDS FOR TREE PROTECTION

All development subject to these standards shall also be subject to the standards in [Section 3.4: Tree Protection](#).

L: EROSION AND SEDIMENTATION CONTROL REQUIREMENTS

(AMENDED 12-15-22 UDOTA 3-22)

All new development and the addition of more than 144 square feet of floor area or impervious surface beyond that existing on June 15, 2021, on lots subject to these standards, shall address erosion and sedimentation controls in accordance with the requirements in this sub-section.

1: MINIMUM REQUIREMENT

Land disturbance and development activity shall take place in accordance with the latest version of the North Carolina Department of Environmental Quality's Erosion and Sediment Control Design Manual, which may be obtained from the Energy, Mineral, and Land Resources Division's portion of the NCDEQ website. At a minimum, such requirements include the establishment of siltation fencing around the perimeter of land disturbance, a silt fence outlet designed to allow stormwater to exit the site without suspended sediment, and inclusion of a temporary gravel construction entrance if the site does not already have a permanent accessway.

2: LOCATION OF SILTATION FENCING

Siltation fencing, configured in accordance with Erosion and Sediment Control Design Manual standards, shall not be placed within proposed tree protection or tree retention areas, and instead shall be located between the tree protection or retention area and the area of land disturbance or development activity.

3: DURATION

- a: Siltation fencing shall be established prior to any land disturbance.
- b: Siltation fencing, configured in accordance with these standards shall remain in place until after issuance of a certificate of occupancy, or after issuance of a zoning compliance permit in cases where a certificate of occupancy is not issued.

4: INSPECTION

The Town may inspect development sites or required siltation fences on development sites subject to these standards at any time during the construction process. Failure to permit inspection of required siltation fencing by authorized Town personnel shall be a violation of this Ordinance.

5: MAINTENANCE AND REPAIR

Siltation fencing shall be configured and maintained in accordance with these standards for the duration of the construction process.

6: FAILURE TO COMPLY

Failure to install or maintain siltation fencing, or removal of required siltation fencing prior to final development approval shall be a violation of this Ordinance.

7: APPLIED IN ADDITION TO OTHER EROSION CONTROL REQUIREMENTS

Development subject to these standards shall also comply with the standards in Section 3.2: Soil Erosion and Sedimentation Control. In the event of conflict between the standards in this sub-section and the standards in Section 3.2, the standards in Section 3.2 shall control.

M: ON-SITE WASTEWATER TREATMENT FACILITIES

- 1: Applications for development subject to these standards shall be supplemented with documentation demonstrating the proposed location of all on-site wastewater treatment systems, including septic tanks, drain fields, and any related appurtenances.
- 2: Development subject to these standards served by on-site wastewater systems shall designate a back-up or reserve area where a replacement or enhanced drain field may be accommodated if the primary drain field fails or requires augmentation.
- 3: All plans for remediation or maintenance of slope stability shall identify the location of all on-site wastewater systems and reserve areas and ensure these features are properly addressed by remediation or slope stability maintenance features.
- 4: The Henderson County Department of Public Health will evaluate the placement, design, installation and maintenance of subsurface sewage disposal and will issue a permit prior to the start of any construction.

3.2: SOIL EROSION AND SEDIMENTATION CONTROL

3.2.1: GENERALLY

All land disturbing activities in the Town of Laurel Park shall comply with the Henderson County Soil Erosion and Sedimentation Control Ordinance, codified as Article 8, Subpart E of Chapter 42 of the Henderson County Code of Ordinances, as amended, and the following:

3.2.2: Henderson County shall enforce all soil erosion and sedimentation control regulations.

3.2.3: Henderson County shall determine which law to follow where there is conflict with another law.

3.2.4: Appeals under the County Ordinance shall be heard by the appropriate County appellate board.

3.2.5: Any criminal or civil penalties or injunctive relief under the soil erosion and sedimentation provisions will be undertaken by Henderson County.

3.2.6: DEVELOPMENT ON STEEP SLOPES OR SITES WITH GEOLOGIC HAZARDS

Land disturbing activities taking place on a lot or site subject to the standards in Section 3.1: Sites with Slopes or Geologic Hazards, shall comply with the standards in this section and the standards in Section 3.1.5:L: Erosion and Sedimentation Control. In the event of conflict between these two sets of standards, the more restrictive standards shall apply. **(AMENDED 11-16-21 UDOTA1-21)**

3.2.7: WITHIN ROADSIDE SWALES AND DITCHES DURING AND AFTER LAND DISTURBANCE

- A:** New development and land disturbing activity taking place within the Town's planning jurisdiction shall ensure that no sediment or other site materials or debris collect within roadside swales and ditches adjacent to the lot or development site.
- B:** In the event new development or land disturbing activity results in the deposition or accumulation of sediment or other development-related materials within a roadside swale or ditch, the responsible party shall ensure that the roadside ditch or swale has been returned to its pre-construction or land disturbance condition along the full frontage of the lot.
- C:** Failure to remove sediment or other development or land disturbance-related debris from the full frontage of the lot or development site shall be a violation of this Ordinance.
- D:** Any repairs to a roadside swale or ditch shall be accomplished in accordance with the Town's standards.

(AMENDED 8-15-22 UDOTA 1-23)

3.3: STORMWATER

3.3.1: TITLE

These standards shall be officially known as "The Phase II Stormwater Ordinance," and shall hereinafter be referred to "these standards."

3.3.2: AUTHORITY

The Town of Laurel Park is authorized to adopt these standards pursuant to North Carolina law, including but not limited to:

- A:** Article 14, Section 5 of the Constitution of North Carolina;
- B:** The Charter of the Town of Laurel Park;
- C:** Section 143-214.7 of the North Carolina General Statutes;
- D:** All applicable rules promulgated by the North Carolina Environmental Management Commission;
- E:** Session Law 2004-163;
- F:** Session Law 2006-246; and
- G:** Sections 160A-174 and 160A-185 of the North Carolina General Statutes.

3.3.3: FINDINGS

The Town Council establishes this set of stormwater quality and quantity regulations to meet the requirements of State and federal law regarding control of stormwater runoff and discharge based on the determination that:

- A:** 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;
- B:** These changes in stormwater runoff contribute to increased quantities of water-borne pollutants and alterations in hydrology which are harmful to public health and safety as well as to the natural environment;
- C:** Negative effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from development sites; and
- D:** Further, the Federal Water Pollution Control Act of 1972 ("Clean Water Act") and federal Phase II Stormwater Rules promulgated under it, as well as rules of the North Carolina Environmental Management Commission promulgated in response to federal Phase II requirements, compel certain urbanized areas, including the Town of Laurel Park, to adopt the minimum stormwater controls such as those included in this section.
- E:** Therefore, the Town of Laurel Park 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.

3.3.4: PURPOSE**A: GENERAL**

The purpose of these standards 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 and nonpoint and point source pollution associated with new development and redevelopment as well as 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: SPECIFIC OBJECTIVES

These standards seek to meet their general purpose through the following specific objectives:

- 1:** Establishing decision-making processes for development that protect the integrity of watersheds and preserve the health of water resources;
- 2:** Requiring that new development and redevelopment maintain the pre-development hydrologic response in the post-development state as nearly as practicable for the applicable design storm in order to reduce flooding, stream bank erosion, nonpoint and point source pollution and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats;
- 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 BMPs (referred to as Best Management Practices) that may be used to meet the minimum post-development stormwater management standards;
- 5:** Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for stormwater and the preservation of greenspace and other conservation areas to the maximum extent practicable;
- 6:** Establishing provisions for the long-term responsibility for and maintenance of structural and non-structural 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 for the assurance of long-term maintenance;
- 8: Controlling illicit discharges into the municipal separate stormwater system; and
- 9: Controlling erosion and sedimentation from construction activities.

3.3.5: APPLICABILITY AND JURISDICTION

A: GENERAL

Beginning with and subsequent to the effective date, these standards shall be applicable to all development and redevelopment, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempt pursuant to Section 3.3.5:B: Exemptions, below.

B: EXEMPTIONS

- 1: Development that cumulatively disturbs less than one acre and is not part of a larger common plan of development or sale is exempt from these standards.
- 2: Redevelopment that cumulatively disturbs less than one acre and is not part of a larger common plan of development or sale is exempt from these standards.
- 3: Development and redevelopment that disturb less than one acre are not exempt if such activities are part of a larger common plan of development or sale, even though multiple, separate, or distinct activities take place at different times on different schedules.
- 4: Activities that are exempt from permit requirements of Section 404 of the federal Clean Water Act, as specified in 40 CFR 302 (primarily, ongoing farming and forestry activities) are exempt from these standards.

C: DEVELOPMENT ON LOTS WITH SLOPES OR GEOLOGIC HAZARDS

Development subject to the standards in Section 3.1: Sites with Slopes or Geologic Hazards, shall comply with the standards in Section 3.1.5:Standards, in addition to or in lieu of these standards regardless of the amount of disturbed land area. In the case of conflict, the standards in Section 3.1.5:Standards, shall control on lots with slopes or geologic hazards.

D: NO DEVELOPMENT OR REDEVELOPMENT UNTIL COMPLIANCE AND PERMIT

No development or redevelopment shall occur except in compliance with the provisions of these standards or unless exempted. No development for which a permit is required pursuant to these standards shall occur except in compliance with the provisions, conditions, and limitations of the permit.

E: JURISDICTION

The provisions of these standards shall be applicable to all land within the corporate limits of the Town of Laurel Park, North Carolina, and within the extraterritorial jurisdiction (ETJ), as established on the map entitled "Official Zoning Map, Town of Laurel Park." The map will be kept by the Stormwater Administrator and shall be updated to take into account changes in the land area covered by these standards and the geographic location of all structural BMPs permitted under these standards. In the event of a dispute, the applicability of these standards 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.

3.3.6: EFFECTIVE DATE

The standards in this section shall become effective on August 18, 2021.

3.3.7: DETERMINATION**A: MEANING AND INTENT**

All provisions, terms, phrases, and expressions contained in these standards shall be construed according to the general and specific purposes set forth in Section 3.3.4: Purpose. If a different or more specific meaning is given for a term defined elsewhere in the UDO or the Town of Laurel Park Code of Ordinances, the meaning and application of the term in this Ordinance shall control for purposes of application of these standards.

B: TEXT CONTROLS IN EVENT OF CONFLICT

In the event of a conflict or inconsistency between the text of these standards and any heading, caption, figure, illustration, table, or map, the text shall control.

C: AUTHORITY FOR INTERPRETATION

The Stormwater Administrator has authority to determine the interpretation of these standards. Any person may request a determination by submitting a written request to the Stormwater Administrator in accordance with Section 6.3.6: Determination. The Stormwater Administrator shall keep on file a record of all written interpretations of these standards.

D: REFERENCES TO STATUTES, REGULATIONS, AND DOCUMENTS

Whenever reference is made to a resolution, ordinance, statute, regulation, manual (including the Design Manual) or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated.

E: COMPUTATION OF TIME

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the Town of Laurel Park, the deadline or required date of action shall be the next day that is not a Saturday, Sunday, or holiday observed by the Town of Laurel Park. References to days are calendar days unless otherwise stated.

F: DELEGATION OF AUTHORITY

Any act authorized by these standards to be carried out by the Stormwater Administrator of the Town of Laurel Park may be carried out by their designee.

G: USAGE**1: MANDATORY AND DISCRETIONARY TERMS**

The words "shall", "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature.

2: CONJUNCTIONS

Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The word "and" indicates that all connected items, conditions, provisions, or events apply. The word "or" indicates that one or more of the connected items, conditions, provisions, or events apply.

3: TENSE, PLURALS, AND GENDER

Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

H: MEASUREMENT AND COMPUTATION

Lot area refers to the amount of horizontal land area contained inside the lot lines of a lot or site.

3.3.8: DESIGN MANUAL

A: REFERENCE TO DESIGN MANUAL

- 1: The Stormwater Administrator shall use the policy, criteria, and information, including technical specifications and standards, in the Design Manual as the basis for decisions about stormwater permits and about the design, implementation, and performance of structural and non-structural stormwater BMPs.
- 2: The Design Manual includes a list of acceptable stormwater treatment practices, including the 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 Town’s Phase II 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 Ordinance but prior to approval, the new information shall control and shall be utilized in reviewing the application and in implementing these standards with regard to the application.

3.3.9: RELATIONSHIP TO OTHER LAW, REGULATIONS & PRIVATE AGREEMENTS

A: CONFLICT OF LAWS

These standards are not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. These requirements are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of these standards imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare, shall control.

B: PRIVATE AGREEMENTS

These standards are not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of these standards are more restrictive or impose higher standards or requirements than such easement, covenant, or other private agreement, then these requirements shall govern. Nothing in these standards shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with these standards. In no case shall the Town of Laurel Park be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

3.3.10: SEVERABILITY

If the provisions of any section, subsection, paragraph, subdivision, or clause of these standards shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of these standards.

3.3.11: EFFECTIVE DATE AND TRANSITIONAL PROVISIONS

A: FINAL APPROVALS, COMPLETE APPLICATIONS

All development and redevelopment projects for which complete and full applications were submitted and approved by the Town of Laurel Park prior to the effective date of these standards shall be exempt from complying with all the provisions dealing with the control and/or management of post-construction

stormwater run-off but shall be required to comply with all other applicable provisions, including, but not limited to, illicit discharge provisions.

B: VIOLATIONS CONTINUE

Any violation of provisions existing on the effective date of these standards shall continue to be a violation under this ordinance and be subject to penalties and enforcement under this ordinance unless the use, development, construction, or other activity complies with the provisions of these standards.

3.3.12: DEFINITIONS

Terms used in this section are defined in Section 10.3: Definitions, and are indicated with the phrase “as used in Section 3.3, Stormwater.”

3.3.13: INSPECTION PROGRAM

A: Inspections and inspection programs by the Town of Laurel Park 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 North Carolina General Statutes Section 15-27.2 or its successor. No person shall obstruct, hamper or interfere with the Stormwater Administrator while carrying out their official duties.

3.3.14: PERFORMANCE GUARANTEE FOR INSTALLATION AND MAINTENANCE MAY BE REQUIRED

The Town of Laurel Park may, at its discretion, require the submittal of a performance guarantee or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement prior to issuance of a permit in order to ensure that the structural BMPs are installed by the permit holder as required by the approved stormwater management plan, and/or maintained by the owner as required by the operation and maintenance agreement.

A: INSTALLATION

The amount of an installation performance guarantee shall be the total estimated construction cost of the BMPs approved under the permit, plus 25 percent.

B: MAINTENANCE

The amount of a maintenance performance guarantee shall be the present value of an annuity of perpetual duration based on a reasonable estimate of the annual cost of inspection, operation and maintenance of the BMPs approved under the permit, at a discount rate that reflects the Town’s cost of borrowing minus a reasonable estimate of long-term inflation.

C: USES OF PERFORMANCE GUARANTEE FORFEITURE PROVISIONS

The performance guarantee 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 these standards, approvals issued pursuant to these standards, or an operation and maintenance agreement established pursuant to these standards.

D: DEFAULT

Upon default of the owner to construct, maintain, repair and, if necessary, reconstruct any structural BMP in accordance with the applicable permit of operation and maintenance agreement, the Stormwater Administrator shall obtain and use all or any portion of the guarantee 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 of Laurel Park shall not return any of the unused deposited cash funds or other guarantee, which shall be retained for maintenance.

E: COSTS IN EXCESS OF PERFORMANCE GUARANTEE

If the Town of Laurel Park takes action upon such failure by the applicant or owner, the Town of Laurel Park may collect from the applicant or owner for the difference should the amount of the reasonable cost of such action exceed the amount of the guarantee held.

F: REFUND

Within sixty days of the final approval, the installation performance guarantee shall be refunded to the applicant or terminated, with the exception of any amount attributable to the cost (plus 25 percent) of landscaping installation and ongoing maintenance associated with the BMPs covered by the guarantee. Any such landscaping shall be inspected one year after installation with replacement for compliance with the approved plans and specifications and, if in compliance, the portion of the financial guarantee attributable to landscaping shall be released.

3.3.15: NOTICE TO OWNERS

A: DEED RECORDATION AND INDICATIONS ON PLAT

- 1: The applicable operations and maintenance agreement, conservation easement, or dedication and acceptance into public maintenance, whichever is applicable, pertaining to every structural BMP shall be referenced on the final plat and shall be recorded with the Henderson County Register of Deeds upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement, conservation easement, or dedication and acceptance into public maintenance, whichever is applicable, shall be recorded with the Henderson County Register of Deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles.
- 2: Where appropriate in the determination of the Stormwater Administrator to assure compliance with these standards, structural BMPs 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.

3.3.16: NUISANCE

The owner of each stormwater BMP shall maintain it so as not to create or result in a nuisance condition, whether structural or non-structural BMP.

3.3.17: ENFORCEMENT AND VIOLATIONS

A: AUTHORITY TO ENFORCE

The provisions of these standards shall be enforced by the Stormwater Administrator, or a designee, or any authorized agent of the Town of Laurel Park. Whenever this section refers to the Stormwater Administrator, it includes a designee as well as any authorized agent of the Town of Laurel Park.

B: VIOLATION UNLAWFUL

Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by these standards, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to these standards, 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, practice, or condition in violation of

these standards 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 these standards, or fails to take appropriate action, so that a violation of these standards 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 these standards, 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 these standards, or fails to take appropriate action, so that a violation of these standards results or persists.

b: PERSON WHO HAS RESPONSIBILITY FOR LAND OR USE OF LAND

The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, development or redevelopment of the property.

3.3.18: REMEDIES AND PENALTIES

The remedies and penalties provided for violations of these standards, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

A: REMEDIES

1: WITHHOLDING OF CERTIFICATE OF OCCUPANCY

The Stormwater Administrator or other authorized agent may refuse to approve a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible 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 these standards continues and remains uncorrected, the Stormwater Administrator or other authorized agent may withhold, and the Town Council of Laurel Park may disapprove, any request for permit or development approval or authorization provided for by these standards or the UDO, as appropriate, for the land on which the violation occurs.

3: INJUNCTION, ABATEMENTS

The Stormwater Administrator, with the written authorization of the Town Council, 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 these standards. Any person violating these standards shall be subject to the full range of equitable remedies provided in the North Carolina General Statutes or at common law.

4: CORRECTION AS PUBLIC HEALTH NUISANCE.

If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by North Carolina General Statutes Section 160A-193, the Stormwater Administrator, with the written authorization of the Town Council, may cause the violation to be corrected and the costs to be assessed as a lien against the property.

B: CIVIL PENALTIES

Violation of these standards may subject the violator to a civil penalty to be recovered in a civil action in the nature of a debt if the violator does not pay the penalty within 30 days after notice of the violation is issued

by the Stormwater Administrator. Civil penalties may be assessed up to the full amount of penalty to which the Town of Laurel Park is subject for violations of its Phase II Stormwater permit.

C: CRIMINAL PENALTIES

Violation of these standards may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law.

3.3.19: PROCEDURES

A: INITIATION/COMPLAINT

Whenever a violation of these standards 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 these standards.

C: NOTICE OF VIOLATION AND ORDER TO CORRECT

- 1: When the Stormwater Administrator finds that any building, structure, or land is in violation of these standards, the Stormwater Administrator shall notify, in writing, the property owner or other person violating these standards. 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 notice of violation and correction order may be delivered personally by the Stormwater Administrator, by the Town of Laurel Park Police Department for violations within the Town of Laurel Park and/or the Henderson County Sheriff's Department for violations within the Town of Laurel Park ETJ, by certified or registered mail, return receipt requested, or 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 these standards to correct and abate the violation and to ensure compliance with these standards.

D: EXTENSION OF TIME

- 1: A person who received a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the Stormwater Administrator a written request for an extension of time for correction of the violation.
- 2: On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the Stormwater Administrator may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 45 days.
- 3: The Stormwater Administrator may grant 15-day extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the person violating these standards.
- 4: 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. If the violation is not corrected, the Stormwater Administrator may act to impose one or more of the remedies and penalties authorized by these standards.

F: EMERGENCY ENFORCEMENT

If delay in correcting a violation would seriously threaten the effective enforcement of these standards 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 Ordinance.

3.3.20: ILLICIT DISCHARGES AND CONNECTIONS**A: ILLICIT DISCHARGES**

- 1: No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly to any stormwater conveyance, the waters of the State, or upon the land in a 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:
 - a: Water line flushing; landscape irrigation; diverted stream flows; rising ground waters;
 - b: Uncontaminated ground water infiltration (as defined at 40 CFR 32.2005(20)); uncontaminated pumped ground water;
 - c: Discharges from potable water sources; foundation drains;
 - d: Air conditioning condensation; irrigation water;
 - e: Springs;
 - f: Water from crawl space pumps; footing drains;
 - g: Lawn watering;
 - h: Individual residential car washing;
 - i: Flows from riparian habitats and wetlands; de-chlorinated swimming pool discharges; street wash water; and
 - j: 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 of Laurel Park.
- 2: Prohibited substances include but are not limited to: oil, anti-freeze, chemicals, animal waste, paints, garbage, and litter.

B: ILLICIT CONNECTIONS

- 1: Connections to a stormwater conveyance or stormwater conveyance system that allow the discharge of non-stormwater, other than the exclusions described in section (a) above, are unlawful. Prohibited connections include, but are not limited to: floor drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems.
- 2: Where such connections exist in violation of this section and said connections were made prior to the adoption of these standards or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove the connection within one year following the effective date of these standards. However, the 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 must be removed immediately.

- 3: 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;
- 4: 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:
 - a: The quantity and complexity of the work;
 - b: The consequences of delay;
 - c: The potential harm to the environment, to the public health, and to public and private property; and
 - d: The cost of remedying the damage.

C: SPILLS

- 1: Spills or leaks of polluting substances released, discharged to, or having the potential to be released or discharged to the stormwater conveyance system, shall be contained, controlled, collected, and disposed of properly. All affected areas shall be restored to their preexisting condition.
- 2: Persons in control of the polluting substances immediately prior to their release or discharge, and/or persons owning the property on which the substances were released or discharged, shall immediately notify the Town of Laurel Park of the release or discharge, as well as making any required notifications under State and federal law.
- 3: 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.

D: NUISANCE

Illicit discharges and illicit connections which exist within the Town of Laurel Park 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 set forth in Chapter 90 of the Town Code of Ordinances.

3.4: TREE PROTECTION

3.4.1: PURPOSE AND INTENT

The purpose for these tree protection standards 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 environmental quality, the community character, and the quality of life in Laurel Park by:

- A:** Preserving and enhancing the visual and aesthetic qualities of the Town;
- B:** Limiting the clear cutting of lots and tracts prior to and during development;
- C:** Reducing glare, dust, heat, and noise;
- D:** Maintaining and enhancing property values;
- E:** Encouraging preservation and further growth of the Town's tree canopy coverage;
- F:** Fostering continued protection of native plant species such as Rhododendron and Mountain Laurel;
- G:** Increasing slope stability and helping to control erosion and sedimentation;
- H:** Reducing excessive stormwater runoff into waterways, adjacent lots, and public infrastructure;
- I:** Preserving and enhancing water and air quality;
- J:** Conserving wildlife habitat; and
- K:** Conserving energy by moderating temperatures and reducing heating and cooling demands.

3.4.2: APPLICABILITY

- A:** The requirements and standards in this section shall apply to the following forms of development:
 - 1:** Any subdivision of land subject to the requirements of this Ordinance;
 - 2:** The establishment of a residential dwelling on a vacant, existing lot of record;
 - 3:** The replacement of a residential dwelling on an occupied, existing lot of record;
 - 4:** The construction, expansion, or replacement of a multi-family, non-residential, or mixed-use structure, including any associated accessory structures; and
 - 5:** The construction, expansion, or replacement of an open-air or outdoor use area.
- B:** Addition of impervious surface on an existing lot of record in an amount of 25 percent or more than existed prior to August 18, 2021, shall require full compliance with these standards.

3.4.3: EXEMPTIONS

The following activities and forms of development shall be exempted from the standards in this section:

- A:** The removal of trees from a lawfully established lot of record containing a single-family detached or duplex dwelling in existence prior to August 18, 2021;
- B:** The removal of dead or naturally fallen trees;
- C:** 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;
- D:** The removal of diseased trees posing a threat to adjacent healthy trees;
- E:** The removal of invasive species of trees, provided the removal results in the complete removal of the trees including roots;
- F:** The selective and limited removal of trees or vegetation necessary to obtain clear visibility within sight distance triangles;
- G:** The removal of trees that the Town Manager determines to be a hazard to traffic or that interfere with the provision of utility lines or public services;
- H:** The removal of trees as necessary for rescue in an emergency or for clean-up following a natural disaster;

- I: The removal or replacement of trees outside of an approved tree protection area, required riparian buffer, a required landscaping area, or a tree removal mitigation area; and
- J: Tree removal associated with normal forestry activity that is conducted:
 - 1: On land taxed on the basis of its present-use value as forestland pursuant to Article 12 of Chapter 105 of the North Carolina General Statutes; or
 - 2: In accordance with a forest management plan prepared or approved by a forester registered in accordance with Chapter 89B of the North Carolina General Statutes that has been provided to the Town prior to proceeding with the forestry activity.

3.4.4: LIMITATION ON DEVELOPMENT PROPOSALS FOLLOWING CLEAR CUTTING

A: GENERALLY

- 1: Clear cutting of a lot or tract subject to this Ordinance in a manner not consistent with the requirements of Section 3.4.5: Tree Canopy Retention, is prohibited and shall be subject to the requirements of this subsection.
- 2: For the purposes of these standards, "clear cutting" shall be defined as any activity that results in the removal of 75 percent or more of the tree canopy coverage over a lot or tract from existing trees that meet or exceed the minimum size at time of planting requirements in this Ordinance.

B: DELAY FOLLOWING CLEAR CUTTING AS PART OF EXEMPTED FORESTRY ACTIVITY

If one of the forestry activity exemptions is used to remove all or some of the trees that would have been protected by this section, no application for a rezoning, planned development, special use permit, subdivision, or site plan shall be accepted for development of the land for a period of three years after completion of the forestry activity.

C: DELAY FOLLOWING CLEAR CUTTING THAT IS NOT EXEMPTED

If one of the exemptions from Section 3.4.3: Exemptions, is not met, and some or all of the trees that would have been protected by this section are removed, no application for a rezoning, planned development, special use permit, subdivision, or site plan shall be accepted for development of the land for a period of five years after completion of the tree removal.

D: ABILITY TO DEVELOP FOLLOWING MITIGATION

Delays on the acceptance of applications in accordance subsections (B) or (C) above may be reduced or removed by the Town Council following reforestation of the land in accordance with Section 3.4.9:A: Replacement Trees.

3.4.5: TREE CANOPY RETENTION OR RE-ESTABLISHMENT REQUIRED

Development subject to the standards in this section shall comply with the following tree canopy retention or re-establishment requirements:

A: MINIMUM PERCENTAGE OF EXISTING TREE CANOPY TO BE RETAINED

- 1: Existing trees shall be retained on a lot or site at a rate sufficient to ensure that at least 25 percent of the lot or total site area is covered by the existing tree canopy cover at the time of development approval.
- 2: For the purposes of this section, "existing tree canopy cover" shall mean the percentage of a lot or tract's total area located beneath the canopy (leaves or needles) of existing, healthy, non-invasive trees prior to development or land disturbing activity. The area to be occupied by required street rights-of-way, required utility easements, and water surface areas are excluded from a lot or tract's total area. Only those trees meeting or exceeding the minimum size at time of planting requirements in Section 7.4.6: Plant Material Specifications, shall be considered as part of the existing tree canopy cover.

B: MINIMUM PERCENTAGE OF TREE CANOPY TO BE RE-ESTABLISHED

- 1: As an alternative to compliance with subsection (A) above, an applicant for development subject to these standards may remove all or a portion of the existing trees on a lot or site, provided that the lot or site is replanted with replacement trees during the development process at a rate sufficient to ensure that at least 25 percent of the lot or total site area is covered by tree canopy cover at tree maturity.
- 2: The area to be occupied by required street rights-of-way, required utility easements, and water surface areas are excluded from a lot or tract's total area.
- 3: Trees planted in accordance with these standards shall be at least four inches in caliper at time of planting.
- 4: Except for trees located within parking lot landscaping islands, trees of four inches in caliper or greater that are provided in order to comply with the standards in [Section 7.4: Landscaping](#) shall be credited towards these requirements.

C: DETERMINATION OF TREE CANOPY COVER**1: EXISTING TREE CANOPY COVER TO BE RETAINED**

Compliance with the standards in [Section 3.4.5:A: Minimum Percentage of Existing Tree Canopy to be Retained](#), shall be determined in accordance with the following procedure:

- a: The extent of the existing tree canopy to be retained shall be determined in accordance with [Section 3.4.6: Existing Tree Canopy Cover Determination](#).
- b: The Town Manager may require an applicant to provide a square footage number associated with the tree canopy cover area in cases where aerial photography is used to identify the existing tree canopy coverage to be retained.
- c: The total size of the lot or area (in square feet) minus street rights-of-way, required utility easements, and water surface areas is then divided by the size of the retained tree canopy cover area.
- d: The product of the calculation shall equal or exceed 25 percent of the lot or site area. In the event the product of the calculation does not equal or exceed 25 percent of the lot or site area, then the applicant shall also be required to plant additional trees in accordance with [Section 3.4.5:B: Minimum Percentage of Tree Canopy to be Re-established](#), at the minimum rate necessary to equal or exceed 25 percent of the lot or site area.

2: TREE CANOPY COVER TO BE RE-ESTABLISHED

Compliance with the standards in [Section 3.4.5:B: Minimum Percentage of Tree Canopy to be Re-established](#), shall be determined in accordance with the following procedure:

- a: The applicant shall determine the total size of the lot or area (in square feet) minus street rights-of-way, required utility easements, and water surface areas.
- b: The total lot area shall be multiplied by 0.25 to determine the total square footage of the area to be covered by re-established tree canopy.
- c: Canopy and understory trees shall be re-planted at the rate necessary to ensure that the total crown square footage of all newly planted trees at maturity meets or exceeds the total area required to be covered by re-established tree canopy.
- d: The site plan and landscaping plan shall depict the designated area to be covered by re-established tree canopy and the approximate placement of the trees that will be utilized to establish the canopy, along with their species.
- e: Each newly planted tree shall be credited towards the total re-established tree canopy cover in accordance with the following table:

TABLE 3.4.5: RE-ESTABLISHED CANOPY COVER BY TREE TYPE

TREE SIZE	TREE TYPE	CROWN SQUARE FOOTAGE AT MATURITY (SQUARE FEET)
Canopy Tree	Deciduous	900
	Evergreen	450
Understory Tree	Deciduous	225
	Evergreen	100

D: MAINTENANCE AND PROTECTION OF TREES COMPRISING THE TREE CANOPY COVER

- 1: Trees retained or replanted in accordance with these standards shall be protected during the development process in accordance with Section 3.4.7: Tree Protection During Construction.
- 2: Damage or removal of trees required by this section shall be subject to Section 3.4.9: Remedies for Removal.

3.4.6: EXISTING TREE CANOPY COVER DETERMINATION

A: AERIAL PHOTOGRAPHY

- 1: The extent, location, and general characteristics of trees comprising a site’s existing tree canopy cover shall be determined based on the following:
 - a: The most recent aerial photography of the site, as provided by Henderson County or other recognized source;
 - b: Prior aerial photographs in cases where tree clearing has taken place prior to application submittal; and
 - c: A diagram showing the site boundaries and the outer extent of the dripline of trees comprising the existing tree canopy cover prepared by an ISA-certified arborist, registered landscape architect, registered forester, professional land surveyor, or professional engineer.
- 2: Nothing shall limit an applicant from preparing a tree survey in addition to or in lieu of aerial photography, provided the tree survey includes sufficient information for the determination of the extent, location, and general characteristics of the exiting tree canopy cover on a site.

B: TREE SURVEY

- 1: A tree survey shall be provided in cases where an applicant seeks to receive credit towards the landscaping requirements in Section 7.4: Landscaping, from existing retained trees. A tree survey shall be prepared by an ISA-certified arborist, registered landscape architect, registered forester, professional land surveyor, or professional engineer, and shall identify all the following for each existing tree to be credited:
 - a: The exact location of the tree;
 - b: Species, by common name;
 - c: Whether the tree is evergreen or deciduous;
 - d: Whether the tree is an understory or canopy tree;
 - e: Size of the tree in DBH or caliper, as appropriate;
 - f: The approximate height of the tree;
 - g: The general health and approximate life stage (young, mature, or aged) of the tree; and
 - h: Any observations or special characteristics of the tree, as appropriate.

- 2: The tree survey will be used by the Town Manager to determine if the retained trees will meet the performance standards for the type of required landscaping. Supplemental plantings may be required in cases where the retention of trees is insufficient to meet landscaping performance objectives.
- 3: Tree surveys may be limited to only those portions of the site being used to meet landscaping requirements, and in no instance shall existing trees located outside the boundaries of required landscaping areas be used to meet the standards in Section 7.4: Landscaping.

3.4.7: TREE PROTECTION DURING CONSTRUCTION

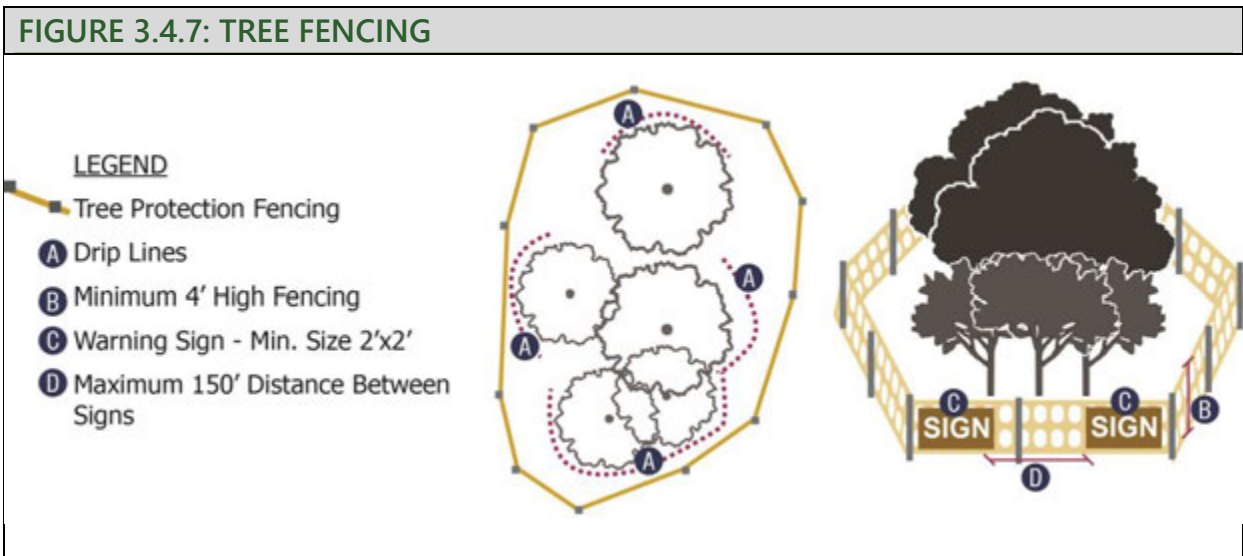
A: RESPONSIBILITY

During any development activity (including demolition or clearing activity), the property owner or developer shall be responsible for protecting existing or replacement trees within a tree save area in accordance with the standards in this section.

B: PROTECTIVE FENCING AND SIGNAGE

1: PROTECTIVE FENCING

- a: Continuous fencing consisting of a bright orange plastic mesh at least four feet high shall be provided along the boundaries of tree save areas (see Figure 3.4.7: Tree Fencing). The Town shall consider existing site conditions and the species and size of the trees to be protected in determining the exact location of tree protective fencing and may require the fencing to be extended to include the critical root zones of trees. In no instance shall the area required to be located within protective fencing exceed the size of the required tree save area.
- b: Tree save areas that are inaccessible to development activities or separated from development activities by a distance of at least 100 linear feet are exempted from the requirement for tree protection fencing.
- c: Nothing shall prevent tree protection fencing and silt fencing from being consolidated.



2: WARNING SIGN

Warning signs shall be installed along any required tree protective fencing at points no more than 150 feet apart. The signs shall be clearly visible from all sides of the outside of the fenced-in area. The size of each sign must be a minimum of two feet by two feet. The sign message shall, in both English and Spanish, identify the fenced or marked area as a tree protection area and direct workers not to encroach

into the area (e.g., "Tree Protection Area: Do Not Enter"). For the purposes of this Ordinance, these warning signs are considered government signs exempted from First Amendment protections regarding regulation of sign content.

3: DURATION OF PROTECTIVE FENCING OR SIGNAGE

Required protective fencing and signage shall be erected before any grading or other development activity begins and shall be maintained until issuance of a certificate of occupancy.

C: TREE SAVE AREA REQUIREMENTS

Except where agreed to by the Town, encroachments into a tree save area may occur only when no other alternative exists, and shall comply with landscaping best management practices and the following limitations and requirements:

1: 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 save area.

2: CLEARING OF VEGETATION

Any clearing of vegetation within the tree save 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 shall be located within a tree save 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 major roots shall be bridged.

3.4.8: CREDIT TOWARDS OTHER STANDARDS

A: Trees within a tree save area may be credited towards the landscaping requirements of this Ordinance in accordance with [Section 7.4.9:l: Credit Towards Required Landscaping Areas](#).

B: Tree save areas shall be credited towards the passive recreation area requirements in [Section 7.6: Open Space Set-Aside](#).

3.4.9: REMEDIES FOR REMOVAL

Remedies for removal of existing trees required to be retained by these standards shall be in accordance with the following standards.

A: REPLACEMENT TREES

1: RATE OF PROVISION

a: TREES WITHIN A DESIGNATED TREE SAVE AREA

- i: Each existing tree that is removed in violation of this Ordinance shall be replaced with one or more trees with a minimum DBH of four inches each and a cumulative DBH equal to the DBH of the removed tree(s).
- ii: Required replacement tree(s) shall be planted and maintained in accordance with the planting standards in [Section 7.4.7: Landscaping Placement](#), and shall comply with all the standards in this subsection.

b: TREES REMOVED PRIOR TO ESTABLISHMENT OF A TREE SAVE AREA

- i: In cases where irreparable damage to or removal of existing trees takes place on a site that is subject to these standards, but where a tree save area has not yet been established, a reforestation plan prepared by a North Carolina registered forester shall be prepared and provided to the Town.
- ii: The reforestation plan shall require new tree plantings throughout the area where existing trees were irreparably damaged or removed. The number and placement of replacement trees shall be as necessary to result in a comparable density of trees at maturity as were removed.
- iii: New vegetation identified in the reforestation plan shall be installed within six months of the tree removal or within a timeframe specified by a North Carolina registered forester and agreed to by the Town Manager.

2: LOCATION OF REPLACEMENT TREES**a: TREES WITHIN A DESIGNATED TREE SAVE AREA**

Replacement trees shall be planted in the following planting areas, listed in priority order. Replacement trees shall maintain adequate spacing across an area as needed for proper growth and development and may be located in more than one priority location. However, to the maximum extent practicable, replacement trees shall first be planted in the highest priority location and may only be located in the next highest priority area when the area of higher priority can no longer accommodate additional replacement trees. Replacement tree planting areas in priority order are as follows:

- i: Inside a designated tree save area;
- ii: Outside a designated tree save area but within the area of development;
- iii: Away from an area of development but upon the same lot;
- iv: On a different lot within the Town's planning jurisdiction but under the same ownership as the area of development;
- v: On land owned by the Town of Laurel Park; or
- vi: Within a public right-of-way, subject to approval of the right-of-way owner.

b: TREES REMOVED PRIOR TO AN ESTABLISHED TREE SAVE AREA

Reforestation shall occur within the entire area where existing trees were irreparably damaged or removed.

3: GUARANTEED ESTABLISHMENT PERIOD

- a: The applicant shall guarantee the survival and health of all replacement trees during an establishment period of at least three years and guarantee any associated replacement costs in accordance with Section 6.3.12: Performance Guarantee.
- b: If the replacement trees do not survive the establishment period, the applicant shall purchase and install new replacement trees and guarantee their survival and health for a new three-year establishment period.

B: PAYMENT IN-LIEU OF PROVIDING REQUIRED REPLACEMENT TREES

- 1: In-lieu of providing all or a portion of the replacement trees required by 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 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 based upon an estimate provided by the applicant and accepted by the Town Manager. The Town may require an independent analysis of the estimate, the cost of which shall be the responsibility of the applicant.
- 4: The applicant shall make the in-lieu payment before recordation of any subdivision plat for the development or issuance of any building permit for the development (if no subdivision approval is required)—provided, however, that the payment may be phased in accordance with an approved phasing plan for the development.
- 5: The Town shall deposit any in-lieu payment into a special Town fund that shall be used only for purchasing, installing, replacing, and/or maintaining trees in public parks, greenways, or other land owned or leased by the Town.

3.4.10: TREE REMOVAL AND TOPPING ON PUBLIC PROPERTY

- A:** The removal or topping of trees shall be prohibited on public property and designated rights-of-way unless such activity is necessary to protect public health, safety, or welfare.
- B:** Trees severely damaged by storms or other causes, or certain trees under utility lines or other obstructions where other pruning practices are impractical may be exempted from this standard by the Town Manager.

4: LAND USES

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4.1: USES DISTINGUISHED

Chapter 4, Land Uses, contains all the standards related to the use of land in the Town's planning jurisdiction, and is organized by the three kinds of land uses: principal, accessory, or temporary use.

4.1.1: GENERALLY

- A:** Principal uses are the primary, permanent use types proposed on a lot (like a single-family home).
- B:** Accessory uses are subordinate to the principal use located on the same lot (like a detached garage serving a single-family home) and may be a structure or an activity.
- C:** Temporary uses are structures or activities allowed for a short duration of time (like a portable storage container used for the purposes of storing or moving a household's belongings).

4.1.2: USE TYPES

- A:** Use types are the specific individual principal uses included within a particular use classification.
- B:** Individual use types are defined in Section 10.3: Definitions.

4.1.3: DEVELOPMENTS WITH MULTIPLE PRINCIPAL USES

Developments with multiple principal uses, such as shopping centers, shall incorporate only those use types allowed in the applicable zoning district.

4.1.4: PROCEDURE FOR CLASSIFICATION OF UNLISTED USE TYPES

- A:** In the event that a proposed principal or accessory use type is not listed in Table 4.2.6: Principal Land Use Table, and such land use is not listed in Section 4.3: Prohibited Uses, or is not otherwise prohibited by law, the Town Manager shall determine whether a materially similar land use exists in this Chapter.
- B:** The Town Manager shall determine whether or not an unlisted use is similar to an existing use type set out in Table 4.2.6: Principal Land Use Table, based on the definitions in Section 10.3: Definitions, and the standards for unlisted uses in Section 6.3.6: Determination. Nothing shall limit the Town Manager from seeking input from Town staff, the Planning Board, or Town Council in making a determination of how to categorize an unlisted use.
- C:** Should the Town Manager determine that a materially similar land use does exist, the regulations governing that land use shall apply to the unlisted use type and the Town Manager's determination shall be recorded in writing.
- D:** In cases where a proposed unlisted use type is not found to be similar to an existing use type, the Town Manager may, but shall not be required to, initiate a text amendment application to revise the text of this Ordinance to add the use type in accordance with Section 6.3.19: Text Amendment.

4.2: PRINCIPAL USES

4.2.1: GENERALLY

Table 4.2.6: Principal Land Use Table, lists the range of allowable principal uses, the zoning districts where they are permitted, and the procedure to be followed for their establishment. The table also includes cross references to any applicable use-specific standards that may apply to a principal use.

4.2.2: USES PERMITTED BY-RIGHT

A "P" in a cell of the principal use table indicates that the specific use type is permitted by-right in the corresponding zoning district, subject to compliance with any additional use-specific standards referenced in the principal use table, and any other applicable standards in this Ordinance.

4.2.3: USES PERMITTED BY SPECIAL USE PERMIT

An "S" in a cell of the principal use table indicates that the specific use type is permitted in the corresponding zoning district only upon approval of a special use permit in accordance with Section 6.3.17: Special Use Permit, any additional use-specific standards referenced in the principal use table, and any other applicable requirements of this Ordinance.

4.2.4: USES ALLOWED IN A PLANNED DEVELOPMENT DISTRICT

- A:** An "A" in a cell of the principal use table indicates that the specific use type is permitted in a planned development district, provided the specific use type is included in the list of potential use types in the master plan or terms and conditions document. If a use is not listed, then it is not permitted within the planned development.
- B:** Allowed uses are subject to any additional use-specific standards referenced in the principal use table.
- C:** If a use type is listed as not permitted in a planned development district in Table 4.2.6: Principal Land Use Table, it may not be included in a master plan or terms and conditions statement.

4.2.5: USES NOT PERMITTED

An "X" in a cell of the principal use table indicates that the specific use type is not permitted in the corresponding zoning district.

4.2.6: PRINCIPAL LAND USE TABLE

When a specific use type is permitted in a zoning district, there may be use-specific standards that are applicable. Such additional standards are referenced in the principal use table column titled "Use-Specific Standards." These standards shall apply to a specific use type regardless of the zoning district, unless otherwise specified.

TABLE 4.2.6: PRINCIPAL LAND USE TABLE

"A" = Allowed if included in a PD master plan or terms and conditions document

"P" = Permitted, subject to any applicable use-specific standards

"S" = Permitted, subject to Section 6.3.17: Special Use Permit, and any applicable use-specific standards

"X" = Prohibited

USE TYPE /1/	ZONING DISTRICT /2/							USE-SPECIFIC STANDARD
	R-20	R-30	OI	I-1	MM	TC	PD	
RESIDENTIAL USES								
Assisted Living Facility or Congregate Care	X	X	P	X	S	S	A	
Duplex Dwelling	X	X	X	X	P	X	A	4.4.1:A:
Family Care Home	P	P	X	X	P	X	A	4.4.1:B:
Group Home	X	X	S	X	S	X	A	4.4.1:C:
Live/Work Dwelling	X	X	X	X	P	P	A	4.4.1:D:
Manufactured Dwelling	S	X	X	X	X	X	A	4.4.1:E:
Mobile Home	X	X	X	X	X	X	X	
Multi-family Dwelling	X	X	X	X	S	S	A	4.4.1:F:
Residential Dwelling as Part of a Mixed-Use Development	X	X	X	X	P	P	A	4.4.1:G:
Single-Family Attached Dwelling	X	X	X	X	X	X	A	4.4.1:H:
Single-Family Detached Dwelling	P	P	X	X	P	X	A	4.4.1:I:
COMMERCIAL USES								
Adult Establishments and Bookstores	X	X	X	S	X	X	X	4.4.2:A:

CHAPTER 4: LAND USES

SECTION 4.2: PRINCIPAL USES

TABLE 4.2.6: PRINCIPAL LAND USE TABLE

"A" = Allowed if included in a PD master plan or terms and conditions document

"P" = Permitted, subject to any applicable use-specific standards

"S" = Permitted, subject to Section 6.3.17: Special Use Permit, and any applicable use-specific standards

"X" = Prohibited

USE TYPE /1/	ZONING DISTRICT /2/							USE-SPECIFIC STANDARD
	R-20	R-30	OI	I-1	MM	TC	PD	
Banks, Savings and Loan Associations, and Similar Financial Institutions	X	X	X	X	S	P	A	
Bed and Breakfast	S	S	X	X	S	S	A	4.4.2:B:
Breweries, Microbreweries, Taprooms, Brewpubs, and Distilleries	X	X	X	X	S	S	A	4.4.2:C:
Commercial Indoor Recreation	X	X	X	X	P	P	A	
Commercial Outdoor Recreation	X	X	X	S	X	S	A	
Country Clubs	X	X	X	X	S	X	A	
Day Care Facilities & Nurseries Licensed by North Carolina	X	X	P	X	S	S	A	4.4.2:D:
Electronic Gaming Operations	X	X	X	X	X	S	A	4.4.2:E:
Event Venue	X	X	X	X	S	S	A	4.4.2:F:
Greenhouses and Garden Centers	X	X	X	X	S	S	A	
Golf Courses	X	X	X	X	S	X	A	
Hostels, Hotels, and Inns	X	X	S	X	S	S	A	
Medical Care	X	X	S	X	X	S	A	
Parking (Principal Use)	X	X	P	P	P	P	A	4.4.2:G:
Professional Offices	X	X	P	X	P	P	A	
Private Clubs	X	X	P	X	S	S	A	4.4.2:H:
Restaurants, Bakeries, and Cafes	X	X	X	X	P	P	A	4.4.2:I:
Retail Stores and Service Establishments	X	X	X	X	P	P	A	
Wireless Communications Facilities, Collocation	P	P	P	P	P	P	A	
Wireless Communications Facilities, Major	X	X	X	S	X	X	A	4.4.2:J:
Wireless Communications Facilities, Minor	X	X	S	P	P	S	A	
Wireless Communications Facilities, Small	P	P	P	P	P	P	A	
INSTITUTIONAL USES								
Buildings, Structures, and Facilities Operated for Governmental Operations	S	S	S	S	S	S	A	4.4.3:A:
Churches & Similar Places of Worship	X	X	P	X	S	S	A	4.4.3:B:
Civic & Cultural Buildings, Including Auditoriums, Museums, Art Galleries, Libraries, Symphony & Concert Halls, & Historic Societies	X	X	P	X	S	P	A	
Public Parks including Public Recreation Uses	P	P	P	P	P	P	A	
Public Utilities, Major	S	S	S	S	S	S	A	

TABLE 4.2.6: PRINCIPAL LAND USE TABLE

"A" = Allowed if included in a PD master plan or terms and conditions document

"P" = Permitted, subject to any applicable use-specific standards

"S" = Permitted, subject to Section 6.3.17: Special Use Permit, and any applicable use-specific standards

"X" = Prohibited

USE TYPE /1/	ZONING DISTRICT /2/							USE-SPECIFIC STANDARD
	R-20	R-30	OI	I-1	MM	TC	PD	
Public Utilities, Minor	P	P	P	P	P	P	A	
Public & Private Schools	X	X	P	X	S	S	A	
INDUSTRIAL USES								
Climate Controlled Self Storage	X	X	X	S	X	X	A	
Flex Space	X	X	X	P	X	X	A	4.4.4.A:
Heavy Manufacturing	X	X	X	X	X	X	X	4.4.4.B:
Light Manufacturing	X	X	X	P	X	X	A	
Outdoor Storage (Principal Use)	X	X	X	P	X	X	A	4.4.4.C:

NOTES:

/1/ Accessory use provisions are in Section 4.5: Accessory Uses and Structures.

/2/ Some use types may be further limited in allowable location or the process for establishment in accordance with Section 4.3: Prohibited Uses, Section 2.12: Overlay Zoning Districts, or by applicable standards in the Laurel Park Town Code of Ordinances.

4.3: PROHIBITED USES

4.3.1: PROHIBITED EVERYWHERE

- A:** The following use types are not listed in Table 4.2.6: Principal Land Use Table, and are prohibited throughout the Town’s planning jurisdiction in all zoning districts.
- B:** In cases where one or more of these uses is lawfully established and in operation prior to August 18, 2021, the use shall be subject to the provisions in Section 1.10: Transitional Provisions.

1: AGRICULTURAL USES

- a:** Concentrated animal feeding operations; and
- b:** Slaughterhouses.

2: COMMERCIAL USES

- a:** Outdoor advertising or billboards, except where prohibition is preempted by State or federal law. Outdoor advertising lawfully established prior to August 18, 2021, may be permitted to continue as a nonconforming use only in accordance with Chapter 5: Nonconformities, and Sections 136-126 through 136-140.1 of the North Carolina General Statutes; and
- b:** Outdoor shooting ranges.

3: INDUSTRIAL USES

- a:** Acetylene gas manufacture;
- b:** Acid manufacture;
- c:** Ammonia, bleaching powder, or chlorine manufacture;
- d:** Brick, tile, or terra cotta manufacture;

- e: Cellophane manufacture;
- f: Creosote manufacture or treatment plants;
- g: Distillation of bones, coal, petroleum, refuse, tar, or wood;
- h: Explosives, ammunition, fireworks, or gunpowder manufacture;
- i: Fat rendering, or production of fats and oils from animal or vegetable products by boiling or distillation;
- j: Garbage, offal, or animal reduction and processing;
- k: Glue and size manufacture;
- l: Hazardous materials handling or storage;
- m: Leather and leather products manufacturing involving tanning;
- n: Linseed oil, shellac, turpentine manufacture or refining;
- o: Nitrogenous tankage, fish meal or manufacture of any fertilizer materials carrying an objectionable odor;
- p: Oilcloth or linoleum manufacture;
- q: Ore reduction;
- r: Pulp mills; or
- s: Vinegar manufacturing.

4: INSTITUTIONAL USES

- a: Package treatment plant wastewater disposal systems that discharge to surface waters; or
- b: Storage or processing of radioactive or infectious waste.

5: RESIDENTIAL USES

Use of a travel trailer, camper, or habitable recreational vehicle as a permanent residence.

6: PARKING OR STORAGE OF HEAVY VEHICLES PROHIBITED

- a: The parking or storage of heavy vehicles on lots or on streets adjacent to lots in the R-30, R-20, and OI districts is prohibited, with the following exceptions:
 - i: Temporary loading and unloading;
 - ii: Emergency and disaster service; and
 - iii: Large vehicles on a religious institution or school property.
- b: For the purposes of this section a heavy vehicle shall be a vehicle meeting any of the following standards:
 - i: A vehicle in 24 feet in length or more;
 - ii: A vehicle with three or more axels; or
 - iii: A vehicle of 14,500 pounds of gross vehicle weight or more.

4.3.2: PROHIBITED BY OVERLAY DISTRICT STANDARDS

Regardless of how a use type is treated in Table 4.2.6: Principal Land Use Table, if a lot or tract is located within one or more overlay zoning districts, any use type limitations in the overlay district standards (see Section 2.12: Overlay Zoning Districts) shall control.

4.4: USE-SPECIFIC STANDARDS

Use-specific standards are the requirements applied to individual use types, unless otherwise stated to the contrary in this Ordinance. This section identifies the use-specific standards applied to principal use types identified in Table 4.2.6: Principal Land Use Table, as subject to "use-specific standards."

4.4.1: RESIDENTIAL USE TYPES

A: DUPLEX

Duplex dwellings in a conventional zoning district may comply with Section 7.1.4: Residential Design Guidelines, with the written consent of the landowner(s) at the time of application to establish the development.

B: FAMILY CARE HOME

- 1: Family care homes shall comply with the standards in Section 160D-907 of the North Carolina General Statutes.
- 2: A lot containing a family care home shall not be located within one-half mile (2,640 feet) of another lot containing a family care home or a group home.

C: GROUP HOME

A group home shall comply with the following standards:

- 1: A lot containing a group home shall not be located within one-half mile (2,640 feet) of another lot containing a family care home or another group home;
- 2: The use shall be operated in a manner that is compatible with the surrounding neighborhood and shall not be detrimental to adjacent lands as a result of traffic, noise, refuse, parking, loitering, or other activities;
- 3: The number of occupants in a group home shall be limited to the maximum number that may be accommodated while at the same time complying with all applicable Town regulations and State requirements;
- 4: The use shall maintain a residential appearance compatible with its surroundings when proposed in a residential or mixed-use district; and
- 5: The use shall meet all State requirements, as well as all applicable housing and building code requirements.

D: LIVE/WORK DWELLING

A live/work dwelling shall comply with the standards in Section 7.1: Design Standards and Guidelines, and the following standards:

- 1: The residential portion of the building shall occupy at least 50 percent of the gross floor area;
- 2: The non-residential portion of the building is limited to an office, personal service, retail sales, or restaurant use type;
- 3: Drive-through facilities are prohibited; and
- 4: Signage for the non-residential portion of the building shall be limited to wall signage or projecting signage.

E: MANUFACTURED DWELLING

A manufactured dwelling shall comply with Section 160D-910 of the North Carolina General Statutes, and the following standards:

- 1: It shall be located on an individual lot;
- 2: It shall be occupied only as a single-family dwelling;

- 3: It shall be configured in accordance with the standards established by the North Carolina Department of Insurance and the most current version of the State of North Carolina Regulations for Manufactured Homes;
- 4: It shall maintain a minimum width of 16 feet;
- 5: It shall be oriented with the longest axis parallel to the lot frontage, to the maximum extent practicable;
- 6: The towing apparatus, wheels, axles, and transporting lights shall be removed;
- 7: It shall include a continuous, permanent masonry foundation or masonry curtain wall of solid brick or brick veneer, installed under the perimeter and unpierced except for required ventilation and access;
- 8: It shall include stairs, porches, entrance platforms, ramps, and other means of entrance and exit that are installed or constructed in accordance with the standards set by the North Carolina Building Code. They shall be attached firmly to the primary structure and anchored securely to the ground;
- 9: It shall maintain exterior siding comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction, which consists of one or more of the following:
 - a: Vinyl or aluminum lap siding (whose reflectivity does not exceed that of flat white paint);
 - b: Cedar or other wood siding;
 - c: Stucco siding; or
 - d: Brick or stone siding;
- 10: It shall maintain a roof pitch with a minimum vertical rise of at least three feet for each 12 feet of horizontal run;
- 11: It shall include a roof finished with a Class C or better roofing material that is commonly used in standard residential construction;
- 12: It shall provide an eave projection of no less than six inches, which may include a gutter; and
- 13: Outdoor storage of up to one unlicensed (no license plate) or inoperable vehicle or trailer may take place on a lot, provided it is located behind the principal structure and outside required setbacks. No limits shall be applied to the storage of inoperable or unlicensed vehicles within an enclosed structure.

F: MULTI-FAMILY DWELLING

Multi-family development shall comply with the following provisions:

1: BUILDING PLACEMENT

- a: Buildings shall be set back from one another in accordance with the North Carolina Building Code.
- b: Buildings must be set back from private drives and parking lots a minimum of ten feet as measured from back of curb or edge of pavement, if no curb is provided.
- c: Buildings shall be set back from public streets in the development in accordance with the street setbacks for the district where located.

2: BUILDING LENGTH

- a: The maximum length of a multi-family building shall be 250 linear feet.
- b: In no instance shall the provision of a firewall between different building sections constitute two separate buildings for the purpose of meeting the building length requirement.

3: DESIGN

Multi-family development shall comply with [Section 7.1.3: Multi-Family Residential Design Standards](#).

4: RECREATION FACILITIES

Active recreation facilities must be placed a minimum of 50 feet from adjacent land used for single-family detached residential purposes.

5: UTILITIES

All new electric, communications, water, and sewer utility lines shall be installed underground.

6: CONDOMINIUMS

Multi-family development configured as condominiums shall comply with the following standards:

- a: Condominiums shall conform to the use and development requirements of this Ordinance for the zoning district(s) where located.
- b: Condominiums shall conform to the requirements of the North Carolina Condominium Act, in Chapter 47C of the North Carolina General Statutes.
- c: Condominium ownership may be created by the owner or co-owners of a structure(s) by an express declaration of their intention to submit such property to the provisions of the North Carolina Condominium Act, which declaration shall be subject to approval by the Town Council and recorded in the office of the Register of Deeds in the county where the development is located.

7: SCREENING

Screening shall be in accordance with [Section 7.5: Screening](#).

G: RESIDENTIAL DWELLING AS PART OF A MIXED-USE DEVELOPMENT

- 1: Ground floors of mixed-use development shall be constructed to non-residential building specifications, but there shall be no limits on residential occupancy on the ground floor.
- 2: Residential units configured as condominiums shall comply with the standards in [Section 4.4.1:H:6: Condominiums](#).

H: SINGLE-FAMILY ATTACHED DWELLINGS

Single-family attached development shall comply with the following provisions:

1: BUILDING PLACEMENT

- a: A minimum 20 feet of separation shall be maintained between all individual buildings in the development.
- b: Buildings must be set back from private drives and parking lots a minimum of ten feet as measured from back of curb or edge of pavement, if no curb is provided.
- c: Buildings shall be set back from public streets in the development in accordance with the street setbacks for the district where located.

2: MAXIMUM NUMBER OF UNITS PER BUILDING

In no instance shall an individual single-family attached structure include more than 10 individual dwelling units.

3: DESIGN

Single-family attached development may comply with the applicable design standards [Section 7.1.3: Multi-Family Residential Design Standards](#), with the written consent of the landowner(s) at the time of application to establish the development.

4: RECREATION FACILITIES

Active recreation facilities must be placed a minimum of 50 feet from adjacent land used for single-family detached residential purposes.

5: UTILITIES

All electric, communications, water, and sewer utility lines shall be installed underground.

6: CONDOMINIUMS

Single-family attached development configured as condominiums shall comply with the following standards:

- a: Condominiums shall conform to the use and development requirements of this Ordinance for the zoning district(s) where located.
- b: Condominiums shall conform to the requirements of the North Carolina Condominium Act, in Chapter 47C of the North Carolina General Statutes.
- c: Condominium ownership may be created by the owner or co-owners of a structure(s) by an express declaration of their intention to submit such property to the provisions of the North Carolina Condominium Act, which declaration shall be subject to approval by the Town Council and recorded in the office of the Henderson County Register of Deeds.

7: ACCESS

- a: Single-family attached developments shall abut a public street.
- b: Individual single-family attached lots need not abut a public street provided that every dwelling unit shall be provided access to their property via either a public right-of-way or a private vehicular or pedestrian way owned by the individual lot owner in fee or in common ownership with other property owners in the townhouse development.
- c: Adequate access shall be provided for firefighting equipment, service deliveries, and refuse collections.

8: STORAGE OF UNLICENSED OR INOPERABLE VEHICLES OR TRAILERS

Outdoor storage of up to one unlicensed (no license plate) or inoperable vehicle or trailer may take place on a lot, provided it is located behind the principal structure and outside required setbacks. No limits shall be applied to the storage of inoperable or unlicensed vehicles within an enclosed structure.

I: SINGLE-FAMILY DETACHED DWELLING

- 1: Modular homes shall comply with the standards in Section 160D-911 of the North Carolina General Statutes and shall be treated as site-built single-family detached structures.
- 2: Outdoor storage of up to one unlicensed (no license plate) or inoperable vehicle or trailer may take place on a lot, provided it is located behind the principal structure and outside required setbacks. No limits shall be applied to the storage of inoperable or unlicensed vehicles within an enclosed structure.
- 3: Single-family detached dwellings in all a conventional zoning district may comply with [Section 7.1.4: Residential Design Guidelines](#), with the written consent of the landowner(s) at the time of application to establish the development.

4.4.2: COMMERCIAL USE TYPES**A: ADULT ESTABLISHMENTS**

Adult establishments as herein defined may be granted a special use permit subject to the requirements in this section.

1: ADJACENT BUILDINGS

The use shall be the only use in the building and the building shall be located no closer than 50 feet to any adjacent building.

2: EXTERIOR DISPLAY

No adult establishment activities or materials, as herein defined, shall be conducted, performed, sold, rented, advertised, or displayed outside of, or on any exterior surface of the building.

3: PARKING

Off-street parking shall be provided in accordance with the requirements for retail sales and services in Section 7.7: Parking and Loading.

4: LOCATION RELATIVE TO OTHER ADULT ESTABLISHMENTS

No adult establishment use or activity shall be located closer than 1,500 feet from any other adult establishment use or activity. The distance shall be measured between the closest points on the property line of any such establishments or uses.

5: LOCATION RELATIVE TO NON-COMMERCIAL FACILITIES

No adult establishment shall be located closer than 1500 feet from any church or place of worship, school, park, playground, or cemetery, or closer than 500 feet from a residential dwelling unit. The distance shall be measured between the closest points on the property line of any such establishment or use and the property line of any church or place of worship, school, cemetery, park, playground, or residential dwelling unit.

B: BED AND BREAKFAST

A bed and breakfast shall comply with the following standards:

- 1: Be owner-occupied or have a manager who resides on the premises;
- 2: Have no more than six sleeping rooms;
- 3: Have only one kitchen;
- 4: Limit meals served on the premises to overnight guests only; and
- 5: Limit any signage to ground signage with a maximum sign face area of six square feet.

C: BREWERIES, MICROBREWERIES, TAPROOMS, BREWPUBS, AND DISTILLERIES

- 1: Such uses shall be separated from a church or similar place of worship or a school by at least 200 feet.
- 2: The minimum separation requirement is reduced to 100 feet in the TC district.
- 3: The use shall not orient the primary entrance towards an abutting lot in a residential district.
- 4: The use shall have a six-foot-high opaque fence or masonry wall along all lot lines abutting a residential district.
- 5: Outdoor seating (including, but not limited to, seating for dining or listening to live or recorded acoustic or amplified entertainment outside of the building) shall comply with the following standards:
 - a: The outdoor seating area shall be located no closer than 100 feet from any single-family residential zoning district; and
 - b: The outdoor seating area shall not obstruct the movement of pedestrians along sidewalks or through areas intended for public use.

D: DAY CARE FACILITIES AND NURSERIES

Child day care centers shall comply with the standards in Article 7, Chapter 110, of the North Carolina General Statutes, as well as the *Summary of North Carolina Child Care Laws and Rules* pamphlet prepared by the NC Department of Health and Human Services.

E: ELECTRONIC GAMING OPERATIONS

Electronic gaming operations may be granted a special use permit subject to the requirements in this section:

1: ADJACENT BUILDINGS

The use shall be the only use in the building and the building shall be located no closer than 50 feet from any adjacent building.

2: LOCATION RELATIVE TO OTHER ELECTRONIC GAMING ESTABLISHMENTS

No electronic gaming establishment shall be located closer than 1,500 feet from any other electronic gaming establishment. The distance shall be measured between the closest points on the property line of any such establishments.

3: LOCATION RELATIVE TO NON-COMMERCIAL FACILITIES

No electronic gaming establishment shall be located closer than 1,500 feet from any church or place of worship, school, park, playground, or cemetery, or closer than 500 feet from a residential dwelling unit. The distance shall be measured between the closest points on the property line of any such establishment and the property line of any church or place of worship, school, cemetery, park, playground, or residential dwelling unit.

F: EVENT VENUES

Event venues shall be operated in accordance with the following standards:

1: SETBACKS

Outdoor activity areas shall be set back from lot lines shared with a residential use by an amount at least twice the minimum rear setback for the district where the use is located.

2: MAXIMUM NUMBER OF GUESTS

The maximum number of guests shall be in accordance with the maximum occupancy of the principal structure as determined by the fire marshal or fire chief.

3: HOURS OF OPERATION

Outdoor activities shall not take place between the hours of midnight and 7:00 AM.

4: LIGHTING

Exterior lighting shall not project into adjoining residential lots. Use of stadium-style or other pole-mounted lighting is prohibited. Lighting of accessible paths may be provided, if necessary.

5: NOISE

The event venue must comply with noise restrictions in the Town Code of Ordinances.

6: PARKING

a: In cases where off-site parking is employed, the event venue shall maintain an agreement with the owner of land where vehicles are parked.

b: The venue shall ensure guests may access the venue safely from off-site parking areas.

c: In no instance shall vehicles be parked along streets in ways that block driveways, sight triangles, or emergency access.

7: TRASH AND DEBRIS

The event venue shall provide sufficient on-site trash receptacles and shall ensure that windblown trash or other debris does not accumulate anywhere on the site.

8: OUTDOOR ACTIVITY

Event venue uses shall demarcate the boundaries of the event venue site for guests and shall include fences, walls, or other techniques such as landscaping to ensure guests to do not inadvertently trespass on adjacent lots.

9: EMERGENCY ACCESS

Event venues shall ensure adequate ingress and egress from all buildings and structures to accommodate emergencies.

G: PARKING**1: STRUCTURED PARKING DESIGN STANDARDS****a: SCREENING REQUIRED**

Where an above-ground parking structure fronts a public street, the ground level shall be screened in such a way that cars are not visible from the street (e.g., structure should be wrapped by retail, office or some other active use along the primary façade).

b: HIGH QUALITY MATERIALS REQUIRED

Along streets, the parking structure façades shall be treated with high quality materials and given vertical articulation and emphasis compatible with the principal structure. The façade shall be designed to visually screen cars.

c: CLEAR PEDESTRIAN ENTRIES

Pedestrian entries shall be clearly visible.

d: BICYCLE PARKING IS REQUIRED

i: Parking structures shall provide bicycle parking within the structure in accordance with the standards in [Section 7.7.6: Bicycle Parking Standards](#).

ii: It shall be located on the level closest to the street and/or a primary building entrance.

H: PRIVATE CLUBS

Private clubs may be granted a special use permit, subject to the requirements in this section:

1: ADJACENT BUILDINGS

The use shall be the only use in the building and the building shall be located no closer than 50 feet from any adjacent building.

2: LOCATION RELATIVE TO OTHER PRIVATE CLUBS

No private club shall be located closer than 1,500 feet from any other private club or adult establishment. The distance shall be measured between the closest points on the property line of any such establishments or uses.

3: LOCATION RELATIVE TO NON-COMMERCIAL FACILITIES

No private club shall be located closer than 1,500 feet from any church or place of worship, school, park, playground, or cemetery, or closer than 500 feet from a residential dwelling unit. The distance shall be measured between the closest points on the property line of any such establishment or use and the property line of any church or place of worship, school, cemetery, park, playground, or residential dwelling unit.

I: RESTAURANTS, BAKERIES, AND CAFES

All restaurants, bakeries, and cafes shall comply with the following requirements:

- 1: The use shall have a six-foot-high opaque fence or masonry wall along all lot lines abutting a residential district.

- 2: Uses with having outdoor seating (including, but not limited to, seating for dining or listening to live or recorded acoustic or amplified entertainment outside of the building) shall comply with the following standards:
 - a: The outdoor seating area shall be located no closer than 100 feet from any single-family residential zoning district; and
 - b: The outdoor seating area shall not obstruct the movement of pedestrians along sidewalks or through areas intended for public use.

J: WIRELESS COMMUNICATIONS FACILITIES

1: PURPOSE AND INTENT

This section establishes general standards for the siting of wireless communications facilities that will provide for the public health, safety, and welfare. The standards are intended to ensure that residents, businesses, and public safety operations in the Town’s planning jurisdiction have reliable access to wireless communications services. More specifically, the provisions of this section are intended to:

- a: Ensure adequate protection of residential areas and uses from potential adverse impacts of wireless communications facilities, and to generally encourage the location of these facilities in areas where adverse impact on the community is minimal;
- b: Encourage the placement of wireless communications facilities in non-residential areas;
- c: Minimize the number of new telecommunications towers in the Town;
- d: Create conditions where wireless communications service providers are able to provide wireless telecommunications services effectively and efficiently in accordance with State and federal law;
- e: Strongly encourage the joint use or collocation of new and existing wireless communications facilities so as to minimize the number of new telecommunications towers throughout the Town;
- f: Establish collocation and concealed towers as the preferred options for the accommodation of wireless communications equipment; and
- g: Ensure that wireless communications facilities located within the public right of way do not obstruct sight distance triangles or create safety hazards for pedestrians or bicyclists.

2: APPLICABILITY

The standards in this section shall apply to all wireless communications facilities except for the following, which are exempted from these standards but remain subject to all other applicable standards in this Ordinance:

- a: Removal of antennas, antenna support structures, or wireless communications equipment on an existing telecommunications tower, utility pole, vertical projection, or equipment compound that does not result in a substantial modification;
- b: The operation of a small wireless facility solely within the interior of a structure, stadium, or athletic facility;
- c: Routine maintenance on an existing wireless communication facility;
- d: Installation, modification, or operation of a micro-wireless facility, receive-only television antenna, or receive-only radio antenna for noncommercial use;
- e: Installation, modification, or operation of FCC-licensed amateur (“ham”) radio equipment; and
- f: Dish antenna or earth stations.

3: GENERAL STANDARDS APPLICABLE TO ALL TYPES OF WIRELESS COMMUNICATIONS FACILITIES

The following requirements shall apply to all new wireless communications facilities and any modifications to an existing wireless communications facility that exceeds the scope of routine maintenance, as defined in this section.

a: BUILDING PERMIT REQUIRED

Prior to installation or modification exceeding the scope of routine maintenance, all wireless communications facilities shall receive a building permit in accordance with the requirements in this Ordinance.

b: COMPLIANCE WITH FEDERAL AND STATE REGULATIONS

All wireless communication facilities shall comply with or exceed current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other agency of the federal government that regulates telecommunications facilities. In addition to federal requirements, all wireless communication facilities shall comply with or exceed current standards and regulations of the State of North Carolina pertaining to wireless telecommunications facilities in Sections 160D-930 through 160D-934 of the North Carolina General Statutes.

c: INTERFERENCE

No wireless communication facility shall disturb, diminish, or interfere with public safety, radio, television, or other wireless communications signals in accordance with FCC requirements.

d: STRUCTURALLY SOUND

All elements of a wireless communication facility shall demonstrate, to the satisfaction of the Town, that the equipment and the structure supporting the equipment is structurally sound and can accommodate the proposed equipment and appurtenances.

e: SIGHT DISTANCE AT INTERSECTIONS

All elements of a wireless communication facility shall be located outside of, and shall in no way obstruct, required sight distance triangles. This requirement shall apply to existing streets as well as to future street intersections that have been designed or where right-of-way is currently being protected by the Town.

f: ACCESSORY EQUIPMENT

Accessory equipment, including any buildings, cabinets, or shelters, shall be used only for the purposes of housing wireless telecommunications equipment and other supplies in direct support of the operation of the wireless communications facility. Any equipment or materials not used in direct support of such operation shall not be stored on the site.

g: OBSTRUCTION LIGHTING

Lighting of a wireless communications facility shall be limited to that required for compliance with 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. Nighttime strobing or flashing lights are prohibited, unless required by the FAA.

h: SIGNAGE

Signage shall be limited to safety or informational signage identifying the party responsible for the operation and maintenance of the facility and any additional security or safety signs, as necessary, in the opinion of the Town Manager.

i: UNAUTHORIZED ACCESS PROHIBITED

Telecommunications towers and vertical projections with wireless telecommunications equipment with a height of 30 feet above grade or more shall be designed or configured to prevent unauthorized persons from climbing on the wireless communication facility whether through use of walls or fencing with a minimum height of six feet above adjacent grade, or anti-climbing devices.

4: NONCONFORMING WIRELESS TELECOMMUNICATIONS FACILITIES

- a:** Lawfully established wireless communications facilities in operation prior to August 18, 2021, that do not comply with these standards may remain and operate as nonconforming uses.

- b: In the event of conflict between these standards and the standards for nonconforming situations in Chapter 5: Nonconformities, the standards in this section shall control with respect to wireless communications facilities.
- c: Ordinary and routine maintenance may be performed on a nonconforming wireless communications facility.
- d: Minor collocation of antennae, antenna-support structures, and related wireless telecommunications equipment is allowed, provided that the overall height of the existing nonconforming wireless communications facility remains unchanged or is reduced.
- e: In no instance shall a collocation resulting in an increased overall height or a requiring substantial modification, as defined in this section and Section 160D-932 of the North Carolina General Statutes, be permitted on a nonconforming wireless communications facility.
- f: In the event a nonconforming telecommunications tower is removed, it shall not be replaced with another nonconforming wireless telecommunications tower.

5: CESSATION

- a: A wireless communication facility shall be considered to have ceased operation if the Town receives written notice from a wireless services provider that it intends to cease operations at a particular wireless telecommunication facility, or a wireless communications facility ceases to transmit a wireless telecommunications signal for a period of 30 consecutive days or longer.
- b: Upon receipt of a written notice from a wireless services provider or upon determination that a wireless communication facility has ceased operation, the Town shall forward written documentation of the cessation to the wireless services provider, or the owner of the land, if different.

6: ABANDONMENT

- a: The wireless communications facility shall be deemed abandoned if wireless telecommunications signals do not resume for a period of 180 consecutive days or longer from the date the written documentation of cessation is filed.
- b: Upon making a determination that a wireless telecommunications facility has been abandoned, the Town shall forward written documentation of the abandonment to the wireless services provider, or the owner of the land, if different.

7: REMOVAL

- a: The Town may require the wireless services provider or the owner of the land, if different, to remove an abandoned wireless communications facility within 30 days of the date it is deemed abandoned.
- b: Should the wireless services provider, or the owner of the land, if different, fail to remove the abandoned wireless facility within 30 days of the date that notice of abandonment is filed, the Town may cause the wireless communications facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless services provider, or the owner of the land, if different.

8: STANDARDS FOR SPECIFIC TYPES OF WIRELESS COMMUNICATION FACILITIES

a: WIRELESS COMMUNICATIONS FACILITIES, COLLOCATION

i: COLLOCATIONS DISTINGUISHED

All collocations shall be classified as either a major collocation or a minor collocation in accordance with Section 10.3: Definitions, and the following:

- a). A major collocation includes placement of antennas, antenna-support structures, and related wireless telecommunications equipment on any of the following: a building’s roof; a building’s wall; a vertical projection such as a water tank, electric transmission tower, or similar vertical projection not constructed for the sole purpose of providing wireless

telecommunications services; or an existing or replacement telecommunications tower where the collocation requires a substantial modification, as defined in these standards and Section 160D-931 of the North Carolina General Statutes.

b). A minor collocation includes placement of antennas, antenna-support structures, and related wireless telecommunications equipment on an existing or replacement telecommunications tower, provided no substantial modification, as defined in these standards and Section 160D-931 in the North Carolina General Statutes, is required. A minor collocation may also be referred to as an "eligible facility," as defined in these standards and Section 160D-931 of the North Carolina General Statutes. In addition to the placement of antennas and antenna-support structures, collocations may also include the placement of wireless telecommunications equipment on a telecommunications tower, on a vertical projection, on the ground in close proximity to a telecommunications tower or vertical project, within an equipment compound, within an equipment cabinet, within a building, or on a building's roof. Nothing shall prohibit the replacement of an existing telecommunications tower or activities that increase the overall height of an existing telecommunications tower in order to accommodate a proposed collocation.

ii: SUBSTANTIAL MODIFICATION

Collocations on an existing or replacement telecommunications tower that require or result in any of the following shall be considered a substantial modification:

- a). Increasing the existing overall height of the telecommunications tower by the greater of: 20 feet or more than ten percent; or
- b). Adding an appurtenance (excluding cabling supports) to the body of an existing telecommunications tower that protrudes horizontally from the edge of the tower by the greater of: more than the width of the telecommunications tower at the height of the appurtenance; or more than 20 feet from the edge of the tower; or
- c). Increasing the square footage of an existing equipment compound by more than 2,500 square feet.
- d). Substantial modifications that require an increase in the overall height of an existing telecommunications tower or require a replacement tower that exceeds the height of the existing telecommunications tower by more than 40 feet shall require review as a new telecommunication tower.

iii: MAXIMUM HEIGHT

Antennae, antenna-support structures, or other wireless telecommunications equipment, associated with a major collocation on a building wall or roof shall not project more than ten feet above the highest point of the building's roof or parapet wall.

iv: METHOD OF ATTACHMENT

Antennae, antenna-support structures, or other wireless telecommunications equipment, associated with a collocation shall be mechanically fastened to the building, roof, vertical projection, or telecommunications tower in a manner that minimizes the potential for structural failure or endangerment of the public from falling wireless telecommunications equipment. The Town Manager shall require an applicant for a collocation to furnish evidence from a professional engineer licensed in the State of North Carolina that the proposed collocation meets the applicable State and local building and fire code requirements.

v: APPEARANCE WHEN CONCEALED

When a collocation is proposed on a concealed telecommunications tower, the collocation shall be configured in the manner necessary to ensure the tower's concealment is not compromised or negatively impacted.

vi: SETBACKS

In cases where an existing telecommunication tower's height is increased or where an existing telecommunications tower is replaced in order to accommodate a collocation, the existing or replacement tower shall be set back at least one foot from the front, side, and rear lot lines for each foot of overall wireless telecommunications facility height, to the maximum extent practicable. Accessory structures, including equipment cabinets, guy wire anchors, and other ground-based equipment shall conform with the applicable dimensional requirements for the zoning district where located.

b: WIRELESS COMMUNICATIONS FACILITIES, MAJOR**i: TOWERS DISTINGUISHED**

A new or replacement telecommunications tower with a height of 30 feet or more above grade is a major telecommunications tower subject to these standards. A new or replacement telecommunications tower with a height less than 30 feet above grade shall be considered a minor telecommunications tower and shall be subject to the standards for a minor telecommunications tower in this table.

ii: TYPE OF STRUCTURE

Telecommunications towers shall be configured as a monopole, self-supporting tower, or be concealed. Construction of new guyed telecommunications tower configurations are prohibited.

iii: SETBACKS

Towers and their associated antennas shall be set back at least one foot from the front, side, and rear lot lines for each foot of overall wireless communications facility height. In cases where an existing telecommunication tower's height is increased or where an existing telecommunications tower is replaced in order to accommodate a major or minor collocation, the existing or replacement tower shall comply with the setback requirements, to the maximum extent practicable.

iv: MAXIMUM HEIGHT

The maximum height (including antenna and other appurtenances) for any new, replaced, or collocated wireless telecommunication tower is 200 feet, as measured from the adjacent pre-construction grade to the top of the highest appurtenance on the tower. In no instance shall the collocation of an eligible facility or a collocation that constitutes a substantial modification result in a telecommunication tower with a height that exceeds 200 feet above the adjacent pre-construction grade. In cases where a telecommunications tower is mounted to or on top of a building, the overall height of the building and the attached tower shall not exceed 200 feet from the adjacent pre-construction grade. The adjacent pre-construction grade shall be the grade at the base of the building closest to the tower.

v: COLLOCATION REQUIRED

Telecommunications towers shall be designed to accommodate the present and future needs of the owner and as well as the collocation of additional equipment, in accordance with the following standards:

- a). Towers of 30 to 80 feet in height shall be configured to accommodate the collocation of at least two wireless telecommunications service provider's equipment.
- b). Towers of 81 to 130 feet in height shall be configured to accommodate the collocation of at least three wireless telecommunications service provider's equipment.
- c). Towers of 131 feet in height or higher shall be configured to accommodate the collocation of at least four wireless telecommunications service provider's equipment.

c: WIRELESS COMMUNICATIONS FACILITIES, MINOR (AND CONCEALED)**i: TOWERS DISTINGUISHED**

A concealed telecommunications tower is a telecommunications tower and associated equipment that is designed to appear as something other than a traditional wireless communications facility. A minor wireless telecommunications tower is a use that is designed to appear as a traditional wireless communications facility except that the maximum height of the tower portion of the facility is less than 30 feet above grade.

ii: APPEARANCE OF A CONCEALED TELECOMMUNICATIONS TOWER

A concealed telecommunications tower shall be configured to conceal the presence of the tower, antennas, antenna-support structures, and related wireless telecommunications equipment in order to obscure its purpose as a wireless telecommunications facility, to the maximum extent practicable. Allowable configurations include, but are not limited to: bell towers, clock towers, water towers, silos, chimneys, steeples, light poles, flag poles, or evergreen trees. Antennae, antenna support structures, cabling, and related appurtenances shall be enclosed, camouflaged, screened, or otherwise obscured so that they are not readily identifiable as wireless telecommunications equipment to the casual observer.

iii: SETBACKS

Concealed and minor telecommunications towers and associated accessory structures, including equipment cabinets, shall comply with the applicable dimensional requirements for non-residential uses in the zoning district where located. In no instance shall a concealed or minor telecommunications tower be exempted from the minimum applicable setback requirements for non-residential uses. In cases where an existing concealed telecommunication tower's height is increased or where an existing concealed telecommunications tower is replaced in order to accommodate a major or minor collocation, the existing or replacement concealed telecommunications tower shall comply with the setback requirements in subsection (i) above, to the maximum extent practicable.

iv: MAXIMUM HEIGHT

The maximum height for any concealed wireless telecommunication tower is 200 feet, as measured from the adjacent pre-construction grade to the top of the highest appurtenance on the tower. In no instance shall a collocation of an eligible facility or work associated with a substantial modification result in a concealed telecommunication tower with a height that exceeds 200 feet above the adjacent pre-construction grade. The maximum height for a minor telecommunications tower is less than 30 feet from the adjacent pre-construction grade to the top of the highest appurtenance on the tower.

v: COLLOCATION

Concealed and minor telecommunications towers are encouraged (but not required) to accommodate the collocation of other antennae. Collocations of equipment on a minor telecommunications tower (whether a major or minor collocation) shall not increase the overall height of the tower by more than 10 feet beyond the initially approved height of the minor telecommunications tower. Actions that result in an increase in tower height by more than 10 feet shall require the minor telecommunications tower to undergo review as a major telecommunications tower. Any collocated equipment on a concealed telecommunications tower must maintain the appearance of the facility as a concealed telecommunications tower. In no instance shall a concealed telecommunications tower be replaced with a telecommunications tower that is not concealed in order to accommodate a collocation.

d: WIRELESS COMMUNICATIONS FACILITIES, SMALL**i: CONSOLIDATED APPLICATION**

An applicant may file a single consolidated application for up to 25 separate small wireless facilities at one time, but the Town may choose to issue separate decisions on one or more of the facilities included within a consolidated application.

ii: LOCATED WITHIN PUBLIC RIGHT-OF-WAY

In cases where a small wireless facility is proposed within a public right-of-way, the small wireless facility shall comply with all standards applicable to the right-of-way.

iii: TIMEFRAME FOR REVIEW

Applications for establishment of a small wireless facility shall be processed and decided within 45 days from the date the application is determined to be complete. Nothing shall prohibit the Town and the applicant from mutually agreeing to a longer review period.

iv: TIMING FOR OPERATION

Construction of a small wireless facility shall commence within six months of its approval and the small wireless facility shall be activated for use within one year from the permit issuance date, unless delayed by a lack of commercial power at the site.

v: MAXIMUM EQUIPMENT SIZE

In no instance shall a small wireless facility exceed the following maximum size limitations; a small wireless facility that exceeds these maximum size limitations shall be reviewed in accordance with the standards for a collocation.

a). Each antenna, and any exposed elements, shall be capable of fitting within an enclosure of six cubic feet, or less.

b). All other wireless equipment associated with the small wireless facility shall maintain a maximum cumulative volume of 28 cubic feet, or less. The following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or the support structure.

vi: MAXIMUM HEIGHT

No new structure intended to support a small wireless facility shall be taller than 50 feet above the adjacent pre-construction grade. An existing structure (such as a utility pole, light standard, sign, etc.) may be replaced in order to accommodate a small wireless facility, but the replacement structure shall not exceed the height of the original structure being replaced. In no instance shall the antennae or equipment associated with a small wireless facility project more than ten feet above the height of the structure the small wireless facility is mounted on. In cases where a new structure installed to serve a small wireless facility exceeds 50 feet in height, the structure shall be reviewed and decided in accordance with the standards for a telecommunications tower. In cases where a replacement structure intended to serve a small wireless exceeds the height of the original structure, the replacement structure shall be reviewed and decided in accordance with the standards for a collocation.

vii: PLACEMENT

A small wireless facility, including the support structure and all other equipment, shall not obstruct the safe passage of vehicles, pedestrians, or bicycles.

viii: METHOD OF ATTACHMENT

Antennae, antenna-support structures, or other wireless communications equipment, associated with a small wireless facility shall be mechanically fastened to the supporting structure in a

manner that minimizes the potential for structural failure or endangerment of the public from falling wireless telecommunications equipment. The Town Manager shall require an applicant for a small wireless facility to furnish evidence from a professional engineer licensed in the State of North Carolina that the proposed wireless telecommunications facility meets the applicable State and local building and fire code requirements.

ix: APPEARANCE

The portion of a small wireless facility attached to the support structure shall match the color of the support structure, to the maximum extent practicable. In cases where an applicant proposes inclusion of a small wireless facility on a decorative support structure, sign, or other existing structure not constructed solely for the purposes of providing wireless telecommunications services, the Town may require the small wireless facility to be configured or concealed to ensure compatibility with the structure.

x: ELECTRICAL SERVICE

In cases where a small wireless facility is proposed in areas where electrical service is underground, all electrical service to the small wireless facility shall also be underground.

4.4.3: INSTITUTIONAL USE TYPES

A: BUILDINGS, STRUCTURES, AND FACILITIES OPERATED BY GOVERNMENTAL OPERATIONS

Special use permits required for these uses shall be reviewed and decided by the Board of Adjustment rather than the Town Council.

B: CHURCHES & SIMILAR PLACES OF WORSHIP

Churches and similar places of workshop shall comply with the following standards:

- 1: A religious institution with seating for 500 or more persons shall:
 - a: Be on a lot of at least three acres in area; and
 - b: Meet the minimum off-street parking standards for a religious institution as well as for any accessory uses (e.g., a school, day care, etc.) in [Table 7.7.4:B: Minimum Off-Street Parking Spaces Required](#).
- 2: Regardless of the zoning district where located, religious institutions of any size shall provide a Type C buffer along lot lines shared with single-family residential dwellings.

4.4.4: INDUSTRIAL USE TYPES

A: FLEX SPACE

Flex space use shall comply with the following standards:

- 1: Flex space uses shall meet the off-street parking requirement for this use type in [Table 7.7.4:B: Minimum Off-Street Parking Spaces Required](#), not the individual types of uses within the flex space;
- 2: The following activities shall not be included within a flex space use type:
 - a: Residential dwellings;
 - b: Religious institutions;
 - c: Adult businesses;
 - d: Eating establishments; and
 - e: Heavy manufacturing uses.
- 3: Outdoor storage or business-related activity is permitted as an accessory use, subject to all applicable standards in this Ordinance.

B: MANUFACTURING

1: MANUFACTURING, LIGHT

All light manufacturing uses shall comply with the following standards:

- a:** Buffer and setback areas in the side and rear may not be used for parking; and
- b:** Finished products for display and sale shall not occupy more than 40 percent of the land area between the principal building and all adjacent streets, but in no instance shall storage or display be located within a required setback or required landscaping area.

C: OUTDOOR STORAGE

1: GENERAL STANDARDS

The following standards shall apply to all outdoor storage areas:

- a:** The extent of the outdoor storage area shall be clearly delineated on an application for establishment of the use;
- b:** Outdoor storage areas shall comply with the minimum setback standards applicable in the zoning district where the outdoor storage area is located;
- c:** Outdoor storage areas are prohibited between the development's principal structure(s) and an arterial (principal and minor) or collector street;
- d:** No outdoor storage area shall be located within a perimeter buffer required in accordance with [Section 7.4.9: Perimeter Buffers](#);
- e:** Flammable liquids or gas containers in excess of 1,000 gallons shall only be stored underground;
- f:** No materials shall be stored in areas intended for vehicular or pedestrian circulation; and
- g:** No materials shall be stored on any potable or non-potable water easement, stormwater easement, or sanitary sewer easement.

2: SCREENING REQUIREMENTS

Screening of outdoor storage shall be in accordance with the applicable standards in [Section 7.5: Screening](#).

4.5: ACCESSORY USES AND STRUCTURES

4.5.1: PURPOSE

This section authorizes the establishment of accessory uses and structures that are incidental and subordinate to principal uses. The purpose of this section is to allow a broad range of accessory uses and structures, provided they comply with the standards set forth in this section in order to reduce potentially adverse impacts on surrounding lands.

4.5.2: PROCEDURE FOR ESTABLISHMENT

- A:** Accessory uses or structures may be approved in conjunction with the approval of the principal use or subsequently following the establishment of the principal use through the approval of a zoning compliance permit or special use permit, as appropriate. No accessory use or structure shall be approved, established, or constructed before a principal use is approved in accordance with this Ordinance.
- B:** Applications to establish a planned development shall be supplemented by a site plan showing proposed accessory uses or by a written list of proposed accessory uses which shall be attached to the application approval along with other conditions of approval.
- C:** Table 4.5.4: Common Accessory Use Table, may not be inclusive of all possible accessory uses, and in the event an accessory use is proposed that is not listed in the table, the Town Manager shall consult Table 4.2.6: Principal Land Use Table, to determine if the proposed accessory use corresponds to a listed principal use. Any permitted principal use in a zoning district is also permitted as an accessory use. In no instance shall an accessory use be permitted in a zoning district where it is prohibited as a principal use.
- D:** In the event a proposed accessory use is not listed in Table 4.5.4: Common Accessory Use Table, and there is no corresponding principal use, the Town Manager shall determine how to treat the accessory use in accordance with Section 4.1.4: Procedure for Classification of Unlisted Use Types.

4.5.3: GENERAL STANDARDS FOR ALL ACCESSORY USES AND STRUCTURES

A: PERMITTED ACCESSORY USES AND STRUCTURES

Permitted accessory uses and structures shall comply with the following:

- 1: Are clearly incidental to an allowed principal use or structure;
- 2: Are subordinate to and serve an allowed principal use or structure;
- 3: Are subordinate in area, extent, and purpose to the principal use or structure; and
- 4: Contribute to the comfort, convenience, or needs of occupants associated with the principal use or structure.

B: LOCATION OF ACCESSORY USES AND STRUCTURES

1: WITHIN REQUIRED LANDSCAPING BUFFERS

Except for fences and walls contributing to the screening function of a landscaping buffer, no accessory structure shall be located within a required landscaping buffer except in accordance with Section 7.4: Landscaping, or Section 7.5: Screening.

2: WITHIN A REQUIRED SETBACK

No accessory use or structure may be located in a required setback except as permitted by Table 2.4.8: Allowable Encroachments into Setbacks.

3: WITHIN OTHER AREAS ON A SITE

a: No accessory use or structure shall:

- i: Be within five feet of a lot line, except as authorized by Table 2.4.8: Allowable Encroachments into Setbacks;

- ii: Be within ten feet of the centerline of an alley except as authorized by Table 2.4.8: Allowable Encroachments into Setbacks;
- iii: Be located within a designated fire lane;
- iv: Obstruct required sight distance triangles;
- v: Impede ingress or egress to a lot, site, or principal structure;
- vi: Be located above or beneath public utilities (except for fences or walls);
- vii: Interfere with drainage or stormwater control measures; or
- viii: Be within an emergency access route designated on an approved site plan.

4: WITHIN AN EASEMENT

Except for authorized stormwater control measures within a drainage easement, no accessory use or structure shall be located within any platted or recorded easement without the prior written consent of the landowner.

C: STRUCTURE HEIGHT

Accessory structures shall comply with the height requirements for the zoning district where located.

D: COMPLIANCE WITH ORDINANCE REQUIREMENTS

Accessory uses and structures shall conform to the applicable requirements of this Ordinance, including this section, the district standards in Chapter 2: Districts, the development standards in Chapter 7: Standards, and the environmental standards in Chapter 3: Environment.

E: COMPLIANCE WITH DESIGN STANDARDS

- 1: Accessory uses and structures serving principle uses that are subject to the design standards in Section 7.1: Design Standards and Guidelines, shall comply with the design standards applied to the principal use they serve or shall employ exterior materials, colors, and architectural details that are configured to be complimentary to the principal use.
- 2: The degree to which proposed exterior materials, colors, and architectural details are configured in a complimentary manner to a principal use shall be in the sole opinion of the review authority deciding the application.

4.5.4: COMMON ACCESSORY USE TABLE

A: TABLE AS GUIDE

Table 4.5.4: Common Accessory Use Table, is established as a guide to identify the appropriateness of the more common accessory uses in each zoning district.

- 1: If a specific accessory use is allowed by-right, the cell underneath the zoning district is marked with a "P".
- 2: If a specific accessory use is allowed subject to a special use permit, the cell underneath the zoning district is marked with a "S".
- 3: If the accessory use or structure is not allowed in a zoning district, the cell is marked with an "X".
- 4: In the case of planned development districts, if an accessory use is allowable, it is marked with an "A", and the accessory use must be set out in the approved master plan or terms and conditions document.
- 5: If there is a reference contained in the column entitled "Acc. Use-Specific Standards," refer to the cited section(s) for additional standards that apply to the specific accessory use.

CHAPTER 4: LAND USES

SECTION 4.5: ACCESSORY USES AND STRUCTURES

TABLE 4.5.4: COMMON ACCESSORY USE TABLE

"A" = Allowed if included in a PD master plan or terms and conditions statement
 "P" = Permitted, subject to any applicable accessory use-specific standards
 "S" Permitted, subject to Section 6.3.17: Special Use Permit, and any applicable accessory use-specific standards
 "X" = Prohibited

COMMON ACCESSORY USE OR STRUCTURE	ZONING DISTRICT							ACC. USE-SPECIFIC STANDARD
	R-20	R-30	OI	I-1	MM	TC	PD	
Accessory Dwelling Unit, Detached	X	X	X	X	S	S	A	4.5.5:A:
Accessory Dwelling Unit, Internal	X	X	X	X	P	P	A	4.5.5:B:
Amateur Communications Equipment	P	P	X	X	P	P	A	4.5.5:C:
Automated Teller Machine	X	X	X	X	P	P	A	4.5.5:D:
Childcare, Incidental	P	P	X	X	P	S	A	4.5.5:E:
Detached Craft, Hobby Shop or Studio	P	P	X	X	P	P	A	
Detached Garage or Carport	P	P	P	P	P	P	A	4.5.5:F:
Dish Antennas	P	P	P	P	P	P	A	4.5.5:G:
Drive-Through	X	X	S	S	S	S	A	4.5.5:H:
Family Health Care Structure	P	P	X	X	P	X	A	4.5.5:I:
Fence or Wall	P	P	P	P	P	P	A	4.5.5:J:
Garden	P	P	P	X	P	P	A	
Greenhouse	P	P	X	X	P	S	A	
Guard House or Gatehouse	P	P	X	P	P	P	A	
Home Occupation	P	P	X	X	P	P	A	4.5.5:K:
Outdoor Dining or Seating	X	X	X	X	P	P	A	
Outdoor Display or Sales	X	X	X	X	S	P	A	4.5.5:L:
Outdoor Storage	X	X	X	P	S	X	A	4.5.5:M:
Private Swimming Pool (including support structures)	S	S	X	X	S	S	A	4.5.5:N:
Private Tennis Court (including support structures)	S	S	X	X	S	X	A	
Recreational Equipment Storage	P	P	X	X	P	X	A	4.5.5:O:
Solar Energy System (small-scale)	P	P	P	P	P	P	A	4.5.5:P:
Tool or Storage Shed	P	P	P	P	P	P	A	
Underground Storage Tank	X	X	X	P	S	S	A	4.5.5:Q:

4.5.5: SPECIFIC STANDARDS FOR SELECTED ACCESSORY USES OR STRUCTURES

A: ACCESSORY DWELLING UNIT, DETACHED

A detached accessory dwelling unit (DADU) is permitted as accessory to a single-family detached dwelling only in accordance with the following standards:

- 1: No more than one DADU shall be located on a lot with a single-family detached dwelling;
- 2: A DADU shall not exceed 35 percent of the total amount of finished floor area in the principal structure;

- 3: A DADU shall not exceed one story, but nothing shall limit an DADU from being located on a second or third story of a structure provided the structure complies with the applicable maximum height limitations in the district where located;
- 4: A DADU and the principal dwelling shall have the same street address and mailbox;
- 5: A DADU shall not be subdivided or otherwise separated in ownership from the principal dwelling unit;
- 6: A DADU and the principal dwelling shall utilize the same driveway, unless the DADU is accessed from a right-of-way not used by the principal dwelling (e.g., a rear alley or separate street access on a corner or through lot);
- 7: A DADU shall include at least two off-street parking spaces; and
- 8: A DADU may be served by separate or shared water, sanitary sewer, gas, and electrical utilities.

B: ACCESSORY DWELLING UNIT, INTERNAL

An internal accessory dwelling unit (IADU) is permitted as accessory to a single-family detached dwelling only in accordance with the following standards:

- 1: No more than one IADU shall be located on a lot with a single-family detached dwelling;
- 2: The IADU shall be fully enclosed within the outer extents of the principal structure walls and roof, and shall not be located in a detached structure of any kind;
- 3: An IADU shall not exceed 35 percent of the total amount of finished floor area in the principal structure;
- 4: An IADU and the principal dwelling shall have the same street address and mailbox;
- 5: An IADU and the principal dwelling shall utilize the same driveway;
- 6: An IADU shall be served by at least two dedicated off-street parking spaces; and
- 7: An IADU may be served by separate or shared water, sanitary sewer, gas, and electrical utilities.

C: AMATEUR COMMUNICATIONS EQUIPMENT

Amateur radio antennas shall comply with Section 160D-905 of the North Carolina General Statutes and the following:

- 1: Towers associated with an amateur ham radio operator or private television antenna shall not exceed 100 feet above grade;
- 2: Towers or antennas attached to a principal structure shall be located on a side or rear elevation; and
- 3: Freestanding towers or antennas shall be located behind the principal structure.

D: AUTOMATED TELLER MACHINE

- 1: An ATM designed for walk-up use and located in the exterior wall of a building or a parking area shall be designed to avoid obstructions to pedestrian movement along sidewalks, through public use areas, or between parking areas and building entrances, or vehicular movement in front of buildings or through parking areas.
- 2: If an ATM is designed for use by customers in their vehicles, it shall comply with the accessory use standards (including districts where permitted) in Section 4.5.5:H: Drive-Through.
- 3: The overall character of an automated teller machine in terms of materials, colors, and architectural character shall be compatible with that of the principal structure.

E: CHILDCARE, INCIDENTAL

An incidental childcare or home day care for three or more children is permitted as an accessory use to an occupied residential dwelling unit if it complies with Article 7 of Chapter 110 of the North Carolina General Statutes, and the *Summary of North Carolina Child Care Laws and Rules* pamphlet prepared by the NC Department of Health and Human Services.

F: DETACHED GARAGE OR CARPORT

- 1: Detached garages and carports are permitted in all zoning districts provided they are aesthetically and architecturally compatible with the principal structure.
- 2: Detached garages and carports shall meet the same setback requirements as the principle building or structure.

G: DISH ANTENNAS

Dish antennas of less than one meter in diameter are exempted from the requirements of this Ordinance, and dish antennas greater than one meter in diameter may be permitted as an accessory use in accordance with the following requirements:

1: GENERAL REQUIREMENTS

- a: A zoning compliance permit is required when installing, moving, constructing, or reconstructing dish antennas subject to these standards.
- b: Dish antennas shall be installed on the ground and shall not be attached to a principal building.
- c: If a dish antenna is repainted, the only permissible color is the original color used by the manufacturer. The paint shall have a flat (non-glossy) finish. No patterns, lettering, or numerals shall be permitted on the dish surface.
- d: A dish antenna shall not be installed or located within any public right-of-way or in any drainage or utility easement.

2: LOCATION AND SETBACK REQUIREMENTS

- a: A dish antenna shall be installed in the side or rear yard only. The dish antenna shall be installed in a yard area which does not abut a public street, to the maximum extent practicable.
- b: The minimum required setback for a dish antenna shall be the same as for the principal building. In all cases, a dish antenna shall not be located within 20 feet of any street right-of-way.

3: HEIGHT REQUIREMENTS

The maximum height of a dish antenna shall be 15 feet, or the height of the principal building, whichever is less.

4: SCREENING REQUIREMENTS

- a: A dish antenna shall be surrounded on all sides with any one or a combination of the following features to limit its visibility from off-site views:
 - i: Evergreen vegetation;
 - ii: Topographic relief;
 - iii: A landscaped earth berm; or
 - iv: Architectural features such as fences or buildings.
- b: Dish antennas shall be screened so that the view of the lower two-thirds (2/3) of the dish area is restricted from view from all public streets and from any point six feet above the ground level of adjacent lots.
- c: If evergreen vegetation is used, a species and size shall be planted which can be expected to screen the required area within two years of normal growth.
- d: Any screening vegetation that dies shall be replaced.

H: DRIVE-THROUGH

Drive-through facilities shall comply with the following standards:

- 1: Outdoor speakers associated with a drive-through shall be at least 100 feet from any lot with a residential zoning district designation;

- 2: Drive-through windows, menus, or order boxes shall not be located in a street setback or on the front façade of the building they serve;
- 3: Drive-through facilities shall be designed so as not to obstruct the movement of pedestrians along sidewalks, through areas intended for public use, or between the building entrance and customer parking spaces; and
- 4: Canopies or other features installed over a drive through window shall maintain common roof lines and materials with the principal structure.

I: FAMILY HEALTH CARE STRUCTURE

One family health care structure is permitted on a lot with a single-family detached dwelling, in accordance with the standards in Section 160D-915 of the North Carolina General Statutes, and the following standards:

1: STRUCTURE

A family health care structure is one that:

- a: Is transportable and primarily assembled at a location other than the site of installation;
- b: Is located on a lot with an existing single-family detached dwelling;
- c: Is limited to one occupant who is a mentally or physically impaired person related to the caregiver;
- d: Is used by a caregiver or legal guardian in providing care for one mentally or physically impaired person on property owned or occupied as the caregiver’s or guardian’s residence;
- e: Has no more than 300 square feet of gross floor area;
- f: Is connected with water, wastewater, and electricity electrical systems by branching service from the single-family detached dwelling;
- g: Has the same street address and mailbox as the existing single-family detached dwelling;
- h: Uses the same driveway as the existing single-family dwelling, unless the structure is accessed from a right-of-way not used by the dwelling (e.g., a rear alley or separate street access on a corner or through lot);
- i: Meets the dimensional standards of the zoning district for a single-family detached dwelling; and
- j: Meets the applicable provisions in the North Carolina Building Code; however, is not located on a permanent foundation.

2: NEED AND RELATIONSHIP

- a: The occupant of the structure must be a mentally or physically impaired person that is a resident of the State who requires assistance with two or more activities of daily living (bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating) as certified in writing by a physician licensed to practice in North Carolina.
- b: The caregiver must be an individual 18 years of age or older who provides care for the mentally or physically impaired person and is a first or second degree relative of the impaired person. A first or second degree relative is a spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew or niece, including half, step, and in-law relationships.

3: PERMIT CONDITIONS

- a: Once the applicant provides sufficient proof that the family health care structure meets all standards, then the structure shall be permitted for a period of 12 months.
- b: The applicant may renew the zoning compliance permit prior approval for a 12-month period and continue to renew it provided the applicant provides evidence of continued need and compliance with these standards.
- c: The Town may make permit renewal and periodic inspections of the temporary family health care structure at reasonable times convenient to the applicant.

- d: No signage shall be permitted on the exterior of the structure or on the lot that identifies or promotes the existence of the structure.
- e: The structure shall not be subdivided or otherwise separated in ownership from the single-family detached dwelling.
- f: The structure shall be removed within 60 days if the impaired occupant is no longer receiving or in need of assistance.
- g: The zoning compliance permit may be revoked, or other enforcement actions taken, if these standards are violated.

J: FENCE OR WALL

Fences and walls shall be configured in accordance with the standards in Section 7.3: Fences and Walls.

K: HOME OCCUPATION

Customary home occupations such as home offices, beauty parlors, dressmaking, laundering, music teaching, tutoring, etc., shall comply with the following standards:

- 1: Home occupation accessory uses shall be clearly incidental and subordinate to a dwelling's use for residential purposes by its occupants;
- 2: Home occupations shall not employ persons not residing on the premises;
- 3: No more than 25 percent of the first floor area of a dwelling shall be used for home occupations;
- 4: No more than 50 percent of the first floor floorplate of a detached accessory structure shall be used for home occupations;
- 5: No display of goods or signage shall be visible;
- 6: No equipment or process shall be used in a home occupation that creates noise, vibration, glare, fumes, odors or electrical interferences detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used that creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises;
- 7: Only one commercial vehicle with up to one attached trailer associated with the home occupation may be parked or stored on the lot provided the vehicle is screened in accordance with Section 7.5: Screening; and
- 8: No traffic shall be generated by a home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of a home occupation shall be met off the street and other than in a required front yard.

L: OUTDOOR DISPLAY OR SALES

The outdoor display and sale of goods shall be limited to a commercial or mixed-use development and shall comply with the following standards:

- 1: Outdoor display/sales areas shall not encroach into any required setback;
- 2: Outdoor display/sales areas shall not be located any closer than five feet from any lot line;
- 3: Outdoor display/sales areas shall not be located within any local or State site easement; and
- 4: Outdoor display areas shall maintain at least five feet of space along the side of the display free of obstruction to allow for pedestrian and handicap movement, such that pedestrians do not have to step off the sidewalk or enter the drive aisle to see the merchandise.

M: OUTDOOR STORAGE

The following standards shall apply to all outdoor storage areas other than uses where outdoor storage is the principal use of land (see Table 4.2.6: Principal Land Use Table):

- 1: The extent of the outdoor storage area shall be clearly delineated on a site plan;

- 2: Outdoor storage areas shall comply with the minimum setback standards applicable in the zoning district where the outdoor storage area is located;
- 3: Outdoor storage areas are prohibited between the development's principal structure(s) and an arterial (principal and minor) or collector street;
- 4: Outdoor storage areas shall be fully screened in accordance with the applicable standards in [Section 7.5: Screening](#);
- 5: No outdoor storage area shall be located within a required landscaping area;
- 6: Stored goods, materials, and equipment shall be limited to those goods, materials, and equipment associated with the principal use or uses of the lot;
- 7: No materials shall be stored in areas intended for vehicular or pedestrian circulation; and
- 8: No materials shall be stored on any potable or non-potable water easement, stormwater easement, or sanitary sewer easement.

N: PRIVATE SWIMMING POOL OR TENNIS COURT (INCLUDING SUPPORT STRUCTURES)

Private swimming pools and tennis courts shall be subject to the following requirements:

1: LOCATION

The facilities and all accessory structures shall be located on the same lot as the principal dwelling unit in a side or rear yard and shall conform to the dimensional requirements for accessory structures.

2: LIGHTING

All lighting must be done in accordance with the provisions of [Section 7.2: Exterior Lighting](#).

3: SCREENING

Swimming pools and tennis courts shall be supplemented with a Type C perimeter buffer in accordance with [Section 7.4.9: Perimeter Buffers](#).

4: FENCING

Swimming pools shall be fenced with a secured gate in accordance with the State Building Code.

O: RECREATIONAL EQUIPMENT STORAGE

Private vehicles, including motor-powered recreational vehicles, recreational trailers or campers, and boats used solely for recreational purposes by the residents of the premises may be stored on the lot or tract of the principal residence only in accordance with the following standards:

- 1: The vehicle shall be in a garage or other enclosed accessory building or in a side or rear yard and fully screened from off-site views in accordance with [Section 7.5: Screening](#);
- 2: Placement of such vehicles in outdoor locations shall require prior approval of a zoning compliance permit;
- 3: Such vehicles shall not be used as a permanent residence; and
- 4: Nothing shall limit the temporary parking of such vehicles on driveways during transport, cleaning, service, or on a temporary basis not to exceed seven days per calendar year.

P: SOLAR ENERGY SYSTEM (SMALL-SCALE)

A small-scale solar energy system (SES) shall comply with the following requirements:

- 1: A SES may be roof-mounted, attached to a principle or accessory structure, be ground-mounted, or placed over a parking or other hard-surface area;
- 2: The footprint of a ground-mounted SES shall not exceed 35 percent of the floorplate of the principal structure, or one acre, whichever is less;
- 3: An SES shall comply with the dimensional requirements for the district where located;
- 4: An SES shall not obscure required sight distance triangles;

- 5: Ground-mounted SES facilities are exempted from the screening requirements in Section 7.5: Screening; and
- 6: Ground-mounted SES facilities shall not exceed 20 feet in height above adjacent pre-construction grade.

Q: UNDERGROUND STORAGE TANK

Underground storage tanks shall comply with the following requirements:

- 1: Underground storage tanks shall not be located within required setbacks, easements, or beneath public rights-of-way;
- 2: Underground storage tanks shall be installed and operated only in accordance with the North Carolina Building Code and all applicable Fire Code requirements; and
- 3: Underground storage tanks shall be depicted on site plans and as-builts.

4.6: TEMPORARY USES AND STRUCTURES

4.6.1: PURPOSE

This section allows for the establishment of specific temporary uses of limited duration, provided that such uses do not negatively affect adjacent land, and provided that such temporary uses are discontinued upon the expiration of a set time period. Temporary uses shall not involve the construction or alteration of any permanent building or structure.

4.6.2: APPLICABILITY

The standards in this section apply to non-permanent uses that take place on a temporary basis whether on the same site or in different locations in the Town. The activities listed in this section require the issuance of a zoning compliance permit, except where exempted by Section 4.6.3: General Standards for All Temporary Uses and Structures, or Section 4.6.4: Standards for Specific Temporary Uses, as applicable.

4.6.3: GENERAL STANDARDS FOR ALL TEMPORARY USES AND STRUCTURES

All temporary uses and structures shall comply with the following general standards, unless otherwise specified in this Ordinance:

A: GENERAL STANDARDS

An applicant proposing a temporary use or structure shall:

- 1: Secure written permission from the landowner;
- 2: Obtain the appropriate permits and licenses from the Town and other agencies;
- 3: Comply with the applicable requirements in Section 7.8: Signage, if signage is proposed;
- 4: Meet public utility and Town requirements for proper connection to water, sewer, electrical and other utility service connections, as applicable;
- 5: Not violate the applicable conditions of approval that apply to a site or use on the site;
- 6: Not result in a situation where the principal use, if present, fails to comply with the standards of this Ordinance;
- 7: Ensure the site of a temporary use or structure contains sufficient land area for the temporary use and for the parking and traffic movement associated with the temporary use, without impacting environmentally sensitive lands;
- 8: Ensure temporary uses remain in place no longer than 90 days if located within a special flood hazard area;
- 9: Provide adequate on-site restroom facilities (as appropriate); and
- 10: Cease all outdoor activities within 500 feet of a residential use by 10:00 PM.

B: GENERAL CONDITIONS

In approving a temporary use permit, the Town Manager is authorized to impose any of the following requirements as may be necessary to reduce or minimize any potential adverse impacts upon other property in the area, as long as the condition relates to a situation created or aggravated by the proposed temporary use. The Town Manager is authorized, where appropriate, to require:

- 1: Provision of temporary parking facilities, including vehicular access and egress;
- 2: Control of nuisance factors, such as but not limited to, the prevention of glare or direct illumination of adjacent properties, noise, vibrations, smoke, dust, dirt, odors, gases, and heat;
- 3: Prohibition of the storage or use of hazardous materials;
- 4: Regulation of placement, height, size, and location of equipment;
- 5: Provision of sanitary and medical facilities;
- 6: Provision of solid waste collection and disposal;
- 7: Provision of security and safety measures;

- 8: Use of an alternate location or date;
- 9: Modification or elimination of certain proposed activities;
- 10: Regulation of operating hours and days, including limitation of the duration to a shorter time period than requested or specified in this subsection; and
- 11: Submission of a performance guarantee to ensure that any temporary use will be removed from the lot or site within a reasonable time and the lot or site will be restored to its former condition.

4.6.4: STANDARDS FOR SPECIFIC TEMPORARY USES

A: ITINERANT MERCHANT SALES

Itinerant merchant sales, not including food truck vendors, are permitted subject to the following standards:

- 1: The sale of merchandise, products, or material must be a permitted principal use in the zoning district where the sales are temporarily located;
- 2: Itinerant merchants shall file an indemnification form with the Town when engaged in open air sales;
- 3: Itinerant merchant sales shall be located outside of street rights-of way, required sight distance triangles, required landscape areas, vehicular circulation areas, or and areas where pedestrian access is needed to ensure safe movement through or across a site;
- 4: All merchandise and related materials shall be removed from the site following the sale;
- 5: The maximum period of operation of itinerant merchant sales shall be from 8:00 AM to 11:00 PM; and
- 6: Permitted itinerant merchant sales shall be limited in duration to a maximum of 45 continuous days from the date the temporary use permit is issued.

B: OUTDOOR SEASONAL SALES

Outdoor seasonal sales are permitted on a lot in all non-residential and mixed-use zoning districts, subject to the following standards:

- 1: Seasonal sales shall be limited to seasonal agricultural products such as Christmas trees, pumpkins, and living plants;
- 2: The maximum hours of operation of an outdoor seasonal sales use shall be from 8:00 AM to 11:00 PM, except when abutting a residential district, then the seasonal sales use shall cease by 9:00 PM;
- 3: Exterior lighting shall comply with the requirements in Section 7.2: Exterior Lighting;
- 4: One recreational vehicle or similar structure is allowed as a temporary dwelling for security purposes in association with the seasonal sales use, provided it meets the general standards of Section 4.6.4:E: Temporary Dwelling, and is removed at the end of the sale;
- 5: The on-site accessory sales of seasonal products by an agricultural use or retail sales use is not considered outdoor seasonal sales and is not subject to these standards; and
- 6: Outdoor seasonal sales shall be limited in duration to a maximum of 45 continuous days from the date the temporary use permit is issued.

C: PORTABLE STORAGE CONTAINER

Portable storage containers may be permitted as a temporary use accessory to a single-family detached, single-family attached, or duplex unit, subject to the following standards.

1: TYPES DISTINGUISHED

Portable storage containers shall take one of the following three forms:

- a: A container used for the purposes of storage of personal property such as household items being temporarily stored or relocated;
 - b: A roll-off box, bin, or construction dumpster used for the collection and hauling of waste or debris;
- or

c: A fully enclosed, non-motorized, trailer (commonly known as a semi-trailer) with wheels intended to be towed to a site for the purpose of storage or transport of goods, materials, or equipment.

2: PERMIT REQUIRED

A building permit shall not be required for a portable storage container, but a zoning compliance permit issued in accordance with Section 6.3.22: Zoning Compliance Permit, is required.

3: EXEMPTIONS

The standards in this section shall not apply to portable storage containers used as temporary construction trailers, construction dumpsters, or construction materials recycling facilities, provided construction on the site is on-going.

4: MAXIMUM SIZE

Containers shall be no larger in dimension than eight feet in height, eight feet in width, or 20 feet in length.

5: MAXIMUM NUMBER

a: No more than two portable storage containers shall be located on a single lot or parcel of land.

b: No other type of container or shipping container shall be located on the same lot or parcel of land when one or two portable shipping containers are in place.

6: HAZARDOUS SUBSTANCES

Portable storage containers shall not be used to store or transport non-residential materials and substances, including but not limited to the following: solid waste, hazardous materials, explosives, and or unlawful substances and materials.

7: LOCATION

a: A portable storage container may be located in a driveway, a designated parking area, or behind a dwelling.

b: If site conditions make placement of the portable storage container behind a dwelling, on a driveway, or in a designated parking area impossible, then the portable storage container may be located immediately adjacent to the driveway or designated parking area.

c: A portable storage container shall not be located between the front of a dwelling and the street it faces unless any other placement is impossible due to site conditions.

d: In no instance shall a portable storage container be located within a Town street, public street right-of-way, or in a location that poses a threat to public health or safety.

8: DURATION

a: Portable storage containers may be located on a site for a maximum of up to 90 days per calendar year.

b: In no instance shall these standards be construed to allow placement of one or more portable storage containers on a single site for more than 90 days in any single calendar year.

D: SPECIAL EVENTS

1: EXEMPT EVENTS

A special event is not subject to the requirements in Section 4.6: Temporary Uses and Structures, if:

a: The event lasts two or fewer days within a 180-day period on a lot with an established principal use; or

b: The event is sponsored by the Town, a County, or the State.

2: SUBJECT TO THIS ORDINANCE

A special event not otherwise exempted from the standards in this section is permitted on a lot in a non-residential or mixed-use district, subject to the following standards:

- a:** A special event includes, but is not limited to arts and crafts shows, cultural events, musical events, concerts and stage shows, celebrations, festivals, fairs, carnivals, circuses, or outdoor religious events;
- b:** Circuses, carnivals and similar amusements may be subject to the applicable provisions of the Town Code of Ordinances; and
- c:** Temporary dwelling(s) are allowed in association with the special event provided they meet the general standards of Section 4.6.4:E: Temporary Dwelling, and are removed at the end of the event.

E: TEMPORARY DWELLING

A temporary dwelling is permitted on a lot subject to the following standards:

1: GENERAL STANDARDS

- a:** A temporary dwelling may be either a dwelling that meets all applicable North Carolina Building Code requirements for a dwelling or a recreational vehicle.
- b:** The temporary dwelling shall be located on a lot and meet the dimensional standards of the zoning district, to the maximum extent practicable.
- c:** Temporary emergency dwellings operated by a religious institution, governmental agency, or nonprofit organization may be located to provide emergency shelter where fire, flood, or other natural disaster has displaced persons.

2: TEMPORARY CONSTRUCTION DWELLING

- a:** One temporary dwelling may be used to house occupants of the principal dwelling under construction or subject to repair or casualty damage.
- b:** Temporary dwellings may be used on a construction site and occupied by persons having construction or security responsibilities over such construction site.
- c:** Temporary dwellings shall be located on the same lot as the principal dwelling under construction.
- d:** The temporary use permit shall not be issued until a site plan approved or a building permit is issued for a principal structure.
- e:** A temporary dwelling shall be removed within 30 days of issuance of a certificate of occupancy for the structure, or removed immediately if the building permit expires or is revoked.

3: DURATION

A temporary dwelling shall be limited in duration to a maximum of six months, except that the temporary use permit may be renewed for good cause shown.

F: TEMPORARY REAL ESTATE OFFICE

A temporary real estate office is permitted on a lot, subject to the following standards:

- 1:** The office is located on a lot that is part of the real estate development being sold or leased;
- 2:** Signage complies with the standards of Section 7.8: Signage, if applicable;
- 3:** The office complies with the dimensional standards of the zoning district in which it is located;
- 4:** The temporary office is converted into a dwelling or removed within 30 days after all units are sold or leased; and
- 5:** In the event a temporary real estate office is a trailer, it shall be removed within 30 days after all units are sold or leased.

G: TEMPORARY WIRELESS COMMUNICATIONS FACILITY

A temporary wireless communications facility shall comply with the following standards:

- 1: A temporary wireless communications facility may be allowed on a lot after a disaster or other emergency for a period not to exceed 30 days, except that the temporary use permit may be renewed for good cause shown;
- 2: A temporary wireless communications facility may be allowed on a lot to evaluate the technical feasibility of a site for a period not to exceed 14 days, except that the temporary use permit may be renewed for good cause shown;
- 3: A temporary wireless communications facility may be allowed on a lot in association with an event where the anticipated demand cannot be handled by existing facilities for a period not to exceed 14 days;
- 4: A temporary wireless communications facility may be allowed on a lot with an existing permanent wireless communications facility where the permanent structure is undergoing reconstruction or maintenance and the temporary facility is needed to maintain sufficient levels of service. The temporary facility shall be removed after reconstruction or maintenance is complete and service restored on the permanent structure; and
- 5: All temporary wireless communications facilities, including all supporting cables and anchors, shall be contained on the lot.

5: NONCONFORMITIES

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5.1: NONCONFORMITIES, GENERALLY

5.1.1: PURPOSE AND INTENT

There are existing structures, uses of land, lots of record, and development sites that were lawfully established before the effective date of this Ordinance or a subsequent amendment thereto, that now do not conform to standards and requirements of this Ordinance. Such uses, structures, lots, and sites are collectively referred to as “nonconformities.” The purpose and intent of this Chapter is to allow nonconformities to continue to exist, but to regulate and limit their expansion so as to bring them into conformity with these standards to the extent that is reasonably practicable.

5.1.2: DETERMINATION OF NONCONFORMITY STATUS

In all cases, the burden of establishing that a nonconformity lawfully exists shall be the responsibility of the landowner of the land on which the alleged nonconformity is located.

5.1.3: CONTINUATION, MINOR REPAIRS, AND MAINTENANCE ALLOWED

A: CONTINUATION

Nonconformities are allowed to continue in accordance with the requirements of this Chapter.

B: COMPLETION

Nonconforming projects incomplete as of August 18, 2021, shall only be completed in accordance with this Chapter and Section 1.10: Transitional Provisions. Nothing in these standards shall require a change in approved plans or approved uses for development upon which construction was lawfully commenced prior to August 18, 2021. For the purposes of this section, commencement of construction shall mean excavation or demolition, permanent placement of construction materials on site, or the permanent fastening of building materials.

C: MAINTENANCE ALLOWED

Nonconformities are allowed and encouraged to receive minor repairs and routine maintenance that are necessary to maintain the nonconformity and its surroundings in a safe condition and to protect against health hazards.

D: STRENGTHENING ALLOWED

Nothing in this Ordinance shall prevent the strengthening or restoration to a safe or lawful condition of any part of any building or structure declared unsafe or unlawful by a duly authorized Town official.

5.1.4: CHANGE OF TENANCY OR OWNERSHIP

No change in tenancy or ownership of land shall limit the continuance of a lawfully established nonconformity.

5.1.5: DEVELOPMENT IN THE SBO

- A:** Lawfully established development in the SBO shall be subject to the standards in Section 2.12.1: Significant Building Overlay (SBO) District.
- B:** The standards in Section 2.12.1: Significant Building Overlay (SBO) District, shall control in the event of conflict with these provisions.

5.2: NONCONFORMING USES

The lawful nonconforming use of a structure, land, or water existing as of August 18, 2021, may only be continued in accordance with the following standards:

5.2.1: DECLARED INCOMPATIBLE

All nonconforming uses are hereby declared generally incompatible with the permitted uses in the district in which they are located and with the provisions of this Ordinance.

5.2.2: INCREASING ELEVATION AUTHORIZED

Nothing in this section shall limit the increase in elevation of an existing or damaged building or structure in the special flood hazard area to a height above the regulatory flood elevation.

5.2.3: EXTENSION OR EXPANSION

A nonconforming use shall not be extended or expanded to occupy more space or altered in any way that increases the degree of nonconformity, except in accordance with the following standards:

A: SINGLE-FAMILY DETACHED DWELLINGS

Except for manufactured or mobile homes, a nonconforming residential use may not be extended, expanded, enlarged, or altered in any way that increases the degree of nonconformity.

B: MANUFACTURED OR MOBILE HOMES

An existing nonconforming manufactured or mobile home may be replaced with another nonconforming manufactured home provided the replacement manufactured home:

- 1: Is sixteen 16 feet wide or wider;
- 2: Is in place within 60 days of the removal of the prior nonconforming mobile or manufactured home;
- 3: Is connected to the public sewer system, or has all the necessary permits from the Henderson County Health Department pertaining to wastewater treatment;
- 4: Is surrounded by underpinning comprised of an all-weather base material; and
- 5: Complies with the standards in [Section 4.4.1:E: Manufactured Dwelling](#).

C: ALL OTHER USES

A nonconforming use may not be extended, expanded, enlarged, or altered in any way that increases the degree of nonconformity.

D: RENOVATION

- 1: Except for manufactured or mobile homes, a nonconforming use may be renovated provided the renovation does not extend, expand, or enlarge the nonconformity or create a new nonconforming use.
- 2: Nonconforming manufactured or mobile homes may be renovated in accordance with [Section 5.2.3:B: Manufactured or Mobile Homes](#).

5.2.4: CONVERSION TO ANOTHER NONCONFORMING USE

No nonconforming use shall be converted to another nonconforming use.

5.2.5: RESTORATION FOLLOWING CASUALTY DAMAGE

A: SIGNIFICANT DAMAGE

- 1: Except for single-family dwellings, a nonconforming use that is damaged by fire, explosion, flood, or other calamity in an amount equal to 51 percent or more of the use's current assessed value or total square footage may not be restored or reconstructed, except as a conforming use.
- 2: Nonconforming single-family dwellings damaged by fire, explosion, flood, or other calamity in an amount equal to 51 percent or more of the use's current assessed value or total square footage may be restored or reconstructed to their pre-damage condition. In no instance shall the degree of nonconformity be

extended, expanded, enlarged, or the use be altered in any way that increases the degree of nonconformity.

B: INSIGNIFICANT DAMAGE

If a nonconforming use is damaged by fire, explosion, flood, or other calamity to an extent less than 51 percent of its current assessed value or square footage, it may be restored to its pre-damage condition, provided the degree of nonconformity is not extended, expanded, enlarged, or the use is altered in any way that increases the degree of nonconformity.

5.2.6: CESSATION

- A:** In the event a nonconforming use is discontinued or abandoned for a period of more than 180 consecutive days, the nonconforming use may only be replaced by a use permitted in the district where located.
- B:** Any time a nonconforming use is converted to a conforming use, the conforming use shall not revert to the former nonconforming use or any other nonconforming use.

5.3: NONCONFORMING STRUCTURES

5.3.1: APPLICABILITY

Nonconforming principal and accessory structures shall be subject to the standards in this section.

5.3.2: CONTINUATION AND REPLACEMENT

A: CONTINUATION

A nonconforming structure may be continued in accordance with Section 5.1.3: Continuation, Minor Repairs, and Maintenance Allowed.

B: REPLACEMENT

- 1: Except in accordance with Section 5.3.4: Restoration, a nonconforming structure may be replaced provided the nonconformity is not extended, expanded, enlarged, or the use is altered in any way that increases the degree of nonconformity.
- 2: Nonconforming manufactured or mobile homes may only be replaced in accordance with the standards in Section 5.2.3:B: Manufactured or Mobile Homes.
- 3: Nothing shall limit activities that increase habitable space of a nonconforming residential structure to a height above the regulatory flood elevation.

C: RELOCATION

A nonconforming structure shall not be moved, in whole or in part, to another location on the parcel of land on which it is located, unless the relocation removes or reduces the nonconformity.

5.3.3: ALTERATION AND EXPANSION

- A: No nonconforming structure may be altered in any way which increases the nonconformity; however, any nonconforming structure or portion thereof may be altered to decrease the degree of nonconformity.
- B: Nothing shall limit the elevation of a structure as necessary to ensure habitable floor area is outside the regulatory flood elevation.

5.3.4: RESTORATION

If a nonconforming structure other than a manufactured or mobile home is damaged or destroyed by any means to an extent of 75 percent or more of its replacement cost or size, it may only be reconstructed in accordance with the requirements of this Ordinance.

5.4: NONCONFORMING LOTS OF RECORD**5.4.1: APPLICABILITY**

Lawfully established nonconforming lots of record may be developed in accordance with the standards in this section.

5.4.2: NONCONFORMING LOT WIDTH OR AREA**A: LOTS WITH CONTIGUOUS FRONTAGE IN ONE OWNERSHIP**

When two or more adjoining lots with contiguous frontage are under common ownership and one or more of the lots are nonconforming in terms of width or area, such lots shall be combined prior to filing a development application to create one or more lots, each of which conforms to the applicable dimensional requirements of the district prior to the commencement of development.

B: SINGLE LOT OF RECORD IN A RESIDENTIAL DISTRICT

When development is proposed on a lot in a residential zoning district that has an area or width which does not conform to the dimensional requirements of the district where it is located, but was lawfully established on or before *August 18, 2021*, a single-family detached dwelling may be built on the lot, subject to compliance with applicable setbacks. Approval of an administrative adjustment (see [Section 6.3.2: Administrative Adjustment](#)) or a variance (see [Section 6.3.20: Variance](#)) is required in cases when the proposed development cannot meet the setback requirements for the district where located.

C: SINGLE LOT OF RECORD IN A NON-RESIDENTIAL DISTRICT

When development is proposed on a lot in a non-residential district that has an area or width which does not conform to the dimensional requirements of the district where it is located but was lawfully established on or before August 18, 2021, the development may be permitted, subject to compliance with all required dimensional, development, design, and use-specific standards.

D: ADDITION OF LAND ENCOURAGED

Landowners seeking to develop a nonconforming lot of record are strongly encouraged to investigate if adjacent landowners will consider transferring land to the nonconforming lot in order to reduce or remove the nonconforming situation.

5.4.3: NONCONFORMITY AFFECTS REQUIRED SETBACKS

In cases where the size or shape of a nonconforming lot inhibits the ability of a use to comply with required setbacks, an applicant may apply to reduce the setback requirements by the minimum amount necessary in accordance with the standards and requirements in [Section 6.3.2: Administrative Adjustment](#).

5.4.4: EXPANSION OR ENLARGEMENT

The boundaries, shape, or size of a nonconforming lot may be modified through a lot line adjustment, boundary adjustment, recombination, or consolidation, provided it reduces the extent of the nonconformity.

5.4.5: GOVERNMENTAL ACQUISITION OF LAND

Conforming lots subject to governmental acquisition of a portion of the lot for a public purpose that results in the lot becoming nonconforming because it no longer complies with lot area, width, or depth standards of the zoning district where located shall be deemed conforming, provided the development complies with the following:

A: COMPLIES WITH USE TABLE

The development proposed complies with the requirements in [Table 4.2.6: Principal Land Use Table](#); and

B: COMPLIES WITH DIMENSIONAL STANDARDS

With the exception of the lot area requirements for the district where located, the development proposed shall comply with all other dimensional standards and other requirements of the district where located.

5.5: NONCONFORMING SIGNS

5.5.1: GENERAL

A sign that was legally in existence on August 18, 2021, and was constructed in accordance with the applicable laws and ordinances in effect on the date of construction, but by reason of its size, height, location, design, or construction is no longer in compliance with the requirements of this Ordinance, shall be deemed a nonconforming sign subject to the standards in this section.

5.5.2: PROHIBITED ACTIONS

The following actions associated with a nonconforming sign shall be prohibited:

A: ENLARGEMENT OR ALTERATION

Structural alteration, enlargement, or extension of a nonconforming sign or sign structure shall not be permitted, however, nothing shall limit the ability to modernize an outdoor advertising use in accordance with Section 136.131.2 of the North Carolina General Statutes; and

B: RELOCATION

Relocation of a nonconforming sign upon the premises, unless the relocation meets the requirements of this Ordinance is prohibited, however, nothing shall limit the ability to modernize an outdoor advertising use in accordance with Section 136.131.2 of the North Carolina General Statutes.

5.5.3: MAINTENANCE OF NONCONFORMING SIGNAGE ALLOWED

A nonconforming sign may remain in place and be maintained, subject to the following standards:

A: MAINTENANCE ACTIONS

Normal maintenance of a nonconforming sign shall be allowed, and shall be limited to the following:

- 1: Nonstructural repairs, such as repainting or electrical repairs;
- 2: Incidental alterations which do not increase the degree or extent of the nonconformity; and
- 3: Changing of copy, as provided in this section.

B: CHANGE OF SIGN COPY

Nonconforming signs may change copy in the form of replacement panels or replacement lettering, provided such change does not worsen the degree of nonconformity.

5.5.4: REPLACEMENT OF NONCONFORMING SIGNAGE

A: REMOVAL

Any nonconforming sign that is removed for any reason shall only be replaced with a sign that complies with the provisions of this Ordinance.

B: DAMAGE

- 1: If damage to a nonconforming sign from any cause is less than 50 percent of its replacement cost, the sign may be rebuilt or repaired to its original condition in its original location and may continue to be displayed as long as the use it serves remains in operation.
- 2: If damage from any cause to a nonconforming sign equals or exceeds 50 percent of its replacement cost, the nonconforming sign, including sign supports and mounting hardware, may only be replaced with a sign that complies with the provisions of this Ordinance.

5.5.5: DISCONTINUANCE OF BUSINESS ACTIVITY

A: DISCONTINUED FOR LESS THAN 180 DAYS

If the business activity on the premises where a nonconforming sign is located is discontinued for a continuous period of less than 180 days, then the nonconforming sign may remain.

B: DISCONTINUED FOR 180 DAYS OR MORE

- 1: If the business activity on the premises where a nonconforming sign is located is discontinued for a continuous period of 180 days or more, then the nonconforming sign must be removed or replaced by a sign conforming to the standards of this Ordinance within 30 days of notice by the Town Manager.
- 2: In cases where the sign is nonconforming due to its height, face area, or location, then the sign, including the sign supports, shall be modified or removed as necessary in order to conform with the applicable requirements of this Ordinance.
- 3: No nonconforming portion of a sign or portion of a sign that would result in replacement sign face area that is nonconforming shall be retained following discontinuance.

5.6: NONCONFORMING SITES**5.6.1: APPLICABILITY**

- A:** For purposes of this section, the term “nonconforming site features” includes the following:
- 1:** Nonconforming off-street parking;
 - 2:** Nonconforming landscaping;
 - 3:** Nonconforming screening;
 - 4:** Nonconforming walls or fences; and
 - 5:** Nonconforming exterior lighting.
- B:** Changes of use and expansion of existing buildings or structures on nonconforming sites shall comply with the standards in this section.

5.6.2: CHANGES OF USE

Changes in use shall comply with the following requirements:

- A:** In cases where an existing use is replaced by another use type of the same or lesser intensity (as measured by number of vehicular trips generated, hours of operation, number of on-site visitors, or other metric as determined by the Town Manager), then compliance with site features requirements shall be in accordance with the standards in [Section 5.6.4: Expansion of Buildings or Structures](#).
- B:** In cases where an existing use is replaced by a more intense use type (as measured by number of vehicular trips generated, hours of operation, number of on-site visitors, or other metric as determined by the Town Manager) full compliance with all applicable provisions in this section is required.

5.6.3: DETERMINATION OF COST AND ASSESSED VALUE

- A:** For purposes of determining if upgrading of nonconforming site features is required by this subsection, the cost of the expansion shall be as shown on the approved building permit application.
- B:** Assessed value shall be based on the most recently available tax records from Henderson County.

5.6.4: EXPANSION OF BUILDINGS OR STRUCTURES

If a building permit is required for expansion of the building or structure, the expansion shall require correction of existing on-site nonconforming off-street parking, landscaping, screening, wall or fencing, and exterior lighting in accordance with this section.

A: 25 PERCENT OR LESS OF STRUCTURE VALUE

Expansions in any continuous one-year period that costs 25 percent or less of the current assessed value of the structure shall not require any correction to nonconforming site aspects.

B: MORE THAN 25 PERCENT BUT LESS THAN 75 PERCENT OF STRUCTURE VALUE

Expansions in any continuous one-year period that costs more than 25 percent but less than 75 percent of the current assessed value of the structure shall require that a corresponding percentage of the off-street parking, landscaping, screening, wall or fencing, and exterior lighting standards of this Ordinance be installed or upgraded on the site, until the site achieves 100 percent compliance.

Example: A hypothetical building is required to provide at least 40 off-street parking spaces, but the building site only includes 20 spaces. If the building is remodeled such that the cost of remodeling equals 30 percent of the building's assessed value, the remodeling project must add 12 parking spaces (30% x 40 required spaces). This increases the development's degree of compliance with off-street parking standards from 50 percent (20 of 40 required spaces) to 80 percent (32 of 40 required spaces).

C: 75 PERCENT OR MORE OF ASSESSED VALUE

Expansion projects that cost 75 percent or more of the current assessed value of the structure shall require 100 percent compliance with the off-street parking, landscaping, screening, wall or fencing, and exterior lighting standards of this Ordinance.

D: TWO OR FEWER ADDITIONAL PARKING SPACES

When two or fewer additional off-street parking spaces are required under this subsection as a result of an expansion project, such additional off-street parking is not required to be installed, but the applicant may install a comparable number of bicycle parking spaces.

E: ADDITION OF OUTDOOR STORAGE AREA ONLY

When only outdoor operations/storage/display areas are being added or increased on a site, the percentage increase in outdoor operations area shall require a corresponding percentage increase in perimeter buffers and screening. Perimeter buffer and screening augmentation shall be located so as to achieve the performance objectives in Section 7.4: Landscaping, with priority given to screening the impacts of outdoor operations.

5.6.5: PHYSICALLY CONSTRAINED PROPERTIES - COMPLY TO MAXIMUM EXTENT PRACTICABLE

Lands that are physically constrained due to limited size, topography, or other environmental considerations may seek a reduction to these standards in accordance with Section 6.3.2: Administrative Adjustment, or Section 6.3.20: Variance.

6: PROCEDURES

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6.1: SUMMARY APPLICATION REVIEW TABLE

The following table lists each of the specific development application review procedures under this Ordinance and the review authority (ies) involved in the decision-making process. Review authorities are listed in columns across the top of the table and procedures are listed in rows down the side. Cells in the middle show actions taken by a particular review authority as part of the review process. Blank cells ("•") indicate that a particular review authority has no role in the particular procedure.

TABLE 6.1, SUMMARY APPLICATION REVIEW TABLE

Pre-Application Conference & Neighborhood Meeting: M = Mandatory; O = Optional; N/A = Not Applicable
 Type of Action: C = Comment; R = Recommendation; D = Decision; A = Appeal
 Type of Hearing: | | = Public Meeting; [] = Legislative Public Hearing; { } = Quasi-Judicial Public Hearing
 /#/ = See Table Notes at bottom of table

PROCEDURE	UDO SECTION #	PRE-APPLICATION CONFERENCE	NEIGHBORHOOD MEETING	REVIEW AUTHORITIES							
				TOWN MANAGER /1/	TECHNICAL REVIEW COMMITTEE	PLANNING BOARD	PARKS AND GREENWAYS BOARD	WATERSHED REVIEW BOARD	BOARD OF ADJUSTMENT	TOWN COUNCIL	SUPERIOR COURT
Administrative Adjustment	6.3.2:	O	O	D	•	•	•	•	{A}	•	•
Appeal	6.3.3:	N/A	N/A	•	•	•	•	•	{D}	•	A
Building Permit	6.3.4:	N/A	N/A	/2/	•	•	•	•	•	•	•
Certificate of Occupancy	6.3.5:	N/A	N/A	/2/	•	•	•	•	•	•	•
Determination	6.3.6:	O	N/A	D	•	•	•	•	{A}	•	•
Exempt Subdivision	6.3.7:	O	N/A	D	•	•	•	•	•	•	A
Expedited Subdivision	6.3.8:	N/A	N/A	C	D	•	•	•	•	•	A
Fee-in-Lieu	6.3.9:	O	N/A	R	•	•	C /3/	•	•	D	A
Final Plat	6.3.10:	N/A	N/A	•	D	•	•	•	•	•	A
Floodplain Permit	6.3.11:	M	N/A	/4/	•	•	•	•	•	•	•
Performance Guarantee	6.3.12:	O	N/A	R	•	•	C /3/	•	•	D	A
Planned Development	6.3.13:	M	M	•	/5/	R	C /3/	•	•	D	A
Preliminary Plat	6.3.14:	M	M	•	•	R	C /3/	•	•	D	A
Rezoning	6.3.15:	M	M /6/	•	•	R	C /3/	•	•	D	A
Site Plan /7/	6.3.16:	M	O	•	R	D	C /3/	•	{A}	•	•

CHAPTER 6: PROCEDURES

SECTION 6.1: SUMMARY APPLICATION REVIEW TABLE

TABLE 6.1, SUMMARY APPLICATION REVIEW TABLE

Pre-Application Conference & Neighborhood Meeting: M = Mandatory; O = Optional; N/A = Not Applicable
 Type of Action: C = Comment; R = Recommendation; D = Decision; A = Appeal
 Type of Hearing: | | = Public Meeting; [] = Legislative Public Hearing; { } = Quasi-Judicial Public Hearing
 /#/ = See Table Notes at bottom of table

PROCEDURE	UDO SECTION #	PRE-APPLICATION CONFERENCE	NEIGHBORHOOD MEETING	REVIEW AUTHORITIES							
				TOWN MANAGER /1/	TECHNICAL REVIEW COMMITTEE	PLANNING BOARD	PARKS AND GREENWAYS BOARD	WATERSHED REVIEW BOARD	BOARD OF ADJUSTMENT	TOWN COUNCIL	SUPERIOR COURT
Special Use Permit	6.3.17:	M	M	•	/8/	•	•	•	/9/	{D}	A
Stormwater Permit	6.3.18:	O	N/A	D	•	•	•	•	{A}	•	•
Text Amendment	6.3.19:	M	O	•	•	R	C /3/	•	•	[D]	A
Variance	6.3.20:	M	O	•	•	•	•	{D} /10/	{D}	•	A
Watershed Permit	6.3.21:	O	N/A	D	•	•	•	{A}	•	•	•
Zoning Compliance Permit	6.3.22:	O	N/A	D	•	•	•	•	{A}	•	•

NOTES:

- /1/ Decided by Town Manager or a designee.
- /2/ Issued by Henderson County following verification by the Town of compliance with all applicable Town requirements.
- /3/ Comments and recommendations on matters related to tree protection, parks, and greenways to be provided by Parks and Greenways Board prior to consideration by Planning Board or Town Council.
- /4/ Floodplain development permits are issued in accordance with the standards in Chapter 152 of the Town Code of Ordinances.
- /5/ Planned development master plan to be reviewed by TRC prior to Planning Board consideration.
- /6/ Neighborhood meeting required for rezonings seeking to establish a more intense zoning district.
- /7/ Compliance with applicable district-specific and design standards determined by Planning Board as part of site plan review.
- /8/ Concept plans associated with a special use permit application to be reviewed by TRC.
- /9/ Special use permits for the establishment of governmental uses or operations shall be decided by the Board of Adjustment.
- /10/ The Watershed Review Board shall hear and decide applications for minor variances from the watershed protection standards and shall provide a recommendation to the North Carolina Environmental Management Commission on applications for a major variances from the watershed protection standards.

6.2: STANDARD REVIEW PROCEDURES

6.2.1: OVERVIEW

This section describes the standard procedural steps and rules generally applicable to every development application reviewed under this Ordinance, except where identified in [Section 6.3: Development Application Procedures](#).

6.2.2: PURPOSE AND INTENT

This standard procedures section establishes the procedures used by the Town for the processing of applications for development permits or approvals. It is the intent of this section to establish a uniform set of processes to foster greater efficiency and predictability for applicants, Town residents, Town staff, and elected and appointed officials during the review of development applications.

6.2.3: CONFLICT WITH SPECIFIC PROCEDURES

In instances where the standards in this section are in conflict with the standards for a specific application review procedure set out in [Section 6.3: Development Application Procedures](#), the standards in [Section 6.3: Development Application Procedures](#), shall control.

6.2.4: PRE-APPLICATION CONFERENCE

A: PURPOSE

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

B: APPLICABILITY

1: PRE-APPLICATION CONFERENCE REQUIRED, OPTIONAL, OR NOT APPLICABLE

- a: A pre-application conference between the applicant and Town staff is required before submittal of some applications, in accordance with [Table 6.1: Summary Application Review Table](#).
- b: Pre-application conferences are optional for some applications, in accordance with [Table 6.1: Summary Application Review Table](#).
- c: Some applications do not have a pre-application conference option associated with them, though an applicant may contact Town staff with questions about any development application procedure.
- d: There are no limits on the number of pre-application conferences that may be conducted, though the Town may charge a pre-application fee for the third or any subsequent pre-application conference on the same project or development site.

2: DISCUSSIONS NON-BINDING

Discussions at a pre-application conference are not binding on the Town and do not constitute filing or review of an application.

C: SCHEDULING

Applicants shall contact the Town Manager to schedule a pre-application conference.

D: PROCEDURE

Following receipt of a request for a pre-application conference, the Town Manager shall schedule the conference and notify the applicant of the time, location, and any suggested submittal requirements. During the conference, attendees will explain the application review process and any special issues or concerns regarding the subject proposal.

E: SUBMITTAL REQUIREMENTS

- 1: Pre-application conferences for development applications that include a site plan, subdivision, or master plan shall require the applicant to provide a generalized site sketch or plot plan of the development as part of the request to schedule a pre-application conference.
- 2: For other types of development applications, the applicant may submit supplemental information regarding their application, as appropriate, with their request for a pre-application conference, though there is no requirement to submit any material in advance of the conference.
- 3: No material submitted during a pre-application conference shall be binding on the Town or an applicant.

F: EFFECT

- 1: When required, a completed pre-application conference entitles an applicant to take the next step in the application process. Applications subject to a mandatory pre-application conference will not be considered as complete applications until after the mandatory pre-application conference has been completed.
- 2: In cases where multi-part applications require more than one pre-application conference, an applicant may choose to conduct a single pre-application conference for all portions of a multi-part application.

6.2.5: NEIGHBORHOOD INFORMATION MEETING

A: PURPOSE

The purpose of the neighborhood information meeting is to inform landowners and occupants of nearby lands about a development application that is going to be reviewed under this Ordinance, and to provide the applicant an opportunity to hear comments and concerns about a development application prior to the review process. The neighborhood information meeting is proposed as a means of resolving potential conflicts and outstanding issues with nearby landowners, where possible, in an informal context.

B: APPLICABILITY

- 1: Neighborhood information meetings shall be conducted prior to filing of an application for the following types of development applications:
 - a: Planned developments;
 - b: Rezoning seeking to establish a more dense or intense zoning district; or
 - c: Special use permits.
- 2: A neighborhood information meeting is optional, at the applicant’s discretion, for any proposed development application not listed in subsection (1) above and for land receiving its first zoning district designation by the Town as part of annexation.

C: PROCEDURE

In cases when a neighborhood information meeting is conducted, it shall comply with the following procedure:

1: TIMING

- a: The meeting should be held at a time of day when the maximum number of neighbors may attend, typically between the hours of 10AM and 8PM.
- b: The meeting shall take place no less than three days before the application is initially filed with the Town.

2: FORM

- a: The neighborhood information meeting can take the form of a meeting or gathering between the applicant, or the applicant’s representative, and landowners or other interested parties.

b: Multiple meetings may take place, but advance notification for each meeting shall be provided in accordance with Section 6.2.5:C:4: Notification.

3: LOCATION

a: The neighborhood information meeting shall take place in a public or community space as close as possible to the site where development is proposed.

b: In the event no public or community space is suitable, the meeting may take place at another Town-owned site, subject to a prior reservation made by the applicant.

4: NOTIFICATION

a: The applicant shall provide notification of the neighborhood information meeting via first class mail to all landowners and occupants within 300 linear feet of the outer perimeter of the site where development is proposed.

b: Mailed notice shall be provided no less than ten days prior to the date of the neighborhood information meeting.

5: INFORMATION PROVIDED

The applicant shall provide the following in the neighborhood information meeting invitation:

a: The purpose of the meeting;

b: A description of the proposed development;

c: The time, date, and location of the meeting;

d: Telephone and email contact information for the applicant or applicant’s representative; and

e: Any additional information that would promote understanding of the development proposal.

6: CONDUCT OF MEETING

At the meeting, the applicant shall explain the development proposal and the proposed application, respond to questions and concerns attendees raise about the application, and propose ways to resolve conflicts and concerns.

7: STAFF ATTENDANCE

Town staff shall not attend a neighborhood information meeting in a professional capacity. Nothing shall limit a Town staff member from attending a neighborhood information meeting as an interested citizen.

8: WRITTEN SUMMARY

The applicant shall submit a written summary of each neighborhood information meeting, accompanied by copies of what was presented. At a minimum, the written summary shall include all of the following:

a: An affidavit of mailing listing all parties (including mailing address) who were mailed a meeting invitation;

b: A copy of the meeting invitation;

c: A sign-in sheet of meeting attendees; and

d: A list of the items discussed, including any questions posed by attendees and the answers provided.

6.2.6: APPLICATION FILING AND ACCEPTANCE

A: AUTHORITY TO FILE APPLICATIONS

1: Unless expressly stated otherwise in this Ordinance, development applications associated with a particular lot or site reviewed under this Ordinance shall be filed by the landowner, contract purchaser, or other person having a recognized property interest in the land on which development is proposed.

2: Applications for amendments to the text of this Ordinance may only be initiated by the Town Manager, the Planning Board, the Town Council, or by an applicant who has received a determination (see Section 6.3.6: Determination) related to the portion of the text they are seeking to amend.

B: APPLICATION CONTENT

The Town of Laurel Park shall establish development application content and forms, which shall be maintained by the Town Manager.

C: APPLICATION FEES

- 1: The Town Council shall establish application fees and may amend and update those fees as necessary. Fees shall cover the costs of review, including public notification, as required.
- 2: No action shall be taken on an application and no application approval shall be issued until all required application fees are paid in full.

D: APPLICATION FILING

- 1: Applications shall be filed with the Town in the form established by the Town, along with the appropriate application fee.
- 2: An application shall not be considered to be submitted until determined to be complete in accordance with Section 6.2.6:F: Determination of Application Completeness.
- 3: No application shall be reviewed or decided until after it is determined to be complete.

E: BURDEN OF PRESENTING COMPLETE APPLICATION

The burden of presenting and maintaining a complete application shall be solely upon the applicant.

F: DETERMINATION OF APPLICATION COMPLETENESS

Upon development application filing, the Town Manager shall determine, within a reasonable period of time, whether the application is complete or incomplete. A complete application is one that:

- 1: Contains all information and materials identified in this Ordinance and all supporting documentation, as required for submittal of the particular type of application;
- 2: Is in the form and number of copies required by the Town;
- 3: Is legible and printed to scale, where appropriate;
- 4: Is signed by the person(s) with the authority to file the application;
- 5: Includes information in sufficient detail to evaluate whether or not the application complies with the applicable review standards in this Ordinance;
- 6: Is accompanied by the fee established for the particular type of application;
- 7: Includes material associated with a pre-application conference, if one is required;
- 8: Includes the written summary of a neighborhood information meeting, if one was conducted prior to application submittal; and
- 9: Is not subject to the limitations described in Section 6.2.15: Limitation on Subsequent Applications.

G: APPLICATION INCOMPLETE

If the application is incomplete, the Town Manager shall notify the applicant of the deficiencies in writing. The applicant may correct the deficiencies and resubmit the application for completeness determination in accordance with Section 6.2.6:D: Application Filing.

H: APPLICATION COMPLETE

- 1: On determining that the application is complete, it shall be considered as submitted, and the Town shall notify the applicant and commence review in accordance with the procedures and standards of this Ordinance.
- 2: Nothing shall preclude the Town Manager or a review authority from re-evaluating an application for completeness in the event application inadequacies are revealed at a date subsequent to an application being declared complete.

6.2.7: PERMIT CHOICE

- A:** In cases where the applicable provisions of this Ordinance are amended between the time that a development application is declared complete (see Section 6.2.6:F: Determination of Application Completeness) and the time written notification of decision on the application is provided (see Section 6.2.12: Written Notice of Decision), the applicant may choose which version of this Ordinance shall apply to their application, in accordance with Section 143-755 of the North Carolina General Statutes.
- B:** The Town shall notify applicants, in writing, when a choice under this section is available, and the applicant shall respond, in writing, with their choice of the applicable provisions. The applicant's decision shall be final, and review under a different set of requirements may only be accomplished through a withdrawal and re-submittal of the application.
- C:** In cases where an applicant has had an opportunity to exercise permit choice under this section, and subsequently places their application on hold, or fails to respond to requests for further information from the Town for a period of six months or more, review of the application shall be discontinued, and the requirements in effect at the time application review recommences shall apply.

6.2.8: STAFF REVIEW AND ACTION**A: INITIAL STAFF REVIEW**

- 1: Following application completeness determination, development application materials shall be distributed by the Town Manager to all appropriate staff and review agencies for review and comment.
- 2: Applications shall be reviewed during the review cycle in place when the application is determined to be complete.
- 3: In considering the application, the Town Manager or other Town staff (as appropriate), shall review the application, relevant support material, and any comments or recommendations from other staff and review agencies to which the application was referred.
- 4: If deficiencies in complying with applicable standards of this Ordinance are identified, the Town Manager shall notify the applicant of such deficiencies in writing and provide the applicant a reasonable opportunity to discuss them and revise the application accordingly.

B: STAFF REPORT AND RECOMMENDATION

- 1: The Town Manager shall prepare a written staff report on any application to be reviewed or decided by the Planning Board, Town Council, or the Board of Adjustment.
- 2: The staff report shall conclude whether the application complies with all applicable review 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, in accordance with Section 6.3: Development Application Procedures.
- 3: The staff report shall not include a recommendation from Town staff on variance applications or appeals.
- 4: In cases where the staff finds an application does not comply with the provisions of this Ordinance the staff report shall cite the specific code section(s) in question and the reasons why the application fails to comply.
- 5: The staff report may identify and recommend modifications to the development proposal that specify how compliance deficiencies might be corrected and how adverse effects of the development application (if any) might be mitigated.
- 6: A staff report is not required for applications decided by the Town Manager or the Technical Review Committee, though one may be prepared.

C: DISTRIBUTION OF APPLICATION AND STAFF REPORT

In cases where a staff report is prepared, the Town Manager shall take the following actions within a reasonable time period before the application is scheduled for review:

- 1: Schedule and ensure any required public notice of the application (if appropriate) is prepared in accordance with Section 6.2.9: Public Notification;
- 2: Transmit the application, related materials, and staff report to the appropriate review authority (ies);
- 3: Transmit a copy of the staff report and any related materials to the applicant; and
- 4: Make the application, related materials, and staff report available for examination by the public.

D: APPLICATIONS SUBJECT TO DECISION BY STAFF

- 1: In cases where a development application is decided by the Town Manager or other designated Town staff member, the appropriate Town staff member shall make one of the following decisions, based on the review standards set forth in Section 6.3: Development Application Procedures:
 - a: Approve the application;
 - b: Disapprove the application; or
 - c: Delay decision making for a specified time to allow the applicant to revise the application for compliance with the requirements in this Ordinance.
- 2: In some instances, Town staff may decide an application contingent upon further revision by the applicant in accordance with the direction provided in the decision.

E: CONFLICT OF INTEREST

A Town staff member shall not make a decision on an application where:

- 1: The outcome of the matter being considered is reasonably likely to have a direct, substantial, or readily identifiable financial impact on them or a member of their immediate family; or
- 2: In cases where there is a close familial, business, or other associational relationship with the landowner or applicant.

6.2.9: PUBLIC NOTIFICATION

A: PUBLIC MEETING DISTINGUISHED

Public meetings conducted in accordance with this Ordinance are not public hearings, and do not require the provision of public notification in accordance with this section.

B: PUBLIC HEARING SCHEDULING

When a development application is subject to a public hearing, the Town Manager shall ensure that the public hearing is scheduled for a regular meeting or a meeting specially called for that purpose by the review authority.

C: PUBLIC NOTIFICATION REQUIREMENTS

- 1: All development applications subject to public notification shall comply with the appropriate standards in Sections 160D-406, 160D-601, 160D-602, 160D-1005, and other applicable sections of the North Carolina General Statutes, as appropriate.
- 2: Table 6.2.9: Public Notification Requirements, summarizes the provisions related to public notice. In computing the required time periods, the day the notice is published, mailed, or posted shall not be included, but the day of the hearing shall be included.

TABLE 6.2.9: PUBLIC NOTIFICATION REQUIREMENTS			
DEVELOPMENT APPLICATION TYPE	TYPE OF PUBLIC NOTIFICATION REQUIRED (R=REQUIRED)		
	PUBLISHED /1/	MAILED /2/	POSTED /3/
Appeal	•	R /4/	•

TABLE 6.2.9: PUBLIC NOTIFICATION REQUIREMENTS			
DEVELOPMENT APPLICATION TYPE	TYPE OF PUBLIC NOTIFICATION REQUIRED (R=REQUIRED)		
	PUBLISHED /1/	MAILED /2/	POSTED /3/
Development Agreement	R	R	R
Planned Development	R	R	R
Rezoning	R /5/	R	R
Special Use Permit	•	R	R
Text Amendment	R	•	•
Variance	•	R	R
<p>NOTES:</p> <p>/1/ Published notice shall be provided once a week for two successive calendar weeks, with the first notice published between 10 and 25 days before the public hearing.</p> <p>/2/ Mailed notice shall be provided to the applicant, affected landowners, and landowners of abutting land between 10 and 25 days before the public hearing.</p> <p>/3/ Posted notice shall be provided between 10 and 25 days before the public hearing.</p> <p>/4/ Mailed notice shall only be required in cases where an appeal pertains to a particular lot or site.</p> <p>/5/ See Section 160D-602(b) of North Carolina General Statutes</p>			

(AMENDED 05-17-22 UDOTA1-22)

D: PUBLISHED NOTICE REQUIREMENTS

When the North Carolina General Statutes require that public notice be published, the designated review authority shall publish a notice in a newspaper that is regularly published at least one time per week and that has general circulation in the Town.

E: MAILED NOTICE REQUIREMENTS

When the North Carolina General Statutes require that public notice be mailed, the designated review authority shall provide the required mailed public notice in accordance with the following:

- 1: Mailed notice specified in Table 6.2.9: Public Notification Requirements, shall be mailed to:
 - a: The landowner;
 - b: The applicant, if different from the landowner;
 - c: Landowners of properties adjacent to the land that is the subject of the application, but located across a street, railroad, or other transportation corridor; and
 - d: Any others entitled to receive notice in accordance with Section 160D-602 of the North Carolina General Statutes.
- 2: Notice shall be deemed mailed by its deposit in the United States first class mail, properly addressed, postage paid. The content and form of the notice shall comply with Section 6.2.9:G: Notice Content.
- 3: A copy of the mailed notice shall be maintained in the offices of the designated review authority for public inspection during normal business hours.
- 4: Mailed notice shall not be required when a rezoning includes more than 50 lots or tracts owned by at least 50 different landowners, provided the Town publishes a map (occupying at least 1/2 of a newspaper page) showing the boundaries of the affected area in a newspaper of general circulation once a week for two successive calendar weeks between 10 days and 25 days before the public hearing. Affected landowners residing outside the newspaper circulation area shall be notified via first class mail pursuant to Section 6.2.9:E: Mailed Notice Requirements.

F: POSTED NOTICE REQUIREMENTS

When the North Carolina General Statutes require that public notice be posted, the Town Manager shall provide the required posted public notice in accordance with the following:

- 1: A sign (or signs) shall be placed on the subject property in a conspicuous location so as to be clearly visible to the traveled portion(s) of the respective street(s). Where the land subject to the notice does not have frontage on a public street, the sign shall be erected on the nearest street right-of-way.
- 2: The content and form of the notice shall comply with Section 6.2.9:G: Notice Content.

G: NOTICE CONTENT

Unless expressly indicated otherwise by the North Carolina General Statutes, all notices by mail or publication shall:

- 1: Identify the date, time, and place of the public hearing;
- 2: Describe the land involved by parcel identification number (PIN), street address, or by its relationship to a fronting street and the nearest cross street (if applicable);
- 3: Describe the nature and scope of the proposed development or action; and
- 4: Identify the means to contact a Town official for further information.

H: CONSTRUCTIVE NOTICE

- 1: Minor defects in any notice shall not impair the notice or invalidate proceedings if a bona fide attempt is made to comply with applicable notice requirements. Minor defects in notice may include, but are not limited to:
 - a: Errors such as landowner name, title, or address existing in the County tax listing; or
 - b: Typographical or grammatical errors that do not impede communication of the notice to affected parties.
- 2: Failure of a party to receive written notice shall not invalidate subsequent action. A posted notice that becomes no longer visible due to weather, theft, or other unintended circumstances shall not invalidate proceedings if a bona fide attempt is made to comply with applicable posted notice requirements. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a public hearing and the location of the subject property shall be strictly adhered to.

6.2.10: PUBLIC MEETINGS AND HEARINGS

A: HEARINGS DISTINGUISHED

Public hearings identified in this Ordinance shall be either legislative or quasi-judicial in nature.

B: LEGISLATIVE PUBLIC HEARINGS

Table 6.1: Summary Application Review Table, identifies the kinds of development applications decided following completion of a legislative public hearing, which shall be conducted in accordance with the following requirements:

1: PROCEDURE

- a: Legislative public hearings shall not be conducted until after provision of required public notification in accordance with Section 6.2.9: Public Notification.
- b: The legislative public hearing shall be open to the public and shall be conducted in accordance with the review authority’s adopted rules of procedure for public hearings.
- c: Attendees shall be afforded the opportunity to comment during a public hearing, as authorized in the adopted rules of procedure.

2: VOTING

- a: The review authority shall consider the application, relevant support materials, staff report, any recommendations, and public comments. After the conclusion of the public hearing, it shall make one of the decisions authorized for the particular type of application based on the review standards applicable to the application type, as set forth in Section 6.3: Development Application Procedures.
- b: A review authority member shall not vote on an application where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member in accordance Section 160D-109 of the North Carolina General Statutes.
- c: A review authority member shall not vote on an application where the landowner or applicant is a person with whom the member has a close, familial, business, or other associational relationship.
- d: A decision of the review authority on an application considered during a legislative public hearing shall be decided by a simple majority of the review authority members, excluding any members who are recused from voting due to a conflict of interest.

3: APPLICATION REVISION

- a: An applicant may revise an application during a legislative public hearing in response to recommendations or suggestions of the review authority.
- b: In cases where a substantial change to an application is proposed following review by a prior review authority, the review authority deciding the application shall not make a decision on the application until after it is remanded to the prior review authority (ies) for consideration of the substantial change.
- c: The review authority deciding the application may approve an application modified during a legislative public hearing provided that all changes are properly identified in the motion of approval and that any conditions of approval are consented to, in writing, by the applicant.
- d: In cases where an application has been modified during a legislative public hearing, the applicant shall submit any necessary site plans, plats, or other documents depicting the modification to the appropriate Town staff for consideration and approval prior to issuance of any development permit approvals.
- e: The Town may provide additional public notice related to revision of an application on a case-by-case basis but is under no legal requirement to provide additional notice in cases where applications are revised in accordance with this section.

4: REMAND

A review authority may remand the application to a prior review authority or Town staff for further consideration of new information or specified issues or concerns, if appropriate.

5: RECORD

- a: A recording may be made of all public hearings and if made, the recordings shall be maintained in accordance with Town policy.
- b: Accurate minutes shall also be kept of all proceedings, but a transcript need not be made.

C: QUASI-JUDICIAL PUBLIC HEARINGS

Table 6.1: Summary Application Review Table, identifies the kinds of development applications decided following a quasi-judicial public hearing, which shall be conducted in accordance with State law, the review authority’s rules of procedure, and the following requirements:

1: NOTICE REQUIRED

Quasi-judicial public hearings shall not be conducted until after provision of required public notification in accordance with Section 6.2.9: Public Notification.

2: OPPORTUNITY TO PRESENT TESTIMONY AND EVIDENCE

The applicant, the Town, and any party with standing shall be afforded a reasonable opportunity to present testimony and evidence in support of or in opposition to the application, and to ask questions of or cross examine the applicant, the applicant's representatives, anyone providing testimony during the hearing, Town staff, and the Town staff's representatives.

3: LIMITATION ON EVIDENCE

- a:** The Chair or other presiding officer may limit or exclude incompetent evidence, immaterial evidence, repetitive evidence, and personal attacks.
- b:** Decisions shall not be based upon hearsay evidence though such evidence may be entered into the record.
- c:** Only evidence presented during the public hearing may be relied upon in making a decision on the application.

4: EX PARTE COMMUNICATION

Ex parte communications between an applicant or an affected party and a member of the review authority are prohibited. If it occurs, it shall be disclosed during the quasi-judicial public hearing.

5: VOTING**a: GENERALLY**

The review authority shall consider the application, relevant support materials, staff report, any recommendations, and public comments. After the conclusion of the public hearing, it shall make one of the decisions authorized for the particular type of application based on the review standards applicable to the application type, as set forth in [Section 6.3: Development Application Procedures](#).

b: CLEARLY STATE FACTORS FOR DECISION

Unless stated otherwise in this Ordinance, the decision shall reflect the review authority's determination of any contested facts and their application to the applicable standards.

c: CONFLICTS OF INTEREST

- i:** A review authority member shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker.
- ii:** Impermissible violations of due process include but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change; an undisclosed ex parte communication; a close familial, business, or other associational relationship with an affected person; or a direct, substantial, and readily identifiable financial impact on the member.
- iii:** If an objection is raised to a member's participation and that member does not recuse themselves, the remaining members shall, by majority vote, rule on the objection.

6: APPLICATION REVISION

- a:** An applicant may revise an application during a quasi-judicial public hearing in response to recommendations or suggestions of the review authority.
- b:** The review authority may approve an application modified during a quasi-judicial public hearing provided all changes are properly identified in the motion of approval by the review authority and that any conditions of approval are consented to, in writing, by the applicant.
- c:** In cases where an application has been modified during a quasi-judicial public hearing, the applicant shall submit any necessary site plans, plats, or other documents depicting the modification to the appropriate Town staff prior to issuance of any development permit approvals.

7: DELAY OF DECISION

The review authority may delay a decision on the application if additional information is requested of the applicant.

8: RECORD

a: A recording may be made of all public hearings and if made, the recordings shall be maintained in accordance with Town policy.

b: Accurate minutes shall be kept of all proceedings, but a transcript need not be made.

D: PUBLIC MEETINGS

Table 6.1: Summary Application Review Table, identifies the kinds of development applications subject to a required public meeting, which shall be conducted in accordance with the review authority’s rules of procedure and the following requirements:

1: PROCEDURE

a: Public meetings shall require public notification in accordance with Section 143-318.12 of the North Carolina General Statutes but shall not require prior public notice of any individual applications to be considered during the public meeting, though it may be provided by the Town on a case-by-case basis.

b: The public meeting shall be open to the public and shall be conducted in accordance with the review authority’s adopted rules of procedure for public meetings.

c: There is no requirement to allow public comment or testimony during a public meeting, though it may be provided at the Chair or other presiding officer’s discretion.

2: VOTING

a: A decision of a review authority shall be decided by a simple majority of the members present and voting.

b: A review authority member shall recuse themselves from voting on an application where:

i: The outcome of the matter being considered is reasonably likely to have a direct, substantial, or readily identifiable financial impact on them or a member of their immediate family; or

ii: In cases where there is a close familial, business, or other associational relationship with the landowner or applicant.

6.2.11: CONDITIONS OF APPROVAL

A: Conditions shall be limited to those that address conformance of development and use of the site with Town regulations and adopted plans and that address the impacts reasonably expected to be generated by the development or use of the site.

B: Conditions shall be in writing and may be supplemented with text or plans and maps.

C: No condition shall be made part of the application which:

1: Specifies the ownership status, race, religion, or other characteristics of the occupants of housing units;

2: Establishes a minimum size of a dwelling unit;

3: Establishes a minimum value of buildings or improvements;

4: Excludes residents based upon race, religion, or income; or

5: Obligates the Town to perform in any manner relative to the approval of the application or the development of the land.

D: All conditions of approval shall be consented to, in writing, by all owners of land or applicants subject to the conditions.

6.2.12: WRITTEN NOTICE OF DECISION**A: CONTENT**

The notification of a decision on a development application shall be issued in the name of the applicant or applicant's agent, as appropriate, directed to the address(es) identified in the application materials, and shall identify the following:

- 1: The land or matter subject to the application;
- 2: A reference to any approved plans, as appropriate;
- 3: The approved use(s), if any; and
- 4: Any conditions of approval or other applicable requirements.

B: TIMING

Except where otherwise stated in this Ordinance, the Town Manager shall provide the applicant written notification of a decision or action within 10 business days after a final written decision on a development application.

C: COPY OF DECISION

- 1: In addition to providing the notification of a decision on an application to an applicant, the Town Manager shall make a copy of the decision available to anyone who submits a written request prior to the issuance of the decision.
- 2: The Town Manager shall also make a copy of the notice of decision available to the public in the Town offices during normal business hours.

6.2.13: EFFECT OF DEVELOPMENT APPROVAL

Approval of a development application in accordance with this Ordinance authorizes only the particular use, plan for development, or other specific activity approved.

6.2.14: CONTINUANCE, OR WITHDRAWAL

An applicant may request that a review authority's consideration of a development application be continued or withdrawn by submitting a written request to the appropriate review authority.

A: PROCEDURE FOR APPLICATIONS SUBJECT TO A PUBLIC HEARING

- 1: In cases where an applicant seeks a continuance of an application subject to a public hearing, but public notification of the hearing has not yet been provided, the Town Manager shall consider and decide the request.
- 2: If public notification of the pending public hearing has been provided in accordance with this Ordinance, the request for continuance shall be placed on the public hearing agenda and be considered by the review authority. Additional public notification may be required for a continued application.
- 3: A request for continuance may be approved in cases where the applicant needs additional time to prepare evidence, secure approval from outside agencies, bring the application into closer alignment with the Town's adopted policy guidance or the requirements of this Ordinance, or for good cause, as determined by the review authority.

B: WITHDRAWAL

- 1: An applicant may withdraw an application at any time.
- 2: If an applicant withdraws an application for the same land after public notification two times within a single calendar year, the same application may not be resubmitted for a period of one year from the date of the second withdrawal.
- 3: Application fees for withdrawn applications shall not be refunded.

6.2.15: LIMITATION ON SUBSEQUENT APPLICATIONS**A: APPLICATION DENIED****1: LEGISLATIVE DECISIONS**

If a development application requiring a legislative public hearing is denied, no application proposing the same or similar development on all or part of the same site shall be submitted within one year after the date of denial unless the review authority approves a reduction in this time limit in accordance with Section 6.2.15:B: Reduction in Time Limit. For the purposes of this section, "the same or similar development" shall mean:

- a:** The same use type(s) in the same approximate location(s) as the denied application; or
- b:** The same use type(s) in the same approximate building configuration (e.g., building height, floor area, massing) as the denied application.

2: QUASI-JUDICIAL DECISIONS

There is no time limit on resubmitting an application that is denied during a quasi-judicial public hearing provided that any subsequent application may not be similar or substantially similar to the application that was denied, in the sole discretion of the review authority responsible for the decision.

B: REDUCTION IN TIME LIMIT

The owner of land subject to this subsection, or the owner's authorized agent, may submit a written request for reduction of the time limit, along with a fee to defray the cost of processing the request, to the Town Manager, who shall transmit the request to the review authority. The review authority may grant the request only on a finding by two-thirds of its membership that the owner or agent has demonstrated that:

- 1:** There is a substantial change in circumstances relevant to the issues or facts considered during review of the prior application that might reasonably affect the review authority's application of the relevant review standards to the development proposed in the new application; or
- 2:** New or additional information is available that was not available at the time of review of the prior application and that might reasonably affect the review authority's application of the relevant review standards to the development proposed in the new application; or
- 3:** The new application proposed to be submitted is materially different from the prior application; or
- 4:** The final decision on the prior application was based on a material mistake of fact.

6.3: DEVELOPMENT APPLICATION PROCEDURES

6.3.1: GENERALLY

This section describes the review procedure for each type of development application. Each type of application is listed in alphabetic order, and is developed in accordance with the following:

A: CONTENTS

- 1: Each development application description follows a standardized structure that includes the following subsections:
 - a: A procedural flowchart that generally depicts the steps in the application review process;
 - b: Purpose for the procedure;
 - c: Applicability and the types of development exempted from the procedure;
 - d: The review standards;
 - e: How the approved application may be amended (if applicable); and
 - f: If and how the approval may expire.
- 2: In addition to the standard structure, some development application descriptions include additional or unique subsections addressing application filing issues, recordation, or post-approval actions.

B: FLOWCHARTS

- 1: The procedural flowchart uses a symbol for each step in the process with text inside the symbol describing the step in greater detail. Some boxes may include cross references to other parts of this Ordinance.
- 2: The procedural flowchart is color coded to depict differing responsibilities. For example, white boxes indicate actions or responsibilities of the applicant. Boxes with dashed lines show optional steps an applicant may choose to undertake. Grey boxes indicate actions of Town staff or preliminary review by a review authority. Green boxes show public hearings or public meetings where applications are reviewed by a review authority.

6.3.2: ADMINISTRATIVE ADJUSTMENT

A: PURPOSE AND INTENT

The purpose for this section is to establish a clear procedure and measurable review criteria for the administrative consideration of requests for minor deviations to certain numeric standards in this Ordinance (like zoning district dimensional standards). The intent of the procedure is to provide relief from practical difficulties in complying with the standards of this Ordinance. Administrative adjustments should only be granted when the proposed development advances the purposes of this Ordinance, and the proposed development can maintain compatibility with its surroundings.

B: APPLICABILITY

- 1: An administrative adjustment may be requested for a modification or deviation of up to 10 percent of any zoning district dimensional standard in Chapter 2: Districts, a numeric standard in Chapter 4: Land Uses, a numeric standard in Chapter 7: Standards, or a numeric requirement in Chapter 8: Subdivisions.
- 2: In no instance shall an administrative adjustment application seek to change any of the following:
 - a: The required minimum lot area;
 - b: Increases in the maximum residential density on a lot;
 - c: Reductions to the minimum required distance between two use types;
 - d: Reductions to the standards pertaining to flood protection, stormwater management, or erosion control;
 - e: Reductions to the standards in Section 3.1: Sites with Slopes or Geologic Hazards;
 - f: Reductions to the standards pertaining to tree protection;
 - g: Reductions to potable water or wastewater requirements; or
 - h: Reductions to required sight distance triangle requirements.

C: REVIEW CRITERIA

An administrative adjustment shall be approved by the Town Manager if the applicant demonstrates all of the following:

- 1: The administrative adjustment does not exceed the maximum allowable threshold;
- 2: The administrative adjustment:
 - a: Is required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general; or
 - b: Is necessary to allow for proper functioning of on-site wastewater or stormwater management devices; or
 - c: Saves healthy existing trees; or
 - d: Helps limit the need for site grading or revision to existing drainage patterns; or
- 3: The administrative adjustment will not pose a danger to the public health or safety;

FIGURE 6.3.2: ADMINISTRATIVE ADJUSTMENT PROCEDURE

STEP	ACTION
1	Pre-Application Conference Optional See Section 6.2.4: Pre-Application Conference
2	File Application See Section 6.2.6: Application Filing and Acceptance May be filed as a stand-alone application or along with a related application, like a site plan
3	Completeness Determination See Section 6.2.6:F: Determination of Application Completeness
4	Staff Review See Section 6.2.8: Staff Review and Action
5	Town Manager Review and Decision Based on Section 6.3.2:C: Review Criteria If submitted with a related application, decision on an administrative adjustment is rendered first.
6	Written Notification of Decision See Section 6.2.12: Written Notice of Decision
7	Review Associated Applications

- 4: The administrative adjustment will not negatively impact the function or performance of on-site wastewater or stormwater management devices;
- 5: Adverse impacts resulting from the administrative adjustment will be fully mitigated; and
- 6: The development requirement being adjusted is not the subject of a previously-approved administrative adjustment, condition of approval, or variance on the same site.

D: SEQUENCE

- 1: An administrative adjustment may be requested either as a stand-alone application, or in combination with another application for development review.
- 2: In cases when submitted with another application, the administrative adjustment application shall be decided prior to the other associated applications.
- 3: Applications for planned developments, rezonings, or variances shall not include requests for administrative adjustments.

E: EXPIRATION

- 1: If an administrative adjustment is submitted with another development application, the expiration of the administrative adjustment shall be the same as the associated development application.
- 2: In cases where an administrative adjustment is submitted as a stand-alone application, the approval shall become null and expire if the work associated with the administrative adjustment is not commenced within two years from the date of approval.

6.3.3: APPEAL

A: PURPOSE AND INTENT

This appeal procedure is proposed to establish a clear and predictable procedure for persons with standing to appeal a decision or determination by a review authority.

B: APPLICABILITY

1: DECISIONS BY TOWN STAFF OR PLANNING BOARD SUBJECT TO THESE STANDARDS

Certain appeals of decisions or determinations by a Town official or the Planning Board made pursuant to this Ordinance shall be reviewed and decided by the Board of Adjustment in accordance with Table 6.1: Summary Application Review Table, and this section.

2: DECISIONS BY TOWN COUNCIL OR BOARD OF ADJUSTMENT NOT SUBJECT TO THESE STANDARDS

- a: Appeals of quasi-judicial decisions made by the Town Council or the Board of Adjustment shall be taken to the Superior Court for Henderson County, in accordance with Sections 160D-1401 or 160D-1402 of the North Carolina General Statutes, as appropriate.
- b: Challenges to legislative decisions made by the Town Council are made through requests for declaratory judgement by the Superior Court for Henderson County, in accordance with Section 160D-1401 of the North Carolina General Statutes.

3: ORIGINAL CIVIL ACTIONS NOT SUBJECT TO THESE STANDARDS

- a: Persons with standing, as defined in Section 160D-1403.1 of the North Carolina General Statutes may bring an original civil action in Superior Court without first being heard by the Board of Adjustment for some administrative decisions, determinations of vested rights, and notices of violation in cases where the applicant claims the decision or a provision in this Ordinance is:
 - i: Unconstitutional;
 - ii: Beyond statutory authority;
 - iii: Pre-empted by State law; or
 - iv: A taking of all property value.
- b: Direct appeals of determinations of the text in this Ordinance or the Official Zoning Map by the Town Manager to Superior Court are not permitted and must first be heard by the Board of Adjustment, in accordance with this section.

C: INITIATION

- 1: A property owner or other person with standing shall initiate an appeal by filing a written notice of appeal with the Town Manager within 30 days of the date they receive the written notice of determination or decision being appealed.

FIGURE 6.3.3: APPEAL PROCEDURE

STEP	ACTION
1	Pre-Application Conference Optional See Section 6.2.4: Pre-Application Conference
2	File Notice of Appeal See Section 6.2.6: Application Filing and Acceptance Within 30 days of receipt of notice of violation or decision being appealed
3	Completeness Determination See Section 6.2.6:F: Determination of Application Completeness
4	Record Assembly and Transmittal Provided to the Board of Adjustment, the applicant, and the landowner
5	Public Hearing Scheduled
6	Public Notification See Section 6.2.9: Public Notification
7	Board of Adjustment Review and Decision See Section 6.2.10: Public Meetings and Hearings
8	Written Notification of Decision See Section 6.2.12: Written Notice of Decision

- 2: Receipt of written notice provided via first class mail in accordance with Section 160D-403(b) of the North Carolina General Statutes shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

D: DECISION

- 1: The Board of Adjustment, at the conclusion of a quasi-judicial public hearing, shall decide the appeal.
- 2: The decision shall be based on the competent, material, and substantial evidence in the record of the appeal, as supplemented by arguments presented at the quasi-judicial hearing, and the standards in Section 6.3.3:E: Review Criteria.
- 3: The decision shall be one of the following:
 - a: Affirmation of the decision or determination (in whole or in part);
 - b: Modification of the decision or determination (in whole or in part); or
 - c: Reversal of the decision or determination (in whole or in part).
- 4: A vote to reverse or modify a decision or determination shall require approval of a majority of the members present and voting.
- 5: Each decision shall be made in writing and reflect the Board of Adjustment's determination of contested facts and their application to the standards in this Ordinance.
- 6: The written decision shall be signed by the Chair or other duly authorized member of the Board of Adjustment.
- 7: The decision of the Board of Adjustment shall be effective upon the filing of the written decision in the offices of the Planning, Zoning, and Development Services Department.

E: REVIEW CRITERIA

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

F: EFFECT

- 1: The filling of an appeal shall stay all of the following:
 - a: Any further proceedings or actions conducted by the applicant except in such cases where such stoppage would cause imminent peril to life or property as determined by the Town Manager;
 - b: The application of any further remedies for violation of this Ordinance by the Town; and
 - c: The accumulation of any further fees or fines associated with violation of this Ordinance.
- 2: In the event enforcement proceedings are not stayed by an appeal, the appellant may file a request for an expedited hearing of the appeal in accordance with Section 160D-405(f) of the North Carolina General Statutes, and the Board of Adjustment shall conduct a meeting to hear the appeal within 15 days of the date the request for an expedited hearing is filed.
- 3: Nothing shall prevent the Board of Adjustment from staying the issuance of any final approval of development applications, including building permits, affected by the issue being appealed in accordance with Section 160D-405(f) of the North Carolina General Statutes.

G: EXPIRATION

A decision on an appeal shall not expire.

H: APPEAL OF BOARD OF ADJUSTMENT DECISION

- 1: A decision by the Board of Adjustment shall be subject to review by the Superior Court of Henderson County by proceedings in the nature of certiorari and in accordance with Section 160D-1402 of the North Carolina General Statutes.
- 2: The landowner or applicant shall file a petition for review with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. Any other person with standing to appeal shall file a petition for review with the Clerk of Court within 30 days from receipt, by any source, actual or constructive notice of the decision being appealed. Receipt of written notice provided via first class mail in accordance with Section 160D-403(b) of the North Carolina General Statutes shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

6.3.4: BUILDING PERMIT

Applications for building permits shall be filed with and decided in accordance with the applicable requirements of the Henderson County Permits and Inspections Department.

6.3.5: CERTIFICATE OF OCCUPANCY

- A: Applications for certificates of occupancy shall be filed with and decided in accordance with the applicable requirements of the Henderson County Permits and Inspections Department.
- B: Prior to issuance of a certificate of occupancy, the following forms of development shall be required to furnish an as-built plan of the development site to the Town Manager: **(AMENDED 11-16-21 UDOTA1-21)**
 - 1: New construction of habitable space or expansions or additions of existing habitable space;
 - 2: New impervious surfaces occupying 144 square feet or more;
 - 3: New on-site wastewater or potable water service or infrastructure;
 - 4: Construction of new or modifications to existing public infrastructure, including but not limited to, streets, public water, public sewer, or street drainage infrastructure;
 - 5: New or modified stormwater control measures; or
 - 6: Other features that, in the sole discretion of the Town Manager, may impact adjacent lots, public lands, or public infrastructure.
- C: Upon completion of a project subject to the requirements to furnish as built plans, the developer shall certify to the Town Manager that the completed project has been constructed in accordance with the approved plans. In the case of public infrastructure, the designer shall certify, under seal, that the as-built design, measures, controls, and devices are in compliance with the approved plans, the requirements of this Ordinance, and all applicable State or County requirements. **(AMENDED 11-16-21 UDOTA1-21)**
- D: As built plans shall show the final design specifications for all improvements and the field location, size, depth, and related measures, controls, and devices, as installed. **(AMENDED 11-16-21 UDOTA1-21)**
- E: As built plans for buildings or structures shall depict the outer extents or footprints of buildings, and shall identify the total square footage, including eaves, overhangs, and constructed elements. **(AMENDED 11-16-21 UDOTA1-21)**

6.3.6: DETERMINATION

A: PURPOSE AND INTENT

The purpose for this determination procedure is to provide a process where an applicant may request documentation from the Town Manager regarding the meaning of language in this Ordinance, boundaries on the Official Zoning Map, or aspects related to prior development application approvals.

B: APPLICABILITY

- 1: The Town Manager is responsible for written determinations of the following:
 - a: The meaning of the text in this Ordinance;
 - b: The location and extent of zoning district boundaries on the Official Zoning Map, and other maps incorporated by reference into this Ordinance;
 - c: Whether an unlisted use is comparable to a use listed in Table 4.2.6: Principal Land Use Table;
 - d: Definitions of undefined terms;
 - e: The meaning of conditions of approval;
 - f: The vesting status of a prior development application approval; and
 - g: Other aspects of this Ordinance, as appropriate.
- 2: Any written or oral determinations that do not meet the strict requirements of this section are advisory opinions. Advisory opinions have no binding effect and are not considered determinations subject to appeal.

C: REVIEW CRITERIA

1: OFFICIAL ZONING MAP BOUNDARIES

Determination of district boundaries on the Official Zoning Map shall be in accordance with the standards in Section 2.3: Official Zoning Map, and consistent with the Town’s adopted policy guidance.

2: UNLISTED USES

Determination of whether an unlisted use is similar to a use identified in Table 4.2.6: Principal Land Use Table, shall be based on consistency with the Town’s adopted policy guidance and the following standards:

- a: The function, product, or physical characteristics of the use;
- b: The impact on adjacent lands created by the use;
- c: The type, size, and nature of buildings and structures associated with the use;
- d:
- e: The type of sales (retail, wholesale), and the size and type of items sold and displayed on the premises;
- f: The types of items stored (such as vehicles, inventory, merchandise, chemicals, construction materials, scrap and junk, and raw materials including liquids and powders);
- g: The volume and type of vehicle traffic generated by the use, and the parking demands of the use;

FIGURE 6.3.6: DETERMINATION PROCEDURE

STEP	ACTION
1	Pre-Application Conference Optional See Section 6.2.4: Pre-Application Conference
2	File Application See Section 6.2.6: Application Filing and Acceptance Applications should be supplemented with any details or information of relevance in the possession of the applicant
3	Completeness Determination See Section 6.2.6:F: Determination of Application Completeness
4	Staff Review See Section 6.2.8: Staff Review and Action The Town Manager may consult with other Town staff or outside resources
5	Town Manager Decision Based on Section 6.3.6:C: Review Criteria
6	Written Notification of Decision See Section 6.2.12: Written Notice of Decision

- h:** Any processing associated with the use, including assembly, manufacturing, warehousing, shipping, distribution, and whether it occurs inside or outside a building;
- i:** Any dangerous, hazardous, toxic, or explosive materials associated with the use;
- j:** The amount and nature of any nuisances generated on the premises, including noise, smoke, odor, glare, vibration, radiation, and fumes; and
- k:** Any prior applicable determinations made by the Town Manager or decisions made by the Board of Adjustment.

3: UNDEFINED TERMS

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

- a:** The North Carolina General Statutes;
- b:** The North Carolina Administrative Code;
- c:** The State Building Code(s);
- d:** Planning-related definitions in publications prepared or offered by the American Planning Association or the Urban Land Institute;
- e:** The Oxford Dictionary of Construction, Surveying, and Civil Engineering;
- f:** Black's Law Dictionary; or
- g:** Other professionally accepted source.

4: TEXT PROVISIONS AND PRIOR APPROVALS

Determinations regarding this text and approved applications shall be based on the standards in Section 10.1: Rules of Language Construction, Section 1.10: Transitional Provisions, and the following considerations:

- a:** The legislative intent of the provision, as indicated by purpose statements, its context and consistency with surrounding and related provisions, and any legislative history related to its adoption;
- b:** When the legislative intent of a provision is unclear, the Town Manager shall consider the clear and plain meaning of the provision's wording, as defined by the meaning and significance given specific terms used in the provision, as established in Chapter 10: Word Usage, and by the common and accepted usage of the term;
- c:** The general purposes served by this Ordinance, as set forth in Section 1.6: General Purpose and Intent; and
- d:** Consistency with the Town's adopted policy guidance.

5: DETERMINATION OF VESTED RIGHTS

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

- a:** The standards in Section 160D-108 of the North Carolina General Statutes; and
- b:** Prior judicial determination from comparable cases, as determined in the sole discretion of the Town Manager.

D: EFFECT

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

E: RECORD

The Town Manager shall maintain a record of written determinations that shall be available in the Town offices for public inspection, on reasonable request, during normal business hours.

6.3.7: EXEMPT SUBDIVISION

A: PURPOSE AND INTENT

The purpose for this exempt subdivision procedure is to establish a clear and predictable procedure for a landowner to determine and document that a proposed division of land is exempt from the subdivision requirements of this Ordinance in accordance with Section 160D-802 of the North Carolina General Statutes. Exempt subdivision reviews are provided as a courtesy and may not be mandated by the Town.

B: APPLICABILITY

- 1: The following forms of land division are exempt subdivisions that are exempt from the subdivision requirements of this Ordinance (but remain subject to other applicable Town requirements like the flood damage prevention standards):
 - a: A combination or recombination of portions of previously subdivided and recorded lots that does not increase the total number of lots, and the resultant lots are equal to or exceed the standards of this Ordinance;
 - b: The division of land into parcels, each greater than ten acres in area, where no street right-of-way dedication is involved;
 - c: Public acquisition involving the purchase of strips of land for the widening or opening of streets;
 - d: The division of a tract of land in single ownership, where the total area of all land in the land division is no greater than two acres, the division creates no more than three lots, where no street right-of-way dedication is involved, and the resultant lots are equal to or exceed the standards of this Ordinance; or
 - e: The division of a tract into parcels in accordance with the terms of a probated will or in accordance with Chapter 29 of the North Carolina General Statutes.
- 2: Divisions of land that are not consistent with these criteria shall not be considered exempt subdivisions and shall be subject to the applicable review procedure and subdivision requirements of this Ordinance.

FIGURE 6.3.7: EXEMPT SUBDIVISION PROCEDURE	
STEP	ACTION
1	Pre-Application Conference Optional See Section 6.2.4: Pre-Application Conference
2	File Application See Section 6.2.6: Application Filing and Acceptance
3	Completeness Determination See Section 6.2.6:F: Determination of Application Completeness
4	Staff Review See Section 6.2.8: Staff Review and Action
5	Town Manager Certification Based on Section 6.3.7:C: Review Standards
6	Written Notification of Decision See Section 6.2.12: Written Notice of Decision
7	Recordation, if Applicable

C: REVIEW STANDARDS

A division of land shall be certified as an exempt subdivision by the Town Manager if it:

- 1: Is excluded from the definition of a subdivision in accordance with Section 160D-802 of the North Carolina General Statutes;
- 2: Complies with or exceeds all applicable standards in Chapter 2: Districts;
- 3: Complies with all standards or conditions of any applicable permits and prior development approvals; and
- 4: Complies with all other applicable requirements in the Town Code of Ordinances.

D: RECORDATION

An exempt subdivision plat may be recorded in the office of the Henderson County Register of Deeds, by a landowner at the landowner’s discretion.

6.3.8: EXPEDITED SUBDIVISION

A: PURPOSE AND INTENT

The purpose for this expedited subdivision review procedure is to allow certain land divisions to be reviewed via an expedited review procedure based on their small size and limited likelihood to create significant impacts on surrounding lands.

B: APPLICABILITY

- 1: The standards in this section shall apply to divisions of land meeting all the following criteria:
 - a: The proposed division of land is not exempted from the subdivision standards by Section 160D-802 of the North Carolina General Statutes;
 - b: The proposed division will not result in more than three lots (including any residual or "parent" parcel);
 - c: The area of land subject to the division shall be comprised of at least five acres under common ownership at the time of application;
 - d: No land included in an expedited subdivision application shall have been the subject of an expedited subdivision application approval within the preceding ten years; and
 - e: A proposed permanent means of ingress and egress to each lot is recorded prior to or concurrent with the expedited subdivision plat.
- 2: Divisions of land that are not consistent with these criteria shall not be considered expedited subdivisions and shall be subject to the applicable review procedure and subdivision requirements of this Ordinance.
- 3: Expedited subdivisions are not exempted from applicable zoning district dimensional requirements.

C: APPLICATION

Expedited subdivision plats shall be prepared by a professional land surveyor or professional engineer licensed to practice in North Carolina.

D: REVIEW CRITERIA

- 1: An expedited subdivision plat shall be approved by the Technical Review Committee if the application complies with the following:
 - a: The expedited subdivision plat is on a sheet or sheets suitable for recording with the Henderson County Register of Deeds;
 - b: The expedited subdivision plat is prepared and sealed by a professional land surveyor or professional engineer;
 - c: The expedited subdivision plat complies with all applicable standards in this Ordinance and Section 47-30 of the North Carolina General Statutes;
 - d: The expedited subdivision plat includes all required certifications;
 - e: The applicant has secured all required State and federal permit approvals;
 - f: The lots in the subdivision have been approved by the Henderson County Health Department;

FIGURE 6.3.8: EXPEDITED SUBDIVISION PROCEDURE	
STEP	ACTION
1	File Application See Section 6.2.6: Application Filing and Acceptance
2	Completeness Determination See Section 6.2.6:F: Determination of Application Completeness
3	Staff Review and Comment See Section 6.2.8: Staff Review and Action
4	Technical Review Committee Decision Based on Section 6.3.8:D: Review Criteria
5	Written Notification of Decision See Section 6.2.12: Written Notice of Decision
6	Recordation

- g:** All lots in the expedited subdivision comply with the applicable dimensional requirements for the zoning district where located;
 - h:** The lots are served by a NCDOT-maintained roadway or a right-of-way constructed to and maintained in accordance with Town standards; and
 - i:** No land included in an expedited subdivision application shall have been the subject of an expedited subdivision application approval within the preceding ten years.
- 2:** Expedited subdivisions of land located within a special flood hazard area shall comply with the applicable standards in Chapter 152 of the Town Code of Ordinances.

E: RECORDATION

- 1:** Once an expedited subdivision is approved, a signed statement of the approval shall be entered on the face of the plat by the Town Manager. The expedited subdivision plat may not be recorded without this certification. Failure to record the expedited subdivision plat shall render the expedited subdivision plat null and void.
- 2:** Land may not be conveyed or construction started until the expedited subdivision is recorded.
- 3:** A copy of the recorded plat shall be filed with the Town Manager within five business days of recording or the expedited subdivision plat shall be null and void.

F: EFFECT

- 1:** Approval of the expedited subdivision plat allows the sale or conveyance of lots within the subdivision.
- 2:** Building permits may be issued following recordation of the expedited subdivision plat.
- 3:** Land subject to an expedited subdivision approval shall not be further subdivided as an expedited subdivision within ten years of the date of the prior expedited subdivision approval.

G: EXPIRATION

An expedited subdivision plat shall be null and void unless it is recorded in the office of the Henderson County Register of Deeds within 30 days of approval.

6.3.9: FEE-IN-LIEU

A: PURPOSE AND INTENT

The purpose for this section is to establish a procedure and standards for instances where the Town accepts a fee paid by an applicant in-lieu of providing land dedication, public infrastructure, or private site features in cases where an applicant and the Town agree that an applicant’s payment of a fee-in-lieu is appropriate and in closer alignment with the Town’s adopted policy guidance.

B: APPLICABILITY

Payment of a fee-in-lieu may be approved by the Town only for the following forms of development:

1: LAND DEDICATION

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

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

2: PUBLIC INFRASTRUCTURE

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

- a: Streets;
- b: Curb and gutter;
- c: Sidewalks, trails, or greenways; and
- d: Street drainage facilities.

3: PRIVATE SITE FEATURES

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

- a: Required open space set-aside.

C: APPLICATION

Fee-in-lieu proposals may be submitted as part of or subsequent to an application for development. Applications for fee-in-lieu shall identify the following:

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

FIGURE 6.3.9: FEE-IN-LIEU PROCEDURE (APPLICANT-REQUESTED) <small>(AMENDED 8-15-22 UDOTA 1-23)</small>	
STEP	ACTION
1	Pre-Application Conference Optional See Section 6.2.4: Pre-Application Conference
2	File Application See Section 6.2.6: Application Filing and Acceptance
3	Completeness Determination See Section 6.2.6:F: Determination of Application Completeness
4	Staff Review and Recommendation See Section 6.2.8: Staff Review and Action Includes review of fee amount
5	Parks and Greenways Board Review and Comment For impacts on tree protection, parks, and greenways
6	Town Council Review and Decision See Section 6.2.10: Public Meetings and Hearings May be decided as part of another application
7	Written Notification of Decision See Section 6.2.12: Written Notice of Decision
8	Payment of Fee

D: DECISION

- 1: After the conclusion of a public meeting, the Town Council shall decide applicant-requested fee-in-lieu proposals in accordance with Section 6.3.9:E: Review Criteria, and Section 6.3.9:F: Determination of Fee Amount.
- 2: The decision shall be one of the following:
 - a: Approval of the fee-in-lieu request;
 - b: Denial of the fee-in-lieu request; or
 - c: Remand of the application to Town staff for further consideration.

E: REVIEW CRITERIA

An application for a fee-in-lieu should only be filed as a last resort after an applicant has exhausted other available possibilities. Approval of a fee-in-lieu proposal is a matter committed to the discretion of the Town Council. The proposal may be approved upon a finding it complies with all the following:

1: GENERALLY

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

2: PARK LAND

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

3: GREENWAYS OR TRAILS

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

4: STREETS OR BICYCLE FACILITIES

- a: The proposed street alignment creates an unacceptable environmental impact; or
- b: The proposed street or bicycle facility is impossible or impractical to build based on topography, slope, soil conditions, or development patterns on adjacent lands.

5: SIDEWALKS

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

6: OTHER PUBLIC INFRASTRUCTURE

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

7: LANDSCAPING OR VEGETATION

- a: The proposed location of vegetation will not support healthy vegetation due to shading, soil, or topographic conditions;
- b: Screening and environmental goals may be better served by an alternative approach;
- c: Landscaping or vegetation is not necessary on the proposed site, in the opinion of the Town Manager; or
- d: The site where vegetation is proposed is incapable of supporting additional vegetation due to the presence of existing vegetation, buildings, or impervious surfaces.

8: OPEN SPACE SET-ASIDE

- a: Other open space and recreation resources are in close proximity to the proposed site; or
- b: The amount of open space set-aside required is unfeasible to provide.

9: OFF-STREET PARKING

Utilization of other off-street parking resources is more closely aligned with the Town’s adopted policy guidance.

10: OTHER CRITERIA

- a: When, in the sole opinion of the Town Manager, the decision on a fee-in-lieu requires consideration of additional or different criteria, the Town Manager shall identify those criteria and describe how the proposal does or not address them.
- b: The applicant has sufficient opportunity to describe how the proposal meets those criteria prior to a decision by the Town Council.

F: DETERMINATION OF FEE AMOUNT

1: LAND

- a: The fee-in-lieu shall be calculated based upon the total acreage of land required for dedication.
- b: The land’s assessed value (as determined by the Henderson County Tax Assessor) following subdivision shall be used to arrive at the required payment-in-lieu amount.

2: INFRASTRUCTURE AND PRIVATE SITE FEATURES

- a: The amount of fee-in-lieu for streets shall be based on the number of trips generated by the development.
- b: The amount of fee-in-lieu shall be based on an estimate by a licensed professional authorized by the State to prepare such documents.
- c: The estimate shall include the cost of all materials and labor based on current unit prices.
- d: Nothing shall prevent the Town Manager from acquiring an additional estimate for the same infrastructure from another licensed professional.

e: The Town Manager, in their discretion, may select the estimate that will form the basis for the fee-in-lieu payment.

3: VEGETATION

In cases where a fee-in-lieu is proposed for the installation of vegetation, the fee amount shall be based upon the documented unit price of the vegetation along with all associated labor, transportation, and incidental costs such as ground cover, staking, and fertilizer, but not irrigation.

G: ACCEPTANCE OF FEE-IN-LIEU

- 1:** All fees collected by the Town pursuant to this section shall be deposited in Town’s revolving fund for purchase of recreation land, installation of vegetation, provision of parking facilities, or installation of required infrastructure.
- 2:** Use of funds collected in accordance with this section shall only take place in the general vicinity of where funds are collected and may only be used for the purchase of in-kind lands or the same type of infrastructure in accordance with all applicable State and federal law.
- 3:** The Town Manager or other designated Town official shall maintain records of the amounts collected, the timing, and the location, which shall be used by the Town as part of its capital facilities program.
- 4:** In cases where an applicant-requested fee-in-lieu proposal is denied by the Town Council, the applicant shall dedicate the required land or install the required public infrastructure or private site feature.

H: EFFECT

- 1:** Payment of a fee-in-lieu removes the requirement to provide land, public infrastructure, or private site feature from proposed development.
- 2:** Approval of a fee-in-lieu for a private site feature shall not render the site nonconforming.

6.3.10: FINAL PLAT

A: PURPOSE AND INTENT

The purpose for this final plat procedure is to ensure proposed subdivisions of land are completed in substantial conformity with a preliminary plat and this Ordinance, prior to the conveyance of lots. These standards are intended to ensure preparation and recordation of a map (plat) of sufficient detail to readily determine and accurately reproduce the location, bearing, radius (as applicable), and length of each of the following elements of a subdivision:

- 1: Every street or private accessway;
- 2: Lot lines;
- 3: Easement boundaries;
- 4: Lands or resources dedicated or reserved for use by the general public;
- 5: Land or resources owned in common by landowners of the subdivision;
- 6: Unbuildable resource or conservation lands;
- 7: Addresses;
- 8: Street names;
- 9: Stormwater management infrastructure; and
- 10: Sidewalks and greenways.

B: APPLICABILITY

A final plat shall be required for any development subject to a preliminary plat (see Section 6.3.14: Preliminary Plat).

C: APPLICATION

Final plats shall be prepared by a professional land surveyor or professional engineer licensed to practice in North Carolina.

D: REVIEW CRITERIA

- 1: A final plat shall be approved if the application complies with the following:
 - a: The final plat is on a sheet or sheets suitable for recording with the Henderson County Register of Deeds;
 - b: The final plat is prepared and sealed by a licensed professional land surveyor or professional engineer;
 - c: The final plat complies with the standards in Section 47-30 of the North Carolina General Statutes;
 - d: The final plat conforms to the recommendations in the Standards of Practice for Land Surveying in North Carolina;
 - e: The final plat includes all applicable certification statements;
 - f: All lots have an assigned street address that is printed on the plat;
 - g: All lots have been certified by Henderson County Health Department as capable of accommodating the wastewater generated from the proposed use, in cases when the lot(s) is not served by a centralized wastewater system;
 - h: The applicant has secured all required State, federal, and other applicable permit approvals;
 - i: The final plat is in substantial conformance with the preliminary plat;

FIGURE 6.3.10: FINAL PLAT PROCEDURE	
STEP	ACTION
1	File Application See Section 6.2.6: Application Filing and Acceptance
2	Completeness Determination See Section 6.2.6:F: Determination of Application Completeness
3	Staff Review See Section 6.2.8: Staff Review and Action
4	Technical Review Committee Review and Decision Based on Section 6.3.10:D: Review Criteria
5	Written Notification of Decision See Section 6.2.12: Written Notice of Decision
6	Recordation

- j: All required improvements depicted on the preliminary plat and final plat are installed, inspected, and accepted by the Town, or are subject to a performance guarantee (see Section 6.3.12: Performance Guarantee) or approved fee-in-lieu application (see Section 6.3.9: Fee-in-Lieu);
 - k: The final plat complies with all standards and conditions of any applicable permits and prior development approvals; and
 - l: The final plat complies with all other applicable requirements in this Ordinance and the Town Code of Ordinances.
- 2: Subdivisions of land located within a special flood hazard area shall comply with the applicable standards in Chapter 152 of the Town Code of Ordinances.

E: SEQUENCE

- 1: An applicant with an approved preliminary plat shall not file an application for final plat review until all required improvements serving the subdivision are installed and inspected by the Town, subject to an approved fee-in-lieu application (see Section 6.3.9: Fee-in-Lieu), or the developer provides a performance guarantee for those required improvements in accordance with Section 6.3.12: Performance Guarantee.
- 2: Applications for building permits and performance guarantees may be filed with a final plat application but building permits may only be issued following recordation of the final plat or posting of a performance guarantee.

F: RECORDATION

- 1: Once a final plat is approved, a signed statement of the approval shall be entered on the face of the plat by the Town Manager. The final plat may not be recorded without this certification.
- 2: Failure to record the final plat in accordance with Section 6.3.10:H: Expiration, shall render the final plat null and void.
- 3: A copy of the recorded final plat shall be filed with the Town Manager within five business days of recording or the final plat shall be null and void.

G: EFFECT

1: GENERALLY

- a: Approval of a final plat allows the sale or conveyance of lots within the subdivision and the ability to receive a building permit for construction.
- b: There is no requirement that all land subject to a preliminary plat be included within a single final plat.

2: ACCEPTANCE OF PUBLIC INFRASTRUCTURE

- a: Approval and recordation of a final plat constitutes an offer of dedication by the owner of the public of the right-of-way of each public street, or alley, and any other public infrastructure shown on the plat.
- b: Approval of the final plat does not constitute acceptance for maintenance responsibility of any improvements within a right-of-way or easement and the Town assumes no responsibility to open, operate, repair, or maintain any improvements until it is in the public interest to do so.
- c: Improvements within rights-of-way or easements, such as streets, drainage facilities, or sidewalks may be accepted for maintenance by the Town, when deemed appropriate, in the Town's sole discretion.
- d: The subdivider shall retain responsibility for public improvements until maintenance responsibility is accepted by the Town, NCDOT, or a public utility provider, as appropriate.

H: EXPIRATION

- 1: A final plat shall be null and void unless it is recorded in the office of the Henderson County Register of Deeds within 30 days of approval.
- 2: If a final plat is not recorded within two years of an associated preliminary plat approval then the preliminary plat shall expire.
- 3: An expired preliminary plat may be resubmitted in accordance with Section 6.3.14: Preliminary Plat, and shall be reviewed in accordance with the standards of this Ordinance.
- 4: A recorded final plat shall not expire.

6.3.11: FLOODPLAIN PERMIT

Applications for floodplain permits shall be filed with and decided in accordance with the applicable requirements and standards in Chapter 152 of the Town’s Code of Ordinances.

6.3.12: PERFORMANCE GUARANTEE

A: PURPOSE AND INTENT

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

B: APPLICABILITY

- 1: Performance guarantees shall be configured and managed in accordance with the standards in this section. The Town is under no obligation to allow a performance guarantee for any feature or under any circumstance.
- 2: The following facilities and site features may be eligible for performance guarantees at the discretion of the Town:
 - a: Sidewalks, multi-use paths, and greenways;
 - b: The final lift of asphalt on a street;
 - c: Private stormwater control measures and erosion control facilities;
 - d: Streetlights; and
 - e: Placement of vegetation, except when required as part of erosion control measures.
- 3: All other public infrastructure or required site features shall be completed prior to issuance of a certificate of occupancy for the development, the conveyance of lots, or approval of the final plat, as appropriate.

C: INELIGIBLE FACILITIES

The following infrastructure facilities are not eligible for performance guarantees, and shall be completed and dedicated to the Town where appropriate, prior to approval of a final plat, conveyance of lots, or issuance of a building permit:

- 1: Potable water;
- 2: Sanitary sewer;
- 3: Functional fire protection infrastructure;
- 4: The base and initial courses of asphalt on a street;
- 5: Stormwater drainage facilities associated with a street right-of-way;
- 6: Curb and gutter; and

FIGURE 6.3.12: PERFORMANCE GUARANTEE PROCEDURE
(AMENDED 8-15-22 UDOTA 1-23)

STEP	ACTION
1	Pre-Application Conference See Section 6.2.4: Pre-Application Conference
2	File Application See Section 6.2.6: Application Filing and Acceptance
3	Determination of Completeness See Section 6.2.6:F: Determination of Application Completeness
4	Staff Review and Recommendation See Section 6.2.8: Staff Review and Action
5	Parks and Greenways Board Review and Comment For impacts on tree protection, parks, and greenways
6	Town Council Review and Decision See Section 6.2.10: Public Meetings and Hearings
7	Written Notification of Decision See Section 6.2.12: Written Notice of Decision
8	Inspection and Acceptance
9	Provide As-Builts As required for public infrastructure
10	Request Release

7: Street signs and traffic control signals.

D: FORM

- 1: The form of a performance guarantee shall take one of the following forms, at the sole discretion of the applicant:
 - a: A surety bond issued by a firm licensed to operate in the State of North Carolina;
 - b: A letter of credit issued by a financial institution licensed to operate in the State of North Carolina; or
 - c: Cash or certified check; or
 - d: Other form of guarantee that provides equivalent security to the forms listed above, as determined by the Town.
- 2: In cases where more than one facility or site feature is requested to be subject to a performance guarantee, the applicant may provide a single, consolidated performance guarantee for all facilities or site features. In no instance shall performance guarantees associated with private stormwater control mechanisms or sedimentation control be consolidated with any other performance guarantee.
- 3: If cash or other instrument is deposited in escrow with a financial institution, an agreement between the financial institution and the developer shall be filed with the Town guaranteeing the following:
 - a: That the escrow account shall be held in trust until released by the Town and may not be used or pledged by the developer for any other matter during the term of the escrow; and
 - b: That in case of a failure on the part of the developer to complete or repair the improvements, the financial institution shall, upon notification by the Town, immediately pay the funds deemed necessary by the Town to complete or repair the improvements up to the full balance of the escrow account, or deliver to the Town any other instruments fully endorsed or otherwise made payable in full to the Town; and
 - c: The financial institution holding the cash or other instrument shall indicate to the Town its notification requirements for release or payment of funds.

E: DECISION

After the conclusion of a public meeting, the Town Council shall decide applications for performance guarantees, which shall take one of the following forms:

- 1: Approval of the performance guarantee;
- 2: Denial of the performance guarantee; or
- 3: Remand of the application to Town staff for further consideration.

F: REVIEW CRITERIA

- 1: An application for a performance guarantee shall be approved if the application complies with the following:
 - a: The request is for an eligible facility or site feature;
 - b: The request is in the form and the amount required;
 - c: The term of the guarantee is for the minimum period of time necessary; and
 - d: The Town Council finds that approval of the performance guarantee is in alignment with the purpose and intent of this Ordinance and the Town's adopted policy guidance.
- 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 guarantee.

G: AMOUNT

1: GENERALLY

Performance guarantees shall be in an amount equal to 125 percent of the estimated cost of completing the installation of the required improvements, including the costs of materials, labor, and project management.

2: ESTIMATED COSTS

Estimated costs of completing installation of required public improvements, vegetation, or stormwater measures shall be itemized by improvement type and certified by the developer's licensed professional and is subject to approval by the Town Manager.

3: RENEWAL

If a performance guarantee is renewed, the Town Manager may require the amount of the performance guarantee be updated to reflect changes in cost over time.

H: SEQUENCE

- 1: Performance guarantee applications may be filed along with any application for a subdivision, site plan, special use permit, building permit, or zoning compliance permit, as appropriate.
- 2: Development subject to a performance guarantee shall not receive a certificate of occupancy or final development approval until all infrastructure or site features subject to a performance guarantee have been installed and accepted by the Town.

I: AS-BUILT PLANS REQUIRED

1: PUBLIC IMPROVEMENTS

Upon completion of a public improvements, an architect or professional engineer licensed by the State of North Carolina and retained by the developer shall certify, in writing, that the completed public improvements have been constructed in accordance with the approved plans and shall submit actual "as-built" plans for all public improvements after final construction is completed.

2: STORMWATER CONTROL MEASURES

Upon completion of a private stormwater control mechanism, the developer shall certify to the Town Manager that the completed project is in accordance with all applicable requirements in this Ordinance, the Town's Code of Ordinances, and State law.

3: INSPECTION REQUIRED

A final inspection and approval by the Town Manager shall occur before the release of the performance guarantee.

J: MAINTENANCE WARRANTY FOR STORMWATER CONTROL MEASURES

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

- 1: A set of acceptable as-built drawings;
- 2: A written warranty against defects which shall guarantee the material and workmanship of required improvements for a period of not less than one year from the date of such acceptance.
- 3: A maintenance warranty payable to the Town equal to at least 25 percent of the cost of the installation of such improvements. Where the Town Manager finds that repairs to any required improvement are needed, these funds shall be used.

K: MAXIMUM TERM

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

L: EXPIRATION

- 1: The applicant shall demonstrate good faith towards the completion of public infrastructure or private site features subject to a performance guarantee. In the event the features subject to a guarantee are not completed prior to the expiration of the guarantee, the applicant shall request a renewal of the performance guarantee in accordance with these standards.
- 2: In the event an application for renewal of a performance guarantee has been filed with the Town prior to expiration of an existing guarantee, the Town shall delay the provision of notice of failure to install or complete improvements in accordance with Section 6.3.12:M: Forfeiture.

M: FORFEITURE**1: NOTICE OF FAILURE TO INSTALL OR COMPLETE IMPROVEMENTS**

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

2: TOWN COMPLETION OF IMPROVEMENTS

After the 30-day notice period expires, the Town may draw on the guarantee and use the funds to perform the work necessary to complete installation of the guaranteed improvements. After completing such work, the Town shall provide a complete accounting of the expenditures to the owner or developer. In the event of a default triggering the use of the performance guarantee, the Town shall return any of the unused deposited cash funds or other security.

N: RELEASE OR REDUCTION**1: RELEASE REQUESTED**

The Town shall release or reduce a performance guarantee only after:

- a: The owner or developer has submitted to the Town a written request for a release or reduction of the performance guarantee that includes certification by the owner's or developer's engineer or contractor, whichever is appropriate, that installation of the guaranteed improvements has been completed in accordance with approved plans and specifications, and as-builts (if applicable);
- b: Town staff has performed an inspection of the improvements and certified in writing that installation of the guaranteed improvements is completed in accordance with approved plans and specifications; and
- c: No release or reduction in performance guarantee amounts will be considered until more than 25 percent of the work is in place and approved.

2: ACCEPTANCE SHALL BE DOCUMENTED

The Town Manager shall provide written notice of the Town's final acceptance of the improvements subject to performance guarantees.

3: IMPROPER RELEASE OF FINANCIAL GUARANTEES

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

6.3.13: PLANNED DEVELOPMENT

A: PURPOSE AND INTENT

The purpose for this planned development procedure is to provide a uniform means for amending the Official Zoning Map to establish a Planned Development (PD) zoning district. The planned development district creates opportunities for master planned development that is developed under unified control in accordance with more flexible standards and procedures that are conducive to creating high quality, mixed-use, pedestrian-oriented development that makes efficient use of land while protecting natural resources. It is the intent of these standards to allow an applicant to propose a wide variety of allowable uses and the flexible application of some of the development standards in Chapter 7: Standards, in return for a higher quality of development with more amenities than might otherwise result from a strict application of the standards in this Ordinance.

B: APPLICABILITY

- 1: The standards in this section may be applied to any land in the Town’s planning jurisdiction except for land located in the R-30 and R-20 zoning districts.
- 2: In no instance shall the PD designation be applied to land that is less than five acres in buildable area.

C: APPLICATION

- 1: Applications for a planned development may only be initiated by all the owner(s) of land subject to the application, or their authorized agents.
- 2: The application shall include a master plan depicting the general configuration and relationship of the principal elements of the proposed development, including:
 - a: Approximate building sizes and placement;
 - b: Proposed density/intensity;
 - c: Environmental resource protection features;
 - d: Anticipated pedestrian and vehicular circulation;
 - e: Open space resource location and configuration;
 - f: Public facility configuration; and
 - g: Phasing, as appropriate.
- 3: The application shall also include a terms and conditions document that identifies:
 - a: How the proposed development will meet or exceed the standards in this Ordinance;
 - b: Lists the range of allowable principal and accessory use types;
 - c: Describes how any required environmental mitigation will take place; and
 - d: Outlines how public facilities will be provided to serve the planned development.

FIGURE 6.3.13: PLANNED DEVELOPMENT PROCEDURE <small>(AMENDED 8-15-22 UDOTA 1-23)</small>	
STEP	ACTION
1	Pre-Application Conference See Section 6.2.4: Pre-Application Conference
2	Neighborhood Information Meeting See Section 6.2.5: Neighborhood Information Meeting
3	File Application See Section 6.2.6: Application Filing and Acceptance
4	Determination of Completeness See Section 6.2.6:F: Determination of Application Completeness
5	Staff Review See Section 6.2.8: Staff Review and Action Includes TRC review of master plan
6	Parks and Greenways Board Review and Comment For impacts on tree protection, parks, and greenways
7	Planning Board Review and Recommendation See Section 6.2.10: Public Meetings and Hearings
8	Public Hearing Scheduled
9	Public Notification See Section 6.2.9: Public Notification
10	Town Council Review and Decision See Section 6.2.10: Public Meetings and Hearings
11	Written Notification of Decision See Section 6.2.12: Written Notice of Decision

- 4: To ensure unified control, the application shall also include a copy of the title to all land that is part of the proposed planned development zoning district classification.
- 5: The Technical Review Committee shall review and comment on the master plan prior to consideration of the application by the Planning Board.

D: RECOMMENDATION BY THE PLANNING BOARD

- 1: After conclusion of a public meeting, the Planning Board shall make a recommendation on the application in accordance with Section 6.3.13:G: Review Criteria.
- 2: In making its recommendation, the Planning Board shall prepare a written statement regarding the application’s consistency with the Town’s adopted policy guidance.
- 3: During its review, the Planning Board may suggest revisions to the master plan or terms and conditions statement. Only those revisions agreed to in writing by the applicant shall be incorporated into the application.

E: DECISION

- 1: After the conclusion of a legislative public hearing, the Town Council shall decide the application in accordance with the standards in Section 6.3.13:G: Review Criteria.
- 2: The decision shall be one of the following:
 - a: Approval of the application;
 - b: Denial of the application;
 - c: Approval of a revised application; or
 - d: Remand of the application to Town staff for further consideration.
- 3: In making its decision, the Town Council shall adopt a written statement of reasonableness and consistency with the Town’s adopted policy guidance in accordance with Section 160D-605 of the North Carolina General Statutes.

F: CHANGES TO APPLICATION

The applicant may make changes, including changes recommended by the Planning Board or the Town Council, to the application for a planned development district at any time prior to the Town Council’s decision. The applicant may only propose changes in accordance with the following:

- 1: Changes shall be made in writing to the Town Manager; and
- 2: Changes shall be signed by all landowners or their agents.

G: REVIEW CRITERIA

The advisability of amending the Official Zoning Map to establish a planned development district is a matter committed to the legislative discretion of the Town Council and is not controlled by any one factor. In determining whether to adopt or deny a planned development application, the Town Council may consider the standards in Section 6.3.15:G: Review Criteria, and the standards for the district in Section 2.11: PD Planned Development District.

H: CONDITIONS

- 1: Only conditions mutually agreed to in writing by the owner(s) of the property that is the subject of a planned development application may be approved as part of an application establishing a planned development district.
- 2: Conditions shall be in accordance with Section 6.2.11: Conditions of Approval.
- 3: Conditions shall be in writing and may be supplemented with text or plans and maps.
- 4: All conditions of approval shall be consented to, in writing, by all owners of land subject to the conditions.

I: SEQUENCE

- 1: Applications for subdivisions, site plans, and zoning compliance permits may be submitted with a planned development application, but the planned development application establishing the PD district shall be decided prior to any other applications.
- 2: Any permits or approvals shall comply with the approved master plan and the terms and conditions document.

J: DESIGNATION ON OFFICIAL ZONING MAP AND FUTURE LAND USE MAP

- 1: Designation of a PD zoning district on the Official Zoning Map shall note the ordinance number approving the PD zoning classification.
- 2: In cases where the Town Council approves a planned development application they deem to be inconsistent with adopted policy guidance, the future land use map shall be amended with a note referencing the planned development application approval and no additional request or application for a comprehensive plan amendment shall be required.

K: EFFECT

- 1: The master plan and terms and conditions approved as part of the application establishing the PD district are binding on the land as an amendment to the Official Zoning Map.
- 2: Development depicted in a planned development master plan shall require approval of a site plan, subdivision, and building permit, as appropriate.
- 3: Only those portions of the development subject to an approved master plan and statement of terms and conditions shall be included in development activities.

L: AMENDMENT

Amendments to a planned development application approval shall be considered as minor modifications or major modifications, and must be considered in accordance with the following:

1: MINOR MODIFICATIONS

- a: Subsequent plans and permits for development within a planned development district may include minor modifications to the approved master plan map or statement of terms and conditions, provided the development continues to meet the minimum requirements of this Ordinance. Minor modifications are limited to changes that have no material effect on the character of the planned development or changes that address technical considerations that could not reasonably be anticipated at the time of the planned development approval.
- b: The following minor modifications may be approved by the Town Manager, in consultation with other appropriate Town staff:
 - i: Changes to the location of entrances or driveways, the rearrangement of internal streets, turn lanes, drives, or access restrictions;
 - ii: Changes to the configuration of parking areas, but not the number of parking spaces;
 - iii: Changes to the configuration or location of open space or placement of required amenities, provided the amount of open space (whether passive or active) is unchanged;
 - iv: Changes to the configuration of landscape yards, including types of materials, provided minimum width and planting requirements are met;
 - v: Changes to the proposed building elevation or facade, including materials, provided that the change retains the same general architectural character and remains consistent with the design parameters established in the PD approval; and
 - vi: Changes to the arrangement or location of buildings provided there is no increase in the number of buildings, size, or amount of impervious surface.

- c:** In no instance shall a minor modification include any changes to the range of permitted uses or the overall density of the development.

2: MAJOR MODIFICATIONS

- a:** Changes that materially affect the basic concept configuration of the planned development master plan map or basic parameters establishing the terms and conditions or that exceed the scope of a minor change modification are considered major modifications.
- b:** Major modifications include, but are not limited to:
 - i:** Increases in building height;
 - ii:** Changes in use designations;
 - iii:** Changes in density/ or intensity;
 - iv:** Decreases in open space;
 - v:** Substantial changes in the location of streets (particularly if streets are to be deleted or access points to the development moved so traffic flows both inside and outside the development are affected); and
 - vi:** Change in the location of any public easement.
- c:** Major modifications must be reviewed and considered only in accordance with the procedures and standards established for the original approval of a planned development application.

6.3.14: PRELIMINARY PLAT

A: PURPOSE AND INTENT

The purpose for this preliminary plat procedure is to establish a fair, consistent, and predictable procedure for the review of requests to divide land into a series of lots for development or sale in ways that promote the health, safety, and welfare of the citizens of the Town of Laurel Park. The intent of these standards is to ensure:

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

B: APPLICABILITY

Divisions of land that qualify as subdivisions in accordance with Section 160D-802 of the North Carolina General Statutes, but that do not qualify as an expedited subdivision (see Section 6.3.8: Expedited Subdivision), shall be reviewed and decided as a preliminary plat in accordance with these standards.

C: DECISION

- 1: After the conclusion of a public meeting, the Town Council shall decide an application for a preliminary plat in accordance with Section 6.3.14:D: Review Criteria.
- 2: The decision shall be one of the following:
 - a: Approval of the preliminary plat;
 - b: Denial of the preliminary plat; or
 - c: Remand of the application to Town staff for further consideration.

D: REVIEW CRITERIA

- 1: An application for a preliminary plat shall be approved, provided:
 - a: The preliminary plat is prepared and sealed by a professional land surveyor, professional landscape architect, or professional engineer;
 - b: The preliminary plat includes all applicable certifications;
 - c: All lots have been certified by the Henderson County Health Department as capable of accommodating the wastewater generated from the proposed use, in cases when the lot(s) is not served by a centralized wastewater system;
 - d: All lots have a preliminary street address or street address range that is printed on the plat
 - e: The lots shown on the preliminary plat are in substantial conformance with all applicable requirements in Chapter 2: Districts;
 - f: The preliminary plat complies with all standards and conditions of any applicable permits and development approvals from outside agencies, including requirements of the Hendersonville Water

FIGURE 6.3.14: PRELIMINARY PLAT PROCEDURE

(AMENDED 8-15-22 UDOTA 1-23)

STEP	ACTION
1	Pre-Application Conference See Section 6.2.4: Pre-Application Conference
2	File Application See Section 6.2.6: Application Filing and Acceptance
3	Determination of Completeness See Section 6.2.6:F: Determination of Application Completeness
4	Staff Review See Section 6.2.8: Staff Review and Action Includes consideration of tree retention aspects
5	Parks and Greenways Board Review and Comment For impacts on tree protection, parks, and greenways
6	Planning Board Review and Recommendation See Section 6.2.10: Public Meetings and Hearings
7	Town Council Review and Decision See Section 6.2.10: Public Meetings and Hearings
8	Written Notification of Decision See Section 6.2.12: Written Notice of Decision

and Sewer Department, the Henderson County Erosion Control Division, the Valley Hill Volunteer Fire Department, and any other applicable agency or service provider;

g: The name of the subdivision shall not duplicate or be similar to the name of an existing subdivision in Henderson County or the Town; and

h: The preliminary plat complies with all other applicable requirements in this Ordinance and the Town Code of Ordinances.

2: Subdivisions of land located within a special flood hazard area shall comply with the applicable standards in Chapter 152 of the Town Code of Ordinances.

E: SEQUENCE

1: Approval of a preliminary plat authorizes the submittal of construction drawings, and/or a final plat.

2: Construction drawings shall be required in cases where public infrastructure (e.g., streets, water lines, sanitary sewer, etc.) is being extended to serve lots in the development.

F: EFFECT

1: Approval of a preliminary plat shall not constitute the approval for recording a subdivision with the Henderson County Register of Deeds, or approval for the conveyance of lots.

2: Nothing shall prohibit the landowner or the subdivider, as appropriate, from entering into contracts to sell or lease land by reference to an approved preliminary plat in accordance with Section 160D-807(c) of the North Carolina General Statutes, but conveyance of ownership may not take place until after recordation of a final plat in accordance with [Section 6.3.10: Final Plat](#).

G: EXPIRATION

1: An approved preliminary plat shall be valid for two years from the date of approval.

2: A preliminary plat approval may be extended once for a maximum duration of one year.

6.3.15: REZONING

A: PURPOSE AND INTENT

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

B: APPLICABILITY

This procedure sets out the requirements for amendments to the zoning district designation of land within the Town’s planning jurisdiction as well as for land coming into the Town’s planning jurisdiction via annexation in accordance with Section 160D-703 of the North Carolina General Statutes.

C: APPLICATION INITIATION

- 1: Applications may be initiated by the Town Council, the Planning Board, the Town Manager, landowner(s), or contract purchasers of the land in the proposed application.
- 2: In no instance shall the Town accept third-party rezoning applications submitted by persons who are not owners of the land subject to the application.

D: RECOMMENDATION BY PLANNING BOARD

- 1: After conclusion of a public meeting, the Planning Board shall make a recommendation on the application in accordance with Section 6.3.15:G: Review Criteria.
- 2: In making its recommendation, the Planning Board shall prepare a written statement regarding the application’s consistency with the Town’s adopted policy guidance.

E: DECISION

- 1: After the conclusion of a legislative public hearing, the Town Council shall decide the rezoning application in accordance with the standards in Section 6.3.15:G: Review Criteria.
- 2: The decision shall be one of the following:
 - a: Approval of the application;
 - b: Denial of the application;
 - c: Approval of a revised application; or
 - d: Remand of the application to Town staff for further consideration.
- 3: The decision shall be based on the legislative discretion of the Town Council, taking into consideration the recommendation of the Planning Board and the standards in Section 6.3.15:G: Review Criteria.
- 4: In making its decision, the Town Council shall adopt a written statement of reasonableness and consistency with the Town’s adopted policy guidance in accordance with Section 160D-605 of the North Carolina General Statutes.

FIGURE 6.3.15: REZONING PROCEDURE
(AMENDED 8-15-22 UDOTA 1-23)

STEP	ACTION
1	Pre-Application Conference See Section 6.2.4: Pre-Application Conference
2	Neighborhood Information Meeting Required for applications seeking more intense zoning districts See Section 6.2.5: Neighborhood Information Meeting
3	File Application See Section 6.2.6: Application Filing and Acceptance
4	Determination of Completeness See Section 6.2.6:F: Determination of Application Completeness
5	Staff Review See Section 6.2.8: Staff Review and Action
6	Parks and Greenways Board Review and Comment For impacts on tree protection, parks, and greenways
7	Planning Board Review and Recommendation See Section 6.2.10: Public Meetings and Hearings
8	Public Hearing Scheduled
9	Public Notification See Section 6.2.9: Public Notification
10	Town Council Review and Decision See Section 6.2.10: Public Meetings and Hearings
11	Written Notification of Decision See Section 6.2.12: Written Notice of Decision

F: CHANGES TO APPLICATION

The applicant may make changes, including changes recommended by the Planning Board or the Town Council, to the application for a rezoning at any time prior to the Town Council's decision. The applicant may only propose changes in accordance with the following:

- 1: Changes shall be made in writing to the Town Manager; and
- 2: Changes shall be signed by all landowners or their agents.

G: REVIEW CRITERIA

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

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

H: DESIGNATION ON FUTURE LAND USE MAP

In cases where the Town Council approves a rezoning application, they deem to be inconsistent with adopted policy guidance, the future land use map shall be amended with a note referencing the rezoning application approval and no additional request or application for a comprehensive plan amendment shall be required.

I: EFFECT

- 1: Lands subject to an approved rezoning application shall be subject to all the applicable standards in this Ordinance, which shall be binding and shall run with the land.
- 2: Development located outside the corporate limits shall comply with all Town policies related to annexation and the extension of utilities.

6.3.16: SITE PLAN

A: PURPOSE AND INTENT

The purpose for the site plan procedure is to establish a consistent and predictable process for the review of proposed development, through a graphical representation of the proposed development. Site plan review is an analysis to ensure that allowable development is configured in accordance with the standards in this Ordinance and all other applicable regulations, not a consideration of whether or not a proposed development is allowed.

B: APPLICABILITY

Except for development exempted from site plan review in accordance with Section 6.3.16:C: Exemptions, all forms of development that involve construction, moving, or significant alteration of a building or habitable structure, that result in the increase in the amount of impervious surface on a lot, or that involve the provision of landscaping, off-street parking, stormwater control mechanisms, or similar site features shall be subject to site plan review in accordance with this section. In cases where a site plan requires approval of a variance or administrative adjustment, the variance or administrative adjustment shall be reviewed and decided prior to review of the site plan. **(AMENDED 8-15-22 UDOTA 1-23)**

C: EXEMPTIONS

- 1: The following forms of development are exempted from site plan review, but may require a plot plan and shall be subject to the standards in Section 6.3.22: Zoning Compliance Permit, and Section 6.3.4: Building Permit, as appropriate:
 - a: Construction of a single-family detached dwelling on its own individual lawfully established lot provided the lot does not have geologic hazards, steep slopes, or very steep slopes;
 - b: Establishment of an accessory use or structure on a single-family residential lot with a lawfully established principal use; and
 - c: Interior up-fits or changes to a lawfully established non-residential structure or use type that do not result in the need for additional off-street parking spaces, additional screening or landscaping, differing stormwater practices, or any changes to the amount of impervious surface cover.

- 2: In cases where a single-family detached dwelling is proposed on a lot that has geologic hazards, steep slopes, or very steep slopes, site plan review in accordance with this procedure shall be required. **(AMENDED 12-15-22 UDOTA 3-22)**

D: REVIEW CRITERIA

Following a public meeting, a site plan shall be approved by the Planning Board, provided the application complies with:

- 1: All standards or conditions of any prior permits or development approvals;
- 2: The applicable street addressing policies of the Town and the County, and that the street address of all lots are clearly identified on the site plan;
- 3: Any applicable concept plans, master plans, or terms and conditions;

FIGURE 6.3.16: SITE PLAN PROCEDURE <small>(AMENDED 8-15-22 UDOTA 1-23)</small>	
STEP	ACTION
1	Pre-Application Conference See Section 6.2.4: Pre-Application Conference
2	File Application See Section 6.2.6: Application Filing and Acceptance
3	Determination of Completeness See Section 6.2.6:F: Determination of Application Completeness
4	Staff Review and Recommendation See Section 6.2.8: Staff Review and Action Includes consideration of tree retention aspects
5	Parks and Greenways Board Review and Comment For impacts on tree protection, parks, and greenways
6	Planning Board Review and Decision See Section 6.2.10: Public Meetings and Hearings
7	Written Notification of Decision See Section 6.2.12: Written Notice of Decision

- 4: All applicable requirements of this Ordinance, including zoning district requirements in Chapter 2: Districts, environmental requirements in Chapter 3: Environment, use provisions in Chapter 4: Land Uses, development standards in Chapter 7: Standards, and subdivision and infrastructure requirements in Chapter 8: Subdivisions; and
- 5: All applicable County, State, and federal requirements.

E: EFFECT

1: CONSTRUCTION PLANS

- a: Construction plans for all public improvements included with or filed subsequent to the site plan shall be approved prior to street and utility construction in accordance with the applicable Town standards.
- b: In the case of a multi-phase site plan, any street and utility construction plans shall include all improvements within a phase and all public improvements outside the phase but necessary to serve development within that phase.

2: FEE-IN-LIEU OR PERFORMANCE GUARANTEES

All public improvements and private site features shall be installed, inspected, and accepted by the Town or shall be the subject of an approved fee-in-lieu (see Section 6.3.9: Fee-in-Lieu), or be subject the requirements in Section 6.3.12: Performance Guarantee, prior to the issuance of a certificate of occupancy.

3: AS-BUILT PLANS

As-built plans for all public improvements shall be submitted in accordance with Section 6.3.12.1: As-Built Plans Required.

F: EXPIRATION

If the work authorized by a site plan approval is not commenced within one year from the date of issuance, the approval shall become null and void.

6.3.17: SPECIAL USE PERMIT

A: PURPOSE AND INTENT

This section sets out the procedure for consideration of an application for a special use permit. A special use is a use that may be appropriate in a zoning district, but because of its nature, extent, and external effects, requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings.

B: APPLICABILITY

- 1: Applications for uses identified as requiring a special use in Table 4.2.6: Principal Land Use Table, shall be reviewed in accordance with the procedures and standards of this section.
- 2: Extension or enlargement of a lawfully established use type, existing operation, or business activity in the SBO beyond that existing on August 18, 2021, that is not allowed in an underlying zoning district shall require issuance of a special use permit.

C: PROCEDURES DISTINGUISHED

Applications for buildings, structures, and facilities operated by a governmental operation requiring a special use in Table 4.2.6: Principal Land Use Table, shall be reviewed in accordance with the procedures and standards of this section except that the review and decision-making steps in the process shall be conducted by the Board of Adjustment rather than the Town Council.

D: CONCEPT PLAN REVIEW

- 1: Prior to consideration of an application for a special use permit an applicant shall submit a concept plan to the Technical Review Committee that depicts the proposed use and site configuration. The Technical Review Committee shall provide comments and a recommendation on the concept plan to the applicant.
- 2: In cases where the Technical Review Committee recommendation calls for revisions to the concept plan in order to achieve compliance with the requirements of this Ordinance, the applicant shall revise the concept plan in accordance with the recommendations prior to consideration of the application by the Town Council.

E: DECISION

Following the conclusion of a quasi-judicial public hearing, the Town Council shall review and decide the application in accordance with Section 6.3.17:F: Review Criteria. The decision shall be the one of the following:

- 1: Approval of the special use and concept plan as proposed;
- 2: Approval of a revised special use and concept plan;
- 3: Denial of the special use and concept plan; or
- 4: Remand of the special use application for further consideration by Town staff.

FIGURE 6.3.17: SPECIAL USE PERMIT PROCEDURE	
STEP	ACTION
1	Pre-Application Conference See Section 6.2.4: Pre-Application Conference
2	Neighborhood Information Meeting See Section 6.2.5: Neighborhood Information Meeting
3	File Application See Section 6.2.6: Application Filing and Acceptance Must include a concept plan
4	Completeness Determination See Section 6.2.6:F: Determination of Application Completeness
5	Staff Review and Recommendation See Section 6.2.8: Staff Review and Action Includes review and comment on the concept plan by Technical Review Committee
6	Public Hearing Scheduled
7	Public Notification See Section 6.2.9: Public Notification
8	Town Council Review and Decision See Section 6.2.10: Public Meetings and Hearings
9	Written Notification of Decision See Section 6.2.12: Written Notice of Decision

F: REVIEW CRITERIA

A special use shall be approved upon a determination that the special use:

- 1: Will not materially endanger the public health or safety if located where proposed;
- 2: Complies with all required standards, conditions, and specifications of this Ordinance, including Chapter 4: Land Uses;
- 3: Will not substantially injure the value of the abutting land, or the special use is a public necessity;
- 4: Will be in harmony with the area in which it is to be located;
- 5: Is in general conformity with the Town's adopted policy guidance; and
- 6: Is subject to a concept plan that accurately depicts the proposed use's configuration.

G: CONDITIONS

- 1: The Town Council may apply conditions of approval that are reasonable and appropriate in accordance with Section 160D-705(c) of the North Carolina General Statutes, and Section 6.2.11: Conditions of Approval.
- 2: Conditions may be proposed to:
 - a: Assure that the use will be harmonious with the area where proposed;
 - b: Ensure the use is consistent with the purpose and intent of this Ordinance;
 - c: Limit the special use permit to a specified duration;
 - d: Place limits on the availability of proposed residential dwelling units to coincide with the provision or maintenance of adequate public facilities; or
 - e: Address other considerations necessary, in the sole discretion of the Town Council.
- 3: All conditions shall be identified in the approval, the notice of decision, and on the associated concept plan.
- 4: All conditions of approval shall be consented to, in writing, by all owners of land subject to the conditions.

H: EFFECT

- 1: A special use approval is perpetually binding and run with the land, unless amended or limited in duration by the Town Council.
- 2: Development subject to an approved special use permit shall also undergo site plan review (see Section 6.3.16: Site Plan).
- 3: An action invalidating a special use condition of approval (such as an intensity or hours of operation limitation) shall render the special use permit and associated site plan null and void.
- 4: Special uses shall meet all applicable State and federal requirements for location and operation. Failure to maintain compliance with those requirements may result in the revocation of the special use permit and associated site plan.

I: AMENDMENT

Amendments to a special use permit application approval shall be considered as minor modifications or major modifications, in accordance with the following.

1: MINOR MODIFICATIONS

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

- b:** The following minor modifications may be approved by the Town Manager, in consultation with other appropriate Town staff:
 - i:** Changes to the location of entrances or driveways, the rearrangement of internal streets, turn lanes, drives, or access restrictions;
 - ii:** Changes to the configuration of parking areas, but not the number of parking spaces;
 - iii:** Changes to the configuration or location of open space or placement of required amenities, provided the amount of open space (whether passive or active) is unchanged;
 - iv:** Changes to the configuration of landscape yards, including types of materials, provided minimum width and planting requirements are met;
 - v:** Changes to the proposed building elevation or facade, including materials, provided that the change retains the same general architectural character and remains consistent with the design parameters established in the approval; and
 - vi:** Changes to the arrangement or location of buildings provided there is no increase in the number of buildings, size, or amount of impervious surface.
- c:** In no instance shall a minor modification include any changes to the range of permitted uses or the overall density of the development.

2: MAJOR MODIFICATIONS

- a:** Changes that materially affect the basic configuration of the development, basic parameters of conditions of approval, or that exceed the scope of a minor modification are considered major modifications.
- b:** Major modifications include, but are not limited to:
 - i:** Increases in building height;
 - ii:** Changes in use designations;
 - iii:** Changes in density or intensity;
 - iv:** Decreases in open space;
 - v:** Substantial changes in the location of streets (particularly if streets are to be deleted or access points to the development moved so traffic flows both inside and outside the development are affected); and
 - vi:** Change in the location of any public easement.
- c:** Major modifications shall be treated as an amendments that must be reviewed and considered in accordance with the procedures and standards established for the original approval of a special use permit application.

J: REPLACEMENT

If a special use is replaced by a use otherwise permitted by right in the zoning district, the special use permit approval is deemed abandoned and the special use permit approval is null and void.

K: EXPIRATION

Unless otherwise stated in the special use permit approval, a special use permit shall expire and become null and void two years after the date of issuance if:

- 1:** The authorized use has not commenced;
- 2:** No substantial construction activity has taken place; or
- 3:** Construction activities have started, but the value of all construction activity is less than five percent of the estimated total cost of construction.

6.3.18: STORMWATER PERMIT

A: PURPOSE AND INTENT

This stormwater permit section sets out the procedure for consideration of a stormwater permit, which is intended to prevent or mitigate any adverse effects of increased post-development stormwater runoff into receiving surface waters or adjacent lands in accordance with Section 3.3: Stormwater, and Section 160D-925 of the North Carolina General Statutes.

B: APPLICABILITY

Unless exempted by Section 6.3.18:C: Exemptions, the standards in this section shall apply to all forms of new development, including, but not limited to: site plans, preliminary plats, final plats, and erosion control permits.

C: EXEMPTIONS

- 1: The following forms of development are exempted from these standards:
 - a: Except for lots subject to Section 3.1: Sites with Slopes or Geologic Hazards, development or redevelopment that cumulatively disturbs less than one acre, and is not part of a larger common plan of development or sale subject to these standards;
 - b: Activities that are exempt from permit requirements of Section 404 of the federal Clean Water Act as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities); and
 - c: Activities of the State or federal government that are subject to an approved National Pollutant Discharge Elimination System (NPDES) stormwater permit.
- 2: Lots or tracts subject to Section 3.1: Sites with Slopes or Geologic Hazards, are subject to the standards in this section.

D: APPLICATION

- 1: The stormwater permit application shall include a stormwater management plan prepared by a qualified North Carolina professional engineer, land surveyor, soil scientist, or landscape architect. The preparer shall perform services only within their area of competence.
- 2: The stormwater management plan shall contain a signed and sealed statement certifying that the design of all stormwater management facilities and practices will comply with this Ordinance and all applicable State requirements.

E: REVIEW CRITERIA

A stormwater permit application shall be approved by the Town Manger if it complies with the following:

- 1: The standards in Section 3.3: Stormwater;
- 2: The standards Section 3.1: Sites with Slopes or Geologic Hazards, if applicable to the lot or tract;
- 3: A stormwater management concept and maintenance plan, if required;
- 4: All standards or conditions of any prior applicable permits or development approvals;
- 5: All other applicable requirements of this Ordinance and the Town Code of Ordinances; and

FIGURE 6.3.18: STORMWATER PERMIT PROCEDURE

STEP	ACTION
1	Pre-Application Conference See Section 6.2.4: Pre-Application Conference
2	File Application See Section 6.2.6: Application Filing and Acceptance Includes a stormwater management plan
3	Completeness Determination See Section 6.2.6:F: Determination of Application Completeness
4	Staff Review See Section 6.2.8: Staff Review and Action
5	Town Manager Review and Decision Based on Section 6.3.18:E: Review Criteria
6	Written Notification of Decision See Section 6.2.12: Written Notice of Decision
7	Certification Certify improvements in accordance with approved stormwater management plan

6: All applicable State and federal requirements.

F: FINAL APPROVAL

1: COMPLETENESS PRIOR TO RECORDATION

The construction of all structural stormwater management improvements shown on an approved stormwater management plan shall be substantially complete prior to final plat recordation or issuance of any certificate of occupancy.

2: CERTIFICATION

Upon completion of a project and its associated structural stormwater management improvements, and before a certificate of occupancy shall be granted, the professional responsible for the stormwater management plan shall certify, under seal, that the completed project is in accordance with the approved plan and the requirements of this Ordinance.

3: PERFORMANCE GUARANTEES

a: WHEN REQUIRED

When use, occupancy, or transfer of land is permitted prior to completion or dedication of required structural stormwater management improvements, the applicant shall provide a performance guarantee for all stormwater management improvements in accordance with [Section 6.3.12: Performance Guarantee](#).

b: RELEASE OF PERFORMANCE GUARANTEES

The following shall occur prior to the release of any performance guarantees for the installation of structural stormwater management improvements:

- i: As-built drawings and submittals shall be submitted and approved by the Town Manager; and
- ii: The project shall be in compliance with the [Section 3.2: Soil Erosion and Sedimentation Control](#).

c: MAINTENANCE WARRANTY

Regardless of the need to post performance guarantees for completion of structural stormwater management improvements, if stormwater control measures are intended for dedication and operation by the Town, the developer shall provide a maintenance guarantee in accordance with [Section 3.3: Stormwater](#), clarifying that the developer shall correct any defects associated with a structural stormwater management improvement and related facilities for a period of one year following the acceptance of stormwater control measures by the Town.

G: EXPIRATION

A stormwater permit shall expire and become null and void if construction has not begun within one year from the date of the approval.

6.3.19: TEXT AMENDMENT

A: PURPOSE AND INTENT

This section provides a uniform means for amending the text of this Ordinance whenever public necessity, changed conditions, convenience, general welfare, or appropriate land use practices justify or require doing so.

B: APPLICABILITY

- 1: The standards and requirements of this section shall apply to applications to revise the text of this Ordinance.
- 2: Applications may be filed by the Town Manager, the Planning Board, the Town Council, or by another applicant following receipt of a notice of decision on a determination (see Section 6.3.6: Determination).

C: REVIEW BY PLANNING BOARD

- 1: After conclusion of a public meeting, the Planning Board shall make a recommendation on the application in accordance with Section 6.3.19:E: Review Criteria.
- 2: In making its recommendation, the Planning Board shall prepare a written statement regarding the application’s consistency with the Town’s adopted policy guidance.

D: DECISION

- 1: After the conclusion of a legislative public hearing, the Town Council shall decide the application in accordance with the standards in Section 6.3.19:E: Review Criteria.
- 2: The decision shall be one of the following:
 - a: Approval of the application;
 - b: Denial of the application;
 - c: Approval of a revised application; or
 - d: Remand of the application to Town staff for further consideration.
- 3: The decision shall be based on the legislative discretion of the Town Council, taking into consideration the recommendation of the Planning Board and the standards Section 6.3.19:E: Review Criteria.
- 4: In making its decision, the Town Council shall adopt a written statement of reasonableness and consistency with the Town’s adopted policy guidance in accordance with Section 160D-605 of the North Carolina General Statutes.

E: REVIEW CRITERIA

The advisability of amending the text of this Ordinance is a matter committed to the legislative discretion of the Town Council and is not controlled by any one factor. In determining whether to adopt or deny the proposed text amendment, the Town Council may, but is not required to, consider whether and the extent to which the proposed text amendment:

FIGURE 6.3.19: TEXT AMENDMENT PROCEDURE (AMENDED 8-15-22 UDOTA 1-23)	
STEP	ACTION
1	Pre-Application Conference Required when not Town-initiated See Section 6.2.4: Pre-Application Conference
2	File Application See Section 6.2.6: Application Filing and Acceptance Applicants must have received a notice of decision on a determination prior to application
3	Determination of Completeness See Section 6.2.6:F: Determination of Application Completeness
4	Staff Review See Section 6.2.8: Staff Review and Action
5	Parks and Greenways Board Review and Comment For impacts on tree protection, parks, and greenways
6	Planning Board Review and Recommendation See Section 6.2.10: Public Meetings and Hearings
7	Public Hearing Scheduled
8	Public Notification See Section 6.2.9: Public Notification
9	Town Council Review and Decision See Section 6.2.10: Public Meetings and Hearings
10	Written Notification of Decision Provided when not Town-initiated See Section 6.2.12: Written Notice of Decision
11	Transmit to State agencies, if Required

- 1: Enhances the public's health, safety, and welfare;
- 2: Is consistent with the Town's adopted policy guidance;
- 3: Is required by changed conditions;
- 4: Addresses a demonstrated community need;
- 5: Addresses an unforeseen matter not present when the Ordinance was adopted;
- 6: Addresses other factors determined to be relevant by the Town Council; and
- 7: Would not result in significantly adverse impacts on the natural environment, including water, air, noise, stormwater management, wildlife, vegetation, and the natural functioning of the environment.

6.3.20: VARIANCE

A: PURPOSE AND INTENT

The purpose of this section is to allow deviations from certain standards of this Ordinance when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner’s control (such as topographical conditions, narrowness, shallowness, or shape of a specific parcel of land), a literal application of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest. This section also includes variance provisions for reasonable accommodation of persons with physical disabilities and variances pertaining to the Town’s special flood hazard area requirements, water supply watershed protection standards, and stormwater provisions.

B: APPLICABILITY

- 1: Development that would otherwise be subject to undue and unique hardship from the applications of the standards in this Ordinance may seek relief from the standards in accordance with this section.
- 2: No variance may be sought that increases development density (e.g., units per acre) beyond that allowed in a base zoning district, or that would permit a use not allowed in a zoning district.
- 3: Applications seeking variance from the watershed protection standards applicable in the WPO districts shall be filed and considered in accordance with this section and Section 2.12.2.L: Variance from Watershed Standards.
- 4: Applications for a variance shall require submittal of a site plan. **(AMENDED 8-15-22 UDOTA 1-23)**

C: DECISION

- 1: In cases where a development application (e.g., a site plan) requires approval of a variance, the variance shall be reviewed and decided prior to review of other aspects of the development application. **(AMENDED 8-15-22 UDOTA 1-23)**
- 2: The Board of Adjustment, after the conclusion of a quasi-judicial public hearing, shall decide the application for a variance.
- 3: The decision shall be based on the competent, material, and substantial evidence in the record, as supplemented by the arguments presented at the quasi-judicial hearing, and the applicable standards in Section 6.3.20:D: Review Criteria.
- 4: The decision shall be one of the following:
 - a: Approval of the variance as proposed;
 - b: Approval of the variance with revisions; or
 - c: Denial of the variance.
- 5: The concurring vote of four-fifths of the Board of Adjustment’s quorum shall be necessary to grant a variance.
- 6: Each decision shall be made in writing and reflect the Board of Adjustment’s determination of facts and their application to the standards in this Ordinance.

FIGURE 6.3.20: VARIANCE PROCEDURE <small>(AMENDED 8-15-22 UDOTA 1-23)</small>	
STEP	ACTION
1	Pre-Application Conference See Section 6.2.4: Pre-Application Conference
2	File Application See Section 6.2.6: Application Filing and Acceptance Variance applications shall require submittal of a site plan
3	Determination of Completeness See Section 6.2.6:F: Determination of Application Completeness
4	Staff Review See Section 6.2.8: Staff Review and Action
5	Public Hearing Scheduled
6	Public Notification See Section 6.2.9: Public Notification
7	Board of Adjustment Review and Decision See Section 6.2.10: Public Meetings and Hearings
8	Written Notification of Decision See Section 6.2.12: Written Notice of Decision
9	Recordation

- 7: The written decision shall be signed by the Chair or other duly authorized member of the Board of Adjustment.
- 8: The decision of the Board of Adjustment shall be effective upon the filing of the written decision.

D: REVIEW CRITERIA

The standards in this section are organized into the standards applicable to variances from the zoning-related provisions, reasonable accommodations, the special flood hazard area requirements, water supply watershed provisions, and stormwater standards.

1: ZONING-RELATED VARIANCE STANDARDS

a: REQUIRED FINDINGS OF FACT

A zoning-related variance shall be approved on a finding the applicant demonstrates all of the following:

- i: Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- ii: The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- iii: The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of the variance shall not be regarded as a self-created hardship.
- iv: The variance approval is the minimum necessary to make possible the reasonable use of the land, building, or structure.
- v: The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured, and substantial justice is achieved.

b: OTHER CONSIDERATIONS

In addition to the making the required findings in subsection (a) above, the Board of Adjustment may also consider the following:

- i: The variance approval is the minimum necessary to make possible the reasonable use of the land, building, or structure.
- ii: Whether all property taxes on the land subject to the variance application have been paid in full.

c: FACTORS THAT MAY NOT BE CONSIDERED

None of the following may be used as the basis for approving a zoning-related variance:

- i: Personal circumstances;
- ii: A request for a particular use that is expressly, or by inference, prohibited in the zoning district;
- iii: Hardships resulting from factors other than application of the relevant standards of this Ordinance;
- iv: The fact that land or a structure may be utilized more profitably or be more marketable with a variance;
- v: The citing of other conforming or nonconforming uses of land or structures in the same or other zoning districts; or
- vi: Financial hardship.

2: REASONABLE ACCOMMODATION

- a:** A variance for reasonable accommodation shall be approved upon a finding the proposed accommodation:
- i:** Will be used by an individual or individuals with a disability or handicap protected under federal law;
 - ii:** Is the minimum needed to provide accommodation; and
 - iii:** Is reasonable and necessary.
- b:** For the purposes of this section, an accommodation is reasonable if it would not undermine the legitimate purposes of this Ordinance, it does not constitute a substantial alteration of this Ordinance or other Town standard, and it will not impose significant financial and administrative burden upon the Town.
- c:** For the purposes of this section, an accommodation is necessary if it would provide direct or meaningful improvement of the effects of the particular disability or handicap and would afford handicapped or disabled persons equal opportunity to use housing in the Town.

3: STORMWATER

A variance pertaining to the stormwater standards shall be approved on a finding the applicant demonstrates all of the following standards are met:

- a:** The applicant can secure no reasonable use of or return from their property if the provisions of the Ordinance are strictly adhered to;
- b:** The hardship results from application of this Ordinance to the property rather than from other factors such as deed restrictions or other hardship;
- c:** The hardship is due to the physical nature of the applicant's property, such as its location, size, shape, or topography, and compliance with provisions of this Ordinance would not allow reasonable use of the property;
- d:** The applicant did not cause the hardship by knowingly or unknowingly violating this Ordinance;
- e:** The variance is consistent with the general spirit, purpose, and intent of the State law and this Ordinance; and
- f:** In granting the water-related variance, the public safety and welfare have been assured, water quality has been protected, and substantial justice has been done.

4: SPECIAL FLOOD HAZARD AREA VARIANCE STANDARDS

Criteria for the consideration of variances from the Town's special flood hazard area standards may be found in Chapter 152 of the Town Code of Ordinances.

5: WATER SUPPLY WATERSHED PROTECTION

Criteria for the consideration of variance from the Town's water supply watershed standards are in accordance with [Section 2.12.2:L: Variance from Watershed Standards](#).

E: CONDITIONS

In granting a variance, the Board of Adjustment may prescribe conditions of approval to ensure compliance with the standards of this section, and to assure that the use of the land to which the variance applies will be compatible with surrounding lands and will not alter the essential character of the neighborhood. Conditions shall be in accordance with [Section 6.2.11: Conditions of Approval](#), and the following

- 1:** Conditions must be reasonably related to the variance application.
- 2:** A variance granted subject to a condition of approval shall be permitted as long as there is compliance with the condition.
- 3:** Violation of a condition of approval shall be deemed a violation of this Ordinance.

- 4: If a violation or invalidation of a condition of approval occurs, the Town Manger may initiate proceedings to revoke the authorization for the development subject to the variance.
- 5: All conditions of approval shall be consented to, in writing, by the applicant.

F: RECORDATION

If a variance application is approved, the notice of decision may be recorded by the applicant in the office of the Henderson County Register of Deeds.

G: EFFECT

Approval of a variance authorizes only the particular regulatory relief approved by the Board of Adjustment. It does not exempt the applicant from the responsibility to obtain all other permits or development approvals required by this Ordinance or any other applicable laws and does not indicate that the development for which the variance is granted should receive other permits or development approvals under this Ordinance unless the relevant and applicable portions of this Ordinance are met.

H: EXPIRATION

- 1: If the Board of Adjustment does not include a time period by which development subject to variance expires, development shall commence within 12 months of the date of issuance of the variance or the variance shall expire and become null and void.
- 2: 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.

6.3.21: WATERSHED PERMIT

A: PURPOSE

This section sets out a procedure for the review of development that is located within a Watershed Protection Overlay (WPO) district for the purpose of ensuring that potable water quality is not negatively impacted.

B: APPLICABILITY

The standards in this section shall apply to all development located within the WPO as indicated on the Official Zoning Map or other appropriate map, including the State of North Carolina’s Water Supply Watershed Map.

C: REVIEW STANDARDS

A watershed permit shall be approved by the Town Manager provided the application complies with the applicable standards in Section 2.12.2: Watershed Protection Overlay (WPO) District.

D: EFFECT

Approval of a water supply watershed protection permit authorizes an applicant to apply for a building permit.

E: EXPIRATION

If the work authorized by a water supply watershed protection permit is not commenced within one year from the date of issuance, the permit shall become null and void.

FIGURE 6.3.21: WATERSHED PERMIT PROCEDURE

STEP	ACTION
1	Pre-Application Conference Optional See Section 6.2.4: Pre-Application Conference
2	File Application See Section 6.2.6: Application Filing and Acceptance
3	Completeness Determination See Section 6.2.6:F: Determination of Application Completeness
4	Staff Review See Section 6.2.8: Staff Review and Action
5	Town Manager Decision Based on Section 6.3.21:C: Review Standards
6	Written Notification of Decision See Section 6.2.12: Written Notice of Decision

6.3.22: ZONING COMPLIANCE PERMIT

A: PURPOSE AND INTENT

The purpose of a zoning compliance permit is to ensure no development occurs until there is assurance the development complies with the requirements of this Ordinance and all other applicable requirements.

B: APPLICABILITY

- 1: A zoning compliance permit shall be required for prior to any of the following:
 - a: Issuance of a building permit;
 - b: Erection or modification of a fence or privacy wall over 24 inches in height;
 - c: Erection or modification of signage;
 - d: Establishment of a temporary use or structure;
 - e: Any change in use within an existing non-residential, multi-family, or mixed-use structure;
 - f: Commencement of activity or development identified on a site plan or a subdivision plat; or
 - g: Commencement of activity that does not require issuance of a building permit.
- 2: Nothing shall prevent a zoning compliance permit from being issued concurrently with a building permit.

C: IDENTIFICATION OF SITE FEATURES

- 1: Applications for a zoning compliance permit shall include a site sketch or plot plan that identifies the lot lines and the outer extents of all of the following features (if present):
 - a: Principal structure(s);
 - b: Accessory structures;
 - c: Open-air uses of land;
 - d: Required setbacks and allowable encroachments, if applicable;
 - e: Existing potable water wells, septic tanks, drain fields, and reserve or back-up drain field locations;
 - f: Tree save areas;
 - g: Required stormwater control measures; and
 - h: Any other features identified by the Town Manager as necessary for determining compliance with the requirements of this Ordinance.
- 2: Site sketches or plot plans are not required to be professionally prepared, or be to scale, but should include verified dimensional distance if not drawn to scale.

D: REVIEW CRITERIA

A zoning compliance permit shall be approved by the Town Manager on a decision the application complies with:

- 1: All standards or conditions of any prior applicable permits and developments approvals;
- 2: Any applicable requirements of the Henderson County Health Department; and
- 3: All applicable requirements of this Ordinance and in the Town Code of Ordinances.

FIGURE 6.3.22: ZONING COMPLIANCE PERMIT PROCEDURE	
STEP	ACTION
1	Pre-Application Conference Optional See Section 6.2.4: Pre-Application Conference
2	File Application See Section 6.2.6: Application Filing and Acceptance
3	Completeness Determination See Section 6.2.6:F: Determination of Application Completeness
4	Staff Review See Section 6.2.8: Staff Review and Action
5	Town Manager Decision Based on Section 6.3.22:D: Review Criteria
6	Written Notification of Decision See Section 6.2.12: Written Notice of Decision

E: EFFECT

- 1: Approval of a zoning compliance permit authorizes an applicant to apply for a building permit, commence construction, or proceed with the approved development in cases where a building permit is not required.
- 2: If the zoning compliance permit application is filed concurrently with a building permit application, approval of the zoning compliance permit authorizes the Town to complete its review of the building permit application.

F: EXPIRATION

A zoning compliance permit shall expire and become null and void one year after the date of issuance if the authorized use has not commenced.

7: STANDARDS

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7.1: DESIGN STANDARDS AND GUIDELINES

7.1.1: SECTION CONTENTS

- A:** The design standards in this section address the following types of development:
- 1:** Commercial use types;
 - 2:** Mixed-use developments; and
 - 3:** Multi-family residential use types.
- B:** This section also sets out a series of design guidelines that may be applied to single-family detached, single-family attached, and duplex development through landowner or applicant consent.

7.1.2: COMMERCIAL AND MIXED-USE DESIGN STANDARDS

A: PURPOSE AND INTENT

These commercial and mixed-use design standards supplement the applicable zoning district and use-specific standards of this Ordinance by providing minimum requirements for design and configuration of commercial and mixed-use development within the Town's planning jurisdiction. They are proposed to provide clarity on the Town's expectations for the quality and appearance of new commercial and mixed-use development. More specifically, the purposes of these standards are to:

- 1:** Foster high-quality, attractive commercial and mixed-use development consistent with Town's heritage and adopted policy guidance;
- 2:** Create well-designed, desirable places for Town residents and visitors to shop, dine, recreate, and live;
- 3:** Assure a fair and consistent application of the commercial and mixed-use design standards to new development and redevelopment;
- 4:** Shorten travel times and support alternative modes of transportation by reducing the need for automobile travel within the urban portions of the Town;
- 5:** Foster creativity in commercial and mixed-use design and greater compatibility between new development and its local surroundings;
- 6:** Minimize impact including objectionable views, noise pollution, light pollution, and odors, from commercial and mixed-use development on adjacent residential uses;
- 7:** Encourage human-scaled development that is pedestrian-oriented, compact, and walkable;
- 8:** Promote property values and protect existing public and private investment; and
- 9:** Reduce development costs by facilitating forms of development in areas easily served by public infrastructure.

B: APPLICABILITY

The standards in this section shall apply to the following:

1: NEW DEVELOPMENT

New commercial and mixed-use development;

2: COMPLETE REDEVELOPMENT

Redevelopment or remodeling of an existing commercial or mixed-use structure where the original roof of the building is altered, such as through the addition of new floor area; and

3: SIGNIFICANT EXPANSION

Expansions of existing structure floor area by 20 percent or more shall require the entire structure to comply with all provisions of this section;

4: MINOR EXPANSION

Expansions of existing structures by less than 20 percent shall only require compliance with the primary façade standards.

5: FAÇADE ALTERATION

In cases where only the primary façade of an existing building is subject to remodeling or change, then compliance with these provisions shall be limited to the standards pertaining to color and exterior materials.

6: SUBMISSION REQUIREMENTS

- a:** Development subject to these standards shall file an application that includes at least all the following aspects:
- i:** All exterior architectural elevations;
 - ii:** All site plans including, parking, lighting, landscaping, and stormwater;
 - iii:** Descriptions or examples of exterior materials and a sample board including color swatches; and
 - iv:** A digital or physical three-dimensional colored rendering of developments with a total floor area of 5,000 square feet or larger.
- b:** Provision of a digital or physical three-dimensional colored rendering is strongly encouraged for all applications subject to these standards.

7: SITE CONFIGURATION**a: NATURAL FEATURES**

- i:** Development shall incorporate or avoid negative impacts on existing natural features such as streams, stands of mature trees, rock outcroppings, significant views, and other similar aspects.
- ii:** The use of natural topography and features is encouraged, where possible, to preserve natural vegetation and ensure proper stormwater control. Mass grading of sites is strongly discouraged.

b: UTILITIES

- i:** New utility services shall be located underground.
- ii:** Where underground utility placement is not feasible, then the new overhead services will be provided along the rear property lines and the rear of buildings.

c: COMPATIBILITY

All projects shall minimize any impacts on adjacent single-family residential properties with respect to sightlines, sound and light pollution, odors from exhaust hoods, grease traps, and dumpsters.

d: PEDESTRIAN AND BICYCLE CIRCULATION

Development shall be configured to allow bicycle and pedestrian access and interconnection between adjacent commercial, mixed-use, and multi-family residential parcels.

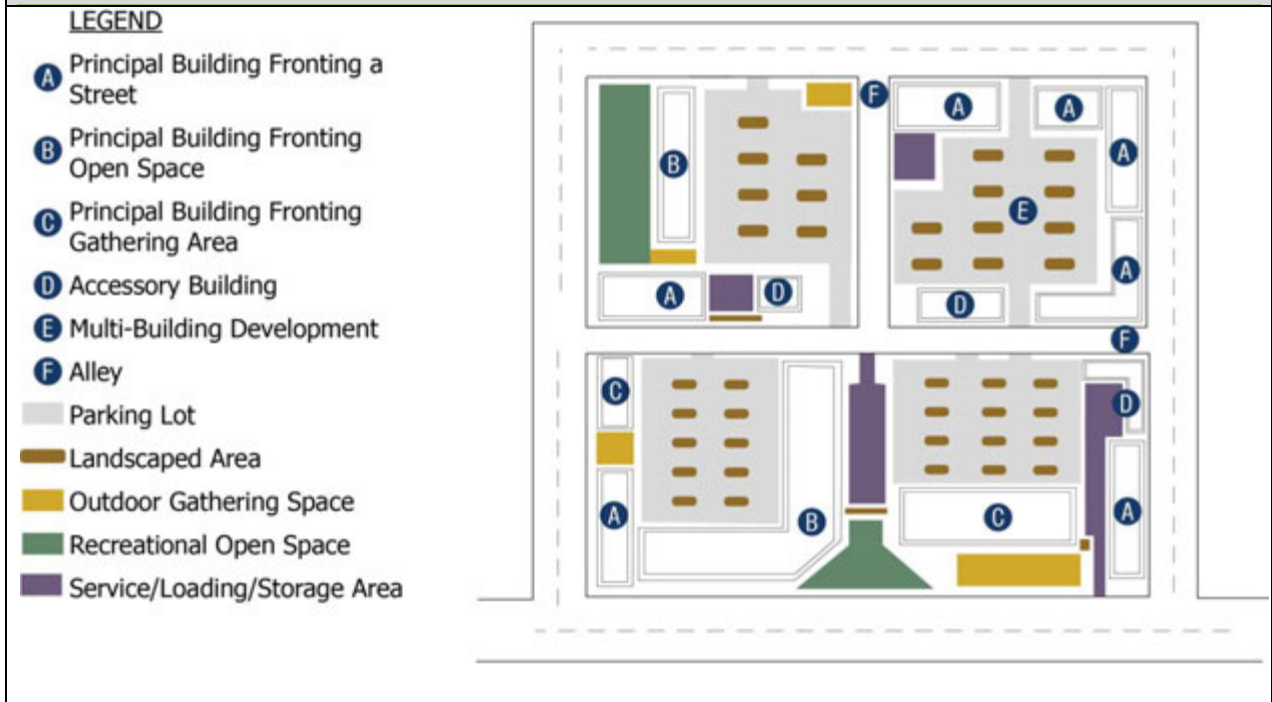
e: LANDSCAPING

Development subject to these standards shall remain subject to the landscaping requirements in Section 7.4: Landscaping.

8: BUILDING ORIENTATION

- a: Principal buildings shall front a street, recreational open space, or a public gathering area (see Figure 7.1.2.E.3: Commercial and Mixed-Use Building Orientation).
- b: Multi-building developments shall be configured in a campus-style format where buildings surround and enclose parking, open space, and public gathering areas.
- c: Service, loading, and storage areas shall be screened in accordance with Section 7.5: Screening, and shall not front a street, public parkland, or public recreational space.

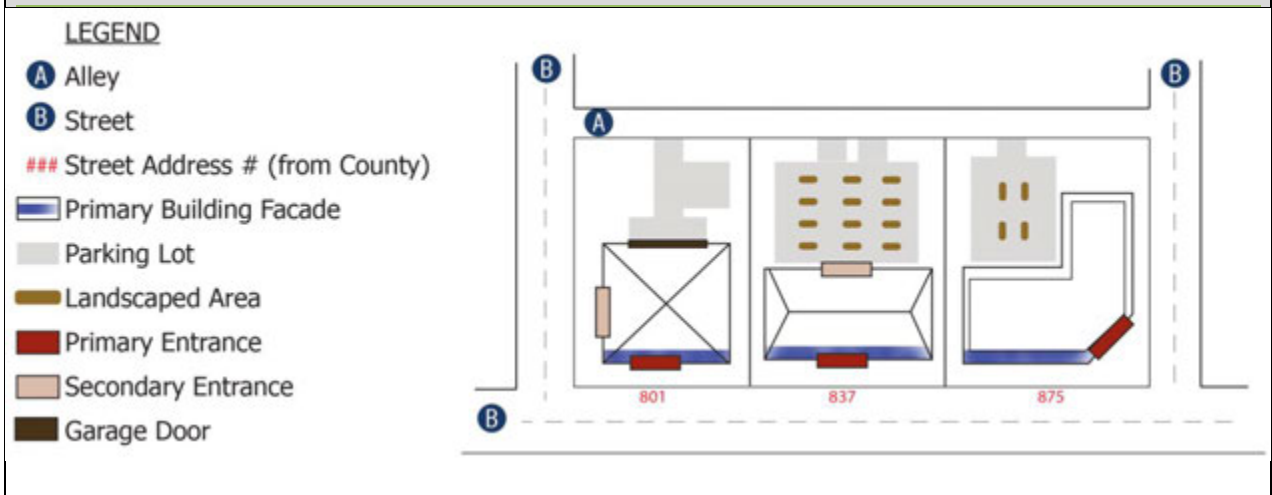
FIGURE 7.1.2.E.3: COMMERCIAL & MIXED-USE BUILDING ORIENTATION



9: PRIMARY ENTRANCE

- a: The primary building façade and primary building entrance of a single-building development shall face the right-of-way from which the building derives its street address (see Figure 7.1.2:E:4: Primary Entrance Characteristics).
- b: Corner entries are permitted on buildings on corner lots.
- c: Nothing shall prohibit a secondary building entrance from facing a parking lot or other portion of the site.
- d: A primary entrance shall either project from or be recessed into the primary façade wall plane.

FIGURE 7.1.2:E:4: PRIMARY ENTRANCE CHARACTERISTICS



10: GARAGES

Garage doors in non-residential buildings shall not face any existing or proposed street but may face an alley.

11: FAÇADE DESIGN

Building facades on lots in the TC or MM districts that face streets (except alleys) shall be configured in accordance with Table 7.1.2:E:6: Façade Design, and Figure 7.1.2:E:6: Façade Design:

TABLE 7.1.2:E:6: FAÇADE DESIGN

REQUIRED ARCHITECTURAL FEATURE	TOWN CENTER (TC) DISTRICT	MOUNTAINSIDE MIXED USE (MM) DISTRICT
Building Offsets, Alcoves, or Niches [1]	Provided every 40 feet of façade length	Provided every 30 feet of façade length
Permanent Awnings or Canopies	Required above at least 75% of doors along façade, including the primary entrance	Required above at least 75% of doors and windows along façade, including the primary entrance
Minimum Number of Required Exterior Building Materials	Three	Three
Pilasters, Arbors, and Timber Framing	Optional, but encouraged	Optional, but encouraged
NOTES:		

TABLE 7.1.2:E:6: FAÇADE DESIGN

REQUIRED ARCHITECTURAL FEATURE	TOWN CENTER (TC) DISTRICT	MOUNTAINSIDE MIXED USE (MM) DISTRICT
--------------------------------	---------------------------	--------------------------------------

[1] Buildings with facades of 100 linear feet or more shall be configured to appear as a series of three or more individual storefronts, each with a minimum width of 20 linear feet. Nothing shall require the inclusion of a doorway within each storefront, though one may be provided.

FIGURE 7.1.2:E:6: FAÇADE DESIGN



12: PROTOTYPICAL ARCHITECTURE

Prototypical architecture (see Figure 7.1.2:E:7: Prototypical Architecture) is strongly discouraged, and applicants seeking to utilize prototypical or franchise architecture shall be required to demonstrate how these standards are addressed. The Planning Board may, in its sole discretion, deny a site plan application for failure to adequately comply with the spirit and intent of limiting prototypical architecture.

FIGURE 7.1.2:E:7: PROTOTYPICAL ARCHITECTURE



13: FENESTRATION

Building facades facing streets (except alleys) shall comply with the following requirements (see Figure 7.1.2.E:8: Fenestration):

a: WINDOWS AND DOORS

- i: At least 40 percent of the façade shall be occupied by visually transparent windows and doors configured so that the interior is visible from the street. This standard shall not be applied to adult establishments or electronic gaming operations.
- ii: Upper floors shall have windows configured in a rhythmic placement along the full length of the facade.

b: BLANK WALLS

Facades subject to these standards shall be configured so that no expanse of wall is blank or windowless for more than 20 linear feet. If the building's configuration or internal activities do not permit exterior windows and doors placed in accordance with this standard, compliance can be achieved with breaks in the wall plane and exterior materials that create the appearance of filled-in windows, garden trellises, or similar features.

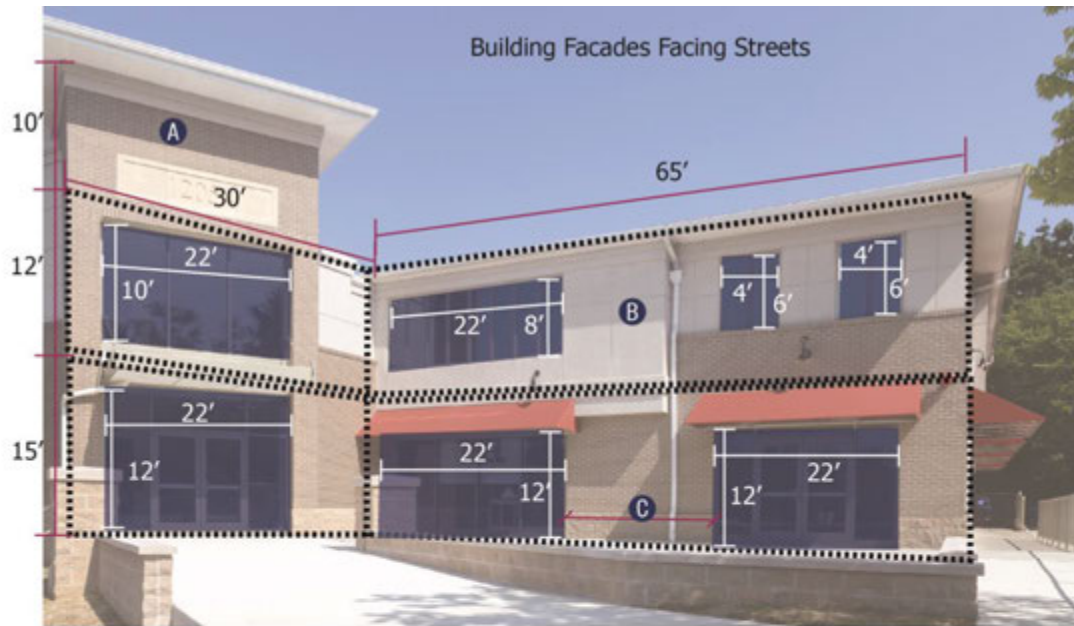
c: VENTILATION GRATES

All ventilation grates below the second story shall be flush with the building wall.

d: SECURITY BARS OR ROLL-DOWN DOORS

Security bars or roll-down doors shall be installed on the interior of the window or door frame.

FIGURE 7.1.2.E:8: FENESTRATION



LEGEND

- A** Building One
 Total Area = $30 \times (15+12+10) = 1,110$ sf
 Fenestration Area = $(12 \times 22) + (10 \times 22) = 484$ sf
 Percent Fenestration = $484 / 1,110 = 43.6\%$ (Minimum 40%)
- B** Building Two
 Total Area = $65 \times (12+15) = 1,755$ sf
 Fenestration Area = $(22 \times 12) + (22 \times 12) + (22 \times 8) + (4 \times 6) + (4 \times 6) = 752$ sf
 Percent Fenestration = $752 / 1,755 = 42.8\%$ (Minimum 40%)
- C** 20' Max. Distance Between Windows or Doorways
- D** Alternative: False or Opaque Windows
- E** Alternative: Articulated Wall Forms with Awnings



14: ROOF CONFIGURATION

- a: Low pitched roofs with a 4/12 pitch or less shall include a parapet wall of sufficient height to obscure any roof-mounted equipment.
- b: Any parapet wall shall incorporate a three-dimensional cornice feature.
- c: Buildings with a more residential-style roof design are encouraged on lots in the MM district (see Figure 7.1.2.E:9: Roof Configuration).

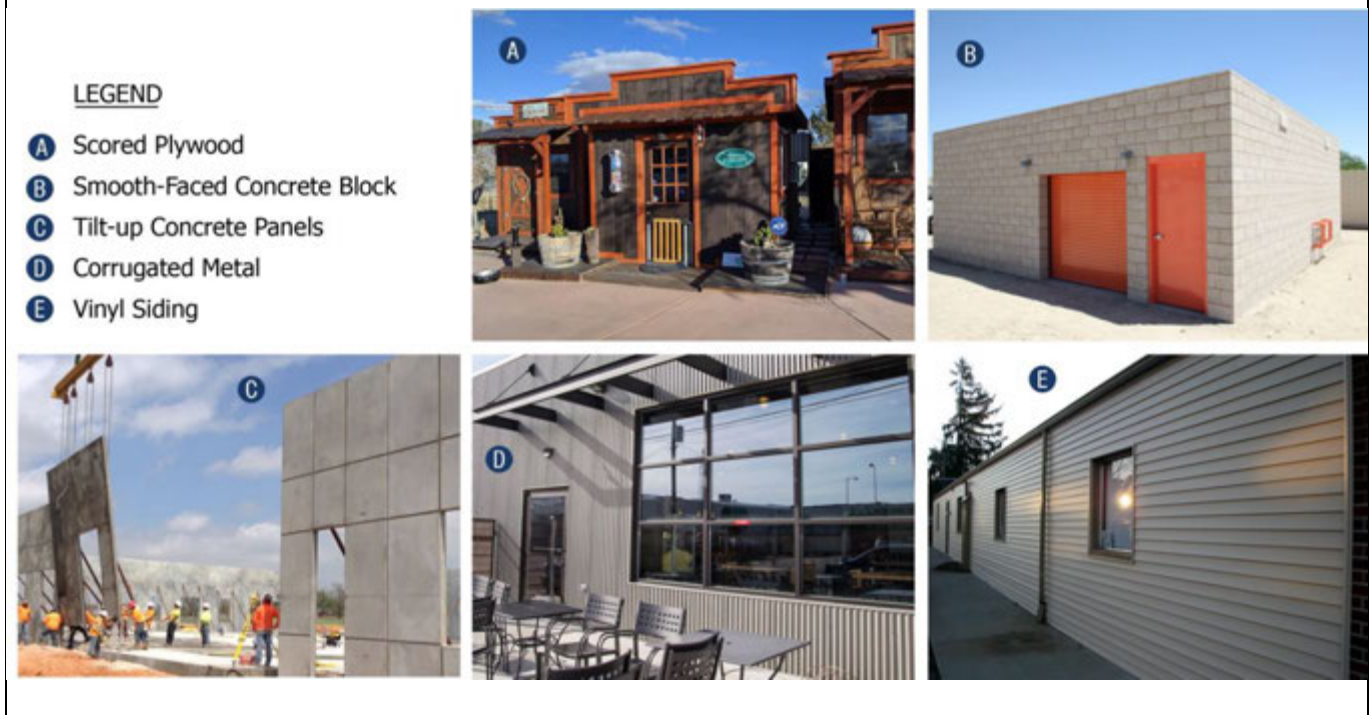
FIGURE 7.1.2.E:9: ROOF CONFIGURATION



15: EXTERIOR BUILDING MATERIALS

- a: The following are permitted exterior building materials:
 - i: Wood clapboard;
 - ii: Wood shingles;
 - iii: Wood board and batten;
 - iv: Wood shiplap siding;
 - v: Unpolished natural regional stone;
 - vi: Clay brick or concrete masonry units fabricated to appear as brick or stone;
 - vii: Architectural metal panels;
 - viii: Cementitious siding or sheet material, provided all seams are obscured;
 - ix: Stucco, provided it does not cover more than 30 percent of any single façade; or
 - x: Materials simulating any of the above materials, subject to Planning Board approval.
- b: The following materials are prohibited exterior building materials (see Figure 7.1.2.E:10: Prohibited Exterior Building Materials):
 - i: Scored (e.g., TS-111) or smooth plywood;
 - ii: Smooth-faced concrete block;
 - iii: Tilt-up concrete panels;
 - iv: Corrugated metal siding; or
 - v: Vinyl or aluminum siding.
- c: Roofs that are visible from off-site areas shall be comprised of standing seam metal, synthetic wood shakes, asphaltic shingles, or other unlisted material, subject to Planning Board approval.

FIGURE 7.1.2.E:10: EXTERIOR BUILDING MATERIALS



16: EXTERIOR BUILDING COLORS

- a: Neutral and naturally occurring colors found in building materials shall comprise the dominant portion of any exterior color palate.
- b: Overly bright, neon, “day-glow,” or novelty colors in the ‘extreme’ range are prohibited as building colors.
- c: Exterior colors in the TC district are encouraged to be muted, neutral, and monochromatic in nature to complement existing colors.
- d: Exterior colors in the MM district are encouraged to have a wider variety than the that in TC District.

7.1.3: MULTI-FAMILY RESIDENTIAL DESIGN STANDARDS**A: PURPOSE AND INTENT**

These multi-family residential design standards provide the minimum requirements for design and configuration of multi-family development within the Town's planning jurisdiction. They are intended to:

- 1: Ensure multi-family development takes place in a manner consistent with the context, scale, and proportion of its surroundings;
- 2: Promote greater compatibility between new multi-family development and other allowable use types, particularly adjacent residential single-family detached dwellings;
- 3: Establish expectations for minimum level of quality for multi-family development;
- 4: Encourage creativity in design and promote individual project identity;
- 5: Create neighborhoods with enhanced architectural and visual interest; and
- 6: Preserve property values and protect public and private investment.

B: APPLICABILITY

Except where expressly exempted in writing in this Ordinance, the standards in this section shall apply to the following forms of development:

- 1: New multi-family developments;
- 2: Reconstruction of existing multi-family developments;
- 3: Redevelopment or remodeling of an existing multi-family structure where the original roof of the building is altered, such as through the addition of new floor area; and
- 4: New assisted living or congregate care facilities.

C: EXEMPTIONS

The following forms of development shall be exempted from these standards:

- 1: Single-family attached (townhouse) and duplex development, unless subject to voluntary consent by the landowner (see Section 7.1.4:G: Compliance Voluntary);
- 2: Development within the SBO district; and
- 3: Routine maintenance and repairs.

D: TIMING OF REVIEW

Development subject to these standards shall be reviewed for compliance at the time of site plan, special use permit, zoning compliance permit, or planned development master plan, as appropriate.

E: SUBMISSION REQUIREMENTS

Development subject to these standards shall file an application that includes at least all the following aspects:

- 1: All exterior architectural elevations;
- 2: All site plans including, parking, lighting, landscaping, and stormwater;
- 3: Descriptions or examples of exterior materials and a sample board including color swatches; and
- 4: A digital or physical three-dimensional colored rendering of developments with a total floor area of 5,000 square feet or larger.

F: STANDARDS**1: STREET NETWORK**

- a: On sites that include new streets, an interconnected network of streets shall be provided, to the maximum extent practicable, and streets shall connect to adjacent existing streets outside of the development (see Figure 7.1.3:F:1: Street Network).

- b: Vehicular driveways into a development with 10 or more dwelling units shall be at least 100 feet away from any major intersection, to the maximum extent practicable.
- c: Driveways shall be consolidated in order to reduce curb cuts, to the maximum extent practicable.

FIGURE 7.1.3:F:1: STREET NETWORK



2: SITE CONFIGURATION

- a: Except for assisted living facilities or congregate care, development subject to these standards shall not include a gate or obstruction that blocks access to the site for vehicles, bicycles, or pedestrians.
- b: Off-street parking serving guests shall be evenly distributed throughout the development (see Figure 7.1.3.F:2: Site Configuration).
- c: Shared refuse collection containers shall be evenly distributed throughout the development or be centrally located.
- d: Detached garages or carports shall not be located between a principal building and the street it faces.
- e: New utilities shall be provided underground, and utility vaults shall be clustered in areas outside of required landscaping.

FIGURE 7.1.3.F:2: SITE CONFIGURATION



3: BUILDING ORIENTATION

- a: Buildings that abut streets shall be oriented parallel to the street they front rather than being oriented at an angle to the street.
- b: On corner lots, the long axis of the building shall be parallel to the longest lot frontage unless such orientation is incompatible with adjacent, existing development along the same street.
- c: Buildings within multiple-building developments shall be clustered around open space recreation areas and development entry points (see Figure 7.1.3.F:3: Building Orientation).

FIGURE 7.1.3.F:3: BUILDING ORIENTATION



4: BUILDING ENTRANCES

- a: The facades of buildings abutting streets shall be configured so that entryways to individual dwelling units or shared entrances face the street.
- b: Access to upper-floor dwelling units shall be obtained from shared internal entries. In no instance shall walkways to individual upper-story dwelling units take place on the exterior of the building.
- c: Individual ground-floor and shared entryways shall be sheltered from the weather either by:
 - i: Recessing the entrance at least three feet to the inside of the primary ground floor façade plane; or
 - ii: Inclusion of an overhead architectural treatment above the entrance that extends outward at least three feet from the primary façade plane (see Figure 7.1.3:F:4: Building Entrances).

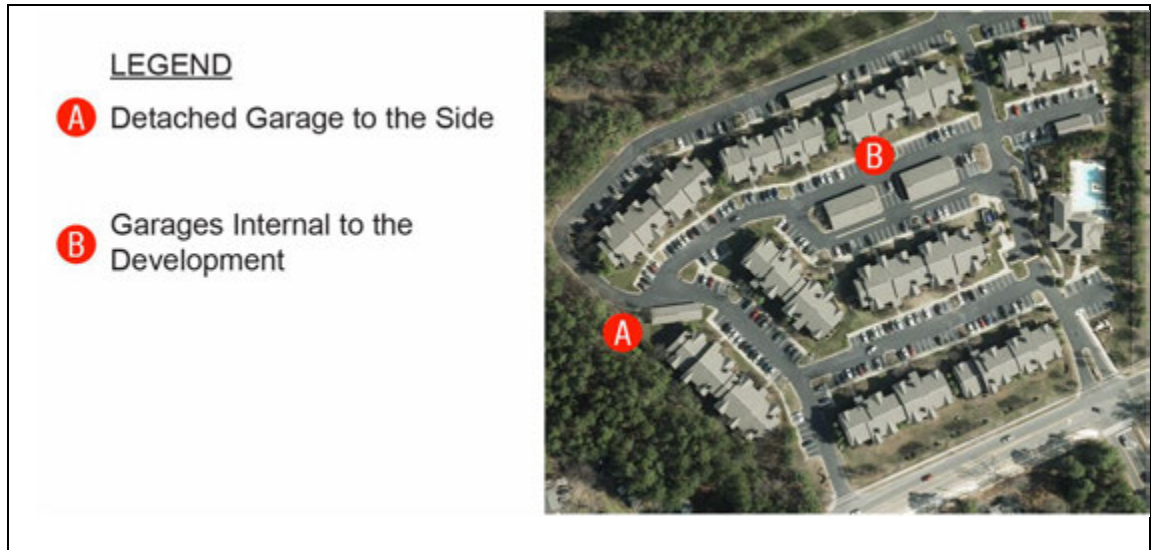
FIGURE 7.1.3:F:4: BUILDING ENTRANCES



5: DETACHED GARAGES

- a: Detached garages shall be located to the side or rear of the multi-family buildings. In multi-building developments they may be permitted internal to the site (see Figure 7.1.3:F:5: Detached Garages).
- b: In no instance shall a garage door face or be visible from a public street (excluding alleys).

FIGURE 7.1.3:F:5: DETACHED GARAGES



6: BUILDING FACADES

- a:** Buildings subject to these standards shall maintain a consistent level of architectural detailing and composition on each building façade facing a street.
- b:** Building facades facing streets shall provide a minimum of three of the following architectural elements (see Figure 7.1.3:F:6: Building Facades):
 - i:** A covered porch or terrace;
 - ii:** One or more dormer windows or cupolas;
 - iii:** Eyebrow windows;
 - iv:** Awnings or overhangs;
 - v:** Decorative moldings;
 - vi:** Shutters;
 - vii:** Pillars, posts, or pilasters;
 - viii:** One or more bay windows with a minimum twelve-inch projection from the facade plane;
 - ix:** Multiple windows with a minimum of four-inch-wide trim;
 - x:** Corniced parapets;
 - xi:** Eaves with a minimum of four-inch-wide trim; or
 - xii:** Integral planters that incorporate landscaped areas and/or places for sitting.
- c:** Garage entries, loading and service entries, utility rooms, stairs, elevators, or similar features shall not occupy more than 20 percent of the width of a building façade facing a street.
- d:** Attached street-facing garages serving individual dwelling units shall be recessed at least three feet inwards from the primary first floor façade plane or be aligned with an upper-story projection that exists above the garage door.
- e:** Developments with three or more principal buildings shall provide variation in building size, shape, height, color, and roofline in a manner that allows different buildings to be distinguished from one another.

FIGURE 7.1.3.F:6: BUILDING FACADES

LEGEND

- A** Covered Porch or Terrace
- B** Dormer Windows or Cupolas
- C** Eyebrow Windows
- D** Awnings or Overhangs
- E** Decorative Moldings
- F** Shutters
- G** Pillars, Posts, or Pilasters
- H** Bay Window(s) (Min. 12" Projection)
- I** Windows With Minimum 4" Wide Trim
- J** Corniced Parapets
- K** Eaves With Min. 4" Wide Trim
- L** Integral Planters or Seating Areas



7: BUILDING MASSING

- a:** Upper story façade walls shall not project beyond the ground floor footprint except to accommodate bump-outs with windows or terraces (see Figure 7.1.3.F:7: Building Massing).
- b:** In the case of two-story buildings, the exterior façade walls of the second floor shall be in line with or setback from the first-floor façade walls.

FIGURE 7.1.3.F:7: BUILDING MASSING



8: BUILDING ARTICULATION

- a: Street-facing building facades shall be articulated with wall offsets, in the form of recesses or projections from the primary façade plane, of at least two feet for every 35 linear feet of facade frontage (see Figure 7.1.3.F:8: Building Articulation).
- b: Where provided, projections or recesses shall extend from the grade to the top of the highest story in line with the ground-floor footprint.

FIGURE 7.1.3.F:8: BUILDING ARTICULATION



9: BUILDING HEIGHT

- a: Buildings subject to the standards of this section shall have a maximum height of two stories or 18 feet within 100 feet of a lot with an existing single-family detached residential dwelling, without an intervening street.

- b: Building stories that are 75 percent or more below the finished grade at the front of the lot shall not be counted towards the number of allowable stories provided the overall height of the structure does not exceed three stories.

10: ROOF FORM

- a: Development shall incorporate roof pitches between 3:12 and 12:12 or shall incorporate parapet walls with a dimensional cornice around a flat roof.
- b: Alternative roof forms or pitches are encouraged for small roof sections over porches, entryways, or similar features.
- c: Buildings with eaves shall be configured such that no single horizontal eave continues for more than 60 linear feet without being broken up by a gable, building projection, and articulation feature (see Figure 7.1.3.F:10: Roof Form).
- d: Buildings with overhanging eaves and roof rakes shall extend at least six inches past supporting walls.

FIGURE 7.1.3.F:10: ROOF FORM



11: BUILDING MATERIALS AND COLORS

a: CONFIGURATION

- i: Buildings subject to these standards shall include at least two primary exterior materials on any single building.
- ii: Changes in colors and materials shall take place at internal corners or in logical locations, such as: building wings, bays, bump-outs, or recesses. In no instance shall exterior materials or colors change at outside corners (see Figure 7.1.3.F:11: Building Materials).
- iii: Heavier or more bulky exterior materials shall be located beneath or below lighter materials.

FIGURE 7.1.3:F:11: BUILDING MATERIALS



b: PROHIBITED MATERIALS

The following materials shall be prohibited on any façade facing a street, open space, or district intended primarily for single-family detached development:

- i: Smooth-faced concrete block;
- ii: Corrugated metal siding; or
- iii: Synthetic stucco within two feet of the grade.

12: ACCESSORY STRUCTURES

Accessory uses and structures associated with a development subject to these standards shall comply with the following:

- a: Street-facing detached garages on corner lots shall be located to the side or rear of buildings.
- b: Access to accessory structures (such as garages, carports, storage areas, etc.) shall be provided from alleys or driveways, to the maximum extent practicable.
- c: Accessory buildings shall include exterior materials, colors, and roof form designed to be consistent with the principal structure (see Figure 7.1.3:F:12: Accessory Structures).
- d: Accessory structures shall not physically obstruct pedestrian entrances.
- e: Centralized refuse collection containers, if provided, shall be located in an enclosed area located to the rear of principal buildings.

FIGURE 7.1.3:F:12: ACCESSORY STRUCTURES



7.1.4: RESIDENTIAL DESIGN GUIDELINES**A: STATEMENT OF NEED**

The Town of Laurel Park strongly encourages new single-family detached, attached, and duplex development to include high-quality design. To those ends, these residential design guidelines are established as a means of guiding applicants towards development that complies with the Town's desires.

B: PURPOSE AND INTENT

These residential design guidelines are proposed as suggestions for ways to ensure that new single-family detached, duplex, and attached single-family development maintains or exceeds the existing quality of development in its surroundings. More specifically, these guidelines are intended to:

- 1: Ensure single-family detached, single-family attached, and duplex structures maintain consistent exterior materials and architectural treatments on the front and sides of buildings;
- 2: Establish guidance regarding changes of exterior finishes and materials on individual facades;
- 3: Avoid garage-dominated street fronts in residential neighborhoods;
- 4: Promote aesthetically pleasing residential development; and
- 5: Enhance and protect property values and investment by homeowners.

C: APPLICABILITY

- 1: Single-family detached, single-family attached, and duplex dwellings shall comply with these guidelines in the following instances:
 - a: When proposed development is subject to a signed statement of consent in accordance with [Section 7.1.4.G: Compliance Voluntary](#); and
 - b: When compliance with these guidelines is included as a condition of approval associated with a development application in [Section 6.3: Development Application Procedures](#).
- 2: Single-family detached, single-family attached, and duplex dwellings not subject to a statement of consent are not required to comply with these guidelines, though conformance is strongly encouraged.

D: STANDARDS**1: SITE CONFIGURATION**

- a: Structures shall be sited to avoid lands with steep slopes or geological hazards, to the maximum extent practicable.
- b: Detached accessory structures such as garages, tool sheds, greenhouses, gazebos, carports, and similar structures shall be located to the side or the rear of the principal structure. In no instance shall a detached accessory structure be located between the front façade of a dwelling and the street it is addressed from unless topographic limitations make compliance with these standards impossible.
- c: Lots shall provide pedestrian access to the street, the sidewalk system (if present), and to an adjacent trail or greenway. Vehicular driveways are sufficient for compliance with this requirement.
- d: Retaining walls shall be terraced and configured such that no single portion of the wall has a height exceeding four feet.
- e: In areas where the prevailing development is single-story, new residential development shall step back any upper stories along the street frontage to maintain compatibility with the single-story character along the street.
- f: In hillside areas, buildings shall be designed to step down the hillside, following the slope of the land, rather than having tall down-slope walls that are highly visible from surrounding properties (see [Figure 7.1.4.D:1: Site Configuration](#)).
- g: New overhead utilities serving individual dwelling units shall be underground.

FIGURE 7.1.4:D:1: SITE CONFIGURATION



2: BUILDING ORIENTATION

Buildings shall be oriented so that the primary entrance faces and is visible from the street that provides the dwelling its street address (see Figure 7.1.4:D:2: Building Orientation). This requirement may be waived on lots where topographic conditions, existing vegetation, or physical distance obscures the primary entrance.

FIGURE 7.1.4:D:2: BUILDING ORIENTATION



3: FOUNDATIONS

- a: Poured concrete foundations, concrete block foundations, or smooth-faced concrete masonry unit foundations shall be covered by decks, porches, or be clad in face brick, stone, stucco, or some other masonry material accurately imitating these materials (see Figure 7.1.4:D:3: Foundations). In no instance shall poured concrete, concrete block, or smooth-faced concrete masonry unit foundations be visible on a street-facing facade.
- b: In cases where a dwelling includes a finished or unfinished basement, the exterior basement walls on the rear or on sides not visible from streets are exempted from these standards.

FIGURE 7.1.4:D:3: FOUNDATIONS



4: BUILDING FACADES

- a: Although the front facade of a principal building is expected to be the primary focal point in terms of architectural character and features, all sides of a building shall incorporate architectural detailing and windows that complement the front facade and provide visual interest.
- b: Blank walls void of windows, doors, or and architectural detailing are prohibited when adjacent to and visible from a street (see Figure 7.1.4:D:4: Building Facades).

FIGURE 7.1.4:D:4: BUILDING FACADES



5: BUILDING HEIGHT AND FORM

New buildings shall be respectful of adjacent buildings and create transitions of appropriate height and scale through one or more of the following design strategies (see Figure 7.1.4:D:5: Building Form):

- a: Locate upper stories in the center of the property;
- b: Step back the upper stories from the stories below;
- c: Tuck the upper stories inside a pitched roof; or
- d: Use pitched roofs with dormer windows for upper story rooms.

FIGURE 7.1.4:D:5: BUILDING FORM

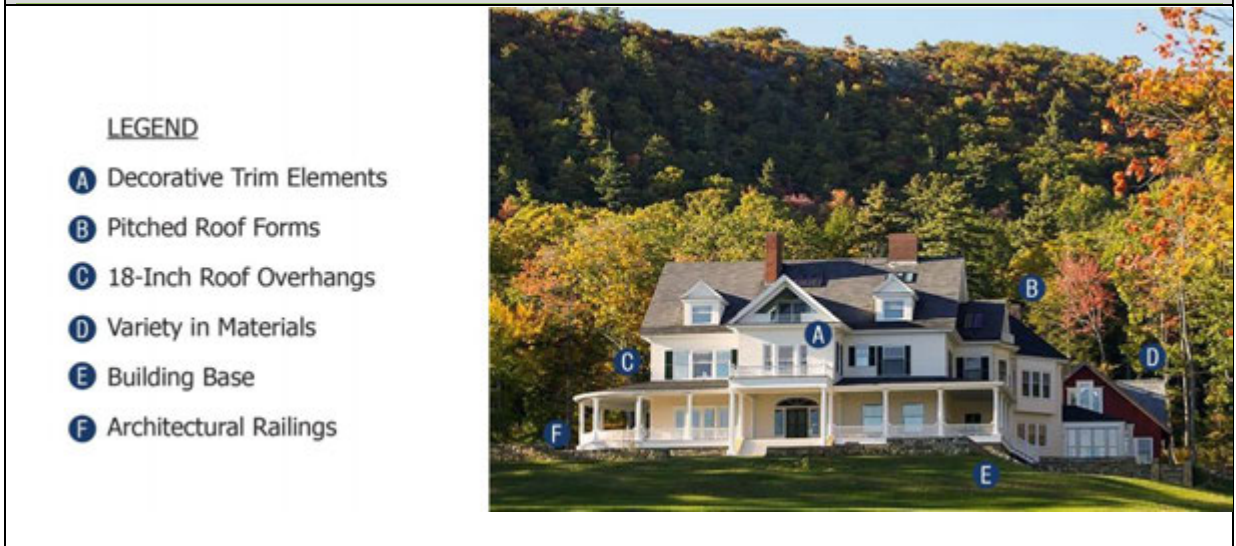


6: ARTICULATION

Structures subject to these standards shall incorporate at least three of the following features, consistent in design style, to provide articulation and design interest consistently throughout the structure (see Figure 7.1.4:D:5: Articulation):

- a:** Decorative trim elements that add detail and articulation, such as door surrounds with at least a two-inch depth, decorative eave detailing, or belt courses;
- b:** Pitched or variegated roof forms;
- c:** Roof overhangs at least 18 inches deep;
- d:** Variety in use of materials, especially at ground level stories, for detailing at porches / entry areas, paneling at bays, or at special parts of the building;
- e:** A building base (typically the bottom three feet) that is faced with a stone or brick material, or is delineated with a channel or projection; or
- f:** Railings with a design pattern and materials such as wood, metal, or stone which reinforces the architectural style of the building.

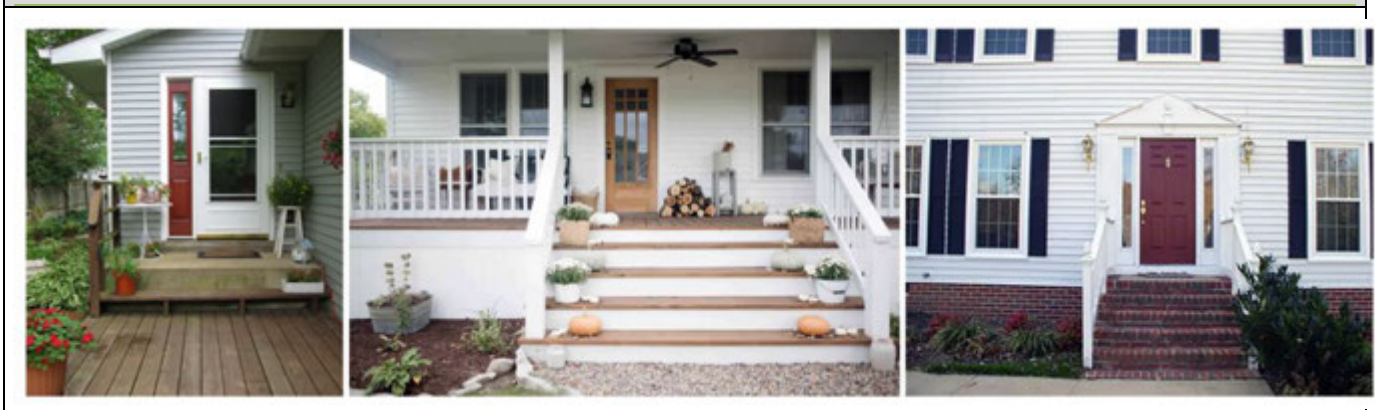
FIGURE 7.1.4:D:5: ARTICULATION



7: PRIMARY ENTRANCES

- a: The primary entrance shall incorporate a landing, stoop, patio, deck, or porch (covered or uncovered) or other feature with an all-weather surface of sufficient size to accommodate outward door swing (see Figure 7.1.4:D:7: Primary Entrances).
- b: Covered primary entrances are strongly encouraged.

FIGURE 7.1.4:D:7: PRIMARY ENTRANCES



8: GROUND-BASED MECHANICAL EQUIPMENT

Ground-based mechanical equipment, including but not limited to: HVAC condensers, generators, and similar appurtenances, shall not be located between the primary building façade and the street it fronts.

9: WINDOWS

Structures subject to these standards shall incorporate at least one of the following window features throughout the structure (see Figure 7.1.4:D:9: Windows):

- a: Minimum depth of at least two inches from glass to exterior of trim;
- b: Decorative trim elements that add detail and articulation, such as window surrounds with at least a two-inch depth that are designed as an integral part of the structure so as to not appear “tacked-on;” and
- c: Use contrasting color of window trim or shutters.

FIGURE 7.1.4:D:9: WINDOWS



10: ROOF FORMS

- a: Flat or monopitch roofs shall be configured to conceal the view of roof-mounted equipment such as vents, antennas, or HVAC equipment from view from adjacent streets.
- b: Pitched roofs shall incorporate an eave or overhang of at least 12 inches.

11: GARAGES

Structures with garages shall configure the garage in accordance with one of the following options (see Figure 7.1.4:D:11 Garages):

- a: The garage is side entry, so garage doors are perpendicular or radial to the street facing the front facade.
- b: The garage is front-entry and set back at least ten feet from the front facade plane of the dwelling.
- c: The garage is located behind the rear facade of the dwelling, may be detached or attached to the principal structure, and the garage doors may face any direction.
- d: The garage is rear entry, so garage doors are on the opposite side of the house from the front facade.

FIGURE 7.1.4:D:11 GARAGES



12: MATERIALS

- a: Exterior materials on the front façade shall not change at outside corners but shall continue along the side or rear facades for a minimum distance of at least six feet. Wherever possible, materials shall continue to a logical termination point such as a change in roof line or where a separate wing meets the main body of the dwelling.
- b: Exterior material changes shall take place along a horizontal line where two forms meet, such as the wall and the foundation, the first and second stories, or the wall and roof. It is acceptable for material changes to be configured as architectural accents in areas around windows, doors, cornices, at corners, or in a repeating pattern across a façade (see Figure 7.1.4:D:12: Materials).
- c: Where two or more exterior materials meet or are combined, the heavier or more massive material shall be located below the lighter element(s). For example, brick below wood siding, stone below brick, wood siding below stucco, etc.
- d: It is acceptable for heavier materials to be used as accents around doors, windows, and corners.

FIGURE 7.1.4:D:12: MATERIALS



13: COLORS

- a: Primary exterior colors shall be derived from a coordinated palette of complimentary colors, rather than a patchwork of competing colors.
- b: Use fluorescent, neon, "day-glow", or overly bright colors is strongly discouraged.

E: ADDITIONAL STANDARDS FOR SINGLE-FAMILY ATTACHED DEVELOPMENT

Single-family attached development shall comply with the requirements in [Section 7.1.4:D: Standards](#), and the following:

1: MAXIMUM NUMBER OF DWELLINGS PER STRUCTURE

In no instance shall an individual structure contain more than six single-family attached dwelling units in a side-by-side configuration.

2: GARAGES

Garages serving individual single-family attached residential dwelling units shall be detached or shall be rear loaded.

3: GUEST PARKING

Guest parking spaces required by Section 7.7: Parking and Loading, shall be identified and shall be dispersed throughout the development.

4: SHARED REFUSE COLLECTION AREAS

Shared refuse collection areas shall be screened in accordance with Section 7.5: Screening, and shall be either centrally located or dispersed throughout the development.

F: ADDITIONAL STANDARDS FOR DUPLEX DEVELOPMENT

1: UTILITY FEATURES

a: Utilities and ground-based mechanical equipment shall be consolidated or located in a central location, to the maximum extent practicable.

b: Ground-based mechanical equipment, including but not limited to: HVAC condensers, generators, and similar appurtenances, shall not be located between the primary building façade and the street it fronts.

G: COMPLIANCE VOLUNTARY

- 1: Compliance with the design guidelines in this section is voluntary and at the discretion of the landowner seeking to have development approved. In cases where a landowner chooses to comply with the guidelines in this section, the landowner shall sign the following statement of consent and include it with the application for a preliminary plat, special use permit, site plan, zoning compliance permit, or planned development, as appropriate.

The single-family detached dwellings, single-family attached dwellings, or duplex dwellings depicted on the attached site plan, subdivision plat, or other development approval is subject to the Town of Laurel Park's Residential Design Guidelines in place at the time the application for this development was determined to be complete. I understand that by consenting to follow these design guidelines, they become mandatory and failure to comply with them is a violation of the Unified Development Ordinance. I am authorized to, and do hereby voluntarily consent to, the application of these design guidelines to the land and development in question. I understand that the applicability of these guidelines shall run with the land regardless of changes in ownership as long as the land is used for single-family detached, single-family attached, or duplex dwellings.

Landowner Signature

Date

- 2: In the event an applicant seeking to establish single-family attached development desires to follow the multi-family design standards in Section 7.1.3: Multi-Family Residential Design Standards, instead of the residential guidelines for attached residential dwellings in this section, the following statement of consent shall be signed and included with the application for a preliminary plat, special use permit, site plan, or zoning compliance permit, as appropriate.

The single-family attached dwellings depicted on the attached site plan, subdivision plat, or other development approval is subject to the Town of Laurel Park's Multi-Family Residential Design Standards in place at the time the application for this development was determined to be complete. I understand that by consenting to follow these design standards, they become mandatory and failure to comply with them is a violation of the Unified Development Ordinance. I am authorized to, and do hereby voluntarily consent to, the application of these

design standards to the land and development in question. I understand that the applicability of these standards shall run with the land regardless of changes in ownership as long as the land is used for single-family attached dwellings.

Landowner Signature

Date

- 3:** Proof of recording of the signed statement of consent in the office of the Register of Deeds for Henderson County shall be required prior to issuance of a zoning compliance permit.

7.2: EXTERIOR LIGHTING

7.2.1: PURPOSE AND INTENT

The purpose of these standards is to control light trespass and glare so as not to adversely affect motorists, pedestrians, or adjacent properties. Lighting intensities should be controlled to assure public health, safety, and welfare. Further, it is the intent of this section to:

- A:** Maintain the minimal amounts of exterior lighting needed for night-time safety, security, commerce, and enjoyment;
- B:** Minimize the adverse off-site impacts of light pollution such as glare, and light trespass, and obtrusive light;
- C:** Promote the conservation of energy;
- D:** Help protect the natural environment from the adverse effects of nighttime lighting;
- E:** Provide adequate lighting for pedestrian and bicycle safety;
- F:** Enhance and preserve mountain and valley vistas; and
- G:** Promote the ability of Town residents and visitors to enjoy dark nighttime skies and the ability to see stars after nightfall.

7.2.2: APPLICABILITY

A: GENERALLY

The provisions of this section shall apply to all multi-family, single-family attached residential, mixed-use, and non-residential development unless exempted in accordance with [Section 7.2.3: Exemptions](#).

B: SINGLE-FAMILY DETACHED RESIDENTIAL DEVELOPMENT

Single-family detached residential development shall comply with the standards in [Section 7.2.4: Prohibited Lighting](#), and [Section 7.2.6:H: Glare](#), but shall be exempted from the rest of the standards in this section.

C: EXPANSION OR REMODELING

All expansions or remodeling of principal buildings, parking areas, or open uses of land shall comply with these standards, subject to the requirements in [Section 5.6: Nonconforming Sites](#).

7.2.3: EXEMPTIONS

The following forms of exterior lighting or activities are exempt from the requirements of this section:

- A:** Special events and holiday displays;
- B:** FAA-required lighting on buildings, towers, or other structures;
- C:** Interior lighting for stadiums, arenas, and similar facilities;
- D:** Security lighting that is shielded or aimed towards the ground, that are controlled and activated by motion sensor devices, and that remains lit for a duration of 10 minutes or less; and
- E:** Temporary lighting necessary for construction or emergencies, when used by construction workers or emergency personnel.

7.2.4: PROHIBITED LIGHTING

The following forms of exterior lighting shall be prohibited:

A: TRAFFIC CONTROL SIGNALS

- 1:** Lighting that imitates an official highway or traffic control light or sign;
- 2:** Lighting in the direct line of sight with any traffic control light or sign;

B: FLASHING OR REVOLVING

Lights that flash, move, revolve, rotate, sparkle, blink, flicker, vary in intensity or color, or use intermittent electrical pulsation;

C: HIGH INTENSITY LIGHTING

- 1: High intensity light beams, such as searchlights or laser lights, except when used by federal, State, or local authorities; or
- 2: High intensity LED or neon lighting fixtures mounted around the interior or exterior of a window, door, or other architectural feature on a structure.

D: LUMINOUS TUBE LIGHTING

Luminous tube lighting (e.g., neon, rope lighting, LED strip, etc.) is prohibited on building exteriors and in configurations where it outlines a window or glass door from the inside of a structure.

7.2.5: LIGHTING PLAN**A: APPLICABILITY**

- 1: An exterior lighting plan shall be required for development that includes a total illuminated area exceeding 10,000 square feet in area.
- 2: Projects with multiple areas proposed to be illuminated (such as separate parking lots) shall submit a site lighting plan if the sum of the illuminated areas exceeds 10,000 square feet.

B: ELEMENTS TO INCLUDE

In cases where an exterior lighting plan is not required or prepared, a site plan, if required, must indicate the following:

- 1: Exterior lighting fixture type;
- 2: Exterior lighting pole height;
- 3: Exterior lighting fixture shielding; and
- 4: A statement by the applicant that any proposed exterior lighting complies with the applicable requirements in this section.

C: CERTIFICATION REQUIRED

Certification must be provided by the person preparing a lighting plan that the proposed development complies with the exterior lighting standards of this section.

7.2.6: STANDARDS

All lighting fixtures designed or placed so as to illuminate any portion of a site shall meet the following requirements:

A: GENERAL STANDARDS

All exterior lighting shall comply with the following general standards:

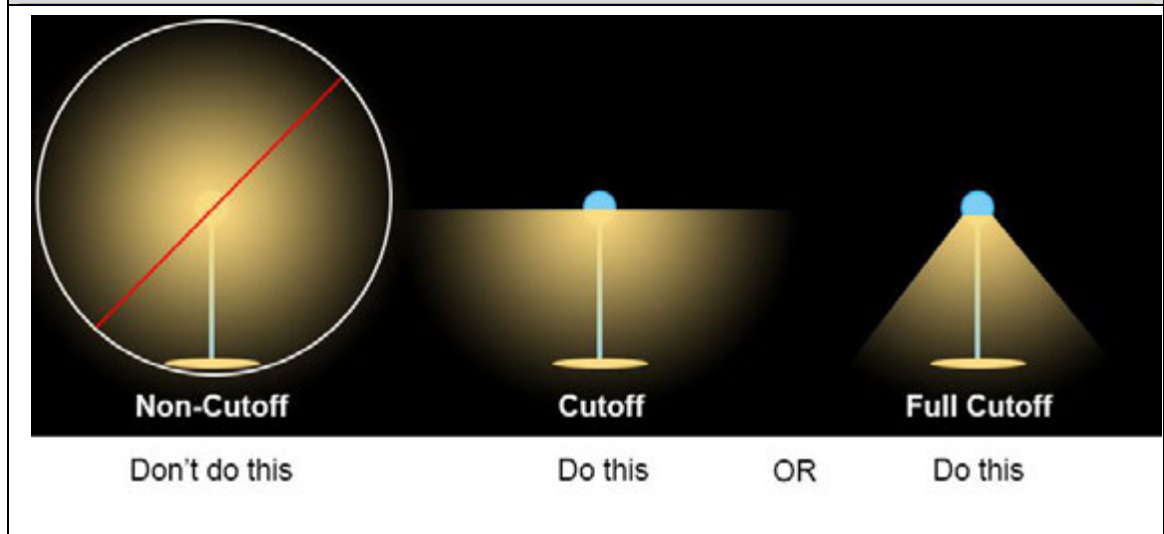
- 1: Vehicular areas such as exterior parking lots and driveways shall maintain a minimum threshold of ambient lighting in accordance with [Table 7.2.8: Maximum Illumination Levels](#), so that all light produced is as unobtrusive as possible, while also meeting functional needs such as safe circulation and protection of people and property.
- 2: Building entrances and public gathering areas shall utilize lighting that defines, high-lights, or enhances the space without glare or light trespass onto neighboring properties.
- 3: The style of light standards and fixtures shall be consistent with the style and character of architecture proposed on the site.
- 4: Shielded floodlights, spotlights, or any other similar lighting may be used to accent architectural elements but shall not be used to illuminate entire building facades.

B: SHIELDING

- 1: Overhead lighting fixtures shall be designed to prevent light from emitting upwards towards the sky.

- 2: Under canopy lighting fixtures should be completely recessed within the canopy so that no source of illumination is visible except from directly underneath the light fixture.
- 3: Wall packs shall be full cut-off and wall-mounted floodlights shall be shielded (e.g., true cut-off type bulb or light source not visible from off-site) to direct light downward (see Figure 7.2.6:B: Shielding).
- 4: No unshielded exterior light shall be installed with a light output of greater than 1,100 lumens.

FIGURE 7.2.6:B: SHIELDING



C: FIXTURE HEIGHT

- 1: Lighting fixtures shall be a maximum of 30 feet in height within the parking lot and shall be a maximum of 15 feet in height within non-vehicular pedestrian areas.
- 2: All light fixtures located within 50 feet of any single-family detached or duplex dwelling located in a residential zoning district shall not exceed 15 feet in height.

D: FIXTURE FINISH

Light poles and bases shall be matte or low-gloss finish to minimize glare from the light source.

E: LAMP TYPE

- 1: Incandescent, florescent, metal halide, light-emitting diode (LED), or color corrected high-pressure sodium lamps are permitted.
- 2: Non-color-corrected high pressure sodium lamps are prohibited.
- 3: Other lamp types are allowed when the color emitted is similar to the permitted lamp types.
- 4: The same lamp type must be used for the same or similar types of lighting throughout a development.

F: MOUNTING LOCATION

Exterior lighting shall be mounted and configured in such a manner so that the cone of illumination is contained on-site and does not cross any lot line around the perimeter of the site.

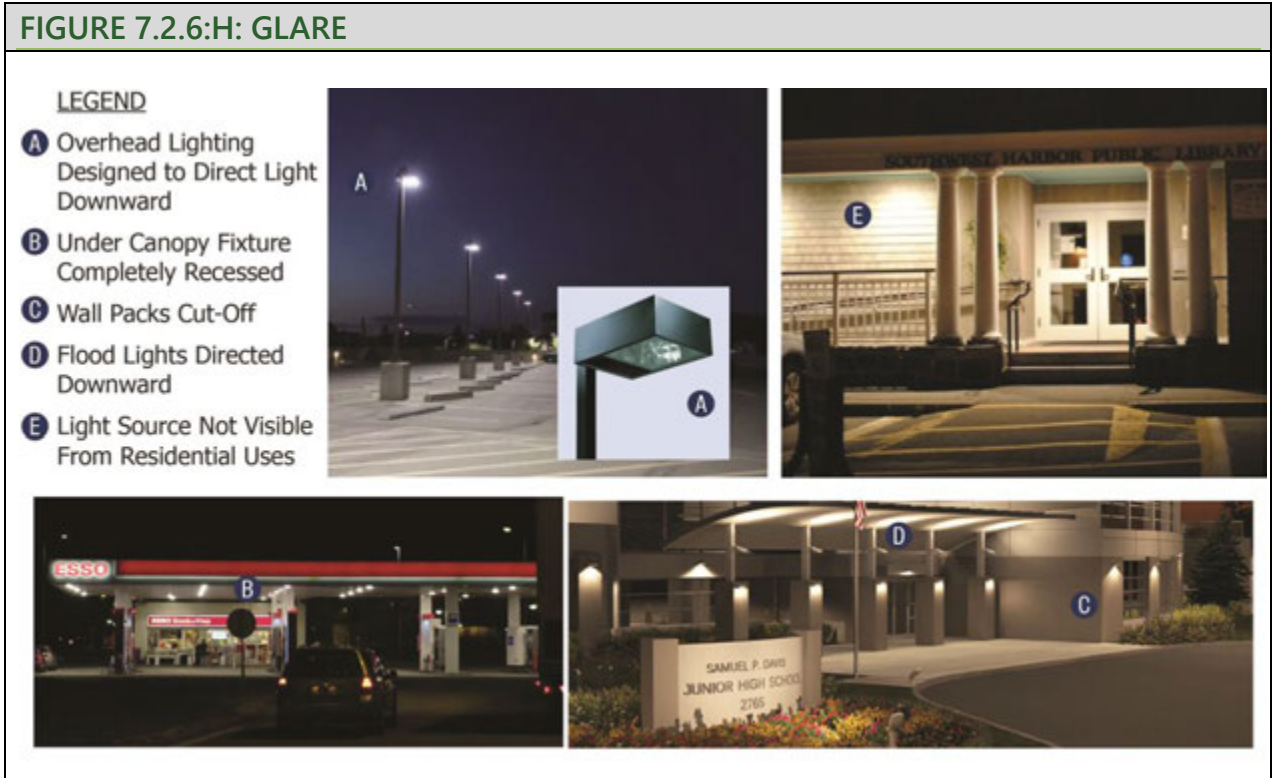
G: APPEARANCE

- 1: Exterior lighting fixtures shall be designed as an integral element that complements the design of the project through compatible style, material, and color.
- 2: Exterior lighting fixtures shall be designed in a consistent and coordinated manner for the entire site.

H: GLARE

Exterior lighting fixtures located on private property and visible from a residential land use shall be configured so that the source of illumination (the bulb) is not visible from the residential land use (see Figure 7.2.6:H: Glare).

FIGURE 7.2.6:H: GLARE



I: STREET LIGHT ILLUMINATION COLOR

Streetlights, whether provided as part of a public or private street, or as part of a driveway or other portion of a development site shall utilize bulbs that do not exceed a correlated color temperature of 3,000K, or that are of a soft-white color.

7.2.7: ADDITIONAL STANDARDS FOR SPECIFIC USES

A: LANDSCAPE AND DECORATIVE LIGHTING

Landscape and decorative lighting using lighting with a light output of 800 lumens or less is permitted, provided that the light is installed and aimed to prevent light trespass and shielded to prevent glare.

B: OUTDOOR RECREATIONAL LIGHTING

Ball fields, basketball courts, tennis courts, swimming pools, outdoor performance areas, and similar recreational uses shall meet the following standards:

- 1: Outdoor recreational lighting shall not exceed a maximum permitted post height of 30 feet within non-residential and mixed-use districts and 20 feet in residential districts.
- 2: Lights shall be shielded and positioned so as not to shine onto adjacent roadways or adjacent lots.
- 3: No overhead lights shall be left turned on when the recreational area is not in use or no later than 10:00 PM.

C: Poles shall be matte or low-gloss finish to minimize glare from the light source.

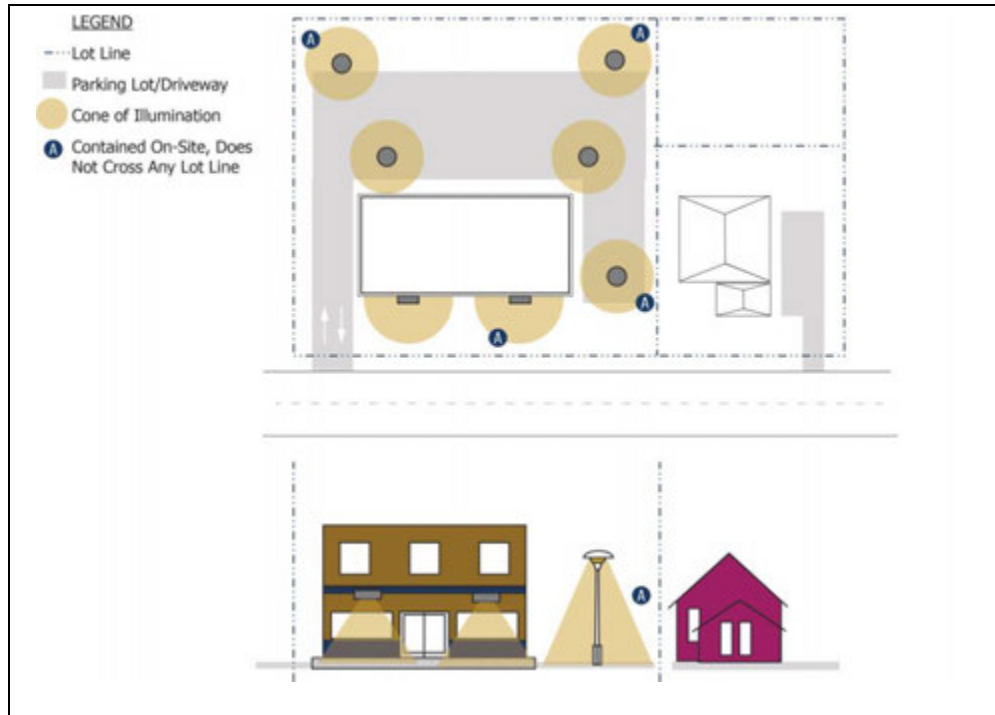
7.2.8: MAXIMUM ILLUMINATION LEVELS

A: REQUIREMENTS

Exterior lighting serving development subject to these standards shall be designed and located such that the maximum illumination measured in lumens shall not exceed the standards in Table 7.2.8: Maximum Illumination Levels, and Figure 7.2.8: Maximum Illumination Levels.

TABLE 7.2.8: MAXIMUM ILLUMINATION LEVELS	
TYPE OF ABUTTING USE OR ZONING DISTRICT	MAXIMUM ILLUMINATION LEVEL AT THE LOT LINE (LUMENS/SQ. FT.) /1/
Single-family residential or duplex use or land zoned for single-family development	0.5
Multi-family or mixed-use development or land zoned for multi-family or mixed-use development	1.0 /2/
Mixed-use development or land zoned for non-residential development	1.5 /2/
Institutional use or land zoned for institutional development	2.0 /2/
Commercial or industrial use or land zoned for uses other than residential	3.0 /2/
Public or private street right-of-way	5.0 /3/
NOTES: /1/ 1 lumen per square foot is equivalent to 1 footcandle. /2/ In cases where a single development occupies multiple lots, the lot line shall be the lot line(s) around the perimeter of the project. /3/ Parking lots, vehicular accessways, and driveways serving multi-family, non-residential, and mixed-use development shall maintain a minimum ambient lighting level of 0.5 lumens or more in all locations, though minimum ambient lighting levels may be lower as necessary to comply with applicable maximum illumination levels at lot lines.	

FIGURE 7.2.8: MAXIMUM ILLUMINATION LEVELS



B: MEASUREMENT

Measurement of exterior illumination shall be in accordance with Section 10.2.14: Exterior Lighting.

C: NONCONFORMING LIGHTING

- D: Lighting fixtures that do not comply with these standards that were lawfully established as of August 18, 2021, may remain, and shall be considered nonconforming structures.
- E: Any modifications, replacement, or expansions to the exterior lighting facilities serving a development shall conform to the standards of this Ordinance.

7.3: FENCES AND WALLS

7.3.1: PURPOSE AND INTENT

These standards provide development standards for permanent fences and privacy walls on individual lots or development sites. These standards are proposed to protect the health and safety of the public while balancing the practical uses for fencing and walls like security and privacy with the need for aesthetic quality and a high-quality built environment. More specifically, these standards are intended to:

- A:** Provide for privacy and security on individual lots;
- B:** Ensure proper construction techniques are followed and that fences and walls are maintained in good repair;
- C:** Assist with the transition between public and private spaces; and
- D:** Ensure fencing and walls are consistent with the Town's desired architectural character.

7.3.2: APPLICABILITY

A: GENERALLY

The provisions of this section shall apply to all construction or replacement of all fences, screening walls, or retaining walls. A fence or wall may only be erected in accordance with the standards in this section and Section 6.3.22: Zoning Compliance Permit.

B: PRE-EXISTING DEVELOPMENT

Lawfully-established fences and walls established prior to August 18, 2021, that do not comply with these standards shall be subject to the applicable standards in Chapter 5: Nonconformities.

7.3.3: EXEMPTIONS

The following are exempted from the standards in this section:

- A:** Bona fide farms and agricultural use types on lots subject to present-use value taxation;
- B:** Fences under two feet in height; and
- C:** Temporary fences for construction sites, including but not limited to, fencing necessary for soil erosion and sedimentation control and tree protection.

7.3.4: LOCATIONAL STANDARDS

A: GENERAL

No fence or wall shall:

- 1: Be located within the public right-of-way (except for public fences or walls, or as needed for retention of soil);
- 2: Impede visibility of the required property address number; or
- 3: Block pedestrian access from doors or windows.

B: EASEMENTS

- 1: In cases where a fence or wall is proposed within an easement, the applicant shall provide evidence of the easement owner's consent regarding placement of the fence or wall.
- 2: The landowner shall remain solely liable for any repair or replacement if any portion of the fence or wall located within a required easement is damaged during maintenance or construction activities within the easement by the easement owner or their agent.

C: BLOCK DRAINAGE

Fences or walls shall not alter or impede the natural flow of water in any stream, creek, drainage swale, or ditch.

D: OBSTRUCTIONS AT INTERSECTION

Except for necessary retaining walls, no fence or wall shall be located within a required sight distance triangle (see Section 8.3.11: Sight Distance Triangles).

E: REQUIRED SETBACKS

Fences or walls may be located within required setbacks but shall not encroach onto a separate lot.

F: REQUIRED LANDSCAPING AREAS

Fences or walls may be located in required landscaping areas, subject to the standards in Section 7.4.7:H: Permitted Encroachments.

7.3.5: MAXIMUM HEIGHT

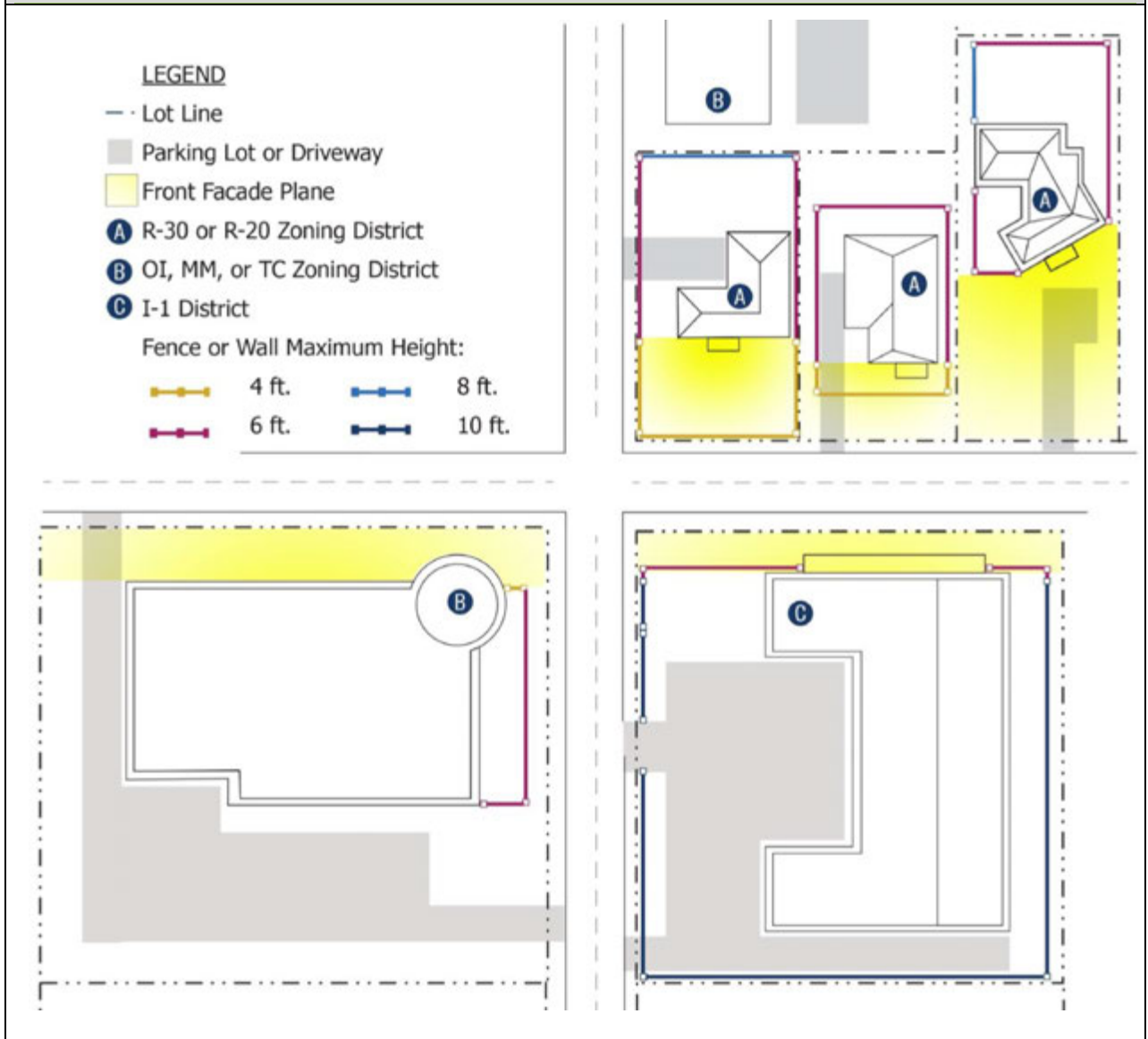
A: Maximum fence and wall height shall be in accordance with Table 7.3.5: Maximum Fence and Wall Height, and Figure 7.3.5: Fence Placement.

B: Fence and wall height shall be measured in accordance with the standards in Section 10.2.15: Fence and Wall Height.

TABLE 7.3.5: MAXIMUM FENCE AND WALL HEIGHT

ZONING DISTRICT WHERE PROPOSED	LOCATION OF FENCE OR WALL ON LOT	MAXIMUM HEIGHT (FEET) /1/
R-30 & R-20	Anywhere between the front façade plane of the principal building and an adjacent street right-of-way	4
	All other locations on the lot /2/	6
OI, MM, TC	Anywhere between the front façade plane of the principal building and an adjacent street right-of-way	4
	All other locations on the lot	6
I-1	Anywhere between the front façade plane of the principal building and an adjacent street right-of-way	6
	All other locations on the lot	10
<p>NOTES:</p> <p>/1/ Maximum fence heights may be increased up to 15 feet for fences surrounding tennis courts, swimming pools, athletic fields, or other outdoor recreation facilities, provided such fences are not located within required sight distance triangles or required landscaping areas.</p> <p>/2/ Fence heights may increase to 8 feet when the fence is located within ten feet of a lot line shared with a lot in an OI, MM, TC, or non-residential portion of a PD district.</p>		

FIGURE 7.3.5: FENCE PLACEMENT



7.3.6: WIND LOADING

All fencing and walls subject to the standards of this section shall be constructed in accordance with the North Carolina Building Code and shall be designed and constructed in order to meet the minimum applicable wind loading standards in the Town of Laurel Park.

7.3.7: MATERIALS

Fences and walls shall be designed, constructed, and maintained to ensure a minimum useful life of at least ten years, and be configured in accordance with the following material standards:

A: PERMITTED MATERIALS FOR FENCES

The following materials are permitted for fences:

- 1: Ornamental iron, steel, or aluminum;
- 2: Wood;
- 3: Vinyl, plastic, or composite; or

- 4: Chain-link fencing of any sort is prohibited within any area between a principal building and an adjacent street right-of-way. Chain link fencing is permitted within other areas of a lot, provided it maintains an earth tone color such as black or green. Galvanized or stainless steel-colored chain link fencing is prohibited.

B: PERMITTED MATERIALS FOR WALLS

The following materials are permitted for walls:

- 1: Stucco over concrete block;
- 2: Formed concrete walls configured to simulate natural stone in earth tone colors;
- 3: Exposed aggregate concrete;
- 4: Brick, stone, or architectural block assembled in a structurally safe and attractive condition; or
- 5: Stacked stone or other masonry configurations where no mortar or other bonding agent is used between stones or individual masonry units, provided the wall does not exceed 36 inches in height above grade.

C: MATERIALS FOR TEMPORARY FENCES

Temporary fences in place for up to 90 days may be comprised of any material approved by the Town Manager.

D: PROHIBITED FENCE AND WALL MATERIALS

- 1: Fences made of wooden pallets, tires, debris, junk, rolled plastic, sheet metal, untreated or unpainted plywood, readily flammable material, or waste materials shall be prohibited, unless the materials have been recycled and reprocessed, for marketing to the general public as building materials designed to resemble new building materials (e.g., picket fencing made from recycled plastic and fiber).
- 2: Fences made from or that include barbed wire or razor wire are prohibited.
- 3: Walls made from exposed smooth-face concrete block are prohibited.
- 4: In no instance shall tarps or silt fencing remain on a lot or site after completion of construction.

7.3.8: FINISHED SIDE

All fences or walls shall be configured so that the finished side faces outwards. For the purposes of this section, the finished side does not include any supporting members or bracing (see Figure 7.3.8: Finished Side).



7.3.9: ELECTRIC FENCES

- A: Fences that carry an electrical current are allowed solely for the following purposes:
 - 1: Protection of apiaries and chicken coops; or

2: Temporary enclosure of livestock that are engaged in vegetation removal activities.

B: Nothing shall prohibit below-ground electrical fences intended for the keeping of pets.

7.3.10: MAINTENANCE

A: Any fence or wall which, through neglect, lack of repair, type or manner of construction, method of placement or otherwise, constitutes a hazard or endangers any person, animal, or property is in violation of this Ordinance.

B: When a fence or wall is in violation of this Ordinance, the Town Manager shall require the owner or occupant of the property upon which the fence or wall is located to repair, replace, or demolish the fence or wall in accordance with all applicable standards in this Ordinance.

7.4: LANDSCAPING

7.4.1: PURPOSE AND INTENT

The purpose of these provisions is to establish minimum requirements for the provision and maintenance of functionally adequate, attractive screening and buffering of buildings, site features, and off-street parking areas. These standards are intended to:

- A:** Promote and increase design compatibility between different land uses, while ensuring attractive views from streets and adjacent properties;
- B:** Assist in delineating separations of spaces, structures, uses, and activities on a site, or between adjacent sites;
- C:** Shield properties from potentially adverse external impacts of adjacent land uses and activities;
- D:** Abate glare and moderate temperatures of impervious areas;
- E:** Help filter air of fumes and dust;
- F:** Provide shade;
- G:** Reduce noise;
- H:** Reduce the visual impact of large expanses of pavement;
- I:** Promote energy conservation;
- J:** Reduce the amount and rate of stormwater runoff and erosion;
- K:** Improve stormwater runoff quality;
- L:** Increase in the capacity for groundwater recharge; and
- M:** Enhance the appearance and value of both residential and non-residential development.

7.4.2: APPLICABILITY

The standards in this section apply to the following forms of development:

A: NEW PRINCIPAL BUILDINGS OR USES

New principal buildings or open uses of land, including publicly owned buildings or sites and single-family detached dwellings, constructed, reconstructed, or established after August 18, 2021.

B: IMPROVEMENTS AND EXPANSIONS

- 1: All improvements, including expansions of principal buildings, parking areas, or open uses of land lawfully-established before August 18, 2021, shall comply with Section 5.6: Nonconforming Sites.
- 2: Improvements or expansions shall be subject to the standards in Section 7.4.5: Invasive Species Removal Required.

C: MULTI-PHASE DEVELOPMENT

Development that is planned and developed in phases shall be required to install landscaping that is associated with the active phase or phases only, unless an alternative arrangement is otherwise agreed to by the Town Manager and the developer. An active phase of a development is the one that is subject to permitted and on-going development activity.

7.4.3: EXEMPTIONS

The following forms of development are exempted from these standards:

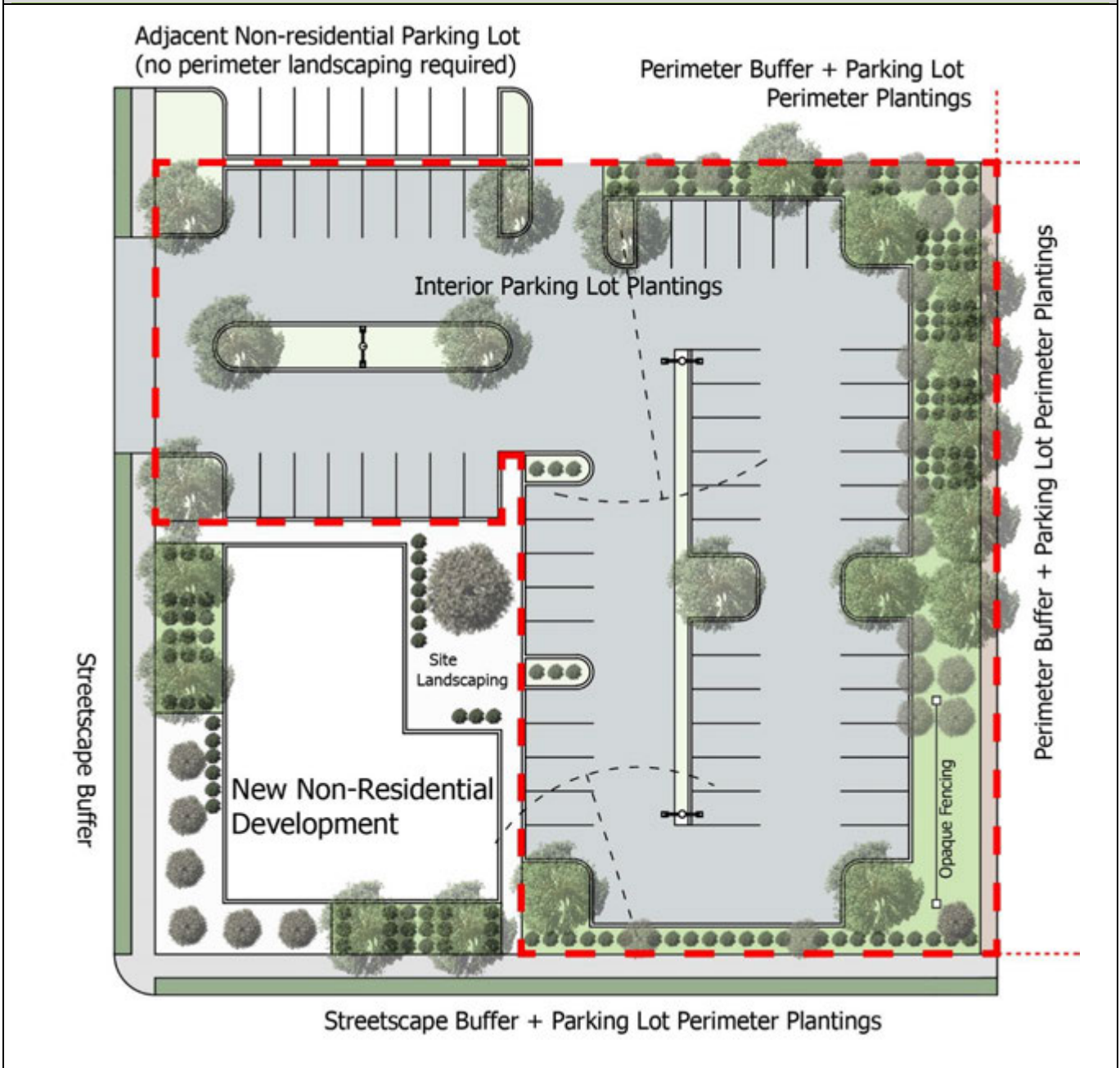
- A:** Routine maintenance of existing vegetation, such as watering and fertilizing;
- B:** The removal of dead trees and shrubs, or trees and shrubs that have been diagnosed and determined to be diseased beyond treatment, provided the screening function of the landscaping is maintained or re-established. Failure to maintain the screening function of a required landscaping area is a violation of this Ordinance;
- C:** Pruning of vegetation, provided the screening function of the required landscaping is maintained. Severe pruning is a violation of this Ordinance, and shall require replacement of required vegetation; and

D: Repaving or restriping of a parking lot, provided there is no increase in parking lot size or the number of parking spaces, which would impact landscaping requirements.

7.4.4: LANDSCAPE PLAN REQUIRED**A: GENERALLY**

- 1:** A landscape plan depicting how required landscaping will be planted in accordance with these standards shall be included with an application for site plan, preliminary plat, planned development master plan, special use permit, or zoning compliance permit, as appropriate, to ensure compliance with this section.
- 2:** The landscape plan shall be approved prior to, or concurrent with, the approval of a site plan, preliminary plat, planned development master plan, special use permit, or zoning compliance permit.
- 3:** A landscape plan shall contain, at a minimum, the following (see Figure 7.4.4: Landscape Plan Example):
 - a:** Location of required planting material;
 - b:** Grouping or clusters of planting material, if proposed;
 - c:** Identification of required plants, including their scientific names;
 - d:** Minimum and maximum dimensions of all planting yard areas;
 - e:** Calculations determining the number of canopy trees, understory trees, and shrubs required;
 - f:** Locations, species, sizes, and methods of protection during construction for existing vegetation to be retained and counted towards minimum landscaping requirements; and
 - g:** Existing topography, or proposed topography where site grading is proposed to occur.

FIGURE 7.4.4: LANDSCAPE PLAN EXAMPLE



B: PHASED DEVELOPMENT

Development subject to these standards that is planned in phases may submit a landscape plan for the entire development, or separate landscape plans for each phase, which shall be approved prior to approval of the final plat.

C: LANDSCAPING IN A STORMWATER RETENTION POND

If trees or shrubs are proposed on or within 20 feet of the embankment of a stormwater retention pond, a landscape plan showing the retention pond and surrounding landscaping must be submitted for review to determine that the safety and functionality of the device will not be compromised by the trees or shrubs.

7.4.5: INVASIVE SPECIES REMOVAL REQUIRED

All development subject to these landscaping standards shall actively remove any invasive species located on the lot or site in accordance with the following standards:

A: INVASIVE SPECIES TO BE REMOVED

Any plant species, including herbaceous, vines, and aquatic plants, identified as invasive by the North Carolina Cooperative Extension or the North Carolina Invasive Plant Council shall be removed as a part of development in accordance with this section.

B: REMOVAL DEFINED

- 1: For the purposes of this section, "removal" shall include collection and proper disposal of all parts of an invasive species' plant material including: leaves, stalks, husks, trunks, vines, branches, seeds, seed casings, fruits, blooms, roots, and rhizomes.
- 2: It is acceptable to sever vines and remove all plant material associated with the vine from a height of six feet downwards to below grade while leaving any portions of the vine located at a height above six feet.
- 3: Removal activities, including root or rhizome removal, is not required beyond the lot lines of the lot or site proposed for development, but is encouraged beyond the lot lines, subject to adjoining landowner approval.
- 4: Removal includes disposal of all plant material in a manner that will not allow seeds to disperse or roots or rhizomes to re-establish themselves.

C: APPLICATION OF HERBICIDE

Except in areas proximate to streams or waterbodies, application of a herbicide is permitted as a part of removal activities but such application shall not substitute for the physical collection, removal, and disposal of invasive plant material as required by this section.

D: TIMING OF REMOVAL

All invasive species removal activities shall take place prior to final inspection by the Town as part of the issuance of a certificate of occupancy.

E: RE-ESTABLISHMENT PROHIBITED

Regardless of the timing of invasive species removal, the landowner shall take all necessary measures to avoid the establishment or re-establishment of an invasive species on the lot or site.

F: PLANTING INVASIVE PLANTS IS A VIOLATION

The planting, keeping, maintaining, or propagating a plant determined to be an invasive species in accordance with this section shall be a violation of this Ordinance, subject to the standards in [Chapter 9: Violations](#). Nothing shall limit the keeping of invasive species indoors, provided such plants remain inside a dwelling or enclosed building at all times.

7.4.6: PLANT MATERIAL SPECIFICATIONS**A: CANOPY TREE SIZE**

- 1: Canopy trees shall have a minimum height at maturity of 40 feet and a minimum crown width of 30 feet.
- 2: All canopy trees shall have a minimum height of eight feet, or more, and a minimum caliper size of three inches, or more, at planting (see [Section 10.2.11:A: Determining Tree Size at Time of Planting](#), and [Figure 7.4.6: Plant Material](#)).
- 3: Evergreen trees shall be a minimum of six feet in height at planting.

B: UNDERSTORY TREE SIZE

- 1: Understory trees shall have a minimum height at maturity of 15 to 40 feet, except that trees to be placed below overhead utility lines may not exceed a mature height of 20 feet.

- 2: All understory trees shall have a minimum height of four feet, or more, and a minimum caliper size of one-and-one-half (1½) inches, or more, at planting (see Section 10.2.11:A: Determining Tree Size at Time of Planting).
- 3: Nothing shall limit the use of multi-stemmed understory trees provided that 25 percent or more of the leaders meet the requirements in Section 10.2.11:A: Determining Tree Size at Time of Planting.

C: SHRUB SIZE AND VARIETY

- 1: All shrubs shall be at least a three-gallon size and have a minimum height or spread of 18 inches at the time of planting.
- 2: Shrubs shall reach a minimum height of 36 inches and a spread of 30 inches within three years of planting.
- 3: Decorative grasses may be proposed as a substitute for shrubs, provided the grasses meet the screening objectives and are approved by the Town Manager.
- 4: Shrubs or grasses used to screen off-street parking areas shall be evergreen or retain their leaves/blades throughout the year.

D: SPECIES REQUIREMENTS

- 1: Required landscaping materials shall be cold-hardy for the location where planted.
- 2: Plant species used in required landscaping areas shall be consistent with the Town’s allowable vegetation list, which is on file and available for public inspection in Town Hall and on the Town’s web page. Other species not listed on the allowable vegetation list require approval by the Town Manager.

E: SPECIES DIVERSITY

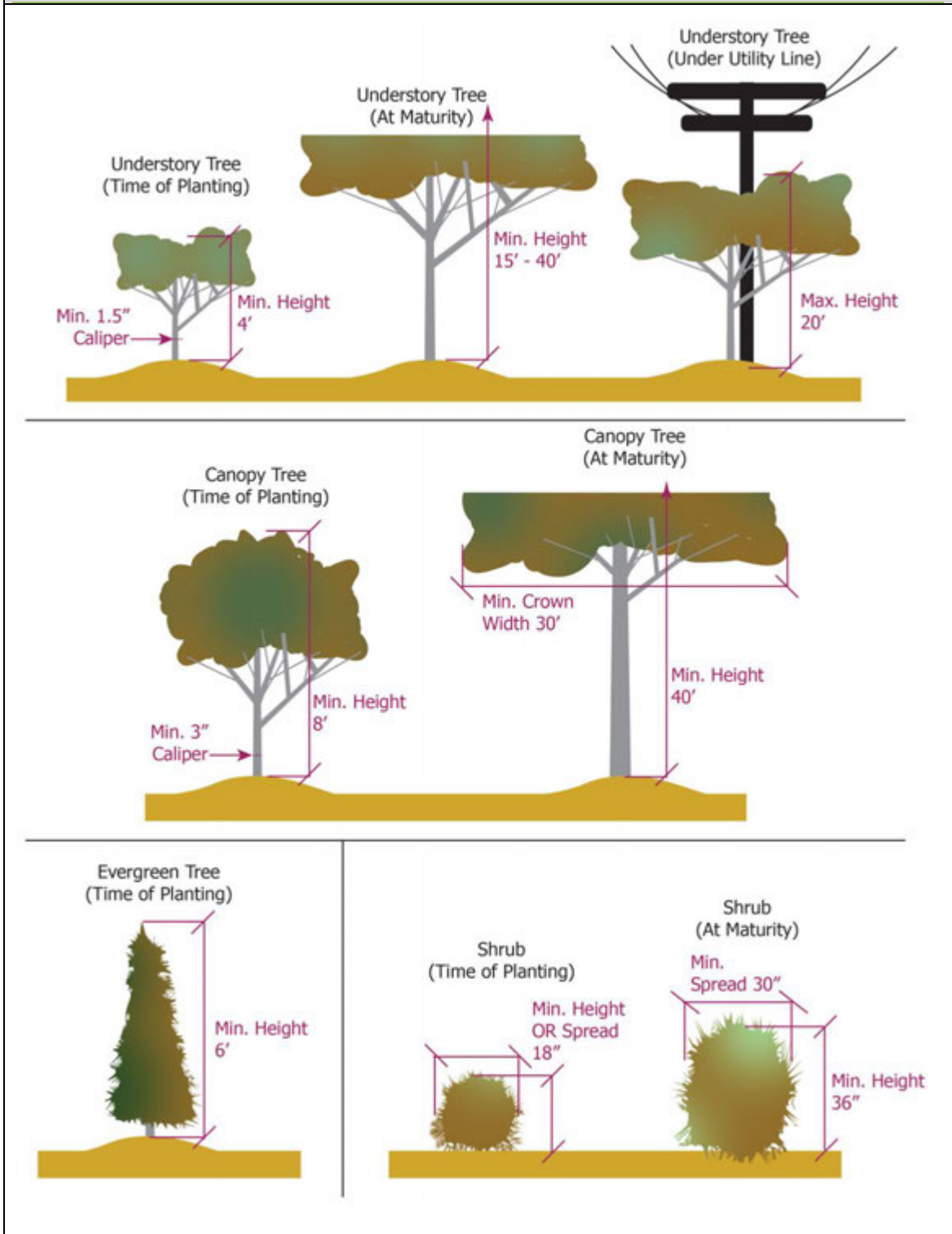
To curtail the spread of disease or insect infestation in a plant species, new plantings shall comply with the following standards:

- 1: When fewer than 20 trees are required on a site, at least three different species shall be utilized;
- 2: When more than 20 but fewer than 40 trees are required to be planted on site, at least four different species shall be utilized
- 3: When 40 or more trees are required on a site, at least five different species shall be utilized;
- 4: A larger number of different species than specified may be utilized; and
- 5: In no instance shall invasive species, as determined by the North Carolina Forest Service, be utilized as landscaping materials to meet the requirements of this Ordinance.

F: STABILIZATION

- 1: Required landscaping areas shall be stabilized and maintained with vegetative cover, mulch, decorative gravel, cinders, or other approved materials to prevent soil erosion and allow rainwater infiltration.
- 2: Required landscaping areas with slopes of 15 percent or more shall be stabilized with vegetative cover (not mulch or gravel) designed to minimize erosion. Required vegetative cover shall be established and functional prior to issuance of a certificate of occupancy.
- 3: Use of landscape fabric on slopes of 15 percent or more is discouraged.

FIGURE 7.4.6: PLANT MATERIAL



7.4.7: LANDSCAPING PLACEMENT

A: OUTSIDE PUBLIC STREET RIGHTS-OF-WAY

- 1: Except for street trees, required landscaping material shall not be located within a street right-of-way.
- 2: Street trees may be located within a street right-of-way in the TC and PD districts.
- 3: Where provided, street trees shall be configured in accordance with Section 7.4.11: Street Trees.

B: GROUPING OF PLANT MATERIAL

- 1: Except for street trees, shrubs around a parking lot, or when vegetation is included as a screening device in accordance with Section 7.5: Screening, required plant material may generally be grouped or clustered, however, the overall screening intent must be adequately addressed (see Figure 7.4.7: Landscape Placement).
- 2: Unless permitted by the perimeter buffer standards, required plant material in a perimeter buffer may not be grouped, and shall be planted according to the required on-center spacing in Table 7.4.9:F: Perimeter Buffer Configuration.
- 3: Street trees shall maintain on-center spacing requirements in Section 7.4.11: Street Trees.
- 4: Shrubs intended to screen features in accordance with Section 7.5: Screening, may not be grouped if such grouping results in the failure to meet the minimum screening standards of this Ordinance.

FIGURE 7.4.7: LANDSCAPE PLACEMENT



C: UNIFIED MULTIPLE-LOT DEVELOPMENT

A unified multiple-lot development is not required to provide perimeter buffers along lot lines internal to the development, but the perimeter of the development shall be subject to the standards in Section 7.4.9: Perimeter Buffers.

D: EASEMENTS

- 1: Trees and shrubs may be located within a required easement on a case-by-case basis with the permission of the easement holder.

- 2: When landscaping is within an easement, the landowner is responsible for replacement of any required vegetation if maintenance or other actions result in its removal.
- 3: When landscaping is planted in a drainage easement, it shall not impact the easement design or impede the flow of water through the easement.
- 4: Where an easement and a required landscape area coincide and there is a prohibition on planting within the easement, then the required landscaping area shall be located outside the easement.

E: SETBACK SMALLER THAN REQUIRED LANDSCAPING AREA

In cases where a required setback is smaller or narrower than a required landscaping area, the landscaping area width or size shall not be reduced except as authorized by any of the following:

- 1: An alternative landscape plan;
- 2: An administrative adjustment; or
- 3: An approved planned development master plan.

F: FIRE PROTECTION SYSTEM

Minimum clear separation distances required by the current adopted version of the North Carolina Fire Code shall be maintained for landscaping near a fire protection system.

G: LANDSCAPING IN BIO-RETENTION CELLS

Trees and shrubs used in bio-retention cells or rain gardens located in parking lots or within landscape yards may be counted toward tree or shrub requirements of this Ordinance, provided they meet the minimum specifications in [Section 7.4.6: Plant Material Specifications](#).

H: PERMITTED ENCROACHMENTS

- 1: The following features may be located entirely within required landscaping areas, provided the screening function of the landscaping is maintained and provided any encroachments into a required setback are in accordance with [Table 2.4.8: Allowable Encroachments into Setbacks](#):
 - a: Principal buildings, provided the minimum setbacks of the zoning district where located, are maintained;
 - b: Landscaping features such as, ornamental pools, planting boxes, sculpture, arbors, trellises, and birdbaths;
 - c: Pet shelters, well houses, and mechanical enclosures;
 - d: On-grade patios, steps, benches, outdoor fireplaces, playground equipment serving an individual dwelling unit, accessibility ramps, roof overhangs, and fire escapes;
 - e: Ornamental entry columns, gates, fences, walls, and retaining walls;
 - f: Flagpoles of 30 feet in height or less;
 - g: Lamp and address posts;
 - h: Utility cabinets of four feet in height or less;
 - i: Mailboxes; and
 - j: Signage.
- 2: The following features may cross a required landscaping area in a manner that minimizes the impact to the required landscaping:
 - a: Driveways, sidewalks, pedestrian walkways, greenways, or multi-use trails;
 - b: Utilities; and
 - c: Stormwater control measures.

I: PROHIBITED FEATURES

The following features shall not be located within a required landscaping area:

- 1: An accessory structure or open air use;
- 2: Off-street parking or loading areas; or
- 3: Outdoor storage or display of products for sale.

J: FEATURES ALLOWED WITHIN REQUIRED LANDSCAPING AREAS

1: BERMS

- a: Berms may be used independently, or in conjunction with a wall or fencing, to meet the screening intent of a perimeter buffer or other required screening when configured in accordance with the following:
- b: Berms shall have a minimum height of three feet, a minimum crown width of at least three feet, and a slope of no greater than 3:1;
- c: Berms shall be no taller than twelve feet above the toe of the berm;
- d: Berms shall be stabilized with vegetation and ground cover;
- e: A berm may not damage the roots of existing healthy vegetation being preserved for credit towards the landscaping requirements in this Ordinance. Suffocation of existing roots by deposition of fill in excess of three inches shall be considered damage to existing tree roots; and
- f: A berm shall not interfere with a required sight distance triangle (see Section 8.3.11: Sight Distance Triangles).

2: FENCES AND WALLS

- a: Opaque fences or walls, a minimum of four feet in height, constructed within required landscaping areas, and configured in accordance with Section 7.3: Fences and Walls, may reduce the minimum and average perimeter buffer width requirement in accordance with Table 7.4.9:F: Perimeter Buffer Configuration.
- b: If utilized, fences or walls shall be located within the required landscaping area and all required shrubs shall be planted between the fence or wall and the lot line.
- c: Required trees may be planted either in front of or behind the fence or wall.

3: PLANTERS

- a: Planters, if provided, shall be constructed of masonry, stone, or pressure treated lumber stamped for ground contact.
- b: Planters shall maintain a minimum height of 30 inches and have an effective planting area of seven feet (measured in any direction) if trees are to be planted and an effective planting area of four feet (measured in any direction) if no trees are to be included.
- c: The minimum height of shrubs in the planter, except for ground cover, shall be six inches at the time of planting.

7.4.8: PARKING LOT LANDSCAPING

All parking lots serving multi-family, mixed-use, and non-residential developments shall comply with the following parking lot landscaping standards (see Figure 7.4.8: Parking Lot Landscaping):

A: SHADE TREES

All parking lots shall be served by shade trees to reduce the heat island effect and soften the appearance of the parking lot, in accordance with the following standards:

- 1: Parking lots subject to these standards shall include at least one canopy tree for every 8 off-street parking spaces provided;
- 2: Required canopy trees may be placed around, in, or near the parking lot provided that no parking space is more than 60 feet from the trunk of a canopy tree; and
- 3: Required canopy trees shall be distributed throughout parking areas and may be located in landscape islands, between rows of parking, in driveway medians, and within ten feet of the perimeter of the parking lot.

B: INTERIOR PLANTINGS**1: AREA TO BE LANDSCAPED**

For the purposes of this section, the interior of a parking lot shall be all of the area within the outer boundary of the parking lot including interior and corner landscape islands intended to fulfill the interior parking lot landscaping requirements, but not including landscaping planted around the perimeter of the parking lot.

2: LANDSCAPING ISLANDS AND STRIPS

A parking aisle with more than 12 vehicle spaces in a single row shall provide and maintain landscaping islands at each end, or provide landscaping strips along the full length of the row, in accordance with the following standards:

- a: Islands shall have a minimum dimension of nine feet and a minimum area of 200 square feet, including the curb (if curbing is provided);
- b: Landscape islands that do not contain canopy trees shall contain three or more shrubs and also may contain understory trees;
- c: Landscaping islands intended for the placement of canopy or understory trees shall maintain a minimum width of nine feet;
- d: Landscape strips between adjoining rows of parking spaces or serving as driveway medians shall have a minimum dimension of nine feet, including the curb (if provided). Landscape strips that do not have canopy trees shall include shrubs planted no more than five feet on-center; and
- e: Landscaping strips running the full length of a row of parking spaces shall be provided so that no more than six rows of parking spaces are provided without a landscaping strip.

3: SEPARATION OF LIGHT POLES AND TREES

In order to prevent the need to excessively trim required trees within landscape areas and to maintain the effectiveness of parking area exterior lighting, light poles shall be spaced at least ten linear feet from a canopy tree trunk, to the maximum extent practicable.

4: PROTECTION OF LANDSCAPE ISLANDS

- a: Landscape islands shall be protected from vehicle damage by the installation of curbing, wheel stops, or other comparable methods.
- b: The placement of plant material within landscape islands shall allow for a two-and-one-half-foot vehicle overhang from the face of the curb or wheel stop.

5: PROTECTION FROM PEDESTRIAN WALKWAYS

In cases where a pedestrian walkway must be located within five feet of a tree trunk, wooden walkways, pervious pavers, or other methods shall be used to ensure the required tree is not damaged by the walkway.

6: STORMWATER MANAGEMENT

A landscape island may be designed to function as a stormwater management control measure, provided its landscaping performance function is maintained.

7: STRUCTURAL SOIL REQUIRED

Landscaping islands and strips located within a parking lot shall be comprised of properly prepared structural soil that has been properly amended and cultivated to support healthy vegetation.

C: PERIMETER PLANTINGS

1: INTENT

Parking lot perimeter landscaping shall be designed to soften the view of the parking lot from an abutting street or development and to filter spillover light from vehicle headlights. Required plant material shall be planted in such a way as to best achieve this intent.

2: LOCATION

Required plant material shall be placed adjacent to the perimeter of the parking lot.

3: PLANTING RATE

Parking lot perimeter landscaping shall consist of a single continuous row of evergreen shrubs planted no greater than three feet on-center and within five feet of the parking lot edge.

D: SIZE OF PLANT MATERIAL

- 1:** Shrubs used for parking lot perimeter landscaping shall be of a minimum size necessary to achieve a maximum height of 36 inches above grade within three years of planting.
- 2:** In cases when vegetation provided as perimeter plantings around a parking lot grow to a height exceeding 48 inches above grade, they may be trimmed or pruned as necessary to maintain a minimum height of at least 36 inches.
- 3:** It shall be a violation of this Ordinance to remove or severely prune shrubs required as parking lot perimeter vegetation to a height of less than 36 inches.

E: CREDIT TOWARDS REQUIRED LANDSCAPING AREAS

Perimeter parking lot landscaping may be credited towards the perimeter buffer and streetscape buffer requirements in this Ordinance in cases where it meets the locational requirements of this section and is also located within an adjacent perimeter buffer or streetscape buffer's designated area.

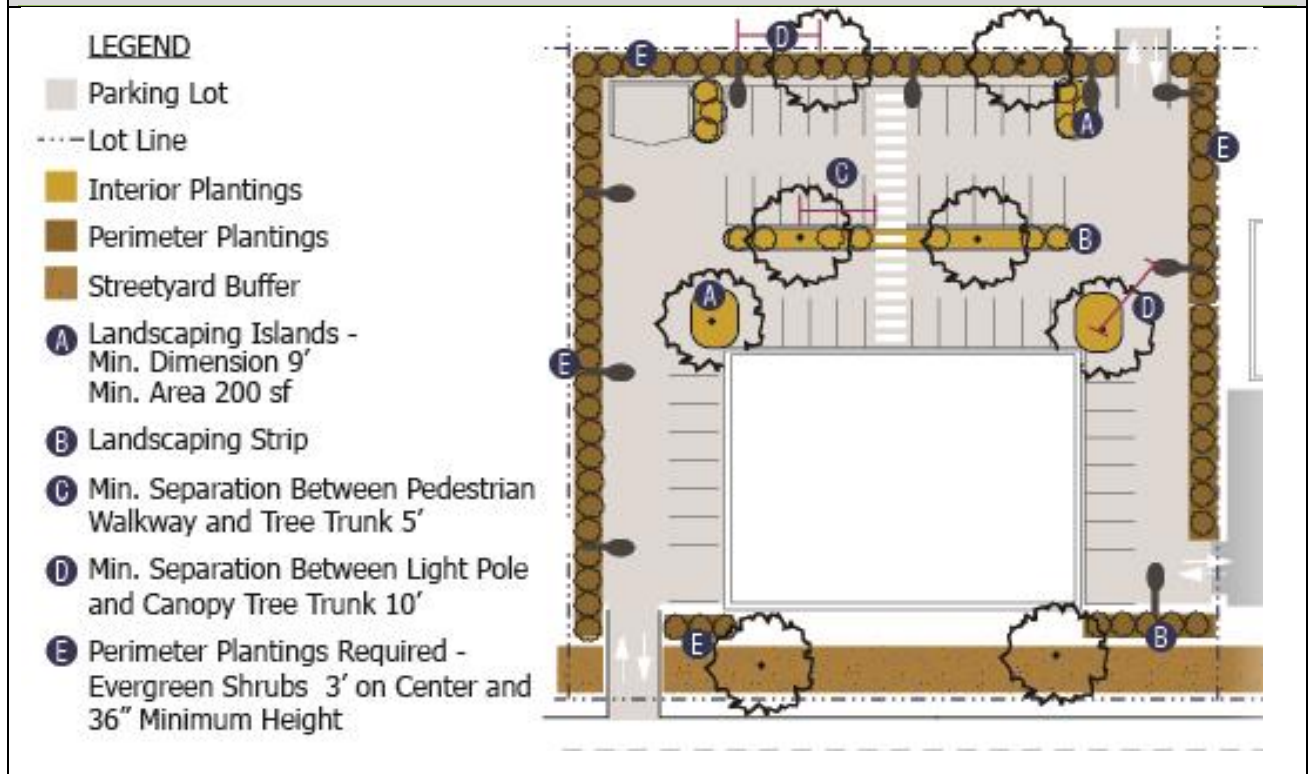
F: ALTERNATIVES

Perimeter parking lot plantings may be supplemented or replaced through use of a vegetated berm configured in accordance with [Section 7.4.7.J:1: Berms](#), or an opaque fence or wall that meets the screening objective of this section and is configured in accordance with [Section 7.3: Fences and Walls](#).

G: EXEMPTIONS

Developments consisting of multiple lots that are planned and developed as a single, unified, or consolidated project may be configured so that perimeter plantings are only located around the perimeter of the entire development instead of between parking lots and buildings located within the development.

FIGURE 7.4.8: PARKING LOT LANDSCAPING



7.4.9: PERIMETER BUFFERS

A: PURPOSE AND INTENT

These standards are proposed to eliminate or minimize potential nuisances, such as dirt, litter, noise, glare of lights, signs, and unsightly buildings or parking areas through physical and visual separation between land uses in separate zoning districts.

B: APPLICABILITY

- 1: All development shall comply with the perimeter buffer standards in this section.
- 2: Development shall provide perimeter buffers along the side and rear lot lines in accordance with Table 7.4.9:G: Buffer Application.
- 3: Lot lines abutting street rights-of-way shall comply with the standards in Section 7.4.10: Streetscape Buffers.

C: BUFFERS DISTINGUISHED

Table 7.4.9:F: Perimeter Buffer Configuration, establishes the standards for perimeter buffers, including the minimum requirements for each of the following buffer types:

- 1: Type A, Intermittent Buffer;
- 2: Type B, Semi-Opaque Buffer; and
- 3: Type C, Opaque Buffer.

D: BUFFER DETERMINATION

- 1: The lot or site being developed is the one responsible for providing the required perimeter buffer, which shall be located solely upon the lot or site being developed.

- 2: Landscaping material located on an adjacent lot may not be credited towards these perimeter buffer requirements.
- 3: The type of perimeter buffer required is based upon the zoning district designation of the land being developed as well as the zoning district designation of the abutting lots (see [Table 7.4.9:G: Buffer Application](#)).

E: BUFFER LOCATION

- 1: Perimeter buffers required by this section shall be located along the outer perimeter of the lot and shall extend to the connecting lot lines.
- 2: In cases where the lot line is within a drainage swale, the perimeter buffer shall extend to the edge of the swale instead of the lot line.
- 3: A perimeter buffer may be located along shared access easements between parcels in non-residential developments.

F: PERIMETER BUFFER CONFIGURATION

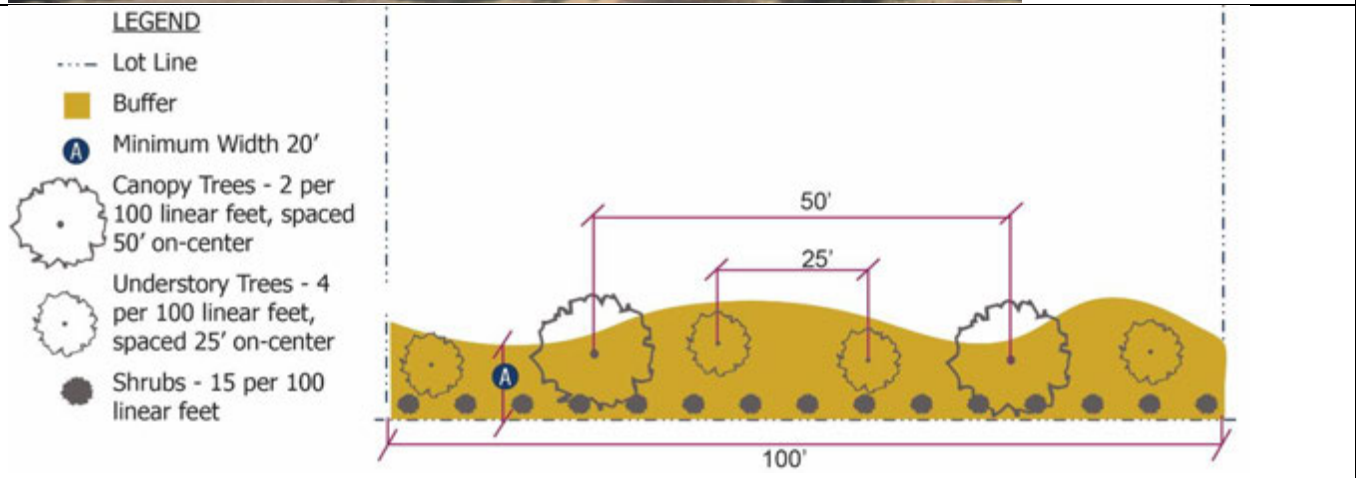
The following table sets out the minimum requirements for perimeter buffers.

TABLE 7.4.9:F: PERIMETER BUFFER CONFIGURATION

Buffer Type: Type A: Intermittent



Objective: The Type A Intermittent perimeter buffer functions as an intermittent visual screen from the ground to a height of five feet. It is intended to partially block visibility between different uses but not totally obstruct visual contact from one use to another. The image to the left shows an approximation of this buffer type at maturity.



BUFFER CONFIGURATION	PLANTING REQUIREMENT
Buffer width (feet)	20
Required canopy trees per every 100 linear feet (#) / Maximum on-center spacing (feet)	2 / 50
Required understory trees per every 100 linear feet (#) / Maximum on-center spacing (feet)	4 / 25 /1/
Shrubs per every 100 linear feet (#) / Maximum on-center spacing (feet) /2/	15 / None /1/
Minimum evergreen shrub percentage (%)	60

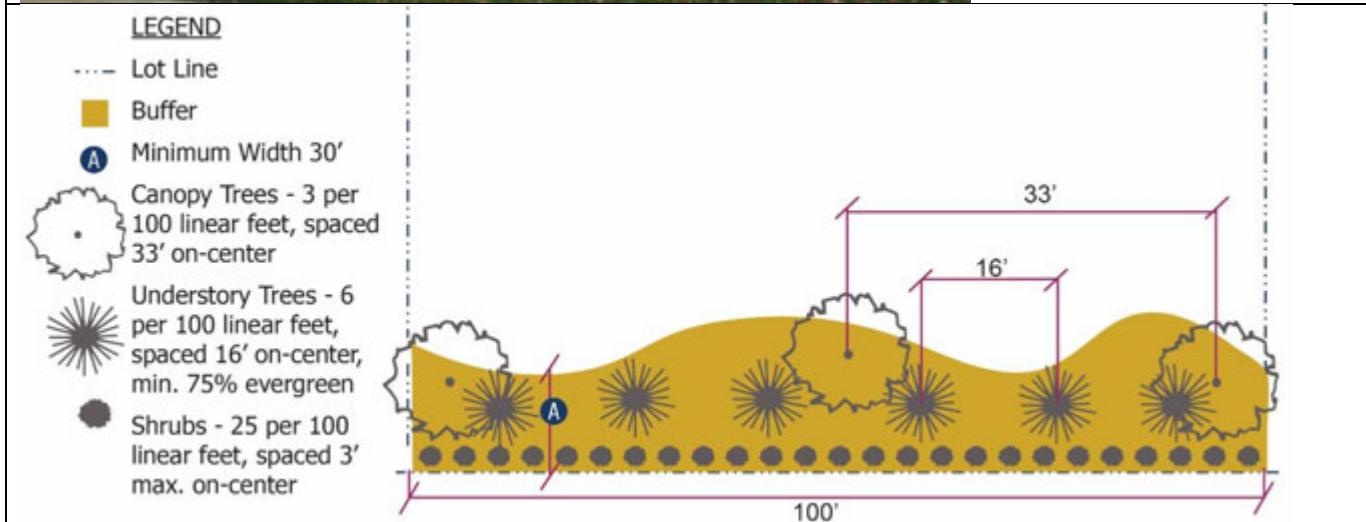
NOTES:
 /1/ Grouping of trees or shrubs is permitted provided there is no un-vegetated portion of the buffer exceeding 20 feet in length.
 /2/ In the event a fence or wall is provided, shrubs shall be planted between the fence or wall and the lot line. Shrubs shall be no closer than 3 feet to the lot line.

TABLE 7.4.9:F: PERIMETER BUFFER CONFIGURATION

Buffer Type: Type B: Semi Opaque



Objective: The Type B Semi-Opaque perimeter buffer functions as a partially opaque screen from the ground to a height of six feet. This type of buffer prevents visual contact between uses but not total obstruction from one use to another. The buffer creates a sense of visual separation but provides only minor acoustic separation. The image to the left shows an approximation of this buffer type at maturity.



BUFFER CONFIGURATION	PLANTING REQUIREMENT
Minimum buffer width (feet) /1/ /2/	30
Required canopy trees per every 100 linear feet (#) / Maximum on-center spacing (feet)	3 33
Required understory trees per every 100 linear feet (#) / Maximum on-center spacing (feet)	6 16 /3/
Shrubs per every 100 linear feet (#) / Maximum on-center spacing (feet) /4/	25 4 /3/
Minimum evergreen shrub percentage (%)	75

NOTES:

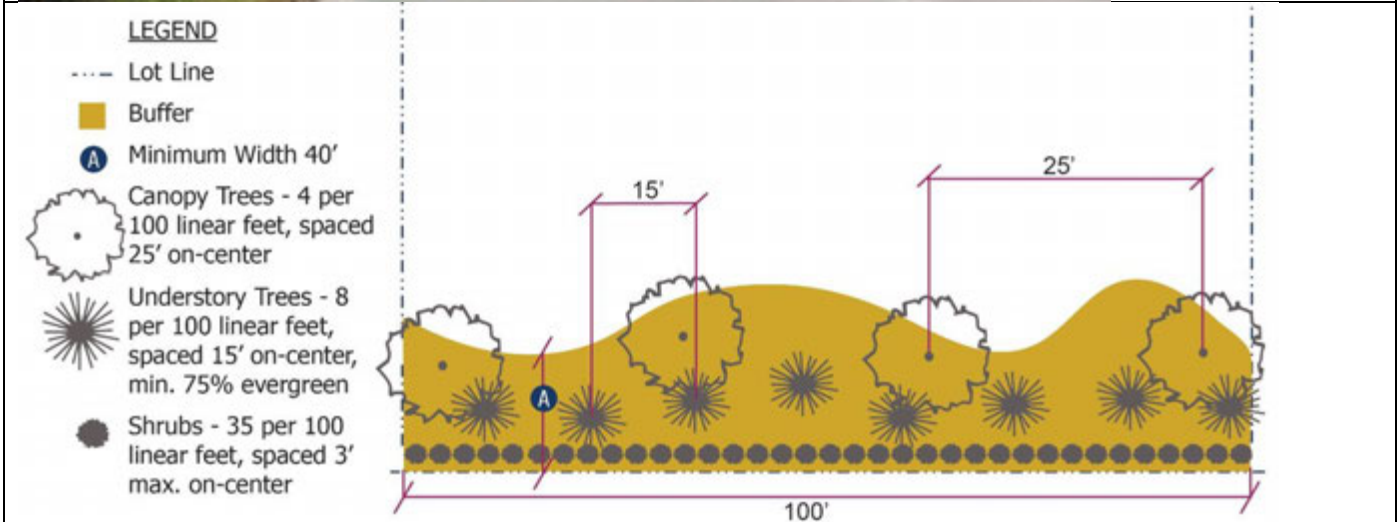
- /1/ Provision of a semi-opaque fence or wall allows the buffer width to be reduced by 5 feet.
- /2/ Provision of a fully opaque fence, wall, or berm allows the buffer width to be reduced by 10 feet.
- /3/ Grouping of trees or shrubs is permitted within 20 feet of the edge of a street right-of-way provided there is no unvegetated portion of the buffer exceeding 10 feet in length.
- /4/ In the event a fence or wall is provided, shrubs shall be planted between the fence or wall and the lot line. Shrubs shall be no closer than 3 feet to the lot line.

TABLE 7.4.9:F: PERIMETER BUFFER CONFIGURATION

Buffer Type: Type C: Opaque



Objective: The Type C Opaque perimeter buffer functions as a fully opaque screen from the ground to a height of eight feet. This type of buffer provides a strong sense of visual and acoustic separation between uses. The image to the left shows an approximation of this buffer type at maturity.



BUFFER CONFIGURATION	PLANTING REQUIREMENT
Minimum buffer width (feet) /1/ /2/	40
Required canopy trees per every 100 linear feet (#) / Maximum on-center spacing (feet)	4 / 25
Required understory trees per every 100 linear feet (#) / Maximum on-center spacing (feet)	8 / 15
Minimum evergreen understory tree percentage (%)	75
Shrubs per every 100 linear feet (#) / Maximum on-center spacing (feet) /3/	35 / 3
Minimum evergreen shrub percentage (%)	100

NOTES:

/1/ Provision of a semi-opaque fence or wall allows the buffer width to be reduced by 5 feet.

/2/ Provision of a fully opaque fence, wall, or berm allows the buffer width to be reduced by 10 feet.

/3/ In the event a fence or wall is provided, shrubs shall be planted between the fence or wall and the lot line. Shrubs shall be no closer than 3 feet to the lot line.

G: BUFFER APPLICATION

Table 7.4.9:G: Buffer Application, specifies the type of perimeter buffer that development shall provide between it and adjacent land, based on the zoning district of the development site and the zoning district designation of the adjacent land. The buffer type is indicated by a letter corresponding to one of the three buffer types described in Table 7.4.9:G: Buffer Application.

TABLE 7.4.9.G: BUFFER APPLICATION						
ZONING DISTRICT OF DEVELOPING LAND	ZONING DISTRICT OF LAND ADJACENT TO PROPOSED DEVELOPMENT /1/ /2/ /3/					
	R-30, R-20	OI	MM	TC	I-1	PD
R-30, R-20	A	None	None	A	A	None
OI	C	None	A	A	None	None
MM	C	B	None	B	None	A
TC	C	B	B	None	None	B
I-1	C	C	C	B	None	A
PD	C	C	C	B	A	A

NOTES:
 /1/ A type C perimeter buffer shall not be required when the lot line abuts unbuildable land within a riparian buffer, the special flood hazard area, a Town-designated tree-save area, or other Town-designated conservation area where existing vegetation will not be removed.
 /2/ Lot lines abutting public street rights-of-way shall be subject to the standards in Section 7.4.10: Streetscape Buffers.
 /3/ A Type A buffer shall be provided along all lot lines bordering the Town’s jurisdiction.

(AMENDED 05.17.22 UDOTA1-22)

H: EXEMPTIONS

Developments consisting of multiple lots that are planned and developed as a single, unified, or consolidated project may be configured so that perimeter buffers are only located around the perimeter of the entire development instead of between lots within the development.

I: CREDIT TOWARDS REQUIRED LANDSCAPING AREAS

Perimeter buffer landscaping may be credited towards the perimeter parking lot landscaping and streetscape buffer requirements in this Ordinance in cases where it meets the locational requirements of this section and is also located within an adjacent perimeter parking lot landscaping or streetscape buffer’s designated area.

7.4.10: STREETScape BUFFERS

A: PURPOSE AND INTENT

Streetscape buffers are proposed to soften the view of development from street rights-of-way, and are intended to:

- 1: Enhance pedestrian orientation and encourage pedestrian travel;
- 2: Address urban heat islands by providing shade for streets and sidewalks;
- 3: Provide shade on sidewalks;
- 4: Promote the Town’s “sense of place;”
- 5: Support property values by enhancing the aesthetic character of the Town’s streets; and
- 6: Provide habitat for flora and fauna.

B: APPLICABILITY

- 1: The standards in this section shall apply to all lot lines bounded by the following features, whether existing or identified in the Town’s adopted policy guidance.
 - a: Local streets;
 - b: Collector streets; and
 - c: Arterial streets.
- 2: In cases where a future street is planned but its approximate location is not indicated on an adopted or approved Town map or plan, streetscape buffering shall not be required on lots abutting the future street alignment.

C: EXEMPTION

Streetscape buffers are not required along lot lines abutting the following features:

- 1: Driveways, private drives, or alleys;
- 2: Along street frontages that include street trees in accordance with Section 7.4.11: Street Trees; or **(AMENDED 05.17.22 UDOTA1-22)**
- 3: Lot lines abutting platted street rights-of-way that are or have remained unopened for at least 15 years.

D: STANDARDS

1: CONFIGURATION

Streetscape buffers shall be located adjacent to and parallel with the adjacent street right-of-way and configured in accordance with Table 7.4.10:D:1: Minimum Streetscape Buffer Width:

TABLE 7.4.10:D:1: MINIMUM STREETScape BUFFER WIDTH		
ZONING DISTRICT WHERE LOCATED	TYPE OF ADJACENT STREET	MINIMUM BUFFER WIDTH (FEET) /1/
R-20 and R-30	Local Streets	5
	All Other Streets	10
OI	Local Streets	10
	All Other Streets	15
TC /2/	All Streets	20
MM	Local Streets	30
	All Other Streets	35
I-1	All Streets	35
NOTES:		

TABLE 7.4.10:D:1: MINIMUM STREETScape BUFFER WIDTH

ZONING DISTRICT WHERE LOCATED	TYPE OF ADJACENT STREET	MINIMUM BUFFER WIDTH (FEET) /1/
/1/ Nothing shall limit the configuration of a wider streetscape buffer.		
/2/ Streetscape buffers shall be provided only in cases where street trees (see Section 7.4.11: Street Trees) cannot be provided due to NCDOT, utility, topographic, or other considerations.		

(AMENDED 05.17.22 UDOTA1-22)

2: PLANTING REQUIREMENTS

Streetscape planting requirements shall be in accordance with Table 7.4.10:D:2: Streetscape Buffer Planting Requirements, and Figure 7.4.10:D: Streetscape Buffer:

TABLE 7.4.10:D:2: STREETScape BUFFER PLANTING REQUIREMENTS

ZONING DISTRICT WHERE LOCATED	TYPE OF STREET FRONTED	MINIMUM PLANTING REQUIREMENTS (EVERY 50 LINEAR FEET OF BUFFER LENGTH) /1/
R-20 and R-30	All Streets	1 canopy tree; 2 understory trees; & 3 shrubs
OI	Local Streets	2 canopy trees; 3 understory trees; & 5 shrubs
	All Other Streets	3 canopy trees; 4 understory trees; & 7 shrubs /2/
TC /3/	All Streets	3 canopy trees; 4 understory trees; & 7 shrubs /4/
MM	Local Streets	3 canopy trees; 5 understory trees; & 9 shrubs /4/
	All Other Streets	4 canopy trees; 7 understory trees; and 11 shrubs
I-1	All Streets	4 canopy trees; 7 understory trees; and 11 shrubs
<p>NOTES:</p> <p>/1/ Decimal figures shall be rounded downwards to the next whole number.</p> <p>/2/ At least 25 percent of shrubs shall be evergreen.</p> <p>/3/ Streetscape buffers shall be provided only in cases where street trees (see Section 7.4.11: Street Trees) cannot be provided due to NCDOT limitations, utility, topographic, or other considerations.</p> <p>/4/ Shrub requirements may be met at a ratio of one-to-one through the use of planters, window boxes, or trellises located between the building façade and the street.</p>		

(AMENDED 05.17.22 UDOTA1-22)

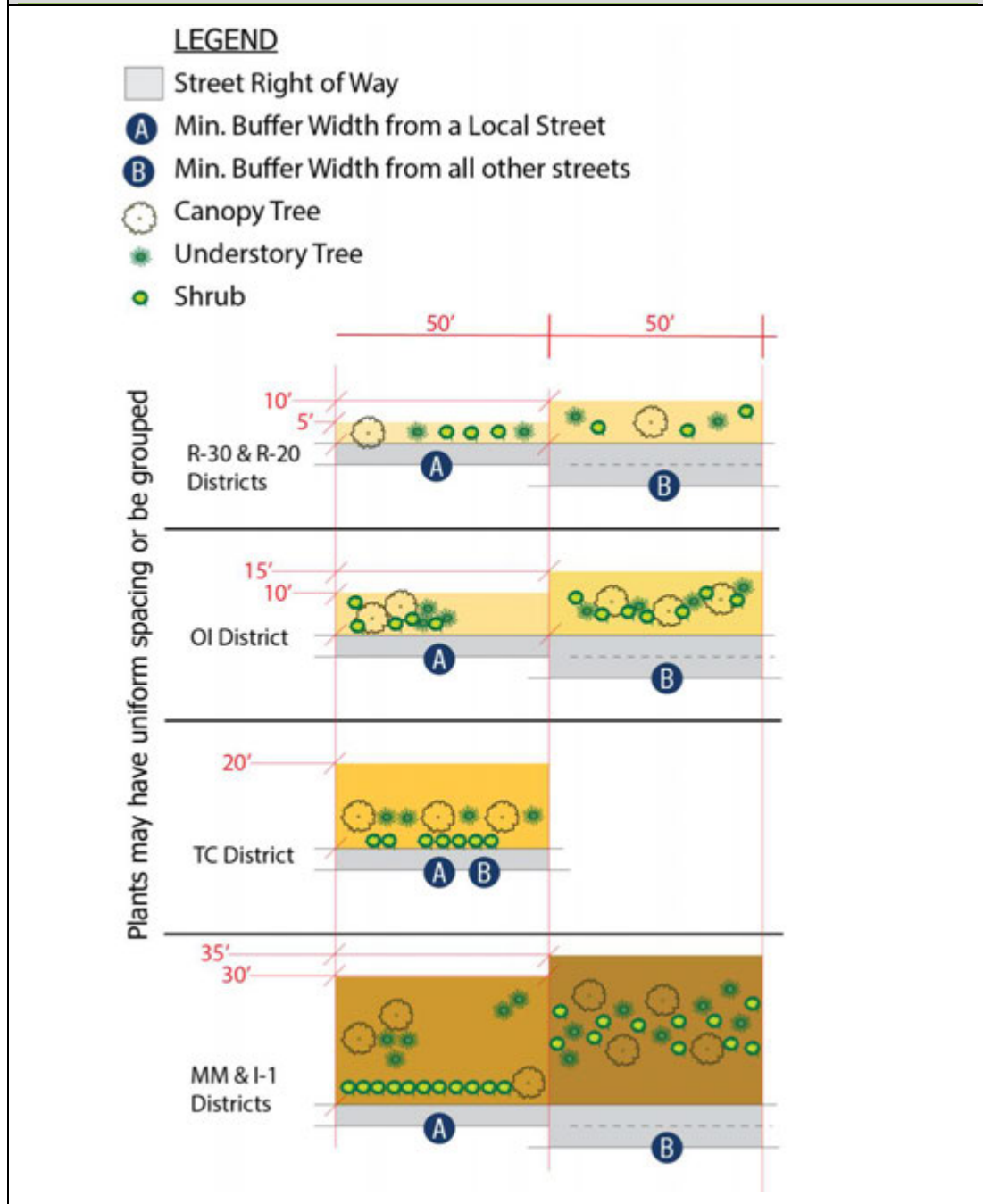
3: PLACEMENT

Landscaping material associated with a streetscape buffer shall be located within the designated streetscape buffer area and shall comply with the following placement requirements:

- a: Landscaping material shall not be located within a public street right-of-way, an access easement, or a required sight distance triangle;
- b: Landscaping material may only be located within a utility or drainage easement with the prior consent of the easement holder;
- c: Landscaping material may be planted with uniform on-center spacing or may be clustered or grouped for the purposes of design or to preserve views of signage, primary building entrances, public gathering areas, or ingress/egress to the site.

- d: An alternative location for streetscape landscaping material may be approved by the Town Manager in cases where underground utilities, drainage easements, topography, or other obstructions make placement of streetscape buffer vegetation in accordance with these standards impractical.

FIGURE 7.4.10:D: STREETSCAPE BUFFER



(AMENDED 05.17.22 UDOTA1-22)

E: CREDIT TOWARDS REQUIRED LANDSCAPING AREAS

Streetscape buffer landscaping may be credited towards the perimeter parking lot landscaping and perimeter buffer requirements in this Ordinance in cases where it meets the locational requirements of this section and is also located within an adjacent perimeter parking lot landscaping or perimeter buffer's designated area.

7.4.11: STREET TREES**A: APPLICABILITY**

- 1: Except where prevented or made impractical by NCDOT limitations, presence of utilities, topographic conditions, or other existing site considerations, development within the TC district shall provide street trees in accordance with these standards.
- 2: In instances where street trees cannot be provided in accordance with subsection (1) above, development shall incorporate a streetscape buffer in accordance with [Section 7.4.10: Streetscape Buffers](#).
- 3: Developments in the TC district that provide street trees in accordance with this subsection shall not be required to provide a streetscape buffer, though one may be provided by an applicant.

B: WHERE REQUIRED

Street trees shall be located within tree pits or planting strips within the street right-of-way. Nothing shall require a lot to provide street trees and a streetscape buffer (see [Section 7.4.10: Streetscape Buffers](#)).

C: LOCATION**1: WITHIN TREE PITS**

In cases where sidewalks, boardwalks, or paving are located in the right-of-way, street trees shall be located within tree pits, configured in accordance with the following standards:

- a: Tree pits shall have a minimum planting area of at least 25 square feet per tree pit;
- b: Tree pits shall be covered or configured with ground covering at the same general height as the pedestrian walkway to avoid being a tripping hazard; and
- c: Tree pits shall include structural soils or screened backfill to ensure appropriate drainage and backfill.

2: WITHIN PLANTING STRIPS

In cases where sidewalks are not present or where a portion of the right-of-way is not paved, street trees may be placed within planting strips, configured in accordance with the following standards:

- a: Tree planting strips shall be configured parallel to the street;
- b: Tree planting strips shall maintain a minimum width of five feet; and
- c: Tree planting strips shall be raised above the sidewalk grade or include edging that prevents pedestrians from walking in the planting strip.

D: TREE PLACEMENT

- 1: Street trees, when located within tree pits or planting strips, shall be located so that the trunk is at least two-and-one-half feet from the back of the curb or the edge of the pavement (see [Figure 7.4.11: Street Trees](#)).
- 2: Street trees shall not be located within sight distance triangles (see [Section 8.3.11: Sight Distance Triangles](#)).

E: TYPES OF TREES

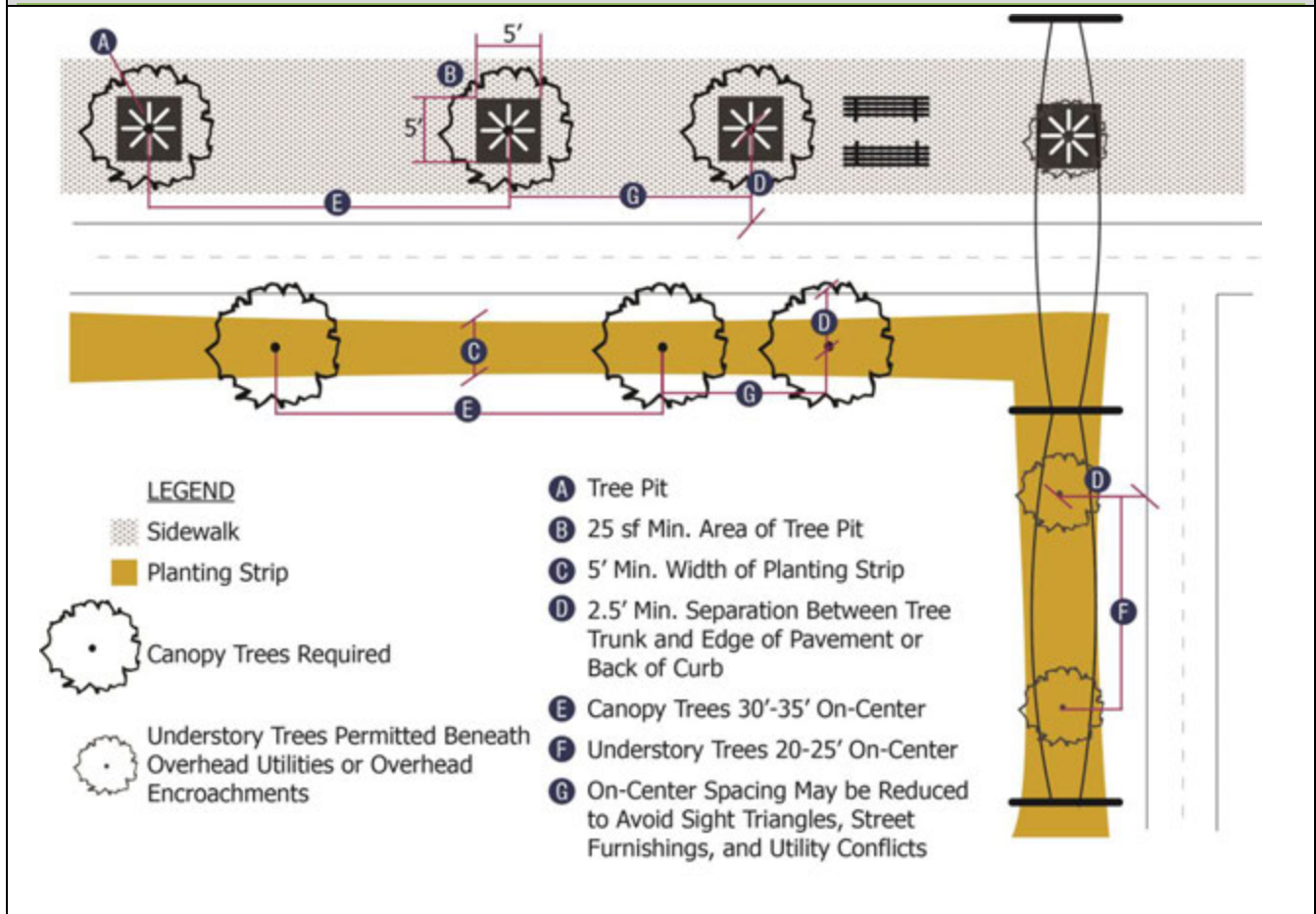
- 1: Except in areas underneath existing overhead utilities or upper story encroachments into the right-of-way, street trees shall be canopy trees that meet the standards in [Section 7.4.6: Plant Material Specifications](#).
- 2: In areas beneath existing overhead utilities or upper story encroachments into the right-of-way, street trees shall be understory trees that meet the standards in [Section 7.4.6: Plant Material Specifications](#).

F: ON-CENTER SPACING

- 1: Canopy trees shall be planted 30 to 35 feet on-center.
- 2: Understory trees shall be planted 20 to 25 feet on-center.

- 3: Grouping or clustering of street trees shall be prohibited, but on-center spacing may be reduced as necessary to avoid sight distance triangles, street furnishings, or other utility conflicts.

FIGURE 7.4.11: STREET TREES



G: COMPLIANCE WITH NCDOT STANDARDS

In cases where street trees are located within street rights-of-way maintained by the NCDOT, street tree configuration shall be in accordance with NCDOT standards in addition to the standards in this section. In the event the standards in this section conflict with applicable NCDOT standards, the NCDOT standards shall control.

7.4.12: SITE LANDSCAPING

A: PURPOSE AND INTENT

Site landscaping material is intended to soften the visual impact of the building foundation as seen from a street and provide for the even dispersal of trees and other plantings across a development site.

B: SITE LANDSCAPING STANDARDS

- 1: Site landscaping shall be required for all development and shall be supplied in the amounts identified in Table 7.4.12: Required Site Landscaping Plantings.
- 2: Site landscaping shall meet the requirements in Section 7.4.6: Plant Material Specifications, and Section 7.4.7: Landscaping Placement.

TABLE 7.4.12: REQUIRED SITE LANDSCAPE PLANTINGS

TYPE OF USE	REQUIRED PLANTINGS PER SITE /1/
All forms of residential development, nursing homes, and assisted living facilities	12 caliper inches of canopy trees per acre + at least 1 shrub per each 5 feet of building façade facing a street (excluding alleys)
Public and Institutional Uses	6 caliper inches of canopy trees per acre + at least 1 shrub per each 5 feet of building façade facing a street (excluding alleys)
Commercial and Industrial Uses	3 caliper inches of canopy trees per acre + at least 1 shrub per each 5 feet of building façade facing a street (excluding alleys)
NOTES: /1/ At least one half of the shrubs provided shall be evergreen.	

C: LOCATION

- 1: Canopy trees shall be evenly disbursed across a site, to the maximum extent practicable.
- 2: Required shrubs shall be planted within 15 feet of building facades that face adjacent streets (excluding alleys).
- 3: Shrub placement may be interrupted as needed to accommodate utilities, accessways, architectural projections, outdoor dining or gathering areas, or other features, however, the minimum required number of shrubs shall be located upon each site (see Figure 7.4.12: Site Landscaping).

FIGURE 7.4.12: SITE LANDSCAPING



D: CREDIT TOWARDS OTHER LANDSCAPING REQUIREMENTS

- 1: Site landscaping plantings shall not be credited towards other forms of required landscaping.
- 2: Parking lot landscaping, perimeter buffers, streetscape buffers, or street trees shall not be credited towards site landscaping requirements.
- 3: Existing trees retained during and after development and not credited towards other forms of required landscaping may be credited towards these site landscaping requirements.

7.4.13: PLANTING FLEXIBILITY

A: CREDIT FOR EXISTING VEGETATION

- 1: In order to encourage the preservation of established, healthy vegetation, credit shall be given towards the landscaping requirements in this section for preservation of existing trees and shrubs that are pre-existing within required landscaping areas at a rate of 1.25 times the amount of existing, healthy vegetation to be retained.

- 2: Vegetation to be credited towards these requirements shall be protected in accordance with Section 3.4.7: Tree Protection During Construction, before and during development of the site and maintained thereafter in a healthy growing condition.

B: REVISIONS TO APPROVED LANDSCAPE PLANS

Due to seasonal planting problems and/or a lack of plant availability, approved landscape plans may require minor revisions. Minor revisions to planting plans may be approved by the Town Manager if:

- 1: There is no reduction in the quantity of plant material;
- 2: There is no significant change in size or location of plant materials; and
- 3: The new plants are of the same general category (i.e., canopy tree, understory tree, evergreen, or shrub) and have the same general design characteristics (mature height, crown spread, etc.) as the materials being replaced.

C: ALTERNATIVE LANDSCAPE PLANS

An alternate landscape plan that allows modifications to the requirements of this section may be approved by the Town Manager in accordance with the following.

1: CONDITIONS JUSTIFYING ALTERNATIVE LANDSCAPE PLAN

Any of the following natural physical conditions may be used as a justification for an alternative landscape plan:

- a: Wetland areas;
- b: Topography;
- c: Non-arable soils;
- d: Difficult or unusual lot configuration;
- e: Utility, access, drainage, or maintenance easements;
- f: A desire to retain existing on-site vegetation;
- g: Natural rock formations;
- h: Required landscaping areas that are shaded; and
- i: Impractical situations that would result from application of this section.

2: INTENT

To be approved, any alternative landscape plan shall meet the intent of the applicable planting yard area(s) and the purpose and intent of the landscaping standards of this section.

3: ALLOWABLE MODIFICATIONS

- a: The following landscape standards may be modified by an alternate landscape plan:
 - i: The location of required plant materials;
 - ii: The width of required planting areas;
 - iii: The configuration of required plant materials; and
 - iv: The number of required plant materials.
- b: The alternative landscape plan shall include justification for the modifications requested, based upon but not limited to, the following:
 - i: The presence or planned location of public utilities, infrastructure, or easements;
 - ii: The location of existing healthy vegetation or other beneficial site features to be retained after development;
 - iii: The size, shape, or topographic elevation of the site relative to the street(s) it abuts; and
 - iv: The need to protect solar access or avoid permanently shaded areas on the site.

7.4.14: TIME OF INSTALLATION

- A:** A certificate of occupancy shall not be issued, until all required plant materials have been placed in accordance with the approved site plan and requirements of this section.
- B:** In cases where all required landscaping cannot be installed prior to issuance of a final certificate of zoning compliance, the applicant shall submit a request for a performance guarantee for required landscaping in accordance with [Section 6.3.12: Performance Guarantee](#). **(AMENDED 8-15-22 UDOTA 1-23)**

7.4.15: REQUIRED MAINTENANCE**A: RESPONSIBILITY**

- 1: The responsibility for maintenance of required landscaping areas shall remain with the owner of the property, their successors, heirs, assignees or any consenting grantee.
- 2: Maintenance is required in order to ensure the proper functioning of the plantings as a landscaped area which reduces or eliminates nuisance and/or conflict.
- 3: Failure to adequately maintain required landscaping material is a violation of this Ordinance subject to the remedies and penalties in [Chapter 9: Violations](#).

B: MAINTENANCE

- 1: All plantings shall be maintained in an attractive and healthy condition and shall maintain the minimum performance objective (screening, visual obstruction, etc.) of the required landscaping. Maintenance shall include, but not be limited to, watering, mulching, fertilizing, pest management, mowing, weeding, removal of litter and dead plant material, and necessary pruning and trimming.
- 2: Necessary pruning and trimming shall be accomplished in accordance with the Tree Care Industry Association (TCIA) Standards for the Professional Arborist, and shall not include:
 - a: The topping of trees;
 - b: Removal of 30 percent or more of the crown material in one calendar year;
 - c: Removal of the central leader; or
 - d: Any other similarly severe procedures that may cause irreparable harm to the natural form of the tree.
- 3: Dead or diseased plantings shall be removed. Unless specifically exempted (such as understory trees shaded by canopy trees), replacement plantings shall be provided for any dead, diseased, or removed vegetation when such replacement plantings are necessary to meet the standards or this Ordinance or maintain the screening objective of the landscaping material.
- 4: Landscape structural features such as walls, fences, berms, or water features shall be maintained in a structurally safe and attractive condition.
- 5: Where other uses, including pedestrian and bicycle accessways, are allowed within a required landscaping area, these uses shall be maintained to provide for their safe use.

C: EXCESSIVE PRUNING OR TRIMMING

Pruning or trimming exceeding the TCIA standards or activities exceeding necessary pruning or trimming as identified in subsection (B) above shall be a violation of this Ordinance, and shall require replacement of damaged vegetation in accordance with [Section 7.4.17: Replacement of Required Vegetation](#).

D: FAILURE TO MAINTAIN

Failure to maintain required landscaping areas is a violation of this Ordinance, in accordance with [Chapter 9: Violations](#).

7.4.16: SITE INSPECTION**A: POST CONSTRUCTION INSPECTION**

- 1: A permanent certificate of occupancy for any development shall not be issued unless the landscaping required under this section is installed in accordance with these standards and in accordance with the approved site plan, preliminary plat, planned development master plan, zoning compliance permit, or building permit, as appropriate.
- 2: No person shall refuse entry or access to any staff or authorized representative of the Town who requests entry for the purpose of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper, or interfere with that representative while in the process of carrying out official duties.

B: FOLLOW-UP INSPECTION

The Town Manager shall inspect the site one year after the issuance of a permanent certificate of occupancy in order to ensure compliance with this Ordinance.

C: PERIODIC INSPECTION

- 1: The Town Manager may periodically inspect sites subject to the provisions of this Ordinance. If, through inspection, it is determined that a site does not comply with the approved site plan, preliminary plat, planned development master plan, zoning compliance permit, or building permit, a notice to comply shall be served upon the landowner by registered mail with return receipt or other means by the Town.
- 2: The notice shall set forth the actions that will be necessary to comply with the Ordinance.
- 3: The Town shall have the power to conduct investigations as it may reasonably deem necessary to carry out its duties as prescribed in this Ordinance and for this purpose may enter at reasonable times upon the property, public or private, for the purpose of inspecting the site(s) subject to the provisions of this Ordinance.

7.4.17: REPLACEMENT OF REQUIRED VEGETATION**A: DAMAGE OR REMOVAL OF VEGETATION IS A VIOLATION**

The damage, disturbance, or removal of any landscaping area or vegetation required by this section shall constitute a violation of this Ordinance subject to the remedies described in [Chapter 9: Violations](#).

B: REPLACEMENT REQUIRED

- 1: Any disturbed landscaping areas, areas of preserved existing vegetation, or required plant material shall be replaced in accordance with the approved development application and these standards.
- 2: Required trees or vegetation that die within two years of construction completion shall be removed and replaced with new vegetation of equal or greater size. After two years, in cases where required landscape material dies, it may or may not require replacement based upon the ability of the remaining landscaping to meet the screening objectives of the required plant material. In these cases, the Town Manager shall determine if the remaining landscaping material does or does not meet the screening objectives.
- 3: Replacement trees shall be planted within 180 days of removal of required vegetation.

C: REVEGETATION PLAN REQUIRED

In cases where required landscaping or existing vegetation required to be preserved is damaged, disturbed, or removed, a revegetation plan shall be submitted for review and approval by the Town Manager, in accordance with the following standards:

- 1: Any tree with a caliper of at least eight inches that is damaged or removed shall be replaced with one or more trees that have a caliper of at least two and one-half (2½) inches and a cumulative caliper equal to or greater than the original tree.
- 2: Trees damaged or destroyed less than eight inches in diameter shall be replaced to satisfy the performance criteria of this section.

3: Shrubs may also be required to restore the landscaping performance criteria for the disturbed area.

D: LOCATION OF REPLACEMENT TREES AND VEGETATION

- 1: Replanting shall be located within the vicinity of the violation.
- 2: If the area is too small for sufficient growth, a more suitable location on the site may be selected, as permitted by the Town Manager.

7.5: SCREENING

7.5.1: PURPOSE AND INTENT

These standards are intended to reduce the visual and auditory impact upon adjacent lots and the public realm from certain site features and activities. In addition to mitigating negative impacts, these standards are also proposed to enhance the aesthetics of development in the Town's planning jurisdiction.

7.5.2: USING THESE STANDARDS

- A:** These standards identify a series of use types, site features, and activities that are required to be screened from off-site views (see Section 7.5.3: Applicability).
- B:** The standards establish a series of screening methods organized into differing levels (e.g., Level 1 through Level 10). The higher the screening method's level number, the greater its opacity, or the greater its ability to obscure a particular site feature from off-site view (see Table 7.5.5: Screening Methods).
- C:** The standards identify which methods of screening may be used to screen a site feature or activity from view from a particular location, such as an adjacent street or abutting lot with residential zoning (see Table 7.5.6: Views to be Screened). Nothing prohibits a landowner from using a more intense or opaque screening technique than is required by Table 7.5.6: Views to be Screened.

7.5.3: APPLICABILITY

A: GENERALLY

Unless exempted in accordance with Section 7.5.4: Exemptions, the standards in this section apply to the following site features and activities for all development in the Town's jurisdiction:

- 1: Refuse collection containers of more than 100 gallons in size;
- 2: Recycling containers of more than 100 gallons in size, including cardboard recycling containers;
- 3: Waste and cardboard compactors;
- 4: Ground-based mechanical equipment, including but not limited to wireless telecommunications equipment, permanently mounted electrical generators, compressors, climate control equipment, breaker panels, meters, electrical service risers, and similar equipment;
- 5: Roof-mounted equipment of any kind;
- 6: Above ground storage tanks for gases, solids, or liquids;
- 7: Outdoor equipment storage or repair areas;
- 8: Outdoor storage of raw or semi-finished materials, including tires;
- 9: Outdoor storage of finished products for sale, including tires; and
- 10: The outdoor storage, repair, or impoundment of vehicles or equipment, whether operable, inoperable, or being used for parts.

B: PRE-EXISTING DEVELOPMENT

Lawfully-established development established prior to August 18, 2021, that is subject to, but that does not comply with these standards, shall be subject to applicable the standards in Chapter 5: Nonconformities.

C: EXPANSIONS OR REMODELING

All expansions or remodeling of principal buildings or open uses of land existing on or before August 18, 2021, shall comply with these standards, subject to the requirements in Section 5.6: Nonconforming Sites.

7.5.4: EXEMPTIONS

The following items are exempted from the screening requirements of this section:

- A:** Any of the features listed in the sub-section above that are located entirely within a building;
- B:** Refuse collection containers serving individual single-family detached, or single-family attached dwellings;

- C: Mechanical and climate control equipment serving individual single-family detached, single-family attached, duplex, triplex, or quadruplex dwellings;
- D: Mechanical equipment associated with required electrical vehicle charging stations;
- E: Utility meters, whether wall or ground mounted;
- F: Small wireless facilities;
- G: Roof-mounted solar energy or wind energy conversion devices;
- H: Transformers and similar devices serving electric vehicle charging stations;
- I: Family health care structures;
- J: Outdoor display/sales as a principal or accessory use; and
- K: Outdoor seasonal sales and portable storage containers subject to an approved zoning compliance permit.

7.5.5: SCREENING METHODS

- A: Items or activities subject to the requirements in this section shall be fully screened from one or more off-site views in accordance with Table 7.5.6: Views to be Screened, using one of the allowable methods identified in Table 7.5.5: Screening Methods.
- B: Table 7.5.5: Screening Methods, sets out the various methods for screening site features and activities subject to these standards. Screening, when required, shall comply with the configuration requirements listed below.
- C: In the event a ground-based site feature or activity to be screened exceeds a height of eight feet above grade, evergreen understory trees configured in accordance with the standards for Screening Level 2 shall be included as part of any required screening method.

TABLE 7.5.5: SCREENING METHODS /1/


LEVEL OF SCREENING	TYPE OF SCREENING	REQUIREMENTS
		<p>SCREENING LEVEL 1: UNDERSTORY TREE HEDGEROW</p> <ul style="list-style-type: none"> a. All shrubs shall be of an evergreen species. b. A hedgerow shall include one row of evergreen understory trees and one row of evergreen shrubs. c. The hedgerow shall include plants capable of providing a fully opaque screen of at least 36 inches in depth from the grade to the minimum height required. d. Trees shall maintain an on-center spacing of no greater than 60 inches. Shrubs shall maintain an on-center spacing of no greater than 48 inches. e. Trees shall be of a minimum height necessary at time of planting to achieve a minimum height of 8 feet above grade within 3 years. f. Shrubs shall be of a minimum height necessary at time of planting to achieve a minimum height of 6 feet above grade within 3 years. g. If damaged in a manner that impairs the performance of the screening, vegetative material shall be promptly replaced.

TABLE 7.5.5: SCREENING METHODS /1/

LEVEL OF SCREENING	TYPE OF SCREENING	REQUIREMENTS
		<p>SCREENING LEVEL 2: EVERGREEN SHRUB HEDGE</p> <ul style="list-style-type: none"> a. All shrubs shall be evergreen and of the same species. b. The screening material shall be configured as two staggered rows of shrubs that together form a hedge. c. The screening shall maintain a minimum width of at least 36 inches at the time of planting. d. Shrubs shall be capable of providing a fully opaque screen of at least 36 inches in depth from the grade to the minimum height required. e. Shrub rows shall be planted no more than 30 inches apart. f. Shrubs shall maintain an on-center spacing of no greater than 36 inches. g. Shrubs shall be of a minimum height necessary at time of planting to achieve a minimum height of 6 feet above grade within 3 years. h. If damaged in a manner that impairs the performance of the screening, vegetative material shall be promptly replaced.
		<p>SCREENING LEVEL 3: CHAIN LINK FENCE WITH OPAQUE SLATS/FABRIC</p> <ul style="list-style-type: none"> a. Fencing must be configured in accordance with Section 7.3: Fences and Walls. b. All fencing shall maintain the minimum height necessary to fully screen the site feature or activity. c. Fencing shall be at least 60 percent opaque, when viewed from a distance of ten feet or more. d. Use of chain link fencing shall also require the placement of one row of evergreen shrubs with an on-center spacing of no greater than 36 inches along the perimeter of the fencing (except where accessed by a gate). e. All gates shall maintain a complimentary level of opacity excluding gaps for mounting hardware, latches, and hinges. f. Slats or fabric shall extend downwards to the grade. g. The fence and screening material shall be comprised of consistent materials and shall maintain a single color. h. Slats may be plastic or wood and shall be promptly repaired if damaged in a manner that reduces the screening function.

TABLE 7.5.5: SCREENING METHODS /1/



LEVEL OF SCREENING	TYPE OF SCREENING	REQUIREMENTS
		<p>SCREENING LEVEL 4: BUILDING WALL PROJECTION</p> <ul style="list-style-type: none"> a. Building wall projections must be attached to a principal or accessory structure. b. All walls shall maintain the minimum height necessary to fully screen the site feature or activity. c. The wall shall be comprised of consistent materials and colors to those used on the principal or accessory structure. d. Building walls may incorporate louvers, grates, or similar features, provided the screening function is maintained. e. All gates shall be comprised of a complimentary material and be opaque excluding gaps for mounting hardware, latches, and hinges. f. Screening materials shall be promptly repaired if damaged in a manner that reduces the screening function.
		<p>SCREENING LEVEL 5: WOODEN OPAQUE FENCE</p> <ul style="list-style-type: none"> a. Fencing shall be configured in accordance with Section 7.3: Fences and Walls, and the North Carolina Building Code. b. All fencing shall maintain the minimum height necessary to fully screen the site feature or activity but shall not exceed a maximum height of 8 feet. c. All gates shall maintain a complimentary level of opacity excluding gaps for mounting hardware, latches, and hinges. d. The fence shall be comprised of consistent materials and colors. e. Enclosures for refuse and recycling containers shall meet all applicable Town requirements. f. Screening material shall be promptly repaired if damaged in a manner that reduces the screening function.

TABLE 7.5.5: SCREENING METHODS /1/



LEVEL OF SCREENING	TYPE OF SCREENING	REQUIREMENTS
		<p>SCREENING LEVEL 6: OPAQUE MASONRY WALL</p> <ul style="list-style-type: none"> a. Walls shall be configured in accordance with Section 7.3: Fences and Walls. b. All walls shall maintain the minimum height necessary to fully screen the site feature or activity but shall not exceed a maximum height of 8 feet. c. The wall shall be comprised of consistent materials and colors to those used on the principal structure. d. Masonry walls may incorporate louvers or similar features, provided the screening function is maintained. e. All gates shall be comprised of a complimentary material and be opaque, excluding gaps for mounting hardware, latches, and hinges. f. Support columns may exceed the maximum height as necessary for wall construction. g. Enclosures for refuse and recycling containers shall meet all applicable Town requirements. h. Screening material shall be promptly repaired if damaged in a manner that reduces the screening function.
		<p>SCREENING LEVEL 7: BERMS AND MOUNDS</p> <ul style="list-style-type: none"> a. Berms shall be configured in accordance with the standards in Section 7.4.7.J:1: Berms. b. Nothing shall limit the use of retaining walls, as necessary. c. Berms shall be supplemented with walls, fencing, or vegetation as necessary to meet screening objectives.

TABLE 7.5.5: SCREENING METHODS /1/

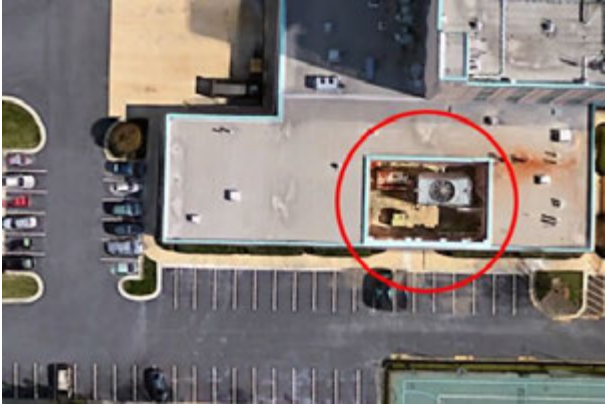


LEVEL OF SCREENING	TYPE OF SCREENING	REQUIREMENTS
		<p>SCREENING LEVEL 8: CONCEALMENT BY ON-SITE STRUCTURES</p> <ul style="list-style-type: none"> a. Site features and activities subject to these standards may be screened by other permanent buildings or structures on the same lot. b. Buildings or structures used to provide screening shall be permanent and shall be of a minimum height necessary to provide required screening. <p>(note: red circle in photo added for clarity – equipment is located on the ground, not the roof)</p>
		<p>SCREENING LEVEL 9: ROOF SCREENING</p> <ul style="list-style-type: none"> a. Roof screening shall be 100 percent opaque and shall only be used to screen items on a roof. b. Roof screening shall extend the minimum height necessary to fully screen roof-mounted equipment as seen at grade from any lot line. c. Roof-mounted equipment on pitched roofs shall be located on the side of the roof least visible from the street, to the maximum extent practicable.
		<p>SCREENING LEVEL 10: PARAPET WALL</p> <ul style="list-style-type: none"> a. Parapet walls shall be comprised of the same exterior material or be the same color as the building and shall be capped with a cornice, coping, or other decorative molding. b. Parapet walls shall be in alignment with the exterior building wall below. c. Parapet walls shall extend above the roof deck the minimum height necessary to screen roof-mounted equipment as seen from grade-level at the lot line. d. Parapet walls shall be engineered to comply with all applicable North Carolina Building Code requirements, including wind loading. <p>(note: parapet walls have to turn building corners – cut-away is for graphic purposes only)</p>

TABLE 7.5.5: SCREENING METHODS /1/

LEVEL OF SCREENING	TYPE OF SCREENING	REQUIREMENTS
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NOTES:

/1/ Screening provided in accordance with this section shall be credited towards perimeter buffer and parking lot landscaping requirements (see Section 7.4: Landscaping) when the screening methods contribute to the performance objective of required landscaping.

7.5.6: VIEWS TO BE SCREENED

Site features and activities subject to these standards shall be screened from identified locations in Table 7.5.6: Views to be Screened. The level of screening provided is at the applicant or landowner’s discretion, provided it meets or exceeds the minimum screening level specified in the table below.

TABLE 7.5.6: VIEWS TO BE SCREENED

FEATURE OR ACTIVITY TO BE SCREENED	REQUIRED SCREENING TYPE, BY LOCATION /1/			
	FROM AN ABUTTING PUBLIC STREET, SIDEWALK, GREENWAY, OR OPEN SPACE	FROM ABUTTING LAND IN A RESIDENTIAL OR MIXED-USE ZONING DISTRICT	FROM ABUTTING LAND IN AN OI, OR TC ZONING DISTRICT	FROM ABUTTING LAND IN AN I-1 ZONING DISTRICT
Refuse or Recycling Containers or Compactors	4 or higher	3 or higher	1 or higher	1 or higher
Ground-based Mechanical Equipment	3 or higher	2 or higher	1 or higher	1 or higher
Roof-mounted Equipment	9 or higher			
Above Ground Storage Tanks	4 or higher	3 or higher	1 or higher	1 or higher
Outdoor Equipment Storage or Repair	4 or higher	3 or higher	2 or higher	1 or higher
Outdoor Storage of Raw or Semi-finished Materials	3 or higher		2 or higher	1 or higher
Outdoor Storage of Finished Products for Sale	1 or higher	2 or higher	1 or higher	1 or higher
Vehicles and Equipment Being Stored, Repaired, or Impounded, Whether Operable, Inoperable, or Being Used for Parts	4 or higher	5 or higher	3 or higher	1 or higher

NOTES:

/1/ Screening type number corresponds with the screening types in Table 7.5.5: Screening Methods.

7.6: OPEN SPACE SET-ASIDE

7.6.1: PURPOSE AND INTENT

The purpose of this section is to help ensure the provision and maintenance of open space resources that encourage recreation and the gathering of Town residents and visitors. These standards are further intended to:

- A:** Establish the standards under which residential, mixed-use, and non-residential development shall set aside a portion of the development area as open space;
- B:** Distinguish between the characteristics, requirements, and appropriate locations for open space set-asides, based on the zoning district designation; and
- C:** Establish minimum ownership and maintenance standards for homeowner and property owner associations related to open space set-asides.

7.6.2: APPLICABILITY

- A:** Unless exempted in accordance with [Section 7.6.3: Exemptions](#), the standards in this section shall apply to all new development and redevelopment in the Town.
- B:** Redevelopment conducted after August 18, 2021, shall comply with the standards in this section, to the maximum extent practicable, and shall provide its pro rata share of open space set-aside.

7.6.3: EXEMPTIONS

The following forms of development shall be exempted from the standards in this section:

- A:** Development of an individual single-family dwelling (including manufactured homes) on a lot platted prior to August 18, 2021;
- B:** Subdivisions comprised solely of four or fewer lots where all lots intended for single-family detached residential dwellings; and
- C:** Development located within the I-1 district.

7.6.4: MINIMUM OPEN SPACE SET-ASIDE REQUIREMENTS

A: AMOUNT

- 1: The minimum required amount of open-space set-aside, as a percentage of a development's size, shall be in accordance with the dimensional standards for the type of use in the zoning district where the development is located. [Chapter 2: Districts](#), sets out the dimensional standards for each zoning district.
- 2: Nothing shall limit the provision of a greater minimum percentage or other type of open space set-aside, provided the minimum requirements in this section are met.

B: TYPE

- 1: Unless otherwise indicated in the appropriate dimensional standards table in [Chapter 2: Districts](#), open space set-aside shall be configured in accordance with the standards in [Section 7.6.5:A: Passive Open Space Set-Aside](#).
- 2: In cases where development must configure open space set-aside with active recreation features, it shall be configured in accordance with [Section 7.6.5:B: Active Open Space Set-Aside](#).
- 3: In cases where open space set-aside shall be configured as urban, it shall be configured in accordance with [Section 7.6.5:C: Urban Open Space Set-Aside](#).
- 4: Except in instances where open space set-aside must be configured for active recreation, nothing shall limit development from configuring required open space set-aside in accordance with the standards in [Section 7.6.5:C: Urban Open Space Set-Aside](#).

7.6.5: OPEN SPACE SET-ASIDE CONFIGURATION

Open space set-asides shall be configured in accordance with the following standards (see [Figure 7.6.5: Open Space Set-Aside Configuration](#)).

A: PASSIVE OPEN SPACE SET-ASIDE

Passive open space set-asides are intended to provide land area that is undeveloped, or that is developed with low-intensity recreational features (such as those for walking or sitting), landscaping, replacement trees, or stormwater control measures that are configured as a site amenity.

1: ALLOWABLE FEATURES

The land area occupied by any of the following types of features is credited towards required passive open space set-aside:

- a:** Walking, bicycling, and equestrian trails;
- b:** Boardwalks;
- c:** Gardens and greenway trails;
- d:** Benches and seating areas;
- e:** Tables, shelters, grills, and related picnicking facilities;
- f:** Lawn areas and community greens;
- g:** Lakes, ponds, wetlands, swamps, canals, and streams;
- h:** Piers and docks for fishing or viewing wildlife; and
- i:** Undisturbed land subject to a deed restriction or conservation easement.

2: SITE FEATURES CREDITED TOWARDS PASSIVE OPEN SPACE SET-ASIDE REQUIREMENTS

- a:** The following site features shall be credited towards passive open space set-aside requirements:
 - i:** Lands dedicated for public parks or greenways, when not already credited towards active or urban open space set-asides;
 - ii:** Required landscaping areas;
 - iii:** Tree save areas;
 - iv:** U.S. Army Corps of Engineers designated 404 wetlands;
 - v:** Riparian buffer areas;
 - vi:** Natural heritage areas; and
 - vii:** Land area occupied by stormwater control measures, including retention ponds, fully vegetated detention basins, and other bio-retention devices, provided these facilities are treated as a site amenity.
- b:** In order to be considered a site amenity that is credited towards passive open space set-aside requirements, stormwater control measures shall include all the following:
 - i:** Pedestrian access to the facility;
 - ii:** Gentle slopes of three-to-one (3:1) or less;
 - iii:** Pedestrian elements such as paths, benches, and similar aspects to and around the facility; and
 - iv:** Vegetation, whether planted or retained.

B: ACTIVE OPEN SPACE SET-ASIDE

Active open space set-asides provide for active recreational needs of the residents or visitors they serve. Active features include fields and courts as well as built structures. Active open space set-asides shall meet the following standards:

1: CONFIGURATION

- a:** Lands set aside as active open space set-aside shall be compact and contiguous unless the land is used as a continuation of an existing trail, or specific natural or topographic features require a different configuration.

- b:** Active open space set-aside areas shall be located so as to be readily accessible and useable by residents and users of the development.
- c:** Where possible, a portion of the open space set-aside should provide focal points for the development.
- d:** Where the development site is adjacent to existing or planned trails, parks, or other public open area land, the open space set-aside shall, to the maximum extent practicable, be located to adjoin, extend, and enlarge the trail, park, or other open area.

2: ALLOWABLE FEATURES

The following types of features are allowable in and credited towards active open space set-asides:

- a:** Lands dedicated for public parks or greenways when not already credited towards urban open space set-asides;
- b:** Swimming pools, splash pads, and areas devoted to water play for children;
- c:** Athletic fields and courts;
- d:** Boat launches and swimming platforms;
- e:** Club houses;
- f:** Playgrounds and play structures for children; and
- g:** Obstacle courses and exercise trails.

C: URBAN OPEN SPACE SET-ASIDE

Urban open space set-asides provide formal or informal gathering areas for people or locations for vegetation or stormwater uptake within urbanized portions of the Town’s planning jurisdiction. Urban open space can include outdoor dining areas, building atriums with plants and seating, or green roofs.

1: ALLOWABLE FEATURES

The following types of features are allowable in urban open space set-asides:

- a:** Lands dedicated for public parks or greenways;
- b:** Plazas and courtyards;
- c:** Roof gardens;
- d:** Indoor atriums with plantings and seating that are open to the general public;
- e:** Outdoor dining areas;
- f:** Fountains; and
- g:** Areas devoted to public gathering.

D: FEATURES NOT CREDITED TOWARDS OPEN SPACE SET-ASIDE

The following areas shall not be included in or credited towards any open space set-aside requirements:

- 1:** Private yards or land on a lot not subject to a deed restriction or conservation easement;
- 2:** Street rights-of-way;
- 3:** Parking areas and driveways for dwellings or other uses;
- 4:** Land covered by structures not designated for active recreational uses;
- 5:** On-site wastewater treatment facilities, including septic tank drain fields;
- 6:** Stormwater control measures not configured as a site amenity; and
- 7:** Designated outdoor storage areas.

FIGURE 7.6.5: OPEN SPACE SET-ASIDE CONFIGURATION

PASSIVE



Greenways, Trails



Boardwalks



Picnic Shelters



Streams, Lakes, and Ponds

ACTIVE



Splash Pads and Pools



Playgrounds



Outdoor Fitness Equipment



Boat Launches

URBAN



Plazas



Outdoor Dining



Seating, Gathering Areas



Indoor Atriums

7.6.6: OWNERSHIP OF OPEN SPACE SET-ASIDES

Open space set-asides are intended to remain under private ownership while being available for use by residents and visitors in the development where located. Ownership of open space set-asides shall remain with the owner of the land, except in the following circumstances:

A: OWNERS' ASSOCIATION

All open space set-aside areas may be owned jointly or in common by the owners of the development through a recognized homeowners' or property owners' association, which shall be established in accordance with Section 8.9: Owners' Associations.

B: NONPROFIT ORGANIZATION

The landowners may decide to convey an open space set-aside to a nonprofit organization such as a land trust or land conservancy for management and maintenance if the Town is provided adequate assurance the set-aside will be properly managed and maintained.

C: DEDICATED TO TOWN OR OTHER PUBLIC AGENCY

In some cases, certain lands designated as open space set-asides, such as wildlife habitat or greenways, may be dedicated to the Town or other public agency during the development review process. The Town Council shall determine which lands and under what conditions open space set-asides may be dedicated to the Town or other public agency.

7.6.7: MAINTENANCE OF OPEN SPACE SET-ASIDES

- A:** The owner of the land shall be responsible for maintenance of all open space set-aside areas (including land, vegetation, private infrastructure, greenways, and other features) in accordance with this Ordinance and any conditions of approval associated with the development.
- B:** Failure to maintain open space set-aside areas is a violation of this Ordinance subject to the remedies and penalties in Chapter 9: Violations.

7.7: PARKING AND LOADING

7.7.1: PURPOSE

The purpose of this section is to ensure provision of off-street parking and loading facilities in proportion to the generalized parking, loading, and transportation demand of the different uses allowed by this Ordinance. The standards are further intended to:

- A:** Provide for adequate off-street parking, off-street loading, and safe movement of vehicles into, out of, and through parking areas;
- B:** Allow for flexibility to accommodate alternative solutions to off-street parking and loading needs, where such flexibility is consistent with the Town's adopted policy guidance;
- C:** Reduce the aesthetic impact of surface parking lots along major roadways, in the Town Center, and mixed-use areas through standards addressing on-site parking lot locations;
- D:** Avoid excessive paved surface areas and the resulting problems associated with stormwater runoff and urban heat islands; and
- E:** Protecting compatibility between adjacent uses of land.

7.7.2: APPLICABILITY

The standards in this section shall apply to all development in the Town's planning jurisdiction, unless exempted in accordance with Section 7.7.3: Exemptions.

A: GENERALLY

Whenever a building is constructed, an open-air use of land is conducted, or a principal or accessory use is established, the development shall meet the requirements of this section.

B: ADDITIONS AND EXPANSIONS

Whenever an existing building, open air use of land, or principal or accessory use is enlarged or increased in capacity after August 18, 2021, the development shall comply with the requirements in Section 5.6: Nonconforming Sites.

C: CHANGES IN USE

- 1: If the principal use changes, then the new principal use shall meet the requirements of this section, except that if the use change results in an increase of less than five percent in the required number of parking spaces, or less than two additional parking spaces, no additional parking spaces are required.
- 2: In cases where an existing parking lot does not comply with the parking lot configuration requirements of this section, changes in use shall require the parking lot's configuration to be brought into compliance with these standards, to the maximum extent practicable.

D: PRE-EXISTING DEVELOPMENT

Lawfully-established off-street parking and loading areas established prior to August 18, 2021, that do not comply with these standards shall be subject to the applicable standards in Chapter 5: Nonconformities.

7.7.3: EXEMPTIONS

The following forms of development are exempt from the requirements of this section:

- A:** Lawfully established lots of record existing prior to August 18, 2021, that are 33 feet wide or less, contain a single-family detached residential structure, and are not served by an alley;
- B:** Re-striping an existing parking lot which does not create a deficient number of parking spaces or a nonconforming situation; and
- C:** Conduct of a lawfully established use, structure, or activity in the SBO.

7.7.4: OFF-STREET PARKING REQUIREMENTS

Off-street parking shall be provided on every lot on which any uses are hereafter established. The number of spaces provided shall equal or exceed the number shown in this section.

A: PARKING PLAN REQUIRED

Every application for a site plan or zoning compliance permit shall include a parking plan or plot plan drawn to scale and fully dimensioned as necessary in order to demonstrate compliance with the standards in this Ordinance.

B: MINIMUM OFF-STREET PARKING SPACES REQUIRED

- 1: The minimum number of off-street parking spaces required for development shall be in accordance with [Table 7.7.4.l: Minimum Off-Street Parking Requirements](#).
- 2: Off-street parking shall be provided to meet the parking demand without the use of streets, except as specifically allowed by this section.

C: OFF-STREET PARKING SPACE MAXIMUM

- 1: Retail use types of 25,000 square feet, or more, whether configured as a single-tenant or multi-tenant structure, shall limit the total number of off-street parking spaces provided to not more than 125 percent of the minimum parking spaces required in [Table 7.7.4.l: Minimum Off-Street Parking Requirements](#).
- 2: Deviations from this standard may be requested in accordance with [Section 7.7.7: Parking Alternatives](#).

D: USE TYPE NOT LISTED

- 1: For use types that do not correspond to the use types listed in [Table 7.7.4.l: Minimum Off-Street Parking Requirements](#), any one of the following actions may be taken as part of determining the applicable off-street parking requirements:
 - a: The applicant may provide a parking study for the use(s) prepared by a professional engineer licensed by the State of North Carolina;
 - b: The applicant may propose a text amendment to this Ordinance in accordance with [Section 6.3.19: Text Amendment](#);
 - c: The applicant may request a formal determination of these off-street parking standards in accordance with [Section 6.3.6: Determination](#); or
 - d: The Town Manager may determine the minimum parking space requirement based on a similar use in accordance with the standards of this Ordinance.
- 2: In cases where the applicant desires the Town Manager to make a determination, the application shall provide adequate information for review, which includes, but is not limited to: the type of use(s), number of employees, the availability of transit, the occupancy of the building, square feet of sales, service and office area, parking spaces proposed, and hours of operation.

E: DEVELOPMENTS WITH MULTIPLE USE TYPES OR LOTS

- 1: Development containing more than one principal use shall provide the minimum number of off-street parking spaces in an amount equal to the total required for all individual principal uses in the development, except as allowed by [Section 7.7.7: Parking Alternatives](#).
- 2: Developments consisting of multiple lots that are planned and developed as a single, unified, or consolidated project may be configured to locate a portion of the required parking for one lot on another in the same development as allowed by [Section 7.7.7: Parking Alternatives](#).

F: USE OF REQUIRED OFF-STREET PARKING SPACES

- 1: Off-street parking areas used for any of the following vehicles are not credited towards the minimum number of required off-street parking spaces in [Table 7.7.4.l: Minimum Off-Street Parking Requirements](#), and such vehicles shall be located outside required off-street parking spaces and any street right-of-way:

- a: Vehicles for sale or lease;
 - b: Vehicles being stored, serviced, or repaired; or
 - c: Vehicles belonging to the use, such as company vehicles.
- 2: Required off-street parking spaces shall not be used for any purpose other than the temporary parking of operable vehicles.
 - 3: In no instance shall motor vehicle servicing or repair of a vehicle take place within a required off-street parking space except for washing and emergency service necessary to start the vehicle.

G: ELECTRICAL VEHICLE CHARGING STATIONS REQUIRED

- 1: Electric vehicle charging stations accommodating at least two vehicles shall be provided on all parking lots with 50 spaces or more that are subject to these standards.
- 2: Additional stations with a least two charging ports per station are required at a rate of one additional station per every 100 parking spaces.
- 3: Electrical charging stations shall be located proximate to the primary building entrance, and shall incorporate signage indicating the parking spaces are solely for use by electrical vehicles.

H: DRIVEWAYS USED TO MEET PARKING REQUIREMENTS

- 1: Driveways and off-street parking areas shall be used to accommodate required off-street parking spaces for residential uses. On-street parking shall not be credited towards residential parking requirements.
- 2: Driveways shall be of sufficient size to accommodate all the off-street parking spaces required by Table 7.7.4.I: Minimum Off-Street Parking Requirements. In no instance shall accommodation of vehicle parking in accordance with this subsection result in parked vehicles protruding into or over street rights-of-way, sidewalks, greenways, required sight distance triangles, areas used for refuse collection, or required landscaping areas.

I: MINIMUM OFF-STREET PARKING REQUIREMENTS

TABLE 7.7.4.I, MINIMUM OFF-STREET PARKING REQUIREMENTS	
USE TYPE	MINIMUM NUMBER OF REQUIRED OFF-STREET PARKING SPACES /1/ /2/
RESIDENTIAL USES	
Assisted Living Facility or Congregate Care	1 per employee on the largest shift + 0.25 per bed
Duplex Dwelling	2 per every dwelling unit
Family Care Home	2 + 1 per bedroom
Group Home	2 + 1 per bedroom
Live/Work Dwelling	2 + 1 per every 500 sf of non-residential floor area
Manufactured Dwelling	2 per dwelling unit
Mobile Home	2 per dwelling unit
Multi-family and Single-Family Attached Dwelling	2 per every dwelling unit + 0.25 guest spaces per unit
Residential Dwelling as Part of a Mixed-Use Development	1 per dwelling unit
Single-Family Detached Dwelling	2 per dwelling unit

TABLE 7.7.4.I, MINIMUM OFF-STREET PARKING REQUIREMENTS

USE TYPE	MINIMUM NUMBER OF REQUIRED OFF-STREET PARKING SPACES /1/ /2/
COMMERCIAL USES	
Adult Establishments and Bookstores	1 per every 200 sf
Banks, Savings and Loan Associations, and Similar Financial Institutions	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Bed and Breakfast	3 + 1 per every rental unit
Breweries, Microbreweries, Taprooms, Brewpubs, and Distilleries	1 per every 150 sf
Commercial Indoor Recreation	1 per every 200 sf
Commercial Outdoor Recreation	1 per every 1,000 sf of activity area (including building sf)
Country Clubs	1 per every 300 sf
Day Care Facilities & Nurseries Licensed by North Carolina	3 + 1 per every employee on largest shift
Electronic Gaming Operations	1 per every 200 sf
Event Venue	1 per every 150 sf
Greenhouses and Garden Centers	1 per every 800 sf of principal building floor area
Golf Courses	1 per every 4 persons of design capacity
Hostels, Hotels, and Inns	5 + 1 per every rental unit
Medical Care	1 per every 200 sf
Parking (Principal Use)	N/A
Professional Offices	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Private Clubs	1 per every 300 sf
Restaurants, Bakeries, and Cafes	1 per employee on the largest shift + 1 per 4 seats
Retail Stores and Service Establishments	1 per every 250 sf
Wireless Communications Facilities	None
INSTITUTIONAL USES	
Buildings, Structures, and Facilities Operated for Governmental Operations	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Churches & Similar Places of Worship	Greater of: 1 per every 6 seats or 1 per every 50 sf of floor area in main assembly room
Civic & Cultural Buildings, Including Auditoriums, Museums, Art Galleries, Libraries, Symphony & Concert Halls, & Historic Societies	1 per employee on largest shift + 1 per every 200 sf used by public + 1

TABLE 7.7.4.I, MINIMUM OFF-STREET PARKING REQUIREMENTS

USE TYPE	MINIMUM NUMBER OF REQUIRED OFF-STREET PARKING SPACES /1/ /2/
	per every 600 sf not used by the public
Public Parks including Public Recreation Uses	1 per employee on largest shift + 3 per acre
Public Utilities, including Structures & Facilities (major and minor)	1 per every 1,500 sf
Public & Private Schools	1 per every classroom + 1 per every office + 10 per child of design capacity
INDUSTRIAL USES	
Climate Controlled Self Storage	1 per every 5,000 sf
Flex Space	1 per every 200 sf
Heavy Manufacturing	1.5 per every 3 employees on largest shift
Light Manufacturing	2 per every 3 employees on largest shift
Outdoor Storage (Principal Use)	2 + 1 per employee on largest shift
Salvage Yards	3+ 1 per employee on the largest shift
NOTES: /1/ See Section 10.2.10: Parking Space Computation, for details on how required parking spaces are computed. /2/ "sf" means square feet.	

7.7.5: PARKING LOT CONFIGURATION

Except for driveways credited towards these parking standards in Section 7.7.4:H: Driveways Used to Meet Parking Requirements, or parking areas subject to an approved alternative parking plan (see Section 7.7.7: Parking Alternatives), all parking lots shall comply with the following standards:

A: GENERAL

- 1: All required off-street parking spaces shall be located on the same lot as the principal use they serve, except as allowed in Section 7.7.7: Parking Alternatives.
- 2: Required off-street parking shall be maintained for the duration of the principal use and shall not be reduced unless the principal use ceases or changes.
- 3: Except where allowed by this Ordinance, off-street parking spaces shall not be located in any required landscaping or stormwater management area.
- 4: Off-street parking spaces shall not protrude into any street, fire lane, drive aisle, sidewalk, greenway, or pedestrian connection.

B: LOCATION

Off-street parking shall be located in accordance with the following standards:

- 1: Except for off-street parking serving single-family and duplex dwellings and campus style development, off-street parking shall be located to the side or rear of the use being served.

- 2: In campus-style development, parking may be located in an area central to the development and may be located in front of a building provided that an additional building is located between the street and the off-street surface parking lot.
- 3: In no instance shall off-street parking be located within a street, side, or rear yard setback.

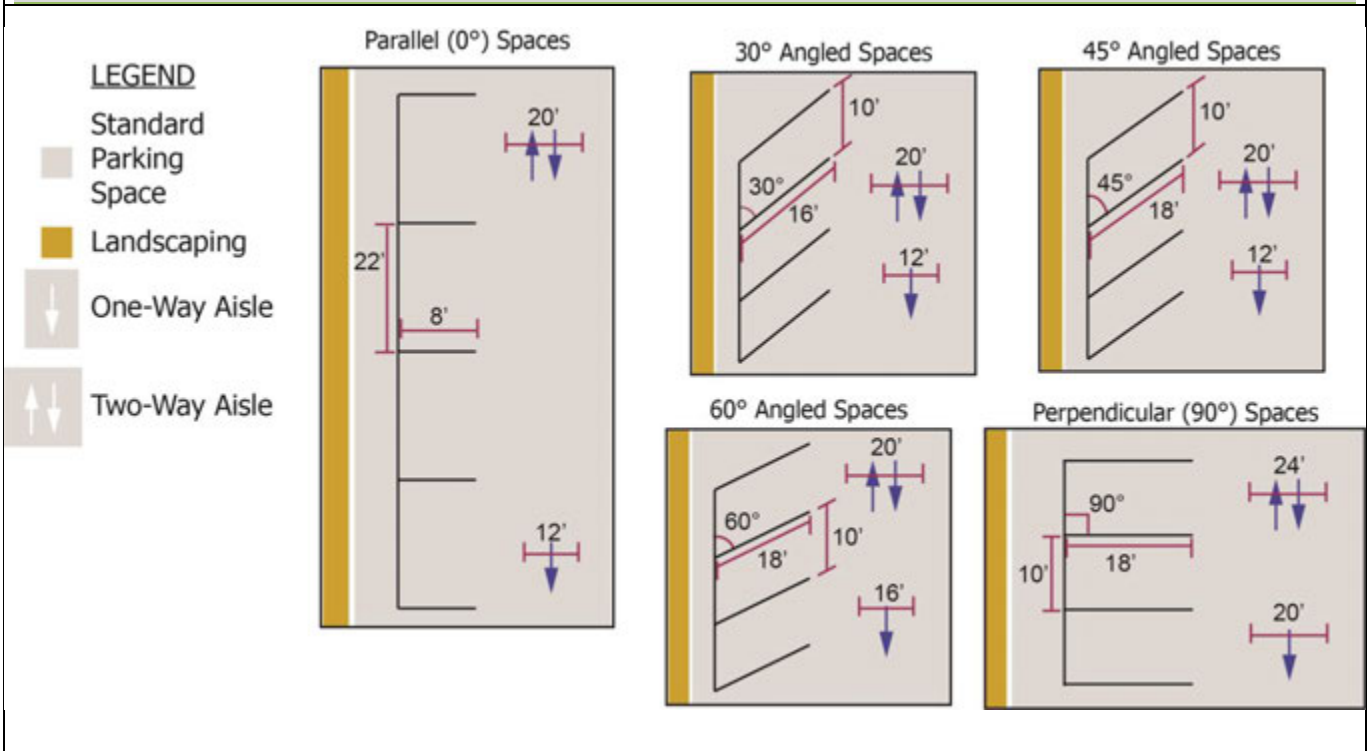
C: DIMENSIONAL STANDARDS FOR PARKING SPACES AND AISLES

Off-street parking spaces and drive aisles serving them shall comply with the minimum dimensional standards established in Table 7.7.5: Parking Dimensional Standards (see Figure 7.7.5: Parking Lot Configuration).

TABLE 7.7.5: PARKING DIMENSIONAL STANDARDS

PARKING ANGLE (DEGREES)	STALL WIDTH (FEET)	CURB LENGTH (FEET)	AISLE WIDTH ONE-WAY (FEET)	AISLE WIDTH TWO-WAY (FEET)	STALL DEPTH (FEET)
STANDARD PARKING SPACE					
0 (parallel)	8	22	12	20	8
30	10	18	12	20	16
45	10	12	12	20	18
60	10	10	16	20	18
90	10	10	20	24	18
ACCESSIBLE PARKING SPACE					
30	16 /1/	24	12	20	16
45	16 /1/	20/8	12	20	18
60	16 /1/	20/10	16	20	18
90	16 /1/	16	20	24	18
NOTES: /1/ Includes access area.					

FIGURE 7.7.5: PARKING LOT CONFIGURATION



D: PARKING SPACE ACCESS

- 1: All off-street parking spaces shall be accessed directly from drive aisles or private driveways and not directly from arterial or collector streets.
- 2: All off-street parking areas shall be designed with an appropriate means of vehicular access to a street or alley in a manner that allows for safe vehicular movements.
- 3: Unless topographic conditions make it impossible, off-street parking areas serving commercial, multi-family, and mixed-use development shall connect to adjacent lots also used by commercial, multi-family, or mixed-use development.

E: VEHICLE BACKING

Vehicular use areas shall be designed so that a vehicle is not required to back onto a street to enter or exit the parking lot, a parking space, or a stacking space.

F: SURFACE MATERIALS

- 1: All off-street parking spaces, accessible parking spaces, drive aisles, and vehicular use areas shall be paved and maintained with concrete, asphalt, or similar material of sufficient thickness and consistency to support anticipated traffic volumes and weights.
- 2: The use of pervious or semi-pervious materials may be approved as part of an alternative parking plan (see Section 7.7.7: Parking Alternatives), provided it is demonstrated that the materials will function in a similar fashion as required materials.
- 3: Configuration of parking lots in accordance with low impact development practices is encouraged.

G: GRADING AND DRAINAGE

- 1: The parking lot shall be graded, properly drained, stabilized, and maintained to minimize dust and erosion.
- 2: Parking lots shall not impound stormwater unless surface impoundment is required as an approved stormwater control measure. However, in no instance shall surface impoundment result in a fewer number of parking spaces than required by Table 7.7.4:l: Minimum Off-Street Parking Requirements.
- 3: Parking lots shall not drain onto or across public sidewalks, or into adjacent property except into a natural watercourse or a drainage easement unless alternative provisions for drainage are proposed and accepted by the Stormwater Administrator.

H: PEDESTRIAN WALKWAYS

Pedestrian walkways between the principal buildings on a development site and a sidewalk or other pedestrian way (like a greenway trail) shall be provided.

I: MARKINGS

All parking spaces and lanes in parking lots shall be clearly delineated with paint lines, curbs, or other treatment.

J: CURBS AND WHEEL STOPS

All off-street parking spaces provided in accordance with Table 7.7.4:l: Minimum Off-Street Parking Requirements, shall have curbs or wheel stops located so that no part of the parked vehicle extends onto or over a sidewalk, walkway of six feet in width or less, adjacent property, or landscape area, whether the vehicular use area is paved or unpaved.

K: SEPARATION FROM FIRE PROTECTION FACILITIES

- 1: No required off-street parking space shall be located within 15 feet of a fire hydrant or other fire protection facility.
- 2: Parking shall not take place within designated fire lanes or other areas demarcated for fire protection.

L: EXTERIOR LIGHTING

- 1: Exterior lighting in parking lots shall be designed to provide illumination of parking lot areas for the purposes of safe vehicle and pedestrian circulation.
- 2: Exterior lighting within a parking lot shall be configured to prevent glare or illumination exceeding maximum allowable levels on adjacent land and shall comply with the standards of Section 7.2: Exterior Lighting, as appropriate.

M: LANDSCAPING

Parking lot landscaping shall be provided in accordance with Section 7.4: Landscaping.

7.7.6: BICYCLE PARKING STANDARDS

Bicycle parking shall be provided in accordance with the following standards:

A: APPLICABILITY

Bicycle parking facilities shall be provided on all new commercial, mixed-use, multi-family, institutional, and industrial use types served by five or more off-street parking spaces for vehicles.

B: RATE OF PROVISION

Bicycle parking spaces shall be provided at a rate of one bicycle parking space for every five off-street parking spaces for automobiles. Nothing shall limit the provision of more bicycle parking spaces than are otherwise required.

C: CONFIGURATION

- 1: Bicycle parking should be accessible to the primary entrances of the development and located in a visible, well-lit area.
- 2: Bicycle parking shall be served by a pedestrian walkway connecting the bicycle parking to the closest primary building entrance.
- 3: Bicycle parking shall be located where it does not interfere with pedestrian traffic and is protected from conflicts with vehicular traffic. In no instance shall bicycles be parked on a sidewalk or within five feet from the edge of the pavement of a street.
- 4: Bicycle parking may be accommodated within street setback areas.
- 5: Bicycles racks or other devices shall be provided to enable bicycles to be secured at two points on the bicycle frame.
- 6: If required bicycle parking is not visible from the street or main building entrance, a sign shall be posted at the main entrance indicating the location of the parking.

D: SHARED BICYCLE PARKING

Any property owner required to have bicycle parking may elect to establish shared bicycle parking with any other property owner within the same block to meet the combined requirements.

7.7.7: PARKING ALTERNATIVES

Development may deviate from the off-street parking requirements in this section through the requirements and procedures in Section 6.3.2: Administrative Adjustment, Section 6.3.20: Variance, or through approval of an alternative parking plan accepted by the Town Manager and configured in accordance with the following:

A: DEVIATION FROM REQUIRED MINIMUM

An applicant may propose a reduced rate of provision for off-street parking less than that specified in Table 7.7.4.I: Minimum Off-Street Parking Requirements, in accordance with a parking study prepared by a professional engineer licensed by the State of North Carolina. The parking study shall document why fewer spaces than required will be adequate while still protecting the public's health, safety, and welfare.

B: PROVISION OVER THE MAXIMUM ALLOWED

An applicant proposing development subject to the standards in Section 7.7.4.C: Off-Street Parking Space Maximum, may propose a total number of off-street parking spaces that exceeds the maximum allowed only through the provision of a parking study prepared by a professional engineer licensed by the State of North Carolina. The parking study shall document why the provision of off-street parking spaces beyond the maximum authorized is necessary for the public's health, safety, or welfare.

C: OFF-SITE PARKING

- 1: Up to 50 percent of off-street parking space requirements may be met by locating required parking in an off-site location, in accordance with the following standards:
- 2: The off-site parking is located within 1,000 feet from the use it serves, as measured from the entrance of the use to the nearest off-site parking space;
- 3: A sidewalk or paved pedestrian walkway is provided to the off-site parking area from the use;
- 4: In cases where the off-site parking is located on land under separate ownership from the use it serves, the off-site parking shall be subject to a written agreement executed by the owners involved and filed with the Town Manager prior to the use of off-site parking facilities. The agreement shall guarantee the long-term availability of the off-site parking in question; and
- 5: Should an off-site parking agreement cease, then the use shall be considered a nonconformity subject to the standards in Chapter 5: Nonconformities, unless the use is brought into compliance with the minimum off-street parking requirements of this section.

D: SHARED PARKING

The required off-street parking for a use may be met with shared use of the required off-street parking spaces of another use, only in accordance with the following standards:

- 1: The amount of shared parking may never be less than 75 percent of the total amount of parking required for all uses.
- 2: The use of shared off-street parking spaces shall be subject to a shared parking agreement executed by the landowners of the uses involved, approved by the Town Manager, and recorded in the Henderson County Register of Deeds;
- 3: The shared parking agreement shall guarantee the long-term availability of the shared parking spaces in question. Nothing shall limit the percentage of required off-street parking spaces that may be provided through a shared parking agreement;
- 4: The shared parking is located within 1,000 feet, as measured from the entrance of the use to the nearest shared parking space;
- 5: A sidewalk or paved pedestrian walkway is provided to the shared parking area from the use;
- 6: The uses served by the shared parking must have different peak parking demands, differences in hours or days of operation, or otherwise operate such that the uses sharing parking have access to the required minimum number of off-street parking spaces when in operation; and
- 7: Should the shared parking agreement cease, then the use(s) formerly served by shared parking shall be considered a nonconformity subject to the standards in Chapter 5: Nonconformities, unless the use(s) is brought into compliance with the minimum off-street parking requirements of this section.

E: ALTERNATIVE SURFACING

The use of pervious or semi-pervious parking area surfacing materials—including, but not limited to, “grass-crete,” “turfstone,” cellular reinforced paving systems, porous concrete, or recycled materials such as rubber, recycled asphalt, or composite pavers—may be proposed for required off-street parking spaces, drive aisles, or vehicular surface areas on a site, provided such areas are properly maintained and demarcate the location of off-street parking spaces. Where possible, such materials should only be used in areas proximate to and in combination with on-site stormwater control measures or tree protection measures.

7.7.8: OFF-STREET LOADING AND UNLOADING SPACE**A: LOADING FACILITIES REQUIRED**

Every application for a non-residential use shall ensure that adequate off-street loading facilities are provided so that loading vehicles do not occupy required off-street parking spaces, block vehicular access, or prevent appropriate on-site maneuvering.

B: MINIMUM OFF-STREET LOADING SPACE REQUIREMENTS

- 1: Except for buildings of 20,000 square feet or more, a minimum number of off-street loading spaces is not established; however, if off-street loading spaces are provided, they shall be provided and maintained in sufficient numbers to adequately handle the needs of a non-residential use.
- 2: One loading space shall be required for each 20,000 square feet of gross floor area.
- 3: Failure to provide or maintain off-street loading spaces when they are necessary to serve the development is a violation of this Ordinance.
- 4: In no instance shall an off-street loading space occupy a required off-street parking space or interrupt the safe operation of vehicles or circulation of pedestrian or bicycles on or off-site.
- 5: Each off-street loading space shall be designed with an appropriate means of vehicular access to a street or alley in a manner that will least interfere with traffic circulation.

C: LOCATION

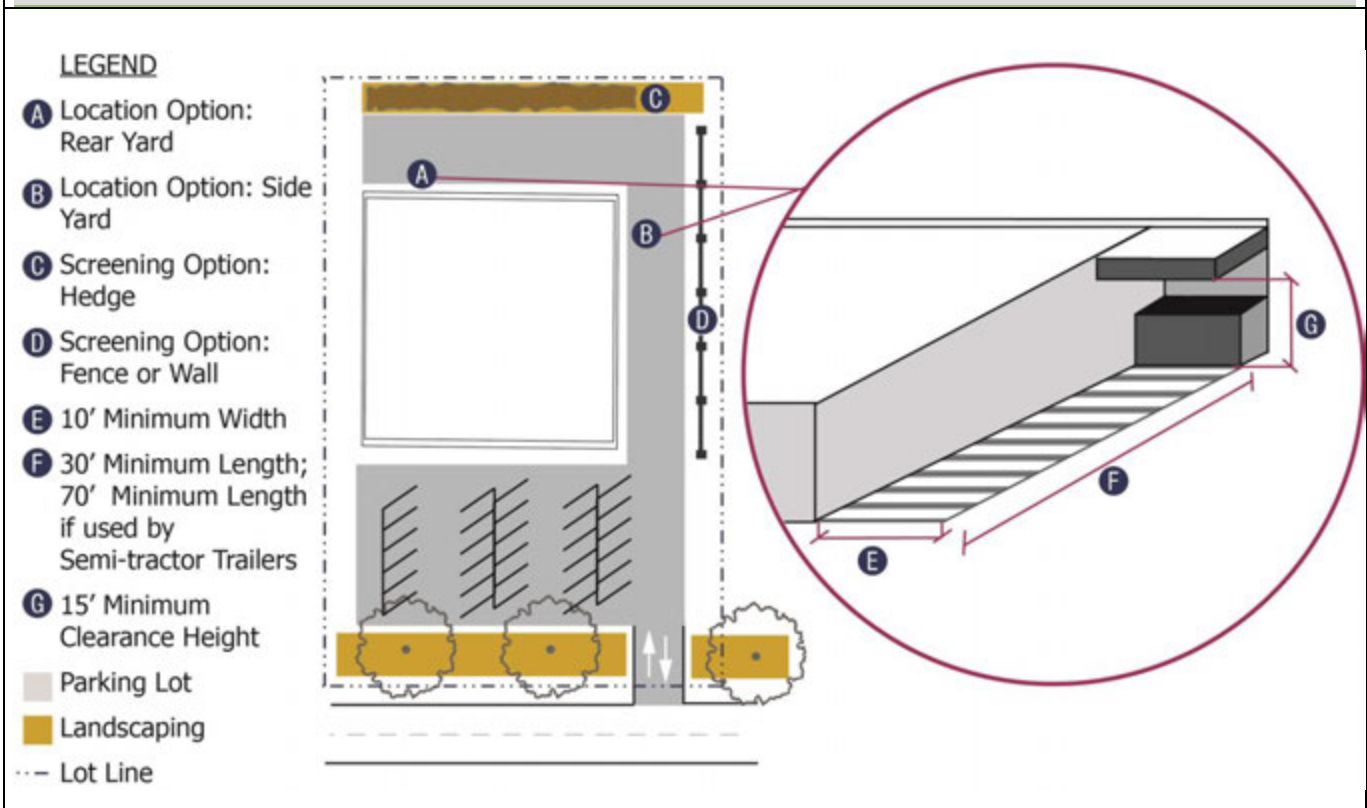
- 1: No off-street loading space shall be located within a required setback or within 30 feet of a street intersection.
- 2: All loading areas and loading docks shall be located to the side or rear of a building.
- 3: Loading docks shall not be visible from public streets.
- 4: All loading areas and loading docks shall be set back at least 25 feet from lot lines shared with residential districts.

D: DIMENSIONAL STANDARDS FOR LOADING SPACES

When off-street loading spaces are provided, they shall comply with the following minimum requirements (see Figure 7.7.8: Loading Space Configuration):

- 1: Except for loading spaces used by semi-tractor trailers, off-street loading spaces shall be at least 10 feet wide and at least 30 feet deep;
- 2: Off-street loading spaces used by semi-tractor trailers shall be at least 70 feet deep;
- 3: Overhead clearance for an off-street loading space shall be at least 15 feet; and
- 4: Off-street loading spaces shall be designed so that no backing onto or from a public street is necessary.

FIGURE 7.7.8: LOADING SPACE CONFIGURATION



7.8: SIGNAGE

7.8.1: PURPOSE AND INTENT

This section provides guidance and standards for signage across the Town's planning jurisdiction. The erection and maintenance of signs is controlled and regulated in order to promote the health, safety, welfare, convenience, and enjoyment of travel on streets and sidewalks. These provisions are also intended to balance between the promotion of beneficial commerce, protection of free speech, and the protection of community character. More specifically, these standards are intended to:

- A:** Promote traffic safety;
- B:** Avoid interference with protected free speech;
- C:** Regulate the content of signs to the least extent possible and only when absolutely necessary to protect public health and safety;
- D:** Regulate off-premise signage in accordance with State law and federal jurisprudence;
- E:** Ensure that any content-based signage standards serve a compelling public purpose and are as narrowly-tailored as possible;
- F:** Promote economic development and beneficial commerce;
- G:** Ensure residents and visitors can locate desired goods, services, and destinations;
- H:** Avoid conflicts between advertising and public safety signage;
- I:** Reflect the aesthetic character and design quality anticipated in the Town's adopted policy guidance; and
- J:** Minimize any detrimental effects of signage on adjacent properties.

7.8.2: APPLICABILITY

Except for the sign types exempted from these standards identified in [Section 7.8.3: Exclusions](#), all signs shall be constructed, erected, affixed, placed, posted, painted, repainted, hung, or otherwise established only in accordance with the standards in this section.

7.8.3: EXCLUSIONS

The following forms of signage shall not be subject to these signage standards but may be subject to other applicable standards in this Ordinance, such as the requirement to obtain a building permit. Applicants shall be responsible for securing all required permits prior to erecting or modifying any of the following forms of excluded signage:

- A:** Fence-wrap signs affixed to fences surrounding a construction site in accordance with the standards in Section 160D-908 of the North Carolina General Statutes;
- B:** Legal notices required by governmental bodies, public utilities, or civic associations;
- C:** Governmental signage, including flags, street signs, traffic warning signs, and other signage provided solely by governmental agencies for public health and safety;
- D:** Building cornerstones, historical plaques, or grave markers;
- E:** Signage associated with public transit stops;
- F:** Holiday displays on lots within all zoning districts;
- G:** Historic markers;
- H:** Signage that is not visible from any off-site areas (e.g., entirely enclosed by opaque walls that prevent the visibility of signage from any off-site areas); and
- I:** Signage associated with off-street parking spaces or the prohibition of parking in certain locations like fire lanes, bus lanes, or loading zones.

7.8.4: PROHIBITED SIGN TYPES

The following signs, sign construction, and displays are prohibited throughout the Town's jurisdiction:

- A:** Outdoor advertising, except for outdoor advertising lawfully established prior to August 18, 2021, which may be permitted to continue as a nonconforming use only in accordance with Chapter 5, Nonconformities, and Section 160D-912 of the North Carolina General Statutes;
- B:** Feather flags, bow signs, pennants, and streamers;
- C:** Moving signs, excluding flags, banners, and clocks;
- D:** Flashing, scrolling, twirling, or blinking signs;
- E:** Gas- or air-filled balloons, figures, and other inflatable signs;
- F:** Signs on the roof or above the parapet of a building;
- G:** Any sign which the Town Manager determines obstructs the view of bicyclists, pedestrians, or motorists using any street, approach to any street intersection, sidewalk, public trail, or which interferes with the effectiveness of or obscures any traffic sign, device, or signal;
- H:** Signs, lights, rotating features, words, and other devices, which resemble or may be erroneously construed as traffic signals, traffic signs, or emergency vehicle lights;
- I:** Illuminated or highly reflective signs that law enforcement determines hampers the vision of motorists, pedestrians, or bicyclists;
- J:** Any sign which interferes with free passage from or obstructs any fire escape, downspout, door, stairway, ladder, or opening intended as a means of ingress or egress;
- K:** Any sign placed on a utility pole, street signpost, traffic signal support, hydrant, bridge, tree, aspect of public infrastructure, or street paving that is not installed or approved by an appropriate governmental agency;
- L:** Signage affixed to a stationary motor vehicle, boat, or trailer that remains in the same or essentially the same location for more than 30 days;
- M:** Signs with speakers intended for audio playback; and
- N:** Use of vinyl or fabric material over or around a cabinet sign frame.

7.8.5: NONCONFORMING SIGNS

Nonconforming signage shall be subject to the standards in Section 5.5: Nonconforming Signs.

7.8.6: GENERAL REQUIREMENTS FOR ALL SIGNAGE

A: PERMIT REQUIRED

Unless prohibited in accordance with Section 7.8.4: Prohibited Sign Types, or exempted from these standards in accordance with Section 7.8.3: Exclusions, all signage shall obtain approval of a zoning compliance permit (see Section 6.3.22: Zoning Compliance Permit) prior to establishment or modification.

B: LOCATION AND PLACEMENT

All signs shall conform to these standards:

- 1:** Permitted signs shall be located outside of the street right-of-way, behind sidewalk areas and outside of required sight distance triangles, except where encroachments are specifically permitted by the provisions of this Ordinance.
- 2:** All attached signs shall be mounted and attached to buildings in a secure manner and shall be maintained in good repair for safety and appearance.
- 3:** No person other than persons authorized by the Town shall damage, trim, destroy, or remove trees, shrubs, or other vegetation located within the public right-of-way of any street or road for the purpose of placing a sign or increasing or enhancing the visibility of a sign; nor shall such work be performed on property that is not under the ownership or control of the person performing or responsible for such work, unless done pursuant to the express authorization of the person owning the property where such trees or shrubs are located.

C: MATERIAL AND STRUCTURAL REQUIREMENTS

All signs shall conform to these standards:

- 1: All signs, except those protected by glass or other transparent cover, shall be constructed of materials that are permanent in nature and that will not rapidly deteriorate, fade, fall apart, or in any way become a hazard to the public health, safety, and general welfare.
- 2: All permanently installed signs shall be able to resist normal loads from positive and negative wind pressure, snow, and other conditions as required by the State Building Code.
- 3: The Town Manager may require sign load calculations and attachment design from a professional engineer licensed by the State and require the same engineer to certify the sign's installation in accordance with all applicable specifications.

D: SIGN ILLUMINATION

Signs may be externally or internally lit in full compliance with all applicable lighting standards in this Ordinance and the State building code. The following forms of illumination shall be prohibited:

- 1: Neon signage, excluding "Open" signs;
- 2: Flashing or intermittent illumination; and
- 3: No indirect or internally illuminated sign shall have only partial illumination for a period of more than 30 successive days.

E: SIGN MAINTENANCE

- 1: All signs shall be kept free from defective or missing parts or peeling paint.
- 2: The Town Manager may require the painting, repair, or alteration of a sign, at the owner's expense, if such sign constitutes a hazard to the public health, safety, or general welfare by reason of inadequate maintenance, dilapidation, or obsolescence.
- 3: Written notice of such repair shall be given to the owner in accordance with the procedures in [Chapter 9: Violations](#).

F: INSPECTIONS

- 1: All signs for which a permit is required shall be subject to inspection by the Town.
- 2: The Town Manager or a designee shall be authorized to enter at all reasonable times upon any property or premises to ascertain whether the provisions of this Ordinance are being obeyed.

G: DAMAGED SIGNS PROHIBITED

1: SURFACE APPEARANCE

No sign shall have more than 20 percent of its surface area covered with disfigured, cracked, ripped, or peeling paint or poster paper for a period of more than 30 consecutive days.

2: BROKEN DISPLAYS

No sign shall remain with a bent or broken display area, broken supports, loose appendages or struts or stand more than 15 degrees from the perpendicular for a period of more than 30 consecutive days.

3: DESTROYED AND DAMAGED SIGNS

- a: Signs established prior to August 18, 2021, that are either damaged beyond repair or destroyed shall be replaced within 60 days of being damaged or destroyed.
- b: The replacement sign shall be built to the same or smaller size and specifications as the damaged or destroyed sign.

H: SIGN REMOVAL

The following signs may be removed by the Town:

1: SUBSTANDARD SIGNS

The owners of any sign judged to be substandard by a Henderson County Building Inspector shall be notified in writing and shall have 30 days in which to make repairs. Failure to comply with such notification within 30 days is a violation of this Ordinance and the Town may remove such sign at the expense of the owner or lessee thereof plus administrative fees.

2: SIGNS ON PUBLIC PROPERTY

Any non-governmental sign installed or placed on public property or within a public right-of-way is subject to confiscation and disposal. The Town shall have the right to recover the full costs of removal and disposal from the person placing such a sign.

3: ILLEGAL TEMPORARY SIGNS

Any illegal temporary is subject to confiscation and disposal. The Town shall have the right to recover the full costs of removal and disposal from the person placing such a temporary sign.

CHAPTER 7: STANDARDS

SECTION 7.8: SIGNAGE

7.8.7: SIGNAGE STANDARDS

Signs shall comply with the locational and dimensional requirements in Table 7.8.8: Signage Standards:





TABLE 7.8.7: SIGNAGE STANDARDS

SIGN TYPE	ZONING DISTRICTS /1/			REQUIREMENTS				
	R-20 / R-30	OI, MM, & I-1	TC	MAX. NUMBER PER SITE	MAX. SIZE	MAX. COPY HEIGHT (INCHES)	MAX. SIGN HEIGHT (FEET)	
PRIMARY PROJECT SIGNAGE								
Wall Signs	Flat Signs	X	P	P	1/tenant	5% of the façade area	OI & TC – 18 MM & I-1 – 24	15
	Channel Letters	X	P	P	1/tenant		OI & TC – 18 MM & I-1 – 24	15
	Three-Dimensional Signs	X	P	P	1/tenant		OI & TC – 18 MM & I-1 – 24	15
	Box Signs /2/	X	P	P	1/tenant		OI & TC – 18 MM& I-1 – 24	15
								
Parapet Signs /3/	X	S	X	1/tenant	10% of the façade area	36	Top of wall	
								
Marquee Signs /3/	With Changeable Type /4/	X	S	S	1/development	20% of the façade area	5	Top of wall

CHAPTER 7: STANDARDS

SECTION 7.8: SIGNAGE





TABLE 7.8.7: SIGNAGE STANDARDS

SIGN TYPE		ZONING DISTRICTS /1/			REQUIREMENTS			
		R-20 / R-30	OI, MM, & I-1	TC	MAX. NUMBER PER SITE	MAX. SIZE	MAX. COPY HEIGHT (INCHES)	MAX. SIGN HEIGHT (FEET)
	With Electronic Display /4/	X	S	S				
	Non-Changing Type	X	S	S	1/development	10% of façade area	24"	Top of Wall
								
Awning Signs /5/		X	P	P	1/tenant	5% of the façade area	OI & TC – 18 MM & I-1 – 24	15
								
SECONDARY PROJECT SIGNAGE								
Projecting/Suspended Signs /6/		X	P	P	1/tenant	3 sf total	18	12

CHAPTER 7: STANDARDS

SECTION 7.8: SIGNAGE





TABLE 7.8.7: SIGNAGE STANDARDS

SIGN TYPE	ZONING DISTRICTS /1/			REQUIREMENTS				
	R-20 / R-30	OI, MM, & I-1	TC	MAX. NUMBER PER SITE	MAX. SIZE	MAX. COPY HEIGHT (INCHES)	MAX. SIGN HEIGHT (FEET)	
								
Electronic Display Signs	Static Display	X	S	S	1/ development	3 sf total	12	12
	Moving Display	X	X	X		N/A	N/A	N/A
								
Window/ Door Signs	Painted	X	P	P	1 per window or door	10% of window area	OI & TC - 4 MM & I-1 - 6	N/A
	Promotion Signs /7/	X	P	P	1 per tenant	25% of window area	12	N/A

CHAPTER 7: STANDARDS

SECTION 7.8: SIGNAGE




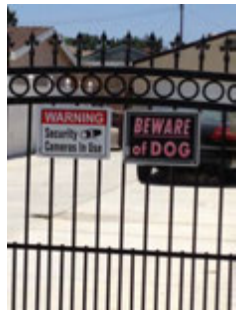


TABLE 7.8.7: SIGNAGE STANDARDS

SIGN TYPE		ZONING DISTRICTS /1/			REQUIREMENTS			
		R-20 / R-30	OI, MM, & I-1	TC	MAX. NUMBER PER SITE	MAX. SIZE	MAX. COPY HEIGHT (INCHES)	MAX. SIGN HEIGHT (FEET)
								
FREESTANDING SIGNS								
Monument Signs	Single Tenant	X	P	X	/9/	40 sf total	4	6
	Multiple Tenant	X	P	P	/9/	48 sf total	6	8
								
Pylon Signs /8/	Single Tenant	X	X	X	/9/	160 sf total	16	22
	Multiple Tenant	X	P	P	/9/		16 total	22

CHAPTER 7: STANDARDS

SECTION 7.8: SIGNAGE

TABLE 7.8.7: SIGNAGE STANDARDS

SIGN TYPE	ZONING DISTRICTS /1/			REQUIREMENTS			
	R-20 / R-30	OI, MM, & I-1	TC	MAX. NUMBER PER SITE	MAX. SIZE	MAX. COPY HEIGHT (INCHES)	MAX. SIGN HEIGHT (FEET)
							
Canopy Signs	X	S	X	1 per road frontage	10 sf total	3	Top of canopy
							
Construction Signs /10/	P	P	P	1 per road frontage	32 sf total	6	6
							
Portable A-Frame Signs	X	S	P	1 per tenant	6 sf total	3	4

CHAPTER 7: STANDARDS

SECTION 7.8: SIGNAGE

TABLE 7.8.7: SIGNAGE STANDARDS




SIGN TYPE	ZONING DISTRICTS /1/			REQUIREMENTS			
	R-20 / R-30	OI, MM, & I-1	TC	MAX. NUMBER PER SITE	MAX. SIZE	MAX. COPY HEIGHT (INCHES)	MAX. SIGN HEIGHT (FEET)
							
	P	X	X	1 per entrance	12 sf total	6	8
Subdivision Signs /11/							

TABLE 7.8.7: SIGNAGE STANDARDS

SIGN TYPE	ZONING DISTRICTS /1/			REQUIREMENTS			
	R-20 / R-30	OI, MM, & I-1	TC	MAX. NUMBER PER SITE	MAX. SIZE	MAX. COPY HEIGHT (INCHES)	MAX. SIGN HEIGHT (FEET)

NOTES:

- /1/ P = Permitted, S = Special Use, X = Prohibited.
- /2/ Box signs shall be opaque black or dark gray with the exceptions of the sign lettering which may be internally illuminated.
- /3/ Applicant must show a specific need for this type of signage and how the design will be compatible with the architectural design of the structure.
- /4/ Changeable or electronic display must be static and can change content only once per hour or less frequently than once per hour.
- /5/ Canopy must be monochromatic and may cover the entire storefront area of the building.
- /6/ Sign shall project perpendicular to the building for pedestrian viewing and will not project more than 3 feet from the façade and provide at least 9 feet of clearance from the sidewalk.
- /7/ Promotion signs may be painted or paper and shall not be located on the building exterior. The sign can be installed for up to a 7-day period per month.
- /8/ Pylon signs are only allowed on commercial centers with more than 5 tenants which have limited sight lines to the adjacent streets.
- /9/ In no instance shall a development have more than one freestanding sign.
- /10/ Must be removed after construction.
- /11/ Subdivision lot sale signs meeting these standards may be replaced by a permanent subdivision sign after 50 percent of the lots are sold.

7.8.8: TEMPORARY SIGNS

Temporary signage is permitted on a lot or site in accordance with the following standards:

- A:** Up to one temporary sign shall be permitted on a lot or development site.
- B:** A temporary sign may have a maximum sign face area of four square feet per side.
- C:** In no instance shall a temporary sign be located within a right-of-way or have a height exceeding four feet above the grade at the base of the sign.
- D:** Temporary signs shall not be located within required sight distance triangles, but are permitted within required landscaping areas, provided they do not impact the performance objectives of required landscaping.
- E:** Temporary signs shall not be internally or externally illuminated.
- F:** There shall be no maximum duration for the placement of a temporary sign, and nothing shall prohibit the replacement of one temporary sign with another temporary sign.

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8.1: INTRODUCTORY PROVISIONS

8.1.1: PURPOSE AND INTENT

The purpose of this section is to establish standards for the subdivision of land and extension of public infrastructure in the Town's planning jurisdiction. More specifically, this section is intended to:

- A:** Provide for the orderly growth and development of the Town;
- B:** Maintain conditions essential to the public's health, safety, and welfare;
- C:** Facilitate the further re-subdivision of larger tracts into smaller parcels of lands and individual lots, where appropriate;
- D:** Coordinate the provision of streets and public infrastructure within and contiguous to proposed subdivisions;
- E:** Provide for the dedication or reservation of rights-of-way, and easements, in accordance with the Town's adopted policy guidance; and
- F:** Ensure lots and public infrastructure are configured in ways that ensure public safety, easy maintenance, and good planning practice.

8.1.2: APPLICABILITY

- A:** Unless exempted in accordance with Section 8.1.3: Exemptions, any division of land consistent with the definition of a subdivision in Section 10.3: Definitions, that is located within the Town's jurisdiction shall comply with the requirements of this section.
- B:** With the exception of the standards in Section 8.2: Subdivision Design Standards, and Section 8.8: Dedication of Public Land, the standards in this Chapter shall also apply to development associated with a site plan (see Section 6.3.16: Site Plan).

8.1.3: EXEMPTIONS

The following divisions of land shall be exempt from these subdivision standards:

- A:** Subdivisions exempted in accordance with Section 160D-802 of the North Carolina General Statutes;
- B:** Expedited subdivisions configured in accordance with Section 6.3.8: Expedited Subdivision; and
- C:** Court-ordered subdivisions that comply with Chapter 29 of the North Carolina General Statutes.

8.1.4: COMPLIANCE WITH OTHER STANDARDS

Subdivision subject to these standards in accordance with Section 8.1.2: Applicability, shall comply with the standards in this chapter as well as the applicable standards in:

- A:** Chapter 2: Districts;
- B:** Chapter 3: Environment;
- C:** Chapter 4: Land Uses; and
- D:** Chapter 7: Standards.

8.1.5: APPROVAL OF SUBDIVISION PLATS REQUIRED

No subdivision of land within the Town's planning jurisdiction, as defined in Section 10.3: Definitions, shall occur, and no lot or parcel created by such division of land may be sold or developed unless the division complies with the standards of this Chapter as well as the applicable standards in Chapter 6: Procedures.

8.1.6: RECORDATION OF SUBDIVISION PLATS REQUIRED

- A:** Subdivisions of land subject to these standards shall be recorded in the office of the Register of Deeds for Henderson County following approval of the plat by the Town.
- B:** The owner of land or an authorized agent shall sign a statement on the plat prior to recordation that states whether or not all the land shown on the plat is within the Town's planning jurisdiction.

- C:** No subdivision plat of land within the Town’s planning jurisdiction that is subject to these standards shall be filed or recorded until it has been approved by the Town in accordance with **Section 6.3.8: Expedited Subdivision**, **Section 6.3.14: Preliminary Plat**, or **Section 6.3.10: Final Plat**, as appropriate.
- D:** The Henderson County Register of Deeds shall not file or record a subdivision plat for land located within the Town’s planning jurisdiction without evidence that the division has been approved by the Town or is not subject to this Ordinance.

8.1.7: PROVISION OF SERVICES AND ACCEPTANCE BY THE TOWN

No street shall be maintained or accepted by the Town, nor shall any water or sewer service be extended to or connected with any subdivision of land, nor shall any permit be issued by the Town Manager for the construction of any building or other improvement requiring a permit, upon any land for which a plat is required to be approved, unless and until the requirements set forth in this Chapter and all other applicable requirements have been complied with.

8.1.8: SUBDIVIDING IN VIOLATION

- A:** Any owner of land (or their agent) who subdivides land in the Town’s planning jurisdiction, or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this Ordinance and recorded in the office of the Register of Deeds for Henderson County shall be guilty of a Class I misdemeanor in accordance with Section 160D-807 of the North Carolina General Statutes.
- B:** When required, the selling or transferring of land subject to these subdivision standards by any document other than a plat prepared subject to this Ordinance is a Class I misdemeanor in accordance with Section 160D-807 of the North Carolina General Statutes.
- C:** The Town may enjoin any illegal subdivision, transfer, or sale of land by action for injunction in accordance with **Chapter 9: Violations**.

8.2: SUBDIVISION DESIGN STANDARDS

8.2.1: PURPOSE AND INTENT

This section sets out the basic configuration standards for subdivisions, including lot shapes, monuments, access to lots, easements for infrastructure, and related provisions.

8.2.2: LAND SUITABILITY

- A:** Where land to be subdivided is found by the Town to be subject to the conditions of flooding, improper drainage, steep or very steep slopes, severe erosion, landslides, or to have other characteristics which pose an ascertainable danger to health, safety, or property, the subdivider shall take measures necessary to correct said conditions and to eliminate said dangers.
- B:** In making such determinations, the Town may take any of the following into consideration:
- 1:** The Official Federal Emergency Management Agency Flood Boundary and Floodway Maps and Flood Insurance Rate Maps for Henderson County;
 - 2:** The Henderson County Soil Survey;
 - 3:** Recommendations from the Tennessee Valley Authority;
 - 4:** Information from the USDA Soil Conservation Service; and
 - 5:** The Henderson County Health Department.
- C:** In cases where a review authority makes findings pursuant to this section, the basis for such findings shall be in writing and recorded in a staff report, meeting minutes, or the written decision, as appropriate.
- D:** The Town shall not approve a subdivision of land if, from these investigations, it is determined that the land is not suitable for platting and development for the purposes and intensity proposed.
- E:** Areas that have been used for disposal of solid waste shall not be subdivided unless tests by the Henderson County Health Department, a structural engineer, and a soils expert determine that the land is suitable for the purposes proposed.

8.2.3: REASONABLE RELATIONSHIP

All required improvements, easements, and rights-of-way (other than required reservations) shall substantially benefit the development or bear a reasonable relationship to the need for public facilities attributable to the new development.

8.2.4: LOT CONFIGURATION

A: DIMENSIONAL REQUIREMENTS

- 1:** The size, width, depth, shape, orientation, and minimum setback lines of lots shall be as required for the zoning district where located in accordance with the standards in [Chapter 2: Districts](#).
- 2:** All lots created after August 18, 2021, shall have sufficient area, dimensions, and access to allow a principal building to be erected on it in compliance with the requirements of this Ordinance.
- 3:** Lots intended for non-residential development shall be of an adequate size and shape to accommodate required off-street parking, loading, screening, landscaping, and on-site circulation features.

B: LOT LINES

- 1:** Side lines of lots should be at or near right angles or radial to street lines.
- 2:** Where side lot lines intersect at the rear of the lot, the angle of intersection shall not be less than 60 degrees.

C: FLAG LOTS

- 1:** Except where topographic conditions or environmental constraints make lot access impractical, no more than two new flag lots may be created from a parent parcel.

- 2: Flag lots may be permitted as a more reasonably suitable alternative to extending a road or a more conventional lot design when justified by topographic and natural features.
- 3: New flag lots may be established along an expressway or boulevard street only in cases where access to the street is shared with an adjacent lot.
- 4: The "pole," arm," or "pan handle" portion of a flag lot shall maintain a minimum width of at least 30 feet.
- 5: Use of a single driveway to serve an adjoining flag lot or to serve a flag lot and an adjoining conventional lot is encouraged. In the case of a driveway shared with a conventional lot, the preferred location for the driveway is on the flagpole portion of the flag lot, with the conventional lot granted an access easement over the flagpole.

D: DOUBLE AND REVERSE FRONTAGE LOTS

- 1: Double frontage (or "through" lots) shall be prohibited except where essential to provide separation of residential development from traffic arteries or to overcome specific challenges of topography and orientation.
- 2: In cases where a double frontage lot abuts a thoroughfare or boulevard street, access to the lot shall be provided from the street with the lowest average daily trips. This requirement may be waived by the Town Manager in cases where compliance with this standard will likely result in dramatic increases in traffic within residential areas.
- 3: A double frontage lot shall include an easement of at least ten feet in width across the rear of the lot which shall prohibit access to the abutting street.

E: CORNER LOTS

Corner lots shall be of sufficient size to ensure development may be configured in accordance with the standards in [Section 8.3.11: Sight Distance Triangles](#).

F: LOTS SERVED BY PRIVATE WATER OR WASTEWATER SYSTEMS

The Henderson County Health Department shall evaluate proposed or existing wastewater facilities on lots that are not served by public water and/or wastewater systems in accordance with the following:

- 1: New subdivision lots without existing wastewater systems shall be evaluated by current State and County health department regulations; and
- 2: New subdivision lots with existing wastewater systems shall be evaluated for visual malfunctioning by the appropriate County health department. Malfunctioning systems shall be repaired prior to subdivision plat approval. New property lines shall meet current minimum setback requirements or an easement for the sewer facilities must be shown on the plat.

G: LOTS SERVED BY PRIVATE WATER OR WASTEWATER SYSTEMS IN THE WPO DISTRICT

Lots in watershed areas that must have an individual (on-site) water supply and wastewater disposal system shall be evaluated under current State and County health department regulations or other requirements governing the protection of public water supplies.

H: DRAINAGE AND FLOOD PREVENTION

New subdivisions shall comply with the applicable requirements for drainage in [Section 3.2: Soil Erosion and Sedimentation Control](#), stormwater management in [Section 3.3: Stormwater](#), flood prevention in [Chapter 152 of the Town's Code of Ordinances](#), and any applicable steep slope or geologic hazard standards in [Section 3.1: Sites with Slopes or Geologic Hazards](#).

8.2.5: ACCESS TO LOTS**A: EVERY LOT MUST MAINTAIN ACCESS****1: GENERALLY**

Except for lots within bona fide farms, exempt subdivisions, or in accordance with Section 8.2.5:A:2: Street Access Exemptions, all lots intended to contain a building or structure shall abut a street designed, built, and maintained to Town or State standards, as applicable.

2: STREET ACCESS EXEMPTIONS

- a:** Lots in any of the following forms of development are not required to be served by a street meeting Town or State standards (see Figure 8.2.5: Access to Lots):
 - i:** Up to three lots in an expedited subdivision; or
 - ii:** Up to three lots without roadway frontage that are served by a single, shared accessway.
- b:** Any lots not required to abut a street designed, built, and maintained to Town or State standards shall maintain an access with a minimum width of 45 feet that is adequately maintained to afford a reasonable means of ingress and egress for emergency vehicles.
- c:** Accessways provided in accordance with this sub-section that serve or that are located on two or more lots shall: **(AMENDED 11-16-21 UDOTA1-21)**
 - i:** Be located entirely within an access easement that is in favor of the lots it provides access to;
 - ii:** Meet the minimum width requirements;
 - iii:** Be indicated on all plats; and
 - iv:** Be recorded in the Office of the Register of Deeds for Henderson County prior to occupancy.

B: ACCESS SERVING MORE THAN THREE LOTS

Accessways serving more than three lots outside a bona fide farm or exempt subdivision shall be designed, built, and maintained to public street standards.

C: MARGINAL ACCESS STREETS

- 1:** Where a tract of land to be subdivided adjoins an expressway or boulevard street, the subdivider may be required to provide a marginal access street parallel to the expressway or boulevard street or reverse frontage where access is obtained solely by a different street for the lots to be developed adjacent to the expressway or boulevard street.
- 2:** Where reverse frontage is established, private driveways shall not have direct access to the expressway or boulevard street, and a 25-foot-wide non-access buffer zone on the side of the lot abutting the expressway or boulevard street shall be provided.

FIGURE 8.2.5: ACCESS TO LOTS



D: DRIVEWAY CULVERTS OR PIPES

Driveways proposed along streets that do not include curb and gutter shall include driveway pipes or culverts with a minimum inside diameter of 15 inches configured in accordance with the standards in 19A NCAC 02D .0421 or in accordance with other applicable NCDOT standards, if applicable. Culverts or driveway pipes shall ensure conveyance of stormwater. **(AMENDED 8-15-22 UDOTA 1-23)**

8.2.6: MONUMENTS

Monuments shall be included as part of any subdivision, and shall be configured in accordance with *The Standards of Practice for Land Surveying in North Carolina*, as adopted by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, and the following:

- A:** Prior to the approval of the final plat, permanent reference points shall have been established in accordance with the standards in this section.
- B:** At least one corner of the subdivision shall be designated by course and distance (tie) from a readily discernible reference marker.
- C:** If a corner is within 2,000 feet of a U.S. Geodetic Survey or NC Grid System coordinated monument, then this corner shall be marked with a monument so designated by computed X and Y coordinates which shall appear on the map with a statement identifying this monument to an accuracy of at least one to 10,000.
- D:** When a monument is not available, the tie shall be made to some pertinent and readily recognizable landmark or identifiable point, physical object, or structure. However, if in the opinion of the Town Manager, a subdivision is of a small size, or if there is an existing tie within a reasonable distance of the subdivision, this shall not be required.
- E:** Within each subdivision, at least two monuments designed and designated as control corners shall be installed. The surveyor shall employ additional monuments, if required.
- F:** The location and type of all monuments used shall be indicated on the final plat.
- G:** All monuments shall be constructed of #4 rebar surrounded by three-inch PVC pipe and filled with concrete.
- H:** Each monument shall be set 24 inches in the ground unless this requirement is impractical because of unusual conditions.

- I: The allowable angular error of closure and the linear error of closure for surveys shall be in accordance with Standards of Practice for Land Surveying published by the State Board of Registration for Land Surveyors.

8.2.7: EASEMENTS

Easements for drainage or utilities may be required where necessary, and shall be provided in accordance with the following (see Figure 8.2.7: Easement Configuration):

A: LOCATIONS

- 1: Easements shall center along or be adjacent to a common property line where practicable.
- 2: Redesign of the lot arrangements may be required to meet extreme conditions.
- 3: Easements for water and sewer service within a subdivision shall be extended to any lot line shared with vacant land unless the vacant land cannot be served by public water or sewer service due to topographic constraints, public ownership, or other limiting factors as determined under the sole discretion of the Town Manager.

B: UTILITIES

1: POWER OR COMMUNICATIONS

Where alleys are not provided, easements (of not less than ten feet in width) shall be provided adjacent to public rights-of-way or in such other locations as may be directed by the Town Manager for poles, wires, or conduits for electrical utilities, natural gas service, or telephone services.

2: POTABLE WATER

Easements shall be provided for public potable water supply systems in locations as may be directed by the Town Manager for water distribution lines, water meters, and access points.

3: SANITARY SEWER

Easements shall be provided for public sanitary sewer systems in locations as may be directed by the Town Manager for sewer collection lines and access points.

C: DRAINAGE

- 1: Provision of drainage facilities to maintain the established flow of off-site water through any property to be subdivided shall be the responsibility of the subdivider.
- 2: No subdivision shall block or obstruct the natural drainage of an adjoining area.
- 3: Easements, when required for drainage of the area to be subdivided, shall be of such width as is necessary to permit proper construction and maintenance of the drainage facilities required to drain the area properly.
- 4: Open channel drainage easements shall be of a minimum width of 10 feet.
- 5: Drainage easements containing piped stormwater facilities shall be at least 20 feet in width.
- 6: Easements of greater width may be required along the lines of or across lots where necessary for storm drainage, channels, surface overflow or for the extension of main sewers or similar utilities and when necessary for adequate separation of specific utilities.
- 7: Existing natural drainage shall be retained or adequately relocated.

D: EASEMENT UPSIZING

The Town Manager may increase the minimum required easement widths for potable water sanitary sewer, drainage, or other utility services based on topographic conditions, environmental considerations, the size of the line, the required depth of the line, or the need to remain clear of other utilities.

E: MAINTENANCE

- 1: All easements for drainage or utilities shall be cleared of undergrowth, trees, and other obstructions prior to approval of the final plat unless the Town Manager certifies in writing that such clearance is unnecessary.
- 2: Clearance is not required for easements that are provided for possible future use.
- 3: Easements for stormwater management facilities and stormwater drainage systems located outside the street right-of-way shall be maintained by an owner’s association, and maintenance responsibility for these features shall be indicated on the final plat.

F: IDENTIFICATION

All easements shall be granted in favor of the Town of Laurel Park, the State of North Carolina, the appropriate utility provider, an owners’ association, as appropriate, and shall be shown and clearly labeled on the final plat.

8.2.8: CLUSTER MAILBOX UNITS

New residential subdivisions shall include cluster mailbox units in accordance with U.S. Postal Service guidelines and the following (see Figure 8.2.8: Cluster Mailbox Units):

- A:** Wherever possible, cluster mailboxes shall be located in a centralized location, within an open space set-aside, served by pedestrian access, and served by two or more off-street parking spaces.
- B:** In cases where the cluster mailboxes must be placed within a public right-of-way, the mailbox unit(s) shall be located and configured in accordance with the latest revision of the NCDOT policy guidance on the placement cluster box units (CBUs), including provision of a vehicular turnout.
- C:** Cluster mailbox units placed on a private street shall comply with NCDOT policy guidance on the placement of cluster box units (CBUs) on State-maintained streets.

FIGURE 8.2.8: CLUSTER MAILBOX UNITS



8.3: STREETS**8.3.1: PURPOSE AND INTENT**

The purpose of these street standards is to facilitate the development and redevelopment of street networks that are safe and accessible for all users, including motor vehicle operators, pedestrian, and bicyclists. The standards in this section are applied to subdivisions of land and to development subject to a site plan (see Section 6.3.16: Site Plan).

8.3.2: COMPLIANCE WITH APPLICABLE POLICY GUIDANCE**A: ALL STREETS**

Except where otherwise allowed in accordance with Section 8.2.5:A:2: Street Access Exemptions, all streets and rights-of-way within the Town's planning jurisdiction shall be designed, constructed, and maintained in accordance with the following:

- 1: Streets maintained by the State shall comply with the standards established for the particular classification of street in question by the NCDOT.
- 2: Streets dedicated to or maintained by the Town shall comply with all applicable standards established by this Ordinance, the Town Code of Ordinances, or a Town-adopted set of design specifications, whichever is higher or more restrictive.

B: ADDITIONAL STANDARDS FOR STATE-MAINTAINED STREETS

- 1: All streets intended for dedication to the State shall have rights-of-way and construction meeting the standards contained in the *Subdivision Roads, Minimum Construction Standards Handbook*, as revised, published by the NCDOT.
- 2: The District Highway Engineer shall approve the plat with respect to road construction, road width, and right-of-way prior to recording. Without the approval, the plat cannot be recorded.
- 3: Once the development meets the minimum housing requirements for State road acceptance, the developer shall petition NCDOT for State road acceptance.
- 4: After inspection and upon receipt of outcome of the inspection, the developer shall have 12 months to turn over roads to the NCDOT.

8.3.3: STREETS DISTINGUISHED**A: GENERALLY**

All streets, roads, and alleys within the Town's planning jurisdiction shall be designated as one of the following street types, based on maintenance responsibility:

- 1: State-maintained, or NCDOT streets (this includes roadways in the federal highway system);
- 2: Town streets that are owned and operated by the Town of Laurel Park; or
- 3: Private streets that are owned and maintained by individuals or owners' associations.

B: TYPES OF STREETS**1: PUBLIC STREETS**

Streets that are owned, operated, or maintained by the NCDOT, the Town, or the federal government shall be considered as public streets.

2: PRIVATE STREETS

Streets that are owned, operated, or maintained by an individual or an owners' association shall be considered private streets.

C: STREET CLASSIFICATION

- 1: All new and existing streets in the Town's planning jurisdiction shall be identified as one of the street classification types in Table 8.3.3: Street Classifications:

CHAPTER 8: SUBDIVISIONS

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- 2: Nothing shall prohibit a change in street classification based on traffic volumes or anticipated needs.
- 3: In no instance shall a private street be classified as a freeway, expressway, boulevard, or thoroughfare street.

TABLE 8.3.3: STREET CLASSIFICATIONS

STREET TYPE /1/	DESCRIPTION
Freeway	Freeways are the highest classification of streets and are designed and constructed with mobility and long-distance travel in mind. Access is controlled, intersections are grade-separated, driveways serving individual lots are prohibited, and roadways are designed for high-speed travel of 55 mph or greater. Roadways in this functional classification category connect the Town to other destinations in the State and connect major activity centers in the Town to one another. Freeways carry the highest traffic volumes.
Expressway	These streets provide a high degree of mobility both within the Town’s urban areas as well as through neighboring rural areas. Vehicles move at high-to-moderate speeds and four-way intersections are often signal-controlled. These streets include at-grade intersections with other streets typically spaced 2,000 feet apart, but driveways to individual lots are typically limited to right-in/right-out or grade separated left turns. The average number of vehicles trips can vary widely based on the urban or rural location of an expressway.
Boulevard	Boulevards connect major streets to one another and provide for vehicle trips of moderate length at medium speeds. The road is typically two or more lanes with a median with median breaks provided for U-turns. Full-movement driveways may be provided when alternative forms of access are not available.
Major Thoroughfare	Major thoroughfares provide a balance of mobility and access with moderate traffic volumes and low-to-medium speeds between 25 and 55 mph. Streets may be up to four lanes wide with no median and no requirements for access control. Access management may be provided in the form of continuous left turn lanes, shared driveways, full movement driveways are permitted on two-lane streets with a center turn lane. Cross-parcel connectivity between adjacent lots is strongly encouraged.
Minor Thoroughfare	Minor thoroughfares provide balanced mobility and access with moderate traffic volumes and lot-to-medium design speeds of up to 45 mph. Streets may have up to three lanes with no more than one lane per direction. Access management may be provided in the form of continuous left turn lanes, shared driveways, full movement driveways are permitted on two-lane streets with a center turn lane. Cross-parcel connectivity between adjacent lots is strongly encouraged.
Local	Local streets occupy the largest percentage of lane miles across all types of streets and primarily provide direct access to individual lots. Local streets are often configured to discourage through traffic, though local streets can also effectively disperse local traffic when configured as part of a highly connected network offering multiple routes.
Cul-de-Sac	A dead-end local street that terminates in a vehicular turnaround.

TABLE 8.3.3: STREET CLASSIFICATIONS

STREET TYPE /1/	DESCRIPTION
Alley	A secondary street that provides direct access to a limited number of individual lots or land uses. In most cases, access is provided to the side or rear of the lot served by the alley.
<p>NOTES:</p> <p>/1/ These classifications are derived from the Comprehensive Transportation Plan developed by the French Broad River Metropolitan Planning Organization.</p>	

8.3.4: STREET DESIGN

A: DEDICATION AND CONSTRUCTION

- 1: All lands associated with a new or modified public street right-of-way shall be dedicated to the Town or the State as a part of the development process in accordance with Section 136-66.10 of the North Carolina General Statutes.
- 2: All streets shall be improved to the full width, cross section, and profile, including paving and drainage, as specified in the development approval, this Ordinance, the Town’s adopted policy guidance, State or federal law, and any other applicable provisions.
- 3: The subdivider or developer shall be responsible for the construction and installation of all streets and infrastructure in accordance with the applicable development approval, NCDOT standards, the standards in this Ordinance, and any applicable State or federal requirements.
- 4: No road construction or improvements shall commence until a plan showing the proposed roadway improvements and a construction plan is approved by the Town.

B: PRIVATE STREETS

Except where otherwise allowed in accordance with Section 8.2.5:A:2: Street Access Exemptions, all private streets constructed, extended, or modified after August 18, 2021, shall be constructed, maintained, and operated in accordance with the standards for public streets.

C: GENERAL LAYOUT

- 1: Streets shall be related appropriately to the topography and designed to facilitate the drainage and stormwater runoff.
- 2: Street grades shall be governed by NCDOT requirements and shall conform as closely as practicable to the original topography.
- 3: Half streets (such as streets of less than the full required right-of-way and pavement width) shall not be permitted, except where the street, when combined with a similar street developed previously or simultaneously, on property adjacent to the subdivision, creates or comprises a street that meets the right-of-way and pavement requirements of this Ordinance.
- 4: When a development abuts or contains an existing or proposed freeway, expressway, or boulevard, the Town Manager may require frontage streets, reverse frontage with landscape plantings, or other treatment as may be necessary for adequate protection of residential properties and to ensure separation of through and local traffic.
- 5: Reserve strips or parcels controlling access to streets shall be prohibited, except where required as part of development on a double-frontage lot.
- 6: Street trees, if required, shall be provided in accordance with the applicable standards in Section 7.4.11: Street Trees.

D: CONTINUATION AND COORDINATION OF NEW STREETS

- 1: New streets or upgrades to existing streets resulting from new development shall comply with the location, classification, configuration, and operation requirements identified in the Town's adopted policy guidance or NCDOT standards, as appropriate. For the purposes of this section, the Town's adopted policy guidance shall include, but not be limited to the following:
 - a: The Comprehensive Plan;
 - b: The Comprehensive Transportation Plan from the French Broad MPO, as amended; and
 - c: Town-adopted standard specifications and details.
- 2: Whenever a street within a new development continues an existing street that formerly terminated outside the development or it is expected that a new street will be continued beyond the development at some future time, the classification of the street will be based upon the street in its entirety, both within and outside of the development.
- 3: The arrangement of streets in a development shall provide for the alignment and continuation of existing or proposed streets into adjoining lands in those cases in which the adjoining lands are undeveloped and deemed appropriate for future development or in which the adjoining lands are developed and include opportunities for such connections.
- 4: Street rights-of-way shall be extended to or along adjoining property boundaries such that a roadway connection or street stub shall be provided for development where practicable and feasible in each direction (north, south, east, and west) for development which abuts vacant lands.
- 5: Boulevard and thoroughfare streets shall intersect with surrounding boulevard and thoroughfare streets at safe and convenient locations, as determined by the NCDOT and the Town Manager.
- 6: At all locations where streets terminate with no street connection, but a future connection is planned or accommodated, a sign shall be installed at the location with the words "FUTURE ROAD CONNECTION" to inform property owners.
- 7: The final plat shall identify all street stubs and include a notation that all street stubs are intended for connection with future streets on adjoining undeveloped or underdeveloped lands.
- 8: The use of residential strips of land in order to prevent the extension of proposed or existing streets or access thereto is prohibited.
- 9: Where access to a subdivision site is by a street that does not meet Town or State standards, that street shall be improved by the developer in order to meet current Town or State standards, as appropriate.

E: CONNECTIVITY

Streets within new subdivisions shall be connected to one another to ensure emergency access and prevent traffic congestion in accordance with the following:

1: MINIMUM CONNECTIVITY INDEX SCORE REQUIRED

All development shall achieve an internal street connectivity score in accordance with Table 8.3.4: Minimum Street Connectivity Score.

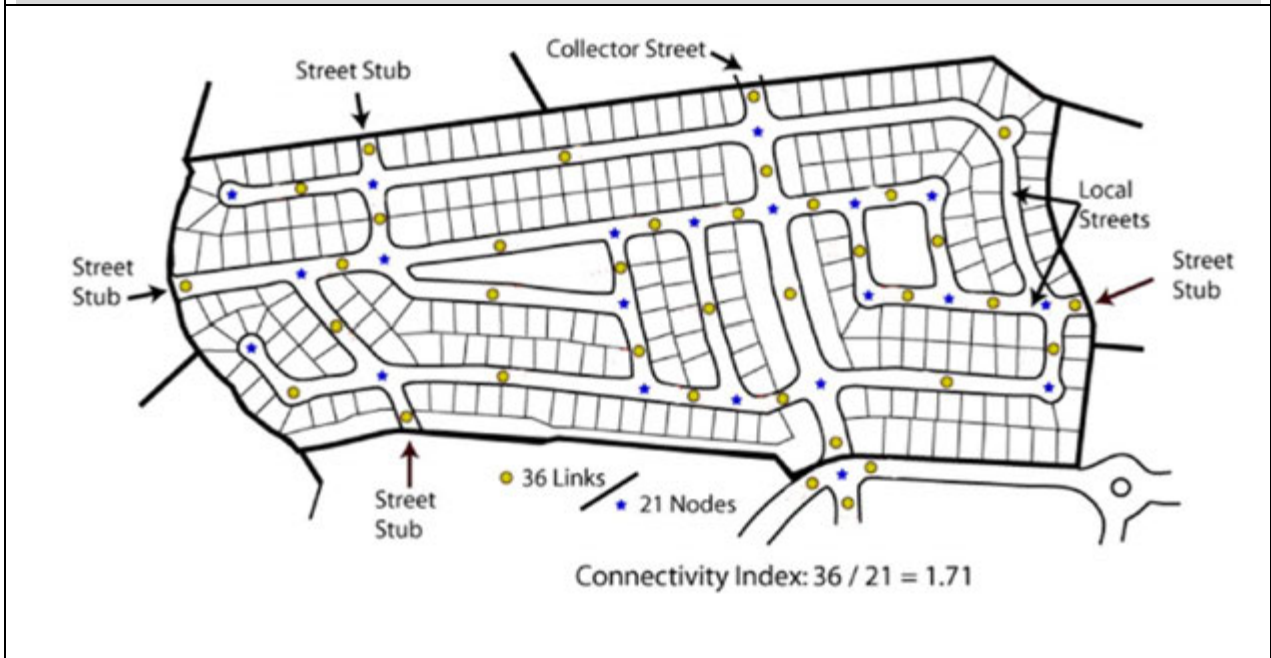
TABLE 8.3.4: MINIMUM STREET CONNECTIVITY SCORE

ZONING DISTRICT WHERE DEVELOPMENT IS PROPOSED	MINIMUM REQUIRED STREET CONNECTIVITY INDEX SCORE
R-30 & R-20 Districts	1.20
All Other Districts, except TC	1.40
TC District	1.50

2: CONNECTIVITY INDEX SCORE CALCULATION

- a: The connectivity index for a development is calculated by dividing its links by its nodes.
- b: Figure 8.3.4: Street Connectivity Index Example, provides an example of how to calculate the connectivity index. Nodes (stars) exist at street intersections and cul-de-sac heads within the development. Links (circles) are stretches of road that connect nodes. Street stub-outs are considered as links, but temporary dead-end streets internal to a development or alleys are not counted as links. One link beyond every node that exists in the development and provides access to the street system outside the development shall be included in the index calculation. In the diagram, there are 36 links (circles) and 21 nodes (stars); therefore, the connectivity index is 1.71 (36/21 = 1.71).

FIGURE 8.3.4: STREET CONNECTIVITY INDEX EXAMPLE



3: REDUCTION IN MINIMUM INDEX SCORE

The minimum connectivity index score may be reduced if the owner/developer demonstrates it is not possible to achieve due to topographic conditions, natural features, existing road configurations, or adjacent existing development patterns. In these instances, internal street design shall achieve as high a connectivity index score as is reasonably practical.

8.3.5: STREET CONFIGURATION

A: STREET RIGHT-OF-WAY

All new streets established in the Town’s planning jurisdiction after August 18, 2021 shall be configured in accordance with Table 8.3.5:A: Minimum Street Right-of-Way Requirements.

TABLE 8.3.5:A: MINIMUM STREET RIGHT-OF-WAY REQUIREMENTS					
STREET TYPE /1/	DESIGN SPEED (MPH)	ROW WIDTH (FEET)	Pavement Width (feet)	CENTERLINE RADIUS (FEET)	TURN-AROUND RADIUS ROW-PAVEMENT (FEET)
Major Thoroughfare	50	100	64 to 68	1,530	N/A
Minor Thoroughfare	5-Lane	90	60	1,240	N/A
	4-Lane	80	48	955	
Local	w/ ribbon	30	40	22	150
	w/ curb& gutter		26	150	
Cul-de-Sac	w/ ribbon	25	40	22	60-40
	w/ curb& gutter		26	100	50-40
Alley	20	28	18	80	N/A
NOTES: /1/ Dimensional requirements for freeways, expressways, and boulevards shall be in accordance with NCDOT specifications.					

B: STREET INTERSECTIONS

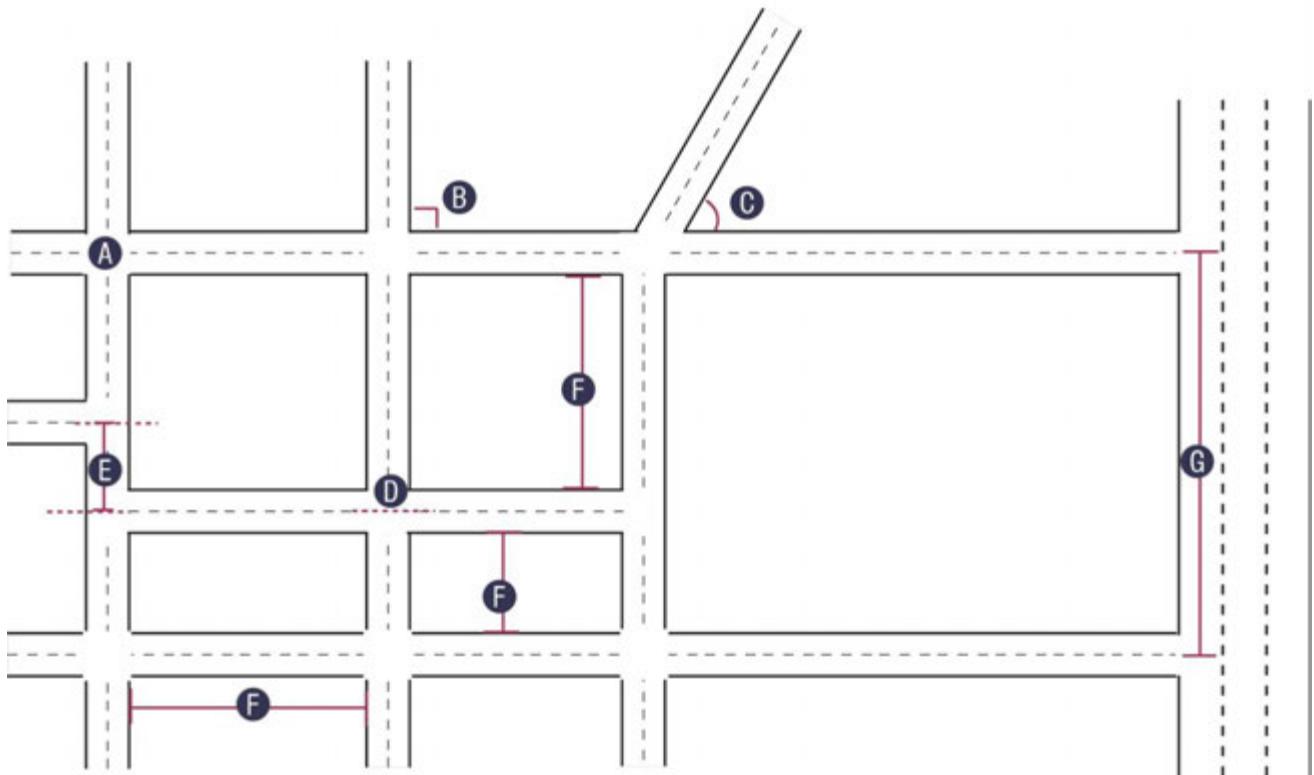
Street intersections shall be configured in accordance with the following standards (see Figure 8.3.5:B: Street Intersections):

- 1: Not more than two streets shall intersect at any one point unless the Town or NCDOT certifies that such an intersection can be constructed with no extraordinary danger to public safety.
- 2: Streets shall intersect at right angles to the maximum extent practicable, and no two streets shall intersect at less than 60 degrees.
- 3: Whenever possible, proposed intersections along one side of a street shall coincide with existing or proposed intersections on the opposite side of the street.
- 4: Where a street center line offset (jog) occurs at an intersection, the distance between centerlines of the intersecting streets shall be not less than 125 feet.
- 5: Except when no other alternative is practicable or legally possible, no two streets may intersect with any other street on the same side at a distance of less than 200 feet measured from centerline to centerline of the intersecting street. When the intersected street is an expressway or boulevard, the distance between intersecting streets shall be at least 1,000 feet, unless no other alternative is practicable.
- 6: Property lines at street intersections shall be shown as a chord connecting points not less than 15 feet back from the street intersection along each street right-of-way line. Longer setbacks for chord connections for property lines may be required as needed for public safety.
- 7: In commercial developments, the Town may assign traffic control to thru traffic within 500 feet of the point of access to the public right-of-way.

FIGURE 8.3.5:B: STREET INTERSECTIONS

LEGEND

- A** Two Streets Per Intersection
- B** Right Angles Preferred
- C** Minimum 60 Degree Angle
- D** Intersections on Both Sides of Street Coincide Where Possible
- E** Center Line Offset (Jog) Min. Distance 125'
- F** Minimum Distance Between Intersections 200'
- G** Minimum Distance Between Intersections With an Arterial 1,000'



C: DEVELOPMENT ENTRY POINTS

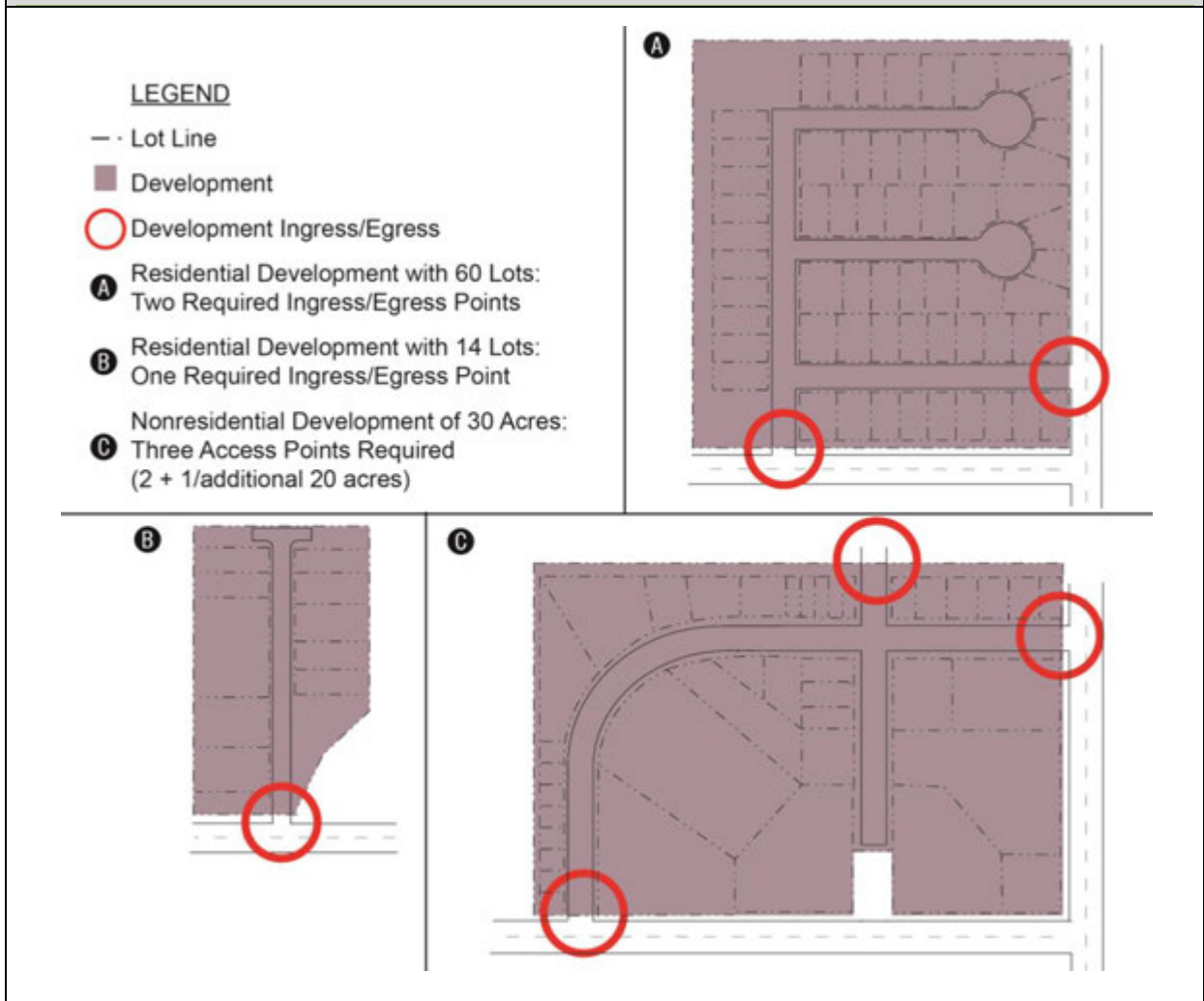
- 1: Unless exempted in accordance with subsection (d) below, all subdivisions shall provide streets from the development to the street system outside the development in accordance with Table 8.3.5:C: Required Points of Access (see Figure 8.3.5:C: Development Entry Points):

TABLE 8.3.5:C: REQUIRED POINTS OF ACCESS /1/

TYPE OF DEVELOPMENT	DEVELOPMENT SIZE	MINIMUM NUMBER OF VEHICULAR ACCESS POINTS /2/
Residential and Mixed-Use Development /3/	30 or fewer units	1
	31 or more units	2
Non-residential Development, other than Industrial /4/ /5/	Less than 5 acres or fewer than 10 lots	1
	More than 5 acres	2

NOTES:
 /1/ Points of access shall refer to streets, not driveways.
 /2/ Additional vehicular access points may be required where determined necessary by the Town.
 /3/ Multi-family or mixed-use developments of 100 dwelling units or more shall provide at least two points of access regardless of the number of lots.
 /4/ The Fire Code may require a minimum of two points of access.
 /5/ Industrial development is exempted from these standards.

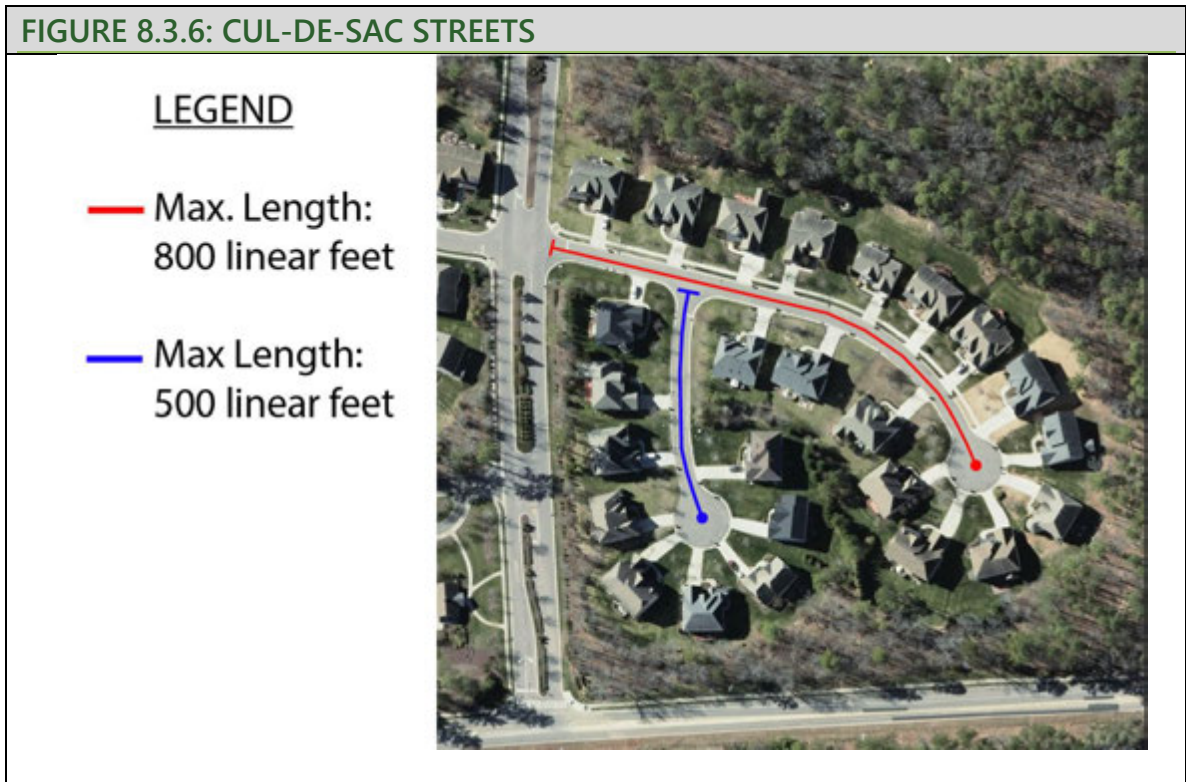
FIGURE 8.3.5:C: DEVELOPMENT ENTRY POINTS



- 2: Nothing in this section shall limit the total number of streets providing access to the street system outside a development or exempt a development from meeting all applicable street connectivity standards.
- 3: Street stubs shall be credited as an access point when all ingress or egress to a development is only available from a single expressway, boulevard, or thoroughfare street.
- 4: Development shall be exempted from these standards if it is demonstrated the following conditions apply:
 - a: No other street access points can be located due to existing lot configurations, absence of connecting streets, environmental, or topographic constraints;
 - b: NCDOT will not authorize the required number of entrances; or
 - c: Alternative access can be provided in a manner acceptable to the Town that is supported by a transportation impact analysis.

8.3.6: CUL-DE-SAC STREETS

- A: No permanently designed cul-de-sac or other dead-end street shall be longer than 800 linear feet, except where land cannot otherwise be subdivided practicably in the opinion of the Town Manager.
- B: In cases where one cul-de-sac is accessed from another cul-de-sac, the maximum length for all cul-de-sacs accessed from one another shall be 500 linear feet (see Figure 8.3.6: Cul-de-Sac Streets).
- C: All permanent cul-de-sacs or other dead-end streets shall be provided at the closed end with a turn-around configured in accordance with the Town’s minimum requirements.
- D: Dead-end streets intended to be continued at a later time shall be provided with a turn-around as required for a dead-end street when required by the Town Manager.
- E: Only that portion to be required as right-of-way when the street is continued shall be dedicated and made a public street.



8.3.7: TURN LANES

Turn lanes for either or both left and right turns into a commercial or residential subdivision driveway may be necessary for safety when there are high roadway and/or turning volumes or traffic, when the roadway speeds are moderate or high, or where needed due to limited sight distance. When provided, turn lanes shall be configured in accordance with the following:

- A:** The final determination for the need, location, and design of a turn lane is the responsibility of the NCDOT, or the Town, as appropriate.
- B:** Left and right turn lanes shall be constructed in accordance with NCDOT standards and specifications.
- C:** Right-turn lanes shall be constructed entirely within the frontage of the property being served, since an adjacent development might subsequently require an entrance that would otherwise encroach into the turn lane.
- D:** The NCDOT may require an undivided street to be widened when the median has an inadequate width for a left turn lane.

8.3.8: DECELERATION LANES

- A:** Any use capable of generating more than 60 trips per peak hour, as estimated by using NCDOT guidelines or the Institute of Traffic Engineers Trip Generation Manual, shall provide at least one deceleration lane per street front in accordance with NCDOT or Town standards, as appropriate.
- B:** Deviations from these requirements may only be authorized when the NCDOT indicates that a particular development design or technique can still achieve a satisfactory level of access control consistent with the objectives of this section.

8.3.9: STREET DRAINAGE

- A:** All required drainage facilities associated with a street right-of-way shall be constructed prior to consideration of a plat or occupancy of a development.
- B:** Storm sewers, drains, and structures installed by the subdivider shall be installed of a size, type, and in locations as approved by the Town Manager, or NCDOT, as appropriate.
- C:** Street drainage facilities located outside the street right-of-way shall be maintained by the developer, the landowner, or an owners' association, and maintenance responsibility shall be noted on the plat or plan of development.
- D:** The Town shall not be responsible for any private or commonly held subdivision drainage infrastructure connected to publicly maintained drainage facilities, streams, or other outlets having constant flow.

8.3.10: SPEED BUMPS

In no instance shall a public street maintained by the Town include a speed bump, speed table, rumble strip, or similar device intended to slow traffic as these devices interfere with snow removal activities.

8.3.11: SIGHT DISTANCE TRIANGLES**A: SIGHT DISTANCE TRIANGLES ESTABLISHED**

- 1:** Corner lots and lots with driveways, alleys, or other methods of ingress/egress to a street shall include sight distance triangles to ensure visibility for drivers and pedestrians moving through or in an intersection.
- 2:** Required sight distance triangles shall be configured in accordance with Table 8.3.11: Sight Distance Triangle Requirements.
- 3:** Land within a required sight distance triangle shall comply with the standards in [Section 8.3.11:C: Limitations on Obstructions Within Required Sight Distance Triangles](#).

C: LIMITATIONS ON OBSTRUCTIONS WITHIN REQUIRED SIGHT DISTANCE TRIANGLES

- 1: No planting, structure, fence, wall, slope, embankment, parked vehicle, or other obstruction to vision between the heights of two-and-one-half (2½) feet and ten feet above the centerline grades of intersecting streets or accessways may be located within a required sight distance triangle.
- 2: No structure or object, regardless of its size, which obstructs visibility within a required sight distance triangle to the detriment of vehicular or pedestrian traffic shall be permitted.

8.3.12: STREET FEATURES**A: STREET NAMES**

Street names and property address numbers shall be assigned by Henderson County. Nothing shall limit an applicant or subdivider from requesting a particular street name.

B: TRAFFIC CONTROL SIGNS AND SIGNALS

- 1: If deemed necessary by the Town or by NCDOT, signals shall be installed by the developer at each street intersection within the subdivision and at each intersection of a subdivision street and a state-maintained road or access road.
- 2: Signs and signals shall comply with NCDOT regulations with regards to size, shape, color, location and information contained thereon.
- 3: At least two or more traffic-control signs shall be placed at each four-way street intersection and at least one at each "T" intersection.
- 4: Signs and signals shall be installed free of visual obstruction.

C: STREET SIGNS

- 1: The subdivider or developer shall install standard street signs as part of new development.
- 2: In cases where decorative street signs are proposed, the developer or subdivider shall be responsible for the cost of the decorative street signs.
- 3: Decorative street signs shall be approved as to form and content by the Town prior to installation.
- 4: Street name signs shall conform to Town and NCDOT standards.
- 5: At least two street name signs shall be placed at each four-way street intersection and at least one at each "T" intersection.
- 6: Street signs shall be installed on the northwest and southeast corners of every four-way intersection.
- 7: Signs shall be installed free of visual obstruction.

D: STREET LIGHTS

- 1: Streets and sidewalks shall be illuminated with street lights or pedestrian lighting for security and safety, in accordance with Section 7.2.6: Standards, all other applicable Town standards, utility company, and NCDOT standards.
- 2: Areas adjacent to the vehicular entrances for non-residential, mixed-use, and multi-family residential developments shall be adequately lighted to ensure the safety of persons and the security of the buildings.

E: VEHICULAR GATES

- 1: Gates to private property shall conform to Town requirements for emergency access and be served by a vehicular turnaround.
- 2: Proposed gates shall be reviewed and decided by the Town Manager.
- 3: In no instance shall a vehicular gate be placed within a public street right-of-way, but vehicular gates may be located within the right-of-way for a private street.

F: BRIDGES AND CULVERTS

- 1: All bridges shall be designed by a professional engineer licensed by the State of North Carolina.
- 2: All bridges and culverts shall be built to NCDOT standards.

8.4: TRANSPORTATION IMPACT ANALYSIS (TIA)

A transportation impact analysis (TIA) is a specialized study that evaluates the effects of a development’s traffic on the surrounding street network. When completed, a TIA helps identify where the development may have a significant impact on safety, traffic and transportation operations, and provides a means for the developer and Town to mitigate these impacts.

8.4.1: PURPOSE AND INTENT

These standards allow for an assessment of a proposed development’s impact on the Town’s transportation system. It identifies recommended transportation system improvements to be included by a proposed development as necessary to mitigate any negative impacts created by the proposed development.

8.4.2: TIA REQUIRED

A TIA, prepared in accordance with the standards in this section, shall be prepared for the following forms of development:

- A:** New development anticipated to generate 100 or more vehicle trips during the AM or PM peak hour, or 1,000 or more vehicle trips per day, based on the most recent edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual;
- B:** New development that is part of a larger development that, when considered cumulatively, will generate 100 or more vehicle trips during the AM or PM peak hour, or 1,000 or more vehicle trips per day, based on the most recent edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual;
- C:** A rezoning application proposes reclassification of the development site to a more intense zoning district that is not consistent with the Town’s adopted policy guidance and likely to generate additional traffic beyond that anticipated; or
- D:** The proposed development is located on a roadway that has a demonstrated transportation capacity issue, as determined by the Town Manager.

8.4.3: TIA ANALYSES DISTINGUISHED

Development subject to the standards in this section shall be required to provide a TIA prepared by a licensed professional engineer with expertise in traffic engineering. The TIA shall take the form of a standard TIA or an advanced TIA, in accordance with Table 8.4.3: TIA Analysis Distinguished.

TABLE 8.4.3: TIA ANALYSIS DISTINGUISHED			
TYPE OF DEVELOPMENT		STANDARD TIA	ADVANCED TIA
Residential	0-10 units	•	•
	11-75 units	Required	•
	76 or more units	•	Required
Non-residential and mixed-use	Up to 10,000 sf	Required	•
	More than 10,000 sf	•	Required

8.4.4: STANDARD TIA REQUIREMENTS

A standard TIA shall include the following elements:

A: ABSTRACT OR SUMMARY

The TIA shall include a summary of the proposed development, its location, anticipated traffic generation, the existing and future conditions (level of service), and all recommended improvements. The abstract or summary should not exceed two pages and preferably be limited to one page.

B: DESCRIPTION OF DEVELOPMENT

A TIA shall describe all of the following:

- 1: The acreage included in development;
- 2: Existing and proposed land uses;
- 3: Existing and proposed zoning district designations (including overlays);
- 4: The proposed density of the development (number of dwelling units); and
- 5: The proposed intensity of the development (amount of non-residential floor area in square feet).

C: STUDY AREA

The TIA study area shall generally encompass one-quarter (1/4) mile to one-half (1/2) mile from each proposed site access along roads accessed by the site. The Town may require a larger study area if the site is on a road with no intersections within one-quarter or one-half mile.

D: SITE LOCATION

The TIA shall include a location map showing site in relation to major streets within a one-mile radius of the site.

E: TRAFFIC GENERATION

- 1: The TIA shall indicate the traffic generated by the development, including:
 - a: The anticipated number of trips generated by site daily;
 - b: The number of trips generated during the AM peak hour;
 - c: The number of trips generated during the PM peak hour;
 - d: The internal or pass-by traffic generation, if appropriate; and
 - e: The source of trip generation rates, the land use code, and units used to derive generation.
- 2: The AM peak hour may be omitted for retail uses which are not expected to generate significant traffic volumes during this period.
- 3: For rezoning applications, the TIA shall also indicate traffic generation under the existing zoning district as well as the proposed zoning district designation.

F: TRIP DISTRIBUTION

The TIA shall indicate the percentage distribution of trips, by direction, within the study area and the method used to determine the anticipated trip distribution.

G: ACCESS LOCATION(S)

The TIA shall indicate:

- 1: The location of planned streets or driveways;
- 2: Access to existing streets;
- 3: Other streets or driveways within study area; and
- 4: Areas of coordination with NCDOT, where appropriate.

H: EXISTING ROAD AND TRAFFIC CONDITIONS

- 1: The TIA shall indicate:
 - The existing street laneage and classification;
 - a: Traffic control devices;

- b: Existing daily traffic volumes within study area; and
- c: Traffic volumes and level of service of signalized intersections and proposed site access points within study area during AM and PM peak hour (PM only for retail).
- 2: The TIA shall include work sheets or computer printouts showing counted traffic volumes and level-of service.
- 3: The TIA shall illustrate, in figure(s), peak hour volumes, lanes, and level of service.
- 4: For unsignalized intersections, the TIA shall show the level-of-service for individual movements.
- 5: The TIA shall discuss transit service, if applicable.
- 6: The TIA shall discuss accident history, if applicable.

I: PLANNED IMPROVEMENTS

The TIA shall describe any planned road improvements in the study area which could affect future traffic and indicate if the planned road improvements are shown on the French Broad MPO’s Comprehensive Transportation Plan or NCDOT’s Transportation Improvement Plan.

J: FUTURE CONDITIONS

- 1: The TIA shall indicate future conditions in the same manner as provided for existing conditions, plus site traffic assigned to driveways or access points, for condition with full build-out of project, at build-out year.
- 2: The TIA shall include growth in background traffic due to other approved developments or to general growth in area.
- 3: The TIA shall show more than one phase, if project is to be phased.
- 4: The TIA shall describe any conflicts with other driveways or streets, queuing problems, or potential safety problems.

K: PEDESTRIAN FACILITIES

The TIA shall indicate the location of existing and proposed sidewalks and crosswalks.

L: RECOMMENDED IMPROVEMENTS

- 1: In addition to information on existing conditions and conditions following completion of the proposed development, the TIA shall indicate improvements required for access points and signalized intersections within study area to operate at acceptable level of service (D or better).
- 2: These may include site access, internal site circulation, signalization, signal modification (retiming, additional phases), lane modifications or additions, or street widening.
- 3: A signal warrant study is not required but may be included as supporting documentation where a traffic signal is requested.
- 4: The TIA may indicate which improvements are due to development and which are due to existing problems or other growth in traffic and may suggest responsibility of developer or of other parties for improvements.
- 5: Proposed improvements shall be shown schematically on maps or figures.

M: ENGINEER’S SEAL REQUIRED

All TIAs are to be prepared and sealed by a professional engineer licensed in the State of North Carolina and specializing in traffic or transportation, with experience in preparing TIAs.

8.4.5: ADVANCED TIA REQUIREMENTS

When required, an advanced TIA shall include all elements required in Section 8.4.4: Standard TIA Requirements, and the following:

A: EXPANDED STUDY AREA

- 1: Advanced TIAs prepared in accordance with this section shall include a study area that is generally from one to three miles from each proposed site access along roads accessed by the site.
- 2: The extent of the study area should be discussed with Town staff prior to initiating the TIA.

B: INTERNAL CIRCULATION

The advanced TIA shall review internal circulation patterns and note recommended changes.

C: TRIP DISTRIBUTION

An advanced TIA requires use of a computer model for trip distribution.

D: FUTURE CONDITIONS

Advanced TIAs shall show conditions at end of planning period (generally 20-year or horizon used for Comprehensive Transportation Plan).

8.4.6: TRANSPORTATION IMPROVEMENTS REQUIRED

Based on the findings of the TIA, if a proposed development does not meet the applicable service level standards, the applicant shall be required to upgrade the transportation facilities or mitigate transportation system impacts in accordance with the TIA recommendations and the Town’s adopted policy guidance.

8.4.7: MITIGATION THRESHOLDS

- A: The Town requires consideration of roadway and/or operational improvements when the proposed development increases the intersection Volume-to Capacity Ratio (V/C) beyond the thresholds indicated Table 8.4.7: TIA Mitigation Thresholds.
- B: The Town evaluates the impacts of proposed development at intersections (primarily under existing year conditions) based on the increase in V/C ratio as a result of the projected site traffic. This increase is determined by comparing the V/C ratio under existing development conditions and proposed development conditions.
- C: For the purposes of this comparison, all unsignalized intersections are analyzed as signalized intersections.

TABLE 8.4.7: TIA MITIGATION THRESHOLDS	
EXISTING VOLUME-TO-CAPACITY RATIO	ALLOWABLE INCREASES IN VOLUME-TO-CAPACITY RATIO
.00 - .60	.10
.61 - .70	.07
.71 - .80	.05
.81 - .90	.03
.91 +	.02

8.4.8: PAYMENTS-IN-LIEU OF IMPROVEMENTS

- A: The Town may, in its sole discretion, accept either mitigation measures to be completed by the developer or payment of a fee-in-lieu in accordance with Section 6.3.9: Fee-in-Lieu.
- B: If accepted by the Town, the fee shall be equal to the costs of the required mitigation measures, as determined by the Town Manager.
- C: A combination of mitigation measures and payments of fee-in-lieu may be permitted.

8.5: SIDEWALKS

8.5.1: LOCATION

Sidewalks meeting the requirements in this section are required for subdivisions and developments subject to a site plan (see Section 6.3.16: Site Plan) in accordance with the Town's adopted policy guidance:

A: SIDEWALKS PROVIDED ON BOTH SIDES OF THE STREET

- 1: Sidewalks shall be provided along both sides of all expressway and boulevard streets, regardless of the zoning district where located.
- 2: Sidewalks shall be provided along both sides of all streets except alleys in the TC zoning district.

B: SIDEWALKS PROVIDED ON ONE SIDE OF THE STREET

- 1: Sidewalks shall be required on one side of the street in the following locations:
 - a: Along local streets; and
 - b: Along cul-de-sac, dead-end, and loop streets serving ten or more lots or ten or more dwelling units.
- 2: When sidewalks are required on one side of the street, they shall generally be located on the side of the street to best continue existing sidewalk networks, if present.
- 3: Sidewalks are not required around the head of a cul-de-sac street, but sidewalks shall connect the bulb of the cul-de-sac to the sidewalk system to a trail, greenway, or public open space area if one abuts the cul-de-sac.
- 4: Where there is no clear preferable street side for the placement of a sidewalk, the sidewalk shall be placed on the street side where it is least likely to have a negative impact on stormwater management, in the opinion of the Town Manager.
- 5: In cases where sidewalks are already found on both sides of a street serving immediately adjacent development, sidewalks shall be provided along both sides of the street serving new development.

C: NO SIDEWALKS REQUIRED

No sidewalks shall be required in the following locations:

- 1: Along freeways and interstate highways maintained by NCDOT;
- 2: Along alleys and accessways to individual lots not served by a street; and
- 3: Along gravel streets.

8.5.2: CLUSTER MAILBOX UNITS

Sidewalk access shall be provided to all cluster mailbox installations that do not include vehicle parking spaces in accordance with Section 8.2.8: Cluster Mailbox Units.

8.5.3: RESPONSIBILITY FOR SIDEWALK PROVISION

- A: The applicant or developer of a subdivision or site plan, as appropriate, shall be responsible for the provision of sidewalks required in accordance with this section.
- B: In no instance shall a final plat be recorded or land conveyed within a subdivision subject to the standards in this section before the sidewalk is completed, a fee-in-lieu has been provided (see Section 6.3.9: Fee-in-Lieu), or a performance guarantee has been provided in accordance with Section 6.3.12: Performance Guarantee.

8.5.4: CONFIGURATION

- A: Sidewalks shall be located within a designated street right-of-way or in another Town-approved location.
- B: Sidewalks shall be at least five feet wide, and may be required to match the width of a connecting sidewalk that exceeds five feet in width.
- C: Sidewalks shall be constructed of concrete or other hard-surface materials, consistent with the established sidewalk patterns on adjacent developments.

- D: Pedestrian street crossings shall be raised above the adjacent street level, be constructed of material other than asphalt, or be striped as a traffic-calming measure.
- E: Sidewalks shall connect with existing sidewalks at property boundaries.
- F: Whenever curb and gutter construction is used on public streets, wheelchair ramps for the disabled, configured in accordance with NCDOT standards, shall be provided at intersections and other major points of pedestrian flow in accordance with Section 136-44.14 of the North Carolina General Statutes.
- G: New non-residential, mixed-use, and multi-family development shall provide at least one on-site improved connection between the development and the adjacent public sidewalk system (planned or existing).

8.5.5: CREDIT FOR TRAILS

Hard-surfaced, ADA-accessible trails within open space set-asides shall be credited towards these sidewalk requirements when trails are available for use by the public and connect open space set-asides to schools, shopping areas, or other recreation areas.

8.6: GREENWAYS

8.6.1: REQUIRED GREENWAY DEDICATION AND CONSTRUCTION

- A:** Whenever a tract of land included within any proposed subdivision or development subject to a site plan (see Section 6.3.16: Site Plan) includes any part of a greenway designated in the Town’s Parks and Greenways Comprehensive Plan or other adopted policy guidance, the greenway shall be platted and dedicated to the Town as a greenway easement.
- B:** Greenways shall be constructed as part of the required infrastructure serving a site or a subdivision.

8.6.2: GREENWAY CONFIGURATION

- A:** A greenway easement shall be at least 50 feet wide, to the maximum extent practicable.
- B:** The greenway shall include an all-weather surface trail of at least twelve feet in width, paved with asphalt, or concrete that meets ADA guidelines for accessibility.
- C:** The trail shall be edged with gravel shoulders of at least one foot in width on each side.
- D:** Positive drainage shall be established in areas adjacent to the paved trail.
- E:** In cases where a greenway crosses a street, the pedestrian crossing area shall be demarcated and supplemented with signage that alerts drivers to the presence of pedestrians.

8.6.3: DENSITY CREDITS

- A:** Land that is dedicated in fee-simple interest to and accepted by the Town in accordance with this section shall be credited toward the donating parcel’s lot or tract area for the purpose of calculating the density of development and area coverage calculations though no longer part of the parcel.
- B:** Dedicated land credits shall be transferred to subsequent holders if properly noted in transfer deeds.

8.6.4: OPEN SPACE SET-ASIDE CREDITS

Land associated with a greenway dedication or easement shall be credited towards any open space set-aside requirements.

8.6.5: PARK LAND DEDICATION CREDITS

Land associated with a greenway dedication or easement shall be credited towards any requirements in Section 8.8: Dedication of Public Land.

8.6.6: PAYMENT IN-LIEU OF PROVIDING GREENWAYS

Provision for payment of a fee-in-lieu of providing a greenway shall be in accordance with Section 6.3.9: Fee-in-Lieu.

8.7: UTILITIES AND INFRASTRUCTURE

8.7.1: DAMS

- A: Maintenance of a dam structure shall be the responsibility of the developer or an owners’ association.
- B: The party responsible for dam maintenance shall provide a performance guarantee for the dam’s maintenance in perpetuity in accordance with the standards in Section 6.3.12: Performance Guarantee.

8.7.2: POTABLE WATER

A: GENERALLY

- 1: Every lot within a subdivision or subject to a site plan (see Section 6.3.16: Site Plan) shall be served by a means of a potable water supply that is adequate to accommodate the reasonable needs of the use or subdivision lot(s).
- 2: The Town may, before issuing any approval under this Ordinance, make the investigation and require the developer to submit the information as appears reasonably necessary to ensure that the developer or a successor will be able to comply with the potable water supply requirements of this Ordinance.

B: CONNECTION TO MUNICIPAL WATER REQUIRED

- 1: A developer shall connect all lots shown in a subdivision with the municipal water supply in accordance with Table 8.7.2: Connection to Water Systems.
- 2: In cases where lots exceed minimum distances in Table 8.7.2: Connection to Water Systems, on-site potable water may be provided in accordance with Henderson County standards.
- 3: All materials and pipes shall meet or exceed the requirements established by State law or Town requirements for the potable water system.

TABLE 8.7.2: CONNECTION TO WATER SYSTEMS			
NUMBER OF LOTS IN THE DEVELOPMENT	DISTANCE FROM PUBLIC WATER SUPPLY SYSTEM [1] [2]		
	0 TO 500'	501' TO 1,000'	1,001' OR MORE
0-10	X	N/A	N/A
11-50	X	X	N/A
51+	X	X	X
NOTES: [1] X = Connection to water systems required. [2] If any part of the subdivision lies within the specified distance, the entire subdivision is considered within the specified distance.			

8.7.3: WASTEWATER TREATMENT

A: GENERALLY

- 1: Every lot within a subdivision intended to be developed or lot subject to a site plan (see Section 6.3.16: Site Plan) shall be served by a wastewater disposal system that is adequate to accommodate the reasonable needs of the use or subdivision lot and that complies with all applicable Town, County, and State requirements.
- 2: The Town may, before issuing any approval under this Ordinance, make the investigation and require the developer to submit the information as appears reasonably necessary to ensure that the developer or a successor will be able to comply with the wastewater treatment requirements of this Ordinance.

3: No wastewater treatment system that discharges into surface waters shall be allowed.

B: CONNECTION TO MUNICIPAL SEWER SERVICE REQUIRED

- 1: A developer shall connect all lots shown in a subdivision with the municipal sewer treatment system in accordance with Table 8.7.3: Connection to Sewer Systems.
- 2: In cases where lots exceed minimum distances in Table 8.7.3: Connection to Sewer Systems, on-site wastewater treatment may be provided in accordance with Henderson County standards.
- 3: All materials and pipes shall meet or exceed the requirements established by State law or Town requirements for the sanitary sewer system.

TABLE 8.7.3: CONNECTION TO SEWER SYSTEMS			
NUMBER OF LOTS IN THE DEVELOPMENT	DISTANCE FROM PUBLIC SEWER SYSTEM [1] [2]		
	0 TO 500'	501' TO 1,000'	1,001' OR MORE
0-10	X	N/A	N/A
11-24	X	X	N/A
25+	X	X	X
NOTES: [1] X = Connection to sewer systems required. [2] If any part of the subdivision lies within the specified distance, the entire subdivision is considered within the specified distance.			

8.7.4: FIRE PROTECTION

- A: Every subdivision or development subject to a site plan (see Section 6.3.16: Site Plan) that is served by a public water system with at least six-inch lines shall include a system of fire hydrants within the development.
- B: Fire hydrants must be located so that not more than 400 linear feet, measured along the centerline of the street right-of-way, separates a property within the development and a fire hydrant. However, the Town may require a deviation from the standards in this section if a different configuration is warranted.
- C: Local fire officials shall determine the precise location of all fire hydrants.
- D: Fire hydrants shall be placed six feet behind the curb line of publicly dedicated streets that have curb and gutter and placed within ten feet of the edge of a public street without curb and gutter.
- E: The Town shall, after consultation with local fire officials, determine the design standards of all hydrants based on fire flow needs, which shall maintain a minimum flow rate of 1,000 gallons-per-minute, and 20 psi, or shall be supplemented with a pump or increased diameter pipe sizes.
- F: Additional lots subdivided from the same parent parcel/tract of land shall comply with these fire hydrant standards.

8.7.5: UNDERGROUND UTILITIES

- A: All new electric, telephone, and other utilities serving development in a development created after August 18, 2021, shall be placed underground.
- B: All utilities located within a Town-maintained right-of-way shall be subject to the Town’s applicable requirements.

8.8: DEDICATION OF PUBLIC LAND**8.8.1: DEDICATION OF LAND FOR PUBLIC PARKS**

Subdivisions of land for 10 or more single-family residential lots (including detached or attached units) shall be required to dedicate a portion of the land, or pay a fee-in-lieu thereof, for public parkland, in accordance with the standards of this section.

A: DEDICATION AMOUNT

- 1: Single-family residential subdivisions of 10 or more lots shall dedicate 500 square feet of land per residential lot to the Town for its use in developing public parkland.
- 2: No credit towards required parkland dedication is given for lands mandated for preservation by State or federal requirements.
- 3: No more than 25 percent of the total dedication requirement may be met through dedication of water areas.

B: PROCEDURE FOR DEDICATION OR PAYMENT

- 1: The developer shall identify land proposed for dedication or propose payment of a fee-in-lieu as part of the application for approval.
- 2: The Town shall review the proposed application and determine if it complies with the standards in Section 8.8.1:C: Nature of Area to be Dedicated, or Section 6.3.9: Fee-in-Lieu, as appropriate. The decision to accept dedication is up to the sole discretion of the Town Council following a recommendation from the Parks and Greenways Board.
- 3: Land shall be dedicated prior to recording the first final plat for the subdivision, or the payment-in-lieu shall be paid prior to recording the first final plat for the subdivision for which the payment-in-lieu is paid.

C: NATURE OF AREA TO BE DEDICATED

All lands proposed for dedication as park areas shall meet the following standards (see Figure 8.8.1: Public Land Configuration):

1: UNITY

The dedicated land shall be a single parcel of land, whether the subdivision is developed in phases or sections, except where it is determined by the Town Council that multiple parcels would better serve Town residents.

2: USABILITY

Public parkland must be without significant topographic elevation changes, well-drained, usable land for a park, as determined by the Town Council. In cases where dedication includes an area of water, public access to all portions of a water feature shall be provided and maintained, regardless of water feature's size.

3: SHAPE

The dedicated land shall be of a shape that supports gathering and recreation activities.

4: LOCATION

- a: The dedicated parkland shall be located so it can reasonably serve the park needs of the residents of the subdivision and immediate area.
- b: The Town Council may require that the land dedicated be located on the periphery of the development in order to allow enlargement by combining the recreation and park area with adjacent development or park facilities, existing or planned.

5: ACCESS

- a: All dwelling units in the subdivision and residents in the immediate area shall have access to and from the parkland provided by means of streets and public walkways or trails.
- b: Rights-of-way for this access shall be shown on the preliminary and final plats.
- c: All dedicated lands shall have access by way of a street. Such access can be provided when the dedicated land is adjacent to existing or proposed public parkland with street access.

FIGURE 8.8.1: PUBLIC LAND CONFIGURATION



D: CREDIT FOR GREENWAYS

Land or easements dedicated to the Town in accordance with Section 8.6: Greenways, shall be credited towards the standards in Section 8.8.1:A: Dedication Amount.

8.9: OWNERS' ASSOCIATIONS

8.9.1: PURPOSE

The purpose of this section is to set out the requirements for establishment of a homeowners' or property owners' association (hereinafter "association") that shall be responsible for the long-term maintenance of common areas, common features, and private infrastructure in a subdivision. This section also sets out the requirements associated with transfer of subdivision control and maintenance responsibility from the subdivider to the association.

8.9.2: APPLICABILITY

The standards in this section shall apply to subdivisions with open space set-aside(s), lands held under common ownership, or with shared responsibility for common infrastructure including, but not limited to:

- A: Stormwater control measures;
- B: Private community-level potable water systems;
- C: Private community-level sewage system features (such as pump stations serving only the development where located);
- D: Cluster mailbox units;
- E: Commonly-held off-street parking facilities; and
- F: Open space set-asides.

8.9.3: CREATION REQUIRED

- A: A homeowners' or property owners' association shall be established in areas that have private common open space or shared private infrastructure. Associations are required to accept ownership and maintenance responsibility of all open space set-aside(s), shared infrastructure, or common areas within a development.
- B: Associations are also required in order to fulfill the requirements of Chapter 47C (the "Condominium Act") of the North Carolina General Statutes, or the requirements of Chapter 47F (the "Planned Community Act") of the North Carolina General Statutes.
- C: The association shall be in legal existence prior to the conveyance, lease-option, or other long-term transfer of control of any unit or lot in the development, though maintenance responsibility shall only transfer from the developer to the association in accordance with [Section 8.9.8: Transfer of Maintenance Responsibility](#).

8.9.4: RESPONSIBILITIES OF ASSOCIATION

Upon transfer of maintenance responsibility, the association shall be responsible for:

- A: Liability insurance and payment of premiums for liability insurance and local taxes;
- B: Maintenance of all common elements including, but not limited to, stormwater control measures, private utilities, private drives, private sidewalks and trails, private streetlights, and private common recreation facilities shown on the preliminary and final plats;
- C: Maintenance of public streets until such time as the Town or NCDOT agrees to accept the responsibility for street maintenance;
- D: Maintenance of an escrow account intended for the maintenance and repair of community facilities; and
- E: Payment of system development fees for public and private improvements made to or for the benefit of the common elements.

8.9.5: PROCEDURE FOR ASSOCIATION ESTABLISHMENT

- A: Documents for the creation of the association shall be submitted to the Town for review and approval prior to approval of the final plat (see [Section 6.3.10: Final Plat](#)). Documentation shall include, but not be limited to the information in [Section 8.9.6: Documentation Requirements](#).
- B: The association shall be established by the subdivider prior to the sale of the first lot in the subdivision.
- C: The association documents shall establish that the subdivider shall maintain the common area, common facilities, and infrastructure at least until 75 percent of the lots are sold.

- D: Responsibility for maintaining the subdivision's common areas, common facilities, and private infrastructure shall be transferred in accordance with the standards in Section 8.9.8: Transfer of Maintenance Responsibility.
- E: Nothing shall prevent the subdivider from retaining maintenance responsibility after more than 75 percent of the lots are sold.

8.9.6: DOCUMENTATION REQUIREMENTS

- A: The association documents submitted to the Town for review and approval shall include, but not be limited to, the following:
 - 1: A declaration of all restrictive covenants;
 - 2: A declaration of all deed restrictions;
 - 3: A declaration that the association is responsible for liability insurance and all applicable taxes;
 - 4: A declaration of common ownership and maintenance responsibilities of all on-site improvements not dedicated to a local or State agency, including but not limited to drainage systems, wastewater systems, open space set-aside areas, recreational facilities, and private infrastructure;
 - 5: A description of the structural organization and operating procedures of the association;
 - 6: Association by-laws;
 - 7: A legal description of all open space set-asides and other lands owned in common;
 - 8: Provisions establishing the legal authority of the association to maintain control over all common areas, common features, and private infrastructure in the subdivision, following transfer of control by the subdivider;
 - 9: Provisions authorizing the association to compel contributions from owners in the development to cover their proportionate share of maintenance costs associated with common areas, common features, and private infrastructure;
 - 10: Provisions authorizing the association to increase the amount of mandatory fees or assessments, when necessary, for the continued maintenance of common areas, common features, or private infrastructure;
 - 11: Provisions authorizing the association to convert any member's unpaid assessments into a lien on real property; and
 - 12: Evidence related to the establishment of a reserve fund under the sole control of the association to support the continued maintenance and upkeep of common areas, common features, and private infrastructure.
- B: Following approval of the required documentation by the Town, the subdivider shall record all required documentation with the Henderson County Register of Deeds.

8.9.7: MEMBERSHIP REQUIREMENTS

- A: Following establishment of the association by the subdivider, membership in the association shall be automatic and mandatory for all purchasers of land within the subdivision and their successors in title.
- B: All members of an association shall be responsible for contributions to the association's reserve fund to cover their proportionate share of maintenance costs associated with common areas, common features, and private infrastructure.

8.9.8: TRANSFER OF MAINTENANCE RESPONSIBILITY

- A: The subdivider shall be responsible for maintenance of all common areas, common features, and private infrastructure until maintenance responsibility is transferred to the association in accordance with the standards in this subsection.
- B: Maintenance responsibility shall not be transferred from the subdivider to the association until all of the following occur:
 - 1: The subdivider commissions a report prepared by a professional engineer licensed in North Carolina indicating that all common areas, common features, and infrastructure elements comply with the

minimum standards in this Ordinance and the Town Code of Ordinances. The report shall also include verification of the reserve fund balance in accordance with the standards in this section; and

- 2: Town staff reviews and approves the report prepared by the professional engineer; and
- 3: A reserve fund dedicated to the continued maintenance and upkeep of common areas, common features, and private infrastructure is established in the name of the association that contains a minimum balance sufficient to cover the following:
 - a: Ten percent of the construction costs of common features and private infrastructure;
 - b: Liability insurance and taxes (if applicable) for two years; and
 - c: Facilities, stormwater, and landscaping maintenance costs for two years.
- 4: In the event the association has not collected sufficient assessment funds from the lot owners in the subdivision to meet the minimum balance requirements of the reserve fund, the subdivider shall be responsible for the difference needed to meet the minimum balance requirements.

8.9.9: FAILURE TO MAINTAIN IS A VIOLATION

Failure to maintain common areas, common features, or infrastructure is a violation of this Ordinance and is subject to the penalties and remedies in Chapter 9: Violations.

9: VIOLATIONS

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9.1: PURPOSE

This section establishes procedures through which the Town ensures compliance with the provisions of this Ordinance and obtains corrections for Ordinance violations. It also sets forth the remedies and penalties that apply to violations of this Ordinance. The provisions of this section are intended to encourage the voluntary correction of violations, where possible.

9.2: 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.

9.3: STATUTE OF LIMITATIONS

Enforcement of violations of this Ordinance shall be in accordance with Section 1-49(3) and Section 1-51(5) of the North Carolina General Statutes.

9.4: VIOLATIONS

Any of the following shall be a violation of this Ordinance and shall be subject to the remedies and penalties provided by this Ordinance and by State law:

9.4.1: DEVELOPMENT WITHOUT AUTHORIZATION

Engaging in any development, use, construction, land disturbance, or other activity of any nature upon land or improvements thereon subject to the jurisdiction of this Ordinance without all required plans, permits, certificates, or other forms of authorization as set forth in this Ordinance;

9.4.2: DEVELOPMENT INCONSISTENT WITH AUTHORIZATION

Engaging in any development, use, construction, land disturbance, or related activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity;

9.4.3: VIOLATION BY ACT OR OMISSION

Violating, by act or omission, any term, variance, modification, adjustment, condition, requirement, or qualification placed upon any required plan, permit, certificate, or other form of authorization for the development, use, construction, land disturbance, or other activity upon land or improvements thereon;

9.4.4: USE IN VIOLATION

Erecting, constructing, altering, repairing, maintaining, or using any building or structure, or use of any land in violation of this Ordinance or any regulation made under the authority conferred thereby;

9.4.5: SUBDIVIDE IN VIOLATION

Subdividing land in violation of this Ordinance, or transferring land by reference to a plat or map showing a subdivision of land before the plat or map has been properly approved under this Ordinance and recorded in the office of the Henderson County Register of Deeds; and

9.4.6: VIOLATION OF ENVIRONMENTAL REGULATIONS

Failing to follow or violating the rules or regulations in Chapter 3: Environment.

9.5: RESPONSIBLE PERSONS

9.5.1: GENERAL

The landowner, tenant, or other 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 is subject to the remedies and penalties set forth in this Ordinance.

9.5.2: FAILURE BY TOWN DOES NOT RELIEVE INDIVIDUAL

Failure of a Town official charged with enforcement responsibility to observe or recognize conditions which violate the intent and purpose of this Chapter, or to deny the issuance of a development permit, shall not relieve the applicant or landowner from responsibility for the condition or damages that may result and shall not result in the Town, its officers, or agents being responsible for conditions or damages.

9.6: ENFORCEMENT RESPONSIBILITIES

The Town Manager, or a designee, shall have responsibility for enforcement of this Ordinance in accordance with the following:

9.6.1: INVESTIGATIONS

The Town Manager, or a designee shall have the power to conduct any lawful investigation as may be deemed necessary to carry out their duties as prescribed in this Ordinance.

9.6.2: INSPECTIONS

- A:** The Town Manager, or a designee shall have the right, upon receipt of permission from a responsible person, to enter on any premises within the Town’s planning jurisdiction at any reasonable hour for the purpose of inspecting locations subject to any complaints or alleged violations, or determination of compliance or other enforcement action of this Ordinance.
- B:** If any person charged with enforcing this Ordinance cannot obtain permission to enter from a responsible person, the Town shall obtain an administrative search warrant prior to entering the property.

9.6.3: SUPPORTING DOCUMENTATION

The Town Manager, or a designee shall have the power to compel a person responsible for an alleged violation to provide written statements, certificates, certifications, evidence, or reports relating to complaints or alleged violations of this Ordinance.

9.7: ENFORCEMENT OF SPECIFIC ENVIRONMENTAL REGULATIONS

- A:** In cases where the standards in Chapter 3: Environment, conflict with the enforcement provisions in this section, the standards in Chapter 3 shall control.
- B:** Regardless of conflicts between the standards in this section and Chapter 3: Environment, with respect to a violation of this Ordinance, the Town may use all of the enforcement procedures available to resolve a violation.

9.8: ENFORCEMENT PROCEDURE

When the Town Manager, or a designee finds a violation of this Ordinance, they shall notify the responsible person(s) of the violation in accordance with the following:

9.8.1: WRITTEN NOTICE OF VIOLATION

A written notice of violation shall be prepared and shall include all of following:

A: VIOLATION EXISTS

That the land, building, structure, sign, use, or activity is in violation of this Ordinance;

B: NATURE OF THE VIOLATION

The nature of the violation, and citation of the section(s) of this Ordinance violated;

C: REMEDY

The measures necessary to remedy the violation;

D: ALLOWABLE TIME PERIOD

The time period in which the violation must be corrected;

E: PENALTIES THAT MAY BE ASSESSED

That penalties or remedies may be assessed; and

F: APPEAL

That the party cited has the right to appeal the notice in accordance with Section 6.3.3: Appeal.

9.8.2: DELIVERY OF WRITTEN NOTICE

A: The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity.

B: The notice of violation may be posted on the property.

C: The Town official providing the notice of violation shall certify that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud.

9.8.3: REMEDY UPON NOTICE

Upon delivery of a written notice of a violation, the landowner or any other responsible person shall remedy the violation within the allowable time period.

9.8.4: FAILURE TO COMPLY WITH ORDER

If the landowner, occupant, or any other responsible person fails to comply with a notice of violation from which no appeal has been taken, or a final decision by the Board of Adjustment following an appeal, the landowner or occupant shall be subject to such remedies and penalties as may be provided for by State law or Section 9.9: Remedies.

9.8.5: EACH DAY A SEPARATE VIOLATION

Each day a violation continues following notice or failure to comply is considered a separate and distinct offense.

9.9: REMEDIES

9.9.1: CIVIL PENALTIES

Any responsible person who violates any provision of this Ordinance shall be subject to the assessment of a civil penalty of \$100.00 per day under the procedures provided in Section 9.10: Assessment of Civil Penalties.

9.9.2: DENIAL OF PERMIT OR CERTIFICATE

The Town Manager may withhold or deny a permit, certificate, or other authorization for the same land, subdivision, building, structure, sign, use, or development activity in which there is an uncorrected violation of a provision of this Ordinance, or of a condition or qualification of a permit, certificate, or other authorization previously granted.

9.9.3: CONDITIONED PERMIT OR CERTIFICATE

A: A review authority may condition the authorization of any permit, certificate, or other approval for land, subdivision, building, structure, sign, use, or development activity with a violation or outstanding, but still authorized enforcement action, upon the correction of the violation, payment of civil penalties within a specified time, or the posting of a compliance guarantee approved by the appropriate governmental authority.

B: In no instance shall the authorization of any permit, certificate, or approval for one property with a violation or outstanding enforcement action be conditioned with the correction of a violation, payment of civil penalties within a specified time, or the posting of a compliance guarantee for a different property.

9.9.4: STOP WORK ORDERS

A: GENERAL

Whenever the Town Manager or a designee determines that a person is engaged in doing work that constitutes, creates, or results in a violation of this Ordinance and that irreparable injury will occur if the violation is not terminated immediately, that official may order the specific part of the work that constitutes, creates, or results in a violation of this Ordinance to be immediately stopped.

B: ORDER IN WRITING

- 1: The stop work order shall be in writing and directed to the landowner, and the occupant or person doing the work.
- 2: The stop work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed.
- 3: A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail.
- 4: The Town official delivering the notice shall certify that the order was delivered and that certificate shall be deemed conclusive in the absence of fraud.

C: APPEAL

Any person aggrieved by the issuance of a stop work order may appeal the issuance of the order to the Board of Adjustment in accordance with Section 6.3.3: Appeal. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal.

D: COMPLIANCE REQUIRED

Neither the responsible person nor a landowner upon whom a stop work order is served shall continue with work in violation of the stop work order while it remains in effect, unless the order is stayed in accordance with subsection (C) above.

9.9.5: REVOCATION OF PERMITS

- A: The Town Manager may revoke and require the return of a permit by notifying the permit holder in writing, stating the reason for the revocation.
- B: Building permits may be revoked, in accordance with Section 160D-1115 of the North Carolina General Statutes, for any of the following:
 - 1: Any substantial departure from the approved application, plans, or specifications;
 - 2: Refusal or failure to comply with the requirements of State or local laws; or
 - 3: For making false statements or misrepresentations in securing the permit, certificate, or approval.
- C: Any permit or certificate mistakenly issued in violation of an applicable State or Town law may also be revoked.
- D: Revocation of a permit or approval shall be processed in the same manner as the permit or approval was granted.

9.9.6: CRIMINAL PENALTIES

A: VIOLATION OF EROSION AND SEDIMENTATION CONTROL

Any person who knowingly or willfully violates any soil erosion and sedimentation control provision of this Ordinance, or rule or order adopted or issued pursuant to the soil erosion and sedimentation control provisions, or who knowingly or willfully initiates or continues a land-disturbing activity for which a soil erosion and sedimentation control plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a Class 2 misdemeanor that may include a fine not to exceed five thousand dollars (\$5,000).

B: ALL OTHER VIOLATIONS

Any violation of this Ordinance other than one related to erosion and sedimentation control may be enforced as a Class 3 misdemeanor as provided for by Sections 14-4 and 160A-175 of the North Carolina General Statutes, subject to a maximum fine of \$500.

9.9.7: INJUNCTIVE RELIEF

A: ACTION BY TOWN COUNCIL

Whenever the Town Council has reasonable cause to believe that any person is violating or threatening to violate this Ordinance, or any rule or order adopted or issued pursuant to this Ordinance, or any term, condition, or provision of an approved development plan, or soil erosion and sedimentation control plan, it may, either before or after the institution of any other action or proceeding authorized by this Ordinance, institute a civil action in the name of the Town, for injunctive relief to restrain, correct, abate, mandate, or enjoin the violation or threatened violation.

B: SUPERIOR COURT

The action shall be brought in the Superior Court of Henderson County. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation.

C: NO RELIEF FROM CRIMINAL PENALTIES

The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of this Ordinance.

9.9.8: ORDER OF ABATEMENT

In addition to an injunction, the Town may apply for and the court may enter an Order of Abatement as part of the judgment in the case. An Order of Abatement may direct any of the following actions:

- A:** That buildings or other structures on the property be closed, demolished, or removed;
- B:** That fixtures, furniture, or other moveable property be moved or removed entirely;
- C:** That improvements, alterations, modifications, or repairs be made; or
- D:** That any other action be taken as necessary to bring the property into compliance with this Ordinance.

9.9.9: EQUITABLE REMEDY

The Town may apply to a court of law for any appropriate equitable remedy to enforce the provisions of this Ordinance. The fact that other remedies are provided under general law or this Ordinance shall not be used by a violator as a defense to the Town's application for equitable relief.

9.9.10: STATE AND COMMON LAW REMEDIES

In addition to other enforcement provisions contained in this section, the Town Council may exercise any and all enforcement powers granted to it by state law or common law.

9.9.11: PREVIOUS ENFORCEMENT

Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions.

9.9.12: REMEDIES; CUMULATIVE AND CONTINUOUS

All such remedies provided herein shall be cumulative. To the extent that North Carolina law may limit the availability of a particular remedy set forth herein for a certain violation or a part thereof, such remedy shall remain available for other violations or other parts of the same violation.

9.10: ASSESSMENT OF CIVIL PENALTIES**9.10.1: RESPONSIBLE PARTIES**

Any person who violates any provision of this Ordinance, including the owner or occupant of any land, building, structure, sign, use of land, or part thereof, may be held responsible for the violation and subject to the penalties and remedies provided in this Ordinance.

9.10.2: NOTICE**A: NOTIFICATION REQUIRED**

Civil penalties may not be assessed until the responsible person in violation has been notified in accordance with Section 9.8: Enforcement Procedure.

B: CIVIL PENALTY IMPOSED

If after receiving a written notice of violation under Section 9.8: Enforcement Procedure, the person fails to take corrective action or file an appeal, a civil penalty may be imposed in accordance with this section.

C: NOTICE OF PENALTY ASSESSMENT

Notice of the civil penalty assessment shall be served in the same manner as a notice of violation.

D: ASSESSMENT CONTENTS

The assessment notice shall state the nature of the violation, the civil penalty to be imposed upon the violator, and shall direct the violator to pay the civil penalty within 30 days of the date of the notice.

E: SEPARATE NOTICES

Separate notices must be provided for the first or second violations. The Town may, in its discretion, treat the first notice for a violation as the final notice for chronic violators.

F: ASSESSMENT UNTIL COMPLIANCE

Civil penalties may be assessed until compliance is achieved.

9.10.3: CONTINUING VIOLATION

For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.

9.10.4: DEMAND FOR PAYMENT

If compliance is not achieved, then the Town shall make written demand for payment of penalties that have accrued while the property has been in violation. The demand for payment shall be sent to the responsible person in violation and must include a description of the violation for which the civil penalties have been imposed.

9.10.5: NONPAYMENT

If payment is not received or equitable settlement reached within 30 days after demand for payment is made, the Town may recover any unpaid civil penalty by filing a civil action in the nature of debt.

9.10.6: PENALTIES

Any person who violates any provision of this Ordinance shall be subject to assessment of a civil penalty for each succeeding violation over the course of a calendar year.

9.10.7: CIVIL PENALTIES IN THE WPO

In addition to the remedies available in Section 9.9: Remedies, and the standards related to the assessment of civil penalties in this section, the North Carolina Environmental Management Commission may also assess civil penalties for violation of the WPO standards in accordance with Section 143-215.6(A) of the North Carolina General Statutes.

10: WORD USAGE

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10.1: RULES OF LANGUAGE CONSTRUCTION

The following rules shall apply for construing or interpreting the terms and provisions of this Ordinance.

10.1.1: MEANINGS AND INTENT

- A:** All provisions, terms, phrases, and expressions contained in this Ordinance shall be interpreted in accordance with the general purposes set forth in Section 1.6: General Purpose and Intent, and the specific purpose statements set forth throughout this Ordinance.
- B:** When a specific section of these regulations gives a different meaning than the general definition provided in Section 10.3: Definitions, the specific section's meaning and application of the term shall control.
- C:** Terms that are not defined are subject to their common or customary meaning.

10.1.2: HEADINGS, ILLUSTRATIONS, AND TEXT

- A:** In the event of a conflict or inconsistency between the text of this Ordinance and any heading, caption, figure, illustration, table, or map, the text shall control.
- B:** Graphics and other illustrations are provided for informational purposes only and should not be relied upon as a complete and accurate description of all applicable regulations or requirements.

10.1.3: 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.

10.1.4: 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.

10.1.5: TIME-RELATED LANGUAGE**A: TIME STANDARD**

Whenever certain hours are named, they shall mean standard time or daylight savings time as may be in current use by the Town.

B: DAY

The term "day" means a calendar day, or any day during a week, including business days and weekend days.

C: HOLIDAY

The term "holiday" means a legal holiday recognized by the Town.

D: WEEK

The term "week" means five business days and two weekend days. Weeks commence on a Monday.

E: MONTH

The term "month" means a calendar month.

F: YEAR

The term "year" means a calendar year.

G: TEMPORARY

The term "temporary" shall mean a condition lasting for only a limited period of time; not permanent.

10.1.6: REFERENCES TO THIS ORDINANCE

A reference to a chapter, section, sub-section, or paragraph means a chapter, section, sub-section, or paragraph of this Ordinance, unless otherwise specified.

10.1.7: REFERENCES TO OTHER REGULATIONS OR PUBLICATIONS

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition or adopted version of such regulation, resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.

10.1.8: REFERENCES TO NORTH CAROLINA GENERAL STATUTES

Whenever any provision of this Ordinance refers to or cites a section of the North Carolina General Statutes and that section is later amended or superseded, this Ordinance shall be deemed amended to refer to the amended section.

10.1.9: DELEGATION OF AUTHORITY

Whenever a provision of this Ordinance requires or authorizes an officer or employee of the Town to do some act or perform some duty, the officer or employee may designate, delegate, or authorize subordinates to perform the act or duty unless the terms of the provision specifically provide otherwise.

10.1.10: JOINT AUTHORITY

All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

10.1.11: TECHNICAL AND NON-TECHNICAL TERMS

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

10.1.12: PUBLIC OFFICIALS AND AGENCIES

All public officials, bodies, and agencies to which references are made are those of the Town of Laurel Park, unless otherwise indicated.

10.1.13: MANDATORY AND DISCRETIONARY TERMS

The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may," "can," and "should" are permissive in nature.

10.1.14: CONJUNCTIONS

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

- A: "And" indicates that all connected items, conditions, provisions or events apply.
- B: "Or" indicates that one or more of the connected items, conditions, provisions, or events apply.

10.1.15: TENSES, PLURALS, AND GENDER OF WORDS

A: TENSE

Words used in the past or present tense include the future tense as well as the past and present.

B: NUMBER

Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise.

C: GENDER

Words used in the masculine gender include the feminine gender and the neuter, and vice versa.

10.1.16: OATH

The term "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in like cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

10.1.17: TERM NOT DEFINED

If a term used in any chapter of this Ordinance is not defined, the Town Manager is authorized to interpret the term in accordance with Section 6.3.6: Determination, based upon the definitions used in professionally accepted sources.

10.2: RULES OF MEASUREMENT**10.2.1: PURPOSE**

The purpose of this section is to clarify the rules of measurement and exemptions that apply to all principal and accessory uses allowed in this Ordinance. These standards may be modified by other applicable sections of this Ordinance.

10.2.2: MEASUREMENTS, GENERALLY**A: STRAIGHT LINES**

Unless otherwise stated in this Ordinance, distances specified in this Ordinance are to be measured as the length of an imaginary straight line joining two points.

B: ROUNDING

Unless otherwise provided in this section or elsewhere in this Ordinance, numerical operations that result in fractions shall be rounded upwards or downwards in accordance with this section:

1: DENSITY

When the determination of the number of dwelling units permitted on a lot results in a fraction of a dwelling unit, any fractional component shall be disregarded and rounded down to the nearest whole number.

2: ALL OTHER INSTANCES

All calculations that result in a fractional unit or part of a whole number, a fraction of one-half or more shall be rounded up to the next highest whole unit and a fraction of less than one-half shall be disregarded.

C: IRREGULAR SHAPES

In cases where an irregular shape complicates the application of these standards, the Town Manager shall determine the applicable dimensional, setback, or bulk standards in accordance with the standards in this section and [Section 6.3.6: Determination](#).

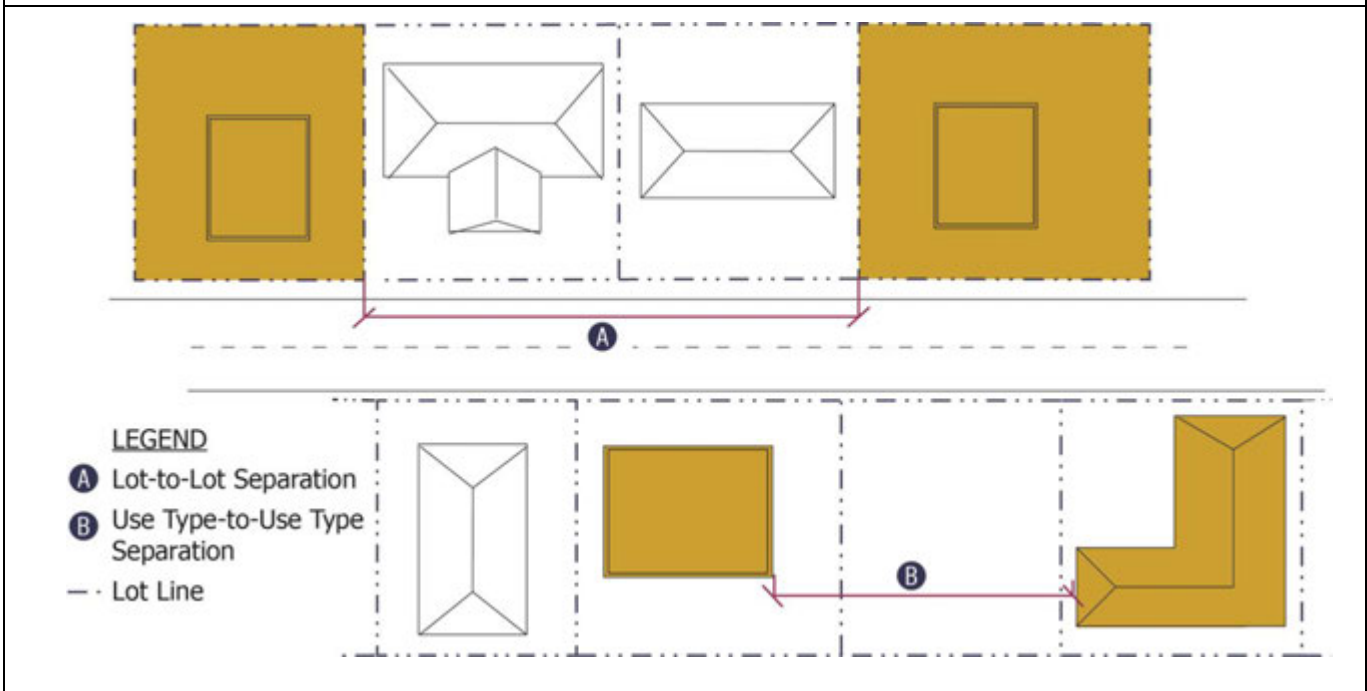
D: SEPARATION**1: LOT TO LOT**

When the provisions of this Ordinance require separation between two or more lots, or a lot and another feature, separation shall be measured by drawing straight lines from the nearest point of one lot line to the nearest point of the lot line subject to the separation requirement (see Figure 10.2.2:D: Separation).

2: USE TYPE TO USE TYPE

When the provisions of this Ordinance require one use type to be separated from another use type, separation shall be measured by drawing straight lines from the nearest point of the wall of one existing or proposed principal structure to the nearest point of the wall of another existing or proposed structure subject to the separation requirement.

FIGURE 10.2.2:D: SEPARATION



E: ABUTTING VERSUS ADJACENT

1: ABUTTING

The term abutting describes a condition where two or more features (a lot line, building, driveway, etc.) are immediately beside or next to one another either on the same lot or on different lots sharing a common lot line.

2: ADJACENT

The term adjacent describes a condition where two or more similar features (a lot line, building, use type, structure, site feature, etc.) are proximate to one another, but are separated by some form of intervening feature, such as a street, alley, water feature, railroad, lot or property under separate ownership, or natural feature of sufficient size so as to prevent direct site visibility or impede the movement of sound from one feature to another.

10.2.3: LOT DIMENSIONS

A: LOT MEASUREMENTS

1: ACREAGE

The total number or gross number of acres on a tract or site.

2: LOT DEPTH

The dimension measured from the front of the lot to the extreme rear line of the lot. In case of irregularly shaped lots, the mean depth shall be taken (see Figure 10.2.3:A: Lot Measurements).

3: LOT WIDTH

The width of a lot is measured at right angles to its depth at the edge of the street setback or at a proposed building setback line, whichever is further from the street right-of-way.

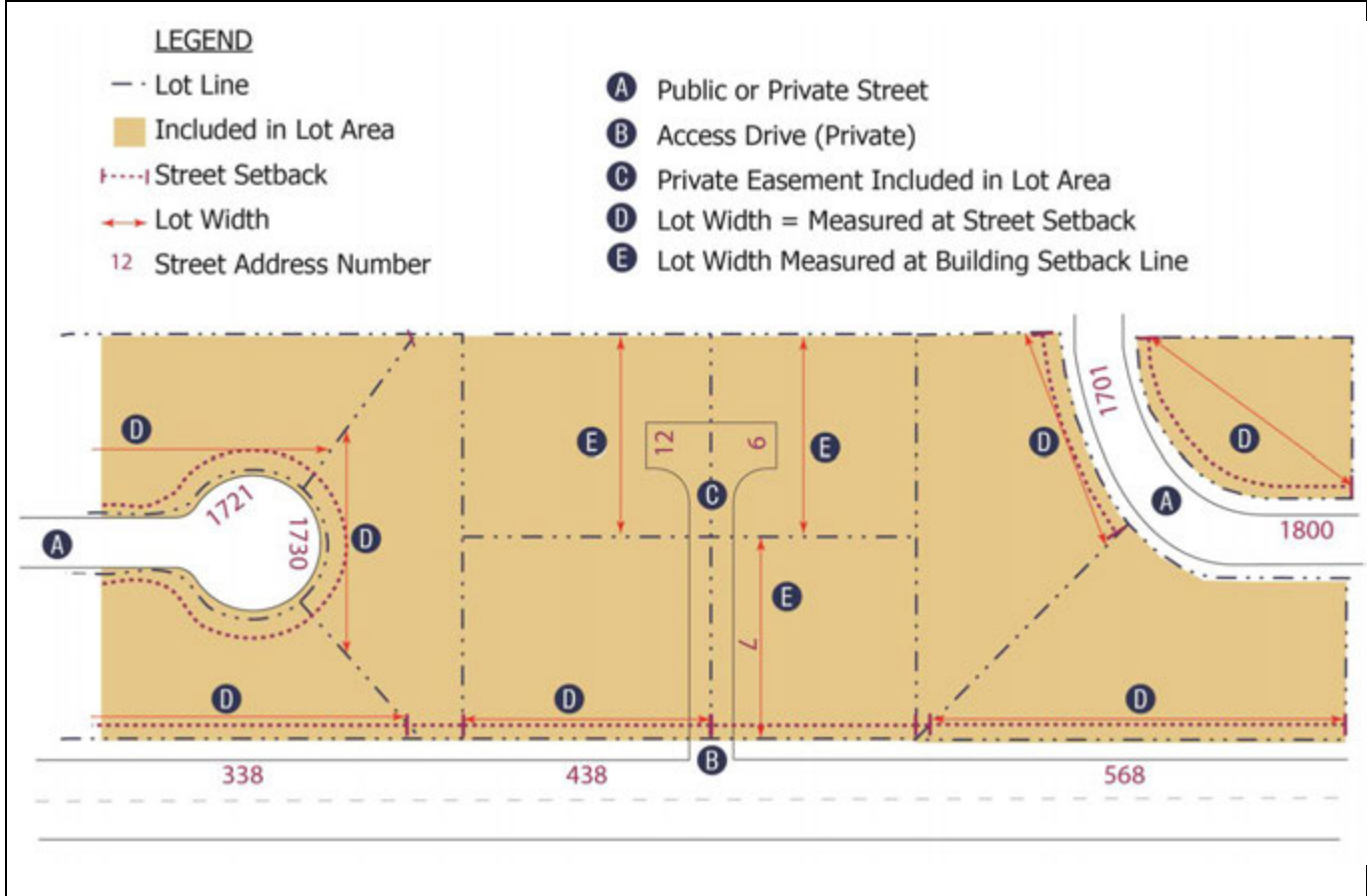
4: MINIMUM LOT AREA

The minimum amount of required land area, measured horizontally, that must be included within the lines of a lot. Lands located within any private easements shall be included within the lot area.

5: STREET FRONTAGE

The length of the lot line of a single lot abutting a public or existing private street right-of-way.

10.2.3:A: LOT MEASUREMENTS



B: LOT LINES

A lot line is a line of record bounding a lot which separates one lot from another lot or separates that lot from a public or private street or any other public space. The following terms describe differing types of lot lines (see Figure 10.2.3:B: Lot Lines):

1: FRONT LOT LINE

The lot line that fronts or that is parallel and proximate to the street from which the lot's street address is derived. A front lot line does not have to border a street right-of-way line.

2: REAR LOT LINE

The lot line opposite and most distant from the front lot line.

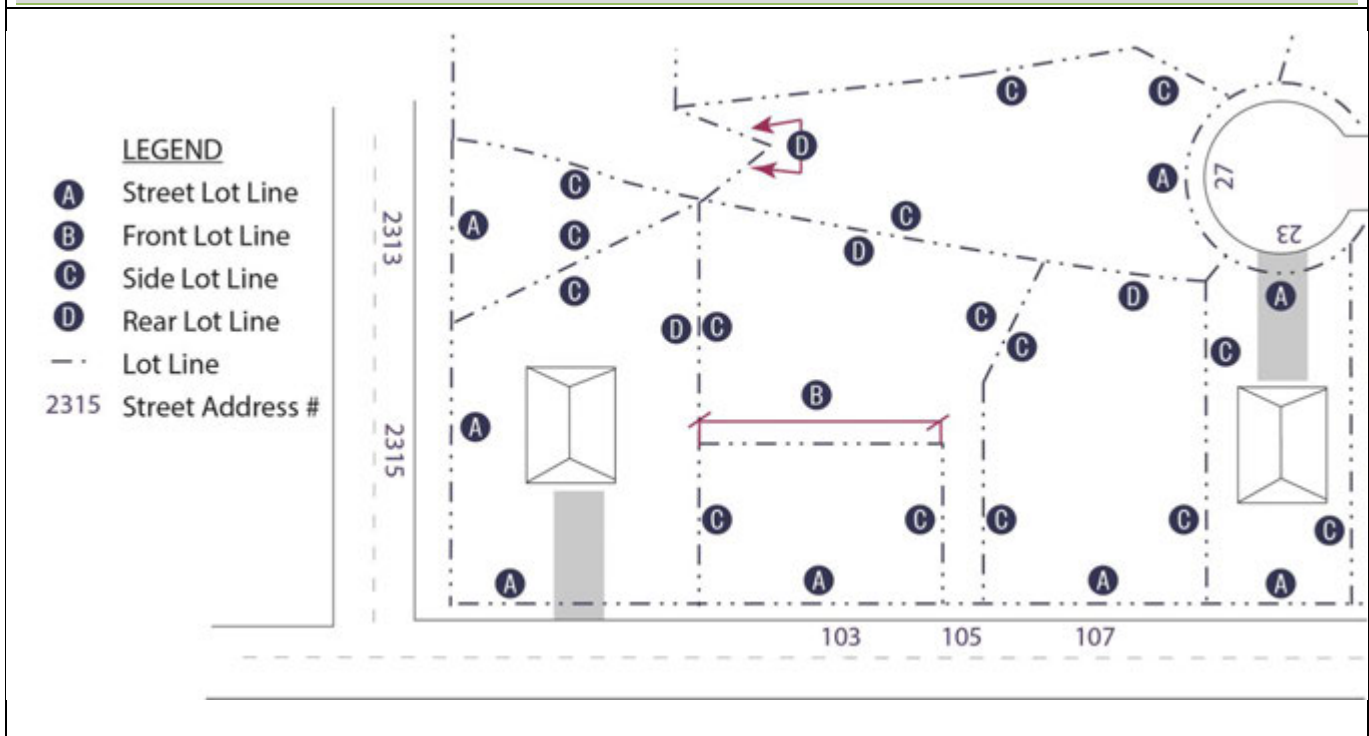
3: SIDE LOT LINE

The lot line connecting the front and rear lot lines regardless of whether it abuts a right-of-way or another lot line. Side lot lines abut other lots, easements, public trust lands, or rights-of-way other than a street right-of-way.

4: STREET LOT LINE

A lot line that borders a platted street right of way, whether or not the street is actually constructed or open to vehicles or pedestrians.

FIGURE 10.2.3:B: LOT LINES



C: LOT TYPES

1: CORNER LOT

A lot which occupies the interior angle at the intersection of two street lines or a single street which make(s) an angle of more than 45 degrees and less than 135 degrees. The front of the lot is the lot line adjacent to the street from which the lot obtains its street address (see Figure 10.2.3:C: Lot Types).

2: FLAG LOT

A lot having shape and configuration so that it connects to street frontage by an extension and/or arm of the main portion of the lot.

3: INTERIOR LOT

A lot other than a corner lot with only one frontage on a street.

4: LOT OF RECORD

A lot that is a part of a subdivision, a plat of which has been recorded in the office of the Henderson County Register of Deeds, or a lot described by metes and bounds, the description of which has been recorded with the Henderson County Register of Deeds.

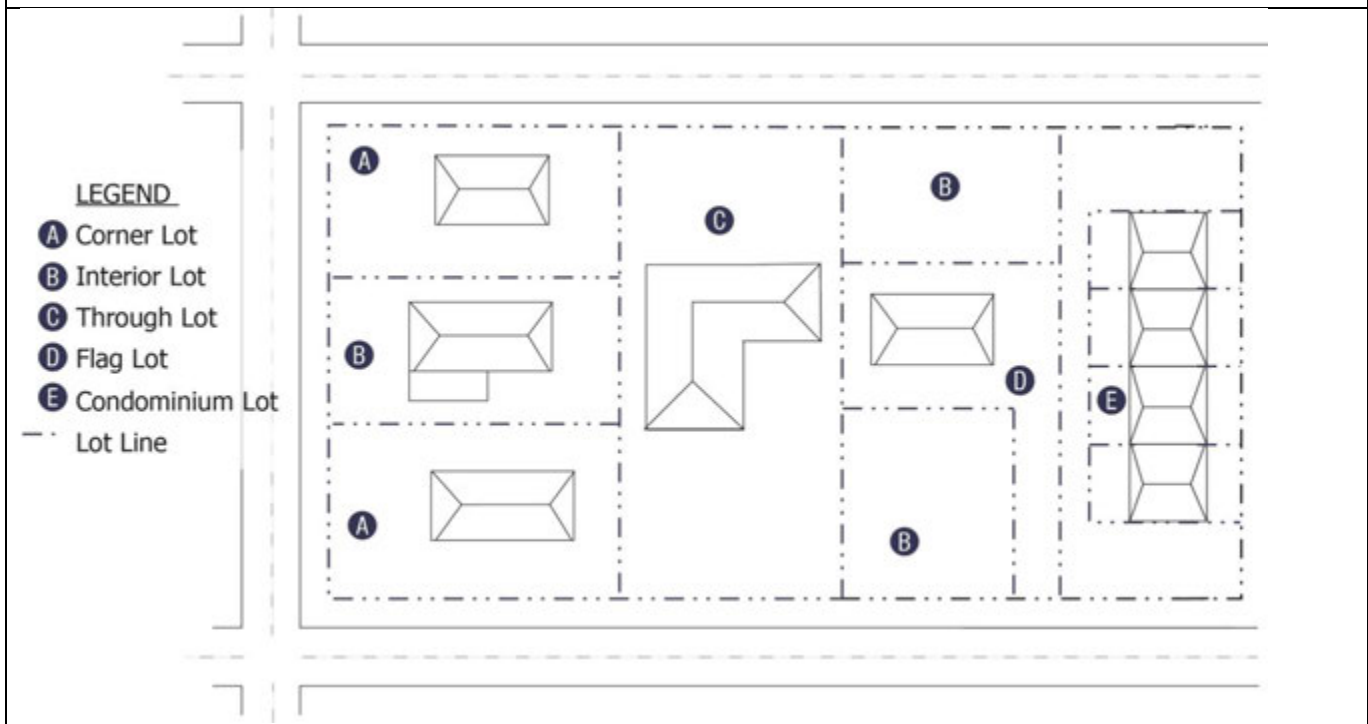
5: THROUGH LOT (DOUBLE FRONTAGE LOT)

A lot which fronts upon two parallel streets, and/or which fronts upon two streets which do not intersect at the boundaries of the lot.

6: LOTS SERVING CONDOMINIUM USE TYPES

Individual condominium uses, whether residential or non-residential, are exempted from minimum lot area requirements in this Ordinance but shall be located on a larger site or parent tract that meets the standards for the zoning district where located.

FIGURE 10.2.3:C: LOT TYPES



10.2.4: SETBACKS

A setback is the horizontal distance from a lot line or street right-of-way line to the nearest part of the applicable building, structure, sign, or activity, measured perpendicularly to the line (see Figure 10.2.4: Setbacks).

A: PERIMETER SETBACK

Setbacks applied to multiple building developments or multiple lot developments that apply only to the outermost buildings along the perimeter of a development. A perimeter setback does not apply along streets, where the minimum or maximum required street setback shall prevail.

B: REAR SETBACK

A setback from an interior lot line lying on the opposite side of the lot from the street setback.

C: SIDE SETBACK

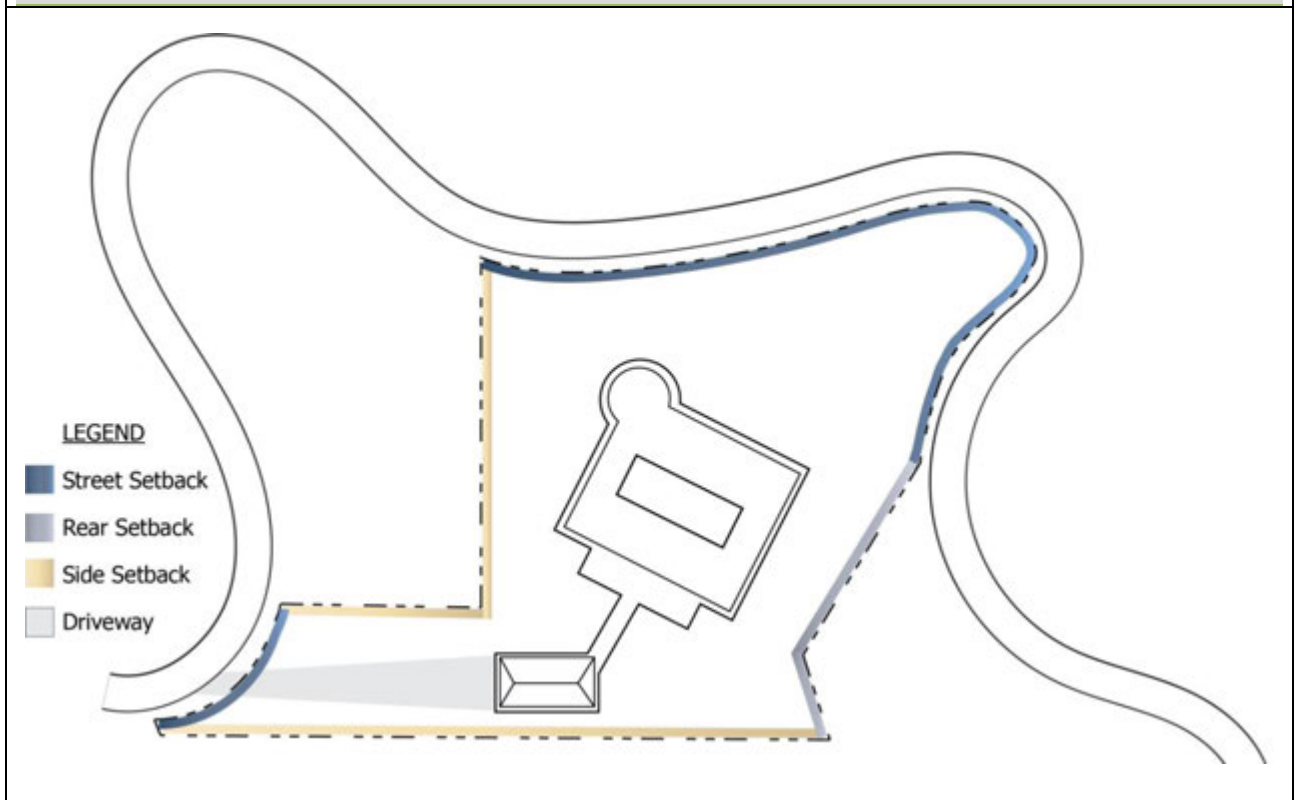
Any interior property line setback other than a rear setback.

D: STREET SETBACK

- 1: A street setback measured from the right-of-way edge associated with a public street or existing private street.
- 2: The street setback is a minimum setback, and nothing shall prohibit a building from being located farther from the street right-of-way, except where a maximum street setback is specifically identified by this Ordinance or a condition of approval.

- 3: In cases where the street right-of-way edge is not readily identifiable, the location of the right-of-way edge shall be determined by measuring outwards from the street centerline one-half of the total right-of-way width. The right-of-way edge location shall be certified by a professional engineer or land surveyor licensed by the State of North Carolina.
- 4: Lots shall provide a street setback from all lot lines abutting a street. The Town may require a deeper setback from lot lines abutting a street in cases when the ultimate street-right-of-way width has not yet been acquired.

FIGURE 10.2.4: SETBACKS



10.2.5: RESIDENTIAL DENSITY

Residential density is the maximum allowable number of residential dwelling units permitted on a particular site, tract, lot, or other unit of land area, typically expressed as a maximum number of residential units per acre.

A: CALCULATION

- 1: Maximum residential density is calculated by dividing the square footage of a lot by the number of square feet in an acre (43,560), then multiplying the maximum number dwelling units allowed in the zoning district and rounding the product downwards to remove any fractions.

Example:

Lot size: 52,000 square feet / 43,560 = 1.19 acres.

Zoning district maximum density is 1.08 units per acre: 1.19 x 1.08 = 1.28.

Maximum number of residential units = 1.0 (fractions are rounded downwards).

- 2: Riparian buffers shall be included in the calculation of the square footage of a tract or site for the purposes of determining the maximum residential density.

- 3: Land area associated with floodplains shall not be included in the calculation of the square footage of a tract or site for the purposes of determining the maximum residential density.
- 4: Land area located within a right-of-way shall not be included in the calculation of allowable density.
- 5: Maximum residential density in a particular zoning district may be increased beyond the amount stated in Chapter 2: Districts, in accordance with the standards in Section 7.1.4: Residential Design Guidelines.

B: DENSITY EQUIVALENCE

- 1: Accessory dwelling units associated with a single-family residential principal use shall be counted towards the maximum allowable residential density.
- 2: When calculating the density for a private dormitory associated with an educational use, two bedrooms in a private dormitory shall be equivalent to one regular dwelling unit.
- 3: Maximum density amounts do not apply to student housing or lodging on college or university campuses when the housing is owned or operated by the college or university. In these instances, residential land uses are considered as an accessory to the college or university principal use.

10.2.6: GROSS FLOOR AREA

Gross floor area (GFA) shall be defined as the sum in square feet of all floors of the building measured from the exterior face of the exterior walls. The gross floor area shall include or exclude areas as indicated below:

A: AREAS INCLUDED IN GROSS FLOOR AREA

- 1: All enclosed habitable space.
- 2: Elevators, hallways, and stairwells on stories containing habitable space.

B: AREAS EXCLUDED FROM GROSS FLOOR AREA

- 1: Unenclosed porches or decks.
- 2: Off-street parking areas, including the elevators, hallways, mechanical equipment, and stairwells serving structured parking.
- 3: Utility services areas devoted to the electric service, the potable water service, the wastewater system, the telephone service, the cable service, or to a backup generator.
- 4: Mechanical areas and uninhabited enclosed spaces on tops of roofs not intended for general storage.

10.2.7: HEIGHT

A: MEASUREMENT

Building height shall be measured from the finished or established grade elevation following any land disturbing activities (see Figure 10.2.7:B: Height).

B: MAXIMUM HEIGHT

Building height is the vertical distance from a point established as the mean elevation of the finished grade along the front façade of a building to any of the following points:

- 1: The highest point of a flat roof (excluding coping or parapet walls shorter than five feet above the roof deck);
- 2: The deck line of a mansard roof;
- 3: The mid-point of the roof between the ridge and the eaves for a gable, hip, or gambrel roof; or
- 4: To the highest point of a dome, shed, or cricket-style roof.

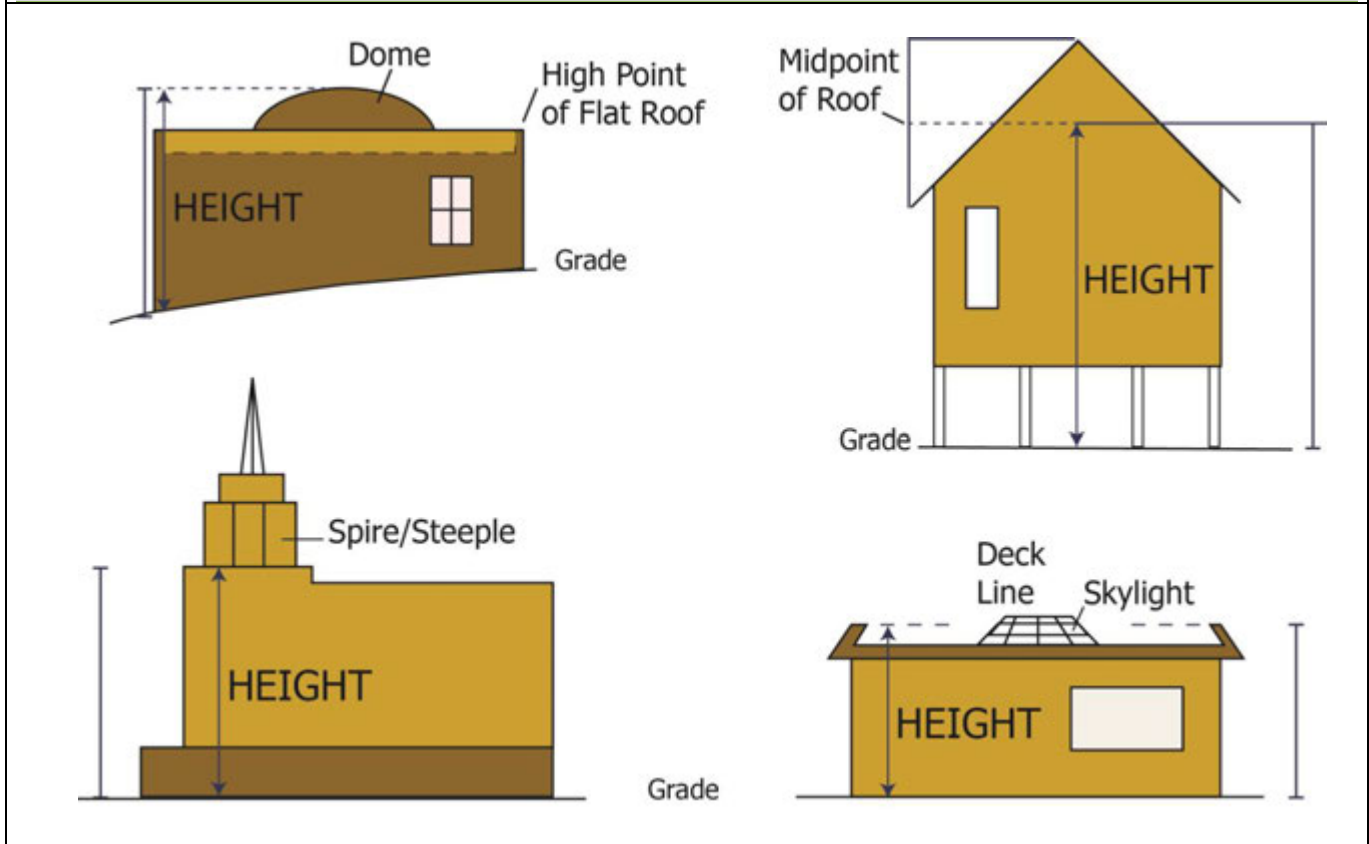
C: STORY

A building story is the portion of a building where all rooms share the same floor and ceiling level.

- 1: A crawlspace or basement with an average ceiling height of less than seven feet is not considered as a story.

2: An attic with an average ceiling height of less than six feet is not considered a story.

FIGURE 10.2.7:B: HEIGHT



D: EXCEPTIONS

The following features are exempted from the maximum height requirements in this Ordinance:

- 1: Parapet walls of less than five feet in height above the roof deck;
- 2: Spires, steeples, minarets, belfries, cupolas, domes, and similar architectural features not intended for human habitation;
- 3: Water tanks, vent housings, elevator housings, and equipment covers associated with a building;
- 4: Chimneys, vent pipes, skylights, or mechanical equipment; and
- 5: Bulkheads or a single-story penthouse occupying 25 percent or less of the total roof area.

10.2.8: LOT COVERAGE

Lot coverage is the percentage of a lot or development site that is covered by buildings or roof structures, excluding allowed projecting eaves and balconies.

10.2.9: SLOPE AND ELEVATION

A: SLOPE

The degree of deviation of the ground surface from a flat, horizontal elevation, usually expressed in percent or degrees of deviation from horizontal (see Figure 10.2.9: Slope). The slope of a lot may be determined using the following approach:

1: DETERMINING SLOPE BASED ON TOPOGRAPHIC CONTOURS

- a:** Identify the elevation (in AMSL) of the highest point of the lot and the lowest point of the lot (using a USGS 7.5 Minute Quadrangle Map or other recognized source of topographic contour lines).
- b:** Subtract the lowest elevation number from the highest elevation number.
- c:** Determine the distance (in feet) between the lowest and highest points on the lot.
- d:** Divide the difference in elevation by the distance between the highest and lowest points.
- e:** Multiply the quotient by 100 to derive the percentage slope of the lot.
- f:** Disregard negative numbers.

Example:

A hypothetical lot has a high point at 3,500 feet AMSL and a low point of 3,400 AMSL. There is 300 linear feet between the highest point of the lot and the lowest point of the lot. The slope of the lot is:

$$3,500 - 3,400 = 100$$

$$100/300 = 0.33$$

$$0.33 \times 100 = 33\% \text{ slope}$$

B: STEEP SLOPE

The portion of a lot, tract, or site that has a natural or man-made slope exceeding 15 percent but less than 25 percent. If any portion of a lot has a pre-development slope between 15 percent and 24.99 percent, the entire lot shall be considered as a lot with a steep slope.

C: VERY STEEP SLOPE

The portion of a lot, tract, or site that has a natural or man-made slope of 25 percent or more. If any portion of a lot has a pre-development slope of 25 percent or more, the entire lot shall be considered as a lot with a very steep slope.

D: BASE FLOOD ELEVATION (BFE)

- 1:** A determination of the water surface elevations of the base flood as published in the flood insurance study.
- 2:** When the BFE has not been provided for land within the special flood hazard area, it may be obtained from engineering studies available from a federal, State, or other source using FEMA approved engineering methodologies. This elevation establishes the Regulatory Flood Protection Elevation.

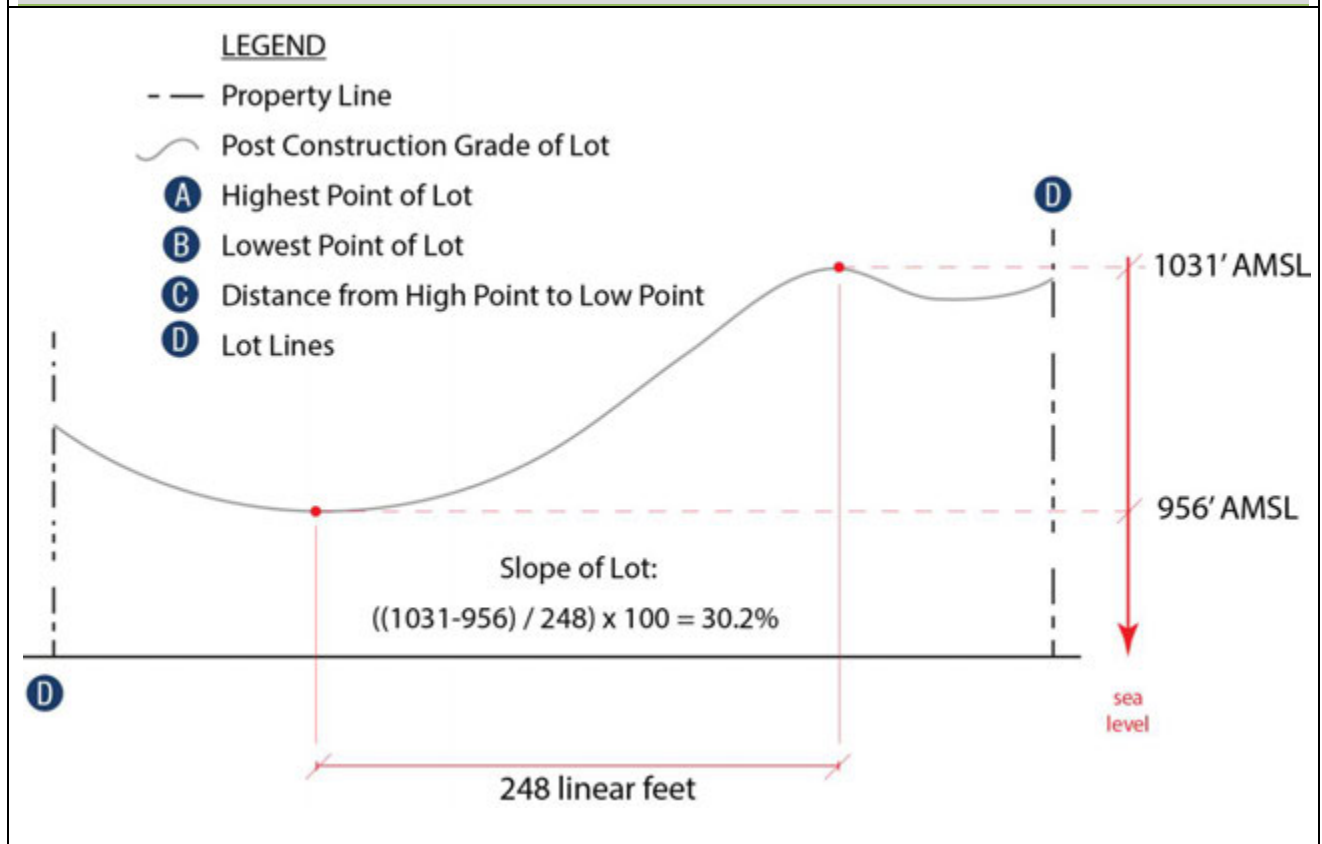
E: FINISHED GRADE

The established grade following grading, excavation, or other land-disturbing activity.

F: NATURAL GRADE

The level of the ground elevation prior to the commencement of development or land disturbing activity.

FIGURE 10.2.9: SLOPE



10.2.10: PARKING SPACE COMPUTATION

A: ROUNDING

When computation of the number of required parking spaces results in a fraction, the fraction shall be rounded downwards to the previous whole number.

B: MULTIPLE AND MIXED-USES

Unless otherwise approved, development containing more than one principal use shall provide off-street parking in an amount equal to the total requirements of all individual uses, unless the Town Manager determines that a lower standard would be adequate because of differences in peak operating hours.

C: SEAT BASED STANDARDS

Where the minimum number of off-street parking spaces is based on the number of seats, all computations shall be based on the number of seats provided, including outdoor and waiting areas.

D: EMPLOYEE BASED STANDARDS

When the minimum number of off-street parking spaces is based on the number of employees, the computations shall be based on the number of employees on the largest shift.

E: FLOOR-AREA BASED STANDARDS

Where the minimum number of off-street parking spaces is based on square feet of floor area, all computations shall be based on gross floor area. For the purposes of this section, gross floor area shall also include outdoor use area.

10.2.11: LANDSCAPING CALCULATION

A: DETERMINING TREE SIZE AT TIME OF PLANTING

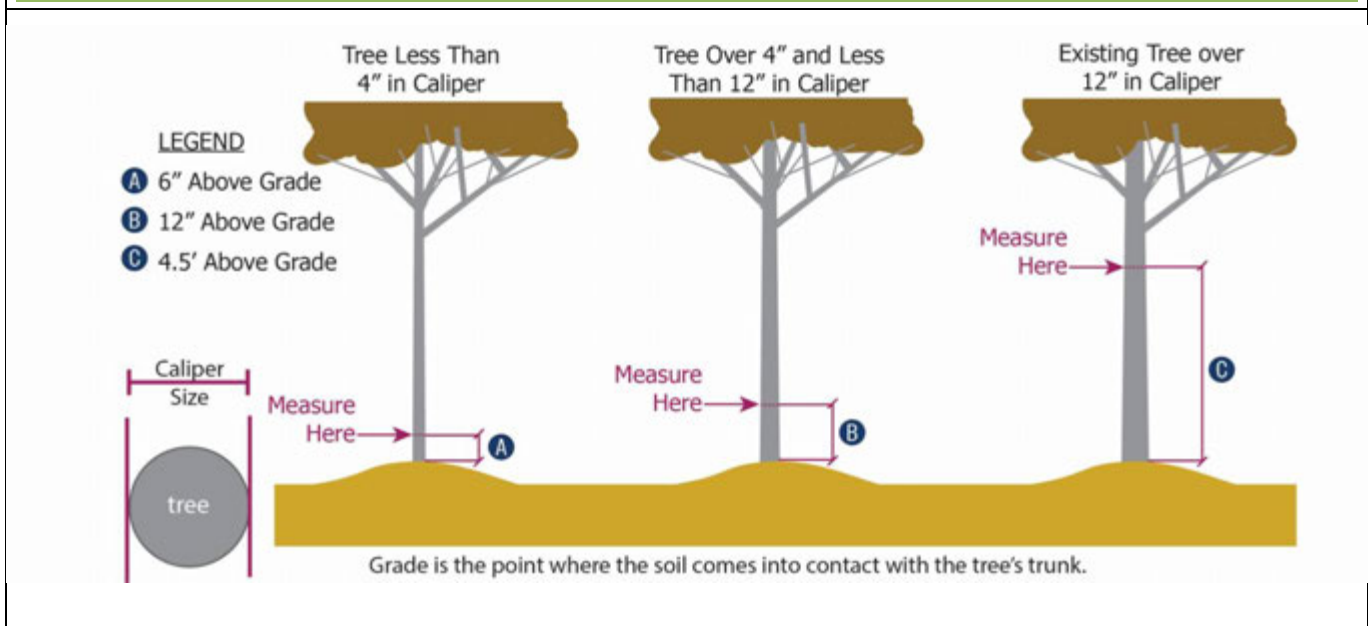
1: TREES UNDER FOUR INCHES IN CALIPER

Minimum size at time of planting shall be determined by taking a measurement of the girth or circumference of the tree trunk, in inches, at a height of six inches above the bole, or the location where tree trunk meets the soil it is planted in (see Figure 10.2.11: Landscaping Calculation).

2: TREES OVER FOUR, BUT LESS THAN TWELVE INCHES, IN CALIPER

Minimum size at time of planting shall be determined by taking a measurement of the girth or circumference of the tree trunk, in inches, at a height of 12 inches above the bole, or the location where tree trunk meets the soil it is planted in.

FIGURE 10.2.11: LANDSCAPING CALCULATION



B: DETERMINING TREE SIZE OF EXISTING TREES

- Existing tree size shall be determined by taking a measurement of the girth or circumference of the tree trunk, in inches, at a height of four-and-one-half feet above the bole, or the location where tree trunk meets the soil it is planted in.
- In the case of a multi-stemmed tree, the cumulative DBH shall be the square root of the sum of all the individual stem diameters squared. As an alternative, the tree's basal area is the sum of the diameters of all tree stems.

C: ROUNDING

When computation of the amount of landscaping material to be provided results in a fraction, the minimum number of shrubs or trees to be provided shall be rounded upwards to the next highest whole number.

D: CALCULATION OF REQUIRED LANDSCAPING YARD OR AREA DISTANCES

- In cases where a driveway, sidewalk, or greenway trail intersects a required landscaping area or yard, the width of these features shall be subtracted from the yard or area distance.

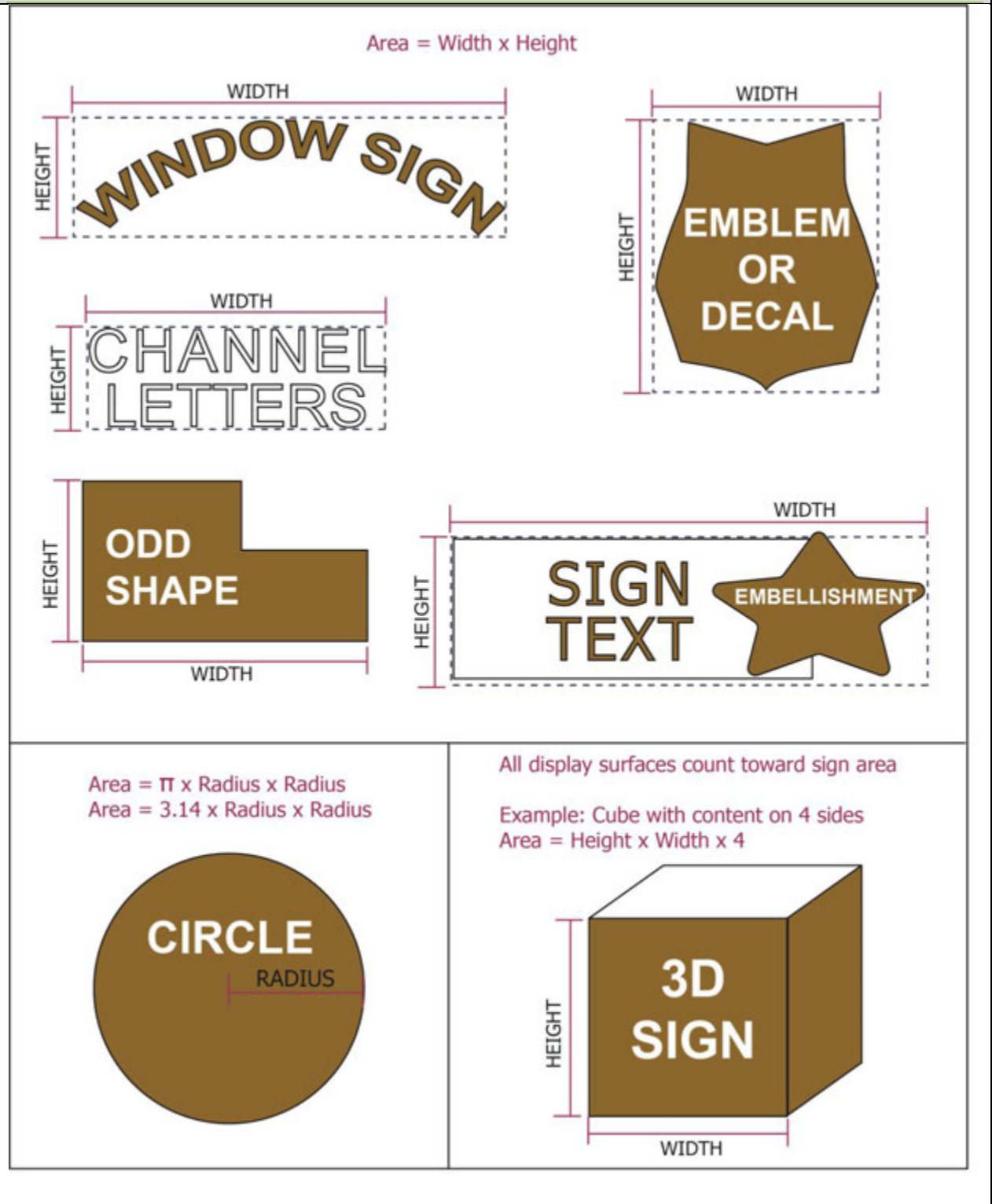
- 2: In cases where an easement that prohibits the placement of landscaping material intersects a required landscaping yard or area, the width of the easement shall not be subtracted from the required yard or area distance. Required plant material shall be located outside the easement but within the required landscaping area or yard.

10.2.12: SIGN MEASUREMENT

A: SIGN AREA DETERMINATION

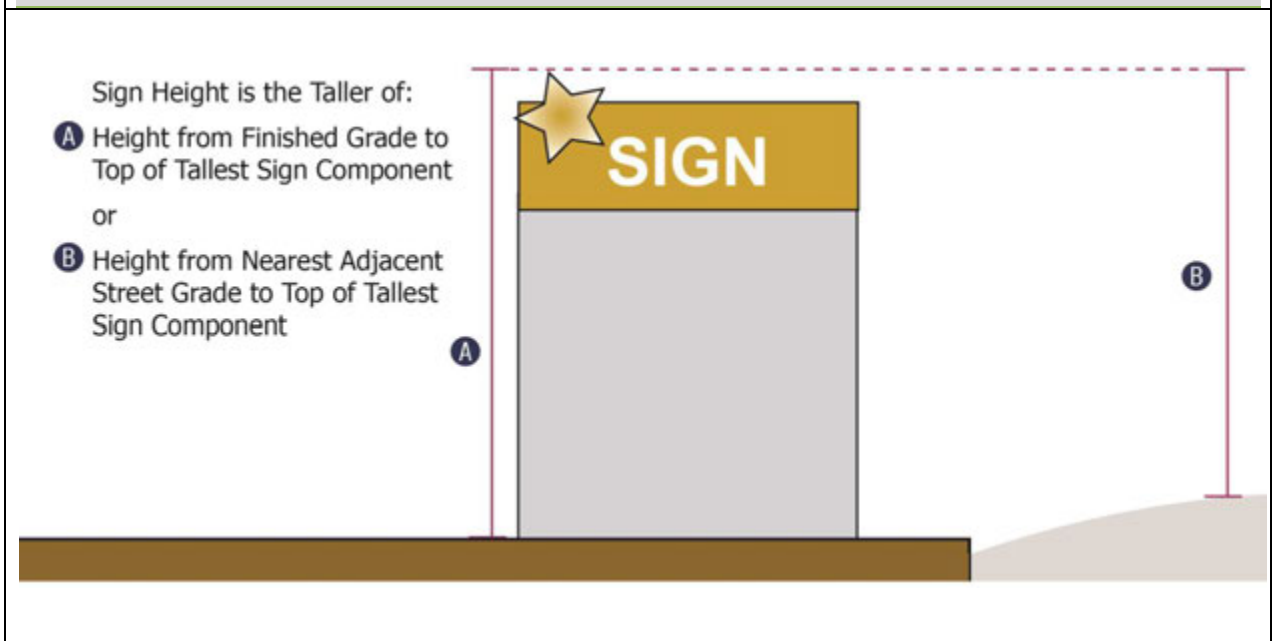
- 1: The surface area of a sign is computed as including the entire area within a parallelogram, triangle, circle, semi-circle, or other regular geometric figure, including all of the elements of the display, including incidental or changeable copy signage, frames, display of identification or licensing officially required by any governmental body, and structural elements (see Figure 10.2.12: Sign Measurement).
- 2: The supporting structure for a projecting sign shall not be included within the calculation of the surface area of a sign unless otherwise indicated in this Ordinance.
- 3: In the case of signs mounted back-to-back, only one side of the sign is to be included in the calculation of sign face area. Otherwise, the surface area of each sign is to be separately computed.
- 4: When two identical sign faces are placed back-to-back so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.
- 5: For multi-faced signs, the sign area shall be computed by including all sign faces visible from any one point.
- 6: In the case of cylindrical signs, signs in the shape of cubes, or other signs, which are substantially three-dimensional with respect to their display surfaces, the entire display surface or surfaces, is included in computations of area.
- 7: Embellishments such as display portions of signs extending outside the general display area, incidental signage, changeable copy, or supplemental signage affixed to or included on a sign or sign support structure shall be computed as part of the total surface area of the sign, unless otherwise indicated in this Ordinance.
- 8: If a sign is attached to an entrance wall or fence, only that portion of that wall or fence on which the sign face or letters are placed shall be calculated in the sign area.

FIGURE 10.2.12.A: SIGN MEASUREMENT



B: SIGN HEIGHT DETERMINATION

- 1: Sign height shall be computed as the distance from the base of the sign at the finished grade or from the nearest adjacent street grade to which the sign is oriented and on which the lot has frontage, whichever is higher, to the top of the highest component of the sign.
- 2: Finished grade shall be the grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.

FIGURE 10.2.12.B: SIGN HEIGHT**C: WALL AREA (FOR THE PURPOSES OF SIGN AREA MEASUREMENT)**

For the purposes of determining allowable sign area, a wall is the vertical exterior surface of a building, the area of which shall be determined as follows:

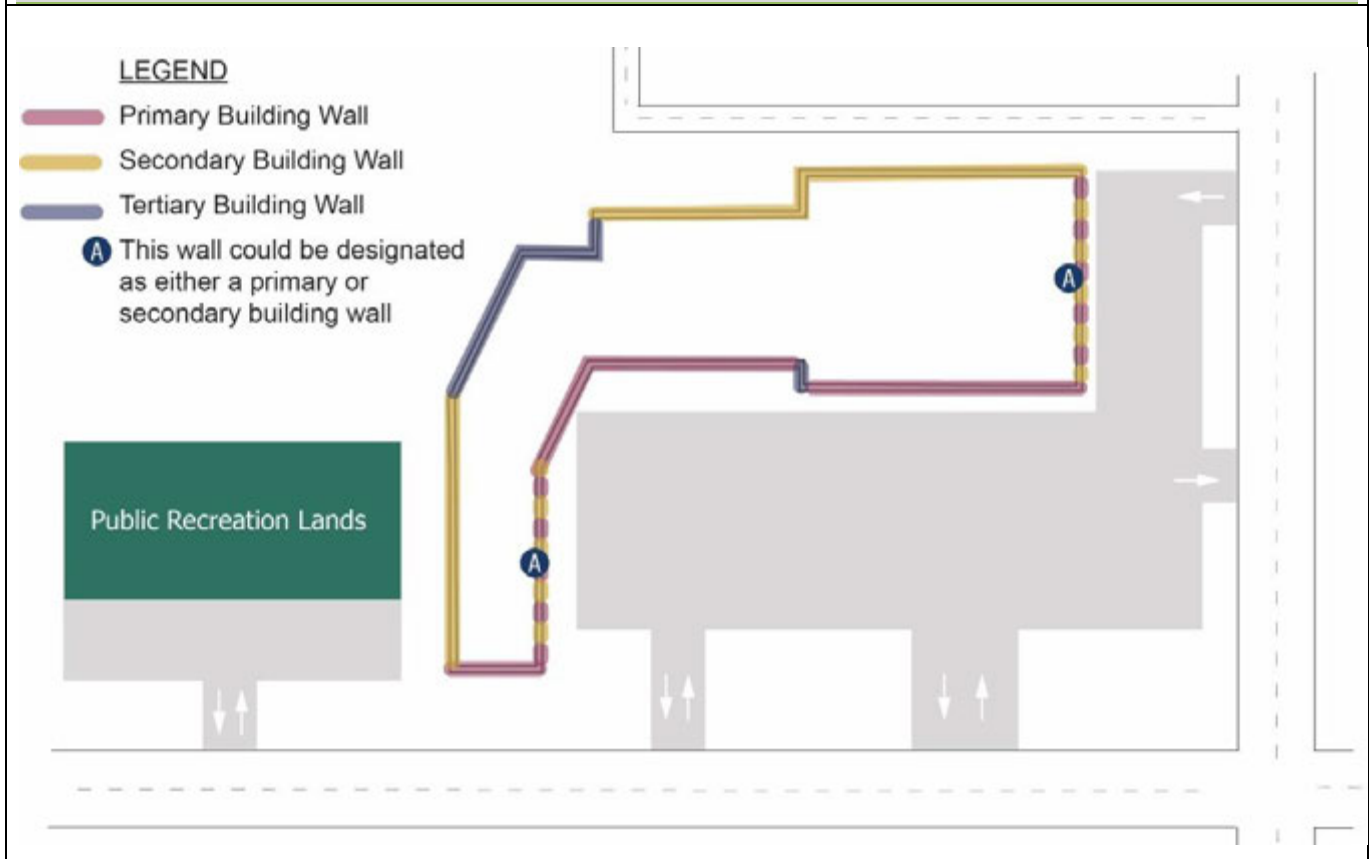
- 1: The area of all parallel vertical surfaces along a single building elevation regardless of offsets shall be counted as one wall.
- 2: The front of each unit of a multiple tenant commercial building shall be counted as a separate wall.
- 3: The area of an angled wall surface shall be counted as part of whichever adjoining wall surface it is most parallel with.
- 4: A 45-degree angled wall may be counted as part of the area of either adjoining wall, but not as a part of both.

10.2.13: BUILDING FAÇADE TYPE

- A:** Exterior building wall facades shall be distinguished as primary, secondary, or tertiary, in accordance with the following standards (see Figure 10.2.14, Building Façade Walls Distinguished):
- 1: Primary walls are the architectural front façade of the building that faces the street from which the building is addressed.
 - 2: Secondary building walls are exterior building walls that correspond to the side or rear of a building that are visible from public recreation lands or streets other than the street that the building is addressed from.
 - 3: Tertiary walls are all other exterior building walls.

- B:** Different standards apply to building walls based on their designation as a primary, secondary, or tertiary building wall.
- C:** In cases where site conditions result in a situation where a building wall could be designated as either a primary or secondary wall, the wall shall be treated as a primary wall. Nothing in these standards shall limit the number of primary walls on any particular building.
- D:** In cases where site conditions result in a situation where a building wall could be designated as either a secondary or tertiary wall, the wall shall be treated as a secondary wall.

FIGURE 10.2.14 BUILDING FAÇADE WALLS DISTINGUISHED



10.2.14: EXTERIOR LIGHTING

A: MEASURED AT THE LOT LINE

Light level measurements shall be made at the lot line of the land upon which light to be measured is being generated. If measurement on private property is not possible or practical, light level measurements may be made at the boundary of the public street right-of-way that adjoins the land.

B: MEASURED AT FINISHED GRADE

Measurements shall be made at finished grade (ground level), with the light-registering portion of the meter held parallel to the ground pointing up. The meter shall have cosine and color correction and have an accuracy tolerance of no greater than plus or minus five percent.

C: MEASUREMENT DEVICE

Measurements shall be taken with a light meter that has been calibrated within the year the measurement was taken.

10.2.15: FENCE AND WALL HEIGHT

A: MEASUREMENT LOCATION

- 1: Fence or wall height shall be determined from the finished grade at the base of the adjacent fence or wall.
- 2: In cases where a fence or wall is placed on a berm, the fence or wall height shall include the height of the berm, as measured from the toe of the slope.

(AMENDED 8-15-22 UDOTA 1-23)

B: COLUMN AND POST HEIGHT

Columns or posts shall not exceed a height 18 inches above the built height of the fence.

C: RAILINGS NOT INCLUDED

Safety railings required by the North Carolina Building Code shall not be included in wall height measurements.

FIGURE 10.2.15: FENCE HEIGHT

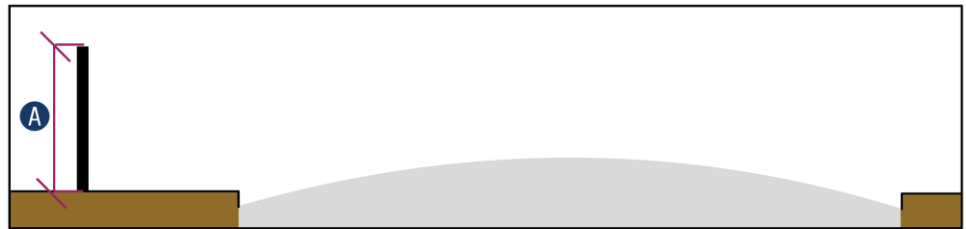
LEGEND

Street

Fence or Wall

A Maximum Height Measurement

1. Fence or Wall Located at Grade



2. Fence or Wall Located on a Berm



10.3: DEFINITIONS

This section includes definitions of terms used throughout this Ordinance. Some multi-word terms may include commas or be structured differently than used in the text of the Ordinance.

A	
ABANDONMENT	The relinquishment of property or a cessation of the use of the property for a continuous period.
ABROGATE	To abolish or annul.
ABUTTING	See Section 10.2.2:E: Abutting versus Adjacent.
ACCELERATED EROSION	Any increase over the rate of natural erosion as a result of land disturbing activities.
ACCENT	The use of an alternate material or color to a detail that is emphasized by contrasting with its surroundings.
ACCESS EASEMENT	An easement which grants the right to cross land.
ACCESSIBLE PARKING SPACE	An off-street parking space provided for the exclusive use of vehicles serving disabled persons.
ACCESSORY BUILDING OR STRUCTURE	A use or structure that is clearly incidental to and customarily found in connection with a principal building or use, is located on the same parcel and serves a principal building or use, and is subordinate in area, extent and purpose to the principal building or principal use served.
ACCESSORY DWELLING UNIT, DETACHED	A secondary dwelling unit established in conjunction with and clearly subordinate to a principal dwelling unit but located in a detached structure on the same lot.
ACCESSORY DWELLING UNIT, INTERNAL	A secondary dwelling unit established in conjunction with and clearly subordinate to a principal dwelling unit but located within the same structure as the principal dwelling unit.
ACCESSORY USE	See "Use, Accessory."
ACCESSWAY	A paved or unpaved travel way intended to serve vehicles for the purposes of obtaining ingress, egress, or circulation around a lot or site. Subdivisions of up to three lots may be served by a vehicular accessway.
ACREAGE	See Section 10.2.3:A:1: Acreage.
ACTIVE CONSTRUCTION	Activities that contribute directly to the building of facilities including land-disturbing activities for roads, parking lots, footings, etc.
ADDITION	An extension or increase in the floor area or height of an existing building or structure.
ADDRESS POST	A vertical projection that bears the street address of a lot. An address post may also include other features such as a mailbox.
ADEQUATE EROSION CONTROL MEASURE, STRUCTURE, OR DEVICE	A measure, structure or device that controls the soil material within the land areas under responsible control of the person conducting the land-disturbing activity.
ADJACENT	See Section 10.2.2:E: Abutting versus Adjacent.
ADMINISTRATIVE ADJUSTMENT	A request by an applicant to deviate from a specified numerical standard of this UDO by a specified percentage, subject to consistency with applicable review criteria.

ADMINISTRATIVE SEARCH WARRANT	An order signed by a court of competent jurisdiction authorizing a Town official to enter land or a structure for the purposes of inspection for compliance with the requirements of this Ordinance.
ADOPTED POLICY GUIDANCE	The combined future land-use policy guidance provided by the adopted comprehensive plan, area plans prepared for specific parts of the Town, and system plans related to the Town's infrastructure systems.
ADULT ESTABLISHMENTS AND BOOKSTORES	Any place defined as an "adult establishment" by Section 14-202.10 of the North Carolina General Statutes, except that the use type shall not include an adult bookstore, adult video store, adult cabaret, or adult motel as identified and defined in this Ordinance. Another adult use shall not include any establishment or business where massage is practiced that is a health club, exercise studio, hospital, physical therapy use, or other similar health-related use provided the person rendering or receiving a massage does not exhibit or include "specified anatomical areas" as defined by Section 14-202.10 of the North Carolina General Statutes.
ADVANCED TIA	A transportation impact analysis prepared for larger residential developments of 76 or more units or non-residential developments exceeding 10,000 square feet.
ADVISORY OPINION	An oral or written interpretation of a provision in this Ordinance, a boundary on the Official Zoning Map, or a prior development approval that is not binding on the Town or the Town official making the interpretation.
AFFECTED PARTY	Owners of land adjoining the land subject to an application and any other person who could suffer an adverse effect to a property interest from a proposed development.
AFFILIATE	A person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control of another person.
AGGRIEVED (AFFECTED) PARTY	A person, with a legally recognized interest (i.e., fee simple ownership) and standing to appeal, that is injuriously affected by a decision from any decision-making body of the Town, including any officer or agent of the Town.
AGRICULTURE USE	As used in the Watershed Protection Overlay district, the use of waters for stock watering, irrigation, and other farm purposes.
ALCOVE	A recess or small room adjacent to or connecting to the main portion of a structure.
ALL WEATHER SURFACE	Paving or surface treatment to a walkway or vehicular use area that is capable of withstanding adverse weather while still maintaining its regular or typical surface characteristics.
ALLEY	See "Street, Alley."
AMATEUR COMMUNICATIONS EQUIPMENT	Antennas or other devices used by a non-professional person located on the exterior of a building or structure devoted to the transmission or receipt of radio or other digital communication signals.
AMENDMENT	A significant change, revision, addition, or deletion to a legal statutory document such as a development approval, the text of this Ordinance, or the Official Zoning Map. Amendment to a development approval is also referred to as a "major modification".
ANSI STANDARDS	Standards published by the American National Standards Institute (ANSI), a private, non-profit organization [501(c)(3)] that administers and coordinates the U.S. voluntary standardization and conformity assessment system. More information is available at www.ansi.org .

ANTENNA	Any structure or device used to collect or radiate electromagnetic waves, including both directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whips, but not including satellite earth stations.
ANTENNA COLLOCATION, MAJOR	Uses involving the placement of antennas on building’s roof or wall, placement of antennas on a vertical projection not constructed for communications purposes, or placement of antennas on a communications structure that requires “substantial modifications” as defined in Section 160D-931 of the North Carolina General Statutes.
ANTENNA COLLOCATION, MINOR	Uses involving the placement of antennas on a vertical projection (including a structure built for communications) that does not require substantial modifications and meets the definition of an “eligible facility” in Section 160D-931 of the North Carolina General Statutes.
ANTENNA SUPPORT STRUCTURE	The frame, bracket, or other mechanical device, including mounting hardware such as bolts, screws, or other fasteners used to affix an antenna to a wireless telecommunications tower, building, utility pole, or other vertical projection.
APPEAL	A request for review of an administrative official’s or review authority’s determination or decision made under this Ordinance.
APPLICANT	A person who has submitted a development application for review under applicable provisions of this Ordinance.
APPLICATION	The form or forms and all accompanying documents, exhibits, and fees required of an applicant by the appropriate Town department or board as part of the development review processes.
APPLICATION, COMPLETE	See “Complete Application.”
APPLICATION, FILED	See “Filed Application.”
ARBOR	A structure with an open roof system providing partial shading and which may also have non-opaque fencing on the outside perimeter.
ARCHITECTURAL METAL PANEL	A strip or sheet of high-quality metal (typically stainless steel, copper, or bronze) applied to the exterior wall of a building for decorative purposes.
ARTICULATION	The presence or projections, recesses, or other architectural features along a building façade.
AS-BUILT PLANS	See “Plan, As-Built.”
ASSESSED VALUE	The monetary value of land or land and a building assigned by the Henderson County Tax Appraiser for the purposes of computing the property’s annual tax burden.
ASSISTED LIVING FACILITY OR CONGREGATE CARE	A residential facility with support and supervisory personnel for the elderly or infirm that provide rooms, meals, personal care, and supervision of self-administered medication. They may provide other services such as recreational and social activities, financial services, transportation, laundry, and other services appropriate for the residents and designed to provide a relatively independent lifestyle.
ATRIUM	An open, central area of a building with large windows or a glass roof available for use by the occupants of the building or the public at large. The atrium typically includes or open onto the building’s primary entrance.

CHAPTER 10: WORD USAGE**SECTION 10.3: DEFINITIONS**

AUTOMATED TELLER MACHINE	An automated mechanized consumer banking device operated by a financial institution for the convenience of its customers, whether inside or outside of a financial institution, or located in a structure unrelated to the financial institution operating it. Such uses may not serve as the principal use of a parcel of land or site.
AWNING	A plastic, canvas, or metal covering supported by a frame that is attached solely to a building or structure's exterior wall and is placed over a storefront, doorway, or window.
AXIS (BUILDING)	An imaginary line between two points on a building that describes or explains how the building is organized. For example, the ridgeline of a roof gable depicts a building's axis.
B	
BALCONY	A platform on the outside of a building that is accessible from an upper-story door or window and bounded by a building wall on at least one side, with its open sides surrounded by a railing.
BANKS, SAVINGS AND LOAN ASSOCIATIONS, AND SIMILAR FINANCIAL INSTITUTIONS	An establishment that provides retail banking services, mortgage lending, or similar financial services to individuals and businesses. Financial institutions include those establishments engaged in the on-site circulation of cash money and check-cashing facilities but shall not include bail bond brokers. Financial services may also provide automated teller machines (ATM) services, located within a fully enclosed space or building, or along an exterior building wall intended to serve walk-up customers only. Financial services may include drive-through facilities.
BASE FLOOD	The flood having a one percent chance of being equaled or exceeded in any given year. Also known as the "100-year flood."
BASE FLOOD ELEVATION (BFE) (FLOODPLAIN DEVELOPMENT)	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 other source using FEMA approved engineering methodologies.
BASEMENT (FLOODPLAIN DEVELOPMENT)	Any area of a building having its floor subgrade (below ground level) on all sides.
BAY WINDOW	A window, typically with two or more sides that is built to project outward from an outside wall.
BED AND BREAKFAST	A private residence, generally a single-family residence, engaged in renting one or more dwelling rooms on a daily basis to tourists, vacationers, and business people, where provision of meals is limited to breakfast for guests only. A bed and breakfast with more than six rooms available for rent is considered a hotel or motel.
BELFRY	An enclosed vertical projection attached or detached to another habitable structure (like a church or school) typically used for the location of bells.
BELT COURSE	A projecting horizontal course of the same or a contrasting material (often masonry) on the exterior of a building used to direct water off the wall or denote an interior floor level.
BERM	An elongated earthen mound typically designed or constructed on a site to separate, screen, or buffer adjacent uses or site features.

<p>BEST MANAGEMENT PRACTICES (BMP)</p>	<p>A practice or combination of practices determined to be an effective and practicable means of preventing or reducing the quantities of pollutants washed by rain and snow melt into nearby waters.</p> <p>As used in the Watershed Protection Overlay district, a structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.</p>
<p>BICYCLE PARKING SPACE</p>	<p>Land and facilities used for the parking of bicycles, including a mechanism for securing a parked bicycle.</p>
<p>BIO-RETENTION CELL</p>	<p>A stormwater infiltration device consisting of an excavated area that is filled with a specialized soil media and plants, grass, or sod.</p>
<p>BLOCK</p>	<p>The land lying within an area bounded on all sides by streets.</p>
<p>BOLE</p>	<p>For the purposes of this Ordinance, a specific location on the trunk or main stem of a tree where the adjacent soil touches the tree trunk or stem. Tree size is determined by measuring the tree's circumference at specified distances upwards from the bole (see Section 10.2.11: Landscaping Calculation). The portion of the tree below the established soil line around the base of the trunk is not considered to be the bole.</p>
<p>BONA FIDE FARM</p>	<p>Any tract or tracts of land used for farm purposes as defined in Section 160D-930 of the North Carolina General Statutes, including the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture as defined in Section 106-581.1 of the North Carolina General Statutes. In addition, the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under Section 106-743.2 of the North Carolina General Statutes is a bona fide farm purpose. Any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:</p> <ol style="list-style-type: none"> 1. A farm sales tax exemption certificate issued by the Department of Revenue; 2. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to Section 105-277.3 of the North Carolina General Statutes; 3. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return; and 4. A forest management plan.
<p>BONA FIDE FARM PURPOSES</p>	<p>Includes the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture as defined in NCGS 106-581.1.</p>
<p>BORROW</p>	<p>Fill material that is required for onsite construction and is obtained from other locations.</p>

<p>BREWERIES, MICROBREWERIES, TAPROOMS, BREWPUBS, AND DISTILLERIES</p>	<p>An establishment engaged in the production and packaging of malt beverages, wine or spirits for distribution, retail, or wholesale both on and off-premises. A microbrewery is a facility that produces less than 15,000 barrels of beer per year and sells the majority of the beer it produces for off-site resale and consumption. A microwinery produces less than 100,000 gallons of wine per year. A micro-distillery produces less than 15,000 gallons of alcoholic spirits per year. Accessory uses may include a taproom, seating areas, ancillary sales of related merchandise, event space, and warehouse space for stored product.</p>
<p>BUFFER</p>	<p>A combination of physical space and vertical elements, such as plantings or fencing, used to separate and screen incompatible land uses from each other.</p> <p>As used in the Watershed Protection Overlay district, an area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.</p>
<p>BUFFER, PERIMETER</p>	<p>Vegetative material and structures (i.e., walls, fences) that are used to separate uses from each other as required by this Ordinance, including the Type A Intermittent, Type B Semi-Opaque, and Type C, Opaque buffers.</p>
<p>BUFFER, RIPARIAN</p>	<p>A vegetated area proximate to and parallel with a stream that helps shade and partially protect the stream and water quality from the impact of adjacent land uses.</p>
<p>BUFFER, STREETScape</p>	<p>Landscaping provided on individual lots abutting streets but located outside the street right-of-way.</p>
<p>BUFFERYARD</p>	<p>The area of a required buffer in which plantings or other screening elements are to be located.</p>
<p>BUILDING</p>	<p>Any structure used or intended for supporting or sheltering any use or occupancy.</p> <p>As used in the Watershed Protection Overlay district, any structure having a roof supported by columns or by walls, and intended for shelter, housing, or enclosure of persons, animals, or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport, or other such open structure, with or without a roof, shall not be deemed to make them one building.</p>
<p>BUILDING FAÇADE</p>	<p>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.</p>
<p>BUILDING FLOOR AREA</p>	<p>The gross floor area of an individual structure built for support, shelter or enclosure for any occupancy or storage.</p>
<p>BUILDING PERMIT</p>	<p>Authorization granted by the Town and Henderson County for an applicant to begin construction of a building or structure.</p>
<p>BUILDING FLOORPLATE</p>	<p>The area occupied by the outermost perimeter of a building or structure at the ground level only.</p>
<p>BUILDING FOOTPRINT</p>	<p>The area occupied by the outermost perimeter of a building or structure. The footprint may include upper-level stories or projections.</p>

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BUILDING PROJECTION	An extension of a building wall or building façade projecting outwards from the primary building façade plane typically used to conceal or screen a service element of site feature like a refuse collection container.
BUILDING RECESS	The portion of a building wall or building façade receding or directed inwards from the primary building façade plane typically used as an entryway or as an area for outdoor activity. A recess may or may not include an overhanging roof.
BUILDING WING	A portion of a building that is subordinate to the main or central part of the structure. Building wings may share a wall with the main or central part of the building or be joined to it by another ancillary structure like a hallway or a colonnade.
BUILDING SETBACK LINE (MINIMUM)	See "Setback (Minimum)."
BUILDINGS, STRUCTURES, AND FACILITIES OPERATED FOR GOVERNMENTAL OPERATIONS	An office of a governmental agency that provides administrative and/or direct services to the public, such as, but not limited to, employment offices, public assistance offices, or motor vehicle licensing and registration services.
BUILT-UPON AREA (BUA)	<p>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.</p> <p>As used in the Watershed Protection Overlay district, built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel areas (e.g., roads, parking areas, paths), recreation facilities (e.g., tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.)</p> <p>As used in the stormwater standards, 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 materials to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.</p>
BULKHEAD	A vertical or horizontal wall used to enhance structural integrity or to conceal mechanical equipment.
BUMP-OUT	See "Building Projection."
BUSINESS ACTIVITIES	Noncommercial operations taking place on a lot located in the Significant Building Overlay district.

C

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CALIPER	Measurement for determining the size of trees at time of planting. Caliper is the quantity in inches of the diameter of trees measured at six inches or 12 inches above the ground, depending upon the size of the tree.
CAMPUS-STYLE DEVELOPMENT	See "Development, Campus-Style."
CANOPY, ATTACHED	A permanent structure other than an awning made of cloth, metal, or other material attached to a building but also including at least one vertical post or support extending upward from the grade for the purpose of providing shelter to patrons or automobiles, or as a decorative feature. A canopy is not a completely enclosed structure.
CANOPY, FREESTANDING	A freestanding or unconnected permanent structure other than an awning made of cloth, metal, or other material that includes one or more vertical posts or supports extending upward from the grade for the purpose of providing shelter to patrons or automobiles, or as a decorative feature. A canopy is not a completely enclosed structure.
CARPORT (ATTACHED OR DETACHED)	A permanent structure comprised of a roof and vertical supports typically used to house an automobile or other vehicle. A carport is open or lacks structural walls on two or more sides.
CARRIER OR WIRELESS CARRIER	An entity licensed by the FCC to provide radio frequency communications services to individuals.
CASUALTY DAMAGE	The damage to or loss of a structure or use that is sudden, unexpected, and unusual. Typically associated with fire, severe weather, or Act of God. Special rules apply to replacement of nonconformities after casualty damage (see Chapter 5: Nonconformities).
CELLULAR REINFORCED PAVING SYSTEM	Plastic, metal, or polymers that are installed into a matrix of earth or crushed stone and used to reinforce or stabilize parking or vehicular use areas.
CEMETERY	A parcel of land used for internment of the dead in the ground or in mausoleums.
CERTIFICATE OF COMPLETION OR COC	A required document issued by the Town that confirms that all work represented in the application: <ul style="list-style-type: none"> • was properly permitted; • was done in compliance with and fulfilled all conditions of all permits, including any final completion deadline; • was fully constructed as approved and permitted; and • a final inspection was requested, conducted, and passed.
CERTIFIED ARBORIST	An individual who has successfully completed the International Society of Arboriculture (ISA) exam process.
CERTIORARI	A situation where an appellant may file an appeal of a decision directly to a higher court of law.
CHANGE OF USE	The change in the use of a building, structure, or land. "Change of use" includes a change from one use type to another use type as identified in the Table of Principal Uses.
CHANGEABLE TYPE	Text or other depictions on the face of a sign that are capable of being revised on a regular or infrequent basis.
CHEMICAL STORAGE FACILITY (FLOODPLAIN DEVELOPMENT)	A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

CHILDCARE, INCIDENTAL	A program or arrangement, licensed by the State and located in the provider’s residence where, at any one time, three or more children under the age of 13, receive childcare on a regular basis of at least once per week for at least four (but less than 24) hours per day from persons other than their guardians, full-time custodians, or persons related to them by blood, marriage, or adoption. This definition does not include child day care centers, cooperative arrangements among parents, or other activities not defined as childcare by Section 110-86 of the North Carolina General Statutes. Provision of day care services for more than six children in a residential dwelling is subject to the standards for a child day care center.
CHILD/ADULT DAY CARE CENTER (MORE THAN 8 PERSONS)	An individual, agency, or organization providing supervision or care on a regular basis for children or adults who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adults; and who are not residents in the center; designed and approved to accommodate more than 8 children or adults at a time based on State regulations; not an accessory to residential use.
CHILD/ADULT DAY CARE HOME (8 OR LESS PERSONS)	Supervision or care provided on a regular basis as an accessory use within a principal residential dwelling unit, by a resident of the dwelling, for no more than 8 children (no more than 5 of which may be of pre-school age).
CHIMNEY	A vertical projection beyond the roof of a structure used for the exhaust of smoke or heated air from inside the structure.
CHURCHES & SIMILAR PLACES OF WORSHIP	A structure or place in which worship, ceremonies, rituals, and education are held, together with its accessory buildings and uses (including buildings used for educational and recreational activities), operated, maintained, and controlled under the direction of a religious group.
CIVIC & CULTURAL BUILDINGS, INCLUDING AUDITORIUMS, MUSEUMS, ART GALLERIES, LIBRARIES, SYMPHONY & CONCERT HALLS, & HISTORIC SOCIETIES	A building or structure designed or intended for use for spectator sports, entertainment events, expositions, conferences, seminars, product displays, recreation activities, and other public gatherings, all occurring inside a structure typically limited to a capacity of 500 or fewer seats, along with accessory functions including temporary outdoor displays, and food and beverage preparation and service for on-premise consumption.
CIVIL ACTION	A legal action at law brought between a private party(ies) and the Town to protect a civil right or to compel a civil remedy (as opposed to criminal prosecution).
CIVIL PENALTY	A fine or other financial penalty imposed by a court, the town, or another governmental entity as restitution for violation of this Ordinance or other wrongdoing.
CLEAR CUTTING	Any activity that results in the removal of 75 percent or more of the tree canopy coverage over a lot or tract from existing trees that meet or exceed the minimum size at time of planting requirements in this Ordinance.
CLEARING	The act of removing existing vegetation. Grading of the land includes clearing when grading is taking place while vegetation is still present.
CLIMATE CONTROL EQUIPMENT	Mechanical equipment, located on the exterior of a building or structure, used to control or regulate the temperature, humidity, or movement of air within the building or structure. Climate control equipment typically includes exhaust fans, air intakes, condensers, chillers, vents, and air exchangers.

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CLIMATE CONTROLLED SELF STORAGE	A storage building or buildings that are divided into sections or compartments for the storage of business or personal items on a temporary or long-term basis only where all units are accessed by one or more shared entrances.
CLUSTER DEVELOPMENT	See "Development, Cluster."
CLUSTER MAILBOX UNIT	A centralized grouping of individually locked and keyed mailboxes meeting the specifications of the United States Postal Service.
COLD-HARDY	A plant's ability to withstand normal winter temperatures while remaining alive.
COLLOCATION (CO-LOCATION)	The placement, installation, modification, or replacement of antenna and related wireless telecommunications equipment on, under, or within an existing or replacement telecommunications tower, utility pole, building, or other vertical projection.
COLOR CORRECTED HIGH-PRESSURE SODIUM	A form of exterior illumination from a bulb with a compact arc tube that, when energized, produces a warm, deep yellow light.
COMMERCIAL DEVELOPMENT	See "Development, Commercial."
COMMERCIAL INDOOR RECREATION	A commercial establishment located entirely indoors that provides recreational, amusement, and entertainment opportunities for patrons, including activities such as billiards, bingo, bowling, video games, escape rooms, fortune tellers, skating rinks, laser tag, trampolines, and climbing walls.
COMMERCIAL OUTDOOR RECREATION	A commercial establishment located entirely primarily outdoors that provides recreational, amusement, and entertainment opportunities for patrons, including activities such as: water parks, miniature golf, go cart racing, obstacle or ropes courses, zip lines, paintball, mechanical rides, and similar attractions. Outdoor commercial recreation uses may include buildings or structures that also provide indoor recreational activities.
COMMON AREA	Land within a subdivision or development that is owned in common by two or more residents or property owners. Common area may or may not be open to use by members of the general public.
COMMON LAW VESTED RIGHT	Legal doctrine that recognizes where property owners have reasonably made a substantial expenditure of money, time, labor or energy in a good faith reliance on a permit from the government, that they acquire "vested rights" or a protected right to complete the development of their land as originally begun despite any changes in the zoning on the property.
COMPLETE APPLICATION	An application filed for development approval under this Ordinance that meets all the requirements in Section 6.2.6:F :Determination of Application Completeness, including: 1. Contains all information and materials established by the Town Manager as required for submittal of the particular type of application; 2. Is in the form established by the Town Manager as required for submittal of the particular type of application; 3. Includes information in sufficient detail to evaluate the application to determine whether it complies with the appropriate review standards of this Ordinance; and 4. Is accompanied by the fee established for the particular type of application. An application will not be accepted for review until it is complete.

COMPLETENESS DETERMINATION	The process of determining if an application for a development approval is or is not complete. An application for development is not considered as “submitted” until it is determined to be complete.
COMPLETION OF CONSTRUCTION OR DEVELOPMENT	No further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.
COMPLIANCE GUARANTEE	A performance guarantee provided by a party responsible for correcting a violation of this Ordinance that the Town may use to correct the violation in the event the responsible party fails to.
COMPOSTING FACILITY	As used in the Watershed Protection Overlay district, a facility in which only stumps, limbs, leaves, grass, and untreated wood collected from land clearing or landscaping operations is deposited.
CONCEPT PLAN	See “Plan, Concept.”
CONDITION OF APPROVAL	A limitation or stipulation on the range of allowable uses, density, intensity, configuration, or operational parameters of new development or redevelopment. A condition may be proposed by an applicant, a staff member, or a review authority that must be accepted by an applicant in writing and the Town to become binding.
CONDITIONAL USE PERMIT	A development approval issued by the Town prior to the effective date of this Ordinance that entitles the landowner to a particular use, activity, or development configuration, provided the approval was lawfully obtained and has not expired.
CONDOMINIUM	A development containing individually owned dwelling units and jointly owned and shared areas and facilities that is subject to the North Carolina Unit Ownership Act (North Carolina General Statutes Section Ch. 47A) and/or the North Carolina Condominium Act (North Carolina General Statutes Section Ch. 47C).
CONE OF ILLUMINATION	The detectable spread of illumination from a source of exterior lighting.
CONNECTIVITY	The relative degree of connection between streets, sidewalks, or other means of travel.
CONNECTIVITY INDEX	A measurement of the connectedness of the streets in a single development.
CONSERVATION EASEMENT	An easement granting a right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural, scenic, open, or wooded condition.
CONSISTENT	Architectural design, site configuration, or building materials or colors that are compatible, accordant, or harmonious with one another or with similar features in other developments in the general vicinity.
CONSTRUCTION	The erection of any building, structure, on-site improvement, or any preparations (including land disturbing activities) for the same, regardless of whether the site is presently improved, unimproved or hereafter becomes unimproved by “demolition,” destruction of the improvements located thereon by fire, windstorm or other casualty.
CONSTRUCTION DRAWINGS	See “Plan, Construction.”
CONTENT-BASED SIGNAGE STANDARDS	Regulations that apply to the content or message contained within a sign’s text or copy.

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CONTIGUOUS	Abutting directly or immediately adjacent to a boundary or separated only by a street, railroad or public utility right-of-way.
CONTINUANCE	The adjournment or postponement of review or decision on an application to specified future date.
CONVENTIONAL ZONING DISTRICT	See "Zoning District, Conventional."
COPY HEIGHT	The physical size (in units of measurement – typically inches) of the text on a sign face.
CORNER ENTRANCE (ENTRY)	An entrance to a building, structure, or outdoor use area that is located where two or more planes of a building wall or other enclosure intersect. Corner entrances are typically located adjacent to the intersection of two or more streets.
CORNER LOT	See Section 10.2.3:C: Lot Types .
CORNICE	Any horizontal member, structural or nonstructural, of any building, projecting outward from the exterior walls at the roof line, including eaves and other roof overhang.
CORPORATE LIMITS	The boundaries of municipal incorporation of the Town of Laurel Park, North Carolina.
CORRELATED COLOR TEMPERATURE	The chromaticity, measured in Kelvin units, observed when a black body radiator is heated to a pre-determined temperature. The correlated color temperature is used to gauge how yellow or blue the color of light emitted from a light bulb appears. "Warm light" sources, such as incandescent bulbs, have a low color temperature (2200-3000K) and feature light in the red, orange, and yellow color range. "Cool light" sources, such as fluorescent lamps, have a high color temperature (>4000K) and feature light in the blue color range.
COUNTRY CLUB	A privately owned club, often with a membership quota and admittance by invitation or sponsorship, that generally offers both a variety of recreational sports and facilities for dining and entertaining. Typical athletic offerings include golf, tennis, and swimming.
COUNTY	Henderson County, North Carolina.
COURTYARD	An open, unoccupied space, other than a required yard, on the same lot as a building and bounded on two or more sides by a building on the same lot.
COVENANT	A binding written agreement between two or more private parties regarding the use, occupancy, or configuration of development that runs with the land.
CPESC	Certified professional in Erosion and Sediment Control. NCDOT Level I-III a/b certification is not required if a CPESC is onsite monitoring installation and has approved design.
CRAFT, HOBBY SHOP, OR STUDIO (DETACHED)	A habitable accessory building located on the same lot as a residential dwelling used for recreational purposes.
CRIMINAL PENALTY	A fine, fee, imprisonment, or other activity ordered by a court or governmental agency as punishment for a violation of this Ordinance or other applicable law.

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CRITICAL ROOT ZONE	The area around the stem or trunk of a tree located around the trunk, the radius of which is 12 inches in distance from the base of the trunk for every inch of tree diameter measured at 4.5 feet above grade.
CULVERTING	The act of enclosing or piping a conveyance of water either fully or partially underground.
CUPOLA	A domelike structure on top of a roof or dome, often used as a lookout or to admit light and air.
CURB	A constructed element used to stabilize paving, gutter, planting areas, or sidewalks.
CURB OUTLET SYSTEM	As used in the Watershed Protection Overlay district, curb and gutter installed in a development which meets the low-density criteria of this ordinance with breaks in the curb used to direct stormwater runoff to grassed swales or other natural or vegetated area.
CURRENT CONDITIONS HYDROLOGY (FLOODPLAIN DEVELOPMENT)	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 are published in the Flood Insurance Study.
CUT-OFF BULB	A device providing a source of visible illumination that is painted, shielded, or otherwise configured so that the direction of light is controlled and prevented from travelling upwards, downwards, or sideways from the bulb's relative location.
D	
DAS OR DISTRIBUTIVE ACCESS SYSTEM (WTF)	A technology using antenna combining technology allowing for multiple carriers or Wireless Service Providers to use the same set of antennas, cabling or fiber optics.
DAY CARE FACILITIES & NURSERIES LICENSED BY NORTH CAROLINA	A commercial or non-profit use licensed by the State where, at any one time, three or more unrelated children under the age of 13 receive childcare from an unrelated person in a building other than a private residence on a regular basis of at least one occurrence per week for more than four hours per occurrence. Such uses may also involve the provision of educational services in preparation for elementary school. This definition does not include incidental childcare, cooperative arrangements among parents, or drop-in or short-term childcare provided while parents work part-time or participate in other activities on the premises (e.g., churches, shopping malls, hotels, health spas).
DECK (COVERED OR UNCOVERED)	An accessory structure, typically constructed of wood, that is attached or detached from the principal structure that provides ingress and egress to the structure, a gathering location, storage, dining, or other activity to users of the principal structure. A deck may be covered with a roof or uncovered but shall not be enclosed by permanent walls. A deck is typically elevated above the grade.
DEDICATION	A gift, by the owner, or a right to use land for a specified purpose or purposes. Because a transfer of property rights is entailed, dedication must be made by written instrument, and is completed with an acceptance.
DEED RESTRICTION	A written private agreement that restricts the use, occupancy, or configuration placed upon the title of real estate often by the developer.

DEPARTMENT	As used in the stormwater standards, the North Carolina Department of Environmental Quality.
DESIGN MANUAL	The stormwater design manual approved for use in Phase II jurisdictions by the Department of Environmental Quality for the proper implementation of the requirements of the federal Phase II stormwater program. All references herein to the Design Manual are to the latest published edition or revision.
DESIGN STORM	A hypothetical precipitation event, or a given frequency and duration, used in the analysis and design of a stormwater control measure.
DESIGNEE	A person selected or designated to carry out a duty or role.
DETENTION BASIN	Surface storage basins or facilities that provide flow control through attenuation of stormwater runoff. They also facilitate some settling of particulate pollutants. Detention basins are normally dry and in certain situations the land may also function as a recreational facility.
DETERMINATION	A written interpretation prepared by the Town Manager or a designee that explains the meaning or intent of standard in this Ordinance, the location of a boundary on the Official Zoning Map, or the requirements of a development approval.
DEVELOPER	A person engaging in land, site, or building development.
DEVELOPMENT	<p>Development means any of the following:</p> <ul style="list-style-type: none"> • The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure; • Excavation, grading, filling, clearing, or alteration of land; • The subdivision of land, as defined in Section 160D-802 of the North Carolina General Statutes; or • The initiation or substantial change in the use of land or the intensity of the use of land. <p>As used in the Watershed Protection Overlay district, any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.</p> <p>As used in the stormwater standards, any land disturbing activity which adds to or changes the amount of impervious or partially pervious cover on a land area or which otherwise decreases the infiltration or precipitation into the soil, other than rebuilding activity that does not qualify as redevelopment.</p> <p>As used in the floodplain regulations, any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.</p>
DEVELOPMENT ENTRY POINT	A vehicular access point providing ingress or egress to an individual neighborhood or development.
DEVELOPMENT FLOOR AREA	See Section 10.2.6: Gross Floor Area.

DEVELOPMENT, CAMPUS-STYLE	A development of two or more principal buildings along with any accessory structures that are planned, designed, and operated as an integral unit. Campus-style developments are typically organized around a central feature such a central open space or common area, and use consistent architecture, landscape plantings, street configurations, and other features to reinforce the idea that all buildings are part of one centralized campus.
DEVELOPMENT, CLUSTER	For the purposes of the Watershed Protection Overlay district, the grouping of buildings to conserve land and minimize stormwater runoff impacts. Non-residential, multi-family, and single-family development can be clustered, and mixed-use development are also considered cluster developments for the purposes of the Watershed Protection Overlay district standards.
DEVELOPMENT, COMMERCIAL	Development undertaken or serving commercial purposes, such as retail or personal services.
DEVELOPMENT, EXISTING	As used in the Watershed Protection Overlay district, those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this article based on at least one of the following criteria: <ul style="list-style-type: none"> • Substantial expenditures or resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or • Having an outstanding valid building permit as authorized by the General Statutes (G.S. 160D-102), or • Having an approved site specific or phased development plan as authorized by the General Statutes (G.S. 160D-102), or • Having a subdivision plat recorded in the office of the Register of Deeds prior to the adoption of this ordinance.
DEVELOPMENT, HUMAN-SCALED	Features of a building or built environment that are sized and configured in accordance with the typical human frame. Human-scale development is most often configured for observation and recognition by people who are walking.
DEVELOPMENT, MIXED-USE	A tract of land or structure developed for two or more different uses, such as, but not limited to, residential, office, retail, institutional, public, or entertainment. Such uses are functionally integrated and share vehicular use areas, ingress/egress, and pedestrian access.
DEVELOPMENT, MULTI-BUILDING	Development that includes two or more principal buildings or structures.
DEVELOPMENT, MULTI-PHASE	Development that is constructed in two or more distinct phases.
DEVELOPMENT, MULTIPLE-LOT	Development that includes two or more lots of record under common or separate ownership.
DEVELOPMENT, NEW	Development that is proposed or constructed after the effective date of this Ordinance.
DEVELOPMENT, NON-RESIDENTIAL	As used in the Watershed Protection Overlay district, all development other than residential development, agriculture, and silviculture.
DEVELOPMENT, PLANNED	Development subject to a Town-approved master plan and terms and conditions document configured in accordance with Section 2.11: PD Planned Development District.

CHAPTER 10: WORD USAGE**SECTION 10.3: DEFINITIONS**

DEVELOPMENT, RESIDENTIAL	As used in the Watershed Protection Overlay district, buildings for residence, such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc., and their associated outbuildings, such as garages, storage buildings, gazebos, etc.
DIAMETER AT BREAST HEIGHT (DBH)	Measurement for determining the size of existing trees to be credited towards landscaping requirements or for violations of this Ordinance. DBH is the measurement of the diameter of an existing tree trunk taken at a height of 4 ½ feet above the ground.
DISCHARGE POINT	That point at which stormwater runoff leaves a tract of land.
DISCONTINUE (DISCONTINUANCE)	See "Abandonment."
DISH ANTENNA	A directional antenna consisting of a parabolic reflector used to send and receive microwave or radio frequency communication signals.
DISPOSAL (FLOODPLAIN DEVELOPMENT)	As defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.
DIVIDE	To divide a tract or parcel of land into two or more separate lots or portions of lots.
DIVISION	A subdivision of land from a tract or parent parcel into smaller individual lots. As used in the stormwater standards, the Division of Water Quality in the Department of Environmental Quality.
DOMES	A roof having a circular, polygonal, or elliptical base and a generally spherical shape.
DORMER WINDOW	A window that projects vertically from a sloping roof.
DORMITORY	A building used as group living quarters for a student body or religious order as an accessory use for a college, university, boarding school, convent, monastery or other similar public, semi-public use.
DOUBLE FRONTAGE LOT	See "Lot, Through."
DRAINAGE EASEMENT	A strip of land reserved for conveyance of stormwater typically located along rear or side lot lines but may cross lots at such points that will not pose a hazard to persons or property.
DRAINAGE SWALE	See "Drainageway."
DRAINAGEWAY	A natural or artificial stream or depression that conveys surface water.
DRAINFIELD	The portion of an on-site septic or wastewater treatment system designed to allow treated wastewater to percolate into the adjacent soil.
DRIPLINE	An area on the ground that corresponds to the outer extents of a tree's canopy where rainwater falls from leaves and branches downward to the ground.
DRIVE AISLE	A vehicular accessway within a surface parking lot or a parking structure.

DRIVE-THROUGH/DRIVE-IN FACILITY	A primary or accessory facility where goods or services may be obtained by motorists without leaving their vehicles. These facilities include drive-through bank teller windows, dry cleaners, fast-food restaurants, drive-through coffee, photo stores, pharmacies, etc., but not automated teller machines (ATMs), gas stations or other vehicle services.
DRIVEWAY	The portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not a part of the vehicle accommodation.
DUPLEX DWELLING	A single detached dwelling on one lot that contains two dwelling units. The units may be located side by side in a horizontal configuration or stacked one above the other in a vertical configuration, sharing common vertical walls or horizontal floors and ceilings.
DWELLING UNIT	<p>A single unit providing complete living facilities for one family or household, including permanent provisions for living, sleeping, eating, cooking, and sanitation.</p> <p>As used in the Watershed Protection Overlay district, a building, or portion thereof, providing complete and permanent living facilities for human habitation.</p>
E	
EASEMENT	The right to use or occupy the real property of another owner for a specifically identified purpose. An easement is a recognized interest in real property, but legal title to the underlying land is retained by the owner granting the easement.
EAVE	The projecting lower edges of a roof that overhangs the wall of a building.
ELECTRICAL VEHICLE CHARGING STATION	An off-street parking space that is served by an electrical component assembly or cluster of component assemblies (battery charging station) designed and intended to transfer electric energy, by conductive or inductive means, from the electric grid or other off-board electrical source to a battery or other energy storage device within an electric vehicle.
ELECTRONIC GAMING OPERATIONS	A commercial establishment providing patrons with the opportunity to compete against others for cash or other prizes in games where the outcome is based on skill, not chance.
ELEVATED BUILDING (FLOODPLAIN DEVELOPMENT)	A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
ELIGIBLE FACILITY REQUEST	An application for the installation of new or replacement antennas and related wireless telecommunications equipment on an existing telecommunications tower. An eligible facilities request may include increasing the height and/or replacement of an existing telecommunications tower but shall not include any activities that constitute a "substantial modification" as defined in this Ordinance and Section 160D-931 of the North Carolina General Statutes. Eligible facility requests are reviewed and decided in accordance with the procedures for a minor collocation.

CHAPTER 10: WORD USAGE**SECTION 10.3: DEFINITIONS**

ENCROACHMENT	<p>The location of a building, structure, or portion of a building or structure in an open space, setback, yard, required landscape area, buffer, or other area typically required to remain free of buildings or structures.</p> <p>As used in the flood damage prevent regulations, the advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.</p>
ENERGY DISSIPATER	A structure or shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.
ENLARGEMENT	Increasing the floorplate, footprint, or square footage of a building, structure, outdoor use area, or activity.
EQUITABLE REMEDY	A court-ordered non-monetary remedy that directs a party to take a particular action for violation of this Ordinance or other applicable law.
EROSION	The wearing away of land surface by the action of wind, water, gravity, or any combination thereof.
EROSION CONTROL MEASURE	A device which controls the soil material within the land area under responsible control of the person conducting a land-disturbing activity.
EVENT VENUE	A commercial establishment and associated grounds engaged in the hosting and production of pre-planned events like weddings, corporate parties, or reunions. Typical accessory uses include kitchens or meal preparation space, limited overnight accommodations, photography studios, facilities to accommodate live or recorded music, on- and off-site parking, and outdoor recreation facilities.
EX PARTE COMMUNICATION	Any communication between a member of a review authority and a person involved in a development application that is made without the presence or knowledge of the other members of the same review authority.
EXEMPTION	A use, site feature, or development condition that is exempted authorized to deviate from otherwise applicable requirements.
EXISTING DEVELOPMENT	See "Development, Existing."
EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION	A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of this UDO.
EXPRESSWAY	See "Street, Expressway."
EXTENSION/EXPANSION	See "Enlargement."
EXTERIOR LIGHTING	Illumination of a building, parking lot, or site feature.
EXTRA-TERRITORIAL JURISDICTION	The land area located outside the corporate limits of a municipality, but still subject to the planning and zoning laws associated with the municipality.
EYEBROW WINDOW	A low dormer window with no sides located on the slope of a roof where the roofing material is carried over the top of the window without interruption.
F	
FAA	The Federal Aviation Administration, or its duly designated and authorized successor agency.

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. A disabled person is a person with a temporary or permanent physical, emotional, or mental disability including but not limited to an intellectual disability, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in Section 122C-3(11)b of the North Carolina General Statutes.
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.
FCC	The Federal Communications Commission, or its duly designated and authorized successor agency.
FEATHER FLAG	A sign made of flexible fabric or plastic material mounted to a vertical projection from the ground that includes a bow or bend at the top resulting in a flag with the appearance of a bird's feather.
FEE	An amount charged in accordance with the regularly adopted fee schedule of the Town.
FENCE OR WALL	A physical barrier or enclosure consisting of wood, stone, brick, block, wire, metal, or similar material used as a boundary or means of protection, retention, or confinement, but not including a hedge or vegetation.
FENESTRATION	The arrangement of windows, doors, and false casements on a building's façade.
FILED APPLICATION	An application for development approval under this Ordinance that has not been delivered to the Town but not yet determined to be complete.
FILL (MATERIAL)	The term "fill" also applies to the deposit soil, sand, stone, or other deposited material.
FILLING	The act of depositing soil, sand, stone, or other inert debris customarily used for supplementing or augmenting land.
FINAL PLAT	A plan or drawing recorded in the office of the register of deeds that identifies the metes and bounds as well as all applicable conditions applied to a lot or group of lots that have been subdivided.
FINE	A sum of money imposed on a violator as punishment for violation of law.
FINISHED GRADE	The grade after construction, exclusive of any filling, berming, mounding, or excavating.
FIRE ESCAPE	A structural mechanism affixed to the exterior of a building that allows occupants to gain egress from each floor of the building without use of the primary entrance in the event of fire or other dangerous situation.
FIREPLACE	A structure, located within or outside a building, used for the sole purpose of combustion of wood or gas for recreational, food preparation, or climate control purposes.
FLAG LOT	See Section 10.2.3:C: Lot Types.

FLEX SPACE	Buildings designed to accommodate a combination of offices (e.g. service establishments and contractor’s offices), wholesale establishments, warehousing/distribution, industrial services, and light manufacturing, with the exact proportions of each use being subject to user needs over time. 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.
FLOOD (FLOODPLAIN DEVELOPMENT)	The flood having a 1% chance of being equaled or exceeded in any given year based on current conditions hydrology.
FLOOD / FLOODING	A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; and/or the unusual and rapid accumulation of runoff of surface waters from any source.
FLOOD HAZARD BOUNDARY MAP (FHBM)	An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.
FLOOD INSURANCE	The insurance coverage provided under the National Flood Insurance Program.
FLOOD INSURANCE RATE MAP (FIRM)	An official map of a 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 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 / FLOOD PRONE AREA	Any land area susceptible to being inundated by water from any source.
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	Any ordinances, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.
FLOODPROOFING	Any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

CHAPTER 10: WORD USAGE

SECTION 10.3: DEFINITIONS

FLOODWAY	The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
FLUORESCENT	A method of providing illumination by a bulb coated in a material that releases photons when subject to an electrical current.
FOOTCANDLE	A unit of measure of the intensity of light falling on a surface. It is often defined as the amount of illumination the inside surface of a one-foot-radius sphere would be receiving if there were a uniform point source of one candela in the exact center of the sphere. One footcandle is equal to one lumen per square foot.
FORESTRY	The farming of trees.
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".
FRONTAGE	A strip or extent of land abutting and extending along a street.
FUNCTIONALLY DEPENDENT FACILITY	A facility which 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, ship-building, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.
FUTURE CONDITIONS FLOOD	The flood having a 1% 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 1% 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 1% annual chance flood based on future conditions hydrology.
FUTURE CONDITIONS HYDROLOGY	The flood discharges associated with projected land-use conditions based on the Towns' Land Use Management 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.
FUTURE LAND USE MAP	A portion of the Town's adopted policy guidance that identifies the desired long term uses of all land within the Town's planning area. The future land use map is typically a part of the comprehensive plan.
G	
GABLE	A triangular area of an exterior wall formed by two sloping roofs.
GARAGE (ATTACHED OR DETACHED)	An accessory structure either integral, attached, or detached to the principal structure it serves used primarily for the storage of vehicles, equipment, or personal property.

GARDEN (COMMUNITY AND PRIVATE)	An exterior area for the small-scale production of vegetables and flowering plants for personal or small commercial use. This definition includes community and private gardens. This definition does not include crop production and nurseries.
GAS / FUELING STATION	Establishment that primarily retails automotive fuels. These establishments may further provide services such as automotive repair, automotive oils, and/or replacement parts and accessories. Gas stations include structures that are specialized for selling gasoline with storage tanks, often underground or hidden. The sale of food and other items as well as car washes shall be incidental to the gas station.
GATHERING AREA	A formal or informal area intended for or used by the general public to gather or congregate together for interaction or recreation.
GAZEBO OR GARDEN STRUCTURE	An accessory structure located within a yard, garden, or required landscaping area that provides a gathering place and may or may not also provide seating. A garden structure may also serve a garden-related utilitarian purpose or be an object of art.
GENERAL STATUTES	A statute is a written law passed the General Assembly that sets forth general propositions of law that courts apply to specific situations.
GEOLOGIC HAZARD	A geologic condition present on a lot or site that can pose a potential danger to life and property due to soil or subsurface conditions that are prone to failure, subsidence, sliding, slump, accelerated erosion, or fault displacement.
GLARE	The effect produced within the visual field by a high intensity or insufficiently shielded light source that is significantly brighter than the level to which the eyes are adapted, causing annoyance, discomfort, or loss of visual performance or visibility of objects.
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. A golf course may include a clubhouse (with or without eating facilities), shelters, a driving range, putting green, maintenance facilities, an irrigation system, and outdoor storage of materials and equipment.
GOOD CAUSE	Legally adequate or substantial grounds or reason to take a certain action based upon the circumstances of each individual case.
GOOD FAITH	A sincere belief or motive without any malice or the desire to defraud others or conceal the truth.
GRADING	Excavating, filling (including hydraulic fill) or stockpiling of earth material, or any combination thereof, including the land in its excavated or filled condition.
GREEN ROOF	The roof of a building that is partially or completely covered with vegetation and a growing medium, planted over a waterproofing membrane. It may also include additional layers such as a root barrier and drainage and irrigation systems.
GREENHOUSE AND GARDEN CENTER	A commercial established in the propagation and sale of plants, seeds, flowers, and plant-related materials.
GREENWAY	Public open space under the control and maintenance of the Town which has been designated on an officially adopted greenway or open space plan and developed in accordance with the adopted greenway or open space plan.

CHAPTER 10: WORD USAGE**SECTION 10.3: DEFINITIONS**

GROSS LEASABLE AREA	The gross building floor area occupied or used by a tenant.
GROUND BASED MECHANICAL EQUIPMENT	Utility or other equipment of a mechanical nature that is mounted on or below grade on the site it serves.
GROUND COVER	Any natural vegetative growth or other material that renders the soil surface stable against accelerated erosion.
GROUP HOME	A residential facility (such as an orphanage, shelter, crisis center) with support and supervisory personnel that provides temporary room and board, housekeeping, personal care, or rehabilitation services for more than six persons needing emergency or post-incarceration services (but not including those with mental illness who are dangerous to themselves or others).
GUARD HOUSE OR GATEHOUSE	An accessory structure typically located on the perimeter or at the entry of a development and used to screen visitors or maintain records of persons entering or leaving a development.
GUYED TOWER	A communication tower that is supported, in whole or in part, by guy wires and ground anchors.
H	
HABITABLE SPACE	A space in a building for living, sleeping, eating or cooking, or used as a home occupation.
HALF STREET	See "Street, Half."
HARDSHIP	Special or specified circumstances that place an unreasonable or disproportionate burden on one applicant or landowner over another.
HEAT ISLAND EFFECT	An effect, typically in more urban areas, where ambient heat builds up in localized areas due to increased absorption of solar radiation by constructed surfaces such as paving, building walls, and roofs.
HEAVY MANUFACTURING	Uses that tend to require large amounts of bulk or unrefined materials which are typically processed and stored outdoors on the site. These uses require a significant amount of energy for the processing of raw materials, and are likely to generate significant noise, vibration, dust, glare, heat, odor, smoke, truck traffic, in the immediate vicinity of the use. Heavy manufacturing uses include, but are not limited to, manufacture or assembly of machinery, equipment, instruments, vehicles, appliances, communications equipment, computer or electronic equipment, precision items and other electrical items; the processing of food and related products; lumber mills, pulp and paper mills, and the manufacture of other wood products; and electric power generation plants.
HEAVY VEHICLE	A vehicle as described in Section 4.3.1:B:6: Parking or Storage of Heavy Vehicles Prohibited .
HEDGE	A row of shrubs planted with close spacing that grow together to form a dense opaque screen.
HEDGEROW	A row of shrubs and trees planted with close or uniform on-center spacing that grow together to form a dense opaque screen that blocks wind or visibility between different areas.
HIGH-DENSITY PROJECT	As used in the stormwater standards, any project that exceeds the low-density threshold for dwelling units per acre and built-upon area.
HIGHEST ADJACENT GRADE (HAG)	The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

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HISTORIC MARKER	A sign, plaque, or other visual appurtenance used to identify a particular location, activity, or event of historic significance.
HOLIDAY	A holiday observed by the Town.
HOLIDAY DISPLAY	Lights or other exterior display in recognition of a holiday, tradition, or event.
HOME OCCUPATION	Any activity carried out for gain by a resident and conducted within the resident's dwelling unit or an allowable accessory structure.
HOSTELS, HOTELS, AND INNS	A building or group of buildings in which sleeping accommodations are offered to the public and intended primarily for rental for temporary occupancy by persons on an overnight basis. Hotels or motels may include an associated eating establishment, conference facilities, and on-site recreational amenities. Hotels or motels regularly offering extended duration stay facilities to patrons are extended stay facilities. Hotel, motel, resorts, lodges, and similar overnight lodging uses are to be considered synonymous uses.
HUMAN-SCALED DEVELOPMENT	See "Development, Human-Scaled."
ILLICIT DISCHARGE	Any discharge to a municipal separate storm sewer system that is not composed entirely of stormwater except discharges pursuant to an NPDES permit (other than the National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System Permit), allowable non-stormwater discharges, and discharges resulting from fire-fighting activities.
IMPERVIOUS COVER	See "Impervious Surface."
IMPERVIOUS SURFACE	Impervious surface area includes any material which reduces and/or prevents absorption of stormwater.
IMPROVEMENT	The construction of buildings and the establishment of basic services and amenities associated with development, including, but not limited to streets and sidewalks, parking areas, water and sewer systems, drainage system, property markers and monuments, recreation facilities (i.e., lakes, swimming pools, tennis courts, golf courses, club houses, cabanas, marinas, docks and the like) and other similar construction or establishment.
INCANDESCENT	A method of providing illumination by a bulb with a filament that is heated to incandescence by an electrical current.
INDUSTRIAL DEVELOPMENT	As used in the Watershed Protection Overlay district, any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning, or developing any product or commodity.
INJUNCTIVE RELIEF	A court-order act or inhibition of an act by a violator granted to the Town or other governmental agency for a violation of this Ordinance or other applicable law.
IN-LIEU FEE	Monetary compensation offered by a landowner or applicant as an alternative to provision of some other required site or development feature.
INTEGRAL PLANTER	A structure provided for the purpose of cultivating plants that is located within or connected to an exterior building wall.
INTERMITTENT	Lighting, movement, or other activity that alternately starts or stops at regular intervals.

CHAPTER 10: WORD USAGE**SECTION 10.3: DEFINITIONS**

INVASIVE SPECIES	A plant species identified as noxious or dangerous by the Town or other governmental agency.
ITINERANT MERCHANT SALES	An individual or business offering goods or services for sale at retail to members of the general public either in their homes, their place of business, or from a vehicle on a lot with an established use or a vacant lot.
	J K L
LAKE OR NATURAL WATERCOURSE	Any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond, natural or impounded, in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment.
LAND-DISTURBING ACTIVITY	Any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highway and road construction and maintenance, that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.
LANDFILL	<p>A disposal facility for hazardous or nonhazardous solid waste. These establishments also manage recycling and resource recovery facilities that operate in conjunction with landfills.</p> <p>As used in the Watershed Protection Overlay district, a facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A, Article 9, of the N.C. General Statutes. For the purpose of this ordinance this term does not include composting facilities.</p>
LANDOWNER	As applied to the standards related to vested rights, an owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and personal representative of the owner.
LANDSCAPE FABRIC	A textile material applied to disturbed or denuded land to promote or discourage the growth of vegetation.
LANDSCAPE ISLAND	A structure within a parking lot or other vehicular use area provided to control traffic flow, provide a stormwater management function, provide a location for required vegetation, or for required utilities.
LANDSCAPE PLAN	See "Plan, Landscape."
LANDSCAPE STRIP	Linear landscape islands located between two parallel rows of off-street parking spaces.
LARGER COMMON PLAN OF DEVELOPMENT OR SALE	As used in the stormwater standards, anywhere 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.
LATTICE TOWER	A guyed or self-supporting, open, steel frame structure, with three or more sides, that is used to support telecommunications equipment.

LEGISLATIVE PUBLIC HEARING	A hearing held for the purpose of soliciting public comments on a proposed change in the zoning text or zoning map. Reasonable time limits on speakers may be imposed and responsible decorum maintained. However, unlike quasi-judicial hearings, there is no requirement for oaths, no limits on expression of personal opinions, and no limit on discussing the matter outside the context of the hearing.
LIGHT EMITTING DIODE	A source of illumination that provides visible light when electrical current passes through it.
LIGHT MANUFACTURING	Uses that involve indoor processing or assembly of finished or partially finished goods and do not require large stockpiles of raw material. Processing and storage activities take place solely within enclosed buildings, which helps limit (but does not completely prevent) the creation of noise, vibration, dust, glare, heat, odor, and smoke. Examples include, but are not limited to: production or repair of small machines or electronic parts and equipment; woodworking and cabinet building; publishing and lithography; computer design and development; research, development, testing facilities and laboratories; apparel production; sign making; assembly of pre-fabricated parts, manufacture of electric, electronic, or optical instruments or devices; manufacture and assembly of artificial limbs, dentures, hearing aids, and surgical instruments; manufacture, processing, and packing of food products, cosmetics, and manufacturing of components, jewelry, clothing, trimming decorations, and any similar item.
LIGHT TRESPASS	Unwanted light that shines from one lot to another.
LIVE/WORK DWELLING	A structure or portion of a structure combining a dwelling unit with an integrated non-residential workspace typically used by one or more of the residents. The non-residential workspace is found on the building’s ground floor.
LOT	A parcel of land having frontage on a public street or other officially approved means of access.
LOT COVERAGE	See Section 10.2.8: Lot Coverage.
LOT (STREET) FRONTAGE	See Section 10.2.3:A: Lot Measurements.
LOT OF RECORD	See Section 10.2.3:C: Lot Types.
LOT WIDTH	See Section 10.2.3:A: Lot Measurements.
LOT, DOUBLE FRONTAGE	See Section 10.2.3:C: Lot Types.
LOT, FLAG	See Section 10.2.3:C: Lot Types.
LOT, REVERSE FRONTAGE	See Section 10.2.3:C: Lot Types.
LOT, THROUGH	See Section 10.2.3:C: Lot Types.
LOUVERS	A set of angled slats or flat strips fixed or hung at regular intervals in a door, shutter, or screen to allow air or light to pass through.
LOW IMPACT DEVELOPMENT	A method of site development and stormwater management that mimics the natural hydro-logic functions of infiltration, runoff, and evapotranspiration on a site before development occurs.
LOW IMPERVIOUS SURFACE PROJECT	A project that has no more than 2 two dwelling units per acre or 24% built-upon area (BUA) for all residential and non-residential development.
LOW SLOPE	See “Slope, Low.”

CHAPTER 10: WORD USAGE**SECTION 10.3: DEFINITIONS**

LOW-DENSITY PROJECT	As used in the stormwater standards, a project that has no more than two dwelling units per acre or twenty-four (24) percent built-upon area (BUA) for all residential and non-residential development.
LOWEST ADJACENT GRADE (LAG)	The elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.
LOWEST FLOOR	The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
LUMEN	A quantitative unit measuring the amount of light emitted by a light source.
M	
MAINTENANCE, ROUTINE	Simple, small-scale activities (usually requiring only minimal skills or training) associated with regular (daily, weekly, monthly, etc.), recurring, and preventative upkeep of a building, equipment, or machine against normal wear and tear.
MAJOR INTERSECTION	An intersection between two or more local or higher-traffic streets.
MAJOR VARIANCE	As used in the Watershed Protection Overlay district, a variance from the minimum statewide watershed protection rules that results in any one or more of the following: <ul style="list-style-type: none"> • The relaxation by a factor greater than ten percent of any management requirement under the low-density option; • The relaxation by a factor greater than five percent of any buffer, density, or built-upon area requirement under the high-density option; or • Any variation in the design, maintenance, or operation requirements of a wet detention pond or other approved stormwater management system.
MANUFACTURED DWELLING	A factory-built structure, transportable in one or more sections, that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. This includes any structure with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.), as amended. This does not include recreation vehicles.
MANUFACTURED HOME PARK	The location of two or more manufactured or mobile homes on a parcel of land shall constitute a manufactured home park.
MASS GRADING	Movement or redistribution of large quantities of soil or fill material on a development site.
MASTER PLAN	See "Plan, Master."
MATERIAL RETURN	The continuation of one or more exterior building materials on one building façade beyond an inside or outside building corner to a logical termination point on a different wall plane.

MAXIMUM EXTENT PRACTICABLE	No feasible or practical alternative exists, as determined by the Town, and all possible efforts to comply with the standards or regulation to minimize potential harmful or adverse impacts have been undertaken by an applicant. Economic considerations may be taken into account but shall not be the overriding factor determining “maximum extent practicable.”
MECHANICAL UTILITY	Any piece of machinery or equipment with moving parts, generates noise, or causes any kind of environmental disturbance or creates emission of any kind, including air movement. Said machinery or equipment is generally functional or utilitarian in nature.
MEDICAL CARE	An institution specializing in giving clinical, temporary, and emergency services of a medical or surgical nature to human patients and injured persons, that is licensed by State law to provide facilities and services in surgery, obstetrics, or general medical practice. Such institutions may include in-patient medical or surgical care for the sick or injured and related facilities such as laboratories, out-patient departments, training facilities, central services facilities, and staff offices that are an integral part of the facilities.
METAL HALIDE	A method of providing illumination by a bulb filled with gas or vapor that provides illumination when an electrical current is passed through it.
MINARET	A tall, somewhat slender tower with one or more balconies providing access from the habitable space within the tower.
MINIMUM LOT AREA	See Section 10.2.3:A: Lot Measurements .
MINOR VARIANCE	As used in the Watershed Protection Overlay district, a variance from the minimum statewide watershed protection rules that results in the relaxation by a factor of up to five percent of any buffer or the relaxation by a factor of up to 10 percent of any management requirement under the low-density option.
MIXED-USE DEVELOPMENT	See “Development, Mixed Use.”
MOBILE HOME	A detached residential dwelling unit constructed prior to July 15, 1976 that does not bear a certification of compliance with National Manufactured Housing Construction and Safety Standards Act of 1974. A mobile home is designed for transportation after fabrication on streets or highways on its own wheels or a flatbed or other trailer and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities, and similar features. Mobile homes are typically 16-feet-wide or less.
MODIFICATION, MAJOR	See “Amendment.”
MODIFICATION, MINOR	A change, revision, addition, or deletion to a development approval of a de minimum or small nature that does not impact the basic configuration or operation of development.
MONOPOLE TOWER	A communication tower consisting of a single pole, constructed without guy wires and ground anchors.
MONUMENT	A permanent marker, typically inserted into the ground, showing the location of a lot line, lot corner, or other demarcation associated with a lot or right-of-way.
MULTI-BUILDING DEVELOPMENT	See “Development, Multi-Building.”

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MULTI-FAMILY DWELLINGS, APARTMENTS, CONDOS, TOWNHOMES ETC.	A structure containing three or more dwelling units that are not located on individual lots. Units may be located side by side in a horizontal configuration or stacked one above the other in a vertical configuration, sharing common vertical walls or horizontal floors and ceilings. Multi-family dwellings include what are commonly called apartments, or condominium units, but not single-family attached dwellings.
MULTI-PHASE DEVELOPMENT	See "Development, Multi-Phase."
MULTI-TENANT	A single building or a single development with two or more different non-residential uses or residential dwelling units.
MULTI-USE TRAIL	A recreational trail configured for use by persons on foot, on bicycle, or by other means of locomotion. Multi-use trails do not typically include use by motorized vehicles.
N	
NATIVE VEGETATION	Plants that are endemic or naturally occurring within a specified area.
NATURAL HERITAGE AREAS	A significant natural area designated by the State or federal government that contains important habitats or which contains plants or animals whose habitat needs protection.
NCGS	The North Carolina General Statutes and all rules and orders adopted pursuant to them.
NEW DEVELOPMENT	See "Development, New."
NICHE	A recess in an exterior wall that is used for seating, display of objects, or for storage.
NON-COMMERCIAL AMATEUR COMMUNICATIONS EQUIPMENT	See "Amateur Communications Equipment."
NON-COMMERCIAL DETACHED CRAFT, HOBBY SHOP, AND OR STUDIOS	A detached accessory structure on the same lot as a principal dwelling unit used as a workshop, for exercise, dancing, or crafts.
NONCONFORMING	See "Nonconformity."
NONCONFORMING LOT OF RECORD	<p>A lot of record that that was lawful at the date on which it was established but does not conform to the current dimensional requirements of the zoning district in which it is located.</p> <p>As used in the Watershed Protection Overlay district, a lot described by a plat or a deed that was recorded prior to the effective date of local watershed protection regulations (or their amendments) that does not meet the minimum lot size or other development requirements of the statewide watershed protection rules.</p>
NONCONFORMING SIGN	Any sign that was lawfully established but does not meet the standards of this Ordinance.
NONCONFORMING SITE (SITE FEATURE)	Parking, landscaping, exterior lighting, screening, or fences or walls located on a development site that do not comply with the minimum requirements of this ordinance.
NONCONFORMING STRUCTURE	A structure that was lawful on the date on which it was established, but does not conform to current dimensional, elevation, location, or other requirements of this Ordinance.

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NONCONFORMING USE	A use type which was lawful on the date on which it was established but is now no longer a permitted use of that lot, building, or structure under this Ordinance. A use that when established did not require a special use permit, but now requires a special use permit shall be considered a nonconforming use until special use permit approval is obtained.
NONCONFORMITY	A use, building, site, sign, or site feature that does not comply with the minimum requirements of this Ordinance or other applicable Town law.
NON-ENCROACHMENT AREA	The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the Flood Insurance Study report.
NON-POINT SOURCE POLLUTION	Sediment, nutrients, and organic substances from diffuse sources that are carried by stormwater runoff.
NON-RESIDENTIAL DEVELOPMENT	See "Development, Non-Residential."
NORTH CAROLINA ADMINISTRATIVE CODE	A set of written rules prepared by the North Carolina Department of Health and Human Services that are used to help affected parties interpret the North Carolina General Statutes.
NOTICE OF PUBLIC HEARING	The formal legal notification of a public hearing on a proposed development application. A "published notice" is one required to be printed in a newspaper of general circulation. A "mailed notice" is one delivered to specified individuals by US Mail. A "posted notice" is a sign posted on or near the property subject to the application.
NOTICE OF VIOLATION	A notice indicating a violation of this Ordinance.
NURSERY & GARDEN CENTER	Industries in the nursery and garden center subsector grow crops mainly for commercial food and fiber. The subsector comprises establishments, such as farms, orchards, groves, greenhouses, and nurseries, which are primarily engaged in the commercial production of crops, plants, vines, or trees and their seeds.
○	
OATH	The term "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in like cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."
OCCUPY OR OCCUPANCY	The act, state, or condition of holding, possessing, residing, or otherwise using a premise, lot, site, building, or dwelling.
OFFICIAL MAPS OR PLANS	Any maps or plans officially adopted by the Laurel Park Town Council as a guide to the development of the Town of Laurel Park.
OFFICIAL ZONING MAP	The Official Zoning Map upon which the boundaries of various zoning districts are drawn, and which is an integral part of this Ordinance.
OFF-STREET LOADING SPACE	An area provided for the purpose of loading and unloading goods or materials for use.
OFF-STREET PARKING SPACE	An area designated for the temporary storage of one vehicle.
ON-CENTER SPACING	Placement of landscape material in a regularly spaced pattern of equal distance between plants.

ONE-YEAR, 24-HOUR STORM	<p>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.</p> <p>As used in the stormwater standards, the surface runoff resulting from a 24-hour rainfall of intensity expected to be equaled or exceeded, on average, once in twelve (12) months with duration of twenty-four (24) hours.</p>
ON-SITE WASTEWATER TREATMENT	A wastewater treatment system serving an individual lot or site
OPAQUE	A building, structure, building material, vegetation, or other site feature that forms a solid visual barrier.
OPEN AIR RETAIL	<p>A retail sales establishment operated primarily in the open air including, but not limited to, farmers market, flea markets, sidewalk kiosks and the like. Uses not included are: car sales, equipment sales, boats sales, and home and garden supplies and equipment.</p>
OPEN SPACE	Those areas set aside and protected from development which may be left in a generally unimproved state.
OPEN SPACE SET-ASIDE	Areas of land free from buildings, structures, or encumbrances, as well as lands with buildings or structures devoted to active or passive recreational purposes.
OPEN SPACE, ACTIVE	Land set aside for the residents or a development and under common ownership that is configured for active forms of recreation. Active open space typically includes playgrounds, athletic fields and courts, and similar features devoted to movement, activity, or sports pursuits.
OPEN SPACE, PASSIVE	Open space areas designated for passive recreation uses including walking trails, pathways, gazebos, picnic areas, fountains, and similar areas. Such areas may also include undisturbed natural vegetation.
OPEN SPACE, URBAN	A private common open space area located within an urban or higher density area that is intended to facilitate gathering of people, such as an outdoor dining area, plaza, or atrium.
OPEN-AIR USE	A use type that does not include any habitable buildings or structures.
ORDINANCE	A legislative enactment of the Town of Laurel Park, North Carolina.
ORNAMENTAL POOL	An outdoor impoundment or container of water or other liquid for the purposes of aesthetics.
OUTDOOR ADVERTISING	Billboards or other forms of signage as defined in Section 160D-912 of the North Carolina General Statutes.
OUTDOOR DINING OR SEATING	Outdoor areas used for gathering, seating, dining, or entertainment.
OUTDOOR DISPLAY OR SALES	The keeping of any goods, merchandise, or vehicles, in an unroofed area for marketing or sales purposes.
OUTDOOR EQUIPMENT	Mechanical equipment serving a building or structure that is located outside the building or structure. Outdoor equipment may or may not be in an area with a roof or other covering.
OUTDOOR KITCHEN	An outdoor activity area used for the preparation of food for on-site consumption.

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OUTDOOR SEATING AREA	An outdoor area used primarily for gathering that includes chairs or other forms of seating. The area may also be used for the consumption of food and beverages or for recreation or entertainment.
OUTDOOR STORAGE (PRINCIPAL USE)	The keeping, in an unroofed area, of any goods or materials, particularly goods and materials that have a large size, mass, or volume and are either not easily moved or carried or require a mechanical lifting device (e.g., non-bagged mulch and lumber). This use does not include a junkyard or recycling facility, vehicle fleet storage, or the display and storage of vehicles as part of an automobile sales or rental use. Outdoor storage may be conducted as a principal or accessory use.
OVERLAY ZONING DISTRICT	See "Zoning District, Overlay."
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. As used in the stormwater standards, the legal or beneficial owner of land, including but not limited to a mortgagee or vendee in possession, receiver, executor, trustee, 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 management entity.
OWNERS' ASSOCIATION	An organization of homeowners or property owners of lots or land in a particular subdivision, condominium, or planned development. The owners' association is responsible for maintaining and enhancing the shared private infrastructure (e.g., stormwater, streets, and sidewalks) and common elements such as recreation areas.
P	
PARAPET	A low wall along the edge of flat or low-pitched roof.
PARENT ENTITY	An affiliate that directly, or indirectly through one or more intermediaries, controls another person.
PARENT PARCEL	A tract of land further subdivided into one or more additional lots.

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PARKING (PRINCIPAL USE)	A use of land devoted to the temporary off-street parking of vehicles, including vehicular ingress and egress, parking aisles, internal travel ways, fire lanes, and other areas dedicated to vehicular use, but not necessarily including vehicular storage areas.
PARKING AREA	See "Off-Street Parking Space."
PARKING LOT LANDSCAPING	Required landscaping material located within and surrounding a surface off-street parking area.
PARKING, OFF-SITE	Off-street parking facilities located on a different lot or site than the use served.
PARKING, SHARED	Off-street parking spaces that are shared or used by two or more different use types with differing patterns of use through the day or the week.
PARKLAND	Land dedicated to the Town for use as a public park.
PATIO (COVERED OR UNCOVERED)	A paved outdoor area used for the purposes of gathering, seating, dining, or recreation. A patio may be covered or uncovered but does not include permanent walls.
PENALTY	Punishment for violation of a law or rule.
PENNANT	A lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.
PERENNIAL STREAM	A well-defined channel that contains water year-round during a year with normal rainfall. Ground- water is the primary source of water, but they also carry stormwater. They exhibit the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water. These features are regulated by NC DWR and typically regulated by the U.S. Army Corps of Engineers.
PERFORMANCE GUARANTEE	Cash or other guarantee provided by an applicant in-lieu of completion of public infrastructure or installation of required private site features prior to issuance of a building permit or other development approval.
PERIMETER BUFFER	See "Buffer, Perimeter."
PERIMETER SETBACK	See "Setback, Perimeter."
PERMIT	The approval document allowing land disturbing activities to be initiated. A project may be developed in phases with separate permits for each phase.
PERSON	Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.
PERSON CONDUCTING LAND-DISTURBING ACTIVITY	Any person who may be held responsible for a violation unless expressly provided otherwise by the erosion and sedimentation control regulations of this Ordinance.
PERVIOUS SURFACE	Any land surface not effectively covered by impervious surface, in which rainfall and stormwater runoff can naturally infiltrate.
PET SHELTER OR ENCLOSURE	An accessory structure devoted to use by domesticated animals (but not for the keeping of livestock).
PHASE	The discrete portion of a proposed development.
PHASE OF GRADING	One of two types of grading, rough or fine. Grading plans are required to be phased.
PILASTER	A rectangular column with a capital and base that is attached or affixed to a wall as an ornamental design feature.

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PLAN, ALTERNATIVE LANDSCAPE	A document prepared by an applicant’s representative that proposes an alternative means of compliance with the standards in Section 7.4: Landscaping.
PLAN, ALTERNATIVE PARKING	A document prepared by an applicant’s representative that proposes an alternative means of compliance with the standards in Section 7.7: Parking and Loading.
PLAN, AS-BUILT	A set of engineering or site drawings that delineate the specific permitted development like forms of public infrastructure, as actually constructed.
PLAN, CONCEPT	A generalized or conceptual plan for development intended solely for illustrative purposes to assist a review authority in its consideration of a proposed development. A concept plan may, but does not necessarily need to include, the detailed elements typically found in a site plan (for example, detailed locations of buildings, location of off-street parking, location of landscaping, etc.).
PLAN, CONSTRUCTION	Drawing and specifications prepared by a qualified person showing buildings, structures, utilities, infrastructures, and site configuration aspects associated with development. Construction plans are most commonly associated with infrastructure such as streets, water, sewer, stormwater management, or drainage facilities.
PLAN, LANDSCAPE	A plan illustrating the design and specifications for the preservation of existing vegetation; the placement of any live plant materials such as trees, shrubs, grasses, ground covers, etc.; and the location and design of built features such as berms, fencing, walls, etc.
PLAN, LIGHTING	A graphic deposition of proposed exterior lighting fixture locations, height, anticipated luminance, and cones of illumination.
PLAN, MASTER	A conceptual plan associated with an application to establish a planned development district that sets out the general location, type, and configuration of proposed development within the district.
PLAN, PARKING	A plan or diagram prepared by an applicant for development that depicts the required and provided number of parking spaces (if different from the required number of parking spaces). The plan also shows points of vehicular ingress and egress, drive aisles, the locations of parking lot landscaping islands, pedestrian circulation features, and off-street loading facilities.
PLAN, PLOT	A simple plan or sketch that may or may not be prepared by a professional that denotes the proposed development of a site. A plot plan is prepared to scale.
PLAN, SITE	A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include, but is not limited to, site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities, that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review.
PLAN, SITE-SPECIFIC VESTING	A plan of development used for the establishment of a vesting term.
PLANNED DEVELOPMENT	See “Development, Planned.”

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PLANNING JURISDICTION	The land area subject to this Ordinance, including the land area within the corporate limits, the extra-territorial jurisdiction, land subject to a pending application for voluntary annexation, and any land subject to an agreement between the Town and other governmental entity that extends planning control to the Town.
PLANTING BOXES/PLANTERS	An accessory structure used for the planting and propagation of vegetation used to meet the landscaping or design requirements of this Ordinance.
PLANTING STRIP	A linear area of pervious surface used for the planting of street trees. Planting strips are typically located within a street right-of-way.
PLAT	A map or plan of a parcel of land which is to be or has been subdivided. As used in the Watershed Protection Overlay district, a map or plan of a parcel of land which is to be or has been subdivided.
PLAYGROUND EQUIPMENT	Accessory structures devoted to recreation by children.
PLAZA	An open public area that is typically paved or surfaced and that includes seating areas, performance space, public art, fountains, areas for public gathering, and that may also accommodate accessory sales or vending of food or products.
PLOT PLAN	See "Plan, Plot."
POINT SOURCE POLLUTION	A single identifiable source of sediment, nutrients, or organic substances that are carried by stormwater runoff.
POLLARDING	Deliberate severe pruning of the main branches at the top of the tree in a manner that retains short portions of three or more main branches from which the following year's growth will sprout.
PORCH	An exterior appendage to a building or structure that serves an entrance or exit. Porches may be covered or uncovered but shall not include permanent walls.
POSITIVE DRAINAGE	Configuration of grades, roofs, walkways, trails, parking areas, or outdoor use areas in ways that facilitate the departure of stormwater runoff without pooling in undesignated areas.
POST-FIRM	Construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map for the area.
PRE-APPLICATION CONFERENCE	A meeting or conference conducted by a potential applicant for a permit or development approval and Town staff for the purposes of discussing a potential application or Town rules regarding development.
PRE-FIRM (FLOODPLAIN DEVELOPMENT)	Construction or other development for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate Map for the area.
PRIMARY BUILDING ENTRANCE	The place of ingress and egress to a building, parcel, or development used most frequently by the public.
PRIMARY BUILDING FAÇADE	The architectural front wall (façade) of the building that faces the street from which the building is addressed.
PRIMARY FAÇADE PLANE	The largest uninterrupted exterior surface of a building wall from the grade to the underside of the eave or top of the parapet. The primary building façade excludes any offsets, projections, recesses, wings, bump-outs, or cornices.

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PRINCIPAL BUILDING	The building or structure housing the main or dominant use type or activity on the lot. A development may have more than one principal building.
PRINCIPAL USE	See "Use, Principal."
PRINCIPALLY ABOVE GROUND	At least 51% of the actual cash value of the structure is above ground.
PRIVATE CLUBS	A building and related facilities owned and operated by a corporation, association, or group of individuals established for fraternal, social, educational, recreational, or cultural enrichment of its members and primarily not for profit, and whose members meet certain prescribed qualifications for membership and pay dues.
PRIVATE COMMON INFRASTRUCTURE	Infrastructure or facilities such as streets, water, sewer, stormwater management, open space, streetlights, or street signs that are owned and maintained by a private owners' association.
PRIVATE STREET (ROAD)	See "Street, Private."
PRIVATE SWIMMING POOL (INCLUDING SUPPORT ACCESSORY STRUCTURES)	An above- or below-ground structure that is filled with water and used for swimming or relaxing by a household or residents of a development.
PRIVATE TENNIS COURTS (INCLUDING SUPPORT ACCESSORY STRUCTURES)	An indoor or outdoor court used for playing tennis by members of a household or residents of a development.
PROFESSIONAL (LICENSED) GEOLOGIST/SOIL SCIENTIST	An expert knowledgeable in soils and geomorphic processes licensed by the State of North Carolina to provide design and construction services for development.
PROFESSIONAL ARBORIST	See "Certified Arborist."
PROFESSIONAL ENGINEER	An expert knowledgeable in civil engineering, architecture, traffic management, stormwater management, or construction licensed by the State of North Carolina to provide design and construction services for development.
PROFESSIONAL LAND SURVEYOR	An expert knowledgeable in the delineation and demarcation of lot lines, land ownership, grading, and similar aspects licensed by the State of North Carolina to provide design and construction services for development.
PROFESSIONAL LANDSCAPE ARCHITECT	An expert knowledgeable in plants, planting techniques stormwater management, outdoor structural design, and similar aspects licensed by the State of North Carolina to provide design and construction services for development.
PROFESSIONAL SERVICES	Services provided that make available the knowledge and skills of their employees to sell expertise and perform professional, scientific, and technical services to others such as legal services; accounting, tax, bookkeeping, and payroll services; architectural, engineering, and related services; graphic, industrial, and interior design services; consulting services; research and development services; advertising, media, and photography services; real estate services; investment banking, securities, brokerages; and insurance-related services.
PROTOTYPICAL ARCHITECTURE	Exterior building materials and architecture that is standardized for a particular use type or franchise operation.

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PUBLIC ART	Three-dimensional art (such as sculpture, painting, or other physical form of expression) that is created, constructed, and installed on the site where it is visible by members of the general public for the purposes of expressing an idea, feeling, or desire to evoke a reaction from the viewer.
PUBLIC HEARING	A hearing conducted by a review authority for the purpose of allowing interested members of the public to provide testimony or evidence for the review authority to consider in deciding an application under this Ordinance. A public hearing is required to be publicly noticed prior to conducting the hearing.
PUBLIC INFRASTRUCTURE	Infrastructure (such as potable water lines, sanitary sewer lines, streets, storm drainage, sidewalks, trails, etc.) and related facilities or appurtenances that are owned by the public and intended for use by the public.
PUBLIC MEETING	A meeting conducted by a review authority for the consideration of a development application submitted under this Ordinance that is open to any member of the public to attend. A public meeting is not subject to public notification requirements.
PUBLIC OR COMMUNITY SEWAGE DISPOSAL SYSTEM	A sanitary sewage disposal system, regulated by the Division of Environmental Management, North Carolina Department of Natural and Economic Resources, with 3,000 gallons or more design capacity and/or whose effluent is discharged to surface water.
PUBLIC OR COMMUNITY WATER SUPPLY SYSTEM	A system serving 10 or more residences or businesses or combination of residences and businesses, including municipal and sanitary district water systems as well as water systems designed to serve particular subdivisions at full development constructed to specifications approved by the Division of Health Services, North Carolina Department of Human Resources.
PUBLIC PARK	Land used for recreation, exercise, sports, education, rehabilitation, or similar activities, or a land area intended to enhance the enjoyment of natural features or natural beauty, specifically excluding commercially operated amusement parks.
PUBLIC SAFETY AND/OR NUISANCE (FLOODPLAIN DEVELOPMENT)	Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.
PUBLIC SCHOOLS & PRIVATE SCHOOLS	A public or private school offering general, technical, or alternative instruction at the elementary, middle, and/or high school levels that operates in buildings or structures or on premises on land leased or owned by the educational institution for administrative purposes. Such uses include classrooms, vocational training (including that of an industrial nature for instructional purposes only), laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.
PUBLIC UTILITIES	Infrastructure services providing regional or community-wide service that normally entail the construction of new buildings or structures such as water towers, waste treatment plants, potable water treatment plants, natural gas citygates, and solid waste facilities.
PUBLIC UTILITIES, MAJOR	Infrastructure services providing regional or community-wide service that normally entail the construction of new buildings or structures such as water towers, waste treatment plants, potable water treatment plants, natural gas citygates, and solid waste facilities.

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PUBLIC UTILITIES, MINOR	Infrastructure services that need to be located in or near the neighborhood or use type where the service is provided. Examples of minor utilities include water and sewage pump stations, storm water retention and detention facilities, telephone exchanges, distribution-level electrical substations, and surface transportation stops such as bus stops and park-and-ride facilities.
Q	
QUASI-JUDICIAL DECISION	A decision by an elected or appointed body that applies previously established policies. Examples include decisions on appeals and variances.
QUASI-JUDICIAL PUBLIC HEARING	A formal public hearing involving the legal rights of specific parties conducted by the Town Council or the Board of Adjustment based on evidence and sworn testimony presented during the public hearing. Decisions made during such hearings are based upon and supported by the record developed at the hearing, and typically involve findings of fact made by review authority.
QUORUM	The minimum number of council, board, or commission members that must be present in order to conduct official business or take official action.
R	
REASONABLE ACCOMMODATION	Any change or adjustment to a provision of this Ordinance or condition of approval that would allow an individual with a disability to enjoy equal access to a dwelling, structure or site that is available to other individuals.
RECOMBINATION	The consolidation or shifting of lot lines between two or more parcels.
RECORDATION	Filing a plat or paperwork associated with a subdivision or other form of development at the Henderson County Register of Deeds to ensure the documents are available for public inspection in perpetuity.
RECREATIONAL EQUIPMENT STORAGE	Covered or uncovered storage of boats, watercraft, recreational vehicles, or trailers used for recreational equipment.
RECREATIONAL VEHICLE (RV) (FLOODPLAIN DEVELOPMENT)	A vehicle, which is: <ul style="list-style-type: none"> • Built on a single chassis; • 400 square feet or less when measured at the largest horizontal projection; • Designed to be self-propelled or permanently towable by a light duty truck; and • Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.
RECYCLING CONTAINER	A bin or container used solely for the temporary storage of recyclables prior to collection and transport off-site for processing.

<p>REDEVELOPMENT</p>	<p>Development activity associated with an existing building, structure, or use of land that includes:</p> <ul style="list-style-type: none"> • Demolition of all or a portion of a principal or accessory building; • Reconstruction of an existing building or structure following demolition; • Expansion, enlargement, extension, or addition to or removal of existing floor area; • Addition or enlargement of outdoor use area or activities; or • Changes to site configuration involving the addition of impervious surface area. <p>As used in the stormwater standards, any rebuilding activity other than a rebuilding activity that results in no net increase in built-upon area and provides equal or greater stormwater control than the previous development.</p>
<p>REFERENCE LEVEL</p>	<p>The top of the lowest floor for structures within Special Flood Hazard Areas and Future Conditions Flood Hazard Areas designated as Zone AE, A, A99 or X (Future).</p>
<p>REFORESTATION</p>	<p>The reestablishment of trees or tree canopy cover to land area that was cleared prior to or as part of the development process.</p>
<p>REFUSE COLLECTION CONTAINER</p>	<p>A bin or container used solely for the temporary storage of waste products prior to collection and transport off-site for deposition or processing.</p>
<p>REGULATORY FLOOD PROTECTION ELEVATION</p>	<p>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. In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus 2 feet of freeboard. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least 2 feet above the highest adjacent grade.</p> <p>In Future Conditions Flood Hazard Areas this elevation shall be the Future Conditions Flood Elevation plus 2 feet of freeboard.</p>
<p>RELIGIOUS INSTITUTION</p>	<p>Any facility such as a church, temple, monastery, synagogues, or mosque used for worship by a non-profit organization and their customary related uses for education (pre-schools, religious education, etc.), recreation (gymnasiums, activity rooms, ball fields, etc.), housing (rectory, parsonage, elderly or disabled housing, etc.) and accessory uses such as cemeteries, mausoleums, offices, soup kitchens, and bookstores.</p>
<p>REMEDIATION</p>	<p>Actions necessary on land with geologic hazards or steep slopes that will enable the construction of a building or other development in a manner that is safe and that not result in further degradation of environmental conditions or public safety.</p>
<p>REMEDY</p>	<p>The manner in which a right or law is enforced or satisfied when a violation of this Ordinance or related law has occurred.</p>

<p>REMEDY A VIOLATION</p>	<p>An act to bring the structure or other development into compliance with State or community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impact may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this subchapter or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.</p> <p>As used in the flood damage protection provisions, to bring the structure or other development into compliance with State and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impact may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.</p>
<p>REMODELING</p>	<p>Development activity associated with an existing building, structure, or use of land that includes:</p> <ul style="list-style-type: none"> - Replacement or upgrade of existing fixtures, fittings, or surfacing materials; - Refurbishment of internal systems or equipment; - Installation of new features such as doorways, windows, or habitable space within the existing footprint and floorplate; - Cosmetic changes to existing buildings or structures without any changes to existing footprint or floorplate; or - Enhancement of existing site features without the addition of new impervious surface area. <p>For the purposes of this Ordinance, “renovation” or “expansion” includes the construction of new floor area (principal or accessory) that extends the building’s footprint or floorplate.</p>
<p>REPLACEMENT COST/VALUE</p>	<p>The actual cost, in current dollars, including labor and related charges, for the replacement of a building, structure, or other site feature.</p>
<p>REQUIRED LANDSCAPING AREA</p>	<p>The portion of a lot or site that must include new or existing vegetation as required by Section 7.4: Landscaping.</p>
<p>REQUIRED YARD</p>	<p>The land area located between a lot line and the boundary of a required setback.</p>
<p>RESERVATION</p>	<p>An obligation, shown on a subdivision or site plan, to keep land free from development and available for public acquisition for a stated period of time.</p>
<p>RESERVE AREA</p>	<p>An area on a lot or site that is reserved or set aside for future use as part of an on-site wastewater treatment system in cases when the current on-site treatment system fails or needs to be upgraded.</p>
<p>RESERVE FUND</p>	<p>A bank account containing reserve funds for the purpose of maintaining commonly held land, infrastructure, or facilities.</p>
<p>RESERVE STRIPS</p>	<p>Strips of land that are not developed as a means of limiting or preventing vehicular access.</p>
<p>RESIDENTIAL DEVELOPMENT</p>	<p>See “Development, Residential.”</p>

CHAPTER 10: WORD USAGE**SECTION 10.3: DEFINITIONS**

RESIDENTIAL DWELLING PLANNED UNIT AS PART OF A MIXED-USE DEVELOPMENT	Multi-family residential dwelling units located on the second or higher floors of a building with some form of non-residential use on the first or ground floor. Dwelling units may be configured as apartments or condominiums.
RESIDUALS	As used in the Watershed Protection Overlay district, any solid or semi-solid waste generated from a wastewater treatment plant, water treatment plant, or air pollution control facility permitted under the authority of the Environmental Management Commission.
RESTAURANT, BAKERY, AND CAFE	An establishment where meals or prepared food, including beverages and confections, are served to customers for consumption on or off the premises. Seating for patrons consuming products on site are located either indoors or outdoors, and the use does not necessarily provide drive-through service. Such uses may include a bar or cocktail lounge as an accessory use.
RETAIL STORE AND SERVICE ESTABLISHMENT CUSTOMARILY SERVING RESIDENTIAL NEIGHBORHOODS	Commercial establishments engaged in the retail sale of goods or the on-site provision of services to customers, including, but not limited to, florists, grocery stores, department stores, discount stores, thrift stores, and pawnshops.
RETAINING WALL	See "Wall, Retaining."
RETENTION POND	A stormwater control measure consisting of a depression in the land that is designed to capture runoff from a design storm and release it gradually over a specified period of time via a properly designed outlet structure.
REVERSE FRONTAGE LOT	See "Lot, Reverse Frontage."
REVIEW AUTHORITY	The Town Manager, Planning Board, Parks and Greenways Board, Watershed Review Board, Board of Adjustment, or Town Council, as appropriate.
RHYTHMIC PLACEMENT (PLACING)	The uniform placement of windows, doors, exterior materials, or other aesthetic features along the façade of a building.
RIGHT-OF-WAY	Property located within and adjoining the streets, roads and highways within the Town, which rights-of-way are owned or otherwise maintained by the State.
RIP RAP	The random or specific placement of rock or fieldstone along drainage channels, stormwater inlets or outfalls, streams, or other areas subject to accelerated erosion where vegetation or geotextile measures are insufficient to prevent erosion and sedimentation.
RIPARIAN BUFFER	See "Buffer, Riparian."
RIVERINE (FLOODPLAIN DEVELOPMENT)	Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
ROOF EAVE OR OVERHANG	The edge of a roof or upper building story projecting outwards past the primary façade plane of a building.
ROOF RAKE	The portion of a gabled roof that extends past the exterior wall of the building.
ROUTINE MAINTENANCE	See "Maintenance, Routine."

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SALVAGE YARD (FLOODPLAIN DEVELOPMENT)	Any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.
SEDIMENT	The solids particulate matter both mineral and organic that has been or is being transported by water, air, gravity or ice from its site of origin.
SEDIMENT POLLUTION CONTROL ACT (SPCA ACT)	North Carolina Sediment Pollution Control Act of 1973 and all rules and orders adopted pursuant to it.
SEDIMENTATION	The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.
SEEDING	Seed, straw and tack, hydroseed, sod, or other approved seeding method.
SEMI-OPAQUE	A building, structure, building material, vegetation, or other site feature partially obscures visibility from one location to another.
SETBACK	See Section 10.2.4: Setbacks.
SETBACK (MAXIMUM)	A line parallel to a lot line beyond which a structure must be located.
SETBACK (MINIMUM)	A line parallel to a lot line in front of which no structure shall be erected.
SETBACK, PERIMETER	See Section 10.2.4: Setbacks.
SETBACK, REAR	See Section 10.2.4: Setbacks.
SETBACK, SIDE	See Section 10.2.4: Setbacks.
SETBACK, STREET	See Section 10.2.4: Setbacks.
SEVERE PRUNING	The pruning, cutting, or otherwise damaging of the natural form of a tree or shrub, whether existing or planted, such that a significant or noticeable portion of the crown system is removed (e.g., 25 percent of the crown removed from a tree, or the continued cutting/trimming of trees previously pruned illegally, or pruning of trees that must grow naturally to meet the landscaping requirements), and/or if more than 1/3 of the overall circumference of a tree is exposed by pruning cuts.
SHIELDING (SHIELDED)	A light fixture constructed and installed in such a manner that all light emitted by it, either directly from the lamp (bulb) or a diffusing element, or indirectly by reflection or refraction from any part of the fixture, is projected below the horizontal plane of the fixture.
SHOPPING CENTER	A development with more than one tenant on one or more lots where the majority of uses are engaged in the provision of retail sales or personal services.
SHRUB	A woody plant, smaller than a tree, consisting of several small stems emerging from the ground, or small branches near the ground. Shrubs may be deciduous or evergreen.
SHRUB, EVERGREEN	A shrub that retains the majority of its leaves or needles throughout the year.
SIDEWALK	A paved area public right-of-way running parallel to the street for the purposes of pedestrian travel and to facilitate pedestrian access to adjacent streets and land.
SIGHT DISTANCE TRIANGLE	The triangular area formed by a diagonal line connecting two points located at designated locations on intersecting right-of-way lines or a right-of-way line and the curb or a driveway.

CHAPTER 10: WORD USAGE**SECTION 10.3: DEFINITIONS**

SIGN	Any words, lettering, numerals, parts of letters or numerals, figures, phrases, sentences, emblems, devices, designs, trade names or trademarks by which any message is made known, including any surface, fabric or other material or structure designed to carry such devices that are used to designate or attract attention to an individual, a firm, an event, an association, a corporation, a profession, a business or a commodity or product that are exposed to public view.
SIGN CABINET	A metal enclosure housing sign face displays and methods of internal illumination, when provided.
SIGN FACE AREA	The portion of sign that contains the message being conveyed.
SIGN HEIGHT	The height to the tallest point of a sign structure.
SIGN SUPPORT STRUCTURE	The framework and structural support for a sign.
SIGN, AWNING	A sign that is part of or attached to an awning, canopy, or other protective canvas, plastic, or metal cover affixed to a building and located over a door, entrance, window, or other outdoor area.
SIGN, BLINKING	A sign with copy that flashes, blinks, scrolls, or twirls.
SIGN, BOW	A feather flag sign with an elongated mounting post that curves at the top to form a circular shape within which the sign material is mounted.
SIGN, BOX	A sign within a cabinet.
SIGN, CANOPY	Signage located on the exterior of an attached or freestanding canopy.
SIGN, CONSTRUCTION	A sign identifying the architects, engineers, contractors and other individuals or firms involved with the construction of a building. The name of the building, the purpose of the building, and the expected completion date may be specified.
SIGN, DILAPIDATED	A sign that is old or that has been poorly maintained that poses a public safety hazard or is difficult to read.
SIGN, DIRECTIONAL/IDENTIFICATION	Public purpose signs designed to identify parking areas, control traffic, and provide guidance to special areas and to announce one's arrival into the heart of the community. These signs are solely for the purpose of navigation and do not contain commercial messages.
SIGN, ELECTRONIC DISPLAY	A sign, or portion thereof that displays electronic, non-pictorial, or text information that may or may not change. Sign content is displayed by light emitting diodes (LED's), fiber optics, light bulbs, or other illumination devices arranged in a matrix within the display area.
SIGN, FENCE WRAP	A temporary sign affixed to fencing surrounding an active construction site.
SIGN, FREESTANDING	Any sign that is attached directly to the ground by means of a supporting system comprised of a solid pedestal, pole, or other bracing system where there is open space between the bottom of the sign face area and the ground.
SIGN, GOVERNMENTAL	Any temporary or permanent sign erected and maintained for any government purposes.
SIGN, GROUND / FREESTANDING	A sign that extends upward out of the ground, independent of a building, with an integral support structure.

SIGN, INCIDENTAL	Any small or nondescript sign that only provides directional information or safety information for the public. Examples of incidental signs include signs addressing on-site traffic circulation (such as “entrance” or “exit” signs), public safety (such as “high voltage” or “beware of dog” signs), or address signs.
SIGN, INFLATABLE	A hollow sign that is intended to expand as air is pumped inside of it. Inflatable signs are tethered to the ground or some other structure.
SIGN, MARQUEE	Three dimensional signs projecting from the side of a building which may extend above the roofline and/or incorporate changeable type.
SIGN, MONUMENT	Any sign that is attached directly to the ground by means of a supporting system comprised of a solid pedestal, or other bracing system where there is no open space between the bottom of the sign face area and the ground. Monument signs are configured so that the base of the sign support structure is at least as wide as the sign face area. Any sign with an opening between the bottom of the sign’s face area and ground or where the sign face area is wider than the sign support structure shall be considered as a freestanding sign.
SIGN, MOVING	A sign that moves or has moving parts, including but not limited to the sign face area, the sign support structure, or some other element of the sign.
SIGN, NEON	A sign that includes or is primarily comprised of neon tubing.
SIGN, PARAPET	A building-mounted sign erected upon and completely over any portion of the roof of a building.
SIGN, PORTABLE/A-FRAME	A pedestrian-oriented movable sign that sits on the grade located proximate to the primary entrance of the non-residential or mixed-use being advertised.
SIGN, POST & ARM	Minor or secondary signs which are used to identify the address of a building, or to identify the profession, family, organization, business, etc., occupying the building.
SIGN, PROJECTING/SUSPENDED	Pedestrian-scaled signs on the first floor of a building mounted to the side of the building or underside of a balcony or arcade which can be read from both sides.
SIGN, PYLON	Signs are freestanding structures that can be single sided or double sided and are usually supported by one or two poles or similar vertical projections.
SIGN, ROOF	A sign on the roof or above the parapet of a building.
SIGN, STREET	A sign displaying the official name of a street.
SIGN, SUBDIVISION	A ground sign located at the entrance to a subdivision consisting of two or more lots but not located within a street right-of-way or on a lot with a principal building.
SIGN, SUSPENDED	See “Sign, Projecting/Suspended.”
SIGN, TEMPORARY	Any sign that is not permanently affixed to the ground or a building which can be removed without special handling and that may be located on a lot or site in addition to other forms of signage.
SIGN, TRAFFIC	An official sign that conveys information or instructions to persons operating motor vehicles, bicycles, or walking.
SIGN, WALL	Flat signs, channel lettering, box signs, or three-dimensional signs which are etched, painted, or attached (parallel) to the wall of a building or structure.

SIGN, WINDOW SIGN (DOOR)	A sign affixed to or visible through the surface of a window or glass door that is intended to be visible to the public from outside the building. Signs painted on glass and etched or frosted glass that includes text or symbols shall be considered as a window sign.
SIGNIFICANT BUILDING	An existing building on a lot in the Significant Building Overlay district lawfully established prior to the effective date of this Ordinance.
SILL	A horizontal piece or structural member typically found below a window, door, or other opening.
SILTATION	Sediment resulting from accelerated erosion which can be settled or removed by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited, or is in suspension in water.
SIMPLE MAJORITY	More than half of the voting members of a review authority deciding an application under this Ordinance.
SINGLE-FAMILY ATTACHED DWELLING	A dwelling unit that is physically attached to one or more other dwelling units, each on its own lot. Individual lots may or may not be surrounded by a larger tract that incorporates shared parking, recreation features, or access. The larger tract may or may not be owned in common by the landowners of individual lots.
SINGLE-FAMILY DETACHED DWELLING	A dwelling containing one principal dwelling unit meeting the minimum size requirements in the North Carolina Building Code that is occupied by one family and that is not physically attached to any other principal structure on an individual lot. For regulatory purposes, this term does not include manufactured dwellings, mobile homes, or recreational vehicles. An accessory dwelling unit may be within, attached to, or on the same lot as a single-family detached home.
SINGLE-FAMILY RESIDENTIAL	As used in the Watershed Protection Overlay district, any development where: 1) no building contains more than one dwelling unit, 2) every dwelling unit is on a separate lot, and 3) where no lot contains more than one dwelling unit.
SINGLE-TIER LOT	A lot which backs upon a limited access highway, a railroad, a physical barrier, or another type of land use and to which access from the rear is usually prohibited.
SITE PLAN	See "Plan, Site."
SITE SKETCH	See "Plan, Plot."
SLOPE, LOW	See Section 10.2.9: Slope and Elevation.
SLOPE, STEEP	See Section 10.2.9: Slope and Elevation.
SLOPE, VERY STEEP	See Section 10.2.9: Slope and Elevation.
SMALL WIRELESS FACILITY	See "Wireless Communications Facility, Small."

SOLAR ENERGY SYSTEM (SMALL-SCALE)	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 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.
SPECIAL FLOOD HAZARD AREA (SFHA)	The land in the floodplain subject to a 0.2% or greater chance of being flooded in any given year based on current conditions hydrology.
SPECIAL USE PERMIT	A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with any applicable specific standards.
SPEED BUMP (SPEED TABLE)	A ridge set into the paving of a road surface, typically at intervals, to control the speed of vehicles.
SPIRE	A tapering, conical, or pyramidal structure on the top of a building, typically a church tower.
SPLASH PAD	An outdoor play area with sprinklers, fountains, nozzles, and other devices or structures that spray water into the air.
STABILIZATION	The process of restoring a site with ground cover or armor to resist soil erosion from the forces of air, wind, or water.
STACKING SPACE	A portion of the vehicular use area on a site that is dedicated to the temporary storage or “standing” of vehicles engaged in drive-through use of the site or development.
STANDARD TIA	A transportation impact analysis prepared for residential developments of up to 75 units or non-residential developments of less than 10,000 square feet.
STANDING	The legal right or authority to initiate or participate in legal proceedings based upon a sufficient level of connection or potential harm from a decision or activity.
STATE BUILDING CODE	A series of ordinances enacted by North Carolina that establish the minimum requirements that must be met in the construction and maintenance of buildings for the purpose of safety and sanitation.
STATEMENT OF CONSENT	A statement signed by the landowner of a single-family detached, attached, or duplex dwelling development that records the landowner’s willingness to voluntarily comply with the single-family and duplex design guidelines in this Ordinance.
STEEPLE	See “Spire.”
STEEP SLOPE	See “Slope, Steep.”
STEP BACK	A condition where a building is configured so that the tallest portions of the structure are located the farthest distance from a lot line or an adjacent shorter structure.

CHAPTER 10: WORD USAGE**SECTION 10.3: DEFINITIONS**

STEP DOWN	A means of construction on a hillside where the structure is organized into different wings or modules, each with a finished floor or roof height that maintains a generally consistent distance from the grade or contour of the slope.
STOOP	See "Porch."
STOP WORK ORDER	An order issued by the Town to a landowner or developer to cease and desist all land-disturbing or development activity on a site pending resolution of a problem or conflict.
STOREFRONT	The ground floor or street level façade of a building that is configured with display windows intended to indicate the goods or services available within the structure. A storefront may or may not include an entrance adjacent to the display windows. There is no requirement that a building with a storefront façade be engaged in retail sales or the provision of personal; services.
STORM DRAINAGE FACILITIES	The system of inlets, conduits, channels, ditches, and appurtenances which serve to collect and convey stormwater through and from a given drainage area.
STORMWATER BEST MANAGEMENT PRACTICE MANUAL	The Stormwater Best Management Practice Manual approved for use in Phase II jurisdictions by the N.C. Division of Water Resources and certified by this jurisdiction is at least as stringent as the Stormwater Best Management Practice Manual approved for use in Phase II jurisdictions the proper implementation of the requirements of the federal Phase II stormwater program. All references herein to the Stormwater Best Management Practice Manual are to the latest published edition or revision.
STORMWATER COLLECTION SYSTEM	As used in the Watershed Protection Overlay district, any conduit, pipe, channel, curb, or gutter for the primary purpose of transporting (not treating) runoff. Such system does not include vegetated swales, swales stabilized with armoring, and/or alternative methods where natural topography prevents the use of vegetated swales, subject to case-by-case review, curb outlet systems, or pipes used to carry drainage underneath built-upon surfaces that are associated with development controlled by the provisions of 15A NCAC 2H .1003 c 1.
STORMWATER CONVEYANCE	Stormwater management facilities or features designed to facilitate the movement of stormwater runoff.
STORMWATER MANAGEMENT DEVICE/CONTROL MEASURE	A structure or facility intended to control stormwater runoff on an individual lot or development site.
STORMWATER RUNOFF	The surface flow of water resulting from precipitation in any form and occurring immediately after rainfall or melting.
STREAM	An intermittent or perennial surface water subject to US Army Corps of Engineers (Corps) and/or NC Division of Water Resources (DWR) 404/401 jurisdiction. To confirm jurisdictional status, a formal Corps and/or DWQ response is required (e.g., Jurisdictional Determination).
STREAM CLASSIFICATION	The existing or contemplated best usage of streams, pursuant to 15A NCAC 02B .0300, and/or subsequent clarifications, modifications, and addenda.
STREAMER	See "Pennant."

STREET (ROAD)	<p>A paved or unpaved vehicular accessway of more than 20 feet in width intended for the movement of vehicles and bicycles that is maintained as a street by the City, NCDOT, or is indicated as a private street on a recorded final plat.</p> <p>As used in the Watershed Protection Overlay district, a right-of-way for vehicular traffic which affords the principal means of access to abutting properties.</p>
STREET CLASSIFICATION	The type or category of a street.
STREET CONNECTIVITY	A measure of the overall connectedness of the streets in a street network that is largely controlled by individual block length and the number of intersecting streets.
STREET RIGHT-OF-WAY	The area of land within which a street and all its associated appurtenances and utilities are located.
STREET SETBACK	See "Setback, Street."
STREET STUB	A nonpermanent dead-end street intended to be extended in conjunction with development on adjacent lots or sites.
STREET, ALLEY	A public way which affords only a secondary means of access to abutting property and is not intended for general traffic circulation.
STREET, BOULEVARD	A street whose principal function is to carry large volumes of traffic at higher speeds through the Town or from one part of the Town to another.
STREET, CUL-DE-SAC	A street that terminates in a vehicular turnaround.
STREET, DEAD END	A street that terminates with a street stub or vehicular turn around.
STREET, EXPRESSWAY	A street whose principal function is to carry large volumes of traffic at higher speeds through the Town or from one part of the Town to another.
STREET, FREEWAY	Those streets used or to be used primarily to carry traffic and having few points of access and no intersections at grade.
STREET, FRONTAGE	See Section 10.2.3: A: Lot Measurements.
STREET, HALF	A partial street that has a reduced pavement and right-of-way width.
STREET, LOCAL	A street whose primary function is to provide access to abutting properties. It generally serves or is designed to serve less than 100 dwelling units and handles less than 800 trips per day.
STREET, LOOP	A street that has its originating and ending points in the same or in different locations along the street that provides access to it.
STREET, MARGINAL ACCESS	A street that meets public street standards that provides access solely to lots inaccessible to abutting higher order streets like expressways, boulevards, or thoroughfares.
STREET, PRIVATE	A vehicular travel way not dedicated or offered for dedication as a public street but resembling a cul-de-sac or a local street by carrying traffic from a series of driveways to the public street system.
STREET, PUBLIC	A dedicated public right-of-way in which the roadway has been accepted or constructed to public standards for vehicular traffic, but not an alley.
STREET, THOROUGHFARE	A street whose principal function is to carry traffic between local streets and arterial streets but that may also provide direct access to abutting properties. It generally serves or is designed to serve, directly or indirectly, more than 100 dwelling units and is designed to be used or is used to carry more than 800 trips per day.

STREETSCAPE BUFFER	See "Buffer, Streetscape."
STRUCTURAL BMP	As used in the stormwater standards, a physical device designed to trap, settle out, or filter pollutants from stormwater runoff; to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics; to approximate the pre-development hydrology on a developed site; or to achieve any combination of these goals. Structural BMP includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. "Structural BMP" is synonymous with "structural practice," "stormwater control facility," "stormwater control practice," "stormwater treatment practice," "stormwater management practice," "stormwater control measures," "structural stormwater treatment system," and similar terms used in this ordinance.
STRUCTURAL SOIL	A planting medium that can be compacted to pavement design and installation requirements while permitting root growth.
STRUCTURE	A walled and roofed building that is principally above ground, a gas or liquid storage tank, or other man-made facilities or infrastructure. For floodplain management purposes "principally above ground" means that at least 51% of the actual cash value of the structure is above ground.
STRUCTURE (FLOODPLAIN DEVELOPMENT)	A walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.
STUDIO – ART, DANCE, MARTIAL ARTS, MUSIC	Small facilities for individual and group instruction and training in the arts; production rehearsal; photography, and the processing of photographs produced only by users of the studio facilities; martial arts training studios; gymnastics, yoga, and similar instruction; and aerobics and gymnastics studios with no other fitness facilities or equipment.
SUBDIVIDER	<p>A person, firm, or corporation having a proprietary interest in land and acting to subdivide that land under the applicable provisions of this Ordinance.</p> <p>As used in the Watershed Protection Overlay district, any person, firm, or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.</p>

<p>SUBDIVISION</p>	<p>As used in this Ordinance means all divisions of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets or the rearrangement of an existing lot or lots so as to front on another street or streets from that on which they originally fronted regardless of the number of lots so involved; but the following shall not be included within this definition provided:</p> <ol style="list-style-type: none"> 1. The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town as shown in this Ordinance; 2. The division of land into parcels greater than ten acres where no street right-of-way dedication is involved; 3. The public acquisition by purchase of strips of land for the widening or opening of streets; 4. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way or easement dedication is involved and where the resultant lots equal or exceed the standards set forth in this Ordinance; 5. The trading or exchanging of portions of previously platted and recorded properties that are contiguous and that necessitate the creation of parcels not conforming to the requirements of this chapter provided that a statement is placed on the plat to be recorded to the effect that such parcels are not created as individual building lots and are not approved as such and that no building permit shall be issued for construction on such parcels; or 6. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the North Carolina General Statutes.
<p>SUBDIVISION, EXEMPT</p>	<p>A division of land that is exempted from review and approval by the Town in accordance with the North Carolina General Statutes.</p>
<p>SUBDIVISION, EXPEDITED</p>	<p>A subdivision of land reviewed and approved administratively that is exempted from most of the public infrastructure requirements.</p>
<p>SUBSIDIARY</p>	<p>An affiliate that is, directly or indirectly, through one or more intermediaries, controlled by another person.</p>
<p>SUPER MAJORITY</p>	<p>A situation where an affirmative vote on a development application requires more positive or supportive votes than a simple majority. Typically, a super majority requires an affirmative vote of at least four-fifths of the review authority members present and voting.</p>
<p>T</p>	
<p>TEMPORARY</p>	<p>Unless otherwise specified by this ordinance, something intended to, or that does, exist for fewer than 90 days.</p>
<p>TEMPORARY SIGN</p>	<p>See "Sign, Temporary."</p>
<p>TEMPORARY USE</p>	<p>See "Use, Temporary."</p>
<p>TEN-YEAR STORM</p>	<p>The storm water runoff resulting from precipitation of an intensity expected to be equaled or exceeded, on the average, once in ten years, and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.</p>

CHAPTER 10: WORD USAGE**SECTION 10.3: DEFINITIONS**

TERMS AND CONDITIONS DOCUMENT	A document or statement provided by an applicant for the establishment of a planned development district that identifies a proposed condition of approval, range of allowable uses, and the justification for any deviations or departures from codified standards in this Ordinance.
TERRACE	A level, surfaced area or platform next to a building used as a gathering area.
TIMBER FRAMING	A construction method that leaves framing timbers exposed beyond the primary exterior covering. Timber framing may be structural or solely for decorative purposes.
TOOL OR STORAGE SHED	A detached accessory structure used for the storage of tools, lawn equipment, or similar items typically used by residential development.
TOP OF BANK	The points in a cross-section where the stream channel makes a transition to flood plain. Top of bank can be identified by a change in the slope of the land, a transition from terrestrial to riparian vegetation, and/or changes in the composition of substrate materials.
TOWN	The Town of Laurel Park, North Carolina.
TOXIC SUBSTANCE	As used in the Watershed Protection Overlay district, any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their offspring, or other adverse health effects.
TRACT	All contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.
TRADITIONAL HOME OCCUPATION	Any activity carried out for gain by a resident and conducted within the resident's dwelling unit or an allowable accessory structure.
TRAFFIC CONTROL SIGNAL	A mechanical device used to regulate the flow of vehicles, bicycles, or pedestrians along streets, sidewalks, and intersections.
TREE CANOPY (TREE CANOPY COVER)	The layer of vegetation formed by the crowns of mature trees.
TREE PIT	A depression in or adjacent to a sidewalk intended for the placement of a street tree and associated ground cover.
TREE PROTECTION AREA	See "Tree Save Area."
TREE SAVE AREA	An area within a property where existing vegetation is to be saved from development.
TREE TOPPING	The removal of the central leader and primary upper branches of a tree.
TREE, CANOPY	A species of tree which normally grows to a mature height of 40 feet or more with a minimum mature crown width of 30 feet.
TREE, DISEASED	A tree that is unhealthy or dying due to insects, fungus, or other causes.
TREE, EVERGREEN	A woody plant with one or more stems that does not lose the majority of its leaves during winter or dormancy.
TREE, MATURE	A tree that has reached more than one-third of its expected maximum size.

CHAPTER 10: WORD USAGE**SECTION 10.3: DEFINITIONS**

TREE, REPLACEMENT	A tree or trees required to be planted by the Town following the removal of exiting trees whether as part of an approved development or in violation of this Ordinance.
TREE, SHADE	A tree with a crown that provides shade to the surface area within a parking lot and associated parking spaces.
TREE, STREET	A canopy or understory tree planted or existing within or along either side of a street right-of-way. Understory trees are typically used in locations where there are overhead utilities, sidewalks, or underground utilities proximate to the tree planting area.
TREE, UNDERSTORY	A species of tree which normally grows to a mature height of 15 to 35 feet.
TRELLIS	A framework of light wooden or metal bars, chiefly used as a support for fruit trees or climbing plants.
TWENTY-FIVE YEAR STORM	The storm water runoff resulting from precipitation of an intensity expected to be equaled or exceeded on the average, once in 25 years, and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.
U	
UNBUILDABLE AREAS	Areas that have highly erodible soils or slopes in excess of 60 percent%.
UNCOVERED	The removal of ground cover from, on, or above the soil surface.
UNDERGROUND STORAGE TANK	A container used for the storage of gas, liquid, powder, or other substance that is all or partially below grade. Pipes, pumping equipment, and ventilation features are considered part of an underground storage tank.
UNDERGROUND STRUCTURE	A principal or accessory structure located below grade.
UNDERSTORY TREE	See "Tree, Understory."
UPPER WATERSHED DRAINAGEWAY	A natural or artificial stream or depression that drains more than 5 acres of surface water located within a Water Supply Watershed Overlay District.
USE	See "Use Type."
USE TYPE	The purpose for which land or structures thereon is designed, arranged or intended to be occupied or used, or for which it is occupied, maintained, rented, or leased.
USE, TEMPORARY	A land use on an individual parcel or site established for a limited and fixed period of time for a purpose which may not normally be permitted in a zoning district, or which does not meet all zoning requirements, but which is necessary in special situations.
USE-SPECIFIC STANDARD	The requirements in this Ordinance applied to a particular use type regardless of the zoning district where it is located.

<p>UTILITIES</p>	<p>Publicly or privately owned facilities or systems for the distribution of gas, electricity, steam, or water, the collection, treatment and disposal of sewage or refuse; the transmission of communications; of similar functions necessary for the provision of public services. Radio transmission facilities less than 180 feet in height for use by ham radio operators or two-way radio facilities for business or governmental communications shall be deemed accessory uses and not utilities. Utilities are divided into 3 classes: Class 1: Transmission and collection lines (above and below ground) including electrical, natural, gas, wastewater collection/transmission, and water distribution lines; pumping stations, lift stations, and tele- phone switching facilities (up to 200 sq. ft). Class 2: Elevated water storage tanks; water and wastewater package treatment plants, telephone switching facilities (over 200 sq. ft), substations, or other similar facilities in connection with tele- phone, electric, steam, and water facilities. Class 3: Generation, production, or treatment facilities such as power plants, water and sewage plants (greater than 0.3 mgd), and landfills.</p>
<p>UTILITY EASEMENT</p>	<p>An easement which grants the right to install and maintain utilities including, but not limited to, water lines, sewer lines, storm sewer lines, electrical power lines, telephone lines, natural gas lines, and community antenna television systems.</p>
<p>V</p>	
<p>VARIANCE</p>	<p>A grant of relief from the requirements of this Ordinance in response to a hardship.</p> <p>As used in the Watershed Protection Overlay district, a permission to develop or use property granted by the Watershed Review Board relaxing or waiving a water supply watershed management requirement adopted by the Environmental Management Commission that is incorporated into this ordinance.</p>
<p>VEGETATED CONVEYANCE</p>	<p>A depression in the land that includes vegetation (typically in the form of ground cover) that collects stormwater runoff and conveys it to another location.</p>
<p>VEHICLE TRIP</p>	<p>For the purposes of calculating transportation impacts, a vehicle trip is a one-way journey taken from an origin to a destination in an automobile or similar private vehicle.</p>
<p>VELOCITY</p>	<p>The average velocity of flow through the cross section of the main channel at the peak flow of the storm of interest. The cross section of the main channel is defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.</p>
<p>VERY STEEP SLOPE</p>	<p>See "Slope, Very Steep."</p>
<p>VESTED RIGHT</p>	<p>A right pursuant to North Carolina General Statutes Section 160D-102 to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan.</p>
<p>VIOLATION</p>	<p>A breach, infringement, or transgression of a law or requirement in this Ordinance or a permit or development approval.</p>
<p>VISTA</p>	<p>A distant view or prospect, typically from a location of higher elevation to a location of lower elevation.</p>

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VISUALLY TRANSPARENT	A condition where a building material, such as clear glass, allows an unobstructed or only moderately obstructed view through the material.
W	
WALL	See "Fence or Wall."
WALL OFFSET	A projection or recess located in or along a building wall.
WALL PACK	An exterior lighting device that is flush mounted on a vertical wall surface.
WALL PLANE	The exterior surface of a building wall relative to the lot line it abuts.
WALL, PRIVACY	A freestanding or attached wall typically constructed along or near a lot line intended to obstruct views into a portion of a lot.
WALL, PRIMARY	See Section 10.2.13: Building Façade Type.
WALL, SECONDARY	See Section 10.2.13: Building Façade Type.
WALL, TERTIARY	See Section 10.2.13: Building Façade Type.
WALL, RETAINING	A structure, either masonry, metal, or treated wood, designed to prevent the lateral displacement of soil, rock, fill, or other similar material.
WASTE	Surplus soil or earth materials resulting from on-site construction and disposed of at other locations.
WASTE COMPACTOR	A device that compresses refuse or recyclables in advance of collection and transport off-site for processing. A waste compactor may be inside or outside a principal structure.
WATER DEPENDENT STRUCTURE	As used in the Watershed Protection Overlay district, any structure for which the use requires access to or proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.
WATER SUPPLY WATERSHED	As used in the Watershed Protection Overlay district, the entire land area contributing surface drainage to a specific point (e.g., the water supply intake).
WATER SURFACE ELEVATION (WSE)	The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
WATERCOURSE	A lake, river, creek, stream, 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.
WATERCOURSE BUFFER ZONE	The strip of land adjacent to a lake, river, creek, stream.
WATERSHED ADMINISTRATOR	As used in the Watershed Protection Overlay district, an official or designated person of the Town responsible for administration and enforcement of this ordinance. The official designated person of the Town responsible for the administration and enforcement of this ordinance is the Town Manager.

WATERSHED REVIEW BOARD	As used in the Watershed Protection Overlay district, a standing board appointed by the Town Council who shall hear and decide appeals from any decision or determination by the Watershed Administrator in the enforcement of this ordinance and who shall hear and decide variances from the terms of this ordinance. The official board designed to hear and decide appeals from any decision or determination by the Watershed Administrator in the enforcement of this ordinance and who shall hear and decide variances from the terms of this ordinance is the Board of Adjustment.
WELL HOUSE	An accessory structure located above a water well. A well house may be functional or only for aesthetic purposes.
WETLANDS	Wetlands are areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. This definition of wetlands is used by the U.S. Army Corps of Engineers (Corps) and the U.S. Environmental Protection Agency (EPA) since the 1970s for regulatory purposes in Section 404 of the Clean Water Act.
WHEEL STOP	Small projections or barriers extending from grade level within a parking space or in a vehicular use area designed to prevent the front or rear of vehicles from encroaching into pedestrian walkways, landscaping areas, fire zones, or storage areas.
WIND ENERGY CONVERSION SYSTEM, SMALL	A power generating use that converts kinetic energy from the wind into mechanical energy through the use of a wind turbine. The mechanical energy can then be used to power on-site equipment or an electrical generator to create electricity for on-site or off-site use. Such uses may include batteries for the storage of electrical energy.
WINDOW SURROUND	An exterior material located around the perimeter of a window or opening that protects joints in exterior materials from the weather or provides architectural interest.
WIRELESS COMMUNICATIONS FACILITIES, COLLOCATION	The placement, installation, modification, or replacement of antenna and related wireless telecommunications equipment on, under, or within an existing or replacement telecommunications tower, utility pole, building, or other vertical projection.
WIRELESS COMMUNICATIONS FACILITIES, MAJOR	The construction or installation of a new telecommunications tower with a height of 30 feet or more above the adjacent pre-construction grade and associated equipment, including the equipment compound, access, electrical service, and other related facilities.
WIRELESS COMMUNICATIONS FACILITIES, MINOR	The construction or installation of a new telecommunications tower with a height of less than 30 feet above the adjacent pre-construction grade or that meets the definition of a concealed telecommunications tower.
WIRELESS COMMUNICATIONS FACILITIES, SMALL	A wireless telecommunications facility consisting of an antenna and associated wireless telecommunications equipment installed on a utility pole, public utility pole, building, or other vertical projection not specifically intended for the accommodation of wireless telecommunications facilities (e.g., a traffic signal mast arm, a light standard, sign pole, etc.) that does not exceed the maximum size requirements for such facilities as listed in Section 160D-947 of the North Carolina General Statutes.

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X	
Y	
YARD	An open space on the same lot with a building or group of buildings which open space lies between the building or group of buildings and the nearest lot line and is occupied and unobstructed from the ground upward by buildings or structures except by permitted accessory buildings or uses.
Z	
ZONING DISTRICT, CONVENTIONAL	A designation or classification applied to certain lots or tracts as shown on the Official Zoning Map. Conventional zoning districts specify the broad range of allowable land use types permitted on lots or tracts within the particular district. The conventional zoning district standards also specify the applicable dimensional requirements for lots and buildings as well as any unique provisions that apply to solely lands in the particular district.
ZONING DISTRICT, OVERLAY	An indicator, found on the Official Zoning Map, of an additional set of applicable zoning-related provisions that apply to lands located within the overlay zoning district boundary. Overlay zoning district requirements are applied in addition to or instead of the underlying conventional zoning district requirements.
ZONING MAP	See "Official Zoning Map."