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**DEVELOPMENT AGREEMENT  
BY AND BETWEEN**

*144*

**THE CITY OF HIGH POINT, NORTH CAROLINA**

**AND**

**ELLIOTT SIDEWALK COMMUNITIES HIGH POINT LLC**

**Date: April 15, 2019**

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## EXHIBITS

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Exhibit D: Development Plan, including Development Standards

Exhibit E: Development Schedule and Public Facilities Schedule

Exhibit F: Public Facilities Scope of Work

## DEVELOPMENT AGREEMENT

THIS **DEVELOPMENT AGREEMENT** (together with the Exhibits attached hereto, the “**Agreement**”) is entered into effective as of the 15th day of April, 2019 (the “**Effective Date**”), by and between **THE CITY OF HIGH POINT**, a municipal corporation of the State of North Carolina (the “**City**”), and **ELLIOTT SIDEWALK COMMUNITIES HIGH POINT LLC**, a North Carolina limited liability company (with its successors and assigns, the “**Developer**”). The City and Developer are sometimes separately referred to in this Agreement as a “party” or jointly referred to as the “parties.”

## LEGAL FRAMEWORK

The North Carolina General Statutes (“N.C.G.S.”) §160A-400.20 through §160A-400.32, as it exists on the Effective Date of this Agreement (the “**Development Agreement Act**”), enables cities to enter into binding development agreements with entities intending to develop real property under certain conditions set forth in the Act.

N.C.G.S. 160A-400.20(a)(1) provides that “large-scale development projects often occur in multiple phases extending over a period of years, requiring a long-term commitment of both public and private resources.”

N.C.G.S. 160A-400.20(a)(3) provides that “because of their scale and duration, such large-scale projects often require careful integration between public capital facilities planning, financing, and construction schedules and the phasing of the private development.”

N.C.G.S. 160A-400.20(a)(4) provides that “because of their scale and duration, such large-scale projects involve substantial commitments of private capital by developers, which developers are usually unwilling to risk without sufficient assurances that development standards will remain stable through the extended period of development.”

N.C.G.S. 160A-400.20(a)(5) provides that “because of their size and duration, such developments often permit communities and developers to experiment with different or nontraditional types of development concepts and standards, while still managing impacts on the surrounding areas.”

N.C.G.S. 160A-400.20(a)(6) provides that “to better structure and manage development approvals for such large-scale developments and ensure their proper integration into local capital facilities programs, local governments need the flexibility in negotiating such developments.”

In view of the foregoing, N.C.G.S. 160A-400.20(b) and 160A-400.22 expressly authorize local governments and agencies to enter into development agreements with developers pursuant to the procedures and requirements of N.C.G.S. 160A-400.20 through 160A-400.32, which procedures and requirements include approval of the development

agreement by the governing body of the local government by ordinance after a duly noticed public hearing.

N.C.G.S. 160A-400.23 provides that “a local government may enter into a development agreement with a developer for the development of property as provided in this Part for developable property of any size ...” and that “development agreements shall be of a reasonable term specified in the agreement.”

In addition to any force of law conferred upon this Agreement by North Carolina law related to local governments, the terms of this Agreement are also contractual in nature, are a significant inducement and consideration to enter into this Agreement, and may be enforced as contractual terms.

Section 2.4.6 of the City’s Development Ordinance (the “HPDO”) establishes procedures and requirements for the City to follow and consider when entering into development agreements with developers.

### **RECITALS**

- A. Developer and the City desire to enter into this Agreement for the development of certain Real Property consisting of approximately 2.99 acres and more particularly defined in Section 1 below and described and depicted on **Exhibit B** hereto.
- B. On April 15, 2019, the City amended Section 2.4.6 of the HPDO to conform with the authority granted by the Development Agreement Act.
- C. Pursuant to Section 2.4.6.B.1 of the HPDO, a pre-application conference was held on February 1, 2019.
- D. Pursuant to Section 2.4.6.B.2 of the HPDO, Developer submitted a draft of this Agreement to the City on February 11, 2019.
- E. The purpose of this Agreement is to facilitate the Development (as defined herein) of the Real Property in a way that best realizes the public benefits to the Parties. The Development of the Real Property requires a major investment by the Developer and substantial commitment of resources to achieve the benefits of the Development for the Parties. The Developer will be unable to make and realize the benefits from such commitments without the assurances of the City as provided by this Agreement.
- F. The Development of the Real Property is consistent with the City’s adopted policy guidance, and is reasonable and in the public interest for the following reasons, each of which serve as a benefit to the City:

1. Implementation of the Development Plan (as defined below) and furthering the goals of securing an appropriate mix of uses and densities for the Real Property;
  2. Revitalization and re-development in and around a significant public investments in downtown High Point, including a minor league baseball stadium; and
  3. Provision of an efficient, effective, and practical overall plan for addressing the Development of the Real Property;
- G. The general benefits to be received by the Developer from the Development of the Real Property include, without limitation:
1. Obtaining sufficient certainty, timeliness, and predictability in the City's development and review process to justify the required substantial initial capital investment for Development of the Real Property which will require multiple years to complete;
  2. Realization of the opportunity to implement the Development Plan that is consistent with the Parties' goals and needs; Coordination with the City to achieve the public benefits necessary for the Development; and
  3. Substantial commitments to public facilities and infrastructure by the City as a result of Development of the Real Property.
- H. The City Planning and Development Director recommended this Agreement be approved pursuant to that certain staff report delivered to the City Council on April 15, 2019.
- I. A public hearing regarding this Agreement was held at the March 26, 2019 meeting of the City Planning & Zoning Commission (the "P&Z"), and the P&Z recommended approval of this Agreement, by a vote of 7-0.
- J. Pursuant to N.C.G.S. 160A-400.24, a public hearing regarding this Agreement was held at the April 15, 2019 meeting of the City Council. The notice of public hearing specified, among other things, the location of the Real Property subject to this Agreement, the development uses proposed on the Real Property in accordance with the Development Plan, and a place where a copy of the proposed Agreement could be obtained. The initial draft of this Agreement was available for public inspection at City offices.
- K. The City Council adopted an ordinance on April 15, 2019, (a) determining that this Agreement has undergone extensive review and is consistent with the Act, the City's adopted policy guidance, and the Current Regulations, hereinafter defined, of the City, and (b) approving this Agreement. A copy of the Ordinance is attached hereto as **Exhibit A**.

**NOW, THEREFORE**, in consideration of the premises of this Agreement and the mutual benefits to the parties, the parties agree as follows:

- 1) **The Real Property.** The real property to be Developed pursuant to this Agreement consists of approximately 2.99 acres, as more particularly described and depicted on **Exhibit B** hereto (the “**Real Property**”).
- 2) **Definitions.** Capitalized terms in the Agreement shall have the meanings assigned to them below or elsewhere herein:
  - a) “**Applicable Law**” means all federal, state, and local statutes, ordinances, regulations, and requirements governing the Project, including, without limitation, the Current Regulations.
  - b) “**Current Regulations**” means all ordinances, resolutions, regulations, and comprehensive plans adopted by the City on or before the Effective Date affecting the Development of the Real Property and includes, without limitation, laws governing permitted uses of the Real Property, density, design, and improvements, subject to **Section 5** below.
  - c) “**Development**” means any manmade change to improved or unimproved real estate, including but not limited to: buildings or other structures; mining; dredging; filling; grading; paving; excavation; drilling operations; or storage of equipment or materials; the planning for or carrying out of a building activity; the making of a material change in the use or appearance of any structure or property; or the dividing of a parcel of land into three or more parcels and is intended by the parties to include all uses of, activities upon or changes to the Real Property as are authorized by the Agreement. “Development,” as designated in a land or Development Permit, includes the planning for and all other activity customarily associated with it unless otherwise specified. When appropriate to the context, “Development” refers to the planning for or the act of developing or to the result of development. Reference to a specific operation is not intended to mean that the operation or activity, when part of other operations or activities, are not Development. Reference to particular operations is not intended to limit the generality of this item.
  - d) “**Development Parcel**” means any tract of land on which Development may occur, including platted Lots and unplatted parcels, but excluding street rights-of-way.
  - e) “**Development Permit**” means any building permit, zoning permit, subdivision approval, rezoning certification, variance, certificate of occupancy and any other official action of Local Government having the effect of permitting the Development or use of property.

- f) **“Development Plan”** means the general plan for Development of the Project pursuant to this Agreement, as set forth on **Exhibit D** hereto and as may be modified from time to time by mutual agreement of the parties.
  - g) **“Infrastructure”** means major capital or community developments including, but not limited to, transportation, sanitary sewer, solid waste, drainage, and potable water.
  - h) **“Local Government”** means any municipality or governmental entity of the State of North Carolina established pursuant to Applicable Law which exercises regulatory authority over, and grants Development Permits for land Development or which provides public Infrastructure.
  - i) **“Lot”** means any Development Parcel identified in a Subdivision Final Plat recorded in the applicable land records and as specified in the Current Regulations.
  - j) **“Periodic Review”** means the process and procedures established by N.C.G.S. §160A-400.27 and in **Section 10(a)** of this Agreement for the Developer to demonstrate good faith compliance with the terms of this Agreement.
  - k) **“Project”** means the Development that will occur within and upon the Real Property pursuant to this Agreement.
  - l) **“Property Owner”** means (i) any person or entity, other than the City, which shall have acquired any portion of the fee interest in the Real Property from and after the Effective Date, and (ii) any successor or assign of such person or entity.
  - m) **“Public Facilities”** refers to those amenities or improvements which are to be constructed and owned by the City and designated for public use (subject to the terms hereof) and which are more particularly described on **Exhibit F** attached hereto.
  - n) **“Subdivision Final Plat”** means a recorded graphic description of property prepared and approved in compliance with the Current Regulations, as modified in this Agreement, as part of the Project.
- 3) **Relationship of the Parties.** This Agreement creates a contractual relationship between the parties. This Agreement shall not be interpreted or construed to create the relationship of master/servant, principal/agent, association, partnership, joint venture, or any other relationship where one party may be held responsible for acts of the other party. This Agreement does not impose any partnership obligation or liability upon either party. Further, this Agreement is not intended to create, nor does it create, a relationship whereby the conduct of Developer constitutes “state action” for any purposes.
- 4) **Legislative Act.** Any change in the Development Standards established by this Agreement as set forth on **Exhibit D** shall require the approval of City Council,



subject to compliance with applicable statutory procedures and consistent with **Section 5(a)**. This Agreement constitutes a legislative act of City Council. City Council adopted this Agreement only after following procedures required by Applicable Law.

5) Applicable Regulations.

- a) Applicable Law and Development Standards. Except as otherwise provided by this Agreement and in accordance with N.C.G.S. § 160A-400.26, Development of the Real Property, including, without limitation, approval procedures and impact fees applicable thereto, shall be in conformance with the Current Regulations and all other Applicable Law. Notwithstanding the foregoing, in the event any ordinance, regulation, or requirement of the City shall conflict with, be in excess of, or be more restrictive than the Current Regulations, the Current Regulations shall control. The following terms of this Agreement have been adopted by City Council in an ordinance enacted on the date hereof:
  - i) Any requirement for a traffic impact assessment or other traffic study shall be waived or provided by the City.
- b) Vested Rights. Pursuant to the authority granted therefor in N.C.G.S. 160A-400.20 through 400.32 and subject to the provisions of subparagraph (a) above, all rights and prerogatives accorded the Developer by this Agreement, including, without limitation, application of the Current Regulations, except as set forth in **Sections 5(a)** and **5(c)** hereof, shall constitute vested rights for the Development of the Real Property throughout the term of this Agreement. The City represents and warrants that the Current Regulations do not contain any provision requiring, in connection with the Project, construction or funding of facilities relating to public education, public health systems and facilities, libraries, public housing, jails and other detention sites, courts, police and trash or garbage disposal sites. Such exemptions shall not, however, exempt Developer from payment of applicable user fees for any such facilities.
- c) Rezoning. In the event that, during the Development of the Project, Developer determines that a desired aspect of the Project would not conform with the Current Regulations or the Development Standards, then the City shall consider any request by Developer to rezone the affected Development Parcel or Parcels to a zoning classification which would be compatible with the intended portion of the Project, or consider an amendment of this Agreement to revise the Development Standards, as applicable. If such rezoning is approved by the City, the parties shall simultaneously amend this Agreement to conform the definition of Current Regulations to update the zoning regarding the Development Parcel(s) at issue.
- d) Building Codes and Laws Other Than Land Use Regulations. Developer, notwithstanding any provision which may be construed to the contrary in this Agreement, must comply with any building, housing, electrical, mechanical,

plumbing and gas codes subsequently adopted by the City or other governmental entity. This Agreement shall not be construed to supersede or contravene the requirements of any building, housing, electrical, mechanical, plumbing and gas codes subsequently adopted by the City or other governmental entity. The provisions of this Agreement are not intended, nor should they be construed in any way, to alter or amend in any way the rights, duties and privileges of the City to exercise governmental powers and pass laws not applicable to Development of the Real Property including, but not limited to, the power of eminent domain and the power to levy and collect taxes, subject to **Section 5(a)**.

- e) Updates to City Ordinances. Where any City ordinance, resolution, or regulation adopted after of the date hereof (a "**New Ordinance**"), differs from the Current Regulations, Developer may, at any time after adoption of such New Ordinance, request that such New Ordinance, or any portion thereof, be incorporated into the Current Regulations. Developer shall submit such request in writing to the City, and the City shall review and respond to such request within sixty (60) days. Incorporation of a New Ordinance, or any portion thereof, into the Current Regulations shall be a non-material change to the Agreement.
- 6) Local Development Permits and Other Permits Needed. The parties anticipate that the following local Development Permits and other regulatory permits will be needed to complete the Development of the Project: Zoning permits, plat approvals (preliminary or final), road and drainage construction plan approvals, building permits, certificates of occupancy, city water and/or sewer development contracts, and utility construction and operating permits. The failure of this Agreement to address a particular permit, condition, term, or restriction does not relieve the Developer of the necessity of complying with all laws governing permit requirements, conditions, terms, or restrictions.
- 7) Project Development.
  - a) Project Development. Developer shall construct the Project substantially in accordance with (i) the provisions of **Exhibit C** attached hereto, (ii) the Development Plan attached hereto as **Exhibit D**, and the Development Schedule and Public Facilities Schedule attached hereto as **Exhibit E**, as such Development Plan and Development Schedule and Public Facilities Schedule may be updated from time to time by the parties during Development of the Project.
  - i) Non-Material Changes. Non-material changes to the Development Plan and the Development Schedule and Public Facilities Schedule may be administratively approved by the City's City Manager and shall include, in addition to that set forth in Section 5(e) hereof and without limitation:
    - (1) All changes to the Development Schedule and Public Facilities Schedule that neither (i) cause the anticipated date of substantial completion of the project to occur after the Termination Date, nor (ii) alter the relationship

between Project Development milestones and the required date for delivery of Public Facilities.

(2) All changes to the Development Plan that do not reduce the area of any Development Parcel by more than the greater of 10% or 10,000 gross square feet.

ii) Material Changes. Material change to the Development Plan shall be approved in accordance with the procedures set forth in the City's Development Ordinance.

8) City Obligations.

a) Public Facilities. In connection with the Development of the Project, the City shall provide, at its sole cost and expense, that Infrastructure and those services set forth on **Exhibit F**, and such Public Facilities shall be as set forth on or otherwise compatible with the Development Plan and constructed and available for service in conformance with the Development Schedule and Public Facilities Schedule. The City shall be responsible for all aspects of provision of such Public Facilities, including, without limitation, design, land and easement acquisition, site preparation, construction, installation, testing, and commissioning. The City agrees that it is essential and necessary to the completion and viability of the Project that the Project have the benefit and use of the Public Facilities according to the Public Facilities Schedule set forth on **Exhibit E** attached hereto. The City shall own, operate and maintain the Public Facilities in perpetuity at its sole cost and expense, except for any Public Facilities leased to another entity.

b) Other Approvals. To the extent that any county or other Local Government, state or federal approvals are required in connection with the Development of the Project, the City shall use reasonable efforts to facilitate and assist Developer in obtaining such approvals.

9) Duration of Obligation. To the fullest extent that the Development Agreement Act may be construed only to limit the term of years in which development rights may vest in a developer pursuant to a development agreement entered into under the Development Agreement Act, but not to limit the term of an obligation of a municipality which is separate from the vested development rights granted by the agreement, it is the intent of the parties, inasmuch as the City could have agreed to the obligations set forth herein with respect to the Public Facilities in an agreement other than a development agreement entered into under the Act, that the obligations of the City as set forth in this Agreement with respect to the Public Facilities shall survive the Termination Date as set forth in **Section 12(a)** below; provided that the City shall have no obligations regarding the Public Facilities in the event this Agreement is terminated as a result of a default by the Developer.

10) Default.

- a) Developer Default. Pursuant to N.C.G.S. §160A-400.27, the City Manager or his or her designee shall conduct a periodic compliance review (the "**Periodic Review**") at least once every twelve (12) months, at which time Developer shall demonstrate good-faith compliance with the terms of this Agreement. The City Manager shall report the results of the Periodic Review to the City Council and the Developer. Failure of the City to conduct this Periodic Review or report the results shall not constitute a waiver by the City of its rights under N.C.G.S. §160A-400.27 or this Agreement, nor shall Developer have or assert any defense by reason of any failure to conduct a Periodic Review or report the results thereof.

If, as a result of its Periodic Review, or at any other time, the City finds and determines that the Developer committed a material breach of the terms or conditions of this Agreement, the City shall serve notice in writing upon Developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and Developer shall have sixty (60) days to cure such breach, provided that if such breach cannot be cured within sixty (60) days using commercially reasonable efforts, Developer shall be permitted additional time to effect such cure so long as Developer and the City mutually agree in advance in writing to an amount of time that is reasonably necessary to effect such cure.

For the avoidance of doubt, Developer's failure to meet the dates listed in the Development Schedule in **Exhibit E** shall be considered a material breach by the Developer, and if the Developer fails to cure any material breach within the time permitted pursuant to **Section 10** hereof, then such breach shall be a Developer Default, and the City may unilaterally terminate this Agreement in accordance with **Section 11** below and N.C.G.S. § 160A-400.27.

- b) City Default. If the City has committed a material breach of the terms or conditions of this Agreement, Developer shall serve notice in writing upon the City setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and the City shall have sixty (60) days to cure such breach, provided that if such breach cannot be cured within sixty (60) days using commercially reasonable efforts, the City shall be permitted such time as reasonably necessary to effect such cure so long as the City shall use commercially reasonable efforts to diligently prosecute such cure.

#### 11) Remedies.

- a) City Remedies. If Developer fails to cure any material breach within the time permitted therefor pursuant to **Section 10** hereof, then such breach shall be a "**Developer Default**" hereunder, and the City may either (i) be entitled to reimbursement of an amount of actual damages suffered by the City to the extent such amounts have been reasonably documented and such documentation delivered to Developer; or (ii) unilaterally terminate this Agreement or modify this Agreement solely to remove the applicable Lot or Lots from the definition of Real Property hereunder; provided that, the notice of termination or modification

may be appealed to the board of adjustment in the manner provided by N.C.G.S. § 160A-388(b1).

- b) Developer Remedies. If the City fails to cure any material breach within the time permitted therefor pursuant to **Section 10** hereof, then such breach shall be a “**City Default**” hereunder, and Developer may either (i) be entitled to reimbursement of an amount of actual damages suffered by Developer to the extent such amounts have been reasonably documented and such documentation delivered to the City; or (ii) unilaterally terminate this Agreement; provided that, regardless of the remedy elected by Developer, Developer has first allowed a 60-day period during which the City shall have the opportunity: (1) to rebut Developer’s finding and determination; or (2) to consent to amend this Agreement to meet the concerns of Developer with respect to the findings and determinations.

## 12) General Provisions.

- a) Term. The term of this Agreement shall commence only upon the full execution of this Agreement. This Agreement shall terminate fifteen (15) years thereafter (the end of the term of this Agreement, as may be extended from time to time by the parties or earlier terminated in accordance with the provisions of this Agreement, the “**Termination Date**”); provided, however, that this Agreement may be renewed for two (2) successive five (5) year periods by mutual agreement of the parties.
- b) Amendment. As required by N.C.G.S. §160A-400.25(b), major modifications of this Agreement shall follow the same notice, public hearing, and approval procedures as were followed initially when formed this Agreement. Except as otherwise set forth herein, this Agreement may be amended only by written mutual consent of the parties or by their successors in interest. Any requirement of this Agreement requiring consent or approval of one of the parties shall not require amendment of this Agreement unless the text expressly requires amendment. Wherever said consent or approval is required, the same shall not be unreasonably withheld. In the event state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, the pertinent provisions of this Agreement shall be modified or suspended as may be necessary to comply with the state or federal laws or regulations. In such event, compliance with all other provisions of this Agreement shall remain unaffected and unmodified.
- c) Severability. If any word, phrase, sentence, paragraph or provision of this Agreement shall be finally adjudicated to be invalid, void, or illegal, it shall be deleted and in no way affect, impair, or invalidate any other provision hereof.
- d) Merger. This Agreement, coupled with its Exhibits, which are incorporated herein by reference, state the final and complete expression of the parties’ intentions with respect to the subject matter hereof, provided that this Agreement

shall be read together with that certain Land Disposition Agreement, dated as of April 15, 2019, between the parties hereto, which is not merged into this Agreement and remains a separate and valid agreement between the parties.

- e) Further Assurances. The parties hereto shall cooperate with each other to effectuate the provisions of this Agreement and to act reasonably and expeditiously in all obligations under the Agreement. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the parties shall cooperate in defending such action.
- f) Governing Law and Venue. This Agreement shall be construed and enforced in accordance with the substantive laws of the State of North Carolina, without regard to principles of conflicts of laws. The only proper venue and court for litigation related to, arising out of, or connected with this Agreement or the relationships between the parties established by this Agreement shall be Guilford County Superior Court.
- g) Successors and Assigns. The burdens of this Agreement are binding upon, and the benefits of this Agreement shall inure to, all successors in interest and assigns of the Parties to this Agreement. The term "Developer" as used herein, shall denote (i) the named Developer herein, and (ii) any successor or assign of Developer hereunder, only in connection with such Developer's interest in any portion of the fee interest in the Real Property on which the Project has not yet achieved substantial completion. Notwithstanding the foregoing, the term "Developer" as used herein shall mean "Property Owner" in connection with any right or obligation hereunder pertaining to such party's interest in the fee interest in the Real Property from and after substantial completion of such portion of the Project as shall be Developed on that portion of the Real Property owned by such party pursuant to the Development Plan. This Agreement shall be recorded against the Real Property by Developer within fourteen (14) days after the Effective Date, and the rights and obligations of Developer contained herein shall run with the land.
- h) Third Parties. Notwithstanding any provision herein to the contrary, this Agreement shall not be binding and shall have no force or effect as to persons or entities not parties or successors and assigns to this Agreement.
- i) City Approval of Agreement. The City Council has approved the Project under the process set forth in Applicable Law on the terms and conditions set forth in this Development Agreement.
- j) Estoppel. Each party agrees, from time to time, within thirty (30) days after request of another party, to deliver to the requesting party or such party's designee, an estoppel certificate stating that this Agreement is in full force and effect, the unexpired term of this Agreement, and whether or not, to such party's knowledge, there are any existing defaults or matters which, with the passage of

time, would become defaults under this Agreement. It is understood and agreed that the party's obligations to furnish such estoppel certificates in a timely fashion is a material inducement for execution of this Agreement.

- k) Representations and Warranties of the Developer. The Developer represents and warrants to the City that:
  - i) it is an entity duly organized, existing, and in good standing under the laws of the State of North Carolina; and
  - ii) it has the full right, power, and authority to enter into this Agreement and to perform its obligations hereunder.
- l) Indemnification. Developer agrees to indemnify, defend, and hold harmless the City and its authorized agents from liability for injury or death to any person, or damage to any property, that arises out of or results from the gross negligence or intentional acts of Developer in connection with any one or more of the following: (i) Development by the Developer on the Real Property; and (ii) operation of any portion of the Real Property owned by the Developer. To the extent permitted by applicable law, the City agrees to indemnify, defend, and hold harmless Developer and its authorized agents from liability for injury or death to any person, or damage to any property, that arises out of or results from the gross negligence or intentional acts of the City in connection with the City's presence or activities on or affecting the Real Property, including, without limitation, in connection with installation of the Public Facilities whether or not located on the Real Property.
- m) Force Majeure. In addition to specific provisions of this Agreement, no Party shall be responsible for any default, delay or failure to perform if such default, delay or failure to perform is due to causes beyond such Party's reasonable control, including, but not limited to, strikes, lockouts, actions or inactions of governmental authorities, epidemics, wars, embargoes, fires, hurricanes, adverse weather, acts of God, interference duly caused by any other Party, or the default of a common carrier. In the event of a default, delay or failure to perform due to causes beyond such Party's reasonable control or due to interference by another Party, any date or times by which the Parties are otherwise scheduled to perform, if any, shall be extended automatically for a period of time equal in duration to the time lost by reason of the cause beyond the reasonable control of such Party. If written notice of such delay is given to the other Party after the commencement of such delay, an extension of time for such cause shall be deemed granted for the period of the enforced delay, or longer as may be mutually agreed to by the Parties. Developer shall additionally be entitled to a day-for-day extension of the time set forth for performance of its obligations pursuant to **Exhibit E** attached hereto for each day of unreasonable delay on the part of the City which affects Developer's ability to meet such obligations.

- n) Construction of Agreement. Both parties hereto have been represented by counsel in the negotiation of this Agreement, and neither this Agreement nor any provision hereof shall be construed against a party hereto because such party drafted it or caused it to be drafted.
- o) No Waiver. Failure of a party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future time said right or any other right it may have hereunder. Unless this Agreement is amended by vote of the City Council taken with the same formality as the vote approving this Agreement, no officer, official or agent of the City has the power to amend, modify or alter this Agreement or waive any of its conditions except as set forth herein.
- p) Attorneys' Fees. Should any party hereto employ an attorney for the purpose of enforcing this Agreement, or any judgment based on this Agreement, for any reason or in any legal proceeding whatsoever, including insolvency, bankruptcy, arbitration, declaratory relief or other litigation, including appeal or rehearings, the prevailing party shall be entitled to receive from the other party thereto reimbursement for all reasonable attorneys' fees and all costs and expenses. Should any judgment or final order be issued in that proceeding, said reimbursement shall be specified therein.
- q) Notices. All notices hereunder shall be given in writing by certified mail, postage prepaid, or by delivery through a nationally recognized overnight carrier, delivery confirmation required, provided that such notices may be delivered via electronic mail if such notice shall also be delivered by one of the other methods described in this section. Delivery shall be deemed effective as of the date of the delivery receipt, or, for notices delivered electronically, on the date such notice was sent via electronic mail without automatic notification of any delivery error. Notices shall be delivered to the following addresses:

**To the City:**

City Manager's Office  
 City of High Point  
 211 S Hamilton Street  
 High Point, NC 27260  
 Email: [randy.hemann@highpointnc.gov](mailto:randy.hemann@highpointnc.gov)

**With copies to:**

City Attorney's Office  
 City of High Point  
 211 S Hamilton Street  
 High Point, NC 27260  
 Email: [joanne.carlyle@highpointnc.gov](mailto:joanne.carlyle@highpointnc.gov)

**To the Developer:**



Elliott Sidewalk Communities, LLC  
909 Ridgebrook Road, Suite 216  
Sparks, MD 21152  
Attn: Tim Elliott  
Email: [telliott@elliottsidewalk.com](mailto:telliott@elliottsidewalk.com)

**With copies to:**

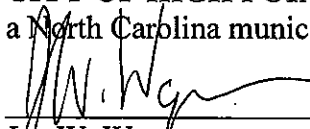
Morningstar Law Group  
421 Fayetteville Street, Suite 530  
Raleigh, NC 27601  
Attn: Molly M. Stuart  
Email: [mstuart@morningstarlawgroup.com](mailto:mstuart@morningstarlawgroup.com)

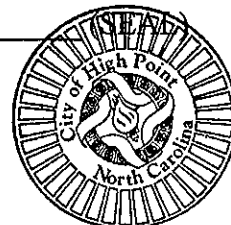
- r) Execution of Agreement. This Agreement may be executed in multiple parts as originals or by facsimile or scanned copies of executed originals and may further be executed by counterpart signature pages.
- s) Time for Performance. Any reference to “day” or “days” herein shall mean calendar day(s) unless otherwise specified, and any deadline or outside date set forth herein falling on a Saturday, Sunday, or holiday on which banks are closed for business in High Point, North Carolina shall be automatically extended to the following business day.
- t) Conflicting Terms; Conflicting Requirements. In the event of a conflict between the requirements of this Agreement and the requirements of any Exhibits or any of the Related Agreements, the more stringent requirements shall apply.
- u) Brownfields Project. Developer acknowledges that the City has submitted an application to the North Carolina Department of Environmental Quality, Brownfields Project Number 21047-17-041, and is working to execute a brownfields agreement. The Development of the Parcels is subject to the terms and restrictions of the brownfields agreement.


[Separate signature pages to follow.]

IN WITNESS WHEREOF, this Development Agreement has been executed by the parties on the day and year first above written.

**CITY OF HIGH POINT,**  
a North Carolina municipal corporation

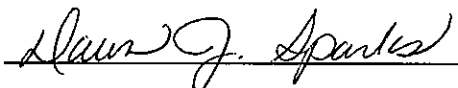
  
\_\_\_\_\_  
Jay W. Wagner  
Mayor



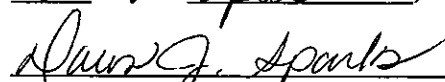
Attest:   
\_\_\_\_\_  
Lisa B. Vierling, City Clerk

STATE OF NORTH CAROLINA    )  
COUNTY OF GUILFORD        )

I, Dawn J. Sparks, a Notary Public of the County and State aforesaid, do hereby certify that Lisa B. Vierling personally appeared before me this day and acknowledged that she is City Clerk of the City of High Point, and that by authority duly given and as an act of the said City, the foregoing instrument was signed in its name by its Mayor, and attested by herself as its City Clerk.

  
\_\_\_\_\_

SWORN to before me this  
16<sup>th</sup> day of April, 2019

  
\_\_\_\_\_  
Notary Public for North Carolina

**DAWN J. SPARKS  
NOTARY PUBLIC  
GUILFORD COUNTY, NC**

My Commission Expires: 8/19/23

Witness:

Tim B. Terlingua

**ELLIOTT SIDEWALK COMMUNITIES HIGH  
POINT LLC,**

a North Carolina limited liability company

By:

Printed Name:

Title:

T. S. Elliott  
TIMOTHY S. ELLIOTT  
MANAGING MEMBER

STATE OF

COUNTY OF

NC  
Guilford

PERSONALLY appeared before me the undersigned witness who, being duly sworn, deposes and says that (s)he saw the within named Elliott Sidewalk Communities High Point LLC, by Tim Elliott, its Manager, sign and seal the within written Development Agreement, and as the act and deed of Elliott Sidewalk Communities High Point LLC deliver the same, and that (s)he with the other witness subscribed above witnessed the execution thereof.

CYNTHIA C. DUNCAN-SMITH  
NOTARY PUBLIC  
GUILFORD COUNTY, NC

Cynthia C. Duncan-Smith

SWORN to before me this

16 day of April, 2019

Cynthia C. Duncan-Smith  
Notary Public for City of High Point

My Commission Expires: 11/18/2020

# EXHIBIT A

## AN ORDINANCE TO ADOPT THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF HIGH POINT AND ELLIOTT SIDEWALK COMMUNITIES HIGH POINT LLC

**WHEREAS**, N.C.G.S. §160A-400.20, and following (the "Act"), authorizes municipalities to enter into development agreements with developers under the terms and conditions stated in the statutes, and

**WHEREAS**, the City of High Point ("City") and Elliott Sidewalk Communities High Point LLC ("Developer") have negotiated an agreement in accord with and under the authority of the cited statutes, and

**WHEREAS**, N.C.G.S. §160A-400.22(a) requires that development agreements be adopted by ordinance; and

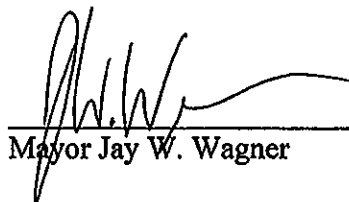
**WHEREAS**, a public hearing was held on April 15, 2019 as set forth in N.C.G.S. §160A-400.24 providing public review of the Development Agreement, as defined below; and

**WHEREAS**, the City finds that the Development Agreement is consistent with the Act, the City's adopted policy guidance, and the Current Regulations, as defined in the Development Agreement, and is reasonable and in the public interest for the reasons set forth in the Development Agreement:

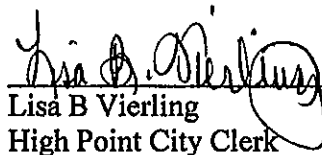
**NOW, THEREFORE, BE IT ORDAINED**, by the High Point City Council that:

1. Pursuant to the authority granted to the City by Part 3D of Article 19 of Chapter 160A of the North Carolina General Statutes, the City hereby adopts the Development Agreement by and between City and Developer, dated April 15, 2019 and attached hereto (the "Development Agreement"), and authorizes the Mayor to execute the document.
2. This ordinance is effective upon adoption.

Adopted this 15th day of April, 2019.

  
\_\_\_\_\_  
Mayor Jay W. Wagner

ATTEST:

  
\_\_\_\_\_  
Lisa B Vierling  
High Point City Clerk



**EXHIBIT B**

**Land**

Recorded plat follows on next page.

Note: Parcels outlined in red on the recorded plat are the subject of this Agreement. All such parcels are owned by the City of High Point as of the date hereof.



**EXHIBIT C****Disclosures Required by N.C.G.S. § 160A-400.25**

- 1) A legal description of the property subject to the agreement and the names of its legal and equitable property owners:

Parcel A. Owner: City of High Point.

Commencing from an existing 1/2" iron rod, said iron rod being the Southeast corner of Goldberg Family, LLC Parcel No. 186809 Deed Book 7774, page 1140, and being in the western right of way of N. Elm Street (right of way varies). Thence with the southern line of said Goldberg Family, LLC, South 59°11'46" West 6.04 feet to a new 1/2" iron pipe, said new iron pipe being in the new proposed right of way line of said N. Elm Street and being the northeast corner of Proposed Lot "A" and being the Point and Place of the Beginning. Thence leaving said Goldberg Family, LLC southern property line and the new proposed western right of way line of said N. Elm Street the following three (3) courses and distances: 1) South 37°47'44" East 38.79 feet to a new 1/2" iron pipe; 2) South 35°04'23" East 138.22 feet to a new 1/2" iron pipe; 3) South 30°24'04" East 19.76 feet to a new 1/2" iron pipe; said new iron pipe being the Southeast corner of said Proposed Lot "A" and the Northeast corner of Proposed Lot "B"; Thence leaving said N. Elm Street new proposed Western right of way and along the northern line of said Proposed Lot "B" South 54°44'10" West 113.55 feet to a new iron pipe; said new iron pipe being the northeast corner of Proposed Lot "B" and being a point in the Eastern line of Proposed "Stadium" Lot; Thence leaving said New Proposed Lot "B" northern line and along the eastern line of said Proposed "Stadium" Lot the following three (3) courses and distances: 1) North 37°39'15" West crossing an existing PK nail at 8.01 feet for a total distance of 170.35 feet to an existing 1/2" iron pipe; 2) South 60°07'58" West 6.01 feet to an existing PK nail; 3) North 34°12'14" West 35.76 feet to an existing 1/2" iron pipe; said iron pipe being the southwest corner of said Goldberg Family, LLC; and being a point in the eastern line of said new Proposed Stadium Lot; Thence leaving said new Proposed Stadium Lot and with the southern line of said Goldberg Family, LLC North 59°11'46" East 126.78 feet to the Point and Place of the Beginning.

Containing 0.56± acres, (24,226± square feet)

Parcel C. Owner: City of High Point

Beginning at an existing 3/4" iron rod, said iron pipe being in the western right of way line of N. Elm Street (Right of varies) and the new Northern right of way line of Appling Way (Right of way varies), said iron pipe being the Southeast corner of Proposed Lot "C"; Thence leaving said western right of way of N. Elm Street and along the northern right of way line of Appling Way the following three (3) courses and distances: 1) South 53°37'46" West 238.13 feet to a new 1/2" iron pipe; 2) South 35°07'44" East 26.64 feet to a new 1/2" iron pipe; 3) South 23°37'46" West 19.48 feet to a new 1/2" iron pipe; said iron pipe being the Southwest corner of said Proposed Lot "C" and the Southeast corner

of Proposed Lot "G"; Thence leaving said Appling Way northern right of and along the eastern line of said Proposed Lot "G" North 66°16'29" West 37.23 feet to an existing PK nail, said PK nail being the Northeast corner of Proposed Lot "G and being in the eastern line of Proposed "Stadium" Lot; Thence Leaving Said new Proposed Lot "G" and along the eastern line of said Proposed "Stadium" Lot the following five (5) courses and distances 1) North 37°39'15" West 18.22 feet to an existing PK nail; 2) North 07°20'45" East 113.41 feet to an existing PK nail; 3) South 82°31'51" East 13.98 feet to an existing PK nail; 4) North 06°46'03" East 36.84 feet to a new 1/2" iron pipe; 5) North 54°41'47" East 9.14 feet to a new 1/2" iron pipe, said iron pipe being the Southwest corner of Proposed Lot "B"; Thence leaving said Proposed "Stadium" Lot and with the southern line of said Proposed Lot "B" the following three (3) courses and distances; 1) North 54°41'47" East 40.30 feet to a new 1/2" iron pipe; 2) South 37°39'15" East 8.28 feet to a new 1/2" iron pipe; 3) North 54°41'47" East 106.88 feet to a new 1/2" iron pipe, said iron pipe being in the new Proposed western right of way line of N. Elm Street, Thence with the new proposed western right of way line of said N. Elm Street and the northern line of said Proposed Lot "C" North 54°41'47" East 6.28 feet to a new 1/2" iron pipe, said iron pipe being in the existing western right of way line of said N. Elm Street; Thence with the western right of way line of said N. Elm Street South 35°19'12" East 101.99 feet to the Point and Place of the Beginning.

Containing 0.59± acres, (25,825± square feet)

Parcel G. Owner: City of High Point

Commencing from an existing 1/2" iron pipe, said iron pipe being the Northeast corner of City of High Point Parcel No. 186826 Deed Book 8001, Page 2741, and being in the western right of way of Pine Street (50' public right of way) and in the Northern right of way of Appling Way (right of way varies), thence leaving said Pine Street right of way and along the Northern right of way of Appling Way, North 13°00'04" East 42.34 feet to a new 1/2" iron pipe, said new iron being the Southwest corner of Proposed New Lot "G", said new iron pipe being the Point and Place of the Beginning. Thence leaving said Appling Way northern right of way and along the line of Proposed "Stadium" lot line the following three (3) courses and distances 1) North 72°25'21" West 69.09 feet to a new 1/2" iron pipe; 2) North 37°39'15" West 11.74 feet to a new 1/2" iron pipe; 3) North 52°20'45" East 283.97 to an existing PK nail, said PK nail being a corner of Proposed "Stadium" Lot and a corner to the Proposed Lot "C"; Thence along the line of Proposed Lot "C" South 66°19'29" East 37.23 feet to a new iron pipe; said new iron pipe being along the northern right of way of said Appling Way (Right of way varies); Thence along said Appling Way northern right of way the following two (2) courses and distances 1) South 23°37'46" West 74.60 feet for a new iron pipe; 2) South 52°21'10" West 196.98 feet to the Point and Place of the Beginning.

Containing 0.42± acres, (18,096± square feet)



Parcel H. Owner: City of High Point

Beginning at an existing right of way disk, said disk being in the Eastern right of way line of N. Lindsay Street (right of way varies) and being the Northwest corner of Proposed lot "H1" and being the Southwest corner of Peters Holdings, LLC, Parcel No. 186801 Deed Book 8143, Page 2055, Plat Book 199, Page 129; Thence with the line of said Peters Holdings, LLC (Parcel No. 186801) the following three (4) courses and distances 1) North 53°25'49" East 164.19 feet to an existing 1/2" iron pipe; 2) North 37°58'18" West 10.74 feet to an existing 1/2" iron pipe; 3) North 53°22'55" East 7.55 feet to an existing 1/2" iron pipe; 4) North 36°37'44" West 5.28 feet to an existing 1/2" iron pipe, said iron pipe being a Southwest corner of said Proposed Lot "D"; Thence the line of said Proposed Lot "D" the following four (4) courses and distances 1) North 52°13'36" East 15.38 feet to an existing PK nail, 2) South 71°12'05" East 149.68 feet to an existing PK nail; 3) North 51°52'23" East 1.95 feet to an existing PK nail; 4) South 72°07'17" East 115.66 feet to an existing iron pipe, said iron pipe being in the northern right of way of Applying Way (right of way varies) and the western right of way of Pine Street (50' public right of way); Thence with the western right of way of said Pine Street South 37°48'23" East 6.14 feet to a new 1/2" iron pipe, said iron pipe being the Northeast corner of Proposed Lot "I"; Thence leaving said Pine Street western right of way and along the northern line of said Proposed Lot "I" the following two courses and distances 1) South 52°22'27" West 287.95 feet to a new 1/2" iron pipe, 2) South 37°37'33" East 126.11 feet to a new 1/2" iron pipe, said iron pipe being in the Northern line of Piedmont Electric Repair Company, INC. Parcel No. 186833; Thence with the northern line of said Piedmont Electric Repair Company, INC. South 52°23'40" West 42.20 feet to an existing iron pipe, said iron pipe being in the Northwest corner of said Piedmont Electric Company, INC. and the Eastern right of way of said N. Lindsay Street; Thence with the Eastern right of way line of said N. Lindsay Street the following three (3) courses and distances 1) North 37°07'24" West, crossing an existing 1/2" iron pipe at 60.78 feet and another existing 1/2" iron pipe at 160.26 feet, for a total distance of 209.69 feet to an existing 1/2" iron pipe, 2) South 52°13'06" West 10.08 feet to an existing 1/2" iron pipe, 3) North 37°10'20" West 129.70 feet, crossing an existing right-of-way disk at 69.95', to the Point and Place of the Beginning.

Containing 1.42± acres, (61,784± square feet)

- 2) A description of the development uses permitted, including population densities and building types, intensities, placement on the site and design:

Development uses permitted, including placement on the site and design, shall be as set forth on **Exhibit D** to the Agreement.

Population densities and intensity of use shall be:

- Minimum dwelling units: 100
- Maximum dwelling units: 275

- Minimum office use: 30,000 gross square feet
- Maximum office use: 130,000 gross square feet
- Minimum retail use: 13,000 gross square feet
- Maximum retail use: 60,000 gross square feet
- Minimum overnight lodging use: 65 lodging rooms
- Maximum overnight lodging use: 200 lodging rooms

Permitted building types shall be those in the list below. For avoidance of doubt, the building types permitted below are unrelated to permitted uses within the Project, which shall be governed solely by the Development Standards set forth on **Exhibit D** to this Agreement.

- Hotel
- Office
- Multifamily residential
- Academic
- Retail, including, without limitation, food service and entertainment
- Mixed Use
- Civic

- 3) A description of public facilities that will service the property, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development:

As set forth on **Exhibit F** to the Agreement.

- 4) A description of any reservation or dedication of land for public purposes and any provisions to protect environmentally sensitive property:

None.

- 5) A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the City for the public health, safety or welfare of its citizens:

None outside those listed in the Agreement.

- 6) A description of any provisions for the preservation and the restoration of historic structures:

None.

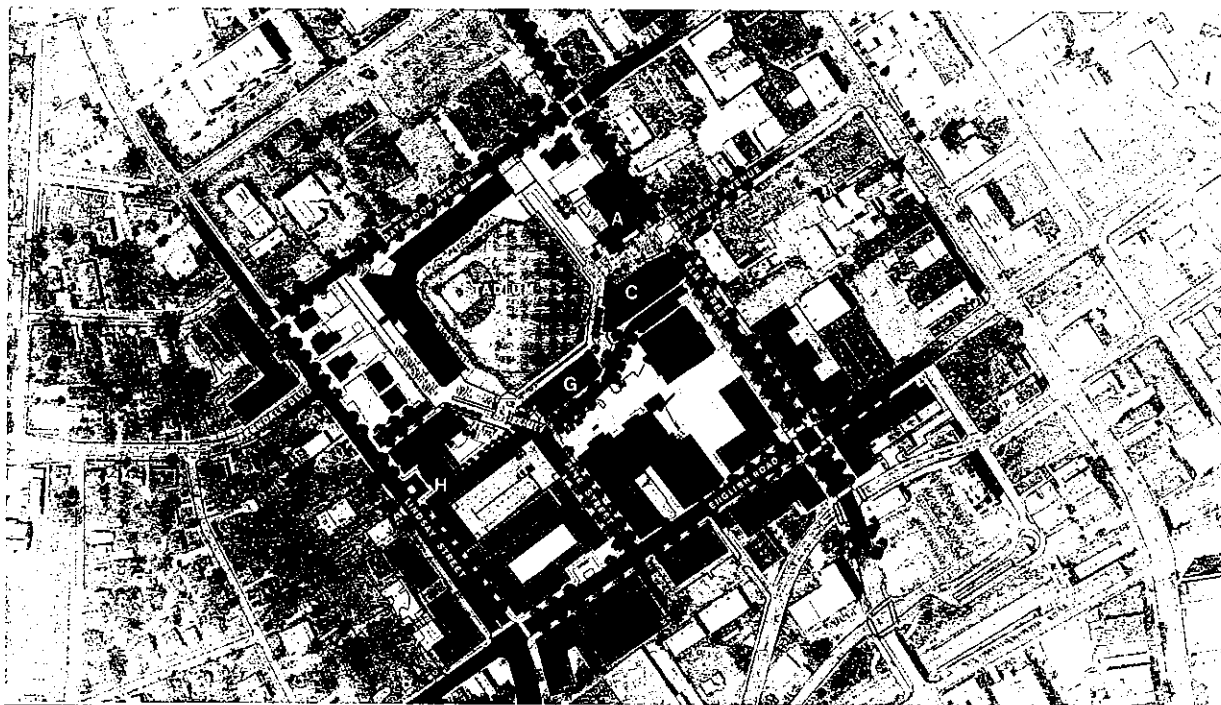
## EXHIBIT D

### **Development Plan and Development Standards**

#### Development Plan

Note: The plan below is not intended to represent a literal depiction of the eventual site plan, which will require City review and approval, but a general indication of the intended locations of the proposed buildings.

HIGH POINT STADIUM AREA MASTER PLAN



HIGH POINT STADIUM DEVELOPMENT  
HIGH POINT, NC



hord | coplan | macht  
rev 04.09.19 04.09.19

### **Development Standards**

The Project will comply with all zoning requirements of the City of High Point Development Ordinance for property in the Mixed Use-Downtown (MX-D) District, including its allowed principal and accessory uses, as it exists on the date hereof, and certain key provisions of that ordinance are attached hereto for ease of reference.

**Current Development Ordinance Key Provisions**

Attached.

# EXHIBIT D

## 3.5.7. - Mixed-Use (MX)

<p><b>MX MIXED-USE DISTRICT</b></p>	<p><b>A. DISTRICT PURPOSE</b></p> <p>The Mixed-Use (MX) district is intended to establish compact, pedestrian-oriented, mixed-use development and redevelopment at key locations in the Core City in accordance with the City's <u>adopted policy guidance</u>. It seeks to revitalize existing neighborhoods by enabling the development of higher intensity neighborhood centers with new housing, shopping, working, and recreational options in close proximity to one another. The proximity of these uses allows nearby residents to meet some of their daily needs without use of an automobile. The district standards address a variety of design elements including building location, off-street parking, access, land use, and visual quality.</p>
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### B. Procedure for Establishment of Mixed-Use (MX) Districts

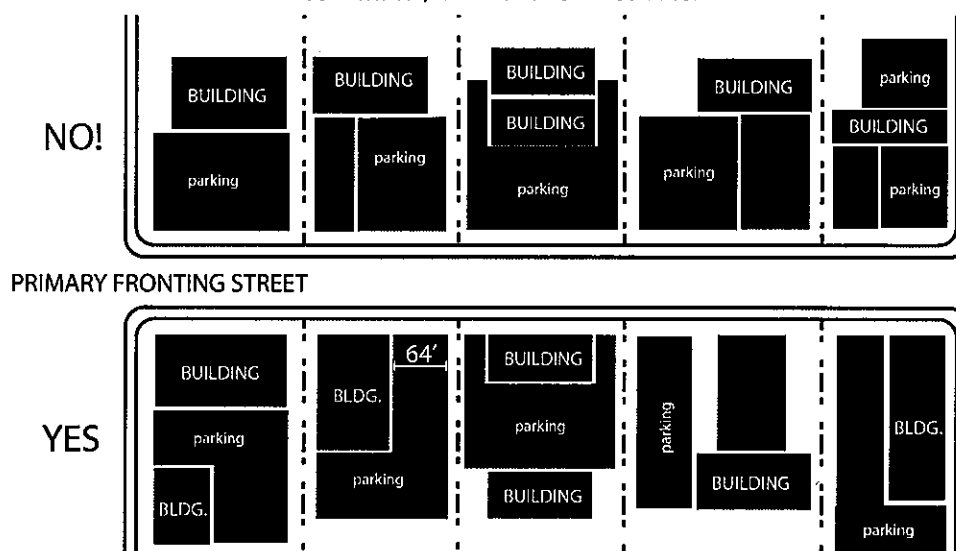
1. **Mixed-Use Area Plan** Prior to establishment of a MX district for a specific mixed-use area, a plan for the specific mixed-use area shall be adopted by the City Council. The mixed-use area plan should comply with the City's adopted policy guidance generally, and the specific recommendations for the mixed-use centers in the Core City Plan. The plan should, at a minimum, describe the characteristics, conditions, boundaries, and development goals of the area.
2. **Mixed-Use Area Plan Approval** After completion, the mixed-use area plan shall be forwarded to the P&Z for its review and recommendations following a public hearing. Upon completion of its review, the plan along with the recommendations of the P&Z shall be forwarded to the City Council for review and a public hearing. A mixed-use area plan shall be approved by the City Council for a specific mixed-use area before establishment of a corresponding MX district for the same area.
3. **District Organization**
  - (a) The MX district is organized into a series of different districts (e.g., Mixed-Use Washington Street (MX-W) as depicted on the Official Zoning Map) to better recognize the differing development contexts.
  - (b) The City Council may establish an MX district in accordance with this section, Section 2.4.19, Zoning Map Amendment, and Section 2.4.14, Text Amendment.
  - (c) Based on its associated mixed-use area plan, each MX district should, at a minimum, include boundaries, dimensional standards, and any other standards unique to the district. The general standards in Section 3.5.7 C, General Standards for All MX Districts shall also apply. If there is a conflict between the general standards for all MX districts and the specific standards for the individual MX districts, the specific standards for the individual MX district shall control.

### C. General Standards for All MX Districts Except where otherwise indicated below, the standards in this section shall apply to all development in all MX districts.

1. **Building Compliance due to an Expansion or Exterior Alteration**
  - (a) In cases where an existing building is expanded or enlarged by 25 percent or less of its gross floor area as it existed on the effective date of the ordinance establishing the MX district, the expansion of the building shall either maintain the current appearance of the existing building or comply with the standards in Section 3.5.7 C.3, Building Standards.
  - (b) In cases where an existing building is expanded or enlarged by more than 25 percent of its gross floor area as it existed on the effective date of the ordinance establishing the MX district, the portion of the front and side building facades associated with the expansion or enlargement shall comply with the standards in Section 3.5.7 C.3, Building Standards.
  - (c) In cases where a building existing on the effective date of the ordinance establishing the MX district, does not comply with the minimum and maximum street setbacks, the building may be enlarged or expanded without complying with applicable maximum street setback requirements.
  - (d) In cases where the exterior of an existing building is altered, the alterations shall conform to the standards of this section, to the maximum extent practicable. Alterations shall not include the removing, filling-in, or placing a false facade over an existing window, or any other physical changes to obstruct the window.
2. **Site Standards**
  - (a) **Building Orientation**
    - (1) Single-building developments shall be oriented so that the front facade faces the street from which the building derives its street address.
    - (2) For all new buildings subject to a maximum street setback, at least 60% of the front building facade shall be located parallel to and within the required setbacks.

- (3) Group developments shall configure building walls to frame and enclose the corners of street intersections or entry points into the pedestrian access corridor within the development site, or other site amenities on at least 3 sides.
- (b) **Exemption from Maximum Setback** Uses that provide a civic space are exempt from the maximum setback requirement, provided the civic space meets the following requirements:
- (1) The civic space shall be between the front of the principal building and the street;
  - (2) The area shall not be used for parking or loading, exclusive of valet parking and passenger loading;
  - (3) The area shall have landscaping that covers a minimum of 10 percent of the area;
  - (4) It may include pedestrian amenities which include but are not limited to: seating, outdoor play areas, bicycle racks, kiosks, water features, public art, freestanding structures such as a clock tower, or similar amenities;
  - (5) A decorative fence, a hedgerow, or a combination thereof may be provided to provide a boundary between the civic space and the street right-of-way. If provided, the boundary treatment shall meet the following requirements:
    - (i) Walls and fences are limited to a maximum of 4 feet in height. Decorative fences include, but are not limited to: wrought iron, architectural metal, or other transparent decorative fence. Chain-link fencing is prohibited.
    - (ii) Hedges used to establish this boundary shall be a minimum height of 18 inches at planting and shall be maintained at a height between 3 and 4 feet at maturity.
- (c) **Fences** Fences shall comply with the standards in Section 5.11, Fences, as well as the following:
- (1) Chain link, barbed wire fencing, and plain concrete block shall only be permitted behind the rear building line of the principal building and shall not be located within 40 feet of the right-of-way of a public street (excluding alleys).
  - (2) Chain link, barbed wire fencing, and plain concrete block walls shall only be permitted along the rear lot line of lots without a principal building.
  - (3) Fences located between the minimum and maximum street setback shall be limited to 4 feet in height or less and may not be fully opaque.
  - (4) Fences shall be provided along all lot lines that abut a residential zoning district and shall be opaque to a height 6 feet above grade level.
- (d) **Ground-based Mechanical Equipment Screening** Ground-based mechanical equipment should be located to the rear of the principal building(s), and shall be screened in accordance with Section 5.6, Screening.
- (e) **Off-Street Loading** If provided, loading areas shall not be on the front facade of the principal building and shall be screened in accordance with Section 5.6, Screening.
- (f) **Outdoor Storage** Outdoor storage of materials, supplies, products, or equipment is prohibited. Nothing shall prohibit the outdoor display of merchandise for sale in accordance with Section 4.4.5 K, Outdoor Display.
- (g) **Off-Street Parking** Off-Street parking is not required, but when provided, development in the MX district shall comply with the following standards (see Figure 3.5.7.C1, Parking Lot Configuration) in addition to the applicable standards in Section 5.4, Off-Street Parking and Loading:
- (1) Off-street parking areas shall not be located between the front building line and the street it faces.
  - (2) Off-street parking areas on corner lots shall not contiguously front more than 1 street.
  - (3) When located along the side of a building, vehicular use areas shall not occupy more than 64 linear feet in width as measured along the lot's street frontage.

FIGURE 3.5.7.C1, PARKING LOT CONFIGURATION



- (h) **Sidewalks** Sidewalks shall comply with the standards in [Section 5.9](#), Sidewalks, as well as the following:
- (1) Sidewalks shall be located on both sides of all streets except alleys.
  - (2) Sidewalks shall be located at the back of the curb and shall maintain a minimum width of at least 12 feet or up to the existing building line when less than 12 feet.
  - (3) Sidewalks may include street tree plantings, street furnishings and sidewalk cafes in accordance with applicable City Codes.
  - (4) Sidewalks shall be configured to provide a smooth transition in width between new sidewalks and connections to established sidewalks of a lesser width.
- (i) **Accessory Buildings**
- (1) Accessory buildings shall be located behind the rear building line of the principal building they serve.
  - (2) For group developments, accessory buildings can be located internally to the development. In no instance, shall an accessory building be located between a front building line that is established by a principal building and the street the principal building faces.
  - (3) Multi-family residential and nonresidential accessory buildings and structures should be similar in materials and architectural style to a principal building.
- (j) **Group Developments** Additional principal buildings may be built on a site beyond the maximum street setback if there is at least 1 principal building located on the site with a front facade that complies with the street setback requirements and covers a minimum of 50 percent of the lot width.
3. **Building Standards** The following standards are applied to all multi-family residential and nonresidential buildings; except for locally or nationally designated individual historic structures, and contributing structures within a locally or nationally designated historic district, provided such structures comply with the Secretary of Interior's Standards for Rehabilitation or are issued a Certificate of Appropriateness, as applicable:
- (a) **Facade Articulation**
- (1) Front and side building facades shall include at least 2 or more of the following features at least every 15 feet measured horizontally and vertically per floor:
    - (i) Recessed entryways;
    - (ii) Display windows;
    - (iii) Window indentations (such as but not limited to double-hung, stationary, or casement windows) that are regularly spaced and that incorporate a differing building material, texture, color, awnings, window hoods, or canopies. This shall not include a glass curtain wall or flush mounted glass;
    - (iv) Offset surfaces, niches, insets, projections, or bas-relief with a minimum depth of 4 inches;
    - (v) Differentiated piers, columns, or pilasters;
    - (vi) Pedestrian entrances;
    - (vii) Textured materials (such as but not limited to brick or stone);
    - (viii) Roofline changes, coupled with correspondingly aligned wall offset or facade material changes, changes in the roof planes, or changes in the height of a parapet wall; or
    - (ix) Changes in wall plane (such as projections or recesses).



- (2) Building facades facing a street should achieve vertical orientation by using regularly spaced vertically oriented windows and doors such as: roofline/parapet variations, window hoods, material changes, columns, pilasters, posts, awnings, canopies, stoops, or facade oriented bays, or divisions of space that are approximately 30 feet wide or less. The rhythm within a building facade should be maintained vertically oriented bay the same width.
- (3) Buildings of 2 or more stories are encouraged to have front facades with a clear and distinct base (ground floor), middle, and top (often defined by a decorative cornice). Features such as an increased ground floor height (including a transom window), the use of a frieze, string course or storefront cornice, a bulkhead or kick plate, and differentiated building materials or coloration are similarly encouraged.

**(b) Facade Materials**

- (1) Where 2 or more materials are proposed to be combined on a facade, the heavier and more massive elements should be located below the lighter elements (e.g., brick shall be located below stucco). Heavier materials may also be placed as a detail on the corner of a building or along cornices or windows.
- (2) Primary facade materials should not change at outside corners, and should continue around the corner to a logical point of conclusion such as a change in facade plane.
- (3) Exterior building materials shall be continued to the finished grade on any elevation.
- (4) Building facades utilizing smooth-faced concrete block, or unfinished or untreated tilt-up concrete panels, shall be limited to building facades not visible from public streets as seen from the public right-of-way at a height of 6 feet.

**(c) Facade Transparency**

- (1) The front building facade facing a street shall maintain non-reflective, transparent windows on at least 35 percent of the facade area between 2 and 8 feet above average grade.
- (2) Ground level side facades facing a street shall maintain non-reflective, transparent windows on at least 20 percent of the facade area between 2 and 8 feet of the floor.
- (3) Upper stories on front and side facades facing a street shall maintain non-reflective, transparent windows on at least 20 percent of the upper story facade area per floor as measured between 2 and 8 feet.
- (4) Civic, religious institution, and utilities use categories are exempt from these transparency requirements.
- (5) If the transparency requirements cannot be met due to internal configuration of the building, or other conflicting standards of this district, an alternative design shall be approved by the Planning and Development Director that meets the purpose and intent of these facade transparency standards through the use of, for example, enclosed window wells supplemented with awnings, false storefront windows, and similar building wall fenestration techniques. Figure 3.5.7.C2, Facade Transparency Alternatives, below shows some alternative designs that meet the intent of this standard.

**FIGURE 3.5.7.C2, FACADE TRANSPARENCY ALTERNATIVES**



**(d) Primary Entrance**

- (1) Except for corner buildings, the primary entrance of a building shall face the street from which the building derives its street address.
- (2) The primary entrance on corner buildings may be located to face the corner.
- (3) The primary entrance shall be distinguishable from the balance of the front facade through the use of one or more of any of the following or other similar features:
  - (i) Projecting or recessed entry;
  - (ii) Transom or sidelight windows;
  - (iii) Pediments, columns, or other vertical features; or
  - (iv) Marquees, arcades, or overhangs.

**(e) Roof-Mounted Equipment**

- (1) Flat roofs shall incorporate parapet walls designed to screen the roof and roof-mounted equipment from view from the primary street fronting the building and any abutting side streets as seen from the public right-of-way at a height of 6 feet. The parapet wall should be finished in the same or similar material and color as the building.

- (2) For sloped roofs, equipment and other roof penetrations should be located and screened to have a minimal visual impact as seen height of 6 feet.
- (3) In cases where complete screening is not practicable, all roof-mounted equipment and other roof penetrations shall be camouflaged through the use of paint or architectural techniques to minimize its appearance.
- (4) Green roofs, which use vegetation to improve stormwater quality and reduce runoff, are exempt from the screening requirements described in this subsection.

(f) **Service or Vehicular Bays**

- (1) Service or vehicular bays and their doors shall not be located so as to face the primary fronting street if the door is located within 50 feet of the primary fronting street right-of-way.
- (2) Other than the primary fronting street, all service or vehicular bay doors that face a street and are within 50 feet of the street right-of-way shall use the same or a similar color as the building so as to blend it in with the building they serve, to the maximum extent practicable.

4. **Reserved**

5. **Block Design** In cases where development in the MX district proposes a new street, the following block design standards shall apply:

- (a) **Block Length** Block length shall be limited to 800 linear feet. The TRC may allow modifications from these block length standards if:
  - (1) Environmental or topographic constraints exist;
  - (2) A site has an irregular shape; or
  - (3) A longer block will reduce the number of railroad grade or major stream crossings.
- (b) **Block Width** To the maximum extent practicable, the width of a block shall be sufficient to permit at least 2 tiers of lots exclusive of any public alleys, watercourses, or other rights-of-way located outside platted lots.
- (c) **Mid-Block Access** If a block length exceeds 800 feet, sidewalks or multi-use paths shall be provided mid-block to connect parallel sidewalks on the long side of the block.

6. **Street Network** In cases where new streets are proposed, the following standards shall apply:

- (a) The streets in a MX district shall be interconnected to provide efficient connections between uses and to accommodate vehicular, pedestrian, and bicycle circulation, as well as existing or future transit service.
- (b) Streets in a MX district shall maintain a narrow cross section of 3 or fewer travel lanes with a maximum width of 12 feet per lane.
- (c) Streets shall connect with existing streets and be configured in a grid or modified grid pattern.
- (d) New streets shall be a logical continuation of the existing street network.
- (e) On-street parking shall be provided along both sides of all streets (except alleys) in a MX district.
- (f) Alleys of 14 to 16 feet in width shall be provided between tiers of lots in the middle of a block, to the maximum extent practicable.
- (g) Lots served by an alley shall provide vehicular access from the alley.

D. **Specific Standards for the MX-W District**

1. **Applicability** The Mixed-Use Washington Street District was established on March 31, 2008 in accordance with the Core City Plan and the Washington Drive District Plan. In addition to Section 3.5.7 C General Standards for All MX Districts, the standards in this section apply to all lands within the MX-W district on the Official Zoning Map.
2. **Dimensional Standards** The dimensional standards in Table 3.5.7.D, Dimensional Standards in the MX-W District, shall apply to all development in the MX-W District.

TABLE 3.5.7.D, DIMENSIONAL STANDARDS IN THE MX-W DISTRICT		
REQUIREMENT		STANDARD
Maximum Density (units/acre)		n/a
Minimum Lot Area (square feet)		n/a
Minimum Lot Width [1]		n/a
Minimum Street Setback (feet)		0, 12 from back of curb [2]
Maximum Street Setback (feet) [3] [4]		15
Minimum Perimeter Setback (feet)	Adjacent to Residential District	10

	Adjacent to Nonresidential District	0/5 [5]
Maximum Building Height (feet)		50
NOTES:		
[1] All development shall comply with the City's Driveway Ordinance requirements.		
[2] All buildings shall be at least 12 feet from the back of curb.		
[3] For all new buildings subject to a maximum street setback, at least 60% of the front building facade shall be located parallel to and within the required setbacks.		
[4] Buildings are exempt from the maximum street setback, if they provide a civic space (see <u>Section 3.5.7 C.2(b)</u> Exemption from Maximum Setback).		
[5] No setback is required, but if provided, shall be at least 5 feet.		

3. **Drive-Throughs** Drive-through lanes and windows are prohibited.

E. **Specific Standards for the MX-D District**

1. **Applicability** The Mixed-Use Downtown district was established on November 20, 2017 in accordance with the High Point Downtown Mixed-Use Area Plan. In addition to Section 3.5.7 C General Standards for All MX Districts, the standards in this section apply to all lands within the MX-D district on the Official Zoning Map.
2. **Dimensional Standards** The dimensional standards in Table 3.5.7.E, Dimensional Standards in the MX-D District, shall apply to all development in the MX-D District.

TABLE 3.5.7.E, DIMENSIONAL STANDARDS IN THE MX-D DISTRICT		
REQUIREMENT		STANDARD
Maximum Density (units/acre)		n/a
Minimum Lot Area (square feet)		n/a
Minimum Lot Width [1]		n/a
Minimum Street Setback (feet)		0, 12 from back of curb [2]
Maximum Street Setback (Elm and Main Street Only) [3] [4]		20
Minimum Perimeter Setback (feet)	Adjacent to Residential District	10
	Adjacent to Nonresidential District	0/5 [5]
Maximum Building Height (feet)		n/a
[1] All development shall comply with the City's Driveway Ordinance requirements.		
[2] All buildings shall be at least 12 feet from the back of curb.		
[3] For all new buildings subject to a maximum street setback, at least 60% of the front building facade shall be located parallel to and within the required setbacks.		

[4] Buildings are exempt from the maximum street setback, if they provide a civic space (see Section 3.5.7 C.2(b) Exemption from Maximum Setback).

[5] No setback is required, but if provided, it shall be at least 5 feet.

3. **Service or Vehicular Bays** No service or vehicular bay doors shall face Elm Street or Main Street.

4. **Drive-Throughs**

- (a) Outdoor speakers associated with the drive-through shall be at least 50 feet from a residential district.
- (b) Drive-through windows, menu boards, drive aisles, and speakers shall not be located between the principal building line and the front street right-of-way. For corner lots, the drive aisles shall not be located between the principal building line and the front street right-of-way, to the maximum extent practicable.

(Ord. No. 7287/17-29, § 2, 4-3-2017; Ord. No. 7363/17-106, §§ 1—4, 11-20-2017; Ord. No. 7365/17-108, § 1, 11-20-2017; Ord. No. 7389/18-18, §§ 2—4, 2-19-2018; Ord. No. 7415/18-44, §§ 3.F, 3.G, 5-21-2018)

CHAPTER 4: - USES

4.1. - Principal Use Table

4.1.1. - Use Table Structure

- A. **General Table 4.1.9, Principal Use Table**, lists principal use types and indicates for each zoning district whether the principal use type is permitted by right, permitted by right only inside the Core City Area, permitted as a special use, or permitted only with an overlay district. Also, the principal use table references district use prohibitions and additional standards that are applicable to a specific use type.
- B. **Conditional Zoning Districts** The range of permitted uses in a conditional zoning district shall be the same as the range of permitted uses within the corresponding general zoning district unless the conditions associated with the approved conditional zoning district further limit them. In no instance shall the range of permitted uses in a conditional zoning district exceed the range of permitted uses in the corresponding general zoning district.

4.1.2. - 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 the additional standards referenced in the principal use table. 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 only when located inside the Core City Area and subject to compliance with the additional standards referenced in the principal use table.

4.1.3. - Uses Requiring Special Use Review

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 in accordance with Section 2.4.11, Special Use, and any additional standards referenced in the principal use table.

4.1.4. - Uses Requiring Overlay District

An "O" in a cell of the principal use table indicates the specific use type is permitted in the corresponding zoning district only upon approval of an overlay district and any additional standards referenced in the principal use table.

4.1.5. - Prohibited Uses

- A. A blank cell in the principal use table indicates that the specific use type is prohibited in the corresponding zoning district.
- B. The following principal uses are prohibited throughout the City's zoning jurisdiction in all zoning districts:
  - 1. Explosives manufacturing;
  - 2. Leather and leather products manufacturing involving tanning; and
  - 3. Slaughter or rendering of animals.
- C. Section 6.2.13, Standards Applicable in the GWA, identifies uses prohibited within general watershed areas of the WSO.
- D. Section 6.2.14, Standards Applicable in the WCA, identifies uses prohibited within watershed critical area (WCA)s of the WSO.

4.1.6. - District Use Prohibition

Regardless of whether the principal use table lists a specific use type as a permitted use, the specific use type may be prohibited in accordance with the overlay district or sub-district provisions in Chapter 3: Zoning Districts. The principal use table references prohibitions for a specific use type in the column titled "District Use Prohibitions."

#### 4.1.7. - Additional Standards

- A. When a specific use type is permitted in a zoning district, there may be additional standards that are applicable. Such additional standards are referenced in the principal use table column titled "Additional Standards." These standards shall apply to a specific use type regardless of the zoning district, unless otherwise specified.
- B. In addition, use types are also subject to the district standards listed in the applicable zoning district in Chapter 3: Zoning Districts.

#### 4.1.8. - Unlisted Uses

For land uses not listed in Table 4.1.9, Principal Use Table, not listed as a part of a use category or use type, and not listed as a prohibited use in Section 4.1.5, Prohibited Uses, the Planning and Development Director shall determine which use category or use type to which the land use belongs in accordance with Section 2.5.4, Determination.

#### 4.1.9. - Principal Use Table

TABLE 4.1.9: PRINCIPAL USE TABLE																					
P=Permitted P*=Permitted only inside Core City area S=Permitted with special use O=Overlay required D=Development Type Permitted uses may be subject to additional zoning district standards in Chapter 3.																					
USE CATEGORY	USE TYPE	R-3	R-5	R-7	RM-5	RM-16	RM-26	TO	OI	LB	GB	RC	CB	EC	LI	HI	AGR	I	PNR	MS	MX
		Residential						Business									Special				
Agricultural Use Classification																					
Agriculture	Agriculture production (crops)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Agriculture production (livestock)																P				
Residential Use Classification																					
Common elements recreation	Common Elements Recreation	P	P	P	P	P	P	P	P	P	P	P	P	P			P			P	P
Household Living	Duplex dwelling		P*	P	P	P	P	P	P	P											
	Family care home	P	P	P	P	P	P	P	P	P			P				P				
	Live/work dwelling					P	P	P	P	P	P	P	P							P	P
	Manufactured dwelling	O	O	O	O													P			

	Multi-family dwelling				P	P	P	P	P	P	P	P	P	P	P*			P		P	P
	Single-family attached dwelling		P	P	P	P	P	P	P	P	P	P	P	P				P		P	P
	Single-family detached dwelling	P	P	P	P	P	P	P	P	P							P				
	Triplex/quadplex		P*	P*	P	P	P	P	P	P	P	P	P	P			P	P		P	P
Group Living	Dormitory, private						P		P									P			
	Fraternity or sorority house						P		P									P			
	Rooming house					P	P	P	P												
	Single room occupancy (SRO)					S	S		S												
	Social service facility, major					S	S		S		S							S			
	Social service facility, minor					S	P		P		P							P			
Life Care	Assisted living facility					P	P		P		P	P	P					P		P	P
	Continuing care retirement community						P		P		P							P			
	Long-term care/skilled nursing facility						P		P		P							P			
Institutional Use Classification																					
Civic	Assembly, major										P	P	P	P	P*			P	P	P	P
	Assembly, minor	S	S	S	S	S	P	P	P	P	P	P	P	P	P*		P	P	P	P	P
	Cemetery, columbarium, mausoleum	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P			
	Cultural facility, major										P	P	P	P	P*			P		P	P

	Cultural facility, minor						P	P	P	P	P	P	P	P*			P	P	P	P
	Correctional facility														S	S	S			
	Government facility						P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Public recreation facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Public safety facility, major							P	P	P	P	P	P	P	P	P	P			
	Public safety facility, minor	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Day Care	Day care center	S	S	S	S	S	S	P	P	P	P	P	P	P		P	P		P	P
Education	College or university											P		P			P		P	
	Other post-secondary educational facility									P	P	P	P	P			P		P	P
	School, major	S	S	S	S	S	S									S	P			
	School, minor	S	S	S	S	S	S				P	P	P			S	P		P	P
	Truck driving school													P	P					
Health Care	Hospital																P			
	Medical care facility, major							P		P	P	P	P	P			P			P
	Medical care facility, minor						P	P	P	P	P	P	P	P			P		P	P
	Specialty hospital																P			
Religious Institution	Religious institution	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P
Transportation	Airport														S	S				

	Park and ride facility						P	P	P	P	P	P	P	P	P	P	P			
	Passenger terminal, surface transportation									P	P	P	P	P	P				P	P
	Taxi or limousine service facility									P		P		P	P					
Utilities	Communication or broadcasting facilities								P		P	P	P	P	P	P				
	Solar array														P	P	P		P	
	Utility facility, major														P	P				
	Utility facility, minor	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Wireless telecommunication facility, major	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
	Wireless telecommunication facility, minor	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

#### Commercial Use Classification

Adult Entertainment	Adult entertainment															P				
Animal Care	Animal care, major															P	P	P		
	Animal care, minor								P	P	P	P	P	P	P	P	P			P
Eating Establishments	Bar or nightclub										P	P	P		P	P				P
	Restaurant, major										P	P								P
	Restaurant, minor							D	D	P	P	P	P	P	P	P				P
Offices	Office, major									P	P	P	P	P	P	P		P		P
	Office, minor								P	P	P	P	P	P	P	P		P		P
Parking, Commercial	Parking, commercial									P		P	P	P	P	P		P		P
Personal Services	Personal service, major										P	P	P	P		P*				P



	Personal service, minor						D	D	P	P	P	P	P	P	P					P	P
	Repair establishment									P	P	P	P	P	P	P				P	P
	Tattoo/body piercing										P										
Recreation and Leisure	Amusement and entertainment										P	P	P							P	P
	Amusement parks										P	P									
	Sports and fitness centers								P	P	P	P	P	P	P					P	P
Retail Sales	Bulky item sales										P										
	Convenience store with fuel sales									P	P	P			P	P				P	
	Flea market/antique mall, indoor										P	P	P		P					P	
	Pawnshop										P	P	P		P					P	
	Retail sales, large										P	P	P								
	Retail sales, major									P	P	P	P		P*					P	P
	Retail sales, minor						D	D	P	P	P	P	P	P	P*					P	P
	Truck stop														S	P					
Vehicle Establishments	Vehicle establishment, major										P				P	P				P	
	Vehicle establishment, minor										P	P			P	P				P	
Visitor Accommodation	Bed & breakfast	S	S	S	S	P	P	P	P	P	P		P				P			P	P
	Hotels or motels										P	P	P	P	P					P	P

Industrial Use Classification



	Salvage or junk yard														S				
	Transfer station														S				
Wholesale Trade	Market Showroom										P								
	Toxic chemicals or substances, pesticides or fertilizers														P				
	Wholesale, major											P	P	P					
	Wholesale, minor								P			P	P	P					

(Ord. No. 7266/17-08, § 13, 1-17-2017; Ord. No. 7287/17-29, §§ 4, 5, 4-3-2017; Ord. No. 7363/17-106, § 5, 11-20-2017; Ord. No. 7365/17-108, § 5, 11-20-2017; Ord. No. 7415/18-44, §§ 4.A, 4.B, 5-21-2018)

#### 4.2. - Use Classifications, Use Categories, and Use Types

##### 4.2.1. - Purpose

This section is intended to provide a systematic framework for identifying, describing, categorizing, consolidating, and distinguishing land uses to determine how a specific land use activity, or combination of activities, is to be considered when applying the principal use table and other provisions in this Ordinance.

##### 4.2.2. - Organization of Uses

Section 4.2, Use Classifications, Use Categories, and Use Types, organizes principal uses by use classifications, use categories, and use types to provide a systematic basis for identifying, describing, categorizing, consolidating, and distinguishing land uses to determine whether a specific use is permitted in a particular zoning district.

- A. **Use Classifications** The use classifications identify broad classifications of land use and include agricultural uses, residential uses, institutional uses, commercial uses, and industrial uses. Use classifications are further broken down into a series of general "use categories" and specific "use types."
- B. **Use Categories** The use categories describe the major sub-groups of the respective use classifications and are based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. For example, the Residential Use Classification is divided into the Common Elements Recreation, Household Living, Group Living, and Life Care use categories. Use categories are further broken down into a series of individual "use types".
- C. **Use Types** The specific use types are included in the respective use category. They identify the specific principal uses that are considered to fall within characteristics identified in the use category. For example, family care homes, live/work dwellings, manufactured dwellings, multi-family dwellings, single-family attached dwellings, single-family detached dwellings, and duplex dwellings are use types in the Household Living Use Category.
- D. **Developments with Multiple Principal Uses** When all principal uses of a development fall within one use category, the entire development is assigned to that use category. A development that contains a coffee shop, bookstore, and bakery, for example, would be classified in the Retail Sales Use Category because all of the development's principal uses are in that use category. When the principal uses of a development fall within different use categories, then each principal use is classified in the applicable use category and each use is subject to applicable regulations for that use category. Developments with multiple principal uses, such as shopping centers, shall incorporate only those use types allowed in the applicable zoning district.
- E. **Table Organization** The characteristics, use types, and exceptions of each of the use categories in Table 4.1.9, Principal Use Table, are

listed in the following tables. Table 4.2.2.E, Use Classification, below shows how the information is organized.

TABLE 4.2.2.E: USE CLASSIFICATION		
A. USE CATEGORY	1. CHARACTERISTICS:	
	Listing of use category characteristics	
	2. USE TYPES:	
	(a) Use type	Use type description
		1) Major/minor use type description
	3. EXCEPTIONS:	
	Listing of uses that are not included in the use category	

#### 4.2.3. - Agricultural Use Classification

Table 4.2.3, Agricultural Use Classification, sets out the use categories and use types included in the agricultural use classification in Table 4.1.9, Principal Use Table. Table 4.2.3 describes the characteristics of the agriculture use category and defines the use types included within the use category.

TABLE 4.2.3: AGRICULTURAL USE CLASSIFICATION		
A. AGRICULTURE	1. CHARACTERISTICS:	
	The Agriculture Use Category includes use types related to the production of field crops, fruits, vegetables, ornamental and flowering plants, and the breeding, or raising of livestock, poultry, swine, or other animals for food or other marketable products. The Agriculture Use Category also includes forestry activities related to the planting, management, protection, and harvesting of trees for timber or other forest products. Examples include animal confinement facilities (the raising of livestock, dairy cattle, swine, or poultry in confined areas), animal production and dairying other than in animal confinement facilities (including fish farms and hatcheries), crop production (including the raising of grains, vegetables, fruits, nuts, cotton, and tobacco), community gardens, forestry and logging, and greenhouse, nursery, and floriculture production.	
	2. USE TYPES:	
	(a) Agricultural production (crops)	Active and on-going agricultural activities, including agronomy, biotechnical agriculture (including education parks for biotechnical agriculture or a demonstration farm), community gardens, forestry, and similar uses.
	(b) Agricultural production (livestock)	Active and on-going agricultural activities related to the raising and breeding of livestock, including cows, horses, goats, pigs, fowl, and other forms of domesticated animals typically associated with farming uses.
	3. EXCEPTIONS:	
	a) The Agriculture Use Category does not include the processing of animal or plant products for wholesale or retail sale purposes, which is generally considered a manufacturing and production use.	
	b) Retail nurseries are considered Retail Sales.	

## 4.2.4. - Residential Use Classification

Table 4.2.4, Residential Use Classification, sets out the use categories and use types included in the residential use classification in Table 4.1.9, Principal Use Table. Table 4.2.4 describes the characteristics of the common elements recreation, household living, group living, and life care use categories and defines the use types included within each use category.

TABLE 4.2.4: RESIDENTIAL USE CLASSIFICATION		
<b>A. COMMON ELEMENTS RECREATION</b>	<b>1. CHARACTERISTICS:</b>	
	Common Elements Recreation includes recreational facilities that are located in common elements provided in areas of common ownership under the control of an owners association.	
	<b>2. USE TYPES:</b>	
	(a) Common Elements Recreation	A recreational facility that is located in common elements provided in areas of common ownership under the control of an owners association.
<b>B. HOUSEHOLD LIVING</b>	<b>1. CHARACTERISTICS:</b>	
	Household Living includes use types that provide for the residential occupancy of a dwelling unit by a household. Tenancy is arranged on a month-to-month or longer basis. Accessory uses commonly associated with household living are recreational activities, raising of pets, hobbies, and parking of the occupants' vehicles.	
	<b>2. USE TYPES:</b>	
	(a) Duplex dwelling	A single structure comprised of 2 dwelling units that share common vertical walls or horizontal floors/ceilings. Both dwelling units are on the same lot.
	(b) Family care home	A home for 6 or fewer persons that provides room and board, personal care, and habilitation services in a family environment for the residents, who have a temporary or permanent physical, emotional, or mental disability (including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances, and orthopedic impairments, but not including mentally ill persons who are dangerous to others as defined in North Carolina General Statutes Section 122C-3(11)b.) See North Carolina General Statutes Section 168-21.
	(c) Live/work dwelling	A structure or portion of a structure combining a dwelling unit with an integrated nonresidential work space typically used by 1 or more of the residents. The nonresidential work space is found on the building's ground floor.
	(d) Manufactured dwelling	A dwelling constructed after June 15, 1976 that is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported on its own chassis. It bears a valid seal indicating conformance with the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of its construction.
	(e) Multi-family dwelling	A dwelling comprised of more than 4 dwelling units that share common vertical walls or horizontal floors/ceilings (or both) that are not on individual lots. Examples include apartments and condominiums.

(f) Single-family attached dwelling	A dwelling unit that is physically attached to 1 or more 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. Examples include townhouses, patio homes, and row houses.
(g) Single-family detached dwelling	A dwelling containing 1 dwelling unit that is occupied by 1 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, recreational vehicles, or other forms of temporary or portable housing.
(h) Triplex/quadplex	A type of residential structure that includes 3 or 4 individual dwelling units located on 1 lot or configured so that each unit is on its own individual lot.

**C. GROUP LIVING****1. CHARACTERISTICS:**

Group Living includes use types that provide for the residential occupancy of a building by a group. The occupancy of the building may be larger than found in Household Living. Tenancy is arranged on a monthly or longer basis. Generally, group living development has a common eating area for residents. The residents may receive care, training, or treatment. Accessory uses may include recreational facilities, dining facilities, and parking of vehicles for occupants and staff.

**2. USE TYPES:**

(a) Dormitory, private	A residential facility, not located on a campus, which is established directly or indirectly in association with a college, business college, trade school, or university for the purpose of housing students registered and attending the institution. Typically it includes bedrooms with shared bathrooms and other shared living spaces. A private dormitory may contain food preparation and eating facilities primarily for the use of its occupants.
(b) Fraternity or sorority house	A building used as group living quarters for students of a college, university, or seminary, who are members of a fraternity or sorority that has been officially recognized by the college, university, or seminary but is not located on the campus with which it is associated. Accessory uses may include sleeping areas, cooking facilities, and areas for meeting and socializing.
(c) Rooming house	A dwelling that provides rental accommodations to tenants in up to 5 individual rooms for periods of 1 week or longer. The dwelling is accessed by a shared entry with a common kitchen. Meals may be provided to the tenants.
(d) Single room occupancy (SRO)	A building that provides rental accommodations to tenants in more than 5 individual rooms for periods of 1 week or longer. The rooms may have cooking facilities and private bathrooms.
(e) Social service facility	A residential facility with support and supervisory personnel that provides temporary room and board, housekeeping, personal care, or rehabilitation services for those needing emergency services, post-incarceration services, or drug or alcohol rehabilitation assistance (but not including those with mental illness who are dangerous to others). Examples include homeless shelters, orphanages, shelters for victims of domestic abuse, crisis centers, halfway houses, and drug and alcohol treatment facilities.

	1) Major - Social service facilities that provide assistance for 7 or more patrons.	
	2) Minor - Social service facilities that provide assistance for 6 or fewer patrons.	
	<b>3. EXCEPTIONS:</b>	
	(a) Extended stay hotels are considered Visitor Accommodations.	
	(b) Family care homes are considered Household Living.	
<b>D. LIFE CARE</b>	<b>1. CHARACTERISTICS:</b>	
	The life care use category includes use types that provide services for elderly people, including a wide range of services for aging or disabled residents, including room and board, housekeeping, personal care, medical care, and end-of-life care. Such uses may include a spectrum of housing options from independent living to assisted living to dependent living for residents. Accessory uses may include common dining facilities, laundries, transportation, recreation, and on-site retail or personal services intended solely for residents, their guests, or employees.	
	<b>2. USE TYPES:</b>	
	(a) Assisted living facility	A residential facility with support and supervisory personnel for the elderly 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. Examples include congregate care and rest homes.
	(b) Continuing care retirement community (CCRC)	A CCRC is a retirement community configured as a single unified campus that includes independent living dwellings, assisted living facilities, and skilled nursing facilities that are owned and operated by a private company that provides a continuum of care to residents of the community. A CCRC may include on-site dining, medical care, and recreation and social facilities in addition to guest lodging and employee housing.
	(c) Long-term care/skilled nursing facility	An institution that is licensed or approved to provide health care under skilled medical supervision for 24 or more consecutive hours. Examples include restorative services, nursing homes, and hospice homes.

## 4.2.5. - Institutional Use Classification

Table 4.2.5, Institutional Use Classification, sets out the use categories and use types included in the institutional use classification in Table 4.1.9, Principal Use Table. Table 4.2.5 describes the characteristics of the civic, day care, education, health care, religious institutions, transportation, and utilities use categories and defines the use types included within each use category.

TABLE <u>4.2.5</u> : INSTITUTIONAL USE CLASSIFICATION	
<b>A. CIVIC</b>	<b>1. CHARACTERISTICS:</b>

The Civic Use Category includes use types of a public, nonprofit, or charitable nature that provide a local service to people of the community in a variety of facilities. Uses include meeting areas for civic or fraternal club activities, as well as indoor facilities used primarily for business or professional conferences, seminars, and training programs. Generally, such uses are open to or provide services to members of the general public. This includes, but is not limited to, assembly facilities, public safety facilities, community and cultural facilities, and government facilities. Accessory uses may include parking, training facilities, kitchens/cafeterias, recreation areas, offices, meeting rooms, storage, food sales or consumption.

## 2. USE TYPES:

(a) Assembly	A facility for assembly, including buildings that primarily provide meeting areas for civic, fraternal, business or professional organizations for conferences, seminars, recreation, training programs, sports, or entertainment. Examples include private clubs or lodges, YMCA, YWCA, swim and tennis club, country club, boys and girls club, meeting facilities, auditoriums, banquet halls, dinner theaters, convention centers, amphitheaters, stadiums, coliseums, and conference centers.
	1) Major - An assembly use with more than 15,000 square feet of gross floor area.
	2) Minor - An assembly use with 15,000 square feet of gross floor area or less.
(b) Cemetery, columbarium, mausoleum	Uses intended for the burial of the dead that are dedicated for cemetery purposes. They may include a mausoleum or columbarium (a structure or vault lined with recesses for cinerary urns).
(c) Cultural facilities	A use that provides education, training, or resources of a public, nonprofit, or charitable nature. Examples include community centers, libraries, art galleries, and museums. Accessory uses may include offices, meeting rooms, food preparation, parking, health, and therapy areas.
	1) Major - A cultural facility with more than 15,000 square feet of gross floor area.
	2) Minor - A cultural facility with 15,000 square feet of gross floor area or less.
(d) Correctional facility	Publicly or privately operated facilities housing persons awaiting trial or persons serving a sentence after being found guilty of a criminal offense. Accessory uses may include cafeterias, housing for facility staff, outdoor storage and maintenance areas, recreational areas, agricultural facilities, and facilities for the production of goods or materials produced for sale by the inmates.
(e) Governmental facility	A facility that provides for the general operations and functions of local, state, or federal governments. Examples include government operations or maintenance facilities, school administration offices, and government offices. Accessory uses may include offices, maintenance, storage (indoor and outdoor), fueling facilities, auditoriums, communications equipment, and parking areas.
(f) Public recreation facility	A facility that provides recreation services to the general public. Examples include recreation centers, senior centers, community centers, parks and gardens, and golf courses.



	(g) Public safety facility	A facility that provides public safety services to the general public. Examples include fire stations, police stations, EMS stations, and governmental training facilities such as an outdoor shooting range or fire training facility. Accessory uses may include offices, teaching rooms, meeting areas, food preparation and consumption areas, sleeping quarters, communications equipment, storage, parking, and maintenance facilities.
		1) Major - A public safety facility with more than 15,000 square feet of gross floor area, or that includes maintenance facilities or outdoor facilities.
		2) Minor - A public safety facility with 15,000 square feet of gross floor area or less.
	<b>3. EXCEPTIONS:</b>	
	(a) Crematoriums are considered Personal Services.	
<b>B. DAY CARE</b>	<b>1. CHARACTERISTICS:</b>	
	The Day Care Use Category includes use types that provide care, protection, and supervision for children or adults on a regular basis away from their primary residence, and for less than 24 hours a day. Care can include education and development activities. Care can be provided during daytime or nighttime hours. Accessory uses include offices, food preparation, recreation areas, and parking.	
	<b>2. USE TYPES:</b>	
	(a) Day care center	A facility, other than an occupied dwelling, that provides for the care of more than 5 preschool age, or a combination of preschool and school age children under 13 years of age totaling 9 or more, or 9 or more adults, who do not reside in the facility, at least once per week for at least four hours, but less than 24 hours per day.
	<b>3. EXCEPTIONS:</b>	
	(a) Home day care is considered an accessory use.	
	(b) Drop-in or short-term day care provided in connection with employment or at a shopping center, recreational facility, religious institution, hotel, or other principal uses are not considered in the Day Care Use Category.	
<b>C. EDUCATION</b>	<b>1. CHARACTERISTICS:</b>	
	The Education Use Category includes use types that provide for all levels of education. Examples include elementary, secondary, post-secondary, technical, and specialized instructional schools.	
	<b>2. USE TYPES:</b>	

	(a) College or university	A public or private institution for post-secondary education offering courses in general or technical education, which operates within buildings on land owned or leased by the institution for administrative and faculty offices, classrooms, laboratories, chapels, auditoriums, lecture halls, libraries, student and faculty centers, athletic facilities, dormitories, fraternities and sororities, residential units, and other facilities which further the educational mission of the institution in a campus setting. In no event shall this definition prohibit a college or university from engaging in an activity historically conducted by the institution.
	(b) Other post-secondary educational facility	A post-secondary school other than a college or university that provides on-site training for business, commercial, and/or trade skills such as accounting, data processing, automobile repair, construction skills, and computer repair. This use type includes satellite classrooms for larger colleges and universities.
	(c) School	An educational institution that provides elementary or secondary education. Accessory uses may include offices, play areas, cafeterias, recreational and sport facilities, auditoriums, and before- or after-school day care.
		1) Major - Any high school or a middle school designed for 800 or more students.
		2) Minor - An elementary school or middle school designed for less than 800 students, or any combination thereof designed for less than 800 students.
	(d) Truck driving school	A specialized instructional school that provides on-site and on-the-road training in the operation of heavy trucks, tractor trailers, and transport vehicles.
D. HEALTH CARE	1. CHARACTERISTICS:	
		The Health Care Use Category includes use types that provide medical or surgical care and treatment to patients as well as laboratory services. Accessory uses may include offices, laboratories, laundry facilities, teaching facilities, meeting areas, cafeterias, parking, maintenance facilities, housing for staff or trainees, and limited accommodations for family members.
	2. USE TYPES:	
	(a) Hospital	An inpatient facility 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 facilities may include outpatient medical or surgical care for the sick or injured, and related facilities such as laboratories, training facilities and central services facilities. Accessory uses may include staff offices, cafeterias, parking, and maintenance facilities.
	(b) Medical care facility	An outpatient facility where patients are admitted for examination and treatment by 1 or more physicians, dentists, opticians, psychiatrists, or psychologists. Patients receive outpatient care only, which may be provided overnight (as in the case of sleep disorder centers). Accessory uses may include sleeping rooms for care workers and members of patient's families.

	1) Major - A medical care facility with more than 10,000 square feet of gross floor area.	
	2) Minor - A medical care facility with 10,000 square feet of gross floor area or less.	
	(c) Specialty hospital	A hospital with highly specialized personnel, equipment, procedures, or facilities for the treatment of unique conditions, patients, or specific ailments. Examples include psychiatric hospitals, hospitals for children, hospitals that specialize in cancer care, or hospitals that focus on treating particular conditions such as burns.
	<b>3. EXCEPTIONS:</b>	
	(a) A use type that involves provision of residential care for the elderly is classified as Life Care.	
	(b) A use type that provides exclusive care and planned treatment or training for psychiatric, alcohol, or drug issues, where patients are residents and participants in a program are classified as Group Living.	
<b>E. RELIGIOUS INSTITUTIONS</b>	<b>1. CHARACTERISTICS:</b>	
	The Religious Institutions Use Category includes use types that provide meeting areas for religious activities. Accessory uses may include kitchens/cafeterias, recreation areas, offices, meeting rooms, and parking.	
	<b>2. USE TYPES:</b>	
	(a) Religious Institution	A place in which worship, ceremonies, rituals, and education are held, together with accessory uses (including locations used for education and recreation activities), operated and maintained under the direction of the religious group. Examples include churches, mosques, synagogues, and temples. Accessory uses may include parking, caretaker's housing, pastor's housing, day care, and group living facilities for persons associated with the religious organization, such as convents.
<b>F. TRANSPORTATION</b>	<b>1. CHARACTERISTICS:</b>	
	The Transportation Use Category includes use types that provide for the landing and takeoff of airplanes and helicopters, and passenger terminals for surface transportation. Accessory uses may include freight handling areas, concessions, offices, parking, maintenance, and fueling facilities.	
	<b>2. USE TYPES:</b>	
	(a) Airport	A facility that provides for the landing and take-off of aircraft, including helicopters, and all necessary facilities for the housing, maintenance, and repair of aircraft.
	(b) Park and ride facility	A facility that provides mass transportation from a parking lot.
	(c) Passenger terminal, surface transportation	A facility where the principal use is the handling, receiving, transfer, and discharging of passengers of various modes of surface transportation. Examples include terminals for bus, trolley, railroad, shuttle van, or other similar vehicular services.

	(d) Taxi or limousine service facility	A facility that provides transportation service via a taxi, limousine, or shuttle, and includes storage and maintenance of vehicles.
	<b>3. EXCEPTIONS:</b>	
	Transit route facilities such as bus stops and bus shelters are exempt from this Ordinance.	
<b>G. UTILITIES</b>	<b>1. CHARACTERISTICS:</b>	
	The Utilities Use Category includes both major and minor utilities as well as wireless telecommunications facilities. Major utilities are infrastructure services that provide regional or community-wide service. Minor utilities are neighborhood or subdivision infrastructure services that need to be located in or near the neighborhood or subdivision where the service is provided. Communication or broadcasting facilities and wireless telecommunication facilities are also types of utilities. Services may be publicly or privately provided. Accessory uses may include offices, parking, monitoring, storage areas, or data transmission equipment.	
	<b>2. USE TYPES:</b>	
	(a) Communication or broadcasting facilities	A radio, television, or other digital signal broadcasting facility engaged in the distribution of audio and/or video content to a dispersed audience via any audio or visual mass communications medium.
	(b) Solar array	A group or series of photovoltaic (or solar) panels placed to convert solar radiation into usable direct current electricity and provide that electricity to a use on-site or to the larger electrical network.
	(c) Utility facility	<p>All facilities and equipment related to the provision, distribution, collection, transmission, or disposal of water, stormwater, sanitary sewage, natural gas, electricity, cable television, telephones, and wired telecommunications.</p> <p>(1) Major - A utility providing regional or community-wide service that normally entails the construction of new buildings or structures. Examples include wastewater treatment plants, potable water treatment plants, electrical generation plants, utility equipment and storage yards, and wind and energy facilities.</p> <p>(2) Minor - A utility providing a localized service or network function that is small in scale and impact. Examples include natural gas border stations, utility substations, water towers, water and sewage pump stations, stormwater management facilities, and telephone exchanges.</p>
	(d) Wireless telecommunication facility	A facility engaged in the transmission or reception of wireless communications signals consisting of digital or analog voice and data information. Wireless telecommunications facilities include free-standing towers, antenna, and ground-based equipment. Antenna may also be placed on buildings and other structures such as water towers, electrical transmission towers, church steeples, and other vertical projections. Accessory uses typically include equipment buildings and parking areas. Additional definitions related to concealed wireless facility (stealth wireless facility) uses are included in <u>Section 10.4, Definitions</u> .

		1) Major - Any application for wireless facilities and/or wireless support structures other than those meeting the definition of a minor wireless telecommunications facility.
		2) Minor - Any application for a wireless facility and/or wireless support structure that:
		(a) Is a new wireless support structure that is 60 feet or less in height or collocated on an existing building in accordance with <u>Section 4.3.3 F.3(e)(4)</u> , Collocation of Antennae on an Existing Building, located in any zoning district, or
		(b) Is a new wireless support structure that is 200 feet or less in height in any PNR, I, LI, or HI zoning district, or
		(c) Is a concealed wireless facility that is 80 feet or less, in any residential zoning district, or
		(d) Is a concealed wireless facility that is 150 feet or less in height in any zoning district except residential, or
		(e) Is a monopole or replacement pole located on public property or within an electrical transmission line easement or right-of-way, in any zoning district, or
		(f) Is considered a substantial modification, as defined in this ordinance, of an existing wireless facility or support structure.
		<b>3. EXCEPTIONS:</b>
		(a) Distribution poles, transmission poles, ground-based electrical/telephone/cable vaults, and transmission lines are exempt from this ordinance.
		(b) Landfills, recycling and salvage centers, and waste composting uses are considered Waste-Related Services.

#### 4.2.6. - Commercial Use Classification

Table 4.2.6, Commercial Use Classification, sets out the Use Categories and use types included in the commercial use classification in 4.1.9, Principal Use Table. Table 4.2.6 describes the characteristics of the adult entertainment, animal care, eating establishments, offices, commercial parking, recreation and leisure, retail sales and services, vehicle establishments, and visitor accommodations use categories; and defines the use types included within each use category.

TABLE <u>4.2.6</u> : COMMERCIAL USE CLASSIFICATION	
<b>A. ADULT ENTERTAINMENT</b>	<b>1. CHARACTERISTICS:</b>
	The Adult Entertainment Use Category includes use types that sell, distribute, or present material or feature performances or other activities that emphasize the depiction or display of specified sexual activities or specified anatomical areas as defined by the North Carolina General Statutes.
	<b>2. USE TYPES:</b>

	(a) Adult entertainment	An adult entertainment use is a commercial establishment involved in the provision of services, entertainment, or sales of goods at retail intended solely for consumption by persons over the age of 18. Adult entertainment means adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center, or any combination of the foregoing. Additional definitions related to adult entertainment uses are included in <u>Section 10.4, Definitions</u> .
B. ANIMAL CARE	1. CHARACTERISTICS:	
	The Animal Care Use Category is characterized by use types related to the provision of medical services and treatment to animals, including veterinary services, animal hospitals, and the boarding of animals related to the provision of these services.	
	2. USE TYPES:	
	(a) Animal care	A facility for the provision of medical services and treatment to animals, including veterinary services, animal hospitals, and the boarding of animals related to the provision of these services. Examples include animal shelters, kennels, grooming facilities, animal hospitals, veterinary offices, and veterinary clinics.  1) Major - Animal care uses that include outdoor kennels, runs, or exercise areas.  2) Minor - Animal care uses that do not include outdoor kennels, runs, or exercise areas.
C. EATING ESTABLISHMENTS	1. CHARACTERISTICS:	
	The Eating Establishments Use Category includes use types that prepare and sell food and beverages for immediate or direct on- or off-premise consumption. Examples include restaurants (including brewpubs) with indoor and outdoor seating, bars or nightclubs, caterers, restaurants with drive-through service, specialty eating establishments (ice cream parlors, bakery shops, dessert shops, juice or coffee houses). Accessory uses may include bars or cocktail lounges associated with the establishment, decks and patios for outdoor seating, drive-through facilities, facilities for live entertainment or dancing, customer and employee parking areas, and valet parking facilities.	
	2. USE TYPES:	
	(a) Bar or nightclub	An establishment primarily devoted to the sale of alcoholic beverages for on-site consumption, where the sale of food is incidental. Activities may include dancing or other forms of entertainment (including live performances that are not considered adult entertainment uses) such as billiard tables, darts, and karaoke.
	(b) Restaurant	An establishment that prepares and sells food and beverages for immediate or direct on- or off-premise consumption.  1) Major - A restaurant with a drive-through.  2) Minor - A restaurant with no drive-through.

D. OFFICES	<b>3. EXCEPTIONS:</b>	
	Banquet halls and dinner theatres are considered Civic.	
	<b>1. CHARACTERISTICS:</b>	
	The Office Use Category includes use types that provide for activities that are conducted in an office setting and generally focus on business, professional, or financial services. Examples include offices for conducting the affairs of a general business establishment, financial services or sales of real estate or other personal property, investment banking, stock brokerage, investment services, real estate sales, offices for lawyers, accountants, engineers, architects, planners, and similar professions. Accessory uses may include cafeterias, day care facilities, recreational or fitness facilities, parking, or other amenities primarily for the use of employees in the office.	
	<b>2. USE TYPES:</b>	
	(a) Office	A use where the affairs of a business professional, or financial service establishment is conducted.
		1) Major - An office with more than 10,000 square feet of gross floor area.
		2) Minor - An office with 10,000 square feet of gross floor area or less.
	<b>3. EXCEPTIONS:</b>	
	(a) An office that is part of and located with a principal use in another use category is considered accessory to the establishment's primary activity. A headquarter office that is located in conjunction with or adjacent and related to a principal use in another use category and on the same site is considered part of the other use category.	
	(b) Contractors and others who perform services off-site are included in the Offices Use Category if equipment and materials are not stored outside and no fabrication, service, or similar work is carried on at the site; otherwise they are considered as Industrial Service.	
	(c) Government offices are considered as Government Facilities.	
E. PARKING, COMMERCIAL	(d) Banks, saving and loans, or credit unions are considered as Personal Services.	
	(e) Medical care facilities, including doctor and dental offices, are considered Health Care.	
	<b>1. CHARACTERISTICS:</b>	
	The Commercial Parking Use Category includes use types that provide parking lots and structures that are not accessory to a specific principal use. A fee may or may not be charged for the right to park at the facility. A parking facility that provides both accessory parking for a specific principal use and regular fee parking for persons not connected to the principal use is also classified as Commercial Parking. Accessory uses may include small shelters for parking attendants.	
	<b>2. USE TYPES:</b>	
	(a) Parking, commercial	A parking lot or structure on a site or portion of a site dedicated to vehicular ingress and egress, off-street parking, parking aisles, internal travel ways, fire lanes, and other areas dedicated to vehicular use, but not necessarily including vehicular storage areas. This definition includes parking garages and deck parking.

	<b>3. EXCEPTIONS:</b>	
	(a) Parking facilities that are accessory to a principal use, even if the principal use leases the parking lot, are considered as an accessory use.	
	(b) Park-and-ride facilities are considered Transportation.	
	(c) Parking structures located on a lot with nonresidential, residential, or mixed use development are considered as an accessory use.	
<b>F. PERSONAL SERVICES</b>	<b>1. CHARACTERISTICS:</b>	
	The Personal Service Use Category is characterized by use types related to the provision of services or product repair for consumers.	
	<b>2. USE TYPES:</b>	
	(a) Personal service establishment	An establishment meeting frequent or recurrent service needs of a personal nature, including the repair of small personal items such as shoes, watches, jewelry, and clothing. Examples include laundromats, massage therapy and day spas, laundry and dry-cleaning pick-up and drop-off establishments, banks, savings and loans, credit unions, photography studios, funeral homes and crematoriums, mailing or packaging services, photocopy services, screen printer, barber/beauty shops, and tanning and nail salons.
		(1) Major - A personal services establishment with more than 4,000 square feet of gross floor area.
		(2) Minor - A personal services establishment with 4,000 square feet of gross floor area or less.
	(b) Repair establishments	An establishment engaged in the provision of repair services of durable consumer and households goods, computers, yard equipment, lawn mowers, lamps, and small household appliances.
	(c) Tattoo/body piercing establishment	An establishment whose principal business activity is the inserting of permanent markings or coloration, or the producing of scars, upon or under human skin or the creation of an opening in the body of a person so as to create a permanent hole for the purpose of inserting jewelry or other decoration.
	<b>3. EXCEPTIONS:</b>	
	(a) Travel agencies are considered Offices.	
	(b) Repair of heavy equipment is considered Industrial Services.	
<b>G. RECREATION AND LEISURE</b>	<b>1. CHARACTERISTICS:</b>	
	The Recreation and Leisure Use Category is characterized by use types that provide recreational, amusement, and entertainment opportunities that are commercial in nature.	
	<b>2. USE TYPES:</b>	



	(a) Amusement and entertainment	A commercial use that is typically indoors and that provides recreational, amusement, and entertainment opportunities. Examples include billiards, bingo, bowling, fortune tellers, sweepstakes, skating rinks, movie theaters, coin-operated games, and shooting ranges.
	(b) Amusement parks	A commercial facility that is typically outdoors and that provides entertainment, recreational, and amusement opportunities. Examples include water parks, miniature golf, and go-kart tracks.
	(c) Sports and fitness centers	A commercial facility that focuses on physical fitness, and sports training and instruction. Examples include dance and yoga studios, fitness centers, sports instructional schools, and martial arts instruction.
H. RETAIL SALES	<b>1. CHARACTERISTICS:</b>	
	The Retail Sales Use Category includes use types involved in the sale, lease, or rent of new or used products primarily intended for the general public. Accessory uses may include offices, storage of goods, limited assembly, processing, or repackaging of goods for on-site sale, concessions, ATM machines, outdoor display/sales areas, and parking. Use types within this use category are categorized based on their intensity, scale, and function.	
	<b>2. USE TYPES:</b>	
	(a) Bulky item sales	An establishment engaged in the retail sale and display of large or bulky consumer goods for sale, including but not limited to truck camper tops, bed liners, prefabricated outdoor buildings, manufactured homes, modular homes, play equipment, portable storage containers, or hot tubs.
	(b) Convenience store with fuel sales	A small retail establishment selling items that include but are not limited to food products, household items, newspapers and magazines, candy and beverages, a limited amount of freshly prepared foods such as sandwiches and salad for on- or off-site consumption, and gasoline sales.
	(c) Flea market/antique mall, indoor	Where goods are offered for sale to the general public by individual sellers from open or rented sales areas. Accessory uses may include parking, concessions, restrooms, and indoor storage.
	(d) Pawnshop	An establishment engaged in loaning money upon deposit of personal property. Such uses also store personal property on site and sell retail goods.
	(e) Retail sales establishment	An establishment that sells goods directly to the consumer, where such goods are available for immediate purchase and removal by the purchaser. Examples include stores selling, leasing, or renting consumer, home, and business goods, whether new or used, including art and art supply stores, audio/video stores, bicycle sales, book stores, clothing stores, convenience stores, department stores, dry good sales, electronic equipment stores, fabric shops, furniture stores, florist shops, garden supply centers, gift shops, grocery stores, hardware stores, stores that sell household products, jewelry stores, office supply stores, pet and pet supply stores, and pharmacies. Accessory uses may include storage of products for sale, offices, concessions, seating areas, areas for testing of products prior to purchase, and provision of product-related service or repair.

		1) Large - A retail sales establishment with more than 50,000 square feet of gross floor area on the ground floor for a single tenant, or more than 150,000 square feet on the ground floor serving multiple tenants, including outparcels.
		2) Major - A retail sales establishment between more than 4,000 and 50,000 square feet of gross floor area.
		3) Minor - A retail sales establishment with 4,000 square feet of gross floor area or less.
	(f) Truck stop	An establishment typically engaged in fuel sales that serve commercial truck drivers. The use may provide food, maintenance services, overnight parking, showering rooms, laundry facilities, basic convenience retail items and other services related to the use.
	<b>3. EXCEPTIONS:</b>	
	(a) Laundry and dry-cleaning plants are considered Industrial Services.	
	(b) Building trade contractors with on-site storage that sell primarily to contractors and do not have a retail orientation are considered Industrial Services.	
	(c) Repair and service of automobiles, motorcycles, and light and medium trucks are considered as Vehicle Establishments.	
	(d) Bars, nightclubs, and similar establishments, as well as bakeries are considered Eating Establishments.	
	(e) An establishment that provides financial, professional or business services in an office setting are considered Office.	
	(f) An establishment that involves the sale, distribution, or presentation of materials or activities emphasizing sexually explicit content are considered Adult Entertainment.	
<b>I. VEHICLE ESTABLISHMENTS</b>	<b>1. CHARACTERISTICS:</b>	
	The Vehicle Establishments Use Category includes use types involving the direct sale; rental; storage; and servicing of automobiles, trucks, boats, motorcycles, recreational vehicles, and other consumer motor vehicles intended to transport persons or goods over land or water or through the air, whether for recreation, commerce, or personal transport. Accessory uses may include offices, sales of parts, maintenance facilities, parking, outdoor display, and vehicle storage.	
	<b>2. USE TYPES:</b>	
	(a) Vehicle establishments	Uses involving the direct sales and service of motorized vehicles.
		1) Major - Establishments that are primarily engaged in vehicle sales, rental, storage, towing, and major repair such as transmission, engine repair and bodywork and repainting.
		2) Minor - Establishments that are primarily engaged in washing cars, tire sales, minor repair such as diagnostic work, lubricating, wheel alignment and inspections, but no vehicle sales or rental.
	<b>3. EXCEPTIONS:</b>	

J. VISITOR ACCOMMODATIONS	(a) Auto parts and supply sales are considered Retail Sales.	
	(b) Refueling and maintenance facilities for vehicles belonging to a specific principal use (fleet vehicles) are considered accessory uses if located on the site of the principal use.	
	(c) Storage of salvaged or junk vehicles or parts is considered a Waste-Related Service.	
	1. CHARACTERISTICS:	
	The Visitor Accommodations Use Category includes use types that provide lodging units or space for short-term stays for rent, lease, or interval occupancy. Accessory uses may include pools and other recreational facilities, limited storage, restaurants, bars, supporting commercial, meeting facilities, offices, and parking.	
	2. USE TYPES:	
	(a) Bed and breakfast	A private residence, typically a single-family detached structure engaged in the renting of 1 or more rooms on a daily basis to tourists, vacationers, or business people where the provision of meals is limited to guests only.
	(b) Hotel or motel	A building or group of buildings in which sleeping accommodations are offered to the public and intended for temporary occupancy on an overnight or short term basis. Accessory uses may include restaurants, bars, offices, and onsite recreational facilities. Some rooms may include in-room kitchen, dining, and laundry facilities.

## 4.2.7. - Industrial Use Classification

Table 4.2.7, Industrial Use Classification, sets out the use categories and use types included in the industrial use classification in 4.1.9, Principal Use Table. Table 4.2.7 describes the characteristics of the extractive industry, industrial services, manufacturing and production, warehousing and freight movement, waste-related service, and wholesale trade, and defines the use types included within each use category.

TABLE 4.2.7: INDUSTRIAL USE CLASSIFICATION		
A. EXTRACTIVE INDUSTRY	1. CHARACTERISTICS:	
	The Extractive Industry Use Category includes use types involving the extraction, removal, or basic processing of minerals, liquids, gases, or other natural resources. Such uses also include quarrying, well operation, drilling, mining, or other procedures typically done at an extraction site. Accessory uses may include offices, limited wholesale sales, security or caretakers quarters, outdoor storage, and maintenance facilities. Examples include quarries, borrow pits, mining, and sand and gravel operations.	
	2. USE TYPES:	
	(a) Extractive industry	A use involving the extraction, removal, or basic processing of minerals, liquids, gases, or other natural resources.
B. INDUSTRIAL SERVICE	1. CHARACTERISTICS:	

The Industrial Service Use Category includes use types involving the repair or servicing of industrial, business, or consumer machinery equipment, products, or byproducts. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site. Examples include machine shops; tool repair; heavy equipment servicing and repair; and general industrial service uses. Accessory uses may include limited retail or wholesale sales, offices, parking, warehousing, and outdoor storage.

**2. USE TYPES:**

**(a) Industrial service**

Establishments engaged in the repair or servicing of agriculture, industrial, business, or consumer machinery, equipment, products, or by-products. Few customers, especially the general public, come to the site.

1) Major - Uses that include, but are not limited to, heavy equipment sales, rental, or storage; heavy equipment servicing and repair; building, heating, plumbing, or electrical contractors; fuel oil or bottled gas distributors; septic tank services; and well drilling.

2) Minor - Uses that include, but are not limited to tool repair, electric motor repair; repair of scientific or professional instruments; and laundry, dry-cleaning, and carpet cleaning plants, that typically are, or can be, contained within an enclosed building.

**3. EXCEPTIONS:**

(a) Contractors and others who perform services off-site are considered Offices if equipment and materials are not stored outside and no fabrication, services, or similar work is carried on at the site.

(b) Drop-off and pick-up dry cleaners are considered Personal Services.

**C. MANUFACTURING AND PRODUCTION**

**1. CHARACTERISTICS:**

The Manufacturing and Production Use Category includes use types involving the manufacturing, processing, fabrication, packaging, or assembly of goods. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. This use category also includes custom industries (establishments primarily engaged in on-site production of goods by use of hand tools and small-scale equipment). Goods are generally not displayed or sold on site, but if so, such sales are a subordinate part of total sales. Relatively few customers come to the manufacturing site. Accessory uses may include retail or wholesale sales, offices, cafeterias, parking, employee recreation facilities, warehouses, storage yards, repair facilities, truck fleets, fueling facilities, security and caretaker's quarters.

**2. USE TYPES:**

**(a) Asphalt plant**

An industrial establishment engaged in the production of asphalt, macadam, or blacktop for use in the construction and repair in roadways and vehicular use areas. The use involves the stockpiling of sand, binder and filler, as well as a heater to mix the ingredients. Accessory uses may include the storage and maintenance of paving equipment as well as the stockpiling of used asphalt for re-use.

**(b) Manufacturing**

An establishment involved in the manufacturing, processing, fabrication, packaging, or assembly of raw materials, or partially finished goods.

		<p>(1) Major - 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. Examples include manufacturing and assembly of machinery; manufacturing of petroleum or petroleum-related products; rubber and plastics manufacturing; and adhesives, coatings, or paint manufacturing.</p>
		<p>(2) Minor - 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 within enclosed buildings, which limit the creation of noise, vibration, dust, glare, heat, odor, and smoke. Minor manufacturing examples include production or repair of small electronic parts and equipment; sewing or assembly of textiles into consumer products; computer and electronics assembly; furniture assembly; and the assembly of pre-fabricated parts.</p>
	(c) Microbrewery, microdistillery, or microwinery	An establishment engaged in the production and packaging of malt beverages, wine or spirits for distribution, retail, or wholesale both on and off-premise. 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 microdistillery 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.
	(d) Motion picture production	An activity involving the design and production of a specific type of audiovisual work wherein the images, when displayed, give the impression of motion. Audiovisual works include movies, as well as slide shows, and video games.
	3. EXCEPTIONS:	
	Manufacturing and production of goods from salvage or composting material is classified as Waste-Related Services.	
D. WAREHOUSE AND FREIGHT MOVEMENT	1. CHARACTERISTICS:	
	The Warehouse and Freight Movement Use Category includes use types involving the storage or movement of goods for themselves or other firms or businesses. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present. Examples include separate storage warehouses (used for storage by retail stores such as furniture and appliance stores); distribution warehouses; cold storage plants; and self-service storage. Accessory uses may include offices, truck fleet parking, outdoor storage, and maintenance areas.	
	2. USE TYPES:	
	(a) Freight movement	Uses involved in the short-term storage and movement of goods for individuals or businesses. Goods are generally delivered to other firms or the final consumer. Accessory uses may include offices, truck parking, outdoor storage, maintenance areas, and security facilities.

	(b) Self-storage, external access	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 have individual exterior access.
	(c) Self-storage, internal access	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 have common internal access.
	(d) Warehouse and distribution	A use engaged in the temporary or long-term storage and distribution of manufactured products, supplies, products for sale or resale, equipment, or personal goods. Accessory uses may include offices and service operations.
	3. EXCEPTIONS:	
	(a) Contractors and others who perform services off-site are considered Offices if equipment and materials are not stored outside and no fabrication, services, or similar work is carried on at the site.	
	(b) Use types that involve the transfer or storage of solid or liquid wastes are considered Waste-Related Services.	
E. WASTE-RELATED SERVICE	1. CHARACTERISTICS:	
	The Waste-Related Service Use Category includes use types that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, or uses that manufacture or produce goods or energy from the composting of organic material or processing of scrap or waste material. Examples include recycling centers, salvage and junk yards, transfer stations, major and minor landfills. Accessory uses may include offices, outdoor storage, recycling of materials, and repackaging and trans-shipment of by-products.	
	2. USE TYPES:	
	(a) Hazardous waste disposal	The systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous wastes. Examples include halogenated and non-halogenated solvents, wastewater treatment sludge, plating bath solutions, metal heat treating solutions, pesticide derivatives, distillation residues and tars, incineration residues, chemicals from the wood preservation process, petroleum refinery by-products, leachate liquids, purification solids, slags, slurry, or any material listed on the EPA's F-, K-, P-, or U-lists of listed hazardous wastes.
	(b) Landfill	A site for solid waste disposal.
		<p>1) Major - A solid waste or sanitary landfill designed to collect and store nonhazardous household waste.</p> <p>2) Minor - A construction and demolition debris landfill that also accepts vegetative debris, or Land Clearing and Inert Debris (LCID). These facilities could also include a recycling center as part of the operation. Accessory uses include stockpiled bricks and concrete available for use as inert fill material and mulch generated on site for resale.</p>
	(c) Recycling center	A facility used for collection and processing of recyclable materials. Processing means the preparation of materials for efficient shipment, or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, sorting, shredding, and cleaning.

		1) Major - A recycling center that handles construction and demolition debris or LCID.
		2) Minor - A recycling center that handles household recyclables such as glass, plastic, metal, cardboard, and paper.
	(d) Salvage or junk yard	An establishment where junk, waste, discarded, salvaged, or similar materials such as old metals, wood, lumber, glass, paper, rags, cloth, bagging, cordage, barrels, containers, appliances, and the like, are brought, sold, exchanged, baled, packed, disassembled, stored, or handled. Examples include automobile wrecking or automobile wrecking yards; heavy equipment wrecking yards; and yards where salvaged structural steel materials are stored, handled, and sold.
	(e) Transfer station	A storage or collection facility where solid waste from collection vehicles is consolidated and temporarily stored for subsequent transport to a permanent disposal site
	3. EXCEPTIONS:	
F. WHOLESALE TRADE	(a) Wastewater treatment plants and potable water treatment plants are considered Utilities.	
	(b) Temporary LCID landfills are considered a temporary use.	
	1. CHARACTERISTICS:	
	The Wholesale Trade Use Category includes use types involving the sale, lease, or rent of products primarily intended for industrial, institutional, trade or commercial businesses. The uses emphasize on-site sales or taking of orders and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited. Products may be picked up on-site or delivered to the customer. Accessory uses may include offices, product repair, warehouses, minor fabrication services, outdoor storage, and repackaging of goods.	
	2. USE TYPES:	
	(a) Market showroom	A use associated with the furniture and home furnishings industry and primarily engaged in the display of wholesale furniture, home furnishings and accessories.
	(b) Toxic chemicals or substances, pesticides, or fertilizers	Establishments primarily engaged in selling toxic chemicals or substances, pesticides or fertilizers to retailers, professional business owners, or to other wholesalers.
	(c) Wholesale	Establishments primarily engaged in selling merchandise to retailers, professional business owners, or to other wholesalers.
		(1) Major - A wholesale use located in a building of more than 10,000 square feet of gross floor area, or that includes outdoor storage, and does not sell toxic chemicals or substances, pesticides, or fertilizers.
		(2) Minor - A wholesale use located in a building of 10,000 square feet of gross floor area or less that does not include outdoor storage and does not sell toxic chemicals or substances, pesticides, or fertilizers.
	3. EXCEPTIONS:	

(a) Establishments that engage primarily in sales to the general public or on a membership basis are considered Retail Sales.
(b) Establishments that are primarily storing goods with little on-site business activity are considered Warehousing and Freight Movement.

#### 4.3. - Use Standards

Use standards are additional requirements applied to certain individual use types identified in Table 4.1.9, Principal Use Table by a section reference in the Additional Standards column. Use standards are fully applicable to new principal uses within those individual use types. Use standards are also applicable, to the maximum extent practicable, to expansions of existing principal uses within those individual use types.

(Ord. No. 7415/18-44, § 5.A, 5-21-2018)

##### 4.3.1. - Agriculture Uses

###### A. Agriculture

1. **Agricultural Production (crops)** Sale of produce grown on-site or on an adjacent lot that is part of the same agricultural operation is permitted provided they take place outside the right-of-way.

##### 4.3.2. - Residential Uses

###### A. Common Elements Recreation

1. **Common Elements Recreation** Outdoor courts, swimming pools, and athletic fields shall be located at least 50 feet from any lot line abutting a residential district.

###### B. Household Living

1. **Duplex Dwelling** Duplex dwellings shall comply with the following standards:
  - (a) It shall face the street from which the dwelling derives its street address; and
  - (b) It shall be limited to a maximum of 1 driveway on a block face in the R-5 and R-7 districts. Circular driveways are excluded from this requirement.
2. **Family Care Home** A family care home shall not be located within one-half mile (2,640 feet) of an existing family care home.
3. **Live/Work Dwelling** A live/work dwelling shall comply with the following standards:
  - (a) The residential portion of the building shall occupy at least 50 percent of the gross floor area.
  - (b) The nonresidential portion of the building is limited to an office, personal service, retail sales, or restaurant, minor use type.
  - (c) Drive-through facilities are prohibited.
  - (d) Signage for the nonresidential portion of the building is allowed in accordance with the standards in Section 5.7, Signage. In the RM-16 and RM-26 districts wall signs shall be allowed in accordance with the TO district, except that the size shall be limited to a 25 square foot minimum and maximum of 5 percent of the wall area of the first floor facade. The sign height shall be limited to the top of the first floor facade. Freestanding signs are prohibited in RM-16 and RM-26.
4. **Manufactured Dwelling** A manufactured dwelling shall comply with the following standards:
  - (a) It shall be located on a parcel of land in an MHO district;
  - (b) It shall be occupied only as a single family dwelling;
  - (c) It shall be served by public water and sewer;
  - (d) It shall be set up 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/Mobile Homes;
  - (e) It shall maintain a minimum width of 16 feet;
  - (f) It shall be oriented with the longest axis parallel to the lot frontage, to the maximum extent practicable;
  - (g) Towing apparatus, wheels, axles, and transporting lights shall be removed;
  - (h) It shall include a continuous, permanent masonry foundation or masonry curtain wall of solid brick or brick veneer, unpierced except for required ventilation and access, installed under the perimeter;
  - (i) 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;



- (j) It shall maintain exterior siding comparable in composition, appearance, and durability to the exterior siding commonly used in standard which consists of one or more of the following:
    - (1) Vinyl or aluminum lap siding (whose reflectivity does not exceed that of flat white paint);
    - (2) Cedar or other wood siding;
    - (3) Stucco siding;
    - (4) Brick or stone siding.
  - (k) It shall maintain a roof pitch with a minimum vertical rise of 3 feet for each 12 feet of horizontal run;
  - (l) It shall include a roof finished with a Class C or better roofing material that is commonly used in standard residential construction; and
  - (m) It shall provide an eave projection of no less than 6 inches, which may include a gutter.
5. **Multi-Family Dwelling** Multi-family development shall comply with the following standards:
- (a) **Building Placement**
    - (1) A minimum 10 feet of separation shall be maintained between all buildings in the development.
    - (2) Buildings must be set back from private drives and parking lots a minimum of 10 feet as measured from back of curb or edge of pavement, if no curb is provided.
  - (b) **Building Length**
    - (1) The maximum length of a multi-family building shall be 250 linear feet, except in the CB and MX districts, where no maximum length is applied.
    - (2) No maximum building length shall be applied if the building is designed for occupancy by the elderly and it has central facilities for dining and recreation.
    - (3) In no instance shall the provision of a firewall between different building sections constitute 2 separate buildings for the purpose of meeting the building length requirement.
  - (c) **Open Space** The development shall comply with the open space standards of Section 5.12, Open Space.
  - (d) **Recreation Facilities** Active recreation facilities must be placed a minimum of 50 feet from adjacent land used for single-family residential purposes.
  - (e) **Pedestrian Connections** Pedestrian connections shall be:
    - (1) Provided between building entrances, parking lots, public sidewalks, and recreational facilities;
    - (2) At least 4 feet in width and constructed of a dustless all-weather surface; and
    - (3) Configured to connect to parks and greenways that abut the development, to the maximum extent practicable.
  - (f) **Utilities Underground** All electric, communications, water, and sewer utility lines shall be installed underground.
  - (g) **Adaptive Reuse in the Core City** In order to reuse the existing buildings in the Core City in accordance with the City's adopted policy guidance, multi-family uses are permitted in the LI district, subject to the following standards:
    - (1) The LI district must be located in the Core City area;
    - (2) The new use must reuse an existing building or buildings;
    - (3) The total square footage of all building additions for multi-family; personal service, major; major and minor retail sales; major and minor assembly; and major and minor cultural facility uses shall be limited to a maximum of 25 percent of the total gross floor area of all principal buildings existing on the site as of the effective date of this Ordinance.
    - (4) The site is only required to meet the standards of 4.3.2.B.5.e and f.
6. **Single-Family Attached Dwelling** Single-family attached development shall comply with the following standards:
- (a) **Building Placement**
    - (1) A minimum ten feet of separation must be maintained between all buildings in the development.
    - (2) 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.
  - (b) **Maximum Number of Units per Building**
    - (1) In the R-5 and R-7 districts the maximum number of attached dwellings shall be 2 per building (twin home).
    - (2) In the RM-5 and TO districts, the maximum number of attached dwelling units shall be 6 per building.
    - (3) In the RM-16, OI, LB, EC, and I districts, the maximum number of attached dwelling units shall be 8 per building.
    - (4) In the RM-26, GB, and RC districts, the maximum number of attached dwelling units shall be 10 per building.
  - (c) **Internal Street Setback** On a street constructed within a single-family attached development, the street setback may be reduced to a minimum of 15 feet in accordance with the following standards:
    - (1) For attached units abutting a street or private drive with a sidewalk, the individual driveways for the units must be a minimum length of 20 feet as measured from the sidewalk.

- (2) For attached units abutting a street or private drive without a sidewalk, the individual driveways for the units must be a minimum 1 foot from back of curb or edge of pavement for streets and drives without a curb.
- (d) **Open Space** The development shall be in conformance with the open space standards of Section 5.12, Open Space.
- (e) **Recreation Facilities** Active recreation facilities must be placed a minimum of 50 feet from adjacent land used for single-family residential purposes.
- (f) **Utilities** All electric, communications, water and sewer utility lines shall be installed underground.
- 7. **Triplex and Quadplex** Triplex and quadplex dwellings shall comply with the following standards:
  - (a) The dwelling shall face the street from which the dwelling derives its street address.
  - (b) If a parking lot is provided, it shall be located to the interior side or rear of the dwelling and not be located between the dwelling and the street.
  - (c) Where permitted in the R-5 and R-7 Districts, the dwelling shall be limited to a corner lot.

**C. Group Living**

- 1. **Dormitory, Private** A private dormitory shall comply with the following standards:
  - (a) Be located on a lot or site located within a half-mile radius of the primary college or university it serves.
  - (b) Calculate density in accordance with Section 10.2.5, Density and Intensity, (2 bedrooms shall be equivalent to 1 dwelling unit).
- 2. **Single Room Occupancy (SRO)** Single room occupancy uses shall comply with the following standards:
  - (a) There shall be a minimum of 70 square feet of gross floor area provided for each rooming unit.
  - (b) Each building used for a single room occupancy use shall include a common area in the form of recreation rooms, living rooms, lounges, dining rooms, or other gathering areas at a rate of 5 square feet per unit. In no instance shall a single room occupancy use include less than 250 square feet of common area.
  - (c) Bathrooms, laundries, hallways, lobby areas, vending areas, and kitchens shall not be counted as common area.
  - (d) On site management shall be provided on a 24-hour basis.
  - (e) Calculate density in accordance with Section 10.2.5, Density and Intensity: when calculating density for an SRO, a rooming unit of less than 150 square feet shall be equivalent to ½ a dwelling unit; and a rooming unit of 150 square feet or more shall be equivalent 1 dwelling unit.
- 3. **Social Service Facility (Major and Minor)** A social service facility (major and minor) shall comply with the following standards:
  - (a) At least 50 square feet of gross floor area shall be provided for each person being housed or sheltered at the facility.
  - (b) The facility operator(s) shall provide continuous on-site supervision during the hours of operation through employee(s) and/or volunteer(s).

**D. Life Care**

- 1. **Assisted Living Facility** A major life care facility shall comply with the following standards:
  - (a) If provided, shared food preparation, service, and major dining areas shall be centrally located.
  - (b) Common social and service facilities shall be provided at a minimum rate of 30 square feet per dwelling or rooming unit in addition to the minimum amount of required open space.
  - (c) All facilities and services shall be solely for the use of residents and their guests.
  - (d) Facilities for administrative services and limited medical services for the exclusive use of the residents may be located on the site.
  - (e) Density should be calculated in accordance with Section 10.2.5, Density and Intensity: 2 bedrooms shall be equivalent to 1 dwelling unit.
- 2. **Continuing Care Retirement Community (CCRC)** A CCRC shall comply with the following standards:
  - (a) Retail, personal service, and institutional uses are intended to serve residents and their guests, and shall not be located within individual stand-alone buildings.
  - (b) The setback requirements of the zoning district are applied only to the development along the perimeter of the CCRC.
  - (c) Unless otherwise stated below, a CCRC shall comply with the development standards in Chapter 5: Development Standards.
    - (1) The landscaping requirements in Section 5.5, Landscaping Standards, shall apply to portions of a CCRC within 50 linear feet of the edge of the development.
    - (2) A CCRC shall comply with the applicable open space standards for residential development in Section 5.12, Open Space, except that the floor area associated with exercise and rehabilitation facilities shall be credited towards open space requirements.
  - (d) Density should be calculated in accordance with Section 10.2.5, Density and Intensity, (2 bedrooms shall be equivalent to 1 dwelling unit).

(Ord. No. 7415/18-44, § 5.B, 5-21-2018)

**A. Civic**

1. **Assembly (Major and Minor)** An assembly use (major and minor) shall comply with the following standards:
  - (a) Have street frontage on a street classified higher than a residential local street.
  - (b) Have no access from a residential local street, unless the use is located on a corner lot with street frontage on a thoroughfare street.
  - (c) Outdoor courts, swimming pools, and athletic fields shall be located at least 50 feet from any lot line abutting a residential district.
  - (d) Assembly uses in residential districts shall be on a lot of at least 2 acres.
  - (e) Assembly uses with permanent seating for 1,000 or more shall require a special use in accordance with Section 2.4.11, Special Use.
  - (f) In order to reuse the existing buildings in the Core City in accordance with the City's adopted policy guidance, major and minor assembly uses are permitted in the LI district, subject to the following standards:
    - (i) The LI district must be located in the Core City area;
    - (ii) The new use must reuse an existing building or buildings;
    - (iii) The total square footage of all building additions for multi-family; personal service, major; major and minor retail sales; major and minor assembly; and major and minor cultural facility uses shall be limited to a maximum of 25 percent of the total gross floor area of all principal buildings existing on the site as of the effective date of this Ordinance.
2. **Cemetery, Columbarium, Mausoleum** A cemetery shall comply with the following standards:
  - (a) Be located on a lot or site at least 3 acres in area;
  - (b) Provide space for on-site parking and maneuvering of funeral processions;
  - (c) Have street frontage on a street classified higher than a residential local street;
  - (d) Have no access from a residential local street, unless the use is located on a corner lot with street frontage on a thoroughfare street; and
  - (e) Ensure interments take place at least 50 feet from a lot line and comply with the requirements of State law.
3. **Cultural Facility (Major and Minor)** In order to reuse the existing buildings in the Core City in accordance with the City's adopted policy guidance, major and minor cultural facility uses are permitted in the LI district, subject to the following standards:
  - (a) The LI district must be located in the Core City area;
  - (b) The new use must reuse an existing building or buildings;
  - (c) The total square footage of all building additions for multi-family; personal service, major; major and minor retail sales; major and minor assembly; and major and minor cultural facility uses shall be limited to a maximum of 25 percent of the total gross floor area of all principal buildings existing on the site as of the effective date of this Ordinance.
4. **Public Recreation Facility** Outdoor courts, swimming pools, and athletic fields shall be located at least 50 feet from any lot line abutting a residential district.

**B. Day Care**

1. **Day Care Center** A day care center shall comply with the following standards:
  - (a) Meet all applicable State licensing requirements;
  - (b) Have street frontage on a street classified higher than a residential local street;
  - (c) Have no access from a residential local street; unless the use is located on a corner lot with street frontage on a thoroughfare street;
  - (d) Outdoor recreation areas shall:
    - (1) Be located behind the front building line of the principal building;
    - (2) Be completely enclosed by a fence that is at least 4 feet in height; and
    - (3) Be safely segregated from parking, loading, or service areas.
  - (e) Screen outdoor recreation areas adjacent to a residential district with an opaque fence, wall, or other allowed method in Section 5.5.6, Screening Methods, to a height of 6 feet above grade level;
  - (f) If located in a residential district, signage is limited to 1 monument sign with a maximum area of 24 square feet and a maximum height of 6 feet.

**C. Education**

1. **Other Post-Secondary Educational Facility** Facilities within a post-secondary school which generate significant noise or fumes, such as auto body or engine repair, industrial/auto body painting, or manufacturing processes, and that are adjacent to a residential district shall be at least 100 feet from any lot line abutting the residential district.
2. **School (Major and Minor)** A school (major and minor) shall comply with the following standards:
  - (a) Have street frontage and gain primary access on a street classified higher than a residential local street.
  - (b) Have no access from a residential local street, unless the use is located on a corner lot with street frontage on a thoroughfare street.

**D. Religious Institutions**

A religious institution in a residential district on a lot of 3 acres in area or larger shall comply with the following standards:

- (a) Have street frontage and gain primary access on a street classified higher than a residential local street.
- (b) Have no access from a residential local street, unless the use is located on a corner lot with street frontage on a thoroughfare street.

#### E. Transportation

1. **Park and Ride Facility** A park and ride facility shall not front on or gain access from a residential local street.

#### F. Utilities

1. **Solar Array** A solar array use shall comply with the following standards:
  - (a) Be on a site of at least 1 acre in area;
  - (b) Signage shall be limited to ownership and contact information, and any other information required by government regulation. Commercial advertising is prohibited. Notwithstanding, nothing in this section shall prohibit signage that is legally approved for other uses on the same lot or site on which the solar array facility is located;
  - (c) Be enclosed with a fence of at least 6 feet in height; and
  - (d) Not create glare or shadows on adjacent lands.
2. **Utility Facility (Major and Minor)** Utility facilities (major and minor) shall comply with the following standards:
  - (a) **Setbacks** All facilities, substations and buildings shall meet the setback requirements of the zoning district.
  - (b) **Height** A water tower may exceed the maximum height of the zoning district, if 1 foot of additional setback is provided from all property lines for every 2 feet the tower exceeds the maximum height limit.
  - (c) **Landscaping** Required landscaping shall be planted between the building setback line and the lot line, except landscaping material shall not be required in areas where minimum safety clearances are required.
  - (d) **Appearance** When located in a residential district, or adjacent to a residential district, all habitable principal and accessory buildings shall have a roof pitch with a minimum vertical rise of 3 and one-half feet for each 12 feet of horizontal run, and include materials compatible with buildings in the vicinity.
3. **Wireless Telecommunication Facility (Major and Minor)**
  - (a) **Purpose** This section establishes general standards for the siting of wireless telecommunications facilities that will provide for the public health, safety, and welfare. The standards are intended to ensure that residents, businesses, and public safety operations in the city have reliable access to wireless telecommunications networks and state of the art mobile broadband communications services. More specifically, the provisions of this section are intended to:
    - (1) Ensure adequate protection of residential areas and uses from potential adverse impacts of wireless support structures and antennae, and to generally encourage the location of these facilities in areas where adverse impact on the community is minimal;
    - (2) Strongly encourage the joint use of new and existing wireless support structures so as to minimize the number of new towers throughout the city, and establish stealth towers as the primary option for single user wireless facilities;
    - (3) Enhance the ability of telecommunications services providers to provide services to the community quickly, effectively, and efficiently; and
    - (4) Encourage wireless support structures that are carefully engineered, sited, and screened to avoid potential damage to adjacent properties from tower failure, and to minimize adverse visual impact.
  - (b) **Applicability** A new wireless telecommunications facility, whether considered a principal or accessory use, shall comply with the standards of this section, unless specifically exempted in accordance with subsection (c) below. All wireless facilities and support structures 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 State or federal government that regulates telecommunications facilities.
  - (c) **Exemptions** The following shall be exempt from the standards of this section, but shall be required to comply with all other relevant standards in this Ordinance:
    - (1) Removal or replacement of transmission equipment on an existing wireless support structure or base station that does not result in a substantial modification.
    - (2) Ordinary maintenance of existing wireless facilities and support structures.
    - (3) Wireless facilities placed on utility poles or on electric transmission line towers with the permission of the utility owning the pole or tower.
    - (4) Temporary wireless communication facilities (or "COWs") in accordance with Section 4.5.4 J, Temporary Wireless Telecommunications Facility.
    - (5) Satellite dish antennae, receive-only television or radio antennae for noncommercial use, and antennae legally operated by FCC-licensed amateur radio operators in accordance with Section 4.4, Accessory Structures and Uses.
  - (d) **Facilities Distinguished**
    - (1) **Minor Wireless Telecommunications Facility** The following uses are considered minor wireless telecommunications facilities

that may only be established in accordance with the standards of this section and Section 2.5.14, Site Plan:

- (i) A new wireless support structure of 60 feet in height or less in any zoning district;
  - (ii) A concealed or stealth wireless facility of 80 feet in height or less in a residential district;
  - (iii) A concealed or stealth wireless facility of 150 feet in height or less in a business, special, or planned development district;
  - (iv) A new wireless support structure of 200 feet in height or less in a PNR, I, LI, or HI district;
  - (v) Collocation of equipment on an existing wireless telecommunications facility, support structure, or building in any district; or
  - (vi) A substantial modification of an existing wireless facility or support structure in any district.
- (2) **Major Wireless Telecommunications Facility Uses** that do not meet the criteria for a minor wireless communications facility in subsection (d)(1) above are considered major wireless telecommunications facilities that may only be established in accordance with the standards of this section and Section 2.4.11, Special Use.
- (e) **General Standards and Design Requirements**
- (1) **Type of Support Structure Permitted**
    - (i) Concealed or Stealth facilities and support structures shall be permitted in any zoning district.
    - (ii) Monopole support structures shall be permitted in all zoning districts EXCEPT: TO, LB, CB, MS, MX, PD-CC, PD-P, and any Gateway Corridor and Local Historic Overlay Districts.
    - (iii) Lattice or Guyed support structures shall be permitted ONLY in the EC, LI, HI, AGR and PNR zoning districts.
  - (2) **Collocation** New wireless support structures shall be engineered and constructed to accommodate a minimum number of collocations based upon their height.
    - (i) Support structures 60 to 100 feet in height shall support at least 2 additional telecommunications providers.
    - (ii) Support structures greater than 100 feet and less than 150 feet in height shall support at least 3 additional telecommunications providers.
    - (iii) Support structures greater than 150 feet in height shall support at least 4 additional telecommunications providers.
    - (iv) An applicant proposing a new wireless support facility other than a concealed or stealth wireless facility shall demonstrate that no suitable existing wireless support structure, building or other structure within the coverage area is available for the collocation of antennae.
    - (v) The Planning and Development Director, upon request of the applicant, may modify the requirement that new wireless support structures accommodate the collocation of other service providers if it is determined that collocation at the site is not essential to the public interest, or that the construction of a shorter support structure with fewer antennae will promote community compatibility.
  - (3) **Collocation First Right of Refusal**
    - (i) The owner of any new telecommunications support structure, except stealth structures, shall offer first right of refusal to the City for purposes of collocation, at least 30 days prior to entering into the first collocation agreement or lease.
    - (ii) The City shall respond in writing within 30 days of its receipt of the offer with either a letter of intent or a waiver of rights. If the City decides to locate facilities on the support structure to enhance public safety communications, the site shall be provided at no cost to the City.
    - (iii) If the City waives its right of first refusal, or fails to respond to the owner's notification with the 30 day period, or has not commenced use of the site as intended and has not made a good faith effort to do so within 180 days of communicating its intent to the owner, the collocation site shall be deemed abandoned by the City and the owner shall be under no further obligation to provide a collocation site to the City on that support structure.
  - (4) **Collocation of Antennae on an Existing Building** An antenna may be attached to a nonresidential or multi-family residential building in accordance with the following standards:
    - (i) The antenna height, including any support structure, shall not extend more than 20 percent higher than the height of the building on which it is located.
    - (ii) The antenna and associated equipment shall comply with the applicable provisions of this section.
    - (iii) An antenna visible from an adjacent street shall be omni-directional, and screened or camouflaged to the extent practicable to minimize its appearance.
    - (iv) Equipment shall be located within the building or screened in some other fashion to prevent off-site views.
- (f) **Maximum Height** In residential districts, wireless support structures, including stealth support structures, shall not exceed 200 feet in height from the base of the structure to the top of the highest point, including appurtenances. Additional height may be requested as part of a special use, provided the applicant submits technical information or other justification to document the need for the additional height and is in compliance with Section 10.2.6 B, Structure Height Restrictions.
- (g) **Setbacks**
- (1) Except for roof-mounted antenna, all wireless support structures, including those anchored or attached to existing buildings or

other structures, shall be set back from all lot lines a distance greater than or equal to the minimum distance necessary to insure the support structure will remain on its site following collapse (its fall zone) as certified by a licensed professional engineer. In the absence of such certification, the required setback shall be equal to 80 percent of the height of the wireless support structure.

- (2) Roof mounted antennae and stealth facilities located within other structures are exempt from these requirements.
- (h) **Lighting and Marking** Wireless telecommunications facilities or support structures shall not be lighted or marked unless required by the FCC or FAA. Strobe lights shall not be used for nighttime lighting unless specifically required by the FCC or FAA.
- (i) **Color** Other than concealed or stealth facilities, wireless support structures shall either maintain a galvanized steel finish or be painted a neutral, matte color designed to blend with its surroundings, unless otherwise required by the FCC or FAA.
- (j) **Signage** Signs located at a wireless telecommunications facility shall be limited to ownership and contact information, FCC antenna registration number (if required) and any other information required by government regulation. Commercial advertising is prohibited. Notwithstanding, nothing in this section shall prohibit signage that is legally approved for other uses on the same lot or site on which the wireless facility is located.
- (k) **Fencing**
  - (1) Ground mounted accessory equipment and wireless support structures shall be secured and enclosed with a fence not less than 8 feet in height, placed between the equipment compound and any required landscaping.
  - (2) Fencing shall not be required for concealed or stealth wireless facilities, or for support structures.
- (l) **Landscaping** Landscaping shall be required around the perimeter of the site or equipment compound when ground equipment within the compound is visible from a public street. Landscaping shall be designed to screen such equipment from view in accordance with the ground-based mechanical equipment requirements in Section 5.6, Screening.
- (m) **Accessory Equipment** Accessory Equipment, including any buildings, cabinets or shelters, shall be used only to house equipment and other supplies in direct support of the operation of the wireless facility or support structure. Any equipment not used in direct support of such operation shall not be stored on the site.
- (n) **Additional Standards for Concealed or Stealth Wireless Facilities** A concealed, or stealth, wireless telecommunications facility and support structure shall be designed and located to complement the surrounding landscape in accordance with the following standards:
  - (1) A stealth wireless facility and support structure shall take a form other than that of a typical wireless facility and support structure, including but not limited to; bell towers, clock towers, water towers, silos, chimneys, steeples, evergreen trees, or flag poles. (See Figure 4.3.3.F, Stealth Wireless Telecommunications Facilities).

**FIGURE 4.3.3.F STEALTH WIRELESS  
TELECOMMUNICATIONS FACILITIES**



- (2) The equipment compound shall be designed, located, and camouflaged in a manner compatible with the support structure portion of the facility. Ground equipment shall be located within a structure or building, to the maximum extent practicable. Antennae, cables, and related appurtenances shall be enclosed, camouflaged, screened, or obscured so that they are not readily apparent to a casual off-site observer.
- (3) Stealth wireless facilities are encouraged (but not required) to be designed to accommodate the collocation of other antennae whenever technically and economically feasible.

## (o) Existing Wireless Facilities and Wireless Support Structures

## (1) General

- (i) An existing wireless facility or support structure that was legally permitted on or before the effective date of this Ordinance shall be considered a lawful permitted use if it complies with all applicable provisions of this section, or a nonconforming use if it does not comply with all applicable provisions of this section.
- (ii) An existing and otherwise lawful facility or support structure that was not permitted by special use that, as a result of this Ordinance, would now require special use approval shall not be considered nonconforming.

## (2) Activities at Nonconforming Wireless Facilities or Support Structures

- (i) Ordinary maintenance may be performed on a nonconforming wireless facility or support structure.
- (ii) Collocation of wireless facilities on an existing nonconforming wireless support structure shall not be construed as an expansion, enlargement, or increase of a nonconforming structure and/or use and shall be reviewed and approved in accordance with the site plan process as stated in Section 2.5.14, provided that the collocation is NOT considered a substantial modification of the facility or support structure.
- (iii) Collocation of wireless facilities on an existing nonconforming wireless support structure shall not be construed as an expansion, enlargement, or increase of a nonconformity and shall be reviewed and approved in accordance with Section 2.5.14, Site Plan.

(Ord. No. 7266/17-08, § 14, 1-17-2017; Ord. No. 7287/17-29, § 6, 4-3-2017; Ord. No. 7365/17-108, §§ 4.E, 6, 11-20-2017; Ord. No. 7415/18-44, §§ 5.C, 5.D, 5-21-2018)

## 4.3.4. - Commercial Uses

## A. Adult Entertainment

1. **Purpose** An adult entertainment establishment, as listed and defined in Article 26A of the North Carolina General Statutes, is recognized as having certain serious objectionable operational characteristics and a deleterious effect on adjacent areas, particularly when such establishments are concentrated. Special regulation of these uses is necessary to ensure their adverse effects do not contribute to degradation or decline of surrounding areas. The primary intent of the standards in this subsection is to prevent a concentration of these uses in any one area of the City's planning jurisdiction.
2. **Separation Standards**
  - (a) **Other Adult Entertainment Establishments** An adult entertainment establishment shall not be located within 1,200 feet of any other adult entertainment establishment, measured as a straight line from lot line to lot line.
  - (b) **Other Uses** An adult entertainment establishment shall not be located within 650 feet of a religious institution, school, day care, public park, land in a residential district, or an establishment with an on premise ABC license, measured as a straight line from lot line to lot line.
3. **Maximum Area** The gross floor area of any adult entertainment establishment shall not exceed 3,000 square feet.
4. **Prohibition of Sleeping Quarters** Except for an adult motel, an adult entertainment establishment shall not have sleeping quarters.
5. **Restriction of Uses**
  - (a) There shall not be more than 1 adult entertainment establishment in the same building, structure, or portion thereof.
  - (b) No other principal or accessory use may occupy the same building, structure, property, or portion thereof with an adult entertainment establishment.

## B. Animal Care

1. **Animal Care, Major** Outdoor areas used to house or exercise animals shall be enclosed by a fence at least 6 feet in height and located 50 feet from a lot line abutting a residential district.

## C. Eating Establishments

1. **Bar or Nightclub** A bar or nightclub shall comply with the following standards:
  - (a) Be separated from a religious institution or a school by at least 200 feet. The minimum separation is reduced to 100 feet in the MS district and there is no separation requirement in the MX district.
  - (b) Not orient the primary entrance toward an abutting lot in a residential district.
  - (c) Have a 6-foot high opaque fence or masonry wall along all lot lines abutting a residential district.
2. **Restaurant (Major and Minor)** A restaurant (major and minor) shall have a 6-foot high opaque fence or masonry wall along all lot lines abutting a residential district.

## D. Personal Services

1. **Personal Services Establishment, Major** In order to reuse the existing buildings in the Core City in accordance with the City's adopted policy guidance, major personal services establishments are permitted in the LI district, subject to the following standards:
  - (a) The LI district must be located in the Core City area;
  - (b) The new use must reuse an existing building or buildings;

- (c) The total square footage of all building additions for multi-family; personal service, major; major and minor retail sales; major and minor assembly; and major and minor cultural facility uses shall be limited to a maximum of 25 percent of the total gross floor area of all principal buildings existing on the site as of the effective date of this Ordinance.

2. **Repair Establishments** Repair activities shall be conducted within an enclosed building.

**E. Recreation and Leisure**

- 1. **Amusement Parks** Amusement equipment, machinery, mechanical devices, or go-kart tracks shall not be operated within 200 feet of a residential district.
- 2. **Sports and Fitness Centers** A sports or fitness center shall comply with the following standards:
  - (a) **In All Districts Except OI and LB** Outdoor courts, swimming pools, and athletic fields shall be located at least 50 feet from any lot line abutting a residential district.
  - (b) **In the OI and LB Districts**
    - (1) A sports or fitness center shall be a maximum of 10,000 square feet of gross floor area.
    - (2) Outdoor facilities are prohibited.

**F. Retail Sales**

- 1. **Bulky Item Sales** The outdoor display of bulky goods shall comply with the following standards:
  - (a) Portable storage containers and dumpsters that are utilized for the purpose of display and any item that exceeds 10 feet in height shall not be placed within required setbacks, parking or landscape areas.
  - (b) Other bulky items that are less than or equal to 10 feet in height must be located at least 10 feet from any public street and shall not be placed within required parking or landscape areas.
- 2. **Flea Market/Antique Mall, Indoor** All items for sale at an indoor flea market/antique mall must be located within an enclosed building.
- 3. **Retail Sales Establishment**
  - (a) **Major**
    - (1) **In the MS District** In the MS district, a use primarily engaged in the sale of used merchandise shall:
      - (i) Not front on Main Street; and
      - (ii) For other sites, be less than 25,000 square feet of gross floor area and located in an existing building designed with a single storefront that is intended for a single occupant.
    - (2) **In the LI District** In order to reuse the existing buildings in the Core City in accordance with the City's adopted policy guidance, major retail sales establishments are permitted in the LI district, subject to the following standards:
      - (i) The LI district must be located in the Core City area;
      - (ii) The new use must reuse an existing building or buildings;
      - (iii) The total square footage of all building additions for multi-family; personal service, major; major and minor retail sales; major and minor assembly; and major and minor cultural facility uses shall be limited to a maximum of 25 percent of the total gross floor area of all principal buildings existing on the site as of the effective date of this Ordinance.
  - (b) **Minor** In order to reuse the existing buildings in the Core City in accordance with the City's adopted policy guidance, minor retail sales establishments are permitted in the LI district, subject to the following standards:
    - (1) The LI district must be located in the Core City area;
    - (2) The new use must reuse an existing building or buildings;
    - (3) The total square footage of all building additions for multi-family; personal service, major; major and minor retail sales; major and minor assembly; and major and minor cultural facility uses shall be limited to a maximum of 25 percent of the total gross floor area of all principal buildings existing on the site as of the effective date of this Ordinance.
- 4. **Truck Stop** A truck stop shall comply with the following standards:
  - (a) **Setbacks** All buildings, parking and service areas associated with the use shall be setback at least 50 feet from an abutting residential district.
  - (b) **Location** Have frontage on or be located within a ½ mile of an Interstate or US Primary Highway exit.

**G. Vehicle Establishments**

- 1. **Vehicle Establishments**
  - (a) **General**
    - (1) Tires shall be stored within an enclosed building or stored within the outdoor vehicle storage area and under cover in such a manner as to prevent a violation of the public nuisance code.
    - (2) Salvaging and storage of vehicle for parts is prohibited.
    - (3) Repair of all vehicles and the storage of all parts shall be within an enclosed building.
    - (4) In all districts except LI and HI, outdoor vehicle storage is limited to an area less than 25 percent of the lot. The storage area shall be located behind the front building line of the principal building and be screened with an opaque, wall, fence, or other



approved method to a height of 6 feet above grade.

- (5) In the LI and HI districts, outdoor vehicle storage may occupy up to 50 percent of the lot. The storage area shall be located behind the front building line of the principal building and be screened with an opaque fence, wall, or other approved method, to a height of 6 feet above grade level.
- (b) **Major**
  - (1) Vehicles for sale or rent shall not be:
    - (i) Located within the right-of-way,
    - (ii) Less than 10 feet from the edge of the pavement or the curb,
    - (iii) In a required planting area,
    - (iv) In a sight distance easement, or
    - (v) In an area required for off-street parking.
  - (2) All vehicles shall be located on an all-weather surface.
- (c) **Minor Vehicle washing or detailing** shall comply with the following standards:
  - (1) The washing operation shall take place within a building.
  - (2) Buildings shall be setback at least 75 feet from an abutting residential district.
  - (3) Specific areas shall be provided for the manual drying, waxing, polishing and vacuuming of vehicles when these services are provided. These areas shall not conflict with on-site circulation patterns.
  - (4) The use shall be screened with an opaque fence, wall, or by any other allowed method in Section 5.6.6, Screening Methods, to a height of 6 feet above grade level along all lot lines abutting a residential district.

#### H. Visitor Accommodations

- 1. **Bed and Breakfast** A bed and breakfast shall comply with the following standards:
  - (a) Be owner-occupied or have a manager who resides on the premises;
  - (b) Have no more than 6 sleeping rooms;
  - (c) Have only 1 kitchen;
  - (d) Limit meals served on the premises to overnight guests only;
  - (e) If in a residential district, ensure signage complies with the identification sign requirements of Table 5.7.8.B, Requirements for a Sign not Requiring a Sign Permit.

(Ord. No. 7365/17-108, §§ 4.F, 7, 11-20-2017; Ord. No. 7415/18-44, §§ 5.E, 5.F, 5-21-2018)

#### 4.3.5. - Industrial Uses

##### A. Extractive Industry

- 1. **Extractive Industry** An extractive industry use (including, mining, quarrying, or drilling) shall comply with the following standards:
  - (a) **Setbacks**
    - (1) The following features shall be located at least 50 feet from any lot line:
      - (i) The edges of a pit where an extraction operation is located;
      - (ii) Any equipment used in the processing of rock or gravel; and
      - (iii) Any asphalt plant or other industrial use operated in conjunction with an extraction use.
    - (2) In an instance where the extraction operation site is bounded by a railroad right-of-way, no setback is required between the railroad right-of-way and the extraction operation.
  - (b) **Security Fencing** A security fence, a minimum of 6 feet in height, shall be provided around the perimeter of both an existing and abandoned extraction operation.
  - (c) **Rehabilitation**
    - (1) Within 1 year of the cessation of the use, all equipment and stock piles incidental to the operation shall be dismantled and removed by and at the expense of the landowner;
    - (2) Except in an instance where redevelopment for another permitted use is in progress on the site of an abandoned extractive industry use:
      - (i) Excavations shall be graded to reduce the surface to gently rolling topography in substantial conformity to the land area immediately surrounding the site; and planted with a cover of sod, trees, shrubs, legumes, or grasses, which will minimize erosion; and
      - (ii) The site shall be drained to prevent the accumulation of standing water, and channelization of the drainage shall be designed and controlled so as not to cause erosion or silting of neighboring properties or public ways, nor to appreciably increase the turbidity of any natural water course, or to occlude any existing drainage course.

- (d) **Operation** An operation involving blasting that is discernible beyond the exterior property line of the use shall only be conducted between 6:00 AM and 6:00 PM.

- (e) **Access**

- (1) Vehicular access shall be constructed with an all-weather surface and be maintained in a dust-free condition;
- (2) Access shall be located no closer than 15 feet to any property line other than a railroad right-of-way line; and
- (3) A plan shall be submitted showing truck routes to and from the site. Such routes shall be designed to minimize impacts on residential areas, schools, or other uses negatively affected by truck traffic.

**B. Manufacturing and Production**

**1. Asphalt Plant** An asphalt plant shall comply with the following standards:

- (a) **Setbacks** An asphalt plant shall be located at least 50 feet from a property line.
- (b) **Security Fencing** A security fence, a minimum of 6 feet in height, shall be provided around the use.
- (c) **Rehabilitation**
  - (1) Within 1 year of the cessation of the use, all equipment and stock piles incidental to the operation shall be dismantled and removed by and at the expense of the landowner;
  - (2) On the site of an abandoned asphalt plant the site shall be drained to prevent the accumulation of standing water, and channelization of the drainage shall be designed and controlled so as not to cause erosion or silting of neighboring properties or public ways, nor to appreciably increase the turbidity of any natural water course, or to occlude any existing drainage course, except in an instance where redevelopment for another permitted use is in progress.

- (d) **Access**

- (1) Vehicular access shall be constructed with an all-weather surface and be maintained in a dust-free condition.
- (2) Access roads shall be located no closer than 15 feet from a property line.
- (3) A plan shall be submitted showing truck routes to and from the site. Such routes shall be designed to minimize impacts on residential areas, schools, or other uses negatively affected by truck traffic.

**C. Warehouse and Freight Movement**

**1. Self-storage, External Access** An external access self-storage establishment in the GB district shall comply with the following standards:

- (a) **Prohibited Storage** Outdoor storage and storage of hazardous, toxic, or explosive substances shall be prohibited.
- (b) **Use Area**
  - (1) A self-storage use shall be located on a lot or site between 2 and 5 acres in area.
  - (2) No more than 50 percent of the total site may be occupied by buildings.
- (c) **Maximum Height** Self-storage buildings shall not exceed 20 feet or 1 story in height.
- (d) **Operation** No activity other than storage shall take place within a storage unit.

**2. Self-storage, Internal Access** An internal access self-storage establishment shall comply with the following standards:

- (a) **Visibility** No indoor storage material, racks, bins, shelving or other evidence of the warehouse or wholesale operation shall be visible from the public right-of-way. Glass doors and windows shall contain curtains, blinds or other suitable treatment to screen the interior of the building from view.
- (b) **Transparency Maintained** Windows shall not be boarded or paneled over from the outside or the inside.
- (c) **Outdoor Storage** Outdoor storage shall be prohibited.

**3. Warehouse and Distribution** A warehouse in the GB district shall comply with the following standards:

- (a) **Size** The warehouse shall not exceed 10,000 square feet of gross floor area.
- (b) **Outdoor Storage** Outdoor storage shall be prohibited.

**D. Waste-Related Service**

**1. Landfill** A landfill shall comply with the following standards:

- (a) **General**

- (1) Provide a Type A landscape yard around its perimeter (see [Section 5.5.11](#), Perimeter Landscape Yards).
- (2) Access shall be controlled through the use of a fence, wall, gate, or other suitable device to prevent unregulated dumping.
- (3) Vehicular access shall be constructed with an all-weather surface and be maintained in a dust-free condition.

- (b) **Major**

- (1) Be located at least 500 feet from a residential district.
- (2) An existing major landfill located within a WSO (GWA and WCA) may continue to operate or expand, but no new major landfill shall be permitted in the WSO (GWA and WCA).

- (c) **Minor** Be set back at least 50 feet from any property line and 300 feet from any existing residential district.

**2. Recycling Center** A recycling center shall comply with the following standards:

- (a) **General**
    - (1) Access shall be controlled through the use of a fence, wall, gate, or other suitable device to prevent unregulated dumping.
    - (2) Vehicular access shall be constructed with an all-weather surface and be maintained in a dust-free condition.
  - (b) **Major**
    - (1) Be located at least 300 feet from a residential district, except that an accessway or weighing station may be located 100 or more feet from a residential district.
    - (2) Materials may be stored outdoors provided they are located at least 200 feet from all property lines and are screened with an opaque fence, wall, or by any other allowed method in Section 5.6.6, Screening Methods, to a height of 8 feet above grade level.
  - (c) **Minor**
    - (1) Located at least 150 feet from a residential district and operated entirely within an enclosed building, except for loading facilities which may be located outdoors.
    - (2) Outdoor storage of recyclable materials is prohibited.
  - 3. **Salvage or Junk Yard** A salvage or junk yard shall comply with the following standards:
    - (a) Be located on a lot of at least 5 acres.
    - (b) Be located at least 300 feet from a residential district.
    - (c) Locate the storage area behind the front building line of the principal building and be screened with an opaque wall, fence, or other approved means to a height of 8 feet above grade level.
  - 4. **Transfer Station** A transfer station shall comply with the following standards:
    - (a) Access shall be controlled through the use of a fence, wall, gate, or other suitable device to prevent unregulated dumping.
    - (b) Vehicular access shall be constructed with an all-weather surface and be maintained in a dust-free condition.
    - (c) Be located at least 150 feet from a residential district and operated entirely within an enclosed building, except for loading facilities which may be located outdoors.
    - (d) Outdoor storage of waste material is prohibited.
- E. Wholesale Trade**
- 1. **Market Showroom** A market showroom use shall comply with the following standards:
    - (a) **Exterior Product Display** Exterior product display shall:
      - (1) Not take place within the right-of-way,
      - (2) Not exceed 2,500 square feet per lot,
      - (3) Consist of products from the same vendor or company that owns or leases space within the building, and
      - (4) Not be displayed earlier than 2 weeks prior to the official opening of the market, and be removed within 2 weeks of the official end of the market.
    - (b) **Structure**
      - (1) A market showroom shall be located:
        - (i) In a permanent building, or
        - (ii) In a combination of permanent buildings and a membrane structure located on the same lot, or
        - (iii) Entirely in 1 or more membrane structures on the same lot, only if a building permit for a permanent building has been issued.
      - (2) If a membrane structure is used as part of a market showroom, it shall:
        - (i) Be located on the same lot as a market showroom;
        - (ii) Be enclosed on all sides; and
        - (iii) Not be in place for more than 120 days in a calendar year.
  - 2. **Toxic Chemicals or Substances, Pesticides, or Fertilizers** Toxic chemicals, pesticides, and fertilizers establishments shall comply with the following standards:
    - (a) Vehicular access shall be constructed with an all-weather surface and be maintained in a dust-free condition.
    - (b) Structures, buildings, and mechanical equipment used for the operation shall be at least 100 feet from a residential district.
    - (c) Security fencing, a minimum of 6 feet in height, shall be provided around all outdoor storage areas.
  - 3. **Wholesale (Major and Minor)** Vehicular access for wholesale establishments shall be constructed with an all-weather surface and be maintained in a dust-free condition.

(Ord. No. 7363/17-106, § 6, 11-20-2017; Ord. No. 7365/17-108, § 4.G, 11-20-2017)

#### 4.4.1. - 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.

#### 4.4.2. - Procedure for Establishment

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. No accessory use or structure shall be approved, established, or constructed before the principal use is approved in accordance with this Ordinance.

#### 4.4.3. - General Standards

- A. **Permitted Accessory Uses and Structures** Permitted accessory uses and structures include those listed in this section and those that the Planning & Development Director determines meet the following:
  1. Are clearly incidental to an allowed principal use or structure;
  2. Are subordinate to and serving an allowed principal use or structure;
  3. Are subordinate in area, extent and purpose to the principal use or structure;
  4. Contribute to the comfort, convenience or needs of occupants, business or industry associated with the principal use or structure.
- B. **Located on Same Lot as a Principal Use** All accessory uses and structures shall be located on the same lot as the principal use or structure and not located within any street right-of-way, except as allowed by this Ordinance for specific accessory uses and structures.
- C. **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 3: Zoning Districts, the development standards in Chapter 5: Development Standards, and the environmental standards in Chapter 6: Environmental Standards.

#### 4.4.4. - Standards for Accessory Structures

- A. **Dimensional Standards** Accessory structures, which include accessory buildings, shall meet the applicable zoning district dimensional standards and district standards, except as provided in this section and in Section 10.2.4 G, Setback Encroachments.
- B. **Easements** Accessory structures may not be located in an easement unless the easement or easement holder expressly states the allowance in writing.
- C. **Drive-up Accessory Structures** Drive-up accessory structures, such as automated teller machines, ice vending, coffee stands, and similar accessory structures that provide drive-up or walk-up service and which are located within a surface parking area shall meet the following standards:
  1. The accessory structure shall not be placed in any required parking spaces.
  2. The location shall be designed so that any access or stacking lanes do not extend into a primary drive aisle.
  3. The surface parking area shall be configured and restriped to maintain access and circulation to the principal use(s).
  4. Any roof-top mechanical equipment shall be screened from the adjacent streets.
- D. **Residential Accessory Structures** An accessory structure, including an accessory building, for a single-family or duplex dwelling shall meet the following:
  1. **Setbacks**
    - (a) **Rear and Side** Accessory structures must setback 5 feet from side and rear lot lines.
    - (b) **Corner Side** For corner lots, accessory structures must meet the side street setback of the dimensional standards for the applicable zoning district.
    - (c) **Through or Reverse Frontage Lots** For through or reverse frontage lots, all accessory structures shall be setback 10 feet from the rear lot line abutting the street.
    - (d) **Alleys** For accessory structures that are located along an alley, the structure must setback a minimum of 10 feet from the rear lot line abutting the alley.
  2. **Utilities** Utility service, such as water, sewer and electricity, to the accessory structure shall be provided by branching service from the principal structure.
  3. **Encroachments** See Section 10.2.4 G, Setback Encroachments, for allowable encroachments into setbacks for specific accessory structures.
  4. **Accessory Buildings**
    - (a) **Location** In addition to the setback requirements, accessory buildings shall be located behind the front building line of the principal structure, except on lots that are greater than 2 acres in area, for which 1 accessory building may be located in front of the principal structure provided it meets the street setback.
    - (b) **Size** The maximum total area of all accessory buildings on the lot shall not exceed 50 percent of the gross floor area of the principal

structure or 600 square feet, whichever is greater.

- E. **Local Historic Overlay District** Accessory structures located in a local historic overlay district may be subject to a Certificate of Appropriateness in accordance with Section 2.4.4, Certificate of Appropriateness.

#### 4.4.5. - Standards for Specific Accessory Uses

In addition to the following specific standards, the listed accessory uses shall meet the requirements of Section 4.4.4, Standards for Accessory Structures, except as expressly stated in the specific accessory use requirements.

- A. **Accessory Dwelling Unit** An accessory dwelling unit (ADU) is permitted as accessory to a single-family detached dwelling if it complies with the following standards:
1. **General**
    - (a) No more than 1 ADU shall be located on a lot with a single-family detached dwelling.
    - (b) An ADU shall have a maximum of 2 bedrooms.
    - (c) An ADU and the principal dwelling shall have the same street address and mailbox.
    - (d) An ADU shall not be subdivided or otherwise separated in ownership from the principal dwelling unit.
    - (e) An ADU and the principal dwelling shall utilize the same driveway, unless the ADU is accessed from a right-of-way not used by the principal dwelling (e.g., a rear alley or separate street access on a corner or through lot).
    - (f) An ADU shall be served by water, sanitary sewer, gas and electrical utilities as part of the principal dwelling.
  2. **Design** An ADU shall maintain the architectural design, style, appearance and character of the principal dwelling by incorporating design elements such as similar materials, facade treatment, colors, window style, roof design, and roof pitch.
  3. **Location**
    - (a) **Principal Structure**
      - (1) If an ADU is located within the principal structure, the ADU shall not exceed 30 percent of the gross floor area of the structure.
      - (2) Entrance doors or exterior stairways to the ADU facing streets shall be prohibited; separate access to the ADU shall be by means of a side or rear door in the principal structure.
    - (b) **Accessory Structure** If an ADU is located in an accessory structure, it shall meet the residential accessory structure requirements in Section 4.4.4, Standards for Accessory Structures.
  - B. **Caretaker Dwelling** One caretaker dwelling unit is permitted as accessory to a commercial, institutional or industrial use either within the principal building or in an accessory building on the lot.
  - C. **Drive-Through** See Chapter 3: Zoning Districts, for the applicable drive-through standards by zoning district.
  - D. **Exterior Lighting** See Section 5.10, Exterior Lighting, for the applicable standards.
  - E. **Fences** See Section 5.11, Fences, for the applicable standards.
  - F. **Helistop** A helistop is permitted as accessory to an institutional, commercial or industrial use if it complies with all applicable Federal Aviation Administration regulations.
  - G. **Home Day Care** A home day care is permitted as accessory to a residential dwelling unit if it complies with the following standards:
    1. Care is provided within a dwelling unit, for between 3 and 8 children less than 13 years of age, not more than 5 of which are preschool age, or up to 8 adults, who do not reside in the dwelling, for at least once per week for at least four hours, but less than 24 hours per day.
    2. It complies with all applicable home occupation requirements, except the gross floor area requirement.
    3. It is licensed by the State of North Carolina and complies with all applicable State requirements.
  - H. **Home Occupation** A home occupation is permitted as accessory to a residential dwelling unit if it complies with the following standards:
    1. The home occupation shall be located in the residential dwelling unit and shall not occupy more than 25 percent of the gross floor area of the dwelling unit.
    2. The person operating the home occupation shall reside in the dwelling unit.
    3. No more than 1 person shall work in the dwelling unit that is not a resident of the dwelling unit.
    4. The home occupation shall not change the exterior appearance of the dwelling.
    5. The home occupation shall not create traffic, parking congestion, noise, vibration, odor, glare, vibration, fumes, or electrical or communications interference beyond what normally occurs in the district where located.
    6. No outdoor storage or display of products, materials, or equipment is permitted.
    7. Activities and storage associated with a home occupation shall not take place in an accessory building, such as a detached garage.
    8. No maintenance or repair of commercial equipment may be associated with a home occupation.
    9. Only 1 commercial vehicle with 1 attached trailer associated with the home occupation may be parked or stored on the lot, but

neither the truck nor the trailer shall exceed 24 feet in length.

10. Tutoring and instruction in music, dance, art, yoga, and other subjects shall be limited to no more than 5 students during any single class or instruction period.
  11. There shall be no advertising on the property or other signs of the home occupation, which are visible from outside the dwelling, except for 1 sign that complies with the standards in Section 5.7.8, Signs not Requiring a Sign Permit.
- I. **Livestock** The keeping of livestock is allowed as accessory to a single-family detached or duplex dwelling if it complies with the following standards:
1. In the AGR district, the accessory keeping of livestock is allowed, but is exempt from these standards.
  2. The keeping of livestock shall require a lot of at least 5 acres in area.
  3. Animals shall be maintained in a fenced area located at least 100 feet from all lot lines.
  4. Fencing shall be at least 4 feet in height.
  5. For large livestock such as horses, cows and other similar large-sized animals, no more than 1 animal over 6 months in age shall be maintained for every 20,000 square feet of fenced area.
  6. For small livestock such as sheep, goats, and other similar-sized animals, no more than 1 animal over 6 months in age shall be maintained for every 10,000 square feet of fenced area.
- J. **Off-Street Parking and Loading** See Section 5.4, Off-Street Parking and Loading, for the applicable standards.
- K. **Outdoor Display** Outdoor display is allowed as accessory for retail sales and wholesale trade uses if it complies with the following standards:
1. The intent of these standards is to allow outdoor display, but not where the display of such goods is unsightly, impedes the flow of pedestrian or vehicular traffic, or creates an unsafe condition.
  2. The outdoor display of non-bulky goods is not subject to the requirements in Section 4.4.4, Standards for Accessory Structures, but shall comply with the following standards:
    - (a) Be located adjacent to the storefront or building sides, except for farmers market, plant nursery, garden center or similar operations;
    - (b) Not located in drive aisles, loading zones, fire lanes, or required landscaping yards; and
    - (c) Maintain at least 5 feet of space along the side of the display free of obstruction to allow for pedestrian and handicap movement, such that handicapped pedestrians and others do not have to enter the drive aisle to walk around the display.
  3. The outdoor display of bulky goods shall comply with the following standards:
    - (a) Portable storage containers, dumpsters and any bulky item for display that exceeds 10 feet in height shall meet the requirements in Section 4.4.4, Standards for Accessory Structures;
    - (b) Not located in drive aisles, loading zones, fire lanes, or required parking spaces or landscaping yards; and
    - (c) Other bulky items that are less than or equal to 10 feet in height are not subject to the requirements in Section 4.4.4, Standards for Accessory Structures, but shall be located at least 10 feet from any public street and shall not be placed within any easements, required parking spaces or landscape yards.
- L. **Portable Storage Containers** Portable storage containers are allowed as accessory to the principal use on the same lot, provided they comply with the following standards:
1. **Residential Districts** Portable storage containers located within any residential district shall comply with the following standards:
    - (a) A portable storage container is not subject to the requirements in Section 4.4.4, Standards for Accessory Structures; however, it must be located on the lot and outside any street right-of-way.
    - (b) No more than 2 portable storage containers may be located on a lot with a single-family or duplex dwelling.
    - (c) The gross square footage of a portable storage container on a lot with a single-family or duplex dwelling shall not exceed 150 square feet.
    - (d) A portable storage container may remain on a lot up to 14 days in duration, except when the container is used in association with construction on the same site, which the container may remain for the duration of the construction project and shall be removed upon completion.
  2. **Business and Special Districts** Portable storage containers located within any business or special district shall comply with the following standards:
    - (a) Portable storage containers shall meet the requirements in Section 4.4.4, Standards for Accessory Structures.
    - (b) The number, size and duration of portable storage containers on a lot are not regulated.
    - (c) Portable storage containers shall not be placed between a principal structure and a public street, except in the AGR, LI and HI districts.
  3. **Planned Development Districts** Portable storage containers located within any planned district shall comply with the applicable residential, business or special district requirements of this section.

- M. Renting of Rooms** The renting of rooms is allowed as accessory to a residential dwelling if it complies with the following standards:
1. An occupant of the dwelling may rent rooms in the dwelling to a maximum of 2 tenants.
  2. The renting of rooms to more than 2 tenants constitutes a rooming house, which is subject to other standards contained in this Ordinance.
- N. Satellite Dishes, Amateur Radio and Television Antenna Towers** Satellite dishes, amateur radio and television antenna towers are allowed as accessory to any use allowed by this Ordinance if they comply with the following standards:
1. The accessory structure and all supporting cables and anchors shall be contained on the lot.
  2. The accessory structure is prohibited in easements but is not subject to the remaining requirements in Section 4.4.4, Standards for Accessory Structures.
  3. The accessory structure shall not exceed 90 feet in height above grade.
  4. In residential districts, the accessory structure must be located behind the front building line of the principal structure, except for satellite dishes less than 40 inches in diameter which are exempt from this requirement.
  5. Towers attached to a principal structure shall be located on the principal structure's side or rear elevation.
- O. Small Wind Energy Conversion (WEC) System** A small (WEC) is permitted as accessory to any agriculture, commercial, institutional or industrial use allowed by this Ordinance if it complies with the following standards:
1. There shall be no more than 1 small (WEC) on a lot.
  2. The maximum extended height of a small (WEC) shall be the maximum height allowed in the zoning district plus 70 feet.
  3. The tower shall be set back from all lot lines a distance greater than or equal to the minimum distance necessary to insure the structure will remain on its site following collapse (its fall zone) as certified by a licensed professional engineer. In the absence of such certification, the required setback shall be equal to 80% of the height of the structure.
  4. Sound produced by the WEC shall under normal operating conditions, as measured at the lot line, not exceed 55 decibels. The sound level may be exceeded during short term events that occur, that are beyond the landowner's control, such as utility outages and/or wind storms.
  5. The blade tip or vane of any small (WEC) shall have a minimum ground clearance of 15 feet, as measured at the lowest point of the arc of the blades. No blade shall extend over parking areas, public rights-of-way, driveways, or sidewalks.
  6. No illumination of the turbine or tower shall be allowed, unless required by the FAA.
  7. The tower shall be designed to prevent unauthorized climbing.
  8. A small (WEC) shall not include signage visible from a public street other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification.
  9. A small (WEC) intended to connect to the electric utility shall not be installed until evidence is submitted to the Planning and Development Director that the relevant electric utility is informed of the customer's intent to install an interconnected customer-owned generator.
  10. On determining that a small (WEC) is inoperable for 180 days or more, the Planning and Development Director shall send the owner a notice and order requiring restoration of the system. Failure of the owner to restore the system to operating condition shall constitute a violation of this Ordinance.
- P. Solid Waste Collection** See Section 5.6, Screening, for the applicable standards.
- Q. Signage** See Section 5.7, Signage, for the applicable standards.
- R. Swimming Pools, Spas and Hot Tubs** Swimming pools, spas, and hot tubs with a water depth of 24 inches or greater are permitted as accessory to any use allowed by this Ordinance if they are constructed in accordance with the State Building Code and comply with standards for accessory structures in Section 4.4.4, Standards for Accessory Structures, if applicable.
- S. Vehicles** The parking, storage, and use of vehicles are allowed as accessory to any use allowed by this Ordinance if it complies with the following standards:
1. **Disabled Motor Vehicles** The parking or storage of disabled motor vehicles shall comply with the following standards:
    - (a) **Residential Uses**
      - (1) One disabled vehicle is allowed on a lot with a single-family dwelling or duplex dwelling, provided the disabled vehicle is parked or stored behind the front building line of the principal structure.
      - (2) Additional disabled vehicles on a single-family or duplex lot and any disabled vehicle parked or stored on lot with any other residential use shall be located within a fully enclosed principal or accessory structure.
    - (b) **All Other Uses**
      - (1) A disabled motor vehicle may be parked or stored on a lot containing an agricultural, institutional, commercial, or industrial use, provided it is totally screened from view from any street or residential zoning district.
      - (2) The disabled vehicle shall be stored within a fully enclosed building or fully screened by a building, opaque fence, wall, or other approved method, to a height of 6 feet above grade level.

## 2. Improved Parking Area

- (a) Any vehicle located on a lot with a single-family or a duplex dwelling that is parked, stored, or otherwise located between the principal structure and the street shall be parked, stored, or otherwise located on an improved parking area.
  - (b) An improved parking area shall be a portion of the lot that is graveled or paved with an all-weather surface (such as asphalt, concrete, brick, stone or similar material) and provides access to the street.
3. **Large Vehicles** The parking of vehicles in excess of 24 feet in length, or 14,000 pounds gross vehicle weight is prohibited in residential zoning districts, with the following exceptions:
- (a) Temporary loading and unloading;
  - (b) Emergency and disaster service;
  - (c) Recreational vehicles, which includes travel trailers;
  - (d) Large vehicles on a religious institution or school property; and
  - (e) For use in the operation of a permitted principal use or nonconforming use that relies on a large vehicle for standard operation.
4. **Recreational Vehicles** The use of recreational vehicles, which includes travel trailers, for living purposes is allowed only in recreational vehicle parks and as a permitted temporary use.

T. **Wireless Telecommunication Facility** See Section 4.3.3 F.3, Wireless Telecommunication Facility (Major and Minor) for the applicable standards.

U. **Yard Sales** Yard sales are allowed as accessory to a residential dwelling unit if they comply with the following standards:

1. Yard sales are limited to a maximum of 2 occurrences per dwelling unit per calendar year, and no more than 2 days per occurrence.
2. Items displayed and sold are limited to household items.
3. The location of signs advertising the yard sale is restricted to the lot or site where the yard sale is conducted.

(Ord. No. 7365/17-108, § 4.H, 11-20-2017)

## 4.5. - Temporary Uses

### 4.5.1. - 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.

### 4.5.2. - 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 jurisdiction. The activities listed in this section require the issuance of a zoning compliance permit, except as exempted, in accordance with the standards in Section 2.5.15, Zoning Compliance Permit.

### 4.5.3. - General Standards For Temporary Uses

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

#### A. General Standards

1. Secure written permission from the landowner;
2. Obtain the appropriate permits and licenses from the City and other agencies;
3. Comply with the requirements for temporary signs in Section 5.7, Signage;
4. Meet public utility and City 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. Contain 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. Not remain in place for more than 90 days if located within a special flood hazard area;
9. Provide adequate on-site restroom facilities; 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 Planning and Development Director is authorized to impose any of the following general conditions upon the premises benefited by the permit as may be necessary to reduce or minimize any potential adverse



impacts upon other property in the area, as long as the condition relates to a situation created or aggravated by the proposed temporary use. The Planning and Development Director is authorized, where appropriate, to require:

1. Provision of temporary parking facilities, including vehicular access and egress;
2. Control of nuisance factors, such as but not limited to, the prevention of glare or direct illumination of adjacent properties, noise, vibrations, smoke, dust, dirt, odors, gases, and heat;
3. Regulation of placement, height and size, location of equipment and open spaces, including buffer areas and other yards;
4. Provision of sanitary and medical facilities;
5. Provision of solid waste collection and disposal;
6. Provision of security and safety measures;
7. Use of an alternate location or date;
8. Modification or elimination of certain proposed activities;
9. Regulation of operating hours and days, including limitation of the duration to a shorter time period than requested or specified in this subsection; and
10. Submission of a financial 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.

#### 4.5.4. - Standards for Specific Temporary Uses

- A. **Construction-Related Uses** A temporary construction-related use is permitted on a lot in a residential, business, special, or planned development district, subject to the following standards:
  1. Temporary construction-related uses, including construction and business offices, storage buildings, equipment and outdoor storage lots, and employee parking areas, may occur on the same lot or site as the construction activity, or on a lot or site that is adjacent to the construction site.
  2. The temporary use permit shall not be issued until a site plan is approved or a building permit is issued for a principal structure, except as allowed in Section 2.3.12, Effect of Development Approval.
  3. A temporary construction-related use shall be removed within 30 days of issuance of a certificate of occupancy for the structure, or removed immediately if the building permit expires or is revoked.
- B. **Itinerant Merchant Sales** Itinerant merchant sales, not including mobile food vendors, are permitted on a lot in a business, special, or planned development district, 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 merchant sales shall be located on a lot with a principal use and located outside of street rights-of-way, required sight distance easements, required landscape areas, vehicular circulation areas, or areas where pedestrian access is needed to ensure safe movement through or across a site.
  3. No signage is permitted other than signage that is affixed to the vehicle, trailer or stand.
  4. All merchandise and related materials shall be removed from the site or properly stored each day following the sale.
  5. The maximum period of operation of itinerant merchant sales shall be from 8:00 AM to 11:00 PM.
  6. Permitted itinerant merchant sales shall be limited in duration to a maximum of 30 continuous days and there shall not be more than 3 itinerant merchant sales on a lot per calendar year.
- C. **Mobile Food Vendors**
  1. **Exempt Vendors** Mobile food vendors are not subject to the requirements of Section 4.5, Temporary Uses, but are subject to the applicable provisions of the City Code of Ordinances if:
    - (a) They operate for 2 or fewer days within a 180-day period on a lot with an established principal use;
    - (b) They operate in the public right-of-way;
    - (c) They are considered part of a special event allowed in accordance with Section 4.5.4 E, Special Events; or
    - (d) They are a part of a private event where food is not sold to the general public.
  2. **Subject to this Ordinance** Mobile food vendors that are not exempted are permitted on a lot in a business, special, or planned development district, subject to the following standards:
    - (a) The sale of food must be a permitted principal use in the zoning district where the mobile food vendor is temporarily located.
    - (b) Mobile food vendors shall be located on a lot located outside of street rights-of-way, required landscape areas, vehicular circulation areas, or areas where pedestrian access is needed to ensure safe movement through or across a site.
    - (c) Mobile food vendors shall not obstruct visibility for motorists at any street intersection in accordance with the standards of Chapter 6 of the City Code, Visibility at Intersections.
    - (d) No signage is permitted other than signage that is affixed to the vehicle, trailer, cart, or stand.

- (e) The vendor shall properly dispose all solid waste, grease and liquid waste and the vehicle, trailer, cart, or stand shall be removed from the lot.
- (f) The maximum period of operation of mobile food vendors shall be from 6:00 AM to 11:00 PM, or until the time the principal use on the lot closes, whichever is greater.
- (g) Permitted mobile food vendors shall be limited in duration to a maximum of 12 months, except that the temporary use permit may be renewed.

**D. Outdoor Seasonal Sales** Outdoor seasonal sales are permitted on a lot in a residential, business, special, or planned development district, subject to the following standards:

- 1. Seasonal sales shall be limited to seasonal agricultural products such as Christmas trees, pumpkins, and living plants.
- 2. Outdoor seasonal sales shall only be allowed on a lot in a residential, office or institutional zoning district when operated by and on the site of a religious institution or nonprofit organization.
- 3. The maximum hours of operation of an outdoor seasonal sales use shall be from 8:00 AM to 11:00 PM, except when located in a residential district, then the seasonal sales use shall cease by 10:00 PM.
- 4. Exterior lighting shall comply with the requirements in Section 5.10, Exterior Lighting.
- 5. One recreational vehicle is allowed as a temporary dwelling for security purposes in association with the seasonal sales use, provided it meets the general standards of Section 4.5.4 F, Temporary Dwelling, and is removed at the end of the sales.
- 6. Outdoor seasonal sales shall be limited in duration to a maximum of 90 days and there shall not be more than 3 seasonal sales on a lot per calendar year.
- 7. 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.

**E. Special Events**

- 1. **Exempt Events** A special event is not subject to the requirements in Section 4.5, Temporary Uses, if:
  - (a) The event lasts 2 or fewer days within a 180-day period on a lot with an established principal use; or
  - (b) The event is sponsored by the City, a county, or the State.
- 2. **Subject to this Ordinance** A special event not exempted from the standards in this section is permitted on a lot in a business, special, or planned development district, subject to the following standards:
  - (a) A special event includes, but is not be 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 City Code of Ordinances.
  - (c) Temporary dwelling(s) are allowed in association with the special event provided they meet the general standards of Section 4.5.4 F, Temporary Dwelling, and are removed at the end of the event.
  - (d) A special event shall be limited in duration to a maximum of 14 days, unless otherwise specifically authorized by the Planning and Development Director.

**F. Temporary Dwelling** A temporary dwelling is permitted on a lot in a residential, business, special, or planned development district, subject to the following standards:

- 1. **General Standards**
  - (a) A temporary dwelling may be either a dwelling that meets all applicable NC State 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.
- 2. **Temporary Emergency Dwelling**
  - (a) Temporary emergency dwellings operated by a religious institution, governmental agency, or nonprofit organization may be located on a lot at least 1 acre in area to provide emergency shelter where fire, flood, or other natural disaster has displaced persons.
  - (b) The temporary dwellings shall be limited in duration to a maximum of 6 months, except that the temporary use permit may be renewed for good cause shown.
- 3. **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 structure under construction.
  - (d) The temporary use permit shall not be issued until a site plan is 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.

**G. Temporary Health Care Structure** One temporary health care structure is permitted on a lot with a single-family detached dwelling, subject to the standards:

1. Structure A temporary 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 1 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 1 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, sewer and electricity 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 NC State 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 2 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 this State.
  - (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 temporary health care structure meets all standards, then the temporary structure shall be permitted for a period of 12 months.
  - (b) The applicant may renew the zoning compliance permit 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 City may make permit renewal and periodic inspections of the temporary structure at reasonable times convenient to the applicant.
  - (d) No signage shall be permitted on the exterior of the temporary structure or on the lot that identifies or promotes the existence of the structure.
  - (e) The temporary structure shall not be subdivided or otherwise separated in ownership from the single-family detached dwelling.
  - (f) The temporary structure shall be removed within 60 days if the impaired occupant is no longer receiving or in need of assistance.
  - (g) The temporary use permit may be revoked or other enforcement actions taken if these standards are violated.

**H. Temporary LCID Landfill** A temporary land clearing and inert debris landfill (LCID) is permitted on a lot in a residential, business, special, or planned development district, subject to the following standards:

1. A temporary LCID may not exceed 2 acres in area and shall meet all applicable State regulations for a LCID.
2. It shall be permitted for a period not to exceed 12 months, except that the temporary use permit may be renewed for good cause shown.
3. A LCID not meeting these standards constitutes a minor landfill, which is subject to other standards contained in this Ordinance.

**I. Temporary Real Estate Office** A temporary real estate office is permitted on a lot in a residential, business, special, or planned development district, 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 5.7, Signage.
3. The office complies with the dimensional standards of the zoning district in which it is located.
4. The temporary office is converted into a dwelling or removed within 30 days after all units are sold or leased.

**J. Temporary Wireless Telecommunications Facility** A temporary wireless telecommunications facility, also known as a COW, is permitted on a lot in a residential, business, special, or planned development district, subject to the following standards:

1. A temporary wireless telecommunications facility may be allowed on a lot after a disaster or other emergency for a period not to exceed 30 days, except that the temporary use permit may be renewed for good cause shown.
2. A temporary wireless telecommunications facility may be allowed on a lot to evaluate the technical feasibility of a site for a period not to exceed 14 days, except that the temporary use permit may be renewed for good cause shown.
3. A temporary wireless telecommunications facility may be allowed on a lot in association with an event where the anticipated demand cannot be handled by existing facilities for a period not to exceed 14 days.

4. A temporary wireless telecommunications facility may be allowed on a lot with an existing permanent wireless telecommunications facility where the 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.
5. All temporary wireless telecommunications facilities, including all supporting cables and anchors, shall be contained on the lot.

## CHAPTER 5: - DEVELOPMENT STANDARDS

### 5.1. - Public Infrastructure

#### 5.1.1. - Within Corporate Limits

When development occurs within the corporate limits of the City, it shall be served by the City's public water and sewer systems, unless the Public Services Director determines that it is not required in accordance with the City Code.

#### 5.1.2. - Within the ETJ

When development occurs within the City's ETJ, the applicable County Health Department is authorized to approve private well and on-site wastewater treatment systems. Connections to the City's public water and sewer system is authorized only in accordance with established City Council policy.

### 5.2. - Zone Lot and Access

Editor's note— Ord. No. 7266/17-08, § 15, adopted Jan. 17, 2017, changed the title of § 5.2 from "Zone Lot and Access Standards" to "Zone Lot and Access."

#### 5.2.1. - Principal Buildings on a Zone lot

Every building must be located on a zone lot. No more than 1 principal building is permitted on a zone lot, except as follows:

- A. **Nonresidential Group Development** Two or more principal nonresidential buildings are permitted on a zone lot pursuant to a group development plan approved in accordance with Section 2.5.9, Group Development, and provided that vehicular access is maintained to each building for service and emergency vehicles.
- B. **Residential Group Development** Two or more principal buildings are permitted on a zone lot in a multi-family, single-family attached, pocket neighborhood or tiny home neighborhood development pursuant to a group development plan approved in accordance with Section 2.5.9, Group Development, and provided that access is maintained to each building for service and emergency vehicles.
- C. **Multiple Lot Development** Two or more principal buildings are permitted on a zone lot pursuant to Section 5.14.5, Multiple Lot Development, and provided that vehicular access is maintained to each building for service and emergency vehicles.

(Ord. No. 7266/17-08, § 16, 1-17-2017; Ord. No. 7399/18-28, § 2, 3-19-2018)

#### 5.2.2. - Street Access

- A. **General Standards** Except where an alternative configuration is allowed in accordance with Section 5.2.2 B, Alternative Configuration, all development shall comply with the following standards:
  1. Every zone lot shall abut and have direct access to a publicly-maintained street.
  2. No building or structure shall be constructed or placed on a zone lot that does not have direct access to a publicly-maintained street.
  3. Direct access for a use to a publicly maintained street through another zoning district is not allowed unless the other zoning district:
    - (a) Is classified as a business or special district; or
    - (b) Allows the use; or
    - (c) Provides the sole means of access for the use.
- B. **Alternative Configuration** As an alternative to compliance with the general standards in section (A) above, development may incorporate one of the following alternative street access standards:
  1. **Dead-End Streets** The terminus of a dead-end street does not provide the required access to a publicly maintained street unless it is configured as a circular turnaround or other turnaround approved and constructed in conformance with Chapter 7: Subdivisions Standards.
  2. **Private Streets** Private streets may be used to meet the access requirements for single-family lots in a planned development district, single-family attached developments, and multiple lot developments, provided the district or development as a whole abuts and has direct access to a publicly-maintained street.
  3. **Single-Family Attached Development**

- (a) Individual lots shall have rights of access through a common area containing private streets or private drives that are at least of 24 feet in width to a publicly-maintained street.
- (b) Direct access to a publicly-maintained street from an individual lot containing a single-family attached dwelling shall require approval from the TRC.
- 4. **Multiple Lot Development** Individual lots in a multiple lot development must have shared rights of access along private streets or private drives that are at least 24 feet in width and lead to a publicly-maintained street.
- 5. **Access Through Easement** Lots of record established as of July 1, 1992 that do not abut a publicly-maintained street may establish access through a recorded access easement provided the lot is used for only 1 single-family detached dwelling and meets the following criteria:
  - (a) The minimum easement width shall be 25 feet.
  - (b) The minimum separation between the easement and any other platted access or right-of-way shall be 150 feet.
  - (c) The location of the easement must be recorded on a plat.
  - (d) The easement shall permit ingress, egress, and regress and necessary utilities to serve the lot.
- 6. **Access Through Unimproved Right-of-Way** A single zone lot that has frontage on an existing unimproved public right-of-way, may obtain access through such right-of-way, provided that the following minimum criteria are met:
  - (a) A site plan, signed and sealed by a professional surveyor, shall be submitted that shows the lot has no other frontage on an improved public street;
  - (b) The unimproved public right-of-way is at least 20 feet in width;
  - (c) The access shall serve only 1 single-family detached dwelling and its uninhabited accessory structures;
  - (d) The access shall serve only 1 zone lot. If the unimproved public right-of-way is the sole means of access to more than 1 zone lot in the same block, access pursuant to this subsection shall not be approved;
  - (e) If the zone lot contains multiple parcels, they shall be combined into 1 parcel as a condition of approval;
  - (f) The access shall be maintained by the lot owner; and
  - (g) Utilities shall be located within the unimproved right-of-way and extended to the lot in accordance with City standards. The lot owner shall maintain water and sewer utility lines from the edge of the existing street right-of-way to the dwelling. Any proposed dwelling must be within 500 feet of an approved fire hydrant.
- 7. **Special Purpose Lot** Special purpose lots may establish access through an easement a minimum of 10 feet in width, in accordance with Section 7.1.6 B.6, Special Purpose Lots.

(Ord. No. 7266/17-08, § 17, 1-17-2017)

#### 5.2.3. - Cross-Access

- A. **Purpose and Intent** The intent of this section is to provide for cross-access between comparable commercial and industrial land uses that front thoroughfare streets so that vehicles leaving one lot may access the adjoining lot without having to re-enter the public street system. It is not the intent of this section to reduce the number of driveways beyond what is allowed in the City's Driveway Ordinance.
- B. **Applicability** The provisions of this section shall apply to commercial and industrial uses, as defined in Section 4.2, Use Classifications, Use Categories, and Use types, on zone lots that front thoroughfare streets with the following, unless exempted in accordance with Section 5.2.3 C, Exemptions:
  - 1. **New Buildings or Uses** New principal buildings or new open uses of land.
  - 2. **Expansions** Individual or collective expansions of existing principal buildings, open uses of land, or off-street parking that exceed 50 percent.
- C. **Exemptions** Cross-access is not required when any of the following conditions are present:
  - 1. Adjacent lots do not have common frontage along a thoroughfare;
  - 2. Significant topographical differences in existing or proposed conditions are present;
  - 3. Significant natural features exist in the only viable location for cross-access connections;
  - 4. Vehicular safety factors including, but not limited to, unsafe turning movements or pedestrian conflicts;
  - 5. Sufficient cross-access already exists;
  - 6. Residential, institutional, or other incompatible land uses, as defined in Section 4.2, Use Classifications, Use Categories, and Use Types, are present on adjacent lots;
  - 7. Bed and breakfast establishments;
  - 8. Existing infrastructure obstructions; or
  - 9. Other safety or security factors.
- D. **Easement Recordation** A cross-access easement must be recorded on the final plat for property involving a subdivision, or recorded by separate instrument when no plat is proposed.
- E. **No Obstruction of Access** All cross-accessways shall be built to the lot line, to the maximum extent practicable. An accessway shall not be

obstructed unless approved by the Transportation Director.

- F. **Off-street Parking** Where a required cross-accessway eliminates required off-street parking spaces, replacement spaces shall not be required.
- G. **Perimeter Landscaping** Where a required cross-accessway eliminates a required landscape planting area, the landscaping requirements shall be reduced to accommodate the cross-accessway and replacement landscaping shall not be required.
- H. **Connection Required** Development on vacant land subject to these standards shall install cross-accessways to the shared property line. However, if the abutting landowner that does not already have a cross-accessway stub is unwilling to allow the cross-accessway to be built to the shared property line due to the impact of the grading equipment or other construction activity on their property, then the Transportation Director shall notify the unwilling property owner that they will be responsible for completing the cross-accessway when their property is developed.

(Ord. No. 7266/17-08, § 18, 1-17-2017)

### 5.3. - Reserved

### 5.4. - Off-Street Parking and Loading

#### 5.4.1. - Purpose and Intent

The purpose and intent of this section is to ensure the provision of safe off-street parking and loading facilities for development allowed by this Ordinance. The standards in this section are intended to avoid requiring an over-supply of parking that pose economic and environmental impacts while ensuring off-street parking is provided to mitigate impacts to streets and neighborhoods.

#### 5.4.2. - Applicability

The provisions of this section shall apply to zone lots with the following, unless exempted in accordance with Section 5.4.3. Exemptions:

- A. **New Buildings or Uses** New principal buildings or new open uses of land.
- B. **Changes in Use** Changes in the principal use, except that if the use change results in an increase of less than 5 percent in the required number of parking spaces, or less than 5 additional parking spaces, no additional parking spaces area required.
- C. **Expansions** Expansions of existing principal buildings or open uses of land.

(Ord. No. 7266/17-08, § 18, 1-17-2017)

#### 5.4.3. - Exemptions

- A. **CB and MX Districts** Development on land within the CB and MX districts shall comply with the requirements of this section, except that it is exempt from the minimum off-street parking requirements of Table 5.4.4.B, Minimum Off-Street Parking Standards.
- B. **Historic Properties** No off-street parking is required for:
  - 1. Rehabilitation or reuse of a National Register site or locally designated landmark;
  - 2. Rehabilitation or reuse of a contributing building within a National Register district or the LHO; and
  - 3. Rehabilitation or reuse of a structure that is on the North Carolina National Register Advisory Committee's Study List.

(Ord. No. 7363/17-106, § 7, 11-20-2017; Ord. No. 7415/18-44, § 6, 5-21-2018)

#### 5.4.4. - Off-Street Parking Requirements

- A. **Parking Plan Required** Every application for a site plan, group development plan, building permit, or zoning compliance permit, shall ensure that adequate off-street parking is provided for the uses or buildings contained in the application. Off-street parking must be provided to meet the parking demand without use of public streets, except as specifically allowed by this section.
- B. **Minimum Off-Street Parking Standards** The minimum number of off-street parking spaces required for development shall be in accordance with Table 5.4.4.B, Minimum Off-street Parking Standards.

TABLE 5.4.4.B: MINIMUM OFF-STREET PARKING STANDARDS

USE CLASSIFICATION	USE CATEGORY	USE TYPE	REQUIREMENT
Agricultural	Agriculture	All	No minimum spaces required

Residential	Common Elements Recreation	Common elements recreation	No minimum spaces required
	Household Living	SF detached; Family care home; Manufactured dwelling; Duplex dwelling; Live/work	2 spaces per dwelling unit; except in pocket neighborhoods (See Section 5.14.6, Pocket Neighborhood)
		Multi-family; SF attached, Triplex, Quadpex	1.5 spaces per dwelling unit; except 0.5 spaces per dwelling unit for elderly housing developments
	Group Living	Dormitory, private; Fraternity or sorority house; Rooming house; SRO; Social service facility	1 space per bedroom
	Life Care	Assisted living	0.3 spaces per room; minimum of 5 spaces provided
		CCRC	As required by this table for specific uses (e.g. household living, assisted living, long-term/skilled nursing facilities, etc.)
		Long-term care/skilled nursing	0.3 spaces per room
Institutional	Civic	Assembly & Cultural Facilities, major	1 space per 6 seats in auditoriums, theaters and similar places of assembly, and 1.5 spaces per 1000 sf GFA all other areas
		Assembly & Cultural Facilities, minor	1 space per 500 sf GFA; minimum of 5 spaces provided
		Cemetery	No minimum spaces required
		Correctional facility	1 space per 2 employees at peak shift
		Governmental facility; Public safety facility	As required for the most similar non-governmental use
		Public Recreation facility	No minimum spaces required
	Day Care	Day Care Center	1 space per 400 sf GFA
	Education	College or university	1 space per 4 students
		School, minor	1 space per classroom
		School, major	1.5 space per classroom
		Other post-secondary educational facility	1 space per 400 sf GFA
		Truck driving school	1 space per 400 sf GFA
	Health Care	Hospital; specialty hospital	1.5 space per bed

		Medical care facility, major	1 space per 500 sf GFA
		Medical care facility, minor	1 space per 800 sf GFA; minimum of 5 spaces provided
	Religious Institutions	All	1 space per 6 seats in main assembly room or for institutions without seating, 1 space per 50 sf of seating area in the main assembly room
	Transportation	Airport	No minimum spaces required
		Park and ride facility	No minimum spaces required
		Passenger terminal	No minimum spaces required
		Taxi or limousine service	1 space per 400 sf GFA of office area
	Utilities	Communication or broadcasting facilities	1 space per 2 employees at peak shift
		Solar array; Wireless telecommunication facility; Utility minor	No minimum spaces required
		Utility major	1 space per 2 employees at peak shift
Commercial	Adult Entertainment	Adult entertainment	1 space per 200 sf GFA
	Animal Care	Animal care	1 space per 400 sf GFA of office area
	Eating establishments	Bars or nightclub	1 space per 100 sf GFA
		Restaurant major & minor	1 space per 200 sf GFA
	Offices	Major and minor	1 space per 800 sf GFA; minimum of 4 spaces provided
	Commercial Parking	Commercial Parking	No minimum spaces required
	Personal Services	All	1 space per 500 sf GFA
	Recreation and Leisure	Amusement & entertainment	1 space per 6 seats in theaters and similar places of assembly, and 1 space per 400 sf GFA all other areas
		Amusement parks	1 space per 600 sf of outdoor area and 1 per space 400 sf GFA of indoor area
		Sports & fitness centers	1.5 spaces per 1000 sf GFA; minimum of 5 spaces provided
	Retail Sales	All	1 space per 400 sf GFA up to 400,000 sf and 1 space per 800 sf GFA for area over 400,000 sf; minimum of 5 spaces provided
	Vehicle Establishments	All	1 space per 400 sf GFA of sales and office area; minimum of 5 spaces provided



	Visitor Accommodations	Bed and Breakfast	1 space per guest room, plus 1 space for owner/operator
		Hotel or motel	1 space per guest room
Industrial	Extractive Industry	Extractive industry	space per 2 employees at peak shift
	Industrial Service	All	1 space per 400 sf GFA of sales and office area
	Manufacturing and Production	All except those listed below	1 space per 2 employees at peak shift
		Motion picture production	1 space per 2000 sf GFA
	Warehouse and Freight Movement	Freight movement; Warehouse and distribution	1 space per 2 employees at peak shift
		Self-storage, external and internal access	1 space per 400 sf GFA of office area
	Waste-Related Service	All	1 space per 2 employees at peak shift
	Wholesale trade	All except those listed below	1 space per 400 sf GFA of sales and office area; minimum of 5 spaces provided
		Market Showroom	1 space per 2000 sf GFA

- C. **Uses Not Listed** For uses that do not correspond to the use types listed in Table 5.4.4.B, Minimum Off-Street Parking Standards, the Planning and Development Director shall determine the minimum parking space requirement. In such instances, the application shall provide adequate information for review, which includes, but is not limited to the type of use(s), number of employees, the occupancy of the building, square feet of sales, service and office area, parking spaces proposed and hours of operation.
- D. **Other Vehicles Located Off-street** The following vehicles are not included in Table 5.4.4.B, Minimum Off-Street Parking Standards, and shall be parked or located outside required parking spaces and any public street right-of-way in accordance with this Ordinance:
1. Vehicles for sale or lease;
  2. Vehicles being stored, serviced or repaired; or
  3. Vehicles belonging to the use, such as company vehicles.
- E. **Multiple-Use Development** Development containing more than 1 principal use shall provide parking spaces in an amount equal to the total of all individual principal uses, except as allowed in Section 5.4.8, Parking Alternatives.
- F. **Driveways Used to Meet Requirements** Except for multi-family dwellings, driveways may be used to meet the minimum off-street parking space requirements for all use types in the Household Living use category, provided that sufficient space is available to meet the standards of this section.
- G. **On-Street Parking Credited** The use of on-street parking to meet the minimum off-street parking space requirements is permitted for nonresidential development in the Core City, subject to the following standards:
1. On-street parking exists within 500 linear feet of the primary entrance of the development;
  2. The on-street parking spaces directly abut (not across the street) the lot containing the development and is served by a sidewalk;
  3. There is not a negative impact to existing or planned traffic circulation patterns; and
  4. The on-street spaces shall not be reserved for sole use by the development.
- H. **Administrative Adjustment** The Planning and Development Director is authorized to grant a type I administrative adjustment to the minimum required parking spaces in accordance with Section 2.5.2, Administrative Adjustment.

(Ord. No. 7287/17-29, § 2, 4-3-2017)

#### 5.4.5. - Bicycle Parking Requirements

Bicycle parking, in accordance with this section, is required in the MX, MS, and RM-26 districts for residential developments with 30 or more dwelling units and nonresidential development with 10,000 or more square feet of gross floor area.

**A. General Standards**

1. Bicycle parking shall be provided at the rate of 1 bicycle space for every 30 residential dwelling units or every 5,000 square feet of nonresidential gross floor area. A minimum of at least 2 bicycle parking spaces shall be provided.
2. A bicycle rack or other device shall be provided to enable bicycles to be secured.
3. Bicycle parking shall be located where it does not interfere with pedestrian traffic and is protected from conflicts with vehicular traffic.
4. Bicycle parking should be accessible to the primary entrances of the development and in a visible, well-lit area.

**B. Shared Bicycle Parking** Adjoining developments may share required bicycle parking spaces provided:

1. Each use provides or is served by an improved walkway from the bicycle parking spaces to the primary entrance.
2. The shared bicycle parking spaces and the Improved walkway are depicted on a site plan or group development plan, whichever is appropriate.

**5.4.6. - Off-Street Loading Requirements**

- A. Loading Space Required** Every application for a site plan, group development plan, building permit, or zoning compliance permit for a nonresidential use shall ensure that adequate loading space is 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** A minimum number of loading spaces is not established; however, off-street loading space shall be provided and maintained in sufficient numbers to adequately handle the needs of a nonresidential use.

**5.4.7. - Standards for Off-Street Parking Spaces and Loading Areas**

Off-street parking, stacking, and loading spaces along with drive aisles and private drives are referred to a "vehicular use area". Vehicular use areas shall meet the standards of this section.

**A. General**

1. All required off-street parking, stacking, and loading spaces shall be located on the same zone lot as the principal use it serves, except as allowed in Section 5.4.8, Parking Alternatives.
2. All required off-street parking, stacking, and loading spaces shall not be used for any other purpose, including, but not limited to the storage or display of goods or the sale, lease, storage, or repair of vehicles.
3. 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.
4. Off-street loading spaces shall be not be located in any required parking space or protrude into any public street.

**B. Easements** A vehicular use area shall not be located within an easement without approval of the easement holder.

**C. Parking Space Access** All off-street parking spaces shall be accessed directly from drive aisles or private driveways and not directly from public streets.

**D. Vehicle Backing**

1. Vehicular use areas shall be designed so that a vehicle is not required to back onto a public street to enter or exit the vehicular use area, a parking space, or a stacking space.
2. Except in the CB district, off-street loading shall be designed so that no backing into or from a public street is necessary.

**E. Dimensional Standards for Parking Spaces and Aisles** Standards parking spaces and parking aisles shall comply with the minimum dimensional standards established in Table 5.4.7.E, Dimensional Standards for Parking Spaces and Aisles.

TABLE 5.4.7.E: DIMENSIONAL STANDARDS FOR PARKING SPACES AND AISLES			
PARKING ANGLE (DEGREES)	SPACE WIDTH (FEET)	SPACE DEPTH (FEET)	MINIMUM AISLE WIDTH (FEET)
Parallel (0°)	9	20	12
Angled (30°)	9	17.3	11
Angled (45°)	9	19.8	13

Angled (60°)	9	21	18
Perpendicular (90°)	9	18	24

- F. **Handicapped Accessibility Development** providing off-street parking spaces must ensure a portion of the off-street parking spaces are designated, located, and reserved for use by persons with physical disabilities in accordance with the standards of the State Building Code.
- G. **Dimensional Standards for Loading Spaces** Except for loading spaces used by semi-tractor trailers, off-street loading spaces shall be at least 12 feet wide and at least 25 feet long. Off-street loading spaces used by semi-tractor trailers shall be at least 60 feet long. Overhead clearance shall be at least 14 feet.
- H. **Pedestrian Connections** Pedestrian connections between the principal buildings on a development site and a public street(s) must be provided through improved walkways with a minimum unobstructed width of 4 feet. Parking spaces shall be designed to ensure vehicles do not encroach into the walkways.
- I. **Stacking Spaces**
1. **General Uses** with drive-through facilities and other auto-oriented uses where vehicles queue up to access a service shall provide adequate stacking spaces on-site for the uses or buildings in accordance with this section. Such uses include but are not limited to: restaurants with drive-through, convenience store with fuel sales, and other uses with service bays or drive-throughs.
  2. **Design** Stacking spaces are subject to the following design and layout standards:
    - (a) **Size** Stacking spaces shall be a minimum of 9 feet wide and 16 feet long.
    - (b) **Traffic Movements** Stacking spaces shall not impede vehicular traffic movements or movements into or out of parking spaces, whether on-site or off-site.
    - (c) **Bicycle and Pedestrian Movement** Stacking spaces shall not impede onsite or offsite bicycle or pedestrian traffic movements, whether on-site or off-site.
    - (d) **Separation** Stacking spaces shall be clearly delineated through such means as striping, landscaping, pavement design, or curbing.
- J. **Private Drives**
1. A vehicular use area shall be connected to a public street in a manner that affords safe and convenient ingress and egress.
  2. A one-way drive shall be at least 12 feet wide and a 2-way drive shall be at least 20 feet wide.
  3. Off-street parking spaces shall not be directly accessible off a private drive, except as allowed for use types in the Household Living use category in Section 5.4.4 F, Driveways Used to Meet Requirements.
  4. A private drive for vehicular use areas containing 200 or more parking spaces shall be unobstructed for at least 30 feet in length from the right-of-way line to a drive aisle or parking space to accommodate the ingress and egress of at least 2 vehicles without conflict with vehicles accessing parking spaces or drive aisles and creating an obstruction in the public street.
  5. The design and location of private drives accessing public streets shall be subject to the City's Driveway Ordinance.
- K. **Surface Material**
1. All required parking spaces, drives, and loading spaces in a vehicular use area shall be paved and maintained with concrete, asphalt, or similar material of sufficient thickness and consistency to support anticipated traffic volumes and weights, except as provided in this section.
  2. The use of pervious or semi-pervious materials may be approved as an alternate means of paving provided it is demonstrated that the materials will function in a similar fashion as required materials.
  3. Private drives accessing public streets shall be paved and maintained from the curb line or edge of pavement to a point at least 10 feet from the public street right-of-way for all vehicular use areas and at least 30 feet for all vehicular use areas with 200 or more parking spaces, whether the vehicular use area is paved or unpaved.
  4. Except for required parking facilities for the disabled, required parking may be constructed with gravel or other approved comparable all-weather surface for:
    - (a) Parking used on an irregular basis for religious institutions, private minor assembly uses, and other similar nonprofits organizations;
    - (b) Parking for residential uses or a bed and breakfast establishment where 6 or fewer spaces are required;
    - (c) Parking for an office use converted from a single-family detached dwelling where 4 or fewer spaces are required;
    - (d) Parking for all uses in the AGR district; and
    - (e) Parking for industrial uses in the HI district, or manufacturing and production uses in the LI district.
  5. Required parking facilities and associated access for the disabled shall be paved in accordance with the State Building Code.

- L. **Grading and Drainage** The vehicular use area shall be graded, properly drained, stabilized, and maintained to minimize dust and erosion.
- M. **Curb and Gutter** Where vehicular use areas are paved, curb and gutter or an equivalent drainage system shall be provided along the periphery of the area.
- N. **Markings** All spaces and lanes in vehicular use areas shall be clearly delineated with paint lines, curbs, or other treatment, whether the vehicular use area is paved or unpaved.
- O. **Curbs and Wheel Stops** All parking spaces provided shall have curbs or wheel stops located so that no part of the parked vehicle will extend onto a sidewalk, walkway, adjacent property or landscape area, whether the vehicular use area is paved or unpaved.
- P. **Exterior Lighting** Exterior lighting in vehicular use areas shall be designed to prevent glare or illumination exceeding maximum allowable levels on adjacent land and shall comply with the standards of Section 5.10, Exterior Lighting, as appropriate.
- Q. **Landscaping** Landscaping shall be provided in accordance with Section 5.5.10, Parking Lot Landscaping.

(Ord. No. 7266/17-08, § 19, 1-17-2017)

#### 5.4.8. - Parking Alternatives

The Planning and Development Director is authorized to approve an alternative parking plan for development that proposes alternatives to providing the number of off-street parking spaces required by Table 5.4.4.B, Minimum Off-Street Parking Standards, in accordance with the standards of this sub-section. Nothing in this section shall limit the utilization of one or more of the following off-street parking alternatives by a single use.

##### A. Shared Parking

1. The required off-street parking for a use may be met off-site with the required off-street parking spaces of another use in accordance with the following standards:
  - (a) The shared parking is located within 1,000 feet as measured from the entrance of the use to the nearest shared parking space.
  - (b) An improved walkway is provided to the shared parking area from the use.
  - (c) If the shared parking is located across a thoroughfare, then an adequate and safe pedestrian street crossing, as determined by the Transportation Director, shall exist to safely manage pedestrian crossings. If pedestrian improvements are needed for safe crossings, then the improvements shall be installed prior to use of the shared parking.
  - (d) The uses served by the shared parking plan must have different peak parking demands, differences in hours or days of operation, or otherwise operate such that the uses have access to the required minimum parking spaces when in operation.
2. The Planning and Development Director may approve up to 100 percent of the minimum parking requirement of a use through a shared parking plan.
3. A written agreement allowing the shared use of parking shall be executed by the owners involved and filed with the Planning and Development Director prior to the use of shared parking facilities. The agreement must guarantee the long-term availability of parking. Should the agreement cease, then the use shall be considered to contain nonconforming site conditions and future expansions of the use shall be prohibited unless the use is brought into compliance with the minimum parking requirements of this section.

##### B. Off-Site Parking

1. The required off-street parking for a use may be met off-site in accordance with the following standards:
  - (a) The off-site parking is located within 1,000 feet as measured from the entrance of the use to the nearest shared parking space.
  - (b) An improved walkway is provided to the off-site parking area from the use.
  - (c) If the off-site parking is located across a thoroughfare, then an adequate and safe pedestrian street crossing shall exist to safely manage pedestrian crossings. If pedestrian improvements are needed for safe crossings, then the improvements shall be installed prior to use of the off-site parking.
2. A written agreement allowing the off-site use of parking shall be executed by the owners involved and filed with the Planning and Development Director prior to the use of off-site parking facilities. The agreement shall guarantee the long-term availability of parking. Should the agreement cease, then the use shall be considered to contain nonconforming site conditions and future expansions of the use shall be prohibited unless the use is brought into compliance with the minimum parking requirements of this section.

##### C. Compact Spaces Up to 20 percent of the required off-street parking spaces may be provided as compact car spaces in accordance with the following standards:

1. Each compact car space shall be at least 8 feet wide and 16 feet deep.
2. Compact car spaces shall be clearly marked or posted for compact cars only.

#### 5.5. - Landscaping

Editor's note— Ord. No. 7266/17-08, § 15, adopted Jan. 17, 2017, changed the title of § 5.5 from "Landscaping Standards" to "Landscaping."

### 5.5.1. - Purpose and Intent

The purpose of this section is to establish minimum requirements for landscaping. These standards are intended to:

- A. Advance the general purposes of this Ordinance;
- B. Ensure and encourage the planting, maintenance, restoration, and survival of trees, shrubs, and other plants;
- C. Promote the conservation of existing healthy trees and vegetation, and provide for the restoration of land denuded as a result of grading and construction;
- D. Ensure visual screening of unsightly areas;
- E. Establish appropriate landscape yards and screening features to reduce the negative impacts of glare, noise, trash, odors, lack of privacy, and visual appearance that can occur when higher Intensity land uses locate near lower Intensity land uses;
- F. Safeguard and enhance property values and aesthetic qualities, and protect public and private investment;
- G. Encourage the use of low Impact development techniques and sustainable development practices;
- H. Protect and improve environmental functions and conditions by providing eco-system features such as shade, air purification and oxygen regeneration, filtering of stormwater runoff, and mitigation of noise, glare, and heat; and
- I. Assure that the appearance of High Point positively contributes to its growth and economic prosperity.

### 5.5.2. - Applicability

The provisions of this section shall apply to zone lots with the following, unless exempted in accordance with Section 5.5.3. Exemptions:

- A. **New Buildings or Uses** New principal buildings or new open uses of land.
- B. **Changes In Use** Changes in use of one or more in land use intensity (see Table 5.5.11 C, Land Use Intensity).
- C. **Expansions** In the case of an expansion of an existing building, outdoor use area, or off-street parking lot, the following standards shall apply:
  - 1. For individual or collective expansions of 50 percent or less, the standards in this section shall apply only to the expanded portion; or
  - 2. For individual or collective expansions that exceed 50 percent, the standards in this section shall be applied to the entire zone lot.

(Ord. No. 7266/17-08, § 18, 1-17-2017)

### 5.5.3. - Exemptions

The following development is exempted from the standards in this section:

- A. Single-family detached dwellings;
- B. Duplex dwellings;
- C. Development in the CB and MX districts, except for parking areas;
- D. Repaving or restriping of an existing parking area;
- E. Where lot lines abut the following forms of development, no landscape yard is required:
  - 1. Railroad rights-of-way or easements;
  - 2. Utility easements of 60 feet or more in width; and
  - 3. Street right-of-way that has remained unopened for a period of at least 15 years.
- F. Where outdoor seating is provided between a building and a street, no plant material is required in the corresponding portion of the streetyard.
- G. No perimeter landscape yard shall be required when single-family detached and single-family attached dwelling units abut one another within the same development.
- H. No parking lot landscaping shall be required for parking lots on the same zone lot as the principal use they serve if they have less than 5 parking spaces outside the Core City, or 20 or fewer spaces inside the Core City.

(Ord. No. 7266/17-08, § 18, 1-17-2017; Ord. No. 7363/17-106, § 8, 11-20-2017)

### 5.5.4. - District Standards

Some zoning districts and overlay districts, such as the MS, MX, and the GCO districts, include additional district-specific landscaping standards (See Chapter 3: Zoning Districts).

### 5.5.5. - General Requirements

**A. Conceptual Landscape Plan**

1. A conceptual, or generalized landscape plan is required as part of a submittal for a land disturbance permit. The purpose of the conceptual plan is to ensure that landscape yard requirements can be met, required undisturbed areas and buffers can be maintained, and slopes in required landscape yards will meet the standards of [Section 5.5.12](#), Landscape Yards on Slopes.
2. Nothing shall prohibit an applicant from filing a revised landscape plan that differs from a conceptual landscape plan.

**B. Landscape Plan Required**

1. A landscape plan depicting how required landscaping will be planted on a development site shall be included with an application for site plan, group development, or building 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, group development plan, or the issuance of a building permit.
3. A landscape plan shall contain, as a minimum, the following:
  - (a) Location of required planting material;
  - (b) Identification of trees and plants, including their scientific names;
  - (c) Minimum and maximum dimensions of all landscape yard areas (see [Section 10.2](#), Rules of Measurement);
  - (d) Calculations determining the number of canopy trees, understory trees, and shrubs required (see [Section 10.2](#), Rules of Measurement);
  - (e) Locations, species, and sizes of existing vegetation to be retained and counted towards minimum landscaping requirements; and
  - (f) Existing topography, or proposed topography where site grading is proposed to occur.

**C. Stormwater Detention Pond Landscaping** If landscaping is proposed around or on the embankment of a stormwater detention pond, a landscape plan must be submitted for review to determine that the safety and functionality of the device will not be compromised by the addition of trees and/or shrubs.**D. 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 provided they meet the minimum specifications in [Section 5.5.6](#), Plant Material Specifications.**E. Phased Development** Development 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.**5.5.6. - Plant Material Specifications****A. Canopy Tree Size**

1. Canopy trees shall have a minimum height at maturity of 40 feet or a minimum crown width of 30 feet.
2. All canopy trees shall have a minimum caliper size of 2 inches at planting.
3. Evergreen trees shall be a minimum of 6 feet in height at planting.

**B. Understory Tree Size**

1. Understory trees shall have a minimum height at maturity of 25 to 40 feet, except that trees to be placed below overhead utility lines may not exceed a mature height of 20 feet.
2. Drought tolerant understory trees must have a minimum caliper size of 1 inch at planting.
3. All other understory trees must have a minimum caliper size of 2 inches at planting.

**C. Shrub Size and Type**

1. Required shrubs in a Type A landscape yard or shrubs located parallel to the edge of parking lots, access drives, loading and unloading areas, and outdoor storage shall be evergreen.
2. Required shrubs in a Type B landscape yard shall be 50 percent or more evergreen.
3. Required shrubs in a Type C landscape yard shall be 25 percent or more evergreen.
4. Required shrubs in a streetyard or in a Type D landscape yard may be evergreen or deciduous.
5. All shrubs must be at least a 3-gallon size and have a minimum height or spread of 15 inches at the time of planting. Shrubs shall reach a minimum height of 36 inches and a spread of 30 inches within 3 years of planting.

**D. Species** Plant species used in required landscape yards must be native species or species of a locally adapted nature. Other species may be approved by the Planning and Development Department Director. Refer to the *Development Guide* for listings of acceptable plant material, which includes drought tolerant species and species suitable for planting within 20 feet of overhead utilities.**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 2 different species shall be utilized, in roughly equal proportions.
2. When more than 20 but fewer than 40 trees are required to be planted on site, at least 3 different species shall be utilized, in roughly equal proportions.

3. When 40 or more trees are required on a site, at least four different species shall be utilized, in roughly equal proportions.
  4. A larger number of different species than specified may be utilized.
  5. In no instance shall invasive species be utilized as landscaping materials to meet the requirements of this section.
- F. Stabilization** Landscape yards shall be stabilized and maintained with ground cover, mulch, or other approved materials to prevent soil erosion and allow rainwater infiltration. Landscape yards with slopes of 15 percent or more shall be stabilized with vegetative cover to minimize erosion and mulch washout. Use of landscape fabric on slopes of 15 percent or more is discouraged.
- G. Grouping of Plant Material**
1. Except within a Type A landscape yard, plant material may generally be grouped or clustered within the required landscape yards, however, the overall intent of the particular landscape yard must be adequately addressed. Groupings or clusters shall be depicted on the landscape plan and be approved by the Planning and Development Director.
  2. Perimeter landscaping materials adjacent to parking lots, access drives, loading and unloading areas, and outdoor storage may not be grouped.
  3. Required plant material in a Type A landscape yard may not be grouped, and shall be planted according to the required on-center spacing in Table 5.5.11.B, Perimeter Landscape Yard Types.
- H. Berms**
1. Berms may be used independently, or in conjunction with a wall or fencing, to meet the screening intent of the Type A landscape yard.
  2. Berms must be stabilized, have a slope not exceeding 3:1 (horizontal to vertical), have a crown width at least ½ the berm height, and may be no taller than 8 feet above the toe of the berm slope.
  3. A berm may not damage the roots of existing healthy vegetation designated to be preserved.
  4. A berm may not be designed or placed as to interfere with required sight distances.
- I. Fences**
1. Opaque fences, a minimum of 5 feet in height, constructed within required landscape yards, may reduce the minimum and average landscape yard width requirement in accordance with Table 5.5.11.B, Perimeter Landscape Yard Types.
  2. If utilized, fences shall be located within the landscape yard and all required shrubs shall be planted between the fence and the lot line. Required trees may be planted behind the fence.
- J. Planters**
1. Planters shall be constructed of masonry, stone, or pressure treated lumber stamped for ground contact. Other materials may be approved, based upon their durability, by the Planning and Development Director.
  2. Planters shall have a minimum height of 30 inches and have an effective planting area of 7 feet (measured in any direction) if trees are to be planted and an effective planting area of 4 feet (measured in any direction) if no trees are to be included.
  3. The minimum height of shrubs in the planter, except for ground cover, shall be 6 inches at the time of planting.
  4. ADA-approved grates must be used atop all tree wells.

(Ord. No. 7287/17-29, § 7, 4-3-2017)

#### 5.5.7. - Limitations on Landscaping Placement

- A. Easements**
1. Required trees and shrubs planted within a utility or a water quality conservation easement must be approved by the easement holder (whether such easement pertains to above or below ground rights).
  2. When trees or shrubs are planted in a utility easement or a water quality conservation easement, the landowner is responsible for replacement of any required vegetation if maintenance or other utility requirements result in its removal.
  3. When trees or shrubs are planted in a water quality conservation easement, they shall not impact the easement design or impede the flow of water through the easement.
  4. When required landscaping is permitted to be placed in an easement, the easement width may be counted toward the minimum landscape yard width. Additional area outside the easement shall be provided to meet minimum and average required landscape yard widths.
  5. Where an easement and a required landscape yard coincide, and there is a prohibition on planting within a portion of the easement, and the remaining width is not sufficient to properly contain required plant material, then the landscape yard width shall be expanded in an amount necessary to include all required plant material.
- B. 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.
- C. Obstructions at Intersections** No trees or shrubs shall be planted or maintained in such a manner as to obstruct visibility for motorists at any street intersection in accordance with the standards of Chapter 6 of the City Code, Visibility at Intersections.
- D. Plantings in the Right-of-Way** Required planting materials shall not be located within a public right-of-way unless approved in accordance with

Section 5.5.13, Alternate Landscape Plan, and shall be subject to an encroachment agreement between the landowner and the City.

E. **Permitted Encroachments** The following are permitted in required landscape yards as indicated, provided the landscaping requirements are met and there is no interference with visibility at intersections.

1. The following features may be located entirely within landscape yards required by this section:
  - (a) Landscaping features such as, ornamental pools, planting boxes, sculpture, arbors, trellises, and birdbaths;
  - (b) Pet shelters;
  - (c) At-grade patios or decks;
  - (d) Play equipment;
  - (e) Outdoor furniture and fireplaces;
  - (f) Ornamental entry columns, gates, fences, walls, and retaining walls;
  - (g) Flagpoles of 30 feet in height or less;
  - (h) Lamp and address posts;
  - (i) HVAC equipment, well houses, and utility cabinets of 4 feet in height or less;
  - (j) Mailboxes and incidental signage;
2. The following features may encroach up to 2½ feet into a required landscape yard, but no closer than 3 feet from any lot line:
  - (a) Cornices;
  - (b) Steps;
  - (c) Canopies;
  - (d) Overhanging eaves and gutters;
  - (e) Window sills, bay windows or similar architectural features;
  - (f) Chimneys; and
  - (g) Fire escapes, fire balconies, and fire towers.
3. Up to 15 percent of a required landscape yard may be occupied by walkways and steps that are not connected to any above-grade structure.
4. A stormwater facility with an approved alternate landscape plan.
5. Handicap ramps, but not porches or landings.

F. **Multiple-Lot Development**

1. A multiple-lot development, such as a shopping center, that is configured and developed as a single entity shall be treated as a single zone lot for the purposes of applying the parking lot, landscape yard, and streetyard standards.
2. Individual lots within a multiple-lot development shall be subject to the screening requirements in Section 5.6, Screening.

#### 5.5.8. - Credit for Existing Vegetation

A. **General Standards** Existing healthy, well-formed canopy and understory trees that are in or within 10 linear feet of a required landscape yard and that meet or exceed the standards of this section may be credited toward the applicable tree planting requirements of this section, in accordance with the following:

1. The landowner or developer has provided a plan showing the location and size of canopy and understory trees to be credited, and trees depicted on the plan have been marked or identified on the site.
2. The canopy and understory trees to be credited are protected before and during development by tree protection fencing in accordance with the Development Guide.
3. The location of the existing canopy and understory trees to be credited contribute to the screening or buffering functions of the landscaping.
4. Any canopy or understory trees for which credit has been received that die shall be replaced in a manner that ensures the landscaping meets the requirements of this section.

B. **Amount**

1. Existing trees meeting the standards in (A) above that are retained during and after development shall be credited towards the minimum landscape requirements at a rate of 1.25 times the tree's actual DBH.
2. Trees to be credited shall be verified prior to credit being provided.

C. **Credit Determination**

1. The amount of credit towards the number of required new trees is determined by dividing the total DBH of trees to be retained by the minimum caliper inch size of required plantings (see Section 5.5.6, Plant Material Specifications). Example: A development site that retains 3 8-inch DBH canopy trees will be credited for a total of 30 inches DBH of existing trees ((8x3) x 1.25 = 30 DBH), or 10 newly-planted canopy trees (30/3=10).



2. The Planning and Development Director shall verify and approve trees to be credited in accordance with this section.

- D. **Streetyard Requirements** Regardless of the number or size of preserved trees in required streetyards, there shall be at least 1 canopy tree for every 50 linear feet of required streetyard.

#### 5.5.9. - Time for Installation of Required Landscaping

- A. **Timing** Required landscaping (including mulching and seeding) shall be installed in accordance with this section prior to the issuance of a certificate of occupancy unless a financial guarantee is established to ensure installation at a later date.
- B. **Financial Guarantee** A financial guarantee prepared in accordance with Section 7.2, Financial Guarantees, shall be in place whenever occupancy is desired and required landscaping has not been completed. The maximum length of time for a landscaping financial guarantee shall be 6 months, which may be extended one time for up to 90 days by the Planning and Development Director.
- C. **Multi-Phase Development** Multi-family, nonresidential, and mixed-use development that is planned and developed in phases shall be required to install landscaping that is associated with the active phase or phases only, unless an alternative arrangement is otherwise agreed to by the Planning and Development Director and the developer. An active phase of a development is the one that is subject to permitted and on-going development activity.

#### 5.5.10. - Parking Lot Landscaping

##### A. General Standards

- 1. Two or more parking lots on the same zone lot that are physically separated by buildings and are not physically connected by internal drives shall be considered independently.
- 2. Parking lot landscaping shall include at least 1 canopy tree for every 12 parking spaces.
- 3. **Placement of Canopy Trees**
  - (a) Required interior and perimeter parking lot canopy trees shall be placed such that no parking space is more than 80 feet from the trunk of a canopy tree for new or redeveloped nonresidential parking areas, and 50 feet for new or redeveloped residential parking areas.
  - (b) In cases where an approved alternate landscape plan permits understory trees to be substituted for canopy trees, they shall be placed such that no parking space is more than 50 feet from the trunk of an understory tree for nonresidential parking areas, and 30 feet for residential parking areas.
  - (c) Additional trees above the minimum number required may be used to meet this standard.

##### B. Interior Landscaping Standards

##### 1. General Standards

- (a) For the purposes of parking lot landscaping, 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 perimeter landscape yards (see Figure 5.5.10.B, Parking Lot Landscaping Area).
- (b) These standards shall not apply to parking structures, or vehicle display areas.
- (c) Required interior canopy trees shall be distributed throughout parking areas and may be located in landscape islands, landscape divider medians between rows of parking, or in driveway medians. Trees used to satisfy the general rate requirement in Section 5.5.10 A.2., General Rate, may not be counted toward any landscape yard requirement.

FIGURE 5.5.10.B, PARKING LOT LANDSCAPING AREA

2. **Landscaping Islands and Strips** A parking aisle with more than 12 spaces in a single row shall provide and maintain landscaping islands or strips in accordance with the following standards.
  - (a) Islands for planting canopy trees shall have a minimum dimension of 9 feet and a minimum area of 162 square feet, including the curb.
  - (b) Landscape islands that do not contain canopy trees may contain understory trees and shall contain 3 or more shrubs. Landscape islands that do not contain canopy trees shall have minimum dimension of 5 feet, including the curb.
  - (c) Landscape strips between adjoining rows of parking spaces or serving as driveway medians shall have a minimum dimension of 7 feet, including the curb, if canopy trees are included and 5 feet in all other cases, including the curb. Landscape strips that do not have canopy trees shall include shrubs planted no more than 10 feet on center.
3. **Separation of Light Poles and Trees** In order to prevent the need to excessively trim trees within landscape areas and to maintain the effectiveness of parking area lighting, light poles shall be spaced at least 10 linear feet from a canopy tree trunk, to the maximum extent practicable.
4. **Protection of Landscape Islands** Landscape islands shall be protected from vehicle damage by the installation of curbing, wheel stops or other comparable methods. The placement of plant material within landscape islands shall allow for a 2-foot vehicle overhang from the face of the curb or wheel stop.
5. **Stormwater Management** A landscape island may be designed to function as a stormwater management device.
- C. **Parking Lot Perimeter Landscaping Required** Where a parking lot abuts a street or other development (other than another parking lot), landscaping shall be provided and maintained in accordance with the following:
  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**
    - (a) Required plant material shall be placed adjacent to the perimeter of the parking area.
    - (b) Depending upon the geometric relationship of the parking lot to the property lines or to topographic conditions, plant material may be placed away from the edge of the parking area, if necessary, to best achieve the intent of this subsection.
  3. **Planting Rate**
    - (a) Parking lot perimeter landscaping shall be provided in an amount equivalent to a Type D landscape yard except that plant material shall be uniformly distributed along the parking lot perimeter.

- (b) Parking lot perimeter landscaping shall be credited toward the perimeter landscape yard planting requirement along the portion of the the parking lot perimeter landscaping.
4. **Size of Plant Material** Evergreen shrubs used for parking lot perimeter landscaping shall be in accordance with Section 5.5.6 C, Shrub Size and Type.
  5. **Alternative Configuration** An opaque or semi-opaque (50 percent opaque or more) decorative fence may be provided in-lieu of the shrub requirement if the fence is 48 inches above grade level, located adjacent to the perimeter of the parking lot, and is made of brick, stone, wrought iron, decorative aluminum or steel, painted or stained wood, or composite material. Upon review, the Planning and Development Director may require up to 50 percent of the required number of shrubs where a semi-opaque fence is proposed to ensure the parking lot is sufficiently screened. Chain link fencing, with or without slats, shall not be credited towards landscaping requirements, but may be incorporated between a perimeter landscape strip and the parking area.
  6. **Exemptions** Where parking lots are adjacent to one another, but on different lots, a perimeter landscape yard is not required along the common boundary of the parking lots. However, the requirements of Section 5.5.10, Parking Lot Landscaping, shall be met.

(Ord. No. 2266/17-08, § 18, 1-17-2017)

#### 5.5.11. - Perimeter Landscape Yards

##### A. General Standards

1. Landscape yards are required along the perimeter, extending inward from the lot line, of a zone lot or development site in accordance with Table 5.5.11.B, Perimeter Landscape Yard Types, and Table 5.5.11.C1, Land Use Intensity. They are intended to mitigate potential adverse impacts that may result when higher intensity land uses are located adjacent to lower intensity land uses.
2. The width of permitted driveways and permitted cross-access easements, measured at the lot line, shall be excluded from the calculation of required plant material.
3. A perimeter landscape yard may be located along shared access easements between parcels in nonresidential development.
4. A perimeter landscape yard in a multiple lot development that is configured and developed as a single entity, is only required around the outer perimeter of the development.
5. Stormwater management devices that incorporate vegetation (e.g., bio-retention cell, rain garden, constructed wetlands, etc.) may be placed within a perimeter landscape yard provided the screening function of the landscape yard is maintained. Any plant material meeting the minimum requirements for the landscape yard may be counted toward the requirements.

##### B. Types of Landscape Yards Table 5.5.11.B, Perimeter Landscape Yard Types, establishes standards for the following different landscape yards:

1. Streetyard;
2. Type A Opaque Landscape Yard;
3. Type B Semi-Opaque Landscape Yard;
4. Type C Intermittent Landscape Yard; and
5. Type D Basic Landscape Yard.

The standards are based on whether the development is within or outside the Core City.

TABLE 5.5.11.B: PERIMETER LANDSCAPE YARD TYPES		
LANDSCAPE YARD TYPE	DESCRIPTION/MINIMUM REQUIREMENTS	
	INSIDE CORE CITY	OUTSIDE CORE CITY
<b>STREETYARD</b>		
Intent: This landscape yard functions to distinguish the edge of the street right-of-way and adjacent private land and to provide continuity of vegetation along public streets.		
Average width (feet) [1]	8	10

Minimum width (feet) [2]	5	8
Maximum width (feet)	15	15
Canopy trees per 100 linear feet	2	2
Shrubs per 100 linear feet	17	17
<b>TYPE A: OPAQUE LANDSCAPE YARD</b>		
<p>Intent: This landscape yard functions as an opaque screen from the ground to a height of 8 feet. This type of buffer prevents visual and auditory contact between uses and creates a strong impression of total separation.</p> <p>Yard shown at maturity</p>		
Average width (feet)	25	45
Minimum width (feet) [2]	20	35
Maximum width (feet)	30	70
Canopy trees per every 100 linear feet/on-center spacing (feet)	2/50	4/25
Understory trees per every 100 linear feet/on-center spacing (feet)	5/20	10/10
Evergreen shrubs per every 100 linear feet/on-center spacing (feet)	10/10	33/3
5-foot opaque fence	Reduces average and minimum widths by 5 feet	Reduces average and minimum widths by 10 feet
<b>TYPE B: SEMI OPAQUE LANDSCAPE YARD</b>		
<p>Intent: This landscape yard functions as a partially opaque screen from the ground to a height of 6 feet. This type of buffer prevents visual contact between uses and creates a sense of spatial separation.</p> <p>Yard shown at maturity</p>		
Average width (feet)	15	25
Minimum width (feet) [2]	12	20
Maximum width (feet)	25	45
Canopy trees per every 100 linear feet	2	4
Understory trees per every 100 linear feet	4	6

Shrubs per every 100 linear feet [3]	8	25
5-foot opaque fence	Reduces average width by 3 feet and minimum width by 2 feet	Reduces average and minimum widths by 5 feet
<b>TYPE C: INTERMITTENT LANDSCAPE YARD</b>		
<p>Intent: This landscape yard functions as an intermittent visual screen from the ground to a height of 5 feet. It is intended to partially block visibility between different uses but not totally obstruct visual contact from one use to another.</p> <p>Yard shown at maturity</p>		
Average width (feet)	10	15
Minimum width (feet) [2]	8	10
Maximum width (feet)	20	35
Canopy trees per every 100 linear feet	2	3
Understory trees per every 100 linear feet	3	4
Shrubs per every 100 linear feet [3]	6	20
5-foot opaque fence	Reduces average width by 2 feet	Reduces average and minimum widths by 5 feet
<b>TYPE D: BASIC LANDSCAPE YARD</b>		
<p>Intent: This landscape yard functions as a means to demarcate boundaries between different uses and provide only a slight visual obstruction between different uses.</p> <p>Yard shown at maturity</p>		
Average width (feet)	5	8
Minimum width (feet) [2]	5	5
Maximum width (feet)	10	15
Canopy trees per every 100 linear feet	None	
Understory trees per every 100 linear feet	2	2
Shrubs per every 100 linear feet [3]	12	15
5-foot opaque fence	No additional reductions	

## NOTES:

[1] Within the Core City, where a required streetyard cannot be accommodated due to the location of existing development or other site related issue, an adjustment may be approved in accordance with Section 2.5.2, Administrative Adjustment

[2] If the required principal building setback is less than the required landscape yard width, the principal building setback controls and the landscape yard width shall be reduced only along the length of the building wall that encroaches into the landscape yard. Regardless of reduction in streetyard width, the required planting material must be installed, though its location may be modified in accordance with Section 5.5.13, Alternate Landscape Plan.

[3] A percentage of the required shrubs must be evergreen. See Section 5.5.6 C, Shrub Size and Type.

## C. Landscape Yard Type Application

1. To determine the type of landscape yard required, first identify the land use intensity of the proposed (new, changed, or expanded) use, then identify the land use intensity of each existing use on adjacent sites (see Table 5.5.11.C1, Land Use Intensity). Then, using Table 5.5.11.C2, Type of Landscape Yard Required, the intersection of the row associated with the proposed use and the column associated with the adjacent use shows the type of landscape yard required.
2. The land use Intensity is a number that corresponds to the intensity of development.
3. A land use is considered to "exist" on an adjacent property when a building permit is issued.
4. If a zone lot contains uses with different land use Intensities, the higher numbered land use Intensity applies unless an Administrative Adjustment is approved in accordance with Section 5.5.13, Alternate Landscape Plan.
5. No landscape yard shall be required where a proposed use is adjacent to an existing agricultural use.

TABLE 5.5.11.C1: LAND USE INTENSITY

USE CLASSIFICATION	USE CATEGORY	USE TYPE	LAND USE INTENSITY SCORE
Agricultural	Agriculture	All	Crops: 1 Livestock: 3
Residential	Common Elements Recreation	Common elements recreation	1
	Household Living	SF detached; Family care home; Manufactured dwelling; Duplex dwelling; Live/work	1
		Multi-family; SF attached, Triplex; Quadplex	2
	Group Living	All, except SRO	2
		SRO	3
	Life Care	All	2
Institutional	Civic	Assembly & Cultural Facilities, major & minor	3
		Cemetery	1
		Correctional facility	4
		Governmental facility; Public safety facility	3

		Public Recreation facility	3
	Day Care	Day Care Center	3
	Education	All, except truck driving school	3
		Truck driving school	4
	Health Care	All	3
	Religious Institutions	All	3
	Transportation	Airport	5
		Park and ride facility	3
		Passenger terminal	4
		Taxi or limousine service	4
	Utilities	Communication or broadcasting facilities	3
		Solar array; Wireless telecommunication facility; Utility minor	3
		Utility major	4
Commercial	Adult Entertainment	Adult entertainment	4
	Animal Care	Major	4
		Minor	3
	Eating establishments	All	3
	Offices	All	3
	Commercial Parking	Commercial Parking	3
	Personal Services	All	3
	Recreation and Leisure	Amusement & entertainment	3
		Amusement parks	5
		Sports & fitness centers	3
	Retail Sales	All	3
	Vehicle Establishments	All	3
	Visitor Accommodations	Bed and Breakfast	1
		Hotel or motel	3
Industrial	Extractive Industry	Extractive industry	5

Industrial Service	All	4
Manufacturing and Production	All, except microbrewery, microdistillery, microwinery, or motion picture production	5
	Microbrewery, microdistillery, or microwinery	4
	Motion picture production	3
Warehouse and Freight Movement	All	4
Waste-Related Service	All	4
Wholesale trade	All, except market showroom	4
	Market Showroom	3

TABLE 5.5.11.C2: TYPE OF LANDSCAPE YARD REQUIRED

A = Type A buffer B = Type B buffer C = Type C buffer D = Type D buffer n/a = no buffer required

LAND USE INTENSITY OF PROPOSED USE	LAND USE INTENSITY OF EXISTING ADJACENT USE					
	1	2	3	4	5	VACANT
1	n/a	n/a	n/a	n/a	n/a	n/a
2	C	n/a	C	B	B	D
3	B	B	n/a	C	B	D
4	A	A	C	n/a	C	D
5	A	A	B	C	n/a	n/a

**D. Streetyard Standards**

1. Streetyard landscaping shall be installed in accordance with Table 5.5.11.B, Perimeter Landscape Yard Types. Trees associated with streetyard landscaping shall not be located within 4 feet of the right-of-way line.
2. Off-street parking, storage, or display shall be prohibited within a streetyard.
3. No streetyard landscaping shall be required along an alley.

(Ord. No. 7266/17-08, § 18, 1-17-2017; Ord. No. 7365/17-108, § 1, 11-20-2017; Ord. No. 7415/18-44, § 7, 5-21-2018)**5.5.12. - Landscape Yards on Slopes**

Slopes over 50 percent shall not be used to meet a landscape yard requirement. Slope areas of between 33 percent and 50 percent may be used to meet a landscape yard requirement in accordance with the following:

- Existing Slope with Adequate Tree Cover** If the required number of trees for the applicable landscape yard exists on the slope, then the slope area is deemed to meet the landscape yard requirements, provided that no healthy trees or other vegetation are removed and no grading or clearing of the slope occurs.
- Existing Slope without Adequate Tree Cover** If the slope area lacks the required number of trees for the applicable landscape yard, then additional trees and vegetation shall be provided to meet the landscape yard requirement. No existing healthy trees or vegetation may be



removed and no grading or clearing of the slope may occur.

- C. **Newly-graded Slope** If the slope area is newly graded, the slope area shall be replanted to provide tree cover over the entire area. Plans for replanting shall include a minimum of one canopy tree per 400 square feet of surface area and may be made up of a mixture of deciduous hardwood and evergreen trees meeting the minimum standards of Section 5.5.6, Plant Material Specifications. Replanting plans are subject to the approval of the Planning and Development Director, and upon installation will be deemed to meet the tree requirement for the applicable landscape yard.

#### 5.5.13. - Alternate Landscape Plan

An alternate landscape plan may be approved by the Planning and Development Director, that allows modifications to the requirements of this section. Natural physical conditions (such as streams, wetland areas, and topography), lot configuration, utility easements, desire to retain existing vegetation, and impractical situations that would result from application of Section 5.5 Landscaping Standards, may justify approval of an alternate landscape plan.

- A. **Intent** Any alternate landscape plan approved shall meet the intent of the applicable landscape yard(s) and the purpose and intent of the landscaping standards of this section.
- B. **Allowable Modifications**
  - 1. The following landscape standards may be modified by an alternate landscape plan.
    - (a) The location of required plant materials;
    - (b) The configuration of required plant materials; and
    - (c) The number of required plant materials.
  - 2. The alternative landscape plan shall include justification for the modifications requested, based upon but not limited to the following:
    - (a) The presence or planned location of public utilities, infrastructure, or easements;
    - (b) The location of existing healthy vegetation or other beneficial site features to be retained after development;
    - (c) The size, shape, or topographic elevation of the site relative to the street(s) it abuts; and
    - (d) The need to protect solar access or avoid permanently shaded areas on the site.

#### 5.5.14. - Additional Landscape Yard Flexibility

- A. **Substitution**
  - 1. Canopy trees may be substituted for shrubs at the rate of 1 canopy tree for 8 shrubs, and understory trees may be substituted for shrubs at the rate of 1 understory tree for 5 shrubs if approved by the Planning and Development Director.
  - 2. Understory trees may be substituted for canopy trees at the rate of 2 understory trees for each canopy tree when a conflict exists due to overhead utility lines.
- B. **Existing Lots of Record**
  - 1. On lots of record that existed prior to March 1, 1992 that are less than 55,000 square feet in area, no development is required to landscape more than 15 percent of the lot. Priority shall be placed on meeting streetyard requirements first, then on other perimeter landscape yards.
  - 2. Where a required landscape yard is reduced in width by 10 feet or more than the minimum requirement, and the differential in land use intensity is 2 or more categories, a 5-foot opaque fence may be required by the Planning and Development Director.
- C. **Plantings in Shaded Areas** Where a building is located less than 10 feet from a lot line, and the landscape yard would be heavily shaded by buildings on either side of the lot line, required trees and shrubs may be planted outside the shaded area to improve their chances of survival.

#### 5.5.15. - Landscape Yard Maintenance

- A. **General** The landowner is responsible for maintaining all required plant materials and landscape yards in good health and appearance. Any dead, unhealthy, severely damaged, or missing plants (whether preserved or installed) must be replaced with new plant material equal in quantity and quality. Replacement plant material shall be installed within 180 days of the date of owner notification. The obligation for continuous maintenance is binding on any subsequent owners of the land, or any other parties having a controlling interest in the property.
- B. **Protection of Plant Material** The landowner or developer shall take actions to protect trees and landscaping from unnecessary damage during all facility and site maintenance operations. When landscape yards are adjacent to parking lots or drives, plants shall be protected from damage by vehicles, lubricants, or fuels.
- C. **Maintain Shape and Function** All required trees (whether canopy or understory) shall be maintained in their characteristic natural shape, be allowed to reach their mature size, and shall not be severely pruned, sheared, topped, or shaped as shrubs. Trees (including, but not limited to crepe myrtles) that have been so altered, such that they no longer serve their intended function as trees within the landscaping yard, shall be considered as damaged vegetation and shall be replaced in accordance with this section.
- D. **Trimming and Pruning** Trimming and pruning of trees shall be conducted in compliance with ANSI standards and the Development Guide.

Shrubs shall be maintained in a way that does not obstruct sight distances at public street intersections, obstruct traffic signs or devices, or interfere with the use of sidewalks or pedestrian trails.

#### 5.5.16. - Removal or Relocation of Trees and Shrubs

##### A. Authorized Removal

1. Once installed and inspected, required landscape material shall not be removed or relocated without approval of a revised landscape plan.
2. If approved, all plant material removed shall be replaced at a ratio of one-to-one.

##### B. Hazardous Trees

If any required tree is determined to be in a hazardous condition such that it is an immediate danger to the public safety, or it is an immediate threat to or has caused disruption of public services, the Planning and Development Director may authorize the removal of the tree without prior alternate landscape plan approval. Following removal, the Planning and Development Director shall determine if tree replacement is necessary in accordance with section (A)(2) above.

##### C. Unauthorized Removal

1. Except in accordance with Section 5.5.16 B, Hazardous Trees, If any required plant material is removed without approval of an alternate landscape plan, it shall be considered a violation of this Ordinance in accordance with Chapter 9: Enforcement.
2. In addition to the applicable remedies in Chapter 9: Enforcement, unauthorized removal of trees and shrubs shall result in the requirement for landscape material replacement in accordance Table 5.5.16.C, Replacement of Landscape Material Following Unauthorized Removal. All replacement landscaping shall be placed in the same yard area from which it was removed, unless it is approved in accordance with Section 5.5.13, Alternate Landscape Plan.

TABLE 5.5.16.C, REPLACEMENT OF LANDSCAPE MATERIAL  
FOLLOWING UNAUTHORIZED REMOVAL

TYPE OF REQUIRED LANDSCAPING MATERIAL REMOVED [1]	REPLACEMENT RATIO [AMOUNT REPLACED: AMOUNT REMOVED]
Canopy trees less than or equal to 8 inches DBH	2:1
Canopy trees between 8 inches and 23.9 inches DBH	3:1
Canopy trees of 24 inches or more DBH	4:1
Understory trees less than or equal to 8 inches DBH	2:1
Understory trees between 8 inches and 14.9 inches DBH	3:1
Understory trees of 15 inches DBH or more	4:1
Shrubs	2:1
NOTES:	
[1] If the size of removed trees cannot be accurately determined, all removed trees shall be replaced in a 3:1 ratio.	

##### D. Replacement of Dead or Diseased Material

The replacement of dead or diseased trees and shrubs in a 1:1 ratio in the same location is considered normal landscape yard maintenance and shall not require approval of an alternate landscape plan.

(Ord. No. 7365/17-108, § 1, 11-20-2017)

#### 5.6. - Screening

##### 5.6.1. - Purpose and Intent

These screening standards are intended to reduce the impact of necessary site structures and equipment upon adjacent property and enhance the aesthetics of the public streetscape.

##### 5.6.2. - Applicability

The provisions of this section shall apply to solid waste collection facilities, loading docks and loading bays, and ground-based mechanical equipment on zone lots with the following, unless exempted in accordance with Section 5.6.3, Exemptions:

- A. **New Buildings or Uses** New principal buildings or new open uses of land.
- B. **Changes in Use** Changes in use of one or more in land use intensity (see Table 5.5.11 C, Land Use Intensity).
- C. **Expansions** Expansions of principal buildings that exceed 1,000 square feet of gross floor area (GFA) or the total expansions of principal buildings, open uses of land or off-street parking that individually or collectively exceed 3,000 square feet.

(Ord. No. 7266/17-08, § 18, 1-17-2017)

#### 5.6.3. - Exemptions

The following shall be exempt from the standards in this section:

- A. **Heavy Industrial (HI) District** Solid waste collection, loading facilities, and ground-based mechanical equipment in the HI district are exempt from the requirements of this section, unless the structure or equipment is within 100 feet of a lot with an existing residential use.
- B. **Loading Docks**
  - 1. Loading docks and loading bays in the CB and MX districts are exempt from the requirements of this section.
  - 2. Loading docks and loading bays in the LI district that face an industrial street are exempt from the requirements of this section.
- C. **Areas Hidden from Off-Site View** Screening is not required where site or topographic features effectively prevent off-site views of equipment and structures to be screened, as determined by the Planning and Development Director.
- D. **Single-family Attached and Multi-family** Single-family-attached and multi-family developments are exempt from the screening requirements for ground-based mechanical equipment.

(Ord. No. 7363/17-106, § 9, 11-20-2017)

#### 5.6.4. - General Standards

- A. **Screening from Streets and Residential Uses** Applicable structures and equipment shall be screened from view from any street, and from any adjacent residential use, as seen from any point on the lot line at a height of 6 feet.
- B. **Area and Height May Vary** The area and height of required screening depend upon the location of the structure or equipment relative to any adjacent residential lot and the view from the street, as determined by the Planning and Development Director.

#### 5.6.5. - Specific Standards for Solid Waste Facilities

In addition to the general standards, solid waste collection facilities:

- A. **Behind Rear Line of Principal Building** Should be located behind the rear building line of the principal building; and
- B. **Enclosed** Shall be enclosed when located within 50 feet of a lot containing a residential use.

#### 5.6.6. - Screening Methods

Solid waste collection, loading facilities, and ground-based mechanical equipment may be screened by any of the following methods, in single use or in combination:

- A. **Vegetation** Evergreen vegetation meeting the requirements of Section 5.5.6, Plant Material Specifications, so as to achieve the minimum screening height within 3 years of planting;
- B. **Berms** Berms meeting the requirements of Section 5.5.6, Plant Material Specifications;
- C. **Fencing** Opaque fence constructed of treated wood, rot-resistant wood (such as cypress or redwood), plastic, or vinyl;
- D. **Walls**
  - 1. Masonry wall constructed of brick, textured concrete masonry units, or stuccoed block; or
  - 2. Walls of a principal or accessory structure.

#### 5.6.7. - Prohibited Screening Materials

Chain-link fencing with woven slats of opaque materials is not an allowable method for screening compliance.

#### 5.7. - Signage

##### 5.7.1. - Purpose and Intent

The purpose of this section is to support and complement the various commercial and nonresidential uses through regulations concerning the placement, number, location, size, appearance, illumination, and animation of signs. The erection of signs is controlled and regulated in order to promote the health, safety, welfare, convenience, and enjoyment of travel on streets. The provisions of this section are more specifically intended to:

- A. Promote the reasonable, orderly, and effective display of signs, displays, and devices;
- B. Protect the public welfare as well as land values by preserving the aesthetic qualities of the city's environment;
- C. Preserve the city's environment from excessive and obtrusive signs;
- D. Promote the safety of persons and land by providing that signs do not create traffic hazards or hazards due to collapse, fire, collision, decay, or abandonment;
- E. Promote the efficient transfer of general public and commercial identification or information, and maintain a viable business community throughout the year by improving the legibility and effectiveness of signs; and
- F. Enhance the image, appearance, and economic vitality of the city.

#### 5.7.2. - Applicability

The provisions of this section shall apply to signs erected, affixed, placed, painted or otherwise established, unless exempted in accordance with Section 5.7.7, Exempt Signs.

(Ord. No. 2266/17-08, § 18, 1-17-2017)

#### 5.7.3. - Variances

The sign height and location standards in this section may only be varied in accordance with standards and requirements of Section 2.4.15, Variance. The standards in this section pertaining to sign number, size, illumination, or minimum spacing may not be varied.

#### 5.7.4. - General Standards

- A. **Area Sign** face area and height shall be measured in accordance with the standards in Section 10.2.10, Signage.
- B. **Removal of Signs** A sign for which a sign permit has lapsed or has been revoked, or for which the time allowed for the continuance of a nonconforming sign has expired, shall be removed.
- C. **Multiple-Lot Development Signage** within a multi-lot development shall be subject to the following standards:
  - 1. A multiple-lot development shall be considered as a single lot for the purposes of sign review and permitting;
  - 2. Signage in a multiple-lot development shall be configured in accordance with Section 5.7.13, Common Signage Plan;
  - 3. Signage associated with a multiple-lot development shall be permitted in accordance with the regulations governing outparcels and lease lots in the RC district; and
  - 4. A development entrance or development identification sign shall be permitted in accordance with the zoning district where it is located.
- D. **Signs in Right-of-Way** A sign installed or placed on public land or rights-of-way, except in compliance with this section or under an encroachment agreement with NCDOT or the City, shall be forfeited to the public and be subject to confiscation.
- E. **Obstructions at Street Intersections** No sign shall be erected or maintained in a manner that obstructs visibility for motorists at any street intersection in accordance with the standards in Chapter 6: Visibility at Intersections, of the City Code of Ordinances.
- F. **Obsolete Sign** A sign which advertises a business no longer conducted on the premises shall be removed within 90 days of cessation of such business.
- G. **Unsafe Sign** A sign which is unsafe or insecure, or is a menace to the public shall be removed after due notice is given by the Planning and Development Director.
- H. **Deteriorated or Abandoned Sign** A sign which is abandoned or which is not properly maintained, including cleaning and painting of painted surfaces and replacement of damaged parts, shall be removed after due notice is given by the Planning and Development Director.
- I. **Sign Installed Without a Permit** A sign which is installed in violation of the State Building Code or in violation of this Ordinance shall be removed after due notice is given by the Planning and Development Director.
- J. **Nonconforming Signs** Nonconforming signage shall be subject to the requirements in Section 8.5, Nonconforming Signs.
- K. **Nonconforming Uses** New signage for a nonconforming use shall be permitted provided the signage complies with the standards in this section.

#### 5.7.5. - Design, Construction, and Maintenance

A sign shall be designed, constructed, and maintained in accordance with the following standards:

- A. **Other Codes** A sign shall comply with applicable provisions of the State Building Code and the electrical code.
- B. **Permanence** Except for banners, flags, temporary signs, and window signs conforming with the requirements of this section, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct

- attachment to a rigid wall, frame, or structure.
- C. **Maintenance** A sign shall be maintained in good structural condition, in compliance with the building and electrical codes, and in conformance with this section.
- D. **Obstruction** A sign shall not be erected so as to obstruct a fire escape, required exit, window, door opening, or wall opening intended as a means of ingress or egress.
- E. **Ventilation Interference** A sign shall not be erected so as to interfere with an opening required for ventilation.
- F. **Above Ground Clearance** A sign shall be located in such a way that it maintains horizontal and vertical clearance from all electrical power lines and communication lines in accordance with the applicable provisions of the National Electrical Safety Code (NESC).
- G. **Ground Clearance** A sign and its supporting structure shall maintain clearance from surface and underground utilities, conduits or easements for water, sewage, gas, electricity or communication equipment. In addition, the placement of a sign and its supporting structure shall not interfere with natural or artificial drainageways.
- H. **Interference to Warning or Instructional Sign** A sign shall not be erected so as to interfere with any existing warning or instructional sign.
- I. **Minimum Wind Loads** A sign, except a sign attached flat against the wall of a building, shall be constructed to withstand minimum wind loads as specified by the State Building Code.

#### 5.7.6. - Prohibited Signs

Unless otherwise allowed under this section or this Ordinance, the following signs are prohibited:

- A. A windblown device such as a pennant, banner, streamer, spinner, balloon, gas filled figure, and other similar device, except as temporary identification for market showrooms and as advertising for a temporary event or special promotion.
- B. An animated sign, except video wall signs that use changing light to depict action or create special effects.
- C. A video wall sign, except in the CB district.
- D. An electronic changeable copy sign, except in the CB, GB, MS, LB, and RC districts.
- E. A portable sign legible from the public right-of-way, except as allowed in Section 4.5, Temporary Uses, and in Section 5.7.8, Signs Not Requiring A Sign Permit, for temporary signs and A-frame signs.
- F. A sign which projects over a public right-of-way, except that a wall sign may project not more than 18 inches over a public right-of-way in zoning districts which permit structures to be built at the lot line adjoining the street.
- G. A sign on a vehicle that is parked in a location which is visible to the public, for a period of time which indicates that the principal use of the vehicle is for advertising rather than transport.
- H. A sign which is affixed to a tree, rock, or other natural feature.
- I. A sign of any type which imitates a traffic control device.
- J. A sign which extends vertically above the highest portion of the roof of any structure.
- K. A sign on a roadside appurtenance, including but not limited to a roadside bench, bus stop shelter, planter, utility pole, or refuse container.
- L. A series of 2 or more signs placed in a line parallel to a public or private street, or a series of 2 or more parallel signs carrying a single commercial message.

(Ord. No. 7287/17-29, § 8, 4-3-2017)

#### 5.7.7. - Exempt Signs

The following signs are exempt from the requirements of this section except that a lighted sign requires an electrical permit:

- A. A governmental sign.
- B. A work of art with no commercial message.
- C. Lights and decorations with no commercial message that are temporarily displayed on traditionally accepted civic, patriotic or religious holidays.
- D. A hand carried sign.
- E. A sign located on the interior of a building, court, lobby, athletic field, stadium, or other structure which is not intended to be seen from the exterior of the building or structure.
- F. A sign located on or affixed to an athletic field scoreboard that is not oriented toward the playing field, unless the sign:
  - 1. Is an off-site sign or outdoor advertising sign;
  - 2. Is larger than, or protrudes from the scoreboard;
  - 3. Is a projecting sign; or
  - 4. Is illuminated.

- G. A sign affixed to a vehicle or trailer used in the normal transport of goods or persons where the sign is incidental and accessory to the primary trailer.
- H. A sign affixed to the window of a vehicle displaying information on the terms of sale for the vehicle.
- I. A sign not legible from a public or private street.
- J. Flags of the United States, North Carolina, local governmental jurisdictions, foreign nations having diplomatic relations with the United States, and any other flags adopted or sanctioned by the local governing body, except they are subject to the laws found in the U.S.C., Title 4, Chapter 1, Title 18, Chapter 33 and Title 36, Chapter 10.
- K. A window sign painted on or attached to a window.
- L. A sign painted on an active public water tower.

(Ord. No. 7266/17-08, § 20, 1-17-2017)

#### 5.7.8. - Signs not Requiring a Sign Permit

Signs not requiring a sign permit are allowed only in accordance with the following general and specific standards.

##### A. General Standards for Signs Not Requiring a Permit

- 1. Except where otherwise specified, all signs shall be restricted to an on-site location.
- 2. Signs that include lighting or are illuminated shall be subject to an approved building permit for electrical service.

##### B. Specific Standards for Signs Not Requiring a Permit In addition to the standards in Section 5.7.8 A, General Standards for Signs Not Requiring a Permit, signs not requiring a sign permit shall be subject to the following specific standards.

- 1. Table of Requirements Signs subject to the standards in this section shall comply with the applicable provisions in Table 5.7.8.B, Requirements for a Signs Not Requiring a Sign Permit.

TABLE 5.7.8.B: REQUIREMENTS FOR A SIGN NOT REQUIRING A SIGN PERMIT					
SIGN TYPE	NUMBER PERMITTED	AREA (SQ. FT.)	SETBACK (FEET)	MAXIMUM HEIGHT (FEET)	ILLUMINATION
Warning signs in residential districts	n/a	4	n/a	8	Direct
Warning signs in nonresidential districts	n/a	6	n/a	8	Direct
Historical, memorial markers in all districts	1/lot	4	R/W	6	Indirect
Flags, emblems, insignia of corporate, political, professional, fraternal, civic, or educational organization in all districts	1/frontage	60	R/W	6	Indirect
Temporary religious, philosophical, or educational signs in all districts		6	R/W	6	Not allowed
Temporary real estate, yard sale and construction signs in AGR and R Districts		6	R/W	6	
Temporary real estate and construction signs in RM districts, nonresidential districts, and major subdivisions in R districts		100	R/W	12	
Temporary political signs in all districts	6	6	R/W	6	

Identification signs: name and address plates, home occupations, and building markers	1/building	2/unit	R/W	6
A-Frame in CB and MX districts and MS district (sub-district B)	1/building entrance	6	R/W	3
Vending machine, gas pump, ice machine, or similar device signs	n/a	n/a	R/W	n/a

2. **Additional Specific Standards** In addition to the standards in Table 5.7.8.B, Requirements for a Sign Not Requiring a Sign Permit, signs subject to the standards in this section shall also comply with the following:
- (a) A warning sign shall not contain a commercial message, but it may contain a business logo or name.
  - (b) A temporary real estate or construction sign must be removed within 7 days of the end of the completion of construction, sale, or lease of land.
  - (c) A temporary yard sale sign shall be posted for no longer than 3 days per sale.
  - (d) A temporary political sign shall be located on private land with the landowner's permission, and be removed within 7 days after the election.
  - (e) Temporary religious, philosophical, educational, real estate, yard sale, construction, and political off-site signs shall comply with the following standards:
    - (1) Be located outside the street right-of-way, or at least 6 feet from the back of curb or edge of pavement where no curb exists;
    - (2) Not be placed in public street medians or traffic islands;
    - (3) Not interfere with or obstruct pedestrian or vehicular traffic, or obstruct safe sight distances at intersections;
    - (4) Not be placed on private land without the consent of the landowner or occupant; and
    - (5) Be posted only within the hours from noon on a Friday to noon on the following Monday.
  - (f) An A-frame sign in the CB district, MX district, and sub-district B of the MS district, if:
    - (1) It is displayed only during operational hours of the use and is removed each day at the close of business;
    - (2) There is 1 sign per building entrance that fronts on the primary street, and only 1 sign per nonresidential use;
    - (3) Windblown devices, including but not limited to balloons and streamers, are not attached or otherwise made part of the sign;
    - (4) It does not interfere with safe sight distances for motorists on the adjacent roadways, does not interfere with or obstruct pedestrian or vehicular traffic, and allows a minimum of 5 feet of clear passage on the sidewalk between the street and the sign;
    - (5) It is not be anchored to the sidewalk or affixed to a pole, vending box, or other structure or appurtenance; and
    - (6) It may be placed on the public sidewalk portion of the public street right-of-way directly in front of the use.
  - (g) A vending machine, gas pump, ice machine, or similar device sign shall be:
    - (1) Painted or adhered to the device; and
    - (2) Indicate only the contents of the machine, the name or logo of the supplier, the price, or operating instructions.

(Ord. No. 7363/17-106, § 10, 11-20-2017)

#### 5.7.9. - Freestanding Signs Requiring a Sign Permit

A freestanding sign requiring approval of a sign permit in accordance with Section 2.5.13, Sign Permit, shall comply with the following general and specific standards:

##### A. General Standards for Freestanding Signs Requiring a Permit

###### 1. Location Standards

- (a) It shall be allowed only as an accessory to an existing principal use.
- (b) Except where otherwise specified, all signs shall be restricted to an on-site location.
- (c) If greater than 6 feet in height, it shall not be located within 100 feet of a residential district.

(d) Where 2 or more establishments at the same location receive approval of directional signs, the signs shall share the same support

## 2. Illumination Standards

### (a) Residential Districts

- (1) Indirect illumination of a freestanding sign is allowed in all residential districts.
- (2) Direct illumination of a freestanding sign in a residential district requires a special use and is subject to the following standards:
  - (i) It must be for a permitted nonresidential use;
  - (ii) The nonresidential use and sign must front on a thoroughfare; and
  - (iii) Illumination of the sign must be needed for identification of the nonresidential use due to the use's non-daylight activities.

### (b) Nonresidential Districts

- (1) Indirect illumination of a freestanding sign is allowed in all nonresidential districts.
- (2) Direct illumination of a freestanding sign is allowed in the AGR, LB, GB, RC, CB, MS, MX, LI, and HI districts.
- (3) In the TO, OI, and EC districts, direct illumination of a freestanding sign is allowed if it is limited to cut-out letter and shielded silhouette lighting.
- (4) Direct illumination of a freestanding sign in the I and PNR district requires a special use. Illumination of the sign must be needed for identification of the use due to the use's non-daylight activities.

B. **Specific Standards for Freestanding Signs Requiring a Permit** In addition to the standards in Section 5.7.9 A, General Standards for Freestanding Signs Requiring a Permit, freestanding signs requiring a permit shall be subject to the following specific standards:

1. **Table of Requirements** Signs subject to the standards in this section shall comply with the applicable provisions in Table 5.7.9.B, Requirements for a Freestanding Sign Requiring a Sign Permit.

**TABLE 5.7.9.B: REQUIREMENTS FOR A FREESTANDING SIGN  
REQUIRING A SIGN PERMIT**

ZONING DISTRICT OR SIGN TYPE		MAXIMUM NUMBER PER LOT FRONTAGE	AREA (SQ FT)		SETBACK FROM ROW (FEET)	MAX HEIGHT (FEET)	AREA COMPUTATION (SQUARE FEET PER EACH LINEAR FOOT OF LOT FRONTAGE)
			MAX	MIN [1]			
SIGN STANDARDS BY ZONING DISTRICT							
AGR district (nonresidential uses only)		1	50	n/a	n/a	10	n/a
All R and RM districts and PNR districts (nonresidential uses only)		1	50	n/a	n/a	6	n/a
I and TO districts		1	100	12	n/a	6	0.25
OI, LB, and EC districts		1	100	25	n/a	15	0.25
MS District	A, C & D sub- districts	1	150	50	n/a	15	1.0
	B sub-district	1	75	50	n/a	6	1.0
MX district		1	40	n/a	n/a	6	n/a
LI and HI districts		1	200 [2]	75	n/a	30 [3]	1.0
GB District	outparcel & lease lot	1/parcel	50	n/a	n/a	6	NA
	all other lots	1	200 [2]	75	n/a	30 [3]	1.0



CB district		1	100	50	n/a	6	1.0
RC District	outparcel & lease lot	1/parcel	50	n/a	n/a	6	n/a
	all other lots	1/lot	100	50	n/a	6	0.5
	development identification sign	1/street frontage	300	200	10	30 [3]	n/a
	playbill sign	1/theater complex	200	n/a	10	30	n/a

#### SIGN STANDARDS BY SIGN TYPE

Banners for special events (all districts)	1/500 ft frontage	25	n/a	n/a	20	n/a
Development entrance signs (all districts)	1 pair/ entrance	50/ entrance	n/a	n/a	6	n/a
Identification signs (all districts)	1/building entrance	20	n/a	15	10	n/a
Instructional signs (all districts)	n/a	6	n/a	n/a	8	n/a
Off-premise directional signs in the GB, LI, HI districts	1 total	8	n/a	n/a	6	n/a
Portable signs for special events (all districts)	1/lot	32	n/a	n/a	6	n/a
Special promotion signs (all districts)	n/a	n/a	n/a	n/a	n/a	n/a

#### NOTES:

[1] "Minimum" sign area refers to the minimum sign size allowed by right, regardless of the size which would be allowed by computation

[2] The maximum area may be increased by 75 feet if the sign is within 400 feet of an interstate highway ROW

[3] Maximum sign height may be increased to 50 feet if the sign is within 400 feet of an interstate highway ROW provided there are no government sponsored logo signs installed

## 2. Specific Standards By District

### (a) CB District

- (1) Maximum height may be increased to 15 feet if the sign is a monument sign;
- (2) A maximum of 3 signs per lot shall be permitted;
- (3) The area and height of 1 freestanding sign may be increased provided that:
  - (i) No wall sign shall be permitted or erected on the same side of the building. This is deemed to include all sections of the building wall parallel with or within 45 degrees of parallel with the lot line or street ROW;
  - (ii) The sign face is placed parallel to the building, and is located such that it does not impair vehicular sight distance from driveways or along public streets;
  - (iii) The area of the freestanding sign does not exceed 50 percent or 150 square feet, whichever is smaller, of the area of

wall signage that would be permitted on the side of the building where the freestanding sign is to be located. The wall signage calculation shall include all sections of the building wall parallel with or within 45 degrees of parallel with the property line or street right-of-way line; and

- (iv) The height of the freestanding sign does not exceed 40 feet or the height of the building (or average height where variations in height occur), whichever is less.

(b) **GB District** Under no circumstance shall there be more than 1 freestanding sign per principal building.

(c) **MS and MX Districts** Freestanding signs must be monument type signs only.

### 3. Specific Standards By Sign Type

#### (a) Development Entrance Sign (All Districts)

- (1) May be erected in the public right-of-way with an encroachment agreement.
- (2) Only permitted in subdivisions, developments of over 15,000 square feet of gross floor area, multi-family developments of more than 8 units in a single building, or developments with more than 40,000 square feet in open air uses of land.
- (3) The entrance sign may identify only the name of the development, management or developer, and/or address or location of development.

#### (b) Development Identification Sign in the RC District

- (1) Sign may identify only the name of the shopping center and the tenants. Maximum sign height may be increased by 5 feet and maximum area may be increased by 50 square feet if a permitted freestanding playbill sign is combined with the development identification sign.
- (2) Up to 1 additional freestanding sign may be allowed provided:
  - (i) The lot frontage exceeds 1,000 linear feet;
  - (ii) The maximum area for either sign does not exceed 200 sf; and
  - (iii) The additional sign is more than 250 feet from any other freestanding sign on the same lot or any freestanding sign on an adjoining lot.
- (3) Sign area shall be allowed as follows:
  - (i) Up to 200 sf for centers with 2 to 15 tenants; and
  - (ii) Up to 300 sf for centers with 16 or more tenants.

#### (c) Identification Sign (All Districts)

- (1) Includes only directory signs (listing occupants of buildings and their address) in developments with multiple occupants, individual tenant signs, and building name/address signs for buildings with multiple occupants. An individual tenant identification sign may only be erected if there is no wall mounted identification sign present.
- (2) A directory sign or single tenant identification sign shall, at its closest point, be located within 6 feet of the entrance it is intended to identify.

(d) **Instructional Sign (All Districts)** Colleges, universities, hospitals, coliseums, and convention centers may have signs exceeding the maximum allowable area subject to approval of a special use that determines that a larger sign is a public necessity in accordance with Section 2.4.11, Special Use.

#### (e) Off-Site Directional Sign in the GB, LI, and HI Districts

- (1) The number of off-site directional signs allowed shall be determined through review of a special use in accordance with Section 2.4.11, Special Use, and be based on the need for the signs(s) and the difficulty of access to the establishment. The special use shall expire after 2 years unless a different expiration period is approved by City Council. The special use may be re-approved for a subsequent period(s) of time by the City Council upon request.
- (2) Off-site directional signs require the permission and written agreement of the landowner where located.

(f) **Special Promotion Sign (All Districts)** Sign shall be limited in duration to a maximum of 30 continuous days and not more than 3 occurrences in a calendar year.

#### (g) Electronic Changeable Copy Sign Requiring a Permit

##### (1) General Standards

- (i) **Districts Allowed** Electronic changeable copy signs shall be permitted only in the CB, GB, MS, LB, and RC districts.
- (ii) **Permit** A sign permit shall be required for all new electronic changeable copy signs, and conversions from static signs to electronic changeable copy signs.
- (iii) **Location and Type** Electronic changeable copy signs shall be located on-site, as a portion of, and on the same support structure with a legal conforming accessory freestanding sign. Such signs shall not be added to a sign that is nonconforming, nor shall any part of an existing nonconforming sign be converted to an electronic changeable copy sign.
- (iv) **Size** The area of an electronic changeable copy sign shall not exceed 33 percent of the permitted area of a

freestanding sign, and shall be counted toward the maximum allowable signage.

- (v) **Height** The height maximums shown in Table 5.7.9.B, Requirements for a Freestanding Sign Requiring a Sign Permit, for accessory freestanding signs in the CB, GB, MS, LB, and RC districts shall apply to electronic changeable copy signs.

- (vi) **Number** Only 1 electronic changeable copy sign may be permitted per lot.

- (vii) **Brightness**

- (A) Maximum brightness levels for electronic changeable copy signs shall not exceed 5,000 nits during daylight hours and shall not exceed 500 nits between dusk and dawn, as measured from the sign face.
  - (B) Prior to the issuance of a sign permit, the applicant shall provide a written certification from the sign manufacturer that the light intensity has been factory pre-set not to exceed 5,000 nits.
  - (C) All electronic changeable copy signs shall have a light sensing device that will adjust the brightness in real-time as ambient light conditions change, so that the sign does not exceed the maximum brightness levels allowed by this section.
- (2) **Personalized Messages** The display of personalized "smart" messages that are triggered or initiated by license plate recognition, facial recognition or by reading or analyzing electronic signals from traffic or an individual vehicle, is prohibited unless used in a public emergency or public service capacity.
- (3) **Malfunctions** Any electronic changeable copy sign which malfunctions, fails, or ceases to operate in its usual or normal programmed manner, causing therein motion, flashing, movement or an inability to read the text of the message clearly shall be turned off, or shall display a blank screen until repairs can be made.
- (4) **Additional Standards in the CB District** The following standards shall apply in addition to the standards in Section 5.7.9 B.3(g)(1), General Standards, above:
  - (i) **Location and Type** Electronic changeable copy signs in the CB District may be located on a wall or marquee.
  - (ii) **Size** The area of an electronic changeable copy sign may not exceed 25 percent of the permitted signage area per wall, or 50 percent of the permitted signage area for a marquee.
  - (iii) **Height** The height maximum in Table 5.7.10.B, Requirements for an Attached Sign Requiring a Sign Permit, for wall and marquee signs shall apply to electronic changeable copy signs.
- (5) **Additional Standards in the GB District** The following standards shall apply in addition to the standards in Section 5.7.9 B.3(g)(1), General Standards, above:
  - (i) **Display** The message displayed shall be static, and complete within itself, with no continuation of content to the next image or message. It shall be no more than four lines of characters or symbols and/or 10 words, to allow passing motorists to read the entire copy with minimal distraction. Changes to the message displayed must be as instantaneous as is technologically feasible, with no flashing, zooming, scrolling, fading in or out, twinkling/sparkling, or other operating mode that imitates movement.
  - (ii) **Rate of Change** The rate of change for each individual message shall not be faster than 8 seconds.
  - (iii) **Color** The use of color is not limited, however, the entire text of an individual message shall be the same color, and shall not vary in intensity during its display frame.

(h) **Video Signs - Freestanding**

(1) **General Standards**

- (i) **Districts Allowed** Freestanding video signs shall be permitted only for Market showrooms in the CB district, and shall not be permitted on a zone lot that has a video wall sign. The provisions for freestanding signs in the CB district in Section 5.7.9 B.2 Specific Standards By District, and in Table 5.7.9.B, Requirements For A Freestanding Sign Requiring A Sign Permit shall not apply to video signs, which shall comply with the provisions of this section.
- (ii) **Duration of Use** Video signs shall be in use only during the period beginning two weeks prior to the official opening of each semi-annual Market and ending two weeks after the official end of each Market. The video unit of such signs shall be removed from the base and stored, or shall be securely covered at other times of the year.
- (iii) **Location** Video signs shall be located on-site. No part of a freestanding video sign shall be closer than 25 feet from intersecting street rights-of-way. No encroachment by any part of the sign face, its base or support structure into the street right-of-way is permitted. Such signs shall not be incorporated with, or added to, any other freestanding sign, nor shall any other freestanding sign be converted to a video sign.
- (iv) **Orientation** It is intended that video signs be pedestrian oriented, and positioned in a manner that minimizes direct view from approaching vehicular traffic. All video signs shall be positioned so that the sign face is parallel to a street right-of-way, except if a sign faces inward (away from the street) and is not readily visible from the street right-of-way.
- (v) **Size** The area of a single video sign shall not exceed 32 square feet.
- (vi) **Height** Video signs shall be limited to 8 feet in height.

- (vii) **Number One sign per street frontage** shall be permitted where street frontage along a single street is between 50 and 1 where street frontage along a single street is 200 linear feet or more. No freestanding video sign shall be permitted where less than 50 linear feet. The maximum number of video signs allowable per zone lot shall be 6, and no more than two signs.
- (viii) **Brightness** Maximum brightness levels for video signs shall not exceed 2500 nits during daylight hours and shall not exceed 500 nits between dusk and dawn, as measured from the sign face. Prior to the issuance of a sign permit, the applicant shall submit the manufacturer's specifications that verify compliance with this section. All freestanding video signs shall have a light sensing device that will adjust brightness in real-time as ambient light conditions change, so that the sign does not exceed the maximum brightness levels allowed by this section.
- (2) **No Other Freestanding Signage Allowed** The maximum area of a freestanding sign in the CB district in Table 5.7.9.B, Requirements For A Freestanding Sign Requiring A Sign Permit shall not apply to video signs, however, zone lots having freestanding video signs shall not be permitted to have other freestanding signage, and any existing freestanding signs must be removed. However, except for an attached video sign, other attached signage as allowed in the CB district is permitted.
- (3) **Only On-Site Advertising Permitted** Video signs shall only be used to advertise goods or services available on-site, or to provide information related to on-site businesses, promotions or events.

(Ord. No. 7286/17-28, § 2, 4-3-2017; Ord. No. 7299/17-41, § 1, 5-15-2017)

#### 5.7.10. - Attached Sign Requiring a Sign Permit

An attached sign requiring approval of a sign permit in accordance with Section 2.5.13, Sign Permit, shall comply with the following general and specific standards of this subsection:

##### A. General Standards for Attached Signs Requiring a Permit

##### 1. Maximum Number of Attached Signs

##### (a) Single-tenant Buildings

- (1) Except in the CB district, up to 1 attached sign in a single-tenant building is permitted per each building wall that faces a street or parking area. In no instance shall the total number of attached signs on a building exceed four.
- (2) There are no limits on the total number of attached signs in the CB district.

##### (b) Multi-tenant Buildings

##### (1) Each Tenant Has Own Entrance

- (i) In a multi-tenant building, each tenant may have 1 sign, the area of which is based on its proportionate share of the building wall facing a street or parking area.
- (ii) The total area of all signage shall not exceed the total allowed for the building wall.
- (iii) A common signage plan shall be prepared in accordance with Section 5.7.13, Common Signage Plan.

##### (2) Tenant-Shared Entrances

Single- or multi-storied buildings with a shared entrance shall comply with the following standards:

- (i) A maximum of four wall signs shall be permitted.
- (ii) The signs may be grouped on a wall(s) oriented to a street or parking area.
- (iii) When signs are grouped, the maximum area of each sign shall be computed using the formula in Table 5.7.10.A, Grouped Sign Area Computation:

TABLE 5.7.10.A: GROUPED SIGN AREA COMPUTATION	
NUMBER OF GROUPED SIGNS ON A WALL	MAXIMUM AREA AVAILABLE FOR EACH SIGN (SQUARE FEET)
2	$1.5 \times (\text{max. sign area for building wall}) / 2$
3	$2.0 \times (\text{max. sign area for building wall}) / 3$
4	$2.5 \times (\text{max. sign area for building wall}) / 4$

- (iv) Where signs are grouped, a common signage plan shall be prepared in accordance with Section 5.7.13, Common Signage Plan.

## 2. Illumination Standards

- (a) Illuminated attached signs are prohibited in residential districts.
- (b) In nonresidential districts all signs may be directly or indirectly illuminated.
- (c) In the TO, OI, I, PNR and EC districts, illumination is limited to cut-out letter and shielded silhouette lighting.
- (d) Wall signs that face an abutting single-family or duplex use shall be indirectly illuminated only.

**B. Specific Standards for Attached Signs Requiring a Sign Permit** In addition to the standards in Section 5.7.10 A, General Standards for Attached Signs Requiring a Permit, all freestanding signs requiring a permit shall be subject to the following specific standards.

1. Table of Requirements Signs subject to the standards in this section shall comply with the applicable provisions in Table 5.7.10.B, Requirements for an Attached Sign Requiring a Sign Permit.

TABLE 5.7.10.B: REQUIREMENTS FOR AN ATTACHED SIGN REQUIRING A SIGN PERMIT					
SIGN TYPE	NUMBER	AREA (SQ FT)		HEIGHT (FEET)	COMPUTATION
		MAX	MIN [1]		
WALL SIGNS					
TO, I & PNR districts	See 5.7.10.A.1, Maximum Number of Attached Signs	n/a	25	top of wall	5% of wall area [2]
OI, LB, & EC districts			25		7.5% of wall area [2]
GB, RC, CB, MS, MX, LI, & HI districts			50		10% of wall area [2]
AWNING, CANOPY, AND MARQUEE SIGNS					
All nonresidential districts	1/face	n/a	n/a	top of canopy	10% of the canopy, awning, or marquee face
SUSPENDED SIGNS					
All nonresidential districts	1/entrance	6	n/a	[2]	n/a
BANNERS					
Special events (all districts)	1/500 ft of frontage	25	n/a	Top of wall	n/a
Temporary identification signs for market showrooms (all nonresidential districts)	n/a	n/a	n/a	top of wall	50% of wall area
SPECIAL PROMOTION SIGNS					
All districts	n/a	n/a	n/a	top of wall	n/a
IDENTIFICATION SIGNS					
All nonresidential districts and all nonresidential uses in residential districts	1 when average wall height > 35 feet	75	> 6 feet	top of wall	1% of wall area
NOTES:					

[1] "Minimum" sign area refers to the minimum area allowed by right, regardless of the size which would be allowed by computation

[2] Based on the first 30 feet in height of the wall on which the sign is attached. Buildings over 30 feet in height may have additional sign area based on 5 percent of the wall area above 30 feet in height, provided the sign is located at or near the top of the building

**2. Awning, Canopy, and Marquee Signs (All Nonresidential Districts)**

- (a) Signs shall be located at least 9 feet above pedestrian ways and 15 feet above vehicular drives.
- (b) The sign face shall include the entire area of the canopy, awning, or marquee structure.
- (c) The total area of all attached signs, whether attached to a wall, canopy, awning, or marquee shall not exceed the total allowed for the building wall.
- (d) All or any portion of this sign allocation may be affixed to the wall, awning, canopy or marquee, provided that no part of the sign projects above the top of the structure served by the signage.

**3. Identification Signs (All Nonresidential Districts)** The area of identification signs shall be subtracted from the allowable square footage of wall signs for the wall upon which it is placed.

**4. Multiple Franchised Businesses In a Single Building**

- (a) A business which is the sole occupant (as owner or tenant) of a building and which owns or operates multiple franchised businesses at that building shall be allowed 1 overall business name sign and 1 sign for each franchise, which may be located on the same wall.
- (b) The maximum area of business name and franchise signs located on the same wall shall be in accordance with the following:
  - (1) Maximum square footage as determined by this Ordinance (as a percent of wall area), plus:
    - (i) Up to 15 percent where 2 franchises exist; or
    - (ii) Up to 30 percent where 3 franchises exist; or
    - (iii) Up to 40 percent where 4 or more franchises exist, provided that these increased maximum permitted areas are applicable to only 1 wall of a building.
- (c) Other signage may be permitted on this wall but the total area of all signage shall not exceed the applicable maximum under this provision.
- (d) Multiple signs may be permitted on other walls of the same building provided that the maximum area of such wall signage, as provided under this Ordinance without regard to this provision, is not exceeded.
- (e) In all cases where more than 1 sign is allowed on the same wall, no single franchise sign shall exceed:
  - (1) 60 square feet in area where 2 or 3 franchises exist;
  - (2) 50 square feet where four franchises exist; or
  - (3) 40 square feet where more than four franchises exist.
  - (4) This provision shall not apply to a multiple tenant commercial building.

**5. Special Promotion Signs** Signs shall be limited in duration to a maximum of 30 continuous days and not more than 3 occurrences in a calendar year.

**6. Temporary Banners Serving Market Showrooms (All Nonresidential Districts)** Banners shall be limited in duration to a maximum of 30 continuous days and not more than 2 occurrences in a calendar year.

**7. Attached Video Sign**

- (a) **Where Allowed** Attached video signs shall be permitted only for Market showrooms in the CB district, and shall not be permitted on a zone lot that has a freestanding video sign. The provisions of Section 5.7.10 A.1. Maximum Number of Attached Signs, and Table 5.7.10.B. Requirements For An Attached Sign Requiring A Sign Permit as they relate to the CB district shall not apply to attached video signs, which shall comply with the provisions of this section.
- (b) **Location** It is intended that attached video signs be pedestrian oriented. An attached video sign shall be located flat against a building wall that is parallel to a street, or that faces the interior of a lot. No part of an attached video sign shall be closer than 25 feet from intersecting street rights-of-way.
- (c) **Projection and Height** An attached video sign cabinet shall not project from the wall more than 18 inches, and its height shall not be more than 15 feet above ground level. Screens shall not be angled and shall be parallel to the wall.
- (d) **Size** The area of an attached video sign shall be counted toward the maximum allowable wall signage, and shall not exceed 25 percent of the maximum allowable wall signage or 60 square feet, whichever is less.
- (e) **Number** No more than 1 attached video sign shall be permitted per zone lot.
- (f) **Brightness**

- (1) Maximum brightness levels for attached video signs shall not exceed 2500 nits during daylight hours and shall not exceed 50% measured from the sign face.
- (2) Prior to the issuance of a sign permit, the applicant shall submit the manufacturer's specifications that verify compliance with this section.
- (3) All attached video signs shall have a light sensing device that will adjust the brightness in real-time as ambient light conditions change, so that the sign does not exceed the maximum brightness levels allowed by this section.

(Ord. No. 7266/17-08, § 21, 1-17-2017; Ord. No. 7286/17-28, § 3, 4-3-2017; Ord. No. 7365/17-108, § 8, 11-20-2017)

#### 5.7.11. - Outdoor Advertising Sign Requiring a Sign Permit

- A. **Districts Allowed** An outdoor advertising sign shall only be allowed in the HI district.
- B. **Location** An outdoor advertising sign shall be located off-site.
- C. **Size** The sign area of an outdoor advertising sign, including any extension(s), shall not exceed 450 square feet.
- D. **Height** An outdoor advertising sign shall not exceed 30 feet in height. The height may be increased to 50 feet if the sign is within 400 feet of an interstate highway ROW.
- E. **Spacing Requirements**
  1. **Between Signs**
    - (a) Except within the U.S. Highway 311 Bypass corridor, an outdoor advertising sign shall not be erected, affixed, or otherwise installed within a 500-foot radius of another outdoor advertising sign.
    - (b) Within 1,500 feet of the U.S. Highway 311 Bypass corridor ROW, an outdoor advertising sign shall not be within a 2,000-foot radius of another outdoor advertising sign.
  2. **Adjoining a Residential District or Religious Institution**
    - (a) An outdoor advertising sign shall not be erected, affixed, or otherwise installed closer than 300 feet to a residential district or a lot containing a religious institution.
    - (b) If a residential zoning district boundary runs along the near edge of a street right-of-way, the width of the right-of-way shall be subtracted from the setback requirement.
- F. **Relationship to Freestanding Sign**
  1. **Lot with 1 Street Frontage** An outdoor advertising sign shall not be erected, affixed, or otherwise installed on a lot with 1 street frontage that contains more than 1 freestanding sign.
  2. **Lot with 2 or More Street Frontages** An outdoor advertising sign shall not be erected, affixed, or otherwise installed on a lot with 2 street frontages that contains more than 2 freestanding signs.
- G. **Setbacks** The support post(s) of an outdoor advertising sign shall comply with the minimum setbacks of the zoning district in which it is located. In addition, a sign or portion of an outdoor advertising sign shall not project closer than 15 feet to a street right-of-way or closer than 5 feet to another lot line, measured horizontally.
- H. **Back-to-Back Mounting** An outdoor advertising sign structure may be mounted back-to-back when it shares a common support. The total sign area of any such outdoor advertising structure shall be considered to be 1 sign.

#### 5.7.12. - Sign for Historic Structures or Properties

Properties, buildings or other structures that have received Local Historic Landmark status from the Guilford County Historic Preservation Commission (GCHPC) or have an individual listing on the National Register of Historic Places, may be permitted to reconstruct, restore, replicate or replace historic sign structures that otherwise are not permitted by this Ordinance, in accordance with the following.

- A. **Qualification** The grounds (in the case of a freestanding sign) and/or the exterior of the structure must be an historic element cited by the National Register designation, or by the Local Historic Landmark designation. Such designation may be for a portion of said grounds or structure.
- B. **Valid Designation** The Local Historic Landmark or National Register designation must be currently valid. There must be no outstanding violations of process, or any proposed changes to the property or structures that would jeopardize the designation.
- C. **Guilford County Historic Preservation Commission Certificate of Appropriateness Required** If the property is designated as a Local Historic Landmark, the property owner must first obtain a Certificate of Appropriateness (COA) from the GCHPC authorizing, in general, the reconstruction, restoration, replication or replacement of the historic sign, including the type of sign, materials, design and illumination. The GCHPC may make recommendations as to the size and placement of the sign. Any recommended modifications to the requirements of this Ordinance shall be approved by the High Point Historic Preservation Commission (HPHPC).
- D. **High Point Historic Preservation Commission Review and Approval Required** If the property is individually listed on the National Register of Historic Places, and/or located in a Local Historic District and is not designated as a Local Historic Landmark, the HPHPC shall review and decide an application to reconstruct, restore, replicate or replace an historic sign. Such application shall include the following:

1. Evidence of the existence (past or present) of the sign, and its location on the structure or property.
  2. Evidence that the sign was associated with the original or other early use of the structure or property, or that such sign itself has historic significance.
  3. If being replicated or replaced, evidence showing how the new sign will imitate the former sign. Consideration shall be given to size, design or shape, coloration, lettering style, graphic art style, illumination, and type (i.e. overhanging, roof mounted, wall, freestanding, etc.). At least 5 of the above elements must be found to be comparable to the former sign. Size will be considered comparable if the new sign has the same or smaller area.
  4. Evidence that the sign will not pose a hazard to pedestrian or vehicular movements, and that the erection of such sign will meet applicable building and electrical codes.
- E. **Conditions of Approval and Modifications** Once the sign has been either issued a COA by the GCHPC, or an approval by the HPHPC, the HPHPC shall rule on the erection of the sign in accordance with the following:
1. Modifications may be made to height, setback and area of the sign, if it can be shown that the original sign exceeded the requirements of this Ordinance. Modifications shall not exceed the extent of nonconformity of the original sign.
  2. Consideration may be given to locate a sign other than where the original sign was placed, including on non-designated portions of a Landmark or National Register structure. The sign must be erected or attached to the Landmark or National Register structure, or to an historically relevant structure on the same property. No sign may be located where it poses an unnecessary or unreasonable threat to public safety.
  3. A sign type not permitted may be approved, but only one such sign shall be allowed, unless it is stipulated that approval is made in place of an otherwise permitted wall or freestanding sign.
  4. No modifications to the number of signs, spacing or illumination provisions of this Ordinance may be approved.

#### 5.7.13. - Common Signage Plan

##### A. In General

1. Common signage plans shall be required for developments with more than 1 business, building, or lot.
2. Common signage plan requirements are set out in the Development Guide.

##### B. Other Provisions

1. A common signage plan shall be a part of the application for a site plan, group development plan, PD master plan and may be processed simultaneously with such plan.
2. A common signage plan shall be approved prior to the issuance of a building permit(s).
3. The Planning and Development Director may approve minor changes to a common signage plan provided such changes comply with all requirements of this section.
4. A common signage plan may be amended by filing a new plan which complies with all requirements of this section and the application requirements in the Development Guide.
5. After approval of a common signage plan, no signs shall be erected, affixed, placed, painted or otherwise established except in conformance with the approved plan. The plan may be enforced in the same way as any other provision of this section.

- C. **Conflict** In case of any conflict between the provisions of such a plan and any other provision of this section, this section shall control.

#### 5.7.14. - Encroachment Agreement for Entrance Sign

A development entrance sign shall be allowed to encroach into a public right-of-way provided an encroachment agreement between the sign owner and the City in a form determined appropriate by the City Attorney, is accepted. The encroachment agreement shall, at a minimum, provide that:

- A. **Not Compensated for Loss** The sign owner shall not be compensated by the City for any loss of or damage to the sign from any cause;
- B. **Removal for Interference** The sign owner shall remove the sign at the sign owner's expense if the City determines at any time that the sign interferes with the public use of the right-of-way;
- C. **Maintenance Required** The sign owner shall maintain the sign; and
- D. **Insurance Required** If the sign projects or is suspended over the public right-of-way, the sign owner agrees to provide insurance or satisfactory indemnification to the City against liability for injury to persons or property from the sign.

#### 5.8. - Reserved

#### 5.9. - Sidewalks

##### 5.9.1. - Purpose and Intent



The purpose of these standards is to ensure greater pedestrian safety and ease of access for pedestrians in the City in accordance with the City's adopted policy guidance. More specifically the intent of these standards is to:

- A. **Establish Locations** Establish the locations where new sidewalks are required to be installed as part of development;
- B. **Promote Walking** Promote expanded opportunities for recreational walking and running;
- C. **Meet Daily Needs** Help ensure City residents can meet their daily needs without use of an automobile;
- D. **Allow Access** Allow easier access to shopping and commercial areas;
- E. **Clarify Timing** Clarify the timing of sidewalk installation; and
- F. **Fee In-Lieu** Establish provisions for the payment of a fee in-lieu of sidewalk installation when sidewalk installation would conflict with other infrastructure improvements.

#### 5.9.2. - Applicability

The provisions of this section shall apply to the following, unless exempted in accordance with Section 5.9.3, Exemptions:

- A. **Subdivisions** Subdivisions, including group developments.
- B. **New Buildings or Uses** New principal buildings or new open uses of land that are subject to a site plan.
- C. **Expansions** Individual or collective expansions of existing principal buildings, open uses of land, or off-street parking that are subject to a site plan and that exceed 50 percent.

(Ord. No. 7266/17-08, § 18, 1-17-2017)

#### 5.9.3. - Exemptions

Sidewalks shall not be required in the following instances:

- A. **Areas Where Sidewalks Do Not Exist** Along local and sub-collector residential streets where the TRC finds the following conditions exist:
  - 1. The proposed development is within an area consisting predominantly of existing single-family detached residential development, where no sidewalks are present; and
  - 2. The character and size of the proposed development will not result in substantial additional pedestrian facility needs; and
  - 3. There are no new pedestrian facilities planned that would provide a pedestrian connection to the proposed development.
- B. **Industrial Areas** As determined by the Transportation Director, sidewalks are not required along new and existing local and collector streets within industrial areas where all of the following conditions exist:
  - 1. The proposed development is within an area consisting mostly of industrial uses where the majority of developed parcels do not have sidewalks;
  - 2. The character, size, and density of the developments are such that pedestrian demand is expected to be limited; and
  - 3. No transit service or greenway route exists or is planned in that location.
- C. **Cul-De-Sac and Dead End Streets** Along cul-de-sac streets and permanent dead-end streets of 800 feet or less in length, except when they contain cluster mailbox units.
- D. **Controlled Access Roads** Along streets that are designated North Carolina Department of Transportation controlled access facilities.

(Ord. No. 7365/17-108, § 9, 11-20-2017)

#### 5.9.4. - Standards

- A. **General Sidewalks** required by this Ordinance shall be constructed along the full length of street(s) that have frontage within or that abut the development.
- B. **Thoroughfare Streets** Sidewalks shall be installed along both sides of thoroughfare streets.
- C. **Collector and Sub-Collector Streets**
  - 1. Sidewalks shall be installed on 1 side of collector and sub-collector streets.
  - 2. The TRC may determine, during review of a development application, that a collector or sub-collector street requires sidewalks along both sides of the street if one or more of the following conditions exists:
    - (a) The current or projected average daily traffic volume is greater than 8,000 vehicles per day.
    - (b) The posted speed limit is greater than 35 miles per hour.
    - (c) The street is identified as a pedestrian route on a City sidewalk plan.
    - (d) Other pedestrian safety, access, or circulation needs are identified.
- D. **Local Streets** Sidewalks shall be installed along 1 side of local streets, unless other pedestrian safety, access, or circulation needs are identified.

- E. **Side Determination** Where sidewalks are required to be installed on only 1 side of a street, the TRC shall determine which side of the street is most appropriate.
- F. **Cluster Mailbox Units** Sidewalk access must be provided to all areas that contain cluster mailbox units.
- G. **Configuration** The configuration of the sidewalk is subject to the approval of TRC.

#### 5.9.5. - Additional Zoning District Standards

In addition to the standards in this section, development subject to these standards shall also address all applicable sidewalk standards in Chapter 3: Zoning Districts.

#### 5.9.6. - Timing of Installation

The site plan, subdivision preliminary plat, or group development plan shall address the phasing and timing criteria for the installation of required sidewalks, including a maximum timeframe for completion.

#### 5.9.7. - Fee In-Lieu of Required Sidewalk Installation

- A. **Conflict Anticipated** Where the installation of a sidewalk is required, and the Transportation Director determines that installation at the time of development would conflict with a city, state, or federal roadway project or other utility project, the applicant shall be required to submit a fee in-lieu of sidewalks in accordance with the following:
  - 1. Fees shall be in an amount equal to the entire estimated cost of completing the installation, based on current contract unit prices, as approved by the Engineer Services Director.
  - 2. All fees collected by the City pursuant to this section shall be deposited in the City's sidewalk revolving fund and used only for construction of sidewalks on the site, or in the street right-of-way abutting the site, for which the fee is collected.
  - 3. Use of submitted funds to construct sidewalks shall be coordinated with the appropriate phase of the conflicting roadway project.
- B. **Conflict Eliminated** In the event that the conflict necessitating the fee in-lieu is eliminated, one of the following shall occur:
  - 1. If the scheduled project is configured with a different alignment, the in-lieu fee shall be refunded to the applicant.
  - 2. If the scheduled project is a widening of an existing roadway, in-lieu fees for sidewalks shall be used by the City to construct the sidewalk after the widening.

#### 5.10. - Exterior Lighting

##### 5.10.1. - Purpose and Intent

The purpose of this section is to regulate exterior lighting to ensure the safety of motorists and pedestrians and to minimize adverse effects on adjacent land uses due to excessive light intensity or due to light trespass and glare.

##### 5.10.2. - Applicability

The provisions of this section shall apply to zone lots with the following, unless exempted in accordance with Section 5.10.3, Exemptions.

- A. **New Buildings or Uses** New principal buildings or new open uses of land.
- B. **Expansions** In the case of an expansion of an existing building, outdoor use area, or off-street parking lot, the following standards shall apply:
  - 1. For individual or collective expansions of 50 percent or less, the standards in this section shall apply only to the expanded portion; or
  - 2. For individual or collective expansions that exceed 50 percent, the standards in this section shall be applied to the entire zone lot.

(Ord. No. 7266/17-08, § 18, 1-17-2017)

##### 5.10.3. - Exemptions

The following are exempted from the standards of this section:

- A. Special events, special promotion signage, and holiday displays;
- B. FAA-required lighting on buildings, towers or other structures;
- C. Security lighting controlled and activated by motion sensor devices for a duration of 15 minutes or less;
- D. Outdoor light fixtures producing light directly by the combustion of fossil fuels, such as kerosene lanterns or gas lamps;
- E. Public street lighting;
- F. Lighting of official government flags;
- G. Temporary lighting necessary for construction or emergencies, used by construction workers or emergency personnel; and
- H. Single-family detached, attached, triplex, quadplex, and duplex dwellings, except that these forms of development shall be subject to

Section 5.10.4. Prohibited Lighting.

**5.10.4. - Prohibited Lighting**

The following forms of exterior lighting shall be prohibited:

- A. **Traffic Control Signal**
  - 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 Flashing**, revolving, or intermittent exterior lighting visible from any lot line or public street, except for permitted freestanding or wall signs in accordance with Section 5.7. Signage; and
- C. **High Intensity Lighting** High intensity light beams, such as searchlights, laser, or strobe lights, except when used by federal, state, or local authorities, or for special events.

**5.10.5. - Lighting Plan**

- A. **Elements to Include** Site plans, group development plans, and building permit applications, as appropriate, must indicate the following:
  - 1. Fixture type;
  - 2. Pole height; and
  - 3. Fixture shielding.
- B. **Certification** Certification must be provided by the person preparing any plans that the proposed development complies with the exterior lighting standards of this section.

**5.10.6. - General Standards for On-Site Exterior Lighting**

- A. **Maximum Illumination Value at Lot Line** Exterior lighting shall be designed and located such that the maximum illumination measured in footcandles at ground level at any lot line shall not exceed the standards in Table 5.10.6.A, Maximum Illumination Levels.

TABLE 5.10.6.A: MAXIMUM ILLUMINATION LEVELS	
ABUTTING USE [1]	MAXIMUM ILLUMINATION VALUE AT LOT LINE (FOOTCANDLES)
Residential use or vacant land zoned for residential development	1.0
Institutional use	1.5
Commercial use or vacant land zoned for uses other than residential[2]	2.5
Vehicular use area	2.5
NOTES:	
[1] See Table <u>4.1.9</u> , Principal Use Table	
[2] Includes mixed-use development	

- B. **Maximum Height** Except for outdoor public recreation, outdoor assembly, and similar uses, the height of exterior lighting, whether mounted on poles, walls, or by other means, shall be no greater than 35 feet above grade at the base of the fixture.
- C. **Light Trespass**
  - 1. All outdoor light fixtures that produce more than 4,050 lumens shall be cut-off fixtures that are located, angled, or shielded to focus light on the intended subject or area and prevent light trespass onto adjacent properties or skyward as depicted in Figure 5.8.5.C, Cut-Off Light Fixtures. The lumen output of a lighting fixture is specified by the manufacturer.
  - 2. Exterior lighting devices that produce 4,050 lumens (and need not be cut-off, angled, or shielded) include, but are not limited, to:
    - (a) 200 watt standard incandescent;
    - (b) 150 watt tungsten-halogen (quartz);

- (c) 50 watt high pressure sodium;
- (d) 50 watt cool white fluorescent; and
- (e) 30 watt low pressure sodium.

FIGURE 5.8.5.C, CUT-OFF LIGHT FIXTURES

- 3. Wall packs shall be cut-off and floodlights shall be shielded (e.g., true cut-off type bulb or light source not visible from off-site) to direct light downward and eliminate light pollution above the facade of a structure.

(Ord. No. 7365/17-108, § 1, 11-20-2017)

#### 5.10.7. - Design Standards for Specific Uses and Site Features

- A. **Awnings** Awnings used for building accents over doors, windows, etc., shall not be internally illuminated (e.g., from underneath or behind the awning) unless the awning material does not allow light to transmit through it.
- B. **Canopy Lighting** Lighting under a canopy shall not exceed 30 footcandles and shall be designed to not create glare off-site. This may be accomplished by one or both of the following:
  - 1. Recessed fixture incorporating a lens cover that is either recessed or flush with the bottom of the ceiling of the canopy that provides a full cut-off or fully-shielded light distribution.
  - 2. Surface mounted fixture incorporating a flat glass that provides a full cutoff or fully-shielded light distribution.
- C. **Outdoor Public Recreation, Outdoor Assembly and Similar Uses** All outdoor public recreation, outdoor assembly, and similar lighting fixtures shall be equipped with louvers, shields, or similar devices, and aimed so that light is contained within the primary playing area or performance area and minimizes adverse impacts on traffic safety and residentially-zoned land.

(Ord. No. 7287/17-29, § 9, 4-3-2017)

#### 5.10.8. - Measurement

Measurement of glare or light trespass shall be accomplished in accordance with the standards in Section 10.2.11, Exterior Lighting.

#### 5.10.9. - Alternate Lighting Plan

An alternate lighting plan may be approved by the Planning and Development Director where unreasonable or impractical situations would result from the application of the lighting requirements. Such situations may result from physical constraints, from other constraints, or when federal, state or local law prevents compliance with this Ordinance. Alternate plans or fixtures must provide equal or better performance to meet the purpose and intent of this Ordinance. However, the alternate plan shall meet the requirements of Section 5.10.6 A, Maximum Illumination Value at Lot Line.

#### 5.11. - Fences

##### 5.11.1. - Purpose and Intent

The purpose and intent of this section is to regulate the location, height, and appearance of fences to protect adjacent properties from the indiscriminate placement of fences, ensure the safety, security, and privacy of land, and ensure that fences are subject to timely maintenance, as needed.

##### 5.11.2. - Applicability

The provisions of this section shall apply to all construction or replacement of fences, unless exempted in accordance with Section 5.11.3, Exemptions. A fence may only be erected in accordance with Section 2.5.15, Zoning Compliance Permit.

## 5.11.3. - Exemptions

The following are exempted from the standards in this section:

- A. Temporary fences for construction sites, including but not limited to: fencing necessary for soil erosion and sedimentation control and tree protection.
- B. The fence height limitations in this section shall not apply to fences built in conjunction with the following:
  - 1. Utility Facilities, Major and Minor;
  - 2. Landfills, Major and Minor;
  - 3. Correctional Facilities;
  - 4. Military facilities; or
  - 5. Hazardous Waste Disposal Facilities.

(Ord. No. 7266/17-08, § 22, 1-17-2017)

## 5.11.4. - Locational Requirements

## A. General

- 1. Fences shall be located outside of the public right-of-way.
- 2. Fences may be located within any required yard or setback.

B. **In Utility Easements** Fences located within utility easements shall receive written authorization from the easement holder. The City shall not be responsible for damage to, or the repair or replacement of, fences that must be removed to access such easements.

C. **Blocking Natural Drainage Flow** A fence shall not be installed so it blocks or diverts a natural drainage flow onto or off of any other land.

D. **Obstructions at Intersections** No fence shall be erected or maintained in a manner that obstructs visibility for motorists at any street intersection in accordance with the standards of Chapter 6 of the City Code, Visibility at Intersections.

E. **Within the Local Historic Overlay (LHO)** A fence constructed within an LHO district shall comply with the requirements in Section 2.4.4, Certificate of Appropriateness, and all applicable LHO district standards.

(Ord. No. 7287/17-29, § 10, 4-3-2017)

## 5.11.5. - Height Standards

A. **Measurement** Maximum fence height shall be determined in accordance with Section 10.2.12, Fences.

B. **Residential Uses** The maximum fence height for residential uses is as shown in Table 5.11.5.B, Fence Height for Residential Uses.

TABLE 5.11.5.B: FENCE HEIGHT FOR RESIDENTIAL USES	
LOCATION ON A LOT	MAXIMUM HEIGHT (FEET)
Within 15 feet of a thoroughfare or collector street right-of-way	6
Within 15 feet of a local street right-of-way except on corner and double frontage lots	4
On corner lots within 15 feet of any street right-of-way adjacent to the side yard where rear lot lines abut one another [1]	6
On double frontage lots within 15 feet of any street right-of-way along the rear yard as long as the principal structures on both sides of the double frontage lot face the same direction as the double frontage lot principal structure	6
All other locations	8
NOTES:	
[1] A 6-foot fence shall not encroach into the front yard setback area.	

C. **Nonresidential and Mixed Uses** No fence may be erected that exceeds 8 feet in height, unless the fence is 15 feet from a lot line, or it complies

with the minimum setback requirements as applied to the principal structure, whichever is greater.

- D. **Athletic Fields** Athletic fields, tennis courts, playgrounds, or similar recreational areas abutting a street may include a non-opaque fence with a maximum height of 15 feet, provided the fence is not located within a required landscape area.
- E. **Colleges or Universities** College or universities may erect fences with a maximum height of 8 feet in residential districts provided:
  - 1. The land is contiguous to and within 350 feet of a campus area of at least 10 acres in area;
  - 2. The land is owned by the college or university, at which time the fence may be placed on any part of the lot;
  - 3. If the land is not owned by the college or university, a fence easement must be obtained from the landowner. The fence may not be located between the right-of-way and the front of an existing dwelling.

(Ord. No. 7365/17-108, §§ 1, 10, 11-20-2017)

#### 5.11.6. - Materials

##### A. General The following fencing materials are permitted for fences:

- 1. Masonry or stone;
- 2. Ornamental iron, steel, or aluminum;
- 3. Wood;
- 4. Composite materials designed to appear as wood, metal, or masonry; or
- 5. Chain-link, except where prohibited by this Ordinance.

##### B. Restricted Materials

- 1. Barbed wire, razor wire, concertina wire, and similar materials may only be used in the following instances:
  - (a) Fences for correctional institutions may use barbed, razor, and concertina wire.
  - (b) Fences enclosing livestock may use barbed wire.
  - (c) Fences for other nonresidential uses may use barbed wire, razor wire, and concertina wire provided all of the following are met:
    - (1) The wire portion of the fence shall be at least six feet above the grade; and
    - (2) The wire shall be included in the overall height determination of the fence.
- 2. Fences that carry an electrical current are allowed for the purposes of enclosing livestock (nothing shall prohibit below-ground electrical fences intended for the keeping of pets).

##### C. Prohibited Materials Fences made of debris, junk, rolled plastic, sheet metal, untreated or unpainted plywood, or waste materials, 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).

#### 5.11.7. - Finished Side

When a fence is primarily parallel to and within 15 feet of a public street, it shall be configured so that the finished side of the fence faces the street right-of-way other than when required by the State Building Code. For the purposes of this section, the finished side does not include any supporting members or bracing.

#### 5.11.8. - Maintenance

Fences shall be maintained in a safe manner plumb (vertical) to the ground. Fences not maintained in a safe manner through neglect, lack of repair, manner of construction, method of placement, or otherwise shall be repaired, replaced, or demolished.

#### 5.12. - Open Space

##### 5.12.1. - Purpose and Intent

The purpose of this section is to:

- A. **Establish Standards** Establish the standards under which development shall set aside a portion of the development area as open space;
- B. **Distinguish Characteristics** Distinguish between the characteristics, requirements, and appropriate locations for open space; and
- C. **Establish Ownership Standards** Establish minimum ownership and maintenance standards related to open space.

##### 5.12.2. - Applicability

The provisions of this section apply to the following developments, unless exempted in accordance with Section 5.12.3, Exemptions:

- A. **Outside Core City**

1. Single-family detached residential subdivisions in the R-7 district greater than 5 acres in area;
2. Single-family attached residential developments greater than 5 acres in area;
3. Multi-family developments; and
4. Development in a PD-P district.

**B. Inside Core City**

1. Single-family attached residential developments with 30 or more dwelling units;
2. Multi-family developments with 30 or more dwelling units; and
3. Development in a PD-CC district.

**5.12.3. - Exemptions**

Open space requirements are exempted for development in the CB, MS, and MX districts.

**5.12.4. - Minimum Open Space Amount**

A. General Table 5.12.4.A, Minimum Open Space Amount, sets out the minimum open space requirements for development subject to the standards in this section.

TABLE 5.12.4.A: MINIMUM OPEN SPACE AMOUNT		
TYPE OF DEVELOPMENT		MINIMUM OPEN SPACE REQUIREMENT
Single-family detached residential subdivisions of more than 5 acres in area in the R-7 district		850 sf/dwelling unit
Single-family attached residential development of more than 5 acres		435 sf/unit
Multi-family development	Less than 3 acres in area	250 sf/unit
	3 or more acres in area	435 sf/unit
Development in a PD-P district	Residential area with less than 5 units per acre	20% of area
	Residential area units with 5 to 16 units an acre	15% of area
	Residential area with 16 or more units an acre	10% of area
	Nonresidential development	10% of gross floor area
Development in a PD-CC district		5% of development area

B. **Administrative Adjustment** The Planning and Development Director is authorized to grant a type I administrative adjustment to the minimum required amount of open space in accordance with Section 2.5.2, Administrative Adjustment.

(Ord. No. 7287/17-29, § 2, 4-3-2017; Ord. No. 7365/17-108, § 1, 11-20-2017)

**5.12.5. - Open Space Standards**

A. **Features Counted as Open Space** The following features within a development shall be credited towards the open space requirements:

1. Environmentally-sensitive lands including water features (drainageways, lakes, streams, etc.), wetlands, floodplains, and protected stream buffers, provided no more than 50 percent of a development's total open space may be located in environmentally-sensitive lands;
2. Landscaping areas, including areas containing required landscaping and tree protection areas credited toward landscaping requirements;
3. Pedestrian amenities;
4. Stormwater management lands, including retention and detention ponds, and bio-retention devices that are designed and improved with pedestrian amenities;
5. Farm and forestry lands within the boundary of the development;
6. Park lands, trails, and greenways, both public and private;

7. Active recreation areas;
  8. Passive recreation areas; and
  9. Urban features including: plazas, fountains, courtyards, roof gardens, pedestrian areas, indoor atriums open to public, and public sidewalks at least 6 feet in width with pedestrian amenities.
- B. **Not Counted as Open Space** The following areas shall not be counted as open space set-asides:
1. Private yards;
  2. Street right-of-way or private street common area;
  3. Vehicular use areas, including parking spaces, drive aisles, and private drives;
  4. Land covered by buildings not designated for active recreational use; and
  5. Outdoor storage areas.
- C. **Design** Except for environmentally-sensitive lands, landscaping, farmland, forestry lands, and urban features, credited open space shall meet the following design standards:
1. **Access** Open space shall be accessible by residents and users of the development by means of a street, private drive, or an all-weather walkway within a common area or easement a minimum of 20 feet in width.
  2. **Configuration**
    - (a) Open space shall be at least 24 feet in width and 1,000 square feet in area.
    - (b) Urban features credited towards the requirements in this section shall maintain a minimum width of 24 feet and a minimum area of at least 600 square feet.
- D. **Multi-family Development** Multi-family developments with 30 or more dwelling units shall provide an active recreational area as a part of the total credited open space, unless a type I administrative adjustment is approved by the Planning and Development Director.
- E. **Multi-Phase Developments** Open space shall be provided for each phase of a phased development in a cumulative amount sufficient to satisfy the open space requirements for the subject phase of development and all preceding phases of development.
- F. **Incentives for Active Recreational Features** When provided by the developer, an allowable active recreational feature and the land associated with the feature may be located within an environmentally sensitive area and counted towards the requirements in Table 5.12.4.A, Minimum Open Space Amount, above and beyond the maximum amount allowed in Section 5.12.5 A.1, Features Counted as Open Space.
- G. **Ownership and Maintenance** Open space areas shall be owned and maintained in accordance with Section 7.3, Homeowners' or Property Owners' Association.

(Ord. No. 7266/17-08, § 23, 1-17-2017; Ord. No. 7365/17-108, § 1, 11-20-2017)

#### 5.13. - Reserved

#### 5.14. - Development Types

##### 5.14.1. - General

- A. **Purpose and Intent** The standards in this section are intended to establish additional design and development standards for certain types of development that pose unique characteristics of use, configuration, or both. More specifically, these standards are intended to:
1. Recognize that some forms of development are unique and require additional standards not typically applied to other forms of development;
  2. Promote a strong sense of place and pedestrian-friendly development through visual design interest and human-scale site design;
  3. Accommodate greater housing choice and options within infill and redevelopment contexts in the Core City area;
  4. Address the impacts and compatibility of large-scale retail developments; and
  5. Establish requirements for appropriate retail development in street intersection contexts.
- B. **Development Types Distinguished** The following development types are hereby established:
1. Conservation subdivision;
  2. Corner retail;
  3. Large retail;
  4. Multiple lot development;
  5. Pocket neighborhood; and
  6. Tiny home neighborhood.
- C. **Applicability** When an applicant indicates, or the Planning and Development Director finds that a proposed development is consistent with one or more of the development types in this section, the standards in this section shall be applied.
- D. **Time of Review** Review of proposed development to ensure compliance with the standards of this section shall occur during review of a site



plan, group development plan, preliminary plat, or building permit, as appropriate.

- E. **Compliance with This Ordinance** Development types listed in this section shall comply with the appropriate standards in this section as well as all other applicable standards in this Ordinance.
- F. **Conflict** In the event of a conflict between the applicable standards in this section and other standards in this Ordinance, the standards in this section shall control.

(Ord. No. 7399/18-28, § 1, 3-19-2018)

#### 5.14.2. - Conservation Subdivision

- A. **Purpose and Intent** The purpose and intent of this section is to provide landowners in the AGR and R-3 districts a development option that provides additional development flexibility to build on smaller lots when additional open space set-asides are provided, and the development is designed and located in a way that protects the agricultural activities or natural and historic features on the site. This is done in order to:
  - 1. **Conserve Open Land** Conserve open land, including those areas containing productive agricultural soils, unique and sensitive natural features such as floodplains, wetlands, river and stream corridors, areas with mature hardwood trees, and watersheds;
  - 2. **Retain and Protect Natural Resources** Retain and protect existing environmental, natural, and cultural resources;
  - 3. **Link Open Spaces** Create a linked network of open lands;
  - 4. **Promote Rural Character** Promote existing rural character within the AGR and R-3 districts; and
  - 5. **Provide Reasonable Use of Land** Provide reasonable economic use of the land.
- B. **Applicability** This conservation subdivision option shall be used for single-family detached subdivisions of 4 or more lots in the AGR and R-3 districts.
- C. **Procedure** Development utilizing the conservation subdivision option shall be approved as a preliminary plat in accordance with the procedures and standards in Section 2.5.11, Preliminary Plat, after approval of a conservation and development plan in accordance with this section.
  - 1. **Conservation and Development Plan** Prior to review of an application for preliminary plat for a conservation subdivision, an applicant shall have a conservation and development plan for the land reviewed and approved, or approved with conditions by the Planning and Development Director in accordance with this section and the standards of Section 5.14.2 D, Conservation Subdivision Standards, and Section 5.14.2 E, Delineation of Conservation Areas and Development Areas.
  - 2. **Conservation and Development Plan Requirements**
    - (a) **Step 1—Site Analysis Map** The applicant shall prepare a site analysis map that provides information about existing site conditions and context, and that comprehensively analyzes existing conditions both on the land proposed for the development site and on land within 500 feet of the site, and submit the site analysis map to the Planning and Development Director. It is the intent of this section that the information required to be presented in the site analysis map be produced primarily from existing sources, maps, and data.
    - (b) **Step 2—Site Inspection** After receipt of the site analysis map, the Planning and Development Director shall schedule a site inspection of the land with the applicant. The applicant or the applicant's representative shall attend the site inspection with a Planning and Development Department staff member. The purpose of this site visit is to:
      - (1) Familiarize the staff with the existing site conditions and natural and historic features of the site;
      - (2) Identify potential site development issues; and
      - (3) Provide an opportunity to discuss site development concepts, including the general layout of conservation areas and potential locations for proposed structures, utilities, streets, and other development features. Comments made by the staff during the site inspection shall be interpreted as being only suggestive. No official decision on the conservation and development plan shall be made during the site inspection.
    - (c) **Step 3—Conservation and Development Areas Map** Based on the site analysis map and the information obtained during the site inspection, the applicant shall prepare a conservation and development areas map that depicts proposed primary conservation areas, secondary conservation areas, and development areas, in accordance with Section 5.14.2 E, Delineation of Conservation Areas and Development Areas.
    - (d) **Step 4—Conservation and Development Plan** Based on the site analysis map, the information obtained during the site inspection, and the conservation and development areas map, the applicant shall prepare and submit to the Planning and Development Director a conservation and development plan. The conservation and development plan shall include the following:
      - (1) A site analysis map;
      - (2) A conservation and development areas map; and
      - (3) A preliminary site improvements plan, showing proposed site development, including utilities, streets, other development features, buffers (if applicable), and lot lines located in the proposed development area(s).
  - 3. **Review of Conservation and Development Plan** The Planning and Development Director shall review the conservation and development plan in accordance with the procedures and requirements of Section 5.14.2 D, Conservation Subdivision Standards, and Section 5.14.2 E, Delineation of Conservation Areas and Development Areas.
  - 4. **Review and Approval of Conservation Subdivision** Following review and approval or approval with conditions of the conservation and

development plan by the Planning and Development Director, the application for a preliminary plat of the conservation subdivision shall be submitted and reviewed in accordance with Section 2.5.11, Preliminary Plat.

**D. Conservation Subdivision Standards** A conservation subdivision shall comply with the following standards:

1. **Location** Conservation subdivisions shall be limited to the AGR and R-3 districts.
2. **Minimum Project Size** Conservations subdivisions shall be at least 10 acres in area.
3. **Required Conservation Area** The amount of the conservation area may vary in the AGR or R-3 districts in accordance with the dimensional standards in Section 3.5.2, Agricultural/Rural (AGR), and Section 3.3.2, Residential Single Family - 3 (R-3) as appropriate, but in no instance shall the conservation area occupy less than 50 percent of the total acreage of the conservation subdivision site.
4. **Maximum Residential Density** A conservation subdivision shall be limited to the maximum density for a conservation subdivision in the district in which it is located.
5. **Dimensional Requirements** Lots within a conservation subdivision are not required to meet the minimum dimensional requirements for the zoning district where located, but the conservation subdivision, as a whole, shall comply with the requirements in this section.
6. **Setbacks** Lots in a conservation subdivision shall not be subject to minimum yard setback standards, except as required from streets, wetlands/surface waters, or other protected natural areas.
7. **Maximum Lot Coverage** Conservation subdivisions shall ensure that development on a lot does not exceed a maximum lot coverage of 60 percent.
8. **Low Impact Design** Conservation subdivisions shall incorporate low impact design features, in accordance with Section 6.2.10, Low Impact Design, where practicable.

**E. Delineation of Conservation Areas and Development Areas** The conservation area and development area on the conservation and development areas map shall comply with the following standards:

**1. Primary Conservation Areas**

- (a) **Features to be Preserved** The following features shall be located and delineated on the conservation and development areas map, and shall be preserved in the following priority order as primary conservation areas:
  - (1) Wetlands and wetland buffers;
  - (2) Protected critical watershed areas;
  - (3) Rivers and streams;
  - (4) Riparian buffers;
  - (5) Habitat utilized by endangered or threatened species; and
  - (6) Steep slopes (slopes greater than 25 percent).
- (b) **Amount to be Preserved** All areas occupied by features comprising a primary conservation area shall be set aside and reserved for conservation purposes in accordance with the following standards:
  - (1) **Primary Conservation Area is Less than Minimum Required** In cases where the geographic area occupied by all features comprising the primary conservation area is less than the minimum required conservation area, then all lands comprising the primary conservation area shall be set aside.
  - (2) **Primary Conservation Area Exceeds the Minimum Required**
    - (i) In the event the geographic area of all features identified and prioritized as the primary conservation area results in a primary conservation area exceeding the conservation area requirement (for example, conservation of the first type of prioritized features constitute 47 percent of a site, and the next prioritized feature consists of 5 percent and the minimum required conservation area is 50 percent of the site area, the applicant may identify which portions of the features exceeding the 50 percent conservation area requirement will be designated for conversion to development area). To the maximum extent practicable, priority for retention shall be given to the highest quality portion of the features to be conserved.
    - (ii) Development on lands made available for conversion to development area shall be in accordance with the standards in this Ordinance.
- (c) **Allowable Uses** Uses located within a primary conservation area shall be limited to:
  - (1) Unpaved pedestrian trails, walkways, and boardwalks;
  - (2) Above ground and below ground public utilities and associated easements, provided no feasible alternative exists;
  - (3) Street or driveway crossings, provided such crossings do not violate this Ordinance, or other State or Federal laws; and
  - (4) Stormwater management systems, where no practicable alternative exists.

**2. Secondary Conservation Areas**

- (a) **Features to be Preserved** In addition to primary conservation areas, the conservation and development areas map shall also identify secondary conservation areas, which shall be preserved in the following priority order:
  - (1) Historic, archeological, and cultural resources;

- (2) Prime agricultural lands, including existing pastures (whether in use or otherwise);
- (3) Existing and mature woodland forests, natural fields, and meadows (especially those greater than 5 acres);
- (4) Scenic corridors and views; and
- (5) Areas that could serve to extend existing greenways, trails, parks, or recreation areas.
- (b) **Amount to be Preserved** All areas occupied by features comprising a secondary conservation area shall be set aside and reserved as a part of the conservation area in accordance with the following standards:
  - (1) **Primary Conservation Area Occupies More than that Required** In the event that the geographic area set aside as the primary conservation area is more of the required conservation area, no additional lands occupied by secondary conservation features shall be required to be included in the conservation area.
  - (2) **Primary Conservation Area Occupies Less than that Required** In the event the geographic area set aside as the primary conservation area is less than the required conservation area, then lands containing secondary conservation features shall also be set aside as part of the conservation area in priority order.
- (c) **Allowable Uses** Uses located within a secondary conservation area shall be limited to:
  - (1) All uses allowed in a primary conservation area;
  - (2) Uses allowed in the Agricultural Use classification in Table 4.1.9, Principal Use Table;
  - (3) Individual or community water supply and septic systems;
  - (4) Stormwater management systems;
  - (5) Required drainage or other utility easements;
  - (6) Mitigation of development activities, including restoration of disturbed or degraded areas to enhance habitat and scenic value.
- 3. **Ownership**
  - (a) **Landowner or Association** A conservation area shall be owned jointly or in common by the owners of the development or through a recognized homeowners or property owners association, which shall be established in accordance with Section 7.3, Homeowners' or Property Owners' Association.
  - (b) **Nonprofit Organization** The landowners may decide to convey a conservation area to a nonprofit organization such as a land trust or land conservancy for management and maintenance if the City is provided adequate assurance the area will be properly managed and maintained.
  - (c) **Dedicated to City or Other Public Agency** In some cases, certain lands designated as conservation areas, such as greenways, may be dedicated to the City, a nonprofit organization, or other public agency during the development review process, at the landowner's discretion. If offered by the landowner, the City Council shall determine whether that land is appropriate for dedication to the City or other public agency.
- 4. **Development Areas** After identifying the primary and secondary conservation areas, the development area shall be identified. It is the area within which development may occur, and shall include the area within the site where:
  - (a) Any clearing or grading activities will take place;
  - (b) Ingress and egress will be located;
  - (c) Individual or community wells and septic systems may be located (if not located within the secondary conservation area);
  - (d) Streets, utilities, and other similar structures will be located; and
  - (e) All allowable uses may be located.

#### 5.14.3. - Corner Retail

- A. **Purpose and Intent** The corner retail development type is proposed to establish standards to facilitate the placement of small-scale, low-intensity, neighborhood serving retail sales, eating establishments, and personal services uses on corner lots within and adjacent to higher density residential and transitional areas.
- B. **Applicability** Minor restaurants, minor personal service, and minor retail sales are only permitted in the RM-26 and TO districts as a corner retail development type, provided the proposed development complies with the standards of this section.
- C. **Standards**
  - 1. **Corner Lot Required** A corner retail use may only be established on a lot that abuts 2 or more streets, not including alleys.
  - 2. **Maximum Building Size** The building housing the corner retail use shall have a maximum gross square footage of 5,000 square feet on the ground floor.
  - 3. **Maximum Building Height** The corner retail use shall be limited to a maximum of 50 feet in height.
  - 4. **Maximum Street Setbacks**
    - (a) The corner retail use shall be configured so that structure is located within 5 feet of the street right-of-way abutting the front lot line.
    - (b) Street setbacks may be increased up to a maximum of 25 feet when the area between a building facade and the adjacent street is used for outdoor seating or outdoor dining.

- (b) The building facade containing the primary entrance shall be considered the primary facade.
- (c) Minimum street setbacks may be reduced to 10 feet if the development meets all required and recommended standards of this section.
- (d) Within developments with multiple buildings, building heights shall be varied to avoid the appearance of an elongated building mass.

This can be achieved by stair-stepping building heights or by varying roof forms.

## 2. Site Standards

- (a) **Compliance with Multiple Lot Development Standards** Large retail development configured as a multiple building development shall comply with the standards in Section 5.14.5, Multiple Lot Development, in addition to the standards for a large retail development type.
- (b) **Building Location and Orientation**
  - (1) **Street Corner Location** Buildings placed at a street corner should be designed to address both street frontages in an "L" configuration.
  - (2) **Multi-building Development**
    - (i) Buildings should be located and configured so as to enclose parking areas.
    - (ii) Buildings should include a consistent level of architectural styling and facade articulation on facades facing streets, internal drives, parking lots, or pedestrian amenities.
- (c) **Pedestrian Areas** A portion of the spaces between or along the frontages of the buildings should include pedestrian areas such as small plazas, patios, or central gathering spaces with pedestrian amenities. The pedestrian amenities include but are not limited to: seating, outdoor play areas, bicycle racks, kiosks, water features, public art, freestanding structures such as a clock tower, or similar amenities.
- (d) **Loading Docks and Loading Bays** Loading docks and loading bays shall:
  - (1) Be located towards the rear of buildings, or located internally within multi-building developments;
  - (2) Not face or be adjacent to streets, to the maximum extent practicable; and
  - (3) Meet the minimum requirements of Section 5.6, Screening.
- (e) **Accessory Buildings** Accessory buildings shall comply with the standards in Section 4.4, Accessory Structures and Uses, and use the same materials and architectural styling as the principal building they serve.

## 3. Building Standards

- (a) **Facade Articulation** Walls requiring articulation must use 2 or more of the following features:
  - (1) Recessed entryways;
  - (2) Display windows;
  - (3) Window indentations (such as but not limited to double-hung, stationary, or casement windows) that are regularly spaced and that incorporate a differing building material, texture, color, awnings, window hoods, or canopies. This shall not include a glass curtain wall or flush mounted glass;
  - (4) Offset surfaces, niches, insets, projections, or bas-relief with a minimum depth of 4 inches;
  - (5) Columns, pilasters, piers, architectural boxing, or other technique to break the facade into different volumes;
  - (6) Textured materials (such as but not limited to brick or stone);
  - (7) Roofline changes, coupled with correspondingly aligned wall offset or facade material changes, changes in the roof planes, or changes in the height of a parapet wall; or
  - (8) Changes in wall plane (such as projections or recesses) with an offset or depth of at least 1 foot and a width of at least 10 feet, located a minimum of every 30 feet.
- (b) **Facade Materials**
  - (1) Where 2 or more materials are proposed to be combined on a facade, the heavier and more massive elements should be located below the lighter elements (e.g., brick shall be located below stucco). Heavier materials may also be placed as a detail on the corner of a building or along cornices or windows.
  - (2) Primary facade materials should not change at outside corners, and should continue around the corner to a logical point of conclusion such as a window or change in facade plane.
  - (3) Exterior building materials shall be continued to the finished grade on any elevation.
  - (4) Building facades utilizing smooth-faced concrete block, or unfinished or untreated tilt-up concrete panels, shall be limited to building facades not visible from public streets as seen from the public right-of-way at a height of 6 feet.
  - (5) The use of vinyl siding or corrugated and other vertical metal siding as the sole or primary facade material is prohibited.
- (c) **Facade Transparency** When provided, ground-level windows shall maintain non-reflective, transparent glass between 3 feet and 8 feet of the floor.
- (d) **Primary Entrances** The primary entrance shall be clearly defined and incorporate the following features:
  - (1) **Multi-Tenant Buildings**
    - (i) Overhangs, awnings, canopies, or other projections of at least 8 feet, from the building wall;
    - (ii) Windows within or beside entry doors that allow entrants to see into the building.
  - (2) **Single Tenant Buildings** Distinctive roof forms, towers, gables, roof ridges, peaks, or other features that differ in height by 3 feet or

more from the balance of the roof. Outparcels are exempt from this standard.

**(e) Roof-Mounted Equipment**

- (1) Flat roofs shall incorporate parapet walls designed to screen the roof and roof-mounted equipment from view from the primary street fronting the building and any abutting side street as seen from the public right-of-way at a height of 6 feet. The parapet wall should be finished in the same or similar material and color as the building.
- (2) For sloped roofs, roof-mounted equipment and other roof penetrations should be located and screened to have a minimal visual impact as seen from the public right-of-way at a height of 6 feet.
- (3) In cases where complete screening is not practicable, all roof-mounted equipment and other roof penetrations shall be camouflaged through the use of paint or architectural techniques to minimize its appearance.
- (4) Green roofs, which use vegetation to improve stormwater quality and reduce runoff, are exempt from the screening requirements described in this subsection.

(Ord. No. 7365/17-108, § 1, 11-20-2017; Ord. No. 7415/18-44, § 2.D, 5-21-2018)

**5.14.5. - Multiple Lot Development**

The purpose of this section is to allow a unified designed and functioning development with multiple lots, pursuant to a preliminary plat approved in accordance with Section 2.5.11, Preliminary Plat, and a final plat in accordance with Section 2.5.7, Final Plat, provided the development complies with the standards of this section.

**A. Applicability** To qualify as a multiple lot development, the development must:

1. Contain 2 or more nonresidential uses designed to function as a unified development; and
2. Contain all of the following:
  - (a) Common private streets or drives;
  - (b) Common off-street parking;
  - (c) A common signage plan; and
  - (d) A common landscape plan.

**B. Common Features**

1. An approved multiple lot development shall be treated as a single zone lot for the purposes of providing required off-street parking, required landscape yards, required street access, compliance with zoning district dimensional standards, and compliance with signage standards.
2. Compliance with the off-street parking and street access requirements are met by considering the development as a whole and not on an individual lot basis.
3. Compliance with the landscaping standards are met if the required perimeter landscape yards are provided along the multiple lot development perimeter and all parking lot landscaping requirements are met.

**C. Establishment** The establishment of a multiple lot development occurs through the approval of a preliminary plat and a final plat.

1. The preliminary plat shall illustrate that the development will have common private streets or drives and common parking.
2. Prior to the approval of a final plat, the proposed development must have approved common signage and common landscape plans.
3. The final plat must be recorded displaying a prominent note identifying it as a multiple lot development and explaining that the property must be developed with common private streets or drives and off-street parking and be subject to a common signage plan and common landscaping plan. The note shall further state that should the property cease to conform to the definition of a multiple lot development, the property will then be in violation of this Ordinance and shall be retrofitted with conventional parking and landscaping, even if doing so requires the removal of previously installed improvements.

**5.14.6. - Pocket Neighborhood**

- A. Purpose and Intent** The pocket neighborhood development type is proposed to establish standards to facilitate the voluntary development of a group of smaller single-family detached dwellings built in close proximity to one another around a small green or open space with off-street parking areas to the rear or in common areas. This approach is well-suited to small, vacant, infill sites in established neighborhoods.
- B. Applicability** The pocket neighborhood development option is applicable only within the Core City area, in zoning districts that permit single-family detached dwellings.
- C. Site Configuration**
  1. **Development Size** It shall be located on a parcel of land at least one-third (1/3) of an acre and no greater than 4 acres in area, with at least 50 feet of frontage along a public street.
  2. **Allowable Uses** Only the following uses shall be allowed: single-family detached dwellings and incidental and subordinate accessory uses, along with a building for the purposes of common storage or recreation, and other common elements.

3. **Number of Dwellings** It shall include at least 4 dwellings but no more than 12 dwellings. In no instance shall the gross density of the development increase in the density of the underlying base zoning district.
  4. **Common Elements**
    - (a) It shall include common elements that comprise at least 40 percent of the total site and include open space, improved pedestrian walkways that provide pedestrian access to each dwelling and connect to the public sidewalk network, a shared parking area(s), and a perimeter buffer area that incorporates landscaping materials, existing vegetation, or other features to buffer the pocket neighborhood from adjacent development.
    - (b) The common open space shall include a central green, lawn, or garden area fronting the dwellings, containing at least 375 square feet of area for each dwelling in the development.
    - (c) If a common building is provided, it shall not be larger than 1,500 square feet and shall not be used as a permanent dwelling unit.
  5. **Perimeter Landscape Yard**
    - (a) A pocket neighborhood shall incorporate a Type C perimeter landscape yard, in accordance with Section 5.5, Landscaping Standards, where the neighborhood abuts lots with existing single-family detached dwellings. The perimeter landscape yard shall be considered part of the common elements.
    - (b) No individual lot or dwelling unit shall encroach into the perimeter landscape yard.
  6. **Lot Frontage**
    - (a) The lots in pocket neighborhoods are exempt from the minimum street frontage requirement for platted lots in Section 7.1.6 B.9, Minimum Street Frontage.
    - (b) At least 60 percent of the individual building lots shall front the common open space area, not a street or alley.
  7. **Off-Street Parking**
    - (a) Pocket neighborhoods are exempt from the parking standards in Table 5.4.4.B, Table of Minimum Parking Standards.
    - (b) The pocket neighborhood shall include a shared parking area that accommodates resident and guest parking.
    - (c) Off-street parking areas shall include at least 1 parking space for each dwelling unit plus 1 designated guest parking space for every four dwelling units.
    - (d) Provision of resident parking spaces within a shared parking area is not required in cases where resident parking is provided through individual driveways or by parking spaces along alleys.
    - (e) In no instance shall a parking space be more than 300 linear feet from the dwelling it serves.
  8. **Private Drives** Vehicular entryways into pocket neighborhoods and accessways serving off-street parking areas and individual dwelling lots shall be configured as private drives.
  9. **Detached Shared Garages** If provided, detached garages serving more than 1 dwelling shall be accessed via a private drive or alley. A garage shall not exceed 5 car bays or include individual garage doors wider than 12 feet each.
  10. **Storage Space** Each individual dwelling shall have at least 40 square feet of covered storage space outside the heated floor area. Storage space may be located on an individual lot or on common land adjacent to a common building.
- D. Individual Lot Configuration**
1. Each individual lot in a pocket neighborhood shall contain only 1 dwelling unit. Table 5.14.6.D, Pocket Neighborhood Lots, sets out the dimensional requirements for individual lots.

TABLE 5.14.6.D: POCKET NEIGHBORHOOD LOTS

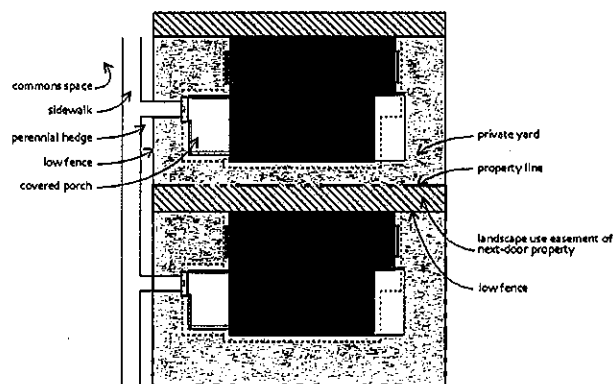
FEATURE	REQUIREMENT
Minimum lot size (sq ft)	None
Minimum lot width (ft)	20
Minimum front setback (ft)	10 from common elements; zoning district requirement from street [1]
Minimum side setback (ft)	3 one side; 15 other side [1]
Minimum rear setback (ft)	None [2]
NOTES:	

[1] Porch steps, ramps, fences, and walkways may encroach into the front setback in accordance with Section 10.2, Rules of Measurement, but no other structures shall be permitted to encroach into the required setback.

[2] When an individual lot includes a driveway, the minimum rear setback shall be 20 feet.

2. **Use Easement** Any lot abutting another lot used for residential purposes in a pocket neighborhood shall be subject to a use easement on one side that extends from the lot line to the exterior wall of the dwelling (see Figure 5.14.6.D1, Use Easement). The purpose for the use easement is to ensure each dwelling has a private outdoor space.

FIGURE 5.14.6.D, USE EASEMENT



#### E. Dwelling Unit Configuration

1. **Maximum Height** A dwelling unit shall not exceed 24 feet above grade.
2. **Dwelling Size**
  - (a) A pocket neighborhood dwelling unit shall have at least 600 square feet of gross floor area, but not more than 2,000 square feet of gross floor area.
  - (b) At least 2 dwellings in a pocket neighborhood shall maintain a total square footage that differs by at least 200 square feet in floor area from the average square footage of all other dwellings. Nothing shall prohibit a configuration where all dwellings are different sizes.
3. **Fences**
  - (a) Pocket neighborhoods are exempted from the standards in Section 5.11, Fences.
  - (b) Fences within front yards or side yards forward of the front facade plane shall not exceed 3 feet in height. Fences in rear yards or side yards behind the front facade plane shall not exceed 6 feet in height.
  - (c) In no instance shall a fence be placed within a use or access easement.

FIGURE 5.14.6.E EXAMPLES OF DWELLING UNIT CONFIGURATION



- F. **Homeowner's Association** A pocket neighborhood shall have a homeowner's or property owner's association that maintains control of all common elements and is responsible for the maintenance of such elements within the neighborhood. Association documents shall be reviewed by the City prior to approval of the development, and recorded with the development.



## 5.14.7. - Tiny Home Neighborhood

- A. Purpose and Intent** The tiny home neighborhood development type is proposed to establish standards to facilitate the voluntary development of a group of very small single-family detached dwellings built in close proximity to one another on minimally sized lots and including common open space. This approach is well-suited to small, vacant, infill sites in established neighborhoods.
- B. Applicability** The tiny home neighborhood development option is applicable only within the Core City area, in zoning districts that permit single-family detached dwellings.
- C. Site Configuration**
1. **Development Size** It shall be located on a parcel of land at least one-fourth (¼) of an acre and no greater than 2 acres in area, with at least 50 feet of frontage along a public street.
  2. **Allowable Uses** Only the following uses shall be allowed: single-family detached dwellings and incidental and subordinate accessory uses, along with a building for the purposes of common storage or recreation, and other common elements.
  3. **Number of Dwellings** It shall include at least 4 dwellings but no more than 12 dwellings.
  4. **Common Elements**
    - (a) It shall include common elements that comprise at least 40 percent of the total site area that include open space, improved pedestrian walkways that access each dwelling and connect to the public sidewalk network, and a perimeter landscape yard that incorporates landscaping materials, existing vegetation or other features to buffer the tiny home neighborhood from adjacent development.
    - (b) It may include a shared parking area, a common building used for recreation and/or storage, a picnic area, community garden space, or other common amenity.
    - (c) If a common building is provided, it shall not be larger than 1,000 square feet and shall not be used as a permanent dwelling unit.
  5. **Perimeter Landscape Yard**
    - (a) A tiny home neighborhood shall incorporate a Type C perimeter landscape yard, in accordance with Section 5.5, Landscaping Standards, where the neighborhood abuts lots with existing single-family detached dwellings. The perimeter landscape yard area shall be considered part of the common elements.
    - (b) No individual lot or dwelling unit shall encroach into the perimeter landscape yard.
  6. **Lot Frontage** The lots in tiny home neighborhoods are exempt from the minimum street frontage requirement for platted lots in Section 7.1.6 B.9, Minimum Street Frontage.
  7. **Off-Street Parking**
    - (a) Tiny home neighborhoods are exempt from the parking standards in Table 5.4.4.B, Table of Minimum Parking Standards.
    - (b) If provided, off-street parking areas shall meet the standards in Table 5.4.7.E, Dimensional Standards for Parking Spaces and Aisles, and shall meet the paving and maintenance requirement for a private drive accessing a public street (Section 5.4.7 K.3).
  8. **Private Drives** Vehicular entryways into a tiny home neighborhood and accessways serving off-street parking areas shall be configured as private drives.
  9. **Fences** Fences are permitted only within the perimeter landscape yard and to protect community garden areas, and shall meet the standards of Section 5.11, Fences, except that fences around community garden areas shall be 4 feet or less in height.
- D. Individual Lot Configuration** Each individual lot in a tiny home neighborhood shall contain only 1 dwelling unit. Table 5.14.7.D, Tiny Home Neighborhood Lots sets out the dimensional requirements for individual lots.

TABLE 5.14.7.D: TINY HOME NEIGHBORHOOD LOTS

FEATURE	REQUIREMENT
Minimum lot area (sq. ft.)	None
Minimum lot width (ft)	None
Minimum front setback (ft)	5 from common elements; or zoning district minimum street setback [1]
Minimum side & rear setback (ft)	3
Minimum separation between dwelling units (ft)	10
NOTES:	

[1] Porch steps, ramps, fences and walkways may encroach into the front setback in accordance with Section 10.2, Rules of Measurement, but no other structures shall be permitted to encroach into the required setback.

**E. Dwelling Unit Configuration**

1. **Maximum Height** A tiny home dwelling unit shall not exceed 18 feet above grade.
2. **Dwelling Size** A tiny home dwelling unit shall have less than 600 square feet of gross floor area.
3. **Dwelling Orientation** A tiny home dwelling shall face Interior common open space or a street. No dwelling shall face a perimeter landscape yard.

- F. Homeowner's Association** A tiny home neighborhood shall have a homeowner's or property owner's association that maintains control of all common elements and is responsible for the maintenance of such elements within the neighborhood. Association documents shall be reviewed by the City prior to approval of the development, and recorded with the development.

(Ord. No. 7399/18-28, § 3, 3-19-2018)

**5.15. - Sustainability Incentives**

**5.15.1. - Purpose and Intent**

The purpose of this section is to promote sustainable development practices as a means of protecting and conserving natural resources and ensuring a high quality of life for residents. More specifically, they are intended to provide incentives for new development to incorporate measures that conserve energy, conserves water, and promotes a healthy landscape.

**5.15.2. - Applicability**

The incentives included in this section are available to all new development in the City.

**5.15.3. - Procedure**

- A. Written Request** Development seeking to use incentives shall include a written request with the development application that demonstrates how compliance with these standards will be achieved.
- B. Incentive Amount** Development may include a sufficient number of sustainable development practices to take advantage of more than one type of incentive, but in no instance shall the amount of an incentive be increased or decreased (as appropriate) beyond the maximum listed in this section.
- C. Time of Review** Review for compliance with this section, and granting of requests in accordance with this section shall occur during review of a site plan, group development plan, preliminary plat, PD master plan, use permit, or building permit, as appropriate. The decision-making body responsible for review of the development application shall also be responsible for the review of sustainable development incentive request.
- D. Earning Incentives** The incentive shall be based on the number of sustainable development practices provided, in accordance with Table 5.15.3.E, Sustainable Development Incentives, and Section 5.15.4, Sustainable Development Features. To earn a particular incentive, development must provide the minimum number of associated sustainable development features from Schedule A and Schedule B in Table 5.15.3.E. An applicant may select the kinds of sustainable development features provided to comply with Table 5.15.3.E.
- E. Provide Features from Both Schedules** The ability to take advantage of a sustainable development incentive requires new development to include sustainability features from both Schedule A and Schedule B in Table 5.15.4, Sustainable Development Features. The applicant may choose which features to include as long as the minimum number of features from each of the schedules is provided. Generally, items in Schedule A are typically more expensive than items in Schedule B, though this will depend upon the proposed development, site conditions, type of uses proposed, and many other features.

**TABLE 5.15.3.E: SUSTAINABLE DEVELOPMENT INCENTIVES**

TYPE OF INCENTIVE	MINIMUM NUMBER OF SUSTAINABLE DEVELOPMENT FEATURES TO BE PROVIDED	
	FROM SCHEDULE A	FROM SCHEDULE B

A density bonus of up to 2 additional dwelling units per acre beyond the maximum allowed in the base zoning district in the Core City or 1 additional dwelling unit per acre outside the Core City	3	4
An increase in the maximum allowable height by up to 30 feet beyond the maximum allowed in the zoning district in the Core City	2	3
An increase in the maximum allowable height by up to 15 feet beyond the maximum allowed in the zoning district outside the Core City	2	3
A reduction from the minimum parking space requirements by 10 percent	2	2
An increase in the maximum allowable sign area or maximum height for wall or freestanding signs by 10 percent	1	3

(Ord. No. 7266/17-08, § 25, 1-17-2017; Ord. No. 7365/17-108, § 1, 11-20-2017)

#### 5.15.4. - Sustainable Development Features

One or more of the sustainable development features in Table 5.15.4, Sustainable Development Features, may be offered by an applicant for proposed development in accordance with Table 5.15.3.E, Sustainable Development Incentives.

TABLE <u>5.15.4</u> : SUSTAINABLE DEVELOPMENT FEATURES		
SCHEDULE	TYPE OF FEATURE	DOCUMENTATION OF COMPLIANCE
<b>ENERGY CONSERVATION</b>		
A	Use of solar photovoltaic panels, geothermal, or small wind energy facilities to provide up to 50 percent of the development's energy needs	Indication on site plan and proof from the local energy provider
AA [1]	Use of solar photovoltaic panels, geothermal, or small wind energy facilities to provide up to 75 percent of the development's energy needs	
AAA [2]	Use of solar photovoltaic panels, geothermal, or small wind energy facilities to provide up to 100 percent of the development's energy needs	
A	Use of only solar or tankless water heating systems throughout the structure	Inclusion on construction drawings
A	Use of a white roof or roofing materials with minimum reflectivity rating of 60 percent or more	Provision of materials sample and product specification (statement not required for white roofs)
BB [1]	Use of central air conditioners that are Energy Star qualified	Provision of product specification
B	Provision of skylights in an amount necessary to ensure natural lighting is provided to at least 15 percent of the habitable rooms in the structure	Indication on site plans
B	Roof eaves or overhangs of 3 feet or more on southern or western elevations	

B	Structure design that can accommodate the installation and operation of solar photovoltaic panels or solar thermal heating devices (including appropriate wiring and water transport systems)	Inclusion on construction drawings
B	Inclusion of shade features (e.g., awnings, louvers, shutters, etc.) to shade all windows and doors on the southern building facade	Indication on site plans
B	Configuration of new buildings with 1 axis at least 1.5 times longer than the other, and the long axis oriented in an east-west configuration for solar access	
B	30 percent of the building lots on a plat are oriented for unobstructed solar access	
LEED CERTIFICATION		
AAA [2]	Construction of the principal structure to meet or exceed LEED Platinum certification standards	Provision of Green Building Certification Institute's verification of project compliance (may be provided within 1 year following occupancy)
AA [1]	Construction of the principal structure to meet or exceed LEED Gold certification standards	
BBB [2]	Construction of the principal structure to meet or exceed LEED Silver certification standards	
BB [1]	Construction of the principal structure to meet or exceed LEED Bronze certification standards	
WATER CONSERVATION AND QUALITY PROTECTION		
AAA [2]	Configuration of the principal structure's roof so that at least 75 percent of the roof is a "green" roof intended to capture and hold rain water	Indication on site plan
AA [1]	Configuration of the principal structure's roof so that at least 50 percent of the roof is a "green" roof intended to capture and hold rain water	
A	Inclusion of rain water capture and re-use devices such as cisterns, rain filters, and underground storage basins with a minimum storage capacity of 500 gallons	Inclusion on construction drawings
A	Provision of rain gardens or other appropriate stormwater infiltration system(s) of at least 500 square feet in area	Indication on site plan
A	Provision of open space set-asides at a rate 200 percent or more beyond the minimum required	
B	Provision of rain gardens or other appropriate stormwater infiltration BMP systems of at least 100 square feet in area	
B	Removal of all lawn or turf in favor of living ground cover or mulch	
B	Use of xeriscape landscaping techniques without irrigation	
B	Provision of 150-foot undisturbed buffers adjacent to/surrounding all wetlands or surface waters	
B	Use of permeable surfacing on 50 percent or more of the vehicular use area	

BUILDING CONFIGURATION		
A	Construction of principle structure in accordance with Barrier Free Design Standards (ANSI A1171.1)	Inclusion on construction drawings
A	Up to 50 percent of the residential units are constructed in accordance with universal design principles	
AA [1]	All residential units are constructed in accordance with universal design principles	
A	Construction of the principal structure to a design wind speed standard of 150 mph	Signed attestation from a qualified NC licensed engineer
A	Inclusion of underground parking or parking structures sufficient to accommodate 51 percent or more of the off-street parking requirements	Indication on site plan
B	Provision of on-site transit facilities (e.g., designated park-and-ride parking spaces, bus shelters, or similar features)	
B	Inclusion of showering and dressing facilities in nonresidential developments for employees using alternative forms of transportation	Inclusion on construction drawings
B	Provision of at least 1 enclosed recycling station per building suitable for storage and collection of recyclables generated on-site	Indication on site plan
B	Provision of an indoor atrium with plantings and seating areas that is open to the general public	
SITE CONFIGURATION		
A	Providing double the amount of required open space	Indication on site plan
A	Dedicating the land necessary to provide a greenway link across the development	
AA [1]	Dedicating land and constructing a greenway across the development	
B	Providing space and facilities for a community garden	
B	Providing a public gathering area with a plaza, fountain, and shaded outdoor seating	
NOTES:		
[1] Credited as provision of 2 schedule features		
[2] Credited as provision of 3 schedule features		

(Ord. No. 7365/17-108, § 1, 11-20-2017)

#### 5.15.5. - Failure to Install or Maintain Sustainable Development Practices

The failure to install or maintain approved sustainable development features is a violation of this Ordinance, shall render the subject development nonconforming, and may result in revocation of the development permit or approvals.

**EXHIBIT E****Development Schedule and Public Facilities Schedule****Development Schedule**

<b>Building</b>	<b>Land Development Plan Approval</b>	<b>Construction Start <sup>1</sup></b>	<b>Certificate of Occupancy <sup>2</sup> (or PCO)</b>
	<i>last day of:</i>	<i>last day of:</i>	<i>last day of:</i>
Building C	October 2019	January 2020	January 2021
Building G	June 2020	September 2020	September 2021
Building A	December 2020	March 2021	March 2022
Building H	June 2022	September 2022	September 2024

<sup>1</sup> Construction Start occurs approx. 3 months after Land Development Plan Approval

<sup>2</sup> Certificate of Occupancy – 12 months after Construction Start for C, G, A; 24 months for H

**Public Facilities Schedule**

Building C	Construction of the following Public Facilities are to commence contemporaneously with the start of construction of Building C and shall be completed prior to the earlier of the date on which either (i) a certificate of occupancy has been issued for Building C, or (ii) Building C would be eligible for issuance of a certificate of occupancy but for delay in the City's completion of the following Public Facilities: <ol style="list-style-type: none"> <li>1. Water and Sewer Service to Building C</li> <li>2. Underground Electrical serving Building C</li> <li>3. Plaza Design and Construction</li> <li>4. Applying Way and Elm Street Right of Way Improvements</li> <li>5. Parking facility servicing Building C</li> </ol>
Building G	Construction of the following Public Facilities are to commence contemporaneously with the start of construction of Building G and shall be completed prior to the earlier of the date on which either (i) a certificate of occupancy has been issued for Building G, or (ii) Building G would be eligible for issuance of a certificate of occupancy but for delay in the City's completion of the following Public Facilities: <ol style="list-style-type: none"> <li>1. Water and Sewer Service to Building G</li> <li>2. Underground Electrical serving Building G</li> <li>3. Plaza Design and Construction</li> <li>4. Applying Way and Pine Street Right of Way Improvements</li> <li>5. Parking facility servicing Building G</li> </ol>
Building A	Construction of the following Public Facilities are to commence

	<p>contemporaneously with the start of construction of Building A and shall be completed prior to the earlier of the date on which either (i) a certificate of occupancy has been issued for Building A, or (ii) Building A would be eligible for issuance of a certificate of occupancy but for delay in the City's completion of the following Public Facilities:</p> <ol style="list-style-type: none"> <li>1. Water and Sewer Service to Building A</li> <li>2. Underground Electrical serving Building A</li> <li>3. Plaza Design and Construction</li> <li>4. N. Elm Street Right of Way Improvements</li> <li>5. Parking facility servicing Building A</li> </ol>
Building H	<p>Construction of the following Public Facilities are to commence contemporaneously with the start of construction of Building H and shall be completed prior to the earlier of the date on which either (i) a certificate of occupancy has been issued for Building H, or (ii) Building H would be eligible for issuance of a certificate of occupancy but for delay in the City's completion of the following Public Facilities:</p> <ol style="list-style-type: none"> <li>1. Water and Sewer Service to Building H</li> <li>2. Underground Electrical serving Building H</li> <li>3. Lindsay Street and English Street Right of Way Improvements</li> <li>4. Parking facility servicing Building H</li> </ol>

## **Exhibit F**

### **Public Facilities Scope of Work**

1. **Water and Sewer Infrastructure.** The City shall provide, to City of High Point Standards, service and Infrastructure for water, sanitary sewer, and storm sewer required to serve the Project.
2. **Underground Electrical Infrastructure.** The City shall make available to the Project and to each building within the Project electrical service as a part of its public system and shall extend such electrical service to and within the Project as is necessary to make the same available, subject only to ordinary connection charges to be paid by Developer to the respective utility.
3. **Plaza.** The City shall construct the plaza shown on the Development Plan, according to the Public Facilities Development Schedule and concept plans mutually agreed upon by Developer and the City.
4. **Right of Way Improvements.** The City shall construct those certain improvements including but not limited to street paving, curb and gutter, sidewalks, storm drains, street lighting, streetscape, landscaping, traffic devices and traffic & wayfinding signage within the current or future right of ways of the following roads:
  - (a) Pine Street
  - (b) Appling Way
  - (c) Elm Street
  - (d) English Street
  - (e) Lindsay Street
5. **Public Parking.** The City shall construct a public parking structure or structures, which may consist of a parking garage, surface lot, or any combination thereof, consisting of no less than five-hundred and sixty-five (565) spaces, within six-hundred (600) feet of the Project, as agreed by the parties (the "**Public Parking**"). The City shall have the right to collect and receive all revenues in connection with the Public Parking and shall make available to Project occupants, tenants, and visitors, on a non-exclusive basis, no less than five-hundred and sixty-five (565) parking spaces within the Public Parking at all times.